

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
Delta Bessborough Hotel at
Saskatoon, Saskatchewan

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Volume 107

Inquiry Proceedings



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Transcript of Proceedings

(Reconvened at 9:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

ALL COUNSEL: Good morning.

PETER CARLYE-GORDGE, continued:

BY MR. HARDY:

Q Good morning, Mr. Carlyle-Gordge.

A Good morning.

Q Just one point of follow-up from yesterday. We had been speaking of the orange notebook that you had had in your possession as I understand it that contained notes by David relating to his recollection of events on June 31st, 1969, there around, and I didn't ask you, do you know what happened to that notebook?

A As far as I can recall, I gave it back with a lot of documents to Mrs. Milgaard.

Q Okay.

A I've looked around. I don't have it.

Q The next document I wanted to bring your attention to is a transcription of a discussion you had with Father Murphy, we mentioned this briefly yesterday. Do you recall having at least one discussion with Father Murphy?

A I think there were two at least, yeah.



1 Q Okay. And I think I asked you yesterday as well,
2 but do you recall when one of those discussions at
3 least happened or when those discussions were
4 taking place?

5 A I would guess '81 or two.

6 Q And do you recall going into that interview why
7 you wanted to speak with Father Murphy?

8 A Well, I knew he was the parish priest and he knew
9 the family, he had some connections, and I knew he
10 had some role in, connected with Albert Cadrain in
11 telling him he should go and tell whatever he knew
12 and there was a reward, I knew there was some
13 connection to the reward.

14 Q And we're going to --

15 A Yeah.

16 Q We're going to see some of that in the
17 transcription, but just in terms of having that
18 knowledge ahead of time that Father Murphy might
19 know something about Albert, do you recall how you
20 were aware of that?

21 A Not offhand.

22 Q Okay. Let's take a look at the transcription,
23 it's document ID 048529, again it's undated, we're
24 not certain when this took place, although I do
25 believe from the context we can gather that it was



1 prior to any discussion that you had with Albert
2 which we will also see took place a little bit
3 later in time, but in any event, in summary you
4 begin by asking Father Murphy about the Lorne
5 Mahar case?

6 A Right.

7 Q And do you recall having an interest in discussing
8 that matter with him at the time?

9 A Yeah, vaguely, yeah.

10 Q Okay. If we turn to page 048532, at the top of
11 the page you begin to make some inquiries about
12 the Gail Miller murder, and down the page, this
13 portion, Father Murphy indicates:

14 "Yes, I new ah some of the people
15 involved in that."

16 A Uh-huh.

17 Q And then at the bottom of the page he states:

18 "Well, they weren't directly involved
19 but ah, one of the boys who became an
20 accessory..."

21 You say yes. Father Murphy:

22 "...and he travelled with these people
23 to Calgary, I think as they went after
24 ah, they had performed this murder."

25 Yourself:



1 "Wa, would that be Cadrain, Shorty?"

2 Father Murphy:

3 "Yes."

4 Yourself:

5 "Shorty Cadrain."

6 Father Murphy:

7 "Yeah."

8 Yourself:

9 "I don't suppose you know where he is
10 nowadays?"

11 Father Murphy:

12 "Well his parents are still in
13 Saskatoon."

14 And again, is it your recollection, Mr.
15 Carlyle-Gordge, that you were aware ahead of time
16 that Father Murphy may have knowledge on Albert
17 Cadrain?

18 A Oh, yes, yeah, I did know there was a connection,
19 possibly with both cases.

20 Q And you just can't be certain though how you knew
21 he may have that connection?

22 A I can't think right offhand, no.

23 Q Turn to page 048535, Father Murphy states:

24 "And ah, I, well I, threw some contacts
25 I had, I, I found out Wil Cadrain was



1 ah, drawn into it and ah, but he was ah,
2 free and ah, and I know that possibly I
3 could help the kid so I, I called him
4 and had a talk with him and ah, and
5 advised him to go to the police with the
6 information that he had."

7 A Uh-huh.

8 Q Yourself:

9 "Right."

10 Father Murphy:

11 "Ah, because he had a chance to ah, come
12 in on the reward."

13 And was this news to you at the time, that Father
14 Murphy had perhaps advised Albert to go to see
15 the police with the information that he had?

16 A I don't think it was completely new. I think I
17 was interested in this reward because I was
18 looking for a motive, why did -- by this point I
19 probably decided based on my analysis that none of
20 this stuff happened, they didn't get stuck, there
21 was no blood on the pants, so I was looking for
22 motives and interested in the reward. I have a
23 feeling that even before I phoned him, though, I
24 had a suspicion that he may have got the reward
25 and I wanted to know for sure who got the reward,



1 yeah.

2 **Q** And as I read this paragraph initially, it seems,
3 at least at the outset, that Father Murphy is
4 suggesting that not only did he advise Albert
5 Cadrain about the reward, but that he actually
6 advised him to go to see the police with whatever
7 information he had?

8 **A** Yeah, that's the way it reads, although I know at
9 some point I talked to Albert's brother Dennis who
10 I found to be very open about this and there was
11 some confusion about who first persuaded him to go
12 to the police and I seem to remember that when he
13 first came back to Saskatoon after he had been on
14 a trip, I think the family had talked about, oh,
15 you don't know what you missed, there was this big
16 murder, possibly his mother, and his brother
17 Dennis, certainly they talked to each other that
18 night and I think Dennis said, well, he told me
19 about this blood and I said you should go to the
20 police, so precisely who eventually told him,
21 well, you better go down to the station and talk
22 about it, I'm still not positive, but what I
23 suspect is that Dennis and Albert did have this
24 long conversation and that there was some talk of
25 this blood thing in the family and probably the



1 parish priest heard about stuff and maybe said,
2 well, you know, there's a reward, you know, so
3 precisely who did what, I'm not positive.

4 Q Okay. And perhaps that answers some of the
5 following questions that I had. We know in later
6 years that Father Murphy was contacted again
7 respecting his information on this matter, he
8 spoke to the RCMP in 1993, and although there
9 seems to be confusion during your discussion with
10 him, he confirms later in time that in fact it was
11 advice to Albert to go and seek the reward for his
12 involvement as opposed to actually advising Albert
13 to go to see the police.

14 A That makes sense.

15 Q Now, from your discussion it sounds like you had
16 reconciled perhaps that same conclusion following
17 other discussions with Dennis as well?

18 A Yeah, I found Dennis very helpful, yeah.

19 Q Okay. So you don't recall being left with an
20 impression from Father Murphy that perhaps Albert,
21 as opposed to going in on his own or through
22 discussions with Dennis, had actually been told by
23 Father Murphy to go to the police with his
24 information?

25 A I think it was to do with the reward, yeah.



1 Q Okay. There's a second discussion with Father
2 Murphy, again undated, I don't think we need to
3 look at that given what you've told me, but I will
4 note the page ID where that second discussion
5 takes place, it's at 048542.

6 The next document I'll bring
7 your attention to, Mr. Carlyle-Gordge, is
8 correspondence to Tony Merchant from Joyce
9 Milgaard, the document ID is 219484, you'll see
10 it's a letter to Mr. Merchant from Joyce Milgaard,
11 I won't show you the last page, but it indicates
12 it is from Mrs. Milgaard, and you'll note in just
13 the first paragraph here -- the letter is undated,
14 but it states:

15 "For over two years now we have been
16 doing our best to go over my son's case
17 and try to have it reopened. David is,
18 frankly, depressed about the progress,
19 as am I. We seem to have reached an
20 impasse and I think it urgent that we
21 draw up a timetable of action before
22 things drift further."

23 And as the paragraph continues, there's some
24 indication that there's still attempts to contact
25 Nichol and have her co-operate -- if we move into



1 the second paragraph -- there are still ongoing
2 attempts to try to find Albert Cadrain as well,
3 and at the very bottom of the page, Ute Frank
4 again is mentioned. If we can move to the next
5 page. The letter states:

6 "After Christmas I would like to come
7 out and see you again, with Peter
8 Carlyle-Gordge, who is equally anxious
9 to trace Cadrain and devise ways of
10 persuading him to talk."

11 And if we move to the next page, it states:

12 "Peter Carlyle-Gordge is quite willing
13 to use his journalistic talents at the
14 right time to help in any way possible,
15 but first I think we must exhaust all
16 other avenues of tracing people and
17 getting things moving."

18 And I think, I know that Mrs. Milgaard mentioned
19 Christmas, and perhaps that's Christmas of 1982,
20 I'm not sure if we can put a definite date on
21 this correspondence, but in terms of that last
22 portion that I read to you, do you know what's
23 being referred to in terms of use of your
24 journalistic talents at the right time?

25 A Well, I think, you know, if, I think she's



1 referring to the fact that if we had access to a
2 lawyer and some tracing agency, that might be
3 faster than me spending a lot more time. That
4 probably refers to the kind of thought I was
5 giving to all the people that I thought were
6 important to the case on how the best approach
7 would be made, you know, should she go and see
8 them, should a lawyer go and see them, should
9 there be a conference call or should I go and see
10 them.

11 Q And it seems to me, and again you can't speak for
12 Mrs. Milgaard obviously, but it seems to me that
13 something beyond what you had been doing to this
14 point in time is being considered here in terms of
15 the mention of the use of your journalistic
16 talents. Do you have any idea what that might be?

17 A Well, I was certainly anxious to gather as much
18 information as I could as a journalist and I don't
19 know what date this letter is exactly. I was
20 certainly leaning on the side of innocence at this
21 point I think.

22 Q Okay.

23 A That's all I can tell you really. I don't
24 remember that.

25 Q No, fair enough. If we move next to document



1 219511, you'll see it's a letter dated January
2 20th, 1983 from Tony Merchant to Mrs. Milgaard,
3 and in the first paragraph it looks like he has
4 obtained --

5 A Right.

6 Q -- a locate for Albert Cadrain. This follows
7 again I think the correspondence that I just
8 mentioned to you, and as well perhaps for
9 reference sake I'll show you 216082. You'll see
10 the letter we had just looked at was January 20th,
11 '83, this one is January 18th, 1983, Empire
12 Tracing writing to Tony Merchant and advising
13 respecting a locate for Albert Cadrain.

14 A Uh-huh.

15 Q We'll move next to 332584, you'll see it's
16 correspondence dated February 16th, 1983 from Mr.
17 Merchant to Joyce Milgaard indicating a locate as
18 well for Nichol Demyen in Qu'Appelle,
19 Saskatchewan?

20 A Uh-huh.

21 Q And I won't turn to it, but there's, similarly, an
22 Empire Tracing correspondence to Mr. Merchant with
23 respect to that location, and that document ID is
24 216086. And then if we turn to 048447 it appears,
25 Mr. Carlyle-Gordge, that the next thing that



1 happens is that you attend in Dalmeny to meet with
2 Albert Cadrain?

3 A Uh-huh.

4 Q And do you recall that meeting with Mr. Cadrain?

5 A Yeah, vaguely, yup

6 Q Do you recall, did you call him ahead of time, or
7 how did you decide to approach that?

8 A I think we just turned up, as far as I remember.
9 I had a friend in Saskatoon and I asked him to go
10 with me, the unknown male referred to. Yeah, I
11 think we showed up.

12 Q And who was the unknown male?

13 A His name is Richard Shirray, and he was married to
14 a lady I used to know a long time ago at the *Free*
15 *Press* called Linda Lee, and I know I stayed with
16 them a couple of times on my visits out here. And
17 I think she actually worked for federal
18 corrections at the time, which seems kind of
19 ironic, looking back.

20 Q Okay. And you are going to need to bear with me.
21 I'm going to try and help us figure out the timing
22 of some of these meetings, and I'm going to
23 suggest to you that this interview took place on
24 February 18th, 1983, and perhaps briefly we can
25 bring up a document 230185. It's actually a scan



1 of a tape, you will see Cadrain, Dalmeny, February
2 18th, 1983, which fits with this transcript. And
3 again, to keep this time frame in mind, I can also
4 advise you that this was a Friday, and do you
5 recall what your mindset was going into this
6 meeting with Mr. Cadrain?

7 A Hmm. Well obviously I wanted to know if he had
8 changed his mind in any way, if -- I would have
9 wanted to ask about the blood in particular I
10 think. I had never met him and I guess I wanted
11 to just find out what he was like, what he felt
12 about David Milgaard, was he still convinced about
13 it, that kind of thing.

14 Q And from all that you had learned about him up to
15 this point in time what were you anticipating?

16 A I was quite nervous, actually. I didn't really
17 know what to expect. I know I tried to contact, I
18 seem to remember I talked to his mother several
19 times, and they were kind of protecting his
20 whereabouts I remember, and I think I may have
21 written to him and sent the letters to her because
22 she said she would pass them on, something like
23 that. That was a past attempt to find him.

24 What did I anticipate? Hmm.

25 Well, you know, my best wish list would have been



1 if he said "well it might not have been blood", or
2 something like that, but, umm, just from reading
3 things on the page I wouldn't have expected him to
4 be completely normal.

5 Q I'm sorry, completely?

6 A Normal.

7 Q Okay. And that was from your reading?

8 A Just my general reading of the preliminary
9 hearing, stuff like that. I can't remember dates
10 as to when I talked to his brother and he -- it
11 may have been prior to this in fact, and certainly
12 he said, 'well, he never was quite normal', or
13 words to that effect, and what happened to him
14 with the trial and the police picking him up every
15 day and keeping him for hours on end, and that
16 went on for a long time, his brother suggested
17 very definitely that that had really, I can't
18 remember the words, screwed up his mind anyway, so
19 --

20 Q Okay. And we will look at that, and I know it's
21 tough to look back and consider when the timing of
22 all this was.

23 A Yeah.

24 Q I think the meeting with Dennis might have been
25 after this discussion with Albert --



1 A Okay.

2 Q -- but, in any event, we'll review that.

3 A Okay.

4 Q And we've listened to this tape previously,
5 Mr. Carlyle-Gordge, and would I be correct that
6 you have had a chance to review the transcript of
7 this discussion?

8 A I will have read it once, probably, yeah.

9 Q Okay. And do you have any concerns with the
10 accuracy of the account of the discussion as it
11 took place?

12 A No.

13 Q I do want to bring your attention to a few
14 portions. Turn firstly to 048448, and that's at
15 the previous document, 048447. Sorry, 048448.
16 Oh, okay, you are using a different document?
17 Okay, that's fine. And you mentioned at the top,
18 and this is just the second page of the
19 transcript, you've just spoken briefly with
20 Albert?

21 A Right.

22 Q And you state:

23 "Ah, I'm doing a book on four murder
24 cases, ..."

25 A Uh-huh.



1 Q "... one of them is the Gail Miller
2 case. And what I've been doing is
3 interviewing some of the people
4 involved."

5 A Right.

6 Q And do you recall making this representation to
7 Mr. Cadrain?

8 A Oh yeah, I'm sure I did, yeah.

9 Q And, at this point in time, was this still your
10 intention?

11 A It was one of the intentions, that I would at one
12 point do a book.

13 Q Okay.

14 A Yeah.

15 Q And I state that in large part because we had seen
16 that you completed the essay on the Winnipeg eight
17 book?

18 A That wasn't the book, though.

19 Q Okay.

20 A That was a -- that wasn't specifically an essay
21 about the *Milgaard* case, although it's in there,
22 that was the history of Joyce Milgaard from 1930
23 to 1982. It was a biography. Although this case
24 was the first opportunity I had to bring up this
25 case, and of course we were both involved with it,



1 so it was part of her biography at that time.

2 Q So I --

3 A So this would be a separate idea I had.

4 Q You are still contemplating a book at this point
5 in time?

6 A Umm, yeah. I was not keen to do it immediately,
7 but I thought I might, yup.

8 Q Would your --

9 A And I had huge amounts of material on the *Katie*
10 *Harper* case, which I hadn't done much with either,
11 so --

12 Q Would your primary attention though at this point,
13 in terms of contacting Albert, be not so much
14 thoughts of the book but --

15 A Uh-huh.

16 Q -- an attempt to gather information from Albert
17 relating to the case?

18 A Yeah, it would be research to find out what Albert
19 Cadrain was all about, sure.

20 Q And would this then, in terms of this
21 representation, would this be your thought on how
22 you might better be able to get --

23 A Yeah.

24 Q -- Albert to talk?

25 A Yes, yup.



1 Q If we turn to page 048455, I'm sorry, I don't have
2 your document ID, I hope that -- it's 048455, the
3 page number is page number 9. And, just in
4 summary, you ask how Albert came to know David
5 approximately mid-way through the page, and he
6 mentions that he met David in Calgary at the Java
7 Espresso?

8 A Uh-huh.

9 Q If we move to the bottom of the page Albert
10 states:

11 "You know I tell you the mafia, there's
12 things I, I could, I could tell you, the
13 mafia, they tried to kill me, in
14 Regina."

15 A Uh-huh.

16 Q You state:

17 "What was it to do with the drug place?"

18 Albert:

19 "No, it was to do with Milgaard. He was
20 in the fucking mafia right up to his
21 ears."

22 A Uh-huh.

23 Q Do you recall Albert providing this information to
24 you.

25 A Oh yes, yeah.



1 Q And what was your impression of Albert and this
2 information that he was giving to you?

3 A Well, you know, right back when I first read the
4 preliminary trial thing, that is the thing that
5 jumped out at me, this Mafia deal. So what this
6 showed to me was it wasn't good news, it showed to
7 me that his belief had, if anything, intensified
8 in the last 12 years since he gave evidence. So
9 that obsessive thinking, that there was a Mafia
10 conspiracy, and I think later on he talks about
11 judges and policeman and even Nichol John, all
12 these people being involved in the conspiracy, it
13 just showed that his delusional state was, if
14 anything, worse.

15 Q Okay. I'll turn to 048556. Oh, it's page -- I'm
16 sorry -- page 11. I'll read this portion to you.
17 Albert states:

18 "Yeah and another thing is, he used to
19 take thirteen year old girls in, when he
20 was that age, into the bath tub and he
21 used to get 'em stoned on something, I
22 don't know what and he used to break
23 their virginity and he used to laugh at
24 them and he, he was possessed. As far
25 as I'm concerned, he is possessed by the



1 devil. Okay. But we were kids. Okay."

2 Do you recall receiving this information from Mr.
3 Cadrain?

4 A Absolutely, yes.

5 Q And did you have similar thoughts as you've just
6 described to me, and reaction?

7 A Yes.

8 Q And what do you recall, can you give us a sense of
9 Albert's physical self and manner during the time
10 that you were talking to him on this occasion?

11 A Umm, I seem to think he was quite short, I'm short
12 myself, he was short. Umm, this was a
13 conversation I couldn't steer or control, that was
14 the impression I got, because he would get away
15 from subject matter and go rambling on about
16 Calgary and drugs, and he seemed to have an
17 obsessive interest in popping virgins and sex,
18 which that came out. His manner was, umm,
19 disjointed I think, you know, rambling, but there
20 was no way you could kind of interrupt him once he
21 started on, so I kind of just went along and let
22 him talk, you know. I tried to steer it back from
23 time to time, but I was quite happy to let him
24 just talk, because I might learn something new.

25 Q Turn to page 048459. Now I won't read all of this



1 to you, and again we've listened to it previously,
2 but at this point Albert begins to talk of a
3 friend of his, Leonard Gorgchuck, --

4 A Uh-huh.

5 Q -- and he offers a theory on how the murder may
6 have happened, and he includes in this theory
7 discussions relating to a trip to Regina, some
8 pictures being taken by his friend Leonard
9 Gorgchuck, a run-in with the Mafia and a run-in
10 with a motorcycle gang as well, and I assume
11 you -- do you have some recollection of this
12 information as it was provided by Mr. Cadrain?

13 A Yeah, vaguely, yeah. It got very confusing, I
14 think for me anyway.

15 Q And do you recall whether you were believing
16 anything that Mr. Cadrain had to tell you in this
17 respect?

18 A Well, I thought some of it should be checked out,
19 but I don't -- I think I had already done some
20 checking into David's character and whether he had
21 any serious sexual offences in his past, for
22 instance, so let's say I took all of this with a
23 huge, huge lump of salt.

24 Q Okay.

25 A Yeah.



1 Q And Albert continues on with the same sort of
2 discussion, and I won't read those portions
3 specifically to you, but -- and maybe you have
4 been describing this for us; you don't seem to
5 have any pointed questions for him?

6 A No.

7 Q And was it your decision, then, to just sort of
8 let him speak?

9 A To let him ramble on and try to steer it back. I
10 think what he was doing here, if you look at it
11 closely, it's -- now that I look at it he is kind
12 of demonising Milgaard, which is what happened to
13 Milgaard I think, and I think he's somebody that
14 was delusional and he saw things in black and
15 white. I know he had hallucinations at various
16 times. He, at some point he had talked about
17 seeing a serpent with David's head on it, at some
18 point -- and I can't tell you precisely where I'm
19 speaking from -- he saw colours around David that
20 told him he was a murderer. So there was a lot of
21 really irrational nonsense going on, but I think
22 he saw David as some kind of evil person, and all
23 this stuff about the way he treated women, I took
24 it with a big grain of salt, because that's not
25 the impression I got from talking to people who



1 worked with David.

2 Q Okay.

3 A He was popular and he was very persuasive and he
4 did have the gift of the gab, but that's a bit
5 different to what, what's being opened up here.

6 Q We'll turn to page 29 of this document. Albert
7 starts near the bottom of the page:

8 "Now, I don't know, this shit like this
9 never came out in the paper, they hid a
10 lot of stuff. Let me tell you. The
11 story is I don't know Ron Wilson knew
12 anything, I knew I knew nothing. But
13 Nicole John sure did. She must have and
14 I'll tell you why."

15 Yourself:

16 "Uhhmm. "

17 Albert:

18 "She was so freaked out on that trip,
19 okay. "

20 Yourself:

21 "Uhhmm. "

22 Albert:

23 "She was so scared of everything. She
24 clung on to me like a little lost mouse
25 because Milgaard was scared of me. I



1 was stronger than him, maybe I wasn't I
2 don't know. He always wanted to arm
3 wrestle with me or test me out, check me
4 over eh."

5 Yourself:

6 "Uhhmm. "

7 Albert:

8 "And ah, but as soon as I got in that
9 car she was my girlfriend. I didn't, I
10 didn't even care for her but, she, she
11 stayed by me. And she was scared of
12 that guy. Everytime he looked at her
13 she'd just freaked out."

14 And do you recall receiving this information?

15 A Yes.

16 Q And, again, did you believe Albert's account that
17 Nichol was afraid of David during the trip?

18 A No.

19 Q Okay. And I know there is a reference, and I'm
20 not going to turn to it, but in the notebook that
21 we had referred to previously I think David had
22 given an indication that he was perhaps somewhat
23 upset with Nichol getting together with Shorty
24 Cadrain on the trip, and he knew ahead of time
25 that Nichol became frightened when he drove in a



1 wild manner, and he intentionally drove in that
2 fashion --

3 A Uh-huh.

4 Q -- and thought that he may have frightened Nichol.
5 Do you recall considering that information or --

6 A I think Roger Renaud, or somebody I interviewed
7 who had worked with Milgaard had talked about that
8 kind of stuff, that he took a car once and he was
9 a bit wild. Umm, the question is what, is do I
10 recall?

11 Q I'm wondering, the first question was whether you
12 believed Albert's account that --

13 A That she was terrified?

14 Q -- Nichol appeared to be scared of David during
15 the trip?

16 A No, I think he is self-dramatizing in this area.

17 Q Okay.

18 A And I think there's some kind of sexual jealousy
19 going on at some point too. I have my own theory
20 about Mr. Cadrain, but --

21 Q And if we could turn next to page 31. And is that
22 theory that you have just mentioned beyond what
23 you have been describing for me already?

24 A Umm, to some extent. I mean I think you've got to
25 take into account that he was, I think he was



1 mentally ill, and he was subject to illusion or
2 delusions, and I think my impressions was that he
3 had a weak personality, and he liked to
4 self-dramatize, and there was a certain amount of
5 narcissism involved.

6 But if you look at the
7 background of the two -- and, actually, this is
8 the meeting where, towards the end, he does go
9 into some detail about some interesting things
10 about David's past. Albert had been in the
11 Milgaard home, he had met Mrs. Milgaard before,
12 before the murder, and I think he was jealous of
13 David Milgaard. And the reason I say that is his
14 impression -- and I think it's in this
15 interview -- was that David had been spoiled,
16 spoiled by his mother, and tended to get his own
17 way and what he wanted; whereas Albert, if you
18 look into his background, and I think Dennis
19 talked about some of it, kind of had a chip on his
20 shoulder. He had wanted to have, I think, music
21 lessons and he couldn't, and people baked, he had
22 a large family, the mother baked birthday cakes
23 and made a fuss on the birthdays but not on
24 Albert's birthday, so I think there was an enmity
25 there at a very deep level.



1 And another thing that's come up
2 more than once is that David, when he was 17, had
3 an incredibly innocent look about him and he was
4 very, how can I put this, very extroverted and
5 could be very popular, and I think, I think there
6 was some resentment at some subconscious level
7 here.

8 Now what's very important,
9 towards the end of this -- I'll just quickly do
10 it -- he talks to me about being at the trial and
11 the look on David Milgaard's face which said 'oh,
12 you'll save me buddy, you know, you are my buddy,
13 you'll tell the truth', and Albert is almost
14 taking a perverse pleasure, when he is talking to
15 me, in saying 'but I didn't save him, did I, and
16 you should have seen the look on his face' -- I'm
17 paraphrasing -- 'when he realized that wasn't
18 going to happen'. That's my theory.

19 Q And was that a thought process that was ongoing at
20 the time, at this time?

21 A No, no, it's -- to round that out, it's later than
22 this, but --

23 Q Okay.

24 A -- yeah.

25 Q Let's turn to page 31 of the document, start



1 reading. You ask:

2 "Now when he came that morning, you saw
3 blood on him. Can you tell me about
4 that?"

5 Albert:

6 "Well ..."

7 Yourself:

8 "... Did he have it on his hands too?"

9 Albert:

10 "Milgaard was a, like I said before, he
11 was smart. He must have been smart
12 because by the time they found the car
13 they didn't find any traces in the car
14 ..."

15 Yourself:

16 "... I know. There was no trace in it.

17 Albert:

18 "He was smart. I never seen no blood on
19 his hands and if I did, like, it's a
20 long time eh."

21 You state:

22 "Uhhmm?"

23 Albert:

24 "But I know there was blood on his
25 clothing. He had to get it changed."



1 You state:

2 "Right."

3 And there's some reference throughout to Albert's
4 observation of blood on the clothing. The one
5 thing I noted is you didn't seem to pursue this
6 with him to any great extent, and perhaps what I
7 am thinking is you didn't seem to ask Albert
8 "could it have been some other substance, is it
9 possible you didn't see blood", and I'm just
10 wondering what your mindset was in terms of
11 approaching this bit of information that Albert
12 had at the time?

13 A Hmm. That's a good question after all these
14 years. Umm, I had the distinct impression very --
15 he was being evasive anyway and, you know, he
16 would have went off in some other direction. Umm,
17 that would have been a good question to say "could
18 it have been brake fluid or transmission fluid or
19 Kool-Aid or something". It's not there, I don't
20 know what was in my mind, I was basically letting
21 him talk. That's all I can tell you.

22 Q Okay. The next page, 32, I won't read that to you
23 but Albert talks of David breaking the aerial on
24 the vehicle on the way out of Saskatoon; do you
25 recall receiving that information?



1 A Yes.

2 Q And at page 34 Albert talks about David throwing
3 the compact out of the vehicle, and he goes on to
4 speak of David wanting to review newspapers in
5 Calgary or Edmonton, and Albert thinking that this
6 was significant after the fact. Do you recall
7 receiving that sort of information from Albert?

8 A I do, and at some point I found a problem with it,
9 I don't know when, but I came to understand at
10 some point, maybe through Ron Wilson, that in fact
11 the radio didn't work in that car, therefore this
12 couldn't be true anyway.

13 Q Okay. And did you just say you think you gathered
14 that from Ron Wilson, that information?

15 A I'm guessing, I really am.

16 Q Okay. Turn to page 37, Albert is speaking here in
17 relation to his dealings with the police, he
18 states:

19 "But we, we, ah, they worked me over boy
20 I'm telling you. I was in that, that
21 police station, that little room there
22 and they worked me over, boy. They
23 questioned me and showed me pictures and
24 oh man it was freaky. They worked me
25 over."



1 A Uh-huh.

2 Q You state:

3 "You see I talked to Nicole and she said
4 that, she more or less said she was
5 forced to make a statement. That's what
6 she said. That's why she retracted it
7 in court. She was saying that she
8 didn't see it what she said she saw ..."

9 Albert:

10 "... Well ..."

11 You state:

12 "... And she said the police kept her
13 locked up over night and gave her the
14 third degree."

15 Albert:

16 "I believe it. Oh I believe it yeah.
17 They have to."

18 You state:

19 "Uhhmm. "

20 Albert:

21 "Something like this is serious."

22 You state:

23 "But she really doesn't remember seeing
24 anything. Like seeing him stab a
25 women. "



1 And at this point in time would I assume
2 correctly that you were perhaps stating what your
3 suspicions were in relation to Nichol John as to
4 the --

5 A Absolutely. There's some creativity involved in
6 that statement.

7 Q And what was your intention in terms of using that
8 creativity at this point?

9 A Well I was just trying to draw him out more and
10 more, and get him talking about it, so literally I
11 hadn't, of course, had a detailed discussion with
12 Nichol John.

13 Q Okay. And you thought perhaps that, by advising
14 that Nichol had been perhaps forced to make her
15 statement, that Albert might be more willing to
16 implicate the police in terms of --

17 A Well I --

18 Q -- his own information?

19 A I just wanted to know what he thought about it.

20 Q Okay.

21 A Yeah.

22 Q We'll turn to page 41, full page. There's some
23 mention, I won't read this portion to you, but
24 there's some mention of Albert speaking of Kenny,
25 his younger brother Kenny at the time, and Albert



1 indicating that Kenny remembers everything and
2 that he remembered -- or remembers seeing blood on
3 David Milgaard. Do you recall considering
4 potential information from Kenny Cadrain at the
5 time?

6 A Yeah, I think I -- umm, seems to me I asked Dennis
7 who else could have seen anything.

8 Q Okay.

9 A This doesn't ring a big bell though.

10 Q Okay.

11 A No.

12 Q Do you recall any attempts to contact Kenny
13 Cadrain or discussions with Kenny?

14 A I don't, no, no.

15 Q Okay. And we know as well I think, and you will
16 probably recall, Celine Cadrain was home on the
17 morning in question --

18 A Yeah.

19 Q -- and perhaps had some information; do you recall
20 attempting to contact Celine or having any
21 discussions with her?

22 A I think I talked to Dennis about that.

23 Q Okay.

24 A Yeah.

25 Q But no recollection of direct dealings with



1 Celine?

2 A No, no.

3 Q If we turn to page 44, starting here, again
4 there's some discussions about the police, you
5 state:

6 "Yeah. Yeah. Now when you went to the
7 police, uhm, did they believe you, first
8 of all? What did you tell them?"

9 Albert:

10 "No they didn't."

11 You state:

12 "You told them what you had seen?"

13 Albert:

14 "They were nice to me until they got me
15 in the cop shop and then they, then they
16 worked me over boy. The didn't believe
17 a word I said. They probably did, but
18 they were trying to find out everything.
19 And they did. You know. Crap. They
20 put me through the mill I'll tell ya."

21 You state:

22 "Did they ever suspect you?"

23 Albert:

24 "Oh ya."

25 You state:



1 "Because she lived near there?"

2 Albert:

3 "Oh ya. Of course they did."

4 You state:

5 "Did they accuse you at any time?"

6 Albert:

7 "In, inside there?"

8 You state:

9 "Yeah?"

10 Albert:

11 " Oh ya, of course they did."

12 And do you recall receiving this information from
13 Mr. Cadrain?

14 A Yes I do, yeah.

15 Q And did you believe it?

16 A Actually, yes.

17 Q And was this information significant, in your
18 mind?

19 A Well, I was still trying to fill in the big
20 picture, and I think it's fairly significant that,
21 you know, he went to them first, he opened up the
22 case, and they didn't believe him. And the other
23 thought I had, actually looking at this whole
24 section, was he seemed to use the words "David was
25 so smart", and that gets back to my theory that he



1 really felt inadequate in some way to David
2 Milgaard, because he wasn't very smart.

3 Q In terms, though, of this portion that I have just
4 read to you; did that information fit with your
5 theory at the time?

6 A Oh, probably, yup. Yeah. What I knew was that,
7 you know, the chief Crown people, not including
8 Cadrain, I knew at this point, obviously, that
9 their first statements -- I'm talking about Nichol
10 John, Wilson, David -- when they first gave
11 statements they were all uniform in that nothing
12 had happened, they later changed, Wilson and
13 Nichol's wit -- statements changed to implicate
14 Milgaard and to play a part in the role in
15 convicting him, my question was how could they
16 change that much, so this does tie in to some
17 degree with the whole relationship between Crown
18 witnesses and the police.

19 Q Okay. Turn to page 51. Just at the bottom of the
20 page, Albert states:

21 "... Well what is also freaky,
22 Mrs. Milgaard's from Winnipeg and she
23 probably says now listen you wanna make
24 yourself ten grand, eh?"

25 You state:



1 "No I'm not making ten grand."

2 Albert:

3 "Yeah. No it doesn't matter."

4 You state:

5 "I have ID by the way if you want me
6 to."

7 Albert:

8 "Na, it doesn't, simply doesn't matter."

9 What ID would that have been that you would have
10 had at that time?

11 A Umm, I don't know. I didn't actually have a
12 Maclean's card or anything like that.

13 Q Okay.

14 A But, you know, I think this whole period was
15 walking on eggshells, as I have said earlier. I
16 didn't want a connection made between me and
17 Mrs. Milgaard, so we're getting -- sorry -- we're
18 getting close to it.

19 Q Okay. And I think there's mention on this page of
20 the Rick Shirray that you have identified for us
21 previously as well?

22 A Uh-huh, yup.

23 Q If we turn to page 62, and you start:

24 "Right. Well Nicole is certainly scared
25 still I know that and that could be for



1 several reasons."

2 Albert:

3 "She is ..."

4 You state:

5 "... Could be for several reasons."

6 Albert:

7 "She's. Is she married or anything?"

8 You state:

9 " Yes, she got married, in fact she's
10 separated?"

11 Albert:

12 "Oh."

13 You state:

14 "Her last name is (Dennion ...",

15 Albert:

16 "I don't know."

17 You state:

18 "But ah, she's says she doesn't remember
19 seeing any, do anything and that's why
20 she retracted the statement and the
21 police had really given it to her ...",

22 Albert:

23 "... Ah ..."

24 You state:

25 "... And made, made her sign it



1 basically?"

2 Albert:

3 "Yup. I'll tell ya, I wouldn't try to
4 ah, I wouldn't try to protect her ..."

5 You state:

6 "... She, she was the eye witness too."

7 Albert:

8 "Is that right?"

9 You state:

10 "Well according to the statement which
11 she was (unintelligible)."

12 Albert:

13 "Yeah."

14 You state:

15 "Yeah."

16 Albert:

17 "Well you know, I'll tell you. I'm,
18 I'd, I'd stake my life on it she must
19 have seen something because..."

20 You state:

21 "... Uhmmm ..."

22 Albert:

23 "... She's just too scared to talk."

24 You state:

25 "That could be."



1 And I think maybe we've covered it, but was it
2 clearly your view at the time,
3 Mr. Carlyle-Gordge, that the police had made
4 Nichol John sign the second implicating
5 statement?

6 A Umm, basically, yes.

7 Q Okay.

8 A Yeah, yes, that she'd been intimidated to the
9 point where she did.

10 Q And do you remember, after all of these
11 discussions with Albert, Albert remaining
12 convinced that Nichol had seen something that
13 morning?

