

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
Ramada Hotel at
Saskatoon, Saskatchewan

On Tuesday, May 2nd, 2006

Volume 143

Inquiry Proceedings



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1 Transcript of Proceedings

2 (Reconvened at 9:00 a.m.)

3 COMMISSIONER MacCALLUM: Good morning.

4 ALL COUNSEL: Good morning.

5 PAUL HENDERSON, continued:

6 BY MR. HODSON:

7 Q Morning, Mr. Henderson. I'm mindful of my
8 15-minute promise of yesterday, however, I did
9 come across a document last night that came out of
10 your evidence yesterday that I just want to draw
11 to your attention.

12 If we can call up 064970. And
13 you will recall, yesterday, you gave some
14 evidence, we went through the article where
15 Mr. McCloskey talked about the police framing
16 David Milgaard; do you recall us going through
17 that?

18 A I do.

19 Q And we had some discussion about what was meant by
20 "frame", what did you think it mean, what did he
21 think it mean, and we went through that
22 discussion, and I think you expressed, not doubt,
23 but some concern about whether those were his
24 words; do you remember going through that?

25 A Yes.



1 Q It's --

2 A And then we subsequently found a direct quote in
3 another article.

4 Q Right. And what this document is, it's in 1993,
5 September of 1993, as part of an RCMP
6 investigation, which I will be going to in a
7 moment with you to get your involvement in that.
8 Mr. McCloskey was interviewed by Sergeant Dressler
9 of the RCMP, and I think it's a taped interview,
10 and I just want to go through parts of this
11 transcript with you to get your comment on what
12 Mr. McCloskey had to say. If we can go to the
13 next page, and just for the record, it talks about
14 a statement of Mr. McCloskey, and I believe it was
15 by telephone, and you will see, here, Sergeant
16 Dressler says it's being tape recorded. Mr.
17 McCloskey says:

18 "I have no objections and as a matter of
19 fact, it was my idea that I suggested to
20 you yesterday, to do it this way."

21 And then if we can skip ahead to page 064977.
22 And again, I don't propose to go through this in
23 detail, but the RCMP asked Mr. McCloskey to talk
24 about how Centurion got involved and he said at
25 the bottom, if we could just call out the bottom,



1 please. He said:

2 "... here's what happened. We become
3 familiar with it through reading of the
4 record, we think there's, we've come to
5 believe that David Milgaard, we think
6 there's a good chance he's innocent.
7 But we still, I, even with that I told
8 Joyce, we just can't do anything right
9 now, we're ... having money problems."

10 And then:

11 "... what triggered our actual
12 involvement ...",
13 next page, was the call to David Asper about
14 Linda Fisher. and I think that's consistent with
15 what you told us earlier; correct?

16 A Yes.

17 Q And then again, if we go down to the bottom, as
18 far as Mr. McCloskey's involvement, the question:

19 "... what ... roll did you take then in
20 the investigation?"

21 And he says:

22 "I was ... supervising in managing the
23 investigation of both Joyce and Paul at
24 that time."

25 And would you agree with that as being Mr.



1 McCloskey's involvement?

2 A Yes.

3 Q And then if we can go to 064982, and this is his
4 statement leading up to the August 1991
5 pronouncements of a frame, and he talks about
6 meetings. And here:

7 "... they finished speaking with those
8 victims, ...",

9 those are the sexual assault victims:

10 "... I don't know, maybe sometime in
11 July or even earlier than that of
12 ninety-one and then I told Joyce and
13 David ...",

14 and that's David Asper:

15 "... let's not do a thing, it looks like
16 we got some good information. I want to
17 personally go through everything and
18 piece together each of these interviews
19 and see if there are some common themes
20 of the way Larry Fisher went about
21 committing his crimes and especially
22 compare them to the Gail Miller murder
23 and rape. And I did not get a chance to
24 really go through that carefully until
25 late July."



1 And:

2 "Then I went to Winnipeg in August of
3 ninety-one and spent four days up there
4 and that's when Hirsch and I and David
5 really huddled together and spent days
6 going through all this raw material that
7 Joyce and Paul had accumulated and
8 developed the, the profile of, of Larry
9 Fisher and his crimes, and his crimes."

10 Does that accord with your recollection, Mr.
11 Henderson, of what happened?

12 A I can't say that I have a distinct memory of that
13 phase of the investigation.

14 Q But it would appear, here, that you and Joyce
15 Milgaard did the interviews of the sexual assault
16 victims, provided that information to Mr.
17 McCloskey, he then sat down, reviewed it, and then
18 sat down with Hersh Wolch and David Asper in early
19 August 1991 to go through it and come up with the
20 plan; is that fair?

21 A That's fair.

22 Q And it doesn't say you were involved in these
23 meetings; is that --

24 A I was not involved in them, no.

25 Q And then if we can go -- and so is it fair to say



1 that this, what he's talking about here when he
2 spent four days in August of 1991 with Hersh Wolch
3 and David Asper, that would be August 14th, 1991
4 is when the application was made to the Minister
5 and that is when there was a fair bit of media
6 attention, and in particular that's when Mr.
7 McCloskey made the statements about the frame and
8 the coverup. And is it fair to say that this
9 meeting he's talking about here, would that have
10 been the predecessor to the launch of the
11 application and the media blitz?

12 A Umm, sounds right to me.

13 Q Are you able to, were you involved in that
14 planning, or would you have been aware of that
15 going on at the time?

16 A Well I was, I was generally aware of what
17 McCloskey was doing after Joyce and I wrapped up
18 our roles in this investigation, that is the
19 interviews with the victims, but I'm -- I -- by
20 this time I was working on another case in Los
21 Angeles and, you know, I wasn't closely following
22 developments up here.

23 Q Would it be fair to say that the investigation you
24 did in May and June, the interviews of the sexual
25 assault victims, that the purpose of that, at



1 least what you knew to be the purpose, was to
2 gather information to put together a second
3 application to the Minister?

4 A Certainly.

5 Q And that, when you gathered the information, is it
6 fair to say you knew that Mr. McCloskey,
7 Mr. Wolch, and Mr. Asper would be taking that
8 information and putting it into the appropriate
9 legal package, if I can call it that, to go to the
10 Minister?

11 A I do believe that was the strategy, yes.

12 Q And if we can then go to page 664989. And this
13 is, the RCMP officers ask Mr. McCloskey about the
14 August 17th, 1991 *StarPhoenix* article, and that's
15 the one where he -- that uses the word "frame",
16 and Dressler says:

17 "Okay, that explains that ... statement.
18 Now from the Saskatoon *StarPhoenix* dated
19 August seventeenth, ninety ninety-one,
20 of which I attached a copy when I sent
21 my correspondence to you."

22 "It's entitled MILGAARD SAID CLEARLY
23 INNOCENT. Now this is encapsulates and
24 interview that you, that you've
25 provided."



1 "And again I've examined that, and you
2 you're quoted as saying, quote, he said
3 pressure to arrest someone for these
4 violent attacks prompted the police to
5 frame Milgaard, end quote."

6 McCloskey:

7 "Right."

8 Dressler:

9 "This is very important to us ... and I
10 was wondering if you could provide the
11 basis for that statement?"

12 Next page. Mr. McCloskey says:

13 "The basis for that, first of all, it's
14 an accurate statement."

15 "I was, I was, I felt the Canadian
16 Press, I felt very fairly treated by
17 them. I have everything I said was
18 accurately reported and this came from
19 my analysis. Not from, you know, this
20 is my view, the way I looked at this in
21 assessing the entire way that the case
22 was constructed and built against David
23 based on what, you know, Ron Wilson was
24 saying and Shorty Cadrain was saying and
25 some of the other people who felt



1 violated by the Saskatoon Police in
2 terms of the pressure that was brought
3 upon them...".

4 Now again yesterday, Mr. Henderson, you
5 expressed -- maybe I misread you -- some concern
6 that maybe the word "frame" was not Mr.
7 McCloskey's choice of words?

8 A Well --

9 Q It would appear, from this interview, that it was?

10 A -- it appears as though he found no fault with the
11 coverage of the interview with him.

12 Q Okay. And this information from Mr. McCloskey in
13 this interview, does this affect anything you told
14 us yesterday when we went through those articles,
15 and your view of the word "frame" and whether --

16 A Well, actually, I conceded yesterday, after
17 reading another article, actually seeing McCloskey
18 quoted directly, quotation marks, using the word
19 "frame", I conceded that it appeared to me that he
20 probably had used that word.

21 Q Okay. And then just to the next page. And I
22 think, and I don't need to go through this, but I
23 think what Mr. McCloskey says in this interview,
24 and I think you confirmed this for us yesterday,
25 is that he did not have any direct dealings with



1 these witnesses but, rather, he relied upon the
2 Court record and your work in interviewing these
3 witnesses?

4 A I --

5 Q Would that be fair?

6 A What are you talking about, the witnesses that I
7 was involved with?

8 Q Yes?

9 A Yes, as far as I know there was no cross-over, I
10 interviewed Linda Fisher, Dennis Cadrain, Albert
11 Cadrain, Ron Wilson, and Larry Fisher's rape
12 victims. To my knowledge, Jim did not follow up
13 with any of those witnesses, but he did other
14 things, like he, he made contact with the -- Gail
15 Miller's family, for one thing.

16 Q All right. And, again, I'm just, I don't want to
17 go through the whole tape with you, I'm
18 summarizing it. I think what Mr. McCloskey is
19 saying is "these are my views based upon
20 information gathered by my investigator, Paul
21 Henderson, based upon my review of the records and
22 based upon me reading things and talking to
23 people, Mr. Wolch, Mr. Asper", as opposed to him
24 talking to any of the witnesses directly; and
25 would you agree with that?



1 A Yeah, that's right, that's right.

2 Q And so, again, on the next page, and I think -- or
3 sorry, right here he says:

4 "And so what I saw there in reviewing,
5 first of all reviewing each of the
6 statements, the initial statements given
7 to the police, by all three, Wilson,
8 Cadrain and John. All three,
9 separately, and independently were
10 interviewed."

11 "Within a month or two of each other, in
12 March and April and, early April, and
13 told the police they didn't know
14 anything about this murder."

15 Next page:

16 "They, it was a very, all three initial
17 statements ...",

18 statements:

19 "... were exculpatory and then the heat
20 started to be put on, it started, I
21 think, with the police, in my view,
22 convincing Cadrain that he saw blood on
23 David's pants."

24 "And then they went to, so they get
25 Shorty to say what he said and then they



1 go and according to Shorty he was, he
2 was badgered ...",
3 and was that your view at the time, Mr.
4 Henderson, that -- and I appreciate these are Mr.
5 McCloskey's words but I think he is basing it on
6 your investigation; was it your view that the
7 police convinced Cadrain that he saw blood on
8 David's pants?

9 A At the time, all I can say about my feelings at
10 the time, based on what Albert Cadrain and his
11 brother told me, were that Albert Cadrain, Shorty
12 Cadrain, was under, put under intense pressure by
13 police to provide information or evidence that
14 would help them build a case against David
15 Milgaard.

16 Q Did Dennis Cadrain ever tell you that he thought
17 or believed that the police had convinced Albert
18 to say that he saw blood on David's pants?

19 A Dennis Cadrain told me, the first time I spoke
20 with him, that his brother was mistreated,
21 mistreated by Saskatoon Police, mistreated and
22 mentally abused to the point that it -- that he
23 ended up in a hospital.

24 Q Did he ever tell you that the, he believed that
25 the Saskatoon Police convinced Albert to say that



1 he saw blood on David's pants?

2 A No, he didn't, to my knowledge he never told me
3 that.

4 Q And did Albert Cadrain ever tell you that?

5 A I don't recall.

6 Q And we may have touched on this yesterday; did
7 you -- are you able to explain or comment on this
8 statement about the police convincing Albert
9 Cadrain that he saw blood on David's pants and the
10 possible source of where this might have been
11 arrived at or the basis of this?

12 A I -- that is, that statement came from Jim
13 McCloskey, and he -- I -- he's speaking for
14 himself on that. And I don't, I don't really have
15 an opinion. We were looking at documents
16 yesterday, I believe, in which Shorty Cadrain,
17 Albert Cadrain, claimed -- or the brother stated
18 that when Albert showed up, the first day he
19 showed up from Regina he, he announced that he had
20 seen blood on Milgaard's pants. We don't know
21 where the truth lies there.

22 Q Okay. And that's why I raise this here, because
23 yesterday I asked you about that, and I asked you
24 the question that when you interviewed Dennis
25 Cadrain for the first time, and that Dennis told



1 you that upon Albert's return to Saskatoon that
2 Albert apparently told Dennis -- that Dennis was
3 the first person that Albert told about seeing
4 blood on David Milgaard; remember us going through
5 that?

6 A Yes, I do.

7 Q And before you went and told the police, and my
8 question then and my question today is based on
9 that information, what effect if any did that have
10 on your view that the police may have either
11 convinced Albert to say he saw blood on David's
12 pants or somehow exerted influence on him to come
13 up with that version of events?

14 A I have, you know, looking back on this years ago,
15 1990, '91, I was not privy to all the information
16 that had been gathered. Documents were supplied
17 to me, we came into this -- into this case like
18 someone walking into the middle of a movie.
19 Information, documents were supplied to me on a
20 need-to-know basis, I got immediately into the
21 case and followed up on specific assignments
22 starting with Linda Fisher and moving on to
23 Cadrain, Ron Wilson and the rape victims. I
24 didn't know all of the background and I was not
25 aware of all prior statements made by various



1 witnesses, so I was at somewhat of a disadvantage.
2 My feeling was, very strongly was based on what I
3 heard from Albert and his brother that Albert was
4 in some manner coerced, although Albert's brother
5 Dennis told me that Dennis, or that Albert
6 believed that what he was saying was the truth or
7 was convinced of it. I nonetheless was fairly
8 certain that there was an element of coercion in
9 the manner that police dealt with this guy.

10 Q And I think just on that point, Mr. Henderson, you
11 told us back in January that the normal approach
12 Centurion Ministries would have to a case, or
13 where you would normally be involved, would be,
14 the very first thing you would do would be to get
15 the record, interview the lawyer and start
16 interviewing the witnesses; is that fair?

17 A In what type of a situation?

18 Q When you are retained by a wrongfully convicted
19 person, to assist that person. Remember, we
20 contrasted your normal case for Centurion
21 Ministries, what you would normally do versus, and
22 I can't recall your words, but you said your
23 involvement in the Milgaard matter was different,
24 was not your usual --

25 A Yes, that's correct. Normally I would -- well, if



1 it were a normal Centurion case, the first person
2 to review the case would be CM volunteers back in
3 Princeton who would conduct an exhaustive review
4 of all the documents, conduct correspondence,
5 communicate with the people in prison, the person
6 in prison who was appealing for our help, do any
7 number of other research assignments that were
8 designed to give us as much information as
9 possible to help us make a decision whether to
10 take on the case. From that point, if a decision
11 was made to commit the resources of CM to a
12 particular person, the files would come to me and
13 I would do an exhaustive review myself. That
14 didn't work that way this way, we didn't have
15 time, we came into the middle of this show and I
16 was given specific assignments and provided
17 documents that would enable me to understand what
18 I was going about when I set out to interview
19 various people.

20 Q And, Mr. Henderson, if I can use the term normal
21 case, what you just described, if this had been a
22 Centurion Ministries case from the outset, and
23 let's contrast it, before you went out to
24 interview Albert Cadrain, for example, would it be
25 fair to say that you would have read the entire



1 transcript and record?

2 A Absolutely. Gearing up for a normal case takes,
3 can take five years, it can take as long as five,
4 six, seven, eight years before we decide to
5 actually take on a case.

6 Q And again, and I think the normal case, the usual
7 case, if I can call it that, would you have talked
8 to defence counsel, for example, as part of the
9 information gathering process before you went out
10 and interviewed Albert Cadrain to get defence
11 counsel's perspective on that witness?

12 A Sure, we would have talked to everybody who might
13 have information that would be helpful for us
14 determining whether we were dealing with an
15 innocent person or in helping us figure out the
16 best way to proceed.

17 Q In your normal case would you seek to get
18 statements that that witness, let's say Albert
19 Cadrain, had given to the police, would you try to
20 get that from authorities, that type of
21 information?

22 A Information gathering is part of the initial
23 process, yes.

24 Q And police reports that would deal with how that
25 witness was handled by the police, would that be



1 background information you would read before the
2 interview?

3 A Very important background, all the discovery that
4 was available.

5 Q And when you were doing the work on the Milgaard
6 case and the interview of Albert Cadrain, for
7 example, did you have concerns at that time about
8 the fact, or were you comfortable with the
9 information you had or did you have any concerns
10 that you didn't have the full background that you
11 normally did?

12 A Well, the situation seemed fairly simple to me.
13 Well, when I talked with, first talked with
14 Albert's brother Dennis, he told me that his
15 brother had gone through an ordeal that resulted
16 in him being committed to a mental institution.

17 Q I don't mean to cut you off, Mr. Henderson, and
18 the question I had is in the course of your work,
19 and not specifically with Albert Cadrain, but when
20 you are out interviewing witnesses --

21 A Yes.

22 Q -- did you ever have concerns in your own mind
23 that lookit, normally when I go and interview
24 witnesses I have this whole background of
25 information and leg work that I've done, I don't



1 have that here, I'm going into these interviews
2 without all the information I normally had, did
3 you have those concerns at the time do you
4 remember, and did you tell anybody?

5 A I -- I didn't -- I don't recall having any
6 particularly serious concerns about getting
7 involved in this prematurely, no.

8 Q And I didn't mean to say it that way, just that
9 when you were interviewing witnesses, did you find
10 in situations that you did not have all of the
11 background information that you might otherwise
12 have had if you had been involved from the start?

13 A Well, that's a good question, but I don't think I
14 can answer it because it has been a long time and
15 I'm not sure if it was any moment of awareness
16 where I thought to myself gosh, I wish I had known
17 this before I started out. I can't say that I --

18 Q Did you rely upon David Asper, Hersh Wolch and
19 Joyce Milgaard to give you the information that
20 you would have otherwise got from the source, that
21 you ended up getting from them; is that a fair way
22 to put it?

23 A Yes, everything came -- everything came to me from
24 Hersh Wolch's office and Joyce Milgaard.

25 Q Okay.



1 A All the documents that we had access to were
2 forwarded to us by the law firm.

3 Q And would it be fair to say as well that you had a
4 number of, and we've seen some of them that were
5 taped, but a number of discussions with Mr. Asper,
6 Mr. Wolch, Joyce Milgaard about background
7 information about the case, about thoughts, about
8 theories, about the product of their work,
9 etcetera, would that be fair?

10 A I had a number of conversations with David Asper
11 by telephone, but I didn't meet David Asper until
12 95 percent of the work that I did on this with
13 Joyce was over with.

14 Q So just to summarize on this point, in the normal
15 case you would go out and do all the leg work
16 before you would go and interview witnesses and
17 get the background information, in the David
18 Milgaard you didn't do that, and I think you've
19 explained why, that you came in partway through?

20 A Right.

21 Q That you would have done some leg work, but you
22 would have relied upon David Asper, Joyce
23 Milgaard, Hersh Wolch as a source of the
24 information; in other words, what information do
25 you have as opposed to you going and getting it



1 yourself?

2 A When you say leg work, I don't quite understand
3 that.

4 Q Sorry, the review of the entire transcript.

5 A Yeah.

6 Q Obtaining witness statements, talking to defence
7 counsel, talking to the prosecutor, reviewing the
8 prosecutor's file, gathering all the information
9 available to inform you before you go out and talk
10 to a witness.

11 A Right, this was different.

12 Q And again my question is, in the Milgaard case did
13 you reply on Mr. Wolch, Mr. Asper and Joyce
14 Milgaard as your source of information as opposed
15 to you going directly and getting it all from the
16 initial source?

17 A That's correct.

18 Q If we can go to 059345. Launa Edwards, I
19 understand, Mr. Henderson, that you interviewed
20 her in January of 1992, she was, I think, the
21 ex-spouse of George Lapchuk. Do you recall?

22 A That's right, right.

23 Q And that was for the purposes, and I think she
24 testified at the Supreme Court reference; is that
25 right?



1 A I don't know.

2 Q And you were asked by Mr. Asper or Joyce Milgaard
3 to go and interview her do you recall?

4 A Well, I think the, all of the assignments
5 basically were coming from David Asper and his law
6 firm.

7 Q And so I don't propose to go through any of the
8 content of the statement, it's January 6, 1992.

9 A Uh-huh.

10 Q If we can actually go to -- this is the tape. If
11 we can go to 003636, and this is actually the
12 tape, your tape of your interview with her, and
13 the question, and, Mr. Henderson, it appears with
14 the Launa Edwards interview, that there is a tape
15 that you prepared of that interview that we have,
16 we being the Commission.

17 A Sure.

18 Q And I'm just wondering, was there a different
19 procedure in place for the Launa Edwards tape than
20 the Ron Wilson tape and the Dennis Cadrain tape,
21 or why do we have this one and not the others?

22 A That's a good question, but I think maybe I can
23 shed some light on that.

24 Q Sure.

25 A For some reason David Asper was staying at the



1 same hotel where I arranged to meet with Launa
2 Edwards and my guess would be that after the
3 interview I turned the tape over to him, after I
4 interviewed her on tape and compiled a handwritten
5 statement to have her sign, then the tape was
6 turned over to David. That would be my
7 presumption.

8 Q Okay. If we can go to 002665, and this is a
9 letter December 20th, 1991 from Murray Brown who
10 was a Director of Appeals for Saskatchewan Justice
11 to Mr. Wolch and at this time -- I take it, Mr.
12 Henderson, you would have become aware in late
13 November, 1991 that the Federal Minister of
14 Justice ordered a reference to the Supreme Court
15 of Canada in David Milgaard's case, there was
16 going to be a court hearing?

17 A I knew that there had been a major development
18 after the rejection of the petition, there had
19 been a favourable development. It's been such a
20 long time I can't -- I can't elaborate on that
21 though.

22 Q And this is a letter from Mr. Brown to Mr. Wolch
23 saying:

24 "Further to your assurance to us of full
25 disclosure, I am writing to request



1 copies of the following materials:"

2 And we've heard some evidence, Mr. Henderson, and
3 we expect to hear more evidence to the effect
4 that at the time of the Supreme Court reference,
5 both the federal government, the provincial
6 government and David Milgaard's counsel all
7 agreed to give full disclosure of all materials?

8 A Uh-huh.

9 Q And I believe this is a letter where the
10 Saskatchewan government is following up to Mr.
11 Wolch saying in light of this can we have, (a),
12 any statements from witnesses that have not
13 already been sent to the federal government, and
14 copies of any tape recorded interviews or
15 transcripts, and in particular any such tape
16 recordings or transcripts of such tape recorded
17 interviews conducted by Paul Henderson. And I
18 think we have seen that you had the Dennis Cadrain
19 interview taped, at least part of it; correct?

20 A Yes.

21 Q Did you tape any of your interview with Albert
22 Cadrain do you recall?

23 A I get confused on that because I don't know who
24 was taping who. As it turned out, I was being
25 taped without my knowledge by Joyce Milgaard and



1 it appears that my customary procedure in this
2 case with the major witnesses was to first talk
3 with them, then tape record what they had told me,
4 go over it with them again, this time with a tape
5 recorder operating and running, and then turn off
6 the tape recorder and compile a handwritten
7 statement for their signature.

8 **Q** Okay.

9 **A** So yes, in answer to your question, it's apparent
10 from documents that have surfaced within the last
11 day or so that it appears that I tape recorded
12 Albert. We know that my conversation, initial
13 conversation with Dennis Cadrain before I met
14 Albert was tape recorded by Joyce Milgaard. I
15 presume that I tape recorded Ron Wilson before
16 handwriting out his statement. I guess that would
17 be it.

18 **Q** And Linda Fisher, your very first interview, were
19 you aware that Joyce Milgaard was taping your
20 interviews with her and with Cliff Pambrun and Roy
21 Pambrun?

22 **A** You know, I can't say. With Linda I can't say
23 that I was not aware, but --

24 **Q** Now, the record --

25 COMMISSIONER MacCALLUM: Just a minute.



1 MR. HODSON: Oh, I'm sorry.

2 COMMISSIONER MacCALLUM: You can't say that
3 you were not aware, so you were aware?

4 A I can't say that I was not aware that that
5 interview was being tape recorded.

6 COMMISSIONER MacCALLUM: So you were aware?
7 You were aware, sir?

8 A No, excuse me, Your Honour.

9 COMMISSIONER MacCALLUM: You used a double
10 negative.

11 A I did use a double negative. Let me put it this
12 way, I am not aware whether I knew or did not know
13 that it was being --

14 COMMISSIONER MacCALLUM: Okay, thank you.

15 BY MR. HODSON:

16 Q And so if we can go back just on this issue here,
17 Mr. Henderson, and again we haven't heard all the
18 evidence on this point, but I expect the evidence
19 that the Commission will hear is that none of
20 those tapes, at least of the interviews that you
21 were involved in, namely, Linda Fisher, Dennis
22 Cadrain, both on telephone and in person, Albert
23 Cadrain, which you said you think you taped, and
24 Ron Wilson, that none of those tapes were provided
25 to either Federal Justice or the Government of



1 Saskatchewan or to the Supreme Court for the
2 reference, and if that ends up being the evidence,
3 do you have any -- do you recall being asked to
4 turn over this information to Mr. Wolch?

5 A Well, first of all, to set the record straight,
6 obviously the tape of my initial phone
7 conversation with Dennis Cadrain did end up in the
8 hands of the Commission because it's shown up on
9 the video screen here.

10 Q Sir, these are tapes that this Commission obtained
11 a couple of years ago.

12 A Yeah.

13 Q And the RCMP obtained some of them in 1993. My
14 question goes back at this time to the Supreme
15 Court reference which took place in 1992.

16 A Okay.

17 Q And in my question, Mr. Henderson, I'm simply
18 trying to find out if you have any knowledge about
19 it. I'm not suggesting that you did or didn't do
20 anything, I'm trying to find out whether anybody
21 asked you for the tapes.

22 A No, I was never asked for any tapes until I became
23 aware that I was going to be a witness in this
24 Inquiry, at this Inquiry. Believe me, it would
25 have been much easier for me to track down



1 whatever tapes I had if I had been asked to turn
2 them over earlier. You know, it's my -- I'm
3 pretty much, fairly convinced that whatever tapes
4 I had would have been turned over to either Jim
5 McCloskey or David Asper's office. There would be
6 no reason for me to keep a tape.

7 Q Okay. If we can then turn to, call up 008879, you
8 told us that you had some recollection of a
9 hearing taking place; is that right, back in 1992?

10 A Sure.

11 Q And just to assist you on the dates and timing,
12 Mr. Henderson, on November 28th, 1991 the Federal
13 Minister, in response to David Milgaard's second
14 application, ordered a reference to the Supreme
15 Court of Canada?

16 A Right.

17 Q And asked the Supreme Court of Canada to hold a
18 hearing and to come back with its opinion on
19 whether or not the continued conviction of David
20 Milgaard would constitute a miscarriage of
21 justice, and so it was sent to the Supreme Court,
22 which is the highest court in this country, to
23 have a hearing.

24 A Uh-huh.

25 Q And then starting in January of 1992 finishing up



1 in I believe March, there was a number of
2 witnesses called before the court. Were you aware
3 of that?

4 A Yes. I found out about that either before or
5 after.

6 Q And in some of the documents there's some
7 reference to Paul Henderson being a possible
8 witness.

9 A Oh.

10 Q Now, you were not a witness at the Supreme Court?

11 A I was not called, no.

12 Q Do you have any recollection of having any
13 discussions with Mr. Wolch or Mr. Asper or Mrs.
14 Milgaard about being a witness?

15 A No, I don't. I don't think it was ever brought up
16 with me.

17 Q Had you been asked to come and testify before the
18 court about your views or your thoughts on David
19 Milgaard being framed or improperly convicted?

20 A Are you talking about the Supreme Court?

21 Q Yes.

22 A No, I was not asked.

23 Q But if you had been, would you have come forward
24 and given that evidence?

25 A Of course I would have.



1 Q Now, are you aware of what happened, what the
2 court decided in that case?

3 A Yes, decided to release David Milgaard based on, I
4 believe, the spectre of Larry Fisher. You know,
5 I'm not sure exactly how it was phrased, but I
6 think that the premise for the decision was that
7 if the court, that is, the court in which David
8 Milgaard was tried had known about Larry Fisher,
9 that it would have affected the outcome of the
10 trial. Is that correct?

11 Q That's one view of it, certainly, yeah. You
12 became aware from either Joyce Milgaard or David
13 Asper, someone would have called you and told you
14 here's what the decision means; is that fair?

15 A Here's what the decision means?

16 Q Or here's what happened, yeah.

17 A Well, yeah, I mean, this was news that we were
18 awaiting. I mean, of course when we received the
19 news we were jubilant about it.

20 Q Did you have any further involvement in this
21 matter after the court decision releasing David
22 Milgaard?

23 A Yes, I flew to Winnipeg and was present at Stony
24 Mountain prison on the day that David was
25 released.



1 Q And so then after that -- I mean, after that, did
2 you have any further involvement in doing anything
3 for or on behalf of David Milgaard?

4 A Not to my knowledge, no.

5 Q If we can go to 060934, did you become aware in
6 November of 1992, this would be a number of months
7 after the Supreme Court decision, in September of
8 1992 a press conference was held by Hersh Wolch,
9 Joyce Milgaard and David Milgaard and allegations
10 were publicly made of wrongdoing against senior
11 Government of Saskatchewan officials including the
12 premier, who was the Attorney General back in
13 1970, Mr. Kujawa, and others. Were you -- did you
14 play any part in that matter, Mr. Henderson, or
15 were you aware of that?

16 A This followed the Supreme Court decision --

17 Q Yes.

18 A -- by how many months?

19 Q Five months. The name Michael Breckenridge was
20 the source of this information. Were you involved
21 in any --

22 A No, I wasn't.

23 Q And then shortly after that the provincial
24 government, the Saskatchewan government asked the
25 RCMP to investigate these allegations and to



1 report to Alberta Justice officials. Were you
2 aware of that at the time?

3 A No, I wasn't.

4 Q And that there was an 18 month, or longer,
5 investigation by the RCMP and a concluding report
6 in 1994, and prior to me talking to you a couple
7 of months ago, were you aware that the RCMP had
8 investigated allegations of wrongdoing relating to
9 this case?

10 A I, quite frankly, I get the various investigations
11 by RCMP and justice authorities mixed up, I'm
12 confused by the whole process. I couldn't -- I
13 couldn't have told you before we started talking
14 about this that there was a separate investigation
15 terminating in 1994.

