

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
Delta Bessborough Hotel at
Saskatoon, Saskatchewan

On Thursday, January 26th, 2006

Volume 113

Inquiry Proceedings



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*Ms. Catherine Knox,***for** *Mr. T.D.R. (Bobs) Caldwell*
*Mr. Garrett Wilson, Q.C.,***for** *Mr. Serge Kujawa*
*Mr. Pat Loran, Esq.,***for** *the Saskatoon Police Service*
*Mr. Chris Boychuk, Esq.,***for** *Mr. Eddie Karst*
*Mr. Bruce Gibson and Ms. Rochelle Wempe,***for** *the RCMP*
*Mr. Eamon O'Keefe, Esq.,***for** *Mr. Larry Fisher*
*Ms. Jennifer Cox,***for** *Minister of Justice*

(Canada), The Hon. Irwin Cotler
*Mr. Alexander Pringle, Q.C.,***for** *Justice Calvin Tallis*

(Retired)



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1 Transcript of Proceedings

2 (Reconvened at 9:04 a.m.)

3 COMMISSIONER MacCALLUM: Good morning.

4 ALL COUNSEL: Good morning.

5 PAUL HENDERSON, continued:

6 BY MR. HODSON:

7 Q Good morning, Mr. Henderson.

8 A Good morning.

9 Q Yesterday we finished up, I think just had gone
10 through Ron Wilson's statement of June 4th, 1990.
11 I want to call up 003336, is the doc ID, and go to
12 page 343, please, and this is a supplement to the
13 statement of Ronald Wilson, it's the same date,
14 and it looks like after the first statement he
15 provided the second one, and the subject matter,
16 it talks about reading the transcript and he says:

17 "It is true that our car got stuck in
18 the snow while we were driving around
19 looking for Shorty Cadrain's house that
20 morning. It is also true that at some
21 point we stopped the car and asked a
22 lady for directions.

23 But I saw no funeral home --"

24 I'm not sure what that word is. Do you know?

25 Oh, I'm sorry,



1 "-- funeral home in the location where
2 we became stuck. I recall that we
3 became stuck at an intersection at the
4 end of a block. I do not recall seeing
5 a funeral home and would have so
6 testified if I had been asked that
7 question during the trial."

8 And I'm just wondering what the circumstances
9 were of how this statement came about?

10 A Could you please remind me of the date of the
11 first statement of Ronald --

12 Q It's the same date, it's the same date, June 4th,
13 1990, and it says supplement at the top and it
14 looks like it might have been right after the
15 first statement was signed, something else came to
16 mind, or do you have any recollection of that?

17 A I would assume that the issue that I'm addressing
18 here was overlooked in the first statement and I
19 recognized that I had left something important out
20 and took a supplemental statement from him.

21 Q Okay. Now, when you were done with Ron Wilson,
22 how did you leave it, how did you leave things
23 with him?

24 A Well, as I mentioned earlier in my testimony, he
25 made it very clear to me that he wanted the



1 opportunity to talk with David Milgaard and to
2 apologize to him for his wrongful testimony.

3 Q What did you tell Mr. Wilson was going to happen
4 with this statement, where did you tell him --
5 what did you tell him you were going to do with it
6 and did you tell him what might be coming down the
7 road with respect to this statement?

8 A I undoubtedly made it clear to Ron that as a
9 result of the statement that he provided to me,
10 the statements that he provided me, he undoubtedly
11 would be contacted by somebody from the
12 government.

13 Q And did you tell him that you would be sending
14 this or someone would be sending this to the
15 government?

16 A Most likely, yes. Well, I told him that I would
17 be turning my --

18 Q Who were you reporting to with respect to this
19 statement, who were you sending it to?

20 A My first echelon contact was Jim McCloskey;
21 however, I called -- when I left Ron I went to a
22 pay phone, this was before the advent of cell
23 phones, and I went to a pay phone and I called,
24 first I called Jim McCloskey and then I called
25 David Asper's office I believe, or it might have



1 been Joyce Milgaard's phone that I --

2 **Q** Who would you have -- I mean, who would you have
3 sent the statement to though for further handling,
4 if I can call it that?

5 **A** I'm not sure whether I sent out two copies, one to
6 Centurion and one to David Asper's office or
7 whether there was a single copy sent to Centurion;
8 however, I described the statement in a phone call
9 to Asper and Joyce.

10 **Q** Okay. Would you yourself have been involved in
11 sending the statement directly to the government
12 or would you rely on --

13 **A** No, I would not have. I would not have done that.

14 **Q** Do you recall whether you had any discussion with
15 Ron Wilson at this time, you know, taking the
16 statement and when you were done with it as to
17 whether, (a), you or someone on behalf of the
18 Milgaards would be sending this statement to the
19 media and whether or not Mr. Wilson might be
20 contacted by the media?

21 **A** I don't recall that I introduced the possibility
22 of media coverage of his statement to Ron.

23 **Q** I'm sorry, you don't think you did?

24 **A** I don't recall that I did.

25 **Q** You don't recall, I'm sorry. If we could then go



1 to 116218, and this is a letter, this is quite a
2 bit later, January 28th, '92 in connection with
3 the Supreme Court reference proceedings, a letter
4 to Mr. Asper, and efforts were being made to try
5 and get your tape of the interview with Ron
6 Wilson. Mr. Frater confirms with Mr. Asper that
7 Mr. Asper has advised Frater that neither Mr.
8 Henderson nor Centurion Ministries is in
9 procession of the tapes of the conversations
10 between Mr. Henderson and Mr. Wilson. And so it
11 looks like at this date, January, 1992, at least
12 according to Mr. Frater and from Mr. Asper, that
13 Mr. Asper was saying neither you nor Centurion had
14 the tapes; is that right, the tape of the
15 interview with Ron Wilson?

16 A Yes, that would appear to be the case, but
17 frankly, I can't envision a tape of my interview
18 with Ron Wilson.

19 Q I'm sorry, can't --

20 A I can't picture the existence of the tape. I
21 mean, if there are references to my interview with
22 Mr. Wilson being tape recorded, there must be, I
23 must have tape recorded my interview with him;
24 however, I can't -- I can't imagine or I can't
25 picture a point in which I would have started tape



1 recording him.

2 Q There are in the records and in the evidence,
3 there are references to the fact that at least
4 part of your interview with Ron Wilson was taped,
5 I believe Ron Wilson's evidence before the Inquiry
6 said that he was being taped for part of it, so
7 that's where --

8 A Okay.

9 Q And certainly at this point I think the players or
10 the parties to this letter are of the view that
11 there's a tape, so are you telling us that there
12 may not have been a tape or that --

13 A No, I'm not saying that, I'm just saying that I
14 can't remember. I have no distinct recollection
15 of tape recording my conversation with him.

16 Q And again we touched a bit on this yesterday,
17 presumably Centurion's involvement in the
18 investigation, tapes of interviews, would they be
19 kept for a time period?

20 A Certainly. I can't imagine that they would be
21 discarded.

22 Q And so here, if this letter is accurate and Mr.
23 Asper's advice is accurate, that neither you nor
24 Centurion have them, it says is in possession of
25 the tapes, where might you have sent them, if



1 anywhere, if you didn't have them, being you, Paul
2 Henderson and Centurion? When I say you, I mean
3 the organization.

4 A I'm fairly sure that everything, that all of the
5 statements, interview reports were sent by me to
6 Centurion Ministries in Princeton, New Jersey.

7 Q Right. And if Centurion, then, let's assume that
8 there's a tape of the Ron Wilson interview and you
9 sent it to Centurion in New Jersey and in January
10 of 1992 Centurion says we don't have it, I'm
11 trying to find out where might have Centurion sent
12 it. Would it have sent it to anybody, would it
13 have destroyed it, would that --

14 A Centurion would not have destroyed it, any tape
15 that I produced; however, in answer to your
16 question, they would have mailed it to the RCMP
17 upon request.

18 Q And we'll see some documents where the RCMP
19 requested it and again Mr. McCloskey said they
20 didn't have it --

21 A Uh-huh.

22 Q -- at a later date. Would it have been sent to
23 Mr. Asper?

24 A It might have. I would imagine that the tape, if
25 one existed, if I had mailed one to, if I had



1 forwarded a tape to Centurion, it would have been
2 mailed -- it would have been mailed by Centurion
3 to David Asper prior to a request from the RCMP
4 for a copy of the tape.

5 Q Do you have any other information that might
6 assist the Commission in determining where the Ron
7 Wilson interview tape might be?

8 A Well, you've resurrected an issue that I had
9 forgotten about and I have several boxes of
10 Milgaard files in my storage at home in my office
11 and I intend to make another search for that tape.

12 Q And -- okay. If we could then go to 334936, I
13 just want to try and follow chronologically, Mr.
14 Henderson, what happened in the week after you
15 obtained the Ron Wilson statement, and we have a
16 couple of transcripts of telephone calls between
17 various people and, I'm sorry, I don't have a date
18 on this, and I believe it's a conversation, it
19 says between one of the Milgaard daughters, and
20 then it also has two question marks, and based
21 upon the contents of this statement, I believe it
22 is Dan Lett who is a reporter with the *Winnipeg*
23 *Free Press*. Do you remember dealing with Dan
24 Lett?

25 A I do.



1 Q Did you meet with Dan Lett?

2 A Yes, several times.

3 Q And what was your understanding of Dan Lett's
4 involvement in this matter?

5 A Dan Lett was a newspaper reporter and he was
6 following this case very carefully, very closely,
7 and also writing stories on the developments as
8 they occurred.

9 Q And would you give him information then from time
10 to time, interviews and other information?

11 A I met with him several times. After my, after I
12 reported to Centurion and David Asper's office, I
13 recall meeting with Mr. Lett several times and
14 confirming the information.

15 Q And at the bottom here, and I just want to ask you
16 some questions, it deals with Ron Wilson and the
17 statement and I think Mr. Lett says, 'I got my
18 interview last night'. And from what we go
19 through here, just to jump ahead a bit, I think
20 what happens in the documents -- and you may or
21 may not be able to confirm this -- was that your
22 statement went, either through Mr. Asper or
23 through somebody, to Dan Lett, and that Dan Lett
24 interviewed Ron Wilson possibly the day after you
25 did or two days after, and then there was a story



1 in the paper about the statement and Dan Lett's
2 interview; does that, do you recall any of that
3 happening?

4 A I don't distinctly recall that happening, no.

5 Q Okay.

6 A But it makes sense.

7 Q And --

8 COMMISSIONER MacCALLUM: It makes sense?

9 A It makes sense. I --

10 BY MR. HODSON:

11 Q And so here, and the question mark here I believe
12 to be Dan Lett -- and we'll hear from Mr. Lett and
13 we can confirm this later, that based on some
14 later documents I think, I think it's him -- he
15 says, 'I'm just, I got my interview last night.
16 It was pretty good. I'm just finishing off the
17 tape right now and it's pretty good stuff, you
18 know.' He says, 'I know everybody thinks he's
19 real freaked out, but I'll tell you, he was pretty
20 strong with me. And I've got a copy of Paul
21 Henderson's statement and I'm going to sort of
22 make sure that everything matches.' 'Where did
23 you get that?' 'Oh, I got it from David Asper.'
24 'So he did finally get it?' 'Oh yeah, he got it
25 today, and it's been all sent off.' 'To the



1 Minister of Justice?' 'To the Minister of
2 Justice, yeah. So, so I'm, tomorrow there will be
3 two stories, there will be a story on Wilson and
4 then there will be a second story basically having
5 people criticize Justice for never having
6 interviewed these people themselves.' 'That's
7 right. So, how does your interview compare with
8 the statement?' 'Well, you know, I've got some
9 more personal things in here, you know, about,
10 about how he felt about various things and, and
11 you know that, that, the statement, as you know,
12 is very detailed, and it's very factual. Well
13 mine is more, you know, he says he felt like a
14 puppet, he felt like he was in the middle of the
15 shell game, things like that, so I tried to bring
16 in more emotion of how he felt to be coerced and
17 threatened and pushed around by the police. So I
18 mean there's some interesting details in there
19 and, you know, they tried to get him to come up
20 with the same version of Nichol's statement', and
21 then scroll down, 'They tried to get him to say
22 that he saw the murder and he wouldn't buy it'.
23 'Really. So you've definitely touched some bases
24 that Paul didn't even get to'. 'That's right,
25 yeah.' 'Where will it be, do you know?' 'On the



1 front page.'

2 Do you -- were you involved in
3 any discussions with Mr. Lett about Ron Wilson's
4 statement, does any of this, is any of this
5 familiar to you about what was happening?

6 A I can't recall that I spoke with him during this
7 time period, but I may well have.

8 Q And to the extent what, what it appears to be Mr.
9 Lett talking about what he was told by Mr. Wilson,
10 is that similar to things that Mr. Wilson may have
11 told you, and in particular this one point which I
12 think Mr. Lett is saying may not have been touched
13 on in your statement, which is, 'They tried to get
14 him to come up with the same version of Nichol's
15 statement', 'They tried to get him to say that he
16 saw the murder and he wouldn't buy it'; is that
17 something that Mr. Wilson may have told you?

18 A I don't remember.

19 Q And, if he did tell you that, is that something
20 you would have put in the statement?

21 A I would think so.

22 Q And as far as -- were you involved in any
23 discussions about strategy or discussions about
24 how to deal with Justice and the fact that Justice
25 may not have interviewed -- there is a suggestion



1 here about criticizing Justice for not having
2 interviewed Ron Wilson before you interviewed him;
3 were you involved in any of those discussions?

4 A Not that I recall.

5 Q If we can then skip ahead to page 334955. And
6 this now goes into a conversation between you and
7 Mrs. Milgaard, and just to give you some
8 assistance before we read this, I think you detail
9 a bit about your discussions in trying to find
10 Nichol and your dealings with her parents, and
11 does that -- do you recall that, that after you
12 interviewed Ron Wilson, that you went looking for
13 Nichol? Now Nichol -- Mr. Wilson was in Nakusp,
14 B.C.?

15 A Yes.

16 Q Nichol, I think, was in Kelowna at the time?

17 A Correct.

18 Q Did you go from your Ron Wilson interview to try
19 to get an interview with Nichol John?

20 A Directly.

21 Q And maybe you can just tell us before we go
22 through the transcript here, tell us what happened
23 in your recollection of trying to get ahold of
24 Nichol?

25 A I had a phone number for her, and part of the plan



1 before I set out on this trip -- I might add that
2 I drove to Nakusp from Seattle -- the plan was to
3 first try to talk to Wilson and then try to make
4 contact with Nichol John. So after leaving Wilson
5 in Nakusp on that afternoon, perhaps 3:00 or 4:00,
6 I drove down the mountain to -- into the valley,
7 arrived in Kelowna, checked into a hotel, and made
8 the first of several calls to this number that I
9 had. I don't remember exactly who I first spoke
10 with, but I think it might have been Nichol's
11 mother, and ultimately I ended up speaking with
12 her father. Umm --

13 Q Let me just pause for a minute. Would you have
14 taken the same approach or a similar approach with
15 them as you did with Dennis Cadrain and Ron
16 Wilson, telling them who you are, what you were
17 doing, and what information you had?

18 A Well I certainly would have identified myself, and
19 I might have provided them with some background on
20 the work that we had done, and the results of our
21 interviews with the Cadrains and with Ron Wilson.

22 Q Okay. Carry on. And so what happened next?

23 A You know, I'm not sure. Maybe, perhaps, this
24 interview --

25 Q Sure, that's fine, yeah.



1 A -- with Joyce Milgaard.

2 Q And maybe this might assist your memory. It looks
3 as though this would be -- I think you were trying
4 to reach Mr. Asper without success, if we can go
5 to the next page, and it looks like you are now
6 close to Seattle. And you say, 'I was very close
7 to getting to Nichol through her mother but her
8 father got involved, you've heard about that, his
9 name's Michael and he's a turkey from the work', I
10 think that should be, 'word go. Whatever problems
11 she's had in her life, I imagine that he's had a
12 lot to do with it. Anyway, what he told me last
13 night was number 1, he had reported me to the RCMP
14 and he also said that, he posed the question, he
15 said "are you legal". All right. Rather than
16 bailing out that night, cause I didn't have the
17 energy last night, I just stuck around and I got
18 out at 7:00, but I continued to try and reach Mary
19 until noon, finally I left.' 'Reach who?' 'Mary,
20 she's Nichol's mother'. And then here, 'Because I
21 think she's reasonable, you know, we have a very
22 very good case to talk to Nichol, she should talk
23 to us at this point, and finally I just gave up.
24 A lot of questions still remain. Number 1, did
25 Dan have his, have his talk with Larry or Ron'.



1 'Yes he did with Ron, yeah', 'And how did Ron come
2 across', 'Real good, real good, no problems.'

3 So, just on this latter point,
4 it looks here -- and correct me if I'm wrong --
5 that you are inquiring of Mrs. Milgaard about
6 whether or not Dan, presumably Dan Lett, had
7 talked to Ron Wilson, and you were asking how Ron
8 did in his discussion with Dan Lett; is that
9 right?

10 A Yeah, this answers the question, I obviously was
11 aware of Dan Lett's plan to try and talk with Ron
12 Wilson.

13 Q Okay. Now what about your dealings with, if I --
14 your dealings with Mary and Michael John, Nichol's
15 parents, does this assist you in recalling what
16 happened?

17 A Yes, it -- to some extent, although I still can't
18 recall the specifics. I couldn't tell you, for
19 example, how many conversations I had with
20 Nichol's mother Mary, but as this transcript
21 reflects, I apparently felt encouraged by the
22 manner in which she received my call and was
23 hopeful that she was going to enable me to talk
24 with Nichol. But at some point Nichol's father
25 got on the phone and had a completely different



1 posture with me, and sarcastic, cynical, abusive,
2 and I don't know how I responded to him, but at
3 any rate it became apparent to me that he was
4 resisting, that he was opposed to having me talk
5 with his daughter.

6 Q And your efforts, through her parents, were to try
7 and get through and speak directly with Nichol,
8 that's what you were trying to do through her
9 parents; is that right?

10 A Yes.

11 Q And what is this business about being legal and
12 phoning the RCMP; what was that about?

13 A Well I assumed that what he was talking about was
14 the question of whether I had a work permit, that
15 is whether I was working in Canada legally.

16 Q And he raised that with you then?

17 A Yes.

18 Q And he either said or he did phone the RCMP about
19 that?

20 A Well he said he phoned the RCMP, he'd reported me,
21 and frankly I had had an unpleasant experience on
22 the first trip to Canada so I took that very
23 seriously.

24 Q And was that an incident at the border?

25 A Umm, it was an incident at the Vancouver Airport



1 when I was intercepted by Customs, questioned by
2 Customs, and asked if I had a permit to work in
3 Canada. And of course I didn't, and I told them
4 that I was with a volunteer, that is a non-profit
5 organization, and they said "nonetheless you need
6 a work permit", so I was put on a plane and sent
7 back to Seattle. That was on -- during my first
8 trip to Canada when I ended up talking with Linda
9 Fisher.

10 Q Okay. So when Mr. Michael John brought this up
11 about being there legal did that cause you some
12 concern?

13 A Oh, absolutely, yes, I -- I --

14 Q Did that -- did that stop your further efforts,
15 then, to get through to Nichol when that was
16 raised?

17 A Well, I, I'm not sure whether I made any
18 subsequent calls to the residence, but it was
19 definitely a chill factor, and it wasn't long
20 after I had this unpleasant conversation with
21 Nichol's father that I decided to bag it and bail
22 out of town.

23 Q Okay. And I take it, sir, that you never did get
24 a chance to meet with Nichol John?

25 A Contrary to claims that were later made, no, I did



1 not ever speak with Nichol.

2 Q And I'm sorry, what claims were --

3 A Well I'm -- my understanding is that she, or her
4 father or mother or somebody, claimed that I was
5 on the phone with her, that I was abusive, and --

6 Q I will go to those transcripts in a bit, I think
7 that was Mrs. John, Mr. and Mrs. John were giving
8 their side of the conversations with you, and when
9 I get to that I will get you to again give us your
10 version of events.

11 A All right.

12 Q Okay. But I think that was -- I'm not aware of
13 Nichol John having said that she dealt with you
14 around this time.

15 A Yes.

16 Q That day.

17 A Well, for the record, we might note that in this
18 transcript I make it clear to Joyce Milgaard that
19 I was unable --

20 Q Right.

21 A -- to make contact with Nichol.

22 Q Okay. Then just back to this Dan Lett and Ron
23 Wilson statement, can you shed any light on that,
24 what was happening? What was the purpose in
25 having Dan Lett talk to Ron Wilson, what was that,



1 what --

2 A Well it was obviously part of the defence strategy
3 to involve the press in developments.

4 Q Okay. And then so, here, I think Mrs. Milgaard
5 says re -- you asked how Ron came across, and I
6 presume you are trying to find out what he said to
7 the reporter, and was it similar to what he told
8 you; is that fair?

9 A Yes, I wanted to know whether Ron Wilson was true
10 to what he had told me.

11 Q Okay. And then the next page says, 'Yeah, and his
12 story is going on the front page to the *Free Press*
13 tomorrow morning'. And I will show you in a bit
14 the article that went on on June the 7th, 1990.
15 So it would appear this conversation is the
16 evening of June the 6th, does that -- does that
17 sound about right, a couple days after -- you left
18 Wilson on the 4th, this is the night of the 6th,
19 and you are driving back to Seattle; does that
20 sound about right?

21 A Sounds about right to me.

22 Q And then if we can go to the next page, and again
23 this is a discussion with you and Mrs. Milgaard,
24 and actually just further on you confirm that you
25 did in fact send the statement to David Asper, Ron



1 Wilson's statement?

2 A Uh-huh.

3 Q And Joyce Milgaard says, 'So we had that one so
4 that worked out all right, we've got that.' And
5 that's the Ron Wilson statement. 'And then we got
6 that off to the minister, but one of the things we
7 have been talking about with David Asper is
8 getting a lawyer for Ron Wilson. We have told Ron
9 he is not to talk to anyone, even the Justice
10 Department, until we can get a lawyer in place out
11 there to sort of be there, considering what they
12 did to Linda Fisher, sort of.' 'What did they do
13 to Linda?' 'Oh, they went up one side of her and
14 down the other.' And, 'Who did?' 'The Justice
15 Department. They just literally, you know,
16 grilled her, and she felt that they just didn't
17 believe a word that she said, and I said no,
18 that's not true, I said they really did believe
19 you from what you said, but that's the technique
20 they use. Well with Ron Wilson being very fragile
21 anyhow, and after the experience that he's been
22 through, we talked to Hersh about recommending a
23 lawyer out in the area that, you know, maybe what
24 we would do is maybe have Ron go out to the
25 closest town where we can find a lawyer that can



1 represent him and see the Justice people there.'

2 And are you able to shed any
3 light on this issue, Mr. Henderson, other than
4 what's in the transcript?

5 A No, I'm not.

6 Q When you talked to Ron Wilson did you have any
7 discussions with him about getting a lawyer or
8 anything of that nature?

9 A Not that I recall.

10 Q And did you have any discussion with him where you
11 might have told him not to talk to Justice, to the
12 Justice Department, or anything of that nature?

13 A I don't think so.

14 Q Now just down at the bottom, again we know
15 yesterday you had already talked to Dennis and
16 Albert Cadrain, and we know later that on June
17 24th, 1990 you take a statement from Albert, and
18 just to try and piece together what -- how that
19 may have came about, here Mrs. Milgaard says, 'So
20 David understood you were going to go and try and
21 get, talk to Albert', and then you say, 'All right
22 now that's another reason I wanted to call, I'm
23 really frustrated, you can tell him this. I tried
24 to reach him', and you go on to talk about your
25 frustrations, concern with the RCMP because of



1 what his father told me, 'He asked me, he said are
2 you legal', umm, and you said 'I didn't come here
3 to see the RCMP, I came to see Nichol. This is
4 after I spent a long time talking to him very
5 intelligently, I mean he's just an asshole, I mean
6 that's all I can say, the guy is totally
7 unreasonable. He snickered. I said, you know, I
8 went through a very -- this is after I had gone
9 through the whole thing to his wife'.

10 So this would be a recounting of
11 your dealings with Mr. John; is that right?

12 A Yes, yes.

13 Q And, again, you say, 'You told him about Fisher
14 and I said the chances are very good that this guy
15 is the real killer', and, 'That's what you say,
16 snicker, snicker, snicker. I could hear, you
17 know, sort of, I mean just one of the worst people
18 you could possibly', etcetera, 'and I -- basically
19 he told me I don't care about my daughter, that's
20 her business', etcetera, etcetera'.

21 So would that be a fair account
22 of your conversation or your version of how the
23 conversation went with Mr. John?

24 A Yes.

25 COMMISSIONER MacCALLUM: What page was



1 that, please?

2 MR. HODSON: This was 334959.

3 COMMISSIONER MacCALLUM: Thanks.

4 BY MR. HODSON:

5 Q And then, again, I think you went on, we don't
6 need to go through this all, but I think you then
7 account -- or pardon me -- recount what you would
8 have told Mr. John, and we'll go through parts of
9 it. You made a logical presentation to him and
10 emphasized, 'We don't need Nichol, Nichol, she's
11 an auxiliary witness, we'd like to have her but we
12 don't need her, the conviction is out the window,
13 but I said Nichol needs us, and that's the same
14 thing I told Mary, I mean this girl is going to be
15 out there all by herself. We've got one, you
16 know, the Crown's star witness certifiably insane,
17 we're going to get the backing on that but he's
18 still not right, his brother you know is an
19 advocate for the defence now because he realizes
20 that what they did to his brother was terribly
21 wrong, then we've got the second most important
22 witness to totally recant, he's in tears over what
23 he did to this guy after all these years, and I
24 said now Nichol is all out there by herself,
25 Nichol backed out of this thing 21 years ago or 20



1 years ago. Anyway, I wasn't getting anywhere with
2 this guy.'

