

*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  
Sheraton Cavalier Hotel at  
Saskatoon, Saskatchewan

\*\*\*\*\*

On Monday, December 5th, 2005

Volume 103

Inquiry Proceedings



**Commission Staff:**

Mr. Jordan Hardy, Esq.,                      Assistant Commission Counsel  
Ms. Vanessa Monar Enweani,              Assistant Commission Counsel  
Ms. Candace D. Congram,              Executive Director  
Ms. Sandra Boswell,                      Document Manager  
Ms. Kara Isabelle,                      Document Assistant

**Support Staff:**

Ms. Irene Beitel,                      Clerk to the Commission  
Ms. Karen Hinz, CSR,                      Official Q.B. Court Reporters  
and Mr. Don Meyer, RPR, CSR,  
Mr. Hugh Esson,                      Security Officer  
Mr. Larry Prehodchenko,              Inland Audio Technician



**Appearances:**

<i>Ms. Joanne McLean,</i>	<b>for</b> Ms. Joyce Milgaard
<i>Ms. Lana Krogan,</i>	<b>for</b> Government of Saskatchewan
<i>Ms. Catherine Knox,</i>	<b>for</b> Mr. T.D.R. (Bobs) Caldwell
<i>Mr. Garrett Wilson, Q.C.,</i>	<b>for</b> Mr. Serge Kujawa
<i>Mr. Pat Loran, Esq.,</i>	<b>for</b> the Saskatoon Police Service
<i>Mr. Chris Boychuk, Esq.,</i>	<b>for</b> Mr. Eddie Karst
<i>Mr. Bruce Gibson, Esq.,</i>	<b>for</b> the RCMP
<i>Mr. Eamon O'Keefe, Esq.,</i>	<b>for</b> Mr. Larry Fisher
<i>Mr. David Frayer, Q.C.,</i>	<b>for</b> Minister of Justice (Canada), The Hon. Irwin Cotler



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**Transcript of Proceedings**

(Reconvened at 1:30 p.m.)

COMMISSIONER MacCALLUM: Good afternoon.

ALL COUNSEL: Good afternoon.

MR. HARDY: Good afternoon, Mr.

Commissioner.

COMMISSIONER MacCALLUM: Mr. Hardy.

MR. HARDY: We're ready to proceed with our  
first witness, Dennis Berezowsky.

**DENNIS BEREZOWSKY, sworn:**

**BY MR. HARDY:**

**Q** Good afternoon, Mr. Berezowsky.

**A** Good afternoon.

**Q** Thank you for attending today to give testimony.

I understand you are currently  
employed as the Local Registrar of the Court of  
Queen's Bench here in Saskatoon?

**A** That's correct.

**Q** And how long have you been in that position?

**A** Since 1985.

**Q** And am I correct that you have worked at the  
courthouse since 1976?

**A** That's correct.

**Q** And what was your position, then, prior to 1985 at  
the courthouse?



1       A       1976 through to 1984 I was a Deputy Local  
2               Registrar, and then from 1984 to mid-1985 I was  
3               the Local Registrar of the Unified Family Court.

4       Q       Okay, so that was just for a short time, that last  
5               mention of the Registrar of the Unified Family  
6               Court?

7       A       That's correct.

8       Q       Okay. And can you tell us what the general duties  
9               of a Local Registrar are?

10      A       Basically I'm the Court administrator, I look  
11              after the scheduling of the various judges to the  
12              Court cases in Saskatoon as well as scheduling  
13              those Court cases with counsel, for assigning  
14              dates for the trial and pretrials.

15      Q       And would I be correct that part of your duties  
16              includes the overseeing of the receipt and  
17              retention of exhibits that have been tendered at a  
18              trial?

19      A       That's correct, that's my responsibility.

20      Q       And would it be correct, then, that the Court, in  
21              effect, becomes the custodian of exhibits received  
22              in the course of those trials?

23      A       That's correct.

24      Q       And I take it, then, there's storage space at the  
25              courthouse for exhibits?



1 A Yes, there is.

2 Q And is that secured storage space?

3 A Umm, secured to the extent that it's under lock  
4 and key is correct.

5 Q Okay. And who, generally, has access, then, to  
6 that space?

7 A Basically just the -- my deputies as well as  
8 myself, and for some of the space was strictly  
9 those people, some other space the Sheriff's  
10 office has access to, but other than that, that's  
11 basically it.

12 Q And I understand, Mr. Berezowsky, that at some  
13 point in time you became familiar with the  
14 exhibits that were filed at the trial of David  
15 Milgaard in 1970?

16 A That's correct.

17 Q And we've become familiar with those exhibits  
18 during the course of these hearings. I've  
19 prepared a document just for ease of reference,  
20 332942. This is a Commission document again  
21 simply listing the exhibits that were filed at the  
22 trial of David Milgaard; you will see they are  
23 listed as P-1 through P-41?

24 A Okay.

25 Q And can you tell us, Mr. Berezowsky, how you



1           became aware of those exhibits and what the  
2           circumstances were?

3           A       All right. Umm, at approximately sometime between  
4           the period of 1978 through to the early 1980s,  
5           because of the storage space at the courthouse, I  
6           took the initiative, along with a couple of my  
7           colleagues, to look at making room at the  
8           courthouse for future exhibits by getting rid of  
9           those exhibits that were more than five years old  
10          from that point in time, so that it was re -- it  
11          was a question of getting the various exhibits and  
12          the Court files, to get the Agent of the Attorney  
13          General to look at getting those exhibits either  
14          returned back to the appropriate parties or police  
15          or to get them destroyed, as the case may be, and  
16          then submitting an application to a judge of the  
17          Court of Queen's Bench to get an order for same.

18                   When I came across the Milgaard  
19          exhibits, at that time they were over five years  
20          in age, and that was the first time that I became  
21          aware of them, due to trying to get the exhibits  
22          destroyed at that time.

23          Q       And where were the exhibits?

24          A       They were located in what we call the dungeon, or  
25          sub-basement, where they were under lock and key





1 along with many other exhibits of -- that go back  
2 a number of years.

3 Q And what was the condition of the exhibits when  
4 you found them?

5 A My recollection at that time was that the exhibits  
6 were in two cardboard boxes, but I had not got  
7 into the specifics of what were inside the  
8 cardboard boxes, they were just marked the  
9 Milgaard exhibits.

10 Q You didn't look through the boxes then?

11 A No, I didn't.

12 Q And did it appear as if the boxes had remained in  
13 that spot since the trial in 1970 or shortly  
14 thereafter?

15 A I would assume they didn't at that time, just from  
16 my understanding of how exhibits were dealt with,  
17 because once the trial was heard they were put  
18 into a second level pending the appeal period and  
19 that, and then eventually as room was required  
20 they got moved down to the sub-basement. So from  
21 a stretch of 1970 through to -- and this is  
22 strictly an assumption -- 1972-'73 they may have  
23 remained in another area of the courthouse where  
24 we kept exhibits, eventually being taken down to  
25 the sub-basement at some time.



1       Q       And, prior to you locating exhibits, were you  
2               aware of any dealings with those exhibits during  
3               the interim years?

4       A       No, not to my knowledge.

5       Q       And when you located them, Mr. Berezowsky, did you  
6               consider it unusual at all that they'd been  
7               retained?

8       A       Well the first time -- at that point in time all  
9               the exhibits were retained. The staff, you know,  
10              prior to me commencing in '76, didn't make a habit  
11              of trying to get rid of exhibits, so you just kept  
12              stockpiling to the point where we had to do  
13              something.

14      Q       And so if I understand you correctly, then, you  
15              began this clearing process, and I think you  
16              mentioned that you had contact with the Agent of  
17              the Attorney General; can you tell us about those  
18              discussions after you had located the Milgaard  
19              exhibits?

20      A       Well, along with the Milgaard exhibits and various  
21              other exhibits, I then contacted the senior  
22              prosecutors at that time, who were both Mr.  
23              Caldwell and Mr. Tucker, with the view of making  
24              arrangements with them to go through the exhibits  
25              and to have those exhibits released to the



1 authorities, or back to the parties involved, or  
2 to then just go ahead and have them destroyed,  
3 whatever they felt was necessary as far as how to  
4 get rid of the exhibits from the courthouse,  
5 that's correct.

6 Q And what do you recall of the discussions with the  
7 Agents of the Attorney General with respect to  
8 those exhibits, --

9 A Well --

10 Q -- the Milgaard exhibits?

11 A Yeah. Well with respect to specifically the  
12 Milgaard exhibits, my recollection -- and I'm not  
13 sure which one of the senior prosecutors at that  
14 time had said it -- was that they asked that we  
15 retain those exhibits for the reason being as  
16 there was some inquiries that were being made in  
17 respect to the Milgaard matter, and my  
18 recollection from that, it was that Mrs. Joyce  
19 Milgaard had contacted their offices making some  
20 inquiries.

21 Q And do you remember which of the agents, in  
22 particular, you had that discussion with?

23 A Again, going back to that time, as I said, it  
24 could only be one of the two, it was either Mr.  
25 Caldwell or Mr. Tucker.



1       Q       So your recollection is, though, that the  
2               direction you had received in terms of retaining  
3               those exhibits related to the fact that certain  
4               inquiries had been made on behalf of the  
5               Milgaards?

6       A       That's correct.

7       Q       And I understand, Mr. Berezowsky, that you  
8               testified at the Larry Fisher criminal  
9               proceedings?

10      A       Yes, I did.

11      Q       And I believe, in preparation for your testimony,  
12              you were asked to create an outline of the Court's  
13              dealings with the Milgaard Court file and  
14              exhibits; do you recall that to be the case?

15      A       Yes I did.

16      Q       And I'm going to show you a document, it's  
17              document ID 239594, and do you recognize that  
18              document Mr. Berezowsky?

19      A       Yes, that's my handwriting.

20      Q       And it states here:

21                       "Since January 31, 1970, the following  
22                       events have taken place with respect to  
23                       the David Milgaard file."

24              It then runs, I believe, in a chronological  
25              fashion. And would I be correct, Mr. Berezowsky,



1           that this information, in effect, came from your  
2           review of the Court file?

3           A       That's correct.

4           Q       And I see it was entered, I believe, as an exhibit  
5                   at the Larry Fisher preliminary hearing, and I'm  
6                   going to take you through some of this, and have  
7                   some questions for you relating to it.

8                               And I should state, Mr.  
9           Commissioner, that we have entered the Court file  
10           as an single document, and that document ID is  
11           332611.

12                           COMMISSIONER MacCALLUM: Thanks. Is that  
13                           both the prelim and the trial?

14                           MR. HARDY: Yes, yes, it covers both.

15                           COMMISSIONER MacCALLUM: Okay.

16           BY MR. HARDY:

17           Q       And this first page, I understand Mr. Berezowsky,  
18                   would have predated your time at the courthouse.  
19                   I see the first three entries appear to relate to  
20                   Court of Appeal matters dealing with the *Milgaard*  
21                   case, the next three entries, 4, 5, and 6, relate  
22                   to the return of certain exhibits to the Miller  
23                   family, and we heard some of that information  
24                   through Mr. Caldwell's testimony. I'm not going  
25                   to ask you any questions relating to those entries



1 in particular, but I'll turn to the next page  
2 please, and at the top you will see entries number  
3 7 and 8?