16 Q Do you have any recollection of being aware of
17 that at the time?

18 A Actually, no, to be honest with you.

19 Q Is it fair to say, Mr. Henderson, that after your,
20 and let's go back to April, 1992, your last
21 meeting with David Milgaard and his family when he
22 was released, is it fair to say that Paul
23 Henderson in his capacity as a Centurion
24 Ministries investigator, that your involvement in
25 the David Milgaard matter was at an end?



1 A It was at an end, yes, that's fair to say.

2 Q And if we can go to the next page, this is a
3 letter from Mr. Wolch to the RCMP and you'll see
4 here Mr. Wolch saying:

5 "Paul Henderson, the investigator for
6 Centurion Ministries, has indicated his
7 willingness to speak with you."

8 And gives a phone number. And do you recall any
9 discussions with Mr. Wolch around this time about
10 talking to the RCMP? This would be after David
11 is released.

12 A No, I don't specifically remember talking with
13 Hersh about being contacted by the RCMP, but I'm
14 sure that I did have discussions with him about
15 that.

16 Q If we can go to 049879, this is a letter July
17 13th, 1993 from Inspector Sawatsky of the RCMP to
18 you in Seattle. Would that have been your address
19 at the time do you know?

20 A Probably not.

21 Q Okay. It refers to a telephone conversation with
22 Constable Garth Cunningham on July 5, 1993, and I
23 think the document suggests you may have been
24 contacted on that date and told that you would be
25 sent some questions for you to look at. Do you



1 remember that?

2 A Do I remember getting this letter?

3 Q Do you remember being contacted by the RCMP in
4 1993 saying we're investigating some matters, we
5 would like to have you assist us and answer some
6 questions.

7 A I have only a vague memory of talking with
8 somebody about this.

9 Q And what do you remember?

10 A Nothing. I can't tell you anything.

11 Q And in this letter the RCMP says:

12 "As our mandate includes allegations of
13 cover-up by Saskatchewan Justice and the
14 Saskatoon City Police Department, we
15 want to ensure that we have the
16 opportunity to study and review all
17 information available to assist us ..."

18 And would you have been aware that the RCMP were
19 investigating some of the very matters that you
20 and Mr. McCloskey raised in August of 1991;
21 namely, that David Milgaard was framed and that
22 there was a cover-up by officials and the police?

23 A Well, was I aware of that?

24 Q Yes.

25 A I can't say now that I was, that I was aware of it



1 then. I have a vague recollection of getting a
2 call from somebody in justice or with the RCMP,
3 but I don't remember what it was all about and
4 what was expected of me. My mind is a blank on
5 it.

6 **Q** Scroll down to the next paragraph, what the letter
7 asks for you is:

8 "We are interested in receiving from
9 you, any audio and/or video tapes you
10 have in your possession, or those that
11 you will be able to obtain from Mr.
12 McCloskey, as well as any notes,
13 cassettes, statements and
14 documentation."

15 And I can tell you that what the RCMP ended up
16 reporting is that you did not respond to this
17 request and did not provide them with any notes,
18 cassettes, statements and documentation and nor
19 did you interview with them or answer any of
20 their questions. Would that be correct?

21 **A** That is correct, but I should point out that they
22 didn't have my right address here.

23 **Q** Okay.

24 **A** I don't recall ever getting this letter.

25 **Q** 061348. What was your address at the time; do you



1 recall?

2 A I previously had a private mailbox at 1509 3rd
3 Avenue -- excuse me, Queen Ann Avenue North, but
4 when I moved to 818 West Wheeler, I closed out
5 that arrangement with Queen Ann mail and dispatch.
6 Furthermore, they moved their location six blocks
7 from 1509, six or so blocks, they weren't even at
8 that location I don't believe at the time of this
9 letter. In summary, I don't recall receiving this
10 letter, I don't recall being aware of any request
11 to turn over any of the material that I assembled
12 in the course of this investigation. I was
13 surprised when I became involved earlier this year
14 in this Inquiry that I had been expected to
15 participate in this investigation and nobody heard
16 from me. It was all a surprise to me.

17 Q Were you aware that, and I read you part of Mr.
18 McCloskey's interview, were you aware that Jim
19 McCloskey sent information to the RCMP from the
20 Centurion file and did a telephone interview with
21 them at the time?

22 A No, I don't recall being aware of that. I don't
23 recall discussing that with him.

24 Q Would that be something that he would likely talk
25 to you about before he would talk to the RCMP?



1 A Well, you would think so, but I don't remember him
2 doing so.

3 Q And again this letter, August 31, 1993, a
4 follow-up letter, do you have any recollection of
5 getting that?

6 A That is a follow-up letter?

7 Q Yes, from the RCMP.

8 A Well, it's sent to the -- no, I don't, absolutely
9 not.

10 Q 061280.

11 COMMISSIONER MacCALLUM: What was the doc.
12 on the follow-up, please?

13 MR. HODSON: 061348.

14 A Let me add, clarify something here. In addition
15 to the likelihood that this, that these letters
16 were sent to the wrong address, I was at one
17 disadvantage in terms of keeping up with my mail
18 and that is that I was on the road at least 50
19 percent of the time, I was absent, I wasn't there,
20 I wasn't in Seattle, so I have no idea where I
21 might have, where I might have been at the time
22 that these letters arrived at the wrong address,
23 but it appears to me that I never saw them, never
24 got them.

25 BY MR. HODSON:



1 Q Is it possible that they were sent to you and
2 received by you, but you didn't look at them, or
3 are you saying you don't think you got them?

4 A That's right, everything is possible, but I --
5 something as important as this I don't think I
6 would have ignored. Now it would have made a big
7 difference if they had been sent by certified
8 mail, and I'm surprised that they weren't,
9 considering the gravity of this investigation.

10 Q If we can go to 061280. And this is, sorry, a
11 list of questions that the RCMP prepared for you;
12 do you recall seeing this document?

13 A No I don't.

14 Q If we can then go to 044764. This is a similar
15 letter to Mr. McCloskey; were you aware that the
16 RCMP were talking directly to Mr. McCloskey?

17 A I don't recall that I was aware of that, no.

18 Q 050396.

19 A Let me add one other thing. If the RCMP had
20 notified Jim McCloskey that I had failed to
21 respond to correspondence from the RCMP, this
22 would have been straightened out and this problem
23 would not have happened, would not have occurred.

24 Q If we could go to -- so it's your evidence, Mr.
25 Henderson, that if you had been aware that the



1 RCMP -- you are saying you weren't aware that the
2 RCMP wanted to talk to you, that if you had been
3 aware, is it your evidence that you would have
4 talked to them?

5 A Of course I would have. Certainly.

6 Q 050396. And this is a letter August 5, 1994 from
7 Inspector Sawatzky to Neil McCrank and the Alberta
8 Justice Department just reporting on matters
9 relating to you, and if we can go to the next page
10 --

11 A I'd like, before we get into this letter, I'd like
12 a chance to read it.

13 Q Oh, certainly. Well, I'll tell you what, I --
14 there's just parts of this letter that I want to
15 ask you.

16 A Okay.

17 Q We can go back, and if you feel you want to read
18 the whole letter you let me know, but the point I
19 was going to ask you here is the RCMP say:

20 "There is concern over the Henderson
21 interview of Wilson. He was asked to
22 provide us with the tapes of this
23 interview, he said he forwarded them to
24 the Centurion office in New Jersey,
25 however, McCloskey states he never had



1 them."

2 And I'm reading into that that there must have
3 been some contact where you informed them,
4 someone from the RCMP, that you sent the tapes to
5 New Jersey?

6 A Yeah, this -- this -- this is enlightening. First
7 of all, it appears to answer the question of what
8 happened to the tape, that is the Wilson tape.
9 I'm stating, or they're stating here that I told
10 them that the tape had been forwarded to CM and I
11 didn't have it any more, but that still doesn't
12 shed any light on why -- on why I wasn't involved
13 in the process of this investigation.

14 Q If we can go down to the next paragraph, and again
15 this is not your document, sir, but what Inspector
16 Sawatzky says -- and he is yet to testify but he
17 will be testifying:

18 "Despite repeated attempts by
19 investigators to speak with Henderson
20 and his promises to respond, he never
21 did."

22 And I'm wondering if that -- I mean this letter
23 suggests that there was prompt, and I appreciate
24 it's not your document, but Inspector Sawatzky is
25 saying that you made promises to respond and



1 didn't; do you have any recollection of that?

2 A Absolutely not.

3 Q If we can then go to 032805.

4 A Let me add one thing, please?

5 Q Yes.

6 A If Jim McCloskey became aware, thought for --
7 well, I would be fired by Jim McCloskey if I was
8 thumbing my nose at the RCMP up here on this
9 investigation. Jim would have expected me to
10 cooperate with authorities up here, and again, if
11 I -- if I'd ignored correspondence, and he thought
12 that I had done so wittingly, I would have been in
13 a lot of trouble, and I'm surprised that this was
14 not brought to the attention of Jim McCloskey that
15 they'd been trying to reach me without success and
16 I wasn't responding.

17 Q If we could go to 032805, and this is an August
18 15th, 1994 report, and this -- prior to this, Mr.
19 Henderson, the RCMP conducted an investigation and
20 prepared a lengthy report to the Alberta Justice
21 Department, and the Alberta Justice Department
22 prepared this report, but essentially this is the
23 report with respect to many allegations that were
24 made of wrongdoing with -- wrongdoing against the
25 police and Justice officials, and the RCMP



1 investigated those allegations, and went to page
2 032820. And I don't propose to go through them
3 all, they're conclusions that -- they, essentially
4 they looked into many allegations, but they also
5 looked into the allegations that you had raised in
6 August of 1991 of a frame and a coverup and
7 concluded there was no evidence, credible
8 evidence, to support allegations. Were you aware
9 that the RCMP had investigated a number of
10 allegations, including some that you had made back
11 in 1992 to 1994, and concluded that there was no
12 evidence of wrongdoing?

13 A Allegations that I had made in 1992 to '94?

14 Q No, let me rephrase that, they investigated a
15 number of allegations of wrongdoing --

16 A Uh-huh.

17 Q -- on the part of police and Justice officials,
18 including allegations that the police framed David
19 Milgaard, --

20 A Uh-huh.

21 Q -- that they improperly coerced witnesses, they
22 improperly treated witnesses, --

23 A Yeah.

24 Q -- they investigated Justice officials for
25 criminal wrongdoing that they obstructed justice,



1 they investigated whether Mr. Caldwell and Mr.
2 Kujawa and Mr. Karst were involved in a conspiracy
3 to hide the Fisher information, --

4 A Uh-huh.

5 Q -- they looked into a number of matters and it was
6 quite lengthy.

7 A Sure.

8 Q And were you aware, back at that time, that the
9 police had investigated these matters and
10 concluded that there was no evidence of
11 wrongdoing?

12 A Again, I was out of the loop by then, and I don't
13 have a -- I can't say that I remember, number 1,
14 the investigation, and number 2, the findings.

15 Q Thank you, Mr. Henderson, those are all my
16 questions. I'm not sure as far as order, it's 5
17 to 10:00, if you want to take -- unless someone is
18 prepared to go now. Bruce, do you --

19 MR. GIBSON: I can go.

20 MR. HODSON: I think Mr. Gibson is prepared
21 to go, Mr. Commissioner.

22 COMMISSIONER MacCALLUM: Thanks.

23 **BY MR. GIBSON:**

24 Q Mr. Henderson, my name is Bruce Gibson, we have
25 had a chance to say hello a couple of times at the



1 break. As you know, I represent the RCMP, and I
2 have a few questions that I want to talk to you
3 about, some contact that you had with the RCMP,
4 and some of the work that you did that was
5 eventually reviewed by the RCMP.

6 A Very good.

7 Q I know that you did provide some information
8 through Centurion Ministries that ended up in the
9 RCMP's hands when they did the 1993 investigation.
10 When I call it 'the 1993 investigation' I'm
11 referring to the investigation that Mr. Hodson
12 just raised with you about allegations of
13 wrongdoing by police and prosecutors; okay?

14 A I'm following you.

15 Q I'd like to take a little bit of time to talk
16 about the work of Centurion Ministries, and the
17 work they did on the *Milgaard* case, and perhaps
18 how that could be better coordinated with police
19 in future cases. I wouldn't mind your thoughts on
20 that.

21 A Sure.

22 Q You indicated you commenced working on the case in
23 the spring of 1990; I believe that's correct?

24 A That's correct.

25 Q And you were under the direction of Jim McCloskey?



1 A Yes.

2 Q And I take it you had a number of discussions with
3 Mr. McCloskey during that time?

4 A Yes.

5 Q Okay. And I think you also indicated to Mr.
6 Hodson, over the last couple of days, that you
7 communicated as well with Mr. Asper and Mr. Wolch,
8 but more so with Mr. McCloskey; is that correct?

9 A Much more so, yes.

10 Q Okay. And did Mr. McCloskey also communicate with
11 Mr. Wolch and Mr. Asper?

12 A I'm sure he did.

13 Q Okay. And I understand that you also did a good
14 deal of work with Mrs. Milgaard and communicated a
15 number of times with her?

16 A Yes, I did. I started my investigation with
17 Mrs. Milgaard.

18 Q Okay. And, to your knowledge, that she was also
19 communicating with Mr. Wolch and Mr. Asper?

20 A Very closely, I believe.

21 Q Okay. Were you aware, in 1990 when you started
22 your investigation, that the RCMP had been asked
23 to assist the federal Department of Justice in
24 gathering information on Mr. Milgaard's Section
25 690 application?



1 A Umm, vaguely. As I look back on it, I knew that
2 there had been a -- an appeal of some type had
3 been submitted, a petition for post-conviction
4 relief or whatever it's called up here, but I
5 can't, I can't elaborate on that.

6 Q Okay. Staff Sergeant Pearson, a name I think you
7 recognize, testified at this Inquiry, and his
8 notes from his involvement in that case have been
9 tendered as a document, and that's 056743. If we
10 could call up that document and go to 745, please.
11 Just at paragraph 6, there, it talks a little bit
12 about Mr. Pearson's -- or Staff Sergeant Pearson's
13 involvement, the date on that is March 8th of
14 1990, and I think that's roughly around the same
15 time that you got involved, probably about a week
16 or so earlier, if I recall correctly?

17 A Yes. We interviewed, Joyce and I interviewed
18 Linda Fisher on, was it March 9th through the
19 11th.

20 Q Okay. And here we have, March 8th we have Staff
21 Sergeant Pearson getting ahold of Larry, Larry
22 Fisher's mother, and asked her some conversation
23 -- or in conversation found out that Larry was at
24 the penitentiary and found out that he was
25 divorced from Linda and she was currently residing



1 in Cando, Saskatchewan, so at that same time we
2 have Staff Sergeant Pearson going out and trying
3 to find Linda Fisher as well. Paragraph 8, just a
4 ways down from there, Staff Sergeant Pearson
5 contacts the Prince Albert Penitentiary in an
6 effort to obtain information about the file
7 material on Larry Fisher from penitentiary
8 records. And then if we can go to paragraph 15 at
9 page 746. And again, there, it's a contact with
10 Larry Lafleur of the penitentiary in an effort to
11 determine the blood type of Larry Fisher.

12 Paragraph 31 at page 749. And there he locates
13 and interviews Linda Fisher, and that's done on
14 March 14th, so within a few short days after your
15 interview with Linda Fisher Staff Sergeant Pearson
16 is obviously aware of Larry Fisher as a new, I
17 guess, name on this case and is out doing the same
18 work, roughly, that you're doing, or at least some
19 work along that line?

20 A Yes, it appears that we were paralleling each
21 other at this stage.

22 Q Okay. Did you ever speak with Staff Sergeant
23 Pearson or provide any information to him?

24 A Not that I remember, no.

25 Q Okay. And were you aware that David Asper was



1 dialoguing with Staff Sergeant Pearson about the
2 case during this time?

3 A I can't say that I was aware of that, or that I
4 was aware of that.

5 Q And perhaps I can get your thoughts on this. At
6 the outset do you think a meeting with the RCMP
7 and Centurion Ministries, and others with
8 knowledge of the case, could have been of
9 assistance to all involved?

10 A I can't answer that question, I -- I don't know.
11 I don't know what their posture was at the time,
12 or would have been. Frankly, if you want my
13 honest answer, I don't think it would have made
14 much difference.

15 Q Okay. Now we've, we've heard the evidence of Mr.
16 Asper, who had a very good opinion of Staff
17 Sergeant Pearson and the work --

18 A Uh-huh.

19 Q -- that he undertook, and I'm sure that someone
20 will correct me if I'm wrong.

21 A I'm -- I did not mean to imply anything
22 disparaging about Sergeant Peterson, I'm sure that
23 David Asper's opinion of him was, and is,
24 well-founded. However, our experience is -- has
25 been, case after case, that we don't go to the



1 police until we have assembled everything that we
2 need to go to Court to get a conviction
3 overturned. Umm --

4 Q Now, sorry, Mr. Asper testified, and he thought
5 that it would be a good idea to sit down and have
6 a meeting with everybody involved at the outset,
7 and I take it from the background that you have
8 had on working on other cases of this nature in
9 the States that that's something that just wasn't
10 palatable to you in the sense that --

11 A Well I think there is a difference here. David
12 Asper undoubtedly was talking about a meeting with
13 the RCMP, which was an agency investigating
14 allegations of wrongdoing, allegations -- a
15 possibility of a wrongful conviction. I'm talking
16 about the -- how we simply do not get involved or
17 make any approach to the police department that
18 was responsible for the conviction of somebody we
19 are working for --

20 Q Okay.

21 A -- until long after we -- until we've
22 established -- until we've gathered all of the
23 evidence.

24 Q Okay.

25 A Then we might make an approach to them, but --



1 Q And you --

2 A -- this might have been a different situation.

3 And I'm not arguing that it wasn't a good idea,

4 I'm not saying it wasn't a good idea, however, as

5 far as I knew, it never came to pass.

6 Q And, as far as you knew, you weren't aware,

7 necessarily, that Mr. Asper was communicating with

8 Staff Sergeant Pearson, was appreciative and

9 understanding of what his process was on the other

10 side of this equation, the work that was being

11 paralleled by you or vice versa?

12 A No, I don't think I was made aware of that there

13 was any communication going on.

14 Q If we could go to paragraph 106 of this document,

15 I think it's at page 764, and again these are

16 Staff Sergeant Pearson's notes in and around this

17 time, and here he indicates to Mr. Asper that

18 unnecessary publicity could possibly hamper the

19 police investigation and that there was a certain

20 danger in having Fisher's name become the subject

21 of a press release and that this would have no

22 positive effect on police inquiries. Were you

23 aware that this was a concern in the early going

24 of the investigation, this is around April 20th of

25 1990, is this entry here?



1 A And was I aware of?

2 Q Of such concerns?

3 A No. However, they don't surprise me a bit.

4 Q Okay. Did you see that at all, if -- with
5 Fisher's name out there, as hampering your side of
6 the investigation or what you were doing?

7 A No, it didn't hamper my side, but I must say that
8 this ongoing publicity we considered to be very
9 unusual. Yeah, Mr. Fisher was being tried in the
10 paper actually, no question about it.

11 Q And that's something that, from Centurion's point
12 of view that's something that I take it was, I
13 guess, against your viewpoint that someone else
14 should be tried in the media until it's
15 established?

16 A Well quite often in cases, once we have done
17 everything we can, put together a petition, we
18 will go to the press and offer them a story. But,
19 you know, we're not feeding -- I don't think I can
20 ever remember an investigation where we were
21 feeding the press information throughout the
22 course of our investigation, a rather strange, I
23 thought it was somewhat of a phenomenon going on
24 up here.

25 Q Okay. Following up on that, do you see how that



1 might affect Staff Sergeant Pearson's efforts to
2 try to get an interview of Larry Fisher?

3 A Yes, I can, if Fisher was being accused. On the
4 other hand, you would think that he'd become a
5 little paranoid, but on the other hand, if he is
6 being accused in the press, he might be -- he
7 might want to tell the RCMP, be anxious to tell
8 the RCMP there is no truth to this. I don't know,
9 I can't speak for Larry Fisher.

10 Q No, and I'm not asking you to do that.

11 A Yeah.

12 Q But I guess, from an investigator's perspective,
13 it may be a good way to approach the case is to
14 not have that name out there at first, see if you
15 can gain some confidence from Larry Fisher, and
16 then if that doesn't work I suppose you've always
17 got the press angle to push on again, if that's
18 the approach that you deem to take?

19 A Yeah, well I agree with, I understand what you are
20 saying, where police would consider this to be a
21 problem, where they would have preferred not to
22 have had all this publicity and had Larry Fisher
23 identified in the press.

24 Q Okay. Mr. Hodson went through the differences
25 between the information that you gathered from



1 Mrs. (V14)-, and you chatted a little bit about
2 that the other day, and the information that was
3 gathered by Staff Sergeant Pearson from
4 Mrs. (V14)-. And I don't want to dwell a great
5 deal on that information, but Staff Sergeant
6 Pearson was asked about some of the differences in
7 the information gathered by yourself and
8 Mrs. Milgaard, as opposed to the information he
9 gathered, and Mr. Hodson went through that in some
10 detail with Staff Sergeant Pearson, and if I could
11 go to a transcript passage at page 19,733, this
12 portion along here, please. And, again, this is
13 Mr. Hodson in the Inquiry November 23rd of last
14 year with Staff Sergeant Pearson.

15 A Uh-huh.

16 Q The answer from Staff Sergeant Pearson was:

17 "A Yes, there does seem to be a discrepancy
18 there.

19 Q And did Mrs. (V14)- express concern to
20 you, did you say, about the meeting, the
21 meeting she had with Mrs. Milgaard and
22 Mr. Henderson?

23 A Yes, she did, on a number of occasions
24 over the time period she raised it,
25 the way she was in contact with



1 Mrs. Milgaard and Henderson."

2 If we can go, scroll down a little bit to the
3 word 'well' down here:

4 "A Well, she just mentioned that she
5 thought that, you know, they wanted to
6 convince her something other than what
7 she had in her mind."

8 And did you see your role in your investigation
9 to convince her that her attacker was Larry
10 Fisher?

11 A No, I certainly did not.

12 Q Any idea how she may have got that impression?

13 A Well I think, to be honest with you, I think Joyce
14 Milgaard had wanted her to identify Larry, Larry
15 Fisher, as the person who attacked her, --

16 Q Okay.

17 A -- there is no question about that. However, --

18 Q And --

19 A -- I thought this woman was very strange, I didn't
20 put much stock in her, I didn't put much stock in
21 her mental stability, I didn't put much stock in
22 her ability to identify her assailant. The whole
23 thing seemed to me like a waste of time. This was
24 after we'd interviewed all of the other victims,
25 --



1 Q Yes?

2 A -- and this woman lived miles from Saskatoon, and
3 there was some question, there was questions
4 whether Larry Fisher had or did not have
5 opportunity to have committed this rape. The
6 woman told the police, told the RCMP she didn't
7 get a good look at her assailant, so why were we
8 there. I thought it was a waste of time,
9 ultimately.

10 Q And, as an investigator, do you have a concern if
11 someone goes out to interview someone and they're
12 trying to convince that person something different
13 than what they have in their mind?

14 A Absolutely.

15 Q Okay.

16 A I mean that's -- we are critical of police for
17 conducting suggestive montages, you know,
18 erroneous eye-witness identification is one of the
19 leading causes for wrongful convictions, --

20 Q Okay.

21 A -- and suggestive line-ups, suggestive montages,
22 pressure by police, I personally didn't want
23 anything to do with something like that, I wanted
24 no part of that, and I can't say that Joyce was
25 putting pressure on (V14)- (V14)- to identify the



1 picture that she was shown.

2 Q Uh-huh.

3 A I have read the transcript of the conversation we
4 had with, I believe, David Asper afterwards, and I
5 note, noted that I did -- it seemed to me that
6 I'll -- that Ms. (V14)- showed some interest,
7 indicated that she recognized the photo. That's
8 in writing, I can't say that I actually have --
9 remember that, detecting that in her, I can't --

10 Q Okay.

11 A But it's in writing, so I can say that she
12 certainly didn't rule it out.

13 Q All right. If we can just go to document 222196.
14 And while we're waiting for that to come up, it's
15 an interview, it's I guess notes or a report of
16 the interview that you did with Ms. (V14)- and
17 it's an interview, you mentioned the interview
18 date of May 5th of 1991 up there, and again it's,
19 I guess, your notes of that, if I recall
20 correctly?

21 A That's my report on the --

22 Q Yes.

23 A -- interview with her.

24 Q And if we could go to the next page, 97, at the
25 bottom, the very bottom paragraph, --



1 A Uh-huh.

2 Q -- it indicates there:

3 "We talked for about an hour. Her plan
4 was to spend another night in Regina
5 ...",

6 this is Ms. (V14)-:

7 "... and take the bus home in the
8 morning. I believe we were able to
9 convince her that Larry Fisher is a far
10 more probable suspect than David
11 Milgaard. Strangely though, she still
12 expressed a desire to view David in
13 prison."

14 A Uh-huh.

15 Q And, again, what would your comments be with
16 respect to that in light of what you just told us
17 about convincing someone of an al -- of a
18 different suspect?

19 A Well I'm -- this speaks for itself. We certainly
20 did explain to her the background and attempt to
21 make her understand that Larry Fisher was, in
22 fact, indeed a far better suspect, at least in our
23 perspective, than David Milgaard.

24 Q Now in light of the concerns that you raised with
25 respect to Ms. (V14)-, and I think you felt she



1 was a bit unstable, is there some pitfalls there
2 for an investigator, then, to be aware of the
3 mental strength, if I can put it that way, of an
4 individual, and then to visit upon them
5 information that I suppose you want them to adopt?

6 A Yeah, there was something strange going -- a
7 little unusual going on here. The photo that
8 Joyce showed to Ms. (V14)- was Larry Fisher, that
9 of Larry Fisher, but I'm not sure whether Joyce --
10 what Joyce told Ms. (V14)- about the picture when
11 she -- I -- she might have told her that -- I
12 don't know, there was something that -- going on,
13 it was kind of a switcharoo deal there that I
14 don't really --

15 Q Okay.

16 A -- I wasn't aware of. There's some question of
17 whether (v14)- thought she was looking at a photo
18 of David Milgaard, or a photo of Larry Fisher, I'm
19 not sure. The whole thing, the whole thing was a,
20 turned out to be a fiasco --

21 Q Okay.

22 A -- and it was a -- we were wasting our time, and I
23 was glad to, to leave it behind us and write it
24 off as a bad venture.

25 Q I just want to get you to comment on, again, some



1 evidence from Staff Sergeant Pearson earlier in
2 the Inquiry. If we could go to transcript page
3 number 19,012, it's right at the very bottom, and
4 again this is Mr. Hodson examining Staff Sergeant
5 Pearson and it reads, a little ways in:

6 "You also told us about, I think just
7 generally, a concern that if you are
8 interviewing a witness who has been
9 talked to already by a party who may
10 have a particular interest, is that
11 correct, that there might be concerns
12 just generally?

13 A Yes.

14 Q And again can you just describe for us,
15 again just generally, what would be the
16 concerns you would have as an
17 investigator in interviewing significant
18 witnesses if that witness has already
19 been talked to by a party that has an
20 interest or a stake in the matter?

21 A Well I suppose there is a potential to
22 interject information that may make
23 their position more influential, or
24 stronger, or maybe introduce
25 statements or facts that are good for



1 their position, so to speak. So there
2 is a potential to influence the
3 witness in that way rather than
4 getting it purely from them."

5 And I'm raising that with you, Mr. Henderson, in
6 a general sense, not strictly with respect to
7 Ms. (V14)-. But, again, would you agree with
8 those concerns --

9 A Uh-huh.

10 Q -- about an investigator going out and bringing
11 that information to a witness?

12 A Are -- can you give me a -- are you saying that,
13 for example, if we went to Ms. (V14)-, as we did,
14 and told her that we strongly believed that Larry
15 Fisher was the Gail Miller murderer, that this
16 would influence her to --

17 Q Yeah.

18 A -- to be inclined to think that he was also the
19 person who attacked her?

20 Q Yes. I think you said --

21 A Well, certainly there's some risk in that, sure.

22 Q I think you said that you had a concern about
23 trying to convince someone of something that they
24 may not be inclined to believe.

25 A Well, yes, we certainly -- I would not go to her



1 and use any influence to say this is the person in
2 this photo who attacked you, but I don't even
3 know, I didn't even know when I was there whether
4 (V14)- (V14)- was actually attacked by anybody,
5 all I knew is there had been a report and she had
6 somehow got the notion that David Milgaard was the
7 assailant, we decided to go see her, see what she
8 had to say about it and we learned absolutely
9 nothing. Reading the reports, I mean, about this,
10 about this attack, I mean, she made it clear to
11 the RCMP she didn't even see the guy who attacked
12 her, so the whole thing was a wasted -- a wasted
13 effort and we probably should have saved ourselves
14 a lot of time and not even bothered with it.

15 Q Now, just speaking generally again on that aspect
16 of going out and visiting information on a witness
17 and again trying to I guess visit upon them a
18 particular view of evidence, do you see a concern
19 for a subsequent investigator coming along and
20 having to interview that witness and trying to
21 differentiate what they know and what they've been
22 told?

23 A Sure, I can understand that, I can sympathize,
24 empathize with a police department that follows up
25 on contacts that we make, but, you know, it's the



1 job of the police in the first place to go out and
2 interview rape victims, assault victims and show
3 them their suspects. I mean, when we get involved
4 it's because nobody else is doing the job and we
5 believe strongly that the wrong person is in
6 prison and we have to go out and do our best to
7 rectify what we perceive as a miscarriage, and if
8 we cause problems for investigators who follow up
9 on our work, we don't do it intentionally, but
10 that's just the way it happens.

11 Q Okay. If we can just go to 049879, and that was a
12 document that Mr. Hodson raised with you just
13 recently, it was a contact from Staff Sergeant --
14 sorry, Inspector Murray Sawatsky, and it deals
15 with the 1993 investigation, again that's the one
16 I referenced earlier about prosecutorial and
17 police misconduct, and again it references a
18 conversation with Constable Garth Cunningham July
19 5th of 1993 and I think you indicated that you
20 believed you were contacted, but you don't recall
21 obviously the nature of that contact?

22 A I allowed that it's quite possible that I did have
23 a conversation with somebody from the RCMP or from
24 Justice in 1993 or whenever it was and that they
25 alerted me to their plans to involve me in the



1 investigative process, or whatever they are saying
2 they did, they told me that they would be sending
3 me material, I allowed that that was certainly
4 possible, but I made it clear, I think, that I
5 never got any -- I never got any correspondence,
6 never received anything.

7 Q Okay.

8 A Never saw it.

9 Q Now, you referenced here, or at least Mr. Hodson
10 referenced to you the mandate, and at least you
11 were aware at that contact roughly what that
12 mandate was; is that fair?