3 So would that have been the
4 nature of what you would have presented to Nichol
5 John's parents in an effort to try and meet with
6 her?

7 A I imagine so, yes.

8 Q Does that sound --

9 A I was trying -- excuse me -- I was trying my best
10 to be very reasonable with them, but also, of
11 course, be persuasive.

12 Q And what -- what was -- how did you find -- let's
13 start with Mrs. John; do you recall anything about
14 what she said to you, what was her --

15 A I characterize her, in this conversation I
16 characterized her as being, sounding to me to be
17 reasonable.

18 Q And what about Mr. John, Nichol's father?

19 A That was hardly the case. I used a word to
20 describe him, and that's the way I felt about him.

21 Q And just at the bottom, 'We'll get back to Albert,
22 so what happened about Albert', and you say, 'Well
23 I called, Asper wanted me to go see Albert', and
24 then the next page, 'We thought that would be
25 great if you did, because from the sound of it',



1 and let me pause there.

2 So would it have been Mr. Asper,
3 then, who asked you to go back and see Albert?

4 A I think that answers the question of who
5 dispatched me to see Albert a second time.

6 Q And then you say, 'Well I called, you know, I
7 called Dennis last night, there was some question
8 of whether he could even get Albert today.
9 Secondly, he said Albert has not come around yet'.

10 And I'm wondering, when you say
11 'Albert has not come around yet', are you talking
12 physically or in his mind?

13 A Physically. He was telling me that Albert had not
14 showed up back at his house in Port Coquitlam.

15 Q Okay. And then down here you say, 'Anyway
16 McCloskey thinks we ought to concentrate on Albert
17 and he says that he thinks, he agreed with me that
18 we should send Ron Wilson's statement to Dennis,
19 let him, you see Albert can't read if the truth be
20 known, and he can't read very well, and Albert
21 should read, Dennis should read the statement to
22 him and discuss it with him, continue working on
23 him. And then Jim says when you get back from
24 your vacation, which is I don't know a week from
25 tomorrow, head up to Vancouver and see if you can



1 get through to him, you know'.

2 So would that have been the plan
3 with Albert, that Dennis would get Ron Wilson's
4 statement, read to Albert?

5 A It appears that was the plan.

6 Q And then what, what do you mean by "continue
7 working on him", what would that refer to?

8 A Dennis, by this time, was an advocate for us, I
9 believe, and had told me that he was going to do
10 his best to get his brother to share with me what
11 he went through when he was a witness -- when he
12 was in the process of becoming a witness against
13 David Milgaard.

14 Q And so, sorry, so to continue working on him would
15 be to continue to talk to Albert about what?

16 A To continue talking to him about his experience at
17 the hands of Saskatoon Police.

18 Q And then, if we can go to the next page, you say,
19 'Now what the hell's going on with the Justice
20 Department though, I mean', and Mrs. Milgaard,
21 'Absolutely nothing, but you know the big Wilson
22 stuff just went out today to them, so hopefully
23 something will happen on that, but we don't know.'
24 'Did David send out the full statement that came
25 over the fax', 'Oh yeah, he sent all that out with



1 a letter demanding an immediate release of David.'

2 So it looks like again, if this
3 is June the 6th, 1990, that that's the day that
4 the statement would have been sent out; do you --
5 are you -- do you know that to be the case or --

6 A No, I don't remember these, these details.

7 Q Okay. And then if we can go to 334963, just so
8 you -- just scroll down a bit to the bottom here.
9 The conversation ends, and then it looks as though
10 a conversation between Joyce Milgaard and David
11 Asper, and it looks to be right after your
12 discussion because it's talking about you trying
13 to get ahold of Mr. Asper and going through the
14 mountain passes, etcetera.

15 If we can just go to 334963, and
16 Mr. Asper says, 'And of course Williams now has to
17 see Wilson right away.'

18 And Williams, I believe, is
19 Eugene Williams of Federal Justice.

20 And Mr. Asper says, 'I haven't
21 been able to get ahold of Wilson'. Mrs. Milgaard,
22 'Oh, you're kidding, we've got to get to him
23 before Justice does'. and Mr. Asper says, 'Oh,
24 don't worry, they want his address, they want his
25 address', and they go on to talk of an exchange



1 between Mr. Wolch and Mr. Williams.

2 Did you have any further, after
3 your June 4th, 1990 statement, were you involved
4 in any further discussions with Ron Wilson, did
5 you ever talk to Ron Wilson again about whether he
6 should talk to Justice or the media or whoever?

7 A No, I don't think I had any follow-up
8 conversations with Ron Wilson.

9 Q So after June the 4th, 1990 did you ever see or
10 speak to Ron Wilson again?

11 A No.

12 Q And then to 334967. And this is Mrs., again this
13 same call I believe Mr. Asper says, 'You know that
14 what Paul's, you know, and I had a good talk with
15 Paul because, you know, Joyce, I said to Paul,
16 I've been intensely involved in criminal law for
17 five years, doing nothing but, and you know what,
18 after about a year at our office there's not a
19 heck of a lot that will surprise you. I mean,
20 you, you really get the sense that you have seen
21 it all, and I have this, I had this naive belief,
22 and we all probably did, that when this thing
23 started we would hold hands with Justice and we'd
24 all walk along together and try to fix the
25 problem. And Paul laughed at me, he said David,



1 your job in this whole thing, and never forget it,
2 and pardon the language, "is to stick it up their
3 ass"'.
4

5 Is that something you would have
6 said to Mr. Asper?

7 A Possibly, based on my experience.

8 Q And so do you recall saying that to him?

9 A No, I don't.

10 Q And, from what I've read to you, is this something
11 that you think you might have said to him, or
12 words to that effect?

13 A Well, if that's what he says, I'm not about to say
14 that he is misrepresenting what I said. I mean
15 it's possible. My experience was that, was that
16 you could hand, you could hand prosecutors and
17 police the moon and they still weren't going to do
18 anything about it in terms of righting a wrong.

19 Q And so, just to finish, he says you, quote, "'You
20 just do it and don't even second-guess for a
21 minute what's going on, and don't second-guess the
22 process, don't second-guess nothing", just do it',
23 and the next page, 'Do it, because don't give them
24 the credit of believing that they care, because
25 they don't.'

 And, again, is that something



1 that you either recall saying or you think you
2 would have said to --

3 A I think I would have said that because that's the
4 way I received authority's reception to new
5 evidence.

6 Q And was that based on your experience, then, in
7 the United States?

8 A Yes.

9 Q Did you have any familiarity with the Canadian
10 system, and Canadian justice, and how things
11 worked in Canada?

12 A No.

13 Q And would it be fair to say that you believed it
14 to be similar to the United States?

15 A I had no reason to believe otherwise.

16 Q If we could then go to 334970. And again this was
17 from another tape, and I think it is around the
18 same time, it may have been the next day, June the
19 7th, 1990, and it's a conversation that's starting
20 off between David Asper and Joyce Milgaard. And
21 then if you go to 334977, and it starts with a
22 conversation between Joyce and Dan Lett. If we
23 can then go to 334988, and here, this is between
24 Mrs. Milgaard and Dan Lett. Mrs. Milgaard says,
25 'I'm sure that George Lapchuk, I, we could get to



1 him, would come up with the truth now too'. Dan
2 Lett says, 'Yeah, I know, that is sort of, that's
3 the crazy part of it.' 'And the thing, the thing
4 that's good is that there are two statements from
5 the room saying that it didn't happen, right, and
6 two statements from now from the room saying it
7 did so, you know, under the laws, the rules of
8 reasonable doubt the reasonable doubt is there'.
9 And Dan says, 'Yeah, that stuff is just chucked as
10 far as I'm concerned and, but you know, it would
11 be interesting to see who first concocted this,
12 this pillow stabbing'. And Mrs. Milgaard, 'I
13 would like to know'. Dan Lett, 'Scenario'. And
14 the next page, 'Well this is it, it might be worth
15 a shot at George Lapchuk, this is why I've asked
16 Paul to maybe talk to him, he's maybe going to
17 come back and see Lapchuk so it might be worth a
18 shot'.

19 And just from what the documents
20 are, Mr. Henderson, it appears that you may have
21 had a conversation with Mr. Lapchuk in 1990 by
22 telephone that maybe went sideways, for lack of a
23 better word. And a bit later on I will be going
24 through an interview August 8th, 1991 when you and
25 Mrs. Milgaard interviewed Mr. Lapchuk in his



1 apartment in Vancouver, and in that interview
2 note, which I'll show you later, at the end of it
3 I think Mr. Lapchuk tells you that yes, he was the
4 fellow on the phone calling you earlier that
5 denied he was George Lapchuk, or something like
6 that. And so can I take it from that that, after
7 this discussion, you would have made an effort to
8 talk to George Lapchuk in 1990 unsuccessfully?

9 A Yes. I remember the phone call from my office to
10 George Lapchuk. I haven't forgotten how he acted
11 on the phone and I remember following up by
12 joining Joyce in Vancouver and going to see
13 Mr. Lapchuk.

14 Q Okay. And we'll go through, I'll probably go
15 through chronologically, we'll go through the
16 second interview. What do you remember of the
17 first phone call with Mr. Lapchuk?

18 A Well, like you just mentioned, he claimed, the
19 person on the other end of the line claimed that
20 he wasn't George Lapchuk, he was extremely
21 profane, I won't go into the details, but --

22 Q Okay. Is it fair to say you didn't get any
23 information from him of value?

24 A No, not a bit.

25 Q Now, tell us at this time, what was your



1 understanding of the motel room reenactment issue
2 and what was it you were trying to get from George
3 Lapchuk?

4 A Well, my understanding was that -- well, I knew
5 that George Lapchuk and Craig Melnyk appeared as
6 witnesses at David Milgaard's trial and they both
7 claimed that when they were with David and others
8 in a motel room in Regina and something came up on
9 TV about the Gail Miller murder, that David
10 Milgaard grabbed a pillow and demonstrated how he
11 stabbed Nichol John.

12 Q Gail Miller?

13 A Excuse me, I'm sorry. Yes.

14 Q I'm assuming.

15 A Gail Miller.

16 Q And what was your understanding or what were your
17 efforts, why were you talking to George Lapchuk,
18 what were you trying to find out from him or
19 achieve with him?

20 A Well, there was several purposes to talk to George
21 Lapchuk, one was to find out, to ask him if his,
22 how his testimony came about, try to determine
23 from him whether his testimony was the truth,
24 whether he possibly might have misinterpreted what
25 David was actually doing or the possibility that



1 he had falsely interpreted David's actions as a
2 confession when he was just kidding around. There
3 were a lot of questions that I had for him.

4 Q Did you have -- do you have any recollection of
5 being aware of a statement from, or statements
6 from other people who were in the room who were
7 not called at trial disputing Mr. --

8 A I think I was aware that there were conflicting
9 statements, conflicting observations.

10 Q Okay. If we can then go to 216811, and this is an
11 article, June 7th, 1990, Winnipeg, and just call
12 out the top part. I believe this is the article
13 that was referred to in the interview with Mr.
14 Lett, so this would be three days after you
15 obtained the statement from Ron Wilson, and I
16 think the day after your discussion. Would you
17 have read this article or been familiar with it at
18 the time?

19 A Yeah. Dan Lett was forwarding, or somebody was
20 forwarding me these articles that evolved from the
21 interviews that I had.

22 Q And so here the headline, "Milgaard witness says
23 police forced him to lie," and again, would that
24 be consistent with what Mr. Wilson told you?

25 A I believe so, yes.



1 Q And then:

2 "One of the chief Crown witnesses in the
3 trial of convicted killer David Milgaard
4 says threats and manipulation by
5 Saskatoon police led him to lie in Court
6 in 1969.

7 In an interview from his home
8 in British Columbia, Ron Wilson said he
9 has lived in torment for lying and has
10 come forward to tell the truth about an
11 intensive police investigation into the
12 brutal slaying of Saskatoon nursing
13 assistant Gail Miller."

14 And then it quotes him:

15 "None of it happened the way they (the
16 police) said it happened," Wilson said.
17 "I want to go straight."

18 "I was manipulated, it was like
19 you're a puppet. Then you're scared
20 that if you don't do what they wanted
21 you to do, they would put you away.
22 They told me that they would find some
23 way to turn the tables on me."

24 Wilson said he is concerned
25 people may not believe him now because



1 he lied before, but he wants to set the
2 record straight because he believes
3 Milgaard was wrongly convicted.

4 "I have no more doubts," he
5 said. "What I say now is the truth and
6 what I said then was fabricated.

7 If people don't understand it,
8 well, I'll have to live with it. I hope
9 they understand."

10 And again, is what's reported there, is that
11 similar to what Mr. Wilson would have said to you
12 when you interviewed him? Is there anything in
13 there that --

14 A No, it's consistent with what he told me. It's
15 more explicit in terms of the effect that this had
16 on him, but it's certainly consistent with what I
17 heard from him myself.

18 Q And then if we can scroll down just to the bottom
19 half of that page, and just maybe call out that
20 part, it talks about the Federal Justice reviewing
21 the case:

22 "So far, Milgaard's application has been
23 based on new interpretation of physical
24 evidence from the trial that indicates
25 he may not be linked to the crime.



1 Wilson's revelation is one of
2 the first pieces of truly new evidence
3 to surface."

4 Then it goes down at the bottom:

5 "In this recent interview, Wilson said
6 that after leaving Saskatoon the same
7 day as the murder, he, Milgaard, John
8 and Cadrain drove west stopping in
9 Edmonton, Calgary and Banff, before
10 returning to Regina.

11 He said he did not hear of the
12 murder until March 1969, when Saskatoon
13 police called him in for questioning
14 about it. He was in jail in Regina at
15 the time on a fraud conviction.

16 He said he denied knowing
17 anything about the killing.

18 Two months later in May 1969,
19 he said, police summoned him to
20 Saskatoon for two days of questioning.

21 Wilson said he began by denying
22 any knowledge of the crime, but after
23 hours of intense questioning by police
24 and polygraph operators, he broke down.

25 "They asked me questions about



1 everything -- if I thought David had
2 done it, if I had done it, about these
3 knives that they showed me, if I had
4 ever seen them before. I was on the
5 polygraph for over six hours."

6 Eventually, Wilson said, if he
7 wouldn't agree with the police
8 interrogators, they claimed the
9 polygraph machine indicated he was
10 lying. Finally, he said, sheer fright
11 forced him to agree with anything the
12 police said."

13 And again, would that, what Mr. Lett reports, is
14 that similar to what Mr. Wilson then would have
15 told you?

16 A It's generally consistent with what I heard from
17 him.

18 Q And then about the knife:

19 "... Wilson now says he repeatedly
20 argued with the police that he not seen
21 any knife in the car. But, he said,
22 police refused to believe him and
23 eventually showed him five knives and
24 demanded that he identify one.

25 He said police forced him to



1 identify the maroon-handled paring knife
2 thought to be the murder weapon."

3 And then as well about the, where they got stuck:

4 "Wilson now says that he continually
5 told the police the car became stuck at
6 the "T" intersection of two streets, and
7 not in an alley as John had testified."

8 And then on the blood:

9 "Wilson now says he told police he never
10 saw blood and informed them that his
11 mother had washed Milgaard's clothes..."

12 So again, is that something that is consistent
13 with what Ron Wilson told you?

14 A Yes.

15 Q And then just down at the bottom it says, "Sloppy
16 probe costs inmate '18 months'."

17 "The federal Justice Department has
18 conducted a sloppy and incomplete
19 investigation of David Milgaard's claim
20 of innocence, perhaps wasting another
21 two years of the life of Canada's
22 longest-serving prisoner, an MP and
23 Milgaard's lawyer have charged.

24 Winnipeg lawyer David Asper
25 said he was shocked to learn federal



1 investigators have not bothered to
2 contact any of the original witnesses in
3 the case, especially since one has
4 already recanted his original testimony.

5 "How do you explain where 18
6 months went?" "We are insisting that
7 the minister react immediately to this
8 latest evidence."

9 And again, I'm just wondering what your
10 understanding was, Mr. Henderson, of the timing
11 of Ron Wilson's interview by you. Whose idea was
12 it to go interview Ron Wilson when you did?

13 A I'm -- well, I don't know. I would imagine that
14 the people who were intimately acquainted with the
15 record. That would be Asper's office. I mean,
16 Ron Wilson was, along with Cadrain and Nichol
17 John, were the obvious people to go talk to in a
18 reinvestigation of the Gail Miller murder, so I
19 assumed that --

20 Q Obvious, sorry, for who to go interview?

21 A For us if we were going to get involved in this
22 case. Of course the first witness that I went to
23 see was Linda Fisher, but following that
24 interview, the logical choices, the next choices
25 would be the three key witnesses against David



1 Milgaard, and that direction would have come from
2 David Asper's office.

3 Q Okay. And then just to complete that, 220982, so
4 this is the next date, next day, June 8th, 1990,
5 and Mr. Lett reports:

6 "Federal Justice Department
7 investigators are expected to arrive in
8 British Columbia within days to
9 interview a key witness in the David
10 Milgaard case who says police pressured
11 him into lying."

12 And:

13 "Justice Department lawyer Eugene
14 Williams ..."

15 It says:

16 "... the department has received a copy
17 of the written statement by Wilson and
18 it will be thoroughly checked."

19 So I take it this is something that you expected
20 would happen, is that once the government got
21 Mr. Wilson's statement, they would follow up with
22 him?

23 A Yes, I certainly anticipated that would happen. I
24 don't know when they finally got to him, whether
25 it was sooner or later, I don't remember that.



1 Q It took a little while, at least from the
2 documents and from the evidence we've heard, but
3 if we can go to 004760, this is a *StarPhoenix*
4 article of June 9th, the next day, and it appears
5 that the writer contacted you, it says he tracked
6 down a key witness, "I just sort of parachuted
7 into Ron Wilson's life Sunday night," talked to
8 him Monday.

9 "His recantation was evolutionary over
10 the course of the whole day."

11 And:

12 "There's no doubt in my mind this has
13 been on his conscious all these years."

14 Again, would that be an accurate quote of what
15 you would have told the media?

16 A Can you push that back to the right, please?

17 Q Sure.

18 A I would like to see who --

19 Q It doesn't have a writer listed.

20 A I don't think it entirely is consistent with the
21 way this recantation unfolded.

22 Q Okay. In what way?

23 A Well, because Ron Wilson, I sensed shortly into
24 the interview, it wasn't long before I realized
25 that Ron Wilson was, felt badly about his



1 testimony and that he was, that he wanted to
2 recant. This suggests that he was stonewalling,
3 that he might have been stonewalling me for a
4 period of time. That wasn't the case.

5 Q Okay. If we can --

6 COMMISSIONER MacCALLUM: Could I ask you to
7 see if the headline relates to the text there at
8 all, please?

9 BY MR. HODSON:

10 Q Sure. The headline is, "Investigator says witness
11 recanted after 'prodding'," and:

12 "Getting a key witness to recant
13 testimony used to convict a man ... took
14 eight hours of gentle prodding, an
15 American private investigator probing
16 the case said Friday."

17 Is that accurate?

18 A No, it's not.

19 Q And again, for what reason?

20 A Well, because my contact that day with Ron Wilson
21 actually was in two segments, the first segment
22 was in the morning when I met with him in the cafe
23 and within, I would say, an hour he had basically
24 essentially admitted to me that his testimony was
25 not truthful.



1 Q Okay.

2 A And so, you know, the recantation was not
3 evolutionary. Well, it was, within an hour it was
4 evolutionary, but --

5 Q Did it take eight hours of gentle prodding?

6 A No, it didn't.

7 Q Okay. So you take issue with how -- what's
8 reported here?

9 A Yes. I don't know where this stuff came from.

10 Q Okay. If we can go to 064788, please, and this is
11 a statement that Michael and Mary John gave to the
12 RCMP in June of 1993 and I'll just take you to
13 parts of this. They talk about their discussions
14 with you. If we can go to 064790 and Mary John
15 talks about here, this is Nichol's mother
16 describing what she says you told her in the call.

17 "... he says Ron Wilson, you know, he
18 says that they did this to Nichol in the
19 jail when they left her in jail
20 overnight, he says, and they locked her
21 in the room, he says, without anybody
22 there with her, he says, and she
23 screamed and hollered in the jail all
24 night. He's going on like this to me,
25 he says. He says and don't you think,



1 he says, that's what he made her go like
2 that, he says, that she would say things
3 like this and he was going on and on."

4 And is that something that you would have said to
5 Mrs. John about Nichol John, and I think the
6 reference is to at the time she was interviewed
7 by the police and gave her statement, being in
8 the city police station cells.

9 A I don't remember exactly what I told Nichol's
10 mother, but I know that I did not misrepresent the
11 truth to her. Whatever I told her was based on my
12 understanding of what had happened to Nichol.

13 Q What was your understanding of what had happened
14 to Nichol?

15 A I can't recall right now, but I know that this had
16 an emotional impact -- the way she was treated by
17 Saskatoon police, I know that it had some type of
18 a traumatic effect on her, that's all I can
19 remember right now, and I don't remember
20 specifically what I told her mother.

21 Q As far as your understanding of what happened to
22 Nichol John in the jail and screaming -- where's
23 the line:

24 "... they locked her in the room ...
25 without anybody there ... and she



1 screamed and hollered in the jail all
2 night."

3 Would that be something you think you would have
4 thought at the time or been aware of at the time?

5 A I don't recall -- I have no memory of that
6 specific detail.

7 Q If -- where would you -- what would be the source
8 of your information about what happened to Nichol
9 John overnight in the Saskatoon City Police
10 station cells around the time of her statement?

11 A Well, it likely, obviously would have been a
12 combination likely, a combination of what I had
13 heard from David Asper, Joyce Milgaard and what I
14 had read in the record.

15 Q Okay. And the record being the transcript, the
16 Court transcript?

17 A Well, yes, it could have been the transcript, it
18 could have been other documents.

19 Q And then at the bottom, there's a couple of
20 references here that Mrs. John says that:

21 "... he was after me ... and then
22 finally he started swearing at me
23 because I would not give him Nichol's
24 phone number ..."

25 And then a couple of other references she says



1 that. Actually, and then, yeah, sorry, go to the
2 next page. What about that, do you recall what
3 that --

4 A That's -- that is nonsense. My conversation with
5 Nichol's mother Mary John was not abusive, I
6 didn't swear at her. In fact, I thought we were
7 getting along fine and I thought that she was
8 going to pave the way for me to meet with Nichol.
9 That was my understanding.

10 Q Okay. And then what about with Mr. John, and --

11 A Well, he set the tone for that conversation.

12 Q Would there have been swearing between the two of
13 you in that call do you recall?

14 A I don't recall any swearing, but I do recall that
15 he was cynical and abusive and accusatory.

16 Q And he was the one, I think you told us, who
17 talked about phoning the RCMP and whether you were
18 legal; is that right?

19 A That's right, and I took that threat seriously.

20 Q If we can go to this part, and again this is just
21 on the next page, and Mrs. John says, again
22 referring to what -- actually, just scroll up two
23 paragraphs, please, and it says:

24 "How long would that have taken?"

25 And this is the conversation, she says:



1 "I would say fifteen minutes or so,
2 because he was just, he was just talking
3 about all these things that happened to
4 Nichol with the police, what they did to
5 her and you know he was just trying to
6 ..."

7 And then the police officers asks:

8 "What else did they, did he say that the
9 police had done to Nichol?"

10 Answer:

11 "That was what bothered me the most, is
12 about this, about how they locked her
13 into the cell and they wouldn't even let
14 nobody to go to her and he says, and
15 anybody would say anything, he says,
16 when you're locked in a cell like that
17 and wouldn't, and a freezing cell,
18 wouldn't even give her nothing to, to,
19 no coat or nothing. He was going on
20 like this ..."

21 And again, are you able to tell us whether that's
22 something that you either did say or might have
23 said to her?

24 A I have no recollection of saying that and I have
25 no recollection of having details like that, of



1 what Nichol John was subjected to. I don't
2 remember the specifics.

3 Q Okay.

4 A It sounds a little dramatic to me, I mean, based
5 on my memory. There was something about Nichol
6 being locked in a cell and being left alone there
7 and having some type of a nervous breakdown, but I
8 don't remember the specifics of it.

9 Q Now, we know that you took a statement from Albert
10 Cadrain on June 24th, 1990 and I've showed you a
11 couple of documents where there's discussions
12 about going back to see him. Can you tell us
13 what, how it came about that you went back to see
14 Albert Cadrain?

15 A Yes, but I would like to get something on the
16 record before we go any further.

17 Q Sure.

18 A Back to my conversations with Nichol and her
19 father.

20 Q Yes.

21 A Keep in mind that I spoke with both these people,
22 mother and father, my first contact at the John
23 residence was Mary John, Nichol's mother. Now, my
24 last contact was with the father. Now, if I had
25 been swearing at Mary John, then I wouldn't have



1 had a subsequent conversation with her father,
2 that would have been the end of it.

3 Q Her husband?

4 A With her husband.

5 Q I'm sorry, with Nichol's father?

6 A Yes, right. If it had reached the point, if I had
7 become frustrated with Mary John to the point that
8 I was swearing at her, that would have been the
9 end of it, I wouldn't have ended up talking with
10 her father, certainly in the manner that I did,
11 trying to be reasonable and thinking that I had a
12 chance of persuading him of letting us talk with
13 Nichol or helping us get to Nichol, so I see a
14 flaw in this.

15 Q Okay. Did you think you had, you were making more
16 headway with Mrs. John than Mr. John?

17 A Well, the transcript reflects, with my
18 conversation with Joyce Milgaard, I was getting
19 some encouraging signals from Nichol's mother. I
20 thought that maybe this was going to work out.

