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

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

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Transcript of Proceedings  
Public Inquiry Hearing,  
held at the Victoria/Albert Room, Lower Level,  
Delta Hotel, 350 St. Mary Avenue, Winnipeg, Manitoba

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TUESDAY, APRIL 23, 2013

## **APPEARANCES**

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**MR. S. PAUL**, for Department of Family Services and Labour

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

**MS. L. HARRIS**, for General Child and Family Services Authority

**MR. S. SCARCELLO**, First Nations of Northern Manitoba Child and Family Services Authority, First Nations of Southern Manitoba Child and Family Services Authority, and Child and Family All Nation Coordinated Response Network

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

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

**MS. V. RACHLIS**, for Witnesses SOR #1, SOR #2, and SOR #....

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

**MR. W. GANGE** and **MS. K. BOMBACK**, for DOE #1, DOE #2, and DOE #3....

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1 APRIL 23, 2013

2 PROCEEDINGS CONTINUED FROM APRIL 22, 2013

3

4 THE COMMISSIONER: Morning.

5 MS. WALSH: Morning, Mr. Commissioner.

6 THE COMMISSIONER: Now, we have DOE number 4 this  
7 morning?

8 MS. WALSH: We do. And just before we call that  
9 witness, Mr. Commissioner, I wanted to tender one more  
10 exhibit that is unrelated to this witness' testimony and  
11 that is the admission as to facts of Nettie Strople.

12 THE COMMISSIONER: The admission of facts --

13 MS. WALSH: Of Nettie Strople.

14 THE COMMISSIONER: -- Nettie Strople. And that'll  
15 be Exhibit thirty what?

16 THE CLERK: Thirty-six.

17

18 **EXHIBIT 36: ADMISSION AS TO FACTS**

19 **OF NETTIE STROPLE**

20

21 MS. WALSH: Ms. Strople's counsel is in the room.  
22 I can verify that and all counsel have indicated that  
23 they're fine with the admission of facts going on, they do  
24 not need this witness to be called for the purposes of  
25 cross-examination.

1 THE COMMISSIONER: Right. Yes, she was to be  
2 called today?

3 MS. WALSH: Yes.

4 THE COMMISSIONER: Right. All right. I'll -- do  
5 I -- I don't need to read that before this next witness?

6 MS. WALSH: No, you do not.

7 THE COMMISSIONER: See, it's not long in any  
8 event.

9 MS. WALSH: No.

10 THE COMMISSIONER: But I'll read it during a  
11 break.

12 MS. WALSH: Thank you.

13 THE COMMISSIONER: All right. We'll, I guess we  
14 clear the room, do we?

15 MS. WALSH: Yes, please.

16 THE COMMISSIONER: Thank you.

17 All right. Madam Clerk, I guess we're ready for  
18 the swearing, or affirmation.

19

20 (WITNESS SWORN ON THE RECORD - REDACTED)

21

22 **DOE #4**, sworn, testified as  
23 follows:

24

25 THE CLERK: Thank you.

1 THE COMMISSIONER: All right, now, Witness, we're  
2 going to bring the rest of the people, who were excluded,  
3 once your name was given and, and you were sworn. And now  
4 they're going to come in and then Ms. McCandless will start  
5 asking you questions. Just be about two minutes.

6 All right, Ms. McCandless.

7 MS. MCCANDLESS: Good morning, witness.

8 THE WITNESS: Good morning.

9 MS. MCCANDLESS: Before we begin, I just wanted  
10 to point out to you, you should have a document in front of  
11 you entitled witness key. It refers to certain individuals  
12 who are not to be referred to by name in these proceedings.  
13 Should you need to refer to any of those people, or should  
14 I mention any of them, in the course of your testimony,  
15 please use the pseudonyms and the key in front of you; all  
16 right?

