



COMMISSION OF INQUIRY INTO THE CIRCUMSTANCES
SURROUNDING THE DEATH OF PHOENIX SINCLAIR

The Honourable Edward (Ted) Hughes, Q.C.,
Commissioner

Transcript of Proceedings
Public Inquiry Hearing
held at the Delta Winnipeg Hotel,
385 St. Mary Avenue, Winnipeg, Manitoba

TUESDAY, APRIL 16, 2013

APPEARANCES

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MR. N. GLOBERMAN, Associate Commission Counsel

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MR. T. RAY, for Manitoba Government and General Employees Union

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MR. H. KHAN and **MR. J. BENSON**, for Intertribal Child and Family Services

MR. J. GINDIN and **MR. G. DERWIN**, for Mr. Nelson Draper Steve Sinclair, Ms. Kimberly-Ann Edwards

MS. B. BOWLEY, for Witness, Ms. Diva Faria

MR. W. GANGE, for DOE #1, DOE #2, and DOE #3

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1 APRIL 16, 2013

2 PROCEEDINGS CONTINUED FROM APRIL 15, 2013

3

4 THE COMMISSIONER: Good morning.

5 MS. WALSH: Good morning.

6 MS. MCCANDLESS: Good morning, Mr. Commissioner.

7 THE COMMISSIONER: Ms. McCandless.

8 MS. MCCANDLESS: We are ready for the first
9 witness today.

10 THE COMMISSIONER: Bring the witness forward,
11 please.

12 THE CLERK: Is it your choice to swear on the
13 Bible or affirm without the Bible?

14 THE WITNESS: Without.

15 THE CLERK: All right. State your full name to
16 the court, then.

17 THE WITNESS: Ashley Dorine Roulette.

18 THE CLERK: And spell me your first name, please.

19 THE WITNESS: A-S-H-L-E-Y.

20 THE CLERK: And your middle name, please.

21 THE WITNESS: D-O-R-I-N-E.

22 THE CLERK: And your last name.

23 THE WITNESS: R-O-U-L-E-T-T-E.

24

25 **ASHLEY DORINE ROULETTE,** sworn,

1 testified as follows:

2

3 THE CLERK: Thank you. You may be seated. Just
4 try to speak up for us.

5 THE WITNESS: All right.

6 THE COMMISSIONER: You speak right in the mic,
7 and I think you'll be fine.

8 THE WITNESS: Okay.

9

10 DIRECT EXAMINATION BY MS. WALSH:

11 Q Good morning, Ms. Roulette. You're 26 years old?

12 A Yes.

13 Q Where do you live?

14 A Pine Creek.

15 Q Where is Pine Creek?

16 A About an hour north of Dauphin.

17 Q For how long have you lived there?

18 A About a year and a half.

19 Q Have you lived in Winnipeg in the past?

20 A Yes.

21 Q For how much of your life have you lived in
22 Winnipeg?

23 A Most of my life.

24 Q I understand that Karl Wesley McKay is your
25 uncle.

1 A Yes.

2 Q Your mother is Mr. McKay's sister?

3 A Yes.

4 Q How many siblings do you have?

5 A Ten.

6 Q And one of your sisters is Amanda McKay?

7 A Yes.

8 Q Is Amanda older than you?

9 A Yes.

10 Q How long have you known Karl Wesley McKay?

11 A My whole life.

12 Q Since your childhood?

13 A Yes.

14 Q How often did you see Mr. McKay when you were a
15 child?

16 A A lot.

17 Q When you say "a lot," how frequently would that
18 have been?

19 A Every day.

20 Q Was this the case throughout your childhood?

21 A Yeah, (inaudible).

22 Q Would you have considered Mr. McKay close with
23 your family?

24 A Yes.

25 Q What do you recall about Mr. McKay when you were

1 younger?

2 A Nothing good. I don't know. He's just mean, I
3 guess.

4 Q Okay. When you say "mean," can you describe for
5 me how he would act?

6 A Just very aggressive, I guess.

7 Q How was he aggressive?

8 A I don't know. Just always yelling and, like,
9 wasn't scared to raise his hand to anyone, I guess.

10 Q Okay. Maybe you could just speak up a little
11 bit; that would be great.

12 You said he wasn't scared to raise his hand to
13 anyone?

14 A Well, just to women and children.

15 Q Okay. So I take that to mean that you saw him to
16 be physically violent --

17 A Yeah.

18 Q -- with women and children?

19 A Yes.

20 Q Did Mr. McKay ever look after you when you were a
21 child?

22 A Yes.

23 Q What was that like?

24 A I don't know. Scary.

25 Q Okay. So -- you said it was scary?

1 A Yeah. He was mean --

2 Q All right.

3 A -- just all the time, so ...

4 Q And this was when you were a child and he was
5 babysitting you?

6 A Yeah.

7 Q When you say he was mean, can you describe for
8 the Commission how he was mean?

9 A I guess he would just yell at us and we weren't
10 really allowed to do anything that we were normally allowed
11 to do.

12 Q Was he ever physically violent with you?

13 A When I was older.

14 Q Okay. And what can you tell the Commission about
15 that?

16 A He, he just punched me right in the middle of the
17 face and I got two black eyes.

18 Q When did this happen?

19 A In 2003 or '4, not too sure.

20 Q Where were you living at the time?

21 A On McGee.

22 Q What was the address?

23 A 747.

24 Q This was an apartment block?

25 A Yes.

1 Q And whose apartment were you living in?

2 A My sister, Amanda's.

3 Q Now, maybe you can just describe for the
4 Commission a little bit more about what happened that day?

5 A Well, we were just -- me and my brother -- at my
6 sister's apartment, and the landlord had come up and he was
7 fixing something but he said we weren't allowed to be in
8 there. And I guess, I don't know, Wesley was taking care
9 of it. I don't know. He came into the apartment and
10 started arguing and fighting me, and he punched me. And I
11 just hit him with the phone and called the cops, whatever,
12 and he left.

13 Q How old were you at that time?

14 A Fifteen or 16.

15 Q And did anything end up happening with that?

16 A No. I, I pressed charges, but I -- the police
17 never contacted me after that, so I don't know.

18 Q Now, you had mentioned you were living in an
19 apartment on 747 McGee at that time and that was your
20 sister Amanda's apartment?

21 A Yes.

22 Q When did you live in Amanda's apartment?

23 A Well, I lived with her off and on most of my
24 life, but it was in 2003 or 2004 -- pretty sure it was
25 2004, 2005, I lived with her.

1 Q And during that time, did you spend some time
2 with Samantha Kematch?

3 A Yes.

4 Q And did you spend time with Phoenix Sinclair?

5 A A little bit.

6 Q And did you spend any time with Mr. McKay?

7 A Not really.

8 Q Had you met Samantha Kematch before she lived in
9 the same apartment as you?

10 A Once before, yes.

11 Q How did you come to know her?

12 A I had met her through her mom. They were living
13 in the same apartment block as my cousin.

14 Q Did you know Ms. Kematch's mom?

15 A Yes.

16 Q Was Phoenix with her at the time?

17 A Yes.

18 Q And that was with Ms. Kematch, Samantha Kematch?

19 A Yes.

20 Q What do you remember about Phoenix?

21 A The first time I met her, she was really happy.
22 She always had a little bucket cap on.

23 Q What did her hair look like?

24 A She had, like, shoulder-length hair?

25 Q How did she seem?

1 A She was happy, joyful, like any other normal kid,
2 I guess.

3 Q What did her face look like?

4 A Just normal. She had little chubby cheeks,
5 Nothing wrong. She was perfectly normal the first time I
6 met her.

7 Q Did you have an opportunity to see Ms. Kematch
8 interacting with Phoenix the first time you met her?

9 A Yes.

10 Q And can you tell the Commission a bit about that?

11 A She was, I don't know, just normal. Just what
12 any mother would look like with their child. Having fun,
13 whatever, playing, talking.

14 Q And that was when you had met Samantha and
15 Phoenix when they were living -- or you met her through
16 Samantha's mother, correct?

17 A Yes.

18 Q So that -- do you know roughly when that was?

19 A Not exactly sure. It was ... I'm not too sure.

20 Q Now, where in 747 McGee was your sister Amanda's
21 apartment located?

22 A On the third floor.

23 Q And at some point you were living in that same
24 apartment block when Mr. McKay and Ms. Kematch lived in
25 that apartment block?

1 A Yes.

2 Q And do you remember what floor they lived on?

3 A On the first floor.

4 Q Did you see Phoenix during the time that you
5 lived in the apartment block on McGee?

6 A Few times.

7 Q And under what circumstances would you see her?

8 A When Sam would come up to my sister's apartment.

9 Q That was Amanda's apartment?

10 A Yes. She would bring Phoenix up.

11 Q How old was Phoenix at that time?

12 A About three or four.

13 Q What was Phoenix like when you saw her at
14 Amanda's apartment?

15 A Quiet. Didn't really do much.

16 Q What did she look like?

17 A She had shorter hair. She was just -- didn't
18 look same as when I first met her.

19 Q Can you describe a bit what the differences were?

20 A Well, her hair was shorter. She was kind of
21 quiet, like, like a shy kid, I guess, in the corner, but
22 she was just standing there. She had a little bruise. I
23 don't know which side of the face; I don't really recall.
24 But that's about it.

25 Q Okay. And I'll ask you some more about the

1 bruise in a moment.

2 A Um-hum.

3 Q I just want to take you back a little bit. How
4 often did you visit with Ms. Kematch and Phoenix in
5 Amanda's apartment?

6 A Couple times a week, maybe.

7 Q Over how long of a period of time?

8 A Maybe a month.

9 Q And do you know roughly when that was? Was it
10 2004 or 2005?

11 A Think it was 2004.

12 Q Did you ever see Phoenix play when she came up to
13 Amanda's apartment?

14 A Yeah, I always bring her in to play with, like,
15 my nephew, and always played toys with them and ...

16 Q Okay. How did Ms. Kematch react to that?

17 A She never said anything. She just did whatever
18 she came up there to do and ...

19 Q What did Ms. Kematch want Phoenix to do when she
20 came to those visits?

21 A She'd want her to stand by the door and stay
22 quiet.

23 Q And would Phoenix listen?

24 A Yeah, but I would just tell her to come and play.

25 Q Roughly how long were those visits?

1 A About five, ten minutes.

2 Q Do you know if Ms. Kematch ever left Phoenix
3 behind in their apartment with Mr. McKay?

4 A Not that I know of or not that I can recall right
5 now.

6 Q Now, you mentioned a little bit before about what
7 Phoenix looked like when you saw her in Amanda's apartment.
8 What did she -- what was she typically wearing?

9 A I don't know. Sometimes she had shorts on, a T-
10 shirt or long sleeve, and pants. Or a long sleeve and
11 shorts.

12 Q What did her hair look like then?

13 A Her hair was short, about up to her ears, kind of
14 like -- just kind like -- I don't know.

15 Q Did she look happy?

16 A No.

17 Q Can you tell the Commission the kinds of things
18 you would hear Ms. Kematch say to Phoenix during those
19 visits?

20 A She would just tell her just -- when she came in
21 she would just tell her, like, to stand by the door and
22 stay quiet. But after that, like, she wouldn't really say
23 much to her because I was already -- like, we were playing
24 and whatever, so we didn't really pay attention to Sam.

25 Q Did you have any concerns for Phoenix during

1 those visits?

2 A Well, just about the bruise, but we had asked Sam
3 about it.

4 Q Okay. I'll ask you a little bit about that. So
5 you mention one bruise. Was there one time that you saw
6 Phoenix with a bruise, or was it more than once?

7 A More than once, I think. I'm not sure. I don't
8 know if it was the same time or -- just kind of old, a long
9 time ago --

10 Q Right.

11 A -- don't really remember.

12 Q Okay. And where was her bruise?

13 A The bruise was on her face.

14 Q And did you ask anyone about that bruise?

15 A We had asked Sam about it.

16 Q What did Ms. Kematch say?

17 A She said that she fell.

18 Q Did you ask Phoenix about it?

19 A No.

20 Q Were you satisfied with the explanation that Ms.
21 Kematch had given you?

22 A Yes.

23 Q Did you ever ask Mr. McKay --

24 A No.

25 Q -- about -- okay. Did you see bruises anywhere

1 else on Phoenix?

2 A I can't -- I don't know.

3 Q Do you recall?

4 A No.

5 Q Did you ever see Ms. Kematch hit Phoenix?

6 A No.

7 Q Did you ever see Mr. McKay hit Phoenix?

8 A No.

9 Q Did you ever have any concerns about Ms.
10 Kematch's relationship with Mr. McKay?

11 A Yes.

12 Q Perhaps you could tell the Commission about that.

13 A Just -- well, I always knew that he was abusive
14 towards women, so when we would see her, we knew why, like,
15 she had a black eye or whatever, or we wouldn't see her for
16 a couple days, and ...

17 Q Did you ever discuss this with Ms. Kematch?

18 A Yes.

19 Q And perhaps you could tell the Commission a
20 little bit about your discussion.

21 A We just asked why she continued to stay with him
22 and why she would want to be beaten like that, and she was
23 -- she just would reply with, I don't know.

24 Q You said that "we" asked her. Who asked her?

25 A Me and my sister, Amanda.

1 Q Amanda. Did you ever go down to Mr. McKay and
2 Ms. Kematch's apartment on McGee?

3 A Yes.

4 Q When did you go down there?

5 A Sometimes we'd go down there before school, just
6 to wait for the bus.

7 Q We have heard some evidence that Ms. Kematch had
8 a baby at the end of November 2004. Were these visits that
9 took place before or after that?

10 A After.

11 Q How many visits do you recall having at that
12 apartment?

13 A Just a few.

14 Q And typically, who was in the apartment?

15 A Usually Sam and the baby.

16 Q Did anyone else come with you on those visits?

17 A Yes, my cousin.

18 Q Which cousin?

19 A Lisa.

20 Q Where was Phoenix during those visits?

21 A In the bedroom.

22 Q How many bedrooms did the apartment have?

23 A One.

24 Q Do you know why Phoenix was in the bedroom during
25 those visits?

1 A Well, Sam would just say that she wasn't
2 listening or she was being bad.

3 Q And what did the bedroom look like?

4 A I didn't really see the inside of the bedroom.
5 Never really got to go in.

6 Q Was there anything on the outside of the bedroom
7 that stood out to you?

8 A There was a lock.

9 Q What kind of a lock was it?

10 A Like a chain link.

11 Q Was it above the door handle?

12 A Yes.

13 Q Did you ever see Phoenix out of the bedroom when
14 you visited their apartment on McGee?

15 A No.

16 Q Did Ms. Kematch ever tell you about any problems
17 or issues she was having with Phoenix?

18 A Just that she was -- she wouldn't listen, and she
19 was always bad, and stuff like that.

20 Q Did she say why she was bad?

21 A No.

22 Q Did she -- do you know if Phoenix was allowed to
23 use the bathroom?

24 A No, she -- not while I was there, anyways. She
25 was never allowed to use the bathroom, so that she would

1 use it in her bedroom.

2 Q Meaning she would go to the --

3 A Like, she -- I thought it was accidents, like,
4 she was having in her bedroom.

5 Q Okay.

6 A Not -- like, like she was scared to go to the
7 bathroom or something. I don't know.

8 Q Did you ever talk to anyone about what was --
9 what you saw?

10 A Just amongst the family we talked about it.
11 Like, just whoever was there. It was never, like -- I
12 don't know. It never went far from the building, I guess.

13 Q Okay. Talked to the family. So do you recall
14 specifically who you talked to about this?

15 A No.

16 Q Did you ever discuss it with Amanda?

17 A Yes, that was mainly the only person I discussed
18 anything with at the time.

19 Q Did you ever think about calling CFS about
20 anything that you saw?

21 A No, because I didn't know anything at that time.
22 I didn't know CFS or whatever, you know. I ...

23 Q And how old were you when you were witnessing
24 this?

25 A About 15, 16.

1 Q Now, we have heard evidence that at some point
2 Ms. Kematch and Mr. McKay moved to Fisher River. Did you
3 discuss with either of them why they were moving?

4 A After they moved, I talked to Sam and she said
5 that it was because CFS was bothering them, whatever.

6 Q Did you ask her anything more about that?

7 A No.

8 THE COMMISSIONER: Who, who was bothering them?

9 THE WITNESS: CFS.

10

11 BY MS. MCCANDLESS:

12 Q Did you have this conversation with her before or
13 after she had moved?

14 A After.

15 Q You stayed in touch with her after they moved?

16 A Probably about May 2005 we started talking to
17 her.

18 Q And how were you speaking to her?

19 A Through internet messenger, like, live messenger
20 (inaudible).

21 Q So typing a chat over --

22 A Yeah.

23 Q -- the computer? Was there ever a webcam? Did
24 you ever -- could you ever see each other over the
25 internet?

1 A Yes.

2 Q Did you ever see Phoenix over the webcam?

3 A No.

4 Q Did you see any other children over the webcam?

5 A Just the baby girl.

6 Q Did you ever discuss Phoenix in your web chats?

7 A Yeah, once in a while.

8 Q And what kind of discussion would you have?

9 A I just asked her where Phoenix was and how she
10 was doing. But she had told me that she moved with her
11 dad, so ...

12 Q And this was Ms. Kematch telling you that Phoenix
13 had moved with her dad?

14 A Yes.

15 Q Did you ever communicate with Mr. McKay when they
16 were living in Fisher River?

17 A No.

18 Q So all your communication was through Ms.
19 Kematch?

20 A Yes.

21 Q Did Ms. Kematch ever talk to you about wanting to
22 come back to Winnipeg from Fisher River?

23 A Yes.

24 Q And do you recall when you spoke -- or
25 communicated with her about that?

1 A That was around May 2005, June 2005.

2 Q Okay. So some time in the --

3 A Yeah.

4 Q -- spring or summer, summer of 2005?

5 A Summer, like, yeah, I don't know. I ...

6 Q Okay. And was this again a typed conversation?

7 A Yes.

8 Q She tell you why she wanted to move back to
9 Winnipeg?

10 A She said she was scared of the house. Said that
11 somebody died in there or whatever, and she was creeped out
12 and ...

13 Q She told you that someone had died in the house?

14 A Yes, but I, I thought it was, like -- I don't
15 know --

16 Q What --

17 A -- long time ago or something, like, they moved
18 into a house where somebody passed away or something.

19 Q Okay. Did you think anything unusual about what
20 she said to you?

21 A No.

22 Q Did Ms. Kematch return to Winnipeg at some point?

23 A Yeah.

24 Q Okay. And do you recall when that was?

25 A June 2005.

1 Q And where were you living at the time?

2 A McGee.

3 Q In your sister Amanda's apartment (inaudible).

4 A Yes.

5 Q Where did Ms. Kematch move to?

6 A She moved in with us.

7 Q For how long did you stay in Amanda's apartment?

8 A Well, from when Sam came back until August,
9 beginning of August.

10 Q Of 2005?

11 A Yes.

12 Q And then you moved out?

13 A Yes.

14 Q Who did Ms. Kematch bring with her to the
15 apartment?

16 A Just her baby girl.

17 Q Did Mr. McKay stay there?

18 A No.

19 Q Did you know where he was at the time?

20 A Working (inaudible).

21 Q And what did you understand him to do for work?

22 A He was a truck driver.

23 Q So you understood that he was on the road at that
24 time.

25 A Yes.

1 Q During the time that you lived with Ms. Kematch
2 in Amanda's apartment, did you ask Ms. Kematch about
3 Phoenix?

4 A Yes.

5 Q What did Ms. Kematch tell you?

6 A She would tell me that she was gone to live with
7 her dad, and if I asked when -- if she would ever come
8 back, she would just say no.

9 Q And did you know where Phoenix was --

10 A She said --

11 Q -- said to be living?

12 A In Ontario.

13 Q How many times do you -- did you ask Ms. Kematch
14 about Phoenix?

15 A A couple times, but she would just, like, change
16 the subject.

17 Q Did you think anything of that at the time?

18 A No.

19 Q How did Ms. Kematch seem at the time?

20 A She seemed really, like, anxious. She smoked a
21 lot.

22 Q Did you know that she was pregnant at that time?

23 A No.

24 Q Do you know if she did drugs around that time?

25 A No.

1 Q Do you know if Ms. Kematch and Mr. McKay moved
2 into their own place at some point?

3 A Yes.

4 Q And do you know where it was they moved to?

5 A Suite 6, 747 McGee.

6 Q In the same apartment block --

7 A Yes.

8 Q -- as Amanda. Did you continue to have contact
9 with them after they got their own place?

10 A About January 2005, December, January, around
11 that time when I started talking to Sam again.

12 Q Okay. So that was December 2005, January 2006,
13 or --

14 A No, December two thousand -- no -- yeah, December
15 2005, January 2006, yeah. Sorry.

16 Q And we have heard evidence that Ms. Kematch had
17 another baby at the end of 2005. Did you have contact with
18 them --

19 A Yes.

20 Q -- around then? And did you have a chance to see
21 Ms. Kematch interacting with either of her babies --

22 A Yeah.

23 Q -- around that time?

24 A Yes.

25 Q And how, how was she with them?

1 A Normal, I guess. Yeah, just ...

2 Q Did you have a chance to see Mr. McKay interact
3 with either of his children?

4 A No.

5 Q Do you know if Ms. Kematch left him with his
6 children?

7 A He wasn't allowed to be left alone with the kids.

8 Q Okay. And who, who had made that decision?

9 A Sam.

10 Q Did you ever ask her why?

11 A No, because I already knew why.

12 Q And what did you understand to be the reason?

13 A He was mean. That's all I can say about it.

14 Q How did you find out about Phoenix's death?

15 A Through family when, when, when they got
16 arrested.

17 Q What did you think after you heard what had
18 happened to her?

19 A I don't know. Just a lot of things were running
20 through my mind. Just thinking what, what did I miss or
21 what was there that I could have known what happened or,
22 like, because I was with them for so long and it just, you
23 know, you just -- you don't think -- like, how could
24 somebody you've been with for so long just keep a secret
25 like that?

