

*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 6

Inquiry Proceedings



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Transcript of Proceedings

(Reconvened at 10:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

CLERK: Honourable Mr. Justice McCallum
presiding as Commissioner, please be seated.

MR. HODSON: Good morning,
Mr. Commissioner. We have five witnesses lined
up for today, three this morning, two this
afternoon. The three this morning will be
Mr. Rick Hounjet, the gentleman who located the
knife handle; Mr. Giles Beauchamp, the gentleman
who found a wallet in 1969; Mr. Dennis Elliott,
who knew Gail Miller. This afternoon we will
hear from Terry Michayliuk, who worked at the
funeral home and attended on the scene of the
body that morning; and as well Helen Gerse, who
was a neighbour of Cadrain's, and found a toque
near her home at about that time.

So the first witness will be
Mr. Rick Hounjet, if you could come forward,
please.

RICK ARMOND HOUNJET, sworn:

BY MR. HODSON:

Q Good morning, Mr. Hounjet, thank you for
testifying at this Commission of Inquiry. I



1 understand that you currently reside in Saskatoon;
2 is that correct?

3 A Yes, it is.

4 Q And that you are currently 43 years of age?

10:06 5 A Yes.

6 Q I understand that, in 1969, you resided at 227
7 Avenue N South in Saskatoon?

8 A That's correct.

9 Q And at that time, again January of 1969, you were
10:07 10 eight years old and attending grade 3 at St.
11 Mary's School?

12 A Yup.

13 Q I wonder if you could call up map B please, I just
14 want to show you a few maps, Mr. Hounjet. If you
10:07 15 could flip it around. Actually this is, just to
16 give you some orientation, this is 20th Street,
17 21st Street, Avenue O, Avenue N, and the arrow is
18 north.

19 A Okay.

10:07 20 Q And if you could just sort of zoom in on this
21 area, please, and you will see there 227 Avenue N;
22 is that your house, where I have got the X, where
23 it says "Hounjet"?

24 A Yes.

10:07 25 Q And if you could just scroll down a bit, please,



1 on the map, and here is St. Mary's School where
2 you went to school; is that right?

3 A Yes.

4 Q If you could show map C, please, and just
10:08 5 perhaps -- this is just a different map,
6 Mr. Hounjet, that someone else drew. I'll just
7 show you another spot, and again there was your
8 house there, at 227 Avenue N; is that correct?

9 A Yes.

10:08 10 Q Now I understand, sometime after 1969, that
11 your -- that house was removed; is that correct?

12 A Yes. It's a parking lot now.

13 Q Okay. Do you know when that happened?

14 A Umm, --

10:08 15 Q Just ballpark?

16 A -- I would have been around 14, so I don't know.

17 Q About 1975?

18 A I guess so, yeah.

19 Q Okay. Now if we could go back to map B, please.

10:08 20 And, again, if we could just focus in on that area
21 please. Now do you remember the Gail Miller
22 murder January 31, 1969?

23 A Yes.

24 Q Yeah. And this map, Mr. Hounjet, just shows your
10:08 25 house, and it also shows -- you see where I have



1 circled there, the body found, and it looks to be
2 right in behind your house; is that correct?

3 A Well, yeah, kind of behind our house and the
4 neighbour's house.

10:09 5 Q Okay. And do you remember that day, January 31,
6 1969?

7 A Yeah.

8 Q And what do you remember about hearing about the
9 murder?

10:09 10 A Well, just a little bit of stuff at school, there
11 was a lot of police in the neighbourhood.

12 Q And can you -- just, again, if we could zoom in a
13 bit on this lot here on your property -- and just
14 try and give me a sense, Mr. Hounjet, where the
10:09 15 house was and what was in the back yard area?

16 A Okay. This here --

17 Q And go ahead, just --

18 A Okay. This here was the front lawn.

19 Q Don't worry, I have had trouble with arrows too.

10:09 20 A Okay. This here would be the house area here.

21 Q Okay. I'll tell you what, so this would be the
22 house, right here?

23 A Yes.

24 Q Okay.

10:10 25 A Okay. In here there was a driveway.



1 Q Okay.

2 A Right here. And up to -- all of this here was all
3 back yard here.

4 Q Okay.

10:10 5 A And then, there, we had a storage area in the
6 back, a big, large, wooden storage area, there was
7 caragana along here, and there was a wire fence
8 along here.

9 Q Okay. So -- whoops, oh, let's go back here, and
10:10 10 we'll just -- so that the house would be about
11 right there; is that correct?

12 A Yes.

13 Q And this was a driveway?

14 A Yes.

10:10 15 Q Now was there a garage, or anything, or just a
16 straight --

17 A There was a little, a little garden shed here.

18 Q And could you put a vehicle in there?

19 A No.

10:10 20 Q And then I think you said a wire fence right along
21 the --

22 A Yes.

23 Q Sort of going east-west along the back alley? It
24 would be a wire fence?

10:10 25 A Yes.



1 Q And then I think on the back fence, facing the
2 north-south alley, you said caragana bushes?

3 A That's correct.

4 Q And was there a gate back here; do you remember?

10:11 5 A Umm, no, there was, like I think there was a
6 little hole in the caraganas where we used to
7 sneak through.

8 Q Okay.

9 A But there was no gate.

10:11 10 Q Thank you. And then, on this side, was your yard
11 accessible through this wire fence, was there a
12 gate, or did you have to go in this driveway?

13 A You had to go into the driveway.

14 Q Now if you could just go back to the main map B,
10:11 15 please. Again, Mr. Hounjet, there is your house
16 and there is St. Mary's School; what route did you
17 normally take to school? I'm talking January of
18 1969.

19 A Let's see. Straight down the alley, and then down
10:11 20 Avenue O, and straight down.

21 Q Okay. And that would be your regular route?

22 A Yes, it would.

23 Q And you had some siblings, as well, that went to
24 St. Mary's School?

10:12 25 A Yes.



1 Q A couple of brothers, a couple of sisters?

2 A Yes.

3 Q And that, generally, was the route that was
4 travelled?

10:12 5 A Yes.

6 Q And what time did school start?

7 A I think at 9:00.

8 Q And I take it there was other kids living in this
9 area, was there, in and around?

10:12 10 A Yeah, lots of kids.

11 Q And, to your recollection, was this alley
12 well-travelled by children going to school?

13 A Yeah. I mean, like, there wasn't a herd of us or
14 nothing but --

10:12 15 Q Yeah. What about this alley; do you know if kids
16 came down that alley to go to school?

17 A Yes.

18 Q Umm, do you recall whether there was much vehicle
19 traffic in this alley, or this alley, back at that
10:12 20 time?

21 A Well there was always cars, you know, going down
22 the alley. It wasn't really busy or nothing but
23 --

24 Q What about from the funeral home; was there
10:12 25 traffic related to their activities?



1 A Oh yeah.

2 Q Okay.

3 A Yeah.

4 Q Now I understand that on January 31, 1969 you
10:13 5 would have been eight years old; is that right?

6 A Yes.

7 Q Yeah. And that on the day of the murder your
8 parents were on vacation in Hawaii; is that
9 correct?

10:13 10 A That's correct.

11 Q And they returned I think on the Monday, according
12 to the reports, February 3rd?

13 A I can't remember the exact date, but --

14 Q Yes?

10:13 15 A -- shortly after.

16 Q Yes. Do you recall members of your family finding
17 a cosmetic item or a lipstick tube?

18 A Yes, I do.

19 Q Tell me what you remember, please?

10:13 20 A Well the -- mom and dad were on holidays, all of
21 this stuff happened, dad came back. He went to go
22 move the car probably on the Monday or Tuesday, I
23 don't remember, and he found the lipstick tube,
24 and I believe he gave it to my mom, and mom turned
10:13 25 it over to the police, I believe.



1 Q Okay. If we could just go back, and if you could
2 just zoom in again on that area, please. And so,
3 again, this would be the driveway and the vehicle
4 would be parked in there; is that correct?

10:14 5 A Correct.

6 Q And the lipstick tube was found underneath the
7 vehicle?

8 A Yes.

9 Q Do you know if your parents checked with the
10:14 10 family to see if it belonged to anybody in your
11 family?

12 A Well there was just my mom.

13 Q And it wasn't hers?

14 A No.

10:14 15 Q Okay. I could show you -- if you could call up
16 document 106192 please -- and Mr. Hounjet, this is
17 a police, a typed police report that they prepared
18 February 3rd, 1969, and I'll just -- if you could
19 call out that paragraph, please. And, just for
10:14 20 the record, I'll read it:

21 "Mrs. Anita Hounjet ...,"

22 Anita is your mother?

23 A Yes.

24 Q "... of 227-Avenue N South reports by
10:15 25 telephone that she and her husband just



1 returned from Hawaii February 1, '69. Their
2 auto had apparently been parked in the rear
3 yard till the a.m. of Monday, February 3rd.
4 When Mr. Hounjet moved the car he found a
10:15 5 tube of lipstick under it. Detective Parker
6 asked to pick articles up."

7 And then if you could call up 106184, and just
8 call out paragraph, please. Actually, just
9 scroll up a bit higher, please. It says:

10:15 10 "At 3:00 p.m. this date ...,"
11 and it's February 3rd, 1969:

12 "... a call was received to call at 227
13 Avenue N South, and pick up an article that
14 was found there.

10:15 15 I called there and spoke to
16 Mrs. John Hounjet ...,"
17 John was your father?

18 A Yes.

19 Q "... of this address. I was informed by her
10:15 20 that they had just returned from a trip and
21 that at noon today her husband had moved the
22 car and had noticed an article in the snow,
23 just in front of their car. They had not
24 touched it and called the police. Her
10:16 25 husband was not home at this time but she



1 showed me where this article was. The drive
2 way is to the rear of the house and faces
3 north. The article was next to the fence."

10:16 4 Does that sound right about where the article
5 was?

6 A Yes.

7 Q So what fence? It was, say, next to the fence;
8 was that the fence that boarded the alley?

9 A No.

10:16 10 Q Could you --

11 A There was a fence between the driveway and the
12 back yard.

13 Q Okay. If you could just go back to map B, please,
14 just zoom in there for a moment. So would there
10:16 15 be a fence right there; is that --

16 A Yes.

17 Q And so it would be close to that fence, is that
18 right, in that area?

19 A Yes.

10:16 20 Q Okay. Did you have any further discussions with
21 the police as to whether they linked that lipstick
22 tube to the Gail Miller murder or not?

23 A No, I didn't.

24 Q Next I want to show you a video -- hopefully -- we
10:17 25 have a video footage of 1969, it is of some police



1 officers digging out the sweater, but it does show
2 the back yard area, and we'll maybe just play it
3 through once and then I'll ask you some questions.
4 If you could just go back and replay that and
10:17 5 I'll get you to pause it. Stop there, please.

6 Is this your house? Does that look familiar?

7 A Yes.

8 Q And so I believe that this is the funeral home; is
9 that right?

10:17 10 A Yes.

11 Q And so this would be the wire fence we're talking?

12 A Yeah.

13 Q And I can do a better fence than that. Right
14 there is the wire fence you were talking about?

10:18 15 A Yes, it is.

16 Q And then -- so this would be the driveway that we
17 talked about, or you talked about?

18 A Yes.

19 Q And so this is where -- actually, maybe if you
10:18 20 could put an X there as to whereabouts the car
21 would have been parked?

22 A Well, it was a long driveway, the driveway went
23 from, like, all the way down, but the car would
24 have probably been parked in this area here.

10:18 25 Q Okay. If you could just carry forward with the



1 video. Just pause there for a moment. If you
2 could just go back, please. So this -- and I'll
3 show you on the map in a moment. I believe this
4 is where they found the sweater which is marked on
10:18 5 the map, we'll go back and show that location. If
6 you could carry forward please. Pause there.
7 This fence, is this your fence or is that the
8 neighbour's fence?

9 A That's the neighbour's fence.

10:19 10 Q And that would be Pyra is it, do you think, is
11 that the name?

12 A No, Bentleys I believe.

13 Q Bentleys, I'm sorry.

14 A Yeah.

10:19 15 Q If you could carry on, please. If you could stop
16 there. Now, I believe, this isn't very good, but
17 this would be the Bentleys' here, is that right,
18 and your property would be right here?

19 A Yes.

10:19 20 Q So this is actually facing south down the back
21 alley; is that right?

22 A That's right.

23 Q And so the east-west alley would be there; is that
24 right?

10:19 25 A Uh huh, yeah.



1 Q And the funeral home, you can't see it, but it's
2 over in that vicinity; is that right?

3 A Yeah, or further, yeah.

4 Q If you can just carry on with that. If you can
10:19 5 just go back to that last frame and pause right
6 there. So this would be -- is this your
7 neighbour's or is this your house here, can you
8 tell, or is that your neighbour's? It's not a
9 very good picture.

10:20 10 A That's the neighbour's house.

11 Q This is the neighbour's house here?

12 A No, I think this is the neighbour's house here.

13 Q Okay. I think we're done with the video for now.
14 If you could go back to map B, please, and just if
10:20 15 you could zoom in here, and you'll see sweater and
16 boot right there according to this map. This is
17 where I think they were digging on that video, if
18 I believe. Does that look about right, Mr.
19 Hounjet, in that vicinity?

10:21 20 A Yeah, it does.

21 Q Now, I understand that on March 2nd, 1969 you
22 found a knife handle in your back yard?

23 A Yes.

24 Q Can you give me your recollection, your best
10:21 25 recollection today of how that happened?



1 A I was a kid, I was playing in the snow and I
2 kicked it up. I was just --

3 Q Can you -- whereabouts in the back yard, and we'll
4 get a little more precise later, but can you tell
10:21 5 me where -- if you can just zoom into this area,
6 please. Where in the back yard area would it have
7 been, and ignore where it says knife handle unless
8 that's where it is, if you can tell me --

9 A I would have said it was a little closer to the
10:21 10 fence.

11 Q Sorry, a little closer this way?

12 A Yeah, around there, yeah.

13 Q Do you remember how far from the fence it would
14 have been roughly?

10:21 15 A Oh, 12, 15 feet from what I can remember.

16 Q I'll show you a report where I think the police
17 officers paced it off with you, but I think that's
18 a good general indication. Now, in this area --
19 what was in your back yard, just I take it snow,
10:22 20 there wasn't any other --

21 A Snow. Like I said before, there was a storage
22 area here and I think there was maybe remains of a
23 tree stump there. Other than that, really
24 nothing.

10:22 25 Q Now, this was March 2nd, '69, about 30 days after



1 the murder; is that right?

2 A I guess so, yeah.

3 Q Had you been out playing in the back yard prior to
4 March 2nd in the snow?

10:22 5 A No, not really. We were told to keep out of the
6 yard.

7 Q And who told you that?

8 A Our parents.

9 Q And was that because of the murder?

10 A Yes.

11 Q And do you recall what they told you, just stay
12 out of the back yard?

13 A Yeah, pretty much, like, don't go tramping around
14 there, you might --

15 Q Do you know if anybody had, prior to finding the
16 knife handle, whether anybody had been back in
17 your back yard looking for things?

18 A Yes.

19 Q And who was that?

20 A The police.

21 Q And they were out in your back yard looking for
22 things in the snow?

23 A Yes.

10:23 24 Q Now, when you found the knife handle, can you
25 recall how it was situated in the snow, was it



1 buried, was it underneath fresh snow, was there an
2 indentation?

3 A No. The first time I saw it it was flying through
4 the air. I kicked it up.

10:23 5 Q I see. So you were just kicking snow and happened
6 to kick this?

7 A Yeah.

8 Q And was it in a trampled down area do you recall?

9 A I can't recall.

10:23 10 Q And so what did you do with it when you found it?

11 A I gave it to my mom.

12 Q And do you know what your mother did?

13 A She -- well, she was baking at the time and she
14 just held out her apron. I put it in the apron
10:23 15 and then she phoned the police.

16 Q Did you have mitts on?

17 A Yes.

18 Q So you picked it up with your mitts and put it in
19 your mother's apron and she didn't touch it
10:24 20 either?

21 A No.

22 Q If you could call up document 106597, please.

23 Actually, just -- yeah. I take it -- we'll get

24 back to the map in a moment. We'll go to 106597

10:24 25 and this is a report dated March 2nd, 1969 by



1 Detective McCorriston. If you could just zoom in
2 that paragraph, please, and I'll just read parts
3 of this to you, Mr. Hounjet. It says:

4 "At approximately 4:20 p.m. this date, March
10:24 5 2nd, 1969, Detective Hein and myself called
6 at the Hounjet residence at 227 Avenue N
7 South where Richard Hounjet, 7 years, date
8 of birth September 2, '61 turned over to me
9 a knife handle which he stated he found at
10:25 10 approximately 4:00 p.m. this date in his
11 back yard. This knife handle was about 3 or
12 4 inches under the surface of the snow at a
13 point which was measured by Detective Hein
14 as 14 paces east of the north-south lane and
10:25 15 7 paces north of the east-west lane. The
16 snow at this point would be at least 1 foot
17 deep. Richard Hounjet marked this handle in
18 my presence by placing an "X" on the side of
19 same with a needle."

10:25 20 Does that paragraph accurately record what would
21 have happened on that day to the best of your
22 recollection?

23 A Yes.

24 Q Do you recall this Detective Hein or a police
10:25 25 officer actually pacing off where you found the



1 knife?

2 A I don't remember that.

3 Q Just scroll down, the next portion of this
4 statement, it says:

10:25 5 "At approximately 4:30 p.m. this date, a
6 witness statement was received by myself
7 from Richard Hounjet.

8 The knife handle is
9 approximately 4 inches in length with about
10:25 10 1/8 inch of the broken blade sticking out.
11 It is of a plastic type material and is a
12 beet red colour.

13 At approximately 4:45 p.m. this
14 date, I turned this knife handle over to
10:26 15 Ident Officer Kleiv after scratching my
16 initials "G.M." on same. I/O Kleiv also
17 marked this handle at the same time."

18 Next paragraph, please:

19 "It is believed this could be the handle of
10:26 20 the weapon used in the stabbing murder of
21 Gail Miller on January 31, '69."

22 Q Do you recall the knife handle, Mr. Hounjet, being
23 a beet red colour?

24 A Yes.

10:26 25 Q Did you talk to the police officers that day then



1 about what you found?

2 A Yes.

3 Q If you could call up next document 041688 which
4 are Detective McCorriston's notes and if you could
10:26 5 go, please, to page 041717. You don't remember
6 the names of the officers who were there that day
7 do you?

8 A No, I don't.

9 Q And I'm just going to call out here a part, Mr.
10:27 10 Hounjet. This is from the police officer's
11 notebook who was there that day and I'll just run
12 through this with you. It says:

13 "4:20 p.m. called at 227 N South. Received
14 from Richard Hounjet, 7 years --"

10:27 15 I think it says born September 2, '61,

16 "-- one plastic knife handle, beet red
17 colour, approximately four inches long with
18 approximately 1/8 inch of knife blade
19 sticking out of handle. He states he found
10:27 20 this handle approximately 4:00 p.m. date in
21 his back yard at a point 14 paces east of
22 the north-south lane and 7 paces north of
23 east-west lane, approximately 3 or 4 inches
24 under snow. Marked with "X" on side of
10:27 25 handle by Hounjet with needle. 4:30 p.m.



1 witness statement received."

2 If you could then call up, please, document
3 044121 and if you could just zoom in on that. Is
4 that your signature?

10:28 5 A Yeah.

6 Q Has it changed?

7 A Yeah.

8 Q Go back to the main document, please. I promised
9 Mr. Hounjet that there's some questions and
10:28 10 answers in his transcript about how he did in his
11 report card in grade 3 and I promised him I
12 wouldn't put those to him. If you could just go
13 back up here. So this is your name and I take it
14 this would be the officer's handwriting; is that
10:28 15 right?

16 A Yes.

17 Q And it's March 2nd, '69, 4:30. If we could
18 just -- can you tell me, if you remember, how this
19 came about? Did the officer sit and talk to you
10:28 20 and write this down in front of you, do you
21 remember, and read it to you, or do you recall?

22 A I don't recall.

23 Q Okay. What the statement says, it says:

24 "At about 4:00 this afternoon I found a
10:29 25 handle of a knife which had the blade broken



1 off. This was about 3 or 4 inches under the
2 surface of the snow in our back yard."

3 If you could scroll up, please.

4 "This handle was plastic material, beet red
10:29 5 colour and about 4 inches in length. There
6 was about 1/8 inch of the blade sticking out
7 of this handle. I placed an "X" on the side
8 of this handle with a needle."

9 Does that sound like an accurate recording of
10:29 10 what you said at the time?

11 A Yes.

12 Q And you did in fact put an X on the handle with a
13 needle?

14 A Yes.

10:29 15 Q Did you have gloves on or did you handle the knife
16 do you recall?

17 A I don't recall. When I put the "X" on with the
18 needle, I can kind of remember someone else
19 holding it.

10:29 20 Q Okay.

21 A And I just scratched an "X" on it.

22 Q I'm going to show you, Mr. Hounjet, this is an
23 exhibit that we have obtained from the court that
24 was an exhibit in both the David Milgaard trial
10:29 25 and the Larry Fisher trial and I will ask you to



1 identify it and see if you can find the "X" mark.
2 Mr. Hounjet, is that the knife handle that you
3 found?

4 A Yes, it is, I believe so. I can't see the "X".

10:31 5 Q Maybe just sort of zoom in as close as -- maybe
6 just rotate it over on the other side. Actually,
7 if you can just go on the top I think where you
8 can see some etchings there, and maybe just flip
9 it on the side I think on the top. I think
10:31 10 there's some etchings on there. No. Right there.
11 Anyway, there's the etchings. I think you'll see
12 GM, which I believe is GM for McCorriston, TK is
13 for Thor Kleiv I believe. If you can just sort of
14 move that over and see if we can find that "X",
10:32 15 just sort of go down and just turn it over. LRN,
16 I don't know who that is, or LR. Just carry on.
17 In any event, Mr. Hounjet, are you satisfied that
18 this is the knife handle that you would have given
19 the police?

10:32 20 A Yes.

21 Q I'm wondering, Mr. Commissioner, if we could mark
22 this as an exhibit. Oh, there's the "X". I knew
23 we would eventually get there. Is that the "X"
24 that you put on there with a needle?

10:33 25 A Yes.



1 MR. HODSON: I'm wondering,
2 Mr. Commissioner, if we can mark this as an
3 exhibit, P-1. None of the documents are going by
4 an exhibit number, but I think there will be a
10:33 5 few pieces of physical evidence and we'll mark it
6 as an exhibit.

7 COMMISSIONER MacCALLUM: Very well.

8 MR. HODSON: And just for the record, I
9 will mark it in the package that we received it
10:33 10 from the court. There are a number of markings
11 and exhibit tags on that, so the knife handle
12 together with the package that held it will be
13 exhibit, I think P-1; is that right?

14 CLERK: Yes.

15 -->**EXHIBIT P-1:**

16 KNIFE HANDLE AND EXHIBIT BAG.

17 BY MR. HODSON:

18 Q Now, Mr. Hounjet, do you remember at this time
19 talking to the police or your family members about
10:34 20 other knives that were found in and around that
21 area?

22 A A little bit.

23 Q And what do you remember?

24 A I remember the police found a knife that belonged
10:34 25 to my brother.



1 Q And was that -- your brother's name is what?

2 A Dan, Daniel.

3 Q Daniel. And what kind of knife; do you remember?

4 A It was a white-handled knife. I believe he used
10:34 5 it for Boy Scouts.

6 Q And the police found it in that area did they?

7 A Yes.

8 Q And they came and talked to you or to your brother
9 or to your family do you remember?

10:34 10 A Not to me. I don't know if they talked to mom or
11 dad or what.