4 A Okay.

5 Q And I see:

6 "File search conducted by a person named  
7 Martineau",  
8 second entry being:

9 "Photocopies given to Joyce Milgaard".  
10 What, in effect, are these entries signifying,  
11 Mr. Berezowsky?

12 A The first entry, number 7, I would take it that  
13 there was a requisition, or something on the file,  
14 indicating that an individual by that name had  
15 searched the file. At that time, when somebody  
16 came in to search a file -- and not always  
17 happened, type of thing, based on the operation  
18 and the office operation at the time -- the file  
19 would be pulled, given to the person on the  
20 anticipation that they requested some photocopies  
21 and stuff like that off the file that they may be  
22 charged for it, and this Mr. Martineau would have  
23 probably conducted a search of the file, filled  
24 out the requisition, and that was it type of  
25 thing.



1 Q Okay. And would it be the case that any member of  
2 the public, then, could come into the courthouse  
3 and review the Milgaard Court file?

4 A That's correct.

5 Q And would that be correct as well with respect to  
6 the exhibits?

7 A Yes, in a sense, is that we took more -- a little  
8 bit more caution when showing the exhibits to  
9 members of the public. When it came to counsel  
10 reviewing exhibits it was something that, being  
11 that they are officers of the Court, we didn't  
12 worry too much about it, but when private  
13 individuals did, we usually took a little bit more  
14 caution in ensuring that they were in an isolated  
15 area reviewing the exhibits, but within eye's  
16 view, so to speak, of the -- of one of my  
17 deputies, or whoever was working in the office at  
18 the time.

19 Q So that would be a supervised processed, then,  
20 with respect to a member of the public?

21 A That's correct, but not necessarily looking over  
22 their shoulder type of thing, it's just we made it  
23 available because our files were open to the  
24 public for them to review, but it was done usually  
25 in confines of our office.



1 Q And would every review of the Court file or review  
2 of the exhibits be recorded on the Court file?

3 A Not necessarily, because I can remember, I mean  
4 this being the only entry, number 8, I -- my  
5 recollection tells me that Mrs. Milgaard had  
6 attended at our office on a few occasions and had  
7 searched the file, or had gone through the  
8 exhibits as well as lawyers type of thing, but it  
9 doesn't -- we never had a practice of recording  
10 everything at that time.

11 Q Okay. And your next entry is a 1987 entry, and  
12 before we get to that one I want to show you a  
13 couple of documents that are not on the Court  
14 file, the first one is document 331936. And, Mr.  
15 Berezowsky, these are some notes that we obtained  
16 from Gary Young, a lawyer here in town who  
17 represented the Milgaards in the early 1980s, and  
18 he provided us with a copy of his file, and to  
19 give you some context, these are some notes from  
20 that file. And I'm going to turn your attention  
21 to the next page. If we could look at this  
22 portion, you will see the date at the top is  
23 January 26th, and from the previous page we know  
24 this is 1981. And this entry states:

25 "Mrs. Milgaard called





1                   May be destroying exhibits in Saskatoon.  
2                   She has heard from a source she can't  
3                   disclose."

4                   And do you recall a plan, in the approximate 1981  
5                   time period, to destroy or dispose of exhibits  
6                   generally, Mr. Berezowsky?

7           A       Yes. As I mentioned previously, from the period,  
8                   from my recollection, 1978 to the early 1980s  
9                   is -- because I'd only been there for a year and a  
10                  half from '76 on, it would make sense that it was  
11                  within that time frame that we were looking at  
12                  destroying the exhibits, I don't have the specific  
13                  dates in mind but that's the time frame that took  
14                  place.

15          Q       Okay. So that process you were describing for us  
16                   earlier, then, it would be very possible that it  
17                   was taking place right at this time, January of  
18                   1981?

19          A       That's quite possible, no question.

20          Q       And I'll turn your attention to the next page, I'm  
21                   sorry, it's past -- to page 331931. Just a short  
22                   entry again from Mr. Young's file:

23                   "D. Berezowsky - Exhibits are still at  
24                   the Ct House in so far as they are  
25                   aware."



1 That, again, would seem to support what you just  
2 advised us of, Mr. Berezowsky.

3 And one further page, 331929,  
4 you will see this is correspondence, again not on  
5 the Court file but correspondence from Mr. Young  
6 dated January 30th, 1981, and just this middle  
7 paragraph, please. It states:

8 "Further, please do not destroy these  
9 Exhibits as to do so might inhibit any  
10 new investigation that is undertaken  
11 with respect to this matter."

12 And do you recall this request from Mr. Young,  
13 Mr. Berezowsky?

14 A To be honest with you, no, I don't.

15 Q And, in any event, at this time you were aware of  
16 the Milgaard exhibits and you were aware, then, of  
17 the need to retain them, or an interest from other  
18 parties that they be retained?

19 A In and around that time period, that's correct.

20 Q Okay. I'm going to turn you back to the  
21 chronology, page 239595, please, starting at item  
22 9, and we don't need to call it out, we can just  
23 leave it be. Items 9 through 17 I believe, Mr.  
24 Berezowsky, all relate to the same matter, there  
25 was a request and eventually an application made



1 by the law firm Halyk Brent Dovell on behalf of  
2 Mr. Wolch for the release of certain exhibits and  
3 the transfer of those exhibits to a Dr. Ferris for  
4 purposes of DNA testing, and do you generally  
5 recall that occurrence in approximately 1987,  
6 1988, Mr. Berezowsky?

7 A I do recall it taking place.

8 Q And perhaps we can take a look at the order to  
9 identify some of those exhibits, and that's page  
10 332664 of the Court file, and if we could turn,  
11 please, to page 332666 I believe it is, and this  
12 is the order I was speaking of, Mr. Berezowsky,  
13 and you'll see the exhibits that became the  
14 subject of that order were P-6, which were the  
15 panties, P-7, the girdle and stocking, P-8, the  
16 half slip, P-9, the brassier, P-10, the dress,  
17 P-13, which was the two vials containing a  
18 yellowish substance, P-14 was an envelope  
19 containing pubic hair, P-24 was an envelope also  
20 containing two vials of Mr. Milgaard's blood, P-25  
21 an envelope containing Mr. Milgaard's hair, P-35,  
22 the toque, and P-41, Wilson's -- sample of blood  
23 from Ron Wilson, and if we can go back to the  
24 chronology, page 239596, those exhibits were  
25 transferred and returned, by item 17 it would



1 appear, on July 5th, 1989, and do you recall there  
2 being any issue or concern relating to the return  
3 of those exhibits, Mr. Berezowsky?

4 A Not to my recollection.

5 Q And as I mentioned, the application was brought by  
6 the Halyk Brent Dovell firm, and I believe Audrey  
7 Brent in particular, and I want to bring your  
8 attention to a news article, the document ID is  
9 148030, you'll see the title of the article,  
10 "Milgaard Fortunate Trial Exhibits Saved." The  
11 date is July 25th, 1997 and if we could focus in  
12 on this portion of the article, please, I'll read  
13 some of this to you, Mr. Berezowsky:

14 "Ten years ago, when Milgaard's crusade  
15 for a re-examination of his case was  
16 getting started, Audrey Brent was a  
17 young lawyer given an embarrassing  
18 assignment on behalf of Milgaard nearly  
19 20 years after the conviction.

20 "Milgaard's lawyer Hersh Wolch  
21 asked me to get a Court order to get the  
22 Gail Miller exhibits removed from Court.  
23 The registrar at the Court House just  
24 laughed at me," Brent said. The reason  
25 for the registrar's laughter is that



1 exhibits such as stained clothing are  
2 usually thrown away once appeals are  
3 exhausted, 30 days after the conclusion  
4 of a trial.

5 "I felt pretty stupid at the  
6 counter, but I had to ask," Brent  
7 recalls.

8 When Brent returned to her  
9 office, the registrar phoned and told  
10 her he'd found the exhibits."

11 And does that account generally fit with your  
12 recollection of this matter, Mr. Berezowsky?

13 A No, it doesn't.

14 Q And can you clarify that for us?

15 A Well, as indicated previously, I knew that we had  
16 the exhibits somewhere in between the period 1978  
17 and the early '80s, which the early '80s I  
18 referred to, '82, '83 type of thing, and it was  
19 because of that meeting that I mentioned in  
20 destroying the exhibits in which the senior  
21 prosecutors asked us to retain them, that in 1987  
22 we knew that we had the exhibits, so there's no  
23 question in my mind as far as -- at least myself  
24 not having taken place, but then counsel referred  
25 to registrars as my deputies and that, so someone



1           who may have been new at the time or something  
2           else may have given that response, but clearly any  
3           of the senior deputies, including myself, knew  
4           that the exhibits were there.

5           Q       Okay. I'll read to you one further paragraph that  
6           follows.

7                       "The exhibits remained for years in a  
8                       shopping cart in the basement at the  
9                       Queen's Bench courthouse because of a  
10                      small slip of paper that read: "Not to  
11                      be destroyed without the expressed,  
12                      written permission of T.D.R. Caldwell."  
13           And does that entry fit with your recollection of  
14           matters, Mr. Berezowsky?

15          A       Not totally in the sense that as I mentioned  
16           earlier, when the exhibits were first taken out of  
17           the, in the crawl space to have them destroyed, in  
18           light of the senior prosecutor's request that we  
19           retain those exhibits, and I'm not denying that  
20           that note may have been put on there because that  
21           may indicate it was Mr. Caldwell who was the one  
22           who asked us not to destroy the exhibits, is that  
23           we would have just put them right back into the  
24           room that we had in the crawl space under lock and  
25           key for those exhibits. My recollection is once



1           there had been some activity in respect to the  
2           exhibits, then my first recollection of that was  
3           when Mrs. Milgaard had attended at the courthouse  
4           to go ahead and review the transcripts and the  
5           file and the exhibits and those types of things,  
6           or even counsel on her behalf or -- I probably  
7           shouldn't say Mrs. Milgaard personally, but  
8           anybody who had an interest I guess at that time,  
9           that you would have to go up 15 steps from where  
10          the crawl space is located up to the main floor  
11          and then up the elevators, that it was at that  
12          point in time we kept the exhibits in a shopping  
13          cart just because of the activity rather than  
14          hauling them down to the crawl space, they just  
15          went into the exhibit room on the main level and  
16          they were just brought up and down, because we had  
17          no storage within the office that you weren't  
18          tripping over the exhibits and that, that they  
19          were stored in another area so that we wouldn't  
20          have to keep going down to the crawl space for  
21          them.

22        Q        Okay. So the exhibits weren't stored then in a  
23               shopping cart for a number of years as best you  
24               can recall?

25        A        As best I can recall, no.



1 Q And do you recall the note that's referred to in  
2 this article?

3 A If you showed me the note, I would recognize  
4 whether it's my handwriting or one of my  
5 deputies', but as I said, it was either Mr.  
6 Caldwell or Mr. Tucker who had given us the  
7 authority to retain the exhibits. But  
8 specifically, no, I don't know if I wrote the note  
9 or one of my deputies did.