21 Q Okay. And so just back again on Albert, can you
22 tell us how it came to be that you got together
23 again with Albert Cadrain to take his statement?

24 A I was apparently assigned to go back and see him
25 again.



1 Q And that was by -- I think you maybe told us that
2 you would have talked to Mr. McCloskey and Mr.
3 Asper, is that where it would have come from?

4 A Yeah. Apparently there was a general agreement
5 among, between Jim, David Asper, Joyce Milgaard
6 that that was a good thing to do.

7 Q And what were you going back to get from him?

8 A Well, as I testified earlier, I realized that
9 Albert Cadrain was locked into his testimony,
10 convinced that these things had happened and that
11 he wasn't about -- I realized that Albert believed
12 what he said was the truth and he wasn't going to
13 change his mind and I had no intention of trying
14 to get him to change his testimony. However, the
15 information that emerged during my interviews with
16 Dennis and Albert made it clear to me that some
17 frightening things happened to Albert at the hands
18 of police. Dennis described to me how, when the
19 questioning was concluded, that his brother was
20 manifesting signs of mental illness and that, at
21 his urging, Albert committed him, had himself
22 committed to a mental hospital and, in my opinion,
23 Albert's mental condition had a bearing on his
24 creditability when he testified in trial, so
25 that's the reason we went back to see Albert, to



1 go back and get him to attest to what happened to
2 him at the hands of Saskatoon police and the
3 effect that the grilling that he described, the
4 ongoing grilling, elongated ordeal that he
5 described had on his mental health.

6 Q And would the, that type of information then be
7 used to discredit the evidence that he gave at
8 trial then, is that the plan?

9 A The purpose of getting the statement was to cast
10 doubt on the credibility of Albert Cadrain's
11 testimony.

12 Q Okay. If you can just call up 000836, I just want
13 to -- this is a memorandum to file from Eugene
14 Williams. Now, did you ever meet Eugene Williams?
15 He was the lawyer with Federal Justice who was
16 interviewing some of the same witnesses you were.

17 A No, I didn't.

18 Q You were aware of who he was, is that fair, or
19 that somebody from the government was looking into
20 matters; is that --

21 A You know, I was never really very clear on the
22 overlapping layers of government involvement in
23 this case during the same period of time that I
24 was investigating the conviction.

25 Q And so on May 26th, 1990 when you met with Dennis



1 and Albert and took Dennis' statement, June 24th,
2 1990 you met with Albert and took his statement --

3 A Yes.

4 Q -- were you aware that on June 15th, 1990, I guess
5 nine days before you took Albert's statement, that
6 Mr. Williams met with Albert and Dennis Cadrain
7 and interviewed them?

8 A I can't say now that I was aware of it then.

9 Q Okay. You have no recollection of that?

10 A No, no.

11 Q When you met with Albert, did you go through
12 Dennis, was Dennis part of the June 24th, 1990
13 interview with Albert?

14 A The statement?

15 Q Yes.

16 A Yes, Dennis was a party to that.

17 Q Okay. So he was there when you got the statement;
18 is that right?

19 A Yes. The statement was taken with his blessings,
20 possibly even his encouragement.

21 Q And again, is it possible that Dennis having been
22 interviewed by the justice lawyer nine days
23 earlier, that that might have been something he
24 would have told you about?

25 A It's certainly possible that he told me about



1 that.

2 **Q** I think you said at that time, or you described in
3 an earlier interview that you felt that Dennis was
4 an advocate now for David Milgaard's innocence or
5 his case; is that right?

6 **A** Yes.

7 **Q** So I just want to go to the next page, this is
8 not -- this is just a memorandum detailing Mr.
9 Williams' recollection of what was said to him as
10 opposed to a statement from Mr. Cadrain, okay,
11 this is his document, and he says:

12 "I also questioned Mr. Cadrain --"
13 The previous part -- actually, I should go back
14 to the previous page.

15 "Mr. Cadrain responded emphatically and
16 affirmatively when I asked him whether
17 he told the truth when he was a witness
18 at the trial."

19 And again, would that be something consistent
20 with what he had told you, that what he said at
21 trial he felt was truth?

22 **A** Yes, absolutely.

23 **Q** And then on the next page Mr. Williams says he
24 questioned Mr. Cadrain concerning information that
25 he had undergone psychiatric treatment, which he



1 had acknowledged, and that he checked himself in
2 after he was persuaded to do so by his brother.

3 "He stated that the repeated questioning
4 by the police, and their apparent
5 disbelief of his initial statement,
6 coupled with suggestions that he may be
7 involved in the murder were very
8 distressing. He described himself at
9 that time as a spiritual individual."

10 And again, would that be -- what Mr. Williams
11 writes, is that consistent with what Albert had
12 told you in the May 26th, 1990 interview?

13 A You know, I don't recall that Albert ever told me
14 that he was made to feel that he was a suspect in
15 this, in these murders. But as far as the
16 negative experience and the pressure that was on
17 him, the disbelief of police in his, in his story,
18 yes, that's consistent with what he told me.

19 Q And then, just at the next paragraph:

20 "In response to my inquiries to
21 determine whether Mr. Henderson, the
22 investigator working on behalf of Mr.
23 Milgaard, had questioned him, Albert
24 Cadrain advised that Mr. Henderson had
25 spoken to both Dennis Cadrain and



1 himself during a dinner or luncheon
2 meeting. Albert Cadrain stated that Mr.
3 Henderson did not appear to be very
4 interested in what Albert had to say
5 after Albert maintained the accuracy of
6 his trial testimony. Thereafter, Mr.
7 Henderson spoke primarily to Dennis and
8 Albert did not follow their
9 conversation."

10 Would you take issue with what Mr. Williams says
11 Albert Cadrain told him about your initial
12 meeting, the May 26th meeting?

13 A Would I take issue with that?

14 Q Yes?

15 A In terms of my disinterest in Albert after --

16 Q Yeah?

17 A Well, I don't, I don't concur in it exactly. What
18 might be better, or more accurate, is to say that
19 after talking with Albert I realized that he
20 wasn't going to -- that he was locked into his
21 testimony, he believed that he'd told the truth,
22 and he wasn't going to budge from that position.
23 And, no, I -- but I was still interested in what
24 happened to Albert, what he went through, as a
25 possible explanation for -- excuse me, not as a



1 possible explanation for anything, but because it
2 might have, it might have explained why he
3 testified as he did. And his mental condition at
4 the time of his testimony, I thought, was relevant
5 to the credibility of his testimony.

6 Q And then, if we can go to the next page, he talks
7 about an interview with Dennis and says -- reports
8 that Dennis tells him that:

9 "Noting that Albert tended to exaggerate
10 and was prone to believing his
11 exaggerations, Dennis alluded to
12 Albert's former and current drug use,
13 and the emotional instability that
14 occurred after the trial. He attributed
15 this instability to the stresses created
16 by repeated police questioning and
17 Albert's near brush with death. Albert
18 was dangled head first from an upper
19 floor window of a Regina building after
20 his sojourn to Calgary and Edmonton with
21 David Milgaard."

22 And, again, would that be consistent with what
23 Dennis Cadrain had told you in the May 26th, 1990
24 meeting?

25 A I don't remember this story about being dangled



1 from an upper-floor window, I don't remember that
2 at all.

3 Q Okay. What about the Dennis saying that he
4 attributed Albert's emotional stability that
5 occurred after the trial to the stresses created
6 by repeated police questioning?

7 A Yes, absolutely.

8 Q And if we can then go to 000229, please. And is
9 this in your handwriting, sir?

10 A Yes, it is.

11 Q And so this would be the statement that you took
12 from Albert Cadrain?

13 A That's correct.

14 Q Can you tell us just generally what, I mean where
15 this was, who was there, how long you spent with
16 Mr. Cadrain, Albert Cadrain?

17 A I'm not sure whether this was at Albert's
18 brother's house, or whether it was at a
19 restaurant, it would have been one of the two
20 locations.

21 Q And would there have been a pre-statement
22 interview where you would have talked to Albert?

23 A Yes, I had been talking to Albert first on my
24 initial trip to meet with Albert and his brother,
25 and there would have been -- I would have spent



1 some time with him before I decided -- sat down to
2 commit this to writing.

3 Q And then when you took this statement, I think you
4 told us earlier that you usually have a plan as to
5 what, what you are going to put in the statement
6 and the objective; is that right?

7 A Yeah, right.

8 Q And can you tell us, for this statement, what
9 would -- what was the plan or what was the
10 objective as to what you wanted to get in this
11 statement?

12 A I wanted Albert to attest to what happened to him
13 when he went, after he went to the Saskatoon
14 Police Department and volunteered information to
15 them about seeing blood on David Milgaard's
16 clothing, what happened to him during the
17 questioning of him by police, what happened to him
18 after police were finished questioning with him,
19 and what happened -- I also wanted him to take me
20 up right to the point where he appeared as a
21 witness for the Crown in the Milgaard trial.

22 Q Okay. And to cover what, again would there be a
23 focus, then, on his treatment by the police?

24 A Yes.

25 Q And --



1 A And the effect of that on him.

2 Q And as well about his, I think you had mentioned
3 earlier his emotional state or his mental
4 stability, for lack of a better word, at the time
5 he gave information?

6 A Yes, but I don't think, I mean I don't think I
7 expected Albert to admit that his mental problems
8 affected the credibility of his testimony.

9 Q Is that what you believed, though, at the time;
10 that it had?

11 A I'm not a psychiatrist, I couldn't, I couldn't
12 pass judgement on that at the time with any -- I
13 -- but his brother Dennis certainly felt that
14 Albert was not a credible witness.

15 Q Yeah. I think, and we've seen it in later
16 materials and newspaper reports, the position
17 taken that at the time Albert Cadrain gave
18 information to the police and testified at trial,
19 that he was mentally unstable and therefore
20 unreliable, and therefore his evidence wasn't of
21 any value. That was the position put forward
22 later. Is that something that you had in your
23 mind when you talked to him, that that might be an
24 argument that might come out of what Albert had to
25 say about his --



1 A Yeah, I was -- you know, I documented his
2 recollections of what happened to him, his
3 insights, his feelings about the effect of this,
4 that this had on him, and of course, you know, I
5 wasn't about to, --

6 Q Okay.

7 A -- you know, express my own opinion that he wasn't
8 a credible witness, but the idea was to let others
9 make a judgement on that question.

10 Q Okay. So again, we'll go through parts of the
11 statement, and tell us how would this -- would you
12 have -- I think you said earlier you didn't think
13 Albert could read, or couldn't read very well; how
14 did you get Albert to -- I mean did you use
15 Albert's words, your words, a combination, can you
16 shed some light on that?

17 A It, this statement, would have been taken the same
18 way the others were. Every sentence that went
19 into this statement was a product of the both of
20 us. In other words, umm, I asked Albert, umm,
21 "does this sound right to you, is this accurate",
22 when he agreed, it went into the statement. It
23 was a lengthy process, just like the other
24 statements, one step at a time, one sentence at a
25 time, one paragraph at a time.



1 Q And would there be some words in the statement
2 that would have come from you then, by -- as
3 you've described before, you might say something
4 back to Albert, "is this what you are trying to
5 say", and use words that might be different than
6 what he had said to you?

7 A Yes. I think it was -- in -- it was particularly
8 necessary in Albert's case for me to supplement
9 his vocabulary.

10 Q Okay. And that's because his was limited?

11 A Yes.

12 Q If we can then go, here Albert says:

13 "... I called Saskatoon Police."

14 So I take it, at this time, you would have been
15 aware, based on what Albert told you, that he
16 actually called the Saskatoon Police?

17 A Yes, I was -- I knew that.

18 Q And then he talks about that when he first went in
19 the first day he says:

20 "I recall that I was questioned that
21 first day for 10 to 12 hours. I felt
22 that they were accusing me of the
23 murder. When they finally brought me
24 home late that night I was mentally
25 drained and shaking."



1 So I take it that Mr. Cadrain had told you that
2 he felt they were accusing him of the murder
3 in -- at least on day one of his questioning?

4 A That's correct.

5 Q And he says:

6 "As I can best recall, I was picked up
7 by police and questioned 15 to 20 times.
8 I remember two detectives in particular,
9 Karst and Short, working me over. They
10 worked like a tag team; one would be the
11 bad guy and the other would act like he
12 was my friend. The bad guy would scream
13 at me then the other would offer me
14 coffee and cigarettes. Then they would
15 switch roles."

16 And, again, is that something that would have
17 come from Albert?

18 A Certainly.

19 Q Would you have, in your pre-statement interview
20 with Albert Cadrain, talked about what Ron Wilson
21 had said; would you have discussed Ron Wilson's
22 statement?

23 A Most likely.

24 Q And would you have said to Albert, "here is what
25 Ron Wilson told me and here is what he has said



1 happened to him"?

2 A I may well have done that, yes.

3 Q And what would be the reason for doing that?

4 A I'm -- I'm having a hard time coming up with an
5 answer to that question.

6 Q Would it --

7 A It would to -- it would -- the purpose probably
8 would have, most likely would have been to let
9 Albert know that, if these things had happened to
10 him, that he wasn't the only person who was
11 treated this way. I can say this, that the
12 purpose was not to unduly influence his testimony.

13 Q Okay. And I think we saw earlier, in one of the
14 transcripts, a reference where I think you had
15 said, or someone had said, that the Ron Wilson
16 statement either had been or would be sent to
17 Dennis so that he could read it to Albert; do you
18 remember --

19 A That's true, correct.

20 Q Yeah. And so then the statement says:

21 "They asked me the same questions
22 repeatedly, time after time after time,
23 until I was exhausted and couldn't take
24 it anymore. This went on for months,
25 continuing through the preliminary



1 hearing. They put me through hell and
2 mental torture."

3 Can you tell us whose words those would have
4 been; do you remember how that came about?

5 A Those words came directly from Albert Cadrain,
6 "hell and mental torture".

7 Q Okay. And then he says:

8 "It finally reached the point where I
9 couldn't stand the constant pressure,
10 threats and bullying anymore."

11 And, again, would that language of the "constant
12 pressure, threats and bullying anymore", were
13 those Albert's words, or where they may have come
14 from?

15 A I can't say for sure that -- "constant threats"
16 sounds like something that I would have suggested
17 to him, asked him if that's, if that was an
18 accurate description; "bullying", I don't know,
19 but --

20 Q Did you ask Albert, in this interview, what it was
21 that they were torturing him and pressuring him
22 and bullying him about? In light of what his
23 first statement was, which was incriminating
24 against Mr. Milgaard, what was it that they were
25 bullying him and pressuring him and torturing him



1 to change or to do?

2 A Umm, you know, I, when I look back on it I think
3 that that's something certainly I should have
4 explored with him, that is "what was the purpose
5 of all this, Albert", but I don't know that I did,
6 I don't recall that I got into that with him.
7 Umm, I'm not too sure that -- getting straight
8 answers from Albert was a real challenge and so I
9 can't shed any more light on that.

10 Q And then he says:

11 "As a result of the abusive treatment, I
12 developed serious stomach ulcers and was
13 actually spitting up blood for a long
14 period of time. I also became very
15 paranoid. At one point I had told the
16 detectives about David Milgaard bragging
17 about being in the Mafia. After they
18 finally finished with all of the
19 questioning and interrogation; police
20 advised me that I was the star witness
21 and said I'd better find someplace to
22 hide because they didn't want the Mafia
23 to kill me."

24 And, again, would this information then; would
25 that have been Albert's words?



1 A That, Albert came up with that, yes.

2 Q Did you get the sense that Albert was paranoid
3 when you were talking to him?

4 A He didn't seem paranoid around me, he seemed, he
5 seemed very distraught.

6 Q Okay. I see it's --

7 A Very perturbed, very agitated at times.

8 Q I see it's 10:30, I think it's probably as good a
9 spot as any to break, Mr. Commissioner.

10 COMMISSIONER MacCALLUM: Okay.

11 *(Adjourned at 10:30 a.m.)*

12 *(Reconvened at 10:49 a.m.)*

13 BY MR. HODSON:

14 Q Okay. If we can go back to 000229. Just back
15 before the break -- if we can go to the next
16 page -- we talked, I asked you the question about
17 in light of the fact that it appears that Mr.
18 Cadrain went into the police with information
19 saying "I saw blood, David was in a hurry, I think
20 my friend was involved in the murder", was it your
21 sense that what he was telling you was that the
22 police were trying to discredit the incriminating
23 evidence against David Milgaard in their mental --
24 or "hell and mental torture", "constant pressure",
25 etcetera?



1 A I wasn't really able to figure out what he was
2 trying to tell me, except that what he went
3 through was very unpleasant and had a profound
4 effect on him.

5 Q I think you told us, with Mr. Wilson, your sense
6 was that what -- what the police did to him, you
7 felt, was pressure him to change his evidence to
8 be incriminating against Mr. Milgaard; is that
9 correct?

10 A Yes, clearly.

11 Q And --

12 A Clearly.

13 Q And Mr. Wilson started out being exculpatory and
14 non-incriminating and ended up being
15 incriminating, and I think you have said your view
16 was that the police caused him to change his
17 evidence through pressure, influence, to be
18 incriminating?

19 A Yes. I felt, clearly, that Mr. Wilson was coerced
20 by the police.

21 Q We then take Albert Cadrain, whose initial
22 statement to the police, which I think the
23 evidence is that he went in voluntarily to the
24 Saskatoon Police and volunteered the incriminating
25 evidence, so he started at that point and I think



1 ended up at that point; what, what was your
2 understanding of what the pressure, coercion, what
3 were they trying to coerce him to say or do other
4 than what he had said when he first went in?

5 A I was never quite clear on what the purpose of
6 this extended questioning was, the intensive
7 questioning as he described it to me, I wasn't
8 sure what that was all about. It certainly didn't
9 make any sense to me that it would take days and
10 days and days of 10 to 12-hour questioning to make
11 a decision on whether Albert was telling the truth
12 about seeing blood on Milgaard's clothing, so
13 obviously there must have been some other agenda.

14 Q Did you have any doubts about Albert Cadrain's
15 story or statement that he had been questioned,
16 you know, 15 to 20 times, 12 hours a day, based on
17 what you knew at the time?

18 A I was not in a position to judge whether this was
19 a true account of what actually happened to him,
20 but this was what Albert told me, and it was also
21 what his brother told me.

22 Q Okay. If we can go to the next page. I think he
23 then talked to you about being committed to the
24 psychiatric ward, drugs and shock treatments, umm,
25 and then if we can just scroll down a bit he says:



1 "Before I walked into that police
2 station I was a happy normal kid. But
3 everything changed after that. My life
4 has been ruined because of all of this
5 shit. From the evidence it now appears
6 that David Milgaard is innocent."

7 And do you recall how that came about and how
8 that statement came about?

9 A No, I -- I don't. I should note, though, or point
10 out here that while Albert Cadrain had second
11 thoughts about David Milgaard's guilt, and
12 expressed them to me, I don't -- specifically
13 recalling him telling me that it now appeared that
14 David Milgaard was innocent, it would not appear
15 in my statement that I took from Albert Cadrain if
16 he hadn't said that to me. Nonetheless, Albert
17 never wavered from his insistence that his
18 testimony was truthful. He truly believed, he
19 told me that he didn't make up this, this sighting
20 of blood on David Milgaard's clothing, he actually
21 saw what he thought was blood.

22 Q And then he says:

23 "To know that my testimony helped
24 convict him to spend all these years in
25 prison only adds to the stress and to



1 the burden I've been carrying through my
2 entire adult life."

3 And, again, is that something that would have
4 come from Albert?

5 A He would have expressed that feeling to me, yes.

6 Q And then, if we can scroll down a bit further, he
7 says:

8 "I feel that the Saskatoon Police did a
9 terrible thing to me 20 years ago. My
10 life has never been the same and it
11 never will be. Those detectives pushed
12 me over the edge and I cracked."

13 Umm, would that have been, where would those
14 words have come from?

15 A I seem to recall Albert using that precise word,
16 that he "cracked".

17 Q What -- again, and I touched on this a bit
18 earlier, but he says the:

19 "... detectives pushed me over the edge
20 and I cracked."

21 What was it that came out of -- his cracking, by
22 way of his evidence, what was your understanding
23 of what; was he saying "lookit, I finally had
24 enough and then I said or" --

25 A "Cracked".



1 Q -- "cracked"?

2 A Well we know one thing that came out of it was a
3 commitment to a mental institution.

4 Q Okay.

5 A Albert told me, he was reluctant to get into
6 detail on that, but I remember in my report he
7 finally said to me, he identified the hospital, he
8 said "such and such hospital, fifth floor, nut
9 ward".

10 Q Okay. Did you, so this is the end of the
11 statement, did you believe what Albert told you
12 and put in this statement?

13 A I don't think it was -- I didn't consider it my,
14 my job to -- it wasn't important what I believed.
15 This is what he told me and that's went into the
16 statement.

17 Q But did you believe it?

18 A Well his brother had told me that he was prone to
19 exaggeration, so I certainly had to consider that
20 some of this was an exaggeration.

21 Q You told --

22 COMMISSIONER MacCALLUM: I'm sorry,
23 "exaggeration" did you say?

24 A I said that his brother had told me that Albert
25 was prone to exaggeration and prone to hysterics,



1 so I had to consider the possibility that some of
2 this, some of the things that he'd told me,
3 exaggerated the truth.

4 BY MR. HODSON:

5 Q And I think you've told us yesterday that after
6 your first meeting with Albert, we went through
7 some of the memos and reports where you said that
8 Albert was nuts and suffered from mental stability
9 and was not credible and not believable, that --
10 and in particular about his, his continued
11 assertion that he saw blood and the other
12 incriminating things; do you remember you
13 expressing those -- remember us going through that
14 yesterday where you expressed those sentiments?

15 A Yes, I did. In my reports?

16 Q Yeah.

17 A In my report, yes, I said that Albert struck me as
18 -- I thought that Albert's credibility was
19 questionable then and before.

20 Q Did you have any concerns about putting this
21 information in a statement in light of your
22 concerns about his credibility?

23 A No, I didn't, because that's what he told me.

24 Q Okay. Now what about, I think in the last memo he
25 told you as well about the bloody clothes and



1 David Milgaard running them out to the garbage,
2 and as well about the snapped-off aerial and some
3 other things which I think you said you didn't
4 believe?

5 A No, because this business about David running out
6 the back door and throwing the bloody clothing in
7 the back of a garbage truck was inconsistent with
8 his other account of David changing clothes.

9 Q Was there a reason that you would not have put
10 that information in this statement?

11 A I'm not even sure that Albert repeated this to me.
12 I don't remember him telling me this. I could be
13 wrong but --

14 Q I think, when we went through on the May 26th,
15 1990 meeting and your memorandum after, you
16 recounted there was a couple of incidents; one,
17 when Albert told you about the bloody clothes in
18 the garbage can, and as well talking about the
19 snapping off of an aerial of a car --

20 A Uh-huh.

21 Q -- when they were leaving town and the roadblocks,
22 and you said you didn't believe that, and I'm just
23 wondering why. Was there a reason you would not
24 have put that in the statement that you
25 subsequently took from Albert Cadrain?



1 A Well it was -- if he had told me that, which he
2 may have mentioned it, that was certainly
3 inculpatory information from him. But I didn't
4 believe it, and it was contradicted by prior
5 statements that he'd made, so it was something
6 that I chose to omit from the statement, assuming
7 that he told me about it, and I can't explain
8 exactly why it didn't go in there. Albert told me
9 a lot of things and, you know, --

10 Q Uh-huh?

11 A -- I could have written a book on what he said.

12 Q And I guess that's what I am trying to get at.
13 What did you decide to put in the statement?

14 A What went in the statement primarily was his
15 account of what happened to him when he became --
16 when he volunteered information to the police,
17 what happened to him from that point. And the
18 idea, the purpose of having him describe the,
19 quote, "hell and torture" that he went through was
20 to -- well, to -- I'm not sure what the purpose of
21 it was exactly, but it was to give him a chance to
22 explain, to lay out information that might
23 explain, that might lead to conclusions that his
24 testimony at the trial was not credible.

25 Q And, again, would that have been your impression



1 then, after having taken this statement, that
2 having Albert describe going through mental hell
3 and torture and being bullied and abusive
4 treatment, that his evidence at trial would be
5 discredited? If what Albert said in this
6 statement that you took was true was it your sense
7 that his evidence at the original trial would have
8 to be discredited?

9 A Umm, yes, and -- but keep in mind that, if you
10 please, that his own brother told me that his
11 testimony should be discredited, should not be
12 believed.

13 Q If we can, if we can go to 049398, I just want to
14 go through. There were -- are a couple of
15 subsequent interviews, and in 1993 when the RCMP
16 investigated a number of matters they questioned
17 Dennis Cadrain and Albert Cadrain about the
18 statement that Albert gave to you on June 24th,
19 1990. And I've shown these to you prior, Mr.
20 Henderson, --

21 A Yes.

22 Q -- prior to your giving evidence, and so you have
23 had an opportunity to review what the authorities
24 questioned both Dennis and Albert about, I guess,
25 three years after.



1 A Right.

2 Q I just want to go through that. And this is just
3 an excerpt and Dennis Cadrain, this is how he
4 talks about I think it is not only his meetings
5 with you, but Albert's. He says:

6 "I will say that with this guy, he, he
7 put down things sometimes that, you
8 know, he writes it in such a way that I
9 had to tell him so many times that, you
10 know, I didn't say this and that, and
11 sometimes you just get tired of it and
12 you know, he doesn't put down, he sort
13 of tries to put words in your mouth,
14 that guy eh. But, I'll read it anyway."

15 And then:

16 "You just read it first of all and then
17 we'll go through the statement."

