

death.	1
Q. To cause death?	2
A. Yes. So the two -- the two could have been -- could have summated, could have added onto each other.	3 4
MR. JOHNSTON: Thank you, Dr. Emson.	5
DR. EMSON: Thank you.	6
MR. JOHNSTON: I appreciate your attendance.	7
THE COURT: Thank you. Dr. Emson, thank you very much for your attendance here. You are excused.	8 9
DR. EMSON: Thank you. May I go back to Saskatoon, Your Lordship?	10 11
THE COURT: Yes, you may, sir.	12
DR. EMSON: Thank you.	13
MR. SINCLAIR: The next witness is Mary Marcoux, My Lord.	14
THE COURT: Thank you.	15
MR. SINCLAIR: Right up there, please, Mary.	16 17
<b><u>MARY MARCOUX, having been duly SWORN, states:</u></b>	18 19
<b><u>MR. SINCLAIR:</u></b>	<b><u>EXAMINATION-IN-CHIEF:</u></b> 20
Q. Ma'am, thank you for your patience. I understand that you now reside in British Columbia, is that correct?	21 22
A. Yes, I do. I live in Victoria.	23
Q. And you'd like to get back home soon, I expect. I understand that when you were -- at one time at least you were a resident of Saskatoon, Saskatchewan, is that correct?	24 25 26

- A. Yes, that's right. 1
- Q. And you and your family were living there in January of 1969? 2
- A. Yes. 3
- Q. What address were you living at? 4
- A. I lived at 104 Avenue N South. 5
- Q. Avenue N South? 6
- A. Yes. 7
- Q. And just so that the Jury may understand, as I understand the setup  
of Saskatoon, below 22nd Street is the -- the avenues are south and  
above it's north, is that correct, or do you know? 8 9 10
- A. I'm not sure. 11
- Q. Okay. Did you live -- you lived in the one block of Avenue N South? 12
- A. Yes, I did. 13
- Q. And was that north of 21st Avenue (sic)? 14
- A. Yes, it was. 15
- Q. Or, 21st Street? 16
- A. Yes, it was. 17
- Q. And south of 22nd? 18
- A. Yes. 19
- Q. Okay. In any event, where did you go to school in January of 1969? 20
- A. I was in grade 6 at St. Mary's School. 21
- Q. And where was St. Mary's located? 22
- A. On the other side of 20th Street, on Avenue O. 23
- Q. Okay. We have a map -- actually we'll deal with the first one first, I  
guess. On the January 31, 1969, was that a school day? 24 25
- A. Yes, it was. 26

**313908**

- Q. And what time did you leave the house to go to school? 1
- A. That morning I had safety patrol, and I left approximately twenty after 2  
8:00. 3
- Q. Okay. And you said that you lived on the one block of Avenue N? 4
- A. That's right. 5
- Q. Do you see the map that I'm referring to here, Avenue N, Avenue O -- 6
- A. Yeah. 7
- Q. ... 20th Street and 21st? 8
- A. Mhmm. 9
- Q. You would have lived, then, north of 21st? 10
- A. That's right. 11
- Q. Somewhere on this block? 12
- A. Yes. Other end. Almost right at 22nd. 13
- Q. Almost at 22nd. 14
- A. Yes. 15
- Q. So, it might even be off the map? 16
- A. It's off the map. 17
- Q. And did you live on the east or the west side of the street? 18
- A. The east side. 19
- Q. Okay. And so when you left your house how did you go to -- what 20  
route did you take to go to school? 21
- A. I walked south on Avenue N. 22
- Q. Down Avenue N? 23
- A. That's right. I turned up 21st Street West. 24
- Q. This way? 25
- A. That's right. And I went down the alley. 26

