

Commission of Inquiry
Into the Wrongful
Conviction of David Milgaard
before
THE HONOURABLE MR. JUSTICE
EDWARD P. MACCALLUM

Transcript of Proceedings
and
Testimony before the Commission
sitting at the
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Volume 8

Inquiry Proceedings



Commission Staff:

<i>Mr. Douglas C. Hodson,</i>	Commission Counsel
<i>Ms. Candace D. Congram,</i>	Executive Director/Media Liaison
<i>Ms. Kara Isabelle,</i>	Document Assistant
<i>Ms. Cheryl Ellerman,</i>	Document Assistant

Support Staff:

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<i>Ms. Karen Hinz, CSR, and</i>	Official Q.B. Court Reporters
<i>Mr. Donald G. Meyer, RPR, CSR,</i>	
<i>Mr. Hugh Esson,</i>	Security Officer
<i>Mr. Tony Fitzpatrick,</i>	Inland Audio Technician



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Transcript of Proceedings

(Reconvened at 10:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

MR. HODSON: Morning, Mr. Commissioner.

Our plan for this morning, I think I advised last week that there were two witnesses, Walter and Sandra Danchuk, who were significant witnesses back in 1969 at the trial. Mr. Danchuk, due to medical reasons, could not fly here to testify, and Mrs. Danchuk wished also not to leave him alone and fly out here, so Mr. Hardy, assistant counsel, went out there on Thursday, and we videotaped an interview of each of them. We have it to show this morning, they are about an hour each, and what we'll see on the screen is the actual videotape of the interview.

We will see a transcript as well. Now the transcript was done on Saturday, there are -- it will not be the official transcript, it is simply there to be a key to bring up the documents. Our Court Reporters will be preparing the official transcript, so there are a few misspellings in there I'm warning, but it was done, as I say, so that it could synch the exhibits.



1 We'll go through both of the
2 videos this morning, and I have provided counsel
3 with a copy of the transcript of each of them,
4 and it may be necessary to go back to the video
10:01 5 and replay parts of it. I would rather go
6 through each one once, there may be a need to go
7 back and pause and look at some documents, so I
8 think the plan is we will do the videos this
9 morning, this afternoon we'll have Linda Duffus,
10:02 10 and then two read-ins from Mr. Murdock and Mary
11 Marcoux. We will likely finish off early in the
12 afternoon and then counsel can have access to
13 both of those videos and go through what they
14 need.

10:02 15 I have also advised counsel
16 that if, after hearing the videotaped evidence of
17 Walter and Sandra Danchuk, if any of them feel
18 the need to cross-examine them I will try and
19 make arrangements to do that, either by having
10:02 20 Mrs. Danchuk come out here or whatever we can do
21 to allow other counsel's question.

22 So, with that, is Sandra first?

23 MR. SHORT: Sandra, yes.

24 MR. HODSON: So we'll proceed with that.

25 (VIDEOTAPE COMMENCED)



1 MR. HARDY: Again, on January 20th, 2005,
2 I'm with Sandra Danchuk.

3 SANDRA DANCHUK (BY VIDEO), sworn:

4 BY MR. HARDY:

10:03 5 Q I want to start by thanking you for meeting with
6 me today and agreeing to testify for purposes of
7 our public hearings.

8 I understand that you currently
9 reside in Nanaimo?

10:03 10 A That's right.

11 Q And I understand that, in January of 1969, you
12 resided at 129 Avenue T South in Saskatoon in a
13 basement suite with your husband, Walter?

14 A That's right.

10:03 15 Q And how old were you at that time?

16 A 18.

17 Q And I understand that you and your husband were
18 contacted by the police in or around that time
19 respecting an investigation that was ongoing, and
10:03 20 we're going to look at some documents in that
21 respect in a moment, but I was hoping that you
22 could give us your independent recollection
23 firstly, Sandra, of the events of that morning,
24 January 31st, 1969?

10:04 25 A Just the way that I remember them happening?



1 Q Yeah, just the way you remember it, please?

2 A Umm, Wally would have gone out to start the car
3 probably around quarter after 7:00, and then I
4 think he came in the house to see if I was ready,
10:04 5 and then we both went out and the -- as he was
6 backing out of the -- we parked the car in the
7 back of the house, so we had to back it out into
8 the lane to get into the lane, and I think, as he
9 was backing out, he -- I think it got stuck, I
10 think.

11 Q Oh.

12 A I can't remember whether it stalled or got stuck,
13 it was one or the other.

14 Q I'm going to stop you there just for a moment,
10:04 15 Sandra, and refer you to a map that we have been
16 using in the hearing. I believe we have been
17 referring to this as our, map A.

18 A Uh-huh.

19 Q It's document ID 031006.

10:05 20 A Okay.

21 Q And I'll just have you take a look at that and see
22 if you can locate your residence, at that time, on
23 Avenue T?

24 A It would be right there.

10:05 25 Q Okay. And maybe I'll just get you to mark an X on



1 that and then I'll describe it for our purposes.
2 And you have marked an X on Avenue T, and it looks
3 like your residence was on the west side of Avenue
4 T between the blocks of 21st Street and 22nd
10:05 5 Street, would that be correct?

6 A Yes.

7 Q And I see that T shape on the map; would that be a
8 back alley behind your residence, do you -- in
9 that block there is a T shape?

10:05 10 A That's the way that I would remember it, yeah.

11 Q Okay. There was a back alley behind your place?

12 A Yeah.

13 Q Okay. And I'm sorry, I interrupted you, so --

14 A Okay.

10:06 15 Q -- you had backed out, and continue from there?

16 A We backed out, and then I think that either a car
17 pulled up behind us or was already behind us, umm,
18 and I told -- I told Wally 'there is a car behind
19 us', and I basically don't remember much after
10:06 20 that. He must have gotten out to see what the car
21 was doing behind us, or maybe they came to see if
22 they could help, and it was just so cold that I
23 went back into the basement suite.

24 Q Okay.

10:06 25 A And then I remember, I think Wally came in and



1 said that we need to call a tow truck, and one of
2 the kids out of the car came downstairs while I
3 was still home, and I, I think it was David
4 Milgaard -- well I don't think, I know that it was
10:07 5 David Milgaard now by, you know, what we have been
6 told -- and, umm, he just asked for a glass of
7 water. I thought they were just kids on their way
8 to school, but that was my first impression of
9 them, just a group of teenagers on their way to
10:07 10 school.

11 Umm, he commented, the one thing
12 that really sticks in my head is that he commented
13 that we had a nice place, and I was proud of that
14 because we were just newly married and we did try
10:07 15 to have a nice place, so that really sticks in my
16 mind.

17 And then I think David went back
18 outside, and I don't remember this, but I must
19 have gone to the lady that lived next door to us
10:07 20 and -- or she maybe came over to our suite, I
21 can't remember, and asked whether I needed a ride
22 to work or whether we wanted to share a cab, and I
23 said 'yes', and then the last thing that I can
24 remember is going upstairs and seeing the two
10:08 25 other people that were with David Milgaard sitting



1 on the -- in the stairwell upstairs and, umm, I
2 passed by them. I don't think I had any, any
3 conversation with them, and I went to work, and
4 that was about it.

10:08 5 Q Okay. And then I understand you would have been
6 contacted by the police at some time following
7 that?

8 A I can't remember for sure, but I think that Wally
9 saw David's picture in the newspaper, and when I
10:08 10 came home he said "it's -- this is the guy that
11 was stuck in behind us," and then I, I don't know
12 whether it was the same day that we were
13 contacted, but I think that's how we found out to
14 --

10:08 15 Q So --

16 A -- begin with.

17 Q So when the police, then, had initially contacted
18 you you were already aware of --

19 A Aware of --

10:09 20 Q -- David Milgaard's involvement?

21 A Yeah, yeah.

22 Q Okay. And do you recall your dealings with the
23 investigators at that time?

24 A Hardly at all. I think we went down to the
10:09 25 Saskatoon police station, and were asked some



1 questions, but I don't really remember much of
2 what we were asked at that point.

3 Q So, and try to recall as best you can, did you
4 have an understanding as to what the investigation
10:09 5 related to, then, at the point that you were
6 initially contacted by the police?

7 A I believe we were told that it had to do with the
8 nurse that was --

9 Q Okay.

10:09 10 A -- found.

11 Q And prior to seeing the picture of David Milgaard,
12 as you mentioned, you had heard, then, of the
13 murder of Gail Miller?

14 A No, we didn't, I don't think. I don't remember.

10:09 15 Q Okay, no, that's fine. That's fine. You don't
16 recall, though, ever associating, prior to contact
17 with the police, ever associating the death of
18 Gail Miller with the youths that had visited your
19 home?

10:09 20 A Never. Never.

21 Q Okay.

22 A Never, it never crossed my mind.

23 Q Okay. Do you recall, in particular, which
24 officers you dealt with?

10:10 25 A No.



1 Q You don't recall any names? Okay. I'm going to
2 refer to some documents, Sandra, and some of these
3 you won't be able to speak to, they are
4 investigation reports that were recorded at the
10:10 5 time, but I'll relay the information and perhaps
6 get your comment on that. And it starts with an
7 investigation report dated March 7th, and the
8 document ID is 106617, and it's a report by
9 Detective, Karst. And I don't suppose -- do you
10:10 10 remember any dealings with a Detective Karst?

11 A No.

12 Q Okay. And if I just move this to page 3 of that
13 document, which is page 106619, and if I just read
14 at the bottom -- and it's thus far been a summary
10:11 15 of Detective Karst's investigation into the
16 matter -- and he states at point number 10 as
17 follows:

18 "And one of the most important factors to be
19 kept in mind is the time element involved,
10:11 20 as there is no accounting for the time which
21 they arrived in the City, which is
22 approximately 5:00 or 5:30 by their own
23 testimony and the statements and we cannot
24 account for any of their actions until
10:11 25 approximately 20 minutes to 8:00 when they



1 were stuck in a lane in the 100 block off
2 of south of 22nd Street between Avenue T and
3 U. This portion being covered by a further
4 statement from Wally Danchuk of 129 Avenue P
5 ..., "

6 that he states, I think he means T:

7 "... South who had also observed these
8 persons that morning."

9 So that's an initial indication in the reports
10:11 10 respecting that matter, and again, I don't
11 believe you probably have a comment on that but I
12 wanted to set that out for our background.

13 And if I then turn to another
14 document, Sandra, and it's actually an RCMP
10:12 15 report, and it is document ID 054697, and the
16 report is signed on the last page by an E.A.
17 Rasmussen, and, again, I'll read a portion of
18 this onto the record. Beginning at the bottom of
19 page 054699, that's page 3 of the document:

10:12 20 "Stated that when they arrived in Saskatoon
21 they started looking for Albert Cadrain's
22 place whom he had met before. They didn't
23 know exactly where Cadrain lived but knew it
24 was in the Pleasant Hill area of Saskatoon.

10:12 25 Stated while driving around they became



1 stuck in an alley in that area however,
2 could not give the exact location. Stated
3 that as they drove up the alley they came
4 upon a car ahead of them and when they tried
10:13 5 to give it a push they also became stuck.
6 This car was described as a '63 or '64 Ford
7 and was occupied by a man and a woman.
8 Stated the man called for a tow truck and
9 they all subsequently went into this
10:13 10 person's house and waited for it to come.
11 When it arrived the other vehicle was pulled
12 out but as Milgaard had no money the tow
13 truck left without assisting him."

14 I don't think you can comment on the last part of
10:13 15 that, but does that account sound accurate --

16 A Uh-huh, yes.

17 Q -- otherwise --

18 A Yeah.

19 Q -- to the best of your recollection --

10:13 20 A Yes.

21 Q -- and your involvement?

22 A Uh-huh.

23 Q Okay, Sandra, I'm next going to turn you to a copy
24 of your written statement that was given at the
10:13 25 time, if you'll just give me a moment. Do you



1 recall giving a written statement to the
2 investigators at that time?

3 A Vaguely.

4 Q Okay. And where do you think that took place?

10:14 5 A I think that was at the police station as well.

6 Q Okay. I have a written statement here in front of
7 me, it has a document ID of 006621, and you'll
8 see -- I'll let you take a peak at my copy here.

9 A Uh huh.

10:14 10 Q It's dated March 5th, 1969 at the top, the time
11 noted is 6:35 p.m., it refers to Sandra Danchuk at
12 129 T South and it is a two page document, and I
13 see there are signatures at the bottom of both
14 pages.

10:14 15 A Uh huh.

16 Q Do you recognize that signature as your own?

17 A Yes, I do.

18 Q Okay. And I see also a signature, a G. Chartier.
19 Does that name ring a bell at all?

20 A No.

21 Q Now, I'll read this statement again for the
22 record:

23 "Sandra Danchuk of 129 T South states as
24 follows:

10:14 25 I recall two boys and a girl



1 being in our suite about January 31st, 1969.
2 This involved my husband's and their car
3 being stalled.

4 Descriptions, female, about 5'
10:15 5 tall - thin, straight long dark brown hair,
6 with bangs to the eyes, lot of make-up, age
7 14 years, navy or black elephant pants with
8 a pin stripe in them, maroon double breasted
9 "P" jacket with gold button O."

10:15 10 I think it says.

11 "1 male - about 5'9", thin, age 17 or 18 -
12 dark, may have worn a white and black toque,
13 believe pants either checkered or striped.
14 Corduory jacket gold or dark brown, probably
10:15 15 pile lining and pile --"

16 I can't read that next word. I don't know if you
17 can.

18 A No.

19 Q And I should have asked you, does this look like
10:16 20 your handwriting or does that look like someone
21 else's handwriting?

22 A Somebody else's handwriting.

23 Q You're not sure what that word is?

24 A No.

10:16 25 Q "Black and white striped shirt with white



1 collar. 2 fair, probably gold pants.

2 Number one male was downstairs
3 three times, once wanting to use the phone
4 to get a tow truck, and the other two times
10:16 5 to get a drink of water. This boy was very
6 polite.

7 I believe I left for work
8 sometime between 9:10 a.m. and 9:20 a.m.

9 I felt the girl looked tired
10:16 10 and scared because when I looked at her she
11 looked down. She giggled a lot when she
12 first came in?"

13 And, Sandra, does that sound like an accurate
14 account of the information then that you would
10:16 15 have provided to the police at that time?

16 A Yes.

17 Q And do you have any comment then on that statement
18 or did you want to make a comment on that
19 statement?

10:16 20 A No.

21 Q Maybe you could just let Walter know that we're
22 interviewing.

23 A Uh huh.

24 Q I'm just worried that that's going on the -- on
10:17 25 the microphone. And I know this is difficult to



1 recall, Sandra, and just bear with me and do your
2 best. After that initial contact with the police,
3 you did testify then, you recall, at the trial of
4 David Milgaard?

10:17 5 A Yes.

6 Q Okay. And do you remember, prior to testifying,
7 but after that initial contact with the police,
8 did you have any other contact with the police in
9 that interim period?

10:17 10 A Not that I remember.

11 Q And how would you assess your dealings with the
12 police during that investigation?

13 A I had never had dealings with the police before,
14 so I don't know.

10:17 15 Q Okay.

16 A I -- business like.

17 Q Okay. You didn't have any comment then on how you
18 were treated or otherwise?

19 A I don't remember.

20 Q Okay.

21 A I -- it must have -- everything must have been
22 fine because I don't remember anything negative or
23 anything that stands out in my mind as being
24 uncomfortable or --

10:18 25 Q And as I say, we know that you did testify at the



1 preliminary hearing. Do you have any recollection
2 of preparations for your testimony there, did you
3 meet with the prosecutor, for example?

4 A I don't remember.

10:18 5 Q I'm going to turn to your preliminary transcript,
6 or the transcript from your testimony at the
7 preliminary hearing of David Milgaard, and that's
8 document ID 007498. I'll get you to take a peak
9 at the document with me again. I see the top of
10:18 10 the second page, 007499, refers to Olesia
11 Alexandra Danchuk, and that is yourself?

12 A It is.

13 Q Examined by Mr. Caldwell, and I don't propose to
14 read the entire transcript, but I will read some
10:19 15 portions of it for your recollection. I'm turning
16 to page 007501 beginning at line 19, and I'll
17 read:

18 "Q I see. And was it still darkness at the
19 outset of this incident?

10:19 20 A Yes, it was quite dark, yes.

21 Q And anything else in particular about
22 the weather, the visibility that
23 morning?

24 A It was foggy.

10:19 25 Q And so then what happened when this



1 other vehicle -- did you see it as being
2 a car, by the way?

3 A Yes, it was a car.

4 Q What happened when it got behind you?

10:19 5 A They started pushing right away. I
6 don't even think my husband got out of
7 the car.. I'm not sure though, but he
8 started pushing and all of a sudden, I
9 guess their battery went dead or
10:20 10 something, I don't know what it was
11 but my husband told me to go into the
12 house."

13 And I'll stop there. And that's an accurate
14 account to the best of your recollection?

10:20 15 A Uh huh, yes.

16 Q Okay. I'm moving down the page, the same page
17 that we just ended there at, at line 31:

18 "Q What was the next you saw of any, your
19 husband or anybody else?

10:20 20 A I think my husband came down next and
21 he told me that...."

22 Move to the next page, continuing on at line 32
23 on page 007503:

24 "Q Did anyone else come down?

10:20 25 A I guess the driver of the car came



1 down and he asked for a glass of
2 water.

3 Q Now this was downstairs into your suite,
4 was it?

10:20 5 A Yes.

6 Q Did you understand the person who came
7 down to be the driver, when you say, I
8 guess the driver came down?

9 A It must have been, because he asked if
10:21 10 he could use the phone to call a tow
11 truck.

12 Q I see. And did you allow him to do
13 that?

14 A Yes.

10:21 15 Q Did you hear him talking on the phone?

16 A I can't remember.

17 Q I see. Alright, and then what happened?

18 A And then he asked for a glass of water
19 and he went upstairs.

10:21 20 Q Yes.

21 A And he came back down again to give me
22 the glass back....

23 Q Right.

24 A Again, that's all I saw of him.

10:21 25 Q Alright. Now did you know that person



1 before at all?

2 A No, I didn't.

3 Q And can you look around the court please
4 and tell the court whether he's in the
10:21 5 room here today?

6 A Yes, he is."

7 Next page continuing on:

8 "Q Which person is it?

9 A It's the man sitting in the box.

10:22 10 Q Seated in the box here in the goldish
11 sweater?

12 A Yes, it is.

13 Q And I take it you have not seen him
14 since, until today then?

10:22 15 A That's right.

16 Q Did you have any more face to face
17 dealings with this man?

18 A No, I didn't.

19 Q Just the two trips down to where you
10:22 20 were?

21 A Yes."

22 Does that sound like an accurate account then of
23 your recollection of the information provided?

24 A Yes, uh huh.

10:22 25 Q I'll move forward then to page 007506, just



1 reading a couple of questions and answers from
2 that page beginning at line 61:

3 "Q Do you recall anything about how the
4 accused person you've identified today
10:22 5 was dressed on that occasion?

6 A Well, I can only remember that he was
7 wearing a toque. I can hardly remember
8 anything about what he was wearing now.
9 I could probably tell you before but
10:22 10 it's been such a long time, I can't
11 remember.

12 Q Alright. But you say you can only
13 remember that he was wearing a toque as
14 one specific thing?

10:23 15 A And his jacket was open, I think."
16 Again, does that sound like an accurate account
17 of the information provided, you would have
18 provided?

19 A Yes.

10:23 20 Q Moving forward, we then get into the
21 cross-examination that was conducted by
22 Mr. Tallis, and if I turn to page 007510, I'll
23 begin at line 21:

24 "Q Now, I gather from what you told my
10:23 25 learned friend, that David, this boy



1 here in the box, spoke to you when you
2 were in your suite?

3 A Yes.

4 Q And as I understand it, he came down and
10:23 5 among other things, asked for your
6 permission to use the phone to call a
7 tow truck, is that correct?

8 A Yes.

9 Q And I think you mentioned that he asked
10:23 10 for a glass of water, which you gave
11 him?

12 A Yes, I did.

13 Q And as I understand it, he took the
14 glass of water upstairs?

10:24 15 A Yes.

16 Q And then brought the glass back?

17 A Yes.

18 Q Now I gather that your recollection is
19 that he was quite polite to you when he
10:24 20 spoke to you?

21 A Yes, very polite.

22 Q And his conversation was in quite a
23 normal tone?

24 A Yes.

10:24 25 Q Now you mentioned I think that you can



1 recall him having a jacket on but I
2 think you told my learned friend, and I
3 hope I heard you correctly, that the
4 jacket was open as you recall it?

10:24 5 A I think it was, yes.

6 Q And I presume that he had some sort of a
7 shirt or something underneath it,
8 including the trousers and so on?

9 A Yes.

10:24 10 Q Now, I take it the only thing of any
11 consequence that you can recall
12 clothing-wise is the toque?

13 A Yes.

14 Q And I take it you noticed nothing
10:24 15 unusual down the front of his clothes?

16 A No."

17 Then we'll move forward to the next page, page
18 007512, beginning at line 35. I'll pause for a
19 moment. That last portion I read, does that
10:25 20 sound like an accurate account of the information

21 --

22 A Yes.

23 Q -- you provided as best you can recall?

24 A Yes.

10:25 25 Q Moving then to page 007512 at line 35:



1 "Q And I presume that in due course a
2 police officer would get in touch with
3 you?

4 A Yes.

10:25 5 Q Now, do you remember what day it was
6 that the policeman got in touch with
7 you?

8 A No I don't.

9 Q Well, would it be the same day that
10:25 10 those people were there?

11 A No.

12 Q Or the day after?

13 A It was about a week, maybe two, I'm not
14 sure.

10:25 15 Q In any event, do you remember the police
16 officer who you were talking to?

17 A The one that came?

18 Q The name of the policeman?

19 A That came into the house?

10:26 20 Q Yes.

21 A I wasn't home.

22 Q I see. Well, did he take a statement
23 from you at any time?

24 A I had to go down to the police station.

10:26 25 Q Oh, I see. And what did you see at the



1 police station?

2 A I can't remember his name."

3 Sorry:

4 "Q And who did you see at the police
5 station?

6 A I can't remember his name.

7 Q I see. In any event, you did give a
8 statement in writing?

9 A Yes, I did.

10:26 10 Q A few days after this incident, perhaps
11 a week, is that correct?

12 A A week or two.

13 Q I see. And I suppose that at that
14 particular time you would be asked
10:26 15 whether or not there was anything
16 unusual?

17 A Yes.

18 Q And you were specifically asked, I
19 suppose, whether or not there was any
10:26 20 blood down the front of this man, blood
21 on his clothes or anything like that?

22 A A policeman phoned back and asked if we
23 noticed any blood in the sink, but he
24 never asked me about any blood on the
10:26 25 clothing.