18 And then Dennis says:

19 "Basically, that's basically what ...
20 that's what I told him, you couldn't
21 argue much there with what I said."

22 And so this is the statement that Dennis gave
23 you, so he made this comment, read his statement,
24 and verified it, I think, saying "yeah, you can't
25 argue with what's there". And then:



1 "How many times did you ask him to, you
2 mentioned before that he would write
3 things and they wouldn't be in your
4 words, how many times did you request
5 him to."

6 Dennis says:

7 "I can't really say. I really had to do
8 it quite often when he was doing it with
9 Albert. He was trying to really
10 manipulate Albert, you know."

11 Question:

12 "In which way"

13 Dennis:

14 "Well, he'd use words that Albert didn't
15 understand and then Albert would just
16 say, yeah, or whatever and agreed to it,
17 and then I'd say, well it's not, you
18 know, I really noticed it with Albert
19 more than myself. I can't really recall
20 how many times, but he's pretty ...
21 he's almost like Albert. He's almost
22 like Albert like in he wants a good
23 story, you know".

24 And I'd like your comment or reaction to what Mr.
25 Cadrain told the RCMP about his observations of



1 your interviewing technique and your
2 statement-taking with respect to both Dennis and
3 Albert?

4 A Well, if you could scroll back up just a little
5 bit?

6 Q Sure.

7 A I'm reading, now, what Dennis Cadrain told
8 Mr. D-Y-C-K, Dyck, Dike, or whatever his name was.

9 Q Yes, yeah. And that's, I'm sorry, that's an RCMP
10 officer that was doing the interviewing.

11 A Right. And Dennis Cadrain says to this Mountie,
12 he says:

13 "Basically, that's basically what ...
14 that's what I told him, you couldn't
15 argue much there with what I said."

16 Umm, my personal feeling is this character, the
17 RCMP officer, had an agenda. I think he was bent
18 on getting these witnesses to impeach the
19 statements that they had given to me, and I think
20 he had an agenda, and that Dennis Cadrain and
21 Albert Cadrain gave him the answers that he was
22 looking for.

23 Q Okay. I will go to Albert, 040846. And this is,
24 just for the record, the -- and I don't know who
25 -- there is a lengthy transcript of the RCMP



1 interview of Albert Cadrain, which we've listened
2 to in this hearing, and this document, I think it
3 was prepared by the RCMP where they took out
4 excerpts from the transcript just on this
5 exchange, so that's what I am reading from. And
6 I'll just go through, and this is Albert Cadrain
7 in 19 -- June of 1993, and he says:

8 "Well, he's trying to buy me out with a
9 meal. He's buying me a mean he. And,
10 you know, trying to make a big name for
11 himself ..."

12 "... If anybody was trying to change my
13 story it was Henderson, not the cops.
14 It was Henderson."

15 A Yeah.

16 Q "And why do you say that, tell me about
17 the interview."

18 "Well he was so pushy and well you don't
19 remember and this and that. Trying to
20 get me to change, so I changed the blood
21 thing just to get Milgaard out but ..."

22 And then question:

23 "...is it correct to say that Mr.

24 Henderson wanted to change your story?"

25 Albert Cadrain:



1 "Ya I'd say if anyone tried to get me to
2 change my story it was Henderson for his
3 own little book and for his own little
4 shit so I says ah you can write your
5 bullshit book because I ain't gonna give
6 you nothing for nothing..."

7
8 And:

9 "...I gave him what he wanted to hear
10 just to get him off my ass, for one
11 thing. And so he could write a bullshit
12 book and I could have a laugh at him.
13 That's the truth."

14 "Did Mr. Henderson indicate to you that
15 he was writing a book?"

16 The answer:

17 "Yup."

18 Question:

19 "...that you felt that he was trying to
20 get you to change your story. What
21 specifically occurred that gave you that
22 impression?"

23 Albert:

24 "Oh it's so long ago and this and that
25 eh, he says that like that. And then



1 Dennis would come in and saying well
2 gees you can you remember that exactly,
3 you gotta know for sure. And I says,
4 well gees I don't know. And they kept
5 on going on at me like this all the
6 time. Finally to get them off my
7 back... just sign here..okay...good
8 leave me alone."

9 And then before -- actually, let me just pause
10 there. First of all, was there any discussion
11 about a book, you writing a book with Albert?

12 A Of course not. We let other people write the
13 books about our cases. I've never written a book
14 on this case, never even thought about it.

15 Q And would that have been something you would have
16 raised with Albert in any of your discussions,
17 about a book?

18 A Absolutely not, no.

19 Q And then what about his, do you have any comment
20 on what he would have told Officer Templeton in
21 addition to what you already said when you talked
22 about Dennis' interview?

23 A Can you rephrase?

24 Q Sure. I'm sorry, do you have any comment on what
25 Albert Cadrain says here to the RCMP in 1993 about



1 his interview with you?

2 A I think Albert was manipulated by these police,
3 Templeton and Dyck, and I think that Albert was
4 telling them what they wanted to hear. This guy
5 is, you know, notorious for flip-flopping back and
6 forth and, you know, I saw this for the first time
7 when I arrived here last week and it was somewhat
8 surprising to me because, you know, I took this
9 statement from Albert with the encouragement, or
10 with at least the blessings of his brother and
11 everything that went into that statement was
12 monitored by Dennis, and when I left with that
13 statement I had no concerns whatsoever that I had
14 taken it accurately and that if there was any
15 exaggeration in that statement, the person
16 responsible for that was Albert Cadrain, not
17 myself.

18 Q And just one final document, 326707, and this is
19 an interview, I think this is a follow-up
20 interview with -- this is again between Templeton
21 and Albert Cadrain. Actually, sorry, if we can go
22 to -- I think this is the first page. If we can
23 go to 326718 and just call out the top part, Mr.
24 Templeton says:

25 "Okay, you indicated that there was some



1 conversation between yourself and Mr.
2 Henderson prior to you signing that
3 statement."

4 Albert:

5 "Yeah."

6 "And you also indicated that your, that
7 your brother Dennis was with you and Mr.
8 Henderson during that interview. Is
9 that right?"

10 Answer:

11 "Yes."

12 "And your brother Dennis was also
13 present when you signed that statement.
14 Is that right?"

15 And Albert says:

16 "He was my coaxer. He was my manager.
17 He coaxed me. Come on, he done his
18 time, let him go."

19 Templeton:

20 "Okay, would you have signed that
21 statement if your brother Dennis had not
22 been present?"

23 Albert:

24 "No. I was taking Dennis' advice. My
25 whole life. I don't any more though,



1 finally learned."

2 And again, does that, do you have any comment or
3 response to what Albert Cadrain stated there to
4 the RCMP?

5 A Well, as I said earlier, Albert Cadrain -- excuse
6 me, Dennis Cadrain believed that his brother had
7 been manipulated by the police, he believed that
8 his brother had suffered at the hands of the
9 police as a result of the way he was treated, that
10 mental problems affected the credibility of his
11 testimony in trial and he thought that it was
12 appropriate to get this on record.

13 Q Okay. Just go back to Albert's statement then.
14 Once you were done with the statement, what was
15 your, what did you do with it and what was the
16 plan for the use of that statement?

17 A It was like the other statements, it was turned
18 over to Centurion Ministries in Princeton, New
19 Jersey and the defence.

20 Q And what was your understanding of what use was
21 going to be made of this statement from Albert
22 Cadrain?

23 A It was going to be added to the other statements
24 and be used on behalf of David Milgaard in a
25 petition for post-conviction relief.



1 Q And did you have any discussion with Albert
2 Cadrain or Dennis Cadrain about the media
3 contacting either of them or them contacting the
4 media or anything of that nature?

5 A I don't think I did. You know, that would have --
6 if that had come up, that would have been a bad
7 idea because of the nature of Albert. I certainly
8 would not have recommended that.

9 Q And why not?

10 A Well, because Albert was -- he wasn't all there.

11 Q Okay. So what would your concerns be if Albert,
12 if reports about Albert were in the media, or
13 Albert was --

14 A If the media went and talked to Albert, I mean, he
15 was unpredictable, eh, you know. You know, I
16 didn't -- nobody asked me my opinion whether we
17 should have the media talk with Albert and try and
18 get him to comment on what happened to him, but --
19 and to my knowledge, I don't know anything about
20 any media contact with him. You know, if somebody
21 had asked me my opinion, I would have said, you
22 know, you have no idea, you have no guarantees of
23 what he's going to say because he's unpredictable.

24 Q And would you have concerns about the credibility
25 of what he might say?



1 A I suppose I would, yes.

2 Q If we could go to 039118, please, and this is an
3 article, June 26th, 1990 by Dan Lett, and so this
4 would be two days after the statement. Would you
5 have seen this article before?

6 A I may have seen it at some point. I don't recall
7 though.

8 Q And the headline is "Milgaard witness says
9 detectives 'tortured' him," and I think just the
10 article quotes from the statement that you took
11 from him. I'm just trying to find the reference
12 to -- well, it says:

13 "The star witness from David Milgaard's
14 trial said he was psychologically
15 tortured by Saskatoon police officers
16 until he suffered a mental breakdown and
17 was committed to a hospital psychiatric
18 ward."

19 And then it goes on to talk about the statement
20 given to a private investigator. Would you have,
21 based on what Albert Cadrain told you and put in
22 the statement, would you agree that he had said
23 detectives tortured him as this headline states?

24 A That's a pretty heavy word. He said to me I went
25 through hell and torture, I believe that was



1 the --

2 Q The statement says mental hell and torture.

3 A Mental hell and torture. If this implies that he
4 was strung up by his thumbs, I certainly would not
5 be in accord with it.

6 Q Did you get your sense from talking to Albert
7 Cadrain that he was telling you that detectives
8 tortured him?

9 A Tortured him?

10 Q Just what the headline states, yes.

11 A You know, I think that's very strong, that's way
12 too strong a way to put it, because the
13 implications are that he was subjected to physical
14 torture. I didn't get that impression at all.

15 Q Now, again we'll hear from Mr. Lett later. Are
16 you aware as to whether Dan Lett, would you have
17 been involved in arranging to have Albert Cadrain
18 talk to Dan Lett at all or do you know if that
19 happened?

20 A I don't recall that I was a party to this
21 interview. I don't know that -- I'm not sure that
22 I was. I guess it's possible, but again, it's
23 not -- if I had discussed this with Dan Lett
24 before he went to see Albert, I would have
25 cautioned him that, you know, the guy was



1 unpredictable.

2 **Q** And here, and again, and I'm speculating a bit
3 from the article, it appears that it may be based
4 upon the statement that you took from him, and I
5 can't say that for certain --

6 **A** Yes.

7 **Q** -- and as I say, we'll hear evidence from Mr. Lett
8 on this point, it says:

9 "Cadrain detailed his experiences --"
10 If you can just scroll down --

11 "-- at the hands of Saskatoon police to
12 Paul Henderson, a private investigator
13 lent to the Milgaard case by Centurion
14 Ministries..."

15 And so again I don't -- and then here:

16 "Dennis Cadrain, Albert's younger
17 brother, said in an interview from his
18 British Columbia home that it was very
19 apparent to family members that the
20 police questioning resulted in profound
21 psychological scars.

22 "He has never hurt a person in
23 his life," Dennis Cadrain said. "But
24 he's been hurt by a lot of people."

25 Dennis Cadrain said that weeks



1 of intense questioning had left his
2 brother psychologically unbalanced to
3 the point where he was experiencing
4 various visions and delusions. Despite
5 this, police used his testimony at the
6 preliminary hearing and trial, he said."

7 And then it goes on to talk -- so it would appear
8 that Dennis may have talked to Dan Lett. Were
9 you aware of that?

10 A Yeah. That surprised me that he would have. I
11 have a question.

12 Q Yes.

13 A The date of this article in the Winnipeg paper was
14 what?

15 Q June 26th, 1990, which would be two days after the
16 statement.

17 A Okay. And when was the -- when was the interview
18 of Albert by Templeton and the other --

19 Q June of 1993.

20 A Hmm. Well, for the record, I would like to note
21 that Albert Cadrain essentially confirmed what he
22 told me was the truth in this interview with Dan
23 Lett.

24 Q Yeah. And again, I'm not -- I'm sorry, I can't
25 tell you from the documents as to whether or not



1 Dan Lett talked to Albert Cadrain, from the
2 article it looks like he talked to Dennis Cadrain,
3 and as I say, we'll hear from Dan Lett in this
4 Inquiry.

5 A Okay.

6 Q There's a reference here at the bottom, it says:

7 "In a statement given several weeks
8 earlier to Henderson, Cadrain said he
9 had a recurring vision of the Virgin
10 Mary appearing from the clouds and
11 stomping on a serpent that displayed
12 Milgaard's head."

13 And I don't think there was an earlier statement
14 from Albert Cadrain. Would this have possibly
15 been information that you verbally provided to
16 Dan Lett or came from your memorandum? Remember
17 we looked at the memorandum you prepared
18 outlining your meeting that talks about --

19 A Yeah, and that's referred to in the memorandum
20 isn't it?

21 Q Yes, I believe so.

22 A Uh-huh, uh-huh.

23 Q So there was no other statements, and in fairness,
24 it says in a statement given several weeks
25 earlier. That could have been a verbal statement?



1 There wasn't another written statement?

2 A Yes, and that information is attributed to Dennis
3 or to Albert?

4 Q Well, it says, "Cadrain said he had a recurring
5 vision of the virgin Mary," so I'm assuming that's
6 Albert in a statement to you.

7 A I don't remember. Offhand I would think that that
8 information came to me from Dennis, but I'm not
9 sure.

10 COMMISSIONER MacCALLUM: How did it get to
11 Lett is what I think the question was.

12 A How did it get to Lett?

13 COMMISSIONER MacCALLUM: Yeah.

14 A It would appear that I heard --

15 COMMISSIONER MacCALLUM: Because it doesn't
16 seem to have been in the statement that you took
17 from Albert.

18 A Yes. It would appear that I heard about it from
19 either Dennis or Albert and passed it on to Dan
20 Lett. I don't know, if it's not included in
21 either of the statements, I don't understand why,
22 because I think it probably reflects on Albert
23 Cadrain's mental health.

24 COMMISSIONER MacCALLUM: What page -- oh,
25 that's 118.



1 BY MR. HODSON:

2 Q Just give me a moment here and I might be able to
3 assist you on that point. Actually, if we want to
4 go back to 154605, this is your memo of the
5 interview, and if we can go to 607, please, you
6 say here that:

7 "... Dennis revealed --"

8 To you,

9 "-- that he became seriously concerned
10 about his brother's mental health when
11 Albert told him he'd seen a vision in
12 the clouds of the Virgin Mary stomping
13 on a serpent with the head of David
14 Milgaard."

15 So it looks like according to your memo, and I
16 quickly scanned your discussions with Albert and
17 that, this isn't -- what Albert told you was
18 about supernatural powers and yogi training and
19 auras, but I don't think in your memo that Albert
20 may have mentioned this to you.

21 A No.

22 Q So let's just go back to 039118. This statement
23 given earlier to Henderson, is it possible that
24 you would have given your May 28th, 1990
25 memorandum to Dan Lett, the one that talks about



1 what both Albert and Dennis told you?

2 A In a statement given several weeks earlier,
3 earlier to Henderson -- it's not clear whether it
4 was Dennis Cadrain or -- Cadrain said he, it has
5 to be referring to Albert. That doesn't make any
6 sense to me.

7 Q Okay, that's fine. There's no other statement
8 that we don't -- or is there another written
9 statement of Albert Cadrain that we don't know
10 about?

11 A No, absolutely not.

12 Q Now if we can go to 039102, and this is the same
13 date, this is in the *StarPhoenix*, June 26th, and
14 the headline is "Milgaard witness accused city
15 police of 'mental torture'," and again, based on
16 your statement that you obtained from Albert, and
17 I believe that's, the article is written on the
18 basis of the statement, would you agree with that,
19 is that what you believed Albert Cadrain was
20 telling you, that he accused the city police of
21 mental torture?

22 A You'll have to blow that up a little bit so I can
23 read it.

24 Q Sure. Maybe just go through --

25 A The headline.



1 Q And they quote:

2 "They put me through hell and mental
3 torture," Albert (Shorty) Cadrain says
4 in a written statement released Monday
5 by Joyce Milgaard, mother of David."

6 A Yes.

7 Q And again, as far as that headline, are you -- was
8 that your sense of what Albert had told you?

9 A Well, this clarifies the type of torture that he
10 was referring to, distinguishes it as mental
11 torture as opposed to physical torture, and that
12 was my understanding, that it was mental torture,
13 or that's what he perceived it to be.

14 Q If we can then go ahead to -- if we can call up
15 216860. I think just at this point, so at the end
16 of June, at least based upon the chronology, that
17 you would have been done, that was the extent of
18 your witness interviews, or do you remember
19 anything -- again back in 1991 you became involved
20 with the sexual assault victims, but after you got
21 the statement from Albert Cadrain on June 24th,
22 1990, there's some references to you speaking in
23 the media, which I'll go through with you, but do
24 you remember doing anything else, any other
25 witness interviews?



1 A Can you remind me when I made the trip to talk, to
2 Vancouver to talk with George Lapchuk?

3 Q I believe it was August the 8th, 1991.

4 A Okay.

5 Q Now, you may have phoned him in the summer of
6 1990, I don't have any records of that.

7 A Okay.

8 Q But the visit to him was August 8th, 1991.

9 A All right.

10 Q I'll go through that with you.

11 A Okay.

12 Q So again, would it be fair to say that based on
13 your memory and our documents, that if there's
14 nothing else in there that suggests witness
15 interviews for the rest of 1990, that you wouldn't
16 have done any?

17 A I don't recall any others that year. There were
18 several more --

19 Q -- in the fall, right.

20 A Uh-huh.

21 Q Here, this is a newspaper article, and I'm sorry,
22 I'm not sure, I think it's August 19th, 1990, so
23 this would be a couple of months, thereabouts,
24 after you had met with Albert, and just if we can
25 call out the bottom paragraph, and it says here:



1 "The biggest breaks in the case were
2 made by Paul Henderson, one of two
3 American investigators with Centurion
4 Ministries, a Princeton, N.J.
5 organization that seeks to free
6 wrongfully convicted prisoners.

7 "There's no question in my mind that an
8 innocent man was railroaded into prison
9 20 years ago," says Henderson, 51,
10 formerly a Pulitzer prize winning
11 criminal justice reporter based in
12 Seattle."

13 And again, do you recall making that statement or
14 is that something you would have said to the
15 media?

16 A I don't specifically recall making the statement,
17 but it's absolutely consistent with how I felt
18 about this case and what I would have said if
19 somebody had asked me my opinion.

20 Q And what would you have meant then by the word
21 railroaded?

22 A Railroaded? It's not my favourite word, but when
23 police put pressure on witnesses to tell them what
24 they want to hear and the statements of those
25 witnesses become the key testimony against a



1 Defendant in a criminal trial and someone like
2 myself comes along years later and concludes that
3 the statements of these key witnesses were coerced
4 by police, that's what I call railroading the
5 Defendant into prison.

6 Q And so that that would be based upon the police
7 conduct in dealing with the witnesses and having
8 the witnesses change their evidence?

9 A Yes. You know, I'm not sure that I was aware
10 initially, I mean, during the period of time that
11 I was working on this case, that none of the --
12 that these witnesses initially told police they
13 didn't know a damn thing about this murder. I
14 found that out now and of course that serves to --

15 COMMISSIONER MacCALLUM: Which witnesses do
16 you refer to?

17 A I'm referring specifically, Your Honour, to Nichol
18 John and to Ronald Miller -- I mean Ronald Wilson.
19 I understand now that they both told police when
20 they were initially questioned that they didn't
21 know anything about this case.

22 BY MR. HODSON:

23 Q If we could go to 000189, please, and this is a
24 document called "A Report Outlining the Wrongful
25 Conviction of David Milgaard," and I think the



1 information we have is that it was sent to all
2 Canadian members of parliament in December of 1990
3 and this is while the first application to the
4 minister was pending.

5 A Right.

6 Q Do you recall this report being prepared by
7 Centurion?

8 A Yes. I know that Jim McCloskey put together this
9 report based on our investigation.

10 Q And would you have played any role in the drafting
11 of this report then?

12 A You know, I don't think I was there when he put it
13 together. I mean, it's -- I live 23, 400, 500
14 miles away from Princeton, so I think he did that
15 on his own, but he may have consulted with me on
16 various points when he was drafting it.

17 Q And would this be -- maybe just go to the second
18 page just so we see what -- would this be the type
19 of report you talked about earlier this week? I
20 think you said when Centurion Ministries gets
21 involved they would do an investigation and the
22 end product would be a report once the
23 investigation was done that would then go in with
24 the petition. Is this report similar to what you
25 would have done if this had been a case that you



1 took on sort of in the ordinary course?

2 A Let me clarify that just a bit here. When we
3 prepare a report summarizing our investigation,
4 laying out the case that we've developed for the
5 innocence of one of our clients, that report is
6 not included with -- excuse me, let me back up.
7 The next step after that is to have the attorney
8 or attorneys who we've been working with on this
9 case take all of our information and write a
10 petition for post-conviction relief. The report
11 that we prepare at the conclusion of our
12 investigation is not part of the petition. The
13 purpose of the report generally in cases other
14 than the *Milgaard* would be to present to the
15 prosecutor, the district attorney's office,
16 sometimes for the purpose of seeing if they would
17 consider stipulating to a reversal of the
18 conviction or -- and other times just simply as a
19 courtesy.

20 Q Would you have been aware, back at this time,
21 that, and although the document is not called a
22 petition, but I guess the originating document,
23 the application to the federal minister went in in
24 December of 1988?

25 A I've learned -- I've heard that now. I don't know



1 if it's the first time, but I've been reminded of
2 it, yes, that there was an initial application two
3 years before we became involved.

4 Q I think it may have been 14 months.

5 A Okay.

6 Q Would you have been aware -- when you became
7 involved in March of 1990, June of 1990, were you
8 familiar with or aware of the procedure in
9 applying to the minister what had been filed, what
10 needed to be filed and the role of the federal
11 minister, things of that nature?

12 A I really don't think that I was very well versed
13 on the procedure that was underway when we got
14 involved. I may have heard about it, but my
15 memory is that I just came up here for the purpose
16 of trying to develop new information on this case
17 and that perhaps, hopefully, would amount to
18 enough to give authorities reason to, would lead
19 to an evidentiary -- in the States we shoot for an
20 evidentiary hearing based on new evidence and so I
21 think I was probably thinking more in terms of the
22 system in the United States than the way it works
23 up here.

24 Q Okay.

25 A Okay.



1 Q If we could go to 001529, please, and,
2 Mr. Henderson, this is the letter dated February
3 27th, 1991, it's from Kim Campbell who was the
4 Minister of Justice at that time, and she was
5 writing to Mr. Wolch, and this letter was the
6 formal response to the application that had been
7 filed in December of 1988 and supplemented with
8 information from a number of sources, including
9 your statement from Linda Fisher --

10 A Right.

11 Q -- Ron Wilson, the Cadrains, things of that
12 nature. And would you have been aware, generally
13 at least, of the fact that the minister, on the
14 first application, rejected or dismissed or did
15 not grant the application for relief?

16 A Yes, I became aware of that.

17 Q What was your reaction when you heard that?

18 A Disappointment. I shared Joyce's feelings and
19 David Asper's feelings that the new evidence that
20 we brought forth did not receive a fair hearing, a
21 fair consideration, and yeah, I was disappointed.

22 Q And when you say it didn't have a fair hearing, is
23 that -- was that based upon the result, in other
24 words, what they were coming back with, or was
25 there something else that you personally knew of



1 or looked into that would suggest that there was
2 something wrong with the manner in which the
3 minister dealt with the application?

4 A None of this surprised me.

5 Q Why not?

6 A Well, we've run into the same problems in the
7 United States. The only way to really get a fair
8 hearing is to have an impartial judge weigh the
9 evidence, new evidence, so this was something
10 that, this procedure is something I had never been
11 involved in before, and the Minister of Justice, I
12 didn't know anything about her. Actually, I
13 thought that maybe this woman might be fair
14 minded, but it turned out she wasn't.

15 Q And, again, my question is your views on that, are
16 they based upon the fact that the application
17 wasn't granted, in other words -- or was there
18 something else that you knew about or based
19 that -- your conclusion on?

20 A Well I have, one thing I remember is Joyce
21 Milgaard attempting to approach Kim Campbell, I
22 believe in a hotel lobby, and being snubbed by
23 her. The snub may have been appropriate, I don't
24 know, but -- and it may be that Joyce was too
25 pushy.



1 COMMISSIONER MacCALLUM: Can I just ask
2 you, sir, about your comment before, just before?

3 A Uh-huh.

4 COMMISSIONER MacCALLUM: "This woman", you
5 referred to that, and is that -- you said, does
6 that mean Kim Campbell?

7 A Yes sir.

8 COMMISSIONER MacCALLUM: Turned out that
9 she was not fair-minded; is that what you told
10 me?

11 A In my opinion, yes sir.

12 COMMISSIONER MacCALLUM: All right.

13 A I can expand on that if you wish.

14 BY MR. HODSON:

15 Q Yeah, I'm just -- the question I have relates to
16 I'm trying to understand, when you say you did not
17 think, I think your words were, that she was
18 fair-minded or that it was a fair result or
19 impartial or she was impartial, are you basing
20 that on the fact that based -- looking at her
21 decision and saying "okay, well because of that
22 decision I conclude that she must not be
23 fair-minded, she must not be impartial", or is
24 there something else that caused you to reach that
25 conclusion?



