

Commission of Inquiry
Into the Wrongful
Conviction of David Milgaard
before
THE HONOURABLE MR. JUSTICE
EDWARD P. MacCALLUM

Transcript of Proceedings

and

Testimony before the Commission
sitting at the
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Volume 108

Inquiry Proceedings



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Transcript of Proceedings

(Reconvened at 9:05 a.m.)

COMMISSIONER MacCALLUM: Good morning.

ALL COUNSEL: Morning.

MR. HODSON: I understand that there are potentially four counsel who wish to examine Mr. Carlyle-Gordge, being Ms. Knox, Mr. Boychuk, Mr. Wolch, and Ms. McLean, and I understand that the parties may wish to address you as far as order, as to who goes first and who goes last.

COMMISSIONER MacCALLUM: Yes.

MR. HODSON: So whoever wishes to address. And if I have missed anybody who wishes to examine, please advise. Oh, I'm sorry, Mr. Loran does?

MR. LORAN: It's depends on how the cross-examination by the other parties proceed.

MR. HODSON: Certainly, and Mr. Loran on behalf of the Police Service may, so whoever wishes to address order, please come up.

I'm sorry, Ms. McLean advises that she does not intend to examine, so it's just Mr. Wolch who may, is that right, 'may'?

MR. BOYCHUK: Okay. What I understand from Commission Counsel -- good morning, Mr.



1 Commissioner, Chris Boychuk for Eddie Karst.

2 COMMISSIONER MacCALLUM: Yes.

3 MR. BOYCHUK: -- is that Mr. Wolch is --
4 intends to cross-examine last. My concern with
5 that is that, and in my experience as Commission
6 Counsel at the previous Inquiry, is that
7 generally, if a witness is identified as having a
8 certain community of interest with a party, that
9 that party would cross-examine first if they did
10 wish to cross-examine, and that where the witness
11 is viewed as adverse, as I believe

12 Mr. Carlyle-Gordge is with the accusations he
13 made against members of the Saskatoon Police
14 Service and their conduct, they would be allowed
15 to cross-examine last. So that is my view of the
16 order, that if Mr. Wolch wishes to cross-examine
17 that he would proceed, and then followed by
18 Ms. Knox and myself and Mr. Loran if he so
19 chooses. So those are my submissions there.

20 MS. KNOX: Good morning, Mr. Commissioner.
21 I would rise in support of the views and the
22 request made by Mr. Boychuk and reiterate my
23 understanding of the protocol with respect to the
24 order of examination.

25 In particular, in this one,



1 there is, I think, an issue that's very
2 significant from my client's point of view, and
3 it relates to certain conduct that was engaged in
4 both in a public forum in an examination for
5 discovery, and to some great degree in this
6 hearing room, regarding work that
7 Mr. Carlyle-Gordge did, which is a matter of
8 record here and which has been used by various
9 counsel, Mr. Rodin in examinations for discovery
10 in 1980 -- 1995, I believe it was; Mr. Hersh in
11 the hearing room here, Mr. Lockyer in the hearing
12 room here, to basically accuse my client of
13 inviting Mr. Carlyle-Gordge to engage with him in
14 continuing to suppress information, or in
15 suppressing information about certain rapes
16 that -- or sexual assaults that were happening in
17 the City of Saskatoon, that he knew about, and
18 which he deliberately withheld in order to gain a
19 conviction. And I'm summarizing.

20 Perhaps the best point of
21 reference I can give you in this regard is to
22 refer to a summary that Mr. Hodson, Commission
23 Counsel, did during the course of his examination
24 of Mr. Caldwell. And I refer you to the
25 transcript at page 17169, where Mr. Hodson



1 prefaces some questions to my client by saying:
2 "I'm sorry, and I'll be going to these
3 documents later, but later on, after
4 this interview, Mr. Caldwell, a number
5 of people associated with David
6 Milgaard's cause suggested that what you
7 were talking about here in this
8 interview about rapes that he was a
9 suspect that were never brought home to
10 him at trial, that you were actually
11 referring to the (V1)-, (V2)-----,
12 (V3)-----, (V5)--- rapes that Mr.
13 Fisher had already been convicted of,
14 and I asked you the question, is that
15 what you were referring to, and you said
16 no."

17 And I just pull out that one paragraph to
18 capsulize what I am talking about. Last night I
19 went through the examinations or
20 cross-examinations by Mr. Wolch, Mr. Lockyer, and
21 I went through the examination for discovery, and
22 while I didn't copy all of the page documents I
23 can indicate, and will indicate during the course
24 of the examination or cross-examination of
25 Mr. Carlyle-Gordge, volumes of the trial



1 transcript -- or of the Commission transcript
2 where there were references, and a fairly
3 vigorous cross-examination and an assault on my
4 client's integrity was made using material
5 obtained by Mr. Carlyle-Gordge which, based on
6 his evidence here, would suggest that it was not
7 being properly represented by the various
8 counsel, including Mr. Rodin, Mr. Lockyer, and
9 Mr. Wolch.

10 And in -- with that particular
11 concern in mind, it's my view that I should be
12 permitted certainly to go, if not last, after
13 Mr. Wolch has exercised any cross-examination
14 that he wishes to exercise of this witness.

15 MR. WOLCH: Mr. Commissioner, I'm simply
16 asking that we follow the rules that we have been
17 having from day one that you established. The
18 rule that you established was that whoever is
19 most identified in interest with the witness will
20 go last, most adverse goes first. That's been
21 the rule we have had since we started.

22 And for example, both counsel
23 who have just risen were the last to question
24 their own clients, that is when Mr. Karst
25 testified Mr. Fox was the last cross-examiner,



1 when Mr. Caldwell testified Ms. Knox was the last
2 cross-examiner, and so I'm simply indicating that
3 the rule has followed. Every police witness has
4 been last questioned by somebody connected with
5 the police, every one, I don't see why we would
6 change the rule now without any reason to do so.

7 MS. KNOX: Mr. Commissioner, if I can.
8 With respect, Mr. Wolch appears to be
9 misinterpreting the rule. He is not
10 Mr. Carlyle-Gordge's counsel, in fact Commission
11 Counsel -- Commission has provided counsel to
12 Mr. Carlyle-Gordge. If there's anybody in the
13 room who has a right to go last, based on
14 precedent and previous practice of the Commission
15 and the rules, it is counsel for
16 Mr. Carlyle-Gordge. By no stretch of the
17 imagination have we been led to believe that
18 Mr. Wolch is his counsel.

19 COMMISSIONER MacCALLUM: Well Mr. --
20 counsel for this witness -- counsel for a
21 witness, though, doesn't examine as a party for a
22 witness does.

23 MS. KNOX: But he is here, if there is any
24 issues that arise that he can speak to I assume
25 that's the reason for --



1 COMMISSIONER MacCALLUM: Well he can -- he
2 is entitled to object to questions during the
3 course of examination, and I suppose he can
4 always ask to put questions later on, but he
5 won't do so as of right.

6 MS. KNOX: But I mean, certainly, but it's
7 not a case that we have somebody here who doesn't
8 have counsel representing him.

9 COMMISSIONER MacCALLUM: No.

10 MS. KNOX: This man has his own counsel,
11 Mr. Wolch doesn't need to step forward to be his
12 counsel.

13 COMMISSIONER MacCALLUM: No. Well the rule
14 we established, I think Mr. Wolch is correct, if
15 we can call it a rule, that whoever is most
16 identified in interest with the witness goes
17 last. And that's not a difficult determination
18 to make in most cases, but in this case the
19 witness is ostensibly disinterested, at least
20 that might be arguable in the view of the
21 difference between his testimony and some of his
22 writings. But at any rate, he has taken the
23 position on the stand that he entered the matter
24 as a disinterested witness, and so it becomes a
25 little bit -- a disinterested person, enquirer,



1 author, employee of *Maclean's*, and so on, and so
2 it becomes a little bit difficult to tell just
3 where his interest lies with respect to any party
4 with standing without weighing the evidence, and
5 that's not a procedure or process that I should
6 be entering into at this stage, so it's not an
7 easy determination.

8 MR. WOLCH: Well I think, Mr. Commissioner,
9 that type of logic, I think, could be applied to
10 most witnesses. Police witnesses are, on the
11 face of it, not to be biased.

12 COMMISSIONER MacCALLUM: Well --

13 MR. WOLCH: But the last questioner of all
14 police witnesses, those who did not have counsel,
15 was by people aligned in their interest. I
16 think, on an over-balance, overview, the current
17 witness has clearly said he believed in my
18 client's innocence and was working in that
19 regard. I think it's hard not to accept that his
20 interests were more aligned with ours, and I
21 think the proof is in the fact that certain
22 counsel indicate they wish to cross-examine, and
23 obviously from Ms. Knox's comments in particular
24 taking issue with what he says. My position is
25 at this moment, if I was to cross-examine, I have



1 no questions. My questions will arise based on
2 what other counsel will be asking. If nobody
3 asks questions now I would be satisfied.

4 So that, I think, more clearly
5 defines the wisdom of your original rule, that
6 those -- that the person most aligned would go
7 last. That has been the rule, sir, and I just
8 ask that it be enforced.

9 COMMISSIONER MacCALLUM: Yes, thanks.
10 Anybody else? Yeah?

11 MR. BOYCHUK: Just a brief response, Mr.
12 Commissioner. I guess my concern is, is that
13 particularly with respect to my client -- and I'm
14 sure Ms. Knox's -- is that this particular
15 witness has brought forward allegations in, both
16 in the material that's been submitted in terms of
17 the documents, and what he said on the stand the
18 last few days, that impact directly on our
19 clients. And my concern is that I have those
20 allegations in front of me and I can deal with
21 them in cross-examination, --

22 COMMISSIONER MacCALLUM: Yes.

23 MR. BOYCHUK: -- but Mr. Wolch's idea will
24 be to maybe bring out more in terms of
25 allegations, and then I'm going to have to stand



1 up and ask to re-examine on that. And that's my
2 concern. If I don't, if Mr. Wolch is saying, eh,
3 he is not going to try to get anything else out
4 of this particular witness that may impact
5 negatively on my client, then I don't have a
6 concern starting today.

7 COMMISSIONER MacCALLUM: Well I hate to see
8 this in --

9 MR. BOYCHUK: Because otherwise it becomes
10 a ping-pong game. Under cross-examination I
11 should be able to go after this witness on the
12 things that he has alleged that my client may
13 have done, and I don't want to sit down and then
14 have a -- some more brought out of this client by
15 Mr. Wolch, or with this particular witness,
16 sorry.

17 COMMISSIONER MacCALLUM: Well that's true,
18 Mr. Boychuk, there seems to be no end to these
19 things the more adverse they become. And it's
20 too bad, in a Public Inquiry setting like this,
21 that we have to get into such a furore about
22 tactics, because after all, we should all be
23 after the truth and not seeking a tactical
24 advantage all the time. But I guess we have to
25 face the facts, that's the way the Inquiry has



1 been going at times, and I'm going to just hear
2 from witnesses in a way which I think is
3 sensible, and if the re-cross is truly called
4 for, then I can permit it.

5 MR. BOYCHUK: On that basis --

6 COMMISSIONER MacCALLUM: But --

7 MR. BOYCHUK: On that basis I don't mind
8 proceeding, then.

9 COMMISSIONER MacCALLUM: No, that's right.
10 Whoever is most identified in the interest then
11 goes last, and that, I think on a fair balance of
12 the evidence given and the exhibits proffered so
13 far, would be Mr. Wolch.

14 MR. BOYCHUK: Okay.

15 COMMISSIONER MacCALLUM: Okay.

16 MR. BOYCHUK: Fair enough.

17 COMMISSIONER MacCALLUM: So, as between the
18 others, can we agree who wants to examine first?
19 Perhaps you can. We're not finished, of course,
20 with --

21 **PETER CARLYLE-GORDGE, continued:**

22 **BY MR. BOYCHUK:**

23 **Q** Good morning, Mr. Carlyle-Gordge.

24 **A** Good morning.

25 **Q** My name is Chris Boychuk and I'm here as counsel



1 for Eddie Karst.

2 A Good morning.

3 Q Thank you. And I want to just clarify something
4 or confirm something that came out yesterday I
5 believe in direct examination by Mr. Hardy, is
6 that you did, never did interview Mr. Karst; is
7 that correct?

8 A Apparently there's no record of that. I did
9 attempt to phone him, so I'll accept that I didn't
10 interview him.

11 Q And we saw that there was a transcript of that
12 attempted phone call?

13 A Yes there was, yes.

14 Q And the reason the interview did not proceed is
15 not because Mr. Karst had refused you an
16 interview; is that correct?

17 A No. That's correct, yeah.

18 Q It was just that the two of you did not connect?

19 A It's a long time ago and I thought perhaps I had,
20 but apparently not.

21 Q And there was some evidence that you did interview
22 one police officer and that was Mr. Mackie?

23 A Detective Mackie.

24 Q And that's clear from the transcript that we've
25 seen?



1 A Right.

2 Q Now, just in terms of the background, I understand
3 from your evidence yesterday that you really first
4 became involved in this case, so to speak, in
5 December of 1980 when you made contact with Joyce
6 Milgaard?

7 A That's correct.

8 Q You were looking for a story, you were a
9 journalist?

10 A Yes, for Maclean's.

11 Q And that after meeting Mrs. Milgaard you were
12 provided with material to read with respect to the
13 trial and conviction of David Milgaard?

14 A That is right.

15 Q And you mentioned some transcript material?

16 A It was the preliminary. She didn't have the trial
17 at that point.

18 Q And so that you were reading that and other
19 documents that she had?

20 A Oh, she had other documents too.

21 Q Including witness statements and things like that?

22 A I think so, the main ones, yeah.

23 Q And also correspondence between Mr. Milgaard and
24 Mrs. Milgaard?

25 A Yes, she had quite a lot of that and things she



1 had done in the past like writing to the prime
2 minister, things like that.

3 Q Okay. And as I also understand, just from
4 reviewing this material, you had come to the
5 conclusion that Mr. Milgaard was innocent of the
6 crime; is that right?

7 A Well, that took a while, I didn't come to an
8 instant conclusion, but when I read the
9 preliminary transcript, first of all I found the
10 Crown's case very confusing at first.

11 Q Right.

12 A But I know the one thing that stuck out to me was
13 the testimony of Mr. Cadrain, I thought it was
14 kind of bizarre.

15 Q So that was key, you focused on Mr. Cadrain's --

16 A It got me interested.

17 Q But I know, we put a, Mr. Hardy put up a document,
18 I don't know if you need to see it, it's the
19 transcript from the telephone conversation with
20 Mr. Young in January of 1981 and David Milgaard.

21 A Okay.

22 Q Do you recall that, there was a conference call?

23 A Vaguely. I know there's a copy of it. There was
24 a conference call.

25 Q Maybe we can assist you, if I can put up 155273,



1 and I'm just looking at the bottom here -- I don't
2 know how to do this -- sorry, this is a comment of
3 course that Mrs. Milgaard made, it says:

4 "Peter is sure of your innocence."

5 This is a conversation of 22 January, 1981.

6 A This is '81?

7 Q Yes.

8 A Okay. And this is Mrs. Milgaard talking, "Peter
9 is sure of your innocence," right. Yeah, it does
10 say that.

11 Q So early on you had come to the conclusion that
12 based on your review of the transcript material,
13 that Mr. Milgaard likely did not commit the crime?

14 A Oh, yes, I had grave doubts about the Crown's
15 case, yeah.

16 Q Right. And at least by the time that Mr. Merchant
17 became involved in, say, April, May of 1981, you
18 were fairly certain in that conviction?

19 A The more I dug into it, the more convinced I
20 became, yeah.

21 Q Okay. And just on that, if you could pull up
22 332565, and this is a letter that we previously
23 identified that you wrote to Mr. Merchant --

24 A Uh-huh.

25 Q -- Mrs. Milgaard's counsel in May --



1 COMMISSIONER MacCALLUM: Sorry, Mr.
2 Boychuk, I can't read that number.

3 MR. BOYCHUK: It's 332565,
4 Mr. Commissioner.

5 COMMISSIONER MacCALLUM: Thank you.

6 BY MR. BOYCHUK:

7 Q And at the top right hand we can see that the
8 letter is dated May 15, it's received by Mr.
9 Merchant's office in May, 1981. There's no
10 dispute this is a letter that you wrote to Mr.
11 Merchant is there?

12 A It looks like it.

13 Q And this is also I understand subsequent to a
14 meeting you had with Mr. Merchant and Mrs.
15 Milgaard?

16 A Yup, I guess.

17 Q And you can see the opening line, it says, "A
18 pleasure to meet you finally." And if we can go
19 to the next page, 332566, and if I'm looking here,
20 paragraph number 5, and this is you writing and
21 you say:

22 "Though I'm convinced personally of Mr.
23 Milgaard's innocence --"

24 A Right.

25 Q So at this point in time --



1 A The balance had tipped, yeah.

2 Q And is it fair to say the rest of the letter is
3 now plotting strategy, so to speak, in terms of
4 how do we overturn the conviction?

5 A No, I think I was looking for more information, I
6 think I had a keen desire to be in touch with the
7 key Crown witnesses who had convicted him.

8 Q Okay. But at that point you had, and you
9 testified to this yesterday, one of the things you
10 were looking at is you were fairly convinced that,
11 or at least your operating theory was that the
12 police had somehow, I think you used the word
13 leaned on three of the Crown witnesses?

14 A Yes. I knew the statements had changed quite
15 dramatically.

16 Q Right. And by the three witnesses, just so we're
17 clear, you are talking about Cadrain, Nichol John
18 and Wilson?

19 A Well, yeah, I was mixed up at that time.
20 Specifically Nichol, Wilson and there was some
21 confusion, which I acknowledged in that book
22 yesterday, that I had Cadrain.

23 Q We'll get to that, but at this time I want you to
24 look at May, 1981, you are thinking Cadrain,
25 Wilson and John; isn't that correct?



1 A Cadrain, Wilson -- yeah, uh-huh. I wanted to find
2 them.

3 Q Right. And in fact if I go to the next page,
4 332567, and this is you speaking about Mrs. --
5 Nichol John, and we'll just, if we can just get
6 this part here -- sorry about that, I'm not good
7 with the technology -- you are saying:

8 "Besides the critical day of Jan. 31, we
9 shall also need to bring her to May 1969
10 when police took critical statements.

11 The mental block could stem from:"

12 And you say:

13 "Fakery; witnessing the real murder;
14 whatever the police said or did to her
15 in May 1969."

16 A Correct.

17 Q "None is ruled out."

18 A Correct.

19 Q But you go on to say:

20 "I'm rather keen on cause 3 --"

21 Which is what the police did to her in 1969;
22 correct?

23 A Yes, that would be accurate, yeah.

24 Q Okay. And from that point forward, part of the
25 plan or strategy, if I may use that word, was to



1 contact those three witnesses and attempt to
2 establish that in fact they had been leaned on to
3 change their stories; isn't that right?

4 A Well, there was certainly a desire on my part to
5 be in touch with them based on my own theory that
6 their original statements to the police were the
7 truth, basically the same as David Milgaard had
8 said, nothing happened that morning, and it
9 occurred to me this is 12 years afterwards, that
10 perhaps their, if my theory were correct, perhaps
11 their consciences had bothered them in the
12 meantime and they might possibly admit something.

13 Q Right. But that was your operating theory though?

14 A It was.

15 Q And that you were going after these witnesses to
16 try and confirm that theory?

17 A Yeah, and to find out what they were like and all
18 that kind of stuff.

19 Q Fair enough, fair enough. And in fact you did
20 take some steps in that regard?

21 A Uh-huh.

22 Q And as I understand it, you did make an attempt to
23 interview Nichol John?

24 A I met her once, yes.

25 Q Right. And that was briefly for several minutes I



1 understand?

2 A Just a very short time. Mrs. Milgaard and I were
3 at the door and then I guess very soon after that
4 she moved and my wife, ex-wife met her too
5 briefly.

6 Q But in terms of your own experience, personal
7 experience with Miss John, you yourself didn't
8 really have a chance to interview her?

9 A No, no.

10 Q And to go into any of those issues in depth?

11 A No.

12 Q Is that right?

13 A That's correct.

14 Q And to that extent you were frustrated in your
15 attempts to advance the theory; isn't that right?

16 A Well, there were other people to get to, including
17 Wilson. Was I frustrated by Nichol John?

18 Absolutely.

19 Q Fair enough.

20 A Yeah.

21 Q And the other thing is you were also attempting to
22 interview Ron Wilson, but you yourself did not
23 personally interview Ron Wilson?

24 A No, I didn't. I suggested some questions Mrs.
25 Milgaard might want to ask him.



1 Q So you assisted Mrs. Milgaard in that way?

2 A I did, yes.

3 Q Okay. And in terms of Mr. Cadrain, you finally
4 did, in terms of the three Crown witnesses we were
5 talking about, did get a chance to interview him
6 in February of 1983 I understand?

7 A Yeah, late in the day. I was almost getting out
8 of it by then.

9 Q Right. And we actually saw the transcript that
10 you produced from that interview; right?

11 A Uh-huh.

12 Q But going back to what you had to say is, and I
13 think I heard you say this yesterday, you were
14 frustrated in fact by the efforts that were made
15 with respect to all three witnesses; isn't that
16 right?

17 A I think generally that's correct. I was very --
18 the Wilson interview, which I wasn't actually in
19 on, was frustrating because there was a hint there
20 that maybe things weren't quite the way he had
21 sounded at the trial, you know, kind of the tone,
22 it could have been Kool-Aide, you know, that
23 sounded like an odd comment, but to answer your
24 question, I was very frustrated by the whole case
25 and at the end quite depressed about it.



1 Q Right. And in fact the frustration was is that
2 part of the strategy was to get a retraction from
3 these three witnesses and you didn't obtain that
4 from anyone?

5 A No, and yet I was still convinced then and
6 obviously now that they were lying.

7 Q But just listen to the question, you were
8 frustrated because you didn't get the retraction
9 that you were seeking?

10 A Well, that would be true. I mean, if we had met
11 one and said, oh, we lied on the stand, yes, I
12 would have been in a much happier frame of mind,
13 yeah.

14 Q And the other reason you were frustrated, because
15 the second part of your theory, is because, if I
16 put it properly, is that they were leaned on or
17 coerced by police to give the false statements
18 that you believe that they gave; isn't that right?

19 A I think I had to find an explanation for how could
20 two of his friends give a statement in March, and
21 they were quite independent of each other, that
22 basically coincided with what David Milgaard had
23 said happened and how that could radically change
24 what happened between then and the later
25 statements in May. The only link I could see was



1 they had been interrogated, I had heard that
2 Nichol John had been shown the scene, she had been
3 driven around a lot; therefore, some kind of
4 pressure from that direction certainly had some
5 role to play. I wasn't saying they were tortured
6 or anything like that, but they were very, very
7 young people, 16 and 17, I would imagine they were
8 scared. My theory then was that they were scared
9 of David Milgaard, that was the official theory.

10 Q Right. But back to my question in terms of your
11 frustration, it was twofold, one, neither of the
12 three witnesses were retracting what they had
13 originally said; is that right?

14 A In 1983, that's right, yes.

15 Q Or in 1981 or '83; isn't that right?

16 A Yeah, that's correct.

17 Q And also none of them were making allegations that
18 the police had coerced the statements out of them;
19 isn't that right?

20 A Well, Nichol John certainly didn't say anything I
21 can recall. Wilson? No, I don't think he did.

22 Q Right. And in fact in terms -- you recall in 1993
23 you were interviewed by the RCMP?

24 A Oh, yes, yeah.

25 Q And we've seen that transcript?



1 A Yeah.

2 Q If we can maybe put up 022253, just looking here,
3 this is you responding to a question from
4 Constable Dyck of the RCMP and here's what you
5 say:

6 "I think what I was looking for at the
7 time was possibly one of the main
8 witnesses to remember something else or
9 have second thoughts on something like
10 that."

11 A Right.

12 Q "And that didn't happen."

13 A That's right.

14 Q "Wilson was sticking basically to his
15 story."

16 A Uh-huh.

17 Q "Ah, Nichol was saying nothing. Cadrain,
18 couldn't make any sense out of him
19 anyway."

20 A That's correct.

21 Q So that was your view in 1993, that accurately
22 reflects what was happening in 1981 to 19 -- 1981
23 to 1983?

24 A Yeah. In that period, the '81, '83, I was kind of
25 working with one hand tied behind my back and a



1 blindfold on because there were certainly very
2 important parts of the jigsaw that I wasn't aware
3 of, that would be Mr. Fisher's background.

4 Q I'm just going to stop you there, Mr.
5 Carlyle-Gordge, because we've been through a lot
6 of this in direct and I don't want to waste the
7 Commissioner's time, so my questions are specific,
8 if you could just -- I would ask you to direct
9 your answers to the questions I ask.

10 A Yeah.

11 Q So that's a fair assessment of what happened in
12 1981 and 1983?

13 A Right.

14 Q You weren't getting any retractions from the three
15 of them; correct?

16 A Correct, and I thought they were lying, yeah.

17 Q Yeah. And secondly, you also weren't getting --
18 the other thing you wanted, which was an
19 allegation against the police, and I'm just going
20 to circle this part, answer and question here --

21 A Uh-huh.

22 Q -- and this was put to you by I believe Constable
23 Templeton, and he puts it directly to you, he
24 says:

25 "During your contact with any of the



1 three principals, being Demyen --"
2 Meaning -- that's Nichol John's married name,
3 "-- Cadrain, and Wilson, and through
4 Mrs. Milgaard, did any of the witnesses
5 express a concern about their treatment
6 by the Saskatoon City Police?"

7 And this is your response:

8 "Do you know, I can't really recall
9 that."

10 A Uh-huh.

11 Q "But obviously Nichol didn't cause she
12 didn't say anything. Wilson, I can't say
13 for sure."

14 A Uh-huh.

15 Q So you weren't getting allegations of mistreatment
16 by the city police, that was the second reason you
17 were --

18 A In '81, '83, no. I've since learned that
19 allegations were made, but at that time, no, they
20 weren't saying that.

21 Q Let's move specifically with respect to Ron
22 Wilson, if you could go to 022262, please, and
23 this is again you are being questioned by the
24 RCMP, and the question is put to you, and this is
25 with respect to Wilson, did he in the interview,



1 and this is the interview that Mrs. Milgaard
2 conducted, indicated that he had some concerns
3 about how he had been treated by the Saskatoon
4 City Police, and your answer is:

5 "Oh, I don't remember that."

6 A Uh-huh.

7 Q You see that?

8 A Yeah.

9 Q "And I don't even remember if I would
10 have put a question like that in there,
11 to be honest, yeah."

12 A Right.

13 Q "I can't remember."

14 A Right.

15 Q So Mr. Wilson wasn't making any allegations
16 regarding the Saskatoon City Police?

17 A No, not at that time.

18 Q Not at that time?

19 A No.

20 Q Okay.

21 A Although some people had, in fact Cadrain's
22 brother Dennis had sort of in that period.

23 Q Yeah, and I think I'll touch on the type of, the
24 complaint that the Cadrains had. Now, in terms of
25 your theory, I wanted to talk about your theory in



1 terms of coercion of evidence from these
2 witnesses.

3 A Uh-huh.

4 Q And with respect to Mr. Cadrain, is it fair to say
5 that logically your theory doesn't fly?

6 A Do you want to explain that?

7 Q Well, let's just start, you knew that Mr. Cadrain
8 had come forward to the Saskatoon City Police --

9 A Yes.

10 Q -- on his own initiative?

11 A I think he had been encouraged by his family and a
12 priest eventually.

13 Q Right. You had actually gone and talked to Dennis
14 Cadrain and maybe Mrs. Cadrain and confirmed that
15 that is how Mr. --

16 A He started the whole thing, yes.

17 Q You knew he initiated the whole thing?

18 A Yes, March 2nd, whenever.

19 Q And you also knew he was the first witness to come
20 forward with any kind of evidence that implicated
21 David Milgaard in the murder of Gail Miller?

22 A Yes.

23 Q In terms of his statement that he had seen blood
24 on Mr. Milgaard's pants and shirt?

25 A Yes, that's right.



1 Q That's the main fact that --

2 A The police had no evidence before that.

3 Q Before that. So you knew Mr. Cadrain came
4 forward --

5 A I did.

6 Q -- with that evidence?

7 A Uh-huh.

8 Q So logically, because you talked about logic, how
9 could the police have coerced that evidence from
10 him?

11 A I didn't say they coerced it from him, he came
12 forward voluntarily, correct. If you are asking
13 me to speculate, the police may not have believed
14 him at the time, that's certainly credible to me
15 that they didn't, and that they had to -- I know
16 his brother told me, you know, they picked him up
17 a lot and they had been back and forth and he was
18 never right after that again. I'm not saying the
19 police coerced him to go to them, I'm saying he
20 went to them voluntarily and then the police were
21 checking out everything else which would include
22 talking to other people who had seen David
23 Milgaard that very morning, credible witnesses who
24 had seen nothing.

25 Q So do you agree with me then that the police, in



1 terms of the evidence that Mr. Cadrain gave that
2 implicated Mr. Milgaard, that was not coerced by
3 the police or caused by police pressure?

4 A His initial statement to the police was not
5 coerced out of him by the police.

6 Q Right, and that's where the evidence in terms of
7 the blood is?

8 A Yeah, but I would think they would seriously
9 question whether he knew what he was talking about
10 because they had these credible people like the
11 Danchuks, the Trav-a-leer manager, they had the
12 tow truck driver, and they had all seen them that
13 morning.

14 Q Mr. Carlyle-Gordge, I just want to go back to you,
15 I don't want the lengthy explanation, I want the
16 answer to the question. So the answer is, if I
17 hear you correctly, is that when he came in he
18 volunteered the blood evidence; isn't that right?

19 A Yes, he did, absolutely.

20 Q So it wasn't coerced?

21 A No, it wasn't.

22 Q And in terms of any issues with the police was
23 that they didn't accept his evidence at face
24 value; isn't that right?

25 A Well, I would assume not. I would assume they



1 test it out.

2 Q That's what you confirmed through Dennis Cadrain?

3 A Yeah, right.

4 Q That's what you confirmed from your own
5 conversation with Albert Cadrain?

6 A Yeah.

7 Q He was upset that they didn't believe him at first
8 instance?

9 A Yes, that's right.

10 Q And do you have a complaint with that today?

11 A No. I mean, that's what police are supposed to
12 do, they are so supposed to test the credibility
13 of the guy. I had no -- I didn't think he had any
14 credibility even from reading the transcript of
15 the prelim.

16 Q Right. But in terms of the police potentially
17 aggressively questioning Mr. Cadrain, you don't
18 have any complaint with that because he was coming
19 forward with evidence that implicated Mr. Milgaard
20 in a murder?

21 A Yeah. It was a very gruesome murder too. I'm not
22 privy to exactly what went on between him and the
23 police obviously, but I know that the other
24 witnesses' statements changed dramatically.

25 COMMISSIONER MacCALLUM: Just a minute,



1 sir. The question was you don't quarrel with the
2 police, the police methods of challenging the
3 evidence?

4 A Absolutely not.

5 COMMISSIONER MacCALLUM: All right.

6 A They had a hard job to do, I know that too, and I
7 know they weren't lazy, they were looking for a
8 month and they had nothing.

9 BY MR. BOYCHUK:

10 Q And we also heard evidence your first meeting with
11 Albert Cadrain was in February of 1983; is that
12 right?

13 A With Albert there was only one meeting I think,
14 yeah.

15 Q And you had some views of his mental state in
16 1983; right?

17 A Absolutely.

18 Q And I wanted to ask you, I didn't see -- did you
19 take any steps to investigate what was his mental
20 state in 1969 and '70 when he came forward and was
21 testifying at either the prelim or at the trial?

22 A Well, I know I talked to his brother Dennis who
23 said he was a bit simple or naive and not quite
24 right at some point and I really don't know, I
25 can't recall now if I had any other sources at



1 that time, but I think it became obvious if you
2 just read the preliminary that this was kind of
3 odd evidence.

4 Q Okay. In terms of your assessment of his mental
5 state, it primarily relates to his evidence at the
6 preliminary inquiry?

7 A That's what first alerted me to something smells
8 about this, yeah.

9 Q And in terms of pursuing this line or this theory,
10 you did testify, in terms of dealing with the
11 evidence, that you were prepared to be creative
12 with the witnesses, to use your own word, telling
13 white lies?

14 A I think that's fair, yeah.

15 Q And that because of the cause, you felt morally
16 justified in doing so?

17 A Well, yes, I agree. I think I got into it
18 journalistically initially and I think over the
19 years my role changed.

20 Q So your role changed from being a journalist to
21 what, an advocate?

22 A Well, initially I was looking for information.
23 I'm always leery of the word advocate because Mrs.
24 Milgaard didn't convince me that her son was
25 innocent, I convinced myself using my own logic.



1 My role changed I think from, you know, I'm not
2 just looking for some big story or to write a big
3 book or anything like that, I think it became more
4 in the public interest, a citizenship thing, that
5 I was absolutely convinced that they had got this
6 wrong and I felt completely impotent as to what to
7 do.

8 Q And in terms of the kinds of things you were
9 saying to witnesses, if you could put up 040690,
10 please, and if you look at the middle of the page,
11 and this is part of your transcript of your
12 interview with Mr. Cadrain in February of 1993,
13 you state to Mr. Cadrain:

14 "You see I talked to Nichol --"
15 And I assume that's Nichol John?

16 A Yes.

17 Q "-- and she said that, she said more or
18 less that she was forced to make a
19 statement."

20 A Right.

21 Q Now, that's not true?

22 A No, it's not true.

23 Q You didn't talk to Nichol John and she --

24 A Well, I talked to her very briefly.

25 Q But she never said that?



1 A No. That was to try and elicit him to talk more,
2 that is what I would call "creative", so you can
3 call it a lie if you like.

4 Q Right, it's a lie?

5 A Well, it's not true obviously.

6 Q Right. And what you are doing there is making an
7 allegation that someone suborned perjury?

8 A Uh-huh.

9 Q Now, is that your idea of a white lie?

10 A No.

11 Q So that's a pretty significant lie then?

12 A Well, the entire case was based on lies, that was
13 my position at the time I met Cadrain, the entire
14 case was based on lies.

15 Q So let's head into, we've got -- I think we've
16 established 1981 to 1983 you are frustrated
17 because you don't have a retraction, you don't
18 have any of the witnesses confirming any kind of
19 allegation of wrongdoing against the police;
20 right?

21 A Uh-huh.

22 Q And at the same time, though, that you are working
23 on the case, you are also wearing your, I guess
24 journalist or writer hat; isn't that right?

25 A Yeah, yeah.



1 Q Because you actually did or were asked to
2 contribute a chapter to a book called the *Winnipeg*
3 *8*?

4 A That's correct.

5 Q And that's a book that was published in 1982?

6 A It came out in the fall of '82.

7 Q In the fall of '82?

8 A I'm trying to think when I wrote it, probably in
9 the summer, and it was a donation to the book.

10 Q And we heard you say that primarily it was to be a
11 profile of Mrs. Milgaard and her struggle and just
12 to profile her, but that you wanted to weave in,
13 to use your words --

14 A Yeah.

15 Q Let me finish the question -- some of the facts
16 that you were finding as part of your
17 investigation into the Milgaard trial and
18 conviction?

