

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

Transcript of Proceedings
and
Testimony before the Commission
sitting at the
Delta Bessborough Hotel at
Saskatoon, Saskatchewan

On Monday, May 15th, 2006

Volume 149

Inquiry Proceedings



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JOYCE IOLA MILGAARD, CONTINUED

- BY MR. HODSON

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Transcript of Proceedings

(Reconvened at 1:04 p.m.)

COMMISSIONER MacCALLUM: Good afternoon.

ALL COUNSEL: Good afternoon.

JOYCE IOLA MILGAARD, continued:

BY MR. HODSON:

Q Good afternoon, Mrs. Milgaard.

A Good afternoon, Mr. Hodson.

Q We'll continue on. When we broke on Thursday we were, I think, in about April of 1989, thereabouts, we'll continue to go through chronologically again trying to focus on what information was gathered by you and your counsel and people helping you, secondly, what information was provided to the authorities, and as well from time to time I will ask you to convey what was going on in your son David's world at that time as well, so if we can try and put in context what was happening on the legal front and how that may have been seen in David's eyes. Okay?

A Yes.

Q If we can call up 301671, please, and you'll recall last week we spent a bit of time talking about where you and David had decided to do a family presentation to give to the minister. You



1 recall that?

2 A I do, and basically the reason that we were doing
3 this presentation was not because we felt Hersh
4 David were not doing a good job, we were doing it
01:05 5 to keep David busy, because he was literally going
6 out of his mind and he just needed to be able to
7 focus in and do something, and so this was a
8 decision that we came to after a lot of discussion
9 because we felt it might be difficult if they were
01:06 10 getting things from both of us, but we felt it was
11 extremely important that he get his hands in.

12 Q Do you recall whether, and again this may be a
13 question for other witnesses, not you, but do you
14 recall whether this, whether what you just told us
01:06 15 was conveyed to justice officials, and the reason
16 I ask, we will see in some of the correspondence,
17 and we've already seen it where Federal Justice
18 comes back to Mr. Wolch or Mr. Asper saying, you
19 know, we've received your submissions, but until
01:06 20 we receive the family's submissions or David
21 Milgaard's submissions, we can't very well make a
22 report to the minister, until we have everything
23 in, and so at least the documents suggested they
24 were waiting to get David's submission before they
01:07 25 could send their report up to the minister. Do



1 you recall that being an issue?

2 A No, I don't, and certainly if we had, I would
3 certainly have, you know, informed them right away
4 that it was a busy, keep-David-busy issue more
01:07 5 than anything else. Our submissions were coming
6 through the lawyer.

7 Q And so again just so that I'm clear on this, what
8 David was putting forward or the family submission
9 was not intended to be relied upon by Federal
01:07 10 Justice officials as part of the application, but
11 rather for -- maybe therapeutic is the wrong
12 reason, but maybe it is the right word.

13 A I think that really was the right word.

14 Q And again my question though, do you know whether
01:07 15 justice became aware of that fact, that --

16 A I don't.

17 Q That purpose?

18 A I don't know that of assuery (ph). I would have
19 thought that they were aware of that.

01:07 20 Q Did you have, at least at this time, did you have
21 any direct dealings with the authorities, with
22 justice officials, or did you rely upon your
23 counsel for that?

24 A At various times I had direct dealings with the
01:08 25 justice officials. I cannot tell you exact right



1 now at what time frame that was, but I was
2 speaking and receiving calls from justice at one
3 point.

4 Q Right. And would that be -- did you ever talk
01:08 5 directly to Mr. Williams, Eugene Williams?

6 A I believe I did.

7 Q And Mr. Corbett?

8 A Mr. Corbett for certain.

9 Q And Mr. MacFarlane?

01:08 10 A Yes.

11 Q And Mr. Rutherford, Douglas Rutherford, does that
12 name --

13 A The name rings a bell, but I don't know.

14 Q What the documents suggest is that those
01:08 15 discussions may have taken place later on, perhaps
16 around 1991, around the second application,
17 although they may have taken place before that.
18 Are you able to give us any help in -- what was
19 happening at the time or what prompted you to
01:09 20 start to speak to these people?

21 A I think you are right, that it probably was in the
22 '91 time period that I was talking to them.

23 Q Do you think you would have talked to them before
24 Kim Campbell dismissed the first application in
01:09 25 February of '91, do you think you would have had



1 any reason to talk to them?

2 A No, I don't, I don't know for certain, but --

3 Q And again, I appreciate that we don't have any
4 documents and you are going by memory, but is it
01:09 5 fair to say that likely the contact, the direct
6 contact you had with them likely would have been
7 part of the second application in 1991; is that
8 fair?

9 A Yes, I think that's fair.

01:09 10 Q If we can go to 225007, please, and you recall
11 last week we talked about the *Fifth Estate* and you
12 told us how, I think your words were David was
13 devastated when the *Fifth Estate* came back in
14 February of 1989 telling you that they would not
01:10 15 run your documentary and I think you told us that
16 David and you wanted that show to run because, I
17 think, number one, it validated your concerns that
18 if the media, a program like the *Fifth Estate*
19 would run it, then it must have some merit; is
01:10 20 that correct?

21 A Yes, and I felt that it would be a way of getting,
22 letting the public know how long we had been
23 fighting to free David and get the information out
24 there and possibly as a result of it airing, maybe
01:10 25 having more people come forward.



1 Q Right. And so in fairness, I didn't put all of
2 what you told me to you, and I think you said
3 there were a number of benefits of the media, of
4 the *Fifth Estate* publicizing your son's case,
01:11 5 number one, the validation, number two, it would
6 make the public aware of his condition --

7 A Yes.

8 Q -- or his situation, and three, it might prompt
9 people to come forward with information that might
01:11 10 help you?

11 A Correct.

12 Q And there may be other advantages that we'll get
13 into later, but you remember on Thursday I showed
14 you the letter from Mr. Asper to Sandra Bartlett,
01:11 15 December 28th, 1988, sending the application to
16 the minister to the CBC *Fifth Estate* and then in
17 February -- including the Ferris report, then in
18 February, '89 their letter back saying we're not
19 going to run with it because we don't think
01:11 20 there's enough there. Do you remember that?

21 A I remember that.

22 Q And so here's now a May 1 letter from Sandra
23 Bartlett directly to David, and just following up
24 on that, and she says she thought the story would
01:11 25 run and then she says:



1 "I cannot really tell you what happened,
2 except to say that it was decided that
3 editorially that was not enough. The
4 producers decided that a stronger case
01:12 5 for innocence or doubt of guilt was
6 needed."

7 And let me just pause there, and I asked you this
8 question on Thursday about the February, '89
9 letter. What effect if any or what was your
01:12 10 reaction to this when five months after you filed
11 your application with the minister you told us
12 that you thought the Ferris opinion proved
13 David's innocence, I think 100 percent, or was
14 everything that was needed to have the *Fifth*
01:12 15 *Estate* come back after having looked at your
16 materials and said we can't run the show because
17 we don't think there's a strong enough case for
18 innocence or doubt of guilt, did you have any
19 reaction to that?

01:12 20 A Well, I was in the same shape as David, plus I
21 think I was furious because we had spent a great
22 deal of time with these people and arranging
23 interviews and doing everything we could to
24 support the issue, so to have them suddenly back
01:13 25 away from it when we had other media people that



1 were very interested in doing it and we had sort
2 of went ahead with these people and left the
3 others behind, if you will.

4 **Q** Do you recall, and again at this time or at any
01:13 5 later time throughout, let's say right up until
6 the Supreme Court of Canada reference case, do you
7 remember hearing any concern or doubts or having
8 any concerns or doubts about the validity of the
9 Ferris opinion?

01:13 10 **A** Other than when I found out that David really
11 was --

12 **Q** A secretor?

13 **A** -- a secretor, at that time I knew that his
14 opinion was not valid.

01:13 15 **Q** And that I think was February 5, 1992, I think we
16 see a document around the date, assuming that's
17 the date, so up until that test was done, did Mr.
18 Asper or Mr. Wolch ever tell you lookit, there
19 might be some concerns or qualifications with that
01:14 20 opinion?

21 **A** None whatsoever. They were just as high on that
22 as I was.

23 **Q** Now, if we can just scroll down, this paragraph,
24 please, Sandra Bartlett also says:

01:14 25 "Recently, I spoke with David Asper, and



1 he tells me that the justice department
2 application has passed the first hurdle
3 and officials there will be taking a
4 detailed look at the legal material."

01:14 5 And then talks about a parole plan. Do you
6 recall anything about this first hurdle or what
7 Mr. Asper may be, or what Ms. Bartlett may be
8 talking about here?

9 A No, I think you would have to ask David Asper on
01:14 10 that one.

11 Q Did you have any understanding that there was an
12 initial threshold or hurdle that your application
13 had to get over before something would happen?

14 A Yes, and I feel that they felt that the Justice
01:14 15 Department was at that point interested and that
16 there would be communication back and forth.
17 Again, our theory was once you sort of pass the
18 threshold, they started talking to you and met
19 with you, or were going to meet with you, that you
01:15 20 would work together in establishing the innocence.

21 Q Okay. So let me just pause there. So that
22 after -- what was your understanding of what
23 threshold you had to get over, what did you have
24 to establish to get in the door, if I can call it
01:15 25 that?



1 A Well, you had to establish that there was some
2 merit to the case.

3 Q And then once that was established, you would then
4 work, your understanding was you would then work
01:15 5 together with Federal Justice officials?

6 A That was my understanding.

7 Q And where did you get that understanding from?

8 A Probably from my lawyers because I think they
9 understood it that way too. That seems the
01:15 10 reasonable assumption for anyone to have, if you
11 have a department that is handling wrongful
12 convictions, you know, that you go to for a
13 wrongful conviction, you would think they would
14 work together with you.

01:16 15 Q And we'll spend some time before you are done with
16 me about how you think it should operate, and I
17 take it that's what you are saying, that's what
18 you thought should have happened then?

19 A Yes.

01:16 20 Q And obviously do now; is that fair?

21 A Correct.

22 Q Back then, though, I'm just trying to identify
23 where you would have got that understanding from,
24 and is it fair to say that it would have come from
01:16 25 your lawyers, Mr. Wolch and Mr. Asper, as opposed



1 to you hearing directly from Justice or reading it
2 somewhere, that your understanding would be based
3 on what your lawyers told you?

4 A Probably, but --

01:16 5 Q And then --

6 A -- I think it was only common sense and logic is
7 what was telling me that.

8 Q Fair enough. If we could go to 032928. And just
9 while we're on that subject, again, once you got
01:16 10 over the threshold -- let's talk about the
11 specifics -- what further investigation did you
12 think would be done with respect to the Ferris
13 opinion and the affidavit of Deborah Hall --
14 that's what was filed -- tell me, if you could
01:17 15 just tell me what you thought would happen next,
16 you get through the hurdle, they call you up, you
17 meet --

18 A And then we'd be able to provide them, like if
19 they'd once looked at that, the case from the
01:17 20 start and looked at all the things that didn't add
21 up, the original testimonies of the witnesses
22 being the same that they were never there, how
23 those witnesses were changed, if we could show
24 them all of these things that we had found out we
01:17 25 felt that they would start really going back and



1 investigating all of that.

2 **Q** So was it your understanding that, once you got
3 through this threshold step, that Federal Justice
4 would then meet with you and then Federal Justice
01:17 5 would then go and reinvestigate the entire case
6 front to back, start to finish?

7 **A** Yes.

8 **Q** And look at every, absolutely everything, and come
9 up with some remedy or some decision; is that
01:18 10 correct?

11 **A** Yes. Because, unless you start at the beginning
12 and go through it, how are you going to know the
13 truth.

14 **Q** Yeah. Now had you -- I think we've spent a number
01:18 15 of days last week -- had you gone through it front
16 to back, start to finish?

17 **A** How many hundreds of times.

18 **Q** Yeah, so you had done that. And would it be fair
19 to say that the product of your review, front to
01:18 20 back, would have been in the interviews, the notes
21 and tapes and documents you had collected?

22 **A** Yes. And we felt that, you know, if we could
23 provide -- have meetings with them, provide them
24 with those materials, they would then investigate
01:18 25 the things that we had found.



1 Q And did you ever -- and, again, I'm talking about
2 you as opposed to you and your lawyers -- but did
3 you ever think about just giving them everything
4 right at the start, saying "lookit, I'll save you
01:18 5 getting over the threshold because we've got
6 Ferris, here's everything that's done front to
7 back, start with that, read all that, then we'll
8 get together"?

9 A No, I never considered that. For one thing the,
01:19 10 you've seen the enormity --

11 Q Yes.

12 A -- of the materials and everything that I had, I
13 felt that if we could sit down and say "here,
14 these are seven reasons or five reasons or two
01:19 15 reasons that my son is innocent", that they would
16 start then and say "well, he could be, let's
17 reinvestigate it", and then they would start fresh
18 and look at it with fresh eyes. And that's what
19 they should have done, --

01:19 20 Q Okay.

21 A -- and they didn't.

22 Q If we could go to May 2, 1989, this is a letter
23 from Mr. Wolch to the minister, Doug Lewis. And
24 on Thursday I showed you this letter of February
01:19 25 16th, '89, this is the letter where the minister



1 wrote back and asked that transcripts, etcetera,
2 be sent in, and, as well, to provide any
3 information with respect to Nichol John, the
4 position of Nichol John. And then if we could
01:20 5 just go to the next page -- and we have been
6 through this a number of times, I won't go through
7 it, I'll just identify it -- I think what
8 Mr. Wolch says in this letter:

9 "Without going into any great detail, it
01:20 10 is our position that the contents of
11 this statement are false because it does
12 not comport with the physical facts of
13 the case nor can it be reasonably true."

14 And I think this is Nichol John's statement, and
01:20 15 I think we saw in a number of documents where
16 you, Mr. Wolch, your son David and Mr. Asper went
17 through and critiqued Nichol John's May 24th
18 statement and said "lookit, it couldn't have
19 happened, and here's a number of reasons why"; is
01:20 20 that fair?

21 A Yes, that's fair.

22 Q And then, down at the bottom, Mr. Wolch tells the,
23 minister:

24 "Finally, we would like to thank you on
01:20 25 behalf of Mr. Milgaard for your letter



1 inviting his submissions. Mr. Milgaard
2 and his mother have been working
3 consistently since the date of
4 conviction to establish that a
01:21 5 miscarriage of justice has occurred. In
6 addition to the materials which we have
7 presented to you, the Milgaard's are
8 planning on making a separate
9 presentation and once this is prepared,
01:21 10 it will be forwarded to you in due
11 course."

12 It would appear at this stage, from at least Mr.
13 Wolch's perspective, that he was advising the
14 minister that "you are going to get two ap --
01:21 15 you've got our application and you're going to
16 get a second one to be considered", as opposed to
17 being simply for David's benefit?

18 A Well, I think he was supporting it, but I think
19 in -- there was no question in my mind that the
01:21 20 real application was the one that Hersh and David
21 were submitting, and that this was one we were
22 submitting to save David's sanity, if you will.

23 Q Right.

24 A And I can see how -- if they -- receiving
01:22 25 something like this, inviting his submissions, I



1 think probably you'll have all the submissions
2 that he did submit to Justice; won't you?

3 Q Right, yeah, we've got it all.

4 A So we will be going through those?

01:22 5 Q Yeah, no, and I think just the issue that I'm
6 asking for your comment on is we see in the
7 correspondence later between Mr. Williams and Mr.
8 Wolch and Mr. Asper that the minister appears to
9 be waiting to get the family's submission before
01:22 10 they finalize what they're doing, and it was --

11 A It would have been nice if they had told us that.

12 Q Right. And I suppose, if the Minister had dealt
13 with the application without getting your son's,
14 David's materials, that would have been upsetting
01:22 15 to him, would it, or --

16 A Well, if she'd dealt with it by opening it --

17 Q I suppose if it was favourable he probably
18 wouldn't have minded, but --

19 A I don't think he would have minded one bit.

01:23 20 Q But unfavourably, if a decision had been made --
21 put it this way; did David, your son David, expect
22 that the family presentation would be considered
23 by the Minister?

24 A Yes, he did.

01:23 25 Q Go to 155495. And, again, this just follows up on



1 the *Fifth Estate*. We've now seen a couple of
2 letters where the *Fifth Estate* says they're not
3 going to do anything, and it looks like Mr. Asper,
4 he's writing to Dr. Ferris and says:

01:23 5 "... the Fifth Estate has decided not to
6 proceed ... However, a reporter from
7 the Winnipeg Free Press as well as a
8 local CBC News reporter are currently
9 investigating the situation. We have
01:23 10 provided both reporters with your name
11 and address etc."

12 And I take it that, once the *Fifth Estate* said
13 they weren't going to run a story, you -- and
14 when I say "you", being you and Mr. Asper and
01:24 15 your group -- went elsewhere to try and get other
16 media?

17 A That's correct.

18 Q And would that be for the same reason?

19 A Yes, public interest, and to apply some pressure
01:24 20 on the government.

21 Q Right. Now what -- at some point, you heard Mr.
22 Asper's evidence about the use of the media and
23 how it changed during the course of your efforts
24 to re -- your efforts to get the case re-opened?

01:24 25 A Yes.



1 Q You remember him giving evidence on that?

2 A I do.

3 Q And, again, I think what he said is that early on,
4 at least at this stage, May of 1989, you wanted to
01:24 5 publicize the case, you wanted to have the public
6 give you information, and you wanted to let the
7 authorities know that there was public interest;
8 is that a fair way?

9 A That's a fair --

01:24 10 Q And then I think his term was later on, when the
11 war started, the objectives changed, and that the
12 media was used far more aggressively and for
13 different reasons?

14 A Yes.

01:25 15 Q And I'm paraphrasing his evidence. And would you
16 agree with that, is that -- was that your
17 understanding of what happened?

18 A Yes, that definitely happened that way.

19 Q And at some point -- and I'll take you through
01:25 20 some correspondence that might assist you -- but
21 at some point it appears, at least from Mr.
22 Asper's evidence, that both you and your son David
23 and Mr. Asper and Mr. Wolch felt that you were not
24 gonna get a remedy in the conventional way from
01:25 25 the minister and, therefore, it was necessary to



1 take other steps to get a political or a public --
2 public-influenced remedy; is that a fair way to
3 put it?

4 A That's a fair way to put it.

01:25 5 Q And do you know at what point, is there anything
6 that stands out in your mind as to when, when in
7 your mind you said, "okay, the gloves are coming
8 off, the rules have changed, we're now going to
9 throw everything at them through the media rather
01:26 10 than through the conventional way"?

11 A Probably the day that we got the news that they
12 weren't going to open the case.

13 Q Okay. And that's February of 1991?

14 A Uh-huh.

01:26 15 Q 163025. And this is a letter of May 18th, 1989
16 from David Asper to Dan Lett, and it talks about
17 -- and I think, at this point, your son's
18 psychiatric records were provided to Mr. Lett and
19 he was given the right to go and inquire into it,
01:26 20 various matters, and what Mr. Asper says:

21 "As I indicated to you over the
22 telephone, I am not really surprised
23 that you came to hear about negative
24 psychiatric reports about David. They
01:26 25 have plagued David throughout this



1 entire ordeal and in some cases reports
2 have been relied on which never existed.
3 This is obviously very frustrating and I
4 am starting to believe that psychiatric
01:27 5 reports are becoming a convenient 'cop -
6 out' for not dealing with the underlying
7 issue which is that David was wrongfully
8 convicted. While it may be true that
9 David suffers from some psychiatric
01:27 10 disorder, one wonders how he could be
11 otherwise having spent nearly two thirds
12 of his life in prison."