17 THE WITNESS: Okay.

18

19 DIRECT EXAMINATION BY MS. MCCANDLESS:

20 Q How old are you?

21 A Twenty-six.

22 Q I understand you live in Winnipeg?

23 A Yes.

24 Q And do you have kids?

25 A Yes.

1 Q How many kids do you have?

2 A Four.

3 Q And you're a stay at home mom?

4 A Yes.

5 Q Where have you lived throughout your life?

6 A Lake St. Martin and Winnipeg.

7 Q When did you live in Lake St. Martin?

8 A Until I was 13.

9 Q And Karl Wesley McKay is your father?

10 A Yes.

11 Q I understand DOEs number 1 and number 2 are your  
12 half brothers; is that right?

13 A Yes.

14 Q So you do not share the same mother?

15 A (Inaudible).

16 Q Were your parents together when you were growing  
17 up?

18 A No.

19 Q Were your parents married at one point?

20 A Yes.

21 Q When were they married?

22 A In July '85.

23 Q For how long were they married?

24 A About a month or two.

25 Q Did you live with your parents, as a child?

1 A No.

2 Q Who did you live with when you were growing up?

3 A My maternal grandparents.

4 Q Until what age did you live with your maternal  
5 grandparents?

6 A Thirteen.

7 Q Where did you live after that?

8 A With my auntie, with my aunt.

9 Q Your aunt?

10 A Yes, my mom's sister.

11 Q And from there, where did you go?

12 A After my aunt --

13 Q Yeah.

14 A -- I lived, I was on my own.

15 Q Okay.

16 A And my dad, dad supported me though.

17 Q Your, your father supported you?

18 A Yes.

19 Q Okay. Did you have some interaction with CFS  
20 yourself, as a child?

21 A When I was 16.

22 Q How did that come about?

23 A I wanted to keep my son. I was pregnant when I  
24 became involved into care.

25 Q What kind of an experience did you have with CFS?



1           A     I had a great experience with them. I had an  
2 awesome worker.

3           Q     Did you find it helpful?

4           A     Yes.

5           Q     In what way was your interaction with CFS  
6 helpful?

7           A     They found me support to -- and got me to  
8 programmings (phonetic) (sic) to become a responsible  
9 parent.

10          Q     Do you recall which agency your worker was with?

11          A     It was with Winnipeg Child and Family Services.

12          Q     And you had mentioned that there was some  
13 programming that they got you into?

14          A     Yes.

15          Q     And what type --

16          A     It was through, it was through the Ma Mawi Wi Chi  
17 Itata program.

18          Q     And what was the name of the program?

19          A     Adolescent Parents' Support Project.

20          Q     And what type of services did you receive through  
21 that project?

22          A     They got me my place. They helped me take, they  
23 helped me get my, get onto independent living and --

24          Q     Okay.

25          A     -- like, with parenting programs and stuff too.

1 Q Okay. And you had mentioned that you didn't live  
2 with your father, or that you, you didn't live with him  
3 through your childhood; did you know him when you were  
4 growing up?

5 A No.

6 Q Did you come to know him at some point?

7 A When I left home at 15. I met him once prior,  
8 but I don't remember the meeting.

9 Q Did you know anything about your father, when you  
10 were growing up?

11 A No.

12 Q Was there any point in your childhood where you,  
13 when you lived with your father?

14 A No.

15 Q Was there anything you knew about your father's  
16 history before you were an adult?

17 A Just from, what my mom had told me when she was  
18 with him.

19 Q What had your mom told you?

20 A He was abusive towards her.

21 Q Had you heard anything about whether he had ever  
22 been abusive to children?

23 A No.

24 Q Did you ever know any of your father's other  
25 romantic partners?

1 A Yes.

2 Q Okay. Was this DOE number 3, or someone else?

3 A Her and someone else.

4 Q Okay. And had you heard anything from either of  
5 those people about your father?

6 A Yes, from (inaudible). From [redacted].

7 Q Just to know, that name is not to be mentioned in  
8 these proceedings. I'd just remind the media to not  
9 publish that name. I, I believe she's been referred to in  
10 some documents as Ms. X, so you may want to use that when  
11 you refer to her, Ms. X.

12 And what did Ms. X tell you?

13 A That he beat her and hit -- well, I would see the  
14 markings on her too.

15 Q Had DOE number 3 every told you anything about  
16 your father?

17 A No.

18 Q You mentioned that you got to know your father  
19 around age 15; is that correct?

20 A Yes.

21 Q How did he treat you after you got to know him?

22 A Good.

23 Q After you got to know him, were you close with  
24 him?

25 A Yes.

1 Q What kind of a relationship did you have?

2 A He was my dad, he was like a best  
3 friend.

4 Q Was your father ever violent with you?

5 A Just once.

6 Q And can you tell the Commission about that one  
7 time?

8 A He had slapped me in the face, while we were  
9 drinking though.

10 Q Now, I'm, I'm going to ask you some questions  
11 about your extended family. Is Ashley Roulette one of your  
12 cousins?