1 A Well let me, let me admit that I, that I was
2 biased. I believed that -- I firmly believed, in
3 view of what I had learned, that David Milgaard
4 was innocent, and I felt that the recantations
5 that we developed from the key witnesses
6 established a very strong probability of his
7 innocence, and that information pointed, clearly
8 pointed to Larry Fisher as a far more likely
9 person to have committed the Gail Miller murder
10 than Larry -- than David Milgaard.

11 Umm, I later of course became
12 aware of what I perceived as an agenda by the RCMP
13 officers who were going back and talking with the
14 witnesses who we obtained statements from. You
15 know, that doesn't, didn't surprise me, it doesn't
16 surprise me. That's a thing, same thing that we
17 encounter in the United States.

18 Q And what information did you have about that?

19 A I'm --

20 Q Where did you --

21 A I'm --

22 Q And the source of it?

23 A I'm not sure whether I -- at some point I learned
24 that the RCMP was -- that witnesses, according to
25 the RCMP, were backpedaling on their statements,



1 or at least that the Cadrain brothers were making
2 statements to the RCMP that were not consistent
3 with what they'd told me.

4 Q Okay. Now in fairness, Mr. Henderson, the -- the
5 RCMP interviews of Albert and Dennis Cadrain that
6 I read to you earlier this morning were in 1993,
7 they were two years after this letter, and they
8 were in connection with a completely different
9 investigation. That was in relation to an
10 investigation into wrongdoing that followed David
11 Milgaard's release from prison.

12 A Okay.

13 Q So I'm trying to go back. In 1990, up until 1991
14 or even in 1992, did you have any information -- I
15 think you said you learned that the RCMP were
16 going back and doing something wrong with the
17 witnesses that you had talked to, or words to that
18 effect?

19 A I can't say that that, that I was aware of that or
20 I, or I thought that was happening at that time.
21 I don't remember what I thought. But I -- you
22 know, I've seen, I've seen transcripts of RCMP
23 interviews for the first time on this trip --

24 Q Yes.

25 A -- so --



1 Q I, and I think what I provided you, Mr. Henderson,
2 was copies where witnesses that you had
3 interviewed had been later interviewed by
4 authorities?

5 A Yes.

6 Q And --

7 A And, at the time of Kim Campbell's rejection of
8 the petition, there was no record of the
9 questioning of the witnesses that we developed by
10 authorities; is that correct?

11 Q There was a record, yes. And, again, I -- what I
12 am trying to understand -- let me just maybe tell
13 you what evidence is before the Commission.

14 Certainly, at the time the
15 February 27th letter was written by the minister,
16 Eugene Williams and Rick Pearson from the RCMP had
17 interviewed a number of people including Albert
18 Cadrain, Dennis Cadrain, Linda Fisher, Ron Wilson,
19 and I think that would be all -- and Cliff
20 Pambrun.

21 A Well --

22 Q So all of the people you talked to were
23 interviewed later either by the RCMP officer or by
24 Mr. Williams.

25 A Okay. I have noticed that the tone of the



1 Pearson/Wilson (sic) interviews with my witnesses,
2 the witnesses that I --

3 Q Sorry, did you say Pearson/Williams or Wilson, you
4 said "Wilson"?

5 A I meant to say Williams/Pearson interviews with
6 the key witnesses, the tone of those interviews is
7 considerably different than the later interviews
8 by the RCMP I believe in 1993.

9 Q Okay. And in what, in what respect, what was your
10 -- is there something --

11 A My perception is, now, that Williams and Pearson
12 were considerably more impartial when they spoke
13 with Wilson and Cadrain and perhaps Nichol John,
14 I'm not sure of that. But on the other hand, with
15 the subsequent interviews by the RCMP in 1993 it's
16 apparent to me that they -- that there was an
17 agenda, and they were bent on getting these
18 witnesses from backing off on what they'd told me.

19 Q And I'm just -- again, I appreciate that you've
20 now had an opportunity to review some material
21 that you maybe didn't have back then, but let's
22 just go back and we'll finish up with this letter.

23 At the time you learned of the
24 decision of Minister Kim Campbell to reject the
25 application, at that time I'm trying to



1 understand, apart from the fact that you thought
2 her decision was wrong -- is that fair, you
3 thought her decision was wrong?

4 A Yes, I did.

5 Q Apart from that fact, was there anything else that
6 you knew at that time that caused you to think
7 that she was not impartial, or not fair-minded, or
8 there had been a problem with the process?

9 A The only thing in addition to -- well, first of
10 all, the most important factor was my strong
11 belief that Milgaard was innocent and Larry Fisher
12 was guilty. But, aside from that, the only other
13 factor was -- I believe this had happened before
14 the rejection -- was that Kim Campbell had --

15 Q Okay.

16 A -- had rebuffed Joyce Milgaard when Joyce tried to
17 approach her --

18 Q Okay.

19 A -- in a hotel lobby.

20 Q Okay.

21 COMMISSIONER MacCALLUM: Sorry, Mr. Hodson,
22 before we leave this.

23 Sir, a little earlier you said
24 that, with respect to Ms. Campbell's alleged lack
25 of fairness, you said that you admit that you



1 were biased and that "the recantations we
2 developed from the key witnesses were not
3 received by her favourably"; what key witnesses
4 are you talking about there, please?

5 A I'm talking about, Your Honour, I'm talking about
6 the statements that we obtained from Ron Wilson
7 and Dennis and Albert Cadrain.

8 COMMISSIONER MacCALLUM: Okay.

9 A On -- excuse me, Your Honour, I might add that the
10 Linda Fisher affidavit or the statement in which
11 she expressed her belief that her husband was
12 responsible for these murders was also a part of
13 the package that I was referring to.

14 COMMISSIONER MacCALLUM: Yeah.

15 BY MR. HODSON:

16 Q I just want to go through parts of this letter,
17 and in particular where the Federal Minister of
18 Justice dealt with the Ron Wilson statement that
19 he gave to you, and if we could just go to page
20 001531. And you will see, here, that the minister
21 says one of the issues raised by the Milgaard
22 application is:

23 "the submission that there is new
24 evidence in the form of the statement
25 provided by Ronald Dale Wilson on June



1 4, 1990; and the request to re-examine
2 the evidence of Albert Cadrain and
3 Nichol John in light of the contents of
4 Mr. Wilson's June 1990 statement;"

5 A Uh-huh.

6 Q And then if we can go to page 001536, and we'll go
7 through parts of this, and I'll have some
8 questions and ask for your response to some of the
9 things that the minister concluded with respect to
10 your interview and statement from Ron Wilson. And
11 the minister says that they made inquiries, and
12 you will see here this is a reference to your
13 statement, and then he was interviewed July 20th,
14 1990. Okay. Ron Wilson was interviewed by Eugene
15 Williams I guess about seven weeks after your
16 interview; would you have been aware of that?

17 A I may have been aware that, during this period of
18 time, there was or there was going to be contact
19 with Ron Wilson by authorities, but not
20 specifically in terms of the dates or -- and I
21 don't think I was aware of the outcome.

22 Q And you will see here the minister says that:

23 "... Mr. Wilson's comments during his
24 July 1990 interview, place Mr. Milgaard
25 in contact with a woman wearing a dark



1 coat, near the scene of the offence, at
2 or near the time the offence occurred.
3 Although Wilson denied seeing a knife in
4 Mr. Milgaard's possession in June 1990,
5 "...",

6 that's your statement --

7 A Uh-huh.

8 Q "... he admitted in July 1990 that he saw
9 a bone-handled hunting knife on Milgaard
10 during their trip from Regina to
11 Saskatoon."

12 And the next paragraph:

13 "In June 1990, ...",

14 that's your statement or the statement you took:

15 "... Mr. Wilson also stated that he
16 began to implicate Milgaard after
17 lengthy interviews by police
18 authorities. However, in July 1990,
19 ...",

20 that's the Eugene Williams interview:

21 "... he acknowledged that he had
22 *forgotten* that he had implicated
23 Milgaard in Regina before he arrived in
24 Saskatoon, where he was interviewed by
25 police. I consider this oversight by



1 Mr. Wilson to be very important in
2 assessing the allegations of police
3 coercion and manipulation that he
4 advanced to explain his incriminating
5 statement of May 1969, and his trial
6 testimony."

7 And I think in fairness, Mr. Henderson, I think
8 at the time you interviewed Ron Wilson I do not
9 believe that you would have had any of the police
10 reports relating to the Gail Miller
11 investigation; is that --

12 A That's true, I didn't, and I certainly wasn't --
13 was not aware that he had implicated Mr. Milgaard
14 to police in Regina. I'm a little bit perplexed
15 by that in view of the -- it was my understanding,
16 or it is now my understanding that his, in his
17 initial statement to Saskatoon Police he disavowed
18 having any knowledge of this crime whatsoever.

19 Q And I'll get to that in a bit here. And his first
20 statement was to the RCMP, was on March the 3rd,
21 1990 -- or, pardon me, 1990 -- 1969 in which he
22 gave details of the events that morning, none of
23 which suggested that David Milgaard was involved
24 in a murder. And then we've heard some evidence
25 that May 22nd-May 21st in Regina he was



1 interviewed by Saskatoon City Police, and I
2 believe a Regina City Police officer and possibly
3 an RCMP officer, and there's some evidence that
4 suggests he may have started to incriminate or
5 make some incriminating statements in Regina. He
6 was then brought to Saskatoon, interviewed for a
7 day and given a polygraph, at which time he then
8 gave an incriminating statement. So I think, and
9 again in fairness there might still be some debate
10 over the sequencing of events and what happened,
11 but I think at least one view of what happened
12 would be as I've suggested to you. So, again,
13 just back, and I think what the middle --

14 A Excuse me.

15 Q Yes?

16 A Could I ask a question, please. Is there any
17 written record of the purported inculpatory
18 statements made by Mr. Wilson to Regina and
19 Saskatoon Police?

20 Q Yeah, there is a police report that was dealt
21 with, and in fact Mr. Wilson testified before the
22 Inquiry -- and, again, I don't want to summarize
23 what was fluid evidence about those dates -- but
24 certainly there was a police report that suggested
25 he may have made incriminating statements in



1 Regina before he came, but -- and, again, I just,
2 I want to go back to what you would have known at
3 the time.

4 A Uh-huh.

5 Q Is that something you would have known when you
6 interviewed Ron Wilson?

7 A I have to say now, 15 years, 16 years after I
8 interviewed Ron Wilson, that, you know, I don't
9 have a very good recollection at all of what I --
10 what kind of knowledge of the history of contacts
11 with -- I don't think I re -- I had -- I can't say
12 that I remember any more, at this point, what I
13 knew about the history of police contacts with Mr.
14 Wilson amounted to. I just don't remember.

15 Q Okay. If we can go to the next page, I just want
16 to go through and have you comment on what, what
17 the Minister of Justice, I think, ultimately -- or
18 how she ultimately dealt with the Ron Wilson
19 recantation. And she says in her letter:

20 "Some of Mr. Wilson's recent
21 recollections appear to be based not on
22 facts, but on rationalizations many
23 years after the event. For example, he
24 denied that Milgaard entered the motel
25 in his stocking feet on the morning of



1 January 31, 1969. Mr. Wilson assumed
2 that no one would venture out dressed in
3 that fashion in those frigid
4 temperatures. However, Wilson's own
5 evidence at trial, confirmed by the
6 motel operator, showed that David
7 Milgaard did enter in his stocking
8 feet."

9 And then:

10 "Careful consideration was given to Mr.
11 Wilson's allegations of undue police
12 pressure during his stay in Saskatoon.
13 An examination of the police files,
14 interviews with the officers who were
15 principally involved in questioning Mr.
16 Wilson in Saskatoon, and a careful
17 examination of Wilson's allegations of
18 coercion and manipulation prompts me to
19 conclude that Mr. Wilson's
20 characterization of those events grossly
21 exaggerates what occurred, and may
22 reflect a misunderstanding of then
23 existing polygraph procedures."

24 And then to go on, and I'll just read you parts
25 here and then I'll have some questions for you,



1 they go on to talk about the polygraph. And:

2 "Although he may have been away from his
3 hotel for six hours, Mr. Wilson's
4 suggestion that a police "sweat session"
5 (to use his term) led to the
6 incriminating statements reflects a
7 mistaken appreciation of those events.
8 This is underscored by Mr. Wilson's
9 admission that he had forgotten that he
10 implicated Milgaard in Gail Miller's
11 death before he went to Saskatoon, and
12 not as a result of the questioning in
13 Saskatoon by police and the polygraph
14 operator.

15 Mr. Wilson has acknowledged

16 ...",

17 and I think this is in the subsequent interview
18 he had with Eugene Williams:

19 "Mr. Williams has acknowledged that the
20 questioning was polite and courteous,
21 and that the tone of the interview was
22 pleasant. Further, he noted that he was
23 neither threatened nor induced by
24 promises to provide the statement. He
25 confirmed this at the preliminary



1 inquiry, at trial, and during his July
2 1990 interview.

3 During that interview he
4 maintained that he was questioned on the
5 facts contained in his May 1969
6 statements and lied only when directed
7 to do so by the polygrapher operator
8 ..."

9 And if we can just scroll down:

10 "Only Mr. Wilson's assertion, twenty-one
11 years after the event, supports the
12 proposition that his evidence was
13 coerced, planted or fabricated at police
14 insistence. His own description of his
15 contacts with police, both before he was
16 taken to Saskatoon, and while he was
17 there, offers no support for the
18 suggestion of coercion. It reveals
19 persistent questioning which one would
20 expect in a case of this nature. His
21 suggestion that he implicated Milgaard
22 only as a result of a "sweat session" in
23 Saskatoon is negated by his admission
24 that he implicated Milgaard before his
25 visit to Saskatoon. Furthermore he



1 voluntarily disclosed to Saskatoon
2 Police the circumstances surrounding the
3 hotel room re-enactment of the crime by
4 Milgaard which was observed by Melnyk
5 and Lapchuk. This enabled the police to
6 obtain evidence, which was previously
7 unknown to them, for trial; and, it
8 militates strongly against the
9 proposition that Mr. Wilson was a
10 coerced and fearful witness.

11 On the whole of the evidence
12 available to me, I can find no basis for
13 confidence in Mr. Wilson's allegations
14 that his statement incriminating
15 Milgaard was obtained by the
16 manipulation or coercion of police
17 investigators. The current retraction
18 by Mr. Wilson of much of his trial
19 evidence is unconvincing."

20 And if I could just pause there. And one reading
21 of that might be, Mr. Henderson, that the federal
22 minister -- and please keep in mind that this is
23 their view and I appreciate that you have a
24 different view -- their view seems to me to be
25 that we, when checking out Ron Wilson's



1 explanation that he lied at trial because of
2 coercion, ...

3 A Uh-huh.

4 Q -- manipulation and threats, when the minister
5 went and checked the credibility of that, or
6 checked into that, they concluded or they did, --

7 A Uh-huh.

8 Q -- that that wasn't credible, and therefore said
9 "well, then his recantation may not be credible"?

10 A Yes.

11 Q And do you understand how that might be an
12 interpretation of the part that I just read to
13 you?

14 A Are you asking me --

15 Q Yes?

16 A -- whether I believe that this report accurately
17 reflects that the conclusions reached in this
18 report are sound and accurate and fair?

19 Q I wasn't going to ask you that, because -- but I
20 can.

21 A Well, let me answer that this way. First of all,
22 I would have to study the interviews that Pearson
23 and Williams had with Ron Wilson, and compare what
24 I read in those interviews with what is stated in
25 this report before I'd have any opinion on that.



1 Q No, and I had not -- that was not the purpose of
2 my question, and I'm not sure it's fair to ask you
3 to go back and study matters and come up with an
4 opinion. But here is the purpose.

5 The reason I read this to you is
6 to get your reaction or comment on the fact that
7 what the minister, what the minister appears to be
8 saying or may be saying in rejecting the Ron
9 Wilson recantation, is that the position put
10 forward by Ron Wilson that he was manipulated,
11 coerced, and pressured into lying at trial, that
12 when they looked at that they didn't believe it --
13 rightly or wrongly, and I appreciate you may have
14 different views -- but that they said "that's not
15 credible and, therefore, his recantation is not
16 credible"?

17 A I have a question. Does anybody actually believe
18 that Kim Campbell wrote this report?

19 Q Well, some questions --

20 COMMISSIONER MacCALLUM: Just answer the
21 question he has asked you.

22 BY MR. HODSON:

23 Q Yeah. And again, let's just call it from the
24 Federal Minister of Justice, so it is in her name.
25 But what I am trying to get from you, Mr.



1 Henderson --

2 A Yes.

3 Q -- is your reaction to that position, in other
4 words saying that the credibility of the
5 recantation depends upon the credibility of the
6 reasons that he put forward for lying; do you see
7 that?

8 A Yes, I can answer your question now, and I'm sorry
9 I spoke out of turn there.

10 Q No.

11 A There appears to be some sound logic here but I
12 don't think it addresses the main points of the
13 recantation. I'm -- if Mr. Wilson volunteered
14 inculpatory information to Saskatoon and Regina
15 police when he was in Regina, that would be a
16 concern for me, but I haven't seen that report, I
17 don't know.

18 Q No, and I -- I can, I can take you through parts
19 of that, but I don't want to -- I'm not looking
20 for sort of a debate. And I appreciate you have
21 different views on things, but what I am trying to
22 get your response to is the fact that what the
23 minister in the letter is saying the credibility
24 of the recantation is connected to the credibility
25 of the reasons that Mr. Wilson put forward for



1 lying at trial, and they found, rightly or
2 wrongly, that they did not believe the reasons he
3 put forward, and therefore did not accept his
4 recantation. That's certainly one reading of it.

5 And we will have Mr. Williams
6 here to testify, and perhaps some other witnesses
7 that may shed some more light on that side, but
8 since you are the one who took Ron Wilson's
9 statement I wanted to at least put this to you and
10 say "okay, what do you have to say about that".
11 And I, I'm not asking you to go in and look into
12 matters that you weren't aware of and give those
13 opinions, but just your response to -- and I'm
14 summarizing it -- as to the reasons the minister
15 did not appear to have accepted the recantation
16 that Ron Wilson gave to you?

17 A Assuming that the information that is cited in
18 this report is accurate I will have to admit that
19 this report raises some, some legitimate questions
20 about the recantation.

21 Q Yeah.

22 A It would appear to.

23 By the way, let me add that
24 recantations are viewed with a great deal of
25 suspicion in the United States by judges, and --



1 but I want to say that I would not be a party to a
2 recantation from a witness if I didn't believe
3 that it was genuine.

4 Q Yeah. And in fairness, Mr. Henderson, Mr. Wilson
5 has testified at the Supreme Court of Canada and
6 before this Commission of Inquiry that some of his
7 evidence at trial was fabricated, and he stands by
8 the fact that he recants some of his trial
9 evidence, the -- and certainly the directly
10 incriminating evidence against Mr. Milgaard. He
11 has never, at least in the documents that I have
12 seen, changed that at all, so -- but again, what I
13 was trying to get at here was to have your comment
14 on what the authorities did with the statement
15 that you obtained?

16 A I don't -- I can't see anything that jumps out at
17 me from this --

18 Q Okay.

19 A -- as being sinister.

20 Q Okay. We'll maybe break here for lunch.

21 *(Adjourned at 12:01 p.m.)*

22 *(Reconvened at 1:36 p.m.)*

23 COMMISSIONER MacCALLUM: Counsel, before
24 questioning starts, I just wanted to warn you
25 briefly that we may be falling behind in terms of



1 the evidence we hope to get in; namely, all of
2 it, by the end of April, so we'll have to give
3 serious consideration to sitting longer. We
4 can't sit longer hours than we are now, but we're
5 not sitting on Fridays, for example, we'll
6 probably have to start that, and we have some
7 time off booked because there was no space in the
8 downtown hotels in April and May, but Ms. Congram
9 has now located some alternative space for the
10 weeks of April the 17th, 24th, May 1st and May
11 8th, so she'll be reserving those venues.

12 As to the Friday sittings,
13 Commission Counsel and Ms. Congram will get
14 together and find out exactly which Fridays will
15 be needed to accommodate witnesses and everything
16 will be then formalized and presented to you.

17 I'm sorry to say that this is
18 not negotiable, we have to get this Inquiry on
19 and finished with. Practically every party I
20 think has alternate counsel approved and it will
21 be easier for you than it will for the
22 Commission, I can assure you, to accommodate the
23 extra sittings, so that's what we're going to do,
24 further details to follow.

25 BY MR. HODSON:



1 Q If we could go -- I now want to turn to -- we
2 covered the February 27th, '91 decision of
3 Minister Campbell. I now want to go into the
4 events after that, and just to assist you, Mr.
5 Henderson, again with the dates, on February 27th,
6 1991 is when the minister rejected the application
7 and then I think in late April, early May, and
8 I'll take you through this, you then interviewed
9 all of the sexual assault victims of Larry Fisher
10 and as well a woman by the name of (V14)-- (V14)-
11 and then I think you had some meetings with, at
12 least a meeting with Mr. Vanin and an interview of
13 Mr. Lapchuk, and then August 14th, 1991 is when
14 the second application was filed by counsel for
15 David Milgaard and that included the Centurion
16 Ministries report, being the comparison of
17 assaults, and I think that was around the time
18 that your direct involvement may have ended, so I
19 just want to go through that chronologically.

20 A I might add that there was one more witness
21 interview.

22 Q Launa Edwards?

23 A Launa Edwards, yes.

24 Q Yes, I'm sorry, you are correct, January 18th,
25 1992, right prior to the Supreme Court, so -- and



1 I think that was your last involvement if I'm not
2 mistaken?

3 A I believe you are right.

4 Q 008481, I just want to touch on a couple of
5 comments you made in the media after the
6 minister's decision, and this is a *Toronto Star*
7 publication, April 5, 1991, and a picture of
8 Mr. McCloskey. If we can go to the next page,
9 just comments from you --

10 A You'll have to -- thank you.

11 COMMISSIONER MacCALLUM: What paper was
12 that, sorry?

13 BY MR. HODSON:

14 Q This is the *Toronto Star*, and it says:

15 "Henderson has gone over the Milgaard
16 case with a fine-toothed comb. During
17 the course of an intensive investigation
18 he has gathered evidence that points to
19 Milgaard's innocence "beyond the shadow
20 of a doubt" and identifies a person he
21 says is the actual killer."

22 And just pause there, and I would like you to
23 comment on -- a few days ago you told us about
24 the usual investigation Centurion does sort of
25 start to finish and you told us that with respect



1 to David Milgaard it was, I think you said, quite
2 a bit different, in that you kind of came in for
3 specific interviews, if I can call it that, as
4 opposed to being the organization that sort of
5 drives the whole effort. Is that fair?

6 A Yes, that's correct.

7 Q Yeah. And at this time, again this is after the
8 first application, and this is before the
9 interviews of the Fisher assault victims, had you
10 -- at some point did you or Centurion Ministries
11 end up doing, on the David Milgaard case, the
12 full-blown review that you would do on a case that
13 you would take on in the United States or was it
14 still something different?

15 A My understanding of the situation from start to
16 finish was that this was a different, a different
17 situation than we normally would be involved in.

18 Q And would your -- so are you telling us that no,
19 you wouldn't have done the same scope of work that
20 you would have done if it was a case in the United
21 States that you were taking on on behalf of the
22 convicted person?

23 A We came in -- we entered into this case in the
24 middle of the movie, so to speak. Extensive
25 efforts had been made prior to my appearance on



1 the scene to establish new evidence indicative of
2 Mr. Milgaard's innocence. When we take on a case
3 in the United States, the Defendant is dead in the
4 water, all his appeals have been exhausted and he
5 has no other person, no other organization to turn
6 to than Centurion Ministries, so we start the
7 process from the very beginning, the very
8 beginning. That would be with a review of all the
9 Court record, the police reports, everything
10 that's available, and it's like building a house
11 from the basement up.

12 Q And so in this case, again when you -- are you
13 telling us that your involvement in the David
14 Milgaard was different, was a different engagement
15 than your usual engagement?

16 A That's right.

17 Q And would it be fair to conclude from that that
18 you would not have done the same extensive work
19 you would on your normal case building a house
20 from the ground up; is that fair?

21 A Well, yes, and also in a normal case we would not
22 be deferring at this stage of the investigation to
23 the strategy of a law firm, at least in terms of
24 the newspaper and television publicity.

25 Q Okay. So then if we get back to this, it says,



1 the article:

2 "Henderson accuses the police
3 investigators of mistreating witnesses
4 during the original investigation and of
5 coercing statements from them. He
6 accuses prosecutors of standing by at
7 the trial while witnesses gave evidence
8 that wasn't supported by actual facts.
9 But above all, he directs his wrath at
10 the Canadian government for refusing to
11 reopen the case.

12 "It's obvious what they're
13 trying to do," Henderson says. It's a
14 coverup. We see the same thing in the
15 United States. The justice people
16 should have the decency to admit they've
17 made a terrible mistake. No doubt they
18 know it's a despicable tragedy and a
19 travesty . . . They refuse to accept
20 their crucial responsibility to remedy a
21 miscarriage of justice. They're acting
22 like small-time prosecutors in Texas."

23 And again, would that be an accurate recording
24 and summary of what you would have told to the
25 reporter?



1 A I think it might be a little overstated. I don't
2 think that you could attribute wrath to me. I was
3 certainly disappointed and miffed at the rejection
4 of the petition for a new trial.

5 Q Oh, I see, he directs his wrath. In fairness, I
6 think those are the reporter's words, so you are
7 saying you don't think you would have said that?

8 A I wasn't experiencing, or expressing wrath.

9 Q Okay. But again, is this, does this accurately
10 reflect what you would have thought at the time
11 apart from your comment about the wrath?