1 Q I see. In any event, you didn't notice
2 any blood in the sink?

3 A No, I didn't.

4 Q And you certainly, as you have properly
10:27 5 told me, you didn't notice any blood on
6 his clothes?

7 A No, I didn't.

8 Q And of course if you had remembered
9 seeing any blood on his clothes, you
10:27 10 would have told the policeman at that
11 time?

12 A Yes, I would."

13 Does that sound like an accurate account of the
14 information provided, and does that help you
10:27 15 remember, it sounds like you are speaking of a
16 second conversation with the police during that
17 investigation and telephone call. Do you have a
18 recollection of that, Sandra?

19 A No.

10:27 20 Q Okay. I'll move forward then in this same
21 document to page 007514, it's the re-examination
22 by Mr. Caldwell after Mr. Tallis was finished his
23 cross-examination, and he says beginning at line
24 1:

10:27 25 "Q Mrs. Danchuk, I think I asked you



1 something about the clothes the accused
2 was wearing and you recalled him wearing
3 a toque and my learned friend has asked
4 you some questions concerning what may
10:28 5 have or may not have been on his
6 clothes. I think he asked you, but you
7 noticed nothing unusual down the front
8 of his clothing, you answered, no, and
9 later on, you didn't see any blood on
10:28 10 his clothes and you answered, no, I
11 didn't. Those are just what you said
12 now. I'm wondering, in view of what you
13 said about noticing that he was wearing
14 a toque, did you direct your attention
10:28 15 at the time to, like, specifically to
16 look his clothing over for what may or
17 may not have been there?

18 A No. When he spoke to me I looked at his
19 face and naturally I saw the toque on
10:28 20 his head, but as far as clothing, I
21 didn't pay much attention to it really.

22 Q And I take it from what you said, either
23 to what the items of clothing were or to
24 their condition?

10:28 25 A Well, just ordinary clothing like a



1 school boy would wear."

2 Actually, there's one continuing portion, there's
3 some discussion between counsel and the court and
4 Mr. Caldwell then concludes. Firstly the court
10:29 5 states:

6 "COURT: Mrs. Danchuk, now there's going to
7 be one question asked of you and you
8 think of the question before you
9 answer."

10:29 10 And then Mr. Caldwell states the question:

11 "MR. CALDWELL: Just the one thing,
12 Mrs. Danchuk, talking still about the
13 fellow who you've identified here today,
14 what observation, if any, did you make
10:29 15 of the front of his clothes?

16 A Well, if there was anything unusual, I
17 didn't see it."

18 Now, in terms of those two sections I've just
19 read, would that be an accurate account of what
10:29 20 you indicated at that time?

21 A Yes.

22 Q To the best of your recollection?

23 A Yes.

24 Q Okay. So that was the preliminary hearing,
10:29 25 Sandra, and we'll move forward to the trial, and



1 again a difficult question, but do you remember
2 whether you had any dealings with the prosecutor
3 or anybody else prior to testifying at the trial
4 and after the preliminary hearing?

10:29 5 A (Shakes head).

6 Q Do you remember preparing with the prosecutor at
7 all for your testimony?

8 A (Shakes head).

9 Q And if you could state --

10:30 10 A I don't.

11 Q -- yes or no.

12 A I don't, no.

13 Q Okay. So I'm going to take you to the trial,
14 then, Sandra, and the transcript from that trial,
10:30 15 and again I don't propose to read out all of the
16 testimony for the record, but I have chosen some
17 portions, and do you have a recollection of
18 testifying at the trial?

19 A No.

10:30 20 Q Not really?

21 A No.

22 Q Okay.

23 A I thought I just testified one time. I guess it
24 was twice. I -- it's such a long time ago.

10:30 25 Q I understand, sure.



1 A And it wasn't anything that was relevant to me,
2 you know, I just -- I just didn't feel anything
3 was really a big deal and so nothing really stuck
4 in my mind, you know.

10:30 5 Q Okay. I'll read you some portions from the
6 transcript from the trial, and I'm at document
7 005655, and if we go in a few pages to page
8 005657, it begins at approximately line 3:

9 "Q Did any of the occupants of the other
10:31 10 car come in the house?

11 A I think one of the boys asked if the
12 girl could come into the house because
13 she was cold and I think the boy and the
14 girl both came in but they sat on the
10:31 15 steps upstairs.

16 Q Now, do you know if they came in of your
17 own knowledge or not?

18 A Yes. I saw them as I was leaving for
19 work.

10:31 20 Q I see; this would be a little later
21 then?

22 A Yes.

23 Q Alright; and that was one of the boys
24 and the girl and I think you said sort
10:31 25 of in the back porch, did you - just in



1 the back door?

2 A Yes.

3 Q And did you have any direct dealings
4 with those two for instance?

10:31 5 A No.

6 Q And did you have any direct dealings
7 with the other boy?

8 A He came down and he asked for a glass of
9 water.

10:32 10 Q And did you give him a glass?

11 A Yes, I did.

12 Q And where would he get that - in your
13 suite?

14 A Yes, in our kitchen.

10:32 15 Q The glass or...?

16 A .. the glass of water - he came into our
17 kitchen.

18 Q Alright; now, are any of that group of
19 three in court here today?

10:32 20 A Just one that I can see.

21 Q Alright; which one can you see?

22 A The one in the box.

23 Q The man in the box to my left?

24 A Yes.

10:32 25 Q Which of the ones was he?



1 A He was the one that asked for a glass of
2 water.

3 Q And he was down in your suite, eh?

4 A Yes.

10:32 5 Q Alright; and when he got this glass of
6 water I presume he went back up, did he?

7 A Yes."

8 And is that an accurate account of the
9 information as best you can recall?

10 A Yes.

11 Q As you provided it?

12 A Yes.

13 Q If I could flip forward to page 005659 starting
14 again at the top, approximately line 3:

10:33 15 "Q Now, can you tell the court,
16 Mrs. Danchuk, what if anything you
17 noticed about the way that any of these
18 three people were clothed or dressed and
19 to the extent that you can recall?

10:33 20 A You mean a full description or ...?

21 Q Yes, as much as you know.

22 A Well, they were just dressed like school
23 kids, nothing different; I didn't really
24 notice anything in - well, I don't know
10:33 25 how to put it really.



1 Q Do you remember specific items of
2 clothing on any of them or not?

3 A Well, I thought one of them was wearing
4 a toque.

10:33 5 Q I see; and did they all have some sort
6 of outer winter coats or what-have-you?

7 A Oh, yes, yes."

8 And then it looks like the court, the judge had a
9 couple of questions for you:

10:33 10 "THE COURT:

11 Q Which one was wearing the toque; do you
12 know?

13 A The one that asked for the glass of
14 water.

10:34 15 Q Was that the accused in the box?

16 A Yes."

17 Is that an accurate account of information as you
18 would have provided it as best you can recall,
19 Sandra?

10:34 20 A Yes.

21 Q If I move forward -- I apologize, this next bit is
22 a little bit lengthy, but we go to page 005661 and
23 we start near the top at about line 5:

24 "Q But you didn't spend a great deal of
10:34 25 time with the people upstairs, that is



1 the group?

2 A No, no.

3 Q But as I understand it - I believe you
4 may have mentioned this - the boy in the
10:34 5 box here when I'll call David, I think
6 he came down and spoke to you in the
7 suite?

8 A Yes."

9 And I should mention this is during the

10:34 10 cross-examination by Mr. Tallis. Continuing:

11 "Q And was your husband there at the time?

12 A No, he was outside.

13 Q He was outside; and did he come down and
14 ask for permission to use the phone to
10:35 15 call a tow truck?

16 A I think he did but I'm not sure.

17 Q I see; but in any event it was at that
18 time that you gave him a glass of water?

19 A Either around then or shortly after.

10:35 20 Q Now, I gather that your recollection is
21 that David was quite polite when he
22 spoke to you?

23 A Yes, very.

24 Q And his conversation was in quite a
10:35 25 normal tone?



1 A Yes.

2 Q Now, I don't know whether you mentioned
3 it in this court or not but I believe it
4 is fair to say that he was wearing a
10:35 5 jacket?

6 A Yes.

7 Q And I think that as you recall it the
8 jacket was open?

9 A It was partly opened I think.

10:35 10 Q When I say ..?

11 A .. in a V. It was I think just halfway
12 zipped up or buttoned up whatever.

13 Q I see; and now, you noticed that he had
14 on - he was wearing trousers; can you
10:36 15 recall the colour of them by chance?

16 A No.

17 Q I see; and I suppose you've been asked
18 this question many times?

19 A Yes; I thought I could shortly after but
10:36 20 I'm not sure at all.

21 Q Fine; well now, in any event, I take it
22 that you noticed nothing unusual down
23 the front of his clothes?

24 A No, I didn't pay much attention to the
10:36 25 clothing.



1 Q But as I understand it, not too long
2 after this unfortunate incident that is
3 the subject matter of these proceedings,
4 you were certainly asked whether or not
10:36 5 you noticed any blood on anyone's
6 clothes?

7 A Yes, I was asked.

8 Q And you indicated at that time as you
9 have on subsequent occasions that you
10:36 10 did not see any blood on anyone's
11 clothes that morning?

12 A I didn't pay that much attention to
13 their clothing that I could see
14 anything.

10:36 15 Q In any event, if you had remembered
16 seeing any blood on any clothes you
17 would have certainly told us about it?

18 A If I would have seen it, yes."

19 Continue on the next page:

10:37 20 "Q Yes; and as a matter of fact you were
21 also asked whether or not you had seen
22 any blood around the sink?

23 A Yes.

24 Q And that is in your bathroom, is that
10:37 25 correct?



1 A Yes, we were asked.

2 Q And you didn't see anything of that
3 nature at all?

4 A No, I didn't.

10:37 5 Q I think at the preliminary hearing you
6 told my learned friend that David's
7 jacket was open to the best of your
8 recollection?

9 A It was either opened or partway opened;
10:37 10 I can't recall really.

11 Q You can't be sure whether it was open or
12 not?

13 A I'm sure part of his shirt was showing.

14 Q I see ...?

10:37 15 A .. but I can't remember if it was opened
16 or not."

17 And then the court had a couple of questions for
18 you:

19 "THE COURT:

10:37 20 Q Did he have a sweater on
21 underneath his coat?

22 A I think it was a shirt.

23 Q You think it was a shirt?

24 A I think so."

10:37 25 And then Mr. Tallis continues:



1 "MR. TALLIS:

2 Q Well, do you remember being asked by Mr.
3 Caldwell about that at the preliminary
4 hearing?

10:38 5 A About this ...?

6 Q .. about the jacket?

7 A I was asked by one of you; I can't
8 remember which one.

9 Q Well, do you remember at that time
10:38 10 saying that your best recollection was
11 that his jacket was open?

12 A I can remember saying it but now that I
13 have thought about it I really can't be
14 sure.

10:38 15 Q You can't be sure one way or the other;
16 I take it that the lighting in your
17 house was good?

18 A Yes."

19 I apologize, that was a long portion. Is that
10:38 20 accurate to the best of your recollection in
21 terms of the information you would have provided?

22 A Yes.

23 Q And you don't have a recollection then, Sandra, of
24 discussing your testimony with anybody between the
10:38 25 preliminary hearing and the trial?



1 A I don't.

2 Q Okay. So you don't remember whether you were
3 influenced in any way in terms of your testimony
4 by anyone or there were any discussions of that
10:39 5 nature?

6 A No. I think I would have remembered that.

7 Q Okay. So after you testified in the court
8 proceedings, do you remember what your next
9 involvement would have been then in this matter?

10:39 10 A No, I don't.

11 Q Do you have recollection of any further
12 involvement?

13 A You mean with any people that were in anything?

14 Q Yeah, anybody of authority that was dealing with
10:39 15 the David Milgaard matter or perhaps anybody even
16 working on behalf of the Milgaard family or
17 otherwise?

18 A The only thing that I remember is David's mother
19 phoning us and I think we were living in Kelowna
10:39 20 at that time.

21 Q Okay.

22 A But I don't even remember what year it was or how
23 long it was after the trial.

24 Q And I have a transcript from a conversation that
10:40 25 apparently took place between yourself and Joyce



1 on the telephone, and you believed at the time you
2 were living in Kelowna; did I hear you correctly?

3 A I think so.

4 Q And does that help you then determine when that
5 would have been, when approximately you would have
6 been contacted?

7 A I think we lived there 19 -- between 1980 and
8 1985.

9 Q Okay. So sometime during that period you would
10 guess?

11 A I'm guessing.

12 Q Okay. And I'm not going to -- I have a transcript
13 here and it's document ID 048577. Again, I don't
14 propose to read all of this. You had a chance,
15 though, to review it, Sandra?

16 A I read the whole thing.

17 Q And does that sound accurate in terms of -- it's
18 partly a conversation between yourself and
19 Mrs. Milgaard and partly a conversation between
20 your husband and Mrs. Milgaard. In terms of your
21 discussion, does that sound like an accurate
22 account --

23 A Yes.

24 Q -- of the information that you would have
25 provided? And do you remember very much about



1 that conversation?

2 A I don't, no.

3 Q Just that it had taken place?

4 A Yes.

10:41 5 Q And do you remember when your next contact then
6 would have been with anybody in relation to this
7 matter?

8 A We were living in Nanaimo, probably 1996 or 1997,
9 could have been later than that, and I think it
10:42 10 was by phone call, I don't remember who it was,
11 but again it had to do with the David Milgaard
12 trial and they were investigating something. I
13 can't remember what it was.

14 Q Okay. Now, we do know from the proceedings that
10:42 15 the RCMP conducted an investigation in 1993,
16 approximately thereabouts, and I have notes that
17 would indicate -- it looks like they contacted you
18 here in Nanaimo. Does that sound correct to the
19 best of your recollection?

10:42 20 A I thought it was later than that.

21 Q Okay.

22 A But if that's when you have it, that's when it
23 must have been.

24 Q I do have a document, and maybe I'll refer it to
10:42 25 you, it's document 035351, and it has a date on



1 the first page I believe of May 6th, 1993, and
2 these aren't your words, Sandra, but I'll perhaps
3 read some of this document and see if this
4 refreshes your memory at all, and I'm starting at
10:43 5 page 3 of the document which is page 035353, I'll
6 start at the top, it looks like:

7 "Constable Cunningham and I attended the
8 Danchuk residence in Nanaimo where we met
9 with Mr. and Mrs. Danchuk together. They
10:43 10 were most co-operative and willing to
11 discuss this matter and did not hesitate to
12 respond to any questions put to them.
13 Although their memories were somewhat weak
14 in certain areas, generally they had a good
10:43 15 recollection of the circumstances,
16 especially when given their testimony and
17 statements to read.

18 The Danchuks stated the
19 following:

10:44 20 - they both adopted their testimony and
21 statements as being accurate.

22 (Mrs. Danchuk recalled other events,
23 some of which are not previously
24 mentioned, which will be described
10:44 25 below). "



1 I'm going to move forward to the next page, page
2 035354, starting at the bottom of the page:

3 "- the Danchuks state they were treated well
4 by police and not questioned vigorously."

10:44 5 Continuing on the next page, page 035355:

6 "- Mrs. Danchuk confirmed that Milgaard was
7 wearing a toque when they attended their
8 residence. It is her feeling that it was a
9 navy coloured toque."

10:45 10 I'm just going to pause there for a moment,
11 Sandra. Does this help you recall this
12 conversation at all? You have no recollection of
13 it?

14 A Can you tell us where we were living at the time?

10:45 15 Q It sounds like you were living in Nanaimo, I
16 believe that's what it stated in the first
17 paragraph:

18 "... and I attended the Danchuk residence in
19 Nanaimo where we met with Mr. and Mrs.
10:45 20 Danchuk together."

21 A I just don't recall that.

22 Q Okay. No memory of that? Here, I'll read a
23 little bit more to you, returning to that
24 paragraph I'll just read you in:

10:45 25 "... their residence. It's her feeling that



1 it was a navy-coloured toque."

2 Do you remember giving anybody a description of
3 the toque in that respect?

4 A No, I don't.

10:45 5 Q Do you -- and I just want to step back from the
6 documents for a moment -- do you have a memory of
7 the toque, at all, that has been indicated in the
8 documents that David was wearing?

9 A I don't know. I don't know. When you tell me
10:46 10 there was a toque, I seem to remember that there
11 was a toque, but I don't know whether I'm just
12 picturing it in my mind or whether there really
13 was one. I can't say.

14 Q Okay. But again, in terms of your independent
10:46 15 recollection as best you can, do you remember a
16 toque or not?

17 A I think he was wearing a toque.

18 Q Okay. And do you have a description of the toque
19 in your mind?

10:46 20 A No.

21 Q Okay. Now I'll continue forward, then, on that
22 same page:

23 "- both Danchuks confirm that Milgaard was
24 very polite, did most of the talking and did
10:46 25 not act unusual. They also confirm that



1 there was no sign of blood on any clothing."

2 And I'll move forward to the next paragraph and
3 it states:

4 "- Mrs. Danchuk 'vaguely' remembers the girl
10:46 5 looking scared."

6 I think there was some reference to that,
7 perhaps, in your original statement. And I mean,
8 again, I know this is difficult, but stepping
9 away from the documents, do you have a memory of
10:47 10 the girl from that morning?

11 A No, I don't.

12 Q Okay.

13 A This transcript that you are reading, is that the
14 W5 segment, or not the W5, but The Fifth Estate?

10:47 15 Q No, it wouldn't be, no. This would be notes that
16 the RCMP officers were taking during a meeting
17 with you. So I take it there was a separate
18 contact in relation to The Fifth Estate?

19 A Yes.

10:47 20 Q And when did that take place?

21 A I thought it was around 1993. That's why I -- now
22 I -- it's -- something is coming back to me.

23 Q Okay. But no recollection of this meeting?

24 A I don't, I just --

10:47 25 Q Okay. Does this sound, though, like information



1 you would have provided?

2 A Yes.

3 Q And you will adopt it, then, as accurate as
4 provided at that time?

10:47 5 A Yes.

6 Q Okay. I'll continue on:

7 "- both Danchuks were treated well by
8 the Crown and at no time did he or the
9 police suggest what they should say in their
10:48 10 statements or on the stand at Court."

11 And would that be accurate?

12 A Yes.

13 Q And then if I continue on further down the page,
14 page 035356:

10:48 15 "At the conclusion of the interview, I asked
16 the Danchuks whether they would like to add
17 anything or whether there was anything that
18 was of concern to them. There were two
19 issues raised.

10:48 20 First, Mrs. Danchuk stated that
21 it is their recollection that they were
22 under the impression that the police were
23 investigating the three young people for
24 drugs not murder."

10:48 25 And I'll pause there for a moment. Do you have a



1 recollection of indicating that?

2 A Actually, now, I do, yes.

3 Q Okay. Yeah, and I think you had told me earlier
4 in your testimony today that you had believed that
10:48 5 you had known it was in relation to a murder
6 during the initial contact, but do you remember
7 discussions otherwise with the police at the time?

8 A The -- the time frame of sequences, or the
9 sequence of the time just, that's what's confusing
10:49 10 me. I, umm, now that you read that statement I do
11 remember them saying that they were investigating
12 them for, possibly, drugs or something
13 drug-related.

14 Q Okay.

10:49 15 A And then maybe we saw the newspaper article after
16 that.

17 Q Okay. And I take it, then, that would be somewhat
18 speculation on your part; you can't recall for
19 certain?

10:49 20 A I can't re -- no.

21 Q Okay. The document continues on, the notes:

22 "Mrs. Danchuk recalls that the police
23 advised them of this and to date, they can't
24 understand why they would have been told
10:49 25 this. We discussed this part at length,



1 including the Danchuks attending the
2 preliminary - trial and admitting the police
3 asked them about blood on clothing. There
4 was no explanation as to the Danchuks'
5 recollection."

6 And does that sound accurate in terms of
7 information that you would have provided in 1993?

8 A Yes.

9 Q And then, if I continue on down the page:

10 "Second, Mrs. Danchuk stated that when
11 Milgaard came into her residence, she was
12 under the impression that he had recently
13 had a nose bleed. She has absolutely no
14 idea as to why she formed this opinion but
15 she recalls this to be so. In fact,
16 Mrs. Danchuk informed the police at the time
17 that she felt he had a nose bleed but that
18 she wasn't sure why she felt that way.
19 Mrs. Danchuk was told that if she wasn't
20 sure as to why she felt that way, then that
21 information would not be incorporated in her
22 statement. Of note, Mrs. Danchuk states on
23 page 261 of the preliminary transcript that
24 a policeman asked her if she noticed blood
25 in her sink after the visit. She told



1 Constable Cunningham and I that when
2 Milgaard first came in he also asked if he
3 could wash his hands. He apparently did
4 so."

10:51 5 Perhaps dealing with that first portion,
6 Mrs. Danchuk, would this have been accurate in
7 terms of the information you would have provided
8 the RCMP in 1993?

9 A That's the part that I remember most of all.

10:51 10 Q And maybe I'll let you tell me about that in terms
11 of that recollection?

12 A Just exactly as it was stated there, I -- when
13 they asked me if I noticed anything unusual about
14 him I just, I thought that they were school kids,
10:51 15 and for some reason I thought he had a nose bleed,
16 but I can't remember why. I don't know whether I
17 saw maybe a drop on his upper lip, or whether I
18 saw it on his hand, or whether it was down the
19 front of his shirt, I can't remember.

10:51 20 Q Okay.

21 A Like I have wracked my brain so many times trying
22 to remember why I would have thought that, and I
23 just, I can't.

24 Q Okay.

10:51 25 A I don't know.



1 Q But you adopt, and you do have a clear memory of
2 providing that information to the investigators at
3 the time of the 19 --

4 A I do.

10:52 5 Q -- 69 investigation?

6 A Yes.

7 Q Okay. And do you remember what their response
8 was?

9 A They asked me where I saw the blood, I remember
10:52 10 them asking me that, and because I couldn't
11 specify exactly where I saw it, if I saw it, that
12 they told me that, if I can't remember seeing it,
13 then I shouldn't include that in my testimony.

14 Q Okay. So -- and I'm sorry, I just wanted to be
10:52 15 clear on this -- were you indicating to them at
16 the time that you had seen blood, or that it was
17 more so that you thought he had had a nose bleed
18 and you weren't certain why?

19 A I exactly told them I thought he had a nose bleed
10:52 20 but I don't know why I thought he had a nose
21 bleed.

22 Q Okay. And you recall this second portion about
23 the question about a policeman asking you about
24 blood in the sink then?

10:53 25 A Yes, and I also remember David asking to wash his



1 hands, I remember that part so well, and yet I
2 never said it in the testimony anywhere, I just
3 asked -- or told them that he asked for a glass of
4 water, and I don't understand why.