13 And I bring up this paragraph to see if you can
14 give us -- and we talked a bit about this last
01:27 15 week -- but was one of the issues that you faced
16 in trying to re-open your son's case the fact
17 that, as Mr. Asper says, that psychiatric
18 reports, or negative psychiatric reports continue
19 to crop up?

01:27 20 A Absolutely.

21 Q And what effect did they have on your efforts to
22 re-open the case?

23 A Well they were just pushing us back with this
24 information, they were saying "well, you know,
01:28 25 lookit the type of person this was, this is why we



1 suspected him, this is why we know it's him that
2 did it".

3 Q And did you also have concerns about the
4 reliability of the psychiatric information that
01:28 5 was perhaps coming out of the institution about
6 David?

7 A Yes.

8 Q And I think Mr. Asper expresses it here, that he
9 has concerns that people are perhaps
01:28 10 misunderstanding the psychiatric --

11 A I think they were.

12 Q -- situation? And I believe what -- attached to
13 this document were some releases, and I believe
14 that your son gave the media, then, complete
01:28 15 access to his entire psychiatric record, is that
16 right, --

17 A Yes.

18 Q -- to go look for themselves to see what they
19 could find?

01:28 20 A Yes, we did.

21 Q And as well authorized, I think, Mr. Lett, perhaps
22 others, to talk directly to his medical advisors
23 and doctors about his condition?

24 A Yes.

01:29 25 Q And fair to say that an open book about his life



1 and his psychiatric situation was given to the
2 media?

3 A It was.

4 Q And why did you do that or why did David do that?

01:29 5 A Well part of the reason was, if you will recall,
6 Mr. Caldwell had been writing letters to the
7 parole board and advising -- and putting things in
8 there that were not true. Now he, in fairness to
9 him, he may have thought they were true, but they
01:29 10 weren't, and it was as a result of these that --
11 I'll never forget the day that that surfaced and
12 we found out about it, because the man literally
13 almost leaped over the table at David.

14 Q This is the fellow from the parole board?

01:29 15 A Yeah, and said when -- and he said "but that" --
16 because David was saying that he was innocent and
17 he'd been innocent all these years, and this man
18 said, "and she's been dead all these years, and
19 look at her, look at what they did to her", and he
01:30 20 pulled out this picture. And, I mean, it just
21 about knocked us out. We thought how did he ever
22 get these pictures, and then we found out that
23 every time there was a parole hearing, Mr.
24 Caldwell took it upon himself to find out who was
01:30 25 on the parole board hearing and to send them these



1 pictures so he didn't have much chance of getting
2 out on parole.

3 Q If we could go to 025909. And this is an article
4 of August 5, 1989, and I think -- I stand to be
01:30 5 corrected on this -- but I think this is probably
6 the first newspaper article, I think the first one
7 of Mr. Lett, but other than I think the article
8 back in 1980 I think this might be the initial
9 news piece that ran that started to talk about
01:31 10 David's case?

11 A I believe you are correct.

12 Q And so this would be August 5, '89 with Dan Lett.
13 You told us a bit last week about how, I think you
14 said Mr. Lett spent a fair bit of time looking
01:31 15 into this case and became -- I can't recall what
16 your words were -- but, certainly, would it be
17 fair to say he was an ally in your efforts to
18 investigate and re-open and publicize the case?

19 A I believe he became an advocate after he saw what
01:31 20 had happened and had privy to all the information
21 that we were giving to the Justice Department.

22 Q And, again, would this story be the type of media
23 coverage that we talked about earlier that would
24 have the benefit of informing the public, perhaps
01:31 25 putting some influence on authorities, to let them



1 know that the public is aware of what's going
2 on --

3 A Uh-huh.

4 Q -- and, as well, to perhaps bring in information
01:32 5 from people who may be able to help you with your
6 re-opening efforts; is that correct?

7 A Absolutely. In fact, it was some of these
8 articles that brought the one juror forward.

9 Q Right, Fernley Cooney, --

01:32 10 A Yes.

11 Q -- who we'll get to shortly. If we can go to the
12 next page, and in this article, I can't recall
13 what the technical term is, but the subheadline or
14 the headline reads *Proves innocence*, and Mr. Lett
01:32 15 writes that -- takes a portion out of Ferris'
16 report and basically saying that this proves
17 David's innocence. And I take it that would have
18 been your understanding, at the time, that the
19 Ferris report did, in fact, prove David's
01:32 20 innocence?

21 A That, absolutely, was my understanding.

22 Q Now it's my understanding from a couple of
23 transcripts, which I'll show you in a moment, that
24 you would have had -- either you or David Asper
01:33 25 would have provided Dan Lett with all of the



1 transcripts and tapes of your interviews conducted
2 from 1980 through until whenever, to date, to the
3 mid or the late '80s; is that correct?

4 A I believe we did provide him with almost
01:33 5 everything we had.

6 Q And what was the purpose of that?

7 A Well, because he was wanting more information, he
8 wanted to know, you know, how we found out things
9 and what we found out, and the easiest way about
01:33 10 it was to give him the stuff to go over.

11 Q And, for example, I believe you gave him -- and
12 I'll show you a transcript of it later that
13 confirms this -- that you gave him your interviews
14 of Ron Wilson in January and April 1981?

01:33 15 A Yes, correct.

16 Q And the Nichol John interview in 1981?

17 A Yes.

18 Q And, as well, the interviews with the Cadrains and
19 all of Peter Carlyle-Gordge's work?

01:33 20 A Yes, I did.

21 Q If we can call up 337359. And this is a
22 transcript May -- actually, this is one of the
23 recent ones -- May 20th, I think this is in May of
24 1990, and I'm not sure the date is, or the tape is
01:34 25 significant. If you can go to page 362, please.



1 And Donna Friesen, I think, was a reporter that
2 you dealt with; is that right, was she with the
3 CBC?

4 A Yes, she was.

01:34 5 Q In Winnipeg?

6 A Yes.

7 Q And there's just a discussion here, it relates
8 to she's trying to get information to confirm
9 something, and I think Dan Lett has written a
01:34 10 story based on the tapes he has and she's trying
11 to get Dan Lett to give her the tapes, and Dan
12 Lett won't, and I think she's going through you to
13 try and get you to confirm it or to help; --

14 A Okay.

01:35 15 Q -- do you remember that?

16 A Vaguely.

17 Q Okay. Anyway, the part here that's relevant is:

18 "Now you told me that Dan Lett ... had
19 transcripts of that tape?",

20 "How did he ... get them from you?",
21 and you say:

22 "... from my lawyer, I believe.",
23 and I take it that would be Mr. Asper?

24 A Yes, it was.

01:35 25 Q "So David Asper has transcripts?"



1 "Well --"

2 "Or --"

3 "-- what happened,

4 it's from ...",

01:35 5 actually, if we can just enlarge that area,

6 please. And you say:

7 "-- what happened, it's from what Peter

8 left here. And then, you know, during

9 the investigation David Asper and I went

10 over all of them, and when Dan Lett was

11 doing the first story on David --"

12 "-- we provided him with as much

13 information as we could."

14 "And it's amazing, but like Dan was

15 saying to David Asper the other day, at

16 the time we gave him all this stuff we

17 really dumped it on him, like this --

18 Dan was the first one to break the story

19 out here, okay."

20 "So we dumped all this stuff on him

21 because we wanted him to see everything

22 --"

23 And then the next, top of the right-hand, and you

24 say:

25 "-- and he said he had no idea, at the



1 time that he took transcripts of all
2 this stuff, that it would have any
3 relevance, but he says now he's finding
4 every time he turns around it's got
5 something in it that he, you know, is
6 able to check up, and that's the way
7 he's been to check up on things --"
8 "-- is from this stuff."

9 And then you say you have the original copies:

10 "He's simply got the transcripts of it,
11 I've, I've got all of Peter's stuff and
12 kept it here and, you know, we loaned it
13 out to Peter Leo for CBC --",

14 etcetera. So is it fair to take from this

01:36 15 transcript that certainly back in 1986 -- and I
16 think you've already confirmed this -- that you
17 and Mr. Asper would have gone over all the tapes
18 and transcripts from the early '80s to mid-'80s
19 of you and Mr. Carlyle-Gordge; that's something
01:36 20 that you had provided to him?

21 A We provided it to him, whether we went over all of
22 them or not, I don't know.

23 Q And it would appear, before the August 5, '89
24 article, that you would have given all those same
01:37 25 transcripts to Mr. Carlyle-Gordge -- or to Dan



1 Lett to review?

2 A Yes, because if -- most of the information about
3 Peter, that Peter had, I was with him at the time,
4 and a lot of the tapes I was taping him, so I
01:37 5 really wouldn't say that I had gone through all of
6 Peter Carlyle-Gordge's things.

7 Q But you were familiar with what was in there?

8 A I was familiar with what was in there.

9 Q Let's just call up that part, please. And the
01:37 10 reason, you say here:

11 " -- what happened, it's from what Peter
12 left here. And then, you know, during
13 the investigation David Asper and I went
14 over all of them, and when Dan Lett was
01:37 15 doing the first story ...",
16 etcetera. Do you have any recollection of you
17 and Mr. Asper going over the transcripts, or
18 tapes, or at least talking about what was in
19 them?

01:37 20 A I can remember us discussing them, but not going
21 over them in depth, but I certainly could have.

22 Q Now Mrs. Milgaard, I touched on this last week,
23 but it -- it appears -- and, again, we haven't
24 heard from Mr. Williams yet -- but it appears that
01:38 25 the transcripts of the interviews that you



1 conducted in the early '80s to mid-'80s and
2 provided to Dan Lett were not, in fact, provided
3 to the Federal Justice Minister or to the Supreme
4 Court, and I'm wondering if you were (a) aware of
01:38 5 that and (b) know the reason why they weren't?

6 A I have no idea.

7 Q Was that on the first or the second?

8 A On either one. I -- I didn't -- I wasn't aware
9 that -- I thought that we provided everything to
01:38 10 the Supreme Court of Canada.

11 Q And what about to Federal Justice, prior to the
12 Supreme Court order?

13 A I -- I assumed that they were getting everything
14 that we had.

01:39 15 Q And, again, would that be something you would rely
16 on Mr. Asper and Mr. Wolch to decide upon or do,
17 either to provide it or not provide it, or to deal
18 with it?

19 A Yes.

01:39 20 Q If we can go to 00 --

21 A And yet, in fairness, I was really involved in
22 what they were submitting, so -- but thinking that
23 what they were submitting was enough.

24 Q If we can go to 010056, please.

01:39 25 A You have to realize, Mr. Hodson, we expected these



1 people to go out and investigate, not go through
2 what our investigator found out, we expected them
3 to go out and do the investigation.

4 Q And so again then, as far as for example Cadrain,
01:39 5 Wilson and John, you expected them to go out --

6 A And interview them.

7 Q -- and interview them on their own apart, quite
8 apart from what you had uncovered or discovered
9 from them?

01:40 10 A Yes, because we were told -- we were telling them
11 what we knew, --

12 Q Yes.

13 A -- we didn't think that we had to provide every
14 piece of paper to show what we knew, we were
01:40 15 telling them what we knew and we were telling them
16 what they could find out when they went out to do
17 this investigation. I somehow feel like we're the
18 bad guys here --

19 Q Oh, no, I simply --

01:40 20 A -- because we aren't providing them with
21 everything.

22 Q No, and the purpose of my question is this: The
23 Commission is to determine what information was
24 provided to authorities and what the authorities
01:40 25 did with it, and so I will be asking Mr. Williams



1 similar questions, "what did you get and what did
2 you do with it", so that's the purpose of the
3 question, to try and identify what information was
4 provided. And the reason I'm asking you is that
01:40 5 you -- you are the author or you had the original
6 tapes, --

7 A Yes.

8 Q -- you gave them to your counsel, I'm trying to
9 get your knowledge as to what was given. I think
01:40 10 Mr. Asper's evidence was that he couldn't recall
11 exactly what was or wasn't, so I'm simply trying
12 to find out from you what was provided, what
13 wasn't provided, and the reasons for it, that's
14 all.

01:41 15 A Okay.

16 Q And because I intend to talk to the authorities
17 and ask them the same questions, "what did you
18 have and what did you do with it", so that's the
19 only purpose of my question.

01:41 20 A Thank you.

21 Q Yeah. 010056. This is a letter August 29th, '89
22 from Mr. Asper to the minister, and there is a
23 couple subjects here, and I talked to Mr. Asper
24 about this in his evidence. One was about
01:41 25 information that Sandra Bartlett may have seen on



1 Mr. Caldwell's file when they were doing the *Fifth*
2 *Estate* work; do you remember being involved or
3 being informed of any of that?

4 A Yes, I do.

01:41 5 Q And what do you remember; do you remember what
6 Sandra Bartlett had told you or what she thought
7 she may have uncovered?

8 A Well I remember that they thought they had
9 uncovered something in news reports that were
01:42 10 going on in the area, and we hadn't uncovered any
11 of that, so I remember David said he was going to
12 follow up on that and find out about it.

13 Q And then, if we can just scroll down --

14 A But I was out of the country at that time.

01:42 15 Q What, in 1989?

16 A I believe so, yeah.

17 Q Are you able to give us just -- this might assist
18 us in going through some of this -- can you remind
19 me, again, were you in New Jersey for most of '89,
01:42 20 or was that one month in, one month off?

21 A One month in, one month off.

22 Q So, for 1989, you would have spent one month in
23 New Jersey, one month in Winnipeg?

24 A Usually, yes, depending on what was going on.

01:42 25 Q Yeah. And then, here, Mr. Asper says:



1 "We have attempted to locate this
2 information by reviewing the Saskatoon
3 Star - Phoenix in the time period
4 including the weeks preceding the murder
01:42 5 of Gail Miller. Unfortunately, we are
6 either missing the items as reported or
7 they may not have been reported at all."

8 And they're talking about individuals harassing
9 or accosting nurses. Would this have been
01:43 10 something you were involved in checking, do you
11 know, the newspaper articles, or would Mr. Asper
12 have done that?

13 A Actually, Bob Bruce would have been doing that,
14 and myself.

01:43 15 Q Now this is August of 1989, would he -- would
16 Mr. Bruce have been involved then?

17 A August of '89? I think he was involved by then.

18 Q Okay.

19 A Because this was after Dan Lett had done the first
01:43 20 story?

21 Q Yes.

22 A Yeah.

23 Q August 5 was -- and is that how Mr. Bruce came to
24 your attention, through Dan Lett's first story?

01:43 25 A Well, no, he's actually the son of -- he was the



1 son of a lady that belonged to my church, so they
2 all knew that I was fighting to get my son free.

3 Q I'm sorry, was there something about Dan Lett's
4 article that prompted Mr. Bruce to --

01:44 5 A I think so.

6 Q -- come and help you?

7 A Yeah.

8 Q Then down at the bottom, I'm wondering if you can,
9 this letter talks about the statement of Ute
01:44 10 Frank, and if we can just go to the next page, and
11 this is where Mr. Asper says:

12 "Aside from that issue, however, we were
13 unaware of the existence of the
14 statement of Ms. Frank and would
01:44 15 appreciate your forwarding it along with
16 any other information that you may have
17 in respect of this case at your earliest
18 convenience."

19 And I think you told us last week that in, I
01:44 20 think, March of 1981 when you would have, with
21 Mr. Young, looked at Mr. Tallis' file, that that
22 would have been one of the statements you
23 obtained of, I think you said, all the main
24 people, including the motel room people, and
01:45 25 again, is it a case that it may have been a



1 statement included in boxes and boxes of
2 materials that had been provided to Mr. Asper and
3 he didn't find or do you know if it wasn't
4 provided to Mr. Asper?

01:45 5 A I have no idea, but if he's writing for it, he
6 obviously hasn't got it.

7 Q I'm trying to find out from you if you can shed
8 any light, because I think you told us last week
9 that you got a copy of it from Mr. Tallis' file in
01:45 10 '81 and then Mr. Asper is writing here saying he
11 was unaware of the existence of the statement, and
12 so I guess one possibility is that it was included
13 in --

14 A In many other things.

01:45 15 Q In many other documents and just not identified as
16 what it was; is that --

17 A That's a possibility.

18 Q Go to 225037, and this is another letter from
19 Sandra Bartlett, September 7th, 1989, and she
01:46 20 says:

21 "I spoke to David Asper about the
22 justice department investigation and we
23 also discussed the possibility of my
24 writing a book on your case. I would be
01:46 25 interested in doing that because, as you



1 say, I have so much of the research
2 completed already. As I told David, I
3 think a properly prepared proposal could
4 get a publisher interested."

01:46 5 I want to pause here and talk about books,
6 because I think we start to see now in the
7 documents that you or David or David Asper
8 started to get contacts from people who were
9 interested in writing books; is that fair?

01:46 10 A That's correct.

11 Q And I think this is the first one isn't it?

12 A Yes, it is.

13 Q And can you tell us what -- what was your thinking
14 at the time or throughout this time period as to
01:46 15 what effect if any a book might have on your
16 efforts to re-open the investigation?

17 A We thought it would be helpful.

18 Q And so again I think we see Carl Karp and Cecil
19 Rosner published the first book in '91 I think; is
01:47 20 that right?

21 A That's correct, and I was furious with them.

22 Q And why was that?

23 A Well, they stole pictures out of my album and put
24 it in their book without my permission and for
01:47 25 many years I was upset with them, but then I



1 remember meeting Carl Karp some years later and
2 saying to him, you know, I was very upset with the
3 book and when you did it, but that book did a
4 tremendous amount of good and I do appreciate
01:47 5 that.

6 Q And can you just elaborate on that, what good?

7 A Well, it got all kinds of people interested in it
8 that were not interested before, it provided
9 pressure I think that, the political pressure that
01:48 10 we wanted, because many people were reading this
11 and saying, hey, there really is something here,
12 but at the time when it started out and they
13 wanted to do the book, we were also thinking it
14 could provide some funds for David, you know, for
01:48 15 the -- for us for the investigation, and so we
16 talked to them about when they wanted to do the
17 book and felt that they might be able to give some
18 money to David for doing this and they said no,
19 they would not be prepared to do that, and then we
01:48 20 said we would not be prepared to do the book with
21 them, so then they decided to go ahead and do the
22 book on their own, and because they were doing
23 interviews with us all the time, they had all the
24 information because we were, they were the CBC and
01:48 25 we had to do information with them and that was



1 the information they were using for the book, and
2 at the same time they got access to my photograph
3 album doing interviews and that's how they got in
4 the book.

01:49 5 Q I believe the CBC was also provided in -- I think
6 directly by Mr. Carlyle-Gordge, I think he sent
7 all of his work product to the CBC in the '80s?

8 A Probably, uh-huh.

9 Q Because we saw the letter last week in April of
01:49 10 '86 when they sent all the transcripts back to Mr.
11 Wolch.

12 A Right, so they had a good knowledge of the case.
13 There were some mistakes in the book, but overall
14 it was very good that it was done and I finally
01:49 15 thanked Mr. Karp and Mr. Rosner for that one day.

16 Q And so the book, would it be fair to say, was
17 information that, similar to what appeared in the
18 newspaper and on television and radio, would be
19 information about the case, that -- the three
01:49 20 things we've talked about, one, inform the public
21 about David's situation, two, put some pressure on
22 the authorities to do something, and three, alert
23 people that if they have information that might
24 help you, that they might come forward; is that --

01:50 25 A That's correct.