1 Q And ultimately you were interviewed by the RCMP?

2 A Yes.

3 Q And then you testified at the criminal trial --

4 A Yes.

5 Q -- of Ms. Kematch and Mr. McKay.

6 A Yes.

7 MS. MCCANDLESS: Those are my questions for this
8 witness, Mr. Commissioner.

9 THE COMMISSIONER: Thank you, Ms. McCandless.

10 MS. MCCANDLESS: Thank you.

11 THE COMMISSIONER: Mr. Gindin, please.

12 MR. GINDIN: Thank you.

13

14 CROSS-EXAMINATION BY MR. GINDIN:

15 Q Ms. Roulette, my name is Jeff Gindin. I
16 represent Kim Edwards and Steve Sinclair. I have some
17 questions for you.

18 You told us that there was a day that you had
19 actually been struck by, by Wes McKay.

20 A Yes.

21 Q Causing you a black eye, I think you said.

22 A Yes.

23 Q And I think you said that was around 2003. Is
24 that accurate?

25 A Yeah.

1 Q So you would have been how old then?

2 A Fifteen.

3 Q About fifteen, okay.

4 A Sixteen. I'm not sure.

5 Q And at that time you, you called the police.

6 A Yes.

7 Q That was with respect to the violence against
8 yourself.

9 A Yes.

10 Q Right. Now, you were asked about whether you
11 considered making other calls based on some of the things
12 you saw happening with Phoenix, and I'm not sure I
13 understood the answer. You said you were 15 or so at the
14 time, the same age you were when you phoned the police with
15 respect to the assault against yourself.

16 A Um-hum.

17 Q And did you, in fact, consider, consider calling
18 CFS or the police based on what you observed with Phoenix?

19 A No. I -- wasn't any of my business what they
20 did. I -- it was -- I was 15; I was, like, scared. I
21 didn't, like, really know exactly what was going on in
22 their household so, for me, it was none of my business to
23 go and make a call and -- like, I was scared. What if my
24 mom or something got mad at me or ... Like, the time when
25 I called the cops on him, I had my older sibling there, you

1 know. Like, whatever, you know. Somebody else seen it,
2 they could have called.

3 Q Um-hum.

4 A There was a lot of -- lot people there that were
5 way older than me.

6 Q Okay. Well, when, when you saw some of the
7 things you told us about happening to Phoenix, such as the
8 bruise on her face, being locked in a bedroom, things of
9 that nature, where, where was your mother then?

10 A She was there.

11 Q She was there. Did she observe those things, as
12 well?

13 A Well, the bruise on her face, we had asked Sam
14 about it and she said that Phoenix fell.

15 Q Um-hum.

16 A So, you know, kids fall and hurt themselves.

17 Q Okay.

18 A What was I to think? Who was I to judge her?

19 Q At that time you knew about Wes McKay. You told
20 us about his history of being mean and abusive towards
21 women and children.

22 A Yes.

23 Q So you knew that already.

24 A Yeah.

25 Q Right? You knew that from growing up and all the

1 things you had seen.

2 A Yeah.

3 Q So when you observed the -- Phoenix being in a
4 bedroom with a lock on it after you had seen a bruise on
5 her face, did you sit down with your mother and ...

6 A My mother wasn't -- I wasn't living with my
7 mother.

8 Q Did you call your mother?

9 A No.

10 Q Discuss with her what you had --

11 A No.

12 Q -- seen and what you should do?

13 A No.

14 Q No. Did you discuss it with any other relative
15 or --

16 A Just my sister.

17 Q Amanda?

18 A Yes.

19 Q And did you discuss whether --

20 A Somebody had called CFS, though, that time.

21 Q Do you know who?

22 A No, I don't know. I don't remember. But that's
23 when they had moved. They locked their selves in their
24 apartment, with the shutters closed. No matter who you
25 called, nobody seen them.

1 Q Now, let's --

2 A That's, that's what happened.

3 Q Okay, let's just go through that a little bit
4 slower. Who locked themselves where?

5 A Sam and Wesley would lock their selves in their
6 apartment.

7 Q Um-hum.

8 A So even if you knocked, you know, well, they're
9 not home, so what could you do?

10 Q Okay, but I'm talking about the things you
11 actually observed.

12 A Well, yeah, that's what I'm saying. Somebody did
13 contact CFS after that.

14 Q After what?

15 A After all that stuff we had witnessed. Somebody
16 had called CFS.

17 Q And how do you know that?

18 A Well, because CFS was coming around the block
19 looking for them and they were -- no -- that's when they
20 started locking their selves in their apartment.

21 Q Were you there when CFS came around?

22 A Once.

23 Q Did you speak to them?

24 A No.

25 Q Did you tell them the things you observed that

1 you were concerned about?

2 A No.

3 Q Any reason why not?

4 A None of my business. I'm not nosy. I don't get
5 into anybody's business. I was a kid; I was a teenager. I
6 was worried about school, and that's what I did on a daily
7 basis.

8 Q Well, Phoenix --

9 A I wasn't --

10 Q -- Sinclair was a very young child as well,
11 right?

12 A Yes, I know.

13 Q So you didn't make any calls, nor did you discuss
14 whether you should with any family members or relatives.

15 A Yes, we did. And somebody did contact CFS, but I
16 don't know who.

17 Q Do you know when?

18 A Don't remember.

19 Q Do you know when?

20 A That was in 2004.

21 Q 2004.

22 A I don't remember exactly what day.

23 Q Or who it was?

24 A No.

25 Q Or what they were told?

1 A No.

2 Q Or what they said to CFS?

3 A No.

4 Q But when you were there and saw the interaction
5 you had, as I said earlier, known about his --

6 A No.

7 Q Known about Wes's history --

8 A Yeah.

9 Q -- from growing up.

10 A I know about Wes's history. Yeah, of course.

11 Q Right?

12 A Yeah.

13 Q And you saw that Phoenix had changed from a happy
14 little girl to someone much quieter and --

15 A Yes.

16 Q Yeah. You also saw the, the lock on her bedroom
17 door. You saw that yourself?

18 A Yes.

19 Q And you saw that she was usually in that
20 bedroom --

21 A Um-hum.

22 Q -- when you came over, right?

23 A Yes.

24 Q And observed that Samantha would be pretty strict
25 with her, tell her where to stand, not to do anything,

1 those kinds of things. Was that something that you
2 discussed among your own sisters or family members ever?

3 A Yeah, but when she did that, I kind of stepped
4 over her and just let Phoenix do whatever she wanted so ...

5 Q But that didn't change the fact that she was
6 being locked in a bedroom.

7 A I didn't know what happened after I wasn't there,
8 so ...

9 Q Um-hum.

10 A What was I to do? I had never seen any physical
11 -- them hitting her. I never seen it for myself, so ...

12 Q So you didn't think to even --

13 A No.

14 Q -- let CFS know and let them at least check it
15 out.

16 A No.

17 Q Right?

18 A No.

19 Q Okay. You talk about Phoenix's -- or Samantha's
20 mother -- correct me if I'm wrong -- that she was sometimes
21 over at the apartment where you --

22 A No, I didn't say that.

23 Q Did you ever see --

24 A No.

25 Q Did you --

1 A I seen her at her own apartment, not at where we
2 lived.

3 Q Oh, so you're talking about seeing Samantha's
4 mother at her own apartment.

5 A At her, her own apartment.

6 Q Okay. You were over there?

7 A Once.

8 Q Was Samantha there as well?

9 A Yes.

10 Q Did you see anybody smoking crack cocaine there
11 at that time?

12 A No.

13 Q No? No?

14 A No.

15 Q When you asked Samantha about the bruise on
16 Phoenix's face, she said she fell.

17 A Yes.

18 Q And I suppose you asked because --

19 A She had a bruise on her face.

20 Q And you wanted to know what happened then.

21 A Yes.

22 Q So you simply accepted that explanation.

23 A Yes.

24 Q And, and, of course, when that conversation took
25 place, this was long after you had seen Wes be violent and

1 aggressive towards children and women, right?

2 A Yes, but he wasn't there most of the time.

3 Q Um-hum.

4 A He was working so ...

5 Q (Inaudible).

6 A I don't know.

7 Q You didn't know.

8 A I -- well, he wasn't really there. When I --
9 when we would visit with her, he wasn't around.

10 Q And, of course, when you weren't there, you don't
11 know if he was around.

12 A Yes.

13 Q When they went to Fisher River, as far as you
14 knew, that would have been around April or May, is that
15 correct, of, of '05?

16 A They moved there?

17 Q Yes, or when --

18 A I'm not sure when they moved there. I never had
19 no contact with them after I got into that altercation with
20 Wes. That was the last time until I talked to her in May
21 of '05.

22 Q May of '05. And at that time when you talked to
23 her, they appeared to be in Fisher River.

24 A Yes.

25 Q And you -- by talking to her, do you mean

1 physically on the phone or through the internet?

2 A Through the internet.

3 Q Okay. And one of the conversations that came up
4 at that time was her saying that she was scared to live in
5 that house because someone died there.

6 A Because I thought it was, it was just an old
7 house and, you know, somebody --

8 Q Right.

9 A -- had died in there before --

10 Q Okay.

11 A -- they moved in.

12 Q Was that just a very brief conversation --

13 A Yeah.

14 Q -- about that?

15 A Just --

16 Q Did you --

17 A Was just that, and that was it.

18 Q Did you ask her, Well, who died there?

19 A No.

20 Q Did you ask her when that person died there?

21 A No.

22 Q You did ask some questions about Phoenix?

23 A Yes.

24 Q And when you ask about Phoenix, she would change
25 the subject.

1 A She would just say she moved to her dad's in
2 Ontario, and she would change, change the subject.

3 Q And actually at no time did you make a call to
4 CFS about this whole --

5 A No.

6 Q -- connection with them, correct?

7 A No.

8 Q Or the police.

9 A No.

10 MR. GINDIN: Those are my questions. Thank you.

11 THE COMMISSIONER: Thank you, Mr. Gindin.

12 Mr. Paul?

13 MR. PAUL: Just a moment to look over
14 (inaudible).

15 THE COMMISSIONER: Yes, certainly.

16 MR. PAUL: No questions.

17 THE COMMISSIONER: Anyone else to ask questions?
18 It would appear not.

19 Ms. McCandless, any re-examination?

20 MS. MCCANDLESS: None, Mr. Commissioner.

21 THE COMMISSIONER: All right, Witness, thank you
22 very much for coming.

23 THE WITNESS: Thanks.

24 THE COMMISSIONER: You're completed.

25 THE WITNESS: All right, thanks.

1

2

(WITNESS EXCUSED)

3

4

MS. MCCANDLESS: We have another witness.

5

6

THE COMMISSIONER: Yes, we'll take the next
witness.

7

MS. MCCANDLESS: Yes.

8

THE COMMISSIONER: Mr. Mascarenhas?

9

MR. MASCARENHAS: Good morning, Mr. Commissioner.
I'm not sure if our witness is here yet. She wasn't here
earlier this morning.

12

Is Ms. Bruce here?

13

14

THE COMMISSIONER: Well, we could take our mid-
morning break early if -- do you have a time that she was
anticipating coming?

16

17

MR. MASCARENHAS: She was supposed to be here for
9:30. I know she was driving in from Sagkeeng, which is --

18

THE COMMISSIONER: Okay.

19

20

MR. MASCARENHAS: -- quite a ways outside
Winnipeg, so I'm not sure what the delay is at this point,
but I think taking a break would be advisable.

22

23

THE COMMISSIONER: Well, we'll, we'll, we'll
break for 15 minutes and you can keep the clerk advised as
to what you learn.

25

MR. MASCARENHAS: Thank you very much, Mr.

1 Commissioner.

2 THE COMMISSIONER: All right.

3

4 (BRIEF RECESS)

5

6 THE COMMISSIONER: All right. Mr. Mascarenhas,
7 are we ready to proceed?

8 MR. MASCARENHAS: We are, Mr. Commissioner.

9 Good morning, Ms. Bruce. Because you do not have
10 counsel, I just thought I would advise you that we have a
11 publication ban in place. I -- you've been provided with a
12 witness key that has the names of DOEs 1, 2, and 3, and 4,
13 and we're going to try to refer to the witnesses by those
14 names so as to not reveal their identity.

15 How old are you, Ms. Bruce?

16 THE COMMISSIONER: Wait a minute.

17 MR. MASCARENHAS: Oh, oh, sorry.

18 THE COMMISSIONER: You've got to swear the
19 witness.

20 MR. MASCARENHAS: Oh.

21 THE CLERK: Can you just stand for a minute?
22 Would you rather swear on the Bible or affirm without the
23 Bible?

24 THE WITNESS: Whatever.

25 THE CLERK: Sorry?

1 THE WITNESS: It doesn't matter.

2 THE CLERK: Okay. You get to choose if you want
3 to use the Bible or no Bible.

4 THE WITNESS: I can use the Bible.

5 THE CLERK: Okay. Just take the Bible in your
6 right hand, then, and state your full name to the court.

7 THE WITNESS: Lisa Marie Bruce.

8 THE CLERK: And just spell me your first name.

9 THE WITNESS: L-I-S-A.

10 THE CLERK: And your middle name?

11 THE WITNESS: M-A-R-I-E.

12 THE CLERK: And your last name, please?

13 THE WITNESS: B-R-U-C-E.

14

15 **LISA MARIE BRUCE**, sworn, testified

16 as follows:

17

18 THE CLERK: Thank you. You may be seated.

19 There's water for you. And just try to speak up for us.

20

21 DIRECT EXAMINATION BY MR. MASCARENHAS:

22 Q How old are you, Ms. Bruce?

23 A Twenty-five.

24 Q And where are you currently employed?

25 A I'm not.

1 Q Do you live in Winnipeg?

2 A No.

3 Q Where do you live?

4 A Fort Alexander.

5 Q And where is that in relation to Winnipeg?

6 A About an hour and 20 minutes from Winnipeg, near
7 Pine Falls.

8 Q I understand that you lived in Winnipeg when you
9 were younger?

10 A Yes.

11 Q And from what time period was that?

12 A Till I was 14, and then, and then I had my own
13 apartment during school from when I was 17.

14 Q And you lived on your own when -- during this
15 time.

16 A Yeah.

17 Q I understand that you're related to Karl Wesley
18 McKay?

19 A Yes.

20 Q And how are you related to him?

21 A I'm his niece.

22 Q Is your mother his sister, or how is the
23 relation?

24 A Yeah, my mother is his sister.

25 Q Are you also related to Amanda McKay and Ashley

1 Roulette?

2 A Yes.

3 Q And what is the relation there?

4 A They are my cousins.

5 Q When did you first meet Wes McKay?

6 A I don't know. When I was a baby, I guess.

7 Q And have you known him throughout your life?

8 A Yes.

9 Q What kind of a relationship did you have with him
10 over the years?

11 A A close one.

12 Q Did you -- so you considered yourself close with
13 him. Did he ever look after you as a child?

14 A Maybe just babysit.

15 Q And did you see him often?

16 A Yes.

17 Q How often did you see him?

18 A Growing up, I seen him a lot on family functions,
19 or whenever he came and visit at our house, or whenever we
20 went over there to go play with his kids.

21 Q Did you ever see him with DOEs 1, 2, or 3?

22 A Yes.

23 Q Did you ever see an abusive side to Mr. McKay in
24 the time that you were -- that you associated with him?

25 A Yeah.

1 Q Was he ever abusive towards you?

2 A No.

3 Q Who was he abusive towards?

4 A He was abusive towards DOE 3.

5 Q And what about to DOEs 1 and 2?

6 A No.

7 Q So you directly observed Mr. McKay being abusive
8 towards DOE number 3?

9 A Yes.

10 Q Can you tell us a little bit about what you
11 observed?

12 A Just, like, I've only seen him, like, push her or
13 shove her, and swear at her as a kid -- when I was a kid.

14 Q Were you ever afraid of Mr. McKay?

15 A No.

16 Q When you were growing up, did any other members
17 of your immediate family interact with Wes McKay?

18 A Yes.

19 Q Who interacted with him, from your family?

20 A My siblings.

21 Q How many siblings do you have?

22 A Well, altogether I have eight brothers, but the
23 siblings I'm talking about are just my two older brothers.

24 Q Are you close with your two brothers?

25 A Yes.

1 Q And did they ever mention anything to you about
2 Mr. McKay and their interactions with him?

3 A Yes.

4 Q What did they mention to you?

5 A That he used to be mean to them.

6 Q And when you say "mean," did they give you any
7 specifics or was it just a general comment?

8 A Just a general comment.

9 Q When did you first know that Mr. McKay was in a
10 relationship with Samantha Kematch?

11 A Probably around when I was 16 or 17.

12 Q Do you know what year that would have been?

13 A Like, maybe 2004 or 2005. I'm not sure.

14 Q Do you recall the first time you ever met Ms.
15 Kematch?

16 A Yeah. It was just before I got my driver's
17 licence.

18 Q And did anything happen the first time you met
19 her? Can you describe your first interaction with Ms.
20 Kematch?

21 A Nothing, really. She seemed okay.

22 Q So you didn't notice anything unusual about her
23 behaviour?

24 A Not at the time that I met her, no.

25 Q And when you first met her that day, did you meet

1 Phoenix the same day, or no?

2 A Yes, I did.

3 Q And if you could just describe that day if you
4 remember it? Did anything -- were you at a family
5 gathering or ...

6 A No, they came to, they came to my mom's work and
7 -- she was working on St. Mary's at the time and they came
8 and picked me up to teach me how to drive, and she was with
9 Phoenix.

10 Q Do you know how old Phoenix was at the time?

11 A No, I don't.

12 Q But you said you believe this was 2004?

13 A Yeah.

14 Q And we know Phoenix was born in 2000, so she
15 would have been roughly four years old at this time?

16 A Probably, yeah.

17 Q Do you remember what, what time of year it was in
18 2004? Would it have been --

19 A Yeah, it was like the -- probably in May or --
20 probably around there, around May.

21 Q So spring or early summer?

22 A Yeah.

23 Q Was it nice outside?

24 A Yes, it was.

25 Q Were any of Mr. McKay's other children with him

1 that day?

2 A No.

3 Q So neither of the DOEs or any children, or the
4 mother, then Phoenix -- it was only him, Ms. Kematch, and
5 Phoenix.

6 A Yeah.

7 Q After he came and picked you up and took you to
8 drive, did you go anywhere else with him?

9 A Yes, I did.

10 Q Where did you go?

11 A To a soup and sandwich restaurant.

12 Q Did you get something to eat?

13 A Yes, I did.

14 Q Did Mr. McKay and Ms. Kematch get something to
15 eat?

16 A Yes, they did.

17 Q And did Phoenix get something to eat?

18 A Yes, she did.

19 Q What did she get?

20 A It was a sandwich.

21 Q And did Ms. Kematch and Mr. McKay buy her the
22 sandwich?

23 A Yes, they did.

24 Q Did she eat her whole sandwich?

25 A I think only maybe half of it.

1 Q In general, how did Mr. McKay and Ms. Kematch
2 treat Phoenix that day?

3 A They treated her good.

4 Q So you didn't observe any unusual treatment or
5 anything that raised any concerns that day?

6 A No, just the way, like ... You know, like when a
7 kid veers off when they're -- when you're walking with,
8 with a kid, like, on a street, like, because we were
9 walking down Graham, and she kind of veered off and they
10 just grabbed her roughly. Like, that was about it.

11 Q So they just pulled her back towards them.

12 A Yeah.

13 Q Can you describe to us -- for us how Phoenix
14 looked that day?

15 A She looked like a happy kid, chubby cheeks, and
16 she had nice, long hair.

17 Q What happened after you ate at the soup and
18 sandwich restaurant?

19 A We went for a drive to -- I think Route 90
20 because my uncle wanted to scare me. And after that, then
21 they went and dropped me back off at my mom's work.

22 Q After meeting Ms. Kematch this first time, did
23 Mr. McKay divulge any information to you about her? Did
24 you know anything about Ms. Phoenix?

25 A No, I didn't.

1 Q So again, that day you said you didn't notice
2 anything unusual about her, so nothing came up at that time
3 that raised any concerns in your eyes.

4 A No.

5 Q Did you ever have any knowledge of Ms. Kematch
6 using drugs?

7 A No. Not until, like, later on in their
8 relationship.

9 Q But later on in their relationship, you did
10 become aware that she used drugs?

11 A Yes.

12 Q Can you tell us how you became aware of that?

13 A When it came down to smoking marihuana, I smoked
14 it, too, and she smoked it, so ... I know we did that
15 together.

16 Q Did you ever know of her to use anything harder
17 than marihuana?

18 A Yes.

19 Q What did she, what did she use?

20 A Crack cocaine.

21 Q And did you observe this personally?

22 A Yes.

23 Q Was this on more than one occasion or only on one
24 occasion?

25 A I saw it maybe twice.

1 Q And you said this was later on after you'd met
2 her originally. Can you recall roughly when those times
3 would have been?

4 A The first time was probably after her first baby
5 was born and -- with my uncle. Like, that's when I first
6 saw it. And then the second time was when she had moved
7 back from Fisher River.

