

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
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Volume 19

Inquiry Proceedings



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Mr. Rick Elson, Esq., **for** the Saskatoon Police Service
Mr. Aaron Fox, Q.C., **for** Mr. Eddie Karst
Mr. Bruce Gibson, **for** the RCMP
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Mr. David A. MacLeod, Esq., **for** Ute Maria Frank



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Transcript of Proceedings

(Reconvened at 10:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

ALL COUNSEL: Good morning.

COMMISSIONER MacCALLUM: Mr. Fox, were you
finished?

MR. FOX: I was, Mr. Commissioner.

COMMISSIONER MacCALLUM: Yes. So, Mr.
Elson, are you next?

MR. ELSON: Yes.

DEBORAH HALL, continued:

BY MR. ELSON:

Q Ms. Hall, my name is Richard Elson and I'm the
lawyer representing the Saskatoon Police Service
in this commission.

Mr. Commissioner, I should
perhaps beg your indulgence, it was originally
planned that my colleague Mr. Beckman would
conduct the cross-examination; after all, he saw
the witness give her evidence earlier.
Unfortunately, Mr. Beckman is ill this morning and
has asked that I appear and conduct the
cross-examination and I have reviewed the
transcript. In the event, however, I make any
errors, I beg your indulgence in terms of



1 recounting the witness' testimony.

2 COMMISSIONER MacCALLUM: Thank you, Mr.
3 Elson.

4 BY MR. ELSON:

10:01 5 Q Ms. Hall, when you had occasion to read the
6 transcript that contained Mr. Lapchuk and
7 Mr. Melnyk's testimony at the David Milgaard
8 trial, you can agree with me that from your
9 perspective as a layperson, that testimony would
10:02 10 have been fairly damaging to the accused Mr.
11 Milgaard at that time; would you agree with that
12 comment?

13 A Yes. Yes, I would.

14 Q And you can understand how a jury might make an
10:02 15 adverse inference from that testimony against the
16 accused Mr. Milgaard; is that a fair comment?

17 A Oh, yes.

18 Q Now, your testimony, as I understand it, was, and
19 correct me if I'm wrong because I wasn't here last
10:02 20 week, is that in addition to yourself, there was
21 Ute Frank in the motel room in Regina on that
22 occasion in the spring of 1969, there was David
23 Milgaard of course, there was Mr. Melnyk, there
24 was Mr. Lapchuk, there was Mr. Harris, Mr. Silljer
10:02 25 and Mr. Silljer's friend. Do you recall Mr.



1 Silljer or Mr. Silljer's friend being there?

2 A No.

3 Q Are you aware of Ute Frank having given a
4 statement to the effect that a Mr. Silljer and Mr.
10:03 5 Silljer's roommate were in the motel room on that
6 occasion?

7 A Was I aware that she testified?

8 Q Yes.

9 A No, I wasn't aware.

10:03 10 Q Are you aware of a Mr. Silljer?

11 A I understand that that's how Bob Harris got there,
12 but I do not remember this Mr. Silljer at all.

13 Q And you don't remember him. And when you say you
14 don't remember, you are not denying that he was
10:03 15 there, you simply don't recall him being there?

16 A No, I don't remember him in the motel room.

17 Q Would you agree with me that there would have been
18 no reason for Mr. Milgaard not to remember who was
19 in the motel room on that occasion?

10:03 20 A I'm sorry?

21 Q Would you agree with me that from your perspective
22 there would have been no reason for Mr. Milgaard
23 not to recall who was in the motel room at the
24 time you were there on that evening in the spring
10:04 25 of 1969?



1 A Well, he was pretty stoned, so I can't say that.
2 I would say he may have had problems recollecting
3 who was there and who wasn't.

4 Q All right. And when you say he was pretty stoned,
10:04 5 is it your recollection that Mr. Milgaard had
6 consumed more drugs than, for example, you or
7 Ms. Frank had consumed?

8 A Oh, yes, yes.

9 Q All right. So it's conceivable then that Mr.
10:04 10 Milgaard's memory might be somewhat hazy as far as
11 you could tell with respect to what occurred in
12 that hotel room based on your having seen his
13 behaviour and having seen his demeanour?

14 A Yes, yes.

10:04 15 Q But other than that, there would be no reason for
16 him not to remember who was in the room on that
17 occasion?

18 A I don't suppose so. I didn't know.

19 Q And you would agree with me that there would have
10:04 20 been no reason for him not to have informed his
21 lawyer representing him at the trial, Mr. Tallis,
22 as to who else was in the room on that occasion?

23 A There wouldn't have been any reason not to?

24 Q Yes.

10:05 25 A I don't suppose so.



1 Q Right. Certainly you would expect that he would
2 remember you being there because at the time you
3 and he arrived at the motel room, he would not
4 have been stoned on that occasion, or at least as
10:05 5 stoned; would you agree with that?

6 A Probably not as stoned, but we did ingest the
7 drugs before we got to the motel room.

8 Q So there would have been no reason for him not to
9 have informed his lawyer Mr. Tallis that Deborah
10:05 10 Hall was in the room on that occasion?

11 A No, I don't suppose so.

12 Q Now, my friend Mr. Wolch asked you some questions
13 suggesting that it would be appropriate for you to
14 have left the motel room if you had heard an
10:05 15 admission or confession of a rape and murder that
16 you believed to be real as I recall his question
17 being. Now, in that respect, you had seen David
18 Milgaard cheat someone out of drug money on that
19 evening; is that correct?

10:06 20 A Yes, it is.

21 Q And that did not prompt you to leave his company;
22 is that correct?

23 A No.

24 Q You had seen him naked in the motel room and that
10:06 25 made you uncomfortable; is that not correct?



1 A Yes, it did.

2 Q But it did not make you so uncomfortable that you
3 chose to leave on that occasion on account of
4 that?

10:06 5 A No.

6 Q And you had also seen him administer drugs to
7 Mr. Harris; is that correct?

8 A Yes.

9 Q And that made you uncomfortable given Mr. Harris'
10:06 10 reaction to the drugs Mr. Milgaard had
11 administered to him; is that fair?

12 A Yes.

13 Q And that made you uncomfortable?

14 A Yes, it did.

10:06 15 Q But you would agree with me that it did not make
16 you so uncomfortable that you chose to leave on
17 account of that?

18 A No.

19 Q And it made you uncomfortable that he was engaging
10:07 20 in intercourse with Ms. Frank throughout the
21 evening; is that correct? Is that fair?

22 A Yes.

23 Q It did not make you so uncomfortable that you
24 chose to leave on account of that reason and that
10:07 25 reason alone?



1 A No.

2 Q Now, my friend Mr. Wolch also suggested to you
3 that you would leave if you believed an admission
4 of rape and murder to be a real admission and you
10:07 5 indicated, in fairness to your testimony, that you
6 did not believe this to be a real admission. Is
7 that a fair recollection of your testimony?

8 A Yes.

9 Q Now, I also understood from your testimony, and
10:07 10 again correct me if I'm wrong because I wasn't
11 here, but did you know that Mr. Milgaard had been
12 questioned by a detective with the Saskatoon
13 Police Service prior to that evening in the spring
14 of 1969 in the Regina motel room?

10:08 15 A No, I did not.

16 Q All right. And I put that question badly. You
17 did not understand that he had been questioned
18 before the encounter or the party in the motel
19 room?

10:08 20 A I didn't know that he had been questioned at all,
21 no.

22 Q Now, subsequently it is your understanding from
23 the testimony previously given by Mr. Melnyk and
24 Mr. Lapchuk that they were aware of him having
10:08 25 previously been questioned; is that correct?



1 A Yes.

2 Q And I believe your testimony last week was that
3 that may account for the fact that they have a
4 different impression of the significance of what
10:08 5 Mr. Milgaard did in the motel room on that
6 occasion?

7 A I suppose so, yeah.

8 Q Would you agree with me that if you had been aware
9 of the fact that Mr. Milgaard had been questioned
10:08 10 by the Saskatoon Police Service, it is conceivable
11 that you would have had a different impression of
12 what was said?

13 A That's kind of hard to say.

14 Q And that's a fair answer, and let me explore that
10:09 15 a bit more. You, as I understand from your
16 testimony last week from a review of the
17 transcript, the Gail Miller murder was not
18 something that was particularly well known to you;
19 is that a fair comment?

10:09 20 A Yes, it is.

21 Q You lived in Regina at the time?

22 A Exactly.

23 Q And it was not as significant or as newsworthy an
24 item in Regina as it was in Saskatoon?

10:09 25 A Yes.



1 Q And so when the news story came on the television
2 about the Gail Miller murder, that did not have
3 particular significance to you; is that a fair
4 comment?

10:09 5 A Yes.

6 Q Would you agree with me that if you had been aware
7 that one of the people in the room had been
8 questioned with respect to that murder, that the
9 significance of that news story could have been
10:10 10 significantly greater than it was to you at the
11 time?

12 A I suppose it would have, sure.

13 Q And as a result of that news story carrying
14 greater significance to you at that time, if you
10:10 15 were aware that someone in that motel room had
16 been questioned about it, might you have not
17 thought then that the admission Mr. Milgaard or
18 the actions that Mr. Milgaard had demonstrated on
19 that occasion were somewhat more real than you had
10:10 20 thought them to be?

21 A Again, that's kind of a hard call. He had been
22 clowning around all night, there was no reason to
23 think he was being serious about anything he did
24 at any point in the evening, so I suppose I
10:10 25 probably would have had a different perspective on



1 it.

2 MR. ELSON: Thank you. I have no further
3 questions.

4 COMMISSIONER MacCALLUM: Thanks. Ms. Knox?

5 BY MS. KNOX:

6 Q Ms. Harris (sic), we haven't been formally
7 introduced. My name is Catherine Knox and I'm the
8 lawyer who's actually representing the interests
9 of the man who was the prosecutor at
10:11 10 Mr. Milgaard's trial. You will have referred to
11 him perhaps as Mr. Caldwell.

12 Now, I don't want to take a lot
13 of time, but I spent the weekend going through
14 various pieces of documentation where you've given
10:11 15 statements or evidence and I'm collectively going
16 to refer to it as statements, but you spoke to
17 Mr. O'Brien in 1981; correct?

18 A Yes.

19 Q You spoke to Mr. Asper and prepared your affidavit
10:11 20 in 1986 as I can find it?

21 A Yes.

22 Q You were examined under oath by Mr. Eugene
23 Williams in 1989?

24 A Yes.

10:12 25 Q Okay. You testified at the Supreme Court of



1 Canada in 1992?

2 A Yes, I did.

3 Q You were interviewed by the RCMP in 1993 as part
4 of a reinvestigation?

10:12 5 A Yes.

6 Q And additional to that I understand there have
7 been a number of times when you have given media
8 interviews and things of that nature?

9 A Yes.

10:12 10 Q Okay. Now, having looked at everything that I
11 could find available from you, I'm left needing to
12 ask you the question of when you first remembered
13 what happened in the hotel room that night that
14 Mr. Lapchuk and Mr. Melnyk had described at Mr.
10:12 15 Milgaard's trial as a reenactment. When in time
16 did you first remember that?

17 A Well, it would have been after talking to Chris I
18 would imagine. I hadn't known anything before
19 that about it.

10:13 20 Q Okay. When you say after talking to Chris, was it
21 during your conversation with him, after your
22 conversation with him?

23 A There was -- I had to think a lot harder on it
24 after I had talked to Chris.

10:13 25 Q Okay.



1 A Because he, at the time, indicated I would be
2 hearing from probably David's lawyers, etcetera,
3 so I had to start really thinking hard on that
4 evening after that.

10:13 5 Q Okay. I wonder if we could bring up document
6 047724. What I'm bringing up is the transcript of
7 your interview with Mr. O'Brien.

8 A Okay.

9 Q I want to go to page 2 of that transcript first,
10:13 10 please. Now, do you remember saying, and I just
11 drew a little line down here on a part, I don't
12 work this machine very well, but do you remember
13 saying to Mr. O'Brien that it was becoming clearer
14 to you as you thought about it?

10:14 15 A Yes.

16 Q Do you remember also -- and I won't go through
17 every place in the statement, we all have it,
18 we've been through it many times, do you remember
19 telling him that because you had taken drugs that
10:14 20 night, rather than fog your mind they actually
21 made your mind clearer?

22 A In some ways, yes.

23 Q Okay. Now, there were a number of occasions when
24 he asked you about what had been said in the room
10:14 25 and do you remember that it was your first memory



1 that you couldn't hear anything on the TV?

2 A How would I put that. Not that that was my first
3 memory. Going back to this transcript with Chris,
4 I have to admit I think I was -- he was so excited
10:14 5 about everything, I think I was kind of going
6 along with a lot, you know.

7 Q But the basic bottom line of what you went along
8 with is you repeatedly assured him --

9 A Uh-huh.

10:15 10 Q -- that nobody in the room that night had said
11 anything about a nurse being murdered, about a
12 saliva test, and words liked "killed", "stabbed",
13 or anything of that nature, were not said in that
14 room that night; would that be a fair summary?

10:15 15 A Well, it would seem to be with this, yeah.

16 Q Well it would seem to be, that's what the
17 transcript says, and that's what your voice said
18 when we listened to you last week?

19 A Uh-huh.

10:15 20 Q There was no way, no how, those words got used in
21 that room that night, because if you had heard
22 those words you would remember it, you used the
23 term "it would have been a real shocker", didn't
24 you?

10:15 25 A Yeah.



1 Q That was in 1981?

2 A Uh-huh.

3 Q So no way, no how, anything happened in that room
4 that night that you saw or heard except Mr.

10:16 5 Milgaard fluffed up a pillow?

6 A But, like I said, I said that to make Chris happy.

7 Q Okay, but I -- reasons aside, that's what you said
8 in 1981?

9 A Yup.

10:16 10 Q Okay. Now when, then, did you first realize that
11 what you had told Chris was a lie?

12 A It wasn't a lie.

13 Q Okay. You have got very clear statements --

14 A When I had to stop and really start thinking about
10:16 15 what I had said to him --

16 Q Okay?

17 A -- the recollection of that room, you know, came
18 to me more after that.

19 Q Okay. So how long --

10:16 20 A I mean initially when I talked to Chris it was
21 just like being blindsided, I couldn't believe all
22 of this, it was like all of a sudden I had stepped
23 into a movie.

24 Q Uh-huh.

10:16 25 A So, I mean --



1 Q But, at the time you stepped into that movie,
2 isn't it true that Mr. O'Brien had told you that
3 he was helping Mrs. Milgaard, --

4 A Yes.

10:17 5 Q -- that they were trying to get the trial
6 re-opened, and obviously caused you to know that
7 this was very serious stuff? They were talking
8 about a young man who was in jail for murder who
9 they believed to be innocent?

10:17 10 A Yeah.

11 Q So there was no doubt that you weren't having a
12 chat over a cup of tea, you knew that Mr. O'Brien
13 was going to go to Mrs. Milgaard and potentially
14 to other places, be it the police, lawyers, or
10:17 15 whatever; you knew that this was for serious
16 purpose, didn't you?

17 A Well, I don't suppose I thought about it that hard
18 at the time.

19 Q But what you did say to him at that time, and you
10:17 20 have said it a number of times, that men who had
21 given testimony under oath at the trial in 1970
22 had lied?

23 A Uh-huh.

24 Q You were very vehement in accusing them of lying,
10:17 25 weren't you?



1 A Well, like I said, lying was kind of a strong
2 word. They kind of took it out of context is what
3 they did.

4 Q That's the word you used, isn't it?

10:18 5 A I know, and I said it was a rather strong word at
6 the time.

7 Q But you used it a number of times?

8 A Yes.

9 Q You said they lied?

10:18 10 A Yup.

11 Q Could we go to page 7 of that transcript, please?
12 I'm sorry, I don't have the document number, I
13 wrote down page number, unfortunately. Bring up
14 this answer right here. If you could just take a
10:18 15 minute and review that to yourself, please.

16 When you were giving that
17 description to Mr. O'Brien did you, in any manner,
18 indicate to him that you weren't sure about this?

19 A I don't know. I don't recall.

10:18 20 Q You did say "I don't remember him saying anything
21 like killed, stabbed, or anything?"

22 A That's right.

23 Q And we can visit through the transcript a number
24 of times, and page 10, if we could bring up page
10:19 25 10 again. Sorry, Mr. Commissioner, I may have my



1 note wrong but you repeated that -- or Mr. O'Brien
2 asked you at some point on that page whether you
3 had heard words like "yes, I stabbed her, I
4 stabbed her, I stabbed her 14 times and she died";
10:19 5 do you remember responding "no, I definitely
6 didn't hear anything like that?"

7 A Yes.

8 Q Would you agree with me that there were a number
9 of other occasions throughout the course of it
10:19 10 that Mr. O'Brien kept going back to that? It was
11 important to him, it seemed, that he was
12 absolutely clear and you were absolutely clear
13 that words like that had never been said in that
14 motel room that night?

10:19 15 A At the time, that's what I remembered, yeah.

16 Q Uh-huh. Now the next time that we have any
17 document -- and I'm finished with that one now,
18 the next time that we have any documentation in
19 respect of you is document 026357. If I could
10:20 20 have that brought up, please, then this is the
21 affidavit that you did for Mr. Asper in 1986.

22 Now you have had an opportunity
23 to look that over, and we've gone over it at some
24 length here, and would you agree with me that this
10:20 25 is the first time we have a record of you having



1 any memory of anything being said in the hotel
2 room that night with respect to the Gail Miller
3 murder?

4 A Yes.

10:20 5 Q Okay. Because in 1981 you said it didn't happen.
6 Okay. Now if I could go to 026361, please. If I
7 could bring out this large paragraph at the
8 centre, please, if you would take a moment,
9 because I know this is stressful for you, I'm
10:21 10 sure, just read it over to yourself before I ask
11 you my next question.

12 Ms. Hall, when you swore this
13 affidavit in 1986 were you then, yet, remembering
14 that you had heard the words like "stabbed",
10:21 15 "fucked her brains out", and stuff like that in
16 that hotel room that night?

17 A I had had five years to think about that night by
18 then.

19 Q Okay. Were you remembering it in 1986?

10:21 20 A Oh yeah, much better.

21 Q Why, then, does this paragraph or this description
22 you gave give no indication whatsoever that you
23 heard words like that being said in that hotel
24 room?

10:21 25 A Pardon?



1 Q Why is it not in your affidavit?

2 A What?

3 Q That you heard him use words like "I stabbed her,
4 I fucked her brains", and words like that?

10:22 5 A I don't recall.

6 Q But you are telling us you had remembered it by
7 this time, --

8 A Uh-huh.

9 Q -- you swore this affidavit contained accurate
10:22 10 information, but yet it's not in there; is it?

11 A Nope.

12 Q Ms. Hall, do you even remember the first time you
13 told anybody that you had actually heard those
14 words in that hotel room that night?

10:22 15 A No, I do not.

16 Q When you remembered it initially did you get in
17 contact with, or try to get in contact with Mr.
18 O'Brien to say "listen, that information I gave
19 you in that taped interview in 1991 was wrong, I
10:22 20 have remembered more since?"

21 A I had no idea where Chris was, or how to get ahold
22 of him, and it never crossed my mind to even do
23 so.

24 Q When you remembered it after you gave this
10:22 25 affidavit to Mr. Asper did you get in touch with



1 him and say "I made a really bad mistake when I
2 gave you that information that you filed with the
3 Federal Government, I left a big piece out"?

4 A No. You know, quite frankly I didn't realize,
10:23 5 even to this point, where every single word that
6 you say has to be exactly so for 25 or 36 years.
7 You remember what you remember as you are going
8 along, and it gets foggier and stranger, and did
9 it really happen and -- you know. I didn't think
10:23 10 that there -- it was going to be such a big deal
11 for one sentence to be slightly incorrect, or two
12 words to be different than others, or anything.
13 If I had known that right from '81 I think I would
14 have said to him "give me a couple of days to
10:23 15 think on this and then I'll get back to you".

16 Q But you had five years from the time you spoke to
17 him until you did the affidavit for Mr. Asper?

18 A Yeah, and then I had how many years after that,
19 and how many years after that.

10:24 20 Q Ms. Hall, perhaps it's a good time to ask the
21 question that begs to be answered; how much of
22 what you believe today happened that night is
23 what, is your independent memory, and how much of
24 it has come from all the stories and the
10:24 25 transcripts and everything that have been floating



1 around for the last 20 years?

2 A You know, I don't know.

3 Q All right. If I could bring up 001320, please.

4 If you would take a moment, starting at line 238,

10:24 5 and read to the bottom of the page, please. And,

6 for your reference, this is the transcript of the

7 examination that Mr. Williams did of you in '89.

8 A Uh-huh.

9 Q Okay. You used the words, and he had the court

10:25 10 reporter read them back, that -- but you could

11 remember him using words like "fucking her brains,

12 oh yeah, right, I stabbed her I don't know how

13 many times and then I fucked her brains out", and

14 Mr. Williams had you read -- or had the court

10:25 15 reporter read that back?

16 A Uh-huh.

17 Q Is that the first time you told anybody that you

18 heard David Milgaard use those words that night,

19 to your best knowledge?

10:25 20 A Probably.

21 Q Okay. So it was nine years or eight years, then,

22 before this came back to you?

23 A Uh-huh.

24 Q Okay. Can you say with certainty, today, that any

10:25 25 of the memories that you have, including this one,



1 are accurate?