13 A Yes.

14 Q Is Amanda McKay one of your cousins?

15 A Yes.

16 Q Is Lisa Bruce a cousin?

17 A Yes.

18 Q And is Alison Kakewash one of your cousins?

19 A Yes.

20 Q Have you ever been close with any of those  
21 cousins?

22 A With Amanda and Ashley.

23 Q Were you close with them in 2004 and 2005?

24 A Yes.

25 Q How often did you see them back then?

1 A Every day.

2 Q Did you ever live with either of them?

3 A I have lived with Amanda.

4 Q You lived with Amanda McKay?

5 A Yes, well, I stayed with her. I had my own  
6 place, like, she helped me with my children, or with my  
7 son.

8 Q Okay. So you kept your own place, but you spent  
9 a significant amount of time at Amanda's?

10 A Yes.

11 Q Okay. And when was that?

12 A In two thousand and -- from, like, when my first  
13 child was born, until she moved to McGee.

14 Q Did you ever spend time with Amanda on McGee?

15 A Yes.

16 Q Is that where you lived with her?

17 A No.

18 Q I understand that at some point you met Samantha  
19 Kematch?

20 A Yes.

21 Q Where did you meet Ms. Kematch for the first  
22 time?

23 A At the apartment on Furby.

24 Q When you say "the apartment on Furby", can you  
25 describe, for the Commission, where that was, more

1 specifically?

2 A On Furby and Notre Dame. I had lived there in  
3 2004 to 2005. Or actually, sorry, 2003 to 2004.

4 Q Do you recall when it was you met Samantha  
5 Kematch?

6 A In late 2003.

7 Q And where did you meet her?

8 A On Furby, the apartment on Furby and Notre Dame.

9 Q In your apartment?

10 A Yes.

11 Q Were you living with anyone at the time?

12 A No, just myself and my son.

13 Q How old was your son, in late 2003?

14 A Six months old.

15 Q And how did you come to meet Ms. Kematch? How  
16 did she end up in your apartment?

17 A Her mom had brought her to come and use the  
18 phone, so she, that's why I had met her, was because she  
19 used to use my phone a lot.

20 Q Do you know where Ms. Kematch was living at the  
21 time?

22 A In, in my apartment block with her mom.

23 Q Do you know if she was living with anyone else?

24 A Her mom and Phoenix.

25 Q Was Ms. Kematch in a relationship with your

1 father at that time?

2 A Not right away.

3 Q What was your impression of Ms. Kematch when you  
4 first met her?

5 A Weird.

6 Q What, what, about her, was weird?

7 A I don't know, she was quiet, weird, just ...

8 Q You mentioned that Ms. Kematch was living with  
9 her mother and with Phoenix, in the apartment on Furby and  
10 Notre Dame?

11 A Yes.

12 Q Did you meet Phoenix Sinclair when you lived in  
13 the apartment on Furby and Notre Dame?

14 A Yes.

15 Q How old was Phoenix when you met her?

16 A Three.

17 Q Do you recall when you met her?

18 A No, I don't.

19 Q Was it around the first time you first met  
20 Samantha Kematch?

21 A Yes, I -- Samantha's mom had brought Phoenix  
22 over.

23 Q Brought Phoenix over to your apartment?

24 A To my apartment, yes.

25 Q Was Samantha with them that day?

1 A No.

2 Q So it was Samantha's mother and Phoenix came to  
3 your apartment?

4 A Yes.

5 Q What do you remember about Phoenix, the first  
6 time you met her?

7 A She was a happy little girl. She used to come  
8 play with my son.

9 Q What did she look like?

10 A She was healthy. She had short hair, I think.

11 Q What was her weight like?

12 A The weight of a normal three year old kid, I  
13 guess.

14 Q Okay. Did you have a chance to see Samantha  
15 Kematch's mother interacting with Phoenix, the day that you  
16 met her?

17 A Yes.

18 Q And how was Ms. Kematch's mother with Phoenix?

19 A She was good to her.

20 Q Do you recall approximately how long it was you  
21 lived in the same apartment block as Samantha Kematch?

22 A Maybe six months, or something, I don't -- about  
23 there. Don't remember when she moved in --

24 Q Okay.

25 A -- to the apartment on McGee.



1 Q Did you see Ms. Kematch, that's Samantha Kematch,  
2 consistently throughout that time?

3 A A lot, yes. She was with my dad after, so ...

4 Q Okay. And I'll ask you some more questions about  
5 that in a moment. Did you have an opportunity to see how  
6 Samantha Kematch parented Phoenix?

