

*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 Bessborough Hotel at
Saskatoon, Saskatchewan

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Volume 4

Inquiry Proceedings



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Transcript of Proceedings

(Reconvened at 10:00 a.m.)

CLERK: This hearing is now in session,
please be seated.

MR. HODSON: A couple of introductory
comments, Mr. Commissioner. One, the original
witness list that I had provided had three
witnesses today, Betty Silverfox in the morning,
Maria Trupej and Simon Doell in the afternoon. I
have moved up Margaret Lennox, her maiden name is
Merriman, who was to testify tomorrow, I have
moved her up hopefully 11:30 today, so we'll try
and get through four witnesses today.

One other matter that I should
have mentioned yesterday for the benefit of
counsel, when we are using documents on the
screen, particularly with the maps, and there is
drawings or markings on the map, if counsel or
the Commissioner wishes to preserve that image
with the drawings on there, we can simply pause
and ask the document manager to take a snapshot
of it and it will actually, I guess, take a
picture of that with the markings on it, it will
be preserved on the record. Because I think from
time to time, where we're going through some of



1 these documents and markings, it may not show up
2 clear. So a couple things to keep in mind, we
3 have to pause, we have to make sure the markings
4 are on the screen, and ask the document manager
10:02 5 to take a snapshot of that.

6 COMMISSIONER MacCALLUM: Do you mean when
7 you trace a route on the -- for example?

8 MR. HODSON: Yes, so I think mostly on the
9 maps, if we trace a route on the map and wish to
10:02 10 preserve it that it can then be printed; is that
11 right? Yeah.

12 COMMISSIONER MacCALLUM: Yes, that will be
13 fine, Mr. Hodson. My only comment is that if you
14 trace a route with no directional indication on
10:02 15 it, it might not tell you very much in the end.

16 MR. HODSON: Yeah.

17 COMMISSIONER MacCALLUM: So I would
18 appreciate that if all counsel, when engaged in
19 this sort of a practice would make it clear by a
10:03 20 directional north, south, east or west, what they
21 are -- what they mean. Okay? Thanks.

22 MR. HODSON: The first witness this morning
23 is Mrs. Betty Silverfox, if she could come up to
24 the front.

10:03 25 BETTY SILVERFOX, sworn:



1 BY MR. HODSON:

2 Q Good morning, Mrs. Silverfox, thank you for
3 testifying before this Commission of Inquiry. I
4 understand you currently reside in Watrous,
10:04 5 Saskatchewan, is that correct?

6 A Yes.

7 Q I understand that on January 31, 1969 you resided
8 at a boarding house at 130 Avenue O South in
9 Saskatoon?

10:04 10 A Yes, that's correct.

11 Q And I understand that your maiden name is Hundt,
12 H-U-N-D-T, and that in 1969 you were not married
13 and that you were known by that name?

14 A That's correct.

10:04 15 Q I also understand that you knew Gail Miller and
16 that she was a roommate of yours at the boarding
17 house?

18 A Yes.

19 Q Was she a good friend of yours at that time; do
10:04 20 you recall?

21 A Yes, we were friends, because we lived at the same
22 place.

23 Q I would like to show you a map of the area and
24 just have you confirm a couple of locations. If
10:05 25 you can call up map B, please, and if you could



1 just look at the screen, right there is 130 Avenue
2 O South, the boarding house. You will see at the
3 bottom north is that way, we have 20th Street,
4 21st Street, Avenue O, Avenue N, so that's just to
10:05 5 get your bearings. And the bus stop, I understand
6 there is a bus stop at the corner of Avenue O and
7 20th Street; is that right?

8 A Yes.

9 Q And another one at the corner of Avenue N and 20th
10:05 10 Street?

11 A Yes.

12 Q And was there a back alley behind your house?

13 A Yes.

14 Q I wonder if you could call up the pictures of the
10:05 15 boarding house, please, the 1969 first. Now this
16 is a picture we've obtained, I think it's dated in
17 1969, of the boarding house. Can you tell me
18 where -- or confirm that is a picture of the
19 boarding house?

10:06 20 A Yes it is.

21 Q Okay. Now where was your room situated in that
22 boarding house?

23 A My room was at the back here.

24 Q Okay, so that third window, so you would have been
10:06 25 facing which direction; is that south -- I think



1 it is south -- so right here? And were you beside
2 Gail's room; do you recall?

3 A Yes, her room was beside mine.

4 Q If I could just have you call up the 1990 or '90s
10:06 5 version of that and show you a picture of the back
6 of the house; does that look familiar? This
7 picture is taken in the '90s, Mrs. Silverfox, but
8 does that look familiar as the back of the
9 boarding house?

10:07 10 A Yes, it does.

11 Q And is that how it was, roughly, in 1969?

12 A Roughly, yes, I remember the long stairs going
13 down and the porch on the back here.

14 Q Okay.

10:07 15 A And I, that back window would have been my room,
16 because my room was right at the back of the
17 house.

18 Q Okay. In the wintertime, let's go back to 1969 in
19 the winter, did you have occasion to use this back
10:07 20 stair?

21 A Oh, not that often, I don't think, unless it was
22 to take out garbage or something.

23 Q I see. And how did you travel to work or to
24 school at that time?

10:07 25 A I went out the front door and I got a ride, they



1 picked me up on the corner, --

2 **Q** Okay?

3 **A** -- to work.

4 **Q** Now I understand, from statements and police
10:07 5 reports that the night before Gail Miller's death,
6 you attended a party with her; is that correct?

7 **A** Yes.

8 **Q** Can you tell me, please, your recollection of that
9 prior evening, and if you like I can go through
10:08 10 some of your statements to assist you with
11 refreshing your memory, but if you could maybe
12 just initially give me your recollection?

13 **A** Well Gail had been asked to go to this party with
14 some friends and she, I guess she didn't really
10:08 15 want to go alone and she asked if I would go along
16 with her. I didn't know any of the people there.
17 I can't remember for sure how we got over there,
18 whether we took the bus or not, and anyway it was
19 about midnight or so that they -- we decided that
10:08 20 we needed some more beer there, and at that time,
21 too I also wanted to go home and there was
22 another, a fellow there and Gail that went in the
23 car, I can't remember if there was some -- another
24 party or not, and they dropped me off, and they
10:08 25 went back to the party.



1 Q I see. And so Gail Miller went back to the party?

2 A Yes.

3 Q And is that the last time you saw her alive?

4 A Yes.

10:09 5 Q Now I understand that Gail Miller was a nursing
6 assistant at City Hospital?

7 A Yes.

8 Q Do you know how she usually travelled to work?

9 A By bus.

10:09 10 Q And do you know which bus stop she would normally
11 take?

12 A The one on 20th Street.

13 Q Okay. If you could just maybe just call up map B.
14 So here is your house, 20th Street, there was two
10:09 15 bus stops, one on O and one on N; do you know
16 which bus stop she would normally use?

17 A Here, just a moment.

18 Q Yeah, that's fine. Here's your house. In fact
19 why don't you just reconfigure it, just turn that
10:09 20 90 degrees so we have it north-south, that might
21 be easier for the witness. You will see your
22 house is here at the top, and here is 20th Street
23 right here, Avenue O, Avenue N, and then there is
24 a bus stop at O and a bus stop at N?

10:10 25 A Yes, so it was up here where she caught the bus.



1 Q I'm sorry, can you --

2 A Up here.

3 Q -- draw a circle around it, please?

4 A 20th?

5 Q Yeah.

6 A This is 22nd Street here?

7 Q No, this is 20th right there, 22nd would be here.

8 A No, it was here.

9 Q Could you just draw a circle around where you are
10:10 10 referring to; is it this bus stop or --

11 A Yes.

12 Q Yes, okay. So the Avenue O and 20th bus stop is
13 where she would normally travel to catch the bus
14 to go to work; is that correct?

10:10 15 A Yes.

16 Q And I understand that Miss Miller worked different
17 shifts; did she?

18 A Yes.

19 Q Do you know what time her day shift would normally
10:10 20 start?

21 A At 7:00.

22 Q Around -- pardon me?

23 A I believe it was around 7:00.

24 Q Okay. Now if I could turn your attention to
10:11 25 January 31, 1969, the day of the murder, when and



1 how did you first find out about it?

2 A Well I heard about it at lunch time when a girl
3 that I worked with, we went out for lunch to the A
4 & W, and we were listening to the radio and they
10:11 5 were talking about this body being found in the
6 back alley, and their description, and I said "oh
7 my God," I said "that's right basically behind our
8 house, where I live." And then I found out about
9 it when I got home from work, there was two
10:11 10 detectives in the car, and when I turned to walk
11 up to the house they followed me in and said that
12 they wanted to talk to me. And when we got
13 upstairs they asked me to sit down, and they said
14 if I had heard about this body being found, and I
10:11 15 said "yes", and they said "we believe that to be
16 the body of Gail Miller."

17 Q Okay. Do you recall the names of those officers?

18 A No.

19 Q I'm just going to show you a police report, if you
10:12 20 could call up document 106116, it's not a very
21 good copy but just zoom in on the top here and
22 we'll get the date, it's January 31, 1969. If you
23 could flip to the second page, please, and this is
24 a report -- zoom in there -- by Detective K.S.
10:12 25 Mackie, who I believe is Keith Mackie, and just go



1 back to the top of the document. This is the same
2 document that we looked at for Linda Brecelj, so
3 if you could just zoom in on that area and you
4 will see, there, Betty Hundt, and it looks as
10:12 5 though they took a witness statement from you at
6 about 6:20; does that sound about right?

7 A Yes.

8 Q Okay. Next, if you could call up document 006628,
9 and you will see at the top Betty Hundt and the
10:13 10 date, January 31, 1969, I think it says 5:30 p.m.
11 If you could just zoom in, actually, the bot --
12 it's not a very good copy of it. If you could
13 take a look at that, I will also show you the
14 second page, maybe if you could just flip to 6629
10:13 15 and just zoom in on that; is that your signature?

16 A Yes.

17 Q Okay. We'll go back to the first page, please.
18 Now is this your handwriting in the body of the
19 statement, can you tell, or was that the police
10:13 20 officer; do you remember?

21 A I'm, I'm not sure, I don't think it's my
22 handwriting.

23 Q Okay. Fine. And I take it, Mrs. Silverfox, that
24 on January 31, 1969 you would have provided the
10:14 25 officers with your best and truthful recollection



1 of what they asked you?

2 A Yes.

3 Q If you could just call out that part, please, and
4 the statement says, starting right here:

10:14 5 "I have lived at 130 Avenue O South since
6 September 1968;"

7 is that correct?

8 A Yes.

9 Q And:

10:14 10 "I have known Gail Miller for about the same
11 length of time. We have become fairly close
12 to each other."

13 And I think you told me earlier that you were
14 good friends with her?

10:14 15 A Yes.

16 Q If you could then just scroll down to this part,
17 and I'll maybe just read this through on the
18 record:

19 "On January 30th, 1969 about 5:30 p.m. Gail
10:14 20 asked me if I wanted to go to a party. A
21 fella by the name of Dennis who was in here
22 Sunday was have a birthday party, Dwayne who
23 was also here would be there also - and
24 wanted to know if I wanted to go. Around
10:15 25 8:30 p.m. to 8:45 p.m. two fellows came to



1 pick me up. Their names were Forrest and
2 Brian. We had a beer there and one of these
3 fellows came with us. We then went to where
4 the birthday party was to be in the
10:15 5 university area. There was about six
6 fellows and three girls."

7 Go to the next page, please, at the top:

8 "At this party-around 11:30 p.m. Gail,
9 Dennis, myself, and Sig left to get more
10:15 10 beer at the Windsor Hotel. Dennis went on
11 while we waited in the parkade. Dennis came
12 out with the beer and said he would give his
13 landlady a ride home as she worked in the
14 bar at the Windsor. We waited for her.
10:15 15 When we left there Dennis drove me home to
16 130 Avenue O South. I got home shortly
17 after midnight. When I got out of the car
18 there was still Dennis, Gail, Sig, and
19 landlady left in the car. I haven't seen
10:16 20 Gail since. Gail had on a pair of brown
21 slacks and a short-sleeved roll-neck
22 fisherman knit sweater, white bobby socks,
23 and bayish ...",

24 or boyish:

10:16 25 "... desert boots and wore her siwash. She



1 either had her purse,"

2 either boyish or bayish:

3 "... imitation plastic,"

4 the dimensions:

10:16 5 "Zipper top with handles. Gail has gone out
6 a couple times with Dwayne who attends U of
7 S and her home is at Loon Lake,
8 Saskatchewan."

9 And then just the top paragraph, there, it says:

10:16 10 "Gail told me Dwayne had balled her out for
11 waiting around for Les Spence as he never
12 took her out but just dropped around and
13 expected her to be home, that she should go
14 out more often."

10:17 15 Just pause there. Did you know of Les Spence or
16 know him at the time?

17 A Yes, I had seen him at the house.

18 Q Yes, and do you recall what relationship this was
19 with, what relationship he had with Gail; was he
10:17 20 boyfriend, ex-boyfriend, at the time of the
21 murder?

22 A It was her boyfriend.

23 Q Now if you could just go down to that paragraph
24 there, please, and it says:

10:17 25 "With Les Spence, Gail seemed to go



1 together, then break up, it was on again off
2 again between the two of them. Les was very
3 jealous of Gail. During arguments Gail
4 mentioned that Les has slapped her a number
10:17 5 of times and some were quite hard."

6 Do you recall telling that to the police at that
7 time?

8 A Pardon me?

9 Q Do you recall having that discussion with the
10:17 10 officers at the time?

11 A Yes.

12 Q And would it be fair to say that the officers were
13 questioning you about what you knew about Gail
14 Miller, and her life, and relationships with
10:18 15 others?

16 A Yes.

17 Q Then just scroll down to this next paragraph,
18 please, and it says here:

19 "If Gail was wearing her uniform this
10:18 20 morning she would have had to come home to
21 get it as she didn't have it with her last
22 night. Gail told me she leaves every
23 morning at 6:45 a.m. to catch the bus and
24 goes out the front door. I believe she
10:18 25 walks south on Avenue O to catch the bus and



1 go . . . , "

2 sorry:

3 "... south to Avenue O to 20th Street and
4 the bus stop. She is employed at City

10:18 5 Hospital as a certified nurse's assistant."

6 We'll just pause there. So I take it, at that

7 time, you would have had -- you would have

8 provided the police with your best recollection

9 of the route and time that Gail Miller left to

10:18 10 work?

11 A Yes, I would.

12 Q At this time, or at any time within a week or two

13 around the murder, did you have -- form any

14 impressions as to whether the police suspected Les

10:19 15 Spence or any other of Gail's other male

16 acquaintances?

17 A Yes, because when they talked to me at the house

18 and they asked me, they did. I don't know if they

19 suspected, but talked about --

10:19 20 Q I'm simply asking for your impression.

21 A Yeah.

22 Q And you had the impression that the police were --

23 and I don't want to put words --

24 A Yeah, they were going to check into him, or --

10:19 25 COMMISSIONER MacCALLUM: Just finish the



1 question, please, if you could just make sure he
2 finishes the question.

3 BY MR. HODSON:

4 Q Yeah, I was just going to say, I don't want to put
10:19 5 words in your mouth, Mrs. Silverfox, but what I
6 want to know is your impression at the time, and I
7 think you told me you had the impression that they
8 were going to check Les Spence out --

9 A Yes.

10:19 10 Q -- as a possible suspect; is that fair?

11 A Yes, yes.

12 Q Okay. Next, if you could call up document 024935,
13 and I understand from the reports -- and I'll go
14 through them -- but that the police talked to you
10:20 15 after the day of the murder; is that right, you
16 would have talked to the police again?

17 A Yes. What I remember is we went down there, like
18 there was a couple of other girls from the house,
19 that we went to the police station on Saturday
10:20 20 night.

21 Q Okay.

22 A I think.

23 Q Okay.

24 A And --

10:20 25 COMMISSIONER MacCALLUM: What's the year on



1 that document, Mr. Hodson?

2 MR. HODSON: The date is February 5, it
3 talks about February 2nd, which is actually a
4 Sunday.

10:20 5 COMMISSIONER MacCALLUM: Oh.

6 MR. HODSON: Now these are reports, they
7 may not be completely accurate.

8 BY MR. HODSON:

9 Q You recall going down to the police station with
10:20 10 some of your roommates, boarding roommates? Yes?

11 A Yes.

12 Q And you think it was a Saturday night?

13 A Yes, that's what I thought.

14 Q No, that's fine. And were you asked to go down to
10:20 15 the police station, do you think, did the police
16 call you and ask if you could come in?

17 A Yes, yes.

18 Q And do you know who you would have met with or how
19 many officers you would have met with?

10:21 20 A I don't really remember.

21 Q Okay. I think this document, 024935 -- and we'll
22 just walk through this, Mrs. Silverfox -- this is
23 a police report prepared at the time that details
24 what the police recorded about their dealings with
10:21 25 you, and as well I think there's some comments



1 about what you may have explained to them. So if
2 we start off, if you could just call out that
3 paragraph, when we get to page 3,
4 Mr. Commissioner, we'll see that it's a report
10:21 5 prepared by Detective Sergeant Raymond Mackie.
6 The report date is February 5, 1969, but it talks
7 about February 2nd, and it says M, which I believe
8 is:

9 "Morality Sergeant Oleksyn and myself ...,"
10:21 10 being Raymond Mackie:

11 "... interviewed Betty ...,"
12 it should be Hundt, on the record it says
13 H-U-D-T:

14 "... 130 Avenue O South regarding Gail
10:22 15 Miller and her associates. Hundt was unable
16 to supply too much information although she
17 suggested she was probably the closest to
18 Gail Miller of anyone that resided at 130
19 Avenue O South."

10:22 20 Is that, would that be a correct statement?

21 A Yes.

22 Q "Hundt had no knowledge of Miller ever
23 spending nights with any man in her room or
24 her ever having intercourse. She had the
10:22 25 opinion that Miller had probably never had



1 intercourse with any male person."

2 Were the police asking you about what you knew
3 about Gail Miller's relationship with other men?

4 A Yes, I remember that part about them asking
10:22 5 whether there was anybody who had ever spent the
6 night?

7 Q Okay. And did they explain to you why they were
8 asking that?

9 A I don't remember now.

10:22 10 Q That's fine. If I can just go on, if you can call
11 out the second full paragraph, it says:

12 "Hundt also suggested that Miller had
13 associated and gone to shows and parties
14 with a Dwayne Longdo and at one of these
10:22 15 parties she had met Dennis Elliot and this
16 was how she come to be acquainted with
17 Elliot and be invited to the party at 1308
18 Temperance Street on January 30th. On
19 January 30th Miller was picked up at 130
10:23 20 Avenue O South along with Betty Hundt by two
21 other boys who reside in the basement at
22 1308 Temperance Street. After being at this
23 party for a short time it was decided that
24 they were short of beer and Dennis Elliot
10:23 25 went along with Gail Miller, Sigstad Holle



1 and Betty Hundt where they went to the
2 Windsor beer parlor where Elliot purchased a
3 quantity of beer and also picked up a girl
4 who was believed to be his ex-landlady and
10:23 5 drove her home. After leaving the Windsor
6 Hotel possibly about 12:15 a.m. Hundt was
7 driven home and the others left. Betty
8 Hundt believes that two 12s and one 6-pack
9 of beer had been purchased. At the house at
10:23 10 the time the party actually started there
11 were two 24s of beer which had apparently
12 been mostly consumed by the group present.
13 Persons at the party at 1308 Temperance on
14 Thursday night were Dennis Elliot, Forrest
10:23 15 Studer, Brian Odegard, Linda Markwart, Betty
16 Hundt and Gail Miller. Hundt was not aware
17 at the time if Gail had returned home but
18 she stated Linda Markwart had spent the
19 night at 1308 Temperance Street."

10:24 20 If we can pause there. So I take it at this time
21 you would have had a similar discussion about the
22 night of the night before the murder with the
23 police?

24 A Yes.

10:24 25 Q And how Mr. Mackie has reported it in his police



1 report, does that sound accurate as to what you
2 would have told him?

3 A Yes.

4 Q Now if you could go down to the paragraph -- are
10:24 5 we able to get that whole paragraph up -- and I
6 take it they would have had some questions for you
7 about Les Spence as well, at this time, when you
8 went in?

9 A Yes.

10:24 10 Q And I'll just read from the report:

11 "In regard to Les Spence she stated that
12 Spence had spent nights at 130 Avenue O
13 South but to her knowledge when he had
14 stayed in Gail's room Gail Miller had been
10:24 15 at work and she did not believe that Gail
16 had ever spent a night with him. She also
17 believes that Spence had a key to Gail
18 Miller's room but not a key to the building.
19 She stated that on occasions Spence came in
10:25 20 under the influence from out of town and was
21 recently accompanied by a Robert Jalbert of
22 Purdue. She said that Spence was very
23 jealous and quick-tempered and the last she
24 knew of him having been at 130 Avenue O
10:25 25 South was on the weekend of January 24-25.



1 She believes that Spence had owned and
2 operated a white over blue Meteor or Mercury
3 that had been in an accident and was no
4 longer operative. Jalbert she believes
10:25 5 operated a half-ton truck but did not know
6 whether he owned a vehicle of his own.
7 Spence had also been accompanied to 130
8 Avenue O South by Bruce Bowering who resides
9 on Avenue J, Brian Forsyth Marquis Towers,
10:25 10 and a Brian Hawthorn who resides on
11 Arlington Avenue."

12 So I take it that you would have provided these
13 names to the police at this time, the Bruce and
14 the two Brians, --

10:25 15 A Yes.