10 Q I'll turn you back to the chronology, page 239596,  
11 the next several entries beginning at number 18  
12 through to 24, I won't review those in detail, Mr.  
13 Berezowsky, they relate I believe to various  
14 dealings with the Court file of the nature that  
15 we've been discussing. The 1992 entries I believe  
16 likely relate to matters that were ongoing at the  
17 Supreme Court of Canada, and if we can turn to the  
18 next page, please, you'll see the first three  
19 entries, 25, 26 and 27 relate to the transfer of  
20 the Court file and the trial exhibits to the  
21 Supreme Court of Canada, and do you recall that  
22 event taking place, Mr. Berezowsky?

23 A Yes, I do.

24 Q And we'll take again a look at the order relating  
25 to that transfer. It's page 332735 of the Court





1 file. You'll see it's a letter dated January  
2 17th, 1992 from yourself to the Supreme Court of  
3 Canada, perhaps we could call out the quoted  
4 portion, the order of Mr. Justice Wright:

5 "The local registrar is authorized to  
6 deliver the Court file and exhibits to  
7 Sergeant Pearson for transmission to the  
8 Supreme Court of Canada. They are to be  
9 returned to the local registrar upon  
10 completion of the proceedings in the  
11 Supreme Court of Canada."

12 And if we could call out a different portion of  
13 the letter, please, this bottom portion, I see  
14 that there is a signature by Sergeant Rick  
15 Pearson also dated January 17th, 1992 confirming  
16 receipt of those exhibits and the Court file?

17 A That's correct.

18 Q And did that delivery then include all of the  
19 Milgaard exhibits as best you recall, Mr.  
20 Berezowsky?

21 A For what we had in our possession at that time,  
22 that's correct.

23 Q I'll turn you back to the chronology at 239597,  
24 you'll see the next entry is number 28, by this  
25 time the Supreme Court proceedings had concluded



1 and I see it states indictment filed and stay of  
2 proceedings filed, I believe that was a fresh  
3 indictment filed against David Milgaard, and then  
4 a stay of proceedings which was filed. The next  
5 date you'll see there, Mr. Berezowsky, is April  
6 27th, 1992, and I don't see a written note beside  
7 that, but I'm going to show you a further document  
8 that might give us clarification on that, it's  
9 page 332738 of the Court file. It's a letter from  
10 the Supreme Court of Canada to the registrar of  
11 the Court of Queen's Bench, you'll note it states:

12 "Enclosed please find the Court files  
13 and exhibits (2 boxes) of your Court in  
14 the above-referenced matter."

15 And do you have a recollection of the return of  
16 these exhibits, Mr. Berezowsky?

17 A Not specifically, no.

18 Q And we expect the evidence will confirm, Mr.  
19 Berezowsky, that when those two boxes were  
20 returned to the Court of Queen's Bench, not all of  
21 the exhibits were returned at that time and that  
22 some were retained in Ottawa for purposes of  
23 further DNA testing. Does any of that fit with  
24 your recollection?

25 A That's my understanding, yeah.



1 Q Okay. And do you recall whether the exhibits  
2 would have been specifically checked, for example,  
3 upon their return from the Supreme Court of Canada  
4 or cross-referenced with an exhibit list?

5 A No, they wouldn't be, and the reason for that is  
6 we usually don't question one Court to the other  
7 type of thing, so that whether we send exhibits to  
8 the Court of Appeal or the Supreme Court, they are  
9 not followed up item by item, we just basically  
10 file them back away again once we receive them.

11 Q And just so we know which exhibits I'm speaking  
12 of, if we could turn, please, to document 107010,  
13 you'll see it's a letter to Chief Justice Lamer  
14 from Mr. Fainstein from the Department of Justice  
15 Canada. It doesn't have a date, but I can advise  
16 that this is an April, 1997 letter that discusses  
17 the further examination of exhibits and DNA  
18 testing, and if we call out this second paragraph,  
19 please, you'll note it states:

20 "Some of the testing will involve items  
21 which were released to the Attorney  
22 General of Canada pursuant to your Order  
23 of January 22, 1992 and have been held  
24 at the RCMP's Central Forensic Lab."

25 And I'll turn to the order which identifies those



1 exhibits, page 107012, and, I'm sorry, 107013,  
2 it's a listing of the exhibits that were retained  
3 pursuant to this order, and you'll see P-6, the  
4 panties, seven, the girdle and stockings, eight,  
5 the half slip, nine, the brassier, 10, the white  
6 uniform type dress, 13, the two vials, 15, sample  
7 of head hair from Gail Miller, 35, toque, and 41,  
8 blood sample identified as that of Ron Wilson.

9 If we could go back, please, to  
10 332738, and in terms of the two boxes that were  
11 returned, Mr. Berezowsky, where were those placed  
12 upon their return to the courthouse?

13 A My recollection was once we did receive them, that  
14 we had, not in the sub basement, but in our vault  
15 on the main floor, we have an exhibit room there  
16 where across from, where we kept the exhibits that  
17 were active, are usually the files which had been  
18 dealt with by the Court in around a five year  
19 period. There's a filing cabinet in which those  
20 files were kept in and my recollection was those  
21 exhibits were placed on the top of that filing  
22 cabinet.

23 Q I'll turn to page 239597 of the chronology and  
24 you'll see we left off at item number 29. Items  
25 29, 30 and 31 relate to the delivery of a couple



1 of further exhibits to Ottawa for the same  
2 purposes, P-5 is identified, which is the coat,  
3 and P-12, which is the knife blade, and I guess  
4 these exhibits would have been returned in 1992  
5 unlike those other exhibits that we identified,  
6 but it would appear that these entries were then  
7 sent again to Ottawa pursuant to the order that's  
8 mentioned?

9 A That would be correct.

10 Q And then if we can move to the next page, please,  
11 and your chronology ends here in approximately  
12 1997, those last two entries begin to discuss the  
13 release of further exhibits for the same purposes  
14 that we've been discussing, and for the sake of  
15 completeness, I'll refer you to a further order  
16 which is 080146. Mr. Berezowsky, I can advise you  
17 this is a November 27th, 1997 order, if we focus  
18 in on the first paragraph, this again relating to  
19 the Larry Fisher proceedings, and it allows for  
20 the transfer of certain further exhibits that are  
21 identified, P-3 and P-4 being some photos, P-19  
22 being the knife handle, P-27 and P-28 being Gail  
23 Miller's beige coloured gloves, and P-39 being  
24 blood samples, and those exhibits were released to  
25 a Constable Henry Peter Charles Appleton and again



1           were sent east for testing, and I assume, Mr.  
2           Berezowsky, you have no reason to dispute any of  
3           that information?

4       A       No, I don't.

5       Q       And do I understand correctly that in the course  
6           of the Larry Fisher criminal proceedings, you were  
7           asked to speak about the issue of certain  
8           courthouse break-ins that had taken place over the  
9           years in question?

10      A       That's correct.

11      Q       And I believe you were asked again to prepare a  
12           summary leading up to your testimony outlining  
13           some of those circumstances and I'm going to show  
14           you a document, 072952, and you'll note this is a  
15           memorandum from yourself dated December 22nd, 1997  
16           directed to Staff Sergeant Fran Stevenson. I'm  
17           going to take your attention to a few portions of  
18           this letter. The first two paragraphs generally  
19           outline matters that we've already spoken of  
20           today. If we could focus on the third paragraph,  
21           please, I'm going to read that to you:

22                   "I then left the Court House in January  
23                   of 1984 until August of 1985 as I had  
24                   assumed the Local Registrar's position  
25                   in the Unified Family Court. It had



1                   been brought to my attention back then,  
2                   that sometime in 1984 (however, which  
3                   month I'm not sure of) that there had  
4                   been a break-in, in one of the exhibit  
5                   rooms at the Court House. It was my  
6                   understanding at that time, that it was  
7                   done for the purpose of stealing drugs  
8                   that may have been stored in the Court  
9                   House. As to what all exhibits had been  
10                  disturbed or taken, I am not aware of,  
11                  as I was not in the work place at that  
12                  time."

13               And would that be an accurate account of  
14               information that you were providing at that time,  
15               Mr. Berezowsky?

16       A       That's correct.

17       Q       And that was true information as best you could  
18               recall?

19       A       Yes, it was.

20       Q       And did you have any suggestion made to you at any  
21               point in time with respect to that 1984 break-in  
22               that the Milgaard exhibits had been dealt with?

23       A       Not at that time, no, never type of thing.

24       Q       Okay. I'll turn your attention to the next page,  
25               please, focus in on this paragraph, I'll read that



1 to you as well:

2 "Then on December 25, 1992, the exhibit  
3 room at the Court House had been broken  
4 into again in which I was called down to  
5 the office to ascertain what the damage  
6 was that had occurred as a result of the  
7 break-in. From my recollection, there  
8 were a number of boxes or bags which had  
9 been opened and some of the styrofoam  
10 pellets which were inside these boxes  
11 were scattered all over, in conjunction  
12 with the boxes and their contents as  
13 well. The Milgaard exhibits were kept  
14 on top of the filing cabinet in the  
15 exhibit room where we kept the files for  
16 the previous 2 or 3 years in which the  
17 Court cases had been concluded and from  
18 my recollection they were left  
19 untouched, but I'm not 100% sure. I do  
20 not recall any exhibits having gone  
21 missing from this room as we no longer  
22 kept the drug exhibits or valuables in  
23 this exhibit room, as these items had  
24 been moved to another area. As far as I  
25 can recall, I believe that all the





1 exhibits had been accounted for."

2 And is that an accurate summary of your  
3 information or recollection then relating to the  
4 December 25th, 1992 break-in?

5 A Yes, it is.

6 Q Okay. And I'll move on to the next paragraph:

7 "However, in January of 1993,  
8 approximately 3 weeks after the  
9 break-in, we had another break-in at the  
10 Court House in which the main target of  
11 the break-in was the vault located in my  
12 office, and I have attached hereto my  
13 statement indicating the events which  
14 took place at that time. However, as  
15 the Milgaard exhibits were still in the  
16 exhibit room which had been broken into  
17 on December 25, 1992, this room was not  
18 subject to a further break-in which took  
19 place in January."

20 And again, is that accurate information then as  
21 best you could recall at that time, Mr.  
22 Berezowsky?

23 A Yes, it is.

24 Q And you are making a distinction with respect to  
25 this break-in, this was a different room then than



1 where the Milgaard exhibits were being kept?

2 A Yes, in our main office in the registry we have a  
3 vault and this was the vault that was broken into.

4 Q Okay. So in respect of the January, 1993  
5 break-in, the area that was accessed did not  
6 contain the Milgaard exhibits?

7 A That's correct.

8 Q And am I correct that there was a key though to  
9 the area where the Milgaard exhibits were kept?

10 A Yes.

11 Q Kept in the room that was accessed in 1993?

12 A Yes, in that vault we have a number of keys from  
13 lawyer's lockers and that that were located on a  
14 rack inside the vault and there is a key that  
15 would have gotten into the room in which the  
16 Milgaard exhibits were kept, that's correct.