13 A Excuse me, could you explain what you mean by --

14 Q Sorry, this portion right here that's up on the
15 screen indicates that:

16 "As our mandate includes allegations of
17 cover-up by Saskatchewan Justice and the
18 Saskatoon City Police Department, we
19 want to ensure that we have the
20 opportunity to study and review all
21 information available to assist us in
22 being as thorough and complete as
23 possible."

24 And again, do you recall, I know you indicate
25 that you have not received this correspondence.



1 A To my knowledge I never saw it.

2 Q I know that there's going to be different evidence
3 from the RCMP that they felt they had contacted
4 you a number of times to try and get that
5 information, but --

6 A Excuse me, are you saying that they are saying
7 they had actual conversations with me or that
8 they --

9 Q Yes. Now, if we can -- I can get to one of the
10 conversations that I'm aware of right now and it
11 is, if we could call up document 049845, and this
12 is an RCMP continuation report, I appreciate this
13 is not your document, Mr. Henderson, but these are
14 the notes of Garth Cunningham, the fellow that's
15 referenced in the letter --

16 A Yes.

17 Q -- that we just looked at, and if we can go to the
18 first page of that document, and it goes in
19 reverse order here, 848, and just call up that
20 first portion, I'll just read that into the
21 record. This is an entry of July 5th of 1993 by
22 Garth Cunningham, it says:

23 "Having discussed the need for a
24 personal interview of Mr. Henderson, it
25 was felt that we would prepare a series



1 of questions with a covering letter, and
2 forward it to Mr. Henderson. It would
3 be difficult to get Sgt. Dressler,
4 myself and Mr. Henderson together at one
5 place at one time due to Mr. Henderson's
6 travel commitments etc."

7 So clearly you must have had some discussion,
8 they are aware of the number of days, as you
9 indicated, that you were on the road?

10 A Yes. As I said earlier, I don't have a distinct
11 recollection of talking with this gentleman, but I
12 most likely did.

13 Q Yes. Then it goes on to say:

14 "Therefore I phoned Mr. Henderson in
15 Seattle and advised him of our
16 intentions and he understood and
17 agreed."

18 A Uh-huh.

19 Q "He said he is prepared to co-operate
20 and will assist in any way possible. He
21 provided a rundown of his involvement in
22 the case and stated he went to Saskatoon
23 in March of 1990 ..."

24 And then you go through the various aspects that
25 you worked on on this case. So it appears that



1 there was some contact with the RCMP and yourself
2 explaining the need to get some responses from
3 you --

4 A Yes.

5 Q -- in relation to --

6 A At least this one, the telephone conversation that
7 is referred to in this memorandum.

8 Q And I think you have given evidence a number of
9 times, and you've been quite frank about your role
10 in this case, and I think you candidly admitted to
11 being an advocate for Mr. Milgaard?

12 A Yes.

13 Q And in such circumstances do you think it would be
14 reasonable to expect that the police may try and
15 validate the information that you've gathered?

16 A Certainly.

17 Q And again, the concern, and I think you may have
18 answered this already, would be just how good of
19 an advocate are you, what does the witness
20 actually recall and what may they have adopted
21 through advocacy?

22 A Can you explain that to me again?

23 Q Okay. I suppose from a subsequent investigation
24 perspective, when one goes out to speak with a
25 witness that has had an interview already done by



1 a partisan party --

2 A Yes.

3 Q -- that those investigators would have a concern
4 about the information gathered by that group as to
5 whether that witness is being truthful from their
6 own recollection and knowledge and understanding
7 or whether they have adopted information from the
8 individuals that have interviewed them.

9 A Yes, that would be -- I can see where authorities
10 would be concerned about that, but it works both
11 ways, when we go to see a witness who's given
12 information to police, we face the same problem.

13 Q No, and I understand that too.

14 A Yeah.

15 Q I'm speaking about it from my client's perspective
16 in 1993.

17 A I understand, yes.

18 Q Okay. And so it would be obviously quite
19 necessary to go out and re-interview all of these
20 witnesses and try and find out what they actually
21 know as opposed to what may have been visited upon
22 them?

23 A That's right.

24 Q Now, during the course of the 1993 RCMP
25 investigation into the obstruction of justice



1 charges, some concerns arose about the manner in
2 which you gathered information and some of the
3 accuracy of the information, and I want to just go
4 to a document, 050396, and this is a letter that
5 was authored by Inspector Sawatzky to Neil McCrank
6 with the Alberta Attorney General's office and
7 they were providing legal assistance and guidance
8 to the RCMP during this investigation, and one
9 aspect that was raised, if we could just go to the
10 next page of that document, one concern that was
11 raised by Inspector Sawatzky had to do with a
12 meeting that you had with Linda Fisher and Mrs.
13 Milgaard and that interview was taped and at the
14 transcript of that interview, pages 12 and 34,
15 Linda described the knife, this is the knife that
16 she thought was missing from her kitchen --

17 A Uh-huh.

18 Q "... as brown, wooden handle with rivets."

19 A I remember that.

20 Q And on page 35 Mrs. Milgaard suggested to her sort
21 of a brown, "sort of like a maroon colour," and
22 then you added, a "paring knife that you would use
23 for peeling potatoes", and then after that Linda
24 Fisher adopts this as part of her story. Do you
25 again see as a force that is investigating these



1 concerns later on how that may have caused concern
2 for subsequent investigators where the colour of a
3 weapon and the type of a knife, particularly a
4 paring knife here, is provided to that witness to
5 refresh their memory, that's fairly specific
6 information?

7 A Yeah. Well, let me -- I can't talk about the
8 information that's attributed to Joyce Milgaard,
9 "a sort of brown, sort of like a maroon colour."

10 Q As an investigator do you have a concern with
11 that, if someone puts the colour of a knife handle
12 that's the murder weapon to a witness?

13 A Yes, I don't think that was appropriate.

14 Q Okay.

15 A But, you know, there was another way to have asked
16 it, she should have said, well, what colour handle
17 did it have. Now, "Linda describes her knife as
18 brown, wooden handle with rivets," she's already
19 described the colour, and the point they are
20 making is that, is that Joyce Milgaard influenced
21 her to agree to a different colour; am I correct?

22 Q Yes.

23 A Well, that probably is improper. I wouldn't -- I
24 added that "a paring knife that you would use for
25 peeling potatoes." I think that was probably a



1 question that I was asking, to see if she agreed
2 with that. I don't think there would be anything
3 improper with that.

4 Q If I can just -- I'll just try and find that
5 transcript quickly here. If we can go to document
6 301887 at 301889, I guess it's the first portion
7 up at the top there, and you start off:

8 "Why don't you draw that knife for us
9 here as you recall it. To scale .."

10 She references:

11 "I'm not a very good drawer."

12 Then Mrs. Milgaard says:

13 "Do you have a... do you have a paring
14 knife in the kitchen?"

15 And again, would you have a concern with respect
16 to knowing that the murder weapon was a paring
17 knife to raising that type of a question?

18 A Ideally I suppose this would not be the way to do
19 it, but --

20 Q And again, is it just the concern of --

21 A I think this is pretty small stuff to be honest
22 with you.

23 Q But again, and I guess I'm just talking about from
24 a subsequent investigator's point of view --

25 A Yes.



1 Q -- generally the concern about suggestion and then
2 trying to get accurate information?

3 A Uh-huh.

4 Q And I think you've acknowledge that that would be
5 a concern?

6 A Yes. If we are influencing a witness to describe
7 the knife that's missing from her in the manner
8 that we want her to describe it, that's a problem.
9 I guess what they are saying is that we were
10 moving this closer, Linda Fisher closer to
11 identifying her missing knife as being identical
12 to the one that was found at the murder scene.

13 Q Yes, okay.

14 A That would be improper, yeah.

15 MR. GIBSON: Mr. Commissioner, I see it's
16 10:30 and this might be a good time to break
17 then.

18 COMMISSIONER MacCALLUM: Okay.

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

20 *(Reconvened at 10:48 a.m.)*

21 BY MR. GIBSON:

22 Q Mr. Henderson, we're making progress here, we're
23 moving along, I'm trying to cut some things out so
24 that we'll get done a little bit sooner.

25 I want to touch on Ron Wilson



1 for a little bit.

2 A Sure.

3 Q And Ron Wilson testified at the Supreme Court of
4 Canada and at this Inquiry and basically, I'm sure
5 someone will correct me if I'm wrong, took the
6 position the police didn't threaten him or force
7 him to lie, he indicated that he lied to get rid
8 of any suspicions about him and so he could leave
9 the police station because he needed to get high,
10 and I just want to put a portion of the transcript
11 from the Inquiry up and get you to comment on that
12 a bit. The page reference is 5658, and we'll
13 start about there, and this is Mr. Hodson
14 examining Mr. Wilson:

15 "Q Why were you giving police incriminating
16 evidence about David Milgaard which you
17 knew not to be true?

18 A Because it seems what they wanted.

19 Q What who wanted?

20 A The police.

21 Q And was Mr. Milgaard your friend at the
22 time?

23 A Yes.

24 Q Did you make a decision to give them
25 that information when you knew it not to



1 be true?

2 A Yes.

3 Q Why?

4 A So then, I think I have said earlier,
5 all the heat was off of me.

6 Q Any other reason?

7 A Yeah. After I gave this I could go
8 home.

9 Q And why was that important to you?

10 A Because I needed to get loaded very
11 quickly.

12 Q I'm sorry?

13 A I had to get stoned very quickly.

14 Q Okay. And what effect, if any, did that
15 have on your decision to tell the police
16 what you did?

17 A So I could get out of there as quick
18 as I could so I could get back home.

19 Q So did that influence what you said to
20 police?

21 A I -- I can't say. I would say yes.

22 Q Did the police tell you to lie,
23 Mr. Wilson?

24 A They made suggestions.

25 Q Did they tell you to lie?



1 A No."

2 From your experience, and I'm not just speaking
3 about this case per se, but other cases, have you
4 ever seen a situation where a witness can give
5 false information because of their own concerns
6 without inappropriate police pressure?

7 A Can you explain, be a little more explicit with
8 that question?

9 Q I think we all know that police won't just sit
10 down and say to a witness do you have anything to
11 tell me, they will ask questions and they'll ask
12 pointed questions and they will raise some
13 concerns with that witness about their conduct on
14 that day, etcetera, to try and find out more of
15 the story?

16 A Uh-huh, uh-huh.

17 Q Clearly I think you understand that as an
18 investigator?

19 A I do, yes, right.

20 Q Have you ever seen a situation where there may not
21 be inappropriate police pressure on a witness, but
22 a witness could give information for reasons here,
23 for example, where he wanted to just leave and go
24 and get high?

25 A Well, I note here on the screen that Mr. Wilson



1 makes a reference to the heat that was on him.

2 It's my understanding that Ron Wilson was detained
3 for a lengthy period of time, he acknowledges in
4 his interview with Mr. Hodson that there was, the
5 police were putting heat on him. I would not say
6 that -- I cannot -- if you are suggesting that Mr.
7 Wilson is saying in this transcript or in this
8 interview that there was no inappropriate police
9 conduct, I would not agree with that.

10 Q Now, as far as -- again, with respect to this, he
11 does say that he was not told by the police to
12 lie.

13 A Well, we -- we seldom find a case where -- police
14 are usually -- police who coerce witnesses into
15 saying things that aren't true are usually smart
16 enough not to tell them to lie. The way they work
17 it from our experience is that they exert pressure
18 on a witness, they make sure, number 1, that the
19 witness understands what they want them to say,
20 they put pressure on them, which can range from
21 threats to continued detainment and ultimately
22 they obtain a statement from the suspect or the
23 witness, they obtain the kind of information that
24 they are looking for.

25 Q Now --



1 A If I could just, Mr. -- excuse me, if I may add
2 one more thing?

3 Q Certainly.

4 A Mr. Wilson indicates in here that he was anxious
5 to free himself of the influence of police, so I
6 don't think that the environment that he's
7 alluding to here is, was conducive to getting the
8 truth out of him.

9 Q And do you see any concern with his comments with
10 respect to wanting to give the police what he
11 thought they wanted simply because he thought he
12 would then get out of there and go and get high,
13 have you ever seen a situation where that can
14 cause untruthful statements being put forward?

15 A Well, I've never seen, I've never heard of a
16 witness admitting that the reason, one of his
17 concerns for getting out of police custody was to
18 go out and smoke dope, or whatever he was
19 referring to in terms of getting high, no, I've
20 never seen that before. It's a little unusual.

21 Q Now, are you aware that Mrs. Milgaard interviewed
22 Mr. Wilson in the 1980s and he indicated he was
23 not pressured by police?

24 A I may have heard about that.

25 Q Okay. And again, what comments do you have with



1 respect to that, where he never acknowledged back
2 in the 1980s that he was pressured?

3 A Well, my comment on that would be that it's
4 apparent, it's obvious that Mr. Wilson at that
5 time, when he was approached by Mrs. Milgaard,
6 wasn't ready to tell the truth, he wasn't ready to
7 acknowledge and admit that he lied at David
8 Milgaard's trial, so you would expect him to say
9 that he wasn't influenced by the police.

10 Q And perhaps at that time there wasn't a suggestion
11 put to him like that; is that fair?

12 A That's fair.

13 Q Now, you're aware that Neil Boyd and Kim Rossmo
14 interviewed Mr. Wilson in 1991 and Mr. Hodson went
15 through that report yesterday with you?

16 A Yes.

17 Q And basically they took the view that -- I guess
18 maybe we should put up that portion to be fair.
19 030493 is the document, if we can go to page 515
20 of that. And again, you went through that
21 yesterday and there was some discussion about
22 that:

23 "According to Ron Wilson, he was simply
24 interested in getting free from police
25 questioning on May 24 ... going home,



1 and "getting loaded". He was not forced
2 to implicate David Milgaard, but
3 implicating Milgaard was the easiest way
4 to remove himself from a persistently
5 stressful situation - two months of
6 questioning by police."

7 Now, their view is that he was not forced to
8 implicate Milgaard, that he was questioned
9 throughout that period of time. The evidence at
10 this Inquiry, and I'm sure someone will correct
11 me if I'm wrong, is that Mr. Wilson was not
12 subjected to two months of questioning, that he
13 had been questioned probably four or five times
14 prior to sitting down with Art Roberts for the
15 polygraph.

16 A Uh-huh.

17 Q Are you aware of that?

18 A Yes, I've subsequently learned the process by
19 which Mr. Wilson provided information, how he
20 ultimately ended up with making accusations
21 against David Milgaard.

22 Q Okay. And I take it that you don't agree entirely
23 with Mr. Rossmo and Dr. Boyd -- Dr. Rossmo and
24 Boyd's view on this?

25 A Not entirely, certainly not in view of Mr.



1 Wilson's statements in his interview with Mr.
2 Hodson, that there was heat on him, his statement
3 that they made suggestions in response to a
4 question from Mr. Hodson, "Did they ask you to
5 lie?" to which he replied, "They made
6 suggestions." No, I don't think -- there are
7 varying degrees of coercion by police, it comes in
8 various forms, and I think that this certainly,
9 this was an atmosphere that was designed to elicit
10 information from Mr. Wilson that suited the
11 purposes of police and --

12 Q Well, as far as the purposes of police, maybe I
13 can just stop you there. You would agree that in
14 a situation where an individual comes forth such
15 as Albert Cadrain and he has blood on his
16 clothing, that it would be appropriate to talk to
17 the people that spent time with Albert Cadrain
18 that morning and ask them rather pointedly what
19 went on, and that may not just be as simple as
20 saying, so, do you have anything to tell me, so as
21 far as putting pressure on a witness, that may be
22 appropriate to do so in such circumstances?

23 A I agree with you. Well, pressure, yes, but you
24 reach a certain point where, you know, the
25 pressure that you are putting on somebody becomes,



1 you are risking, you are inviting the person to
2 give you something, to give you the kind of
3 information that will result in the heat being
4 taken off them and -- now, in answer to your
5 question, I did not agree entirely with the
6 consensus of the two expert witnesses, that there
7 was no coercion in Mr. Wilson's case.

8 Q If I could just go to a different document,
9 please, 003336. I think I have too many numbers
10 there. Maybe I don't. 003336. Just go to that
11 document. That's a letter dated February 9th of
12 1970, it's just following David Milgaard's
13 conviction, and it's a letter written by Ron
14 Wilson and I'm just going to read that into the
15 record if I may.

16 "I would like to be considered a person
17 to which some of the \$2,000 reward on
18 the case of David Milgaard be given to.

19 I feel I am entitled to a part of it
20 since I was one of the main witnesses.

21 I would appreciate if I could get an
22 answer on this as soon as possible.

23 Yours truly, Ronald Wilson."

24 Now, from the record, and I suppose from your own
25 experience, Mr. Wilson gave his evidence at trial



1 and a very short time after that Mr. Milgaard was
2 convicted of the murder of Gail Miller?

3 A Yes.

4 Q And it appears that Mr. Wilson knew that a reward
5 was being offered and applied rather quickly for
6 the same, certainly within a few days after the
7 conviction. Do you think Mr. Wilson could have
8 fashioned his evidence to help convict David
9 Milgaard in order to position himself to gain the
10 reward money?

11 A I think that's possible, yes.

12 Q And have you ever seen that, and I know you've got
13 some experience in other cases, have you seen that
14 kind of thing happen occasionally?

15 A Not to my knowledge, no, I don't recall any
16 similar situation, but we can't say that that
17 wasn't what motivated him.

18 Q It could be part of it?

19 A It could be part of it, yes.

20 Q Ken Walters is a Regina City Police officer, at
21 least was back in 1969 and 1970. He testified at
22 this Inquiry, and he worked with Ron Wilson around
23 that time, I think he was a youth police officer
24 where he dealt with a number of adolescents.

25 A Uh-huh.



1 Q Did you ever speak with Officer Walters about this
2 case?

3 A No. I wasn't aware of him.

4 Q If we could put up a portion of his evidence from
5 the Inquiry, it's 10860. I'm just going to start
6 there, and this is an examination by Mr. Hodson
7 again of Officer Walters:

8 "A I had a fair amount of contact with Ron
9 at that time --"

10 And we're speaking about 1969 and '70,

11 "-- through a variety of incidents,
12 mostly minor crime, petty theft sort of
13 thing, but I did get to know him rather
14 well, and I always felt that Ron was
15 acting out and he needed some guidance,
16 if you want to put it that way, the lack
17 of that not being there in the home, so
18 I guess I took a rather liking to Ron in
19 terms of hoping that I could get him off
20 the streets and get him sort of
21 straightened away a bit, so I spent a
22 lot of time at his home with his mother
23 and himself and I did develop a bit of a
24 rapport with Ron, so I had a fair amount
25 of contact with him."



1 So it looks to me that, you know, Mr. Walters was
2 fairly well placed to gain an understanding or
3 appreciation of Ron Wilson at that time as a
4 young person.

5 A I see, okay.

6 Q If I can then just move on to another portion.
7 Now, I think it's -- the reason I'm calling this
8 up, you stated in the Inquiry that there was a
9 reason for Ron Wilson to come up with false
10 evidence and stated that Ron Wilson, people like
11 Ron Wilson don't just make up lies about their
12 friends, and I take it that you still believe
13 that?

14 A I certainly do.

15 Q Okay. And if we could go to page 10,864 of that
16 transcript, and again this is continuing on with
17 his evidence here:

18 "Q Did you have any experiences with him
19 where he would either exaggerate or make
20 something up about something?

21 A They all had their own egos --

22 Q And what do you mean by that?

23 A -- and they all -- well, they all --
24 there was a thing about status within
25 the group, sort of thing, and if you



1 could maintain a status within the
2 group, that was good, and they all
3 tried to maintain this status, this
4 hierarchy, if you want to put it that
5 way, within the organization, within
6 the Apollo organization. So they
7 would sometimes embellish things a
8 little bit so they could have this
9 status in the group ..."

10 If I could go on to to next page, please, whoops,
11 sorry, at the bottom of that page, this part,
12 portion right here:

13 "A They would look at it in this sense,
14 that if they were taken in by the
15 police, this was a bit of a status sort
16 of thing. If the police were interested
17 in them, they knew that they were
18 involved in something, and that they
19 would have a bit of a status that way.
20 If the police weren't really involved
21 with them, they were insignificant.
22 See, it was a sort of a strange
23 mentality that existed amongst this
24 group of people, but this is the way it
25 was.



1 Q Did you have any experiences with Mr.
2 Wilson where he would give you
3 information incriminating a friend of
4 his or an acquaintance?

5 A Umm, an acquaintance, yes. I wouldn't
6 say friend, but yes, acquaintance,
7 yeah. People within the group that I
8 was talking -- referring to earlier,
9 yes."

10 Now have you ever seen a situation where a person
11 might lie to increase their importance with the
12 police, and then their status within their group?

13 A This sounds rather strange to me. We're talking
14 about a motorcycle gang here?

15 Q Yes, I believe so.

16 A Well, in the first place, I think it's pretty well
17 widely accepted that a snitch, that is an
18 informant, is considered, certainly in prison
19 circles, to be the lowest form of human being,
20 along with the child rapists and predators who
21 assault and murder women. I don't see how Ron
22 Wilson would perceive that he was going to obtain
23 any kind of status from being a snitch, a police
24 snitch, --

25 Q What if --



1 A -- either among other, among the prison
2 population, among inmates, or among his peers in
3 this motorcycle organization. That doesn't make a
4 lot of sense to me.

5 Q What about a situation where, as appears to be
6 described here -- I don't think Mr. Milgaard was
7 part of that Apollo group, I stand to be
8 corrected, I don't think he was -- what about a
9 situation where he gained status by being
10 associated with the police, the gang that he
11 associates with doesn't know why the police are
12 interested in him, but he gives information with
13 respect to someone that's outside the group?

14 A I --

15 Q From a distant view, it looks like he's a bit of a
16 player with the police, and he's certainly not
17 snitching in respect to his Apollo members but
18 giving information out about someone else?

19 A Well my understanding is that in, in these kind of
20 circles a rat is a rat, and a rat is not a
21 respected person, and a rat, someone who has a
22 reputation for a rat is -- as being a rat, a
23 snitch, an informant, isn't going to -- isn't
24 getting any respect. In fact he becomes viewed as
25 a, not only as a threat, but a lower form of life.



1 And I mean --

2 **Q** You --

3 **A** -- rats don't enjoy any type of, any type of
4 respect.

5 **Q** Okay. You'd acknowledge here that Officer Walters
6 probably knew Ron Wilson better in 1969 than you
7 did, because you hadn't met him then, obviously?

8 **A** That's true, that's true.

9 **Q** And, in his view, he said that in his experience
10 Mr. Wilson had turned in acquaintances?

11 **A** Yes, and he's also saying that he, he thought that
12 Mr. Wilson believed that he was improving his
13 status among his peers by doing so?

14 **Q** Yes?

15 **A** Well, all I can say is that that seems like --
16 that seems very strange to me. It doesn't fit
17 with what I have always believed.

18 **Q** Nevertheless, setting apart the status side, you
19 will acknowledge that Officer Walters was of the
20 view that Mr. Wilson had turned in other people
21 before?

22 **A** Yes, it appears --

23 **Q** Okay.

24 **A** Well, turned them in, or he's given some
25 information to Mr. Walters about other people. I



1 don't know whether he actually got, turned them in
2 for crimes or what, he isn't clear about that; is
3 he?

4 Q I'm sorry?

5 A He isn't clear about -- he doesn't go into any
6 detail.

7 Q No, he doesn't go into any detail about that, it's
8 just to his knowledge that that had occurred
9 before.

10 A Yeah.

11 Q Okay. Now we've talked a lot about Mr. Wilson
12 here. You would agree that there could be other
13 reasons, besides police pressure, that could have
14 caused Ron Wilson to give incriminating evidence
15 against Mr. Milgaard back in 1969, and we've
16 touched on some of that, it could have been with
17 respect to wanting to get out and get high, could
18 have been with respect to getting a reward, it
19 could have been with respect to that was just the
20 nature of the person that he was, he liked to
21 curry favour with police for whatever reason?

22 A Umm, --

23 Q So there can be a number of reasons besides police
24 pressure; can there not?

25 A There can be a number of contributing factors, but



1 I think police pressure and the so-called 'heat'
2 that he referred to was probably the primary
3 reason. He wouldn't have volunteered this
4 information, he wouldn't have gone to the police
5 with this information.

6 Q Now as far as when you went out to chat with him,
7 I think you said that it was easier for a person
8 to be able to blame someone else for doing the
9 wrong thing than to, you know, accept that, you
10 know, "I was a weak person", or whatever, wear it
11 all themselves. And I think you acknowledged
12 that, when you went out to talk to him, that you
13 gave him that option of police pressure?

14 A Well what I undoubtedly would have said to him is
15 I would have asked him if he was under pressure,
16 if he was pressured by the police to give them
17 information that helped them build a case against
18 David Milgaard, and he said that he was pressured
19 by police. And I don't know whether, I would have
20 to review the statement that I took from him to
21 see whether he said he -- whether he used the word
22 "pressured" or "threatened", or I'm not -- I would
23 -- I don't have immediate recall of that.

24 Q No, and I don't expect you to do that or to have
25 that, Mr. Henderson. But again, with respect to



1 going out and chatting with him, you'd acknowledge
2 that the idea of police pressure was something
3 that you raised with him and that that gave him, I
4 guess, a comfortable out in that he didn't have to
5 wear the whole thing himself?

6 A Well, let me just put it this way, I asked him, I
7 either asked him "what, for what reason did you
8 give the police this information which you now are
9 telling me was false", or I asked him "were you
10 under pressure from the police to provide them
11 information which you now say is false", and he
12 acknowledged that he was, or that he did.

13 Q And correct me if I'm wrong, I think you indicated
14 from the outset that it was your view that, in
15 wrongful conviction situations, that, pretty much
16 every time, the police had inappropriately
17 pressured a witness?

18 A To one degree or another, yes.

19 Q So --

20 A The point I was making was that, that witnesses
21 like Ron Wilson don't just start singing with
22 false information without first being, first being
23 coerced in some manner.

24 Q So is it fair to say that, with that mindset when
25 you went into the investigation, that you likely



1 raised that with Mr. Wilson as a possible option
2 for him?

3 A That's true, yes. Let me add, though, that Mr.
4 Wilson was -- appeared to me to be predisposed,
5 before he even arrived at the hotel, to clearing
6 his conscience and telling me the truth. So, I
7 mean, he came there prepared to accept blame for
8 what he had done, and he pretty well humbled
9 himself in front of me, without any excuses.

10 Q Now, as far as the police pressure that you are
11 talking about, I believe that you have identified
12 it as the session with Art Roberts where he was
13 asked a number of questions repeatedly with
14 respect to the polygraph examination; is that what
15 we're talking about for the pressure?

16 A Well, you know, again I have limited information
17 on the evolution of the witness testimony in this
18 case. It's my understanding, though, and my --
19 and I may have heard about this before but my
20 understanding has been refreshed -- my
21 understanding is that all of these, virtually all
22 three of the major witnesses initially denied any
23 knowledge of the Gail Miller murder, and that at
24 some point, after getting nothing from these
25 witnesses, police brought in a polygraph examiner



1 from Calgary --

2 Q Yes.

3 A -- who, by the way, had a reputation for eliciting
4 information, confessions, whatever, inculpatory
5 information from witnesses and confessions from
6 suspects, and that -- that he examined at least
7 two of these witnesses? I'm not sure, I'm --

8 Q Okay.

9 A -- whether all three of them were tested or not,
10 but the information that they provided, he -- at
11 trial emerged from this session with this
12 examiner.

13 Q I believe only Ron Wilson was examined for
14 polygraph by Mr. Roberts.

15 A Yes, well all right then, it's my understanding
16 that this was the first time that Mr. Wilson
17 actually came out with the information that was
18 used in trial against Milgaard; is that correct?

19 Q Again, I'm gonna put a document to you, and we'll
20 talk about that aspect a little bit further.

21 A Okay.

22 Q If we could go to page 22,910 of the transcript,
23 and then we'll get into the document, it's a --
24 I'm just going to find the portion here. It's
25 this portion here, again, and it's Mr. Hodson



1 examining you, and an answer that you came up with
2 that says here:

3 "... if Mr. Wilson volunteered
4 inculpatory information to Saskatoon and
5 Regina police when he was in Regina,
6 that would be a concern for me, but I
7 haven't seen that report, I don't know."

8 And, when you made that statement, did you mean
9 that if you voluntarily gave information to the
10 police prior to what you and Ron Wilson described
11 as a sweat session -- okay, if I can just call it
12 that -- with Inspector Roberts in May in
13 Saskatoon, that that would perhaps change your
14 view as to whether there was, in fact, a sweat
15 session?

16 A Are you saying that, if I were to see documented
17 proof --

18 Q Yes.

19 A -- of evidence that is accusations made by Mr.
20 Wilson before he was turned over to this
21 examiner --

22 Q Correct.

23 A -- I would, you are asking me if I would change my
24 view?

25 Q Yes?



1 A Well I would certainly, certainly have to back off
2 from what I just mentioned to you, --

3 Q Okay.

4 A -- that it was my understanding that all of the
5 information used --

6 Q Yes.

7 A -- at trial against Milgaard, all of Ron Wilson's
8 testimony, evolved from this so-called sweat
9 session.

10 Q And I want to be fair --

11 A I would back off of that, yes.

12 Q I want to be fair with you, and I'll put the
13 document to you now and we'll get you to comment
14 on that as well, Mr. Henderson. The document
15 number is 025895, and this is a Saskatoon Police
16 report that suggests Mr. Wilson made incriminating
17 statements in Regina before he came to Saskatoon
18 in May for the time with Art Roberts, and I'm
19 looking at -- well, first of all, the date here is
20 May 25th of 1969 that the report was prepared,
21 which is done after Art Roberts dealt with Mr.
22 Wilson, but if we can call up that portion there
23 starting at 2:00 p.m., and I'll just read a little
24 bit of that in and we'll have some discussion
25 about that.



1 A Uh-huh.

2 Q "At 2:00 PM, May 21st, Ron Wilson was
3 interviewed at the Regina City Police
4 station, The following officers being
5 present, D/Sgt. Mackie ...",

6 he's with Saskatoon Police:

7 "... Cst. Walters ...",

8 and that's who I referred to earlier who knew Ron
9 Wilson:

10 "... Cst. Dike of the Regina Department,
11 along with myself."

12 And I believe that that's Detective Eddie Karst.

13 "This conversation also being taped and
14 presently in my possession.

15 During this conversation with
16 Ronald Wilson, he admitted attending in
17 Saskatoon with Milgaard and Nickey on
18 the early morning of January 31st in
19 contradiction to his original and other
20 interviews, he admitted that Milgaard
21 had left the car when they became stuck
22 at approx. 6:45 that morning, while
23 looking for the Cadrain residence. All
24 Wilson would state at this time was that
25 Milgaard appeared to be puffing and



1 running, slightly out of breath when he
2 returned to the vehicle, and he admitted
3 that he had since thought that this was
4 the time that Milgaard was probably
5 involved with a murder.