16 Q -- is that ... Now do you recall them asking you
17 about motor vehicles, cars that you may have seen
18 in and around the area, with Les Spence and
19 others?

10:26 20 A Well, I remember them asking me if there was any,
21 any strange vehicles parked in the area or that I
22 thought, you know, were kind of unusual sitting
23 there and maybe watching or something like that.

24 Q Okay. And did the police give you any explanation
10:26 25 as to why they were asking that question?



1 A No.

2 Q Do you recall if you had noticed any vehicles, or
3 suspicious vehicles, at the time?

4 A I had not.

10:26 5 Q If you could just go to page 3 of this document,
6 024937, and, just, you will see that's Detective
7 Sergeant Ray Mackie for that report.

8 Next, if you could go to
9 document 106227, and this is a report dated -- if
10:26 10 you could just zoom in there, please -- February
11 5, 1969. And just go back to the main document,
12 please. And this is also a report by Detective
13 Sergeant Mackie, I will show when we get to the
14 second page, and just zoom in on this part. This
10:27 15 starts off on a discussion with Linda Markwart,
16 who is Linda Brecej, 10:30 p.m., February 2nd,
17 '69 Linda Markwart returned, and it goes on to
18 talk about her interview. If you could just go
19 back to the main document, please, and call out
10:27 20 that portion.

21 Now just to assist you, Mrs.
22 Silverfox, that last police report we were reading
23 from was also relating to February 2nd, 1969, and
24 Raymond Mackie. That report said at 4:15, you
10:27 25 will see right here on that same -- okay, can't do



1 that -- that same date at 10:50 p.m. they talk
2 about interviewing you, and I'll just read that:

3 "At 10:50 p.m. we interviewed Betty Hundt in
4 regard to Les Spence and were advised that
10:28 5 Les Spence had come to her room with Robert
6 Jalbert who had remained in the hall. Gail
7 Miller had come from her room and spoken to
8 Robert Jalbert and Les had apparently pushed
9 the door to Betty Hundt's room closed so
10:28 10 that he would not be seen. A short time
11 after Robert Jalbert and Betty were in the
12 TV room and Les came into the TV room
13 followed by Gail and upon seeing Les she
14 never spoke to him but left and returned to
10:28 15 her room. Shortly after this Robert and Les
16 left 130 Avenue O South and a short time
17 later Gail Miller was seen returning wearing
18 a siwash sweater. Hundt was uncertain but
19 she believed that Gail Miller had gone out
10:28 20 but earlier than Robert Jalbert and Les
21 Spence and had returned."

22 Now pause there. Do you recall, on that day,
23 talking to the police twice? The reports seemed
24 to indicate they talked to you at 4:15, and then
10:29 25 again late in the evening at 10 to 11:00; does



1 that assist your memory at all?

2 A At -- as I remember it I just spoke to them in the
3 evening.

4 Q Okay. And on -- and it was on a Saturday? That's
10:29 5 fine, I'm just seeking your recollection. So as
6 far as the content here that I just read you --
7 and again that's on 106227 -- the, what Detective
8 Sergeant Raymond Mackie has written in the report,
9 is that accurate, as to what you would have told
10:29 10 him at that time?

11 A Yes.

12 Q Okay. Now if you could just -- this is the last
13 sentence, last line on that page:

14 "Gail Miller also told Betty Hundt of an
10:29 15 occasion when she had attended ...,"

16 and if you could just go to the next page,
17 please, and just call out the top part, and so it
18 says:

19 "Gail Miller also told Betty Hundt of an
10:30 20 occasion when she had attended a dance at
21 the Manhattan Dance Hall east of Saskatoon
22 and when attending this dance with some
23 other person she had saw Les Spence with a
24 girl named Marlene. She stated that Gail
10:30 25 had told her of Les apparently being mad



1 because she was at the dance with someone
2 else and then the next day Spence had come
3 to 130 Avenue O South and had a cut over one
4 eye and it is believed that he had been in a
10:30 5 fight with some person. It was unknown what
6 persons he had been fighting with. About
7 the end of September Spence was seen at 130
8 Avenue O South at which time he was
9 apparently mad or had some dispute with Gail
10:30 10 Miller but Betty Hundt stated that she
11 thought he was more stubborn than mad. She
12 believed this was probably on the occasion
13 of a party being held for a Cheryl Schultz
14 who had moved to B.C. from 130 Avenue O
10:30 15 South. Les Spence's sister Sherry had
16 apparently spent a weekend with Gail Miller
17 and might be acquainted with equipment in
18 the room. On February 3 when at Purdue,
19 Sask. Sherry Hiller was interviewed and it
10:31 20 was learned that Gail Miller did not have a
21 paring knife in her room but only had the
22 one knife that was present when we searched
23 the room."

24 So, the part that I read you, does that accord
10:31 25 with what you would have told Mr. Mackie at that



1 time?

2 A Yes.

3 Q I inadvertently changed colours here. There we
4 go. After this encounter with the police on
10:31 5 February 5, 1969, and I think what I have just
6 read to you there, do you recall any other
7 dealings with the police or authorities with
8 respect to this matter up until after the time
9 that Mr. David Milgaard was convicted of the
10:31 10 murder?

11 A No.

12 Q And, in particular, did you have -- do you recall
13 any discussions with the Crown prosecutor in this
14 case, Mr. Caldwell?

10:31 15 A No.

16 Q And with defence counsel for David Milgaard,
17 Mr. Cal Tallis, do you recall any discussions with
18 him?

19 A No.

10:32 20 Q And I understand that you were not called as a
21 witness at the court proceedings for David
22 Milgaard; is that correct?

23 A That's correct.

24 Q Okay. It's my understanding that your next
10:32 25 involvement in this matter came in 1997 when you



1 were interviewed by a member of the RCMP, Carol
2 Thomson; does that sound correct?

3 A Yes.

4 Q Now if you could call up document 034443, and just
10:32 5 for the record Mrs. Silverfox, the RCMP
6 investigated in 1993 and again in 1998. I will go
7 through the 1998 interview. Do you recall being
8 contacted in or around 1993 about this matter?

9 A No, I was not.

10:32 10 Q Okay. And just for the record, Mr. Commissioner,
11 I want to just refer to a document. If you could
12 just zoom in, and this is a document taken from
13 the RCMP Flicker files, it is 034443 and it's
14 dated, I think, February '93, February 8 or 18th,
10:33 15 I'm not sure. It says:

16 "Betty Hundt was a good friend of Gail
17 Miller however I can't see how she can shed
18 any light on our investigation. She hung
19 around with Gail and frequented the same
10:33 20 friends. She supplied information to the
21 Saskatoon City Police as she lived at the
22 same address as Miller. Hundt will not be
23 interviewed as it would serve no purpose."

24 And then a signature, and I'm sorry, I don't know
10:33 25 whose that is, but in due course we will find



1 out.

2 So let's move on to your
3 meeting in 1997, and I'm going to show you two
4 documents, the first is document 081074. And
10:33 5 this, if we could just zoom in at the top,
6 December 11th, 1997, 1645 hours, place 401-8th
7 Street, Watrous, Saskatchewan; is that your
8 address?

9 A Yes it is.

10:34 10 Q Okay. Just go back to the main document. The
11 handwriting, if I could just have you zoom in on
12 the bottom, is that your signature?

13 A Yes it is.

14 Q Okay. If you could go back to the main document,
10:34 15 and here it looks as though it's Constable
16 Thomson, does that name ring a bell?

17 A Yes.

18 Q Okay, go back to the main document, please. Is
19 that your handwriting or did Constable Thomson
10:34 20 write the statement; do you remember?

21 A Constable Thomson wrote it.

22 Q If you could just go to the last page of that
23 document, 081079, I think it's the last page. And
24 this is your signature there?

10:35 25 A Yes.



1 Q Okay. There is also, we have obtained a typed
2 version of this statement that I think is easier
3 for us to refer to, and it is 081072 -- which I
4 think is still part of this document, it's just --
10:35 5 and I have compared it, and it appears to be an
6 exact copy of the handwritten one, and again just
7 zoom in on the top. The same date. If you go
8 back to the main document, please, and just call
9 out this first paragraph. And I'll just read for
10:35 10 the record what it's reported you told the RCMP in
11 December of 1997:

12 "I moved to Saskatoon in '68 to that
13 apartment. I lived there about a year and a
14 half. I can't say if Gail was living there
10:36 15 when I moved there. I think she was. I
16 knew Gail fairly well. You know if you had
17 a bad day it was Gail that I would go to.
18 She seemed to be around more often. At that
19 time she had a boyfriend Les Spence. He
10:36 20 lived out of town so she was around more
21 often. I had my room on the same floor as
22 Gail. My room was next to hers. As far as
23 I know I left the party before her and,
24 yeah, that would have been the last time I
10:36 25 saw her because she worked day shift and she



1 would have left before I got up. She worked
2 as a nurse and had to leave pretty early.
3 She worked at City Hospital. I remember the
4 officers questioning me about her boyfriend,
10:36 5 what he was like, did have a temper and
6 could he possibly have done that. I think
7 that it could have been the same day that
8 the murder happened that they asked me about
9 the boyfriend. Then I remember when they
10:36 10 came to Avenue O South after I came home
11 from work and told me of the murder and that
12 they believed the body to be Gail Miller. I
13 remember that they came and wanted to see
14 Gail's room. I think the landlord let them
10:36 15 in. I remember the landlord changing the
16 locks because we were all pretty scared.
17 Nothing more really. I don't remember the
18 police come to the house a whole lot, I just
19 remember listening to the news wanting them
10:37 20 to catch the person."

21 Now this is what's been recorded by Constable
22 Thomson; is that an accurate description of what
23 you would have told her in December of 1997?

24 A Yes.

10:37 25 Q And, at that time, that's an accurate recollection



1 of what you remembered of 1969?

2 A Yes.

3 Q And then it goes through a question and answer, if
4 you could go to the second page of this document
10:37 5 081073 and just zoom in on this last question and
6 answer, and it says:

7 "Q Did Gail use the back alley to get to
8 the bus stop?

9 A Oh, I don't think she would, she would
10 usually walk down Avenue O to the 20th
11 Street."

12 Is that what you would have told the officer at
13 the time?

14 A Yes.

10:38 15 Q As far as other people residing at the boarding
16 house -- and let's go back to January of 1969 --
17 would people have, to your knowledge did people
18 use, go out the back door, down the alley, to
19 access 20th Street or the bus stop?

10:38 20 A No, they would have went out the front door.

21 Q And why was that?

22 A Well, it was just the main entrance that everybody
23 used.

24 Q Okay. Now next I understand, Mrs. Silverfox, that
10:38 25 you were called as a witness at Mr. Larry Fisher's



1 preliminary hearing and trial; is that right?

2 A Yes.

3 Q And if you could call up document 315404 and just
4 zoom in on the top, and that shows that you were
10:39 5 sworn and testified, and this is the
6 examination-in-chief by Mr. Johnston; you recall
7 testifying at that preliminary hearing?

8 A Yes.

9 Q Okay. If I could just have you go to document, in
10:39 10 this document it's page 315414, you recall being
11 cross-examined by Brian Beresh, Mr. Fisher's
12 lawyer?

13 A Yes.

14 Q If I could just have you call out those questions
10:39 15 and answers, please, I'll just read this.

16 Question 86:

17 "Q Okay. For you, for example if you were
18 leaving to work, would you generally go
19 out the front door?

10:39 20 A Yes.

21 Q Okay. And I take it that was Miss
22 Miller's practice as well?

23 A Yes, yes.

24 Q Didn't go out the back?

10:40 25 A No. "



1 So, again, I think that's what you would have
2 told the court at the time, and is consistent
3 with what you have told us today; correct?

4 A Yes.

10:40 5 Q If you then go to page 315415, and actually if you
6 go top to bottom with 416 as well, please, just
7 start here. You don't need to zoom that up,
8 question 98:

9 "Q And in your statement to the police you
10:40 10 suggested she would take a bus to work?

11 A Yes.

12 Q Do you know where she would take the bus
13 from generally?

14 A She caught the bus on 20th Street,
15 right at the corner. There was a
16 little corner store there that we used
17 to go to --,"

18 Question, if you could just scroll down at the
19 bottom here please, question 100:

10:41 20 "Q Okay.

21 A -- in the evening for chips or pop or
22 whatever, and that's right where the
23 bus stop was too.

24 Q Do you remember the name of the store?

10:41 25 A No.



1 Q Fair enough.

2 A I don't.

3 Q Was it right on the corner of Avenue O
4 and 20 --

10:41 5 A 20th.

6 Q 20th. Not 21st?

7 A No, 20th."

8 And so that store would have been right -- maybe
9 just go back, are you able to switch back to map
10:41 10 B just for a moment? I need to go back to this
11 document though. And, actually, can you try a --
12 try map C. Again, this is just to get your
13 bearings, 20th Street, Avenue O, and north is in
14 that direction. I think, and again the bus stop
10:41 15 was here, and I believe right here, there is, was
16 the confectionary; is that right?

17 A Yes.

18 Q Okay. Thank you. If you could go back to that
19 transcript, page 315416, and just the bottom page
10:42 20 is fine. And you can go down to question 107,
21 just keep scrolling, please, question 107:

22 "Q There would be no reason for her to come
23 down the street, then go east into the
24 back alley and down the alley?

10:42 25 A No.



1 Q Right. Okay. And to your knowledge
2 that was her ..., "
3 call up the next page, please, 417? Thank you.
4 And just go up to the top, there, and call that
10:43 5 out. So, just for the record, question 108 was:

6 "Q Right. Okay. And to your knowledge,
7 that was her habit of catching the bus
8 there?

9 A Yes, as far --

10:43 10 Q O and 20th?

11 A Yes, as far as I know."

12 I'm done with this transcript.

13 If I could just go back to map
14 B, please, and we'll just -- and the question,
10:43 15 again, that I had gone through, question 107 from
16 page 315416, Mr. Beresh says:

17 "Q There would be no reason for her to come
18 down the street, then go east into the
19 back alley ..., "
10:43 20 you will see here east is down this way:

21 "... east into the back alley and down
22 the alley?"

23 I believe is what he is asking, your answer is:

24 "A No."

10:44 25 Is that correct?



1 A Yes.

2 Q So what Mr. Beresh was asking you, I believe, at
3 the prelim. was there would be no reason for Gail
4 Miller to take this route which would be south on
10:44 5 Avenue O, east on 21st Street, and south at the T
6 alley; is that correct?

7 A That's correct.

8 Q Next, if you could call up document 313924. And
9 again at the top, I think this is your transcript
10:44 10 of your testimony at the trial, do you recall
11 attending in Yorkton at Mr. Fisher's trial?

12 A Yes.

13 Q I'm going to ask you to go, please, to page 313933
14 of this transcript, if you could call out that
10:45 15 part, please. And, again, this is
16 cross-examination by Mr. Beresh:

17 "Q And I understand had a -- one of those
18 long set of stairs from the second floor
19 down?

10:45 20 A Right.

21 Q Do you remember if people went out the
22 back way during the winter, during the
23 summer?

24 A No, that was very seldom used, that
10:45 25 back entrance from the second floor.



1 Q So mostly the front street --

2 A Right."

3 So that's what you would have told the court at
4 the time?

10:45 5 A Yes.

6 Q And that's accurate; is that right?

7 A Yes.

8 Q And, next, to go to 313934, next page, and again
9 this is still Mr. Beresh cross-examining. If you
10:46 10 could call out that portion in the middle and I
11 will read it for the record:

12 "Q Okay. Finally, in January of 1999 (sic)
13,"

14 because I presume Mr. Beresh meant 1969:

10:46 15 "... did you ever observe a vehicle
16 sitting outside of your home which you
17 considered to be suspicious because it
18 sat there and appeared to be watching
19 the house?

10:46 20 A No, not to my recollection."

21 And that was accurate evidence at the time, and
22 still is today?

23 A Yes.

24 Q Those are all of my questions, Mrs. Silverfox.

10:46 25 Mr. Commissioner, counsel will



1 be cross-examining in the same order as the
2 witnesses yesterday, I didn't give you another
3 sheet but I think you should have --

4 COMMISSIONER MacCALLUM: Okay, thanks.

10:46 5 Mr. Hersh Wolch was first?

6 BY MR. WOLCH:

7 Q Ma'am, I understand that you didn't testify at the
8 Milgaard trial or preliminary hearing?

9 A No, I didn't.

10:47 10 Q Were you expecting to testify or -- in any way, or
11 just didn't know about it?

12 A Well I moved away from Saskatoon in July of that
13 year, 1969, and I kind of expected maybe to be
14 called about it, but I never was.

10:47 15 Q Okay. Did anybody contact you and say "look, we
16 don't need you," or "forget about it," or anything
17 like that, leading up to when that matter was
18 going to court?

19 A No.

10:47 20 Q When you were speaking to the police at the
21 crucial time, was it brought to your attention
22 that another woman had been attacked around the
23 same time that morning?

24 A No.

10:47 25 Q Was it ever brought to your attention?



1 A No.

2 Q Did you ever learn that?

3 A No.

4 Q Were you aware of other women in the neighbourhood
10:48 5 being attacked prior, in the fall prior to this
6 incident?

7 A No I wasn't.

8 Q Did you notice any warnings, or anything like
9 that, about potential danger in the area?

10:48 10 A No.

11 Q That's fine. Thank you very much.

12 COMMISSIONER MacCALLUM: Ms. McLean,
13 please?

14 MS. McLEAN: I have no questions, thank
10:48 15 you.

16 COMMISSIONER MacCALLUM: Thank you. And
17 Mr. O'Keefe, I believe you are here this morning?

18 MR. O'KEEFE: Thanks.

19 BY MR. O'KEEFE:

10:48 20 Q Mrs. Silverfox, just following up on one of the
21 questions that Mr. Wolch asked you, quite apart
22 from other women being attacked in that particular
23 area, what was your impression of the crime in the
24 neighbourhood and whether it was high or low?

10:49 25 A I would say low. I mean we weren't afraid, we



1 would leave the house at 10:00 at night, or
2 whatever, to run down to the store on Avenue, like
3 on 20th Street, or there was another confectionary
4 on Avenue N I believe, on 22nd Street anyway, on
10:49 5 the corner of 22nd Street, and we would run down
6 there at night never being afraid or concerned
7 about anything.

8 Q And you hadn't heard about other types of crimes
9 taking place in that particular area, as distinct
10:49 10 from generally throughout Saskatoon?

11 A No.

12 Q Shortly after midnight on January 31st, 1969, when
13 you were dropped off back at the residence, what
14 was your understanding as to where Miss Miller was
10:49 15 going?

16 A That she was going back to the party.

17 Q The party on Temperance Street?

18 A Yes.

19 Q And your understanding at that time, January 31st,
10:50 20 1969, as to the status of her relationship with
21 Les Spence was what?

22 A At that time, it was probably off again, because
23 it was quite a stormy -- well, an off again/on
24 again relationship.

10:50 25 Q And had it been on again and off again throughout



1 the entire course of the time that you knew Gail
2 Miller?

3 A Yes.

4 Q Throughout that time is it fair to say that Miss
10:50 5 Miller went out on dates with other people other
6 than Les Spence?

7 A Yes.

8 Q So it wasn't an exclusive relationship?

9 A No.

10:50 10 Q Are you aware of whether she attempted to keep
11 that type of information from Les Spence?

12 A I, I kind of think yes.

13 Q If Les Spence had known about her going back to
14 the party on Temperance Street that night, is that
10:51 15 the sort of thing that would have made a person
16 like him jealous?

17 A Yes, that would have made him upset.

18 Q He was more jealous than the average person?

19 A I think so.

10:51 20 Q Thank you.

21 COMMISSIONER MacCALLUM: Mr. Elson?

22 BY MR. ELSON:

23 Q I too will be very brief. Mrs. Silverfox, with
24 respect to the interviews that were conducted by
10:51 25 the police shortly after Gail Miller's murder,



1 there were multiple interviews, there was clearly
2 more than one, I understand, from your
3 information; is that correct?

4 A Yes.

10:51 5 Q There would have been one interview on January
6 31st and another interview during the weekend; is
7 that correct?

8 A Yes.

9 Q And would you agree with me that the police seemed
10:51 10 to be fairly careful to take down as many details
11 as you could possibly provide, and if I could be
12 more specific, details such as the names of all of
13 the people at the party on Temperance for example?

14 A Yes.

10:52 15 Q And you were able to supply all of the names of
16 the individuals that you recalled being at the
17 party on Temperance?

18 A Yes.

19 Q And you were also able to provide names of
10:52 20 individuals that you had seen at Gail Miller's
21 suite; would that be correct?

22 A Yes.

23 Q And, specifically, I believe that there was an
24 individual by the name of Bowering, and then there
10:52 25 were two gentleman whose first names were Brian,



1 and you recall having given information about
2 those gentlemen having attended at Gail Miller's
3 suite; is that correct?

4 A Yes.

10:52 5 Q It would be fair to say, you had answered My
6 Friend Mr. Hodson's question, that you inferred,
7 from the manner in which the police were
8 questioning you, that Les Spence was one of the
9 people they might be interested in checking out, I
10:52 10 believe, was the words or the phrase that you
11 used?

12 A Yes.

13 Q Would you agree with me that you gave the
14 impression that they were going to check out the
10:53 15 names of the other individuals you had given as
16 well?

17 A Yes.

18 Q And the reason you inferred that is because they
19 seemed interested in the names of these people and
10:53 20 where they could be reached, where they were from?