2 A 36 years later?

3 Q Yeah?

4 A No.

10:26 5 Q Okay. Mr. Elson asked you earlier whether you
6 remembered other people, like Gary Silljer and
7 people like that, being in the court -- in the
8 motel room that night, and you said you don't.

9 A Yeah.

10:26 10 Q Do you know that George Lapchuk and Craig Melnyk
11 testified that they learned that you guys were at
12 the hotel room when they ran into Gary and Bob,
13 maybe in Wascana Park, but somewhere in Regina
14 that night?

10:26 15 A We were all in Victoria Park, actually.

16 Q Or Victoria Park?

17 A Yeah.

18 Q Okay. Do you know that their memory in 1970, six
19 months or seven months after the event, was that
10:26 20 they found out where you guys were by talking to
21 Harris and Silljer?

22 A They probably did.

23 Q Okay.

24 A We were all in a group earlier in the evening.

10:26 25 Q And you know it was their memory that, or their



1 testimony that there were only five people in the
2 motel room when this happened, like Bob Harris
3 wasn't there?

4 A Yes, I know that.

10:26 5 Q Okay. Do you know that on at least one occasion
6 you have said as well that probably Bob Harris
7 wasn't there, he was out of it anyway, you don't
8 think that he lasted that long, but there is a
9 time when you said that you didn't think he was
10:27 10 there?

11 A I couldn't remember if he had left before the
12 incident or after.

13 Q I'm going to suggest to you, you told Mr. Williams
14 that you didn't know he was there at the time this
10:27 15 incident happened, is it possible that you
16 said that?

17 A Told Mr. Williams that he wasn't there?

18 Q That you didn't think Bob Harris was there?

19 A Like I say, I can't remember whether he left
10:27 20 before or after the incident, he was there, he was
21 there on the evening.

22 Q Yeah. And I think everybody agreed that he was
23 there for some point, and since you were there for
24 the entirety of the evening, no doubt that Bob
10:27 25 Harris was there?



1 A Uh-huh.

2 Q But you don't know if he was there when this
3 incident happened on the TV or not; do you?

4 A Well, not any more.

10:27 5 Q And Craig Melnyk and George Lapchuk, who said he
6 weren't there; unlike you and Mr. Harris they
7 weren't stoned that night, to your observation,
8 were they?

9 A I don't think so.

10:28 10 Q They didn't consume anything in the room?

11 A No.

12 Q Okay. So when you said in 1981 to Mr. O'Brien
13 that Bob Harris was in the room, it's possible,
14 when this incident happened it's possible that you
10:28 15 were wrong about that, isn't it?

16 A That he was in the room?

17 Q When the incident happened, or the reenactment --
18 and I know you disagree with that word -- but that
19 little incident/episode?

10:28 20 A That he could have possibly not been there?

21 Q Uh-huh?

22 A I suppose so.

23 Q And when I don't remember which one of the two,
24 but either George Lapchuk or Craig Melnyk, told
10:28 25 the police officer, Detective Karst, in January --



1 on January 19th, 1970, that you weren't around,
2 they thought you were in Vancouver; you, in fact,
3 weren't around, were you?

4 A No.

10:29 5 Q And if, when he went down there and he was looking
6 for the four people that were named as being in
7 the hotel room, you weren't around to be found?

8 A When who went down there?

9 Q On January 19th, 1970, you were in B.C., whether
10:29 10 with your dad in Nelson --

11 A Yup.

12 Q -- or in Vancouver or wherever, but you weren't
13 around Regina to be found?

14 A No.

10:29 15 Q And if he had found you and your memory had been
16 as fresh of the event as Mr. Melnyk and Mr.
17 Lapchuk, given that it would only have been seven
18 years (sic) later, I take it what you would have
19 told the jury was that you heard David Milgaard
10:29 20 say "I stabbed her I don't know how many times and
21 I fucked her brains out" when the news about Gail
22 Miller came on the radio (sic); that's what you
23 would have told the jury January 1970; right?

24 A Who knows what I would have said.

10:30 25 Q Well if that's what --



1 A 16 years old.

2 Q Yeah, but that's what you say you heard, you
3 believe now you heard?

4 A I know that.

10:30 5 Q So if you heard that, that's what you would have
6 had to tell the jury if you were going to tell
7 them the truth, wouldn't you?

8 A You would think so.

9 Q And the only difference would be is you would have
10:30 10 said you didn't take him serious, maybe?

11 A I -- probably.

12 Q Okay. But you would have said you did hear him
13 say that he stabbed her and he fucked her brains
14 out?

10:30 15 A Actually, my recollection that soon would probably
16 have been more to exactly what he probably would
17 have said --

18 Q But it wasn't a very --

19 A -- as to what I think I remember he said.

10:30 20 Q But what you believe you heard him say wasn't --
21 wouldn't be a particularly helpful piece of
22 defence evidence, would it?

23 A I don't suppose so. I don't suppose so. Except
24 for the context.

10:30 25 Q Except for the context, you would have



1 corroborated what Mr. Melnyk and Mr. Lapchuk said
2 they heard?

3 A I suppose so, yeah.

4 Q Thank you. I have nothing further.

10:31 5 COMMISSIONER MacCALLUM: Do you have any
6 questions, Ms. Krogan?

7 MS. KROGAN: No, sir.

8 COMMISSIONER MacCALLUM: Mr. Watson?

9 MR. WATSON: No sir.

10:31 10 COMMISSIONER MacCALLUM: Thank you.
11 Redirect?

12 MR. WOLCH: Mr. Commissioner, I wonder,
13 with your permission, if I can add a few
14 questions on matters that arose after I
10:31 15 questioned the witness?

16 COMMISSIONER MacCALLUM: Umm, matters which
17 arose in the questioning, you mean?

18 MR. WOLCH: Of counsel after me.

19 COMMISSIONER MacCALLUM: Is it a new
10:31 20 subject?

21 MR. WOLCH: I believe it is. Otherwise,
22 it's a complete unfairness that we have an order
23 where witnesses are questioned by one counsel --

24 COMMISSIONER MacCALLUM: Well I thought you
10:32 25 agreed to the order?



1 MR. WOLCH: Well, there has to be an order,
2 whatever it is. My concern --

3 COMMISSIONER MacCALLUM: Well, I mean, if
4 there's any unfairness in the order, we're
10:32 5 certainly prepared to address that, but --

6 MR. WOLCH: Well it's a matter of I
7 can't -- it may not be unfair, depends what's
8 raised after I question.

9 COMMISSIONER MacCALLUM: Well it seems to
10 me that if you believe that you are the party who
11 is most affected by a given witnesses' testimony,
12 you would want to go last, instead you have
13 elected to go first.

14 MR. WOLCH: I didn't elect, sir, I did it
10:32 15 as a matter of courtesy. And somebody has to go
16 first, it wasn't a matter of electing.

17 COMMISSIONER MacCALLUM: Well I would
18 rather, Mr. Wolch, that you settle these matters
19 first rather than hold re-examination, which as
10:32 20 you -- or re-cross, which, as you know, is not as
21 of right. But in view of what you say, I respect
22 your assessment of the situation, so go ahead and
23 put your questions.

24 MR. WOLCH: Thank you, sir.

10:32 25 **BY MR. WOLCH:**



1 Q Towards the -- just a few moments ago you were
2 asked by Ms. Knox as to what you might have said
3 back then had you been questioned; you recall the
4 very last questions?

10:33 5 A Yes.

6 Q Okay.

7 A Yes.

8 Q And she said that you may have said things that
9 you remembered and told people 20, 30 years later;
10:33 10 correct?

11 A Yes.

12 Q I'm going to suggest to you that you don't know
13 what you would have said back then other than the
14 fact that you would have told the truth?

10:33 15 A Yes.

16 Q That is, unlike Melnyk and Lapchuk, you would have
17 come to court as a person who wasn't a criminal,
18 who wasn't involved with criminals, you would have
19 come to court as a credible young woman with no
10:33 20 baggage that those people carry; --

21 A Yes.

22 Q -- correct? And what you say with certainty is
23 that you would have told the truth, that whatever
24 was said then by David was not serious, and no one
10:34 25 should have taken it seriously?



1 A Yes.

2 Q As to My Friend saying you have told Mr. O'Brien
3 this, and you have told Mr. Williams this, that
4 shows that, over time, you were susceptible to
10:34 5 suggestion; were you not?

6 A I believe so, yes.

7 Q And as people suggested things to you over time,
8 and the farther away it is to the incident, you
9 are more inclined to accept it?

10:34 10 A Yes.

11 Q If it's close to the incident you are prepared to
12 say "no, I remember specifically"?

13 A Exactly.

14 Q But when it comes 30 years later, and people who
10:34 15 are in responsible positions make suggestions to
16 you, you tend to either accept it or remember it
17 when the next person speaks to you?

18 A That's, that's true.

19 Q And that's what happened?

10:34 20 A I think so.

21 Q And were asked by Mr. Elson about your choice of
22 the word "lying," that Lapchuk and Melnyk lied.
23 Are you aware that there is a witness, Edwards,
24 who says Lapchuk admitted lying to her; are you
10:35 25 aware of that?



1 COMMISSIONER MacCALLUM: What difference
2 would it make if she is aware of it?

3 BY MR. WOLCH:

4 Q Well, to stop the suggestion she's the only person
5 who called him a liar, she's testified to that.

6 A Are you talking about Launa Edwards?

7 Q Yes.

8 A Yes, I remember hearing something about it after
9 the Supreme Court.

10 Q And Ms. Knox indicated, or asked you if you were
11 not around to be found, you heard that question a
12 few minutes ago?

13 A Yes.

14 COMMISSIONER MacCALLUM: Excuse me,
15 Mr. Wolch?

16 MR. WATSON: Excuse me. I hesitate to say
17 I can't help but rise.

18 Mr. Wolch agreed to the order,
19 we had the order, he went first, he is now trying
20 to undo what has been done by other counsel. Are
21 we all going to get that same privilege and go
22 twice, depending on what the order is? He had
23 his kick at the cat, he is redoing -- he is
24 covering the same ground.

25 MR. WOLCH: Well if I may answer that,



1 first of all, in the other commissions I have
2 been in, I have been in several, every counsel
3 has been given a right to re-examine after other
4 counsel have gone ahead.

10:36 5 COMMISSIONER MacCALLUM: Mr. Wolch, you
6 have read the rules, I trust.

7 MR. WOLCH: I'm simply pointing that out,
8 that --

9 COMMISSIONER MacCALLUM: I don't really
10:36 10 care about the other commissions. Be assured
11 that we did not formulate our rules in a vacuum,
12 we considered other commissions' proceedings.

13 MR. WOLCH: Well, and I also would remind
14 people that my client is the person who spent 23
10:36 15 years in jail for --

16 COMMISSIONER MacCALLUM: That, of course,
17 is obvious, Mr. Wolch.

18 I come back to the fact that
19 you have acceded to the present order of
10:36 20 questioning and I'm not going to stand here, to
21 sit here and listen to re-cross at anybody's
22 whim. What counsel has said is perfectly true,
23 if you are allowed to do this, what about the
24 rest of them.

10:37 25 MR. WOLCH: I have no objection if we get



1 to the truth, I have no objection if they come
2 after me and --

3 COMMISSIONER MacCALLUM: I have some
4 objection to the procedure as it's now unfolding.

10:37 5 MR. WOLCH: Well, and sir, with respect, I
6 have objection that my client is being maligned
7 very unfairly by a number of witnesses being
8 asked questions about him that counsel know is
9 not accurate, his character is being blasted, his
10:37 10 background is being blasted, we have had people
11 saying "so and so told me that so and so told
12 them that David was a really bad guy", and that
13 is really unfair. And I'm trying to get out that
14 here is a witness here who is trying to do her
10:37 15 best, and she is being told, all sorts of
16 suggestions are being made to her and she is
17 being asked questions that do not create the
18 correct impression of what she is conveying, and
19 I wish a chance to question her, and if I have to
10:38 20 go last from now on so be it.

21 COMMISSIONER MacCALLUM: Well you can make
22 that decision with your other counsel, the other
23 counsel I should say, if you can't agree then
24 I'll, of course, set the agenda.

10:38 25 MR. WOLCH: Well I just want to advise the



1 Commissioner that when witnesses like Melnyk come
2 up with new confessions that were blasted all
3 over the country --

4 COMMISSIONER MacCALLUM: You didn't object.
10:38 5 You didn't object to that. Why didn't you ask
6 Melnyk about it?

7 MR. WOLCH: I did. I did. But it gets --
8 it hurts my client, who doesn't deserve to be
9 hurt.

10:38 10 MS. KNOX: Mr. Commissioner, I, perhaps I
11 don't need to rise given that Mr. Wolch is
12 sitting down, but I was about to simply go on the
13 record as reiterating the concern expressed by
14 Mr. Watson. And it seems like I'm the one who
10:38 15 put the cat among the pigeons here, but I thought
16 that I simply asked the witness questions fairly,
17 she had ample time to answer them, and somehow to
18 revisit all of this now just seems like we're
19 getting into the midst of a circus.

10:38 20 COMMISSIONER MacCALLUM: Ms. Knox, if you
21 had not been fair in my estimation, be assured
22 that I would have said something. Yes?

23 MR. FOX: Thank you, Mr. Commissioner.
24 This may seem a little odd, because I think Mr.
25 Wolch and I have locked horns a few times already



1 at this Inquiry, but on one point he raises I
2 think I do support him in this sense.

3 The order of questioning is
4 always a little bit -- is difficult. I think we
10:39 5 have reached a basic agreement and that may
6 change depending on the nature of the witnesses.
7 I think, in fairness, what Mr. Wolch is saying is
8 correct to this extent; that we agreed, and
9 certainly it was my understanding -- and this
10:39 10 would probably affect me perhaps later on or
11 others -- but that if you go first and something
12 further comes up, something new comes up that was
13 not covered or you didn't have an opportunity to
14 address, in fairness to the counsel that goes
10:39 15 first, they should be able to address that.

16 I'm not sure that Mr. Wolch did
17 that with his questions, and it doesn't really
18 matter now in any event, but I think I would
19 agree with Mr. Wolch that we did understand that,
10:39 20 if you were going initially and something new
21 came up, in fairness you should be able to deal
22 with it.

23 But I think I add that rider or
24 caveat to it, and I think we've finally finished
10:40 25 with this witness in any event, but subsequently,



1 if that should occur, that would be -- I don't
2 have an objection to further questions on truly
3 new issues that are raised that counsel didn't
4 have an opportunity to question about.

10:40 5 MR. GIBSON: Mr. Commissioner, just one
6 very brief comment. In Mr. Wolch's
7 re-examination of Ms. Hall he raised the issue
8 about her having scenarios suggested to her that
9 she adopted over time, and I suppose, acting for
10:40 10 the RCMP, that that creates a bit of a problem
11 for me in the sense that it's the RCMP that would
12 have gone later on and would have asked those
13 questions of Ms. Hall. And I suppose those
14 transcripts of the RCMP investigation and -- are
10:40 15 in front of you, and I guess if there is some
16 suggestion and that seems to be somehow improper
17 to put scenarios like that to Ms. Hall, I guess I
18 would invite the Commissioner -- and I'm sure you
19 will -- is to look at those transcripts and see
10:41 20 where is that inappropriate suggestion if there
21 is some inference to be drawn from that.

22 And I just raise that from my
23 client's perspective, that that's been thrown out
24 on the table now that my client has somehow made
10:41 25 the suggestion, and I invite the Commissioner to



1 look at those transcripts and make up his mind,
2 as I'm sure he will.

3 COMMISSIONER MacCALLUM: Of course I will
4 look at them. As a matter of fact, Commission
10:41 5 Counsel has been very careful up to this point,
6 and I'm sure will continue to be careful, to put
7 everything relevant before the witness, not only
8 in terms of their present recollection but what
9 they would have said in the past.

10:41 10 MR. GIBSON: Very good. Thank you.

11 COMMISSIONER MacCALLUM: And every
12 opportunity has been given to counsel, if they
13 think Commission Counsel has missed something, to
14 cross-examine on this basis.

10:41 15 What I am seeing now is
16 Mr. Wolch claiming a right to re-examine or to
17 re-cross, he has no such right, and nobody else
18 does, Mr. Fox or anybody else. If I think -- if
19 you think it necessary, you can ask me, but don't
10:42 20 think that you are going to get an automatic
21 approval for doing so.

22 MR. GIBSON: And I'm not asking to
23 re-examine on those points, I just --

24 COMMISSIONER MacCALLUM: Yes, sir.

10:42 25 MR. GIBSON: I'm just raising that as a



1 concern as to what's occurred as a result of
2 this.

3 COMMISSIONER MacCALLUM: Thank you for your
4 comments.

10:42 5 Now is there any re-examination
6 by --

7 MR. HODSON: No, there is no re-exam.

8 COMMISSIONER MacCALLUM: Thank you very
9 much for coming, ma'am, you are excused.

10:42 10 MR. HODSON: Mr. Commissioner, the next
11 witness is Ute Frank, who has just arrived this
12 morning from British Columbia, her flight was
13 slightly delayed, she is now here. I'm wondering
14 if we could take the morning break now and start
10:42 15 her at 11:00, whether that works.

16 COMMISSIONER MacCALLUM: Yes, 15 minutes,
17 or 11:00.

18 *(Adjourned at 10:43 a.m.)*

19 *(Reconvened at 11:08 a.m.)*

11:08 20 MR. WOLCH: Mr. Commissioner --

21 COMMISSIONER MacCALLUM: Mr. Wolch?

22 MR. WOLCH: -- there's something I
23 neglected to mention this morning and that is I'm
24 sure you noticed that Mr. Lockyer is not here.

11:08 25 COMMISSIONER MacCALLUM: Yes.



1 MR. WOLCH: I received a message that
2 there's some kind of storm in Toronto and the
3 airplanes are either delayed or cancelled, I
4 don't know which it is, I have no more
11:08 5 information other than the fact that his plane
6 was stopped. I just pass that on to you.

7 COMMISSIONER MacCALLUM: Thanks for the
8 information.

9 MR. WOLCH: And Mrs. Milgaard will attempt
11:09 10 to be her own counsel wherever possible in the
11 interim. I'll assist her of course.

12 COMMISSIONER MacCALLUM: I would very much
13 appreciate that, Mr. Wolch. She of course has
14 two approved counsel and if, as you say, there's
11:09 15 an unavoidable reason for one or both of them not
16 being here, then I will consider allowing her to
17 put questions herself, but I would much prefer
18 that you do so on her behalf.

19 MR. WOLCH: I think under the circumstances
11:09 20 I'm relatively confident that had there been a
21 request to stand down because of this
22 unforeseeable thing, that we might have been
23 favourably inclined, but in discussion with
24 counsel and Mrs. Milgaard, we both felt it better
11:09 25 to proceed.



1 COMMISSIONER MacCALLUM: Thank you.

2 MR. HARDY: Good morning, Mr. Commissioner.

3 We're ready to proceed with our next witness.

4 COMMISSIONER MacCALLUM: Okay, Mr. Hardy.

11:10 5 MR. HARDY: I call forward Ute Frank.

6 COMMISSIONER MacCALLUM: And Ms. Frank I
7 see has counsel?

8 MR. HARDY: Yes, Mr. Commissioner, I would
9 like to introduce David MacLeod.

11:10 10 MR. MacLEOD: Mr. Commissioner.

11 COMMISSIONER MacCALLUM: Welcome,
12 Mr. MacLeod.

13 **UTE MARIA FRANK**, sworn:

14 **BY MR. HARDY:**

11:10 15 **Q** Good morning, Ms. Frank. Thank you for agreeing
16 to testify at this Commission of Inquiry this
17 morning. Am I correct that the pronunciation of
18 your first name is Ute?

19 **A** Correct.

11:11 20 **Q** And, Ms. Frank, I understand that you are
21 currently living in British Columbia?

22 **A** Correct.

23 **Q** And you previously resided in Regina?

24 **A** Yes, a long time ago.

11:11 25 **Q** And you grew up, so to speak, in Regina?



1 A Correct.

2 Q And what is your date of birth?

3 A Do I have -- September 2nd, 1951.

4 Q And we will speak of the motel room incident

11:11 5 shortly, Ute. How old would you have been at the
6 time of that incident?

7 A 17.

8 Q And do you recall whether you were going to school
9 at the time?

11:11 10 A Yes.

11 Q You were living at home in Regina with your
12 parents?

13 A Yes.

14 Q And can you tell us the names of some of the
11:11 15 friends that you associated with at that time?

16 A George Lapchuk, Craig Melnyk, Debbie Hall, Bob
17 Harris, Gary Silljer, Frank -- I'm sorry, I can't
18 remember his last name -- Carl Harris, Sharon
19 Williams.

11:12 20 Q What was the nature of your relationship with
21 Deborah Hall?

22 A We had known each other since we were -- oh, I met
23 her when I was about eight or nine years old. We
24 lived in the same neighbourhood.

11:12 25 Q And again prior to the motel room incident, I



1 understand you had met David Milgaard?

2 A Yes.

3 Q And how long prior to that incident had you known
4 David?

11:12 5 A From the previous -- the summer before, the summer
6 of '68. I met him through Sharon Williams.

7 Q And how would you have described Mr. Milgaard at
8 that time?

9 A A fun, cute guy.

11:12 10 Q And you had developed an intimate relationship
11 with David?

12 A Yes.

13 Q And that was prior to the motel room incident?

14 A Yes.

11:12 15 Q And prior to the incident, were you aware that Mr.
16 Milgaard was a suspect in a murder investigation?

17 A Yes.

18 Q Do you recall having discussions with Mr. Milgaard
19 with respect to that matter?

11:13 20 A Yes.