8 Q Now, you said the first time you saw after their
9 first -- Mr. Kematch and Ms. -- or Ms. Kematch and Mr.
10 McKay's first baby was born --

11 A Yeah.

12 Q -- it was with your uncle. Was he also using
13 crack cocaine?

14 A Oh, no. Like, after she had her first baby with
15 my uncle.

16 Q Okay.

17 A Then that's when I saw her, because he was on a
18 -- he was truck driving at the time and --

19 Q So he wasn't present.

20 A No, he wasn't present. And I was living on the
21 second floor and he called me to go and check up on her.

22 Q Were you ever aware of Mr. McKay using drugs?

23 A No. I know he was on harsh medication, though.

24 Q But that was prescribed medication --

25 A Yeah.

1 Q -- for a medical condition. Can you ever recall
2 Mr. McKay being violent towards Ms. Kematch?

3 A Not physically.

4 Q When you say "not physically," does that mean
5 verbally, emotionally?

6 A Verbally, yeah.

7 Q What sort of things did you observe in regards to
8 verbal abuse by Mr. McKay towards Ms. Kematch?

9 A Just calling each other down.

10 Q So they called --

11 A Like, calling --

12 Q -- each, they called --

13 A Yeah.

14 Q -- each other names?

15 A Yeah.

16 Q Did, did Ms. Kematch seem scared of Mr. McKay to
17 you?

18 A No.

19 Q Now, moving to another area, I understand that
20 you used to babysit for Mr. McKay and Ms. Kematch.

21 A Yes.

22 Q Which of their children did you babysit?

23 A Just Phoenix.

24 Q So you never babysitted (phonetic) their -- the,
25 the child they had -- their first child?

1 A Yes, I did, maybe just once or twice.

2 Q How many times did you babysit Phoenix prior to
3 their first child being born?

4 A Probably about six or seven times.

5 Q And when did you first begin babysitting Phoenix?

6 A When I moved into the apartment upstairs.

7 Q So you lived in the same apartment building as
8 Mr. McKay and Ms. Kematch?

9 A Yes, I did.

10 Q And that was roughly, you said, when you were 17.
11 That's when you lived on your own?

12 A Yeah.

13 Q Where was this apartment building located?

14 A On McGee.

15 Q Do you have the address?

16 A I think it was 747 or 727. I'm not sure.

17 Q We've heard from other witnesses that they lived
18 at 747 McGee, so that sounds consistent with --

19 A Yeah.

20 Q -- what you're telling us. Did you ever babysit
21 Phoenix in Mr. McKay and Ms. Kematch's apartment, or did
22 you babysit in your own apartment?

23 A I babysat her in my own apartment, but when it
24 came to babysitting her and the baby, I babysat them in
25 their apartment.

1 Q Was anyone else ever with you when you babysat
2 Phoenix?

3 A A couple times.

4 Q And can you tell us who those people were?

5 A It was either my cousin Ashley or my cousin
6 Courtney.

7 Q By Ashley, are you referring to Ms. Roulette, who
8 we --

9 A Yeah.

10 Q -- heard from this morning? Thank you. So you
11 told us already that this would have been in 2004,
12 correct --

13 A Yeah.

14 Q -- when you first started babysitting Phoenix.
15 Was she --

16 A However old I was when I was 17. It's, like, I
17 can't remember the year exactly.

18 Q Was it the same year that you met Ms. Kematch?

19 A Yeah. I think. Or, no. Yeah, I think so.

20 Q When you, when you were babysitting Phoenix, when
21 you first started babysitting her, was she a hard child to
22 babysit?

23 A No.

24 Q Did she ever give you any sort of trouble?

25 A No.

1 Q Did you ever see Phoenix play with other
2 children?

3 A Yeah.

4 Q And how did she behave with other children?

5 A She behaved good. Like, she played with, she
6 played with my cousin Amanda's boy, Rico, and they played
7 good together.

8 Q And was Phoenix talkative?

9 A Yeah.

10 Q How was her appetite at that time?

11 A In the beginning, she was -- she ate lots.

12 Q Did she have any problems using the toilet when
13 you first started babysitting her?

14 A No. Not that I can recall, no.

15 Q Did Mr. McKay or Ms. Kematch ever tell you about
16 any toilet training issues with Phoenix?

17 A No.

18 Q How would you describe Mr. McKay's relationship
19 with Phoenix when you first started babysitting her? And
20 this would be prior to their first child being born, I
21 think you've testified.

22 A Yeah. I think it was okay. I didn't really see
23 them together.

24 Q How about Ms. Kematch? How would you describe
25 her relationship with Phoenix?

1 A It was good, too.

2 Q So you never noticed any signs of abuse or
3 mistreatment at that time?

4 A Not at that time, no.

5 Q We, we've heard evidence and we now know that Mr.
6 McKay and Ms. Kematch's first child together was born in
7 December of 2004. Did Phoenix's behaviour change after the
8 birth of their child?

9 A Yes.

10 Q And can you describe for us those changes?

11 A She became more quieter and more distant.

12 Q Did she cry?

13 A No.

14 Q Did she show much emotion of any sort?

15 A No.

16 Q Did she look happy?

17 A No.

18 Q What about her physical appearance? Did you
19 notice any changes in her physical appearance?

20 A She started to look like, like, ill. Like, like,
21 as if she was low on iron.

22 Q So when you say -- does that mean she looked
23 pale?

24 A Yeah.

25 Q And what about her, her weight? Did she maintain

1 the same weight or did she seem like she was getting --

2 A No, it seemed like she was getting, like,
3 skinnier.

4 Q Did you notice any changes in Mr. McKay's
5 relationship and attitude towards Phoenix after his baby
6 was born?

7 A Yes.

8 Q Can you describe those changes for us?

9 A He became more, more stern, I guess, more violent
10 towards her.

11 Q When you say "violent," did you ever observe any
12 violence?

13 A Yes, I did.

14 Q Could you describe -- could you give us a
15 description of what you saw?

16 A When we were sitting down for dinner in his
17 apartment, she was sitting there eating, and he just out of
18 nowhere grabbed her hat off her head and threw it on the
19 ground. And it kind of looked like he, like, kind of
20 grabbed her hair at the same time.

21 Q But he didn't hit her.

22 A No.

23 Q And what about Ms. Kematch? Did you notice any
24 change in her attitude or the way she treated Phoenix after
25 the --

1 A Yes.

2 Q -- baby was born? And can you tell us what you
3 noticed?

4 A She started calling her down more, even in front
5 of, like, everybody.

6 Q When you say "calling her down," do you mean she
7 was -- calling her names, swearing at her?

8 A Yeah.

9 Q Did you ever hear anything specific that Samantha
10 said about Phoenix?

11 A Calling her, like, a little whore or a little
12 bitch.

13 Q Did Mr. -- did you ever notice Mr. McKay swearing
14 at Phoenix?

15 A Yeah.

16 Q And did you ever -- you didn't -- did you ever
17 notice Samantha Kematch being physically abusive towards
18 Phoenix?

19 A Yes.

20 Q You did. Can you please describe that for us.

21 A On one occasion I know when Phoenix was going
22 around the, the baby, she went and grabbed Phoenix and
23 pushed her and was calling her a little slut, like, pushed
24 her towards the ground.

25 Q Did you notice a difference in the way Mr. McKay

1 and Ms. Kematch treated their baby compared to the way they
2 treated Phoenix?

3 A Yes.

4 Q In general, can you describe the difference?

5 A It was like they just pushed Phoenix aside and
6 they were, like, overprotective of their baby.

7 Q So I believe you told us that on one or two
8 occasions after the baby was born that you babysitted both
9 Phoenix and the baby in Mr. McKay and Ms. Kematch's
10 apartment?

11 A Yeah.

12 Q And you told us that your apartment was, was in
13 the same building as Mr. Kematch and Ms. McKay -- or --

14 A Yeah.

15 Q -- Ms. Kematch and Mr. McKay's apartment. Did
16 you ever go -- so you went down and visited their
17 apartment. Can you describe this apartment for us?

18 A Yeah. It was a one-bedroom apartment. Like, how
19 did you want me to describe it?

20 Q Well, just give us your general observations.
21 Was it furnished, was it neat and tidy?

22 A Yeah, it was neat and tidy. They had a futon in
23 their, in their living room, a small TV, and the kitchen
24 was small and they had their table just in that little
25 area. It was clean. They seemed to only have toys in

1 their living room for the baby.

2 Q So, so there were no toys for Phoenix that you
3 noticed?

4 A No.

5 Q Did you ever look inside the bedroom?

6 A Just on one occasion.

7 Q And did you notice anything unusual when you
8 looked in the bedroom?

9 A Just that there was a little lock on the door.

10 Q Do you know if Phoenix slept in that bedroom?

11 A Yeah.

12 Q So we've heard evidence from SOR number 5 and SOR
13 6 previously that they also saw a lock on the door of
14 Samantha -- of the bedroom in the apartment and they
15 believe that Phoenix was being locked in that room. You've
16 told us that you saw a lock on the bedroom door.

17 A Yeah, it --

18 Q What did, what did the lock look like?

19 A It was a chain.

20 Q And was it above the door handle or ...

21 A It was -- yeah, it was just above the door
22 handle, on the outside of the door.

23 Q When did you first notice this lock? Was it
24 there when you first started babysitting Phoenix?

25 A No.

1 Q So when did you first notice it?

2 A I first noticed it not too long after the baby
3 was born.

4 Q And --

5 A Maybe like a month -- like, the first time when I
6 went to go babysit the baby and her was probably January,
7 and then that's when I noticed it there.

8 Q We know that the baby was born in December 2004,
9 so that would be December or January of -- December of
10 2004, January of 2005?

11 A Okay.

12 Q When you saw the lock for the first time, did you
13 think it was unusual?

14 A Yeah.

15 Q Why did you think it was unusual?

16 A Because who just puts a lock on the outside of a
17 door on a bedroom -- outside of a bedroom door, especially
18 a chain link.

19 Q Did you ever ask Ms. Kematch or Mr. McKay why it
20 was there?

21 A I think I did.

22 Q Do you recall what they -- their explanation was?

23 A No, not that I can remember, but I, I think I
24 did, but I'm not sure. It was so long ago. I'm not sure
25 what I testified to, either.

1 THE COMMISSIONER: Did you ever see the lock used
2 on --

3 THE WITNESS: Yeah, I did.

4 THE COMMISSIONER: You saw the bedroom door
5 locked.

6 THE WITNESS: Yes.

7 THE COMMISSIONER: And to your knowledge, was
8 there anybody in the bedroom?

9 THE WITNESS: I didn't think to ask.

10 THE COMMISSIONER: Pardon?

11 THE WITNESS: I didn't think to ask, but --

12 THE COMMISSIONER: Thank you.

13 THE WITNESS: -- I didn't see Phoenix, either.

14

15 BY MR. MASCARENHAS:

16 Q So you never saw Phoenix, you never saw Phoenix
17 being locked in the bedroom when you were there.

18 A No, I wasn't sure if she was in there or not at
19 the time that I seen it locked.

20 Q But you saw the door locked and Phoenix was not
21 in the apartment --

22 A Yeah.

23 Q -- that you could see? Did you ever tell anyone
24 else about the lock you saw on the door?

25 A Yes.

1 Q Can you tell us who you told?

2 A I told my mom and I told my cousin Amanda.

3 Q And what was their reaction?

4 A That they were locking Phoenix in the bedroom.

5 Q That was their belief. They, they believed that
6 Phoenix was being locked in the bedroom by Ms. Kematch and
7 Mr. McKay?

8 A Yeah. Well, my mom had -- she had the assumption
9 and my cousin Amanda knew. She told me.

10 Q And just for clarification's sake, when you say
11 your cousin Amanda, are you referring to -- what's --

12 A Amanda McKay.

13 Q -- Amanda's last name? Thank you. So your mom
14 had the suggestion that Phoenix was being locked in the
15 bedroom. You, yourself, stated that you found it unusual.
16 Did you ever notify anyone else -- for example, CFS or any
17 other agency -- about your concerns?

18 A I did try phoning CFS after I tried to go and
19 pick up Phoenix for a Brownies program that I did at the
20 Indian Métis Friendship Centre, and they said that Phoenix
21 wasn't there, that she was being bad, and, and I didn't
22 even see her at all, like, after that. But when I tried
23 the phone to call her because -- like, my cousins were
24 talking about her, so I tried to phone and they said that I
25 was too young to be making a phone call to CFS. I wasn't

1 18 yet.

2 THE COMMISSIONER: Who, who told you you were too
3 young?

4 THE WITNESS: The CFS, Winnipeg CFS, when I
5 phoned there.

6 THE COMMISSIONER: Where you made the call and
7 that's what you were told when you got through.

8 THE WITNESS: Yeah.

9

10 BY MR. MASCARENHAS:

11 Q And, sorry, do you have a time frame of when you
12 would have made this call?

13 A Probably late May.

14 Q And is that -- would that be of 2005?

15 A Yeah.

16 Q This was after their baby was born.

17 A Yeah.

18 Q So that would have been 2005. Do you recall who
19 you spoke to on -- when you called CFS?

20 A No, I didn't.

21 Q What information did you give the CFS worker? Do
22 you remember what you told them?

23 A I asked them if I could do a reporting on
24 somebody and ... I'm trying to remember. They, they asked
25 me what my -- they wanted my information first before I

1 could do any kind of reporting, and I didn't really want to
2 release my information. And when I told them how old I
3 was, they said that I would need, like, a parent or a
4 guardian to be -- to doing the report to CFS.

5 Q When you state they wanted your information, are
6 you referring to your personal information, for --

7 A Yeah.

8 Q -- example, your name and your address?

9 A Yeah. My name, my address, how old I was.

10 Q So outside of telling them that you wanted to
11 make a report, did you ever specify that it was in regards
12 to Phoenix Sinclair?

13 A Yeah, I did.

14 Q And did you ever tell them any of your actual
15 concerns? Like, for example, did you tell them that you
16 saw a lock on the door, or did you not get to that stage?

17 A No, I didn't. I didn't tell them my actual
18 concerns.

19 MR. MASCARENHAS: Mr. Commissioner, if it is all
20 right, I'd like to ask for a brief five-minute adjournment.

21 THE COMMISSIONER: All right. Just a moment,
22 please.

23 I'm sure there's a good reason for it, so I'll
24 allow that. We'll adjourn for five minutes.

25 MR. MASCARENHAS: Thank you very much, Mr.

1 Commissioner.

2

3 (RECESS)

4

5 THE COMMISSIONER: Okay, that's an awful long
6 five minutes, so we'll have some explanation, Mr.
7 Mascarenhas, from you, I'm sure.

8 MR. MASCARENHAS: Sorry for the delay, Mr.
9 Commissioner. Oh -- sorry, for the delay, Mr.
10 Commissioner.

11 THE COMMISSIONER: Yes.

12 MR. MASCARENHAS: In light of the evidence we
13 heard from Ms. Bruce that she made a phone call to CFS, we
14 wanted to take the opportunity to advise Ms. Bruce that she
15 has a right to SOR protection as our other witnesses who
16 made calls to CFS have under the legislation. We also
17 wanted to re-advise her of her right to counsel if she
18 should so choose to have that.

19 In meeting with Ms. Bruce, she, she confirmed
20 with us that she was willing to proceed without SOR
21 protection or without counsel.

22 Ms. Bruce, can you please put on the record that
23 you agree to continue giving evidence today without any
24 sort of protection and without right to counsel?

25 THE WITNESS: Yes.

1 THE COMMISSIONER: I take it that you were not
2 aware of this prior to the evidence she gave this morning.

3 MR. MASCARENHAS: No, Mr. Commissioner. This is
4 new evidence that has been raised and --

5 THE COMMISSIONER: I see.

6 MR. MASCARENHAS: -- that's what necessitated the
7 delay.

8 THE COMMISSIONER: And you're satisfied to
9 proceed and get this completed before the noon hour, I take
10 it, are you?

11 THE WITNESS: Yes.

12 THE COMMISSIONER: And that's all right with you?

13 THE WITNESS: Yes.

14 THE COMMISSIONER: All right.

15 MR. MASCARENHAS: Thank you, Mr. Commissioner.

16 Thank you, Ms. Bruce.

17

18 BY MR. MASCARENHAS:

19 Q Ms. Bruce, I'm just going to take you back to a
20 little bit before we took the break. You stated that you
21 tried to pick Phoenix up for Girl Guides from Ms. Kematch
22 and Mr. McKay's apartment?

23 A Yes.

24 Q And do you know when this was?

25 A It could have been towards the end of April or

1 May.

2 Q And you stated that you had some concerns. Was
3 this in -- what concerns did you have in regards to picking
4 up Phoenix for Girl Guides?

5 A That I didn't really see her out often at all.

6 Q And what year was this in? This would have been
7 after their first child was born?

8 A Yeah, 2005.

9 Q Did you ever discuss your concerns about not
10 seeing Phoenix with anyone?

11 A Yes. My cousins.

12 Q And which cousins were those?

13 A It was likely Courtney, Ashley, and Amanda.

14 Q And then you, you told us that, based upon your
15 concerns, you made a phone call to CFS.

16 A Yes.

17 Q And when in relation to attempting to pick up
18 Phoenix for Girl Guides did you make this call?

19 A What's that?

20 Q In regards to the time period that elapsed from
21 the time you picked up -- you tried to pick Phoenix up for
22 Girl Guides and you weren't able to, did you call the same
23 day? Did you call shortly thereafter? Did you call a
24 couple weeks after?

25 A Probably like a couple weeks, when I noticed that

1 she wasn't around.

2 Q Where did you make the call from?

3 A My apartment.

4 Q And was anyone else with you at that time?

5 A No.

6 Q Did you use a cell phone or a landline to make
7 the call?

8 A A landline.

9 Q Do you recall the number of that landline?

10 A No, I don't.

11 Q How did you know which number to call to contact
12 CFS?

13 A Phonebook.

14 Q Did anyone hear you make that call?

15 A No.

16 Q And did you tell anyone else you had called CFS,
17 after you made the call?

18 A No.

19 Q Did you tell anyone else you were planning to
20 call CFS?

21 A No.

22 Q So when you made the call, you told us that you,
23 you gave them Phoenix's name. Did you give them her full
24 name?

25 A No.

1 Q Which name did you give?

2 A Phoenix.

3 Q So you didn't give her last name.

4 A No.

5 Q What else did you tell them?

6 A Just that I wanted to make a report on a little
7 girl named Phoenix, that it was my, my uncle's
8 stepdaughter.

9 Q Did you give them your uncle, Wes McKay's name?

10 A No.

11 Q Did you give Ms. Kematch's name?

12 A No.

13 Q Who did you speak to?

14 A The first person that answered the phone.

15 Q Do you know --

16 A I'm --

17 Q Oh, sorry.

18 A -- thinking that it's a receptionist.

19 Q So you didn't believe it was a social worker you
20 actually spoke to.

21 A No.

22 Q Do you recall if it was a male or a female?

23 A Female.

24 Q And after you gave them this information, what
25 did they say to you?

1 A They said that I had to be 18, I had to get a
2 parent or a guardian to call for me.

3 Q And what was your response to that?

4 A I just -- I was just, like, okay, and hung up the
5 phone.

6 Q Did they ask for your name?

7 A Yes, they did.

8 Q And did you give your name to them?

9 A I said my name was Lisa. I didn't want to
10 release any other name.

11 Q Did they ask you any follow-up questions in
12 regards to your concerns?

13 A No.

14 Q And did any -- what happened after you just gave
15 them your first name, Lisa?

16 A She was -- she asked me what the report was. I
17 told them that it was for a little girl named Phoenix, that
18 it was my uncle's stepdaughter, and then right after that
19 she asked me how old I was and I told her that I was 17.
20 Then that's when she said about needing a parent or a
21 guardian to do the report for me.

22 Q And what happened after she told you that you
23 needed a parent and a guardian to do the report?

24 A I -- like I said, I just said okay. Like, I
25 couldn't do anything else. Not that I can remember. I

1 just hung up the phone.

2 Q So after you hung up the phone, did you ever try
3 to get an adult to make a call to CFS for you in regards to
4 your concerns?

5 A No.

6 Q Did you ever tell your mother about the call that
7 you made to CFS?

8 A Later on, after everything happened.

9 Q And just to confirm, I believe you earlier told
10 us that you lived on your own in the apartment at 747 McGee
11 at this time.

12 A Yes.

13 Q So there was no adult living with you and present
14 in the house regularly.

15 A No.

16 Q I also understand that you gave a statement to
17 the RCMP in 2006. Is this correct?

18 A Yes.

19 Q And you also testified at the criminal trial of
20 Mr. McKay and Ms. Kematch?

21 A Yes.

22 Q Did you ever mention your phone call to CFS at
23 these times?

24 A No.

25 Q Is there any reason you didn't mention this

1 information?

2 A I wasn't asked. Just during the lawyer
3 interviews, that was the only time that I can recall that I
4 was asked about making a phone call to CFS.

5 Q And when you say the lawyer interviews, are you
6 referring to ...

7 A The interviews with the three lawyers before the
8 trial.

9 Q That's the criminal trial.

10 A Yeah.

11 Q What did you tell those lawyers?

12 A They just asked me general questions about my
13 statement with the RCMP. And when it came -- I think I was
14 talking to the woman lawyer. I think she was the last
15 lawyer that I spoke to, who asked me that question about
16 CFS.

17 THE COMMISSIONER: But it never came up about
18 whether --

19 THE WITNESS: No.

20 THE COMMISSIONER: -- you had made contact with
21 CFS.

22 THE WITNESS: No, it didn't.

23

24 BY MR. MASCARENHAS:

25 Q So even in the interview with the lawyers prior

1 to the trial you never told them that you called CFS?

2 A No.

3 MR. MASCARENHAS: Sorry, if I could just have one
4 minute to organize my notes, Mr. Commissioner?

5 THE COMMISSIONER: Right.

6

7 BY MR. MASCARENHAS:

8 Q Just to clarify, they asked you about your RCMP
9 statement and did they ever explicitly ask you if you made
10 a call to CFS?