21 A Yes.

22 Q Now had you -- My Friend Mr. O'Keefe asked you
23 some questions with respect to the relationship
24 with Mr. Spence, and that it was not an exclusive
10:53 25 relationship, but that Miss Miller may have been



1 attempting to hide from Mr. Spence the fact that
2 she might have been dating other individuals; is
3 that correct?

4 A Yes.

10:53 5 Q And he would be unhappy about attending, about her
6 attending a party, and unhappy about another man
7 driving her home at 2:00 in the morning; would you
8 agree with that?

9 A Yes.

10:53 10 Q Was there ever any concern brought to your
11 attention by Miss Miller, or by anyone else at the
12 rooming house, about the home being watched in any
13 way? I appreciate you didn't see it watched, but
14 did anybody ever tell you that they were concerned
10:54 15 about the home being watched?

16 A No, I don't recall.

17 Q Do you have any recollection of Gail Miller being
18 concerned that, from time to time, Les Spence
19 might be checking her out, seeing where she was
10:54 20 going?

21 A I don't think so.

22 Q All right. If somebody didn't want to be seen,
23 you indicated that the normal route anybody living
24 at the rooming house would take from the rooming
10:54 25 house to the bus stop would be to go down Avenue O



1 and take the bus stop on the corner of Avenue O
2 and 20th, that would be the normal thing for
3 anyone living in that rooming house to do; you
4 would agree with that?

10:54 5 A Yes.

6 Q If somebody didn't wish to be seen, somebody
7 living in that rooming house did not wish to be
8 seen, would you agree with me that one of the ways
9 one could avoid that would be to exit the back
10:55 10 door, go down the back lane to 21st Street, and go
11 down 21st Street to Avenue N, and walk down Avenue
12 N and take a different bus stop simply to avoid
13 being seen?

14 A That's possible, yes.

10:55 15 Q Thank you. I have no further questions.

16 COMMISSIONER MacCALLUM: Mr. Fox?

17 MR. FOX: I have no questions,

18 Mr. Commissioner.

19 COMMISSIONER MacCALLUM: Thank you.

10:55 20 Mr. Gibson?

21 MR. GIBSON: No questions.

22 COMMISSIONER MacCALLUM: Ms. Krogan?

23 MS. KROGAN: None, thank you.

24 COMMISSIONER MacCALLUM: Ms. Knox?

10:55 25 BY MS. KNOX:



1 Q Mrs. Silverfox, I just have one question, and
2 simply because it hasn't come up. But there was
3 some evidence yesterday from another witness to
4 suggest that prank calls were being made to your
10:56 5 boarding house. Were you, or did you ever receive
6 a call or have knowledge of concerns about prank
7 calls being made to the house, and particularly to
8 the phone on the second floor that you shared with
9 Miss Miller?

10:56 10 A No, I don't remember.

11 Q Okay. Thank you.

12 COMMISSIONER MacCALLUM: Thanks. Any
13 redirect, Mr. Hodson?

14 MR. HODSON: No, Mr. Commissioner, I have
10:56 15 no redirect. Thank you very much, Mrs.
16 Silverfox.

17 COMMISSIONER MacCALLUM: Thank you, Mrs.
18 Silverfox, you are excused. Thank you for
19 coming.

10:57 20 MR. HODSON: Mr. Commissioner, the next
21 witness is Margaret Lennox, who arrived this
22 morning. I think I will call her after the
23 break, at 11:30, and perhaps I can take the next
24 10 or 15 minutes to read in some evidence from
10:57 25 some of the deceased witnesses, if that's all



1 right?

2 COMMISSIONER MacCALLUM: Very well.

3 MR. HODSON: Here's, for the record, how I
4 propose to deal with it. I have gone through our
10:57 5 document database and tried to identify where
6 people have told their story, and I have
7 collected that, I have put that in folders and
8 we've made it available to all counsel via the
9 Internet, so they have an idea of the documents.
10:57 10 I don't intend this to be exclusive. If, at some
11 point later in these proceedings or at any time,
12 counsel identifies other documents that ought to
13 be on the record about what a deceased person has
14 said, I will certainly add it. Having said that,
10:57 15 I think I have got everything.

16 The first group of documents I
17 wish to put in relate to an individual by the
18 name of Murray Duffus, D-U-F-F-U-S, who lived on
19 20th Street in 1969, and I believe he passed away
10:58 20 in December of 2003.

21 And the first document that I
22 would refer to is document 106212, and this is a
23 police report dated February 5, 1969, Detective
24 McCorriston who is also deceased, and if I could
10:58 25 ask you to turn to the second page of that,



1 please, 106213. And again, this is Detective
2 McCorriston's notes, if you could call out that
3 section, please. Actually I'm sorry, if you
4 could just go up two lines there, right at the
10:59 5 top. Yeah, sorry, just start there. And this is
6 McCorriston, Detective McCorriston's notes:

7 "Further checks conducted on the morning of
8 February 3rd, 1969 . . . ,"
9 that would be a Monday, the murder was on a
10:59 10 Friday, are as follows:

11 "6:43 a.m., checked in 300 block Avenue O
12 South. Murray Duffus of 1501-20th Street
13 West who works at Potash Corporation of
14 America. He states that he was outside at
10:59 15 his car from about 6:40 a.m. to 6:55 a.m.
16 January 31st, 1969 as he was having trouble
17 starting same that morning. He had
18 practically full view of the east side of
19 the 200 block Avenue O South from this point
10:59 20 and is quite sure he would have heard any
21 unusual noise and noted any unusual
22 activity. However was unable to offer any
23 information."

24 Perhaps, if I could just have you call up map B,
11:00 25 and I believe -- and I'll maybe show it on a



1 different map -- I believe that Mr. Duffus' house
2 was right on the corner of Avenue O and 20th, and
3 just to go back, his evidence, or from the police
4 report it says:

11:00 5 "He had practically full view of the east
6 side of the 200 block Avenue O South,"
7 so again east is this direction, so he says he
8 had a practically full view of the block of
9 Avenue -- of the 200 block Avenue O South. Of
11:00 10 course this is the 300 block where the Cadrain
11 residence is, the 100 block where Gail -- I have
12 to get arrow lessons -- so it was this east side
13 of Avenue O that Mr. Duffus said, and again from
14 his statement, his house was at 1501-20th Street.
11:01 15 In fact, if you go to map 3 it may show better --
16 or map C, it may show better on that. In fact,
17 if you could zoom in right there, please. And
18 there we have it, there is the Duffus house
19 there, this is 20th and O, this is the bus stop.
11:01 20 And I'm not sure from this report,
21 Mr. Commissioner, whether his vehicle would be
22 parked on 20th Street or on Avenue O, however,
23 this is what's reported.

24 The next document that I wish
11:01 25 to refer to is tab 5 -- or pardon me -- document



1 278794. Now, as I mentioned, Detective
2 McCorriston is deceased, however we have located
3 what is a copy of his notebook. If you could
4 just zoom in there it says:

11:02 5 "Page 1, Saturday, February 1, 1969."

6 Now this is Pearson, RCMP, dated December 9th, or
7 12/09 of '91, and in fact this notebook was
8 obtained from doctor -- or from Mr. Pearson's
9 files, and it's my understanding that the RCMP,
11:02 10 when they were investigating for the Section 690
11 application, were able to obtain a copy of Mr.
12 McCorriston's notebook. And, again, we'll hear
13 more about that later. If I could then have you
14 go with that document, just go to page 278801A,
11:02 15 which is about eight pages in, and if you could
16 just zoom in right there, and on -- this is --
17 sorry, if you could just go back to the main
18 document, I should have identified the date. You
19 will see here February 3, 1969, which corresponds
11:03 20 with Detective McCorriston's report, and again go
21 back to the main document and just call out this
22 part, and it says:

23 "6:43 a.m. Checked in 300 block Avenue O
24 South. Murray Duffus of 1501-20th Street
11:04 25 West works at PCA was out at his car from



1 approximately 6:40 a.m.-6:55 a.m. January 31
2 as he was having trouble starting same-61
3 Chev cream/tan had full few of the 200 block
4 Avenue O South and is quite sure he would
11:04 5 have heard any unusual noise and noted any
6 unusual activity however had no info to
7 offer."

8 If you could just go back there, and just for the
9 record, if you could just zoom in on the back,
11:04 10 the bottom half there -- and we'll hear about
11 this later -- but this was shortly before
12 Detective McCorriston met Larry Fisher in the 300
13 block of Avenue O South.

14 Next, if you could call up
11:04 15 document 265881, and just sort of zoom in there.
16 These are the notebook of the Detective Parker,
17 and again you will see the RCMP collected those,
18 and we'll hear about that later. Just go back to
19 the main document, please, and go to page 265888,
11:05 20 so about seven pages in, and if you could just
21 call out that part, please:

22 "6:49 checked Murray Duffus 1501-20th
23 Street. Stated works at Potash of America.
24 Starts his car at about 6:40-6:55 each
11:06 25 morning didn't hear or see anything unusual.



1 January 31st was in and out of the house
2 several times. Had noticed a nurse with
3 stockings catch bus at the corner. If
4 someone screamed or hollered he thinks he
11:06 5 would have heard it. Can't recall seeing
6 her January 31/69."

7 And, again, that's from Detective Parker's notes.

8 The next document is 180324.

9 MS. BOSWELL (Document Manager): We don't
11:06 10 have that document in the database.

11 MR. HODSON: Pardon me? Okay. Just,
12 there's just one small part right in here, and
13 again:

14 "Mrs. Duffus, Potash of America, Friday,
11:07 15 6:05 a.m. Did not go out or notice
16 anything. Husband started car at 6:40 a.m.
17 parked 300 Avenue O South left for work at
18 7:00 a.m., nothing to add."

19 That's all from that document. Thanks.

11:08 20 Next, if you could call up
21 document 034695. And, Mr. Commissioner, this
22 relates to interviews in 1993 conducted by the
23 RCMP. And if you could go -- this one goes back
24 to front, just bear with me for a moment -- if
11:08 25 you could just perhaps call out the first part.



1 And the date is March 15th, '93, it says:

2 "Meet Duffus at his residence in Saskatoon.

3 Duffus has spoken by telephone with his
4 daughter Linda Duffus following our previous
11:09 5 meeting 93-3-11. He advised that his
6 daughter had info concerning the Miller
7 investigation and she wished to discuss this
8 information with an investigator."

9 Carry on to the bottom half of that:

11:09 10 "Duffus suggested that his daughter was the
11 first person to find the body. Was a friend
12 of Rita Cadrain in 1969. Rita Cadrain told
13 her a man (stranger) had slept in her
14 bedroom the night of the murder. Rita had
11:09 15 information concerning bloody clothes at the
16 Cadrain house. Linda Duffus will be
17 contacted directly to pursue above points.
18 She is the subject of file 93-273. Nothing
19 further required from Murray Duffus."

20 And we'll certainly be hearing from Linda Duffus
21 and Rita Cadrain, I just wanted to point out that
22 that's where Murray Duffus was involved.

23 If you could then go to page
24 number, I think the last page is 034699, and you
11:10 25 will see this is page 1 at the top, if you could



1 just zoom in on that top half, please. And this
2 is dated March 10, 1993, so this is five days
3 earlier than the report I just read to you, it
4 says:

11:10 5 "Duffus resided at 1501-20th Street West in
6 Saskatoon at time of murder (SW corner) he
7 was questioned 69-02-03 at 0645 hours by SPD
8 while he was starting his vehicle parked in
9 300 block Avenue O South."

11:11 10 Just scroll down, please. Maybe I should go back
11 to the main document, just the full page, please,
12 and just call out that part. It says:

13 "Locate Duffus at residence 28 Sturby Place,
14 Saskatoon. Mr. Duffus was quite informal
11:11 15 concerning the Milgaard case and openly
16 offered his opinions."

17 If you could just go to the next page, 034698,
18 and just call out the top part, it says:

19 "Synopsis, issue number 47,"

11:11 20 and we'll hear later about how the RCMP put
21 together these issues:

22 "Duffus resided at 1501-20th Street West,
23 Saskatoon on 69-01-31. Was questioned by
24 two plainclothes SPD on 69-02-03 at 0645
11:12 25 hours while he was starting his car parked



1 facing south 300 block Avenue O South."

2 So I had referred earlier about where his vehicle
3 was, it now looks according to this report, the
4 RCMP report, that Duffus said that his car was
11:12 5 parked on the 300 block Avenue O South facing
6 south as opposed to 20th Street. If you could
7 just go down to the next paragraph, please:

8 "Duffus stated that he initially was
9 concerned when approached by two men however
11:12 10 had no problems when they identified
11 themselves as peace officers. This was the
12 only contact he had with the police. He did
13 not supply statements, did not testify,"

14 I can't:

11:13 15 "... did not testify in court nor did he
16 offer any useful information to the
17 investigation."

18 Go down to the last two paragraphs:

19 "Duffus was concerned that the police did
11:13 20 not make inquiries at his residence situated
21 on southwest corner 20th Street and Avenue
22 O. Duffus left for work each day at 0645
23 hours and did not observe or hear anything
24 untowards on morning of 69-01-31."

11:13 25 The next page, then, is 034697. Just call out



1 the top part:

2 "Duffus indicated that when departing for
3 work on 69-01-31 he turned his vehicle to go
4 north to 20th Street West and then drove
11:14 5 east on 20th Street, he did not observe any
6 vehicles stuck in the intersection of 20th
7 Street West and Avenue O or 20th Street West
8 and Avenue N."

9 Further, then it goes on and if you could just
11:14 10 scroll down, please, bring up that whole
11 paragraph, and it stays:

12 "Further to concerns raised by Mr. Bruce,
13 reference Maria Gallucci, file 93-593,"
14 Mr. Bruce was an investigator working for the
11:14 15 Milgaard family at the time and had provided
16 information to the RCMP and we'll hear more about
17 that, it says:

18 "Duffus did not recall ever observing a
19 construction worker walking on 300 block
11:14 20 Avenue O South nor did he observe such a
21 male at the bus stop 20th Street West and
22 Avenue O which is directly in front of his
23 residence."

24 Scroll down, please:

11:14 25 "He never used the bus and did not notice



1 who may have been standing at the 20th
2 Street and Avenue O bus stop."

3 And then go to page 034696 and just, this is
4 March 11th, '93:

11:15 5 "Further to this matter received telephone
6 call from Duffus stating he would like to
7 meet again to offer further information on
8 this matter. Duffus to be re-interviewed,"
9 and of course, then, the very first statement
11:15 10 from March 15th, '93 I read you was the second
11 meeting.

12 Finally, if you could go to
13 document 048794 -- I think I can finish this up,
14 Mr. Commissioner, in a minute or two before the
11:15 15 break -- this is a document that we'll hear from
16 the RCMP on, it's a document -- an interview
17 notes contained in the RCMP Flicker file, has
18 Murray Duffus at the top, there is no date on
19 this document but it's in the 1993 report and
11:16 20 appears to be an officer's notes based on an
21 interview, and may well have been the notes that
22 formed that earlier continuation report. I'll
23 just have you call up that part and, again, this
24 is a bit cryptic:

11:16 25 "Two cops in car came towards me,



1 plainclothes, left work at 6:45 a.m., 2
2 minutes, doesn't remember seeing anybody
3 (construction) nothing in papers before
4 about serial rapist."

11:16 5 If you could then go down:

6 "There was a 24-hour garage 22nd and P.
7 Coffee machine, morning of 69-01-31 very
8 cold, minus 40 Fahrenheit, would have heard
9 anything. Kid played at Cadrain's,
11:16 10 daughter, never knew suite in basement,
11 never saw Fisher or any construction
12 worker,"

13 and then it appears:

14 "5:45 a.m. for sure, 1 meeting on street,
11:17 15 treated okay, no one came later on door to
16 doors, never gave written statement, thought
17 someone should have,"

18 appears to be "seen this". If you could then go
19 to the next page, please, actually go to page
11:17 20 048796, the next page.

21 And just keep in mind,
22 Mr. Commissioner, these are notes taken by an
23 officer with Mr. Duffus at a time -- Mr. Duffus
24 is not here, the officer will likely, in due
11:17 25 course, be called who took these notes, but I



1 just want to put them in the record now. If you
2 could call up that part, and Mr. Duffus is
3 reported to have said:

4 "Does not think Milgaard did it. Does not
11:17 5 believe girl would take any other route than
6 Avenue O. Feels Shorty nuts in 1969.
7 Daughter was 10 years old at time, Linda
8 Duffus,"

9 and her address:

11:18 10 "Never ever took bus,"

11 and then just scroll down please:

12 "Has not been contacted by anyone else.
13 Mary wife home all day in 1969. No one
14 came. Lived 20th Street West 1935-1972.
11:18 15 Never any boulevard on 20th Street West.
16 Mother lived with him. Deceased. Took bus
17 likely to work for 8:30 a.m. City cops
18 parked on 300 block Avenue O South. Duffus
19 parked facing south, turned at alley and
11:18 20 went north to 20th Street then east on 20th.
21 Never remembered vehicle stuck at 20th and N
22 almost for sure."

23 That is the extent of the read-ins I have for Mr.
24 Duffus.

11:18 25 And perhaps, rather than have



1 parties come up now, Mr. Commissioner, I can
2 invite them, with respect to Mr. Duffus or any
3 other of the deceased witness, to let me know if
4 there are other documents they wish to have read
5 in, or if they wish to address any of these
6 materials in some way.

7 COMMISSIONER MacCALLUM: Okay, thank you.
8 We'll take our break. 15 minutes.

9 *(Adjourned at 11:19 a.m.)*

10 *(Reconvened at 11:38 a.m.)*

11 CLERK: This hearing is now in session.

12 MR. HODSON: Mr. Commissioner, when I went
13 through the read-ins for Murray Duffus, I put
14 forward the documents that I found. I should
15 have also mentioned that Mr. Duffus did not
16 testify at the David Milgaard proceedings nor did
17 he testify at the Larry Fisher proceedings.

18 COMMISSIONER MacCALLUM: Okay.

19 MR. HODSON: The next witness is Margaret
20 Lennox, maiden name Merriman, if you could have
21 her come up here, please.

22 **MARGARET LENNOX, sworn:**

23 BY MR. HODSON:

24 Q Good morning, Mrs. Lennox, thank you for coming to
25 testify. I understand that you currently reside



1 in Birch Hills, Saskatchewan; is that all right?

2 A That's right.

3 Q And that in January of 1969 you lived in
4 Saskatoon; is that correct?

11:40 5 A Yes.

6 Q And in January of 1969 it's my understanding that
7 you were about 46 years of age; does that sound
8 right?

9 A Pardon?

11:40 10 Q That in January of 1969 you would have been
11 approximately 46 years of age?

12 A I still can't get the last part, I'm sorry?

13 Q Yeah, I'm trying to get your age in January of
14 1969, and I understand that you were 46 years old?

11:40 15 A Yes.

16 Q Okay. And it's my understanding that you resided
17 at 226 Avenue N South in Saskatoon?

18 A Avenue N South?

19 Q Yes.

11:40 20 A Yes.

21 Q And that, in January of 1969, that you would have
22 lived there with your husband Arthur Merriman?

23 A Yes.

24 Q Now I'm going to show on the screen, if you can
11:40 25 just look at the monitor there, if you could call



1 up map B, please, and if you could just -- and
2 just zoom in on that area please? Now if you
3 could just take a look, and I'll make marks on
4 here, you will see this is 20th Street, and this
11:41 5 is north, and here is Avenue N, and it's my
6 understanding -- and here's the funeral home on
7 the corner.

8 A Yes.

9 Q And it's my understanding that your house would
11:41 10 have been right about right there; is that
11 correct?

12 A Yes.

13 Q And was there also a back alley running
14 north-south beside your house?

11:41 15 A Yes.

16 Q Okay. And your house would have been the first
17 house next to the back alley; is that correct?

18 A Yes.

19 Q Okay. I'll show you another map, map C, please.

11:41 20 A Pardon me?

21 Q I'm just going to show you another map, and again
22 this one you will see -- if you could just zoom in
23 over there, please -- and you will see, again,
24 there is 20th Street, there is the funeral home,
11:42 25 there is Avenue N; do you see that?



1 A Yes.

2 Q And then right here it's got 'Merriman', if you
3 could just zoom in on that?

4 A Yes.

11:42 5 Q That was your house; is that right?

6 A Yes. Yes.

7 Q Okay. Now Mr. Commissioner, there's another map
8 that we have, it's an aerial view from 1974. If
9 Mr. Agioritis could just come grab it, I don't
11:42 10 have it, it's a large map, we don't have it on
11 computer, I'm just going to show that to Mrs.
12 Lennox and have her, with a felt marker, draw a
13 square around her house. And if counsel wishes to
14 come and take a look, that's fine, I'm sorry, I
11:42 15 don't have other copies. And this is a map from
16 1974, and 20th Street, and this is a photograph,
17 Mrs. Lennox, over top.

18 A Yes.

19 Q So 1402 is the funeral home, and 226 Avenue N,
11:43 20 would that be your house, right there, where my
21 finger is pointing?

22 A Yes.

23 Q Okay. Maybe what I will do is just -- and I'll
24 write this way, and I'll just write "Lennox" so
11:43 25 that we know, there. So that's your house there,



1 marked red, "Lennox"?

2 A Oh, 226? Yeah, you have got 226?

3 Q Yeah, 226. Okay. If you could just take that
4 map.

11:43 5 And if you could call up map B
6 again, please, and just zoom in on this area. Now
7 again I think, Mrs. Lennox, just to help you out,
8 here is your house here, where I have got the X?

9 A Yes.

11:44 10 Q The funeral home is right here; do you see that?

11 A Yes.

12 Q And this map shows, do you remember there being a
13 bus stop at the corner of 20th and Avenue N, at
14 that corner?