313909

- Q. Down this back alley here? 1
- A. That's right. 2
- Q. The back alley between N and O? 3
- A. That's right. 4
- Q. And can you describe to the Jury what you saw after you entered the back alley, please. 5  
6
- A. It was very cold and foggy, it was a bright fog, like white. And I was walking to get to school quickly, and as I neared the T intersection I at first just noticed a coat in the alley, and as I became closer I realized it was a body. 7  
8  
9  
10
- Q. What did you do? 11
- A. I think I just stood there for a while, and I went a bit closer and, you know, kinda clarified it was. And within maybe 40 seconds, some children came out of one of the houses -- 12  
13  
14
- Q. Okay. 15
- A. ... that backed onto the lane, so I just told them to go back, and I also went with them, and we talked to their mother. 16  
17
- Q. Do you know the names of those children, the last names of those children? 18  
19
- A. I think it's pronounced Hnatiuk, something like that. 20
- Q. And do you see what -- you see a number of residences on each side of the alley, do you know which residence the children came out of? 21  
22
- A. It -- probably about 219. Something like that, I think. 23
- Q. This right here? 24
- A. Yeah, I think so. 25
- Q. If in fact the body was located where the (inaudible - not near 26

- microphone). 1
- A. That spot is, it would have been 219, I think. 2
- Q. Okay. And how many children did you see come out of that 3  
residence? 4
- A. At first it was just the two younger ones, and then their older brother 5  
came out. 6
- Q. And how far did they come out? Did they come right (inaudible - not 7  
near microphone). 8
- A. Just into the lane, yeah. They noticed the body as well and asked me 9  
"what is that". 10
- Q. And you said to them what? 11
- A. "It's a lady laying there". 12
- Q. What happened then? 13
- A. I said "let's go tell your mother". 14
- Q. So? 15
- A. So we walked -- the boys turned around and I followed them to their -- 16  
their -- the house, and spoke to the mom. 17
- Q. And where was the mom? 18
- A. She was just by the side door of the house. I think she was just 19  
seeing the older boy off, I believe. 20
- Q. And you told the mom what you had found? 21
- A. Yes. And she made a suggestion, that I did, and that was to go 22  
contact the people at the funeral home and tell them. 23
- Q. So what did you do? 24
- A. So, I went onto Avenue N, not back through the back alley, and ran to 25  
the funeral home, which is right on the corner of N and 20th. 26

**313911**

- Q. You proceeded down Avenue N? 1
- A. Right. 2
- Q. And when you got to the funeral home, what did you do? 3
- A. Well, there's two apartments at the back of the funeral home, so I 4  
went up the steps and knocked at the door of the Murdocks, I now 5  
know their name. 6
- Q. Okay. 7
- A. So -- and Mrs. Murdock answered the door and I told here there was 8  
somebody laying in the lane, and she contacted -- told her husband, 9  
and her husband sent out the assistant that, I guess, was down 10  
below, already at the funeral house. 11
- Q. Okay. 12
- A. And I waited in the back lane, and he came out from the bottom and 13  
we went together, and he said "yes, you're right, you know, there is 14  
somebody here". And Mr. Murdock came out, they spoke, and the 15  
assistant went and got a blanket and covered her, her body. 16
- Q. Okay. When you say "they spoke" are you talking about Mr. Murdock 17  
and -- 18
- A. The assistant and Mr. Murdock, yes. 19
- Q. Okay. And while that was going on, while the assistant was checking 20  
the body and so on, where were you standing? 21
- A. I was standing in the T part of the lane. 22
- Q. You see what I am referring to, a point that's right here? 23
- A. Yeah, that's right. 24
- Q. So, you were in the T part? 25
- A. Yeah. 26

**313912**

- Q. Okay. You say you saw the assistant get a blue blanket and cover the body? 1  
2
- A. Yeah. He got a blanket. I'm not actually -- could be blue. 3
- Q. Oh, I'm sorry. 4
- A. Yeah. 5
- Q. A blanket? 6
- A. He got a blanket. 7
- Q. And covered -- 8
- A. And covered the body, yeah. 9
- Q. Could you indicate then what happened. 10
- A. Well, before he got the blanket he lifted her shoulder and said "hey, are you okay" or something like that. And, you know, then went and got the blanket. 11  
12  
13
- Q. What happened after that? 14
- A. Mr. Murdock suggested I come to his apartment block and wait, that the police would want to talk to me, and I phoned home from there. 15  
16
- Q. And you told your mother what you had found? 17
- A. Yeah, I talked to my mom. And then the police came and I talked to them. And they came back to my -- just briefly, just a few incidences; where I lived and stuff like that. They came the next day, which was Saturday morning, and I gave them a report. 18  
19  
20  
21
- Q. As you came into the alley that morning and were proceeding south down the alley, did you see anyone in the alley? 22  
23
- A. No, I did not see anyone in the alley. 24
- Q. And how close to the body did you come when you first discovered it? 25
- A. The closest I went to the body at any time was about eight feet. 26