12 Q But do you recall Daniel getting a knife back from
13 the police?

14 A I recall the knife being taken. I don't recall
10:34 15 him ever getting it back.

16 Q I'll maybe just show you a couple reports.
17 106656, please. This is a report, March 4, '69,
18 which would be I think two days after you found
19 the knife handle, and again this is Detective
10:35 20 McCorriston, and if you could just zoom in this
21 paragraph, please. It says:

22 "At approximately 5:35 p.m. this date, the
23 pearl handled jackknife with the one side of
24 the white pearl handle missing, was
10:35 25 identified by Daniel Hounjet, 14 years, date



1 of birth July 9, '54 of 227 Avenue N South
2 as being his property. He states he
3 obtained this knife during 1967 to go on a
4 scout camping trip and that he lost this
10:35 5 knife some time ago. He was positive in his
6 identification of this knife, however he nor
7 anyone else at this address were able to
8 identify the small bone-handled hunting
9 knife."

10:35 10 If I can pause there, does that assist in your
11 recollection, Mr. Hounjet, about the knives?

12 A Yeah.

13 Q So was there -- the white pearl handle, it says
14 jackknife. Do you recall seeing that or hearing
10:35 15 about that at the time?

16 A I just recall Dan talking about it vaguely.

17 Q Do you recall anything about a small bone-handled
18 hunting knife?

19 A No.

10:36 20 Q Now, I understand that you testified at the
21 preliminary hearing and trial of David Milgaard;
22 is that right?

23 A Yes.

24 Q And if I could just call up the preliminary
10:36 25 hearing transcript, 076562, just go to the second



1 page, please -- next page -- and I don't propose
2 to refer to any of this, Mr. Commissioner, but
3 just to identify that this document is the
4 transcript of Mr. Hounjet, and you recall
10:37 5 testifying at court on two occasions?

6 A Yes.

7 Q And the next is 076568 which is the trial
8 transcript and again Richard Hounjet, a date, and
9 I'm just referring to that to have this in the
10:37 10 record. Now, do you recall in or about 1993 being
11 contacted by the RCMP about this matter?

12 A Yes.

13 Q I wonder if you can call up document 044117,
14 please, and, Mr. Hounjet, these are just their
10:37 15 notes that I want to go through with you. If you
16 can go to the next page, 044118. Pardon me, 119.
17 And March 2nd, 1993, it looks as though they
18 interviewed you. Does that address on Pendygrasse
19 Road, is that where you lived at the time?

10:38 20 A Yes, it is.

21 Q It says:

22 "Interviewed Richard Hounjet..."

23 At your address,

24 "... and he could recall finding the plastic
10:38 25 knife handle. He remembered turning the



1 knife handle to the SCP and testifying at
2 the trial of Milgaard.

3 He was treated properly by the
4 SCP. Nothing further was learned from our
10:38 5 interview that could shed new light on our
6 investigation."

7 Is that an accurate recording of what you would
8 have told them at the time?

9 A Yes.

10:38 10 Q Can you just go back to page 044118, and again
11 this is the police just writing a note on the file
12 after they interviewed you. It says:

13 "It may be noted that Hounjet mentioned that
14 it was common practice for people to walk
10:38 15 down the back alley either to go to school,
16 et cetera."

17 And that's I think consistent with what you told
18 me this morning; correct?

19 A Uh huh.

10:39 20 Q And the RCMP say:

21 "This could attribute to the fact that
22 Miller's body was located in the back alley.
23 It could be possible that Miller may have
24 been walking down the back lane when she was
10:39 25 attacked."



1 And this is just the RCMP's recording, I just
2 point out for the record. I understand you also
3 testified at the Larry Fisher preliminary hearing
4 and trial; is that correct?

10:39 5 A Yes, I did.

6 Q And just for the record, if you could call up
7 315349 and this is the prelim transcript. I don't
8 propose to go through it, Mr. Commissioner, but
9 just identify it for the record. And next your
10:39 10 trial transcript, call up document 313987, please,
11 and go to the next page. This is a transcript.
12 Do you recall going to Yorkton to testify in this
13 trial?

14 A Yes.

10:39 15 Q And if you could go to page 314006 of the
16 transcript and I just want to read a portion of
17 this to you, Mr. Hounjet -- just if you could call
18 out that -- and this is Mr. Beresh, Mr. Fisher's
19 counsel, cross-examining. It says:

10:40 20 "Q Okay. When you indicated to the
21 prosecutor that you found the knife
22 blade, that would be fairly close to
23 this alley?

24 A Yes.

10:40 25 Q Close for someone to throw it in from



1 there?

2 A Yes.

3 Q Not far at all?

4 A No."

10:40 5 And that was the evidence you gave at the time,
6 Mr. Hounjet?

7 A Yes.

8 Q And that's accurate?

9 A Yes.

10:40 10 Q Go to the top of the next page, please, and again
11 just -- it says:

12 "Q Did all the kids in your family go to
13 the same school?

14 A Yes.

10:40 15 Q And did other kids in the neighbourhood
16 go to the same school as well, or most
17 of them?

18 A Oh, yes.

19 Q So would you see kids in that back alley
10:41 20 going to school most mornings?

21 A That alley wasn't too travelled in the
22 mornings. Actually, just -- we kind of
23 used it once in a while, a friend of
24 mine might come and pick me up on the
10:41 25 way to school, but most of the kids



1 walked down 20th Street.

2 Q Okay. I understand. But this alley was
3 used quite a bit?

4 A Yeah.

10:41 5 Q By kids?

6 A Yeah."

7 Was that an accurate recording of what you said
8 at the time, Mr. Hounjet?

9 A Yes.

10:41 10 Q And that's truthful?

11 A Yes.

12 MR. HODSON: Those are all of my questions,
13 Mr. Hounjet. Other counsel may have some
14 questions for you.

10:41 15 COMMISSIONER MacCALLUM: Mr. Hodson, will
16 we use the same order? I don't see the list.

17 MR. HODSON: The same order, so --

18 MR. WOLCH: I have no questions.

19 MS. McLEAN: No questions.

10:42 20 MR. O'KEEFE: I have no questions, sir.

21 MR. ELSON: No questions.

22 MR. FOX: No questions.

23 COMMISSIONER MacCALLUM: No questions from
24 other counsel. Thank you, Mr. Hounjet, you are
10:42 25 excused.



1 GILES BEAUCHAMP, sworn:

2 BY MR. HODSON:

3 Q Morning, Mr. Beauchamp, thank you for testifying
4 at this Commission of Inquiry.

10:43 5 I understand you currently

6 reside in Saskatoon?

7 A Yes.

8 Q And you are 44 years of age?

9 A Right.

10:43 10 Q And that would make you eight years of age in
11 January of 1969, or thereabouts?

12 A You bet.

13 Q And I understand that, at that time, you lived at
14 1505-20th Street West in Saskatoon?

10:43 15 A Yes.

16 Q And did you attend St. Mary's School?

17 A Yes.

18 Q Did you attend with Mr. Hounjet?

19 A Yup.

10:43 20 Q If you could call up map B, please. I think your
21 address was 1505-20th Street, and here is 20th
22 Street here, Avenue O and Avenue N. Can you tell
23 me whereabouts on 20th Street you would have
24 lived, was it --

10:43 25 A Well, it's 1505, probably right in there.



1 Q Right here? So here is the funeral home here;
2 were you on the same block as the funeral home?

3 A Oh, no. No, sorry, I think it's right there.

4 Q So, sorry, where?

10:44 5 A Sorry, I'm just getting oriented here.

6 Q Okay. If we go up to map C, maybe that might give
7 you a better idea. So there's 20th Street,
8 there's Avenue O, there is the Cadrain house,
9 there is Avenue N. Would you have lived -- and
10:44 10 here is St. Mary's Church; would you have been in
11 this block or were you in the block with the
12 funeral home?

13 A Okay. No, it would have been right in here.

14 Q Right here?

10:44 15 A Yup.

16 Q Okay. So you were on the south side of 20th;
17 right in here?

18 A Whoops, yeah.

19 Q Actually, just zoom in there and we might even
10:44 20 have a -- aha, there we go, "Beauchamp".

21 A Yup.

22 Q Is that -- were you next door to the Duffuses,
23 were they your neighbours at the time, Murray
24 Duffus; do you remember?

10:44 25 A I don't remember.



1 Q Okay. Were you the second house in off of Avenue
2 O; does that sound right?

3 A Yes.

4 Q Okay. Just go back to map B, please. So, again,
10:45 5 here we have the Cadrain house on Avenue O, and
6 you would have been, I think, the second house off
7 of that; is that about right?

8 A Right.

9 Q Where I have got the X?

10:45 10 A Yeah.

11 Q Do you remember there being a bus stop at that
12 corner?

13 A Yes.

14 Q Was there a confectionary right on this corner?

10:45 15 A Yes, there was.

16 Q Now in January of '69 were you friends with any of
17 the Cadrain boys?

18 A Yes.

19 Q And which one?

10:45 20 A Phillip.

21 Q Phillip?

22 A Yeah.

23 Q And would he be about your age and your grade?

24 A Yes.

10:45 25 Q And I take it, on occasion, you would be at the



1 Cadrain house?

2 A Yes.

3 Q Did you know, at the time, a fellow by the name of
4 Larry Fisher who lived in the basement?

10:45 5 A No.

6 Q Okay. Do you recall ever encountering him or his
7 wife, Linda Fisher?

8 A No.

9 Q I understand that sometime after the murder of
10:46 10 Gail Miller you found her wallet; is that correct?

11 A Right.

12 Q Can you tell me what you remember about that?

13 A Umm, just the fact that I was over at Phillip's to
14 see if they were home, and they weren't home, so
10:46 15 on my way home I was kicking the snow and out came
16 the wallet.

17 Q Okay. Now -- and I'll show you some police
18 reports in a minute and a statement -- but I
19 believe the date to be April 4, 1969; does that
10:46 20 sound right?

21 A Yes.

22 Q And if we could just zoom in on this area, please.
23 So here would be your house, here is the Cadrain
24 house, and I think you said you were walking back
10:46 25 to your house when you found it?



1 A Right.

2 Q Do you recall -- and, again, someone has written
3 "wallet" there, you can ignore that for the moment
4 unless that's accurate -- can you tell me
10:46 5 whereabouts on that block you believe you found
6 the wallet?

7 A Actually, that is quite accurate, I think it was
8 around the third, third or fourth house down --

9 Q Okay.

10:47 10 A -- from Cadrain's.

11 Q So in that vicinity would be correct?

12 A Right.

13 Q And St. Mary's School is right across the street;
14 is that right?

10:47 15 A That's right.

16 Q Now can you tell me where, sort of where in the
17 snow, was it on -- you were -- were you travelling
18 on this sidewalk?

19 A Yes.

10:47 20 Q And was there snow up on this -- whoops -- was the
21 road from the, or snow from the road shoveled over
22 to the side of the sidewalk, or --

23 A Umm, well there was a boulevard in there, between
24 the road and the sidewalk there was a boulevard of
10:47 25 grass and trees growing in there.



1 Q Okay. So, sorry, if I could just -- that may well
2 be that that is what that is signifying is a
3 boulevard; is that right?

4 A Sort of, yeah.

10:47 5 Q Okay. And do you know how wide that was?

6 A Probably about six feet.

7 Q Okay. And is that where you found a wallet?

8 A It would have been on that area, between the
9 sidewalk itself and where the people shoveled the
10:48 10 sidewalk --

11 Q Okay?

12 A -- onto the side.

13 Q So between the sidewalk and the road there was a
14 boulevard and on the boulevard people, it
10:48 15 appeared, had shoveled snow and dumped it on the
16 boulevard?

17 A Right.

18 Q So there would have been snow stacked up on the
19 boulevard?

10:48 20 A Uh-huh.

21 Q Yes?

22 A Yes.

23 Q And did you see the wallet --

24 A No.

10:48 25 Q -- before you kicked it? You just kicked the snow



1 and the wallet came out?

2 A Right.

3 Q Were you alone at the time?

4 A Yes.

10:48 5 Q And then what did you do with the wallet?

6 A Umm, I took it and hid it underneath the shack at
7 St. Mary's School.

8 Q Okay. If we can go to map C, I think that might
9 show the -- if you could just go into that area,
10:48 10 please. So here's the Cadrain house here, and
11 third house in there the wallet, does that sound
12 about -- or look about right?

13 A Yup.

14 Q And, then, so where did you take it then?

10:49 15 A Well, there was a shack out in this area, in this
16 corner.

17 Q Right up here?

18 A Yeah.

19 Q Okay. Now that I think --

10:49 20 A Of the school yard.

21 Q I'm sorry, now is that right on 20th Street? Do
22 you want to just scroll up on the map, please,
23 just make sure we get our bearings.

24 A No.

25 Q Oh, I'm sorry, there is --



1 A That would be at the alley.

2 Q Okay. So there's an alley here?

3 A Right.

4 Q And so, in this vicinity, there was a shack?

10:49 5 A Yup.

6 Q And was that for skaters at the rink, was it, or

7 --

8 A Right.

9 Q And so you took the wallet and put it under the

10:49 10 shack?

11 A Right.

12 Q Was there anything in the wallet when you found

13 it?

14 A Umm, yes, there were a few pieces of

10:49 15 identification and stuff in it.

16 Q Okay. And what did you do with those?

17 A Some of them I think I had thrown out.

18 Q Okay. Was there any money in the wallet?

19 A No.

10:49 20 Q And so you took the wallet and put it under the

21 shack here?

22 A Yes.

23 Q And, at the time you put it under, there was

24 nothing in the wallet; is that right?

10:50 25 A No, there were --



1 Q Oh, there were?

2 A -- some more pieces of identification in it.

3 Q Okay. Did you look at them?

4 A No.

10:50 5 Q Okay. Then what did you do?

6 A Then I went home for supper.

7 Q Okay. And then after that?

8 A From there, I had gone over to a friend's house,
9 Norman Remanda's house.

10:50 10 Q Yes?

11 A But I grabbed the wallet and then went over to his
12 place.

13 Q Okay. So if you could just scroll up a bit, stop
14 there, whoa. So you found the wallet, put it
10:50 15 under the shack, went home for supper, went back,
16 picked up the wallet, and then where did
17 Mr. Remanda live?

18 A I don't remember.

19 Q Okay. I think he was on 20th Street, if I'm not
10:50 20 mistaken.

21 A Yeah.

22 Q So you then went to his house with the wallet
23 after supper?

24 A Yes.

10:50 25 Q And then what happened?



1 A Umm, well I talked to him about it, and then he
2 and I decided to show his mom, and from there she
3 realized who the wallet belonged to and called the
4 police.

10:51 5 Q So at the time you showed it to his mother it had
6 Gail Miller's identification in it, you believe?

7 A It had some, yes.

8 Q Yeah. And so she phoned the police?

9 A Right.

10:51 10 Q And then what happened?

11 A They came to, the police came to her place, picked
12 me up, and then I told them about the other pieces
13 that I had thrown out, --

14 Q Yes.

10:51 15 A -- and we went back there to pick them up.

16 Q Okay. Was there one or two officers; do you
17 remember?

18 A I don't remember.

19 Q Okay, so you then went back, and did you show the
10:51 20 officer where you found the wallet?

21 A Yes.

22 Q If I could call up document 106653, please, and
23 this is a report -- you can actually just -- it's
24 April 4, 1969. Just go back to the main document,
10:52 25 and this is Detective Sergeant Ray Mackie, and



1 just call out that paragraph, please. Now it
2 says:

3 "At 2:30 p.m., I received a brown leather
4 folding wallet with,"

10:52 5 I think:

6 "... a snap closure from Mrs. Remanda 224
7 Avenue N South."

8 Just pause there. Does that sound where, sound
9 right as to where Mr. Remanda lived on Avenue N?

10:52 10 A Yes.

11 Q "Mrs. Remanda stated her son and Giles
12 Beauchamp 8 years of age 1305-20th Street
13 West and brought the wallet to the house. I
14 then took Remanda and Beauchamp to where
10:52 15 they had found the wallet and they took me
16 to the area in front of 326 Avenue O South
17 where they pointed to a pile of snow on the
18 boulevard. And Beauchamp stated that he had
19 been walking along Avenue O and kicking the
10:52 20 snow and the wallet flew out. On checking
21 this area, just on the edge of the sidewalk,
22 I found two hospitalization cards bearing
23 the name of Gail Miller."

24 Does that sound like an accurate recording of
10:53 25 what happened?



1 A Yes.

2 Q Now this says 2:30 p.m., I think you told me after
3 you found it you went home, you went home for
4 lunch; did you? Is that --

10:53 5 A Yeah.

6 Q Or was it --

7 A For supper.

8 Q -- for supper? Okay.

9 A Yeah.

10:53 10 Q Is it possible it was lunch? What time do you
11 remember this to be?

12 A It is possible, but I could have taken and put it
13 there, had supper, and then went out, you know.

14 Q And can I just scroll down, please, it says:

10:53 15 "This wallet is presently stored in my
16 locker D 17 where it has been placed in a
17 plastic bag until it dries. The wallet has
18 not been examined for contents due to the
19 possibility of some success in a fingerprint
10:53 20 examination."

21 Do you recall handling the wallet at all, like
22 holding -- I presume you did.

23 A Oh yeah.

24 Q Did you have mitts on?

10:53 25 A Yeah, yeah.



1 Q Did you handle it without your mitts on, do you
2 remember, when you gave it to Mrs. Remanda?

3 A I would imagine, yeah.

4 Q Okay. And then it says:

10:53 5 "A short statement was taken from Beauchamp
6 boy in regard to his finding this wallet."
7 So you remember giving the police a statement; do
8 you?

9 A Yes.

10:54 10 Q Okay. If you could call up document 006295, and
11 if you could just zoom in there, your signature is
12 better than Mr. Hounjet's; is that your signature?

13 A Yes.

14 Q Okay. Go back to the main document, please, and
10:54 15 I'll just go through this with you. Do you
16 recall, it says here Detective Sergeant Raymond
17 Mackie, do you remember who the officer was who
18 you met with?

19 A No.

10:54 20 Q Okay. I'll just read through this, it says:

21 "On April 4 . . . ,"
22 pardon me, this would have been his handwriting,
23 not yours, he would have written this out?

24 A Yes.

10:54 25 Q It says:



1 "On April 4, 1969 I was walking along Avenue
2 O. I was just walking in the 300 block
3 Avenue O South.

4 I was kicking the snow and a
10:54 5 wallet flew out. I picked the wallet up.
6 It was open when it flew up.

7 Norman Remanda came along and I
8 showed him the wallet. We then went to
9 Remanda's house where Mrs. Remanda phoned
10:55 10 the police.

11 Mrs. Remanda thought this was
12 the wallet that belonged to the girl that
13 was killed."

14 Now that, Mr. Beauchamp, I take it, is not
10:55 15 exactly the sequence of events that happened; is
16 that right?

17 A Right.

18 Q Can you explain how this came to be in your
19 statement this way?

10:55 20 A I'm not sure.

21 Q Okay. I understand it's -- well, we'll go through
22 it and I'll show you some other statements here,
23 but I take it that Norman Remanda was not -- did
24 not -- if we just go there:

10:55 25 "Norman Remanda came along and I showed him



1 the wallet. We then went to Remanda's house

2,"

3 that's not what happened, exactly, is it?

4 A No.

10:55 5 Q Okay. Next, if we could go -- you then testified
6 at the David Milgaard preliminary hearing and
7 trial; is that right?

8 A Right.

9 Q If we could just call up 007371, go to the next
10:56 10 page please, and it shows here being examined by
11 Mr. Caldwell. And you can then go to page 007374.

12 COMMISSIONER MacCALLUM: This the
13 preliminary?

14 MR. HODSON: This is the preliminary, yes.

10:56 15 BY MR. HODSON:

16 Q Now, Mr. Beauchamp, at this time you were eight
17 years old; is that correct?

18 A Right.

19 Q Were you frightened when you attended at court?

10:56 20 A Quite, yes.

21 Q Fairly nervous?

22 A Very.

23 Q If you could just go through, and I'll just go
24 through some questions here about what was said at
10:56 25 the preliminary, and it says:



1 "Q And I believe you have a friend by the
2 name of Norman Remanda?

3 A Yes.

4 Q And that he lives at 224 Avenue N South?

10:57 5 A Yes.

6 Q And I think you were with him earlier on
7 this year one time, were you?

8 A Yes.

9 Q Were you with Norman when he found
10:57 10 anything?

11 A No.

12 Q And were you ever with Norman when he
13 located a wallet?

14 A Yes.

10:57 15 Q Do you know the date that was, Giles, or
16 not?

17 A April 4th.

18 Q And do you know whereabouts you were at
19 that time?

10:57 20 A Avenue O.

21 Q And do you know in what block on Avenue
22 O, like do you know the house numbers on
23 that block?

24 A It was by the school.

10:57 25 Q Okay. What school?



1 A St. Mary's.

2 Q And was it on the side of the street
3 where St. Mary's School is or on the
4 other side?

5 A By St. Mary's, the side that St.
6 Mary's School is."

7 I will just pause there. It was actually on the
8 other side of the street, wasn't it?

9 A Yes.

10:57 10 Q "Q Alright. And how was it, what happened
11 that you saw this ...,"?

12 go to the next page, please:

13 "... wallet?"

14 Zoom in, please:

10:57 15 "A Well I was kicking the snow and then I
16 saw a wallet fall.

17 Q You were kicking the snow, were you?

18 A Yes.

19 Q Now were you on the road or the sidewalk
10:57 20 or where?

21 A On the sidewalk.

22 Q And you said you saw a wallet fall, did
23 you?

24 A It flew up in the air when I kicked
10:58 25 it.



1 Q And did one of you fellas pick that up
2 then?

3 A I did.

4 Q And what did you do with it after you
10:58 5 picked it up?

6 A Well I put it underneath the cabin,
7 and then Norman came along and I
8 showed him it, and he said that it
9 belonged to Gail Miller that was
10:58 10 killed so he said let's go to my house
11 and tell his mom about it."

12 Just pause there. I think, what you told me
13 earlier, that that's not the right sequence of
14 what happened; is that right?

10:58 15 A No, it isn't.

16 Q Okay. And if you could just carry on please,
17 scroll up, and it says:

18 "Q Did you do that?

19 A And then his mom phoned the police.

10:58 20 Q Did the police come up?

21 A Yup.

22 Q And did you give one of them the wallet?

23 A Yes.

24 Q Was it you who gave them the wallet?

10:58 25 A Yes, I did.



1 Q I see. And you said something about
2 putting it under a cabin, what did you
3 mean?

4 A There is a sort of a cabin by St.
10:58 5 Mary's, a place to put on your skates
6 in the wintertime.

7 Q And did you get it back from there?

8 A Yes."

9 And then next page, please, just that part:

10:59 10 "Q Did you leave it there very long?

11 A Just about five minutes.

12 Q I see. And do you know the name of the
13 policeman you gave the wallet to or not?

14 A No."

10:59 15 And then just go down to question 31, please:

16 "Q Was there anything in it, Giles, when
17 you found it?

18 A No money or anything, but two papers
19 fell out, and we couldn't find one.

10:59 20 Q I see. Did you find one of them though?

21 A Yes."

22 Does that sound accurate?

23 A Yes.

24 Q Carry on to 33, please:

10:59 25 "Q What did you do with the one you found?



1 A Well the policeman and I found it and
2 then the man said that Norman and me
3 could go and play.

4 Q Did you take some policemen where you
10:59 5 found the wallet?"

6 Just to there:

7 "A yes.

8 Q Was that the same day?

9 A Yes.

10:59 10 Q I see. And was it the policeman who you
11 gave the wallet to?

12 A Yes."

13 Just go down to the bottom of the page. If you
14 would go back to the full screen, please, and
11:00 15 just call out that part. And this appears to be
16 where Mr. Tallis, David Milgaard's lawyer, asked
17 you some questions. He says:

18 "Q Now when you found the wallet, Giles,
19 were there just two papers in it?

11:00 20 A Yes.

21 Q And were they cards or just how would
22 you describe them?

23 A They were orange or something, little
24 black letters on it, names or
11:00 25 something.



1 Q Names? I see.

2 A I didn't read the names."

3 And is that an accurate -- do you recall that as
4 being right?

11:00 5 A Umm, yeah.

6 Q Or did you --

7 A That part.

8 Q Pardon me?

9 A Umm, yeah.

11:00 10 Q Do you, today, remember orange or something,
11 little black letters on it, or not?

12 A No, I don't remember that.

13 Q Okay. Go to the next page please, 007378, and
14 Mr. Tallis asked you:

11:01 15 "Q I see. Were there any pictures in it?