6 With this information at hand,
7 I brought Wilson back to Saskatoon ..."
8 So, again, this is prior to the polygraph session
9 with Art Roberts.

10 A And when was that, may I ask?

11 Q This is May 21st.

12 A And the --

13 Q I'm sorry, the Art Roberts, I think, was May 23rd?

14 A And when was Ron Wilson first picked up and
15 questioned, what was the --

16 Q March, March 3rd, I think?

17 A March 3rd.

18 Q So this is, again, obviously a few months later
19 that he is being questioned here with respect to,
20 obviously, the same incident, and he provides this
21 information.

22 MS. KNOX: Just for the correctness of that
23 interview as well, Wilson wasn't picked up and
24 questioned, they went and saw him at the jail,
25 Inspector Riddell and Ken Walters did, that



1 first --

2 MR. GIBSON: On March 3rd?

3 MS. KNOX: Yes.

4 A Okay, thank you.

5 BY MR. GIBSON:

6 Q Okay. So, again, does that, does that impact upon
7 your view, then, if he is offering that
8 information up prior to the sweat session with
9 Inspector Roberts, that he may be quite
10 voluntarily providing information?

11 A Now who came up, may I ask, who came up with the
12 description of "sweat session"?

13 Q I'm afraid I don't know.

14 A Okay. Well that wasn't my word.

15 Q No, I'm not attributing it to you, but it's been
16 called that, and we can change the name if you
17 like, but we'll refer to it as the interviews with
18 Inspector Roberts then?

19 A I don't know how much this changes my opinion
20 of -- actually, it's not that much inconsistent
21 with what I had believed before. Mr. Wilson was
22 questioned, apparently, long before this May 21st
23 session in which they claim that he had suspicions
24 about Milgaard based on his --

25 Q Well --



1 A -- on his huffing and puffing when he returned to
2 the car.

3 Q No, I think this is the first that that's ever
4 come to light --

5 A Okay.

6 Q -- is at this point in time.

7 A Umm --

8 Q So, again, it's prior to that session that I
9 believe you are critical of when you spoke with
10 Ron Wilson, and this happened before he came to
11 Saskatoon, so does that --

12 A Well just --

13 Q -- impact you at all in your view as to what could
14 have happened with Ron Wilson?

15 A Well, again, I would want to know how many times
16 police questioned him prior to this, and --

17 Q I believe it was about three times.

18 A Three times?

19 Q Yeah.

20 A Well this, to be honest with you, doesn't change
21 my opinion much.

22 Q There is also evidence that he advised Saskatoon
23 Police about the motel re-enactment at a time when
24 he was simply travelling back to Saskatoon from
25 Regina with the Saskatoon Police, and that



1 evidence came to light just prior to trial?

2 A Yeah, I heard that as well, and that, I think, is
3 significant. That would suggest to me that maybe
4 Wilson was trying to please the cops.

5 Q Okay.

6 A For whatever reason.

7 Q So, again, there could be, for whatever reason,
8 other reasons besides police pressure that Ron
9 Wilson provided that clearly wrong information
10 with respect to David Milgaard?

11 A "Clearly wrong information"?

12 Q Well, other information that he gave with respect
13 to thinking that that's when he killed her, or,
14 you know, what we just talked about, the May 21st?

15 A I wouldn't be surprised if Mr. Wilson reached a
16 point where he was perhaps volunteering
17 information, but I'm not saying that he did not,
18 and it -- and by this point he hadn't experienced
19 a great deal of pressure and heat from the police,
20 which may have explained, in part at least, why he
21 was providing them with information, why he was
22 co-operating with them.

23 Q And, again, he obviously was providing information
24 at a time, or during times when there wasn't that
25 pressure too, correct?



1 A Well, give me a for-instance, what time?

2 Q Well, the motel re-enactment, where he volunteered
3 that information?

4 A Well we -- I don't know what time frame that, that
5 information --

6 Q It was travelling to, travelling to Saskatoon just
7 prior to the trial that he provided that
8 information.

9 A Well if you are suggesting that I agree, that I
10 agree with that there was no pressure put on Ron
11 Wilson before he offered to tell them about the
12 motel scenario, I wouldn't agree with that. I
13 don't know that.

14 Q Okay. I think you've conceded that he may have
15 been providing information for other reasons,
16 though, besides police pressure; I believe you've
17 provided that to me?

18 A I will say this. I think it's fair to say that
19 Mr. Wilson was a weak-willed individual who was
20 perhaps -- I won't, I don't want to say an easy
21 mark -- but somebody who was more inclined than
22 others to cave in to the influence of police and
23 tell them what they wanted to hear.

24 Q And, obviously, the police don't have a choice as
25 to who they get to speak with when an individual



1 is involved in circumstances where the crime is
2 being investigated, such as here?

3 A Sure, I --

4 Q They only had Ron Wilson and Albert Cadrain and
5 Nichol John to deal with; didn't they?

6 A Yes, he was potentially a legitimate witness, he
7 had opportunity to have been privy to inculpatory
8 statements and witnessed inculpatory events on the
9 morning of the murder.

10 Q I'm gonna switch gears here. If we could go to
11 page 22,868 of your transcript, and this is when
12 you were being examined by Mr. Hodson in January
13 of this year, 22,868. And at the top, there, Mr.
14 Hodson is discussing with you an interview of
15 Albert Cadrain which had been listened to in the
16 hearing, and I'll read along there:

17 "... which we've listened to in this
18 hearing, and this document, I think it
19 was prepared by the RCMP where they took
20 out excerpts from the transcript just on
21 this exchange, so that's what I am
22 reading from. And I'll just go through,
23 and this is Albert Cadrain in 19 -- June
24 of 1993, and he says: ...",

25 this is in reference to you, Mr. Henderson:



1 "'Well, he's trying to buy me out
2 with a meal. He's buying me a mean
3 he. And, you know, trying to make a
4 big name for himself ..."

5 "... If anybody was trying to change
6 my story it was Henderson, not the
7 cops. It was Henderson.'"

8 And I want to read another portion of that at
9 22,871, this portion here, and again this is your
10 answer. You state:

11 A I think Albert was manipulated by
12 these police, Templeton and Dyck ...",
13 these are RCMP members:

14 "... and I think that Albert was telling
15 them what they wanted to hear. This guy
16 is, you know, notorious for
17 flip-flopping back and forth ..."

18 If I could just drop a ways down on that page
19 just before the next question, and we'll pick it
20 up along this portion here, and it says:

21 "... if there was any exaggeration in
22 that statement, the person responsible
23 for that was Albert Cadrain, not
24 myself."

25 Now that was your previous testimony at the



1 Inquiry in January.

2 A Okay.

3 Q You indicate that you think Albert was manipulated
4 by the RCMP, yet you acknowledge that Albert was
5 notorious for flip-flopping; is it not possible
6 that Albert decided to change his story to suit
7 you and then, later on, to suit the RCMP?

8 A Well, first of all, let me address these, this
9 whole issue, in summary. My initial opinion of
10 Albert was based on what his brother told me about
11 him. When I first contacted his brother, Dennis,
12 he told me that Albert had been put through hell,
13 subjected to abusive treatment by police, and that
14 his brother ended up having a mental breakdown as
15 a result of his -- of the questioning that took
16 place over a period of time and the pressure that
17 he was under, so your question is whether --

18 Q A fellow that is a notorious flip-flopper could
19 flip-flop without police pressure?

20 A I suppose that's true. I can't argue against
21 that.

22 Q Okay. You concede that Albert is responsible for
23 any exaggeration in the statement that was taken?

24 A You talk -- are you saying that Albert was
25 responsible?



1 Q Yeah, was someone that would exaggerate at times,
2 I think you've acknowledged that at times?

3 A Yes, I think that Albert was the kind of person
4 who was open to suggestibility, in other words I
5 think ideas could be planted in his mind.

6 Q But that could be done without -- and again, I'm
7 not saying that ideas were necessarily planted in
8 Albert Cadrain's mind, but Albert Cadrain could
9 flip-flop on his own without any pressure?

10 A I suppose that's true.

11 Q If we could go to another portion of the
12 transcript, 22,860, right at the bottom there.
13 And, again, this is a question that was raised by
14 Commissioner McCallum here:

15 "COMMISSIONER MacCALLUM: I'm sorry,
16 'exaggeration' did you say.

17 A I said that his brother had told me
18 that Albert was prone to exaggeration
19 and prone to hysterics, so I had to
20 consider the possibility that some of
21 this, some of the things that he'd
22 told me, exaggerated the truth."

23 So, again, you had concerns about whether Albert
24 was capable of telling the truth?

25 A Yes, I had concerns about the possibility that he



1 was exaggerating some of the things he told me.

2 Q Okay. And again, when you spoke with Mr. Hodson
3 you indicated that you thought the police here had
4 manipulated Albert when there was really no
5 evidence of that, and you knew of Albert's
6 propensities?

7 A Well --

8 Q Do you think that's being a little unfair?

9 A -- Albert can have a propensity towards
10 exaggeration and a propensity to, for that matter,
11 --

12 Q Uh-huh?

13 A -- giving the police information that he believes
14 that they want to get from him, he can have those
15 weaknesses, but that doesn't mean that he wasn't
16 under intense pressure to go along with police and
17 that doesn't mean that police did not exploit him.
18 You know --

19 Q What I am asking is there doesn't appear to be any
20 evidence in the transcript of Albert being
21 manipulated by the RCMP when they went out to talk
22 to him, and you acknowledge that he exaggerates,
23 you acknowledge that he's somewhat mentally
24 unstable, and you acknowledge he flip-flops; so
25 could you at least concede that it's likely that



1 the RCMP didn't manipulate him or pressure him?

2 A Are you talking about the RCMP or Saskatoon
3 Police?

4 Q Yes, no, the RCMP when they went out to talk to
5 him.

6 A Well I do take exception to him where he is saying
7 that -- could you get the last screen up where he
8 makes some rather pointed accusations about me?

9 Q And again, you can have concerns with what he has
10 to say about you, but I don't think that that
11 necessarily flows that he was manipulated by the
12 police. The page is 22,868.

13 A Uh-huh. All right.

14 Q And it says, the part here, this is what Albert
15 advised the RCMP. He says:

16 "Well, he's trying to buy me out
17 with a meal. He's buying me a mean
18 he. And, you know, trying to make a
19 big name for himself ..."

20 I can see why you might take offence to that:

21 "... If anybody was trying to change
22 my story it was Henderson, not the
23 cops. It was Henderson."

24 A Okay. Now I think we have to take a look, now, at
25 Albert's, at the statement I got from Albert.



1 Q All right, we can take a look at that. The
2 statement that you obtained from Albert?

3 A Yes.

4 Q Okay. And I'm not sure what the number is on
5 that, I'm -- I have it in here somewhere, but I'm
6 not sure where it is right now.

7 MR. HODSON: 052967. Typed version, is
8 that okay?

9 BY MR. GIBSON:

10 Q That's fine with me. And you wanted to have a
11 look at that?

12 A Yeah, I would like to look at it for a minute. If
13 you can blow it up a little bit, please. Okay.
14 Can you go up, please? Well, I think this
15 statement I obtained from Albert speaks for itself
16 and this is what he told me, this is what he
17 signed off on and what he told me, by the way, was
18 monitored by his brother who considered himself
19 Albert's protector, his guardian, and would not
20 have tolerated, believe me, Dennis Cadrain would
21 not have tolerated any type of manipulation by me
22 of his brother. Albert told me this. He may have
23 been exaggerating, for all I know he was making it
24 up, but that's what he told me and it was
25 consistent with his brother's perceptions of what



1 had happened to him at the hands of these cops.

2 Q Now if we could go to doc. ID number 326611, this
3 is the RCMP interview with Albert June 2nd of 1993
4 and I want to go to page 326687. It's pretty
5 faint, I'll just try and call that up, please.
6 Right here I believe. And the question, and this
7 is Officer Templeton saying:

8 "Okay. How long would have that
9 interview been?"

10 That's the question.

11 A Where are you?

12 Q Right here.

13 A Okay.

14 Q "How long would have that interview
15 been?"

16 "Well, he's trying to buy me out with a
17 meal. He's buying me a meal."

18 And we've heard the rest of that. And then it
19 goes down to another question by Templeton and
20 the question is this:

21 "Okay. Okay you mentioned that this
22 fellow had broken a case..."

23 And then Albert Cadrain responds:

24 "... If anybody was trying to change my
25 story it was Henderson, not the cops.



1 It was Henderson."

2 Now, you would have to agree that neither of
3 those questions in any way and in any shape or
4 form is leading, there's no manipulation in those
5 questions, they are asking about something
6 completely different and he volunteers that, so
7 all I'm trying to get from you, Mr. Henderson, is
8 do you agree that Albert was notorious for
9 flip-flopping and that it's possible that he gave
10 this information to the RCMP without any
11 manipulation or pressure? There's the
12 transcript.

13 A Oh, it's possible that he did, yes. He -- Albert
14 was, I think, mentally unstable and obviously weak
15 willed. I would like to point out one thing,
16 there is another document, a transcript of a
17 conversation, tape recorded conversation between
18 myself and David Asper and Joyce Milgaard in which
19 one of the two of them asks me is it possible to
20 get Albert to change his story.

21 Q Yes, you've gone through that, I remember that.

22 A And I said I wouldn't even attempt to do that. He
23 firmly believes in his testimony, he's convinced
24 that what he testified to actually happened and
25 we're not going there with him, so --



1 COMMISSIONER MacCALLUM: May I ask you
2 something, Mr. Gibson?

3 MR. GIBSON: Yes.

4 COMMISSIONER MacCALLUM: I'm not sure quite
5 that your *ad item*, the two of you. Did this
6 witness ever suggest that the RCMP members
7 manipulated Albert?

8 MR. GIBSON: Yes, he did.

9 COMMISSIONER MacCALLUM: And when was that?

10 MR. GIBSON: That was in his transcript at
11 the Inquiry.

12 COMMISSIONER MacCALLUM: Yes.

13 MR. GIBSON: And the page reference there
14 is --

15 COMMISSIONER MacCALLUM: You just raised
16 that did you?

17 MR. GIBSON: -- 22871, Mr. Commissioner,
18 and it's right at the very top of 22871, and it
19 says:

20 "I think Albert was manipulated by these
21 police, Templeton and Dyck."

22 COMMISSIONER MacCALLUM: All right.

23 MR. GIBSON: And all I'm trying to get at
24 by going through the transcript is the questions
25 that were put to him, the answers were received



1 and Mr. Henderson has acknowledged that now.

2 COMMISSIONER MacCALLUM: Okay. Yes, I had
3 made a note of that.

4 BY MR. GIBSON:

5 Q Very good. Did you know that after you questioned
6 Albert Cadrain and before the RCMP questioned him
7 in 1993, he testified at the Supreme Court of
8 Canada?

9 A Yes, I knew that.

10 Q If we could go to document number 324507, and I
11 believe the page reference number is 015758, is
12 one of the doc. ID numbers I have, and I know it
13 comes up like that in Summation. I'm looking at
14 the examination of Albert Cadrain by Eric Neufeld.

15 MR. HODSON: What's the doc. ID?

16 MR. GIBSON: I have 324507 and the page
17 number, I know that sounds incongruous, is
18 015758, but that's what I have.

19 MR. HODSON: That would be wrong. 015758?

20 MR. GIBSON: Is the page number, sorry.

21 COMMISSIONER MacCALLUM: What's the doc.
22 number?

23 MR. HODSON: What's the doc. ID of that?

24 MS. ELLERMAN: 051645.

25 MR. HODSON: 051645.



1 COMMISSIONER MacCALLUM: Thank you.

2 BY MR. GIBSON:

3 Q If we can just call up that portion. And again
4 this is in between your interview with Mr. Cadrain
5 and the RCMP interview with Mr. Cadrain.

6 A Okay.

7 Q And the question is put to him, this is by Eric
8 Neufeld with the province at the Supreme Court of
9 Canada reference, it says:

10 "Q Is it true, sir, that you were
11 approached in May of 1990 -- you and
12 your brother Dennis -- by Mr. Paul
13 Henderson of Centurion Ministries?

14 A Yes. Paul Henderson and Dennis are
15 the ones that told me -- he said, "He
16 did his time. Just let him go. Just
17 sign here," and so I did."

18 A That's absurd. That's absurd.

19 Q Okay. And again, clearly when he gives that
20 answer, the RCMP aren't manipulating his answers
21 are they; right?

22 A When he came up with that?

23 Q When he came up with that.

24 A No, sir, no, sir, they are not.

25 Q He's quite capable of doing things like that on



1 his own then?

2 A Yes. You've made your point.

3 Q I'll leave the rest of that, he goes on to talk
4 about that in some detail, but we can leave it.
5 Now, I think you've acknowledged this morning that
6 you eventually became aware in 1993 the RCMP were
7 conducting a criminal investigation into whether
8 possible obstruction of justice charges should be
9 laid against either the city police in Saskatoon
10 or justice officials in the prosecution of David
11 Milgaard?

12 A Yes.

13 Q And I take it that, did you not have a chance to
14 read that rather voluminous investigation report
15 by the RCMP and the report by Alberta Justice?
16 There's a lot of material in this case.

17 A I read portions of the record before my first
18 appearance here in January, but I was notified of
19 my return date only a week before it was time to
20 come back and I didn't have time to do it, to get
21 into any more reading or research.

22 Q Now, you were aware that that was a criminal
23 investigation?

24 A Yes.

25 Q And I take it, although you do a number of



1 investigations, you don't, you've never done an
2 investigation with the idea of proffering charges
3 against anyone?

4 A You mean about --

5 Q Yourself.

6 A I have never put together an investigation that
7 was designed to result in charges against a murder
8 suspect or a police officer?

9 Q Anybody.

10 A Certainly not primarily assigned.

11 Q Now, you would understand that in any criminal
12 investigation or prosecution, a police officer is
13 going to have to have reasonable and probable
14 grounds in order to lay charges; correct?

15 A Yes.

16 Q Okay.

17 A Well, let me ask you this, prosecutors lay the
18 charges --

19 Q Yes.

20 A -- in the United States, police don't lay the
21 charges.

22 Q And depending upon the gravity of the offence,
23 sometimes police swear an information and charges
24 are put in place, but you are right, when it's a
25 serious offence, it's quite often the prosecutors



1 who are involved.

2 A Okay, thanks.

3 Q Now, in order to swear an information to proffer
4 charges, you would agree that a police officer has
5 to reasonably believe the evidence before them?

6 A That's the theory, yes, they are supposed to
7 believe it.

8 Q And you appreciate that it would be improper for a
9 police officer to swear an information if he or
10 she hasn't tested the evidence to make sure it's
11 reasonable and probable; correct?

12 A Tested it?

13 Q Yes, go out and make sure that witnesses are
14 credible, the information they are providing is
15 accurate, that kind of thing?

16 A It would be improper for them not to, I agree, it
17 would be improper, yes.

18 Q And before one can proffer charges, it would be
19 reasonable that an officer or the prosecutor would
20 have to have a reasonable prospect of conviction,
21 and again that's another test that would be
22 applied?

23 A Yes, the charging process is certainly a very,
24 very important step in the criminal justice
25 system.



1 Q And if a member, a police officer isn't satisfied
2 or hasn't satisfied themselves that, with
3 reasonable and probable grounds, that a reasonable
4 likelihood of conviction, then there's a chance
5 they could be open to malicious prosecution,
6 clearly they have to have some bona fides to go
7 ahead with something?

8 A I don't know how it works in Canada, but for the
9 most part prosecutors are, in the United States,
10 are immune from recourse for zealous prosecution
11 unless they stray beyond the boundaries of their
12 job description, and we've had that happen a few
13 times, but for the most part they can file
14 anything they want.

15 Q Now, in the RCMP investigation in 1993, there were
16 allegations with respect to police and
17 prosecutorial misconduct and the RCMP went out and
18 interviewed a number of people that you had dealt
19 with.

20 A Uh-huh.

21 Q And then had raised some concerns about police
22 pressure, and you would agree that it would be
23 necessary for police officers in those
24 circumstances to test the veracity of the evidence
25 that they were obtaining and to not simply accept



1 information that may have been gathered by
2 yourself; is that fair to say?

3 A Sure, of course.

4 Q Okay. Now, I think we can all agree that there
5 was a good deal of suspicion surrounding Larry
6 Fisher and the murder of Gail Miller, certainly
7 you've raised that and had some very serious
8 concerns about Mr. Fisher?

9 A Right, with good reason.

10 Q And there was a lot of circumstantial evidence
11 around Mr. Fisher?

12 A Yes.

13 Q A number of things pointed towards Mr. Fisher, but
14 you would agree that suspicion and proof in court
15 are quite often different things aren't they?

16 A Sure. Certainly.

17 Q And I believe you gave evidence that you
18 introduced Fisher when you went out and did your
19 interviews to cast doubt on the Milgaard
20 conviction?

21 A Yes, we did.

22 Q But you didn't see your role, if I recall
23 correctly, and trying to be fair with your
24 evidence, I believe you said you didn't see your
25 role as one where you had to build a murder case



1 against Larry Fisher?

2 A Well, quite frankly, we tried to build a murder
3 case against Larry Fisher because that was part of
4 building a case for David Milgaard's innocence.
5 This is not the first time that we have developed
6 information on the real killers, or the real
7 killer in a wrongful conviction case, it's
8 happened over and over again at Centurion
9 Ministries.

10 Q Now, Staff Sergeant Pearson testified for a number
11 of days at this Inquiry and commented numerous
12 times about there being no hard or concrete
13 evidence to eliminate or confirm that Larry Fisher
14 was guilty of the murder of Gail Miller and if I
15 can just reference his transcript at 20030, if I
16 could just pick it up here.

17 A May I ask who the parties are here?

18 Q Yes.

19 A Who is asking the questions and who is the
20 respondent?

21 Q It's Mr. Hodson examining Staff Sergeant Pearson
22 who assisted the Federal Department of Justice in
23 gathering information on the 690 application.

24 A Okay, thank you.

25 Q And Staff Sergeant Pearson says -- well, the



1 question is:

2 "Q As far as your thinking as to whether or
3 not Larry Fisher and/or David Milgaard
4 were suspects or may have committed the
5 murder, did it assist you at all in your
6 thinking on that matter?

7 A I don't think so. I think everyone,
8 probably the Supreme Court as well
9 struggled with this. It was just one
10 of those cases that there was no clear
11 answer to and, you know, with the
12 wisdom of the Supreme Court and the
13 information they had, there was no
14 clarity really in their final decision
15 either. I think they were left with
16 some doubts on both sides and that's
17 where it stayed until there was some
18 defining evidence that could put an
19 answer to this.

20 Q And in your mind, and again I'll go
21 through your report and your two
22 theories that you prepared, but in your
23 mind did you continue to suspect both
24 Larry Fisher and David Milgaard for the
25 murder of Gail Miller?



1 A Yes, I had no evidence to eliminate or
2 confirm either one of them. I mean, a
3 lot of circumstances, I mean, there
4 was a lot of circumstances and
5 everybody could rationalize and
6 everyone did in those days, everyone
7 had an opinion based on the knowledge
8 that they knew, but it was a difficult
9 time to try and put a defining answer.
10 It was a tough decision to make by the
11 people who had to make this."

12 And were you aware that Staff Sergeant Pearson
13 knew that Larry Fisher was a very, very good
14 suspect, but again, to translate that into
15 concrete evidence that he could proffer a charge
16 was a difficult thing?

17 A You are talking about what period of time, if you
18 please?

19 Q Back in 1990, '91, '92, right up to the Supreme
20 Court, and even afterwards.

21 A Uh-huh.

22 Q Lots of circumstantial evidence, clearly the rapes
23 in the area involving Mr. Fisher?

24 A Yeah.

25 Q But difficult to translate that in, it was a



1 pretty cold case by that time, into concrete
2 evidence that could necessarily get a conviction?

3 A Yes. I'm aware of the fact that they did not have
4 a smoking gun, per se, on Larry Fisher, I'm aware
5 of that. I don't know how that -- that's not
6 saying, though, that, at least in my opinion, you
7 know, the emergence of Larry, when Larry Fisher
8 emerged in this case, I think in the minds of most
9 reasonable thinking people he clearly superseded
10 David Milgaard as a viable suspect in the Miller
11 murder for a variety of reasons, which I'll be
12 glad to go into any time you want me to.

13 Q No, I appreciate that, but then again translating
14 that into something that you can proffer a charge
15 is a different matter.

16 A Well, sadly there are many cases where police know
17 that somebody was the killer, but they don't have
18 the evidence to take it to court. It's a fact of
19 life. It's something that law enforcement has to
20 live with and deal with. I'm sure it's
21 frustrating to them.

22 Q If I could just go to the Supreme Court of Canada
23 decision on the reference, it's doc. number
24 160801, if I can call up that portion there,
25 please, this is the head note from that decision



1 by the Supreme Court:

2 "There was no probative evidence that
3 the police acted improperly or that
4 there was inadequate disclosure and the
5 accused was represented by experienced
6 counsel. The court was not satisfied
7 either beyond a reasonable doubt or on a
8 preponderance of the evidence that the
9 accused was innocent. However, while
10 there was some evidence which implicated
11 the accused in the murder, the fresh
12 evidence, particularly as to the
13 alternative suspect, could well have
14 affected the jury's assessment of his
15 guilt or innocence. His continued
16 conviction would be a miscarriage of
17 justice if a jury could not consider the
18 fresh evidence. However, if a new
19 trial --"

20 Just on to the next page, please -- I'm not sure
21 why that isn't on that next page. 386, I'm
22 sorry, is the next page, but that's 387. 385,
23 then it should be 386 I think is after 387 in
24 this version:

25 "However, if a new trial were directed



1 and the accused were found guilty the
2 court would recommend that the Crown
3 consider granting him a conditional
4 pardon."

5 So in that circumstance, were you aware that the
6 Supreme Court again was not too clear after
7 having all of the information brought forth by
8 all of the people involved as to the guilt or
9 innocence of David Milgaard?

10 A Well, it's apparent, it's in black and white here
11 that they obviously didn't feel that there was
12 enough evidence to convict Larry Fisher and
13 therefore they were stopped short of declaring the
14 innocence of David Milgaard.

15 Q And you would agree, Mr. Henderson, that any
16 prosecution of Larry Fisher would be complicated
17 by the conviction of David Milgaard and certainly
18 complicated by the Supreme Court of Canada
19 reference and the determination that was made
20 there?

21 A Yeah. Well, with the evidence they had assembled,
22 I would -- I can well agree with you that they
23 came up short, but I would like to know exactly
24 what they did to investigate Larry Fisher and, you
25 know, I would like to see a list of people they



1 talked with, I would like to see a list of
2 evidence they examined. I mean, I've never seen
3 that. I can't say they didn't conduct a
4 comprehensive, thorough investigation of him, but
5 I don't know that they did.

6 **Q** And there certainly is evidence before the Inquiry
7 with respect to interviews that were conducted by
8 Staff Sergeant Pearson of the victims of Larry
9 Fisher and that evidence is before the
10 Commissioner and clearly that will be up to the
11 Commissioner to determine issues related to that.

12 **A** We're trying to determine, though, whether the
13 RCMP acted properly and turned in a comprehensive,
14 fair report on Larry Fisher. I think before I
15 could have any comment on that, I would have to
16 see, have an idea of what they did to try to
17 determine whether he was --

18 **Q** And maybe I'll just clarify. Again, what I'm
19 speaking about here is with respect to a
20 prosecution of Larry Fisher, but it wouldn't
21 necessarily be by the RCMP, although they did
22 eventually prosecute him, but in 1990 to '91 the
23 RCMP assisted in the 690 process which was not a
24 criminal investigation of Larry Fisher, but
25 certainly was dealing with certain aspects of the



1 evidence around Larry Fisher, and then in 1993 the
2 RCMP did that criminal investigation into
3 obstruction of justice that we talked about and
4 again peripherally there would be some evidence
5 with respect to Larry Fisher that may come to
6 light, but again was not an investigation per se
7 of Larry Fisher, that didn't occur until 1997 and
8 the DNA evidence, just for your clarification.

9 A Well, that leaves me with the question of what was
10 and who was responsible for investigating the
11 possibility of Larry Fisher having committed this
12 murder in 1990, '91, whose job was that? If
13 the --

14 Q Again, what was happening was that that was going
15 to a Supreme Court reference, Mr. Henderson, and a
16 determination then was made after the Supreme
17 Court reference by the Minister of Justice in
18 Saskatchewan as to how to proceed with those
19 matters.

20 A All right. And then you are saying subsequent to
21 the Supreme Court reference there was a
22 comprehensive investigation of Larry Fisher which
23 came up short of evidence required to convict him;
24 is that correct?

25 Q No, there was no investigation of Larry Fisher



1 until quite later on, until DNA evidence
2 exonerated Mr. Milgaard.

3 A Okay. I'm very confused now to be honest with
4 you. I don't understand --

5 Q I appreciate that you don't have all of the
6 information. Now, in your evidence you indicated
7 that some might not feel that Fisher was clearly
8 established as the person responsible for the
9 murder?

10 A Particularly if there was no investigation of him.

11 Q Now, again, there was, I think that's being
12 unfair, there was certainly information that went
13 to the 690 process, and we won't belabour this any
14 further, I don't know if it's getting us any
15 further, but would you have a concern about -- you
16 indicated that you went out and spoke to witnesses
17 and I believe you said that you wanted them to
18 subscribe to your strong suspicions that Fisher
19 was the murderer, I think you indicated --

20 A We wanted to enlighten them to all of the evidence
21 that pointed to Larry Fisher, and there was
22 considerable evidence pointing to him. I mean,
23 statistically speaking, the odds of him not being
24 the killer were extremely remote.

25 Q Now, you said that you wanted to have these



1 witnesses subscribe to your view that Fisher was
2 the murderer?

3 A If I said that, I may have misspoke. We wanted
4 them to understand the facts, put it that way.

5 Q And you would agree then that you put forth to
6 these witnesses the evidence that you saw that
7 pointed to Larry Fisher; correct?

8 A Yes, and specifically what witnesses are we
9 talking about now, all of them?

10 Q All of the witnesses you went out to talk to.

11 A Right.

12 Q And I take it then that you didn't put to them the
13 evidence that may have pointed towards David
14 Milgaard that was gathered?

15 A Well, we're talking about, if we're talking about
16 the witnesses who testified against him, they were
17 well aware of the evidence against him. They
18 provided it.