11:44 15 A Yes.

16 Q And there was another bus stop, do you remember, a
17 block over on Avenue O; do you remember that?

18 A Yes.

19 Q Now I would like to ask you a few questions about
11:44 20 the morning of January 31, 1969, which is the day
21 that Gail Miller was murdered; do you remember
22 that day?

23 A Yes.

24 Q And, at that time, do you recall where you were
11:44 25 employed at? Were you employed at the Star



1 Phoenix, I think at that time, is that where you
2 worked; at the Star Phoenix?

3 A Yes. Yes.

4 Q And do you remember what time you normally started
5 work at?

6 A Umm, usually, I was sort of flexible from 7:00 to
7 7:30. It depends whether I had to take my husband
8 to work first or not.

9 Q Okay. And how did you normally travel to work;
10 bus, taxi, car?

11 A Car, unless the weather wasn't nice, and then I
12 would have to get a taxi or take a bus.

13 Q Okay. Now on the morning of January 31, 1969; do
14 you recall if you took a taxi to work that
15 morning?

16 A Pardon me?

17 Q On the morning of January 31, 1969, which is the
18 day of the murder, --

19 A Yes.

20 Q -- do you recall if you took a taxi to work on
21 that morning?

22 A Yes.

23 Q Can you tell me what you remember about that
24 morning?

25 A Yeah. It was miserable out and foggy out.



1 Q Okay.

2 A And I was going to take a taxi because my husband
3 didn't have to go to work that day.

4 Q Okay. And did you telephone to have a taxi come
11:45 5 to your house?

6 A Yes.

7 Q Do you recall what time you asked the taxi to be
8 at your house?

9 A Umm, about five to 7:00, but I probably called it
11:46 10 around 6:30 or so, because we had to wait.

11 Q Okay. What did you do while you were waiting for
12 the taxi?

13 A I stood in the living room watching out for the
14 light, for the taxi.

11:46 15 Q Okay. So, if you could just look at the map of
16 your house -- I'm going to do a poor drawing of
17 it -- but your property is there; would you be
18 looking out onto Avenue N?

19 A Yes.

11:46 20 Q Okay. Could you see the funeral home from your
21 front window?

22 A Yes.

23 Q And could you see the back alley in this vicinity
24 behind the funeral home?

11:46 25 A Yes.



1 Q Do you recall if it was foggy that morning?

2 A Pardon me?

3 Q Do you recall if it was foggy that morning?

4 A Yes.

11:46 5 Q Were you still able to see this back alley and the
6 area behind the funeral home?

7 A Yes. It was well lit.

8 Q Okay. And so I think you said you were watching
9 out your front window; do you recall approximately
11:46 10 how long you would have been looking out your
11 front window for the taxi cab?

12 A Oh, probably 10 or 15 minutes.

13 Q Okay. And I think you said that the taxi cab, you
14 had called it to come at 6:55 a.m., five to 7:00;
15 is that right?

16 A Pardon me?

17 Q You had called for the taxi to come to your house
18 at 6:55 a.m.?

19 A Yes.

11:47 20 Q Okay. So from about 6:40 or 6:45 to 6:55 a.m. you
21 would have been looking out your front window for
22 the taxi; is that what you are saying?

23 A Yes.

24 Q Did you observe or notice anything while you were
11:47 25 watching for the taxi cab that morning?



1 A No, I did not.

2 Q Did you see any vehicles, other than the taxi cab,
3 in that area?

4 A No.

11:47 5 Q Did you see any people in that area?

6 A No, I didn't.

7 Q Now I understand that, a few days after the
8 murder, you talked to the police?

9 A I forget just when it was, how long after.

11:48 10 Q Okay. With, would it be within a week or two, or
11 a few days? And I'll help you out with some
12 documents here.

13 A Pardon me?

14 Q I say was it within a couple of days or a week; do
11:48 15 you remember?

16 A Well it was probably a couple days after.

17 Q Okay. I'll help you out with some documents here.
18 If you could call up 106212, please.

19 A I can't remember.

11:48 20 Q Yeah, I will just show you a document here,
21 Mrs. Lennox, and just hang on for one moment.
22 This is a report of Detective McCorriston February
23 5, 1969, and if you could just go to page 106215
24 and -- whoops, can you go back to the main,
11:48 25 please, and call out that, please. Okay. Now,



1 Mrs. Lennox, I'm just going to read from a police
2 report, this isn't your document, this is what the
3 police reported, and if you can just listen to
4 what I have to say, it says:

11:49 5 "6:55 a.m. February 5/69,"

6 which I believe would be the Wednesday after the
7 murder:

8 "In 200 block Avenue N South interviewed
9 Mrs. Margaret Merriman of 226 Avenue N South
11:49 10 who works at the cafeteria at the Star
11 Phoenix. On the morning of January 31, 1969
12 she ordered a taxi to be at her home at 6:55
13 a.m. and watched out her front window for a
14 few minutes while awaiting the arrival of
11:49 15 the taxi, however she saw nor heard anything
16 and was unable to offer any information."

17 So this is what the police wrote down when they
18 saw you on that date, on Wednesday, which would
19 be about five days after the murder; now does
11:49 20 that sound about right, Mrs. Lennox?

21 A I can't remember that.

22 Q Okay. Now in this report the officer wrote down,
23 and this is what the officer wrote, it says:

24 "... and watched out her front window for a
11:50 25 few minutes while awaiting the arrival of



1 the taxi,"

2 and I think you had earlier told me 10 to 15
3 minutes; is that right?

4 A Yes.

11:50 5 Q And was it 10 to 15 minutes or a few minutes; do
6 you know?

7 A It was probably 10 to 15 minutes, because I would
8 be ready to go.

9 Q Okay. Next, if you could call up document 278794,
11:50 10 which is -- and again, Mrs. Lennox, you can just
11 wait for a moment, I'm just going to call up some
12 documents and I'll read them to you -- if you
13 could call up page 278810 of that? And these,
14 again, are McCorriston's notes of February 5, '69?

11:51 15 A If you could just go to the next page, 278811, and
16 call out that, please. And Mrs. Lennox, I'm just
17 going to read you what a police officer wrote in
18 his notebook about his meeting with you, and you
19 can just listen to me on this:

11:51 20 "Interviewed Mrs. Margaret Merriman, 226 N
21 South, works at cafeteria, Star Phoenix,
22 catches ride with Mr. Ivison. On a.m. of
23 January 31 phoned taxi for 6:55 a.m.,
24 watched out her front window while awaiting
11:51 25 arrival of taxi, saw nothing."



1 So does that sound correct about what you would
2 have told the officer, what I just read? Again?

3 A I didn't catch the last of what you said, sorry.

4 Q Okay. The last part that I read, it just said on
5 the morning of January 31 you:

6 "... phoned a taxi for 6:55 a.m., watched
7 out her front window while awaiting arrival
8 of taxi, saw nothing."

9 And that's what you would have told the officer?

10 A Yes.

11 Q Now, next, if you could call up document 106648.
12 Now other than that one occasion, Mrs. Lennox, do
13 you recall talking to the police again about what
14 you observed that morning? And I'm talking again
15 about 1969, not later, and you don't need to look
16 at this document, I'm sorry.

17 A I'm sorry, I don't remember.

18 Q Yeah. So do you remember talking to the police
19 once or twice?

20 A No, I can't remember, --

21 Q Okay?

22 A -- sorry.

23 Q No, that's fine. The document I have got up here
24 is a police report, and this just indicates down
25 at the bottom, it's dated March 27th, 1969, if you



1 could call out the bottom part, please. And this
2 is Detective Sergeant Reid's report, but at the
3 bottom here -- and I'll just read it to you, Mrs.
4 Lennox, and, again, this is what the police
11:53 5 officers typed in their report about meeting your
6 husband and talking to your husband, it says:

7 "Also interviewed on this date was
8 Mr. Arthur Merriman on house check at 226
9 Avenue N South. He advises that he works at
11:53 10 St. Paul's hospital in x-rays and his wife
11 Margaret is employed at the Star Phoenix,
12 and that on January 31st, 1969 they left for
13 work by taxi leaving at approx 6:55 a.m. It
14 should be noted that this person's
11:53 15 residence, they can look down the T lane
16 rear of Westwood Memorial and Mr. Merriman
17 advises that his eyesight is not too good
18 but they were looking out this window
19 waiting for the taxi to arrive and nothing
11:54 20 unusual was observed pertaining to persons
21 or vehicles, and Mr. Merriman is unable to
22 offer any further additional information
23 which may be of assistance to us in
24 connection with this occurrence,"

11:54 25 and if you could just go to the next page,



1 please:

2 "... and at the time he was interviewed his
3 wife was not home."

4 Whoops. So I'm -- just one simple question for
11:54 5 you, Mrs. Lennox, do you recall the police
6 talking to your husband in March of 1969?

7 A I don't.

8 Q Do you remember whether in March of 1969, which
9 would be within a couple of months of the murder,
11:54 10 do you remember whether or not the police talked
11 to your husband Arthur about what he saw that
12 morning?

13 A Umm, yes, they, I think they stopped and seen him
14 that day.

11:54 15 Q Okay. You can clear the screen, please.

16 COMMISSIONER MacCALLUM: If you are going
17 to be a little while longer, Mr. Hodson, perhaps
18 Mrs. Merriman would like to use this amplifier
19 for the balance of her evidence. I should have
11:55 20 said something earlier. Can it be moved easily?
21 She has a little difficulty hearing.

22 MR. HODSON: Thank you. Thanks.

23 BY MR. HODSON:

24 Q Okay. Just a couple -- we're set? Can you hear
11:56 25 me better there, Mrs. Lennox?



1 A Yes, yes.

2 Q Okay. Now, again back in 1969 and 1970, it's my
3 understanding that you did not testify at the
4 David Milgaard trial; is that right?

11:56 5 A No, I didn't.

6 Q And after the meeting that you had with the police
7 that I talked about, where they asked you what you
8 saw, --

9 A Yes.

11:56 10 Q -- do you remember talking to the police, or to a
11 prosecutor, or to a defence lawyer, or anybody,
12 within the year or so after that?

13 A I can't remember.

14 Q You don't have any recollection of talking to
11:56 15 anybody else?

16 A No.

17 Q Okay. Now, according to the documents, it looks
18 like in 1993 the RCMP contacted you at Christopher
19 Lake and talked to you; do you remember that?

11:57 20 A Yes.

21 Q Okay. If we could call up document 267030,
22 please?

23 COMMISSIONER MacCALLUM: I'm sorry, the
24 number is illegible; which number is it, please?

11:57 25 MR. HODSON: It's document 267030.



1 COMMISSIONER MacCALLUM: Thank you.

2 MR. HODSON: And actually that's the last
3 page, if you could go to 267033, which you will
4 see at the top is page 1. Now Mrs. Lennox, these
11:57 5 are notes made by the RCMP officer based upon
6 their visit with you, and I'll just read through
7 them for you, and you can also look on the
8 screen, and the first paragraph it says they
9 called the Christopher Lake post office to locate
11:57 10 you, and in 1993 you lived at Christopher Lake;
11 is that right?

12 A Yes.

13 Q If you could go to 267030, please -- oh, I'm
14 sorry, 267032 I think is the next page. And what
11:58 15 the police officer wrote here, if you could just
16 zoom in there, right there it says:

17 "I called Margaret and found her very
18 receptive and willing to talk about the
19 incident."

11:58 20 And if you could just scroll down to paragraph 5,
21 and it says -- and this is what the officer
22 wrote, Mrs. Lennox, based on what you told them:

23 "She remembers that the weather was very
24 cold that a.m. and that it was foggy.

11:59 25 Margaret stated that she had called for a



1 taxi for 6:55 a.m. and while waiting for the
2 cab she had looked out her window and hadn't
3 seen a thing."

4 And then just scroll down to paragraph 6:

11:59 5 "The husband couldn't have assisted us any
6 as she stated that he was blind."

7 I take it Mr. Merriman, your husband, had trouble
8 seeing; is that right?

9 A He was a registered blind person.

11:59 10 Q Okay. Next, if you could call up page 267031 and
11 zoom in on that, please. Now I'm just going to
12 read this paragraph, Mrs. Lennox, and then I'm
13 going to ask you whether this is close or accurate
14 to what you told the officer; okay? It says that:

11:59 15 "She said that she usually took the bus stop
16 at 20th Street and Avenue N South for 6:45
17 a.m. and on some occasions there had been a
18 young girl at the bus stop. She has often
19 wondered if this girl had been the murdered
12:00 20 girl. Margaret couldn't tell if she was
21 wearing a nurse's uniform."

22 Do you remember telling the RCMP that?

23 A Yes.

24 Q Now do you remember seeing a young girl catch the
12:00 25 bus at Avenue N and 20th?



1 A Yes, but not often, because I didn't use the bus
2 that often either.

3 Q Okay. And do you recall what the girl looked like
4 or how she was dressed?

12:00 5 A It was too cold for that. Everybody was bundled
6 up.

7 Q Okay. And, when you were at the bus stop, do you
8 know where -- which direction this girl come from
9 to the bus stop?

12:00 10 A She came out of the alley behind the funeral home
11 and came across Avenue N, or 20th Street, to catch
12 the bus.

13 Q Okay. If we could maybe just call up map B for a
14 moment, flip it around, please, and zoom in on
12:01 15 this area. Now again, Mrs. Lennox, here is your
16 house, here is the bus stop, --

17 A Yes.

18 Q -- and I think you said you saw the girl come from
19 this alley down this way?

12:01 20 A That's right.

21 Q Okay. Now, next, I'm going to call up document
22 080676, and if you could go to 080676 of that
23 document, please, it should be the next page.

24 This page is dated December 10th, '97 and it's
12:02 25 taken from the RCMP. Do you remember, I had asked



1 you about 1993 when you were in Christopher Lake,
2 do you remember about four years later, in 1997,
3 getting a phone call from the RCMP?

4 A No, I --

12:02 5 Q Okay. What this note says, and it says:

6 "Breton contacted Margaret J. Lennox ... at
7 Christopher Lake. She related to me the
8 same circumstances that are documented in
9 Saskatoon Police's investigation report. As
12:03 10 for the question of where the taxi picked
11 her up on she said on Avenue N right in
12 front of her house. She believes it came
13 from 20th and went north towards 22nd.

14 That's all she could provide."

12:03 15 You don't recall having that conversation with
16 the RCMP?

17 A I remember a conversation, but I can't remember if
18 --

19 Q Okay. And you did not testify at the criminal
12:03 20 proceedings for Larry Fisher; is that right?

21 A No I did not.

22 Q Okay. Thank you very much, Mrs. Lennox, those are
23 all my questions. Some of the other counsel may
24 ask you some questions. Okay?

12:03 25 COMMISSIONER MacCALLUM: Mr. Wolch?



1 MR. WOLCH: No questions, sir.

2 COMMISSIONER MacCALLUM: No? Ms. McLean?

3 MS. McLEAN: No questions.

4 COMMISSIONER MacCALLUM: Mr. O'Keefe?

12:04 5 MR. O'KEEFE: Thank you, sir.

6 BY MR. O'KEEFE:

7 Q I have just a couple of questions, Mrs. Lennox.
8 Could we call up map B, please, and can we orient
9 it there. Thanks. And zoom in on that area.
10 Thank you. When My Friend was asking you some
11 questions a little while ago, you had indicated
12 that the area behind the funeral home here was
13 relatively well lit?

14 A Yes.

12:04 15 Q With the fog that was present on that morning
16 waiting for the taxi you had no difficulty seeing
17 the area behind the funeral home?

18 A No.

19 Q No? What about further down the alleyway, there,
12:04 20 how far down the alleyway could you see?

21 A I couldn't, from my window, I couldn't see past
22 the end of the funeral home.

23 Q All right. And, as for the north-south-running
24 portion of the alleyway there between Avenue N and
12:05 25 Avenue O north of 20th Street, that location would



1 have been completely obscured to you?

2 A That's right.

3 Q Obscured by houses and fences and so on?

4 A Yes, yes.

12:05 5 Q All right. Thank you.

6 COMMISSIONER MacCALLUM: Mr. Elson?

7 MR. ELSON: No questions, Mr. Commissioner.

8 COMMISSIONER MacCALLUM: Mr. Fox?

9 MR. FOX: No questions.

12:05 10 COMMISSIONER MacCALLUM: Mr. Gibson?

11 MR. GIBSON: No questions, thank you.

12 COMMISSIONER MacCALLUM: Ms. Krogan?

13 MS. KROGAN: No questions, thank you.

14 COMMISSIONER MacCALLUM: Thank you.

12:05 15 Ms. Knox?

16 MS. KNOX: No questions.

17 COMMISSIONER MacCALLUM: No redirect?

18 MR. HODSON: No direct, Mr. Commissioner.

19 COMMISSIONER MacCALLUM: Thank you very

12:06 20 much, Mrs. Lennox, and thank you for coming.

21 MR. HODSON: Mr. Commissioner, our next
22 witness at 2:00 is Maria Trupej, her maiden name
23 is Gallucci.

24 I'll maybe take some time,

12:06 25 here, and read in the evidence of deceased



1 witness Henry Diewold, and Henry Diewold was an
2 individual who worked at -- if you could just
3 call up map B, please, and just zoom in on this
4 area -- Mr. Diewold was the, I believe, caretaker
12:07 5 who worked at St. Mary's Church and Rectory, and
6 on the morning of the murder he had some
7 observations about what he saw down this alley
8 and observed in the area. I will go through
9 that.

12:07 10 First, if you could call up
11 document 106212, this is a report of Detective
12 McCorriston on February 5, '69, however it talks
13 about events of February 2nd, which I believe was
14 Sunday, Sunday evening, and if you could call up
12:07 15 that part, please, right to there -- I'm sorry,
16 yeah. And this is Detective McCorriston's
17 report:

18 "On the evening of February 2nd I called at
19 St. Mary's Rectory 200 block Avenue O South
12:08 20 where I spoke to Mr. Henry Diewold,
21 caretaker of the church. He stated that
22 approximately 7:00 a.m. January 31st he went
23 to the church to unlock the doors at which
24 time he noted a car with headlights on
12:08 25 facing west in the lane rear of Westwood



1 Funeral Chapel. When he unlocked the front
2 door a lady, who has been coming to this
3 church each morning for a long period of
4 time, was present. Detective Sergeants Reid
12:08 5 and Mackie attempted to check as to the
6 identity of this lady, however, she did not
7 show up that morning. Mr. Diewold stated he
8 would attempt to obtain the name of this
9 lady and advise this department accordingly.
12:08 10 At approximately 7:10 a.m. January 31, '69
11 Mr. Diewold returned from the church to the
12 rectory at which time this car was still
13 observed at the same location and at this
14 time, he noted a person walk in front of the
12:09 15 headlights and then back toward the driver's
16 side of the car. He was unable to offer any
17 description whatever of either this car or
18 the person."

19 Next, if you could call up document 278794. And
12:09 20 these are the notes of Detective McCorriston, and
21 if I could have you go to page 278800, okay, and
22 we'll -- yeah, just call out that portion. And,
23 again, you will see the date there, Sunday,
24 February 2nd, '69, and these are Detective
12:09 25 McCorriston 's notes:



1 "Caretaker Henry Diewold states at 7:00 a.m.
2 January 31/69 he went to church to unlock
3 doors at which time he noted a car with
4 headlights on facing west in lane rear of
12:10 5 funeral chapel. He unlocked doors at which
6 time he met lady at front door, who comes to
7 church each morning, he will attempt to find
8 out her name. Approx 10 minutes later upon
9 his return to the rectory he noted a person
12:10 10 walking in front of the headlights towards
11 the north, then pass back toward the
12 driver's side of the car. Unable to give
13 any description."

14 Again, maybe if you could just go back and bring
12:10 15 up map B, and just zoom in that area. And just
16 to put Mr. Diewold's reported statements in
17 context, here is the church, and I believe he
18 said he walked over to the rectory and observed a
19 vehicle in this alley with headlights pointing to
12:10 20 the west.

21 The next document, if you could
22 call up, please, is 007480 and go to page 007482.
23 Mr. Diewold was called as a witness at the
24 preliminary hearing and at the trial. If you
12:11 25 could just perhaps zoom in on that, please.



1 COMMISSIONER MacCALLUM: That's the
2 Milgaard trial?

3 MR. HODSON: Yes, I'm sorry. This is the
4 David Milgaard trial, so this is August of 1969,
12:11 5 and he is being examined by Mr. Caldwell:

6 "Q Mr. Diewold, I believe you are a
7 caretaker at St. Mary's church in
8 Saskatoon, are you?

9 A That's right.

12:12 10 Q And that's on Avenue O and 20th Street?

11 A Right.

12 Q And I understand it's on the north-west
13 corner of the intersection there?

14 A It's closer to the southeast, isn't
12:12 15 it?

16 Q Do you know your directions up on 20th?"

17 Then go to the next page:

18 "A Well no, not that good.

19 Q Okay, fine. So at any rate, you have
20 been caretaker there for some time,
21 including the beginning of this year,
22 have you?

23 A Right.

24 Q And does the church, the front door, the
25 main door to the public of the church



1 open onto 20th or onto one of the
2 avenues?

3 A Avenue O.

4 Q Onto Avenue O?

12:12 5 A Uh-huh.

6 Q I see. I believe you generally open the
7 church fairly early in the morning, do
8 you?

9 A Seven o'clock.

12:12 10 Q Are you the person who actually unlocks
11 it?

12 A Right.

13 Q Are there people who show up fairly
14 often, I suppose, early in the morning
12:12 15 after 7:00?

16 A Right.

17 Q Do you remember particularly, I'm
18 interested in Friday, January 31st of
19 1969, did you open the church that
12:13 20 morning?

