

**The Commission of Inquiry into
the Wrongful Conviction of
David Milgaard**

[Honourable Mr. Justice Edward P. MacCallum, Commissioner]

**REPLY ON BEHALF OF T.D.R. CALDWELL, Q.C.
TO CERTAIN SUBMISSIONS MADE TO
THE COMMISSION OF INQUIRY INTO THE WRONGFUL
CONVICTION OF DAVID MILGAARD**

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I. INTRODUCTION

In my submission on behalf of T.D.R. Caldwell, Q.C. made on November 14, 2006 we stated that we were then unable to clearly ascertain what would be asserted by other counsel as indicia of wrongdoing or error by him that may have contributed to the wrongful conviction of David Milgaard or impeded efforts to have his case re-opened in light of the evidence that had been made available to the parties and on the public record.

Having now had the opportunity to review the written submissions by Counsel, I intend to respond briefly in this written reply to some of the allegations/assertions that continue to be perpetuated by counsel for David Milgaard and Joyce Milgaard in their joint submission and will reserve other aspects of our response for oral submission.

In so doing, I make the initial observation that much of the factual assertion made with respect to Mr. Caldwell are a repetition of a kind of "mantra" that was adopted by these parties prior to the commencing of this Inquiry and it is a mantra we submit, that largely ignores the fullness of the documentary record and some 40560 pages of transcribed evidence which was received from many witnesses from January 17, 2005 to October 4, 2006.

II. NON - DISCLOSURE

1. Mr Caldwell has been dogged by allegations of misconduct and malfeasance for many years and in many forums but in their submission to this Inquiry counsel for Mr Milgaard and Joyce Milgaard now identify that disclosure was the fundamental fault in the conduct of Mr Caldwell in the prosecution of David Milgaard. They further assert that it was his failure to live up to his duties to disclose evidence to the defense that was one of the causes of this wrongful conviction. At paragraph 35 it is stated that:

.....Mr. Caldwell did not seek out any other [police reports] in response to Mr. Tallis request, nor it seems did he read the many reports that he had with a view to making full disclosure to Mr. Tallis.

2. We respectfully submit that, to the contrary, there is the clear and credible testimony from Mr. Caldwell that he was very conscious of his duty to provide

disclosure to defense counsel and he sought out requested information..

3. His file notes show that upon request by Mr Tallis on August 21, 1969 he took the additional step of seeking out and reviewing additional police information that might "point to the innocence of David Milgaard". He asked police officers to turn their minds to whether any such evidence existed¹ following receipt of the letter from Mr Tallis to which counsel referred.
4. He testified that he had an open door relationship with Mr. Tallis regarding access to his file and to witnesses as is evidenced in other notes he kept on his file. The openness of that relationship was confirmed by Mr Tallis in this Inquiry as was the fact that there was a Crown practice of letting defence counsel read relevant witness statements even though copies were not always given to them. [Much of which documentation and transcript is referenced in our initial submission and will not be repeated here]
5. Counsel is correct that Mr. Caldwell did not have or request the full file of the Miller murder investigation but we submit there is no evidence upon which it can be concluded that he did not read the many reports he had in his file with a view to making disclosure to Mr. Tallis.
6. We respectfully submit that counsel are wrong in this assertion. The documentary records before this Inquiry and Mr Caldwell's sworn testimony are to the contrary. As already noted above and in his letter to Mr Tallis dated September 9, 1969² Mr Caldwell gathered and did a review of all witness statements that police had taken in the investigation to the time of the preliminary inquiry and he did direct a specific inquiry to the Saskatoon Police Service asking for their input as to any evidence that might point to the innocence of Mr. Milgaard.
7. Additionally, his file notes show input was received from certain police officers on this query³ as does his testimony under oath here. That , in hindsight, it was not expansive enough is regrettable but it does not give rise to the conclusion of laziness or incompetence that is being imputed by counsel in their brief.
8. Much of the material in the police file in the investigation of the murder of Gail Miller was a series of general information from unsubstantiated theories and leads investigated by many police officers over several months that had no connection to or impact on establishing the guilt or innocence of David Milgaard. It is not disputed that their leads took the police to many dead ends and citizen contacts that were of no evidentiary value either for the Crown or the defence.
9. Mr Caldwell testified that when he took carriage of the prosecution of Mr Milgaard, it was not Crown practice to gather in all of the material from major files like the Miller murder investigation. There is no evidence to suggest that in

