

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

On Wednesday, January 25th, 2006

Volume 112

Inquiry Proceedings



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| <i>Mr. Eamon O'Keefe, Esq.,</i> | for Mr. Larry Fisher |
| <i>Ms. Jennifer Cox,</i> | for Minister of Justice (Canada), The Hon. Irwin Cotler |
| <i>Mr. Alexander Pringle, Q.C.,</i> | for Justice Calvin Tallis (Retired) |



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- BY MR. HODSON

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Transcript of Proceedings

(Reconvened at 9:00 a.m.)

COMMISSIONER MacCALLUM: Good morning.

ALL COUNSEL: Good morning.

PAUL HENDERSON, continued:

BY MR. HODSON:

Q Good morning Mr. Henderson.

A Morning.

Q I'll just touch on a couple of areas we touched on yesterday before we get back into the transcript with Linda Fisher.

When I went through your experience, your prior involvement in the time prior to getting involved in the David Milgaard matter, we talked a bit about your background as an investigator and a journalist in a number of areas. Did you have any experience dealing with sexual psychopaths or sexual criminals, if I can call it that?

A Yes, I did.

Q And what was that?

A In 1975 we had, in Western Washington and other areas of the Northwest, eight murders that ultimately were attributed to Ted Bundy. The first of those murders occurred on January 31st,



1 1974, and then there were a total of eight, the
2 final two were on July 14th, 1974. Bundy was
3 arrested a year later in Utah and linked to all of
4 those murders.

5 I followed up on information
6 that he had committed five murders in Colorado and
7 linked him to -- linked his credit card to the
8 scene of those five murders in Colorado, and also
9 interviewed his mother in Tacoma, his landlady in
10 Seattle, and his girlfriend in Salt Lake City.

11 Q And this was in your capacity as a reporter, this
12 would be an investigative reporting piece?

13 A That's correct.

14 Q And so you would have had experience dealing with
15 rape/murders and a rapist/murderer; is that fair?

16 A That's correct. And there were several other
17 sexual psychopaths that I reported on.

18 Q Okay. Now just one other area, we talked about
19 what happens in the United States when Centurion
20 Ministries puts together a case and makes an
21 application for relief, and we talked a fair bit
22 about trying to establish the innocence of the
23 convicted person. I'm just wondering if -- and,
24 again, just looking for a general answer -- under
25 the U.S. system was it always innocence that had



1 to be established or was it -- were there cases
2 where you could go and say that "this person could
3 have been acquitted based on a reasonable doubt",
4 or things of that nature, or a miscarriage of
5 justice, or was it always innocence, or is it
6 always innocence?

7 A Are you -- excuse me -- are you talking about the
8 criteria for --

9 Q Yes.

10 A The criteria is that we have to believe in --

11 Q Oh, I'm sorry, not your criteria -- yeah, let's
12 just maybe clarify that. The criteria for
13 Centurion Ministries to take on a case, you told
14 us, is you have to believe in the innocence of a
15 convicted person?

16 A Yes, that's correct.

17 Q And so that if it's a person where you have doubts
18 about the innocence, maybe the trial was grossly
19 unfair, those things of that nature, that doesn't
20 matter?

21 A Procedural errors, that's not our business, no.

22 Q Yeah, it's innocence, okay. Now the next
23 question, though, is when matters are presented to
24 the courts in the United States for relief, is it
25 always based upon establishing the innocence of



1 the person, or -- let me give you an example.

2 Let's say you have a person who Centurion believes
3 to be innocent but you can't prove it, but you can
4 establish for example that the jury should have
5 had a reasonable doubt or that there was problems
6 in the process, so in other words the best you can
7 do is set aside the conviction and not prove
8 innocence. I'm just trying to get a sense of what
9 and how things work in the United States?

10 A Well in the United States, if you have procedural
11 errors in -- during the trial of a defendant, by
12 the time we get the case all of the appeals have
13 been exhausted so we are procedurally barred from
14 introducing evidence that's already been judged.
15 And so the general rule now is, after somebody has
16 exhausted all of their appeals, we have to come up
17 with proof of absolute innocence to get back into
18 Court.

19 Q I see. And so that's really the bar that you are
20 trying to reach when you are investigating these
21 cases?

22 A That's right.

23 Q Okay. If we could go back to 076294, which is the
24 taped interview of Linda Fisher, yesterday we
25 finished off we were going through this



1 transcript, and I just have a few more questions.

2 Just to put this back in the
3 right time frame, this is your first interview
4 with you and Mrs. Milgaard and Linda Fisher, and I
5 believe this is at her home in Cando, so this is
6 the first day that you've met with her and it's
7 before you've taken a statement. And there was a
8 note here on the tape about, appears to be, a part
9 of the tape missing, and do you have any
10 recollection as to what that might have been or
11 any explanation for that?

12 A No. I'm, first of all I'm not aware, I'm not sure
13 whether this was my tape recorder or Joyce
14 Milgaard's.

15 Q I believe it's Joyce Milgaard's tape recorder.

16 A I have no explanation for that.

17 Q And when you are taping conversations -- or let me
18 just back up. What would be your practice in 1990
19 as far as when you, Paul Henderson, would use a
20 tape recorder in dealing with witnesses?

21 A Well, first of all, I would ask them if they were
22 aware that the interview/conversation was being
23 tape recorded. We don't have one-party consent in
24 my home state, we have to have two-party consent,
25 meaning that the person being taped has to sign



1 off on it and has to agree, understand they are
2 being taped, so that would be the first thing I
3 would do is to advise them that they are being
4 tape recorded.

5 Q Would that be your practice even outside the
6 state, at the time, would that be something you
7 would normally do out of habit?

8 A It's ingrained in me, yes.

9 Q Yes. So you would get -- so, number 1, you get
10 the consent of the person you are taping; correct?

11 A Yes.

12 Q When would you tape an interview of a witness and
13 when wouldn't you?

14 A Well some people don't like to be taped, and some
15 people become nervous, and you are better off not
16 taping them. We have to judge that on an
17 individual basis.

18 Q And what is the purpose of tape recording a
19 witness interview?

20 A Well, you know, I don't take the best notes in the
21 world, and if I have a tape recording everything
22 that's been said is memorialised, and ideally
23 that's the way I would do it all the time, but
24 sometimes it just doesn't, it doesn't work out
25 that way.



1 Q So one of the purposes of tape recording the
2 interview would be to assist you in either
3 preparing notes, a report, or a subsequent
4 statement or -- to be assist -- to assist you in
5 your recollection of what was said; is that
6 correct?

7 A Absolutely, sure.

8 Q Would it be important to have, for example if you
9 were going to get some significant evidence from a
10 witness, would it be important to have that
11 recorded in the event that someone wishes to
12 verify and/or challenge how information was
13 obtained or what was obtained?

14 A Sure, absolutely.

15 Q And in your experience in dealing with -- I think
16 you talked yesterday, I think your word was
17 'sabotage' when authorities in the States go back
18 and check your work, go back to your witnesses,
19 and so would it be your practice, then, to record
20 where witnesses have recanted, things of that
21 nature?

22 A In a situation like you've just described, where
23 we have filed a petition in Court based on
24 recantations, of course it's always great to have
25 tape-recorded interviews as part of the evidence,



1 but sometimes it just doesn't work out that way.
2 Some people are -- some people simply don't like
3 to be tape-recorded.

4 Q Sure.

5 A Let me add, though, normally when you get --
6 somebody is willing to give you a signed
7 statement, generally speaking they don't -- they
8 do not object to being tape recorded.

9 Q And we've heard some evidence that this is a
10 different type of investigation, but where police
11 are investigating a crime and interviewing
12 witnesses and taking statements we've heard from a
13 number of witnesses that -- in this Inquiry --
14 that those interviews should be not only audio
15 recorded but video recorded, so that the entirety
16 of the exchange between witness and police officer
17 is recorded. And what are your --

18 A In an ideal world, that's true.

19 Q Yeah. And so let me ask you, and so in an ideal
20 world with the police, that would be -- let me
21 back up and say if you were investigating a
22 wrongful conviction, and in addition to a witness
23 statement of the key Crown witnesses --

24 A Yes.

25 Q -- you had video tape or an audio tape of the



1 entire exchange between the police officer and the
2 witness, would that be helpful to you in assessing
3 the credibility of the police work, the integrity
4 of the statement, and things of that nature?

5 A Of course it would, but I think it's unrealistic
6 to think that we -- the defence, either a defence
7 attorney representing somebody post-conviction or
8 pretrial, is going to get a record that is an
9 audio record and, umm, is going to get taped --
10 audio tapes, both types that is, video and audio,
11 of the entire contact that the police had with
12 this suspect.

13 Q Right.

14 A First of all, the contact starts out when a police
15 officer knocks on the suspect's door, it -- they
16 don't have a, they don't have a video camera
17 running at the time.

18 Q Well, let's just talk about what we've heard, is
19 that often before a witness gives a statement
20 there is a pre-statement interview where
21 information is gathered and questioning takes
22 place?

23 A Yes, and you are not going to, you are not gonna
24 have -- as an investigator you are not going to
25 have, or a defence attorney, you are not going to



1 have an audio tape of the pre-interview with a
2 suspect.

3 Q Okay.

4 A We don't know, a defence lawyer has no idea how a,
5 how a witness was prep'd by the police before his
6 statement was tape recorded.

7 Q And would that be important to know, as someone on
8 the side of the defence or an investigator on
9 behalf of a wrongfully-convicted person, to know
10 what happened in the prep interview before the
11 statement?

12 A Absolutely. And I think the *Milgaard* case
13 illustrates the importance of being -- for a
14 defence knowing what happened before these two key
15 witnesses, I'm speaking now of Nichol John and
16 Ronald Wilson, it would be very important to have
17 a record that is to be able to authenticate what
18 they initially told the police.

19 Q And what about the flip side then, if I can go
20 there and talk about the next step where an
21 investigator on behalf of the wrongfully convicted
22 person goes out and does the same, a similar type
23 of work with the witnesses at a later day and
24 investigates them, interviews them and then
25 produces a statement, would you agree that again



1 recording of that pre-statement interview would
2 also be helpful knowing that your work is going to
3 be checked by the authorities the same way you
4 check the authorities' work? Do you follow?

5 A If I were a police officer auditing an interview
6 of a defence investigator, yes, it would be very
7 helpful to have a transcript, that is, a tape that
8 documented my contact, that is, defence contact
9 with the witness from beginning to end.

10 Q So whether it's a police officer taking the
11 statement, a Crown prosecutor taking a statement,
12 defence lawyer or a defence investigator, are you
13 telling us that the pre-statement interview and
14 what is discussed that gives rise to the statement
15 is important to know usually if one wishes to
16 assess the veracity, integrity and credibility of
17 the statement?

18 A I suppose, but it's not necessarily -- I don't
19 think it's realistic that you are going to have a
20 tape recorder running from the minute that you
21 introduce yourself to a witness.

22 Q I mean, I hear you saying that there are some
23 practical issues there?

24 A Practical issues, right, for both the
25 investigators, that is, both for the defence and



1 for the police.

2 **Q** To the extent that it's practical then to have
3 evidence or a recording of a pre-statement
4 interview between the statement giver and the
5 statement taker then, would you agree that that
6 would be helpful to allow those who might be
7 looking at the credibility of the statement to
8 assist them in judging the integrity, veracity and
9 credibility of the statement?

10 **A** I would have to agree that it would be helpful,
11 but I just don't think there would be any
12 guarantees for either side that there had not been
13 prior discussions between the suspect or the
14 Defendant or the witness and the police or the
15 defence, I mean, that was not tape recorded. I
16 think it's unrealistic to try and hold police or
17 defence investigators to a record, that is, a
18 taped record of the entire contact they had with a
19 witness.

20 **Q** What is it that might happen, and again whether it
21 be a defence investigator or police investigator,
22 what are the things to be concerned about in a
23 pre-statement interview that might have an effect
24 on the statement?

25 **A** I suppose it would -- well, I know the prosecution



1 would be concerned about undue influence that we
2 might put on a witness to tell us what we wanted
3 to hear, we're concerned -- we are concerned as
4 investigators about the kind of influence that is
5 exerted on a witness to tell the police what they
6 want to hear.

7 Q And so is it possible that if you have a police
8 interviewer and a defence interviewer on one day
9 following the next interviewing the same witness
10 both seeking the truth may end up with very
11 different statements?

12 A Yes, that's true.

13 Q And that would be based upon what the interviewer
14 or statement taker does, may have for an agenda or
15 what they are trying to achieve; is that right?

16 A That's certainly possible, yes.

17 Q And in your experience, sir, does that happen from
18 time to time where witnesses end up telling
19 authorities and telling defence purportedly
20 different things about the same subject matter?

21 A You know, I can't cite any specific examples of
22 that, but when we are ready to go to Court and we
23 filed a petition on behalf of a convicted
24 Defendant and we are aware that the prosecution is
25 going to have police fan out and talk to our



1 witnesses, we're very concerned about what
2 influences are going to be brought on our
3 witnesses to change their story. I can't cite
4 examples where a witness has told us one thing and
5 then changed his mind after meeting with the
6 police, but --

7 Q Let me just say not changed their mind, but
8 perhaps subtle differences in the details in what
9 is said?

10 A That's right. Well, I shouldn't say I can't think
11 of examples because the Milgaard case is a good
12 example of that.

13 Q And who are you referring to?

14 A I'm talking about Shorty Cadrain, that is, Albert
15 Cadrain in particular.

16 Q And in what sense?

17 A Well, it's my understanding, and I didn't know
18 that until, I didn't realize this until I got
19 here, but after I talked with Albert Cadrain, he
20 and his brother, and obtained a statement from
21 him, I was surprised to read the transcript of a
22 taped RCMP interview with Albert in which he
23 stated that he was under pressure from me to
24 attest to misconduct by police, brow beating,
25 brainwashing, the kind of -- the kind of treatment



1 by police that results in -- well, let me back up
2 and say that what he said was that, what he told
3 the RCMP was that he told me what I wanted to hear
4 and basically recanted what he had told me and he
5 was claiming to the RCMP that, basically claiming
6 that there was no pressure on him to implicate the
7 Defendant.

8 Q And that would be the tape recording that I
9 provided to you?

10 A That's correct, and I had not seen that before.

11 Q So with that knowledge, again looking back, and
12 we'll deal with this in more detail with the
13 actual statements a bit later, but just generally
14 looking back at your statement with Mr. Cadrain,
15 with Albert Cadrain, in light of what you read in
16 the subsequent transcript do you have any comment
17 or reaction to what he said after?

18 A Well, yes, I do. I was surprised to see that
19 Albert told the RCMP that he felt like he was
20 pressured by me to claim police misconduct and
21 undue pressure on him, but the same thing that he
22 told me was attested to by Albert in other
23 interviews subsequent to my contact with him,
24 so -- and I might add that his brother was present
25 during, was with me every minute that I was with



1 Albert and Albert and Dennis both reiterated what
2 they told me in subsequent interviews.

3 Q Well, we'll go through those statements and I can
4 ask that again.

5 A Okay.

6 Q If we can go to 076302 of the Linda Fisher
7 transcript, and again yesterday we talked about
8 what you knew about Larry Fisher and Linda Fisher
9 before you went to the interview and what you
10 learned during the interview. I think at this
11 point I think, and there was a reference early on
12 in the transcript about Linda, I think when you
13 and Mrs. Milgaard first arrived she made some
14 comment about surprised it took so long or
15 something like that and referred to going into the
16 police and there's a reference here about, where
17 she says, you know, she was drinking when she went
18 in and some questioning about, and Linda going in
19 in response to some fliers, etcetera. Do you have
20 a recollection of learning in the first interview
21 with Linda Fisher that she had actually gone in to
22 the Saskatoon City Police, I think it would have
23 been 10 years prior to this interview, with her
24 suspicions about her ex-husband Larry Fisher?

25 A I really don't remember the details of the



1 interview with her, not this particular detail.

2 Q Do you remember becoming aware at some point that
3 Linda Fisher had gone to the city police in 1980?

4 A No, not really, not until I reentered the case
5 about five days ago.

6 Q Okay.

7 A That's -- excuse me, let me add, that's not to say
8 that I was not cognizant of that at the time I was
9 interviewing her.

10 Q Okay. And I'm just wondering if you can tell us,
11 and if you can't recall the detail, but whether
12 that had any significance in your thinking at the
13 time?

14 A I'm sure it would have. If I -- if I heard from
15 Linda that she had gone to the police about
16 suspicions in 1980, that is, 10, 11 years after
17 the Gail Miller murder, that that would have been
18 a part of the, contributed to the insights that I
19 had that helped me form my opinions on Larry
20 Fisher.

21 Q And I'll take you through the statement you took
22 from her which talks about that. We're done with
23 this transcript. I want to just talk about
24 generally your practices at the time with respect
25 to taking witness statements. Tell us what was



1 your procedure, your methods, how did you go about
2 taking a witness statement?

3 A Well, let's just take the Linda Fisher interview.
4 We spent hours, I don't know how many hours, but
5 when we first met Linda in Cando we were with her
6 for probably three or four hours, I learned a
7 great deal of background about her and her
8 husband. I believe that we actually met with her
9 again the following day in Saskatoon, that's when
10 I sat down with her and wrote out the statement
11 and that was a very lengthy process because I was
12 conferring with her sentence by sentence to make
13 sure that I was, that I was memorialising her
14 feelings and, you know, these statements are
15 written out by hand, a lot of work goes into them
16 and the last thing I want to have to do is get to
17 the bottom of a page or get to the end of the
18 statement and have her read it, as we always have
19 witnesses do, and say now wait a minute, I didn't
20 say that, so a witness, when I'm taking a
21 handwritten statement, routinely I have them agree
22 to every word, virtually every word that goes into
23 the statement.

24 Q And tell us how, just give us an example, would
25 you -- I take it before you would start to write



1 the statement you would have a pretty good idea of
2 what you think the witness can put in a statement
3 based upon early discussions; is that right?

4 A That's true, right. I have a plan.

5 Q Yeah. So it's not a case of saying okay, hi,
6 Linda Fisher, nice to meet you, start talking and
7 I'll start writing?

8 A No, it takes a lot more time than that and a lot
9 more thought goes into it.

10 Q What did you mean when you said you would have a
11 plan?

12 A Well, I would have a basic outline in my mind, and
13 sometimes a written outline prepared overnight or
14 sometime before the follow-up, the actual
15 statement-taking process, certainly almost always
16 an idea of what this statement was going to say.

17 Q And what would influence you in that, what would
18 you be trying to achieve and what would you decide
19 to put in and include and what not to include?

20 A Well, that's a hard question because every witness
21 is different, every mission is different. In
22 Linda's case we wanted to memorialise or
23 authenticate, make a document, make a record of
24 her suspicions about Larry Fisher and the reasons
25 for her suspicions.



1 Q Would you be trying, in her statement, to be
2 putting forward a compelling case that Larry
3 Fisher was the killer of Gail Miller?

4 A Of course.

5 Q And why is that?

6 A Well, I'm up in Canada working on behalf of an
7 innocent man possibly, I'm -- you know, when I
8 leave for Canada I'm up there to explore every
9 possibility of the conviction of an innocent
10 person, and after talking with Linda, she
11 delivered on virtually everything that we had
12 thought she might say with the exception of some
13 misinformation about Larry Fisher coming home
14 covered with blood. She immediately -- she
15 immediately dismissed that element. So your
16 question is -- would you repeat it again, please?

17 Q Sure. You said that you were trying to make it
18 compelling and I'm just wondering what -- let me
19 just back up and put it another way, and on one
20 we've heard various, various witnesses about how
21 they take a statement, what they put in, and if I
22 were to say on the one hand an independent truth
23 seeker, on the other hand an advocate, where would
24 you put yourself in there as far as -- I want you
25 to tell us, what is driving you, what do you put



1 in the statement, what don't you put in the
2 statement, what language do you use, how do you
3 present it.

4 A Well, let's just take those two descriptions,
5 independent truth seeker and advocate. Centurion
6 Ministries I think would be better described as an
7 independent truth seeker. At some point, however,
8 we become advocates, we become very strong
9 advocates for the person we're representing. At
10 this stage of the Milgaard project I was an
11 independent truth seeker and when I was sitting
12 down with Linda to write out her statement, I
13 think that the word, rather than compelling, a
14 better word would be factual and thorough, I
15 wanted to make sure that factual, thorough and
16 believable.

17 Q For example, and at this stage let's -- I think
18 you told us at some point you became, had stronger
19 beliefs in David Milgaard's innocence and Larry
20 Fisher's guilt; is that fair?

21 A Yes. My belief in Milgaard's innocence and
22 Fisher's guilt was evolutionary, but it got off to
23 a real jump start.

24 Q So when you are becoming more of an advocate, does
25 your -- and maybe I didn't understand your earlier



1 answer. At some point when you become more
2 convinced of the innocence of your client, does
3 your method of taking statements change?

4 A I don't think so, no.

5 Q And so let's take Linda Fisher, for example, if
6 you had information from Linda which, and it's
7 apparent you did, with suspicions about Larry
8 Fisher being the culprit and yet you may have a
9 couple loose ends that might suggest that maybe he
10 isn't the culprit, do you include those in your
11 statements, do you not include them? Just
12 generally.

13 A That's a good question. I think it would depend
14 upon the gravity of the counter information. Let
15 me answer your question this way. We know that
16 the only way that we're going to prevail on behalf
17 of an innocent person in prison is to present the
18 truth, as they say, the whole truth and nothing
19 but the truth. Now, if Linda had said to me, for
20 example, well, you know, I have to say that in
21 spite of my suspicions about Larry, I didn't
22 really think, seriously think that he was capable
23 of doing something like that, that would have gone
24 into my statement.

25 Q Would have?



1 A Would have, yes. If she had said something like,
2 you know, I was very suspicious of him, but I have
3 to tell you that I woke up at seven o'clock and I
4 sensed there was somebody in bed with me, that
5 certainly would have gone into the statement as
6 well, but there are certain, some things might not
7 have gone into the statement, and anything that
8 had a, that was a major distraction from Linda
9 Fisher's expressed suspicions would have been
10 included.

11 Q Okay. And just again if there -- maybe I can
12 answer it this way. Are you trying to present --
13 presumably you know this statement is going to be
14 reviewed by an authority, someone who is going to
15 be looking at your assertion that David Milgaard
16 is innocent and that this person either did commit
17 the crime or may have committed the crime?

18 A No question about that, scrutinized with, as they
19 say, a fine-tooth comb. That is why we can't --
20 why we know it's --

21 Q I'm sorry, is that audience, in other words, who
22 you are trying to tailor this to when you draft
23 the statement, in other words, we know, you know,
24 we know what's going to happen in this statement,
25 it's going to go to the authorities and we want to



1 make sure they get a good impression of this and
2 that they get what they need to know, is that --

3 A Well, actually, when we're working on behalf of a
4 man in prison, a person in prison in the United
5 States, we're not writing these statements for the
6 cops, we're writing them for the benefit of a
7 judge who is going to ultimately review, pass
8 judgment on our petition.

9 Q So do you try to make them persuasive to your
10 position?

11 A We try to make them persuasive and we try to make
12 them bullet proof.

13 Q And what do you mean by bullet proof?

14 A Above reproach, we try to make them -- to make
15 sure, to begin with, that we're on firm ground and
16 that we have a witness who is telling us the truth
17 and that there's information in the -- there's
18 nothing in the statement that's going to --
19 nothing contradictory in the statement. We want
20 to make sure for sure that we have a witness who
21 is going to stick with what she tells us, he or
22 she.

23 Q Okay. And again I will be going through the
24 statements you took in some detail, but just
25 generally as far as, and the question of, in a



1 statement, whose words are these, are these the
2 witness' statements, are they your words, are they
3 some combination, what is your practice?

4 A You hit it there, it's a combination, but
5 ultimately when I'm crafting a statement for a
6 witness, I have to do, I have to compose the
7 sentences, but whenever possible I'll use the
8 exact same words that a witness uses.

9 Q On occasion would you give back to the witness
10 some different words to try and capture the same
11 thought?

12 A Yes, but I wouldn't replace their own words with
13 my words unless their own words were not
14 appropriate or not self-explanatory, but I often
15 have to help a witness express what he or she
16 wants to say.

17 Q Now, that was my question, you with your
18 experience as a writer, and certainly no
19 disrespect to any of the witnesses, but you may be
20 dealing with someone who is giving a statement who
21 maybe does not have the same command of the
22 English language or the ability to express matters
23 in as articulate a way that you do?

24 A Yes, that's correct. Sometimes we have to end up
25 using words that the witness is not familiar with,



1 for lack of a better word, like, oh, perhaps
2 coerced, coercion is a word that a lot of
3 witnesses aren't familiar with, but --

4 Q So in that case, would that be something you would
5 introduce?

6 A I have used that word, right.

7 Q In what --

8 A In statements. I've introduced that word to a
9 witness and explained it to them what it means and
10 asked them if that adequately explained what
11 happened to them.

12 Q Okay. And was that -- did that happen with any of
13 the witnesses in this case?

14 A I'm not sure whether the word coerced appears in
15 any of the statements. It may well.

16 Q I think it's in Ron Wilson's. We'll go through
17 the statements. I think it's in Mr. Wilson's.

18 A Yeah, uh-huh. That likely was a word that I
19 introduced to him and asked him if it was
20 appropriate, if it fit what happened to him, yes.

21 Q So let's go to 050603. And this is your
22 handwriting, sir, --

23 A Yes.

24 Q -- is that correct? And, again, I don't propose
25 to go through the entire statement. I think you



1 told us this took some time, is that right, to
2 prepare?

3 A Umm, how many pages is this again?

4 Q Sure, let's just go to the, if we can go to 0608
5 is the sixth page.

6 A Six pages? I'm -- never cease to be surprised at
7 how long it takes me to write out these statements
8 because, like I said, every sentence has to be
9 approved, I have to feel confident that every
10 sentence will be endorsed, ultimately, by the
11 witness when it comes time for me to ask them to
12 sign the statement.

13 How long would this one take? I
14 would guess I was with Linda for, in a restaurant,
15 I remember the setting, it was right here in
16 Saskatoon, I would guess four or five hours.

17 Q And who was present when you took this statement?

18 A I'm not sure. Joyce Milgaard may have been
19 present.

20 Q And anybody else?

21 A No, not that I can -- not that I am aware of.

22 Q If we can go back to page 0604, and --

23 A Yes.

24 Q -- the statement talks here, it says, she says:

25 "... I had discovered that my kitchen



1 paring knife was missing."

2 A Uh-huh.

3 Q "So when I heard the murder report ...",?
4 and then it goes on to a discussion with Larry
5 Fisher. In the transcript that we reviewed
6 yesterday of the discussion the day before with
7 Linda you had questioned her and probed her and
8 actually had her draw the knife, describe the
9 handle, the type of handle, wooden handle,
10 rivets, serrated edge, non-serrated edge,
11 etcetera.

12 A Uh-huh.

13 Q Is there any reason that the description of the
14 knife would not have been included in this
15 statement? And I can tell you it's not.

16 A Yes. I can't explain that. Umm, I -- I -- let me
17 add, though, that I had no description of the
18 actual murder weapon.

19 Q Okay. At this time?

20 A No, I didn't, no.

21 Q But would that be an important fact to have in
22 here, the description of what knife she -- knowing
23 that Gail Miller was stabbed, you knew that, --

24 A Yes.

25 Q -- and her saying "on the morning of the murder my



1 rapist husband wasn't home and I accused him of
2 taking my paring knife and killing the nurse",
3 would the description of the knife that she said
4 -- well, put it this way; do you think Linda
5 Fisher, when she talked to you, believed that her
6 missing paring knife was the knife used by her
7 husband Larry to kill Gail Miller?

8 A I'm not sure that she was convinced of that. All
9 she told us was that she had apparently discovered
10 that a knife was missing and that she confronted
11 him on that.

12 Q Right. But let's just go back, just that
13 scenario, would that not be a reasonable
14 conclusion that maybe this missing paring knife is
15 the knife that he used to kill Gail Miller?

16 A Well, you could, you could make that assumption.

17 Q And, again in that sense, would the description of
18 the knife, fairly detailed, that she gave you the
19 night before, the day before, would that not be an
20 important piece of information to have put in?

21 A Well, you know, if -- that's a good question,
22 because if I had, if I had asked her that she
23 would have described this probably as a
24 run-of-the-mill paring knife, which I believe
25 usually are wooden-handled, and of course small,



1 wooden-handled knife, and that would have not fit
2 with the actual murder weapon that was found under
3 Gail Miller's body.

4 But, umm, let me say that not
5 knowing what the actual murder weapon looked like
6 at that time, umm, I can say in all honesty that
7 my failure to describe the knife was just an
8 oversight, or have her describe the knife was an
9 oversight, and there was certainly nothing -- I
10 mean it was an innocuous error.

11 Q Okay. If we can go to the next page and just get
12 your comments, here, the sentence, it says here:

13 "I am now convinced that Larry reacted
14 the way he did because he really did
15 kill Gail Miller. There are several
16 reasons why I believe this."