21 Q And what do you recall Mr. Milgaard telling you
22 during those discussions?

23 A When it was talked about, his explanation -- you
24 have to remember none of us, none of us could
11:13 25 fathom that this was, that he could have done



1 this, and so his explanation was that they were
2 just, they obviously didn't have the right person,
3 they had let him go and they were just picking on
4 him and he happened to be there and because of,
11:13 5 you know, the type, some of his activities, they
6 were just picking on him.

7 Q And you believed that to be the case at that time?

8 A Yes, because I just couldn't fathom that he could
9 have done such a thing.

11:14 10 Q And I understand then, Ms. Frank, that you and
11 others gathered at a motel room for a party in the
12 spring of 1969?

13 A Yes.

14 Q And can you tell us, please, what you recall of
11:14 15 that evening, and perhaps you can start by telling
16 us how you had come to arrive at the motel room?

17 A Well, it actually started in the late afternoon --
18 I believe it was late afternoon, early evening, a
19 bunch of us met at Victoria Park in Regina and
11:14 20 David was there and he had some money and, like,
21 since the rest of us were all living at home and
22 our parents were there, he came up with the idea
23 that we should go to a motel and have a party and
24 that's how that came about.

11:15 25 Q And so who were you with then on that evening



1 prior to arriving at the motel room?

2 A I was with David and Debbie Hall and to be -- I
3 don't remember who else was there. It was 35
4 years ago.

11:15 5 Q You recall arriving at the room though with David
6 and Debbie Hall?

7 A Yes.

8 Q And can you tell us what happened after you
9 arrived?

11:15 10 A Well, me and Debbie stayed in the vehicle while
11 David went to get the room and then after he got
12 the room and opened the door, then we went in, and
13 it wasn't long before more people began to arrive.

14 Q Do you recall who those people were?

11:15 15 A Well, some of the people, the other people that
16 were there was Bob Harris, his brother Carl, Gary
17 Silljer, Frank, Craig, George, and I know that
18 there were, at one point there were more people
19 there, but, I'm sorry, I can't remember who they
11:16 20 were. This was a long time ago.

21 Q You mentioned a Frank. Do you know what Frank's
22 last name was?

23 A No. He -- he lived at Gary Silljer's house. His
24 parents took in foster children and he was a
11:16 25 foster child and, I'm sorry, I cannot recall his



1 last name.

2 Q So can you tell us then what happened as the
3 evening progressed?

4 A Well, I do know that that afternoon I had gone in
11:16 5 to a drug store in downtown Regina and I had --
6 back in those days they used to keep boxes of
7 syringes on the shelf for diabetics or whatever
8 and I had taken some and put some in my pocket and
9 then of course when we got to the motel, there
11:17 10 were drugs there and that was the purpose for the
11 syringe, for the syringes.

12 Q Do you recall what kind of drugs?

13 A All I was told was that they were obtained from a
14 veterinary clinic.

11:17 15 Q And who was ingesting drugs on that evening?

16 A We all were.

17 Q By what method?

18 A Well, I know that me and David were shooting them.
19 I can't remember -- I don't know who did what any
11:17 20 more. Some people -- I don't know. I know that
21 me and David were because he was the one, he
22 and -- I could not inject myself, so he did it for
23 me.

24 Q And do you have any recollection of how much you
11:18 25 had taken that evening or had injected into you



1 that evening?

2 A Oh, well, it wasn't enough so that I didn't know
3 what was going on.

4 Q And tell us how the evening proceeded?

11:18 5 A Well, in the beginning it was just a good time,
6 everybody was having fun and things started
7 changing around -- when the news came on, that's
8 when things changed, the news came on, and there
9 was a story on the news about Gail Miller and at
11:18 10 that point David got up and -- in the motel the
11 bed was in the back corner and straight across
12 from the bed was the washroom, the bathroom, and
13 he proceeded to go to the bathroom and he shut the
14 door behind him and it wasn't long, I don't know
11:19 15 whether it was 10 seconds, 30 seconds, a minute,
16 it wasn't long, until we all heard very loud
17 noises coming from the bathroom and George was
18 sitting on the end of the bed and he got up and
19 opened the bathroom door and there was David
11:19 20 throwing himself against the wall and yelling and
21 it was very upsetting. No one knew what was going
22 on and George, at first George kept saying "what's
23 the matter, what's the matter," and then a short
24 time later, like I said, I don't know if it was 10
11:20 25 seconds, 20 seconds, I don't know, he went into



1 the bathroom and grabbed him to stop him because
2 he continued to throw himself against the wall and
3 he grabbed him and tried to subdue him and at
4 that, at some point David broke free of him and
11:20 5 ran out of the bathroom and literally ran across
6 the room and threw himself into the wall. Well,
7 at this point it was getting very loud, people --
8 all I knew is the door flew open and people
9 started leaving because I guess people were afraid
11:20 10 that someone would hear the commotion and call the
11 police and we were all there with drugs and people
12 began to leave.

13 Q And can you recall what Mr. Milgaard did next?

14 A Well, he did this a few more times and meanwhile
11:21 15 George was running around trying to subdue him and
16 I remember I had gotten up and I was like a deer
17 caught in the headlights, I was so stunned, I
18 didn't know what was wrong, what was going on, and
19 then the next thing I know David kind of hopped
11:21 20 over to the bed area and there was a night table
21 there with a lamp and there was a syringe on the
22 table and he grabbed it and he jumped onto the bed
23 on his knees with his back to us and he started
24 stabbing the pillow and he started saying "I
11:21 25 killed her, I killed --" at which point I went



1 into shock.

2 **Q** Do you recall what happened next?

3 **A** Oh, vividly. I was extremely frightened and I
4 couldn't move and when I -- David stopped doing it
11:22 5 and then he kind of did a flip in the air and
6 landed on his butt on the bed and started laughing
7 hysterically and by that time I noticed that there
8 was only three -- there was only me, Craig and
9 George left in the room and I just remember the
11:23 10 hysterical laughter and he did this for -- it
11 seemed like a long time, but I'm sure it wasn't,
12 and then when he saw that we weren't laughing and
13 that we didn't find this amusing and that suddenly
14 the realization was coming to us that maybe he did
11:23 15 do this, he became -- he got up off the bed and he
16 was angry and he approached, began approaching us
17 and -- oh, first he walked over to the door of the
18 motel which was wide open and he shut it and he
19 put the chair underneath it on its -- and we were
11:24 20 standing there dumfounded with our mouths hanging
21 open and he then proceeded to -- he made some vain
22 attempt at humour again and then he told us that
23 if we ever repeated what he had just said, he
24 would kill us.

11:24 25 **Q** And did you remain there after that occurred?



1 A I couldn't -- I was so scared I couldn't move and,
2 yeah, I was there for several hours afterwards
3 until he fell asleep.

4 Q And were George and Craig there as well?

11:24 5 A Yes. George spent a great deal of time trying to
6 keep him calm.

7 Q Were the three of you allowed to leave?

8 A No, no. Every time someone would make an effort,
9 he would flip again.

11:25 10 Q And at some point you were able to leave?

11 A He fell asleep.

12 Q And can you tell us what you did then?

13 A I ran out of -- I ripped the door open and I ran
14 all the way home, I lived about seven blocks away
11:25 15 and I ran all the way home, and I had to sneak
16 into my house because if my parents, if I would
17 have been caught doing that -- you have to
18 understand, none of us came from very happy homes
19 and my father would have -- my father would have
11:25 20 become very physical with me, so I snuck into my
21 house and I wouldn't leave. I hid in my house
22 for -- it was a week, two weeks later that I left
23 Regina. I was just so scared.

24 Q I'm going to ask you about that for a moment. I
11:26 25 want you to try to reflect, Ute, at the time of



1 the pillow stabbing, do you recall who was in the
2 room?

3 A I was aware of the fact that people were leaving,
4 but I couldn't honestly say who was there and who
11:26 5 was -- all I know is when it was over and I looked
6 up, there was just the three of us, me, Craig,
7 George and David, there was just the four of us in
8 the room, but a lot of people were leaving the
9 room when all the running around and yelling was
11:26 10 happening.

11 Q Do you recall whether Deborah Hall was there for
12 the pillow stabbing incident?

13 A I don't believe she was. She was one of the ones
14 that left.

11:27 15 Q And had you had intimate relations with Mr.
16 Milgaard during the course of this evening?

17 A Yes.

18 Q And was that before the incident that you've
19 described to us?

11:27 20 A It was before and after.

21 Q And after?

22 A Yes.

23 Q Okay.

24 A I wasn't going to say no to him.

11:27 25 Q I'm sorry, I didn't hear you.



1 A I was not going to say no to him.

2 Q And was this the first time you had seen anything
3 like this from David?

4 A Yes.

11:27 5 Q Had you ever previously heard him make reference
6 to killing the nurse or anything of that nature?

7 A The only reference that I had heard before was him
8 saying that he didn't do it.

9 Q And I understand, Ms. Frank, that you've had an
11:27 10 opportunity to review, or at least you have an
11 understanding of what Mr. Melnyk testified to at
12 this Commission of Inquiry last week?

13 A Yes.

14 Q And you are aware that he referred to a second
11:28 15 incident and he believed it occurred -- I believe
16 he said after but he wasn't certain -- where Mr.
17 Milgaard had made reference to killing the nurse
18 in Saskatoon, it was during an incident when he
19 was with yourself, Craig Melnyk and George Lapchuk
11:28 20 in a vehicle. You understand that that's what
21 Mr. Melnyk testified to last week?

22 A Yes, I understand that.

23 Q And do you have any recollection of an incident
24 like that occurring?

11:28 25 A I was not in that vehicle.



1 Q You have no memory of an incident of that nature
2 happening?

3 A No.

4 Q Either before or after the motel room incident?

11:28 5 A No.

6 Q Do you believe that incident happened?

7 A I don't know. If it did, I was not in that
8 vehicle.

9 Q So you were telling us that you had stayed at home
11:29 10 in fear for a couple of weeks after this incident.
11 Do you recall what you did next?

12 A Yeah. I finally realized how ridiculous it was, I
13 couldn't stay in the house forever, and that he
14 knew where I lived and he could -- so I got
11:29 15 together with -- and I was really, I was concerned
16 about Sharon Williams because he quite regularly
17 showed up on her door step and she lived just in
18 St. Albert, so I -- me and Debbie, I talked to
19 Debbie about going to Edmonton and so that -- I
11:29 20 don't know if it was a week, two weeks, I can't
21 remember how long it was, but we decided to leave
22 and I wanted to go to Edmonton so that I
23 could warn Sharon, and so we arranged and we got
24 -- Craig and George drove us up there. They
11:30 25 stayed for the day and then returned to Regina and



1 me and Debbie stayed for a couple of days and then
2 we left Edmonton with another fellow that we had
3 met in Edmonton and we set out hitchhiking and our
4 goal was Vancouver.

11:30 5 Q Do you recall during your travels to Edmonton
6 whether you talked about this incident with
7 George, Craig and Deborah in the vehicle?

8 A We didn't talk about it.

9 Q And why was that?

11:30 10 A Because we were -- I think we were all in shock.
11 We couldn't believe it, it was too unreal, and I
12 think -- I know I was trying to distance -- I
13 didn't want to know, I didn't want any part of it,
14 I just wanted to forget it. I do not recall
11:31 15 talking about it, no.

16 Q And you did end up meeting with Sharon Williams in
17 St. Albert?

18 A Yes.

19 Q And did you speak to Sharon about this incident?

11:31 20 A Yes.

21 Q And what do you recall telling her?

22 A I told her about what happened and what he had
23 said and told her that if he should come around,
24 she should not see him.

11:31 25 Q So you specifically described the motel room



1 incident to Sharon?

2 A Yes.

3 Q And do you recall what Sharon's reaction was when
4 you had given her this information?

11:31 5 A No, I don't. Actually, I don't.

6 Q And I believe you started to tell me where you
7 went from St. Albert, you and Deb headed on to
8 British Columbia?

9 A Correct. We went -- we spent a day or two in
11:32 10 Edmonton and because we were two women, two girls
11 and we were hitchhiking, we thought it would be a
12 good idea to try and meet up with a male to
13 hitchhike with, and we met this guy named Ian who
14 was going that way also, so the three of us left
11:32 15 together.

16 Q Do you remember Ian's last name?

17 A No. He was from Toronto.

18 Q And did you and Deborah eventually become
19 separated in British Columbia?

11:32 20 A Yes, in Kelowna. We arrived in Kelowna and we
21 were just going to spend the night and move on and
22 we got -- she went off to do something and I found
23 out much later that she had met some guy and I
24 don't know whether they left or what, but I
11:33 25 never -- I waited -- I looked for her for, like,



1 three days and couldn't find her and I was getting
2 pretty hungry, so I left, I went on to Vancouver
3 by myself.

4 Q And did you eventually return to Regina?

11:33 5 A Yes.

6 Q How much later was it that you returned to Regina?

7 A Several months. I was in Vancouver and I used to
8 sell Georgia Strait newspapers on Granville Street
9 and one day I saw in the newspaper there was a
11:33 10 story that David had been re-arrested and that he
11 was in custody and it was fall and I remember
12 thinking that I could go home now, it would be a
13 good time before the snow started flying, right,
14 so I decided to return. I was tired of living on
11:34 15 the streets.

16 Q And do you recall what happened when you returned
17 to Regina?

18 A Yeah. I went home and I wasn't -- I got a very
19 warm greeting by my family as usual and -- I'm
11:34 20 being sarcastic there -- and I had only been home
21 not long, I don't know, it was a couple of days,
22 no more than a week, and my door bell rang and my
23 mother answered the door and there were two guys
24 standing there in suits and they identified
11:34 25 themselves as Saskatoon police officers and they



1 had a piece of paper that said they had, what I
2 believed to be a warrant, and I can remember I had
3 been in the hallway and I had been walking out
4 towards the living room and when they saw me they
11:35 5 just kind of walked past my mother. One took one
6 arm, the other took the other and walked me out to
7 the car, put me in the car and took me to a motel
8 in downtown Regina.

9 Q Do you remember the names of the officers that you
11:35 10 met with?

11 A No.

12 Q And can you tell us then what happened at the
13 motel room in Regina?

14 A I remember in the car I kept asking them where
11:35 15 they were taking me and they took me to this motel
16 that used to be across the street from the Regina
17 Inn that had a big wagon wheel, but it's not there
18 any more, they took me inside and they took me
19 into a room and they put a chair, like, a chair
11:36 20 like this in the middle of the room and told me to
21 sit down and began asking me questions about the
22 night of the party in the motel, and at first I
23 completely denied, I told them I never heard of
24 David Milgaard, I knew nothing about it, I never
11:36 25 heard of him, you have the wrong person, I don't



1 know why you are asking me these questions, and
2 one of them was yelling at me a lot and they kept
3 walking around me and then they started -- then
4 they started holding pieces of paper in front of
11:37 5 me and I was led to believe that these were
6 statements from other people and my name was all
7 over it and they told me -- then they told me that
8 it was up to me, you know, how long I chose to sat
9 there, I could tell them the truth and go soon or
11:37 10 I could sit there for the next three days, and
11 eventually I got tired.

12 Q So you ended up telling them something on that
13 occasion, then?

14 A Yes, just 'cause I wanted to leave.

11:37 15 Q And did you understand that they were also
16 speaking with George Lapchuk and Craig Melnyk in
17 and around that time?

18 A Well I got that impression, yes, they kept
19 throwing their names around.

11:38 20 Q And I understand that you ended up providing a
21 written statement to the officers?

22 A Yes.

23 Q Was that a truthful statement?

24 A No. No. Other than the fact that I was there,
11:38 25 no.



1 Q And can you explain that for us, please?

2 A Well there was no way anybody was going to get me
3 to tell, to say what had happened that night,
4 because he said he would kill me, and nothing the
11:38 5 police could threaten me with was the equivalent
6 of that. I mean I was 17 years old, I was scared,
7 there was just no way anyone was going to get me
8 to talk about that at that time. I -- I acted
9 like yes, there was a party, and I was so stoned I
11:39 10 didn't know what was going on, and that's how I
11 made it.

12 Q So you had a memory of the incidents as you have
13 described to us at that time, you just chose not
14 to tell the officers that information?

11:39 15 A Correct.

16 Q Okay. I'm going to refer you to that statement,
17 Ute, if I could bring up document 054372 please.

18 A Well --

19 Q Focus in on this portion here. You will see your
11:39 20 name, Ute Maria Frank, perhaps if we could get a
21 full width of the page, please. You will see a
22 date of the statement, I believe that says January
23 19th, 1970, 4:15 p.m. If we go to the bottom of
24 the page, please, is that your signature Ute?

11:40 25 A Yes.



1 Q I see the witness is Eddie Karst; do you recall
2 whether one of the officers was Eddie Karst who
3 you were meeting with?

4 A Well, obviously, it must have been.

11:40 5 Q Okay. If we could go back up to the top of the
6 page, please, and again focus in on the full width
7 of the page at the top. I note the location is
8 indicated as Saskatoon; do you have a recollection
9 whether you signed a statement in Saskatoon, Ute?
11:40 10 Is your memory that you signed a statement in
11 Regina when you met with the officers?

12 A Umm, I can't recall whether I signed something in
13 the motel room or at the courthouse in Saskatoon,
14 I know that I did but I don't remember. It was 35
11:40 15 years ago.

16 Q Okay. And perhaps what I will do is bring up the
17 statement of George Lapchuk, that's ID 002129,
18 please. If we focus in on the top portion again,
19 full width of the page, I believe your statement
11:41 20 was taken at 4:15 on January 19th, so it looks
21 like it may have been taken right afterwards, and
22 I see the reference here is to Regina. So
23 perhaps -- and I just offer that information,
24 Mr. Commissioner, perhaps it was just a mistake
11:41 25 made by Mr. Karst in terms of what he noted on



1 Ms. Frank's statement.

2 If we could go back, please, to
3 the statement and I'll show you a clearer version
4 of that statement, Ute.

11:41 5 A Yes.

6 Q It's document 354217, please.

7 A Because that handwriting is very hard to read.

8 Q That's a transcribed version of that statement.

9 I'm going to take you through portions, perhaps if
11:41 10 we could focus in, please, at the top, and I'll
11 start reading here, Ute:

12 "I have known Hoppy (David Milgaard) since
13 about the middle of 1968. I have gone out
14 with him once or twice. About a day or two
11:42 15 before May 10, 1969 I got tied up with hopy
16 and on the night of May 10 stayed at a room
17 with him at the Park Lane Motel. I think it
18 was room 16, 17, or 18."

19 And was this accurate information that you were
11:42 20 providing, that paragraph that I just read, Ute?

21 A Umm, well other than the fact that I had seen him
22 many more than once or twice.

23 Q Okay. And I'll keep reading from there:

24 "Later on Gary Silljer, Bob Harris left but
11:42 25 Craig Melnyk and George Lapchuk came to the



1 room. Debbie Hall was also there. During
2 the evening we watched TV there and I had
3 sex relations with hopy and had several
4 (about four capsules) of THC."

11:42 5 Was this accurate information that you were
6 providing?

7 A Umm, yes, except I don't think I probably had
8 four, I -- that made me very stoned, right, that
9 was the point of the statement.

11:43 10 Q So you believe you had less than that?

11 A Yes.

12 Q If I continue on from there:

13 "I was quite stoned and sometimes wasn't
14 aware of what was going on around me. I was
11:43 15 also hallucinating quite a bit."

16 Was this accurate information that you were
17 providing at that time?

18 A No.

19 Q Were you hallucinating on this evening in
11:43 20 question?

21 A No, it wasn't that kind of -- nope.

22 Q I'll continue on:

23 "I recall asking hopy if he killed that
24 nurse they were talking about and he just
11:43 25 looked at me and smiled oddly."



1 Was that accurate?

2 A No.

3 Q A discussion of that nature hadn't happened on
4 that evening?

11:43 5 A No, it had happened at another time.

6 Q And can you tell us about that, please?

7 A Well just I had asked him about it and he, like I
8 said, he had explained it away as they were just
9 picking on him, you know, and they had let him go.

11:44 10 And no one wants to believe that someone you know
11 -- and I liked him -- could possibly, you know,
12 could do something like that.

13 Q And this discussion that you are referring to; did
14 that happen, then, before the motel room incident?

11:44 15 A Yes.

16 Q Okay. And reading to the bottom of the page:

17 "I had become involved with David on this
18 occasion because he offered me free drugs
19 which he did in fact give to me."

11:44 20 Was that accurate information that you were
21 providing?

22 A Well David always had drugs on him, and that was
23 part of the draw, yes.

24 Q So that last portion was truthful?

11:44 25 A Uh-huh.



1 Q And again, Ute, why were you not being more
2 complete in this statement for the investigators?

3 A Because at the time they had arrested him once
4 before and released him, and I didn't know that
11:45 5 that wasn't going to happen again, and he said he
6 would kill me and I wasn't gonna talk. Sorry.

7 Q And did the officers drive you home, then, after
8 your meeting with them?

9 A I suppose so.

11:45 10 Q And I understand, Ute, that you were required to
11 attend in Saskatoon at the trial of David
12 Milgaard?

13 A Yes.

14 Q You were subpoenaed to Saskatoon?

11:45 15 A Yes.

16 Q And do you recall how you travelled to Saskatoon?

17 A In a -- in a van.

18 Q And who were you with?

19 A At the time I was with my future husband, they,
11:46 20 they took him also, but I was in a sheriff -- in a
21 van with sheriffs or police officers, or somebody,
22 but it was provided by the Saskatchewan
23 Government.