not doing so he failed to live up to his duty as a Crown Prosecutor. He testified that he did not expect to receive all of the extraneous investigative material that the Saskatoon Police Service had compiled in their efforts to determine who had killed Gail Miller and, indeed, he did not want to receive it. In 1969 he relied on the police to provide him with everything that related to or might impact on the prosecution of David Milgaard.

10. This was in accordance with accepted Crown and police practice at that time. To obtain and disclose the whole investigation file in a criminal prosecution is the standard of disclosure that the Crown has been required to meet since the decision of the Supreme Court of Canada in the Stinchcombe case in November, 1991 but it is not the standard that this Commission should use to pass judgement on the actions of Mr Caldwell in 1969 - 1970.
11. Mr Caldwell asks only that he be judged by the practices governing Crown disclosure at the time of the trial of David Milgaard. We submit that, with the exception of some honest oversight with respect to a small number of items in the file that have taken on new significance with the prism of knowing that David Milgaard did not kill Gail Miller there is no compelling evidence to support counsel's assertions in their brief that there was material non disclosure.
12. We respectfully submit that the evidence before this Inquiry is that Mr Caldwell made a good faith effort to provide all appropriate disclosure to the defense and where history has shown that were other material that perhaps should have been disclosed he acknowledged in his testimony that, with hindsight, he would do it differently in some respects had he the opportunity to do this case over again.⁴ This is notwithstanding the expressed view of the Supreme Court of Canada in the Reference in April 1992⁵ and the opinion of Alberta Justice officials at the conclusion of Project Flicker.⁶

III. THE NON DISCLOSURE OF EVIDENCE CONTRADICTING THE AVE "N" THEORY

13. Much continues to be asserted by counsel in their submission with respect to the theory of the Crown as to the direction of travel of Ms. Miller on the morning of her death. They seemingly ignore the words of Mr Caldwell in his address to the jury on this issue⁷ wherein he stated:

Now I would like to outline the Crown's theory of the offence. The evidence is that the girl, Miss Miller, was still at her residence home, 130 - O South between, as I get it 6:35 and 6:45 the morning of the murder. It must be inferred that she set off on foot for the bus line on 20th

*Avenue either down Avenue P –excuse me, Avenues O or N,
one or the other.....*

14. Mr Caldwell put forward the “theory” of the Crown with the caveat that the jury must infer Gail Miller went down Avenue N or Avenue O. He did not suggest that Avenue O was not a possible scenario...indeed he did the exact opposite as is clear from his opening comments to the jury as noted above.
15. It is in this category of alleged wrongdoing, in paragraph 37 of their brief, counsel for David Milgaard and Joyce Milgaard assert that Mr. Caldwell did not disclose the statement of Betty Hundt⁸ to Mr. Tallis even though it contained evidence that Gail Miller walked on Avenue “O” to the bus stop. We respectfully submit that on this issue counsel are deliberately ignoring the evidentiary record. By way of opening reply it is to be noted that Betty Hundt said in her statement only that “I believe she [Gail Miller] walks south on Avenue O to 20th Street and the bus stop... but she had no personal knowledge of this fact. Other issues also need to be addressed in respect of this part of the submission however.
16. It is “assumed” by counsel that Mr. Caldwell did not disclose the statement of Betty Hundt. A review of the memos in Mr Caldwell’s file⁹ and a review of the testimony of Mr. Tallis with particular reference to his evidence about his relationship with the City Prosecutor, Mr. Wolff and Mr. Caldwell shows that the mere fact that he did not get a copy of a witness statement is not proof that he did not have access to the witness statement.¹⁰ It may well be that he read the statements but without his full file this can never be determined one way or the other given the passage of time since the trial.
17. When one reads his cross examination of Adeline Nyczai at the Preliminary Inquiry and reviews the memos that we have from Mr Tallis that speak to his high degree of investigative work and his preparedness for all issues in the file it is almost inconceivable to suggest that he would not have sought out those witness statements for review. He knew of the names of the house mates from his examination of Ms Nyczai and he was, seemingly querying their degree of “closeness” to Ms Miller.¹¹ While it is acknowledged that there is nothing in the documentary record to prove that he asked to see their witness statements there is also nothing in the records that supports counsel’s assertion that they were not disclosed to him.
18. In his own testimony, Mr Tallis advised this Inquiry that there was a Crown practice in 1969 of allowing certain defense counsel to review statements even where no copies were given to them and that he was one to whom such courtesy was routinely extended. Additionally there is there is documentary records that clearly establish that Mr. Caldwell offered to make witnesses available to him and he facilitated calling any witness Mr Tallis wished to have made available.¹²