14 A Hmm. I think he was convinced of his own beliefs,
15 basically. He was kind of -- I think there was
16 kind of a wall around him.

17 Q Okay. Turn to page 65. Just mention, at the
18 bottom of the page Albert indicates that David
19 actually menaced him with a knife at one point, I
20 believe in Calgary; do you recall receiving that
21 information?

22 A Yeah, rings a bell, yeah.

23 Q Okay. And page 73 you will see, in the middle of
24 the page there's some discussion about you
25 contacting Dennis --



1 A Right.

2 Q -- and asking for some contact information in
3 relation to Dennis, and at a different point there
4 is also some discussion about contacting Leonard
5 Gorgchuck?

6 A Uh-huh.

7 Q I think Albert invites you to give him a call.
8 And if we go to the last page, page 82, and you
9 will see the transcript concludes at this point.
10 And perhaps you could summarize for us,
11 Mr. Carlyle-Gordge, after you were done meeting
12 with Albert, what were your overall conclusions in
13 relation to the role that he had played?

14 A Frustration, as with most of this case. I don't
15 see any big breakthrough, but I'd learned a bit
16 more about his character and his thoughts and his
17 beliefs. The part that I referred to towards the
18 end, which helps me with my own theory with why
19 would your friend do this to you, you know. I
20 don't think there's anything startling, he didn't
21 say he'd lied, he didn't -- we didn't get into the
22 stains on the pants too much, so it -- what did it
23 confirm? That I really couldn't find him too
24 credible maybe.

25 Q Okay. And do you recall what you did with this



1 information?

2 A Umm, probably had it typed and added it to the
3 growing pile, and probably gave a copy to Joyce
4 too, yeah.

5 Q And you have had a chance to review the
6 transcript; was there anything else significant
7 gathered from Albert that's not captured by the
8 transcript that you recall?

9 A I don't think so.

10 Q Okay.

11 A No.

12 Q It appears that you follow up on some of the
13 contacts that you were contemplating within the
14 context of this interview?

15 COMMISSIONER MacCALLUM: Could I have the
16 doc. ID that was being shown to us, the 040
17 version, please?

18 MR. HARDY: Okay, sure. What is the doc ID
19 of the one that we were actually reviewing?

20 MS. BOSWELL (Document Manager): 040654.

21 MR. HARDY: 040654.

22 COMMISSIONER MacCALLUM: Thanks.

23 BY MR. HARDY:

24 Q I turn you firstly, Mr. Carlyle-Gordge, to 325504.
25 It states Leonard Cadrain at the top, I believe



1 that's a mistake and it is actually Leonard
2 Gorgchuck, which can be gathered from the context
3 of the transcript. There is a tape mentioned
4 there, 048705. I'm going to show you a copy of
5 another tape cover which may be able to assist us
6 in terms of placing a date on this conversation,
7 and that tape cover is 230183. That's the second
8 page of that document, if we go to page 2 we see a
9 February 19th and 20th reference, Saskatoon.

10 A Uh-huh.

11 Q Caldwell is mentioned, and as well Leonard
12 Gorgchuck is mentioned, and as I indicated the
13 discussion with Albert I believe was February
14 18th. And would that make sense to you, likely
15 that you perhaps were following up with
16 Mr. Gorgchuck shortly following your discussion
17 with Albert?

18 A Yes, it does, yeah.

19 Q Okay. If we can go back to the transcript,
20 325504, and do you recall what your intention was
21 just at the outset in terms of getting ahold of
22 Mr. Gorgchuck?

23 A I think I was just trying to check out whether
24 some of this stuff I had been hearing from Albert
25 was crazy or if there were any truth in any of it,



1 the stuff to do with Calgary and drug lords and
2 all that stuff.

3 Q You mention --

4 A I was skeptical, but I probably thought I better
5 phone and see.

6 Q Okay. You mention in the middle of the page:

7 "I interviewed Albert Cadrain this week
8 end."

9 And you go on to outline some of what Albert had
10 to say, including mention of the Mafia, and if I
11 can summarize, Leonard hesitates in terms of
12 providing you with any information and in fact
13 suggests that he talk to Albert first --

14 A Yeah.

15 Q -- about whether it would be okay to speak with
16 you, and you indicate that would be fine?

17 A Right.

18 Q And I'm on page 2 now, if we could just go to the
19 full page, and you actually call back a short time
20 later, Leonard indicates that he has talked to
21 Albert in the meantime and it looks like he's
22 willing to speak to you?

23 A Uh-huh.

24 Q And if we move to the next page, and you start to
25 have a discussion and the substance of it only



1 really starts at the very end and you indicate:

2 "Yeah, but he, he said something about
3 you taking some pictures down there."

4 He says:

5 "Well, yes as a matter of fact --"

6 And the rest of the tape is inaudible. Do you
7 recall what information you gathered from Mr.
8 Gorgchuck?

9 A Not really in detail, I have no idea what the rest
10 of that would be about, but obviously it wasn't
11 significant to me anyway in terms of investigating
12 Milgaard. There was nothing --

13 Q Okay.

14 A -- substantial.

15 Q Do you recall whether he corroborated any of
16 Albert's story relating to his trip to Regina?

17 A I doubt it. I don't think this was a long
18 conversation either.

19 Q Okay.

20 A No, I don't think so. Otherwise I would have
21 followed up further. I don't know.

22 Q And I don't want to go into it too deeply, we had
23 Mr. Gorgchuck testify at this inquiry and he
24 agreed with much of what Albert had to say
25 generally speaking, I think it would be fair to



1 say, and do you have that recollection of whether
2 Mr. Gorgchuck advised you in the same manner?

3 A No, he didn't.

4 Q And it's perhaps not fair of me to summarize it in
5 that fashion, he agreed with some of what Albert
6 had to say, but all I can ask you for is what your
7 recollection is in terms of --

8 A My recollection is this wasn't a long conversation
9 and he was quite leery as you can tell, he had to
10 check, and I certainly don't remember him going
11 into details about stuff going on.

12 Q Okay.

13 A I think I asked him for photographs originally I
14 think, yeah.

15 Q And did he have --

16 A I just wanted to -- I don't think he told me very
17 much, that's my impression, yeah.

18 Q Turn next to document 325634, you'll see this is a
19 transcript of a discussion with Dennis Cadrain,
20 and again to try and place this in time, there's a
21 tape cover that we can take a look at, it's
22 document 230175, and you'll see the reference
23 there is to February 21st, 1983 which again
24 appears to closely follow the discussion with
25 Albert; in fact, I guess it would be on the Monday



1 following that Friday discussion with Albert, and
2 would that --

3 A Yeah, that makes sense.

4 Q -- fit with your, or make sense with you?

5 A Yes.

6 Q And, Mr. Commissioner, we have this tape, at the
7 time that Mr. Cadrain, Dennis Cadrain testified it
8 had not been processed though through our
9 database. We haven't listened to this information
10 yet and I'm going to propose that we listen to it.
11 It's about 30 minutes long and it's been digitised
12 and synced, so perhaps we can play it at this
13 point. If I didn't confirm that, it wasn't put to
14 Dennis Cadrain. As I say, it wasn't, we didn't
15 have it processed at that point in time, so some
16 of the information, or most of it, we haven't
17 heard previously.

18 COMMISSIONER MacCALLUM: Anyway, it
19 purports to be an interview between Mr.
20 Carlyle-Gordge and Dennis Cadrain?

21 MR. HARDY: That's correct.

22 **(Telephone Interview with DENNIS CADRAIN, By Peter**
23 **Carlyle-Gordge)**

24 DENNIS CADRAIN: Hello.

25 PETER CARLYLE-GORDGE: Hello, is that



1 Dennis.

2 DENNIS CADRAIN: Yes.

3 PETER CARLYLE-GORDGE: My name is Peter
4 Carlyle Gordge. I write for Maclean's. That is
5 not why I am calling ...

6 DENNIS CADRAIN: You what.

7 PETER CARLYLE-GORDGE: I am a writer with
8 Maclean's.

9 DENNIS CADRAIN: Oh, yeah, about, I bet you
10 I can guess.

11 PETER CARLYLE-GORDGE: What.

12 DENNIS CADRAIN: About Milgaard.

13 PETER CARLYLE-GORDGE: That's right. I am
14 doing a book on sensational western murders.

15 DENNIS CADRAIN: Yeah.

16 PETER CARLYLE-GORDGE: Olson, Kattie
17 Harper, Gail Miller is the one I want to include
18 and I was in Dalmeny on the weekend and
19 interviewed Albert and he gave me your phone
20 number..

21 DENNIS CADRAIN: Oh, yeah.

22 PETER CARLYLE-GORDGE: In fact he said you
23 had considered a book once. Is that true..

24 DENNIS CADRAIN: Well, I think it probably
25 would be an interesting story.



1 PETER CARLYLE-GORDGE: Yeah. Well, I've
2 gone through some of the press clippings and I
3 talked to Albert and he mentioned - what I am
4 trying to do is reconstruct the time when the
5 police had the first real break-through and
6 Albert told me about when he came back from
7 Regina he heard that this girl had been killed
8 and things began to fall into place.

9 DENNIS CADRAIN: Well, actually when he
10 came back he didn't know that the girl that the
11 girl - I told him.

12 PETER CARLYLE-GORDGE: He said he found out
13 at home anyway...

14 DENNIS CADRAIN: Yeah, I told him.

15 PETER CARLYLE-GORDGE: And he had been out
16 of touch with the news, but, or he said he spent
17 that night - it fell into place in his head that
18 night. Do you remember him telling you that
19 night because the next day is when they had the
20 real break-through, when he went to the police.

21 DENNIS CADRAIN: Yeah, well I remember what
22 happened and it sort of, the way it did happen,
23 just a minute. I'll turn down the TV, ok.

24 PETER CARLYLE-GORDGE: Ok, yeah.

25 DENNIS CADRAIN: I remember, like he came



1 back and I told him you know, the day, I told him
2 the day you left that murder came out just the
3 day you left town and...

4 PETER CARLYLE-GORDGE: And it was right
5 close to where you were living.

6 DENNIS CADRAIN: Well, a block and a half
7 away about.

8 PETER CARLYLE-GORDGE: Right.

9 DENNIS CADRAIN: And uh...

10 PETER CARLYLE-GORDGE: And he was
11 surprised.

12 DENNIS CADRAIN: Well, he didn't think
13 nothing of it, I guess after awhile he said, you
14 know, he said that, well I called him "'Hoppy',
15 Milgaard came to the house and he had blood on
16 his clothes", you know.

17 PETER CARLYLE-GORDGE: He told you this
18 that night.

19 DENNIS CADRAIN: Yeah.

20 PETER CARLYLE-GORDGE: Yeah.

21 DENNIS CADRAIN: So I said, well you better
22 phone the cops.

23 PETER CARLYLE-GORDGE: Alright.

24 DENNIS CADRAIN: So then he phoned the
25 police and, well they spent months like, trying



1 to ...

2 PETER CARLYLE-GORDGE: Well they, they...

3 DENNIS CADRAIN: ... trying to blame it on
4 him you know.

5 PETER CARLYLE-GORDGE: Trying to blame it
6 on ...

7 DENNIS CADRAIN: Albert.

8 PETER CARLYLE-GORDGE: Albert, right; he
9 told me they gave him the third degree.

10 DENNIS CADRAIN: Yeah, well actually the
11 police, well actually they drove him, like, he is
12 a little bit, uhm, oh I guess you could, a little
13 bit like, mentally unstable.

14 PETER CARLYLE-GORDGE: Uh-huh.

15 DENNIS CADRAIN: And like, they uh, like
16 the police, like they did it to him, you know.

17 PETER CARLYLE-GORDGE: But he volunteered
18 the information to them.

19 DENNIS CADRAIN: That's right, yeah.

20 PETER CARLYLE-GORDGE: And then they turned
21 on him.

22 DENNIS CADRAIN: Yeah, well the, well the
23 other guy is uh, the other guy was such a good,
24 well, Milgaard, he is such a good talker, like,
25 he's...



1 PETER CARLYLE-GORDGE: Well, I want you to...

2 DENNIS CADRAIN: But you know what, you

3 read about Manson and that you know...

4 PETER CARLYLE-GORDGE: Yeah, I wanted to

5 ask...

6 DENNIS CADRAIN: You know how he had a

7 power on people.

8 PETER CARLYLE-GORDGE: Right.

9 DENNIS CADRAIN: Well Milgaard was the same

10 way, you know like he, he could go to a, he could

11 walk into a place that he never knew a sole and

12 then...

13 PETER CARLYLE-GORDGE: Kind of hypno...

14 DENNIS CADRAIN: ...five minutes later he'd

15 be eating everybody's food and screwing all the

16 women, you know.

17 PETER CARLYLE-GORDGE: Kind of hypnotize

18 you.

19 DENNIS CADRAIN: Yeah, well he didn't do it

20 to me but that's, I've saw him, I saw do it, you

21 know.

22 PETER CARLYLE-GORDGE: I was going to ask

23 what you thought of Milgaard cause you had met

24 him once, I think.

25 DENNIS CADRAIN: I, I've met him, like I've



1 met him, I knew him for, he stayed at our place
2 for - oh, one time he stayed there about three
3 weeks and I met him on the road somewhere, I
4 forget where - Calgary or somewhere, you know.

5 PETER CARLYLE-GORDGE: Did he seem violent
6 to you, before this.

7 DENNIS CADRAIN: Did he.

8 PETER CARLYLE-GORDGE: Yeah.

9 DENNIS CADRAIN: Oh, I think, uh, I
10 wouldn't say that, I wouldn't say that he seemed
11 violent, I'd say that he had a really high
12 opinion of himself with women. You know what I
13 mean.

14 PETER CARLYLE-GORDGE: Right.

15 DENNIS CADRAIN: And if he couldn't get a
16 woman to you know, come across for him...

17 PETER CARLYLE-GORDGE: Right.

18 DENNIS CADRAIN: ...that it would really
19 hurt his ego. You know what I mean.

20 PETER CARLYLE-GORDGE: Yeah, I know the
21 time you mean, right.

22 DENNIS CADRAIN: Yeah, so that's, that's,
23 that's just my impression. I don't know...

24 PETER CARLYLE-GORDGE: Now, did you
25 actually meet him that day he came to pick up



1 Albert.

2 DENNIS CADRAIN: No, I had gone to school.
3 I remember the morning just like it was
4 yesterday, it was like, I don't know, it was ...
5 are you from Saskatchewan.

6 PETER CARLYLE-GORDGE: Yeah.

7 DENNIS CADRAIN: Yeah.

8 PETER CARLYLE-GORDGE: Well, I'm from
9 England originally.

10 DENNIS CADRAIN: Yeah, I know, but I mean -
11 where, are you living in Saskatoon or what.

12 PETER CARLYLE-GORDGE: Yeah, in Saskatoon.

13 DENNIS CADRAIN: Oh, yeah. Well he uh, it
14 was so cold here...

15 PETER CARLYLE-GORDGE: It was 40 below.

16 DENNIS CADRAIN: It was 40 below and it was
17 so foggy you couldn't, well I remember getting
18 picked up by a neighbour and taken to high school
19 and, well you couldn't see 10 feet in front of
20 your car that morning, I mean it was just
21 unbelievable anybody would be out walking, never
22 mind, even to catch a bus, you know.

23 PETER CARLYLE-GORDGE: Yeah.

24 DENNIS CADRAIN: It was just so God-damn
25 cold. Yeah, but I missed him, I missed him. I



1 never saw him that morning. I left for school I
2 guess about 8:00 o'clock or around 8:00 o'clock
3 or something like that and Albert was sleeping
4 there and when I came back at night, you know,
5 after school, he was, my mother told me he had
6 hit the road with Milgaard.

7 PETER CARLYLE-GORDGE: Yeah. Now I am
8 curious, they gave him the third degree. Did the
9 police interview you, too? Were they suspicious.

10 DENNIS CADRAIN: No. No, no no, no no,
11 they never, they never, like I, I talked to them
12 once, like they came just about every day for a,
13 oh I guess a couple or three months, just about,
14 hey.

15 PETER CARLYLE-GORDGE: But they were
16 pointing the finger at ...

17 DENNIS CADRAIN: Like they, they were, had
18 him and interrogating him there for eight-ten
19 hours a day just checking his story out, you
20 know.

21 PETER CARLYLE-GORDGE: They didn't believe
22 him about the, uh....

23 DENNIS CADRAIN: Well I don't know if they
24 believed him or not but I, I don't know what,
25 what goes on in these, uh, you know? I guess



1 they have to be sure before they lay a charge, I
2 guess the only reason they could lay a charge was
3 on his say-so, you know.

4 PETER CARLYLE-GORDGE: Right, right....

5 DENNIS CADRAIN: ...so I guess, I don't
6 know if they were trying to blame it on him or if
7 they were just making sure that it was, his story
8 was good enough to go to a courtroom, you know
9 what I mean, was it consistent enough, you know
10 what I mean.

11 PETER CARLYLE-GORDGE: Yeah, yeah.

12 DENNIS CADRAIN: I went to the courtroom, I
13 was at the court, I, and, oh, I mean, I didn't
14 like to see what they did to my, to uh, like my
15 brother was just, he's just telling what he saw
16 and he, you know, he was being a good citizen,
17 you know what I mean.

18 PETER CARLYLE-GORDGE: Well, when...

19 DENNIS CADRAIN: And they shoulda', they
20 shoulda', like he was in the, he had to go to the
21 psychiatric ward after, you know, a couple of,
22 well a few years after that because, I mean they
23 screwed him up, you know.

24 PETER CARLYLE-GORDGE: Well, was he scared
25 of David Milgaard.



1 DENNIS CADRAIN: Oh, I don't think he was
2 scared of him, no.

3 PETER CARLYLE-GORDGE: No.

4 DENNIS CADRAIN: No, he can, Albert he
5 could probably handle himself pretty good, you
6 know.

7 PETER CARLYLE-GORDGE: Yeah.

8 DENNIS CADRAIN: Yeah.

9 PETER CARLYLE-GORDGE: No, no, I only ask
10 because he mentioned that the, the police took
11 him to a farm or somewhere where he would be safe
12 or something.

13 DENNIS CADRAIN: A farm? Oh, no...

14 PETER CARLYLE-GORDGE: I think he said a...
15 Did your dad have a farm or something.

16 DENNIS CADRAIN: No. He was, he went to
17 work outta town.

18 PETER CARLYLE-GORDGE: Oh, maybe that's ...

19 DENNIS CADRAIN: He went to work out of
20 town on a, like a, you have to watch what he says
21 too, I wouldn't take everything Albert says as
22 gospel ...

23 PETER CARLYLE-GORDGE: Well, that's why I
24 thought I would check with you about that night
25 he got back because he said he spent all night



1 talking to you how it fell into place in his
2 head...

3 DENNIS CADRAIN: Yeah.

4 PETER CARLYLE-GORDGE: ...about seeing the
5 blood.

6 DENNIS CADRAIN: Yeah, yeah, well see I
7 mean, I can't say I saw, like I, nobody else, he
8 didn't see anybody else, or nobody else saw it,
9 you know but, uh...

10 PETER CARLYLE-GORDGE: No, but you remember
11 him telling you about the blood that night.

12 DENNIS CADRAIN: Yeah, yeah, he did, yeah,
13 that's why, that's why I told [pause] that's why
14 I told him to go see the ...

15 PETER CARLYLE-GORDGE: What was your
16 reaction? Were, were you absolutely shocked
17 cause you had met Milgaard.

18 DENNIS CADRAIN: Ah, shocked, no, no, I
19 wasn't shocked, like Albert and I, I don't know
20 if he told you, but I was 14 and then he was 15,
21 hey, we hit the road, hey.

22 PETER CARLYLE-GORDGE: Yeah. Yeah, you
23 were a year younger, yeah.

24 DENNIS CADRAIN: Yeah, it was, we were out
25 in here in BC for, oh, I guess I was out here for



1 maybe seven-eight months and, like just on our
2 own, and half the time I was just on my own and I
3 seen things and I met people and ...

4 PETER CARLYLE-GORDGE: You meet all sorts
5 on the road, yeah.

6 DENNIS CADRAIN: And I mean, especially
7 when you're 14, you know, and I've seen a 15 year
8 old guy just about get killed by a motorcycle
9 gang, I was in the same house out here in
10 Vancouver and I saw, oh, I just seen, oh, I mean
11 - homosexuals trying to God damn, rape you, and
12 you know what I mean, like, I seen everything and
13 I don't think I could be easily shocked you know.
14 Like I wasn't shocked, I was - the murder shocked
15 me, you know what I mean? Like that was a pretty
16 brutal murder, but I ...

17 PETER CARLYLE-GORDGE: Very...

18 DENNIS CADRAIN: Yeah, but I don't ah, I
19 don't think I was shocked by it, by it, because I
20 had seen so many things that would, like most
21 people would be shocked by, but I was just, you
22 know, I just seen quite a few things like that...

23 PETER CARLYLE-GORDGE: Well, I think
24 probably what happened with the police, uh, uhm,
25 when he went to them and he told them he had seen



1 blood on, on Milgaard that they found the other
2 people, the girl and Wilson...

3 DENNIS CADRAIN: Yeah, yeah...

4 PETER CARLYLE-GORDGE: ...and they said
5 they hadn't seen any blood. So they probably
6 didn't believe him.

7 DENNIS CADRAIN: Yeah, well that, that
8 could be it, that could be it, uh. About those
9 guys, I don't know, like I say, I didn't see the
10 blood myself so I can't say anything about it,
11 but, the only thing about when in court they
12 wouldn't say yes, they wouldn't no, they were
13 hostile witnesses. You know, so, if they, if
14 they didn't see blood they could have gone on the
15 stand and said they didn't see blood...

16 PETER CARLYLE-GORDGE: Right...

17 DENNIS CADRAIN: ...but they had a choice,
18 they just refused to testify, now, to me, to me
19 that's incriminating. I don't know, but that,
20 that didn't help Milgaard's case at all, you
21 know.

22 PETER CARLYLE-GORDGE: No, no well they...

23 DENNIS CADRAIN: Well they sure didn't, you
24 know.

25 PETER CARLYLE-GORDGE: No, no. Well they



1 got witnesses later on from Regina, too, but umm.
2 Uh, I was just thinking, if somebody came to my
3 door with, with blood on them, I would ask them
4 what they had done. That's what surprises me.

5 DENNIS CADRAIN: The thing is, the guy was,
6 he was uh, such a unpredictable guy. He would do
7 things, oh, I will tell you something in a minute
8 but...

9 PETER CARLYLE-GORDGE: Sure, anything you
10 can remember, sure.

11 DENNIS CADRAIN: ...yeah, he was an
12 unpredictable guy, I mean he would, you know, he
13 would go out and maybe, maybe he would have a
14 fight with somebody or, you know, like he
15 wouldn't think nothing of it from the guy because
16 he was... I remember, one time we were walking
17 down the, he was staying at our place and it was
18 say about March, in Saskatchewan, and like, it
19 was maybe five above zero, you know. A nice warm
20 day in Saskatchewan in March, hey, but it was
21 pretty cold, hey.

22 PETER CARLYLE-GORDGE: Yeah.

23 DENNIS CADRAIN: So here he is, he, we're,
24 we're going downtown for Saturday afternoon,
25 that's all you got to do on a Saturday afternoon



1 in Saskatoon. Go walking around downtown, you
2 know.

3 PETER CARLYLE-GORDGE: Um-hmm.

4 DENNIS CADRAIN: So we, we got about, oh
5 Avenue D, somewhere, to, I think the park or what
6 ever, and he is bare feet, he walked bare feet,
7 and there's snow all over the place hey, snow and
8 ice, and he's walking bare feet down town and he
9 says, "God damn it, I'm hungry". So he just
10 walks right into a restaurant, I think it was,
11 I'm quite sure it was the park café. Just walked
12 right into the restaurant and he said, you know,
13 "Look at, I'm hungry. I'm just starving", you
14 know, "can you make me a sandwich". Just like,
15 just like he's there with a twenty dollar bill in
16 his hands. "Sure, what would you like?" He told
17 them, I think a grilled cheese sandwich, or
18 whatever it was, I forget, you know, what kind of
19 sandwich it was. They made it up and he just sat
20 right down there and he ate it and then he says
21 "Thank you very much" and he just left. I mean
22 that, I mean that's a golly son-of-a-bitch
23 really, isn't it.

24 PETER CARLYLE-GORDGE: Damn right.

25 DENNIS CADRAIN: Uh.



1 PETER CARLYLE-GORDGE: Yeah.

2 DENNIS CADRAIN: No, that's just the kind
3 of guy he was, I mean, anything that you would
4 get from, anything he would do, you wouldn't be
5 surprised, you know what I mean.

6 PETER CARLYLE-GORDGE: Smooth talk, smooth
7 talk. Now I think Albert said your sister met
8 him too. I'm not sure what, do you have one
9 sister.

10 DENNIS CADRAIN: I have two.

11 PETER CARLYLE-GORDGE: Umm, I can't
12 remember what name...

13 DENNIS CADRAIN: Well, I got two of them...

14 PETER CARLYLE-GORDGE: What are they
15 called, I forget.

16 DENNIS CADRAIN: Rita and Celine.

17 PETER CARLYLE-GORDGE: Sorry.

18 DENNIS CADRAIN: Rita and Celine.

19 PETER CARLYLE-GORDGE: Celine, that must
20 have been the one. You said, I think he said she
21 was home and met him briefly or something.

22 DENNIS CADRAIN: Yeah, that could be too,
23 yeah.

24 PETER CARLYLE-GORDGE: But she didn't
25 notice the blood.



1 DENNIS CADRAIN: I don't know if she did or
2 not, because I, I know that she didn't ...

3 PETER CARLYLE-GORDGE: She wasn't mentioned
4 in the newspapers...

5 DENNIS CADRAIN: No, she didn't testify
6 anyways, at any case, you know? Albert was the
7 only one to testify, even like, yeah, he was the
8 only one to testify so...

9 PETER CARLYLE-GORDGE: Well that must have
10 been pretty traumatic for you.

11 DENNIS CADRAIN: Well at the time, like
12 yeah, like I had a teacher, I was going to high
13 school at the time and I had a teacher who uh, he
14 was, well, I don't know if he was, how long have
15 you lived in Saskatoon.

16 PETER CARLYLE-GORDGE: Oh, about four years
17 now.

18 DENNIS CADRAIN: Oh yeah, you probably
19 would - I don't know if he's still a judge on
20 Reach for the Top - Peter Smith.

21 PETER CARLYLE-GORDGE: Oh, yeah.

22 DENNIS CADRAIN: I don't know if you'd know
23 him or not but he was quite interested in the
24 case and like him and I would go down there.
25 But, uh, well to me like it, to me, like, you say



1 it was quite traumatic but to me it was, at that
2 time, like, I guess I would be about 15 - 16 at
3 the time and, but to me it was, I don't know,
4 like some of the things that I've been through
5 and seen, I never, like I thought it was a pretty
6 ugly murder and that, so close to home and
7 everything but I, I never thought really that it
8 was all that big of a deal, you know. I don't
9 know why, like, I just don't know.

10 PETER CARLYLE-GORDGE: Well, it was such a
11 brutal thing I think.

12 DENNIS CADRAIN: It was yeah. It really
13 was and like I know another guy, like he lives
14 out here now like. The police picked him up, I
15 mean they must have picked up quite a few guys
16 and questioned about it.

17 PETER CARLYLE-GORDGE: Oh, I think Albert
18 mentioned a couple, yeah.

19 DENNIS CADRAIN: Yeah, they picked up this
20 other guy our here.

21 PETER CARLYLE-GORDGE: Did you know a Larry
22 Fisher.

23 DENNIS CADRAIN: Yeah, yeah. He used to
24 live in our basement.

25 PETER CARLYLE-GORDGE: Oh, did he.



1 DENNIS CADRAIN: Really.

2 PETER CARLYLE-GORDGE: Oh. Albert
3 mentioned him, I forget the context exactly.
4 Maybe he said he lived there.

5 DENNIS CADRAIN: Well, I don't know, well
6 at the time he wasn't living there at the time.
7 I think he had lived there before. He had lived
8 there before, yeah.

9 PETER CARLYLE-GORDGE: Yeah.

10 DENNIS CADRAIN: But, uh, he was quite a
11 guy too I ...

12 PETER CARLYLE-GORDGE: I think he said they
13 questioned, possibly questioned him, I don't
14 know.

15 DENNIS CADRAIN: Yeah, you know like, yeah.
16 Oh, I was going to tell you like, about this, uh,
17 I don't know, like the, I think it's Weekend
18 Magazine. Do you remember that one.

19 PETER CARLYLE-GORDGE: Yeah, sure.

20 DENNIS CADRAIN: Uh, I would say about, I'd
21 say about 1967 or no, okay, 19..., yeah October,
22 1967, I don't know, if you look it up, I don't
23 know if you can, I guess you can look up from
24 the...

25 PETER CARLYLE-GORDGE: October, '67, yeah.



1 DENNIS CADRAIN: Yeah, I'd say, one of the
2 weekends in October '67.

3 PETER CARLYLE-GORDGE: Yeah, they have them
4 in the library.

5 DENNIS CADRAIN: There's uh, there's an
6 article there about uh, it's a hippy house, like
7 they call it a hippy house at the time I guess,
8 it was in Vancouver on 3rd Avenue. And it was
9 2227 West 3rd, now how is that for a memory.

10 PETER CARLYLE-GORDGE: Pretty damn good.

11 DENNIS CADRAIN: That's 1967, hey.

12 PETER CARLYLE-GORDGE: You must have a
13 photo, one of those memories.

14 DENNIS CADRAIN: Yeah, I do. And there is
15 an article, it was written by, I believe it was
16 Tom Alderman, I believe it was Tom Alderman and,
17 well, anyways, he wrote this article about the
18 house and the people in it and well it's... Some
19 of the things going on there and at the time,
20 well like, my brother and I were living there at
21 the time, you know.

22 PETER CARLYLE-GORDGE: Um-hmm.

23 DENNIS CADRAIN: But, like, I don't know,
24 if you just read it about these crazies that are
25 in, I mean, th- th-, he don't even, didn't even



1 scratch the surface about this place because I
2 read it when I was back at Saskatoon or something
3 and I, I got a hold, I read it, I was reading
4 this magazine, hey. I always read the paper and
5 I read this article about this house. Well it's,
6 it got, I was there the night that it got
7 destroyed by a big motorcycle gang or whatever
8 but...

9 PETER CARLYLE-GORDGE: Is that right.

10 DENNIS CADRAIN: But, anyways, if you could
11 see that then you could see why a person wouldn't
12 get a...

13 PETER CARLYLE-GORDGE: Wouldn't be too
14 shocked by this.

15 DENNIS CADRAIN: ...that's right, you
16 wouldn't, you know.

17 PETER CARLYLE-GORDGE: Yeah.

18 DENNIS CADRAIN: ...but Albert he's been
19 through, well, him and I both, I guess, we were
20 through quite a lot, but a...

21 PETER CARLYLE-GORDGE: But, really that was
22 the big break through for the police when he went
23 ...

24 DENNIS CADRAIN: Yeah, well they had
25 nothing, they had nothing, so he went and they



1 pi-- , I don't know if Albert ever told you, but
2 they picked him up, like Milgaard in Winnipeg...

3 PETER CARLYLE-GORDGE: Yes.

4 DENNIS CADRAIN: ...shortly, did Albert tell
5 you that.

6 PETER CARLYLE-GORDGE: No, but I've read
7 that somewhere, yeah.

8 DENNIS CADRAIN: Yeah. They picked him up
9 in Winnipeg shortly after Albert went in and told
10 his story and apparently they let him go.

11 PETER CARLYLE-GORDGE: They let Milgaard
12 go? Yeah, cause they didn't arrest him till ...

13 DENNIS CADRAIN: Yeah, well I guess. I
14 don't know why. I guess, I guess they figured, I
15 don't know what it was but they let him go cause
16 they figured they didn't have the evidence or
17 whatever, but they still came and picked up my
18 brother every day for their daily little
19 questioning period, you know what I mean? And
20 uh, cause I, I remember they used to come and get
21 him in the morning and take him home at night.
22 And I used to go talk to him, cause like, we
23 weren't really bad little buggers but we were in,
24 in a, you know, I don't know if you know the
25 neighbourhood, but it was sort of ...



1 PETER CARLYLE-GORDGE: You know I have an
2 idea where it is, yeah...

3 DENNIS CADRAIN: Yeah, and you know you do
4 a few things, just a few things just to be in
5 with the boys and like the cops would pretty well
6 know you, you know like they would talk to you
7 and that, you know? But, it was hard on Albert,
8 you know, like actually, what, the cops gave him
9 two thousand, or the police or something, had put
10 up a reward for two thousand dollars or something
11 and with two thousand dollars which my brother,
12 he give it to my dad. He didn't even want, like
13 my dad needed some money on the farm or something
14 and my brother didn't want it, he just give it to
15 him, you know. And people, or people, some
16 people might have said well he did it for the God
17 dammed money. He didn't care about money.

18 PETER CARLYLE-GORDGE: He gave it away.

19 DENNIS CADRAIN: No, my brother Albert, he
20 doesn't care about money or nothing, you know.
21 But what they did to him, and they give him that
22 lousy God- damned two thousand dollars, and then
23 they, I mean they, pardon me but they fucked his
24 life right up, you know. Cause he, he couldn't
25 handle it, you know.



1 PETER CARLYLE-GORDGE: Yeah. Well cops can
2 be pretty damn tough on kids, too.

3 DENNIS CADRAIN: Well, yeah. But I mean it
4 wasn't only the cops.

5 PETER CARLYLE-GORDGE: But he was quite
6 sure he'd seen blood and he went, as you say, to
7 the police as a citizen.

8 DENNIS CADRAIN: Yeah, yeah well...

9 PETER CARLYLE-GORDGE: Charming.

10 DENNIS CADRAIN: Uh.

11 PETER CARLYLE-GORDGE: Charming isn't it.

12 DENNIS CADRAIN: Yeah, well I mean it just,
13 uh, that's uh, I mean, and they say who's, who,
14 you know, who the victims are you know, like.
15 There's such a big, well Mrs. Milgaard, I, did
16 you ever meet her.

17 PETER CARLYLE-GORDGE: No, I've heard of
18 her though.

19 DENNIS CADRAIN: Well, I don't know, she's,
20 to me she's uh, she's a very nice lady, you
21 know...

22 PETER CARLYLE-GORDGE: Uh-huh, you've met
23 her.

24 DENNIS CADRAIN: Well, yes I have, I, I
25 didn't really...



1 PETER CARLYLE-GORDGE: Yeah, well I know
2 she didn't believe he did it.

3 DENNIS CADRAIN: No, I know she doesn't,
4 you know, but I think she, she's one of those
5 people you know, like, even if she knew he did it
6 or even if she knew he did it she'd, she, she, I
7 guess she was just feeling it was her duty to uh...

8 PETER CARLYLE-GORDGE: Cause it's her son.

9 DENNIS CADRAIN: That's right. Yeah, or
10 maybe she had a guilty feeling cause, you know.

11 PETER CARLYLE-GORDGE: Yeah, and it's a
12 horrible...

13 DENNIS CADRAIN: ... because they were
14 divorced and all this, you know...

15 PETER CARLYLE-GORDGE: Horrible crime,
16 yeah.

17 DENNIS CADRAIN: Yeah, but, she, she
18 doesn't want to believe it whether it's true or
19 not you know? Uh, I don't know, she...

20 PETER CARLYLE-GORDGE: Did Albert notice
21 anything else on his trip with Milgaard, you
22 know, that was suspicious.

23 DENNIS CADRAIN: Well, he was telling me
24 about the, a couple, a couple of other things,
25 uh, about a gunny sack with - but that, there...