16 A Yes, a few.

17 Q Some pictures? Now, you mentioned
18 something about having a spot where you
19 put your skates on in the wintertime, is
11:01 20 that sort of a little cabin, or
21 something?

22 A Yes."

23 Do you remember pictures in the wallet?

24 A Yes.

11:01 25 Q Next down at the bottom, question 14, and this is



1 Mr. Tallis:

2 "Q Well, how far was this wallet from the
3 cabin when you found it?

4 A It was about two yards away."

11:01 5 That would not be right; is that correct?

6 A That's correct.

7 Q Yeah:

8 "Q Right close to the cabin, it was near to
9 a path where you walked to the cabin, or
11:01 10 how come you noticed it there?"

11 Go back, and:

12 "A No, it was by a gate.

13 Q I see. A gate close to the cabin?

14 A Yes.

11:01 15 Q And was it -- I take it you could see
16 it, could you, in the snow and you
17 kicked it?

18 A No.

19 Q I see. Well how much ..., "

11:02 20 Let's just pause there and I'm going to ask you
21 about this part, here, about the snow, Mr.

22 Beauchamp, whether this was accurate:

23 "Q Well how much snow was over it or could
24 you tell?

11:02 25 A About two inches.



1 Q So that when you just sort of kicked the
2 snow this thing flipped up, did it?

3 A Yes."

4 Does that sound right, just about the two inches
11:02 5 of snow and --

6 A I wouldn't have known how many inches of snow was
7 over top of that wallet.

8 Q Okay. Then, just for the record, if I could go to
9 the -- and you remember testifying at the trial as
11:02 10 well?

11 A Yes.

12 Q Yeah. And I take it you were as scared at that
13 time as you were at the prelim?

14 A Yeah.

11:02 15 Q And just for the record, this is 075339, I don't
16 propose to go through any of this,
17 Mr. Commissioner, just for the record.

18 Now I understand that your next
19 involvement in this matter came in 1993 when you
11:03 20 were contacted by the RCMP; is that right?

21 A Yes.

22 Q And if you could just call up 036917, and you
23 recall -- or do you recall a couple officers
24 calling you about this matter?

11:03 25 A Yes.



1 Q And I understand these officers would have
2 provided you with your earlier statements for your
3 review; is that right?

4 A Umm, I don't remember.

11:03 5 Q Okay. Do you remember telling these officers that
6 your evidence at the trial, or the statement,
7 wasn't quite exactly the sequence as you remember
8 it?

9 A Yes.

11:03 10 Q If you could just go to 036918, which is part of
11 this document, is this your signature at the
12 bottom here? Just zoom in on that, please.

13 A Yes.

14 Q Okay. And they go through, here is a question
11:04 15 here, if you could just call that out:

16 "Q Do you wish to change any portion of
17 your original statement that you
18 provided?

19 A I would now elaborate a bit concerning
11:04 20 what I did with the wallet and
21 contents after finding it.

22 Q Did any person ever attempt to alter
23 your statement in any way to exclude or
24 add any pertinent details?

11:04 25 A No. "



1 Is that what you would have told the RCMP?

2 A Yes.

3 Q And is it fair to say, Mr. Beauchamp, that the
4 different version of events you may have told at
11:04 5 the prelim and trial would have been due to your
6 age and your fear as opposed to anything that
7 anybody said or did to you?

8 A Absolutely.

9 Q Okay. And, just to be clear on that, no police
11:04 10 officer -- did a police officer at the time tell
11 you what to say or to say something different than
12 what you recalled?

13 A No.

14 Q And the prosecutor did not talk to you about your
11:04 15 evidence in that way?

16 A No.

17 Q And so you were an eight-year-old kid who was
18 scared?

19 A Yes.

11:05 20 Q If you could just go to the next page, please, and
21 this is a typed version of this handwritten
22 statement there, and we'll just go through this.
23 And it says:

24 "Further to the statement that you have
11:05 25 shown me today, I can remember walking north



1 along the east sidewalk of Avenue O. That
2 was the 300 block. It was at a spot about 3
3 houses north of Cadrain's where I found the
4 wallet. I looked through the wallet for
11:05 5 money. There was none in it. As I was
6 searching through it, I discarded several
7 pieces of identification and then took the
8 wallet and hid it under the shack in the
9 school yard. I went home for supper and
11:05 10 then went back and got the wallet which I
11 took to Remanda's to show my friend. Mrs.
12 Remanda called the police when she saw that
13 I had found the wallet. There was a picture
14 and some other ID still in the wallet which
11:05 15 alerted Mrs. Remanda where it had come from.

16 A uniformed policeman in a car
17 arrived and I went back with him back to
18 where I had found the wallet. He searched
19 the yard where I had discarded the pieces of
11:06 20 ID from the wallet. I don't recall a
21 policeman writing a statement and I have no
22 idea if the statement that I obviously
23 signed was taken in the police car, my home
24 or Remanda's house.

11:06 25 At the time I was nine years



1 old and I don't remember much about the
2 policeman. I don't think I had any other
3 contact with the police until I was at the
4 trial.

11:06 5 Since that time I have not been
6 contacted by any other person to discuss
7 this matter."

8 Is that an accurate recording of what you would
9 have told the police at the time, or the RCMP at
11:06 10 the time?

11 A Yes.

12 Q And is that; that's a truthful statement, is it?

13 A Yes.

14 Q I understand that you also testified at the Larry
11:06 15 Fisher preliminary hearing and trial; is that
16 right?

17 A Yes.

18 Q And, just for the record, the preliminary hearing
19 transcript, if you could call up, is 315365. I
11:06 20 don't propose to go through that. And if you
21 could call up as well, the trial transcript is
22 314008, and if I could just draw your attention
23 there. Call that out. You recall testifying in
24 Yorkton --

11:07 25 A Yes.



1 Q -- at this trial. And this is Mr. Johnston, the
2 prosecutor, questioned you:

3 "Q Okay. I understand on April 4, 1969 you
4 made a discovery. Would you tell the
5 jury what time of day it was and how you
6 came to make this discovery, please?

7 A Time of day? It was probably a little
8 later in the day. I was walking along
9 Avenue O and I was kicking the snow,
10 and I kicked a wallet out from the
11 snow bank, and that's where it all
12 began.

13 Q What did you do with the wallet?

14 A From where I picked it up, looked
15 through it, was heading home so I put
16 it underneath the shack at St. Mary's
17 School.

18 Q Was there any money in it, Mr.
19 Beauchamp?

20 A No, there wasn't.

21 Q Did you see what was in it at that
22 moment?

23 A At that moment, no. I just noticed
24 that there were just papers.

25 Q Okay. So you said you took it and put



1 it where?

2 A Underneath the rink shack at St.

3 Mary's School.

4 Q That's an outdoor skating rink?

11:08 5 A Yes.

6 Q And the shack, that used to exist in
7 those locations, you put it underneath
8 the shack and went home?

9 A Yes.

11:08 10 Q What happened to that wallet, then, as
11 far as you know?

12 A Well it stayed there. I went from --
13 went home, had supper. From there I
14 went back, picked up the wallet, and
11:08 15 went over to a friend's place. And I
16 showed him and we decided, well we'd
17 better show his mom and see what she
18 wanted to do with it, and she noticed
19 it was Gail Miller's wallet, and from
11:08 20 there she phoned the police.

21 Q So, your friend's mom. Who is your
22 friend's mom?

23 A Norman Remanda."

24 And that's the version that you gave at the Larry
11:08 25 Fisher trial, Mr. Beauchamp, when you were 40



1 years of age; that was the accurate version of
2 what happened?

3 A Yes.

4 Q Those are all my questions, Mr. Commissioner.

11:08 5 I was not able to locate the
6 wallet, I'm not sure, it may still be with the
7 exhibits. I'm not sure that anything turns on it.
8 It may have been returned to the Miller family.
9 But that's why I have not put it to him.

11:09 10 COMMISSIONER MacCALLUM: Thanks.

11 Mr. Wolch, any questions?

12 MR. WOLCH: No questions.

13 COMMISSIONER MacCALLUM: Any questions from
14 other counsel? Ms. McLean, first of all?

11:09 15 MS. McLEAN: I have. Thank you.

16 **BY MS. McLEAN:**

17 Q Could I see 006295, please. Mr. Beauchamp, this
18 is the statement that you so ably signed in April
19 of 1969, I notice that the whole statement is in
11:09 20 handwriting. Are you able to recall whether or
21 not, in 1969, you could read handwriting?

22 A Whether I could read?

23 Q As opposed to just printing? Yeah. I know you
24 could sign your name in a very unique way.

11:10 25 A Umm --



1 Q Is this something that -- I'm sorry, I'm asking
2 two questions at once. Can you recall whether or
3 not you could read handwriting?

4 A I don't recall --

11:10 5 Q What --

6 A -- whether I could.

7 Q I'm sorry?

8 A I don't recall whether I could read handwriting at
9 that time.

11:10 10 Q What grade would you have been in then?

11 A Four, five, four.

12 Q Grade 4?

13 A Yeah.

14 Q And do you have any memory of the police maybe
11:10 15 reading this statement aloud to you or not?

16 A No, I don't.

17 Q Okay. And, in this statement, there is nothing in
18 here about opening the wallet or taking any papers
19 out; right?

11:10 20 A Right.

21 Q And if we could go to I think it's 106653, this is
22 the police report, the top part here. 2:30, yes,
23 the police report prepared by Detective Sergeant
24 Mackie indicates that he and you and Norman
11:11 25 Remanda went to where the wallet had been found,



1 and that he had found two hospitalization cards
2 with Gail Miller's name on them, and there is no
3 mention there of you saying anything to him about
4 papers having fallen out or, more specifically,
11:11 5 you having taken some papers out of it; right?

6 A Right.

7 Q And hidden them? Do you recall whether or not you
8 had mentioned to him anything about papers having
9 been taken out?

11:12 10 A Yes, I did.

11 Q Okay. Did you tell him that you had taken papers
12 out, or that perhaps something had fallen when you
13 had opened it?

14 A I don't recall either/or.

11:12 15 Q Okay.

16 A You know.

17 Q I appreciate this is a very long time ago and you
18 were a child. So you remember telling the officer
19 that there were some papers that had once been in
11:12 20 it?

21 A Yes.

22 Q And do you remember whether you told them that
23 when you were still at the Remanda house?

24 A Yes.

11:12 25 Q And is that the reason that you were taken back to



1 the scene there, where you found it, as far as you
2 know?

3 A Yes.

4 Q And who was it who found the papers; was it you or
5 the officer?

6 A I don't remember.

7 Q Now you have told us, today, that you actually
8 took the papers out?

9 A Yes.

10 Q And I think you said you threw them away?

11 A Yes.

12 Q Did you put them in any specific place, or did you
13 literally just throw them, or --

14 A Just threw them.

15 Q Just -- okay. You are indicating having taken
16 something out of a wallet and just tossed it over
17 your shoulder --

18 A Yes.

19 Q -- as not interesting; right?

20 A Right.

21 Q Okay. So were you able to go directly to that
22 spot where those papers might have been?

23 A Yes.

24 Q And we're talking about papers today, and this
25 report suggests that two hospitalization cards



1 with Gail Miller's name on them were found, were
2 they actually pieces of paper?

3 A I don't know. I wouldn't have known a
4 hospitalization card from Adam --

11:13 5 Q Okay.

6 A -- so it must be something he picked up and
7 identified as hospitalization cards.

8 Q Okay. And does two pieces of paper sound right or
9 --

11:14 10 A Yes.

11 Q -- do you think maybe there were more that you had
12 taken out?

13 A No, two sounds right.

14 Q And I think we can probably understand why an
11:14 15 eight-year-old or a nine-year-old was looking to
16 see if there was money in the wallet, but can you
17 tell me why you would have taken some papers out
18 of it and left other ones in it?

19 A I couldn't tell you.

11:14 20 Q And did you read through any of those remaining
21 items in the wallet, yourself, and read the name
22 Gail Miller anywhere prior to Mrs. Remanda?

23 A Not that I recall, no.

24 Q You had heard about the murder I imagine?

11:14 25 A Prior to this, I do not remember hearing about the



1 murder, or -- or maybe I did but I didn't pay any
2 attention to it.

3 Q What street did you live on?

4 A 20th.

11:14 5 Q On 20th, in the relative vicinity of Avenue O?

6 A Yes.

7 Q And this was about two months after the murder.
8 Do you remember any kind of talk about somebody
9 having been killed in the area --

11:15 10 A No.

11 Q -- once? You spoke to the police, we know from
12 these statements here, on April the 4th, 1969; we
13 know that you testified at the preliminary hearing
14 and at the trial of David Milgaard?

11:15 15 A Yes.

16 Q Did you have any meetings with the police or Crown
17 attorneys between the time that you showed the
18 police you had found the wallet and the time that
19 you first went to court?

11:15 20 A For the preliminary?

21 Q Yeah. The preliminary, I think, was in August of
22 1969.

23 A Yeah, and I do not recall that.

24 Q Do you have any recollection of police coming to
11:15 25 your house on other occasions to speak to you?



1 A No.

2 Q Do you have any recollection of being taken to, to
3 the court or to an office to speak with any
4 authorities --

5 A No.

6 Q -- about what your testimony might be?

7 A Nope.

8 Q And were you ever contacted by anybody
9 representing David Milgaard?

11:16 10 A No.

11 Q Okay. Those are all my questions. Thank you.

12 COMMISSIONER MacCALLUM: Mr. O'Keefe? Will
13 there be other questioners besides Mr. O'Keefe?

14 MR. O'KEEFE: I will be just a minute, sir.

11:16 15 COMMISSIONER MacCALLUM: Okay, go ahead.

16 MR. O'KEEFE: Could you bring up map B,
17 please.

18 **BY MR. O'KEEFE:**

19 Q All right. Mr. Beauchamp, back in 1969, the
11:17 20 winter of 1969, between January 31st and April 4th
21 when you found the wallet, school would have been
22 in session, I take it, at St. Mary's School?

23 A Yes.

24 Q There were a lot of neighbourhood kids in that
11:17 25 area who would walk to school?



1 A Yes.

2 Q Including kids who lived north of 20th Street?

3 A Oh yes.

4 Q This stretch of Avenue O here in front of St.

11:17 5 Mary's School and going north to 20th Street would
6 have been a heavily-travelled area by school kids
7 going to and from school?

8 A Yes.

9 Q And the kids that would live over in this area

11:17 10 over here; there would be a large number of them
11 that would walk to St. Mary's School during that
12 time?

13 A Yes.

14 Q And that would be every weekday, just about,

11:18 15 between January 31st and April 4th?

16 A Yes.

17 COMMISSIONER MacCALLUM: And, for the
18 record, please identify "this area here"?

19 MR. O'KEEFE: "This area" is the area north
11:18 20 and east of St. Mary's School, sir.

21 COMMISSIONER MacCALLUM: Thank you.

22 BY MR. O'KEEFE:

23 Q And north and east of the scene, as well, of where
24 the body of Gail Miller was found. Mr. Beauchamp,
11:18 25 that's the area I'm referring to, --



1 A Yes.

2 Q -- you understand that? Thank you.

3 COMMISSIONER MacCALLUM: If there's no
4 further cross-examination, any redirect?

11:18 5 MR. HODSON: No redirect, Mr. Commissioner.

6 COMMISSIONER MacCALLUM: Thank you, Mr.
7 Beauchamp, you are excused.

8 We'll break now, please, for 15
9 minutes.

11:18 10 (*Adjourned at 11:18 a.m.*)

11 (*Reconvened at 11:40 a.m.*)

12 MR. HODSON: The next witness is Mr. Dennis
13 Elliott. Please come up.

14 DENNIS ORVILLE ELLIOTT, sworn:

15 BY MR. HODSON:

16 Q Good morning, Mr. Elliott. Thank you for
17 testifying at this Commission. I understand that
18 you currently reside in Saskatoon; is that
19 correct?

11:42 20 A Yes, I do.

21 Q And that in January of 1969 you resided in
22 Saskatoon?

23 A Yes, I did.

24 Q And at that time you were 23 years of age?

11:42 25 A Yes.



1 Q And I understand that you lived at 1308 Temperance
2 Avenue?

3 A Yes, I did.

4 Q I understand that on the evening of January 30th,
11:42 5 1969, which was the evening before Gail Miller's
6 murder, that you hosted a party that Gail Miller
7 attended; is that right?

8 A Yes.

9 Q And did you invite her to that party?

11:42 10 A Yes, I did.

11 Q Can you tell me your recollection of that evening
12 and your dealings with Gail Miller, please?

13 A Well, I sent somebody to pick her up for me
14 because I wanted to change and have a shower and
11:42 15 what not and we just were at the party and we just
16 were drinking, eating, and that's all there was to
17 it.

18 Q Prior to -- did you call her to come to this
19 party?

11:42 20 A Yes, I did.

21 Q When had you met her?

22 A I had only met her a couple of times before. She
23 was at the apartment we lived in.

24 Q So you knew her then?

11:43 25 A Yes.



1 Q Now, did you take her home after the party?

2 A Yes, I did.

3 Q Can you tell me what you can recall about that,
4 please?

11:43 5 A It was about 1:30 in the morning, she wanted to go
6 home because she had to work the next day, so I
7 drove her home. I was the only person with a
8 vehicle, so I drove her home.

9 Q And do you recall anything, anybody in the
11:43 10 vicinity of her home when you took her home?

11 A Nobody on the streets, just a parked car on the
12 opposite side of the street.

13 Q Was there someone in that car?

14 A Yes, there was.

11:43 15 Q And what do you recall about that individual?

16 A He was about five foot 10, 160 pounds, dark hair.

17 Q Was the vehicle running?

18 A Yes, it was.

19 Q And so would that car be parked right in front of
11:43 20 Gail Miller's house?

21 A Across the street.

22 Q I'll show you a map in a moment. And did that
23 fellow make eye contact with you or did he see you
24 there?

11:44 25 A Yes, he did.



1 Q And about how long were you parked in front of
2 Gail Miller's house then?

3 A Half an hour, 45 minutes.

4 Q And this vehicle with the man in there was there
11:44 5 this entire time?

6 A The whole time, yes.

7 Q Did you then walk Gail Miller to the door?

8 A Yes, I did.

9 Q And when you returned to the vehicle, was the
11:44 10 vehicle and man still there?

11 A Yes, they were.

12 Q Do you recall what kind of vehicle it was?

13 A 1963 Pontiac Parisienne.

14 Q Do you remember what colour it was?

11:44 15 A Dark colour on the bottom, light colour on top.

16 Q And anything else of the vehicle?

17 A The back quarter panel was badly damaged.

18 Q And then after you left --

19 COMMISSIONER MacCALLUM: Excuse me. Was it
11:44 20 dark on the bottom, light on the top?

21 A Yes.

22 COMMISSIONER MacCALLUM: Which quarter
23 panel damaged?

24 A The back driver's side quarter panel.

11:45 25 COMMISSIONER MacCALLUM: Thanks.



1 BY MR. HODSON:

2 Q Now, after you dropped Ms. Miller off, what did
3 you do?

4 A I went back to the apartments which they were at.

11:45 5 Q You went back to your house?

6 A Yes.

7 Q And that's where the party was?

8 A Yes.

9 Q And were your roommates and others still partying
11:45 10 then?

11 A Yes, they were.

12 Q And did you stay up and party for a while?

13 A Yes, until about 4:30.

14 Q And then did you go to bed?

11:45 15 A Yes, I did.

16 Q How did you find out about Gail Miller's murder?

17 A When I got home from work that night Sigfried told
18 me that it was Gail that had been murdered that
19 morning.

11:45 20 Q So Friday, January 31, 1969 you got home from work
21 at about supper --

22 A About six o'clock.

23 Q And Sigfried, was that Sigfried --

24 A Sigfried.

11:45 25 Q -- Zole (ph)?



1 A Holle.

2 Q Holle, I'm sorry. He told you that, what, Gail
3 Miller had been murdered?

4 A It was Gail Miller that was murdered that morning.

11:46 5 Q Prior to that had you heard about a murder?

6 A I heard about the murder.

7 Q Did you have plans to meet Gail Miller that Friday
8 night, January 31st?

9 A Yes, I was supposed to pick her up at eight
11:46 10 o'clock that night.

11 Q And you planned to go out that evening?

12 A Yes.

13 Q What did you do when you found out about the
14 murder then?

11:46 15 A I went over to her place.

16 Q I see. And did others go with you?

17 A Yes, there was two others went with me.

18 Q Do you recall who it was?

19 A I can't remember who they were. One of the guys
11:46 20 from the party and I think his girlfriend or
21 somebody went with me.

22 Q And then what do you remember when you got to Gail
23 Miller's house?

24 A The police were there and I made a statement with
11:46 25 the police.



1 Q I take it this event would have been a bit
2 upsetting to you was it?

3 A Very.

4 Q Now I would like to just maybe go through some
5 reports and statements. You would have talked to
6 the police that night then, January 31?

7 A Yes, I did.

8 Q If I could call up document 103411, please. Just
9 zoom in the bottom here. Is that your signature,
10 Mr. Elliott?

11 A Yes, it is.

12 Q If you can go back to the main document. Is this
13 your handwriting or is that the police officer's
14 handwriting?

15 A That's the police officer's handwriting.

16 Q So you remember talking to a police officer?

17 A Yes, I do.

18 Q And I'm also going to show you, or call up
19 document 103409 which is just a typewritten
20 version of that same statement and just walk
21 through some of that with you if I could. It says
22 about 6:55 p.m. Does that sound about right as
23 far as the time?

24 A Yes.

25 Q Call out that, please. It says:



1 "I am employed by MacCosham Van Lines, and
2 have been with them for 8 months. My
3 parents live at Indian Head, Sask - I am 23
4 years old."

11:48 5 If I can pause there. How long had you been
6 living in Saskatoon; do you remember?

7 A It would have been about three years I guess.

8 Q It says:

9 "On January 30, '69 I was at home all day
11:48 10 with the flu. Forrest and Brian were there
11 with me."

12 And I think that's Forrest Studer and Brian
13 Odegard?

14 A Yes.

11:48 15 Q "I left the house at 5:30 p.m. I went and
16 picked up Evelyn Olfert who works for Rus
17 McQuarrie and drove her home to 807 Avenue I
18 North. I stayed there until 8:00 p.m. and
19 went to the liquor store on 22nd Street. I
11:48 20 then went back to 1308 Temperance Street.
21 At 8:30 p.m. I sent Brian and Forrest to
22 pick up Gail Miller at 130 Avenue O South.
23 I stayed at 1308 Temperance Street. About
24 9:45 p.m. Brian and Forrest arrived back at
11:49 25 the house with Gail Miller, Linda Markwart,



1 Betty Hundt and Maurice Marcowsky. The
2 party started and about 11:15 p.m. Gail,
3 Sig, Betty and myself left and went to the
4 Windsor Hotel. We got there about 11:40
11:49 5 p.m. I left the others in the car and went
6 into the hotel, I bought 24 beer, we waited
7 until 12 midnight for Dianne Hopfner, 223
8 Willow Street and drove Betty Hundt to 130
9 Avenue O South and drove Dianne Hopfner to
11:49 10 the corner of Victoria and Hilliard. We
11 then went back to 1308 Temperance. We
12 stayed until about 1:15 a.m. At this time I
13 drove Gail home to 130 Avenue O South.
14 There was just the two of us. We stayed out
11:49 15 in the car and talked for about 15 minutes.
16 Then I walked Gail into the house. This was
17 around 2:00 a.m."

18 If I can just pause there. Would this be an
19 accurate recording of what you would have told
11:49 20 the police at the time, Mr. Elliott?

21 A Yes.

22 Q So if I can just go back, you would have dropped
23 Betty -- right here -- you would have dropped
24 Betty Hundt off at about midnight; is that right,
11:50 25 who was Gail's roommate?



1 A Yes.

2 Q Would that have been the first time that you had
3 been to 130 Avenue O South?

4 A Yes.

11:50 5 Q And then later that evening you went back and
6 dropped Gail off; is that right?

7 A Yes.

8 Q Now, I think you told me you talked for, I think
9 you said about a half an hour; is that right?

11:50 10 A About 15 minutes, half an hour, something like
11 that.