1 Q And again we'll see this in some of the other
2 discussions later on about the book, there seemed
3 to be two concerns that I saw from the documents,
4 one was to ensure that David received proper
01:50 5 compensation for the fact that it was his story to
6 assist in his re-opening efforts was one concern?

7 A Yes, it was.

8 Q And I think the second concern, at least from what
9 I saw in the documents, was sort of who had
01:50 10 control over what was written; in other words,
11 that if it was David's story or your story, you
12 wanted to have some say in --

13 A In what was in there.

14 Q Right. Go to 156668, and this is an October 2,
01:51 15 1989 letter from Mr. Asper to Mr. Carlyle-Gordge,
16 and do you remember where Mr. -- I think Mr.
17 Carlyle-Gordge was in England at the time. I
18 think he had been back for a bit, had he, in '86,
19 '87. Do you remember? Was he still helping out?

01:51 20 A No, not really, not at that time.

21 Q Did he come back then at a later date and give
22 some assistance in 1990, 1991?

23 A Yes, I believe he was back at that time and did
24 give some help.

01:51 25 Q And here again there's just a comment about the



1 media, Mr. Asper says:

2 "Also, the media has started to pay some
3 attention to the case. I was able to
4 persuade the Canwest Broadcasting
01:51 5 Stations (Winnipeg, Regina, Saskatoon
6 and Vancouver) to get involved. They
7 began with a general story describing
8 the fact that David was claiming that he
9 was wrongly convicted and was making
01:51 10 application to the Minister of Justice
11 to have the case re-opened. Shortly
12 after that story aired the Winnipeg Free
13 Press published a story which I am
14 enclosing for your reference."

01:52 15 And I think that would be the Dan Lett article,
16 right, of August 5?

17 A Right.

18 Q And:

19 "The Canwest group of stations then
01:52 20 aired a story telling of how David had
21 finally won a limited right to parole
22 ..."

23 And then goes on to talk about some other
24 programs. And so it looks like at this time the
01:52 25 media efforts or the efforts to get the case in



1 the media were being accelerated; is that right?

2 A Yes, they were.

3 Q And so this would be about 10 months after the
4 application had been filed?

01:52 5 A And we weren't hearing anything.

6 Q That's my next question, down in the letter Mr.
7 Asper writes:

8 "Curiously enough, the Department of
9 Justice has been utterly mute to the
01:52 10 extent that it has not responded to any
11 of my correspondence and in particular
12 my request that they disclose all of the
13 information that they have received from
14 prosecution in Saskatchewan."

01:52 15 Can you tell us again, and I appreciate it may be
16 difficult to go back and put it in a specific
17 month and a specific year, but was there a point
18 after the first application was filed where you
19 became concerned about what information was
01:53 20 coming back from Federal Justice?

21 A Yeah, because we weren't getting anything and we
22 had felt that we would naturally get access to
23 whatever they were having.

24 Q And so would this be something you would have
01:53 25 discussed with Mr. Asper and Mr. Wolch from time



1 to time then?

2 A Yes.

3 Q And presumably they would be the front-line
4 contact, that if there was to be any communication
01:53 5 back from justice, it would be to your lawyers as
6 opposed to you?

7 A Definitely.

8 Q And as opposed to David?

9 A Yes.

01:53 10 Q So that the lines of communication would be
11 Federal Justice lawyers, Mr. Wolch and Mr. Asper?

12 A That's correct.

13 Q And your information was that Mr. Wolch and Mr.
14 Asper were getting nothing back by way of
01:53 15 information; is that correct?

16 A Right.

17 Q Can you tell us, did you start to think that that
18 might be, that something might be amiss or
19 something might be wrong in what was happening
01:54 20 or --

21 A We were just totally frustrated, everyone was sort
22 of walking around holding their breath because we
23 kept expecting to hear something and it was
24 nothing, it was a time that I don't even like to
01:54 25 remember because it was so frustrating.



1 Q Go to 157021, this is a letter from Mr. Wolch to
2 Mr. Williams, again the same date, asking, or
3 identifying in the first paragraph -- scroll up
4 and get the first paragraph in there. He talks
01:54 5 about reporters and media expressing interest in
6 the case.

7 "We have been able to keep them at bay
8 for a considerable period of time but
9 lately it appears that the interest in
01:55 10 the media is expanding."

11 Was there a time where you were trying not to get
12 the matter in the media; in other words, to keep
13 it out of the media while justice was involved,
14 do you remember that being --

01:55 15 A I think that we felt at that time that we should
16 back off the media a little bit because justice
17 was involved we thought and it would give them an
18 opportunity to get out and do their investigation
19 without a lot of reporters and everything on their
01:55 20 trail.

21 Q And so are you telling us you would have had a
22 concern that the media attention and media
23 pressure not have a negative effect on what
24 justice lawyers were doing?

01:55 25 A That's right.



1 Q And here Mr. Wolch asks:

2 "In order that we might properly respond
3 to their questions (if at all) and for
4 the edification of our client, we would
01:55 5 very much appreciate your advising as to
6 the status of the application. In
7 particular, we would be very interested
8 to know whether you might have any rough
9 idea as to when a decision might be
01:56 10 made."

11 And so I take it at this time that was front and
12 centre on your mind and on your son's mind, about
13 when are we going to hear something?

14 A Absolutely.

01:56 15 Q Now, I understand again from documents and from
16 interviews that the process that was in place at
17 the time was that after Federal Justice lawyers
18 completed an investigation, they would prepare a
19 report that would be sent up through their
01:56 20 superiors in the Department of Justice and then
21 ultimately to the minister and the minister would
22 then make his or her decision with that report,
23 and do you remember being aware of that back at
24 this time, did Mr. Wolch or Mr. Asper ever discuss
01:56 25 that with you, that here's how it works, that they



1 get, that the lawyer prepares a report and it goes
2 up the line or what was your understanding?

3 A I don't even think that they understood what
4 happened.

01:56 5 Q Okay.

6 A I think that there's a lot of mystique in what
7 happens in the Justice Department, nobody tells
8 anybody what they are doing.

9 Q And so again would you have been aware throughout
01:57 10 either of the applications about what, internally
11 how the Justice Department lawyers would
12 investigate, report and what hoops they would have
13 to go through in order for the minister to make a
14 decision, and just whether you were aware of it or
01:57 15 not?

16 A I wasn't -- to my knowledge, I was not aware of
17 it.

18 Q And so you knew that the end result was the
19 minister would give his or her decision and that's
01:57 20 the extent of what you knew; is that --

21 A Yeah, and that's one of the reasons that when we
22 had, that I went and tried to approach Kim
23 Campbell when she was in Winnipeg and to give her
24 the Ferris report because obviously if she had
01:57 25 seen that Ferris report I figured my son's case



1 would be open. All I wanted to do was hand her
2 the report and she sort of brushed me aside and
3 said "don't talk to me, Mrs. Milgaard," and it was
4 one of the most crushing moments of my life, but
01:58 5 it proved to be a wonderful thing because it just
6 made so many people so mad at Kim Campbell.
7 Before -- I mean, we had a fairly good support
8 group at that time, but starting with this
9 particular incident, I got phone calls from truck
01:58 10 drivers and taxi drivers and all kinds of people
11 saying how can we help you, Mrs. Milgaard. I
12 mean, the public was outraged.

13 Q And I think, and we'll get to that a bit later
14 this afternoon, but I think at that time was your
01:58 15 concern that, I think you had been made aware that
16 she had not yet seen the Ferris report; is that
17 right?

18 A That's right, and I'm saying here's a copy of it,
19 read it.

01:58 20 Q And at that time your view and belief was that the
21 Ferris report --

22 A -- said it all.

23 Q Said it was the answer and that one read of that
24 and it would be okay, he's innocent?

01:59 25 A Well, one read of it should get her to get her



1 department focused on "get me more information
2 about this case". I didn't necessarily, Mr.
3 Hodson, think that she would read the Ferris
4 report and say, "oh, obviously the guy is
01:59 5 innocent," I think I realized that there would be
6 a lot of other things that would have to be
7 investigated along with it. I mean -- but it
8 would certainly -- if I had been the justice
9 minister it would have been enough to get me to
01:59 10 tell my department I want you to really
11 investigate this case.

12 Q But if it proved his innocence, I think, as you
13 said then, perhaps it would cause the Justice
14 Department to say, okay, well then what other
02:00 15 witnesses say that is incriminating must therefore
16 be wrong if the science proves that he's innocent?

17 A Yes, we'll have to check it all out.

18 Q Okay. Perhaps maybe would it be a better way to
19 state it that the Ferris report would have caused
02:00 20 the minister to grant the remedy after doing the
21 investigation of other matters, but that you were
22 confident that the Ferris report did establish
23 David's innocence?

24 A Yes.

02:00 25 Q And it would lead to a remedy?



1 A It would lead to a remedy.

2 Q If we can go to 157023, and this is an October
3 11th, '89 letter back from Mr. Williams to your
4 counsel and it's responding to this, to the
02:00 5 October 2, 1989 letter, and what Mr. Williams
6 says, it talks about the first letter and then
7 says:

8 "For your information, I am also
9 enclosing the most recent correspondence
02:01 10 from Mr. Milgaard. In it he reiterates
11 his intention to submit a presentation
12 as part of his application to the
13 Minister.

14 Armed with this information it
02:01 15 would be premature to conclude our
16 investigation at this time. Further, I
17 can only advise in response to your
18 request for a status report, that the
19 matter is being pursued in a practicable
02:01 20 manner. Once the investigation and
21 report is concluded, the Minister will
22 exercise his discretion. It would be
23 premature for me to speculate on the
24 timing of these events.

02:01 25 I would be happy to discuss any



1 further submissions you may wish to make
2 on your client's behalf ..."

3 Would you have been aware of this, either this
4 letter or this type of response coming back
02:01 5 from --

6 A I'm sure I probably would, and I know that that
7 line that says that the matter is being pursued in
8 a practical --

9 Q Practicable.

02:01 10 A Practicable manner, would have really stood out to
11 me because I would be wanting to know what is it
12 that they were doing.

13 Q What about the position that appears to be taken
14 in this letter that it would be premature to
02:02 15 conclude our investigation until they get David's
16 presentation?

17 A Well, I presume he's saying we need, we want to
18 have all the information as well, but we never
19 ever thought that that would stop them from doing
02:02 20 the investigation in the information that we had
21 given them.

22 Q Right. Let's just talk about a decision. I think
23 the letter from Mr. Wolch says lookit, can you
24 tell us when you are going to decide on our
02:02 25 application?



1 A Uh-huh.

2 Q What the letter here seems to be saying is
3 lookit --

4 A It hasn't got to the minister.

02:02 5 Q Well, it hasn't got to the minister, but what they
6 are saying is David has told us he's filing a
7 presentation and it would be premature for us to
8 conclude our own investigation until we get that
9 from him. So in other words, and again I'm just
02:02 10 paraphrasing what's in the letter, they seem to be
11 saying that until David gets his application in,
12 we can't finish our work?

13 A Right.

14 Q And were you ever aware that that might be at
02:03 15 least the position they were putting forward, that
16 lookit, until your son files the family
17 application, we can't conclude our investigation,
18 so that we're waiting for you? Were you ever
19 aware of that position being put forward?

02:03 20 A I don't believe I was.

21 Q 010054, and this is, and before you mention
22 anything, this is the issue relating to Fernley
23 Cooney, or Coonley (ph), pardon me, and I've just
24 talked to your counsel and I think we'll leave
02:03 25 this until after the break, I'm not sure I want to



1 get into discussions quite yet as to -- I think
2 you talked to him didn't you?

3 A Yes.

4 Q Yeah. And you would have been aware that his --
02:04 5 maybe if we can go to 159886. Actually, sorry,
6 no, let's just go to this paragraph, and maybe
7 just hold off telling me any of your discussions
8 with Mr. Coonley (ph) until after the break
9 because I think Ms. McLean and I need to have a
02:04 10 chat on this.

11 A Okay.

12 Q It says:

13 "Mr. Cooney identified himself as a
14 member of the jury at the Milgaard
02:04 15 trial, and said he wanted to discuss the
16 case."

17 It goes on to talk about some of the legal
18 concerns, and:

19 "... he indicated that he had not been
02:04 20 fit to serve as a juror due to a
21 psychiatric problem."

22 Etcetera, and I think that contact turned into an
23 article, 159886, and we've been through this
24 before with Mr. Asper, I think then this story
02:05 25 ran in the *Winnipeg Free Press* shortly after



1 about "'Unfit' juror" and I think what Mr. Asper
2 told us is that this story was certainly helpful
3 in your efforts to draw the public's attention to
4 David's plight; is that fair?

02:05 5 A That's very fair.

6 Q And then if we can go, I just want to go to a
7 comment in your book, 269317 is the doc. ID, and
8 go to page 269462, and you just talked about Mr.
9 Cooney -- I'm sorry, I mispronounced it, I think I
02:05 10 said Coonley, it was Cooney, and you say:

11 "I never blamed Cooney or others on the
12 jury for the guilty verdict, since they
13 gave a decision on the information that
14 was presented to them. David was in
02:06 15 prison because officials in the
16 Saskatchewan government withheld
17 information from our lawyers. In a
18 sense, jurors like Cooney were also
19 victims."

02:06 20 Now, this was written in 1999, the book, and
21 again, can you just elaborate on what you were
22 referring to there in that passage?

23 A Which passage?

24 Q I'm sorry, just about the officials in the
02:06 25 Saskatchewan government withheld information from



1 our lawyers. I think you are saying you don't
2 blame the jurors?

3 A Oh, definitely, and I feel that if the
4 government -- well, when I say government, I
02:06 5 probably mean the police department, the RCMP, I
6 probably -- I'm probably saying everybody, but
7 they withheld information from us in 1970.

8 Q And --

9 A And they withheld information from Mr. Tallis. I
02:06 10 mean, that's very clearly been established here at
11 this Inquiry, that if Mr. Tallis had had the
12 information that Mr. Caldwell had, David likely
13 would not have been convicted, so --

14 Q I'm sorry?

02:07 15 A I'm just sort of calling all of this.

16 Q And what information were you just referring to
17 there specifically? I mean, there's various
18 pieces of information that Mr. Tallis didn't have.
19 Was there something that --

02:07 20 A Well, you know, the witnesses that didn't see
21 anything, we didn't have any of those, the
22 witnesses that, of the things that had happened to
23 the other people in the area, the fact that they
24 were part of the file. I can't remember the names
02:07 25 of the girls that were the victims.



1 Q The Fisher assaults?

2 A Yeah, the Fisher assaults, but they were in there,
3 and if that information had been given to Tallis,
4 do you think that any jury would have convicted
02:07 5 David? I don't.

6 Q And so is it fair what you're saying here is
7 lookit, with the information they had --

8 A Yes.

9 Q -- you maybe understood how they reached the
02:07 10 verdict they did?

11 A Yes.

12 Q But if they had all of the information, which you
13 had learned later, they would have reached a
14 different verdict?

02:08 15 A Absolutely.

16 Q Is that a fair summary? 004717, and this is an
17 article now October 20, 1989 and I think this is
18 one of the earlier -- one of the early articles in
19 the *StarPhoenix* by Cam Fuller, and we see his name
02:08 20 in some of the --

21 A Oh, he was wonderful, he helped me a lot. We
22 actually went door to door to door investigating,
23 this young man and I.

24 Q And maybe if you could just elaborate a bit more
02:08 25 about what you did with him when he helped you,



1 what types of things he was involved in doing?

2 A Well, I didn't have -- as you know, I didn't have
3 money for investigating and oftentimes I would
4 need information and I would go to Cam and he
02:09 5 would help me. Sometimes if I couldn't find
6 people through the Henderson Directory or
7 something like that, sometimes he was able to find
8 people that I couldn't, and I remember when we
9 were trying to find Linda --

02:09 10 Q Linda Fisher?

11 A Yes -- that he actually went door by door with me,
12 because at this point he believed I think too that
13 there was something -- something wrong in this
14 case.

02:09 15 Q And again, do you recall what information -- I
16 mean, obviously you would have given him your
17 views of the case?

18 A Absolutely.

19 Q Do you recall, did you give him any of the earlier
02:09 20 transcripts or interviews, do you remember what
21 documents you would have given him?

22 A I think I would have provided him with a fair
23 amount of documentation just for -- in order to
24 have him reach the view that he had reached.

02:09 25 Q And so, for example, your early '80 interviews of



1 Cadrain, Wilson and John --

2 A Yes.

3 Q -- you think you would have given those to
4 Mr. Fuller?

02:10 5 A Yes, I think so.

6 Q And so here we see I think, and this is October of
7 '89, you would have been in Princeton, and that
8 was doing your Christian Science nursing, and as
9 well, were you also working with Centurion
02:10 10 Ministries, had you started there?

11 A Yes, I had started working with them.

12 Q Now if we can go back to the main page, we see
13 here the reward, it says:

14 "A \$2,000 reward offered by the police
02:10 15 induced Crown witness Albert "Shorty"
16 Cadrain to testify against her son,
17 Joyce said. Cadrain testified he saw
18 blood on the accused's clothes."

19 And again, is that something you would have said
02:10 20 to Mr. Fuller back in 1989?

21 A Probably.

22 Q And again we had looked last week at the Father
23 Murphy interviews about, at least according to
24 Father Murphy in 1983, that he contacted Albert
02:11 25 Cadrain after the conviction. Do you remember



1 going through that --

2 A Yes, I do.

3 Q -- interview? And again, what --

4 A I think I just felt it very suspicious that he got
02:11 5 the \$2,000 reward. I mean, I felt it was payment.

6 Q So notwithstanding what Father Murphy had said to
7 Peter Carlyle-Gordge in 1983, did you think that
8 somehow the reward figured in Albert Cadrain
9 giving incriminating evidence against David?

02:11 10 A I did at the time, yes.

11 Q And that it may have influenced him to say he saw
12 blood when he didn't see blood, was that something
13 you were thinking either as a likelihood or --

14 A No, I always sort of thought that Albert might
02:11 15 have -- in my head I thought he had seen the
16 stains from the battery acid and thought it was
17 blood and that he used it.

18 Q And then again there's another reference here to
19 the reward that might assist you, 335968 is the
02:12 20 doc. ID, and go to page 005, I think this is a
21 September, '91 discussion between you and Dan Lett
22 and it talks about the reward, and I think you are
23 talking about Albert Cadrain, you said:

24 "Oh, I think he was as an ... innocent
02:12 25 as a kid, oh no question in my heart ...



1 about that ... but what I think what
2 happened is, you know, he persuaded him
3 that he should do something about this,
4 and telling him about the reward,
02:12 5 dangling that, you know, they're a poor
6 family, they could use the money."

7 And then:

8 "All of these things, and Albert must
9 have been thinking by the time, you
02:12 10 know, and so he starts talking to him,
11 and -- and like, ends up with blood all
12 over everybody --"

13 So would that have been one of your thoughts at
14 the time, or beliefs, that somehow the reward was
02:13 15 used by the police to influence Albert to give
16 unfavourable evidence?

17 A Yes.

18 Q And untrue evidence?

19 A Yes.

02:13 20 Q Go to 220222. Actually, sorry, let me just back
21 up, 153499. So here we are in October of '89 and
22 Mr. Asper is writing to Mr. Tallis to get a copy
23 of the file relating to this case, and I think
24 we'll see a bit later Mr. Tallis ends up writing
02:13 25 back saying that due to mergers at his firm, the



1 file had been destroyed or couldn't be located.