1 PETER CARLYLE-GORDGE: I think he said
2 David pulled a knife on him or something at one
3 point.

4 DENNIS CADRAIN: Yeah, he had told me that
5 too, yeah. Said that he had threatened him or
6 something but, another time he was talking about
7 a truck pulled over and he was flashing his
8 lights, did he tell you about that one.

9 PETER CARLYLE-GORDGE: Yeah, um-hmm, right.
10 And he had a case or packages or something.

11 DENNIS CADRAIN: Yeah, it was supposed to
12 be in a gunny sack or something like that I think
13 and he went in the trunk and give it to the
14 trucker. Like, something like that, to me, to
15 me, I could - I can't - I couldn't see that
16 because it was way up in northern Alberta or
17 something like that, er, seems to me like, they
18 were, they went to Yellowknife I think it was
19 their first. And then from Yellowknife I think
20 they went to uh...

21 PETER CARLYLE-GORDGE: They went to
22 Edmonton I think.

23 DENNIS CADRAIN: Edmonton and then Calgary
24 and Regina, I think.

25 PETER CARLYLE-GORDGE: Yeah.



1 DENNIS CADRAIN: Yeah. I think that was
2 the circle they made.

3 PETER CARLYLE-GORDGE: Yeah, he sounds
4 highly...

5 DENNIS CADRAIN: Yeah, that was pretty...

6 PETER CARLYLE-GORDGE: ...organized crime,
7 or...

8 DENNIS CADRAIN: Well, that's what it
9 seemed like but, uh, at the, I just couldn't,
10 when I knew, when I, like I, when I knew Milgaard
11 from before he hadn't been into that kind of,
12 anything that organized for sure, you know.

13 PETER CARLYLE-GORDGE: Right, yeah, well he
14 did mention the mafia to me at one point in my...

15 DENNIS CADRAIN: Yeah, well see, you see
16 now - [child in the background] - excuse me I got
17 to a two year old here.

18 PETER CARLYLE-GORDGE: Sure, carry on,
19 yeah, you look after her, I'll still be here.

20 DENNIS CADRAIN: Ok, just a minute.

21 PETER CARLYLE-GORDGE: Ok.

22 DENNIS CADRAIN: Yeah, like to me, I, like
23 I don't know if...

24 PETER CARLYLE-GORDGE: No, he said he
25 thought Milgaard was mixed up in the mafia,



1 that's why I gave you a call.

2 DENNIS CADRAIN: Yeah, well, he, he thought
3 that, well see, something like that, like, if I
4 was to guess I'd say, I wouldn't believe it but I
5 was, like I say, I wasn't there. I don't know,
6 you know.

7 PETER CARLYLE-GORDGE: No, but you, you met
8 Milgaard and I didn't, so...

9 DENNIS CADRAIN: Yeah, yeah, that's it I,
10 I, knew him a year before and he certainly wasn't
11 a, he was, he would be game for it, he certainly
12 would be game for it but at that, when I, like I
13 didn't meet him that time when he came to town
14 hey.

15 PETER CARLYLE-GORDGE: No.

16 DENNIS CADRAIN: So, like he was 17 years
17 old, now you don't, you don't see too many guys
18 at 17, especially in those days in Saskatchewan,
19 you know, involved in, you know, organized crime
20 like that.

21 PETER CARLYLE-GORDGE: Well I would, I
22 would think not, no.

23 DENNIS CADRAIN: No, no, I, that there, I
24 don't know. I just, I just don't know, I
25 couldn't say, you know. It seems far fetched to



1 me but I can't say it's impossible because, I
2 mean, I wasn't there, you know.

3 PETER CARLYLE-GORDGE: Yeah, but he saw the
4 blood anyway so that's what we worked on. But, I
5 think I understand why they didn't just take that
6 literally the police, because the other two
7 denied it, denied the blood.

8 DENNIS CADRAIN: Yeah. I guess they did
9 but I wonder why they didn't deny it in court.

10 PETER CARLYLE-GORDGE: I don't know but I
11 haven't gone through all the court records.

12 DENNIS CADRAIN: I think, I think my
13 mother's still got all those transcripts from
14 that, from that. Like, they just refused to
15 testify, they were hostile witnesses and that's
16 it, you know.

17 PETER CARLYLE-GORDGE: Right.

18 DENNIS CADRAIN: They uh, and there would
19 be no reason, if they weren't gonna testify for
20 Milgaard, you know what I mean? They had no
21 reason to fear anybody because there was nobody
22 that was gonna, there was no one that was gonna,
23 uh, threaten them for testifying against
24 Milgaard.

25 PETER CARLYLE-GORDGE: No.



1 DENNIS CADRAIN: But...

2 PETER CARLYLE-GORDGE: But they didn't...

3 DENNIS CADRAIN: ...but they didn't testify
4 for him and they didn't testify against him.
5 Now, they must have, to me, I would say they were
6 threatened by Milgaard.

7 PETER CARLYLE-GORDGE: Yeah.

8 DENNIS CADRAIN: You know.

9 PETER CARLYLE-GORDGE: Yeah, or I think the
10 police gave them a rough time too, as well...

11 DENNIS CADRAIN: Well, yeah, they could,
12 they probably did yeah. They tried to squeeze
13 them, you know? But it was Nichol John...

14 PETER CARLYLE-GORDGE: Nichol John.

15 DENNIS CADRAIN: Nichol John and the other
16 guy was...

17 PETER CARLYLE-GORDGE: Wilson, Ron Wilson...

18 DENNIS CADRAIN: Ron Wilson and Nichol
19 John, that's right. But uh, yeah. I think that,
20 well to me, if I, even if I was on the jury, that
21 would, to me that would be, if there was any
22 doubt in my mind I think that woulda' helped me
23 make my mind up, I don't know about you but, huh.

24 PETER CARLYLE-GORDGE: Yeah, sure.

25 DENNIS CADRAIN: Did you ever try talk to



1 them guys.

2 PETER CARLYLE-GORDGE: I haven't, I don't
3 know where Nichol John is. Wilson is in Regina,
4 I'm planning to see him, but I think she's
5 probably got married.

6 DENNIS CADRAIN: Oh, yeah, but you could
7 probably trace her down someway.

8 PETER CARLYLE-GORDGE: Yeah, yeah, probably
9 eventually. Anyway I know you weren't involved
10 really. You, you were there when he first
11 twigged, as it were, you know.

12 DENNIS CADRAIN: Yeah.

13 PETER CARLYLE-GORDGE: So, you've given me
14 a good portrait of Milgaard anyway, from what you
15 said.

16 DENNIS CADRAIN: Well, that's the best that
17 I could do anyways, I, what are you guys gonna'
18 be for a magazine article that your...

19 PETER CARLYLE-GORDGE: No, I'm planning to
20 do a book of, it will probably be four or five
21 different cases in it. They're all from western
22 Canada. One's a Winnipeg one. I'm thinking of
23 doing a bit on the Olson case out in your part of
24 the world. That's one of the sensational ones
25 too.



1 DENNIS CADRAIN: Yeah, right, that's
2 another son-of-a-gun, hey. Like, imagine that...

3 PETER CARLYLE-GORDGE: Well, there is
4 another book being planned on him, I know...

5 DENNIS CADRAIN: There's a friend of my
6 wife and I's, my wife and I and she went to the
7 same school as him when he was a kid.

8 PETER CARLYLE-GORDGE: You're kidding,
9 yeah.

10 DENNIS CADRAIN: No, and she was, I guess
11 about seven or eight years old, like he...

12 PETER CARLYLE-GORDGE: Was he weird then.

13 DENNIS CADRAIN: Pardon.

14 PETER CARLYLE-GORDGE: Was he weird then.

15 DENNIS CADRAIN: Well, I guess she didn't
16 really, she didn't really, what she remembers, he
17 give him, she give her, he gave her a ring and
18 that, you know... when they were about seven of
19 eight years old or something. It's pretty weird,
20 you know? But she doesn't really, at the time
21 she thought he was just, just almost normal you
22 know? But he was, but you know, that's funny,
23 you know, it's funny how the - that
24 son-of-a-bitch, geeze they should...

25 PETER CARLYLE-GORDGE: Oh, yeah, he sure



1 did it. Pity he, pity he's still around.

2 DENNIS CADRAIN: Yeah, yeah, that's for
3 sure, uh. There wouldn't be dry eye in the house
4 if that son-of-a-bitch went down, hey.

5 PETER CARLYLE-GORDGE: Yeah, well if he
6 ever, if he ever got out I think he would be
7 looked after pretty fast.

8 DENNIS CADRAIN: Well, that's for sure.

9 PETER CARLYLE-GORDGE: Yeah.

10 DENNIS CADRAIN: That's for sure.

11 PETER CARLYLE-GORDGE: Anyway, listen, I
12 won't keep you Dennis. I've got your number if I
13 think of anything else.

14 DENNIS CADRAIN: Okay, good.

15 PETER CARLYLE-GORDGE: Thanks, thanks for
16 your time.

17 DENNIS CADRAIN: Okay.

18 PETER CARLYLE-GORDGE: Okay, bye.

19 **(End of tape recording)**

20 BY MR. HARDY:

21 Q If we could turn to 325634. You've listened to
22 that recording now, Mr. Carlyle-Gordge. Would
23 that be an accurate account of your discussion
24 with Mr. Cadrain, Dennis Cadrain, on that
25 occasion?



1 A Yeah.

2 Q Just a few portions of that interview I want to
3 bring your attention to. You notice on the first
4 page you mention again the book that you were
5 contemplating on sensational western murders and
6 you mention Olson, Katie Harper, Gail Miller, and
7 again I think you confirmed for us in the context
8 of Albert that this was still something that was
9 in your contemplation at the time?

10 A Yeah.

11 Q And I hadn't seen mention of Olson previously.
12 Was there a specific reason why you mentioned
13 Olson on this occasion?

14 A I think it had been in the news quite a lot.

15 Q Okay. And I can't recall, I should know this,
16 whether Dennis was in fact in British Columbia at
17 the time, I was just wondering if you had used it
18 in terms of perhaps making a connection with
19 Dennis or having a thought that --

20 A That's possible, yeah.

21 Q Okay. If we turn to the next page, 325635, and
22 Dennis you'll recall stated:

23 "DENNIS CADRAIN: Well, he didn't think
24 nothing of it, I guess --"

25 And I'm sorry, Dennis is talking about Albert



1 returning from Regina.

2 "DENNIS CADRAIN: Well, he didn't think
3 nothing of it, I guess after awhile he
4 said, you know, he said that, well I
5 called him "'Hoppy', Milgaard came to
6 the house and he had blood on his
7 clothes", you know.

8 PETER CARLYLE-GORDGE: He told you this
9 that night.

10 DENNIS CADRAIN: Yeah.

11 PETER CARLYLE-GORDGE: Yeah.

12 DENNIS CADRAIN: So I said, well you
13 better phone the cops."

14 Do you recall receiving that information from
15 Dennis?

16 A Yes.

17 Q And if we move to the next page, 325636, just
18 continuing at the top here, Dennis states:

19 "DENNIS CADRAIN: So then he phoned the
20 police and, well they spent months like,
21 trying to ...

22 PETER CARLYLE-GORDGE: Well they, they...

23 DENNIS CADRAIN: ... trying to blame it on
24 him you know.

25 PETER CARLYLE-GORDGE: Trying to blame



1 it on ...

2 DENNIS CADRAIN: Albert.

3 PETER CARLYLE-GORDGE: Albert, right; he
4 told me they gave him the third degree.

5 DENNIS CADRAIN: Yeah, well actually the
6 police, well actually they drove him,
7 like, he is a little bit, uhm, oh I
8 guess you could, a little bit like,
9 mentally unstable.

10 PETER CARLYLE-GORDGE: Uh-huh.

11 DENNIS CADRAIN: And like, they uh, like
12 the police, like they did it to him, you
13 know.

14 PETER CARLYLE-GORDGE: But he
15 volunteered the information to them.

16 DENNIS CADRAIN: That's right, yeah."

17 And do you recall receiving that information from
18 Dennis?

19 A Yes, that's what happened.

20 Q And did this fit with your theory at the time in
21 terms of considering Albert's involvement?

22 A More or less. I didn't realize how long a period
23 of time the police had been picking him up and he
24 filled in that a little bit, but yeah, basically,
25 yeah.



1 Q And did you believe Dennis' account that the
2 police had caused Albert to become mentally
3 unstable in terms of their treatment of him?

4 A That's difficult. I don't think it would have
5 helped him. Certainly he was living with his
6 brother, he's talking about his brother, and I
7 think he acknowledges in here that he wasn't, even
8 to begin with, very stable. Would I agree with
9 him? Well, I'm of the opinion that if the police
10 were picking me up every day and driving me home,
11 I think that would affect you mentally, yeah.

12 Q Okay. And you had previously been under the
13 impression, I think you've confirmed for us, that
14 perhaps Albert was mentally unstable when you had
15 reviewed the transcripts?

16 A Yeah, uh-huh.

17 Q And just at the bottom of that page I note the
18 comment by Dennis that he compares Milgaard to
19 being Manson like, or something of that nature,
20 when he's describing him as a good talker and
21 such. Do you recall receiving that sort of
22 information?

23 A I, I -- you know, I don't from my memory remember
24 Manson being mentioned I don't think, but yeah,
25 that looks accurate to me, yeah.



1 Q Okay.

2 A Yeah.

3 Q And what did you think of that sort of
4 information, or Dennis' characterization of David?

5 A Well, yeah, I think it was fair enough. He was
6 trying to suggest that he's very persuasive, he's
7 very good with the words, he can influence people,
8 I think that's what he was trying to say.

9 Q Okay. And we'll move to 325638, you'll recall at
10 the top Dennis is asking you about where you are
11 from and you indicate at this point that you are
12 in Saskatoon, or living in Saskatoon?

13 A Yeah. I was surprised when I saw that. Well,
14 obviously it's not true, but why is it in there?
15 Probably when I think about it now -- well, first
16 of all, I just said yeah, lazily, I wanted him to
17 keep talking, but probably I didn't want a
18 connection made between Winnipeg, Mrs. Milgaard,
19 me, all that stuff.

20 Q Okay.

21 A But that that's obviously -- actually, it's quite
22 amusing.

23 Q And if we go down to the bottom of that page,
24 you'll recall you state, beginning approximately
25 here, again they are talking again about the



1 police, or you are talking about the police here,
2 you state:

3 "PETER CARLYLE-GORDGE: But they were
4 pointing the finger at ...

5 DENNIS CADRAIN: Like they, they were,
6 had him and interrogating him there for
7 eight-ten hours a day just checking his
8 story out, you know.

9 PETER CARLYLE-GORDGE: They didn't
10 believe him about the, uh...

11 DENNIS CADRAIN: Well I don't know if
12 they believed him or not but I, I don't
13 know what, what goes on in these, uh,
14 you know? I guess they have to be sure
15 before they lay a charge, I guess the
16 only reason they could lay a charge was
17 on his say-so, you know."

18 At the top you state:

19 "PETER CARLYLE-GORDGE: Right, right...

20 DENNIS CADRAIN: ...so I guess, I don't
21 know if they were trying to blame it on
22 him or if they were just making sure
23 that it was, his story was good enough
24 to go to a courtroom, you know what I
25 mean, was it consistent enough, you know



1 what I mean.

2 PETER CARLYLE-GORDGE: Yeah, yeah.

3 DENNIS CADRAIN: I went to the
4 courtroom, I was at the court, I, and,
5 oh, I mean, I didn't like to see what
6 they did to my, to uh, like my brother
7 was just, he's just telling what he saw
8 and he, you know, he was being a good
9 citizen, you know what I mean.

10 PETER CARLYLE-GORDGE: Well, when...

11 DENNIS CADRAIN: And they shoulda', they
12 shoulda', like he was in the, he had to
13 go to the psychiatric ward after, you
14 know, a couple of, well a few years
15 after that because, I mean they screwed
16 him up, you know."

17 Do you recall receiving that information from
18 Mr. Cadrain?

19 A Yes.

20 Q And did you believe Dennis' version that Albert
21 had gone to the police because he was trying to be
22 a good citizen?

23 A Sort of, yeah, I thought Dennis was a really nice
24 person who was quite protective of his brother and
25 talking to a stranger basically in a fairly open



1 way, you know, about his brother and his problems.
2 I found him very credible.

3 Q But just in terms of the comment that Albert had
4 gone voluntarily trying to be a good citizen, did
5 you believe that aspect?

6 A Oh, I see what you are saying. Who knows what
7 motivated Albert. I don't know. I can't really
8 answer your question.

9 Q Okay. And were you aware prior to this
10 discussion, and you've told us about suspicions
11 that Albert was perhaps mentally unstable, were
12 you aware that he had spent time in a psychiatric
13 centre as Dennis indicates here?

14 A I don't think so, no, no. I don't think so.

15 Q Was that news to you then at this point?

16 A I think it would have been, yeah, yeah.

17 Q I turn your attention to page 325644, I'll read to
18 you again a portion, Dennis states:

19 "DENNIS CADRAIN: It was yeah. It
20 really was and like I know another guy,
21 like he lives out here now like. The
22 police picked him up, I mean they must
23 have picked up quite a few guys and
24 questioned about it.

25 PETER CARLYLE-GORDGE: Oh, I think



1 Albert mentioned a couple, yeah.

2 DENNIS CADRAIN: Yeah, they picked up
3 this other guy our here.

4 PETER CARLYLE-GORDGE: Did you know a
5 Larry Fisher.

6 DENNIS CADRAIN: Yeah, yeah. He used to
7 live in our basement.

8 PETER CARLYLE-GORDGE: Oh, did he.

9 DENNIS CADRAIN: Really.

10 PETER CARLYLE-GORDGE: Oh. Albert
11 mentioned him, I forget the context
12 exactly. Maybe he said he lived there.

13 DENNIS CADRAIN: Well, I don't know,
14 well at the time he wasn't living there
15 at the time. I think he had lived there
16 before. He had lived there before,
17 yeah.

18 PETER CARLYLE-GORDGE: Yeah.

19 DENNIS CADRAIN: But, uh, he was quite a
20 guy too I ...

21 PETER CARLYLE-GORDGE: I think he said
22 they questioned, possibly questioned
23 him, I don't know."

24 And do you recall this exchange with Dennis
25 Cadrain?



1 A Not until I reread this transcript, but yes, I
2 would have. I think it's accurate.

3 Q Okay. And again it's somewhat difficult to place
4 this in time I know, but do you know at this point
5 in time where you had learned about the name Larry
6 Fisher?

7 A Going strictly on memory, I think Mrs. Cadrain,
8 the mother, might have mentioned they had a couple
9 living in the basement and so I knew the name.
10 Fisher wasn't on my radar screen at all as a -- he
11 was somebody I would like to have met or Linda
12 Fisher to see if they saw anything that day when
13 Milgaard arrived at the house, and also if they
14 had any further reflections on what was going on
15 in the house, what Albert was like, that kind of
16 thing. I know at some point I came across the
17 name in the prosecution files and I know that he
18 caught the bus at the same bus stop as Gail
19 Miller, I learned that at some point. He wasn't
20 on my screen as a suspect really, but somebody, I
21 was sort of interested in meeting either him or
22 his wife.

23 Q Okay. And you mentioned Mrs. Cadrain and I know
24 you talked to us previously that you had had
25 discussions with Mrs. Cadrain in your attempts to



1 locate Albert?

2 A That's correct.

3 Q And is it your recollection then that Mrs. Cadrain
4 may have mentioned Larry and Linda Fisher having
5 lived in their basement at the time?

6 A I have a feeling she did.

7 Q Do you recall any other details about what
8 Mrs. Cadrain had to tell you about the Fishers?

9 A I think she said they moved obviously and they may
10 have separated since and I think she probably said
11 he had had some problems, I can't remember the
12 exact words, he'd been up to no good, he had had
13 some law problems, something like that.

14 Q And do you remember, and I guess I'm again asking
15 for your recollection of discussions with
16 Mrs. Cadrain, do you remember whether that piqued
17 your interest or that was a matter that you
18 thought was worthy of follow-up?

19 A It didn't pique my interest to connect him
20 directly to this case, this murder.

21 Q And when you say she mentioned that he had had
22 some problems, can you recall with any more detail
23 than that what she indicated?

24 A No, I'm not sure she did go into any detail, but
25 she had had some kind of -- maybe she had run into



1 Linda Fisher later after they had moved and caught
2 up on the news. I think they were separated by
3 then.

4 Q Had you learned anything about Larry being
5 implicated in rapes or anything of that nature
6 from Mrs. Cadrain during those discussions?

7 A I don't remember them talking about rape, no.

8 Q And you also mentioned that perhaps you had
9 gathered the name from the police file, and in
10 fairness, I'm jumping around here a little bit,
11 where now you will recall on the Monday following
12 the Friday meeting with Albert, and we'll look at
13 this in a moment, but you may have in fact had a
14 chance to speak with Mr. Caldwell and review his
15 police files during the Saturday and Sunday, and
16 we'll take a peak at that in a while, but your
17 recollection as well is that you saw the name
18 Larry Fisher during your review of Mr. Caldwell's
19 file?

20 A Yeah. What I recall is the address was the same
21 as the Cadrains' and they did talk to him at a bus
22 stop very briefly. It was a very short entry.

23 Q Okay. And in terms of your inquiry of Dennis
24 here, do you recall what your interest would have
25 been relating to Larry Fisher during this



1 questioning?

2 A That seemed to pop out. I don't know. Probably
3 the same thing like do you know where he is maybe
4 or -- I really don't know. It looks out of place
5 in there.

6 Q And I see you don't have --

7 A Certainly not as a suspect in this case.

8 Q You don't ask about Linda I take it on this
9 occasion --

10 A No.

11 Q -- but from what you are telling me you may have
12 been aware of Linda at this point in time as well?

13 A Yeah, I knew they had been a couple in 1969, I
14 knew they had a young daughter too.

15 Q Okay. And I see that during your discussion with
16 Dennis, you have stated when the name comes up,
17 you state, oh, Albert mentioned him, I forget the
18 context exactly.

19 A Uh-huh.

20 Q And I know that Larry's name, or Larry Fisher's
21 name does not come up in the transcript of your
22 discussion with Albert that we just looked at.

23 A No.

24 Q Is it possible that perhaps you were just
25 indicating that and that Albert hadn't in fact



1 mentioned Larry Fisher or do you recall Albert
2 mentioning --

3 A I think I got back to Albert about that. I was
4 still looking for if either of them had a clue
5 where this Fisher guy was. It wasn't very
6 important at the time.

7 Q Okay. And again you may not be able to answer
8 that, but at this point in time, again on the
9 Monday following the discussion with Albert on the
10 Friday, had Albert, up to this point in time,
11 advised you anything about Larry Fisher from your
12 recollection?

13 A You mean when I met him?

14 Q Exactly.

15 A I don't remember. No, I don't think we got into
16 that.

17 Q Okay. Turn to page 325646, you'll see it's that
18 portion again where they are speaking, Dennis is
19 speaking of how Albert had been treated by the
20 police, he speaks of him being visited every day
21 for daily questioning periods and sort of a
22 general knowledge of perhaps Albert at the time by
23 the police. You recall this portion of the
24 discussion as we just listened to it on the
25 recording?



1 A Yeah, it's accurate. Yeah, uh-huh.

2 Q And again, did you believe Dennis' description of
3 how the police had treated Albert and the effect
4 that that had had on him, do you recall what your
5 mindset was at the time when you were learning
6 this?

7 A Yeah, I think I probably believed him. I think he
8 came over to me as a very caring person, yeah.

9 Q Okay.

10 A Yeah.

11 Q And in the second portion of that highlighted
12 section we'll see mention of Dennis talking about
13 the \$2,000 reward money?

14 A Uh-huh.

15 Q And that Albert had actually given that money away
16 and that he wasn't interested in the money. Do
17 you recall learning that information from
18 Mr. Cadrain?

19 A Yeah, yeah, I do remember that, and, you know,
20 there was some passion in his voice when he said,
21 you know, Albert wouldn't be in it for the money.
22 I would accept that, you know.

23 Q Did that run contrary though to some of the
24 theories that you had developed up to that point
25 in time?



1 A Well, on that particular time, this is late '83, I
2 don't know what I believed. Certainly in the
3 early stages I was questioning a lot of things
4 like could there have been a motive --

5 Q Uh-huh.

6 A -- for him to invent this story maybe, so I can't
7 tell you if I put that to rest by that point, but
8 I was glad he told me this, I was very glad he
9 told me this, that that was not a factor to take
10 into account.

11 Q Turn to 325647, you state:

12 "PETER CARLYLE-GORDGE: But he was quite
13 sure he'd seen blood and he went, as you
14 say, to the police as a citizen.

15 DENNIS CADRAIN: Yeah, yeah well...

16 PETER CARLYLE-GORDGE: Charming.

17 DENNIS CADRAIN: Uh.

18 PETER CARLYLE-GORDGE: Charming isn't
19 it."

20 And I wasn't sure, I was trying to gather the
21 inflection from your voice during the recording,
22 were those comments by you in terms of the use of
23 the word charming there indicative of some
24 misbelief on your point?

25 A No. You know, it's an odd word to stand out



1 there. I think charming, I think probably there's
2 a hint of irony in it because he's been discussing
3 what a rough time Albert had with the police and,
4 you know, his mental health after that, and at the
5 same time he's saying he did this as a public
6 duty, he went to the police, so I was being a
7 little bit sarcastic. He ends up in a terrible
8 situation and yet, you know, his brother, who is a
9 very nice person I think, is saying, you know, he
10 did it as a public duty, so charming.

11 Q Okay. And I see just below that, and this fits
12 with some of what we discussed already, but you
13 mention that you haven't met Mrs. Milgaard?

14 A Right, I did say that. That would be accurate,
15 yeah.

16 Q And that would be for the same reasons -- first of
17 all, that would be inaccurate obviously?

18 A It would be wrong and it would be a little white
19 lie or a fib and it was for the same reason, that
20 I don't want him connecting me to that.

21 Q Okay.

22 A I get more information that way.

23 Q I turn your attention to 325649, again I don't
24 know if I need to read this portion, we can read
25 it if you would like to refresh your memory on it,



1 but it's a discussion about the question of
2 Milgaard being mixed up in the Mafia?

3 A Umm.

4 Q And if I can summarize Dennis' thought on it, I
5 think he tries to be somewhat measured in his
6 account, but generally says that he thinks that
7 that would probably be farfetched --

8 A Yeah.

9 Q -- given the circumstances?

10 A Yeah, that was my impression.

11 Q And in terms of his account, and I don't know if
12 you can recall, but just from your reading Dennis'
13 response here, did this fit with what you were
14 expecting Dennis to say when you raised the issue
15 of Albert mentioning that David was mixed up in
16 the Mafia?

17 A Yeah, I think it did. I think what he was trying
18 to say, or what I came to believe anyway, that
19 David was a bit wild, no question about that, he
20 gives the instance of going into a restaurant,
21 ordering a meal and leaving, and he was no angel,
22 but he was very extroverted, I think I'm getting
23 all that information, but I think what he's saying
24 is, well, I don't think he was really, you know --
25 well, of course he didn't know whether David



1 committed this murder or not, but I think he was
2 saying as far as he had known him in the past, he
3 didn't think he would be likely to be a Mafia
4 member and that kind of thing. In other words,
5 he's trying to -- he's not saying David is a good,
6 good, good boy, he's saying, you know, there's a
7 bit of wildness there, that's my impression.

8 Q Okay. I was just trying to get a sense of your
9 mindset at the time, whether perhaps you are
10 expecting him to reject that thought out of hand,
11 and as I say, he seems a little bit more measured
12 in his response, but --

13 A He was, he was very measured, yeah.

14 Q Okay. And if we turn to the last page, 325652,
15 just in conclusion, that's the end of that
16 transcript, and Dennis Cadrain has testified at
17 the Inquiry, Mr. Carlyle-Gordge, we didn't have a
18 chance to review this interview with him at that
19 time, but he did vaguely recall his meeting with
20 you, and just a couple of points that he noted and
21 I wanted to bring to your attention.

22 A It was a telephone call.

23 Q Yes, and he indicated that he believed at the time
24 he was talking to you that he likely thought that
25 Milgaard was still, or Mr. Milgaard was still



1 guilty.

2 A I think that's probably true.

3 Q Did you get that sense from him during that
4 discussion?

5 A Yeah. I think the word you used was a good one,
6 he gave a very measured response. I believe at
7 that time, '83, what other evidence did he have,
8 you know. I think, yeah, a verdict had been
9 reached and he did bring up the whole problem of
10 why didn't David's friends stand up and testify
11 for him, I think he did that very well. He had
12 this impression that everybody refused to testify,
13 you know, was an incorrect bit there, but yeah, he
14 probably did believe it, yeah.

15 Q Okay. And the other comment he made, he had been
16 under the impression that you were going to call
17 him again or have a further discussion and he
18 noted for us that he had wanted to tell you about
19 his concerns that Albert testify, that he had
20 concerns about Albert testifying given the state
21 of his mental health, and I guess all I can ask
22 you is was there intent to follow up with Dennis
23 again at any point?

24 A Not that I recall, but I'll have to get to that.
25 Very soon after these talks I was trying to exit



1 stage left.

2 Q Okay.

3 A So --

4 MR. HARDY: Perhaps this is a good time to
5 break, Mr. Commissioner.

6 (Adjourned at 10:39 a.m.)

7 (Reconvened at 10:58 a.m.)

8 BY MR. HARDY:

9 Q I'd like to turn now, Mr. Carlyle-Gordge, to a
10 discussion of your dealings with the prosecutor,
11 Mr. Caldwell.

12 A Uh-huh.

13 Q And, again, we'll track through this trying to
14 pinpoint when these discussions took place. I
15 believe the documents will confirm that you
16 discussed the case with Mr. Caldwell in February
17 and March of 1983, and I think there initially was
18 a telephone discussion with Mr. Caldwell on
19 February 19th, 1983, which would be the Saturday
20 following your meeting with Mr. Cadrain. And,
21 again, we'll look at some things in a moment and
22 try and clarify that if we can. What had led you
23 to contact Mr. Caldwell?

24 A Umm, again, gathering information. I was curious
25 about the period between the first statements



1 being given by Nichol John and Wilson and the time
2 period in between the final statements, if you
3 like, that implicated Milgaard. I was interested
4 in filling in the bits there, that would be one
5 thing. Just any general background information on
6 did the police have other suspects, that kind of
7 thing; what were the police doing in March, April,
8 May; umm, any little details I could find to --
9 and don't forget, I was collecting material for a
10 potential book, so that would be one thing. Umm,
11 also, I think I wanted to get a feeling for what
12 was going on in the courtroom just before the
13 trial, the preparation for the trial, only Mr.
14 Caldwell would know that, and I was interested in
15 his views on the case.

16 Now I think when I contacted him
17 I didn't specify, well I certainly didn't specify
18 that I had the connection to Mrs. Milgaard, I know
19 that, but Milgaard was an interesting case anyway,
20 even without it being re-investigated, because of
21 the Milgaard ruling it was a quite -- in the law
22 books and so on. So I think I was going there
23 with a kind of softly, softly approach, 'just tell
24 me what you were thinking, what was going on',
25 that kind of thing.



1 Q And can you recall, from everything that you had
2 gathered up to this point in time, what your --
3 what were your views on Mr. Caldwell and the role
4 he had played?

5 A I didn't have any.

6 Q And --

7 A Well, I could elaborate on that based on stuff
8 later, but I think certainly by early '83 I
9 definitely had an impression that the Crown's
10 case, based on my own analysis not being a lawyer,
11 based on common sense and logic, was that the
12 Crown's case couldn't work and that it was like
13 trying to ram a square peg in a round hole. That
14 was my personal opinion at that time.

15 Q Okay.

16 A But I wasn't going there to confront him about any
17 of that, no.

18 Q So you had an impression, and that was what I was
19 going to ask you next, was what your impression
20 was of the case that he had put in during the
21 criminal proceedings, and I guess your view on
22 that has just been stated; would that be correct?

23 A Yes. I didn't think it worked on time, geography,
24 motive, or personality.

25 Q And this is a touch out of place, I just recalled



1 the discussion we had had yesterday, before I
2 continue on with my dis -- questions on Mr.
3 Caldwell, you mentioned timing and considering
4 aspects of that nature and I know that there, or
5 I've read that there was an early video
6 reenactment done, and I think maybe there were a
7 couple of these done through the years, but there
8 was an earlier one done that perhaps your wife was
9 involved in; would that be correct?

10 A I don't remember her being involved. I had the
11 feeling that about the time I met Mrs. Milgaard,
12 or just before it or just after it, that she and
13 her family members had made a video pacing out the
14 thing. It could have been after I met her. I
15 don't recall my wife being in it, but it seems to
16 me I have seen that video, and it was to do with
17 the Crown's case; that they spoke to a woman on
18 Avenue N I guess, they then went on, got stuck for
19 a while, got out, and came back to the back lane
20 area, and the purpose of that video was to prove,
21 with timing, that that woman that they'd allegedly
22 spoken to would have been half-way to work by
23 then, she wouldn't have been at the back lane
24 behind the funeral home, which is where this crime
25 was alleged to have taken place with Mr. Milgaard



1 doing the stabbing.

2 Q And I should have covered this with you yesterday.
3 I know you had, in your deliberations, put some
4 emphasis on the evidence of Henry Diewold, the
5 caretaker, and as well --

6 A Uh-huh.

7 Q -- the Trav-a-leer manager, Robert Rasmussen?

8 A Uh-huh.

9 Q And I know I had seen stated a couple of times
10 reference to the Milgaard group arriving at the
11 Trav-a-leer Motel at, I believe you had indicated,
12 was 7:10 a.m.; and do you recall that being quite
13 certainly your view on the matter?

14 A Yeah. You know, the manager of that motel --
15 again my memory, memories play tricks -- I have a
16 feeling I tried to find him and I may even have
17 spoken to him, I think he had left the motel as
18 manager but I'm talking 12 years later. I could
19 be wrong, I don't have a transcript that I
20 interviewed him, but to me it was very significant
21 in terms of what he saw and the timing, very, very
22 important, because I know, I can't go into detail
23 here, but I know roughly what time Gail Miller
24 would have left home, I know roughly what time she
25 caught the bus, you know, there is always a time



1 lag, you can allow some space, but I know
2 Rasmussen was quite definite that it was very soon
3 after he opened at 7:00, so 10 after 7:00, yeah.

4 Q And in fairness I think at trial, I reread his
5 evidence, and he had indicated in chief at trial
6 that it was shortly after 7:00 that he recalled
7 the group arriving.

8 A All right.

9 Q In the preliminary, and in fact it was following
10 questions by Mr. Tallis, he had indicated that it
11 could have been as late as 7:30 that the group had
12 arrived.

13 A Yes, yeah.

14 Q Do you recall being aware of that information?

15 A Yes, I think I was aware of that, yeah.

16 Q Okay. And did that, as I say, it seemed to me
17 that you had reached the conclusion that 7:10 was
18 the time?

19 A I think soon after 7:00, yeah, 7:10 I think.

20 Q And --

21 A And also the caretaker seemed to be thinking it
22 was roughly the same time when he saw this strange
23 vehicle parked there and somebody going back and
24 forth.

25 Q Okay. So you recall, in any event, being aware of



1 the information I just advised you about
2 respecting the --

3 A Yeah.

4 Q -- possible 7:30 time?

5 A Yeah.

6 Q Okay. And back to Mr. Caldwell. You started to,
7 I think, speak of this, but do you recall exactly
8 how you presented yourself to Mr. Caldwell when
9 you initially contacted him?

10 A I think it was to do with the book, I think, but
11 he already knew my name, I think he did. He read
12 *Maclean's*, obviously, and I think it was about the
13 book, yeah it was, and I think I said I was
14 interested in old cases and this was one of them,
15 yeah.