17 Q And I'm going to take you briefly to another  
18 document, 068541, you'll see this is a Saskatoon  
19 Police Service document, and I believe it's a  
20 search of the address noted at the top of the  
21 page, 520 Spadina Crescent, the courthouse, and  
22 then what follows is a listing of the incidents  
23 recorded with respect to that address through the  
24 years. You'll see someone has put a star starting  
25 at the bottom of the page beside an April 28, 1984



1 entry and I see beside that that notes that it was  
2 a B & E, and I think we've discussed that one in  
3 the context of your letter. Another star, moving  
4 up the page, is the January 17, 1993 matter, again  
5 a break and enter, and again I believe dealt with  
6 in your letter. At the very top of the page I see  
7 a star beside a May 29th, 1994 matter and again  
8 referenced as a break and enter, and I don't think  
9 the 1994 break-in was discussed in your letter.  
10 Do you recall this occurrence, Mr. Berezowsky?

11 A That one I don't. For the period of July, 1993  
12 through to, I believe it was the end of April,  
13 1994, I was on secondment in the Northwest  
14 Territories and didn't resume work back at the  
15 courthouse until August of 1994, so that I wasn't  
16 aware of the break-in that took place, at least  
17 not to my recollection.

18 Q And after you became aware of that matter, did you  
19 ever gather any information that suggested that  
20 the Milgaard exhibits may have been tampered with  
21 in the context of that 1994 break-in?

22 A No, I didn't.

23 Q And I notice as well the December 25th, 1992  
24 incident isn't recorded on this particular  
25 document, but I'll refer you to a further document



1           being 267694, and again this is another Saskatoon  
2           Police Service document, if we can focus in at the  
3           top here, you'll see the date referenced is  
4           December 25th, 1992, if we could move to page  
5           267696, call out this portion, states:

6                   "Person(s) unknown gained entry or  
7                   remained in the federal courthouse and  
8                   did commit a break and enter with intent  
9                   to the exhibit storage and using a  
10                  screwdriver to pry the door ..."

11          Some times and a date are noted. If we could  
12          move to 267698, this portion here, states:

13                  "The area in the exhibit room that was  
14                  gone thru by the perpetrators contains  
15                  exhibits from various murder cases,  
16                  (Nielsen, Trotchie, Milgaard accuseds)  
17                  and other cases.

18                  Each exhibit list from trial  
19                  records would have to be gone thru to  
20                  find if any exhibits were missing."

21          If we can move down to the bottom of the page,  
22          please, this entry:

23                  "On 93Jan04 spoke to Dennis Berezowsky  
24                  ... in regards to file.

25                  At this time it is felt that



1                   there is nothing missing. The suspects  
2                   may have been looking for drug exhibits.  
3                   There were no major cases stored in the  
4                   exhibit room at the time of the break  
5                   in. No suspects."

6                   Lastly, if we could go to page 267699, please,  
7                   this portion here, it states:

8                   "In the investigations of the Court  
9                   House break-ins, three arrests were made  
10                  ... charges were laid in regards to the  
11                  January 17, 1993, break in. It is  
12                  believed that the same persons were  
13                  involved in the December 25, 1992, break  
14                  in. At this time we have no evidence to  
15                  lay a charge."

16                  And does that information that I've just read to  
17                  you there, Mr. Berezowsky, generally fit with  
18                  your recollection of this matter relating to the  
19                  December 25th, 1992 break-in?

20           A           Yes, it does.

21           Q           And again as I've mentioned, we anticipate that  
22                       the evidence will confirm that for the 1992 break  
23                       and enter, the 1993 break and enter and the 1994  
24                       break and enter, that several of the Milgaard  
25                       exhibits, including the panties and Miss Miller's



1 dress, were not at the courthouse at the time of  
2 the break-in, and I take it you have no  
3 information -- or break-ins, and I take it you  
4 have no information that would dispute that  
5 anticipated evidence, Mr. Berezowsky?

6 A No, I don't.

7 Q And we've confirmed that you testified at the  
8 Larry Fisher preliminary hearing and trial?

9 A Yes, I did.

10 Q And you've had a chance to review the transcripts  
11 from those, from your testimony in those  
12 proceedings?

13 A Yes, I did.

14 Q And is the content of the transcript accurate then  
15 as best you can recall?

16 A Yes, it is.

17 Q And there are a couple of news articles related to  
18 the time of your testimony, I'll just refer you to  
19 one of them, the document is 077653, you'll see  
20 it's titled "Review of evidence continues at  
21 Fisher trial." The date is October 23rd, 1999, if  
22 we could focus in, please, starting here, again  
23 I'll just read some of this to you:

24 "Saskatoon court registrar Dennis

25 Berezowsky was in charge of the exhibits



1                   for most of the time beginning in the  
2                   late 1970s until 1998, when he turned  
3                   them over at Fisher's preliminary  
4                   hearing."

5                   And as we've reviewed, Mr. Berezowsky, is it  
6                   possible that perhaps you had very few of the  
7                   exhibits remaining by the time that you brought  
8                   what was left to the Larry Fisher criminal  
9                   proceedings?

10          A           That's true.

11          Q           Okay. Read forward:

12                   "He testified that in the late 1970s he  
13                   began a housecleaning process in the  
14                   basement of the courthouse.

15                   The courthouse exhibit room was  
16                   jammed with old evidence and Berezowsky  
17                   needed to make space.

18                   Most often the exhibits were  
19                   given back to victims or their families  
20                   or destroyed.

21                   One particular box of exhibits  
22                   was saved. Berezowsky said the two men  
23                   who were then in charge of prosecutions  
24                   in Saskatoon told him to keep the Miller  
25                   exhibits.



1                   One of the two head prosecutors  
2                   was T.D.R. (Bobs) Caldwell. He was the  
3                   young Crown prosecutor in 1969 who  
4                   successfully put David Milgaard behind  
5                   bars for Miller's rape and murder.

6                   From that point until today,  
7                   Berezowsky's courthouse has disposed of  
8                   most exhibits six months after cases are  
9                   completed."

10                  I'll pause there for a moment. Is that the case?

11           A       That's correct.

12           Q       And does that apply in all types of cases or are  
13                   there some exceptions?

14           A       Well, the only exhibits that we retain now are  
15                   exhibits where the accused has been charged with  
16                   murder. Otherwise, all the other exhibits, it is  
17                   our practice to go ahead and work in conjunction  
18                   with the police to have them removed, type of  
19                   thing, for destruction, or returned back as the  
20                   police see fit.

21           Q       Okay. Just finish off a portion there:

22                   "Under cross-examination by defence  
23                   lawyer Brian Beresh, Berezowsky  
24                   acknowledged before the jury that the  
25                   exhibits were available to the public to





1                   examine. He also said two break-ins  
2                   gave robbers access to the exhibits in  
3                   1992.

4                   He said the exhibits went out  
5                   of his courthouse on several occasions  
6                   for Court hearings."

7                   I take it other than the matters that we've  
8                   clarified with respect to what exhibits were  
9                   actually present at the courthouse in 1992,  
10                  that's generally accurate information that I've  
11                  read to you there?

12           A       That's correct.

13           Q       And I'll just reference the other article, I'm not  
14                  going to refer to it, it's 317070, and, Mr.  
15                  Berezowsky, in terms of the handling of exhibits  
16                  for today's purposes, are there any particular  
17                  practices or procedures in place today at the  
18                  courthouse with respect to the receipt and  
19                  retention of exhibits that might have some  
20                  scientific testing capacity?

21           A       No. I mean, the only time that we would retain  
22                  the exhibits specifically other than, as I  
23                  mentioned, for the murder exhibits and that, would  
24                  be requested by counsel who feel that they may be  
25                  of some significance, in which I think our



1 suggestion would probably be if that did arise,  
2 was to obtain a Court order to that effect asking  
3 us to retain those exhibits.

4 Q Okay. And just using some examples, and I'm  
5 thinking of exhibits that might be received in the  
6 form of biological liquid samples for example, or  
7 stained clothing; in the absence of a specific  
8 request, as you've just noted, are any special  
9 procedures undertaken with respect to the storage  
10 of those types of exhibits?

11 A No, there isn't.

12 Q Okay. No refrigeration or anything of that  
13 nature?

14 A No. We don't have that.

15 Q Okay. And so again, as you've mentioned, if a  
16 party is interested in preserving an exhibit,  
17 again for perhaps future testing procedures, it's  
18 incumbent upon that party, then, to take the  
19 necessary steps by way of an application to have  
20 those items preserved in a particular way?

21 A That would be my suggestion, yes.

22 Q Okay. Thank you, Mr. Berezowsky, those are all  
23 the questions I have for you.

24 My Friends may have questions,  
25 maybe not. None? Doesn't look like there are.



1 A Thank you.

2 COMMISSIONER MacCALLUM: Thanks, you are  
3 excused, Mr. Berezowsky. Thank you for coming.

4 A Thank you.

5 MR. HARDY: Mr. Commissioner, our next  
6 witness is Roger Renaud, I don't know if you want  
7 to take a short break. I expect him to be a  
8 relatively short witness, I'll leave it in your  
9 hands whether you'd like to take a break now, or  
10 proceed.

11 COMMISSIONER MacCALLUM: Is he the last  
12 witness today?

13 MR. HARDY: He is the last witness today.

14 COMMISSIONER MacCALLUM: Very well, we'll  
15 take 15 minutes then.

16 *(Adjourned at 2:22 p.m.)*

17 *(Reconvened at 2:40 p.m.)*

18 MR. HARDY: Our next witness is Roger  
19 Renaud, and I would ask him to come forward now,  
20 and Ms. Monar Enweani will be leading  
21 Mr. Renaud's evidence.

22 COMMISSIONER MacCALLUM: Okay.

23 **ROGER RENAUD, sworn:**

24 **BY MS. MONAR ENWEANI:**

25 Q Good afternoon, Mr. Renaud.



1 A Good afternoon.

2 Q Thank you for agreeing to testify. Can you tell  
3 us where you reside?

4 A In Montreal.

5 Q And what is your age?

6 A 55.

7 Q And are you presently working?

8 A No, retired.

9 Q And I understand that in 1968-1969 you were  
10 working for Maclean Hunter?

11 A That's right.

12 Q That's correct? And what was your position?

13 A Field Manager.

14 Q Okay. And at that time how old would you have  
15 been?

16 A Umm, 19.

17 Q 19. Can you give me an idea of the type of duties  
18 that you performed?

19 A I used to hire young people, we'd travel from town  
20 to town in Saskatchewan and Manitoba, and we'd go  
21 from door to door knocking on doors and selling  
22 magazine subscriptions to Chatelaine, Maclean's,  
23 Reader's Digest, and so on.

24 Q All right. And was that primarily through or  
25 solely throughout Western Canada?



1 A At that time, yes.

2 Q Yes, okay. And how did you come to know David  
3 Milgaard?

4 A Umm, one of my sales people had gone to his home  
5 in Langenburg, and knocked on the door to sell a  
6 magazine subscription to his mum, and she had  
7 mentioned that -- well, there was a young fellow  
8 in the house there, and he was quite interested in  
9 the way we travelled and the way we did things and  
10 thought he might like a job doing that or, you  
11 know, mentioned it, so he came back that same --  
12 that night and told me. He says "I met a young  
13 fellow, and his mum was there and stuff, and they  
14 might like to -- he might like to travel, and he  
15 needs a job too", so I says "good", I says "we'll  
16 have an interview with him", and within a couple  
17 of days, I think, he -- we talked to him and hired  
18 him.