10:53 5 Q And do you remember when it was that he had asked
6 to wash his hands?

7 A It was the first time that he came down, because I
8 remember that he was really cold, and I thought
9 maybe he wanted to wash his hands to warm his
10:53 10 hands up.

11 Q And was that at the same time he was also asking
12 for a glass of water?

13 A No, I think that he came down again and asked for
14 a glass of water, maybe, another time.

10:53 15 Q Okay. And so how many times, to the best of your
16 recollection, did he come down into the suite that
17 morning?

18 A I think he came down twice.

19 Q And I think that's -- I think you had indicated
10:53 20 twice during your testimony. I'm going to
21 continue reading on page 035358:

22 "We departed the Danchuk residence ...",
23 actually, I think from there forward it's just
24 comments by the investigators, no longer
10:54 25 information being provided by you.



1 But in terms of the information
2 that I have read to you that has been indicated
3 was provided by you to the officers at the time,
4 you would adopt that as an accurate account?

10:54 5 A Yes.

6 Q And do you have any other comments in relation to
7 that information?

8 A No.

9 Q Anything else, from my reading of the testimony to
10:54 10 you today, that wasn't included in the testimony
11 that you recall telling the police during the
12 investigation?

13 A No.

14 Q Okay. It's just those clarifying points?

10:54 15 A Uh-huh.

16 Q I take it you have had an opportunity to review
17 your transcript previously, have you, of the --

18 A Yes.

19 Q -- testimony from the preliminary hearing and the
10:55 20 trial?

21 A Yes.

22 Q And you adopt that then, for today's purposes, as
23 accurate?

24 A Yes.

10:55 25 Q Okay. And the same with your written statement



1 that I read to you at the outset?

2 A Yes.

3 Q Okay. Okay. And just a couple of clarifying
4 points on that. Again, going back to the toque, I
10:55 5 believe you described the toque initially in the
6 written statement as black and white, and later we
7 see in the 1993 account given by the RCMP a
8 description of the toque as navy; do you have any
9 explanation for the discrepancy today?

10 A (Witness shrugs in the negative).

11 Q Okay. And you don't have an independent
12 recollection to inform us on that aspect today?

13 A No. If I told you one or the other it would be
14 speculation.

10:55 15 Q Okay. But you do nonetheless in -- agree that
16 that would have been the information that you
17 provided on both of those occasions to the
18 investigating officers?

19 A Well it doesn't make sense that I would say that
10:56 20 it was black and white one time and navy the next
21 time, I think that I would have remembered, so
22 that's confusing to me.

23 Q Okay. And you don't have any explanation for that
24 then?

10:56 25 A I don't.



1 Q Okay. You don't recall providing the information
2 about the toque being navy in 1993?

3 A I don't. I don't know how I would have remembered
4 it then, if I couldn't remember it closer to the
10:56 5 trial, how on earth would I remember it 20 years
6 later.

7 Q Okay. And following, just -- I don't know what
8 that means?

9 DON CHRISTAL (Camera operator): Five
10:57 10 minutes.

11 MR. HARDY: Five minutes left on the tape?

12 DON CHRISTAL (Camera operator): On the
13 audio tape, less than five minutes.

14 BY MR. HARDY:

10:57 15 Q Do you recall any further dealings on this matter
16 in the last ten years, for example?

17 A Just when Wally was called to testify at the Larry
18 Fisher trial, but I don't know, was that -- that
19 may have been almost ten years ago.

10:57 20 Q That was in 1999?

21 A Oh, okay.

22 Q And you weren't called to testify, then, at the
23 Larry Fisher trial?

24 A No.

10:57 25 Q And did anyone contact you at all in that respect



1 or was there a possibility that you were going to
2 testify?

3 A I think there was a possibility, but we owned a
4 business and I -- only one of us could go, I think
10:57 5 that's what it was.

6 Q Okay. Don, if we're going to need the to change
7 the tape, let's pause it there.

8 (VIDEOTAPE PAUSED)

9 MR. HARDY: I'm through my questions and I
10:58 10 want to take a look at my notes, though, and I
11 think there are a few follow-up questions that I
12 will ask, so --

13 DON CRISTAL: (Camera operator): Do you
14 want to just mention that we're continuing on
10:58 15 with the same tape?

16 BY MR. HARDY:

17 Q We are continuing on with the same tape, we had
18 paused there for a moment thinking we were at the
19 end of the tape, but I think I believe we can fit
10:58 20 this on to the same tape.

21 Sandra, do you have anything
22 else to add respecting information that you either
23 provided to the police at the time of the
24 investigation that I haven't noted, or other new
10:58 25 information?



1 A No.

2 Q Okay. Thank you very much for testifying today
3 for our purposes, and that concludes my questions.

4 A Thank you.

10:58 5 (VIDEOTAPE ENDED)

6 MR. HODSON: Mr. Commissioner, that's the
7 conclusion of the Sandra Danchuk tape. I'm
8 wondering if now might be an appropriate time to
9 break. The other tape, I think, is 45 minutes to
10:58 10 an hour, and we should maybe be able to finish
11 playing it before the noon break.

12 COMMISSIONER MacCALLUM: 15 minutes,
13 please.

14 (*Adjourned at 10:59 a.m.*)

11:29 15 (*Reconvened at 11:29 a.m.*)

16 MR. HODSON: If you like, Mr. Commissioner,
17 just on the Sandra Danchuk video, I don't believe
18 the trial transcript doc ID was identified and
19 so, for the record, it is 005536. Mr. Hardy
11:29 20 referred to a number of pages of that document,
21 but for counsel who wish to find that transcript,
22 it's 005536.

23 And, next, we'll proceed with
24 the video question and answer of Walter Danchuk.

11:29 25 (VIDEOTAPE COMMENCED)



1 MR. HARDY: It is 8:30 on January 20th,
2 2005, I'm here with Walter Danchuk to give
3 testimony to the Commission of the Inquiry Into
4 the Wrongful Conviction of David Milgaard.

11:30 5 WALTER DANCHUK (BY VIDEO), sworn:

6 BY MR. HARDY:

7 Q I want to start, Wally, by thanking you for
8 agreeing to meet with us this evening to give
9 testimony for our hearings, and I understand that
11:30 10 you currently reside in Nanaimo?

11 A Yes, I do.

12 Q And, as of January 1969, I understand that you
13 resided in Saskatoon at 129 Avenue T South?

14 A Yes, I did.

11:30 15 Q You were approximately 24 or 25 years old at that
16 time?

17 A Yes.

18 Q Now I'm going to show you a map that we have been
19 using in the course of the hearings, I believe
11:30 20 it's been referred to as map A, it's document ID
21 031006.

22 I should mention, Wally, I
23 understand you have a punctured eardrum, and I'm
24 going to talk as loud as I can, but if you can't
11:31 25 hear me please let me know.



1 And if you take a peek at that
2 map can you find your residence, then, on Avenue T
3 as of January 1969?

4 A I guess it's right here.

11:31 5 Q Okay. And you are pointing to a block that is
6 between 22nd Street and 21st Street, and it looks
7 like on the west side of Avenue T was your
8 residence?

9 A Yes, it was.

11:31 10 Q Okay. And I understand that there was a T-shaped
11 alley in the back of your residence?

12 A Yes, there was.

13 Q Okay. Now, Wally, can you tell us what your
14 recollection is today? I know that you have
11:31 15 looked at some documents, you reviewed testimony,
16 but if you separate yourself away from that; do
17 you have a memory, a clear memory today, of the
18 events that happened on January 31st, 1969?

19 A Very vaguely, actually.

11:32 20 Q Okay.

21 A I'd --

22 Q Just --

23 A I'd sooner you have -- have you read it to me.

24 Q Okay. So you don't have a memory apart from the
11:32 25 documents; would that be fair to say?



1 A Yes.

2 Q I'm going to turn firstly, Wally, to a statement
3 that I have, and it's document ID 006550, and it's
4 a statement that I understand you would have
11:32 5 provided to the police, it's dated March 5th,
6 1969; do you have a memory of giving a statement
7 to the police --

8 A No.

9 Q -- during their investigation in 1969?

11:32 10 A No, I don't.

11 Q Okay. I'm going to read this statement to you,
12 for the record, but I should first ask; is this
13 your handwriting that the statement --

14 A No, it isn't.

11:32 15 Q Okay.

16 A No.

17 Q Is that your signature, though, --

18 A That's my signature.

19 Q -- at the bottom of each page?

11:32 20 A Yes.

21 Q And I see, witnessing the document, was a G.
22 Chartier; do you recall that --

23 A No, I don't.

24 Q -- person? Okay. I'm going to read the statement
11:33 25 for purposes of the record, Walter, it states:



1 "Walter Danchuk of 129 T South states as
2 follows:

3 I am 25 years old, live with my
4 wife Sandra in a basement suite of 129 T
11:33 5 South. I am employed by Engineering and
6 Plumbing Supplies located at 906 Duchess.
7 My wife works at Richardson Securities.

8 On Friday, January 31st, 1969
9 at about 7:40 a.m. my wife and I were
11:33 10 preparing to go to work and upon backing out
11 of the back yard I got stuck in the lane to
12 the rear of my place. At this time a 1958
13 Pontiac, one smooth tire and one grip tire
14 on the rear, no taillight lens, colour I
11:33 15 cannot recall, drove up behind me in the
16 lane from the north. There was two young
17 fellows and a young girl in this car. They
18 tried to give me a push and, at this time,
19 their car stalled. The three young people,
11:34 20 my wife and myself, then went into my place.
21 The three young people waited at the top of
22 the stairs. I called the Shell service at P
23 and 22nd and was advised that it would be at
24 least a half hour before they got there. It
11:34 25 was more than a half hour later when I



1 called them back and, at this time, was told
2 that the truck had not arrived yet. I then
3 called the Texaco service at W and 22nd.
4 During the time waiting for a tow truck I
11:34 5 spoke to these young people. Description,
6 female, very short, long hair, black hair,
7 while wearing elephant pants and I believe a
8 parka, age I think around 16 years, no
9 older, wearing high boots, carrying a small
11:34 10 purse. Male 1 and 2, both slim. I am 5'9"
11 and both were a little shorter. One with
12 the ripped pants, which I later saw were
13 ripped in the seat, stated he was either
14 going to sell magazines or was selling
11:35 15 magazines. I believe he was the fairer of
16 the two. I cannot recall hair colour. One
17 of the boys wore checkered pants I believe.
18 I believe both wore light jackets. One wore
19 a pair of black insulated snow boots. That
11:35 20 is the best I can offer for a description.
21 However, my wife may be able to elaborate.
22 My landlord, Nick KA BLONT who lives
23 upstairs was also around when we tried to
24 get the cars out."

11:35 25 Maybe I'll pause there for a moment, Wally. Does



1 that sound like, up to that point in the
2 statement, an accurate account of the information
3 you would have provided to the Saskatoon City
4 Police at that time?

11:35 5 A I would say it does, yeah.

6 Q Okay. Continuing from where we were, page 006553:
7 "Discussion in the house, as I recall,
8 touched on the following topics. One of the
9 boys stated his dad was a mechanic in
11:35 10 Regina. This boy stated he was laid off and
11 was supposed to be going back. I believe
12 one of them mentioned something about having
13 acid on his clothes. The one with the torn
14 pants who did all the talking stated that
11:36 15 they had left Regina during the night and
16 had car problems on the way down to
17 Saskatoon. They mentioned trying to find a
18 person around St. Mary's church and
19 mentioned a nickname I cannot remember. I
11:36 20 offered them the phone book but they stated
21 they only knew him by his nickname. They
22 had planned to stay at his place for the day
23 then leave for Edmonton. Someone also
24 mentioned something about going to
11:36 25 Newfoundland. There was also mention of the



1 plates being bought the day before by the
2 fellow with the torn pants and I understand
3 the other fellow owned the car. It seems to
4 me the fellow that had worked in Regina had
11:36 5 worked in a body shop."

6 Again, I'll pause there for a moment. Does that
7 sound like an accurate account of information
8 that you would have provided to the officer at
9 that time?

11:36 10 A Yes it does.

11 Q Okay. Continuing on:

12 "Somewhere around 9:00 a.m. in all
13 likelihood, later the Texaco tow truck
14 arrived from the south end of the lane and
11:37 15 pulled me out. The three youths were in my
16 car and after the tow truck left asked if I
17 could push them out. I told them I could
18 not as I only had smooth tires. I then took
19 them over to the Texaco station, west and
11:37 20 22nd, and I then noticed the youth who was
21 doing all the talking had torn pants. This
22 fellow arranged for a truck and we all went
23 back to the lane where the '58 Pontiac was
24 started. After this the fellow with the
11:37 25 torn pants came to my car where the girl was



1 and asked her for money. She had a \$10 bill
2 and some other small change. She gave this
3 fellow the small change and she kept the
4 \$10. I then gave them a push to get out and
11:37 5 noted he turned west on 21st Street, north
6 on Avenue E -- excuse me -- and east on 22nd
7 Street, and this was the last I saw of them.
8 I cannot say these youths seemed excited,
9 however, they all looked quite tired. I
11:38 10 cannot recall smelling alcohol."

11 And does that, again, sound like an accurate
12 account of the information as you would have
13 provided to the police at that time, Wally?

14 A Yes, sir, it does.

11:38 15 Q Okay. Nothing to add or clarify respecting that
16 statement?

17 A Not to that statement, no. Umm, was I talking to
18 you on the phone?

19 Q No, you may have been talking to one of my
11:38 20 colleagues, and I -- I think maybe we'll get to
21 that --

22 A Okay.

23 Q -- if there's further information to add.

24 A Okay.

11:38 25 Q But remind me if I don't ask it, please.



1 A Okay.

2 Q So you don't have a memory otherwise, then, of
3 dealing with the police at that time, Wally?

4 A I do very vaguely, but for some reason I thought
11:39 5 it was about three or four days after, after the
6 fact of them being around our place.

7 Q Okay. Do you remember knowing about the Gail
8 Miller murder at that time?

9 A No, I don't really, I can't really recall, no.

11:39 10 Q Okay. And I understand, Wally, as the documents
11 tell us, that you testified at the preliminary
12 hearing of David Milgaard?

13 A Uh-huh.

14 Q And then again at the trial?

11:39 15 A Okay.

16 Q Do you have a memory of testifying at those two
17 proceedings?

18 A I do, but I don't know what I said or anything.

19 Q Okay. Well we'll touch on the transcript in a
11:39 20 moment, but I did want to confirm whether or not
21 you have any memory of dealings with the
22 prosecutor prior to testifying, or otherwise with
23 the Saskatoon City Police, in the course of their
24 investigation, prior to testifying?

11:39 25 A I can't recall testifying, I don't know what I,



1 what I said.

2 **Q** Okay. So you don't remember a specific --

3 **A** I don't remember --

4 **Q** -- meeting ahead --

11:40 5 **A** -- a specific --

6 **Q** -- of time?

7 **A** -- meeting of what happened.

8 **Q** Okay. Well I'm going to turn to the preliminary
9 hearing transcript, and I'm not actually going to
11:40 10 read any portions, but perhaps I'll just identify
11 the document for you, Walter. It's 0414459, and I
12 see the name at the top of the page, Walter Joseph
13 Danchuk examined by Mr. Caldwell, then it
14 continues on with a transcript of what the
11:40 15 questions and answers would have been in the
16 course of that testimony. And I take it that you
17 would adopt that, then, as accurate? You had a
18 chance, in fact, to review this testimony, and do
19 you adopt that as an accurate indication of the
11:40 20 information that you would have provided at that
21 time?

22 **A** Yes, I do.

23 **Q** Okay. Now I am going to turn to the trial
24 transcript, and I do want to bring your attention
11:40 25 to a few of the specific portions of the trial



1 transcript, Wally. And I'm looking at document
2 288359, and again we see at the top of the page
3 reference to Walter Joseph Danchuk, Mr. Caldwell
4 examining. And the first portion that I am going
11:41 5 to read is actually on the next page, page 288360,
6 beginning approximately seven lines down:

7 "Q And was it just you and your wife who
8 set out for work that morning or did you
9 have any passengers?

11:41 10 A No, just my wife and me.

11 Q Which way did you leave the house?

12 A Through the back door. And, see, like
13 I was parked in the back.

14 Q Parked in the back yard, were you?

11:41 15 A In the back yard, yes.

16 Q And I take it you got in and backed out
17 into the alley, did you?

18 A That's right.

19 Q What happened when you got into the
11:42 20 alley?

21 A Well I got stuck.

22 Q And was this as a result of the alley
23 conditions, or the car quitting, or
24 what?

11:42 25 A Well, I mean there was quite a bit of



1 snow there and I couldn't see out my
2 back window.

3 Q But you got stuck in the snow I take it,
4 did you?

11:42 5 A That's right.

6 Q What time of the morning was it right at
7 that point where you backed out and got
8 stuck?

9 A It would be approximately at about
11:42 10 7:30 or 20 to 8:00.

11 Q At that time?

12 A Yes."

13 Would you still adopt that as an accurate account
14 of the information you provided at that time,
11:42 15 Wally?

16 A Yes I do.

17 Q I'm going to skip forward a couple of pages, page
18 288362 of that document, again reading onto the
19 record. Question -- I'm approximately at four
11:41 20 lines up from the bottom:

21 "Q Alright; what happened when both cars
22 stalled in that manner?

23 Well, did you have some discussion
24 between the people from the Pontiac and
11:41 25 yourself?



1 A I really can't recall that.

2 Q Okay; what was the next thing you did?

3 A Well, we sat in my car for a while, then
4 I went in - went in the house and told
11:41 5 my wife - I mean, she got out first and
6 she went in the house.

7 Q Alright ..?

8 A .. and I sat out there for a while and
9 they came out and I guess we talked for
11:41 10 quite a while outside and I was trying
11 to get my car going again but the
12 battery wouldn't even turn over."

13 Then going down to the bottom of the page
14 approximately four lines up, same page, 288363:

11:41 15 "Q Now, while you were waiting for these
16 trucks were any of these people in your
17 house?

18 A Yes, they were; the three of them came
19 in the house.

11:42 20 Q And which part did they go to?

21 A Well, they were sitting actually in the
22 back porch or the hallway of the house.

23 Q Did any of them come down into your
24 suite?

11:42 25 A Yes, the girl did and the chap sitting



1 over there.

2 Q The accused?

3 A That's right."

4 And would be that -- those last two portions I
11:42 5 read to you, Wally, would that be an accurate
6 indication of the information that you provided
7 at that time?

8 A Yes, it would be.

9 Q I'm going to continue on, skipping to the next
11:42 10 page, 288365, starting at the top of the page:

11 "Q Alright; now, Mr. Danchuk, did you
12 notice anything about the type or
13 condition of the accused's clothes
14 during this whole incident?

11:42 15 A Well, not really until he was in the car
16 and we went back to the service station.

17 Q This was somewhat later, was it?

18 A Somewhat later.

19 Q What did you notice then?

11:42 20 A Well, he had a tear in his trousers.

21 Q Whereabouts?

22 A Well, I guess in the back part of the
23 leg - or the seat actually.

24 Q The seat of the trousers?

11:43 25 A Mhm.



1 Q You noticed that, did you?

2 A Yes."

3 And then the court had some questions for you
4 here, Mr. Danchuk, the judge asked as follows:

11:43 5 "THE COURT:

6 Q Excuse me; how big or how long a tear
7 was it?

8 A I couldn't ..

9 Q .. was it an inch or half an inch?

11:43 10 A No, it was quite a big tear.

11 Q Well, can you give us any general idea
12 of how MANY inches - was it more than
13 one inch?

14 A Oh yes.

11:43 15 Q How many more?

16 A Maybe four - something like that.

17 Q It would be about five altogether
18 then?

19 A Somewhere around there."

11:43 20 Would that be an accurate account of the
21 information that you provided at that time?

22 A Yes, it would be.

23 Q And then we move forward, Mr. Caldwell's
24 examination-in-chief concludes and Mr. Tallis, the
11:43 25 lawyer for David Milgaard, cross-examined you,



1 Wally, and I'm going to skip ahead in that
2 cross-examination to page 674 on the document, the
3 actual document ID page is 288371, and it starts
4 about halfway down the page:

11:44 5 "Q And there was a group of three people
6 came into the house and is it fair to
7 say that they were in the hallway
8 chatting with you for a while?

9 A Yes.

11:44 10 Q And was this before or after your wife
11 had gone to work?

12 A Well, she was still at home at the time
13 for a while.

14 Q For a while; now, looking at the whole
11:44 15 morning and not quibbling over a minute
16 or two here and there, how long would
17 you be with these three people? I
18 gather from your evidence it was quite a
19 little time?

11:44 20 A Yes it was; I'd say over an hour at
21 least.

22 Q Over an hour; do you recall about what
23 time you got on your way to work?

24 A Well, it was after nine because I can
11:45 25 recall that I got to work about a



1 quarter to ten or so.

2 Q I see; and dealing with this particular
3 hallway where the group were, I take it
4 that there were lights in this hallway?

11:45 5 A Yes.

6 Q It was well lit?

7 A Yes.

8 Q And as I understand it there would be no
9 problem of seeing facial features and
11:45 10 clothes on people there?

11 A No, that's right.

12 Q And similarly in your suite the lighting
13 was good?

14 A That's right."

11:45 15 And that last portion I read, is that an accurate
16 account of the information as you would have
17 provided, Wally?

18 A Yes.

19 Q Okay. I'm going to continue from, just off from
11:45 20 that last answer:

21 "Q Now, as I understand it, you went down
22 into your suite after the group of you
23 were in the house in the hallway to make
24 a phone call?

11:45 25 A Yes, I think I did.



1 Q And then you came up and talked with the
2 group in the hall?

3 A That's right.

4 Q Is that correct?

11:45 5 A That's right.

6 Q And as I understand it on one occasion
7 the girl came downstairs?

8 A Yes.

9 Q And this was after your wife had gone,
11:46 10 or do you recall?

11 A I don't recall now.

12 Q I see; and she asked you if she could
13 use the washroom?

14 A Yes.

11:46 15 Q And she went down to the suite and then
16 came back to the hallway, is that
17 correct?

18 A Yes.

19 Q And then I think David went down into
11:46 20 your suite, didn't he? When I say David
21 I mean David here.

22 A Yes, he was down there.

23 Q And now then, when you drove them to the
24 station, that is to the service station,
11:46 25 do you recall the seating arrangement in



1 your car?

2 A Well, the girl was in the front with me
3 and the two fellows in the back.

4 Q I see; the two fellows were in the back;
11:46 5 and you saw David get out and go to the
6 station, did you?

7 A Yes, I did.

8 Q And then you saw him coming back to the
9 car?

11:46 10 A Yes.