7 A No, not really, not until they moved to McGee,  
8 they -- she was ...

9 Q Okay. Why didn't you have an opportunity to see  
10 her parent Phoenix before McGee?

11 A Because Phoenix was always with her grandma.

12 Q Do you know if Samantha Kematch was using drugs  
13 around that time?

14 A No, I don't know.

15 Q Did you ever go inside the, the apartment that  
16 Samantha Kematch lived in with her mother and Phoenix?

17 A Yes, I have.

18 Q How many times?

19 A Once or twice maybe. I just went down there to  
20 borrow sugar or something.

21 Q What was the apartment like?

22 A I just went into by the door, so I could just see  
23 the kitchen and the living room area.

24 Q Was there anything that jumped out at you about  
25 the apartment?

1 A No.

2 Q Would you regularly see Phoenix, during the time  
3 that Samantha Kematch lived on Furby and Notre Dame?

4 A Yes.

5 Q Typically, who would you see Phoenix with?

6 A Her grandma.

7 Q And did they visit you, in your apartment?

8 A Yes, she used to bring her over to come and play  
9 with my son.

10 Q What was Phoenix like with your son?

11 A She was good to him. She would play with him and  
12 they had fun together.

13 Q What kinds of things did Phoenix like to do?

14 A She used to sit there and play with him, watch  
15 cartoons and I had lots of toys with my, for my son, so she  
16 would play toys with him.

17 Q Did you ever see Phoenix misbehave?

18 A No.

19 Q During the time that you saw Phoenix at your  
20 apartment on Furby and Notre Dame, was there anything about  
21 her that concerned you?

22 A No.

23 Q During that time, would you see your father  
24 regularly?

25 A Yes.

1 Q Where would you see your father?

2 A In my home, he used to come and baby-sit for me.

3 Q He would baby-sit your son?

4 A Yes.

5 Q So I take it you were comfortable leaving your  
6 son with your father?

7 A Yes.

8 Q Do you know how your father met Samantha Kematch?

9 A Through Samantha's mom, I believe, or something  
10 like that. They met in the apartment on Furby and Notre  
11 Dame.

12 Q Where was your father living during that time?

13 A On McGee.

14 Q Was that 747 McGee?

15 A Yes.

16 Q Do you know how soon after they met your father  
17 and Ms. Kematch began a relationship?

18 A No, I don't know how soon.

19 Q Do you know if your father was ever abusive to  
20 Ms. Kematch?

21 A I just seen him throw keys at her once.

22 Q At some point, your father and Ms. Kematch moved  
23 in together?

24 A Yes.

25 Q And was that at 747 McGee?

1 A Yeah.

2 Q Were you spending time with your father on a  
3 regular basis around that time?

4 A Somewhat.

5 Q How often would you see him?

6 A The end of the day maybe and ...

7 Q Did you spend time at your father's apartment on  
8 McGee in 2004?

9 A Yes.

10 Q What types of visits did you have with him?

11 A We'd go for supper, go have supper, go to the --  
12 take out my son to visit with Phoenix, or, or stop in,  
13 because Amanda lived in the same building.

14 Q Okay. So, at some point, Phoenix was living in  
15 that apartment as well?

16 A Yes.

17 Q We'll get more into that in a moment. I just  
18 wanted to ask you some questions relating to timeline. Did  
19 you see your father consistently from 2004 through to 2006?

20 A No.

21 Q Okay. Was there some point when you didn't have  
22 contact with your father?

23 A Yes, in 2005.

24 Q What month was that?

25 A In early 2005. Yeah, we got into an argument, so

1 we just -- I quit talking to him.

2 Q And do you recall the reason for the argument?

3 A It was over a cell phone.

4 Q So, I take it then, you spent time at your  
5 father's apartment until early 2005; is that right?

6 A Yes.

7 Q Now, at some point, Phoenix began living at 747  
8 McGee?

9 A Yes.

10 Q Do you recall when it was that she began to live  
11 there?

12 A Like, practically right after they moved out of  
13 the apartment on Notre Dame and Furby.

14 Q And do you recall when it was they moved out of  
15 that apartment?

16 A No.

17 Q Do you know if Phoenix stayed anywhere else in  
18 early 2004?

19 A I, I know that she went to go and visit her  
20 foster mother, Kim.

21 Q That was some point in early 2004?

22 A Yes.

23 Q And were you ever involved in, in collecting  
24 Phoenix from her foster mother's house?

25 A Once we went to pick up Phoenix on, at her foster

1 mom's and when they, we went, they brought -- Samantha came  
2 out of the house with clothes.