17 And what we know from the record, Mr. Henderson,
18 and what we have heard in this Inquiry is that
19 after you had interviewed Linda Fisher she is
20 interviewed by Rick Pearson of the RCMP, she was
21 questioned under oath by Eugene Williams, I think
22 she had further discussions with you, she
23 testified at the Supreme Court of Canada and she
24 testified before this Inquiry, and I think on
25 occasion, or certainly in the statements or



1 interviews after this statement, she maybe
2 expressed her feelings about Larry Fisher's guilt
3 in a different way and not as positive, perhaps,
4 as it's stated here.

5 A Uh-huh.

6 Q And, in fairness, she also did later say stronger,
7 so I don't know.

8 A Right.

9 Q But I'm just trying to get -- let me just go back
10 to your recollection. Do you -- what is your
11 recollection of Linda's certainty when you met
12 with her and took the statement, was it "I'm
13 certain that Larry is the killer" or "I suspect
14 that Larry is the killer" or "Larry might be the
15 killer, I wish someone would tell me whether he
16 did or he didn't", or "maybe he's the killer",
17 like where in that --

18 A Okay. Well I think it depends on how you asked
19 her the question. If I had asked her "are you
20 certain" -- let me put it this way; if I had asked
21 her "do you suspect that your husband might have
22 committed the murder" she would have said
23 "absolutely"; if I'd have said to her, if I'd have
24 asked her "are you, do you have strong suspicions
25 that your husband" -- depending upon which



1 question I asked her.

2 Q Yes.

3 A The first one is on record, I just mentioned the
4 first one; the second one, "do you have very
5 strong suspicions" she would have answered "yes";
6 and the third question, which is one I asked her,
7 "are you convinced that your husband committed
8 this murder", she answered "yes", so it depends on
9 how the question is phrased. We were there, she
10 knew we were there to make a case against Larry
11 Fisher, and she was willing to oblige.

12 Q So, again, the words here:

13 "I am now convinced that Larry reacted
14 the way he did because he really did
15 kill Gail Miller.",
16 that was your sense of what she was -- or that's
17 what she told you; correct?

18 A That's what she, when I asked her to describe to
19 us her feelings, she confirmed that she was
20 convinced that Larry was the killer.

21 Q And --

22 A Now I could -- excuse me, let me make this clear.

23 Q Yeah.

24 A If I would have said "do you suspect that your
25 husband was the killer" she would have said "yes"



1 as well, and she wouldn't probably have argued
2 "well wait a minute, that's not right, I'm
3 convinced he is the killer", she wouldn't have
4 said that.

5 Q And if you would have asked her the question "well
6 is it possible that maybe he didn't do it"?

7 A Well, I think she would have thought long and hard
8 about that and probably disagreed.

9 Q Okay. So, again, this -- you are comfortable that
10 this would have been through the course of
11 questioning to try and get in the statement what
12 her belief is about her husband's guilt?

13 A Yes, but -- umm, yeah, but in all honesty I have
14 to, I have to admit that we wanted to get the
15 strongest statement possible from her.

16 Q And so the strongest possible would be "I am
17 convinced that he killed Gail Miller"?

18 A Yes, and she agreed with that.

19 Q Okay. And if we can then just go down to the
20 bottom, just here, the business about the rapes,
21 and I think we saw that in the tape, that you
22 would have been aware that he was arrested and
23 went to prison in 1971 for some rapes; that would
24 have been apparent to you at the time?

25 A Yes, we were aware of Larry Fisher's arrest



1 record, arrest and conviction record.

2 Q Go to the next page. And then you talk about --
3 actually, I'm sorry, this is -- this is before --

4 A Uh-huh.

5 Q -- she talks about going to the police in the
6 statement, she has already told you the day
7 before, and there is a part here that says:

8 "I can't honestly say why I didn't
9 inform police of my suspicions earlier
10 than I did. There were probably several
11 reasons. One is that Larry is the
12 father of my daughter, Tammy, who has
13 always loved and believed him."

14 And then it goes on to talk about a few other
15 things. Would this have been an area that you
16 introduced to have her explain why she didn't go
17 to the authorities earlier?

18 A I'm sure it was.

19 Q And why?

20 A Well, it's a legitimate question. We're talking
21 10, 11 years, excuse me.

22 Q 20.

23 A Well --

24 Q I'm sorry, 10 years after she went to the police
25 but 20 years after, 21 years after --



1 A Well, yeah, I mean she waited -- her suspicions
2 would have started on the day that -- of the
3 murder, the day that she found her, woke up and
4 found her husband in the -- in his dress clothes,
5 and then later, subsequently -- and she'd already
6 learned, I guess on the radio, about a murder. It
7 wasn't until, what, 10, 11 years later that she
8 walked into a police station and disclosed her
9 suspicions about Larry, so it was a legitimate
10 question, it was a question that I had to ask,
11 "why did you wait so long to share your suspicions
12 with the police", and she explained why.

13 Q And would that be trying to anticipate what the
14 authorities might say when they get the statement,
15 to try and address what you think they might be
16 interested in knowing?

17 A Well, in the process of the pre-statement
18 interview, that would be something that would be a
19 part of the process of weighing the credibility of
20 what she was telling us, umm, "yeah, well Linda,
21 if you suspected your husband from day one of
22 committing this murder why didn't you go to the
23 cops with it, why didn't you tell them about it to
24 begin with?", and the question had undoubtedly
25 came up long before we sat down and wrote out her



1 statement.

2 Q Yeah. So that might be an issue that would touch
3 on her credibility, and you would introduce it to
4 her and get her to explain in her statement why?

5 A Yes. Not just for purposes of the statement, but
6 for purposes of explaining to me and giving me a
7 better feeling about how genuine her suspicions
8 were, and how genuine she was being with us.

9 Q Yeah. If we can go to the next page, she talks
10 here about going into the police in 1980 after
11 seeing a flyer in which David Milgaard's family
12 was claiming him to be wrongly imprisoned, and
13 asking for help; do you have a recollection of
14 this issue?

15 A Not specifically, no.

16 Q And I'm wondering if you can -- what Mrs. Fisher
17 testified before this Inquiry is just that, that
18 she recalls seeing a flyer put out by
19 Mrs. Milgaard before she went in to the police in
20 August of 1980, however the evidence we have is
21 that the flyer didn't go out until December of
22 1980?

23 A I can't explain that.

24 Q Okay. If we can go down to the bottom of the
25 page, please, where she talks again about:



1 "I gave the police a one-page statement
2 listing ...",

3 this is talking about going in in 1980, and I
4 understand from the documents that she didn't
5 have a copy of that statement, is that right?

6 A No, she did not.

7 Q She says:

8 "I gave the police a one-page statement
9 listing the reasons I could think of why
10 I felt that David Milgaard was innocent
11 and that Larry Fisher had committed the
12 crime. Since that time, I have not
13 heard from the police concerning the
14 statement I gave them."

15 A Uh-huh.

16 Q What was your reaction to that information?

17 A That she had not heard back from them?

18 Q Yes?

19 A Well, it was hardly surprising to me, I mean since
20 Larry Fisher still had not been investigated by
21 police ten years after the statement I wasn't
22 surprised that she hadn't heard back from them.

23 Q If we can then go to 050609. Actually, just go to
24 the page earlier, we looked at this earlier, this
25 is the statement that's dated -- and so would you



1 have had her read through the statement or would
2 you read it to her before she signed it?

3 A If a witness is literate we have them read the
4 statement very carefully, and sometimes we have
5 them actually initial the bottom of the page, of
6 each page. I don't remember, I'm sure that Linda
7 was given the opportunity to read this statement
8 herself, and I may have read it to her as well.

9 Q And in cases where you have concerns about the
10 witness' ability to read a statement would you --
11 what do you do then?

12 A We would read them the statement.

13 Q Okay. Then the next page, it looks like a second
14 statement is taken, this is March 11th; is this
15 your handwriting?

16 A Yes, it is.

17 Q And do you recall how the second statement came
18 about or do you want me to go through it?

19 A Could you please?

20 Q Yes.

21 A Well, are you going to go through how it came
22 about, or the statement?

23 Q Yeah, maybe I'll just quickly go through the
24 statement. There is -- I think the evidence is
25 that March, March 9th you met with Linda in Cando,



1 I think it was a Friday; March 10th you took the
2 statement from her, drove around the scene, talked
3 to Cliff Pambrun, then I think this is the next
4 day, and it says:

5 "I was contacted again on this date by
6 Joyce Milgaard, mother of David
7 Milgaard. ... she was reviewing
8 information in her files this morning
9 and found a report documenting an
10 interview that police had with Larry
11 Fisher on February 5, 1969."

12 A Uh-huh.

13 Q It goes on to talk about the police report. So it
14 looks like, after you got the first statement,
15 that evening or that day, the next morning
16 Mrs. Milgaard found a police report that had
17 referred to Larry Fisher being talked to by the
18 police; do you remember that happening?

19 A Umm, do I remember going back to Linda and
20 questioning her further in regard to this.

21 Q Yeah. Do you remember, do you remember anything
22 about discovering that Fisher's name -- Larry
23 Fisher was talked to by the police in 1969?

24 A You know, I don't have a specific memory of that
25 element of the contacts with Linda.



1 Q And then, if we can scroll down, then I think what
2 Linda Fisher says in this statement, she writes
3 that the police report or what was reported to her
4 by Mrs. Milgaard was that Larry claimed to be at
5 work on the morning of January 31, and then Linda
6 Fisher says:

7 "I find this strange because on this
8 particular morning Larry was ...",
9 and then it has the word:

10 "... still in our basement suite ...",
11 and then the word "still" crossed out:

12 "... was in our basement suite when I
13 awakened sometime between 9 and 10 a.m.
14 As far as I'm concerned, he did not go
15 to work that morning.

16 ... I was not aware that Larry
17 had been questioned by police, nor was I
18 aware that he had claimed to anyone that
19 he went to work on the morning of
20 January 31.

21 If I had been aware that Larry
22 was claiming to police or anyone to have
23 gone to work on the morning of January
24 31, I would have been quite suspicious
25 of his motive for lying. In view of the



1 murder that occurred on that date, it is
2 likely that I would have felt compelled
3 to contact police."

4 Do you have a recollection of this being
5 discussed with Linda?

6 A I don't have a specific recollection of that, but
7 if it's written that way, that's what she told us.

8 Q Now is this, this is in Cando the next day, is it
9 possible that you would have written this
10 statement -- and it's witnessed by Felicitia
11 Moosomin, who I think Linda Fisher told was a
12 friend of a friend or a daughter of a friend; is
13 it possible that this statement was written out
14 and sent out for her to review and sign, do you
15 know, or would you have gone out and --

16 A We would have returned to Cando to talk to her,
17 although I don't have a specific recollection of
18 driving back up there. No, we would not have
19 forwarded a statement to her for her signature.

20 Q And why not?

21 A Well, because it would have been important for
22 her, for her, for us to present her with this
23 Larry Fisher statement and explain to her where it
24 came from. As I recall, Linda didn't have a
25 telephone so we couldn't have, we couldn't have



1 contacted her and given her this background on the
2 telephone, so it would have been absolutely
3 necessary for us to go back up and --

4 Q I see. If we can then call up 043662. And this
5 is a transcription of a tape, and I think what,
6 either what we've heard in evidence or what it is
7 believed to be is that on March the 10th, 1990 you
8 and Mrs. Milgaard, I believe, drove around the
9 City of Saskatoon, picked up -- Linda was in the
10 car for a while, then went looking for Clifford
11 Pambrun, and I believe the tape recorder was on in
12 the car and captured a number of discussions; one,
13 discussions between just you and Mrs. Milgaard;
14 two, some discussions including Linda Fisher; and
15 three, then, an interview with Clifford Pambrun.

16 A Uh-huh.

17 Q And do you recall, do you recall, the day you took
18 the statement from Linda Fisher, driving around,
19 looking at the scene, and going to see Cliff
20 Pambrun?

21 A I remember seeing Cliff Pambrun, I have a vague
22 memory of being in a car with Joyce and Linda, but
23 certainly I don't remember any specifics of that.

24 Q Now the tape -- and I'll take you to this in a
25 moment -- talks about Mrs. Milgaard having a call



1 with her lawyer, David Asper, to discuss Linda's
2 statement and their strategy with respect to Larry
3 Fisher.

4 A Uh-huh.

5 Q And I'll take you to that, but it looks like that
6 after Friday, after you met with her, that that
7 evening or perhaps the next morning there would
8 have been a call between Mrs. Milgaard and Mr.
9 Asper to discuss strategy; do you remember being
10 involved in that at all or --

11 A Vaguely.

12 Q It --

13 A Actually, let me say no I don't, I don't even
14 vaguely remember it.

15 Q And so that may have just been a call between
16 Mrs. Milgaard and Mr. Asper?

17 A Well, does --

18 Q We'll go through the tape and maybe --

19 A Yeah.

20 Q What is your recollection of your first dealings
21 with David Asper?

22 A I'm not sure when I first had a conversation with
23 him. I didn't meet him until much later, as I
24 recall, but I recall some conversations with him
25 after I interviewed Ron Wilson, but I don't have



1 any specific memory of talking with David during
2 this period of time.

3 Q Okay. If we can go, just to give you a bit of
4 context, you will see it starts in the middle here
5 so I'm not sure what was discussed before then,
6 and there is a discussion about Linda and, Mr.
7 Henderson, you are there talking about Saturday,
8 so I'm assuming it's late in the day Saturday. If
9 we can just scroll down, and keep, go right down
10 to the bottom, you will see there is a discussion
11 about looking for Cliff and Roy Pambrun.

12 A Uh-huh.

13 Q Then if we can go to the next page, and it looks
14 here that we start a discussion between you and
15 Mrs. Milgaard, either with Linda Fisher out of the
16 car or perhaps with her out of earshot, and --

17 A Right.

18 Q -- Mrs. Milgaard says:

19 "I want to convince her... I want to
20 convince her before we separate, Paul,
21 to let Tammy know now."

22 Tammy is her daughter:

23 "Because um... I... I've promised her
24 that um... you know that we won't go
25 public without telling her first, but



1 the point is if Larry gets suspicious at
2 any time and Tammy goes up there to
3 visit her... him... and he hears even
4 about the other statement..."

5 And then down at the bottom you say:

6 "I've got to ask you something, did...
7 did... when you were talking to your
8 lawyer last night, or this morning, did
9 he go into detail with you about his
10 plan about maybe getting Larry a deal?"

11 And let me just pause there. From that is it
12 fair to assume that you would not have been
13 involved in that call?

14 A It sounds like I was not.

15 Q Now what -- and maybe go to the next page, and I
16 will just read this part to you, so you've asked
17 her about talking to Mr. Asper and the plan --

18 A Where are you now?

19 Q Now we're at the next page, right at the top.

20 A Okay.

21 Q And she says:

22 "Ya. I mentioned that to her ...",
23 and you say:

24 "To her ...",

25 I'm not sure if that's referring to Linda, and



1 she says:

2 "I mentioned to her today... I said to
3 her when we were talking, I said you
4 know it may be that they want to ...
5 will want to put somebody in undercover
6 to talk to Larry."

7 And you say:

8 "No what he's talking about is is is..um
9 uh... you and he going into prison and
10 telling Larry if he would give us the
11 truth he might... letting Larry think
12 ...",

13 "that he might get a deal... ",

14 "Well letting him think, number one that
15 we're going to catch him on it..."

16 "Ya, that we already know."

17 And I think this is the plan that was discussed
18 between Mrs. Milgaard and Mr. Asper, is that
19 right, that you are talking to her about?

20 A Yes. It was something that I was not involved in.

21 Q Then you say:

22 "We know and we've got the proof. Um...
23 but telling him basically look, we can
24 prove it, at least in the minds of the
25 public, but um... and you're going to be



1 in hot water if we go public with this.
2 On the other hand, the lawyer saying to
3 him."

4 And then Mrs. Milgaard says:

5 "Are you recording?"

6 You say:

7 "Ya."

8 And:

9 "But saying to him, if you want to
10 co-operate with us and admit to this, we
11 will be your liaison between you and the
12 Justice Department and see what kind of
13 a deal they might be willing to work
14 out. And his... you know his rationale
15 for this was the Justice Department
16 would go for this because it gives them
17 a chance to look good. Um... like
18 they've discovered it, maybe on their
19 own. They've got this... they talked to
20 him, he confessed. Uh... it makes them
21 look better than..."

22 Now let me just pause here, and I'm wondering if
23 you can explain what this is about, Mr.
24 Henderson?

25 A I'm having a hard time making sense of it.



1 Q Yeah?

2 A I don't really know whether I was, whether I was
3 weighing in on this plan to go up and talk with
4 Fisher, or whether I was offering my suggestions,
5 or whether -- I don't know whether I disapproved
6 of this, or approved of it, or had no opinion on
7 it.

8 Q Okay. Let me just go to the next page, at the
9 top, and this is just carrying on the discussion
10 and you saying:

11 "Ya well he was considering doing that."
12 And I'm assuming that's referring to Mr. --

13 A Asper.

14 Q -- Asper.

15 "... it's not a bad idea, it's worth a
16 try. In which case what you're holding
17 is... what you're doing is you're
18 holding back on the publicity. In other
19 words, you're not going to besmirch
20 Larry Fisher, label him a killer all
21 over mainland Canada on every T.V.
22 screen in the entire country, giving him
23 a chance to admit it first, with a
24 possibility of getting a deal. He
25 says... I said what do you mean... are



1 you talking about plea bargain... um...
2 where he would only get so many years.
3 He said I'm talking about the
4 possibility of him not even being
5 prosecuted. I can't imagine that that
6 they would do something like that
7 though."

8 And let me just, at this point you have met Linda
9 Fisher the day before and took her statement, at
10 this point were you convinced that Larry Fisher,
11 based on what you had, was the killer of Gail
12 Miller?

13 A I must have been.

14 Q And on what basis?

15 A On the basis of what we'd heard from Linda, what
16 we knew about the rapes that Larry had committed,
17 umm, and, umm, basic instincts that I had
18 developed by then on this man.

19 Q Had you looked at any of the evidence that had
20 presented -- been presented in the case against
21 David Milgaard at this time?

22 A I probably had read the testimony of the key
23 witnesses.

24 Q What -- and so, again, this discussion about --
25 let's just talk about going to the public and



1 besmirching:

2 "... Larry Fisher, label him a killer
3 all over mainland Canada on every T.V.
4 screen ...",

5 what was that intended to accomplish or to do?

6 A Well, you know, obviously the purpose of that, of
7 that going public with this -- and, again, this
8 was not my idea, in fact I found the notion rather
9 strange, it certainly isn't the way we, Centurion
10 Ministries, would have approached this, and I
11 think, as I recall, Jim McCloskey found, also
12 found it a little strange, but -- and may have
13 even been opposed to it. But, nonetheless, the
14 purpose obviously was -- would be to gain public
15 support for David Milgaard's release.

16 Q So when you say it would be strange, what do you
17 mean, what would you find --

18 A Well, it's just not the way we operate.

19 Q Why not?

20 A Well because, as I mentioned before, this was -- I
21 just had one interview, one witness, and there
22 were also others out there who also were, who were
23 key to the Crown's case against Milgaard, and the
24 way that we operate, we don't -- we don't even
25 think about going public until we've completed our



1 investigation.

2 Q And when you do go public in what circumstances
3 would you actually name and accuse another person
4 of having committed the crime?

5 A I don't -- we've gone public, we have gone to the
6 press in maybe three or four cases that I have
7 been involved in, and -- although one was St.
8 Louis, and we had a very good suspect in mind, but
9 I don't think we named him.

10 Q Now at this time, Mr. Henderson -- and I know you
11 appreciate that you were right and that Mr. Fisher
12 has been convicted and committed the crime -- but
13 at this time did you have any concerns that maybe
14 you weren't right, that in other words before you
15 go and publicly state that Larry Fisher is the
16 killer, that maybe some more work is done, or some
17 proof?

18 A I'm, I'm sure that I felt that more work had to be
19 done before I would have advised that we go
20 public, or that the Milgaard family and their
21 attorneys go public with Larry Fisher.

22 Q What type of work?

23 A Well, for one thing, we hadn't talked to any, we
24 had not examined any of the evidence against
25 Milgaard, we hadn't talked to any of the



1 witnesses --

2 Q Okay.

3 A -- who testified against him.

4 Q And, at this time, do you think that you could
5 establish Larry Fisher's guilt, would that be
6 something you -- that would be on your radar
7 screen?

8 A I'm sorry, could you --

9 Q Well we've heard, we've heard from Sergeant
10 Pearson the distinction between suspecting Larry
11 Fisher as the culprit versus actually proving that
12 he is the person who committed the crime, and my
13 question was at this time I think you said that
14 you believed that he had committed it, so
15 obviously you suspected him; did you think that at
16 this time that, based upon your discussion with
17 Linda, you had the proof?

18 A Oh I don't think so, I don't really think so. I
19 mean our purpose, I wasn't up there to make a
20 murder case on somebody else, on Larry Fisher or
21 anyone else, I was up there to do what I could to
22 establish the innocence of David Milgaard and so,
23 you know, introducing another man more likely to
24 have committed this murder would be, would be a
25 part of the strategy of casting doubt on the



1 Milgaard conviction.

2 Q And introducing another suspect I guess in what
3 venue or to whom, are we talking the public domain
4 through the media, to the authorities?

5 A Well, again, this publicity part of what was
6 unfolding at the time wasn't my idea and it wasn't
7 anything that I had given any thought to before
8 going up there and it was somewhat foreign to me.
9 It was part of the strategy that the Milgaard
10 family and their attorneys had initiated long
11 before they contacted me or Centurion Ministries.
12 It wasn't our job to argue with the strategy and
13 tell them that it was premature. I don't know
14 what Jim McCloskey's position on this was, but
15 obviously the public was salivating for
16 information on this case and the press was anxious
17 to get it and they were, the Milgaard family had
18 been dealing with the press long before this.

19 Q And can you comment on, and it's on the previous
20 page if you would like to go back. Well, you talk
21 here about -- just go down to the bottom, about --
22 and it may be, I'm not sure, if you are stating
23 back what has been stated to you or you are
24 putting this forward as your own proposition, but
25 you say we will be your liaison between you, being



1 Fisher and the Justice Department, to see what
2 kind of deal they might be willing to work out,
3 and I'm wondering what, at this stage, what role
4 did you think you or Mr. Asper or anybody could
5 play in now getting involved between the justice
6 department and the person who you think is the
7 real killer?

8 A I would have to say when I'm reading this, we will
9 be involved, I think I was referring -- not
10 referring to Centurion Ministries, but to the
11 Milgaard family and their attorneys.

12 Q And again what -- at this point were you either
13 giving your opinions on or commenting on a plan to
14 maybe go in, see -- let me back up. To go in and
15 see Larry Fisher and say, "lookit, we've got the
16 goods on you, confess," that would help David
17 Milgaard; right?

18 A Yes, but that wasn't my plan.

19 Q Okay.

20 A I was just weighing in on it.

21 Q Yeah. But what it seems to be saying here is
22 let's go in, not go to the authorities, let's
23 ourselves go to Mr. Fisher, take his daughter in,
24 see if we can get him to confess and tell him if
25 he does we might be able to get him a deal so that



1 he doesn't even get convicted or doesn't go to
2 jail, things of that nature, and obviously the
3 benefit of having Larry Fisher confess would be
4 that David Milgaard would obviously be exonerated?

5 A Yes, but I didn't -- that wasn't -- I didn't come
6 up with that idea. In fact, I said earlier, if
7 you want to scroll down, I said that I didn't
8 think that they were going to let this guy go
9 scot-free if he confessed, it didn't make any
10 sense to me.

11 Q If you can go to the next page --

12 COMMISSIONER MacCALLUM: Sir, counsel asked
13 you what you thought it was that you could do,
14 you meaning you or the Milgaard family.

15 A Yes, sir.

16 COMMISSIONER MacCALLUM: What possible
17 pressure could you bring to bear, what could you
18 accomplish by pressuring Larry Fisher.

19 A What could we --

20 COMMISSIONER MacCALLUM: That was the
21 question.

22 MR. HODSON: Yeah.

23 A Okay. Well, obviously if Larry Fisher were to be
24 influenced to confess to the Gail Miller murder,
25 that would put an entirely different picture on



1 David Milgaard's confession, but again, I mean,
2 David Milgaard's conviction, but again this was a
3 plan that had been conceived by Joyce Milgaard and
4 David Asper and his office and as I recall, they
5 were planning, they were the ones who were
6 planning to go see Fisher and they were
7 considering trying to take his daughter along with
8 them. At this point I might have -- I might have
9 agreed with them that it was worth a try, but it
10 wasn't our idea to begin with.

11 BY MR. HODSON:

12 Q So that one option was to try and get a confession
13 from Larry Fisher?

14 A That was one of the options that was being
15 discussed at the time, yes.

16 Q And is it fair to conclude from the remarks that
17 using the threat of going to the media and
18 labelling him the killer as a lever or some
19 influence on him to get him to confess, is that a
20 fair read of that?

21 A That was a notion that Joyce and her attorneys had
22 brought up and had come up with and I was weighing
23 in on it.

24 Q Okay.

25 A I thought it might have some influence on him.



1 Q And secondly, in trying to entice him or to
2 encourage him to confess, you might hold out to
3 him, at least according to this discussion, and I
4 want you to tell me whether this was your
5 understanding, that maybe we can get you a deal
6 with justice, or in other words, giving him some
7 incentive to confess; would that be --

8 A My recollection of this particular discussion was
9 that the idea, the notion of -- first of all, the
10 notion of a law firm negotiating a deal for a
11 convicted killer was very presumptuous and the
12 further notion that justice officials in Canada
13 might be willing to let Larry, to let Larry Fisher
14 confess to the murder and not hold him responsible
15 for that murder made no sense to me at all.

16 Q Okay. Did you have any, or would you have had any
17 concerns that, again at this time you've told us
18 you believed that he was the killer, did you have
19 concerns with you or others in your group getting
20 involved with Mr. Fisher directly in the sense
21 that it might in some way hamper or impair a
22 police investigation?

23 A Any -- any participation by me in this process
24 that was being discussed at the time would have to
25 have been approved by Jim McCloskey and so in



1 answer to your question, I was -- as I recall, I
2 was simply weighing in on this, and you want to
3 know whether I thought that that would be
4 prejudicial or --

5 Q Just possible, just whether you had any thoughts
6 at the time based on your other experiences about
7 getting involved in dealing directly with the
8 person who you believed to be the real killer and
9 talking about publicity and making deals and
10 trying to get a confession, whether you felt
11 that -- did you have any red flags go up and say,
12 okay, well, that might -- (a), that's the police's
13 job, and (b), what we do might hamper that?

14 A I don't think that that, the fact that this is the
15 police's job, because it was obvious they weren't
16 going to go back and try and get a confession from
17 him or they weren't going to -- they had their
18 chance to do that and they hadn't, Linda had come
19 forward with the Saskatoon Police Department 10
20 years earlier and there was no follow-up, but I
21 don't know how I felt about that.

22 Q And I guess in fairness, I guess (c) would be to
23 say lookit, we can't rely on the police to do it
24 based on what we've seen, so therefore we have to
25 do it ourselves?



1 A Well, I agree with the first part of what you just
2 said, we could not rely on the police to do that,
3 but I don't know whether I was convinced that it
4 was a good idea to go to Larry Fisher in prison
5 and try and get him to confess.

6 Q Okay. Just go to the next page here, please, and
7 I'll read you one other part that touches on this,
8 and again this just carries on, Linda is now part
9 of this, and then Mrs. Milgaard says here:

10 "See, we were just talking now uh...

11 Paul's been talking to uh... to my

12 lawyer as well and one of the

13 considerations and things that they

14 talked about was maybe going..."

15 And let me just pause there. It looks here Mrs.

16 Milgaard is saying you did talk to David Asper?

17 A Apparently I did talk to him, yes, at some point
18 about this.

19 Q And it says:

20 "... he had talked about maybe going up

21 there with Tammy to see her father and

22 sort of uh... how would think that Tammy

23 would relate to us. Like if we tried...

24 explained to her that we were trying to

25 get David out, but at the same time we



1 were trying to make a deal for her dad?
2 Like we would be working a two way
3 street- we would be trying to help make
4 a deal. See he seems to feel.. explain
5 it exactly how we felt it would work."

6 Then you say:

7 "Well basically what... what he's saying
8 is that --"

9 And I think you are referring to Mr. Asper?

10 A Yeah, that's right.

11 Q "... is that here's Larry in there. This
12 Justice Department investigation is
13 going on. The Justice Department is
14 under no small amount of public pressure
15 to get to the bottom of this, plus we're
16 sitting here holding some cards of our
17 only, developments that they don't even
18 know about. If I were the lawyer, now
19 he didn't quite get into this kind of
20 detail but what I would do if I went up
21 there is say look Larry, in addition to
22 the fact that uh... the Justice
23 Department is hot on you, we've got more
24 information and... and the national
25 press is salivating over this case.