12 A Let me dissect it.

13 Q Pardon me?

14 A Let me dissect it in my mind here.

15 Q Sure.

16 A Yes, in regard to the first point, it's a coverup,
17 I saw this as a coverup. I'm even more convinced
18 now that it was a coverup, an egregious coverup
19 that ultimately had tragic consequences, not only
20 for the continued incarceration of an innocent
21 man, but for the horrible consequences of what
22 happened to that poor woman in North Battleford.
23 I'll never forget the day that Joyce and I went to
24 see her and she described to us what happened.

25 Q Would that be (V10) (V10)- or (V10) (V10)-- I



1 think she --

2 A Yes. That's etched in my mind. You know, (V10)
3 (V10)- has received no compensation. What she
4 has, and all that she has, is the horrific memory
5 of what happened to her at the hands of a
6 homicidal sexual psychopath who should not have
7 been free and able to -- I mean, this attack on
8 (V10) (V10)- came two months after Larry Fisher
9 was released from prison. Obviously there was an
10 inadequate monitoring of him. This woman -- I
11 mean, the malfeasance in my opinion, the
12 malfeasance of the Saskatoon Police Department,
13 authorities in this country to take a hard, fair
14 look at this guy put him on a collision course in
15 1980 with a totally innocent woman who he almost
16 murdered.

17 Q And when you talk of coverup, what do you mean by
18 that?

19 A Where do I start? Number 1, there was an article
20 in the paper, an alert to victims during the,
21 sometime in 1968 after these three rapes, the
22 first three rapes had occurred.

23 COMMISSIONER MacCALLUM: Perhaps, sir,
24 would you mind just defining what you mean by
25 coverup, never mind the evidence of it for the



1 moment?

2 A A coverup? A deliberate attempt by Saskatoon
3 police from -- a deliberate attempt to prevent the
4 public from becoming aware of the fact that a
5 serial or a recurrent rapist who had been active
6 in Saskatoon attacked, attacked three women there,
7 other victims in Winnipeg, had been captured and
8 had confessed to two of the rapes in Saskatoon, a
9 deliberate attempt to conceal this from the public
10 and from the press for the purpose of, to enable
11 them -- excuse me, to prevent negative publicity
12 for having arrested the wrong person. In covering
13 up Larry Fisher, Saskatoon police were able to
14 avoid questioning about the justification for the
15 arrest of David Milgaard.

16 You know, one of the things that
17 struck me when we interviewed these victims is
18 that they were all hearing from us for the first
19 time that this person who had raped them so
20 viciously had been captured and confessed. They
21 didn't even know that. Several of them told us
22 that they had been looking over their shoulders
23 for the last 20 years wondering if the person
24 walking behind them or lurking around the next
25 bend might be the same person who had attacked



1 them. Most of these victims were still
2 emotionally traumatized by what happened.

3 Q And so the coverup, is what you are saying is that
4 in your view, that police back in 1969, '70, '71,
5 sometime in that time frame, knew that Larry
6 Fisher was the killer of Gail Miller and not David
7 Milgaard and took steps to cover up that
8 information?

9 A Well, if they didn't know it, if they didn't know
10 that he was likely Gail Miller's killer, why
11 didn't they -- why did they hide so many things.
12 Why, for example, was there no record of the
13 arrest of Larry Fisher in this Court jurisdiction.
14 I can understand there may have been some
15 procedural situations that I don't understand that
16 would be unique to Canada where he would
17 ultimately have some type of appearance in Regina
18 instead of Saskatoon, but nonetheless, I can't
19 imagine why there wouldn't be some record of his
20 arrest and his plea, guilty plea in this Court
21 jurisdiction. This is where the rapes occurred,
22 this is where the police -- the police were
23 accountable to the victims and the public in this
24 community, not to people living in Regina.

25 Q Would your conclusion, as you've described about a



1 coverup, would that be based upon your
2 understanding of the various facts relating
3 to some the matters you've identified about what
4 happened, sort of your review -- I was going to
5 say historical, but your understanding of the
6 facts about what happened to Mr. Fisher and the
7 investigation, etcetera, as opposed to something
8 that you, Paul Henderson, went out and discovered
9 sort of independent of that?

10 A I didn't -- I may not understand your question,
11 but I didn't know half of this until I came back
12 this time. For one thing, I didn't realize
13 that -- may I?

14 Q What I'm trying to get at is in this article you
15 talk about a coverup, you've told us that was your
16 view, and again, would that -- I think what you
17 are saying is that that was based upon your
18 understanding of everything that happened as
19 distinct from you, Paul Henderson, going out and
20 directly identifying something on a coverup; is
21 that right? That it's based on your --

22 A I understand what you are saying, that's right, I
23 didn't go out and uncover any direct additional
24 evidence of a coverup, no.

25 Q Okay.



1 A I heard a lot of things, though, including, you
2 know, the insights of Tom Vanin were part of the
3 picture that I was forming in my mind.

4 Q So at the time of this newspaper article, and
5 perhaps even today, based on what you knew, based
6 on the information you had, you in your mind
7 concluded that there was a coverup then and now
8 and that, and you are saying now I think I have
9 more information, but it would be information you
10 received from other sources that you've digested
11 and said lookit, based on that here's what I
12 think?

13 A Call it what you will, coverup or whatever
14 terminology you want to put on it, yes.

15 Q If we can go to --

16 COMMISSIONER MacCALLUM: What I'm really
17 interested in, sir, is not what your views might
18 be now, informed as you are by hindsight, but
19 rather what your views were at the time and what
20 was the source of those views. You mentioned Tom
21 Vanin's insights?

22 A Yes.

23 COMMISSIONER MacCALLUM: And other
24 information. What other information?

25 A Well, for one thing, I'm certain -- well, I'm



1 almost certain that I was aware that the Saskatoon
2 Police Department, in addition to dispatching one
3 or two morality detectives -- we call them, we
4 would call them sex crimes detectives -- to
5 Winnipeg to interview, question Fisher, that they
6 also sent Eddie Karst who was a homicide
7 detective. Now, if I may add to that, I
8 understand now that Mr. Karst claims to have no
9 memory of being sent there, but even back then
10 there was, to my understanding, absolutely no
11 record of the questioning of Larry Fisher by Mr.
12 Karst. We had no idea of what Mr. Fisher might
13 have had to say about the Gail Miller murder,
14 whether he denied it or admitted it or whatever.
15 Am I correct? I mean, am I correct in my memory
16 that we thought there should be a record of the
17 questioning of Fisher by the Saskatoon Police
18 Department?

19 Q Unfortunately you and I can't swap positions here,
20 Mr. Henderson.

21 A Okay.

22 Q Again -- so that was what you thought at the time
23 that caused you to think that there was a coverup,
24 or one of the things; is that right?

25 A It's one the things, and quite frankly, I had



1 never seen anything like it in the United States.

2 MS. KNOX: Mr. Commissioner, I rise only to
3 say that while sitting and listening, we're not
4 getting the answer to the question as Mr. Hodson
5 phrased it, we're not getting it as to the way
6 you phrased it, what was the source of
7 information, we're getting his opinion on the
8 information.

9 COMMISSIONER MacCALLUM: Well, he said the
10 information about Karst, that's Karst and Vanin
11 I've heard so far. You understand -- excuse me
12 Mr. Hodson, for a minute. You understand, sir,
13 that the position you've taken amounts to an
14 accusation of criminal conspiracy?

15 A I understand that, sir.

16 COMMISSIONER MacCALLUM: Very, very grave
17 accusations, and I want to know what basis you
18 had for making such accusations at the time you
19 made them, not -- I'm not at all interested in
20 anything you've heard since then.

21 A Okay.

22 BY MR. HODSON:

23 Q And I think, if I just may add, I think the
24 question, Mr. Henderson, as well is who gave you
25 that information or where you got it from, whether



1 you read it or someone told you.

2 A It was my understanding through the people that I
3 was working with, that is, David Asper's office,
4 Joyce Milgaard, for that matter Tom Vanin, not
5 working with him, but certainly consulting with
6 him, it was my understanding that there had
7 been -- there was no record of the questioning of
8 Larry Fisher in regard to the Gail Miller murder,
9 yet we knew at the time that a homicide detective
10 had been sent to Winnipeg to talk with Mr. Fisher,
11 so where was the record of it. In the absence of
12 a record, the absence of a record made me very
13 suspicious.

14 Q Okay.

15 A Now -- so in terms of the sources I'm talking
16 about, I'm talking about David Asper, Hersh
17 Wolch's office, Tom Vanin.

18 Q So the information about the statement taken by
19 Mr. Fisher in Winnipeg and those circumstances,
20 was there anything else that you relied upon or
21 believed at the time to formulate this opinion?

22 A No. As I pointed out, I did no independent
23 investigation into what happened and what didn't
24 happen.

25 Q Okay. And can you think of anything else that,



1 again back in 1991, would have been on your mind
2 or the basis upon which you would have made the
3 statement that you thought there was a coverup?
4 Is there any other types of information that you
5 were thinking of that you thought pointed to a
6 coverup and, if so, what was the information and
7 where did you get it from?

8 A I'm not sure there was, there were any other
9 actual sources of information that led me to
10 conclude, to reach that conclusion.

11 Q Okay. May I move on? If we can go to --

12 COMMISSIONER MacCALLUM: Yes, thanks.

13 BY MR. HODSON:

14 Q 327590, this is June 25, 1991, an article, I think
15 it's a CP wire story, and it talks about the
16 minister's decision earlier:

17 "Paul Henderson ... said after
18 Campbell's decision that Ottawa's review
19 of the case was a sham.

20 He said it was unimaginable
21 that Campbell could review the evidence
22 and not order a retrial.

23 "Given what we've developed on
24 this, there is simply no reasonable
25 explanation for refusing to act



1 favourably on this for the defence," he
2 said at the time.

3 Henderson said the only
4 possible explanation is political.

5 "They don't want to admit they
6 screwed up," he said. "The whole thing
7 is a sham."

8 And again, would that be an accurate recording of
9 what you would have told the reporter at or about
10 that time?

11 A I suppose it is, yes; however, I'm not too sure
12 that if this was a sham, that that would
13 necessarily mean it was political.

14 Q Maybe you could just elaborate on what you said
15 here and what you were basing it on. Let me just
16 go back up, that Ottawa's review of the case was a
17 sham, I think that's said a couple of times. What
18 did you mean by that?

19 A I felt very strongly that Larry Fisher was the
20 killer and that it should have been apparent to
21 anybody who had reviewed the evidence, that is,
22 the statements from Linda Fisher and what the
23 witnesses told us, that the police had made a
24 mistake initially. Now, I'm not saying that when
25 they made this mistake that that couldn't have



1 happened in another jurisdiction just as well,
2 obviously it has happened in other jurisdictions,
3 but when Larry Fisher emerged -- the Gail Miller
4 murder was on January 31st, 1969. In August, I
5 believe, of the following year, Larry Fisher was
6 arrested literally with his pants down running
7 away from a woman who was, who he had just raped
8 in a back yard or a side yard. Winnipeg police,
9 after questioning, taking him into custody and
10 questioning him, they contacted Saskatoon police
11 and informed them of the arrest of one of their
12 own citizens and it's my understanding that in
13 response to this, by the Saskatoon Police
14 Department, was to dispatch several detectives out
15 to talk to Mr. Fisher about his possible
16 involvement in not only the rapes, but, I would
17 assume, I assumed that since Eddie Karst, and I
18 was aware of this, Eddie Karst, a homicide
19 detective, not a morality detective, was sent out
20 along with the others to interview Larry Fisher,
21 that there had to be strong suspicions, there had
22 to be suspicions at least that Larry Fisher was
23 responsible for the murder of Gail Miller as well
24 as the rapes.

25 After all, I mean, you take a



1 look at the geography, I did a map where I located
2 the spot where each of the rape victims, each of
3 the initial rape victims, 1968 rape victims was
4 attacked, and I was also aware of the evidence
5 that led not only to the house where David
6 Milgaard happened to show up by chance that
7 morning, but also the house where Larry Fisher
8 lived. It was the same house. The rapes were all
9 within -- they were clustered around the murder
10 scene. Maybe not perfectly circled around the
11 murder scene, but all within the same
12 neighbourhood. I mean, my God, how much does it
13 take for somebody to draw a connection.

14 Q What -- just back to the question which is on what
15 basis did you say the review of the case was a
16 sham, what we have heard in evidence from the
17 minister's response to the first application, and
18 it's in a supplemental letter as well that I don't
19 think we've seen yet, but the -- and we've heard a
20 bit of evidence of this from Sergeant Pearson, and
21 I'm sure we'll hear more from others, is that the
22 identification of Larry Fisher as a suspect, and
23 I'm paraphrasing I think what the minister said,
24 was that although he may be a suspect for the
25 crime, there is no evidence to link him to the



1 Gail Miller murder, to prove that he had done
2 that, and that simply raising another suspect in
3 an application of this nature does not meet the
4 threshold.

5 Now, I'm just paraphrasing what
6 was the reasoning put forward as to why the Larry
7 Fisher information that the Milgaards had put
8 forward did not trigger a more favourable
9 response, and so again, back to the question, when
10 you say you thought the review was a sham, what
11 did you mean by that?

12 A Well, let me add one thing to this, to this quote
13 here, I believe I was echoing comments that had
14 been made by other people, I mean, these weren't
15 original thoughts with me necessarily. David
16 Asper's office had gone on record being very
17 highly critical of the decision, Joyce Milgaard
18 had weighed in on it with similar feelings, I
19 have -- well, if I may at this point, I've read
20 articles recently, and I may have read them back
21 then, where editorials, newspaper editorials were
22 very critical of the decision.

23 Q And what, when you called it a "sham", what did
24 you mean and what were you basing that on?

25 A What is a sham; is it a shame?



1 Q I'm not sure. They are words attributed to you.

2 A Yes. Well my best, my best interpretation of that
3 would be that the decision was a shame. Sham and
4 shame, it was wrong, and it was inexcusable.
5 There was no explanation for it in my mind. I
6 mean after all, I wasn't -- the purpose of that,
7 of that investigation or that inquiry, was not
8 to see if there was enough evidence to convict
9 Larry Fisher, the purpose was to determine whether
10 there was a probability of David Milgaard's
11 innocence. At least that's my understanding of
12 it. And the spectre of Mr. Fisher I think, beyond
13 the shadow of doubt, created reasonable doubt, at
14 least, as to David's guilt, David's involvement in
15 this murder. Larry Fisher was a far better
16 suspect.

17 COMMISSIONER MacCALLUM: Just a minute,
18 please. I'm sorry to interrupt you again, Mr.
19 Hodson.

20 Sir, you are the journalist
21 here, you've used the word "sham", now we can
22 call an adjournment if you want and go and get a
23 dictionary, but "sham" to me means there's an
24 element of dishonesty, is that what you mean,
25 it's colourable, it's not the truth, it is



1 something that is presented to disguise the
2 truth?

3 A If we are referring to the inquiry I would, I
4 would have to withdraw the word, that is the in --
5 the inquiry review process, I would have to
6 withdraw the word "sham". If I'd have put an E on
7 it and called it a shame it might be different,
8 but I had no evidence that there was any
9 dishonesty involved in the decision to reject the
10 application. I have strong suspicions about the
11 dishonesty of police officers, however.

12 BY MR. HODSON:

13 Q If we could go to 227035. And I'm sorry, I don't
14 have a date, I think this is -- I'm going to
15 suggest around August of 1991 simply because there
16 is a reference to a statement released by the
17 Miller family, and I think that was released
18 August 6th, '91. And I just want to go here, it
19 talks about:

20 "...Centurion Ministries investigations
21 revealed that key witnesses in the case
22 against Milgaard had been coerced into
23 testifying and were fed false evidence
24 to solidify the case against him."

25 And if we could scroll down to the bottom, you



1 say, talk about the fact that the:

2 "... victims were not aware of Fisher's
3 arrest ... until this year when he
4 contacted them during the Milgaard
5 investigation.

6 It appears obvious Saskatoon
7 Police kept the Fisher conviction under
8 wraps because they were concerned the
9 publicity would call into question the
10 validity of the Milgaard conviction, he
11 said.

12 "Why did the Saskatoon Police
13 not publicize the conviction of this
14 West Side rapist?" Henderson said.
15 "Because if they did, then they would
16 probably have to review their conviction
17 of David Milgaard.

18 "It looks like a deliberate
19 coverup of (Fisher's) arrest and
20 conviction."

21 And, again, would that be something you would
22 have said to the reporter?

23 A Yes.

24 Q And again, we maybe covered this in the earlier
25 article about a coverup, would the same answer



1 apply to this question as to what you were basing
2 this upon, this statement?

3 A I'm sorry, I don't follow you?

4 Q Well I was going to ask you on what were you
5 basing your statement that it was a deliberate
6 coverup of Fisher's arrest and conviction, and we
7 just finished going through a similar set of
8 questions with respect to an earlier article where
9 you used the word "coverup", --

10 A Okay.

11 Q -- and my question is is it the same answer that
12 you gave before or is it something different?

13 A Well I might add one more point to that. It's
14 hard for me to imagine that a police department
15 that was dealing with a dangerous, recurrent
16 rapist, it's hard for me to imagine that once that
17 person was arrested, that they would not disclose
18 that to the public. That didn't happen in this
19 case and I -- I -- you have to question, it would
20 be very suspicious. I certainly had to be very
21 suspicious about the reasons for withholding that
22 information from the public.

23 And, also, I still don't
24 understand why there was no record of Larry
25 Fisher's -- the charges that were laid against



1 him, why there was no record of those charges in
2 this Court jurisdiction. Well, you know, one of
3 the -- one of the results of the fact that all of
4 this stuff was handled down in Regina was that the
5 press here did not find out about it. I know that
6 there was an article about Larry Fisher's guilty
7 pleas I believe in the Regina paper, but very
8 short, four or five-paragraph story, but nothing
9 in the papers here.

10 Q This Commission has -- it did hear evidence from I
11 think Cliff Pambrun and possibly Anita Pambrun
12 about radio and newspaper reports about Mr.
13 Fisher's conviction in I think, I'm assuming in
14 1971; were you aware of that?

15 A Upon my arrival here I think I heard somebody in
16 your office mention that the Pambruns had some
17 recollection of newspaper or -- not, did they say
18 "newspaper"?

19 Q I don't believe so.

20 A No.

21 Q They may have said "newspaper, radio, TV". There
22 is no, at least from the Commission's perspective,
23 there has been no newspaper record that we've
24 located.

25 A Yeah.



1 Q But, again, that would be -- when you were making
2 these statements, then, you would be of the view
3 that because there was no media coverage of Mr.
4 Fisher's conviction, that that, in your mind,
5 would signal a coverup?

6 A It was -- that, in my mind, was an element --
7 another indication that police did not want the
8 public to find out about the arrest of Larry
9 Fisher.

10 Q If we can go ahead to the -- I want you to tell us
11 about after the -- after the first application was
12 rejected a second application was filed. And
13 maybe I'll call up the application, it might
14 assist you, 000901. And this is a letter from
15 Hersh Wolch to the Minister, Kim Campbell.
16 Actually, if we could just go up to the previous
17 paragraph, what Mr. Wolch says, he says:

18 "When we first made our application the
19 suggestion that Larry Fisher was the
20 perpetrator was not the main thrust and
21 we were at that time advised by your
22 Department that there were no police
23 reports available on past offences of
24 Mr. Fisher. Whereas we suggested there
25 was a distinct pattern and although the



1 similarities were never placed before
2 you, we accepted that we were at that
3 time at a dead end."

4 A Uh-huh.

5 Q What -- and let me just pause there. Was that
6 your understanding of what was put forward in the
7 first application?

8 A Now I, I didn't know that that was spelled out,
9 all I knew was I had been told that there was no
10 record here of the arrest of Fisher and that the
11 defence certainly had nothing in its possession of
12 a -- that documented his arrest.

13 Q And I guess my question, though, relates to
14 Mr. Wolch saying that:

15 "When we first made our application the
16 suggestion that Larry Fisher was the
17 perpetrator was not the main thrust"?

18 A I wasn't aware of what the main thrust -- I wasn't
19 intimately acquainted with the first application,
20 the, the issues that were brought forth in that.

21 Q And then Mr. Wolch writes:

22 "Once your decision was brought to our
23 attention we were determined to proceed
24 further in ascertaining Larry Fisher's
25 possible guilt and we were somewhat



1 surprised to learn that there was ample
2 material available, including at least
3 one police report concerning previous
4 victims of Fisher. Centurion
5 Ministries, Inc. is a non-profit
6 organization from Princeton, New Jersey,
7 whose purpose is to work on behalf of
8 those who it believes may have been
9 wrongly convicted. It has freed 8
10 wrongly convicted people in the United
11 States. The founder of Centurion, Jim
12 McCloskey, advised that we ought to
13 interview each of Fisher's victims. We
14 agreed and Centurion investigators
15 developed a startling profile showing
16 the similarity of all of Fisher's
17 attacks and of that committed against
18 Gail Miller. I am enclosing statements
19 of the victims and a summary of the
20 findings which contain the striking
21 similar acts that would be admissible in
22 a trial against Larry Fisher and would
23 have been admissible in David Milgaard's
24 trial if the information had been
25 known. "



1 And this is where your set of interviews and
2 analysis was sent along. Does this assist in --
3 what I am trying to understand is what, how did
4 the second application come about and does this
5 reflect your understanding of what happened
6 between the first and the second application?

7 A It's not inconsistent with what I was aware was
8 going on. But again, I was a soldier out there
9 digging up information, and when I finished with
10 my work I would return to Seattle, and when I
11 returned to Seattle a lot of things happened that
12 I wasn't following all that closely. So I was
13 aware of what I was told, and -- but I wasn't here
14 in this country to read about --

15 Q What, do you know whether, why the victims of --
16 Fisher victims were not interviewed as part of the
17 first application by, let's start with by you or
18 people on behalf of the Milgaards?

19 A I, I don't know. I know that our involvement, our
20 commitment to this investigation, was one step at
21 a time.

22 Q Are you -- some --

23 A We certainly, I mean if I had been working
24 full-time on this, if I had been up here, if I had
25 had a full-time commitment from Centurion we very



1 likely might have gotten to the victims much
2 sooner than we did.

3 Q Would that question be better put to other
4 witnesses, then, as to what prompted what went
5 into the first application, the second
6 application, is that what you are telling us; is
7 that other people are better able to answer that?

8 A Well, yes, David Asper might be able to explain
9 why these victims weren't contacted in 1989 for
10 example. But, in my opinion, the first thing to
11 do was to try and get the key witnesses to talk
12 with the defence, and which is what we did.

13 I -- let me add that I don't
14 think we would have ever gotten involved in this
15 case if it hadn't have been for the tip about
16 Larry Fisher's wife having suspicions and
17 information on his involvement.

18 Q Okay. If we can just go back, if we could maybe
19 just call up the chronology, please, the one that
20 I showed him on the first day, the chronology.
21 And if we could go to the next page, please. What
22 I have done here is just got the dates from the
23 statements and interview notes that you prepared
24 and it looks as though, over the course of a
25 two-week period, you went and interviewed all



1 seven of the victims of Larry Fisher; is that
2 right?

3 A That's right.

4 Q And what were you looking for, what was your
5 purpose in going to see them?

6 A Well, umm, correct me if I'm wrong, I -- you know,
7 I don't, there are some things that apparently I
8 don't remember, but I don't think we had any
9 record of what happened to these victims.

10 Q I was going to -- yeah. I think the, other than
11 the (V5)-- (V5)--- file and perhaps, and some of
12 the information related to the two Winnipeg rapes,
13 I don't know whether you would have had those
14 documents at all.

15 A I don't think we had the (V5)-- (V5)--- file,
16 because I don't even know where the (V5)-- (V5)---
17 file came from, and I know that we didn't have, we
18 didn't have that stack that I -- of reports that I
19 have since seen was not in our possession when we
20 set out on this trip.

21 Q Okay. So at the time -- and I'll come back to the
22 (V5)-- (V5)--- file and your meeting with
23 Mr. Vanin.

24 A Uh-huh.

25 Q But is it your recollection that when you went out



1 on these dates to -- and again, for the record,
2 this is 335015 -- that you would not have had any
3 police reports to assist you?

4 A No. To my knowledge all we had were the victims'
5 names.

6 Q So, again, what would you be going out to get from
7 them?

8 A To find out, to go out and talk with each of the
9 victims and have them tell us, in their own words,
10 what happened to them.

11 Q And were you going to use that to try and
12 establish a profile or a comparison of the Fisher
13 rapes and the Gail Miller murder?

14 A We -- I'm not sure whether we had the location of
15 these rapes, maybe we didn't, and if we did when
16 we talked to them and found out that the Saskatoon
17 victims were attacked in close proximity to the
18 murder scene, that would have been a startling
19 development in the investigation. But
20 nonetheless, our purpose was to go out and have
21 them tell us what happened to them, and see if
22 there were similarities in those, in those
23 attacks, with what was known about the attack on
24 Gail Miller.

25 Q And what was your practice -- if we can maybe just



1 go to the first one, 048344, (V8)-- (V8)---, I
2 just want to show you a couple documents. Maybe
3 put that on the left-hand side and call up 056485
4 on the right-hand side.

5 A I --

6 Q Just waiting for it. So here, this is (V8)--
7 (V8)---, this is April 27th, 1991, April 24th the
8 interview date. What, did you prepare both of
9 these memorandums?

10 A Let me look closer at the one on the left here.

11 Q Sure.

12 A I did not, I did not prepare the block of --

13 Q So 043844 is not your memorandum?

14 A No, it's not.

15 Q Do you know; would this have been Mrs. Milgaard
16 who prepared this?

17 A I don't know who did it.

18 Q Who went on the interviews with you?

19 A Umm, Joyce Milgaard.

20 Q Okay. And then on the document on the right, and
21 we see this I think for virtually all of the
22 victims, is that your work product, memorandum?