**313913**

- Q. And at what point was that? When you said that was the closest you came, was that -- 1  
2
- A. That was before I went and spoke to the mother with the boys in front of me. 3  
4
- Q. And what portion of the alley were you in when you came within eight feet of the alley (sic), that is, where were you standing or where were you walking? What portion of the alley? Would it be easier if you saw a picture? 5  
6  
7  
8
- A. Sure. 9
- Q. Okay. We have a group of photographs that's marked as exhibit P-3, and perhaps I can just get you to refer to photograph number 1. Do you see the photograph. 10  
11  
12
- A. Yes. 13
- Q. Do you recognize the area that's depicted in the photograph? 14
- A. Yes. 15
- Q. Could you describe, for the Jury, in what portion of the alley you were walking? 16  
17
- A. Well, I'd be coming the direction that this car is parked in. 18
- Q. Mhmm. 19
- A. And I was -- if the -- 20
- THE COURT: Excuse me, I'm sorry, Ms. Marcoux. You say "I would be coming", is that you would be coming from or going to that? 21  
22  
23
- A. I was coming in this direction. 24
- THE COURT: You were coming from the direction of the car? 25  
26

**313914**



- A. Towards -- that's the direction that I walked to school. 1
- THE COURT: Yes, I'm sorry. 2
- A. The T section is where I'm looking right now. 3
- THE COURT: All right. 4
- A. So I would be eight feet directly across from the body, looking -- 5
- EXAMINATION-IN-CHIEF OF MARY MARCOUX (CONTINUES): 6
- Q. And as I look at that picture -- 7
- A. Be right here. 8
- Q. We're looking north, that picture is taken with the camera facing 9  
north, the body appears to be sort of on the right-hand portion of the 10  
travelled -- 11
- A. Of the lane, yes. I would be on the other side of it. 12
- Q. You were on the other side? 13
- A. Yes. 14
- Q. Okay. Now, when you went to get help from the funeral home people 15  
and then came down and went with the assistant to show him where 16  
the body was, when you re-saw the body, or looked at the area again, 17  
was there anyone in the area? 18
- A. No. There was some children coming down the lane, and there was 19  
also some children in this part of the lane, but there was no one 20  
around the body. 21
- Q. And where were the children -- children in what part of the lane? 22
- A. Coming down the lane the same direction where this car is looking. 23  
They would be just walking. 24
- Q. Towards the body? 25
- A. Towards the body as well, on their way to school. 26

**313915**

Q.	From north to south?	1
A.	Yes.	2
Q.	And the other children?	3
A.	Were in the T part of the lane.	4
Q.	Okay. And do you know who those children were?	5
A.	Oh, I have no idea. Younger than me.	6
Q.	Okay. And they were at the T part of the intersection when, at what point?	7 8
A.	When the assistant came out there was some children coming down the lane, and there was some children walking in this part of the lane as well.	9 10 11
Q.	So on the east/west part of the lane?	12
A.	That's right.	13
Q.	Okay. Thank you. Now, did you -- if I could just refer you to photograph number 2 in that booklet, there appears to be marks in the snow around the body. Do you see what I'm referring to?	14 15 16
A.	Yes, I do.	17
Q.	Did you make any of those marks?	18
A.	No. No, not at all.	19
Q.	And did you see any children that morning --	20
A.	No.	21
Q.	... playing around the body --	22
A.	No.	23
Q.	... making any of the marks in the snow?	24
A.	Absolutely not.	25
MR. SINCLAIR:	Thank you very much. Nothing further, My	26