11 Q And where was it that you noticed the
12 trousers - the rip or tear as you have
13 described it - where was it that you
14 first noticed this?

11:47 15 A When he was getting out of the car, like
16 he was sitting in the back and he was
17 getting out of the car - like my car is
18 only a two-door and the seat was pushed
19 forward.

11:47 20 Q I see; and you noticed that at that
21 time?

22 A Yes."

23 And again, that would be an accurate account of
24 the information you provided at that time, Wally?

11:47 25 A Yes, it would be.



1 Q Okay. A couple more portions here. If I turn to
2 page 288375, starting about a quarter of the way
3 up from the bottom of the page:

4 "Q Now in any event, it's fair to say that
11:47 5 during that morning you talked to David
6 quite a little bit off and on?

7 A That's right.

8 Q And naturally you had never seen these
9 people in your life before?

11:47 10 A No.

11 Q And had no idea who they were, where
12 they were from or anything about them?

13 A No.

14 Q They were complete strangers to you?

11:47 15 A That's right.

16 Q And now, I gather that when you were
17 talking to David any conversation you
18 had with him was quite polite?

19 A Yes, he was very polite.

11:48 20 Q And soft spoken?

21 A I'd say so.

22 Q And when you were talking to him and the
23 others in the house you would be right
24 close to them when they were in the hall
11:48 25 area there?



1 A Yes I was.

2 Q Within two or three feet on occasion?

3 A Yes.

4 Q And I take it that you were chatting
11:48 5 with them and in particular you were
6 chatting with David as to what he did
7 for a living?

8 A Yes because he - well, I seen he was
9 doing most of the talking."

11:48 10 And again accurate account of the information as
11 you would have provided, Wally?

12 A Yes, it is.

13 Q I'm turning to the next page, 288377, starting
14 just past halfway down the page:

11:48 15 "Q But you also had an opportunity to see
16 the front portion of his trousers too
17 that morning, didn't you?

18 A Well, yes.

19 Q And I take it that it's fair to say that
11:49 20 when he was at your place you didn't see
21 any blood or anything resembling blood
22 on the front of his trousers?

23 A Well, I never really looked that close.

24 Q But I mean, you didn't see any; there
11:49 25 was nothing like that that stood out in



1 your mind?

2 A That's right.

3 Q As a matter of fact you were interviewed
4 by the police not too long after these
11:49 5 events?

6 A Yes.

7 Q And at that time this was naturally one
8 of the questions that you would be asked
9 - whether there was any sign of blood -
11:49 10 isn't that right?

11 A That's right.

12 Q Yes; and isn't it fair to say that when
13 you were interviewed by the police you
14 certainly told them that you were asked
11:49 15 that you did not notice or see any blood
16 on any of David's clothing?

17 A No, I didn't notice any."

18 And turning to the next page -- firstly, sorry,
19 Wally, is that an accurate account of the
11:49 20 information that you would have provided at that
21 time?

22 A Yes, it is.

23 Q Turning to the next page, 288379, starting
24 approximately a quarter of the way down from the
11:50 25 top of the page:



1 "Q No; and now, Mr. Danchuk, I mentioned to
2 you about being asked about the question
3 of blood by the police and I believe you
4 also remember me asking you a few
11:50 5 questions about this at the preliminary
6 hearing, don't you?

7 A Yes, I think I do.

8 Q Well, you remember being here in this
9 room as a witness?

11:50 10 A Yes.

11 Q And you were asked these questions and
12 did you give these answers -
13 And this, My Lord, is page 243,
14 questions 126 and 127:

11:50 15 "But you also had an opportunity to see
16 his front portion?"

17 This is with reference to the trousers
18 and the answer is recorded as "Yah".

19 Do you remember being asked that
11:50 20 question and giving that answer?

21 A Yes, I think I do.

22 Q And then 127:

23 "And I take it that it's fair to say
24 that when he was at your place there was
11:50 25 not any blood or anything like that on



1 the .."

2 "... front of his clothes?"

3 And the answer, "I didn't see any."

4 Do you remember being asked that

11:51 5 question and giving that answer?

6 A Yes.

7 Q And this is consistent with what you

8 told the police when you were interviewed

9 not too long after this incident?

11:51 10 A Yes."

11 And is that an accurate account of the

12 information, that last portion that you would

13 have provided at that time?

14 A Yes, it is.

11:51 15 Q Continuing on at page 683, page 288380 of the
16 document, a quarter of the way up from the bottom
17 of the page:

18 "Q I see; now, when the tow truck arrived

19 to pull you out were the three people

11:51 20 outside in your car at this time? Had

21 you gone out?

22 A Well, we all went out at the same time.

23 Q You all went out at the same time? Did

24 you all climb into your vehicle so to

11:51 25 speak?



1 A After my car was started we climbed into
2 my car.

3 Q I see; now, after they got into your car
4 and after you were pulled out, was there
11:52 5 some discussion between the group of you
6 as to whether or not you could pull out
7 their car?

8 A I think there was.

9 Q And did you indicate to them that you
11:52 10 wouldn't be able to because you only had
11 smooth tires on?

12 A That's right.

13 Q And this is a fact, isn't it - you only
14 had smooth tires at that time?

11:52 15 A Yes.

16 Q And that was why you drove them over to
17 the Texaco station so that they could
18 get a tow truck?

19 A That's right.

11:52 20 Q Rather than have you try and pull them
21 out just with smooth tires?

22 A Yes.

23 Q And when these people were at your house
24 there was certainly no indication of the
11:52 25 use of alcohol or anything else like



1 that?

2 A I didn't notice any.

3 Q From their actions and speech?

4 A No, I wouldn't say there was.

11:52 5 Q And this may be a rhetorical question
6 but you've certainly seen people that
7 are at least affected by liquor?

8 A Yes.

9 Q Or are in an impaired or intoxicated
11:53 10 condition by something?

11 A Yes."

12 And again, Mr. Danchuk, that would have been an
13 accurate account of the information that you
14 provided at that time?

11:53 15 A Yes, it would have been.

16 Q And do you have any comment on the testimony that
17 you provided at trial or at the preliminary
18 hearing?

19 A Yes. I'm a little bit puzzled that the police or
11:53 20 the prosecutor -- or the lawyer didn't ask me what
21 colour the car was or what colour the seats were
22 in the car and I'm not really that concerned about
23 the outside of the car as they kept asking about
24 the blood on his clothes. Well, the interior of
11:53 25 the car was all white leatherette and that was



1 never really brought up and that would have -- if
2 he did have blood, you would probably -- you know,
3 you would think he would -- if it's a white seat,
4 you would see something on it, it was quite fresh,
11:54 5 and that was never brought up by anybody.

6 Q Okay. And so you don't recall anybody asking you
7 a question about that?

8 A Not about what the interior of the car was or
9 anything like that.

11:54 10 Q Did anyone have a -- take a look at your car?

11 A I'm not sure.

12 Q Okay. But -- and you don't recall any sign of
13 blood then on the interior of your car?

14 A No.

11:54 15 Q And I think you indicated the three youths were
16 sitting in the car on the drive to and back from
17 the service station?

18 A The girl was sitting in front, in the front seat,
19 because it had bucket seats in it, and the two
11:54 20 fellows were sitting in the back seat. David and
21 the other fellow were sitting in the back seat.

22 Q Okay. And which side was David on in the back
23 seat?

24 A I don't recall right now.

11:54 25 Q Anything else to clarify beyond that point?



1 A Not really. That was one of the biggest things
2 that I, you know, that I just noticed now that I
3 -- that that was never asked, you know, what kind
4 of car I drove.

11:55 5 Q Okay. So the best -- to the best of your
6 recollection, the investigators hadn't inquired
7 about that and nor did the lawyers at the trial?

8 A Well, you think when the police came in or came
9 up, they would have looked at the car and seen
11:55 10 that the seats were white in colour.

11 Q Okay. But you don't recall any discussion
12 following from that?

13 A I don't recall any discussion on that.

14 Q Okay. So after the trial concluded, Wally, do you
11:55 15 have a memory of what your next involvement in
16 this matter would have been?

17 A Not really. Like what? What are you referring
18 to?

19 Q Contact from authorities in relation to any
11:55 20 investigations being --

21 A I don't recall any contact at all.

22 Q Okay. Contact from the Milgaard family or anybody
23 of that nature?

24 A I had contact with the mother about -- '69 -- I
11:56 25 would say eight or nine years later.



1 Q Okay.

2 A That she phoned me and -- in fact, in Kelowna,
3 when I was living in Kelowna at the time.

4 Q And do you have a memory of that conversation?

11:56 5 A Not -- that he was -- not really. I really can't
6 recall.

7 Q Okay. And we should state for the record, prior
8 to the beginning of this interview I believe
9 actually you had a chance to review your previous
11:56 10 statements, previous testimony, and as well you
11 had an opportunity to review a recording of what
12 appears to be a telephone conversation that you
13 did have with Joyce Milgaard, your wife was also
14 involved, and before you had a look at this
11:57 15 transcript did you have any memory of that
16 contact?

17 A I recall talking to her.

18 Q Okay, okay. And you've had a chance now, I don't
19 propose to read through the conversation --

11:57 20 A Okay, yes, I've read that, yeah.

21 Q And would it be an accurate account of the
22 information that you would have provided in the
23 course of that discussion at that time?

24 A I would say it is.

11:57 25 Q And do you have anything else to add in terms of



1 your contact with Mrs. Milgaard at that time?

2 A I was just -- just in fact shocked why she called
3 me, that's about all. Not really.

4 Q And so the information you would have provided
11:57 5 then is captured in the transcript?

6 A She was asking me all the questions and I was just
7 giving her some answers that I had.

8 Q Okay. And as I say, the information that you
9 would have provided then is captured by the
11:57 10 transcript that we have --

11 A Yes.

12 Q -- and you've had a chance to review?

13 A Yes.

14 Q Okay. And do you remember other contact from any
11:57 15 other authorities?

16 A Not really until -- well, until after when the
17 Larry Fisher trial came up.

18 Q Okay. And you testified at the Larry Fisher
19 trial?

11:58 20 A I did, yeah.

21 Q Do you have a recollection of dealing with the
22 RCMP in approximately 1993 in relation to an
23 investigation they were conducting into this
24 matter?

11:58 25 A No, I don't.



1 Q Okay. I have a document here which would indicate
2 that RCMP officers met with you, in the course of
3 their investigation, yourself and your wife in
4 1993. It looks like the contact was taking place
11:58 5 in approximately May of that year and I see, if I
6 turn to, and again this is document 035351 -- and
7 I should have mentioned that the transcript from
8 your discussion with Joyce Milgaard is document
9 048577 -- and I see in this RCMP document that
11:59 10 some notes are made by an officer in relation to
11 contact he had with you at that time, and perhaps
12 I'll just read some portions for you, Wally. I
13 don't know if this is going to bring back a memory
14 at all, but it states at the top of, again page 3
11:59 15 of that document:

16 "Constable Cunningham and I attended the
17 Danchuk residence in Nanaimo where we met
18 with Mr. and Mrs. Danchuk together. They
19 were most co-operative and willing to
11:59 20 discuss this matter and did not hesitate to
21 respond to any questions put to them.
22 Although their memories were somewhat weak
23 in certain areas, generally they had a good
24 recollection of the circumstances,
11:59 25 especially when given their testimony and



1 statements to read."

2 Does that bring back a memory at all of meeting
3 with them?

4 A No.

11:59 5 Q I'll just read portions again of what they had
6 stated, get your comment on that. If I continue
7 on that same page:

8 "The Danchuks stated the following:

9 - they both adopted their testimony and
10 statements as being accurate.

11 (Mrs. Danchuk recalled other events,
12 some of which are not previously
13 mentioned, which will be described
14 below)."

12:00 15 I'm then going to actually move forward to page
16 035355 and I note about halfway through the page
17 the officer notes:

18 "Both Danchuks confirm that Milgaard was
19 very polite, did most of the talking and did
12:00 20 not act unusual. They also confirm that
21 there was no sign of blood on any clothing."

22 Moving to the bottom of the page:

23 "Both Danchuks were treated well by the
24 crown and at no time did he or the police
12:00 25 suggest what they should say in their



1 statements on the stand at court. Other
2 than the police, the Danchuks have only been
3 approached by the Fifth Estate a number of
4 years ago when they lived in Langley, B.C.
12:01 5 They were treated well and nothing
6 remarkable was learned or mentioned."

7 Now, you don't recall --

8 A Okay, that I can recall, the Fifth Estate I can
9 recall now.

12:01 10 Q And is that an accurate synopsis of your dealings
11 in relation to the Fifth Estate, did you basically
12 provide the information that --

13 A Yes, I did.

14 Q -- that's indicated in the testimony?

12:01 15 A Whatever they asked, just I would say it is, that
16 I can recall.

17 Q Okay. But you don't recall this meeting then with
18 RCMP officers in 1993?

19 A In where?

12:01 20 Q It sounds like it was here at your residence in
21 Nanaimo.

22 A No, I wasn't living -- in '93?

23 Q Yes.

24 A Yeah, I was.

12:01 25 Q That's fine if you don't remember.



1 A No, I don't remember that.

2 Q Okay. And does that sound though like information
3 that would have been accurate in terms of what you
4 would have indicated at that time?

12:02 5 A I would say it is, yes.

6 Q Okay. And then you mentioned your next
7 involvement apart from the Fifth Estate, you were
8 involved in the trial of Larry Fisher, Wally?

9 A Yes, I was.

12:02 10 Q And you recall providing testimony at that trial?

11 A Yes, I do.

12 Q And you've had a chance to review the transcript
13 from that testimony?

14 A I did, yeah.

12:02 15 Q And is it accurate to the best of your
16 recollection?

17 A Yes, it was, to the best of my recollection.

18 Q I'm going to simply identify the document, it's ID
19 297189, and I'm not certain that I will read
12:02 20 certain portions of it to you, but let me just
21 take a quick look at it. Okay. There are just a
22 couple of short portions I'll read for you, Wally,
23 and for the record. If I start at page 297209,
24 about halfway down the page:

12:03 25 "Q Okay. Did you notice anything unusual



1 about the clothes of either of the two
2 young men, please?

3 A No, I didn't.

4 Q At any point that morning did you see
12:03 5 that there was any substance resembling
6 blood on either of those young mens'
7 clothing?

8 A No. I never did.

9 Q Did you -- pardon?

12:03 10 A No, I never did see.

11 Q Did the police ask you about that?

12 A I'm quite sure they did.

13 Q Were you asked that at the trial?

14 A Yes.

12:04 15 Q All right. And did you see anything
16 like blood on their bodies, their hands,
17 their face?

18 A No."

19 I'll turn you to the next page:

12:04 20 "Q What do you recall the young girl
21 looking like, please? What did she look
22 like?

23 A She was very short, tiny. She was
24 wearing these elephant pants they used
12:04 25 to call them at that time. She was very



1 quiet, didn't say very much. That's
2 basically about all I can tell you about
3 her.

12:04 4 Q Okay. Did you notice anything unusual
5 about her condition or behaviour that
6 morning?

7 A No, I didn't."
8 Would that be an accurate indication of the
9 information that you provided at that time,
12:04 10 Wally?

11 A Yes. Yes, it would be.

12 Q Turn forward a few pages to page 297218 of that
13 same document, a short excerpt, beginning near the
14 top of the page:

12:04 15 "Q All right. During that process where
16 was the girl?

17 A When they were getting the car going?

18 Q Yes.

19 A In my car.

12:05 20 Q And where were the two boys?

21 A If I can recall they were both outside.
22 Milgaard was behind the wheel and then
23 the other fellow I recall he got out and
24 he went in the other car.

12:05 25 Q So you and the girl were by yourself in



1 your car?

2 A Yes.

3 Q Do you recall anything being said by her
4 during that period of time, to you?

12:05 5 A No. She was very quiet."

6 And that information is accurate to the best of
7 your recollection?

8 A Yes, it is.

9 Q Turning to page 297220, halfway down the page:

12:05 10 "Q How long approximately then would they
11 have been with you, sir?

12 A Approximately two and a half hours, I
13 guess.

14 Q And during that time did you see
12:05 15 anything unusual about their behaviour
16 or the condition of their clothing other
17 than what you've indicated today?

18 A No, I didn't see anything different.

19 Q And you have reviewed your statement and
12:05 20 your previous testimony in that regard;
21 is that correct?

22 A Yes. Yeah."

23 And again is that an accurate indication of
24 information as you would have provided it, Wally,
12:06 25 as best you can recall?



1 A Yes, I would say it is.

2 Q It's probably unfair to ask you this. I know
3 there have been some different time frames
4 mentioned in terms of how long you were with the
12:06 5 three youths that morning and I see a reference to
6 two and a half hours here; I think shorter
7 references back closer to the event. Do you have
8 anything that you can tell us today that would
9 clarify that or that would indicate otherwise?

12:06 10 A No, I wouldn't, not that I can recall.

11 Q Okay.

12 A No.

13 Q I'm going to continue forward with just a couple
14 of short bits from the cross -- your
12:06 15 cross-examination conducted by Mr. Beresh,
16 starting on that same page, 297220:

17 "Q Mr. Danchuk, I'm going to keep you only
18 for a few minutes. You impress me as
19 being a very honest man.

12:06 20 A Thank you.

21 Q Would you agree with me, sir, that your
22 recollection of this event is very poor?

23 A Yeah."

24 Moving down the page a little bit to line 11:

12:07 25 "Q You agree with me that your recollection



1 is really hazy about any of these
2 events; correct?

3 A A lot of the events, but not
4 everything."

12:07 5 Would that be an accurate indication of your
6 memory --

7 A I guess so, yes.

8 Q -- and of what you indicated at that time? Okay,
9 that's it for the transcript from the Larry Fisher
12:07 10 trial. And do you have any other information,
11 Wally, that we haven't covered or that hasn't
12 otherwise been reflected in the documents that
13 we've looked at?

14 A The only other thing, it seems to really bother
12:07 15 me, is I just thought about this just in fact not
16 too long ago, is for some reason a name keeps
17 coming up of Shorty in my mind and for some
18 unknown reason I think that that was the fellow
19 that they were all looking for that morning in
12:08 20 Saskatoon.

21 Q Okay. And is that something that has come to you
22 more recently or that's always been --

23 A It came to me when I was talking to one of your
24 fellows the other day.

25 Q Okay.



1 A And I had mentioned it to him and I said for some
2 unknown reason I have this Shorty name in my head
3 now.

4 Q Okay. Anything beyond that?

12:08 5 A Not really.

6 Q I'm just going to show to you one further
7 document, Wally. I probably should have shown it
8 to you a little bit earlier on. This is an RCMP
9 report and the document ID is 054697 and it looks,
12:08 10 if I turn to the last page of the document, that
11 it was a report by an E.A. Rasmussen, Saskatoon
12 GIS, a corporal. I'm just going to read a couple
13 of portions of it to you, Wally. If we turn to
14 page 3, document -- or page 054699 starting almost
12:09 15 at the very bottom of the page.

16 "Stated that when Wilson --"

17 Or:

18 "Stated that when they arrived in Saskatoon
19 they started looking for Albert Cadrain's
12:09 20 place that he had met before. They didn't
21 know exactly where Cadrain lived, but knew
22 it was in the Pleasant Hill area of
23 Saskatoon. Stated while driving around they
24 became stuck in an alley in that area
12:09 25 however, could not give the exact location.



1 Stated that as they drove up the alley they
2 came upon a car ahead of them and when they
3 tried to give it a push they also be became
4 stuck. This car was described as a 63 or 64
12:10 5 Ford and was occupied by a man and a woman.
6 Stated the man called for a tow truck and
7 they all subsequently went into this
8 person's house and waited for it to come.
9 When it arrived the other vehicle was pulled
12:10 10 out but as Milgaard had no money the tow
11 truck left without assisting him."

12 And in terms of your comment, is that an accurate
13 indication of that information that you would
14 have been aware of at that time? Of course those
12:10 15 aren't your words, Wally, I think they are
16 reflecting comments made perhaps even by David --
17 A These comments, I mean, that sounds like part of
18 my comments behind our place.

19 Q I think what happened, and perhaps I should have
12:10 20 started earlier on in the paragraph, and we'll
21 just try and get some better context to it. If I
22 start at paragraph 10 on the previous page, this
23 states:

24 "Staff Sergeant Edmondson and Detective
12:11 25 Karst, Saskatoon City Police, interviewed



1 Milgaard at Winnipeg, Manitoba. Milgaard
2 stated in the early a.m. of January 31st,
3 1969 he, accompanied by Wilson, departed
4 Regina for Saskatoon. Stated were on their
12:11 5 way to Edmonton to see his girlfriend,
6 Sharon Williams. Stated that on their way
7 to Saskatoon they had trouble with Wilson's
8 car and they had borrowed a battery for it."

9 And then we continue on with that portion that I
12:11 10 had read. So as I say, it looks like a report on
11 what had been indicated by David Milgaard during
12 his testimony, although he does reflect, I
13 believe, the occasion that you speak of and have
14 spoken of in terms of being stuck in the alley
12:11 15 and I just want to confirm whether that was
16 accurate in terms of what's reported there from
17 the best of your recollection?

18 A I would say it is, yeah, to the best of my
19 recollection. I don't really recall of it right
12:13 20 now, but --

21 Q Yeah, and I'm sorry I'm confusing you, Wally.
22 It's just the bit of information about being stuck
23 in the back of your lane and then referring, I
24 believe, to your vehicle. It says a '63 or '64
12:14 25 Ford; what was your vehicle at that time?



1 A It was a '64 Chev convertible.

2 Q Okay. Okay. Perhaps I'll turn the pages to a
3 further paragraph, just one further excerpt.
4 Okay. And, again, this is the RCMP officer
12:14 5 reporting on his investigation to that point in
6 time. I'm turning to page 054764 -- my copy isn't
7 very good, it might be 784 -- it's page 9 of the
8 report, although it says page 8 at the top.

9 Paragraph 23:

12:14 10 "Investigation revealed that the person
11 referred to by Milgaard, Wilson and John as
12 being stuck in the lane in the Pleasant Hill
13 district was one Walter Joseph Danchuk who
14 resides at 129 Avenue T South. When
12:14 15 interviewed, subject stated that on Friday,
16 31st of January, 1969, at about 7:40 a.m. he
17 was backing out of his yard and became stuck
18 in the lane at the rear of his house.
19 Stated that at this time a 1958 Pontiac
12:15 20 drove up behind him in the lane from the
21 north. This vehicle contained two young men
22 and a young woman. Subject went to confirm
23 statements given by the three occupants of
24 this vehicle. Stated that one of the males
12:15 25 who fits the description of Milgaard



1 mentioned something about having acid on his
2 clothes and also one who had torn pants.
3 Stated they spoke of trying to locate a
4 person around that area and mentioned a name
12:15 5 which Danchuk could not recall. Advised
6 that the tow truck was called and same
7 arrived at his place around 9:00 a.m.
8 Stated that a person described as being
9 Milgaard and wearing the torn pants came to
12:15 10 his car where the girl was sitting and asked
11 her for some money. Stated she had a \$10
12 bill and some other small change and that
13 she gave the fellow the change. Danchuk
14 could not say whether these youths seemed
12:15 15 excited however, he did say that they all
16 looked quite tired. Statement obtained from
17 Danchuk attached."