19 A That was part of her life story, uh-huh.

20 Q Right. And that was also, but you also said to
21 bring the whole issue of Mr. Milgaard's conviction
22 to the public's attention?

23 A Indeed. That's true.

24 Q And that in the hope that that might help getting
25 that conviction overturned, that was your goal



1 partly in bringing that material forward?

2 A Yeah. I need to explain. The great difficulty
3 then is very limited resources and trying to get
4 anybody to listen to an old murder case is so
5 difficult. Now, I had been almost nagging the
6 managing editor of Maclean's that there was
7 something really wrong with this case and I
8 couldn't even persuade them to do anything. That
9 was part of the frustration.

10 Q I didn't want to get into the why, I want to
11 just -- I just wanted to confirm what I understood
12 from you yesterday, that part of the strategy in
13 writing this profile and weaving in those parts
14 was to get some public profile for this case?

15 A Yeah. I question your wording of that though
16 because the editor was in control of this book and
17 the book was to be about Mrs. Milgaard
18 essentially, her entire life story, worts and all,
19 but that my involvement with Mrs. Milgaard and the
20 fact that for some years, a few years anyway, she
21 had been back and forth looking into the case
22 became part of the story. Did I make a conscious
23 decision about the one statement in there that I,
24 in my opinion, believed he was innocent and a
25 victim of perjury? Yes, and I felt quite nervous



1 when I did it.

2 COMMISSIONER MacCALLUM: Yeah, but the
3 question was did you do that to get public
4 exposure for the case, just answer that part of
5 it.

6 A Okay. Yes, that would be part of it, yeah.

7 COMMISSIONER MacCALLUM: All right.

8 BY MR. BOYCHUK:

9 Q Thank you. Now if I could have 020458, please.
10 Now, this is a part of the book and the chapter
11 you wrote entitled "Two Kinds of Liberty"?

12 A Uh-huh.

13 Q Relating to Joyce Milgaard?

14 A Right.

15 Q Now, you candidly admitted in your examination by
16 Mr. Hardy yesterday that there were some mistakes
17 in the article based on what you knew in 1981,
18 '82?

19 A Oh, absolutely there are, yeah.

20 Q Okay. And I'll just bring this up, just look at
21 the kind, some of the different kind of mistakes.

22 A Right.

23 Q Now, you say here, and this is of course after
24 you've reviewed some of the transcript material,
25 whatever documents that Mrs. Milgaard had



1 provided, and I guess your attenuated interview
2 with Ms. John, it says:

3 "Curiously, although she had stab wounds
4 in her back, she had on a black cloth
5 coat which had no puncture marks in the
6 back."

7 A Uh-huh.

8 Q Now, you know that is inaccurate?

9 A I know that, yeah.

10 Q Okay. And then if I go down to the bottom, it
11 says, continuing on:

12 "The missing boot was one clue --"

13 A Uh-huh.

14 Q "-- and the marks in the snow suggested a
15 scuffle."

16 And you are putting that in there to bolster your
17 theory that the crime happened in a car, but you
18 knew there was no missing boot?

19 A Uh-huh.

20 Q That's right, so that's a mistake based, in terms
21 of summarizing what would be a complicated case?

22 A I was trying to compress it and nobody ever heard
23 of Milgaard anyway, so --

24 COMMISSIONER MacCALLUM: Wait a minute now.
25 The part about a missing boot, just answer that,



1 okay.

2 BY MR. BOYCHUK:

3 Q There was no missing boot, the boot was not on the
4 foot, but the boot was found.

5 A Okay.

6 Q That's right?

7 A I'll take your word for it.

8 Q So you don't know whether that's accurate or not?

9 A I can't remember at this time.

10 Q Okay. Well, let's go to then the next page, and
11 to me those seem like the kind of mistakes someone
12 can honestly make in summarizing a complicated
13 case.

14 A Right.

15 Q Let's go to 020459 if I could, and I want to
16 highlight this particular paragraph right here if
17 I could.

18 A All right.

19 Q And it says here, and this is what you write:

20 "Police also interviewed Albert, Ron and
21 Nicol. Though the four had split up
22 some time ago, they remembered January
23 31st well and their separate accounts of
24 events coincided perfectly. David,
25 Nicol and Ron all gave written



1 statements about their journey from
2 Regina to Saskatoon."

3 Now, the part I want to focus on is their
4 separate accounts of the events coincided
5 perfectly. That's not accurate is it?

6 A No, obviously Albert's not part of that.

7 Q And in fact you knew that wasn't true?

8 A Well, I didn't sit there and write it as a lie, it
9 was probably written at, who knows, 3:00 in the
10 morning. It's a mistake though.

11 Q Right. But you already told us that you were --
12 had -- your initial focus had been on Cadrain; is
13 that right?

14 A Evidence at the preliminary had attracted me,
15 yeah, yeah.

16 Q But that he was your initial focus in terms of
17 someone whose evidence looked like -- suspect to
18 you?

19 A He's the only one who had seen blood.

20 Q And that so when you wrote this --

21 A Uh-huh.

22 Q -- you knew, initially, his evidence actually
23 didn't coincide with Ron and Nichol John?

24 A No, obviously not.

25 Q Right.



1 A And that would have been obvious soon after I read
2 it, hopefully.

3 Q But this plays nicely into your theory that the
4 police somehow coerced the evidence out of these
5 witnesses; doesn't it?

6 A Umm, well can we limit it to the interviews with
7 Ron, Nichol, and David Milgaard?

8 Q Well why don't I -- why don't we just stick with
9 what I am asking you.

10 A Okay, yeah.

11 Q Because what I am interested in is that you were
12 suggesting any person -- you knew this, you had
13 hoped this book was going to get wide circulation;
14 is that right?

15 A Was going to get what?

16 Q Wide circulation.

17 A Oh no, I wasn't under that illusion, no. This was
18 a book done I think with a Canada Council grant by
19 an editor. I knew it was --

20 Q But you knew it was going out into the public?

21 A I knew it would be in the public domain.

22 Q Yeah. And part of your view was to bring the case
23 in the attention out to the public?

24 A Yeah.

25 Q In the hopes of maybe moving forward to



1 overturning the wrongful conviction, that's part
2 of your goal here?

3 A To get other people interested in looking into it
4 too, yeah.

5 Q Okay. So back to my question then, is that when
6 you wrote this, you knew it wasn't accurate;
7 correct?

8 A Are you saying, as I typed it, I knew it wasn't
9 accurate?

10 Q Well you wrote -- this thing was published in the
11 fall of '82; right?

12 A Uh-huh.

13 Q So presumably you are writing this well after you
14 got involved with this case, sometime late
15 '81-'82?

16 A Uh-huh, yeah, probably, yeah.

17 Q All right. So you already knew how Albert
18 Cadrain's evidence came forward?

19 A I would have done, yeah.

20 Q And you also know that, in terms of his evidence,
21 it didn't coincide with Ron and Nichol because
22 they, in first instance, did not mention the
23 blood?

24 A That's right, uh-huh.

25 Q Although Ron Wilson subsequently said he saw



1 blood; is that correct?

2 A That's correct, yeah.

3 Q But, by writing it this way, isn't it clear that
4 this fits in with your theory, or that you were
5 trying to prove that the police coerced these
6 three witnesses to change their stories, isn't
7 this what you are trying to do here with this
8 passage?

9 A No. I think what I was trying to do in this book
10 was to give my own opinion that there is no way
11 this could have happened the way it was said to
12 have happened.

13 Q But this isn't a statement of opinion, --

14 A I don't think I'm talking about.

15 Q -- this is a statement of facts?

16 A I'm talking about perjury later on.

17 Q Right. That's a fairly serious allegation --

18 A I know that.

19 Q -- and we'll get to that.

20 A I know that.

21 Q But, here, your statement of fact is not accurate?

22 A No, it's not, and I admitted that. I'm not
23 perfect.

24 Q And I'm suggesting to you that you did that to
25 advance your theory?



1 A No, I would reject that, no.

2 Q Well whatever -- what other reason do you give for
3 putting something that is so clearly -- that you
4 knew was so clearly inaccurate?

5 A Are you talking about the mistake regarding
6 Albert?

7 Q Right.

8 A Is that what you are taking about?

9 Q Right.

10 A No, there is no malice aforethought involved in
11 this, it's a mistake.

12 Q Let's go down to the bottom here, then, and I'll
13 just pull up this paragraph, if I could. And this
14 is you speaking of Ron Wilson:

15 "Ron meanwhile had got himself into
16 trouble for robbery. While in prison he
17 was visited several times by police, who
18 were under intense pressure to make an
19 arrest."

20 I take it that part is just conjecture on your
21 part?

22 A Umm, I can't remember the source for it right now.

23 Q Okay.

24 A I knew he had got in some kind of criminal
25 problems, yeah.



1 Q So:

2 "They suggested he knew more than he was
3 saying about Gail Miller's death."

4 A Uh-huh.

5 Q "He told them flatly he knew nothing.
6 But the police persisted and hinted that
7 life was going to be very difficult for
8 him in future."

9 A Uh-huh.

10 Q Now we know, at this time, you hadn't talked to
11 Ron Wilson?

12 A No.

13 Q And that --

14 A I can't remember when Mrs. Milgaard talked to him.

15 Q Right.

16 A But I would have seen the interview, whenever that
17 was.

18 Q Right. But we already have your summary of the
19 interview where Mr. Wilson --

20 A Yeah, he didn't allege, no, he didn't no. So this
21 is some speculation, I suppose.

22 Q But it's not presented as speculation though, is
23 it Mr. Carlyle-Gordge, it's presented as fact?

24 You say:

25 "... the police persisted and hinted



1 that life was going to be very difficult
2 for him in future."

3 A Well, I believe that's what happened.

4 Q But you don't, you don't qualify it that that's
5 your belief, you state it as fact in here?

6 A Well, that's your opinion, yeah.

7 Q That's my opinion?

8 A Uh-huh.

9 Q Okay. And I'm suggesting to you that you
10 deliberately misstated that to advance your theory
11 that the police were responsible for changing Ron
12 Wilson's evidence?

13 A To some degree I believed that whatever happened
14 between them, the Crown witnesses and the police,
15 is in fact what happened. Something happened
16 between them and the police, and I believe they
17 were intimidated, I believed that then and I
18 believe it today.

19 Q Okay. Well let's just go up to the paragraph
20 ahead of that as well. No, just sorry, I meant on
21 the -- right here. And again you state, and I'm
22 looking at the back, or the last sentence. You
23 say:

24 "Albert, Ron, David and Nichol insisted
25 they knew absolutely nothing of a



1 murder."

2 A Yeah. Albert is wrong.

3 Q That's wrong?

4 A No, I admit that, it's a mistake. For the average
5 reader, I don't think a lot of this would have
6 even registered, to be honest. But anyway --

7 Q Okay. Okay. Well let's -- reduce that, please.
8 Just if you could highlight this part here, I'm
9 sorry again, and this is with respect to Nichol
10 John.

11 A Uh-huh.

12 Q It says:

13 "She was close to hysteria and actually
14 did become hysterical that night when
15 they insisted she stay overnight in the
16 police station, though she had not been
17 arrested."

18 A Uh-huh.

19 Q Now that's presented, again, as a statement of
20 fact; correct?

21 A Umm, yes, I believed at the time that that is what
22 happened.

23 Q And that was your belief, but you are presenting
24 it here as a statement of fact, aren't you?

25 A Yeah, sort of, yup, uh-huh.



1 Q That -- and also, at that time, you hadn't had a
2 chance to do any type of interview with Nichol
3 John when you wrote this?

4 A No, I hadn't.

5 Q And in fact she never made that allegation; did
6 she?

7 A I got a lot of this information from Mrs. Milgaard
8 about what happened to Nichol John.

9 Q But, as far as I understand, you and Mrs. Milgaard
10 had the same amount of involvement, at least at
11 the time you were writing this article, with
12 Ms. Nichol John; she was refusing to see both of
13 you?

14 A Joyce had some previous information from other
15 sources which I'm not aware of, so --

16 Q Okay. Can you tell me where -- what source you
17 had in 1992, or '81 when you wrote this, that said
18 that this woman became hysterical in police cells?

19 A Umm, well certainly Mrs. Milgaard would have been
20 one. I don't know at this date --

21 Q So you --

22 A -- what I based that on, yeah.

23 Q So you didn't know whether it was true or not when
24 you --

25 A I knew she had been a very difficult witness



1 obviously, you know, and she was traumatized and
2 so on.

3 Q Let's go to 020462. Excuse me, I wonder if you
4 could pull up this part right here, this is
5 another statement you make --

6 A Uh-huh.

7 Q -- in your article:

8 "The Saskatoon Police quietly visited
9 old trial witnesses and told them not to
10 talk to her if she found them."

11 A Uh-huh.

12 Q "If she pestered them, they should just
13 let police know and they would see her
14 off."

15 A Yes.

16 Q Okay.

17 A That's a statement of fact.

18 Q That's a statement of fact that you make?

19 A Uh-huh.

20 Q And I want to ask you; did Nichol John ever tell
21 you that a Saskatoon City Police officer had told
22 her not to talk to either you or Mrs. Milgaard?

23 A No, because I didn't have that conversation with
24 her.

25 Q Okay. Mr. Wilson, did he ever give that to you or



1 Mrs. Milgaard, as far as you know?

2 A Mrs. Milgaard certainly gave that statement to
3 me, --

4 Q Mrs. Milgaard?

5 A -- and I believed it was true, and I still believe
6 it was true.

7 Q Okay. And in terms of Albert Cadrain, you
8 interviewed him directly, did he ever state that
9 to you?

10 A What, that the police had told him not to -- no.
11 The only thing I recall there with the police and
12 the interview with him was the police had
13 reassured him that he would be safe after the
14 trial and Milgaard would never get out. He
15 said --

16 Q So the answer is "no"?

17 A From Albert, did he say the police had been up to
18 see him from Saskatoon, and say "don't talk to
19 them", no, I didn't, sir.

20 Q And the same for Mr. Wilson; the answer is "no"?

21 A Not that I recall anyway.

22 Q And the same with Ms. John; the answer is "no"?

23 A Well, there was no conversation with Ms. John.

24 Q Right. So when you wrote this --

25 A Uh-huh.



1 Q -- you didn't have any evidence --

2 COMMISSIONER MacCALLUM: Did you say you
3 hadn't spoken to Ms. John?

4 A Well not on this subject, no, no.

5 COMMISSIONER MacCALLUM: Well that wasn't
6 the question.

7 A Correct. Yeah, sorry.

8 BY MR. BOYCHUK:

9 Q So when you wrote this you had absolutely no
10 evidence that it was true or not?

11 A I think, umm --

12 Q You had a belief but you didn't have any evidence?

13 A I had a very strong belief, yes, yup.

14 Q And --

15 A That there was some hostility.

16 Q -- do you even know --

17 A Yes I do.

18 Q -- if it was a City of Saskatoon Police officer
19 that spoke to Nichol John or Ron Wilson about
20 Mrs. Milgaard's wish to speak to them; do you even
21 know that that's true?

22 A You know, I remember being in Regina, I can't even
23 remember at this -- obviously it was years ago --
24 who we were looking for, and I remember --

25 Q Just answer the question.



1 A Well, Joyce Milgaard took --

2 Q Do you even know whether it was a Saskatoon City
3 Police Service officer that spoke to either Ron
4 Wilson or Nichol John regarding Mrs. Milgaard's
5 wish to interview those people?

6 A Umm, no.

7 Q You don't even know that, do you?

8 A No. I can't remember who told her that, yeah.

9 Q Would you be surprised to find out that we've
10 heard evidence at this Inquiry that it wasn't a
11 Saskatoon City Police officer that spoke to either
12 of them?

13 A Nothing would surprise me.

14 Q Right. But, yet, you are still prepared to make
15 the allegation in a book?

16 A Police had been to visit some witnesses.

17 Q That's all you knew?

18 A Well, at the time it was Saskatoon, that's what I
19 was told.

20 Q Okay. We'll just move on from that. Just that,
21 just here, it's just another statement you make.

22 A Uh-huh.

23 Q "After two years we have found every
24 critical witness but one. We have found
25 and interviewed Ron, ...",



1 and that is Ron Wilson:

2 "... who is cagey and prefers to forget
3 the whole thing."

4 So --

5 A All right.

6 Q And it says "we" there; I take it we're in
7 agreement that that's not accurate as well?

8 A In what sense?

9 Q That you never interviewed Ron Wilson?

10 A No, but I had some involvement. I wasn't in the
11 same place, no, no.

12 Q Okay. So that's not accurate either?

13 A Well, some of the questions that was put to him
14 were part of my interview done shall we say
15 indirectly, yeah. Was I in the room with him, no.
16 That's a technical thing.

17 Q Okay. Well let's go to 159819, and it's -- bring
18 up this paragraph right here. Now this is an
19 article that you wrote -- or a letter to the
20 editor?

21 A It's a letter to the editor.

22 Q Right, that you wrote to the *Winnipeg Free Press*
23 in August of 1990?

24 A Correct.

25 Q Okay. And here's what you write.



1 A Uh-huh.

2 Q "If the Saskatoon Police are satisfied
3 that all is well with the Milgaard
4 conviction, why did they contact all the
5 chief witnesses in the early 1980s
6 advising them not to talk to
7 Mrs. Milgaard, myself, or anyone else?"
8 See, that's what you wrote?

9 A Uh-huh.

10 Q And am I correct in saying that your -- that
11 your -- the information you had in 1990 on this
12 was no different than what you had when you wrote
13 this in 1982 in the book?

14 A No, I sort of had kept abreast of this case.
15 What, was the information the same?

16 Q Yeah?

17 A Umm --

18 Q You didn't know whether this was true or not when
19 you wrote it?

20 A When I wrote the book I hadn't been through the
21 Caldwell files, I hadn't talked to, I don't think
22 I had talked to Mr. Mackie. Umm --

23 Q But what did that have to do with the contact with
24 the --

25 A Well it had to do with the hostility.



1 Q Well, let's go back to this. Tell me, --

2 A It has to do with the legal questions.

3 Q -- who did you think contacted the witnesses?

4 What evidence did you have regarding what contacts
5 were made by the Saskatoon City Police with the
6 chief witnesses?

7 A Some witness, and I can't tell you who, told that
8 to Mrs. Milgaard, "we've already had a visit".

9 Q All right.

10 COMMISSIONER MacCALLUM: What page was
11 that?

12 MR. BOYCHUK: Where is that?

13 COMMISSIONER MacCALLUM: The one we're
14 looking at here?

15 MR. BOYCHUK: I'm -- oh, this page is
16 159819.

17 BY MR. BOYCHUK:

18 Q So back to the paragraph, if we could. Now when
19 you wrote that --

20 A Uh-huh.

21 Q -- you had never had Ron Wilson tell you that the
22 Saskatoon Police had advised him not to speak to
23 Mrs. Milgaard; had you?

24 A I've already answered that, right.

25 Q Yeah. The answer is "no"; right?



1 A Right.

2 Q Same answer for Nichol John?

3 A Umm, right.

4 Q The same answer for Albert Cadrain?

5 A Not that I recall him mentioning it, so --

6 Q So when you wrote this you had no idea whether it
7 was true or not?

8 A Well I know the police had talked to Albert
9 Cadrain.

10 Q Right. But you talked --

11 COMMISSIONER MacCALLUM: Just answer the
12 question, please.

13 A No.

14 BY MR. BOYCHUK:

15 Q Just answer whether it's true or not?

16 A No, the answer is "no".

17 Q Okay.

18 A Right.

19 Q So this is part of your ends-justifies-the-means
20 approach, that it's morally justified to put this
21 kind of thing out, without evidence even, to
22 achieve the goal you sought to achieve; isn't that
23 right?

24 A Well, that's an opinion that -- I could certainly
25 counter that.



1 Q Well what's your answer?

2 A In 1991 --

3 Q What's your other explanation for putting this
4 out?

5 A I would imagine I wrote that likely fairly
6 passionately, because I still believed that they
7 had the wrong man, and that there was huge
8 resistance going on to even considering the
9 possibility that he might be innocent. There was
10 a lot of anger in that, probably, frustration.

11 Q Right, and passion. Does passion, frustration,
12 and anger justify, then, making this kind of
13 allegation without any evidence; is that what you
14 are telling me?

15 A My position when I wrote that letter was that this
16 man had been rotting in jail for a long time and I
17 was certain, if I had been wealthy, if I had been
18 a betting man, I would have bet, in '82, a million
19 dollars that the Crown was dead wrong.

20 Q Let's -- if you could go to the whole article
21 again, I'm just going to ask you to bring this up
22 right here, and this is you again in the article,
23 --

24 A Uh-huh.

25 Q -- you state:



1 "Police threats against Ron Wilson
2 unless he told them exactly what they
3 wanted to hear (true or not), borders on
4 deliberate perversion of the course of
5 justice and are frankly evil."

6 A Uh-huh.

7 Q That's what you stated?

8 A I did say that, yes.

9 COMMISSIONER MacCALLUM: Is that the same
10 letter?

11 MR. BOYCHUK: That's the same letter, Mr.
12 Commissioner, it's again 159819.

13 A Yup, and this is 1991, right?

14 BY MR. BOYCHUK:

15 Q 1990.

16 A Right.

17 COMMISSIONER MacCALLUM: Was there a
18 question attached to that?

19 MR. BOYCHUK: Pardon?

20 COMMISSIONER MacCALLUM: Was there a
21 question attached to that?

22 MR. BOYCHUK: I'm going to start my
23 question.

24 COMMISSIONER MacCALLUM: Okay. Thank you.

25 BY MR. BOYCHUK:



1 Q And at that time, to your knowledge, Mr. Wilson
2 had never made such an allegation?

3 A Umm, I guess there's some speculation in that, but
4 in fact I know that's what happened.

5 Q How do you know that that's what happened?

6 A I know Ron Wilson said that he was intimidated,
7 and I also know that they were going to charge
8 him, or that those words were used.

9 Q Now you state, in 1993 in your article --

10 A Uh-huh.

11 Q -- interview with the RCMP --

12 A Right.

13 Q -- that Mr. Wilson never did say that he was
14 threatened or mistreated by police?

15 A As far as I could recall, no.

16 Q Right.

17 A No.

18 Q But this is 1990?

19 A Yes.

20 Q And you are writing that he did?

21 A Yeah.

22 Q And you know it's not true?

23 A Well I know today that, actually, it was true.

24 Maybe I'm prescient, maybe I can --

25 Q In 1990 you had no idea, you hadn't interviewed



1 Ron Wilson yourself?

2 A It was part of my theory.

3 Q It was part of the theory?

4 A This is the way it turned out, yes.

5 Q So you were prepared to make these allegations as
6 part of your theory?

7 A Yes.

8 Q And this is published in the *Winnipeg Free Press*?

9 A Yes.

10 Q And you knew it was going to be published in the
11 *Winnipeg Free Press*, that's what your intention is
12 when you wrote it, isn't it?

13 A I sent it to the editor.

14 Q And you --

15 A The case must have been in the news. I can't
16 remember what prompted that.

17 Q And you didn't care whether what you were writing,
18 whether you had any evidence for it, or whether it
19 was true or not?

20 A Well I think the end of the letter predicts what
21 would happen to the case.

22 Q So the prediction justifies the decision --

23 A I think I was correct and the state was wrong.

24 COMMISSIONER MacCALLUM: Sir, the --

25 obviously the counsel is trying to get at your



1 methods of journalism.

2 A Okay, I see that, yeah.

3 COMMISSIONER MacCALLUM: He is suggesting
4 that you operated under the belief that the ends
5 justified the means.

6 A Yeah, okay.

7 COMMISSIONER MacCALLUM: And I wish you
8 would just answer that?

9 A Yeah. The end justified? Not always. I don't
10 believe that, generally, the end justifies the
11 means.

12 In this case, which is really
13 unusual even for me to be involved in -- and there
14 were some white lies told along the way, I know
15 that -- I would say I was so passionately
16 convinced that this is the way it happened that
17 yes, this had to be undone somehow, yeah.

18 BY MR. BOYCHUK:

19 Q So the ends did justify the means?

20 A In this case, in this particular *Milgaard* case,
21 yes.

22 Q Okay.

23 A And I had to wait a long time to learn --

24 Q Okay. Thank you. Thank you, Mr. Gordge.

25 MS. KNOX: Everybody in this room is taller



1 than me.

2 COMMISSIONER MacCALLUM: Not all of us.

3 MS. KNOX: You should try heels, it helps.

4 BY MS. KNOX:

5 Q Mr. Carlyle-Gordge, my name is Catherine Knox, and
6 we haven't formally met but I presume you are
7 aware that my office and I act as counsel for Mr.
8 Caldwell, you've seen me in his presence?

9 A Yes, I have, yes.

10 Q You are aware of that?

11 A Yes.

12 Q I am going to start by apologizing because I'm
13 going to be a little bit over the map, because Mr.
14 Caldwell, or his interaction with you fits into a
15 small piece, but has long-term impact, I guess, in
16 terms of how matters unfolded before and after you
17 interviewed him in 1983?

18 A Uh-huh.

19 Q And I -- as well, Mr. Boychuk has covered some of
20 the areas that I wanted to cover with you. But to
21 keep some semblance of continuity from where he is
22 I'm going to start by referring as well to the
23 book that you wrote in 1982, --

24 A Fine.

25 Q -- the *Winnipeg 8, The Ice-cold Hothouse*.



1 A Fine.

2 Q Mr. Boychuk put certain segments to you in respect
3 to that book that I won't repeat, but I wonder if
4 I could have brought up page 020460. Now I want
5 to refer, in particular, to the first paragraph of
6 that writing --

7 A Uh-huh.

8 Q -- where you indicated that:

9 "No witnesses were called in David's
10 defence and his lawyer advised that he
11 not give evidence himself, though he
12 wanted to."

13 And you do a quote, or which I presume or is from
14 Mrs. Milgaard, --

15 A Yeah.

16 Q -- saying that's your clear intention.

17 A Yeah.

18 Q "'We didn't know anything about courts or
19 the law then. We were helpless and
20 couldn't afford a fancy lawyer.'"

21 A Right.

22 Q Now you indicated that this was written by you
23 probably in the summer of 1982?

24 A I'm guessing, because I think it came out in the
25 fall.



1 Q Came out in the fall?

2 A Yeah.

3 Q And by that time, since December of 1980 when you
4 had first made contact with Mrs. Milgaard, you had
5 met Gary Young, --

6 A Yes.

7 Q -- who was retained to act as counsel for her and
8 David early in your dealings with him, in fact we
9 have a transcript of you participating in a
10 conference call January 22nd, 1981 --

11 A Right.

12 Q -- with Mr. Young?

13 A I think she had maybe got the transcript through
14 him or something like that.

15 Q That's right. And -- but you participated, met
16 with, had conversation with Mr. Young?

17 A I did. I don't remember a lot about that, but
18 yeah.

19 Q In the course of the transcript there was some
20 discussion about Mr. Tallis and his efforts on
21 behalf of Mr. Milgaard, but separate and apart
22 from that, by this time, the summer of 1982, you
23 also had gotten to meet Tony Merchant?

24 A Uh-huh.

25 Q Who had been hired to replace Mr. Young or to --



1 A Yeah.

2 Q Yeah, to replace Mr. Young as counsel?

3 A Yeah, somebody came forward with some money and I
4 think Mr. Merchant got involved, yeah.

5 Q And you had been conducting some inquiries on your
6 own as well as with Mrs. Milgaard --

7 A Yeah.

8 Q -- in Saskatchewan with respect to the justice
9 system, the police, the Crown, the defence, bar,
10 the Court?

11 A Not a lot by then, though, because I still hadn't
12 met Mr. Caldwell, and I hadn't met Cadrain and
13 people like that, but I had done a lot of analysis
14 of the script I had, the trial transcript, yeah.

15 Q When Mrs. Milgaard makes the statement to you:

16 "We didn't know anything about courts
17 or the law then."

18 A Yeah.

19 Q "We were helpless and couldn't afford a
20 fancy lawyer."

21 A Right.

22 Q You knew that Mr. Tallis was a senior --

23 A No, sorry, that quotation is a ret -- I should
24 explain what this whole book is about.

25 Q Okay.



1 A I interviewed Joyce Milgaard for many hours about
2 her entire life story, her family members. That
3 quotation is taken from one of those tapes --

4 Q Okay.

5 A -- and she's talking about the whole -- she's not
6 specifically talking about the period I was
7 involved with her, she's talking about the time of
8 the trial.

9 Q Uh-huh.

10 A Do you understand that?

11 Q I understand, --

12 A Okay, sorry.

13 Q -- and that was the premise of my question.

14 A Sorry.

15 Q When she said to you, and you recorded it on tape:

16 "We were helpless and couldn't afford a
17 fancy lawyer.", --

18 A Right.

19 Q -- that while factually it was correct that they
20 couldn't afford to pay for a fancy lawyer, --

21 A Oh, that's correct, yeah.

22 Q -- the Legal Aid program in Saskatchewan gave them
23 what in effect was a fancy lawyer, a senior
24 lawyer, one who has been described by many,
25 including by Mr. Young and by Mr. Merchant, as an



1 outstanding lawyer?

2 A Well, I'm not questioning your assessment, I
3 wouldn't know that.

4 Q Okay. But when you wrote this book you knew who
5 the lawyer was?

6 A I didn't know much about him. I had written to
7 him and I never heard back.

8 Q You didn't --

9 A I don't know who Mr. Tallis was at that time.

10 Q You didn't realize that they had been provided
11 with the services of a senior member of the bar
12 who by this time --

13 A No.

14 Q -- in fact, I think, had gone on to become a
15 judge?

16 A They had Legal Aid, and I knew Joyce had many
17 family problems with money, she had a son who had
18 been sick, and she worked as a waitress in
19 Saskatoon just so she could stay here for the
20 trial.

21 Q And that --

22 A I knew they were poor.

23 Q Okay. But you will agree with me that the
24 impression that you created for those few members
25 of the public that you hoped might read your book



1 was that David wasn't very well represented
2 because they couldn't afford a good lawyer?

3 A I don't read that into that. This is not a
4 disparagement of the lawyer they had --

5 Q Oh, okay.

6 A -- at all.

7 Q So your purpose in putting it in then, if it
8 wasn't intended to disparage him, what purpose did
9 you intend to --

10 A I think the meaning in that one paragraph --

11 COMMISSIONER MacCALLUM: Witness, wait for
12 the question to be finished.

13 A Sorry.

14 BY MS. KNOX:

15 Q What purpose did you intend to serve when you put
16 in this document that was going into public
17 circulation, --

18 A Right.

19 Q -- as you were discussing the *David Milgaard*
20 case, --

21 A Uh-huh.

22 Q -- that his family couldn't afford a fancy lawyer
23 for him? What was the intended implication of
24 that, in your mind, when you wrote that book?

25 A My -- the implication and the fact was that they



1 were very naive about the whole legal system, they
2 were poor. It's got nothing specifically to do
3 with Mr. Tallis, nothing.

4 Q As a journalist, step back for a moment with me,
5 and think what you would think if you, as a member
6 of the public, read that about how David Milgaard
7 was defended in terms of his legal counsel?

8 A Well, I think you could draw the value judgement
9 you are drawing, but it's not one I would draw.
10 They didn't have \$50,000 to go around and shop for
11 the best lawyer. I mean, I didn't know anything
12 about Saskatchewan's justice lawyer system.

13 Q And your purpose wasn't, as Mr. Boychuk has
14 suggested to you, to create support for your
15 theory?

16 A No.

17 Q Okay. If we could go to page 020462, please. You
18 wrote at page 143 of the article itself:

19 "In Saskatoon there was much flapping
20 and, in some hearts, much fear. It was
21 about this time that I came to know
22 Joyce Milgaard."

23 And to give it a context, you are talking about
24 when she made a decision to hire a Saskatoon
25 lawyer, being Mr. Young presumably, and offer a



1 \$10,000 reward, that it created flapping and fear
2 in hearts in Saskatoon?

3 A Right, yeah.

4 Q Now in 1982 when you wrote this --

5 A Uh-huh.

6 Q -- you were aware, or you had had contact with
7 Nichol John?

8 A Umm, you know, I can't remember when we met her.

9 Q I believe --

10 A I'd have to check, I really don't know the date of
11 that, yeah.

12 Q Okay. What, who was it who you believed were
13 flapping in Saskatoon and who had much fear in
14 their hearts when you made this statement in your
15 book that was going out into the public arena?

16 A I would say there would be some consternation
17 certainly in the chief Crown witnesses, Nichol
18 John, the people who had perjured themselves,
19 according to my theory, at the time.

20 Q Nichol John lived in Regina.

21 A Well, I don't doubt that Mrs. Milgaard, news of
22 Mrs. Milgaard months before I met her, when she
23 was doing all this publicity stuff, I don't doubt
24 the news had travelled around quite a bit. There
25 was certainly some consternation and we ran into



1 some hostility later.

2 **Q** But talk to me about -- what was the consternation
3 that you keep referring to and the hostility?

4 **A** Umm, some people believed this case was finished
5 forever, some people had more knowledge,
6 especially people who had perjured themselves, in
7 fact some lies had been told. I would think there
8 would be some fear when they heard Mrs. Milgaard
9 was going around looking for any kind of new
10 information.

11 **Q** But this was presumed on your theory that people
12 had perjured themselves?

13 **A** Yes, absolutely.

14 **Q** You didn't have any evidence?

15 **A** None at all.

16 **Q** And I take it, to borrow from a phrase of Mr.
17 Boychuk's, you put it forward as a fact without
18 any foundation for it?

19 **A** Well, I wouldn't say without any foundation.

20 **Q** Tell me the foundation?

21 **A** Well, I went through the Crown's evidence about
22 the blood, about what happened that morning, I
23 talked to people who had seen Milgaard that
24 morning, these were factual, credible people.

25 **Q** But you --



1 A I came to a conclusion based on factual things I
2 had been told.

3 Q You talked to the people who had seen him that
4 morning, you are referring to the Danchuks,
5 Mr. Rasmussen from the motel?

6 A And I think the tow truck people had seen him.

7 Q Those people were called as witnesses at the
8 trial?

9 A I know that, I'm fully aware of that.

10 Q Okay. So what you were taking from them was
11 different from what a jury had taken from them?

12 A Yes.

13 Q So in terms of your suggestion that there had been
14 some malfeasance here in some form or other, in
15 fact the very evidence that you looked to to point
16 to wrongdoing was evidence that was squarely put
17 in front of the jury.

18 A It was. I've never denied that.

19 Q Okay. So why would you conclude that somehow,
20 because you had a different view, that there was
21 malfeasance, misconduct, ill will in the heart of
22 anybody connected with this prosecution?

23 A Why would I conclude that?

24 Q Yeah.

25 A Because I looked at a lot of factors other than



1 just talking to people, I looked at time, I looked
2 at a lot of things, temperature, was it even
3 likely that somebody could just spontaneously jump
4 out and massively rape and stab somebody when it's
5 minus 40, I looked at many, many factors. The
6 jury did convict David Milgaard and I have my own
7 beliefs about why.