2 Do you remember hearing about --

3 A I remember hearing that and being very suspicious.

4 Q You were suspicious?

02:14 5 A About that too.

6 Q And why was that, or what were you suspicious
7 about?

8 A Well, it seemed pretty convenient.

9 Q That the file had been, had gone --

02:14 10 A Had gone missing, yeah.

11 Q And would you have -- I think we talked last week
12 that in 1981 you would have made copies I think of
13 the key statements and some of the lab reports;
14 correct, from Mr. Tallis' file?

02:14 15 A Yes, I believe I did.

16 Q And would those have been provided to Mr. Asper
17 and Mr. Wolch in '86 with the other materials?

18 A Oh, they must have been.

19 Q You would have kept all your stuff together,
02:14 20 everything you collected?

21 A Yes.

22 Q If we can go to 220222 --

23 A I believe I was the original bag lady.

24 Q And what kind of volume, what are we talking
02:15 25 about, did you have boxes of it or can you give us



1 some physical description of what was carted into
2 Mr. Wolch's office?

3 A Well, you saw what was carted into your office.

4 Q Right.

02:15 5 A That was a big part of it.

6 Q So multiple boxes?

7 A Multiple boxes, yes.

8 Q And this is an article that we've looked at
9 earlier with Mr. Asper, and if we could just turn
02:15 10 it to the right so we can see the headline, and
11 this is October of '89. And I showed you the
12 discussion or the letter, I think, with Mr.
13 Williams about the Ute Frank statement, and again
14 this is along the same lines, because I think you
02:15 15 told us last week that the Ute Frank statement was
16 one of the statements, with the Melnyk and Lapchuk
17 statements, you would have got from Mr. Tallis'
18 file in 1981; correct?

19 A Yes.

02:15 20 Q And here the, it appears from the article that Mr.
21 Asper may not have been aware that that statement
22 was on his file, and that you had it; is that --

23 A That's -- that's what it looks like.

24 Q And I'm just wondering, again I asked you a
02:16 25 similar question earlier, would that be because it



1 may have been in the box, --

2 A The volume.

3 Q -- in the volumes, and just not identified?

4 A That's -- that could be.

02:16 5 Q Do you recall any discussions with Mr. Asper about
6 the Ute Frank statement back at this time?

7 A No, I do not.

8 Q And then if we can go, if we can actually just go
9 back to the left-hand side, and here I think the
02:16 10 article indicates that the statement was released
11 just earlier that week, and I think that's talking
12 about Mr. Williams to Mr. Asper; is that right?

13 A Yes.

14 Q And, again, do you have any recollection of -- of
02:17 15 thinking again about the Ute Frank statement in
16 1989 after -- I think we saw last week, in 1981
17 you were trying to find her through Tony Merchant,
18 you talked to Melnyk, Lapchuk, Harris, Deborah
19 Hall was talked to by Chris O'Brien and I think
02:17 20 efforts were made to find her. And, again, here
21 in 1989 do you recall whether that -- you would
22 have brought that up with Mr. Asper at all or were
23 you in New Jersey, maybe, at this time? I think
24 the previous article indicated you were in New
02:17 25 Jersey; is that --



1 A I could have been, yeah. I don't recall that at
2 all.

3 Q Is it possible that -- again, we saw that article
4 that indicated that -- the Cam Fuller article --

02:17 5 A Uh-huh.

6 Q -- that quoted you from New Jersey, which was
7 around the same time. Is it possible that, in
8 some of these cases where Mr. Asper is dealing
9 with these matters, you would be in New Jersey and
02:18 10 not present in Winnipeg --

11 A That's --

12 Q -- and dealing with him on the matters?

13 A That's correct.

14 Q 00 --

02:18 15 A Although we were in touch all the time.

16 Q Yeah, but --

17 A He would phone me about anything happening.

18 Q Right, but as opposed to being physically in his
19 office and going through the documents and showing
02:18 20 him where things are?

21 A No, I would not be there.

22 Q So 001285. The -- this is a transcript of the
23 examination of Deborah Hall by Eugene Williams on
24 November 6th, 1989, and I take it you would have
02:19 25 become aware, at some point around here, that



1 either he was going to examine her or had examined
2 her; is that right?

3 A That's correct.

4 Q And you told us last week that you actually talked
02:19 5 to Deborah Hall, I think was it after this
6 occasion, to thank her or to talk to her; are you
7 able to pinpoint when that was?

8 A No, I can't.

9 Q And in this transcript -- and we've been through
02:19 10 this a number of times and Ms. Hall has testified
11 on it -- you're aware that in this transcript the
12 version, or when she described the incident in the
13 motel room to Eugene Williams, she described the
14 words spoken by David differently than she had
02:19 15 described them in the affidavit; you are aware of
16 that?

17 A It changed dramatically.

18 Q Dramatically. And would you -- when you -- when
19 did you become aware of that change, are you able
02:19 20 to pinpoint? I'm not looking for a specific date,
21 but where in the process --

22 A I could not.

23 Q And what was your reaction when you became aware
24 of that?

02:19 25 A I believe I can remember thinking how could she,



1 how could she do this, how could she say this, --

2 **Q** And --

3 **A** -- that isn't what she was telling us.

4 **Q** Right. And she was -- swore an affidavit in

02:20 5 support of your application; --

6 **A** Yes.

7 **Q** -- correct? Did you have concerns that the
8 version of events she gave to Eugene Williams
9 might somehow adversely affect your application?

02:20 10 **A** Yes, yes.

11 **Q** And, again, we talked last week about the motel
12 room incident and I think you told us that you
13 thought it was one of two things; either David did
14 do something to the pillow and utter the words,
15 utter the words that -- saying "I killed her, I
16 stabbed her", but did it as a joke; or secondly,
17 didn't happen at all, and Melnyk and Lapchuk were
18 lying; is that right?

19 **A** Those were my two thoughts.

02:20 20 **Q** Your two. When you became aware of what Deborah
21 Hall had to say to Eugene Williams, whenever you
22 became aware of that, did you shift your position
23 more to the "it must have happened and it must
24 have been a joke" as opposed to "it didn't
02:21 25 happen"?



1 A Yes, I believe at that point I went with the idea
2 of a joke.

3 Q And 004822. And there is a comment here, this is
4 November 4, '89, and Mr. Asper is talking about --
02:21 5 I think this is talking about the upcoming
6 examination of Deborah Hall, and Mr. Asper says:

7 "I would hope it's the merits of the
8 case and the sense of ...",
9 actually, we should just scroll up one paragraph.

02:21 10 He talks about the evidence of Hall:

11 "... part of the application ... but
12 justice officials hadn't sought her out
13 until recently.

14 Asper doesn't know what has
02:22 15 sparked the government's new-found
16 interest.

17 'I would hope it's the merits
18 of the case and the sense of wanting to
19 correct an injustice,' he said. But
02:22 20 Asper added his 'cynical side' makes him
21 think it might be due to the media
22 attention Milgaard has attracted of
23 late."

24 And was that something that Mr. Asper may have
02:22 25 shared with you, that -- his view, or your view



1 or the group's view, that somehow that Justice
2 would only do things when the case appeared in
3 the media; was that --

4 A I think that we all had this feeling about this
02:22 5 point in time.

6 Q So here, this is October of '89, this would be
7 just when -- I went through the earlier pieces --
8 just when the media attention was starting, and
9 was it your view at the time, then, that the
02:22 10 Deborah Hall interview by Eugene Williams may have
11 been prompted, either he went out and did the
12 interview or he moved up the date of the interview
13 because of what was in the media?

14 A Yes, I think we felt that was happening.

02:23 15 Q And it appears, I mean Mr. Asper says:

16 "... his 'cynical side' makes him
17 think...",

18 that:

19 "... it might be ...",

02:23 20 that; was that becoming the view in your group,
21 that --

22 A We were all becoming pretty cynical of the Justice
23 Department.

24 Q And why was that, this -- and again, if you can,
02:23 25 this was November of '89, just at that point in



1 time can you tell us what -- what your thinking
2 was?

3 A Okay, it's November of '89?

4 Q Yes.

02:23 5 A When did we first contact them?

6 Q Well the application was December '88, David wrote
7 a letter I think we saw March of '86 saying "I'm
8 going to file an application", but December 28th,
9 1988 was the application.

02:23 10 A Okay. So our understanding of the application was
11 it would go in, they would investigate it, he'd be
12 out in six months.

13 Q Okay.

14 A That wasn't happening.

02:23 15 Q And so, as more time went by, is it fair to say
16 you became more cynical and more --

17 A Yes, --

18 Q -- suspicious?

19 A -- frustrated, suspicious, cynical, all of those
02:24 20 bad words, I was every one of them.

21 Q And 333331, please. If we can go to page 3 -- go
22 to the second page of that. And this is a letter
23 from David to the minister December 22nd, 1989,
24 and again, a reference here to I think the family
02:24 25 presentation was going to include a video segment,



1 is that right, this re-enactment?

2 A Uh-huh, yes.

3 Q And was that similar to what your family had done
4 in 1980 or was this something new that was going
02:24 5 to be done; do you remember?

6 A Well, I think we actually had it redone with --

7 Q Kim Rossmo?

8 A Yes.

9 Q Okay. That would be in, I think, '91 or '92; is
10 that right?

11 A Although this may have been talking about the
12 family video.

13 Q Right.

14 A Maybe we were going to put that in.

02:25 15 Q Okay. And then, if we can just scroll down, I
16 want to ask you about a question here that David
17 asks. He says:

18 "Have you empaneled any forensic experts
19 to qualify James Ferris report? If you
20 do not plan to do so, we will do so
21 immediately. I do not want to sound
22 loud with my words but common sense
23 suggests this should of been done a very
24 long time ago to resolve the question of
02:25 25 guilt."



1 And, again, would it -- it appears to be David's
2 view that Ferris' report, or his qualifications
3 would be verified and that that would be the step
4 before he's released; is that --

02:25 5 A Yes.

6 Q -- right? 001140. This says January 10, 1990,
7 and just to put this in time frame, this would be
8 a couple of months or six weeks before you
9 learned Mr. Wolch gets the call from Sidney Wilson
02:26 10 and still about a year prior to the minister's
11 decision in February of '91.

12 A Right.

13 Q And this is a letter from Mr. Wolch to Eugene
14 Williams, and it stays:

02:26 15 "It has always been our wish to provide
16 your Department with as full and
17 complete information and evidence as
18 possible under the circumstances.
19 However, it may well be the case that
02:26 20 our application should be augmented by
21 other materials such as the reports of
22 other experts and a videotape
23 re-enactment of the Crown's theory to
24 demonstrate the implausibility of the
02:26 25 Crown's case. Unfortunately, we simply



1 cannot afford to embark on these
2 potentially expensive matters."

3 Scroll down:

4 "If, however, there is still some doubt
02:27 5 as to whether your Department will take
6 action on this matter, we would
7 appreciate your giving consideration to
8 providing Mr. Milgaard with some
9 financial support so that he can provide
02:27 10 you with further information that could
11 be critical to your decision."

12 Are you able to assist us in what types of things
13 were being contemplated at this time or what Mr.
14 Wolch might have been referring to here as to
15 what --

16 A I don't know exactly what he was referring there,
17 but I presume we didn't want to submit the 8-track
18 tape kind of thing that we had done as a family,
19 and we were looking for something more
02:27 20 professional. But, you know what, at this point
21 in time I'd run out of money completely and, I
22 mean, I'm in training where I don't get paid as a
23 nurse, it -- all my wages go to paying for my
24 nursing course, so that I wasn't receiving any
02:27 25 money --



1 Q Would --

2 A -- at this time.

3 Q And if we can just go to the top of the next
4 paragraph, and Mr. Wolch says:

02:28 5 "As I am sure you can understand, Mr.
6 Milgaard becomes more and more anxious
7 about his fate as time passes. We too
8 are increasingly concerned that there
9 might be more that we can do to more
02:28 10 forcefully present Mr. Milgaard's
11 position in this matter."

12 And I guess that was the question; were there
13 things that you wanted to do to present to the
14 minister that you didn't do, or are you able to
02:28 15 shed any light on what, what Mr. Wolch might be
16 referring to in this letter --

17 A Well, --

18 Q -- "to more forcefully present"?

19 A -- I think the video was probably a pretty good
02:28 20 point, because to get someone to go up and pay
21 them to do that kind of thing would have cost them
22 a lot of money, and we didn't have the money to do
23 that, and I think, if something is presented in a
24 more professional manner, that people look at it a
02:29 25 little more closely than if the family is out



1 there doing walkabouts.

2 **Q** And was there any other information, then, that
3 you thought you could pursue, or would pursue, if
4 you either had resources at this time -- I'm just
02:29 5 trying to --

6 **A** Oh, I think we'd have gone, we'd have gone and
7 done what we thought the Justice Department would
8 do. We would have used an investigator out there,
9 we'd have got some police investigators to go out
02:29 10 there, I know Lorne Huff was prepared to go out
11 there and see what he could find out, but we had
12 to pay people like that.

13 **Q** If we could go to 157037. And this is Mr.
14 Williams' letter back saying:

02:29 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
02:30 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
02:30 25 necessary, the appropriate action can be



1 undertaken."

2 Again, would you have been -- would this
3 correspondence have been shared with you as a
4 matter of course, like would you be kept up to
02:30 5 date, would you get copies of everything that Mr.
6 Williams sent to Mr. Wolch or Mr. Asper?

7 A I don't know that I got copies of everything, but
8 I may have, however I certainly would have been
9 informed, probably either by Hersh or David would
02:30 10 have read the letter to me, or parts of it to
11 me, --

12 Q So you would have been --

13 A -- if I was away.

14 Q You would have been made aware of --

02:30 15 A I would think so.

16 Q -- these matters? And, again, I think Mr. Asper
17 has testified to this, I'm not certain, but I
18 think we'll hear other evidence that, here, it
19 looks like January '90 the fact-gathering part of
02:31 20 the investigation was completed, and I think the
21 application, or the matter was moving up the line,
22 if I can call it that, --

23 A Right.

24 Q -- to the minister for decision, and that had it
02:31 25 not been for the February 28th, 1990 information



1 relating to Larry Fisher, a decision may have come
2 sooner in 1990, and I expect that we'll hear
3 evidence of that nature. Would you have been
4 aware at that time from Mr. Asper and Mr. Wolch
02:31 5 that lookit, January '90, the application, we're
6 gonna get an answer soon?

7 A Yes.

8 Q And did you have any -- do you know where they got
9 that information, was it from the letter, did they
02:31 10 have discussions with Justice officials?

11 A I think they were having discussions at that time
12 and that they were wanting me to be patient.

13 Q And were they then talking -- when I mean "they",
14 Mr. Asper, Mr. Wolch -- were they talking to
02:31 15 Justice lawyers to get a sense of what they were
16 doing, when they were gonna get it done, when a
17 decision might come, and those sorts of -- what
18 hoops it had to go through and those sorts of
19 things?

02:32 20 A I believe they were in touch with them, yes.

21 Q And so you would have been aware, in January of
22 '90, that -- I don't want to use the word
23 "imminent" -- but that a decision was coming in
24 the near future, that that --

02:32 25 A Yes, we kept expecting it any day now.



1 Q And so that Mr. Williams had done his work and it
2 was going through the process before a decision?

3 A Yes.

4 Q And did you have any expectation as to what
02:32 5 that -- at this time, this is before the Fisher
6 information comes to light, did you have any --
7 what was your expectation about what the minister
8 was gonna do?

9 A Well I was concerned because it was taking so
02:32 10 long, but I also felt that if it was presented
11 fairly to her, that she couldn't help but see my
12 son was innocent.

13 Q And so, again, did you believe you were going to
14 get a favourable response?

02:32 15 A We certainly did.

16 Q If we could go to 212960. I think this is the
17 first time we see John Harvard becoming involved,
18 this is his letter to Doug Lewis. At the time,
19 this is -- I think Doug Lewis was the Justice
02:33 20 Minister prior to Kim Campbell -- and this is a
21 letter that he's writing on David's behalf, and I
22 think; did you reside in Mr. Harvard's
23 constituency, is that --

24 A Yes, I did.

02:33 25 Q Did you --



1 A But I also was in touch with Lloyd Axworthy, who
2 was not in -- I was not in his constituency,
3 but -- and Felix Holtzman, everyone. Like I was
4 going out, reaching out for help wherever I could
02:33 5 get it.

6 Q And so, in this case, do you think you would have
7 approached Mr. Harvard, or did he approach you, do
8 you remember his --

9 A I approached him.

02:33 10 Q And asked for some help in --

11 A Yeah, explained about the case, and of course he'd
12 read some of it in the paper and then gave him
13 information on it and asked for his help.

14 Q Okay. This might be an appropriate spot to break
02:34 15 for the afternoon.

16 (Adjourned at 2:34 p.m.)

17 (Reconvened at 2:59 p.m.)

18 BY MR. HODSON:

19 Q If we could get 159877 up, please, and this might
02:59 20 assist you. We had talked just before the break
21 about January, and about a decision being
22 imminent, so this is an article January 22nd, 1990
23 where:

24 "The department, although it
02:59 25 has issued no statement on Milgaard's



1 case, has told his lawyers a verdict on
2 the new evidence is 'imminent.'

3 And so, again, that would be -- I think that's
4 what you told us earlier, --

03:00 5 A Yes.

6 Q -- that around this time you thought something was
7 coming soon?

8 A Uh-huh. Where it says:

9 "Prisoner sits on pins and needles",
03:00 10 so did I.

11 Q And if we could just go to the second column, down
12 at the bottom, and I think this is quoting David:

13 "It's a taxing thing,' ...
14 'If they have something to say to us,
03:00 15 they should say it right away and get it
16 over with. But they haven't said
17 anything.'"

18 And then it goes on to talk about the Dr. Ferris
19 report. And then, over to the right-hand column,
03:00 20 I think:

21 "It's clear that the
22 department is taking this very
23 seriously,' Asper said, 'but either
24 Ferris is right or he's wrong. If he's
03:01 25 right, then David should be free.



1 'If they have got bad news ,
2 then let's have it. If they've got good
3 news, then let's have that. The whole
4 process has been very frustrating.' "

03:01 5 And --

6 A David Asper, at this time, was really at the end
7 of his rope.

8 Q In what respect?

9 A Well, just total frustration. And so was Hersh, I
03:01 10 mean, we all were.

11 Q And we will see, in February of '91, the response
12 that did come back from the minister with some
13 other information in there, but with respect to
14 the Ferris report and the Deborah Hall affidavit,
03:01 15 the minister's response that came about 14 months
16 later said, number one on the Ferris report.
17 Doesn't prove anything, basically, and on the
18 Deborah Hall affidavit her evidence actually hurts
19 your position because of what she's added to what
03:01 20 Melnyk and Lapchuk has said; correct?

21 A Correct.

22 Q And, again, is that something, that position, is
23 it fair to say you would have liked to have known
24 that sooner rather than later, that if that was
03:02 25 their response, then --



1 A Why not tell us about it then. And I think when
2 I, when I look back and at that long, long period
3 of time that we took, it -- it just seemed so
4 unfair because it just seemed so logical to me, as
03:02 5 a mum, and to what I'd done, and I could see so
6 many things that were wrong with the case that,
7 instead of them looking at what was wrong with the
8 case, they seemed to be taking the position, "oh
9 well, we can take this and we can knock that off,
03:02 10 that off, and that off, and then we can take this
11 and knock that off and that off", they never went
12 and looked at the things that we pointed out were
13 impossible to have happened the way they said they
14 happened.