18 And would that be an accurate account, then, or
19 report of the -- of the information that you
12:16 20 would have provided --

21 A Yes, --

22 Q -- the officer?

23 A -- I would say it is.

24 Q I believe that brings us close to the conclusion
12:16 25 of the interview, Walter.



1 A Okay.

2 Q I do need to review my notes, and perhaps we will
3 pause just for a moment here, Don, if you could.

4 (VIDEO PAUSED)

12:16 5 BY MR. HARDY: Wally, thank you very much for
6 attending with me today, that concludes the
7 questions that I have for you.

8 A Okay. You are welcome.

9 (VIDEO ENDED)

12:16 10 MR. HODSON: That's the conclusion of the
11 evidence for this morning, Mr. Commissioner.
12 Both of these videos will be available later
13 today for counsel if they wish to view them.

14 At 2:00 we have Linda Duffus,
12:16 15 and then two read-ins, we probably will have a
16 shorter afternoon. And then tomorrow afternoon
17 we have Dr. Emson, the pathologist, scheduled for
18 Wednesday and Thursday.

19 COMMISSIONER MacCALLUM: Thanks,
12:17 20 Mr. Hodson.

21 (Adjourned at 12:17 p.m.)

22 (Reconvened at 2:00 p.m.)

23 MR. HODSON: Good afternoon. The first
24 witness for this afternoon is Linda Duffus, I'm
01:59 25 going to ask her to come forward, please.



1 LINDA ANN DUFFUS, sworn:

2 BY MR. HODSON:

3 Q Good afternoon, Mrs. Duffus, thank you for
4 testifying before this Commission.

02:00 5 I understand that you currently
6 reside in Edmonton, Alberta; is that correct?

7 A That's correct.

8 Q And that on January 31, 1969 you lived at
9 1501-20th Street in Saskatoon; is that correct?

02:00 10 A Yes, it is.

11 Q And I understand that you attended Pleasant Hill
12 school?

13 A That's correct.

14 Q And where was that located?

02:01 15 A That was on Avenue S just off of 20th Street.

16 Q Okay. Call out map C, please, and if we could
17 just -- I'll just orient this map for you. Here
18 is 20th Street, 21st Street, the arrow is north,
19 right where St. Paul's Hospital is, here is Avenue
02:01 20 O and Avenue N, and if which could just zoom in
21 there, right on the corner of 20th and O where it
22 says "Duffus", is that where you resided?

23 A Yes, it is.

24 Q If we could just go back to the main map, please,
02:01 25 and then your school would be two blocks past



1 Avenue P, or three blocks was it?

2 A Three blocks past, yes.

3 Q So Avenue S, maybe we can just go up to map A,
4 please, and just -- so where I have circled Avenue
02:01 5 S and 20th; in that vicinity?

6 A That's right. It would have been just right
7 around in here.

8 Q So, sorry, south of 20th? You go ahead.

9 A On S, probably it was a quarter way down the block
02:02 10 on Avenue S, so if you were off of 20th you would
11 walk a quarter block north on Avenue S, that's
12 where the school was located.

13 Q North? So where I have put the X, is that about
14 right, north of 20th?

02:02 15 A Yes. However, as I'm reading that -- yes, pardon
16 me, that is.

17 Q Okay. And then your house would have been right
18 here where I've marked the O in the corner of 20th
19 and O; is that correct?

02:02 20 A Yes.

21 Q And my understanding, in January of 1969 you were
22 in grade 5, is that right?

23 A That's right.

24 Q Now what was your regular routine as far as
02:02 25 walking to school in the morning?



1 A My regular routine was certainly walking up 20th
2 Street, however I often walked with a friend of
3 mine by the name of Matthew Hnatiuk, and he would
4 walk from his home and meet me on the corner of
02:03 5 Avenue O and 20th Street, on the north side of
6 20th Street, and we would then walk to school
7 together.

8 Q Okay. Why don't we call up map C, please, and
9 I'll just -- there, please. So, I'm sorry, you
02:03 10 would normally meet Mr. -- or Matthew Hnatiuk at
11 this corner right here, thereabouts?

12 A That's correct.

13 Q And where did Mr. Hnatiuk live?

14 A He lived on Avenue N.

02:03 15 Q Okay. Just --

16 A So a block --

17 Q There, if I could draw your attention there, maybe
18 you could just zoom in on this area, please; is
19 that correct?

02:03 20 A That's correct.

21 Q So the third block (sic) in on Avenue N; does that
22 sound correct?

23 A The third house in?

24 Q Yes?

02:03 25 A Yes.



1 Q Okay. Just go back to the main map, please. So,
2 I'm sorry, you said your normal routine was to
3 meet Mr. Hnatiuk on this corner; is that right?

4 A That's right.

02:04 5 Q Can you recall the morning of January 31, 1969?

6 A Yes, I can. That particular morning was very
7 cold, it was in the minus forties, it was a very
8 foggy morning, and as I waited on the corner for
9 Matthew to arrive it was too cold to just stand
02:04 10 and wait and I chose, then, to walk to Matthew's
11 place to meet him, rather than just stand there in
12 the cold.

13 Q Okay. Was Mr. Hnatiuk often late?

14 A Yes.

02:04 15 Q And so would this not be -- would this be the
16 first time, then, that you would walk to his house
17 to get him?

18 A No.

19 Q And can you tell me which route would you go,
02:04 20 then, from that spot on the corner of 20th and O
21 to Mr. Hnatiuk's?

22 A I would have headed north on Avenue O to an
23 alleyway about a quarter of the block up.

24 Q Okay. Where I have marked the arrow; is that
02:04 25 correct?



1 A That's correct.

2 Q Yes?

3 A And I would have walked down the alley, so I would
4 have been heading east, and then I would have went
02:05 5 north to the back entrance of his home.

6 Q Okay. Where I have marked the arrows there, other
7 than the last one is a bit crooked, is that the
8 path that you would have taken that morning?

9 A Yes, it is.

02:05 10 Q Okay. And can you tell me what you recall about
11 that?

12 A That particular morning as I walked down the alley
13 I had noticed, as I was approaching Matthew's
14 house I had noticed a body that was off to the
02:05 15 right-hand side, it appeared to be a woman and --
16 however, the person was face down in the snow.

17 Q Okay. I'm just going to zoom in on this area,
18 please, of the map. And so here is the east-west
19 alley, correct, behind the funeral home?

02:05 20 A That's right.

21 Q And then you would have gone north down the alley
22 between Avenue O and Avenue N?

23 A That's correct.

24 Q And then here is the Hnatiuk's house; can you tell
02:05 25 me where, approximately, you would have seen this



1 body?

2 A My recollection was that it was behind the Hnatiuk
3 house.

4 Q In that area?

02:06 5 A That's correct.

6 Q And, when you came across his body, was there
7 anybody else around?

8 A At the time, no.

9 Q Okay. And what did you do and what did you see?

02:06 10 A Well after what I am sure was only seconds of
11 standing there observing, and of course being
12 aware that there was a problem, Matthew entered
13 from his back yard and I immediately asked Matthew
14 to return and ask his mother to come out.

02:06 15 Q Okay. What do you recall observing in and around
16 the body?

17 A Doug, not much, other than the body. I knew that
18 the body was certainly off the alleyway into the
19 snow bank. Time went by very quickly during that
02:06 20 time, in that from the time that Matthew went to
21 get his mother and come out it seemed like
22 seconds, and at the same time it seemed like
23 eternity. But other than just the body, there was
24 no signs that I saw of a struggle or any blood,
02:07 25 other than I was concerned that this person was in



1 trouble.

2 Q And how close did you get to the body?

3 A I would have probably stood a foot from her feet.

4 Q And did you touch the body at all or make any
02:07 5 contact?

6 A No, I did not.

7 Q And, I'm sorry, did you observe any blood in the
8 area?

9 A No, I did not observe any blood.

02:07 10 Q And so then after, I think you said, Matthew --
11 that's Matthew Hnatiuk?

12 A That's correct.

13 Q So you told him to go get his mother and then what
14 happened next?

02:07 15 A Then, within moments his mother was there, and she
16 immediately, of course having observed the body
17 she immediately shooed us off to school, told us
18 we needed to get going, we were going to be late,
19 and we did exactly what she said.

02:07 20 Q Okay. So, and that would have been you and
21 Mr. Hnatiuk?

22 A That's correct.

23 Q And so what route would you have taken to school,
24 then, from there?

02:07 25 A We would have headed south down the alley, and



1 then west again back onto Avenue O, to 20th
2 Street, and then straight up 20th Street to Avenue
3 S.

4 Q When you left the body had you -- in your mind did
02:08 5 you have an impression what had happened to this
6 woman?

7 A Well at that particular time there was a rumour
8 that was going around the school at the time that
9 there was a woman that drank excessively, and it
02:08 10 wasn't uncommon for her to pass out and sleep in
11 snow banks, as we knew it. My impression that
12 morning was this must be the woman that I had
13 found, that she had perhaps drank too much, she
14 had fallen asleep in the snow bank, and that was
02:08 15 my first impression.

16 Q When did you first become aware of Gail Miller's
17 murder?

18 A It would have been at lunchtime that day. At the
19 time we didn't stay at school for lunch, we -- we
02:08 20 had to walk home, and I recall as I came home that
21 day and I entered the porch way, which opened into
22 our living room, there was a bulletin on the TV
23 that showed that this person had been found, been
24 murdered -- I don't know if murder was the right
02:09 25 way -- but at that point I realized that this was



1 more serious than what I had thought it was.

2 Q And did you associate what you heard on the
3 television -- was it on the television?

4 A It was on the television.

02:09 5 Q And did you associate that with the body that you
6 had encountered earlier that morning?

7 A Yes, I did.

8 Q And did you tell anybody or do anything?

9 A At that point I called my mother, certainly, of
02:09 10 course, being concerned with, you know, now with
11 what ended up being the facts, and I let my mom
12 know, at that time, that I had found her body that
13 morning.

14 Q Did you ever have any contact with the police at
02:09 15 that time?

16 A No, I didn't.

17 Q I would like to just call up some photographs of
18 that area and just have you identify them for us.
19 The first is 077846, and it's not a very good
02:10 20 photo, and I believe it's looking north down that
21 alley, and that this would be the back -- did you
22 know the Hounjets at the time?

23 A No, I didn't.

24 Q Okay. You knew that there was a house on the
02:10 25 corner of that T alley; is that correct?



1 A Yes, I did.

2 Q Now you will see, there, where the body is
3 located; does that look like where you saw the
4 body that morning?

02:10 5 A That would be in the proximity that I remember,
6 yes.

7 Q Next, if you could show photo 077847, and again I
8 believe this house is the second house in, which
9 would be right next door to Hnatiuk's, and this is
02:10 10 the Hounjet's on the right side. Again, does that
11 look like the location where you would have
12 observed the body that morning?

13 A The memory that I have of finding the body that
14 morning was that it was closer to the Hnatiuk's
02:10 15 house than -- than there. I recall a shed being
16 somewhat behind the body so when I look at this
17 picture I don't see that shed, --

18 Q All right.

19 A -- I see a fence and an open yard, so for that
02:11 20 reason it's -- it's a little confusing for me.

21 Q Okay.

22 A But I thought it was closer to the Hnatiuk's.

23 Q Let me try another photo for you, 077848, and I
24 think if you can maybe just zoom in a bit on that
02:11 25 photo. And I believe in the back; is that the



1 shed that you were referring to?

2 A Doug, I can't be -- I can't say for certain on
3 that. I recall the shed being a very small shed,
4 or a very small garage, that was in behind
02:11 5 somewhat blocking the view. My memory of Matthew
6 coming out is actually coming out from that shed,
7 and he appeared to be a lot closer to me than what
8 this picture would suggest.

9 Q Okay. But it was the shed behind the Hnatiuk's
02:11 10 yard?

11 A Yes.

12 Q Now on January 31, that -- the day of the murder,
13 January 31, 1969, did you go back to that vicinity
14 that day?

02:12 15 A No, I did not.

16 Q Did you have occasion to go back in that back
17 alley the following week or in the days that
18 followed?

19 A Yes, I did go back in the days that followed to
02:12 20 play with Matthew, I'm sure curiosity was also
21 part of the reason that I went back down the
22 alley.

23 Q And what did you observe in the alley?

24 A At the time that I went down there was a tent that
02:12 25 was set up that was melting the snow and I



1 observed two officers that were in proximity of
2 the tent.

3 Q Okay. I'm going to show you a photo here, 073387,
4 maybe we'll just zoom in on the bottom one first
02:13 5 if we can; does that look familiar?

6 A Yes, it does.

7 Q And so again, I think just to get our bearings,
8 this would be facing south down the alley; is that
9 correct?

02:13 10 A That's right.

11 Q And so if we could just go back to the main photo,
12 please, and we'll just zoom in on there; does that
13 look familiar as well?

14 A Yes, it does.

02:13 15 Q Now were you able to get around this tent area to
16 go to the Hnatiuk's place?

17 A Yes, I could.

18 Q Now, when you were around the tent area, what do
19 you recall observing?

02:13 20 A As I was standing there watching, and most of the
21 snow had been melted in the tent area, and at the
22 time I observed an officer bend down and pick up
23 an object, and the object that I saw was a short
24 blade.

02:13 25 Q Okay. A short blade?



1 A A short blade, yes.

2 Q Was it -- do you know if it was a knife or a blade
3 of a knife?

4 A Well I assumed it was a knife, however I never saw
02:14 5 the handle of the knife at all, the only thing
6 that was visual to me was the blade of the knife.

7 Q And where did you see the officer pick it up from?

8 A It would have been from the southwest side of the
9 tent. Interestingly enough my recollection, and
02:14 10 it would confuse me over the number of years, is I

11 pictured the officer in the tent picking it up off
12 the ground in that I recall the ground having no
13 snow, but over the years I was also confused in

14 that I knew the tent wasn't very high, in my mind
02:14 15 I pictured it to be approximately 3 feet high, and
16 I was always confused as to how the officer would

17 have been inside the tent and I therefore
18 concluded it had to be right at the corner outside
19 of the tent.

02:14 20 Q Let's go back to the main photo. And again, if
21 you could just zoom in there, I think we have said
22 that south was this way; is that right? So it
23 would have been sort of -- it was near the south
24 corner of the tent, southwest?

02:15 25 A Southwest corner of the tent, that's correct.



1 Q And the day was after January 31, 1969?

2 A Yes, it was.

3 Q Did you have any conversation with the officer?

4 A No, not at all. Upon him picking it up, he turned
02:15 5 immediately away from me and approached the other
6 officer.

7 Q Now, I understand in 1969 at this time that you
8 were a friend of Rita Cadrain; is that correct?

9 A Yes, I was.

02:15 10 Q And do you know where Rita lived at that time?

11 A Yes. Rita lived at the end of the block on Avenue
12 O. However, we were on the west side of the
13 street and she was on the east side of the street
14 and she was down the block from me, so the corner
02:15 15 house.

16 Q Call up map B, please. Just zoom in that area,
17 please. And so I think you were right on the
18 corner of 20th and O; is that right?

19 A That's correct.

02:15 20 Q Do you recall, was there a bus stop near your
21 house?

22 A Yes, right out front, right outside the front
23 door.

24 Q And I believe this is the Cadraings' house there,
02:16 25 334 Avenue O?



1 A Yes, it is.

2 Q Now, did you and Rita Cadrain go to the same
3 school?

4 A No, we didn't. I went to Pleasant Hill school and
02:16 5 I believe she went to St. Mary's school across the
6 street from her home.

7 Q And were you close to the same age?

8 A Rita was older than I was, I believe one or two
9 years older.

02:16 10 Q And do you recall having a conversation with Rita
11 Cadrain after the date of the murder regarding
12 something found in her home?

13 A Yes, I do. I recall at some point after the
14 murder being in Rita's bedroom in the basement and
02:16 15 at the time she shared with me that she was quite
16 frightened about staying in her bedroom, that she
17 had found bloody clothes in her bedroom, and
18 certainly at the time it was quite alarming. I
19 asked her what she did with the clothes at which
02:16 20 point she shared with me that she had given the
21 clothes to her brother.

22 Q And at this time where physically did this
23 conversation take place?

24 A It was in the basement of the Cadrain home and it
02:17 25 was in her bedroom, or what she told me was her



1 bedroom.

2 Q Were you aware as to whether or not the Cadrains
3 had borders or non-family members renting in their
4 basement?

02:17 5 A At the time I didn't realize that they had
6 borders, but I certainly knew that there was a lot
7 of individuals that seemed to be around the home.
8 I assumed that it was her older brother's friends
9 that were there. At the time that I was in the
02:17 10 basement -- it wasn't very often that we did play
11 in the Cadrain home. When I would come to call on
12 Rita or her two younger brothers, often it was the
13 case of waiting in the porch and going off and
14 playing somewhere else, we didn't play in the home
02:17 15 very often, and on this one particular occasion it
16 was very unusual for me to be in Rita's bedroom,
17 so it's the only time I do recall being in that
18 room.

19 Q At that time were you aware whether or not the
02:17 20 borders or the renters were still living in the
21 basement?

22 A I was not aware. At the time that I was there
23 though there was nobody in the basement.

24 Q And did Rita Cadrain tell you when she had started
02:18 25 to occupy that bedroom or when it became her



1 bedroom?

2 A No, no, not at all. In fact, I questioned whether
3 or not it really was her bedroom in that the
4 basement in my opinion was simply gyprocked walls
02:18 5 with either a concrete or a linoleum floor. I
6 found it to be a very cold place to be and --
7 however, being a 10-year-old, I also was somewhat
8 envious of Rita in that where the bedroom was
9 located, the stair and the entrance way to the
02:18 10 basement was right by her bedroom and I thought to
11 myself at the time what a lucky kid she was and
12 that she could come and go as she pleased and
13 nobody would even know that she was gone. At the
14 same time I was also, I felt it very eerie in that
02:18 15 it wasn't a comfortable place to be and based on
16 the information she had shared with me, I wasn't
17 comfortable at all and I couldn't see myself being
18 in that room, I would want to be closer to the
19 family.

02:19 20 Q And, I'm sorry, you may have mentioned this, but
21 did Rita Cadrain tell you what she did with the
22 bloody clothes?

23 A When I asked her what she did, she had called her
24 brother and her brother had took the clothes.

02:19 25 Q Did she tell you which brother?



1 A No, she did not.

2 Q Did she tell you any more about the clothes, the
3 type of clothes, the amount of blood, anything of
4 that nature?

02:19 5 A No, but the one thing I do recall is that she
6 mentioned that a friend of her brother's had used
7 her bedroom and so I made an assumption at the
8 time that a friend of her brother's must be a male
9 and therefore it must be male clothing, but that
02:19 10 clearly would be an assumption.

11 Q Now, do you recall in or about 1993 being
12 contacted by the RCMP?

13 A Yes, I was.

14 Q And can you tell me how that came about?

02:19 15 A They interviewed my father, Murray Duffus, I guess
16 it would have been re-interviewed in that he gave
17 a statement back in 1969, and at the time that he
18 was interviewed my father suggested that they
19 should speak to me.

02:20 20 Q I see. Had you shared -- some of the evidence you
21 gave today, had you shared that with your father
22 previously?

23 A Yes. Yes, we did talk about it. In fact, one of
24 the things that we talked about was how he was so
02:20 25 unaware as I became older and we started talking



1 about the David Milgaard story, I shared
2 information with him which seemed to be news to
3 him. At the time he didn't seem to recall that I
4 had found the body, so he knew that I had more
02:20 5 information that I should be sharing.

6 Q So prior to this RCMP contact in 1993, I take it
7 you had no contact with the police or any other
8 authorities about Gail Miller?

9 A That's correct.

02:20 10 Q Or about your discussions with Rita Cadrain?

11 A That's correct.

12 Q Now, in 1993 did the RCMP visit you?

13 A We met in Red Deer.

14 Q And did they interview you?

02:20 15 A Yes, they did.

16 Q And did they record that interview do you recall?

17 A Yes, they did.

18 Q I'm going to call up document 037220, and just at
19 the top, it's a transcript of taped interview of
02:21 20 Linda Duffus, April 14th, '93 taken at Red Deer,
21 Alberta by Corporal Templeton and Constable Dyck.
22 Is that the correct date and do those officers'
23 names sound familiar?

24 A Yes, they do.

02:21 25 Q Now, you've had an opportunity to review this



1 transcript recently have you?

2 A Yes, I have.

3 Q And does it accurately record what you would have
4 stated to the officers?

02:21 5 A Yes, it does.

6 Q And does this interview provide your truthful
7 recollection of events as you told it to them on
8 that day?

9 A Yes, it does.

02:21 10 Q And having read it, is there anything in here that
11 you now say is not correct or truthful?

12 A There was only one point where it suggested that I
13 approached my father with having information. The
14 way it was written, it suggested that I had
02:22 15 contacted my father and that's how the police
16 contacted myself. However, it was more a case of
17 him being interviewed and suggesting that they
18 should contact me, so that was the only thing that
19 I found a little --

02:22 20 Q Okay.

21 A -- confusing.

22 Q I'm sorry.

23 A That's all right.

24 Q I propose to go through portions of this and I
02:22 25 will just read parts to you and have a few



1 questions. If you could just call out that
2 portion and the question, just to put that in
3 context right above it, is:

4 "J. TEMPLETON ... Could you please tell us
02:22 5 what you do recall of that date and if
6 you do recall it."

7 And your answer is:

8 "L. DUFFUS I certainly can. One of the
9 things that stands out in my mind about
02:22 10 the morning is that it was an extremely
11 cold morning. I was heading to school,
12 it would probably have been twenty after
13 eight, eight thirty. I usually met my
14 friend, Matthew Hnatiuk, to walk to
02:22 15 school together. I remember typically
16 he was always late for our meeting point
17 which was just on the corner of O and
18 20th Street, so I often found myself
19 walking towards his house to meet him,
02:23 20 rather than to stand in the cold and
21 wait for him. So that particular
22 morning, Matthew hadn't showed up. I
23 walked towards his place and in doing
24 so, how I would get there is I would
02:23 25 cross Avenue O and head down the alley,



1 so yea, I'd go about a quarter of a
2 block, turn right and then the alley
3 actually went straight through but it
4 also turned left again. So you'd walk,
02:23 5 be walking between O and N on the block.
6 As I walked towards his house, I came
7 across a person lying in the snow bank
8 and this person would be located right
9 behind his house, I recall an older
02:23 10 garage, which she would have been right
11 behind. At that point I was standing
12 over the woman and Matthew came out. At
13 which time I suggested he best get his
14 mother as there was a woman sleeping in
02:23 15 the snow bank. He did so. He went back
16 in the house to get his mother and his
17 mother came out and, upon seeing the
18 woman lying there as well, shooed us off
19 to school. Told us that we would be
02:23 20 late and that it was time to go to
21 school. At the time of seeing the
22 woman, I remember too, there was a
23 rumour amongst us kids that there was a
24 woman in our area who had a tendency of
02:24 25 getting drunk and often would sleep in



1 the snow bank."