8 Q The jury, though, had the same facts to look at,
9 albeit they interpreted them differently than you
10 did?

11 A Correct, correct.

12 Q When you looked at the record of the preliminary
13 inquiry and when you looked at the record of the
14 trial, all of that information was squarely put
15 before them, from a Crown point of view they put
16 the good, the bad, the indifferent?

17 A Uh-huh, and I thought the judge gave it a good
18 summing up actually.

19 Q Yeah.

20 A Yeah.

21 Q So given that what you saw as being terribly
22 troubling was information that was squarely put
23 before the jury, why would you be suggesting in
24 this book for public consumption that in Saskatoon
25 there was much flapping and in some parts much



1 fear?

2 A We're talking about when Joyce Milgaard was going
3 around offering the reward?

4 Q But you wrote in your book in 1992 (sic) after she
5 started -- after she put out the posters about the
6 reward and after she retained counsel.

7 A Hang on, the book was in '82.

8 Q Yeah.

9 A Yeah.

10 Q After -- if we go back, if we could move up a
11 paragraph, please, you indicated that she hired a
12 Saskatoon lawyer, printed up thousands of leaflets
13 and offered a \$10,000 reward to anyone who could
14 produce new evidence.

15 A Uh-huh.

16 Q She ordered a transcript of the trial and the
17 appeal, she gave interviews to any Saskatchewan
18 media who would listen to her, she also upset the
19 powers that be.

20 A Right.

21 Q The Saskatoon police quietly visited old trial
22 witnesses and told them not to talk to her if she
23 found them.

24 A Right.

25 Q If she pestered them, they should just let the



1 police know and they would take care of it.

2 A Right.

3 Q Now, you are indicating, and you've indicated in
4 your examination with Mr. Hardy, and this morning
5 with Mr. Boychuk, that you took this information
6 from Joyce Milgaard?

7 A Quite a lot of it, yeah.

8 Q And you relied on Joyce Milgaard when you made
9 these bold assertions in a public document in the
10 fall of 1982?

11 A Right, but I was personally aware soon after this
12 too of, there was some hostility there. I mean, I
13 personally encountered that.

14 Q Bear with me for a minute because I don't want to
15 spill these papers. I wonder if we could bring up
16 document, it's from document 155260, and you'll
17 note, Mr. Carlyle-Gordge, that this is a
18 transcript of the conference call done between
19 David, Joyce, yourself and Mr. Young January 22nd,
20 1981?

21 A Yes. Yeah, I see that.

22 Q Okay. And I want to go to page 155271, please.
23 Now, this is the question being asked by Mrs.
24 Milgaard and the question that she's directing to
25 Mr. Young is whether he's heard anything from the



1 police department, and his response was I don't
2 have any negative response from them, so they
3 still may help us. I'll quickly phone the chief
4 as soon as I get off the conference call and see
5 if he's reached a decision.

6 A Right, I see that.

7 Q Then if we go to the bottom of the page, David
8 apparently asks:

9 "What was the initial reception by any
10 of the police there --"

11 At the top of page 272,

12 "-- in Saskatoon upon your enquiries?"

13 And Mr. Young's response is:

14 "Well at the lower levels it seemed to
15 be fairly positive. But the police
16 chief himself ultimately put his foot
17 down and said that unless we can come up
18 with some valid reason for expecting to
19 find evidence that hasn't already been
20 dealt with, he didn't want his police
21 officers spending time on helping us
22 out."

23 A Right.

24 Q Okay. Now, did you interpret anything that Mr.
25 Young reported there from the chief of police as



1 an expression of hostility on the part of the
2 police when contact had been made with them and
3 the context of this and various memos in his file
4 and letters that are exchanged with the police
5 that I'll refer you to, is that he made contact
6 with the Saskatoon Police Service on behalf of
7 Mrs. Milgaard --

8 A Okay.

9 Q -- and asked to be able to speak with police
10 officers, look at file material I think and to
11 have address information on three witnesses?

12 A I don't remember a lot of this actually, but it
13 looks like he's saying they don't want to waste
14 time to me, the police chief is saying that.

15 Q What he's saying is, he said, sir, with due
16 respect --

17 A He says the lower levels are fairly positive.

18 Q Exactly.

19 A Yeah.

20 Q So the lower levels would be the investigating
21 officers involved in the file would you not
22 assume?

23 A I have no idea who he's referring to.

24 Q Sir, you are an experienced journalist, you've
25 worked as an investigative reporter. Where the



1 police chief, or reference is made to the lower
2 levels in the police, do you presume they are
3 talking about the secretarial support service or
4 are they talking about the foot soldiers?

5 A For all I know Mr. Young may have had some friends
6 in the force. I don't know who he's referring to.

7 Q Okay. Whatever Mr. Young may have had, would you
8 agree with me that on January 22nd, 1981 you were
9 told by Mrs. Milgaard's counsel that he was
10 getting a positive response from police officers,
11 but the chief was saying unless there's some good
12 reason for taking up my men's time, I don't want
13 them to go there?

14 A Well, that's what he's saying, yeah.

15 Q Okay. So at that point in time would you agree
16 with me you should have had, based on your limited
17 involvement in the file since December --

18 A Which was --

19 Q -- no reason to think there was hostility or ill
20 will by the police toward Mrs. Milgaard?

21 A Sorry, what was the date of this phone call?

22 Q January 22nd, 1981, sir.

23 A Yeah. I don't think I really would be paying a
24 lot of attention to that really, but -- no, it's
25 there, I mean, it's a transcript, so that's what



1 Mr. Young was saying.

2 Q Mr. Carlyle-Gordge, with respect, could you
3 indicate to me why you would state under oath that
4 you don't think you were really paying attention
5 about a matter that you subsequently castigated
6 the character of a number of professional people
7 about?

8 A When did I do that, in '82?

9 Q In '82 when you wrote the Winnipeg, or you wrote
10 your chapter, you were indicating there was
11 hostility, resistance and so forth.

12 A Yeah. I was barely into the case in January.

13 Q Okay, so let's talk about it, you are barely into
14 it in January. Whether you paid attention or not,
15 there's a positive, semi-positive response from
16 the police to Mrs. Milgaard's request?

17 A I'm not denying that.

18 Q Okay. If we could have page 155267 of that
19 transcript, please, again there's discussions
20 about the police officers and you indicate, this
21 is still January 22nd, 1981, that you are going
22 into Saskatoon and you're going to endeavour to
23 talk to one of the police officers?

24 A Right.

25 Q Okay. So this is -- and I'm walking a time line



1 here, if you bear with me, and the reference had
2 been earlier that the police officer that you were
3 endeavouring to talk to was Mackie, Ray Mackie?

4 A Is this the same conversation?

5 Q Yes.

6 A Yeah. I must have got that from the transcripts
7 probably.

8 Q Or from Mrs. Milgaard or --

9 A Well, I must have known he was important by this
10 time, yeah.

11 Q Yeah.

12 A Yeah.

13 Q And you indicated in 1981, January 22nd, that you
14 are going to try and talk to him?

15 A Uh-huh.

16 Q Now, the transcript that we have of your contact
17 with him doesn't happen until quite some time
18 later?

19 A Right.

20 Q And I -- between when you had this conversation
21 and January 22nd, 1981 and when you eventually
22 spoke to Mr. Mackie and recorded your conversation
23 with him after the meeting with Mr. Caldwell --

24 A Uh-huh.

25 Q -- did you make any efforts to be in touch with



1 him and get rejected?

2 A In touch with Mr. Mackie are you talking about?

3 Q Mr. Mackie, yeah.

4 A No. He was very cagey.

5 Q No, no, we'll get to where he was --

6 A Yeah. No, no.

7 Q -- between this conversation where you told --

8 A I said I would try and get in touch, but remember,
9 this was kind of a whenever I could steal time,
10 you know.

11 Q And I'm not criticizing you, I'm just trying to
12 figure out what the basis is for your evidence --

13 A Mackie, I don't know --

14 COMMISSIONER MacCALLUM: Just a minute.
15 Wait for the question to be finished, please.

16 A Okay, sorry.

17 BY MS. KNOX:

18 Q I'm not criticizing what you did or didn't do,
19 what I'm trying to get from you is the factual
20 basis upon which you make the statement that you
21 encountered and Mrs. Milgaard encountered
22 hostility and resistance when you attempted to
23 pursue this file, so we're at January 22nd, 1981
24 we're agreed, this is the transcript?

25 A Right, so it would be later, yeah.



1 Q It was provided to us through Mrs. Milgaard,
2 presumably to you through Mrs. Milgaard at some
3 point in time, but certainly January 22nd, 1981
4 the indications are the front-line police officers
5 are reasonably positive, the chief isn't saying
6 you can't have access, he's saying give me a
7 reason?

8 A Right.

9 Q Okay?

10 A Agreed.

11 Q At that point in time you indicate that you want
12 it talk to Ray Mackie who was one of the main
13 investigators?

14 A Yeah, I would have known that.

15 Q So we're again, just to belabour the point,
16 January 22nd, 1981. We know that you didn't talk
17 to him based on the records, your evidence and his
18 evidence until a couple of years later, and I'm
19 ballparking here --

20 A Correct.

21 Q -- a couple of years later, and my question to you
22 was did you make any efforts between January 22nd,
23 1981 and March I think, 1983, to contact Ray
24 Mackie that you can recall?

25 A Not that I can recall, no.



1 Q So between January 22nd, 1981 and when you
2 interviewed him after you met with my client, you
3 had not encountered any hostility or anything from
4 Ray Mackie?

5 A No, no.

6 Q Okay.

7 A No.

8 Q And we know, based on your answers this morning
9 and the documentary record that we have, that you
10 made one effort to contact Eddie Karst, you didn't
11 connect, appears to be the end of the story?

12 A Apparently so.

13 Q No resistance from him?

14 A No.

15 Q There's various discussions by you and with others
16 about you speaking to Charlie Short who was their
17 supervising officer?

18 A Oh, okay, right.

19 Q Okay. You were given information by Mr. Caldwell
20 in 1983 by Mr. Mackie I think about how you can
21 locate him?

22 A Yes.

23 Q But nothing between January 22nd, 1981 and forward
24 to when you wrote this book, that I can find
25 anyway, and if I'm wrong somebody will correct me,



1 that you were rejected or encountered any
2 resistance from Charlie Short, no indication you
3 made any contact with him?

4 A No.

5 Q Okay. So no indications that I can find again
6 that you made contact with the identification
7 officer Lieutenant Penkala who subsequently became
8 the chief but was one of the key investigators on
9 the file?

10 A Yeah. The name rings a bell, yeah.

11 Q But you didn't make contact with --

12 A Not personally, no.

13 Q Okay. So again, no hostility coming from him or
14 in any manner directed to you?

15 A No.

16 Q And when you say not personally, do you have
17 knowledge of any attempt made by Mrs. Milgaard
18 personally outside the offices of her counsel, and
19 I'll deal with Mr. Merchant and Mr. Young
20 separately, by her personally to speak to any of
21 those police officers or to Mr. Caldwell, my
22 client, wherein she was rejected or encountered
23 hostility?

24 A Where she directly attempted to see things?

25 Q Uh-huh.



1 A No, I don't.

2 Q Okay. So -- now, sorry, you were in the
3 conference call with Mr. Young January 22nd, 1981.
4 What Mr. Young indicated in that conference call
5 after the question was raised with him is that
6 after he got off the phone he was going to make
7 contact with the police --

8 A Uh-huh.

9 Q -- or with Chief Gibbon and follow up on the
10 request that they be allowed to access the file
11 and get address information on the witnesses. Do
12 you remember him saying that?

13 A Yeah, but I seem to think a lot of that was going
14 on between Mrs. Milgaard and him.

15 Q But you were listening?

16 A I was on the call because I had questions for
17 David, yeah.

18 Q Okay. But my point is, there was nothing from Mr.
19 Young that suggested in any way that he felt he
20 had been shut down by the police or that --

21 A Well, no, he was a lawyer. No, I don't think --

22 Q What he in fact said is I'll give him a call when
23 I get off the phone?

24 A Yeah, probably.

25 Q Okay. Now, sir, did you become familiar with or



1 were you given access to the correspondence that
2 was exchanged between Mr. Young and Chief Gibbon
3 about getting access to the file on behalf of or
4 by Mrs. Milgaard?

5 A I can't remember that name, but I've read
6 something somewhere.

7 Q I wonder if we can --

8 A -- that -- no, maybe that was to do with
9 Mr. Tallis' files. I really don't recall.

10 Q Okay. I wonder if we can bring up 331961. This
11 is a letter that we've seen before, but I bring it
12 up because you were engaged in discussions with
13 Mrs. Milgaard and with Mr. Young?

14 A Uh-huh.

15 Q But you'll note that it's a letter directed to Mr.
16 Young by the chief of police?

17 A Yes.

18 Q January 6, 1981?

19 A Right.

20 Q That basically states what Mr. Young said in his
21 conversation, in the telephone conference call
22 with you, that the chief was saying that if he was
23 provided with some reason for the case being
24 reopened, then he was amenable to doing it, but he
25 suggested to Mr. Young that it should go through



1 the Attorney General's office?

2 A Yeah. I don't offhand remember this letter, but I
3 knew the gist of, you know, what was going on.

4 Q It's consistent with what Mr. Young effectively
5 said in the conference call?

6 A I don't actually remember that. I may have seen
7 it, I don't know.

8 Q Okay. But basically what he said, he didn't say
9 go away, he didn't say get lost, he said it can be
10 done, but it has to be done in accordance with the
11 protocol, the protocol being go through the AG's
12 office?

13 A That's what it says, yeah.

14 Q Okay. Now, you indicated, and your resume
15 indicates, that you had been an investigative
16 reporter for some time, you've talked about the
17 Katie Harper case, you talk about other murder
18 cases. Was there anything in what the chief was
19 saying to Mr. Young in this letter, as was
20 reported by Mr. Young in the conference call that
21 you were a party to, that was unusual, astounding
22 or different from practices by Attorney General's
23 offices and police departments as you knew them in
24 1981?

25 A Well, just to clarify the beginning of the



1 question, I'm not a crime reporter, so I'm not as
2 familiar as you may think. To answer the
3 question, I don't remember this letter and I don't
4 remember having a lot of interest in this
5 subject --

6 Q Okay.

7 A -- at that time.

8 Q But you are the one who has made the assertion
9 repeatedly in writing and under oath here --

10 A Yes.

11 Q -- that there was hostility and resistance.

12 A Yeah, I think there was.

13 Q What the police response was as documented in this
14 letter, and I'll refer you to others, is to say we
15 would be prepared to discuss your file, but
16 there's a protocol you have to follow?

17 A Yeah. Well, that's fine.

18 Q Okay.

19 A Yeah.

20 Q I presume no different in the Katie Harper file,
21 you couldn't have just walked in, or Katie Harper
22 couldn't have walked in, Katie Harper's mother
23 couldn't have walked into whatever the police
24 station was that investigated that file and said I
25 want to see the file, let me have it and gotten



1 it?

2 A No, I wouldn't think so. She would have a lawyer
3 or somebody to do that.

4 Q Exactly.

5 A Yeah.

6 Q Exactly what the Saskatoon City Police were
7 saying, you can have at it, but go through the
8 proper channels.

9 A Uh-huh.

10 Q Agreed?

11 A Well, yeah, uh-huh.

12 Q I wonder now if we could bring up document 331953,
13 and again, sir, I'm not sure if you've seen this
14 letter, but it's dated prior to that telephone
15 conference call, and I bring it to your attention
16 to confirm that in fact on January 12th, 1981 Mr.
17 Young again, Mr. Young wrote to the police in
18 response to the letter that we just looked at
19 saying we have your letter, thank you, to ensure
20 there's no misunderstanding about the approach,
21 and please, if you would like to read this --

22 A I'm just looking.

23 Q -- take a moment to, that will save us both some
24 time and make me shut up.

25 A No, I don't think I've seen that letter. It



1 doesn't ring a bell.

2 Q Okay, I appreciate that you haven't seen the
3 letter, but I'm wondering if you could review it
4 and then I want to ask you some questions about
5 it, and then I'll ask the staff to show you the
6 second page as well before I ask the questions.

7 A All right.

8 Q Okay, next page.

9 A Right.

10 Q Okay. Now, maybe I'm overly sensitive, but my
11 interpretation of your evidence was that somehow
12 you consider the fact that the police spoke to Ron
13 Wilson, Nichol John and Albert Cadrain about the
14 fact that Mrs. Milgaard wanted to reopen the
15 investigation or reopen the circumstances of
16 David's conviction to be somehow sinister and
17 indications of some malfeasance on their part, and
18 my words may be a little unpleasant for you, but
19 I'm not a journalist, I'm a --

20 A What is your question?

21 Q Well, is it your view, or am I correct in
22 understanding your evidence that somehow you feel
23 or you consider that the fact that the police
24 spoke to these individuals about Mrs. Milgaard
25 wanting to talk to them was a matter that should



1 be interpreted as indication of some sinister
2 motive on their part or some wrongdoing on their
3 part?

4 A No. I think she was looking for information.

5 Q Okay.

6 A I haven't seen this before.

7 Q But would you agree with me that what this letter
8 clearly is is a request from her counsel --

9 A Uh-huh.

10 Q -- to the police --

11 A Right.

12 Q -- to identify for her address information on
13 these individuals so that she could talk to them,
14 so in fact it was Mrs. Milgaard through her
15 counsel who put their names out there as persons
16 that she wished to speak to?

17 A It looks that way, yeah.

18 Q Okay. Does it surprise you at all then that the
19 Saskatoon Police Service, with the assistance of
20 Regina City Police, as the documentation before
21 the Inquiry shows, and the RCMP in B.C., made
22 contact with these three individuals?

23 A As a result of a request from Mrs. Milgaard?

24 Q Yeah, to say that she wanted to speak to them, was
25 it okay if they gave out the addresses.



1 A I can't remember reading anything like this.

2 Q Okay. I appreciate that you don't remember

3 reading it, but you are the one --

4 A Does it surprise me that they did?

5 Q Yeah.

6 A Yes, I suppose it does.

7 Q Why would it surprise you given that she, through
8 her counsel, wanted to speak with them?

9 A Well, I think I'm surprised -- I may have
10 forgotten, mind you, that that had actually
11 happened, that this request was made.

12 Q Yeah.

13 A So I don't recall if I knew about it.

14 Q Does it cause you to step back and take pause in
15 your characterization of the police service, and
16 Mr. Boychuk referred you this morning, for
17 example, to a letter you wrote in 1991.

18 A Indeed I did, yeah.

19 Q You are saying why would the police go out and
20 contact these people, why would they tell them --
21 and you make the statement why would they tell
22 them not to talk to her --

23 A Uh-huh, uh-huh.

24 Q -- but would you agree with me there's a very good
25 reason why they went out and talked, because they



1 were requested to provide assistance?

2 A Yeah. Well, if this is connected to the same
3 thing, I would agree, yeah.

4 Q Sir, when you say if it's connected to the same
5 thing, are you doubting my suggestion to you that
6 in fact Mr. Young on behalf of Mrs. Milgaard wrote
7 and asked for police assistance in locating these
8 individuals?

9 A That's not connected to what I understood at the
10 time in 1982 had happened with regard to police
11 visits and saying you don't have to talk to her.
12 That's not my understanding.

13 Q When you say it's not connected, is not what you
14 are really saying is that this is not consistent
15 with what I believed based on what Joyce Milgaard
16 told me?

17 A Yeah, it's not consistent.

18 Q Okay.

19 A Yeah.

20 Q And had you known, if in the conversation on
21 January 22nd, 1981 Mr. Young had said Joyce, give
22 a copy of that letter I sent to Chief Gibbon to
23 Mr. Carlyle-Gordge so he's fully in the loop here,
24 would that perhaps have influenced your view a
25 little more positively in respect of police



1 action?

2 A Yeah. I don't know, it might have done. I don't
3 want you to get the impression I'm anti police by
4 the way. I'm not.

5 Q Sir, does it cause you concern to know that
6 beliefs that you held based on information you
7 received --

8 A Uh-huh.

9 Q -- and beliefs that you have put out repeatedly in
10 a public forum attacking the integrity of certain
11 professionals appears not to be fully borne out by
12 some of the documentary record that existed
13 created in part by your client or on -- sorry, by
14 Mrs. Milgaard or on her behalf?

15 A Does it concern me? Have I named anybody?

16 Q Well, sir, do you think when you wrote that letter
17 in the *Winnipeg Free Press* in 1991 that people
18 didn't know who you were talking about?

19 A Are you talking about Penkala?

20 Q Eddie Karst, Ray Mackie.

21 A I have no idea if the public has all the details
22 of the Milgaard case.

23 Q Do you think it might have bothered them as
24 individuals to have their reputations dragged
25 through the mud like that?



1 A It may well indeed, yeah.

2 Q If you were wrong --

3 A Oh, if I had been wrong. I've already said here
4 that I was taking a big -- I was sticking my neck
5 out in the book in '82.

6 Q Okay.

7 A I knew that.

8 Q In 1991 you stuck your neck out a bit further, you
9 went in the *Winnipeg Free Press*?

10 A I did, yeah.

11 Q Did you bother to go back -- you said you kept
12 yourself appraised of developments in this case?

13 A Vaguely, yeah.

14 Q Did you bother to go back and make sure, before
15 you made those allegations in 1981, that the
16 records supported you and that what Mrs. Milgaard
17 had been saying to you weren't perhaps the
18 unfortunate inaccurate musings of an upset mother
19 as opposed to factual reality?

20 A I had always taken into account that she might be
21 an upset mother. That's why I did my own
22 investigation.

23 COMMISSIONER MacCALLUM: Can we take a
24 break?

25 MS. KNOX: Oh, it's time we should take a



1 break, sir.

2 COMMISSIONER MacCALLUM: And you are under
3 cross-examination, sir, please don't talk to
4 counsel.

5 A All right.

6 (Adjourned at 10:43 a.m.)

7 (Reconvened at 11:01 a.m.)

8 BY MS. KNOX:

9 Q Mr. Carlyle-Gordge, before the break you had
10 responded to one of my questions regarding your
11 assertions in '82, '90, '91 and even before this
12 Inquiry that there was hostility and opposition I
13 guess toward Mrs. Milgaard's quest by saying that
14 you always took into account that she was an upset
15 mother --

16 A Uh-huh.

17 Q -- when you were assessing information that you
18 received from her, and I wonder if you could
19 recall for me or indicate for the record what you
20 did to balance, as a journalist, what you were
21 getting from her with what was available to you in
22 the file itself or in the community before you
23 made public statements disparaging the conduct of
24 others or accusing others of misconduct?

25 A Well, as I said throughout, a lot of my work was



1 based on trying to find the truth or falsity of
2 the Crown's case. If in fact the chief Crown
3 witnesses had been telling the truth at the trial,
4 it would be important for me to know what David
5 Milgaard's character was about; therefore, I went
6 and found people who knew him, who had worked with
7 him at that time to see if we were dealing with a
8 psychopath.

9 Q I'm going to come to that, and I don't mean to cut
10 you off, believe me, that's an area I intend to
11 cover with you, but just in terms of the
12 statements about ill will by the police, police
13 going out and basically instructing witnesses not
14 to talk to Mrs. Milgaard and stuff like that, what
15 steps did you take to independently verify those
16 allegations that were being made by her about
17 professionals in the policing community in
18 Saskatoon before you went on record in 1982, in
19 1991 and at this Inquiry with those allegations?

20 A Well, let's deal first in '91. I can't remember
21 what was going on in the news at that time with
22 regard to this case. I knew she had lawyers, I
23 recommended a lawyer, and I was away until 1990,
24 and it seems to me just going on recollection
25 there was a massive state of denial going on, they



1 were trying to get to the Supreme Court and things
2 like that, so that's probably what prompted that
3 letter. I must have been reading things about
4 nothing bad happened, we've got the right man,
5 he's guilty, that's probably what prompted it.

6 Q Okay. But apart from prompting it though, and we
7 can bring up the letter if you want, and I must
8 confess, I didn't read it this morning when it was
9 on the screen, but what you were doing in 1991 and
10 what you were doing in 1982 is you were holding
11 yourself out as a person who had insider
12 information. You were involved in the
13 reinvestigation, you were in contact with the
14 witnesses, you had access to the files, you knew
15 the dirt as it were, so you weren't somebody who
16 wrote a letter saying, you know, I'm Joe Smith and
17 this is what I think, you wrote it in the context
18 of I have particular knowledge and I have this
19 particular knowledge because I've been intimately
20 involved in this investigation from the get-go,
21 you went a step further, you said I'm the first
22 person who went on the written record saying David
23 Milgaard is innocent, so you cloaked yourself, as
24 it were, in a veil to say to people believe me
25 because I know what I'm talking about.



1 A Uh-huh.

2 Q Would you agree that that's essentially how you
3 presented yourself?

4 A Yes. I passionately believed I was right and
5 everybody was wrong, everybody was in denial.

6 Q And, Mr. Carlyle-Gordge, I'm not disputing the
7 passion of your belief that you were right and
8 that everybody else was wrong, my question to you,
9 though, is as a journalist --

10 A Uh-huh.

11 Q -- as a person holding himself out to be a
12 journalist --

13 A Uh-huh.

14 Q -- and as a private citizen --

15 A Uh-huh.

16 Q -- do you think that passion allows you to take
17 liberty or license with other people's reputation
18 without careful factual foundation?

19 A No, I don't, and --

20 Q Would you agree with me that that's what you did?

21 A You shouldn't do that unless there's some basis
22 for it.

23 Q Would you agree with me you did that in this case?

24 A No, I wouldn't agree completely. There's a lot of
25 stuff I don't have any more. I can't really



1 answer your questions because it's a long time
2 ago. I've already said Mrs. Milgaard certainly, I
3 was with her in Regina when that subject came up
4 about, you know, we can't really co-operate, so
5 that something had been going on, I am quite
6 satisfied that that was factually based. I didn't
7 think Mrs. Milgaard was telling lies.

8 Q Back the train up a bit. You just said I was with
9 her in Regina when that subject came up, we can't
10 really co-operate. Who -- did I just hear you
11 right?

12 A I'm kind of paraphrasing what, whoever it was she
13 talked to at that time, that she wanted to talk to
14 had said, yes, we can't help, you know.

15 Q So you were with her and you are telling us under
16 oath you heard someone say --

17 A No. Mrs. Milgaard had that conversation and told
18 me.

19 Q Okay. So whether you were with her in Regina or
20 she told you on the phone makes no matter, you
21 were not a personal witness to anybody saying we
22 can't co-operate because the police told us not to
23 co-operate?

24 A No, I wasn't, no, but I had no reason to distrust
25 that.



1 Q Okay. Mrs. Milgaard was recording her
2 conversations on your advice, you looked at some
3 of those transcripts; did you not?
4 A I've seen some of them, yeah.
5 Q You've referenced the Ron Wilson transcript?
6 A Uh-huh.
7 Q You were present for the Nichol John interview,
8 you yourself interviewed Albert Cadrain. Did
9 anybody ever say to you in your presence the
10 police came to me and told me not to co-operate
11 with Mrs. Milgaard?
12 A Not in my presence, no.
13 Q Not a single person?
14 A No.
15 Q Not a single person. And --
16 A No.
17 Q So when you are making those assertions, you are
18 basing it on what you believe in retrospect that
19 Mrs. Milgaard told you?
20 A Yeah, and also partly later on my conversation
21 with Albert Cadrain --
22 Q Okay.
23 A -- that there had been some, don't worry about
24 this, it will never get out, uh-huh. That was
25 later.



1 Q Sir, and maybe somebody in the room can help me,
2 but we have the transcript of your interview with
3 Albert Cadrain in Dalmeny.

4 A Right.

5 Q And I was doing a quick review of it last night,
6 but I don't recall seeing any questioning by you
7 of Albert Cadrain as to whether the police asked
8 him or instructed him not to discuss this case
9 with Mrs. Milgaard or anybody.

10 A No, it's not there.

11 Q It's not there.

12 A But he did talk about the police and reassurances
13 he had been given. I didn't say it was there.

14 Q Okay. So just -- so again so the record is clear,
15 Albert Cadrain never ever told you in the taped
16 conversation in Dalmeny, in the telephone
17 conversations you had with him, that he had been
18 instructed by the police or advised by the police
19 not to talk to Mrs. Milgaard?

20 A That's correct.

21 Q Or anyone on her behalf?

22 A Correct.

23 Q Never happened?

24 A No.

25 Q And he made some references about the police,



1 everything will be okay, don't worry, but at no
2 point in time did he ever suggest that he was told
3 not to talk to Mrs. Milgaard?

4 A No.

5 Q At no point in time did he refuse to talk to you
6 as an example?

7 A Well, he was evasive, but, I mean, I showed up on
8 his door step.

9 Q Sir, you are a journalist experienced in examining
10 people, and you described Albert Cadrain last day
11 to Mr. Hardy as being difficult to keep on point,
12 which you attributed to his mental health?

13 A He kept wandering off, yes.

14 Q Today you say he was evasive; which is it?

15 A Both.

16 Q I see. Did Albert Cadrain give you any
17 impression, in the interview that we have on
18 record and the tapes of which we've listened
19 to, --

20 A Uh-huh.

21 Q -- that he was dodging your questions or trying to
22 avoid any of the issues that you were putting to
23 him in a deliberate kind of way?

24 A I think he said early on -- I'd have to see it,
25 it's a long time ago -- I think he said early



1 on -- it may not even be in the transcript --
2 "wait" -- I had a list of questions when I went
3 there, he said "we'll get to that" or something
4 like that, and then he was rambling on about
5 Calgary and blackening David's character, all that
6 stuff, and I just let him roll. That's what
7 happened.

8 Q Was there anything about that that was evading
9 questions by you?

10 A I felt, I felt we weren't getting too close to the
11 key things, like the blood and all that stuff.

12 Q Okay. Let's say for the moment that what you now
13 describe as evasive, as opposed to being hard to
14 keep on topic, is in fact what you believed at the
15 time. Did he, in any way, say anything to you to
16 cause you to think that he was being evasive
17 because of some actions by the police or the Crown
18 to attempt to pull him in?

19 A Oh no, no, no no, no, I'm not suggesting that.

20 Q Okay. So, --

21 A No.

22 Q -- again, there was nothing in your contact with
23 Albert Cadrain that supports your contention in
24 writing on a number of occasions --

25 A Uh-huh.



1 Q -- that the police went around --

2 A Uh-huh.

3 Q -- and told witnesses to shut up and not talk to
4 Mrs. Milgaard?

5 A Oh, I believe some police did do that.

6 Q Okay. But you have no evidence?

7 A To answer your question, no, I don't.

8 Q Okay. If we could stick to what you know.

9 A I believe that.

10 Q If we could stick with what you know.

11 A Yes, uh-huh.

12 Q I'm trying to explore the assertions that you've
13 made repeatedly about this. So you didn't explore
14 it with Albert Cadrain?

15 A How the police had treated him?

16 Q No, whether the police had visited up on him and
17 asked him not to talk to Mrs. Milgaard --

18 A No.

19 Q -- and not to cooperate with anybody working for
20 her?

21 A I don't believe so, no.

22 Q And you didn't, despite what you said in the
23 newspaper article in 1991, receive any information
24 from Albert Cadrain that the police had told him
25 not to talk to Peter Carlyle-Gordge?



1 A No, no.

2 Q You said, in the article, "to her, to me, or
3 anyone acting on her behalf", I think was the big
4 basket that you used, or --

5 A Yeah, it was a very general thing, yeah.

6 Q Yeah.

7 A No.

8 Q But you never heard from his lips that he was told
9 not to talk to you?

10 A No, he didn't say "the police have told me not to
11 talk to you", no.

12 Q To the best of your knowledge, because of the
13 efforts you made, the police had no knowledge that
14 you were working with Mrs. Milgaard?

15 A No, they didn't.

16 Q Now, sir, I had reference, and Mr. Boychuk
17 referenced with you this morning, the letter that
18 Mr. Young sent to the chief of police asking that
19 contact be made or that their assistance be given,
20 is the language of the letter, in locating Albert
21 Cadrain, Nichol John, and Ron Wilson?

22 A Uh-huh.

23 Q And you indicated you didn't know that, you didn't
24 have knowledge that that specific request had been
25 directed to the police?



1 A No, I didn't. I always think of Tony Merchant
2 looking for people, yeah.

3 Q Okay.

4 A And yeah.

5 Q And had you known in 1981 that in fact a specific
6 request was made to the police by Mr. Young on
7 behalf of Mrs. Milgaard, that that motivated or
8 likely prompted them to speak to these
9 individuals, would that or could that have
10 influenced your belief that there was something
11 negative or black about their actions as opposed
12 to them simply carrying out routine police work in
13 response to a request generated on behalf of
14 Mrs. Milgaard?

15 A No. The way I've read that letter, which I
16 haven't seen, is that they were co-operating.

17 Q Uh-huh.

18 A Uh-huh.

19 Q Sir, perhaps for the fullness of the record I'll
20 ask that we bring up document 106839, which I
21 presume you haven't seen, but -- and, again, I'll
22 let you take a moment to read it and, as well, to
23 read the bottom handwritten part, and then I'll
24 have some questions for you.

25 A *(Witness reading)* All right.



1 Q Okay. So you see, generally, there is a report by
2 Detective Karst?

3 A Right.

4 Q Following the requests that have been received
5 from Mr. Young --

6 A Uh-huh.

7 Q -- that he make contact with Albert Cadrain?

8 A Uh-huh.

9 Q And what he reported to the chief was that Albert
10 Cadrain said he didn't want his whereabouts
11 divulged?

12 A Yeah. I have never seen this letter before, but
13 fair enough.

14 Q Fair enough. But again, given what you knew of
15 your contact with Albert Cadrain in 1982-'83,
16 whenever it was, --

17 A '83.

18 Q -- does it surprise you that he would say to the
19 police that he didn't want any contact with
20 Mrs. Milgaard or anyone on her behalf?

21 A Does it surprise me?

22 Q Yeah?

23 A Umm, I --

24 Q You said he was acting kind of paranoid and --

25 A Who knows what was in his mind. Umm, does it



1 surprise me that he said he didn't want to see
2 anybody? Umm, no.

3 Q Okay.

4 A No.

5 Q If I could take you then to the information
6 reported by Detective Karst about Ron Wilson and
7 Nichol John.

8 A Uh-huh.

9 Q You see that he indicated he contacted Regina City
10 Police and got address information on them that
11 showed one in Regina, one in B.C.?

12 A Right, right.

13 Q The note at the bottom, the signature is -- I
14 think everybody will agree with me these initials
15 are for the chief -- Chief Gibbon had given a
16 direction to have Wilson contacted by the Regina
17 City Police, and Nichol John through RCMP Kelowna,
18 to see if they wanted their addresses divulged?

19 A Yeah, I read that, yeah.

20 Q Yeah. Again, nothing sinister about this, is
21 there?

22 A No, they are checking with the people, yeah.

23 Q Not only is there nothing sinister about it and
24 it's merely that they are checking with the
25 people, --



1 A Uh-huh.

2 Q -- they are using outside agencies?

3 A Indeed they are, yeah.

4 Q Yeah. So if the plot or the motive, or if there
5 was some black plan within Saskatoon City Police
6 to get to these witnesses and shut them up, it
7 doesn't appear to be in accordance with the record
8 that they were keeping at the time, does it?