21 A Yes.

22 Q And do you know approximately what time
23 you opened it that morning?

24 A Well I left the rectory at 7:00, by
25 time I walk to the front of the church



1 and unlock it and back in, it was ten
2 after seven.

3 Q About ten after seven?

4 A Uh-huh."

12:13 5 Next page:

6 "Q Now would this be your usual time or
7 would that be slightly later than most
8 mornings?

9 A No, it's the usual time.

12:13 10 Q I see. And are you moreless familiar
11 with block, like if you come out the
12 church door you are facing Avenue O from
13 what you have told us?

14 A Right.

12:13 15 Q The block next, along the one you go
16 into if you walk right out the church
17 and across Avenue O, you are into
18 another block?

19 A Across the street, yes.

12:13 20 Q Yes. You know roughly the layout of
21 that other block, do you?

22 A Just from the church, yes.

23 Q Yes. And do you know, for instance, the
24 location of the Westwood Funeral Home?

12:14 25 A Yes.



1 Q How far away is it?

2 A A block.

3 Q A block, eh. And on this block, where
4 is its location like compared to the
12:14 5 church, on the block the church is on?

6 A The funeral home?

7 Q Yes.

8 A It faces 20th Street.

9 Q Right. Is it on a corner?

12:14 10 A Right.

11 Q And is it on, say a corresponding corner
12 to the church, or a different one in
13 this block?

14 A The funeral home faces 20th."

12:14 15 Go to the next page, just at the top.

16 A And the church, the front corner lot
17 faces the avenue.

18 Q Avenue O?

19 A Uh-huh.

12:14 20 Q Right. But aside from where the front
21 door is, so to speak, they are both
22 corner locations as I understand you?

23 A Well the funeral home is.

24 Q It's a corner ...

12:14 25 A But there is a lot between the corner



1 and the church.

2 Q Oh there is a ...

3 A Grass.

4 Q But it's sort of part of the church
12:15 5 yard, is it?

6 A Yes, yes, right.

7 Q Oh, I see. Okay. Well what's the
8 situation with the lane in the next
9 block when you walk out of the church
12:15 10 and look toward downtown?

11 A East?

12 Q Yes.

13 A There is a lane.

14 Q There's one lane there?

12:15 15 A Uh-huh.

16 Q Is there another one adjoins it?

17 A Yes, there is.

18 Q Which way does it go?

19 A North and south.

12:15 20 Q Is it a cross or ...

21 A No, it isn't a cross. It's an L shape
22 I would say, or a T shape."

23 And if we could pause there, I think this would
24 be the T-shaped alley that we're familiar with on
12:15 25 map B:



1 "Q If I could show the witness P1, Your
2 Honour,"

3 there, next page, and just for the record P1 is
4 map A which is the middle map up there, which was
12:15 5 P1 at the Milgaard trial:

6 "Q There has been evidence that this is a
7 plan of the lots and so on the block of 20th
8 and N and O and here's 21st Street and
9 there's been evidence that the lane, one
12:16 10 runs this way and one runs this way?

11 A That's right."

12 And I presume they are referring to the T:

13 "Q Now is that the type of arrangement you
14 know to be in the next block to you?

12:16 15 A Yes.

16 Q Yes, ..."

17 zoom that up please:

18 "Q ... now, you can tell to look at this
19 thing, say where the funeral home would
12:16 20 be? This is 20th Street here, you see
21 and this is Avenue N and this is Avenue
22 O?

23 A Right in here.

24 Q Okay. You are indicating the place
12:16 25 behind 1402? Right? You are indicating



1 the box marked 1402?

2 A Uh-huh.

3 Q That's where you think the funeral home
4 is?

12:16 5 A Yes, a corner block. I would say yes.

6 Q Now, when you unlock the church, did you
7 go out front, out the step of the church
8 there?

9 A No, I walked through the interior to
12:16 10 the back of the church to unlock it
11 from the inside.

12 Q Yes.

13 A And back again the same way I come out
14 -- I went in.

12:16 15 Q And at some stage of the proceedings,
16 did you look across the road and towards
17 that alley that's across there?

18 A Yes.

19 Q When was that?

12:17 20 A Between the hours of seven and
21 seven-ten."

22 And again, just for the record, I think on map B
23 -- are we able to quickly call up map B, I have
24 to go back to this document -- I read evidence
12:17 25 that Mr. Diewold said he went from the church to



1 the rectory and then the question about looking
2 down that alley. So if we can just go back to
3 the transcript:

4 "Q And you presumed the other one was a
5 mature . . . ,"

6 if you could just go back to, we just skipped
7 ahead a bit there, page 007486, okay, I think
8 when we went to the map I had read this part:

9 "Q And at some stage of the proceedings did
10 you look across the road and toward that
11 alley that's across there?

12 A Yes.

13 Q When was that?

14 A Between the hours of seven and
15 seven-ten.

16 Q Would this be about the time, then, you
17 were opening the door?

18 A Yes, I opened the door, walked through
19 the interior of the church, back out
20 and I looked across and seen this car
21 with the headlights shining to the
22 west.

23 Q Now, you unlocked the door, came back
24 through the church and out of the
25 building?



1 A Yes.

2 Q And did you come out somewhere that
3 would give you a view toward that alley?

4 A Yes.

12:18 5 Q Yeah, I see. And would it still be
6 darkness then, or ...

7 A Well, it was.

8 Q And was there anything else that morning
9 to interfere with visibility?

12:19 10 A Ice crystals.

11 Q Pardon?

12 A Ice crystals.

13 Q I see. And you said, I think you said
14 you saw car lights, did you?

12:19 15 A That's right.

16 Q Now, where were they as far as you could
17 see?

18 A Well, I would say close to that alley
19 going north-south in that lane."

12:19 20 And again, just for the record, that's the alley
21 between -- going north-south in the T alley:

22 "Q All right. On the P-1 that I showed you
23 ...

24 A Yes.

12:19 25 Q And maybe you could just point out for



1 the moment where you mean.

2 A About right in here.

3 Q All right, you are indicating close to
4 where the two lanes join?

12:19 5 A That's right.

6 Q And the car lights were shining in what
7 direction?

8 A To the west of me.

9 Q To the west, and that would be this way?

12:19 10 A That's right.

11 Q Yeah, I see. And how many lights were
12 there?

13 A Two.

14 Q Did it appear to be say what you would
15 associate with a car, or ...

16 A Right.

17 Q Could you actually see the vehicle or
18 only the lights?

19 A The lights.

12:20 20 Q Yeah, was it moving, Mr. Diewold?

21 A No, stationary.

22 Q Did you get any -- could you hear
23 whether or not the engine was running?

24 A No, I heard nothing.

25 Q Couldn't hear that, eh?



1 A No.

2 Q And did you see any people in connection
3 with that car?

4 A Well I saw somebody walking from the
12:20 5 driver's side across the front of the
6 headlights to the other side and back
7 again. That's all I saw.

8 Q I see. Did this seem to you to be one
9 person going and returning?

12:20 10 A That's right.

11 Q And could you have any view at all of
12 the age or sex or what have you of this
13 person?

14 A No, no, no.

12:20 15 Q Did that car stay there for any length
16 of time?

17 A Well, it's just a matter of ten
18 minutes, from the time I saw him until
19 I ran back into the rectory.

12:20 20 Q But did you look at the car once or more
21 than once?

22 A Well, I seen it when I went through
23 and on my way back, I saw it again,
24 and I seen that the headlights were on
12:21 25 and the person walking in front of it.



1 Q So you saw the thing twice?

2 A Yes.

3 Q And the first time was after you
4 unlocked the front door?

12:21 5 A That's right.

6 Q And then, what, did you go on and do
7 something else then?

8 A No, I just went back into the rectory.

9 Q Yes, and then you saw it a little later?

12:21 10 A Pardon?

11 Q Did you see it a little later then?

12 A Well, on my way back from the church,
13 after I had the doors unlocked, I saw
14 it the second time.

12:21 15 Q All right. And how much time passed
16 between the two?

17 A Ten minutes.

18 Q And did it appear to you that it had
19 been moved at all or was it any
12:21 20 different?

21 A No, no.

22 Q And which time was it that you saw the
23 person walking, the first or second
24 time?

12:21 25 A The second time.



1 Q The second time?

2 A That's right.

3 Q Around what time would that be?

12:21 4 A Well, it would be close to ten minutes

5 after seven.

6 Q I see. And you had no view of the
7 actual vehicle itself?

8 A No, I didn't.

9 Q And I presume these would be headlights
12:22 10 you saw, rather than park lights?

11 A That's right, headlights.

12 Q Now, did anyone come in the church about
13 the time you opened it up?

14 A No, there was nobody follow me, no.

12:22 15 Q And anyone shortly thereafter?

16 A Could have been after, yes, but I
17 didn't see anybody after I got the
18 doors unlocked.

19 Q I see. So what you say, I take it, you
12:22 20 unlocked the doors and left the vicinity
21 of the church?

22 A Right.

23 Q And it it up to you, or did you have to
24 stay around and watch who comes in?

12:22 25 A No.



1 Q Just a matter of unlocking it?

2 A That's right.

3 Q And then you didn't stick around to see
4 who appears or doesn't appear?

12:22 5 A No, I didn't.

6 Q I see. And do you know as one of the
7 people who attends your church a
8 Mrs. Indyk.

9 A No, I don't know her.

12:22 10 Q You don't know her?

11 A No.

12 Q Either by name or as far as you know by
13 sight?

14 A No, I don't.

12:23 15 Q I see. And I presume there are many, I
16 suppose hundreds or dozens of people
17 attend there from time to time to time?

18 A That's right.

19 MR. CALDWELL: Thank you. Your witness."

12:23 20 Now under cross-examination by Mr. Tallis:

21 "Q Mr. Diewold, you mentioned that you live
22 right in the vicinity there?

23 A In the rectory, yes.

24 Q Yes, and where is the rectory in
12:23 25 relation to the entrance to the church?



1 A The rectory is on the ...

2 Q Is it north of the church?

3 A Yes.

4 Q It is?

12:23 5 A Yes.

6 Q And so that now to get from the -- to
7 come from the rectory to unlock the
8 church, you actually walk outside, don't
9 you?

12:23 10 A Right.

11 Q And you would walk along the west side
12 of Avenue O, would you; would you walk
13 on the sidewalk?

14 A Well, I got my directions mixed, I
12:23 15 can't -- well, I come out of the
16 rectory and I walk west a few steps,
17 then I turn south, yes, to get over to
18 the church.

19 Q Well which side, just so I understand
12:23 20 you, is the rectory right on the same
21 side of the street as the church?

22 A That's right.

23 Q Yeah. And so you come out of the
24 rectory and then you walk south to get
12:24 25 to the church?



1 A That's right.

2 Q And when you come out of the rectory and
3 walked to the church that particular
4 morning I take it you have no
12:24 5 recollection of any lady waiting to get
6 in?

7 A No, I didn't, no.

8 Q I see. But did you open the door and I
9 take it once you open the door, you
12:24 10 don't bother checking on who goes in or
11 comes out?

12 A That's right.

13 Q And as I understand it, you didn't see
14 any people walking on either side of the
12:24 15 sidewalk?

16 A That's right.

17 Q Now, dealing with this east-west lane
18 running between Avenue O and Avenue N,
19 you told My Learned Friend that you saw
12:24 20 car lights in that alley?

21 A Right.

22 Q Now, I take it that at no time did you
23 see the car itself?

24 A No, just the headlights.

12:24 25 Q Just the headlights?



1 A Umm-hmm.

2 Q And so that I would gather in any event,
3 that from the rectory and the area of
4 the church, it would be impossible to
12:24 5 see back into that lane because of
6 fences and trees and so on?

7 A Well ...

8 Q You would see the lights?

9 A Yes, that's right.

12:25 10 Q But what I am getting at is if you were
11 over here by the church on this
12 northwest corner ...

13 A No, I was here.

14 Q Oh, you were in here? This is what I am
12:25 15 getting at. The rectory is opposite the
16 lane?

17 A Pretty well.

18 Q Pretty well?

19 A Yes.

12:25 20 Q So you could look to the east?

21 A Yes.

22 Q And you saw, as I understand it then, a
23 vehicle there about at the south end of
24 the north-south lane?

12:25 25 A Where you have got your finger there,



1 yes.

2 Q Yes, is that correct?

3 A That's right.

4 Q So that there is no misunderstanding
12:25 5 here, I wonder if you would mark that
6 with a 'P', the spot where the car
7 appeared to be.

8 A About here.

9 Q Right here. And as I understand it,
12:25 10 when you came back from the church, that
11 car was still in the same position,
12 judging by it's lights?

13 A Right.

14 Q And this would be about ten minutes
12:25 15 later?

16 A Right.

17 Q And you didn't see anybody walking on
18 either side of the street at this time?

19 A Not on the street.

12:26 20 Q No.

21 A But ...

22 Q Now, you saw -- I was going to come to
23 that, you saw somebody walk in front of
24 the headlights?

12:26 25 A Yes.



1 Q And was this fairly close to the car?

2 A Yes, it was.

3 Q Would you say two or three feet, or ...

4 A Well I would, I would say close.

12:26 5 Q Close?

6 A Uh-huh.

7 Q When you use the term close, are you
8 meaning something in the neighbourhood
9 of several feet?

12:26 10 A Well, yes, I would say two or three
11 feet.

12 Q Two or three feet. That's fine, you
13 tell me what your recollection is?

14 A Umm-hmm.

12:26 15 Q And you only saw one individual there?

16 A Right.

17 Q And did this individual appear to be
18 quite a big person in the car lights?

19 A Well, no.

12:26 20 Q I see. In point of size, how would you
21 describe him?

22 A Well, I would say about five feet.

23 Q About five feet in height?

24 A Yes.

12:26 25 Q In other words, actually a small person?



1 A Yes.

2 Q And was it a well-filled, fairly --

3 A That I couldn't see.

4 Q You couldn't see. And you wouldn't be
12:27 5 able to see whether that individual was
6 heavily dressed with clothes or not?

7 A No, no.

8 Q You couldn't tell that from the lights?

9 A No.

12:27 10 Q But you are quite sure that there was
11 only one person that you saw there?

12 A That's right.

13 Q And there was no other sign of any other
14 movement that you saw?

12:27 15 A No.

16 Q And I take it that there's just this one
17 person, then, that you saw there that
18 morning around this time?

19 A That's right.

12:27 20 Q And you never did see the car come out
21 of the alley?

22 A No.

23 Q You didn't see the lights go off or
24 anything like that?

12:27 25 A No.



1 Q And you didn't hear the car start up?

2 A No.

3 Q As I understand it, you can't recall
4 whether or not the motor was running
12:27 5 when the lights were on?

6 A No, I can't.

7 Q I see. I take it that the alley that
8 runs east and west was open for traffic
9 for vehicles through there?

12:27 10 A That's right, yes.

11 Q And is there a fair amount of traffic
12 that goes through there with the funeral
13 home and whatnot being there, or can you
14 recall?

12:28 15 A At times there is, yes.

16 Q In other words, there's usually sort of
17 tire track trails ...

18 A Yes.

19 Q If I may use that term, in that
12:28 20 east-west alley, is that correct?

21 A East-west alley?

22 Q Yes.

23 A Yes, that's right. That's right.

24 Q And did you ever bother going in the
12:28 25 north-south alley, or were you ever



1 familiar with it?

2 A No, I never bothered.

3 Q I see. So that as I understand your
4 evidence, you would leave the rectory to
12:28 5 go to open the church at around seven
6 o'clock, would you?

7 A That's right.

8 Q And it would be about seven-ten when you
9 came back to the rectory?

12:28 10 A That's right.

11 Q And this never varied more than a few
12 minutes on any given morning, is that
13 correct?

14 A That's right.

12:28 15 Q And how are you able to recollect that
16 this is the morning of January 31st
17 we're talking about?

18 A Well, what do you want to know about
19 that.

12:28 20 Q Well no, I mean how are you able to fix
21 the date?

22 A Well, that's the morning that I was
23 told at noon there was a murder and
24 that's how I found ...

12:29 25 Q I see. And you gave your statement to



1 the police the same day, did you?

2 A The following morning.

3 Q The following morning?

4 A That's right.

12:29 5 Q That's how you linked it up as being
6 January 31st?

7 A Right.

8 Q Yes. And you gave a statement in
9 writing, I presume, to the police the
12:29 10 following day?

11 A That's right.

12 Q And I suppose that you looked over your
13 statement here today before you gave
14 evidence?

12:29 15 A No, I didn't see it.

16 Q I see, you didn't see it. Did you see
17 it yesterday?

18 A No.

19 Q So in any event, you told the police
12:29 20 everything as best you could recollect?

21 A That's right.

22 Q And today you have told us all the
23 details as best you can recollect them?

24 A That's right.

12:29 25 Q And there's nothing you can add to what



1 you have told either My Learned Friend
2 or myself?

3 A There isn't.

4 MR. TALLIS: Thank you."

12:29 5 That concludes that transcript, Mr. Commissioner.
6 It's 12:30, I'm prepared to break at this point.

7 COMMISSIONER MacCALLUM: Okay. 2:00 then.

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

9 *(Reconvened at 2:00 p.m.)*

02:03 10 MR. HODSON: Good afternoon,
11 Mr. Commissioner. You all set there? Okay.

12 I just have a short read-in to
13 finish with Mr. Diewold before we call
14 Mrs. Trupej. I read the entirety of the
02:03 15 preliminary transcript into the record,
16 Mr. Commissioner, because that set out in detail.
17 I do not propose to read in the entire Queen's
18 Bench transcript and I think, for the deceased
19 witnesses, the full document goes in on the
02:03 20 record, it's a full exhibit, it's available to
21 the media and the public, and what I will do is
22 just highlight certain parts of it, if that's all
23 right?

24 COMMISSIONER MacCALLUM: That's fine.

02:03 25 MR. HODSON: And again I would ask if



1 counsel, either now or later, thinks that other
2 parts of this document that I have not
3 specifically read in ought to be specifically
4 read in, please let me know, I would be happy to
02:04 5 do so.

6 So call up document 075751, and
7 this is Mr. Diewold's testimony at trial, if you
8 could go to page 075754, and this is
9 Mr. Caldwell's examination -- whoops, you could
02:04 10 just go back to the regular page please, and call
11 out that portion, down a bit:

12 "Q Alright now, did you form an
13 estimate of where the vehicle would be
14 in terms of east or west in that lane?

02:04 15 A The north and south lane?

16 Q Yes?

17 A Right here (indicating)."

18 Scroll down:

19 "THE COURT:

02:04 20 Q At the intersection of the two lanes, is
21 that right?

22 A That's right."

23 And I believe those two lanes are the
24 intersection of the T alley. Again, go down to
02:04 25 this part here and call it out, please:



1 "Q What time that morning was it you opened
2 the church?

3 A I would say about five after seven,
4 sometime about there."

02:05 5 If you could then go ahead to -- actually, that's
6 it for that document, so that's the read-in for
7 Mr. Diewold.

8 And the next witness is
9 Mrs. Maria Trupej.

10 **MARIA TRUPEJ, sworn:**

11 COMMISSIONER MacCALLUM: How do you spell
12 that, Mr. Hodson?

13 MR. HODSON: The name is spelled
14 T-R-U-P-E-J, and it's Maria Trupej.

02:06 15 COMMISSIONER MacCALLUM: Thank you.

16 BY MR. HODSON:

17 Q Call up map B, please. Thank you for testifying,
18 Mrs. Trupej. I understand that you currently
19 reside in Saskatoon; is that correct?

02:06 20 A Yes, sir.

21 Q And that in January of 1969 you lived at 1410-20th
22 Street in Saskatoon?

23 A That's right.

24 Q And I'm just going to show you a map here, just
02:06 25 this is map B, if you could just zoom in on that



1 area. If you could just take a look at the
2 monitor and you will see this is 20th Street, this
3 is Avenue O where I have drawn the line, Avenue N,
4 and north is in that direction, and I believe you
02:06 5 said you were at 1410; is that right?

6 A Yes.

7 Q Right next to Shawchuk?

8 A Yes.

9 Q Where I have marked the X, that's where you lived?

02:07 10 A Yes.

11 Q Maybe if you could just call up map C as well,
12 we'll take a look there, and just zoom in that
13 area. And you will see, right there, it has
14 Gallucci, I understand that was your maiden -- or
02:07 15 your name at the time was Gallucci; is that
16 correct?

17 A That's right.

18 Q And so in 1969 you were known by Gallucci?

19 A Yes.

02:07 20 Q And so right there, where I have marked the X,
21 that's where you would have lived?

22 A Yes.

23 Q Now I understand that, January 1969, that you
24 would have lived with your sister and her niece,
02:07 25 is that right, Gail Gallucci and Verna Johnson?



1 A Verna Johnson and Gail Gallucci lived downstairs
2 in the basement suite, I lived with my sister.

3 Q And what was your sister's name?

4 A Ida.

02:08 5 Q And I understand that, shortly after the murder of
6 Gail Miller on January 31, 1969, you would have
7 heard that her body was found near your home?

8 A Yes.

9 Q Can you tell me how you came to learn of that?

02:08 10 A I don't know, I guess I must have learned it
11 through TV and the newspapers.

12 Q Could you go back to map B, please. Now at this
13 time, January of 1969, where did you work?

14 A At Dundurn Military Camp.

02:08 15 Q And did you work Monday to Friday?