11 A Yes.

12 Q And you told -- you never told them that you did
13 make a call to CFS?

14 A I did tell the lawyer that I did call -- that I
15 tried to call CFS.

16 Q So you told them that you tried to call CFS.

17 A Yeah.

18 Q Okay. Did they ask you that question when you
19 testified?

20 A No.

21 Q I understand that you eventually moved into Mr.
22 McKay and Ms. Kematch's apartment after they moved out.

23 A Yes.

24 Q When would this have been?

25 A Some time in May.

1 Q Just going back to the lock on the door that we
2 discussed earlier, when you moved into the apartment in May
3 and just -- that would have -- what year would that have
4 been in?

5 A 2005.

6 Q When you moved into their apartment in May of
7 2005, was the lock still on the door?

8 A Yes, it was.

9 Q Did you ever see Phoenix with any sort of
10 injuries or bruises in the time that you were around her?

11 A Yes.

12 Q Could you please tell us what you observed?

13 A I seen her with a black eye once.

14 Q Only once?

15 A Yeah.

16 Q And do you recall when this was?

17 A Probably in that winter. Probably around
18 February.

19 Q And just to confirm, February of 2005?

20 A Yeah.

21 Q And where did you see her when she had this black
22 eye?

23 A In her apartment.

24 Q Was anyone else with you when you were at the
25 apartment?

1 A Yes, my uncle and Sam.

2 Q Do you remember which eye the bruising was on?

3 A No. I think it -- not really, but I'm trying to
4 picture her. I think it was probably this eye.

5 MR. MASCARENHAS: I'd just like to put on the
6 record that the witness is motioning to her left eye.

7

8 BY MR. MASCARENHAS:

9 Q Is this the same time you told us earlier that
10 you saw Mr. McKay push the hat off Phoenix's head?

11 A Yes.

12 Q And this was the first time, you said, that you
13 saw Mr. McKay mistreat Phoenix.

14 A Yes.

15 Q When Mr. McKay pushed the hat off Phoenix's head,
16 did you have a chance to observe Phoenix's hair?

17 A Yes.

18 Q Was it -- I believe you told us that when you met
19 her in May of 2004, she had long hair. Was her hair still
20 long?

21 A Yes.

22 Q Do you remember how Ms. Kematch treated Phoenix
23 that day?

24 A She was kind of, like, distant from her. I don't
25 know. Just ... I can't really explain it. Just kind of

1 -- she kind of just paid more attention to her baby, and
2 that was about it.

3 Q Would you say she neglected Phoenix?

4 A Yeah.

5 Q Did you think that Phoenix's injury, her black
6 eye, was unusual?

7 A Yes.

8 Q Did you ask anyone about it and how it occurred?

9 A Yes, I did.

10 Q Who did you ask?

11 A I didn't ask. I just talked about it with my
12 cousin, Amanda.

13 Q Did you ever ask Mr. McKay about the black eye?

14 A I think I did, like, right away.

15 Q And do you recall what his explanation or
16 response was?

17 A They said -- him and Sam, they said that she
18 fell.

19 Q Did you ever ask Phoenix about her injury, the
20 black eye?

21 A Yeah. Yes, I did.

22 Q When did you ask Phoenix about this?

23 A When she was being babysat at my cousin Amanda's
24 apartment.

25 Q So you and Amanda were both present when you

1 asked Phoenix about her black eye?

2 A I don't think Amanda heard me ask her, though.
3 Like, I just asked her, I think, just generally when there
4 was just me and her in a certain area of the apartment.

5 Q What did Phoenix tell you?

6 A She said she hurt herself. I think that was,
7 that was the time. I'm not sure because I asked her
8 another time, too.

9 Q You, you said you asked her another time about
10 the same injury? Was that the black --

11 A It wasn't about the black eye, because she had
12 bruising on her face another time that I can recall.

13 Q Do you recall when the second time she had
14 bruising on her face was?

15 A No. Probably just not too long after that.

16 Q And when you asked her the second time where the
17 bruising came from or how it occurred, what was her
18 response?

19 A She, she just said that she hurt herself. Like,
20 I'm not really sure if that's how it went. Like ...

21 Q Did you ever ask Mr. McKay, Ms. Kematch, or
22 Phoenix herself how exactly she hurt herself?

23 A No.

24 Q Did you believe their explanation that Phoenix
25 hurt herself?

1 A No.

2 Q Now, you told us you discussed the bruising on
3 Phoenix's face and the black eye with your cousin, Amanda.

4 A Yeah.

5 Q What was the result of these conversations?

6 A Nothing, maybe. Nothing came of them. We just
7 had conversations about them.

8 Q Did you suspect that the black eye was possibly a
9 result of abuse?

10 A Yeah.

11 Q Did you ever report the injury you observed to
12 anyone?

13 A Like, to the authorities or anything?

14 Q Yeah, to authorities or to an adult, even,
15 perhaps.

16 A To my mom later on, yes.

17 Q And is -- what, what was your mom's reaction to
18 that information?

19 A Just that they probably are abusing her.

20 Q Was it your intention when you called CFS to
21 relay this information -- was this information that you had
22 at the time you made your call to CFS or did you find out
23 this information afterwards?

24 A About the bruising and that?

25 Q Yes.

1 A No, I just wanted to call them, like, to report
2 it. Like, just to report abuse, because I didn't really
3 see Phoenix after, after that, yeah.

4 Q So you were more concerned that you hadn't seen
5 Phoenix around at that time. That was --

6 A Yeah.

7 Q Now, you told us earlier that your two oldest
8 brothers used to interact with Mr. McKay and with DOEs 1
9 and 2.

10 A Yeah.

11 Q Did your brothers ever raise any concerns about
12 Phoenix with you?

13 A Just my oldest brother.

14 Q And what did he tell you?

15 A That when they went to go and pick them up or, or
16 he was getting picked up by my uncle or something like
17 that, that he saw Phoenix sitting in the back seat and she
18 was covered in a blanket, and that he noticed that she had
19 a big bump or cut -- looked like a cut or a bump on her
20 forehead.

21 Q Do you recall when your brother told you this?

22 A Probably that summer.

23 Q And that's the summer of 2005?

24 A Yeah.

25 Q Did he tell you when exactly he witnessed it?

1 A No, he didn't.

2 Q Based on that information, did you ever consider
3 calling CFS, or did you share that information with anyone?

4 A No, he's never shared that information with
5 anyone other than me and my mom.

6 Q And -- sorry, but my question is did you ever
7 consider sharing that information with CFS or with --

8 A No.

9 Q -- anyone else? Did you know at the time you
10 made the call to CFS that Mr. McKay had a history with CFS?

11 A No.

12 Q Did you know that Samantha Kematch had a history
13 with CFS?

14 A No.

15 Q And did you know that Phoenix Sinclair had a
16 history with CFS?

17 A No.

18 Q Now, you told us that you moved into Ms. Kematch
19 and Mr. McKay's apartment, and if we could just clarify
20 that date again?

21 A In May of 2005.

22 Q Where did Ms. Kematch and Mr. McKay move to?

23 A Fisher River.

24 Q And did you help them move?

25 A No.

1 Q Did you ever ask them why they were moving?

2 A No.

3 Q So they never gave you any sort of explanation as
4 to why they were leaving Winnipeg and moving to Fisher
5 River?

6 A Not that I can remember right now.

7 Q Do you have any personal connection to Fisher
8 River?

9 A Yes.

10 Q And what is your connection?

11 A My grandpa used to live out there.

12 Q Does he still live out there?

13 A He passed away.

14 Q When Mr. McKay and Ms. Kematch were living in
15 Fisher River, were you still living in Winnipeg?

16 A Yes.

17 Q And did you ever visit Fisher River with Mr.
18 McKay and Ms. -- or did you ever visit Fisher River when
19 Mr. McKay and Ms. Kematch lived out there?

20 A No.

21 Q So you never visited their home.

22 A No.

23 Q Did you ever talk to Mr. McKay on the phone or on
24 the computer when he was in Fisher River?

25 A Yes.

1 Q And was that on the phone or on the computer?

2 A On the computer.

3 Q Did you ever use a webcam?

4 A Yes.

5 Q And when you talked to Mr. McKay, did you talk to
6 any other members of his family?

7 A Yes.

8 Q Which members of the family did you talk to?

9 A DOE 1.

10 Q And that was the only other member of the family
11 you talked to? You never talked to Ms. Kematch?

12 A No.

13 Q Did Phoenix ever come on the webcam?

14 A No.

15 Q Did you ever talk to anyone living in Fisher
16 River about Phoenix?

17 A No.

18 Q And you never heard anyone from Fisher River
19 mention Phoenix.

20 A No.

21 Q Did Mr. McKay and Ms. Kematch come back to
22 Winnipeg after they moved to Fisher River?

23 A Yes.

24 Q Do you recall when they first came back?

25 A I know they came back for a visit in August of

1 that summer. Like, August 2005. But they didn't move back
2 until the fall.

3 Q So that August 2005 visit, do you know why they
4 came back?

5 A No, I don't.

6 Q Did you see them when they returned?

7 A Yes.

8 Q Did they have Phoenix with them when they
9 returned?

10 A No.

11 Q Did they have any of their children with them?

12 A Yes.

13 Q Which children did they have?

14 A They had their baby.

15 Q Did they have either of the DOEs?

16 A No.

17 Q Did you ask them where Phoenix was?

18 A No. Not until they moved back.

19 Q So you told us that they moved back permanently
20 at some point.

21 A Yeah.

22 Q And the date of that was?

23 A In, in the fall some time.

24 Q In the fall of 2005?

25 A Yes.

1 Q Do you know why they moved back to Winnipeg from
2 Fisher River permanently?

3 A No, I don't.

4 Q So you never discussed that with them?

5 A I know that there was some issues with where they
6 were staying. Like, I knew that they were staying in my
7 cousin's house and she didn't want them living there
8 anymore.

9 Q And, sorry, which cousin was that?

10 A Alison Kakewash.

11 Q When they moved back to Winnipeg, did they move
12 back into their old apartment?

13 A No.

14 Q Where did they live?

15 A They moved in the same apartment building, but a
16 different apartment.

17 Q And was --

18 A And --

19 Q Would that be above or below your apartment that
20 you were living in?

21 A I wasn't living there anymore. And they were
22 living still on the main floor but in a different number.
23 I don't know what number it was.

24 Q Did you ask them where Phoenix was when they
25 moved back?

1 A Yes.

2 Q And what were you told?

3 A That she moved with her father in Ontario.

4 Q Did you know anything about Sam's family?

5 A No.

6 Q Did you know who Phoenix's biological father was?

7 A No.

8 Q In regards to Ms. Kematch telling you that
9 Phoenix was living with her dad in Ontario, did you ever
10 ask Sam if she missed Phoenix?

11 A Yes.

12 Q And what was her response?

13 A She said no, because she was a bad kid.

14 Q Did she specify any bad behaviour Phoenix had?

15 A No.

16 Q When Mr. McKay and Ms. Kematch moved back to
17 Winnipeg after being in Fisher River, you just told us that
18 you no longer lived in that apartment complex. Did you
19 have much contact with them?

20 A No, not really.

21 Q But you did see them after they moved back.

22 A Yeah.

23 Q Did you notice any changes in Mr. McKay or Ms.
24 Kematch?

25 A No. Just that she, she was pregnant again when

1 she moved back.

2 Q When they moved back and they didn't have Phoenix
3 with them and they told you that she was living with her
4 dad in Ontario, did you ever suspect that anything had
5 happened to Phoenix?

6 A No.

7 Q Did you ever hear any information about Child and
8 Family Services asking to see Phoenix after they -- after
9 Ms. Kematch and Mr. McKay moved back from Fisher River?

10 A Not until maybe about a week before they were
11 arrested.

12 Q And what did you hear at that time?

13 A That CFS was asking around for them, I guess.
14 Like, was asking about Phoenix. And then that they got --
15 they were asking to meet with Phoenix and they asked my
16 cousin to borrow her kid.

17 Q And you just told us this was right or -- right
18 before they were arrested.

19 A Yeah.

20 Q Do you remember the last time you actually saw
21 Phoenix?

22 A Just before they moved. I'm thinking probably
23 April.

24 Q How did you first find out about Phoenix's death?

25 A The day that they were arrested.

1 Q Did you find out through an individual?

2 A Through -- like, my mom and her sister phoned out
3 to Fisher River, and all they were saying was that they
4 were -- the RCMP were investigating the disappearance of
5 Phoenix. And, and then there was rumours that, that she
6 was already dead, and that she was dead inside that house,
7 but that was about it.

8 Q So at that time you knew that Phoenix was missing
9 and it was suspected that she was dead, but did you have
10 any -- when did you first find out that Phoenix actually
11 was deceased?

12 A When we heard a report that they were taking my
13 uncle out to the reserve to show where her body was buried.

14 Q And that was a news report?

15 A Yes.

16 Q How did you feel when you found out about
17 Phoenix's passing away?

18 A Shocked and ... Yeah, just really shocked. Sad.

19 Q Did you ever have any further contact with Mr.
20 McKay or Ms. Kematch after they were arrested for Phoenix's
21 murder?

22 A Just the phone call from my uncle.

23 Q He called you?

24 A Yeah.

25 Q Can you --

1 A He called my, my grandma's house, and he asked to
2 speak with me when I was there because I was there when he
3 phoned.

4 Q Do you know when this would have been, roughly?

5 A Probably just close to the trial.

6 Q And what did he tell you?

7 A He just asked me how I was doing, and then I just
8 told him that I was doing fine, that I didn't really want
9 to talk to him. And that was about it.

10 Q And just to confirm, you were interviewed and
11 gave a statement to the RCMP in 2006 and you did --

12 Sorry, could you please speak into the record?

13 A Yes.

14 Q And you did testify at the criminal trial.

15 A Yes.

16 MR. MASCARENHAS: Mr. Commissioner, those are all
17 my questions for the witness.

18 THE COMMISSIONER: Thank you, counsel.

19 Mr. Gindin, you're the -- falls to you, it seems,
20 to do the heavy lifting here. Do you want to adjourn for
21 lunch now or ...

22 MR. GINDIN: I can go either way.

23 THE COMMISSIONER: Are there -- others are going
24 to want to ask questions?

25 MR. PAUL: Yes, Your Honour.

1 THE COMMISSIONER: There are. All right. Well,
2 then I think we better adjourn till two o'clock and, and
3 have the cross-examination at that time.

4 MR. GINDIN: Thank you.

5

6 (LUNCHEON RECESS)

7

8 THE COMMISSIONER: All right, Mr. Gindin, please.

9 MR. GINDIN: Thank you.

10

11 CROSS-EXAMINATION BY MR. GINDIN:

12 Q Good afternoon. My name is Jeff Gindin. I
13 appear for Kim Edwards and Steve Sinclair, and I have some
14 questions for you.

15 Now, just prior to the break before lunch you
16 were asked some questions about the call that you had told
17 us you had made to CFS back in 2005. One of the questions
18 you were asked was whether you spoke to the RCMP and told
19 them about that call, and I think you said that that was
20 something they never asked you. Is that right?

21 A Yes.

22 Q And you told us as well that you did speak to one
23 of the Crown prosecutors, lawyers, before the trial. It
24 was a woman, I think you said?

25 A Not a prosecutor. I think she was either Sam or

1 my uncle's lawyer, I'm not sure.

2 Q I see. So it was a female lawyer?

3 A Yeah.

4 Q Whose name you don't remember --

5 A No.

6 Q -- is that right? And that person did ask you
7 about whether you made that call; is that right?

8 A Not that call specifically.

9 Q Or any call.

10 A Yeah.

11 Q And you told them that you did try and call CFS?

12 A I did try --

13 Q Yeah.

14 A -- to make a call.

15 Q So when you were specifically asked that, you did
16 tell them that, correct?

17 A Yes.

18 Q Now, these lawyers to my right, when they were
19 talking to you about the evidence that you would be giving
20 here, I presume they asked you about whether that call was
21 made. Did they?

22 A Yes.

23 Q Okay. And do you recall what your answer was at
24 that time?

25 A To which? If I made that call?

1 Q Yes.

2 A Yes.

3 Q And what did you, what did you answer at that
4 time?

5 A That, yes, I did try to make a call to CFS.

6 Q Were you asked whether you considered making a
7 call and you said that you did consider it?

8 A Yes.

9 Q And you're telling us now that you did tell
10 somebody that you at least tried to make that call.

11 A Yes.

12 Q Okay. Do you recall who that was, or which
13 lawyer that was that you advised?

14 A Like, what do you mean? Like ...

15 Q Was one of the lawyers here present?

16 A When we went on a break, I went to go talk to
17 them.

18 Q I see. No, I'm talking about way back when you
19 were first interviewed by some lawyer here.

20 THE COMMISSIONER: No, just, just wait. Just let
21 Mr. Gindin just finish this, and then I'll hear you.

22

23 BY MR. GINDIN:

24 Q Yeah, my question was, other than today, other --

25 A Yeah.

1 Q -- than today where you did talk about having
2 tried to make that call, were you asked the question
3 earlier on when you first became involved in the Inquiry as
4 to whether you made that call?

5 A No.

6 Q You weren't asked about that.

7 A Not in the -- not during the Inquiry, no.

8 Q Or any interviews outside of the Inquiry?

9 A Before the trial with those lawyers, that's --

10 Q That's it?

11 A -- when I was asked.

12 Q That's the only time.

13 A Yes.

14 Q All right. Now, you decided to try and contact
15 CFS, as you told us, based on a number of things that you
16 observed about Phoenix or the way she was treated, right?

17 A Yes.

18 Q So there clearly was a number of things that you
19 saw that bothered you.

20 A Yes.

21 Q You told us, for example, that on one particular
22 day -- I think you were talking about when you all went for
23 a sandwich and out to eat with Phoenix and Wes and
24 Samantha, that you noticed that Wes grabbed her roughly.

25 A Yes.

1 Q Right. So that was one thing that you noticed as
2 being improper, correct?

3 A Yes.

4 Q You were also asked some questions about whether
5 Samantha had been using drugs?

6 A Yes.

7 Q And I think you said that she smoked marihuana
8 and you saw her using crack cocaine.

9 A Yes.

10 Q Did you ever see her do that in front of Phoenix?

11 A No.

12 Q Or at least with Phoenix home?

13 A Not that I was aware of, no.

14 Q You can't tell us whether Phoenix was in the
15 bedroom during those episodes of drug taking?

16 A No.

17 Q You're not sure.

18 A I'm not sure.

19 Q You also told us that at some point Wes was
20 becoming a little more violent, more aggressive, and you
21 noticed that.

22 A Yes.

23 Q And you told us you thought that Phoenix was
24 being neglected, as well.

25 A Yes.

1 Q Especially after the other baby came along.

2 A Yes.

3 Q And you noticed a lock on the bedroom.

4 A Yes.

5 Q And that troubled you as well.

6 A Yes.

7 Q That's not something you've seen before.

8 A No.

9 Q And so these things clearly bothered you enough
10 for you to at least talk to some members of your family
11 about what was going on, and I think you spoke to Amanda
12 McKay?

13 A Yes.

14 Q As well as your mom?

15 A Yes.

16 Q And this would be, obviously, prior to you trying
17 to make that call, right?

18 A Yes, and after.

19 Q And after, as well. And you were living in
20 Winnipeg at this time, correct?

21 A Yes.

22 Q And was this on McGee?

23 A Yes.

24 Q Your mother, where would she be living?

25 A In Fort Alexander.

1 Q Okay. And did you communicate with her pretty
2 regularly?

3 A Yes.

4 Q Almost every day?

5 A No.

6 Q But certainly every week?

7 A Yeah.

8 Q And did you discuss with her some of your
9 concerns, on the telephone, when you spoke to her
10 sometimes?

11 A Yes.

12 Q Okay. So you came to the feeling that you wanted
13 to report the things that you had seen that you didn't
14 think were right, correct?

15 A Yes.

16 Q And I take it that wasn't easy to do, but you
17 made the decision it should be done, right?

18 A Yes.

19 Q Okay. And you have a clear memory that you were
20 in your apartment and you decided to make that call, right?

21 A Not a clear memory, but I'm pretty sure I was in
22 my apartment.

23 Q Okay. So what you mean is that there's a clear
24 memory of making the call, but you're not a hundred percent
25 sure where it was that you made it.

1 A Yeah.

2 Q Okay. I think you said that you used a landline
3 earlier. Am I right?

4 A Yes.

5 Q Are you certain that you used a landline and not,
6 perhaps, a cell phone?

7 A Yeah. I'm -- it could have been a landline.

8 Q Could have been a --

9 A Yeah.

10 Q -- cell phone, correct?

11 A Yeah.

12 Q Okay. That would be seven or eight years ago, so
13 it might be hard to recall whether you used a landline or a
14 cell phone, right?

15 A Yes.

16 Q Okay. Now, you told us that you went to the
17 phonebook and you looked up the number?

18 A Yes.

19 Q And do you remember what you were looking up?
20 Was it Winnipeg Child and Family Services, or what --

21 A Yeah, that's, that's what I was -- that was the
22 only CFS that I would know of, was Winnipeg Child and
23 Family Services.

24 Q Do you recall whether you actually found it in
25 the phonebook or went through information?

1 A I'm pretty sure I found it in the phonebook.

2 Q And then you made the call. And do you recall
3 whether it would be in the daytime or in the evening?

4 A Probably in the daytime.

5 Q So let's discuss the call that you made. A
6 receptionist, I think you said, answered the phone, as far
7 as you can tell.