16 Q And can you tell us why you took that approach?

17 A Well I've already talked about the hostility by
18 the general establishment towards Mrs. Milgaard.
19 Why did I take that approach? I thought probably
20 there would be a better chance of me seeing some
21 other stuff, yeah.

22 Q Turn first to a transcript of a telephone
23 discussion. If we could go, please, to 325653.
24 As I say, this looks to be a telephone discussion
25 with Mr. Caldwell, and if we try to place a date



1 on this, I know the tape reference on this page is
2 048705. There's another tape face that we have a
3 copy of of the same interview, and if we could
4 turn please to 230183 and the second page of this
5 document, we see February 19th and 20th,
6 Saskatoon, we looked at this previously, Caldwell,
7 Leonard Gorgchuck.

8 A Yeah, that's my writing I think, yeah.

9 Q So is it possible that this telephone discussion
10 took place on February 19th, and again that would
11 be the Saturday following --

12 A Yeah.

13 Q -- your discussion with Albert Cadrain, perhaps
14 February 19th or 20th with Mr. Caldwell?

15 A Yeah. February 19th was my birthday too, I think
16 that's accurate.

17 Q Okay. And if we turn back to the transcript, and
18 again looking at your initial representation to
19 Mr. Caldwell --

20 A Uh-huh.

21 Q -- in terms of what you were doing, --

22 A Maclean's.

23 Q -- it looks like a large portion of that was
24 inaudible. You had indicated Maclean's magazine,
25 but I take it here you would have spoken of the



1 book that you were contemplating, as you've
2 advised us?

3 A Yeah, yeah, uh-huh.

4 Q Okay.

5 A And of course I was still in contact with the
6 managing editor of *Maclean's* --

7 Q Okay.

8 A -- in terms of possibly getting a story
9 eventually, yeah.

10 Q If we move down the page a little bit, again
11 you'll have to bear with me as we make our way
12 through, but you talk or request, perhaps, a
13 chance to meet with Mr. Caldwell, and I think
14 initially he gives the impression that he might
15 not be available?

16 A Right.

17 Q Now we'll look through this, I'm going to suggest
18 that you actually had a chance to visit with him
19 during this same weekend --

20 A Uh-huh.

21 Q -- and perhaps not meet with him, but I believe
22 you may have had a chance to look at his file
23 materials?

24 A Uh-huh.

25 Q And, again, we'll look at some documents that will



1 hopefully clarify that.

2 A Uh-huh.

3 Q And we've heard this tape previously, and I
4 understand you have had a chance to review the
5 transcript, --

6 A Yes.

7 Q -- Mr. Carlyle-Gordge.

8 A Yes, I have.

9 Q And would it be an accurate account of that first
10 discussion with Mr. Caldwell?

11 A Yes, as far as I'm aware, that's what was said.

12 Q And did something precede this discussion, was
13 there correspondence or any previous contact with
14 Mr. Caldwell?

15 A Well I'm a bit hazy about that. You see, if you
16 just asked me off memory I can only remember being
17 in his offices once, but I'm willing to accept
18 that I was there twice based on your analysis.

19 Q And don't, don't go just from that, we'll take a
20 look at documents and see if we can refresh your
21 recollection at all in terms of how those meetings
22 proceeded. I'm going to turn you to page 325655
23 and we'll review some of the portions of this
24 discussion. Mr. Caldwell states:

25 "Umm, Crown Prosecutor's, we used to



1 have City and Crown and uh, I got the
2 case and, uh, it was a, and I you know,
3 I don't mean this to sound egomaniacal,
4 but it was a, a real shaky bloody case
5 at the outset."

6 You state:

7 "Uh-huh."

8 Mr. Caldwell:

9 "There was all kinds of problems with
10 it. And uh, we had a long preliminary
11 inquiry in the summer ..."

12 And you state:

13 "Right."

14 Do you recall receiving this information from Mr.
15 Caldwell?

16 A Yes.

17 Q And did you consider this important information?

18 A Interesting information, yeah.

19 Q In what respect?

20 A Well the 'real shaky bloody case' stands out.

21 Q Okay. You go on in this page to talk about Mr.
22 Tallis for a short bit?

23 A Yeah.

24 Q And I believe you confirmed or us yesterday you
25 never spoke directly --



1 A No.

2 Q -- with Mr. Tallis?

3 A No. But I have a memory of writing a letter and
4 asking -- I think he'd become a judge, and I'm
5 certain I wrote to him at some point and said "is
6 there any chance of talking to you", and I never
7 heard back, so I kind of hadn't followed up on
8 Tallis, no.

9 Q Okay. If we turn to 325656, just at the bottom of
10 the page, we've heard this previously, I won't
11 read it to you, but Mr. Caldwell talks about how,
12 during his preparations for the trial, he wanted
13 to give the appearance of being understaffed?

14 A Uh-huh.

15 Q And do you recall receiving that information?

16 A Yes.

17 Q And if we move to 325659, and again I won't read
18 this, we've heard it previously, but Mr. Caldwell
19 talks of Albert Cadrain, and I think he indicates
20 he was the proverbial break in the case?

21 A Uh-huh.

22 Q And do you recall receiving that information?

23 A Yes, I do, yeah.

24 Q And do you recall what your thoughts were in
25 reaction?



1 A Well I was just letting him say what he wanted.
2 What were my thoughts at that time? Well
3 obviously at that time I didn't believe Milgaard
4 was guilty and I just wanted his version of
5 things, basically, that's what was going on. My
6 thoughts would have been -- well, this was
7 actually a very cooperative meeting, Mr. Caldwell
8 was very helpful in fact, very positive, and this
9 was his chance to tell his side of the story and I
10 think he'd said, you know, the police worked
11 really hard and I wanted to give them credit. You
12 know, to a degree he was on a little bit of an ego
13 trip during this interview, he wanted some credit
14 for this, and I can't blame him. But my private
15 thoughts were, would have been this is incredibly
16 gullible, how can you believe your own case, you
17 know.

18 Q Okay. I'll turn you to 325660, and there's some
19 talk -- and, again, I won't read this to you --
20 but talk of the alleged motel reenactment.

21 A Uh-huh.

22 Q Some of that evidence. If we turn to the next
23 page on that same point Mr. Caldwell states:

24 "So, we called these two guys as

25 witnesses, and you can do that, but, you



1 just have to let the defence know as
2 soon as you know. Well, I, that's as
3 soon as I knew, and uh, Tallis like, you
4 know this is nothing I want printed,
5 but, Tallis said "oh, I," you know
6 later, "I understand the police give
7 those guys favours for that" but, they
8 were, one of them at least, was a
9 criminal so he was up on charges in
10 Regina. I'm sure that didn't happen, if
11 it did, that's news to me."

12 And did this information, I don't know if you can
13 recall, but did this information fit with any of
14 your theories that you had respecting Mr. Melnyk
15 and Mr. Lapchuk?

16 A Well I was certainly suspicious about them coming
17 in at the last minute, but I mean I had no
18 evidence, certainly, that they had done a deal to
19 get lighter sentences or anything like that, I
20 just thought the timing was a bit suspicious.

21 Q Okay.

22 A But I wanted Mr. Caldwell to, you know, give his
23 version of it.

24 Q Okay. And the discussion then continues, and I
25 won't specifically review any further portions of



1 it, but in terms of that -- and you've shared this
2 with us to some extent -- but in terms of that
3 first discussion with Mr. Caldwell, what were your
4 impressions with him following, following that
5 first contact?

6 A I think he was being very helpful, and the one
7 thing he didn't know, and certainly not cuz -- you
8 see, as I've said, it was kind of walking on
9 eggshells. My relationship to Mrs. Milgaard was
10 not known to him at that time, and I do remember,
11 I don't know if it was this conversation or one of
12 the early ones when I was first going through the
13 files, he did actually mention, he said "I suppose
14 you know Mrs. Milgaard has been going around, this
15 and that, advertising and such", and I think I
16 said "oh yes, I've read about her", and then the
17 conversation thankfully switched so I never
18 actually -- he never actually said "do you know
19 Mrs. Milgaard, do you work with her". So he was
20 going on the assumption that I was writing about a
21 cut and dried case, and in fact the interview is
22 focused on a cut and dried case, there are no
23 questions in there about "well I think you were
24 wrong", that kind of thing, I wanted to get what
25 was happening at that time.



1 Q Okay. And if Mr. Caldwell had pressed you in
2 terms of the question of whether or not you knew
3 Mrs. Milgaard or were associated with her, and
4 probably difficult to say, --

5 A Thankfully he didn't.

6 Q -- but what would have been your response?

7 A I would probably have told a little fib and said
8 "well now". I thought the man's life, a man's
9 life, I mean I had taken an obvious intense
10 interest in this case, and just on moral grounds I
11 am quite willing to tell a little fib when a man's
12 life is at stake, and I would do it again.

13 Q And that would have been your thought process at
14 the time?

15 A Yeah. I mean I would be nervous about getting
16 that question anyway, but fortunately it didn't
17 come up, so --

18 Q And what were you concerned about, though, if Mr.
19 Caldwell was aware of that?

20 A I think there would be a very hasty -- well, I'm
21 surmising, I don't know. Mr. Caldwell was very
22 polite with me. I imagine there would be a
23 reaction, not a good one, a negative one, and
24 access might be denied, possibly. I don't know
25 that for sure, but it certainly could be.



1 Q Okay. And I mentioned to you earlier, and we'll,
2 as I say, try to work our way through this, that
3 following this discussion you may or may not --
4 and I'm going to ask you for your best
5 recollection -- have had an opportunity to review
6 some of Mr. Caldwell's files. And I'm going to
7 turn you to a document, 332045, and you'll see
8 this is a letter to Mr. Caldwell from yourself, --

9 A Uh-huh.

10 Q -- it's dated February 22nd, and following that
11 same weekend we have been moving along, that would
12 be the Tuesday following that weekend, and there
13 is some mention of a plan, perhaps, to get
14 together again --

15 A Right.

16 Q -- with Mr. Caldwell?

17 A Right.

18 Q And you indicate, beginning part-way through the
19 paragraph:

20 "Doubtless you're busy Friday with
21 prosecutions/office work, but I wonder
22 if it would be possible for me to spend
23 a couple of hours Friday finishing off
24 my note-making from the case files, then
25 meet with you on the Saturday to do a



1 proper interview with more of the
2 colour/personal background."

3 A Right, well that looks like my letter, and
4 therefore there must have been two meetings then,
5 yeah.

6 Q And I'm not suggesting that that's conclusive, but
7 would you have any reason to dispute the
8 conclusion --

9 A No.

10 Q -- that perhaps you had a chance to review file
11 materials --

12 A No.

13 Q -- on the same weekend that we have been talking
14 about?

15 A No, no.

16 Q Okay. And I want to talk to you for a moment
17 about your review of those files.

18 A Uh-huh.

19 Q And perhaps we can start; where were you, or where
20 do you recall you were, at the time that you were
21 looking at these files?

22 A Umm, I seem to recall he put me in an office in,
23 I've forgotten the name of the building now, but
24 it's wherever he had offices. If you mentioned a
25 name I could tell you if it's right. And he put



1 me -- he was very polite, and he put me in a room
2 with the files, and I think we arranged that I
3 would interview him later on tape, yeah.

4 Q Okay. And just tell me how, what had led up to
5 that, had he volunteered the files for your review
6 or had you made a specific request?

7 A I think I must have asked, yeah. Yeah.

8 Q And what was his response to your request?

9 A It was fine, yeah.

10 Q Okay.

11 A Yeah.

12 Q And were you alone, then, during your review of
13 the files; can you recall?

14 A Yes, I was, yeah, yeah.

15 Q And --

16 A I know I was under a lot of time pressure, I was
17 trying to go -- there were a lot of material, and
18 I had a tape recorder and I just dictated notes.
19 I can't even tell you for certain if I actually
20 looked at everything in the files.

21 Q Okay.

22 A I looked at a lot, though, and whatever interested
23 me, that's what I made notes about.

24 Q Tell me, what do you recall of the files, give me
25 a description, a sense of quantity?



1 A I'm trying to picture it. Seems to me that there
2 were maybe, I don't know, three or four, anyway,
3 folders maybe that high. There were a lot of
4 documents, there were witness statement, there
5 were a lot of police notes. I think there was,
6 sketched out, a summation to the jury, umm, and
7 I'm trying to think what else there would have
8 been. There were a lot of witness statements, and
9 it's a bit vague now, but I found some of the
10 police -- what the police were doing right after
11 the murder kind of interesting. And one thing
12 that jumped out at me was some complaints from
13 various women, prior to the murder of Gail Miller,
14 about strange men and sexual innuendos, all that
15 kind of stuff, in this very lane where Gail
16 Miller's body was found. That jumped out at me.

17 Q And we'll look at some of that information in just
18 a moment, but you have mentioned that you had an
19 opportunity to see some police reports, and I
20 assume up to this point in time you would not have
21 had access to that type of material, perhaps
22 statements, but I am talking more of actual police
23 reports?

24 A Yeah. You know, I'm trying to think of what was
25 in those files. I mean a lot of it was typed, and



1 it wasn't very long, 'we stopped so and so and
2 asked questions and that'. I think there was some
3 handwritten things in there too, and at this
4 distance I really can't tell you much about them.

5 Q And you mentioned you saw statements in the files?

6 A Oh yes, yeah, yeah.

7 Q And was it a -- give us a sense of how many
8 statements --

9 A Well --

10 Q -- or what the quantity of materials were?

11 A Well certainly the key players, which would be
12 Nichol John and Wilson and Milgaard I suppose, but
13 there were other people like the Rasmussen I guess
14 and the Danchuks, they were important, and there
15 were quite a few statements. Some people may not
16 have appeared at the trial, you know.

17 Q And what about material such as handwritten notes
18 or even Mr. Caldwell's notes or preparations,
19 anything of that do you recall seeing?

20 A I'm almost sure I saw the outline of the case, or
21 maybe for the summation to the jury or something
22 like that, but it's very hard to remember that far
23 back. Whatever is in the transcript of dictated
24 notes, and I can't be sure if that's the complete
25 transcript either at this distance, but certainly



1 whatever is in that transcript would be what I
2 saw.

3 Q Okay, and we're going to look at that in just a
4 moment. You mentioned you were under some time
5 pressure at the time?

6 A Oh, yeah, there was a lot to read in a very short
7 time so --

8 Q What was that related to; did you only have a
9 short time to spend at the office on that
10 occasion?

11 A Umm, well I think I had only come out probably for
12 the weekend and I had to get back to Winnipeg.

13 Q Do you recall how long you spent with the
14 materials?

15 A Oh, I'm guessing, two or three hours maybe.

16 Q Okay. And where was Mr. Caldwell at the time?

17 A Umm, going about his business, and he wasn't with
18 me.

19 Q I'm going to turn your attention to some dictated
20 notes, I think they are the dictations that you
21 have just mentioned, the document is ID 174037; do
22 you recognize that document?

23 A Yup, that's my writing on it.

24 Q And is that your --

25 A Yeah, that's --



1 Q -- typewriting work as well?

2 A Yes. Probably my wife typed that, I think, but
3 that looks like my typewriter, yup. That is the
4 document, yeah.

5 Q And so just in terms of process, as you were
6 making your way through the files, I assume you
7 were dictating this information?

8 A Yes, I was.

9 Q Okay. There is a couple of entries, specific
10 entries I want to look at, I see there's some
11 mention at the top about a Marlene Mighton,
12 Charles Joseph Carriere, we then get to this
13 particular entry again relating to Mr. Diewold as
14 you've stated, information that you were
15 interested in at the time?

16 A Uh-huh.

17 Q And, again, the 7:10 time is mentioned there?

18 A Yes, yeah.

19 Q And I'm going to show you an investigation report
20 where I believe that information came from, it's
21 009330, and you'll see this. First of all the
22 form of the document generally, does that look
23 like the type of --

24 A Yes, that's --

25 Q -- documentation --



1 A -- very much like the stuff I was looking at,
2 yeah.

3 Q Okay.

4 A It was typed.

5 COMMISSIONER MacCALLUM: Could you not talk
6 at the same time, please, the reporter -- put
7 your question again, please?

8 BY MR. HARDY:

9 Q Does that look like the type of documentation that
10 you were reviewing at the time?

11 A Yes, it does.

12 Q And you will see mention in the middle of the
13 paragraph to Mr. Diewold and some of the
14 information that it looks like you've dictated in
15 your notes. And if we go back to your notes, --

16 A Hmm.

17 Q -- I'm going to start reading a portion to you
18 here, and I'll read this to you, but it indicates:

19 "Feb. 3rd police report: Call was made
20 ...",

21 and an address was stated:

22 "... and Audry Odnokon was interviewed.
23 She says that at around Dec. 22nd and
24 afterwards she used to take a bus home
25 from work at 10:30 or 11 p.m. and get



1 off the bus at 1400 block, 20th St.
2 She'd walk north on Ave. O toward 22nd
3 St. On a number of occasions she'd seen
4 a man in the alley just behind 20th St.
5 standing in about the mid alley. He
6 would start to come towards her and she
7 always ran. On one occasion her
8 boyfriend was with her and this man came
9 out of the alley and then walked past
10 her going towards 20th St. He had his
11 collar or scarf over part of his face.
12 He kept looking back at them and finally
13 went West on 20th St. This man would be
14 in his 40's and heavy set, with broad
15 shoulders, about 6' tall, grey hair and
16 piercing, beady eyes. She further
17 stated that 2 of her girlfriends had
18 been talking and said they had driven
19 down the alley at the back of the
20 funeral home on Friday nite around 10:30
21 to 11 p.m. and they swung in the alley &
22 a male person was there, trying to hide
23 something under his arm. This thing he
24 was hiding had a glint to it like some
25 piece of metal. He had stepped into a



1 yard near the T intersection. The girls
2 names are Barbara Best of 273 St. Paul's
3 Place & Linda Barron, address not known.
4 These girls have not been questioned.
5 They should be at home at 4 p.m.

6 tomorrow.' M.H. Bennett, Detective."

7 And do you recall dictating that information from
8 your review of the reports?

9 A Yes.

10 Q And that information seems to match investigation
11 report 009232, if I could bring that up, please.
12 If we could go to the full page, beginning at the
13 bottom of the page, it looks like the exact
14 portion that I have just read to you; would that
15 look like the investigation report that you were
16 looking at at the time?

17 A Yes, I would have looked at that and then dictated
18 from it, yeah.

19 Q And you were interested in this information for
20 obvious reasons?

21 A Well it was the same alley, and it was December
22 22nd, very close to the murder time.

23 Q Okay.

24 A Uh-huh.

25 Q Go back to your notes, please. Centre of the page



1 you've dictated:

2 "Feb. 5/69 police report -- At 6:49 a.m.
3 police checked in 300 block in Ave. O
4 South, Larry Fisher, 334 Avenue O South,
5 works at Masonry Contractors at the
6 Education Bldg., U. of Saskatchewan;
7 wearing a yellow hard hat; said last Fri
8 he caught the bus at 6:30 a.m. at Ave. O
9 and 20th Street. He says there was no
10 one else around at that time and he had
11 no information to offer."

12 And do you recall why you recorded this
13 information or why you took note of this
14 information?

15 A Well the -- I'd certainly be fully aware of the
16 address that Milgaard went to, and that's the same
17 address, and I think, you know, the name stuck in
18 my mind because I knew there had been a couple
19 living in the basement, so --

20 Q Okay.

21 A Umm, it wasn't hugely important, but I -- it was
22 important in the sense of that time that the
23 police had spoken to this guy who lived in the
24 basement, who I had never spoken to, so --

25 Q Perhaps we could turn for a moment to the



1 investigation report, 183170, and again it's the
2 same form of document we have been looking at. If
3 we turn to the next page, please, you'll see the
4 entry at this portion of the report --

5 A Uh-huh.

6 Q -- that I have just read to you beside the 6:49
7 a.m.?

8 A Yeah.

9 Q Does that look like the document that you would
10 have looked at at the time that you were making
11 note of this information?

12 A Yes, it does.

13 Q And again, as I say, there are a number of entries
14 in and around this entry?

15 A Right.

16 Q And am I hearing you correctly, then, that you
17 took note of this one --

18 A Uh-huh.

19 Q -- in particular at least in part because of the
20 address stated?

21 A Yes, yeah.

22 Q And you had perhaps heard the name Larry Fisher in
23 some other context, you've indicated, as well?

24 A Yeah, he was somebody who lived at the same
25 address and might have seen Milgaard or knew



1 something. He wasn't a suspect in my mind.

2 Q Okay. And I know we saw mention of Larry Fisher's
3 name in the Dennis Cadrain interview. Now this
4 review that you are conducting, if I'm right in
5 the time of it, would have actually been before
6 that discussion with Dennis, perhaps, and it's, in
7 terms of documentation, the first time that we
8 would see that you have taken note of that
9 particular name, although I think you've indicated
10 that perhaps prior to this Mrs. Cadrain may have
11 advised you of Larry and Linda Fisher?

12 A Well my memory says she probably did, yeah, okay.

13 Q And, going back to the notes, is that your
14 handwriting beside that entry --

15 A Yes.

16 Q -- that we've just read?

17 A Yes.

18 Q And I've got more questions relating to that, and
19 we're going to come back to that, I just wanted to
20 confirm whether or not that was your handwriting.

21 A Yeah.

22 Q If we turn to the next page of the notes, you'll
23 see there are several further entries, matters
24 that you took note of during your review?

25 A Yeah.



1 Q I'm not going to review all of those. Is that
2 your handwriting on this page and your markings as
3 well?

4 A Yes, it is.

5 Q And I think you made reference to this, but this
6 is the last page, we've looked at three pages. Do
7 you recall whether this would have been a complete
8 set of your notes relating to your review of Mr.
9 Caldwell's files?

10 A How many pages were in it?

11 Q There are three, and we can leaf through the
12 three.

13 A No, I'm sure it's not complete.

14 Q You think that there was more dictation than
15 what's noted on these three pages?

16 A Well, I'm sure there should have been, yeah.

17 Q Okay. And can you recall, for example, and take a
18 moment, please, to review the pages if you would
19 like, can you recall any further information that
20 you gathered from the files that is not noted on
21 these three pages?

22 A Umm, there doesn't seem to be a lot in there about
23 the interaction with Milgaard on Nichol John or
24 anything like that. I'm surprised there's only
25 three pages. I spent a lot of time looking at



1 files, so I can't answer it. It's a mystery.

2 Q And again we can take whatever time you need, Mr.
3 Carlyle-Gordge. Do you have -- did you have a
4 chance to read this document prior to this time?

5 A Very quickly.

6 Q And do you have a general sense of the information
7 that's contained in the document?

8 A Yeah, I think that's accurate, what's in there,
9 yeah.

10 Q And so you are having some hesitation. What other
11 types of information did you think you took note
12 of upon your review that's not referenced in the
13 documentation?

14 A Well, information around the statements I think,
15 and especially around when they picked up
16 Milgaard, things like that. I can't be very
17 specific.

18 Q Okay. Maybe I'll ask you some --

19 A It just seems awfully short.

20 Q Okay. Maybe I'll ask you some specific questions.
21 I know -- let's just take some examples. By this
22 point in time you've been looking for Ute Frank,
23 for example. Do you recall seeing Ute Frank's
24 statement on Mr. Caldwell's file?

25 A Yeah, I'm almost sure I did, yeah.



1 Q And do you recall taking note of that or being
2 interested in that statement?

3 A I think I would be interested in it, yeah.

4 Q And do you recall whether you dictated a note
5 relating to that statement?

6 A Probably.

7 Q Okay. And what about, there's a statement that we
8 understand was on Mr. Caldwell's files given by a
9 (V4)---- (V4)---. Do you recall that name or
10 seeing a statement by a (V4)---- (V4)---?

11 A Not specifically, no.

12 Q And we can bring it up just briefly, it's 006404,
13 and you'll see the name that I've just mentioned
14 to you, and in summary Ms. (V4)--- talks about
15 being accosted by a male on the same morning,
16 January 31st, 1969 at 7:07 a.m. on Avenue H. Do
17 you recall whether you saw that statement during
18 your review?

19 A I really can't.

20 Q Okay. The type of information though that likely
21 you would have taken note of if you had seen it?

22 A Yeah, uh-huh.

23 Q And there are a couple of other statements that we
24 understand also were included in Mr. Caldwell's
25 files at the time, there was one by a (V11)



1 (V11)-- and another by an (V9) (V9)----, and they
2 both similarly talk about being confronted by a
3 male in and around that area in and around the
4 time period that we're speaking of. Do either of
5 those names --

6 A No, the names don't mean anything, but if you ask
7 me to go on my memory, I said some things jumped
8 out at me from the files. What jumped out was
9 this was a really busy back lane and if you had
10 asked me, well, how many references were there to
11 strange men or complaints from women, I would have
12 said quite a few, five or six. Now, I can't say
13 for certain I read this, the name I don't
14 remember, but I was aware, in fact I followed up
15 and found one of the women who had seen something,
16 I was aware that there seemed to be a cluster of
17 complaints to the police and stuff like that about
18 sexual problems going on.

19 Q Okay. And when you recall that, and I know this
20 is difficult, Mr. Carlyle-Gordge, but when you
21 think about it, was it solely in relation to that
22 same vicinity, being the back alley, and goings on
23 in that back alley where Miss Miller's body was
24 found?

25 A Well, that's what I was interested in obviously.



1 Was it confined to that? I can't say for certain.

2 Q Okay. As I say, the ones I've just mentioned to
3 you, (V4)---- (V4)---, (V11) (V11)--, (V9)
4 (V9)----, these were incidents in and around the
5 same area, but not in the back alley, but none of
6 those names sound familiar in terms of taking note
7 of those during your review of the file?

8 A Not at the time, no, they don't.

9 Q Okay. And what about another person we've been
10 talking about, a Sharon Williams, do you recall
11 seeing a statement by Sharon Williams on Mr.
12 Caldwell's file during your review?

13 A I'm fairly sure I did. I can't say with 100
14 percent certainty, but I think I did.

15 Q Do you recall taking note of any of that
16 information or does any of that stick in your mind
17 today?

18 A I can't remember.

19 Q Okay. And you've talked about taking note of some
20 incidents that were happening I think in the alley
21 and we at least referred to a couple of those in
22 fact that are on your notes relating to Audrey
23 Odnokon, Linda Barron and Barbara Best. Do you
24 recall mention of the police considering other
25 sexual attacks in reports that were contained on



1 Mr. Caldwell's files, and when I say sexual
2 attacks, actual rapes that had occurred in and
3 around that area prior to the Gail Miller murder?

4 A No. It's very hazy.

5 Q And the names (V1)--- (V1)- or (V2) (V2)-
6 (V2)----- or (V3)-- (V3)----- -- yes, I believe
7 (V3)----- at the time, does that refresh your
8 memory, do you recall seeing any mention of those
9 names or taking note of those names during your
10 review of the files?

11 A Not for sure. I can remember there were, if I had
12 to guess, I would say there were at least six that
13 interested me, complaints, and I followed up with
14 one woman, I remember doing that, but after all
15 this time it's very hard to recall.

16 Q No, and I appreciate you are doing your best for
17 me, Mr. Carlyle-Gordge, and three of them have
18 been noted, I think as we've confirmed, Audrey
19 Odnokon who later I believe became Audrey Boutin,
20 Linda Barron and Barbara Best. Do you recall the
21 other three, or the details relating to the other
22 three?

23 A No.

24 Q Okay. I'll show you a couple of other documents
25 and see if you recall seeing those on Mr.



1 Caldwell's files. There was a, what we've called
2 a can-say or a preparation document done by the
3 police for the prosecutor leading up to the
4 preliminary hearing, and the document is 105608.
5 I'll have you just take a look at that. You'll
6 see that witnesses required or mentioned at the
7 top re: David Edgar Milgaard, preliminary
8 inquiry, August 18th, 1969, and the document goes
9 on for about 21 pages to summarize anticipated
10 evidence relating to several individuals, and
11 perhaps we can just leaf slowly through the first
12 few pages of this, please. Does that document
13 look familiar at all to you?

14 A Well, I don't want to say with 100 percent
15 certainty, but those were the kinds of things I
16 was looking at in the files, yeah.

17 Q And as I say, it's a bit of a summary of
18 anticipated evidence. This would be something
19 that would have interested you at the time?

20 A Oh, yeah, for sure.

21 Q Okay. Those specific --

22 A If you are saying did I see this document, I can't
23 tell you with 100 percent certainty, no.

24 Q Fair enough.

25 A But I was interested in all that stuff, yeah.



1 Q There's another document that there has been some
2 reference made through the course of the hearings
3 that I'll bring to your attention, the document is
4 043477, and there's a slightly clearer version,
5 I'm sorry, perhaps we could bring up 110544, if we
6 have that document, a little bit more complete at
7 the top of that page. If we could move to, I
8 believe, page 4 of this document -- I'm sorry,
9 page 5. Does this look like a document that you
10 looked at during your review of Mr. Caldwell's
11 files that we've been speaking of?

12 A Can I just have a bit --

13 Q Absolutely, take your time. I'm sorry.

14 A I don't remember this one.

15 Q Okay.

16 A Especially point 2, but --

17 Q No familiarity?

18 A -- it's a long time ago.

19 Q You don't recall seeing this document though
20 during your review?

21 A I can't say that I did or not for sure, no.

22 Q I turn your attention to document 332045, we
23 looked at this letter just a moment ago just in
24 terms of the date, February 22nd, and a further
25 meeting that had been planned with Mr. Caldwell



1 following your first discussion. Take a look at
2 this paragraph, please. This is your words, you
3 are stating:

4 "Your parting remark about the early
5 psychiatric profile on Milgaard ('he
6 might be capable of killing ... but
7 that's a stab in the dark') struck me as
8 most intriguing and I don't think I even
9 got to the medical section, so a Xerox
10 of the relevant page would be very
11 welcome, since I want to build up some
12 kind of picture of the youth & his
13 lifestyle prior to Jan. 31, 1969.

14 Perhaps you could include it with the
15 other speeches etc you were forwarding."

16 Do you recall Mr. Caldwell referring to this
17 information?

18 A Well, it's in the letter there. Yeah, I think,
19 yeah, I do, yeah, I've said there was something in
20 his background, something like that.

21 Q What about the specific comment he apparently
22 mentioned to you from the psychiatric profile, "he
23 might be capable of killing ... but that's a stab
24 in the dark"?

25 A I think that was a reference to -- I think that



1 was a reference to some social worker. I knew
2 David had been in some trouble, he had been car
3 joyriding or something at some point as a
4 teenager, and I think some social worker had done
5 a report, maybe he was in the care of Child and
6 Family Services for a while, something like that
7 and sort of done some assessment, and I think
8 somebody had said that. I don't think they were a
9 professional, but --

10 Q And this report you are speaking of, did you see
11 this report?

12 A I have seen it, but you are asking me when
13 probably. I have certainly seen that, yes.

14 Q Okay. And I think you mentioned earlier to us
15 yesterday, just in passing, that you did have a
16 portion of some of this type of material that
17 existed relating to Mr. Milgaard and the pre Gail
18 Miller murder --

19 A Yes, I did.

20 Q -- situation?

21 A Mrs. Milgaard was, wanted me to see anything that
22 might be relevant, yeah.

23 Q And what were those materials as best you can
24 recall?

25 A Well, I know there was stuff before the Gail



1 Miller murder, like, from his childhood, and I
2 also interviewed her for that *Winnipeg 8* book
3 about stuff that went on. It may well have been
4 that towards the end of -- I don't even know if
5 she had access to reports that had been done after
6 he was imprisoned, I think eventually she did, and
7 I may have seen one of those.

8 Q Okay. And just going back to that, and I was
9 trying to follow your wording in this paragraph,
10 it looks like Mr. Caldwell has made reference to
11 this report and the comment in that report?

12 A Yeah.

13 Q You indicate that that strikes you as most
14 intriguing?

15 A Yeah.

16 Q And that you then ask for a Xerox of that page?

17 A Oh, I see.

18 Q And so I'm asking you whether you -- do you recall
19 seeing a report with that comment contained in it?

20 A Umm, I think so. Actually, now that I think of
21 it, I can't say with certainty. I know I read the
22 early stuff on David, I know that. Was the actual
23 sentence in there? I can't say that for certain,
24 no.

25 Q Do you recall whether there was a follow-up to



1 this request, did Mr. Caldwell send you a copy of
2 the relevant page or material of that nature?

3 A Well, it's my impression I got it from Mrs.
4 Milgaard. I don't recall him doing that.

5 Q Okay. I turn your attention to 332044, it's a
6 further letter from yourself to Mr. Caldwell, and
7 again a further meeting is being planned, it's
8 dated March 6th, 1983 and you mention the Mahar
9 case. I won't read it specifically, but you'll
10 see in the latter portion of the letter you
11 mention the *Mahar* case and you inquire whether Mr.
12 Caldwell may have any information in relation to
13 that case?

14 A Uh-huh.

15 Q Do you recall whether you learned anything further
16 on the Mahar matter from Mr. Caldwell?

17 A I don't. I don't recall, no.

18 Q That was still an interest at this point in time
19 for you?

20 A I guess it must have been, yeah.

21 Q Okay. I turn your attention next to document
22 050033, and this is a transcription of a meeting
23 that you had with Mr. Caldwell, and again it's
24 somewhat difficult to place in time, but from
25 those letters we know that a further meeting had



1 been planned for March?

2 A Uh-huh.

3 Q And if we look for a moment at 230193, and I
4 realize it's upside down, actually, it may be page
5 2 of this document, you'll see the Caldwell
6 reference mentioned, March 11th to 13th?

7 A Yeah, that's my writing.

8 Q If we go back to the transcript, and do you have a
9 recollection then of perhaps a second meeting with
10 Mr. Caldwell and a sit-down interview of sorts?

11 A Yeah, I do remember sitting down over that.

12 Q Okay.

13 A Yeah.

14 Q And this was a taped conversation obviously?

15 A Oh, yes, yeah.

16 Q And was that, was Mr. Caldwell aware of the fact
17 that you were taping the conversation?

18 A The tape recorder was right on the desk, yeah.

19 Q What about during the first telephone
20 conversation, was he aware that it was being
21 taped?

22 A I really can't remember.

23 Q Okay. And in terms of the use of the tape during
24 the second meeting, do you recall any discussion
25 about your intentions on how the tape was going to



1 be used or how the information might be used?

2 A Not specifically. I mean, he knew I wrote for
3 Maclean's and I was interested in a murder book.
4 That's about it.

5 Q Okay. And you've had a chance I assume to read
6 through this transcript of this second discussion
7 with Mr. Caldwell?

8 A Yeah, I have read it.

9 Q And would you accept it as an accurate account of
10 that second discussion?

11 A Yes, I would.

12 Q Just a few portions I want to bring to your
13 attention, the first one is right from the outset,
14 and it looks like the transcription begins
15 midstream, but we'll pick it up in any event at
16 this portion, I'm going to read some of this to
17 you and then I'll have some questions. Mr.
18 Caldwell states:

19 "... sad goings on in Calgary that, you
20 know, never got into the trial and I
21 think that there's an awful lot of stuff
22 like that that's ..."

23 You state:

24 "Yeah, I certainly didn't read that in
25 the trial."



1 Mr. Caldwell:

2 "Yeah, witness or if you use the
3 criminal right, I think, unless they
4 came out in the trial, I really...."

5 You state:

6 "In the transcript."

7 Mr. Caldwell:

8 "Yes. And, to some extent..."

9 You state:

10 "Yeah that came out with Wilson, I
11 know."