3 Q Did you go into the house that day?

4 A No, I waited outside in the truck, with my dad.

5 Q Was anyone else with you?

6 A No.

7 Q It was you, your --

8 A My, me, my dad and Sam.

9 Q Did you spend time with Phoenix, in 2004, after  
10 she moved in with your father and Ms. Kematch?

11 A Yes.

12 Q Where did you typically spend time with  
13 her?

14 A At Amanda's, she had lots of toys and our kids  
15 would all play together.

16 Q That's your cousin, Amanda McKay's apartment?

17 A Yes.

18 Q And was that in 747 McGee as well?

19 A Yes.

20 Q Did you ever baby-sit Phoenix?

21 A A couple times with, at Amanda's.

22 Q Was Amanda with you, on those occasions?

23 A Yes.

24 Q Did you spend time with Phoenix at your father's  
25 apartment on McGee?

1 A Yes, I would go and visit there.

2 Q What was Phoenix like after she started living at  
3 your father's apartment on McGee?

4 A She was quiet.

5 Q What -- physically, what did she look like?

6 A She was, like, had a couple bruises sometimes, a  
7 couple times. She was different a little bit.

8 Q Physically different?

9 A No, like, she wasn't too -- she was a little  
10 smaller maybe.

11 Q What about her, her demeanour, her expression?  
12 How did she seem?

13 A I don't know. I don't remember.

14 Q Okay. Was that a change from when you had spent  
15 time with her at your apartment?

16 A Yes, she was, she was more quiet. She didn't  
17 really, like ...

18 Q You mentioned a couple moments ago that you had  
19 seen bruises?

20 A Yes.

21 Q How many times did you see Phoenix with bruises?

22 A Twice.

23 Q I'll ask you about the first time you remember  
24 seeing a bruise; where did she have bruises?

25 A She had a bruise on her face.

1 Q Did you ask anyone about the bruise?

2 A I asked Phoenix and she said she fell. I asked  
3 her mom and -- or my dad, and they said that when they were  
4 driving, a deer jumped out in front of them and she fell, I  
5 mean, she hit her face on the dashboard.

6 Q What did you think about that explanation for the  
7 bruise?

8 A It seemed legitimate at the time.

9 Q The occasion when you saw the bruise on her face,  
10 were there bruises that you saw anywhere else on her?

11 A I seen, I seen a bruise on her arm.

12 Q Okay. Was that the same time, or a different  
13 time?

14 A A different time.

15 Q That was a bruise on her arm?

16 A Yes.

17 Q Did you ask anyone about that bruise?

18 A I asked, asked her mom and she said that she fell  
19 in the bathtub.

20 Q And what did you think about that explanation?

21 A It seemed legitimate. I have kids too, they,  
22 they fall once in awhile.

23 Q Now, you said you had gone to the apartment, your  
24 father's apartment, where Phoenix was, on occasion; is that  
25 right?



1 A Yes.

2 Q And when you would go to the apartment on 747  
3 McGee, typically, where would Phoenix be?

4 A In the living room, except once awhile in the  
5 room.

6 Q Okay. And when you say "the room", what room do  
7 you mean?

8 A The bedroom.

9 Q How would you know she was in the bedroom?

10 A Well, she wouldn't be in the living room.

11 Q Okay. So was the, was the door typically closed,  
12 or open?

13 A It would be closed.

14 Q And do you know how many times you, you came to  
15 see that?

16 A A couple, maybe, but I would take her out of  
17 there, so she could come and play with my boy when I was  
18 visiting.

19 Q Did you ever ask your father, or Ms. Kematch, why  
20 Phoenix was in the bedroom?

21 A No, but she would -- they'd be -- they would say  
22 she was in there for a time out.

23 Q What did you think about that explanation?

24 A It was legitimate too, like, because I put my  
25 kids, you know, for a time out, give them time to think

1 what they, they was, if they got into trouble.