24 Q Do you recall what happened when you arrived in
11:46 25 Saskatoon?



1 A I was taken to the courthouse, where I was placed
2 in a room, and then people started coming in and
3 started asking me questions.

4 Q Do you recall specifically who you spoke with?

11:46 5 A Umm, there was several people that came in, but I
6 don't know who they were. The only person I do
7 know or remember, because it -- was the
8 prosecutor. I don't remember his name, though,
9 sorry.

11:46 10 Q And what was said between you and the prosecutor?

11 A Well I guess he wanted to do a little meeting
12 before I was called to the stand, and I just
13 recall I was extremely distraught, and I just kept
14 telling him that I wouldn't talk, I wouldn't say
11:47 15 anything, I would not answer any questions, I was
16 not going to talk.

17 Q Did you tell him why that was the case?

18 A No. I just said "I'm not --" no.

19 Q I'm going to refer you to a document, Ute, it's
11:47 20 document ID 006298. And we've taken this from the
21 prosecutor's file, I believe it's notes made by
22 the prosecutor, although I'm not certain exactly
23 when, but perhaps we will review it. If we could
24 pull this in at the top portion, please, and I'll
11:47 25 read that for you:



1 "Ute Maria Frank
2 - 18
3 - 318 Rose Street parents
4 - grade 11
11:47 5 - quit February '69 in 11
6 - knew M . . . , "
7 which I assume is Milgaard:
8 "- knew Milgaard since summer-fall '68
9 - in Regina",
11:48 10 not sure what that next portion is, either
11 "- liked"
12 or:
13 "- ID'd Milgaard
14 - went out a few times before that episode
11:48 15 - May 10 and 11 '69 with Milgaard
16 - with him from 9th to mid-11th
17 - all in Regina
18 - steadily with Milgaard
19 - on 9th - drove around all night
11:48 20 - fooled around all the 10th
21 - into motel p.m. 10th
22 - after 8 or 9
23 - Room - 16-17 or 19
24 - Hoppy, Debbie Hall, Bob Harris, Gary
11:48 25 Silljer



1 - B.H.,"

2 I assume Bob Harris:

3 "- Bob Harris and Gary Silljer left after an
4 hour or 2 or 3

11:49 5 - shortly after Debbie left

6 - Debbie didn't come back

7 - George and Craig a.m.

8 - THC - started in room

9 - needle, then mouth."

11:49 10 Does that sound like information you may have
11 provided to the prosecutor when you met with him
12 on the occasion that you are referring to?

13 A Uh-huh, yes.

14 MS. KNOX: Just for a clarification, that
11:49 15 abbreviation that you referred to as "a.m." is
16 "arrived", A-R-R, my client tells me, since he
17 wrote it.

18 MR. HARDY: Okay, thank you. Appreciate
19 that, thank you.

11:49 20 COMMISSIONER MacCALLUM: Thank you.

21 BY MR. HARDY:

22 Q And, again, does that sound like accurate
23 information as you would have provided at that
24 time?

11:49 25 A Yes.



1 Q And do you recall, Ute, whether you spoke with Mr.
2 Milgaard's lawyer while you were in Saskatoon in
3 the room that you have told us about?

4 A I don't -- I don't recall.

11:50 5 Q Do you recall whether you ever spoke to Mr.
6 Milgaard's counsel prior to the trial or while you
7 were at the trial?

8 A I don't recall. I was really upset that day.

9 Q Okay. And you did not end up testifying?

11:50 10 A Correct.

11 Q And do you recall who ended up telling you that
12 you were not going to be required to testify?

13 A I believe it was the prosecutor.

14 Q And do you recall what he said to you on that
11:50 15 occasion?

16 A Umm, not his exact words, no.

17 Q I take it you did not hear the testimony of Craig
18 Melnyk or George Lapchuk?

19 A No, they wouldn't allow me in the courtroom.

11:50 20 Q Did you understand that both of them were
21 testifying?

22 A Yes.

23 Q Did you speak with George or Craig about their
24 testimony after they had testified?

11:50 25 A No. I have never spoken to them since, umm, since



1 that trip to -- to Edmonton, that was the last
2 time I spoke to them.

3 Q And if you had been compelled, Ute, to testify, do
4 you recall what you were planning to say?

11:51 5 A I would have stuck to my first statement if I was
6 forced to.

7 Q And do you recall whether you knew where Deborah
8 Hall was during your meetings with the
9 investigators and the prosecutor?

11:51 10 A No, they never -- I -- no. They -- from what I --
11 I don't -- I don't believe she was spoken to at
12 that time and they didn't call her at all.

13 Q Did you know where she was?

14 A Umm, when I got back to Regina she was, she was
11:51 15 back in Regina.

16 Q Okay. And did you eventually learn what Craig
17 Melnik and George Lapchuk had testified to --

18 A Yup.

19 Q -- at the trial?

11:52 20 A On -- only recently when I was sent the
21 transcripts. I had never seen their testimony,
22 ever, I was never allowed to see it.

23 Q And when you say "received the transcripts" that
24 was in preparation for --

11:52 25 A Right.



1 Q -- your testimony here today?

2 A Yes, yes.

3 Q Did you have an understanding though, in the years
4 that followed the trial, as to what George Lapchuk
11:52 5 and Craig Melnyk had testified to?

6 A The only thing that I was always told was that our
7 testimonies agreed in the reenactment, that all
8 three of us said the same, you know, basically the
9 same thing.

11:52 10 Q And do you recall who told you that?

11 A Umm, I was told that by Eugene Williams from the
12 Justice Department and, yeah, that's -- I was
13 always -- that just was my understanding.

14 Q Okay. And so you have had a chance to review
11:53 15 those transcripts now?

16 A Yes.

17 Q And did you agree with Mr. Melnyk's and Mr.
18 Lapchuk's version of events with respect to the
19 motel room incident?

11:53 20 A Well there were some points that, no, I disagree
21 with, but the reenactment, yeah, yeah, I agree
22 with, yes, it was --

23 Q Okay. Do you recall what portions, generally
24 speaking, you disagreed with?

11:53 25 A Umm, yes. The portion that -- where Craig and



1 George both claim that George left to drive Debbie
2 home. George never left.

3 Q But otherwise, in terms of the so-called
4 reenactment, you generally agreed with their
11:54 5 version of events?

6 A Yes. They left out, you know, they left out the
7 bathroom thing and the -- but people remember
8 different things, different things stand out to
9 different people, so --

11:54 10 Q So that would be your explanation, then, in terms
11 of the fact that they didn't refer to David
12 bouncing off the walls in the bathroom or
13 throughout the room?

14 A Umm, I would think so, I don't know.

11:54 15 Q Okay.

16 A I mean it's just different things stand out to
17 different people. You can put three people in a
18 room and watch the same event and they can have
19 three slightly different versions, right?

11:54 20 Q All right. So I understand Ms. Frank, then, that
21 your next formal contact would have been with the
22 Department of Justice in approximately 1991?

23 A Yes.

24 Q And do you recall how that had come about?

11:54 25 A Umm, I know that my -- by this time I was divorced



1 and my ex-husband, in one of his occasional calls
2 to talk to his children, when I answered the phone
3 he proceeded to tell me about a newspaper story
4 that he had seen about that they were doing
11:55 5 something to re-open the case, and I was really
6 surprised to hear that, I -- I -- I was floored by
7 that actually. And he, he read me the article,
8 and as a result of that I, I phoned someone, I
9 can't remember who I phoned within the -- just
11:55 10 like an anonymous call to make inquiries. And
11 then it wasn't long until one day the phone ringed
12 and I -- rang, and I pick it up, and it was the
13 Justice Department calling. And I think it was
14 the first six times they called I hung up on them,
11:56 15 but it didn't help, they didn't go away.

16 Q And did you have an understanding what was
17 happening, legally speaking, at that time?

18 A Well I was made to become aware of it, yes.

19 Q So you understood, at that time, that an
11:56 20 application had been made to the Supreme Court of
21 Canada to review Mr. Milgaard's conviction?

22 A Correct.

23 Q And in the years between 1970 and 1991, had you
24 spoken to anyone else with respect to this matter,
11:56 25 any other authority or investigator or anyone on



1 behalf of the Milgaards?

2 A Well I had heard, I had heard, before all of this,
3 this -- just before all of this happened, before
4 the phone calls from the Justice Department, I had
11:56 5 heard, my family had been telling me that people
6 had been phoning them and asking questions about
7 me, and one day I had gotten a very strange phone
8 call, and I put the pieces together, after, that
9 these were -- it was private investigators. I
11:57 10 have gotten used to that over the years.

11 Q And I'm sorry, you may have said this, but what
12 was it about the call with your ex-husband that
13 caused you to think that you should contact an
14 authority?

11:57 15 A Well, because he had said something about that
16 they were going to re-open it and do some kind of
17 inquiry and recall witnesses, and I was distressed
18 about this.

19 Q Do you recall what information you wanted to relay
11:57 20 to the Department of Justice when you contacted
21 them?

22 A I just wanted to find out if that was true.

23 Q Okay. And so do you recall who you met with from
24 the Department of Justice?

11:57 25 A I -- yes, Eugene Williams.



1 Q And where, where did that meeting take place?

2 A In another hotel. I kept telling them I was
3 getting tired of hotels. It met at the Coast
4 Bastion Inn in Nanaimo, I was -- that's where I
11:58 5 was living at the time.

6 Q And did you provide a more complete version of
7 events on this occasion?

8 A Yes.

9 Q And was this the first time that you were
11:58 10 providing a more complete version of events to an
11 authority in relation to this matter?

12 A Yes.

13 Q And why were you willing to open up on this
14 occasion?

11:58 15 A Well because I was, all those years had
16 transpired, I was older and I realized that, you
17 know, I wasn't that frightened little teenager any
18 more that thought that my life was being
19 threatened.

11:58 20 Q And I understand, Ms. Frank, that you provided a
21 statement on this occasion?

22 A Uh-huh.

23 Q I'll bring up a copy of that statement, it's
24 document ID 168588, if you could focus in on the
11:59 25 top portion of the page please. You see your



1 name, Ute Maria Frank; place, Nanaimo, B.C.;
2 December 20th, 1991, 11:00 a.m. And then perhaps
3 if we could go to the last page of the statement,
4 do you see the signature here, is that your
11:59 5 signature --

6 A Yes.

7 Q -- Ute?

8 A Uh-huh.

9 Q I'm not sure whose signature that is, but your
11:59 10 recollection is that you were meeting with
11 Mr. Williams on this occasion?

12 A Yes.

13 Q I'm going to read portions of that statement to
14 you, if you could go to the front page, please.
11:59 15 If you could actually focus in starting here, I'm
16 going to read some of this to you, Ute, and get
17 your comments on it:

18 "On May 10, 1969, I had met some friends,
19 including Hoppy. We all got together and it
12:00 20 was David's idea to get a motel room. It
21 sounded good to us. We drove over to the
22 Parklane motel and Hoppy went into the motel
23 and rented a room. The rest of us stayed in
24 the car which was parked away from the
12:00 25 office. I don't remember the time but I



1 recall that it was dark.

2 I recall that Hoppy, Debbie and

3 I along with others entered the room.

4 Another group of people arrived later. We

12:00 5 had gone to the motel to do drugs that were

6 provided by either Deborah Hall or one of

7 Debbie's friends. I believe that the drugs

8 had been obtained from the office of a

9 veterinarian. We took the drugs using a

12:00 10 syringe. Hoppy injected me with the drugs."

11 Would that be accurate information that you were

12 providing to Mr. Williams on that occasion?

13 A Yes.

14 Q Or to the officer who was taking a statement from

12:00 15 you, or authority?

16 A Yes, to my recollection, yes.

17 Q And do you have a positive or did you have a

18 positive memory, on this occasion, that it was Deb

19 who had obtained the drugs?

12:01 20 A Well, I was told that it was her, I --

21 Q Do you recall who told you that?

22 A No, I don't.

23 Q I'm going to continue reading on beginning at the

24 bottom of the page:

12:01 25 "When I gave my statement to the police in



1 1970 I said that I had four capsules of THC.
2 At that time I was a little intimidated and
3 did not want my parents to know that I was
4 shooting up drugs. In fact the four
12:01 5 capsules were put into a form that could be
6 injected."

7 Was this accurate information that you were
8 providing on this occasion?

9 A Well I was, I was concerned, I did not want my
12:01 10 parents to know, but -- and I did inject it.

11 Q And on this occasion it seems to be that you are
12 indicating that you injected four capsules, and I
13 thought perhaps you had told us earlier that it
14 wasn't that much?

12:01 15 A Well I don't remember telling them, maybe they
16 just put that in there because the four was in
17 there before, I just said we were injecting drugs
18 from what I recall.

19 Q Okay. I'll continue on on that page:

12:02 20 "After we had done the drugs we were having
21 a good time talking. Hoppy and I were in
22 bed and there were people sitting at the end
23 of the bed. Hoppy and I began to become
24 intimately involved. After that was over, I
12:02 25 remember laying there and Hoppy got up and



1 went into the bathroom. After he had been
2 in there for a few minutes I started hearing
3 some strange noises coming from the
4 bathroom. Someone went to the bathroom and
12:02 5 opened the door. I saw Hoppy throwing
6 himself against the wall. His face was
7 covered with blood. He came out of the
8 bathroom after someone tried to restrain
9 him. I got out of the bed and he got on the
12:02 10 bed. He had the pillow and he started
11 stabbing the pillow. He stabbed the pillow
12 quite a few times and I heard him say "I
13 killed the bitch."

14 A Uh-huh.

12:02 15 Q "I remember that he was on the bed on his
16 knees. He stayed there for a minute and
17 then he flipped himself into a sitting
18 position and then he laughed. He laughed as
19 if it was a big joke. I remember being
12:03 20 stunned and being paralysed with fear."

21 I'll pause there for a moment, Ute. I do not see
22 a reference to Hoppy using a syringe during the
23 stabbing incident in this paragraph; did you
24 provide that information to Mr. Williams when you
12:03 25 met with him in 1991?



1 A Yes.

2 Q And do you have any explanation for why it is not
3 in your statement?

4 A Oh, because I asked him not to put it there.

12:03 5 Q And why did you not want that information to be in
6 your statement?

7 A My, my family was so upset, and I did not want --
8 and the media was printing all of this in the
9 newspaper, and my mother was going through a very
12:03 10 bad time at that time health-wise, and that's why.

11 Q Apart from that aspect, is this information
12 accurate, were you providing accurate information
13 to Mr. Williams --

14 A Yes.

12:04 15 Q -- on this occasion?

16 A Yes.

17 Q I'll continue reading on, please, if you could
18 move the page down:

19 "We all knew what he was talking about
12:04 20 because we knew that the police had picked
21 him up for questioning in connection with
22 the murder of a girl in Saskatoon. Weeks
23 before that night I had asked him if he had
24 killed her. His explanation was that it was
12:04 25 all a joke. But I remember that when I saw



1 him that night I was scared. I was so
2 paralysed that I couldn't move. He tried to
3 make light of it but we stood there. When
4 Hoppy was freaking out into the bathroom
12:04 5 people started leaving the room. It was at
6 this point that Debbie left leaving just
7 Craig, George and I."

8 A Uh-huh.

9 Q Would that be accurate information as you provided
12:04 10 it at that time?

11 A Yes, from my recollection, yes.

12 Q And you have a positive recollection, or you seem
13 to be indicating you had a positive recollection,
14 at this time, of Deborah leaving?

12:04 15 A She wasn't there. I -- she was not in that room
16 when this was -- transpired. People were leaving,
17 and I know that she was on the other side of the
18 room, and she wasn't there.

19 Q And for what part of the incident are you saying
12:05 20 that Deborah wasn't there?

21 A I do not believe she was there for the
22 reenactment, she had already left when all the
23 commotion was happening.

24 Q So you are talking about the actual pillow
12:05 25 stabbing, you do not believe that Deborah was



1 there?

2 A No, I do not believe that she was there. There
3 was very -- when I try to remember that, I can see
4 it in clicks going through my, like in frames
12:05 5 going through my head. I don't think -- I think
6 there was just me, Craig, and George left in that
7 room when that happened.

8 Q I'll continue reading:

9 "Debbie had been on the other side of the
12:05 10 room when this happened. George, Craig and
11 I were near the bathroom door. Everyone
12 started to leave. Everyone was terrified
13 that someone would call the police because
14 Milgaard was yelling and the drugs were
12:06 15 there. At first he (Hoppy) acted as if
16 nothing had happened, but then he became
17 very angry."

18 Was this accurate information --

19 A Yes.

12:06 20 Q -- that you were providing on this occasion?

21 A Yes.

22 Q I'll read forward:

23 "Hoppy became quite loud. He spoke to me
24 but I don't recall what he said. I was very
12:06 25 frightened. Although I had been under the



1 influence of drugs that night, I was
2 coherent, and I knew that I wanted out of
3 the room. Whenever I got near the door,
4 Hoppy would block my way and would not let
12:06 5 me go. I felt intimidated by him. He was
6 jumping around the room wildly. I remember
7 at one point that he had taken a chair and
8 had propped it up against the door so that
9 you could not just run for the door and open
12:06 10 it easily."

11 And I don't see any mention here, Ute, of Mr.
12 Milgaard having threatened your life that
13 evening; am I correct that that's not in this
14 statement?

12:06 15 A Probably not. I still didn't want to say that.

16 Q Did you provide that information to Mr. Williams?

17 A Yes, I did.

18 Q And do you have any explanation why it didn't end
19 up in the statement?

12:06 20 A I -- no. I don't recall why it's not there.

21 Q So in contrast to the information relating to the
22 syringe, you don't have a memory of asking
23 Mr. Williams not to include the information?

24 A No.

12:07 25 Q Okay. I'll continue on from where I was.



1 "When Hoppy passed out later, I left the
2 room, ran home, and quietly entered the
3 house. I went to my room and when I lay
4 down I was shaking. I remained at home for
12:07 5 several days because I was afraid to go out.
6 I had watched him re-enact a violent death.
7 After he had stopped stabbing the pillow,
8 Hoppy told us that he did not want us to say
9 anything about it. I had not seen any
12:07 10 violence from him before this."

11 And this was accurate information that you were
12 providing?

13 A Uh-huh.

14 Q I'll continue reading.

12:07 15 "Approximately two weeks later I left Regina
16 because I was afraid that my life was in
17 danger because of his violent behaviour.
18 Craig Melnyk and George Lapchuk drove
19 Deborah Hall and I to St. Albert, Alberta.
12:07 20 During the trip from Regina to St. Albert, I
21 don't remember talking about what we had
22 seen. I have no memory of what we talked
23 about during that trip. I remember that
24 later I talked to Deborah and to Sharon
12:08 25 about it. I believe that I told Sharon that



1 David had flipped out and had said that he
2 had killed a girl. I remember her saying
3 that she had not seen him - that he had not
4 been around, but I don't remember what was
12:08 5 said."

6 A Uh-huh.

7 Q And again that's accurate information that you
8 were providing at that time?

9 A Yes.

12:08 10 Q Skip down a paragraph, start here:

11 "I have come forward because of the media
12 accounts that the witnesses had changed
13 their testimony, and particularly the two
14 people that witnessed the re-enactment had
12:08 15 lied and that did not sit right with me.
16 Any change in that testimony as far as I am
17 concerned is a lie. The original testimony
18 for the re-enactment was the truth because
19 that is what happened."

12:08 20 Now, I'm correct that you had not actually
21 reviewed a transcript of Mr. Melnyk's or
22 Mr. Lapchuk's testimony at this point; is that
23 right?

24 A Correct.

12:09 25 Q So on what basis were you making this comment?



1 A Well, on the news accounts that I had been -- you
2 know, that I had been supplied with, right, they
3 had said that people said that that had never
4 happened.

12:09 5 Q So you understood that Mr. Melnyk and Mr. Lapchuk
6 were perhaps changing their testimony?

7 A Well, I assumed it was them.

8 Q And your concern was that if they were no longer
9 saying that the so-called re-enactment had
12:09 10 happened, that that would be a lie?

11 A Yes.

12 Q And that's what you are referring to in this
13 paragraph?

14 A Yes. That was an event that particularly
12:09 15 traumatized me.

16 Q I'll move down to the very bottom of the page.

17 "My first statement was different from this
18 one because I was frightened at the time.

19 When the trial ended and Hoppy was
12:09 20 convicted, I felt that it was safe to
21 remember then because he could not hurt me
22 any more because he was behind bars."

23 You used the word remember in this statement. At
24 any point had you forgotten --

12:10 25 A No.



1 Q -- about the incident?

2 A No.

3 Q It was always with you?

4 A Yes. Oh, yes.

12:10 5 Q Otherwise that information is accurate as you
6 would have provided it at that time?

7 A Yes.

8 Q And before you took the stand this morning,
9 Ms. Frank, I believe you had an opportunity to
12:10 10 review what we believe are Mr. Williams' notes
11 from his meeting with you in December of 1991 and
12 I'll just put that document up for a moment,
13 326514, and I simply note, and I've reviewed the
14 document, that again there's no reference to David
12:10 15 having threatened your life on the night in
16 question or to David using the syringe, but you
17 have indicated I believe with respect to the
18 syringe that you had advised Mr. Williams of that
19 information, but had asked him not to include it
12:11 20 in your statement?

21 A Correct.

22 Q And with respect to David having threatened you,
23 you indicated that you had advised him of that
24 information?

12:11 25 A Yes. He was aware of that.