19 Q Correct.

20 A Okay.

21 Q And so what I'm wondering about is where you say
22 that you want people to subscribe to your strong
23 suspicions, would you have a concern if police
24 went out and used that approach when they went to
25 a witness and said look, I've got strong



1 suspicions?

2 A That's exactly what they do, that's exactly what
3 police do, so we know that from our long history,
4 and, you know --

5 Q Now --

6 A I believe at Centurion we hold ourselves to a very
7 high standard of integrity and fair play with
8 witnesses, but, you know, we are advocates for the
9 wrongfully imprisoned, we work for people who we
10 are convinced were the victims of a miscarriage of
11 justice and we play square with everybody, but we
12 don't, you know, we don't withhold information.
13 We have no leverage over witnesses who we go out
14 and try and get the truth from. I can't threaten
15 them with anything, I have nothing to hold over
16 them, I can't take away their welfare cheques, I
17 can't take away their house, I can't put them in
18 jail, all I have going for me is their conscience,
19 that's all I can say, is we hope that you will do
20 the right thing because what has happened is not
21 fair.

22 Q And the only point that I want to get to is when
23 you go out and you advocate that particular
24 position, and again I think you've indicated at
25 the outset of our discussion that that could cause



1 a concern for subsequent investigation as to what
2 information the individual had on their own and
3 what may have been imparted to them?

4 A I suppose that's true, yeah. I suppose that's
5 true. Could be true in certain circumstances,
6 yes.

7 Q And I thank you for your time, Mr. Henderson.

8 A Thank you very much.

9 Q We've wrapped up in time for lunch.

10 MR. HODSON: I'm wondering,
11 Mr. Commissioner, before we break, I'm not sure
12 if order of counsel has been determined amongst
13 the rest. We can certainly deal with it at 1:30
14 or, if you wish to canvass now, I'm in your
15 hands. There's a number of parties who have
16 expressed a desire to examine Mr. Henderson, but
17 I do not believe consensus has been reached on
18 order.

19 COMMISSIONER MacCALLUM: Okay.

20 MS. KNOX: Mr. Commissioner, one matter
21 that I need to speak to that will impact on
22 order, but is not directly about order, I
23 unfortunately have to be absent immediately after
24 lunch, I have a client who is in custody, and Mr.
25 Kennedy who spells off for me at the Inquiry is



1 in Swift Current and I have no one to cover, so I
2 have to go to provincial court. I'm hoping to be
3 back here by about 2:30 and I do apologize for
4 this, but as I said, I have no choice, I have no
5 one to cover for me.

6 COMMISSIONER MacCALLUM: Okay.

7 MS. KNOX: And the Crown won't consent to
8 release her for some reason.

9 COMMISSIONER MacCALLUM: Anybody -- who
10 else is going to cross-examine him?

11 MR. HODSON: I might be able to assist, and
12 I've canvassed, Ms. Krogan has indicated no,
13 Ms. McLean has indicated no, Mr. Wolch has
14 indicated no questions now, but maybe. Mr. Loran
15 has questions, Mr. Watson has no questions, Ms.
16 Knox has questions, Mr. Boychuk has questions and
17 Ms. Cox has questions for Federal Justice, and
18 Marshall?

19 MR. HOPKINS: No.

20 MR. HODSON: No. So we have five counsel
21 and I anticipate that the issue is where Mr.
22 Wolch fits in the order, but I'm only
23 anticipating that.

24 COMMISSIONER MacCALLUM: I'll hear
25 representations, but it's lunch time, we'll do it



1 at 1:30 if you can't agree before then.

2 (Adjourned at 11:59 a.m.)

3 (Reconvened at 1:30 p.m.)

4 MR. HODSON: Mr. Commissioner, just on
5 order, Ms. Cox, on behalf of Federal Justice, has
6 agreed to go next, and then I think there still
7 may be an issue between Mr. Wolch, Mr. Boychuk,
8 Mr. Loran and perhaps Ms. Knox, but maybe, by the
9 time we get there, there won't be.

10 COMMISSIONER MacCALLUM: Okay, thanks.

11 **BY MS. COX:**

12 **Q** Good afternoon, Mr. Henderson. My name is
13 Jennifer Cox and I appear on behalf of the Federal
14 Minister of Justice.

15 **A** Good afternoon.

16 **Q** The first thing I'd like to look at is the
17 process, and I would like you to put your
18 Centurion hat on for a moment, if you'd like?

19 **A** Okay.

20 **Q** And the process that you would normally go through
21 with respect to investigating a wrongful
22 conviction case or a new case that came into
23 Centurion, on the basis of your belief of being,
24 or the accused's belief that it was a wrongful
25 conviction, and we've heard evidence this morning



1 and we've heard evidence previously with respect
2 to the steps that you would normally take.

3 A Uh-huh.

4 Q So I'm wondering if you could quickly go through
5 those again for me?

6 A Sure. I'll start you out with the first thing
7 that happens. Centurion is a somewhat unique
8 organization. We're basically a nation-wide
9 clearing house for prisoners who want an advocate,
10 and they write to us, and we get about 1300
11 letters a year. We have a staff of volunteers who
12 come in three or four times a week, work a
13 half-day, a full day, whatever, but they respond
14 to all letters. They invariably will, after
15 reading the letter, will have a number of
16 questions for the person appealing for our support
17 and help, they write back, over a period of time
18 they develop a file on the inmate. Ultimately,
19 the first test is that we have to believe that the
20 inmate has been forthright with us and there is a,
21 first of all the qualifications are, number one is
22 that the inmate has to have exhausted all of his
23 or her appeals; the inmate, it's required the
24 inmate be indigent, have no other means of paying
25 for a continuing defence; and we also have to feel



1 that the inmate is the kind of person who is a
2 successful candidate for re-integration back into
3 society if and when we are able to free them.

4 So, after developing that, a
5 great deal of information on these individual
6 cases, we request, if we feel the case has merit,
7 we request all of the records, that would be
8 transcripts, police reports, discovery, anything
9 that exists. The volunteer assigned to that
10 particular case continues to develop information
11 on the case, and at some point every year
12 Centurion has a case conference and they decide
13 which four or five cases out of the many ap -- of
14 the many possibilities, that they're going to take
15 on.

16 So that's when the fieldwork
17 begins, that's when I get involved. I'm assigned
18 to a case, as I was two years ago, for example, in
19 Pennsylvania, and I was shipped out all the
20 materials, I had to read all the transcripts, all
21 available discovery, reports, just pages and
22 pages, and tons and reams and reams of copy, so
23 when I felt like I knew enough about it to proceed
24 I headed into the field and started looking for
25 witnesses and developing information.



1 The average time that it takes
2 for us, from the time when we begin field
3 investigation until we are able to obtain a,
4 convince a judge to grant an evidentiary hearing,
5 is five years. And let me -- I -- let me retract
6 that. The average time, from the minute we begin
7 field investigation until the prison doors open
8 for an innocent person behind bars, is five years,
9 so it takes a long time.

10 Is that sufficient? We have
11 roughly, we have five or six paid employees, I'm
12 referred to sometimes as the 'west coast
13 investigator', although it doesn't work out that
14 way, I work all over the country.

15 Q So at the point where you are ready to go out into
16 the field, as you say, to speak with the various
17 witnesses, you've reviewed all the transcripts and
18 all the information that's come into Centurion at
19 that point?

20 A Yes, and Centurion is, by that time we are
21 convinced that the person who we are about to
22 begin work for in the field is truly innocent. We
23 have been wrong a couple times. The investigative
24 process that we go through, you know, if somebody
25 hasn't been telling you the truth there is no way



1 to hide it, it's going to emerge, and so we've
2 made a few mistakes but caught our mistakes before
3 we finished the process.

4 Q So I'm not clear when the petition goes to the
5 Court; where, in the five-year process, does the
6 petition go?

7 A Well I -- the five-year period is, my
8 understanding is the average time it takes from
9 us, from when we begin work in the field until
10 when a judge rules that the petition, our
11 petition, has merit, this is at the end of an
12 evidentiary hearing, and orders the conviction
13 overturned or orders a new trial. That's five
14 years.

15 The evidentiary hearing could
16 take anywhere from, you know, we might work two,
17 three, four, sometimes five years just to get the
18 evidentiary hearing and then often, as we are
19 right now in a case in Dallas, we have been
20 waiting for a year for a Court to make up its mind
21 whether they're going to grant us an evidentiary
22 hearing.

23 Q Okay.

24 A So --

25 Q Because your previous evidence was that it was



1 between eight to ten years, and I'm not sure if
2 that meant the petition would be filed within
3 eight to ten years, or --

4 A Who said that?

5 Q You did.

6 A I did?

7 Q Uh-huh.

8 A I thought I just used, I said five years?

9 Q Today you did, yes.

10 A Okay. Did I say eight to ten before?

11 Q Yes.

12 A Well, I think it's five, I'm sorry.

13 Q So what you are telling me today, then, is that
14 the five-year point is approximately -- you know,
15 and we're all talking about an approximate time
16 frame here --

17 A Yes, it's an average.

18 Q -- that would be when the petition is filed with
19 the Court?

20 A That would -- yes. Well I'm not quite sure, to be
21 honest with you, it could be when the petition is
22 filed or it's when the conviction is overturned.

23 Q Okay. So, when you file the petition, do you file
24 the transcripts and all the other documents with
25 the petition?



1 A Well we certainly refer to transcript if it's
2 necessary. We have any number of exhibits along
3 with the petition, it's a complete package, it
4 tells a story.

5 Q Okay. So in this particular case, those steps
6 that you just talked about in that five-year
7 period, when you were dealing with the Milgaard
8 file you just assumed that all of those things had
9 been done, that investigating and reviewing all of
10 the facts and transcripts?

11 A Well the Milgaard situation was a very unusual one
12 because it would have taken an extraordinary
13 development to get us to come into a case at the
14 point that we did without doing all of the work
15 that normally goes into a case before we commit to
16 it. In this case we were -- we found out about
17 the spectre of a person who we believed, based on
18 a lot of, a lot of input, to be a far more likely
19 suspect than David Milgaard in the Gail Miller
20 murder, so this was a case where Jim McCloskey
21 noted, when we committed to this, that this was
22 going to be one step at a time. If the
23 information about Larry Milgaard -- Larry Fisher
24 didn't turn out to be true, in other words if his
25 wife did not support what we'd heard she was



1 saying, then that would be the end of it. And so
2 my first assignment was to come up here and find
3 her and talk to her and see what she had to say,
4 and at that time there was no plans to go any
5 further than that. Once she confirmed this
6 information and the strong, and expressed strong
7 suspicions of her husband's involvement in this
8 murder, Jim McCloskey made a decision to, at that
9 point, to go out and try and talk to the
10 prosecution witnesses who testified against David
11 Milgaard.

12 Q So when you, as an investigator -- and, again,
13 putting your Centurion hat on -- as an
14 investigator you would know all of the facts of
15 the case before you would interview any of the
16 witnesses; correct?

17 A Well, like I said, in this case there was a lot of
18 background that I didn't know.

19 Q Right.

20 A I didn't -- a lot of things had happened in the
21 appeal process, that I think this first petition
22 for a reconsideration was filed, this was going on
23 as much as two years before we even heard about
24 the case.

25 Q But I guess what my point is, is that you assumed



1 that a lot of the steps, you were relying on the
2 information that other people were providing you,
3 which Centurion would normally gather that
4 information themselves, in this case you had
5 another party that was gathering that information
6 for you?

7 A Well I'm not saying that we, that we gathered all
8 the information we normally would have if this had
9 been a typical case, but the emergence of Larry
10 Fisher as a viable suspect, alternative suspect in
11 the murder, was the reason for McCloskey's
12 decision to make an exception to this case.

13 By the way, I might add that
14 Joyce Milgaard had been petitioning, had been
15 asking for CM's help for some months, and actually
16 had volunteered, worked as a volunteer down in
17 Princeton, and so --

18 Q So what you are saying is you had a good reason to
19 assume that, you know, all of the information was
20 there and ready for you?

21 A Well, let's put it this way, Jim agreed that if
22 the information that we'd heard about Linda
23 Fisher's strong suspicions about her husband's --
24 about her husband being responsible for this
25 murder, if that panned out then there was good



1 reason for us to proceed with an investigation,
2 but that was the first step, that was the first
3 test that David had to pass before we committed to
4 his case.

5 Q So, normally, Centurion would visit with the
6 accused or the wrongfully accused person. In this
7 case you never met with Mr. Milgaard prior to --

8 A No, actually, I did not meet with David until the
9 day that he was released.

10 Q And that was just because of your rapport or your
11 relationship with Mrs. Milgaard?

12 A Yes, that's true. And, again, this was --
13 normally the last step before McCloskey commits to
14 a case is to meet with the person who is asking
15 for our help in prison and, you know, his
16 impression is a factor in his decision on whether
17 to take the case or not.

18 Q But, in this case, you didn't feel you needed to
19 do that?

20 A No, I -- I -- I don't think anybody from Centurion
21 had actually met David when we decided to get
22 involved in this case, before we got involved in
23 this case. We'd met his mother, of course.

24 Q Okay. If we could go to document 337359 at
25 337380. We're going to talk a little bit about



1 your preparation for your interview with Ron
2 Wilson and the Cadraings, and if we look at page
3 85, which would be -- wait -- this is a telephone
4 conversation that you had with Mr. Asper, and it
5 looks like, right here -- I don't know how to use
6 this, oh, there it goes, okay -- it looks like the
7 conversation was taking place on Victoria Day in
8 1990, so approximately the 24th of May, 1990,
9 because these -- this was just before the
10 interviews, and I'm going to assume, the year is
11 1990, so it's Victoria Day 1990?

12 A Okay.

13 Q Would you accept that?

14 A Yes, that's the year I worked on this case.

15 Q Okay. And then if we could go to page, at 378,
16 page 78. Right here you say:

17 "That's fine, ah, it ...",

18 I can't read below, I can't read because of the
19 arrow:

20 "That's fine, ah, it -- but Joyce is
21 gonna have to be there because, you
22 know, I have never seen a transcript of
23 this case and --"

24 A Right.

25 Q So you are expressing some concern, at that point,



1 about not having the information --

2 A Not having the background, yeah.

3 Q Yes.

4 A All the background I normally would have before
5 proceeding with an investigation, that's right.

6 Q So it would appear, then, that you are relying on
7 Joyce or another person to bring you up to speed
8 so to speak?

9 A That's what it would appear like, yes.

10 Q Okay. And so this was say May 24th, 1990, and the
11 record shows that you interviewed Dennis on May
12 26th, 1990. This phone call would have been from
13 Seattle from your perspective, right, that you
14 were still in Seattle at that point?

15 A Umm --

16 Q Do you know where you were?

17 A If I may, I'd like to consult with my chronology
18 here.

19 Q Sure.

20 A And the date of this, this is Victoria Day we're
21 talking about, and it's 1990, and what date would
22 that be in May?

23 Q We believe, or I believe it's May 24th, which is a
24 Monday.

25 A Okay. This conversation, then, would be in



1 preparation for an approach to Albert Cadrain, and
2 his brother Dennis, as it turned out. But I would
3 guess, I think that on the 24th I was actually in
4 Saskatoon, and this conversation was made from
5 Joyce Milgaard's house.

6 Q Okay.

7 A Oh, I see that Joyce was there, this had to have
8 been at -- in her presence, was in her presence,
9 this would have been in her house because she's
10 never been to Seattle.

11 By the way, and this is not, I
12 want to make it clear that this isn't the first
13 work that I did on the case. In March I
14 interviewed, with Joyce I interviewed Linda Fisher
15 and a guy by the name of Cliff Pambrun, who I
16 think was a relative of Larry Fisher. This was
17 the second round.

18 Q Okay. So, anyway, this was on May 24th and you,
19 and the record indicates you'd interviewed Dennis
20 Cadrain on May 26th, you would agree with that?

21 A Yes, that sounds about right.

22 Q And then on June 4th in Nakusp you interviewed Ron
23 Wilson?

24 A Yeah, but you are forgetting, you are overlooking
25 something here. On June 26th -- correct me if I'm



1 wrong here -- I did interview Dennis first, --

2 Q But --

3 A -- and then also during that same day or period of
4 time I had also spoke with his brother.

5 Q Right. But my question was on, just simply on
6 June 4th, 1990, you interviewed Ron Wilson?

7 A Yes.

8 Q And that was in Nakusp, B.C.?

9 A Nakusp, yes, right.

10 Q So it took, you had to travel from Saskatoon to
11 British Columbia, and Nakusp is, we've heard, is
12 some miles away from a local airport?

13 A Well, what I did was, apparently it appears that I
14 was, for whatever reason, you know, I was in, I
15 was in Saskatchewan in March, then returned in
16 May, contacted -- in the presence of Joyce
17 Milgaard contacted Dennis Cadrain on May 24th, and
18 then headed down, probably flew to Vancouver and
19 drove over to Port Coquitlam on -- to interview
20 him on May 26th. Now I returned to Seattle, I'm
21 positive of that, because I remember driving from
22 Seattle to Nakusp and wondering what I had gotten
23 myself into in terms of --

24 Q So how did you get to Nakusp, then, did -- you
25 drove?



1 A I drove, I drove from Seattle.

2 Q Oh, Seattle to Nakusp, and then home from Nakusp?

3 A Yes.

4 Q Okay. And at that time, too, there was also
5 evidence that you were involved in an
6 investigation in L.A. at that very time in your
7 life, 1990, late May?

8 A Yes, that's correct. That investigation actually
9 started in 1988 and it was still ongoing in 1990.

10 Q So there were a lot of things competing for your
11 attention at that time?

12 A Yes, I was -- I had a full plate.

13 Q Because as of Victoria Day, which we've
14 established or should be established that it was
15 May 24th, 1990, --

16 A Uh-huh.

17 Q -- that's two weeks before June 4th?

18 A Yeah.

19 COMMISSIONER MacCALLUM: Ms. McLean?

20 MS. McLEAN: I don't know that a lot is
21 going to turn on it, but I've just been Googling
22 around and Victoria Day is the Monday prior to
23 May 25th, and according to 1990 calendars that
24 would have been May 21st.

25 COMMISSIONER MacCALLUM: Thanks.



1 MS. COX: When I actually looked up the
2 Monday for 1990, it was the 24th, so that's how I
3 came to that conclusion.

4 COMMISSIONER MacCALLUM: Well I think she
5 said it's not observed on the 24th but, rather,
6 on, what did you say, the Monday?

7 MS. McLEAN: The Monday preceding the 25th.

8 MS. COX: So the 25th, in this case, would
9 be a Tuesday?

10 COMMISSIONER MacCALLUM: Yes, so the 24th
11 is Monday, that's what you are saying, Ms.
12 McLean?

13 BY MS. COX:

14 Q Well we'll check that information, I think, a bit
15 more.

16 A Okay.

17 Q However, the bottom line is that, you know, at the
18 very most you might have had three weeks prior to
19 interviewing Mr. Wilson, and at that very moment,
20 or during that telephone conversation, you hadn't
21 received any transcripts?

22 A Umm, --

23 Q It looks to me, based on that particular part of
24 the conversation.

25 A Yeah. So your point is that I'm, I'm talking with



1 David Asper on the 24th; is that right?

2 Q Well, we'll not say, the Victoria Day 1990 is the
3 only information we have for sure.

4 A Uh-huh.

5 Q So that day, that particular day, you were having
6 a telephone conversation and you didn't have the
7 transcripts?

8 A Apparently not, right. What transcripts are we
9 talking about though?

10 Q Well the reference is, is that you don't have the
11 transcripts for the witnesses, and particularly
12 Ron Wilson is the one I'm concerned about?

13 A Yeah. Well I do remember that I did have the
14 transcript by the time I arrived in Nakusp,
15 however much later that was than from this point
16 where we had that conversation, because --

17 Q But you were -- you were looking for some support,
18 and that, you know, you wanted Joyce with you.
19 I'm assuming the reason you wanted her with you is
20 because you didn't know the case as well as you
21 would have liked to have known it?

22 A Probably true, yes, yeah.

23 Q Okay. And it's a fairly complicated case?

24 A They all are, yes. We, of course before we sit
25 down to interview a witness about his testimony,



1 we want to know what he said in trial, so that was
2 very important to know that before I -- before I
3 even left for there, but I did have those
4 transcripts by the time I headed out.

5 Q Okay. And the people that you spoke to -- and we
6 heard some evidence of this this morning -- but
7 you spoke to Mrs. Milgaard, you spoke with David
8 Asper; did you speak with Dan Lett about the case
9 as well?

10 A A lot, yes, I spent a lot of time with Dave Lett.

11 Q And Jim McCloskey?

12 A Yes.

13 Q And there wouldn't have been any other people that
14 you would have spoken with?

15 A Not with -- none come to mind, no.

16 Q Okay. So your approach to Mr. Wilson was
17 generally to try to influence, as we've heard
18 your -- using your words, 'to try to influence him
19 to tell the truth'; is that correct?

20 A Yes.

21 Q And when you approached him you had a strategy to
22 do that, and we've heard some evidence with
23 respect to Larry Fisher, naming Larry Fisher as
24 the potential murderer?

25 A Yes, I wasted no time letting him know about Larry



1 Fisher.

2 Q And the only information you had about Larry
3 Fisher at that point in time would have been the
4 statement that you had taken from Linda Fisher; is
5 that the only information you had about him?

6 A Well, no, I knew -- I knew -- I had quite a bit of
7 information about him. First of all, I had a
8 quite a bit of information about the rapes that he
9 had, that he had admitted to in Saskatoon and in
10 Winnipeg.

11 Q So you knew that on June 4th, 1990?

12 A Oh, sure, sure, sure.

13 Q Okay. And, during that pre-interview time you
14 said that it didn't take very long for you to get
15 him to speak to you; is that correct?

16 A No. What I did was when I got to Nakusp I checked
17 into the only lodge in town, and this was on a
18 Sunday night, I had arranged to show up there on a
19 Monday or to be there on a Monday morning because
20 we had learned that it was Wilson's day off, he
21 worked in a tire shop. So I don't know why, but I
22 -- normally we knock on their door, but in this
23 case I called him, and it may be that -- because I
24 didn't know where he lived, but we had his
25 telephone number, so I called him and told him who



1 I was and I asked him if he would consider joining
2 me in the cafe because I had some things to tell
3 him, and he agreed to do that, and he showed up
4 promptly and we started talking.

5 Q And the evidence seems to indicate that you spent
6 at least six hours with him that day, if not
7 longer?

8 A Well I think it was 9:00 that I, 8:30 that I
9 called him, and maybe 9:00, 9:30 that he showed
10 up, and I think that I left town probably, I would
11 say, 3:30, 4:00.

12 Q And you came out with a six-page statement?

13 A I did, yes.

14 Q Yes?

15 A Which was taken in the afternoon.

16 Q Right. So there was a lot of discussion with you
17 and Mr. Wilson prior to taking this statement?

18 A Yes, there was quite a bit.

19 Q And that was obvious to most people, that, you
20 know, there was a pre-interview of some sort?

21 A Oh, sure, of course.

22 Q But it was never, the strategy that you used in
23 the interview was never discussed with anyone, was
24 it, openly?

25 A You mean "discussed" like in a planning phase?



1 Q Yes. You didn't tell the press, you didn't tell
2 anyone else, that you see a strategy for getting
3 Mr. Wilson to recant?

4 A No, no, no, I didn't. Like I said a minute ago,
5 these assignments came one at a time, and so when
6 I was assigned to go see -- I didn't consult with
7 the press before I went to see him, no, not to my
8 knowledge anyway.

9 Q And your hope in interviewing Mr. Wilson was to
10 get what you call a bulletproof statement; is that
11 correct?

12 A Well, that's one way of putting it, yes.

13 Q I think those are your words, actually?

14 A Uh-huh.

15 Q Because if you were trying to elicit something
16 other than the truth, it wouldn't stand up, as I
17 understand your evidence previously?

18 A Yes. We wanted to make -- we wanted the truth
19 from him, and the truth is certainly more inclined
20 to be, likely to be bulletproof than false
21 information.

22 Q Right. And when you use the term "bulletproof"
23 that means to me that you expected that the
24 statement would be challenged at some point, or
25 reviewed, it would be scrutinized?



1 A Well I'm sure that I was, and I know the way it
2 works, and I know that I knew going into this that
3 this was a very important witness, perhaps the
4 most significant witness in the Milgaard trial,
5 and I knew that there would be attempts, no
6 matter -- if I got a recantation from Ron Wilson I
7 knew that there would be attempts to discredit the
8 recant -- my statement.

9 Q Do you think the word is "discredit" or do you
10 think that they would just scrutinize it?

11 A Well, to be sure, it would be scrutinized with the
12 intent, hopefully, of discrediting it,
13 discrediting the information. Nobody in law
14 enforcement or the courts involved in this
15 prosecution wanted their prime witness to change
16 his story and give the defence a statement
17 claiming that he was -- that he lied in trial and
18 that his testimony was coerced.

19 Q But generally, when you take these kinds of
20 statements and you want them to be so-called
21 bulletproof, the purpose of keeping them
22 bulletproof is so that they will stand up in Court
23 or anywhere else that they're ever brought up?

24 A Yes, so that they will withstand the test --

25 Q Of scrutiny, yes.



1 A -- of scrutiny, correct.

2 Q And, just out of curiosity, was it your
3 observation or was it part of your strategy that
4 Mr. Wilson was a -- or perceived himself to be a
5 victim? Because in your evidence you've indicated
6 that Mr. Wilson seemed to view himself as a
7 victim; did you give him that information or was
8 that your observation of him?

9 A That, that was his demeanour, yes.

10 Q So that was your observation of him?

11 A It was my observation that he seemed to feel
12 that -- well, I have to say that he probably felt
13 like David Milgaard was the victim, but that he
14 was also, that he was also used by the police to
15 put David Milgaard away in prison.

16 Q So when you finished with Mr. Wilson, we knew
17 that, for example, that you had spent
18 approximately six hours with him, that we only had
19 a six page statement and that we didn't have a
20 tape recording of your interview with him?

21 A You don't, apparently you don't have a tape
22 recording of my interview.

23 Q No.

24 A Now, the interview, let me explain to you, I
25 interviewed -- I spent time with Ron Wilson in two



1 locations, one was a front booth in this cafe in
2 this lodge facing the lake and I was there until,
3 with him for maybe till close to noon. We had
4 lunch and then I requested hotel management if
5 there was someplace where I could speak with him
6 privately without any noise background, so we went
7 into a back room and with the benefit of what I
8 had learned from him, it appears that I, that I
9 tape recorded, I went over with him on tape what
10 he had told me and I documented that information
11 on tape. When I was finished with that, I took
12 out the notebook and proceeded to take a statement
13 from him which was subject, sentence by sentence,
14 to his approval.

15 Q So do you think that if you were interviewing an
16 accused, a person who came to you who was
17 wrongfully convicted and they had this same
18 scenario where a police officer talked to a
19 witness generally for a little while, then had
20 lunch with them, then took them into a back room
21 and, you know, proceeded to tape record, or says
22 that they tape recorded the interview and it
23 produces a six page statement after such a long
24 period of time, do you think you would have
25 concerns about what happened over that six or



1 seven hour period?

2 A When you are interviewing somebody after having
3 met them for the first time and you're covering a
4 long history of involvement, in a case like this
5 six hours isn't very long.

6 Q But do you think that the lack of the tape made
7 the statement less bulletproof?

8 A As far as I'm concerned, the statement, every bit
9 of the statement is information that I was given
10 by Ron Wilson and the lack of a tape recording,
11 that is, a tape shouldn't make it less
12 bulletproof.

13 Q But if it was a police officer that was
14 interviewing a witness, it would make it
15 suspicious; would it not?

16 A Well, we see a lot of police interviews, a lot of
17 police statements that are not supported by taped,
18 tape recordings.

19 Q Right, but I think your evidence --

20 A I'm saying most of them are not.

21 Q I think your evidence this morning was that it
22 goes both ways.

23 A Sure it does, yes, right. You know, the -- I
24 don't know what happened to the -- I'm
25 acknowledging that there is evidence that I did



1 tape him and I'm acknowledging that there was a
2 tape at some time, but I did my best to find it
3 and my normal procedure would have been to send it
4 to Jim McCloskey. He can't find it in his box,
5 it's nowhere to be found in my files. The third
6 possibility is that I sent it to David Asper's
7 office and I think that, I know that Ron Wilson,
8 if he were to take a look at the -- I think he has
9 already agreed that there was really nothing in
10 the statement that did not emerge during the
11 interview with him. Now, I know that he's come
12 out and said that he wasn't, that he was treated
13 well by police, that might be an exception,
14 because of course in the statement he claims that
15 his statement was coerced or his evidence was
16 coerced, but for the most part, I think he would
17 say that the, the statement is consistent with
18 what he told me on that particular day and that
19 there was nothing that he told me was left out of
20 the statement.

21 Q Now, with respect to the media, it's my
22 understanding that the media is not something that
23 normally Centurion engages until their
24 investigation is complete. Is that your evidence?

25 A Yes. We don't normally bring the press in.



1 Q Why would you not bring them in until the
2 investigation is complete?

3 A Well, you know, I found the interest of the press
4 in the Milgaard case up here to be very
5 interesting and very unusual.

6 Q Would there be a reason --

7 A I think most newspapers would be skeptical of our
8 claims to be representing a totally innocent
9 person until we actually had gathered all the
10 information that proved that we were right, so
11 normally we wait until we've got it all together,
12 then we invite them to take a look at it and see
13 if they are interested in writing a story.

14 Q But you wait until it's completely done?

15 A Yes, pretty much, yes.

16 Q So when we look at Ron Wilson, for example, I
17 mean, you've already told me that you didn't tell
18 the press that you were going to interview Mr.
19 Wilson; correct?

20 A I don't remember giving the press advance notice.
21 It's possible that we did though. Keep in mind
22 that I wasn't the one who was dealing with the
23 press here, it was Joyce and David Asper's office,
24 they were the ones who -- they had had a long --
25 they already established a history with the press,



1 a relationship.

2 Q Well, I don't think there's any evidence that the
3 media knew that he were interviewing Mr. Wilson;
4 in fact, it looks to me as though you were trying
5 to be as quiet about your intentions to interview
6 him as possible, because you didn't give him, Mr.
7 Wilson, any advance notice, you just showed up?

8 A Certainly, that's right.

9 Q And that was part of the strategy wasn't it?

10 A I'm not sure. Normally we don't let witnesses
11 know that we're coming.

12 Q Right. And that was because in this particular
13 case with Mr. Wilson, you didn't know whether he
14 would accommodate you; right?

15 A Well, we're talking about a witness who we
16 suspected provided lying testimony against an
17 innocent man in prison and most people in that
18 position are not exactly looking forward to being,
19 to a meeting with us.

20 Q But if the press knew about it, for example, say
21 somehow that was leaked to the press that they
22 were going to be, you were going to be
23 interviewing Mr. Wilson, do you think that would
24 have affected your interview or your ability to
25 get an interview?