8 A Yeah, because it was -- usually that's the first
9 person that answers the phone, right?

10 Q And do you recall whether it was a male or a
11 female?

12 A A female.

13 Q A female, okay. And you indicated to them that
14 you wanted to report something about a baby, Phoenix.

15 A Yeah.

16 Q A child, Phoenix.

17 A Yeah.

18 Q But you never got to give them the, the full
19 name.

20 A No.

21 Q Were you interrupted with some questions?

22 A No, I never knew her full name.

23 Q Oh, so you just knew her as Phoenix.

24 A Yes.

25 Q And when they asked you how old you were, you

1 said 17.

2 A Yes.

3 Q Okay. You were living by yourself at that time?

4 A Right.

5 Q Were you working at that time or were you --

6 A I was going to school.

7 Q You were going to school. You were a student at
8 the University of --

9 A No, I was going --

10 Q Or --

11 A -- to school at high school.

12 Q High school. So what, what grade were you in?
13 Do you recall?

14 A I was in grade 12.

15 Q Okay. So you're in grade 12, you're living by
16 yourself in your own apartment, right?

17 A Yes.

18 Q On McGee.

19 A Yes.

20 Q And whoever answered the phone told you that
21 because of your age, they wouldn't take the call from you.
22 Is that the way it went?

23 A No, she said that I would need a parent or a
24 guardian --

25 Q So --

1 A -- to, to call, to call in, or something like
2 that.

3 Q So the suggestion was that essentially you call
4 back with a parent or guardian.

5 A Yes.

6 Q And then they would take the information, right?

7 A Yes, I guess.

8 Q But they never asked you about why you were
9 calling, exactly, or what you observed. Am I right?

10 A Yes.

11 Q So the first and only question they asked was how
12 old you were.

13 A No. She wanted to take my information first.

14 Q Um-hum.

15 A And then she -- I told her, like, no, but I told
16 her my first name. And I -- like, all I said was, like --
17 something like I told her my first name and then I told her
18 that I was calling regarding Phoenix, who's my uncle's
19 stepdaughter. Something like that, along those lines. I
20 don't remember exactly the words that I said. And then
21 that's when she asked me, well, how old, how old I was, and
22 that was when I told her I was 17.

23 Q So once you told her your age --

24 A Right.

25 Q -- the person on the phone did not ask you more

1 questions about what it was you saw or why you called.

2 A Yes.

3 Q What they told you was that you had to call back,
4 if you wanted to report this, with a parent or guardian.

5 A Along those lines, yes.

6 Q Now, you obviously thought that -- based on a
7 number of things that you saw, that you were going to call
8 CFS and try and report what you observed, correct?

9 A Yeah, sort of.

10 Q Okay. Well, you did try to make that call,
11 correct?

12 A Yes.

13 Q The obvious question I have is, why wouldn't you
14 call back with a parent or guardian or, or at least have a
15 parent or guardian call for you, now that you know that's
16 what they would prefer?

17 A I didn't really want to, like, talk to anybody to
18 do it and I also didn't want to butt into their own
19 business, you know, like -- that's the way I felt at the
20 time (inaudible).

21 Q So you didn't want to impose on other adults or
22 other people to make the call that you were trying to make.
23 Is that --

24 A Yeah.

25 Q -- what you're saying? Did you discuss that with

1 your mother at all, in fact?

2 A I didn't, I didn't discuss the call, no.

3 Q Did you discuss the call that you are telling us
4 about with anyone?

5 A No. Not until later on, like, after --

6 Q Yeah.

7 A -- the whole thing happened with Phoenix.

8 Q And then you told some people that you had tried
9 to make this call, right?

10 A Yes.

11 Q And, and who did you tell?

12 A Just amongst conversation with my cousin, with my
13 cousin Amanda, and with my mom.

14 Q Okay. So would it be fair to say that you found
15 it somewhat difficult to make that call in the first
16 place --

17 A Yes.

18 Q -- because it concerned family.

19 A Yes.

20 Q Right? And then it was more difficult for you to
21 try and repeat that by telling other people about the call;
22 is that right?

23 A Trying to repeat what?

24 Q I'm saying it was even more difficult to repeat
25 the call that you had made by getting other people involved

1 and telling them about it.

2 A Yes.

3 Q So that's the reason you never made the call
4 again with any other parent or guardian.

5 A Yes.

6 Q Is that a fair description of how you were
7 feeling?

8 A Yes.

9 Q All right. And in terms of what led you to make
10 the call, I think you told us that on at least two
11 occasions you noticed bruising on Phoenix's face?

12 A Yes.

13 Q And you asked about it?

14 A Yes.

15 Q I think you said asked Wes, did you say?

16 A Yeah.

17 Q And did you ask Samantha as well?

18 A She was present, yeah, when I asked.

19 Q And you also asked Phoenix directly when you had
20 a chance.

21 A Yes.

22 Q And you didn't really believe the answers you
23 got.

24 A No.

25 Q Which is one of the reasons you made the call

1 there, right?

2 A Yes.

3 Q In terms of who, who you discussed this with, the
4 things you observed about Phoenix and what was going on, we
5 know that you talked to Amanda McKay at some point?

6 A Yeah.

7 Q More than once or ...

8 A Yeah.

9 Q We're talking about a time period prior to you
10 making this call. Is that right?

11 A Talking about the call?

12 Q We're talking about what you saw and the fact
13 that it bothered you --

14 A Oh, yeah.

15 Q -- and should we do something --

16 A Yeah, I talked about it with my cousin.

17 Q With Amanda. This would be before you actually
18 made the call, of course.

19 A Yes.

20 Q And I think you indicated that even afterwards.

21 A Yes.

22 Q Okay. And aside from Amanda, you did mention it
23 to your mother.

24 A Yes.

25 Q Is that right? On more than one occasion?

1 A About what I --

2 Q About --

3 A -- saw in Phoenix?

4 Q Yeah, exactly.

5 A Yes.

6 Q The things you observed.

7 A Yeah.

8 Q Things that were bothering you.

9 A Yes.

10 Q You did mention that to your mother a couple of
11 times.

12 A Yes.

13 Q That's before you made the call.

14 A Yes.

15 Q And also after.

16 A Yes.

17 Q Anyone else that you felt the need to talk about
18 what you had observed?

19 A Just them, I guess.

20 Q Okay. Now, you understand, of course, that when
21 you're testifying here you're under oath, right?

22 A Yes.

23 Q That means that you've sworn to tell the truth.

24 A Yes.

25 Q And what you're telling us under oath is that you

1 made that call to CFS.

2 A Yes.

3 MR. GINDIN: Okay. Thank you.

4 THE COMMISSIONER: Thank you, Mr. Gindin.

5 Mr. Paul?

6 MR. PAUL: Good afternoon, Mr. Commissioner.

7

8 CROSS-EXAMINATION BY MR. PAUL:

9 Q Witness, my name is Sasha Paul. I'm one of the
10 lawyers for Winnipeg Child and Family Services, as well as
11 the department, and I have just a couple of questions for
12 you.

13 I'm going to do my best to try and understand, to
14 begin with, the family that you're in. You mentioned that
15 you had some brothers, previously; is that correct?

16 A Yes.

17 Q And what are your brothers' names?

18 A Jeremy and Johnny.

19 Q And Johnny, last name?

20 A Kakewash.

21 Q Kakewash, okay. So both the same last name,
22 right?

23 A No.

24 Q Well, give me their full names.

25 A Jeremy Steven Roulette.

1 Q Um-hum.

2 A And Jonathen Edward Lee Ivan Kakewash.

3 Q And those are the two brothers you spoke about
4 previously.

5 A Yes.

6 Q Okay. And you've also mentioned Ashley Roulette.
7 And again, what is she to you?

8 A She's my cousin.

9 Q She's your cousin, okay. And how often do you
10 see Ashley? Talking presently.

11 A Presently?

12 Q Yeah.

13 A Not that often.

14 Q No. Don't communicate over --

15 A Don't really communicate at all, no.

16 Q Okay. Did you happen to see her today?

17 A Yes.

18 Q I want to see if I can understand, again, some
19 timelines now. I was a bit fuzzy in terms of trying to
20 understand timelines from your evidence. It'd be fair to
21 say from the outset that when you're talking about dates
22 and times today, you are reaching back into your memory and
23 doing your best, correct?

24 A Yes.

25 Q Right. And so when you do that, sometimes you

1 may not be a hundred percent accurate as to the times and
2 dates that you may have.

3 A Yes.

4 Q Possible, right? My understanding of your
5 evidence is that, essentially -- if I can look at the time
6 period between, say, May '04 and November '04, my
7 understanding of your evidence is that you first see
8 Phoenix in and around May of 2004; would that be correct?

9 A Yes.

10 Q Okay. And generally, from my understanding of
11 your criminal transcript and my understanding of your RCMP
12 report, is that from this period -- May to the end of
13 November -- your view is that Phoenix is generally happy.

14 A Yeah.

15 Q Okay. And I think, based upon my review of the,
16 of the transcripts, Phoenix was smiling all the time, I
17 think I what you told.

18 A Not all of the time.

19 Q Um-hum. But generally happy.

20 A Yes.

21 Q And, of course, during this time you actually are
22 babysitting Phoenix, as I understand it.

23 A A few times, yes.

24 Q A few times, right. And as I understand your
25 evidence, then, I think things start to change in the end

1 of November, early December, when the baby is born.

2 A Yes. Even before the baby was born.

3 Q Okay. But sort of the latter half of November.

4 Like, I'm --

5 A Yes.

6 Q -- trying to get the time -- okay. And my
7 understanding is that you actually observed Phoenix in and
8 around Christmas of 2004; is that correct?

9 A Yes.

10 Q And my understanding of what, of what you told
11 the court in the criminal trial is that Phoenix didn't to
12 be -- didn't appear to be hurt that time when you saw her
13 during the Christmas break. Would that be correct?

14 A Yes.

15 Q Right. And I think your evidence there was --
16 and I think your evidence today would be that during this
17 time you see Phoenix get a gift and she was happy.

18 A From us.

19 Q Right. And she was happy to get that gift.

20 A Yes.

21 Q Right. And again, my understanding of your RCMP
22 statement is that it's just after New Year's that you
23 notice Phoenix Sinclair with a black eye, correct?

24 A Yes.

25 Q And my understanding was that this was something

1 you followed up on, first by talking to Wes McKay about it.
2 Am I correct in that?

3 A Yeah, I just asked him.

4 Q Right. And McKay told you that Phoenix had hurt
5 herself.

6 A Yes.

7 Q Right. But you would agree with me that this was
8 still something that you wanted to follow up on your own.
9 Correct?

10 A Yes.

11 Q In fact, what you did was you actually asked
12 Phoenix about it when you were babysitting her.

13 A Yes. Well, I wasn't really the one that was
14 watching her. My cousin was.

15 Q But you actually had an opportunity to speak to
16 Phoenix about this directly, correct?

17 A Yes.

18 Q Right. And when you asked Phoenix about it, my
19 understanding was that Samantha Kematch wasn't there.

20 A Yes.

21 Q You're agreeing with me.

22 A Yes.

23 Q Right. And, of course, your uncle McKay wasn't
24 there, either.

25 A Yes.

1 Q Right. And my understanding was that this
2 conversation took place in your apartment.

3 A No.

4 Q Where did it take place?

5 A In Amanda's --

6 Q Oh, my apologies.

7 A -- (inaudible).

8 Q Amanda ...

9 A McKay's apartment.

10 Q McKay's apartment.

11 A We lived in -- all in the same apartment
12 building.

13 Q I apologize, I get the McKay McGee address mixed
14 up. But it's your cousin Amanda's apartment that you have
15 this opportunity to speak to Phoenix about the bruise on
16 her face.

17 A Yes.

18 Q And my understanding is when you asked Phoenix
19 about this, Phoenix tells you that she hurt herself.

20 A Yes.

21 Q Right? And my understanding of your criminal
22 trial transcript was that after talking with Amanda, you
23 didn't think anything further about the bruise on the eye;
24 is that correct?

25 A Yes.

1 Q And, in fact, as I, as I look over your
2 transcript, you talk to Amanda -- and I, and I think the
3 words you said here was, So then after that we just kind of
4 dropped it. So you dropped the issue thereafter.

5 A Yes.

6 Q Right. And this is the bruise that you saw
7 during the January period in 2005, correct?

8 A Yes.

9 Q Right. And so my understanding of your evidence
10 is that you continue to have some contact with Phoenix
11 Sinclair over February and March.

12 A Yes.

13 Q Right? And, of course, my understanding -- and
14 if I can get back to the question that was asked previously
15 -- you speak about an effort to pick up Phoenix Sinclair
16 from Brownies, was it, as I understand your evidence?

17 A No, I was trying to pick her up from Sam and
18 Wesley's apartment, they were living in number one, to --

19 Q Okay --

20 A -- take her to the Brownies.

21 Q Okay, that's where I heard the Brownies. So
22 again, there was, there was a time, as I understand your
23 evidence, then, that you wanted to take Phoenix to the
24 Brownies program.

25 A Yes.

1 Q Right. And where was that Brownies program?

2 A Indian Métis Friendship Centre.

3 Q Okay. And when was this effort? When did you
4 say, All right, I'm going to take Phoenix to the Brownies
5 program? When did that happen?

6 A I don't know. I would say, like, around April or
7 May. Like, it was around the spring time anyways, I know
8 that.

9 Q Spring time. And you think April or May.

10 A Yeah.

11 Q All right. And again, if I can get the, the
12 sequencing correct ...

13 How I put it this way: Are you able to say, in
14 April or May, whether or not the front half of April, the
15 back half of April, or May --

16 A The back, the back half of April.

17 Q Back half, okay. And in terms of this call you
18 were speaking about to CFS -- and again, I'm, I'm trying to
19 understand the evidence that you gave -- when, in relation,
20 did you say that you made this call? Was it immediately
21 thereafter?

22 A No.

23 Q Okay, how long?

24 A Probably, like, couple weeks.

25 Q Couple weeks. So you're -- now you're talking

1 either May or June.

2 A No, probably, like, May. I don't know.
3 Somewhere around that time frame. It wasn't that long
4 after. I don't really remember when.

5 Q Okay. And again, my understanding of your
6 evidence was the sole reason you were deciding to, to make
7 this effort to call was because you hadn't seen Phoenix in
8 a while.

9 A Yes.

10 Q Is that correct?

11 A Yes.

12 Q Right. And then the issue that you saw about
13 bruises, that wasn't why you were calling.

14 A No, but it came to mind to maybe try and call
15 because I seen it before.

16 Q Um-hum. But definitely, you would agree with me
17 that you didn't make a call to CFS in January when you saw
18 the bruise.

19 A I didn't make a call.

20 Q You did not, right. And, in fact, you didn't
21 make a call to CFS when your effort to take Phoenix
22 Sinclair to the Brownies -- that failed. You didn't make
23 the call that day, either. You waited some time.

24 A No, I didn't.

25 Q You waited some time.

1 A Yes.

2 Q Right, okay.

3 MR. PAUL: If we could pull up Exhibit 7?

4

5 BY MR. PAUL:

6 Q We heard some evidence -- and you'll see it on
7 the screen in a second -- from another witness who's known
8 as source of referral number 6, that she took this picture
9 on March 18, 2005. Do you see that?

10 Do you see that?

11 A Yes.

12 Q Right. And again, source of referral 6's
13 evidence was that she took that picture on March 18, 2005.
14 And so my question to you is, that would be generally how
15 Phoenix looked at that time, correct?

16 A Yes.

17 Q Right. And the evidence that we heard source of
18 referral number 6 give to the Commissioner was that on that
19 day, on March 18th, Phoenix walked a kilometre on her own
20 from one place to another -- she walked a kilometre -- and
21 you wouldn't be in a position to disagree with that
22 evidence, would you?

23 A I wouldn't know.

24 Q Fair enough. And source of referral number 6's
25 evidence to this Commissioner was that at this point she

1 didn't see any signs of physical abuse on Phoenix. And you
2 wouldn't be in a position to disagree with that evidence,
3 either.

4 A What's that?

5 Q You wouldn't be in a position to disagree with
6 source of referral number 6 when she says she didn't see
7 any signs of physical abuse on March 18th.

8 A I wouldn't be in disagreement?

9 Q Yeah, you wouldn't be able to say.

10 A I wouldn't be able to say.

11 Q Right. Sorry, if I can double back, I think you
12 said to me earlier that you, you saw Ashley Roulette today?

13 A Yes.

14 Q Did you talk about her experience in this Inquiry
15 today?

16 A No, I didn't.

17 Q No? When we get back to your call to CFS, as I
18 understand it, in May or so of 2005, your evidence then is
19 that you make a call and the person on the line, I think
20 you said, is a receptionist.

21 A Yes.

22 Q Right. And I think in, in response to questions
23 put by my friend, Mr. Gindin, I think you said usually it's
24 a receptionist. And I was curious about the term
25 "usually." Have you called CFS before on other matters?

1 A No, I didn't.

2 Q This was the first time?

3 A Yes.

4 Q Okay.

5 A I'm just referring, like, as all organizations
6 have a receptionist --

7 Q Um-hum.

8 A -- even just people who work on their own, they
9 have a receptionist, right?

10 Q Okay. So you're, you're assuming it's a
11 receptionist.

12 A Yes.

13 Q Right. And you wouldn't have -- are you able to
14 say either way whether or not your call was transferred at
15 all?

16 A No.

17 Q No. And again, this person that you're speaking
18 to, your evidence then is, that they want you to call back
19 with a parent or guardian. I -- is that your evidence?

20 A I didn't say they wanted me to call back. They
21 said --

22 Q Let --

23 A -- that I would need a parent or a guardian.

24 Q Um-hum. That in order for them to actually take
25 your call, they needed you to have a parent or guardian

1 with you when you had that -- when you, when you made a
2 call to CFS.

3 A I'm not sure if that's what they said, but I know
4 that's what they told me, was that I needed a parent or a
5 guardian.

6 Q Your impression after you hung up that phone was
7 that in order for CFS to talk to you, they needed you to
8 have a parent or guardian with you. That's what --

9 A I don't know if that was my impression. Like,
10 really, I -- like, I just, I just dropped it there. I was
11 just, like, okay, like, whatever, then, at the time.

12 Q And if I were to suggest to you that Winnipeg CFS
13 takes calls from people regardless of your -- of their age,
14 would you be able to comment on that?

15 A No, I wouldn't.

16 Q And if I were to suggest to you that, in fact,
17 Winnipeg CFS would take a call from someone under the age
18 of 18, would you disagree with that?

19 A No, I wouldn't, because --

20 Q In --

21 A -- that's in your, in your guidelines, right?

22 Q And if I were to suggest to you that there's no
23 requirement that a person have a parent or guardian when
24 they call CFS, would you be in a position to disagree with
25 that?

1 A No, because you're telling me now.

2 Q Okay. You wouldn't be able to say either way.

3 A I wouldn't be able to say either way.

4 Q Okay.

5 A Because you're letting me know right now.

6 MR. PAUL: Fair enough. If I can have a moment,
7 Mr. Commissioner?

8 THE COMMISSIONER: Certainly. Certainly.

9 MR. PAUL: One final question. In order to be
10 fair to the witness, I want to put this up, page 2107.

11

12 BY MR. PAUL:

13 Q This is a portion of your criminal transcript
14 when you were being cross-examined by a lawyer by the last
15 name of Inness. And one of the questions that was put to
16 you, at line 12, was:

17

18 "And, Ms. Bruce, had you seen
19 anything that you thought might
20 have been some form of abuse or
21 concerning enough behaviour, no
22 doubt you would have reported that
23 to somebody out of a concern for
24 Phoenix.

25 "A Yeah. Probably if I

1 seen [something] really huge like
2 problem, like if I seen something
3 like really bad, like scarring or
4 bruises, then yeah, I probably
5 would have reported it."

6

7 You recall giving that -- hearing that question,
8 giving that answer?

9 A Yes.

10 Q And that's the evidence that you gave to the
11 criminal trial a number of years back, in 2008. Yes?

12 A Yes.

13 Q And I'm going to suggest to you that you actually
14 never did call CFS at any time because you never had a
15 concern big enough to warrant you to call. Would you agree
16 with that?

17 A I did, did try to call, though. Like, it wasn't
18 -- it was just to try and call them.

19 MR. PAUL: Mr. Commissioner, those are my
20 questions.

21 THE COMMISSIONER: What page of the transcript is
22 that?

23 MR. PAUL: 2107.

24 THE COMMISSIONER: Oh, that's the page of the
25 transcript.

1 MR. PAUL: Yes. Sorry, that's the Commission
2 disclosure page.

3 THE COMMISSIONER: Yes --

4 MR. PAUL: The page of the transcript's page 117.

5 THE COMMISSIONER: Oh, okay.

6 MR. PAUL: Thank you.

7 THE WITNESS: You're welcome.

8 THE COMMISSIONER: Are anyone else -- yes?

9 MR. MASCARENHAS: I just have a brief
10 re-examination, Mr. Commissioner.

11 THE COMMISSIONER: No, but are there any other
12 counsel? All right, hearing none --

13 UNIDENTIFIED PERSON: No questions.

14 THE COMMISSIONER: -- go ahead.

15 UNIDENTIFIED PERSON: No.

16 THE COMMISSIONER: Mr. Mascarenhas, you go ahead.

17 MR. MASCARENHAS: Thank you.

18

19 RE-EXAMINATION BY MR. MASCARENHAS:

20 Q Ms. Bruce, I just wanted to confirm that your
21 understanding of the reason that CFS did not accept your
22 referral when you called was because you were under the age
23 of 18?

24 A Yes.

25 Q And did they actually tell you that on the phone?

1 A No.

2 Q So how did you come to that understanding?

3 A That -- well, I guess because I was 17, and then
4 that's when they said parent or guardian, and usually when
5 it's 18 and I came to that assumption.