1 Q But that you hadn't specifically asked him not to
2 include it in the statement?

3 A I don't recall asking. I don't recall saying
4 anything like that.

12:11 5 Q Okay. So am I correct, Ms. Frank, then that your
6 next formal involvement in this matter was as a
7 witness at the Supreme Court reference case?

8 A Yes.

9 Q And who were you communicating with leading up to
12:11 10 your testimony at the Supreme Court? Were you in
11 communication with anyone in terms of knowing when
12 you had to be there, what was required of you,
13 that sort of thing?

14 A Oh, Eugene Williams informed me of those and I had
12:12 15 received a subpoena, so --

16 Q And did you feel that you were able to tell your
17 complete story at the Supreme Court reference
18 case?

19 A Yes.

12:12 20 Q I'm going to refer you to a transcript of your
21 testimony, Ms. Frank. If I could bring up,
22 please, document ID 047353. You'll see at the
23 beginning it notes that an examination was being
24 conducted of yourself by Mr. Neufeld. I'm going
12:12 25 to refer you to a few portions of this testimony,



1 Ute.

2 A Okay.

3 Q If we could turn firstly, please, to page 047362,
4 focus in at the top, please, and I'll read:

12:12 5 "Q Can you recollect anything about that?
6 Tell me about the doing of the drugs; for
7 instance, where you got the drugs from, what
8 they were to your knowledge, how they were
9 administered, who took them, that sort of
12:13 10 thing.

11 A I would say we all did the drugs. I
12 know --

13 Q When you say "we all", can you tell me
14 who we all is?

12:13 15 A Myself, David, George, Craig, Debbie,
16 Bob Harris, Gary Silger, Frank --
17 Frank was there. I can't remember
18 Frank's last name.

19 Q You say, "I would say we all did." Are
12:13 20 you telling us you don't know who did
21 drugs, except perhaps yourself? Do you
22 have a recollection of who actually took
23 drugs?

24 A We all took drugs. It would be
12:13 25 unreasonable to assume that someone



1 didn't. We all did. That's what we
2 were there for.

3 I wasn't really paying -- I
4 wasn't watching, did you do it or... I
12:13 5 was more concerned with just getting
6 my share and that's it."

7 And this would have been accurate information as
8 you were providing it at that time, Ms. Frank?

9 A Yes. I wasn't spending -- I wasn't watching who
12:14 10 was doing -- how much they were taking or
11 anything, no.

12 Q You assumed that George Lapchuk and Craig Melnyk
13 were both doing drugs on the evening in question?

14 A Yes.

12:14 15 Q Do you have a specific memory of either of them
16 doing drugs on that night?

17 A I wasn't watching them, no.

18 Q So if they testified that they had not taken any
19 drugs on that evening, would that be something
12:14 20 that you would agree with?

21 A I find that hard to believe.

22 Q Turn to page 047366. I'm going to actually start
23 mid answer here, if we could focus on that
24 portion, please. It states:

12:14 25 "At some point I got out of bed. I don't



1 remember doing it, but I obviously did,
2 because I ended up standing at the foot of
3 the bed and George tried to get him to stop.
4 He couldn't. Then he jumped on the bed and
12:15 5 he was on his knees on the bed. He was
6 crouching on the bed and he started --
7 started stabbing the pillow. Or he was
8 over -- he over top of the pillow and he
9 started stabbing the pillow. We were just
12:15 10 standing there, like, stunned.

11 Q Did he have something in his hand?

12 A I don't -- I would almost have to say
13 I don't remember.

14 Q Okay. Why did you use the word
12:15 15 "stabbing" just now?

16 A Because he had been -- he had been
17 picked up for this once before, so --

18 Q For what?

19 A For this stabbing of Gail Miller."

12:15 20 And did you intentionally make the decision to
21 omit the reference to the syringe when you were
22 answering this question?

23 A Yes.

24 Q You were aware of that information at that time
12:15 25 and you decided not to provide it?



1 A Yes.

2 Q And why was that?

3 A Because it was on the front page of newspapers and
4 my friends, family, children and employer were
12:16 5 reading the newspapers.

6 Q So you were afraid for embarrassment for your
7 family and friends?

8 A Yes. It has had a negative impact on my family.

9 Q I turn you to page 047371, please, focusing in on
12:16 10 this portion:

11 "Q How is it that it took many hours to get
12 out?

13 A Because he wouldn't let us near the
14 door. Every time we made a move to
12:16 15 the door he would stop us.

16 Q What do you mean by "us"? Who are you
17 talking about?

18 A Me -- well, it ended up by the time
19 that whole incident was over and I
12:16 20 began making attempts to leave the
21 room, there was just three of us left.
22 There was myself, Craig Melnyk and
23 George Lapchuk -- everyone else had
24 left -- and, of course, David. There
12:17 25 was just the four of us in the room.



1 Q Did those individuals leave as well?

2 A No, or not until I did.

3 Q Okay.

4 A For the remainder of the evening he
12:17 5 would transpire between trying to make
6 it like a joke and then fits of
7 temper. I remember him telling us he
8 didn't want us to tell anyone what we
9 had heard that night. I remember
12:17 10 that."

11 Then actually just in connection with that, I'm
12 going to turn you to the next page before I ask
13 the question, 047373, please, if could focus in
14 on this answer here:

12:17 15 "A I left that room that night with a
16 clear -- with a feeling that -- I was
17 very frightened. I just wanted -- oh, I
18 thought I was in danger of physical
19 harm. I felt I had been threatened. I
12:18 20 was scared. I was scared out of my
21 mind."

22 I don't see specific reference here, Ms. Frank,
23 to Mr. Milgaard actually verbally threatening you
24 on the evening in question.

12:18 25 A Uh-huh.



1 Q Did you make the decision not to provide that
2 information on this occasion?

3 A Obviously I did.

4 Q It was something that you recalled, though, while
12:18 5 you were giving testimony at the Supreme Court?

6 A Well, what was -- yes.

7 Q And why did you decide to omit that information?

8 A Because at the time I thought what was the point.
9 He was in prison already, who cares.

12:18 10 Q Okay. I turn your attention to page 047382,
11 please, and the examination by Mr. Wolch has begun
12 at this point in time in your testimony, and if we
13 could focus on this portion beginning here,
14 please:

12:19 15 "Q Well, who else arrived?

16 A You mean over the course of the
17 evening?

18 Q Yes.

19 A There was myself -- I said this
12:19 20 earlier. There was myself and David
21 Milgaard.

22 Q I'm sorry, but my question is who else
23 that you haven't named?

24 A George Lapchuk, Craig Melnyk, Gary
12:19 25 Silger, Bob Harris, Deborah Hall,



1 Frank and whether anybody else came
2 into that room I have no idea. I
3 don't remember."

4 Were you stating here that these were the only
12:19 5 individuals you recalled being in the motel room
6 on the night in question?

7 A No, there were others, but I just can't remember
8 who they were. There was people that I didn't
9 know very well.

12:20 10 Q How many other people were in the motel room at
11 any given point on the night in question?

12 A Oh, I would say early in the evening there could
13 have been as many as 15, 16 because you know how
14 it is, people start phoning around, there's a
12:20 15 party and they start pouring in, but some people
16 didn't stay long. Like, Carl Harris was there,
17 but he didn't stay long, he left.

18 Q And I've never seen a reference to Carl in any of
19 the previous information. Was that a name that
12:20 20 you had advised the various people that you spoke
21 to about --

22 A No. He was there just for a short time, so I
23 didn't think -- I guess I didn't think it was
24 important to mention his name.

12:20 25 Q Do you believe you had advised the officers in



1 1970 and Mr. Williams in 1991 that there were
2 perhaps 15 people or more at the motel room on
3 that evening?

4 A I don't know. I don't remember. It was a long
12:21 5 time ago.

6 Q I'll turn your attention to page 047389, please.
7 I'm sorry, that's not right, 047401, please.
8 We'll focus in on this portion beginning here,
9 please, and I'll read this:

12:21 10 "Q What I am saying is, it would seem to me
11 the group would say --"

12 And again this is Mr. Wolch examining you,
13 Ms. Frank:

14 "Q What I'm saying is, it would seem to me
12:21 15 the group would say, "Let's get out of
16 here, this guy's a psychotic killer."
17 Not, "Let's get out of here, it's kind
18 of noisy and they may find our dope."

19 A He hadn't done the pillow incident yet
12:21 20 when most of the people began leaving.
21 Most people didn't see that. All they
22 saw was someone throwing themselves
23 against the walls, creating a lot of
24 ruckus.

12:22 25 Q Who are these other people who saw it



1 that left?

2 A The people that I've already named.

3 Q Well, you told us that George and Greg
4 (sic) didn't leave?

12:22 5 A That's correct, they didn't, but
6 Debbie did.

7 Q Debbie left?

8 A Yes.

9 Q By herself?

12:22 10 A I don't know who she left with because
11 all I know is I looked up and she was
12 gone.

13 Q Before the whole incident or after?

14 A Bob Harris and Gary Silger and Frank
12:22 15 would have left before the pillow
16 incident.

17 Q So, those three guys left before the
18 incident completely?

19 A Yes.

12:22 20 Q Okay.

21 A I don't know whether they saw the
22 incident with him throwing himself
23 against the motel room wall, but they
24 left.

12:22 25 Q Okay. So far as you knew they were



1 gone. I want you to name me a person
2 who left because of the incident in
3 close proximity to the incident?

4 A Debbie Hall.

12:23 5 Q She is the only person?

6 A That was there for the pillow
7 incident --

8 Q And left --

9 A And left.

12:23 10 Q -- in close proximity?

11 A Yes, because he was still on the bed."

12 I want to be clear on this point. Were you
13 indicating here, Ms. Frank, a recollection that
14 Debbie Hall may have seen the pillow stabbing
15 incident?

12:23 16 A No.

17 Q What were you indicating during this line of
18 questioning?

19 A I was indicating that she had left, but the way he
12:23 20 was -- I do recall the way he was wording
21 questions, it was very difficult to follow where
22 he was going.

23 Q So if I was to suggest to you that it seems you
24 are indicating that Debbie Hall was present for
12:23 25 the pillow stabbing incident, you are telling me



1 that that was not your intent in terms of
2 answering those questions at that time?

3 A That's correct.

4 Q I'll continue reading a little bit further down
12:24 5 the page, please, beginning here:

6 "Q I am going to suggest to you that after
7 this so-called incident you had sex
8 again with David on more than one
9 occasion.

12:24 10 Q No."

11 I'm not sure if that was your answer or not.

12 "Q So, if Melnyk was to say that he would
13 not be telling the truth?

14 A No.

12:24 15 Q Pardon me?

16 A No.

17 Q Did anybody go to sleep after the
18 incident who was remaining?

19 A No.

12:24 20 Q So, if Melnyk was to say he slept on the
21 floor that wouldn't be true?

22 A I didn't notice him doing that, no.

23 Q You didn't notice him?

24 A I didn't see him sleeping on the

12:24 25 floor. I did not see him sleeping on



1 the floor. I didn't see anyone
2 sleeping."

3 Were you indicating to Mr. Wolch on this occasion
4 that you did not have further intimate relations
12:25 5 with Mr. Milgaard after the pillow stabbing
6 incident?

7 A Yes, I was trying to indicate that.

8 Q I'm sorry, I didn't hear you, Ms. Frank.

9 A Yes, I was trying to indicate that.

12:25 10 Q And you've indicated to us otherwise today; is
11 that correct?

12 A Yes.

13 Q And why was it on this occasion that you testified
14 as you did at this portion?

12:25 15 A Because it was none of his business for starters
16 off and I knew that they would not understand,
17 that they would take and misconstrue that, like,
18 that I was -- that obviously most people when you
19 have sex with someone, you are doing it because
12:25 20 you are not afraid of them, but there are times
21 when you do, when you just -- you are going to do
22 anything it takes to keep that person happy.

23 Q And that's what happened on the night in question?

24 A Yes.

12:26 25 Q I'll take you to page 047414, please, just focus



1 in on this portion here, it states:

2 "Q She had provided the drugs; correct?

3 According to your current

4 recollection --

12:26 5 A Yes.

6 Q -- Deborah Hall provided the drugs?

7 A Yes."

8 And again at this point when you are giving

9 testimony at the Supreme Court, was it your

12:26 10 recollection that Deborah Hall had provided the
11 drugs?

12 A That is what I had been led to believe, and I do
13 not recall where that came from. Sorry, it was a
14 long, long time ago.

12:26 15 Q Okay.

16 A I cannot remember everything.

17 MR. HARDY: Mr. Commissioner, this might be
18 an appropriate time to break.

19 A I have not had breakfast yet and I'm starving.

12:27 20 COMMISSIONER MacCALLUM: Two o'clock,
21 please. Please don't discuss your evidence
22 during the break, please.

23 A Okay.

24 *(Adjourned at 12:30 p.m.)*

01:58 25 *(Reconvened at 2:11 p.m.)*



1 MR. HARDY: Good afternoon

2 Mr. Commissioner. I just point out, at the

3 beginning, Ute Frank's counsel, Mr. David

4 MacLeod, has just moved to the front of the room

02:11 5 so he is more accessible to the mike at the front
6 of the room.

7 Ute, when we left off we were
8 talking about the Supreme Court reference case.

9 Am I correct that your next contact would have
02:11 10 been with the RCMP during an investigation they
11 were conducting during 1993?

12 A Yes.

13 Q Do you recall meeting with RCMP officers in 1993?

14 A Yes.

02:11 15 Q I'm going to show you a transcript of an interview
16 that took place between yourself and the officers.
17 If we could bring up doc. ID 036354, please, focus
18 in at the top of the page please. You will note
19 it's a Transcript of a Taped Interview of Ute
02:12 20 Frank taken April 28th, 1993 by Corporals Gagne --
21 or Corporal Gagne and Constable Homeniuk; do you
22 remember those officers?

23 A Vaguely.

24 Q Okay. I want to review some of the portions of
02:12 25 this transcript of your interview with them, Ute.



1 If we could turn, please, to page 036358, zoom in
2 on the top portion of the page, I'll read this to
3 you:

4 "R. GAGNE: So therefore, this statement
5 that you gave, you gave at that time,
6 what you've said is that it was a lie,
7 more or less to get them off your back.

8 U. FRANK: Yea, except that there... all of
9 that was true. It was all true, but it
10 was totally out of context and I
11 completely left out the motel room.
12 Completely...

13 K. HOMENIUK: Exactly...

14 U. FRANK: I left out the whole reenactment
15 scene. There was no way I was going to
16 talk about that. Absolutely not... he
17 said if I told anybody about it, he
18 would kill me.

19 R. GAGNE: When did he tell you that?

20 U. FRANK: In the motel room.

21 R. GAGNE: That same night.

22 U. FRANK: That same night, he told Craig
23 and George the same thing."

24 And I believe this is the first time we have seen
25 it recorded, Ms. Frank, that you had indicated

02:13



1 that Mr. Milgaard had threatened your life on the
2 night in question recorded by an authority?

3 A I guess so, yeah.

4 Q But your position, I am correct, is that you had
5 previously advised at least Mr. Williams of that
6 information in 1991?

7 A Yes.

8 Q I'll turn you to another portion, please, page
9 036361. We'll focus in on the bottom portion of
10 the page, please, I'm reading:

11 "K. HOMENIUK: But the stabbing of the
12 pillow happened after this...

13 U. FRANK: Yes, so... so he ran across..
14 smashed himself up against the wall then
15 he went... from there.. there was,.. we
16 had a... he had a ... there must have
17 been a syringe laying on the night
18 table. There must have been several of
19 them. But... cause... I remember we...
20 I know I had a pocket full of them too,
21 we used to steal these syringes from
22 drugstores. Cause they used to have
23 them out in drugstores. From there he
24 went to the bed... and he picked...
25 he... he ... I... he picked up a syringe



1 somewhere. And he got.. he got on his
2 knees like.., he got on his knees and
3 kind of... kind of crawled up to the
4 front of the the top of the bed, over
5 and he didn't pull the pillow towards
6 him, if I remember correctly, he just
7 crawled up to it. And then he started
8 stabbing the pillow.

9 K. HOMENIUK: I mean was he ... was he
10 stabbing it with the syringe.

11 U. FRANK: Yes. Yes... and he said with
12 the first stab "I killed the bitch".
13 That's exactly what he
14 said....inaudible... bitch. That was
15 another... mind you by this time I'm
16 standing at the end of the bed and the
17 only reason that I was still in that
18 room was that my clothes were in the bed
19 and I... I wasn't wearing anything and
20 I... I... don't, you know, you're
21 just... But I wish to God now I would
22 run out there anyway, I mean, that
23 embarrassment would have been a lot less
24 than what I went through afterwards.

25 K. HOMENIUK: So as... as far as with him



1 stabbing the pillow with the syringe
2 and... and on the bed and that, who else
3 would have been in the room then at that
4 time?

02:15 5 U. FRANK: Craig and George."

6 And, similarly, I believe this is the first time
7 we are seeing it recorded by an authority in
8 reference to David using the syringe for the
9 stabbing incident, but it is your evidence, Ms.
02:16 10 Frank, that I believe you'd provided that
11 information previously?

12 A Yes.

13 Q And you had provided that information to
14 Mr. Williams?

02:16 15 A Yes.

16 Q Turn your attention, please, to 036359. Just note
17 this answer here, please, and I'll read that to
18 you:

19 "U. FRANK: Yea, it started as a... well,
20 we all met. What happened was, we all
21 met, I had some trouble piecing this
22 together, but then when I got together
23 with Debbie um... it... it kind of fell
24 into place."

02:16 25 Now I'll stop there. It appears that you are



1 indicating that you had met with Deborah Hall, is
2 it?

3 A Yes.

4 Q And that a conversation that you had had with her,
02:16 5 had refreshed your memory as to the events?

6 A Yes.

7 Q And when did that conversation with Deborah Hall
8 take place?

9 A It took place in the cafeteria at the Museum of
02:17 10 Man in Ottawa.

11 Q And that was during the Supreme Court reference
12 case?

13 A Yes.

14 Q And you met Debbie Hall there?

02:17 15 A Yeah, I ran into her there.

16 Q So you hadn't intended to meet up with her?

17 A No.

18 Q And had the two of you testified already?

19 A Yes.

02:17 20 Q And do you recall in what respect Deborah Hall had
21 refreshed your memory?

22 A Well we had, we had -- all I remember is we had
23 talked about it, and I couldn't -- there were some
24 pieces at the park that I couldn't remember and,
02:17 25 after talking to her about it, she refreshed my



1 memory on a few things.

2 Q Can you tell us what those things were, please?

3 A Umm, let's see, how am I going to remember now.

4 Well I couldn't remember how, at the time, how we
02:18 5 had gotten to the motel, and she refreshed my
6 memory on that, that we were -- that we went in
7 the car. I mean you just can't hang on to
8 everything.

9 Q And I think the interview -- or you indicate in
02:18 10 this interview that you had taken a cab to the
11 motel room?

12 A Yes.

13 Q And was that something that Debbie Hall had
14 refreshed your memory in relation to?

02:18 15 A Yes.

16 Q And did she refresh your memory in any respect in
17 respect to the so-called reenactment?

18 A No.

19 Q You hadn't discussed that aspect of the evening
02:19 20 with Deborah Hall on this occasion?

21 A Yes, I did. I was -- I came to understand that
22 she had -- she was claiming to be there, and I
23 asked her why she was saying, was saying that.

24 Q Okay. There is a portion I'm going to read to you
02:19 25 in just a moment, I believe, that refers to that



1 discussion. Firstly, I'm going to turn your
2 attention to the page 036361, please, and focus in
3 on this top portion, and I'll read that to you:

4 "R. GAGNE: Was uh Debbie Hall still
5 there at that time? When this was going
6 on?

7 U. FRANK: Yes.

8 R. GAGNE: Or, as far as you can remember?

9 U. FRANK: Because, well, I don't... really
10 I ... to be perfectly honest, I do not
11 know whether... at what point she left
12 because I so engrossed with what was
13 going on with David that I didn't..., so
14 whether she actually saw him stabbing
15 the pillow, I dont know, she could have
16 left.

17 R. GAGNE: After the... after he ran out
18 and...

19 U. FRANK: Yea, or she could have left.
20 But she left somewhere in that interim.
21 She took off.. she was gone. So for her
22 to say that he was only joking, why did
23 she leave if she didn't think that she
24 was in any danger."

02:20 25 And is it correct that, Ms. Frank, that during



1 this interview you seem to be uncertain whether
2 Debbie Hall was there during the stabbing
3 incident or not?

4 A Well it's like I said, I don't remember all of --
02:20 5 when I scanned the room when this was happening
6 there was, I only saw me, Craig, and George. I do
7 not know at the exact moment at when she left, no,
8 I do not. Maybe, I don't know if she saw, if she
9 was there at the moment that he jumped on the bed
02:21 10 and started up but, when it was over she wasn't
11 there.

12 Q Okay. I'll turn your attention to another page,
13 Ms. Frank, page 036365, please. Bottom of the
14 page:

15 "K. HOMENIUK: So you were actually, you
16 were subpoenaed, then then to go to
17 Saskatoon?

18 U. FRANK: Yes.

19 K. HOMENIUK: Based on what you'd told in
20 the first statement?

21 U. FRANK: Yes.

22 K. HOMENIUK: O.K.

23 R. GAGNE: And the reason they didn't use
24 you for the..

25 U. FRANK: Because I begged them not to.



1 I told them that I wouldn't talk on the
2 stand, I just wouldn't say anything.

3 I... I said I'm sorry but I can't. And
4 I... I can't stand there in front of him
5 and talk cause he said he'd kill me.