1 You're going to be smeared all over
2 Canada television and in ... in the ...
3 in the press and that's going to put the
4 Justice Department under even greater
5 pressure to let David out and to
6 prosecute you. I wonder if he's smartly
7 saying ... well he agreed with me, he
8 said, there is enough evidence here --"

9 And I'm assuming there when you say he agreed
10 with me, that that's Mr. Asper?

11 A I suspect, yes.

12 Q He says:

13 "... there is enough evidence here,
14 circumstantially to convict you. Now
15 that may, or may not be true. But, in
16 other words, and then he says, alright,
17 look, if you will confess to this.
18 Admit the crime, what we might be able
19 to do is work out a deal where you are
20 not even prosecuted."

21 A That's -- I am clarifying my understanding of what
22 David Asper told me I believe.

23 Q Okay. And so --

24 A If you start with -- excuse me.

25 Q Yes.



1 A If you start with the beginning of this paragraph,
2 it reads, "Well, basically what he's saying is
3 that ..."

4 Q Okay. So your recollection is that this would be
5 Mr. Asper's plan or idea and you would be
6 restating it for Linda?

7 A That was my understanding. That is my
8 understanding, yes.

9 Q And then it says here:
10 "Plus we're sitting here holding some
11 cards of our own, developments that they
12 don't even know about."

13 A Yes.

14 Q What would that be referring to?

15 A That would be -- the cards of our own were the
16 information that we had gotten from Linda Fisher.

17 Q Okay. Would you have been aware at this time that
18 Mr. Asper had told Federal Justice about Linda
19 Fisher and that in fact the RCMP had attempted to
20 make -- or had made contact with Larry Fisher's
21 mother and actually was at the time, I think even
22 the next day, had contacted Linda Fisher?

23 A No, I was not, I don't think I was aware of that.

24 Q And then -- so this idea then about trying to make
25 a deal so he wouldn't be prosecuted, is that



1 something that you were putting forward or were
2 you repeating it?

3 A I can't imagine that that would have been a
4 concept that I came up with.

5 Q And then if we can scroll down, Mrs. Fisher says:

6 "Larry is so scared that if he ... right
7 now he's so scared that there's no way
8 he's going to confess."

9 "Ya well..."

10 "You think he might though, if he
11 thought he might get a deal?"

12 And then you say:

13 "He should be led to believe that ...
14 that.. if he's puking now, he's going to
15 be passed out in a month from now when
16 all this publicity hits the country. I
17 mean um... he's going to be public enemy
18 No. 1."

19 And Linda says:

20 "But you know... I don't even think
21 Larry cares. What does he care?"

22 You say:

23 "Well it can be handled quietly or he
24 can be labelled a killer on T.V. and so
25 everybody knows and the Justice



1 Department is under extreme pressure to
2 come after him."

3 And again, can you explain those comments?

4 A Well, it sounds to me like I am not only weighing
5 in on this, I am offering some -- I'm providing
6 them with some strategy and doing more than just
7 weighing in on it, I'm contributing to the
8 strategy.

9 Q And what were your thoughts on that strategy?

10 A I guess my thoughts were that if they were going
11 to make contact with Larry Fisher, I was
12 commenting on why it might work and why it might
13 not work.

14 Q At this time, back here, and I think this is
15 either you or Mr. Asper, that there's enough
16 evidence here circumstantially to convict Mr.
17 Fisher, and you say that may or may not be true,
18 had you addressed your mind to that at all at this
19 time? I think you said based on your discussion
20 with Linda you were pretty firm that Mr. Fisher
21 was the killer. What about proving that, did
22 you -- had you considered that, whether or not --
23 where were you at as far as gathering evidence to
24 establish his guilt?

25 A I felt, I personally felt that Larry Fisher was



1 responsible for this murder, I was convinced of it
2 by that point, and there were a variety of
3 reasons, and it wasn't just Linda Fisher's
4 statement, her suspicions were just part of it, it
5 was primarily the proximity of Larry Fisher's, of
6 evidence, that is, Larry Fisher's residence to the
7 location where Gail Miller was murdered and
8 Larry's, Larry Fisher's record as a violent
9 rapist.

10 Q And again I guess the question, and I asked the
11 same question of Sergeant Pearson who was the RCMP
12 fellow who investigated and talked to Linda Fisher
13 and Larry Fisher and others for the authorities,
14 and his evidence was, in effect, that yes, I had
15 suspicions, but to gather evidence to prove or to
16 link him to the crime or to prove it was another
17 story.

18 A Uh-huh.

19 Q And I appreciate, Mr. Henderson, that you were
20 investigating this and doing other things, and not
21 in the same capacity as Mr. Pearson, but I'm just
22 wondering whether you had thoughts at the time or
23 did it occur to you, okay, well how are we going
24 to prove that Larry Fisher is the one who killed
25 her, how do we turn our suspicions into proof?



1 A Well, frankly, you know, we had more work to do on
2 this. Centurion Ministries has come up with proof
3 of the involvement of other people, alternate
4 suspects in murders, maybe we would come up with
5 that information, but maybe a reinvestigation by
6 police, if they were prodded into reopening the
7 case, they would come up with it. There was
8 certainly reason -- well, the evidence to actually
9 convict Larry Fisher may not have existed at that
10 time. I think I felt that it was probably out
11 there somewhere.

12 Q I see. If we can just go to the next page, and
13 some further discussion -- actually, go to the
14 next page, and then at the bottom Mrs. Milgaard
15 says to you and Linda Fisher, and I think talking
16 about Tammy:

17 "... but I... I think that she has to
18 know that I'm here and I'm investigating
19 it and that I'm going to be going to the
20 public with at any time."

21 And was that your understanding, that Mrs.
22 Milgaard was going to go public with this
23 information about Larry Fisher at some point in
24 the near future?

25 A Oh, I think it was, yes.



1 Q And again, we may have touched on that, but apart
2 from the discussion on the tape with Linda Fisher
3 and Joyce Milgaard and your discussions with Mr.
4 Asper, or the information you got from Mr. Asper,
5 were you involved in any further discussions about
6 whether or not Larry Fisher's name should be made
7 public?

8 A Not that I recall. I may well have been. I'm
9 just not sure about that though.

10 Q And do you remember, the tape also talks about
11 going to the scene of the crime and around
12 Cadrain's house. Do you have a recollection of
13 any of that?

14 A Yes, I remember viewing the scene of the murder
15 and the surrounding area, including the Cadrain
16 house.

17 Q And does anything jump out in your memory about,
18 significant about that?

19 A Not really. Nothing.

20 MR. HODSON: Next we're going into the
21 Cliff Pambrun area, so it might be an appropriate
22 spot to break, Mr. Commissioner.

23 *(Adjourned at 10:28 a.m.)*

24 *(Reconvened at 10:52 a.m.)*

25 BY MR. HODSON:



1 Q Go back to 043682 which is this transcript with
2 Cliff Pambrun, and this is where we start -- and
3 I'll just go through parts here where it looks
4 like you and Mrs. Milgaard and Linda Fisher go and
5 see Cliff Pambrun and maybe his wife was there.
6 Do you have a recollection of that?

7 A A very vague recollection.

8 Q And what we know is that Cliff Pambrun is Linda's
9 uncle and that in 1969, that he worked with Larry
10 Fisher and socialized with both Larry and Linda
11 Fisher a fair bit, and do you remember what it was
12 that you were going to see Clifford about or what
13 was the information you were seeking or the issues
14 you were trying to address with him?

15 A I believe that we went to see Clifford to talk to
16 him about a report that Larry had disposed of,
17 some clothing and some boots at his house, that
18 Larry had showed up at his house.

19 Q Now let me just pause there. That I think was Roy
20 Pambrun which is Cliff's brother. Now, you were
21 looking for Roy as well and I think Linda talked
22 to him by telephone, but just so you are aware,
23 Roy was I think Cliff's brother if I'm not
24 mistaken, had the burning barrel version of
25 events, but just go back to Cliff, do you remember



1 what else you might have been looking for from
2 Cliff?

3 A I do not recall specifically.

4 Q Would it have been, and I'll go through parts of
5 the discussion about the issue, of whether Larry
6 Fisher had access to a car on the morning of Gail
7 Miller's murder.

8 A I remember that as one of the questions we had,
9 but I'm not sure which of the brothers.

10 Q I think, if I may assist you, it was Cliff that
11 dealt with this issue in the statements and -- it
12 was not Roy, it was Cliff. Does that --

13 A Cliff who had on occasion loaned his car --

14 Q Yes.

15 A -- to Larry?

16 Q Yes.

17 A Yes.

18 Q So would the purpose of going to see him would be
19 to try and get some information that might assist
20 you in your gathering evidence to suggest that
21 Larry Fisher committed the crime; would that be --

22 A Yes, that's correct.

23 Q And I think you told us yesterday, and correct me
24 if I'm wrong, that you believed a car was likely,
25 or would have been involved in the commission of



1 the crime?

2 A That was the sense that I had.

3 Q Yeah. Then if we can go through, go to page
4 043685, and I just want to take you through what
5 the tape says was discussed and then we'll go
6 through the statement and there's some exchanges
7 here, and again, you've had an opportunity to read
8 this, I provided this transcript to you; correct,
9 Mr. Henderson?

10 A That's right.

11 Q Yeah. So let's just go through parts, you say,
12 "Wait a minute" -- sorry, Mrs. Milgaard says:

13 "...so that he would certainly have
14 access to your car at that time."

15 You say:

16 "Wait a minute, that didn't explain why
17 he would have access to your car. Did
18 he have keys to your car?"

19 Cliff says:

20 "No no. I would even borrow it to him.
21 ... he'd say well I got to use it to do
22 something, you know."

23 And then down at the bottom, if we go here, Mrs.
24 Milgaard says:

25 "Ya because sometimes he'd go out at



1 night with it."

2 And Cliff said:

3 "Ya. Well not really at night, mostly
4 during the day..."

5 And then Linda says:

6 "If he borrowed it it would be just...
7 it wouldn't be very long.

8 And Cliff says:

9 "If he borrowed it during the day it
10 wouldn't be long..."

11 And then if we can go to the next page, and then
12 I think what both you and Mrs. Milgaard are
13 probing both Linda Fisher and Cliff Pambrun
14 about, when he might have had the car, where he
15 might have had it, etcetera, and you say:

16 "Could you ever imagine a situation
17 uh... where it was a working day and you
18 were planning on going to work and Larry
19 had your car."

20 And Cliff says:

21 "Oh I'd remember something like that."

22 Next page:

23 "Does it sound... is it possible that
24 Larry could have had your car?"

25 Cliff says:



1 "Oh ya. He could have borrowed it ...
2 said he had to do something... you know
3 he dropped me off at work and took my
4 car... that could very well have
5 happened."

6 "What time did you go to work?"

7 He says:

8 "We'd be at work most times by seven
9 o'clock."

10 You say:

11 "Seven or eight. So he might have taken
12 your car?"

13 And Joyce Milgaard says:

14 "Dropped you off at work and then went
15 back."

16 And again I'm just wondering, would that be
17 trying to find out whether -- or trying to find
18 some theory or explanation where Larry Fisher had
19 Cliff's car at 6:45 to seven a.m. on the morning
20 of the murder?

21 A Yes, we were trying to determine whether it was
22 possible for Larry Fisher to have had the car at
23 that early morning hour.

24 Q And then if we can go ahead to 043690, and here
25 Mrs. Milgaard talks about the evidence that was



1 presented at David Milgaard's trial that says:

2 "... whoever did that I think must have
3 been very strong."

4 And talking about the murder.

5 "And the other thing is the person that
6 saw um... headlights in the alley at
7 about seven o'clock that morning...
8 shortly after seven that morning saw
9 headlights in the alley and he saw a
10 short man walk in front of the
11 headlights. That was the caretaker at
12 the church..."

13 So would it be fair to say at this time as well
14 you knew that evidence at David Milgaard's
15 original trial, that someone had said they saw a
16 car in the alley where Gail Miller's body was
17 found and a person walking in front of it?

18 A Yes, I was aware of that.

19 Q And would the inference from that be that that
20 would be the car belonging to the killer?

21 A Well, considering the hour and the location, that
22 was certainly a factor that I thought was -- I
23 thought that was quite possible.

24 Q So then Cliff says:

25 "... that was another thing too though,



1 like... it's seven o'clock in the
2 morning, shortly after seven. See if we
3 went to work we'd probably be there by
4 seven. We had to be at work by seven."

5 Mrs. Milgaard:

6 "Ya but if he borrowed your car and he
7 went back and he could have been there."

8 Cliff says:

9 "But he'd have time to get back so... I
10 wonder if he dropped me off at 6:30."

11 And the next page, you say:

12 "What I'm thinking is... he might have
13 taken the car out that night. Borrowed
14 the car from you that night. The car
15 was seen"

16 And then Linda says:

17 "No. Never overnight. I don't think he
18 ever borrowed the car..."

19 And Cliff says:

20 "I don't think he ever borrowed my car,
21 my vehicle, overnight. I don't think he
22 ever did ...always brought it home. He
23 never kept it overnight, never ever kept
24 my vehicle overnight."

25 And so it would seem pretty clear from that,



1 would it not, that he wouldn't have had the
2 vehicle the night before the murder?

3 A It appears that he was ruling out that, yes.

4 Q And then you say:

5 "How about this scenario? You uh... you
6 and Larry are out drinking one night and
7 uh... he takes you home and says let me
8 run the car on home and I'll pick up..."

9 And he says:

10 "No I don't even remember that."

11 And then down at the bottom, he says:

12 "I don't think --"

13 Linda says:

14 ".... I don't think Larry ever borrowed
15 your car overnight."

16 And Cliff says:

17 "I don't think he ever ever borrowed my
18 vehicle overnight really."

19 And then to the next page, there was again some
20 discussion and Cliff then here says:

21 "I can't see him having my car at that
22 time of the morning."

23 And would it be fair to say that after some
24 to'ing and fro'ing and some possibilities, that
25 Mr. Pambrun was of the view that "lookit, I don't



1 think he would have had my car at the time of the
2 murder"?

3 A That's certainly what this transcript suggests,
4 yes.

5 Q And do you recall that being your sense from your
6 discussion with Mr. Pambrun?

7 A I don't specifically recall reaching that
8 conclusion, but from what I'm reading here, it's
9 apparent that I must have realized that this
10 was -- that this angle was not panning out.

11 Q Okay. If we can go to 043694, at the top, you
12 then say:

13 "What I'd..uh what we'd like to do with
14 uh... with your permission, is just take
15 a statement that says that... that...
16 that you recall... you don't recall any
17 dates, but Larry would sometimes borrow
18 your car. That's all... basically. Is
19 that o.k."

20 Do you see that?

21 A I do.

22 Q Do you remember whether or not Cliff Pambrun could
23 read and write?

24 A I don't.

25 Q Did you have any sense of whether he had trouble



1 with reading or anything of that nature?

2 A I don't recall. If he did, it might have been
3 brought to my attention, but I don't remember
4 that.

5 Q And then if we can go to 012090, and this is your
6 handwriting, is that correct? This is the
7 statement of Clifford Pambrun.

8 A Yes.

9 Q Why did you not -- I was just going, I was going
10 to ask this earlier. When you take a statement
11 and have it witnessed, do you always get someone
12 else to witness it other than you if someone else
13 is there, or is that --

14 A Not necessarily, no. I certainly, I didn't have
15 one, I didn't have a witness when I interviewed
16 Ron Wilson and took his statement.

17 Q Yeah. And do you recall how this statement came
18 about with Cliff Pambrun, did you -- did he talk,
19 you write, or based on your discussion did you
20 write it out, read it back to him?

21 A I'm not sure exactly how I did it. The process
22 would have been similar to other statements that I
23 took while working on this case. What went into
24 the report would have been a representation of
25 what I learned from him during the interview



1 phase.

2 Q And then here, and if we can call out that part,
3 his statement says:

4 "Larry Fisher did not own a car at this
5 time ...",

6 we're talking about the time of the murder:

7 "... and sometimes asked to borrow mine.
8 I recall that I let him use my car a
9 number of times. I have no recollection
10 of letting him borrow my car on any
11 specific date. But it is possible that
12 he could have been driving the car with
13 my permission either during the daytime
14 or at night."

15 And I'm just wondering, comparing that to what
16 was in the discussion that I read through with
17 Clifford Pambrun, whether that is -- did you --
18 were you trying to capture everything what he
19 told you about the possibilities, or how did you
20 arrive at this language in the statement?

21 A I don't have a specific recollection of how I
22 arrived at this consensus for the witness, but
23 based on what I recall seeing on the transcript of
24 the preliminary interview with him I think he
25 allowed -- first of all, he confirmed that he



1 borrowed, that he loaned his car to Larry Fisher
2 on occasion, when Larry needed a car he was
3 willing to let him use his car, and while he made
4 it clear that Larry never kept his car overnight
5 he did not specifically limit the hours of Larry's
6 use of the car to daytime, so I think he -- I
7 think he allowed that it was possible that Larry
8 could have been driving, borrowing his car either
9 at night or during the daytime, but never was
10 authorized to have the car overnight.

11 Q Would the statement have been more accurate if it
12 included the following two things; that number 1,
13 "I never let Larry use my car overnight";
14 secondly, "he only used it for short durations";
15 and thirdly, "I don't believe he had my car on the
16 morning of the murder", I don't -- exactly as he
17 had stated it to you; would that have been a more
18 accurate statement of Clifford Pambrun?

19 A Yes, yes it would have been.

20 Q And is there a reason that those items are not
21 included in the statement that you had him sign?

22 A Well, first of all I was trying to make -- I
23 didn't want to rule out the possibility that this
24 car was used in the murder. I didn't want this
25 witness, when he wasn't absolutely positive, I



1 didn't want to have him rule out that possibility.

2 I think the -- my sense was that, was that this
3 witness was not absolutely certain of when he let
4 Larry Fisher use his car, he didn't remember the
5 dates, he didn't remember the time periods, he
6 didn't remember the duration, so this, the wording
7 in this paragraph was designed to leave open the
8 possibility that Larry might have had his car at
9 7:00 in the morning.

10 Q And how do you rationalize that with Mr. Pambrun
11 saying:

12 "I can't see him having my car at that
13 time of the morning."

14 after having gone through "did he have it the
15 night before, did you go to the bar, would he
16 have driven you to work", and those various
17 scenarios, and having Mr. Pambrun say:

18 "I can't see him having my car at that
19 time of the morning."

20 A Did he say that exactly?

21 Q Yeah. 043692. Actually, in fairness let me go
22 back, because I think that's talking about 3:00 or
23 4:00 in the morning. If we could go back, this is
24 about being out at the bar and picking him up at
25 3:30 or 4:00, and then it -- "if we were at a



1 party or something it was around 3:30 or 4:00 in
2 the morning", and then:

3 "I can't see him having my car at that
4 time of the morning."

5 So, again, but just back with what Mr. Pambrun
6 said, did you -- when you were doing his
7 statement, then, did you have any sense, after
8 you talked to him, of the likelihood that his car
9 had been used by Larry Fisher the morning of the
10 murder?

11 A I think that Clifford Pambrun probably cast doubt
12 on that possibility.

13 Q And I guess the question is, in putting the
14 statement together, would you -- would there be a
15 reason that you wouldn't put -- for example if I
16 wanted to get a statement that day from Clifford
17 Pambrun that cast doubt on whether he had Larry
18 Fisher's car, could I go to Clifford and say
19 "lookit, you don't think he had your car that
20 morning", he says "no", he can't think of any way
21 he'd have it, "no", put up -- write out a
22 statement saying "lookit, you know, Larry borrowed
23 my car from time to time but I don't think he had
24 it that morning because I can't, (a) I can't
25 remember it", --



1 A Uh-huh.

2 Q -- and what he told us at this Commission of
3 Inquiry is that their family had one car and he
4 had six kids and he drove to work himself every
5 morning so he would have never let his car go, and
6 have a statement to that effect?

7 A Right.

8 Q That would have been -- would not have been --
9 that would have been detrimental to the theory
10 that Clifford's car was used by Larry Fisher;
11 correct?

12 A Yes.

13 Q And what I am trying to get at, Mr. Henderson, is
14 what -- what -- how do you decide what to put in
15 the statement, because would you agree that the
16 witness is relying somewhat on you as to what goes
17 in and what doesn't?

18 A Sure.

19 Q And would it be a deliberate -- I mean, when you
20 drafted this statement, I think you said you
21 wanted to keep open the possibility that the car
22 may have been involved?

23 A I didn't want the statement to rule out the
24 possibility that Clifford's car was used in this
25 murder.



1 Q And would there be any reason you wouldn't put
2 something in the statement to reflect that
3 Clifford, I think your words were, had his doubts
4 as to whether or not the car was used?

5 A I should have put that in the statement.

6 Q Okay. And what would be the reason that it wasn't
7 in the statement?

8 A Umm, as I expressed a moment ago, I didn't want to
9 have this witness rule out the possibility or to
10 say anything that would suggest -- that would
11 distract from the possibility that the car was
12 used in the murder. I -- you know, you have to
13 keep in mind that the way I looked at it, this
14 witness really wasn't sure, he didn't know when
15 he'd loaned his car to Larry Fisher, he didn't --
16 he just wasn't certain, he wasn't certain about
17 the dates, he didn't remember the date of the
18 murder, umm, in my opinion the interview left open
19 the possibility that the car was used in the
20 murder.

21 Q Right. No, and I don't take issue at all with
22 that, I'm just trying to get a sense of when you
23 take that and then put it into a statement, what's
24 -- would you agree that you could take Clifford
25 Pambrun's interview and create a three-page



1 statement or a five-page statement or a one-page
2 statement?

3 A Well, obviously this was a very short statement.
4 We didn't consider -- I didn't consider this, this
5 witness, this -- I didn't consider Clifford
6 Pambrun to be a strong witness.

7 Q Okay. So if we can then go on, I think from the
8 records it would appear that this was the last
9 task you were involved in on this trip to Canada,
10 that would be the Linda Fisher/Cliff Pambrun, so
11 March 9th, 10th, 11th; does that sound right?
12 There is no documents that suggest, within the day
13 or two after, that you were involved in doing any
14 further interviews; do you remember how long you
15 were in Canada for?

16 A I don't. I'm going to guess, the commitment that
17 my employer had made to Joyce Milgaard was a week,
18 I don't recall whether the trip ended up being
19 longer than that or not.

20 Q And do you have any recollection of what else you
21 would have done on the trip?

22 A The Linda Fisher interview, two contacts with
23 Linda, a meeting with Clifford Pambrun, a tour of
24 the neighbourhood, that's about it, that's the
25 only thing I can recall.



1 Q And, when you went back to Seattle was it your
2 understanding at that time that your involvement
3 in the David Milgaard matter was at an end?

4 A Umm, it didn't surprise me that Jim would, Jim
5 McCloskey would decide to continue our involvement
6 --

7 Q Okay. So --

8 A -- in this investigation.

9 Q So would it be fair to put it this way, that I
10 think you described it as a limited engagement,
11 you were going up there to assist on some witness
12 interviews and that was the limit of your mandate,
13 your mandate was over, but I think you are now
14 saying, what you knew of Mr. McCloskey, that it
15 would be reasonable that you might get drawn back
16 into it?

17 A Yes, because of the results of the first trip.

18 Q But as far as the -- once you were done would it
19 be correct to say that you were, until you were
20 called again, you were not on the case so to
21 speak; is that fair?

22 A That's correct. Umm, during this period of time I
23 was also involved in a very extensive
24 investigation in Los Angeles.

25 Q Okay. And I guess the point, I'm -- just to make



1 sure that I have this clear, you weren't going
2 back in Seattle and reading more transcripts,
3 communicating with Mr. Asper, Mrs. Milgaard, about
4 next steps, things of that nature?

5 A I, you know, I don't recall what my understanding
6 was when I returned to Seattle, whether -- I don't
7 know how or when the assignment, when the next
8 assignment was given to me.

9 Q I think we'll see some documents, but the next
10 assignment was in late May when you went to
11 interview Albert Cadrain, Nichol John, Ron Wilson?

12 A Yeah.

13 Q And there are some documents that suggest a
14 request was made, I think to Mr. McCloskey, to say
15 "can we get Mr. Henderson back out here for
16 another week"?

17 A Right.

18 Q And I took it from that -- and I just want to get
19 your response -- that sort of between the two
20 special, or special engagements, I want to try and
21 get a sense of whether you were doing anything
22 else on the case, on the *Milgaard* case?

23 A I don't recall any research or work in between, or
24 any phone calls, for that matter.

25 Q If we can call up 004930. And this is a sworn



1 statement of Linda Fisher March 24th, 1990, and
2 this -- you interviewed Linda March 9th, took her
3 statements March 10th and 11th, and then Rick
4 Pearson from the RCMP interviewed her the
5 following week, I think March 16th if I'm not
6 mistaken, but within -- within a week of your
7 interview of Linda Fisher were -- did you become
8 aware that the RCMP went and interviewed her and
9 took a statement, and then a week later the
10 justice lawyer actually interviewed her under oath
11 and had it recorded?

12 A I'm, I wasn't aware of that, and I certainly
13 wasn't -- I didn't -- I wasn't aware of that when
14 I returned here last week. I mean I just was not
15 aware of the dates of Justice Department, RCMP
16 involvement in this reinvestigation.

17 Q And I think what we had heard from Mr. Pearson is
18 that at, at the times that you were interviewing
19 at least Linda Fisher and Cliff Pambrun, that he
20 was, I think in the week or so after, interviewing
21 these people as well, and your evidence is you
22 didn't know that was happening?

23 A No, I really didn't.

24 Q And there's just one part here in this, this is
25 Mr. Williams questioning Linda Fisher, and go to



1 004967 and just get your comment. Right at the
2 bottom, and this is Mr. Williams questioning Linda
3 Fisher about the knife and Mr. Williams has a
4 photograph of the murder weapon, or what was
5 believed to be the murder weapon and presented at
6 David Milgaard's trial.

7 A Right.

8 Q And he says:

9 "Q The fact that a paring knife was found
10 in the vicinity of the victim, and the
11 fact that such a knife likely caused the
12 wounds, does that alter your views as to
13 the importance of your missing knife?"

14 And Linda says:

15 "A This alters my views.

16 Q In what way?

17 A In that it's not my knife. If that's
18 the murder weapon, that's not my
19 knife. Mine was a wooden handle.

20 Q Okay. And in terms of attaching
21 responsibility to Larry, how does that
22 affect? How is that affected or is it
23 affected?

24 A Well, now I have more doubts, but --
25 but I still have my suspicions."



1 A Uh-huh.

2 Q And so this is an exchange over the knife, and I
3 think when I asked you yesterday you indicated
4 that had you known that the knife described by
5 Linda Fisher was different than the murder weapon,
6 I think your words were --

7 A I would have also had my doubts.

8 Q Okay. And, again, so here it looks like Linda
9 Fisher says "I have more doubts, I still have my
10 suspicions", but would it be fair to say that the
11 importance of the missing paring knife matching
12 the murder weapon, that there was some importance
13 in that?

14 A I think you'd have to attach some importance to
15 that. But on the other hand, on -- if Larry
16 Fisher was the killer he didn't necessarily have
17 to have obtained his, the murder weapon from his
18 wife's kitchen drawer, it could have come from
19 anywhere.

20 What I would like to ask,
21 inquire, is whether Linda was shown a photograph
22 of the knife at that time?

23 Q It was a photograph, yeah.

24 A Was it a colour photograph?

25 Q I think there's some debate over that, and I don't



1 know -- we're having a vote here -- I think it may
2 have been a black and white photograph. And it
3 may have been described as maroon, but it was not
4 -- she was not shown the knife, and I think it may
5 have been black and white.

6 A This would then be in contrast to her revelation
7 during the Milgaard trial when the actual murder
8 weapon was -- the exhibit was shown to her?

9 Q In the Fisher preliminary hearing, --

10 A That's what I mean.

11 Q -- I believe Linda testified at this Inquiry that
12 the first she saw of the actual murder weapon was
13 at that preliminary hearing, and when she saw it
14 she identified it as being hers, not the missing
15 paring knife that she described to you and
16 Sergeant Pearson and others, --

17 A Uh-huh.

18 Q -- but a different knife that had gone missing
19 earlier.

20 A Yes, and that she recalled, as I remember, --

21 Q Yes?

22 A -- buying the knife and where it came from.

23 Q And so back again, at this time, what you are
24 telling us is yes, it was important, for example,
25 that the paring knife that she said was missing



1 matched the murder weapon exactly. I take it that
2 would be significant in pointing to Larry Fisher's
3 guilt?

4 A Well if the actual murder weapon had been a
5 wooden-handled knife, umm, I think it would have
6 been fairly significant, but on the other hand I,
7 you know, I envision most paring knives as having
8 wooden handles and --

9 Q Okay. So if the paring knife didn't, the missing,
10 the knife she saw missing that morning didn't
11 match the murder weapon, what I am hearing you
12 saying is that would still have some significance?

13 A Well it, --

14 Q In other words --

15 A -- if it didn't match the murder weapon then that
16 would certainly negate the missing paring knife as
17 being a basis for Linda Fisher's suspicions about
18 her husband.