Lord.	1
THE COURT: Thank you. Yes, cross-examination.	2
	3
<b><u>MR. BERESH:</u></b> <b><u>CROSS-EXAMINATION OF MARY MARCOUX:</u></b>	4
Q. Ms. Marcoux, you were 11 years old at the time?	5
A. Yes, I was. Eleven and a half.	6
Q. Fair enough. Long time ago.	7
A. Yes, it is.	8
Q. Memories fade over that period of time, is that correct?	9
A. Yes.	10
Q. You testified at a trial involving David Milgaard, correct?	11
A. Yes, I did.	12
Q. You never testified before at the preliminary inquiry involving Mr. Fisher?	13
	14
A. No, I did not.	15
Q. This is the first time you've testified in this case?	16
A. Yes, this is the first time.	17
Q. Okay. I appreciate you were 11 years of age at the time, and I'll bear that in mind, but probably your hearing was very good at the time, wasn't it?	18
	19
	20
A. Yes.	21
Q. That morning you didn't hear any shouts or screams in the neighbourhood at all?	22
	23
A. No.	24
Q. St. Mary's School is south and, I think, a bit to the west of the location you came down, is that correct?	25
	26

- A. Yeah, it's over -- yeah. 1
- Q. (Inaudible - not near microphone) I'll just follow my finger, I think this  
is right? 2  
3
- A. And there is the school down there, yeah. 4
- Q. And the school is there? 5
- A. Yeah. 6
- Q. Okay. So, was this your normal path of walking in the morning? 7
- A. I think I went down the alley quite often, but it wasn't what I  
considered normal. I -- I did go down the back alleys though. 8  
9
- Q. What if I use the word frequently? 10
- A. Frequently. Yeah. 11
- Q. So other children used it as well? 12
- A. Yes. 13
- Q. So a lot of people in the neighbourhood would come to know that  
that's frequented by kids, that alley, obviously, right? 14  
15
- A. Yes. 16
- Q. There were -- these are just blocks but there were people living in each  
of these houses -- 17  
18
- A. Yes. 19
- Q. ... or certainly appeared to be? And here too? 20
- A. Yes. 21
- Q. Very heavily populated in that area? 22
- A. Yes. 23
- Q. Correct? 24
- A. Yes. 25
- Q. Thank you. Now, we have this apartment block that's described here. 26

- A. It was just being built. 1
- Q. I was going to ask that. You could tell it was being built because of  
the construction and things around it, correct? 2  
3
- A. That's right. 4
- Q. When you went by there those mornings, there were people there at  
work already? 5  
6
- A. That's right. 7
- Q. Okay. At least appeared to be construction workers? 8
- A. Yes. 9
- Q. Wearing hard hats, that sort of thing, heavy construction gloves? 10
- A. Well, I never saw them, but I could hear the hammering and -- 11
- Q. Okay. 12
- A. Yeah. 13
- Q. But it's clear they were at the apartment building -- 14
- A. They were at work, yes. 15
- Q. ... before you went by there? 16
- A. Yes. 17
- Q. And when they started you wouldn't know? 18
- A. No. 19
- Q. Okay. Now, I take it then that to get down this alley from the north  
you would necessarily have to go by the apartment that's under  
construction, is that correct? 20  
21  
22
- A. Mhmm. Yes. 23
- Q. Okay. And it would be about a half to three-quarters of a block from  
where you saw the body, correct? 24  
25
- A. Yes. 26

**313919**

- Q. I take it that kids then, as now, used to fool around in the wintertime? 1
- A. Sure. 2
- Q. Throw each other in the snow, make snow angels, that sort of thing? 3
- A. Oh, yeah. 4
- Q. That wasn't uncommon? 5
- A. Yeah. It was very cold though, there was no playing that day. 6
- Q. I'm sure. But the days before there sure were? 7
- A. Sure. 8
- Q. Sure. And it hadn't snowed that day, had it? 9
- A. No, it wasn't snowing that day. 10
- Q. Now, when -- there was -- at first you first saw the person, did it go  
through your mind that this might be somebody who was drunk? 11  
12
- A. No, that did not go through my mind. 13
- Q. Was there some talk though around the area about whether this might  
be somebody who is drunk and just fallen down, maybe fallen asleep? 14  
15
- A. No. 16
- Q. When you went to the Murdock house obviously you had to -- or,  
apartment I should say, you had to leave here and come over the -- 17  
18
- A. I didn't go through the alley though, I went through their yard and then  
I went down Avenue N. 19  
20
- Q. Sorry. 21
- A. I went through their yard. 22
- Q. Through the yard? 23
- A. Yes. 24
- Q. (Inaudible - not near microphone). 25
- A. No. Their house would be about 219. 26