6 K. HOMENIUK: And this was the crown
7 prosecutor you talked to or the police?

8 U. FRANK: Everybody. I said that to
9 everybody, I wouldn't talk."

02:22 10 And you seem to be indicating that you had told
11 officers and the prosecutor in 1970 that David
12 had threatened your life on the night in
13 question?

14 A No.

02:22 15 Q You didn't tell them that?

16 A No.

17 Q You would agree with me, though, that it appears
18 that that's what you are indicating?

19 A That's what it looks like, but I was saying that
02:22 20 to myself, and I was just verbalizing it at that
21 point.

22 Q Okay. If we move, please, to page 036368,
23 beginning at the top of the page:

24 "R. GAGNE: So what Debbie says, that she
25 went east and you went west is not true,



1 then? You both went together?

2 U. FRANK: We went together and Craig and
3 George should be able to verify that.
4 They drove us there and they drove us to
5 St. Albert, Alberta to see Sharon
6 Williams. Now she did go east with this
7 other at another time. Before all of
8 this. So there...it's just.. she's
9 mixed up the times. She went...she's
10 lying. ... she's lying ... boy that
11 pisses me off.

12 R. GAGNE: So when, going back to the...
13 after you testified at the Supreme Court
14 and you said you met her down at this
15 uh....

16 U. FRANK: Well, I confronted her about
17 that. And her response was that most
18 murderers don't spend, you know, don't
19 spend more than ten years in prison,
20 he's spent 23 and it's time, you know
21 and give the guy a break and um... and
22 so what... that washer... like... I
23 couldn't believe it and I was really
24 angry that she was saying that the rest
25 of us were lying when we weren't and



1 she's... She just said well don't you
2 think he's suffered enough? Well, I
3 don't really give a shit, myself, thank
4 you and uh... you weren't there for the
5 rest of it. I mean he terrified us and
6 like, Im sorry but I don't feel too much
7 compassion for this human being.

8 K. HOMENIUK: Yeah. What was her... what
9 was her response to that one when...

10 U. FRANK: I think she... I think,
11 basically that uh... we were over
12 reacting. That... and, and we should
13 just let it be.

14 K. HOMENIUK: Was this prior to her
15 testimony or?

16 U. FRANK: This was after her testimony.
17 She had already been on the stand. And
18 she basically acknowledged to me that
19 she knew she was lying, she didn't care.

20 R. GAGNE: Did you tell anybody else this,
21 before?

22 U. FRANK: Yes, I told Eugene Williams
23 this. I ... I went straight to his
24 office afterwards, I was so angry, Like
25 I couldn't believe it and I said I just



1 ran into Debbie and she told me she lied
2 and she knows it, like I was enraged.. I
3 was just enraged. Um..I wanted... well,
4 I wanted to choke her, if I remember
5 correctly. I just wanted to choke her.
6 And then she, while we were sitting
7 there, she I remember she went into her
8 purse and she opened her wallet and she
9 pulled out a piece of paper and it had
10 my name, address and phone number on it
11 and she had... she says do you still
12 live there? And..um... I said how did
13 you get this? And she said oh, I phoned
14 your sister. And she was quite smug
15 about it, you know. Yea I told your
16 sister that I was one of your long lost
17 friends and she... she didn't make any
18 bones, she let me know that's exactly
19 how, you know. She passed that
20 information on to Joyce. Oh thank you.
21 So guess what I did when I went home. I
22 moved. Without the assistance of the
23 government, I might add.

24 K. HOMENIUK: As a result of that, yea.

25 U. FRANK: Eugene told me not to worry.



1 Like, sure Eugene...".

2 Is that an accurate account of the discussion
3 that you had with Deborah Hall after you both
4 testified at the Supreme Court in Ottawa?

02:25 5 A Yes, I was, I was quite angry with her and she
6 wanted, she -- she -- when she pulled out the
7 piece of paper she also told me that she had a
8 brother that lived in Vancouver, and that she came
9 out that way regularly, and she wanted to know if
02:25 10 she could drop by and visit. I was not at all
11 interested in that.

12 Q And so I take it that you believed that what Deb
13 Hall was telling you on this occasion was, in
14 effect, that she had lied during her testimony?

02:26 15 A That was the impression I was under.

16 Q And can you tell us, again, how you had received
17 that impression?

18 A Well just a -- by her, her response to -- to my
19 questions, and like "oh well". I mean everything
02:26 20 was "oh well" to her, and it -- she was acting as
21 if she was there, and she wasn't, and she was
22 making light of -- I guess at the time what
23 angered me was she was making light of the fact
24 that -- to me this was a very traumatizing event.

02:26 25 Q And, perhaps you have partially answered this



1 already, but specifically how did you understand
2 that she had lied?

3 A Well she somewhat -- she didn't -- she did not
4 argue with me about the fact that she wasn't there
02:27 5 for the -- she wasn't there for it. I got the
6 impression she was well aware of this.

7 Q And it was on that basis, then, that you were --

8 A Uh-huh.

9 Q -- concluding that she had lied?

02:27 10 A Yes. Well, because she was.

11 Q I'm going to turn you to page 036372, please.

12 Focus in on that portion:

13 "K. HOMENIUK: Well I think I pretty well
14 had to imply because uh... if you
15 hadn't... hadn't had any contact with
16 George or Craig for 23 years and your...
17 your uh..your renditions of what
18 happened are pretty close...

19 U. FRANK: Yes. Yea, almost identical,
20 aren't they?

21 K. HOMENIUK: Exactly.

22 U. FRANK: And we haven't seen or spoken to
23 each other in 23 years, but it's amazing
24 we remember it real well.

25 R. GAGNE: And Debbie Hall was...",



1 sorry, I'll stop there.

2 A Yeah.

3 Q So I take it, at this point, had you had an
4 opportunity, yet, to review the transcripts of
02:28 5 Melnik's testimony or Mr. Lapchuk's testimony?

6 A No. No.

7 Q And on what basis were you indicating here your
8 belief that your testimony was identical to
9 theirs?

02:28 10 A On what I was told from, at that time, from the
11 people from Ottawa.

12 Q And in a summary fashion, what is it, what aspect
13 or what was the version that you believed was
14 identical?

02:28 15 A The version that was the reenactment scene, the
16 thing on -- you know, the pillow scene on the bed.

17 Q The pillow stabbing incident?

18 A Yes, and the -- him saying that he killed her.

19 Q Okay. I turn your attention to the next page,
02:28 20 please, 036373, starting at the bottom of the
21 page:

22 "R. GAGNE: Well this statement to the best
23 recollection is what happened that day.

24 U. FRANK: Yes, except that I left out a
25 few things on that statement also. I



1 did. Because I... at the beginning of
2 all this I felt kind of sorry for him
3 but by the time it was over I didn't. I
4 didn't really talk to much. I don't
5 think that you'll find too much about
6 the threats in there. I tried to down
7 play them. And I told Eugene that, that
8 I didn't want it in there.

9 K. HOMENIUK: O.K. so he never put it in
10 there.

11 U. FRANK: That's correct, cause I asked...
12 cause I felt sorry for him. You know
13 this was at the beginning where I...

14 K. HOMENIUK: Did you tell us about the
15 threats already in this? Like I can't
16 remember now. This is where, this is
17 where he had....

18 U. FRANK: He had threatened us not to tell
19 anybody about this or he would kill us.

20 K. HOMENIUK: Oh O.K., Im sorry.

21 U. FRANK: I'm sure George will collaborate
22 that."

23 And I'll stop there for a moment. Is that
24 accurate information as you would have provided
25 it at that time, Ute?

02:30



1 A Ute.

2 Q Ute? I'm sorry.

3 A It's okay. Yes, I believe so.

4 Q And I believe you told us earlier that you had
02:30 5 told Mr. Williams about the threats on the evening
6 in question but you didn't have a recollection,
7 today, of specifically --

8 A No.

9 Q -- asking him not to include it in the statement?

02:30 10 A No, I hadn't. It was a long day with him and it
11 was a long time ago. I don't know.

12 Q Does this refresh your memory, then, where you
13 state:

14 "And I told Eugene that, that I didn't want
02:30 15 it in there."

16 A No.

17 Q Do you believe that's what you said to
18 Mr. Williams on that occasion?

19 A Well I know he recorded the whole conversation, so
02:30 20 I'm assuming this is taken from those transcripts,
21 so --

22 Q And again, Ms. Frank, we've taken a look at the
23 notes that we found with respect to Mr. Williams'
24 meeting with you. I'm not suggesting necessarily
02:31 25 that that was the complete recording of the



1 conversation, but we didn't see reference in those
2 notes to either Mr. Milgaard threatening you on
3 the night in question, or using a syringe. Your
4 testimony today, though, is that you told
02:31 5 Mr. Williams both of those aspects in 1991 when
6 you had met with him?

7 A I believe so, yes.

8 Q Actually, I'll just continue on the next page,
9 036374, starting right here:

10 "K. HOMENIUK: Yea, and I notice one other
11 part was about the syringe.

12 U. FRANK: Yea I left that out too, cause
13 that was a threatening weapon. That
14 kind of.. well, I downplayed it, Eugene
15 knew about it. You could check that out
16 with him... He knew about it... I told
17 him about it ... I..

18 K. HOMENIUK Fair enough. How about the
19 Supreme Court, did you tell them that.

20 U. FRANK: No, it was never asked."

21 And I don't know if you will agree with me, Ms.
22 Frank, we reviewed the testimony from the Supreme
23 Court reference case a little bit earlier on, and
24 I think you had indicated to me that you were
02:32 25 aware of this information with respect to the



1 syringe but you had made the decision not to give
2 that information during your testimony at the
3 Supreme Court?

4 A Uh-huh, and it was never asked, so --

02:32 5 Q I'm sorry?

6 A It was never asked, so I didn't forward that
7 information, no.

8 Q The portion of your testimony -- I don't know if
9 you recall, we can bring it up again -- earlier on
02:32 10 from the Supreme Court, am I correct and is it
11 your recollection that you had indicated in effect
12 that you didn't remember whether he had anything
13 in his hand when he was stabbing the pillow?

14 A I believe I said that, yes.

02:33 15 Q And so it would appear that you were given the
16 opportunity at the Supreme Court to provide that
17 information on that occasion and I think you have
18 told us earlier that you had simply made the
19 decision not to give that information on that
02:33 20 occasion?

21 A What difference did it make.

22 Q But you would agree with me that that contrasts
23 with this answer?

24 A Yes.

02:33 25 Q Okay.



1 A Yes.

2 Q I turn you to page 036384, please, and focus in on
3 the top portion of the page:

4 "R. GAGNE: Are we talking RCMP, or City
5 Police.

6 U. FRANK: Were talking about the Saskatoon
7 City Police... Um... I think at the time
8 I think it was pretty evident to them
9 how scared I was. Uh... cause uh...
10 I... I made no bones... uh.. although, I
11 tried not to in the beginning to let
12 them know why I was scared because that
13 would be admitting, you know what I
14 mean?

15 K. HOMENIUK: Yeah -

16 R. GAGNE: Um mmm.

17 U. FRANK: So it was very vague but at the
18 end, I mean the fear overtook me and,
19 Ill tell you be the time I got to the
20 courthouse I was like.., spilling my
21 guts like this guy said he was going to
22 kill me, you cannot make me do this.
23 I'm sorry, I will not. And I remember
24 going at one point standing outside
25 the.., like they had a door to the court



1 room. Standing there after, I believe I
2 had my stuff disqualified from
3 testifying because I had said something
4 to somebody. I seem to recall there was
5 quite a raucous. I had done something.
6 Cause I remember the... I was in this
7 room and they were sending all these
8 people in and I was just... I was really
9 upset."

02:34 10 And, again, it appears here, Ms. Frank, that you
11 are referring to your attendance at the
12 courthouse in Saskatoon in 1970, and that you did
13 actually tell people on that occasion that Mr.
14 Milgaard had told you that he would kill you if
02:34 15 you talked?

16 A I don't recall saying that to anyone.

17 Q You don't recall saying that to anybody?

18 A All I recall saying is "I will not, I won't, I
19 won't talk, I --," and I kept, I remember saying
02:35 20 to the prosecutor "you don't understand, I can't,
21 I can't, I cannot do this."

22 Q But you will agree with me that it appears that
23 you are telling the RCMP officers in 1993 --

24 A Yeah.

02:35 25 Q -- that you had told authorities in 1970 about



1 the threats?

2 A It appears that way.

3 Q Okay.

4 A But --

02:35 5 Q And --

6 A -- I don't understand, but it was a long time ago.

7 Q Okay. And there is reference here, I don't know
8 if you can help us, it indicates:

9 "... I had my stuff disqualified from
10 testifying because I had said something to
11 somebody."

12 A I --

13 Q Do you recall what that was in relation to?

14 A I have absolutely no memory of, of what that might
02:35 15 be referring to.

16 Q Do you have any memory of being disqualified from
17 testifying in 1970?

18 A Well, at some point someone came in and told me
19 that I wouldn't be testifying.

02:36 20 Q Okay, so -- and that's all you know about that?

21 A That's all I ever -- that's all I remember.

22 Q Okay. There are some notes, Mr. Commissioner,
23 that go along with this, RCMP notes. I'm not
24 going to go through that document but I'll just
02:36 25 make reference to it, it's doc. ID 047338, notes



1 of the type that we have seen previously that the
2 RCMP were taking in connection with their
3 investigation.

4 COMMISSIONER MacCALLUM: Okay.

02:36 5 BY MR. HARDY:

6 Q And, Ms. Frank, I understand, then, that your next
7 formal involvement in this matter would have been
8 at the Larry Fisher trial?

9 A Yes.

02:36 10 Q And correct me if I'm wrong, I believe the defence
11 had wanted to call you as a witness and that there
12 was a voir dire, or a hearing in the absence of
13 the jury, to determine whether or not your
14 evidence could be called?

02:37 15 A Yes.

16 Q And so you testified on that occasion; you recall
17 that?

18 A Yes.

19 Q And did you meet with anybody leading up to your
02:37 20 testimony?

21 A Umm, only Mr. Beresh and his associate.

22 Q And were you subpoenaed to testify?

23 A Yes.

24 Q And what was your feeling about testifying at this
02:37 25 proceeding?



1 A I did not want to, I was quite -- I was not happy
2 about it at all. I was quite perturbed that I was
3 being used in the defence of a rapist that I
4 didn't -- whom I -- someone I didn't know.

02:37 5 Q I'm going to refer you to a document, Ms. Frank,
6 it's doc. ID 277626, and it's a note. We'll try
7 to decipher it, but I believe Dean and Al were the
8 prosecutors at the Larry Fisher trial, and perhaps
9 we can focus in, the date is 1999. If we could
02:38 10 focus in starting there, please, sure, right at
11 the top, that's fine. It indicates:

12 "Lona received a call from a paralegal named
13 Katherine Broekhuizen,"

14 and then it gives some phone numbers. Do you
02:38 15 know who that Katherine Broekhuizen is?

16 A Yes, I do.

17 Q And who is that?

18 A She was a friend of mine who was a paralegal, and
19 at the time I had spoken to her about this and I
02:38 20 could not afford legal counsel, so I guess she
21 took it upon herself to do this.

22 Q Okay. And I'll just read further:

23 "She is representing Ute Frank. Frank was
24 served with a subpoena by the defence for
02:39 25 November 1st. Frank does not want to come



1 and says she will be a hostile witness for
2 the defence. Frank says she wants to
3 "switch sides" to the prosecution and will
4 say that Milgaard told her (Frank) that he
02:39 5 killed her."?

6 If you could scroll up further, please:

7 "Lona says she could hear Frank screaming in
8 the background that she wasn't coming."

9 Do you recall this phone call being made by
02:39 10 Ms. Broekhuizen?

11 A Yes.

12 Q And is that an accurate account of the information
13 that was being relayed on that occasion?

14 A Well, I'm not sure that I was screaming in the
02:39 15 background, I was saying loudly in the background
16 that I wasn't, I did not want to come, and I was,
17 if I remember correctly, it was just I did not
18 want to participate in this in any way, shape or
19 form.

02:39 20 Q And can you tell us again why that was?

21 A Well, far starters off, I didn't know Mr. Fisher
22 from a hole in the ground, I had never met the
23 man, I had nothing to do with him, I knew nothing
24 about him and I was very perturbed that I was
02:40 25 being subpoenaed again, being asked to relive this



1 experience again and that I was being used in his
2 defence.

3 Q And what is being referred to here where it
4 indicates that you would switch sides for the
02:40 5 prosecution?

6 A Well, I think what that means is that I was,
7 Katherine used those -- Katherine used those words
8 because she wanted -- she wanted to make it so
9 that they, hopefully that Brian, the defence team,
02:40 10 would not call me because I would -- that I would
11 not be helpful to their cause. I believe that's
12 what that reference -- that's referring to.

13 Q I'm just confused, I don't even know if you are
14 going to be able to help me figure this out, Ms.
02:40 15 Frank, but it goes on to say:

16 "-- and will say that Milgaard told her that
17 he killed Miller."

18 And I don't want to put words in your mouth, but
19 is that not reflective, at least in effect, of
02:41 20 the position that you had maintained through the
21 years?

22 A Yes. Now, remember, I did not say that, so I
23 don't know -- if that's what Katherine said, I do
24 not know at that moment in time -- I can't crawl
02:41 25 inside her head. I have no idea what she meant by



1 that.

2 **Q** No, fair enough. We'll turn now to a transcript
3 of your testimony at the Larry Fisher trial,
4 Ms. Frank, and there's just a few portions from
02:41 5 that that I want to review with you. It's doc ID
6 310492 and you'll see there that you are
7 testifying on the voir dire that I mentioned, Mr.
8 Beresh is examining you, and if we move to page
9 310496, please, this portion here:

02:42 10 "Q Okay. Now, did you know what kind of
11 drugs he had?

12 A No, I did not know the name of them.
13 All I knew was that I was told that
14 they had been obtained from a
02:42 15 veterinary clinic, from a friend of
16 his that worked at a veterinary
17 clinic."

18 And it seems, Ms. Frank, that you are no longer
19 indicating that you had been told that the drugs
02:42 20 came from Deborah Hall?

21 MR. MacLEOD: Mr. Commissioner, I don't
22 like to disrupt the flow of things, but this is
23 material I have not yet seen. If there is going
24 to be any amount of questioning on it, I should
02:42 25 like at least a few minutes to familiarize myself



1 with the document.

2 MR. HARDY: We can absolutely provide a
3 copy. I was under the impression we had
4 forwarded it by correspondence, but I can get you
02:42 5 a copy, Mr. MacLeod, if you would like a review.

6 MR. MacLEOD: I would like a few minutes to
7 take a look at it.

8 COMMISSIONER MacCALLUM: Will 15 be enough,
9 Mr. MacLeod?

02:43 10 MR. MacLEOD: Hopefully.

11 *(Adjourned at 2:45 p.m.)*

12 *(Reconvened at 3:00 p.m.)*

13 MR. MacLEOD: Mr. Commissioner, we had the
14 opportunity to review the portions that Mr. Hardy
03:00 15 intends to question upon this afternoon and it's
16 a continuation of questions in the same vein.
17 I've indicated to Mr. Hardy and to a select few
18 of the other counsel that I should like my client
19 to have the chance to read the document before
03:01 20 there's any cross-examination on it and there are
21 passages, in my brief look at it, that I would
22 like my client to have that opportunity before
23 she is crossed.

24 COMMISSIONER MacCALLUM: I see. Okay.

03:01 25 BY MR. HARDY:



1 Q I'll continue, Mr. Commissioner. If we can
2 return, please, to the document, and again if we
3 can go to page 310496 and I'll read this question
4 and answer again:

03:01 5 "Q Okay. Now, did you know what kind of
6 drugs he had?

7 A No, I did not know the name of them.
8 All I knew was that I was told that
9 they had been obtained from a
03:01 10 veterinary clinic, from a friend of
11 his that worked at a veterinary
12 clinic."

13 And again, Ms. Frank, I was indicating I believe
14 you had previously indicated that it was your
03:02 15 belief or someone had told you that Deborah Hall
16 or a friend of Deborah Hall's had obtained the
17 drugs?

18 A Yes.

19 Q And had you learned new information or had your
03:02 20 memory been refreshed in this respect at the time
21 of giving this testimony in 1999?

22 A No, but Deborah Hall and -- they were all friends
23 of his, so --

24 Q But am I reading your answer correctly, that you
03:02 25 are indicating here that it was Mr. Milgaard or a



1 friend of Mr. Milgaard's that had obtained the
2 drugs?

3 A Well, Debbie Hall was a friend of his.

4 Q And that's your response for that?

03:02 5 A Yes.

6 Q Okay. If I can turn you, please, to page 310499,
7 just this question and answer here, please. I'll
8 read that to you, Ms. Frank.

9 "Q Okay. Now, I just want to stop you
03:03 10 there. How many people are in the room
11 at the time that the news story about
12 Gail Miller's murder comes on, please?

13 A About 20."

14 And would that be accurate, Ms. Frank?

03:03 15 A Yes. There was more -- I would say there was
16 between 15 and 20 people in that room, yes.

17 Q I'll turn you, please, to page 310506, focusing in
18 at the top, please. I'll read that to you.

19 "Q Okay. And what did you tell that person
03:03 20 about whether you wanted to testify or
21 not?