1 A Do you mean if they had written about it?

2 Q Yes.

3 A And Wilson had found out about it?

4 Q Yeah.

5 A Yeah, if he had been alerted, he might have
6 arranged not to be there the day I showed up. I
7 mean, it's possible.

8 Q So involving the press partway through an
9 investigation could hamper it and in this
10 particular case had the press been involved prior
11 to the interview, your interview, it could have
12 slowed the process of that interview; right?

13 A I don't know. It's possible.

14 Q Possible?

15 A Yes.

16 Q And like you said just a few minutes ago, you
17 don't always tell your witnesses prior to coming?

18 A We don't -- we normally do not. We make it a rule
19 not to let important witnesses know that we're
20 coming, we show up unannounced at their doors.

21 Q And you don't want them to know about your
22 theories with respect to the investigation ahead
23 of time do you?

24 A Well --

25 Q You don't want them -- you want to have them as



1 unaware of what your theories are as possible; is
2 that not correct?

3 A I guess you are right. I don't know.

4 Q Well, why would you -- if you --

5 A I mean, if I don't contact Wilson and before I
6 show up at his door and show up in his town, how
7 would he know what our theory is?

8 Q That's what I mean.

9 A Okay.

10 Q But you wouldn't want it in the press that, you
11 know, they were coming to get a recantation from
12 him ahead of time?

13 A No, I don't think I would.

14 Q No.

15 A No, no, no.

16 Q Because that would affect it; right?

17 A Well, if the word got to him and he was inclined
18 not to, didn't want to meet with me, that would
19 give him the opportunity to slip out the back door
20 and be somewhere else when I showed up, yes.

21 Q Just out of curiosity, I think the -- or you've
22 already been asked why you pursued recantation
23 evidence or you pursued the Crown witnesses as
24 opposed to pursuing Larry Fisher in May of --
25 around May of 1990, why you didn't pursue



1 investigating some of the sexual assaults that
2 Larry Fisher had been either convicted of --

3 A Well, we did investigate Larry Fisher.

4 Q But not to the full extent by -- you didn't
5 actually speak to the witnesses or the victims I
6 guess?

7 A Yes, we did. You can only do one thing at a time
8 and keep in mind I live on Seattle and I'm coming
9 up here on an assignment-by-assignment basis.
10 Yes, we gathered information, Larry Fisher was the
11 subject of the first investigation, we went out
12 and talked to his wife.

13 Q Right. But you actually didn't interview the
14 victims of his assaults?

15 A That was -- we did that --

16 Q A year later.

17 A Yes, right, right.

18 Q So was there any theory behind why you did it that
19 way?

20 A Sure. Well, first of all, the first application
21 was submitted sometime in, I'm going to say --
22 actually, I get mixed up on these dates, but it
23 was rejected even though it had benefit of
24 statements from Linda Fisher, recantation of Ron
25 Wilson, statements from Dennis Cadrain and from



1 Albert Cadrain. The petition for the new trial
2 was rejected, so at that point the decision was
3 made by McCloskey and David Asper's office that it
4 was time to go out and talk to the victims and
5 establish what was already obvious to us as best
6 we could the similarities in the modus operandi of
7 the serial rapist, admitted serial rapist Larry
8 Fisher and the person who was responsible for the
9 rape and murder of Gail Miller, so, umm, we
10 submitted -- the first petition was submitted
11 without benefit of having talked to the victims
12 when we -- when we came up short on that one it
13 was time to do, the next step was to go out and
14 talk to the victims, and it appears to me, I may
15 be wrong about this, but it was the influence of
16 these additional interviews with the victims and
17 the very obvious message that these interview
18 reports projected, that being that one person was
19 responsible for the rapes and the rape and murder.

20 Q But what you are saying, what I'm understanding
21 you to say is to my, or in answer to my question
22 is that the rejection of the first application was
23 what made you decide to go and interview the
24 witnesses?

25 A Yeah. I mean, you know, you don't take a decision



1 like -- you don't -- looking up victims of a
2 vicious rapist, even years later, is something
3 that you don't just go out and do, you've got to
4 give some thought to it because I can assure you
5 from having met with these victims, revisiting
6 this horrible event in their lives was very
7 traumatic, particularly for two of them. These
8 women had, these victims had awful things done to
9 them by Larry Fisher and it was something I'm sure
10 that none of them wanted to have to relive or to
11 reflect on.

12 **Q** Okay. If I could take you back to the material
13 that you would prepare for a petition to the court
14 as a Centurion, putting your Centurion hat back on
15 again.

16 **A** Okay.

17 **Q** Would you put everything possible in that
18 application, in that petition, everything you had?

19 **A** You are talking about in the States?

20 **Q** Yes.

21 **A** Yeah, yeah, sure, put everything, putting
22 everything in the petition that we considered to
23 be pertinent to the point we were trying to make,
24 yeah, everything in our client's best interest,
25 yes, all woven together with a well-written brief



1 by the attorney we retain.

2 Q So you wouldn't leave parts of it out?

3 A Well, what kind of parts?

4 Q Anything. I mean, every bit of evidence that you
5 would have collected that you felt supported the
6 application would have gone forward?

7 A Everything that we felt was supportive. If we had
8 stuff that didn't support it, we're not going to
9 put it in there.

10 Q No?

11 A No, probably not.

12 Q Wouldn't you deal with that in your investigation?

13 A Uh?

14 Q If you had something that wasn't supportive,
15 wouldn't you sort that out in the investigative
16 stage, try to come to an answer that would --

17 A If, for example, we had three recantations and a
18 fourth witness who didn't recant, stuck with his
19 testimony, we're not going to take a statement
20 from him where he says I stick with my testimony,
21 we'll submit the recantations and that's it.

22 Q Right. So everything -- and if you didn't submit
23 all of that information, do you think it would
24 affect the petition?

25 A I don't understand --



1 Q If you didn't submit everything you had, meaning
2 your best case, do you think it would affect your
3 petition or the outcome of your petition?

4 A If we came up short and had not included
5 everything that we had going for us in a petition,
6 I think it might occur to us that we made a
7 mistake, sold ourselves short.

8 Q And that would affect the wrongfully --

9 A Yeah, well, I guess what you are getting to is you
10 are wondering why we didn't go out and interview
11 the victims?

12 Q No, I'm not getting to that, I'm just looking at
13 your petitions generally and your approach to
14 those petitions?

15 A Yeah.

16 Q You wouldn't want to create any longer of a delay,
17 especially if the accused is in custody?

18 A That's true.

19 Q You would want the matter resolved as quickly as
20 possible; right?

21 A Of course we do.

22 Q So you would put your best foot forward and put
23 everything in the application or the petition that
24 you could?

25 A Yes.



1 Q That you could find?

2 A That is, with the help of our attorney, yes.

3 Q Okay. And with respect to Mr. Milgaard's
4 application to the minister, it was December 28th,
5 1988, that was his first application.

6 A Okay.

7 Q And all of the documents that were required to be
8 filed with the application didn't actually come
9 until the 8th of May, 1989, there was a letter.
10 If we look at document 032905. This is a letter
11 from Mr. Wolch's office to the Minister of Justice
12 which includes the transcripts that are required
13 in Canada to be filed with an application for a
14 so-called mercy application. So you can see the
15 date at the top is May 8th, 1989?

16 A Uh-huh, yes.

17 Q So the minister wasn't actually able to consider,
18 fully consider the application until those
19 documents were received.

20 A Uh-huh, right.

21 Q And then if we go to document 157037, you can see
22 the date up here is January 16th, 1990 and it's a
23 letter from the Department of Justice, Federal
24 Department of Justice investigator, and he
25 indicates that the fact gathering process has been



1 completed, so the Minister of Justice, within
2 roughly a year of receiving the application, has
3 completed their investigation.

4 A Okay. Let me make sure I understand your point
5 here. You are giving me a timetable for the, when
6 the Justice Department received everything that it
7 needed to --

8 Q Well, actually, if you read -- why don't you take
9 a moment and read the letter.

10 A Okay, I'm looking at the last paragraph of the
11 letter in large type here.

12 Q This paragraph right here.

13 A Okay.

14 Q It says:

15 "The fact gathering aspects of Mr.
16 Milgaard's section 690 application to
17 the Minister of Justice has been
18 completed. However, if there are
19 additional relevant facts that you wish
20 to bring to the Department's attention,
21 kindly do so within the next 2 weeks.
22 You may wish to identify to us specific
23 sources of information you believe are
24 relevant to the application. If
25 necessary, the appropriate action can be



1 undertaken."

2 A Okay, I've digested that.

3 Q So essentially what the Minister of Justice is
4 saying is they've considered within almost a year
5 of receiving the application, they've considered
6 everything and are ready to make a decision.
7 That's a pretty remarkable time frame, isn't it,
8 compared to what you are used to, it's only a year
9 in Canada as opposed to five in the States?

10 A You've thrown me for a loop on that one. I don't
11 quite understand the connection here. You are
12 saying that the defence submitted --

13 Q -- their application in late '88.

14 A Uh-huh.

15 Q Right?

16 A And then who went out and -- then they --

17 Q So they submitted their application, which would
18 be -- well, it's not the same as your petition,
19 they submitted their application and then the
20 transcripts came in May of '89, which would be
21 about four months later after their application.

22 A Okay.

23 Q So it wasn't a full application or all the
24 material wasn't there until May of '89.

25 A Okay. Well, I don't think there was, in terms of



1 investigative work product, I don't think there
2 was much at that point for justice to consider. I
3 mean, I don't -- I remember there were a few
4 things that the defence came up with, but
5 certainly their big guns didn't emerge until
6 later.

7 Q Yeah, the information with respect to Larry Fisher
8 didn't arrive until late February of 1990.

9 A That's right.

10 Q But if you look at the initial application, the
11 federal government or the Minister of Justice was
12 prepared to respond within a year of receiving
13 David Milgaard's application.

14 A Respond to what?

15 Q Respond to his first application.

16 A Okay.

17 Q Which didn't include Larry Fisher because no one
18 knew about Larry Fisher until February of 1990.

19 A What did it include?

20 Q Uh?

21 A What did the first application include?

22 Q Well, it included information with respect to a
23 forensic report, it included some other
24 information with respect to the impossibility of
25 some of the witnesses' evidence and a few other --



1 A So you are saying within a year that information
2 and the transcripts all fell together and were
3 landed in the lap of justice, it took a year to do
4 that, and you are saying that was fast?

5 Q And they had fully considered it and were prepared
6 to make a decision on the application.

7 A Okay. Well, there wasn't a hell of a lot that
8 they were looking at there, so it doesn't surprise
9 me that they could make a rather quick decision.

10 Q But in the United States why does it take five
11 years?

12 A For us?

13 Q Yeah.

14 A Well, because we gather a lot more information. I
15 mean, we're in the field for five years, it takes
16 a long time to go out.

17 Q Well, it's not necessarily any different than the
18 Milgaard case because the Milgaard case is a very
19 complicated case.

20 A Well, yes, and it took us -- this thing started in
21 1988. Well, the second application wasn't
22 submitted until what, 1991? I'm not sure, late
23 '90?

24 Q It was late 1991.

25 A Okay.



1 Q But that was because of the Fisher information
2 that had come to light, nobody had made any
3 connection with Larry Fisher until that point.

4 A Well, I can assure you of one thing, if we had
5 become involved in the Milgaard case in 1988, we
6 would not have finished our investigation by the
7 time that this first -- this first application was
8 submitted. I mean, there simply wasn't -- in my
9 opinion there wasn't enough developed at that
10 point to warrant favourable action by justice on
11 this petition, so --

12 Q But it doesn't mean that there wasn't an
13 investigation done of the case?

14 A No, there was some -- obviously there were a few
15 things were done, yes.

16 Q But I think you've admitted you don't know what
17 was in the application?

18 A I don't know.

19 Q Yeah. But doesn't it sound like eight and a half
20 months approximately to consider the application
21 is a pretty quick turn-around based on your
22 standards?

23 A To consider it?

24 Q Yeah.

25 A What do you mean, to have it in hand and look at



1 it?

2 **Q** Yeah.

3 **A** Well, if there wasn't much to look at, I would say
4 that's a rather lengthy time to consider it.

5 **Q** Well, leaving aside whether you think there was
6 anything in it or not.

7 **A** Uh-huh.

8 **Q** I mean, they have to go back and they have to look
9 at the entire case.

10 **A** Yeah.

11 **Q** That's a pretty quick turn-around.

12 **A** Okay, I'll take your word on that.

13 **Q** Well, if we compare it to the five years that you
14 talked about.

15 **A** Well, yeah, we're comparing apples with oranges
16 here I think.

17 **Q** So the last question I have for you is with
18 respect to -- when you alleged that there was,
19 that the wrongfully convicted person is not guilty
20 of a crime because you can prove, or you have
21 another name who committed the actual crime --

22 **A** Okay.

23 **Q** -- you are bringing another person forward and
24 saying no, it's not Joe, it's another person.

25 **A** Okay. You are talking in general?



1 Q In general, yeah.

2 A All right, okay.

3 Q When you make those petitions to the court, do you
4 have to prove that the other individual is guilty
5 or you believe is guilty, do you have to bring
6 some evidence forward to support that?

7 A Well, we certainly try to do that.

8 Q You don't just name that person and leave it at
9 that?

10 A No.

11 Q That wouldn't be enough?

12 A No. Just pull a name out of a hat and say he
13 committed the murder and let our client free? No,
14 we wouldn't do it that way.

15 Q No, you would have to produce some evidence to
16 show that?

17 A Yes, most certainly.

18 MS. COX: Okay. Those are all my
19 questions.

20 MR. HODSON: We are now to hear
21 submissions, there's Mr. Boychuk, Mr. Loran and
22 Mr. Wolch, perhaps they can address -- Ms. Knox
23 is not here, but I think amongst those three
24 there is not agreement unless it has been reached
25 recently. Maybe they can make submissions.



1 MR. BOYCHUK: Chris Boychuk,
2 Mr. Commissioner. My understanding is that Mr.
3 Wolch feels that he's entitled to go next to last
4 with this witness. Our position is that, and I
5 think I'm speaking for Mr. Loran as well, is that
6 at least vis-a-vis the Saskatoon Police Service,
7 and by implication Mr. Karst, Mr. Henderson is
8 largely in the same position that Mr. Asper is,
9 or was, he has sort of fingered the Saskatoon
10 Police Service that again my client is the bad
11 guys in the drama.

12 COMMISSIONER MacCALLUM: I don't recall him
13 saying anything about Mr. Karst particularly did
14 he?

15 MR. BOYCHUK: He has in terms of the
16 interview in Winnipeg in -- I can give you a
17 transcript reference if you need.

18 COMMISSIONER MacCALLUM: Oh, okay.

19 MR. BOYCHUK: So similarly with Mr. Asper
20 and with other rulings you have made on order, we
21 understood that the decision would be made on the
22 basis of whether the evidence that the witness is
23 going to give, either in direct or
24 cross-examination, is most likely to have the
25 greatest impact, or who is the, who would that



1 evidence have the greatest impact on, and not so
2 much whether the witness is aligned with one
3 party or another, and given the kinds of things
4 that Mr. Henderson has said about the police,
5 it's our submission that we're the parties that
6 are most greatly impacted by his evidence or what
7 might come out in cross and that if Mr. Wolch is
8 going to cross-examine this witness, that we go
9 after him. Thank you, Mr. Commissioner.

10 COMMISSIONER MacCALLUM: Thanks.

11 MR. LORAN: Mr. Commissioner, Pat Loran on
12 behalf of the Saskatoon Police Service, and I
13 guess I would like to offer an alternative. I
14 see there's two ways of looking at the issue of
15 order, one is the substance of the evidence and
16 who is most impacted by it, and I think Mr.
17 Boychuk has made those arguments, I won't repeat
18 them.

19 Another way of looking at it
20 might be who is most likely to be prejudiced by
21 evidence which may arise in the course of
22 cross-examination, and given that this witness
23 seems to have been most critical of the police
24 service, our submission is that it's most likely
25 that something which comes up in



1 cross-examination would impact upon the police
2 service and so I'll add those comments.

3 I haven't had the opportunity
4 to speak to Mr. Wolch, so I don't know what his
5 position is in regard to this, but I'll just
6 leave those comments with you, Mr. Commissioner.
7 Thank you.

8 MR. WOLCH: Mr. Commissioner, Hersh Wolch
9 for David Milgaard. I should correct it, it's
10 not second last, it would be last, because I
11 don't believe that this witness' counsel has
12 standing to ask questions.

13 COMMISSIONER MacCALLUM: No.

14 MR. WOLCH: So it's not a matter of second
15 last. I would submit that --

16 COMMISSIONER MacCALLUM: Well, it will be
17 second -- somebody will be second last if Ms.
18 Knox doesn't get back soon.

19 MR. WOLCH: I don't need to remind,
20 Mr. Commissioner, that the general rule which
21 prevailed all along would put me in the last
22 position to question this witness and I would
23 submit that it's, this notion now of some adverse
24 comment about somebody's client makes you go
25 last. Well, I went first with a slough of



1 witnesses who said negative things about David
2 Milgaard from the motel recantation to police
3 officers to all sorts of witnesses based on the
4 guideline that had been established here, that if
5 your interests are most closely aligned, that you
6 would be last, much the same as with Justice
7 Tallis when I was second last to Mr. Pringle,
8 that seems to have been the rule that had been
9 going along with not too much controversy when I
10 was going first, and I submit there's no reason
11 to change it at this point of time as to what had
12 been going on.

13 The other rule was that,
14 Mr. Commissioner, you frowned on the idea of
15 separating people with common interests, so, so
16 far we've had RCMP and justice go and why I would
17 be in between them and police and others I don't
18 know, but it would be going against that rule
19 too, so I would submit that on the guidelines
20 established --

21 COMMISSIONER MacCALLUM: Ms. McLean doesn't
22 propose to question him?

23 MR. WOLCH: She doesn't propose to question
24 him.

25 COMMISSIONER MacCALLUM: No?



1 MR. WOLCH: No. And I don't propose to be
2 long either.

3 COMMISSIONER MacCALLUM: Who else is of
4 common interest with you then?

5 MR. WOLCH: Just Ms. McLean, but it would
6 mean that the others are separated --

7 COMMISSIONER MacCALLUM: Oh, okay.

8 MR. WOLCH: -- is what I'm getting at. So
9 that -- I simply ask, Mr. Commissioner, that you
10 follow the wise procedure that you established.

11 COMMISSIONER MacCALLUM: Ms. McLean thought
12 she would be back -- I'm sorry -- Ms. Knox
13 thought she would be back around 2:30, so what we
14 will do is take our break now, and when she
15 returns she can start the cross-examination,
16 followed by Mr. Wolch, then Mr. Boychuk, then
17 Mr. Loran.

18 *(Adjourned at 2:32 p.m.)*

19 *(Reconvened at 2:51 p.m.)*

20 MR. HODSON: Ms. Knox is not back yet, Mr.
21 Commissioner, and I don't know if anybody has
22 heard from her, and I'm not sure how to reach
23 her, but I'm assuming --

24 COMMISSIONER MacCALLUM: That's all right,
25 we'll just fit her in when she comes in.



1 You are next, Mr. Wolch?

2 MR. WOLCH: Mr. Commissioner, I have no
3 questions.

4 COMMISSIONER MacCALLUM: Thank you.
5 Mr. Boychuk?

6 **BY MR. BOYCHUK:**

7 Q Thank you, Mr. Commissioner. Mr. Henderson, my
8 name is Chris Boychuk, I think I've introduced
9 myself to you briefly in the hallway, and I --
10 A Good afternoon.

11 Q -- I act for a Mr. Eddie Karst. And, Mr.
12 Henderson, I know there's been a lot of water
13 under the bridge so I'm going to try to shorten
14 this down for you, but going back to a little bit
15 about the beginning, I understand that your
16 experience is primarily, for about 20 years or so,
17 is as an investigative journalist; is that fair to
18 say?

19 A No. Umm --

20 Q Maybe longer?

21 A I was a journalist from 1962 until 1985, --

22 Q Yeah.

23 A -- then I became a private investigator
24 specializing in criminal defence, and I started
25 work for Centurion on a case-by-case basis in



1 1988, and I became a full-time investigator for
2 Centurion in 1997.

3 Q Okay, but fair enough, I just maybe misunderstood
4 when I was looking at your transcript. You won a
5 Pulitzer Prize, I understood, for investigative
6 journalism?

7 A Yes, in 1982.

8 Q And, in terms of being an investigator, do you
9 have any formal training or is your -- is your
10 skills obtained or have your skills been obtained
11 mostly on the job, either as a journalist, or
12 being a private detective?

13 A Yes. I didn't, I didn't go to college, I went to
14 college to learn journalism but not to learn
15 investigation.

16 Q So there is no formal investigative training?

17 A Form --

18 Q Fair enough?

19 A No, no formal investigative schooling, correct.

20 Q And just in terms of, though, because you have
21 some 20 odd years experience, you say now, as an
22 investigator specializing in, I guess, criminal
23 Justice matters; fair enough?

24 A Yes, that's correct.

25 Q Do you feel that some of the attributes of a good



1 investigator might be an objective point of view;
2 is that fair to say?

3 A Well, certainly objective in the sense that an
4 investigator is objective to the point that he's
5 looking for the truth, yes.

6 Q Fair enough. And then, when you approach
7 problems, you have a healthy skepticism, for
8 example?

9 A "Approach problems"?

10 Q Or investigating matters, just investigating
11 matters; is that right?

12 A A healthy skepticism of what's on the record; is
13 that what you mean?

14 Q Or what you are hearing from people, for example,
15 first instance?

16 A That's probably true, yes, sure.

17 Q And that a good practice for a good investigator
18 is, where you can, is to independently verify
19 facts and information that you might be receiving
20 from a witness?

21 A That's correct, yes.

22 Q And turning to -- and we've heard a lot of this so
23 I'm going to do the, hopefully the shortened
24 version -- about what Centurion Ministries itself
25 does when it's looking at a file on behalf of



1 someone who's been convicted and you are
2 considering whether to take up their case?

3 A Right.

4 Q And part of that is a fairly extensive
5 investigation; that's what you said?

6 A That's the primary part of it, but that follows an
7 exhaustive review of the record, yes.

8 Q Yeah, but -- and I include that review of the
9 record as part of the overall investigation.

10 A Okay, yeah.

11 Q If we understand each other there?

12 A Yes, we do.

13 Q And part of that, again as an investigator, that's
14 sound practice as far as you are concerned? You
15 are trying to verify all those facts and
16 information that you may need to determine, first
17 off, whether you are going to take the
18 individual's case; right?

19 A That's correct, yes.

20 Q And that -- whether it's worth bringing before a
21 Court?

22 A Before a what?

23 Q Before a Court, for example?

24 A Whether -- what our chances are of prevailing --

25 Q Right.



1 A -- with the petition on the behalf of the person
2 we're representing.

3 Q And then when you go to Court, of course, you want
4 to make sure you have the best information to put
5 before the Court?

6 A Yes, that's correct.

7 Q Okay. And we also heard that this started off,
8 particularly with respect to the Milgaard matter,
9 it's a little bit unusual for the way -- from the
10 ordinary course for Centurion Ministries?

11 A Yeah, very unusual.

12 Q Yes. This process, this formal investigation
13 process, didn't happen?

14 A The --

15 Q Or the initial --

16 A The initial, you know, start-from-scratch review
17 did not happen, no.

18 Q So, for example, the record wasn't reviewed, the
19 prosecution file wasn't obtained and reviewed?

20 A No.

21 Q Fair?

22 A No. McCloskey, Jim McCloskey, undoubtedly did a
23 lot of catching up --

24 Q Okay.

25 A -- through Joyce, and perhaps even through



1 records, before he even decided to take that one
2 step forward.

3 Q Okay.

4 A Or --

5 Q Thanks, Mr. Henderson, that's a fairly complete
6 answer. What, I am trying to walk through the
7 stuff that I think we've gone over, just to set
8 the stage.

9 A If I'm over-answering questions please just let me
10 know.

11 Q Yeah. So if I ask you one that you can just say
12 "yes" or "no" to, please do that?

13 A Okay, fine, yes.

14 Q Okay. And, for example, the other things you
15 didn't get were the disclosure information that
16 went from the state, in this case the Crown, to
17 the defence; fair enough?

18 A Yeah, that's right.

19 Q So you wouldn't have seen any of it?

20 A Well, I don't think I saw very much of it, if any
21 of it.

22 Q Yeah. And for example, and just dealing, going
23 right to the point with respect to the three
24 witnesses, I heard you say this morning that you
25 hadn't seen the statements that they had provided



1 to the police?

2 A That's -- best of my recollection, I did not see,
3 I had no idea of the evolution of them as
4 witnesses, right.

5 Q Okay. Fair enough. And including, say, Albert
6 Cadrain's written statement of 2nd March of 1969;
7 you didn't see that?

8 A Not to my knowledge, no.

9 Q Okay. Fair enough. And in terms of the start-off
10 point, and we've heard the first thing that you
11 did is interview Linda Fisher with Joyce
12 Milgaard, --

13 A That's right.

14 Q -- or, as I say, Mrs. Milgaard?

15 A Right.

16 Q And, as I understand it, that was initiated by a
17 contact with the Asper office that Mrs. Fisher had
18 seen blood on Larry Fisher the morning of the Gail
19 Miller murder; fair enough?

20 A Somebody, yes, somebody had contacted Asper's
21 office and told him that Larry Fisher's ex-wife
22 had information.

23 Q Okay. And because of this information, primarily
24 the blood on Mr. Fisher, who you had some
25 information had been convicted of some fairly



1 serious criminal offences?

2 A Yes, I was provided with that background on Mr.
3 Fisher.

4 Q Yeah. So, combined with that, you came up to
5 interview Mrs. Fisher?

6 A Yes.

7 Q And when you came to interview Mrs. Fisher one of
8 the first things she told you -- and we have seen
9 the transcript of that interview -- was that the
10 information on the blood was not correct?

11 A That's, yes, that's what she told us.

12 Q She didn't see any information on the blood --

13 A She told --

14 Q -- of blood, she didn't see any evidence of blood
15 on Mr. Fisher?

16 A Yeah, that's right.

17 Q I'm sorry, I framed that poorly. And but you did
18 interview her and you came to the conclusion, as I
19 understand it from your evidence, that at the end
20 of the interview, that Larry Fisher was a much
21 more likely suspect for the murder of Gail Miller
22 than David Milgaard?

23 A Absolutely.

24 Q And that based on that perception, I would say,
25 you came to the conclusion that David Milgaard was



1 likely innocent of the murder of Gail Miller?

2 A Yes.

3 Q And, from that point, what you decided then is
4 that you looked at the three major Crown
5 witnesses, Albert Cadrain, Ron Wilson and Nichol
6 John?

7 A Right.

8 Q And decided that, if David Milgaard is innocent,
9 the testimony they gave that implicated Mr.
10 Milgaard in the murder must not be true; is that
11 --

12 A Was certainly suspect, yes.

13 Q Okay. And that if their testimony was false, for
14 example, that the police likely coerced that
15 evidence?

16 A Umm --

17 Q Is that not your --

18 A Yeah, I would have to agree with that, yes,
19 uh-huh.

20 Q That was the finding that you came to?

21 A That was my belief, yes, based on prior experience
22 with other witnesses.

23 Q Okay. And when you say "prior experience" do you
24 mean experience in investigating wrongful
25 convictions in the United States?



1 A Yes, that's correct, yes.

2 Q And you came to this conclusion, of course, before
3 you interviewed Albert Cadrain, Ron Wilson?

4 A Umm, after, after -- yes, you are correct.

5 Q Okay.

6 A That's right.

7 Q And one of the things that, one of the pieces of
8 information that we received from you and from the
9 transcript of Linda Fisher's interview, was that
10 she was able to give you a description of a knife
11 that had gone missing from Linda Fisher's kitchen;
12 is that right?

13 A I recall she did describe a knife, yes.

14 Q And was fairly detailed in terms of it was a brown
15 wooden-handled paring knife; fair to say?

16 A That, yes, that description appeared in my report.

17 Q Okay. And one of the other things that she told
18 you -- and I can refer you to the transcript if it
19 helps you, of her, of your interview with her,
20 it's at 076270. Okay, this is the transcript.
21 Sorry, and maybe I'll just highlight on the -- at
22 page 270 Mrs. Milgaard puts to Linda Fisher that,
23 she says that:

24 " ... Larry did it but you said that

25 Larry was covered with blood that



1 morning?",
2 and Linda Fisher's response -- and this is on the
3 first page of the transcript -- it's:

4 "Oh no... no...no...no."
5 correct?

6 A I see that, yes.

7 Q Fair enough. So you knew, early on, that the
8 blood evidence linking Larry Fisher to the murder
9 was not there; fair enough?

10 A I -- yes.

11 Q Okay. And the other thing that Linda Fisher told
12 you, as I understand it, is that, in terms of her
13 knowledge of the Gail Miller murder, she heard it
14 on the news that morning; does that fit with your
15 recollection?

16 A Yes, it does fit with my recollection.

17 Q And then, if we look at transcript page 280 of
18 this document, she tells you in response to your
19 question down here:

20 "Do you remember what time of the day,
21 the morning you saw him when you woke
22 up?"

23 And Linda Fisher answers:

24 "Umm.... Nine... maybe ten."

25 Fair enough? So it was between 9:00 and 10:00 in



1 the morning that she had her discussion, so to
2 speak, with Larry Fisher?

3 A That's what the transcript reflects, yes.

4 Q Now, after leaving Linda Fisher, you prepared a
5 written statement for her?

6 A I believe that was the following day. For some
7 reason she had to appear, had to show up for
8 something else in Saskatoon, and we met with her
9 and took her statement the following day, that's
10 correct.

11 Q Right. And one of the things you did is you took
12 the information from the interview and you, in
13 your handwriting I understand, wrote out what you
14 thought --

15 A That's right.

16 Q -- thought was a fair summary?

17 A Yes, with her approval throughout.

18 Q Okay. And one of the things you did was you put
19 the statement to her to read before she signed it,
20 and you were satisfied that she was prepared to
21 sign it, that it faithfully summarized the
22 contents of your interview with her?

23 A As always, I insisted that she read the statement
24 and point out anything that she disagreed with.

25 Q Okay. And if I could go to 050603, please, and if



1 you could go to the next page, 604, and if I just
2 bring that up, please. And at this point what she
3 had put in the statement that Mrs. Fisher signed:

4 "... I had discovered that my kitchen
5 paring knife was missing. So when I
6 heard the murder report I yelled at
7 Larry, 'My paring knife is missing.
8 You're probably the one who was out
9 stabbing that girl!'",

10 and you've got quotation marks around that?