19 Q Okay. If we can go to 158345. Just to try and go
20 through chronologically, this is March 26th, 1990,
21 and it's a letter from David Asper to you, and it
22 encloses:

23 "... a draft of the brief that was
24 originally contemplated as comprising
25 the application to the Federal



1 Department of Justice. It was written
2 before the report of Dr. Ferris, and was
3 never sent to Ottawa. Nonetheless, it
4 provides a relatively detailed analysis
5 of the facts, as well as the theory of
6 the prosecution. I can appreciate that
7 it is in draft form, but hope that you
8 will be able to get the gist of the
9 argument.

10 Also enclosed are copies of the
11 statements of Linda Fisher, etc., and if
12 you require any further information,
13 please feel free to contact me."

14 And I take it this is something that you would
15 have received from Mr. Asper?

16 A I presume I did, yes.

17 Q Now I have -- and unfortunately I didn't bring it,
18 I'll bring it this afternoon -- the draft of the
19 brief which I believe accompanied this letter,
20 which I will go through briefly with you, but it
21 appears that Mr. Asper was sending you more
22 information about the case?

23 A That could very well be, yeah.

24 Q And do you know what, why that was, or what --

25 A Well I would assume it was because I had not



1 previously received a background on what had
2 happened in the past.

3 Q Then if we can go to 162387. And this is a
4 memorandum David Asper made to his file on April
5 6th, 1990, so this is about three weeks after your
6 interview with Linda Fisher.

7 A Uh-huh.

8 Q It says you are in Los Angeles, and then Mr. Asper
9 says, 'I spoke with McClusky on April 4th, and
10 brought him up to date as to where we are in the
11 Milgaard case. He related to me a story that
12 recently came out of Philadelphia where he had
13 investigated the wrongful conviction of an
14 individual, and it had taken two years to finally
15 get the case cleared. He urged that we not go
16 public and start attacking the Department of
17 Justice until giving them a fair opportunity to
18 investigate. However, he said that if we could
19 wait no longer, he would be prepared to come to
20 Canada with Henderson and get involved.'

21 Now do you know what -- were you
22 involved in any of this or can you shed any light
23 on this memorandum?

24 A I, no, I really can't. I know that Jim did not
25 get personally involved in this case until a later



1 date, I -- all I can remember is that subsequent
2 to this, to this date, he assigned me to come back
3 up here and try to make contact and talk with
4 Albert Cadrain.

5 Q And the comment about McCloskey urging the
6 Milgaards 'not go public and start attacking the
7 Department of Justice until giving them a fair
8 opportunity to investigate', do you know what --
9 did you have any discussions with Mr. McCloskey
10 about that, or Mr. Asper, or do you agree with
11 that, take issue with that?

12 A I don't take issue with that at all, I mean, it's
13 consistent with the way he operates.

14 As I mentioned earlier, I -- I
15 think that it doesn't surprise me that he would
16 find, he would conclude that it was -- as far as
17 our involvement in this case, going to the press
18 with what we had uncovered, it was much too early
19 to do that.

20 Q Now if we can go ahead to May of 1990, and I think
21 we'll see from some of the documents, it appears
22 that you were called in to interview the three
23 main Crown witnesses, Albert Cadrain, Ron Wilson,
24 and Nichol John?

25 A Yes.



1 Q Had you made inquiries as to whether they had been
2 interviewed previously by anybody, or what did you
3 gather as far as information?

4 A I don't remember. I don't remember whether -- how
5 well-versed I was on the background of in -- of
6 police and lay contacts with these witnesses.

7 Q Would you have --

8 A I do think that I remember that Joyce had made an
9 approach to one or more of these witnesses and had
10 been rebuffed, rejected. That's about all I
11 remember.

12 Q And I think we touched on this yesterday; would
13 you have been aware, at this time, that an
14 application had already been filed with the
15 Federal Minister of Justice over a year earlier,
16 that an application was pending, so to speak?

17 A I'm sure I was aware of that. I don't recall
18 specifically right now.

19 Q And did you make any inquiries as to what, what
20 may have been in that application or part of that
21 application relating to these three witnesses?

22 A I can't remember.

23 Q And do you know what information you would have
24 had before you went to see them, and I'm thinking
25 witness statements, transcripts, subsequent



1 interviews, anything of that nature?

2 A I do believe that I had read the testimony of
3 Albert Cadrain, Ron Wilson, and Nichol John.

4 Q And would that be the trial testimony --

5 A Yes.

6 Q -- and the preliminary hearing, or just the trial?

7 A I'm not sure, probably certainly the trial
8 testimony, I'm not sure about the preliminary
9 hearing testimony.

10 Q And do you know if you would have had copies of
11 the statements they gave to police in 1969?

12 A I really doubt that I did.

13 Q If we can just go back, and I'll deal firstly with
14 the Cadrains. And firstly, before you went to see
15 Den -- I think you went to see Dennis first -- and
16 I'll go through those tapes -- and then had
17 discussions with Dennis and Albert, before you
18 contacted them what was your sense of Albert's
19 evidence and what was it that you were trying to
20 achieve in contacting him?

21 A It was my perception before I even started out I
22 suspected, put it this way, I suspected before I
23 made contact with any of these witnesses that
24 their testimony at trial was influenced by police,
25 not necessarily programmed by police or fed to



1 them by police, but certainly influenced, unduly
2 influenced. That was based on my strong
3 suspicion, putting it mildly, strong suspicion
4 that Larry Fisher was the perpetrator of this
5 murder and the improbability of these witnesses
6 having -- of David Milgaard having truly made
7 statements or been seen with evidence that
8 connected him to the murder in view of the
9 likelihood that he was not the killer. So, in
10 summary, I suspected that the testimony, that is
11 the inculpatory testimony of these witnesses, was
12 likely false.

13 Q Okay. So at this time your belief in David
14 Milgaard's innocence was quite strong, or you were
15 convinced he was innocent, or what; tell me?

16 A I was -- I -- I had a very strong feeling that
17 Larry Fisher was the killer and, that being the
18 case, it was obvious that David Milgaard was not
19 the killer and was, thereby, innocent.

20 Q And so when you looked at the evidence of Albert
21 Cadrain, Ron Wilson, Nichol John, you concluded
22 that the -- to the extent that they gave
23 incriminating evidence against Mr. Milgaard, that
24 (a) it would be false, and (b) it would be false
25 because it was influenced by the police?



1 A That, that was my strong suspicion, and that
2 wasn't just based on the *Milgaard* case, what I
3 knew about the *Milgaard* case, but based on my
4 prior experience with other cases in United
5 States.

6 Q And in your previous work would police misconduct
7 be something that you had identified or would look
8 for?

9 A I was no -- yeah, absolutely, I was no stranger to
10 coerced -- to coercion by police, I'd seen it
11 before.

12 Q So when you went in to see him, let's just talk
13 about the group together, when you went to
14 interview Cadrain, Wilson, and John, based on what
15 you have just told us about your belief, what
16 would be -- what would you be trying to achieve in
17 talking to them?

18 A What I was trying to get from -- what I set out to
19 get from all three of these witnesses was the
20 truth, pure and simple, the truth; had they
21 actually witnessed these events, had they actually
22 seen this evidence, had David Milgaard truly made
23 these inculpatory statements, or was it a case of
24 these witnesses being coerced into making claims
25 that weren't the truth.



1 Q And when you use the word "coerced" what do you
2 mean by that, just in a general sense?

3 A Well, a more simple word would be "pressured",
4 "manipulated", "pressured".

5 Q Okay. And can you just -- again, we'll deal with
6 the statements a bit later -- but can you give me
7 an example or expand a bit. When you say the
8 police manipulate, coerce, or influence, in what
9 way?

10 A Well there are any number of ways that a detective
11 or an investigator can influence a witness to
12 change his story or to attest to events,
13 statements, sightings that aren't the truth. I
14 mean if -- I had no idea how this might have come
15 about at the hands of Saskatoon Police, but I
16 suspected that these witnesses were probably
17 leaned on very heavily to come up with the
18 information that the police wanted them to attest
19 to.

20 Q Okay. If we can go to 018501, and now this is a
21 typed version, if we can just go to 503. This is
22 actually March 2nd, '69, this is Albert Cadrain's
23 first witness statement to the police, and I think
24 I showed you this in the last week. If we can go
25 back to the first page, do you know, when you went



1 to see Dennis and Albert Cadrain, whether you
2 would have seen this statement?

3 A I don't think I ever saw that, no.

4 Q If we can just go, this is a typed version, it's a
5 little easier to read, and what it -- what it
6 indicates, and I think is on the record, is that
7 David Milgaard was not a suspect of the Saskatoon
8 City Police until, at the earliest, March 2nd,
9 1969 when Albert Cadrain attended at the police
10 station and advised the police that he had
11 evidence related to the Gail Miller murder and
12 basically what he said is on the morning of the
13 murder David Milgaard came to my house with blood
14 on his clothes and I think he may have been
15 involved in the murder, or words to that effect.

16 A Okay.

17 Q So that it was his -- were you aware of that when
18 you went to see Dennis and Albert Cadrain, and Ron
19 Wilson and Nichol John for that matter, that it
20 was actually Albert Cadrain who, for lack of a
21 better word, first pointed the finger at David
22 Milgaard and went to the police as opposed to the
23 police going to him? Were you aware of that at
24 the time?

25 A That's a very important question and I'm not sure



1 that I was aware of that. I'm certainly aware of
2 it now, that he's, that Albert was the person who
3 initiated contact with the police.

4 Q And would it be important -- let's compare two
5 scenarios, where one, which is where Albert
6 voluntarily goes into the police and says I think
7 my friend killed Gail Miller, I saw blood, and
8 some other facts, here are the reasons, versus the
9 case where the police contact him and talk to him
10 and the police initiate the contact and then at
11 some point get a statement from him. In your mind
12 would that be an important distinction?

13 A Of course it's something I should have known
14 about, and if we had taken this, if this case had
15 come to us through normal channels, I would have
16 known all about this, we would have had all the
17 background.

18 Q But why would it be important, what significance
19 would that have in your approach to Albert Cadrain
20 and other witnesses?

21 A Well, for one thing, it would have helped -- it
22 would have been a factor in formulating my
23 questions to Albert. When I've had the
24 opportunity to review the conversations I had with
25 Albert and his brother and the statements that I



1 took from both of them, it would appear that I was
2 not, may not have been aware that Albert had
3 volunteered information to police.

4 Q Okay. Now, in fairness, I think in his trial
5 transcript, that again if you read through it, I
6 think in there Mr. Cadrain was questioned on that,
7 but is that -- is that something that sticks in
8 your mind when you went to see him as being on the
9 top of your mind, that he actually went in
10 voluntarily?

11 A Not at this point, not 15 years later, no.

12 Q Okay. Now, I should also add that there was some
13 evidence as well that prior to going into the
14 police, that Albert Cadrain had been questioned in
15 Regina a couple of weeks earlier when he was
16 picked up on a vagrancy charge and there might be
17 some dispute over the extent to which he was
18 talked to about the murder, but there was some
19 discussion by the Regina police, no statement or
20 anything of that nature. Were you aware of that?

21 A I knew that Albert and his friends, once they had,
22 when they finished their road trip into Alberta,
23 that they ended up back in Regina and I knew -- as
24 I recall, I was aware that Albert had been picked
25 up there for something, likely vagrancy, I'm just



1 not totally clear on the specifics, but I was
2 aware of the fact that they had ended up back in
3 Regina and that he had some contact with police
4 there before he ended up being questioned by
5 police in this city.

6 Q And so again, as far as just parts of Albert's
7 statement, and again what he initially told the
8 police, is he talked about -- just call out that
9 paragraph where he says that David came to his
10 house the morning of Gail Miller's murder, hadn't
11 seen him for a year, I didn't know about the
12 murder until a few days ago when I came to Regina
13 and then last night when I got, my mother told me
14 about it, and then the morning of the murder he
15 came to the house with Ron and Nichol John, and
16 then scroll down, he then says:

17 "About the first thin Hopy said was that
18 they had to leave town right away. He
19 seemed excited but not scared. I
20 decided I was going to leave with him.
21 I was getting dressed and I noticed that
22 Hopy changed his pants & shirt. Now I
23 recall that he had blood on his shirt on
24 the front & bottom and also saw blood on
25 his pants."



1 He talks about changing clothes and then he says
2 while he was at his house Hoppy took the keys
3 from the car and went to drive around the block
4 and seemed very excited and then the car got
5 stuck and then goes on to talk about the trips
6 that day, and then just down at the bottom, he
7 talks here about Hoppy always seemed in a hurry,
8 and then the next page, he tells the police about
9 an incident with a transport truck and he tells,
10 he says that Hoppy, being David, told him that he
11 was in the Mafia, and then just down, scroll
12 down, next paragraph, he says he came to Regina,
13 got on the bus:

14 "That's actually the first run down I
15 got of the murder here and I started to
16 think about all the things that happened
17 and the way Hopy acted that first day
18 and him changing clothes & blood and I
19 think he is involved. I talked to my
20 brother Dennis all night & discussed
21 this. We decided to tell our parents
22 which we did this morning and they told
23 us to come to the police which we did."

24 And then just the next paragraph, a reference
25 about cleaning the car. So again I've just



1 touched on what he initially told the police,
2 being that he thought Mr. Milgaard was involved,
3 he said he saw blood on his clothes that morning,
4 he said Mr. Milgaard seemed to be in a hurry and
5 was excited, he drove around the block a couple
6 of times that morning, which Mr. Cadrain pointed
7 out to the police, and then the car got stuck,
8 and as well he drove fast to Calgary, Mr.
9 Milgaard told him he was in the Mafia and he
10 wanted to clean the car. So again, on that, that
11 would be the information that he volunteered it
12 appears from the statement to the police.

13 Would you have been aware of
14 that at the time, that that was the nature of
15 what he provided to the police when he first went
16 in?

17 A If that information was attested to by Albert
18 Cadrain at the Milgaard trial, I would have been
19 aware of it, yes.

20 Q And I think, I stand to be corrected, but I think
21 it was all attested to and likely expanded upon.

22 A Yes, likely expanded upon.

23 Q And so let me just back up though. So you would
24 have been aware of Albert Cadrain's version of
25 events from the transcript, but were you aware



1 that this is the story that he told when he went
2 to the police on March 2nd, 1969 and laid out
3 here's what I know in a statement?

4 A I may have been aware that he volunteered, that he
5 came forth and volunteered this information, I
6 should have been aware of that, particularly if it
7 was pointed out in the transcript, but I'm just
8 not positive now about what I knew and what I
9 didn't know when I went to see him.

10 Q Now, is it possible, looking just generally at
11 that, that Albert Cadrain's version of events in
12 this statement could all be true and still be
13 consistent with the fact that David Milgaard did
14 not kill Gail Miller?

15 A The major element of his story about David
16 Milgaard being covered with blood?

17 Q Well --

18 A If that was true, then I doubt that -- what was
19 your question?

20 Q Let me back up. His evidence -- his statement and
21 his evidence at trial, and I stand to be
22 corrected, was that he noticed blood on his pants
23 and I think on his shirt tail.

24 A Okay.

25 Q He didn't say -- at least at the trial --



1 A Okay.

2 Q And in his statements in 1969, 1970 he did not say
3 that he was covered with blood --

4 A Right.

5 Q -- he said that he had blood on his pants and on
6 his shirt tail, and I think he described it, and I
7 stand to be corrected, I think maybe the size of a
8 silver dollar or a quarter --

9 A Uh-huh.

10 Q -- and some spots, so he saw blood on various
11 locations, or what he thought was blood.

12 A Uh-huh.

13 Q And so to go back, is it possible that again your
14 premise, which was correct, is that David Milgaard
15 is innocent of this crime, and I'm just wondering,
16 looking at what, generally what Albert Cadrain had
17 to say, is it possible that he saw all of these
18 things and observed all these things, but that --
19 let me ask you this. Is there anything in this
20 statement that is completely inconsistent with
21 David Milgaard's innocence?

22 A I would have to say that if David Milgaard had
23 blood on him at this hour of the morning, actually
24 had blood on him, then that would be -- that would
25 be a factor that would point to his involvement in



1 a murder.

2 Q But let's -- for example, David Milgaard did not
3 kill Gail Miller, Albert Cadrain says I saw what I
4 thought was blood on his pants and shirt, possible
5 that it was blood from a nose bleed?

6 A It could -- I suppose it could have come from
7 anything, or a more likely possibility is that
8 Albert Cadrain was mistaken about what he saw.

9 Q Yeah. Or, exactly that, there's some evidence
10 that Mr. Milgaard's clothes had been eaten by
11 battery acid, they had transmission trouble, so it
12 could be some other substance that Albert Cadrain
13 believed was blood but it wasn't blood?

14 A As I recall, one thing that I likely was aware of,
15 was that Albert never brought -- as far as I
16 remember, never brought this purported blood to
17 the attention of either David Milgaard or any of
18 his, the other two travelling companions during
19 the course of this cross-province journey, so --

20 Q The evidence that, and I stand to be corrected on
21 this, I think it wasn't until 18 years later, or
22 many years later, that Mr. Cadrain had different
23 versions of what happened that morning and the
24 blood sighting that expanded upon it, but at the
25 time, in 1969, 1970, I think you are correct, sir,



1 at least based on what I understand the record to
2 be, that later on, 20 years later, Mr. Cadrain
3 said he joked with Mr. Milgaard about having a
4 virgin or something like that, talked about the
5 blood at the door, but I don't believe, and I
6 stand to be corrected, that at the time of the
7 trial, that there was evidence that there was an
8 exchange.

9 But again just back to my
10 question though, is that trying to probe whether,
11 okay, you are going in to see these witnesses,
12 let's talk about Albert Cadrain. David Milgaard
13 is innocent and you go look at what he has to say.
14 Now, I think you said, you've said that it had to
15 be, or you thought that the police influenced him
16 to say things that weren't true; is that -- that
17 was your thinking?

18 A Here was my thinking, if David Milgaard did not
19 commit this murder, then the statements that were
20 made at trial by the Crown's three key witnesses
21 likely were coerced. Now, keep in mind that I'm
22 not positive that I was aware of the fact that I
23 knew that Albert Cadrain had come forward on his
24 own and volunteered information about seeing blood
25 on David's clothing.



1 Q So if we just pause there for a moment, would that
2 fact influence your thinking about whether or not
3 the witness may have been coerced or the extent of
4 the coercion?

5 A Well, if I had been aware of Albert Cadrain's
6 initial statement to police, I would have also
7 known that that's basically all that he told the
8 police, in that -- and that his testimony
9 considerably expanded on that, so that would have
10 been -- in my mind, that would have been
11 consistent with police coercing additional
12 information from him.

13 Q Well, let me just go back up, and the point I'm
14 trying to get you to address is this, and let me
15 give you an example, and again the premise is
16 David Milgaard is innocent of killing Gail Miller,
17 that's the premise you are going in. If you look
18 at Albert Cadrain's statement that David Milgaard
19 was excited and in a hurry that morning, which was
20 incriminating evidence at trial, but on the
21 premise that David Milgaard is innocent, is it
22 still possible that morning that David Milgaard
23 was excited and in a hurry for different reasons?

24 A Absolutely.

25 Q Yeah.



1 A I remember my first trip as a kid, very excited
2 about it.

3 Q And so again the fact that he said to Albert
4 Cadrain in the course of the trip that he was in
5 the Mafia, and I think there's some evidence
6 whether that was a gang or the Mafia, but again,
7 David Milgaard is innocent of the crime of Gail
8 Miller, may or may not have said, but it's
9 possible he could have said that to Albert Cadrain
10 on the trip, that doesn't mean that he, that's not
11 inconsistent with David being innocent; would you
12 agree?

13 A Certainly not. I mean, it sounded just like
14 bravado to me.

15 Q And so the fact that David changing his clothes,
16 for example, which I think a number of witnesses
17 also acknowledge because they had battery acid,
18 again that fact could be true and be consistent
19 with David being innocent?

20 A Yes. He had been -- it made sense to me that he
21 would want to change his clothes, he's been up all
22 night on the road.

23 Q And driving to Calgary at 100 miles an hour,
24 driving crazy, that's something that could have
25 happened and be consistent with David Milgaard



1 being innocent?

2 A I don't think it was inconsistent with it. When
3 you say 100 miles an hour, are you talking about
4 kilometres or miles?

5 Q At that time it was miles.

6 A Oh, my, well that's pretty fast, but I don't think
7 that anybody thinks that they are going to, that
8 driving 100 miles an hour away from Saskatoon is
9 going to -- it just isn't consistent with somebody
10 running away from a murder.

11 Q And again I just want to go back because I
12 think -- let me give you an example in the other
13 extreme. If Albert Cadrain had said David
14 Milgaard told me he killed Gail Miller, the
15 premise that David Milgaard is innocent, that
16 would have to be a lie, correct, unless there was
17 some explanation that he was joking or --

18 A Oh, no, no, I want to make it perfectly clear,
19 when we take on a case we tell our clients when we
20 commit to them, we tell them, we make it perfectly
21 clear to them that any time we find evidence,
22 uncover evidence that points to their guilt, we're
23 going to give them a chance to explain it, but if
24 it can't be explained -- the commitment only lasts
25 as long as they are honest with us.



1 Q I'm sorry, I think you misunderstood my question.
2 I wasn't -- I was trying to say -- let's take a
3 look at what Albert Cadrain said in his statement
4 and at trial.

5 A Yeah.

6 Q And I'm trying to go through and say, okay, is it
7 possible, and the premise is David Milgaard is
8 innocent, he did not kill Gail Miller, is it
9 possible that every -- that everything Albert
10 Cadrain said in his statement and at trial, is it
11 possible, reasonably possible that it could be
12 true, but it doesn't mean that David Milgaard
13 killed Gail Miller. It might be incriminating and
14 it might fit a bunch of other facts, but to take a
15 step back and say, okay, I know David Milgaard is
16 innocent, therefore, now let's take a look at what
17 Albert Cadrain said at trial, and you said I think
18 that the witnesses lied and were coerced and words
19 to that effect, and I'm trying to go through with
20 each witness and say, okay, is that the necessary
21 conclusion, are there other possibilities, and I
22 think, for example, when we go through and say
23 that David kept saying he wanted to clean the car,
24 and I appreciate how that at the time can be
25 suspicious of him being connected to a murder, but



1 it's not inconsistent with David being innocent is
2 it?

3 A Well, certainly not totally.

4 Q And the example I gave you, sir, and it was a bad
5 one, but, for example, let's take Nichol John's
6 statement where she says I saw David grab a girl
7 and stab her, that would be a statement that would
8 be inconsistent with the premise that David
9 Milgaard is innocent; correct?

10 A Sure it would, but it was also inconsistent with
11 the known facts.

12 Q Right. So that would be something where you would
13 look and say, okay, well, I know David Milgaard is
14 innocent; therefore, when she says she saw this,
15 she's wrong, and I've got to figure out how it is
16 that she said that, and I think that's the point
17 you were getting at, that there were lies at trial
18 and they were influenced?

19 A Yes, but I don't think Nichol John said at trial
20 that she had --

21 Q No, she did not.

22 A Right.

23 Q But in the statement.

24 A Yes.

25 Q And I'll give you another example, Ron Wilson



1 saying that David Milgaard told him he grabbed a
2 girl, grabbed her purse and jabbed her with a
3 knife.

4 A Yes, I was aware, either from reading this or from
5 hearing about it, that is, the statements, the
6 evidence that was on record, but not necessarily
7 attested to at trial, I was aware of that, I heard
8 about it from Joyce, and I simply -- a lot of it
9 was extremely suspicious to me.

10 Q But the question, and let me come back to this
11 with Albert Cadrain's statement, and let's talk
12 about the blood on his pants, and perhaps would
13 that be the most damaging evidence from Albert
14 Cadrain, would that be a fair characterization,
15 his observation of blood on the clothing?

16 A I would have to say that the blood was more
17 damaging than the additional testimony that he
18 came up with in trial, yes.

19 Q And so if you look at that, just again -- and we
20 touched on this a bit earlier, when you went out
21 to talk to Albert Cadrain saying, okay, I know
22 that David Milgaard is innocent, let's take a look
23 at what he has to say, did you consider, okay, it
24 may be that Albert Cadrain was right, he saw blood
25 on David Milgaard's clothing --



1 A Uh-huh.

2 Q -- it didn't come from Gail Miller, it must have
3 come from somewhere else, or it was something
4 other than blood and he thought it was blood, or
5 he was mistaken or he was lying. I mean, there's
6 a whole bunch of possibilities.

7 A All kinds of possibilities there.

8 Q And what I'm trying to get from you is that, at
9 least with Albert Cadrain and what he has to say,
10 does it follow that it has to be that he's lying?
11 Let's start right there.

12 A No, he doesn't have to be lying.

13 Q Yeah. And so again, and I appreciate with Ron
14 Wilson's evidence and Nichol John's statements
15 it's more damning in the sense that it's directly
16 related to the murder; correct?

17 A Uh-huh, uh-huh.

18 Q You agree? But with Albert Cadrain, when I go
19 through this and it's expanded upon at the trial,
20 would you agree that it might be possible, and I'm
21 not saying this is what happened, but one
22 possibility is that everything he said and
23 observed he believed to be true and maybe was
24 true, but that doesn't mean David Milgaard killed
25 Gail Miller?



1 A Well, first of all, I don't think that David
2 Milgaard actually had blood on his clothing. I
3 allow, though, that Albert might have thought he
4 did.

5 Q Okay.

6 A Yes.

7 Q And let's say he's mistaken, he sees battery acid
8 and thinks that's blood and forms that belief
9 honestly.

10 A Yes, I think that's quite possible.

11 Q So again, with that, it's possible that what
12 Albert thought happened, what he observed and what
13 he saw, that in his own mind he thought was the
14 truth and may well have been the truth subject to
15 your qualifier about the blood?

16 A Oh, you are saying, you are asking me is it
17 possible that he actually saw blood, that it was
18 actually blood that he saw?

19 Q Yes, I asked you that and I think you said you
20 don't think so.

21 A I don't think so, no.

22 Q So again, saw something that he thought was blood,
23 but the point is that when you go in there and
24 after you talk to Albert Cadrain, if he sticks
25 completely to his story and it's verified and it's



1 truthful, that's not inconsistent, or is it
2 inconsistent with David Milgaard being innocent of
3 the murder of Gail Miller?

4 A If there was actually blood on David Milgaard's
5 clothing, I think that would be inconsistent with
6 his innocence, yes.

7 Q Unless there was explan --

8 A Unless there was an explanation.

9 Q Yeah.

10 A If he had cut his hand or if he had had a nose
11 bleed.

12 Q Okay, fair enough.

13 A Yeah.

14 Q Now let's just go through, in fairness, there was
15 a second statement of Albert Cadrain, March the
16 5th, '69, we'll call it up, 006723, and parts of
17 this I don't want to go through. If we can
18 actually go to 006726, and actually I should
19 correct something I said earlier, he talks again
20 about the blood on his shirt tail and on his pants
21 going down, I thought at first he had had a
22 virgin, and then if we can scroll down, he then
23 says:

24 "Hoppe mentioned he had blood on his
25 clothes & had to change. I did not see



1 any blood on his shorts."

2 So, I'm sorry, I think earlier I said it wasn't
3 until later that he talked about a discussion, so
4 in 1969 Albert Cadrain said yes, Hoppy mentioned
5 he had blood on his clothes and had to change.

6 A Uh-huh.

7 Q And then he also says, just down at the bottom, a
8 paring knife was bought later on the trip, no
9 mention of any other knife, and no mention of
10 Hoppy or anyone else having had a girl in a back
11 lane, so that was his second statement that he
12 gave the police. And would you have been aware of
13 that statement?

14 A I can't say whether I was aware of that. The only
15 thing I'm sure I was aware of was the general
16 background on this trip and the trip to, by
17 Milgaard and his two companions from Regina to
18 Saskatoon, their meeting up with Shorty, their
19 trip to the west and their return to Regina, and
20 in Albert's case, his emergence as a police
21 witness in this murder case.

22 MR. HODSON: Okay. Next I'm moving into
23 the Dennis Cadrain tapes. It might be an
24 appropriate spot to break for lunch.

25 (Adjourned at 11:55 a.m.)



(Reconvened at 1:32 p.m.)

BY MR. HODSON:

Q Afternoon, Mr. Henderson. Just before lunch this morning we dealt with what information you had and what your objectives and plan were when you went to see the key witnesses, Albert Cadrain, Nichol John, and Ron Wilson. If I could just go back and call up 158345, please. And you will remember, just to put this in the time frame, this is a couple weeks, March 26th, I showed you this this morning, this is a couple of weeks after you met with Linda Fisher and Cliff Pambrun, it's a letter from Mr. Asper to you, and he said:

"... a draft of the brief that was originally contemplated as comprising the application to the Federal Department of Justice. It was written before the report of Dr. Ferris, and was never sent ..."

But he says:

"... it provides a relatively detailed analysis of the facts, as well as the theory of the prosecution.",
etcetera, and I think you have told us you think you would have got that; is that right?



1 A I am -- I suppose I did get it, but I should point
2 out that during this period of time between these
3 two trips I was involved in another case in Los
4 Angeles, so I don't have a specific recollection
5 of reading this report.