12 Q Okay. If you can just scroll down to -- go back
13 to the document, please. It says:

14 "Since this time I haven't seen Gail Miller.
11:50 15 Gail was wearing, when I brought her home -
16 brown slacks, turtle neck sweater, siwash,
17 white socks and low cut shoes. She had a
18 purse - it was dark colour it was filled
19 pretty full as she had trouble finding her
11:51 20 keys. This was the third time I ever saw
21 Gail but actually the first time she had
22 been out with me. She never mentioned to me
23 about having any enemies or ever being
24 threatened. The only person she talked
11:51 25 about was Dwayne Longdo on Edward Street



1 near the top end. I have his phone number
2 and address at home. We mainly talked about
3 the people at the party. I own a car, 1965
4 Plymouth Fury II - license number 286-788."

11:51 5 That would be an accurate recording of what you
6 would have told the police on that day?

7 A Yes.

8 Q Can you just go to the next page, please. This
9 says, whoever typed it, Detective Kiwackee, I
11:51 10 think it's Keith Mackie, but it then has a note
11 here, it says:

12 "Phoned police station 10:20 p.m. Leaving
13 for Indian Head, Sask late p.m. January 31 -
14 or a.m. February 1, '69. Parents phone
11:52 15 number 675-3738."

16 Did you in fact decide to go to Indian Head that
17 night?

18 A Yes, I did.

19 Q And had you planned on going there?

11:52 20 A No, I didn't.

21 Q And what prompted you to do that?

22 A Everything that happened.

23 Q And Indian Head is where your parents resided at
24 the time?

11:52 25 A Parents and all brothers and sisters.



1 Q So I take it then did you make plans to go home?

2 A Yes.

3 Q And did you go Friday night or Saturday; do you
4 remember?

11:52 5 A I think it was Saturday.

6 Q Now, next if you could call up document 103414 and
7 this is a document dated February 1, 1969. I
8 believe that's Detective K. Mackie at the bottom
9 and it says, "Long distance phone call, Dennis
11:53 10 Elliott, Indian Head, Sask. Do you recall
11 telephoning the police from Indian Head?

12 A Yes.

13 Q And I'll just go through this and ask you a few
14 questions. If you can call that out, please. It
11:53 15 says:

16 "Dennis Elliott called at 7 p.m. stating he
17 remembered that when he took Gail Miller
18 home about 2 a.m. they sat out in front of
19 130 Avenue O South about 15 minutes talking,
11:53 20 then he took her into the house. All this
21 time there was a male person alone sitting
22 in a car across the street from 130 Avenue O
23 South. The person appeared mad. The car
24 was a 1963 Pontiac Parisienne auto. Dennis
11:53 25 Elliott will be back in Saskatoon the first



1 of the week."

2 Does that accurately record your discussion with
3 the police that day?

4 A Yes, it does.

11:53 5 Q So I take it from the time you talked to the
6 police on Friday night, January 31, 1969, either
7 that night or the next morning did something jog
8 your memory about this vehicle?

9 A I remembered it when I got back, got into Indian
11:54 10 Head.

11 Q I see. So when you gave the statement on Friday
12 evening, is it fair to say that the significance
13 of the car or the man, it didn't come to your
14 attention or you didn't tell the police?

11:54 15 A It just didn't come to my attention.

16 Q It was not something that you knew and just didn't
17 tell them, it was just something you didn't think
18 of?

19 A I just didn't think it was important.

11:54 20 Q And so then I take it when you got to Indian Head
21 you thought about it or remembered this and then
22 you phoned the police and told them about it; is
23 that correct?

24 A Yes, I did.

11:54 25 Q Did the police ask you to return to Saskatoon?



1 A Yes, they did.

2 Q Had you planned on staying out at Indian Head?

3 A I was going to, yes.

4 Q And the police said you better come back?

11:55 5 A Yes, they did.

6 Q At the time, Mr. Elliott, did you have any sense
7 or impression that you were being viewed as a
8 suspect?

9 A I thought I was being viewed as a suspect, yes.

11:55 10 Q Pardon me?

11 A I thought I was being viewed as a suspect, yes.

12 Q Okay. And what caused you to form that
13 impression?

14 A Just that I was the last person to be seen with
11:55 15 her.

16 Q I see.

17 A I just sort of had the feeling.

18 Q And did the police ask you about your whereabouts
19 that day, that morning, that night, et cetera?

11:55 20 A Yes, they did.

21 Q And do you know if they talked to your roommates?

22 A Yes, they did.

23 Q Did there come a point when either the police told
24 you you were not a suspect or you realized that
11:55 25 you were not a suspect?



1 A They never told me that I wasn't a suspect and I
2 finally realized afterwards that I wasn't.

3 Q Okay. Next I would like to call up document
4 106216. So I take it then you would have gone
11:56 5 back to Saskatoon from Indian Head, I think
6 Saturday, February 1 is when you phoned them.
7 Would you have gone back the following couple of
8 days then?

9 A Probably Monday.

11:56 10 Q And you would have told the police where you were
11 and gave them a phone number when you left on the
12 Saturday didn't you?

13 A Yes, I did.

14 Q And did you call them when you got back in the
11:56 15 city?

16 A Yes, I did.

17 Q Now, I understand that you, the week of February
18 3rd, you would have attended Gail Miller's
19 funeral; is that right?

11:56 20 A Yes, I did.

21 Q And if I could just call this out. This is from a
22 report dated February 5th, just the officers who
23 were out at the funeral, identified the following
24 vehicles, license numbers were noted, 286-788,
11:57 25 registered owner Dennis Elliott, and was



1 accompanied, Forrest Studer. Do you recall
2 talking to the police at the funeral at all?

3 A No, I didn't talk to them.

4 Q Next if you could call up document 075937, and
11:57 5 this is dated February 6th, which I think would be
6 Thursday of the following week, 8:40 p.m., just
7 zoom in down at the bottom. Is that your
8 signature, Mr. Elliott?

9 A Yes, it is.

11:57 10 Q Do you recall talking to the police again on or
11 about February 6th, 1969 and providing them with
12 another statement?

13 A Yes, I do.

14 Q I'm going to go to -- there's a typed version of
11:57 15 this, if you could call up document 075943. When
16 you provided information to the police at this
17 time, Mr. Elliott, both on this statement and
18 earlier, did you provide the police with your best
19 recollection and truthful recollection of what you
11:58 20 could -- what you observed and what you could
21 remember?

22 A Yes, I did.

23 Q In this statement, let's just go through it, if
24 you could call it out, please. Do you remember if
11:58 25 this was taken at your house or at the police



1 station or just where?

2 A Probably at the police station.

3 Q And I take it that you co-operated with the
4 police, did you, sir? Whenever they wanted to
11:58 5 talk to you, you would talk to them?

6 A Yes, I did.

7 Q It says:

8 "I first met Gail Miller about a month ago.

9 This was on a night that there was a

11:58 10 blizzard. This was on a Saturday night

11 because I didn't have to work the next day.

12 Gail Miller was brought to this party by

13 Dwayne Longdo. On this occasion Dwayne

14 Longdo had too much to drink and he gave

11:58 15 Gail Miller heck. He was not really mad but

16 he swears a lot when he's drinking. I was

17 not there at the time this happened. I

18 heard about it from Dwayne himself. He said

19 nothing of what it was about. I believe he

11:59 20 phoned Gail Miller and apologized for his

21 actions."

22 If I can just pause there. Were the police

23 asking you about who you knew may have known Gail

24 Miller or who she associated with?

11:59 25 A Probably did.



1 Q And then it goes on, if you could just start there
2 and scroll down, please. Just start right here.

3 It says:

4 "When I took Gail Miller home on January 30,
11:59 5 1969 I would arrive around 1:30 p.m. She
6 had asked to go home. When I was parked in
7 my car in front of 130 Avenue O South there
8 was about a 1963 or 1964 Pontiac Parisienne
9 across the street heading south. There was
11:59 10 one male occupant in this car. The car was
11 reddish brown on the bottom and a light
12 colour top. The light colour top was not
13 snow or frost. The left rear was quite
14 badly damaged. The damage would be on the
11:59 15 whole quarter panel."

16 Scroll down, please.

17 "The man in it I would say was about five
18 foot 10 inches tall, 160 pounds. Dark hair
19 combed back in a duck tail. This person
11:59 20 kept look toward us while parked and looked
21 away when I looked toward him. I never said
22 anything to Gail about this car and she said
23 nothing about it. I have only seen Les
24 Spence at the funeral. I couldn't say if it
12:00 25 was him in this car or not. I did not see



1 anyone at the funeral that I recognized as
2 the person in this car. I don't think I
3 would know this person if I saw him again."
4 Just carry on down to the next page, the top,
12:00 5 please. It says:

6 "On Friday, January 31 about 6:00 p.m. I
7 learned of Gail Miller's death. I had a
8 date with her for Friday night. I was to
9 pick her up at 8:00 p.m. Sig Holle told me
12:00 10 about it when I came home from work. I had
11 been working at 2211 York Avenue remodeling
12 a basement. They asked me to drive Linda
13 Markwart home. Forrest Studer and Linda
14 Markwart went with me to 130 Avenue O South.
12:00 15 I saw the police at 130 Avenue O South when
16 I arrived. From Betty Hundt's room at 130
17 Avenue O South I phoned my mother at Indian
18 Head, Sask collect. I asked her if she had
19 heard of the stabbing up here. I told her I
12:01 20 was involved in it. She asked if I wanted
21 my older brother to come up. I said don't
22 bother. I'll phone you back after
23 everything is over."

24 Let me just pause there. I presume when you said
12:01 25 "I told her I was involved in it," you were



1 referring to the investigation, sir?

2 A Yes.

3 Q "After this I phoned my girlfriend Evelyn
4 Olfert, 807 Avenue I North. On Saturday,
12:01 5 February 1 I spoke to Don Lane,
6 superintendent at MacCosham's for time off
7 because of this incident. I asked for a
8 week off and it was granted. I gave my car,
9 a 1965 Plymouth, dark red colour, to Evelyn
12:01 10 Olfert and took the Regina bus which leaves
11 at 1:40 p.m."

12 Were the police asking sort of your whereabouts
13 in that last while and that's what you recall
14 telling them?

12:01 15 A Yes.

16 Q If you could scroll up -- or go back to the main
17 document, please. Just call up that, please. It
18 says:

19 "I phoned Saskatoon police on Saturday night
12:02 20 when I arrived home."

21 And would that be Indian Head when you say home?

22 A Yes.

23 Q "I recalled seeing the Pontiac car on
24 Avenue O while travelling on the bus and I
12:02 25 had not recalled this earlier when seen by



1 police."

2 Did you take the bus from Saskatoon to Indian
3 Head on Saturday?

4 A It would have been Saskatoon to Regina.

12:02 5 Q Saskatoon to Regina?

6 A And then my brother picked me up in Regina.

7 Q So was it on the bus trip back that you were
8 thinking about this?

9 A Yes.

12:02 10 Q "I returned to Saskatoon on Sunday night as
11 police had requested that I return for the
12 beginning of the week. I returned to work
13 at MacCosham's on Monday morning. I did not
14 know any of Gail Miller's friends except
12:02 15 Linda Markwart and Betty Hundt. After
16 taking Gail Miller home I returned to 1308
17 Temperance. I arrived back about 2:30 a.m.
18 I had another drink or two before going to
19 bed. I went to bed about 4:15 a.m. or 4:30
12:03 20 a.m. At this time I was listening in on a
21 phone call that had been made by Bryon
22 Odegard to a Linda who lives on the 800
23 block Temperance. I do not know her last
24 name, but it is a corner house and she has a
12:03 25 room in the basement. I got up about 11:30



1 a.m. At this time Sig Holle and Bryon
2 Odegard also present. I saw Forrest and
3 Linda sleeping. We tried disturbing them by
4 phone and making noise. I never left 1308
12:03 5 Temperance after taking Gail home and until
6 I got up at about 11:30 a.m."

7 So this is an accurate recording of what you
8 would have told the police?

9 A Yes.

12:03 10 Q And it is truthful?

11 A Yes.

12 Q After providing this statement to the police on
13 February the 6th, 1969, do you recall any further
14 contact with the police in the year following
12:03 15 until after the David Milgaard trial?

16 A I can't remember any contact with them.

17 Q And you were not a witness at the David Milgaard
18 criminal proceedings?

19 A No, I wasn't.

12:04 20 Q You didn't have any contact with the prosecutor or
21 defence counsel in that case?

22 A No, I didn't.

23 Q Did you move from the Saskatoon area a while after
24 that?

12:04 25 A Yes, I moved in May.



1 Q Of 1969?

2 A Yes.

3 Q And where did you move to?

4 A I moved to Regina.

12:04 5 Q And was that for work-related reasons?

6 A A better paying job, yes.

7 Q And how long did you live in Regina then?

8 A Until about 1973, '74.

9 Q And then returned to Saskatoon?

12:04 10 A For a year.

11 Q Now, do you recall having telephone conversations
12 with Mrs. Joyce Milgaard?

13 A Yes.

14 Q Can you tell me approximately when those would
12:04 15 have taken place?

16 A One was about 12 years, 12, 13 years after it
17 happened.

18 Q So that would be about in the early 1980s then;
19 does that sound right? '82, '83, somewhere in
12:05 20 there?

21 A Somewhere in that area.

22 Q And do you remember where you were living at the
23 time?

24 A Where I am now, 3371 - 33rd Street.

12:05 25 Q And what do you remember about the number of calls



1 and the nature of your discussions?

2 A I can't remember number of calls. I know there
3 was more than one, but it was mostly just asked if
4 I remembered anything that I might have forgot the
12:05 5 night everything happened and what not. I don't
6 remember a heck of a lot about it, about the call.

7 Q Right. So there was more than one call with her?

8 A Yes, there was.

9 Q Did she ever tell you whether she was taping those
12:05 10 phone calls?

11 A She never told me, no.

12 Q I'm going to show you a document, 048439, and,
13 Mr. Commissioner, this is a document that says an
14 edited transcript and editor's note, edited
12:06 15 transcript of the conversation between Mrs. Joyce
16 Milgaard and unknown male, and editor's note, the
17 beginning of the call seems to be not recorded and
18 this conversation is recorded very low. I'm not
19 exactly clear on the -- I believe this is from
12:06 20 Joyce Milgaard's documents and we'll certainly
21 hear evidence later about where and how this was
22 created, but I intend to go through this with
23 Mr. Elliott to see if he can recall some of what's
24 mentioned. Now, when we start off here, do you
12:06 25 remember, it says here:



1 "MRS. MILGAARD: Would you be Dennis Elliott
2 that used to live on --"

3 It says Tempran Street?

4 A It's Temperance.

12:06 5 Q And the answer is no, but then the transcript
6 appears to go on and you talk -- do you have any
7 explanation as to why you would have said no or
8 why this --

9 A I think I probably understood her to say do I live
12:07 10 on Temperance Street.

11 Q And at that time you didn't?

12 A At that time I didn't, no. I think it was do you
13 live on Temperance Street and I said no.

14 Q Do you recall denying to Joyce Milgaard that you
12:07 15 were Dennis Elliott?

16 A No, I don't remember denying it, because I
17 wouldn't have known who phoned.

18 Q Pardon me?

19 A I wouldn't have known who was phoning.

12:07 20 Q Did she not identify herself?

21 A Not at first, no.

22 Q But I take it you had no problem talking to
23 Mrs. Milgaard about what you remembered?

24 A No.

12:07 25 Q If you could go to page 048440 which is the next



1 page and again what is recorded here, and I'll
2 just go through and see if this assists with your
3 memory, it says:

4 "MRS. MILGAARD: ... anyone there? Ah, is
5 there anything you could tell me that you
6 remember about that car that and have you
7 ever thought back over it at all?

8 UNKNOWN MALE: No, all I know is, ah, I
9 think around a sixty three, sixty four Grand
10 Parisian ... with a bad dent in the back
11 and, on the back ah, quarter panel on the
12 driver's side. That's all I can remember
13 about it.

14 MRS. MILGAARD: You didn't know Les Spence
15 yourself...

16 UNKNOWN MALE: No."

17 Does that sound like something you might have
18 said to Mrs. Milgaard?

19 A Yes.

20 Q Do you recall talking about the car with her?

21 A Yes.

22 Q If you could go to page 048443, please, and just
23 call out that part, please. This document says:

24 "MRS. MILGAARD: And ah, there had been some
25 indication from a taxi driver that he had



1 picked her up the night, the morning before
2 this and that there had been a man with her
3 at that time and that they were supposed to
4 meet that night. Ah, and then of course she
12:09 5 ended up going out with you that night. How
6 did it happen that she went out with you
7 that night or did you just bring her home
8 because she needed a ride home.

9 UNKNOWN MALE: Oh, I ah, I phoned her up.
12:09 10 And ah, yeah I phoned her up that
11 (unintelligible) and asked her if she wanted
12 to go out with me. She said yeah."

13 And that's correct, is it, Mr. Elliott?

14 A I don't know anything about the taxi cab, I don't
12:09 15 remember having that conversation at all.

16 Q Okay. And then it goes on:

17 "So, then we went to the party, it was my
18 birthday party they were having, I think."

19 And then:

12:09 20 "MRS. MILGAARD: Oh I see.

21 UNKNOWN MALE: And ah, around four o'clock
22 in the morning I took her home. Four or
23 five in the morning I took her home."

24 Do you recall discussing that with Mrs. Milgaard?

12:10 25 A Not really, no.



1 Q Did you take Gail Miller home at four or five in
2 the morning?

3 A No.

4 Q If we could just scroll down a bit and it says:

12:10 5 "MRS. MILGAARD: Was it that late in the
6 morning when you took her home?"

7 Go to the next page.

8 "UNKNOWN MALE: Yeah.

9 MRS. MILGAARD: Well, this car that you say
12:10 10 parked out there...

11 UNKNOWN MALE: Yep.

12 MRS. MILGAARD: Ah, did it look like they
13 had been parked there a long time?

14 UNKNOWN MALE: Oh, I couldn't tell, I, is
12:10 15 all I know is there was ah...

16 MRS. MILGAARD: She, she never mentioned
17 him?

18 UNKNOWN MALE: No. Besides I don't think
19 she even noticed it."

12:10 20 Do you recall having that discussion with
21 Mrs. Milgaard?

22 A Yes.

23 Q And is that your recollection, Mr. Elliott, that
24 on that night, or I guess the morning of January
12:10 25 31 when you were out front of her house in your



1 vehicle, did you get the impression that she had
2 not noticed -- Gail Miller had not noticed the
3 vehicle with the man in it?

4 A Well, I had mentioned to her about too bad, it was
12:10 5 such a nice looking car with a bad dent in the
6 back quarter panel, but I don't know if she looked
7 at the car or anything.

8 Q Did you get the impression that she was concerned
9 about the car or the man in the car?

12:11 10 A No, she wasn't.

11 Q And then just onto page 048445, and it looks from
12 this transcript, I don't propose to read it, but
13 just take a quick look at that, it looks as though
14 that Mrs. Milgaard asks for some help finding some
12:11 15 other people and questions and you obliged and
16 told her where she could find Sigfried Holle; is
17 that right?

18 A That's right.

19 Q Now, next -- so just -- the number of
12:11 20 conversations would have been more than one with
21 Mrs. Milgaard; is that right?

22 A I believe so, yes.

23 Q And likely in the 1980s?

24 A Yes.

12:11 25 Q I understand that in 1992 you were contacted by



1 the RCMP; is that correct?

2 A Yes, I was.

3 Q And did you understand that to be in connection
4 with Mr. Milgaard's proceedings before the Supreme
12:12 5 Court or an application?

6 A Yes, I did.

7 Q And was it Sergeant Pearson who contacted you?

8 A I can't remember.

9 Q And what do you remember of being contacted, did
12:12 10 they call your house?

11 A They phoned and I believe they came over and took
12 another statement from me.

13 Q And what did they tell you when they phoned you,
14 what were they looking for?

12:12 15 A Just I think an update on the happenings of what
16 happened back then.

17 Q Would you call up document 056937 and again just
18 at the top, that is your address, sir, 3371 - 33rd
19 Street?

12:12 20 A Yes, it is.

21 Q It says taken March 31, 1992. Does that sound
22 about the right date?

23 A Yes.

24 Q And is that your signature at the bottom right?

12:13 25 A Yes, it is.



1 Q Okay. Just go back, and it looks to be Sergeant
2 Pearson there. If you could just call out this
3 part, please. Is this your handwriting or is this
4 Sergeant Pearson's?

12:13 5 A Sergeant Pearson's.

6 Q So you would have talked and he would have written
7 and then you would have signed the statement?

8 A That's right.

9 Q And it says:

12:13 10 "Approximately one week before Gail Miller's
11 murder I had met her at a party at my house
12 on 1308 Temperance Street, Saskatoon. At
13 that time Gail was with a fellow by the name
14 of Dwaine or Dwight, I don't recall his last
12:13 15 name. The fellow was a friend of Brian
16 Odegard who had a light housekeeping room in
17 the basement. Dwaine/Dwight was a dirty
18 blond fellow who was short and stocky. This
19 party was actually the first time I met
12:13 20 Gail. Approximately one week later I phoned
21 her up and invited her to a party at our
22 place again. I cannot recall exactly
23 whether I picked her up or if she came to my
24 place with others. Gail stayed at the party
12:13 25 and I drove her home at round 5-5:30 in the



1 morning."

2 Do you recall telling Sergeant Pearson that time,
3 Mr. Elliott?

4 A No, I can't recall five, 5:30 in the morning.

12:14 5 Q Do you recall talking to Sergeant Pearson about
6 anything happening at about five or 5:30 in the
7 morning?

8 A Probably me going to bed.

9 Q Can you just carry on and scroll down, please. It
12:14 10 says:

11 "I was driving a 1965 Plymouth Fury II,
12 maroon. I gave a complete statement to
13 police shortly after Gail's death. I can
14 state that I did not have sexual contact
12:14 15 with Gail Miller and any seminal fluid or
16 stains found on her clothing or near the
17 scene of the crime are not mine. I walked
18 her to the door on the Avenue O entrance to
19 her residence. I made a date to pick her up
12:14 20 at 8:00 p.m. that night. I kissed her good
21 night, then left. This was the only date
22 that I ever had with Gail Miller. If
23 necessary, I am willing to provide a blood
24 sample for whatever testing you believe
12:14 25 necessary."



1 Is that what you would have told the RCMP at the
2 time?

3 A Yes.

4 Q Now, did the police ask you to provide a blood
5 sample?

6 A They asked me if I would and I said yes.

7 Q Did they tell you why they were asking for a blood
8 sample?

9 A No, they didn't.

10 Q And do you recall providing a blood sample?

11 A I never gave one until just before the Fisher
12 trial.

13 Q So you gave the RCMP a blood sample for testing?

14 A Yes.

15 Q Did they tell you the purpose of that or the
16 results of that?

17 A They told me the purpose, but they never told me
18 the result.

19 Q And what did they tell you the purpose was?

20 A For DNA test.

21 Q And for what purpose though?

22 A For the Fisher trial.

23 Q Was it to compare your blood sample with -- I
24 think it talks here about seminal fluid or stains
25 found on her clothing. Is that what you



1 understood they were testing?

2 A Yes.

3 Q And did anybody ever get back to you and tell you
4 that there was not a match?

12:15 5 A No.

6 Q If you could call up document 084416, and this is,
7 I think, a tag, it's got:

8 "Blood sample from Dennis Elliott",

9 "April 17th, '96,"

12:16 10 we'll hear about this later, but does that sound
11 approximately the time frame, Mr. Elliott.

12 A Yes.

13 COMMISSIONER MacCALLUM: What was the date?

14 MR. HODSON: Well on here it is April 17th,

12:16 15 1996, there is a date of '92 down here.

16 BY MR. HODSON:

17 Q Is it possible that it would have been taken in
18 1992 when you were talking to Sergeant Pearson?

19 A No.

12:16 20 Q Would it be a number of years later?

21 A Could be a number of years later because, as I
22 say, it was for the Fisher, --

23 Q For the Fisher proceeding?

24 A -- Fisher inquiry, yes.

12:16 25 Q So back when you talked to Sergeant Pearson,



1 though, on March 31 of 1992 you told him "I will
2 give you a blood sample if you would like one"?