11 A Yes.

12 Q Okay. Now I had wanted to ask you, Mr. Hodson in
13 his direct did ask you this and I want to ask you
14 this again; can you tell me why, when you had a
15 detailed description of the knife, particularly
16 the handle, why you left the description out of
17 the written statement of Linda Fisher of the
18 knife?

19 A Well, let me ask you this, where would I -- who
20 would I have gotten a detailed description of the
21 paring knife, who would have given me that?

22 Q Linda Fisher, I'm suggesting. This is her
23 statement; correct?

24 A Oh, right, oh.

25 Q She is describing a paring knife that she is



1 missing?

2 A Oh, yes, that:

3 "... my kitchen paring knife was
4 missing."

5 And she is talking, in general, about a knife
6 that she's discovered missing, and in this
7 particular quote, or that I put in here, are you
8 asking me why I didn't have her saying "my
9 brown-handled"?

10 Q Correct, because I think, I take it that you
11 thought that this might be the murder weapon?

12 A You know, to be honest, I don't think that I
13 assumed that it was a murder weapon. Frankly, as
14 I recall, I thought that it was kind of -- from my
15 own experience in my kitchen I wouldn't be able to
16 tell, three knives could be missing and I wouldn't
17 notice them being gone, so I wasn't sure. Just
18 letting her say what she was saying, that her
19 suspicion that there was a, a knife missing from
20 her in her mind tied in with this knifing murder
21 that she'd heard about on the radio, and so she
22 brought it up with Larry.

23 Q Okay. Well, and the reason I raise this -- and if
24 you can go to transcript page 22,569, please, and
25 Mr. Hodson is putting the same question to you,



1 and I'll just circle it here.

2 A Uh-huh.

3 Q And he says to you:

4 "Q Is there any reason that the description
5 of the knife would not have been
6 included in this statement?"

7 And you answer:

8 "A Yes. I can't explain that. Umm, I -- I
9 -- let me add, though, that I had no
10 description of the actual murder
11 weapon."

12 And that was your answer in this, to Mr. Hodson,
13 during the course of this Inquiry, sir.

14 A Uh-huh.

15 Q And my question to you is why would you need a
16 description of the murder weapon for the purposes
17 of completing Linda Fisher's statement?

18 A You know, I, in looking at that I can't recall why
19 I responded -- answered Mr. Hodson's question in
20 that manner. It wouldn't make any difference. I
21 read somewhere that the knife was described,
22 referred to by Linda, was described in some report
23 as a brown-handled paring knife, I think I saw
24 that this morning. Maybe it isn't in a document
25 that I generated.



1 Q Oh, I think it's in your transcript, and I can go
2 back -- the transcript of the interview, that's
3 where she said, and I could go back if that
4 assists you, sir.

5 A Okay, that's where it was then?

6 Q Right.

7 A Yeah, uh-huh.

8 Q And you can see my question is it's during the
9 course of your interview with her, before the
10 written statement was done, she gave you a fairly
11 detailed description of the missing knife?

12 A What it -- can you remind me what she said about
13 it?

14 Q Well why don't we, we'll pop it up just so you can
15 see it, --

16 A Okay.

17 Q -- so you can see it on the paper. And if we go
18 back to 076270, and once you get that if you can
19 go to page 281, please. And just at the bottom
20 here, this is Linda Fisher describing the knife in
21 response to Mrs. Milgaard:

22 "This was a brown handled, short uh...
23 remember those old fashioned paring
24 knives? With the wooden handles?"

25 A Right, yeah.



1 Q So, again, I was -- my question was, is that when
2 Mr. Hodson, if we look at the transcript again,
3 asked you why you didn't put a complete
4 description or the description she gave of the
5 knife in her statement, you answered that you
6 didn't have a description of the murder weapon,
7 and my question was why would you need a
8 description of the murder weapon to complete her
9 statement?

10 A Why would I exclude a detailed, or as much detail
11 about the weapon as she provided to us from the
12 statement, because I didn't know what the murder
13 weapon looked like. I can't explain that, I don't
14 know why I would have, I would have responded to
15 Mr. Hodson's question in that way.

16 Q I'm satisfied with that answer.

17 A Okay.

18 Q If you don't know why you did, I won't press you
19 on it.

20 A But let me just add one thing. The woman is
21 telling me that her paring knife is missing and
22 she suspects that it might have been the murder
23 weapon. I -- to me that was sufficient. Frankly,
24 I didn't put a lot of stock in it, from my own
25 experience with my cluttered kitchen drawer.



1 Q Okay. You weren't thinking, in your mind, that
2 this is the murder, the missing paring knife from
3 Mrs. Fisher was the murder--

4 A It could have been, it could have been, but I
5 didn't think that there was any way that we could
6 prove it based on this woman's recollection of
7 what was missing and what wasn't.

8 Q In terms of, though, being a good investigator,
9 don't you think this was a fact that you might try
10 to verify, for example, in terms of tying Larry
11 Fisher, possibly, to the murder of Gail Miller?

12 A Okay. How would I? Can you suggest what I might
13 have done so I can comment on that?

14 Q Well, you are the investigator, but I'll suggest a
15 few things, --

16 A Okay.

17 Q -- is that the actual murder weapon went into
18 evidence at the trial of David Milgaard, --

19 A Yes.

20 Q -- and then a description of the murder weapon
21 could be found from the transcript --

22 A Uh-huh.

23 Q -- of the trial?

24 A And, as it turned out, it was not a short
25 brown-handled; is that what your point is?



1 Q Well, no, my point is as a good investigator, --

2 A Right.

3 Q -- remember we talked about going out and
4 verifying facts?

5 A Yes.

6 Q And one of the things that you told both Mr.
7 Hodson and some of the other people that have
8 questioned you is that, when you came up to see
9 Linda Fisher, you were looking at whether Larry
10 Fisher was a better suspect for the murder of Gail
11 Miller; right?

12 A Right.

13 Q Fair enough?

14 A Yes.

15 Q And would you agree with me that, if a knife had
16 gone missing --

17 A Uh-huh.

18 Q -- from Linda Fisher's home when she says, the day
19 before the murder if you read her transcript, --

20 A That's right.

21 Q -- that matched the murder weapon; wouldn't that
22 also tend to tie Mr. Fisher to the murder?

23 A Yes, it would.

24 Q It would be an important fact; wouldn't it?

25 A Yes. But I think I can explain why I didn't get



1 into that type of finite investigation. That was
2 simply because I was on a limited commission. My
3 job, I was sent up here to interview Linda, not to
4 spend another week tracking down small details to
5 see if everything that she told us fit with the
6 evidence. Ultimately -- you know, and I would
7 have done that if McCloskey had felt it was
8 important.

9 Q Okay. I'll accept that. The other thing that you
10 might have looked into in terms of verifying
11 Mrs. Fisher's story, --

12 A Uh-huh.

13 Q -- and not to suggest that she was being
14 untruthful, but that she said that the incident
15 happened between 9:00 and 10:00 in the morning --

16 A Uh-huh.

17 Q -- after she'd heard about the murder on the
18 news; --

19 A Uh-huh.

20 Q -- do you recall that?

21 A Yes I do.

22 Q Did you check into anything in terms of when the
23 body was found and when it might have been
24 reported to the news to verify whether the
25 incident could have happened at the time she said



1 it did, between 9:00 and 10:00 in the morning?

2 A Whether she actually could have heard a newscast?

3 Q Right.

4 A No, we didn't check into that, no.

5 Q Okay.

6 A Beyond -- I imagine that what I assumed, that it
7 was reasonable that there might have been a news
8 broadcast at that time of the morning in view of
9 the fact of the time of the murder being, what,
10 two, three hours earlier. Murders sometimes make
11 the news in that short amount of time.

12 Q Fair enough. But you, yourself, --

13 A No.

14 Q -- don't know today, and you didn't know then,
15 what time the body was found, what time it was
16 reported to the police?

17 A You know, you make a good point. No, I didn't
18 wait, I didn't do that.

19 Q And you didn't look into it?

20 A No.

21 Q Fair enough. But, notwithstanding that you didn't
22 do those things, you came away from the
23 interview -- and I think you've fairly stated
24 this -- that you were, for the large part,
25 convinced that Mr. Fisher was more likely the



1 murderer of Gail Miller?

2 A Yes. And it wasn't -- it -- I would say that
3 Linda Fisher was a, certainly made a large
4 contribution to my strong belief, but that wasn't
5 the main reason. It was simply the fact that you
6 had a murder, a rape and a murder right in the
7 middle of several rapes, similar rapes in the same
8 neighbourhood, similar, almost identical, MO, and
9 my mind told me that the statistical odds of there
10 being two different perpetrators out there were
11 extremely remote. The fact that the -- a wallet
12 belonging to the victim was found just a house or
13 two away from the house where Larry Fisher was
14 living at the time, the fact that -- well, Linda
15 had provided some information that put him in a
16 more suspicious light, including the fact that he,
17 according to her he didn't go to work that day,
18 but it was basically the rapes and their
19 incredible similarity to the rape-murder.

20 Q Okay.

21 A Yes.

22 Q Now I think what you are doing is you are giving
23 me a lot of explanation to a question I didn't
24 ask, and I --

25 A You asked me whether I should have done this



1 additional work?

2 Q Yes, but the other thing I wanted, you are
3 confusing time lines, of course, because you
4 didn't know about -- you didn't have profiles on
5 the other four rapes for another year down the
6 road; fair enough?

7 A I mean --

8 Q When you interviewed Linda Fisher -- let me -- it
9 was early March of 1990?

10 A Well, you know, I may be wrong, but I think we
11 had, I believe that we had information on those
12 other rapes, we knew about the rapes; didn't we?
13 I mean --

14 Q I -- you are going to have to be able to point me
15 to something because I haven't been able to find
16 it. At that time I understood what you had was
17 the tip that came into Mr. Asper's office that Mr.
18 Fisher might be --

19 A Oh.

20 Q -- and that he may have been involved in some
21 criminal activity?

22 A I don't -- I would be very surprised if you are
23 correct on that. I believe that we knew that
24 rape -- that Larry Fisher had admitted to a number
25 of sexual assaults that occurred in the same



1 neighbourhood. I may be wrong about that, it's
2 been a long time, but I would be surprised if we
3 were not aware of that.

4 Q Okay. We'll let the record deal with that.

5 A Okay.

6 Q I don't want to get bogged down in it, Mr.
7 Henderson. Now the next thing you did, then, is
8 between March and May I understand you were away
9 in Los Angeles working on a case, and at some time
10 in there Mr. McCloskey and either you and Mr.
11 Asper decided, okay, the next thing we need to do
12 is go after these three witnesses, Cadrain, Wilson
13 and Nichol John?

14 A That's right, the decision was made to proceed.

15 Q And the idea, with those witnesses, was to get
16 them to say that the evidence that they gave that
17 tended to implicate Mr. Milgaard in the murder was
18 not truthful; that was your first goal, correct?

19 A Umm, that -- let's put it this way, the purpose
20 was to get them to tell me the truth, I believed
21 that they had lied in trial.

22 Q Well, and I just want you to -- you believed that,
23 you went into those witness -- those interviews
24 believing that they had lied at trial?

25 A Believing that their testimony had been -- was not



1 the truth, yes.

2 Q Right. And I'll just help you with another
3 transcript page, sir. If I can have 22,510,
4 please, and I'll give you some context. Mr.
5 Hodson is talking about your next steps in May,
6 and what you say to him down here, if I can bring
7 up this answer, is that:

8 "A Well, I'm sure at some point he decided
9 that -- you know, the next steps were
10 pretty obvious. We had -- there were
11 three witnesses who largely
12 orchestrated, whose testimony largely
13 was responsible for this conviction, so
14 it was a no-brainer that we would want
15 to go talk to all those people starting
16 with, well, Cadrain, Ron Wilson and
17 Nichol John."

18 Fair enough?

19 A Yes.

20 Q Okay. And that you believed that their testimony
21 had been orchestrated?

22 A Yes.

23 Q And that the agency of that orchestration, of
24 course, was the Saskatoon Police Service; --

25 A Yes.



1 Q -- fair enough, that's what you believed?

2 A That's what I suspected strongly.

3 Q Yeah, okay. Now, before going to meet with the
4 three witnesses, we've seen evidence that you had
5 some discussion with Mr. Asper and Mrs. Milgaard
6 with respect to the approach that you were going
7 to take with these witnesses; fair enough?

8 A Umm, that -- can you tell me specifically what you
9 are referring to?

10 Q Okay. Well let's look at document 337359 at page
11 337379. And this is, I believe it's tape 176, Mr.
12 Commissioner, and if I could bring up -- there,
13 please. Because I know neither of us are going to
14 be able to read that, Mr. Henderson, unless we put
15 it --

16 A I can see it now.

17 Q And it's, as you can see, it's a discussion
18 between yourself and Mr. Asper, and Mr.
19 Henderson -- and Mr. Asper is saying to you:

20 "I think, you know, and -- and, Paul, I
21 think that the first person that we
22 should go to is Cadrain. I think that
23 he's probably the most likely to
24 respond, umm, to the new scenario, that
25 being, umm, 'we understand that you were



1 scared of Fisher, we know that Fisher
2 did it, and you can be a hero or a bum'
3 --";

4 do you see that?

5 A I do.

6 Q And you're going, your response is:

7 "Uh-huh."

8 And then, down at the bottom of the page, Mr.

9 Asper continues:

10 "You know, I think he can be shaped
11 reasonably easily throughout the course
12 ...",

13 okay, the next page please, just at the top:

14 "... of an interview with him, and once
15 we get that, I mean, that's our ace in
16 the hole. Then we go to the other two,
17 who are tougher to crack a little bit I
18 think, and say 'not only do we know who
19 did it but Cadrain now agrees' ...";

20 right?

21 A I'm seeing that.

22 Q Okay.

23 A In the words of David Asper, yes.

24 Q And at the time you indicated, when this
25 transcript had been previously put to you, you had



1 concern regarding the words "shaping" someone's
2 testimony; is that right?

3 A Yeah, I mean, because we don't set out to shape
4 their testimony, we set out to get the truth from
5 them.

6 Q Okay. But, at least from this transcript, you
7 didn't register your objection to Mr. Asper about
8 --

9 A No.

10 Q -- that proposal?

11 A No. I'm the only -- I'm the one, I'm the person
12 who's ultimately going to approach the witness and
13 make a decision on how to deal with them.

14 Q Now in terms of going out, Mr. Asper talks of the
15 new scenario, and I'll try to summarize what I
16 understood; is that you had agreed that, in terms
17 of approaching these witnesses, that the plan
18 would be to tell them that there was evidence that
19 Mr. Fisher, for example, was like -- was the,
20 likely, the person who committed the murder? Fair
21 enough, that was one?

22 A Yes, that was our feeling, all of us.

23 Q And that consequently once that was being shown,
24 that Mr. Cadrain would be shown to be a liar if
25 Mr. Fisher is shown to be the actual murderer;



1 fair enough?

2 A Well, it's actually a little more detailed than
3 that.

4 Q Well, give me the detail.

5 A I agreed with the strategy to some extent, I
6 recall when I started talking with I believe
7 Dennis instead of Albert, what I told him was that
8 we had understood that Larry Fisher was on the hot
9 seat and that there was a good possibility that he
10 was going to confess to this, to the RCMP, and
11 that once he confessed and assumed responsibility
12 for the murder, that it would become apparent that
13 all of the, that the three main witnesses, that
14 is, Cadrain, John and Wilson had lied, and that I
15 conferred that this probably would be effective to
16 suggesting to Shorty that he could, if he came
17 forward voluntarily and admitted that he provided
18 false testimony against the police, he would avoid
19 the embarrassment that would result from a
20 confession from Larry Fisher.

21 Q Fair enough. And that's generally the scenario
22 you enacted and we'll go through how you put that
23 into play.

24 A Sure.

25 Q But the other thing you told Mr. Hodson is that of



1 course that you thought it was inappropriate for
2 you to suggest to any of the witnesses any
3 dishonesty or deception, or to use any dishonesty
4 or deception with any of those witness. We heard
5 you say that to Mr. Hodson?

6 A Oh, I agree with that.

7 Q Okay.

8 A And to be honest with you, I don't think that
9 there was anything, that this was a dishonest
10 tactic to use with him.

11 Q Now, in terms of the approach to Mr. Cadrain, I
12 gather you met with -- we already heard the
13 evidence that you met with Albert and Dennis
14 first, I think you had supper with them, and that
15 eventually what you ended up doing is speaking to
16 Dennis first?

17 A I believe so, yes. Dennis was -- Albert was not
18 there when I arrived.

19 Q Right. And that you did record your conversation
20 between -- with Dennis Cadrain?

21 A Was it Dennis or was it -- yes.

22 Q And I'll pull up, we'll pull it up, it's 050412.

23 A Uh-huh.

24 Q Do you recognize that, Mr. Henderson?

25 A Yes. I believe I'm reading, or I'm playing this



1 back for the benefit of -- I'm a little confused
2 here, I thought they couldn't find this tape of
3 this interview. Was this something that was
4 played back and taped by Joyce Milgaard or was it
5 something that I, a tape that I turned over? I'm
6 not sure.

7 Q I think your confusion comes from, the issue was
8 whether the tape of the interview with Albert
9 Cadrain was still available. I think we've
10 established that this, at least this tape with
11 respect to this interview of Dennis Cadrain was
12 available, somehow was transcribed and it's made
13 it into the Inquiry database.

14 A Okay, very good, yeah.

15 Q Now, in terms of approaching the witness, if I
16 look at the first page, and this is following up
17 on the strategy you talk about, you are telling
18 Dennis Cadrain that you've been provided with
19 information on Larry Fisher:

20 "... statements, evidence, all of the
21 stuff that was necessary to show very
22 clearly that Larry Fisher was the person
23 who committed this crime, back in
24 nineteen sixty-nine."

25 And that's part of the strategy you were using to



1 come to them and say Larry Fisher is the
2 perpetrator?

3 A Let me clarify one thing for you. It appears to
4 me now that this was a phone conversation I had
5 with Dennis Cadrain from Joyce Milgaard's house or
6 apartment in Saskatoon, this was a preliminary
7 conversation with him on the phone, and I believe
8 I thought I was talking with Albert, I didn't
9 realize I was talking with his brother.

10 Q Okay. Now, if we can go to the next page, 413,
11 please, and I see, whether you are talking on the
12 phone with Dennis or in person, you are saying to
13 him:

14 "Dennis he's in a tough spot."
15 And that's, I take it, referring to Albert
16 Cadrain?

17 A Yes, that would be.

18 Q And then if we go down to the bottom of the page
19 here, again you say:

20 "You know here's a thing ah, before you
21 explain to me that the tough spot your
22 brother's in, let me explain to you what
23 the situation is that exists now."

24 Now, can you tell me what you meant when you were
25 telling Dennis Cadrain that Albert was in a tough



1 spot?

2 A I'll try to do that. It was my understanding from
3 information I had gotten from, I believe from
4 David Asper, somebody had told me that there was a
5 distinct possibility, the word was out the RCMP
6 was leaning on Fisher and that he was going to
7 confess. The point I was trying to make was that
8 once Larry Fisher confessed, if in fact he did,
9 that was going to establish, clearly establish
10 that the testimony of these witnesses was false
11 and the tough spot that I was referring to was the
12 fact that Albert Cadrain was going to, if this
13 happened, Albert Cadrain was going to be labelled
14 as a liar responsible for the wrongful conviction
15 of a good friend of his, of a friend.

16 Q And were you trying to suggest possibly that he
17 may be subject to perjury charges as well?

18 A No. To be honest with you, I just learned on this
19 trip that there is no statute of limitations. I
20 thought there was seven years like there is in the
21 United States.

22 Q Now, if you go to the next page, 414, just -- and
23 here you are saying to, or you are saying to
24 Dennis Cadrain, and I couldn't see anywhere
25 whether you had asked him the question about,



1 before these statements were made about Albert's
2 experience with the police. What you say is:

3 "Larry Fisher is the guy who committed
4 the murder. We know what happened to
5 Albert, we know what happened to Nichol
6 John, and Ron Wilson, they were, they
7 had, a lot of pressure put on them by
8 the Police back then."

9 He answers:

10 "Well, yeah."

11 And then you go on:

12 "They were kids, they were children.
13 And they were manipulated, coerced,
14 threatened, a lot of things happened to
15 them that should not have happened to
16 people."

17 And you are stating that to Mr. Cadrain as fact,
18 you are suggesting to him as fact; isn't that
19 right?

20 A I'm telling him that from my perspective, yes.

21 Q And up to this point, what investigation had you
22 done that elicited any evidence that any of these
23 three witnesses had been either manipulated,
24 coerced or threatened by police?

25 A Correct me if I'm wrong, but I believe that Dennis



1 had started out this conversation at some point,
2 or I had had a previous conversation with him on
3 the phone that he told me that his brother had
4 been raked over the coals by these cops, so that
5 would explain why I, partly explain why I felt
6 that Albert had been manipulated by the police.
7 As far as the other two were concerned, I was
8 convinced that David Milgaard was innocent, that
9 Larry Fisher was guilty and that common sense told
10 me that these three witnesses would not have
11 volunteered this information that couldn't be true
12 if Larry Fisher was the culprit.

13 Q And so --

14 A So it had to have been coerced, it had to have
15 been pressure, kids don't just go in and rat out
16 their friends for the fun of it, there had to be a
17 reason.

18 Q So in your mind, there wasn't any other
19 possibility for their evidence other than that
20 they were manipulated, coerced or threatened?

21 A I would have a hard time thinking of any other
22 likely possibility other than coercion of some
23 type.

24 Q And especially dealing with Nichol John and Ron
25 Wilson, you hadn't done any investigation at all



1 into whether they had been threatened or
2 manipulated?

3 A No.

4 Q You had no independent information that --

5 A I had no proof, that's true, I had no -- all I had
6 was a gut feeling based on my strong belief in all
7 of the strong evidence, evidence in my mind that
8 pointed to Larry Fisher and my experience with
9 other cases. I may have heard word of mouth from
10 Joyce, from Asper's office about the length of
11 period that these witnesses were in custody, I may
12 have heard --

13 Q Actually, I'm not interested actually in may have,
14 Mr. Henderson, if you don't have a recollection, I
15 want to know specifically what evidence you had
16 back in May of 1990 when you put this statement to
17 Dennis Cadrain as a fact.

18 A As a matter of fact, my answer to that is I had no
19 firm evidence of this.

20 Q Okay. And I think I can correct something here,
21 if you go back to the first page, 412 --

22 A Uh-huh.

23 Q -- I think this is your, I think it's fair to say,
24 if you look at this opening paragraph, this is
25 your first conversation with Dennis Cadrain



1 because here you are introducing yourself to him
2 and telling him who you are and who you work with:

3 "I'm involved with a foundation in New
4 Jersey known as Centurion Ministries."
5 Centurion works for the wrongfully convicted.
6 You see that?

7 A I do, and it appears this is the opening lines.

8 Q So back to that last paragraph, at this time you
9 wouldn't have heard anything from Dennis Cadrain
10 as to what treatment Albert Cadrain got by the
11 police, by the Saskatoon Police Service?

12 A That would appear to be the case, yes.

13 Q Fair enough. And I just want to follow up with --
14 if you can go to page 419 of that, please, and
15 just at the bottom, Mr. Henderson, again you are
16 putting to Mr. Dennis Cadrain here, and I'll just
17 read:

18 "Now, here, here's the one thing I want
19 to impress upon you, which I haven't
20 mentioned. Larry Fisher is under a lot
21 of pressure to confess. The R.C.M.P. is
22 talking to him."

23 Can you tell me either what investigation you had
24 done or what evidence you had that that was fact?

25 A I actually qualified that, I said it may be true



1 or it may be a rumour, it may be a rumour, it may
2 be a fact, but it was based on information that I
3 got from the only people I was dealing with at
4 that time and I was getting information from,
5 would have been Joyce Milgaard and David Asper.

6 Q Actually, what you are talking about in terms of
7 the rumour I think is, if you go further down, you
8 are saying:

9 "Now, we've heard today that he's
10 confessed."

11 That may be true or a rumour. You see that?

12 A Yes, right.

13 Q So the opening two sentences of that paragraph
14 where he's being, he's under a lot of pressure to
15 confess and the RCMP is talking to him, would it
16 be fair to say you didn't have any evidence, you
17 didn't know whether the RCMP was talking to him?

18 A I was told that, just what I was told.

19 Q And who were you told that by?

20 A I'm not sure. David Asper or Joyce Milgaard.

21 Q Did you ever -- did you ever take any steps to
22 verify yourself whether that was accurate?

23 A No.

24 Q Okay. And in terms of the approach with Dennis, I
25 just want to review, it's document 335952 at page



1 956, please, and this is tape, I think I gave you
2 the document number, did I not, Mr. Commissioner?
3 Do you have that?

4 COMMISSIONER MacCALLUM: Yes.

5 BY MR. BOYCHUK:

6 Q This is tape number 17, and I believe this was put
7 to you earlier, Mr. Henderson, but this is a taped
8 conversation between yourself and David who we
9 understand is David Asper.

10 A Uh-huh.

11 Q And you are discussing with Mr. Asper some aspects
12 of the telephone discussion that you had with
13 Dennis Cadrain --

14 A Right.

15 Q -- and Paul, which I assume is you, "well we used
16 some real strong logic --" those are your words,
17 "-- on Dennis last night." You see it?

18 A I do.

19 Q And then you go down and you say to Mr. Asper,
20 "But the point is I said look this guy is gonna
21 confess later and like we heard that he already
22 may have confessed and you know that leaves three
23 people out there ah, the three perjurers and ah, I
24 said umm, if you want to desert the sinking ship,
25 now's the time to get off."



1 Now, would you agree with me
2 that at least with Dennis Cadrain, you were
3 suggesting that there may be a problem for Albert
4 in that he would be found to be a perjurer?

5 A Most certainly.

6 Q That was the strong logic that you used?

7 A Well, I don't agree with you that he would be
8 charged with, that he was facing the possibility
9 of being charged with perjury, but I was talking
10 about being exposed as a perjurer.

11 Q And then again you suggested, at least to Dennis,
12 that there was an out for Albert, and if I look
13 here, it says, "Could even say the Devil made me
14 do it. You're gonna come off looking good." And
15 by that, by the devil, I think we understand who
16 you mean there don't you?

17 A Absolutely.

18 Q That's the Saskatoon Police Service?

19 A That's the Saskatoon police.

20 Q Now, is it fair to say, and of course the tape
21 that you made and you testified that you would
22 have made of your interview with Albert Cadrain,
23 can we take it that you would have used a similar
24 approach with Albert Cadrain as you used with
25 Dennis Cadrain?



1 A Probably so.

2 Q The strong logic that you talk about here?

3 A Yes, right.

4 Q That Mr. Fisher was likely to confess?

5 A That we had heard that he was likely to confess,
6 that he was under a great deal of pressure to
7 confess.

8 Q And in light of your comment that I put to you
9 earlier about the impropriety of using dishonesty
10 with these witnesses --

11 A Uh-huh.

12 Q -- do you agree with me that your comments
13 regarding what the RCMP were doing with Larry
14 Fisher were not true?

15 A No, I don't agree with you on that. I don't know
16 that they weren't true. That was based on
17 information that I had that that was what was
18 going on.

19 Q So by dishonesty, you meant actually know it to be
20 false; is that fair?

21 A I'm sorry, I didn't follow you on that.

22 Q Okay. What you told me when I asked you whether
23 the statement about the RCMP and Larry Fisher was
24 true or not, you said, or false is what I said,
25 and you said, well, no, because I didn't know



1 whether it was true or false or not.

2 A Well, no, let me rephrase that.

3 Q Okay.

4 A This is what I was told. Now, I may have
5 exaggerated the certainty of it, but that's what I
6 was told, was that -- the RCMP was in contact with
7 Mr. Fisher and he was under pressure to confess, I
8 remember that distinctly, and I was surprised,
9 somewhat surprised later to find out that he has
10 never confessed to the murder, never confessed to
11 it, and certainly did not at that early stage, so
12 apparently that information that we had, that
13 intelligence was wrong.

14 Q Okay. And as an investigator, whoever you got it
15 from, do you know who you got that intelligence
16 from?

17 A I don't know. I mean, I can't say a specific
18 name. I can tell you it was one of two people
19 though.

20 Q And who would those be?

21 A That would be David Asper or Joyce Milgaard.
22 Probably David.

23 Q And one thing we can agree on is that you didn't
24 take any steps as an investigator to go out and
25 verify whether that was true or not?



1 A No, I didn't. You don't have time to do all those
2 little things. I mean, if you were going to do
3 that, I would still be waiting to talk to these
4 guys. I mean, I was on a limited time, on a
5 limited, limited commission. My job was to go out
6 and talk to these guys and see what they had to
7 say.

8 Q Didn't you think, and you told us earlier about
9 the high standards you felt that you employed at
10 Centurion Ministries?

11 A Absolutely.

12 Q And you used the words play square. Didn't you
13 think that before you went and started making
14 allegations about coercion against police
15 officers, that some of these things you had an
16 obligation to go out and actually verify whether
17 you were acting on good information or not?

18 A Are you saying that by making accusations against
19 the Saskatoon Police Department in the press that
20 we were treating, that we treated them unfairly?

21 Q No, what I'm saying is based on the high standards
22 and playing square approach that you say Centurion
23 Ministries adopt, and I'm assuming that you try to
24 live up to those standards too; is that right?

25 A We try to get the truth and we try to be as honest



1 with people as we can without putting ourselves at
2 a great disadvantage. I mean, you need everything
3 going for you, you can, when you go to somebody
4 who has perjured himself at trial and has been
5 coerced, they don't -- it's not easy to get them
6 to admit to this, so --

7 Q I'm just going to --

8 A So call this a white lie if you will, call it a
9 white lie, call it an exaggeration, but I still
10 maintain that my organization consistently
11 maintains the highest standards of any similar, of
12 any investigative organization.

13 Q But the question I put to you, though, with those
14 high standards, before you are going to make an
15 allegation, and I put to you specific examples
16 where you didn't go out and verify information
17 yourself as an investigator, don't you think that
18 it was incumbent on you in terms of playing square
19 with the people you are going to accuse of fairly
20 serious misconduct, that as an investigator you at
21 least make an attempt to go out and independently
22 verify the information that you are basing those
23 allegations on?

24 A In a perfect world we certainly would have done
25 that, or tried to do that, but how are we going to



1 find out what goes on behind closed doors with
2 witnesses and police officers. I mean, we were
3 basing this on our -- on our firm belief that
4 these witnesses were manipulated because it makes
5 no sense that they would have come up with false
6 information against a friend of theirs unless they
7 were --

8 Q I'm going to suggest some ways to you, okay?

9 A All right.

10 Q Now, for example, one of the ways that you could
11 have found out -- well, let's just back up. We
12 started with Cadrain and some of the information
13 that you got from Dennis Cadrain primarily was
14 that for a period of time, and I can show you the
15 transcript, his statement if you like, for 30 days
16 plus, day in, day out, 12 hours a day, Albert
17 Cadrain was being taken down to the police station
18 and cross-examined by the police.