03:02 15 Q And are you talking about the Nichol John --

16 A Testimony that she said she saw and was believed
17 by the jury.

18 Q Did you learn, later on in this process, that the
19 Federal Justice approach or response was that they
03:03 20 would look at what you put forward to them as
21 opposed to -- and I'm paraphrasing a bit -- but I
22 think what they later said is that "in response to
23 an application under Section 690 we will take the
24 grounds that the applicant puts forward and
03:03 25 investigate those grounds" --



1 A Only?

2 Q -- "on the basis" --

3 A No, we didn't know that, if we'd known that we
4 probably would have changed our application
03:03 5 considerably.

6 Q And done what?

7 A Well, added all the things that we wanted front
8 and centre there, about the fact that the three --
9 the first witness statements were all correct and
03:03 10 that they subsequently changed to lies, we would
11 have been putting forth all of that kind of
12 information, and the implausibility of Nichol's
13 statement, the Rasmussens, we would put -- we
14 would have put all of those things in there if we
03:04 15 thought we needed them. But, you know, you expect
16 the Justice Department to do something.

17 Q Okay. And so let me just back up. What was it
18 that you -- you say you would have put -- you had
19 all this information, you would have put it all in
03:04 20 if you would have known that they weren't going to
21 go out and get it, is that right?

22 A Yes, and that they weren't even going to do any
23 investigation, that all they were going to do was
24 try to knock down what you sent in.

03:04 25 Q And so was your concern that, if you gave them



1 everything you had, that they'd knock it all down
2 as opposed to going out and getting it on their
3 own?

03:04 4 A I don't think they could have knocked it down
5 because it was the truth.

6 Q Okay. I'm just trying to understand what, back
7 about what information would be put forward, that
8 one of the reasons I think you said that you
9 didn't put forward some of the information was
03:04 10 because you thought they would go out and
11 investigate it?

12 A Yes, we did.

13 Q And was there -- again, and this may be a better
14 question for your --

03:05 15 A I think we thought they would look at the entire
16 case, that they wouldn't just take -- pluck this
17 little piece or that little piece, I thought that
18 they would look at the overall picture; here's
19 someone that's claiming that they're wrongfully
03:05 20 convicted, why is he claiming he's wrongfully
21 convicted, and go into the details of it. That
22 was not done.

23 Q And so, again, let's just focus on Ron Wilson for
24 a moment, let's just use him as an example.

03:05 25 A Yes.



1 Q In your application that was filed in December of
2 1988 there was no mention made specifically of any
3 miscarriage of justice relating to Ron Wilson;
4 correct?

03:05 5 A Correct.

6 Q And so what was your expectation or understanding
7 that -- what Federal Justice would do with respect
8 to the application, and specifically what did you
9 think they would do with Ron Wilson in light of
03:05 10 the fact that nothing was included in the written
11 materials saying, "you know, Ron is -- has backed
12 off or recanted or is mixed up", or whatever?

13 A Uh-huh.

14 Q What did you think they were going to do with
03:06 15 respect to Ron Wilson?

16 A I thought they were going to investigate
17 everything about David's conviction, all of it.

18 Q And so you thought they would go out and talk to
19 Ron Wilson?

03:06 20 A Absolutely, and Nichol John, everybody. And if
21 they'd gone out to see Albert Cadrain, who -- and
22 his brother, at that point, I mean, they would
23 have realized that, what had happened to Albert
24 Cadrain, I mean he was not a reliable witness.

03:06 25 Q And again, you may have answered this last week,



1 but was there any reason you wouldn't have said
2 "here, Albert Cadrain, by the way, when you go out
3 and talk to him, we think he was mentally
4 unstable", and "Ron Wilson", --

03:06 5 A Yes.

6 Q -- "in 1981 he basically backed off a bunch of
7 things", or "here's what he said and here's what
8 Nichol John said". And, again, the reasons that
9 that wasn't put forward to -- or why it wasn't
03:07 10 given to the minister to say "this might help you
11 when you go out and investigate"; I'm trying to
12 understand what happened, why that information may
13 not have got to the minister, whether there was a
14 reason for it or whether it just wasn't thought
03:07 15 of?

16 A It was our expectation that this would be done by
17 them.

18 Q Okay.

19 A It was mine, certainly my expectation, --

03:07 20 Q Sure.

21 A -- and I believe it was that of Hersh and David
22 Asper, but that you'll have to ask them about.

23 Q Sure. If we could go to 054119. And, again, this
24 is again the same time frame, February of 1990, so
03:07 25 we've got the articles that talk about the



1 decision being imminent, and this is before the
2 call from Sidney Wilson, and this is a media
3 program of Peter Leo.

03:07 4 COMMISSIONER MacCALLUM: When was this,
5 please?

6 MR. HODSON: February 4th, 1990 is the date
7 that I have reconstructed, I think, that this was
8 run.

9 COMMISSIONER MacCALLUM: Okay.

03:07 10 BY MR. HODSON:

11 Q And this was a show, Mrs. Milgaard, that I think
12 Peter Leo had gathered transcripts from various
13 sources, and interviews, and ran this story on the
14 radio, and I think this was the piece that Mr.
03:08 15 Carlyle-Gordge was upset that he had some of Mr.
16 Carlyle-Gordge's interviews or --

17 A Yeah.

18 Q Yes.

19 A And used them without permission.

03:08 20 Q Can you tell us your dealings with Peter Leo or
21 how this came about; do you remember?

22 A Well, prob -- I can't really give you factors on
23 how it came about. I believe he called me, I had
24 reporters calling me all the time, and we were
03:08 25 encouraging them to do stories and things like



1 that, so if he indicated some interest in it I
2 would have provided him with whatever I felt could
3 get a major story out there.

03:08 4 Q And, in this documentary, what we'll see is -- and
5 I think he actually had the tapes of Mr.
6 Carlyle-Gordge's interviews with Mr. Caldwell?

7 A Right.

8 Q And, as well, your interview of Nichol John in
9 1981, the actual tape, and I think I saw a
03:09 10 reference in a document -- I'm not positive --
11 where you may have given Peter Leo all of your
12 early 1980s, '80 to '83, tapes and transcripts,
13 everything you and Mr. Carlyle-Gordge did; is that
14 possible, is that correct?

03:09 15 A It's quite possible. We were giving everything
16 out we felt could help anyone. Bob Bruce was our
17 media person, and I'm sure I had him by this time,
18 and he would -- had made copies of everything for
19 us, he was copying these programs as they were
03:09 20 being done, and he -- he sort of was the one that
21 I would say, "well if -- you know, be in touch
22 with Bob, and he'll provide you with whatever you
23 need".

24 Q And so again, at this time you would not have
03:09 25 been -- you would not object if a media person



1 came, I mean much like Mr. Lett and I think
2 Mr. Fuller, and said "can I take a look at all of
3 your transcripts of all of your early 1980s
4 interviews?"

03:10 5 A We had nothing to hide, we had the truth on our
6 side.

7 Q And then, if we could go to 054127, you will see
8 this reference here -- and, actually, we can go
9 back to the previous page -- no, 126, 054126. And
03:10 10 this is where I think Mr. Leo, in his program,
11 inserts the comments of Mr. Caldwell, so this
12 would be the tape, the tape, the actual audio tape
13 of Mr. Carlyle-Gordge's interview or phone call
14 with Mr. Caldwell; is that right?

03:11 15 A That's right.

16 Q And then if we go to the next page, Peter Leo
17 says:

18 "No matter who you talk to, it's clear
19 the events of nineteen sixty-nine had a
03:11 20 traumatic effect on Nichol John. Even
21 Milgaard says Nichol was another victim
22 in the case. In an interview with David
23 Milgaard's mother, Joyce, in nineteen
24 eighty-one, Nichol was clearly still
03:11 25 bothered by whatever transpired twelve



1 years earlier."

2 And then scroll down, this is Nichol's voice:

3 "I know something happened. I know,
4 like I saw something, but I don't know
03:11 5 what I saw. You want the truth? That's
6 the truth. Because there's too much
7 that I don't remember. There's too much
8 I don't want to remember."

9 And that would be an excerpt from the audiotape
03:11 10 when you and Mr. Merchant interviewed Nichol John
11 on May 9th, 1981; is that correct?

12 A That's correct, and, you know, I don't know
13 whether I ever heard this tape, this documentary
14 or whatever it was, the finished product. I
03:12 15 remember working with them, but I don't know
16 whether -- he actually dubbed in Nichol John and
17 these other people?

18 Q I believe he did, I believe this is a radio
19 report, I think we actually have the tape of it,
03:12 20 this is certainly the transcript, and it does
21 contain the voices of Mr. Caldwell, the voices of
22 Nichol John and I think Deborah Hall as well in
23 here.

24 A Oh, okay.

03:12 25 Q And so you worked with Peter Leo to assist him in



1 putting this piece together?

2 A That's right.

3 Q And then if we can go to page 054132.

03:12 4 COMMISSIONER MacCALLUM: Do you mean her

5 personally?

6 MR. HODSON: I'm sorry?

7 COMMISSIONER MacCALLUM: Do you mean the
8 witness personally worked with Leo to put this
9 together?

10 MR. HODSON: Yes, I was just -- yeah.

11 COMMISSIONER MacCALLUM: But she's just
12 told me that she didn't think that she had ever
13 heard it before.

14 BY MR. HODSON:

03:13 15 Q Okay, but let me just back up. I think you said
16 you didn't ever hear the finished product?

17 A I don't think I heard the finished product.

18 COMMISSIONER MacCALLUM: Okay.

19 A But I remember working with him on it.

20 BY MR. HODSON:

21 Q So you --

22 A After reading just the part -- like, I'll go back
23 and read the documents more thoroughly, maybe I
24 did hear it all, but it just was surprising -- I
03:13 25 knew what his plan of doing it was going to be,



1 but when I go back I can't -- I could have been
2 out of the country when it played, but I likely
3 would have got a tape and I think I would have
4 played it.

03:13 5 Q I think we got this from you, so --

6 A Oh, well, in that case I probably played it.

7 Q What --

8 A I have no recall of it, that's all.

9 Q What was his plan then as far as this story, what
03:13 10 was Peter Leo setting out to do?

11 A Just to do a story on the possible wrongful
12 conviction.

13 Q Okay. So again if we could then go to 054132 and
14 here's a discussion with Peter Leo and David Asper
03:14 15 and it relates to your son David's parole problems
16 and I want to just read this to you and see if
17 this, whether you agree with this. Leo says:

18 "It would be wrong to leave the
19 impression that the only reason David
03:14 20 Milgaard is still in prison is because
21 he won't admit responsibility for
22 something he says he didn't do."

23 And then David Asper:

24 "David hasn't been exactly a model
03:14 25 prisoner. And let's not kid ourselves



1 here, David has escaped twice. The
2 second time he was out for three months
3 and was gunned down by the police in
4 Toronto. He's not a violent or thieving
03:14 5 kind of person inside the prison but
6 he's a rabble-rouser. And these are
7 things the Parole Board looks at. I
8 think, in the end, though, the real
9 reason that he hasn't gotten parole, and
03:14 10 the real root of the issue is that he
11 just, he, he confronts the Parole Board.
12 He says, you know, parole is for guilty
13 people and I'm not guilty, I'm
14 innocent."

03:14 15 And again, would you share Mr. Asper's view
16 about, sort of his view about the reasons that
17 David may not have had success in getting parole?

18 A Absolutely. I used to kick him under the table at
19 the parole board hearings.

03:15 20 Q Mr. Asper or your --

21 A My David.

22 Q If we can go to 004721, I'll just get you to
23 comment, this is an article, or I think a letter
24 that your son David wrote to the *StarPhoenix*
03:15 25 February 7th, 1990 and again talks about, I just



1 want to ask you about his -- it says:

2 "My application contains scientific
3 opinion which clearly shows the truth."

4 So again here, February, 1990, your son David,
03:15 5 his belief, as you observed, would be that Dr.
6 Ferris scientifically proves him to be innocent?

7 A Correct.

8 Q And that:

9 "I am shocked that everyone at the time
03:15 10 was very eager to convict me but now, in
11 the face of scientific evidence, there
12 does not seem to be any public will to
13 correct something so terrible."

14 And so that would have been David's view at the
03:16 15 time, that -- and probably still today, that the
16 Dr. Ferris opinion scientifically proves his
17 innocence?

18 A Yes.

19 Q 016133 --

03:16 20 A I got lots of call-backs about this letter.

21 Q From?

22 A People, supporters.

23 Q And again, supporters and any new information?

24 A And information, we got some information. I'm
03:16 25 searching in my mind exactly which ones came



1 forward at that time, but certainly some came
2 forward.

3 Q Now we move on to Sidney Wilson and the Larry
4 Fisher information, and maybe -- I plan on going
03:16 5 through a few documents, but maybe you could just
6 tell us, Mrs. Milgaard, your recollection of what,
7 what and how you learned about the call to Mr.
8 Wolch and sort of just generally walk us through
9 what happened, and I'll take you through the
03:17 10 documents as well, but maybe just your general
11 recollection of what you heard from this Sidney
12 Wilson or Bud call and what you did?

13 A Yeah. You know, just seeing this, though, what
14 was the date of David's letter?

03:17 15 Q February 7th, 1990 was David's letter in the
16 *StarPhoenix*.

17 A And when did this guy call?

18 Q The phone call was February 26th, 1990.

19 A I'm wondering, as I see that, if maybe that didn't
03:17 20 motivate him.

21 Q I can't recall -- Mr. LaFreniere who testified is
22 the fellow who called Mr. Wolch and I'll go back
23 and check, I can't recall, I believe --

24 A Did we ask him that question?

03:17 25 Q I am sure someone did. I believe that the media,



1 he had been aware of matters in the media, but
2 I'll maybe check that tonight and we can come back
3 to it.

03:18 4 A Just in seeing those two side by side made me
5 think that maybe that's what caused him to come
6 forward, but the day that Hersh called me about
7 this Sidney Wilson call, he was sort of, oh, yeah,
8 I got this anonymous phone call, da, da-da, da-da,
9 da-da.

03:18 10 Q Who called you?

11 A Hersh.

12 Q Okay.

13 A And I remember because he sounded like he didn't
14 want me to get my hopes up, he didn't want me to
03:18 15 get excited about it type of thing, and I said
16 "Hersh, wait a minute, I remember that name," and
17 in my mind I saw the police report that I had seen
18 where they had interviewed, and I told Hersh that,
19 I said his name was on a police report and it had
03:19 20 Shorty Cadrain's address on there, because I
21 wondered at the time, I thought the policeman had
22 made a mistake, but it had his address on it,
23 there may be something in this, we've got to check
24 it out.

03:19 25 Q If I can just get you to pause there. You said in



1 the police report. Would that be in Peter
2 Carlyle-Gordge's notes of what he got in the
3 police report or the actual police report itself?
4 Do you remember seeing an actual police report
03:19 5 with --

6 A I remember reading the police reports and maybe
7 what we took out of, maybe it was what Peter had
8 in his notes, but I remember actually seeing the
9 typing.

03:19 10 Q In a police report?

11 A In a police report.

12 Q Now, you remember on Wednesday or Thursday I
13 showed you Mr. Carlyle-Gordge's notes that
14 reproduced that?

03:19 15 A Yeah.

16 Q Your memory is seeing it in a police report; is
17 that right?

18 A It's actually a typed report I remember, not
19 Peter's notes.

03:19 20 Q Okay. Peter's note was typed though.

21 A Well, that could have been then.

22 Q Okay.

23 A But I said to him there was a police report, it
24 did have Larry Fisher's name. I thought they had
03:20 25 made a mistake because they had the address down



1 as Shorty Cadrain's and I knew that address very
2 well, so he said, well, we'll have to do some
3 checking and I said I'm going to call Jim.

4 Q McCloskey?

03:20 5 A Yeah, and I called Jim McCloskey and I said "I'm
6 going to go out and check this out," and he said
7 "you can't do that by yourself, it could be
8 dangerous," and that's when he -- and I said "but
9 I'll borrow a car and I'll drive out there," and
03:20 10 he said "can you, do you have the money that you
11 could pay for Paul's transportation up there," and
12 I said, "well, I have my Mastercard," so I
13 actually had to go and borrow some money I
14 remember in order to do that, but I said "yes,
03:21 15 I'll look after the charges for him," so he said
16 "I'll make arrangements to pay him to go up there
17 then," and so arrangements were struck right at
18 that point, so we were really excited about it.

19 Q So let me just back up for a moment. What -- do
03:21 20 you remember what Mr. Wolch told you about what he
21 learned from the caller? Let's start with his
22 name. Did he give his name? We've seen Sidney
23 Wilson and we've seen Bud. Do you remember where
24 Sidney Wilson came from or Bud? What do you
03:21 25 remember?



1 A The first I remember was Bud because we were
2 trying to get Bud through the radio station, I
3 remember he mentioned that we would contact -- his
4 name was Sidney Wilson, okay, but if we were going
03:21 5 to contact him through the radio station, and he
6 gave a radio station, I can't tell you what the
7 radio station was, but if we contacted the radio
8 station and said we wanted Bud to contact us, he
9 would call us, there was something to that effect,
03:22 10 but that was the Bud and that was the Sidney
11 Wilson.

12 Q And did Mr. Wolch get a number or any other way to
13 contact him?

14 A No, that was the only way that we had of
03:22 15 contacting him.

16 Q And did Mr. Wolch express a view that this wasn't
17 credible or was -- you said earlier that he wasn't
18 trying to get your hopes up.

19 A Well, I think once I mentioned the fact of the
03:22 20 other, and the address, I think right away he sort
21 of said, well, yeah, this could be something, and
22 he got excited, we all did.

23 Q So on the phone call -- yeah, Ms. McLean, just on
24 this issue, thank you, on Mr. LaFreniere, he did
03:22 25 testify September 15th, 2005 at page 14069, we



1 don't need to bring that up, his evidence was that
2 he heard through the media that family was looking
3 for information, so he called Mr. Wolch, so that
4 was Mr. LaFreniere's evidence who indicated -- he
03:23 5 didn't acknowledge he was Sidney Wilson, but he
6 did say he was Bud and he did call Mr. Wolch.

7 A Right, right, okay.

8 Q So just back. So Mr. Wolch would have phoned you
9 with this information; is that right?

03:23 10 A Yes.

11 Q And on the phone call did you remember, on the
12 phone call Larry Fisher's name being --

13 A It was on the phone call, yeah, I remember.

14 Q And did you --

03:23 15 A And I said don't be so quick because he was, I
16 felt he was almost discounting it, I know that
17 name and I know that address and I remembered it
18 immediately.

19 Q Now, you had also mentioned on Thursday or
03:23 20 Wednesday that you had also remembered, I think
21 from a conversation involving Mrs. Cadrain, that
22 Larry Fisher had a daughter Tammy that went to
23 Pleasant Hill School?