9 A No. I don't know which policemen were in fact
10 speaking to -- I don't know who Mrs. Milgaard was
11 looking for in Regina either, so --

12 Q Sorry, well you know who he was looking for, she
13 was looking for --

14 A Well there were a lot of people we were looking
15 for.

16 Q Ron Wilson was in, the person looking --

17 A He was one, yeah, he was one.

18 Q He was the one in Regina that presumably --

19 A I don't know if he made any mention of this or --

20 Q But at no point in time --

21 A I have never seen this before. Yeah.

22 COMMISSIONER MacCALLUM: Sir, I know this
23 is difficult for you, but it's impossible for the
24 reporters --

25 A Okay.



1 COMMISSIONER MacCALLUM: -- to get anything
2 down when people are interrupting each other --

3 A Okay, I'll try not to.

4 COMMISSIONER MacCALLUM: -- and, at the
5 moment, you are interrupting counsel.

6 A Okay. I'll try to --

7 COMMISSIONER MacCALLUM: Wait until she
8 finishes her question.

9 BY MS. KNOX:

10 Q Item number 1 in the letter relates to Ron Wilson,
11 shows him living in Regina, you will agree?

12 A Yes.

13 Q The direction to Superintendent Penkala written,
14 handwritten at the bottom by the chief, is to have
15 him contacted by the Regina City Police; agreed?

16 A Yes.

17 Q Not consistent with your information that the
18 police were getting in touch with these
19 individuals and telling them not to talk to
20 Mrs. Milgaard, or you, or anybody acting on their
21 behalf, as you have reported it in the public
22 media?

23 A That's the way it appears, yeah.

24 Q With respect to point number 2, Nichol John is
25 clearly shown to be living in B.C.?



1 A Uh-huh.

2 Q The direction, again, is that, in the handwriting
3 at the bottom, is that she is to be contacted
4 through the RCMP, or a request is to be made to
5 the RCMP in Kelowna to ask her if she is willing
6 to have her address divulged to Mrs. Milgaard or
7 to Mr. Young on behalf of Mrs. Milgaard, in
8 accordance with the letter that we looked at
9 earlier; you will agree?

10 A Yes, I see that. Yes, I agree.

11 Q Again, would you agree with me, Regina City Police
12 are being asked to be involved, Kelowna city --
13 RCMP are asking to be involved with the witnesses
14 who you believe or believed, and Mrs. Milgaard
15 believed, had been coerced, pressured by the
16 Saskatoon City Police, to give false testimony
17 against David Milgaard?

18 A Uh-huh.

19 Q This police chief is opening these people to
20 access with other police agencies; would you
21 consider that to be the actions of a man or a
22 force that had done something wrong and were
23 desperately trying to keep it hidden?

24 A I think they were complying with the request from
25 the lawyer.



1 Q Sorry? Did you --

2 A They were com -- this was originally a request
3 through a lawyer.

4 Q Yeah.

5 A Right. They were going along with it, absolutely.

6 Q Yeah, but they weren't -- I mean if they were --
7 had something to hide they could have written Mr.
8 Young back and said "talked to all three of them,
9 they don't want anything to do with her", if they
10 had an ulterior motive; agreed?

11 A Uh-huh.

12 Q They could have complied with the request from the
13 lawyer, if they were the black-hat characters that
14 you would cast them to be --

15 A I haven't named anybody as a black character.

16 Q Saskatoon Police officers, you said, --

17 A Yes, that's a generic, generic.

18 Q Yes. Saskatoon Police officers went to the
19 witnesses and told them not to speak to
20 Mrs. Milgaard, not to speak to you or anybody on
21 her behalf, is what you wrote?

22 A Some policemen did do that, certainly in one case
23 anyway.

24 Q And which policeman was that, sir?

25 A I have no idea.



1 Q I see. And to whom was it done?

2 A I can't remember after 25 years.

3 Q So you are saying under oath a policeman did it,
4 you don't know who he did it to, and you don't
5 know who did it?

6 A I believed, when I was told that, certainly that
7 there was no reason for Mrs. Milgaard to lie about
8 that.

9 Q I see. So you have no evidence of it, you
10 believed what you recall being told by
11 Mrs. Milgaard?

12 A Indeed, yeah.

13 Q And, on the basis of that, you made written
14 assertions in *The Ice Cold Hot House, Two Versions*
15 *of Innocence*, or whatever the title was, and in
16 the press in 1991, and you've otherwise said that
17 these people, police officers, attempted to
18 interfere with her efforts to prove her son's
19 innocence?

20 A At least one did.

21 Q I see. But you have nothing to back that up?

22 A No, no.

23 Q Okay. Now there are two other documents, Mr.
24 Commissioner, I'm going to put them up. I don't
25 think we need to pay a lot of attention or spend a



1 lot of time on them, but they relate to this
2 request. The first is document 106840. This is a
3 memo to Detective Sergeant Karst from I think it
4 was Inspector Penkala then, asking him to contact
5 Wilson and John if possible and confirm whether or
6 not they wished their names and addresses released
7 to the lawyer for the Milgaard family. He makes
8 the statement:

9 "I'm sure they won't, however, the chief
10 would like to know that specifically so
11 that he can tell the lawyer."

12 A Hmm.

13 Q So again, just so that the record is complete, you
14 do see that the request from Mr. Young generated
15 this memo --

16 A Yeah.

17 Q -- as well --

18 A Yup.

19 Q -- authored by Sergeant Penkala? And then if I
20 could bring up 106841, a letter back to the chief,
21 in fact, signed by Detective Karst which says that
22 he spoke with Ron Wilson and that Ron Wilson
23 stated he didn't want his name or information as
24 to his whereabouts released to the lawyer or
25 anyone representing the Milgaards, and similarly



1 he confirmed, and sergeant -- Detective Sergeant
2 Karst, as he then was, confirmed that he had
3 spoken with Nichol Demyen and gotten the same
4 advice from her?

5 A Right.

6 Q Okay. Now were you made aware, by Mrs. Milgaard
7 or by others during -- in the weeks or months
8 after this, that at some point in time a complaint
9 was filed with the Saskatoon City Police on behalf
10 of Nichol John by a lawyer, a Mr. Leslie, accusing
11 them of having released her address, new name, her
12 married name and so forth, to Mrs. Milgaard, and
13 causing Mrs. Milgaard to locate and confront her,
14 presumably the time she did it in company with
15 you?

16 A I can't remember that. Let me think for a minute.
17 Umm, I don't specifically recall anything about a
18 complaint to police.

19 Q Okay. If I were -- and I, somebody can assist me
20 in bringing up the document if you need to see it,
21 I don't have it readily available -- but I'm going
22 to indicate to you that the evidence on the record
23 as we received through, I believe through Mr.
24 Young and I believe through Mr. Merchant, is that
25 a complaint was made by Nichol Demyen, and a



1 complaint generated by Mr. Leslie on her behalf as
2 her solicitor, accusing police, as I said, of
3 letting Mrs. Milgaard get access to her address
4 despite her specific request to Saskatoon Police
5 Service that that information not be released?

6 A Uh-huh. Well, I don't think I have seen a letter
7 like that, no.

8 Q Sir, if you had seen that letter --

9 A Uh-huh.

10 Q -- would that have caused you to rethink or
11 reevaluate your belief that the police were trying
12 to stop her from talking to Mrs. Milgaard or her
13 representatives, and in fact that it was simply
14 honouring a request that she was making of her own
15 free will?

16 A Umm, well it would certainly have influenced me,
17 yeah.

18 Q Okay. But you weren't made aware of that?

19 A I don't remember it, no no.

20 Q Now am I correct in my recollection of your
21 examination-in-chief that you had some contact, or
22 you were involved in the investigation when
23 Mr. Leslie became involved?

24 A Umm, yeah, the name rings a bell. When was he
25 involved?



1 Q Mr. Leslie was the lawyer who was acting for
2 Nichol John when she agreed, --

3 A Oh, that's the hypnosis, yeah.

4 Q -- subject to your suggestion, to be -- to submit
5 to hypnosis?

6 A I don't know if I'm the originator of hypnosis. I
7 might have been.

8 Q Well there is a memo --

9 A Yes, there is. I remember the name, yeah.

10 Q But, certainly, you had dealings with the file
11 when Mr. Leslie was involved, --

12 A Yeah.

13 Q -- you had dealings with Nichol John, and whether
14 you became aware of it either directly or
15 indirectly, there -- you will agree that there was
16 information that suggested your hypothesis, or
17 your accusation against the police service
18 regarding imploring her not to cooperate, were not
19 borne out by her independent actions through her
20 lawyer as we have them on the record and in the
21 evidence before this Commission?

22 A Is that a question?

23 Q Uh-huh?

24 A Could you just repeat it in a --

25 Q If I'm telling you the truth and Nichol John



1 prevailed upon a lawyer to complain --

2 A Uh-huh.

3 Q -- to the police --

4 A Uh-huh.

5 Q -- because Mrs. Milgaard, and you and ultimately
6 your wife, located her, --

7 A Uh-huh.

8 Q -- would you agree that that's not consistent with
9 what you believed, based on Mrs. Milgaard's
10 information, that the police were the ones
11 shutting her down and she wasn't getting -- she
12 wasn't co-operating with Mrs. Milgaard because the
13 police told her not to?

14 A She, she complained to the police? Right, that
15 does influence me, yeah, yeah.

16 Q Yeah. A lawyer on her behalf, in fact. Thank
17 you. With the assistance of Mr. -- of counsel I
18 have a document number 025335 that I will show to
19 you, and I'll give you an opportunity to review
20 it.

21 A *(Witness reading)* Hmm. All right.

22 Q Sir, simply what that provides you with is a
23 visual record that what I was asserting to you was
24 in fact correct, but you would agree with me that
25 there is a very strong position taken --



1 A Uh-huh.

2 Q -- on behalf of Mrs. Demyen --

3 A Uh-huh.

4 Q -- by someone in no way connected with the
5 Saskatoon Police Service, that it was her wish
6 that she not have contact from Mrs. Milgaard?

7 A I would agree, yeah.

8 Q Yeah. Would that or could that have influenced
9 your ready acceptance of the suggestion that
10 police had gone to witnesses and instructed them
11 not to talk to Mrs. Milgaard, to you, or to others
12 on her behalf?

13 A If I'd known all this, possibly, yeah, uh-huh.

14 Q Okay. Sir, as a journalist, having reviewed and
15 refreshed your memory this morning about what you
16 wrote --

17 A Uh-huh.

18 Q -- in 1982 --

19 A Uh-huh.

20 Q -- and in 1981 --

21 A Uh-huh.

22 Q -- about members of the police service --

23 A Right.

24 Q -- and the allegations of misconduct --

25 A Uh-huh.



1 Q -- that you made against them, --

2 A Uh-huh.

3 Q -- do you now have regret that you didn't know the
4 information that I have outlined for you in this
5 last number of minutes?

6 A Well, the last information is very interesting to
7 me. To answer your question though, umm, it
8 depends what you mean by police -- what's the
9 right word -- I believed there'd been interference
10 by the police in those statements.

11 Q Sir, you stated that the police had gone to
12 witnesses --

13 A Uh-huh. And I --

14 Q -- and instructed them not to --

15 A Yeah.

16 Q -- talk to Mrs. Milgaard, not to discuss their
17 evidence, not to assist her in any manner
18 whatsoever --

19 A Uh-huh.

20 Q -- in her efforts to establish her son's
21 innocence.

22 A Uh-huh.

23 Q Would you agree with me, today, that certainly
24 that, now, that belief of yours has been thrown
25 into question?



1 A It has to some degree, but I don't know which
2 witness we're talking about. You are talking
3 about specific ones there, and I certainly don't
4 know. I certainly wouldn't have doubted that
5 she'd been attempting to talk to somebody who was
6 relevant to the case and had been told that "the
7 police have been down and told me not to talk", I
8 still believe that that happened.

9 Q I see. Sir, you talked to Albert Cadrain and he
10 didn't tell you that?

11 A The police certainly hadn't told him not to talk
12 to me, no.

13 Q Uh-huh. You talked to Dennis Cadrain, and you had
14 some faith and trust in Dennis Cadrain, Dennis
15 Cadrain never suggested to you at any point in
16 your contact with him that the police had tried to
17 shut down Albert?

18 A Umm, he told me they'd given him a very rough
19 time.

20 Q He never said to you that, after this trial was
21 over, the police had come around or called Albert
22 and told him not to assist Mrs. Milgaard?

23 A No, no, he didn't.

24 Q I'm talking post-'81 now.

25 A Right.



1 Q Remember, in your book, how you said things went
2 skanky, --

3 A Uh-huh.

4 Q -- people were fearful, --

5 A Right.

6 Q -- a flap developed?

7 A Uh-huh.

8 Q Nothing from Dennis Cadrain to suggest that that
9 had happened --

10 A No.

11 Q -- to him?

12 A Not on the record, no.

13 Q You had a number of communications with Estelle
14 Cadrain, as you've testified?

15 A With Estelle?

16 Q The mother?

17 A Umm, yeah, I think I phoned her. I didn't see
18 her, I think I phoned her.

19 Q In your contacts with her, --

20 A Yeah.

21 Q -- at any point in time, --

22 A Yeah.

23 Q -- did she suggest to you --

24 A Uh-huh.

25 Q -- that the police had come to Albert, or come to



1 her, or in any manner suggested to Albert, to her
2 knowledge, that he shouldn't talk to Mrs. Milgaard
3 or any representative on her behalf?

4 A No. I think she was protective of Albert, but not
5 the police, no.

6 Q Regardless of what you think, --

7 A No.

8 Q -- did she tell you that?

9 A No, no.

10 Q Did you bother to ask?

11 A I don't think so.

12 Q Did you bother to ask Dennis Cadrain?

13 A If the police had told him not to talk to anybody?

14 Q Told Albert, to his knowledge, not to talk to
15 anybody?

16 A I cannot recall.

17 Q Did you bother to ask Albert Cadrain if the police
18 had told him not to talk to Mrs. Milgaard or any
19 representative on her behalf?

20 A I don't think I asked him that.

21 Q You didn't?

22 A No.

23 Q When you had that brief encounter with Nichol John
24 did you bother to try to ask her if the police had
25 told her to shut down?



1 A There was no real interview there, no.

2 Q Did you bother, when you reviewed the transcript
3 of the conversation that Mrs. Milgaard had with
4 Ron Wilson, to check to see if, in any way, Ron
5 Wilson made any suggestion to her that the police
6 had told him not to talk to her?

7 A Umm, I don't recall that, no.

8 Q Okay. You had the name of Ute Frank and you had
9 information, you got information about how to
10 locate her; did you contact Ute Frank and ask her
11 if the police had told her not to cooperate with
12 Mrs. Milgaard, or you, or any representative on
13 her behalf?

14 A I can't even remember contacting her.

15 Q Okay. George Lapchuk, one of the motel
16 witnesses, --

17 A Uh-huh.

18 Q -- was a key witness at the trial. Mrs. Milgaard
19 spoke to him, presumably you got information about
20 that, did you ever get any information from her or
21 did you ever review any transcript of
22 conversations she had with him that he said the
23 police told him not to talk to you, to her, or
24 anyone associated with the investigation?

25 A I can't even remember a transcript with him --



1 Q Okay.

2 A -- so the answer is "no".

3 Q Okay. The other chap, Craig Melnyk, who was
4 another key witness; --

5 A Uh-huh.

6 Q -- did you get any information or did you make any
7 attempt to contact him to determine if the police
8 had told him not to talk to you, to Mrs. Milgaard,
9 or in any way to cooperate?

10 A I don't think I was in touch with him.

11 Q Okay. But you knew, didn't you, that both George
12 Lapchuk and Craig Melnyk had talked to
13 Mrs. Milgaard?

14 A Umm, I knew they were important at the trial.
15 Umm, I can't remember who she interviewed, it's a
16 long time ago.

17 Q Sir, in your following of what was going on in
18 this investigation, are you aware of the outcome
19 of the police investigation that took place in 19,
20 I think it was 1993, where there were allegations
21 made by Mrs. Milgaard, David Milgaard, and others
22 on their behalf that there had been criminal
23 misconduct by police officers, by Crown
24 prosecutors, and others, to ensure that they
25 convicted an innocent man of murder; that that



1 area was canvassed with all of those witnesses
2 and, without exception, they said they were never
3 approached by the police and told not to cooperate
4 with Mrs. Milgaard, anybody on her behalf -- I
5 don't think they asked about you, frankly, but
6 anybody on her behalf?

7 A No, I had no connection with that at all, no.

8 Q Do you, today, have knowledge that all of those
9 people told the police that as part of that
10 investigation in 1993?

11 A Do I today?

12 Q Uh-huh?

13 A After this morning, yes.

14 Q Do you have knowledge that, of all of the people
15 who have testified before this Commission of
16 Inquiry who were key witnesses, that every single
17 one of them has, without exception, denied that
18 they were approached by the police and told not to
19 cooperate with Mrs. Milgaard?

20 A I wasn't aware of that until now, no.

21 Q Would you -- given that that's the sworn testimony
22 in this courtroom --

23 A Uh-huh.

24 Q -- or this hearing room, does that cause you any
25 concern about what you wrote in 1982 and what you



1 wrote in 1990, 1991, whatever the date was, in the
2 Winnipeg *Free Press* that so emphatically stated
3 that those --

4 A Uh-huh.

5 Q -- key witnesses were told to shut you,
6 Mrs. Milgaard, and others on her behalf out if
7 they tried to look behind David Milgaard's
8 conviction?

9 A What you have told me is very interesting.

10 Q Trust me, sir, if I was telling you anything wrong
11 somebody would be on my back.

12 A No.

13 Q What I have told you is sworn evidence in this
14 proceeding, --

15 A Right.

16 Q -- with the exception of George Lapchuk, who is of
17 course deceased.

18 A Umm, does it cause me concern, is that what you
19 said?

20 Q Yeah.

21 A Yeah, and I can't recall, you see, who the person
22 was.

23 Q Do you agree with me --

24 A That --

25 Q -- that we're running out of potentials given what



1 all of those key witnesses --

2 A Well --

3 Q -- have gone on record as saying?

4 A -- I don't know who was involved in '93, I wasn't
5 following any of that.

6 Q I just gave you the names.

7 A Yeah, yeah, you did.

8 Q Albert Cadrain, --

9 A Okay. So they weren't contacted.

10 Q -- Ron Wilson, --

11 A Uh-huh.

12 Q -- Nichol John, Lapchuk, Melnyk, --

13 A Uh-huh.

14 Q -- Ute Frank; none of them?

15 A Well that was '93?

16 Q Yeah. '93 they told it to the police, they went
17 under oath.

18 A Uh-huh.

19 Q In this last 103 days in this hearing room, --

20 A Well I didn't know that.

21 Q -- or in the 103 days that we have been sitting,

22 --

23 A Oh, I didn't follow that.

24 Q -- they have said to the Commissioner that "no,
25 that's not true, what was said by people about the



1 police coming to us and telling us not to talk to
2 Mrs. Milgaard or her representatives is false".

3 A Uh-huh.

4 Q "That never happened"?

5 A Well there is a few people on the list you've
6 mentioned whose credibility I might question even
7 under oath.

8 Q I see.

9 A So I cannot absolutely -- I find what you have
10 told me very interesting though.

11 Q I see. And what you are hanging your hat on with
12 your reservation about their credibility is
13 Mrs. Milgaard told you about some witnesses --
14 witness, whose name you can't remember, --

15 A Uh-huh.

16 Q -- who said some officer whose name you don't know
17 came to him or her and said "don't talk to the
18 police"?

19 A Basically, yeah.

20 Q That's your safety net?

21 A Yes, I have complete trust that she was telling me
22 the truth, yup.

23 Q Sir, --

24 A Uh-huh.

25 Q -- if you were the editor at *Maclean's* and a young



1 reporter came to you with that story and all she
2 had for you was "the mother of the convicted young
3 man told me, I don't know the name, I don't know
4 the police officer, but I believe her", would you
5 let, as the editor, --

6 A Uh-huh.

7 Q -- would you let your magazine put that story in
8 print?

9 A Oh, no, I'd ask a lot of questions.

10 Q You would not; would you?

11 A No. In *Maclean's*, no, absolutely not.

12 Q And any magazine with integrity would not put that
13 story in print based on what you have told us was
14 the information that you had?

15 A Just on that specific area, right.

16 Q Sir, to go back to where I was before I segued
17 into a number of things, I was asking you about
18 your stated belief that there was hostility --

19 A Uh-huh.

20 Q -- and opposition in form to Mrs. Milgaard's
21 quest, as it started in 1981, to get information
22 to prove her son's innocence?

23 A Uh-huh.

24 Q We've established that all you had with respect to
25 the police, now, is the -- some witness by some



1 officer, you believe because she told you it
2 happened, said "don't talk to the police" or
3 "don't talk to Mrs. Milgaard or anybody on her
4 behalf"; that's what you had there, right?

5 A In '81 --

6 Q In '81?

7 A -- and '82, yeah.

8 Q Yeah. When you wrote the chapter for the *Winnipeg*
9 8 that's all you had?

10 A Umm, I think I may have talked to some other
11 family members that might have had some
12 information, but it's a long time ago.

13 Q Okay. Well --

14 A There was a hostile attitude from some people.
15 She'd been on TV and stirring things up.

16 Q Okay.

17 A Uh-huh.

18 Q I appreciate that it's been a long time but you
19 keep going back to this "I think I had something".
20 We've gone through the Cadrain family who you had
21 contact with, --

22 A Uh-huh.

23 Q -- and you didn't get anything from them; --

24 A On --

25 Q -- right?



1 A No, not on the police told them not to talk, no.

2 Q You didn't have contact with Ron Wilson, but to
3 the best of your recollection, and the records
4 show, he didn't tell Mrs. Milgaard that he was
5 told not to talk to the police?

6 A I can't recall that, no.

7 Q Okay. So you -- but if that's the case, if he
8 didn't tell her, --

9 A Uh-huh.

10 Q -- then it wasn't Ron Wilson who would have given
11 you information that -- to suggest there was
12 hostility and opposition?

13 A Hmm. Well, I haven't seen that in a transcript,
14 no.

15 Q Okay.

16 A No.

17 Q And you didn't have any contact with any member of
18 Ron Wilson's family?

19 A I don't think so, --

20 Q Okay.

21 A -- no.

22 Q So then there's Nichol John; you had a brief
23 contact with her?

24 A Uh-huh.

25 Q She was scared?



1 A Uh-huh.

2 Q You said she looked terrified?

3 A Yes, she did.

4 Q But she never made any suggestion, in that brief
5 contact, that she had been told by the police not
6 to talk to Mrs. Milgaard or you?

7 A No.

8 Q And you never had any contact, subsequent contact
9 with her or contact with any member of her family?

10 A No. There was something about hypnosis after we
11 met her.

12 Q Yeah, and we have the record where you are part of
13 the discussion.

14 A No, I didn't interview Nichol, no.

15 Q So you didn't get it from her or members of her
16 family?

17 A No, no.

18 Q I'm talking about your statement just a minute
19 ago, that there's something there, you can't put
20 your finger on it, but it's there, I'm trying to
21 jog your memory.

22 A Uh-huh.

23 Q You didn't talk to Ute Frank or any member of her
24 family?

25 A I don't recall if I talked to Ute Frank.



1 Q There's nothing in the record.

2 A I don't have all my records obviously, so --

3 Q There's nothing in the evidence to indicate that
4 you did.

5 A Okay. I'm not saying I did or I didn't.

6 Q We have nothing to suggest that you did will you
7 agree with me?

8 A There's nothing here that I've seen, no.

9 Q Okay. And here we have some of your materials
10 that you gave to Mrs. Milgaard as well as police
11 records and so forth?

12 A Uh-huh.

13 Q So we have a fair amount of material?

14 A Uh-huh.

15 Q You didn't talk to Melnyk or any member of his
16 family?

17 A I don't recall talking to Melnyk, no.

18 Q You didn't talk to Lapchuk or any member of his
19 family?

20 A Not that I can recall.

21 Q Okay. So help me in terms of what family
22 potentially it could have been that would have
23 given you any information to suggest that
24 witnesses were being approached by the police and
25 told not to co-operate by Mrs. Milgaard?



1 A Which family?

2 Q Any family.

3 A I can't think of a family.

4 Q Okay.

5 A Okay.

6 Q Now, to go back to where we started when I got on
7 my feet this morning, you were told by Mr. Young,
8 whether you paid attention or not, on January
9 22nd, 1981, that he was getting a positive
10 response from the lower levels of the police, they
11 weren't shutting him out or saying go away?

12 A Uh-huh.

13 Q We had that transcript, you looked at it?

14 A I did.

15 Q Okay. We had -- and you've looked at the letters
16 that were exchanged between Mr. Young and the
17 police where the police were assisting in terms of
18 saying we're not saying you can't have the file,
19 but you have to go through proper channels?

20 A Yeah, I read that one.

21 Q Okay. So that's where the police were?

22 A Yeah.

23 Q We have the evidence from Mr. Young on the record
24 that he contacted the prosecutor's office after he
25 was -- early in 1991 --



1 A Yeah.

2 Q -- after he was retained, and he was very
3 positively received by Mr. Caldwell?

4 A Uh-huh. Yeah, I hadn't seen that, but yeah.

5 Q But you had discussions with him. I take it
6 nobody said to you that Caldwell is stonewalling,
7 he won't co-operate with the lawyer?

8 A Oh, no, no, no.

9 Q Okay.

10 A I think that was initiated actually probably with
11 the lawyer looking for addresses.

12 Q Uh-huh.

13 A That must have been initiated I think before I
14 really got involved when I said I wasn't paying
15 that much attention.

16 Q After you were involved, sir, after the conference
17 call on January 22nd, 1981 --

18 A Yeah, that's the one.

19 Q -- Mr. Young continued to work on the file?

20 A Yeah.

21 Q He had contact with the courthouse, contact with
22 Mr. Caldwell?

23 A Right.

24 Q He was given access to the file?

25 A Yeah. I don't recall a lot of that, but --



1 Q So the information wouldn't have come from him is
2 my only point based on what we know from the
3 record and his testimony before this Inquiry that
4 there was hostility or stonewalling by the
5 authorities?

6 A No.

7 Q Because he got cooperation?

8 A No.

9 Q Mr. Merchant, when he came on board, contacted the
10 Crown, wanted the, to know who got the reward.
11 The record shows the response back from Mr.
12 Caldwell was that that's information properly
13 obtained from the Police Commission, contact them
14 directly?

15 A Okay.

16 Q He didn't shut him down, he just directed him as
17 to where to go and find it out?

18 A Right, the procedure, uh-huh.

19 Q Okay. Nothing from Mr. Merchant in his record
20 keeping or his evidence to suggest that he got
21 stonewalled or shut out by the Crown?

22 A No, not that I'm aware of, no.

23 Q You made a telephone call to Mr. Caldwell in
24 February of 1983 I think saying, you know, I'm
25 Peter Carlyle-Gordge, I'm from Maclean's Magazine,



1 I'm looking at doing a book about murders in
2 Western Canada, I'm really interested in this Gail
3 Miller murder, will you give me a bit of your time
4 essentially?

5 A Yeah.

6 Q Very positively received?

7 A Oh, always, yes, absolutely.

8 Q In fact, not only were you positively received, he
9 accommodated your time constraints even going into
10 the office on a Saturday to give you access to his
11 files?

12 A I thought he was extremely co-operative.

13 Q Okay.

14 A Yeah.

15 Q And was there anything in your contact with him
16 that spoke of hostility, resistance, efforts to
17 cover up, hide or subvert any information from
18 being properly documented in the public arena with
19 regard to this investigation and prosecution?

20 A Well, I had absolutely no problem with Mr.
21 Caldwell, I thought he was extremely courteous,
22 and I would also say at the time I was quite
23 impressed that he really believed they convicted
24 the right man.

25 Q Yeah.



1 A I didn't agree with him privately, but he was
2 fine.

3 Q In fact, what you met was a man who held a genuine
4 belief that the police who investigated this
5 murder in 1969 and he and his staff who had
6 prosecuted in 1970 had properly found, prosecuted
7 and convicted the real murderer?

8 A I think that would be fair.

9 Q He was unshakeable in fact in his belief?

10 A He was proud of it actually.

11 Q Yeah, encouraged you in fact to, in your book,
12 recognize the amazing good work that the police
13 had done?

14 A Oh, indeed he did.

15 Q He considered them to have done yeoman's service,
16 he talked about the hours they worked?

17 A Yes.

18 Q How they started with nothing and where they ended
19 up?

20 A He certainly put the police case forward.

21 Q Very positively?

22 A I think so.

23 Q Okay. And with respect to the Crown case, equally
24 positive in his belief, albeit it in hindsight
25 that he was wrong --



1 A Okay.

2 Q -- but when you sat with him on those days in
3 1985, no doubt in your mind that he was a true
4 believer?

5 A Oh, absolutely.

6 Q Okay.

7 A Absolutely.

8 Q When you talked to him about the file, not only
9 did he express to you his true belief that they
10 had gotten the right guy and done it in a good
11 way --

12 A Correct.

13 Q -- he encouraged you to talk to the police
14 officers who were involved?

15 A Yes, he did, and actually I don't think I would
16 have even been able to see Detective Mackie who
17 had retired. I think Mackie phoned to make sure
18 that's okay and he had said, yeah, that's fine.

19 Q Yeah. In fact, the evidence is --

20 A He was very co-operative and helpful.

21 Q He wasn't only co-operative, he was encouraging
22 you in your quest to make public the facts of this
23 case?

24 A Right, of the case as it was prosecuted and
25 convicted, yeah.



1 Q The Gail Miller investigation and prosecution?

2 A Yeah.

3 Q In addition to assisting you in locating Mr.
4 Mackie who was then retired and living outside the
5 city, he gave you some advice as to who else you
6 could and maybe should talk to to do a full
7 picture of the good work that was done here?

8 A Yes. He mentioned Judge Tallis was in town. I
9 didn't have time to arrange that, but I thought he
10 was very co-operative to the best of his ability.

11 Q Sir, over the years since 1985 in various forums,
12 newspapers, press, public press conferences in the
13 TV media, Statements of Claim filed in civil
14 proceedings --

15 A Uh-huh.

16 Q -- examinations for discovery arising from these
17 criminal proceedings and in this Inquiry, Mr.
18 Caldwell has been repeatedly accused of knowingly
19 conspiring to convict an innocent man of murder.
20 Did you see anything in your dealings with him
21 that caused you, as a journalist, to have any
22 thought in your head that this was a man who had
23 done something knowingly wrong and was trying to
24 cover it up?

25 A No. In terms of the investigation, no,



1 absolutely, I had no hostility to Mr. Caldwell, no
2 agenda. The only thing that surprised me was
3 something I hadn't even -- well, it made sense to
4 me, he said he had been sending photographs every
5 time the case came up for parole, I was kind of
6 surprised that he volunteered that, but in terms
7 of what you are asking me, no, I didn't go there
8 suspecting he had been covering things up, no.

9 Q Sir, in terms of your personal surprise, would it
10 surprise you to know that in 1971 or 1972 the
11 National Parole Board published a guide for
12 police, magistrates and others in law enforcement
13 and levels of justice encouraging them to provide
14 information on cases they were involved in to the
15 National Parole Board that went beyond the
16 information in Court records so that they could
17 have a full picture of persons coming before them
18 in order to do adequate assessments of the risks
19 that those individuals might represent to the
20 public were they released from custody?

21 A Would I be aware of that? No.

22 Q If I tell you, and again I didn't bring up the
23 document number for the booklet, I've actually
24 asked Commission Counsel and I have indeed
25 obtained the very booklet that guided Mr. Caldwell



1 in those actions, and that booklet demonstrates a
2 request for the very information that he
3 forwarded. Does that surprise you?

4 A It does to some extent. It just struck me at the
5 time, and I had no agenda with Mr. Caldwell, as
6 being kind of odd, because I first got interested
7 because he had been in jail for, I don't know, by
8 '83 13 years and he had been in a long time, and I
9 wasn't even asking about that. It struck me as
10 being very unusual for, you know, years later a
11 Crown prosecutor to take that level of interest.

12 Q Okay.

13 A Yeah.

14 Q You weren't asking for it, but obviously he wasn't
15 trying to hide it?

16 A No, no, no.

17 Q He considered that to be an appropriate exercise
18 of his role and duty as a prosecutor?

19 A Well, he knew I was a journalist and it was all on
20 tape.

21 Q Yeah. He wasn't attempting to say by the by, you
22 know, just off the record here, I've been doing an
23 end run around this kid, I'm going to keep him in
24 jail. He was very up front?

25 A He was very up front.



1 Q Very frank and said I'm so strong in my belief
2 that this man represents a danger to the public
3 that this is what I'm doing?

4 A Yeah. I got the impression that he really
5 believed he got the right man, and obviously I
6 wasn't there for a confrontational interview, I
7 wanted him to explain the old case up to the
8 conviction, yeah.

9 Q But the point is, sir, to go back again to where I
10 started, given that we have no indications of you
11 finding verifiable acts of hostility or resistance
12 toward Mrs. Milgaard or her quest from the
13 witnesses that you had contact with or that you
14 know she had contact with from the prosecutor's
15 office when you phoned them up and said can I talk
16 to you --

17 A Uh-huh.

18 Q -- where did you continue to have the information
19 that sustained your belief as you stated in your
20 book that, or in your article in the book in 1982
21 and subsequently have repeated, that there was
22 resistance and hostility to her campaign to try to
23 find information to exonerate or review the
24 conviction of her son?

25 A No, not from Mr. Caldwell.



1 Q Okay.

2 A I didn't have that impression at all.

3 Q So whatever she was talking about the police may
4 have done, there was certainly nothing from the
5 Crown that was indicative of any attempts to
6 stymie, cover up, circumvent, cause any problems
7 for her?

8 A Not that I became aware of.

9 Q Okay. Sir, to your knowledge did Mrs. Milgaard
10 ever make a request of Mr. Caldwell that she
11 personally be permitted to see his file?

12 A I have no idea.

13 Q Ultimately we'll hear from Mrs. Milgaard on this
14 point, but I'm going to suggest to you there's
15 nothing in the record as we have it to suggest
16 that that was the case, the request made on her
17 behalf was through Mr. Young and the invitation
18 was extended.

19 A Right.

20 Q The understanding being that counsel, or her
21 representative, proper representative could have
22 full access?

23 A Uh-huh.

24 Q But that it wouldn't be, there wouldn't be direct
25 access to her. Not surprising to you as a



1 journalist that, and just as the police wouldn't
2 invite the family of somebody convicted of a
3 heinous offence in to go through their file, that
4 the Crown attorney wouldn't invite the mother of
5 an accused person in to have at it with their
6 file?

7 A I really don't have an opinion on that because I
8 don't know what the Crown's rules are. If you are
9 the mother of somebody who is convicted and you
10 have a problem, I don't know what the rules and
11 laws are about access to public documents. I have
12 no idea.

13 Q In the involvement that you had to the extent that
14 you did in looking at old cases like Harper and
15 others, had you ever seen it happen?

16 A People get access to police files?

17 Q Persons who were the direct immediate relative of
18 the convicted person be given the file directly?

19 A I can't recall, no.

20 Q No.

21 A I can't think of an example, no.

22 Q Sir, you went from Mr. Caldwell's office where you
23 were received warmly, encouraged in your quest,
24 given access to his file to communicate with
25 retired Sergeant Mackie?