16 A Yes, I did.

17 Q And what hours did you work?

18 A From 8:00 until 4:30 p.m.

19 Q And how did you get to work usually?

02:08 20 A Umm, I had to take the city bus from 20th Street
21 to the bus depot, and from the bus depot I took
22 the military bus to the camp.

23 Q Okay. And can you tell me which bus stop -- again
24 here is your house, there is a bus stop on Avenue
02:09 25 O and 20th and a bus stop on Avenue N and 20th; do



1 you recall which bus stop you used?

2 A I usually took the bus stop on Avenue O across
3 from the church.

4 Q Right here where I have just put an X?

02:09 5 A Yes.

6 Q Okay. And what time did you take the bus?

7 A Approximately quarter to 7:00.

8 Q Okay. I understand, and we'll hear evidence about
9 this, that the busses ran every 15 minutes, if you
02:09 10 took the 7:00 or the 7:05 bus would that allow you
11 to get the work on time?

12 A No, it wouldn't.

13 Q I want to go back to January 1969. Do you recall
14 who would be at the bus stop with you in the
02:09 15 morning, was there anybody that you can recall
16 from time to time, taking the bus with you at 6:45
17 a.m.?

18 A Well, I, I do remember this young girl at certain
19 times. I can't say that she was there every day.

02:10 20 Q And what do you recall of that young girl, how she
21 was dressed?

22 A She was a small, slight girl, dark-haired.

23 Q Yes?

24 A And I believed she had white stockings on.

02:10 25 Q Okay. Did you --



1 COMMISSIONER MacCALLUM: What colour
2 stockings please?

3 MR. HODSON: White stockings.

4 COMMISSIONER MacCALLUM: White stockings?

02:10 5 A Yeah.

6 BY MR. HODSON:

7 Q Did you notice anything about her dress or
8 uniform?

9 A Well, she had a cloth coat on.

02:10 10 Q Okay. And do you know where that woman would come
11 to the bus stop when you did see her, which --

12 A She would come from the north on Avenue O.

13 Q Okay, I'm just trying an arrow down, is that the
14 direction she came from?

02:11 15 A That's right.

16 Q Okay. Do you recall anybody else taking the bus
17 with you, on occasion, in January 1969?

18 A Umm, a couple times I remember a construction
19 worker with a yellow hat.

02:11 20 Q Okay, and with a yellow hard hat?

21 A Yes.

22 Q And where did that fellow come from when he came
23 to the bus stop?

24 A From the south on Avenue O.

02:11 25 Q So I have drawn an arrow there, so from the south



1 to that bus stop?

2 A Yes.

3 Q So on occasion, in January of 1969, this young
4 girl and the construction worker with the yellow
02:11 5 hat and you would be taking the same bus at the
6 same time?

7 A Yes.

8 Q Now I understand that you were contacted by the
9 police shortly after the murder; is that correct?

02:11 10 A That's right.

11 Q If I could call up document 106234, please. This
12 is an investigation report, Mr. Trupej, that the
13 police typed up at the time, and I'm going to show
14 you parts of that, and I'm going to ask you some
02:12 15 questions. So this is dated February 6th, 1969,
16 it's assigned to Detective Reid, but if you can
17 zoom in down on the bottom it's actually Detective
18 Bennett that prepares the report, this is -- okay.
19 If you could go back to the main document and zoom
02:12 20 in on the last, the bottom part, and I'll just
21 read this for you, Mrs. Trupej. This is what the
22 police wrote down in a report based upon an
23 interview with you, it says:

24 "Also interviewed was a Mary Gallucci of

02:12 25 1410 20th Street West who stated that she



1 takes the bus at Avenue O and 20th Street
2 every day. She stated that on Thursday
3 morning, January 31st, she recalls a girl
4 get on the bus at the above with her. She
02:13 5 describes this girl as follows Younger girl,
6 dark hair, wearing white dress and
7 stockings, Dark coat believed cloth and
8 could be brown, no hat and believes to have
9 had a white scarf. She has seen her on the
02:13 10 same bus before but does not think seen on
11 Wednesday. There was also a young man get
12 on the bus with -- who has -- who was a
13 construction worker wearing blue jeans and a
14 hard hat, possibly yellow. This man comes
02:13 15 from Avenue O South of 20th Street. He has
16 been getting on the bus at the same time
17 since that day. She does not think that she
18 could identify."

19 Now aside from the date, which I'll talk about in
02:13 20 a moment, is the rest of that accurate as to what
21 you would have told the police on that day, Ms.
22 Gallucci, if -- or you are able to recall,
23 Mrs. Trupej?

24 A Well I don't think I said anything about the
02:13 25 January the 31st.



1 Q Okay. I think -- and I'll come to some later
2 documents, and actually there is a police notebook
3 that talks about Thursday morning the 30th. Let
4 me ask you this. Did you, when you talked to the
02:14 5 officer, were you referring to Thursday, January
6 30th, which would be the day before the murder?

7 A I can't recall that I mentioned any day or date.

8 Q Okay. Let me ask it to you this way; when you
9 were talking to the police were you telling them
02:14 10 that you saw this girl get on the bus at -- on a
11 day prior to the murder, the day of the murder?

12 A Not the day of the murder. I wouldn't have
13 specified any day. I know that she got on the bus
14 at certain days during that month.

02:14 15 Q Okay. Now do you recall, today, whether you saw
16 the nurse -- well -- saw the girl or the
17 construction worker on the bus on Friday, January
18 31, the day of the murder?

19 A No, I don't recall.

02:15 20 Q Now at this time, when you talked to the police,
21 do you remember where that took place; was it at
22 your house?

23 A Yes, it was.

24 Q Do you recall if the police showed you any
02:15 25 photographs?



1 A I can't remember that they did.

2 Q Next if you would call up document 106254, please.

3 This is a lengthy document, and just perhaps zoom
4 in there. It's a report of Bennett and Hein

02:15 5 February 7, 1969, where they talk to a number of

6 different people over that time period, and if you

7 could turn to page 106271. Again, this isn't a

8 very good copy, Mrs. Trupej, but I'll read a part

9 to you, if you could zoom in this part. Now this

02:16 10 is Mr. Bennett, the same fella that wrote the

11 report that put Thursday, January 31, and it talks

12 about, just down here:

13 "Checked out by ..., "

14 or pardon me:

02:16 15 "Gallucci catches bus every morning at 0 and

16 20th Street at 6:50 a.m. On Thursday saw a

17 pretty girl - white stockings and uniform

18 dark coat maybe brown - dark hair, maybe a

19 scarf, caught bus - seen her before, never

02:16 20 since. Come from north. A young

21 construction worker comes from south on

22 Avenue 0 caught same bus."

23 So, again, do you recall if there was only one

24 time when you talked to the police about what you

02:16 25 saw?



1 A They were -- they spoke to me twice.

2 Q Now this police note talks about a uniform; do you
3 recall either (a) observing this girl wearing a
4 uniform, or (b) telling the police that you
02:16 5 observed that?

6 A Yes.

7 Q Pardon me?

8 A Yes, I did.

9 Q Is that "yes" to both?

02:17 10 A Yes.

11 Q Okay. So the girl you saw at the bus stop did
12 have a uniform?

13 A Yes.

14 Q And do you know what type of uniform it was?

02:17 15 A White, as far as I know.

16 Q Okay. Actually if you could call up, just to
17 clarify on this date, I have read you this. If
18 you just go back to the main document here, it's
19 106271, Mr. Commissioner, I have found a better
02:17 20 scanned copy of that that I think will assist,
21 it's document 249397A, and it's page 249414 of
22 that. Thank you. And that's the same document,
23 but I think if you just call out that, please, and
24 just highlight "Thursday, January 30". There
02:18 25 again, that's just for the record, I showed you



1 this before, Mrs. Trupej.

2 Now you did not testify at David
3 Milgaard's trial, did you?

4 A No, I didn't.

02:18 5 Q Other than the time around February 6th and 7th
6 when you talked to Detective Bennett, did you talk
7 to the police any more in that year, '69-'70?

8 A I can't recall that I did.

9 Q Okay. Do you recall, at that time, giving a
02:18 10 formal statement where you signed a statement?

11 A No, I don't.

12 Q I haven't been able to find one, I'm not
13 suggesting there was one, I am just wondering if
14 you recall. Now after the trial -- the trial was
02:19 15 in January of 1970 that Mr. Milgaard was
16 convicted -- were you ever contacted by Joyce
17 Milgaard?

18 A Umm, she did contact me, but I can't remember
19 when.

02:19 20 Q Okay. Do you recall what you would have discussed
21 with her?

22 A I didn't discuss anything with her.

23 Q And why was that?

24 A Well I guess I must have thought that they had the
02:19 25 right man in jail.



1 Q Okay. So you declined to discuss anything with
2 her?

3 A Yes.

4 Q Okay. Now I understand that you had occasion to
5 be interviewed by the RCMP in 1993, --

6 A Yes.

7 Q -- do you remember that, by telephone?

8 A Yeah.

9 Q And again, if you could call up 249411, which is
10 part of 249397A. And, Mrs. Trupej, this is simply
11 a note made by the RCMP based upon a telephone
12 call with you that I just want to go through and
13 read. If we could call that out, please, it says:

14 "Contacted Mary Gallucci, now Trupej,
15 concerning this matter. She advises that
16 she took bus at Avenue O and 20th Street.

17 She caught the bus prior to
18 7:00 a.m., likely 6:45 a.m. as she was
19 required to catch a military bus to Dundurn,
20 Sask. at 7:00 a.m. from downtown.

21 Gallucci could not comment on
22 girl's clothing other than she was 'very
23 pretty'."

24 Does that sound right as to what you would have
25 told the officer at that time?



1 A I can't remember.

2 Q Okay. But you would have talked to the police at
3 that time?

4 A Yeah, I guess I must have.

02:21 5 Q I understand that again in 1998 the RCMP
6 interviewed you in connection with the Larry
7 Fisher prosecution?

8 A Yes, they did.

9 Q Okay. If you could call up 249397A, and it's page
02:21 10 249400, just go to the ... Now according to this
11 document, Mrs. Trupej, it looks like the RCMP came
12 to your house on January 9th, 1998 and
13 tape-recorded an interview with you; do you
14 remember that?

02:21 15 A Yes, yes.

16 Q And I just want to go through parts of this with
17 you, if you could call up that portion, please.
18 And what I wish to do is just to go through to
19 refresh your memory on this, Mrs. Trupej, and
02:22 20 simply ask if this is what you would have told the
21 RCMP and whether it would have been truthful. It
22 says:

23 "TRUPEJ: I used to catch the bus on 20th

24 Street and Avenue O about quarter to seven."

02:22 25 And Hopkins, I think is the officer, says:



1 "HOPKINS: Okay.

2 TRUPEJ: And this is - this is the same bus

3 I used to see Gail Miller take.

4 HOPKINS: Now did you, back in '69, did you

02:22 5 know this girl as Gail Miller?

6 TRUPEJ: No, I didn't."

7 Okay. Could we go to the next page, please.

8 Have you -- do you now think that the woman that

9 you saw on the bus, at the bus stop, was Gail

02:22 10 Miller?

11 A Yes, I believe that now.

12 Q Okay. And did you ever see that young girl in the
13 uniform catch the bus at Avenue O and 20th Street
14 after January 31, 1969?

02:23 15 A No, not that I recall.

16 Q Just go to the next page please, 249492 (sic), and
17 again this is just to confirm, and I think this is
18 exactly what you have told us, you were asked the
19 question:

02:23 20 "HOPKINS: Okay, this girl that you
21 described as being a pretty girl, do you
22 know which direction she came from when
23 she took the bus, when she came to the
24 bus stop?"

02:23 25 You say:



1 "TRUPEJ: Yes, she came from Avenue O, well
2 I would have been looking - I can't
3 even, I don't know my directions very
4 well, from Avenue O from 22nd Street
02:23 5 towards 20th Street",

6 so that was north. And then if you could just
7 call out this part, please, the officer says:

8 "HOPKINS: Okay, alright, also back in 1969
9 when you were interviewed by the police,
02:24 10 you had mentioned seeing a male subject,
11 a male person get on the bus.

12 HOPKINS: Do you recall that now?

13 TRUPEJ: I believe it was this, this man
14 looked to be maybe did construction work
02:24 15 with a yellow - what do you call those

16 HOPKINS: Safety hat or a

17 TRUPEJ: Yea safety yes, hard hat

18 HOPKINS: Okay. Do you know which direction
19 he came from when he took the bus?

02:24 20 TRUPEJ: From the opposite direction - he
21 came from Avenue O also but from the
22 opposite direction

23 HOPKINS: And you had seen him take the bus
24 on several occasions as well

02:24 25 TRUPEJ: Yea "



1 If you could go to the next page, please, again
2 to page 249405, please. Call out that part,
3 please, just read the -- sorry, the question from
4 the page before starts:

02:25 5 "HOPKINS: Do you recall this person, this
6 girl, this young girl as catching the
7 bus at the same time every morning like
8 when you were on the bus, was it the
9 same time?"

02:25 10 and your answer:

11 "TRUPEJ: Well, she wouldn't have caught the
12 bus every morning because she was a
13 nurse and they work shift so if she
14 wasn't there I didn't pay any attention
02:25 15 because I knew that they work shift
16 work.

17 HOPKINS: So you know that she was a nurse
18 did you?

19 TRUPEJ: Yes.

02:25 20 HOPKINS: Okay.

21 TRUPEJ: In fact I think, I think she wore
22 her, her uniform to catch the bus if I
23 remember correctly.

24 HOPKINS: And what kind of uniform would
02:26 25 that be?



1 TRUPEJ: A white uniform.

2 HOPKINS: A white uniform, okay, is that how
3 you knew she was a nurse, or did you
4 have any conversation with her?

02:26 5 TRUPEJ: No I didn't.

6 HOPKINS: Just from the clothing she was
7 wearing, is that how you assumed?",
8 I think is the word:

9 "TRUPEJ: Yes. Yes."

02:26 10 And just down a few, if you would go back to the
11 -- let me pause there. Was that accurate, Mrs.
12 Trupej, what you would have told the RCMP at the
13 time?

14 A Yes, yes, that is.

02:26 15 Q Yeah. And then they ask you about your knowledge
16 of the Gail Miller murder and I'll just read you a
17 couple portions here. I'm sorry, if you could
18 just scroll back up to the question, okay:

19 "HOPKINS: That's good. Did you hear about
02:26 20 the murder on the news back in 1969,
21 like the day that it occurred did you
22 hear it on the radio or TV or see
23 anything?

24 TRUPEJ: I don't know whether I heard it
02:27 25 that day on the TV or what, I must have



1 read in the paper, but I just knew when
2 I came home my sister told me that there
3 had been a murder in the back alley
4 there from where she lived.

02:27 5 HOPKINS: Now when you heard this did you
6 know who it was?

7 TRUPEJ: No I didn't."

8 Go to the next page, please -- I'm sorry, the
9 last line from the previous page, if you could
02:27 10 just go back to 405, I'm sorry, and just call out
11 that last question, the officer asks you:

12 "HOPKINS: Okay, you didn't associate the
13 murdered person with the girl that you
14 saw getting on the bus?"

02:27 15 And next page, just call out that:

16 "TRUPEJ: No, no.

17 HOPKINS: Okay, did you at some point make
18 that association?

19 TRUPEJ: Yes, I did.

02:27 20 HOPKINS: When would that have been?

21 TRUPEJ: Well, I do not know, you know,
22 exactly when, but I realized that this
23 murdered girl was the girl that used to
24 catch the bus with me.

02:28 25 HOPKINS: And you can't recall how you came



1 to that conclusion?

2 TRUPEJ: No, I can't."

3 So that's what you would have told the police at
4 the time, Mrs. Trupej?

02:28 5 A Yes, it is.

6 Q And that's correct, is that right?

7 A Yes.

8 Q If you could then go to page 249407, and they ask
9 you a few questions here about Mr. -- or pardon
02:28 10 me -- about the construction worker, and a
11 question:

12 HOPKINS: Okay, all right. This person you
13 described as wearing the - the
14 construction hat, did you ever see him
02:28 15 on any other occasion?

16 TRUPEJ: No.

17 HOPKINS: That you recall?

18 TRUPEJ: No, I don't.

19 HOPKINS: No, just getting on the bus?

02:28 20 TRUPEJ: Yes."

21 And that would have been accurate?

22 A Yes.

23 Q If I could then have you call up, I understand
24 that you were called to testify at Larry Fisher's
02:28 25 preliminary hearing and trial, is that correct?



1 A Yes, that's correct.

2 Q I just want to go through a few portions of that,
3 if you could call up document 314847, just call up
4 that part. And this is the preliminary hearing,
02:29 5 sworn and being examined by Mr. Sinclair. If you
6 could just go back to the main document, please,
7 and go to 314848 please, just call out that
8 portion, and the prosecutor asks you the
9 following:

02:30 10 "Q Okay, and where did that -- where did
11 you get on the bus, that bus?

12 A On Avenue O and 20th Street.

13 Q Okay. Now, back at that time and in
14 around January 31st of 1969, do you
02:30 15 recall anything about any other of the
16 passengers that may have taken the same
17 bus?

18 A No, I don't.

19 Q Okay. Do you recall any other
02:30 20 passenger?

21 A I recall this young girl that got on
22 the bus, and ..., "

23 if you could just go to the next page, please:

24 "... and also a gentleman.

02:30 25 Q Okay. What do you recall about the



1 young girl?

2 A That just she was a young, pretty
3 girl.

4 Q ... Do you remember what she wore?

02:30 5 A I think she wore a white uniform. I
6 can't be sure."

7 And if you could just go down to 23, question 23,
8 starting at 23:

9 "Q Okay. And did you come to associate the
02:30 10 girl on the bus with that woman?"

11 Or pardon me, I should go back up to question 22,
12 I'm sorry. Question 22:

13 "Q Okay. And did you, sometime on the 31st
14 or after the 31st of January in 1969,
02:31 15 did you hear about a woman having been
16 murdered around the area that you lived
17 in?

18 A Yes, I did.

19 Q Okay. And did you come to associate the
02:31 20 girl on the bus with that woman?

21 A Yes, I did.

22 Q And why did you associate that -- the
23 girl on the bus with the murdered woman?

24 A Well, I must have seen her picture in
02:31 25 the paper and associated with the girl



1 that I saw get on the bus.

2 Q Okay. So you are assuming that that's
3 how you came to associate the two?

4 A Yes, and I think the murdered girl
02:31 5 also lived from the -- in the same
6 direction that this girl lived at."

7 So you would have given that evidence at the
8 time, Mrs. Trupej, and that's accurate?

9 A Yes, it was.

02:31 10 Q If you go to page 314850, the next page, and just
11 call out that portion. And again, this is
12 Mr. Sinclair, the prosecutor, questioning you:

13 "Q You said something about a gentleman
14 that took the same bus?

02:32 15 A Yes, I did.

16 Q And what do you remember about that
17 person?

18 A Just an ordinary man.

19 Q Okay. Do you remember anything about
02:32 20 how he was dressed when he caught the
21 bus?

22 A Just a yellow hard hat; he wore a
23 yellow hard hat.

24 Q Okay. And anything else about how he
02:32 25 was dressed at all?



1 A No, I never noticed.

2 Q Did you see which way that person came
3 from to catch the bus?

4 A He came the opposite direction of
02:32 5 Avenue O.

6 Q So, south?

7 A South of Avenue O, yes.

8 Q That would be south of 20th on Avenue
9 O?"

02:32 10 And the next page, I think that's blank, 51 to
11 52. Just at the top, and your answer continues:

12 "A South of 20th, yes.

13 Q Okay. Do you remember the day of
14 January 31st, 1969, at all; that is,
02:32 15 catching the bus that day?

16 A I must have caught the bus because I
17 had to go to work that day, but I
18 don't remember the exact date.

19 Q Okay. All right. Are you able -- are
02:33 20 you able to help us in any fashion as to
21 whether either that girl or that man
22 caught the bus on that date, the 6:45
23 bus?

24 A I can't recall."

02:33 25 That's what you would have testified in court?



1 A That's right.

2 Q And that is accurate?

3 A Yes.

4 Q And if I could have you go to 314858, and just
02:33 5 down at the bottom, this is cross-examination by
6 Mr. Beresh, and question 96:

7 "Q Now, correct me if I'm wrong, you didn't
8 at that ...,"

9 if you would go to the next page, please:

02:33 10 "... you didn't at that time tell the
11 police you knew this girl or you knew
12 somebody you could identify got on the
13 bus, did you?

14 A I believe I did.

02:34 15 Q Was there a statement taken from you?

16 A Well, I don't know whether it was a
17 statement or not. He came and
18 interviewed me.

19 Q Right. I take it you don't recall what
02:34 20 he asked you?

21 A Well, I presume that he asked me who
22 else got on the bus."

23 Do you recall giving that evidence at the time,
24 Mrs. Trupej?

02:34 25 A No, I don't.



1 Q Would it be --

2 A But that must be true.

3 Q Okay.

4 A I don't remember what he asked me.

02:34 5 Q Okay. If you could then go to the trial
6 transcript, 314199, and you recall testifying, I
7 think, in Yorkton at the Larry Fisher trial?

8 A Yes, I did.

9 Q And if I could have you go to page 314201, again
02:34 10 just a bit of the evidence here from Mr. Sinclair,
11 he says:

12 "Q Right, and where did you catch the
13 number 2 bus from?

14 A From Avenue O and 20th Street.

02:35 15 Q What days of the week did you work at
16 the military camp?

17 A Monday to Friday.

18 Q And in and around that time in January
19 of 1969 did you always or only sometimes
02:35 20 take the bus to work?

21 A No, I took it every day from Monday to
22 Friday.

23 Q Okay. You didn't have a car obviously?

24 A No, I didn't.

02:35 25 Q And what time did you have to be



1 downtown to catch the military bus that
2 left for Dundurn?