24 A Yes.

03:23 25 Q Is that something you remembered as well in the



1 phone call or would have mentioned to Mr. Wolch or
2 was that something you came, that came to you
3 after you got off the call or --

4 A Oh, I wouldn't have mentioned that to Mr. Wolch at
03:23 5 that time I don't think.

6 Q But --

7 A Because the Tammy, like, I wasn't really
8 connecting those together at that point I don't
9 think.

03:24 10 Q So then the call with Mr. Wolch, you recognized
11 him as someone who had the --

12 A Been interviewed.

13 Q Been interviewed by the police?

14 A At the bus stop wearing a yellow hard hat.

03:24 15 Q And the same address as the Cadrain house which
16 back in '83 you thought was a mistake; is that
17 right?

18 A Yes.

19 Q So now you said, okay, maybe it wasn't a mistake,
03:24 20 maybe he lived at that house?

21 A Yeah, and now we have to check it out further.

22 Q And so what further -- what further steps did you
23 take before you found Linda Fisher?

24 A What further steps?

03:24 25 Q Yeah. How did you -- from there I think you



1 talked to Mr. McCloskey?

2 A I borrowed a car.

3 Q And where --

4 A Got a bank loan and headed to Saskatoon.

03:24 5 Q And where did you start looking? Let me back up.

6 You would have known -- how would you have even
7 known about Mr. Linda Fisher, was that something
8 the caller, I think the caller had indicated; is
9 that right?

03:24 10 A Yes.

11 Q And so you know he had a wife named Linda?

12 A Yes.

13 Q And then what did you do to find out where she
14 might be?

03:25 15 A Well, that's when I got up there and started to
16 trace her and that's I believe when I called Cam
17 Fuller and he came out and helped me and I finally
18 found, through the principal -- the principal at
19 the school just happened to leave the room when
03:25 20 there was a file out on his desk for me and I got
21 an address from there which led me to this lady
22 that was a friend of Linda's and I told her I was
23 a friend of Linda's and she told me she had moved
24 from there and she was in Cando.

03:25 25 Q So from the time you got off the call with Mr.



1 Wolch and before you arrived in Saskatoon, I take
2 it you would have, you would have recalled
3 something you had heard earlier, I think you told
4 us that Larry's wife was named Linda?

03:26 5 A Yeah.

6 Q That he had a daughter named Tammy?

7 A Right.

8 Q And she went to Pleasant Hill School?

9 A Yes.

03:26 10 Q Now, was that something you went and looked
11 through your files or is it something that you
12 remembered?

13 A I don't know at this point. I think I had a
14 fairly up-to-date memory of everything at that
03:26 15 point in time.

16 Q And so after the call you -- and I don't think,
17 and we'll go through the documents, I don't think
18 the caller gave the name Linda as the wife, he may
19 have, but in any event, you would have found out
03:26 20 the name Linda and you would have either
21 remembered or checked your notes and saw the
22 daughter Tammy?

23 A I could have. I could have got it from, you know,
24 I could have gone right to the Henderson Directory
03:26 25 at that point too, if they were in it, you know.



1 I honestly don't recall the steps I took at that
2 point.

3 Q And what about Tammy and Pleasant Hill School, you
4 had a memory of that?

03:26 5 A I remember going to the school, I remember going
6 into the vice-principal -- or vice-principal or
7 principal. I think the principal was out and I
8 ended up with the vice-principal, but I
9 wouldn't -- and, like, they can't give private
03:27 10 information, but he was very sympathetic to my
11 case and, as I said, left the room while I looked
12 at the file.

13 Q And I think on Thursday you told us that the
14 source of the information about Tammy was
03:27 15 Mrs. Cadrain, you remembered hearing that by
16 Mrs. Cadrain at some point?

17 A In conversations with her possibly, yeah.

18 Q And so that's where the name -- so the daughter
19 Tammy led you to Pleasant Hill School which led
03:27 20 you to the file?

21 A Which led me to this lady that Linda had -- her
22 address where Tammy and Linda had lived at and
23 that she was a friend and she is the one that told
24 me that Linda was in Cando.

03:27 25 Q Just so that I have it clear, you go to Pleasant



1 Hill School, you know Tammy went there as a young
2 child; correct?

3 A Uh-huh.

4 Q And you then get the school file that would have
03:27 5 Linda's address from the time presumably Tammy
6 last attended there; is that right?

7 A Yes.

8 Q And you went to that address and Linda wasn't
9 there, but someone in that area knew Linda and
03:28 10 knew she was in Cando; is that right?

11 A The one at that address knew.

12 Q Oh, the one at that address.

13 A And actually, prior to that I had been knocking on
14 doors all along in the Cadrain area just thinking
03:28 15 that I could find someone local that remembered
16 her and knew them and might have been able to find
17 them just near the Cadrain's house, I had been
18 going in that area looking first of all and I
19 wasn't having any success there, and then I
03:28 20 thought, well, maybe I can locate her through the
21 school and that's when I called Cam. He may even
22 have suggested that.

23 Q Okay.

24 A It was an exciting few days, and by the time that
03:28 25 Paul Henderson came in, his flight came in, I had



1 located her.

2 Q And I think he was in on March the 9th if I'm not
3 mistaken.

4 A Uh-huh.

03:29 5 Q Is that right, of 1990?

6 A I think so.

7 Q If we could call up 025656, and I showed you
8 Eugene Williams' note, this is Mr. Asper's letter
9 to Mr. Williams confirming the information, and it
03:29 10 appears that Mr. Asper -- or Mr. Wolch took the
11 call, Mr. Asper I think was on holidays in
12 Florida, but he ended up getting the information
13 and he phoned Mr. Williams. Does that sound
14 right?

03:29 15 A That sounds right. I can't see it though.

16 Q Sure. And so this is February 28th and it says
17 we'll confirm the substance of our call:

18 "Mr. Wolch was contacted on Monday,
19 February 26th by an individual who
03:29 20 identified himself as Sidney Wilson.
21 This individual refused to provide any
22 details of his personal identity and we
23 do not have a telephone number or
24 anything of that nature to identify him.
03:30 25 Mr. Wilson informed us that he knew the



1 true identity of the killer of Gail
2 Miller. He advised that the true
3 killer's name was Larry Fisher, an
4 individual who was apparently from North
03:30 5 Battleford, Saskatchewan. Furthermore,
6 Mr. Wilson advised that Fisher had
7 arrived at home on the morning of
8 January 31st, 1969, covered with blood
9 and that Fisher's wife had seen this.
03:30 10 Fisher's wife then apparently heard of
11 the murder later that day and concluded
12 that Fisher may have had some
13 involvement. Fisher's wife then
14 apparently told Wilson, who claims that
03:30 15 he went to the police a number of years
16 ago with this information. We further
17 understand from Wilson that Larry Fisher
18 is currently imprisoned serving a
19 sentence arising from a rape or murder
03:30 20 or both."

21 And then Mr. Asper goes on to say:

22 "Our information is that an individual
23 named Larry Fisher and his wife rented
24 the basement portion of the Cadrain
03:30 25 residence in Saskatoon for a period



1 covering the date of the death of Gail
2 Miller."

3 Now, I believe that information Mr. Asper said
4 came from you; is that correct?

03:31 5 A Yes.

6 Q And again, would that be -- we saw on Wednesday,
7 Thursday Peter Carlyle-Gordge's interviews with
8 Mrs. Cadrain and Dennis Cadrain and Albert Cadrain
9 talked about the Fishers living in their basement.
03:31 10 Would that have been the source of this
11 information?

12 A It could have been or -- I don't think so. I kind
13 of -- when I was doing my door to door in the
14 neighbourhood there, I think that's where I got
03:31 15 the information that they were living there.

16 Q Now, the date of this letter though is February
17 28th?

18 A Uh-huh.

19 Q And so I think the call came on Monday, so this
03:31 20 information would have come -- did you go to
21 Saskatoon that day or the next day?

22 A I left the next morning.

23 Q So on the 27th?

24 A Yes, and I would have been feeding David the
03:32 25 information that I was getting immediately, so if



1 I was going door to door the next day, like, I
2 think I drove out -- I borrowed the car and I
3 tried to get someone to go with me and couldn't
4 and I remember it was a long drive and starting
03:32 5 very early in the morning going out knocking on
6 doors.

7 Q Okay. So that -- are you able to tell us whether
8 that's where the information came from or is that
9 a possible source or are you able to --

03:32 10 A That is definitely a possible source. I can
11 remember checking to find out if people knew where
12 she was and they remembered them living there and
13 I remember asking them if it was about that time
14 and some of them saying yes, so I'm quite sure I
03:32 15 got confirmation of that at that time.

16 Q Okay. Is another possible source the interviews
17 that Mr. Carlyle-Gordge had conducted with the
18 Cadrain family members in 1983? The information
19 is in those transcripts.

03:33 20 A Yeah, it could have been, but I don't know, Mr.
21 Hodson, at this point in time how much I would
22 have in my memory of back in Peter's files. Do
23 you know what I'm saying?

24 Q Right.

03:33 25 A So I feel that it was probably, I feel that that



1 information I probably got at that time.

2 Q Now, is it possible Mr. Asper had that information
3 in the transcripts that he got or the information
4 he got from Mr. Carlyle-Gordge?

03:33 5 A It's possible.

6 Q And again, if we could just scroll down in this
7 letter:

8 "As we've indicated in our earlier
9 correspondence, we have no funds with
03:33 10 which to retain an investigator. We
11 would very much appreciate your
12 considering making sufficient funds
13 available to us in order that we might
14 take the appropriate steps, failing
03:34 15 which we would very much like to be
16 advised as to the status of any
17 investigation that your office might
18 undertake."

19 And at this stage can you tell us what -- were
03:34 20 you prepared to turn this information over to
21 Federal Justice and let them investigate this
22 information?

23 A No.

24 Q And why not?

03:34 25 A Because at this point I really didn't trust them.



1 This was a really hot lead as far as I was
2 concerned and I wanted to follow up on it.

3 Q And why didn't you trust them at this time?

4 A Because it had been taking so long.

03:34 5 Q Okay, the time. Was there anything else they had
6 done or not done apart, in addition to the time
7 factor that caused you not to trust Federal
8 Justice with this information to follow up on it?

9 A I think I was just really, really impatient with
03:34 10 how long it was taking and this was something that
11 should be followed up immediately and, you know, I
12 wanted to get out there and do it.

13 Q And so again as far as the -- is it something that
14 you expected Federal Justice would also
03:35 15 investigate?

16 A I assumed they would, but, I mean, when you get
17 information like this and it's so strong and you
18 think, wow, this could be it, they can't shut the
19 door on us with this information.

03:35 20 Q And then 157049 -- so in this letter, just before
21 we leave this, I think Mr. Asper asks the feds to
22 fully investigate it, they won't give funds to you
23 that you might do it, Mr. Asper asked to be kept
24 advised. And then 157049, Mr. Williams writes
03:36 25 back that day saying:



1 "Please be advised that the issues
2 raised will be carefully investigated
3 and considered."

4 And would you have been made aware by Mr. Asper
03:36 5 or would you have presumed that they would be
6 investigating this information?

7 A Yes, but when you go back now and see what they
8 did, it's interesting isn't it.

9 Q Go to 009086, and this a memo, this is Mr.
03:36 10 Williams' memo to the file regarding a telephone
11 conversation with David Asper at 2:45 p.m. on
12 February 28th, 1990, and again just some more
13 information, and I'll start at the bottom, it
14 says:

03:36 15 "These details apparently emanate from
16 Joyce Milgaard ..."

17 So it appears again on February 28th, 1990 Mr.
18 Asper phoned Williams, Mr. Williams with more
19 information saying:

03:37 20 "Apparently Larry Fisher was married to
21 Linda Fisher when Gail Miller was
22 murdered. They had a daughter named
23 Tammy."

24 And again, do you know where you would have
03:37 25 obtained that information from on this date?



1 A Where are you in dates, where am I now?

2 Q This is February 28th, 1990 in the afternoon, this
3 is Mr. Asper phoning back to Mr. Williams after
4 presumably talking to you and providing this
03:37 5 information. Do you know where you would have
6 obtained this information from?

7 A Probably from the neighbours.

8 Q And this would be the door to door?

9 A The door to door, yeah.

03:37 10 Q And again, what about the, is another possible
11 source the 1983 interviews that Mr. Carlyle-Gordge
12 conducted of the Cadraings?

13 A I suppose it's possible, but I don't remember it.

14 Q Okay. And then again number 2:

03:37 15 "Apparently Larry Fisher took the bus at
16 approximately 6:30 a.m. on January 31,
17 1969."

18 Do you know where that --

19 A That came from the -- that came from my head from
03:38 20 the report that I saw that he was interviewed at
21 that time, that he was on his way to work.

22 Q And --

23 A Because Hersh and David afterwards kept saying,
24 you know, your Encyclopedic knowledge of the case
03:38 25 because I had remembered that.



1 Q So that was a piece of information that you
2 remembered without going back to look at the --

3 A I didn't have to look at anything, I remembered
4 that.

03:38 5 Q And why did that stand out in your mind, is there
6 any reason?

7 A Because it had the wrong address on it and I --
8 you have no idea how much I studied all of those
9 things trying for a break.

03:38 10 Q And number 3:

11 "Linda Fisher was interviewed by T.D.R.
12 Caldwell about this matter at or shortly
13 after the event in 1969."

14 And let me just say, I think evidence we've heard
03:38 15 or some other documents suggest that that's, that
16 may not -- that that wasn't the case, and I'm not
17 sure if that was an error in information given or
18 do you remember anything about that? Do you
19 remember giving that information to Mr. Asper?

03:39 20 A No, I don't. "Linda Fisher was interviewed by
21 T.D.R. Caldwell about this matter."

22 Q Now, both Linda Fisher and Mr. Caldwell have said
23 that didn't happen.

24 A No.

03:39 25 Q And so --



1 A So I have no idea where that came from because
2 after I interviewed Linda I found out that she had
3 gone in in 1980 and I was shocked at that and then
4 really shocked to find out that she had given that
03:39 5 report and that nobody had ever followed up on it.

6 Q So it may be, I think that there was some
7 explanation that this may have been erroneously
8 recorded or provided or something like that. You
9 don't have anything that might shed any light on
03:39 10 it?

11 A I can't shed any light on it, I'm sorry.

12 Q Now, if we could -- you talked earlier about you
13 had phoned Jim McCloskey, that was the first thing
14 you did; is that right?

03:40 15 A That was the first thing I did, yes.

16 Q And were you in -- were you in New Jersey or in
17 Winnipeg?

18 A No, I was in Winnipeg.

19 Q And so Mr. McCloskey at this time, you had done
03:40 20 volunteer work for Centurion Ministries; is that
21 right?

22 A Yes, I had worked at least one day a week, if not
23 more, on my days off in his office.

24 Q I'm sorry, at that point Centurion, Mr. McCloskey
03:40 25 would have been generally aware about your son's



1 predicament?

2 A Oh, absolutely. I was twisting his arm all the
3 time.

4 Q And if we could go to, there's a transcript here
03:40 5 that might assist you, 336804, and this is a
6 discussion I think with a Garnet Fraser. Would
7 that be a reporter? Do you remember the name
8 Garnet Fraser? This is one of your transcripts of
9 a taped interview in May of --

03:41 10 A I think he is a reporter, but I can't tell you for
11 who.

12 Q In any event, if we could just go to page 812,
13 please, and I think you are relating to him your
14 version, or you're telling him about what happened
03:41 15 when you learned about Larry Fisher and you say:

16 "And I was down there on a study course,
17 and on my days off I would go and work
18 with Jim, so I phoned him about this
19 lead and said I turned it over to the
03:41 20 Justice Department and he said, "Joyce,
21 the Justice Department doesn't want your
22 son out." They're going to drag their
23 feet on this. You've got to get out
24 there and do it. And I was a little
03:41 25 leery of going out on my own, and my



1 husband wasn't able to get away or
2 anything, so he said he would send an
3 investigator up and meet me up there."

4 And --

03:42 5 A I don't remember that at all.

6 Q Okay.

7 A But, it's quite possible that Jim would say that,
8 but I remember him saying "you can't go" -- the
9 part that I remember is he said "you can't go out
03:42 10 there alone" and us negotiating about getting the
11 investigator up.

12 Q And I think maybe, again just to assist your
13 memory, 269468 -- or sorry -- 269317. And so
14 again, just before we leave this, I mean this
03:42 15 would be a discussion I think in May of 1990, so
16 within a new months after that; --

17 A Right.

18 Q -- would you have any reason to dispute what you
19 said there as having happened?

03:42 20 A No, it probably did.

21 Q Okay. And then 269317, and go to page 469,
22 269469. And again here, this would be your 1999,
23 from your book, but you say here:

24 "I called Rev. Jim McCloskey at
03:43 25 Centurion Ministries in New Jersey to



1 share my excitement. Although Jim
2 hadn't officially taken on the case, he
3 was advising me, and now I told him I
4 wanted to dig out more information on
5 Larry Fisher in Fisher's old hometown of
6 North Battleford?

7 'You can't go out there on your
8 own,' Jim said. 'You're crazy. That
9 could be really dangerous.'

03:43 10 'I have no choice.'

11 'Let me see if Paul's
12 available,' ... 'If he's available,
13 could you pay his fare and his
14 accommodation, and I'll pay for his
03:43 15 time?'"

16 I think that's what you had told us --

17 A Yes.

18 Q -- a bit earlier?

19 A Yes, and that's what I remember, so it's
20 interesting.

21 Q So those two transcripts, the book and the
22 discussion with Mr. Fraser, would both be accurate
23 as far as your discussion with Mr. McCloskey about
24 what his advice was to you?

03:43 25 A Yes.



1 Q "Go out and do it on your own, but don't go
2 alone" --

3 A Right.

4 Q -- "I'll get you Mr. Henderson"?

5 A Right.

6 Q And that's where Mr. Henderson became involved; is
7 that right?

8 A That's correct.

9 Q I'm going to go to 333356. At what point, just on
03:44 10 the Larry Fisher information, we talked last week
11 about sort of the ups and downs of your
12 investigation and how you would think you had a
13 lead and it turned out not to be. When you
14 received the Larry Fisher information was there
03:44 15 some point where -- if you can tell us at what
16 point did you think "okay, this really is the
17 perpetrator, we have something here"?

18 A When I met Linda Fisher I was sure, I was
19 absolutely sure.

03:44 20 Q And so, prior to that, would it be similar to
21 Mahar and the others, --

22 A Yeah, yeah.

23 Q -- that, lookit, I think this is something but --

24 A But suddenly this was it, and it was just so
03:45 25 exciting and so -- I can't tell you, I was just so



1 sure.

2 **Q** And what was it that Linda Fisher said or did that
3 caused you to think that?

4 **A** Well when she described the morning, approaching
03:45 5 her husband about her paring knife being missing
6 and she said how his face had drained and became
7 very white and shaky, I thought, "oh, this is it,
8 he must have done it". And then when we got the
9 information on the other things that he was
03:45 10 involved in, the other rapes and that, it was --
11 it -- chills just ran up and down my spine when
12 she gave me that information. I really felt "we
13 are here, we're" -- I went out of there saying
14 "we're gonna get you out, David, we're gonna get
03:45 15 you out".

16 **Q** And so this is March 4th, 1990, --

17 **A** Yeah.

18 **Q** -- this is about five days prior to your visit to
19 Linda Fisher, so kind of right in the middle, and
03:46 20 it appears, I think this is the first time you
21 wrote directly to the minister; is that right?

22 **A** I don't know.

23 **Q** And you say:

24 "I am writing to you on behalf
03:46 25 of my son David Milgaard.