19. Further in paragraph 37 there is reference to a January 19, 1970 letter from Mr Caldwell where he advised Mr Tallis that the statement of Ms Nyzcai had been lost.....which seems to imply some sceptism about the validity of the loss. It is submitted it is instructive to look at Mr Caldwell's trial notes regarding a discussion he had or intended to have with Det. Sgt. Raymond Mackie about the "missing" statement of Ms. Nyzcai.¹³ to determine whether, on it's face, his claim to Mr Tallis that the statement was missing was an apparently genuine assertion at that time.
20. Counsel also make a factual assumption in their brief that Mr. Caldwell failed to disclose the statement of Anne Friesen but, as with Miss Hundt, that is no evidentiary basis before this Inquiry upon which one can conclude that he did not do so. As stated previously, for the Crown to meet their obligation with respect to the duty to disclose in 1969 it was not required that a copy of the witness statement be given to defence counsel. It was generally the practice of the day to give copies of statements for persons who would be called as witnesses. Mr. Tallis knew of Ms Freissen, by name, after he cross examined Ms. Nyzcai¹⁴ and we submit, as with Ms Hundt, that it is highly improbable that counsel of his calibre and work ethic did not inquire whether witness statements were taken from those women as part of his preparation for trial. It must be remembered that it was his belief that he is likely to have been permitted to read the Crown file and the witness statements therein as early as when Mr Wolff had the file for the initial Court appearances by Mr Milgaard on June 2, June 10 and June 16, 1969. This is confirmed by his correspondence to Mr. Caldwell and his evidence before this Inquiry.
21. We restfully submit that for counsel to assert that "it is no answer to Mr. Caldwell's failure to disclose that Mr. Tallis knew (from the preliminary inquiry) the names of Gail Miller's housemates and could have chased them around the country to see if they could say anything helpful" as is done in counsel's brief at page 34 is to mis-state the evidence. There is compelling evidence that Mr Caldwell not only gave him witness statements to read, he provided him with copies of statements he had previously read upon request, i.e. the Fraser McRae statement¹⁵ and he made arrangements to have witness brought to the Court, even from outside the city, when asked to do so. Had Mr Tallis wanted to have either Ms Hundt or Ms Freissen available as prospective defense witnesses he did not need to "chase them around the country" ...he had only to make a request of the Crown.
22. That Mr Caldwell honored his offer to make witnesses available when requested to do so is evidenced by the documentary record in his files with respect to Mrs. Wilson, Inspector Roberts and, indeed, with Mrs. Indyk at trial.¹⁶ We submit he would equally likely have done so had he been asked to make the other house mates available to be questioned by Mr Tallis or as prospective trial witnesses.