6 Q Just let me just, and this morning I said I hadn't
7 brought it with me, and I want to call up 157552.
8 157552, sorry, 552, 157552. And this, Mr.
9 Henderson, we believe -- and, again, we will hear
10 evidence on this likely from Mr. Asper, but we
11 believe this is the brief that was sent to you in
12 1990, and it's an application to the Federal
13 Minister of Justice, so if you can just go to the
14 second page it's actually the draft that wasn't
15 sent in, but I --

16 A Right.

17 Q But based on our review of the records, this is
18 what we think you received, but if you can just go
19 to the next page, please, and you will see here it
20 says, 'David Milgaard has been in prison for over
21 17 years.', which would put this in the latter
22 part of 1986, okay, that -- when this brief was,
23 at least when that sentence was put in.

24 But if I could go ahead to page
25 157602. This is a lengthy document, and again,



1 having looked at the cover page are you able to
2 tell us whether this is the -- and I actually
3 showed this to you in our office last week -- are
4 you able to tell us whether this is or isn't what
5 you received?

6 A No, I can't be sure of that.

7 Q If you would have received the brief, as the
8 letter suggests, is that something you think you
9 would have reviewed before you went to see Mr.
10 Cadrain, Mr. Wilson, and Ms. John?

11 A Well, if I was doing my job I certainly would have
12 read it, yes.

13 Q I think you told us before you thought you would
14 have read transcripts and other information; would
15 this be the type of thing that you would likely
16 read?

17 A If I -- if this was available to me I most
18 certainly would have tried to find the time to
19 read it, yes, before I went out in the field.

20 Q And I just want to go through parts of this and
21 see if you are able to recall receiving this
22 information. And, again, I believe this is Mr.
23 Asper's or Mr. Wolch's brief, and as I pointed out
24 before this was not sent in to the minister, it
25 was an earlier copy. And it says, 'The first



1 point to note is the chronology of the
2 investigation itself. Evidently, Milgaard became
3 a suspect in the murder when Albert Cadrain went
4 to see the Saskatoon Police on March 2nd, 1969.'
5 And, 'Cadrain had gone with Milgaard to Edmonton
6 on the morning of January 31, 1969 and returned to
7 Regina sometime in early February 1969. There he
8 was arrested for vagrancy and spent one week in
9 custody on that charge. During his incarceration
10 Cadrain was questioned by the police about whether
11 he knew anything of the Gail Miller murder.
12 According to the evidence at page 582 of the trial
13 transcript, Cadrain first learned of the incident
14 by virtue of the police questioning. Once he
15 returned to Saskatoon he then learned more about
16 the murder after he got to his parents' home. He
17 returned to Saskatoon on Saturday, March 1, 1969.

18 One would assume that whatever
19 he told the police on March 2nd, 1969 caused them
20 to suspect Milgaard.'

21 And let me just pause at this
22 point, Mr. Henderson. It would appear from this
23 that, at the time that this was written, Mr. Asper
24 may not have had Albert Cadrain's March 2nd, 1969
25 statement; okay?



1 A Okay.

2 Q And, again, that's something we'll hear evidence
3 on. It says, 'One would assume that whatever he
4 told the police on March 2nd, 1969 caused them to
5 suspect Milgaard. It may well be that he simply
6 told them that he had left Saskatoon on the day of
7 the murder with Milgaard. At some point, however,
8 Cadrain told the police that he had seen blood on
9 Milgaard's pants on the morning of the murder.
10 Cadrain's evidence at trial is very relevant on
11 the issue of seeing blood.

12 And then it goes on for a couple
13 of pages there to recite evidence from his
14 transcript. If we can go to 157606, and
15 there's -- it was where Mr. Tallis cross-examined
16 him about what he told the Regina police and what
17 he didn't.

18 The brief then goes on to say,
19 'The witness then was interrupted and Mr. Tallis
20 began a new line of questioning. At page 594
21 Cadrain described the circumstances of his initial
22 interrogation in Regina. Apparently he was
23 stripped naked in an interview room in front of
24 five police officers. His clothes were checked,
25 though they were not the ones that he was wearing



1 on the trip, and the police also conducted a
2 rectal search at this time as well. During this
3 time, the police were also questioning Cadrain
4 about the murder.

5 Apparently Cadrain told the
6 police about having left Saskatoon with Wilson,
7 John and Milgaard but indicated that he sort of
8 laughed at the suggestion that anyone in the group
9 had anything to do with the murder.

10 Also, it should be noticed that
11 one or more of the police officers told Cadrain at
12 this time that he better not walk around the
13 streets because he could wind up dead in an alley.

14 Finally, beginning at page 601
15 of the trial transcript, it becomes clear that
16 Cadrain was taken back to Regina by the Saskatoon
17 police officers for further questioning after
18 Cadrain's report of March 2nd, 1969. Under
19 questioning by Mr. Tallis one concludes that at
20 least some of what Cadrain ultimately agreed with
21 was literally fed to him by the police officers.

22 The point is simple. Cadrain
23 was intensely interrogated in Regina within two
24 weeks following the murder. He was facing a
25 criminal charge of vagrancy at the time and knew



1 that he might be a suspect in this murder. Yet,
2 at that point, when his memory would have been
3 best he had no information to give. As the
4 investigation continued, however, Cadrain was
5 "reminded" of certain things by the police
6 officers. This resulted in the end with Cadrain
7 saying that he saw blood on Milgaard's pants and
8 that when Milgaard arrived at Cadrain's house that
9 morning he appeared to be in a hurry to get out of
10 town.

11 And then the next page, it says,
12 'Once Cadrain had gone to see the Saskatoon Police
13 on March 2nd, Ron Wilson and Nichol John came
14 under investigation. Their involvement is much
15 like Cadrain's to the extent that they all began
16 by saying, in effect, that nothing happened.
17 Slowly, the stories changed, however, to one point
18 where Nichol actually said that she saw Milgaard
19 grab and stab a woman. But Wilson and John were
20 both "reminded" of certain facts in the same way
21 as Cadrain. They were interrogated at great
22 length and under arguably oppressive
23 circumstances. Moreover, during the course of
24 their interrogation they were shown exhibits which
25 related to the crime. The story of Nichol John is



1 particularly illustrative of the point.'

2 Now that part relates to or the
3 brief sets out a theory or an argument about how
4 Albert Cadrain may have been dealt with by the
5 police. Is this something that, either this
6 document or that what I read to you, do you recall
7 either knowing that or reading something like that
8 or being told something like that before you went
9 to see Albert Cadrain?

10 A Well, we've just established that this, that this
11 petition was sent to me. I can't imagine that if
12 I had it in my possession, that I wouldn't have
13 read it before coming up here, or at least before
14 making my approach to Albert and his brother
15 Dennis.

16 Umm, having knowledge of this
17 petition would explain my position going in to see
18 all of these witnesses, that is knowing of at
19 least the suspicions of defence, that is Asper and
20 David's defence attorneys, that the information
21 was, quote, "fed to these witnesses".

22 Q Okay. So, again, would that be, what you read,
23 would that be consistent, then, with your thinking
24 going in to interview Mr. Cadrain, Mr. Wilson, and
25 Ms. John?



1 A Well that, yes, coupled not only on the basis of
2 what I had read here, of course, but based on my
3 strong suspicions by this point that they -- that
4 the police had arrested the wrong person.

5 Q Okay. If we can then go to 050412, please. And
6 this is, it says *Edited Transcript of Conversation*
7 *Between Paul Henderson and Dennis Cadrain*, and I
8 think in going through this what it appears, Mr.
9 Henderson -- and I'll go through parts of this --
10 is that you were telephoning, trying to reach
11 Albert Cadrain, that Dennis answered, and that you
12 initially may have thought it was Albert and
13 started talking to him as if it was Albert until
14 Dennis corrected you, does that --

15 A That appears to be the situation, yes.

16 Q And so just the first paragraph here, you say:
17 "Ah' hang tough with me here kid cause
18 I've got something very important to
19 tell you. Okay, ah' first of all let me
20 tell you that ah' we mean you absolutely
21 no harm at all. And ah' if you could
22 follow me on this, you're sitting in the
23 driver's seat so-to-speak. I'm involved
24 with a foundation in New Jersey known as
25 Centurion Ministries. Centurion ah'



1 works for wrongfully convicted men

2 serving life terms in United States and

3 on Death Row in United States."

4 And then if you can just scroll down a bit, I
5 think you then go tell him that you are involved
6 in the *Milgaard* case after a fellow named Larry
7 Fisher came to light, and then if you can just
8 scroll down to here you say:

9 "Provided us with information on Larry
10 Fisher. Ah', statements, evidence, all
11 of the stuff that was necessary to show
12 very clearly that Larry Fisher was the
13 person who committed this crime, back in
14 nineteen sixty-nine."

15 And would that have been what you thought at that
16 time? By this time were you -- let me back up.
17 Would this accurately reflect what you thought at
18 the time?

19 A Yes, this is what I felt, it -- I will admit it
20 was probably overstated.

21 Q In what respect?

22 A Well I think that it is questionable, depending
23 upon -- I mean some people might say that the
24 evidence that we had gotten from Linda Fisher and
25 the circumstances of Larry Fisher's arrest, the



1 proximity of the Miller murder to Larry Fisher's
2 home, did not clearly, clearly establish that he
3 was the person responsible for her, for her
4 murder.

5 Q Well would you want -- and, again, I appreciate
6 this is with Dennis -- but would you want -- well,
7 maybe Dennis included -- Dennis, Albert, Ron
8 Wilson, Nichol John; would you want them to think
9 that, quite strongly, that someone else had
10 committed the crime, would that be part of your
11 plan in dealing with them?

12 A I, I would want, I would want them to subscribe to
13 my strong suspicions, I mean ultimately subscribe
14 to my suspicions that Larry Fisher was the
15 perpetrator of this murder.

16 Q And would that assist you in telling them or
17 questioning them, in saying "lookit, we know
18 someone else did it, therefore David Milgaard
19 didn't do it, therefore explain why your evidence
20 is what it is", along those lines?

21 A Yes.

22 Q If we can go to the next page, and you say here:

23 "Dennis he's in a tough spot."

24 And at the bottom you say:

25 "You know, here's a thing ah', before



1 you explain to me that the tough spot
2 your brother's in, let me explain to you
3 what the situation is that exists now.
4 Within the last two months, ah' a very
5 interesting name has come to light.

6 Larry Fisher who lived in the basement."

7 Next page, and then picking it up here, you say:

8 "And ah', by anything he may have ...",
9 and then an unintelligible:

10 "... Larry Fisher is the guy who
11 committed the murder. We know what
12 happened to Albert, we know what
13 happened to Nichol, and Ron Wilson, they
14 were, they had, a lot of pressure put on
15 them by the Police back then."

16 And then:

17 "Well, yeah."

18 "They were kids, they were children.

19 And they were manipulated, coerced,
20 threatened, a lot of things happened to
21 them that should not have happened to
22 people."

23 And it would appear, here, that this would have
24 been introduced by you to Dennis Cadrain; is that
25 fair?



1 A That's what the record shows.

2 Q And why would you tell him that?

3 A Why would I tell him that?

4 Q Yes?

5 A For the simple reason that that's what I, that's
6 what I believed based on the circumstances and
7 based on the theory espoused by the defence team,
8 and I have to add based, also based on my own
9 experience with other wrongful convictions in the
10 United States that is my experience with
11 manipulated, coerced testimony.

12 Q And let me just back up. We've heard from,
13 particularly with respect to some police witnesses
14 and interviewing techniques, the notion that don't
15 introduce a subject matter in the event that the
16 witness ends up adopting it, that it somehow
17 affects the credibility of the statement because
18 the police officers introduced it; did you have
19 any concerns in you introducing it, in other words
20 putting it on the table, saying "here's what I
21 think happened to you" affecting the result?

22 A Well, let me put this it way, it's very, very
23 difficult for people to admit, that is witnesses
24 in a criminal trial, particularly a high-profile
25 criminal trial I would think, to admit that they



1 lied, so in a case like this, yes, I lay it on the
2 line. Normally I start off by telling them that
3 "I think that your testimony was coerced" and then
4 I tell them why I think it was coerced.

5 I had a strong suspicion that
6 Albert Cadrain was under undue pressure to provide
7 information that would help police build a case
8 against David Milgaard, and I'm not sure that I
9 had, at this point, seen -- I was -- I'm not sure
10 that I was aware of the limited information that
11 he had initially given police, and compared it to
12 the expanded information that he ultimately
13 testified to, but I was certainly well aware of
14 the position of the defence in this case and most
15 likely put a lot of stock in what they had --
16 their knowledge of this case.

17 Q Okay. And so, again, did you feel that in -- and
18 let me back up. If -- and this is Dennis, not
19 Albert, but I think I'll ask you the same
20 questions with respect to Albert and Ron Wilson --
21 did you think that, I guess in order to get the
22 issue of coercion on the table then, did you
23 consider simply asking the question of them, "tell
24 us, you know, I think you may not have told the
25 truth, tell us, tell me why you would have lied",



1 and have them introduce it as opposed to you?

2 A That would have, ideally that would have been
3 probably the, a more pure way for the information
4 to have emerged, but that was not my approach,
5 obviously.

6 Q No, and then I guess I just would like you to
7 explain, explain why that would be, and if you
8 felt there was any risks in introducing it as
9 opposed to having the witness introduce it?

10 A Well, let me answer that question in this way.
11 Ultimately, any information that I get from a
12 witness has to withstand the scrutiny of police
13 and prosecutors and a judge, who we ultimately end
14 up with, before, with a petition for a new trial
15 so, umm, the bottom line was that, in Albert
16 Cadrain's case he stuck with his testimony, he
17 said "everything I provided, every bit of
18 information I provided to the police was the
19 truth, I saw blood, Milgaard snapped the aerial
20 off the car to prevent us from hearing radio
21 broadcasts", he stuck with it. And in a later
22 transcript it will be noted that I reported this
23 to the defence, that is to David Asper's office,
24 and I told them that Albert Cadrain was ingrained
25 in his position that these things -- that his



1 testimony was the truth, and I said "he's not
2 going to budge from that and we shouldn't try to
3 get him to do that, we shouldn't -- anything, any
4 efforts by us from this point on to try to get him
5 to back off of his testimony would be manipulation
6 and we shouldn't be doing anything like that."

7 Q And I will bring that part of that interview up,
8 we'll go to that in a bit, Mr. Henderson.

9 A Uh-huh.

10 Q I know the statement or the part you are referring
11 to. So at this point, when you look at what you
12 say to Dennis, that:

13 "... they were manipulated, coerced,
14 threatened, a lot of things happened to
15 them that should not have happened to
16 people.",

17 would you have had, at this time, any evidence
18 that that was the case, or would this be sort of
19 an opinion or a feeling or an instinct on your
20 part?

21 A I would suspect that it was based on what I had
22 heard and read about from Asper's office, based on
23 defence investigation --

24 Q But --

25 A -- into this case, and also -- excuse me.



1 Q Oh sorry, no, carry on, I'm sorry.

2 A And, also, my strong feelings about how this, how
3 this testimony evolved was based on the logical
4 assumption that, aside from Albert's report to
5 police about seeing blood, witnesses simply don't
6 make up false information against a friend, there
7 has to be some reason why they make claims like
8 the witnesses did in this case, and --

9 Q And -- oh, I'm sorry, I apologize.

10 A That's okay -- and, you know, the defence had
11 alleged in the petition that there was a great
12 deal of pressure put on these teenagers, and I
13 subscribed to that.

14 Q So again, just so that I understand this, when I
15 asked if you had any evidence of it I -- I mean
16 evidence could be in the form of the, either the
17 interviewer or the interviewee saying "here's what
18 happened, the officer threatened me or coerced me
19 and did this, that, so I changed my evidence". At
20 this point though, when you are making this
21 suggestion, am I correct that what you are saying
22 is "no, I didn't have any evidence in the sense
23 that someone witnessed manipulation, coercion, or
24 threats"?

25 A I would have, I would have had no proof of what



1 went on behind closed doors 21 years earlier, no.

2 **Q** And so what at this time, what you are saying, and
3 please correct me if I'm wrong, is that you had a
4 strong belief that manipulation, coercion, threats
5 happened between the police and these witnesses
6 that resulted in their false statements and false
7 evidence?

8 **A** I honestly believed that these witnesses had been
9 manipulated.

10 **Q** Okay. And would it be fair to say that one of the
11 things you try and get from these witnesses is
12 some evidence of that?

13 **A** Well, you refer to evidence.

14 **Q** Or confirmation or --

15 **A** Yes, right, right, I wanted -- I wanted to get, to
16 have Albert tell me what happened.

17 **Q** And then if we can just scroll down, Dennis I
18 think then responds, some of this isn't clear, but
19 at the end here he says:

20 "And they had him down there for, you
21 know ... months, every day, ten, twelve
22 hours a day. Pressure cooker, you know?
23 But, ah', but ah', whether."

24 And then you say:

25 "When did, when did you first become



1 aware that ah' they were leaning on
2 him?"

3 "What, who on Albert?"

4 "On Albert, right."

5 "Well.

6 "Was this after he got back from
7 Regina."

8 And then it goes on --

9 A Do you want me to read this?

10 Q -- the discussion there. If we can just go down
11 to the bottom of the page, it says here, talking
12 about his nickname Shorty, you say:

13 "He's still short. Yeah, I noticed in
14 his, his transcript, ah', ah' they asked
15 him to sit down, he says but he can't,
16 why, they said, he's too short to sit
17 down."

18 So do I take it from that that you would have had
19 at least Albert Cadrain's transcript from either
20 the trial or the preliminary hearing at this time
21 and had read it?

22 A Yeah, that appears to establish that I had read
23 Albert's testimony.

24 Q And then the next page, it looks as though you
25 would have had some further discussion with Dennis



1 about Fisher and you go on to describe about his
2 rapes in Winnipeg and Regina.

3 A For the record, yes, this shows that I thought
4 that the additional rapes, that is, the
5 additional, the two rapes that he confessed to in
6 Saskatchewan and the attempted rape and the other
7 rape that he may or may not, that he ultimately
8 didn't confess to, I thought those were in Regina.
9 That was based on my understanding of that's where
10 the record was found, or was to be found.

11 Q Uh-huh. Okay. If we can go to the next page, and
12 we did go through this transcript when Dennis
13 Cadrain testified, so the entire transcript is
14 certainly part of the record, Mr. Henderson, I
15 just want to touch on some of the areas here. You
16 say to him:

17 "... confidentially between the two of
18 us now, ah' you're hearing things from
19 me that you, that a lot of that, very
20 few people know. But, one of the
21 reasons that this whole thing has broken
22 up right, Dennis ... out in the open
23 right now is because his wife has always
24 suspected him."

25 And then it goes on to explain what you heard



1 from Linda, letters, etcetera, and Dennis says:

2 "No ... I, heard ... I never, never put

3 two and two together on that, you know?"

4 So it looks like Dennis Cadrain at this time had

5 not connected Larry Fisher to the murder?

6 A Yes, it looks like he had not.

7 Q And then the next page, just to point out here,

8 Dennis in his discussion with you talked about the

9 case through the years and Dennis says:

10 "... well I think, what the police

11 did --"

12 And the record here isn't great,

13 "... you know it's (unintelligible) what

14 they did do was (unintelligible) they

15 did something to him, you know."

16 You say:

17 "They did something to him, I know they

18 did something to him. And a lot more

19 than he admitted to in trial. I'm

20 sure."

21 And again, would that be talking about Albert and

22 the police doing things to Albert?

23 A I may have been -- I suspect I somehow found out

24 about Albert's hospitalization after his, after he

25 was questioned by police, I'm not sure of that,



1 but your question was what, please?

2 Q Just whether this was a conversation about Albert
3 and again what the police may have done to Albert.

4 A This was a conversation about Albert, yes.

5 Q And if we can go to the next page, down at the
6 bottom you say:

7 "Now, here, here's the one thing I want
8 to impress upon you, which I haven't
9 mentioned. Larry Fisher is under a lot
10 of pressure to confess. The R.C.M.P. is
11 talking to him. But (unintelligible)
12 couple weeks ago said they didn't want
13 him talking seriously until after he had
14 his conjugal trailer visit with his new
15 wife. Now, we've heard today that he's
16 confessed. That may be true or may not
17 true, it may be a rumour, it may be a
18 fact, but, if he's, if he has confessed
19 or if he confesses down the line which I
20 think he probably will, because he is
21 the type B rapist personality. It's the
22 kind of people who feel badly about what
23 they've done after they've done it and
24 then they talk about it, they have to
25 ventilate."



1 What information did you have at this time that
2 Larry Fisher had confessed?

3 A I have pondered that question ever since arriving
4 in Saskatoon and to be honest with you I'm not
5 sure where we got that information, but it came
6 from somebody, and the only logical source I can
7 think of is that this was information or
8 intelligence that David Asper's office had and it
9 was passed on to me. I can assure you, the
10 hearing of one -- one thing is that I did not
11 fabricate this information, it would have been
12 based on something I heard and something that
13 sounded to be, to me to be the truth, that there
14 was, that there was speculation that Larry Fisher
15 was going to confess.

16 Q Okay. And what would be the strategy then in
17 communicating that to Dennis Cadrain and perhaps
18 to Albert Cadrain?

19 A Well, this may have been, may very well have been
20 my strategy. I can read here, I can see here that
21 what I was telling Dennis was that if Albert --
22 that if Larry Fisher were to confess, that all of
23 the witnesses who testified against him, their
24 testimony would be ultimately suspect and that
25 Albert, along with Ronald Wilson and Nichol John,



1 likely would be in for some very intense grilling
2 by authorities and my theory was that if any of
3 these witnesses confessed or acknowledged to us
4 that their testimony was coerced, that would --
5 first of all, if Larry Fisher were to confess and
6 these witnesses were to have told us that their
7 testimony was coerced, that would defuse the
8 possible retribution against these witnesses by
9 the RCMP, by authorities, by Saskatoon police.

10 Q Okay. And here, if we just, a couple of points
11 down, I'll read them and come back to this, you
12 say:

13 "Right. But he's going to, we think,
14 down the line --"

15 You are talking about Larry Fisher confessing,
16 "-- because the R.C.M.P. is convinced
17 that he's the person."

18 And where did you get that information from?

19 A I'm not sure, but I will say right now that I am
20 convinced that the RCMP was convinced that he was
21 the person.

22 Q Okay. And on what basis do you say that?

23 A Gut instinct.

24 Q Had you had any dealings with the RCMP yourself at
25 this time in this case?



1 A Had we at this point?

2 Q Yes.

3 A Had I?

4 Q Yes.

5 A No, no.

6 Q And so at this time you felt that, on gut
7 instinct, that the RCMP also knew, like you knew,
8 that Larry Fisher was the perpetrator?

9 A Well, let me back up a little bit. I don't know
10 how much at this juncture the RCMP actually knew
11 about Larry Fisher, I know that the Saskatoon
12 Police Department knew a lot about him, and so let
13 me withdraw what I just said about the RCMP being
14 convinced. I think that if they had any awareness
15 of Larry Fisher, his crimes, the proximity of his
16 residence to the murder scene, the viciousness of
17 the rapes that he had committed, they would have
18 to be very, very suspicious that he was
19 responsible for this murder.

20 Q And this statement here where you say because the
21 RCMP is convinced that he's the person, would you
22 have received, just so that I'm clear, did anybody
23 tell you, working on behalf of David Milgaard,
24 that, that the RCMP is convinced he's the person?

25 A It doesn't seem to be like me that I would make



1 this up. I'm sure that I must have heard
2 something about the RCMP having strong suspicions,
3 but again, that would have had to have come from
4 Asper's office. Now, that would suggest that they
5 were aware of, at this early stage, of our
6 investigation, that the RCMP was out, was on the
7 trail of evidence in this case.

8 Q And at this time, March 26th, 1990, the RCMP had
9 interviewed Linda Fisher and had talked to Larry
10 Fisher and were in discussions with Larry Fisher?

11 A Well, the question is whether the RCMP had gotten
12 back to Asper, David Asper with any report on
13 their findings. Now, I don't know whether they
14 would be inclined to do that, but --

15 Q And again, I don't want to get into giving
16 evidence, I think Sergeant Pearson from the RCMP
17 did not testify that at this time he was convinced
18 that Larry Fisher was the person, we haven't heard
19 from Mr. Asper yet, so again, I just wanted to
20 raise it, at this time the RCMP were investigating
21 Larry Fisher and talking to him and to others.

22 A Okay. Well, that contradicts with what I told
23 Dennis Cadrain.

24 Q Well, I'm not sure if it contradicts, I'm just,
25 I'm trying to get from you what you knew and --



1 what you said and what you based it on.

2 A I am certain that what I said was based on
3 information that I had received from someone.

4 Q And would that someone be someone associated with
5 David Milgaard?

6 A It would have to be someone, yes.

7 Q And so would that be Joyce Milgaard, David Asper,
8 anybody else that would, that comes to mind?

9 A No, I can't think of anybody else.

10 Q And then you say here:

11 "Now, when he does, what that means is,
12 that all the witnesses against David
13 Milgaard suddenly become liars. Now
14 here is Albert's chance to beat them to
15 the punch."

16 Scroll down.

17 "Come forth and say, the bastards made
18 me do it. And I feel badly about it and
19 I want to clear my conscious and help
20 this guy that I've been worried about,
21 heartsick about all these years. He was
22 my pal, the pricks made me do it."

23 And again, would that be along the lines you've
24 told us, that to let these witnesses beat Larry
25 Fisher to the punch and say okay, before Larry



1 Fisher confesses, say okay, we lied, and the
2 police made me do it?

3 A Those were my words, that was my strategy. I was
4 surprised to see that I had used this type of
5 strident language. I considered the language that
6 I used to be unfortunate. I recognize that it's
7 unprofessional and I wish to apologize to the
8 Saskatoon Police Department for using that kind of
9 language.

10 Q And as far as the, the tenor, though, of what you
11 are saying, or the intent is, that would it be to
12 say lookit, here's your chance, Albert Cadrain and
13 others, we know Larry Fisher is going to confess
14 and when he does, that means you are liars, so you
15 come forward first and say yeah, I lied, but the
16 police made me do it. Is that --

17 A That was the theory, yes.

18 Q Now, just back on the fact that they suddenly
19 become liars, and I touched on this this morning,
20 certainly with Albert Cadrain, I mean, I think
21 with Ron Wilson and Nichol John some of their
22 evidence is more direct, incriminating with David
23 Milgaard. With Albert Cadrain were you of the
24 view that -- again, that let's say Larry Fisher
25 does come forward and confess, David Milgaard



1 didn't commit the crime, does that mean that
2 Albert Cadrain's evidence at trial -- Albert
3 Cadrain as distinct from others -- had to be false
4 and had to be a lie?

5 A No, it didn't mean that at all. He thought he saw
6 blood and he may in fact have been genuine about
7 that.

8 Q Okay. So again with Albert Cadrain, and I'll go
9 through with the other witnesses as well and touch
10 on their incriminating evidence, would you agree,
11 sir, that it's also possible that some of the
12 evidence of these witnesses could be false and
13 some of their evidence could also be true in the
14 sense that -- sorry, let me rephrase that. Again,
15 starting with the premise that David Milgaard is
16 innocent, to go back and look at -- let's take Ron
17 Wilson, Ron Wilson's evidence, I think what you
18 are saying is lookit, some of his evidence would
19 have to be false, certainly that that directly
20 implicates David Milgaard in the murder; correct?

21 A Well, depending upon the evidence.

22 Q Yes.

23 A If Wilson, like John, had given police a statement
24 that she actually saw the murder take place, that
25 would have to be certainly false, I mean, that



1 would have to have been.

2 Q So there could, for example, be evidence or
3 statements that might tend to create suspicion
4 about David Milgaard much like when we talked
5 about Albert Cadrain?

6 A Yeah.

7 Q When you look at it, you say, well, that's
8 suspicious, it doesn't mean he committed the
9 crime, but it's suspicious. Again, that type of
10 evidence, would that necessarily have to be a lie?

11 A I don't think so. Not necessarily.

12 Q But evidence that said, that was directly
13 incriminating in a sense that they saw David
14 Milgaard do something or repeated what he said
15 where he may have acknowledged involvement in the
16 crime, those are the types of statements that you
17 are saying clearly those would have to be lies?

18 A I think they would.

19 Q Okay.

20 A For that matter, evidence that fell short of being
21 a direct indictment of David Milgaard could have
22 also been planted.

23 Q Sure, and so that the evidence -- let me go back.
24 So all the incriminating evidence against David
25 Milgaard at trial, one possibility is it's all



1 lies, all of it's lies and, as you say, it was
2 planted; is that right?

3 A That's a possibility (a), yes.

4 Q And again, always on the assumption David Milgaard
5 is innocent. Secondly, David Milgaard's innocence
6 and incriminating evidence, some of it may have
7 been true, in fact, not lies, as long as it's not
8 inconsistent with David Milgaard's innocence; is
9 that fair?

10 A Some of it could have been true. It could have
11 been true that, for example, that Albert Cadrain
12 either saw or thought he saw blood on David
13 Milgaard's clothing, that could have been true. I
14 wouldn't be surprised if he actually did believe
15 or come to believe that he saw blood on David's
16 clothing.