3 A Yes.

4 Q And they didn't take one at the time to your
12:17 5 recollection?

6 A No, they didn't.

7 Q And then later, in the Fisher proceedings which
8 would be after 1997, they contacted you and again
9 asked for a blood sample?

12:17 10 A Yes.

11 Q And you voluntarily provided that?

12 A Yes, I did.

13 Q If you could call up document 067108 please, and
14 this is just sort of to complete the record, this
12:17 15 is dated April 1, '92 -- and, Mr. Elliott, you
16 probably haven't seen this document before, I just
17 want to go through a part -- April 1 of '92 from
18 Pearson to Mr. Eugene Williams re: David Milgaard
19 Supreme Court Review, if you could just call out
12:17 20 those two paragraphs:

21 "Attached please find a short statement from
22 Dennis Elliott, who is willing to provide a
23 blood sample if ever required. As well,
24 Elliott states he had no sexual contact with
12:18 25 the deceased. Elliott was interviewed



1 92-03-31 as prior arrangements had been made
2 by my staff for me to conduct the interview
3 on my return.

4 Also, please fax me a copy of
12:18 5 the statements initially provided to the
6 Saskatoon City Police by Elliott, as well as
7 by Charles Joseph Carriere, as they do not
8 appear to be on the police file. I am
9 interested in their description of the
10 vehicle and the individual seen in the
11 vicinity of 130 Avenue O prior to Miller's
12 death."

13 So, after your dealings with Sergeant Pearson in
14 '92, did you have occasion to talk to the RCMP in
12:18 15 1993; Do you remember?

16 A I don't believe so.

17 Q Pardon me?

18 A I can't remember.

19 Q Okay. I'll maybe just call up a document here,
12:18 20 please, 264953. And this is February 11th, 1993,
21 and this is a police note that talks about, it
22 says:

23 "Members met with Elliott".

24 So this, just to give you some help, would be
12:19 25 about a year after you met with Sergeant Pearson;



1 do you recall meeting with the RCMP again?

2 A Not really.

3 Q Okay. There's just a couple of -- just call out
4 this part and I'll just read this, this is what
12:19 5 the RCMP wrote. Right down at the bottom, please,
6 it says:

7 "With regards to the car seen when he
8 dropped Miller off at her residence. There
9 was just one person in the car and he
12:19 10 remembers that one of the back quarter
11 panels was badly damaged.

12 - Never called by the prosecutor

13 - Never testified

14 - two calls from ..."

12:19 15 And I believe that's Joyce Milgaard under there,
16 I'm sorry but that's blocked:

17 "... about ten years ago. He did not ...,"
18 next page, please, it says:

19 "He did not talk to her on the first
12:20 20 occasion. He did speak to Joyce the second
21 time she called. The conversation was
22 brief. Mrs. Milgaard wanted to know if he
23 might be able to add anything to his
24 statement.

12:20 25 - Beyond Mrs. Milgaard's contact and



1 Sergeant Pearson in 1992, he has not been
2 contacted by anyone else."

3 Just carry on to the next paragraph:

4 "Elliott has read his statements and was
12:20 5 satisfied with their contents. Own words,
6 and not altered in any way."

7 Do you recall telling the RCMP that?

8 A Yes.

9 Q So you don't, you don't specifically recall the
12:20 10 meeting, but you may have --

11 A I don't recall the meeting, no.

12 Q Would it be fair to say that you would have given
13 as truthful a recollection as you could, at the
14 time, of the questions they asked of you?

12:20 15 A Yes.

16 Q Now I understand that you testified at Larry
17 Fisher's preliminary hearing and trial; is that
18 right?

19 A Just the trial.

12:20 20 Q Just at the trial? I'm just going to show you, I
21 -- document 314359, which I think is the
22 preliminary hearing which would have been in
23 Saskatoon Provincial Court. Do you remember that,
24 Mr. Elliott, testifying -- the trial was at
12:21 25 Yorkton, but I believe the preliminary hearing was



1 in Saskatoon; does that jog your memory?

2 A No.

3 Q I'm just going to go to page 314362 and I'm just
4 going to read, this is a portion of what I believe
12:21 5 to be the preliminary hearing transcript,
6 Mr. Commissioner. Maybe I'll just go through this
7 with the witness and he can advise me whether this
8 is accurate and truthful. And from the transcript
9 it says that you were asked the question:

12:21 10 "Q What's your best recollection of the
11 time that you walked her to her door?

12 A Probably about 2:30 in the morning.

13 Q And you left?

14 A Yeah."

12:22 15 And then next page, if we could just call out
16 this:

17 "Q Well, during the time you were sitting
18 out front, did you see anybody else
19 around or anything?

12:22 20 A There was another car parked across
21 from us the whole time we were there.

22 Q Anybody in it?

23 A Yes, one person.

24 Q One person?

12:22 25 A Yes.



1 Q What kind of car was it?

2 A At that time I believe it was about a
3 '63 Pontiac Parisienne.

4 Q Colour?

12:22 5 A Dark maroon.

6 Q Is there any particular reason you
7 recall that vehicle sitting there or
8 anything, Mr. Elliott?

9 A Yeah. The back quarter panel was
12:22 10 smashed on the driver's side, and I
11 commented that it was a nice car to
12 have such a bad dent in it."

13 Is that accurate as to -- is that truthful, Mr.
14 Elliott?

12:22 15 A That's truthful, yes.

16 Q If I could then have you call up the trial
17 transcript, please, and that is document 313965.
18 And you recall testifying Yorkton at the Fisher
19 trial?

12:23 20 A Yes, I was.

21 Q Okay. If you could go to page 313968, and this is
22 an examination by the prosecutor, and I just want
23 to go through your -- parts of your evidence
24 there, please:

12:23 25 "Q And I don't mean to pry, but if you



1 would just explain what happened when
2 you went to her place, and what --

3 A Well, I drove her home, parked in
4 front of her place, and we stayed and
12:23 5 talked until around 2:00. And I
6 walked her to the door and said I'd
7 pick her up at eight o'clock the next
8 night, and I left.

9 Q So you made a date for the next night?

12:24 10 A Yeah.

11 Q You left her at two o'clock in the
12 morning?

13 A Between 2:00 and 2:30.

14 Q Did you ever see Gail again?

12:24 15 A No, I didn't.

16 Q In what sort of spirits was she when she
17 left you, Mr. Elliott?

18 A Fairly good spirits.

19 Q Were either of you intoxicated?

12:24 20 A No."

21 So that would have been the evidence you gave at
22 the trial?

23 A Yes.

24 Q Okay. If you could carry on, scroll down, please.
12:24 25 Starting here it says:



1 "Q You mentioned that you parked in front
2 of the house talking for a while. Do
3 you remember where Gail lived, by the
4 way?

12:24 5 A I believe we were on Avenue O.

6 Q Do you remember what the house looked
7 like from the outside?

8 A Two storey, white house.

9 Q What -- were you ever inside?

12:24 10 A Just -- well, the day after when I
11 went and made a statement with the
12 city police.

13 Q How long were you parked outside the
14 house before you walked Gail to the
15 door?

12:24 16 A Between a half an hour and an hour.

17 Q Anything unusual happen while you were
18 there?

19 A Just a car parked on the opposite side
12:25 20 of the street, running.

21 Q Running?

22 A Running, yeah. Watching us.

23 Q Did you see who was in it, or anything
24 like that?

12:25 25 A Just one lone occupant.



1 Q Did you ever approach the car or do
2 anything about it, Dennis?

3 A No, I didn't.

4 Q Did Gail?

12:25 5 A No."

6 Is that your truthful recollection of that
7 evening, Mr. Elliott?

8 A Yes.

9 Q A couple more here from Mr. Beresh's -- no? I
12:25 10 believe that's it.

11 Those are my -- or actually, I'm
12 just going to show you the map, I'm sorry, if you
13 could call up map B please. And this is a map,
14 Mr. Elliott, of the area, a hand-drawn map. If
12:25 15 you could just -- you'll see 20th Street, 21st
16 Street and Avenue O, and here -- and, actually, if
17 we could just zoom in at the top there, please,
18 where -- 130 where Gail Miller's house is; do you
19 understand where I'm referring to?

12:26 20 A Yes.

21 Q And so here is Avenue O and 21st Street. I take
22 it you would have parked in front of her house, is
23 that right, that evening?

24 A Yes, yes.

12:26 25 Q All right.



1 A Yes.

2 Q And where would the car, the Parisienne, be
3 located? If you could just put an X or an O.

4 A Right there. Whoops.

12:26 5 Q Okay. You will get better at it. Right there?

6 A Yup.

7 Q And so it would be directly across from your
8 vehicle?

9 A Yes.

12:26 10 Q And so your -- whoops -- your vehicle would be
11 facing that direction, that vehicle would be --
12 you would be facing north, that vehicle would be
13 facing south?

14 A Yes.

12:26 15 Q Directly across from you?

16 A Yes.

17 Q And sat there for 15, 30 minutes, or whatever time
18 you and Gail Miller were there?

19 A Yes.

12:26 20 Q Those are all my questions, Mr. Elliott. Thank
21 you very much. Other counsel may have questions.

22 COMMISSIONER MacCALLUM: I see the time,
23 Mr. Wolch, perhaps we should break for lunch.
24 Are any other counsel wishing to question this
12:27 25 witness?



1 MR. WOLCH: I wonder, Mr. Commissioner, I
2 might be not even half a minute.

3 BY MR. WOLCH:

4 Q I just have one question, sir. The fellow in the
5 vehicle did not leave the vehicle?

6 A No, he didn't.

7 Q So would it be fair to say that, when you describe
8 him as having dark hair combed back, we can place
9 some degree of confidence in that because you
10 could have seen that?

11 A Yes.

12 Q But as far as 5 foot 10, 160, I take it that would
13 be the size you would expect him to be if he got
14 out of the car?

15 A About the size of myself sitting in my own
16 vehicle, the height he was and whatnot.

17 Q So that's what you would expect him to be?

18 A Yes.

19 Q Not what you actually saw, because he never
20 stood, --

21 A No.

22 Q -- so we can place a little less confidence in
23 that?

24 A Yes.

25 Q Thank you.



1 MR. HODSON: Mr. Commissioner, Ms. McLean
2 advises me that she will be about ten minutes in
3 cross, maybe I can just canvass; does anybody
4 else -- and I appreciate it depends on what she
12:28 5 would ask.

6 COMMISSIONER MacCALLUM: I think we'll
7 adjourn until 2:00.

8 MR. HODSON: Thank you.

9 COMMISSIONER MacCALLUM: And please don't
12:28 10 talk to anybody about your evidence, sir, until
11 you get back in the stand.

12 A Okay.

13 *(Adjourned at 12:28 p.m.)*

14 *(Reconvened at 2:02 p.m.)*

02:03 15 **BY MS. McLEAN:**

16 Q Good afternoon. Please, could I have February
17 16th, please, it's 075943. Perfect. And if we
18 can zoom in, thank you. Okay, sir, this is the
19 statement that you gave the police on February the
02:04 20 6th of 1969, and it's the first time that you told
21 them about the car, that you had seen the man in
22 the car outside Gail's house?

23 A Yes.

24 Q Okay. I'm just trying to orient you there. Now
02:04 25 you give a description of the man in the car in



1 the second paragraph in that part that's before
2 you?

3 A Yes.

4 Q The man in it, I would say?

02:04 5 A Yes.

6 Q And then it goes on, just giving some descriptions
7 about the man, but then you say:

8 "I have only seen Les Spence at the funeral.

9 I couldn't say if it was him in this car or
02:04 10 not."

11 All right. Now did the police ask you
12 specifically about Les Smith (sic)?

13 A Les Spence?

14 Q Yes, sorry.

02:04 15 A They asked me if I ever knew Les Spence.

16 Q They asked you?

17 A If I knew Les Spence.

18 Q Okay. And was that part of this discussion about
19 the man in the car?

02:04 20 A No.

21 Q Okay.

22 A This was after the discussion.

23 Q I'm sorry, I just can't quite hear you?

24 A It was after the discussion.

02:05 25 Q Which was after?



1 A After the discussion about the person in the car,
2 they asked me if I had ever met Les Spence, and I
3 said "no, I have never seen him before", only at
4 the funeral was the only time I ever saw him.

02:05 5 Q I'm interested in how -- this statement here:

6 "... I couldn't say if it was him in this
7 car or not".

8 A Well I didn't know what Les Spence looked like.

9 Q Did the police ask you if it could have been him
02:05 10 in the car?

11 A I don't remember if they asked me, or not, if it
12 was him in the car, but the guy -- alls I know was
13 the guy in the car had black hair, dark hair,
14 that's all I know.

02:05 15 Q Yeah, I appreciate that.

16 A Yeah.

17 Q I'm just trying to figure out whether or not this
18 is something you would have said:

19 "I have only seen Les Spence at the funeral,
02:05 20,"

21 maybe it was him in the car, I couldn't say if it
22 was him in the car, or is that in response to the
23 police asking you if it could have been Les
24 Spence?

02:05 25 A It might have been in response that it could have



1 been Les Spence, I said I had never saw him
2 before, so I don't know what Les Spence looked
3 like.

4 Q This statement is not a record of a question and
02:06 5 an answer?

6 A Yeah.

7 Q And this is not the way the conversation went.
8 The police asked you some questions, you gave some
9 answers, and then the statement was written up
02:06 10 based on the answers you gave; right?

11 A They wrote it down as I was giving it.

12 Q But you were speaking, just talking, or were you
13 speaking in response to specific questions?

14 A They would ask me the questions and I would
02:06 15 respond to them.

16 Q Thank you. Now a little later here -- could you
17 bring up the whole statement again, please -- at
18 the very bottom of that statement you have got
19 that you spoke with a person that morning who had
02:06 20 told you that his cousin used to go out with Gail
21 Miller; and, again, is that in response to the
22 police asking you about anybody that may have been
23 talking about the murder?

24 A Yes.

02:07 25 Q Okay.



1 A They were talking about it and they asked me if I
2 was talking to a guy by the name of Carson
3 Elliott, and he said that his cousin used to go
4 out with his -- with Gail Miller.

02:07 5 Q Now what I would like to ask you about as well is
6 you said that the police were -- or at least you
7 were feeling as if you were being treated as
8 though you might have been a suspect in the
9 murder?

02:07 10 A Yes.

11 Q Did -- were you ever asked directly by the police
12 whether or not you had had any involvement in her
13 death?

14 A No, they never asked me.

02:07 15 Q Okay. Did the police ever come and talk to you
16 when you didn't give them a statement?

17 A Umm, they were in my suite when I came back from
18 Indian Head on the bus, there was two of them were
19 in my light housekeeping room on 1308 Temperance
02:08 20 Street.

21 Q They were already in your room?

22 A Yeah.

23 Q And, at that time, did you have some discussion
24 with them?

02:08 25 A It was just on what they were looking for, and



1 whatnot, things like that.

2 Q Okay. And as far as you know were there any --
3 was there any record made in their notebooks of a
4 conversation with you?

02:08 5 A Not as far as I know, no.

6 Q Okay, and you weren't asked to sign anything on
7 that occasion?

8 A Not on that occasion.

9 Q Were there any other days like that, where you may
02:08 10 have had conversations with the police where it
11 wasn't written down?

12 A I can't remember if there was or not. Like there
13 was, off and on, a few conversations, but as far
14 as I remember, everything I said was signed.

02:08 15 Q Okay.

16 A Except for the one there when they were in my
17 suite.

18 Q Okay. Did -- what was there about the police
19 dealings with you that made you suspect that you
02:08 20 might be a suspect?

21 A Umm, the way they questioned everybody that I
22 knew.

23 Q Okay.

24 A My boss, my old landlady, anybody I had anything
02:08 25 to do with, old girlfriends, whatnot.



1 Q Old girlfriends going how far back?

2 A Well it was -- as far as I know there was just one
3 I actually heard of, was Evelyn, I just heard it
4 through hearsay.

02:09 5 Q And they talked to your family and to --

6 A They didn't talk to any of my family because they
7 were all in Indian Head.

8 Q They were all?

9 A The whole family was living in Indian Head.

02:09 10 Q Okay. But your friends, your co-workers?

11 A Yeah.

12 Q And how did you find out that the police had been
13 talking to those people?

14 A They told me.

02:09 15 Q "They" being the police, or your --

16 A No, my co-workers.

17 Q Your co-workers and your --

18 A Ex-landlady.

19 Q -- friends?

02:09 20 A Friends, they told me they were talking to 'em.

21 Q What about your employer, did your employer try
22 and find out -- or did they try and find out from
23 your employer whether or not you had been at work?

24 A I didn't hear you?

02:09 25 Q Did your employer tell you whether or not the



1 police had asked any questions about whether or
2 not you had been at work on January 31st?

3 A They just told me that they were in talking to
4 them, they didn't elaborate on what they had said,
02:09 5 just that I asked for time off.

6 Q Okay. And when you say your employer, and I just
7 have to get some names, because you said "they"?

8 A Okay. Don Lane.

9 Q Sorry?

02:10 10 A Don Lane was the superintendent and Ivan Taylor
11 was the manager.

12 Q And did both of those people tell you they had had
13 some dealings with the police about you?

14 A Yes.

02:10 15 Q Okay. And your former girlfriend and some other
16 friends and whatnot?

17 A As far as I'm -- what they told me, yes.

18 Q Okay. Did you ever discuss with the police that
19 they had spoken to those people?

02:10 20 A Well the RCMP had Evelyn and I both at the police
21 station one night.

22 Q And when was that? I don't need a precise date,
23 just give me --

24 A Well it would be after it happened, like three
02:10 25 weeks or two weeks after it happened, when I was



1 -- when the RCMP got involved in it.

2 Q Okay, so about three weeks or so after the
3 murder --

4 A Yeah.

02:10 5 Q -- the RCMP had you and your former girlfriend in?

6 A Yeah, each in separate rooms.

7 Q Okay. And what was the questioning like for you;
8 were you being asked if you had been involved in
9 it?

02:11 10 A Umm, actually it was more -- how am I going to put
11 it -- unless -- on the sex life --

12 Q Okay.

13 A -- that was involved with her, Gail Miller.

14 Q Okay. And that's a pretty straightforward --

02:11 15 A It was blunt and to the point.

16 Q For you, --

17 A Yes.

18 Q -- it's a pretty straightforward question.

19 A Yes.

02:11 20 Q You did not have any sexual involvement with her?

21 A That's right.

22 Q And was it that straightforward with the police or
23 was it repeated questions?

24 A It was blunt and to the point.

02:11 25 Q Just once?



1 A Just once, yup, and I said "no".

2 Q Did the police ever present any scenarios to you
3 as what might have happened between you and Gail
4 Miller?

02:11 5 A Nope.

6 Q And did -- I'm not sure I got an answer to the
7 other question about whether or not you spoke to
8 the police about your knowledge that the police
9 had spoken to your friends or co-workers?

02:12 10 A I never mentioned it to the police because I just
11 figured they were doing their job.

12 Q Okay. And they never told you "we have talked to
13 your boss, we have talked to your girlfriend,
14 we've talked --"

02:12 15 A No. Well I knew about the girlfriend because we,
16 I took her down there, so I knew that.

17 Q Yeah.

18 A But as far as my old landlady, my bosses, whatnot,
19 they had told me that they were in there talking
02:12 20 to 'em.

21 Q "They", being the people that were spoken to, told
22 you?

23 A Yes.

24 Q But the police never told you that they had --

02:12 25 A No, the police never told me, no.



1 Q Okay. And I guess that probably answers the next
2 question. Did -- the police, I guess, did not
3 ever tell you anything that other people might
4 have said about you?

02:12 5 A Nope.

6 Q On February the 6th, that's the first time you
7 told the police about having seen the man in the
8 car, right? And if I remember correctly you spoke
9 to them briefly in the couple of days after the
02:13 10 murder, and then one day you had come home on the
11 bus and you had remembered, then, that there was
12 the man?

13 A I remembered -- I phoned them -- I remembered it
14 on the bus going down to Indian Head and I phoned
02:13 15 them from Indian Head that night.

16 Q Right?

17 A And then, when I got back, I went in and made a
18 statement.

19 Q Good. You have a perfect memory of that. Since
02:13 20 -- during that statement you told them about the
21 man, you gave as much of a description as you
22 could, and about the car?

23 A Yes.

24 Q Did the police seem to be interested, or
02:13 25 particularly interested, in that information?



1 A They just asked me if it could have been a 1958
2 Chev --

3 Q A 19 --

4 A -- car.

02:13 5 Q I'm sorry, a 1958?

6 A 1958 Chev car instead of a 1963, and I said "no,
7 it was a '63-'64 Pontiac Parisienne."

8 Q Okay. And did they ask you if it could have been
9 a different colour than the colour you described?

02:13 10 A No.

11 Q Okay. And did they tell you anything about the
12 1958 Chev or why they thought that might be a
13 possibility?

14 A No, no. Just asked me if it was a '58 and I said
02:14 15 "no".

16 Q And do you remember what officer might have asked
17 you that?

18 A I have no idea.

19 Q And can you help us with how early in the
02:14 20 interview process that would have been, is this
21 something you were asked in February, or maybe not
22 until June?

23 A Well that was asked when -- oh, I really can't
24 remember. It must have been later than February
02:14 25 that I was asked about the car again.



1 Q Okay. And did the subject of the car seem to keep
2 coming up in police questioning or was --

3 A Not really.

4 Q Okay. Was there ever any attempt to show you
02:14 5 photographs of anybody that might have been the
6 man driving the car?

7 A Umm, they did show me three photographs, but they
8 all had shoulder-length hair and I said "no, it
9 wasn't," I said I couldn't be positive, but I'm --
02:14 10 it's a big -- "their hair is too long" or
11 something.

12 Q And can you tell me approximately when, in the
13 chronology, that that would have been that you
14 were shown those pictures?

02:15 15 A That would have been after I filled out the report
16 about the car.

17 Q Okay. So sometime after February the 6th?

18 A Yeah.

19 Q And can you give me an outside date?

02:15 20 A Not really. It would have to be on the statement
21 there somewhere.

22 Q Okay.

23 A That's --

24 Q Were there any discussions with you -- you did not
02:15 25 testify at the Milgaard trial; am I right?



1 A No.

2 Q And you did not testify at the prelim?

3 A Nope.

4 Q Okay. Were there ever any discussions with the
02:15 5 police or with Crown attorneys about possibly
6 testifying?

7 A Nope.

8 Q Did anybody mention to you that you might be
9 served with a subpoena?

02:15 10 A Nope.

11 Q Did you have any contact with anybody from the
12 defence of David Milgaard in the time of 1969 and
13 1970?

14 A Nope.

02:16 15 Q In the 1980s sometime you told the Commission
16 counsel that you spoke to Joyce Milgaard sometime
17 in those early '80s; right?

18 A Yes.

19 Q Remember, he asked you questions about one of the
02:16 20 transcripts of a tape, if you recall?

21 A Yes, I remember.

22 Q All right. So between the 1969 period of Gail
23 Miller's death, all right, and until 1980 or
24 80-ish, when you spoke to Joyce Milgaard, had you
02:16 25 ever spoken to anybody from David Milgaard's side,



1 if I could put it that way?

2 A Nope.

3 Q Not at all?

4 A Nope.

02:16 5 Q And did you have any further contact with the
6 police about this case from 1970 up until that
7 period?

8 A I don't believe so, I -- like I say, I can't
9 remember, --

02:16 10 Q Okay?

11 A -- but I don't believe I did have anything really
12 concrete about it.

13 Q Could I have 264953, please, I think it's probably
14 the next page of this. Yeah, okay, so it's the
02:17 15 bottom of 953 and the top of 954. It's about
16 receiving calls from Joyce Milgaard. These are
17 the notes that the RCMP took in 1993 after they
18 had spoken to you and you told them, apparently,
19 that you had had two calls from Joyce Milgaard,
02:17 20 right, and that you did not talk to -- and about
21 ten years ago, so that would make it about 1983 or
22 so -- and you said to the police that you didn't
23 talk to Mrs. Milgaard on the first occasion, and
24 you did speak to her the second time; right?