12 Mr. Caldwell:

13 "Yeah, I think to some extent things
14 that are in police reports that didn't
15 get into evidence. Now, I think it's
16 great if you say the investigation was
17 down this way, boom, boom, boom, so on
18 and then there's at least one place in
19 there where they're talking about rapes
20 where he was a suspect and that was
21 never brought home to him and I think
22 it... it (unintelligible) bloody well,
23 you know slanderous."

24 You state:

25 "Yeah, it's confusing."



1 Mr. Caldwell:

2 "Yeah, you know, aside from, those are
3 the only things I wanted to..."

4 It stops there. Do you have any recollection of
5 this exchange with Mr. Caldwell?

6 A Well, I think it happened, it's on the tape, so
7 the answer is yes, but I think it's very confusing
8 and disjointed and I connect it now in my mind
9 with the Cadrain, the stuff he was talking about
10 in Calgary probably. I wasn't that interested to
11 be honest.

12 Q Okay. I did want to ask you what you recall of
13 your understanding relating to the information I
14 just read to you, in what context was Mr. Caldwell
15 stating the portions that I've just read to you,
16 do you have any recollection of that?

17 A I think he was just saying you didn't hear
18 everything, you know, it wasn't all there. Now,
19 maybe he was hinting that, you know, they couldn't
20 use some stuff for legal reasons possibly. I
21 don't know why he was telling me this stuff
22 because I was interested really in what was at the
23 trial and what the case was and what was going on.

24 Q Okay.

25 A It's a very confused section.



1 Q Okay. I'm going to read you a portion of Mr.
2 Caldwell's testimony that was provided at this
3 Inquiry relating to this same entry, and if we
4 could turn, please, to page 17166. As I say,
5 there's some discussion about the portions prior
6 to this that I just read to you. I'm going to
7 pick up midstream here, and this is Mr. Hodson
8 examining Mr. Caldwell again at the inquiry a few
9 weeks back, and Mr. Hodson states:

10 "So if can just go back up to this part,
11 can you tell us what you are referring
12 to when you say things in the police
13 reports that didn't get into evidence
14 where they are talking about rapes,
15 where he, I think Milgaard, was a
16 suspect and was never brought home to
17 him and might be slanderous?

18 A I think, Mr. Hodson, that was the
19 matter that Mr. Cadrain had reported
20 that allegedly happened in Calgary
21 involving the bathtubs, etcetera. I
22 was -- I was cautioning Mr.
23 Carlyle-Gordge and I think it's --

24 Q Maybe just go back up to the top, I
25 think the sad goings on in Calgary.



1 A These were things that Mr. Milgaard
2 was accused of doing the so-called
3 bathtub episodes, which did not get
4 into the trial in my memory, and I was
5 saying there's an awful lot of stuff
6 like that, and then if you use the --
7 unless it comes out in the trial I
8 really think -- I was cautioning him
9 not to use those things, (a), were not
10 in the trial, and (b), were
11 slanderous. I mean, that's an, in
12 effect, a false accusation against
13 Milgaard is what that is.

14 Q And we saw a couple of days ago or two
15 weeks ago when we went through your file
16 the August 26th, 1969 police report
17 dealing with Ed Schellenberg where
18 Albert Cadrain told you about the
19 bathtub incident?

20 A Yeah, I'm sure we did.

21 Q And again, is that, I think you told us
22 that was on your prosecution file?

23 A Yeah, it was, and it, I was trying to
24 impress on Mr. Carlyle-Gordge that it
25 would be slanderous versus Milgaard or



1 anyone else if you printed things like
2 that that were not, you know, factual
3 or verified. I tried to impress on
4 him there were criminal records on the
5 file of probably three witnesses or
6 so, that he must not print those for
7 similar reasons, I think that's
8 further down. Oh, yeah, where he was
9 a suspect, that was never brought home
10 to him. It bloody well, you know,
11 slanderous is what I said."

12 And in terms of that exchange again, would you
13 have any reason to dispute Mr. Caldwell's account
14 of what he was advising you at the time?

15 A I think -- I didn't see any relevance to it
16 actually for the purposes I was there for, and of
17 course the only other connection I make to this is
18 when I saw Albert and he was going on and on about
19 Calgary and all this stuff and I had already come
20 to some conclusions already about David Milgaard's
21 character. Why was Mr. Caldwell -- he could be
22 telling the truth, maybe he thought I was
23 interested in that area, but where would I have
24 got that information from? The only place I've
25 heard about this stuff in Calgary, not from the



1 police files or anything like that, was from
2 Albert.

3 Q And I guess that was part of the question, do you
4 recall seeing an investigation report that's
5 mentioned here relating to a Schellenberg and the
6 incident in Calgary involving the bathtub --

7 A No.

8 Q -- during your review of Mr. Caldwell's files?

9 A No, I do not.

10 Q I'll just show you briefly, it's 007028, I'll let
11 you just briefly take a look at that.

12 A I don't remember seeing this --

13 Q Okay.

14 A -- in the files, but it certainly ties in with
15 what Cadrain was trying to tell me in the
16 interview with him.

17 Q Okay. And just going back to that portion of Mr.
18 Caldwell's testimony that I just read to you, I'm
19 not sure if I received an answer on this or not,
20 but do you have any reason to disagree with his
21 characterization of the portion of the meeting
22 with you that I previously read to you?

23 A No, not really, no.

24 Q And just a short further portion of that
25 testimony, if we can go to page 17168, please, and



1 I had left off here and I'll just continue reading
2 a short portion to you:

3 "Q So when you are saying, talking about
4 --"

5 Mr. Hodson again is examining:

6 "Q So when you are saying, talking about
7 rapes where he was a suspect, you are
8 referring to Mr. Milgaard?

9 A Yeah, and the Schellenberg, the
10 bathtub episode, and that was never
11 brought home to Mr. Milgaard.

12 Q At the trial?

13 A Well, period, and it shouldn't be -- I
14 mean, it shouldn't be, you know,
15 printed.

16 Q Now, later, and I'll be taking you to
17 some documents on this, Mr. Caldwell,
18 later some suggested that what you were
19 saying in this statement to Mr.
20 Carlyle-Gordge is you were talking about
21 the rapes of --"

22 And the names here that have been removed are
23 (V1)--- (V1)-, (V2) (V2)- (V2)-----, (V3)--
24 (V3)-----, and I'm not sure what V5 is, but
25 those first three are correct,



1 "-- that Mr. Fisher had been convicted
2 of.

3 A Absolutely --

4 Q Were you doing so?

5 A Absolutely not."

6 And again I don't know if you have a recollection
7 of this or not, Mr. Carlyle-Gordge, but would you
8 have any reason to take issue with Mr. Caldwell's
9 position as he has indicated in this portion that
10 I've just read to you?

11 A No, these names don't ring a bell with me at all
12 from the files certainly.

13 Q Okay.

14 A I found that whole area confusing, the whole thing
15 about Calgary.

16 Q Okay. Turn back to the transcript, and I'm just
17 going to identify a few further portions for you.
18 I see the time, Mr. Commissioner, perhaps now is a
19 good time to break.

20 *(Adjourned at 11:57 a.m.)*

21 *(Reconvened at 1:33 p.m.)*

22 BY MR. HARDY:

23 Q Good afternoon, Mr. Carlyle-Gordge.

24 A Good afternoon.

25 Q I'm going to return to the transcript of your



1 second discussion with Mr. Caldwell, 050033, and
2 there are just a few portions of this transcript
3 that I wanted to review with you. If we could
4 turn to the next page, I won't read it to you, but
5 there is a short bit there speaking of Nichol
6 John's second statement, and Mr. Caldwell had
7 indicated to you at this point his belief that
8 what she had stated in that statement was the
9 truth, and do you recall learning that information
10 from Mr. Caldwell, or his view on that statement?

11 A Yes, this is the conversation, yeah.

12 Q And do you recall what your thoughts were in
13 reaction to his position on that?

14 A Well, as I said earlier, umm, this wasn't, this
15 interview wasn't confrontation between what I
16 believed and what Mr. Caldwell believed, but I had
17 come to my own conclusions through logical
18 analysis and I wanted to ask things around that
19 subject, particularly Nichol. And I think one of
20 the things that bothered me is why she went on to
21 Edmonton if she -- with Milgaard and so on, it
22 seemed totally illogical to me, so that's about as
23 close as I got. I didn't say "I don't agree with
24 the Crown" or anything like that.

25 Q Okay.



1 A Yeah.

2 Q If we turn to page 050033 -- or I'm sorry -- page
3 5 of that document, and again I won't review this
4 with you, the discussion goes on for some time.
5 We'll see at the very bottom of the page, and I
6 think we have seen reference to this previously,
7 Mr. Caldwell's comment about Albert being the hero
8 of the thing other than the police, and the two of
9 you go on to a discussion that covers the issue of
10 the compact being thrown out, the issue of Mr.
11 Cadrain bringing his information to the police,
12 the motel reenactment, Mr. Caldwell's impressions
13 of Mr. Milgaard generally?

14 A Uh-huh.

15 Q If we turn to page 14 of the document, I see a
16 comment here that you make, and you note:

17 "I suppose one of the most interesting
18 things about it, considering the nature
19 of the crime, is how cool he was about
20 the thing afterwards. That's
21 fascinating."

22 And would I be correct that that was one of the
23 sort of common-sense inconsistencies that you had
24 drawn from your analysis of the case?

25 A Well yeah, it's hinting around there, yeah.



1 Q Okay.

2 A He was perfectly normal at the Trav-a-leer asking
3 for a map, he was perfectly cool and normal when
4 he met the Danchuks, yeah.

5 Q And I suppose you were interested, at this point,
6 on how Mr. Caldwell had perhaps resolved this
7 aspect?

8 A Yeah. I mean that could, that kind of behaviour
9 could be a psychopath, I suppose, who could
10 dissociate from a brutal murder. That wasn't my
11 view. I was interested in Mr. Caldwell's beliefs.

12 Q Okay.

13 A Yeah.

14 Q We'll turn to page 17. There's some general
15 discussion here, Mr. Caldwell is commenting on a
16 couple of things, and perhaps I'll just read a
17 portion of it to you starting at "the police". He
18 states:

19 "The police, of course, were you know,
20 marvelous. The two, the Lapchuk and
21 Melnyk or whoever they were, were
22 actually were very good. Tallis tried
23 to float the idea that they had been
24 promised considerations by the Regina
25 Police on charges against them if they'd



1 testify on this and I remember, I was
2 very impressed. I talked to those guys
3 and I said I don't want you leaning
4 either way, I don't want you, you know,
5 trying to nail this fellow. I don't
6 want you backing off. I want you to go
7 tell what you heard and that's all and
8 don't slant it either way and I thought
9 they came through very very well, like
10 they hung in there in the face of very
11 determined cross-examination, you see.
12 And as I look at it again I can see why
13 they felt that way. The one, I can't
14 remember which one, was particularly
15 good and is that ever eery evidence, you
16 know."

17 A Uh-huh.

18 Q And do you recall receiving that information from
19 Mr. Caldwell?

20 A Yes, yes I do, I do remember that.

21 Q And what were your thoughts on his impression of
22 Mr. Melnyk and Mr. Lapchuk?

23 A I thought he was being quite open with me, and at
24 that time this conversation he said he had had
25 with them saying, you know, "don't lean in favour



1 this way or that", I would have believed him that
2 that's what he believed and that's what happened.

3 Q And the transcript ends a short time after this at
4 page 050051, and then there's one further
5 discussion we'll look at in a moment, but in terms
6 of your overall impression following your meetings
7 with Mr. Caldwell what were some of your thoughts;
8 can you recall?

9 A Yes. Well I -- first of all, to be positive, I
10 think there was no hostility between us. Okay. I
11 wasn't there with any hostile intentions, I was
12 there to find information. I would have said "how
13 gullible can you be", I'm talking about my private
14 thoughts in terms of the logic or illogic of the
15 Crown's case, that nothing held together, and
16 that's one reason I did ask him the question about
17 why, something along "why did" -- I mean I was
18 going along with his view, obviously, in that
19 interview, but "why did Nichol John go to
20 Edmonton", and his response was, "well she was
21 scared of Milgaard", and everybody was saying,
22 well, they were scared of Milgaard, that's why
23 they didn't do this and that, and I just don't buy
24 that. I mean I think she went to Edmonton because
25 she hadn't seen anything and there was nothing



1 like that going on, but Mr. Caldwell did have an
2 explanation and it was along the lines of, well,
3 he was a very hypnotic character and she was
4 scared of him, sort of, you know.

5 Q And do you recall, again, what you did with this
6 information after the conclusion of your meetings?

7 A Well I think my wife would have done a transcript,
8 and I probably passed one on to Joyce probably, I
9 don't know exactly when, right after or some time.
10 Because I was kind of getting worn out by this
11 case by this point and didn't stay in it a lot
12 longer actively.

13 Q And did you feel, after you were done with Mr.
14 Caldwell, that you had learned anything
15 significant that, practically speaking, you might
16 be able to use towards the cause?

17 A Umm, well, not a huge amount. Umm, certainly the
18 stuff in the back lane with the women and these
19 two men, this Audrey one who I did phone and I did
20 interview her, I think her husband came on the
21 phone, it was kind of "what's this all about".
22 But she did specifically mention two men in that
23 back lane, and I wanted a description of the older
24 man. And her two friends, girlfriends who she was
25 no longer in contact with, they had also seen a



1 man there. But then, almost as an afterthought,
2 she said that she'd seen another man in a car this
3 time, the first older man was thick-set and on
4 foot but then she said "oh yeah, I remember there
5 was a younger guy I was scared of and he was in a
6 car and he made comments to me like 'shall I sock
7 it to you' or something like that", and she
8 remembered it was a two-tone car. So I remember
9 saying "can you describe this man any better", so
10 that was interesting that came out of my review of
11 the files, for me anyway.

12 Q And I think we may have a transcript of that
13 discussion that you are referring to and we'll
14 turn to that in a moment. Before we do, there was
15 one further single-page transcription, and I'm not
16 sure if we are able to place it in time, but if we
17 could turn to 225006, please. And this may be
18 have been in one, in the context of one of the
19 discussions that we've already referred to, but it
20 appears again to be a transcription between
21 yourself and Mr. Caldwell, from the context
22 anyways, and perhaps I'll read a portion of it to
23 you.

24 A Hmm.

25 Q Mr. Caldwell:



1 "Are you going to try and see Karst, or
2 phone him?"

3 Yourself:

4 "Yes, tomorrow I hope to see Mackie and
5 Karst.

6 Mr. Caldwell:

7 "You've got them booked, more or less?
8 (Offers to help P get in touch with
9 other people -- says Charlie Short is
10 away; says he thinks the book is a
11 'worthy thing to be written;' I think
12 it's a fascinating thing. And what I
13 would do is, if you want to phone me or
14 write me, I could get Charlie in here on
15 the phone, courtesy of the Prov. of
16 Sask."

17 You say:

18 "Say she want to see Tallis."

19 Mr. Caldwell:

20 "(Says it's a little tough; can't say
21 too much cuz Tallis is on the bench.)
22 He's a very conservative guy. Like, he
23 and I got along just fine. In fact, we
24 combined forces to put away a guy called
25 Leslie Klassen who murdered a girl here



1 ... It's a long story, but Tallis did
2 what turned out to be a manslaughter or
3 crim-neg. case and I did the 'dangerous
4 sexual offender' on the guy; between us
5 we got him locked away forever. So
6 we've been allies on various things.
7 And he's a very -- I had a funny
8 episode --- (tape ends)."

9 A Uh-huh.

10 Q And do you have a recollection of receiving this
11 information --

12 A Yes.

13 Q -- or being a part of this conversation?

14 A Yes. That's part of the same-day interview, I
15 think.

16 Q And I should have asked you; do you recognize this
17 as your form of typewriting?

18 A It is, yeah, yeah, I'm pretty certain about that,
19 yeah.

20 Q And did you understand that --

21 A He did -- he was very cooperative, Mr. Caldwell,
22 he was offering to help me. Yeah.

23 Q And in terms of this information about Mr. Tallis,
24 did you understand him to be speaking of Mr.
25 Tallis in terms of prosecutorial efforts, or



1 working as a prosecutor in assisting Mr. Caldwell;
2 do you recall?

3 A Umm, yeah. I know I had written to Tallis, and I
4 had never heard back, and I wasn't -- he wasn't at
5 the top of my list, but he was offering, "you
6 know, if you want to talk to him, he's in town",
7 or something like that.

8 Q Okay.

9 A And, like I said, I was under a lot of time
10 pressure.

11 Q And we will come back to this in terms of a
12 further document. In particular, I'm referring to
13 the last paragraph where he makes reference to
14 combining forces with Mr. Tallis to put away a guy
15 called Leslie Klassen --

16 A Yeah.

17 Q -- who murdered a girl and so on?

18 A Yeah.

19 Q Any specific recollection of --

20 A Yeah, that does ring a bell now. That is part of
21 the same tape, I think, yeah.

22 Q And what did you understand Mr. Caldwell to be
23 saying here?

24 A Oh. Umm, well, he had good relations with Mr.
25 Tallis, obviously, he knew these people. And, you



1 know, I was kind of focused on two things at this
2 point; I wanted to either, as I've said before,
3 find that one of the key Crown people would change
4 their story or had made a mistake or -- ten years
5 later; or find the real murderer. That's what I
6 wanted to do.

7 What did I understand by this?
8 I didn't really pay that much attention.

9 Q Okay. And I'll show you a document later. There
10 was suggestion, perhaps later on, that Mr.
11 Caldwell and Mr. Tallis had worked together --

12 A Uh-huh.

13 Q -- on the Miller murder case sort of, I guess, in
14 a conspiratorial effort against Mr. Milgaard, --

15 A No.

16 Q -- and I'm not sure if it arose from this portion
17 of the conversation, but is that anything that you
18 were ever aware of?

19 A I don't know anything about that, no.

20 Q Okay. And we'll look at that document in a short
21 bit.

22 A Okay.

23 Q So you've mentioned some follow-up that may have
24 come from this meeting, including some discussion
25 with Audrey Odnokon?



1 A Uh-huh.

2 Q And I'll turn you to a transcript of what I
3 believe is that telephone discussion, it's 333016.
4 This is a transcription that has been more
5 recently produced, it's located on one of the
6 tapes that had been provided to the Commission.

7 A All right.

8 Q And we'll see at the top it is a conversation
9 between yourself and Audrey Boutin, and I think
10 that fits with maybe what you had advised us
11 previously?

12 A That's right.

13 Q And I won't go through all of it, but the first
14 portion in fact is a discussion about the
15 information that's contained in the police report
16 as we noted in your dictated notes --

17 A Uh-huh.

18 Q -- about her experience with a fellow who she had
19 described I think as taller, a little bit older --

20 A Uh-huh.

21 Q -- and a bigger build, and you referred to him
22 just a moment ago. If we turn to page 333019,
23 starting here Ms. Boutin states, 'There was
24 somebody else that came out at me too'. You
25 state, 'Really. No, not at the same place?'



1 Audrey, 'Yeah, yeah'. You state, 'Oh really.
2 Can you tell me anything about that?' Audrey,
3 'Well I'. Yourself, 'It could be very useful'.
4 Audrey, 'Okay. It was a late model car, now on
5 cars, I'm not good at cars but in, in the, in,
6 like there was a late model car, kind of appeared
7 to be maybe like a pink, light pink colour'. You
8 state, 'All right'. Audrey, 'And it was a young
9 guy that was driving and he came out, he was
10 waiting in the back alley'. You state, 'Yes'.
11 Audrey, "And umm". You state, 'And do you know
12 when this was'. Audrey, 'I think that was too,
13 in the fall there, probably December or, cause
14 there was snow on the ground'. You state, 'Oh,
15 okay, that's good'. Audrey, 'And he came out and
16 he had, you know, said a couple of things and I
17 started running'. You state, 'All right, now was
18 he in the car in the back lane'.

19 Next page. I take it that was
20 unintelligible, that portion.

21 You state, 'He, he didn't get
22 out of the car'. Audrey, 'No'. Yourself, 'No'.
23 Audrey, 'He just started driving with the car and
24 the light flicked on when I had gone past'. And
25 you state, 'And was this at night again'.



1 Audrey, 'Yeah'. You state, 'All right, and you
2 think it was a pink car, the best you can'.
3 Audrey, 'Pink, and it was two-tone or something
4 like that'. You state, 'Okay. Can you remember
5 anything, you said he was young, can you remember
6 anything else'. Audrey, 'No, I can't because,
7 well I can remember what he said'. You state,
8 Yeah'. Audrey, 'But'. You state, 'I don't want
9 to embarrass you but do you want to tell me what
10 he said or he just made a suggest -- suggestion
11 or what'. Audrey, 'Well, bitch, I like talking
12 to you' in quotes. You state, 'Did he.
13 Fascinating. Do you know if he had dark hair or
14 light other than that'. Audrey, 'I don't know
15 cause it's nightttime, I couldn't see'. You
16 state, 'Yeah and you'. Audrey, 'I started
17 running and his car turned my direction and by
18 the time that he'd caught up with me his was
19 crossing over the boulevard 22nd and I was at my
20 place'. You say, 'You got back home safe',
21 'Yeah'. 'Umm, as you say, he was in the car and
22 it was dark and you say he was young, could he
23 have been like around 20, in that area'. Audrey,
24 'Could have been'. You ask, 'Early twenties'.

25 The next couple of portions



1 seem somewhat unintelligible.

2 Audrey says, 'But he, he had
3 hollered twice'. You state, 'Yeah, two incidents
4 in the same area though, not long'.

5 And then the conversation
6 continues for a portion after that until the end
7 of the transcript. And you have had a chance to
8 take a look, generally, at this transcript, have
9 you, --

10 A Yes, that's.

11 Q -- Mr. Carlyle-Gordge?

12 A That's accurate, yes.

13 Q And that would be an accurate representation of
14 that call?

15 A Correct.

16 Q And this was the information, then, of the second,
17 second individual that Ms. Boutin had spoken to
18 you about then, the description that we have just
19 gone through of the fellow?

20 A Yes, she had seen two men, and this was not long
21 before the murder of Gail Miller.

22 Q Okay. And do you recall what you did with this
23 information?

24 A Stored it in my head. Well, I would have got a
25 transcript made, probably given a copy to Joyce



1 too.

2 Q Okay.

3 A Yeah.

4 Q And I know in your original notes, when you are
5 reviewing this particular incident involving Ms.
6 Boutin or Ms. Odnokon as she was then, there was
7 reference to Barbara Best and a Linda Barron also
8 having an experience in that alley?

9 A Yeah.

10 Q Do you recall trying to reach either of them?

11 A Yes. Well I asked if she knew where they were,
12 and she said that she had lost contact with them.
13 If she had, I would have probably phoned them.

14 Q Okay. And in fact I think we have a transcription
15 of an attempted call to Linda Barron, --

16 A Oh, okay --

17 Q -- and it's very short, we don't need to review
18 it, it's document 333004, and I think it was a
19 wrong number in fact. But do you have any
20 recollection of talking to Linda Barron or Barbara
21 Best?

22 A No, not at this point, no.

23 Q And then I'm going to return at this point,
24 Mr. Carlyle-Gordge, to a discussion of your search
25 for Larry and Linda Fisher --



1 A Uh-huh.

2 Q -- from what you can recall. I'm going to take
3 you through a few documents in that respect that
4 we haven't seen yet, and the first one is a letter
5 that's dated February 25th, 1983, and the document
6 ID is 332585. You will see the date at the top,
7 February 25th, 1983 from Mr. Merchant to Empire
8 Skip Tracing Ltd.?

9 A Right.

10 Q And there is a request for a locate for Sharon Ann
11 Williams, and then secondly for Linda Fisher.

12 A Uh-huh.

13 Q And the portion relating to Linda Fisher states,
14 'In 1969 she lived at 334 Avenue O South,
15 Saskatoon, Saskatchewan. She married Larry Fisher
16 who is presently in prison for a rape charge.'

17 A Uh-huh.

18 Q And do you recall whether you had asked Tony
19 Merchant to locate Linda Fisher with the
20 information that's noted in this paragraph?

21 A Oh, I'm sure I had or Joyce had, we were still --
22 I was still -- they weren't top priority, but I
23 still wanted to meet the Fishers, yeah.

24 Q And the date here is February 25th, 1983, and just
25 fitting with what we've previously looked at, this



1 would be, I guess, the Friday following that
2 rather busy weekend you had previously with your
3 meetings with Albert and Mr. Caldwell?

4 A Okay.

5 Q And then the Monday discussions with Dennis --

6 A Uh-huh.

7 Q -- and Father Murphy, or excuse me, Leonard
8 Gorgchuck during that weekend as well?

9 A Uh-huh.

10 Q And so you think that you may have provided this
11 information to Mr. Merchant in terms of --

12 A No, I can tell --

13 Q -- trying to get --

14 A I can tell you that for sure. I don't know who
15 had spoke to Mr. Merchant, but we had had a
16 discussion about skip tracing. Umm, I don't think
17 I knew then -- when was this, February, no I
18 didn't -- that he was in prison for a rape charge.

19 Q And that's what I wanted next to ask you.

20 A So that couldn't have come from me, --

21 Q Is --

22 A -- that information. Maybe Mr. Merchant knew
23 about it, I don't know, I don't know where that
24 came from.

25 Q Is it possible that you were aware of that



1 information at this point, or can you recall?

2 A Umm, no, I don't recall, no.

3 Q And do you have any idea where this information
4 may have come from?

5 A Nope. That's pretty definite, 'he is in prison
6 for a rape charge', well I don't know.

7 Q And I'm just thinking --

8 A It says 'he is presently in prison for a rape
9 charge', I would not know that in February '83.

10 Q So you did not know that in February 1983?

11 A No.

12 Q And --

13 A I don't believe so.

14 Q And you don't have any idea where that information
15 may have come from?

16 A No.

17 Q Okay. This would obviously be something that you
18 would be interested in in your efforts, I would
19 assume, at the time?

20 A Well, you know, there were two problems I had
21 going -- I'm talking from, with hindsight now. I
22 didn't know about Fisher's record at this time,
23 about his problems in Winnipeg and elsewhere. The
24 other problem, again looking back with hindsight,
25 and there's irony in this, I know things now that



1 I didn't know at this time, is that the very year
2 I got involved with this case, 1980, is the very
3 year that Mrs. Fisher had been to the police to
4 make a very serious statement accusing Larry
5 Fisher of murder. I had no record of that, it
6 wasn't in the Caldwell file, so these people were
7 not on my radar screen. They were interesting
8 people, but not as murder suspects.

9 Q Okay. And I guess my question was that if you
10 were aware that Larry Fisher, at this time, was in
11 prison for a rape charge, --

12 A Uh-huh.

13 Q -- would I assume correctly that that would be
14 information that you would obviously be interested
15 in at the time?

16 A I would be vitally interested if I knew that for
17 sure, yeah.

18 Q And Mr. Merchant has testified, I don't think we
19 need to turn to the transcript, he had indicated
20 when a letter of this nature -- not this exact
21 letter but a later letter that we'll look at --
22 was put to him where he may have received
23 instructions to first of all seek out Linda Fisher
24 and also where he may have received the
25 information that we've noted in this paragraph



1 from, and his best answer that he could provide is
2 that it would have been from Joyce or David. And
3 I guess all I can ask you is that I think you are
4 confirming for us that it wasn't from you?

5 A This investigation would have gone a different
6 direction if it had been from me. No, it was not
7 from me.

8 Q Okay. And just in terms of the response, for
9 purposes of reference if we could go to 216089,
10 please. And you will see Empire Tracing has
11 responded, the date is March 23rd, 1983, beside
12 the date listed is the date of the letter -- it is
13 not actually the date of the letter that we looked
14 at, excuse me, but in any event there's an
15 indication that they have not been able to locate
16 Linda Fisher.

17 A Uh-huh, right.

18 Q Whatever that concludes. I'll turn you next to a
19 discussion that you apparently had, a second
20 discussion with Albert?

21 A Uh-huh.

22 Q And, again, this is a more recently-transcribed
23 discussion, and we have the audio for it, we did
24 not previously listen to this when we were
25 entering evidence relating to Albert Cadrain, but



1 I'm going to play it now or ask that it be played
2 now. It's very short, and it's of a discussion
3 between the two of you which apparently takes
4 place two or three weeks after your meeting with
5 Albert Cadrain in Dalmeny?

6 A Uh-huh.

7 Q And if we could play that now, please. The
8 document reference is 333013.

9 [Conversation between Peter Carlyle-Gordge and Albert
10 Cadrain]

11 PETER CARLYLE-GORDGE: Is this Albert?

12 ALBERT CADRAIN: Yeah.

13 PETER CARLYLE-GORDGE: Yes, it's Peter
14 Carlyle-Gordge. I'm the writer who interviewed
15 you two or three weeks ago.

16 ALBERT CADRAIN: Oh yeah, sure, yeah.

17 PETER CARLYLE-GORDGE: I'm still doing some
18 research and trying to trace anybody who was um,
19 involved back in '69. One of the names that I've
20 come across is uh, he was interviewed by police,
21 is a Larry Fisher.

22 ALBERT CADRAIN: Um hmm.

23 PETER CARLYLE-GORDGE: ...and he's given the
24 same address as yours. Do you know where he is
25 now?



1 ALBERT CADRAIN: Wouldn't have no idea.

2 PETER CARLYLE-GORDGE: No?

3 ALBERT CADRAIN: No, I wouldn't have no
4 idea at all. This Larry Fisher uh...

5 PETER CARLYLE-GORDGE: What was he, a
6 lodger or something.

7 ALBERT CADRAIN: A what?

8 PETER CARLYLE-GORDGE: A, a boarder?

9 ALBERT CADRAIN: Yeah, he was a, didn't
10 even know the guy, like he lived down in the
11 basement with his wife and kid, I guess.

12 PETER CARLYLE-GORDGE: Yeah, I know from
13 the records that they did interview him anyway.
14 I just wondered if you had anything to add?

15 ALBERT CADRAIN: Well, I'm sure they
16 interviewed quite a few people.

17 PETER CARLYLE-GORDGE: Oh, they did, I
18 know.

19 ALBERT CADRAIN: And uh, I guess he was
20 just a suspect hey.

21 PETER CARLYLE-GORDGE: Yeah, right, right.
22 I'm wondering if you had any memories of that
23 time, and after...

24 ALBERT CADRAIN: I wouldn't know, I
25 wouldn't have nothing to do with the guy, he's a,



1 a real uh, gangster type.

2 PETER CARLYLE-GORDGE: Is he?

3 ALBERT CADRAIN: Oh, yeah, from what I
4 hear, from what I hear, hey.

5 PETER CARLYLE-GORDGE: You mean, you mean
6 like, a criminal?

7 ALBERT CADRAIN: Yeah.

8 PETER CARLYLE-GORDGE: Oh, really.

9 ALBERT CADRAIN: Yeah, I suppose uh, I
10 guess they caught him years later, or, I don't
11 know how much longer, later, in uh, rapes and
12 shit like that, hey.

13 PETER CARLYLE-GORDGE: Oh, is that right.

14 ALBERT CADRAIN: But he's a real weirdo.

15 PETER CARLYLE-GORDGE: Hmm, oh, anyway, I
16 did talk to Dennis briefly, in Vancouver.

17 ALBERT CADRAIN: Oh, my brother, yeah.

18 PETER CARLYLE-GORDGE: Yeah, and he hasn't
19 written his book, but he, he gave me a few things
20 he could remember, not much more than you did and
21 he mentioned that the police were very uh, they
22 were picking you up a lot and...

23 ALBERT CADRAIN: Oh, yeah.

24 PETER CARLYLE-GORDGE: ...giving you the
25 third degree, picking you up every day?



1 ALBERT CADRAIN: Oh, yeah they were.

2 PETER CARLYLE-GORDGE: Yeah, anyway, you
3 have no idea where this Fisher guy is now?

4 ALBERT CADRAIN: Uh uh, I wouldn't have
5 anything...

6 PETER CARLYLE-GORDGE: Okay.

7 ALBERT CADRAIN: ...to help out that guy
8 ever.

9 PETER CARLYLE-GORDGE: Yeah, alright, I
10 thought I'd give you a try, okay, take care.

11 ALBERT CADRAIN: Yeah, okay then.

12 PETER CARLYLE-GORDGE: Bye, bye.

13 ALBERT CADRAIN: Make sure I get a copy,
14 hey.

15 PETER CARLYLE-GORDGE: I will do, yeah. I
16 may have to, depending on what I come across, I
17 may have to call you again anyway.

18 ALBERT CADRAIN: Oh, okay.

19 PETER CARLYLE-GORDGE: Okay, Albert, bye,
20 bye.

21 ALBERT CADRAIN: Bye.

22 **[Tape ends]**

23 Q And again for reference, the transcription of that
24 is 333013. Do you recall that conversation with
25 Albert Cadrain?



1 A Vaguely. Where he's talking about Fisher, I
2 really had forgotten about that until I read it
3 recently.

4 Q You had forgotten about it?

5 A Sort of, yeah, yeah.

6 Q Okay. And does that refresh your memory then in
7 terms of listening to that?

8 A Yes, yeah, I'm sure I did call him back to ask if
9 he knew where Fisher was.

10 Q Do you recall why you would have been asking
11 Albert about Larry Fisher at that time?

12 A Well, he was a lose end that -- well, I had just
13 been going through the files too, so I knew the
14 police had talked to him at the bus stop, it was a
15 lose end that needed tying up, but the stuff he
16 says later is, with the benefit of hindsight of
17 course, quite remarkable.

18 Q No, absolutely, and in fairness, I'm just trying
19 to capture your thought at the time as you are
20 talking with Albert. Did you consider that
21 information significant as you were speaking with
22 Albert?

23 A No, no, no. I didn't think Albert had much
24 credibility and I can tell you why. Well, his own
25 brother had told me not to believe him for one



1 thing, but after my meeting with him, this is a
2 guy who had told me not only that Milgaard was in
3 the Mafia, but the judge was part of the Mafia
4 conspiracy, that the lead Crown witnesses were in
5 the same conspiracy, the police were in the
6 conspiracy, everybody was in some kind of
7 world-wide conspiracy of organized crime, so
8 although it's very significant reading it now
9 knowing what happened afterwards, at the time I
10 wouldn't have given any credibility to anything he
11 said, and I think he implied in there that it was
12 kind of, some of it was hearsay, he was a weird
13 guy and I don't know this and that, so no, I
14 discounted that.

15 Q Okay.

16 A And certainly Larry Fisher was not, in my mind
17 anyway, a serious suspect.

18 Q And when you listened to this again, was that, in
19 terms of Albert mentioning Larry being involved in
20 rapes or anything of that nature, was that
21 information you had gathered from any other source
22 by this point in time?

23 A No.

24 Q Okay.

25 A And Fisher -- sorry, Albert had also talked about



1 David being involved in rapes and things too,
2 so --

3 Q So you generally discounted this information then
4 from --

5 A Not a credible person, no.

6 Q Okay.

7 A But if he knew where I could reach Fisher, I might
8 have been interested.

9 Q And there's another conversation that you have
10 with Albert's parents, mainly with Mrs. Cadrain,
11 and again this is a new transcription and it's
12 quite short and we'll listen to this one as well,
13 and I can't put a date exactly on it, but I've
14 included it at this portion, and I'll play that
15 now. The document reference is 333001.

16 **[Conversation between Peter Carlyle-Gordge and Mr.**
17 **Cadrain/Mrs. Cadrain]**

18 PETER CARLYLE-GORDGE: Hello, is that Mr.
19 Cadrain.

20 MR. CADRAIN: Yeah.

21 PETER CARLYLE-GORDGE: The one who used to
22 be on Avenue O South.

23 CADRAIN: That's right, yeah.

24 PETER CARLYLE-GORDGE: I'm trying to trace
25 a Linda Fisher and I believe she lived there in



1 the 19..., late 1960's. Did she live at uh, on
2 Avenue O South.