1 I am enclosing a video cassette
2 which contains some interviews with
3 David and about him that you might find
4 helpful to view. I know your department
03:46 5 is doing everything it can and I am most
6 appreciative of ...",

7 next page:

8 "... the time they are spending on it.
9 It's just so very hard waiting for all
03:46 10 of us, especially David.

11 I am absolutely certain of my
12 son's innocence and I know you will be
13 too when all the facts are known."

14 And then you say:

15 "Isn't the new information
16 terrific?"

17 And I presume that would be the, the information
18 about Larry Fisher, this would be four days
19 after?

03:47 20 A Yes.

21 Q And what, what prompted you to write directly to
22 the minister? I think this is your first letter
23 directly to the minister, David had certainly
24 written to the minister before, do you remember
03:47 25 what prompted this?



1 A I guess because I wanted to be sure that this
2 information was getting through to the Minister of
3 Justice and I think I felt that maybe a letter
4 from the mum might do the trick.

03:47 5 Q Now if we could turn to the Linda Fisher
6 interview, and we have been through this with Mr.
7 Henderson and with Linda Fisher and I don't
8 propose to go through it in great detail, were
9 you -- you said a few minutes ago that you were
03:47 10 not prepared to leave this to Justice officials;
11 is that right?

12 A That's right.

13 Q And did you desire to -- was there a desire on
14 your part to get to Linda Fisher first and talk to
03:47 15 her before the authorities did, in other words
16 before Eugene Williams or whoever else was gonna
17 go see her?

18 A I don't think I really worried about not beating
19 them to the punch, because they were so slow in
03:48 20 everything they did I don't think that that was a
21 concern, I don't think I was rushing out there to
22 beat them or anything. It was just that, when you
23 get information like that, you -- you just are so
24 anxious, you want to know right away about it, and
03:48 25 you want to follow up immediately. I don't think



1 I was trying, honestly, I don't think I was trying
2 to beat them to the punch or anything, I think
3 that I -- it was information, it was the thought
4 of a breakthrough, I wanted to know, like, now.

03:48 5 Q And so, again, the record shows that after your
6 visit Sergeant Rick Pearson went to interview her
7 I think about a week or so after; were you
8 concerned at all that he interviewed her before or
9 after, or did it matter to you?

03:48 10 A It didn't matter to me. I -- in -- right around
11 in that period of time I was just going around
12 interviewing everyone.

13 Q And so, again, Paul Henderson; can you tell us,
14 was your first occasion that you met or talked to
03:49 15 Paul, when he arrived at Saskatoon?

16 A Yes, it was.

17 Q And I think his evidence is he had a little bit of
18 difficult -- difficulty getting across the border;
19 is that right?

03:49 20 A He did.

21 Q He was delayed?

22 A He was delayed. And my first impression with Paul
23 was I thought what in the name of heavens is Jim
24 sending this guy out here for me, because he
03:49 25 didn't have a pen or a pencil and he, he didn't



1 seem to remember things and -- but oh, once I got
2 working with him, I saw he was really good.

3 Q And so he arrived in Saskatoon, and then did you
4 go straight from there out to --

03:49 5 A Right to Cando. I said "I've found her, I know
6 where she is", and we headed right out there.

7 Q And prior to -- did you pick him up at the
8 airport?

9 A Yes, I did.

03:50 10 Q And, prior to that, was Mr. Henderson aware of
11 anything about the case; had you talked to him or
12 sent anything to him prior?

13 A No. I don't know what prep. that Jim had given
14 him at that time.

03:50 15 Q And so, when he arrived, do you recall whether he
16 knew anything about your son's case?

17 A I don't think he knew a lot, so most of our time
18 was spent in telling him everything that had been
19 happening.

03:50 20 Q So you picked him up at the airport, drove up to
21 Cando, and on the way --

22 A And talked all the way.

23 Q -- you would have told him about what you had
24 done --

03:50 25 A Uh-huh.



1 Q -- and sort of what your thoughts were about the
2 Crown's case, for example, and things of that
3 nature?

4 A Yes.

03:50 5 Q And can you tell us; what -- why was Mr. Henderson
6 there with you as opposed to you just doing it on
7 your own, other -- was it Mr. McCloskey's advice
8 or --

9 A Well, yes, he felt it would be dangerous for me to
03:50 10 be out on my own. Like we didn't know where Larry
11 Fisher was, he could have been in Cando with his
12 wife.

13 Q Okay. I thought, and I could be wrong on this, I
14 thought that --

03:51 15 A Or maybe we knew he was in prison.

16 Q Yeah, I think it said that he was in the
17 penitentiary at the time, but in any event --

18 A We weren't sure, and I think that he just felt
19 that it was wise. I think somewhere in my mind, I
03:51 20 don't know whether it was something he -- whether
21 Jim said something about "well, he may be in jail,
22 but his friends could be out there", something to
23 that effect, "it could be very dangerous".

24 Q So it was a personal safety issue that --

03:51 25 A Yeah. He thought I needed -- and, plus, I think



1 he felt it would be better to have a trained
2 investigator there to talk to someone that could
3 be, potentially, a good witness for us.

4 Q Okay, but as far as the questioning, I think you
03:51 5 did a fair bit of the questioning with Linda?

6 A I did.

7 Q If we could call up 076270. And I think -- and as
8 I said, we went through this with Linda Fisher and
9 some with Paul Henderson -- I think when you
03:52 10 arrived you introduced yourself, and when you say:

11 "I think you know my name."

12 Would that be -- could you maybe explain where
13 that came from or why you were saying that to
14 her, had there been some -- or what was the
03:52 15 reason for you saying that; because of the
16 publicity of the case?

17 A Yes.

18 Q And then here you say:

19 "... I ... heard the story that you told
03:52 20 and like and we know it's difficult for
21 you and everything ...",

22 and she says:

23 "Well when did they tell you ...",

24 "Why didn't they tell me a long time ago

25 I don't know"



1 And I think Linda Fisher thought you were there
2 as a result of her going to the police in 1980;
3 is that right?

4 A That's right.

03:52 5 Q And it took a while --

6 A For us to discover that.

7 Q Right. And you were there because you thought it
8 was her friend that had phoned Mr. Wolch; is that
9 right?

03:53 10 A That's right. And then this part where she said,
11 I said:

12 "... but you said that Larry was covered
13 with blood that morning?",

14 and she says:

03:53 15 "Oh no... no...no...no.",

16 and I remember my heart just sinking, absolutely
17 sinking. I thought "oh, no, is she going to tell
18 me that this isn't true", you know, because that
19 was what Sidney Wilson had said.

03:53 20 Q Right, Sidney Wilson had said he had come home and
21 his wife had seen him covered with blood --

22 A Yeah.

23 Q -- and Linda Fisher said "no, that's not what I
24 saw"?

03:53 25 A That's right. But then, as she goes on and tells



1 us, it becomes clear.

2 Q And if we can just go to the next, it's page 272,
3 and this is where there is a discussion about the
4 tape recording and I think she's worried about
03:53 5 confidentiality?

6 A Yup.

7 Q And you say:

8 "... you're thinking of Tammy",
9 and I think that's the first mention. So
03:54 10 obviously, when you went to see her, you would
11 have been -- you would have known she had a
12 daughter, --

13 A Yes.

14 Q -- Tammy, --

03:54 15 A Yes.

16 Q -- and at this time she would have been about 20,
17 22?

18 A Uh-huh, and visited her dad all the time.

19 Q Right. And was Tammy there at the time when you
03:54 20 went to visit Linda Fisher?

21 A No, no, it was just the one young boy that was
22 there, or two.

23 Q Now 076281. And I think this -- and we've gone
24 through it -- this is where she talks about the
03:54 25 paring knife is missing, and would it be fair to



1 say that you believed or thought, at this time,
2 that that -- put it this way, that if that, if the
3 missing paring knife matched the description of
4 the murder weapon, --

03:54 5 A Uh-huh.

6 Q -- that would be a good thing for you?

7 A It would.

8 Q And was that something you were trying to get from
9 Linda Fisher, is to go through and try and get as
03:55 10 much information as you could about the details,
11 for example?

12 A Well I think we're just hearing this for the first
13 time, you know, and this is why. She says:

14 "Also my paring knife is missing.",
03:55 15 and I can remember saying:

16 "Your paring knife is missing?",
17 and Paul is saying:

18 "Oh oh oh oh",
19 I mean we're excited, and that's when I said:

03:55 20 "Wow".

21 And then she said:

22 "This was brown-handled, short ...
23 remember those old fashioned paring
24 knives? With the wooden handles?"

03:55 25 And I'm saying:



1 "Uh um",

2 because it didn't match.

3 Q Did you want it to match?

4 A Of course I did.

03:55 5 Q And so, when she told you it was a wooden-handle,
6 what did you think; it might be a different knife?

7 A I didn't know. But we knew, the one thing that I
8 did know was that the knife that was there was
9 broken off, and so maybe he'd had two knives, --

03:55 10 Q Right.

11 A -- so maybe the other one was the one she was
12 describing. Like, hope dies hard in a mother.

13 Q And so you would have known at this time,
14 obviously, that --

03:56 15 A Yes.

16 Q -- the murder weapon was a maroon-handled paring
17 --

18 A Yes, we did.

19 Q -- knife?

03:56 20 A We did.

21 Q If we can go to 076285. And there is a discussion
22 here about a car, and let me just pause here.

23 When you were -- was it your view or your belief,
24 at this time, that whoever had killed Gail Miller

03:56 25 would have had a vehicle?



1 A Yes.

2 Q And --

3 A Because of the weather, and it just seemed --
4 that's why I was very suspicious about that car
03:56 5 that was parked outside of her home and thought
6 that maybe someone was waiting there and giving
7 her a ride.

8 Q Gail Miller's home?

9 A Yes, yes.

03:56 10 Q And, as well, there was the evidence of Henry
11 Diewold from the church --

12 A Yes, a car.

13 Q -- who saw the car down the alley?

14 A Uh-huh.

03:57 15 Q And so would it be fair to say that in, in this
16 interview with Linda and subsequent interviews,
17 that in order to put together the case against
18 Larry Fisher or to say that, "lookit, Larry Fisher
19 is the perpetrator", you had -- or not you had to
03:57 20 -- but a vehicle was an important -- access to a
21 vehicle was an important part of that theory?

22 A Was very important, uh-huh.

23 Q That if, and that if Larry Fisher had access to a
24 vehicle, that would make him a more plausible
03:57 25 suspect than if he didn't?



1 A That's correct.

2 Q And if he didn't have access to a car then that
3 might be somewhat troubling in having him as the
4 killer; is that fair?

03:57 5 A Well, yes and no, because the fact is he was in a
6 very close proximity to her house from where he
7 came, he knew what time she came out because he
8 took the same bus as her every morning, so it
9 wasn't a leap, as far as I was concerned, to think
03:58 10 that he could have just come out of the alley and
11 grabbed her because he knew what time she'd be
12 there, even though it was cold, and then dragged
13 her back. But the scene didn't sort of support
14 that, the scene more supported a car, and as you
03:58 15 pointed out Diwold indicated a car and someone
16 passing in front of the headlights that was very
17 short.

18 Q And so having Larry Fisher with access to a
19 vehicle painted a more compelling picture --

03:58 20 A Absolutely.

21 Q -- of him as a suspect than if he didn't have
22 access?

23 A That's right.

24 Q And so here Linda tells you, I think you are
03:58 25 talking about Clifford's car, --



1 A Uh-huh.

2 Q -- and she says:

3 "You see Larry wouldn't have had a car
4 if he did this ... He would have got on
03:58 5 the bus with her ..."

6 "And got off with her... or followed her
7 when she got off the bus. Because Larry
8 took the bus to work."

9 And, again, was this something that concerned
03:58 10 you, this information that he did not have --
11 that he didn't have a vehicle?

12 A Umm, probably. I can't remember my reaction to it
13 at that time, but after hearing more from Linda,
14 that statement that she made, when I look back at
03:59 15 it, in -- you know, when I was looking back at it
16 later I said "you know why she's saying this is
17 because that's what Larry told her how he used to
18 operate, how he would follow someone, and he got
19 off with her or followed her when she got off the
03:59 20 bus", and he had, I think when she'd been
21 questioning him about the rapes, --

22 Q Yes?

23 A -- that he had said something like that. So this
24 is what her memory is doing, it's filling that in
03:59 25 here, and I think I sort of recognized that,



1 afterwards, when I'm going over her statement.

2 Q If we can go to 076286. And this is where she
3 advised you about her Uncle Roy Pambrun and the
4 boots and the burning barrel, which we have been
04:00 5 over --

6 A Yes.

7 Q -- with Mr. Pambrun. What do you recall about
8 this information and any follow-up with Roy
9 Pambrun; do you have any recollection of that?

04:00 10 A Well I can remember thinking it was another wild
11 factor, you know, that it certainly looked like he
12 burned his work boots and -- and he had access to
13 this car, it all seemed to be fitting together.

14 Q And so the fact that -- let's just go back to the
04:00 15 car, we'll see an interview right after this with
16 Cliff Pambrun, Linda's uncle; correct?

17 A Uh-huh, uh-huh.

18 Q The court reporter needs "yes"?

19 A Yes.

04:01 20 Q And that, I think after your interview with Cliff
21 Pambrun, that his vehicle became the vehicle that
22 Larry Fisher used in the crime, is that right, as
23 far your theory that you put forward that --

24 A Yes, I think that was our theory at that time.

04:01 25 Q That it was Cliff Pambrun's car, and that would be



1 helpful to your theory that Larry Fisher committed
2 the crime if you could get evidence from Cliff
3 Pambrun that had Larry Fisher with his car;
4 correct?

04:01 5 A Yes. And if it had him burning his boots, wow,
6 that would be even better.

7 Q And so again, when you get this information about
8 Roy Pambrun burning his boots -- and we've heard
9 from Mr. Pambrun, I'm not sure if he was ever able
04:01 10 to pin down the dates or that -- but is that
11 something that would be suspicious, saying
12 "lookit, after he committed the crime he burned
13 his boots over there to cover up evidence", that
14 would be --

04:01 15 A Yes, absolutely.

16 Q If we could go to 076292. And this is a
17 discussion with -- go back, please -- the rapes.
18 Yeah, I have been through this with Mr. Henderson
19 and Linda Fisher, but this is your comment, you're
04:02 20 asking about the rapes, you would have gone there
21 knowing that Larry Fisher had committed some
22 rapes?

23 A Yes.

24 Q And so, here, Paul Henderson asks in:

04:02 25 "... 69 and 70 he was committing these



1 other rapes ...",

2 and you say:

3 "In Regina, wasn't it, ya?"

4 "Were you living in Regina then?"

5 "I thought ... wasn't it Regina ..."

6 And we've heard from Mr. Asper, and saw in his
7 file, that he obtained a CPIC, a criminal record,
8 that showed Larry Fisher and had these offences
9 as Regina because that's where he entered a
04:02 10 guilty plea; is that where you would have got
11 this information at this time?

12 A Yes, that's where I had that information.

13 Q So, when you went out to see Linda Fisher, you
14 thought that the rapes that Larry Fisher committed
04:02 15 from '68 to '70 had been committed in Regina?

16 A Yes.

17 Q And I think, here, that's what you are saying to
18 her; "weren't they in Regina"?

19 A And she said:

04:03 20 "Winnipeg.",

21 and that was really shocking to me.

22 Q Okay. Now I think the CPIC had also shown two
23 rapes in Winnipeg, those were the two that
24 followed in 1970, do you remember that? I think
04:03 25 the CPIC showed four in Regina, two in Winnipeg?



1 A Yes, but when she said that, it wasn't Regina, it
2 was Winnipeg, that shocked me, I thought that she
3 didn't know about the Regina rapes.

4 Q Okay. Then if we can go to 295, there is a
04:03 5 discussion here about Mrs. Cadrain and the
6 Cadrains, and you say:

7 "Well I wondered if there'd be any way
8 that maybe he'd even seen Larry covered
9 ...",

04:03 10 you're talking about Albert here:

11 "... he'd even seen Larry covered with
12 blood and then transferred it to David
13 for a reason. Like would Larry have
14 been able to influence Shorty to say
04:04 15 something like that."

16 And Linda says:

17 "I don't think so."

18 A Uh-huh.

19 Q Would that have been -- and we'll see this a bit
04:04 20 later in some discussions -- would that have been
21 a theory, or something that came in your mind,
22 that maybe Albert Cadrain saw Larry Fisher and,
23 for whatever reason, said it was David Milgaard?

24 A Yeah, we went down various lanes, avenues of
04:04 25 thoughts, and that was certainly one of them.



1 Q Go to 076300. And then here, I think you are
2 talking about Tammy, and Linda says:

3 "Well ... if I could prove it ... I
4 would testify. Even if Tammy couldn't
04:04 5 go see Larry again. Like she's 21 years
6 old."

7 And I think here is where Linda is saying
8 "lookit, I think Larry was involved but I can't
9 prove it"?

04:05 10 A Right.

11 Q And then you say, talk about Tammy:

12 "She's not a child. Well for instance
13 if we could arrange somehow for you to
14 go up and see Larry and give you some
04:05 15 questions to ask him to say that we've
16 been here or something and have you wear
17 a wire. Would you consider doing
18 something like that? If we took you up
19 there?"

04:05 20 And, again, was that something that you -- did
21 you discuss that with Mr. Asper or Mr. Henderson,
22 about the wire, or was that just a thought at the
23 time that --

24 A I think it's was just something that came out of
04:05 25 thin air at the time.



1 Q Did you have any concerns, or do you recall having
2 any discussions with Mr. Asper, Mr. Wolch, or Mr.
3 Henderson about, either at this stage or at some
4 later stage, that any concerns expressed to you
04:05 5 about the manner in which information was obtained
6 from Mr. Fisher that might compromise an
7 investigation or prosecution of him?

8 A I don't recall anything like that.

9 Q And, just so that I'm clear, so --

04:05 10 A But I wouldn't do that on my own, I mean, we were
11 just --

12 Q Brainstorming?

13 A -- brainstorming and talking about it.

14 Q Okay.

04:06 15 A I wouldn't go ahead and do something like that
16 without talking to Hersh or David.

17 Q Right, so that before you would contact him you
18 would go to your lawyers?

19 A And discuss it, definitely.

20 Q Yeah.

21 A I was pretty wild but I wasn't quite that wild.

22 Q And so, again, was this something; do you remember
23 discussing this? I think we saw later --

24 A Yes, we did.

04:06 25 Q -- about Mr. Asper going up to try to get



1 cigarette butts. Again, was that --

2 A That was another thought.

3 Q -- along the same lines?

4 A Uh-huh, yes.

04:06 5 Q Was there any reason you wouldn't, at this point,
6 say, "lookit, let the police", whether it be the
7 police or Federal Justice or someone, "go and do
8 and get this information from Larry Fisher"?

9 A How long had we been waiting then?

04:06 10 Q Yeah, no, I appreciate your earlier answer, but
11 again, --

12 A It's the same answer.

13 Q Same answer?

14 A Just fed up, wanting to get it over. And, I mean,
04:06 15 this is information that needs to be followed up,
16 we've just got it, it's fresh, I want answers.

17 Q Right. But again, as far as further steps with
18 Larry Fisher -- and we'll see this in some of the
19 later documents -- I think you took an active role
04:07 20 in trying to get further information to establish
21 proof that Larry Fisher committed the crime?