02:18 25 A Okay, yeah.



1 Q And the second time, I think, is that tape
2 transcript that we've heard about. Can you tell
3 me why you didn't speak to her the first time?

4 A Well, because I wasn't home.

02:18 5 Q Okay. Did you receive some kind of message that
6 she had called?

7 A Nope.

8 Q How were you able to tell the police, in 1993,
9 that she had called you twice?

02:18 10 A Well I believe my wife had said that she had
11 called, but I don't think she introduced herself,
12 when she answered the phone the second time she
13 said "it's the same lady as before".

14 Q Okay. And were those calls in fairly quick
02:18 15 succession?

16 A I can't remember how close they were together.

17 Q Well if your wife was able to say "it's the same
18 lady that called before," that suggests within a
19 couple days, maybe?

02:18 20 A Could have been. Like I say, it's back in the
21 '80s, I don't know.

22 Q Did anybody ever suggest to you that perhaps you
23 shouldn't, or that you might not want to speak to
24 Mrs. Milgaard?

02:19 25 A Nope.



1 Q And the same question as applies to anybody
2 representing or helping David Milgaard; did
3 anybody ever suggest to you that perhaps you
4 shouldn't get involved in that?

02:19 5 A Nope.

6 Q Okay. And finally, the interview with Joyce
7 Milgaard that is taped was read to you this
8 morning, remember the part in it about you saying
9 that it was 5:00 or 5:30 when you brought Gail
02:19 10 Miller home?

11 A I probably misunderstood her because that was
12 probably about the time I went to bed, I --

13 Q Having brought her home and then --

14 A Taken her home, and gone back to my own place and
02:20 15 socialized.

16 Q 056937 please. The reason I'm asking this, sir,
17 is because in 1993 -- no, 1992 -- give me one
18 moment, sorry, there it is, just bring it down --
19 1992 when you were speaking to the police, right,
02:20 20 they have recorded you saying as:

21 "... I drove her home around 5-5:30 in the
22 morning".

23 A I don't remember saying that, --

24 Q No?

02:20 25 A -- because I know that was the time I was back at



1 home already, at 5:30 in the morning.

2 Q So you just may have been confused when you were
3 speaking to both Mrs. Milgaard and to the police
4 later?

02:21 5 A Probably, because that was the time I was back
6 home already.

7 Q Okay. So I'm just wondering where that memory is
8 coming from, sir, because in February of 1969 you
9 had said that you had taken her home at 1:30?

02:21 10 A That's right.

11 Q And then when you testified in 1999, the Fisher
12 trial, Fisher proceedings, you said it was
13 sometime between 2:00 and 2:30. All right? And
14 that's the kind of thing that you could expect to
02:21 15 happen over many, many years.

16 A The thing is by the time I got her home, we stayed
17 out and talked for a while, like I wasn't keeping
18 track of the time, but I figured it was around
19 2:00, 2:30, 1:30 or 2:30.

02:21 20 Q And you really can't help as to where this 5:00 or
21 5:30 came from except --

22 A No.

23 Q -- maybe thinking it was the time you got home?

24 A Maybe thinking it was the time I got home, but I
02:21 25 know I was well in bed by then, because if it was



1 5:30 and I dropped her off and she had to be at
2 work early in the morning, I would have probably
3 drove her to work, I would have just stayed there
4 and drove her to work.

02:22 5 Q You would have stayed outside while she went in
6 and got changed?

7 A Got changed, and I would have drove her back to
8 work.

9 Q Okay. And did you have any discussions with her
02:22 10 about how she was going to get to work in the
11 morning?

12 A No.

13 Q Thank you, sir, that's all my questions.

14 COMMISSIONER MacCALLUM: Just a minute,
02:22 15 please, sir. Okay. Mr. O'Keefe?

16 MR. O'KEEFE: No questions.

17 COMMISSIONER MacCALLUM: No questions? Mr.
18 Elson?

19 MR. BECKMAN: John Beckman, My Lord. No
02:22 20 questions of this witness.

21 COMMISSIONER MacCALLUM: No? Okay.

22 Mr. Fox?

23 MR. FOX: Just a couple.

24 BY MR. FOX:

02:22 25 Q I just wanted to clarify, Mr. Elliott, as I



1 understand the first statement that you gave that
2 referenced this car that you saw parked outside
3 was the February 6th, '69 statement?

4 A Yes.

02:22 5 Q But there's record that you phoned the police, you
6 said, on your trip back from Indian Head?

7 A No, to Indian Head.

8 Q To Indian Head?

9 A I was already in Indian Head when I phoned, I was
02:23 10 phoning from my mother's house.

11 Q Already in Indian Head, and that's when you would
12 have told them about the car?

13 A Yes.

14 Q Okay, so that would have been, I think the murder
02:23 15 occurred on the Friday, January 31st; that would
16 have been 1st, February 1st or 2nd that you
17 phoned?

18 A Yeah.

19 Q And I think, I don't know if we need to punch it
02:23 20 up, but I think that's document 103414 which I
21 believe reflects that. You make reference
22 somewhere in one of your statements that you
23 appear to be, or you appeared to be, the last
24 recorded individual to have dealt with Ms. Miller
02:23 25 prior to her death?



1 A Yes.

2 Q And I take it, in light of that, it wouldn't have
3 surprised you that the police at least would have
4 some suspicions or want some questions answered as
02:23 5 to your whereabouts and that sort of thing?

6 A Yes, I realized that.

7 Q And that, at least initially, it wouldn't surprise
8 you that you might be -- you would be a potential
9 suspect?

02:23 10 A Didn't surprise me.

11 Q And when I look at your statements that you gave
12 you reference a number of friends that were with
13 you at the party and people you worked with, that
14 sort of thing, those names are mentioned, some of
02:24 15 those names are mentioned in your statements?

16 A Yes.

17 Q You mention, I think, Evelyn in your statement as
18 well?

19 A Yes.

02:24 20 Q And you mentioned, as well, your ex-landlady,
21 because I think the night you drove the other
22 people home to the Avenue O residence you actually
23 waited at the Windsor Hotel to pick up your
24 ex-landlady, who was getting off work, to give her
02:24 25 a ride home?



1 A That's right.

2 Q So, again, all of those names would have been
3 names that you would have been supplied to the
4 police as who you had dealings with on or about
02:24 5 the evening of January 30th, 1969?

6 A That's right.

7 Q And, again, it wouldn't have surprised you that
8 the police would follow up with that sort of
9 questioning?

02:24 10 A No, it wouldn't surprise me at all.

11 Q Would it be fair -- well, I'll ask you this: Did
12 you have any concerns with how the police dealt
13 with you in 1969?

14 A Umm, at the time I did, but then I realized that
02:24 15 they were just doing their job.

16 Q And the concern was that you might be, be a
17 suspect in something that you, yourself, felt you
18 had no direct involvement with?

19 A That's right.

02:24 20 Q Thank you. Those are all the questions I have.

21 COMMISSIONER MacCALLUM: Thanks.

22 Mr. Gibson? Nothing? Ms. Krogan?

23 MS. KROGAN: Nothing.

24 COMMISSIONER MacCALLUM: And Ms. Knox?

02:25 25 MS. KNOX: No.



1 COMMISSIONER MacCALLUM: Mr. Hodson?

2 MR. HODSON: I do have a redirect arising
3 out of one of Ms. McLean's questions.

4 BY MR. HODSON:

02:25 5 Q If you could call up document 065399. You had
6 talked, Mr. Elliott, about being interviewed by
7 the RCMP, I think, sometime after the murder; is
8 that correct?

9 A Yes. Yes.

02:25 10 Q If you could just go to, I think it's the second,
11 just go to the second page here. I'm sorry,
12 just -- I'm sorry, go back to the first page, I
13 should have -- this is a report March 28th, 1969
14 received by the Attorney General dated March 20,
02:25 15 '69 by the RCMP, and I will go to the end, and I
16 think it's Inspector Riddell. But if you go to
17 the second page or the third page, just try the
18 second page first, okay -- no, go to the third
19 page, I'll just call this out. Now this isn't
02:26 20 your document, Mr. Elliott, but let me just read
21 this, this is Inspector Riddell, it says:

22 "The night before her death, this girl
23 attended a house party along with six other
24 young fellows and two other girls. She was
02:26 25 driven home by one of these youths and



1 dropped off at her residence at
2 approximately 2:00 a.m., 31 January '69,
3 some five to six hours prior to her death.
4 All persons attending this party were
02:26 5 originally questioned by the Saskatoon City
6 Police and eliminated as suspects, however
7 our members will requestion all of these
8 persons to definitely establish their
9 whereabouts between 6:00 and 8:00 a.m.,
02:26 10 January 31, 1969. Miss Miller also had a
11 steady boy friend, Les Spence, who lives at
12 Purdue, Sask., and inquiries to date
13 indicate that he was at home between 11:00
14 p.m., 30 January 69 and 11:00 a.m., 31
02:27 15 January '69."

16 And just a question, Mr. Elliott, does that --
17 your meeting with the RCMP, did it involve just
18 you and your girlfriend, or do you know -- or
19 your friend at the time, or did it involve some
02:27 20 others, your roommates, etcetera; do you know if
21 they were also questioned by the RCMP?

22 A I have no idea, because after this happened the
23 whole apartment vacated, we didn't have contact --
24 I haven't had contact with them since it happened.

02:27 25 Q Okay. But just what I have read you there, does



1 this sound like the interview you would have
2 attended with the RCMP, what they are talking
3 about here after the -- after you had talked to
4 the city police?

02:27 5 MS. KNOX: Mr. Commissioner, it might help
6 if the pronunciation of that word is
7 "requestioned", as opposed to "requisitioned".

8 MR. HODSON: Oh, I -- thank you.

9 MS. KNOX: I think there is just a hyphen
02:27 10 missing.

11 BY MR. HODSON:

12 Q Yes, thank you. It says:

13 "... however, our members will requestion
14 all of those persons ...",

02:27 15 So it appears from this RCMP report in March of
16 '69 that the RCMP were going to re-question the
17 people who were at that party, and my question is
18 whether you knew whether the other, your other
19 friends at that party were also re-questioned by
02:28 20 the RCMP?

21 A I have no idea.

22 Q Okay. I'm wondering, Mr. Commissioner, I did not
23 include this RCMP report in the exhibit binder,
24 and in fairness to other counsel I think if they
02:28 25 do have questions arising out of this, I didn't



1 put it in, and I didn't put it to the witness.

2 I don't have any more questions
3 for him but --

4 COMMISSIONER MacCALLUM: Anybody have
02:28 5 anything arising out of that?

6 ALL COUNSEL: Nothing.

7 COMMISSIONER MacCALLUM: Apparently not,
8 Mr. Hodson. Is that it?

9 MR. HODSON: That's all. Thank you.

02:28 10 COMMISSIONER MacCALLUM: Thank you very
11 much, Mr. Elliott, you are excused.

12 MR. HODSON: The next witness is Terry
13 Michayliuk.

14 **TERRY MICHAYLIUK, sworn:**

02:29 15 **BY MR. HODSON:**

16 Q Good afternoon, Mr. Michayliuk, thank you for
17 testifying before this Commission of Inquiry.

18 I understand that you currently
19 reside in Saskatoon?

02:29 20 A Yes.

21 Q And that you were formerly employed with Westwood
22 Funeral Chapel; is that right?

23 A Yes.

24 Q And that, in January of 1969, you worked at the
02:29 25 funeral home?



1 A That's correct.

2 Q Okay. If I could ask you to call up map B,
3 please, and I'm just going to show you a map,
4 here, that we have been referring to from time to
02:29 5 time, it shows 20th Street, Avenue N, Avenue O,
6 and the funeral home was located on the corner of
7 Avenue N and 20th Street; is that correct?

8 A Yes, that's correct.

9 Q In January 31, or on January 31, 1969, I
02:30 10 understand that you also lived at the funeral
11 home; is that correct?

12 A Yes.

13 Q And whereabouts was your suite located?

14 A My suite was in the basement of the funeral home,
02:30 15 downstairs.

16 Q In the basement?

17 A Yes.

18 Q Towards the front or back of the funeral home?

19 A It would be sort of three-quarter ways back, it
02:30 20 would be -- it would be -- it wouldn't be -- see,
21 there is a garage at the very back, and it was
22 before the garage, so --

23 Q So is this area here garage?

24 A Yes.

02:30 25 Q And so it would be somewhere there?



1 A Right.

2 Q And I take it you -- did you have any windows in
3 your suite?

4 A No.

02:30 5 Q If I could just call up 053351, which are some
6 photographs of the funeral home, and I don't know
7 what year these were taken, but judging by the
8 make of cars, I don't think it's 1969. Are you
9 able to help me out as to when -- was there any
02:31 10 renovations done to this funeral home from 1969 to
11 date, do you know, exterior renovations?

12 A Yes, there were, but the pictures you are showing
13 me seem correct before the renovations.

14 Q So these pictures would accurately reflect the
02:31 15 funeral chapel in January 1969?

16 A I would say so, yes.

17 Q Okay. So I think, if I have my bearings straight,
18 this is 20th Street right here; is that correct?

19 A Yes, yes.

02:31 20 Q And this is Avenue N?

21 A Right.

22 Q So that's the corner of N and 20th, and this is
23 looking north down Avenue N, the bottom left
24 photo?

02:31 25 A Yes.



1 Q And this is looking, this is Avenue N here and you
2 are looking, this would be southwest, is it,
3 looking at the back of the funeral home?

4 A Yes.

02:32 5 Q And so you said this back area was garage?

6 A Correct.

7 Q What was above here; was that suites?

8 A Two suites, yes.

02:32 9 Q And do you recall, in January of 1969, who would
10 have lived up there?

11 A Umm, Ray Murdock --

12 Q Yes?

13 A -- and I think, at that time, was Marge Johnson.

02:32 14 Q And Ray Murdock worked at the funeral home as
15 well; did he?

16 A Yes.

17 Q And Marge Johnson, did she work at the funeral
18 home?

19 A No.

02:32 20 Q Now I understand that, you can't see it on this
21 photo, but the first house here on Avenue N, I
22 think it was 227, the Hounjet house, I understand
23 that sometime after January 1969 that house was
24 demolished and it became parking lot?

02:32 25 A Yes, but I think it was a few years after.



1 Q Right. Do you recall what kind of lighting was in
2 this back area? Is that a light?

3 A Yeah, I can't recall where the lights were. But
4 it certainly was adequate lighting, you know, it
02:33 5 wasn't really bright but it was adequate.

6 Q And these garages, these would be where you would
7 have your vehicles in the -- connection with your
8 business?

9 A Yes.

02:33 10 Q Now I understand, on the morning of January 31,
11 1969, you were contacted about a body in the lane
12 in behind the funeral home; is that correct?

13 A Umm, yes, but we didn't -- I didn't know it was a
14 body then.

02:33 15 Q Okay. Why don't you just tell me what you recall
16 from that morning, please?

17 A Well it was somewhere around 8:30 in the morning
18 that Ray Murdock buzzed me on the intercom and
19 asked me to go out and take a look, there was a
02:34 20 young girl, that she would meet me at the back
21 door. He thought somebody had fallen in the lane,
22 and maybe I could give them a hand, and so I went
23 out and met this young girl and she showed me
24 where the body was.

02:34 25 Q Okay. If I could just call up map B -- I'm sorry,



1 just leave these photos on for a moment. Is
2 there, if you can show me on this photo, where
3 would -- where would the back door be; is it over
4 here?

02:34 5 A No, it would be beside, if you look at it now it's
6 on the -- beside the double garage doors on the
7 east.

8 Q Oh, there we go.

9 A On the east side, yes.

02:34 10 Q So right here would be the back door --

11 A Yes.

12 Q -- and there would be a buzzer there?

13 A No, there is no buzzer there, it's just a back
14 entrance.

02:34 15 Q Okay. And so this is where you would have met the
16 young girl?

17 A Yes.

18 Q Okay.

19 A She apparently went up to Ray's suite, or was sent
02:34 20 to Ray's suite and knocked on his door, and then
21 he sent me --

22 Q So that would be up here?

23 A No, the next one over.

24 Q Here?

02:35 25 A Yes.



1 Q Okay. So then you met this young girl; did you
2 get her name or do you recall her name?

3 A No.

4 Q Okay. I believe it was Mary Marcoux, or does that
5 ring a bell?

6 A Well, I didn't get her name at all.

7 Q Okay. So you would have met here and then walked,
8 she would have walked or taken you to where she
9 had found the body, --

10 A Yes.

11 Q -- or a person?

12 A Yes.

13 Q Okay. If you could go to map B, please, and why
14 don't we just zoom in here. Mr. Michayliuk, this
15 is a map that someone prepared for one of the
16 earlier proceedings, and so if we have the funeral
17 home here is this an accurate -- you would have
18 gone down this alley and came across a body --

19 A Yes.

20 Q -- or person there?

21 A Yes, that would be correct.

22 Q And there was just you and this young girl?

23 A Yes.

24 Q Can you tell me what you recall arriving there and
25 what you found --



1 A Well --

2 Q -- and what you did?

3 A Well when we arrived, well I walked with her up
4 the lane and then when she showed me where this
02:36 5 person was, I saw someone laying face-down in the
6 snow and I spoke to the person and got no reply,
7 tugged on her shoulder, and at that time was able
8 to just sort of lift her a little, and I noticed a
9 wound in her neck and set her down and I -- I knew
02:36 10 that she wasn't alive, or I thought she wasn't
11 alive, because she was -- she was cold and she was
12 stiff --

13 Q Yes?

14 A -- at the time.

02:36 15 Q And just what did you observe in that area; did
16 you observe any blood in the area at that time?

17 A Not really. There probably was some, but -- I
18 might have, but that I can recall not really,
19 because things happened fairly fast. And when I
02:37 20 did that, then I just went back to the funeral
21 home, and proceeded to phone the police and get a
22 blanket so --

23 Q Okay. Did the young girl go back with you?

24 A Yes, and she came back with me a ways, and then
02:37 25 I'm not just sure what happened to her after that,



1 she --

2 Q Okay.

3 A But --

4 Q So you then went back and phoned the police?

02:37 5 A Yes.

6 Q And an ambulance?

7 A No, I think, I think Joan Murdock, that was Ray's
8 wife, had come out on the landing of -- as you saw
9 in the entrance and asked, and I think I had asked

02:37 10 her to phone the ambulance, --

11 Q Okay.

12 A -- and I went in and phoned the police.

13 Q And so you phoned the police, and did the police
14 tell you or instruct you to do anything?

02:37 15 A Well the instruction was to, just to wait there.

16 Q Okay. And so you then got a blanket; did you?

17 A Yes.

18 Q And did you go back to the body?

19 A Yes, and covered it.

02:38 20 Q So you went back to the body; were you by yourself
21 do you recall?

22 A Then, I'm not sure, by myself or the little girl
23 was with me yet.

24 Q Okay. So then you went back to the body, and did
02:38 25 you do something with the blanket then?



1 A Just covered the body.

2 Q Okay. And then waited there for police?

3 A Not right at the place, probably stepped back and
4 waited out in the alley, and --

02:38 5 Q Okay. I'm just going to go through and show some
6 police reports here, sir, if you could call up
7 009317. That is a report January 31, '69, and it
8 looks as though there was actually maybe two calls
9 to the police, but if you could go to this second
02:38 10 one here and zoom that out, it says:

11 "At 8:42 I received another call this one
12 from a Terry Michayliuk of 1402-20th Street
13 West, and he stated that he had just been
14 told of a lady in the lane near the Westwood
02:39 15 Funeral Chapel where he was employed and,
16 upon checking he had seen a woman who
17 appeared to be dead with some blood around
18 the area. He said that the body had been
19 covered with a blanket."

02:39 20 Does that accurately record what you would have
21 told the police that morning?

22 A Yes, I believe so.

23 Q Okay.

24 A Yes.

02:39 25 Q If you could then go to 006255, and this is,



1 actually this is the general occurrence report
2 dated January 31, '69, and if you could just call
3 out that part, please. Now do you recall the
4 names of the officers who arrived first, Mr.
02:39 5 Michayliuk?

6 A No.

7 Q It --

8 A There was one officer that arrived in the car, I
9 didn't, I didn't get a name --

02:40 10 Q Okay.

11 A -- from him but --

12 Q Okay. And this report, and I'll just read this
13 part here, it says:

14 "A Ray Murdock and a Terry Michayliuk, from
02:40 15 Westwood Funeral Home were present and upon
16 lifting up this blue blanket we noticed a
17 woman lying face down, head facing south
18 directly opposite the south fence of 211
19 Avenue N South in the snow bank. There
02:40 20 appeared to have been scuffle taken place
21 there, also there were spots of blood on the
22 snow and the woman's clothing was
23 disarranged. At 8:50 I checked the pulse on
24 the right wrist, found nothing and the body
02:40 25 appeared to be frozen, however you could



1 still move the limbs."

2 If I could pause there, does that -- this is the
3 police officer writing their observations, but
4 does that accord with what you observed that
02:40 5 morning?

6 A Pretty well what I saw, yes.

7 Q When you went back, I take it that after you first
8 saw it, you went back and phoned, and then when
9 you went back again you would have observed the
02:41 10 area where the body -- the body and the area a
11 second time?

12 A Umm, yes, but I wasn't there looking.

13 Q Okay.

14 A I think you knew enough that this was a problem --

02:41 15 Q Yeah?

16 A -- and I think, and the reason the blanket, I used
17 the blanket to cover it because there were some
18 children going to school --

19 Q I see.

02:41 20 A -- nearby, so just covered it and moved away from
21 the area.

22 Q Right. Just as far as the observations of blood,
23 did you, again, can you tell me today what you
24 recall, at any time that morning when you observed
02:41 25 that area, about the -- whether there was blood



1 visible in the snow?

2 A At this stage I don't really recall about --

3 Q Okay?

4 A -- a lot, amount of blood, nor do I recall
02:41 5 studying the situation for blood or anything.

6 Q Is it fair to say that there had -- had there been
7 a significant amount of blood in the snow, you
8 would have observed it, or --

9 A I would think so, yes.

02:42 10 Q Okay. And then this report says as well, and I
11 think talking about the area, that there appeared
12 to have been a scuffle taken place. Do you have
13 any recollection of the snow in the area around
14 the body when you arrived?

02:42 15 A Yes, I would agree with a scuffle, it seemed to be
16 tramped around where she was a bit.

17 Q I see. And so when you say "tramped", foot marks,
18 or just --

19 A Well the snow seemed to be mixed, I wouldn't --
02:42 20 there weren't any specific foot marks that I
21 recall but --

22 Q And what precautions did you take, sir, when you
23 observed the body the first time when you went
24 near the body?

02:42 25 A Umm, none in particular, other than just walked up



1 and called to the lady first, and then tugged at
2 her shoulder and moved her up, and when I saw the
3 wound in her neck I just set it down and didn't
4 touch anything else --

02:42 5 Q Yeah?

6 A -- and --

7 Q You didn't walk around the body --

8 A No.

9 Q -- or trample any snow around the body?

02:43 10 A No, no.

11 Q Okay. Would it be fair, and I don't want to put
12 words in your mouth, but would it be fair to say
13 that footprints to get to check the body and back,
14 and that would be about the extent?

02:43 15 A That would be it, yes.

16 Q Okay. And when the police came, when the police
17 arrived and you were back, would you have been
18 near the body when the police first arrived?

19 A Well no, the first police car arrived, and then I
02:43 20 think I was asked to sit in the police car.

21 Q Okay.

22 A And --

23 Q What -- are you able to answer this question; if
24 you observed the body, you observed the area and
02:43 25 the snow, you then went in and phoned and came



1 back, and are you able to say that when the first
2 police arrived, the first police officer arrived
3 to observe the area of the body, that the area of
4 the body was the same as when you left it shortly
02:43 5 before?

6 A I, I would say so, yes.

7 Q So in other words by the -- when you went to make
8 the phone call and came back, the condition, the
9 area around the body was the same as when you left
02:44 10 it; is that fair?

11 A Yes. Yes.

12 Q And there were no other people around at that
13 time?

14 A No, not that I know of.

02:44 15 Q Now I take it, then, the police interviewed you;
16 did they?