2 If I could pause there. At that time was it
3 your -- back in 1969 was it your impression that
4 this woman was sleeping when you came upon her?

02:24 5 A Yes. However, I certainly was concerned that
6 there was a possibility of her being dead because
7 of the extreme cold.

8 Q If you just call out that paragraph, please, and
9 it says, starting right there:

02:24 10 "I believed at the time, because all I
11 saw was the woman. The woman was laying
12 face down. There was no sign of blood
13 at all, so I wasn't alarmed at seeing
14 this woman lying there, so I believed
02:24 15 that I had found this drunk woman who
16 was sleeping in the snow bank. So I
17 went off to school that morning. In
18 fact, for current events, I had, that
19 was my current event of the morning. I
02:24 20 had found this particular woman sleeping
21 in the snow bank."

22 Do you recall talking about that at school that
23 morning?

24 A I do, yes.

02:24 25 Q And that was in the presence of your teacher I



1 presume?

2 A That's right.

3 Q It says:

4 "I had found this particular woman
02:25 5 sleeping in the know bank. Even though
6 it was as cold as it was, it wasn't
7 unusual for us to come home from
8 lunchtime. It was almost unheard of
9 that you stayed at school for lunch, so
02:25 10 that afternoon at lunchtime, I came home
11 for lunch and I recall very vividly as I
12 walked into the porchway, you would see
13 the T.V. from the porch, and a news
14 bulletin was on. And that this
02:25 15 particular body had been found and I was
16 somewhat alarmed, in fact, I said to my
17 mom at that time, 'Mom, I was the one
18 that had found the body.'

19 Now, pause there. Did you ever know a Mary
02:25 20 Marcoux?

21 A No, I didn't.

22 Q Did you ever hear, at or about the time of this,
23 of Gail Miller's death, it being reported that
24 Mary Marcoux came across the body?

02:25 25 A No, I had not.



1 Q If you could then go to page -- page 037223, just
2 call out that, and the question from Officer
3 Templeton:

4 "J. TEMPLETON The time after that, do you
5 recall the members of the Saskatoon City
6 Police coming to your home asking
7 questions in the neighbourhood. Do you
8 recall that?

9 L. DUFFUS No, I don't recall that. I only
10 knew that in that, I remember my father
11 mentioning that he had been approached,
12 by police officers. But I don't, in
13 fact, recall, ever being approached
14 myself, or for, remembering them coming
15 to the house at all.

16 J. TEMPLETON Did you tell your father what
17 you had seen? That you recall.

18 L. DUFFUS I certainly, I found it rather
19 surprising, when I spoke to him recently
20 that he was a unaware of this. In fact,
21 I jokingly asked him at the time where
22 he was because that was something I
23 couldn't believe that he did not know."

24 So this was in 1993. Is this the discussion you
25 told me about where, that you believe prompted



1 your father to talk to the RCMP about your
2 information?

3 A That's correct.

4 Q If you could then go to 037224, just call out that
02:27 5 portion, and Officer Templeton:

6 "J. TEMPLETON The day after the murder and
7 days after that, did you take the same
8 route to school? To pick up Matthew?

9 L. DUFFUS I did so.

02:27 10 J. TEMPLETON Up the back alley between N
11 and O?

12 L. DUFFUS That's correct.

13 J. TEMPLETON Do you recall City Policemen
14 being in the alley?

02:27 15 L. DUFFUS Jim, I recall the tents being
16 set up and they were melting the snow.
17 Even when I think of it today it puzzles
18 me in that I guess I would assume that
19 that entire area would be completely
02:27 20 blocked off, but I remember again,
21 waiting for Matthew to walk to school.
22 I recall the snow being pretty much gone
23 in that area from the tent being set up
24 and I do recall, as I was standing
02:28 25 waiting there for Michael, one of the



1 police officers finding a knife. And
2 although there was no conversation that
3 passed between us, the recollection that
4 I have is that's the weapon and so that
02:28 5 stands out in my mind as well.

6 J. TEMPLETON You mentioned a City
7 Policeman finding a knife. Do you
8 recall if it was a big knife, small
9 knife ...

02:28 10 L. DUFFUS Small knife. In fact, one of
11 the things that stands out in my mind
12 about that is that particular spring,
13 again walking to school by St. Paul's
14 Hospital, I came across a paring knife
02:28 15 and I took it to school and turned it in
16 to the Principal, just thinking that
17 perhaps this particular paring knife
18 meant something and that stood out in
19 mind, picking up that particular knife.

02:28 20 J. TEMPLETON The knife that you mentioned,
21 whereabouts, exactly do you recall, near
22 St. Paul's, whereabouts would have found
23 that? Was it ...?

24 L. DUFFUS Yea. St. Paul's, there was St.
02:28 25 Paul's and there was a nursing residence



1 right next door to St. Paul's Hospital
2 and it was right on that sidewalk,
3 walking. And it was just as things were
4 melting.

02:29 5 J. TEMPLETON So around Avenue P? Or ...

6 L. DUFFUS No closer to there would have
7 been Q, between Q and R.

8 J. TEMPLETON Q. Between Q and R on 20th
9 or 21st?

02:29 10 L. DUFFUS On 20th."

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

13 A Yes.

14 Q And is it truthful information that you did find a
02:29 15 knife?

16 A Yes.

17 Q And that would have been sometime after January
18 31, 1969?

19 A It would have been in the spring of the year. The
02:29 20 snow was melting.

21 Q And you gave it to your principal at school?

22 A That's correct.

23 Q And did you ever hear back from anybody about that
24 knife?

02:29 25 A No, not at all.



1 Q Next on page 037226, just call out that portion,
2 and this is Officer Dyck questioning you:

3 "J. DYCK When you recall the peace officer
4 finding that knife, ..."

02:30 5 and I think this refers to a few days after the
6 murder:

7 "... you indicated earlier, how
8 many policemen were at the scene at that
9 time?

02:30 10 L. DUFFUS The best recollection that I
11 have is two of them. Now there could
12 have been more, but I definitely
13 remember two in the area of where the
14 tent was set up.

02:30 15 J. DYCK O.K. Now did you see him actually
16 find it, or did he have it in his hand,
17 or how did you observe him make this
18 find?

19 L. DUFFUS Actually pick it up.

02:30 20 J. DYCK O.K. And where did he pick it up
21 from?

22 L. DUFFUS I think one of the reasons that
23 I remember it so well is the way the
24 tent was set up, and of course I was
02:30 25 standing on the south side of the tent.



1 He was right in front of me when he
2 actually picked it up, which is why I
3 could see what he was picking up. I
4 don't know what the width of the tent
5 would be, but if it was six feet wide,
6 it would have been on the south side of
7 that.

8 J. TEMPLETON Was the police officer inside
9 the tent?

10 L. DUFFUS Yes."

11 And I think that's where you told me earlier
12 you've now thought about that and have a
13 different recollection of what may have happened?

14 A Certainly at the time, and I didn't see
15 photographs again until the Larry Fisher trial
16 which was the first time that I saw -- and it was
17 interesting again being 10 years old and certainly
18 trying to remember things as they were, and that's
19 what puzzled me the most was that I recalled the
20 tent being very short and therefore how could a
21 tall officer be standing in the tent, so my first
22 recollection that was yes, he was in the tent, and
23 then I became puzzled by it thinking though the
24 tent was very short, how could this be.

25 Q And that was at or around the time of the Larry



1 Fisher trial?

2 A That is correct.

3 Q And I'll get to that in a moment, but you did
4 testify at the Larry Fisher trial?

02:31 5 A Yes, I did.

6 Q Then go to page 037227, just call out that part,
7 please, and you were asked the question:

8 "J. DYCK Linda, in relation to where you
9 originally saw the woman laying, where
02:31 10 did the peace officer pick up the knife?

11 L. DUFFUS The woman was lying on the side
12 in, on a snow bank off the alley way.
13 So, as you went down the alley, she was
14 to the right-hand side. Perhaps with
02:32 15 her, her feet in the alleyway, but her
16 body was actually in the snow bank.
17 Where I recall the officer picking up
18 the knife would probably have been, it
19 would have been, it would have been in
02:32 20 the middle of the alley way, is where I
21 recall it. The tent was set up,
22 straight across the alleyway and I would
23 have to say from the point of where the
24 body was it was probably four feet, four
02:32 25 feet from the body. So not four feet,



1 directly along the body, but towards the
2 middle on an angle, but in the middle of
3 the alley.

02:32 4 J. DYCK O.K. Like you say four feet from
5 the body. In which direction.

6 L. DUFFUS South of the body.

7 J. DYCK South of the body.

8 J. TEMPLETON O.K. The alley runs
9 north/south.

02:32 10 L. DUFFUS That's correct.

11 J. TEMPLETON It was four feet south of the
12 body. Or where you recall the body
13 having been.

14 L. DUFFUS That's right.

02:32 15 J. TEMPLETON Again in your mind, you can
16 see the policeman pick up the knife, was
17 it a big knife, a small knife?

18 L. DUFFUS It was a small knife. I
19 remember it being a small knife."

02:33 20 Does that, what I've just read you, is that
21 correct to your best -- accord with your
22 recollection today of what happened?

23 A Yes.

24 Q Go to the next page, please, and Officer Templeton
02:33 25 asks:



1 "J. TEMPLETON And what colour would it
2 have been."

3 Again referring to the knife.

4 "L. DUFFUS That I don't know. As I say I
02:33 5 remember him bending down, picking it
6 up, the object being in his hand.
7 Again, being, what I, what I saw was a
8 small blade, and then he turned from me.
9 So, as I say there was no communication
02:33 10 that transpired between the two of us.
11 It was simply that the image was left in
12 my mind was, gosh I wonder if that is
13 the murder weapon."

14 Just go down to the bottom of the page and let me
02:33 15 pause there. Is that what you would have thought
16 at the time when you saw the officer and the
17 knife?

18 A Yes.

19 Q And the bottom question:

02:33 20 "J. DYCK When was the last time, or was
21 this the last time that you saw the tent
22 up?

23 L. DUFFUS That's right. It was the one
24 and only time.

02:34 25 J. DYCK And how, how soon was that after



1 you had seen the body.

2 L. DUFFUS That's I think, in terms of time
3 frame, whether it was day or two, I'm
4 unsure. But I would have to say the
02:34 5 next day in that curiosity as to what
6 was going on and the fact that I was
7 meeting Matthew and he wasn't at our
8 meeting point."

9 Does that sound accurate?

02:34 10 A It does, Doug. The time relation in that
11 certainly is confusing for me. One of the things
12 that I do recall from that specific day was that
13 it was sunny and when I read the testimony
14 thinking one or two days after and knowing that of
02:34 15 course it was a school day and knowing that it was
16 the end of January, I questioned the sunlight. I
17 distinctly remember it being a sunny afternoon and
18 therefore I wonder if it wasn't more than one or
19 two days, if perhaps it may have been the weekend,
02:34 20 why else would it be sunny, so that's another
21 thing that did stand out in my mind of that day.

22 Q If you could go to page 037229 and officer
23 Templeton asks:

24 "J. TEMPLETON Just to go back to a point
02:35 25 you made earlier, you recalled finding a



1 paring knife near St. Paul's Hospital on
2 your way to school. How, you may or may
3 not have mentioned this, but if you
4 would for me, how long after the 31st of
02:35 5 January, would you have found that
6 knife?

7 L. DUFFUS It was, it was in the spring of
8 year. Much of the know had melted, I
9 would have to assume, with that in mind
10 that it would have to have been some
11 time in April.

12 J. TEMPLETON And what did you do with that
13 knife?

14 L. DUFFUS I turned it in to, the school,
02:35 15 when I got to school.

16 J. TEMPLETON Who would you have given it
17 to?

18 L. DUFFUS I'm just trying to think of
19 that. If I remember correctly, Mr. Kyle
02:35 20 was our principal at the time and I
21 would have gave it to one of two people,
22 himself, or the teacher. But I
23 definitely, I remember, I guess the
24 reason that I remember it so well it, it
02:35 25 made me think oh gosh perhaps this



1 something that means something somewhere
2 else. Which is why I felt I needed to
3 turn it in."

4 Do I take it, from that, that when you found the
02:36 5 knife, did you think it might be connected to the
6 Gail Miller murder?

7 A No, I did not. I made the conclusion that it may
8 be connected to something else, but I never at all
9 thought that it may be connected to the Gail
02:36 10 Miller murder.

11 Q And then just down here, I'll go through a few
12 questions where the officers ask you about your
13 dealings with Rita Cadrain. You are questioned:

14 "J. TEMPLETON Speaking of friends, do you
02:36 15 recall a girl by the name of Rita
16 Cadrain?

17 L. DUFFUS Yes I certainly do.

18 J. TEMPLETON How did you know Rita?

19 L. DUFFUS Rita was, a gal that lived in
02:36 20 the neighbourhood. She lived down the
21 block from me, on Avenue O. There were
22 actually four of us at the time that
23 chummed together, not on a regular basis
24 but there was myself and Darlene Fair
02:36 25 (phonetic), who lived across the street



1 from me, Rita Cadrain and another friend
2 of mine who lived on Avenue P, which was
3 Sandy Loffus."

4 A It's actually Laffus.

5 Q Laffus?

6 A That's correct.

7 Q Next page, it says:

8 "J. TEMPLETON Loffus?

9 L. DUFFUS. .. that's correct. Rita, how I
10 met Rita was through Darlene, Darlene's
11 parents actually owned the Shop-Rite
12 grocery store across the street. And
13 Darlene's parents and my parents were
14 close, they chummed together so as did
02:37 15 the kids chum with Darlene. I met Rita
16 through Darlene and as I saw we, we
17 would play together. We would often
18 meet at Darlene's place, seemed to be
19 where we would meet to play. I also
02:37 20 knew Rita's younger brothers."

21 If I could just pause -- I'll finish this
22 paragraph, sorry.

23 "For the life of me, names, Ricky, was
24 one of the brothers and the other
02:37 25 younger brother, the name Randy comes to



1 mind, but something doesn't seem right
2 about that. But Ricky and Randy were
3 her two younger brothers that I recall.
4 Being younger, before I was ten, it was
02:37 5 the two brothers that I commonly played
6 with, we would get together and go down
7 to the ditch by Quaker Oats and throw
8 stones and do that. As I got older, ten
9 years of age, I started spending more
02:37 10 time with the girls and Rita was one of
11 them."

12 Do you recall any of the Cadrain boys, at the
13 time, who you would have known or known of?

14 A Certainly the two younger brothers, Ricky, and the
02:38 15 other name escapes me but I called him Randy, and
16 then I also knew Larry Cadrain.

17 Q And then, just, if you could call out that last
18 part, please:

19 "J. TEMPLETON At that time when you were
02:38 20 ten and during the winter of 1968/69,
21 would you have gone to the Cadrain house
22 to visit Rita?

23 L. DUFFUS I certainly recall doing that.
24 Now interesting enough with the Cadrain
02:38 25 house, it wasn't I didn't play in the



1 house often. In fact whenever I went
2 down to Rita's place it was usually to
3 pick up either Rita or her two brothers.
4 The recollection that I have of the
02:38 5 Cadrain house, was simply being in the
6 front entrance way, seeing the living
7 room and as well as their back porch
8 area to the kitchen. Whenever I went I
9 didn't play in the house, we would play
02:39 10 outside or find a place to go. With the
11 exception that at that particular time,
12 I think this is perhaps why it stands
13 out in my mind so much, is I do recall
14 shortly after the incident, time frame
02:39 15 I'm really unclear of, but I recall
16 being in the basement, of the Cadrain
17 house. The memory that I have of this
18 particular basement was it kind of gave
19 me an eerie feeling in that it wasn't
02:39 20 finished, in what we consider a finished
21 basement. I remember seeing four areas
22 of gyproc up, and unfinished flooring.
23 Almost a concrete flooring, or perhaps
24 linoleum flooring going down to it.
02:39 25 Rita, at that time I remember being in



1 what she called her bedroom. Now
2 interesting enough, not playing in that
3 house that much, that was the one and
4 only time that I was ever in a bedroom
02:39 5 of the home. That particular bedroom
6 was located right below the exit or the
7 entrance to the basement. There were
8 actually stairs going up to it. It was
9 really, again being ten years old, I
02:39 10 felt it was really removed from the rest
11 of the family in that gosh, being that
12 age, I would have been really frightened
13 down there. Is something that I recall
14 of it.

02:40 15 J. TEMPLETON So this bedroom that you
16 referred to was in the basement?

17 L. DUFFUS It was yes.

18 J. TEMPLETON The rest of the basement
19 wasn't finished, as you recall?

02:40 20 L. DUFFUS Well, it wasn't in that it had
21 walls. It had for example, that
22 particular bedroom that was right below
23 the stairwell, there was another bedroom
24 on the other side, then a bedroom on the
02:40 25 side of that. And then across from that



1 would be, what I recall as a laundry
2 area. A big room with, I don't even
3 know there was a washing facility in
4 there. But it wasn't a bedroom."

02:40 5 And is that what you recall of the basement, is
6 that an accurate depiction?

7 A Yes, it is.

8 Q 037233, and Officer Templeton asks:

9 "J. TEMPLETON: Subsequent to the 31st of
02:40 10 January, 1969, which was the day of the
11 Miller murder, did you ever discuss the
12 incident with Rita Cadrain?

13 L. DUFFUS Yes I did. In fact, the day
14 that I did discuss it was the day that I
02:41 15 was in that bedroom. Rita, I recall
16 Rita being, liking to have her
17 independence and referring to the fact
18 of her bedroom and that she had such
19 independence because she could come and
02:41 20 go as she wanted. At that time, as I
21 say it was the only time I remember
22 being in that bedroom, Rita was sitting
23 on the bed and we were having a
24 conversation and she had mentioned that
02:41 25 she was really frightened to stay in



1 that room because she had found a pile
2 of bloody clothes. At that time I don't
3 think that we had both associated myself
4 finding the body as well as her finding
02:41 5 these clothes, so there was no
6 association to that particular incident,
7 so we weren't sitting there actually
8 talking about myself finding a body and,
9 her finding these clothes. Just that
02:41 10 she was frightened that she had found
11 these bloody clothes and she was really
12 worried about staying in that room as a
13 result of that."

14 Call up the bottom half of that page, please:

02:41 15 "J. TEMPLETON Excuse me, and did she say
16 when she saw those bloody clothes in
17 there?

18 L. DUFFUS John, no, but it was recent. It
19 was something she had just found, again
02:42 20 the time frame I'm really unclear of.

21 J. TEMPLETON O.K. And how soon after the
22 31st of January of '69 were you in her
23 bedroom having this conversation?

24 L. DUFFUS That again is really unclear. I
02:42 25 don't know if it was a couple of days



1 later. But I feel that it had to be
2 relatively, within a week after that.
3 Because, and what makes me think that is
4 that she was really worried about
02:42 5 staying in that room. So it was
6 something that really close it wasn't
7 something that weeks had transpired,
8 where she was still nervous about there.
9 It was something that had recently
02:42 10 happened.

11 J. TEMPLETON And yet the conversation
12 about the, bloody clothes was not
13 associated to the murder, itself.

14 L. DUFFUS No. At that time we did not
02:42 15 associate that."

16 Next page, please:

17 "J. TEMPLETON Did Rita indicate to you what
18 she would have done with those clothes?

19 L. DUFFUS Yes. She gave them to her
02:43 20 brother because I remember asking that,
21 gosh, what did you do with them when you
22 had found them, and she had said that
23 she had given to her brother. Which
24 brother, I am unclear of, but just that
02:43 25 she had given them to her older brother.



1 J. TEMPLETON Okay. Being in the basement
2 of the Cadrain house at that time, did
3 you recall anyone else in the basement,
4 anyone living in the basement?

02:43 5 L. DUFFUS At that time there was no one
6 when we were down there there was no one
7 in the basement. It was during the day
8 that we, that I was there, and as I say
9 I just remember the rooms and no I,
02:43 10 there was no one there that afternoon,
11 and nor do I remember people being
12 there. As I say, I was so seldomly in
13 the house.

14 J. DYCK Did Rita describe what kind of
02:43 15 clothing it was? You indicate that it
16 was bloody. But whatever it was,
17 whatever, socks, pants, shirt, coat?

18 L. DUFFUS No, she didn't, not that I
19 remember."

20 Scroll down to the bottom of the page:

21 "J. TEMPLETON She didn't indicate if it
22 was men's, ladies' clothes?

23 L. DUFFUS Actually men's clothes that she
24 had found a pile of. Again I could be
02:44 25 making assumptions there in that, I was



1 assuming that it was a friend of her
2 brother's so that could be an
3 assumption. I can't honestly say that
4 she said there were men's clothing here.
02:44 5 But I actually, in saying that, I guess
6 what leads me to believe that is it was
7 a brother's friend that had stayed in
8 her bedroom so that's how I assumed that
9 it was men's clothing.

02:44 10 J. TEMPLETON O.K. You mentioned a
11 brother's friend had stayed in the
12 bedroom?

13 L. DUFFUS That's right."

14 If I could just pause there, did she tell you
02:44 15 which brother it was that had a friend?

16 A No, she didn't, if she did not that I remember.

17 Q Did she say older or younger?

18 A Older.

19 Q Older? And just carrying on:

02:44 20 "J. TEMPLETON Could you just carry on with
21 that thought?"

22 Next page please:

23 "L. DUFFUS: I don't know if I know much
24 more than that. I know Rita had said

02:44 25 that she could not stay in her room that



1 particular night because her brother's
2 friend had stayed and that she had found
3 the bloody clothes. Which is what, I
4 guess I assumed that she never said that
02:45 5 found a pile of men's clothes but it was
6 a brother's friend.

7 J. TEMPLETON Would the brother's friend
8 have stayed there for several nights, or
9 one night?

02:45 10 L. DUFFUS Again, I would think that it
11 would be a one-night thing in that
12 Rita's bedroom was back to her so, and
13 that she was really nervous about
14 staying down there.