19 Q All right. Now I think he was 16 at the time; is  
20 that your recollection?

21 A That's right.

22 Q And was that usual, to hire a 16-year-old?

23 A No, because you need, you needed provincial sales  
24 licences, not in Manitoba but you need one in  
25 Saskatchewan here. And we travelled a lot, I



1 lived in Regina at the time, we travelled a lot in  
2 Saskatchewan, so he couldn't sell in Saskatchewan,  
3 but we were just -- for him, when he tried out for  
4 it we were working around in Manitoba, around not  
5 too far from his home town so he could come, at  
6 least have a look at it and see if he liked it,  
7 and then we proceeded to go for his licence, his  
8 salesperson's licence.

9 Q Okay.

10 A Direct Seller's.

11 Q Can you recall when he started to work for you?

12 A Well, from what I remember, I thought it was  
13 before Christmas that he worked just a bit of time  
14 while we were in Manitoba.

15 Q In '68?

16 A In '68, yeah. And then when we came back for  
17 Christmas, because the people were from  
18 Saskatchewan and I spent Christmas in Regina, he  
19 went home, and then he came back for a week or two  
20 after Christmas and -- because we were supposed to  
21 go work in Manitoba and then we needed, we had to  
22 have his licence because we wanted to work in  
23 Saskatchewan, and his mum had to sign for his  
24 licence and also sign to give me authority to have  
25 her son on the road there for -- at 16 years old.



1           So he went home I believe around in the middle of  
2           January, and while all this transpired, he came  
3           back around -- around the middle of February, if  
4           I'm not mistaken, when his licence came through.

5       Q       Okay. And when he came back in February that  
6           would have been to work where; --

7       A       Umm --

8       Q       -- in Saskatchewan?

9       A       Saskatchewan or Manitoba. Again, it was just to  
10          be free to be able to travel from one, one area to  
11          the other on the territory we went.

12               COMMISSIONER MacCALLUM: What year was  
13          that, please?

14       A       In '68.

15               COMMISSIONER MacCALLUM: Thank you.

16       A       That -- sorry, that was '69 when he came back, I  
17          believe.

18       BY MS. MONAR ENWEANI:

19       Q       Your recollection is that his licensing  
20          requirements were sorted out in January of 1969?

21       A       Yeah.

22       Q       All right. While David's licensing was being  
23          sorted out and he was away from work did you have  
24          any contact with him at all?

25       A       No, I didn't, only with his mother.



1 Q You would be travelling with a sales crew, I take  
2 it that you would spend quite a bit of time with  
3 them, would that be fair to say?

4 A Yes.

5 Q During the day and after, during the work day and  
6 after?

7 A 24 hours a day.

8 Q What would, what would happen in the evenings,  
9 normally?

10 A Well in the evenings we'd come in, we'd have our  
11 reports to do for the day's sales, which I picked  
12 up, and then we'd go out for supper, everybody go  
13 out for supper together. And then usually at  
14 nighttime, for an hour or so we'd have some work  
15 done on sales presentations, on sales development,  
16 and then we'd go to bed early because we were  
17 early to rise. And we had a sales meeting in the  
18 morning, out for breakfast, and then out to work.

19 Q I believe I read in some of the documents there  
20 might have been a curfew; is that correct?

21 A Yup.

22 Q Okay. Umm, I take it when David came back to work  
23 with you he simply picked up where he left off?

24 A Yes, he did.

25 Q And did you say that was in mid-February of 1969?





1       A       Approximately mid-February, it was in early  
2               February.

3       Q       All right. And you didn't notice anything  
4               different about David at the time?

5       A       No.

6       Q       All right. And, Mr. Renaud, some of the documents  
7               that the Commission has suggests that you and your  
8               sales crew were in Winnipeg in March of 1969; do  
9               you have a recollection of that?

10      A       I remember the time we were in -- yeah.

11      Q       All right. And I understand that you had been  
12              staying at the Boulevard Motel?

13      A       Yes.

14      Q       Okay. And the police came to speak to David  
15              Milgaard; do you have a recollection?

16      A       Yes, I do.

17      Q       And what do you recall, specifically, about that  
18              occasion?

19      A       Umm, they came and they wanted to ask David some  
20              questions, and at that particular time wouldn't  
21              really relate what it was concerning, and I says  
22              "that's fine, that's no problems". David -- I had  
23              my own room and David was in the sales crew's  
24              room, and I went and told David, and David said  
25              "sure". So they took him away to question him,



1 and of course I asked him, "well, what's it about,  
2 what's --", and I couldn't get no answer what it  
3 was about.

4 COMMISSIONER MacCALLUM: This was in  
5 Winnipeg; was it?

6 A In Winnipeg, yeah.

7 COMMISSIONER MacCALLUM: Okay.

8 BY MS. MONAR ENWEANI:

9 Q Umm, I'd just like to refer you to a document,  
10 it's doc. ID 068628. And these appear to be notes  
11 of an RCMP officer from Winnipeg, Constable  
12 Koppang. If we can turn to page 3, the date at  
13 the top is the 2nd of March, 1969, Boulevard  
14 Hotel.

15 A Uh-huh.

16 Q The document indicates that at 7:45 p.m. Constable  
17 Koppang attended at the motel, and if we turn the  
18 page there is a reference to you, and I'll just  
19 read this:

20 "Roger Joseph Renaud, Mgr. of  
21 McLean-Hunter team from Regina.  
22 Milgaard started 14 Jan. in Langenburg  
23 to 24th Jan. 1 week in Regina not  
24 working. 7th Feb. back & on road since  
25 then."



1 Do you remember having a conversation with  
2 Constable Koppang?

3 A Well, I don't, I didn't remember his name, but I  
4 remember having a bit of a conversation with the  
5 policemen that were there just to find out what  
6 was happening, to find out why they wanted to talk  
7 to one of my sales crews, was it due to sales, you  
8 know, or a customer complaint or whatever, which  
9 was my job to handle on the road, to clear up on  
10 the road.

11 Q Right. And again, reading from the document, it  
12 says:

13 "Det. Bob Barrett requested that  
14 Milgaard be picked up and lodged  
15 overnight in detention. Milgaard  
16 arrested at 8:10 p.m."

17 And later on in the document:

18 "... given police warning & advised  
19 reason for being picked up. Roger  
20 Renaud present in room at time of  
21 arrest."

22 Do you recall being present in the room at the  
23 time?

24 A I remember being there, yes, when they took him.

25 Q And do you recall a police warning?



1 A No, I don't.

2 Q Okay. And what -- can you specifically recall  
3 what you were told, if anything, about why he was  
4 being picked up?

5 A Just for questioning over an incident, but I  
6 wasn't, I wasn't told of what it was for.

7 Q Okay. So you don't think, at that time, you were  
8 aware that --

9 A No, I wasn't.

10 Q -- the questioning related to a murder in  
11 Saskatoon?

12 A No.

13 Q If we turn to page 7 of the document -- actually,  
14 sorry, if we can go back to page 6 the document  
15 reads:

16 "Interview in question & answer form  
17 commenced at 9:00 a.m. Recorded by Det.  
18 Karst."

19 And if we turn to page 6:

20 "Finished at 10:50 a.m., 3 Mar 69.  
21 Then to Boulevard Motel & examined  
22 Milgaard's belongings, then back to  
23 office."

24 A Uh-huh.

25 Q Do you recall David coming back to the motel?



1 A Umm, yes I do.

2 Q And do you --

3 A Well I, yeah, I remember.

4 Q Pardon?

5 A I say I don't -- it's not clear as day, but I do  
6 remember one --

7 Q Okay.

8 A -- when he came, yeah.

9 Q And what happened at that time?

10 A Well I remember them wanting to see his clothes,  
11 his suitcase, you know, the room, they checked the  
12 whole room. That's where the salespeople were  
13 staying.

14 Q Okay. Did you speak to David, when he came back,  
15 about why he was being questioned?

16 A Oh, definitely. I asked him "what's it all  
17 about", and he says "oh, there was a girl murdered  
18 up at Saskatoon and they want to ask me questions  
19 about it because I was in the area".

20 Q Okay. And did that alarm you at all?

21 A No. It was being in, like at the scene of an  
22 accident, you know, as a witness.

23 Q Okay. If I could turn you to another document,  
24 099233, if we can turn to the second page --  
25 sorry, that's 009233. This is a Saskatoon Police



1 Department investigation report authored by  
2 Detective Karst and it states:

3 "It should also be noted at this time  
4 that during the day of March 3rd, I  
5 attended at room #3 & #4 which was being  
6 used by Milgaard at the Boulevard Motel  
7 in Winnipeg, the premises thoroughly  
8 searched, also his luggage clothing,  
9 etc. checked ...",

10 on and on. Do you recall more than one officer  
11 coming back with Mr. Milgaard to the motel?

12 A I don't remember if there was one, I know there  
13 was one, I don't know if there was two.

14 Q Okay. You were in Winnipeg in March and I  
15 understand, then, you travelled to Saskatoon with  
16 your sales crew in April?

17 A Yeah.

18 Q All right. And do you remember where you would  
19 stay in Saskatoon?

20 A The Big T Motel.

21 Q Okay. Do you have any recollection of David  
22 Milgaard being questioned by the police at that  
23 time?

24 A Yes.

25 Q What do you recall?



1           A           They came once again and picked him up, and for  
2                       samples, questioning, again it was over the same  
3                       thing, and I figured it was quite natural seeing  
4                       as it was -- he was in the area. And if my memory  
5                       serves me right I think they might have called the  
6                       office to find out where we were, and that we were  
7                       in Saskatoon -- or the week before that we were  
8                       going to be in Saskatoon, and that's when they  
9                       picked him up.

10          Q           Okay. And at that time did you speak to any  
11                       police officers yourself?

12          A           Umm, I can't remember.

13          Q           Okay. And was it your understanding that they  
14                       simply wanted to question David again?

15          A           Same thing, yes.

16          Q           Okay. If I could refer to doc. ID 009254. The  
17                       second page of that document, and again this is a  
18                       Saskatoon City Police department investigation  
19                       report authored by Detective Karst April 18th,  
20                       1969, and it reads:

21                       "On April 18/69 in Saskatoon David  
22                       Milgaard was interviewed staying at this  
23                       centre in the Big T Motel, however no  
24                       further information was obtained, Det.  
25                       Barrett did however take a further



1 statement from him and a blood sample  
2 was taken from him by Dr. Brand and this  
3 taken to the Red Cross where it was  
4 analysed and found to be of "A" type of  
5 which we are interested. Lieut/Penkala  
6 obtained a blood-sample saliva sample  
7 for a further analysis with regards to  
8 being a secretor or not and further hair  
9 samples obtained by I/O Kleiv with  
10 regards to further investigation.  
11 Milgaard was interviewed at length by  
12 various members of this dept. however  
13 seems to be no way to shake that youth's  
14 story."

15 Do you have any recollection of samples being  
16 taken from Mr. Milgaard at that time?

17 A That's what he told me had happened when he was  
18 there, David told me when he came back, that -- I  
19 said "well what did they want this time?", and he  
20 said "oh, they want some hair samples and saliva  
21 samples."

22 Q Okay. So at this time you definitely were aware  
23 that he was being questioned with respect to a  
24 murder in Saskatoon?