6 Q And I also just wanted to confirm that at the
7 time you called, you were living on your own?

8 A Yes.

9 Q And your mother was in Fort Alexander, I believe
10 you stated, at the time?

11 A Yes.

12 MR. MASCARENHAS: Thank you. Those are all my
13 questions.

14 THE COMMISSIONER: All right, Witness, you're
15 finished, and thank you very much for --

16 THE WITNESS: Thank you.

17 THE COMMISSIONER: -- your attendance here.

18

19 (WITNESS EXCUSED)

20

21 THE COMMISSIONER: All right. Next witness?

22 MR. MASCARENHAS: Yes, Mr. Commissioner.

23 MS. WALSH: Mr. Commissioner, might I have a
24 five-minute break before we call our next witness?

25 THE COMMISSIONER: Yes.

1 MS. WALSH: Thank you.

2 THE COMMISSIONER: All right. We will adjourn
3 for five minutes.

4

5 (BRIEF RECESS)

6

7 THE COMMISSIONER: Ms. Walsh?

8 MS. WALSH: Thank you, Mr. Commissioner. We
9 could have Mr. Wiebe sworn or -- what he prefers.

10 THE CLERK: Sir, if you could just stand for a
11 moment. Is it your, your choice to swear on the Bible or
12 affirm without the Bible?

13 THE WITNESS: I'd like to affirm.

14 THE CLERK: All right. State your full name for
15 the court, then.

16 THE WITNESS: Grant Wiebe.

17 THE CLERK: And spell me your first name.

18 THE WITNESS: G-R-A-N-T.

19 THE CLERK: And your last name.

20 THE WITNESS: W-I-E-B-E.

21

22 **GRANT WIEBE**, affirmed, testified

23 as follows:

24

25 MS. WALSH: Now, does the witness have the key to

1 the DOEs? I think it might be on your --

2 THE CLERK: Yeah, it's right under the --

3 MS. WALSH: -- desk.

4 THE CLERK: -- Bible, actually.

5 MS. WALSH: Yes.

6 THE CLERK: Right here.

7 THE WITNESS: Thank you.

8

9 DIRECT EXAMINATION BY MS. WALSH:

10 Q Mr. Wiebe, there are three witnesses about whom
11 we are referring as DOEs 1, 2, and 3, rather than
12 identifying their actual names, and the --

13 A Okay.

14 Q -- key to who those witnesses are is in front of
15 you. And to the best of, of your and my ability, that's
16 how we'll refer to them.

17 A Okay.

18 Q Thank you. You are employed with Macdonald Youth
19 Services?

20 A That's correct.

21 THE COMMISSIONER: With who?

22 MS. WALSH: Macdonald Youth Services.

23 THE COMMISSIONER: Thank you.

24

25 BY MS. WALSH:

1 Q You've been employed there since 1998?

2 A That's right.

3 Q What is Macdonald Youth Services?

4 A It's a large non-for-profit agency. The portion
5 of the agency that I work for is the youth crisis
6 stabilization system. Would you like me to describe the
7 system?

8 Q Please.

9 A It's a cooperation between four agencies within
10 the city, including Ma Mawi Wi Chi Itata, Marymount,
11 Neecheewam, and Macdonald Youth Services, and we provide a
12 voluntary service in which young people and their families
13 contact our intake line in times of crisis.

14 We have an intake worker that will take their
15 information, attempt to assist them with any kind of
16 outside resources that may be helpful to them. Our intake
17 worker will also try and resolve the crisis at hand when
18 they contact our intake line. The intake worker also has
19 multiple resources available to them, including our youth
20 education service.

21 Our youth education service consists of teachers
22 and TAs that work directly with young people and their
23 school personnel in an effort to stabilize their school
24 placement.

25 We also have home-based crisis intervention

1 service. We have youth care workers that will go right
2 into the home, provide respite for young people. Also
3 provide structured activities for young people in the
4 community.

5 The intake worker also has the availability of a
6 mobile team, and we have mobile teams that are available 20
7 hours a day, 365 days a year. We have a mental health
8 worker and a crisis worker that will attend the home in an
9 effort to further stabilize the crisis. Our mobile crisis
10 team have access to all the resources that I've described
11 already, plus our mobile team can also make a referral to
12 the brief therapy team, and I'm a therapist with that
13 therapy team.

14 Q So describe what your role, then, is as a
15 therapist.

16 A I will follow up on referrals from our mobile
17 team. I can also get referrals from our educational
18 service and also from our clinical follow-up facilitator
19 who discharges young people from our crisis stabilization
20 unit. I offer six to eight sessions of therapeutic follow-
21 up for families that I work with, again in an effort to
22 further stabilize the crisis at hand.

23 Q Is this type of work work that you did in 2005
24 and 2006?

25 A That's correct.

1 Q And you're still doing it.

2 A That's right.

3 THE COMMISSIONER: As a matter of interest, how,
4 how are you funded?

5 THE WITNESS: We're funded right now through
6 Family Services and Labour.

7 THE COMMISSIONER: It sounds like such a
8 worthwhile program that it was of interest to me. Thank
9 you.

10

11 BY MS. WALSH:

12 Q You also receive donations from the public?

13 A Generally, most of our funding is from Family
14 Services and Labour. We also will accept -- Macdonald
15 Youth Services will accept donations, certainly.

16 Q In your role as a therapist, you meet, then, with
17 children, adolescents, or parents?

18 A All of the above.

19 Q Okay. And that was true in 2005, 2006?

20 A That's correct.

21 Q Your job description hasn't changed since that
22 time?

23 A That's correct.

24 Q Do you keep records of meetings with children
25 and, and parents?

1 A Yes.

2 Q What form of records?

3 A It would be a dictated record, so it would be a
4 typed record. I have a program in which I speak and it
5 types, and I usually dictate my notes after meeting with
6 young people or with families.

7 Q Did you have use of that program in 2005?

8 A That's correct.

9 Q In your role as a therapist, do you also work
10 with child welfare agencies?

11 A Certainly.

12 Q Under what circumstances? Can you give us some
13 examples?

14 A Sure. I would say probably at any given time
15 perhaps 10 to 20 percent of my caseload would involve
16 families working with the agency. If the agency is
17 providing supports such as in-home supports, I'd like to be
18 able to collaborate with those services, so I'd like to
19 speak with the social worker about what kind of focus they
20 have in terms of services they're providing for the family,
21 and make sure that I'm aware of that. Not duplicating or
22 confusing services, but try and work in a collaborative
23 nature.

24 Q When you do that, do you have to seek permission
25 from the family?

1 A Yes, I do.

2 Q And typically is a family happy to give you that
3 permission to speak with CFS?

4 A I would say generally. Sometimes that's not the
5 case, but generally families are aware that I'm working in
6 their best interests, they trust the reasons that I want to
7 contact the agency, and they are okay with signing a
8 release of information.

9 Q Do you think the family sees you as their
10 advocate?

11 A Very much so.

12 Q Would you describe the, the work that Macdonald
13 Youth Services does as being preventative in the sense of
14 preventing a family from having ongoing protection
15 involvement with the child welfare system?

16 A Yes, certainly. I think if we can stabilize a
17 crisis before it escalates to the point of child welfare
18 concerns, then we're doing our job.

19 Q So I want to take you now to the specific
20 involvement you had with the witnesses, DOEs 1 and 3.

21 A Okay.

22 Q I understand that DOEs 1 and 3 were clients of
23 yours at one point.

24 A That's correct.

25 Q Do you recall how you became involved with them

1 initially?

2 A It was in, I believe, October of '05 that the
3 mother had contacted our intake and requested some school
4 supports. Our educational service was offered at that time
5 and was accepted by the mother. The following day, our
6 mobile team was called out to sit with the family as well.
7 That same month, approximately two weeks later, the
8 educational service asked me to get involved with the
9 family. So it was a series of different aspects of our
10 program that became involved in October and eventually led
11 to a referral to myself.

12 Q That process that you've described, is that a
13 typical process for involvement with a family?

14 A Fairly typical. Majority of our referrals we get
15 directly from the mobile crisis team. In this instance, it
16 came through the educational service, but a fairly typical
17 process.

18 MS. WALSH: If we can turn to page 37980?
19 Actually, let's go to 37981, please.

20

21 BY MS. WALSH:

22 Q Now, I don't know, did you bring something up
23 with you or did your counsel put some documents on the
24 table for you?

25 A Yeah, my lawyer put together the Commission

1 disclosure documents.

2 Q Okay. Now, I'm not sure if what your counsel has
3 given you has all of the redactions in terms of referring
4 to witnesses as DOEs, just as a caution.

5 A Okay, thank you.

6 Q You can also follow along on the, on the screen
7 in front of you, but --

8 A Okay.

9 Q But whatever you're comfortable with.

10 A Right.

11 Q This document that's in front of you, YECSS
12 Contact Record, what is this?

13 A This would be a documentation indicating any type
14 of contact with clients or outside professional services.

15 Q So a form of log?

16 A Correct.

17 Q What does YECSS stand for?

18 A Youth Crisis Stabilization System. Pardon me, at
19 the time it was the Youth Emergency Crisis Stabilization
20 System. We took "emergency" out of our title.

21 A Okay. The client is identified as --

22 THE COMMISSIONER: Youth Emergency Crisis what?

23 THE WITNESS: Stabilization System.

24 THE COMMISSIONER: All right.

25

1 BY MS. WALSH:

2 Q The client is identified as DOE number 1, the
3 child. In terms of the order of this document, it was --
4 somehow made its way into our disclosure out of order
5 chronologically, but the correct order should be --

6 MS. WALSH: If we can bring these up.

7

8 BY MS. WALSH:

9 Q -- page 37981, 37982, and then 37980, and that
10 shows the correct chronology. The three-page document then
11 lists -- if we go back to page 37981, it lists a number of
12 contacts with the client, DOE number 1, and his mother on
13 the dates listed, and then the type of contact. Is that
14 how the document reads?

15 A Yes.

16 Q The date of the contact and the nature of the
17 contact.

18 A There's another sheet that would be progress
19 notes that would elaborate a little bit more on the nature
20 of the contact.

21 Q And we'll, we'll come to that --

22 A Okay.

23 Q -- in a minute, thank you. This shows that the
24 very first contact with this family was February 17, 2005?

25 A I believe that is '02, so I think that would be

1 May 17th, '02.

2 Q Well, if you look at the next contact --

3 THE COMMISSIONER: Now, just --

4 MS. WALSH: -- we're into March '05.

5 THE COMMISSIONER: Does this, does this file
6 relate to one family or ...

7 THE WITNESS: Yes, this is one file on one
8 family.

9

10 BY MS. WALSH:

11 Q This is all with respect to the client identified
12 DOE number 1?

13 A That's right.

14 Q I think if you, if you look at the document, it
15 starts in February and then proceeds through March?

16 A Yeah.

17 Q Starts in '05?

18 A Unfortunately, I think those dates are turned
19 around. We first saw DOE 1 when he was age nine.

20 Q Ah, okay.

21 A Or we had contact from the mother when --

22 Q Okay. So the --

23 A -- he was age nine.

24 Q -- the very first contact was in '02, then?

25 A I believe so.

1 Q Okay. And there were two of those contacts?

2 A Yes.

3 Q And then the next time you had contact was in
4 March of '05?

5 A Yes, there was a phone call to our intake, yes.

6 Q Okay. And then proceeding through October,
7 chronologically ...

8 MS. WALSH: If we can just scroll down and
9 through the next three pages, please -- and we'll come back
10 to some of the specifics -- through to '06.

11 Just a little slower.

12

13 BY MS. WALSH:

14 Q March of '06.

15 A That's right.

16 Q And it keeps going. March '06, and on the last
17 -- that's the last page, is --

18 MS. WALSH: If we can go to page 37980?

19

20 BY MS. WALSH:

21 Q That's the last -- oh, if we can just go to the
22 bottom, goes all the way through March of '06, and the very
23 last contact is March 9, '09.

24 A Correct.

25 Q Now, beginning -- if we go back to page 37981,

1 there is a contact recorded November 22nd, 2005. You see
2 that?

3 A Yes.

4 Q And what have you written as to the nature of the
5 contact?

6 A That was my initial meeting with the DOE family.

7 Q So that included DOE number 1 and his mother, DOE
8 number 3?

9 A That's correct.

10 Q Now, as you said, there are -- there's a more
11 detailed document that evidences that meeting.

12 MS. WALSH: If we can go to page 37990?

13 THE COMMISSIONER: Three-seven-nine?

14 MS. WALSH: Nine-o.

15 THE COMMISSIONER: Yes.

16

17 BY MS. WALSH:

18 Q What is this document?

19 A This is a discharge summary. So this would be
20 summarizing my involvement before I close a file.

21 Q So if you can just walk us through and show us
22 what it says?

23 A Sure. It's indicating the first session --

24 Q Now, again --

25 A -- date of the first --

1 Q Just -- sorry, to -- just to interrupt you.

2 A Sure.

3 Q But the name of -- it's referring to the client
4 as DOE number 1, the child.

5 A Correct.

6 Q Okay. Proceed.

7 A And my name is there as the therapist, and I'm
8 writing this document or filling out this document. It
9 indicates the first session, which would be November 22nd
10 of '05, but it's also the last session.

11 MS. WALSH: Mr. Commissioner, do you have --

12 THE COMMISSIONER: Yeah.

13 MS. WALSH: Are you following with the document?

14 THE COMMISSIONER: Yes.

15 MS. WALSH: You've got it?

16 THE COMMISSIONER: Yes.

17 MS. WALSH: Okay, good.

18

19 BY MS. WALSH:

20 Q The -- all right, thank you.

21 A It's -- the next line is the date of the
22 referring intake, so that was October 25th when I first
23 received the referral. Picked up the referral the
24 following day. Pardon me, referring intake, October 25th;
25 I picked up the referral October 26, and then my initial

1 contact with the family was October 26 of '05.

2 Q Okay.

3 A And I closed the file on December 23rd of '05.
4 Had scheduled two sessions. One was attended.

5 Q And that's the one on November 22nd?

6 A That's right. And --

7 Q 2005.

8 A Correct. And then two consults following that.

9 The focus of intervention, the section below
10 that, is a checklist of what the initial focus was, and the
11 primary focus, indicated by a P, which is parent/child
12 conflict. Also checked off is school performance,
13 caregiver unable to cope, and mental health/psychiatric
14 issues.

15 Supports already in existence is indicating what
16 supports are available when we initially contact the
17 family, and that was a school counsellor, a family doctor
18 who was contemplating a medication regiment at the time,
19 and the Youth -- the YEES is the Youth Emergency
20 Educational Service, which is the educational service I
21 spoke of earlier that's part of our program.

22 Q Okay.

23 A And supports pending on referral, again, other
24 services, medication regiment.

25 Below that, referrals, internally would be our

1 educational service, and then external referrals, and I've
2 indicated none.

3 And reason for termination, goals reached.

4 And then there's a brief discharge summary.

5 Q Okay. And if you want to just read that out,
6 please?

7 A Sure.

8
9 "At initial and last contact
10 the mother reports the situation
11 in the home has improved
12 significantly. The client
13 presents as a higher functioning
14 insightful young person who is
15 determined to improve the
16 situation in the home and at
17 school. The mother reports
18 ongoing supports through the
19 school if needed and also
20 culturally appropriate supports
21 through an elder in the community.
22 No further contact therefore
23 discharge. The family is aware of
24 the ongoing availability of the
25 [Youth Emergency Crisis

1 Stabilization System]."

2

3 And that's my signature at the bottom.

4 Q So what was your understanding of the reason for
5 your involvement?

6 A Primarily was oppositional behaviour within the
7 school and in the home.

8 Q By DOE number 1.

9 A Correct.

10 Q And those are your initials at the bottom under
11 the discharge summary?

12 A That's correct.

13 MS. WALSH: The next document to pull up, please,
14 is page 37991.

15 THE COMMISSIONER: Just before you -- you made
16 reference to behaviour in the school and home. Did you
17 describe that behaviour some way? Did you use some
18 adjective?

19 THE WITNESS: Oppositional.

20 THE COMMISSIONER: Oppositional. Thank you.

21 All right, sorry, Ms. Walsh --

22 MS. WALSH: No problem, thank you.

23 THE COMMISSIONER: -- carry on. Where are we
24 going now?

25 MS. WALSH: Page 37991. It should be the next

1 document in your materials, Mr. Commissioner.

2 THE COMMISSIONER: Yes.

3

4 BY MS. WALSH:

5 Q You have that, Mr. Wiebe?

6 THE COMMISSIONER: Yes.

7 THE WITNESS: Yes.

8

9 BY MS. WALSH:

10 Q This document is entitled Macdonald Youth
11 Services Brief Treatment: Assessment and Treatment Plan.
12 What is this document?

13 A This document is what we fill out after our
14 initial meeting with the family. We want to reflect on a
15 young person's presentation. We're reflecting on their
16 functioning in the home, in the community, in the school.
17 We're also reflecting on what we think would be helpful in
18 terms of providing some supports for the family.

19 Q Is this a document that you created through that
20 computer program, dictation program that you described?

21 A That's correct.

22 Q If we turn to -- it's three pages long. If we
23 turn to page 37993 -- scroll down -- are those your
24 initials?

25 A That's correct.

1 Q Let's go back to the first page of this document;
2 I want to go through it with you. So the name of the
3 document, the client is DOE number 1?

4 A That's right.

5 Q And the date -- and you're listed as the
6 therapist?

7 A That's right.

8 Q The date is November 22nd, 2005. We've redacted,
9 for privacy reasons, information that you included
10 regarding presentation and reason for intervention. Then
11 you go on to say:

12

13 "The client also reports
14 difficulty over the summer. The
15 client reports that he resided
16 with his biological father at
17 Fisher River from May to July of
18 this year. The client reports he
19 was returned home after Child and
20 Family Services intervened when
21 the client was left with an
22 inappropriate caregiver. The
23 client also reports that while in
24 the home a four-year-girl was
25 being abused by the father and the

1 stepmother. The client informed
2 his mother secretly via the
3 internet of the ongoings and the
4 mother contacted Child and Family
5 Services. The mother reports that
6 the family was then investigated
7 and the client and his older
8 brother were returned home. The
9 client reports witnessing his
10 father being abusive towards the
11 child. The client is also aware
12 that the father has a history of
13 being abusive towards the mother."

14

15 Do you have any independent recollection of this
16 discussion beyond what you've recorded?

17 A So many years ago, but I still can remember the
18 room we met in and even, in fact, where we were sitting in
19 that room. I do have some recollection of the mother and I
20 praising the boy for his actions when he contacted her with
21 that information. I can still remember thinking that that
22 had been a good session.

23 Q Where did this meeting take place?

24 A At 226 St. Mary's Road, in one of my colleague's
25 -- it was a family room at the time; it's now one of my

1 colleagues' offices on the second floor.

2 Q Who was at the meeting?

3 A It would have been DOE number 1 and DOE number 3.

4 Q Did you contact Child and Family Services after
5 this meeting, to report what you had been told?

6 A No, I did not.

7 Q Why not?

8 A I did not believe I had further information to
9 add beyond what had been reported already, and I believe
10 the information that had been provided to CFS had been
11 investigated.

12 Q If you had been told that the matter had not been
13 reported, what would you have done?

14 A Then I would have had child welfare concerns and
15 I would have reported that information.

16 Q Was it DOE number 3 herself, herself who told you
17 that she had reported the abuse to, to CFS?

18 A It was -- yes, it was DOE number 3 that informed
19 me of that.

20 Q Did she give you any more details as to which
21 agency or when?

22 A I can't recall exact conversation of that time.
23 I would have to rely on my notes, and my notes simply
24 indicate Child and Family Services.

25 Q If we go back to the log of your contact, page

1 37981 --

2 THE COMMISSIONER: Just, just a minute. Just let
3 me read this.

4 All right, I follow now. Go ahead. Where are
5 you going?

6 MS. WALSH: Well, actually, if we can go -- just
7 go back to where we were, 37991, please?

8

9 BY MS. WALSH:

10 Q The information that, that you documented that we
11 have not redacted, was that information relevant to the
12 request for services from your agency in any way?

13 A One of the questions I would have had for the
14 family was what recent stressors are possibly bringing them
15 to see me, what concerns do they have. As that was a
16 stressor for this young fellow over the summer months --
17 pardon me, for DOE 1 over the summer months, it was
18 relevant, yes.

19 Q Okay, thank you. If we go back to the log, page
20 37981, and scroll down, we have the contact on November
21 22nd, 2005. That's the meeting that we just read your
22 notes from. And then the next contact is December 23,
23 2005? Or the next record that you make?

24 A Sure, at that point I wrote up the discharge.

25 Q And so you've indicated, "No further contact."

1 A That's right.

2 Q Then the next contact that's recorded is March 6,
3 2006?

4 A That's right.

5 Q What was the nature of that contact?

6 A On March 6, 2006 is when the information came
7 forward regarding the possibility of a deceased body in the
8 Fisher River area.

9 Q Who contacted you?

10 A The mother contacted me at that time.

11 Q If we can go to your intake form, page 37983?

12 MS. WALSH: Go right -- you can scroll down so we
13 can see the top of the document, please?

14

15 BY MS. WALSH:

16 Q So what is this document?

17 A Within six months of meeting with a family and
18 I've discharged the file, they can simply call me directly
19 to have me re-open the file. It does not require the
20 mobile team involvement or educational service. March 6,
21 '06, the mother contacted me directly and requests that I
22 re-open the file to involve myself.

23 Q The last contact having been November of 2005.

24 A That's right.

25 Q So if you'll walk us through this intake form

1 please?

2 A Certainly. March of '06, it looks like 14:30 --
3 I believe 2:30 in the afternoon -- we spent approximately
4 30 minutes on the phone.