3 CADRAIN: Yes, she lived in our basement,
4 they lived in our basement uh, her husband and
5 her uh, for a while.

6 PETER CARLYLE-GORDGE: Do you know where
7 they are now, where she is now.

8 CADRAIN: Well, just a minute, uh, my wife
9 might know better than I do here, I know, I know
10 where he is but uh, I don't know where she is.

11 [Mr. Cadrain puts Mrs. Cadrain on]

12 MRS. CADRAIN: Hello.

13 PETER CARLYLE-GORDGE: Hello, yes, Mrs.
14 Cadrain.

15 CADRAIN: Yeah.

16 PETER CARLYLE-GORDGE: Yeah, I'm trying to
17 trace a Linda Fisher and I gather she uh, spent a
18 short time living with you on Avenue O South.

19 CADRAIN: Yeah, uh huh.

20 PETER CARLYLE-GORDGE: I have some
21 information. Do you know where she is.

22 CADRAIN: Well, could I ask who's speaking,
23 please.

24 PETER CARLYLE-GORDGE: Uh, well, I'm
25 calling for a lawyer's office but I can't



1 disclose the nature of...

2 MRS. CADRAIN: Oh...

3 PETER CARLYLE-GORDGE: ...of the information
4 I have.

5 CADRAIN: You a private investigator or...

6 PETER CARLYLE-GORDGE: No, no.

7 CADRAIN: No, no. Well um, I haven't seen
8 her for a long time but uh, they lived in our
9 basement um, say uh, fifteen years ago.

10 PETER CARLYLE-GORDGE: Fifteen years, yeah.

11 CADRAIN: Yeah.

12 PETER CARLYLE-GORDGE: Do you, you don't
13 know if she's still in Saskatoon though.

14 CADRAIN: No, I had uh, last time I saw
15 her, well I was enumerating for Henderson, hey,
16 and I believe she lived on Avenue U.

17 PETER CARLYLE-GORDGE: Avenue U.

18 CADRAIN: Uh, umm...

19 PETER CARLYLE-GORDGE: You wouldn't have an
20 address.

21 CADRAIN: No, not really, but it would be
22 at U South and it could be maybe the 400 Block,
23 I, I'm sure there, there was some old people next
24 door and uh, she, she has a little girl, Tammy
25 that went to Pleasant Hill School, she was six by



1 then so when they were, when they came to our
2 place when she was six months old, so then she
3 was, she was six at the time and she was going to
4 Pleasant Hill School and I remember going uh,
5 asking the neighbour, you know, who's next door,
6 in the little shack there and they told me,
7 friends or somebody and then uh, I kind of
8 guessed, you know is there a little girl, is that
9 a little girl or, Tammy, so, it had to be her,
10 hey. And I went there and there's a, they
11 weren't answering the door and their, and then I,
12 I just kept telling _____, and anyways,
13 he, a guy came to the door and uh, he was
14 _____...

15 PETER CARLYLE-GORDGE: I gather, I gather
16 she is separated.

17 CADRAIN: Oh, yes, she was, well at the
18 time I asked her, this guy who lived there he, he
19 didn't say he lived there but uh, he did, I guess
20 and he uh, he said Linda, he gave me her name,
21 Linda Fisher's here, _____ and anyways he
22 said um, asked about where's uh, Larry, like her,
23 her husband, hey. And he said um, well he's,
24 he's in PA. And I said what's he doing in PA, I
25 never thought, you know, _____. And he said



1 well he's making time. So he was in jail at the
2 time.

3 PETER CARLYLE-GORDGE: You don't know where
4 he is now.

5 CADRAIN: No, and I, I saw them once uh,
6 her and another kid, there was a real blond, it
7 certainly wasn't his, I don't know if it's this
8 boyfriend's either, it was a real blond kid and
9 uh, Tammy was coming from the circus, you know
10 and just, they just came by us and uh, that was
11 probably back... _____ I haven't seen
12 anything since, but I heard that he, he or
13 somebody was in North Battleford but I don't know
14 whether he was there or not, I don't know.

15 PETER CARLYLE-GORDGE: No, well I'll try
16 the 400 Block anyway.

17 CADRAIN: Well, I think if you ask you
18 know, uh, it was a little shack, I think it was
19 the 400 or it might have been the 500 because I
20 did from 300 to the 17th hey, so it was on, I
21 remember it was on the uh, the west side of the
22 street and there's a little shack and there was a
23 good house next door, there was uh, I remember
24 I'd fallen, twisted the ankle, and uh I was
25 bleeding from my eye or forehead or something at



1 they uh, gave me a bandage, you I wanted to clean
2 it up and, they probably are still there, you
3 know but there was, those older people are
4 probably still around and they probably, he was
5 just next door, but it was a good house, maybe a
6 stucco house or something, and then there's,
7 there's this little shack, you know, beside, I
8 know she was renting because I had to ask that
9 question, I was in the kitchen there for quite a
10 little while, but I, I, don't know, I haven't
11 heard anything from...

12 PETER CARLYLE-GORDGE: Well, I'll give it a
13 try anyway, thanks for helping.

14 CADRAIN: Yeah, well okay, bye, bye.

15 PETER CARLYLE-GORDGE: Bye, bye.

16 **[Conversation ended]**

17 **Q** Do you recall having that conversation with
18 Mrs. Cadrain?

19 **A** Do you have a date on that conversation?

20 **Q** I don't, and I was going to ask you --

21 **A** Well, I'm guessing that was very early on because
22 I know I had at least two or three conversations
23 with Mrs. Cadrain, and in that one it sounds like
24 I'm a stranger, so --

25 **Q** Yeah, I was going to --



1 A -- it must have been early.

2 Q -- state that as well, although I was having
3 difficulty reconciling that with your inquiries
4 relating to Linda and Larry Fisher just in terms
5 of everything you and I have worked our way
6 through, the first mention as I noted being
7 perhaps, at least on the documents during your
8 review of Mr. Caldwell's files, we heard
9 Mr. Dennis Cadrain mention his name.

10 A Uh-huh.

11 Q But I know you've also allowed that perhaps you
12 had gathered the name from Mrs. Cadrain earlier as
13 well?

14 A Well, as far as my memory goes, yeah.

15 Q Okay.

16 A Yeah.

17 Q Okay. So if you were to place, or try to place
18 this conversation, you think it may in fact have
19 been an earlier conversation before you had talked
20 with Albert?

21 A I think so.

22 Q Okay. And do you recall, it seems you are looking
23 in particular for Linda, you do mention and ask
24 briefly where Larry is, but do you remember why
25 you were looking particularly for Linda?



1 A I knew they had a little -- well, going back to
2 '69, they had a little girl and I knew or assumed
3 he worked and I thought there might be a better
4 chance that if either of them had seen anything
5 the day the Milgaard party arrived, January 31st,
6 she might have been around more that day. No
7 particular preference, but sometimes women notice
8 more things too.

9 Q Okay. And --

10 A I would have wanted to ask them about Albert too
11 if I had met them, so --

12 Q Right. And I notice there wasn't discussion about
13 Albert in this conversation. Were there more
14 conversations then than this?

15 A Yes, yes, there were later ones where I was saying
16 do you know where he is and stuff like that. They
17 are very protective I think, they weren't going to
18 tell us, even if they knew where Albert was, how
19 to be in touch with him, and I think, I don't even
20 know if there is a transcript of it, there might
21 be, she did finally offer to forward mail to him I
22 think and I think I made reference in the
23 interview with Albert, did you get my letter or
24 something like that.

25 Q Okay.



1 A She wouldn't give me an address for him, I know
2 that, so --

3 Q But do you recall though whether you were making
4 substantive inquiries with Mrs. Cadrain, for
5 example, about Albert and what she recalls of the
6 morning of January -- of the morning of January
7 31st?

8 A She was very cagey, I remember that, she didn't
9 tell us a lot.

10 Q And do you think those discussions that I'm
11 referring to took place likely prior to this
12 discussion that we've just made reference to?

13 A No. I'm guessing they took place after that one.

14 Q Okay. And again I'm just --

15 A It's all a memory, so --

16 Q I can only ask you. I assume perhaps some of the
17 first things you would have asked Mrs. Cadrain may
18 have been some information more directly related
19 to Albert, but I don't know if you can recall or
20 not.

21 A I really can't.

22 Q Okay. I'll turn to some notes that were part of
23 the materials that we previously reviewed. The
24 document is 224990, you recall we took a look at
25 this previously and it was a summary relating to



1 Walter Danchuk and I think you identified some of
2 your notes on this document, although you
3 indicated this was not likely your typewritten
4 work.

5 A No.

6 Q And the last page of this, I'm not sure why it was
7 appended to this particular document, but if we go
8 to 224998, and you can take a look at that, but
9 there's mention of Linda and Larry and various
10 years and it appears various addresses.

11 A Oh, right, yeah.

12 Q And is this in your handwriting?

13 A Yes, it is, yeah. Yeah.

14 Q And can you place this for us at all in context?

15 A I'll have to read it. We were looking for a lot
16 of people and I guess the Fishers were among
17 those. It looks like we're tracing addresses.

18 COMMISSIONER MacCALLUM: I can't hear you,
19 sir.

20 A Sorry. It looks like we're trying to trace
21 addresses and go back to where she had moved from
22 and to. Marriage licenses. It looks like some
23 handwritten reference to some attempt to look for
24 her, that's what it looks like.

25 BY MR. HARDY:



1 Q And again, any ability to place this in time?

2 A Oh, no, I don't think so.

3 Q Would it fit with the inquiries though that we've
4 been looking at, including your conversation with
5 Mrs. Cadrain?

6 A Well, she was talking about the 400 block and all
7 that. I don't doubt we might have looked then,
8 but I can't say with certainty when that was
9 written.

10 Q Okay.

11 A No.

12 Q The next document I'll show you is 159890, you'll
13 see it's a *StarPhoenix* ad and the date is March
14 26th, 1983?

15 A Right.

16 Q The body of the ad indicates:

17 "Linda Fisher - would anyone knowing the
18 recent whereabouts of Linda Fisher (who
19 was married in 1969 to Larry Fisher) and
20 has a daughter, Tammy, please contact
21 Box 410 C, Star Phoenix. The advertiser
22 has important information which may be
23 to her advantage and is anxious to
24 contact Mrs. Fisher as soon as possible.
25 Her last known address was in



1 Saskatoon."

2 A Uh-huh.

3 Q And is that ad familiar to you?

4 A Yeah, I'm pretty sure I placed it. Yeah.

5 Q Okay. And again, it looks like you are only
6 searching for Linda Fisher at this point in time.
7 Do you recall why that was the case?

8 A There's no significance at all, I don't think so.
9 We knew they were separated or divorced. No, I
10 can't think of any significance.

11 Q You wouldn't have known where Larry was at this
12 point in time though?

13 A Absolutely not, no.

14 Q Okay. If we could turn to 213943, you'll see it's
15 a copy of an envelope directed to yourself, and
16 there's an address, 192 Library Place?

17 A Yeah, that's my address at the time.

18 Q That would be your address at the time?

19 A Uh-huh.

20 Q And if we turn to the next page, there's some
21 notes, a phone number and a mention of Cliff, \$30.
22 I don't know if that has any significance, but do
23 you recognize what that might be?

24 A No idea, no.

25 Q Okay. If we turn to the next page, it's again a



1 copy of an envelope to the *StarPhoenix* to the box
2 number that was mentioned in the ad, I believe it
3 states L. Fisher at the top and a box number is
4 given, Cando, Saskatchewan?

5 A Uh-huh.

6 Q And if we turn to the next page, there's a copy of
7 a handwritten letter from a Bryan which reads:

8 "To whom it may concern

9 Regarding your advisement in the *Star*
10 *Phoenix*.

11 Re: Linda Fisher

12 You may contact me at 382-8167 Bryan.

13 For further information as I am her
14 common-law husband. I would like to
15 know more about this matter and if she
16 will need a lawyer etc."

17 Do you recall reading this letter in response to
18 your ad?

19 A There's a lot of mystery surrounding this
20 response. I don't -- I don't know what happened
21 to that letter right afterwards. I don't recall
22 contacting this person at that time.

23 Q Do you recall, though, receiving the letter?

24 A Not really, no.

25 Q Okay. And we'll look at a further letter that was



1 received, apparently with the same package,
2 213947, that's the next page of this document,
3 March 27th, 1983, I'll read this to you:

4 "Gentlemen, I am writing in regard to
5 the ad you placed in the Saturday, March
6 26, edition of the Star Phoenix.

7 I am wonder who you are? Why
8 you want to get in contact with me, and,
9 what it is all about?

10 You can contact me at this
11 address:"

12 The box number is given, signed Linda Fisher. Do
13 you recall receiving this letter that I've just
14 read to you?

15 A Well, if it was addressed to me, I probably did.
16 Do I recall it? Not clearly. I certainly don't
17 recall following up on it.

18 Q Okay. And I realize it's a while ago, but you
19 said not clearly. Do you have some recollection
20 of receiving a letter of this sort?

21 A It's very, very hazy. If in fact I opened it and
22 read it, what happened after that I don't know.

23 Q Okay.

24 A I presume I would have done -- mind you, I was
25 getting out of the case by -- when is this? Late



1 March. Yeah. I don't know what was going on on
2 March the 27th in my life professionally, so I
3 don't know what was happening at that time.

4 Q What about the notes, and if we can go to the full
5 page, please, there's some notes at the bottom of
6 the page.

7 A Uh-huh.

8 Q Is that your handwriting?

9 A No, I don't think so.

10 Q Do you recognize that handwriting?

11 A No.

12 Q Okay. Turn to the last page of this package just
13 for completeness, is 213948, page 6, and again
14 it's just a mention of the *StarPhoenix* and the box
15 number. I think then you've confirmed for us that
16 you don't have any clear recollection of actually
17 receiving these letters?

18 A Right.

19 Q And you definitely have no recollection of acting
20 upon them in terms of contacting Linda or --

21 A No, I'm sure I didn't contact her, what I know now
22 I'm sure I didn't, no. What happened to them, I
23 mean, if I received them, I have no idea.

24 Q I was going to ask you --

25 A I didn't supply these to the Commission by the



1 way, so obviously somebody else had a copy of the
2 letter.

3 Q Do you recall what you may have done with these
4 letters if they had been received?

5 A Probably given a copy to somebody, Mrs. Milgaard
6 or lawyers or whatever.

7 Q And I'm going to turn back for a moment to a
8 document that we previously looked at, it's
9 174037, and it's page 2 of -- these are your
10 dictated notes from your work on Mr. Caldwell's
11 files.

12 A Uh-huh.

13 Q And we mentioned the handwriting entry beside the
14 entry relating to Larry Fisher which indicates:

15 "A lie! Wife says he was home all day."

16 A Right. That is my writing, yeah.

17 Q And do you have any idea when you would have made
18 that handwritten entry?

19 A Well, it would have to be a long time after the
20 dictated notes and it would have to be at a time
21 when I had already read Linda Fisher's -- probably
22 Linda Fisher's interview with Mrs. Milgaard which,
23 I don't know, 1990. It would have been written in
24 later obviously.

25 Q And can you tell us how that might have played



1 out? I take it then obviously you would have been
2 looking at this document again at a later point in
3 time for some reason?

4 A Yes, yeah. I reviewed it -- we were in England
5 again from '87 to '90, came back in August, 1990,
6 and I went through a lot of -- thinned out things,
7 gave things back. It could have been then. I had
8 taken some material to England just in case I
9 found the energy to do something with it, but I
10 suspect that was written a lot later, like,
11 maybe -- I think once Fisher had been contacted,
12 Mrs. Fisher, and I think Joyce had Centurion
13 involved at that point, she would probably have
14 sent me a copy of that interview, and so I've
15 obviously read what Mrs. Fisher said about going
16 to the police, so it must have been after that.

17 Q And so you didn't speak with Mrs. Fisher then in
18 1983 though --

19 A No, not to my recollection.

20 Q -- to gather this information?

21 A No. There's a bit of a mystery around that --

22 Q All right.

23 A -- whole period.

24 Q And one other document that we looked at
25 previously is 224933, and you recall this was a



1 memo from Mr. Tallis' defence file?

2 A Right.

3 Q Which I think you confirm was in your possession
4 during your review from, or during the 1981 to
5 1983 time period, and you identified the Fisher
6 note here beside the burning barrel reference?

7 A Yeah.

8 Q Do you have any recollection of --

9 A When I wrote that?

10 Q What that entry related to?

11 A Do you know, that handwritten thing could have
12 been written later too, it's possible, because I
13 kept abreast of the case even though I wasn't
14 involved in it. It seems to me there was some
15 story from Joyce about some neighbour or somebody
16 phoning, there was a story going around that Larry
17 Fisher -- so it was later for sure -- had been
18 burning some work clothes, so I'm thinking that's
19 later.

20 Q Okay. And if we turn to page 3 of that document,
21 you recall the handwritten note that we had
22 previously reviewed largely about Nichol and how
23 your theory on how the rape likely occurred and
24 your suspicion that a car was involved?

25 A Yeah.



1 Q And we see the last entry, "Check cars, Fisher,
2 Mahar"?

3 A That's interesting.

4 Q Would this be an entry that was more likely made
5 during your review from 1981 to 1983?

6 A Well, it depends when I got these notes from
7 Tallis from Joyce. Yeah, I would think '81 to '83
8 is more likely with Mahar being in there, yeah.

9 Q Okay.

10 A Yeah.

11 Q And what would have been your thoughts with
12 respect to including the Fisher name at this point
13 in time?

14 A I haven't the foggiest idea. Let me think. I
15 don't know if I was aware whether he had a car or
16 what. He lived in the area, I knew that, but as
17 far as I was concerned at that time period in my
18 mind he wasn't a suspect, so -- I don't know, I
19 probably just said let's check whoever lived near
20 there, you know, did they have cars. I had a lot
21 of suspects, so -- but he wasn't a serious one.

22 Q And that was the only question I had following
23 from that, whether you can recall --

24 A What was in my head at the time?

25 Q Whether you were considering Mr. Fisher as a



1 suspect at the time.

2 A I would say not.

3 Q Okay. Turn to 213627, it's another letter from
4 Mr. Merchant this time to Universal Process
5 Servers, it's dated October 12th, 1983. You can
6 see as per the previous request to Empire, he's
7 looking still for Ute Frank --

8 A Right.

9 Q -- Sharon Williams, and we see the entry again
10 relating to Linda Fisher?

11 A Yeah. That's strange, eh.

12 Q And it's the same entry I believe.

13 A Yeah.

14 Q And just before you answer, Mr. Carlyle-Gordge,
15 can you tell us where you were as of October 12th,
16 1983?

17 A Yes. In Sussex, England.

18 Q You had moved to England by this time?

19 A Yes.

20 Q And at what point had you moved to England?

21 A I think we sailed from Montreal in late August or
22 early September. We went from Montreal to London.

23 Q Okay. And I guess with Tony's inclusion of the
24 request to locate Linda Fisher, would it be fair
25 to say that he was not aware, and of course you



1 can't speak for him, but that it appears that he
2 wasn't aware of the contact information that you
3 had received apparently from the letters from
4 Linda and Bryan?

5 A Well, I guess not if he's asking for another trace
6 on her.

7 Q No, obvious.

8 A Yeah.

9 Q Okay.

10 A Nobody was really -- there was no grand
11 coordinator of this investigation, you know, it
12 was a bit haphazard sometimes.

13 Q And do you have any recollection of whether you
14 had provided those letters? I know you mentioned
15 that you thought you may have. Do you know if you
16 provided those letters from Bryan and Linda to
17 Joyce Milgaard?

18 A Oh, I'm sure I did at some point, but I don't know
19 when.

20 Q I was going to ask you next, do you have any
21 recollection when that would have been?

22 A No.

23 Q Okay. Just a couple of further documents that we
24 can make fairly quick reference to I think.
25 There's 332997, a single page transcription of a



1 couple of further calls that you had made, it
2 looks like the top one you are still looking for
3 Audrey Boutin?

4 A Uh-huh.

5 Q And I see the bottom one, it appears that you are
6 looking to speak with Mr. Karst?

7 A Uh-huh.

8 Q And it's indicated that he wasn't in at this point
9 in time?

10 A Yeah.

11 Q Do you have a recollection of whether you ever had
12 the opportunity to speak about the case with Mr.
13 Karst?

14 A Well, I thought I had spoken to two policemen,
15 Mackie and Karst, but I don't see a transcript
16 anywhere, so I don't -- I don't remember Mr.
17 Karst, I don't know what he looked like, but I had
18 it in my mind that I had spoken to him, so
19 probably I didn't, although I still -- I'm not
20 quite certain about it.

21 Q Would you have known who Mr. Karst was or the role
22 that he had played?

23 A Yeah. He was one of the lead policemen when
24 Cadrain went there, yeah.

25 Q So you have no recollection of actually having a



1 substantive discussion with him?

2 A No, which doesn't mean it didn't happen, but I
3 don't think so.

4 Q And we don't have a transcript of any such
5 discussion. We do have a transcript of a
6 discussion with Detective Raymond Mackie.

7 A Right.

8 Q And I take it you do recall speaking with Raymond
9 Mackie?

10 A Yeah. I think I went to his house, yeah.

11 Q And do you recall when that was?

12 A Oh, probably around the time I was looking at the
13 Caldwell files.

14 Q Okay. And we'll turn to the transcript which is
15 325616, and I think you probably had an
16 opportunity to review this transcript previously
17 have you?

18 A I've read it once, yeah.

19 Q And would it be an accurate account of the
20 discussion that you would have had with Mr.
21 Mackie?

22 A Yeah, it would.

23 Q Do you recall how you had represented yourself to
24 Detective Mackie, or I should say Mr. Mackie at
25 that point in time, why you contacted him?



1 A Probably about the book I would imagine.

2 Q I'll turn to just a couple of portions for your
3 consideration. Page 325621, there's some brief
4 mention again for, or of Larry Fisher?

5 A Right.

6 Q And an inquiry of Mr. Mackie about whether he knew
7 who Larry Fisher was?

8 A Uh-huh.

9 Q He indicates he doesn't recall. I suppose this
10 would be in line with the other inquiries you were
11 making in and around this time period?

12 A Yeah, yeah.

13 Q Okay. Turn to page 325624, I'll read this portion
14 to you, you state, and you are talking about
15 Nichol John here and you state:

16 "And she gave a blow-by-blow and, in the
17 one she denied, she said that she saw
18 the whole thing that night. Saw the
19 stabbing."

20 Mr. Mackie:

21 "I think there was some suggestion in
22 it, it wasn't fully detailed, but there
23 was some indication that she probably
24 had seen it. Yeah."

25 You state:



1 "Yeah yeah, and then she would refuse
2 to, uh ..."

3 Mr. Mackie:

4 "She'd back-up. She would go so far and
5 then she'd back and then she'd go ahead
6 again and she was a difficult witness to
7 deal with."

8 Do you recall receiving this information from Mr.
9 Mackie?

10 A Yes.

11 Q And I'm curious in particular about his first
12 comment:

13 "I think there was some suggestion in
14 it, it wasn't fully detailed, but there
15 was some indication that she probably
16 had seen it. Yeah."

17 And I assume what you were talking about here was
18 the statement. Were you surprised at all that
19 Mr. Mackie wasn't stating more clearly what
20 Nichol had said in that statement at this point?
21 Do you have any recollection?

22 A I think he was a bit cagey about everything. No,
23 I can't remember at the time what was going
24 through my head, no. I think there was some
25 suggestion -- seen it? I think what I'm referring



1 to, "it" is the stabbing, right, she had seen the
2 murder, isn't that --

3 Q In fairness, only Mr. Mackie I guess can tell us
4 for certain. I had read it that he was stating
5 that there was some suggestion in the statement,
6 that the statement wasn't fully detailed, but
7 there was some indication that she had probably
8 seen it.

9 A Oh, I see what you are saying, right. Yeah, okay.

10 Q And given what we know of that statement, I'm
11 wondering if you recall receiving Mr. Mackie's
12 information on this point and whether you recall
13 what your reaction was.

14 A Uh-huh. No, I don't.

15 Q Okay. Just a little bit further down the page,
16 here Mr. Mackie states:

17 "If I remember right, she was raped by
18 Milgaard once. In a park in Regina."

19 Then you state:

20 "Yeah it was in the books."

21 Do you recall that portion of the discussion?

22 A And I mean from memory, no, I don't, but that is
23 very interesting that that's in there.

24 Q Do you have any idea --

25 A The books had to refer to the files I would think.



1 Q I was going to ask you that next. Do you have any
2 idea what you are referring to here where you
3 refer to books?

4 A I think it would have been the files. I can't
5 imagine any book had been written about him.

6 Q So it's possible --

7 A There must have been some police references in
8 there that I read in the files.

9 Q Okay.

10 A Yes.

11 Q Turn to 325629, this portion here, Mr. Mackie
12 states:

13 "Yeah. In fact, I think I suggested to
14 you that I was a little wondering, a
15 little bit weary of you yourself because
16 I figured well, maybe you're on her team
17 and ..."

18 And you state:

19 "No, I'm a ... writer ... you're kicking
20 up."

21 Mr. Mackie:

22 "... and trying to ... Not about to
23 worry about that. No, I talked to Bobs.
24 I wasn't concerned about ..."

25 And he continues to express some of his



1 reservations about your intentions. Were you
2 comfortable with your representations to Mr.
3 Mackie here?

4 A Not 100 percent, but this is what I mean by
5 walking on egg shells, thought I was working for
6 Joyce Milgaard, and I guess he had checked I think
7 with Mr. Caldwell hadn't he; isn't that what it
8 says? Yeah. Do I like telling little fibs? No.
9 Did I think it was important to interview this
10 guy? Yes. Did I think he would interview me if
11 he thought I had any connection even though I was
12 doing this for my own purposes to find out more
13 truth and information? I would have thought if he
14 had thought I had any connection, any
15 communication, he would have said go to hell, you
16 know.

17 Q Okay. Turn --

18 A Am I comfortable with it? Not really, no.

19 Q Okay. Turn to page 325632. I just see here
20 there's some mention of Charlie Short.

21 A Uh-huh.

22 Q Do you recall whether you ever attempted to
23 contact Charlie Short?

24 A Doubtless I attempted, but I don't remember
25 anything about that. I can't remember an



1 interview with him.

2 Q Okay. There's several other transcripts relating
3 to various work that you conducted on the file,
4 several of them in fact relate to your inquiries
5 on the Lorne Mahar aspect, and I'm not going to
6 turn to those. I do think you confirmed for us
7 earlier that you in fact had a discussion with
8 Mr. Mahar?

9 A Yeah. It was by telephone.

10 Q And what do you recall learning from that
11 discussion?

12 A Well I was trying to gently draw him to the
13 subject of Gail Miller, and it was -- I found it
14 very difficult to do that. He sounded like a man
15 who knew he had had a terrible time, he had a lot
16 of amnesia about that period when he had killed
17 his girlfriend or whatever he did, and I don't
18 know, I think intuitively I felt he is not
19 connected to Miller. I had a desire to find him
20 just to be in contact with him.

21 Q I was going to ask you if you had a recollection
22 of how your inquiries relating to Mr. Mahar
23 ultimately resolved themselves?

24 A In my own heart I decided he wasn't the one.

25 Q Okay. And the --



1 A He had a very peculiar and unique situation to do
2 with a domestic situation, and so on, so --

3 Q And just for the sake of reference, I'll refer to
4 some of these transcripts by their ID, I won't
5 turn to them. There are five of them; 332992,
6 332999, 333009, 333025, and 333007.

7 Mr. Carlyle-Gordge, you made
8 reference to your move to England in 1983?

9 A Right.

10 Q And I take it, was that a permanent move at the
11 time, permanent in the sense that that was the
12 intent at the outset?

13 A No. But by the spring of '83 I was getting really
14 burned out, I had put a lot of time into this, but
15 this was only one thing. Umm, I think the *Katie*
16 *Harper* case, which I had put even more time into,
17 got resolved finally in about 1982, and it was
18 extremely devastating for my wife and I, we didn't
19 like the end of that, so that was one blow. And I
20 was still -- we had a very young family, and I was
21 still writing an enormous amount and I was getting
22 burned out, and I decided that probably I wanted a
23 change of scene and a complete -- not to be
24 looking at legal documents for a while, and we
25 talked about it and decided we would go on a



1 sabbatical come working holiday, and the *Toronto*
2 *Star* fortunately offered me a part-time position
3 as an English correspondent, keeping an eye on --
4 what I had to do was review all the English papers
5 every day and write some features about Margaret
6 Thatcher, things like that. So I think we had
7 made that decision, because I know by May-June we
8 were planning to rent the house out with the
9 intention of coming back some time, obviously.
10 And I was really trying to withdraw, in a sense,
11 from active involvement in this case, because I
12 thought we had gotten nowhere, and I was quite
13 disillusioned. First of all, none of the
14 witnesses I was interested in had changed
15 anything, although there had been some tantalizing
16 words from Mr. Wilson I thought. We hadn't found
17 the murderer, it's like looking for a needle in a
18 haystack. Now with hindsight, you know, many
19 years later, I can see the haystack was the very
20 house that Cadrain lived in and that Milgaard
21 visited. That is painful to know.

22 Q What happened to your work that had been compiled
23 up to that point in time?

24 A Well I think I took some of it with me on the
25 ship, umm, I certainly left what I considered



1 important copies or tapes with Joyce for if -- I
2 mean in a sense I was slightly abandoning it, if
3 that's the word for it, but I knew certainly in
4 '83 that we were right, that there was no way the
5 Crown's case could -- I couldn't prove anything,
6 but there was no way the Crown's case could
7 possibly be true, I knew that with all my being,
8 and I felt completely impotent and frustrated and
9 depressed, even, about it, but I needed a break.
10 So I certainly left materials with her in case,
11 you know, at some point she might have some
12 resources, some help, some lawyers. I thought we
13 were trying to climb Mount Everest with a dead
14 body on our backs, that's how I felt, I was very
15 frustrated.

16 Q And, after you moved to England, did you remain
17 involved in any capacity --

18 A Yes.

19 Q -- in Joyce Milgaard's efforts?

20 A Not in the sense of active involvement, but it
21 bothered me morally, and we were in contact
22 certainly by letter quite a lot, and I think Joyce
23 stayed with us in England twice, in fact she
24 eventually moved to England for a while.

25 In terms of what did I do, I



1 think we got there in September '83, so it was
2 either in late '84 or possibly '85 -- it will be
3 '85 -- I had wracked my brains on -- we had no
4 resources, that was the whole problem, we were
5 fighting the state with no resources, so I
6 suddenly had the bright idea to write to the *Fifth*
7 *Estate*. I didn't know anybody there, but I wrote
8 quite a long letter to the *Fifth Estate* producers,
9 thinking "well this might be right up your street,
10 this case, here's what I know about it, and it
11 really disturbs me and this is why it disturbs me,
12 you ought to pursue it", something along those
13 lines, and I sent it off to Toronto. And then I
14 heard back from them, they were interested, and
15 they asked me for a skeleton, more detail, who
16 should they talk to, and I remember sending that
17 off to them, and then I kind of lost track of it.
18 But it's my understanding the *Fifth Estate* did in
19 fact start some investigative work, I wasn't
20 involved in it, and that again I think they did
21 some interviews, and I thought they are the right
22 people, they have got CBC money, they have got
23 staff, they can do what I couldn't do alone or
24 Joyce couldn't do alone, and they did start some
25 work. I kept hearing about that. And they



1 eventually abandoned it too, and interestingly
2 it's basically for the same reasons I could never
3 break through with the managing editor of
4 *Maclean's*, that yes it's fascinating, yes the
5 theory is amazing, it looks impossible, but we
6 don't have the bombshell, so they stopped.

7 Q I'll take you through some documents, and again
8 we'll move chronologically. The first one I want
9 to show to you is a letter from Hersh Wolch, the
10 document is 156666, you will see the date of the
11 correspondence is April 14th, 1986?

12 A Right.

13 Q Directed to yourself?

14 A Right.

15 Q I think Mr. Wolch asks for copies of transcripts,
16 and also asks about any comments you can offer?

17 A Uh-huh.

18 Q It sounds like this is the beginning of his
19 involvement in the matter?

20 A That would sound about right, '86, yeah.

21 Q Did you have any role in terms of Mrs. Milgaard's
22 decision to retain Hersh Wolch on this matter?

23 A Indeed I did. I -- we often talked about the
24 *Katie Harper* case, oddly enough, driving out to
25 Saskatchewan, and we talked about many things, but



1 she knew of the enormous respect -- I had been
2 involved with Mr. Wolch in the *Katie Harper* case,
3 and I'm quite certain I said "if you can ever
4 afford to get a lawyer this is the lawyer you need
5 to get", because I had enormous respect for his
6 intelligence. So, yes, I advised her which lawyer
7 to get.

8 Q And you respond in a letter 162433, you will see
9 it's a letter to Mr. Wolch from yourself, it's
10 dated April 28th, 1986?

11 A Right.

12 Q There's some mention at the very top, in the first
13 paragraph, about the *Fifth Estate* TV program being
14 postponed?

15 A Uh-huh.

16 Q The second paragraph, I think, goes on to be a
17 suggestion on your part that perhaps the fastest
18 route to obtain materials might be from the *Fifth*
19 *Estate*?

20 A Uh-huh.

21 Q That all relevant material, or copies of that
22 material, had been provided to them?

23 A Uh-huh.

24 Q You indicate you only have one copy of your own
25 material?



1 A Uh-huh.

2 Q And I take it that would have been the case at the
3 time?

4 A Yes, yeah.

5 Q And you were wanting to hold onto that material?

6 A Yeah, it was probably the transcript, yup. I know
7 I had given them a very detailed outline when I
8 first wrote them.

9 Q I take you next to 162432, this time it's a letter
10 from David Asper dated June 5th, 1986, again I'll
11 summarize perhaps. He introduces himself in the
12 first paragraph, he notes that he is looking for
13 addresses for some of the key witnesses, Nichol
14 John, Ron Wilson, Albert Cadrain, and then in the
15 last paragraph he indicates an interest in your
16 theories on the case?

17 A Uh-huh.

18 Q And you respond at 162430, a letter from yourself
19 to Mr. Asper, and you give what information you
20 have relating to contact, details on some of the
21 witnesses?

22 A Uh-huh.

23 Q And, if we get down to this portion here, perhaps
24 I'll read this to you:

25 "I can't go into a synopsis of why David



1 is unlikely to have committed the murder
2 here, except to say that a careful study
3 of the transcripts, timing, distances,
4 temperatures etc. all make it unlikely
5 he did it. Time is critical: the
6 church caretaker saw the likely murderer
7 at 7.10 am in the headlights of a car
8 parked at the murder spot. At this time
9 the trio were many blocks away at the
10 Travel-eer Motel. Physical evidence re.
11 Miller's clothing also suggests she was
12 assaulted in a car (cf. subzero temps.
13 and unlikelihood of an outdoor rape)
14 and pulled her coat up and made a run
15 for it --- then was caught and stabbed.
16 Note evidence re. knife holes in her
17 clothing/back."

18 And, again, would that be an accurate summary of
19 your view on the case, or some of the high points
20 in terms of your view of the case at that time?

21 A Yeah, they would. I didn't -- it's very skimpy,
22 is that. But one thing I had forgotten is I've
23 always been convinced that the attack was in a
24 car, and I do remember now, I did check with some
25 doctors at the Winnipeg Health Sciences Centre at



1 one point between '81 and '3 as to whether it were
2 even physically possible, at minus 40, for a man
3 spontaneously to commit the crime like that and
4 rape somebody, and the answer was categorically
5 "don't think so". So that's another bit of
6 research I had done.

7 Q Do you know who you had made those inquiries with?

8 A I can't give you a name, but they were people who
9 had to do with people who had suffered from
10 frostbite and, you know, they had an interest in
11 cryogenics.