22 A I remember begging him not to put me
23 on the stand. I did not want to
24 testify. And I told him -- that was
03:03 25 the first time I uttered these words



1 "he said he would kill me".

2 Q And you told who that, please?

3 A The prosecutor."

4 Does this testimony mesh with your recollection
03:04 5 as you provided it to us today, Ms. Frank?

6 A My -- today right now my memory is all I said was
7 I would not talk.

8 Q You'll agree with me, though, that in the course
9 of your testimony during this proceeding you
03:04 10 indicated otherwise, that you had advised the
11 prosecutor that Mr. Milgaard had threatened you on
12 the evening in question?

13 A If that's what --

14 MR. MacLEOD: I don't believe that she did
03:04 15 say that earlier today. What she said when a
16 specific passage was put to her was that the
17 passage indicated her thought, but not
18 necessarily what she had said.

19 BY MR. HARDY:

03:04 20 Q Perhaps I'll ask you again, Ms. Frank. In terms
21 of your recollection today, what is your position
22 in terms of whether you advised the prosecutor in
23 1970 about the fact that Mr. Milgaard threatened
24 you on the evening in question?

03:05 25 A I did not use the words he would kill me.



1 Q You did not tell the prosecutor that information
2 in 1970?

3 A No, I did not. No.

4 Q And you'll agree with me, though, that in this
5 portion you are advising that you did tell the
6 prosecutor that?

7 A Well, I'm not exactly sure in what reference this
8 is to, but this is just a couple of lines out
9 of -- I did not tell the prosecutor in 1970, I
10 just kept saying you don't understand, I cannot
11 and will not talk, period.

12 Q Okay. I'm going to turn you lastly, Ms. Frank, to
13 page 310507, focusing in on this portion, please.

14 "Q Were the police ever in contact with you
15 around the time of Mr. Milgaard's
16 release?

17 A You mean after Ottawa?

18 Q Yes.

19 A Yes.

20 Q What was that about?

21 A Well, after his release I learned that
22 he had moved to the Vancouver area --

23 Q Yes?

24 A ... which is not very far away from
25 me.



1 Q Yes.

2 A I was a little concerned and so I
3 spoke with them on several occasions.
4 And on two separate occasions they
03:06 5 called me and informed me that he was
6 on a ferry bound for the island.

7 Q Okay. Which police force was that?

8 A The Nanaimo RCMP."

9 Is this accurate information, Ute, that you were
03:06 10 providing here?

11 A Yes.

12 MR. HARDY: Thank you, Ms. Frank, those are
13 all my questions. My friends may have some
14 questions for you.

03:06 15 COMMISSIONER MacCALLUM: Mr. Hodson, do we
16 still have -- or Mr. Hardy, do we still have to
17 settle the question of the order?

18 MR. HODSON: I'm not certain if we've
19 determined the order yet, Mr. Commissioner. I
03:07 20 think the only thing we've agreed upon is Mr.
21 Beresh is first. There is a question of whether
22 or not counsel for Ms. Frank would like her to
23 read the transcript from the Fisher proceedings.

24 COMMISSIONER MacCALLUM: He wants -- yes.

03:07 25 MR. HODSON: So if Mr. Beresh goes first --



1 I wonder if we can just have one moment here.
2 One option, Mr. Commissioner, is to adjourn to
3 allow Ms. Frank to read the transcript from the
4 Fisher proceedings. I'm told it's 50 pages.

03:07 5 COMMISSIONER MacCALLUM: Just her own
6 testimony?

7 MR. HODSON: Just her own testimony, and
8 whether we then adjourn until later today or
9 tomorrow morning, I think that's what they're
03:08 10 discussing.

11 COMMISSIONER MacCALLUM: Counsel, do you
12 really think it's necessary for her to read it in
13 its entirety? What if the portions in question
14 were simply referred to her and she was given
03:08 15 time to read them before she answered?

16 MR. MacLEOD: For the benefit of the
17 smokers present, I wonder if we can have a second
18 15 minutes so I can let Ms. Frank read certain
19 portions, because I have a flavour of what Mr.
03:08 20 Beresh may be about to do and there's certain
21 passages I think she could usefully read without
22 wasting the balance of the afternoon.

23 COMMISSIONER MacCALLUM: All right. We'll
24 take 15 minutes, but I hasten to add that it's
03:09 25 not for the benefit of the smokers because I



1 don't want to put myself in peril from the
2 anti-smoking law.

3 (Adjourned at 3:10 p.m.)

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

03:30 5 **BY MR. BERESH:**

6 **Q** Ms. Frank, my name is Brian Beresh. You'll recall
7 me with extreme fondness for having dragged you
8 from your home to the confines of beautiful
9 downtown Yorkton, Saskatchewan.

03:30 10 **A** Oh, yes, you are on my Christmas card every year.

11 **Q** I appreciate that. It's not a long list, so I
12 appreciate anyone I can keep on that list. Let's
13 hope after today I'll stay on the list. Just a
14 couple of questions if I can, please.

03:30 15 **A** Okay.

16 **Q** First of all, you've now had the opportunity to
17 review in document, My Lord, 310496, which is the
18 transcript of Mr. Fisher's trial, commencing at
19 page 3113, through to document 310508, which is
03:31 20 page 3125 of the transcript of evidence you gave
21 at least in part in chief; is that correct?

22 **A** Yes.

23 **Q** Obviously there was other things, there were
24 preliminary matters you were asked about, but I'm
03:31 25 interested in those pages inclusive. You've now



1 had the chance to review, consider and digest what
2 you said at Mr. Fisher's trial; is that correct?

3 A Yes.

4 Q And do you adopt what you said on those pages as
03:31 5 being the truth at least to the best of your
6 recollection?

7 A Yes.

8 Q Okay. Could we go, please, to document 277626,
9 please. This document was shown to you moments
03:31 10 ago in examination-in-chief and you identified it
11 as apparently being a note made as a result of a
12 phone call between a legal assistant, paralegal
13 and someone at the prosecutor's office?

14 A Yes.

03:32 15 Q Now, what I want to know from this document, and
16 you can see it for yourself --

17 A Uh-huh.

18 Q Let's look first of all, is the time -- you were
19 present during the phone call I understand?

03:32 20 A Yes.

21 Q You were at one end of it?

22 A No, I was just in the room.

23 Q Fair enough. Could you hear Katherine speaking?

24 A Yes.

03:32 25 Q So you could hear her end of the conversation?



1 A Correct.

2 Q Okay. And my question is this, we have a date on
3 the document and I just want to ask you whether or
4 not this appears to be the date of the call as
03:32 5 opposed to the date when this note was made, if
6 you know what I mean. Sometimes there will be a
7 call, you'll make a note of it a few days later.
8 Do you know if this was made on the 19th of
9 October, 1999?

03:33 10 A I have no idea if that was the date of the call.
11 I'm sorry, I can't remember.

12 Q Okay. Well, does this help, you had by that time
13 received a subpoena to testify at Mr. Fisher's
14 trial --

03:33 15 A Correct.

16 Q -- obviously. Did you know whether or not the
17 trial, by the time of the call, had started; that
18 is, from any source, what was said by the
19 prosecutor or anybody else that led you to
03:33 20 believe --

21 A I can't remember whether I knew it had started,
22 but I knew it was going to happen.

23 Q Okay. And the time of day, does this accord with
24 any recollection of yours; that is, was the call
03:33 25 before lunch, after lunch? This would suggest



1 3:30 in the afternoon.

2 A I can't remember what time of day it was. Sorry.

3 Q Don't recall that?

4 A No, don't recall.

03:33 5 Q And I take it in essence what you were saying is
6 you really didn't want to be involved?

7 A Correct.

8 Q Okay. And just so we know, is it correct to your
9 knowledge that this paralegal never contacted
03:34 10 myself or any member of the defence team with this
11 sort of message?

12 A Not in my presence she didn't.

13 Q Okay. And I take it neither to your knowledge
14 wherein she would later advise you "I called Mr.
03:34 15 Beresh, I called somebody else for the defence,"
16 never told you that?

17 A No, no, no.

18 Q And you never instructed her to do that?

19 A No.

03:34 20 Q I see. And just so we know, this phone call, was
21 it your understanding that Katherine, the
22 paralegal, spoke to a prosecutor or someone at the
23 prosecutor's office?

24 A Someone at the prosecutor's office.

03:34 25 Q Okay. Well, Dean and Al just by chance happens to



1 be not for Dean Martin and Al Capone, but actually
2 the names of the prosecutors in the case. Were
3 you aware of that?

4 A No, I didn't know what their names were.

03:35 5 Q Okay. So today is your best recollection that
6 this information was passed directly to the
7 prosecutors in the case?

8 A Well, I would assume so by this note.

9 Q Okay. And I take it by what Katherine said to
03:35 10 you?

11 A I was present for the phone call. It was a
12 spur -- she took it upon herself to do this and
13 all I know is she called the prosecutor's office
14 and who she spoke to I have no idea.

03:35 15 Q Okay. Now, the last area I want to touch on is
16 sort of a synopsis of what you've said today and
17 what I see you having said in the past and just
18 help me with this, and help me if I get the bigger
19 picture, you said to one of the investigators you
03:35 20 didn't come from a happy home life, and I don't
21 intend to pursue that, but is that generally true?

22 A Oh, that's absolutely true.

23 Q Okay. You met Milgaard?

24 A Yes.

03:36 25 Q He offered you a bit of solace, some fun, some



1 entertainment?

2 A He was cool.

3 Q Fair enough. And in the '60s I think we know what
4 that meant.

03:36 5 A Yes.

6 Q I wasn't that, but that's okay. So you met him,
7 gave you some relief from home?

8 A It was a distraction, yes.

9 Q Fair enough, okay, but a pleasant distraction?

03:36 10 A Yes.

11 Q Is that right?

12 A Correct.

13 Q Okay. The two of you did things together, you
14 socialized together?

03:36 15 A Correct.

16 Q You interacted together; that is, used drugs, that
17 sort of thing?

18 A Correct.

19 Q Became intimate as you've said?

03:36 20 A Correct.

21 Q Until the day of the motel event; is that correct?

22 A Correct.

23 Q Okay. And just so we're clear, and you haven't
24 told us this yet, but I gathered that after the

03:36 25 motel incident you had no other contact with David



1 Milgaard?

2 A Correct.

3 Q And have had no other contact with him?

4 A Correct.

03:36 5 Q Okay. By your choice?

6 A Correct.

7 Q Okay. Let's go back if we can then. What I
8 gather from watching your demeanour this morning
9 and the way you described the event in the motel,
03:37 10 regardless of what was meant by it, let's forget
11 that for a minute, what was done in your presence
12 and said in your presence was traumatic?

13 A Yes.

14 Q Would I be fair to say it was probably the most
03:37 15 traumatic event in your life?

16 A Yes. One of two, yes.

17 Q One of two, okay. I don't want to get into the
18 other, but I take it it's unrelated?

19 A Correct.

03:37 20 Q Of the ones related to this matter, this was the
21 most traumatic event in your life?

22 A Yes.

23 Q And you have a clear recollection of certain
24 things occurring in that motel room?

03:37 25 A Correct. I will never forget it.



1 Q Fair enough. And some of the details of course
2 have changed from time to time?

3 A Yes, because of long stretches of time, yes.

03:37 4 Q Here's what I'm interested in. Before the motel
5 room incident you were aware of the death of Gail
6 Miller; is that correct?

7 A Yes.

8 Q And you were aware of the connection with Milgaard
9 to that death, vis-a-vis being arrested, that sort
03:38 10 of thing?

11 A Yes.

12 Q And such to the extent that you confronted him
13 about it on at least one occasion?

14 A I asked him about it.

03:38 15 Q Okay. My question is this: Then in the motel
16 room I take it you are telling us that the news
17 story and what occurred after that was, in your
18 mind at least, directly related to Gail Miller?

19 A Yes.

03:38 20 Q We weren't talking about another person?

21 A No.

22 Q And any reasonable person looking at it would have
23 come to that same conclusion is your recollection
24 now; is that fair?

03:38 25 A Yes.



1 Q Okay. And I take it that what then occurred in
2 that traumatic event was so traumatic and so
3 frightening to you that you ceased all contact
4 with him?

03:38 5 A Yes.

6 Q Because of that?

7 A Yes.

8 Q Okay. Had he said I know nothing about it,
9 obviously you might have continued having contact
03:39 10 with him?

11 A Oh, yes.

12 Q But that one event itself crystallized your
13 decision not to see him again?

14 A Correct, because why would someone tell you that
03:39 15 they did something like that when they -- if they
16 hadn't.

17 Q But why not see him again? I mean, he offered
18 drugs to you, he offered a good time, gave relief
19 from all these problems.

03:39 20 A Because before he -- before this event he was
21 harmless, but suddenly he didn't look so harmless
22 any more.

23 Q Now again we're not dealing with a fact, whether
24 or not he was involved is not at issue, but the
03:39 25 question is I take it you in your mind formulated



1 the opinion that he was involved?

2 A Yes.

3 Q And that --

4 A I took him at his word.

03:39 5 Q -- you weren't going to be involved?

6 A Correct.

7 Q And I take it anybody reasonably looking at it
8 through yours eyes would have come to that
9 conclusion?

03:40 10 A I would think so, yes.

11 Q Okay. And it was such -- I take it it was so
12 branded into your memory that you didn't have
13 contact with him in the years that followed
14 because of that belief?

03:40 15 A Correct.

16 Q Okay. Finally I want --

17 A Including the other people that were involved that
18 evening.

19 Q Fair enough. I just want to ask this question if
03:40 20 I can, please. You said that you, whether you
21 verbalized this or not, in 1970 you were too
22 traumatized to testify at the Milgaard trial for
23 the prosecution?

24 A I was too terrified.

03:40 25 Q Okay, fair enough, I didn't want to misstate that,



1 too terrified. And I gather you said that you
2 conveyed that somehow to the prosecutor, whether
3 in words, actions or just simply saying you didn't
4 want to testify?

03:40 5 A I conveyed it in actions, words, a lot of tears.
6 I was extremely distraught.

7 Q You appear to me to be a very truthful person. I
8 take it you try to be truthful in your life?

9 A Yes.

03:41 10 Q Had you testified truthfully at that trial --

11 A At the Larry Fisher trial?

12 Q Had you testified truthfully at the Milgaard
13 trial --

14 A I didn't testify.

03:41 15 Q I appreciate that. Let me finish the question.
16 Had you testified truthfully at the Milgaard
17 trial, your evidence, as we now know the case,
18 would not have assisted Mr. Milgaard at all; is
19 that correct?

03:41 20 A Run that by me one more time, please?

21 Q Sure. Let me put this in proper context.

22 A Okay.

23 Q If your conclusion that he spoke in the motel room
24 of Gail Miller, whether it was true or not, if
03:41 25 your impression came out in evidence, that



1 evidence would not have helped Mr. Milgaard at
2 all?

3 A I would assume that to be correct, yes.

4 Q In fact, isn't the antithesis of that correct, it
5 would have harmed him dramatically?

6 A I suppose it would have, yes.

7 Q And just to be fair, we don't know what would have
8 happened when you testified, whether the oath
9 would have appealed to your conscience or not; is
10 that fair?

11 MR. MacLEOD: Well, I don't know --

12 COMMISSIONER MacCALLUM: Whether what?

13 MR. BERESH: Appealed to her conscience to
14 tell the truth.

15 MR. MacLEOD: I've read this --

16 Mr. Commissioner, I've read the Commissioner's
17 terms of reference and I don't see that this is
18 going anywhere. I appreciate there's a lot of
19 latitude, but an entirely speculative question as
20 to what you might have done in response to
21 certain situations, how can this witness answer
22 that.

23 MR. BERESH: Well, that, I think -- I don't
24 know, with the greatest respect, I think it's
25 relevant and follows a number of questions that



1 have been asked before; that is, had the witness
2 testified would the situation have been
3 different. It's not -- in a trial setting my
4 friend is right, it would be speculative, but not
03:43 5 at this inquiry, because that's what you are
6 looking at.

7 COMMISSIONER MacCALLUM: Well, you might
8 ask her I think legitimately whether or not had
9 she testified would she say the same thing that
03:43 10 she's saying today, for example.

11 MR. BERESH: Thank you.

12 COMMISSIONER MacCALLUM: That's fair.

13 BY MR. BERESH:

14 Q Let me repeat that question. Had you testified at
03:43 15 the trial truthfully, would you have said the same
16 things you are telling us today?

17 A No.

18 Q Okay. Let me ask why? I don't want you to be
19 confused by the question. My question was if you
03:43 20 had testified truthfully -- let's say you weren't
21 afraid for whatever reason at the trial, okay.

22 A Oh, I'm sorry, I misunderstood.

23 Q Sure. So if you weren't afraid, didn't have that
24 fear hanging over your head, if you had testified
03:43 25 truthfully, would it have been the same as what



1 you have said today?

2 A Yes.

3 Q And I take it you agree with me that would not
4 have helped Mr. Milgaard's case at all?

03:44 5 A Correct.

6 MR. BERESH: Thank you. Those are my
7 questions.

8 COMMISSIONER MacCALLUM: Thanks.

9 **BY MR. GIBSON:**

03:44 10 Q Ms. Frank, my name is Bruce Gibson, I'm counsel
11 for the RCMP in this matter and I'll try not to
12 take up too much of your time, but I will have to
13 cover a little bit of the territory that you've
14 been over already today.

03:44 15 You testified earlier, and I'll
16 put the documents up in front of you if necessary,
17 but I won't initially and that might help speed up
18 the process. You testified earlier that your
19 testimony at the Supreme Court of Canada was that
03:44 20 you didn't remember if Mr. Milgaard had something
21 in his hand when he did the re-enactment with the
22 pillow. Do you recall giving that evidence
23 earlier?

24 A (Shakes head).

03:44 25 Q Does that sound right?



1 A Are we talking about the interview with Eugene
2 Williams or --

3 Q No, I'm talking about the interview -- sorry, I'm
4 talking about your testimony at the Supreme Court
03:45 5 of Canada where you said you didn't remember if
6 Mr. Milgaard had something in his hand or not, and
7 that was something that Mr. Hardy put to you
8 earlier today.

9 A Sometimes -- I find that in all of this the
03:45 10 barrage of questions, sometimes it can be
11 confusing.

12 COMMISSIONER MacCALLUM: I wonder if you
13 can maybe just refer to the passage.

14 BY MR. GIBSON:

03:45 15 Q Yes, I will. Then could we put up 047366, and I
16 do hope I have the right passage, I believe that's
17 the page reference. I think the document is
18 047753 (sic) and I think I want to be at 366, if
19 you could just call that up. You'll just see the
03:46 20 tail-end of that, the top there, started stabbing
21 the pillow.

22 "Q Did he have something in his hand?

23 A I don't -- I would almost have to say
24 I don't remember."

03:46 25 So do you agree that that was the testimony that



1 you gave to the Supreme Court of Canada?

2 A Yes.

3 Q And I believe you said that you left out the
4 information that in your recollection, now, that
03:46 5 Mr. Milgaard had a syringe in his hand when he was
6 doing that reenactment; correct?

7 A Yes, yes.

8 Q And would you also agree with me that, when you
9 gave your evidence at the Supreme Court of Canada,
03:46 10 that you didn't refer to Mr. Milgaard threatening
11 your life; is that correct?

12 A Yes, uhuh.

13 Q I'm fine, that document can go down now. Now you
14 referenced, earlier, when you spoke with
03:47 15 Mr. Williams back in 1991 --

16 A Yeah.

17 Q -- that you had said that there was a syringe used
18 in the stabbing reenactment in the motel, and you
19 said you asked Eugene not to put that there; do
03:47 20 you recall that or do you recall maybe that you
21 did not give that information to Mr. Williams?

22 A No, I -- I do recall talking to him about it.

23 Q Okay. And you stated that you advised him not to
24 put that there because of family concerns?

03:47 25 A I asked him.



1 Q Okay. And --

2 A That was the -- I'm not, I'm not entirely clear if
3 I would have told him about the family concerns,
4 but that was my motive.

03:47 5 Q But your recollection was that you didn't want to
6 have any reference to the syringe because of your
7 concerns about the family?

8 A Correct.

9 Q Okay. And if we could just call up document
03:48 10 168588, just call up that portion, please. And
11 I'm just going to read a passage of that to you,
12 and it says:

13 "I recall that Hoppy, Debbie and I along
14 with others entered the room. Another group
15 of people arrived later. We had gone to the
16 motel to do drugs that were provided by
17 either Deborah Hall or one of Debbie's
18 friends. I believe that the drugs had been
19 obtained from the office of a veterinarian.
20 We took the drugs using a syringe. Hoppy
21 injected me with the drugs."

22 A Uh-huh.

23 Q Now I am just having a bit of trouble
24 differentiating between what your family concerns
25 were between what your family concerns in you



1 asking Eugene not to mention the syringe and this
2 information here with respect to the drugs and the
3 syringe, and you taking drugs with the syringe?

4 A Well, it just, it -- every time this would come
03:49 5 up, there was always news stories, so the less
6 that was talked about that the happier I was.

7 Q Okay. Now you could appreciate, and correct me if
8 I'm wrong, that that obviously doesn't paint a
9 very good picture of what was going on in that
03:49 10 room, and I'm just wondering how your family
11 concerns would be raised in your mind because of
12 the allegation of Mr. Milgaard picking up a
13 syringe and stabbing a pillow, how that would
14 necessarily have changed things, and why you would
03:49 15 tell Mr. Williams not to put that in, but yet,
16 obviously, you didn't tell him not to put that in?