5 Q And the caller was?

6 A DOE 3.

7 Q The mother?

8 A Correct. Relationship to the client, parent;
9 referral source, self. There's the DOE 1's information.

10 Q Under the heading, Client Information?

11 A Correct.

12 MS. WALSH: If we could scroll down to see more
13 of the document, please?

14 THE WITNESS: And these are some of the
15 presenting issues that the DOE 1 is describing, why she was
16 contacting me.

17

18 BY MS. WALSH:

19 Q Or DOE 3.

20 A Pardon me, DOE 3.

21 Q But the issues are with respect to DOE 1?

22 A Correct.

23 Q So what is she -- what was she describing to you?

24 A She's describing ongoing behavioural
25 difficulties. Going to try and go through the list here.

1 She was struggling a little bit in managing -- there was
2 still ongoing concerns regarding possible ADHD. There was
3 school performance issues. Difficult issues. But by far
4 and away the most concerning issue the mother brought
5 forward was that DOE 1 had possibly been witness to a
6 homicide.

7 Q If we can carry on with the rest of the document,
8 you've indicated under Other Services in Place?

9 A The mother had indicated she had contacted
10 Winnipeg Police Service and Intertribal Child and Family
11 Services before contacting me.

12 Q And then on to the next page?

13 THE COMMISSIONER: She, she contacted who?
14 Police services, did you say?

15 THE WITNESS: Winnipeg Police Services and
16 Intertribal Child and Family Services.

17

18 BY MS. WALSH:

19 Q Before contacting you.

20 A That's right.

21 THE COMMISSIONER: Thank you.

22

23 BY MS. WALSH:

24 Q So now we're on the second page of the intake
25 form.

1 A Risk assessment. As I'm speaking with the
2 mother, I'm assessing for immediate concerns. One of the
3 questions is whether or not there's a suicidal risk, if DOE
4 1 has expressed a suicidal risk or a homicidal risk. There
5 was none evident. There was ongoing verbal aggression.
6 The outcome information is that I would re-open the file,
7 so BTT is checked off on Other.

8 Q That's your service.

9 A Brief therapy team.

10 MS. WALSH: Scroll down to see the rest of the
11 document, please?

12 THE WITNESS: External referrals, Winnipeg Police
13 Service, Child and Family. I encouraged DOE 3 to follow
14 through with those supports. And then there's guardianship
15 information with DOE 3's name redacted --

16

17 BY MS. WALSH:

18 Q Yes.

19 A -- and the father's name, Karl McKay, and the
20 mother was letting me know at that time that she was unsure
21 of his whereabouts but she was thinking he was possibly in
22 Winnipeg at that time.

23 Q By the Maryland Hotel.

24 A Possibly, yes.

25 Q But she had sole --

1 A Sole guardianship.

2 Q -- custody. Then on the third page --

3 MS. WALSH: We can go to the next page, please.

4

5 BY MS. WALSH:

6 Q -- are handwritten notes.

7 A Yes.

8 Q Is that your handwriting?

9 A Yes, it is.

10 Q Would you be able to read those to us, please?

11 A I could.

12 Q Thank you.

13 A You can see why I type on my documents.

14

15 I spoke with DOE 3 over the phone.

16 DOE 3 contacted with recent

17 developments in the home. DOE 3

18 reports increased verbal

19 aggression in the home between DOE

20 2 --

21

22 Pardon me.

23

24 ... DOE 1 and DOE 2. DOE 3

25 reports DOE 2 approached her and

1 stated that the family, meaning
2 DOE 2, DOE 1, his father Karl, and
3 stepmother buried a young female
4 child in the back yard. Mother
5 contacted Winnipeg Police Service
6 and Intertribal Child and Family
7 Service with this information.
8 Mother reports Winnipeg Police
9 Service involving RCMP and further
10 investigation to be continued when
11 DOE 2 and DOE 1 return home from
12 school. Mother reports DOE 1 and
13 DOE 2 are not aware authorities
14 have been contacted with the
15 disclosed information. Writer
16 encouraged mother to access adult
17 mobile crisis team or Youth
18 Emergency Crisis Stabilization
19 System as required. Mother
20 reports she will do so. Writer
21 encouraged --

22

23 I believe I keep saying "mother." I mean DOE 3.

24 Q That's fine.

25 A Thank you.

1

2

Writer encouraged mother to

3

monitor DOE 1 and DOE 2's mental

4

status as further investigation

5

is ...

6

7

Q Contemplated?

8

A

9

... is completed. DOE 3 reports

10

she is willing and able to do so

11

and will follow up with mobile

12

crisis team if concerns regarding

13

safety arise. Writer asked DOE 3

14

to review understanding of

15

timeline. DOE 3 reports she

16

previously reported DOE 1 --

17

18

I'm sorry, this is kind of complicated to read.

19

20

Mother reports she previously

21

reported disclosure regarding the

22

possible abuse in the home to

23

Child and Family Services. See

24

assessment treatment plan November

25

22nd, '05.

1

2 Q Is that the document that we just reviewed?

3 A That's correct.

4 Q Okay.

5 A

6 Mother currently unsure of who she
7 spoke with and what agency.
8 Mother reports she believes the
9 concerns regarding the four-year-
10 old girl were reported. Mother
11 reports she is currently unaware
12 of when reported burial took place
13 and who was buried. Writer's
14 concern regarding timeline is
15 possible involvement of DOE 1 or
16 DOE 2 and the implications, i.e.
17 safety. Mother reports she will
18 monitor safety concerns and access
19 mobile crisis team or Winnipeg
20 Police Service if required.
21 Initial session set for 1100
22 hours, March 7th.

23

24 Q In this call with DOE 3, she told you that her
25 son, DOE 2, reported to her that Karl McKay had buried a

1 young female child?

2 A That's correct.

3 Q And she told you that she had contacted Winnipeg
4 Police and Intertribal?

5 A That's correct.

6 Q Did you contact anyone?

7 A I did not at that time.

8 Q Why not?

9 A I believed the mother that the services and the
10 appropriate authorities were contacted.

11 Q Your reference to the timeline, Mother concerned
12 with timeline, towards the bottom of the recording?

13 A Writer's concern regarding timeline?

14 Q Writer's concern. What is that referring to?

15 A At that point I'm wondering to what extent have
16 DOE 1 and DOE 2 been involved in some of the violence in
17 Fisher River. My concerns are whether or not they will
18 react as the situation comes forward and in what way.
19 Safety is my priority for, for the boys.

20 Q You scheduled a meeting for the next day?

21 A That's correct.

22 Q What was your focus at that time?

23 A I wanted to provide safety. I wanted to further
24 assess how the boys were doing, as well. Also provide
25 support for the mother.

1 Q We can turn, then, to your report of that
2 meeting, page 37987. This is entitled MYS Brief Treatment:
3 Session Report. It's dated at the top, March 7, 2006. Is
4 this a record of the conversation that you had with the
5 mother on the next day?

6 A Yeah. I contacted the mother that evening after
7 her initial contact with me, and she had been contacted by
8 the RCMP requesting that we delay our meeting so that the
9 RCMP could investigate the boys first. So we had an
10 appointment set for, I believe, March 7th in the afternoon,
11 and they missed the meeting. So I contacted the family.
12 The mother had been sleeping. I would imagine they were
13 quite exhausted from the process. The mother did contact
14 me again that evening and we spoke on the phone for about
15 an hour.

16 Q What -- the document that's on the screen records
17 that conversation?

18 A If you could lower it, I, I would know for sure.

19 Yeah, if you look at the contact time, it has 60
20 minutes checked off and the location is on the phone. So
21 we spoke for an hour that day and then we rescheduled to
22 March 9th.

23 Q So that's what's indicated at the bottom, Next
24 appointment, March 9. And on the next -- the document goes
25 over two more pages.

1 MS. WALSH: We can just scroll through, please.
2 One more page, to page 37989.

3

4 BY MS. WALSH:

5 Q Are those your initials on the bottom?

6 A That's correct.

7 Q Going back to the first page, 37987, as you've
8 indicated, the document shows that your contact was via
9 phone call that lasted about an hour. Then you made some
10 notes on the next page. If you could read those, please,
11 for us.

12 A

13 The mother reported she was
14 not present for all of the
15 investigation. The mother reports
16 that both boys were seen
17 individually and separately. The
18 mother was able to share the
19 information she is currently aware
20 of. The mother reports that DOE 1
21 was probably in the Fisher River
22 community when the four-year-old
23 daughter of the stepmother went
24 missing in approximately August of
25 05. The mother report she is not

1 exactly clear in terms of the
2 timeline of events. The mother
3 reports the boys have disclosed to
4 the RCMP that the girl was in a
5 dumpster in the community. The
6 mother is unsure of how the girl
7 ended up in the dumpster. The
8 mother is unsure if DOE 1 or DOE 2
9 are aware of how this occurred.
10 Again the mother was not present
11 for the entire investigation with
12 the boys.

13 The mother reports that DOE 1
14 informed her via the internet and
15 over the phone of the alleged
16 physical abuses towards four-year-
17 old girl at the hands of the
18 father and stepmother. The mother
19 reports this occurred in June or
20 July 2005 at which time she
21 contacted Child and Family
22 Services. The mother's previous
23 report that DOE 1 and DOE 2 were
24 returned home after Child and
25 Family Services intervened and

1 investigated the family. Referred
2 to assessment/treatment plan dated
3 November 22, '05. The mother
4 believes that DOE 1 was probably
5 in the Fisher River community in
6 August '05 when the four-year-old
7 girl went missing. The mother
8 reports she would speak with the
9 biological father and arrange for
10 weekend visits for the boys over
11 the summer holidays. Despite the
12 report they were returned to her
13 in June or July of '05. Again the
14 mother reports she had difficulty
15 recalling the exact timeline of
16 events.

17
18 The mother reports that DOE 1
19 informed her via the internet ...

20
21 Q I think we've --

22 A I think I might have --

23 Q -- we've read that one.

24 A -- gone through that one.

25 Q It's the next one, yes.

1 A Pardon me.

2

3

4

5

6

7

8

9

10

11

12

Pardon me.

13

14

15

16

17

18

19

20

21

22

23

24

25

It says "pallet"; it should be "pellet."

1 MS. WALSH: You can scroll to the next page,
2 please.

3 THE WITNESS:

4
5 They were given a pellet gun and
6 encouraged to shoot the little
7 girl. The mother questions
8 whether or not the boys were
9 coerced into participating in
10 these activities. The mother
11 assures the writer that she had
12 shared all of the above
13 information with the RCMP in their
14 investigation. The mother report
15 she believes that DOE 1 knew this
16 activity was wrong and that is why
17 he warned the mother in June or
18 July of 2005 of the violence
19 towards the four-year-old.

20 DOE 1 shared information with
21 the writer in November of '05
22 regarding witnessing the alleged
23 physical abuses towards the four-
24 year-old. DOE 1 did not share
25 information regarding his

1 participation or the allegation
2 that the four-year-old was located
3 in a dumpster in August of '05.
4 The writer queries the client's
5 current feelings regarding his
6 degree of responsibility and
7 guilt. DOE 1 did originally
8 informed the mother of the alleged
9 physical abuse at the hands of the
10 father and stepmother towards the
11 four-year-old in June or July of
12 2005. The client understood this
13 was reported to Child and Family
14 Services by the mother that time
15 and he and his brother were
16 returned home to the care of the
17 mother in Winnipeg. However it is
18 possible DOE 1 continued to be
19 exposed to the violence in Fisher
20 River. The writer is unclear of
21 exact timeline of offense and what
22 the client was exactly exposed to.
23 The mother is currently unclear of
24 timelines and what the clients
25 level of participation was in the

1 allegations of violence and
2 possibly death.

3

4 BY MS. WALSH:

5 Q Thank you. Just a couple of questions on this
6 record that you've made.

7 MS. WALSH: If we can go to the previous page,
8 please?

9

10 BY MS. WALSH:

11 Q The paragraph that ends:

12

13 "Again the mother reports she has
14 difficuly recalling the exact
15 timeline of events."

16

17 A Yes.

18 Q What, if anything, did you think about that?

19 A I believe the mother was under a great deal of
20 stress, and I thought it was understandable.

21 Q What was your understanding as to why the mother
22 was telling you this information?

23 A I hope the mother trusted me and saw me as a
24 support. She needed a sounding board. She was taking care
25 of two young boys; she needed some supports as well.

1 MS. WALSH: Go to the next page, please ...

2

3 BY MS. WALSH:

4 Q Where you write:

5

6 The writer queries the client's
7 current feelings regarding his
8 degree of responsibility and
9 guilt. DOE number 1 did
10 originally inform the mother of
11 the alleged physical abuse at the
12 hands of the father and stepmother
13 towards the four-year-old in June
14 or July of '05. The client
15 understood this was never reported
16 to Child and Family Services by
17 the mother that time and he and
18 his brother were returned home to
19 the care of the mother.

20

21 What was your purpose in documenting that
22 information?

23 A I'm concerned to what extent this young -- pardon
24 me -- DOE 1 has been involved and how that's impacting him
25 as this information is coming forward. My previous

1 understanding in November of two thousand -- or pardon me,
2 in November was that the client had understood that this
3 information had been reported by the mother.

4 I remember -- again, recalling that initial
5 session, one of the things I can recall is the mother and I
6 were praising him for his efforts, and I think part of the
7 message was that he was being heard and that his concerns
8 were being acted upon, and it was important for him to know
9 that. Combining that with the possibility that he was
10 further involved, that would also contribute, I would
11 imagine, to a sense of guilt, perhaps, that he had kept
12 that information from his mother.

13 Q You didn't have any further contact with the
14 family after this telephone conversation?

15 A I, I had periodic contact with the mother, I
16 think, well into the end of March, perhaps the beginning of
17 April. I don't think any further session reports beyond
18 that.

19 Q We go to page 37980, just to be certain. So we
20 do -- at the top of the page, you've got the, the
21 conversation on March 7, '06, and then what further contact
22 did you have with any of the DOEs?

23 A Beyond that, my contact would be ensuring that
24 they continue to feel comfortable cooperating with the
25 authorities that they are speaking with, continuing to

1 check on safety concerns. At one point, the mother
2 contacted me to let me know that she had changed her phone
3 number. She was getting some intrusive calls. That would
4 have been essentially the extent of our involvement at that
5 point.

6 Q Did you have any contact with the boys
7 themselves?

8 A No, not beyond -- it was, it was only with DOE 3.

9 Q If we pull up page --

10 A Oh, pardon me, I did speak with DOE 2 at one
11 point as well.

12 Q Where, where is that?

13 A That would have been after the missed session, I
14 believe.

15 Q In March of '06?

16 A I have to look at my notes.

17 Yeah, that was the time when we set up the
18 appointment and they had missed the appointment. I think
19 it's at the bottom of document 37981, where I have a phone
20 call to the family. First it's busy, then there's no
21 answer, and then I do contact the family March 7th, '06 at
22 13:50, and at that point I spoke with DOE 2.

23 MS. WALSH: And if we can pull up page 37986?

24

25 BY MS. WALSH:

1 Q This is the discharge summary after your phone
2 call with DOE 3 in '06?

3 A That's correct. This is a discharge, I believe,
4 dated April 25th, '06.

5 Q We can just walk through that, please.

6 A It's my name at the top, the DOE 1's name is
7 redacted, and the first session is when the mother
8 contacted me March 7th and the last, last session is the
9 document we just reviewed, looks like March 13th.
10 Referring intake is the March 6; the picked up referral,
11 March 6; date of initial contact, March 6; date file
12 closed, it's redacted; total sessions scheduled, two;
13 attended sessions, zero; telephone sessions, three; total
14 sessions, three; number of consults, nine.

15 And then the focus of intervention with the
16 primary, indicating primary focus was -- verbal
17 aggression's checked off; parent/child conflict's checked
18 off; school performance; difficult behaviours; other,
19 possible witness to homicide disclosure; mental
20 health/psychiatric; caregiver unable to cope; are all
21 checked off. My primary concern is self-harm, at-risk
22 behaviours.

23 Supports already in place: Child and Family
24 supports, Winnipeg Police Service supports pending on
25 referral, Royal Canadian Mounted Police.

1 MS. WALSH: If we can just scroll down to the
2 bottom, please?

3 THE WITNESS: Internal referrals, none. External
4 referrals: Child and Family Services, special education.
5 Other services: Victim Services, adult mobile crisis team,
6 and Ndinawe shelter.

7 Reason for termination: Goals reached, services
8 elsewhere.

9 THE COMMISSIONER: Was the concern that was being
10 related to you addressing DOE number 1 as distinct from DOE
11 number 2?

12 THE WITNESS: At that point I was concerned about
13 both of the boys.

14 THE COMMISSIONER: And I notice up here the --
15 under name on, on 37986, it makes reference to DOE number 1
16 up --

17 THE WITNESS: That's right.

18 THE COMMISSIONER: Up at the top.

19 MS. WALSH: Yes.

20 THE COMMISSIONER: But are the -- what you
21 checked off really relating to DOE number 1 and 2?

22 THE WITNESS: I believe at that time I also
23 opened a file on DOE number 2.

24 THE COMMISSIONER: Oh, and, and would have a
25 similar sheet there.

1 THE WITNESS: That's correct.

2 THE COMMISSIONER: That, that answers my
3 question. Thanks.

4

5 BY MS. WALSH:

6 Q And then your discharge summary?

7 A

8 "Brief involvement with the mother
9 over the phone. Primary focus ...
10 safety planning. At last contact
11 the mother reports ongoing
12 cooperation with the appropriate
13 authority. The writer is also
14 aware Victim Services is available
15 to the family. The family is
16 aware of the ongoing availability
17 of the [Youth Emergency Crisis
18 Stabilization System].

19

20 "Discharge," and my signature.

21 Q In terms of what your records show, then, you had
22 two significant -- in the sense of, of information to
23 record -- contacts with the family: one November 22nd,
24 2005, and the other March 6 and 7, 2006.

25 A Right.

1 Q And just very briefly, then, to summarize, what
2 was your understanding as the reason for the contact in
3 November of 2005?

4 A The contact in November 2005 was following a
5 referral from our educational service, and at that time
6 they were concerned about oppositional behaviour within the
7 school and home.

8 Q And in 2006?

9 A 2006 is when the information came forward about
10 the possible death of the four-year-old girl in the Fisher
11 River area. The mother contacted me for supports.

12 Q And in the 2005 recording, you document
13 information about the boys reporting abuse to their mother
14 and their mother contacting Child and Family Services.

15 A That's right.

16 Q And then you record information about that in the
17 2006 reporting as well.

18 A That's right.

19 Q Was the information any different in 2006 than
20 2005 in terms of the information about calling CFS on the
21 part of the mother?

22 A Not that I'm aware of, no.

23 Q Is there anything else that's not in your records
24 that you recall about your involvement with this family,
25 that you haven't recorded?

1 A No, I can't say. No.

2 Q The final document I want to show you is 37977.
3 This is entitled an advisory note dated March 24, 2006.
4 What is this document?

5 A This document was at the request of senior
6 management of the agency I work for. Understanding the
7 seriousness of the case, it was thought it would be best to
8 put together some information outlining my involvement and
9 making sure that that was forwarded to appropriate
10 authorities.

11 Q Did you prepare it with someone?

12 A Yes, I did.

13 Q If we can scroll through and you can identify
14 that, please? You've, you've identified the chronology of
15 contacts, and I think that's pretty much what we've gone
16 through today.

17 A Yes.

18 Q October 2005 through November 2005.

19 MS. WALSH: Onto the next page, please.

20

21 BY MS. WALSH:

22 Q You summarize your notes about the meeting in
23 November -- on November 22nd, 2005.

24 A Yes.

25 Q And then March 6, 2006. And your follow-up on

1 March 7, 2006.

2 MS. WALSH: Then on to the next page, please.

3

4 BY MS. WALSH:

5 Q March 9, March 22nd, 2006. And then if we scroll
6 to the bottom, you've got future status as an ongoing
7 criminal investigation and recommended action. What, if
8 anything, was done with this report? Do you know?

9 A I believe the document was provided to the Child
10 Protection Branch. I believe they reviewed the document,
11 informed our agency they were aware of the, of the
12 document's availability and would access that if needed.

13 Q Did you have any other involvement with this
14 family or the investigation after completing the advisory
15 note that we're looking at?

16 A No, I did not.

17 MS. WALSH: Those are my questions, Mr.
18 Commissioner.

19 Before counsel go on to ask questions, I want to
20 point out for the, the press and the public that page 37980
21 is missing some redactions and so I would ask that that
22 page not be reproduced anywhere, and we'll make sure that
23 those redactions are made.

24 THE COMMISSIONER: 37980?

25 MS. WALSH: Eight-o, yes. I just noticed that

1 when it came up on the screen. It's not on the screen
2 right now. I'm just making the, the media and the public
3 aware --

4 THE COMMISSIONER: Are there a number of
5 redactions required?

6 MS. WALSH: There are some further redactions
7 that are required on that page that will have to be made,
8 so I'm just asking people not to, to reproduce that page
9 until we've made those redactions.

10 THE COMMISSIONER: Is it a whole page?

11 THE WITNESS: Mr. Commissioner, it would be that
12 page.

13 THE COMMISSIONER: Oh, oh, it's the log.

14 MS. WALSH: Yes. Yes. So there are, there are
15 portions of that log that need to be redacted, so ...

16 THE COMMISSIONER: I, I think it's clear to
17 everybody.

18 MS. WALSH: Thank you.

19 THE COMMISSIONER: And I -- yeah. All right,
20 thank you.

21 Mr. Gindin?

22 MR. GINDIN: Mr. Commissioner, I need about five
23 minutes, if I can have it.

24 THE COMMISSIONER: All right. All right. We'll,
25 we'll take a five-minute adjournment and then you'll have

1 to come back for -- just stay around.