23 A Yes. Well it's a, it's what I call an interview
24 report.

25 Q And so tell us how, how and when these reports



1 would get prepared?

2 A All of my reports that were -- that I wrote on
3 this case were -- came out of my word processor in
4 my office in Seattle. At no time do I recall ever
5 using a word processor or a computer or a word
6 processor or a typewriter in a law office or in
7 somebody's home up here, I waited until I got back
8 and then prepared the reports.

9 Q And would you make notes, then, of the interview?

10 A Yes, there would have been notes, and possibly
11 tape recordings as well.

12 Q And so you would either take notes or tape record
13 the interview, get back to Seattle, and at a later
14 date type up the document on the right of the
15 interview?

16 A That's right, yes.

17 Q And it looks like the assault victims were done
18 over a ten-day period back to back; do you
19 remember when you would have prepared these
20 memorandums, would it be shortly after you
21 returned to Seattle, or --

22 A Yeah, yes, it would have been. I would have
23 expected to submit them within a reasonable length
24 of time --

25 Q And who --



1 A -- after my return.

2 Q I'm sorry, and who would you send them to?

3 A Well, umm, I was, initially, first and foremost, I
4 was accountable to Centurion Ministries, Jim
5 McCloskey, so they would have been sent to him.
6 But he also may have asked me to send a duplicate,
7 another copy, to David Asper's office.

8 Q If we can go to 222203. We have been through
9 these memorandums before with other witnesses, Mr.
10 Henderson, so I don't propose to go through all of
11 them in detail.

12 A Uh-huh.

13 Q But 222203, (V7)--- (V7)---, she was the first --
14 the first victim in Winnipeg, August 2nd, 1970, or
15 Fort Garry. If we can go to the next page there
16 is a part here in the memorandum, in a later
17 analysis done by the authorities, where they
18 questioned or perhaps took issue with this part.
19 It says:

20 "(V7)--- said Fisher smashed her
21 numerous times in the face. The attack
22 left her "unrecognizable," she said."

23 Do you have a recollection of that coming from
24 Ms. (V7)---?

25 A Umm, not, not specifically, no.



1 Q Okay.

2 A Again, I wouldn't have put that in my report
3 unless she said it. But, you know, to be honest
4 though, when I think about it, there was nothing,
5 certainly no -- 20 years later she looked a very
6 attractive woman, I didn't see any signs of scars
7 or any type of lingering effects of the attack,
8 but that's what she said, that's what she would
9 have said.

10 COMMISSIONER MacCALLUM: And whose document
11 is this, I'm sorry?

12 BY MR. HODSON:

13 Q This is your report?

14 A My report, yes.

15 COMMISSIONER MacCALLUM: Oh, I see.

16 BY MR. HODSON:

17 Q Okay, if we can go to 070586. And this is a
18 redacted portion of the interview of (V5)--
19 (V5)--- interviewed April 30th, 1991, do you
20 remember interviewing (V5)-- (V5)---?

21 A I remember the first two interviews in Winnipeg
22 with more clarity than I recall the Saskatoon or
23 the Saskatchewan interviews.

24 Umm, I do -- in answer to your
25 question, I do not specifically remember going to



1 see (V5)--.

2 Q She lived out on a farm, in a rural area, does
3 that --

4 A Just, I have a vague recollection of her being a
5 little stand-offish at first, and --

6 Q Okay. And if we can go to the second page, there
7 is a paragraph here that's redacted, and if we can
8 call up 061393. Maybe, yeah, 061393, put this
9 document on the left-hand side, on the right-hand
10 side 061393. And you will see here, on the
11 left-hand side, the memorandum that was filed with
12 the authorities, and with the Supreme Court
13 ultimately, had the name blocked out. It says:

14 "(This was the one case in which I was
15 given access to police reports."

16 And then a name underneath blacked out. If we go
17 to the right-hand document, this is -- and we'll
18 go off the right-hand document -- this is the
19 unredacted version, and it says:

20 "(This was the one case in which I was
21 given access to police reports. Tom
22 Vanin, a dissident Saskatoon police
23 sergeant and source for us on internal
24 police problems, somehow managed to get
25 into the department computer and obtain



1 the file. I reviewed it at his home but
2 was not allowed to keep the reports or
3 make copies of them. Vanin claimed that
4 people in the department are aware that
5 he pulled up the reports and said he'd
6 be fired if the brass found out he'd
7 given them to anyone. The file is quite
8 thick and documents an extensive
9 investigative effort by police in terms
10 of beating the bushes for suspects and
11 interviewing numerous persons. One of
12 those interviewed was Albert Cadrain.
13 It's apparent that he was not considered
14 a suspect, however."

15 And I take can you confirm, Mr. Henderson, that
16 Tom Vanin; that that is the name that is in the
17 redacted portion of the paragraph, is that
18 correct?

19 A Umm, yes, that's correct.

20 Q And tell us what you remember about your meeting
21 with Tom Vanin, or meetings?

22 A I -- I'm sorry that I don't remember more about
23 it, but I remember that his name came to my
24 attention through Joyce. I believe he may have
25 had some contact prior to my arrival on the scene



1 with David Asper, I'm just not sure how that
2 evolved, but I know that he was willing to talk
3 with me privately. The -- he stipulated, however,
4 that he didn't want, he didn't want Joyce Milgaard
5 present. I think we met at a restaurant and then
6 ended up at his house where we continued our
7 conversations. I don't know how long I was with
8 him, maybe an hour or two or three.

9 Q And I'll deal with -- what -- I'll deal with some
10 of the discussion a bit later, but did he show you
11 any documents?

12 A You know, I -- he did show me some documents but
13 I'm not -- where I'm perplexed on this situation
14 is while my report indicates that he showed me a
15 thick file of documents, umm, I don't specifically
16 remember seeing a thick file, I'm more inclined to
17 think that what I viewed were several documents.
18 Whatever I reviewed, there was a lot of detail, so
19 it was apparently whatever I -- if I only saw one
20 or two documents they were important documents.

21 Q He -- I'm sorry, carry on?

22 A I understand that Mr. Vanin has testified that he
23 did not, that he was not the source of the
24 information, but let me emphasize that this report
25 was compiled shortly after I returned home from



1 meeting with Mr. Vanin and it's hard for me to
2 imagine that I would have, that I would have
3 erroneously attributed this information to him.

4 Q Okay. Let's just back up and go through this.
5 The -- let's talk about the description of what he
6 showed you. In your memorandum what you say is,
7 here:

8 "The file is quite thick and documents
9 an extensive investigative effort by
10 police in terms of beating the bushes
11 for suspects ...",

12 and it also talks about Albert Cadrain being
13 interviewed.

14 A Uh-huh.

15 Q Now I showed you, last week, the (V5)-- (V5)---
16 file that we have; do you recall looking at the
17 physical copy of that file?

18 A Yes, yes.

19 Q And is that what Mr. Vanin would have showed you?

20 A Well, I don't have a re -- I don't have a precise
21 memory of seeing the -- a file as such. I -- I --
22 well, let me put it this way, I just don't
23 remember looking at this document. I know that I
24 did.

25 Q I'm sorry, at what document?



1 A I don't remember looking at the (V5)-- (V5)---
2 file there, I don't remember how big it was, I
3 don't remember specifically where I found the
4 information in the report, what I found. I
5 assumed that we had already, by this time,
6 interviewed (V5)-- (V5)---; is that correct?

7 Q I don't know.

8 A Okay.

9 Q That was my next question for you. Was your
10 meeting with Mr. Vanin, where you looked at the
11 file, before or after your interview with --

12 A That was at the tail end of that sweep that we
13 made across two provinces, yes.

14 Q Are you able to tell us, well, when you
15 interviewed (V5)-- (V5)--- do you recall whether
16 you would have had knowledge of the contents of
17 the police file, or was your interview with Tom
18 Vanin before or after your interview with (V5)--
19 (V5)---?

20 A I think it was be -- I think the Vanin interview
21 was after we talked with (V5)-- (V5)---, yes.

22 Q Yes. So it was after you met with her that you
23 then, according to this memo, were shown the file;
24 is that right?

25 A Well, most certainly that was the sequence, yes.



1 Q And, as far as the contents, are you -- you were
2 saying you -- do you have any reason to doubt the
3 accuracy of this memorandum that you prepared?

4 A No, I don't, I don't. And, umm, the memorandum
5 indicates that I saw the file, which would
6 indicate that it was not just a couple of pieces
7 of paper, but --

8 Q Did you go to any other homes of any other police
9 officers and were you shown any other police files
10 by any other police officers?

11 A Not to my knowledge. Although I did, I understand
12 that I did talk to another police officer, but
13 that's one of the elements of this investigation
14 that has just slipped out of my mind, I --

15 Q That's, and I'll go to that memorandum a bit
16 later, --

17 A Uh-huh.

18 Q -- and I think that's -- there is a reference to
19 John McDonald; is that right?

20 A Yes, right.

21 Q So Mr. Vanin's evidence before this Inquiry is
22 that he never obtained the (V5)-- (V5)--- file,
23 never saw the (V5)-- (V5)--- file, never showed
24 you the (V5)-- (V5)--- file, and that he had two
25 pieces of paper from central records, copies, one



1 of which was a file index card with Larry Fisher's
2 name and a number of file numbers, and the other
3 was a one-page investigation report from a rape
4 file. And, again, are you -- is that possible,
5 what he would have showed you, as opposed --

6 A Is it possible that he only showed me a couple of
7 pieces of paper --

8 Q Yes?

9 A -- as opposed to a file? Well, it does not appear
10 to be likely in view of this report. On the other
11 hand I don't remember actually looking at a thick
12 file.

13 I noted in, in this memo, that
14 Albert Cadrain was interviewed but not a suspect,
15 and I have noticed in the file that's up at the
16 Inquiry offices that there is a report in the file
17 on that.

18 Q Yes, there is, we have seen that report, there's
19 an investigation report that has Albert Cadrain's
20 name in it as being interviewed --

21 A Uh-huh.

22 Q -- for information, I think, not as a suspect. So
23 it would appear, from this memorandum, that you
24 would have at least seen that page; is that fair?

25 A It would appear, yes, right, absolutely.



1 Q Is it possible --

2 A That's something that I couldn't have learned from
3 (V5)-- (V5)---.

4 Q Is it possible that the file came from someone
5 else, either Mrs. Milgaard, Mr. Asper, somebody
6 else?

7 A I can assure you it did not come from anybody
8 associated with the defence but there is a remote
9 possibility, I suppose, that another police
10 officer, the other one who I spoke with, actually
11 produced the file, but I don't think so because,
12 again, this was fresh in my mind when I got back
13 to Seattle.

14 Q Okay. If we can go back to, let's call up 261590?

15 A May I add one thing for the record?

16 Q Yes.

17 A This is an issue that has troubled us in the
18 recent past few days. I heard Mr. Vanin testify
19 that he heard from David Asper's office that it
20 was not Asper's office, but Centurion Ministries
21 who identified him, Tom, as the source of
22 information about the (V5)-- (V5)--- file. I
23 noted in the handwritten notes of an RCMP officer
24 who interviewed Jim McCloskey that when the
25 officer asked McCloskey the name of our source on



1 the police department, Jim made it very clear to
2 him that we considered his name confidential and
3 that we were not going to disclose it.

4 Now, I have heard since then
5 that CM, Centurion Ministries, forgot to redact
6 Tom Vanin's name when it forwarded our reports to
7 the RCMP at their request. I spoke with Jim about
8 that today, Jim McCloskey, he said I can't
9 possibly imagine that I would have sent those
10 reports without blacking out Tom Vanin's name.

11 Now, I noticed on this copy on
12 the screen that Vanin's name is blacked out.

13 Q On all except one copy.

14 A All except one copy, so I think Jim McCloskey's
15 position would be that no, no, no, no, we did not
16 send reports to the RCMP that identified the
17 source of our information. He would say that I
18 made sure that that name was blacked out and that
19 the RCMP had to have found out from someone else.

20 Q Okay. So putting aside how, and in fairness, Mr.
21 Henderson, I simply put to Mr. Vanin what we
22 gleaned from the documents and where we got the
23 unredacted version, and it appears that it did
24 come from, to us from the RCMP who in turn got it
25 from Centurion Ministries.



1 A Okay.

2 Q I could be wrong, and we'll hear evidence about
3 that. Putting aside how the RCMP got it --

4 A Yes.

5 Q -- do you acknowledge, sir, that it is in fact Tom
6 Vanin's name that was redacted in the memorandum?

7 A Yes, it was.

8 Q Yeah. And I think what you are saying is you
9 don't agree, or you take issue with the fact that
10 Centurion would have been the one who disclosed
11 that, inadvertent or otherwise?

12 A Well, I was accepting that possibility today until
13 I talked with Jim.

14 Q Okay.

15 A And he said no way, no way, I'm not that careless,
16 and he's not a careless person.

17 Q If we can go back to 070584, and under the summary
18 you say:

19 "Like the others from Saskatoon, she was
20 never informed of Fisher's arrest and
21 confessions and she told us that she has
22 lived through the years with a fear that
23 her attacker might return some day.

24 (V5)-- said she keeps the doors to her
25 house locked day and night, which she



1 admitted is not the norm for rural
2 Saskatchewan."

3 Do you have a recollection of (V5)-- (V5)---,
4 (V5)-- (V5)-----, providing you with that
5 information?

6 A Not specifically, but I don't think that this
7 would have appeared in my report unless it was in
8 my notes.

9 Q Do you still have your notes from --

10 A I've never been asked to produce them, but I can
11 take a look. I'm not sure. I may well have them.

12 Q Okay. If you could, if we could go to 261640, and
13 that's from doc ID 261590. This is the last
14 police report in the (V5)-- (V5)--- file dated
15 February 5, 1971 and I showed you this earlier in
16 the Commission office.

17 A Uh-huh.

18 Q Just call that out. And we've seen this referred
19 to a number of times and it basically says that
20 articles were returned to (V5)-- (V5)---:

21 "The situation concerning this
22 occurrence and the alleged mental
23 condition of the accused was explained
24 to this girl and her parents. At the
25 present time these people appear to be



1 completely satisfied with the actions
2 taken re this occurrence. This therefor
3 is a concluding report."

4 And this document is on the (V5)-- (V5)--- file.
5 Is this something that you would have read at Mr.
6 Vanin's home when you reviewed the (V5)--- file?

7 A I don't remember seeing it there, but I'm a little
8 bit -- can you explain who is being referred to as
9 the alleged mental condition of the accused?

10 Q Sure. I can tell you (V5)-- (V5)--- testified
11 before this Inquiry and told us that either on
12 this date or around this date two police officers
13 returned the items to her home, showed her a
14 picture of Larry Fisher which she identified as
15 her assailant, that she was told that he had been
16 picked up for some other rapes and was in Winnipeg
17 in a hospital, and I'm paraphrasing a bit, due to
18 his mental condition, and that she was, she
19 basically said she was satisfied with that
20 explanation and testified that she was, although
21 she wasn't aware of that, of the later conviction,
22 she was aware that, who her perpetrator was and
23 the fact that he had been arrested and charged.

24 A This of course then conflicts with the information
25 in my report that (V5)-- had told us that she was



1 not notified.

2 Q Yes.

3 A I can't explain that.

4 Q If we can go back to your report, 070584, go to
5 the next page, and this is your note from the
6 interview, is that:

7 "...her recollection of a detective's
8 comment that the rape was 'similar to
9 the Gail Miller case'."

10 Do you have a recollection of (V5)-- (V5)---
11 telling you that?

12 A Not specifically, no.

13 Q And in her interview with the RCMP in 1993 there
14 was no mention of this and before this Inquiry she
15 said she had no recollection of that. Do you have
16 any -- again, any recollection of this piece of
17 information?

18 A No, but again, I did not fabricate that
19 information. By the way, may I ask, was she ever
20 asked specifically by --

21 Q She was by me, yes.

22 A By you, okay.

23 Q Yes. I don't believe the RCMP, and I stand to be
24 corrected on that, but she was asked about this.

25 If we can then go to -- if we



1 can go to 054511. This is your report of the
2 interview with (V1)--- (V14) or (V1)--- (V1)-; is
3 that correct?

4 A Yes, sir.

5 Q Do you have a recollection of the interview with
6 her was in St. Louis, Saskatchewan?

7 A Vaguely.

8 Q If we can go to the next page, and in your
9 memorandum it's reported that she told you that
10 Fisher inserted, or:

11 "While (V1)--- was lying naked on the
12 ground, Fisher inserted the knife into
13 her vagina. She recalls being cut in
14 the vaginal area, but apparently the cut
15 was minor."

16 In the occurrence reports and her statements that
17 were obtained, I think in, I stand to be
18 corrected, it may have been 1990 or 1991, in any
19 event, in the statements to the police that she
20 gave at the time there's no mention of this and
21 in her subsequent interviews, including the
22 evidence before this Commission, she did not say
23 that this had happened with the bread knife, or
24 with the knife in the vaginal area. Do you have
25 a recollection of her telling you that?



1 A Yes, I do.

2 Q And how did that come up?

3 A I'm not sure, but I remember -- I can't say that
4 it was this particular victim, but at least one of
5 the victims talked about having a knife inserted
6 in her vagina.

7 COMMISSIONER MacCALLUM: But you are not
8 sure it was this person?

9 A I'm not sure it was this person. I can't picture
10 this person, Your Honour.

11 BY MR. HODSON:

12 Q Okay. I would now like to turn to (V14)-- (V14)-.
13 Do you recall meeting with (V14)-- (V14)-?

14 A Yes, I do.

15 Q Can you tell us, and again I've got your statement
16 of documents which I can go through, but I'm
17 wondering if you can just give us your
18 recollection of how that came about and what
19 happened, and I will go through the documents with
20 you.

21 A Okay. This was towards the tail-end of our trip,
22 but it was, I believe, before we went to see one
23 of the victims who lived in Moose Jaw. Joyce had
24 made some type of an arrangement to meet with
25 (V14)-- (V14)-, and I don't know the whole



1 background on why and how and what happened before
2 this, but we drove down there and arrived in the
3 evening and I think were expecting to see her that
4 evening someplace and that fell through, she
5 didn't show up or something like that. We were
6 able to somehow I guess get in contact with her.
7 She agreed to meet us the next day at the bus stop
8 on her way out of town, she was returning home,
9 she apparently lived somewhere else, and as the
10 time drew near for the bus to depart there was no
11 sign of her anywhere and then at the last minute
12 suddenly here comes this woman running towards the
13 bus and stepping on the bus and I said Joyce,
14 Joyce, I said go, go, and she hurried over and got
15 her and (V14)-- stepped off the bus and told the
16 driver to proceed on without her.

17 Q Let me just pause there for a moment. Why were
18 you going to see (V14)-- (V14)-, what information
19 did she have?

20 A There had -- (V14)-- had filed a complaint with
21 police in another jurisdiction. (V14)-- reported
22 that she was raped by an unknown assailant while
23 she was working in a resort over on lake
24 something.

25 Q (V14) (V14).



1 A (V14) (V14) in the something hazy area,

2 (V14)----- or --

3 Q (V14)----.

4 A (V14)----, and I guess that at some point, I'm
5 just not sure of the background, but she became
6 suspicious that either David Milgaard was the
7 perpetrator or Larry Fisher was the perpetrator.
8 She wanted to get to the bottom of this. Her
9 assailant was never caught apparently and based on
10 the description of the crime, it was very brutal
11 and had a, there was some violence involved and
12 she was severely traumatized by this and years
13 later was still trying to get to the bottom of it.
14 I think that rape was perhaps about the same time
15 that the Gail Miller murder occurred. Am I right
16 or wrong about that?

17 Q I think it was in '68, a year earlier.

18 A Okay.

19 Q Two years -- a year earlier. In any event, were
20 you -- what was your understanding before you met
21 her as to who she was claiming had been
22 responsible for her rape?

23 A I'm not sure. Maybe it was that she was -- that
24 she had the notion that David Milgaard had
25 committed the rape, I'm not exactly sure, but



1 whatever, whatever this was all about, Joyce
2 wanted to show her Larry Fisher's photo to see if
3 she recognized him.

4 **Q** Okay. So tell us what happened when you met her
5 at the bus station?

6 **A** Initially, after she stepped off the bus, we took
7 her, Joyce took her to the side, up against the
8 building and she reached into her purse and pulled
9 out a strip of photos of Larry Fisher, two or
10 three of them, black and white photos, the kind
11 you get in a dime store in a photo booth, and my
12 report indicates that she looked at them and she
13 said no, his hair was much longer and I think she
14 was probably referring to the rapist.

15 **Q** What do you remember her saying?

16 **A** I don't distinctly remember her saying that, but
17 the impression that I think I got was that, no,
18 she did not positively identify Fisher.

19 **Q** Did she identify -- let me just go back about what
20 you recall when she was shown the photographs.
21 Was it your understanding that she thought she was
22 looking at photos of David Milgaard?

23 **A** I'm not sure about that. I don't think that -- I
24 don't think that Joyce would have shown her a
25 photo, led her to believe that she was looking at



1 a photo of David. I mean, my impression was that
2 she was trying to get her to identify, hoping that
3 she would identify a photo of Larry Fisher.

4 Q And did she identify Larry Fisher when you were
5 there from what you observed, did she identify him
6 in any way as the assailant?

7 A You know, to the best of my recollection, I think
8 maybe I had an argument with Joyce over this. I
9 don't think that she made anything near a positive
10 identification of Larry Fisher.

11 Q Okay. What argument did you have with Joyce
12 Milgaard?

13 A I just seem to recall that we interpreted her
14 reaction differently.

15 Q How did you interpret it?

16 A I interpreted it that she didn't recognize him.

17 Q How did Mrs. Milgaard interpret it?

18 A Well, I don't want to put -- I don't want to say
19 something that I'm not positive about, but --

20 Q What do you recall her saying to you or saying at
21 the time or her position being as far as whether
22 or not (V14)- (V14)- identified Larry Fisher in
23 the photograph?

24 A I could be wrong about this, but I think that
25 Joyce maintained that (V14)- (V14)- recognized



1 Larry Fisher's photo.

2 Q And did you dispute that with her?

3 A I disputed that, yes.

4 Q And what was her response?

5 A I don't know. I don't remember.

6 Q Let's go to the memo, 054514. And then did you
7 proceed to interview her and (V14)- (V14)- with
8 Mrs. Milgaard and get some further information?

9 A Right. She accompanied us into the cafe and we
10 spent a lot of time -- I mean, maybe a couple of
11 hours talking with her.

12 Q And is this your memorandum of that interview on
13 the screen?

14 A Yes.

15 Q And I'll just go through parts of it. It looks
16 like it starts off:

17 "Within the past year, David Asper
18 received a call from a man who claimed
19 to be an attorney representing a woman
20 who was attacked by a rapist in the
21 (V14)-- area in May of 1968."

22 And if you can scroll down, it seems to be Asper,
23 Mr. Asper challenged the caller who admitted to
24 not really being an attorney. And then you and
25 Joyce stopped in (V14)-- and searched for a story



1 on the rape and couldn't find any. And then it
2 says:

3 "Ironically, we'd been in Saskatoon just
4 a day when we learned that the woman
5 herself had called Joyce's house in
6 Winnipeg. She'd identified herself as
7 (V14)- (V14)-. Joyce called her back
8 and (V14)- related the following:

9 (1.) She'd been raped by a
10 knife-wielding assailant 20 or so years
11 ago near (V14)--. (2.) The crime went
12 unsolved until David Milgaard was
13 arrested in the Gail Miller murder and
14 authorities told (V14)- that Milgaard
15 was the person responsible for attacking
16 her (3.) Recent publicity surrounding
17 the Milgaard case had resurrected her
18 memories of the rape ordeal. (4) She
19 was determined to resolve the matter and
20 and planned to visit David Milgaard in
21 prison and see if she recognized him."

22 So if I can pause there, would that be accurate
23 as far as how --

24 A It appears to be accurate to me.

25 Q How did the concept that Larry Fisher may have



1 been the attacker of this woman get introduced
2 into the equation and where from?

3 A That would have been Joyce Milgaard's notion, but
4 it may have also been -- it's possible that
5 Asper's office also subscribed to that theory as
6 well.

7 Q And are you aware as to whether (V14)- (V14)-,
8 before you and Mrs. Milgaard met with her, ever
9 said to either Mrs. Milgaard or to David Asper or
10 to anybody that she thought that Larry Fisher was
11 her assailant?

12 A To my knowledge, she had never indicated that.

13 Q And it appears from the memo that she in fact was
14 of the view that maybe it was David Milgaard, or
15 it was David Milgaard and that her purpose in
16 calling Mrs. Milgaard was to verify in her mind
17 whether it was or wasn't David Milgaard. Is that
18 a fair reading of that paragraph?

19 A It appears that the publicity, all the publicity
20 surrounding David Milgaard's arrest, she started
21 thinking about that and wondering if he might be
22 the person who attacked her.

23 Q And then it talks about here in your memo:

24 "(V14)- (V14)- also told Joyce that
25 she'd worked for 10 years for the



1 Canadian Justice Department. When Joyce
2 told the woman we were going to be
3 leaving for Regina in a few days, she
4 agreed to meet us there to talk about
5 her case. Something about the woman
6 didn't seem right. It was starting to
7 smell like a possible setup."

8 What did you mean by that?

9 A You know, I'm not sure what I meant by it. There
10 was just something that was just a little, a
11 little screwy about this.

12 Q A setup by whom and for what purpose?

13 A I would have been inclined to suspect at that time
14 that somebody from the government, if there was
15 anything sinister going on, it was somebody from
16 the government. I didn't suspect that -- I wasn't
17 referring to my suspicions that Joyce was up to
18 something untoward here, that wasn't the point.

19 Q So when you say a setup, you are talking about a
20 government, the government being involved in a
21 setup and using (V14)- (V14)-?