1 A Yeah. It was around the same time, yeah.

2 Q Yeah. Within a matter of days I think the records
3 show.

4 A Uh-huh.

5 Q But you indicated and have said a couple of times
6 that you found Detective Mackie, or retired
7 Detective Mackie to be cagey. I've reviewed the
8 transcript of your interview with him and I'm
9 wondering what it was about him that causes you
10 today and during this week to have characterized
11 him as cagey?

12 A I think -- I thought I interviewed two policemen,
13 but I obviously had that wrong. I think he
14 checked it out to speak to me with Mr. Caldwell as
15 far as I remember, was this okay.

16 Q Does that strike you as cagey, for a police
17 officer to talk to a prosecutor and say is this
18 guy on the up and up?

19 A Oh, to ask if I'm credible?

20 Q Yeah.

21 A No, not -- mind you, he was retired. I don't
22 know. This is a long time after the trial. He
23 wasn't in the police force at that point, so I
24 just -- well, I don't blame him, no.

25 Q Okay. You've used the term here a couple of times



1 that you found him to be cagey.

2 A Oh, I think he wondered if I had a connection with
3 Mrs. Milgaard, right, yeah, at least I think
4 that's what happened.

5 Q You may be right about that, I don't remember.

6 A I have to reread that stuff.

7 Q And I can refer you to the transcript itself if
8 you needed to refresh your memory, but I reviewed
9 it last night and the transcript of your interview
10 with Mr. -- I do have it here somewhere -- your
11 interview with Mr. Mackie ended on what I thought
12 was a very helpful note in the sense that you were
13 asking him, if you recall, who else you should
14 talk to, he mentioned Charlie Short. Do you
15 remember him mentioning Charlie Short to you?

16 A Well, if it's in the transcript, yeah, he did.

17 Q And he told you that Charlie Short wasn't around,
18 that he had retired and he thought he spent
19 winters in Victoria?

20 A Yeah, that rings a bell, I have read that.

21 Q Okay. So the transcript, I think the first page
22 is 325616, and I'm just going to direct you to
23 that transcript and draw your attention to 325629.
24 There's a discussion between yourself and retired
25 Staff Sergeant Mackie where he told you he talked



1 to T.D.R.?

2 A Right.

3 Q And I think what he was saying, or some of it's
4 cut out, but he said he wasn't concerned about
5 talking to you?

6 A Right.

7 Q He goes on to say that his concern was that:

8 "... if anything is published, there's,
9 police force, and I think in all of
10 Canada, they have what they call an oath
11 of secrecy. In other words, you're not
12 supposed to discuss your involvements in
13 cases outside ... the department ..."

14 Is what he said. And you indicated to him, yeah,
15 that's got a bit of merit, so what the detective,
16 the retired detective seemed to be concerned
17 about was his own professional judgment; would
18 you agree?

19 A That's quite possible.

20 Q Yeah. It wasn't quite possible, that's what he's
21 saying, he's saying police officers aren't
22 supposed to be going around blabbing on about
23 cases they were involved in even after they
24 retire --

25 A Right.



1 Q -- and I'm just concerned that I don't do anything
2 wrong here is the effect of what it appears he's
3 saying to you.

4 A Yeah.

5 Q And you said to him it has some merit?

6 A Yeah, I did. I think he had forgotten a lot of
7 the case too.

8 Q Yeah. There's nothing in that portion of it to
9 indicate that he was being cagey is there?

10 A Well, that was an impression I had.

11 Q Yeah. What he's doing there is he's just being
12 responsible and exercising --

13 A That could be a responsible statement certainly.

14 Q Okay. Now if we could go to page 325632 and you
15 are asking him some questions about some of the
16 other witnesses, Lapchuk, Melnyk, then you'll note
17 here he's talking about Charlie Short, you ask for
18 the phone number, he tells you he's retired, says
19 he's away right now, out in Victoria, goes out
20 there for the winter, probably be back in April.

21 A Yeah.

22 Q He's got a daughter in town, a son-in-law in the
23 Mounted Police, you say do you know the name, and
24 he says Charlie and you say no, the son, and on
25 the next page he says Jack Short, he's in



1 Saskatchewan. Not in Saskatoon, right? No, I'm
2 gonna say Carlyle, that's the RCMP. So he's
3 helping you to the extent that he can do what Mr.
4 Caldwell did for you with him, he's giving you
5 some assistance in how you can locate him to talk
6 to him?

7 A Oh, it was putting out the names, yeah, that's
8 true.

9 Q Again, Mr. Carlyle-Gordge, with respect, doesn't
10 come across as being cagey, it comes across as
11 being co-operative?

12 A Well, there's two possible -- it was co-operative.
13 There's two possibilities. I think he had
14 forgotten a lot of the case to be quite honest,
15 and who wouldn't, and I had the impression, you
16 know, it's another case, because I would say what
17 stood out about it for you, that kind of thing, so
18 there wasn't a lot of information coming out,
19 that's what I mean, it was kind of reserved or --
20 whether he trusted me or not, I don't know.

21 Q Yeah. This is you, as you said --

22 A But he was helping, yeah.

23 Q He was trying to be helpful?

24 A I don't have a problem with that.

25 Q And this was a conversation in 1983 --



1 A '83.

2 Q -- about work that had concluded for him in
3 January, 1970?

4 A That's right, and he was telling me about his
5 hobbies and things like that.

6 Q Yeah. And he had retired, we have no idea how
7 many cases he worked in his career as a police
8 officer?

9 A A lot, yeah.

10 Q That he wouldn't have all the details readily at
11 hand might be his memory?

12 A True.

13 Q But again, I'm going to suggest to you that the
14 use of the word cagey, given the tone of this
15 transcript, appears to be somewhat inappropriate?

16 A Well, I would say reserved or maybe he was
17 forgetful.

18 Q But nothing sinister; am I correct?

19 A Well, just that initial thing, I'll check with
20 Bobs first.

21 Q Yeah.

22 A I don't think you can make a lot of it.

23 Q I guess maybe it's my use of language, when you
24 use the term cagey in your description of him, I
25 sort of had the sense that you were kind of



1 suggesting that he wasn't being frank and
2 forthright with you, but am I correct in
3 understanding you now as you look at it and as we
4 review it that you didn't have an impression that
5 he wasn't being frank and forthright with you, he
6 was cautious as a police officer, should I be
7 doing this?

8 A Yeah, that's one thing, yeah.

9 Q And when you asked him for assistance in finding
10 others, he was quite helpful?

11 A Yeah, and I think he probably had forgotten a lot
12 of the case, yeah, as have I.

13 Q In fact, sir, I'm just going to refer you to a
14 little summary that you did that appears at the
15 conclusion of the interview --

16 A Right.

17 Q -- you said this was an interview with retired
18 Detective Mackie, you talk about where he lives,
19 his address, his hobby, what he does, and he's
20 thin, grey haired, moustached?

21 A Right.

22 Q You didn't make any record of having any hint of
23 reservation in the interview with him or anything
24 like that?

25 A No. That would be a note for a possible book.



1 Q Yeah.

2 A Uh-huh.

3 Q So nothing -- but if there had been something
4 about it that you felt this guy was giving you the
5 end run around or trying to bamboozle you or
6 something, you might have made note of that?

7 A Probably. I think he had forgotten a lot of the
8 stuff.

9 Q Okay. Would you then -- can we agree that cagey
10 is probably not quite the right word to have used,
11 that reserved, maybe forgetful, but at the end of
12 the day co-operative to the extent that he
13 appeared to be able to is a better description?

14 A Yeah. I don't have a problem with cagey. I mean,
15 you may have -- it's semantics. You may have a
16 different interpretation. It was just a feeling I
17 had, that there wasn't a lot of information here.

18 COMMISSIONER MacCALLUM: Sir, what do you
19 understand by cagey? To me it means deceptive.

20 A Oh, okay.

21 COMMISSIONER MacCALLUM: Does it mean
22 something different to you?

23 A No, no. It means kind of a bit withdrawn.

24 COMMISSIONER MacCALLUM: All right.

25 MS. KNOX: Mr. Carlyle-Gordge, I'm being



1 told that it's 12 o'clock and we have to adjourn
2 for lunch. Unfortunately you'll have to come
3 back.

4 A Well, okay, I have to come back.

5 MS. KNOX: Thank you.

6 *(Adjourned at 12:04 p.m.)*

7 *(Reconvened at 1:32 p.m.)*

8 COMMISSIONER MacCALLUM: Oh, excuse me.

9 MS. KNOX: Thank you, sir.

10 Mr. Carlyle-Gordge, before I go
11 into a direct question, just for the record, I
12 referenced you this morning to and asked you
13 whether you were familiar with the work done by
14 the RCMP in 1993 into allegations by
15 Mrs. Milgaard, Mr. Milgaard, and others on her
16 behalf, that there had been actual criminal
17 misconduct or -- by police officers and by Crown
18 officials in the investigation and prosecution of
19 the Gail Miller murder, and I neglected to give a
20 document ID for that police report, I'm just
21 going to do that for the record. The police
22 report is document ID 023167, Mr. Commissioner.

23 COMMISSIONER MacCALLUM: Thank you.

24 MS. KNOX: And the particular passages in
25 the report that refer to allegations under a



1 heading E. Hushing Witnesses are contained at
2 023258 to 023260, I believe. Yes. There's
3 references to the witnesses and then over the
4 next three pages the police officers peruse and
5 conclude by name with each of them their
6 information to them that they were not told by
7 the police not to talk to Mrs. Milgaard. And I
8 just indicate that for the record, and for the
9 benefit of Mr. Carlyle-Gordge, so he has a
10 concrete image of the material I was putting to
11 him in that question should he want to review it.

12 COMMISSIONER MacCALLUM: All right.

13 A Okay.

14 BY MS. KNOX:

15 Q Now Mr. Carlyle-Gordge, I've spent some time
16 talking with you about positions that you have
17 taken in your book, or the chapter in the book in
18 1982, about police malfeasance and fear in the
19 hearts of officials involved in this case, also
20 about the letter that you wrote to the Winnipeg
21 *Free Press* that Mr. Boychuk put to you that's
22 dated, in the newspaper article, August 1st, 1990.
23 And again, for quick ease of reference, I'm
24 referring to document, again, 159819.

25 COMMISSIONER MacCALLUM: That's the *Free*



1 Press article?

2 MS. KNOX: The Winnipeg *Free Press*, yes,
3 although it doesn't -- yes, it does. On the
4 side, Mr. Commissioner, it has, on the side it
5 has "WPG F-P, Aug 1, 1990" in heavy black ink.

6 BY MS. KNOX:

7 Q Now you will recall that Mr. Boychuk drew your
8 attention to the particular paragraph that --
9 where you reference Ron Wilson having indicated
10 that police threats were made against him unless
11 he told exactly what they wanted, and Mr. Boychuk
12 has drawn to my attention, and I told him I would
13 in fairness to you in light of your response, ask
14 that we bring up document 004761. This is an
15 article dated June 7th, although it doesn't appear
16 clearly on the top of that document it is June
17 7th, 1990. This is also an article written in the
18 Winnipeg *Free Press*, which presumably you may have
19 had access to, and you indicated this morning that
20 there was a lot of media attention and somehow you
21 had come into possession of some information, and
22 it -- do you recall whether, in fact, you have
23 seen this article and this report of what was an
24 interview done by Ron Wilson with an investigator
25 for Centurion Ministries where he did make some



1 allegations about police manipulating him? And in
2 fact if we refer to this paragraph, he doesn't say
3 he was threatened, he says:

4 "I was manipulated. It was like you're
5 a puppet. Then you're scared that if
6 you don't do what they wanted you to do,
7 they would put you away. They told me
8 that they would find some way to turn
9 the tables on me.'"

10 Do you recall, now, whether in fact you have
11 seen -- you saw this article before you wrote
12 your letter and, indeed, whether that's what you
13 would have been referring to this morning?

14 A I don't recall, no.

15 Q Okay. I bring it up for the record because
16 Mr. Boychuk overlooked it, and because of the
17 amount of materials that we're dealing with, and
18 in fairness to you we wanted the record to show
19 that that article was out there, so I bring it for
20 that purpose.

21 Now Mr. Carlyle-Gordge, having
22 said that and having referred you to that
23 document, did you follow or continue to follow
24 developments with respect to the allegation made
25 by Ron Wilson in the statement to Mr. Henderson of



1 Centurion Ministries that, in fact, he had been
2 manipulated by the police in terms of information
3 he gave them about Mr. Milgaard?

4 A I'm sure I would have done. That's June, that
5 article, right?

6 Q Yeah, and -- which would be a couple of months
7 before your letter to the editor?

8 A So it's quite likely I knew things were happening,
9 yeah.

10 Q Yeah. And I bring it up because I don't want,
11 despite what you might think to the contrary, I
12 don't want any perception that I'm trying to be
13 unfair, or any of us in that regard, but I bring
14 it to your attention because, in fairness to you,
15 it was in the public forum, and perhaps more
16 importantly, from your point of view, it was in
17 the Winnipeg paper.

18 A Somebody may have mailed it to me, yeah.

19 Q Yeah. Okay. Now, sir, did you -- and in keeping
20 with you, and if you saw that -- and I know you
21 were still in contact with the Milgaard family --
22 did you actually review the statement that Ron
23 Wilson gave to Paul Henderson as opposed to the
24 excerpt of it that was contained in this article?

25 A I don't remember the -- given to Centurion did you



1 say?

2 Q Yeah.

3 A I don't remember seeing that.

4 Q Okay. If we could bring up document 052969,
5 please, just to see if you can look at it and
6 indicate whether you recognize it. This is the
7 first, and there's three pages to this statement,
8 of the statement that was given to Mr. Henderson
9 wherein he accused the police of manipulating him
10 into lying and giving false testimony; do you have
11 any memory of reviewing that statement?

12 A Not really.

13 Q Okay.

14 A I was aware that things were -- I was kind of at
15 arm's length anyway, but I knew that Centurion
16 were involved at some point.

17 Q Okay.

18 A Yeah.

19 Q I want to go to page 052970. I direct your
20 attention to the one statement that he makes about
21 the police.

22 A Yeah.

23 Q You see that what he said was that he was certain
24 that he was manipulated into lying?

25 A Yeah, I see.



1 Q No allegation of threats being made or promises
2 being made or deals cut with him or anything like
3 that?

4 A No, I read that as manipulation or pressure, yeah.

5 Q Okay.

6 A Yeah.

7 Q And if we could go to the next page please, 971,
8 and I direct your attention to this part here.

9 A Hmm.

10 Q And in the final, or the conclusory remarks, he
11 indicated he was manipulated into lying against
12 him, manipulated into believing his own lies; do
13 you see that?

14 A I do see that.

15 Q Again, as a precursor to that article and the
16 headline in the article, no suggestion by him that
17 the police threatened him, made offers of deals to
18 him or anything of that nature, but what he
19 describes under -- by using the word
20 "manipulated"?

21 A Hmm. It's a broad word.

22 Q Uh-huh.

23 A Yeah, and I think he had charges against him at
24 that time, so --

25 Q Okay. Now, sir, if we could bring up document



1 046775 please. Mr. Carlyle-Gordge, for the
2 record, what's in front of you is a portion of a
3 transcript that, it was obtained through
4 Mrs. Milgaard, of an interview that she conducted
5 with Ron Wilson --

6 A Uh-huh.

7 Q -- in 1981?

8 A Yes, that's probably right.

9 Q And this would be one of the times when she had
10 either an in-person conversation or a telephone
11 conversation that she recorded and subsequently,
12 had a tape transcribed --

13 A Right.

14 Q -- to some extent based on advice by you?

15 A I think she went to see him, actually.

16 Q Now you indicated you were aware of that meeting
17 and you indicated, I believe in your evidence over
18 the past days, that you would have reviewed this
19 transcript?

20 A Oh yes.

21 Q Okay. Now you also indicated to me this morning,
22 and have repeated to a number of counsel, that you
23 have a clear memory or a memory of being told by
24 Mrs. Milgaard that a witness said he had been
25 threatened or --



1 A Somebody she was trying to contact had been
2 approached by the police --

3 Q Okay.

4 A -- and told not to talk to her.

5 Q Okay. Now, sir, if I could direct your attention
6 with respect to your evidence regarding your
7 belief that the police had threatened, coerced, or
8 prevented witnesses, or tried to prevent witnesses
9 from talking to Mrs. Milgaard, --

10 A Uh-huh.

11 Q -- refer you to the question at the bottom of that
12 first page. And it's Mrs. Milgaard saying in
13 response to him, to Ron:

14 "I see."

15 She then asks:

16 "Did the police ever offer to, to uhm,
17 to make a deal with you if you
18 cooperated?"

19 And you see his answer?

20 A Oh, I see his answer, but I wouldn't have trusted
21 him anyway.

22 Q Okay. Well we'll get to whether you trusted, we
23 know your views on that, --

24 A He said "no".

25 Q -- but in terms of the actual physical information



1 you had he said "no"?

2 A He said "no", uh-huh.

3 Q He was never -- no offer of a deal was made to him
4 if he cooperated with them?

5 A According to him.

6 Q Okay. And if we could go forward, please, to page
7 046777, and it's Mrs. -- and certainly if you wish
8 to read this whole thing you can, but it's -- I'm
9 directing you to a particular part on the issue of
10 threats or coercion or --

11 A Right.

12 Q -- wrongdoing by the police?

13 A Right.

14 Q And you see the question?

15 A Uh-huh.

16 Q Mrs. Milgaard, based on what he said to her
17 about -- or questions she's asked him previously,
18 she's summarizing and saying:

19 "Okay, now they never threatened you or
20 told you what to say or anything like
21 that?"

22 You see that question?

23 A I do see that question.

24 Q And you see his clear answer?

25 A "Nope".



1 Q No. So again, in terms of the information that
2 you had when you were writing your chapter in the
3 book in 1982 and you were doing your letter to the
4 editor in 1990, you were aware of the existence of
5 this transcript and the clear earlier statement by
6 Ron Wilson to Mrs. Milgaard that he hadn't been
7 threatened, had any offers made to him, or coerced
8 in terms of his statement or testimony in the
9 proceeding?

10 A According to him at that time, no.

11 Q Right. Now, sir, did you continue to follow
12 events in this case after the allegation was made
13 by Ron Wilson in the *Winnipeg Free Press* that he'd
14 been coerced by the police or manipulated by the
15 police, that's the word he used, into giving
16 testimony that wasn't truthful about David
17 Milgaard?

18 A I didn't -- well, I vaguely followed it. I wasn't
19 actively involved with Centurion if that's what
20 you are asking.

21 Q Did you follow what was happening in the Supreme
22 Court of Canada?

23 A Not very closely. Well, generally, but not in
24 great detail.

25 Q Are you --



1 A I was aware of it, yeah.

2 Q Okay. Are you aware today, based on subsequent
3 interviews that Ron Wilson has done, sworn
4 testimony that he has given in the Supreme Court
5 of Canada and particularly in these proceedings,
6 that Ron Wilson has given very clear evidence that
7 what the police told him to do and what the Crown
8 prosecutor, Mr. Caldwell, told him to do in 1969,
9 for purposes of his preliminary inquiry and in
10 1970 for his trial, was to tell the truth?

11 A He may have said that.

12 Q Okay. I'm going to ask if we could bring up
13 transcript from the Inquiry of the examination of
14 Mr. Wilson by Mr. Fox on April 7th, 2005 starting
15 at page 7210. And, again, I'm not sure how much
16 of this transcript you've reviewed, if any, but
17 I'll point you to portions of it. But there is a
18 question asked by Mr. Fox at the bottom of that
19 page:

20 "... as I understand it, you've already
21 said this, at the end of the questioning
22 he told you to tell the truth."

23 And he is referencing Inspector Roberts, who was
24 the polygraph operator who assisted in taking,
25 obtaining the second statement from him May



1 23rd-May 24th, 1969?

2 A Uh-huh.

3 Q You see that that's the question?

4 A Yeah. I haven't seen this before, yeah.

5 Q Okay. Ron Wilson's answer under oath is that that
6 is correct, that what Inspector Roberts said to
7 him at the end of their interview was to tell the
8 truth?

9 A Uh-huh.

10 Q Now if we could go to the question at line 7,
11 again Mr. Fox is asking the question of Mr. Wilson
12 because his testimony and his allegations have
13 been somewhat all over the board over the years in
14 regard of this and articles have been written in
15 the public forum, allegations have been made, such
16 as some made by you, that he was treated unfairly,
17 and the question is asked of him:

18 "Q Having said that, as I understand it,
19 you felt as though you were treated
20 fairly by the police?"

21 And you see his answer again, as he was with Mrs.
22 Milgaard in 1981, was that yes, he felt that he
23 was treated fairly?

24 A That's what he's saying in Court, yeah.

25 Q That's what he's saying in this hearing in front



1 of this Commissioner under oath.

2 A Okay.

3 Q Okay. Now if we could go down, and he does
4 acknowledge that at one point in time Mr. Wilson
5 said that he had some fear of Inspector Roberts --
6 the reference is Mr. Roberts, in fact it was
7 Inspector Roberts with the Calgary City Police --
8 and the question is asked of him:

9 "Q You weren't scared of Detective Karst or
10 Officer Short?"

11 And his answer is:

12 "A No.

13 Q And I take it as well, from your
14 recollection, Officers Karst and Short
15 didn't mistreat you in any way?

16 A No."

17 And then the questions are:

18 "Q There were no threats?

19 A No.

20 Q They didn't put any words in your mouth?

21 A No."

22 A Uh-huh.

23 Q And the question:

24 "Q And I understand you've actually, you've
25 told that --"



1 Being that they didn't threaten him, they didn't
2 put words in his mouth, they didn't mistreat him,
3 "-- to a number of people long before
4 this hearing ever took place at least as
5 far as your dealings with Officer Karst
6 and Officer short, no recollection of
7 any kind of mistreatment or
8 inducements ... or that sort of thing."

9 And Mr. Wilson agrees under oath:

10 "A Exactly."

11 A Uh-huh.

12 Q And then you'll see Mr. Fox refers him back to the
13 passage in the interview with Mrs. Milgaard that I
14 just took you to where essentially he told her the
15 same thing in 1981 that he was telling this
16 Commission in 2005?

17 A Uh-huh.

18 Q And this in spite of what was reported in the
19 *Winnipeg Free Press* and his information to
20 Mr. Henderson in 1990 that he had been
21 manipulated?

22 A Uh-huh.

23 Q If we could now bring up transcript page 5983,
24 please, and again -- actually, if we could begin
25 at 5982 for completeness of the record. This is



1 questioning by Mr. Hodson, Commission Counsel, as
2 you know, again of Mr. Wilson, and in advance of
3 Mr. Fox, but on a similar point. If I could
4 scroll down to the bottom of the page, please.
5 Mr. Hodson, as you will see, is reviewing with
6 Mr. Wilson in the stand here the transcript of his
7 conversation with Mrs. Milgaard in 1981 and over
8 the next number of questions that information is
9 repeated. I want to take you specifically to the
10 question at line 20. Sorry, could I go to 5983,
11 please, line 20. Yeah, again I was referencing
12 the beginning of that page, if we could go to line
13 20, and Mr. Hodson puts the question, and again
14 he's referring to the transcript from Mrs.
15 Milgaard and questions of Mr. Wilson as to whether
16 he was offered a lesser sentence or something like
17 that back in 1969, 1970 if he co-operated with the
18 police in their efforts to secure a conviction
19 against Mr. Milgaard, and you can see that in
20 addition to saying that he was never threatened,
21 he wasn't coerced, words weren't put in his mouth,
22 he also put pay to your suspicion, the suspicion
23 you voiced that he might have gotten a deal
24 because he had charges in the system. Do you see
25 that?



1 A I see it.

2 Q And, Mr. Commissioner, there's various other pages
3 of Mr. Hodson's examination of Mr. Wilson in this
4 regard starting at transcript page 5658 and going
5 through quite a number of pages up to the
6 conclusion of that area of questioning, and again
7 pages commencing at 7208 through to 7216 where
8 essentially under oath Mr. Wilson re-affirmed that
9 the suggestions of threats being made, coercion of
10 him or anything of that nature was in fact false,
11 and if we could bring up page 5658, please, and if
12 you review the page quickly, you'll notice that it
13 is an examination of him with respect to why he
14 told the police what he did, and the question at
15 line 12:

16 "Q Did you make a decision to give them
17 that information when you knew it not to
18 be true?"

19 And the answer was yes. He was asked why.

20 "A I think I have said earlier, all the
21 heat was off me."

22 And the question:

23 "Q Any other reason?"

24 A After I gave this I could go home.

25 Q And why was this important to you?



1 A Because I needed to get loaded very
2 quickly, and then he adds that I had
3 to get stoned very quickly."

4 And the question:

5 "Q What effect, if any, did this have on
6 his decision to give that wrong
7 information to the police..."

8 About David Milgaard, he essentially said he made
9 the decision to lie to the police, at page 5659
10 you'll see he was asked did they tell you to lie
11 and his answer is no. So your hypothesis that
12 you've been working with in respect to Mr. Wilson
13 and why his statement had changed from his first
14 contact with the police on May 3rd, 1969 through
15 to his statements on May 23rd -- sorry, March
16 3rd, '69 through to his statements in May, May
17 23rd and 24th, would appear not to be borne out
18 by sworn evidence that he had subsequently given;
19 would you agree?

20 A Yes, but I wouldn't necessarily believe it.

21 Q Well, that's for the Commissioner to decide.

22 A Yes, I know.

23 Q The record clearly --

24 A Obviously he's saying -- yeah, I wasn't present,
25 so --



1 Q Okay. And again in respect to the question I
2 asked you earlier this morning, you had made this
3 statement, or you have made the public statements
4 and documented statements that the police went to
5 witnesses and told them not to talk to Mrs.
6 Milgaard or to you, not to co-operate, you've also
7 made the statements that they coached witnesses to
8 tell lies, and you made that statement in
9 particular in that article in the *Winnipeg Free*
10 *Press*. Would you agree with me that under oath
11 Ron Wilson has said that what you've purported to
12 be a fact in that article is in fact not true?

13 A I would agree he's told many stories over time and
14 he betrayed one of his friends by lying on oath in
15 1969.

16 Q Sir, before you wrote that letter to the *Winnipeg*
17 *Free Press* in August of 1990, did you give any, or
18 take any time to review the material that you had
19 in your possession or to discuss what you intended
20 to say with Mrs. Milgaard or any representative of
21 Mrs. Milgaard to be sure that you were being
22 accurate in what you were putting in the public
23 forum?

24 A Absolutely not.

25 Q Okay. Sir, I want to go back a bit in time now to



1 the testimony that you've given over the last
2 number of days, and early in your testimony you
3 said that you used rigorous logic in assessing the
4 witness statements given by Nichol John, David
5 Milgaard and Ron Wilson in their first contact
6 with the police?

7 A I think I said I used rigorous logic in comparing
8 trial transcripts and going through the whole
9 scenario.

10 Q But in -- would I be correct in assuming that in
11 looking at the statements you were using the
12 concept of rigorous logic, basically what I
13 understood that to mean, looking at what's being
14 said to see if it makes sense, does it hold
15 together?

16 A Based on the evidence presented, yeah, I would be
17 comparing it, yeah.

18 Q Okay. Now, I don't know that we need to bring up
19 various statements, but you had reviewed the
20 statement that Ron Wilson gave on March 3rd, '69?

21 A Uh-huh.

22 Q And for the record, the document -- one document
23 number, 026342, you reviewed his first statement?

24 A I would have seen it, yeah.

25 Q Yeah. You had reviewed the first statement that



1 Nichol John gave on March 11th, 1969, and one
2 document number on that, 002124, and you reviewed
3 the initial statement given by David Milgaard when
4 he was contacted by Mr. Karst and interviewed in
5 Winnipeg in March, I forget the date, but in
6 March -- or soon after Albert Cadrain went to the
7 police station?

8 A Yeah, I think that's correct, yeah.

9 Q Now, am I -- if I don't summarize this correctly,
10 please draw my attention to it, but what I
11 understood you to be saying to us and to have
12 repeated a number of times is that when you looked
13 at those initial statements, what struck you was
14 that they all told a virtually identical story?

15 A Well, they didn't talk about a murder.

16 Q No, no, but you indicated, and I didn't record --

17 A There may be minor variations.

18 Q But you said basically without any apparent
19 interaction between them, they all told
20 effectively the same thing that had happened or
21 gave the same version of their trip from Regina to
22 --

23 A Yeah, there would have been differences though.
24 What I meant was there was no description of the
25 murder and the stabbing --



1 Q Okay.

2 A -- in the original statements.

3 Q You also have testified that you concluded that
4 those first statements were the truthful
5 statements?

6 A Uh-huh.

7 Q And that anything that the police got afterwards
8 were as a result of, by your theory, manipulation,
9 wrongdoing, some shady, whether deliberate or
10 otherwise --

11 A Pressure.

12 Q Pressure, okay. Now, when -- and if you need to
13 review these statements, we can bring them up and
14 make them available to you.

15 A Okay.

16 Q But when I look at, and when we had looked at here
17 in this Commission at those original statements
18 from Ron Wilson, Nichol John and David Milgaard,
19 there were a few factors that are different from
20 how you described them, and I'm going to suggest
21 to you that when the police contacted Ron Wilson
22 on March 3rd, 1969, he described a trip between
23 Regina and Saskatoon that was not quite an honest,
24 actual, factual rendition of their activities that
25 night.



1 A Okay.

2 Q Do you know to what I refer when I say that?

3 A Are you talking about a break-in or something?

4 Q Well, I'll start with the things that weren't in
5 the statement as I have it and others before have
6 it.

7 A Yeah.

8 Q Ron Wilson said that there was just the three of
9 them in the car, which was true, they drove direct
10 to Saskatoon where they planned on meeting Shorty
11 Cadrain.

12 A He admitted that, right.

13 Q Okay.

14 A Yeah.

15 Q Would you agree with me that what the police
16 investigation subsequently showed and what indeed
17 David Milgaard has admitted, and admitted early in
18 the investigation, or wrote in a notebook that he
19 made, was that they stole a battery before they
20 left Regina?

21 A Uh-huh.

22 Q Not a big deal, but they did it?

23 A Yeah.

24 Q They did a break and enter at an elevator along
25 the way, stole a flashlight, some dispute as to



1 whether they also got a knife, but through
2 subsequent police investigation, the RCMP at Craik
3 confirmed that there had been an a break-in at the
4 elevator?

5 A Uh-huh.

6 Q A flashlight had been stolen, and indeed Ron
7 Wilson returned the stolen flashlight to the
8 Saskatoon City Police?

9 A Right, he admitted some things, that's true.

10 Q So again in terms of their first statements --

11 A They weren't identical is what you are worried
12 about?

13 Q No, no, but, Mr. Carlyle-Gordge, let's be fair,
14 it's more than they weren't identical, what they
15 left out was descriptions of criminal misconduct.

16 A They did.

17 Q Theft of a battery, break and enter to an
18 elevator?

19 A Agreed.

20 Q What was also left out in Ron Wilson's first
21 statement was that they had discussed a plan to do
22 break and enters and do purse snatching. Would
23 you agree with me David Milgaard subsequently
24 confirmed even to you in that telephone conference
25 call of January 22nd, 1981 that they had looked a



1 woman over --

2 A There was a discussion, that's right.

3 Q They had no money, they had to find a way to get
4 money?

5 A Oh, yeah, I would agree with you.

6 Q Okay. But conveniently left out in Ron Wilson's
7 initial statement?

8 A Well, yeah. You can imagine why, uh-huh.

9 Q Okay. Left out of his statement for no reason to
10 do with apparent criminal misconduct on the face
11 of it was the fact that they had stopped and
12 spoken to a woman when they got into Saskatoon to
13 ask for directions?

14 A Uh-huh.

15 Q David Milgaard said they did, Ron Wilson never
16 mentioned it?

17 A There was confusion. I think David said something
18 about an older man, a workman or something too
19 that they had spoken to if I recall it right.

20 Q Mr. Carlyle-Gordge, with respect, if you review
21 the transcript from January 22nd, 1981 you said
22 older man, David Milgaard said older woman.

23 A Are you talking about them coming into Saskatoon?

24 Q Uh-huh.

25 A And who they spoke to?



1 Q Yeah. The reference to an older man comes from
2 you in that transcript and I don't recall seeing
3 it anywhere else.

4 A No, I think I would like to have you review that.

5 Q Okay.

6 A You could be right, but I have it in my mind that
7 he brought that up.

8 Q If you'll just bear with me for a moment, I took
9 some of my files away.

10 MR. HARDY: It might be worth looking at,
11 Mr. Commissioner. My recollection is that David
12 actually refers to an older man in the
13 transcript.

14 MS. KNOX: Okay, sure, I could very well be
15 wrong.

16 COMMISSIONER MacCALLUM: I think there was
17 a question of an older man being seen in the
18 middle of the city and then somebody else being
19 seen, a woman --

20 MS. KNOX: Yeah, an older man later
21 downtown by Eaton's.

22 COMMISSIONER MacCALLUM: Well, whether
23 later or not I don't know, but it was downtown,
24 two discrete incidents.

25 BY MS. KNOX:



1 Q So do you still -- we can agree that I'm probably
2 wrong here and I'll accept that.

3 A I think there was a lot of confusion there.

4 Q Okay. But the only point I wish to make in terms
5 of your characterization of your absolute belief
6 that these were the truthful statements is that
7 there were significant pieces missing from them?

8 A I would agree with you, and relative to the major
9 crime, yes, technically you are right.

10 Q And Ron Wilson in his first statement didn't
11 mention anything about them going to a motel to
12 get a map, minor detail, but not in the statement?

13 A It's a detail, okay.

14 Q Didn't mention anything about getting stuck prior
15 to them going to the Danchuks?

16 A Okay, they weren't identical in every respect.

17 Q Okay.

18 A I accept that.

19 Q Nichol John similarly in her first statement, the
20 one of March 11th, 1969, for some strange,
21 peculiar reason left out almost exactly the same
22 things, she didn't talk about them stealing a
23 battery?

24 A Uh-huh.

25 Q She didn't talk about the break and enters?



1 A Uh-huh.

2 Q She did talk about stopping along the way, but
3 just for coffee. She didn't talk about the woman.

4 A Uh-huh.

5 Q And she didn't talk at that time about the
6 discussion regarding doing break and enters or
7 purse snatching to get money to pay their way to
8 the West Coast.

9 A Well, I agree with you. They were talking to
10 policemen at the time, so I can understand that.

11 Q Okay. And I'm not -- I don't think you and I are
12 all that apart, where I think we're at issue is
13 you describe these statements as being truthful.

14 A Oh, okay, I see what you are saying.

15 Q What they did in those statements is they
16 conveniently left out a series of criminal
17 misconduct that they had either discussed
18 undertaking or engaged in while en route to
19 Saskatoon?

20 A I don't think we have an argument about that.

21 Q Okay. Now -- and I don't think in light of that
22 that I need necessarily to go through David
23 Milgaard's, but similarly I would suggest to you
24 in the first contact with him he left out the same
25 kinds of stuff?