- Q. I don't want to guess. Do you want to come down for a minute. 1
- A. Okay. 2
- Q. And if you stand off to the side we'll all be able to see you. 3
- THE COURT: Ms. Marcoux, could I ask you to speak up 4  
quite loudly, we don't have a microphone right there, so -- 5
- A. Okay. I believe the Hnatiuks lived at 219. So we went down the side 6  
of the house here (inaudible - not near microphone) and then I went 7  
down Avenue N. I did not come through the alley. 8
- A. Fair enough. 9
- A. (Inaudible - not near microphone) to the back of the house and up the 10  
stairs. 11
- Q. Okay. If you could just remain there for a minute. So you went to the 12  
Hnatiuks, you spoke to Mrs. Hnatiuk, I believe? 13
- A. Yes, I did. 14
- Q. Okay. And then walked from there to Avenue N? 15
- A. Yes. 16
- Q. And then south? 17
- A. Yes. 18
- Q. To the Murdock -- 19
- A. And then it was up the stairs at the side of the house here. 20
- Q. Okay. And do I understand you had to go up one set of stairs? 21
- A. I think so. One step, because it was just one -- yeah. 22
- Q. Okay. And then you spoke to Mr. Murdock, or Mrs. Murdock? 23
- A. Mrs. Murdock answered the door. 24
- Q. And then she told you to speak to the assistant? 25
- A. Well, yeah. Her husband called the assistant and he came out from 26

- the ground level. 1
- Q. Okay. So then you had to wait for the assistant? 2
- A. Yes. 3
- Q. He got ready, he came out? 4
- A. Yeah, got a coat on, came out. 5
- Q. And then walked back? 6
- A. Yeah. And then we walked together, type thing. 7
- Q. So all of that trip, I suspect, from leaving the area, going to the 8  
Hnatiuks, around, waiting, then coming back, would be what, five, ten 9  
minutes? 10
- A. I don't think it would be ten. It was closer to five. 11
- Q. I appreciate that. I take it somewhere between -- 12
- A. Well, I ran, and they came out right away. 13
- Q. Okay. During that time you, of course, don't know who was in the 14  
alley, correct? 15
- A. That's right. 16
- Q. Okay. You can retake the stand, please. Thank you. I understand 17  
that in addition to all of the other school children gathered, two were 18  
Hnatiuk boys -- or, three of them came into the alley at one point? 19
- A. Two. And then the older boy started to -- the third one came out, 20  
then I said "let's go talk to your mom". 21
- Q. And then Mrs. Hnatiuk came out at one point? 22
- A. I never saw that? 23
- Q. Didn't? 24
- A. No. 25
- Q. Finally, do you know a person by the name of Linda Duffus? 26

**313922**



A.	No.	1
Q.	Have you discovered that she was at the body before you were?	2
A.	No.	3
Q.	Did you know her as a student?	4
A.	No.	5
Q.	You've never heard of her?	6
A.	No.	7
Q.	No one has ever brought that name to your attention?	8
A.	No.	9
Q.	Okay. But there were lots of school kids around?	10
A.	At that time?	11
Q.	Yes. I mean going to school.	12
A.	Yeah. Sure. But there wasn't anyone close.	13
Q.	Do you know where Ms. Duffus was?	14
A.	Do I know who she is?	15
Q.	Yeah. Did you see anybody near the body --	16
A.	No.	17
Q.	... that you didn't know the identity of?	18
A.	No.	19
MR. BERESH:	I see. Thank you very much.	20
THE COURT:	Is there any re-exam?	21
MR. SINCLAIR:	No re-exam. Thank you very much, Ms.	22
	Marcoux.	23
THE COURT:	Yes, thank you. You are excused.	24
MR. JOHNSTON:	Betty Silverfox. Would you ask her to come	25
	in, please. Thank you.	26