3 A Seven o'clock.

4 Q Okay. Did you always catch the bus from
02:35 5 the same location?

6 A Yes, I did.

7 Q And that was at?

8 A Avenue O and 20th Street.

9 Q Did you always catch the bus at the same
02:35 10 time?

11 A Yes, I did.

12 Q And which bus did you catch?

13 A Number 2."

14 And if you go to the next page, please --
02:36 15 actually, sorry, go to 314205, call out that
16 part. This is again Mr. Sinclair, the
17 prosecutor, questioning about that January 31,
18 '69:

19 "Q Thank you. All right. Now, do you
02:36 20 recall taking the bus on Friday, January
21 31, 1969, Maria?

22 A Yes, I do.

23 Q Okay. Did you go to work that day?

24 A Yes, I did.

02:36 25 Q Okay. And that was the bus -- the same



1 bus that you always took?

2 A Yes.

3 Q Okay. Do you know -- do you have any
4 recollection of who was on -- who was at
02:36 5 the bus stop on that day when you took
6 the bus?

7 A No, I don't.

8 Q Can you advise the court, please, Maria,
9 whether or not you ever heard about the
02:36 10 murder of a young girl in that area at
11 that time?

12 A Well, when I came home from work my
13 sister said someone had been murdered
14 in the back alley, and the police had
02:37 15 been there.

16 Q Okay. Is that how you came to know
17 about the murder of the girl?

18 A Yes.

19 Q Okay. At some point in time did you
02:37 20 come to associate that girl with the
21 woman that you took the bus with?

22 A Yes I did.

23 Q And how did that association in your
24 mind come about?"

02:37 25 And the next page, at the top, your answer is:



1 "A Oh, from a description in the paper."

2 And there's an exchange between Mr. Beresh and
3 the court which I won't review.

4 Next, if you could go back to
02:37 5 the main page, just a couple more questions here,
6 Mrs. Trupej. Just, sorry, let me back up.

7 The evidence that I just read
8 you in the examination by the Crown, you would
9 have provided your best recollection at the time?

02:37 10 A Yes.

11 Q Yes. And similarly, here, Mr. Beresh asks you:

12 "Q Did you ever see the young girl after
13 that, the last time that you saw her at
14 the bus?

02:37 15 A No, I didn't.

16 Q Okay. And the last time you saw the
17 young girl on the bus and the man -- did
18 you see the man with the hard hat again?

19 A I believe I did. I can't be sure.

02:38 20 Q Okay. You never saw the young girl
21 again though?

22 A No, I didn't."

23 And that's your accurate recollection, is it?

24 A Yes, it is.

02:38 25 Q If I could then have you go to page 314208, and



1 again this is cross-examination by Mr. Beresh, if
2 you could just call that out, and you were asked:

3 "Q Is it correct that on the morning of
4 January 31, standing waiting at the bus
02:38 5 before 7:00, you didn't see anybody in
6 this area up here toward 21st Street
7 struggling or fighting, or anything like
8 that?

9 A No. But it was very cold and there
02:38 10 was a lot of ice fog.

11 Q I was going to ask you that. You didn't
12 see anybody being dragged in any fashion
13 at all?

14 A No, no, I didn't.

02:38 15 Q It was one of those cold mornings where
16 a voice carries, correct?

17 A I don't think somebody would be
18 screaming with a knife to their
19 throat.

02:39 20 Q Oh, did you hear any shouts or screams?"

21 Next page, answer at the top:

22 "A No, I didn't."

23 So that would have been accurate evidence you
24 would have responded to?

02:39 25 A Yes it is.



1 Q And then next, on page 314211 please, call out
2 that part, please. Again, this is still part of
3 Mr. Beresh's cross-examination:

4 "Q When you were asked in 1969 about the
5 hard hat, did you say to the police
6 officer that it was possibly yellow?

7 A Yes.

8 Q Okay. Now I take it in that area,
9 riding on the bus, it wouldn't be
10 unusual to see construction workers?

11 A I'm sorry, I didn't hear you.

12 Q Fair enough. It wouldn't be unusual to
13 see construction workers in that area?

14 A No, it wouldn't be unusual.

15 Q It wouldn't be unusual to see people
16 wearing uniforms getting onto the bus?

17 A No.

18 Q Okay. You had been riding the bus for,
19 by my guess, about these years up to
20 that point?

21 A Yes, yeah."

22 So you would have given that evidence, Mrs.
23 Trupej?

24 A Yes.

25 Q Those are all my questions. Counsel for some of



1 the other parties may have some questions.

2 MR. HODSON: Mr. Wolch?

3 BY MR. WOLCH:

4 Q Ma'am, you didn't testify at any hearing for
02:40 5 David, involving David Milgaard, I take it?

6 A No, I didn't.

7 Q And you also mentioned that sometime between the
8 time when both men were on trial you were
9 approached by Joyce Milgaard by telephone, I take
02:41 10 it?

11 A Yes.

12 Q And you declined to speak to her; is that correct?

13 A Yes.

14 Q Did you decline immediately, or did you seek
02:41 15 advice from anybody else, be it police or a
16 friend?

17 A No, I just said I had nothing to say.

18 Q And that ended it?

19 A Yeah.

02:41 20 Q Thank you very much.

21 COMMISSIONER MacCALLUM: Ms. McLean?

22 MS. McLEAN: No, thank you.

23 COMMISSIONER MacCALLUM: Mr. O'Keefe?

24 MR. O'KEEFE: No questions, sir.

25 COMMISSIONER MacCALLUM: Mr. Elson?



1 MR. ELSON: No questions.

2 COMMISSIONER MacCALLUM: Mr. Fox?

3 MR. FOX: No questions.

4 COMMISSIONER MacCALLUM: Mr. Gibson?

5 MR. GIBSON: No questions, thank you.

6 COMMISSIONER MacCALLUM: Ms. Krogan?

7 MS. KROGAN: No thank you.

8 COMMISSIONER MacCALLUM: Ms. Knox?

9 MS. KNOX: No questions.

02:41 10 COMMISSIONER MacCALLUM: Thank you. Thank
11 you very much, Mrs. Trupej, thank you. You are
12 excused ma'am, thanks for coming.

13 MR. HODSON: The next witness is Simon
14 Doell.

02:42 15 **SIMON DOELL**, sworn:

16 BY MR. HODSON:

17 Q Good afternoon, Mr. Doell, thank you for agreeing
18 to testify. I understand you reside at Saskatoon;
19 is that right?

02:43 20 A Yes, I do.

21 Q And in January of 1969 I understand that you lived
22 on Avenue R South; is that right?

23 A That's correct.

24 Q And I understand that you would catch bus on 20th
02:43 25 Street in the morning; is that correct?



1 A Yes.

2 Q Could we just have a map, map A, please. I'm
3 sorry, map A. And this is just a map of the area,
4 you will see the main artery there is 22nd, 20th
02:43 5 Street is right where I have drawn the line, and I
6 think you said Avenue R?

7 A That's correct.

8 Q And north or south of 20th?

9 A South.

02:43 10 Q South? Do you know which block, how --

11 A It was about four houses off 20th.

12 Q So right about there where I put the X; is that
13 right?

14 A Right.

02:44 15 Q And you would have caught the bus on 20th Street
16 and went, I believe, to City Hospital, is that
17 right, where you were working?

18 A That's correct.

19 Q And do you recall what time you worked in the
02:44 20 morning or which bus you would catch?

21 A I had to catch the 6:30 bus.

22 Q 6:30?

23 A Yes.

24 Q Do you recall whether you saw a young woman catch
02:44 25 that bus from time to time? I'm talking about



1 January of 1969.

2 A Yes.

3 Q And can you tell me what you recall?

02:44 4 A Oh, just a nurse catching the bus in the
5 morning --

6 Q Okay.

7 A -- and getting off at the hospital, usually at the
8 same stop where I got off.

02:44 9 Q Right. So you were working at the City Hospital
10 at that time?

11 A Yes.

12 Q Do you know where that nurse got on the bus, which
13 bus stop on 20th Street?

14 A No, I don't.

02:44 15 Q Okay. Call up document 075901. You remember, Mr.
16 Doell, at the time of the murder being contacted
17 or getting in contact with the police?

18 A Umm, yes, they came to see me at work. I can't
19 recall what day it was.

02:45 20 Q Do you know how they came to find you or --

21 A I had spoken to the personnel manager at work
22 telling him that I had seen her on the bus on
23 occasions, and he felt that it was necessary to
24 call the police, and they came to talk to me.

02:45 25 Q I see. So someone at City Hospital would have



1 alerted the police --

2 A Right.

3 Q -- that you might have some information?

4 A Uh-huh.

02:45 5 Q And then do you recall that the police then came
6 to the City Hospital to interview you?

7 A Yes, they did.

8 Q Okay. I'm just going to show you a document here,
9 it's 075901, and this is a typed police report and
02:45 10 it's done by a Detective Dimmitt, and it's
11 February 6th, 1969 but it talks about February
12 4th, 1969, which I think would be about Tuesday if
13 I'm not mistaken, about four days after the
14 murder. And if I could just call out that
02:46 15 section -- does that sound about right, within a
16 week after the murder they would have been in
17 touch?

18 A Something like that, yeah.

19 Q Okay. If you could just scroll up a bit, please.

02:46 20 Okay. It says, starting there:

21 "On the 4th of February, 1969 Detective
22 Oleksyn and I called at the City Hospital
23 and interviewed one Simon Doell, former
24 address of 313 Avenue R South, he has now
02:46 25 moved to Western Mobile Homes. He moved out



1 previous to the murder. He states that on
2 occasions he had been riding on the bus and
3 when Miss Miller got on the bus she always
4 s-a on the corner of Avenue N and 20th
02:46 5 Street directly across from the funeral
6 home. He states that he missed her on the
7 bus a couple of times and upon asking her
8 how she was getting to work she stated that
9 she was getting a ride to work, however she
02:47 10 did not elaborate on this remark. Also,
11 Morality Sergeant Oleksyn and I ..., "
12 sorry, I don't think that relates to you, so stop
13 there. Does that, this is what the police wrote
14 in their report based on their discussion; does
02:47 15 that accurately reflect what you would have told
16 them at that time?

17 A I think so.

18 Q Now I take it on the day of the murder, January
19 31, '69, you were not living at Avenue R, is that
02:47 20 right, you had moved?

21 A I can't remember, but --

22 Q Okay, I'm just -- and the reason I ask that is it
23 says now he has now moved to Western Mobile Homes?

24 A Yes, we did move, shortly after that, to a mobile
02:47 25 home.



1 Q So on the day of the murder, January 31, you are
2 not able to say whether you were on Avenue R or
3 had moved?

4 A No, I can't.

02:47 5 Q And I take it, would you have any recollection of,
6 that morning of the murder, being on that bus?

7 A No.

8 Q Now as far as the, what you told the officers
9 about where she caught the bus, you said Avenue N
02:48 10 directly across from the funeral home; is that
11 correct?

12 A Yes, according to that, yes.

13 Q If you could just call up map B, please, and
14 just -- this is a map, Mr. Doell, just of the
02:48 15 area, and you will see there's the funeral home,
16 here is Avenue O, Avenue N, there is a bus stop at
17 O, a bus stop at N. And so according to your
18 statement then -- sorry -- according to the police
19 report you would have told them that she caught
02:48 20 the bus stop here at Avenue N and 20th; is that
21 right?

22 A I believe so, yes.

23 Q Now after that interview, or at that interview
24 with the police, do you recall if they showed you
02:48 25 any photographs?



1 A No.

2 Q But you would have known Gail Miller, did you,
3 from having worked with her or travelled --

4 A Just to see her.

02:49 5 Q You knew her to see her though?

6 A Just knew her to see her, yeah.

7 Q Okay. Now you did not testify at the David
8 Milgaard trial?

9 A No I did not.

02:49 10 Q And after this one meeting on, it appears to be
11 February 4th, 1969, you were not contacted by the
12 police at all any further?

13 A No I wasn't.

14 Q Now I understand, in 1992, you were contacted by
02:49 15 legal counsel for the Milgaards, is that right, a
16 David Asper?

17 A Yes I was.

18 Q Okay. Could you tell me about that, please?

19 A He just called me up and wanted me to come down
02:49 20 and swear out an affidavit as to what I had said.
21 I was apprehensive at the time, because I had just
22 come from heart surgery and I didn't want to put
23 any more stress on myself than I already had, but
24 I did consent and I went down and swore out the
02:50 25 affidavit.



1 Q Okay. I'm just going to -- if you could call up,
2 please, document 044252, and if you could just go
3 to the third page, 044254; is that your signature
4 there, Mr. Doell?

02:50 5 A Yes, it is.

6 Q And it -- and it looks as though it was sworn on
7 March 31, 1992; does that sound about right?

8 A That's right.

9 Q And what, do you recall what Mr. Asper was asking
02:50 10 you to swear an affidavit about, or what do you
11 recall?

12 A Nothing really.

13 Q Okay. Who typed up the affidavit, was it --

14 A I believe it was the lawyer's office that did.

02:50 15 Q Okay. If you could just go back to the first page
16 of the document; were you aware of what the
17 purpose of this affidavit was, what was going to
18 be done with it?

19 A Not really.

02:50 20 Q Okay. Go to the page 044253 please, the next
21 page, call out paragraph 2. And this says:

22 "I lived at one time on Avenue R South in
23 Saskatoon, and believe that I moved to that
24 address sometime around May of 1968, and
02:51 25 lived there for six months or so. Sometime



1 during the fall of 1968, although I cannot
2 be specific, I moved to a mobile home
3 village on 8th Street located on the east
4 side of the city. I had not been living on
02:51 5 the west side of Saskatoon for at least a
6 couple of months prior to the murder of a
7 Saskatoon nurse in 1969."

8 Now does that help you recall events, Mr. Doell?

9 A Not really. Just that I had, that is what I had
02:51 10 said.

11 Q So this would have been what you told Mr. Asper,
12 your recollection at the time?

13 A Yes.

14 Q And you would have told him the truth or put the
02:51 15 truth in the affidavit?

16 A Yes, I would have.

17 Q Go to the next page, please. Just at the top,
18 call up paragraph 3. It says:

19 "While living on Avenue R I would
02:51 20 occasionally take the bus to work along 20th
21 Street and would normally leave for work
22 around 7:00 a.m., although my recollection
23 is vague on this point."

24 Why don't we just go through the rest. Paragraph
02:51 25 4:



1 "I did not know Gail Miller by name, but
2 would see a nurse from time to time on the
3 bus several months earlier and would
4 recognize the face as being someone who I
02:52 5 would see at my place of work, being the
6 City Hospital. I can only say that it was a
7 nurse in general sense that took the bus,
8 but not specifically Gail Miller. If there
9 was more than one nurse who took the bus
02:52 10 along 20th Street, I would not be able to
11 have identified which one of them would have
12 been Gail Miller. I was never asked to
13 provide a written statement to the police
14 with regard to the case nor was I ever asked
02:52 15 to testify as a witness at the preliminary
16 hearing or trial."

17 The last paragraph:

18 "I make this affidavit bona fide and in
19 support of the Supreme Court deliberations
02:52 20 pursuant to the reference in the David
21 Milgaard case."

22 So does that reflect your recollection of March
23 31, 1992 of the events of January, 1969?

24 A Yes.

02:52 25 Q Next I understand in 1993 the RCMP in the course



1 of an investigation contacted you and got a
2 statement; is that right?

3 A Yes, they did.

4 Q And did they call you at your home do you
5 remember?

6 A I believe the RCMP officer called me at home. I
7 was still recuperating and they called me at home.

8 Q So this would have been -- I think if you could
9 call up document 075905. And so the affidavit was
10 March 31st, 1992 and I think you said that's when
11 you were waiting for heart surgery?

12 A I just had it and I was at home recuperating.

13 Q And then it looks like the RCMP, it's either March
14 4th or April 3rd, I think it's March 4th, '93, and
15 they would have come to your house, it looks like
16 it says taken at Doell residence, it's cut off,
17 and I take it at that time, Mr. Doell, you would
18 have given the RCMP your best recollection of what
19 you knew?

20 A That's correct.

21 Q I'll just go through and just read through this
22 for the record. I'll have a few questions.

23 "I have spoken to Constable Garth Cunningham
24 of the RCMP (Regina) and reviewed my minor
25 involvement in the Milgaard matter. I don't



1 really have anything to add. I didn't give
2 a statement to police in 1969. The police
3 asked me some questions and they made notes.
4 I wasn't pressured by police and as far as I
02:54 5 know I just spoke to them once. I had
6 mentioned to my personnel officer that I
7 rode the same bus as Gail Miller on occasion
8 and said he would call the police and they
9 came and spoke to me at the hospital ward
02:54 10 that I worked on. That was about it. Last
11 year about the second week in March I got a
12 call from Mr. Asper, the lawyer for
13 David -- "

14 Go to the next page, zoom in there,

02:54 15 "-- Milgaard. He spoke with me for about 15
16 to 20 minutes. I told him what I knew and
17 what I recalled and said I had nothing
18 further to add. About a week later
19 Mrs. Milgaard called me and she asked me the
02:55 20 same things. I gave her the same response
21 as given to Mr. Asper. This was about a 15
22 to 20 minute call. A few days later Mr.
23 Asper called again wanting me to go to a
24 lawyer in Saskatoon and swear an affidavit
02:55 25 saying what I knew. Mr. Asper wanted it



1 done that day. He was quite adamant I do it
2 that day. There was a sense of urgency. He
3 offered to have a lawyer come to my house
4 but I declined. I did go down and swear an
02:55 5 affidavit and told what I knew. Mr. Asper
6 had said they were going to meet with the
7 justice minister soon and needed all the
8 documentation they could get. I got the
9 impression that Mr. Asper felt I should have
02:55 10 been interviewed by the police in greater
11 detail and that the investigation didn't go
12 far enough. Other than this I really don't
13 have anything to add or to change."

14 And that's your signature there is it?

02:55 15 A Yes, it is.

16 Q And does that statement accurately reflect your
17 recollection at the time of your dealings with
18 David Asper and Joyce Milgaard?

19 A Yes, it is.

02:56 20 MR. HODSON: Those are all my questions,
21 Mr. Doell. There may be some questions from
22 other counsel.

23 COMMISSIONER MacCALLUM: Mr. Wolch?

24 MR. WOLCH: I have no questions.

02:56 25 COMMISSIONER MacCALLUM: Ms. McLean?



1 MS. McLEAN: No questions.

2 COMMISSIONER MacCALLUM: Mr. O'Keefe?

3 BY MR. O'KEEFE:

4 Q Mr. Doell, you expressed a little bit of
02:56 5 uncertainty in the affidavit as to whether the
6 nurse that you had seen on the bus was in fact
7 Gail Miller. In the days following the murder,
8 did you see a photograph of the murder victim Gail
9 Miller in the newspaper?

02:56 10 A I believe it was in the newspaper, yes.

11 Q And at the time that you saw that photograph, did
12 that jog your memory that this was the nurse you
13 had seen on the bus?

14 A Yes, that, and that I had seen her at the place
02:56 15 where I worked.

16 Q It appeared to be the same person?

17 A Yes.

18 COMMISSIONER MacCALLUM: You seen her where
19 else?

02:56 20 A At work.

21 COMMISSIONER MacCALLUM: At work.

22 MR. O'KEEFE: Thank you. I have nothing
23 further.

24 COMMISSIONER MacCALLUM: Mr. Elson?

02:57 25 MR. ELSON: No questions.



1 COMMISSIONER MacCALLUM: Mr. Fox?

2 MR. FOX: No questions.

3 COMMISSIONER MacCALLUM: Mr. Gibson?

4 MR. GIBSON: Nothing.

02:57 5 COMMISSIONER MacCALLUM: Ms. Krogan?

6 MS. KROGAN: No thank you.

7 COMMISSIONER MacCALLUM: Ms. Knox?

8 MS. KNOX: No questions.

9 COMMISSIONER MacCALLUM: Thank you. Thank
02:57 10 you, sir, you are excused. Thank you for coming.

11 MR. HODSON: I'm wondering if we might take
12 this opportunity to break, Mr. Commissioner. I
13 do have some read-in of Mrs. Indyk that I can do
14 after the break. Our next witnesses are
02:57 15 travelling and can't be here until tomorrow
16 morning, so I think we have about maybe 15 to 30
17 minutes of read-in for the day. The good news is
18 we've been through four witnesses and three
19 deceased witnesses in one day which is quicker
02:58 20 than I anticipated, so we'll take some steps to
21 move up some of the witnesses so we have a full
22 day tomorrow and Thursday.

23 COMMISSIONER MacCALLUM: Thank you. 15
24 minutes, please.

02:48 25 (Adjourned at 3:00 p.m.)



(Reconvened at 3:18 p.m.)

COURT CLERK: This hearing is now in session.

MR. HODSON: Thank you. Mr. Commissioner, I'll finish up the day with some read-in materials from a deceased witness, Marie Indyk, and I had earlier read in the evidence of Henry Diewold who was the church caretaker of St. Mary's and Mrs. Indyk's evidence related to her visit at the church that morning and she did testify at trial. If we can start off with document number 106224 and this is a police report, February 5th, '69, Detective Maurice Bennett, and it looks like Detectives Hein and Bennett. If you can just zoom in there, please.