25 A Yeah.





1 Q And I guess, at this time, were you -- were you --  
2 did you have any concerns about that?

3 A No.

4 Q You weren't concerned at all about whether you  
5 should continue to employ him?

6 A No, I wasn't, until the office was.

7 Q Okay.

8 A I, my office was due to public image and for the  
9 company, but I wasn't.

10 Q So somebody raised that concern?

11 A Yes.

12 Q And do you know who that was?

13 A Mr. Shannon and Mr. Brown.

14 Q And --

15 A Mr. Shannon being the Field Supervisor and  
16 Mr. Brown being the Office Manager.

17 Q In Regina?

18 A Yeah.

19 Q For Maclean Hunter?

20 A Yeah.

21 Q Okay. Did you ask David, when he returned from  
22 questioning in April, whether he had any  
23 involvement in the matter?

24 A I don't think I directly asked him, just, it just  
25 didn't enter my mind that he would be -- I -- you



1 know, it didn't. I don't think I ever asked him a  
2 direct question of "did you do it", it just --

3 Q And why not?

4 A Because I didn't think he did it.

5 Q All right. Umm, so I think you have mentioned  
6 that Fred Brown had some concerns; did David stay  
7 with your sales crew at the time?

8 A I think he was sent home for a brief period of  
9 time or was let go for a brief period of time, and  
10 then he came back, then he came back to work on  
11 the road.

12 Q All right. And the decision to let them go wasn't  
13 yours; is that fair to say?

14 A No.

15 Q Did you have a view on that?

16 A Oh yes, I had quite a bit to say about it, and I  
17 just didn't think he done it so, you know, I  
18 thought he was -- mind you the -- they had also  
19 made reasonable reason for the office to be  
20 worried about, you know, Maclean Hunter's image,  
21 and who we represented, and so I was convinced to  
22 turn around and I had to let him go.

23 Q And I take it, at some point, he returned to  
24 your sales team?

25 A Yes he did.



1 Q And do you recall when that was?

2 A I don't remember how long it was I don't think it  
3 was very long after it but I don't remember  
4 exactly how long it was.

5 Q All right. So I guess, by the end of April, David  
6 at least has worked for you a few months and I  
7 take it you formed some impressions of him?

8 A Well, you know, living with -- together and  
9 working together 24 hours a day you get to know a  
10 person, at least have an idea.

11 Q And did you have any specific impressions about  
12 David that you can share?

13 A Oh, just that he was a happy-go-lucky kid, he was,  
14 you know, 16 years old and he was -- to me he  
15 didn't have a mean bone in his body. He was  
16 always wantin' to have fun, he always put life and  
17 spirit and, you know, in the crew of people, young  
18 people he was working with. He was the youngest  
19 there. Umm, as soon as he grabbed, as soon as he  
20 went into the sales end of it he enjoyed it so  
21 much talking to people and being able to make  
22 people laugh, you know, and made money off of  
23 doing that, you know, he found it terrific. He'd  
24 have been -- you know, at the particular time he  
25 was a super salesperson, --



1 Q Uh-huh?

2 A -- you know, everybody -- everybody enjoyed having  
3 him around.

4 Q Did you have any knowledge of David's drug use?

5 A No, I didn't.

6 Q And in terms of his interaction with the others on  
7 the crew, or in the various cities that you  
8 travelled to, did you form any impressions?

9 A Not on that, because I wasn't aware of -- we had  
10 strict rules on the road that the motel rooms that  
11 we used for business, where we slept, and when I  
12 was there also, that there was no drugs allowed,  
13 no liquor allowed in the rooms, no girls allowed  
14 in the room, because it was strictly a boys crew I  
15 had, and if they did on the weekend want to go  
16 party it up, well that wasn't my concern, but if  
17 they wanted to they would go and rent a motel room  
18 and do it at another place, not the usual places  
19 where we stayed every year when we went by there,  
20 you know.

21 Q Umm, do you recall being in Prince George in May  
22 of '69 with your sales crew?

23 A Yes, I do.

24 Q And Mr. Milgaard was arrested on May 30th of '69;  
25 do you have any recollection of that day?



1           A           Yes, I do. In the morning Mr. Brown had called  
2                      and had told Mr. Shannon that there was a warrant  
3                      out for David Milgaard's arrest for murder one,  
4                      and so he asked me to go and get David out of the  
5                      crew's room and bring him over, so -- which I did.  
6                      And for a long time I believed it was me that had  
7                      driven him to the police station, but I guess  
8                      according to -- memory changes a little bit over  
9                      the years, I guess, but then he was driven to the  
10                     police station and that's the last I seen of him  
11                     for quite a while.

12          Q           Okay. If I could show you a document, it's doc.  
13                      ID 065350, it's an RCMP report dated June 2nd of  
14                      1969. The first paragraph reads:

15                     "In the a.m. of this date writer  
16                     contacted Mr. Fred E. Brown, Manager of  
17                     McLean-Hunter Publishing Co. ... It was  
18                     believed very strongly by writer that  
19                     Mr. Brown knew of the whereabouts of Mr.  
20                     Milgaard as reliable information had  
21                     been received that the subject was  
22                     probably once again working for this  
23                     agency."

24                     And if we go down to the second paragraph of that  
25                     document it reads:



1 "Approximately 30 minutes after this  
2 phone call Cst. Baron of Prince George  
3 G.I.S. contacted writer via long  
4 distance phone and stated Milgaard was  
5 in their office having been brought  
6 there moments before by Mr. Howard  
7 Shannon, a supervisor with the  
8 McLean-Hunter Publishing Co., Regina,  
9 Sask."

10 This document seems to suggest that Mr. Shannon  
11 brought David Milgaard into the RCMP station in  
12 Prince George?

13 A Right.

14 Q And does that coincide with your recollection of  
15 the day?

16 A Well, kind of. It does now, after I read it.

17 Q Did you have any discussions with the police on  
18 May 30th of '69?

19 A Umm, I've always had it in my mind that I was the  
20 one that took David there, but I guess if I wasn't  
21 I would have taken his clothes probably in the  
22 afternoon to the police station, that's where I  
23 did talk to the policeman to, when I brought his  
24 clothes in, to see what was up and what was  
25 happening with him and where he was going and so



1 on.

2 Q Do you think you spoke to David on that occasion?

3 A I thought I had spoke to David taking him down,  
4 but I guess that's not the case, I must have spoke  
5 to him maybe before Mr. Shannon took him down.

6 But, no, I don't remember talking to him.

7 Q Do you recall what you thought of the arrest; were  
8 you surprised?

9 A There again I thought, well, this is pretty  
10 serious. I mean now it's, you know, they have a  
11 warrant for his arrest so obviously they must have  
12 some type of evidence to turn around and arrest a  
13 man, and hopefully -- I wanted to pursue it, but  
14 it's a little hard when you are in Prince George  
15 and you have, I had my family there at the time,  
16 you know, and a group of kids, to follow it all  
17 the way through. So I think once we moved out of  
18 there, until I got a chance to get back to  
19 Saskatoon, I followed some of the trial and I was  
20 present at some of the trial too.

21 Q Umm, going back to Saskatoon, you would have  
22 travelled back to Saskatoon after the arrest on  
23 May 30th of '69, --

24 A Uh-huh.

25 Q -- is there anything that you did in connection



1 with Mr. Milgaard? I assume you were wondering  
2 whether he would be available to work for you,  
3 what was happening, did you have contact with him  
4 or with the police --

5 A I did, I did --

6 Q -- at that time?

7 A -- go to the police and find out, to see what  
8 exactly was happening, and well the concern was  
9 not only him coming back to work, as a human  
10 being, you know, what is happening, he was 16  
11 years old and -- but I don't believe I talked to  
12 him at that particular time either.

13 Q Okay. And do you think that you would have called  
14 the police, did you go down to the station?

15 A I remember calling them, umm, I don't remember  
16 going down there. I remember calling them, I also  
17 remember sending a letter to them.

18 Q And what would have prompted you to send a letter?

19 A Well that maybe an appearance in Court on my  
20 behalf would explain a little better what type of  
21 person he was and, I mean, give -- do something.  
22 You feel kind of helpless.

23 Q Okay. So you recall writing a letter to the  
24 police --

25 A Yes, I do.





1 Q -- at this time, after his arrest?

2 A Yeah.

3 Q And that letter; can you recall any more details  
4 about what it might have said?

5 A I don't. It would have said just what I felt and  
6 what I have just stated here.

7 Q All right. And you mentioned that you followed  
8 the trial somewhat?

9 A Yes, I did.

10 Q And I assume you heard of the conviction at some  
11 point?

12 A Uh-huh.

13 Q And what was your reaction to that?

14 A Lost for words. Just, you know, too late to do  
15 anything now. You know, what my little 2 cents  
16 that I could have given them at that time, you  
17 know, they didn't ask for it, didn't call for it.  
18 I couldn't believe it, my family couldn't believe  
19 it, it's -- you know, it's unbelievable.

20 16-year-old kid, you know, no way he did it.

21 That's my, that's still my feelings about it.

22 Q Uh-huh. You obviously believed that he was  
23 innocent?

24 A Yes.

25 Q And, at that time, what did you base that belief



1 on?

2 A Just from knowing him, just when I worked with  
3 him, and I wasn't much older than him but I could  
4 tell, you know, by the way he was, that I could  
5 tell when he was lying, you know. Like on the  
6 road, for example in sales, when he was in sales  
7 knocking on doors, and it was a kind of a  
8 competition between the sales people, and he'd  
9 say -- well he'd come in after I'd put him out for  
10 selling for two hours or an hour, and he would  
11 say -- come in and say "I have five sales", you  
12 would look at him and you would know right away he  
13 didn't have five sales, so you could tell just  
14 from knowing him, his behaviour, the way he  
15 behaved around people. Especially after they  
16 started questioning, if somebody would question a  
17 normal human being about murder and he comes right  
18 back into a group of people, something would slip,  
19 something would give, you know, you could tell the  
20 difference. And over the years, you know, over  
21 that period of time there was never any -- no  
22 indication whatsoever. He baby-sat my kids. I  
23 had never no indication. If I would have had an  
24 inkling of an indication, you know, I would have  
25 had to send him home, --



1 Q Uh-huh?

2 A -- you know, for the sake of the other kids that  
3 were there too.

4 Q Uh-huh. If we can bring up doc. ID 155237 and  
5 turn to page 5 of that document, Mr. Renaud, your  
6 name is at the top of this page, your name and  
7 address, the date is April of 1981. And in  
8 parentheses the first line says:

9 "(P wrote him Feb. 9 and asked him to  
10 put thoughts down re David)";  
11 do you recall being contacted in April of 1981?

12 A By? Was that that writer fellow?

13 Q Yes. Are you -- I believe it might have been  
14 Peter Carlyle-Gordge?

15 A Yeah.

16 Q Sound right?

17 A Yup.

18 Q And how did you come to be contacted by him?

19 A He was writing a book or something he said.

20 Q Right, and did he phone you out of the blue?

21 A Umm, I don't know how he got my name, but some --  
22 you know. Just that he worked for me, maybe it  
23 was through Dave, I don't know.