2 THE WITNESS: Okay.

3 THE COMMISSIONER: We have further questions from
4 the lawyers.

5 THE WITNESS: Okay.

6 THE COMMISSIONER: Thanks. Be adjourned for five
7 minutes.

8

9 (BRIEF RECESS)

10

11 THE COMMISSIONER: Mr. Gindin.

12

13 DIRECT EXAMINATION BY MR. GINDIN:

14 Q Mr. Wiebe, my name is Jeff Gindin. I represent
15 Kim Edwards and Steve Sinclair. I have a few questions for
16 you.

17 You told us about your work at Macdonald Youth
18 Services. And how long did you say that you had been
19 employed there?

20 A I've been employed there for the past 15 years.

21 Q And that's really as a counsellor.

22 A That's right.

23 Q And therapist.

24 A Correct.

25 Q And I take it that in the course of that work,

1 you would be talking to quite a number of different people,
2 obviously.

3 A Certainly, yes.

4 Q People calling you to tell you their problems and
5 that kind of thing.

6 A That's what I'm there for, yes.

7 Q And I assume that you don't always accept what
8 everyone is telling you, in terms of whether or not you
9 believe them?

10 A Perhaps.

11 Q Some --

12 A Working towards a trusting relationship, but --

13 Q But sometimes --

14 A -- certainly cannot believe everything.

15 Q Sometimes you believe things you're being told
16 and, and sometimes maybe not.

17 A Perhaps.

18 Q In this matter, with respect to your discussions
19 with the mother --

20 A Yes.

21 Q -- DOE number 3, she told you on a couple of
22 different occasions -- I'm looking at your notes --
23 November '05 in particular and again in March the -- March
24 6th of '06, that she had contacted IC -- Intertribal CFS
25 about the concerns that she was made aware of.

1 A In '06, yes.

2 THE COMMISSIONER: You were asked a question that
3 involved both '05 and '06.

4 THE WITNESS: '05, she indicated she contacted
5 Child and Family Services. In '06, it was Intertribal
6 Child and Family Services she referred to specifically.

7

8 BY MR. GINDIN:

9 Q Okay. Perhaps you can just repeat that answer.
10 You were talking about who she claimed to have called?

11 A Yeah. In '05, November of '05, the DOE 1 had
12 informed me -- pardon me, DOE 3 informed me that she had
13 contacted Child and Family Services, and in March of '06
14 she indicated Intertribal Child and Family Services --

15 Q I see.

16 A -- more specifically.

17 Q Okay. Now, just looking at your typewritten
18 notes with respect to the November 22nd, '05 discussion --
19 I'm not sure if you have that in front of you.

20 THE COMMISSIONER: What page number?

21 MR. GINDIN: It would be page 37978.

22 MS. WALSH: That's the summary.

23 MR. GINDIN: That's the -- is that, is that the
24 summary prepared by yourself? I've got that wrong?

25 MS. WALSH: That's from March the 3rd.

1 THE COMMISSIONER: I think it's this one, here.

2 MS. WALSH: The last summary --

3 THE COMMISSIONER: If you want to --

4 MS. WALSH: -- the advisory note.

5 THE COMMISSIONER: -- look at that.

6 MR. GINDIN: Right.

7 THE WITNESS: The advisory note.

8

9 BY MR. GINDIN:

10 Q This is something you prepared, right?

11 A That's correct.

12 Q Okay. And that's just a summary of your
13 discussion with the mother.

14 A My involvement with the case, discussion with the
15 mother, yes.

16 Q Yeah. And what you're advised, according to that
17 summary, is that the mother is reporting that she had
18 information disclosed to her in -- just looking for the
19 date that you referred to.

20 Near the top of that paragraph, it says that some
21 time during June or July --

22 A Okay.

23 Q -- while he and DOE number 2 were with their
24 father in Fisher River, physical abuse was witnessed
25 regarding Phoenix. That's what's being disclosed there,

1 correct?

2 A That's right.

3 Q And the mother is stating that she contacted CFS
4 at that time.

5 A That's right.

6 Q And you understood that to mean that when it was
7 disclosed to her, that's when she contacted CFS.

8 A That's right.

9 Q Right. And at that point she's referring to CFS,
10 not Intertribal CFS.

11 A That's right.

12 Q As far as you recall.

13 A Far as my documentation -- and I can't remember
14 the specifics of that conversation so, yes, CFS, I would
15 agree.

16 Q Okay. And she's disclosing there to you some
17 pretty horrific information that was disclosed to her.

18 A That there had been violence from the father
19 towards Phoenix.

20 Q Right.

21 A Yes.

22 Q The next note is March the 6th, '06, correct?
23 And that's when more information comes her way via her
24 children.

25 A That's right.

1 Q And she's reporting that to you and telling you
2 that she contacted Intertribal CFS at this time with that
3 information.

4 A That's right.

5 Q Right? In both of these instances, you obviously
6 understood your obligation that if you were advised of
7 things of this nature, that you would contact CFS.

8 A I didn't know that I had an obligation if the
9 information had already been reported.

10 Q Well, aside from that. Just simply you becoming
11 advised of child protection concerns or problems with
12 children, you would normally contact CFS.

13 A Certainly, if they were not reported prior.

14 Q Right. So clearly, being aware of your
15 obligation, you clearly believed the mother --

16 A Yes.

17 Q -- when she told you that she had made these
18 calls.

19 A That's right.

20 Q You also had some concern, I think you said, with
21 respect to the potential involvement by DOE number 1 and 2
22 in terms of how they may have participated in some of the
23 unfortunate things that were going on.

24 A Yes.

25 Q I presume that if you had some doubts about

1 whether the mother had actually reported these things, you
2 might have called yourself.

3 A Then I would have child welfare concerns and --

4 Q Yeah.

5 A -- I would have reported that, yes.

6 Q So you believed, you believed her.

7 A Yes, I did.

8 Q And you had spoken to her many times --

9 A I --

10 Q -- over a period of time.

11 A A number of times, yes.

12 MR. GINDIN: That's all. Thank you.

13 THE WITNESS: Thank you.

14 THE COMMISSIONER: Thank you, Mr. Gindin.

15 Mr. Khan.

16

17 CROSS-EXAMINATION BY MR. KHAN:

18 Q Good afternoon, Mr. Wiebe. My name is Hafeez
19 Khan. I'm counsel for Intertribal Child and Family
20 Services --

21 A Good afternoon.

22 Q -- the very agency that we've been discussing
23 just now. Before I ask additional questions, I just wanted
24 to clarify something that Mr. Gindin raised to you about
25 the phone call to Intertribal. In November of 2005, my

1 understanding of your testimony is that [redacted] simply
2 stated she had called CFS regarding the abuse; is that
3 correct?

4 A That's correct.

5 Q And then in March the, the reference to
6 Intertribal is her call reporting the, the death; is that
7 correct?

8 A That's correct.

9 Q Okay, thank you.

10 MR. KHAN: Oh, I'm sorry, my mistake; I should be
11 referring to DOE number 3. I apologize.

12

13 BY MR. KHAN:

14 Q So just to make it clear, DOE number 3 did not
15 advise you that she had contacted Intertribal in 2005 with
16 respect to allegations of abuse.

17 A Not specifically that I recall, and I did not
18 document that.

19 Q Thank you. I take it note-taking is a daily part
20 of your, your work?

21 A Yes, it is.

22 Q The notes, are they normally taken on, on the
23 same day or the day after?

24 A Yes.

25 Q These notes, would they have been taken on the

1 same day or the day after?

2 A The notes that we reviewed today, yes.

3 Q And you would rely on them in terms of their
4 accuracy and completeness?

5 A Yes.

6 Q Mr. Wiebe, you mentioned that you work sometimes
7 in conjunction with Child and Family Services?

8 A That's right.

9 Q Is it only Winnipeg Child and Family Services
10 that you work in conjunction with?

11 A I've worked with many different agencies.

12 Q So you've heard of different agency names before?

13 A Yes.

14 Q If I mentioned, for example, Sagkeeng Child and
15 Family Services, you've heard of them?

16 A Yes.

17 Q Or Peguis Child and Family Services? Had you
18 heard of the name Intertribal Child and Family Services
19 beforehand?

20 A I'm sure I had, yes.

21 Q I have one question with respect to your notes
22 when you said you were -- that, that the DOE number 3 was
23 unsure of the timelines.

24 A Right.

25 Q When you, when you, when you write that, that DOE

1 number 3 was unsure of the timelines, are you referring to
2 the dates of the alleged abuse? She -- it's mentioned
3 often June or July of 2005.

4 A If I could look at the document? Which one are
5 we referring to?

6 THE COMMISSIONER: Mr. Khan, just turn that mic
7 up. You're -- you --

8 MR. KHAN: Oh, am I --

9 THE COMMISSIONER: You're talking over top of it.

10 MR. KHAN: Okay, thank you.

11 THE COMMISSIONER: If you could just -- yeah,
12 that'll be better.

13 MR. KHAN: How's that?

14 THE COMMISSIONER: Yeah, perfect.

15

16 BY MR. KHAN:

17 Q Take a look at page 37989.

18 A Right. Okay. I'm sorry, what was the question?

19 Q Or better is 37988. In the middle of the top
20 paragraph, you write:

21

22 "The mother report she is not
23 exactly clear" --

24

25 THE COMMISSIONER: Just, just a minute. We

1 haven't got the right one up here yet, I don't think, have
2 we? You said 988?

3 MR. KHAN: 88.

4 THE COMMISSIONER: Third ...

5 MR. KHAN: So 37988.

6 THE COMMISSIONER: That's it.

7 MR. KHAN: Um-hum. And at the top the --

8 THE COMMISSIONER: You --

9 MR. KHAN: -- the first --

10 THE COMMISSIONER: You're going to page eight-
11 nine?

12 MR. KHAN: No, I'm just going to stay on this
13 page.

14 THE COMMISSIONER: Okay.

15

16 BY MR. KHAN:

17 Q In the middle of the paragraph, the sentence that
18 begins:

19

20 "The mother report she is not
21 exactly clear in terms of the
22 timeline of events."

23

24 A Um-hum.

25 Q Are you referring to that she's not clear whether

1 the, the abuse took place in June or July of 2005? Is that
2 what the reference is to?

3 A I guess I'm referring to [redacted] -- or pardon
4 me, DOE 1 possibly in the Fisher River community when the
5 four-year-old daughter of the stepmother went missing
6 approximately August of '05. I was referring to that, I
7 would believe.

8 MR. KHAN: Great. Thank you very much.

9 Mr. Commissioner, those are my questions. Thank
10 you.

11 THE COMMISSIONER: Thank you, Mr. Khan.

12 Mr. Paul.

13 MR. PAUL: Thank you, Mr. Commissioner.

14

15 CROSS-EXAMINATION BY MR. PAUL:

16 Q Mr. Wiebe, my name is Sasha Paul. I am one of
17 the lawyers for Winnipeg CFS and the department. And just
18 some very brief questions.

19 My understanding is that if you turn on page
20 37991 -- again, 37991 -- that this is a note made in or
21 around November 2005?

22 A November 22nd, 2005, yes.

23 Q And then again if I can flip to 37977, this is
24 your advisory note. If I could just pause there?

25 THE COMMISSIONER: Did I get mine back?

1 THE WITNESS: Yes, you -- do you want it back?

2 THE COMMISSIONER: Keep it for this question if
3 you like, then I'll get it back.

4

5 BY MR. PAUL:

6 Q And, and my question here is that this advisory
7 note's prepared in March of 2006, correct?

8 A Yes, it's correct.

9 Q And the next page where you're describing the
10 timeline, all of that's being created in March of '06.

11 A Correct.

12 Q Correct. Okay. So of the two notes -- you'll
13 see that page 37978 deals with November '05 and then 37991
14 deals with November of '05 -- I know I'm doing a lot of
15 numbers, but 37991 is the one created in November 2005 at
16 the time that you were talking to your clients.

17 A 37991 was created in November of '05, that's
18 correct.

19 Q Okay. Great. And again, my understanding of
20 your evidence, then, is that while you have what I'll call
21 some impressionist recollection about the room that you
22 were in in November of '05, you're really relying upon your
23 notes as to what was actually said during that particular
24 intervention in November 2005. Is that correct?

25 A Mostly. You know, what draws my attention to

1 that session was the fact that approximately three months
2 after that initial session I was contacted with the fact
3 that possibly there was a deceased body in the Fisher River
4 area so that -- at that point, of course, I reviewed my
5 notes and my reflections of that time, so it stands out
6 so --

7 Q Stands out.

8 A -- I remember some of the content, the session,
9 after seven years. I can't say that for many other cases.

10 Q Of course. And in terms of this impression that,
11 that you have --

12 A Yes.

13 Q -- and maybe we can see if we can fix a time to
14 this. Again, at 37991 --

15 MR. PAUL: If we can pull that up on the screen.

16

17 BY MR. PAUL:

18 Q -- the information that's not redacted is
19 information you're getting from DOE 3, correct?

20 A That's right.

21 Q Right. And the information that you're getting
22 is that the client is telling you that a child was returned
23 home after Child and Family Services intervened.

24 A That's correct.

25 Q Right? And you're being told that by DOE 3.

1 A That's right.

2 Q Right? And then you also are being told about
3 the four-year-old girl, correct?

4 A That's right.

5 Q Right? And it's not clear from the note but I'm
6 wondering, is it your impression, based upon your
7 conversation with DOE 3, that she called a Child and Family
8 Service agency in or around the same time that her own
9 children were returned to her, if I can try and fix that
10 timeline. Is that your impression, or can you say either
11 way?

12 A My impression is that she received the
13 information from DOE 1 --

14 Q Um-hum.

15 A -- over the internet, of concerns regarding
16 safety and then she reported them to Child and Family
17 Services, and then following that report, the boys were
18 returned home.

19 Q Okay. So then is it fair to say that it's in and
20 around the same timeline?

21 A I believe so.

22 MR. PAUL: Okay. Mr. Commissioner, those are my
23 questions. Thank you.

24 THE COMMISSIONER: Mr. Gange?

25 MR. GANGE: Mr. Commissioner, I would ask leave

1 on behalf -- as counsel for DOEs number 1, 2, and 3, to be
2 able to ask a very few questions of Mr. Wiebe.

3 THE COMMISSIONER: I'll -- yes, I'll grant that.
4 Is there anyone else prior to Mr. Ray wanting to ask
5 questions? If not, then, Mr. Gange, I'll hear you now.

6 MR. GANGE: Thank you.

7

8 CROSS-EXAMINATION BY MR. GANGE:

9 Q Mr. Wiebe, I am -- my name is Bill Gange. I act
10 on behalf of DOEs number 1, 2, and 3 at this inquiry. And
11 I just have a couple of questions because there's been a
12 focus here on the fact that your notes with respect to the
13 November '05 interview make reference to Child and Family
14 Services and, and you commented that the, that the notes
15 with respect to the March '06 interview actually say
16 Intertribal Child and Family Services.

17 A That's correct.

18 Q And is it, is it, sir, your -- you've had
19 experience with, with countless parents and children in, in
20 the child welfare system, that's fair, is it not, sir?

21 A That's fair.

22 Q From your experience, sir, do, do the parents or
23 do the children that are involved make a fine distinction
24 between, say, the Sagkeeng Child and Family Services
25 department, the Intertribal Child and Family Services, and

1 the, the Child and Family Services department in, in
2 general? Or is it all -- generally speaking, is it often
3 just one great big amorphous group?

4 A I guess it would be the latter. It's --

5 Q Yes.

6 A -- mostly referred to as CFS.

7 Q So that when you went back, for instance, and,
8 and you, and you reviewed your notes from the November '05
9 meeting -- and that was 37991; you've looked at it several
10 times over the last couple of minutes --

11 A Um-hum.

12 Q -- and it makes mention that the client, who I
13 believe is DOE number 1 --

14 MR. GANGE: If we could call that up?

15 THE WITNESS: That's correct.

16

17 BY MR. GANGE:

18 Q It, it is on the screen. And so it starts off
19 saying that:

20

21 The client reports that he was
22 returned home after Child and
23 Family Services intervened with
24 the client.

25

1 A That's right.

2 Q Do you see that, sir?

3 A Yes.

4 Q Would, would you have expected DOE number 1 to be
5 able to distinguish between ICFS and CFS?

6 A I could speculate a 12-year-old, generally not,
7 yes.

8 Q And later on in that note, it does go on to say
9 that:

10

11 "The mother reports that the
12 family was then investigated and
13 the client and his older brother
14 were returned home."

15

16 Sir, in that note -- and, and maybe I'm just not
17 looking at the right page and, and I, I, I don't have the
18 same exposure to these documents as many of the counsel do,
19 but I see that, that, that the reference to Child and
20 Family Services was by DOE number 1. Is there someplace
21 else -- I don't think that's for me, but -- is there
22 someplace else in the, in the note, sir, where it says that
23 DOE number --

24 THE COMMISSIONER: Maybe you'd better -- someone
25 should pick that up over there. Tell them we're still in

1 session.

2

3 BY MR. GANGE:

4 Q Mr. Wiebe, perhaps you could help me out. Is
5 there someplace else in those, in those March notes where
6 it says that the mother used the words -- I'm sorry, I, I
7 misspoke there. Is there some place else in the November
8 notes where it says that DOE number 3 used the words "Child
9 and Family Services," because I do see DOE number 1 using
10 Child and Family Services.

11 A I guess the only reference -- the term, Child and
12 Family Services, maybe the sentence where the mother says
13 -- she reports that the family was investigated and then
14 the client and his older brother were returned home.

15 Q Yes, I see that.

16 A Client reports he was returned home after Child
17 and Family Services intervened. Client then reports ...
18 Client informed his mother secretly ... I don't see
19 specific reference to the mother stating that. I do recall
20 that all three of us were discussing the matter together.

21 Q And, and Mr. Ray, being ever vigilant, has asked
22 me to refer to page 37988. Now, have you got that page,
23 sir, 37988?

24 A I'm sure I do.

25 Yes, I do.

1 THE COMMISSIONER: It's on the screen now.

2

3 BY MR. GANGE:

4 Q And, and Mr. Ray's helping me out by saying that
5 in the second paragraph, the second sentence does say:

6

7 "The mother reports this occurred
8 in June or July [two-o-five] at
9 which time she contacted Child and
10 Family Services."

11

12 Can you help me out, is, is this note made in, in
13 November?

14 A No, that was a note that was made in March of
15 '06.

16 Q Okay.

17 A When I had contact with the family again. I
18 think I was reviewing for my own piece of mind, if you
19 will, and trying to understand if appropriate third
20 authorities had been contacted so I was reviewing that with
21 the mother.

22 Q Okay. So that's, that's, that's in March of '06.

23 A That's right.

24 Q So in, in March of '06, DOE number 3 used the
25 words "Child and Family Services" and also used the words

1 "Intertribal Child and Family Services."

2 A Yes.

3 Q Okay. But then I think I'm going to go back to
4 that first statement that I made, that, that from what I
5 understand, in, in November of '05 --

6 A Um-hum.

7 Q -- from your notes, anyways, it looks as though
8 the only person that, that was using the description of
9 Child and Family Services may have been the son, DOE number
10 1.

11 A Yeah, it perhaps reads like that, but in our
12 discussions I imagine that reference would have come up a
13 number of times.

14 Q And that's probably correct, sir, and, and the,
15 the ... But the bottom line on that would be, it wouldn't
16 be surprising if one were referring -- if, if DOE number 1
17 and DOE number 3 were referring to being in contact with
18 the child welfare system, that they would not necessarily
19 break it down between ICFS and CFS; is that fair, sir?

20 A Certainly.

21 MR. GANGE: Okay. Those are my questions.

22 Thank you, Mr. Commissioner. That's all that I
23 have for this witness.

24 THE COMMISSIONER: Thank you.

25 Mr. Ray.

1 MR. RAY: Yes, Mr. Commissioner. Thank you.
2 Good afternoon. For the record, Trevor Ray on behalf of
3 the witness.

4

5 CROSS-EXAMINATION BY MR. RAY:

6 Q Just one question, Mr. Wiebe. You indicated that
7 if you had child protection concerns and you felt that they
8 had not been reported, that you would have taken steps to
9 report them in this instance. And without naming clients
10 or names or agencies, can you tell us whether on previous
11 occasions people have brought things to your attention that
12 led you to report those things to CFS because -- either
13 because you got the permission of the client to do so, or
14 they didn't give you the permission but you felt concerned
15 and you then therefore went ahead and did, and did contact
16 CFS?

17 A Yes. Certainly, throughout my career I've
18 contacted Child and Family Services with child welfare
19 concerns on a number of occasions.

20 MR. RAY: That's my only question. Thank you,
21 Mr. Commissioner.

22 THE COMMISSIONER: Thank you. Thank you.

23 Ms. Walsh?

24 MS. WALSH: I have no questions, Mr.
25 Commissioner.

1 THE COMMISSIONER: Now, do you know which form I
2 gave you? I'll take it back at this point.

3 THE WITNESS: Thank you.

4 THE COMMISSIONER: And with that, thank you for
5 your attendance. You are completed.

6 THE WITNESS: Thank you.

7 THE COMMISSIONER: You can leave.

8

9 (WITNESS EXCUSED)

10

11 THE COMMISSIONER: Well, I guess we're one
12 witness behind, are we?

13 MS. WALSH: We are. We'll call that witness
14 first thing tomorrow morning, Mr. Commissioner, and --

15 THE COMMISSIONER: All right. And we'll --

16 MS. WALSH: We should be able to make up some
17 time.

18 THE COMMISSIONER: Well, we'll do our best. We
19 want to give it as thorough review as required.

20 So we'll stand adjourned now until 9:30 tomorrow
21 morning.

22 MS. WALSH: Thank you.

23 THE COMMISSIONER: You can leave.

24

25 (PROCEEDINGS ADJOURNED TO APRIL 17, 2013)