02:45 15 J. DYCK And this was a brother that was
16 older our younger to Rita?

17 L. DUFFUS Older."

18 And then just go down to the bottom of that page,
19 please, and again I think you said earlier that
02:45 20 this is an accurate and truthful recollection of
21 what you said at the time?

22 A Yes.

23 Q Just at the bottom here, question, it says:

24 "J. TEMPLETON Sometime after or in the
02:45 25 spring did you become aware. Or are you



1 aware now that Rita's brother was
2 involved as a witness in some respects
3 in that police investigation. Did you
4 remember that as a ten year old? In
02:45 5 1969?

6 L. DUFFUS No, I can't honestly say that I
7 do. That he was as a witness. One of
8 the things that I think really surprised
9 me even reflecting now is how I guess
02:46 10 perhaps being young that people just
11 didn't talk about those kind of things.
12 All the conversation I remember being
13 around was just what us kids knew and
14 the information that we had to share,
02:46 15 but actually following what was
16 happening in the papers. Or any of
17 that, no."

18 So is that your recollection?

19 A Yes.

02:46 20 Q Go to the next page, please, 037237, and the
21 officer asked you about location, and I'll just
22 read this portion:

23 "J. TEMPLETON Linda, when you were
24 discussing the clothes with Rita or Rita
02:46 25 was relating to you the story, did she



1 indicate where in the bedroom she had
2 found the clothes?

3 L. DUFFUS More through motion of her
4 hands, again the room was very small. A
02:46 5 dresser being in the corner, a chair
6 being in the other corner and the
7 direction of it was to beside the chair.
8 Between the dresser and the chair on the
9 floor in a pile.

02:46 10 J. TEMPLETON Did you notice any blood on
11 the lower part of the wall or on the
12 floor or on any of the furniture? Did
13 you notice blood?

14 L. DUFFUS No, I didn't. Not at all.

02:47 15 J. TEMPLETON Okay. Did she indicate any
16 other reason why she would have been
17 frightened to stay in her room?

18 L. DUFFUS No just that it gave her the
19 creeps that this particular person had
02:47 20 slept in her bed and she had found these
21 clothes.

22 J. TEMPLETON She indicated that this
23 person was a friend of her older
24 brother's.

02:47 25 L. DUFFUS That's correct."



1 And, again, that remains an accurate
2 recollection?

3 A Yes, it does.

4 Q Page 037238, you were asked the question:

02:47 5 "J. TEMPLETON Have -- okay -- have you
6 been contacted by anyone else, by
7 private investigators, by other police
8 departments or by members of the RCMP or
9 any other agency concerning what you
02:47 10 recall of the Miller murder?

11 L. DUFFUS No. Not at all. Jim, you are
12 the only one that has contacted me."

13 And that was correct?

14 A Yes it is.

02:48 15 Q Now I understand, in 1999, that you were called as
16 a witness at Larry Fisher's trial?

17 A That's correct.

18 Q And do you recall, at least the transcript appears
19 to show that it was Larry Fisher's counsel,
02:48 20 Mr. Beresh, that called you as a witness; is that
21 correct?

22 A That's right.

23 Q If you could call up document 313168, please, and
24 just zoom in on that part. And this is your
02:48 25 examination-in-chief by Mr. Beresh, and the



1 evidence that you provided at the Larry Fisher
2 trial would have been truthful evidence?

3 A Yes.

4 Q If you could go to page 313178 -- I'm sorry, just
02:49 5 one second -- I'm sorry, 313180, and this is a
6 question from Mr. Beresh, and it says:

7 "Q Okay. Now you were -- by the time
8 Matthew had gone to get his mother and
9 come back you had been around the body
02:49 10 for how long, please?

11 A Probably three or four minutes."
12 Is that accurate?

13 A Doug, it would be in that. As I said earlier, you
14 know, it could have been seconds, but it seemed
02:49 15 like minutes, so it was very quick, though, with
16 Matthew returning with his mother, so it could
17 have been one or two minutes, but it -- three or
18 four is also possible as well.

19 Q Okay. Go to page 313194, please, and this is
02:50 20 cross-examination by the prosecutor, just refer to
21 a portion there, this refers to the few days after
22 the murder:

23 "Q Okay. And you saw an officer pick up,
24 did I understand you to say, a blade
02:50 25 from a paring knife?



1 A What I saw was the blade, so when he
2 picked it up I don't know whether the
3 handle was concealed --

4 Q I'm sorry, I misunderstood. So you
02:50 5 weren't saying it was just the blade,
6 you saw him pick up a knife?

7 A That's correct.

8 Q Do you know if it was his knife?

9 A No, I do not.

02:51 10 Q Do you know whose knife it was?

11 A No, I do not.

12 Q All right. He wasn't digging for it, he
13 picked it up off the ground?

14 A That's right.

02:51 15 Q Outside the tent?

16 A That I am unclear of. My recollection
17 was it was in the tent, however if you
18 look at the picture, it's impossible
19 for him to be inside the tent."

02:51 20 And, again, I think that's what you referred to
21 earlier?

22 A Yes.

23 MR. HODSON: Those are all my questions.

24 Other counsel may have questions for you.

02:51 25 A Okay.



1 COMMISSIONER MacCALLUM: The same order.

2 Mr. Wolch?

3 MR. WOLCH: Thank you, sir.

4 BY MR. WOLCH:

02:51 5 Q Hello.

6 A Hi.

7 Q Could you pull up 034959, please?

8 MR. HODSON: What was the number?

9 MR. WOLCH: 039049.

02:52 10 BY MR. WOLCH:

11 Q You probably don't recognize this, but this
12 appears to be an RCMP report talking about
13 interviewing you, and if we could turn to 034965.
14 And this is an officer's notes, apparently, of
02:52 15 what he gleaned from talking to you, and you will
16 see a portion here -- and this will be my first
17 time to try this -- that portion there, can you
18 highlight that, that portion? See, it talks about
19 you found the body, and etcetera, and then it
02:53 20 goes:

21 "- Rita Cadrain ... told Linda that she
22 found bloody clothes in her bedroom
23 (downstairs).

24 - Rita says that Fisher slept in her bedroom
02:53 25 night of murder."



1 That appears to be the notes of what the officer
2 obtained from yourself; do you recall that?

3 A No, I certainly did not have any conversation with
4 this officer.

02:53 5 Q So, if he recorded that from your conversation, he
6 must have got it wrong somehow?

7 A I did not have a conversation with an officer so
8 I'm a little puzzled there. Could this possibly
9 be a conversation that he had with my father?

02:53 10 Q Well, and it's recorded as his -- it doesn't name
11 the author, but it says that it would have been in
12 Red Deer when they were talking to you and he was
13 making notes of the conversation, but if you don't
14 recall that and it's not signed by you, I agree.

02:54 15 A Right. I do not recall it.

16 Q But, in any event, it does record that Fisher had
17 slept in her bed on the night of the murder. Now
18 thinking back, though, it would appear that Fisher
19 and his wife lived in the basement area of the
02:54 20 house the night of the murder?

21 A Right.

22 Q Right? Are you aware of that now or did you
23 know --

24 A I am aware of that now.

02:54 25 Q But you didn't know it then?



1 A That's correct.

2 Q So it would appear, would I be correct in
3 surmising, that when Rita was in the, living in
4 the basement, the Fishers had already moved out?

02:54 5 A That I wouldn't know. When I look at the time
6 lines, and as I stated there, and going by memory,
7 I recall it being relatively soon after. And the
8 reason for this is that I remember her being
9 frightened, so if there had been a time line that
02:54 10 had lapsed -- I'm not saying that there wasn't --
11 I would question just why she was so frightened.

12 Q Okay. But you would have known if somebody else
13 was living in the basement when you were there
14 visiting with your friend?

02:55 15 A No, I do not recall that in any way, and what I
16 see are separate rooms. Again, I was only in that
17 room once and I recall, actually, gyprocked walls,
18 so I don't see an open area being as a living
19 area.

02:55 20 Q But, when you were playing with your friend in the
21 basement area, would you not notice if a husband
22 and wife were living in the very same area?

23 A I wasn't playing in the bedroom area, in that case
24 we were having a conversation and then we left the
02:55 25 home, so, again, it was very uncommon to play



1 within the house at the Cadrain house.

2 Q But you never came across the Fishers at all?

3 A No, I did not.

4 Q And no sign that they were living there when you
02:55 5 were there?

6 A That's correct.

7 Q And do you know if Larry Fisher was a friend of
8 any of the Cadrain, Cadrain boys?

9 A No, I do not know that.

02:55 10 Q Even know him at all at the time?

11 A No, I do not know that.

12 Q But you do know that Rita's concern was over
13 clothes found in the basement area?

14 A That's correct.

02:56 15 Q Belonging to the person who slept in the basement
16 area?

17 A That's correct.

18 Q Thank you.

19 COMMISSIONER MacCALLUM: Mr. Lockyer?

02:56 20 MR. LOCKYER: No, thank you, sir.

21 COMMISSIONER MacCALLUM: Mr. Elson?

22 MR. ELSON: No questions, thank you.

23 COMMISSIONER MacCALLUM: Mr. Fox?

24 MR. FOX: Yes, thank you.

02:56 25 COMMISSIONER MacCALLUM: Gibson?



1 MR. FOX: Sorry.

2 COMMISSIONER MacCALLUM: Sorry, Mr. Fox.

3 BY MR. FOX:

4 Q Thank you, Ms. Duffus. My name is Aaron Fox, I
02:56 5 have just have a couple questions. Just in the
6 last area of discussion, and maybe if we could put
7 up the document, I believe it's 037220, and that's
8 a document that relates to the, I believe the
9 taped interview of Ms. Duffus. And I wonder if
02:56 10 you could turn to what would be page 22 of that
11 document, I think it's number 037241. And I'm
12 going to try, and if you could highlight that
13 portion there, please? Thanks.

14 Now, Ms. Duffus, if I can go
02:57 15 back to your conversation with Rita Cadrain, in
16 terms of the individual who had left the clothes
17 there, first of all I understand from what you
18 have said you understood that to be a friend of
19 Rita's brother?

02:57 20 A That's correct.

21 Q She wasn't talking about a boarder or a tenant,
22 somebody like that, you, at least what you
23 gathered from the conversation, it was a friend of
24 Rita's brother?

02:57 25 A That's correct.



1 Q And at that time the name Larry Fisher, for
2 example, wasn't mentioned to you?

3 A No.

4 Q And am I correct as well that you understood that
02:57 5 this friend had sort of used that bedroom on a
6 temporary basis, this wasn't somebody that was
7 staying there on some sort of long-term basis?

8 A That was my understanding at the time.

9 Q And any understanding as to whether that had been
02:58 10 for one day, or one night, or more than one night;
11 any indication of that or what your understanding
12 was?

13 A Yeah, I wouldn't actually know that, my assumption
14 was that it was one night.

02:58 15 Q Okay. And did you, at some point in time, connect
16 those clothes, or at least the thought in your
17 mind of Rita telling me about having seen these
18 bloody clothes, with the death of Gail Miller?

19 A I guess as the, as things proceeded in the trial
02:58 20 of David Milgaard, I would have made that
21 association, yes.

22 Q I'm referring, now, to the portion of the
23 statement that I have got highlighted there, and
24 this is an answer that you would have given, I
02:58 25 believe, when you were interviewed in -- and your



1 interview was taped:

2 "L. DUFFUS That's right I do recall her
3 brother being involved. I recall it
4 being well after the time of finding the
02:58 5 body. That somebody had actually been
6 charged with the crime. I remember at
7 the time of the trial, when it was
8 happening, that I felt in my own mind
9 that of course this person was guilty in
02:59 10 that they had stayed at the Cadrain's
11 house and that Rita had found the bloody
12 clothes. So that is the recollection of
13 the trial and even though the years
14 after that even up to the point of the
02:59 15 appeal of this particular person, David
16 Milgaard, appealing the case and in my
17 own mind still thinking that this person
18 was guilty because in fact Rita had
19 found the bloody clothes. And I suppose
02:59 20 that that's why it stands out so much in
21 my mind. The bloody clothes. Is that
22 there was no way in my opinion, knowing
23 that fact, that this person could be
24 innocent."

02:59 25 That would be an accurate statement you made at



1 that time?

2 A At that time, that would have been accurate.

3 Q And, again, and I take it from that, thinking
4 back, her brother had a friend who stayed in
02:59 5 Rita's bedroom, or had been in the bedroom for a
6 very short period of time, left some bloody
7 clothes behind, her brother was somehow involved
8 in the murder investigation, you put 2 and 2
9 together and thought they were connected?

02:59 10 A That's correct.

11 Q Thank you. Those are all the questions I have,
12 thank you.

13 COMMISSIONER MacCALLUM: Thank you Mr. Fox.
14 Mr. Gibson, did you say no?

03:00 15 MR. GIBSON: No.

16 COMMISSIONER MacCALLUM: Ms. Krogan?

17 MS. KROGAN: No, thank you.

18 COMMISSIONER MacCALLUM: Ms. Knox?

19 MS. KNOX: I do have a couple of questions.

20 **BY MS. KNOX:**

21 Q Ms. Duffus, did you continue to be a friend of
22 Matthew's after that morning when you said you
23 came up on the body in the alley and brought it to
24 his attention when he came out of his house?

03:00 25 A Yes, I would have.



1 Q What knowledge, if any, did you have back in 1969,
2 that January 31st into February, as to whether
3 Matthew was contacted by the police and, in
4 particular, whether he gave a statement to the
03:00 5 police?

6 A I had no knowledge. It's interesting, at that
7 time, I'm almost thinking that, you know, kids
8 were to be seen and not heard, because I don't
9 recall anything, any conversation with Matthew and
03:00 10 I after that.

11 Q Okay. So you have no knowledge that in fact he
12 was interviewed by the police according to our
13 document 106147, which is a Saskatoon police
14 investigation report dated February 1st, and that
03:01 15 it appears they took a statement from him?

16 A I wasn't aware of that.

17 Q Okay. And I take it then equally -- or I should
18 ask you; were you aware that he was subpoenaed to
19 attend court and that, in fact, he testified in
03:01 20 the preliminary inquiry for Mr. Milgaard about his
21 findings that morning?

22 A No, I was not aware of that either.

23 Q Okay. Mr. Commissioner, for the benefit of
24 counsel I'm referring to page 2, or document
03:01 25 number 278685, which would appear to indicate,



1 immediately after Ms. Marcoux testified, if we go
2 to page 278703, that Matthew Mervin Hnatiuk was
3 called as a witness.

4 And your friend Matthew, that
03:01 5 was Matthew Mervin Hnatiuk, who indicated that he
6 was in 10 years old in 1969 and that he was in
7 grade 4?

8 A Okay.

9 Q That would be your friend?

03:02 10 A That would be my friend, Matthew, yes.

11 Q But you have no knowledge, and had no knowledge,
12 back in 1969, that he in fact had either -- that
13 he had been called to testify?

14 A No, I did not.

03:02 15 Q Okay. I have nothing further, thank you.

16 COMMISSIONER MacCALLUM: Mr. Wilson? No?

17 MR. BERESH: I had my head down, My Lord,
18 but I wasn't asleep.

19 COMMISSIONER MacCALLUM: Your name isn't
03:02 20 here, that's why, Mr. Beresh. Were you supposed
21 to --

22 MR. BERESH: Have you crossed it off
23 already?

24 COMMISSIONER MacCALLUM: Where do you come
03:02 25 in this pecking order?



1 MR. BERESH: Third.

2 COMMISSIONER MacCALLUM: Third?

3 MR. BERESH: Yeah, I think it's David

4 Milgaard, Joyce Milgaard, and then Larry Fisher,

03:02 5 so if I could be reinstated to the list, please?

6 COMMISSIONER MacCALLUM: You are.

7 MR. BERESH: Thank you.

8 **BY MR. BERESH:**

9 Q Ms. Duffus, it's good to see you again.

03:03 10 A Yes, thank you.

11 Q A couple of questions arising from the questions
12 you have been asked today, and let's just get the
13 parameters of the football field clear. You had a
14 friend by the name of Rita --

03:03 15 A That's correct.

16 Q -- Cadrain, she lived at a certain house, you were
17 aware of the house?

18 A That's right.

19 Q She had brothers, you were aware of them, although
03:03 20 you may not have known them you were aware she had
21 brothers?

22 A That's right.

23 Q You were aware that she had older brothers?

24 A That's correct.

03:03 25 Q Like teenage brothers, older teen brothers?



1 A Yes.

2 Q And that they lived at the house?

3 A That's right.

4 Q Okay. And you said that Rita had a bedroom in the
03:03 5 basement?

6 A That's correct.

7 Q Okay. And the best information you have is that
8 she told you a friend of her brother's came,
9 changed clothes, left the clothes in the bedroom?

03:03 10 A That's what I remember.

11 Q And I take it you assumed that that was a person
12 who came from outside of the house?

13 A That's correct.

14 Q Because I take it, if someone's a tenant, there
03:04 15 would be no need for them to use her bedroom to
16 change clothes; correct?

17 A Are you asking me in terms of the time then or
18 now?

19 Q At the time then?

03:04 20 A At the time then that was --

21 Q Doesn't seem to make a lot of sense; does it?

22 A Well I certainly have my own opinion, now, in
23 terms of what must have happened.

24 Q Sure. I see. Well we don't want to speculate.

03:04 25 A Right.



1 Q At the time, you assumed it was somebody coming
2 from outside the house?

3 A That's correct.

4 Q Okay. Fair enough. You described the scene at
03:04 5 Mr. Fisher's trial as, when you found the body,
6 that it appeared that a woman was asleep in the
7 snow bank?

8 A That was my impression at ten years of age.

9 Q Okay. And face down?

03:04 10 A That's right.

11 Q In the entire time you spent there you saw no
12 blood in the area whatsoever?

13 A No I did not.

14 Q Okay.

03:05 15 A However, it was also dark that morning.

16 Q Fair enough. But I take it that you got a pretty
17 good look at where the individual was located?

18 A Yes, I did.

19 Q Okay. I wonder if we could call up photograph
03:05 20 077846, please, and are we able to zoom in on
21 that? Let's try 77338, then, I have 77338? Maybe
22 48, because I think it's in sequence to it.

23 MR. HODSON: 077848. All right.

24 BY MR. BERESH:

03:06 25 Q If you could see that, could you enhance this area



1 at all for us, yeah. Can you see that, Ms.
2 Duffus?

3 A Yes, I can.

4 Q And these photographs, we know, were taken later
03:06 5 in the day. Obviously looks to me like somebody,
6 probably investigating the scene, has tramped
7 around this back area; do you agree with that?

8 A Yes, I would.

9 Q Okay. Obviously looks like there are people who
03:06 10 have been tramping around here as well?

11 A Yes.

12 Q This looks like a measuring stick to me; that
13 obviously wasn't there?

14 A No.

03:06 15 Q So it looks to me like somebody obviously, after
16 you were there, tramped around, obviously
17 investigating the situation, maybe turned the body
18 over at some point. I take it that your best
19 recollection today is that none of that tramped
03:07 20 area was there when you first saw the body?

21 A You are right. In fact, my recollection and my
22 memory of the body is that the feet were more to
23 the alley and the head more to the fence, so it
24 was more of an angle. So when I'm standing at the
03:07 25 bottom of the feet, she's going directly ahead of



1 me, not on the side of me.

2 Q So then her --

3 A If that makes sense.

4 Q So then her body wasn't parallel to the fence, it
03:07 5 was more perpendicular?

6 A Yes, that's correct.

7 Q So head area up this way a bit?

8 A That's right.

9 Q And feet in, generally, the same area? Okay.

03:07 10 A And her feet would have come down, further down,
11 so it would have been more perpendicular.

12 Q Okay. But it was clear to you that the snow
13 around her body had not been trampled like it is
14 in that photograph?

03:07 15 A That would be my memory, yes.

16 Q Okay. If we could go back to 77846 please, this
17 is the alleyway, and we're looking north in this
18 direction. Obviously, the body was found in a
19 location where someone could still drive by?

03:08 20 A Right.

21 Q Correct?

22 A Uh-huh.

23 Q Okay. Clearly, if someone had driven down there,
24 dumped the body out of the car, driven away, the
03:08 25 scene would not be inconsistent with what we see;



1 is that fair; that is, someone could have stopped
2 the car there, dumped the body, driven away, and
3 this would be consistent with what we see here?

4 A Yes, I would, I would have to agree.

03:08 5 Q Okay. And do you remember seeing the clothes in
6 the disarray that they were in that we saw in the
7 previous photograph?

8 A I don't. I'm glad that I don't. What I recall
9 seeing is the winter coat.

03:09 10 Q Yes. And the winter coat was clearly on the body
11 or on the upper part of the torso?

12 A Yes, it was.

13 Q Okay. Finally, did you ever enquire of principal
14 Kyle as to what happened with the knife you found?

03:09 15 A I didn't at all, because at the time I didn't
16 associate the knife at all with Gail Miller's
17 murder, I thought it may come up as evidence in
18 something else. But at the same time it was more
19 that it was -- if there was -- if it did come up
03:09 20 as evidence for anything else, it was a safety
21 thing, so it was more picking it up, turning it
22 in, because it shouldn't be on the sidewalk
23 anyways.

24 Q Yes.

25 A But I never gave it another thought after I turned



1 it in.

2 Q But it was a paring knife?

3 A That's correct, it was.

4 Q And do you recall any description to it other than
03:09 5 that?

6 A Well, I do recall it being a wooden knife, or a
7 wooden handle with a short blade.

8 Q Do you recall whether it had any rivets which were
9 apparent?

03:09 10 A Yes, it did have a rivet. In fact, when I
11 referred to my testimony at the Larry Fisher trial
12 I confused the word "rivet" with being a serrated
13 knife, and so it was very typical of the old
14 wooden paring knives that had a rivet through that
03:10 15 held the handle to the blade.

16 Q That were very common in that day and age?

17 A That's correct.

18 Q Purchased in any local store, I take it?

19 A That's right.

03:10 20 Q Okay. Finally, I take it if we look at this
21 photograph, for the record 077846, along either
22 side we have residences?

23 A Yes.

24 Q People appear to be living there?

03:10 25 A Uh-huh.



1 Q That is there didn't appear to be a lot of
2 abandoned houses or anything, it was a -- appeared
3 to be a fully-occupied area?

4 A Right.

03:10 5 Q And was it your observation that, generally,
6 people in that area would rise 7:00, before that,
7 around that time?

8 A I don't know if I paid attention at the age of 10,
9 but I would assume so, knowing that that was
03:10 10 typical of our family.

11 Q Okay. So it didn't seem atypical for others to
12 rise about the same time as your family?

13 A Well I would think it would be typical.

14 Q Typical? Okay. And, finally, the Hnatiuk
03:11 15 residence; did that have a back access for a
16 vehicle at all? Do you remember that?