24 Q Okay. And you have had a chance to review this  
25 document before testifying today?



1 A Yes, I looked at it. Yeah, I read it, yeah.

2 Q And does this look like information that you would  
3 have provided to Mr. Carlyle-Gordge?

4 A Umm, yes, my way of writing.

5 Q Just to back up for a minute, your contact with  
6 Peter Carlyle-Gordge, was that only by telephone?

7 A It looks after reading some of this here that some  
8 of them has been written since both, it's either  
9 both a telephone conversation and it has been  
10 included in with a letter, so it has been retyped,  
11 you know, it was put in all together,  
12 conversation, letter -- phone conversation and a  
13 letter.

14 Q Okay. So you had a phone conversation with him?

15 A Yes, I did.

16 Q And did you also write him a letter?

17 A I must have because some on there is a letter  
18 written by me.

19 Q Okay. If you had written him a letter, would you  
20 have typed it or --

21 A No, handwritten.

22 Q It would have been in your handwriting?

23 A Handwritten.

24 Q All right. It looks to me as if this might be the  
25 transcription of a telephone conversation. Would



1           you agree with that?

2       A       The top part.

3       Q       Okay. So you are not certain?

4       A       I'm not really sure, no.

5       Q       Okay.

6       A       But from the way I write and the way I talk, it's  
7           two different ways.

8       Q       Okay. In any event, this is information that you  
9           provided to Mr. Carlyle-Gordge?

10      A       Yes.

11      Q       And you reviewed it and believe it is accurate  
12           information?

13      A       Yes.

14      Q       All right. And this would have represented your  
15           recollection of events as of April, 1981?

16      A       Yeah.

17      Q       All right. I'm not going to go through this in  
18           detail, you've commented on many of the items in  
19           this document, I'm just going to ask you a few  
20           questions on things that haven't been covered. If  
21           we can go to 155242 up at the top, the document  
22           reads:

23                   "I don't know exactly where he'd spent  
24                   his time or what he he's done. When he  
25                   came back, the only thing he had to say



1                   was that he'd had a good time with  
2                   friends stuff, and that was that. It  
3                   was left at that."

4                   And that appears to be a conversation you might  
5                   have had with David following the completion of  
6                   his licensing requirements and his return to  
7                   work?

8           A       Right.

9           Q       And he would have been away from your employ on  
10           January 31st of 1969?

11          A       Right.

12          Q       All right. And if we go further down the page,  
13                  you speak here of an incident where David sold a  
14                  pair of pants to a fellow by the name of Morris  
15                  Serrato, you describe it in some detail. Do you  
16                  have a recollection of this event apart from  
17                  what's written here, or independently from this?

18          A       Yeah.

19          Q       And can you tell me what that is?

20          A       It's a little embarrassing. David, when he  
21                  worked, he made good money for a young fellow and  
22                  he was, he spent them on the weekend I guess  
23                  partying or whatever and buy everybody treats and  
24                  food, he would be buying buckets of chickens, and  
25                  so it came Monday morning he didn't have any



1 money, it seemed like every Monday morning he  
2 didn't have any money even for coffee or  
3 breakfast, and so he had sold Morris Serrato a  
4 pair of rough, funny pants, you know, for 10  
5 cents, I remember that, so he could buy himself a  
6 coffee before he went to work.

7 Q You have written, or it's written in this document  
8 that the pants had blood on them and it appears as  
9 if the police took them with them is what you are  
10 saying?

11 A Uh-huh.

12 Q Is that correct?

13 A Yeah.

14 Q Do you recall anything about that in particular?

15 A Well, that was the weekend fun, meeting a young  
16 lady at the wrong time of the month, and that's  
17 what was told and that's what the big joke was  
18 about.

19 Q Okay. It didn't seem like a serious matter to  
20 you?

21 A No, no.

22 Q If we can turn to 155244, in the middle of the  
23 page the document reads:

24 "But it was a shock and surprise to  
25 myself and my wife that he was convicted



1 of it. I remember once he talked to me  
2 about it, as a matter of fact, when we  
3 were travelling, the two, in the car.  
4 And, uh, he had talked something about  
5 the party in Saskatoon -- now this is  
6 going a long way back -- and his friends  
7 and stuff. I don't know; it's funny,  
8 because he could turn around and lie to  
9 me about business, and I could see it  
10 right away. I would just know, when he  
11 was lying and when he wasn't."

12 And if we can turn to the next page, 155245, here  
13 the document reads:

14 "I could tell when he was lying. I  
15 could tell when he was telling the  
16 truth. And this is why, the one  
17 particular day when, you know, we talked  
18 about Saskatoon and me telling him, 'If  
19 you know anything about what happened,  
20 go up and see them and tell them.' And,  
21 uh, without ----- that he was lying  
22 about it. Now I don't know if -- if a  
23 16-year-old kid can't be that calm, cool  
24 and collected, if something like that  
25 has ... happened and he's been involved





1 and people questioning you about it --"

2 I take it from those two parts of the document,  
3 that you would have spoken to David about what  
4 the police questioning related to?

5 A Uh-huh.

6 Q And is it fair to say that he denied any  
7 involvement?

8 A He just, yeah, there was just -- I told him that  
9 if he knew anything, he's better off to turn  
10 around and say it, and no, I don't know anything,  
11 you know.

12 Q Okay. Can you elaborate a little bit? In these  
13 two passages you are talking about you could tell  
14 when David was lying and when he wasn't?

15 A Uh-huh.

16 Q I take it that you believed him when he told you  
17 he wasn't --

18 A Yes, that's just to clarify that what he told me,  
19 I took it for the truth, I didn't have to go any  
20 further into it, I would have known if he was  
21 lying, and if I would have known he was lying,  
22 then I would have went a little further with it  
23 and taken actions and steps for it.

24 Q Okay.

25 A But, you know, just looking, just knowing him, I



1           knew if he was lying or not.

2           Q           If we can turn to 155246, the document reads:

3                       "After the trial and after, I guess,  
4                       he'd been in jail a little while, me and  
5                       my wife and 2 boys went and took  
6                       holidays up in Waskasu (?) in northern  
7                       Saskatchewan, and I knew he was in  
8                       Prince Albert. We decided to stop on  
9                       the way back and say 'Hi, how's it  
10                      going,' and stuff like that. So they  
11                      let me in and let me see him. When I  
12                      seen him, he had a big smile and  
13                      everything was going fine and, uh, said  
14                      'Keep my Cred',' in other words, my  
15                      credentials, where they carry receipts,  
16                      and sell magazine orders -- 'Keep my  
17                      cred ready; I'll be back there shortly,  
18                      beating everybody on your crew.' And,  
19                      uh, really, really believing he would be  
20                      out in the next little while, and all  
21                      this would be over. But even then I  
22                      didn't see where he had any fact or  
23                      belief, of he even believed he would be  
24                      staying in there for this long."

25           So this is you visiting David in Prince Albert?



1 A Yeah.

2 Q And your recollection is that was after the trial?

3 A Yes.

4 Q And you visited him on occasion; is that correct?

5 A Yes, I did.

6 Q Over the years how many times do you think you  
7 visited him?

8 A Probably about three, four times.

9 Q Okay. Just to back up a page, 155245, the last  
10 half of this page is you commenting on David's  
11 relationships with women, and what impressions did  
12 you form in that regard?

13 A He had no problems with women, like, he's 16 years  
14 old with girls his own age. When they used to go  
15 out on the weekend, the boys together, they would  
16 go out dancing or partying or whatever, but David  
17 was always the one that he would turn around and  
18 make a date, and he would have a date and the  
19 other boys would follow along and they would go  
20 out dancing and, you know, partying. We had  
21 Wednesday night, for example, where it was an  
22 early curfew because we had to work the next day  
23 and they had to be in, I think it was 12 o'clock  
24 or something, and Dave always had a girl that  
25 either from where he worked and talked to her mom,



1 the girl was there and so let's go have a coffee  
2 and, you know, everybody get together and laugh  
3 like 16 year olds do, and he never had any  
4 problems.

5 Q Okay. If we could turn to doc ID 331857, this  
6 appears to be a copy of a letter that Joyce  
7 Milgaard wrote to Gary Young, her lawyer in  
8 Saskatoon at the time, it's dated June 25th of  
9 1981, and the middle of the letter Mrs. Milgaard  
10 talks about meeting up with Howard Shannon and  
11 retaining Tony Merchant. Did you -- did you know  
12 about the intention of Mr. Shannon to help David  
13 Milgaard?

14 A Yes.

15 Q And were you part of that?

16 A Yes.

17 Q And how were you involved?

18 A Well, I talked to Howard and I'm the one that knew  
19 David, Howard didn't know really. He found out,  
20 like, how strongly I felt about David's innocence  
21 and persuaded him that we should be able to do  
22 something as far as financially to -- I think at  
23 the time, if I remember right, was starting to  
24 get, reopen the case, and so I went in half of the  
25 money that he put in because at that particular



1           time I was working for Howard Shannon, my company  
2           was representing his company, and I went in half  
3           to turn around and to help with Tony Merchant.

4       Q       Your recollection is that you contributed  
5           financially as well?

6       A       That's right.

7       Q       And were you involved to the extent of instructing  
8           Mr. Merchant?

9       A       He had asked me for -- he had asked me to give him  
10          information that I knew that could be helpful.

11      Q       Sorry, who had asked you, Mr. Merchant had?

12      A       Yes.

13      Q       All right. If we could turn to doc ID 213479,  
14          this appears to be a copy of a letter that David  
15          Milgaard wrote to his mother, September 3rd, 1992,  
16          and it mentions you, the letter reads:

17               "Howard Shannon & Roger Renaud were up  
18               to see me. I was allowed about 15  
19               minutes in a security booth with Roger  
20               as he was not cleared (yet?!) But I  
21               spoke at length with Howard in the  
22               visiting room."

23      Then again at the bottom of the letter it reads:

24               "Howard also said I have his support in  
25               an all around fashion - parole -



1                   employment and more. He will be up to  
2                   see me in October and Roger even more  
3                   often than that."

4                   Do you recall visiting David Milgaard around this  
5                   time period?

6       A           Where was he at? I can only go by the places he  
7                   was at.

8       Q           That's a good question, and I'm not sure that I  
9                   have the answer for you. You were living in  
10                  Montreal in 1982?

11      A           Yeah.

12      Q           Okay.

13      A           Oh, in Kingston, in Collin's Bay.

14      Q           Yes, I believe that's correct.

15      A           Yeah, I seen him quite often there.

16      Q           And if we could turn to doc ID 012908, Mr. Renaud,  
17                  this is a letter written by you?

18      A           Uh-huh.

19      Q           It's dated April 15th of 1983, and do you recall  
20                  writing this letter?

21      A           Yes, I do.

22      Q           And do you recall the purpose of the letter?

23      A           I believe it's for, was for a parole, his parole  
24                  coming up or --

25      Q           If we turn to the second paragraph, the letter



1 reads, both Mr. Shannon --

2 A Yes, I was.

3 Q Yes, okay. I understand this letter to be an  
4 offer of employment from you to Mr. Milgaard; is  
5 that correct?

6 A That's right, yeah.

7 Q And again, was that part of an effort to assist  
8 Mr. Milgaard, and specifically in connection with  
9 obtaining parole?