12 Q Okay.

13 A But the -- I'm -- it was a simple question, "at
14 minus 40 do you think it's even likely a man could
15 even do this on a -- standing up in a back lane"
16 and the answer was "no".

17 Q Okay. Turn you to the next page of this letter.
18 Just a quick note. I see in the last sentence you
19 mention:

20 "Cadrain is definitely a romancer and,
21 of course, he did get the \$2000 police
22 reward."

23 A Uh-huh.

24 Q And you still considered that information, then,
25 significant?



1 A What, the reward? Today, no, I don't. Is he a
2 romancer, yes, he was.

3 Q And I note that you describe him as 'a romancer'.
4 Were you of the view though, as you've indicated
5 to us, that he was also mentally unstable?

6 A Well that's actually what I meant. He embroidered
7 everything, and you might think by 'romancer' I'm
8 talking about love, I'm not. He's just somebody
9 who is not quite in touch with reality.

10 Q Okay. I turn you to 212567, and I won't read
11 this, but it appears to be a letter to yourself
12 from David Milgaard --

13 A Uh-huh.

14 Q -- dated October 20th, 1986. Do you recall
15 whether you had stayed in communication with
16 David, or what was the nature of your
17 communication?

18 A I think I wrote him one or two letters over the
19 years, I -- it wasn't in close communication, no,
20 no. I know I wrote to him from England, I know I
21 did. He needed a lot of hope and a lot of
22 propping up, you know.

23 Q I'll turn you next to 156668, and you will see the
24 date on this correspondence October 2nd, 1989,
25 directed to yourself, the second page of this will



1 indicate that it's from Mr. Asper again.

2 A Uh-huh.

3 Q And perhaps I'll summarize the contents of the
4 letter again for you and read just a portion of
5 it. The -- he notes the application that is being
6 put forward on David's behalf to the Department of
7 Justice, and gives you a bit of a summary of where
8 that's at, he in the second paragraph gives you an
9 update on involvement by the media in the case?

10 A Uh-huh.

11 Q And then if we turn to the next page, I'll read
12 this portion to you, it indicates:

13 "A couple of weeks ago, Sandra Bartlette
14 wrote to David and asked that he give
15 Sandra permission to write a book on the
16 case. David has declined to grant this
17 permission for two reasons. First, he
18 feels and unwaivering loyalty to you and
19 would very much prefer that if a book is
20 written that it be written by you.

21 Secondly, there are lingering suspicions
22 about Sandra arising out of the whole
23 *Fifth Estate* incident. Both David and
24 Joyce feel very uncomfortable dealing
25 with Sandra because they simply cannot



1 predict her approach or sympathies.

2 While I am sure that we could
3 develop some kind of a level of comfort
4 with Sandra, I think that the Milgaards
5 are absolutely correct in suggesting
6 that I write to you to enquire as to
7 whether you might be interested in going
8 ahead with publishing your version of
9 the case. Your efforts in large measure
10 are why we are where we are today and if
11 anyone should benefit from publishing,
12 it seems to me that you would be that
13 person.

14 I would appreciate your
15 communicating with either myself or
16 Joyce and advising as to your thoughts
17 on this matter. I can tell you that
18 both Joyce and David are very eager to
19 have you become re-involved and I share
20 their belief that you deserve whatever
21 you can get as a result of your
22 efforts."

23 And do you recall this correspondence from
24 Mr. Asper?

25 A Not until I read it recently, no.



1 Q And do you have any idea what he was speaking of
2 when he talks of lingering suspicions about Sandra
3 Bartlett?

4 A I wasn't really -- I mean I was in England. I
5 don't think they trusted her. I don't, I can't
6 remember exactly why, but they weren't sure,
7 perhaps, if she had some other connections that
8 might not be favourable to David, I think.
9 Some -- I'm really not privy to exactly what the
10 problem was with her, I really don't remember.

11 Q Did you have any --

12 A I was surprised to read this letter again, because
13 I had forgotten about it, and it's rather touching
14 that Joyce and David felt that way, because I
15 certainly hadn't had any involvement or pressure
16 about writing a book on them, I mean I had put no
17 pressure on them, and I can't remember what I
18 replied to Mr. Asper. Obviously I didn't write
19 the book, I don't know what I said to him.

20 Q Do you recall whether you had an interest still,
21 at this point, in writing a book?

22 A Well it was always there in the background. I
23 can't tell you categorically when I said -- I
24 don't know. You know what, my role had evolved by
25 then, I was busy with other things in England and



1 I think what I -- I was quite happy to pass the
2 torch on to people like the *Fifth Estate*, people
3 who had resources or anybody who could do
4 anything, and I was even happier when she got a
5 lawyer, finally, and that David Asper turned out
6 to be one of them, because in terms of the media,
7 when I first met her I said "stop doing that", you
8 know, "you are making any investigation more
9 difficult because of the hostility". But at the
10 end, of course, the media did play a critical role
11 in helping get to the truth of this case, so Asper
12 was actually the perfect choice, because he had
13 connections, and I give credit to David Asper for
14 getting the media interested. I had failed to do
15 that, even with *Maclean's*, so --

16 Q We'll move into 1990, and in 1990 we have on
17 record a transcript of a radio broadcast involving
18 the CBC and Peter Leo.

19 A Uh-huh.

20 Q And I'll just perhaps bring up the transcript,
21 it's 054119, and I'm not going to read any
22 specific portions but the interview included
23 extracts from your discussions with Mr. Caldwell
24 in 1983. Were you aware of the fact that extracts
25 from that interview were going to be used in an



1 interview in later years or a broadcast in later
2 years?

3 A No. Nobody was more shocked. I found out about
4 this program a few weeks ago. I never heard it
5 and nobody ever told me about it. So, no, I had
6 no connection with it.

7 Q And what did you do when you recently found out
8 about it?

9 A I was very annoyed, and I wrote to the CBC, I
10 think I wrote to the ombudsman, and I said "I
11 can't understand how one of my tapes could have
12 been used without my permission." First of all,
13 it's a copyright infringement and you would think
14 CBC would know better, so I was kind of ticked off
15 about it, and I had a letter of apology and sort
16 of an explanation from the senior lawyer of CBC.
17 I have a copy if you would like me to read it.

18 Q We will turn to it in a moment, but do you have
19 any idea, then, how the tape had made it to the
20 CBC?

21 A Well, I have a vague idea now. At the time I
22 think I phoned Joyce and said "do you know
23 anything about this program", and she said "no, I
24 can't remember". But it turns out that whoever
25 made the program had been doing some work



1 interviewing Joyce, and she had a whole box load
2 of materials including mine, and I think this guy
3 said -- Peter Leo, that's his name, I don't know
4 him -- "do you mind if I look at these, borrow
5 them or whatever", and she probably just said
6 "well sure, go ahead because it might help us",
7 you know. So what happened is he obviously
8 snipped one of my interviews and used it without
9 even seeking permission.

10 Now if they had approached me --
11 and this is, when was it, in 1990 --

12 Q 1990.

13 A -- so I'd be back in Canada -- I would have
14 declined to let them use that tape. I would,
15 however, have offered them an interview to give my
16 opinions of what, you know, of what was going on.
17 But I was annoyed, because it kind of put me in an
18 embarrassing position, because Mr. Caldwell had
19 certainly only understood that this was for a book
20 or a *Maclean's* article or something, and I can
21 imagine he was very surprised to hear it, I was
22 very surprised to hear about it, so if he had any
23 objection I don't blame him, quite frankly.

24 Q I think we have confirmed you had a number of
25 these tapes, and perhaps you left a number of them



1 with Joyce, at least those that would be
2 considered important. What authority had you
3 provided in terms of the use of the tapes or what
4 was your anticipated use of those recordings?

5 A I basically, well I knew she had got a lawyer too,
6 they could borrow any of that stuff, Joyce could
7 or the lawyers could, that was fine with me.

8 In terms of other media, no, I
9 would want to be knowing about that. That was my
10 work, a lot of time invested, so --

11 Q What about the *Fifth Estate*, had authority been
12 provided to allow the *Fifth Estate* to use those
13 materials?

14 A Not from me.

15 Q You had mentioned in that previous letter that we
16 looked at that you thought perhaps the best route
17 to obtain various materials for Mr. Wolch or
18 Mr. Asper, I can't recall, would have been a
19 direct request to the *Fifth Estate*?

20 A Yeah, but the *Fifth Estate* had no permission to
21 use any of my tapes, they were doing original
22 research and doing -- they were interviewing
23 people I suggested. That was their -- no, I never
24 dissolved any copyright on the show, no.

25 Q And perhaps you can tell us again; what action did



1 you recently take in terms of learning this
2 information?

3 A Oh, well I forget, was it October or sometime
4 around there I heard about this and I, well I kind
5 of hit the roof at first, and I thought "what's
6 this all about". So I contacted the CBC, and I
7 had a letter of apology from the senior counsel,
8 and an explanation.

9 Q And perhaps reference will bring that up. 333218.
10 And it's in an Email form --

11 A Right.

12 Q -- to yourself from Michael Hughes. 'Dear
13 Mr. Carlyle-Gordge: I've been asked to respond to
14 your Email addressed to CBC's Ombudsman, and would
15 like to say at the outset that CBC regrets any
16 embarrassment you may experience as a result of
17 CBC's broadcast of excerpts of your interview with
18 Mr. Caldwell.

19 I have spoken with Mr. Leo, who
20 produced the Sunday morning program about David
21 Milgaard in 1990, and he recalls his several
22 conversations and meetings with Mr. Milgaard's
23 mother, Joyce Milgaard, in the course of preparing
24 the documentary. She spoke very highly of you, as
25 she did in her book "A Mother's Story", and of



1 your role in getting the wheels in motion which
2 ultimately led to David Milgaard's total
3 exoneration.

4 At the meeting she also showed
5 Mr. Leo a box containing a number of audio
6 cassettes, one of which was of your interview with
7 Mr. Caldwell. When Mr. Leo asked if he could
8 borrow the cassette for use in his documentary, I
9 doubt if it occurred to either of them that there
10 might be a problem with that. Certainly, none was
11 expressed. In fairness to Mrs. Milgaard, I have
12 to remind myself that at that time her son was
13 still in jail for a murder he did not commit, and
14 she was working with all her energy to free him.
15 I have not spoken to her about this but I wonder
16 if she did not view the interview with Mr.
17 Caldwell as a possible step towards her son's
18 liberation which you had given her and that Mr.
19 Leo could use it if he thought it potentially
20 useful.

21 I once again regret any
22 awkwardness or embarrassment this use may cause
23 you in any way but I can assure you that Mr. Leo's
24 and CBC's intentions were entirely honourable and
25 not in any way of the type and character you



1 suggest.'

2 And I haven't referred to your
3 initiating letter, and I don't have a document ID
4 for that, and I believe we may be in possession
5 of -- was it an Email that initiated your concern?

6 A Yes, yes it was, yes.

7 Q And perhaps I will look for that and get a
8 document ID for that once we've located it.

9 A Okay.

10 Q But that would be an accurate account of the
11 response that you received?

12 A Yes, and I can accept that the motives were good,
13 but --

14 Q Okay.

15 A -- they still -- you'd think they would have known
16 better.

17 Q I turn you next to a further document from 1990,
18 159819.

19 COMMISSIONER MacCALLUM: Excuse me, sir.
20 Maybe I missed, misheard you, but I thought your
21 theory was that Mr. Leo had 'clipped' -- that's
22 what I heard you said -- 'clipped' the tape from
23 Joyce Milgaard; do you mean stole?

24 A No. Umm --

25 COMMISSIONER MacCALLUM: How could his



1 motives be good if that's what he did?

2 A I think what happened was they probably made a
3 copy of a tape and used a snippet of it. I
4 haven't even heard the program, you see, so I
5 don't even know what's in the program.

6 COMMISSIONER MacCALLUM: Well, no, but I'm
7 interested in what you think happened to get the
8 tape from Joyce Milgaard's hands into Mr. Leo's
9 hands?

10 A Well I was curious about how CBC had ended up with
11 it, yes.

12 COMMISSIONER MacCALLUM: You said you
13 thought that he had 'clipped' it; what do you
14 mean by that?

15 A 'Clipped'? Taken a piece out of a copy of it.
16 They made a copy of it, presumably, and then I
17 don't know if they had 30-seconds or a 60-second
18 quote they wanted, or something like that.

19 COMMISSIONER MacCALLUM: Oh. Okay. So you
20 are not implying that he did it without
21 Joyce Milgaard's knowledge?

22 A Oh no, no, no, no, not at all. Not at all.

23 COMMISSIONER MacCALLUM: Thank you.

24 BY MR. HARDY:

25 Q Yes, that's the document. I see it's an article



1 in the Winnipeg Free Press August 1st, 1990 -- I
2 shouldn't say article, a letter -- and it
3 indicates from yourself?

4 A Hmm.

5 Q You were in England at the time; that would be
6 correct?

7 A Yes. I had forgotten about this, yeah.

8 Q Do you recall writing this letter now, or it
9 was --

10 A Yeah, it was a letter to the editor, yeah.

11 Q And I'll refer you to portions of it, we'll start
12 with this section, and you indicate:

13 "I have followed reports of new evidence
14 in the David Milgaard case with
15 considerable interest, since I
16 investigated it over eight years ago and
17 concluded beyond any reasonable doubt
18 that Milgaard was as innocent of the
19 murder of Gail Miller as I am.

20 Strictly from a timing point of
21 view, it would have been quite
22 impossible for him to have carried out
23 the deed and even the most cursory
24 examination of the trial and statements
25 would convince any reasonable person



1 that there was something extremely fishy
2 about the evidence of the key Crown
3 witness.

4 I put all these conclusions in
5 a book ('Winnipeg Eight, published by
6 Queenston House) but nothing happened
7 and David Milgaard has continued to
8 languish in prison, from where he still
9 occasionally writes to me."

10 A Uh-huh.

11 Q "After 21 years, he still insists he is
12 innocent and cannot understand the
13 delays by the Justice Department in
14 reopening his case. Neither can I.

15 Saskatoon police chief Joseph
16 Penkala adds insult to Milgaard's
17 considerable injury by attacking the
18 news media for their role in exposing
19 the shortcomings of the Crown's case and
20 for their "insensitivity ... for the
21 victims of a very heinous crime that
22 occurred in 1969."

23 Chief Penkala may well be right
24 that the latest publicity is painful for
25 relatives of Gail Miller, but he seems



1 curiously indifferent to the feelings of
2 David Milgaard's family - in particular
3 those of his mother, Joyce Milgaard, who
4 has fought tirelessly to prove her son's
5 innocence.

6 In my view David Milgaard is as
7 much the victim of a "heinous crime" as
8 Gail Miller was. The only difference is
9 that the state, not an individual, was
10 the perpetrator of the crime against
11 him."

12 And would that be an accurate indication of your
13 viewpoint, Mr. Carlyle-Gordge, at this point in
14 time?

15 A Absolutely.

16 Q And you continue on in the next paragraph to
17 state:

18 "If the Saskatoon Police are satisfied
19 that all is well with the Milgaard
20 conviction, why did they contact all the
21 chief witnesses in the early 1980s
22 advising them not to talk to
23 Mrs. Milgaard, myself, or anyone else?"

24 I think we've referred to that aspect previously
25 in your testimony, Mr. Carlyle-Gordge?



1 A Correct, yeah.

2 Q Reading on from there:

3 "Having the opportunity to peruse all
4 the police files relating to this case,
5 I would also like to know why they
6 failed to check the alibi of a man they
7 interviewed about the murder in 1969.
8 This man, currently in prison for
9 violent rape offences, lived in the
10 vicinity of the murder and told police
11 he was at work on the date of the
12 murder.

13 They clearly never checked this
14 alibi because his former wife has now
15 come forward and said he was not at work
16 that day and his behaviour was
17 suspicious."

18 And we can skip over the next portion to the --
19 sorry, here you state:

20 "It is extremely hard for the state to
21 admit its justice system can sometimes
22 err badly, but the fact remains that it
23 is only as good as the people operating
24 it. In the *Milgaard* case, it seems
25 clear that more than sheer incompetence



1 is involved. Police threats against Ron
2 Wilson unless he told them exactly what
3 they wanted to hear (true or not),
4 borders on deliberate perversion of the
5 course of justice and are frankly evil."

6 And do you recall, I think we tried to get at
7 this yesterday as well, but do you recall in
8 particular what threats we're referring to here?

9 A Well I'm referring to the statements changing and,
10 you know, threatening to "you are going to be
11 charged with the murder, you know, if you don't
12 tell us more", that kind of intimidation that led
13 to the change in the statements.

14 Q And do you recall specifically where you had
15 gathered that information?

16 A Umm, specifically, no.

17 Q But that was your viewpoint on the matter?

18 A Yeah, that was my viewpoint.

19 Q And if I just conclude this letter:

20 "When Mr. Milgaard is finally exonerated
21 - as indeed he will be, as surely as
22 spring follows winter - let us hope the
23 guilty men in this affair are called to
24 account rather than some whitewashing
25 press statement being issued.



1 The media have played a
2 critical and important role in exposing
3 this case and its shortcomings and I
4 hope they continue to do so, however
5 uncomfortable it makes Chief Penkala or
6 anyone else. The state's case is
7 utterly flawed and I hope it will make
8 just and generous restitution to both
9 Mr. Milgaard and his family when the
10 matter is finally resolved in his
11 favour, as it will be."

12 A Right.

13 Q And, again, that would be an accurate account of
14 your feelings on the matter at the time?

15 A My very strong feelings at the time, yeah.

16 Q This is perhaps a good time to break, Mr.
17 Commissioner.

18 *(Adjourned at 3:00 p.m.)*

19 *(Reconvened at 3:22 p.m.)*

20 BY MR. HARDY:

21 Q I turn your attention next, Mr. Carlyle-Gordge, to
22 document 159912. This is another article from the
23 *Winnipeg Sun*, and you'll note the date, May 26th,
24 1991, *A Mother's Crusade, Faith in God Keeps Joyce*
25 *Milgaard Going*, and it looks like it was by



1 yourself, by Peter Carlyle-Gordge, for the Sun?

2 A Right.

3 Q Do you recall writing this article?

4 A Not really. It is my article though, yeah.

5 Q And I'm not going to review any specific portions
6 with you. Where would you have been at that --

7 A I was back in Winnipeg then, May, '91, come back
8 from England in August, '90 I think, and I wasn't
9 really deeply involved, you know, she had lawyers
10 by that point working on all this stuff, and
11 often, you know, back in '81 and '83 when I was
12 getting to know her, driving around Saskatchewan
13 we would have long philosophical discussions about
14 good and bad and her particular religion, which is
15 Christian Science, so I've always known the
16 spiritual aspect was very important for Joyce, and
17 that *Winnipeg* 8 book, *Two Kinds of Liberty*, was
18 about spiritual liberty and the actual freedom of
19 her son.

20 Q I turn you to another article as well, 229199,
21 you'll see it says here, I believe, *Toronto Star*?

22 A Yes.

23 Q November 29th perhaps, 1991?

24 A Right.

25 Q The title of the article "Clearing his name tops



1 Milgaard's list," by Peter Carlyle-Gordge, special
2 to the Star?

3 A Uh-huh.

4 Q Rockwood Institution, and it seems to be based
5 upon an exclusive 90 minute interview that you had
6 at the time with David Milgaard?

7 A Yes, yes, it would be.

8 Q And you recall that?

9 A Well, I can recall writing it because I really
10 hadn't written anything about him other than the
11 piece in the Sun. I'm trying to remember if I was
12 actually with him or if I talked to him on the
13 phone. Maybe I went out to the prison to do it, I
14 don't know. I can't remember.

15 Q You were living in Winnipeg at this time though?

16 A I was.

17 Q I'm going to move forward a bit in time, Mr.
18 Carlyle-Gordge. We're aware that the RCMP
19 conducted an investigation into alleged
20 wrongdoings surrounding the Milgaard matter and
21 their investigation was conducted in or about
22 1993?

23 A Uh-huh.

24 Q And do you recall being contacted by the RCMP in
25 that regard?



1 A Yes, I do.

2 Q We'll take a look at I believe what is a
3 transcript of an interview that they had conducted
4 with you, the document is 022240, you'll note the
5 title page, the reference is statement of Peter
6 Carlyle-Gordge, date, June 17th, 1993, taken by
7 Corporal Templeton, Constable Dyck, Regina R.C.M.
8 Police, and I understand you've had an opportunity
9 to review this transcript previously?

10 A I have, yes.

11 Q And are you comfortable with the accuracy of its
12 contents?

13 A Yes.

14 Q Just a couple of portions I wanted to bring to
15 your attention for comment, the first being at
16 022242, speaking about some of your inquiries from
17 the beginning, you indicate:

18 "I did, yeah. I went to Saskatoon and I
19 went there with Mrs. Milgaard. I made
20 it quite clear to her that I wasn't, she
21 was offering a reward by the way of ten
22 thousand dollars. I made it clear to
23 her that's not why I was involved.

24 There were two reasons. One, I was
25 thinking about a book on unusual murder



1 cases, including the Katy Harper
2 (phonetic) one. And the other one was
3 Maclean's and in fact that, this is back
4 in nineteen, late nineteen eighty,
5 nineteen eighty-one, and up until I
6 think probably the end of nineteen
7 eighty-two I stayed involved."

8 A Uh-huh.

9 Q And again would that be an accurate account of
10 your motivation initially for your involvement?

11 A Initially, yeah, it would.

12 Q If we turn to the next page, there's some
13 discussion about your visit with Mr. Caldwell, I'm
14 going to read a portion of what you state. You
15 indicate:

16 "He very kindly, he was very
17 co-operative by the way, he arranged for
18 me to see the police files on the
19 investigation. Gave me an office
20 downtown in Saskatoon. I think I spent
21 an afternoon there going over the
22 documents. I'm sure they weren't all
23 there, by the way, the documents but."

24 And in terms of your indication of your
25 recollection of Mr. Caldwell and your visit with



1 him, I think you've already confirmed for us
2 previously what you state here, and that would be
3 an accurate account of your recollection?

4 A Yes.

5 Q And in terms of the comment about you being sure
6 that all of the documents weren't there --

7 A Uh-huh.

8 Q -- do you recall what you were referring to at
9 this point?

10 A I can't be positive. I might have been thinking
11 of, you know, some other police stuff that perhaps
12 I shouldn't see. I mean, I had no control over
13 what was there obviously. I don't know exactly
14 what I was thinking when they asked that.

15 Q Was it simply a suspicion that you had that you
16 may not have seen all of the police documents?

17 A Well, I think Mr. Caldwell had referred to all
18 that stuff about Calgary too, you know, with
19 Milgaard. I really at this distance cannot think
20 what I meant by that. I hadn't seen them all.
21 Well, I didn't think I would see everything, I
22 thought some would be culled out, you know. Is it
23 suspicious? No, I don't think so.

24 Q Yeah, and I didn't mean to use that word --

25 A No.



1 Q -- in a way that perhaps it sounded, but I guess
2 what I was asking is, is that just a hunch you had
3 perhaps that --

4 A Oh, yeah.

5 Q -- that you hadn't seen all the documents? You
6 had no specific knowledge of that fact?

7 A No, no, no, no.

8 Q Near the bottom of the page there's mention of the
9 police report that speaks of Larry Fisher, and if
10 we go on to the next page, you indicate here to
11 the RCMP officers:

12 "Another thing I did, I talked to
13 Mrs. Cadrain, that's at the house where
14 David went that morning. Um, basically
15 to try and find out if anybody else had
16 been in the house that I could talk to
17 who may have seen or heard anything like
18 that. And I became aware that there
19 were a couple living in the basement,
20 the Fishers, but I wasn't terribly
21 interested in them other than it might
22 have been useful if I could have found
23 them. Just to ask did you hear anything
24 that day or see anything unusual. Um,
25 anyway, I, I couldn't immediately find



1 them but I think Mrs. Cadrain indicated
2 there he got a murky past. This is
3 probably nineteen eighty-one I talked to
4 her. Um, but I didn't go into that
5 'cause I wasn't really following that up
6 too."

7 A Uh-huh.

8 Q And would that be an accurate account of --

9 A Yes.

10 Q -- the information you provided? And that was
11 your best recollection of matters relating to your
12 discussion with Mrs. Cadrain?

13 A Yes, uh-huh.

14 Q And again I think you tried to recall for us, but
15 in terms of Ms. Cadrain indicating that Mr. Fisher
16 had a murky past, do you have any specific
17 recollection of how she detailed that for you?

18 A Well, now I'm thinking now of what Albert said. I
19 knew they split up and stuff and of course there
20 was that one phone call to her. It's kind of a
21 blank, you know, things hadn't gone well with him,
22 stuff like that.

23 Q Okay.

24 A He served some time wherever.

25 Q Just reading on from where I was, it indicates, or



1 you indicate:

2 "With hindsight I think the worst thing
3 that happened with my involvement is
4 the, at one point, I put an ad in the
5 Saskatoon Star Phoenix trying to locate
6 Linda Fisher. Or Mr. Fisher."

7 Pause there. You indicate or start to state I
8 think the worst thing that happened with my
9 involvement is --

10 A Well, with hindsight, because by '93 I knew about
11 the interview with Mrs. Fisher, I knew about the
12 1980 visit to the police and we were so close and
13 yet so far.

14 Q Okay. Just moving down the page, reading here,
15 this is again you speaking:

16 "And we did actually have a call or a
17 letter from Fisher, but um, that
18 could've been early eighty-three. By
19 that time I'd sort of withdrawn quite a
20 lot from the case and I was going to
21 England for a year. I went there for a
22 sabbatical. So we never actually
23 followed up on Fisher in eighty-two or
24 three. If we had this, this thing may
25 have altered much faster than it did."



1 The top of the next page, question:

2 "You mentioned in nineteen eighty-three
3 you received a letter from Linda Fisher
4 or Larry Fisher?"

5 Answer:

6 "Now, I have a feeling it was the
7 boyfriend of Linda Fisher, I don't think
8 it was her actually, it was somebody who
9 was living with her or knew her while.
10 And they basically said what's this all
11 about. Um."

12 Question:

13 "Okay, can I just interject for a
14 second. At this time are you still
15 actively seeking Linda Fisher, ah'
16 advertisements in the paper and that
17 sort of thing?"

18 Answer:

19 "Sorry what year are we talking about?"

20 Question:

21 "Okay you said you received a letter
22 from ah' Fisher or a friend of Fisher's
23 in nineteen eighty-three?"

24 Answer:

25 "Yeah, probably early eighty three."



1 Question:

2 "Early eighty-three?"

3 Answer:

4 "I think so."

5 Question:

6 "Were you still actively seeking her
7 publicly?"

8 Answer:

9 "It was sort of an a back burner. It
10 was something I did and then we got a
11 reply, but I was sort of getting out of
12 the case and I didn't carry on with it."

13 Question:

14 "This person that, that wrote you a
15 letter, ah' do you recall a name?"

16 Answer:

17 "No. It was a man though."

18 Question:

19 "It was a man. Did he indicate in the
20 letter how he came to know about you and
21 in order to write you?"

22 Answer:

23 "Oh yeah, they seen the add in the Star
24 Phoenix. Yeah."

25 Question:



1 "And what was the content of that
2 letter?"

3 Answer:

4 "It basically said ah' he knew where
5 Linda Fisher was and what was all this
6 about, could I get in touch."

7 Question:

8 "Did you respond to that letter?"

9 Answer:

10 "No I didn't."

11 Question:

12 "Did you make that letter known to
13 Mrs. Milgaard?"

14 Answer:

15 "Very recently I think I did, a year
16 ago. Yeah, cause I just found it, it
17 was, I had about two suitcases full of
18 stuff?"

19 A That's very interesting.

20 Q And just in terms of the initial portion of what I
21 read to you, you seem to have a recollection here
22 of receiving the letter from the boyfriend as you
23 refer to him, and would that be accurate then, you
24 had a recollection at this point in time?

25 A In '93, I guess so, yeah, yeah.



1 Q Okay. And that's something that --

2 A So I guess it got put on one side is what this is,
3 what I'm telling the police, and then I found it
4 later.

5 Q Okay. So you didn't have a recollection or you
6 don't necessarily have a recollection of receiving
7 that letter today?

8 A No.

9 Q But you would agree you had a recollection in
10 1993?

11 A Yeah. I had probably been going through things
12 when I got back from England.

13 Q Okay.

14 A That's probably what happened.

15 Q And in terms of the last question and answer I
16 read to you, the suggestion seems to be that you
17 may not have provided Mrs. Milgaard with these
18 materials until, you mentioned a year ago, which I
19 guess would be 1992?

20 A Well, that's possible.

21 Q Is that -- do you have any further recollection on
22 that aspect?

23 A No. I mean, obviously at some point the lawyer
24 had the letter. I can't even remember when they
25 actually found Mrs. Fisher now, but obviously it



1 got put on one side.

2 Q And if that is the case, do you have any idea or
3 recollection of what Mrs. Milgaard may have known
4 about your efforts in terms of the advertisement
5 in 1983 and the apparent response from Bryan and
6 Linda at that time?

7 A No, I don't recollect anything.

8 Q Okay. And I realize we're just trying to piece
9 this together, but I take it from what you are
10 telling me, that it's a possibility that you had
11 those materials yourself?

12 A Uh-huh.

13 Q But perhaps hadn't provided them to Mrs. Milgaard
14 until --

15 A Well --

16 Q -- much later?

17 A Yeah. I can't remember what was happening to me
18 in March, April, '83 --

19 Q No, fair enough.

20 A -- and it could have been shoved to one side and
21 forgotten possibly.

22 Q Okay.

23 A Also I have to underline, my interest in them,
24 although I was interested in them, it was in a
25 minor way, not as suspects.



1 Q Okay. Move to the next page, please, perhaps you
2 confirmed this here, but I'll read it to you:

3 "So my mind had been on other tracks you
4 see, rather than Fisher. I didn't know
5 anything about Fisher. I didn't know if
6 ah' I didn't know until recently, his
7 record or anything like that."

8 A Uh-huh.

9 Q And that would be accurate in terms of what you
10 were aware of in 1993?

11 A Absolutely.

12 Q And what you recalled?

13 A Yes.

14 Q We'll move to page 022249, the question is asked,
15 and they are speaking of talking with, or you
16 speaking with -- or talking, excuse me, with Joyce
17 initially, and the question is asked:

18 "Did she indicate what specifically she
19 was dissatisfied with? Or what her
20 specific concerns may have been?"

21 Answer:

22 "Um', not in a very focused way. She
23 thought he'd been railroaded basically."

24 Question:

25 "Did she indicate what she would base



1 that on?"

2 Answer:

3 "I can't remember. She, I think she was
4 coming at it logically. She said none
5 of the testimony made any sense, as to,
6 you know, did Nichol Demyen see this?
7 Who saw, who went which direction, all
8 that stuff. None of that made sense to
9 her and it bothered her. I suppose as a
10 Mother, she didn't think her son could
11 have done a thing like that, and I
12 confronted her with that, I said, you
13 know you realize I'm not necessarily
14 going to believe there's a miscarriage.
15 I'll have to look into it and see what I
16 think. I, think she had a lot of
17 reasons, but she just didn't, never did
18 believe that he'd actually killed
19 somebody."

20 And would that be accurate in terms of your
21 description of some of your initial contact with
22 Joyce Milgaard when you became involved in the
23 matter?

24 A Yeah. I would add one thing to that, this word
25 railroaded, I know soon after I met Joyce, and I



1 can't tell you where the information came from,
2 but when David had been convicted in 1970 and went
3 to prison, I know Joyce, and I don't know the
4 source, had information that the people in prison,
5 the convicts knew he didn't do it, they knew he
6 was innocent, he had been set up, I remember Joyce
7 talking about that.

8 Q Okay.

9 A Where it came from I don't know.

10 Q Okay. I turn you to 022261, just at the top of
11 the page you state at this point:

12 "Yeah, that always bothered me and still
13 does. I don't know what happened, I can
14 tell you what I think happened. I think
15 the Saskatoon Police probably leaned on
16 them, they were all very young, I know
17 this happens, they were under tremendous
18 pressure. It was a horrible murder, and
19 they were supposed to get some results.
20 And I think they did lean on them. And
21 you know Wilson was in a bit of trouble
22 anyway, at that time I seem to remember,
23 and ah' I think they were pressured. I
24 honestly believe that, I do."

25 And would this be a good indication of your view



1 on the police and their dealings with the main
2 witnesses during the course of your work?

3 A Yes, and I was telling this to the police.

4 Q Yes.

5 A And there were two other factors, one was finance,
6 and I think that came out in an interview I did,
7 that the police had worked around the murder for a
8 whole month and nothing, they got nothing to go
9 on, and there was something about, you know, we
10 need to get some result, there's a budget, it
11 costs money to keep doing this kind of thing,
12 that's one factor.

13 The other one I introduced was
14 simply a systemic bias possibly, David Milgaard
15 was what we call a hippie at that time, doing pot
16 and stuff, and let's face it, kind of on the wild
17 side, so I think there was a tendency to demonise
18 him from day one.

19 Q Okay. And I didn't direct you to that portion of
20 your discussion with Mr. Mackie, but there is some
21 discussion about the budgetary aspect that you
22 referred to --

23 A Right.

24 Q -- in that meeting with Mr. Mackie I believe. If
25 we turn to 022261 -- oh, I'm sorry, is that --



1 just give me a moment.

2 A Uh-huh.

3 Q It's page 25 of this document that I'm looking
4 for. That's the one. If we start here, the
5 question is asked:

6 "Did you interview any of the
7 investigators of the Gail Miller
8 murder?"

9 Answer:

10 "One. And I'm, I'm trying to, I was
11 trying to remember when you phoned me
12 the other day whether it was Cast,
13 (phonetic). I think it was Cast
14 (phonetic). Yeah, it was him Saskatoon.
15 And he'd retired whoever it was, he'd
16 retired. Um, I think it was Cast
17 (phonetic)."

18 Question:

19 "Where did that interview take place?"

20 Answer:

21 "At his home."

22 Question:

23 "And how did you find this man to be?"

24 Answer:

25 "I think he, he, well, he had a memory



1 problem too. Like everybody does after
2 awhile. But I think he really believed
3 he got the right guy, you know, I think
4 he was genuine. He didn't like David
5 Milgaard, I certainly had that
6 impression from day one. He did not
7 like him. He thought he, he looked
8 innocent but, he had the strong
9 impression that he was a real
10 manipulator. Um, trying to remember
11 what incident he used to illustrate
12 that, can't remember now. But anyway,
13 he just told me what he could remember
14 of the case and he was absolutely sure
15 they got the right guy and he was a very
16 dangerous man indeed, David Milgaard."

17 Question:

18 "When would that have been?"

19 Answer:

20 "And he, he hinted at the psychiatric
21 history, by the way, this policeman did
22 and that people had been around and
23 interviewed previous girlfriends, this
24 kind of thing. And he was a definitely
25 very dangerous person, and not to be



1 trusted sexually. I certainly got that
2 from the policeman. Um, but I've never
3 found any evidence myself."

4 And I'm wondering in terms of your previous
5 answers to some of the questions I had, was this
6 perhaps reference to your discussion with Mr.
7 Mackie?

8 A Yes, I think so, I think so.

9 Q Okay. So you think perhaps you stated the wrong
10 name here?

11 A Yeah, yeah.

12 Q Okay. And would that be otherwise accurate --

13 A Oh, yeah.

14 Q -- in terms of your recollection of dealings with
15 Mr. Mackie?

16 A Oh, yeah, yeah. I think he sincerely believed
17 Milgaard was guilty, absolutely.

18 Q Just moving down to the bottom of the page, you
19 state:

20 "He was very co-operative, I would say
21 that."