22 A Yeah. For one thing, this was during the period
23 of time that we were setting out to interview bona
24 fide, known Larry Fisher victims and it didn't
25 make any sense to me that we would go off on a



1 venture like this. I just didn't understand the
2 background on it and I wasn't comfortable with it.

3 Q But again, just on the setup, I'm trying to
4 understand, what were you thinking the government
5 might be trying to do with (V14)- (V14)-?

6 A You know, let me rephrase that, I'm not sure
7 exactly what I meant by, "It was starting to smell
8 like a possible setup." As it turned out, there
9 was no setup at all. This was a woman who was
10 genuinely traumatized by an ordeal earlier in her
11 life and it was apparent to us that she wanted to
12 figure out what happened to her and who did it, so
13 whatever suspicions that I might have had at that
14 time about something going on behind the scenes,
15 they were unfounded and -- but I just can't
16 explain what they were now because I don't
17 remember.

18 Q And it talks about, and I think you've told us you
19 were supposed to meet her on a Saturday night at a
20 motel and she didn't show up?

21 A Yes, that's correct.

22 Q And it looks here that:

23 "One and a half hours passed and the
24 woman still hadn't called. I drove with
25 Joyce 's son Chris to the motel. We



1 located the room registered to (V14)-
2 (V14)-. At the rear of the motel, the
3 curtain to the window of this room was
4 partially open and we could make out
5 silhouette of a short, overweight woman
6 moving about inside.

7 In the meantime, Joyce had
8 received a call from (V14)-'s friend
9 (who we suspect is the same person who
10 initially called David Asper.) To
11 Joyce, he sounded either drunk or
12 stoned. She told him we were planning
13 to meet with (V14)- the following
14 afternoon but noted that our time would
15 be limited because of our plans to drive
16 to Moose Jaw. He became belligerent
17 and, in essence, told Joyce to go to
18 hell."

19 And then stayed at the motel and then the
20 catching the bus. Does that sound right?

21 A Yes. It doesn't make sense to me. I thought --
22 if you can scroll back up?

23 Q Sure.

24 A I thought we got stood up by her on Saturday
25 night.



1 Q Well, I think, if we can go back --

2 A We called (V14)-, she initially --

3 Q At a motel, she agreed to meet that night, and
4 then one and a half hours passed and she still
5 hadn't called and then it looks like you went to
6 the motel.

7 A Okay.

8 Q So in fairness, the version of events she told
9 Sergeant Pearson later is a bit the reverse, that
10 Joyce wouldn't go if her friend was there and that
11 she got stood up.

12 A That may be true because Joyce insisted on going
13 to church that night I remember very distinctly.

14 Q Was there a desire to meet with (V14)- (V14)-
15 alone and not with this friend who wished to meet
16 with --

17 A I don't recall.

18 Q If we can go to the next page, and it talks about
19 being at the bus stop, or at the bus depot:

20 "At one minute to six, a short,
21 overweight Indian woman carrying a small
22 suitcase showed up at the gate. She
23 looked like the woman I'd seen inside
24 the motel room. Joyce approached her
25 and she stepped aside and acknowledged



1 that she was (V14)-. Without
2 identifying the person, we showed her
3 the photo-booth strip of (four) Larry
4 Fisher pictures. She studied the photos
5 and commented, "His hair was longer."
6 It should be noted that Fisher was
7 uncharacteristically well groomed in the
8 these photos and that all the other rape
9 victims described his hair as being
10 long."

11 Again, would that be an accurate recording of
12 what you observed?

13 A Yes, and what she was saying there was that the
14 hair of the person who attacked me was longer.

15 Q And again, as far as based on what you observed, I
16 think you told us earlier you did not think she
17 had recognized the photo; is that right?

18 A That's correct.

19 Q If we can just scroll down, it looks like this
20 carries on, she told us about the attack in May of
21 '68, and the next paragraph you say:

22 "This was a very strange woman,
23 seemingly fraught with fear that left
24 her momentarily speechless ..."

25 And then went on about here:



1 "She is also a pathetic figure -
2 seemingly far too simple to be a part of
3 any government conspiracy against David
4 Milgaard."

5 What did you mean by that?

6 A This apparently would refer back to the setup, the
7 concerns about a setup that I referred to. I
8 don't know whether that was, this explains what I
9 was talking about. Obviously ties in with it.
10 I'm not sure whether Joyce was concerned about
11 some type of a setup by the RCMP or by the police
12 or someone else or -- I don't remember having any
13 independent concerns of my own about it, but if
14 there were concerns, I'm sure they initiated with
15 Joyce. It began with her.

16 Although, let me reconsider that
17 statement because I myself in my report said it
18 started to smell like a setup. I just don't know.
19 But whatever it was, I was trying to be cautious
20 because I thought that this was a pretty risky
21 venture.

22 Q And then just scroll down to the bottom, it says:
23 "We talked for about an hour. Her plan
24 was to spend another night in Regina and
25 take the bus home in the morning. I



1 believe we were able to convince her
2 that Larry Fisher is a far more probable
3 suspect than David Milgaard. Strangely
4 though, she still expressed a desire to
5 view David in prison."

6 A Uh-huh.

7 Q Why would you try to convince her that Larry
8 Fisher is a far more probable suspect than David
9 Milgaard?

10 A Because in our opinion he certainly was.

11 Q Okay. And did she say anything to you that caused
12 you to think that she thought that initially?

13 A That she thought what?

14 Q Let me back up. I think what you told us is that
15 when you went to meet her, she thought that David
16 Milgaard may be the person who had committed the
17 rape and she wanted to see him and to verify that?

18 A I think that's a fair statement, that she was, she
19 was concerned that he might be the person, yes.

20 Q And I think you told us she mentioned nothing of
21 Larry Fisher or anything about Larry Fisher being
22 a suspect?

23 A Well, of course she wouldn't know anything about
24 Larry Fisher because there hadn't been any
25 publicity on him.



1 Q And so then you and Mrs. Milgaard then would try
2 to convince her that Larry Fisher was the person
3 that raped her as opposed to David Milgaard?

4 A I think we probably told her, I mean, I probably
5 was a party to this, I probably explained the
6 circumstances to her, that Fisher had been, was --
7 had been arrested for murders, I mean, for rapes,
8 and he had confessed to them, and I undoubtedly
9 shared my feelings with her about Fisher being a
10 far better suspect than David Milgaard, but --

11 Q Did you have any information at that time to
12 suggest that Larry Fisher might have even been in
13 that area at the time?

14 A Oh, I think we addressed that further on down. At
15 this point we had not, I don't believe, had talked
16 to his boss. There was something floating out
17 there about the possibility that through his
18 company he had worked in that area at some point
19 in time. Ultimately I think that his boss or
20 supervisor put that to rest and said that was not
21 likely to have been the case.

22 Q Okay. And so again, why would you want to
23 convince her that Larry Fisher was the assailant?

24 A Well, I would rather have her be convinced that
25 Larry Fisher was the assailant instead of David



1 Milgaard. I mean, this woman was, I considered
2 her to be a loose cannon, she was making all kinds
3 of waves and, you know, we were trying to get her
4 off this notion that she had been attacked by
5 David Milgaard, so I thought it was reasonable
6 that we suggest an alternate explanation to her in
7 lieu of David Milgaard. I mean, this guy is,
8 Larry Fisher is an adjudicated, recurrent rapist
9 and --

10 Q Okay. If we can go to the next page?

11 A Let me add to that that I -- this woman had not
12 identified a photo of him.

13 Q Of Larry Fisher?

14 A She had not identified Larry Fisher's photograph.

15 Q And it's my understanding that a photograph of
16 David Milgaard was not shown to her during this
17 interview; is that right?

18 A Umm, I don't recall that a photograph was shown to
19 her, no, no.

20 Q Then here is *The Attack*, and we have been through
21 this before, I'll just touch on her description.
22 Down at the bottom it says:

23 "(V14)- described the assailant as being
24 part Indian (which Larry Fisher is)and
25 wearing a red headband (which Fisher



1 did), as well as wearing work clothes
2 and boots (which Fisher always wore)."

3 A Uh-huh.

4 Q And, again, is that the description that
5 Ms. (V14)- gave to you?

6 A That was the description that I remembered her
7 giving to us, yes.

8 Q And then it says:

9 "The 4-year-old daughter claimed he
10 drove off in a red truck. We believe
11 the company trucks Fisher would have had
12 access to also were red. More
13 importantly, Jake Kettler, the company
14 foreman Fisher worked directly under,
15 told Joyce that he believed the company
16 had a construction contract at the
17 potash mine near (V14)---- at about the
18 same time. Fisher could very probably
19 been there."

20 Now where and how did that information come from?

21 A It says here that he told Joyce that, that he gave
22 that information to Joyce.

23 Q And did you subsequently follow up and conclude
24 that that may not have been right?

25 A Yes.



1 Q Okay. And so that Mr. Ketler, I think, ended up
2 saying "the trucks were not red, we were not near
3 (V14)----, and we don't think Larry Fisher was
4 there"; is that right?

5 A That was basically what he told us, which was
6 noted in my report.

7 Q And then if we can go to the next page.

8 COMMISSIONER MacCALLUM: Excuse me, Mr.
9 Hodson.

10 MR. HODSON: Okay.

11 COMMISSIONER MacCALLUM: I'm going to ask
12 the reporters if they're okay to go on for half
13 an hour?

14 MR. HODSON: Yeah, I think we're going to
15 have -- Mr. Henderson has a flight, so we'll
16 maybe just keep going and finish a bit early.
17 I'm sorry, I should have asked that, we'll just
18 finish up on that.

19 BY MR. HODSON:

20 Q And then here:

21 "Finally, (V14)- described the assailant
22 as being ...",

23 Slightly:

24 "... slighter taller than herself. She
25 is 5-4. This also fits Larry Fisher.



1 Information provided by (V14)-
2 (V14)- would appear to eliminate David
3 Milgaard. Most significant: he's not a
4 native Canadian. Also, at the time of
5 this attack he was only 15 and had no
6 vehicle ...",

7 etcetera. *Conclusion* -- I think that's about
8 all. So, again, is that what she would have
9 given you by way of a description?

10 A Yes, umm, right, and, umm, I'm, I'm reading here
11 that -- hang on just a second. I drew some, yes
12 I, obviously I was very specific about her in
13 recalling that her, that she described this person
14 as being part Indian, because that led to the
15 conclusion that, that her description appeared to
16 eliminate David Milgaard.

17 Q And if we can go to 054514 -- 054518, I'm sorry.
18 This is a -- this, the memorandum I just showed
19 you was a memorandum you prepared for a witness
20 interview. This document here is a front page
21 that appears to be added to pages 3 and 4 of the
22 previous memo when it was filed with the Minister
23 of Justice.

24 A Uh-huh.

25 Q Do you remember that happening or do you have any



1 --

2 A This?

3 Q Yes?

4 A I don't know where this came from.

5 Q Is this your document?

6 A No, it's not.

7 Q If we can just scroll down a bit, there is a
8 reference here --

9 A Well this is --

10 Q I'm sorry?

11 A This is interesting.

12 Q Yes. It says here, 'She looked at Larry -- ', and
13 just so you are clear, this is a document that
14 accompanied the Centurion Ministries report to the
15 Federal Minister, it says, 'She looked at Larry
16 Fisher's picture and said it could be him, but she
17 especially remembered his hair longer, dirtier and
18 not so clean cut as in the picture.'

19 Did that happen when she had
20 looked at Larry Fisher's picture?

21 A I don't remember her saying that, and this is not
22 my report.

23 Q It says, 'She described him as just slightly
24 taller than her, maybe 5'5". She said he was part
25 native, and since she is a Cree, was quite certain



1 on that point and that he wore work clothes and
2 work boots.'

3 Again, do you recall that being
4 what Mrs. (V14)- told you?

5 A I don't know. I would have to compare it. No, I
6 don't have any independent recollection of exactly
7 what she told us, but --

8 Q Who, who would have substituted this page to the
9 page of your interview note of (V14)- (V14)-?

10 A I'm not sure. I'd like a chance to read more of
11 this, you know.

12 Q Sure. If we could actually just go back, let's
13 put on the left-hand side 054514, and then on the
14 right-hand side 054518. And it would appear that
15 the memorandum on the left-hand side, which was
16 four pages, was prepared by you. What ended up
17 going to the Federal Minister of Justice with the
18 Centurion's report, I believe the document on the
19 right-hand side was substituted for the first two
20 pages of your memo on the left, and then attached
21 to pages 3 and 4. And if, on the left-hand side,
22 you could just go to 054516, *The Attack*, and so
23 what was sent to the Minister of Justice was the
24 document on the right, page 1, page 2 was *The*
25 *Attack* that has page 3 at the bottom, and page 4.



1 So, again, are you able to explain how 054518 came
2 into existence or who --

3 A No. I can tell you it's not my document, this
4 isn't my type style that I was using at the time,
5 I didn't have interchangeable type face on my word
6 processor so my -- my -- my reports all would have
7 been in this particular type style. Plus, I would
8 never have blocked all my copy together that way.

9 Q I see.

10 A This runs in one particular paragraph, wouldn't
11 have done that. So I don't know where this came
12 from, it must have come from Asper's office.

13 Q If we could go to 009101. Did you become aware
14 that the (V14)- (V14)- complaint was included in
15 the Centurion Ministries' report and application
16 to the Federal Minister of Justice as being one of
17 the sexual assaults committed by Larry Fisher and
18 part of the analysis of similar crimes?

19 A No, I was not aware of that, and if it -- upon
20 hearing that I have to say it's unfortunate
21 because it, it didn't measure up.

22 Q In what way?

23 A It was in -- as far as I was concerned it was
24 never established that Larry Fisher was
25 responsible for the (V14)- (V14)- attack.



1 Q Do you know why it would have been included in the
2 application to the minister?

3 A Well it would not have been included on the basis
4 of my report that I submitted to Jim McCloskey.
5 My report was totally -- made it very clear that
6 this was not another bona fides, as
7 well-established, Larry Fisher rape. I -- if he
8 included that in the summary report it must have
9 been because of additional information that he got
10 from --

11 Q Who is "he", I'm sorry?

12 A Jim McCloskey.

13 Q Okay.

14 A Yeah, he was -- he's the guy who authored the
15 report. Umm --

16 Q Okay. If we could go to -- this document is
17 October 24th, '91, so this is about five months
18 later, and (V14)- (V14)- -- the (V14)- (V14)-
19 complaint and part of your memorandum is included
20 in the application to the minister. The federal
21 minister, that we've heard evidence, asked Rick
22 Pearson to go and investigate this assault, all of
23 the assaults but including the (V14)- assault, and
24 this is a memorandum of his interview, and he
25 essentially confirmed this in his evidence before



1 the Commission.

2 A Uh-huh.

3 Q And if we can go to the next page, just touch on
4 parts of this, he goes through the assault, again
5 confirms the red bandana, a chain, and if we can
6 go to the next page. According to Mr. Pearson
7 (V14)- (V14)- describes the assailant as, 'The
8 fellow that attacked me had dark brown hair, he
9 was a white person. He was about 5'6" or 5'7".
10 His hands were small and did not seem to be a
11 working man's hands as they were not muscular or
12 thick. I saw this person's face for a short time
13 during the struggle. The person was of slim build
14 with no belly. The only clothes I remember is
15 blue jeans. I don't remember the kind of shoes he
16 wore. He wore a red bandana and had hair that was
17 not quite shoulder length with a slight wave, not
18 curly. His voice was that of a young man, not a
19 mature adult.

20 And I think you -- would you
21 agree, sir, that that is quite a different
22 description of the assailant that you have in your
23 memorandum of the interview with her?

24 A Are you talking about my initial --

25 Q Yes?



1 A My report?

2 Q Yes.

3 A I would like to see it again if I might.

4 Q Your report?

5 A Yes.

6 Q If we could put on the left-hand side document
7 054514, and go to page 054516, call out that part;
8 and on the right-hand side 00909 -- or 009103.

9 A Okay. My description, I believe, starts on the --
10 at the bottom of the page.

11 Q Yes.

12 A Umm, she:

13 "... described the assailant as being
14 part Indian ..."

15 Now there is some business on the other report
16 about her daughter describing the assailant as
17 being part native; is that right?

18 Q If we can just scroll up, her daughter said -- her
19 four-year-old daughter said that she -- steaks had
20 placed on the counter, I think she ended up saying
21 she thought an Indian had taken the steaks. I
22 think that's actually in Mr. Pearson's statement,
23 I'm not sure if that's in yours.

24 A All right. If we can move on from there, if you
25 like, and I -- the next part of the description is



1 that he was wearing a red bandana; is that --

2 Q Yeah.

3 A Does that conflict with what she said?

4 Q Well, let me just start off, and I can maybe help
5 you out here.

6 A Okay.

7 Q First of all she told Mr. Pearson that he was a
8 white person, according to your memo she called --
9 she said that he was part Indian.

10 A Uh-huh.

11 Q The red headband is common to both. To you I
12 think she said 5'4", yeah 5'4", she said 5'6",
13 5'7".

14 A What --

15 Q I think described his hands as being small and not
16 a working man's hands.

17 A Excuse me, could you show me where she described
18 him as being 5'4"?

19 Q Yeah. The next page. Actually, sorry, slightly
20 taller than herself, she is 5'4".

21 A Okay.

22 Q And so again, just go back to the previous page,
23 and in your memorandum you say that she described
24 him as having worn work clothes and boots, and in
25 the interview with Mr. Pearson she described him



1 as not seeing the shoes and wearing jeans, blue
2 jeans.

3 A Uh-huh. Okay. The major discrepancy is the race.

4 Q I'm sorry?

5 A The major discrepancy in the descriptions appears
6 to be my description --

7 Q Of him as an Indian or part-Indian?

8 A Yeah, and -- right, uh-huh.

9 Q And, again, do you have any explanation as to why
10 --

11 A I do not, no. I notice, to be perfectly honest
12 with you, that there was a newspaper clipping
13 earlier that apparently documented this attack,
14 umm --

15 Q That's what I showed you in our office the other
16 night.

17 A Yeah, and she also identified the assailant as
18 white, --

19 Q Yes?

20 A -- as being white in that article. I can't
21 explain this. Again, all I can say is that I did
22 not, certainly did not deliberately misrepresent
23 what she told us, I may have made a mistake but it
24 was not intentional.

25 Q If you could just go back, just the document on



1 the right, and again what she described to
2 Mr. Pearson about what she heard back in 1968 or
3 that period when her clothing was returned -- no,
4 I'm sorry, it's the wrong page, next page. She
5 says to Mr. -- Sergeant Pearson, 'Sometime after
6 the investigation the police returned my clothes
7 in a brown bag', etcetera, and the police said,
8 'We got the guy, he doesn't live far from here.'
9 She says, 'I never heard the policeman say
10 anything about David Milgaard. I was left with
11 the impression that David Milgaard was
12 responsible for my assault, but I am not sure
13 where I got that, but it may have been by the
14 police, I'm not sure.'

15 And then it goes on to talk
16 about recent publicity.

17 If we can then go to the next
18 page, she described the aborted first meeting
19 with you and Joyce Milgaard a bit differently,
20 saying she got, 'Calls from Joyce Milgaard who
21 wanted to come to the hotel to interview me. I
22 said to Joyce I did not want to be interviewed
23 alone. When Harold arrived he phoned
24 Mrs. Milgaard and told her he was going to be
25 present during the interview because I had gone



1 through a traumatic experience and was
2 recovering. The next thing I knew Harold was
3 standing with the phone receiver, saying Joyce
4 had hung up on him. After talking with Harold, I
5 was left with the impression she wanted to
6 interview me alone and would not be coming down.'

7 And so her version of the
8 aborted meeting on the Saturday night is that,
9 once Mrs. Milgaard learned that she wanted to
10 have her friend Harold present, Joyce backed out
11 of the meeting; is that your recollection?

12 A No, I don't remember that. It's possible that
13 that was true but, you know, I --

14 Q Did you want to interview her alone?

15 A I would have had no objections to her having a
16 companion with her when we talked with her.

17 Q Then at the bottom of the page she talks about the
18 encounter with you and Mrs. Milgaard, she says, 'I
19 talked with them for about an hour. I refused to
20 go with them. I asked Joyce if she had a picture
21 of her son David. She showed me a picture, I
22 looked at it, turned away and said this was not
23 the person. Joyce said "Yes, this is the man who
24 attacked you ", and that he was a serial rapist
25 and that he had admitted to attacking other women



1 and killing Gail Miller.

2 When I looked at the picture and
3 turned away, saying it was not him, Paul Henderson
4 said something like, "Yes, I think she recognized
5 him." I was left with the impression that Joyce
6 wanted me to agree with everything she was
7 saying.'

8 Again, is that, do you take
9 issue with her account of that meeting?

10 A Yes, I do. My report doesn't reflect anything
11 like that.

12 Q And I think you've told us that you didn't think
13 that she had recognized him; is that right?

14 A Yes. Now she's talking here about the photos of
15 Larry Fisher; is she not?

16 Q Yes. She is saying "I asked to see a picture of
17 David, I was shown pictures, I said "it's not him"
18 and that Joyce Milgaard said "yes it is", and it
19 was pictures of Mr. Fisher".

20 A Well that, the, you know, the picture viewing was
21 -- that took place seconds after she stepped off
22 the bus, so I don't know whether she's referring
23 to that, to that time frame, or later when we were
24 in the restaurant. It sounds to me like she's
25 saying that this occurred during the course of our



1 interview with her.

2 Q Actually I think in fairness, sir, I think it's
3 when they had the initial encounter.

4 A Okay. That would be correct then.

5 Q Umm, if we could call up 010127, this is an
6 affidavit Joyce Milgaard filed with the Supreme
7 Court of Canada, and go to page 010133.

8 Mrs. Milgaard swears in this affidavit:

9 "On May 5, 1991 in the company of Paul
10 Henderson I interviewed (V14)- (V14)-
11 ((V14)) in the bus depot in Regina. She
12 or someone on her behalf had contacted
13 David Asper and myself claiming that
14 Ms. Bear had information relevant to the
15 case. When I met with Ms. Bear she
16 asked to see a photograph of David. I
17 presented her with a photograph and when
18 she saw it she said "it could be him but
19 his hair was longer and dirtier". The
20 picture I showed was that of Larry
21 Fisher. When I told her this she was
22 quite taken aback. The reason I showed
23 her Larry Fisher's picture was because I
24 did not trust her. She had asked to see
25 David in prison but claimed that she



1 could not bear to watch him on
2 television. This made me suspicious to
3 say the least."

4 A Uh-huh.

5 Q And again, as Mrs. Milgaard has presented in this
6 affidavit, is that how you recall it happening?

7 A Yes. I don't remember her saying it could be him,
8 I don't remember (V14)- saying that.

9 Q And --

10 A I remember her saying that "the person who
11 attacked me had longer hair, his hair was longer."

12 Q I -- and -- but as far as showing, I mean
13 according to this paragraph it would appear that
14 Mrs. (V14)- was thinking she was being shown a
15 picture of David Milgaard, when in fact it was
16 Larry Fisher, because Mrs. Milgaard said she
17 didn't trust her?

18 A Well you mean she was, she was playing a
19 switcharoo with her there, she was leading her to
20 believe -- is that what you read in this?

21 Q I'm asking you, Mr. Henderson, you were there?

22 A I don't think that Joyce was quite that devious.
23 I really don't. I thought that she -- my
24 impression was that she was showing her a picture
25 of Larry Fisher to see if she recognized Fisher as



1 her assailant.

2 Q Okay. If we could go to 009094. This is the
3 original police report, go to 009098. And this is
4 the original information that Mrs. (V14)- gave the
5 RCMP in 1968 shortly after the attack. She said,
6 'I never once saw the culprit's face, only his
7 hand, which appeared to be the hands of a white
8 man and were all dirty.

9 And would you have been aware of
10 that at the time that you --

11 A No, I wasn't, but that would make her -- any
12 identification, I mean any identification of her,
13 by her of a photo, certainly it would appear to
14 be, since she didn't see the guy's face, a waste
15 of time to have shown her a photo of anybody.

16 Q In her statement to Mr. Pearson I think she said
17 she did see the face for a moment, certainly in
18 this report it says otherwise, and the fact that
19 she had identified the assailant's as the hands of
20 a white man as opposed to a part-Indian; were you
21 aware of that?

22 A No, I was, I was not aware of any prior
23 identification by her of the assailant.

24 Q This is probably an appropriate spot to break for
25 the day, Mr. Commissioner. Thank you very much,



1 Mr. Henderson, for sitting extended.

2 A You are welcome.

3 COMMISSIONER MacCALLUM: Just for the
4 benefit of counsel, or Commission Counsel and the
5 witness, he'll be obviously coming back to
6 finish, can I get an idea of how many want to
7 cross-examine and how long you might be? One,
8 two, three, four, five, did you have your hand up
9 Mr. O'Keefe, yes, six people. Anybody longer
10 than say 20 minutes? Three longer than 20
11 minutes, so three, four.

12 MR. GIBSON: Half an hour or so, I'm
13 thinking.

14 COMMISSIONER MacCALLUM: Well I -- yeah, it
15 looks like maybe two more days?

16 MR. HODSON: Yes, I think that's right.
17 And I know Ms. McLean intends to examine as well,
18 so I have talked to Mr. Henderson to try and find
19 dates that I can get him back here, and as soon
20 as I am able to do so I will inform the parties.

21 COMMISSIONER MacCALLUM: Thanks. I
22 appreciate your willingness to come all this way,
23 Mr. Henderson, and we are then adjourned until
24 Monday.

25 MR. HODSON: Monday at 1:30 when the



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application --

COMMISSIONER MacCALLUM: Monday at 1:30 for
the application.

(Adjourned at 3:29 p.m.)



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