10 A That's right.

11 Q And if we turn to doc ID 012907, we have a letter  
12 dated April 20th, 1983 written by Howard Shannon,  
13 and it appears that he too is supporting, or  
14 offering employment for David Milgaard. Do you  
15 recall any discussions with Mr. Howard about this?

16 A Yes.

17 Q And what was discussed?

18 A Well, it had to be discussed because my company  
19 represented his company. If I was to have David  
20 working with me, obviously Howard would have to  
21 agree with it because he would be representing his  
22 company, and being as he was coming out of jail,  
23 for example, we would have to find something  
24 suitable for him to be able to kind of start  
25 slowly getting into and trained into and we



1 discussed helping him through Tony Merchant for  
2 his parole.

3 Q All right. The offer of employment, was that your  
4 idea?

5 A We both agreed. I couldn't have made that  
6 decision just by myself, otherwise it would have  
7 been useless. I had to have Howard's, you know,  
8 okay for it too because I represented his company.

9 Q All right. If we could turn to doc ID 012913,  
10 this is an inmate application for temporary  
11 absence, it's dated March 3rd of 1983 and it's  
12 signed by David Milgaard. It looks like David  
13 Milgaard has written:

14 "I wish to spend the day with my  
15 employer Mr. Renaud and orientate myself  
16 or become established in a halfway house  
17 - possibly Leo's Bays Crossroads of  
18 Montreal."

19 Do you recall -- do you recall being asked or  
20 offering your support for David at this time?

21 A Yes, I do.

22 Q And what was the idea?

23 A Well, for him to kind of integrate back into  
24 society, he couldn't just come into it, so I think  
25 he had steps that he had to take, was prepared to





1 take, like going into a halfway house for a  
2 certain period of time, but all the time knowing  
3 that he had an employment that was waiting there  
4 for him, and being as it was in Montreal, I could  
5 have given time and participated in what he was  
6 doing and helping him out.

7 Q All right. If we next turn to 028340, this is a  
8 Correctional Service Canada document entitled  
9 community assessment and it's dated May 3rd of  
10 1983. The top portion reads:

11 "Please contact Roger Renaud, in Quebec,  
12 to determine the extent of his support."

13 Do you recall being contacted at this time?

14 A Never.

15 Q Is it possible that you were and you've simply  
16 forgotten?

17 A That could be, but I think it would have stuck,  
18 but it didn't.

19 Q All right. The next, if we could turn to doc ID  
20 012900, this document is dated May 10th of 1983,  
21 if we go to the last paragraph -- sorry, this is,  
22 this document is called a progress summary,  
23 appraisal and recommendation, the fourth  
24 paragraphs reads:

25 "Milgaard has applied for U.T.A.s to the



1 home of Mr. Roger Renault. Although the  
2 community assessment failed to address  
3 this question, the Case Management Team  
4 of Art Minion and the writer do not  
5 support this portion of his release plan  
6 either."

7 And again, this is just further documentation  
8 relating to the fact that you were willing to  
9 assist Mr. Milgaard, have him come to your home,  
10 this related to day parole?

11 A Right.

12 Q All right. If I can then refer you to doc ID  
13 028337, this is a record of a parole board  
14 decision, it's dated June 9th of 1983 and it  
15 appears that Mr. Milgaard's request for parole is  
16 denied. If I can point you to the last paragraph:  
17 "His proposed UTA to the home of Roger  
18 Renault is unacceptable in light of the  
19 CIR which has its existence through a  
20 visit to CBI by Renault. At the visit  
21 Renault was found to have contraband in  
22 his possession. Milgaard says that  
23 Renault had put on the jacket of his  
24 brother-in-law and that the contraband  
25 did not belong to Renault. This is a



1 tall tale."

2 Do you recall anything about this incident?

3 A Yes, I do.

4 Q And what is that?

5 A I had gone to visit him, put on a sweater which  
6 had been worn by, like it says, my brother-in-law,  
7 I explained it to him, and when I got in there and  
8 they searched me, they found a little roach of  
9 marijuana in there in the pocket and then they  
10 were going to arrest me and throw me in there with  
11 David and I would never be able to see him again  
12 and scared the heck out of me.

13 Q Was it your intention at that time to bring  
14 contraband?

15 A Not at all.

16 Q If I could refer you to doc ID 120408 at page 30,  
17 this is a transcript of David Milgaard's testimony  
18 at the Supreme Court in 1992. Sorry, if we could  
19 go to 120437, he answers:

20 "A I know for sure that it was in Saskatoon  
21 after the first time I saw the police.  
22 They asked me if I would give a blood  
23 sample and I did so at a hospital. They  
24 actually took me down to a hospital. I  
25 was never arrested at any point during



1 all of this."

2 So David is answering questions about the time he  
3 was questioned by police in Saskatoon, and if we  
4 go to the next page, he says:

5 "A I really don't remember very much except  
6 for the blood sample because I remember  
7 the hospital. I was still working with  
8 Roger. They came to talk to me again.  
9 I think at that point Roger cautioned  
10 me. He said, "If they are continuing to  
11 question you about this, maybe you  
12 should talk to a lawyer." I think I may  
13 have called my mother at that point. I  
14 may be mistaken, but I believe I did."

15 Do you recall?

16 A I recall advising him that if they kept on  
17 pestering him, you know, for just questions, that  
18 yes, he should call his lawyer, should get a  
19 lawyer.

20 Q And do you remember his response to you?

21 A It didn't seem important, it didn't seem that  
22 important at that time, they were just questioning  
23 him and he was free and willing to give whatever  
24 information he had.

25 Q Mr. Milgaard was released from prison in 1992.



1 Did you have any contact with him at that time,  
2 after his release?

3 A Yes, I did.

4 Q And can you recall specifics?

5 A I believe a couple of months after he visited me  
6 in Montreal.

7 Q And if I could turn you, or if I could turn your  
8 attention to document, it's doc ID 218515, this  
9 appears to be a letter written by you dated  
10 September 1st of 1998?

11 A Uh-huh.

12 Q You recall writing that letter?

13 A Yes, I do.

14 Q And it appears to be addressed to Mr. Wolch,  
15 David's solicitor. Were you requested to write  
16 that letter?

17 A No, I wasn't. I did it free will.

18 Q What of the writing of that letter, the  
19 circumstances surrounding that, what do you  
20 recall?

21 A Well, I think he was in the process of  
22 compensation and they just wanted to have some  
23 ideas of what type of money he earned in, back in  
24 the days when he was charged with this, and they  
25 just wanted to know an idea of what type of work



1 he did and how much money that he made, so I just  
2 gave them what I recalled.

3 Q All right. If we could turn to the second page of  
4 that letter, you write:

5 "Throughout the Court case and during  
6 the investigation, even though I  
7 volunteered to the Saskatoon police on  
8 different occasions as to David's  
9 jubilant character, aggressiveness in  
10 sales to better himself and be the best,  
11 and his eagerness to develop short one  
12 night or two relationships with girls  
13 his own age were never taken on record.  
14 They didn't want my two cents, but here  
15 it is."

16 Can you tell me specifically what you were  
17 referring to there?

18 A Well, the feeling of helplessness to turn around  
19 and be able to do something when you know somebody  
20 is innocent and then find out he goes to jail for  
21 the rest of his life and comes out like a  
22 vegetable, it's, you know, just not being able to  
23 do anything, you know. Offering your help, you  
24 know, to -- I don't know what it could have  
25 clarified at the time except let them know what



1 type of person he really was, but why wouldn't  
2 they accept to even listen to see what type of  
3 person he was than just saying he's guilty, and  
4 now they find out he's not, I mean, you know --

5 Q So in this paragraph you are speaking of occasions  
6 where you contacted the police?

7 A Yes. The one in Saskatoon, the one when I talked  
8 to in Winnipeg, they never bothered talking to a  
9 person that's working with him and living with him  
10 24 hours a day on whether he had seen any sign,  
11 any sign that would say that he, you know, he's in  
12 trouble or he's done something.

13 Q All right. So you at no time provided a statement  
14 to the police; that's correct?

15 A That's correct.

16 MS. MONAR ENWEANI: All right. Those are  
17 all my questions for you, Mr. Renaud. There may  
18 be others that have a few for you.

19 BY MS. KNOX:

20 Q Mr. Renaud, my name is Catherine Knox and I'm  
21 acting as a lawyer for the trial prosecutor from  
22 the original prosecution of Mr. Milgaard.

23 A Uh-huh.

24 Q And I have a question for you that's a little bit  
25 off point in some respects, but it has to do with



1 the issue of the problem that you encountered at  
2 Collin's Bay Institution when you were found  
3 wearing your brother-in-law's sweater with the  
4 marijuana roach in your pocket.

5 A Uh-huh.

6 Q You indicated, I believe your language was that it  
7 scared the heck out of you at the time?

8 A Uh-huh.

9 Q And I take it that this was taken as a pretty  
10 serious incident in 1983, albeit in all innocence,  
11 you had gone into the prison with drugs in your  
12 pocket, that it caused a major uproar with respect  
13 to your attendance at the institution?

14 A Yes.

15 Q And would you be in agreement that very likely it  
16 cast a pretty serious shadow over your efforts as  
17 a potential sponsor for Mr. Milgaard, both as an  
18 employer and as a friend with respect to parole  
19 board considerations for releasing him to the  
20 community?

21 A Well, a person has to be reasonable and listen to  
22 somebody else also and when they find -- the drugs  
23 that they found, ma'am, was like this, and it was  
24 my sweater which my brother-in-law had worn and it  
25 wasn't, you know, believe me, you know, let's get





1           serious.

2       **Q**       I appreciate that.

3       **A**       But they did make it sound like it was a big thing  
4               and yes, I felt bad about it and they scared the  
5               heck out of me because never getting the  
6               opportunity to go and see Dave again, if that was  
7               lost to me, I mean, you know -- I mean, it was  
8               just -- and also my position, the job that I was  
9               working, drugs weren't allowed.

10      **Q**       And I'm not meaning to cast any negative  
11               aspersions on you, my only point is that the  
12               reaction of the prison authorities was pretty  
13               extreme?

14      **A**       Very.

15      **Q**       And logically you would expect that it would have  
16               filtered through the prison authorities to the  
17               assessments for the parole board in terms of your  
18               bona fides as a supporter for him on release?

19      **A**       It did, but it shouldn't have.

20      **Q**       It shouldn't have, but the fact is that it did?

21      **A**       Yeah.

22      **Q**       And you know that to be the case?

23      **A**       Yes.

24                       MS. KNOX:   Thank you.

25      **BY MS. McLEAN:**



1       Q       Sir, my name is Joanne McLean, I'm counsel for  
2               Joyce Milgaard. I don't really have any questions  
3               for you, I simply want to thank you very much on  
4               behalf of the Milgaard family for the efforts that  
5               you've made.

6       A       That's no problems. Thank you very much.

7               COMMISSIONER MacCALLUM: Thank you very  
8               much, Mr. Renaud. You are excused.

9       A       Thank you.

10              MR. HARDY: That was our last witness for  
11              the day, Mr. Commissioner. We can adjourn.

12              COMMISSIONER MacCALLUM: Yes.

13              (Adjourned at 3:37 p.m.)  
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