22 A Yes.

23 Q And is it fairly --

24 A Because I felt I had to prove it, I felt that they
04:07 25 weren't going to do it.



1 Q And when you say "they" you are talking about the
2 Federal Justice and the police, the authorities?

3 A The authorities, everybody.

4 Q Yeah. And so I guess, in answer to my earlier
04:07 5 question, you weren't prepared to let them go and
6 do the investigation, you --

7 A Not any more.

8 Q And at this point you wanted to do it on your own,
9 whether they did it or not you were fine with, but
04:07 10 you -- you wanted to do it yourself; is that fair?

11 A Yes, and I wanted to be sure that I would get the
12 information, that they weren't gonna cover it up.

13 Q If we can go to 301, the next page. And there is
14 a discussion here about -- again -- and this is, I
04:07 15 think, referring to the (V10) (V10)- matter, and
16 you say:

17 "What happened with this last lady in
18 Prince Albert?"

19 Because, again, in the (V10) (V10)- matter the
04:08 20 plea was entered in Prince Albert --

21 A Yes.

22 Q -- so the CPIC showed Prince Albert; correct?

23 A Correct.

24 Q And then Linda says:

04:08 25 "He cut her throat with a knife or a



1 bottle or whatever, I don't know and he
2 really... he almost killed her."

3 And you say:

4 "I think he left her for dead, didn't
04:08 5 he."

6 And did you have some information about that
7 crime before you went up there, did you do any
8 checking on those offences before you went up?

9 A I honestly don't know, but from the sound of it:

04:08 10 "I think he left her for dead, didn't
11 he.",

12 it's obvious that I have some other information

13 Q Yeah. Now, and I think you may have gone to see
14 Larry Fisher's mother before you went to see Linda
04:08 15 Fisher, is that right, but I don't think she
16 talked to you; did she?

17 A No, she didn't talk to me, but where did we get
18 that information from? Had I been to see (V10)
19 (V10)- at that point?

04:09 20 Q I don't believe so from the documents.

21 A Because I remember (V10) telling me that he left
22 her for dead, or maybe I read that in a report,
23 that she was left for dead.

24 Q And so do you think you would have had some
04:09 25 information, before you went to see Linda, about



1 at least that incident?

2 A Yeah, I think I must have. But I thought it was
3 in Prince Albert, so that may have been from the
4 CPIC, as you suggested.

04:09 5 Q And then if we can go to 076304. And this is the
6 discussion about the knife, and again, you had --
7 she had mentioned earlier that it was a steak
8 knife, and you ask -- or pardon me, a paring
9 knife, but I think a brown wooden handle:

04:09 10 "Would it be sort of a brown, sort of
11 like a maroon colour?"

12 "It's about this ...",

13 and Henderson says:

14 "Ya. Kind of like a steak knife. I
04:10 15 mean the way the steak knives look ..."

16 and then she says:

17 "The old butcher knives ... wooden
18 butcher knives that's the handle ...",
19 and then rivets, etcetera.

20 What was your recollection
21 about, when she described her missing paring
22 knife, did you, after going through it with her,
23 did you conclude that it was a different knife
24 than at least the maroon-handled paring knife
04:10 25 that was tendered at Gail Miller's trial?



1 A Yes, I think I did.

2 Q And --

3 A And isn't it ironic, though, that when she was
4 actually at -- she actually identified that knife
04:10 5 when she saw it at Fisher's trial.

6 Q I think it was at the preliminary hearing she
7 identified, yeah, she identified it at --

8 A That she actually identified it, and it was
9 another knife, it wasn't the one she thought it
04:10 10 was but it was one of her knives.

11 Q But is it fair to say that, when you and Mr.
12 Henderson left the interview with Linda Fisher,
13 that, based on her description of the knife, of
14 the missing paring -- of the paring knife that she
04:10 15 said went missing around the time of Gail Miller's
16 murder, --

17 A Uh-huh.

18 Q -- that, based on her description, it wouldn't --

19 A It didn't fit.

04:11 20 Q It didn't fit?

21 A Yes.

22 Q And so that that, I think you had told us you
23 hoped that it would match, but you concluded --

24 A Yes.

04:11 25 Q -- that it did not; is that fair?



1 A That's fair.

2 Q Now, after the first interview, I think the
3 evidence we've heard is that you interviewed Linda
4 on the first day, I think March 9th, and then
04:11 5 returned the next day to take the statement; is
6 that right?

7 A That's correct.

8 Q Or brought her into the city maybe to take a
9 statement? Did she come in?

04:11 10 A I think we brought her in or she came in.

11 Q Right. So I think March 9th you went out there,
12 interviewed her, taped it, and then the next day
13 got together with her in Saskatoon I think?

14 A Yes.

04:11 15 Q Where Paul Henderson took a lengthy statement?

16 A Yeah.

17 Q Or I shouldn't say lengthy, took a statement from
18 her?

19 A Yes.

04:11 20 Q And then you drove around to see Cliff Pambrum; is
21 that right?

22 A That's correct.

23 Q Now, after that initial interview you would have
24 returned to Saskatoon; is that right?

04:11 25 A Yes.



1 Q And would you have had discussions with Mr. Asper,
2 do you recall that, about --

3 A Oh, yes, we were talking back and forth. I
4 remember we were staying at Jim and Jackie's,
04:12 5 these friends of mine, and we had their phone line
6 tied up pretty steady with them.

7 Q So would you have phoned Mr. Asper and gave him
8 the details of --

9 A Yes.

04:12 10 Q And so the next day the plan was to get a formal
11 statement from her?

12 A That's what he asked, they asked us to do.

13 Q Sorry, who did?

14 A David and Hersh asked us to do.

04:12 15 Q Was Mr. Wolch involved in those discussions as
16 well do you remember?

17 A Oh, yes.

18 Q I mean, this specific discussion about Linda
19 Fisher?

04:12 20 A I can't tell you for certain, but, you know, quite
21 often when I called and if I had any information
22 about what was happening, I would have both of
23 them on the line at the same time, David would
24 tell Hersh "Joyce is on the line and they found
04:12 25 something" and then I would tell the two of them



1 together.

2 Q And so --

3 A But --

4 Q Oh, I'm sorry.

04:12 5 A I didn't know if that was the case in this one or
6 not.

7 Q And so you and Mr. Henderson would have reported
8 here's what we got?

9 A Yes.

04:13 10 Q And they said go out and get a statement?

11 A Correct.

12 Q And was that Mr. Henderson's job, to get the
13 statement, was he the statement taker?

14 A Oh, yes.

04:13 15 Q And so that would be -- and you were present when
16 he met with her and went through that; is that
17 right?

18 A Yes, I was.

19 Q And again, 050603, and we've been through this
04:13 20 with both Linda Fisher and Paul Henderson, would
21 it be correct that what was included or not
22 included in the statement and how it was drafted,
23 that was something you left up to Paul Henderson?

24 A Yes, that's correct.

04:13 25 Q Go to 043662, do you recall -- and again we'll go



1 through a discussion in here in the transcript
2 about plans and strategies and maybe it's easier
3 to go to the transcript to do that. Do you
4 remember discussing a strategy with Mr. Asper, Mr.
04:14 5 Wolch in the phone call the first night about
6 going public and how you approach Larry Fisher,
7 Linda Fisher, things like that?

8 A I'm sure we did because we had strategy talks all
9 the time.

04:14 10 Q Sure. Maybe I'll take you to the part in the
11 transcript that might assist. If we can go to
12 page 663 -- can we just pause here. I think the
13 next day it appears that you and Linda Fisher and
14 Paul Henderson were driving around and you may
04:14 15 have recorded some of the conversation in the car
16 between you and Mr. Henderson and Linda and I
17 think at some point Linda went to check a house or
18 check something, so she may have been in and out
19 of the car. Am I guessing right on that?

04:15 20 A Yeah, that sounds reasonable.

21 Q So if we can go to the next page, and so this is a
22 discussion I think, and I'm not sure if this is
23 before or after Mr. Henderson got the statement,
24 but you say to Mr. Henderson:

04:15 25 "I want to convince her --"



1 This is Linda,

2 "-- before we separate, Paul, to let

3 Tammy know now. Because ... I've

4 promised her that ... we won't go public

04:15 5 without telling her first --"

6 And it goes on. And I think there was a concern

7 that Linda Fisher hadn't told her daughter Tammy

8 about --

9 A Right.

04:15 10 Q -- this and she was going to do that before you

11 went public with it; is that right?

12 A That's right, and I did, as I pointed out here,

13 thought that she could be in danger.

14 Q Tammy?

04:15 15 A Yeah.

16 Q And so this, about going public, would it be

17 correct to say that at this time, and this would

18 be the day after you met with her, that the

19 thought was that by going public it would be you

04:16 20 would go to the media with this information that

21 we found?

22 A Yes.

23 Q The person who we think killed Gail Miller?

24 A Right.

04:16 25 Q And was that part of your thinking right from the



1 get-go or was that -- let me ask you this. Why
2 would you go to the public and the media with this
3 information before letting the authorities go
4 ahead and investigate or do whatever they needed
04:16 5 to do, or why would you go to the media with this?

6 A Because it was a bombshell and we were getting
7 absolutely nowhere with the authorities and to me
8 the only way that we were going to get David out
9 is to get the media on board, get them seeing what
04:16 10 was happening and get every one of them out there
11 working on it. My biggest problem with the media
12 was that they all wanted exclusive stories and so
13 you were put in a position that you don't know how
14 to get it out, but I know right at this time I
04:17 15 knew that we had the potential here, I mean, you
16 had to see this woman, when we were interviewing
17 her she was so earnest and believable and
18 everything that I knew that if I could get the
19 media out there interviewing her and people across
04:17 20 the country could see her, that they would think,
21 hey, this Mrs. Milgaard's son maybe is innocent
22 and we would get more support.

23 Q And so again, I take it from that answer that you
24 were not prepared to let the authorities go and
04:17 25 investigate and try and come up with a case



1 against Mr. Fisher?

2 A No, because so far they had done nothing. All
3 they were trying to do was disprove what we were
4 finding, they weren't looking.

04:18 5 Q And so again, at this time, March of 1990, is
6 there -- what was it -- what was it that Federal
7 Justice had done to this point other than what
8 you've described? I think what you told us, the
9 delay, and secondly, you didn't know what they
04:18 10 were doing, or you didn't think they were doing
11 anything because you hadn't heard anything; is
12 that right?

13 A We hadn't heard anything.

14 Q So was there anything in addition to those two
04:18 15 points that caused you to think, hey, I can't
16 trust these people to go and investigate this?

17 A I think it's just the frustration of the delays
18 and delays and delays.

19 Q So delays and lack of feedback; is that a fair --

04:18 20 A Yes.

21 Q Those two things?

22 A Not knowing what was going on. It was so
23 disheartening.

24 Q And was there anything else that you remember,
04:18 25 though, about their conduct that caused you to



1 say -- in addition to the delay and no feedback,
2 that caused you to say I don't trust them to go
3 and investigate Larry Fisher?

04:18 4 A Well, shortly after this when they came out and
5 investigated Linda and they investigated Deborah
6 Hall, I mean, they put them under oath when they
7 came out to -- they had Mr. Caldwell helping them,
8 they didn't put him under oath. It just seemed
9 that we were, they were not doing it fairly, there
04:19 10 was no fairness in what they were doing.

11 Q So again, and we'll get to the later interviews,
12 but at this time is it fair to say that you lost
13 confidence in --

14 A Absolutely.

04:19 15 Q And based on what had happened up to that date, to
16 March?

17 A Yes.

18 Q What about Mr. Asper and Mr. Wolch, did they have
19 the same view as you, that we can't leave this to
04:19 20 justice, the Department of Justice?

21 A I believe they did, although they were trying to
22 hold me back a little bit I think.

23 Q You talked before about Mr. Asper's frustration.
24 Was that -- did he share your frustration again?

04:20 25 A He definitely did, yes.



1 Q And what did he tell you about the delay and the
2 lack of feedback, what was he telling you, did he
3 ascribe a sinister motive to that when he tried to
4 explain that to you?

04:20 5 A He was exasperated by it, he couldn't understand
6 it. I don't think anybody could, none of us
7 could.

8 Q But again, as far as an explanation though --

9 A There really was no explanation. They weren't
04:20 10 giving us an explanation.

11 Q Down at the bottom, scroll down, and we've been
12 through this, so I'll skim over it, but this is
13 where Paul Henderson talks about:

14 "... when you were talking to your
04:20 15 lawyer last night, or this morning, did
16 he get into detail with you about his
17 plan about maybe getting Larry a deal?"

18 And then the next page, and you talk about yeah,
19 I mentioned that to her, and I think you are
04:21 20 talking to Linda:

21 "I said to her when we were talking, I
22 said you know it may be that they want
23 to ... will want to put someone in
24 undercover to talk to Larry."

04:21 25 And would this be -- when you say they, is that



1 Mr. Asper and Mr. Wolch as opposed to the police?

2 A Yes.

3 Q And so at this point you were operating on your

4 own, with your own resources and talking about

04:21 5 what you, when I say you, your group would do with

6 Mr. Asper and Mr. Wolch?

7 A Yes.

8 Q And one of the things that you were looking at was

9 to send someone in under cover to see Larry Fisher

04:21 10 in prison; is that right?

11 A Yes.

12 Q And you had broached that subject with Linda to

13 see what she thought about that?

14 A Yes, we had.

04:21 15 Q And then as well it looks as though another

16 thought was telling Larry Fisher that if he didn't

17 co-operate or if he didn't do certain things, you

18 would go public and name him as the killer and

19 cause him some inconvenience for lack of a better

04:21 20 word; is that right?

21 A Yes.

22 Q If we can scroll down, please, and this is where

23 Mr. Henderson talks about:

24 "... if you want to co-operate with us

04:22 25 and admit to this, we will be your



1 liaison between you and the Justice
2 Department and see what kind of a deal
3 they might be willing to work out. And
4 his ... rationale for that was that the
04:22 5 Justice Department would go for this
6 because it gives them a chance to look
7 good. Like they've discovered it, maybe
8 on their own. They've got this... they
9 talked to him, he confessed."

04:22 10 So is that another thing you talked to Mr. Asper
11 and Mr. Wolch about, going into Larry Fisher and
12 trying to cut a deal, saying lookit, you confess,
13 we'll go to justice and try and get you a
14 favourable disposition?

04:22 15 A Yes, and these were all scenarios that we would
16 talk through.

17 Q And then at the bottom again at one time you say:

18 "Well maybe we should discuss that with
19 Linda ... with the idea that ... because
04:23 20 at one time he talked about ... David
21 Asper going up with Tammy."

22 And I'm wondering, it says because at one time he
23 talked about David Asper going up with Tammy.

24 Would that be the call that morning or the night
04:23 25 before or was there an earlier time where this



1 was discussed?

2 A I have no idea.

3 Q The reason I ask, it seems to say because at one
4 time, suggesting that at an earlier time as
04:23 5 opposed --

6 A We had talked about David Asper going up with
7 Tammy, yeah.

8 Q Then the next page.

9 A But we were constantly floating ideas.

04:23 10 Q And then here I think Mr. Henderson puts, talks
11 about another one, this is to you, about:

12 "In which case, what you're holding
13 is... what you're doing is, you're
14 holding back on the publicity. In other
04:23 15 words, you're not going to besmirch
16 Larry Fisher, label him a killer all
17 over mainland Canada on every T.V.
18 screen in the entire country, giving him
19 a chance to admit it first with a
04:23 20 possibility of getting a deal."

21 And goes on about that.

22 A Yeah.

23 Q And then the next page, actually go to page 667,
24 again we've been through this, you recall me going
04:24 25 through this with Mr. Henderson and Linda Fisher,



1 this --

2 A Yes.

3 Q And so again this one here where Mr. Henderson
4 says the press:

04:24 5 "... the national press is salivating
6 over this case. You're going to be
7 smeared all over Canada television ...
8 in the press and it's going to put the
9 Justice Department under even greater
04:24 10 pressure..."

11 And wonder if he's smart, maybe work out a
12 deal -- scroll down -- "where you are not even
13 prosecuted," and she says I don't think this will
14 work, and then scroll down, Henderson talks about
04:24 15 all this publicity, he's going to be public enemy
16 number one. And so is that one of the plans
17 that -- actually, scroll down even a bit further,
18 you can do it quietly or labelled a killer on TV
19 so everybody knows. So is that one of the plans,
04:25 20 one of the levers you thought you might be able
21 to use with Larry Fisher?

22 A Yeah, yeah, and we were just discussing how, what
23 would be the best way of getting him to confess to
24 this so we had it.

04:25 25 Q And then the next page, or 669, please, and again



1 this is still part of that discussion, and you
2 tell her in the previous paragraph that she should
3 tell Tammy and you say:

4 "... I think that she has to know that
04:25 5 I'm here and I'm investigating it and
6 that I'm going to be going to the public
7 with at any time."

8 And so at this time you would have been, that was
9 your plan, to go public with it right away?

04:26 10 A Yes.

11 Q And I think we'll see that it's probably not until
12 May that the investigation becomes public and the
13 end of June that his name becomes public, and what
14 prevented you from going public earlier or what
04:26 15 caused you not to go public?

16 A Well, we were thinking that it would be more
17 helpful to the case at that point. The RCMP were,
18 I think David was talking to Pearson at that
19 point.

04:26 20 Q If we can then go to 043683 and this is the, part
21 of this transcript, but this is the meeting with
22 Cliff Pambrun. Do you remember meeting with Cliff
23 Pambrun?

24 A Yes, I do.

04:26 25 Q And again, this information related to his access,



1 to Larry Fisher's access to a vehicle; is that
2 right?

3 A Right.

4 Q And after you and Mr. Henderson met with Cliff
04:27 5 Pambrun, and I'll go through parts of this
6 transcript if you like, about, I think both you
7 and Mr. Henderson were questioning him and trying
8 to get whenever information you could that would
9 support the theory that Larry Fisher may have had
04:27 10 Cliff Pambrun's car the morning of the murder; is
11 that fair?

12 A That's fair.

13 Q And when you left that interview with Mr. Pambrun,
14 what did you think as to whether or not he said
04:27 15 that?

16 A I think that we felt that he didn't say it;
17 however, I think in my mind I was sure that he had
18 had access to the car and that possibly Cliff had
19 been drinking and whatever and didn't remember
04:27 20 because they obviously went out and drank a lot at
21 various times and my feeling was, you know, Larry
22 could have dropped him off at home and brought the
23 car back the next day or picked him up and took
24 him to work and then used the car, there were any
04:28 25 number of scenarios, and I think that he was just



1 not prepared to say it, I don't think he
2 remembered, and I felt reasonably certain that he,
3 that that had happened in that car.

4 Q And again, we've been through this transcript a
04:28 5 few times, but is it fair to summarize it that
6 despite the efforts of you and Mr. Henderson to
7 get Cliff Pambrun to say yes, I either lent him
8 the car that morning or that's something that I
9 think I could have done, he could have had it
04:28 10 overnight and could have had it in the morning,
11 that you couldn't get him in the interview to say
12 that; is that fair?

13 A No, he really didn't say that.

14 Q But you believed that he probably had given Mr.
04:28 15 Fisher --

16 A Yes, I did.

17 Q And that he was what, either trying to help Larry
18 or what?

19 A I just thought maybe he had been, you know, wasn't
04:28 20 aware that he had or couldn't remember or -- you
21 know, they were out, they were heavy drinkers,
22 that was the thing, both of them, and so maybe he
23 was just not aware that that had happened.

24 MR. HODSON: I see it's 4:30, so it's
04:29 25 appropriate to break.



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(Adjourned at 4:29 p.m.)



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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