17 Q Okay. Did you, again just in looking at
18 explanations as to why these three witnesses may
19 have lied against David Milgaard, and I think you
20 may have answered this, you had, I think, told us,
21 concluded that lookit, the only -- there would be
22 no other reason to lie; therefore, you felt that
23 it had to be the police coercing, manipulating
24 their evidence?

25 A If you are asking me now why I now believe that



1 they had to have been coerced, there are
2 additional reasons, but I don't know how much I
3 knew when I first got involved in this case. I
4 don't know, for example -- I don't think I knew
5 that Nichol John and Ron Wilson had initially told
6 the police they didn't know a thing about this
7 murder, that they had absolutely no insights into
8 it whatsoever. Now that I know that they had
9 disallowed any knowledge initially, that certainly
10 makes the, makes the information that was
11 ultimately attributed to them much more
12 suspicious.

13 Q And so was it a case of having an instinct or a
14 belief that they were manipulated, coerced and
15 threatened and then as you learn more information
16 confirming that in your mind, is that --

17 A Yes, that's right. My suspicions were enhanced
18 over a short-term period and then of course much
19 more so even over the years.

20 Q When you use the words, and I showed you these
21 earlier, manipulated, coerced and threatened, what
22 do you mean when you talk about manipulated?

23 A Do you want an example?

24 Q Yes.

25 A If you were to tell -- if a police officer was to



1 tell a witness that he knows for a fact that he
2 has information on a murder and that if he doesn't
3 disclose what he knows, that is, the witness, he's
4 going to be in a lot of trouble, when in fact the
5 officer doesn't know this for a fact at all,
6 that's manipulation.

7 Q Okay. What about coercion, what would be --

8 A You know, I've never really understood the meaning
9 of coercion, I guess I should look it up in the
10 dictionary sometime, but I think it means -- it
11 means putting the kind of influence or pressure on
12 a witness that compels them to provide you with
13 the kind of information that you want to get out
14 of them, coercion. That's my understanding of it.

15 Q And then when you use the word threatened, that
16 the police threatened the witnesses, what are we
17 talking, or what were you talking about there,
18 what --

19 A You know, I'm not sure that I had, at this time I
20 had any information that police were threatening
21 to target any of these three teenagers as
22 suspects, but that would certainly be an example
23 of a police threat against a witness. I mean,
24 I've seen that a number of times. I have a case
25 right now where three teenagers were all



1 threatened with being targeted as suspects before
2 they became key witnesses against the people we
3 are representing.

4 Q Would it include physical threats?

5 A I've seen that too. In fact, I've seen cases of
6 actual physical violence. I have no reason to
7 believe that ever occurred in this case.

8 Q And so when you use the term then manipulate,
9 coerce and threaten, was the threatening that you
10 were putting forward or thinking, was that
11 non-physical threats, is that what you had in
12 mind?

13 A Yes, right. Pressure.

14 Q Go to 154605, please, and I think, sir, this is
15 your memorandum of May 28th, 1990 regarding your
16 interviews of May 26, 1990; is that right, of the
17 Cadrains? This is your document?

18 A May 28th, yes, that's correct.

19 Q And it looks like you called, tried to call Albert
20 from Saskatoon, talked to Dennis -- scroll down --
21 you agreed to meet him in Port Coquitlam, and
22 that's where both Dennis and Albert lived; is that
23 right?

24 A Yes.

25 Q And then you say:



1 "Dennis and Albert both showed up. We
2 got acquainted over coffee at the
3 restaurant and it became immediately
4 apparent to me that Albert is stuck on
5 the same old record. He was literally
6 ranting and raving about how he remains
7 convinced that David Milgaard was Gail
8 Miller's killer."

9 And it goes on to talk about the bloody clothing,
10 etcetera. What is your -- what was your reaction
11 when you met Dennis and Albert Cadrain?

12 A Well, I met Dennis first and he gave me a
13 description of Albert based of course on his
14 perspective and he told me that Dennis had mental
15 problems, mental problems.

16 COMMISSIONER MacCALLUM: Albert.

17 BY MR. HODSON:

18 Q Albert?

19 A Excuse me, I'm sorry, that Albert, his brother,
20 one year older, had mental problems, that Dennis
21 told me that he described himself as Albert's big
22 brother, a guardian, sort of a guardian. He told
23 me that after Albert had his encounter, elongated
24 encounter with police, that his mental problems
25 were much worse and that he, Dennis, persuaded him



1 to go into a mental hospital and that he was
2 diagnosed in the hospital as being schizophrenic.

3 Q In your dealings with Albert on this trip, your
4 first trip, did you get any sense in your mind
5 whether Albert was suffering from any mental
6 conditions at that time?

7 A At that time?

8 Q When you met with them, yes.

9 A Albert was a peculiar fellow. You know, I'm not
10 qualified to pass judgment on his mental health,
11 but I think that under any criteria, Albert would
12 have to be considered, it was obvious that Albert
13 had problems, including he appeared to me to be
14 delusional, he talked about the visions that he
15 had of a serpent with David Milgaard's head on it.
16 Yeah, Albert in my opinion was still mentally very
17 unstable.

18 Q And did you have concerns about the credibility
19 then of what Albert was telling you at this time?

20 A Yes, but that works both ways too. I wasn't sure
21 whether -- I was convinced of this, I was
22 convinced that Albert truly believed that he had
23 seen blood on David Milgaard's clothing and that
24 the evidence that he gave in Court was the truth.
25 Now, his brother told me that Albert was a totally



1 honest person and that even though, even if his
2 testimony were not the truth, Albert certainly
3 believed it to be true at the time of his
4 testimony, and again, 20 years later, he is still
5 saying the same thing, so that's why I concluded
6 that any further attempts to get Albert to recant
7 his testimony were simply not warranted and that
8 we should back off from him.

9 **Q** And did you come up with a different plan then or
10 strategy as to how to get Albert or to deal with
11 Albert to get something from him that might
12 assist?

13 **A** Yeah. Not at this point, but when I returned to
14 Seattle and we had a chance to analyse the
15 situation with Albert, one of the things I came
16 away from was a lot of information from Albert and
17 his brother about his experience as a police
18 witness, and I don't know who made the decision,
19 but somebody who I was taking my directions from,
20 ultimately Jim McCloskey, assigned me to go back
21 and get a statement, talk to Albert further and
22 get a statement about the kind of experience he
23 had as a police witness and what kind of effect
24 this had on him and whether he -- how he felt
25 about it.



1 Q Okay. Just go to the next page here, and I'll
2 come back to that, Mr. Henderson, this is the next
3 page of the interview and you talk about Albert
4 detailing, you say:

5 "... a detailed conspiratorial theory
6 about David being connected with the
7 Mafia ..."

8 And then as well:

9 "The most surprising comment from Albert
10 during the initial restaurant rendezvous
11 concerned the bloody clothing he claimed
12 to have seen on David. Contrary to his
13 statement and trial testimony, Albert
14 claimed that David threw the clothing in
15 a garbage can at the rear of the Cadrain
16 house and that it was immediately picked
17 up by a garbage truck and hauled off.

18 (I would later correct Albert on this by
19 reading to him from the transcript. His
20 reaction to this was to shake his head
21 and appear confused.)"

22 Do I take it from that that you may have had
23 Albert's statement at the time? You say contrary
24 to his statement and trial testimony.

25 A I see that I referred to a statement as well as



1 his trial testimony. It's possible. I'm not
2 sure.

3 Q And again, what you state here, I think at trial
4 Mr. Cadrain gave evidence that he wasn't sure what
5 happened to David Milgaard's bloody clothes, I
6 think he may have said that it went into a
7 suitcase and out the door. Here he's telling you
8 it was taken out to the garbage. There was also a
9 report somewhere, and I'm not sure if it was to
10 you, about the aerial being snapped off the car
11 and the evidence at trial was that the radio
12 didn't work.

13 A Right.

14 Q And again, did you, based on your discussions with
15 Cadrain, and particularly the ones, the one
16 version of events here that you record, that what
17 he was telling you was not trustworthy and
18 credible?

19 A You mean about the garbage truck?

20 Q Yes.

21 A I would have to say that I thought that that was a
22 product of his mind, yes.

23 Q Okay. Then if we can --

24 A A recent product of his mind, more recent.

25 Q Yeah. Again, then, if you go down, here you say:



1 "During this initial talk, I detailed
2 the developments relating to Larry
3 Fisher and made a strong case for his
4 guilt, noting also that the RCMP has
5 been meeting with Fisher in prison and
6 that a confession could be coming. This
7 served to slow down Albert a bit, but he
8 was soon back on the same old track."

9 And again, I take it that part of the discussion
10 then with Albert and Dennis would be to convince
11 them that someone other than David Milgaard had
12 committed the crime?

13 A To make the strongest case I could for Larry
14 Fisher's guilt in this case, yes.

15 Q And again, I think for the reasons you stated
16 earlier, that that would assist in perhaps getting
17 the witnesses to recant some of their evidence?

18 A To recant their evidence if in fact their
19 evidence, their testimony was not the truth, yes.

20 Q Okay. And then you end up, again you touched on
21 this before, that you say:

22 "... I would have to agree with Dennis
23 that Albert is not likely to see the
24 situation any other way - even in the
25 face of a confession from the real



1 killer. For Albert to recant his
2 testimony would be for Albert to lie."

3 A In his mind, yes.

4 Q Yeah. And then the next page you say:

5 "Contradictions from Albert were not
6 surprising to his brother. It became
7 immediately apparent that that Dennis
8 views Albert as being mentally deficient
9 in ways. But in dealing with Dennis
10 it's important to keep in mind that he's
11 extremely protective of his brother."

12 Again, I think you told us about that; is that
13 right?

14 A Yes. Albert, by the way, was living in at tree
15 house in his brother's back yard at the time.

16 Q And then if we can scroll down to the bottom, and
17 we've heard this before, that:

18 "As mentioned earlier Dennis revealed
19 that he became seriously concerned about
20 his brother's mental health when Albert
21 told him he'd seen a vision in the
22 clouds of the Virgin Mary stomping on a
23 serpent with the head of David
24 Milgaard."

25 And that again information, I think Albert told



1 you that Albert committed himself to a mental
2 institution and again that was information you
3 learned on this trip?

4 A "What Dennis did not tell me was that he
5 personally intervened following this --"

6 Q Next page, yeah.

7 A "-- and convinced Albert to commit
8 himself to a mental institution.
9 Albert, himself, later told me this."

10 Q Would it be fair to say that this information that
11 you learned about Albert and his mental condition,
12 dating back perhaps even to the incident on
13 January 31, 1969, that you had concerns about his
14 credibility as a witness?

15 A Certainly, and that's -- that's why we thought it
16 would be appropriate to get Albert -- to ask
17 Albert to give us a statement, --

18 Q And then you --

19 A -- and Dennis as well.

20 Q Yeah. And then you talk about getting a statement
21 from Dennis:

22 "It was carefully crafted with his
23 assistance, and I would expect Dennis to
24 stand by it when he is contacted by
25 authorities."



1 So I take it that you knew that whatever you got
2 from Dennis and from Albert would be tested by
3 the authorities; is that fair?

4 A Yes. Umm:

5 "I made it clear to Dennis that I wanted
6 to be sure the statement he signed
7 accurately expressed his feelings and
8 insights."

9 Umm, yes, and that's the way I felt about all the
10 statements that I took in this case.

11 Q And then it says *Interview with Albert*, you say:

12 "I offered to buy Albert dinner and we
13 returned to the restaurant alone, where
14 he talked practically non-stop about the
15 *Milgaard* case and his life in general."

16 It would appear that you did, at least according
17 to this note, that you may have spent some time
18 alone with Albert Cadrain; is that right?

19 A Yes, it appears as though I was left alone with
20 him for a period of time, right.

21 Q And then you say here:

22 "Dennis says that Albert has never been
23 quite right since the police in
24 Saskatoon worked him over mentally 20
25 years ago. After listening to him



1 ramble on, it became apparent that
2 Albert is either out of touch with
3 reality or has lived a very strange
4 life."

5 Would you have, in this dinner with Albert
6 Cadrain and/or when Dennis was present, would you
7 have introduced to Albert your belief that he was
8 manipulated, coerced, and threatened by the
9 police to give his evidence at trial?

10 A I think I already had suggested that to Albert
11 before I was alone with him, but he insisted that
12 he -- that everything that he testified to was the
13 truth, and I realized that he certainly believed
14 that, he believed it, and that it was not
15 appropriate to go any further with him in terms of
16 getting him to change his testimony or to admit
17 that his testimony was -- had been manipulated and
18 was the result of pressure put on him.

19 Q You said a bit earlier --

20 A He did not --

21 Q Oh, I'm sorry.

22 A He did not subscribe to that at all.

23 Q About the change in the evidence. What about
24 being pressured by the police just generally, is
25 that --



1 A Well, that's another story. Albert -- Dennis was
2 the first one who introduced this to me and it was
3 confirmed by Albert. Everything in Albert's, in
4 Albert's statement where he talks about what he
5 went through as being "torture" and "hell", those
6 were his words.

7 Q Okay. So let -- and I'll get to that statement,
8 that's about a month later.

9 A Uh-huh.

10 Q Just at this time, though, in your discussions
11 with Albert, would you have told him, for example,
12 "lookit, I think I know what happened to you
13 Albert, I think you were manipulated, coerced and
14 threatened by the police, and here's your chance
15 to get out of it by saying the police made you do
16 it", things like that?

17 A I'm sure that, since I believed that that,
18 initially believed that that's what had happened
19 to him, I'm sure that I -- I professed -- I
20 suggested to him that that might have happened, or
21 that I thought it happened, but he did not agree
22 with me so I backed off it.

23 Q Now the rest of the memo I don't -- we've gone
24 through some of this before, and again, it's on
25 the record. If we could go to 154610, it looks



1 here as though that he:

2 "... admitted that he would "really feel
3 bad" if he was responsible for sending
4 the wrong man to prison. He admitted
5 finding it "hard to believe that David
6 did it." But he added:",

7 and then went on to talk about:

8 "Why was Nichol John so freaked out (by
9 David)? And why did David snap off the
10 aerial one half mile out of town. I
11 wanted to listen to the news and find
12 out why everyone was being stopped by
13 the cops heading out of town.

14 (Interesting point: Were there really
15 roadblocks, or was this another
16 distortion by Albert)?"

17 And so, again, I take it that this would be an
18 example where you were doubting the veracity of
19 what Albert was telling you?

20 A I was questioning the veracity. I didn't know
21 whether there were roadblocks or not, I hadn't
22 heard anything about them.

23 Q Okay. And then, if you can scroll down, you
24 quote:

25 "I can't change my story because if I do



1 it's a lie. I'm not changing my story -
2 I won't lie for the devil."

3 And I think that's what you told us earlier, you
4 concluded that he would not change his --

5 A Right, and that was the end of that, as far as I
6 was concerned.

7 Q And the next page he says:

8 "Dennis talked about Albert's generosity
9 and expressed resentment over what he
10 called implications by Joyce Milgaard
11 that his brother testified against David
12 Milgaard for the reward money."

13 Do you recall having that discussion with Dennis
14 or that issue being raised?

15 A Not specifically, but I'm sure I -- I'm sure --
16 don't doubt for a second that he brought that up.

17 Q Did you have any -- based on your dealings with
18 Dennis and Albert Cadrain did you come to any
19 thought in your own mind as to whether the reward
20 may have played some role in Albert Cadrain going
21 to the police?

22 A Well I, I may have been inherently suspicious of
23 that as some people might be, particularly
24 somebody in the -- doing the kind of work that I
25 do, but once Albert's brother Dennis expressed his



1 feelings about Albert's honesty I didn't -- I
2 didn't pursue it any further.

3 Q If we can go to the next page, you say:

4 "A final point: I found it interesting
5 that Albert seems to personally accept
6 responsibility for the Milgaard
7 conviction. All of you who've been
8 involved in the case through the years
9 have a better understanding than I as to
10 how the witnesses evolved. But from
11 talking with Albert I got the distinct
12 impression that he may have had an even
13 more significant role than anyone
14 realizes, and that without his influence
15 Ron Wilson and Nichol John may have
16 never turned against David. How police
17 might have played Shorty against the
18 others is anybody's guess. But if
19 Shorty was the catalyst, and if we can
20 show that he was not mentally competent
21 to testify 20 years ago, Saskatoon
22 police look real bad and the Crown is
23 over a barrel."

24 Can you explain what you meant by that?

25 A Well, I'll try to. If Albert Cadrain was mentally



1 incompetent and if he, if his mental incompetence
2 was exploited by the police and if police used the
3 information, the statement they got from him to
4 exert pressure on Nichol John and Ron Wilson to
5 also implicate Milgaard, I would say that we were
6 looking at some serious police misconduct. But --

7 Q Okay. And would that be based, I think the
8 initial thing you said is that the police
9 exploited Albert Cadrain, I think were your words?

10 A I said "if they had" --

11 Q If they had?

12 A -- "exploited", yeah.

13 Q And so if they hadn't, if for example Albert
14 Cadrain had come in and volunteered the
15 information to the police about the blood and
16 other things, would that have changed your view?

17 A Well I understand he did come in and volunteer
18 that information, but that doesn't mean that
19 police have to accept that information as being
20 credible, that is I would think that when they
21 were dealing with somebody as transparently
22 mentally unstable or deficient as Albert Cadrain,
23 that they would have questioned --

24 Q So --

25 A -- they would have questioned his credibility,



1 that is okay, maybe they could believe that he
2 thought he saw blood, does that mean that he saw
3 it though, that it was actually blood. I would
4 think they would have had some real -- some
5 serious concerns about the credibility of Albert
6 Cadrain.

7 Q And so, in that sense, you are thinking that the
8 police would have or should have taken him to task
9 for that and satisfied themselves, test his story,
10 so to speak?

11 A Yes, but not to the extent that they kept, that
12 they interrogated him for 10 to 12 hours a day
13 over a period of however long Dennis says they
14 did, I mean that doesn't add up to me. And that's
15 some of the, that's part of the information I had,
16 was that this was a prolonged ordeal for Albert
17 Cadrain. Yes, I would think that they would have
18 wanted to try to test the information that they
19 had gotten from him, but, umm --

20 Q Okay. If we can go to 016475, please, and this is
21 your handwriting, sir, being the statement of
22 Dennis Cadrain?

23 A Yes.

24 Q And then at the bottom Dennis says:

25 "I have always been under the impression



1 that Albert first heard about the murder
2 from me on the day he returned home."

3 Then the next page:

4 "Until now I was not aware that he'd
5 been questioned about the murder earlier
6 by Regina police. Albert never told me
7 about this."

8 And is it possible that this information was
9 conveyed to Dennis Cadrain by you based on the
10 brief that Mr. Asper had provided to you or other
11 information that you had received?

12 A It looks like it certainly was:

13 Until now I was not aware that he'd been
14 questioned about the murder earlier by
15 Regina police."

16 I had to have brought that to his attention, yes.

17 Q And so here he says:

18 "Albert called police that night ... I
19 recall that he went to see the police on
20 his own and that they continued to
21 question him day after day for ... as
22 long as a month. Albert told me at one
23 point that police were questioning him
24 as though he were a murder suspect."

25 Again, would that be information that Dennis told



1 you about?

2 A Yes, right, absolutely.

3 Q And then at the bottom, just on this issue about
4 Albert's credibility at the time and his mental
5 stability at the time, 1969-'70 versus later,
6 Dennis says:

7 "At the time I had no reason to believe
8 that what Albert told police was not
9 true. Later I came to have serious
10 concerns about my brother's
11 credibility."

12 And I'm wondering what, what was your
13 understanding of when Albert Cadrain, or when
14 Dennis Cadrain may have had concerns about
15 Albert's credibility, and when that came to his
16 attention?

17 A Well I would -- I don't know for sure, but I would
18 assume it was shortly after Albert was questioned
19 by police, sometime perhaps around the period of
20 time when Albert -- when Albert was committed to a
21 mental institution.

22 Q Okay. If we can go to the next -- or actually,
23 just here, he says:

24 "But I also know that he is prone to
25 exaggeration and suggestion, and that he



1 could easily be coerced and manipulated
2 by police."

3 Would those have been Dennis's words or would
4 those have been your words that he agreed to; do
5 you know?

6 A In this case I probably, let's just take a guess
7 and say that I asked, I probably asked Dennis "is
8 it possible that ideas were planted in your
9 brother's mind by the police, and in other words
10 is it possible that he was manipulated by these
11 detectives", and he said --

12 Q Yeah, and then he said?

13 A -- yeah, that that could have happened in his
14 opinion, yes.

15 Q And he says:

16 "If ideas were planted in Albert's mind
17 it is quite possible that he would come
18 to accept them as the truth."

19 A That's what he said to me, yeah.

20 Q Yeah. And was this your -- at the time you took
21 Dennis' statement you would have talked to Dennis
22 and presumably you talked to Albert, right, by the
23 time you took Dennis' statement?

24 A Well when I first met Dennis, when I first got
25 there after calling him from Saskatoon I don't



1 think that Albert was there at the time, maybe he
2 was, but it wasn't long, it wasn't much later that
3 Albert did show up, and I did meet with both of
4 these brothers on my first trip to Port Coquitlam.

5 Q And at the time that you were taking Dennis'
6 statement though, when you were writing this out,
7 would it -- would you have already have met Albert
8 and talked to Albert?

9 A Oh yes, yes, I would have.

10 Q And so, here, would this have been -- when you are
11 taking Dennis' statement did you have -- you had
12 heard Albert say "lookit, I'm not changing my
13 evidence, period"?

14 A You know, to be honest with you, come to think of
15 it I'm not sure of the sequence. I would think
16 that, by this time, I would have met Albert
17 because I know that I met Albert on my first trip.

18 Q And then, I'm trying to understand, would -- at
19 this point would you have, after having met
20 Albert, would you have either an altered theory or
21 an altered thought or idea about what you thought
22 happened to Albert in his dealings with the
23 police?

24 A I had a notion that Albert was probably, based on
25 what his brother told me I had a feeling that



1 Albert was probably put through quite an ordeal by
2 the police department.

3 Q Did you -- and again, just from this language,
4 would it be -- did you think, did you have a
5 belief at this time that Albert had been coerced
6 and manipulated by police, and ideas planted in
7 his mind so that he could accept them as the
8 truth, would that be something that you were
9 thinking at the time or --

10 A You know, I really don't know, I can't -- I don't
11 know what I was thinking happened to Albert, but I
12 do know this, that one of the first things that
13 Dennis told me was that his brother was in the
14 hands of police for 10 to 12 hours a day for a
15 period of a month or more, and I would suspect
16 that something was happening to Albert during that
17 period. I mean he'd walked in there with, with a
18 story about seeing blood, how much more -- how
19 long does it take to make a determination by a
20 police department whether that -- whether his
21 statement was credible or not. Were they simply
22 trying to find out whether that statement was
23 credible for 10 to 12 hours a day over the period
24 of a month, or were they trying to get more
25 information out of him, or were they trying to get



1 him to go further?

2 Q Okay.

3 A If you want my opinion, I'll tell you which one of
4 those two I suspect happened, but --

5 Q What did you suspect at the time?

6 A Well, I suspected that they were trying to push
7 him for more information. That, to me, would be
8 the only explanation for keeping him -- for
9 continuing these interrogations for day after day
10 after day.

11 Q If we could go to 301838, please. And this, I
12 think, is a transcript of a phone conversation
13 between you and Mrs. Milgaard, and I think this is
14 where you are reading Dennis' statement to her and
15 reporting on your trip.

16 A Uh-huh.

17 Q And you will see here:

18 "Did you see Albert?"

19 "Oh yes, I just bought Albert a steak
20 dinner."

21 A Uh-huh.

22 Q "... spent a long time with him.",
23 and I just:

24 "... taped his brother ...",

25 and:



1 "... a summary of the good stuff."

2 And then I think you read through the statement
3 on the telephone. And if you could go to 301842,
4 and I think that's -- you finished reading the
5 statement, you say:

6 "... now, that's the good part, some of
7 the good part. But there's a lot more.
8 Did you know that ah' right after the
9 conviction that Dennis convinced Albert
10 that he was crazy and had him
11 committed?"

12 What was your understanding of when Albert was
13 committed to the hospital?

14 A I had no specific dates. Dennis wasn't, he didn't
15 have the records and I don't think this was
16 actually something that he wanted to discuss, I
17 mean it was Albert who had actually told me about
18 that.

19 Q I think if we can go to the next page, and you
20 talk about him, and here you indicate he's not
21 vicious, he's just not all there, and I think you
22 called him nuts, and Joyce Milgaard says:

23 "Okay so then, there's no question that
24 he could not have been involved or?"

25 You say:



1 "No, no."

2 "Whatever."

3 "No I don't think so."

4 Was there some theory or thought, before you went
5 to see them, that Albert Cadrain may have been
6 involved in the murder with Larry Fisher, or on
7 his own, or anything like that, or what does this
8 refer to?

9 A Well I see that Joyce asked me whether I thought
10 there was any possibility of that, and I said
11 "no". I don't remember ever having any suspicions
12 about any of Milgaard's companions being involved
13 in this murder.

14 Q And she says, then:

15 "... you don't think the Fisher, being
16 scaring him had anything like that he
17 never knew anything about Fisher.",
18 do you remember that being talked about?

19 A Can you flip down again so I can read the
20 beginning of that?

21 Q Yeah, we'll go back to previous page, she says:

22 "... you don't think the Fisher, being
23 scaring him had anything like that he
24 never knew anything about Fisher."

25 A I --



1 Q And it may have been that, keeping in mind that
2 Larry Fisher lived in Albert Cadrain's basement,
3 whether there had been some involvement between
4 those two at the time?

5 A Oh, I never had any suspicions of that, no.
6 Sexual psychopaths, rapists, don't work in pairs.

7 Q Okay. So again, as far as this comment from
8 Mrs. Milgaard, you don't know what -- that wasn't
9 something you were looking at, is that fair, about
10 --

11 A No, I had no suspicions whatsoever about Cadrain
12 or any of the other witnesses.

13 Q And in fairness what it may have been referring to
14 is not Albert's involvement in the crime but
15 perhaps Larry Fisher having influence on Albert
16 Cadrain in giving evidence to the police; do you
17 follow?

18 A Oh, I see what you are saying, that -- you mean
19 that -- the possibility that Larry Fisher had put
20 Albert up to this?

21 Q Possibly. I'm trying to find out what this
22 exchange you and Mrs. Milgaard had --

23 A I think what this amounted to, Joyce was asking
24 me, I:

25 "... you don't think the Fisher, being



1 scaring him ... like he never knew
2 anything ...",

3 I just can't follow that, I don't know what it
4 means.

5 Q And if we can just -- the bottom of the page,
6 scroll down, please -- you say -- no, scroll down
7 please, a bit further -- you say:

8 "He feels that ah' that it wasn't right
9 because ah' you know that they, they had
10 a witness that they had very likely
11 coerced, planted, programmed, into
12 believing these things."

13 And would that -- I take it that's referring to
14 Albert?

15 A Yes, and that's not entirely consistent with the
16 conclusions that I just referred to, that Albert
17 certainly believed what he said was the truth.

18 Q Let me --

19 A But on the other hand --

20 Q Let me back up here. When I read this are you
21 saying -- at this time did you, in your mind,
22 conclude that Albert Cadrain had very likely been
23 coerced, planted, programmed into believing his
24 evidence at trial?

25 A Umm, it's -- I'm not sure how to answer that.



1 Keeping in mind that Albert walked in and
2 volunteered information to the police it would not
3 be reasonable to think that he was programmed into
4 claiming that David Milgaard had blood on his
5 pants, he came up with that on his own, but I
6 guess I'm talking about expanded testimony, other
7 things that he later stated.

8 Q Is it possible, at this time, that you either
9 weren't aware or didn't appreciate the fact that
10 Albert Cadrain had, at least with the Saskatoon
11 City Police, gone in and volunteered the
12 information about the blood?

13 A Well if I had read -- I think I was aware of that
14 based on our discussion here earlier and on the --
15 did -- am I correct that the, that the petition
16 submitted in the '80s --

17 Q What I showed you from, what was -- I'm sorry --
18 was not the petition, it was an internal brief
19 that had been prepared in or about 1986 that had
20 not been sent in to the minister.

21 A Yes, and --

22 Q And I think Mr. Asper sent that to you.

23 A Yes.

24 Q And it wasn't until December of 1988 that the
25 application went in.



1 A Right.

2 Q And it was in a different form than, not
3 completely, but in a bit different form than the
4 brief that Mr. Asper, I think, sent you. But I'm
5 just, I'm just trying to get back and have you
6 tell us what it was that you understood back then
7 when you talked to Albert Cadrain about -- with --
8 about the order in which he went to see the police
9 or the police went to see him, and in particular
10 how the information came about about him seeing
11 blood, and how that was --

12 A Well the, as I recall, the scenario about Albert
13 Cadrain coming forward with evidence is laid out
14 in that initial draft that was sent to me by David
15 Asper.