2 Q Did you know what the inside of that bedroom  
3 looked like?

4 A It was dark. The, the shutters were always  
5 closed.

6 Q And when you would take Phoenix out of that room,  
7 how would your father, or Ms. Kematch, react?

8 A They wouldn't.

9 Q How did Phoenix seem on those occasions?

10 A She was quiet, she would, like, she would just  
11 sit and play (inaudible) the room.

12 Q You had mentioned that you had seen Phoenix at  
13 your cousin, Amanda's apartment; is that right?

14 A Yes.

15 Q And what were those visits like?

16 A She would ask Samantha to come drop her off and  
17 she would come and sit and then she would play with my son  
18 and Amanda's son.

19 Q Was she quiet on those occasions?

20 A At first, when her mom was there, she would just  
21 sit and when, after she would, she would play.

22 Q Okay. You said she would just sit; was that  
23 something she voluntarily did, or was she told to sit?

24 A She was told to sit.

25 Q Who would tell her to sit?

1 A Her mom.

2 Q How many times did you see that happen in  
3 Amanda's apartment?

4 A Once maybe, twice, maybe, like ...

5 Q So, generally, in 2004, up to the end, or early  
6 2005, you had an opportunity to see Ms. Kematch interacting  
7 with Phoenix; right?

8 A Yes, I have.

9 Q What did you think about how she treated Phoenix?

10 A She wasn't mean to her, I didn't see her being  
11 mean to her. Like, she was ...

12 Q Did you ever see her discipline Phoenix?

13 A No.

14 Q Did you ever see her yell at Phoenix?

15 A No.

16 Q Did you ever see her hit Phoenix?

17 A No.

18 Q And the Commission has heard that Ms. Kematch had  
19 a baby girl at the end of November 2004; did you ever have  
20 an opportunity to see Ms. Kematch with that baby girl?

21 A Yes. She was, I don't know ...

22 Q Were there any differences between how she  
23 treated Phoenix, compared with how she treated the baby  
24 girl?

25 A Yeah, she loved the baby girl up more.

1 Q And did you have a chance to see your father  
2 interact with Phoenix, during the time that she lived with  
3 him?

4 A Yes.

5 Q How did he treat Phoenix?

6 A He wasn't mean to her, like, I never seen, like,  
7 them be mean to her.

8 Q Did you ever see him discipline Phoenix?

9 A No.

10 Q Did you ever see him hit Phoenix?

11 A No.

12 Q Was there any, ever any time where you saw  
13 Phoenix and you got the sense that she was afraid?

14 A No.

15 Q You had talked earlier about how there was some  
16 change in Phoenix from when you had first met her; do you  
17 recall that?

18 A Yes.

19 Q Did you ever discuss the changes you saw in  
20 Phoenix with anyone?

21 A No.

22 Q Did you ever discuss the bruises that you saw  
23 Phoenix have with anyone, other than her, your father, or  
24 Ms. Kematch, or Phoenix herself?

25 A No.

1 Q Sorry, you'll have to speak up, I'm not sure we  
2 heard that.

3 A No.

4 Q Did Ms. Kematch ever tell you anything about  
5 Phoenix that concerned you?

6 A No.

7 Q Did you ever think about calling CFS to report  
8 anything you'd seen, with respect to Phoenix?

9 A No, because the explanations they, the, the  
10 explanations they gave me were legitimate explanations at  
11 the time.

12 Q Now, we had discussed earlier about how you had  
13 lost contact with your father sometime in early 2005; did  
14 you reconnect with him at some point?