23. It is contrary to the evidence before this Inquiry to imply, as counsel seems to in their brief, that Mr. Caldwell and by necessity the police engaged in deliberate decision making to hide the existence and/or potential evidence of these house mates from Mr Tallis and that this led the officers who were investigating the murder “not to be interested in taking a formal statement from Mr. Doell” as is implied in paragraph 38 of counsel’s brief.
24. Hundreds of people in the vicinity of this murder were contacted by police between January 31, 1969 and the arrest of David Milgaard in late May, 1969. Few had statements taken from them. Simon Doell was spoken to on February 4, 1969¹⁷ by Det. H. Dimitt and the contact was recorded in an Investigation Report which was the format used by he and many other officers to document the information they received from citizens in the area and others who they spoke to.
25. To suggest that the fact that no formal statement was taken from Simon Doell was an act in furtherance of a deliberate scheme to hide the existence of other potential witnesses so as to implicate David Milgaard at a later date is, to put it mildly, absurd. Even if one tries to see if it can be moved beyond the absurd it is not borne out by the documentary record. David Milgaard was not a suspect in the investigation until March 2, 1969 when Albert Cadrain attended at the police station. He was not charged until late May, 1969 and Mr. Caldwell did not take carriage of the prosecution until after July 3, 1969¹⁸.
26. To coin a term used by Peter Carlyle Gorge in his evidence if one applies “rigorous logic” to that suggestion by counsel how on earth does it make any sense? How can it be argued that somehow there was a breach of the Crown’s duty to disclose information that might be relevant to the defense in any formulation of these facts as set out by counsel in their brief?
27. Without David Milgaard anywhere in their sights on February 4th, 1969 when Det Dimmitt spoke to Mr Doell what is it that would have caused the police “not to want to take a formal statement” from him. There were many days and weeks from February 4, 1969 forward for them to take a formal statement from Simon Doell but as with many others who were contacted in the neighborhood canvasses that were carried out they did not do so. This hardly lends itself to suspicion...a cursory review of the file shows it was a common practice.
28. With respect to paragraph 39, Mr. Caldwell has given testimony on this issue but it is to be noted that counsel is in error in stating that he had possession of the police reports regarding contacts with Margaret Merriman and Arthur Merriman. The evidentiary record is clear that the Investigation Report¹⁹ with respect to Margaret Merriman was provided to Mr Caldwell but the Investigation Report recording contact with Mr. Merriman was not part of the Crown file²⁰.

29. With respect to Ms. Gallucci as referenced in paragraph 40, Mr. Caldwell addressed this issue in his testimony. It was not part of the prosecution file that he received from the police and he had no knowledge of it.

IV. NON DISCLOSURE OF THE SERIAL RAPIST ASSAULTS

30. With respect to paragraph 41, this issue was canvassed with Mr. Caldwell in his testimony. Mr Caldwell gave credible testimony as to what knowledge he had of other assaults on women in the neighborhood. One must be cautious that counsel persists in using terminology that was not part of the police and Crown working language or concepts in 1969. "Serial rape" was a phrase that was yet to be coined. Be that as it may, while there was an early theory that there might be a connection between the murder of Gail Miller and other assaults in the neighborhood it was not a matter of much public debate according to the evidence before this Inquiry and it was not set out in the prosecution file. Mr Caldwell testified that he has no memory of making any connection between the incidents and the lab report in his file that he marked "Omit- Different File" speaks loudly to his state of mind on this issue when he was preparing for the preliminary inquiry and trial. There is no evidence that he made a connection between the files and we submit that his failure to do so was both logical and sensible given the stable of evidence that pointed to David Milgaard as the perpetrator of the murder of Gail Miller.
31. It was his testimony that he was guided in his view of the merits of the case against Mr Milgaard by many "pieces of potential evidence" that he then believed to be true including the eyewitness account of Nicol John, the "confession" assertion made by Ron Wilson, and the unsolicited attendance of Albert Cadrain at the police station with the claim that he had seen blood on David Milgaard's clothes on the morning of the murder. Separate from these witnesses, there was evidence of the trail of Gail Miller's possessions to the house where David Milgaard attended on the morning of her murder, the evidence that he threw a compact believed to be Gail Miller's out of their car soon after they left Saskatoon and other evidence that Mr Caldwell believed to be reliable and trustworthy. It is submitted that this was not an unreasonable conclusion on his part.
32. With respect to paragraph 42 and its reference to Ms. [REDACTED] it is correct that Ms [REDACTED] brought herself to the attention of Mr. Milgaard's counsel in 1991 but counsel ignores that Mr. Caldwell brought her to the attention of Federal Justice authorities before she came forward. In his letter to Eugene Williams dated October 25, 1989²¹ Mr. Caldwell sent the Margare [REDACTED] statement. Specifically he wrote that:

I also enclose statements # 38, 39, 40, 63 and 67..these are the only statements I could find relating to other supposed sexual offences or attempts on the Provincial file. None of these offences involve a knife or a weapon.