16 Q Okay.

17 A So, assuming that I read that, I would have been
18 aware of the fact that Albert Cadrain came forth
19 and volunteered information.

20 Q In the brief, though, that I read you, what it
21 says there is that when he first went in to the
22 police on March 2nd he probably said the same as
23 the others, that he was with Mr. Milgaard that
24 morning, and that later the information about the
25 blood came out, and I think what it suggests is



1 that it came from the police?

2 A Well, umm, it was my understanding -- we're
3 talking about Saskatoon Police now, not Regina
4 police, right?

5 Q Well, I think the brief talks about both, but --

6 A Am I incorrect in assuming that the brief refers
7 to Mr. Cadrain's appearance at the Saskatoon
8 Police Department?

9 Q Yes, it does.

10 A Voluntary appearance? It does refer to that?
11 Okay, I would have been aware of that, no doubt.
12 What he told the -- I believe I knew about that,
13 but I wasn't --

14 Q And let -- maybe the key point is this; is whether
15 or not the information about the blood was
16 volunteered by Mr. Cadrain to the police or a
17 result of questioning from the police, would that
18 be a fair way to -- and I'm trying to under -- I
19 just want to know, if you are able to tell us,
20 what you believed at the time when you interviewed
21 Albert Cadrain, that's all.

22 A Yeah. I can say -- here's what I can say. I
23 should have been aware of that because it was in
24 that, it was in that draft that was sent to me, I
25 should have known that.



1 Q And so what was in that draft brief, then, you are
2 saying that's close to what you would have thought
3 or was what you --

4 A It made it clear, that brief made it clear that
5 Albert Cadrain volunteered information to
6 Saskatoon Police about seeing blood on David
7 Milgaard.

8 Q Well, and I can go back --

9 A Does it not?

10 Q I can go back to the brief. I don't know that it
11 says that. I think what it says is that he went
12 in vol -- he went in to the police but simply said
13 -- would you like me to bring that back up?

14 A Why don't we do that.

15 Q 157552, and go to page 157602, and at the bottom
16 it says, 'One would assume that whatever he told
17 the police on March 2nd, 1969, caused them to
18 suspect Milgaard. It may well be that he simply
19 told them that he had left Saskatoon on the day of
20 the murder with Milgaard. At some point, however,
21 Cadrain told the police that he had seen blood on
22 Milgaard's pants on the morning of the murder.'

23 I mean we know from the
24 statement now, which Mr. Asper may not have had at
25 the time, that on March 2nd, when he went in and



1 gave the statement, that the reference is in the
2 statement.

3 A Okay, I --

4 Q Okay. And then if we can just skip ahead, the
5 other part that I showed you is page 157607, what
6 he says here is that, 'The investigation
7 continued, however, Cadrain was "reminded" of
8 certain things by the police officers. This
9 resulted in the end with Cadrain saying that he
10 saw blood on Milgaard's pants and that when
11 Milgaard arrived at Cadrain's house that morning
12 he appeared to be in a hurry to get out of town.'

13 And then the next page again
14 talks about, 'Wilson and John were both "reminded"
15 of certain facts in the same way as Cadrain. They
16 were interrogated at great length and under
17 arguably oppressive circumstances.'

18 And I am simply trying to get,
19 with the assistance of what it appears you were
20 given, just trying to understand -- get to tell us
21 what facts you were operating under when you went
22 to see Albert Cadrain on the issue of how his
23 evidence or his information about seeing blood on
24 David Milgaard's pants, how that was communicated
25 to the police and when it was communicated to the



1 police?

2 A Well, based on what I am seeing here and being
3 reminded of having seen 30 minutes earlier, it
4 appears to me that I would not have known, I would
5 not have assumed that this information from Albert
6 Cadrain was voluntary and immediate.

7 Q Okay. So, again, if we can go back to 301844, and
8 here -- and again, just looking at your comment
9 here where you say that:

10 "... a witness that they had very likely
11 coerced, planted, programmed, into
12 believing these things.",
13 would that have been your view, then, about
14 Albert at the time?

15 A If I was not aware, if I didn't have information
16 that Albert had gone in and, voluntarily gone in
17 and described to the police seeing blood on David,
18 if I didn't have that information at hand this
19 would have been, indeed, this would have been my
20 suspicion.

21 Q Right. So that somehow it got into Albert's mind
22 from the police? If you had, if you hadn't have
23 been aware of the fact that Albert may have gone
24 in and given it in his first statement
25 voluntarily, then what's in -- let me try and



1 rephrase it.

2 When you read this statement do
3 you think, at this time, that you would have
4 thought that the evidence about the blood had come
5 during the course of questioning by the police as
6 opposed to being volunteered by Albert Cadrain
7 right at the outset?

8 A Well, yes, I very likely thought that was the
9 case, yeah.

10 Q And if we can go to the next page, you say here to
11 Mrs. Milgaard:

12 "Shorty will never, never change his
13 mind."

14 Mrs. Milgaard says:

15 "Right."

16 And then the next page you say:

17 "And they're cemented in his mind."

18 Mrs. Milgaard says:

19 "So there was no way you could swing him
20 around?"

21 You say:

22 "Well no, I wouldn't try to. That would
23 be manipulation and he's going to swing
24 right back."

25 And so I think that's what you referred to



1 earlier, that you did not feel it appropriate to
2 try and get Albert Cadrain to change his mind
3 about what you saw?

4 A That's correct.

5 Q And then just down at the bottom, just scroll
6 down -- oh, no, go back up, the next thing you say
7 is:

8 "No, no what you, what we have to do is
9 to paint the picture of a guy who was
10 not in his right mind."

11 And would this be a new strategy then or the new
12 plan to deal with Albert's evidence then?

13 A Sure. If Albert was not in his right mind when he
14 testified, it was something that would possibly
15 make a difference. I think I even suggested that
16 they get the hospital records.

17 MR. HODSON: Okay. This is probably a
18 good spot to break.

19 (Adjourned at 2:57 p.m.)

20 (Reconvened at 3:19 p.m.)

21 BY MR. HODSON:

22 Q If we can go to 048385, please, and this is
23 another transcript, it says between Paul
24 Henderson, Joyce Milgaard and David Asper, and I
25 think what this is, based on my review, is that



1 after you talked to Mrs. Milgaard and read the
2 statement of Dennis Cadrain, she taped the call
3 with you is just my speculation, she taped the
4 call with you, then she phoned Mr. Asper and
5 played the tape of her call with you to Mr. Asper
6 and taped that call, and so I think the first part
7 is, again I don't propose to go through this, but
8 it's the statement, and then if we can go ahead
9 to, it's the first, if you go ahead to 048394, and
10 I'll tell you where I get this. Again, this is
11 consistent with your earlier tape and it ends off:

12 "Fantastic Paul. Bye bye. Okay."

13 And then Mr. Asper says:

14 "Wow. He's right we got to get the
15 Hospital records."

16 And then it carries on with a discussion between
17 David Asper and Joyce Milgaard. If we can go to
18 048396, there is a discussion here between Mrs.
19 Milgaard and Mr. Asper, Mrs. Milgaard says, and
20 this is talking about Albert Cadrain's mental
21 condition:

22 "I mean if we go public with that. What
23 would the Justice Department do at that
24 point?"

25 Mr. Asper says:



1 "Let me sleep on this because it may be
2 the type of thing where we send what we
3 have to Justice with a letter."

4 "Saying um this is getting deeper and
5 deeper and deeper and you people aren't
6 doing anything about it."

7 And Mrs. Milgaard:

8 "And we've had to. And and you've got
9 seven days before we start trying this
10 thing in the media. And we start making
11 these, I mean whatever the words are,
12 whatever the exact words."

13 "The message then is, here's here's what
14 we found out while you guys have been
15 lolly-gagging around. Here's the
16 Markesteyn report. Here's the Cadrain
17 stuff. Now get off your butt."

18 Do you recall being part of any discussions about
19 using the information you gained about Albert
20 Cadrain, both from Albert and Dennis, as part of
21 the media campaign?

22 A I think there was a reference to that in a
23 transcript in which it documented my conversation
24 with Joyce and with David Asper, but I'm not sure
25 whether at this juncture, whether I was weighing



1 in on the possibility that they go to the press
2 with this information.

3 Q What were your thoughts on -- just you, Paul
4 Henderson, about taking the information from
5 Dennis and Albert about Albert's mental condition
6 and what he had told you on the first trip and
7 putting that in the newspaper?

8 A Well, let me back up a little bit and say that I
9 think there was discussion that I was involved in
10 about what we might, what they might do with the
11 information we had gotten from Linda Fisher on my
12 first trip. Now, at this point I had not as yet
13 gotten a statement from Albert Cadrain, I had a
14 statement from his brother, but certainly this
15 statement would not stand by itself, so I'm -- I
16 don't think that I would have, I would have
17 concurred. If they had -- if they were mulling
18 over whether to take Dennis Cadrain's statement
19 and go public with it, I don't think that I would
20 recommend doing that. I mean, even if they -- I'm
21 not even sure that we would have endorsed the idea
22 of going to the press with anything at this point,
23 but --

24 Q And why not?

25 A It's just not the way we operate. I mean, on the



1 other hand, I recognize that there was a great
2 deal of media interest in the Milgaard case and
3 that perhaps lawyers operate differently up here
4 than they do in the United States. I don't think
5 we could have gotten the media interested in
6 writing a story about a murder case on the basis
7 of what we had collected at this time, that being
8 a statement from Linda Fisher expressing her
9 suspicions and this statement that we had just
10 gotten from Dennis Cadrain. Now, I hadn't gotten
11 Albert's statement, that put a little bit more
12 meat into what we had, but --

13 Q Go to 048398, and the time frame, I'm assuming
14 this is around May 28th, 1991, or pardon me, 1990
15 or after, that May 28th is your memo, May 26th is
16 your interview, so it looks like you phoned Mrs.
17 Milgaard, she in turn talked to Mr. Asper, so
18 this could be --

19 A Yeah.

20 Q -- likely, you know, six or eight days before you
21 went and saw Ron Wilson. Ron Wilson's statement
22 was June the 4th, 1990, okay.

23 A Uh-huh.

24 Q So it looks like this is a few days or maybe a
25 week prior.



1 A Right.

2 Q And there's a discussion here that I'm wondering
3 if you can shed any light on, and they are talking
4 about what they are going to do with the Cadrain
5 information and Mrs. Milgaard says:

6 "Don't forget we we hopefully will have
7 the statement saying Ron Wilson lied."

8 "Yeah."

9 "From the CBC reporter."

10 Asper:

11 "Is she gonna do it?"

12 "... she's quite willing to do it
13 providing CBC has no objections. And
14 she doesn't think they will. But her
15 boss said it, she'd have to run it by
16 the."

17 "Lawyers."

18 "Lawyers. Can you see them saying no."

19 And Asper says:

20 "Yes."

21 "Can you?"

22 Answer:

23 "Yes."

24 And the next page:

25 "Really? Why?"



1 "Well I can see them not objecting but
2 the statement will come out looking very
3 equivocal. I got a phone call, I can't
4 identify the voice. The voice, the
5 caller never identified herself, all I
6 can tell you is that it came from this
7 number. You know."

8 "Yeah but she's willing to go a little
9 farther. She's willing to phone this
10 woman again and talk to her."

11 And do you have any recollection of what this
12 might be about or whether any of this
13 precipitated your meeting with Ron Wilson?

14 A This is all very strange to me. I assume here
15 that they are talking about a woman who called in
16 and had information about Ron Wilson, but I don't
17 remember having any, any background on that at the
18 time. As I recall, we just decided it was time to
19 go pay a call on Mr. Wilson to see what he has to
20 say. I was aware that Joyce had made an approach
21 to him and been rejected.

22 Q I now want to turn to Ron Wilson. What -- and I
23 think I've read somewhere that you drove up to
24 Nakusp, B.C. and dropped in on him unannounced; is
25 that --



1 A That's correct.

2 Q And before you went to see him, what did you know
3 about him and his evidence at trial?

4 A I had his trial testimony of course, I knew what
5 he had said at trial, I had the background of
6 course on his travels with Milgaard and Nichol
7 John, his appearance, their appearance at Albert
8 Cadrain's house, the continuation of the trip into
9 Alberta and their return to Regina where I guess,
10 as I understood it, the four teenagers broke up
11 and went their separate ways.

12 Q And what if anything did you know about Ron Wilson
13 personally and what had happened to him over the
14 previous 20 years?

15 A I believe I knew that Joyce had made an approach
16 to him and that he had not wanted to talk to her.
17 I do remember that he was described as a pretty
18 tough character. We knew of course that, we had
19 tracked him to this small resort town on a lake in
20 the mountains, I knew that he worked for a tire
21 company and we knew that he was off on Mondays
22 which is why I arranged to show up there on a
23 Sunday night.

24 Q And do you recall where that information came
25 from?



1 A I assume that it came from Joyce and the law firm,
2 that they had researched that.

3 Q Now, and again I think you told us this was Albert
4 Cadrain, your meeting with Albert and Dennis
5 Cadrain, and I'm assuming it would apply as well
6 for Ron Wilson, at the time you went to see him
7 you had formed the conclusion or the opinion that
8 David Milgaard was innocent; right?

9 A I was --

10 Q Or strong --

11 A I had a very, very strong belief in his innocence,
12 yes.

13 Q And when you read Ron Wilson's testimony at the
14 trial before you went to see Ron Wilson, what
15 conclusions did you reach in your mind about,
16 number 1, the truth of Ron Wilson's evidence at
17 trial, and (b), if it was not the truth, what
18 might have caused him to lie?

19 A I was not aware, as I recall, that Wilson and John
20 had both told police initially that they knew
21 nothing about these murders. Even in the absence
22 of that background information, I believed that
23 Wilson had been manipulated by police into
24 providing false testimony against Milgaard.

25 Q Okay. And again I think the same reasons as



1 Cadrain, it was a belief you had as opposed to any
2 specific piece of evidence from either the police
3 or Mr. Wilson that said that happened?

4 A Well, Wilson's, I think Wilson's testimony, his
5 allegations were considerably more pointed --

6 Q Yes.

7 A -- if you exclude the significance of seeing blood
8 on somebody's clothing shortly after a murder
9 occurs. Wilson's -- Wilson's allegations to my
10 way of thinking fell into the category of the type
11 of things that made sense -- that I could imagine
12 being programmed for a witness or being, or a
13 witness being manipulated into saying.

14 Q And how, what do you mean you could -- how did you
15 envision that he would be programmed or
16 manipulated into saying things?

17 A Well, the way I seen it happen is that police will
18 say -- and let me add, that I was not aware that
19 Ron Wilson had taken a polygraph, I didn't know
20 about that. I didn't know that he initially had
21 told police he didn't know anything about this
22 murder and that he had no evidence against anyone.
23 On this trip I became aware of that and I also
24 learned that the whole story changed of these
25 witnesses, that is, Ron Wilson in particular



1 changed his story after being polygraphed by a
2 police officer who was brought into the case from
3 Calgary and --

4 COMMISSIONER MacCALLUM: When was it that
5 you didn't know he was polygraphed?

6 A I'm sorry?

7 COMMISSIONER MacCALLUM: When was it that
8 you did not know he was polygraphed?

9 A I was not aware -- I don't think I knew that Ron
10 Wilson or anybody else was polygraphed until I
11 arrived in Saskatoon last week.

12 BY MR. HODSON:

13 Q Okay. Now, in fairness, Mr. Henderson, in the
14 statement that Ron Wilson gave to you, I think he
15 talks about the polygraph. Let me just find that.
16 Yeah, in his statement to you he tells you that he
17 was hooked up to a polygraph.

18 A Okay. Well, then I did have the benefit of that
19 background, but I did not remember it until --

20 Q And would that be something again that before Ron
21 Wilson told you about the polygraph, is that
22 possibly where you first heard about him being
23 polygraphed?

24 A I'm sure it was the first time I heard about it.

25 Q And again just on -- you said you concluded that



1 he had been manipulated or coerced into lying; is
2 that right, that was your belief?

3 A That was my strong suspicion, yes.

4 Q And in what way, I mean, what were you thinking
5 happened?

6 A Well, based on my belief in Milgaard's innocence I
7 did not -- I suspected that the allegations that
8 Ron Wilson leveled against David Milgaard at trial
9 did not originate for him or from him, that they
10 were -- that they were either planted in his mind
11 or they were the result of pressure that was put
12 on him by police to implicate Mr. Milgaard.

13 Q Okay. Now, again, if we just go back, and I just
14 want to go through some of the things that
15 Mr. Wilson had said at trial and in his
16 incriminating statements and try and just get your
17 sense of identifying what it is you felt he must
18 have been -- what parts of his evidence must have
19 been lies and what may not have been, may have
20 been incriminating but not necessarily lies, and I
21 think you told me before that a witness giving
22 incriminating evidence, some incriminating
23 evidence that is inconsistent for David Milgaard's
24 innocence would have to be a lie and that if it
25 was incriminating evidence but consistent for



1 David Milgaard's innocence; in other words, you
2 know, it may be suspicious, but it doesn't mean
3 that David Milgaard committed the crime, and I
4 think you said that still could be a lie or it
5 could be true. Do you remember us going
6 through --

7 A I do remember, but I'm not sure I follow. I do on
8 this last one.

9 Q Yeah, let me just go through this. Ron Wilson's
10 evidence at trial and in his statements were in
11 part that when David Milgaard returned to the car
12 he said the words I fixed her, right, and that's
13 referring to the woman they stopped and asked for
14 directions, I suspect that might be something
15 that, if that were true, was inconsistent for
16 David Milgaard's innocence, unless there was some
17 explanation for what he had fixed?

18 A Well, if that's all he had said. Of course Ron
19 Wilson wouldn't have known who he was talking
20 about, but I had a hard time believing that.

21 Q And, for example, stopping a woman and asking for
22 directions that morning in and of itself isn't
23 inconsistent with David Milgaard's innocence; is
24 that fair?

25 A Stopping a woman and asking for directions would



1 not be inconsistent with innocence?

2 Q Yes.

3 A That's correct, of course it wouldn't be.

4 Q So it might be incriminating in the sense that the
5 jury might think that that was Gail Miller they
6 stopped for directions, but it's possible that
7 David Milgaard being innocent, that they stopped a
8 woman and asked for directions?

9 A It could have been anybody, that's right.

10 Q And similarly, his evidence that they had planned
11 on robbing, or purse snatching on that trip,
12 again, that's something, would you agree, that
13 might be incriminating in the sense that the jury
14 might think that that would make it more likely
15 that Mr. Milgaard may have had a purse snatching
16 in mind, but it's also something that could be
17 consistent with his innocence; is that fair?

18 A Well, it wouldn't -- it would not, certainly would
19 not rule out his innocence.

20 Q We then go to a couple of the statements where Ron
21 Wilson says that in Calgary David Milgaard said,
22 and Saskatoon, I stabbed a girl or I jabbed at her
23 and I grabbed her purse, threw it in a garbage can
24 but I think she'll be okay, would that be a
25 statement where you would say that has got to be a



1 lie because that's inconsistent with David
2 Milgaard's innocence?

3 A Totally inconsistent, that amounted to a murder
4 confession, and it was devastating testimony
5 against David and I didn't believe that Ron Wilson
6 had actually heard that.

7 Q And then I think this was in his statement, but
8 not in his evidence at trial, so you may have not
9 known this at the time, but that when he heard
10 this from David Milgaard, he went and told Nichol
11 John and Nichol John said that she already knew;
12 in other words, that he told her that David had
13 stabbed someone and she said she already knew?

14 A I don't remember that at all.

15 Q I don't think that was in his evidence, that was
16 in his statement.

17 A Okay.

18 Q What about the fact that he said he saw a
19 maroon-handled paring knife on David's possession
20 in the car? Knowing that the murder weapon was a
21 maroon-handled paring knife, again is that
22 something in your view that would be inconsistent
23 with David Milgaard's innocence and a lie?

24 A Well, it would not have been consistent with his
25 guilt because, as I recall, I didn't know what



1 colour, I don't recall that I knew what colour the
2 handle was on this murder weapon.

3 Q For example, if the evidence at trial, which it
4 was, is that the murder weapon was a
5 maroon-handled paring knife, the fact that Ron
6 Wilson testified that he saw a maroon-handled
7 paring knife in David Milgaard's possession in the
8 car on the trip to Saskatoon, would that be a
9 statement that you would conclude has to be a lie?

10 A I would be very suspicious of that statement, of
11 the origin of that statement, yes.

12 Q And Ron Wilson's evidence that after they had
13 stopped the woman and asked for directions, that
14 their car got stuck and that he and Mr. Milgaard
15 left the car to look for help for a time period
16 and then returned to the car, would that
17 statement, would that be something that you would
18 say is a lie or is it possible that that would be
19 consistent with David Milgaard's innocence?

20 A It was -- you know, I had no really, I had no
21 concept of what happened to these teenagers and
22 their car in the snow in Saskatoon that morning.
23 If they had gotten stuck in fact, it wasn't, it
24 meant nothing, no bearing on innocence or guilt
25 that they would have gotten out of the car and



1 gone to look for help.

2 **Q** So again, let's talk about your meeting with Ron
3 Wilson.

4 **A** Uh-huh.

5 **Q** Did you tape record your interview with him?

6 **A** The -- this interview took place in a restaurant
7 at a lodge in Nakusp and we were sitting, during
8 the breakfast hour, by a window amongst other
9 breakfast diners. I don't know when I started
10 tape recording, but it would not have been
11 immediately. I had to get to know this guy and
12 find out how he felt about me. I understand that
13 at some point I did start tape recording our
14 conversation, but it would not have been
15 immediately.

16 **Q** And what happened with that tape?

17 **A** I honestly don't know. Every bit of evidence that
18 I collected that I came home with was forwarded to
19 Centurion Ministries. I assume that they received
20 other tapes and that those tapes were forwarded on
21 up to Asper's office and ended up in the hands of
22 authorities here. I don't know. I looked through
23 my Milgaard box at home, I couldn't find it, and I
24 noted that McCloskey also attempted to locate the
25 tape in Princeton and that he reported back that



1 he couldn't find it either.

2 Q And again, we saw at least from your conversation
3 with Dennis Cadrain that at least that tape of
4 your telephone call with him was kept by somebody,
5 I'm not sure if we have any other -- and we also
6 have the Launa Edwards transcript and tape where
7 you interviewed her as well as I think George
8 Lapchuk, so would those have been sent, would
9 those tapes have been sent to David Asper or Joyce
10 Milgaard?

11 A Well, let's start with the Dennis Cadrain tape --

12 Q Yes.

13 A -- the telephone, that conversation was made from
14 Saskatoon, or that call was made from Saskatoon,
15 the conversation was taped by Joyce Milgaard, and
16 so that would have, that tape would have been in
17 her possession, and I don't know whether that was
18 sent on to Centurion Ministries or not, but she
19 was the custodian of that tape.

20 Q Do you have any recollection of going back and
21 listening to the tape of your interview with Ron
22 Wilson at any time?

23 A No, I don't. I do not. Now, let me add that I'm
24 going to continue looking for that tape and hope
25 that I will find it.



1 Q Okay.

2 A And if I do, I'll be forwarding it up to the
3 Commission.

4 Q Thank you. Let's just go back and have you walk
5 through for us your interview with Ron Wilson and
6 start -- let's start before you get there. Did
7 you have -- I think you said earlier you would get
8 a plan in your head as to how you are going to
9 deal with a witness; is that right?

10 A Yes, that's correct.

11 Q What was your plan with Ron Wilson, what approach
12 were you going to take to him?

13 A My plan was, with Ron was to be up front with him,
14 to be totally honest with him and to see, to get
15 an idea of how he felt about this. I mean, I had
16 no idea, frankly had a lot of trepidation about
17 this interview based on what I had been told about
18 him and the failure of Joyce to get him to tell
19 her anything. I mean, he made it clear to Joyce
20 that he didn't want to talk about this and I had
21 no sense of great confidence that he was going to
22 talk to me either.

23 Q Do they -- what you have as far as an approach,
24 would you have started off with information about
25 Larry Fisher as you did with Dennis Cadrain? Are



1 you able to tell us?

2 A Most likely, yes.

3 Q And so again, the same rational as with Dennis and
4 Albert Cadrain, to try and convince Ron Wilson
5 that someone other than David Milgaard had
6 committed the crime and that you had good evidence
7 of that?

8 A I suppose that would have been pretty much the
9 same approach that I would have used with him, but
10 I didn't have to, with Ron it became fairly, it
11 became apparent to me within a fairly short amount
12 of time that he had some things on his mind that
13 he wanted to talk about.

14 Q And so tell us then, walk us through your meeting
15 for Ron Wilson.

16 A He showed up at the restaurant.

17 Q Did you phone him and ask him --

18 A I phoned him and -- I had his telephone number at
19 home, I knew it was his day off, and I don't know
20 why I phoned him, I guess I must have weighed
21 whether it would be more effective to phone him or
22 just knock on his door. Normally we just knock on
23 a witness' door, but for some reason I decided to
24 phone him, and I do remember that if he hung up on
25 me I was going to go over to his house and try



1 again, but nonetheless, he showed up. He was
2 immensely suspicious initially.

3 Q Did you tell him who you were and why you were
4 there to see him?

5 A Yeah, I presented my card and I believe I had a
6 brochure and I told him what we had learned, why I
7 was involved in this, what we had learned and how
8 we felt about this case and I filled him in on
9 Larry Fisher and I may have also gone into Dennis
10 Cadrain, but it was not a long presentation
11 because, like I said, it was apparent to me that
12 Ron Wilson had a lot of things on his mind that he
13 wanted to ventilate about or that he was willing
14 to. Now, I'm not saying that he came over there
15 predisposed to recant his testimony, but it didn't
16 take long for me to realize that he was going to
17 do that, that he wanted to do that.

18 Q And how did he, what did he say to you, how did he
19 communicate that to you?

20 A You know, if I was tape recording at that point,
21 which I really doubt that I was, I would love to
22 see the tape to see how that evolved, but he was,
23 like I said, he was initially suspicious. I
24 sensed that he was trying to get a feeling of
25 whether he could trust me or not. If that was the



1 case, he obviously decided that he was going to
2 take a chance with me and --

3 Q In the interview with Dennis Cadrain I read that
4 part where you, I think you said you introduced to
5 him your belief that the witnesses had been
6 manipulated, coerced and threatened by the police
7 into lying. Would you have introduced that to Ron
8 Wilson in your discussion?

9 A I'm sure that I would have been, that I would have
10 introduced that. I would have led him -- I would
11 have told him that I believed that there was a
12 reason for him to have come up with this
13 inculpatory, this evidence, false evidence and
14 that I would have told him that I, it would not
15 surprise me a bit if he was manipulated by the
16 police into making false accusations.

17 Q And would that be because it would be easier for
18 him to admit that he lied if he could blame
19 someone other than himself for that; would that be
20 one of the reasons?

21 A That's one of the reasons, but it's, you know,
22 it's a legitimate approach. I mean, people like
23 Ron Wilson don't just make up stories about a
24 friend of theirs and accuse them of a murder,
25 there has to be a reason, and the only reason of



1 course in this case would be that he was under
2 pressure to do so.

3 Q And in your dealings with him, what sense did you
4 get of that, of what, of his dealings with the
5 police, did he get into that early on in the
6 discussions?

7 A You know, I would -- it would be very helpful if I
8 could see the statement that I --

9 Q Sure, no, and we can go through that. Let's just
10 maybe walk through the chronology. I think you
11 said that you would have met him in a restaurant
12 first; is that right?

13 A Yes, a restaurant at the lodge where I was
14 spending the night, where I spent the night.

15 Q And at what point in the discussions with him did
16 he tell you that he had lied, like, how did that
17 come about?

18 A He let on very early that his testimony had not
19 been truthful, that it had been, that he had been
20 pressured, under police pressure from police to
21 implicate Milgaard. We didn't get into the
22 specifics of that until late in the morning. In
23 the afternoon, by the afternoon we were in a back
24 room discussing more details of his testimony, I
25 went over the transcript very carefully with him,



1 went over his testimony line by line and
2 ultimately I started taking a statement from him.

3 Q And so you had the transcript of his evidence at
4 the trial?

5 A I did, yes.

6 Q And went through that with him and had him point
7 out where he had lied?

8 A I went through every part of his testimony and had
9 him explain to me what had happened, how this came
10 about, how he came to say this.

11 Q What -- did you get any sense as to what prompted
12 him to admit to you that he lied when he had been,
13 I think, interviewed 10 years earlier and hadn't,
14 and really hadn't done or said much in the
15 interim, what caused him this time to admit that
16 he lied?

17 A Guilt.

18 Q And can you -- is that something he said to you or
19 is that your sense of what --

20 A It was readily apparent to me, and it was written
21 all over his face, it was guilt. He felt very
22 badly. Maybe I'm jumping the gun here, but Ron at
23 various points expressed to me how badly he felt
24 about his betrayal of David Milgaard and, I mean,
25 when we finished, even during the period I was



1 helping him, he was helping me write his
2 statement, he kept asking me when he would be able
3 to talk with David and apologize to him.

4 Q And --

5 A He wanted me to call, to figure out some way that
6 he could immediately talk with David and I said I
7 don't think we can do that, but I'll try and
8 arrange that or make that possible as soon as I
9 can.