17 A Yes, later that day.

18 Q And was that in the police car, in the funeral
19 home?

02:44 20 A They came to, a police officer came to the funeral
21 home.

22 Q Okay. And tell me what you recall about talking
23 to the officer and providing a statement?

24 A Umm, well I think I was, I was working downstairs,
02:44 25 and I was called up, and there was a police



1 officer that was sitting, talking to Ray Murdock
2 in the office. And then I don't totally recall
3 the conversation, but it was sort of to the effect
4 that, you know, this is kind of what happened, you
02:45 5 know, and he had it written down and said "do you,
6 is this what you think happened" or "is this okay
7 with you," and basically it seemed to be fairly
8 close, and so I signed the report at that time.

9 Q Okay. I'll maybe just call that up, 006272,
02:45 10 please. Does this look like the witness statement
11 form that would have been presented to you?

12 A Seems to, yes.

13 Q Yeah. And is that your signature at the bottom
14 right corner?

02:45 15 A Yes.

16 Q Okay. So, just so that I have this clear, in fact
17 it says 3:20 p.m. up there; does that sound about
18 right?

19 A That sounds about right.

02:45 20 Q So the officer -- is it your evidence, sir, that
21 the officer would have written this statement out
22 and given it to you and asked you to read it then?

23 A Yes.

24 Q And did you describe these events to the officer
02:45 25 before he wrote this statement; do you recall?



1 A Not that I recall.

2 Q Okay. And let's just go through the statement,
3 or -- had Mr. Murdock already given a statement as
4 well?

02:46 5 A I believe he had, yes.

6 Q And was he your boss at that time?

7 A Yes.

8 Q Okay. It says:

9 "Mr. Terry Michayliuk states as follows:

02:46 10 I am the assistant manager at
11 Westwood Funeral Chapel located at 1402-20th
12 Street West, Saskatoon and I also reside at
13 that address.

14 At approximately 8:00 ..., "
02:46 15 maybe you could just scroll in there to make it
16 easier to read:

17 "At approximately 8:30 a.m. or 8:35 a.m. on
18 January 31, 1969, I was informed by Rae
19 Murdock that apparently a woman was lying in
02:46 20 the lane and if I would go with him."

21 Next paragraph, please. It says:

22 "I put my coat on and went with Mr. Rae
23 Murdock in the lane. I saw a girl who
24 pointed out the body to me in the lane which
02:46 25 ..., "



1 Ms. Knox, are you able to help me with that one?

2 MS. KNOX: "Which runs north".

3 BY MR. HODSON:

4 Q "... which runs north and south in the 200
02:47 5 block Avenue N South. I observed a woman
6 lying face down in the snow. I kinda tugged
7 at the woman's shoulder and also spoke to
8 her. I turned her over a bit - but then I
9 saw that she was dead. I returned to the
02:47 10 chapel and I phoned the police."

11 If I can just pause there, if I can just go back
12 to the main page, please. From what you had told
13 me earlier, Mr. Michayliuk, this says that you
14 went in the lane with Mr. Murdock to see the
02:47 15 body, and I take it that wasn't correct, that's
16 --

17 A No, I went with the girl, with the little girl.

18 Q Okay.

19 A That's why Mr. Murdock had buzzed me, at that
02:47 20 time, to go out with the girl to check who was in
21 the lane, and that, that wasn't correct that he
22 came with me.

23 Q Okay. Did you point that out to the officer or
24 did you --

02:48 25 A No, I didn't.



1 Q Okay. If you could go to the next page, please,
2 it says:

3 "After notifying the police department I
4 picked up a blue blanket and took it with
02:48 5 back to where this woman was laying and I
6 covered this woman with the blanket. I
7 stayed at the scene with Mr. Murdock until
8 the police arrived."

9 Is that accurate?

02:48 10 A I'm not sure when, when Mr. Murdock would have
11 came onto the scene, I don't think he was there
12 when we put the blanket on, there wasn't two of us
13 putting the blanket on.

14 Q Okay.

02:48 15 A Certainly, it was, I was there alone. He might
16 have came out later, simply because I don't think
17 he was ready or dressed to go outside at that time
18 when he buzzed me, so --

19 Q Okay. Go to the next paragraph, full paragraph,
02:49 20 please. And then it says:

21 "When I first went to the place where the
22 woman was lying - I noticed she was lying
23 face down - facing in a southerly direction.
24 I noticed her clothing was disarranged and
02:49 25 was wearing a coat. The snow around the



1 body appeared to have been messed up and the
2 odd spot blood near her in the snow."

3 Is that correct; does that accurately reflect
4 what you said?

02:49 5 A Pretty well accurate, other than the blood that I
6 mentioned that I am not sure that I -- it's not
7 vivid in my mind at this time any more.

8 Q Okay. And then just scroll to the bottom part, it
9 says:

02:49 10 "This is all that I can remember about the
11 matter at the time."

12 And that's your signature; is that right?

13 A Right.

14 Q And this appears to be Detective Sergeant Reid, I
02:49 15 think?

16 A I believe that's who it was.

17 Q Okay. I now wish to just go through just a few
18 photographs, Mr. Michayliuk, that I believe were
19 taken by the police that morning, and just have
02:50 20 you identify a few landmarks. If you could call
21 up 077846, this is a -- not a very good photo, but
22 I believe that this would be looking north; is
23 that correct?

24 A Yes.

02:50 25 Q And, can't see very good with snow, but I take it



1 this -- did you know that -- your neighbours, was
2 it the Hounjet residence that was right here?

3 A Yes.

4 Q Would that be the back bushes of the Hounjet
5 house?

6 A Yes, I would say.

7 Q And, I can't see it here, but the funeral home
8 would be this way?

9 A That's correct.

10 Q Correct?

11 A Yes.

12 Q Okay. And does that, I believe these are photos
13 taken before the body was moved, but does that
14 look as though -- where the body was that morning?

15 A Yes, it does.

16 Q And I believe this is a police car down at the
17 other end, is that -- do you recall a police car
18 being there?

19 A Yes, that's where we sat when I was waiting in,
20 with the police officer in the car. He had pulled
21 around and waited --

22 Q Okay?

23 A -- for other policemen to come, and the ambulance,
24 I believe.

25 Q Okay. Next, 077847, and again I think this would



1 be; is this the bush from the back of the Hounjet
2 residence?

3 A Yes, I would say so, yes.

4 Q And then this would be a fence of the neighbour's
02:51 5 yard; is that correct?

6 A Yes.

7 Q And does that look like the way that you observed
8 the body when you arrived there on January 31,
9 1969?

02:51 10 A Yes.

11 Q Next, 077851, please. And I believe this is
12 looking south down the back alley; is that
13 correct?

14 A That seems to be.

02:51 15 Q And so this would be the fence here, that would be
16 the Hounjet property?

17 A Right.

18 Q And --

19 A And the lane forming a T there.

02:52 20 Q Yeah. Would that, it looks to be a police van
21 right there, is that -- would that be in the
22 intersection of the T lane?

23 A Yes.

24 Q Now do you recall, you would have walked -- and,
02:52 25 again, this isn't a good picture for it -- but the



1 funeral home, you would have walked this way to
2 see the body, and back again; is that right?

3 A Yes.

4 Q Did you -- do you recall any observations of the
5 conditions of the alley as far as snow, traffic,
6 worn down, anything of that nature?

7 A Well I think there was more snow, certainly, in
8 the alley going north and south.

9 Q This alley here?

10 A Yes.

11 Q Okay. If we can go back to map B for a moment,
12 please, so if we could just sort of zoom in on
13 this area. So you are saying there was more snow
14 in the north-south alley between O and N?

15 A Right.

16 Q And that would be compared to the east-west alley
17 behind the funeral home; is that right?

18 A Right, yes.

19 Q Would there have been more vehicle traffic on the
20 east-west alley than the north-south alley?

21 A I would say so, yes.

22 Q And did you people look after keeping this area
23 behind your establishment clean of snow?

24 A Yes.

25 Q And who, whose responsibility was that?



1 A I did most of it.

2 Q Okay. And I take it that you would have vehicle
3 traffic in and out of there on a regular basis?

4 A Yes.

02:53 5 Q Okay. I'm now going to show you a video that was
6 showed earlier this morning of, that I believe was
7 taken that day, and just have you identify a few
8 things. We'll just go through it once and then
9 I'll ask you some other questions.

02:54 10 If you could just go back, and
11 could you just pause there, please. Now I believe
12 this would be the Hounjet residence, here, and
13 that's the back of the funeral home; is that
14 correct?

02:54 15 A Yes.

16 Q Is that correct?

17 A Right.

18 Q And that looks familiar; does it?

19 A Yes.

02:54 20 Q Do you recall -- and I believe this is the, I
21 think it was the day of the murder, it may have
22 been after -- officers digging in the snow to find
23 items out there; do you remember that?

24 A No. I wasn't out there, but it's obvious the man
02:54 25 standing watching is Rae Murdock, so --



1 Q Oh, I see, this fellow right here is Rae Murdock?

2 A Yes.

3 Q Okay. And so this would be the Hounjet house and
4 the Hounjet fence and then the, the north-south
02:55 5 alley would start around that corner; is that
6 right?

7 A Could be. It's cut off. I would say so, yeah,
8 that should be.

9 Q Okay. We'll just play it ahead a bit, please.

02:55 10 And, again, does that reflect what you saw that,
11 that morning --

12 A Yes.

13 Q -- when you arrived?

14 A Yes, it does, yes.

02:55 15 Q Continue on. Okay.

16 Now after the day, or the day
17 after the murder, do you recall having any further
18 discussions with the police?

19 A No. After I gave my statement I would have little
02:55 20 discussion other than they would come in on
21 occasion to the funeral home, and I presume that
22 would be to use the bathroom or get water or
23 whatever they wanted, because there was nothing
24 available in that -- so they sort of, the back
02:56 25 door was open, and they came and went --



1 Q Right?

2 A -- as they saw fit. So, you know, you may say
3 "hi" to them, but there wasn't any -- I didn't
4 discuss anything with them.

02:56 5 Q Okay. Do you recall seeing police in the area a
6 few months after the murder?

7 A Yes, there was one day that I recalled a police
8 car sitting on Avenue N.

9 Q Could you -- sorry -- if you could pull up map B
02:56 10 and I'll just get you to -- so we'll just maybe go
11 in this area. I'm sorry, sir, carry on?

12 A Well I just recall coming out of the small door at
13 the funeral home --

14 Q Right here?

02:56 15 A Yes -- no, up at the end.

16 Q Oh, sorry, okay.

17 A Right there, yes -- and when I came out, probably
18 to get into a car to go downtown or do an errand
19 or whatever, there was a police car sitting just
02:57 20 on Avenue N by the entrance to the alley, it would
21 be south of the entrance.

22 Q So would it be -- and facing, I'm sorry?

23 A Facing south.

24 Q No. So a vehicle right here?

02:57 25 A Right.



1 Q Facing that way?

2 A Right.

3 Q Okay. And right by the alley?

4 A Yes.

02:57 5 Q Okay. And did you observe who was in the vehicle?

6 A No, I just saw someone was in the back.

7 Q Pardon me?

8 A I saw, it looked like a young person in the back,
9 and it was a man I thought.

02:57 10 Q Okay.

11 A I didn't see a face or anything.

12 Q And do you recall when, when this would have been,
13 or any event around that time?

14 A No, I don't, other than you couldn't help think,
02:57 15 well, something is up, you know, because nothing
16 happened for a while that -- as far as we were
17 concerned, and then all of a sudden there was a
18 police car again, and -- and it seemed like,
19 shortly after, there was some announcement that
02:58 20 they were proceeding with investigation again.

21 Q I'm sorry, was it an announcement that
22 Mr. Milgaard had been charged?

23 A I believe so, something to --

24 Q Okay. Now you testified at the preliminary
02:58 25 hearing of David Milgaard and at the trial?



1 A Yes.

2 Q If you could call up 070349 please, just go to the
3 next page, please. And you recall being examined
4 by the Crown prosecutor and defence counsel at
02:58 5 that time?

6 A Yes.

7 Q Just go to page 070353, call up that, please. And
8 I'll just read this for you, and this is from
9 Mr. Caldwell, I believe:

02:59 10 "Q And you notice this appears to indicate
11 a sort of trampled down snow area, now
12 was that in that manner or otherwise
13 when you were there?"

14 I think he is showing you the same photographs I
02:59 15 did:

16 "A No, it was in that manner when I was
17 there.

18 Q Did any of that -- I appreciate you had
19 to make steps to get to the body, but
20 did any of that happen while you were
21 there?

22 A No, other than two or three steps of
23 my own."

24 And then the next page, please, then you were
02:59 25 asked:



1 "Q That's when you went to check and see if
2 the lady was alive?

3 A Yes.

02:59 4 Q Were there any other persons, adults or
5 children walking right in the area of
6 the body when you were there? That is,
7 right up in that surrounding ...

8 A Not right up to the area at the time
9 other than that little girl was
03:00 10 standing beside me that showed me
11 where ...

12 Q Right.

13 A That took me to the place.

14 Q Alright. And while you were there, was
03:00 15 the body turned over at all, that is,
16 completely turned over?

17 A No, no.

18 Q And so you headed back to the funeral
19 home and met Mr. Murdock and did you
03:00 20 continue on to the funeral home then?

21 A Yes. He was just coming up and then I
22 said, of course he didn't know the
23 fact that there was anybody dead in
24 the alley."

03:00 25 Does that -- is that your accurate evidence at



1 the time?

2 A Very close. I'm not sure whether I had met
3 Mr. Murdock, I know -- if it wasn't Mrs. Murdock
4 came out on the landing, and that's when I had
03:00 5 asked her to call the ambulance, --

6 Q Okay.

7 A -- but that would be very -- otherwise.

8 Q Yeah, okay. If you go to the next page 070355,
9 please, call out that, please, and the question
03:01 10 40:

11 "Q And did you simply cover the body, is
12 that right?

13 A That's right.

14 Q What colour of a blanket was it?

03:01 15 A Blue.

16 Q And this is one that belonged to the
17 funeral home?

18 A Yes.

19 Q Did you get it back?

03:01 20 A Yes."

21 Is that correct, Mr. Michayliuk?

22 A Yes.

23 Q So shortly after the murder the blanket would have
24 been returned to the funeral home?

03:01 25 A Not immediately after, it was a few days after, to



1 my recollection.

2 Q So within the following week, thereabouts?

3 A I would think so, in that. It was a short time
4 frame, but --

03:01 5 Q All right.

6 A -- but not immediately.

7 Q Next, call up 070359, please. And just for the
8 record, this is the trial transcript, you recall
9 testifying at Mr. Milgaard's trial?

03:02 10 A Yes.

11 Q Yes. I don't have any questions on that.

12 Next, call up 034479. Do you
13 recall, in or about 1993, the RCMP contacting you
14 in connection with an investigation on this
03:02 15 matter?

16 A Yes.

17 Q And just go through, just call this up, this is an
18 officer's notes, and I'll just read this. It
19 says:

03:02 20 "Michayliuk located and interviewed in
21 regards to his statement. To the best of
22 his recollection he felt the statement
23 depicted the incident. He wasn't sure if
24 Rae Murdock had attended the scene with him.

03:02 25 He stated that Saskatoon City



1 Police treated him 'okay' and commented on
2 how hard they worked at the scene."

3 Does that accurately record what you would have
4 told the RCMP at the time?

03:03 5 A Yes.

6 Q And then if you could call up document 313541
7 which is, I believe, the transcript of Mr.
8 Fisher's trial, and you would have testified to
9 that in Yorkton; is that right?

03:03 10 A Yes, I believe that's correct.

11 Q If you could go to page 313552 of that, please,
12 and this is your being cross-examined by
13 Mr. Beresh, just zoom that out please, it says:

14 "Q Okay, all right. I take it that that
03:03 15 morning you didn't hear any shouts or
16 screams coming from the alleyway?

17 A No. And because it's in the basement
18 I wouldn't hear -- like, I would never
19 hear any traffic or anything in the
03:04 20 lane."

21 That would be a truthful answer at the time?

22 A Yes, it is, yes.

23 Q Those are all of my questions, sir, unless other
24 counsel may have some.

03:04 25 COMMISSIONER MacCALLUM: Ms. McLean?



1 MS. McLEAN: No.

2 COMMISSIONER MacCALLUM: Mr. O'Keefe?

3 MR. O'KEEFE: No.

4 COMMISSIONER MacCALLUM: Mr. Beckman?

03:04 5 MR. BECKMAN: No.

6 COMMISSIONER MacCALLUM: Ms. Knox?

7 MS. KNOX: No questions.

8 COMMISSIONER MacCALLUM: Mr. Wilson?

9 MR. WILSON: No.

03:04 10 COMMISSIONER MacCALLUM: Okay. You are
11 excused, thank you, Mr. Michayliuk.

12 MR. HODSON: I have one more witness,
13 Mr. Commissioner, Helen Gerse. I'm not sure if
14 you want to break and then call her?

03:04 15 COMMISSIONER MacCALLUM: Sure. 15 minutes,
16 please.

17 MR. HODSON: Thank you.

18 *(Adjourned at 3:05 p.m.)*

19 *(Reconvened at 3:25 p.m.)*

03:25 20 MR. HODSON: The next witness is Helen
21 Gerse. Please come forward.

22 **HELEN GERSE**, sworn:

23 **BY MR. HODSON:**

24 **Q** Good afternoon, Mrs. Gerse, thank you for agreeing
03:26 25 to testify today.



1 I understand that you reside in
2 Saskatoon?

3 A Yes.

4 Q And that, in January of 1969, you resided at 330
03:26 5 Avenue O South in Saskatoon?

6 A Yes.

7 Q And that you were the next-door neighbours to the
8 Cadrain family; is that correct?

9 A Yes, yes.

03:26 10 Q And when did you -- you don't live at 330 any
11 more, Avenue --

12 A No.

13 Q When did you move there -- from there?

14 A 1970, May.

03:26 15 Q May of 1970?

16 A Yes.

17 Q And where did you move to?

18 A 813 Avenue I North.

19 Q Did you stay in touch with the Cadrain family
03:26 20 after that?

21 A Umm, once or twice I met up with them.

22 Q Now you recall, do you, the murder of Gail Miller
23 in January of 1969?

24 A Yes.

03:27 25 Q I understand that shortly, or in and around that



1 time, you found a toque near your house; is that
2 right?

3 A Yes.

4 Q Could you tell me what you can recall about that,
03:27 5 please?

6 A Well that was in front of the house, on the
7 sidewalk, right of the sidewalk closer to the
8 boulevard.

9 Q Okay. Maybe we'll just pause for a moment. Maybe
03:27 10 we'll call up map C, please, and just zoom in
11 here. And this is a map, Mrs. Gerse, that shows
12 the Cadrain house, and I think you were right next
13 door; is that correct?

14 A That's right.

03:27 15 Q And, actually, I think map B shows the boulevard.
16 Go back to map B, please, and just zoom in there.
17 And so you would have been located right next to
18 the Cadrain's; is that right?

19 A That's right.

03:27 20 Q Okay. Now can you tell me what you were doing
21 when you found this toque?

22 A Shovelling the snow.

23 Q And you were shovelling the snow on this sidewalk;
24 were you?

03:28 25 A Yes.



1 Q And there was a sidewalk and then a boulevard and
2 then the street?

3 A That's right.

4 Q Okay. And where did you find the toque?

03:28 5 A Umm, right on the edge of the boulevard, by the
6 sidewalk and the boulevard, where it starts.

7 Q Yes?

8 A On the edge of it.

9 Q I --

03:28 10 A I was pushing a shovel, and it was sticking out a
11 little bit.

12 Q Okay?

13 A And then I picked him up.

14 Q Okay. And what did you do with it?

03:28 15 A I just looked at it at first, till I picked him
16 up, I see what was full of blood and everything
17 else, and didn't know what to do with it so then I
18 was put him in the back of our yard.

03:28 19 Q Okay. So, when you found it, do you know if this
20 was after the Gail Miller murder?

21 A Yes.

22 Q Okay. And so you then went and put it in your
23 back yard?

24 A Yes.

03:28 25 Q And where, in your back yard, did you put it?



1 A Umm, well we had a house, and behind it, it was
2 sort of like a deck, it's made out of cement and
3 things, it's -- I never use it wintertime, it was
4 just left the snow.

03:29 5 Q Okay.

6 A And put it on there.

7 Q Okay. Do you remember what the weather was like
8 that day?

9 A Well, my opinion, it was some fresh snow.

03:29 10 Q Okay. So there was fresh snow around the toque?

11 A Yes, and the sidewalk, that's why I went out and
12 was cleaning the sidewalk.

13 Q Right. Do you remember how cold it was?

14 A Umm, it was cold, it would have to be because that
03:29 15 toque, the blood that was in it was all frozen.

16 Q Okay. Do you remember -- do you remember a date
17 that you found it?

18 A Not exactly.

19 Q Okay. Do you remember what colour the toque was?

03:29 20 A Blue, sort of a turquoise blue.

21 Q Okay. I'm going to have, maybe if Mr. Agioritis
22 could show you, this toque is -- was an exhibit
23 that we obtained from the Larry Fisher and David
24 Milgaard matters; does that look like the toque
03:30 25 that you found, Mrs. Gerse?



1 A Could be, because the colour is similar, maybe it
2 was a little bit lighter than that yet.

3 Q Okay. So are you able to say whether that's the
4 toque that you found?

03:30 5 A Not 100 percent, no.

6 Q Okay.

7 A Because, to me, it seems to me it was a little bit
8 lighter than that.

9 Q Little bit lighter --

03:30 10 A Yes.

11 Q -- but it was blue?

12 A Yeah, it was blue, yes.

13 Q Okay. And you said it had blood on it, did it?

14 A Yes, it was full of blood, it was -- the way it
03:30 15 was bent like that, fold a little bit, and the
16 thing was like that and the, sort of that part was
17 down, --

18 Q Okay, so --

19 A -- because that's how I saw the cuts in it too.

03:30 20 Q Okay. So you are holding it so that the --

21 A I picked him up, and I just see all the blood in
22 it, which is full of it.

23 Q When you say "full of it" are we talking --

24 A Lots.

03:30 25 Q -- like the size of your hand?



1 A It was too -- yes, it was, in that part it was all
2 like a chunk of blood in there.

3 Q Okay. And was it frozen?

4 A Yes, it was frozen.

03:31 5 Q And --

6 COMMISSIONER MacCALLUM: Can you describe
7 that just for the record, please?

8 BY MR. HODSON:

9 Q Yes. Maybe, just for the record, we could just go
03:31 10 back, Mrs. Gerse, so that the -- when you found
11 the toque it was laying on its side; is that
12 right?

13 A Yes, yeah, yes.

14 Q I'm not sure what the right term was, but how
03:31 15 about "head opening" for the toque, was that
16 facing up; the opening of the toque?

17 A No, it wasn't open, like I said, it was all
18 frozen.

19 Q It was all frozen?

03:31 20 A It was all frozen, all in that part, a little bit
21 there it wasn't but the rest of it was all --

22 Q You were pointing to, "that part", I think you
23 were referring to the head opening? That's where
24 you would normally put the toque --

03:31 25 A Yeah, it was a little bit, it wasn't --



1 Q Little bit open?

2 A Yeah.

3 Q Okay. And where was the blood on the toque?

4 A Right here.

03:31 5 Q And you are pointing to the side?

6 A In the middle, right here.

7 Q Right. In the middle, if you lay the toque flat
8 on -- right in the middle; is that right?

9 A Yes. It was facing up.

03:31 10 Q Facing up?

11 A Yeah.

12 Q Okay. And you said there was cuts in the toque as
13 well?

14 A Yes, it was three, four little cuts, I don't know,
03:32 15 about half an inch, maybe an inch.

16 Q About half an inch?

17 A Half an inch to an inch, something.

18 Q Okay. Now, when you found the toque, did you
19 think it might be related to the Gail Miller
03:32 20 murder?

21 A At that time I didn't know.

22 Q Okay.

23 A I didn't know anything about it. Like I said,
24 when I find it I just threw him on the back until
03:32 25 later on, I was hear about it, and Mrs. Cadrain



1 was telling me what was going on with her son, and
2 then until the detectives come around.