"Detective Hein and Bennett report that while checking houses and business places on 20th Street West on February 5th, 1969 we had the occasion to interview a Mrs. Marie Indyk of 901 Temperance Street who was employed at the Spotless Dry Cleaners on 20th Street West. She stated that on Friday morning she came to work with her husband, who drove his car, and works at the Intercontinental Packers at 7:00 a.m. He



1 dropped her off at Avenue O and because she
2 did not have to work until 9:00 a.m. she was
3 going to go to the church, St. Mary's. She
4 went to the church but found it to be
03:21 5 locked. She then walked back to the corner,
6 (north-west) and at this time noticed a
7 woman coming on 20th Street from the east.
8 This woman was on the north side of 20th
9 Street. This woman ran across the street
03:21 10 towards her and went about four feet from
11 her, stopped and looked at her. The look on
12 this woman's face scared --"

13 It should say scared Mrs. Indyk. I guess they
14 didn't have spell check on the typewriters then.

03:21 15 "The woman then turned and walked north on
16 Avenue O towards 21st Street. This woman
17 had her hands in her coat pockets. The
18 church lights came on and Mrs. Indyk went
19 into the church and does not know where this
03:21 20 woman went to.

21 The description of this woman
22 is as follows - thought to be 30 years of
23 age, dark hair, round face, wearing dark
24 colour coat, possibly a scarf and high
03:21 25 boots.



1 Mrs. Marie Indyk is Russian and
2 has some difficulty with her English. She
3 was almost sure that she could recognize the
4 face again if seen. The look that this
03:22 5 woman gave her was enough to scare her.

6 Mrs. Indyk was informed that
7 there might be someone up to see her this
8 evening regarding this matter."

9 Next if you could call up document 009225. And
03:22 10 this is a statement that appears to be of
11 Mrs. Marie Indyk. It appears to be signed by M.
12 Indyk, if you can zoom in at the bottom there,
13 please. Go back to the main page, please.

14 You'll recall the police report I just read was
03:22 15 February 5th and it said that Mrs. Indyk was
16 informed that there might be someone up to see
17 her this evening regarding this matter and
18 February 5 at 9:30 p.m. it looks as though the
19 police did go see her. If you can just zoom the
03:22 20 bottom left to see if we can tell who took that.
21 I believe it to be Constable Karpo Gabruch. Go
22 back to the main document and just call out
23 there. Her statement reads:

24 "On January 31, '69 at about 7:05 a.m. I was
03:23 25 at Avenue O and 20th Street waiting for



1 someone to open St. Mary's church as I
2 wanted to go to church before I started to
3 work at 9:00 a.m. at Spotless Cleaners.
4 While standing at the corner a female about
03:23 5 25-30 years wearing a black cloth coat with
6 black collar, ran to me from the east side
7 of the street, looked at me from a distance
8 of about three feet --"

9 Scroll up please,

03:23 10 "-- and then walked north on Avenue O. I
11 then walked to the church and did not notice
12 which way she walked then. The person did
13 not say anything, and I did not see anyone
14 else or any car around. This person I
03:23 15 believe wore a dark collar, high boots; and
16 wore a white scarf on her head, one side
17 hanging down her side."

18 Now, Mr. Commissioner, this is only one page to
19 this statement. There's reference later on that
03:24 20 there may have been another page and I'll get to
21 that.

22 The next document, if you
23 could, please, is 106254, and if you could go to
24 106278, please. It's not a very good copy, but I
03:24 25 think it's the best we have, and again this is



1 February 7th, '69 and the report of Bennett and
2 Hein and it says Mrs. Marie Indyk, 901 Temperance
3 Street.

4 "Husband drove her Friday at 7:00 a.m. to
03:24 5 St. Mary's church, from church to work.
6 Church closed yet. Met a woman coming from
7 east on 20th, darker hair, rounder face,
8 white scarf, dark coat, walked very light.
9 Estimate in her 30s. She crossed Avenue O,
03:25 10 looked right at Marie Indyk, then walked
11 north on Avenue O briskly. Mrs. Indyk
12 speaks a little Russian and broken English.
13 N.B., she may have seen deceased before
14 murderer."

03:25 15 The next document is her prelim transcript,
16 076620, and go to the second page, 076621, and
17 you'll see this is an examination by Mr.
18 Caldwell, and I will just highlight portions of
19 this, Mr. Commissioner. The entire transcript
03:25 20 will obviously be on the record and available to
21 the public and all parties. If you could go to
22 page 076622. I'll call out questions 3 to 9.

23 COMMISSIONER MacCALLUM: This is the trial
24 did you say?

03:26 25 MR. HODSON: This is the prelim.



1 COMMISSIONER MacCALLUM: Oh, the prelim.

2 MR. HODSON: Yeah, and I will touch briefly
3 on the trial as well, and question 2 talks about
4 Spotless Cleaners. Question 3:

03:26 5 "Q You did work there?

6 A Yes.

7 Q Now, where was it located?

8 A On 20th Street.

9 Q And whereabout on 20th?

10 A Between Avenue O and P.

11 Q Between Avenue O and P on 20th?

12 A Yes.

13 Q Which side of 20th?

14 A Going west, left side.

03:26 15 Q Left side. That would be on the south
16 then I believe?

17 A Yes.

18 Q Opposite side to St. Paul's Hospital?

19 A St. Mary's, St. Mary's church."

03:26 20 When I'm done with this transcript I'll go to the
21 map and just point that out. Next page, please,
22 076623, call out that. Right there, Mr. Caldwell
23 says:

24 "Now, on the morning - I believe you

03:27 25 occasionally or often attend at St. Mary's



1 church before you went to work in the
2 morning?

3 A I was working five and a half year
4 before I quit and I always go there for a
03:27 5 few minutes, when I live on Avenue G and now
6 when I was living on 901 Temperance, and my
7 husband drove me, well if they start work at
8 8:00 o'clock, he start at 7:30 so by bus or
9 by car, it didn't make any difference, so I
03:27 10 usually go to church.

11 Q Before work?

12 A Before work."

13 If you could then scroll on to the next -- just
14 pause here.

03:27 15 Q Yes. I believe one of the days your
16 husband drove you --

17 Go onto the next page at the top,

18 "-- there was Friday, January 31, 1969?

19 A Yes.

03:27 20 Q What time did you get up to the area of
21 the church?

22 A About maybe five minutes after seven.

23 Q Mhmm.

24 A Maybe seven, maybe ten, I don't think
03:28 25 it's more than that.



1 Q Alright. Something in that area?

2 A Somewhere around this.

3 Q And were you going to church that
4 morning?

03:28 5 A Yes.

6 Q Did you go to church?

7 Maybe just scroll up and have that at the top,
8 please.

9 "Q Did you go to church?

03:28 10 A I went to the church, but church was
11 locked, so I went back and going back to the
12 20th, I seen a lady, or I should say a
13 female, because I don't know.

14 Q Mhmm. Now, the church was locked and
03:28 15 you went back to 20th?

16 A Towards the 20th because there was very
17 dark and there was towards the light and it
18 was somehow brighter and it was very, very
19 cold and foggy.

03:28 20 Q Right.

21 A So I went back forwards the 20th.

22 Q Were there street lights or something on
23 20th?

24 A Yes.

03:28 25 Q Alright. As you went back towards 20th,



1 did you see somebody?

2 A Yes, I seen a lady, a girl, a female,
3 whatever you want to say, you know.

4 Q Yes.

03:29 5 A She was coming from the 20th, from the
6 east side, going --"

7 Top of the next page, please,

8 "-- you know, I seen her right at the
9 crossing, you know and she run towards the
03:29 10 me but her head was down and I didn't move,
11 you know, because you see we were just
12 passing about two minutes, maybe three
13 minutes, it wasn't more and we didn't see a
14 soul except a car far in the back, over back
03:29 15 of us and you know, when she come, you know,
16 running, well I just stood, you know, and we
17 were just abrase, you know, face to face,
18 you know and she lift her head to look and
19 the light is on her and she turn and she
03:29 20 walk, no word, we exchanged nothing.

21 Q Okay."

22 Question 32:

23 "Q You saw her right in the cross-walk?

24 A I seen her in the crossing, but you see
25 her head was down and she was running,



1 carrying one hand in the pocket.

2 Q And this would be on 20th Street and
3 avenue?

4 A O. She cross Avenue O and come to the
03:29 5 west side, like you say...

6 Q Right.

7 A Of the church."

8 Question 35:

9 "Q Yah. I see. Okay. And was this a
03:30 10 younger or an older woman would you say, or
11 could you say?

12 A I was figuring her between 20 and 30.

13 Q Okay, I see. How was she dressed, Mrs.
14 Indyk?

03:30 15 A She had a white scarf, woolen scarf over
16 her head and one hand was hanging down, she
17 had a black coat...

18 Q Yes.

19 A With a little fur collar."

20 Next page, four more questions:

21 "A Black coat with a little black fur
22 collar.

23 Q And how near did she get to you when she
24 stopped?

03:30 25 A About like this, a foot or two. A step



1 or two, not a foot or two.

2 Q Okay. And I think you said that at that
3 place, her head came up, did it?

4 A Yes, she looked at me.

03:30 5 Q Did she say anything?

6 A No, no words. I didn't speak because,
7 you know, when she stood I thought she was
8 going to ask me something and when she
9 didn't move and go on, you know, I was taken
03:30 10 by surprise, I didn't know nothing.

11 Q So you didn't speak either?

12 A No, I didn't."

13 And then if you could go to the next page,
14 076627, and just go back to the full page,
03:31 15 please, and questions 48 and 49, if you could
16 call those out.

17 "Q Now, when she left you, which way did
18 she go?

19 A She proceeded north on west side.

03:31 20 Q Of, it would be Avenue O, would it?

21 A O."

22 At the bottom of that, question 56, if you could
23 call out:

24 "Q Okay. Now then, was she alone as far as
03:31 25 you could see?"



1 Top of the next page, please:

2 "A As far as I could see, she was alone.

3 Q And did you see anything of a car or a
4 vehicle in connection with her - with her?

03:31 5 A No, when we were driving a car was
6 behind us."

7 Next go down to question 59, please:

8 "Q Alright. Now was the last you saw of
9 the female person then going north on O?

03:32 10 A Yes.

11 Q Did you see any other people on foot?

12 A Yes.

13 Q When and where was that?

14 A When she run, you know, and a few
03:32 15 minutes, that's what I didn't put in the
16 statement because at that time I didn't
17 think it was important, you know.

18 Q Alright.

19 A But they ask me if I seen something
03:32 20 unusual, well that I thought it was unusual
21 yes, but there was something else that I
22 didn't put in the statement. After she
23 gone, you know, she run, and I thought to
24 myself that maybe she wanted some help,
03:32 25 maybe something, you know, and I went back,



1 you know...

2 Q Mhmm.

3 A And when I stood church, you know, at
4 door, there's a light and I stood there and
03:32 5 couldn't see a thing, you know, it was like
6 black wall and I turn towards the east, you
7 know...

8 Q Yes.

9 A And I seen a lady, a female in dark coat
03:32 10 and a beige, narrow scarf, that's all I know
11 and she had very, very black shiny hair."

12 And question 65:

13 "A And she was proceeding north on other
14 side of the street, but it was about five
03:33 15 minutes between, you know, because I stood a
16 little while..."

17 Oh, you are going to have to go back up to 66:

18 "Q Yes.

19 A And then I seen her going and then I
03:33 20 went to church after that.

21 Q Now, the second person that you saw...

22 A Yes.

23 Q Was on Avenue O, was she?

24 A On Avenue O.

03:33 25 Q Now I'd like for you to stop and think,



1 could you distinguish whether this was a
2 lady or a man?

3 A Yes, I could because she had a scarf
4 like that and very big, black hair, like
03:33 5 this and very shiny.

6 Q I see. Where was this person going?

7 A North too.

8 Q Now, what was the visibility like that
9 morning?

03:33 10 A That's what I'm telling you, from the
11 light of the church, on the church there's a
12 light, one or two, I can't tell you, but,
13 you know, it's a light and from the door,
14 light come like that and that's all, I see
03:33 15 this when she was passing, that's all.

16 Q Well, was it because of darkness or
17 something else?

18 A Of the darkness, you know.

19 Q Yah.

03:34 20 A But on this light, you know, that's why
21 I seen her. If I didn't turn, I wouldn't
22 see her, she could pass -- "

23 Go onto question 77, please. "

24 Q Was there anything unusual about the way
03:34 25 the walk was?



1 A No, no, except I didn't hear her
2 footsteps, but that was one side of the
3 street and that was other side."

03:34 4 Then go to the next page, 076631, take that to
5 the top, please.

6 "Q About what time did the church open that
7 you went in?

8 A Maybe 15, maybe 20, between.

9 Q I see.

03:34 10 A But usually it opened 10 past but that
11 day it wasn't open."

12 I'm going to just pause there. This is the same
13 church that I read in evidence for Henry Diewolf
14 who talked about what time he opened the church.

03:34 15 Question 85:

16 "Q You're talking about 15 or 20 after
17 seven?

18 A Mhmm.

19 Q Yah. I see.

03:35 20 A I didn't have a watch, I can't say
21 correctly to the minute, but it's around
22 between that time."

23 And then the cross-examination of Mr. Tallis, if
24 you can go to page 076637 and 38 and top to

03:35 25 bottom, please. 076637 and 38. Question 72, and



1 this is Mr. Tallis cross-examining:

2 "Q And this lady was walking north?

3 A Was walking north and she didn't even
4 look. I was stopped and stare at her but
03:35 5 she didn't turn.

6 Q This lady, which side of the street was
7 she walking on?

8 A On the other side.

9 Q On the east side?

03:35 10 A On the east side.

11 Q And she would be walking north on Avenue
12 O?

13 A O.

14 Q And I think you told my learned friend
03:36 15 that she had black hair?

16 A Very black shiny hair."

17 And then to page 076640, just down at the bottom,
18 question 101, again this is Mr. Tallis
19 cross-examining:

03:36 20 "Q I understand.

21 A When they come to Spotless and they
22 ask -- "

23 Again this is referring to the police,

24 "-- I said only because I thought that that
03:36 25 girl that run, she might have seen



1 something, that's why she was running, you
2 know, I never dreamt, until the police told
3 me, that it was her."

4 To the next page please, 076641, the full page,
03:36 5 please, and just call out 105 and 106:

6 "Q Yes.

7 A That I seen and you see well I say there
8 was another one passing and they ask me how
9 she was dressed, I say in dark, presumably
03:37 10 black and beige scarf --"

11 This is the second woman,

12 "-- and he said, yes, I know, we found her
13 and that's where I got mixed up and I don't
14 know which. They promise to show me
03:37 15 pictures but they never did, so...

16 Q You don't know?

17 A I don't know, I don't know which,
18 because neither of them -- you see, after I
19 gave first statement to the police then,
03:37 20 because first week I didn't see in, not in
21 newspaper, not in T.V. her picture, I seen
22 in later on, you know, after the statement
23 and neither of them resembles, because that
24 is a teenage girl, but woman, both of them I
03:37 25 seen, you know, this one I seen she was



1 mature woman, you know, so was this other, I
2 presume she was, you know, the way I seen
3 her walking."

4 MR. HODSON: That's it for the transcript.

03:37 5 If you could go to map B, please, I'll just point
6 out a couple of -- zoom in on -- just to get some
7 highlights. Here's the St. Mary's church, the
8 rectory, here's Spotless Cleaners where Mrs.
9 Indyk said that she worked and again the east
03:38 10 side of Avenue O, the west side.

11 Next if you could call up
12 document 039533. Remember the preliminary
13 hearing was in August of 1969, the trial started
14 I believe January 19th or thereabouts of 1970 and
03:38 15 this is a letter from Mr. Caldwell to Mr. Tallis,
16 Mr. Milgaard's defence counsel, January 12th,
17 1970. If you could just call up that paragraph,
18 please. It says:

19 "At the moment there is only one witness who
03:39 20 was called at the preliminary inquiry whom I
21 do not intend to call at the trial, that
22 being Marie Indyk. The evidence she gave at
23 the preliminary inquiry was different to
24 that which she had given in her statement to
03:39 25 the police, in which she said that she saw



1 one female and one male when she was waiting
2 to get into the church, while at the
3 preliminary inquiry she spoke of seeing two
4 females. I would supply you with a copy of
03:39 5 her statement but I find that in some manner
6 all but the first page of this statement
7 have been misplaced and I have been unable
8 to find the remainder of the statement
9 either in my material, nor can the remainder
03:39 10 of it be located at the police department.
11 When I locate either the original or a copy
12 of her statement, I will forward a copy of
13 the complete statement to you."

14 And then the top of the next page, please.

03:39 15 "In the meantime, however, I have had Mrs.
16 Indyk subpoenaed and she has been advised to
17 stand by until further notice, so that she
18 will be available should you wish her to be
19 called and, no doubt, we can discuss this in
03:40 20 the near future."

21 And then just down to the bottom of that page,
22 please, you'll see that that's a letter from Mr.
23 Caldwell.

24 Next if you could call up
03:40 25 document 039537 and the date here is Monday,



1 January 19th, 1970, which I believe is the day
2 the trial commenced, and again this is the letter
3 from, appears to be from Mr. Caldwell to
4 Mr. Tallis, re: David Edgar Milgaard, and it
03:40 5 starts:

6 "As requested by yourself, I enclose a copy
7 of statements by the following witnesses:"
8 Which are listed. And then it gets down to here,
9 if you could just call out that, please. It
03:40 10 says:

11 "Dennis Elliott, whom I likewise do not
12 intend to call. Mrs. Marie Indyk whom, as
13 you will recall, we left to be discussed as
14 the trial progresses, as to whether I will
03:41 15 call her or make her available for yourself,
16 if desired, or just what the situation will
17 be."

18 If you could then scroll down to the next
19 paragraph, please, and you'll see when I read in
03:41 20 the evidence about Henry Diewold, he was
21 questioned at trial about his statement, and it
22 says here, "And I wasn't able to locate a
23 statement from Henry Diewold," and this letter
24 suggests that there wasn't one. It says:

03:41 25 "The statement from Adeline Nyczai which you



1 wanted has, as I informed you, been lost and
2 those statements were taken from the
3 witnesses."

4 And lists six of them including Henry George
03:41 5 Diewolf. And then go down to the bottom here,
6 please, and it says:

7 "The enclosed statement from Mrs. Indyk is,
8 to the best of my knowledge, only part of
9 the statement she gave and I have been
03:41 10 unable to find the remaining pages which I
11 believe to have existed."

12 If you can just go back and call up 009225 and
13 this is the statement, at least the only
14 statement I've located of Mrs. Indyk, and there's
03:42 15 no indication on the document anyway whether
16 there's another page, but I think that's what's
17 referred to.

18 Finally, if you could go to the
19 trial transcript, which is 076643, and if you
03:42 20 could just zoom in the top there, please. Mr.
21 Caldwell advises the Court:

22 "My Lord, this is a situation in which I
23 propose now to call a witness by the name of
24 Mrs. Marie Indyk. Now, her name is not on
03:42 25 the indictment. She was called by myself at



1 the preliminary inquiry and I had not
2 intended to call her at the trial, but my
3 learned friend has requested that I do so
4 and I am quite pleased to do so. I call
03:43 5 Marie Indyk."

6 Go back to the main page, please, and again if
7 you could call out there, please, and this is Mr.
8 Caldwell examining. Question, starting here:

9 "Q And I believe that on Friday January the
03:43 10 31st, 1969 that your husband drove you to
11 work and left you -- dropped you off at the
12 corner of Avenue O and 20th Street,
13 Saskatoon?

14 A Yes.

03:43 15 Q What time did he drop you there?

16 A I can't tell you exact time but we left
17 house seven or little after seven. If I may
18 remember correctly when we were passing 19th
19 Street bridge it was - clock was five past
03:43 20 seven.

21 Q All right. And I believe that morning
22 that you were going to go to St. Mary's
23 church before you went to work?"

24 And just go on to page 076647, full page, please,
03:44 25 just call out that part:



1 "Q Now tell the court what you saw about
2 this - this was a female person?

3 A Yes.

4 Q How old?

03:44 5 A That's one thing I am no good at
6 describing age.

7 Q But a mature woman or teenager or what?

8 A She wasn't teenager; she was a mature
9 woman.

03:44 10 THE COURT:

11 Q She was not a teenager?

12 A No.

13 Q She was a mature woman?

14 A Mature woman."

03:44 15 And that's all from that transcript,
16 Mr. Commissioner. As I say, the whole transcript
17 is in as evidence.

18 The last document for Mrs.

19 Indyk is 044203 and this date is, if you could
03:45 20 just zoom in there, is February 10th, 1993 --
21 just go back to the main page -- and this is from
22 the RCMP Flicker file, it says here re:
23 interview of Marie Indyk. If you could just
24 scroll through that second one, please, or call
03:45 25 it out. It says:



1 "Indyk located and interviewed. Her
2 statement was shown to her and she related
3 that she remembered providing same to
4 Saskatoon PD members."

03:45 5 Carry on. Sorry, scroll down here.

6 "Indyk further advised that she had
7 testified in court as well. Indyk was not
8 pressured by the Saskatoon PD members and
9 was treated politely. Indyk could shed no
03:45 10 further light on this investigation.

11 Concluded here."

12 That, Mr. Commissioner, is all I have to read in
13 for Mrs. Indyk and is the evidence I have for
14 today. We will move up some of our Thursday
03:46 15 witnesses tomorrow to have a full day.

16 COMMISSIONER MacCALLUM: Thank you.
17 Tomorrow at 10, please.

18 (Adjourned at 3:45 p.m.)
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25



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We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
Official Queen's Bench Court Reporters for the Province of
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contain a true and correct transcription of our shorthand
notes taken herein to the best of our knowledge, skill,
and ability.

_____, CSR

Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

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