17 A I don't know.

18 Q Are you able to clearly recall everything that you
19 talked to Mr. Williams about that day?

03:49 20 A No, we were -- we had a very long conversation. I
21 was with him all day.

22 Q And you will agree that in --

23 A Holy cow.

24 Q -- that, in your discussion with Mr. Williams,
03:50 25 there is also no reference to Mr. Milgaard having



1 threatened your life?

2 A Uh-huh.

3 Q And I believe your testimony earlier was that you
4 have no explanation for why that's not in there?

03:50 5 A Because I just didn't -- what difference did it
6 make at that point in time?

7 Q Well, correct me if I'm wrong, did you not tell
8 Mr. Williams that, or did you tell Mr. Williams
9 not to put that in there, or did you tell Mr.
03:50 10 Williams that, or can you say clearly today,
11 obviously, 14 years later?

12 A I am almost certain that I did, in the end I ended
13 up telling him that, I'm almost certain of it.

14 Q Almost certain --

03:50 15 A Well --

16 Q -- or is it possible that you didn't tell him
17 that?

18 A -- 99 percent certain.

19 Q Okay. And you, yourself, didn't take any notes of
03:50 20 that encounter with Mr. Williams?

21 A No, it was all recorded.

22 Q Okay. And, well, I don't believe there was a
23 transcription of that or a tape recording of that?

24 A Well, it was recorded, because I remember at one
03:51 25 point he stopped me to flip the tape.



1 Q Okay. And does Commission Counsel have a copy of
2 that tape, because I have yet to see that?

3 MR. HARDY: No, we haven't found a copy of
4 that tape.

03:51 5 BY MR. GIBSON:

6 Q Okay. So your recollection is that there was a
7 tape, but --

8 A There was definitely a tape.

9 Q Okay.

03:51 10 A He was -- he asked me if I minded and he said it
11 was standard procedure.

12 MR. MacLEOD: Mr. Commissioner, document
13 326514 says, Mr. Williams, and it says "this is
14 an interview between Eugene Williams, it is being
03:51 15 recorded at the request of Ms. Frank, and the
16 time is 11:28 on December 19th."

17 A I --

18 MR. MacLEOD: Mr. Hardy, for the
19 Commission, advises me that the tape itself does
03:52 20 not exist, to his knowledge, but that this
21 document is derivital.

22 COMMISSIONER MacCALLUM: Thank you.

23 BY MR. GIBSON:

24 Q So we don't have a transcription, unfortunately,
03:52 25 of that tape?



1 A And I beg to differ that I requested it, he put
2 that forth and said that this was standard
3 procedure.

4 Q Okay. And so your recollection is that a tape
03:52 5 recording was made that day?

6 A Absolutely.

7 Q Okay. And we're referring, now, to the notes of
8 Mr. Williams as to what he recalled of that day,
9 and you will agree with me that he did reference
03:52 10 the drugs and the syringe, and your recollection,
11 again, is that you told him that you didn't want
12 to have the reference to the syringe being used
13 for the pillow reenactment; is that correct?

14 A I think --

03:52 15 Q Or, again, you are not certain as to whether
16 that's correct?

17 A I didn't want to talk about the syringes, period.

18 Q So is it possible that you did not mention that to
19 him with respect to the syringe and the pillow?

03:53 20 A I don't remember every single word that was spoken
21 between us. It was a conversation that I had 20
22 years ago and it lasted all day.

23 Q Okay.

24 A Sorry, I cannot remember word for word.

03:53 25 Q Okay.



1 A Sorry.

2 Q So it's -- again, looking at Mr. Williams' notes,
3 and you had a chance to review that document
4 165888, and also you went through a document
03:53 5 earlier today with Mr. Hardy which is -- again,
6 perhaps we could put this document up, 326514, and
7 you had that document referenced to you earlier by
8 Mr. Hardy?

9 A Uh-huh.

03:53 10 Q And, again, if I could just go to 326516 of that
11 document, please, just call out that. Again, I'm
12 going to read a portion of that to you.

13 A Okay.

14 Q "Someone went to the bathroom and opened the
15 door. I saw Hoppy throwing himself against
16 the wall. His face was covered with blood.
17 He came out of the bathroom after someone
18 tried to restrain him. I got out of the bed
19 and he got on the bed. He had the pillow
20 and he started stabbing the pillow. He
21 stabbed the pillow quite a few times and I
22 heard him say "I killed the bitch.""

23 Now it appears again, from Mr. Williams' notes,
24 that there is reference there again to the pillow
03:54 25 incident and, again, there is no reference to the



1 syringe there, and you have no explanation for
2 that. Again, what we've heard from you is that
3 you can't recall 100 percent whether you told him
4 the reference to the pillow or not; correct?

03:54 5 A I do not know whether that conversation was before
6 or after that, I have no cl -- I don't remember,
7 I'm sorry.

8 Q And, again, if we can turn to the next page, 517,
9 call that up. And again, with reference to that,
03:55 10 I'll pick it up part-way through:

11 "I would not leave the house for days and
12 then I started thinking that he knew where I
13 lived and how safe could I be there because
14 he could walk into my house and kill me. He
03:55 15 could kill my entire family. That's why I
16 left, I disappeared."

17 A Uh-huh.

18 Q Now it appears that the notes of Mr. Williams
19 clearly take this information down, and again,
03:55 20 there is no reference to your advising Mr.
21 Williams at that time that you felt that you had
22 been threatened, that your life had been
23 threatened by Mr. Milgaard, and can you offer any
24 explanation for that?

03:55 25 A Well obviously this statement is saying that I



1 felt very threatened by him.

2 **Q** No, I have no doubt that you -- that you felt that
3 way, what I am trying to get at is to whether you
4 advised Mr. Williams or whether you can recall 100
03:55 5 percent as to whether you advised him about the
6 actual threat to your life that you spoke about
7 earlier, or are you not in a position to say that
8 but, in your recollection, it may be something
9 simply along the lines of what I have just read?

03:56 10 **A** It was 25 years ago, I don't remember the
11 word-for-word conversation, I'm sorry.

12 **Q** And you, of course, have no reason to believe that
13 Mr. Williams would not take down accurate notes of
14 the conversation that you had?

03:56 15 **A** Oh, no, no, and there is a tape recording of the
16 whole, the whole interview. I have no idea what
17 happened to it but it's there.

18 **Q** And unfortunately, it was 14 years since that tape
19 recording was made, and here we are, and I guess
03:56 20 we have no recollection of where that can be found
21 either?

22 **A** No. You would have to ask him that.

23 **Q** Okay. Thank you very much. Those are all my
24 questions.

03:56 25 COMMISSIONER MacCALLUM: Thanks,



1 Mr. Gibson. Who is next, Mr. Fox?

2 BY MR. FOX:

3 Q Ms. Frank, my name is Aaron Fox, I'm the lawyer
4 for Eddie Karst, and his name is the police
03:57 5 officer's name that appears on that statement on
6 January 19th, 1970. And it's just on that time
7 period, 1970, that I want to ask some questions.
8 And I know we are, now, talking about even further
9 back than we were talking with Mr. Williams, we're
10 going back 35 years, but try and bear with me and
11 we'll see if we can cover that.

12 Just going back to January of
13 1970, I take it from what you have told us in
14 terms of -- and I suppose this would apply to any
03:57 15 16 or 17-year-old -- the police coming to the door
16 looking for you or coming to your home looking for
17 you wouldn't be a really good thing, period, in
18 terms of from a perspective of a reaction of your
19 parents, that sort of thing; be fair to say?

03:57 20 A Umm, yeah, I would say that's fair to say.

21 Q Okay.

22 A They were not thrilled.

23 Q No. And I'm assuming you weren't thrilled to see
24 them either?

03:58 25 A Well my first reaction was I was stunned, I



1 couldn't understand what they were doing there,
2 but no, I was not happy they were there.

3 Q Okay. And I would take it that they hadn't been
4 there very long before they mentioned that they
03:58 5 were there because of David Milgaard?

6 A Actually, I don't even recall his name being
7 mentioned. No, they were not there long before
8 they removed me from the house.

9 Q Okay. When did you find out what was the reason
03:58 10 for the questioning, like in terms of that it was
11 about the motel reenactment, when did you become
12 aware of that?

13 A To my recollection, it was when I was in the motel
14 room.

03:58 15 Q When you got to the motel?

16 A Yes.

17 Q Okay. And I'm assuming now having heard from them
18 that they wanted to talk to you about David
19 Milgaard, knowing what you had seen, again not
03:58 20 very excited about talking to them about that?

21 A No, I was actually very panicked and quite --

22 Q Okay.

23 A I -- I was very panicked.

24 Q And as I understand again from what you have said,
03:59 25 at that point and that your position continued for



1 some time you did not want to talk to the
2 authorities about what you knew about what
3 happened in that motel?

4 A That's correct.

03:59 5 Q And your first, if I can call it, defensive motion
6 is to just -- just say you didn't know David
7 Milgaard?

8 A That's right, I denied knowing him, I denied
9 everything.

03:59 10 Q Okay. And, as I understand, what you have
11 indicated is that they began to ask you if you
12 knew some other people, like Craig Melnyk or
13 Debbie Hall or George Lapchuk; and so on, and that
14 was -- is that correct?

03:59 15 A What they did was they began to produce pieces of
16 paper, I think they were -- I realize now they
17 were probably statements from them, and my name
18 was all over them, so it was obvious that I knew
19 them.

03:59 20 Q Okay. And I take it you eventually agreed "yes, I
21 do know George Lapchuk" or "yes, I do know Craig
22 Melnik," that sort of thing?

23 A Yes, because they kept telling me that I was
24 lying.

04:00 25 Q And, in fact, I guess you were lying to them; is



1 that correct?

2 A Yes I was.

3 Q Okay. And as you began to admit that you knew,
4 "okay, I do know George Lapchuk, I do know Craig
04:00 5 Melnik", and so on, then I'm assuming they
6 logically put it to you "well then you must be
7 lying when you say you don't know David Milgaard?"

8 A Yes.

9 Q And again, when they suggested to you that you
04:00 10 were lying when you said you didn't know David
11 Milgaard, you were lying to 'em?

12 A Yes.

13 Q Okay. And the purpose, again, behind telling them
14 that you didn't know David Milgaard, or any of
04:00 15 these other people, was just your hope that you
16 would be able to stay out of this thing?

17 A Yes.

18 Q And, and --

19 A Oh, yes, yes, and the terror. I was terrified.

04:00 20 Q And that terror related, as you have indicated, to
21 David Milgaard?

22 A Oh yeah, I wasn't afraid of Craig or George, I was
23 afraid of David.

24 Q Okay. Now the police themselves, I think you have
04:01 25 indicated that that was a little bit of an



1 intimidating experience, obviously, just being
2 taken down to the motel by these two police
3 officers?

4 A Oh, yes, yes.

04:01 5 Q Do you recall, and I'm not asking you to guess in
6 any way on this, but if you have a recollection of
7 the physical description of those officers, if you
8 have any recollection, if you don't that's fine,
9 but if you do if you can just tell us? And I know
04:01 10 that might seem like a really foolish question to
11 you but it might help us.

12 A They were men in suits, one had dark hair, they
13 were I would say 30-ish, they were older than me.

14 Q Okay.

04:01 15 A And one, one had a bad complexion, I remember
16 that, and one liked to yell a lot.

17 Q Okay. Do you remember if -- do you remember, you
18 said one was dark haired?

19 A Uh-huh.

04:02 20 Q Do you know what the other's hair colour was; just
21 don't recall?

22 A I don't remember.

23 Q Okay. Height-wise, any recollection? By that I
24 mean one taller than the other, or did they seem
04:02 25 about the same height to you, or --



1 A I don't recall.

2 Q Okay.

3 A I'm sorry.

4 Q No, that's fine. And age-wise, did they, do you

04:02 5 remember thinking in your mind one looked older or

6 younger or are you able to comment at all?

7 A Well when you are 17 --

8 Q Yeah?

9 A -- anyone over 30 is half-way to the grave, you

04:02 10 know what I mean, so --

11 Q Well gee, you know, I just feel really good about
12 that.

13 A Well I no longer feel that way, you know, but

14 Q Well --

04:02 15 A Technically, I would have called them old men
16 then, but I'm sure they weren't.

17 Q Okay. And in terms of one being younger or older,
18 no recollection of that?

19 A I'm sorry, I wasn't paying any attention to that,
04:02 20 I was -- I was so overwhelmed at the time.

21 Q Okay. And you recalled one being a lot more
22 verbal than the other one though?

23 A Oh yes.

24 Q Okay. Now -- and I take it, notwithstanding that,
04:03 25 that these officers were, you know, pointing out



1 to you that you had lied and you acknowledged
2 "yeah, okay, I have lied about some things and
3 since I do know David Milgaard", you still, at the
4 end of that interview, weren't prepared to tell
04:03 5 them all you knew about what happened in that
6 motel?

7 A I felt, at that moment, that there was no way I
8 was going to put my life on the line, period.
9 Nothing they could do to me could amount to death.

04:03 10 Q That's right.

11 A And I was not going -- I was -- nothing, nothing
12 would have moved me to have made that choice.

13 Q Thank you. I think those are all the questions I
14 have.

04:03 15 COMMISSIONER MacCALLUM: Mr. Elson?

16 MR. ELSON: Mr. Commissioner, any questions
17 I have would be repetitive of the questions that
18 Mr. Fox has covered, so I have no questions.

19 COMMISSIONER MacCALLUM: Okay. Thank you.

04:04 20 A Thank you.

21 COMMISSIONER MacCALLUM: And who have I
22 missed so far?

23 MR. HODSON: I'm not sure if we're down to
24 Ms. Knox or Mr. Wolch. I don't know if they
04:04 25 would like to address it. I'm sorry, -- so it



1 may be between Ms. Knox and to Mr. Wolch as to
2 order.

3 COMMISSIONER MacCALLUM: Go ahead?

4 MS. KNOX: We had, between counsel had some
04:04 5 discussion on this issue at lunchtime, and Mr.
6 Wolch indicated then that it would be his
7 preference that he be the last in the order of
8 questioning. I indicated I hadn't obtained
9 instructions from my client, but my concern was
04:04 10 that there may be material or information that he
11 elicits in his cross-examination of Ms. Frank
12 that might impact on my client as he was in
13 direct contact with her, made a decision not to
14 use her as a witness, and so forth. So it is my
04:04 15 preference, given that he has an interest here
16 that may still yet be engaged through the
17 witness, the evidence of this witness, that I be
18 permitted to examine last.

19 But I expect that Mr. Wolch
04:05 20 wants to be heard on that point as well, that,
21 ultimately, I think we've agreed that it would be
22 up to you to make the decision.

23 COMMISSIONER MacCALLUM: Uh-huh.

24 MR. WOLCH: Mr. Commissioner, I prefer to
04:05 25 go last for a couple of reasons.



1 One is I clearly will not
2 finish today, I have much to cover with the
3 witness, as opposed to Ms. Knox, who is limited
4 to a very small portion.

04:05 5 Secondly, Mr. Lockyer is not
6 here yet, and I believe he is coming tonight, and
7 he will not get a chance to hear me, and there
8 could be duplication if he doesn't hear what I
9 have to say when we try to avoid going over the
04:05 10 same areas, I will not have time to brief him as
11 to what I might ask. And I'm not quite sure of
12 My Friend's concern. I have been first with 30
13 witnesses or so and My Friend is -- and my
14 difficulty is I -- my client is engaged in all
04:06 15 aspects of this witness, and Ms. Knox knows the
16 area she is involved in, that's -- as I
17 understand it, it's a meeting with her client
18 just prior to testifying, I think that's the only
19 involvement that she has to cover. She can rest
04:06 20 assured that I will cover it, I don't know what
21 -- and it has been covered by, I think, two
22 counsel already, I think, and she knows the area.
23 I don't know what the magic is whether she goes
24 ahead of me or not, and I think it's practical,
04:06 25 more practical speaking for her to go now, and



1 I'm not sure if I can say any more than that.

2 COMMISSIONER MacCALLUM: I'm satisfied
3 that, potentially, Mr. Milgaard is the one who is
4 most adversely, likely to be most adversely
04:07 5 affected by this, the evidence of this witness
6 and, therefore, you may go last.

7 MR. WOLCH: Thank you, sir.

8 **BY MS. KNOX:**

9 **Q** Ms. Frank, you will be pleased to know that even
04:07 10 after that I do not have a lot of questions for
11 you.

12 For the record, my name is
13 Catherine Knox, and I'm the lawyer who is acting
14 for the prosecutor that you met that day in
04:07 15 January 1970. I wasn't around then, I assure you,
16 but --

17 **A** I wish I wasn't either.

18 **Q** I wonder if I could bring up document 054371. And
19 Ms. Frank, for your benefit, all I'm doing is
04:07 20 bringing up a cleaner copy of the statement that
21 you gave to Mr. Karst on January 19th in 1970.
22 Now in that particular statement, as it -- as you
23 have identified here, you gave the police very
24 little information about what you saw happen in
04:08 25 the motel room; agreed?



1 A Yes.

2 Q You basically told them, at a certain point, that
3 you were fairly heavily under the influence of the
4 drugs that you were taking and you were
04:08 5 hallucinating and basically said "I don't know
6 anything"?

7 A Correct.

8 Q Okay. Now how many times did you meet with the
9 prosecutor, how many times did you actually go to
04:08 10 the courthouse, was it just the one time?

11 A Once.

12 Q Okay. And we know, from other testimony given
13 back in 1970, that that would have been, I think,
14 the 29th of January, because George Lapchuk or
04:08 15 Craig Melnyk said they saw you in Mr. Caldwell's
16 office the previous day to them testifying. So
17 when you travelled with him you indicated your
18 partner, or your -- a male friend of the day went
19 with you?

04:08 20 A Correct.

21 Q I take it you travelled separately from Mr.
22 Lapchuk and Mr. Melnyk?

23 A Correct.

24 Q Okay. And when you met with Mr. Caldwell, was
04:08 25 either Mr. Lapchuk or Mr. Melnyk present in the



1 room?

2 A No.

3 Q Okay. When you met with him did he have any other
4 persons with him, like a police officer or anybody
04:09 5 like that, that you recall?

6 A I'm, I'm sorry, I don't recall.

7 Q Okay. Just looking for a moment, if you would, at
8 the content of your statement, do you recall --
9 and I appreciate that you have told us that you
04:09 10 were very upset when you were in his presence --
11 do you recall whether you told him anything more
12 than is contained in that statement that you had
13 given ten days or so earlier to Detective Karst?

14 A No, other than I -- I remember I was crying a
04:09 15 lot, --

16 Q Uh-huh?

17 A -- I was begging, I was pleading, I kept saying,
18 repeating over and over again "I won't do this,
19 you can't make me do this".

04:09 20 Q Do you remember whether you told him that, if he
21 put you on the stand, that you would lie?

22 A Oh, I would have repeated this.

23 Q Okay. And do you recall him attempting to clarify
24 with you whether that was, in fact, a true
04:10 25 statement?



1 A Sorry, it's so long.

2 Q Okay. Just a couple of final questions then. Did
3 Mr. Caldwell do anything to pressure you, coerce
4 you, or anything of that nature, with respect to
04:10 5 your refusal to go on the stand?

6 A Umm, I -- I remember hearing something about
7 contempt of court but, other than that, no.

8 Q Okay. Do you remember whether you were given an
9 opportunity, or he gave an opportunity for you to
04:10 10 meet with the other counsel that was involved in
11 the trial, Mr. Milgaard's lawyer?

12 A I don't remember.

13 Q Okay. Do you have any memory, today, of how many
14 people you talked to at the courthouse at all that
04:10 15 day or that evening?

16 A Umm, it was at least three or four different
17 people, but who they were, other than the
18 prosecutor, I couldn't tell you.

19 Q Okay. And you said ultimately, as a result of
04:10 20 these meetings, a decision was made that you would
21 not be put on the witness stand?

22 A Correct.

23 Q Okay. I don't have anything further.

24 COMMISSIONER MacCALLUM: Thanks, Ms. Knox.

04:11 25 Ma'am, are you feeling all



1 right? We have 20 minutes yet before
2 adjournment, if you are feeling unwell, we can
3 always adjourn until the morning?

4 A I would like that, please.

04:11 5 COMMISSIONER MacCALLUM: Would you?

6 A I'm -- my stomach is bothering.

7 COMMISSIONER MacCALLUM: Is that okay?

8 MR. WOLCH: Mr. Commissioner, if I may just
9 before the witness leaves, I'm not certain what
04:11 10 the Commission policy is on witnesses refreshing
11 their memory while they are on the stand or in
12 between testimony.

13 The reason I say that is that I
14 would be happy if the witness was to review the
04:11 15 Supreme Court evidence in particular over the
16 evening, because I do intend to question her a
17 bit about that, and it will -- that way she won't
18 have to take a break to read it.

19 COMMISSIONER MacCALLUM: The only policy we
04:11 20 have is one against discussion, in other words
21 improving on your evidence, but yours is -- has
22 the opposite intention, so if that were done;
23 could you see to it, Mr. McLean?

24 MR. MacLEOD: MacLeod, thanks.

04:12 25 COMMISSIONER MacCALLUM: Mr. MacLeod,



1 sorry.

2 MR. MacLEOD: My client has only had one
3 opportunity to read through it, I'll ensure that
4 she has another opportunity before tomorrow.

04:12 5 COMMISSIONER MacCALLUM: Okay, thank you.
6 Tomorrow at 10:00 then.

7 *(Adjourned at 4:12 p.m.)*

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