19 A Yes, I heard that from Dennis.

20 Q And you've told us that's what you believed at the
21 time?

22 A Well, I'm not saying I believed it to be
23 absolutely the truth, but I thought there was
24 certainly some truth to it.

25 Q But you told us, you told Mr. Hodson that that was



1 primarily the basis for your belief that Albert
2 Cadrain, and I'll throw in the things that Albert
3 Cadrain said, but that day in, day out, you used
4 it over and over again as an example of the police
5 abusing their position with this witness; isn't
6 that right?

7 A Dennis Cadrain referred to an ordeal that his
8 brother went through at the hands of police.
9 Albert Cadrain's statement that I obtained from
10 him reflects the same, that he confirmed that he
11 was subjected to abusive treatment by these
12 police.

13 Q Okay. Now, let's talk about where you could have
14 verified that from, and just from example of
15 Centurion Ministries' own usual practice which
16 would be to go and obtain the State's file in the
17 States and of course the Crown file up here and
18 the disclosure, isn't it fair that you could have
19 found Albert's statements, you could have found
20 the investigation reports that set out when he was
21 being questioned, you could have got all that
22 information from that sort source?

23 A You've made a very good point. I don't recall
24 that we did that, but again, I was on a limited
25 assignment up here and I was told to go out and



1 talk to these key witnesses and see what they had
2 to say.

3 Q And I'll tell you right now, I appreciate, Mr.
4 Henderson, I heard from you that you were on a
5 limited assignment, Mr. McCloskey was assigning
6 specific tasks to you?

7 A That's correct.

8 Q But I'm talking to you as someone who is a
9 professional investigator, has been for a long
10 time.

11 A Uh-huh.

12 Q And you've agreed with me that it's good practice
13 to go out, when you get a piece of information,
14 say that somebody has been picked up, interrogated
15 for 10, 12 hours a day for 30 plus days, to maybe
16 go out and try to independently verify that
17 information?

18 A Well, you know, that would be nice if we had the
19 time to do that, but instead we listened to what
20 witnesses told us, Albert and his brother, and we
21 went with our gut instinct, yeah.

22 Q And especially if you are going to base an
23 allegation of coercion on it; agreed?

24 A Well, you know, if certain people feel that we
25 have unfairly maligned them, the Saskatoon Police



1 Department, we're sorry about that, but I think
2 the proof is in the pudding, the fact that they
3 had the wrong person and they didn't admit to it.

4 Q Now, let's go to another source that you could
5 have found out fairly quickly, I believe, that
6 what Dennis was telling you was not accurate. Did
7 you ever consider interviewing, and we heard from
8 these witnesses, Celine Cadrain, who you knew
9 lived in the house at the time?

10 A I believe we made some attempt to find Celine, but
11 there was a problem in locating her or getting
12 together with her. I don't remember the details.
13 I just have a vague recollection. Again, I was on
14 a limited assignment. We had not fully committed
15 to the case by that time.

16 Q And what about Albert's parents, for example, did
17 you consider them?

18 A As far as I know, they weren't even alive any
19 more. I discussed Albert's parents with Dennis, I
20 mean, their parents, and they didn't seem to feel
21 like -- as I recall, the parents would not have
22 been of much help to us.

23 Q And I'm, I hesitate that -- how do you know that
24 until you talk to them?

25 A Well, I don't know. We didn't have time to talk



1 to them.

2 Q Because that's the answer, you didn't have time to
3 talk to them; isn't that right?

4 A I wasn't assigned to talk to them, right.

5 Q So you went forward with this allegation of
6 coercion largely based on the information that
7 Dennis gave you. Now, the other thing that you
8 got from Dennis, though, with respect to the
9 coercion, is that Dennis told you in the very
10 first interview, and I don't want to run us
11 through all the transcripts, I think you can agree
12 to this, that Albert, when he showed up back from
13 his trip, told Dennis that he had seen blood on
14 Mr. Milgaard the morning that Gail Miller was
15 murdered?

16 A Yes.

17 Q Right? And that Mr. Milgaard had wanted to change
18 his clothes because he had blood on him, that's
19 another thing you found out right from the get-go
20 from Dennis?

21 A Okay.

22 Q And that further, after talking to Dennis and his
23 parents, Mr. Cadrain, Albert Cadrain went to the
24 police on his own?

25 A That's what I was told, yes.



1 Q And primarily, and you knew from reading the
2 transcript of Mr. Cadrain's trial evidence at
3 least, that the evidence that he gave that
4 primarily implicated Mr. Milgaard was the blood
5 evidence on the clothes when he arrived at the
6 Cadrain house on the morning of the murder?

7 A You know, it has been so long I can't remember the
8 exact evidence that he provided at the trial.

9 Q Okay. Now, knowing that, do you think it might
10 have been prudent to see what statement Albert
11 actually gave to the police and what information
12 was in that statement the very first day that you
13 showed up at his place?

14 A Absolutely, and in the course of a normal
15 investigation we would have done that.

16 Q And you haven't even looked at the statement to
17 date as I understand it?

18 A I don't remember looking at it, no.

19 Q Okay. And had you looked at the statement, would
20 it be possible, and I can put the statement up,
21 that the majority of the information that
22 Mr. Cadrain -- and I'll let the record speak for
23 itself, but I'm going to suggest this is the case
24 that implicated Mr. Milgaard, was in the very
25 first statement that Mr. Cadrain gave to the



1 police on 2, March of 1969.

2 A You are informing me of that?

3 Q Yes, and would that have changed your view on
4 whether the police had coerced any information out
5 of Mr. Cadrain?

6 A It might have. Yes, it might have, right.

7 Q And knowing that now, did you ever ask yourself
8 back then why on earth would the police seek to
9 coerce any information out of Albert Cadrain when
10 they had it on the first day when he walked into
11 the police station?

12 A Well, that's a good question, but you are asking
13 me if I ever reflected back on that? No, I
14 haven't given it a second thought.

15 Q You always assumed that the police must have been
16 guilty of wrongdoing?

17 A In a case like this --

18 Q Can we just go yes or no with that?

19 A Always assume? I can't answer that. I don't
20 always assume that.

21 Q In this case you just assumed always, you didn't
22 ask yourself what could be gained by coercing
23 Albert Cadrain when they had the information on
24 the first day?

25 A Well, I didn't know they had the information on



1 the first day.

2 Q But that's something you didn't go, that's another
3 fact you didn't go out and independently verify?

4 A That was a fault, yes, I admit to that.

5 Q And the other thing, in terms of your dealings
6 with Albert, though, is what you were trying to
7 get him to do was recant that evidence?

8 A No, that's not --

9 Q You say no?

10 A I said no.

11 Q Weren't you putting to him that the police coerced
12 you, made you say this?

13 A I wasn't trying to get him to recant his evidence.
14 If you read one of my interviews or one of the
15 sessions that was tape recorded, a conversation
16 with David Asper and Joyce Milgaard, I told them,
17 when David or Joyce suggested that we try to get
18 Albert to change his story, I said no, we're not
19 going to do that because he believes what he told
20 was the truth, that we're not going to try and get
21 him to back off of that, he honestly believes it.
22 It was clear then to me that Albert testified to
23 his, in his mind he testified truthfully, but on
24 the other hand, you had his brother saying that
25 nothing he said was reliable because he was half



1 nuts and that the police screwed over his mind.

2 Q And, for example, that's another allegation you
3 brought out in terms of his commitment. Did you
4 ever take any steps to verify the information that
5 Dennis was giving you about Mr. Cadrain, Albert
6 Cadrain's commitment to hospital, as to when it
7 happened, what the reasons for it were?

8 A No. In the course of a normal investigation we
9 certainly would have, we would have done that, but
10 not this case.

11 Q Okay. And would it be fair to say that the
12 information you got from Dennis about the
13 treatment of Albert -- and I'm thinking
14 specifically of the months on, or month and a half
15 on end in interrogation -- did you think, did that
16 colour your view in terms of how Ron Wilson might
17 have been treated by the police?

18 A Yes, I'm sure it did.

19 Q And in fact I think I heard you say to Mr. Hodson
20 at the end of yesterday that you actually believed
21 that Ron Wilson underwent the same kind of
22 treatment?

23 A Well, Mr. Wilson told me that he was coerced by
24 the police, yes.

25 Q But I'm thinking specifically, for example, this



1 is what you said. Let's go to transcript page
2 28,991, and this is Mr. Hodson questioning you and
3 it's in relation to Mr. Wilson and the opinion of
4 Dr. Boyd and Dr. Rossmo on Wilson's recantation,
5 but one thing is you are saying to Mr. Hodson
6 here -- and I'll just get you to pull that part
7 up, and keep in mind that this is in relation to
8 Ron Wilson -- and it says:

9 "Anybody who ...",
10 you are stating:

11 "Anybody who is questioned over a period
12 of two months day after day after day
13 after day is under pressure to come up
14 with something, so I don't think it's
15 quite as simple as the two experts are
16 making it look like."

17 Now my question to you, again, is the same: What
18 information or what evidence did you have that
19 Mr. Wilson was being questioned over a period of
20 two months, day in, day out?

21 A I'm not sure. Maybe this statement was based on
22 what Ron Wilson told me, maybe it was based on
23 something else I'd heard, but it was my
24 understanding that he went through a lengthy
25 period of interrogation.



1 Q Okay.

2 A And that was my understanding, and he didn't tell
3 me otherwise.

4 Q And, for example, if Mr. Wilson told you that
5 wouldn't that be something that you would have put
6 in his statement that you got from him on 4 June?

7 A Umm, possibly. I do remember that he told me that
8 he was, that in so many words he was coerced by
9 the police and under pressure to provide them with
10 what they wanted.

11 Q But I'm looking specifically at this, this
12 information here, that he was being questioned on
13 a daily basis over a period of two months?

14 A Oh. Umm, --

15 Q Does this just sort of spill over from Dennis
16 Cadrain?

17 A Well, you know, here I am, what, how many years
18 later reflecting back, trying to remember what I
19 knew about the individual circ -- the
20 circumstances of these individual witnesses, and
21 my recollection was as I expressed it here.

22 Q And the question I have again is did you take any
23 steps as an investigator, if you believed this,
24 even if Wilson was telling you this did you take
25 any steps to go out and try to independently



1 verify either by looking at the police file or the
2 prosecution file?

3 A No, and I can't explain why.

4 Q Or talking to Wilson's mother, for example?

5 A Ron Wilson's mother? Never even heard of her.

6 Q I'm passing over Ron Wilson's thing, I think that
7 he's been dealt with in detail.

8 I wanted to raise one last point
9 with you. And this is on a different subject, you
10 will be happy to know Mr. Henderson, and it has to
11 do with some evidence you gave on the 26th of
12 January primarily relating to a trip my client
13 took to Winnipeg in the fall of 1970 to interview
14 Mr. Fisher; do you remember that?

15 A My evidence?

16 Q Yeah?

17 A Not --

18 Q Do you remember having some information on that?

19 A I've heard various things about, yes, Mr.
20 Karst's -- the work he did, the trip he made, yes.

21 Q Okay. And one of the things you said -- and I can
22 pull up the transcript pages, 22,925, and up at
23 the top here, right in here -- and you describe
24 Mr. Karst as a homicide detective; do you see
25 that?



1 A It was my understanding that he was a homicide
2 detective, yes.

3 Q Yes. Can you tell me what information that you
4 had that there was any such thing as a homicide
5 detective in the Saskatoon Police Service in
6 1969, --

7 A My --

8 Q -- or even a homicide division, for example?

9 A Oh, really? Well, let's put it this way, a
10 detective who was assigned to investigate
11 homicides.

12 Q Do you have any information that Mr. Karst was
13 ever exclusively assigned to investigate
14 homicides?

15 A No, not exclusively, no. I understand that he,
16 that he investigated the Miller murder, he was
17 involved in that somehow.

18 Q That's fair enough.

19 A Yeah.

20 Q That's fair enough.

21 A Uh-huh.

22 Q And in terms of his trip to Winnipeg and the
23 dealings with Fisher, can you tell me what
24 investigation you did independently -- leaving
25 aside talking to the four victims -- as to the



1 circumstances surrounding how Mr. Karst went to
2 Winnipeg; did you do any investigation --

3 A No, I mean that would have been nice, but it's
4 certainly very elusive information for us. I mean
5 these -- Mr. Karst's, Detective Karst's activities
6 in Winnipeg were -- that was department business
7 and I certainly didn't expect that I would be
8 privy to those files. My, everything that I, that
9 I have said about my understanding of Mr. Karst is
10 based on information that I obtained more recently
11 in dealing -- in talking with Mr. Hodson and other
12 people.

13 Q Today, in 2006?

14 A Yeah, I -- right. I don't think that I have, in
15 all honesty I don't think I've ever considered
16 Detective Karst, never singled him out for
17 criticism. It was the conduct of, in my opinion,
18 the conduct of the department that was in
19 question, not Mr. Karst. I didn't know that much
20 about him --

21 Q Okay.

22 A -- back at the time we were working on this case.

23 Q I think I'm going to stop right there.

24 A Good.

25 Q And I want to thank you, Mr. Henderson, for your



1 patience.

2 A Well, thank you.

3 **BY MR. LORAN:**

4 Q Good afternoon, Mr. Henderson.

5 A Good afternoon.

6 Q My name is Pat Loran and I'm here for the
7 Saskatoon Police Service.

8 A All right.

9 Q Do you remember the name Tom Vanin?

10 A Yes I do.

11 Q Is it fair to characterize him as 'your man on the
12 inside', the fella who was giving you access to
13 information regarding what was going on in the
14 Saskatoon Police Department?

15 A I had a meeting, I had a meeting with Mr. Vanin,
16 yes.

17 Q Okay. Did you meet with any other members of the
18 Saskatoon Police Service?

19 A I believe I did, but I have a mind blank on who it
20 was, where it was, and what resulted, what came of
21 it. I have a -- can't even picture the guy.

22 Q Okay. Who was at that meeting with another member
23 of the Saskatoon Police Service?

24 A It could be -- you know, I'm telling you that I'm
25 having a hard time. Somehow the, this second



1 police officer who was interested in talking about
2 his insights, I have a hard time picturing who he
3 is, remembering his name. A name came up the
4 other day that I recognized, but I'm -- still
5 wasn't sure that that was the person. It could be
6 that when I met with Tom Vanin in his house, in
7 his basement, that this other police officer was
8 there, or it could be that I met with him
9 separately. In reflecting on, I mean in reviewing
10 my report on the meeting with Vanin I see that
11 there was little to nothing written on my
12 interview or whatever I had learnt from this other
13 guy.

14 Q Were there any third parties present --

15 A Not to my knowledge.

16 Q -- at these meetings?

17 A Joyce Milgaard wasn't there, and I can't remember
18 anybody else being there, no. If you care to
19 suggest somebody maybe you can tweak my memory?

20 Q No, I'm -- the reason I ask about that is because
21 we heard Mr. Asper's evidence very recently that
22 the only man on the inside was Tom Vanin, and I'm
23 just --

24 A Oh, I see.

25 Q -- wondering if your evidence differs from his, or



1 if there's an explanation for it, and that's what
2 I'm trying to get to?

3 A No. In answer to your question, in terms of who
4 was providing us with information, the only person
5 that I can remember getting any information on --
6 from was Tom Vanin.

7 Q All right. And is it fair to characterize what he
8 did is to look for the internal police files
9 relating to Larry Fisher and provide you with
10 access to everything he could find?

11 A Again, I'm -- I'm -- I have had a hard time
12 remembering exactly what I saw, what he showed me.
13 I know that he had some documents relating, I
14 believe, to the (V5)-- (V5)--- rape, that he
15 showed me some of these documents, and there
16 was -- the information reflected in my report came
17 from that, from the files that he showed me. I
18 don't remember whether I saw an entire file or
19 whether I saw just part of a file. I do remember
20 that he kept the file.

21 Q Let me perhaps ask, then, what your practice would
22 have been with regard to any documentation you
23 got; did you -- did you copy anything?

24 A No. No. I took notes.

25 Q That's it?



1 A As far as I know, to the best of my recollection.

2 Q Those notes you took, would they have been turned
3 over to either David Asper or Joyce Milgaard?

4 A Possibly so, possibly not. My report was
5 certainly turned over to them. You've seen that,
6 I assume, --

7 Q So --

8 A -- what I am referring to?

9 Q -- what we've got is your report and that's --

10 A Uh-huh.

11 Q -- and that's it?

12 A And I don't know whether my notes were turned over
13 or -- I doubt it. I doubt it. They weren't
14 requested so I probably kept them.

15 Q Would you continue to have those?

16 A Very likely, yes. I've never been -- they -- I've
17 never been asked for those notes as far as I
18 can know -- as far as I know.

19 Q Nichol John.

20 A Uh-huh?

21 Q The three principal witnesses who gave evidence
22 against David Milgaard were Nichol John, Ron
23 Wilson, and Albert Cadrain?

24 A Yes.

25 Q You never did speak to Nichol John?



1 A No, I never did.

2 Q All right. Maybe I'll come back to that. With
3 regard to Ron Wilson, you make allegations at
4 times, and in the press and since then, even today
5 you've repeated allegations that there was police
6 coercion?

7 A Uh-huh, that's the word I used.

8 Q Yeah. And I think your evidence, when Mr. Hodson
9 was asking you about this, is that the coercion
10 was by virtue of repeated questioning; is that a
11 correct summary of your evidence?

12 A Yeah, I -- it was my understanding, based on what
13 I knew or what I heard, was that these -- that
14 these three witnesses were subjected to repeated
15 questioning and continuing detainment of one form
16 or another.

17 Q Okay. One of the things that we've heard recently
18 here at the Inquiry is evidence from a
19 criminologist, and I think Mr. Hodson put that
20 evidence to you, --

21 A Uh-huh.

22 Q -- Mr. Rossmo, about questioning techniques, and I
23 think it was Mr. Rossmo's evidence -- I'm sure I
24 will be corrected if I don't fairly state it --
25 that persistent questioning is a sign of good



1 police work; now do you agree with that?

2 A Well it depends upon the nature of the
3 questioning, I mean it depends upon the
4 circumstances, I would say. If you -- if the
5 questioning could be -- falls into the realm of
6 badgering, then I don't think it is good police
7 work. I mean, you know, the point is that it
8 really depends on who you are questioning.

9 If you are questioning a witness
10 who turns out to be a good witness and you've got
11 the right murder suspect, nobody is going to,
12 nobody is going to criticize your work, but if
13 you've got the wrong guy and you are questioning
14 witnesses who don't know anything about the case,
15 about the -- about your suspect murder, and you
16 badger that witness, then you are not doing good
17 police work. That's my opinion.

18 Q Right. So, at some point along the way, you draw
19 the line between persistent questioning being good
20 police work and you say persistent questioning
21 becomes coercive?

22 A Oh, I think that police officers, detectives, have
23 to draw the line someplace. You know, if -- if,
24 for example, a -- one of these witnesses continued
25 to maintain to these -- to the interrogators or



1 the detectives that they knew -- didn't know
2 anything about this murder, at some point the
3 questioning, continuing questioning, becomes a
4 form of harassment, in my opinion.

5 Q Yeah.

6 A Particularly if they are still --

7 Q Okay. Is the corollary of that that if they don't
8 change their evidence, if their evidence stays the
9 same from day one, --

10 A Uh-huh.

11 Q -- that the questioning is not coercive?

12 A What evidence stays the same? Oh, you mean if the
13 --

14 Q The evidence that the witness gives to the police,
15 if it doesn't change, is the corollary, then, of
16 the proposition you just put forward, that it's
17 not coercive if you are not trying to change a
18 witness' evidence --

19 A Well --

20 Q -- and if the witness never does change his or her
21 evidence?

22 A Oh, okay. If a witness came out -- are you
23 alluding to the report where Albert Cadrain
24 supposedly came out with this information right
25 off the bat? Well that's --



1 Q That's ultimately, that comes later, but I
2 thought, well, the opportunity presents itself.

3 A Yeah, right. On the other hand, if they got all
4 that information from Albert Cadrain right off the
5 bat, well why did they continue to question him to
6 the point that, at least according to his brother,
7 he ended up in the nut house?

8 Q Well, and I guess that's a matter that we'll have
9 to leave, we don't know the answer to that, but we
10 do know what Albert Cadrain had to say when he
11 went to the police on March 2nd?

12 A Yes, okay. You know that, I don't, I'm not
13 familiar with the report, I at least don't recall
14 it.

15 Q Now I think Mr. Hodson -- well, actually I guess
16 it was Mr. Gibson went through this with you
17 earlier today.

18 A Uh-huh.

19 Q Albert Cadrain approaches the Saskatoon Police on
20 March 2nd, 1969?

21 A Uh-huh.

22 Q On March 3rd, 1969, Ron Wilson is first contacted.
23 Okay? And that then you -- I think Mr. Gibson --

24 A Could you give me those dates again, please, could
25 you repeat those dates?



1 Q What?

2 A Could you repeat those dates?

3 Q March 2nd, 1969 --

4 A Yeah.

5 Q -- Albert Cadrain goes down to the Saskatoon
6 Police Service and says "on the morning of the
7 murder my friend David Milgaard was at my house, I
8 saw blood on his clothing".

9 A Okay. Now had he not been questioned beforehand
10 in Regina?

11 Q And how do you draw a connection between -- well,
12 we'll come to, let's come to Albert Cadrain later.

13 A Okay, fine.

14 Q Ron Wilson; Ron Wilson is first contacted on March
15 3rd, 1969.

16 A March 3rd? Okay.

17 Q Yeah. On May 21st, Mr. Gibson put to you the
18 evidence that he gave on March 21st when he was
19 interviewed in Regina, March 22nd he's driven up
20 to -- or he's --

21 UNIDENTIFIED SPEAKER: May.

22 BY MR. LORAN:

23 Q -- or sorry, thank you -- May, May 21st he's
24 interviewed in Regina, --

25 A Okay.



1 Q -- and May 22nd he's driven around the area in
2 Saskatoon, he's driven up to Saskatoon, then he's
3 driven around the area. On May 23rd he meets with
4 Mr. Roberts, the polygrapher, --

5 A Uh-huh?

6 Q -- and later that day he gives a statement and
7 then he adds to it a little bit on the 24th.

8 A Right.

9 Q Now how much questioning, between March 2nd and
10 May 21st, would it have to be before it becomes
11 coercive?

12 A I, well I don't know if you are talking about
13 quantity or quality, I mean I don't -- Ron Wilson
14 told me that he was subjected to a great deal of
15 pressure so I'm assuming that he felt obligated
16 and he felt, he felt like he was being harassed.

17 Q And --

18 A That's a long time, by the way. I don't know how
19 frequently the questioning was but we're talking
20 March 3rd; is that right?

21 Q From March 3rd to May 21st, I'm wondering how many
22 occasions you would say he had to have been
23 questioned before the questions -- in between
24 there before the questioning becomes coercive?
25 Because you've suggested that he changed his



1 evidence as a result of persistent questioning,
2 coercive questioning, --

3 A Uh-huh.

4 Q -- and I guess I'm putting it to you that, if
5 you're going to suggest that at some point along
6 the way persistent questioning becomes coercive,
7 you should suggest how much persistent
8 questioning, you should try to quantify that?

9 A Okay. Well I would say the, you draw the line
10 when the questioning becomes so intense and so
11 intrusive and so overbearing, overpowering, that
12 the witness strays from his initial denial and
13 provides false evidence against the defendant,
14 against a police suspect. And that's exactly what
15 Mr. Wilson said happened to him, so --

16 Q Okay.

17 A -- I don't know how many times.

18 Q On May 21st --

19 A Uh-huh.

20 Q -- Mr. Wilson gave evidence that the parties had
21 been separated at the vehicle --

22 A Yes.

23 Q -- for a brief period of time.

24 A Uh-huh.

25 Q And are you suggesting that that was false



1 evidence when he gave that evidence?

2 A That sounds fairly innocuous to me. I don't know.
3 There was a scenario when, the premise of the car
4 getting stuck, and there is a scenario of Milgaard
5 and Wilson going for help. Now, so you are saying
6 on the 22nd that he discloses for the first time
7 that they went separate ways?

8 Q No, I'm asking you how much questioning -- and I
9 guess I'm not gonna get a specific answer in terms
10 of --

11 A I can't answer that, no.

12 Q -- the numbers of times? Would it interest you to
13 know that he was questioned once between March 3rd
14 of 1969 and May 21st of 1969; would you
15 characterize one occasion as "persistent
16 questioning"?

17 A I would say that that's surprisingly, a
18 surprisingly small number, one, yes.

19 Q And I believe the occasion was March 18th.

20 A I thought you said that he was picked up on March
21 3rd?

22 Q He was first questioned on March 3rd.

23 A Okay, that's number one, then he was questioned
24 again on March 18th? That's not one.

25 Q He was questioned once in between.



1 A Okay, that's two times, not one.

2 Q All right. Albert Cadrain. Your first contact
3 with Dennis Cadrain, Dennis confirmed to you that
4 prior to Albert Cadrain attending on the Saskatoon
5 Police, --

6 A Uh-huh.

7 Q -- he had told Dennis that on the morning of the
8 murder he had saw blood on David Milgaard's
9 clothing?

10 A That's correct.

11 Q Okay. And he went down shortly after, --

12 A That's what Dennis said.

13 Q -- to the Saskatoon Police, and gave them that
14 evidence?

15 A Yes.

16 Q Now you talked about Albert flip-flopping with
17 regard to his evidence earlier today; is it fair
18 to say that that's one piece of his evidence he
19 never flip-flopped on?

20 A You're familiar with, more familiar with the
21 record than I am, but I believe you are right. I
22 believe that's what he, according to Dennis and
23 according to the police report, that's what he
24 said initially, and that's what he testified to.

25 Q Albert's critical evidence was the blood on the



1 clothing; can we agree on that?

2 A Umm, yes, as far as I know.

3 Q For the purpose of the record perhaps I can refer
4 to document 335929 at page 935. Perhaps it's the
5 next page over, page following. Ah yes, top of
6 the page here, I guess it's 937. This is where
7 Albert -- or Dennis tells you that, shortly after
8 Albert's return to Saskatoon, he mentioned the
9 blood to Dennis?

10 A Yes, I see that.

11 Q You agree? Okay. Now, at this point, are you
12 prepared to agree that Albert Cadrain's evidence
13 was not coerced?

14 A Well, if the first time this questioning -- he was
15 questioned was on the date that you mentioned,
16 March 3rd, and he gave police a statement, I would
17 say that that -- that information surfaced very
18 quickly and would suggest that there was no
19 coercion. Is that all you want me to say?

20 Q Well, I should probably stop, because I think
21 that's a pretty good answer.

22 A All right, okay.

23 Q I was going to read the definition of "coerced" to
24 you. The Oxford Dictionary, Canadian Oxford
25 Dictionary, says:



1 "Persuade or restrain",

2 then in brackets:

3 "(An unwilling person by force)",

4 and it would seem that Albert was not unwilling,

5 because he went down to the Saskatoon Police

6 voluntarily --

7 A Yes, he was.

8 Q -- and gave this evidence; right?

9 A I would have to agree with you, based on the
10 context that we're talking about now, but I don't
11 know, because my understanding that there was some
12 contact with Albert by police in Regina and the,
13 the Miller murder was brought up during the --
14 that Albert was questioned.

15 Q And --

16 A Is that true? I mean --

17 Q And I guess I've heard that statement made before,
18 that he was in police custody in Regina, --

19 A Yes.

20 Q -- and this Commission has heard evidence that he
21 was in Regina, he was arrested on a vagrancy
22 charge, and I guess what facts do you have to
23 suggest that, somehow, his time with the Regina
24 Police resulted in coercion which caused him to
25 come up with this evidence regarding blood on



1 David Milgaard's clothing?

2 A Well, that's a legitimate question. I can't give
3 you any explanation --

4 Q All right.

5 A -- other than --

6 Q I guess I'd start off by asking if you have any
7 evidence, --

8 A Well --

9 Q -- not just an explanation, but any evidence?

10 A You know, the premise of Albert Cadrain's
11 volunteering information to his brother about
12 seeing blood on David Milgaard's clothing and
13 sticking with that, that information and that
14 information alone, is not consistent with what I
15 was told by Dennis about the damaging effects of
16 the lengthy abuse of -- in Dennis' own words --
17 the abuse of his brother when he was being
18 questioned by police over a period of time. I
19 mean that's one of the first things Dennis told
20 me, that his brother was subjected to abusive
21 treatment by the police to the point that he ended
22 up going a little crazy, and to the point that
23 Dennis felt that he should be committed. So when
24 I go and talk with Albert, that's exactly what he
25 tells me, he tells me the same thing, that the



1 police pushed him over the edge.

2 I can't -- you know, the -- the
3 prospect, I mean the thought of a guy coming
4 forward with information, giving it to the police
5 on the first day that he had contact with the
6 cops, and then everything being over with in terms
7 of his contact with police, had influence on him,
8 I can't, certainly cannot reconcile that with what
9 Dennis told me and with what Albert told me. They
10 both alluded to misconduct by the police.

11 Q It doesn't make sense does it?

12 A No, it doesn't, it doesn't, and --

13 Q And so if the record speaks for itself with regard
14 to what Albert had to say to the police when he
15 appeared there on March 2nd, we'll let that speak
16 for itself then?

17 A Well, that's fine with me.

18 MR. LORAN: I don't know how we are for
19 time, Mr. Commissioner.

20 COMMISSIONER MacCALLUM: Oh, about five
21 minutes or so.

22 MR. LORAN: Well, perhaps before I start
23 into a new area, or do you want me to carry on?

24 COMMISSIONER MacCALLUM: Will you be some
25 time tomorrow?



1 MR. LORAN: No, I shouldn't be very long.
2 I expect I'll be a little more than five minutes
3 is all.

4 COMMISSIONER MacCALLUM: Oh. If you want
5 to finish today, that's all right. I don't know,
6 Mr. Hodson, we still have to hear Ms. Knox?

7 MR. HODSON: I think we are quite fine for
8 time tomorrow. I think Mr. Loran is just going
9 on to a new area that he won't finish today.

10 COMMISSIONER MacCALLUM: All right, we can
11 adjourn now then.

12 MR. LORAN: Thank you.

13 *(Adjourned at 4:23 p.m.)*

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OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATE:

We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
Official Queen's Bench Court Reporters for the Province of
Saskatchewan, hereby certify that the foregoing pages
contain a true and correct transcription of our shorthand
notes taken herein to the best of my knowledge, skill, and
ability.

_____, CSR

Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



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