15 A Yes, in July of 2005.

16 Q Between early 2005 and July 2005, did you have  
17 any contact with your father?

18 A No.

19 Q Did you have any contact with Samantha Kematch?

20 A No.

21 Q Or any contact with Phoenix?

22 A No.

23 Q Did you have any contact with DOE number 1, or  
24 DOE number 2, in the spring or summer of 2005?

25 A No.

1 Q You mentioned that you reconnected with your  
2 father in July of 2005; how did that come about?

3 A He came by and gave me a ride to a barbeque.

4 Q Were you still living on Furby and Notre Dame at  
5 that point?

6 A No.

7 Q Did you have a house somewhere else?

8 A Yes.

9 Q So he came to pick you up from your house?

10 A Yes.

11 Q Who was in the car that day?

12 A Sam and my dad.

13 Q Was their baby girl with them?

14 A No.

15 Q Did you ask --

16 THE COMMISSIONER: Did she say yes to that?

17 MS. MCCANDLESS: No.

18 THE COMMISSIONER: The baby was not there?

19 THE WITNESS: No.

20

21 BY MS. MCCANDLESS:

22 Q Did you ask about Phoenix that day?

23 A Yes.

24 Q And did anyone respond?

25 A They said that she was with her aunt in Ontario.

1 Q And when you say "they", who do you mean?

2 A Well, both of them, Samantha and my dad.

3 Q Did you ask anymore questions about Phoenix after  
4 that?

5 A No.

6 Q What did you think about what you had been told?

7 A It seemed like a legitimate, you know, answer,  
8 because I didn't know.

9 Q How did your father act that day?

10 A Normal, I guess.

11 Q What about Ms. Kematch?

12 A The same.

13 Q Do you know if your father and Ms. Kematch were  
14 keeping a house at Fisher River during that time?

15 A Yes, they were living in Fisher River.

16 Q Did you ever visit them in Fisher River?

17 A Yes, in October of 2005.

18 Q How many times did you visit them?

19 A Twice, the first time I went there for  
20 Thanksgiving. I was visiting my father-in-law in Peguis  
21 and the second time was when they asked me to help them  
22 pack.

23 Q So you had been visiting your father, father-in-  
24 law in Peguis for Thanksgiving?

25 A Yes.

1 Q And how did you come to spend time in Fisher  
2 River?

3 A I went to go visit there for, while I was  
4 visiting my father-in-law, because my dad asked me to come  
5 and stop in.

6 Q Okay. And was this a house in Fisher River that  
7 you went to?

8 A Yes.

9 THE COMMISSIONER: When was this in Fisher River?  
10

11 BY MS. MCCANDLESS:

12 Q Thanksgiving, that was 2005?

13 A Yes.

14 Q How long did you stay for?

15 A I think I was there overnight, or the day,  
16 overnight, I think I was there. I wanted to go back right  
17 away --

18 Q Why was that?

19 A -- back to Peguis.

20 Q You wanted to go back to Peguis?

21 A Yes.

22 Q Was there any particular reason why you wanted to  
23 go back?

24 A No, I just, just wanted to go back.

25 Q Who was in the house when you came to stay?



1           A     My dad, Sam and the baby girl, baby girl, yeah,  
2 just the three of them.

3           Q     Okay. Did you ask about Phoenix during that  
4 visit?

5           A     Yes.

6           Q     What were you told?

7           A     They said that she was living with her dad.

8           Q     Again, that was your father and Ms. Kematch said  
9 that to you?

10          A     Yes.

11          Q     Did you know who Phoenix's father was?

12          A     Yes.

13          Q     You did know?

14          A     Yeah, I just knew his, his first name.

15          Q     Had you had any contact with him?

16          A     No.

17          Q     Were you concerned at all about what you were  
18 told about Phoenix?

19          A     No.

20          Q     You mentioned that you had visited the house in  
21 Fisher River two times and so how did the second visit come  
22 about?

23          A     I helped them pack.

24          Q     Was this also in October of 2005?

25          A     Maybe November, early November, late October.

1 Q How long did you stay on that occasion?

2 A Overnight.

3 Q One night?

4 A Yes, one night.

5 Q And the purpose of your visit that time?

6 A Was to help Samantha pack.

7 Q Who was in the house on that occasion?

8 A Myself, my son, Sam and the baby girl.

9 Q Okay. I take it your father was, you're not,  
10 your father was not there?

11 A No, he was -- we, when they came and picked me  
12 up, out here in the city, on the way out of the city, we  
13 had dropped him off at the Seven Oaks Hospital, because he  
14 was, he wasn't feeling well.