1 A I'll accept that, sure.

2 Q Okay.

3 A Yeah.

4 Q Now, you are looking at, or you looked at those
5 statements from the perspective of somebody who
6 was searching for evidence to support the belief
7 that David Milgaard was innocent; would you agree
8 with that?

9 A Not completely. I think I was also looking to see
10 if he was guilty at the beginning.

11 Q Okay. I'm not sure what the difference is there,
12 but --

13 A Well, just checking fact by fact, you know.

14 Q Now, if you were a police officer and you were
15 sitting in an office at the Saskatoon Police
16 Service on March 2nd, 1969, a young -- you've been
17 investigating a murder for a month and you've got
18 nothing --

19 A Basically that's true.

20 Q -- a young fellow comes in and says I'm Albert
21 Cadrain, I have some information, this is what I
22 saw at my house --

23 A Right.

24 Q -- okay, these three people came, I went on a trip
25 with them. We're okay so far?



1 A Yes.

2 Q The police file indicates and all the information
3 you obtained indicate police took it with a grain
4 of salt?

5 A Well, I would.

6 Q Yeah.

7 A I would want to test it, I would want to find out
8 is he --

9 Q And, Mr. Carlyle-Gordge, would you go so far as to
10 agree with me, in fairness, the record clearly
11 indicates that they tested it, some of it. You
12 might not agree with how they tested it, but they
13 tested it?

14 A Well, they certainly contacted the people he
15 named, including Milgaard, of course they did, and
16 he was very co-operative, and in fact I don't
17 think he even told his mother about the first
18 contact.

19 Q Okay.

20 A He didn't take it seriously. Did they contact
21 them? Yes, yes, of course they did.

22 Q Sir, more importantly if you are a policeman and
23 you are looking at what you've got here, they
24 contact them, they get statements from them and
25 they think it doesn't make a lot of sense, if



1 their statements are truthful it can't be, and low
2 and behold a month, three weeks, six weeks, they
3 start finding out some of the stuff in those
4 statements is false, little things compared to a
5 murder.

6 A You mean the break-in?

7 Q The battery, the break-in?

8 A Yeah.

9 Q The woman?

10 A Yeah, that was --

11 Q The car being stuck?

12 A Sure.

13 Q The plan to do break and enters, roll people to
14 get money --

15 A Sure.

16 Q -- all of that had been left out by all three of
17 them?

18 A Apparently so, yeah.

19 Q Not apparently so, you know it to be so?

20 A Yeah.

21 Q So take off your hat you are sitting and wearing
22 and put on a policeman's hat.

23 A Well, I would want to know their movements when I
24 interviewed them, what happened that morning, did
25 you see anybody, and I would want to follow up



1 with any credible people they had seen or might
2 have seen them in whatever the critical time was,
3 from six till, I don't know, nine or 10, I would
4 want to follow up and say did you see these young
5 people that day, how did they seem, did you see
6 blood, anything like that, any strange behaviour.

7 Q Yeah. And the police did all that?

8 A Oh, I'm not questioning that the police did that.

9 Q In fact, you reviewed the transcripts from the
10 preliminary inquiry and trial, that evidence was
11 called at the trial?

12 A That was the logical way to go.

13 Q Yeah. Sir, I sense that you and I won't have a
14 meeting of minds on this, but would you agree with
15 me that if you were wearing a policeman's hat or a
16 prosecutor's hat, while they were minor in detail
17 as compared to a murder of a young nurse in a back
18 alley at minus 40 degrees, the fact that these
19 three young people, independent of each other, who
20 proclaimed to have no knowledge of the murder, had
21 coincidentally left virtually the same things out
22 of their initial statements mind send up a red
23 flag? It wasn't proof of anything, but it might
24 kind of sit the hairs on the back of a policeman's
25 neck up?



1 A Sure, they would know they haven't been straight
2 with us, absolutely they would know that, and they
3 might be very suspicious too.

4 Q And they might want to think why, and then when
5 you tie in the woman, the plan to snatch her
6 purse, kinds of stuff like that --

7 A Yeah. It would need vigorous testing.

8 Q Yeah, but certainly it wasn't a benign oversight
9 on the part of any of them?

10 A No. They were probably scared, you know.

11 Q And unlike you, the fact that the police and the
12 Crown didn't blanket accept that what they said in
13 their first statement was the truth and they had
14 nothing to do with the murder, the police approach
15 might have been more what you would expect from a
16 policing perspective?

17 A I would want to test everybody.

18 Q Yeah, we don't disagree on that. Every time you
19 see a file go over there, that's good, that means
20 I'm finished.

21 A Okay.

22 Q Now, sir, you indicated in the course of some of
23 your responses to Mr. Hardy, particularly that one
24 of the tasks that you set for yourself when you
25 approached Joyce Milgaard in December of 1980 was



1 to say to her I'm going to do my own analysis
2 here --

3 A Uh-huh.

4 Q -- and I'm going to come to my own conclusion, and
5 you may not like my conclusion --

6 A Yes, we had that discussion.

7 Q Yeah.

8 A Yeah.

9 Q And I don't take any issue --

10 A And my wife was involved in that discussion.

11 Q I'm not questioning your credibility in that
12 regard, so I'm just setting the stage for where
13 I'm going if you can bear with me.

14 A Okay.

15 Q And following that, you indicated that you did
16 certain things or you undertook certain steps to
17 see what you could learn about this character,
18 what his background was and whether what he was
19 accused of made any sense. Again I'm paraphrasing
20 and summarizing, but that's effectively what you
21 told us?

22 A Yes, on and off sporadically over two years that's
23 what was going on, yeah.

24 Q Okay. Now, sir, one of the first indications that
25 appear in the record of you attempting to find out



1 what this kid was really like was a transcript of
2 an interview or a telephone call you had with
3 Howard Shannon --

4 A Oh, yeah.

5 Q -- on February 3rd, 1981?

6 A Right.

7 Q The document ID 155237. You remember that,
8 Mr. Hardy took you through --

9 A I've reread it since, yeah.

10 Q You've reread it, so I'll just bring up page
11 155239 just because it's up anyway, but as you
12 indicated, you were asking him some questions
13 about Mr. Milgaard, what he was like, and here you
14 ask whether he had ever heard anything about him
15 sexually to indicate that he might be a little bit
16 off. Do you remember that discussion?

17 A Well, not clearly, no, but --

18 Q You'll agree with me that you asked the question?

19 A Oh, I would have done, yeah.

20 Q Okay. And again your reason for asking that
21 question of Mr. Shannon, you indicated you wanted
22 to talk to people who were working with him who
23 knew him in that context?

24 A At the time he was arrested, yeah.

25 Q Yeah. Now, did you consider it would be



1 appropriate, necessary, prudent to talk to people
2 who knew him in other contexts to find out what he
3 was like when he wasn't in a position where he
4 needed to impress the people that he was with,
5 i.e., his employers?

6 A What kind of people are you thinking about?

7 Q Friends that he hung out with like his long-term
8 girlfriend, long term in the life of a 17 year old
9 is not very long, but Sharon Williams, the girl
10 from Edmonton that he had been hanging out with
11 for a couple of years on and off?

12 A I can't remember if I interviewed her or not. I
13 know the name though. I may have phoned her, I
14 don't know.

15 Q There was a point in time that you were looking
16 for an address on her through the tracing
17 services?

18 A That's quite likely.

19 Q But were you made aware through Mrs. Milgaard or
20 anybody associated with the trial of allegations
21 that Sharon Williams had made about David Milgaard
22 in a statement she gave to the police on March
23 20th, 1969?

24 A I can't recall.

25 Q Okay. I'm going to ask to bring up document -- my



1 version as I have it is 006500, and prior to
2 preparing for these proceedings today have you
3 looked at Sharon Williams' statement or is this a
4 complete new document?

5 A No. I'm just trying to remember if I saw that in
6 Mr. Caldwell's files or not. I can't tell you. I
7 may have seen it in the files.

8 Q Do you recall receiving any information from Mrs.
9 Milgaard, members of the Milgaard family, about
10 Sharon and the relationship that she had with
11 David?

12 A Of a negative kind are you talking or just a
13 relationship? I knew the name, I knew the name.
14 She was a girlfriend.

15 Q You made a statement --

16 A I can't remember.

17 Q I'm sorry, I apologize. You made a statement that
18 when you were checking into his background you
19 found out that he had been involved in a joyriding
20 incident, but that basically that was the extent
21 of documented criminal misconduct that you could
22 find, and again I'm paraphrasing.

23 A Yeah. As far as I remember, that was -- I'm
24 trying to remember what was going on. He had a
25 social worker or something like that. This is



1 back in wherever they were living at that time
2 when he was, I don't know, 14 or younger, and he
3 had some trouble obviously.

4 Q You testified that you reviewed the psychiatric
5 records from Yorkton when he was placed there when
6 he was about 14 years old for a number of months?

7 A That must have been it. If Mrs. Milgaard had
8 that, that's probably where I read that.

9 Q Do you recall now whether you did a full review of
10 those psychiatric records?

11 A I guess I read everything she had.

12 Q Do you recall whether you discussed with Mrs.
13 Milgaard the indications in that psychiatric
14 record that apart from the joyriding innocent he
15 had been involved in some other events, not
16 charged, but burning a barn, a lot of trouble in
17 school, like, he had been --

18 A There was school trouble, I remember that. I
19 don't remember the barn, no, I don't.

20 Q Okay. Do you recall reading about a discussion
21 with the town policeman in Langenburg where he
22 gave some detailed information about his knowledge
23 of him as a young person in the community and the
24 trouble that he was continuing to get into?

25 A Just on recollection I don't. It doesn't mean I



1 didn't see it.

2 **Q** Okay. Do you recall the information in the
3 psychiatric report about the difficulties
4 Mrs. Milgaard and Mr. Milgaard had in managing
5 him?

6 **A** Yes.

7 **Q** That he was beyond -- I'm going to use a term that
8 goes back to me being an old social worker -- that
9 would be characterized in those days as being
10 beyond parental control?

11 **A** I think that does ring a bell. And I think Joyce,
12 she'd been very open with me, actually, I think
13 she said "he's no angel".

14 **Q** Uh-huh.

15 **A** I mean she had handed over some very personal
16 stuff.

17 **Q** Uh-huh. So you did --

18 **A** Yeah, there were family problems with controlling
19 David, yeah I knew that.

20 **Q** So given that you had access to this stuff, and
21 you had discussions with Mrs. Milgaard, --

22 **A** Uh-huh.

23 **Q** -- would it be fair to say, when you were writing
24 your chapter in, and I'll go back to the *Ice-cold*
25 *Hothouse* --



1 A Hothouse.

2 Q -- for a minute, that you had more extensive
3 information about David -- and I'm not going to
4 use the word 'deviant' in a sexual sense, --

5 A Yeah.

6 Q -- but non-conforming behaviour than appears from
7 the language you used in the book?

8 A Yeah. I think I would call him very hyperactive,
9 may have been skirting on slightly the wrong side
10 of the law sometimes, and I can remember, as I
11 told you, that book was an auto -- no, no, no -- a
12 biography of Mrs. Milgaard. What I just
13 remembered, when he was even a little boy, she
14 kept him in a box, that's in the book, because he
15 was always running off, stuff like that. So it
16 goes back a long way. He was hyperactive.

17 Q Yeah, and when he was in kindergarten they
18 wouldn't take him back in class because they
19 couldn't control him, they had to move to another
20 community?

21 A I probably read that, yeah.

22 Q All that stuff.

23 A Yeah.

24 Q A little bit -- not so much -- the most
25 interesting of that, perhaps, that there was



1 actually a documentary record of that number or
2 that kind of malfunction from, malfunction in a
3 child, from an early age?

4 A Well, they were certainly having problems at
5 various times, sure.

6 Q So you had that pool of knowledge, presumably, --

7 A I knew that, uh-huh.

8 Q -- when you wrote this in '82. In your dealings
9 with Mrs. Milgaard you knew that he'd been
10 involved in an on-again/off-again relationship
11 with a young woman, a young girl really, she was a
12 teenager, Sharon Williams?

13 A Yeah, she was a girlfriend as far as I knew, yeah.

14 Q Were you made aware that Sharon Williams had told
15 the police that she was with him when he stole a
16 car with Manitoba plates, drove to B.C.?

17 A It's possible I knew about that but I can't
18 remember it.

19 Q Were you aware, or made aware, that she had told
20 the police that he was selling drugs and doing --
21 at least on one occasion she was with him when he
22 did a break and enter to collect some drugs he had
23 stashed at a cabin or a cottage at Salmon Arm?

24 A Doesn't ring a bell.

25 Q Okay. Were you told by them she'd made



1 allegations that on occasion he was quite forceful
2 with her in having sexual contact with her?

3 A I may have read that in Mr. Caldwell's file, I
4 don't know.

5 Q She, in fact if we could go to page 006502 she's
6 talking about him having intercourse with her, he
7 usually -- she used -- and she said it usually
8 lasted about five minutes, he usually just made
9 me. He was rough to me and if I said no he would
10 force me using his legs and push me with his legs
11 and force himself upon me; were you made aware of
12 that or did you have knowledge of that?

13 A I can't remember reading that.

14 Q Okay.

15 A But I'm not saying I didn't read it.

16 Q Okay. Now she did go on to say, further down that
17 page, that -- yes, it's right here, just so that I
18 am not --

19 A He never threatened me.

20 Q -- he never threatened me, umm, but that he just
21 wouldn't give up, so she did say that.

22 A He was persistent, right.

23 Q Okay. Now if we could go to page 006504, and I
24 just want to go to the bottom of the page here,
25 starting about here. Were you made aware that she



1 described David as the type of person who didn't
2 care what happened to anyone?

3 A No, I don't recall that at all.

4 Q Okay. If we could go to the next page, 505,
5 starting about here. Do you recall being aware
6 that she reported to the police that they used to
7 fight and he would punch her over the most stupid
8 things, he had a bad temper, and if she didn't do
9 something he wanted he would punch her?

10 A I'm sure I have never read that.

11 Q Do you recall being told about it?

12 A No.

13 Q Do you recall being made aware that on one
14 occasion when she was with him, just continuing
15 this paragraph, he had a little gun, she
16 identifies the owner, said it had a bullet in it,
17 and he played Russian roulette with it, and
18 commenting that he wasn't on drugs when he did
19 that?

20 A No, that's complete news to me.

21 Q Okay. If we could go to the next page, let's
22 start about here, "During the time ...". Starting
23 right here, do you recall being -- reading or
24 being made aware that she also said that one time
25 he forced her to have oral sex with him, that he



1 was rough with her, punched her around, and said
2 to her "now you are going to be my prostitute"?

3 A No, don't remember that.

4 Q If we could go further down, she -- were you aware
5 that she told police that on occasion he claimed
6 to her, or she told the police that on occasion he
7 claimed with her that he had stayed with someone
8 who would provide drugs to him, and that he told
9 her that he liked men and women, that he was
10 bisexual?

11 A I had -- I certainly don't remember that, no.

12 Q Okay. If we could go to the next page, please.
13 Were you aware that she described a specific
14 occasion during an exhibition in Regina where they
15 had a fight and he forced her to have intercourse
16 with him after the fight?

17 A No.

18 Q Were you aware that she -- if we could continue to
19 the next paragraph -- that he subsequently
20 apologized to her for treating her like an animal
21 and said that he was going to change?

22 A No, I don't remember any of this, no.

23 Q Okay. If we could go to 006512, if we could bring
24 out this paragraph, do you recall reading or
25 recall being told that she said once, when she was



1 in Langenburg with him, he was -- and he was
2 fooling around with a big butcher knife, sort of
3 pointing it at her stomach and pushing on it and
4 saying something like "I'm going to kill you"?

5 A No, I'm astonished this --

6 Q And I should continue and add, however, that when
7 she said this she said that it seemed like he was
8 just fooling around, in fairness.

9 A No, I have never seen that, no.

10 Q Okay. All right. Sir, in your quest to get a
11 handle on the personality of David Milgaard as you
12 advanced upon the cause with Howard Shannon, --

13 A Uh-huh.

14 Q -- would this have been information that might
15 have been of some significance for you in
16 formulating your opinion?

17 A It would have raised some doubts in my mind, let's
18 put it that way, sure.

19 Q Now, sir, am I correct that you were aware that
20 Nichol John claimed that she'd been raped by David
21 Milgaard?

22 A Umm, was I aware of that? Hmm. I seem to
23 remember Albert Cadrain talking about stuff like
24 that mostly.

25 Q Were you aware that Nichol John told Joyce



1 Milgaard that she'd been raped by David?

2 A I can't recall that.

3 Q Okay. I wonder if we could bring up document, and
4 I'm using this document for ease of reference,
5 331550. Sir, I'm holding the original of a book
6 cover that appears on the screen, *The David*
7 *Milgaard Story* by Carl Karp and Cecil Rosner; have
8 you read this?

9 A Umm, I think I have read it, and in fact in 1990
10 when I got back from England they were coming
11 'round looking for stuff, I remember, and that's
12 probably when I went through my files and returned
13 them. Yup.

14 Q Okay. I wonder if we could go to page 331633. I
15 might be slightly off here because my book doesn't
16 have CaseVault numbers.

17 A What year is the book; do you know?

18 Q 1991, copyright, and then it says 1998 by Carl
19 Karp and Cecil Rosner, first published February,
20 1998.

21 A '98?

22 Q '98.

23 A Okay. I do know the names because they came to my
24 house looking for stuff.

25 Q Okay. And just to back up a minute, did you



1 actually read the book after it was published?

2 A Is it -- no, hang on. *When Justice Fails*, who
3 wrote that one, is that Karp, Karp and Rosner?
4 That's the one I'm thinking of.

5 Q No, and --

6 A Yeah, I guess I have read that.

7 Q Okay, and I'm just using this for ease of
8 reference, it was the quickest way for me to pull
9 up information.

10 A I probably read it once, actually, yeah.

11 Q Okay. I wonder if I could go to page 331635,
12 should be the next page. And actually no, sorry,
13 I need to go back one. There you go, thank you.
14 And again if -- I appreciate that I am asking you
15 to absorb, in fairly short time, a whole lot of
16 information that was -- as to work that was being
17 done, but if I can sort of put this in context for
18 you, what the authors are doing here is they are
19 describing the efforts that Mrs. Milgaard made to
20 be in touch with Nichol Demyen, and how a meeting
21 unfolded when she was actually able to sit down
22 and have a conversation with her.

23 A Okay.

24 Q Not the one that you were at, but the one with her
25 lawyer present, Mr. Leslie?



1 A Okay.

2 Q Are you with me so far?

3 A So far.

4 Q Okay. Now you were aware that that meeting took
5 place --

6 A That's --

7 Q -- with Mr. --

8 A That's to do with the hypnosis thing?

9 Q That was part of the discussion that came out of
10 that meeting, I think, as to whether she would
11 agree to be hypnotized?

12 A Yeah, I wasn't present, but that's --

13 Q Okay. Now do you know if you ever reviewed a
14 transcript of what took place in that meeting
15 afterwards?

16 A I can't remember.

17 Q Okay. If we could go to the next page please, and
18 just the next page on this, page 151. This is the
19 authors reporting some of the information they
20 obtained as to what Nichol John said to Joyce
21 Milgaard in that meeting, and you see she said to
22 her, and they quote:

23 "He raped me", she told Joyce,
24 repeating the story she had related to
25 police a dozen years earlier."



1 And then she added:

2 " '... maybe rape is too strong a word,'

3 ... 'He forced me.' "

4 And she talks about him forcing his will on
5 people, but certainly she made an assertion that
6 she had been subjected to unwanted sexual
7 advances by David Milgaard prior to the death of
8 Gail Miller; would you agree with that?

9 A Well, I have no way of knowing if it's true.

10 Q Yeah. I appreciate, we're not talking about
11 whether it's true, my question to you is --

12 A She's saying "he raped me" and then she's changing
13 her mind.

14 Q Yeah. But was it reported to you, in your efforts
15 to study the personality of David Milgaard as you
16 became involved in this investigation, that Nichol
17 John was making an allegation, or had made an
18 allegation to the police in '69, that he raped
19 her; made the same allegation to his mother with
20 the caveat that "well, maybe rape is too strong a
21 word, he forced me against my will"?

22 A I can't say for certain.

23 Q Okay. If that had been drawn to your attention by
24 Mrs. Milgaard, or directly --

25 A Uh-huh.



1 Q -- in conversation with you or you had read it in
2 the transcript of her interview with Nichol John,
3 would that or could that have influenced your
4 assessment of David Milgaard as a personality that
5 you were dealing with?

6 A Oh, probably. I mean it's a very negative thing,
7 rape, definitely. I think he was very assertive
8 for sure.

9 Q Yes. Given that it was in the possession of the
10 police in 1969 and the Crown in 1969 and '70,
11 would you agree that it's not surprising that it
12 might have influenced their judgement of who they
13 were dealing with?

14 A Oh, it would have influenced them, yeah.

15 Q Right.

16 A Yeah.

17 Q Just like they had, or given that they had
18 possession of the information that came from
19 Sharon Williams, --

20 A Yeah.

21 Q -- that that might have influenced their judgement
22 as to who -- what kind of person David Milgaard
23 was and what he might be --

24 A Oh, yeah. Rape is a serious -- rape is a serious
25 crime.



1 Q -- what he might be capable of?

2 A Yeah, yeah, yeah.

3 Q Sir, without belabouring the point, because I know
4 I'm belabouring a lot, would it be fair to say
5 that if you were a police officer -- let's take
6 off your journalist's hat again for a moment. If
7 you were a police officer and you had that kind of
8 information from Sharon Williams, from Nichol
9 John, and other information about David Milgaard,
10 that, as a police officer, it might play a role?

11 A Oh, I would be interested. I'd also be weighing
12 up that they were all into the drug culture, they
13 were young, certainly I would pay attention to it,
14 yeah.

15 Q Uh-huh. It would be a factor to be considered?

16 A Absolutely.

17 Q Just like, if you take off your journalist's hat
18 and put your police hat on, the fact that they
19 didn't tell you about the break and enter, they
20 didn't tell you about stealing the battery, --

21 A Uh-huh.

22 Q -- the other things on the trip coincidentally got
23 left out by all three of them, --

24 A Sure.

25 Q -- while not damning, would be another flag that



1 would go up the pole?

2 A Oh sure, you balance everything, uh-huh.

3 Q Sure. Sir, I want to go back to Albert Cadrain
4 for a moment, and I won't spend a lot of time
5 dwelling on it because we've talked about the
6 interactions you had with him, the interactions
7 with his mother and his bother, and you've talked
8 about it a number of times and we have your
9 transcripts. In the course of the examination
10 done by Mr. Hardy in particular, and in other
11 evidence we've heard at the Inquiry, we have
12 transcripts of conversations you had with a Father
13 Murphy about Albert, Mr. Mahar but also Albert,
14 and the fact that Albert got the reward --

15 A Right.

16 Q -- for testifying in the *Gail Miller* case?

17 A Yeah, there was a \$2,000 police reward, right.

18 Q Okay. Now we have two transcripts for Father
19 Murphy, and you -- one is 048529, for the record,
20 the other is 048542, and I -- you can look at them
21 if you want, but we may be able to get through
22 this without --

23 A That's okay.

24 Q But you have, you've reviewed those transcripts, I
25 take it?



1 A I looked at them once, yeah.

2 Q Okay. Now we also have the transcript of your
3 conversation with Dennis Cadrain back in 1982?

4 A Right.

5 Q And at the conclusion of your contact with Dennis
6 Cadrain and with Father Murphy, or both your
7 contacts with Father Murphy, were you satisfied
8 that there was nothing to indicate that Albert
9 Cadrain was motivated by the hope of financial
10 gain when he spoke to his family on the evening of
11 March 1st, 1969 and when he went to the police
12 station on March 2nd, 1969 and gave his first
13 statement?

14 A Yeah. Originally I was thinking, well I was
15 thinking along many lines as to motives. Once I
16 had spoken to Albert's brother, who I had a lot of
17 -- thought had a great deal of credibility and
18 compassion, --

19 Q Uh-huh?

20 A -- I put that completely to rest. That had
21 nothing, the money had nothing to do with it, he
22 wasn't into money, so I accepted his brother's
23 word that that was that.

24 Q Okay. And Mr. Carlyle-Gordge, in addition to his
25 brother's word I am going to refer to the



1 transcript with Father Murphy, the second
2 transcript 048543. Now again to put this in
3 context for you, because the transcripts look
4 alike, you had had one conversation with Father
5 Murphy that was probably a little bit confusing as
6 to when he made contact with Albert, and Father
7 Murphy in that first conversation seemed to think
8 he talked to him before he went to the police, so
9 just so the record is clear --

10 A Yeah.

11 Q -- that was the initial one. You called him back,
12 and we have the conversation that's in the
13 transcript I now have up, and I just want to --
14 and I'm not sure why you called him back, whether
15 it was because of what Dennis had told you, but if
16 we could go to the questions that you started with
17 after you had engaged with him for a while, and
18 you can start with a question right here, you
19 said, 'the other thing I wanted to ask' --

20 A Uh-huh.

21 Q -- 'was he came to you originally because he was
22 upset', and Father Murphy says -- and you are
23 talking about the boy -- and Father Murphy says
24 'no, I sent for him'.

25 A Yeah.



1 Q Okay?

2 A Uh-huh.

3 Q And Father Murphy goes on to say, after you
4 questioned that, 'yeah, I had a particular reason
5 for sending for him, I wanted to talk to him', and
6 you ask him, 'did you know he had had any
7 involvement', Father Murphy said, 'yes', then you
8 say, 'oh, you did', Father Murphy says, 'yeah',
9 and then you move on a little bit. And if we
10 could go to the top of the next page, and Father
11 Murphy continues to explain to you, 'the reason I
12 sent for him, because I knew that he was eligible
13 for the reward, and he didn't know about it
14 himself'.

15 A Uh-huh.

16 Q 'You knew he was eligible', you say, and he said
17 'yes'?

18 A Uh-huh.

19 Q And Father Murphy is -- you indicated you didn't
20 want to be too probing, but if we could go to the
21 next page, 048545, the conversation continues, and
22 you asked the question of him, 'final thing, when
23 you actually asked to see him, did you know for
24 sure there was some connection or were you just
25 suspicious', 'no, I knew for sure', 'you knew for



1 sure', and then you say -- talked about him coming
2 into Saskatoon?

3 A Uh-huh.

4 Q Now you put your mind to rest that Albert was not
5 motivated by money in 1983?

6 A When I had spoken to his brother.

7 COMMISSIONER MacCALLUM: When?

8 BY MS. KNOX:

9 Q Sorry, 1983 or in 1982, when you spoke to Dennis
10 and Father Murphy?

11 A Yeah, I was willing to accept Dennis' word that it
12 wasn't about the money, he gave the money to his
13 father.

14 Q Okay. But, more than accepting Dennis' word, you
15 got some, although it's not a clear conversation,
16 you got some confirmation from Father Murphy --

17 A Yeah.

18 Q -- that he invited Albert in to talk to Albert
19 about the reward?

20 A I now understand that's probably where he meant.

21 Q Yeah.

22 A There was some confusion about the whole who
23 persuaded him to go to the police first. I will
24 tell you what was going through my mind, did the
25 church get the reward, that was definitely in my



1 mind.

2 Q Okay. I'm not even going to touch that one. Sir,
3 did you communicate to Mrs. Milgaard, after you
4 had contact with Father Murphy and after you had
5 your interview with Dennis, that you were
6 satisfied that Albert Cadrain was never motivated
7 by money when he went to the police in 1969?

8 A I think she would have had the transcript of my
9 conversation with Dennis.

10 Q Yes.

11 A Did I actually say -- rule that out? I can't
12 recall.

13 Q Okay. Now, sir, are you -- you said you'd come to
14 learn since; are you aware that there's specific
15 information before this Commission --

16 COMMISSIONER MacCALLUM: Just a minute.
17 I'm not sure that -- I thought you said it -- the
18 money had nothing to do with it, that was a
19 little while ago, and just now counsel asked you
20 'in 1982, when you spoke to these two people,
21 were you then assured' -- I'm paraphrasing --
22 'that money had nothing to do with it, didn't
23 motivate Albert', and what was your answer?

24 A After I had spoken to Albert's brother Dennis in
25 Vancouver --



1 COMMISSIONER MacCALLUM: Yes?

2 A -- I accepted his word that Albert wasn't
3 interested in the money, that's not what it was
4 about, so I sort of let that go.

5 COMMISSIONER MacCALLUM: So the answer is
6 'yes, in 1982 you had let it go'?

7 A Yes.

8 COMMISSIONER MacCALLUM: All right.

9 MR. HODSON: 1983 is the discussion with
10 Dennis.

11 A Okay, '83.

12 COMMISSIONER MacCALLUM: '83? Thanks.

13 A Yeah.

14 BY MS. KNOX:

15 Q Sorry about that, 1983. Yes, February '83, as I
16 recall.

17 A Yes.

18 Q So you satisfied yourself, you gave your
19 transcripts to Mrs. Milgaard, and presumably you
20 and she were discussing what you were finding just
21 as she was discussing with you what she was
22 finding?

23 A There was an interchange of information, sure.

24 Q Okay. And while you may not have an independent
25 memory of it now, given that that was a critical



1 factor that was under consideration, is it likely
2 that you would have reported to her that you were
3 satisfied for -- that for whatever reason he did
4 it he wasn't motivated by, apparently, by money?

5 A I can't remember that conversation, but I don't
6 remember sitting down and saying "forget about
7 Albert", you know.

8 Q Okay.

9 A I'd been looking, myself, for a motive.

10 Q Uh-huh.

11 A You know, why did he go to the police, if I didn't
12 believe he saw anything what prompted this was it
13 money?

14 Q Uh-huh.

15 A Yeah.

16 Q Okay. Now, sir, are you aware that there is
17 specific testimony before this Inquiry that in
18 fact Albert made no, or made no effort to obtain
19 the money, that in fact Father Murphy did call him
20 in after the trial was over, and after a police
21 officer had went to him, and said "that young
22 fellow really should apply for this reward, he
23 would be eligible"?

24 A Well no, I'm not familiar with what's been heard
25 here, but no.



1 Q Okay. Were you aware or have you become aware
2 that, despite what you found and what you
3 concluded, that at various times over the years
4 Mrs. Milgaard or representatives on her behalf
5 have accused Albert Cadrain of being motivated by
6 money to come forward and give the information he
7 did against David?

8 A I'm not aware of any of that.

9 Q Okay.

10 A It was something that had gone through my mind.

11 Q Okay. Is -- I'm going to bring up, ask to bring
12 up 001543. Okay. This is an article that
13 appeared in the Saskatoon *StarPhoenix* Friday,
14 October 20th, 1989, and you will see the headline
15 is referencing information, or Mrs. Milgaard,
16 *Milgaard's mom sure he'll be freed*, and the part
17 that I want to draw your attention to is right
18 here, we've looked at it previously in this
19 proceeding. You will see it reads:

20 "A \$2,000 reward offered by the police
21 induced Crown witness Albert "Shorty"
22 Cadrain to testify against her son,
23 Joyce said."

24 A Uh-huh.

25 Q And then:



1 "Cadrain testified he saw blood on the
2 accused's clothes."

3 A Right.

4 Q Have you seen a movie, I believe, and I don't have
5 a document number although it's a movie that was
6 done by CTV I think, *The David Milgaard Story*;
7 have you watched that movie?

8 A I think I did. That was with actors and things?

9 Q Yes.

10 A I didn't think it was that good.

11 Q Apart from what you thought as to whether it was
12 that good, do you remember seeing in the movie
13 where an actor purporting to be Albert Cadrain
14 leans over in his early contact, his first contact
15 with the police, and says, "eh, can I get some of
16 that reward money", or words to that effect?

17 A No, I don't recall that scene.

18 Q Okay. We can -- I'm not going to bring up the
19 movie, trust me.

20 COMMISSIONER MacCALLUM: Who did Albert ask
21 this of, the police?

22 MS. KNOX: In, there is a scene in the
23 interview room at the police station in the movie
24 that that is part of the script that suggests he
25 is asking for the money in, sort of in -- similar



1 to the comments that Mrs. Milgaard had made in
2 the press.

3 BY MS. KNOX:

4 Q Sir, assuming for the moment that the police
5 officers who were involved --

6 COMMISSIONER MacCALLUM: Just a second now.
7 He did say that he saw the movie, 'did you see
8 this scene', I didn't get your answer to that?

9 A I think I watched the whole thing on CTV when it
10 came out.

11 BY MS. KNOX:

12 Q I'm thinking it's CTV.

13 A I don't remember much about it other than I didn't
14 think it was very good.

15 Q Okay. So you don't remember that specific scene?

16 A No.

17 Q But if it's there and that's the portrayal that's
18 done of Albert, --

19 A I'll take your word for it.

20 Q -- if that portrayal was done, it's contrary to
21 what you concluded in 1983 about his motivation?

22 A Yeah. And I can say we had a conversation, as
23 well, about that.

24 Q Okay, sir. Sir, just a final point on that
25 information. Again, if you put on your police



1 officer hat and you were looking at and assessing
2 Albert Cadrain, why he came forward, whether his
3 evidence might be credible, --

4 A Uh-huh.

5 Q -- if you knew as a police officer and as a Crown
6 prosecutor that he wasn't looking for anything for
7 doin' this, --

8 A Uh-huh.

9 Q -- he wasn't looking for money, he had made no
10 application for a reward, --

11 A Right.

12 Q -- indeed he didn't even appear to know that there
13 was a reward out there, --

14 A Right.

15 Q -- would that be a factor that might sort of be
16 important?

17 A I dismissed that a long time ago. I think his
18 mental instability was a factor, and his attitude.

19 COMMISSIONER MacCALLUM: Yeah, if you were
20 looking at it as a police officer, she asked you.

21 A As a policeman?

22 COMMISSIONER MacCALLUM: Yes?

23 A Okay. Could you just repeat it once, please?

24 BY MS. KNOX:

25 Q I've asked you a number of times to take off your



1 journalist hat, --

2 A Yeah, I know, yeah.

3 Q -- because you passed judgement on the actions of
4 police officers, you've passed judgement on my
5 client Mr. Caldwell, you suggested that you
6 considered him to be gullible that he would ever
7 buy this story. Part of the arsenal of
8 information he had, and the police officers had,
9 was that they had no apparent ulterior motive for
10 Albert Cadrain coming forward, i.e. he was doing
11 it for the money; would that -- or would that have
12 been a factor that you think might have weighed
13 with you in assessing whether or not he should be
14 go -- should go forward as a witness, coupled with
15 a lot of other confirmatory information?

16 A It's hard being a policeman.

17 Q There are men in the room who would agree with
18 you.

19 A Yeah. I really find it difficult to answer that
20 question. I just don't know.

21 Q Okay. Sir, you stated a number of times, and
22 early in your testimony you gave the opinion that
23 after you reviewed the evidence that Albert
24 Cadrain gave at the preliminary inquiry -- and Mr.
25 Commissioner, the document reference for his



1 transcript at the preliminary inquiry is 007869
2 through to 008001 -- and after you reviewed the
3 testimony he gave at the trial, you were satisfied
4 that Albert Cadrain was nuts?

5 A Uh-huh. Well, not --

6 Q The trial transcript -- or mentally ill. The
7 trial transcript CaseVault number is 174908, Mr.
8 Commissioner, to 174969.