3 Q Okay. Let's just go in sequence here. So then
4 you found it, and you put it in your back yard,
03:32 5 and it would have been at a time after the day of
6 the murder; correct?

7 A Yes.

8 Q And then before the police came, which I'll get to
9 that -- and I think, if I'm not mistaken, it was
03:32 10 in April, April of '69 -- but before the, before
11 you talked to the police did you talk to
12 Mrs. Cadrain?

13 A Yeah, he was telling me, but I still didn't
14 knowledge it anything to do with the toque.

03:32 15 Q Okay. So Mrs. Cadrain would have talked to you
16 about what?

17 A About her son, was happening.

18 Q Okay. So she would have told you that her son was
19 involved --

03:33 20 A Yes.

21 Q -- in a murder investigation?

22 A Yes.

23 Q Okay. So then what do you recall about when the
24 police -- did the police contact you?

03:33 25 A They come around and ask if I find anything.



1 Q Okay. They came to your house?

2 A Yes.

3 Q And they asked if you found anything?

4 A Yes.

03:33 5 Q Okay. Did you think, was it a general inquiry, or
6 did you think someone sent them there because they
7 heard about it?

8 A No, I didn't think anything about it.

9 Q Okay. And what did you say to them?

03:33 10 A I told them "I find a toque," and they asked me
11 "where is it" and I show it to him, and he took
12 it.

13 Q Okay. And did you ever hear back from him about
14 the toque?

03:33 15 A He come back later on and he said the toque was no
16 good for nothing because the blood and everything
17 was melted out of it.

18 Q I'm sorry, he said it was no good for nothing
19 because --

03:33 20 A The blood was all melted out in the middle where
21 it was.

22 Q Okay. And when you gave him the toque -- and I'll
23 get to the date, I think it was around April --
24 was the toque in the same condition as, to the
03:33 25 best of your recollection, as when you found it?



1 A My opinion, it was, because it covered with the
2 snow, so it's have to be.

3 Q When you gave it to the officer did you look --

4 A I didn't give it, he picked it up.

03:34 5 Q Okay. Did you look at it though?

6 A Yes, I set it on his hands, when he put it in a
7 bag.

8 Q Okay. And did it look the same as when you had
9 found it?

03:34 10 A It did look the same.

11 Q Okay.

12 COMMISSIONER MacCALLUM: When you got it
13 back it looked the same as when the officer took
14 it; is that what you said?

03:34 15 A Yes, I said that. Only thing, it was a little bit
16 more snow.

17 BY MR. HODSON:

18 Q Yeah, okay, I'm sorry. Maybe I could just clarify
19 this. So when you found it you put it in your
03:34 20 back yard outside somewhere?

21 A Outside, yes.

22 Q And then when the officer came you said "yes, I
23 found a toque," you went and showed the officer
24 where the toque was, and the officer took the
03:34 25 toque?



1 A Yes.

2 Q And when the officer took the toque, at that time,
3 did you observe the toque?

4 A I saw it, it was -- looked the same --

5 Q Yes.

6 A -- as when I threw it in there, in the snow in the
7 back.

8 Q Okay. And then he never brought the toque back,
9 did he?

03:35 10 A No.

11 Q Now I understand, Mrs. Gerse, that you testified
12 at David Milgaard's preliminary hearing and trial;
13 is that right?

14 A What was that?

03:35 15 Q You testified at Mr. Milgaard's criminal
16 proceedings?

17 A Yes.

18 Q If you could just call up 044097 -- pardon me,
19 could we just go back to 106680. And Mrs. Gerse,
03:35 20 this is a police report, not -- it's not something
21 you created, it's dated July 2, 1969 by Detective
22 Karst, but it refers to -- if you could just call
23 this out, please, and I'll just read this to you,
24 it says:

03:36 25 "With regards to this file, whilst enquiries



1 were made in the 300 block Avenue O South on
2 April 5, '69, I had occasion to interview
3 Mrs. Helen Gessey, telephone number 382-1974
4 ,"

03:36 5 if I can pause there, was that your phone number,
6 do you remember?

7 A I guess so, it must have been.

8 Q Yeah, and "Gessey", it's "Gerse", correct,
9 G-E-R-S-E?

03:36 10 A That's right.

11 Q Yeah.

12 "... and at this time she advised me that as
13 close as she could recall, it was only a few
14 days after the offence of the murder of the
03:36 15 Miller girl, she had observed a blue tuke on
16 the boulevard portion of the front of her
17 house, which is between the actual street
18 and her fence line, which appeared to be
19 covered with a red substance possibly,"

03:36 20 I think that should be:

21 "... blood, this being such a nasty sight,
22 she had taken this and removed it to her
23 rear yard. I, in turn, checked where she
24 showed me she had thrown this tuke and found
03:36 25 same and it appeared to have blood on it.



1 It was brought to the police station where
2 it was turned over to Lieutenant Penkala on
3 April 7, 1969."

03:37 4 Does that sound like an accurate recording of
5 what happened that day with the officer?

6 A Yes.

7 Q Okay. And April 5, 1969, does that -- do you have
8 any reason to believe that that was not the date
9 you gave the toque to the officer?

03:37 10 A It can't be, because in April, by then all the
11 snow melted. It's impossible. It's have to be
12 before that.

13 Q It was before April 5 you think?

14 A It have to be, because when he come and picked up
03:37 15 the toque it was still in the snow, like I said,
16 it was still blood in it --

17 Q Okay?

18 A -- and it was still the snow in the back of my
19 house.

03:37 20 Q Okay. Do you know if there could still have been
21 snow in April?

22 A No way. We don't have no snow in April.

23 Q Okay. Next, if we could just go to -- sorry, back
24 to 007401, if you could go to page 02, please, and
03:37 25 just call out this. And I'm just going to read



1 you some, a few questions and answers, Mrs. Gerse.

2 Question 15:

3 "Q Alright, and do you remember when you
4 first saw this item?

03:38 5 A Well it was either the 1st day of
6 February, or the end of January some
7 day. I don't know what day it was.

8 Q And where was the item when you first
9 saw it?

03:38 10 A It was between the street and the
11 sidewalk.

12 Q And where in relation to your house or
13 your lot?

14 A It was right in front of our house.

03:38 15 Q I see, and between the street and the
16 sidewalk?

17 A Yes.

18 Q And did you pick the thing up when you
19 first saw it, or anything?

03:38 20 A Yes.

21 Q What did you do with it?

22 A Well I picked it up I thought it was
23 the neighbour's kids'. I thought I
24 was going to give it to them but I saw
03:38 25 there was blood on it, so I mean I



1 said I'm going to throw it in the
2 back."

3 Is that what you would have told the court at the
4 time?

03:38 5 A Well I didn't -- I don't know if I said that, I
6 doubt it, that it belonged to the neighbours, but
7 I did -- the rest of it is all true.

8 Q Okay. So you are saying you don't remember about
9 thinking it belonged to the neighbours' kids?

03:38 10 A No, I don't think I said that.

11 Q Okay. Now next to page 03, and just zoom in here
12 please, and you were asked by Mr. Caldwell:

13 "Q You threw it in your back yard?

14 A That's right.

03:39 15 Q Did it stay there for some time?

16 A Yes, till the first week of April.

17 Q And what happened then?

18 A Detective come and ask if I found
19 anything, and I told him, and he took
03:39 20 it."

21 Q Now it appears at the preliminary hearing, Mrs.
22 Gerse, you said that he came the first week of
23 April; does that refresh your memory?

24 A No. No.

03:39 25 Q No?



1 A I disagree with that.

2 Q Pardon me?

3 A I disagree with that.

4 Q Okay. So it was earlier than April?

03:39 5 A It have to be. Like I said, when they picked them
6 up, the toque was all frozen.

7 Q Okay.

8 A The blood was still in it.

9 Q Okay. Now, next to question 31 on page 404 and
03:40 10 question, you are asked:

11 "Q Where?

12 A Well, right there except --"

13 Sorry, just go back up to 29 because I think they
14 are showing you the same toque. It says:

03:40 15 "Q I see. I show you P.29 for
16 identification. Now how does that look
17 to you?

18 A That's the one."

19 Do you remember being shown a toque at these
03:40 20 proceedings?

21 A Yes.

22 Q And you answer:

23 "A That's the one.

24 Q Why do you say that?

03:40 25 A Cause it look all reddish.



1 Q Where?

2 A Well, right there, except the blood was
3 only one side, but it looked like that,
4 like something was wiped out with it,
5 somebody -- that's why I thought it was
6 the kids and maybe they throw it over
7 there.

8 Q But you didn't mark it in any way?

9 A No, I didn't.

03:40 10 Q And once the detective picked it up, did
11 you have anything more to do with it?

12 A No.

13 Q Did it belong to anyone at your house?

14 A No."

03:40 15 So would that be accurate evidence, Mrs. Gerse?

16 A Not all.

17 Q Okay. What's -- this is your evidence at the
18 preliminary hearing. Is there something --

19 A I know what you are saying.

03:41 20 Q Is there something in there that you say isn't
21 right?

22 A No.

23 Q It is right?

24 A No, it's not right.

03:41 25 Q Okay. What's wrong with it?



1 A Well, "Something wiped out, that's why I thought
2 it was the kids," I don't remember making a
3 statement like that.

4 Q Okay. And then again for the record, 044097 is
03:41 5 the transcript from the trial, and you remember
6 testifying at the trial as well a second time?

7 A No. I did only once.

8 Q You only remember testifying once?

9 A Yes.

03:41 10 Q Now, do you remember having a discussion with
11 Mrs. Cadrain, your neighbour, within a year or so
12 of the murder about her finding some clothing in
13 her home?

14 A Yes.

03:42 15 Q Can you tell us what she told you?

16 A Well, she told me she find the clothes, but didn't
17 know whose it belonged to, so she washed it.

18 Q And did she tell you, describe the clothes that
19 she found?

03:42 20 A No, she never said anything.

21 Q Did you have any discussion with her about any
22 blood stained clothes?

23 A Well, whatever she was mentioning. She find the
24 clothes, it was bloody.

03:42 25 Q I'm sorry, did she --



1 A That's all.

2 Q Did she mention that?

3 A Yes, she herself telling me about it.

4 Q Pardon me?

03:42 5 A She herself telling me about it, that she had
6 clothes, it was full of blood and she washed it.

7 Q And that would have been before you moved would
8 it, when you were still her neighbour?

9 A It was shortly after when thing happening.

03:43 10 Q Okay. So in 1969 or 1970?

11 A Yes.

12 Q Now, do you remember being interviewed by the RCMP
13 in 1993?

14 A Yeah. Officer Cunningham?

03:43 15 Q Pardon me?

16 A Officer Cunningham?

17 Q Yes.

18 A Yes.

19 Q And if you could call up document 076434, and I
03:43 20 think this is a typewritten version of your
21 signature, or pardon me, of your signed one. He
22 came to your home, did he, at Avenue I North?

23 A Yes.

24 Q And if you could just call out that, please. It
03:44 25 says:



1 "Constable Cunningham of the Regina RCMP
2 came to my home today and we discussed my
3 involvement in the David Milgaard trial. I
4 had located a toque at my residence back in
03:44 5 1969 and eventually turned it over to the
6 police. I have read over the transcripts
7 from my testimony and I would like to point
8 out several mistakes and observations."

9 Do you recall going through your transcripts with
03:44 10 Constable Cunningham?

11 A Well, he did mention a few things, but mostly just
12 discussed what's happening.

13 Q And then did you point out some mistakes and
14 observations?

03:44 15 A Yes, I did.

16 Q Like you've done this afternoon --

17 A Yes.

18 Q -- with me?

19 A Yes.

03:44 20 Q Okay. If we could just go back to the main page,
21 please, and this is what Constable Cunningham
22 records and I'll just go through those with you.
23 Number 1, it says:

24 "I was shovelling snow when I found the
03:44 25 toque, not coming home from the groceries."



1 Is that correct?

2 A That's right.

3 Q "I found the toque on the front sidewalk
4 not in the back alley."

03:45 5 Is that correct?

6 A That's right.

7 Q Three:

8 "I don't recall saying it was a weekend."
9 Correct?

03:45 10 A Right.

11 Q Four:

12 "I don't recall talking about grocery
13 shopping."

14 A Right.

03:45 15 Q Five:

16 "I found the toque at about 9:30 a.m."
17 Correct?

18 A I find it around there, nine o'clock, before nine
19 I thought.

03:45 20 Q Okay. Six:

21 "I don't recall saying as much as there is
22 in the transcripts."

23 Is that correct?

24 A Yes.

03:45 25 Q And those transcripts would be from David



1 Milgaard's trial?

2 A Yeah.

3 Q Seven:

4 "We never parked in the back of our house,
03:45 5 always the front."

6 A Yes.

7 Q Eight:

8 "I don't recall saying I didn't have time to
9 throw it in the garbage so I threw it in our
03:45 10 yard."

11 Is that correct?

12 A Yes.

13 Q Nine:

14 "I would not have said I could keep the
15 toque for my kids because we didn't have any
16 kids. I was pregnant with our first child."

17 Is that correct?

18 A That's right.

19 Q Number 10:

03:45 20 "Our car could not have been in the garage.
21 The garage wasn't big enough. It was more
22 like a shed."

23 Is that correct?

24 A Yes.

03:45 25 Q 11:



1 "I didn't say anything about the toque being
2 stretched."

3 A That's right.

4 Q 12:

03:45 5 "I don't remember the detectives name. I
6 saw him only once."

7 Is that correct?

8 A Yes.

9 Q 13:

03:46 10 "I did not give a written statement to the
11 police."

12 Is that correct?

13 A Yes.

14 Q 14:

03:46 15 "Mrs. Cadrain told me back then and as
16 recently as a month ago that Milgaard had
17 threatened her son, saying he'd get Albert
18 for snitching. The whole family is afraid."

19 Is that what you told the RCMP?

03:46 20 A Yes.

21 Q 15:

22 "I never heard of any Fisher being at the
23 Cadrain house."

24 Is that correct?

03:46 25 A Yes.



1 Q And 16:

2 "I have spoken to no one since I testified
3 in court. Constable Cunningham is the only
4 one."

03:46 5 Is that correct?

6 A Yes.

7 MR. HODSON: I wonder, Mr. Commissioner, if
8 I could mark the toque as an exhibit. I
9 appreciate that the witness is not sure that
03:46 10 that's the toque, but I'm just simply having it
11 marked as being the one that I showed her.

12 COMMISSIONER MacCALLUM: Just wait. Does
13 it bear a P.29 mark from the earlier proceedings?

14 A It seems to me the toque was bigger than that
03:46 15 anyway.

16 COMMISSIONER MacCALLUM: We'll mark it P-2.

17 MR. HODSON: I think just for the record,
18 it does -- what the tag is on there, it says:

19 "One blue toque, E. Karst Detective, date
03:47 20 April 5, turned over Lieutenant Penkala,
21 Penkala's signature on that day."

22 The red tags are from the RCMP lab, 1969, and the
23 bag, I don't see a P.29 for ident. I can tell
24 you this, Mr. Commissioner, it was an exhibit at
03:47 25 the Milgaard trial and an exhibit at the Fisher



1 trial, so perhaps we can just mark it all with
2 the bag as P-2.

3 COMMISSIONER MacCALLUM: All right.

4 -->EXHIBIT P-2:

03:47 5 BLUE TOQUE AND EXHIBIT BAG.

6 MR. HODSON: Those are all my questions,
7 Mrs. Gerse. There may be other counsel that have
8 questions for you.

9 COMMISSIONER MacCALLUM: Ms. McLean?

03:48 10 MS. McLEAN: No thank you.

11 COMMISSIONER MacCALLUM: Any other counsel
12 before I go through the whole list again?

13 MR. O'KEEFE: I do.

14 COMMISSIONER MacCALLUM: Mr. O'Keefe?

03:48 15 BY MR. O'KEEFE:

16 Q Ms. Gerse, do you remember when it was that you
17 first found out that Gail Miller's body had been
18 found?

19 A I think the next day because it was in the news
03:48 20 too if I'm correct. That's why I'm not sure. The
21 next day or two at the most.

22 Q That would have been big news in the neighbourhood
23 I take it?

24 A Yes, it was.

03:48 25 Q That a body had been found?



1 A Yes.

2 Q And it was about a block from where you lived?

3 A Yes, that's right.

4 Q Did you have any reason to remember or make a note
03:48 5 to yourself of the date that you found that toque?

6 A No.

7 Q And when the police came to get it, that was
8 several months later or weeks later?

9 A It could be a week, but not month. Like I said,
03:49 10 it's before April anyway, because I had snow in
11 the back and everything was frozen yet.

12 Q If you had found that toque the day that you heard
13 about Gail Miller's murder a block away or the day
14 after covered with blood, isn't that something
03:49 15 that you would have brought to the attention of
16 the police right away?

17 A I just never gave attention to it.

18 Q And the toque itself, I believe you said earlier
19 that you pulled it out. Wasn't it sitting on top
03:49 20 of the snow?

21 A It was snow a little bit on top of it.

22 Q I'm sorry?

23 A A little bit of snow on it.

24 Q Could you bring up 044105, please, and this again
03:50 25 is the transcript of David Milgaard's trial when



1 you were asked some questions by Mr. Tallis who
2 was the lawyer for Mr. Milgaard, and he asks the
3 question:

4 "Q I just have a few questions to ask you,
03:50 5 Mrs. Gerse, so we won't keep you very
6 long. First of all, as I understand it
7 from what you told Mr. Caldwell this
8 toque was right on top of the snow?

9 A Yes.

03:50 10 Q And there was no sign of the snow having
11 been scooped up around it or anything
12 like that?

13 A No, it was fresh.

14 Q It was sitting right on top?

03:50 15 A Yes."

16 Does that refresh your memory at all as to how
17 the toque was located, whether there was snow on
18 top of it or not?

19 A It was a little bit of snow on it, but I can see
03:50 20 as soon as I went out and go closer with the
21 shovel, I see it was sticking out, so it wasn't
22 totally covered.

23 Q All right. The day you found it there had been a
24 fresh fall of snow?

03:51 25 A Yes.



1 Q Are you able to tell me about how much snow had
2 fallen that day?

3 A Not much. Mostly about three inch snow.

4 Q I'm sorry, three inches you said?

03:51 5 A About three inch snow. It wasn't much.

6 MR. O'KEEFE: Okay, thank you.

7 COMMISSIONER MacCALLUM: Mr. Beckman?

8 MR. BECKMAN: A couple of questions, My
9 Lord.

03:51 10 **BY MR. BECKMAN:**

11 Q Mrs. Gerse, it's been a long time since these
12 events happened; is that fair to say?

13 A Yes.

14 Q Would it be fair to say that your memory of those
03:51 15 events would have been better in 1970, 1969 than
16 now?

17 A No, I wouldn't say.

18 Q You wouldn't agree with that?

19 A No. I still remember pretty good what happened
03:51 20 then.

21 Q All I'm saying is would it have been better closer
22 to the events?

23 A Maybe, but I don't think it would change anything.

24 Q I'm not suggesting it would change, but I'm just
03:52 25 saying your memory fades over time; would you



1 agree with that?

2 A Maybe.

3 Q Do you recall testifying at the preliminary
4 inquiry?

03:52 5 A Yes.

6 Q And did you testify as truthfully as you could at
7 that time?

8 A Yes.

9 Q And do you recall testifying at the trial?

03:52 10 A Yes, once.

11 Q And you testified as truthfully as you could at
12 that time to the best of your ability?

13 A Yes.

14 MR. BECKMAN: Those are my questions.

03:52 15 Thank you, My Lord.

16 COMMISSIONER MacCALLUM: Thanks. Mr. Fox?

17 BY MR. FOX:

18 Q I wonder if you could put up 076434. Mrs. Gerse,
19 I'm Aaron Fox, I've just got a couple more
03:52 20 questions and we'll try and get you on your way
21 here. That document that's on the screen in front
22 of you, that was reviewed with you by Mr. Hodson
23 and that was as a result of your interview with
24 Constable Cunningham of the RCMP?

03:53 25 A Yes.



1 Q And he had gone through your transcripts of your
2 evidence and you had listed for him some of the
3 different things that you corrected or at least
4 clarified or gave more information about?

03:53 5 A Yes.

6 Q And Mr. Hodson has gone through that with you.
7 You had indicated that you had seen the detective
8 once, and by the detective are you referring to
9 the officer who came and picked up the toque from
03:53 10 you?

11 A Yes.

12 Q Okay. And you mentioned that you heard later on
13 that the toque was no good, that was the words
14 that you used?

03:53 15 A Yeah.

16 Q Do you know who told you that?

17 A It was the same officer.

18 Q Okay. And I'm wondering just why you would have
19 said you only saw him once then.

03:53 20 A Well, he must have come and picked them up and he
21 told me it was no good.

22 Q Do you know when that was?

23 A A few weeks, I think, after that.

24 Q Could it have been a longer period than that?

03:54 25 A Could be.



1 Q Okay. And is it possible a different officer
2 spoke to you about it?

3 A No, I recognize him, because it was the same
4 fellow.

03:54 5 Q So when you refer then in your statement to
6 Constable Cunningham, that you only saw the
7 detective once, you would be saying you actually
8 saw him twice?

9 A Well, if you put it that way, yes.

03:54 10 Q That's all right. This isn't a contest. Then you
11 mentioned in your statement, and we got a can say
12 from Mr. Hodson as well, and you've talked today
13 about some conversations you had with
14 Mrs. Cadrain, and that would have been the lady
03:54 15 that lived down the street from you?

16 A Yeah, next door.

17 Q Next-door neighbour to you. And she had told you
18 something about the clothing that she had washed,
19 that she had found that had blood on it and she
03:54 20 washed it?

21 A Yes.

22 Q And you mentioned in your statement as well, this
23 is at paragraph 14, some discussions about
24 Mrs. Cadrain had said something about David
03:54 25 Milgaard threatening her son?



1 A Yes, Albert.

2 Q And did she talk to you about that more than once?

3 A I think twice we had a conversation.

4 Q And this was while you were still living in your
03:55 5 house on Avenue O?

6 A Yeah, the first time, yes.

7 Q And do you remember what it was that she said to
8 you?

9 A Well, she was just told me that Milgaard kid that
03:55 10 was threatening her kid if snitch on him or
11 whatever, tell where he is or what he did, if he
12 comes out of the jail he's going to find him.

13 Q Okay. Do you know if at the time that you talked
14 to Mrs. Cadrain whether or not the Milgaard trial,
03:55 15 David Milgaard's trial had taken place at that
16 time or not yet?

17 A I don't think so, no. It wasn't started yet.

18 Q So this would have been before the trial?

19 A Yes.

03:55 20 Q As well, and I think there's a reference, and this
21 is item number 15 in the document that's up there,
22 "I never heard of any Fisher being at the Cadrain
23 house." Did you know, were you ever aware that a
24 Larry Fisher or Larry Fisher was residing at the
03:56 25 Cadrain house?



1 A No, never.

2 MR. FOX: Those are all the questions I
3 have. Thank you.

4 COMMISSIONER MacCALLUM: Ms. Krogan?

03:56 5 MS. KROGAN: No thank you.

6 COMMISSIONER MacCALLUM: Ms. Knox?

7 MS. KNOX: No thank you.

8 COMMISSIONER MacCALLUM: Mr. Wilson is not
9 here. Redirect then?

03:56 10 MR. HODSON: There wasn't any redirect,
11 just to clarify. I think when Mr. O'Keefe put a
12 question and answer to the witness from the
13 prelim, he said Mr. Caldwell. In fact, I think
14 it was Mr. Tallis that was on the page. Just for
03:56 15 the record, I think it should have been
16 Mr. Tallis, but no questions. Thank you very
17 much, Mrs. Gerse.

18 COMMISSIONER MacCALLUM: Thanks, Mrs.
19 Gerse, you can go. Thank you for coming.

03:56 20 MR. HODSON: That is all we have for today,
21 Mr. Commissioner.

22 COMMISSIONER MacCALLUM: Okay. So that's
23 it until Monday at 10. Thank you.

24 MR. HODSON: Thank you.

03:57 25 (Adjourned at 4:00 p.m.)



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