This was some nearly two years before [REDACTED] presented herself as a witness to the Milgaard group. There were virtually no similarities in the attack on Gail Miller and [REDACTED]. One must remember to this date that there are few who give credence to the theory that Larry Fisher was actually the perpetrator of the indecent assault on Ms [REDACTED]. That Mr Caldwell and the police did not do so in 1969 is not surprising.

V. NON DISCLOSURE OF THE OTHER SEXUAL ASSAULTS

33. It is nice to have the luxury of playing armchair quarterback some thirty five years later and criticize Mr Caldwell's analysis of the statements of other sexual assault victims, namely Miss [REDACTED] I.S., D.B. and D.F. but we respectfully submit that it is imperative to place ones self in the shoes he was standing in 1969 when he made those assessments before one passes judgement on his conclusions. In doing so, we should also keep mindful that it was the written view of the investigating police officers even before they received what they believed to be truthful statements from Albert Cadrain, Nicol John and Ron Wilson that these assaults were "not connected" to the Miller murder. I refer to the red handwriting notation in the top left hand corner of statements of these statements.²² There were few similarities between the crimes and no reason to connect them to the person who killed Gail Miller. More will be said on this issue in oral submissions.

VI. NON DISCLOSURE OF MR CALDWELL'S CONTACTS WITH CRAIG MELNYK'S PROSECUTOR.

34. Under the above noted heading at paragraph 44 of their submission counsel make another dramatic statement of fact that is premised on a watered down version of an allegation of prosecutorial misconduct that was put forth by Mr Wolch in various forums including into the public media on August 21, 1991.²³
35. While it is tempting to be grateful that Mr Caldwell is no longer being accused of "paying" for the testimony of Mr Melnyk (and one hopes that is by implication extended to the now deceased Mr Lapchuk) it is respectfully submitted that this submission of counsel is done without any apparent heed to the documentary

record²⁴, the transcript of Crig Melnyk's evidence at David Milgaard's trial²⁵, the transcript of his testimony before the Supreme Court of Canada and the testimony of many witnesses before this Inquiry including Mr Melnyk and Mr Caldwell and the many other witnesses who gave evidence in respect of the events in the motel room.

36. There is overwhelming evidence that Craig Melnyk's evidence at the Milgaard trial was truthful evidence. The most that has been established through witness evidence at this Inquiry is that there is a difference in perception of between Debra Hall and Craig Melnyk about whether David Milgaard was joking or serious when he uttered the profanity laced words saying that he had stabbed and killed Gail Miller and made motions with a pillow that were seen by some in the room as movements to mimic stabbing motions.
37. It is respectfully submitted that there is no evidence before this Inquiry that gives any credence to the submission that Mr Caldwell either arranged any form of favor for Mr Melnyk in exchange for his testimony or to the less egregious but none the less troubling suggestion that he may have inadvertently created the belief in Melnyk's mind that he would do so by his contact with the prosecutor who was handling his case in Regina. It is stated in the brief that:

"whether or not Mr Caldwell assisted Craig Melnyk by putting in a good word for him, Craig Melnyk may have thought that he would and obliged with stronger prosecution evidence than he would have if Mr Caldwell had not contacted the prosecutor handling his case."

38. It has been denied by both Mr Caldwell and by Mr Melnyk in their sworn testimony that favor was either offered by Mr Caldwell or presumed by Mr Melnyk in exchange for his testimony. The witness has remained steadfast in his allegations of what he observed Mr Milgaard do and say in the motel room when commenting on Gail Miller's murder.
39. Furthermore there is no evidence in the documentary or evidentiary record that Mr Caldwell did not advise Mr Tallis that he was in contact with the Regina crown prosecutor. In referring to Mr Caldwell's file notes in one of his "To Do" lists at Document ID 006904 counsel fail to consider one important fact in assuming that the contact was for/or could have been seen to be for arranging a soft touch for the witnessCraig Melnyk was scheduled to be on trial as an accused person in Regina on the very day that he was required to testify at the Milgaard trial.²⁶ He undoubtedly knew, as likely did Mr Tallis, that contact was being made with Regina to arrange for priority to be given for him to testify at the jury trial that had been ongoing in Saskatoon since January 18th. Indeed, in his cross examination of Melnyk the following questions were put to him by Mr Tallis at page 1032, line 20:

Q. And you are supposed to be in court there today, aren't you?

A. Yes

40. Furthermore, there is no evidence on the record to support counsel's assertion that Mr. Caldwell had a duty to disclose that he talked to the Crown in Regina or that he did not disclose that he spoke to him. The note in Mr Caldwell's "to do" list which is referred to by counsel reads as follows, on this issue:

2. Ph. Piragoff:

Melnyk - trial, Reg. Wed, 28 & Thurs, 29

Lapchuk - plea, Mon.26 - Forg & Utt.

41. If one then directs his/her attention to the notes in Mr Caldwell's file regarding his initial meeting with Mr Melnyk and Mr Lapchuk he recorded that he met with them late on Friday or on Saturday and given that both witnesses were due to be in court in Regina when he needed them to be available for trial such a call was prudent and appropriate to Regina.²⁷ It is not evidence of influence or nor does it give rise to a risk of interpretation that favor was being garnered for the witness.
42. We respectfully submit it is another example of counsel's failure to consider the totality of the evidence in the documents and from the witnesses.

VII. TUNNEL VISION

42. The submissions by counsel with respect to "tunnel vision" on the part of Mr. Caldwell are a repetition of much that was put on the record of the Inquiry. We respectfully submit it is contrary to the evidence that is before this Commission and we will address this and other issues more fully in our oral submission.
43. In respect of paragraph 49, two issues need comment for now. It is submitted by counsel that his letters to the National Parole Board "were unusual to say the least" – but they were in accordance with accepted practices as the evidence obtained by Inspector Sawatsky in Project Flicker revealed and literature from the National Parole Board²⁸ which was tendered at this Inquiry show²⁹.
44. It is submitted by counsel at paragraph 49 that proof of these letters being acts borne of tunnel vision is to be found in the fact that Mr. Caldwell did not write similar letters about Larry Fisher. One is puzzled to follow the logic of this since Mr. Caldwell had neither knowledge of Larry Fisher or involvement in prosecuting him at any time in his career.

45. It is further submitted that to suggest that Mr Caldwell “attempted to assist Fisher” at the Supreme Court of Canada Reference by disclosing to his counsel evidence which he had not given to Mr. Tallis is equally absurd. His notes from his file were forwarded to all parties to prepare for the Supreme Court of Canada hearings –and he was interviewed by Sgt Pearson about it during the Supreme Court of Canada Reference. It was hardly a secret.

VIII. CONCLUSION

46. By way of conclusion, it is to be noted that this reply addresses only some of the more glaring factual “issues” in the submission made by counsel on behalf of David Milgaard and Joyce Milgaard. These and other issues will be more fully canvassed in my oral presentation.

ALL OF WHICH IS RESPECTFULLY SUBMITTED at the City of Saskatoon in the Province of Saskatchewan this 30th day of November, 2006

Catherine M. Knox

ENDNOTES

1. Document ID 007014 at 007016; 007011 at 007012, 007024, 007035, 007049, 007072, 007073, 007078, 007079, 006938, 006095 and others
2. Document ID 168034 ; 007011
3. Document ID 007014 at 007016 and others
4. T.D.R. Caldwell, Transcript of testimony, November 7, 2005, Volume 91, page 18503.
5. Document ID 003795 (Decision of Supreme Court of Canada, April 14, 1992)
6. Document ID 032805 (Report of Alberta Justice, August 15, 1994...Project Flicker)
7. Document ID 020467
8. Document ID 006026
9. Document ID 007015;

Document ID 007011 at 007012 wherein Mr Caldwell stated at para 2 of his Sept 9th letter to Mr Tallis: *"You will recall asking me earlier about a taxi driver.....and I sometime ago supplied you with copies of the two statements to read.."*

And at para 5 he stated: *".....I wish to emphasize, however, that if you have any specific inquiries to make to me concerning specific persons who you may learn of who supposedly can shed any light on the case I will be pleased to track these down for you to the best of my abilities in the file or through the investigators. If you have any such requests to make I will be pleased to hear from you in due course"*.