9 COMMISSIONER MacCALLUM: That's from the
10 trial? Sorry, that's from the trial?

11 BY MS. KNOX:

12 Q Okay. You've indicated, or you've given the
13 evidence that that was your opinion based on a
14 review of the transcript, you knew that there was
15 something not right about this case?

16 A I didn't say he was nuts, I said something stuck
17 out as being not right.

18 Q Okay. Okay. Sir, and you were doing this as a
19 journalist with, as you've said a number of
20 times -- and I don't mean anything special by
21 this -- you said you are not a lawyer, but you
22 said looking at it as a journalist, --

23 A Uh-huh.

24 Q -- you were able to tell that something wasn't
25 right here?



1 A I don't remember saying --

2 Q When you looked at the transcript?

3 A I don't remember saying 'as a journalist'. As a
4 human being I felt there was something wrong.

5 Q Okay. It's not really that significant, I am
6 paraphrasing, and I apologize if I'm paraphrasing
7 wrongly.

8 You also testified that when
9 Mrs. Milgaard hired Mr. Wolch, you were very
10 pleased, because you knew him to be very capable
11 counsel and you were glad that she'd gotten him to
12 help or you encouraged it?

13 A I certainly suggested his name. I didn't think
14 she could afford him, but I have done work, in
15 fact he was involved in the *Katie Harper* case. I
16 had a lot of respect for him, yes, so I said "if
17 you need a lawyer, that's who you need", yeah.

18 Q Okay. If I could bring up document number 023046,
19 please. Sir, this is -- and I doubt that you've
20 seen this -- this is a transcript of an interview
21 that Mr. Wolch and others in his office did with
22 the RCMP on November 26th, 1992?

23 A Okay.

24 Q I'm going to direct your attention to page 023059.
25 Mr. Wolch -- and we can go back further -- but in



1 the interests of time, Mr. Wolch, the discussion,
2 as you can see from -- the Sawatzky referred to is
3 the police inspector and he's asking about Mr.
4 Cadrain and whether he has been cooperative.

5 Mr. Wolch replies:

6 "We could show him to you on tape. It
7 would appear that he had mental problems
8 early on."

9 Mr. Wolch makes the statement:

10 "Going through the trial, you don't have
11 any sense of him being mentally ill."

12 A Mr. Wolch said that?

13 Q Yeah.

14 A Well I think I've already said here that I found
15 quite a marked change between the preliminary
16 hearing transcript and the trial transcript.

17 Q Okay.

18 A It stood out more glaringly in the prelim.

19 Q Okay. But given that an experienced counsel such
20 as Mr. Wolch said in 1992 that he didn't see in
21 the transcript from the trial that he was mentally
22 ill, it wasn't apparent to him, would it surprise
23 you that the police officers, the Crown prosecutor
24 and others, Mr. Tallis, didn't appear to pick up
25 on any suggestion from him that he was mentally



1 ill?

2 A I'm referring to the prelim when I'm saying that
3 it was very obvious there was something wrong with
4 him. The trial transcript I even noticed, he
5 didn't create quite the same impression, he had
6 toned it all down.

7 Q Okay. When you went and saw Mr. Caldwell after
8 you talked to Dennis Cadrain in February of 1983,
9 did Mr. Caldwell appear to have any knowledge that
10 Albert Cadrain had developed some mental health
11 problems in years after the trial?

12 A I don't think we discussed that.

13 Q Okay. But he never said anything to you to cause
14 you to be able to say he knew about it and he
15 dismissed it or anything like that?

16 A All I remember, he said he was the hero, he said
17 that twice.

18 Q Yeah. He seemed to think that Albert had made a
19 valuable, credible contribution to the trial?

20 A Yes.

21 Q Given the conclusion that you had reached and the
22 information that you had, did it occur to you that
23 it might have been useful maybe to say to him did
24 you know that after this trial was over he
25 developed some pretty serious mental health



1 problems?

2 A No.

3 Q Would that have compromised your cause if you had
4 given him that heads up?

5 A I wouldn't phrase it quite like that. We were
6 talking about the period before the trial what was
7 going on in Mr. Caldwell's mind and world.

8 Q Uh-huh.

9 A I didn't get into what happened after the trial.

10 Q Okay. But you were sitting in front of him
11 believing an innocent man had gone to jail?

12 A Absolutely.

13 Q Believing that his witness who he had placed great
14 reliance on and had great respect for was mentally
15 ill at the time and you never said to him did you
16 ever think that maybe this guy was a little off?

17 A I went there in a non-confrontational attitude to
18 learn what was in Mr. Caldwell's mind at the time.

19 Q Would it have been confrontational for you to say
20 to him -- he was being very cordial, very helpful
21 to you, very encouraging with you -- for you to
22 say to him, listen, you know, as I'm working on
23 this book I've talked to his brother, as an
24 example, and this is what he's told me, you know.

25 A There wasn't really time to go into a lot of



1 different diverting branches, but I had several
2 problems actually at that point, so --

3 Q Okay. You made the statement yesterday in the
4 course of answering some questions that when you
5 were gathering the information from Mr. Caldwell's
6 file you were under some time constraints?

7 A I was.

8 Q Yeah. Those time constraints though, for the
9 record, were your time constraints by your travel
10 requirements, they were not constraints placed on
11 you by him?

12 A Oh, no, they were mine.

13 Q Yeah. If you had said to him I want to come in
14 every day for the next week that your office is
15 open, theoretically, and based on his
16 representation, or his reception to you, you could
17 have done that?

18 A I could, and he told me to come back any time.

19 Q Yeah.

20 A Yeah.

21 Q You could have sat with a video recorder or a tape
22 recorder and you could have recorded every piece
23 of paper in his file?

24 A I suppose, theoretically.

25 Q If you had the resources and the time?



1 A Probably, yeah.

2 Q You made a statement in a police interview that
3 you did, just bear with me for a moment, in 1993
4 with the RCMP, if we could refer to document
5 022240, you recall being interviewed by Corporal
6 Templeton and Constable Dyck?

7 A Yes. I think it was in a hotel downtown.

8 Q Okay. If we could go to page 243, please, and you
9 are indicating to him in this paragraph that you
10 wrote to Mr. Caldwell who had been the chief Crown
11 prosecutor, told him you were going to do a book
12 and you were kind of interested in the case?

13 A Uh-huh.

14 Q "He very kindly, he was very
15 co-operative, by the way, he arranged
16 for me to see the police files on the
17 investigation. Gave me an office
18 downtown in Saskatoon. I think I spent
19 an afternoon there going over the
20 documents."

21 But you'll agree with me you were there at least
22 twice?

23 A It looks that way. I don't remember that though.

24 Q It's your own record of correspondence that we
25 rely on --



1 A No, I'll accept that.

2 Q -- and your own tape cover jackets that show you
3 were there February 18th, 19th and again March
4 11th and whatever.

5 A Yeah.

6 Q You then make the statement:

7 "I'm sure they weren't all there, by the
8 way, the documents."

9 A Uh-huh.

10 Q What was the basis or is the basis of you
11 asserting your belief that you didn't get all the
12 documents that Mr. Caldwell had in his file when
13 you went to his office on those two occasions?

14 A Gosh, I'm trying to think what was in my head. I
15 mean, I came to know a lot of things later that I
16 hadn't seen in the files.

17 Q Uh-huh.

18 A Whether or not they should have been in the files
19 I don't know, but I certainly at the time you are
20 talking about, going through the files, I had no
21 knowledge about Fisher's criminal record. I might
22 have been thinking about that.

23 Q Mr. Carlyle-Gordge, do you realize that Fisher's
24 criminal record was never in the prosecution file?

25 A I'm not arguing. I don't know.



1 Q Okay. But when you make this statement then, it's
2 a speculative statement about things that you
3 think should have been there, but you have no
4 basis for presuming and stating that he didn't
5 give you everything that he had?

6 A Oh, I'm not really accusing him of that. I don't
7 know. I mean, he could control what was in the
8 files, that's all. I just don't know.

9 Q Okay. But when you made that statement to the
10 police --

11 A They weren't all there?

12 Q Yeah, you didn't say I'm not sure they were all
13 there, you said I'm sure they weren't all there.

14 A Well, it's just the way it's phrased. I don't
15 remember what was on my mind.

16 Q To repeat, Mr. Carlyle-Gordge, did Mr. Caldwell
17 give you any reason to think that he wasn't being
18 absolutely 100 percent straight up front with you
19 when he gave you access to the file and when he
20 interviewed with you?

21 A I think he was very proud of the case.

22 Q Yeah.

23 COMMISSIONER MacCALLUM: Is that a no?

24 A He was being up front as far as I could tell.

25 BY MS. KNOX:



1 Q Nothing whatsoever to indicate any malfeasance,
2 ill will, attempts to hide things from you? To
3 repeat what I asked you this morning, he
4 encouraged you to put the case in the public
5 domain?

6 A Well, he certainly was telling me you can get
7 Tallis this way and that. The only thing that
8 shocked me about it really was his thing about the
9 parole board.

10 Q And just to go back to that for a moment, would
11 your shock have been reduced if you had known in
12 1983 when you were talking to him that he was
13 responding to documentation or information from
14 the National Parole Board, in fact, information he
15 had gotten at a conference where the chairperson
16 of the board spoke and said it would be really
17 helpful to the board to receive that kind of
18 information from police and prosecutors and
19 judges?

20 A Well, I had no knowledge of that at all. I've
21 never run into it before and it was 13 years
22 later, so --

23 Q Okay. We have the document, we can bring it up.

24 A I'm not doubting the document.

25 Q My only question to you is if you had known that,



1 might that have changed how you responded to that
2 information?

3 A It's very hard to speculate. I think I was struck
4 mostly -- I don't know if it would have changed
5 it. I was struck -- it was a long time after and
6 it was kind of a vehement don't worry, he's never
7 getting out kind of thing.

8 Q Sir, in being shocked or struck by it, you had no
9 scale of comparison as to whether other
10 prosecutors, anybody did that, that could be
11 normal practice in Crown's offices as far as you
12 knew?

13 A I was surprised to hear it.

14 Q But there was no yardstick that you had to measure
15 that against in terms of he's doing something
16 different from every other professional I've ever
17 had contact with?

18 A No, I didn't have a yardstick, no.

19 Q Okay. Mr. Carlyle-Gordge, you expressed in your
20 interview with Mr. Caldwell and you've expressed
21 some opinion with respect to the fact that the
22 Crown called evidence from two people who came
23 forward the night before the trial was due to
24 start who had criminal charges pending and whose
25 evidence was very damning to Mr. Milgaard?



1 A Yeah, yeah.

2 Q Did you ever come to learn how the Crown came, and
3 Mr. Caldwell attempted to explain it to you in the
4 tape, but did you realize that the police only
5 became aware of those witnesses the night before
6 trial?

7 A Yeah, I think he told me that.

8 Q Uh-huh.

9 A Yeah, I think that's in there.

10 Q And did you or have you become aware during the
11 course of years of investigation that the evidence
12 before this, or the evidence to the point that it
13 has evolved now before this Commission is that
14 what Craig Melnyk and George Lapchuk physically
15 described as happening in that motel room is
16 agreed on by Deborah Hall who initially told
17 representatives for Mrs. Milgaard that it hadn't
18 happened, that in fact we now have Deborah Hall,
19 Lapchuk and Melnyk all agreeing that a reenactment
20 took place, that the only issue, or the only
21 dispute between all of them is as to whether he
22 was serious or joking?

23 A I haven't been following this very closely, but I
24 knew that something had happened in that room and
25 it was the tone that was the important thing, that



1 it was a joke, if it happened at all it was a
2 joke.

3 Q Where would you --

4 A And I know they had criminal records and so on and
5 I haven't accused anybody of doing anything in
6 regard to that.

7 Q Where did you obtain the information that what was
8 said was, unlike what Melnyk and Lapchuk said as
9 serious, was in fact a joke?

10 A Was it Debbie Hall? I can't remember.

11 Q Are you aware that Debbie Hall testified, and I
12 won't go through the many versions --

13 A I haven't followed it, no.

14 Q Okay. If I were to suggest to you or tell you
15 that the ultimate conclusionary evidence that we
16 have from Debbie Hall is not only that the event
17 happened, the reenactment, that in fact she has a
18 memory of David Milgaard using far more explicit
19 and distressing words than either Lapchuk or
20 Melnyk, that her evidence now is that David
21 Milgaard said yes, I killed her, I stabbed her 14
22 times and I fucked her in the snowbank, would that
23 perhaps influence or alter --

24 A Well, I know they were all doing drugs, so I
25 really have no comment on that.



1 Q Okay. If you had known in 1982 and 1983 and in
2 1990 when you wrote the article in the *Winnipeg*
3 *Free Press* that what really happened in that motel
4 room was what Lapchuk and Melnyk had testified
5 under oath before the jury and not what Deborah
6 Hall had said in an affidavit she filed, or filed
7 in Supreme Court of Canada, would that maybe have
8 toned down your view of police misconduct and
9 police malfeasance in this case?

10 A No. I think I always believed something did
11 happen in the room, it was a question of the
12 interpretation put on it, and I think in that room
13 one thing that never came out is I think somebody
14 said, well, how would he -- maybe it was the
15 police -- how would he know the details of the
16 crime, you know, I stabbed her 15 times, whatever
17 it was. I would assume it had been in the news by
18 that point, that might be how he knew.

19 Q In your conversations with David Milgaard when you
20 had that call with him on January 22nd, 1981 with
21 Mr. Young, Mrs. Milgaard or in any other
22 conversations you had with him, did you ever ask
23 David Milgaard if he had read that in a newspaper
24 or heard it in the media?

25 A I can't recall. I would have to look at the



1 interview. Probably not.

2 Q So while it was a possibility, it wasn't one you
3 took the time to investigate?

4 A Well, it would have been later that I got into all
5 that stuff. I think I wanted to know about the
6 pants.

7 Q Okay.

8 A Yeah.

9 Q Sir, I just have two areas to conclude with.

10 COMMISSIONER MacCALLUM: I think we should
11 have a break.

12 MS. KNOX: Okay.

13 *(Adjourned at 2:59 p.m.)*

14 *(Reconvened at 3:17 p.m.)*

15 BY MS. KNOX:

16 Q Mr. Carlyle-Gordge, I had referenced earlier that
17 there's a document in the Commission database and
18 a matter of public record from the National Parole
19 Board from the early '70s that you said you had no
20 knowledge of. I'm going to -- I now have the
21 document number for the record, it's 332055, and I
22 wonder if I could just have it brought up very
23 briefly. Sir, this is the document to which I
24 refer and which Mr. Caldwell referred to in his
25 correspondence to the National Parole Board that



1 basically -- and I won't go into the details of
2 it, but if you are interested in knowing what
3 might have motivated him, this is information that
4 was out by the parole board in 1971, 1972 and
5 which he was introduced to at a conference in
6 Banff.

7 A Okay.

8 Q Do you remember him telling you that?

9 A No.

10 Q Okay. Now, sir, I have just reviewed some of my
11 notes from the testimony over the last days and a
12 couple of areas I want to touch very quickly on.
13 You indicated yesterday in your evidence, or the
14 day before, that when you were going through the
15 prosecution file in Mr. Caldwell's office in
16 February and March of 1983, it became apparent to
17 you that there had been what you called a cluster
18 of sexual assaults occurring in the area where
19 Gail Miller was killed. Do you remember that?

20 A Oh, yes, it jumped out at me, yeah, yeah.

21 Q Okay. Now, you were referred by counsel to a
22 portion of the transcript of your interview with
23 Mr. Caldwell where he was talking about rapes
24 involving David Milgaard that hadn't been brought
25 home to him?



1 A Yeah. I vaguely recall that, yeah.

2 Q Okay. You were shown a typed transcript of that
3 document. I wonder if we could bring up 050033
4 and this is the document that I'm referring, it
5 refers to sad goings on in Calgary that never got
6 in at the trial, and this is from Mr. Caldwell,
7 and I'm not going to repeat it, it's I presume
8 fresh in all of our memory. There's a handwritten
9 transcript prepared by you, or somebody on your
10 behalf, that actually has the word bad, bad goings
11 on in Calgary rather than -- and I don't have the
12 number of the handwritten version, but it has been
13 suggested by various counsel, and I referred to
14 this in your presence earlier this morning, that
15 when you were doing this interview with Mr.
16 Caldwell, he was prevailing upon you not to report
17 the information that was in the file about sexual
18 assaults that had happened in Saskatoon. Now, on
19 a reading of that document, it clearly is
20 reference to things in Calgary --

21 A Uh-huh.

22 Q -- but apart from a reading of that document, did
23 you get any request, suggestion or thought from
24 Mr. Caldwell that you should keep secret the
25 information that you were finding in the file



1 about that cluster of sexual assaults in
2 Saskatoon?

3 A To be quite honest, I wasn't really interested.

4 Q Okay, but --

5 A The question is did he say something to keep it
6 out?

7 Q Did he ask you to hide, as part of the work that
8 you were intending to do, what he believed would
9 be a book on the Gail Miller murder, did he ask
10 you to hide the information that he was letting
11 you see in this file about other sexual assaults
12 that had occurred in Saskatoon in this area around
13 the time of Gail Miller's death?

14 A I found this whole section confusing. I don't
15 remember that, no.

16 Q To your best memory, did he ask you to hide sexual
17 assaults that had occurred in Saskatoon in the
18 months previous, or in the years previous and the
19 months after the death of Gail Miller on January
20 31st, 1969?

21 A I don't remember him saying hide anything, no.

22 Q Okay. Did you ever suggest to anyone, either
23 Joyce Milgaard or anyone on her behalf, that
24 T.D.R. Caldwell had asked you, suggested to you or
25 in any manner tried to get you to hide, keep



1 secret the information that he was showing you in
2 his file about other sexual assaults in Saskatoon?

3 A No, I don't see that there, no.

4 Q Okay. Not only do you not see it there, I suggest
5 to you, your evidence just a minute ago was that
6 you have no memory of him doing that?

7 A Well, I found these things specifically to do with
8 the back lane.

9 Q Uh-huh.

10 A You do understand that.

11 Q Yes.

12 A And I was curious about those obviously.

13 Q Uh-huh.

14 A I think my recollection is I wasn't really tuned
15 in completely at this point, it looks a bit vague.
16 What I understood was there was a lot of stuff --
17 I was there to talk about the trial to do with
18 Gail Miller and I think he was cautioning me, you
19 know, you don't want to get liable or sued or
20 anything, so there's lots more about Milgaard that
21 we know about perhaps that didn't get into the
22 trial, so you shouldn't be maybe including it,
23 maybe that was implied, but I was only interested
24 in what was in the trial anyway.

25 Q Appreciating what you were interested in, he was



1 cautioning you that only that which was a matter
2 of public record in the trial should be referred
3 to you as accusation, allegations against
4 Milgaard?

5 A Yes, yes. I think he mentions liable or
6 something.

7 Q And if we look at his file, and Mr. Hardy showed
8 you one document which was the report by Albert
9 Cadrain about rapes by him of virgins in Calgary,
10 which appears to be the bad goings on that Mr.
11 Caldwell makes reference to here --

12 A Yeah.

13 Q -- if we look and assume for the moment that he
14 could have believed or knew or suspected, thought
15 you might read the Sharon Williams' stuff, that
16 that would be the kind of information that he was
17 saying to you should not be put in as accusations
18 against Milgaard because they've never been
19 brought home to him, to use his phrase, and
20 they've never been proven in a court of law?

21 A That makes sense. Did I interview Albert after
22 this?

23 Q Before.

24 A Okay. Whenever you talk about Calgary, I think
25 about Albert Cadrain.



1 Q Okay. Mr. Carlyle-Gordge, we now have up on the
2 screen the original handwritten transcript of that
3 interview before we got the one that I think was
4 prepared by the RCMP, and you'll see highlighted
5 in yellow the report, he reported some bad goings
6 on in Calgary, and that there appears to be a typo
7 in the typed transcript. Would you agree?

8 A It looks like a B to me. That's not my writing by
9 the way.

10 Q Do you know whose writing it is?

11 A Well, I was wondering who wrote that. It doesn't
12 even look like my wife's writing. I don't know.

13 Q Is it possible it could be?

14 A I'm not going to rule her out completely, but I
15 don't think that's my wife's writing.

16 Q You indicated in your evidence that you gave
17 copies of these tapes to Mrs. Milgaard, so whether
18 it's your wife versus Mrs. Milgaard, somebody
19 acting on her behalf, we have the tape, we have
20 listened to it.

21 A Yeah. I was thinking about the letterhead too,
22 could that be done by me and my wife. I don't
23 think so.

24 Q In any event, I don't think it's important as to
25 who hand wrote it, we do have the original --



1 A It looks like a B anyway.

2 Q Yeah, that it is a B, but specifically what Mr.
3 Caldwell is talking to you about is things that
4 happened, bad things in Calgary involving
5 Mr. Milgaard on the face of this record and your
6 evidence is you have no memory of him asking you,
7 suggesting anything about keeping stuff secret,
8 circumscribing the public record that you would
9 provide?

10 A No. I think what he was trying to do was say we
11 know more about Milgaard and such, but it didn't
12 come up in the trial; therefore, stay away from
13 it, I think that's what he was saying.

14 Q Okay. Now, sir, over the course of the years
15 you've worked with Mrs. Milgaard on this file,
16 you've worked with Mr. Asper on the file to a
17 limited degree, there's some correspondence from
18 him to you in England in 1986 you recall?

19 A Yeah, there's a couple of letters, and I think I
20 drove out to Stoney Mountain once to see David.
21 I've never actually worked alongside him.

22 Q Did you ever meet and work with another lawyer in
23 Mr. Wolch's office, Greg Rodin?

24 A I don't think so.

25 Q Who was involved in the civil aspect?



1 A No, I had nothing to do with any of that, no.

2 Q Okay. And did you ever have discussions about the
3 file, and in particular this interview between
4 yourself and Mr. Caldwell, with Mr. Wolch?

5 A No.

6 Q Or with a Mr. James Lockyer who is acting on
7 behalf, with Ms. McLean, on behalf of Joyce
8 Milgaard?

9 A No. I've got no connection with any of that.

10 Q Sir, at various times since 1993, particularly in
11 1995 in examinations for discovery and during the
12 course of cross-examination or examination of Mr.
13 Caldwell in this trial, it's been forcibly argued
14 to him that what he did in his interview with you
15 was asked you to assist him in suppressing, and
16 that's my phrase, suppressing information about
17 rapes that he knew, sexual assaults that he knew
18 were going on in Saskatoon, probably carried out
19 by the person who killed Gail Miller when he
20 interviewed with you in 1983. Have you ever told
21 anyone that you've come away from your interview
22 with Mr. Caldwell with that belief?

23 A No.

24 Q Were you aware that he has been repeatedly accused
25 publicly and under oath of having engaged in an



1 enterprise with you -- and I use enterprise
2 loosely -- to suppress information that would be
3 apparent to you on the face of the file that might
4 point to the fact that Gail Miller's killer was
5 someone other than David Milgaard?

6 A Well, I'm aware that there have been accusations,
7 but I'm not in any detailed way aware. I know
8 that -- I know I spent a lot of time in the
9 library at the *StarPhoenix* looking for what was
10 going on in that area or in the city and I had
11 never come across any report about this Larry
12 Fisher whose name I had noted in there, I never
13 found that in the file, anything to do with that,
14 and obviously I didn't realize the significance of
15 Fisher anyway.

16 Q Uh-huh.

17 A Or the later thing I learned about Linda Fisher
18 had gone to the police anyway, I had no knowledge
19 of that.

20 Q Sir --

21 COMMISSIONER MacCALLUM: Excuse me. I was
22 not sure of the answer. I think the question as
23 I heard it was did you ever suggest or report to
24 anybody that Mr. Caldwell had suppressed, was a
25 party to suppress evidence, and you said no, he



1 never did that?

2 A No.

3 COMMISSIONER MacCALLUM: Not to anyone?

4 A No.

5 COMMISSIONER MacCALLUM: Okay.

6 BY MS. KNOX:

7 Q Sir, yesterday you expressed some distress that a
8 reporter from the CBC, a Mr. Leo, had taken a
9 taped interview that you did with, or a portion of
10 the taped interview that you did with Mr. Caldwell
11 and used it without your permission in a broadcast
12 across Canada?

13 A Yes. I still haven't heard it.

14 Q You were aware that apart from your personal upset
15 with that, that that was a very upsetting
16 experience for Mr. Caldwell to hear that as he was
17 walking to church one Sunday morning?

18 A I would imagine it would be, yes.

19 Q Okay. Sir, if you accept, and the record, there
20 are many places in the transcript that we can
21 refer you to if you wish to read them, but in the
22 interests of time I'm going to say to you, and
23 there's many who will correct me if I misstate
24 this --

25 A Fine, keep going.



1 Q -- that people, Mr. Rodin, Mr. Lockyer, Mr. Wolch
2 have taken the transcript of that interview, a
3 different portion of it, and they have used it to
4 repeatedly accuse Mr. Caldwell of engaging in, or
5 as evidence that he was engaging in the
6 suppression of information that clearly showed he
7 knew David Milgaard didn't kill Gail Miller, that
8 he knew another person was doing it, he knew it
9 when he met with you and he invited you to help
10 him keep it quiet?

11 A Well, I have no knowledge of that, or of the
12 lawsuit.

13 Q Sir, as you were upset with the CBC, does it cause
14 you any concern to know that members of bars in
15 the Province of Manitoba at least have made those
16 accusations against him using, misinterpreting if
17 we accept your evidence and look at the record,
18 what he told you in a taped interview in 1983?

19 A Well, as I said, I haven't heard this interview,
20 so I feel at a disadvantage.

21 Q Mr. Carlyle-Gordge, if you take the time to read
22 the transcript of the examination of Mr. Caldwell
23 by Mr. Rodin, --

24 A Uh-huh.

25 Q -- if you take the time to read the transcript of



1 his examination in part by Mr. Hodson at this
2 Inquiry, his examination by Mr. Wolch, and his
3 examination by Mr. Lockyer, and it becomes clear
4 to you that what I am suggesting was done with
5 that portion of that taped interview was in fact
6 done, how will you regard that misuse of your work
7 product?

8 A I don't know what evidence they have. My anchor
9 was simply that they hadn't approached me. It, I
10 could imagine it could be embarrassing, because
11 Mr. Caldwell had not been under the impression his
12 voice would be on the air waves. And if they had
13 asked me for my opinions on the case, whether I
14 felt the case was a miscarriage, anything like
15 that, I would have agreed to give them an
16 interview about what I believed or felt. I would
17 not have allowed them to use a portion of a taped
18 interview on air, because I hadn't told Mr.
19 Caldwell at the time that that could happen, and
20 also, I had no knowledge that it was happening.

21 Q Sir, forget about the CBC and move on with me. If
22 you take the time --

23 A Uh-huh.

24 Q -- to read the transcripts, as I suggest to you,
25 and if you satisfy yourself that another part of



1 your work product has been taken and it has been
2 misinterpreted, misrepresented, whatever the
3 language is that's appropriate, what if any
4 concern will that cause you about the conduct of
5 the lawyers who have done that with material that
6 you provided to Joyce Milgaard?

7 MR. KILLEEN: Mr. Commissioner, it's
8 Killeen on behalf of the witness.

9 With respect, this is
10 absolutely simply a hypothetical situation. He
11 hasn't read the material that she's talking
12 about, he has no knowledge of it, I can't imagine
13 how he could be compelled to tell this Commission
14 of Inquiry what his feelings might be if he read
15 something about which he has no familiarity. And
16 how he might feel, in fact it's hard to imagine
17 how his feelings, if he were to read that
18 material, would be of any assistance to Your
19 Lordship whatsoever.

20 COMMISSIONER MacCALLUM: Yes, Ms. Knox?

21 MS. KNOX: Okay, I will withdraw the
22 question.

23 BY MS. KNOX:

24 Q Sir, just a -- two final points. One, you
25 indicated in your examination by Mr. Hardy that



1 you have a memory of seeing a report where it was
2 documented by a social worker, a prediction that
3 one day Mr. Milgaard might kill somebody, but that
4 was just a stab in the dark?

5 A Oh, I've read that somewhere.

6 Q Okay.

7 A Lord knows if it was in a report. It's a long
8 time ago.

9 Q But somewhere, when you got involved in this, you
10 recall seeing that report?

11 A Yeah, I've read it somewhere.

12 Q Okay.

13 A I can't tell you when, no.

14 Q Okay. Other than the access that was provided to
15 you by Mrs. Milgaard, did anyone give you a copy
16 of the psychiatric records or related records from
17 Yorkton and the boys school where Mr. Milgaard
18 spent some time when he was 14-15 years old?

19 A Other than Mrs. Milgaard?

20 Q Yes?

21 A No, absolutely not.

22 Q Okay. All right. So if you saw it in those
23 reports it would have had to have come from her?

24 A Yes.

25 Q Okay. And, sir, just finally with respect -- and



1 I'll go back for a moment, if I may, to your essay
2 that you did in 1982, and I asked you earlier
3 about a statement that you made or a quote that
4 you used in that article where you quoted
5 Mrs. Milgaard as saying, in discussing the -- her
6 son's predicament, that they had no money, they
7 couldn't afford a fancy lawyer, they had to rely
8 on a Legal Aid lawyer?

9 A Uh-huh.

10 Q And you indicated that you used that particular
11 quote from her just because you were doing a story
12 about her, I think, would that be a fair --

13 A Yeah. I wasn't -- I wouldn't read into it an
14 attack that the lawyer was no good, I wouldn't
15 read that into it.

16 Q My understanding is that you spent a lot of time
17 talking to her preparing to do this biography of
18 her?

19 A Oh, there must have been hours of tape, hours.

20 Q In the context of the task that you had undertaken
21 and the work product that you were producing and
22 the many hours of tape that you obtained, why
23 would you pick that particular one sentence, which
24 you'll agree with me suggested that they hadn't
25 had very good legal counsel when David went to



1 trial, or implies that?

2 A I don't know if it implies that. I don't know
3 whether I agree with you.

4 Q Okay. Could you tell me --

5 A I was saying they were very poor and desperate at
6 the time and they weren't paying enough attention
7 to a lot of things, the family, they had all kinds
8 of problems. I don't think you should read
9 anything sinister into it.

10 Q Okay. So your view is you were taking it to
11 illustrate the fact that they were poor, and not
12 --

13 A Yeah. But also, I mean, I knew right after I met
14 her that -- I don't think they were criticizing
15 the lawyer, actually, I think she was saying "I
16 wish David had testified at least", or something
17 like that, you know.

18 Q Okay. But again, just in response to my question,
19 you saw it as a testament to their poverty as
20 opposed to --

21 A Yeah. I can't tell you the process by which a
22 writer picks what he is going to use and what he
23 is not going to use.

24 Q Okay.

25 A It's a subconscious thing.



1 Q You had -- and this is my final question -- you
2 had your dealings with Mr. Caldwell --

3 A Uh-huh.

4 Q -- in 1983, you had your dealings with Mr. Mackie
5 in 1983, --

6 A Uh-huh.

7 Q -- you've made the statement repeatedly in various
8 forums about the hostility --

9 A Uh-huh.

10 Q -- and various negative perceptions you had about
11 how the system was treating Mrs. Milgaard, but
12 based on or having considered all of the testimony
13 given, the documents that you have looked at, are
14 we still left with the only thing that you can say
15 to this Commission today that would found those
16 comments made by you was that there was somebody
17 who said something to Mrs. Milgaard that she
18 reported to you, and that's what you relied on to
19 cast this negative net over the police and
20 policing authorities to suggest that they were all
21 running scared when she took on her task of
22 investigating her son's conviction?

23 A Well, I don't withdraw what I said, that I would
24 trust Mrs. Milgaard didn't make it up. I would
25 add, you've read me a list of names of people that



1 have testified on oath that nothing of the kind
2 went on, I'm not prepared to necessarily accept
3 that they are credible -- some of them are
4 credible.

5 **Q** Okay. Sir, I didn't intend to go here, although I
6 had the document in front of me, but you've given
7 me need to ask you another question. You made the
8 statement in response to my question that you
9 would trust Mrs. Milgaard.

10 **A** On that one issue, yes, uh-huh.

11 **Q** Okay. Can we bring up a portion of the *Winnipeg*
12 8, *The Ice-cold Hothouse*, page 020452, please?

13 COMMISSIONER MacCALLUM: What's the doc.
14 ID?

15 MS. KNOX: The document ID, 020446.

16 BY MS. KNOX:

17 **Q** 042, and I want you to take a moment, and I'm just
18 going to direct you to a part. You can read more
19 of it, but read this bottom paragraph or two
20 paragraphs at the bottom of page, your numbered
21 page 123, and when you've finished that I want to
22 go to the top of page 124.

23 **A** Right, I've read that.

24 **Q** And if we could go to the top of the next page,
25 please, and it's just a continuation of your



1 description of her personality?

2 A Uh-huh.

3 Q What you, or how you described Mrs. Milgaard in
4 your book -- and I mean no disrespect in -- to
5 her, and as I said, I didn't intend to bring this
6 up until you said that you trusted her.

7 A Uh-huh.

8 Q Basically, in that description written by you in
9 1982, --

10 A Uh-huh.

11 Q -- you characterized her as being quite skilled at
12 deceiving people, didn't you?

13 A Absolutely. And she was talking about how she
14 used to be. She had since changed and become a
15 Christian Scientist, and she was incredibly honest
16 about some of the bad stuff she had done before
17 she had some spiritual enlightenment.

18 Q I'm only asking because that's what's contained
19 in --

20 A It's very amusing and interesting to read.

21 Q I have no further questions.

22 MR. LORAN: I think everybody we wished to
23 cover has been adequately covered. Thank you.

24 **BY MR. WOLCH:**

25 Q Mr. Carlyle-Gordge, I'm Hersh Wolch, I'm David



1 Milgaard's counsel, for the record.

2 A Okay.

3 Q And let me start by thanking you for a few nice
4 things you said about me in the course of your
5 testimony.

6 A I meant them.

7 Q Thank you. You got into this as a journalist --

8 A Uh-huh.

9 Q -- and, as time went on, you became more and more
10 convinced that there was a miscarriage of justice?

11 A That's correct, yeah.

12 Q And you obviously had your own life to live, food
13 to put on the table for your family and matters of
14 that nature, that preoccupied your time?

15 A Absolutely, I had three young children, yup.

16 A Uh-huh.

17 Q So, even though you devoted a lot of time to this
18 matter, you were still limited as to how much time
19 you could devote?

20 A Yeah, we stole a lot of time from the family, yup.

21 Q And there really was no reward for you?

22 A No, I don't think so. Other than, as I said, it
23 was an intellectual challenge. There was no
24 financial stuff, no.

25 Q It was more as a citizen who saw a wrong and



1 wanted to contribute to correcting it if possible?