10 Q And I believe that did happen; is that right?

11 A I understand that there was a conversation. I
12 don't know when it took place though.

13 Q Did you ask him or discuss with him why he had not
14 come forward earlier?

15 A I would have to refer to my statement. Yes, as I
16 recall, and I'm not sure of this, but I think he
17 told me that he was offended by Milgaard's mother.

18 Q Okay.

19 A She was too pushy or something like that.

20 Q If we can go to 003336, and this is -- actually,
21 sorry, this is the first page of the statement but
22 I'll ask you about it. This is a letter from Ron
23 Wilson seeking the reward, the \$2,000 reward, he
24 did not get the reward but it went to Albert
25 Cadrain. But it says here, I don't know whose



1 writing this is, it says:

2 "It certainly doesn't help David."

3 Did you know, (a) did you know that Ron Wilson
4 had applied for the reward?

5 A No, and I -- it would be helpful to me to know
6 what date that he applied for this?

7 Q Yeah, February 9th, '70, which would be nine days
8 after Mr. Milgaard was convicted.

9 A No, I wasn't aware of that.

10 Q And, again, is that your writing at the bottom?

11 A No, it is not.

12 Q And if we can go to the next page, and the reason
13 I ask, it's attached to the handwritten statement.
14 That may have just been stapled by someone along
15 the way.

16 A Yes, I have never seen that before.

17 Q And this is in your handwriting; is that right?

18 A Yes.

19 Q So just, and I'll go through this with you,
20 what -- how much time would you have spent with
21 Mr. Wilson before you started writing this
22 statement, what --

23 A I met him in the restaurant at 8:30 or 9:00 and,
24 umm, we were, umm, we discussed this throughout
25 the morning, our conversation lasted throughout



1 the morning, we had lunch I think in the back room
2 and I finally finished up with a statement at
3 about 3:30 or 4:00 that afternoon, so I was with
4 him for six hours or more.

5 Q And then again, your practice in writing out this
6 statement, would it be similar to other statements
7 which you've described to us?

8 A Yes.

9 Q And tell us, so that would be that you would -- I
10 take it once you had your interview with Ron
11 Wilson, went through the transcript, you would
12 have had a sense of what he was prepared to say or
13 what he was saying?

14 A Right, and what, what was going into the
15 statement.

16 Q And would you then -- I think you said earlier you
17 usually have a plan in your mind, sometimes on
18 paper, as to what things should go into the
19 statement; is that right?

20 A Yes, right.

21 Q And did you find -- what was your sense of Ron and
22 his level of sophistication or his manner of
23 speaking, anything unusual, anything stick out in
24 your mind?

25 A Well he was, he was no Rhodes Scholar, that's for



1 sure. He was a blue collar worker. He had an
2 edge to him, I know that, no question about that.
3 He looked like he might have been in a few bar
4 room fights and might have had a history of drugs,
5 but nonetheless, there -- he had a sensitivity to
6 him that I certainly recognized. He
7 unquestionably felt very bad. At one point, as I
8 recall, he was actually crying.

9 Q And I take it that when Mr. Wilson told you that
10 he had lied at trial, that that would be fairly
11 significant -- and maybe that's an
12 understatement -- fairly significant information
13 that you were getting from him in relation to the
14 work that you were doing?

15 A It was a major development in the *Milgaard* case,
16 yes, I recognized that.

17 Q So I'll just go through parts of this. He says:
18 "I am providing this statement to
19 Milgaard's investigator, Paul Henderson,
20 because I believe that he is innocent
21 and because I believe that my testimony
22 was coerced by police."

23 And, again, the word -- first, back on the
24 "innocence"; I take it that's something that Mr.
25 Wilson would have told you, that he believed



1 David was innocent?

2 A Well, yes, and of course he was in a position to
3 know if he was innocent because he was with him
4 that morning.

5 Q That morning?

6 A Yeah.

7 Q And then the statement that:

8 "... my testimony was coerced by the
9 police.";

10 how did that come about in the statement as
11 between you and he?

12 A How did that come about?

13 Q Yeah?

14 A Well if David didn't say any of these things to
15 him and that -- you know, I probably should have
16 gone into a great more detail, I should have had
17 him explain in more detail to me how this came
18 about, I didn't though, and -- but when he said
19 that his testimony was coerced what he meant
20 simply was that he was pressured into saying --
21 making accusations that were not the truth, that
22 he was under pressure, he felt that he was under
23 pressure from police to implicate David Milgaard.

24 Q Okay. And again, you had mentioned this earlier
25 about the word "coerced", was this a word that he



1 had used or was it a word that you may have
2 suggested to him?

3 A I'm -- I assure you that he did not -- "coerced"
4 was not his word, it was my word, but the meaning
5 of it was certainly explained to him.

6 Q And did he agree to the use of that word --

7 A Absolutely.

8 Q -- to describe his treatment by the police?

9 A Absolutely, yes, yes.

10 Q And I would -- Mr. Henderson, we've already gone
11 through this statement with Mr. Wilson so I won't
12 go through all of it, just --

13 A Okay.

14 Q -- if I can go to the next, the next page, and I
15 think this is where he is talking about when the
16 police came to question him and he was in jail.
17 He says:

18 "I recall them telling me that I was a
19 suspect in the murder because they knew
20 that I and the others had arrived in
21 Saskatoon on the morning of the murder
22 and had left town the same day."

23 And, again, was that something that Mr. Wilson
24 had -- and you had talked earlier about being
25 pressured, tell us what he told you about his



1 concerns about himself being a suspect?

2 A Umm, I don't have any specific recollection of how
3 this came up or what other details he might have
4 added but, umm, you know, at this point of my
5 career as a criminal justice investigator I had
6 never, as I -- I have no memory of ever having had
7 a situation where a witness was facing the threat
8 of being targeted as a suspect, so I would assume
9 that this was something that I had never heard of
10 before. It, I can assure you that it's not
11 something that I would have, that I would have
12 suggested to him.

13 Q And he, in fact, testified similarly at the
14 Inquiry about his beliefs at the time, but do you
15 recall anything else other than what's in the
16 statement --

17 A In this --

18 Q -- about that point, about him being a suspect in
19 the murder?

20 A I really don't.

21 Q And again here, this paragraph, he says:

22 "I distinctly remember telling the
23 detectives during this initial
24 questioning that I knew nothing about
25 the murder and hadn't even heard about



1 it. They told me that they thought I
2 was lying. But it was true."

3 So I take it, at this point, you would have
4 learned that initially Mr. Wilson had said he
5 knew nothing about the murder?

6 A I don't think I knew that.

7 Q But when he told you this, when you wrote this, --

8 A Yeah.

9 Q -- so you would have learned that from him that he
10 had initially told the police he knew nothing and
11 they said he was lying?

12 A Yes. It wouldn't have surprised me, though,
13 because witnesses like Ron Wilson don't just, you
14 know, come up with this stuff, I mean they, they
15 first tell the police the truth, they don't know
16 anything about it.

17 Q And then, just scrolling down, he said:

18 "I was 17 years old and very frightened
19 because I felt that the police were
20 trying to pin the murder on me. I don't
21 ...",

22 and again, we may have touched on that as being a
23 suspect, anything else to add about what he may
24 have said that's not in this statement about that
25 fear?



1 A No, I don't, I don't have any more details to
2 offer on that.

3 Q And then he says:

4 "I can't ...",

5 he says:

6 "I was hooked up to a polygraph and they
7 started asking me the same questions
8 again. Had I killed Gail Miller? Did I
9 think David Milgaard had killed her?
10 They asked me the same questions over
11 and over. I kept answering no, I didn't
12 kill Gail Miller and I didn't think
13 David Milgaard had. I recall that I was
14 questioned on the polygraph twice for
15 maybe as long as six hours. It was like
16 a sweat session. My mind was exhausted
17 and I was mentally scrambled. I
18 remember it now being like brainwashing.
19 Finally I began to implicate Milgaard in
20 the murder, telling police the things
21 they wanted to hear."

22 Can you tell us what, in here, would have been
23 Ron Wilson's words in describing what happened,
24 and whether they were all his words, or whether
25 you would have assisted him in that?



1 A Well, first of all, I'm surprised that I didn't
2 remember this part of the statement because I've
3 actually reviewed these statements before I --
4 before my testimony, but no, I didn't remember
5 that. Actually, I've got quite a bit of detail in
6 there, and I don't remember him saying anything
7 more.

8 Now what I did learn here was
9 about the entry of a polygraph examiner from the
10 Calgary Police department, I had not been aware of
11 that, and that they --

12 Q And --

13 A And that the Saskatoon Police brought this, this
14 examiner in here to -- and that, that he tested
15 Wilson and that Wilson, after the polygraph Wilson
16 suddenly changed his story and was willing to make
17 statements against David Milgaard.

18 Q And, again, at this time, June of 1990, had you,
19 in your previous careers and your career at that
20 time, dealt with police polygraph on witnesses;
21 was that a subject matter you were familiar with?

22 A Well, fairly familiar. I mean I was -- actually,
23 I did a, did a lot of research on polygraphs after
24 the first, the case that I -- we referred to
25 earlier in 1983 -- '80 --



1 Q Is that the *Titus* case?

2 A The *Titus* case, yeah. I even had myself hooked up
3 to a polygraph, umm, and had -- to see whether it
4 worked right on me, and you know what, it did.

5 Q It did.

6 A But I had also heard -- you know, Steve Titus
7 royally flunked the polygraph, there was something
8 wrong with -- either he was not amenable to being
9 tested or -- and at this time there was a lot of
10 debate in the country on whether polygraphs should
11 be admitted, polygraph results should be admitted
12 in trial, or whether they should not be, and
13 ultimately, as we all know, they are not
14 admissible in trial.

15 Q But what about any experience or knowledge of the
16 polygraph as an investigative tool used by police?

17 A Well that's what police have always said, you
18 know. You know, police officers I know have said
19 that the polygraph is justifiably not used, not
20 acceptable as evidence in court, "but it's a great
21 tool for us, we use it to determine the
22 truthfulness of suspects and witnesses". I'm sure
23 that it can be a useful tool, but it can also be
24 used dishonestly, I have encountered that multiple
25 times in my criminal justice work and have a case



1 right now where, simply put, police -- if police
2 wanted, if police wanted a witness to pass a
3 polygraph he passed, if they didn't want him to
4 pass he flunked, and --

5 Q In dealing with --

6 COMMISSIONER MacCALLUM: Excuse me, Mr.
7 Hodson, I didn't get an answer, or at least I
8 didn't hear one, to your question.

9 Telling the police what they
10 wanted to hear and so on, the part between the
11 red lines, whose words are those, yours or the
12 witness'?

13 A Well, Your Honour, could you tell me where that
14 is?

15 BY MR. HODSON:

16 Q Yeah, sorry, right here Mr. Henderson. I had read
17 you this part and I think the question I had asked
18 is, let's go here:

19 "It was like a sweat session. My mind
20 was exhausted and I was mentally
21 scrambled. I remember it now being like
22 brainwashing. Finally I began to
23 implicate Milgaard in the murder,
24 telling police the things they wanted to
25 hear."



1 A This paragraph would not be verbatim quotes from
2 Ron Wilson, but they would, they would be a
3 representation of what he told me. Some of the
4 words in there I'm, I would bet money that "sweat
5 session" was his terminology, I would bet that he
6 told me that his mind was exhausted, umm, that he
7 was mentally scrambled, umm --

8 Q What about "brainwashing"?

9 A I'm not sure about that, I'm not as sure about
10 that. Umm, each one of these sentences that went
11 into this statement were formed with the help of
12 the witness, every one of them, and I was not
13 likely to write anything down in this statement
14 that Ron Wilson did not approve of. And, you
15 know, when you are writing a statement out for
16 somebody like Ron Wilson you have to often help
17 them describe their own feelings, help them come
18 up with the words, umm, that's the way -- that's
19 the way I've always operated when I'm taking
20 handwritten statements from witnesses. And, umm,
21 ultimately what goes into this statement, sentence
22 by sentence, paragraph by paragraph, has to be
23 approved by the person I'm quoting in the
24 statement, and it serves no purpose whatsoever to
25 put words in their mouth that do not represent



1 their feelings, because if they don't stand by the
2 statement in Court, or under cross-examination, or
3 under examination by police officers, it's all a
4 waste of time.

5 Q Okay. Just on the issue of the polygraph -- and
6 again, I had asked you in June 1990 when you were
7 taking this statement, had you -- and you
8 described your experiences with polygraph and some
9 bad experiences -- but in June of 1990, at that
10 time, did you have a particular either experience
11 or, at that point, what were your thoughts about
12 polygraph use by the police and the polygraph, and
13 whether that may have had an impact on Mr.
14 Williams' statement?

15 A Having been a police reporter for a number of
16 years I knew that police -- police officers had
17 told me in the past that the polygraph was a
18 useful tool but I -- most officers also told me
19 that they agreed with the Court decisions, or
20 whatever, that the polygraph should not be, the
21 results should not be admitted in trial.
22 Nonetheless, they always told me that it was a
23 very important tool. In fact I've talked to
24 polygraphers who have told me that it was a useful
25 tool in -- to use in -- with witnesses to



1 determine the credibility of their -- of what they
2 were saying.

3 Q Did you, when you learned this information from
4 Mr. Wilson about not only the polygraph, being
5 polygraphed, but how it's described here in the
6 statement, did you have any thoughts about how the
7 polygraph may have played a role in Mr. Wilson
8 giving false information?

9 A I'm much more aware, now, of how a polygraph can
10 be misused by a police officer to intimidate a
11 witness or a suspect into giving a false statement
12 or providing a false confession. I probably was
13 not aware of it at the time Ron Wilson told me
14 about the polygraph he was subjected to.

15 Q And, again, did you recall whether, at this time,
16 you had any sense as to whether Ron Wilson's
17 incriminating statement against David Milgaard had
18 somehow been verified by a polygraph session, I
19 mean did that thought cross your mind?

20 A Well, reading this now, it appears to me that what
21 I was hearing from Ron Wilson was that this
22 examiner was telling him that the results of the
23 testing were showing that he was withholding
24 information, or that he had information, or that
25 he was lying about this or that. That would have



1 been my interpretation.

2 **Q** Okay. Then, if we can go down the statement here:

3 "I am now certain that I was manipulated
4 by police into lying and later giving
5 false testimony against Milgaard."

6 And are you able to tell us whether those would
7 have been Mr. Wilson's words, your words, or some
8 combination?

9 **A** They would have been a combination, a -- probably
10 a summary of his -- of what he had told me earlier
11 in the statement, --

12 **Q** Would --

13 **A** -- or a reiteration of that.

14 **Q** Would "manipulation", would that have been a word
15 that he would have used, or --

16 **A** Probably not.

17 **Q** And that might be something you would have put to
18 him and said "were you manipulated" and --

19 **A** Well, I'm sure that Ron Wilson understood the
20 meaning of "manipulation", or knew or was aware
21 what it meant to manipulate somebody, but I don't
22 think it would have been a word that he would have
23 chosen and come up with necessarily.

24 **Q** And then, if we can just scroll down, in this
25 paragraph he talks about how the:



1 "... police were using statements
2 allegedly made to them by Shorty Cadrain
3 to convince me that David had killed
4 Gail Miller."

5 And this was, I think in one of the earlier
6 transcripts I showed you, one of the discussions
7 between you and Mrs. Milgaard, or perhaps between
8 Mr. -- I think it was between you and
9 Mrs. Milgaard, about whether they used Shorty's
10 statement to play against the others; do you
11 recall that?

12 A Our discussion about that?

13 Q Yes?

14 A I don't specifically recall talking about that
15 with you, but this makes perfect sense to me, I
16 mean that's what I probably -- I mean when he told
17 me that it wouldn't have surprised me.

18 Q And why is that?

19 A Well it's just the way that it would probably
20 work, if police were putting pressure on, undue
21 pressure on witnesses they would use information
22 they had gotten from the first witness to try to
23 influence the second one.

24 Q And at the bottom he says:

25 "I have no ...",



1 or:

2 "In truth I have no recollection of
3 seeing the blood on his pants. I
4 believe that the police somehow
5 convinced me that I had to have seen the
6 blood because Cadrain had."

7 A Uh-huh.

8 Q And I'm not going to try and summarize Ron
9 Wilson's evidence before this Inquiry because I
10 don't think I'd be able to do that, but did you
11 get a sense as to whether, at the time Ron Wilson
12 was testifying at the trial, or did he tell you
13 this or did you get the sense, that he, for
14 whatever reason, whether it be police action or
15 otherwise, but for whatever reason believed at
16 least some of the evidence that he was giving, and
17 believed that Mr. Milgaard was involved in the
18 trial (sic), or was it on the other side where --
19 do you follow my --

20 A I absolutely do, I know what you are saying, and
21 no, I didn't get that impression. Umm, he may
22 very well have alluded -- the word
23 "brainwashed/brainwashing" is used in this
24 statement, I don't think nec -- that he
25 necessarily came up with that, with that specific



1 word, but it would appear that he told me about --
2 said something to me about police convincing him
3 that certain things had happened, that he had
4 witnessed certain things or that Milgaard had made
5 statements, inculpatory statements.

6 Q He, in some of his evidence at least before the
7 Inquiry, at least my recollection is that he
8 testified -- and, again, he testified in another
9 way as well -- but that he had thought, at the
10 time he testified, that David Milgaard had
11 committed the crime and that he made up some lies
12 to assist the police in convicting him because he
13 thought either David had done it or likely done
14 it, or words to that effect. Okay? That was --
15 and that -- so that he was knowing that he was
16 lying but he believed that David Milgaard had been
17 involved, and I'm wondering whether you got any
18 sense; in your discussions with him did he
19 communicate that to you, that he had somehow been
20 convinced that David Milgaard had been involved at
21 the time of trial?

22 A Umm, well apparently, apparently he did bring up
23 that to me, and I don't think it would have been
24 something that I wanted to hear from him either,
25 nonetheless it's in the statement, and -- but, you



1 know, I probably would have been very skeptical of
2 that at the time. But I have seen -- I'm -- my
3 case I've got right now in Pennsylvania, two of
4 the key three witnesses have told me that police
5 convinced them that certain things happened, that
6 they were parties to conversations, that they
7 heard this, that they knew that. They convinced
8 them that -- one of the ploys that they talk about
9 is police telling them that they knew that they
10 had a drinking problem and that they, they
11 experienced alcoholic and drug-induced blackouts,
12 and that would explain why they didn't remember
13 certain things. One of those two witnesses told
14 me that made it easier for him to go along with
15 the police story, just the possibility that he had
16 -- that this information had been blacked out of
17 his mind somehow, it -- this kind of a tactic is
18 used.

19 Q And, again, I'm just trying to get what, either
20 what Ron Wilson told you in your interview with
21 him about -- because I believe that you were the
22 first person that he would have made statements to
23 this effect --

24 A Uh-huh.

25 Q -- that he lied at trial, and I had given you the



1 one scenario where -- which I think he did tell us
2 at this Inquiry that he had believed that David
3 Milgaard either had or he must have committed the
4 crime. On the other hand, and I think we heard
5 this as well from him, that no, he knew because he
6 was with David that he hadn't done it, "but I
7 lied, you know, because I wanted to get out of
8 there, I didn't want it to be me", so in other
9 words knowing that he hadn't committed the crime,
10 plus he said he thought that he would get out in a
11 few years, --

12 A Yeah.

13 Q -- knowing that Mr. Milgaard had not been involved
14 in the crime but lying anyway. And I'm trying to
15 understand -- not to speculate -- but whether you,
16 when you talked to Ron Wilson on June the 4th,
17 1990, what he told you about where -- what was in
18 his mind at the time of trial; are you able to
19 help us out on that at all?

20 A I'm able to help you out by stating without any
21 reservations that Ronald, Ron Wilson told me that
22 he thought he was brainwashed, however, in
23 whatever words he used to describe it, that it's
24 in this statement, something that he would have
25 introduced, certainly I would not have introduced



1 because, you know, if -- this isn't the kind of
2 stuff we want to hear. We don't want to hear that
3 a witness, in his recantation, actually believed
4 his lying testimony, we don't want to hear that,
5 but it's in the statement because that's what he
6 told me.

7 Q And, again, I'm only asking for -- to try and find
8 out what your sense was of what Mr. Wilson told
9 you. And I think the question I asked Mr. Wilson
10 was that if I saw him sort of the day before the
11 David Milgaard trial and the day after, and I
12 asked him the question, "do you honestly think
13 David Milgaard committed the crime", and based on
14 your interview with him in June of 1990 and what
15 he told you how do you think he would have
16 answered that question to you if you would have
17 asked him or if you did ask him?

18 A If I'd have asked him -- once, one more time,
19 please?

20 Q Yes. Just, you know, the day before the trial or
21 the day after Mr. Milgaard was convicted back in
22 1970, "did you believe that David Milgaard had
23 killed Gail Miller", how do you think he might
24 have --

25 A I -- I -- I -- I don't know. In view of his frame



1 of mind, where he was, where he was at this point
2 when I talked with him in Nakusp, British Columbia
3 in May of 1990, I think he would have told me that
4 "I knew that he didn't do it".

5 Q Now my question isn't -- sorry, in May of 1990 he
6 told you he knew David hadn't done it, but
7 whether, I'm trying to understand whether you
8 would have probed with him or made any assessment
9 of what was in Ron Wilson's mind as it was back in
10 January of 1970?

11 A I don't think I got into that --

12 Q Okay.

13 A -- into that much detail with him. He told me
14 that, obviously he told me that he thought he was
15 brainwashed, and he implied that some of this
16 stuff had been put into his mind to the point that
17 he actually believed it. Well, you know, I would
18 -- I have had experience since my interview with
19 him that would make that more believable to me now
20 than it was to me then.

21 Q I see. Okay. If we can go on to the next page,
22 and again going through his evidence, he talks
23 about seeing a maroon-handled paring knife prior
24 to our arrival. He says:

25 "This was not the truth. I saw no knife



1 prior to our arrival in Saskatoon."

2 He talks about a paring knife after; do you
3 recall that being discussed?

4 A Yes --

5 Q About the knife?

6 A -- I do.

7 Q Now later, and I think it was at the Supreme Court
8 reference in 1992, and perhaps -- I can't
9 remember, I think he may have also introduced it
10 in his interview with Federal Justice, --

11 A Uh-huh.

12 Q -- but he then said "no, I now remember that David
13 Milgaard had a bone-handled hunting knife, or a
14 knife like that, on the trip up to Saskatoon, not
15 a maroon-handled paring knife but a different type
16 of knife", I think Mr. Wilson said?

17 A He, later, he changed what he told me.

18 Q Well, I think what he said is I now remember that
19 he had a bone-handled hunting knife?

20 A Okay. I wasn't aware of that.

21 Q And again, would your questioning of him be
22 focused on the maroon handled being the murder
23 weapon or would you have asked him did he have any
24 other knife with him, is that something that would
25 have come up?



1 A Yeah, it apparently did come up because he told me
2 I saw no knife prior to our arrival in Saskatoon.

3 Q Go to the next page, he talks about the compact,
4 someone found a woman's compact in the glove
5 compartment of the car, and the evidence at trial
6 is that Mr. Milgaard grabbed it and threw it out
7 the window. Do you remember that being some of
8 the evidence against Mr. Milgaard?

9 A I remember -- all I can be sure about is that I
10 went, took Mr. Wilson through the individual
11 accusations one at a time and had him comment on
12 them. This was one of them.

13 Q And here, I'm sorry, he says:

14 "I have no independent recollection
15 today of this having occurred."

16 A Yes, as opposed to being reminded of it by me.

17 Q Okay.

18 A That doesn't make sense, let me rephrase that.
19 What he was telling me was that he doesn't
20 remember ever having seen a compact in the car;
21 however, the possibility of that I guess he was
22 telling me was planted in his mind by, by the
23 police, so the point he's making is that I have no
24 independent recollection.

25 Q So the independent meaning what?



1 A Meaning independent of the influence of police
2 officers.

3 Q Okay. Then we scroll down, he says this
4 testimony -- or pardon me, he talks about he and
5 David Milgaard being together in Calgary:

6 "... Milgaard told me he'd "hit a girl"
7 or "got a girl" in Saskatoon and put her
8 purse in a trash can."

9 And he says:

10 "This testimony was planted in my mind
11 by police. At no time did Milgaard
12 confess anything like this to me."

13 Did you talk to him about how it was planted in
14 his mind?

15 A Well, apparently not. I probably should have
16 asked him were those the exact words that police
17 told you they wanted you to utter or they wanted
18 you to attest to or did they, or did you come up
19 with that, with that wording yourself. I didn't
20 get into that with him. I simply had him say that
21 David Milgaard did not tell him this.

22 Q Right. And I think what he told the Inquiry, and
23 again I appreciate that he was on for a long time
24 and said a number of things, but I think with
25 respect to this information, his evidence here was



1 that he made these up on his own and --

2 A Yes.

3 Q -- said them, and said them as opposed to someone
4 telling him to say that. Was that your
5 understanding in talking to him?

6 A I don't remember. That was my fault for not
7 getting into more, having him be more specific
8 about it.

9 Q And then scroll down, and I probably should have
10 read you this before I asked you those questions
11 about his state of mind, he says:

12 "By the time Milgaard went to trial
13 police had me convinced, in one sense,
14 that he was guilty. Deep down I wasn't
15 sure, however, and felt badly that I may
16 have been manipulated into testifying
17 against an innocent person and putting
18 him away."

19 And again, would that capture Ron Wilson's -- the
20 question I asked you earlier is did you get into
21 it with him as to what he would have thought at
22 the time of trial? Does that paragraph address
23 that issue?

24 A Does it or does it not? Let me read it here.

25 Well, what he's saying here is that, he's saying



1 that he had been led to believe, I believe is what
2 he's saying, is that he had been led to believe
3 that Milgaard was guilty and that although he was
4 concerned that his testimony wasn't the truth, he
5 had been led to believe that his testimony was,
6 that he was not misrepresenting the truth when he
7 got up there. I mean, this is actually a bit of a
8 departure from prior statements where he says he
9 knows that he lied, but, you know, it's difficult
10 to get a witness to be exactly specific about what
11 was going through his mind years ago, so that's
12 why --

13 Q Let me ask --

14 A -- I have his, you know, several of his thoughts
15 are reflected in this statement.

16 Q And the next one talks about:

17 "At the time, I was heavily involved in
18 drugs, including heroin, speed,
19 marijuana and L.S.D. I consider myself
20 not to have been mentally stable at that
21 period of my life."

22 A Uh-huh.

23 Q And again, would that have been something that you
24 probed with him as being possibly a factor in what
25 was going on with him at the time?



1 A Of course I had no, I had no way of knowing
2 whether that was a factor in, whether that helped
3 police obtain his cooperation or whether that was
4 something that made a difference, but he told me
5 that he was a heavy drug user and so that's why I
6 included it in the statement.

7 Q Go to the next page, he goes on to talk about his
8 feelings about David Milgaard and his regret, and
9 then he says:

10 "I was manipulated into lying against
11 him - manipulated into believing my own
12 lies."

13 And again, can you elaborate there, whether those
14 words were his, yours or a combination?

15 A Those words -- the thought is Ronald Wilson's
16 thought. The words, the way, in the order they
17 appear, I constructed that sentence.

18 Q And am I right to read this that, at least in this
19 paragraph, that Mr. Wilson, at least for a time
20 period, believed his own lies?

21 A That's what he says here, but that doesn't
22 necessarily mean that I believe him. I believe
23 that he was telling me the truth, you know. I'm
24 not too sure that he actually felt that way. I
25 think in his own heart he knew that he was lying.



1 Q Okay. And then here he says:

2 "Although --"

3 He's talking about David Milgaard,

4 "-- he has suffered the most, I feel

5 that I was also a victim of this case."

6 And would that be something Mr. Wilson brought up
7 or --

8 A Absolutely, yeah. He had a victim mentality along
9 with a guilty conscious about what he had done.

10 Q And what do you mean by a victim mentality?

11 A He felt like he had been forced to do this, forced
12 to do something he didn't want to do, forced into
13 betraying a friend.

14 MR. HODSON: It's 4:30. I think,
15 Mr. Commissioner, it's a good spot to break.

16 COMMISSIONER MacCALLUM: Okay. "I feel I
17 was almost a victim," is that another example of
18 an interpretation by you of what he said or did
19 he say that?

20 A Your Honour, I'm not sure whether he described
21 himself, he used the word victim or whether it was
22 simply the way he described himself without using
23 that word. He felt that he had been put through
24 an ordeal by the police and that he had suffered
25 as well and he made it very clear that he felt



1 badly about it and wished that it had never
2 happened to him.

3 COMMISSIONER MacCALLUM: Thanks.

4 MR. HODSON: Thank you.

5 *(Adjourned at 4:29 p.m.)*
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OFFICIAL QUEEN'S BENCH COURT REPORTERS' CERTIFICATE:

We, Karen Hinz, CSR, and Donald G. Meyer, RPR, CSR,
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Official Queen's Bench Court Reporter

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Official Queen's Bench Court Reporter



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