17 A Well what I recall is a shed and a, and a walkway
18 that came along the shed, and you know what, I'm
19 unclear to whether or not it had room for a
03:11 20 vehicle.

21 Q I guess my question is more specific in terms of
22 when you walked down there, generally, was it
23 normal for you to see vehicles using that alley
24 coming and going?

03:11 25 A No, it wasn't, no.



1 Q Okay. But it was usual for people to walk down
2 there I take it?

3 A Certainly us kids.

4 Q Okay. Thank you very much.

03:12 5 MR. HODSON: There is no other? I have no
6 redirect, Mr. Commissioner.

7 COMMISSIONER MacCALLUM: Thank you very
8 much, Ms. Duffus, --

9 MR. HODSON: Thank you.

03:12 10 COMMISSIONER MacCALLUM: -- for coming.

11 MR. HODSON: Is this an appropriate time to
12 break?

13 COMMISSIONER MacCALLUM: Yes. 15 minutes,
14 please.

03:12 15 *(Adjourned at 3:12 p.m.)*

16 *(Reconvened at 3:30 p.m.)*

17 MR. HODSON: Mr. Commissioner, next I have
18 just two sets of read-ins of evidence relating to
19 the finding of the body, so it fits well with the
03:33 20 timing of the evidence today. It is from two
21 witnesses, both who are living, Rae Murdoch, who
22 worked at Westwood Funeral Chapel, and Mary
23 Marcoux.

24 Now, I have, based upon a
03:33 25 review of the records, determined that I do not



1 need to call them. I will read in the evidence.
2 If it turns out that we do need to call one or
3 both of them, I will revisit that, but I will at
4 least put this in on the record.

03:34 5 The first will be Rae Murdoch
6 and if I could have you call up document 044591,
7 and this is the occurrence report, if you could
8 go to the third page, please, 044593, and this is
9 the occurrence report dated January 31 -- it says
03:34 10 '68, but it's actually '69 -- and there's just a
11 reference, if you could call out that paragraph:

12 "Mr. Murdoch advised that a young girl came
13 to his suite door and advised them of the
14 body of a woman being in the lane and he
03:34 15 advised that his assistance, Mr. Michayliuk,
16 and they both proceeded to the spot in
17 question where the body of the woman laid,
18 directed by this girl. This girl then on
19 the request of Mr. Murdoch returned to his
03:35 20 suite and she waited there. Mr. Michayliuk
21 advised that when he arrived he checked the
22 body and in his opinion there appeared no
23 signs of life."

24 And just to scroll down there, please, the next
03:35 25 paragraph, the second last paragraph, the bottom



1 -- right there:

2 "Also on January 31st, a witness statement
3 was received from Mr. Ray Murdoch, manager,
4 care of Westwood Funeral Chapel, 1402-20th
03:35 5 Street West at 2:55 p.m. and at 3:20 p.m. a
6 witness statement was received from Mr.
7 Terry Michayliuk, also of Westwood Funeral
8 Chapel, 1402 20th Street West."

9 Next is Mr. Murdoch's witness statement which is
03:35 10 044584, and again this is dated January 31, 1969,
11 2:55 p.m. Just call out that portion, please.

12 "At approximately 8:30 or 8:35 a.m. January
13 31, 1969 a young girl called at my apartment
14 which is located above the rear part of the
03:36 15 funeral chapel and advised me that there was
16 a woman lying out in the lane.

17 I immediately notified my
18 assistant Terry Michayliuk who also resides
19 at the Westwood Funeral Chapel of what this
03:36 20 girl had told me."

21 And then scroll down, please, to the bottom.

22 Pause there.

23 "We both immediately put on our coats and
24 followed the girl, where she pointed out the
03:36 25 woman to us. Terry Michayliuk was to this



1 woman first and I asked him if an ambulance
2 was required and he stated yes and that we
3 had better phone the police too. Terry
4 Michayliuk then came back to the chapel to
5 do the phoning."

6 And I believe this witness signature is Reid I
7 think is the last name, we'll see on the last
8 page. And then go to the next page, please:

9 "I proceeded on up to where this body was
10 lying and I observed a fairly young girl
11 lying face down in the snow in the lane
12 which runs north and south in the 200 block
13 Avenue N South. I noticed this woman
14 clothing was disarranged and odd spots of
15 blood in the snow near the body and it
16 appeared as though a struggle had taken
17 place. This woman appeared young, to have
18 dark hair, wearing a dark coloured coat -
19 and it appeared that some of her
20 underclothing were down around her ankles.
21 At this time I was at this body there were
22 about five school kids standing nearby. I
23 told these kids to go along to school,
24 except for the girl who I asked to stay.

25 Terry Michayliuk apparently



1 after phoning returned to the scene, with a
2 blue blanket and covered the body with the
3 blanket.

4 Terry Michayliuk and I remained
03:38 5 at the scene until the police arrived."

6 And I believe that's Reid, although I'm not
7 positive, but I think that's who wrote and
8 witnessed the statement.

9 Then next Mr. Murdoch testified
03:38 10 at the preliminary hearing and trial, document
11 007448, which is the preliminary hearing
12 transcript. Go to page 007451, call out
13 questions 11 to 13. This is at the prelim,
14 examination-in-chief:

03:38 15 "Q alright; now, I believe you were at the
16 Funeral Home on the morning of Friday,
17 January 31st, 1969, early in the
18 morning?

19 A I was in my apartment.

03:38 20 Q I believe you had a person arrive there
21 and advise you of a body in the lane?

22 A Yes. She didn't say a body, she said
23 there was a lady laying in the lane.

24 Q Did you know this person who arrived?

03:39 25 A Not really, no. She was one of the



1 young school children from that
2 neighbourhood. I had seen her but I
3 wouldn't have known her ..."

4 Just call out 15, please:

03:39 5 "Q Was it you she spoke to?

6 A Actually, when she came to the door of
7 our apartment, it was my wife that
8 answered the door then she called me
9 and she explained this."

03:39 10 Scroll down to 17 and 18, please:

11 "Q And what did you do then?

12 A I buzzed Mr. Michayliuk on my intercom
13 to go and investigate this because he
14 was a little bit closer to it than I was
03:39 15 and because it was forty-two below, I
16 thought it would be better if he went
17 outside than me."

18 Mr. Murdoch was in fact the boss. Question 18:

19 "Q And then?

03:39 20 A I told him about this and I said I'll be
21 out there in a couple of minutes ..."

22 Then down to question 20:

23 "Q Alright. Did you in a few minutes get
24 out there yourself?

03:40 25 A Yes."



1 Then next page to question 25, please:

2 "Q Where did you go when you went out?

3 A I went out the back door of our premises
4 which enters on to the lane that runs
5 parallel to 20th Street, and then I went
6 west down that lane and just as I would
7 be, oh, maybe almost to the corner of
8 that T ...

9 Q Yes.

10 A When Terry Michayliuk, he had already
11 reached the point where the body was
12 and seen it and he was on his way back
13 ...

14 Q Yes.

15 A And we met there and I asked him, you
16 know, what was the situation.

17 Q Right.

18 A Whether we needed an ambulance or not
19 and he said that we did and we also
20 needed the police, that he was pretty
21 sure that the person was dead.

22 Q And did you go on up?

23 A Then I went - he went back to telephone
24 and I went on up to where the body was
25 laying.



1 Q What was the situation when you got up
2 there?

3 A Well, this body was lying face down and
4 I didn't examine it closely at all,
03:41 5 because I knew that the police would be
6 coming and so forth and they would do
7 this and I just moreless stood there,
8 kind of - there were children going to
9 school down that lane and I just kind
03:41 10 of kept them moving along sort of,
11 just for a few moments and when Terry
12 came back there from calling the police,
13 we thought perhaps we should cover it
14 with something so that, you know, as I
03:41 15 say, these children were kind of
16 gathering around there and this is what
17 we did. He went, he came back from
18 calling and then we decided to cover it
19 and he went back and got a blanket from
03:41 20 my funeral home and we covered it and
21 then that's all we did and then we just
22 kind of waited there at the corner sort
23 of until the police arrived."

24 And then the next page, question 38 -- I'm sorry,
03:42 25 back up to the full page, please, 37, down to



1 right there, please:

2 "Q Alright. Photo number two --"

3 And if I pause there, the exhibit book is, we do
4 have it available, it is in the record, but I
03:42 5 don't know if I have photo number 2 here today,
6 but I'll read on and see if I can locate it:

7 "Q Alright. Photo number two, how does
8 that compare with the situation that you
9 saw when you got up closer?

03:42 10 A Yes, yah, that's exactly.

11 Q I think this photo, as you can see, I
12 think it indicates a good deal of
13 tramped and flattening of snow?

14 A Right, right, right, I did notice that
03:42 15 too.

16 Q Was it in that condition when you got
17 there, would you say?

18 A Yes. Yah.

19 Q While you were near the body, and I
03:42 20 appreciate that you covered the body and
21 I think Mr. Michayliuk may have gone
22 near it, but other than that, did anyone
23 get up to the body, that is, within
24 touching distance of it while you were
03:43 25 there?



1 A No. No."

2 Next page -- I'm sorry, actually go to 007457,
3 question 56:

4 "Q Was there anything of a foreign nature
5 in the snow or the area around the body?

03:43

6 A By foreign nature?

7 Q Any stains of any kind?

8 A Yes, a few blood stains but not an awful
9 lot.

03:43

10 Q But you could discern them, could you?

11 A Yes.

12 Q And as I understand you, you only took
13 the one trip there and back?

14 A At that time, yes. I was out there
15 after the body had been removed, talking
16 to the police.

03:43

17 Q I see. But as far as when it was there,
18 you just went out once, stayed and then
19 went back?

03:43

20 A That's right."

21 And then just down to the bottom, this is
22 Mr. Tallis' cross-examination starting at
23 question 2:

24 "Q And did you, even as a layman, look
25 around to see if there were any tracks

03:44



1 or anything of any significance as you
2 approached the body?

3 A I didn't really look around. I noticed
4 the area particularly where the body
03:44 5 was, the snow was quite trampled.

6 Q Did you notice any foot marks or
7 anything in your observations there?

8 A Not no.

9 Q I gather that this alley that runs north
03:44 10 and south is one that was used by motor
11 vehicle traffic?

12 A Yes, it was impact.

13 Q It was impact?

14 A Yes.

03:44 15 Q With the tire lines of travel?

16 A Yes.

17 Q And I suppose the same thing would apply
18 to the east-west lane which runs really
19 not far from your place?

03:44 20 A I suppose.

21 Q I mean, was it used by traffic quite
22 frequently, or what was the situation?

23 A It is used quite frequently, although
24 it's not used as much at that time of
03:45 25 the year as it is -- but it's quite



1 heavily travelled, yes."

2 And then the trial testimony is at page 279555.

3 Just go to page 279559 and this just deals with

4 the blanket being returned. This is trial

03:45 5 evidence, examination by Mr. Caldwell:

6 "Q Now, I believe the situation is that a
7 blanket was brought from the funeral
8 home to where the body was?

9 A That's true.

03:45 10 Q Who did that?

11 A Terry Michayliuk got the blanket.

12 Q And what colour blanket was this?

13 A Blue.

14 Q You worked there daily so to speak at
03:45 15 the funeral home?

16 A Yes.

17 Q And did you have one or more than one
18 blue blanket in use?

19 A Only one in use.

03:46 20 Q And is that the one?

21 A That's the one.

22 Q Did it return back afterwards?

23 A It did."

24 There's nothing else in the trial transcript,

03:46 25 Mr. Commissioner. The next document that I'll



1 just refer to is 044579 and this is the RCMP
2 continuation report. I think a date down there
3 is April of '93 and I don't have anything
4 specific to refer to that other than to make note
03:46 5 that this is the RCMP report.

6 The next and last read-in is
7 from Mary Marcoux and who we've heard about
8 before. The first document for Ms. Marcoux is
9 106147 and this is a report the day after the
03:47 10 murder, February 1st, and it's again from
11 Detective Sergeant Reid. Just call out this
12 portion.

13 "On instructions from Mrs. Hnatiuk, Mary
14 Marcoux went to the suite above the Westwood
03:47 15 Funeral Home to notify Mr. Murdoch of this
16 body in the lane. She advises that she
17 waited at the corner of the building by the
18 funeral home after advising Mrs. Murdoch and
19 that his assistant Terry, which would be
03:47 20 Terry Michayliuk came down and met her and
21 she showed him where the body was and later
22 Mr. Murdoch also showed up. Mary Marcoux
23 advises that the assistant to Mr. Murdoch
24 which would be Mr. Michayliuk spoke to this
03:48 25 woman that was lying in the snow and also



1 moved her a bit. This person then ran back
2 to the funeral home and returned with a
3 blanket and covered the body. She then
4 returned on Mr. Murdoch's suggestion to his
03:48 5 suite to await the police, which she did.

6 Mary Marcoux advises that when
7 she first saw this body it was lying face
8 down in the snow with head tilted slightly
9 to the west and she believes this woman to
03:48 10 be wearing a green coat with a little bit of
11 white fur around the neck and that this fur
12 had some blood spots on it which appeared
13 frozen. She said there was nothing on the
14 feet except a bit of nylon and she believed
03:48 15 the woman had brown hair. She also advises
16 that when the assistant which would be Mr.
17 Michayliuk lifted up the body a bit she
18 noticed blood around this woman's nose,
19 mouth and neck."

03:48 20 And next if you could call up her statement which
21 is document 070156, and again this appears to be
22 Detective Sergeant Reid's writing, and this is
23 February 1, 1969, 10:15 a.m., the morning after
24 the murder, and just call out that portion,
03:49 25 please. Ms. Marcoux is reported to say:



1 "On January 31st, 1969 I left home at
2 approximately 8:20 a.m. to attend school. I
3 usually leave for school around this time as
4 I do school patrol duties.

03:49 5 When I left home I walked south
6 on the 100 block Avenue N South to 21
7 Street, I then turn right on 21 Street West
8 and walk west for approximately 1/2 block -
9 then I turn left into the west lane in the
03:49 10 200 block Avenue N South which runs north
11 and south.

12 I walked south in this lane
13 almost almost 3/4 the length of this lane
14 when I noticed a body of a woman lying in
03:49 15 the snow on the east side of this lane. I
16 noticed this woman's body in the lane at
17 approximately 8:30 a.m. on January 31, 1969.
18 At the time I first noticed this body I was
19 all alone and no one else was in the lane.
03:50 20 A few minutes after finding the body - two
21 younger boys who I knew the last name of
22 Hnatiuk - came out of this rear yard on
23 their way to school, followed by their older
24 brother. I do not know the first names of
03:50 25 these boys."



1 Scroll down to the bottom half:

2 "These boys apparently spotted the body and
3 asked me what it was - and I told them
4 that's a person there and go tell your
03:50 5 mother.

6 The four of us then returned to
7 the house where these boys lived and I
8 advised their mother that there was a dead
9 person in the lane - the boys also told
03:50 10 their mother too.

11 Mrs. Hnatiuk then advised me to
12 go and advise Mr. Murdoch about this --"
13 I can't read that,

14 "-- and she also advised me that Mr. Murdoch
03:51 15 lived in the suite above the funeral home."
16 And just scroll down to the bottom, right here:

17 "At the scene Mr. Murdoch's assistant spoke
18 to this woman and moved the body a little.
19 This person then said something to Mr.
03:51 20 Murdoch - then he ran to the funeral home
21 and came back with a blanket and covered the
22 body.

23 Mr. Murdoch then suggested that
24 I return to his suite and wait for the
03:51 25 police which I did. When I went to Mr.



1 Murdoch's suite the second time I told Mrs.
2 Murdoch what happened and I also phoned home
3 to my mother and advised her."

4 Next paragraph:

03:51 5 "When I returned to the scene with the
6 assistant there were approximately nine
7 school children standing in the T section of
8 the lane and the assistant told them to
9 leave which did. All these children would
03:52 10 be in grade five and under.

11 When I saw this woman in the
12 snow she was lying face down tilted slightly
13 to the west. She was wearing a green coat
14 with a little bit of white fur around the
03:52 15 neck. This fur had blood on it and appeared
16 frozen. She had nothing on her feet except
17 a bit of nylon. I believe she had brown
18 hair. This is all that I noticed about the
19 woman and I did not touch the body at all.

03:52 20 I should state that when the
21 assistant lifted up the body I noticed no
22 blood around her -- "

23 I'm not sure if that says no or if it's crossed
24 out,

03:52 25 "-- I noticed blood around her nose, mouth



1 and neck. This is all that I can recall of
2 this matter."

3 Next Ms. Marcoux testified at the prelim and
4 trial. The prelim, for the record, is 278685 and
03:53 5 if you could go to page 278689, question 24:

6 Q Alright. As you went down the alley,
7 what happened? Did you see something
8 there?

9 A Well, I just saw a coat at first.

03:53 10 Q Yes.

11 A And then as I went on I saw a body.

12 Q And was there where the coat was?

13 A Yes.

14 Q And how much could you see of the body
03:53 15 at that time?

16 A Just the arms, the legs and the head.

17 Q I see. And then I presume the coat was
18 on this, or it was clad in the coat?

19 A Yes.

03:54 20 Q And was there anyone around when you
21 came upon the body?

22 A No.

23 Q Any vehicles? Any cars or trucks or ...

24 A Yes, there was a large electricity truck
03:54 25 down the block near an apartment house



1 that was just being built.

2 Q I see. And any other vehicles or people
3 at that time?

4 A No."

03:54 5 Question 75 on page 278693, just at the bottom:

6 "Q And did you come very -- how close did
7 you come to the body in the course of
8 looking at it?

9 A From about me to you.

03:54 10 Q I see. Fifteen feet, something like
11 that?

12 A Yes.

13 Q And did you yourself, or anyone while
14 you were there, do any sort of
03:54 15 trampling of the surrounding snow area
16 down other than what was necessary to
17 just walk up and touch and look at the
18 body?

19 A No, I don't think so."

03:55 20 And then to page 278697, question 23, and this is
21 cross-examination by Mr. Tallis. Actually, just
22 go up to question 22, please:

23 "Q And as I understand it, when you were
24 going down the alley there just were no
03:55 25 other persons around?



1 A No.

2 Q And the only thing you saw was this
3 vehicle, electrical department vehicle?

4 A Yah.

03:55 5 Q Now that came there after you went down,
6 did it?

7 A No, it was already there.

8 Q It was there. And were there men there
9 working?

03:55 10 A They were inside the building but they
11 were working.

12 Q I see. In other words, it was the type
13 of a vehicle that pulled up and people
14 got out and had gone to work from it?

03:56 15 A Yes.

16 Q You could see some activity around the
17 building, could you?

18 A Yes, the lights were on.

19 Q Pardon?

03:56 20 A There were lights on.

21 Q Was that apartment block under
22 construction then?

23 A Yes.

24 Q In other words, it wasn't completed the
03:56 25 way it is now?



1 A No.

2 Q And when you went along there, it was
3 obvious that the workmen were on the
4 job?

03:56 5 A Yes."

6 Top of the next page:

7 "Q Did there appear to be other workmen on
8 the job in addition to the electrical
9 workers?

03:59 10 A Yes, I think the construction
11 builders.

12 Q I see. Were there vehicles around there
13 which would indicate that they were
14 there working?

03:59 15 A There were a few cars parked out
16 front.

17 Q Now, that would on the north side of the
18 apartment site?

19 A Yes.

03:59 20 Q And were there any other cars which were
21 parked around which would appear to be
22 workmen's cars?

23 A Not in the back alley there wasn't."

24 Down to 37:

03:59 25 Q And did you get any impression as to the



1 number of people that were working
2 around that apartment block when you
3 went by there that morning?

4 A I'd say quite a few because it's a
03:59 5 large apartment house.

6 Q When you say quite a few, I'm not trying
7 to trip you up on this or anything like
8 that, but could you give me an estimate
9 of what you had in mind when you say
03:59 10 quite a few?

11 A Fifty.

12 Q Pardon?

13 A Fifty. I don't know.

14 Q You see alot of men there, were there?

03:59 15 A Yeah."

16 And next the trial transcript, 278704, go to page
17 278714. This is cross-examination by Mr. Tallis:

18 "Q And as you went down this alley where
19 you came upon the body I take it you
03:59 20 didn't see anybody else in the alley?

21 A No.

22 Q Around the apartment block I gather that
23 there were already a bunch of men at
24 work?

03:59 25 A Yes, there was.



1 Q And you estimated to the police and I
2 believe at the preliminary about fifty
3 persons?

4 A Well, maybe not that many.

03:59 5 Q That may be a little bit on the high
6 side?

7 A Yes.

8 Q Thinking about it since then would it be
9 more like twenty or thirty?

03:59 10 A Yes."

11 Next is document 045593, which is the RCMP report
12 in March of '93, and just call out that
13 paragraph. I won't read it out, but this report
14 indicates that Mary Marcoux was not contacted by
03:59 15 the RCMP in their 1993 investigation.

16 Next, document 313907 is
17 Ms. Marcoux's evidence at the trial of Larry
18 Fisher, and 313916 please. And this, I think
19 this is Mr. Beresh here, if I'm not mistaken --
04:00 20 no, I'm sorry, this is by Mr. Sinclair:

21 "Q And did you see any children that
22 morning --

23 A No.

24 Q -- playing around the body --

04:00 25 A No.



1 Q -- making any of the marks in the snow?

2 A Absolutely not."

3 And page 313922, it's the bottom, this is a
4 question by Mr. Beresh:

04:00 5 "Q Finally, do you know a person by the
6 name of Linda Duffus?"

7 next page:

8 "A No.

9 Q Have you discovered that she was at the
04:01 10 body before you were?

11 A No.

12 Q Did you know her as a student?

13 A No.

14 Q You've never heard of her?

04:01 15 A No.

16 Q No one has ever brought that name to
17 your attention?

18 A No."

19 Those are the only excerpts from the Marcoux
04:01 20 transcript, Mr. Commissioner, and I think that
21 ends our read-in for today.

22 Tomorrow, Dr. Harry Emson is
23 scheduled. I suspect that his evidence will be
24 fairly lengthy, as will the cross-examination, so
04:01 25 we have Wednesday/Thursday set aside for Dr.



1 Emson.

2 COMMISSIONER MacCALLUM: Thank you. 10:00
3 tomorrow, please.

4 *(Adjourned at 4:01 p.m.)*



OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATES:

We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
Official Queen's Bench Court Reporters for the Province of
Saskatchewan, hereby certify that the foregoing pages
contain a true and correct transcription of our shorthand
notes taken herein to the best of our knowledge, skill,
and ability.

_____, CSR

Karen Hinz, CSR

Official Queen's Bench Court Reporter

_____, RPR, CSR

Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



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