2 A Yes. It drove me mad for a while, yeah.

3 Q It was very frustrating?

4 A Yeah, yeah.

5 Q And you didn't have access to funds --

6 A No.

7 Q -- to speak of?

8 A No.

9 Q You didn't have the power to call people into your
10 office to speak to you?

11 A No.

12 Q You couldn't arrest somebody and put him in a cell
13 and question them?

14 A No.

15 Q You couldn't ask police officers to go out and
16 find you evidence?

17 A Definitely not.

18 Q You had to make do with very little to get ahead?

19 A Yeah, and that was stressful, yup.

20 Q But I think what you have said is that you tried
21 to apply logic --

22 A Uh-huh.

23 Q -- in looking at situations?

24 A Well --

25 Q Did it make sense --



1 A No.

2 Q -- basically?

3 A Not to me, no.

4 Q Okay. But that's what you applied. You would
5 look at something, and you wouldn't look at it
6 narrowly, you would put it into the broader
7 picture and say "does it make sense"?

8 A Common sense is the one thing I couldn't see in
9 the case, yup.

10 Q That is when it came down to how it supposedly
11 happened, the temperature outside, the
12 circumstances, the behaviour of the people
13 afterwards, --

14 A Uh-huh.

15 Q -- it all made no sense?

16 A It certainly didn't.

17 Q And the fact that nobody saw anything, that there
18 was no witnesses to anything, that you would
19 expect people on the street, somebody, to see
20 something --

21 A Uh-huh.

22 Q -- all fit in to the lack of logic that you were
23 seeing behind that theory?

24 A It did, and there was no forensic link with David
25 either.



1 Q Yeah. And you had the nurse walking down the
2 least-logical street, you had the stabbing through
3 the coat, --

4 A Uh-huh.

5 Q -- all those things made it look like there was
6 something really wrong?

7 A Yes.

8 Q And that was, to you as a layman to the police
9 investigation so to speak, --

10 A Uh-huh.

11 Q -- it made you see that there was a problem?

12 A Uh-huh, yup.

13 Q And you didn't have the police training, you
14 didn't have the prosecutorial training, you just
15 applied simple common sense which turned out to be
16 right?

17 A Well I kept a low profile most of the time, but I
18 would love to say "I told you so", yup.

19 Q Well, your letter predicts it.

20 A Yeah.

21 Q You say "this will happen" and it did.

22 A Yeah.

23 Q So you can say "I told you so".

24 A Okay.

25 Q Now I want to go over a few things, and I



1 apologize in advance for being somewhat scattered,
2 because I am only dealing with things that you
3 were cross-examined on I believe. The last thing
4 I heard, or next to last, was the 'stab in the
5 dark' comment; do you recall that?

6 A Umm --

7 Q You believe you saw it somewhere?

8 A Oh, yeah. Was that in the Caldwell interview?

9 Q Yeah?

10 A Yeah.

11 Q Well what I am getting at is this; you mentioned
12 to Ms. Knox, I believe, that you think you saw it
13 somewhere and it was probably when you were with
14 Mr. Caldwell?

15 A I think so, yeah.

16 Q Yeah. You don't know where you saw it, you can't
17 --

18 A Well, you know, I've seen a lot of documents in
19 the last week.

20 Q It could have been in a letter?

21 A It could have been, yeah, that's right.

22 Q It is the kind of thing that, if Mr. Caldwell had
23 it in writing or anybody had it in writing, you'd
24 expect it to turn up somewhere?

25 A Yup. And my memory is definitely hazy about a lot



1 of things.

2 Q It could have been in a letter?

3 A It could have been. I don't know.

4 Q Getting back for a moment to logic, you were asked
5 a number of questions about David's, I guess,
6 character and what he might have done, and Nichol
7 John and Sharon Williams and things like that, I'm
8 not going to go through it all but you -- I'm just
9 trying to direct you to a certain area. In terms
10 of the credibility to be attached, you have no
11 idea or knowledge of the manner those people were
12 questioned?

13 A You mean by the police?

14 Q Yes?

15 A No.

16 Q That is in terms of Sharon Williams going through
17 a polygraph and things like that?

18 A No, no, I don't know anything like that.

19 Q You don't know, or the nature of the investigator
20 who questioned her?

21 A I don't know the atmosphere at the time or any of
22 that, no.

23 Q And you don't know how Nichol John was questioned
24 either?

25 A No, I don't, not really.



1 Q Sure. So what you do, though, is you look at
2 logic I suggest?

3 A Uh-huh.

4 Q Right?

5 A Uh-huh.

6 Q And you look at Nichol John and you say well look,
7 she did leave Regina, she quit her job, she went
8 on a trip.

9 A Uh-huh.

10 Q And there is no suggestion that wasn't all
11 voluntary, so it's hard to imagine that there was
12 some bad goings-on with David if she left, like,
13 under those circumstances?

14 A Well, they were going on a little holiday as far
15 as I was concerned, yes.

16 Q Yeah. And as far as Sharon, she was constantly
17 running away with David to go different places
18 across the country?

19 A Yeah. She was the one in Edmonton, was she?

20 Q Yes.

21 A Yeah, he was going to see her that day, wasn't he?

22 Q Yes.

23 A Yes.

24 Q And of course you don't know what they testified
25 here under oath on those?



1 A No, I don't.

2 Q Okay. I'm not going to take you all through them,
3 the Commission has them, we'll deal with that in
4 argument later.

5 Another area that My Friend
6 dealt with was the consistency of the kids'
7 statements.

8 A Uh-huh.

9 Q Now you took the position that they were basically
10 consistent, if I understand you?

11 A Yeah. I probably used the word "identical" which,
12 of course, they weren't.

13 Q Yeah. If they were identical you would be
14 suspicious?

15 A Oh, I would, yeah.

16 Q You don't expect three --

17 A No, you don't, no.

18 Q -- three people thinking back to an innocuous
19 morning in their lives six weeks earlier, or
20 thereabouts, to be word-for-word identical?

21 A No, no, I wouldn't.

22 Q So when you say they were consistent, on the main
23 points you felt they were consistent?

24 A There was no murder in there.

25 Q Or anything resembling one?



1 A No.

2 Q And you were asked at great length that "well
3 look, there was no talk about a theft of a battery
4 in another city"; --

5 A Uh-huh.

6 Q -- correct?

7 A Uh-huh.

8 Q Would you expect any kid to put that in?

9 A Absolutely not when being talked to by the police.

10 Q Logically speaking, when the police come to these
11 kids who are a bit street-wise --

12 A Uh-huh.

13 Q -- and say "look, we're investigating a murder in
14 Saskatoon", "oh, officer, I want to remind you or
15 tell you, rather, that I was part of taking a
16 battery back in Regina and maybe we stole a
17 flashlight in another town"; you wouldn't expect
18 that, would you?

19 A Not really, no.

20 Q That wouldn't affect your assessment of the
21 consistency?

22 A No. Lots of people are petty criminals and break
23 into things, you know.

24 Q No. What I am getting at is if a police officer
25 is testifying here and I say "did you threaten



1 Nichol John", you don't expect the officer to say,
2 "no, I didn't, but I threatened a different person
3 the next day"; you wouldn't expect that?

4 A No.

5 Q So you were influenced by the consistency of the
6 statements in the broad term?

7 A Uh-huh.

8 Q And the impossibility of the crime in the
9 secondary?

10 A Yes.

11 Q There is two components as to what influenced you
12 to come to your own conclusion?

13 A Yes, I went over the streets and the evidence and
14 the geography and the timing and the minus 40 and
15 all that stuff, but the other part was simply the
16 statements changed.

17 Q Now I'd like to deal with what I believe were the
18 two main criticisms of you, if I can use that
19 term, from the cross-examination. And the first,
20 which I think was dealt with quite a few times,
21 was the suggestion that the police were perhaps
22 influencing witnesses not to be forthcoming or
23 something like that; does that focus you
24 sufficiently on the area I want to go in?

25 A I think so, uh-huh.



1 Q I think it was raised quite a few times and I
2 would like to use some of the same documents that
3 were used. If I could see 106839. Now this is a
4 letter from Detective Sergeant Karst to the chief
5 of police, and I may be subject to correction, but
6 I don't believe the chief had played any
7 particular role in the *Milgaard* case that I know
8 of. And in any event it looks like at the bottom
9 of the page, after you can see where the detective
10 has identified how to locate these two people, is
11 a note to Superintendent Penkala:

12 "Have Wilson contacted by Regina City
13 Police and Nichol John through RCMP
14 Kelowna to see if they wish their
15 address divulged to lawyer for Milgaard
16 family?"

17 A Uh-huh.

18 Q And I believe that Ms. Knox pointed out that this
19 was very commendable, --

20 A Yeah.

21 Q -- that the police were going to go to outside
22 police agencies to locate these two people for
23 interview, --

24 A Uh-huh.

25 Q -- if they wanted to or not?



1 A Uh-huh.

2 Q And she quite correctly pointed out, I believe,
3 that that's the right way to do it, that that way
4 there is no influence that could be brought to
5 bear, the parties disinterested can easily say to
6 the witness "do you want to talk or don't you want
7 to talk, it's purely up to you". The Regina and
8 RCMP have no vested interest in the outcome;
9 right?

10 A Yeah, I think that was implied in there, yeah.

11 Q Fine. If I could just go back to the top of the
12 page, it appears to be January the 16th of 1981?

13 A Uh-huh.

14 Q Okay. So there's specific instructions by the
15 chief, who was not involved in the matter, to have
16 an outside agency do the commendable, as Ms. Knox
17 said, thing of contacting these people?

18 A Uh-huh.

19 Q Correct?

20 A It looks like that, yeah.

21 Q Okay.

22 A Yeah.

23 Q And if we can go to 106840, this appears to be
24 three days later, you see that?

25 A Yeah.



1 Q Okay. And this is from Penkala, who had been
2 asked to get outside, outside police forces
3 involved.

4 A Uh-huh.

5 Q A note to Ed:

6 "Please contact Wilson and John, if
7 possible and confirm whether or not they
8 wish their names and addresses released
9 to lawyer for the Milgaard family. I'm
10 sure they won't, however, the chief
11 would like to know that specifically so
12 that he can tell the lawyer."

13 A Uh-huh, right.

14 Q Do you see that?

15 A Yeah, I do, yeah.

16 Q So Penkala has specifically disregarded the
17 chief's direction to get somebody independent?

18 A Uh-huh.

19 Q You see that?

20 A Yup, uh-huh.

21 Q He has taken the very same officer who is deeply
22 involved in the case, perhaps more than anyone
23 else, correct?

24 A "Ed" is Karst I presume?

25 Q Yes.



1 A Okay.

2 Q The same officer who we know was sent to Winnipeg
3 to talk to Fisher.

4 A Okay.

5 Q And you see the remark here, --

6 A "I'm sure they won't ..."

7 Q -- "I'm sure they won't ...";
8 what does that suggest to you?

9 A It sounds pretty negative. It just sounds very
10 negative.

11 Q "The chief would like to know that
12 specifically so that he can tell the
13 lawyer."

14 Do you see that? There is no option there, find
15 out and we'll give them the other possibility,
16 the chief only wants, according to this, to tell
17 the lawyer that they don't want to talk?

18 A Well, it could be read that way, yup. Yup.

19 Q Yeah. The chief hadn't said that.

20 A Yeah.

21 Q The chief, who was uninvolved, had said "bring in
22 outside agencies"?

23 A Yes, that was in the letter, yeah.

24 Q Penkala sends it to the very person who has
25 interviewed everybody and tells him to go see



1 them, --

2 A Hmm.

3 Q -- and get from them a direction not to talk, they
4 don't want to?

5 A Uh-huh.

6 Q You see that?

7 A Yeah, I do, yeah.

8 Q And if we can go to 106841. And here you have the
9 report which, surprisingly enough, says they don't
10 want it to be released.

11 A Yeah.

12 Q So would it be fair to say that, rather that what
13 was suggested to you by Ms. Knox, that there was
14 this -- there was no evidence of discouraging
15 people, here is evidence right on paper?

16 A Yeah, I would agree you could read it your way,
17 yup.

18 Q Yeah.

19 A Yup.

20 Q So your conclusion is borne out by these
21 documents?

22 A Yeah, well I wasn't exactly going along with some
23 of the stuff there, but --

24 Q You see --

25 A -- yeah, these documents do put a different light



1 on things, yeah.

2 Q Yeah. 'Bring back what we want to hear'; correct?

3 A I think you could read that into it, yup, yeah.

4 Q Okay. Now, if I might get to another one of the
5 areas in which you were perhaps challenged, and I
6 don't have the reference but I think you'll
7 understand what I am saying, in your article you
8 referred to Albert Cadrain as having originally
9 been consistent with the other young people?

10 A Yeah. That was obviously an error.

11 Q It might not be.

12 A Oh. Well --

13 Q Let me ask you the question first.

14 A Oh, I'm sorry, go on?

15 Q Okay, because you acknowledge you made a mistake
16 on that, but were you ever aware of the following.
17 If I can go to 002197. And before I get into
18 this, if I may ask you this, much of what you
19 believe or form opinions on is based on logic;
20 correct?

21 A Uh-huh.

22 Q We've gone through that?

23 A Uh-huh.

24 Q And, regarding Cadrain, a logical conclusion which
25 may not have been borne out was he was motivated



1 by money?

2 A Well I certainly was thinking that way at one
3 time.

4 Q It -- why else would he do it, is what you think
5 to yourself, why would he say he saw blood on
6 somebody else if he didn't?

7 A One theory that went through my head was that
8 perhaps Cadrain did it. I even had that.

9 Q Or was suspected of doing it?

10 A Possibly, yeah.

11 Q Yeah. But my point is that, in the absence of
12 full information, --

13 A Uh-huh.

14 Q -- trying to get a reward is one distinct
15 possibility?

16 A Oh yes, yeah, yeah.

17 Q Especially when you can't see another reason?

18 A Yes.

19 Q Okay. Now this is a report, I'm not sure where I
20 can find it, if you go to the last page of it it
21 was dated April 24th, 1969 and it's from Detective
22 Karst, if you see that?

23 A Uh-huh.

24 Q Okay. Now if we can go to the middle page, 97.

25 COMMISSIONER MacCALLUM: Was it doc. ID 96?



1 BY MR. WOLCH:

2 Q That's correct, Mr. Commissioner.

3 A Oh, yeah, I see that.

4 Q Well I -- let's go over that, let's just take that
5 paragraph out. I'll start there:

6 "... it now appears that further
7 questioning of Cadrain is warranted with
8 regard to the blood as both youths
9 Milgaard and Wilson along with the girl,
10 NicholJohn deny that Milgaard had any
11 blood on his clothing, while Cadrain
12 emphatically states that he observed
13 this blood. There is also the fact to
14 take into consideration that when the
15 Cadrain youth first attended at the
16 Police Station some weeks ago to advise
17 us of his information he denied that he
18 knew anything of this murder in
19 Saskatoon until he returned home approx.
20 1 month later when his mother advised
21 him of same. However this was found to
22 be untrue when speaking to the Regina
23 City Police we were advised by them that
24 they had advised Cadrain of this murder
25 and in fact questioned about same when



1 they had him in custody at that point
2 some 2 weeks prior to coming to
3 Saskatoon. Also it should be noted that
4 the dead girl's wallet and contents were
5 found near the Cadrain residence which
6 could be implicating for either Cadrain
7 or Milgaard in that case as they were
8 both known to be in the area."

9 A Hmm.

10 Q Do you see that?

11 A Yeah, I sure do.

12 Q So you may have been very right that Cadrain's
13 first story in Regina might very well have been
14 consistent?

15 A Yeah. Interesting.

16 Q And in fact, had he said something implicating
17 anybody, you would expect that would have gotten
18 to the Saskatoon Police?

19 A Uh-huh.

20 Q That is if he had told the Regina police "oh, I
21 saw David with blood", you would expect them to
22 forward that to the Saskatoon Police, obviously?

23 A Yeah, if he discussed it then, yeah. Yeah.

24 Q So we have this whole notion that you have this
25 young man walking into the police station, or



1 whatever it is, saying "I'm here of my own
2 volition to give you information", just like that,
3 when the truth of the matter is he was in
4 custody, --

5 A Uh-huh.

6 Q -- questioned about the murder, and this notation
7 here makes him possibly a suspect?

8 A It does, yeah.

9 Q And that's all news to you?

10 A Well I knew he had been in custody, I did know
11 that, in Regina, and then he worked in -- at some
12 farm place, I think, and got money to go back to
13 Saskatoon. It's interesting stuff, and I'm
14 thinking back to Dennis and, you know, that whole
15 conversation with Dennis.

16 Q It shows you he was in custody, questioned about
17 the murder, and this is information that would
18 have been in the hands of the prosecutor and the
19 police?

20 A I guess so.

21 Q But possibly not in the hands of Mr. Tallis? You
22 wouldn't know that.

23 A I wouldn't know, exactly.

24 Q But it certainly undermines Mr. Cadrain's
25 credibility?



1 A I think it does, yeah, uh-huh.

2 Q Now, another area in which you've been challenged
3 is in the letter you wrote, and I would like to
4 get that up, it's 159819.

5 A Right.

6 Q Now, this is a letter that you wrote, and I think
7 you wrote it with passion and concern?

8 A I did, yes.

9 Q I mean, to put it in context, there was also
10 arguments from the other camp, so to speak,
11 criticizing David --

12 A Oh, yeah.

13 Q -- and that sort of thing, and I won't take you to
14 Detective Chartier's letter and things like that,
15 there was all kinds of things going back and
16 forth, and you felt strongly that here's an
17 innocent man and you're going to speak out?

18 A Yeah. That's what prompted me to write.

19 Q And basically, if I understand it, the area that
20 you were challenged on, and you may correct me
21 because I was trying to follow, was on the
22 allegations regarding Wilson and Cadrain and
23 treatment by the police?

24 A I was challenged about that, yeah.

25 Q I think that was the main focus of challenge out



1 of this article, and I think it's important to
2 note it's dated August the 1st of 1990?

3 A Uh-huh, yup.

4 Q Now if we can go to document 000248, and sorry, if
5 you can go to the last page for the date of it,
6 just for the date, June the 4th of 1990, so it
7 would have been prior to your letter?

8 A Yes.

9 Q And do you know if you've seen this document or
10 not?

11 A I don't recall seeing the actual document.

12 Q Now --

13 A No, but I certainly became aware that things were
14 going on with the case.

15 Q When this document was put to you, and I don't
16 attach any ill motive, but it was put to you that
17 basically at best it was an assertion of
18 manipulation?

19 A Sorry, that it was a what?

20 Q It was an assertion of manipulation against the
21 police, nothing more, is I believe the way Ms.
22 Knox put it to you?

23 A I think so, yeah.

24 Q If we take a look at here on the first page,
25 highlight that:



1 "... I believe that he is innocent and
2 because I believe that my testimony was
3 coerced by police."

4 There's the word coerced?

5 A I see it, yeah.

6 Q You see?

7 A Coerced, yeah.

8 Q And if we can go to the second page, you see here:

9 "I knew nothing about the murder and I
10 hadn't --"

11 A Hadn't even heard.

12 Q "-- hadn't even heard about it. They
13 told me they thought I was lying. But
14 it was true ... I was being held in the
15 Regina Correctional Centre. I was 17
16 years old and very frightened."

17 You see that?

18 A Yeah. I've never read this actual statement
19 before.

20 Q "... trying to pin the murder on me."

21 A Yes, yes indeed. Yeah.

22 Q Scroll down, please. If we can go to the next
23 page:

24 "I kept answering no, I didn't kill Gail
25 Miller and didn't think David Milgaard



1 had. I recall that I was questioned on
2 the polygraph twice for maybe as long as
3 six hours. It was like a sweat session.
4 My mind was exhausted and I was mentally
5 scrambled. I remember it now being like
6 brainwashing. Finally I began to
7 implicate Milgaard."

8 A That's fascinating.

9 Q So you were read the line that follows:

10 "I was now certain that I was
11 manipulated by police ..."

12 That was the line you were read.

13 A That's right, yes. There's a lot more to it than
14 that.

15 Q There's a lot more in that in terms of police
16 treatment?

17 A Indeed there is, that's for sure.

18 Q And then if we go to 000229 and turn to the last
19 page of this if I could, and that's dated June the
20 24th --

21 A Uh-huh.

22 Q -- once again before the article or the letter you
23 wrote to the paper?

24 A Right.

25 Q And if we can go to the third page of this:



1 "Before I walked into the police station
2 I was a happy normal kid. But
3 everything changed after that. My life
4 has been ruined because of all this
5 shit. From the evidence it now appears
6 that David Milgaard is innocent. To
7 know that my testimony helped cause him
8 to spend all these years in prison only
9 adds to the stress and to the burden
10 I've been carrying through my entire
11 adult life.

12 I feel that the Saskatoon
13 police did a terrible thing to me 20
14 years ago. My life has never been the
15 same and it never will be. These
16 detectives pushed me over the edge and I
17 cracked."

18 A That's pretty powerful, yeah.

19 Q Right.

20 A Yeah, it is.

21 Q You see that all there?

22 A Yeah, I do.

23 Q So you see a basis clearly for what you said in
24 your letter?

25 A I believe my letter was justified, yeah.



1 Q You were asked questions about, well look,
2 Mr. Wilson testified here or there or whatever.
3 Would you agree with me, given the track record,
4 whether Mr. Wilson is under oath or not is really
5 of not great significance?

6 A Totally irrelevant I would guess, although I have
7 to say I'm glad he did finally say something.

8 MR. WOLCH: Mr. Commissioner, I only have
9 one other area and it will be about maybe 10
10 minutes, but if I could have your indulgence, I
11 need about five minutes, I have the flu and I
12 need to freshen up a little bit.

13 COMMISSIONER MacCALLUM: Oh, sure.

14 *(Adjourned at 4:12 p.m.)*

15 *(Reconvened at 4:18 p.m.)*

16 BY MR. WOLCH:

17 Q Thank you, Mr. Commissioner, for your indulgence.
18 Just a few more questions.

19 You were probably more on the
20 trail of Fisher than anybody else at that time.
21 Had you known he was convicted of the sexual
22 assaults in the area, and you obviously put the
23 connection together that he lived in the house,
24 what would your reaction have been?

25 A It would have been a very sharp laser beam looking



1 into his background. I had no idea when I was
2 involved about his string of convictions and I
3 certainly had no idea that his wife had been to
4 the police and actually made a very serious
5 allegation against him. It would have changed the
6 entire course of the project I think.

7 Q And you even checked the newspapers, the
8 *StarPhoenix*, but couldn't find anything I take it?

9 A I did, I spent hours going through, I never saw
10 the name Fisher there, but I did know to circle it
11 in Caldwell's notes because I knew the address and
12 I knew they had been lodgers. I had no idea
13 that --

14 Q But being, you know, part time a journalist --

15 A Exactly.

16 Q -- etcetera, etcetera, etcetera, you were able to
17 connect Fisher to the right house?

18 A Yes.

19 Q Now, there have been a series of questions
20 regarding the perhaps competency of Mr. Tallis, or
21 words to that effect, I'm trying to just draw your
22 attention to the area, and I'm going to make a
23 suggestion to you and ask you this, applying logic
24 would you agree with the proposition that it
25 really doesn't matter how good a lawyer is if you



1 haven't got the disclosure you need?

2 A I would absolutely agree.

3 Q So that it might be better to have a poor lawyer
4 who is totally informed than a great lawyer who
5 doesn't know what the facts are?

6 A I would totally agree with that, yeah.

7 Q It just makes sense?

8 A Yeah.

9 Q And Mr. Tallis was operating through Legal Aid as
10 well?

11 A That's right.

12 Q Right. So when we talk about funding, there's
13 funding also to hire private investigators, to
14 check out things, and you wouldn't know if he had
15 that funding or not?

16 A No, no. All I remember is I wrote once and I
17 never heard back from Mr. Tallis.

18 Q Right. But an extremely good lawyer with little
19 or no funding to investigate and not full
20 disclosure would be at a horrible disadvantage?

21 A I would imagine so.

22 Q Now, you went and saw Mr. Caldwell and you said
23 you were given, subject to your own demands on
24 time, you were given access to the file as far as
25 you know?



1 A Well, yes. I had no control over which files.

2 Yeah.

3 Q Right.

4 A Yeah.

5 Q And if I understand it, you did it as a journalist
6 for a couple of reasons, one is that you felt that
7 if you appealed to Mr. Caldwell's perhaps ego, you
8 would go a lot further than if you appealed to his
9 desire to accommodate the Milgaards in their quest
10 for justice for their son?

11 A Right, I think there's some truth in that, yeah,
12 but I was thinking about a book also, so --

13 Q I'm sorry?

14 A I was thinking about the book.

15 Q Oh, no, I'm not quarreling with that, but I'm
16 saying in your approach.

17 A Oh, yes, yes.

18 Q A journalist wants an open door?

19 A Right, right.

20 Q And in order to encourage an open door you appeal
21 to the ego as opposed to the sense of justice?

22 A Yeah, I would agree.

23 Q Because the ego will puff up and give you whatever
24 else?

25 A Yes, yes.



1 Q And Mr. Caldwell would have thought that you were
2 there to write perhaps a book in which he would be
3 looked at as a star?

4 A Yes, I think that was his understanding.

5 Q Many people have that same sort of approach, but
6 that's what it was?

7 A Yeah. That's reasonable, yeah.

8 Q And that opened the door for you?

9 A Yes.

10 Q And you felt then that, and I think it's quite
11 clear, that if Mrs. Milgaard said or if anybody
12 said show me the files, they wouldn't get in?

13 A Oh, I don't think so. I don't think so. I had a
14 strong impression that she wasn't popular in
15 official circles.

16 MS. KNOX: Mr. Commissioner, with respect,
17 we have evidence that when Mr. Caldwell was
18 approached and asked on behalf of Mrs. Milgaard
19 to see his files by Mr. Young, in fact that he
20 was given an open invitation to come look at
21 them. There's nothing to suggest --

22 COMMISSIONER MacCALLUM: Yes, I'm aware of
23 that.

24 MR. WOLCH: I'm not sure if that's just
25 giving evidence. My question is his approach.



1 COMMISSIONER MacCALLUM: Yeah, I know.

2 MR. WOLCH: I don't see why -- I mean, when

3 I think what I didn't interrupt --

4 BY MR. WOLCH:

5 Q Anyway, in any event, you were given access to the
6 files which would have shown that there were other
7 assaults in the area?

8 A Absolutely. That jumped out at me, yeah.

9 Q And that there were, if you looked, I don't know
10 if you did, but there would have been witnesses
11 who would have been in the area who could have
12 testified they saw nothing?

13 A You are talking about the Milgaard case now?

14 Q The Milgaard file, the file you looked at.

15 A Yeah. There were a lot of witness statements, I
16 seem to recall that, but I can't recall all the
17 names.

18 Q There would have been statements from witnesses --

19 A Yeah, yeah.

20 Q -- that Gail Miller would have walked down O and
21 not N?

22 A Yeah, I think there were, yeah. It's a long time
23 ago, but there were lots of statements in there,
24 yeah.

25 Q Now, we've had a document that's been referred to



1 as the script document. Do you have any knowledge
2 of that at all?

3 A No.

4 Q Did you see a document that suggested what the
5 witnesses might say before they said it?

6 A Might say before they said it?

7 Q Yes. I think if you had, it would stick out in
8 your mind, but --

9 A Yeah, I think it would. I don't recall it and,
10 you know, I have a transcript of the notes I
11 dictated at the time. I don't recall that.

12 Q Right.

13 A I don't recall it, no.

14 Q Now, regarding what's in the file about the other
15 victims, and we know of (V4)---- (V4)--- who was
16 attacked that morning and we went through all
17 this, you were given access to that, you are a
18 journalist writing a book, would it surprise you
19 to know that David's defence lawyer didn't get
20 access to that?

21 A Where did this attack occur?

22 Q Well, I'm caught by the contradiction that you are
23 there writing a book which apparently will speak
24 about how well this case was handled, at least it
25 looks that way --



1 A Uh-huh.

2 Q -- and you are giving access to materials that
3 arguably goes to David's innocence, yet Mr. Tallis
4 couldn't get that.

5 A Okay.

6 Q You see the problem?

7 A I don't remember a lot of those last names. I do
8 remember though there were quite a few sexual
9 assaults in that area.

10 Q Would it surprise you to know they weren't
11 provided to Mr. Tallis?

12 A Oh, yes, it would. I mean, I would think that
13 would be the right thing to do, yeah.

14 Q It clearly points to innocence, or another woman
15 being attacked within minutes that morning?

16 A Yeah, that really should enter the picture for
17 sure.

18 Q Or eye witnesses around the area who didn't see
19 anything consistent with the story of, with the
20 Crown's theory of the prosecution?

21 A Yeah, absolutely, the defence should have had
22 that, yeah.

23 Q So the point then is that you as a journalist
24 feeding to the prosecutor's ego can get all that,
25 but those looking for justice can't?



1 A I suppose that could be argued, yeah.

2 MR. WOLCH: Thank you. Those are all my
3 questions, sir.

4 MS. KNOX: Mr. Commissioner, there's just
5 one point that I want to raise and just as a
6 clarification. When Mr. Wolch was referencing
7 the statement of Sharon Williams that I had
8 referred Mr. Carlyle-Gordge to, he referred to a
9 statement taken with the polygraph.

10 COMMISSIONER MacCALLUM: Yes.

11 MS. KNOX: I hadn't made reference to the
12 polygraph because I directed the witness'
13 attention to the March 22nd, 1969 statement.
14 There is a document in our database, 009302,
15 regarding Sharon Williams that Mr. Wolch is
16 probably familiar with, but what this confirms is
17 that the polygraph used with Sharon Williams
18 wasn't done until June 11th, 1969 and it was for
19 that reason I didn't refer the witness to it as
20 it would appear to have no impact on what she
21 said on March 22nd, 1969 to Detective Malanowich.

22 COMMISSIONER MacCALLUM: Yes.

23 MR. HARDY: No questions on re-examination.

24 COMMISSIONER MacCALLUM: Mr.

25 Carlyle-Gordge, thank you very much for coming to



1 testify. You are excused.

2 A Thank you.

3 MR. HODSON: I believe tomorrow morning we
4 will -- that I think Dr. Merry, who is travelling
5 in from Winnipeg tonight, we'll put on first
6 thing tomorrow morning at nine and then Mr. Vanin
7 will go in the afternoon, so if we don't finish
8 both tomorrow he can go on Monday as well which
9 is likely going to be the case.

10 COMMISSIONER MacCALLUM: All right, thank
11 you.

12 (Adjourned at 4:29 p.m.)

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<p>\$</p> <p>\$10,000 [2] - 21749:1, 21753:13 \$2,000 [2] - 21886:17, 21894:20 \$50,000 [1] - 21748:10</p>	<p>'was' [1] - 21888:21 'we' [4] - 21742:18, 21744:16, 21744:19, 21745:16 'yeah' [1] - 21889:4 'yeah' [1] - 21889:8 'yes' [1] - 21892:6 'yes' [2] - 21889:7, 21889:17 'you' [2] - 21889:16, 21889:25</p>	<p>1</p> <p>1 [3] - 21790:10, 21837:5, 21950:20 10 [2] - 21866:3, 21958:9 100 [1] - 21907:18 103 [2] - 21808:19, 21808:21 106839 [2] - 21786:20, 21943:3 106840 [2] - 21794:2, 21944:23 106841 [2] - 21794:20, 21947:8 108 [1] - 21675:22 10:43 [1] - 21775:6 11:01 [1] - 21775:7 11th [4] - 21855:1, 21861:20, 21906:4, 21966:18 12 [3] - 21697:9, 21835:1, 21851:15 123 [1] - 21931:21 124 [1] - 21931:22 12:04 [1] - 21835:6 12th [1] - 21768:16 13 [2] - 21823:8, 21908:21 14 [3] - 21872:2, 21872:6, 21911:21 14-15 [1] - 21927:18 143 [1] - 21748:18 15 [2] - 21694:8, 21912:16 151 [1] - 21882:18 155237 [1] - 21869:7 155239 [1] - 21869:11 155260 [1] - 21754:16 155267 [1] - 21758:18 155271 [1] - 21754:22 155273 [1] - 21692:25 159819 [5] - 21732:17, 21734:16, 21737:12, 21836:24, 21953:4 16 [1] - 21701:7 16th [1] - 21944:12 17 [3] - 21701:7, 21870:8, 21955:15 17169 [1] - 21681:25 174908 [1] - 21899:7 174969 [1] - 21899:8 18th [2] - 21675:21, 21906:3 19 [2] - 21702:22, 21805:19 1969 [25] - 21696:9, 21696:15, 21696:21,</p>	<p>21710:20, 21819:5, 21846:8, 21847:1, 21850:17, 21852:14, 21853:15, 21855:1, 21856:22, 21861:20, 21863:16, 21870:23, 21884:10, 21887:11, 21887:12, 21891:7, 21916:20, 21949:21, 21966:13, 21966:18, 21966:21 1970 [4] - 21819:6, 21832:3, 21846:10, 21850:17 1971 [2] - 21822:10, 21914:4 1972 [2] - 21822:10, 21914:4 1980 [4] - 21681:10, 21691:5, 21743:3, 21867:25 1980s [1] - 21733:5 1981 [44] - 21692:20, 21693:5, 21693:17, 21694:9, 21695:24, 21701:15, 21702:22, 21703:12, 21713:16, 21716:17, 21743:10, 21754:20, 21757:8, 21757:22, 21758:21, 21759:13, 21759:21, 21760:23, 21761:3, 21761:16, 21761:23, 21762:1, 21762:23, 21764:3, 21765:18, 21766:24, 21768:16, 21772:21, 21774:15, 21786:5, 21799:20, 21810:21, 21815:9, 21816:17, 21842:7, 21847:22, 21849:15, 21850:7, 21858:25, 21859:21, 21869:5, 21912:20, 21944:12 1982 [22] - 21714:5, 21733:13, 21741:23, 21742:23, 21743:22, 21749:4, 21754:10, 21772:10, 21776:18, 21777:10, 21799:18, 21806:25, 21824:20, 21836:18, 21845:3, 21887:3, 21890:9, 21891:20, 21892:6, 21912:1, 21928:2, 21932:9 1982-83 [1] - 21787:15 1983 [25] - 21699:6, 21701:14, 21702:23, 21703:12, 21710:11,</p>	<p>21710:16, 21713:16, 21741:17, 21761:23, 21762:20, 21817:24, 21831:25, 21890:5, 21890:9, 21892:9, 21892:15, 21896:21, 21902:8, 21908:12, 21912:1, 21914:16, 21921:20, 21924:18, 21930:4, 21930:5 1985 [2] - 21820:3, 21821:11 1986 [1] - 21920:18 1989 [1] - 21894:14 1990 [17] - 21732:23, 21733:11, 21737:15, 21738:18, 21738:25, 21776:23, 21807:1, 21836:22, 21837:5, 21837:17, 21845:4, 21849:20, 21853:17, 21880:9, 21912:2, 21954:2, 21954:6 1991 [12] - 21736:2, 21737:13, 21771:17, 21773:17, 21774:8, 21776:19, 21777:9, 21784:23, 21793:16, 21807:1, 21815:25, 21880:18 1992 [4] - 21727:17, 21753:4, 21900:22, 21901:20 1993 [9] - 21701:22, 21702:21, 21712:12, 21738:9, 21805:20, 21806:10, 21835:14, 21905:3, 21921:10 1995 [2] - 21681:10, 21921:11 1998 [2] - 21880:18, 21880:20 19th [1] - 21906:3 1:32 [1] - 21835:7 1st [3] - 21836:22, 21887:11, 21954:2</p>
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