22 And, sorry, talking of Mr. Caldwell and your
23 meetings with him:

24 "He was very co-operative, I would say
25 that. Um, he certainly made things



1 available to me. He gave me a long
2 interview and I taped that I remember.
3 He was very proud of the case, you know,
4 he was quite proud of it and he told me
5 also, I remember one thing he told me,
6 that whenever Milgaard's case came up
7 for review, he would send photographs of
8 the murder to the board 'cause he was
9 damned and determined that guy would
10 never get out of prison, you know, as
11 long as he was out. No, I can see his
12 point of view. It was a difficult case
13 he prosecuted and they got what they."

14 And it stops there.

15 A Wanted probably.

16 Q And in terms of the mention of Mr. Caldwell
17 sending photographs to the board --

18 A Uh-huh.

19 Q -- at the time, I didn't see that information in
20 the transcript of the discussions that you had
21 with him, and perhaps I'm mistaken on that, but do
22 you recall him advising you of that information?

23 A Oh, yes, absolutely, that is what was said.

24 Q And do you recall any other details beyond
25 what's written here?



1 A No, it kind of came out of the blue, that bit,
2 because I don't remember whether I actually asked
3 about parole, I may have done, but if you'll
4 recall, I first got intrigued by this case because
5 people usually were imprisoned for an average of
6 seven years, he'd been in for 12 by the time I got
7 to the Milgaard case, and he was quite young, and
8 I had often wondered, you know, how come he's not
9 been paroled and such, so that was voluntarily
10 offered information by Mr. Caldwell, and it did
11 kind of surprise me, but it kind of made me
12 understand a bit better why he was still in
13 prison. He did mention sending photographs and
14 this section also reminds me of the tail-end of my
15 interview with Albert Cadrain where he says, I
16 don't have the transcript, but that after the
17 trial was over the police had said to him, Albert,
18 don't you worry about a thing, he's going away
19 forever -- I'm paraphrasing, you know -- kind of
20 we'll look after you, you've got nothing to worry
21 about, he'll never get out. That's what takes me
22 back to that, that's my thought process.

23 Q Okay. Move to the next page, 022266, just a brief
24 mention, a question as to whether I believe you
25 had contacted Mr. Tallis in your work.



1 A Uh-huh.

2 Q As you've confirmed for us, you indicate that you
3 think, or you thought at that point that you had
4 written to him?

5 A Yeah.

6 Q And that is your recollection?

7 A Yeah, I'm pretty certain I did write a letter to
8 him, but got no response and I didn't really --

9 Q Okay.

10 A -- pursue it.

11 Q Those are the only portions of the interview that
12 I wanted to show to you. A few follow-up
13 documents, the first being 061364, you'll see it's
14 a letter dated September 3rd, 1993 directed to
15 yourself enclosing the transcript of the interview
16 with the RCMP. Do you recall receiving a copy of
17 the transcript of your interview?

18 A Yeah, I think I do, yeah.

19 Q And was it the transcript that we've just looked
20 at?

21 A Yeah. I think it had a blue folder, but yes.

22 Q Okay.

23 A Yeah.

24 Q I'll move next to 049961 --

25 A Right.



1 Q This document moves backwards, we're looking at
2 the last page of the document, and it's a
3 collection of notes by the RCMP relating to their
4 meeting with you.

5 A Uh-huh.

6 Q And it comes in large part from the transcript of
7 the interview that we just looked at, and I won't
8 review that portion of it, but on the next page of
9 this document there is a further update that I'll
10 read to you, and I see the date is January 21st,
11 1994 at the top of the page.

12 A Uh-huh.

13 Q Again this is an RCMP note and it states:

14 "This update is to clarify a concern
15 raised by Joyce Milgaard during our
16 interview with her in February 1993 and
17 to outline the final outcome of our
18 investigation into the issue she
19 raised."

20 It indicates the specific point file number.

21 "A review of the taped interview with
22 Joyce Milgaard located the concern in
23 question. Mrs. Milgaard spoke about one
24 of the interviews done by Carlyle-Gordge
25 with T.D.R. Caldwell, in which comments



1 were made that tend to suggest collusion
2 between Tallis & Caldwell. ("they were
3 doing it together" "they put him away
4 together")

5 From the material I have
6 reviewed to date, I have come across
7 nothing that would directly or
8 indirectly support this concern."

9 A Uh-huh.

10 Q "(Of material reviewed: Carlyle-Gordge
11 interview file & transcribed interview
12 between Caldwell & Carlyle-Gordge,
13 Caldwell's prosecution file, which
14 contained a variety of papers, such as
15 letters to the N.P.B.)

16 In an effort to further deal
17 with this concern, I contacted Mr.
18 Carlyle-Gordge by telephone this
19 morning. I outlined the issue raised by
20 Mrs. Milgaard, in that she had taken
21 from one of his interviews with
22 Caldwell, a suggestion that Caldwell &
23 Tallis had worked together to put
24 someone away, or words to that effect.

25 Carlyle-Gordge does not recall



1 Caldwell making such a statement to him
2 and could not see Caldwell doing so."

3 And do you recall this follow-up conversation
4 with an RCMP officer respecting this issue?

5 A Vaguely.

6 Q What do you recall?

7 A Umm, yeah, I think they did get back to me to ask
8 about that. We went through the transcript of my
9 interview with Mr. Caldwell. Then you had an
10 extra page didn't you?

11 Q That's right.

12 A And that sounded accurate to me, what was on that
13 page. They were talking about working on some
14 previous thing; were they not?

15 Q And we can go back --

16 A To give you a simple answer, I don't ever remember
17 Mr. Caldwell saying they had worked to put David
18 Milgaard away, for instance, no.

19 Q And would you have any knowledge of Joyce's
20 concerns apparently expressed to the RCMP at this
21 point in time and the source of her information
22 for those concerns?

23 A No.

24 Q And I brought that previous transcript to your
25 attention and you and I can only guess whether it



1 may have come from that particular transcript, and
2 of course we'll ask Mrs. Milgaard herself when she
3 testifies.

4 A Yeah. My recollection of Mr. Caldwell, he had a
5 lot of respect for Mr. Tallis and he had worked
6 with him and he said something about crossing the
7 T's and dotting the I's and stuff like that, so he
8 spoke quite respectfully of him. He certainly
9 knew him.

10 Q So you don't take any issue with the report here
11 that you were contacted in this regard and that
12 you responded in the fashion noted?

13 A No.

14 Q Okay. Turn to 039220, this is another report by
15 the RCMP, and I don't, I apologize, have a date on
16 this one, but I believe it's in and around the
17 same time period, and you'll note it states:

18 "Other issues:

19 Asper recalled that author Peter Gorge
20 mentioned having seen incident reports
21 in Caldwell's files and correspondence in
22 which Caldwell asked the police about
23 the other incidents. This is not
24 supported by our review of the material
25 or our interview with Gorge. Asper



1 indicated he would confirm this point.

2 No further action will be taken unless

3 verification is received."

4 I'm sorry we don't have more information on this
5 aspect for you, Mr. Carlyle-Gordge, but do you
6 have any knowledge as to what that entry may have
7 related to?

8 A No. I have a feeling I'm in England when this is
9 going on for some reason.

10 Q Okay.

11 A No, I can't help.

12 MR. HARDY: Those are all of the questions
13 that I have for you, Mr. Carlyle-Gordge. My
14 Friends may have some questions for you. I'm not
15 sure if we're venturing at this point into
16 cross-examination?

17 MR. HODSON: As I stated earlier,
18 Mr. Commissioner, I think we still have to
19 address the issue of the application for next
20 week and I think we were going to do that at four
21 o'clock, but maybe we can have an indication
22 today of who is going to cross-examine, or
23 examine Mr. Carlyle-Gordge, and perhaps order,
24 and then maybe whether we start tomorrow or start
25 for 10 minutes today, I'm not sure. My



1 understanding is that Ms. Knox intends to
2 examine, Mr. Boychuk may examine, or will?

3 MR. BOYCHUK: Yeah.

4 MR. HODSON: Will examine, and that Mr.
5 Wolch and Ms. McLean are not sure yet, and I
6 think there may be an issue as to order. Have I
7 incorrectly stated any of that? So maybe if we
8 want to -- I'm in your hands whether we start the
9 cross, or the examination today. If we don't,
10 maybe we can sort out order and then start
11 tomorrow at nine and then move on with -- excuse
12 Mr. Carlyle-Gordge and then deal with the --

13 COMMISSIONER MacCALLUM: Well, I would like
14 to deal with the issue about the application next
15 week. If Mr. Carlyle-Gordge would just accuse us
16 for a moment, you can remain seated there, and I
17 don't think that will take us very long, and then
18 we can start his cross-examination.

19 MR. HODSON: Okay. So you want to deal now
20 with the application issues for next week?

21 COMMISSIONER MacCALLUM: Yes.

22 MR. HODSON: Certainly. Just by -- a bit
23 by way of background. The notice of motion and
24 report of Dr. Baillie was filed Monday; the
25 report of Mr. Grymaloski was filed back in



1 November. Although it's not referred to in the
2 motion, it's referred to in the report of Dr.
3 Baillie, and I checked with Mr. Wolch today who
4 tells me that he is in fact relying upon the
5 report of Mr. Grymaloski. Earlier, Mr.
6 Commissioner, you had indicated that, as part of
7 this application, that once the motion was filed,
8 that anybody who had evidence in support would
9 appear and give viva voce evidence and be
10 examined, and so today I would propose that we
11 set a date for next week, being Wednesday and
12 Thursday, to hear the application, number 1; and
13 number 2, to have Mr. Grymaloski and Dr. Baillie
14 present, and I'll come back to the procedure in
15 just a moment.

16 We do have Mr. Henderson
17 testifying Monday and Tuesday, who is from
18 Seattle, I'm not sure if we'll get done by
19 Tuesday so when I say Wednesday-Thursday I
20 wouldn't mind just a bit of room, we may have to
21 just finish up Mr. Henderson. I want to leave
22 enough time to deal with the application, and in
23 my discussions with counsel I am told that two
24 days may be necessary, so; third, just --

25 COMMISSIONER MacCALLUM: We do sit the



1 following week, though, don't we?

2 MR. HODSON: Certainly.

3 COMMISSIONER MacCALLUM: Yeah.

4 MR. HODSON: And, no, that's fine. I think
5 my concern was to get the application done and
6 dealt with, so if we need the two full days to
7 hear Dr. Baillie and Mr. Grymaloski and we're not
8 done with Mr. Henderson, I guess it's a question
9 of who do we bring back the following week. And
10 maybe I can try and sort that out so that we
11 inconvenience the few -- the fewest people
12 possible.

13 As far as the application
14 itself, it's my understanding that Mr. Wolch,
15 since it's his application, would lead the
16 evidence of Dr. Baillie and Mr. Grymaloski, and
17 if there's any other evidence that he intends to
18 file in support, or any other witnesses, but I
19 don't think there is, but I'd ask him to confirm
20 that. And as far as other counsels' involvement,
21 it's my understanding that only those counsel who
22 are opposing or taking issue with some or all of
23 the application would then examine Dr. Baillie
24 and Mr. Grymaloski, keeping in mind that the
25 motion is now one not for an exemption but for an



1 accommodation, and the motion itself specifies
2 the accommodation, being one of written questions
3 and written answers. So I suspect there may be
4 some who take issue with the accommodation at
5 all, some may take issue with -- not with the
6 accommodation, but the type of accommodation
7 sought in the motion, and I don't want to confuse
8 matters, but Dr. Baillie in his report talks
9 about three possible accommodations, the motion
10 itself refers to one of those. So, again, there
11 may be parties who have different interests.

12 I have been made aware by some
13 counsel of concerns about Dr. Baillie testifying
14 at all, given the fact that he has not talked to
15 Mr. Milgaard or obtained certain records, and I
16 will ask counsel to address that in a moment. I
17 just want to lay out all the issues if I can.

18 The last two points are (1)
19 the -- a request has been made by counsel as to
20 what other files or documents that Dr. Baillie
21 and Mr. Grymaloski may have that are relevant,
22 and I think in the usual course when an expert
23 gives evidence his or her working papers, drafts,
24 etcetera, and communications with counsel are
25 normally produced. I think in the case of Dr.



1 Baillie, I talked to Mr. Wolch, and I think
2 there's one Email that he sent to Dr. Baillie,
3 that he sent a copy to me, and I'm -- Mr. Wolch
4 has indicated I can send that out to counsel as
5 well as my communications with Mr. Wolch, so I
6 will do that.

7 And I guess the question I want
8 addressed is that if Dr. Baillie and Mr.
9 Grymaloski, when they come out here, we should
10 address today to make sure what it is that they
11 are bringing with them and if there's any
12 disagreement. So with the case of Dr. Baillie,
13 what files does he have and what should he bring
14 with him, similarly with Mr. Grymaloski, I don't
15 know what he has by way of files or other
16 documents, so that's an issue. And certainly the
17 Commission can serve a subpoena on each of these
18 two gentleman that would specify that they bring
19 all their documents if that's an issue, so I
20 raise that.

21 And the last point, the
22 publication ban of the hearing, we should -- and
23 I'm not sure that has to be dealt with today --
24 but Mr. Wolch asked that Dr. Baillie's report
25 not be disclosed to the public at least on an



1 interim basis, and so in the event that anybody
2 -- I'm presuming the application itself will be
3 public unless someone requests a ban on
4 publication of some or all of it, so -- and
5 again, in fairness to the media, if there is
6 going to be a publication ban request media may
7 have an interest in being heard on that.

8 So I just -- sorry for -- I
9 guess what I am doing is raising these issues
10 that I think need to be addressed, and I think
11 probably the first one -- I'm not sure if Mr.
12 Wilson, I -- who is the one who raised it with
13 me, wishes to address, is whether the motion
14 should proceed on next week at all. And I'm not
15 sure there's other counsel that wish to speak to
16 it, but maybe Mr. Wilson, if you wish to address
17 that?

18 MR. WILSON: Thank you, Mr. Commissioner.
19 I advised Mr. Hodson that I would like to submit
20 that the material that Mr. Wolch has filed in
21 support of his notice of motion, and in fact the
22 notice of motion itself, are far short of the
23 threshold that was established by the
24 Commissioner some weeks ago.

25 And, if I may just quickly,



1 could I ask that a transcript from the 8th of
2 November, page 18531, be brought up. At the
3 bottom:

4 "If he wants to apply to be excused from
5 testifying on psychological grounds, let
6 him ...",

7 next page:

8 "... do so in a respectful and
9 procedurally appropriate manner, through
10 counsel and with evidence."

11 Page 18534, please. And here,
12 Mr. Commissioner, you set out the procedures, and
13 I refer to sub (2) there:

14 "Mr. Wolch will file a notice of motion
15 ... together with affidavits in support
16 of his application for David Milgaard to
17 be excused from testifying on medical or
18 psychological grounds."

19 Now we have a notice of motion
20 that, if we were across the street in the
21 courthouse, someone might be moving to have much
22 of it struck on the grounds of the material
23 that's included therein, but I leave that aside,
24 and I stay only on the subject of the supporting
25 report that is filed with the notice of motion,



1 that of one Dr. Patrick Baillie.

2 But may I move to the 30th of
3 November, page 20577. Now here Mr. Hodson
4 advises us of the descriptions of the inquiries
5 that he proposes to make of Mr. Milgaard before
6 he goes into some more specific areas, and I want
7 to refer to that item at the bottom in
8 quotations, because it has particular relevance
9 to my client:

10 "Both during the Inquiry and prior
11 thereto counsel for David Milgaard and
12 others on his behalf have made
13 allegations of wrongdoing against
14 police, the prosecutor, defence counsel,
15 Crown officials, witnesses and others.
16 As a result, there are a number of
17 subject matters that have become
18 relevant in assessing the conduct of
19 persons involved in the investigation
20 and trial of David Milgaard, as well as
21 the reopening of the investigation into
22 Gail Miller's death. Many of these
23 allegations are based, either in whole
24 or in part, on facts of which David
25 Milgaard has or had personal knowledge.



1 Accordingly, David Milgaard will be
2 questioned on those subject matters of
3 which he has personal knowledge and
4 which form the factual underpinnings
5 necessary to assess the conduct of
6 persons involved in the investigation,
7 trial and post-conviction time period."

8 And my client is very definitely included in that
9 group who have, over the years since Mr. Milgaard
10 was released from jail, been made the subject of
11 character assassination and defamatory public
12 comments by Mr. Milgaard himself and by his
13 agents and counsel, Mr. Wolch, his mother, Mrs.
14 Milgaard, and David Asper. I say no more on that
15 for the moment.

16 Now if I may turn to page
17 20580, and that middle paragraph is Mr. Wolch
18 speaking:

19 "The point that has to be realized is
20 it's not the testifying that's the
21 problem, it's not the speaking, it's the
22 memories that get triggered from it that
23 is the problem, and I don't think
24 anybody really wants to see David back
25 in hospital, and that's what's happened



1 in the last few years any time he talks
2 about the incident, he's hospitalised
3 shortly thereafter."

4 Now very shortly after Mr. Wolch advised the
5 Inquiry according to that statement there,
6 Mr. Fox and Ms. Knox made inquiry through
7 Commission Counsel for the records of the
8 hospital stays that Mr. Wolch is referring to, to
9 be part of the material that would be considered
10 on this motion. To this date nothing has been
11 responded to with respect to that request.

12 Now page 20593 please. Now at
13 the bottom of the page here, Mr. Commissioner,
14 you are speaking about the kind of supporting
15 medical or psychological evidence that is to be
16 brought forward in support of this application of
17 Mr. Milgaard's:

18 "My idea is to have one medical person
19 or psychological person or psychiatrist,
20 whoever is chosen by Mr. Wolch and
21 proves to be satisfactorily qualified,
22 to give evidence viva voce, and then
23 there won't be any cross-examination on
24 affidavit or anything like that,
25 everybody can get up who has an interest



1 ... so long as I'm satisfied that the
2 person is prepared to offer something
3 substantive and ...",

4 I emphasize:

5 "... based upon adequate exposure to
6 David Milgaard to be able to testify."

7 What has been filed in support of the notice of
8 motion is, as Mr. Hodson says, a report from a
9 Dr. Patrick Baillie, who is a practicing
10 psychologist and a lawyer in the City of Calgary,
11 but who has never laid eyes on David Milgaard,
12 has never talked to him, and has based a
13 speculative sort of opinion upon information
14 provided by Mr. Wolch, some from Mr. Grymaloski,
15 and some from a review of Commission files.
16 There is absolutely no medical information other
17 than what he was able to find in the Commission
18 files, and the most recent of that is 1993, and
19 the most recent psychological material that he
20 could find in the files was a matter before the
21 National Parole Board in 1992. And the report is
22 shot through with supposition, in fact, Mr.
23 Commissioner, that is all it consists of.

24 It can -----

25 -----, it



1 talks about -----
2 ----- and the likelihood
3 that Mr. Milgaard suffers therefrom, and here is
4 a sentence:
5 "-----
6 -----
7 -----
8 ----- ' . "
9 "-----
10 ----- "
11 is:
12 "-----
13 ----- "
14 Likely.
15 "-----",
16 Mr. Wolch that is, his mind:
17 "-----
18 "
19 Regarding:
20 "-----
21 -----
22 -----
23 -----
24 -----
25 -----



that is Mr. Wolch:

COMMISSIONER MacCALLUM: The motion of course, Mr. Wilson, is not now one to be excused from testifying, which was the context in which my remarks were made.

1 MR. WILSON: Oh, true, but --

2 COMMISSIONER MacCALLUM: It's a motion to
3 get some accommodation in the manner of
4 testifying and the scope.

5 MR. WILSON: I refer back to --

6 COMMISSIONER MacCALLUM: Yes.

7 MR. WILSON: Well, but that accommodation
8 is based, is made on the same basis.

9 COMMISSIONER MacCALLUM: It has, yes.

10 MR. WILSON: There is no question about
11 that.

12 COMMISSIONER MacCALLUM: I mean -- yeah,
13 that's true. Yeah, I take your point.

14 Mr. Wolch, would you care to
15 respond?

16 Unless, sir, I really didn't
17 know that all this was coming up --

18 A Okay.

19 COMMISSIONER MacCALLUM: -- and it seems
20 unlikely that there will be further questions for
21 you today.

22 A Right.

23 COMMISSIONER MacCALLUM: If you want to
24 watch the rest of this application from your
25 present seat, you may do so, otherwise you are



1 excused for the day --

2 A Thank you.

3 COMMISSIONER MacCALLUM: -- and we'll see
4 you at 9:00 in the morning.

5 A I think I'll pay a visit to somewhere and then
6 come back.

7 COMMISSIONER MacCALLUM: Thank you.

8 MR. WOLCH: Mr. Commissioner, I think you
9 addressed the issue quite clearly with your
10 question, and that is that much of the remarks
11 were based on an application to be excused for a
12 lack of fitness.

13 The motion now is for an
14 accommodation, an accommodation that was granted
15 to a number of witnesses herein, without
16 necessitating even a motion it was done.

17 COMMISSIONER MacCALLUM: But, you know,
18 with the consent of all parties.

19 MR. WOLCH: Oh, I appreciate that. But
20 until we canvass the issue, it's pretty hard to
21 argue before we've heard from Dr. Baillie.

22 Now in terms of Dr. Baillie
23 being two days or whatever it might take, quite
24 frankly I don't intend to be very long with Dr.
25 Baillie, I -- Mr. Commissioner. I believe you



1 may or will have seen his report by now, I take
2 it?

3 COMMISSIONER MacCALLUM: I do, yeah.

4 MR. WOLCH: I would submit, at the end of
5 it, that it's a thorough report and can address
6 the issues that are required.

7 This is not a question of
8 rocket science as to understanding that a man in
9 jail for 23 years for a crime he didn't commit,
10 questioning why I'm here and going through what
11 David did, would be traumatized. That is not a
12 difficult concept. The comment I hear the most
13 is why isn't he traumatized worse from what he
14 went through. So it's not difficult.

15 The fact that he would have
16 post-traumatic stress disorder is not surprising
17 under those circumstances, it fits the criteria.
18 This is not a shocking type of revelation.

19 And Dr. Baillie's report, I
20 submit, is comprehensive. He was asked to put it
21 in in a fairly cursory way, so he will be able to
22 expand upon it when he is here, and I don't think
23 there is any, or can be really, in the end of the
24 day, any dispute over the difficulties that David
25 has from what he went through. It's not a very



1 difficult concept.

2 The question is, I submit,
3 whether an accommodation can be given or will be
4 given.

5 And I think there is something
6 we have to look at at the end of the day, and
7 that is what David can offer to an Inquiry. And
8 we have listed in the notice of motion all the
9 times he has been questioned over and over again,
10 and all the -- and the availability of all that
11 evidence, and it just seems that if people can
12 identify what areas there may not have been
13 covered or could be covered, that would be very
14 helpful. It's true, though, that some counsel
15 are more effective, possibly, than others in
16 terms of what they might want to cover. Clearly
17 the one most covered -- most affected would be
18 Justice Tallis, because he's the one who actually
19 had direct contact with David in terms of
20 something that hasn't been covered, and that's an
21 area that we'll probably hear from counsel on as
22 to what his position is, and maybe we, hopefully
23 we can work it out, and that's helpful.

24 I'm a little distressed that
25 counsel for Mr. Kujawa is so concerned about



1 David when David has never met Mr. Kujawa, he
2 doesn't even probably know who he is, they have
3 never talked, they have never been in the same
4 room that I know of, he has no personal knowledge
5 one way or the other, and counsel for Mr. Kujawa
6 says "well look, there are accusations". The
7 accusations are not based on David's knowledge,
8 David doesn't know why Mr. Kujawa couldn't put 2
9 and 2 together on his desk when he had two files,
10 and he can't account for what Mr. Kujawa said to
11 the media about the system of justice and David
12 is a kook and all those things. David can't
13 comment on that, he has nothing to contribute.

14 And so to have David here to
15 harm him, and when we remember that when the
16 Government of Saskatchewan determined that there
17 was a miscarriage of justice they said "look,
18 we're going to offer compensation, an Inquiry to
19 give you the answers as to why you were put in
20 jail for all those years, and help you get on
21 with your life", that was the whole negotiation
22 back then on those two prongs. So to have him
23 now go through an exercise that will damage him
24 is totally the opposite of what the Inquiry was
25 set up for.



1 And what happened is very
2 simple. When David met with Mr. Hodson and Mr.
3 Hodson said "David, you can contribute", David
4 said "I'd like to if you can just not hurt me",
5 and so all we're asking for is accommodation.
6 Dr. Baillie and Mr. Grymaloski can help us in
7 terms of how we can best get anything out that
8 won't harm David, I know that's what your
9 intention is too, you don't want to harm David, I
10 know that. And so all we're seeking for in the
11 end of the day is an accommodation, but to get it
12 out in the least-damaging way.

13 And I point out in the notice
14 of motion that David was interviewed by police on
15 two occasions for a long point in time, there is
16 a notebook with all his recollection, there is --
17 he has testified on several occasions, his memory
18 is no better now, it's way worse when he's trying
19 to forget. He will acknowledge he has always
20 tried to tell the truth. If there are
21 contradictions, he can't help that, it was his
22 memory then. Everybody has got contradictions
23 over time. That's his position, he wants to be
24 helpful, he doesn't want to be damaged. It's as
25 simple as that.



1 To say that Dr. Baillie's
2 report is of no merit, well I leave that to you,
3 I submit it's very helpful, umm, from a very
4 qualified person, and I don't see why it wouldn't
5 be of use when Dr. Baillie can be questioned.

6 COMMISSIONER MacCALLUM: Well the
7 submission was that it doesn't meet the threshold
8 established according to my remarks.

9 MR. WOLCH: Well, sir, only you can answer
10 that.

11 COMMISSIONER MacCALLUM: Yeah.

12 MR. WOLCH: I think that when you were
13 making your remarks you were being told that it
14 was an application not to contribute to the
15 Inquiry at all. With your advice, and with
16 consultation, it's come to the point where David
17 understands he should try to help, he wants this
18 to be successful, and so he wants an
19 accommodation.

20 COMMISSIONER MacCALLUM: Yes.

21 MR. WOLCH: The context is totally
22 different from what your remarks were before.

23 COMMISSIONER MacCALLUM: Uh-huh.

24 MR. WOLCH: Totally different. And so
25 the -- in the context of an accommodation I just



1 emphasize, accommodations, as I say, have been
2 granted before without even a motion, so -- and
3 certain rules have been made. For example, when
4 Mr. Fisher testified there was a rule as to what
5 he could be questioned about, it was posed by
6 yourself at that time, and I believe honoured of
7 course, and there have been that sort of
8 instructions given.

9 COMMISSIONER MacCALLUM: Well I didn't have
10 any consideration for Mr. Fisher personally, you
11 understand, that was simply out of recognition of
12 the fact that Fisher had been found guilty by a
13 jury. There was no argument to be made about
14 that point.

15 MR. WOLCH: No, I'm just saying special
16 rules exist for certain circumstances.

17 COMMISSIONER MacCALLUM: Yes.

18 MR. WOLCH: And that when we are talking
19 about David we're here on a Commission that has
20 been designed to answer questions for him as to
21 why he was wrongly convicted.

22 COMMISSIONER MacCALLUM: Uh-huh.

23 MR. WOLCH: That's why we are here, we're
24 not here to damage him.

25 COMMISSIONER MacCALLUM: Oh no, no, I don't



1 think that speaks directly to the objection which
2 was made by Mr. Wilson.

3 MR. WOLCH: Well --

4 COMMISSIONER MacCALLUM: What about the --
5 what about your assertions some time ago that
6 every time David is obliged to speak about these
7 things he ends up in the hospital? They wanted
8 hospital records in support of that.

9 MR. WOLCH: Well it -- Mr. Grymaloski says
10 that David was hospitalised. That, I guess that
11 comes back to the question why would you make
12 that up, I mean he was hospitalised, I recall him
13 being hospitalised myself.

14 COMMISSIONER MacCALLUM: Well why would I
15 accept it unless I have evidence of it?

16 MR. WOLCH: Well, I'm sure Mr. Grymaloski
17 will be able -- I expect he will be able to say
18 "yes, David came to me then, he had been
19 hospitalised", we had talked about it, Mr. Hodson
20 was present when David told us he was
21 hospitalised.

22 COMMISSIONER MacCALLUM: Well, you see, the
23 difficulty here is that the application has
24 changed from one for -- of an exemption, or a
25 request for an exemption, into one for a request



1 for accomodation, but the accommodation -- the
2 grounds for the accommodation seem to go full
3 circle back into one, a question of fitness
4 again, and --

5 MR. WOLCH: Sorry.

6 COMMISSIONER MacCALLUM: -- it's a little
7 difficult to deal with.

8 MR. WOLCH: It's not all fitness, it's the
9 effect it will have on him.

10 COMMISSIONER MacCALLUM: Well, that's
11 fitness in a sense, I mean.

12 MR. WOLCH: Well --

13 COMMISSIONER MacCALLUM: I mean you've
14 abandoned the --

15 MR. WOLCH: We're not saying he's not fit,
16 we're saying that if he does testify, it will
17 have serious harm on him.

18 COMMISSIONER MacCALLUM: Yes, that's right,
19 and in support of that argument of course I come
20 back to this; that you said every time David is
21 obliged to speak about what happened to him he is
22 hospitalised, the counsel are requesting that if
23 I am to listen to such an arg -- an assertion --

24 MR. WOLCH: Well --

25 COMMISSIONER MacCALLUM: -- I should, they



1 should have a chance, in fairness, to see the --
2 what records exist in support of that?

3 MR. WOLCH: Well, I suggest we have counsel
4 who really have next to nothing to ask who now
5 want to invade his privacy again, they want his
6 medical records, it's a private issue.

7 COMMISSIONER MacCALLUM: Well will you
8 withdraw the assertion then?

9 MR. WOLCH: That he has been hospitalised?
10 No. He has been, it's a fact, it's a matter of
11 fact. I can try and get the records, but it's in
12 three different cities and --

13 COMMISSIONER MacCALLUM: Well your client
14 is, according to Dr. Baillie your client is
15 forbidden to -- or has withheld his permission
16 for the release of hospital records.

17 MR. WOLCH: He was never asked.

18 COMMISSIONER MacCALLUM: Pardon?

19 MR. WOLCH: I don't think he was asked.

20 COMMISSIONER MacCALLUM: Where did Dr.
21 Baillie get that then?

22 MR. WOLCH: I just don't know. I think
23 what he is saying is I haven't talked to him to
24 get it because it was not an issue.

25 COMMISSIONER MacCALLUM: Well, Mr. Wolch,



1 it's your -- of course I don't have to remind you
2 of this -- it's your application, you have the
3 onus of proof, and the material you put before me
4 is your business. It becomes a question of
5 weight.

6 MR. WOLCH: Exactly.

7 COMMISSIONER MacCALLUM: And I do think
8 that Mr. Wilson's objections were certainly sound
9 in the context of an application to be excused
10 from testifying, because I would have to agree
11 with him that in that context they don't meet the
12 threshold which I set down in my remarks which
13 were recently posted here, --

14 MR. WOLCH: I agree.

15 COMMISSIONER MacCALLUM: -- but it isn't
16 a -- it is a lesser application, if you wish.
17 The application to be excused has been abandoned,
18 and substituted for that is one for to be
19 afforded some accommodation in the manner in
20 which he testifies and perhaps in the scope of
21 questioning, and from -- in that respect I just
22 point out what I have just said again, Mr. Wolch,
23 that the weight to be attached to the evidence
24 you feel should be submitted is a question for
25 me, as is the question of what you submit, so you



1 will have to live with what's put up in front of
2 me, and that includes the question in support of
3 whether or not he was hospitalised as you say he
4 was.

5 MR. WOLCH: Yes.

6 COMMISSIONER MacCALLUM: Because of course,
7 obviously, what you have said in argument on that
8 occasion is not evidence.

9 MR. WOLCH: That's correct.

10 COMMISSIONER MacCALLUM: Yeah. So I think
11 that that is all I need to say about that.

12 I am prepared to hear both
13 Mr. Grymaloski and Dr. Baillie viva voce, to be
14 examined pursuant to the statements they have
15 given to me, I make no comment at all about the
16 weight which might be attached to what I have
17 read thus far.

18 MR. WOLCH: Thank you.

19 COMMISSIONER MacCALLUM: Thank you.

20 MR. HODSON: The only other matters, and
21 maybe I can canvass this with counsel after
22 today, presumably only those counsel who wish to
23 oppose some or all of the motion, presumably,
24 will participate in the examination of Dr.
25 Baillie and Mr. Grymaloski; is that correct?



1 COMMISSIONER MacCALLUM: Yes, that's right.
2 It's Mr. Wolch's application, he will lead the
3 evidence, and those opposing his motion will be
4 entitled, provided they can demonstrate a
5 legitimate interest being engaged, they will be
6 entitled to cross-examine. If there's any doubt
7 about that they should preface their requests
8 with some justification of why they should be
9 allowed to present those questions.

10 MR. HODSON: And do I take it, from that,
11 that parties who either are neutral or who are in
12 favour of the application, other than Mr. Wolch,
13 will not examine?

14 COMMISSIONER MacCALLUM: That's correct.

15 MR. HODSON: And then parties can make
16 submissions that -- presumably after the evidence
17 is in?

18 COMMISSIONER MacCALLUM: They may do so. I
19 would very much appreciate some advance work
20 being done on that between you and counsel.

21 MR. HODSON: Yes.

22 COMMISSIONER MacCALLUM: If any cooperation
23 is possible as between people who are entitled to
24 cross-examination -- cross-examine by way of
25 putting one lawyer up instead of four who have



1 the same thing to say, I would appreciate it.

2 MR. HODSON: And then lastly the issue of
3 file production of Dr. Baillie and Mr.
4 Grymaloski?

5 COMMISSIONER MacCALLUM: Well they should
6 certainly come with any documentation they have
7 supporting what they have said in their -- in Mr.
8 Grymaloski's case his letter, and Dr. Baillie his
9 report.

10 MR. HODSON: And I will certainly advise
11 them of that. And, again, the concern I have is
12 I do not want to have a witness next Wednesday
13 asked a question and say "well I have got that
14 elsewhere, I can't --", and my concern is that we
15 deal with this all Wednesday so I --

16 COMMISSIONER MacCALLUM: I share that
17 concern, Mr. Hodson. I hope counsel will take
18 this seriously. And the consequences of not
19 bringing supporting material which is reasonably
20 needed to cross-examine, of course, is that the
21 evidence given will lose its weight.

22 MR. HODSON: Okay. Those are all my
23 points. I'm not sure if any other counsel wish
24 to --

25 COMMISSIONER MacCALLUM: No, probably not.



1 They are likely wondering what they can do in
2 terms of -- I expect that there will be more than
3 one, or more than one or two lawyers who will
4 wish to cross-examine, am I right about that?

5 MR. HODSON: Umm, yes, based on the
6 information I have, and I will canvass that and I
7 will determine who is --

8 COMMISSIONER MacCALLUM: All right. We
9 might have to --

10 MR. HODSON: -- part --

11 COMMISSIONER MacCALLUM: -- make some
12 accommodations of our own with these witnesses,
13 because they are all from out of town, when the
14 time comes we will do our best.

15 MR. HODSON: Yes.

16 COMMISSIONER MacCALLUM: So tomorrow
17 morning at 9:00.

18 *(Adjourned at 4:23 p.m.)*



OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATES:

We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
Official Queen's Bench Court Reporters for the Province of
Saskatchewan, hereby certify that the foregoing pages
contain a true and correct transcription of our shorthand
notes taken herein to the best of our knowledge, skill,
and ability.

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Karen Hinz, CSR

Official Queen's Bench Court Reporter

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Donald G. Meyer, RPR, CSR

Official Queen's Bench Court Reporter



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