10. Mr Tallis, Transcript of testimony, February 2, 2006 Volume 117, page 23702, line 10 to 23703, line 5; **page 23725, line 4 to page 23727, line 14; page 23731, line 15 to 23750, line 17**; page 23756, line 1 to 23758, line 7; page 23759, line 3 to page 23761 line 4; page 23767, line 10 to page 23771, line 15; February 6, 2006, Volume 118, page 23864, line 9 to page 23866, line 18; February 7, **Volume 119, page 23949, line 13 to page 23991**, line 20; February 8, Volume 120, page 24171 to page 24172; Feb 9, 2006, Volume 121, page 24421, line 1 to 13;

Mr Caldwell, Transcript of testimony, November 8, 2005, Page 18539, line 5 to page 18545, line 23

11. Document ID 007421

12. Document ID 007011 at 007012 as referenced in Endnote 9; 007014; 025305; 006948, and others

Mr Tallis, Transcript of testimony, February 8, 2006 Volume 120, page 24205, line 25 to page 24208, line 6; February 9, 2006, page 24576, line 9 to page 24577, line 19; page 24577, line 2 to page 24579, line 15, as examples

13. Document ID 006938 (Note dated 23-1-70 re Melnyk's trial date on January 28, 29 next), see also 007072

14. Document ID 007421 at 007428 to 007429

15. Document ID 007011 at 007012 (as referenced to taxi driver statements in Endnote 9)

16. Document ID 007011, 007014, as examples

Mr Tallis, Transcript of testimony, February 9, 2006, page 24576, line 9 to page 24577, line 19; page 24577, line 2 to page 24579, line 15, among others

17. Document ID 075900 at 007901

18. Document ID 007059...(Letter dated July 8, 1969 from Deputy Chief Forbes to Crown); 009334

19. Document ID 006212 at 006215

20. Document ID 025148

21. Document ID 016105 at 016109...(T.D.R.Caldwell letter to Eugene Williams on October 25, 1989), 006111(M.Y. statement)

22. Document ID 006400, 006402, 006404, 006111

Mr Tallis, Transcript of testimony, February 21, Volume 124, page 24929, line 6 to 24932, line 2

23. Newspaper headline: *"Two Milgaard Witnesses Paid Lawyer Suggests"*

24. Document ID 047555...(Transcript of testimony of Craig Melnyk in Supreme Court of Canada Reference wherein he stated at 047562, [page 1760, line 7]:

Q. *Did you tell the truth at trial....?*

A. *Yes, I did*

and at the same page, line 16:

Q. *Were you promised anything in return for you testifying against Mr. Milgaard?*

A. *No*

and at 047567 [page 1765, line 11]:

- Q. Did you lie at the Milgaard trial to the best of your recollection?**
A. No, I did not

and at 047568 [page 1766, line 19]:

- Q. I just want to be very clear sir, were you ever offered anything by police in respect of your robbery charge in order to give evidence against David Milgaard?**
A. No, I was not.

Mr Tallis, Transcript of testimony, February 9, 2006, Volume 121, page 24520, line 9 to page 24547, line 15, February 10, Volume 122, page 24645, line 1 to page 24647, line 15;

Mr Caldwell, Transcript of testimony, November 8, 2006, page 18730, line 4 to page 18734, line 7

25. Document ID 002134.....Transcript of trial testimony of Craig Melnyk (pages 1010 - 1040) at pages 002156 (1032, line 20).
26. Document ID 007069 (Mr Caldwell's notes of dealings with Lapchuk and Melnyk.from Jan 18th -23rd); Trial Transcript
27. Document ID- [Trial Witness Schedule....Melnyk testified on January 28, 1970]; T.D.R. Caldwell, Transcript of testimony, November 8, 2006, Volume 92, page 18730, line 4 to 18734, line 7
28. Document ID 023167,
29. Document ID 332055