15 Q So the intention was for you to go out with your  
16 father and Ms. Kematch?

17 A Yes, but we dropped him off at the Seven Oaks  
18 Hospital.

19 Q So you were there to pack; did you get a good  
20 look at the house?

21 A Yes.

22 Q And did you see anything that jumped out at you  
23 about the house?

24 A No, I only stayed on the main floor.

25 Q You didn't go in the basement?

1 A No, when I walked into the house, it felt cold.

2 Q What was Ms. Kematch like during that visit?

3 A She was, she was smoking drugs.

4 Q What kind of drugs?

5 A She was smoking crack.

6 Q How many times did you see that?

7 A A few times that night.

8 Q Were you aware she was pregnant at the time?

9 A Yes, she told me not to tell my dad.

10 Q Did you raise any concerns with her at that  
11 point?

12 A No.

13 Q Did you question her about her use of crack while  
14 she was pregnant?

15 A Yes, I just told her she shouldn't do it, that it  
16 was wrong.

17 Q How did she respond?

18 A She didn't say nothing.

19 Q Had you known her to do crack prior to that?

20 A I heard about it, but I didn't ever see her do  
21 it.

22 Q Did you consider calling CFS after what you saw?

23 A No, because I didn't want my little, little baby  
24 girl growing up in CFS.

25 Q So when you say "baby girl", you're referring to

1 your father and Ms. Kematch's daughter that was there?

2 A Yes.

3 Q So I take it you didn't contact CFS about that?

4 A (Inaudible).

5 Q Did you ask about Phoenix during that visit?

6 A No, because a couple weeks before, I asked about  
7 her and they told me she was living with her dad.

8 Q Now, after Ms. Kematch and your father moved out  
9 of the house in Fisher River, do you know where they went?

10 A They came and stayed in my house in the city for  
11 two weeks.

12 THE COMMISSIONER: And when, in time, was that?

13 THE WITNESS: In November of 2005.

14

15 BY MS. MCCANDLESS:

16 Q Who came to stay with you?

17 A Sam, my dad and the baby girl.

18 Q How was your father during that visit?

19 A He used to cry at nights and say he was in pain.

20 Q So you asked him about why he was crying?

21 A No. Well, he said he, it was because of the pain  
22 in his legs.

23 Q Did you ever ask Ms. Kematch about what was going  
24 on with your father?

25 A No.

1 Q How did Ms. Kematch seem during that visit?

2 A Quiet.

3 Q Was that a change?

4 A Somewhat.

5 Q Was there anything about the way your father and  
6 Ms. Kematch was acting, were acting, during that time, that  
7 caused you concern?

8 A No.

9 Q Did you ever ask Ms. Kematch or your father about  
10 Phoenix?

11 A No, because a couple weeks before that, I had  
12 asked them and she said she was living with her dad.

13 Q You said they stayed at your place for a couple  
14 weeks?

15 A Yes.

16 Q Do you know where they went after that?

17 A After that, they stayed with SOR 9.

18 Q Did you continue to have contact with them after  
19 they moved out of your house?

20 A Yeah, some contact.

21 Q How often did you see them?

22 A I don't know, not too often.

23 Q Now, the Commission has heard evidence that in  
24 early 2006, Ms. Kematch and your father moved back into an  
25 apartment on 747 McGee; did you visit that apartment?

1 A Yes, I have.

2 Q Do you recall how often you visited that  
3 apartment?

4 A No, I don't remember how often.

5 Q At that point, did your father and Ms. Kematch  
6 have a new baby with them?

7 A Yes, they had, they had a baby boy.

8 Q How did Ms. Kematch act towards the new baby?

9 A She was good to him.

10 Q And what about towards the baby girl?

11 A Same.

12 Q Did you ever stay the night at their apartment on  
13 McGee?

14 A Yes, the night, the night when, before the  
15 investigators came, the Employment and Income Assistance  
16 investigators.

17 Q Okay. So I'll ask you some details about that.  
18 You mentioned that employment and income assistance  
19 investigators came to the apartment on McGee?

20 A Yes.

21 Q And this was in 2006?

22 A Yes.

23 Q Were you present in the apartment that day?

24 A That morning, when they came, I -- they woke me  
25 up and asked me where Phoenix was.

1 Q And how did you respond?

2 A I got up and then told them I didn't know.

3 THE COMMISSIONER: What, what, what was it they  
4 asked her?

5 MS. MCCANDLESS: Where Phoenix was.

6 THE COMMISSIONER: The investigators asked you  
7 that?

8 THE WITNESS: Yes.

9

10 BY MS. MCCANDLESS:

11 Q Did you hear them speak to your father and Ms.  
12 Kematch about Phoenix?

13 A No, I had gotten up and got ready and left.

14 Q Did you question your father or Ms. Kematch about  
15 where Phoenix was?

16 A Did I question them?

17 Q Correct.

18 A No, I had -- they didn't -- I left that  
19 afternoon. They call, my dad called me -- no, Sam called  
20 me and asked me if I knew anybody that had a little girl,  
21 about the age of five.

22 Q Did she say why she wanted to know that  
23 information?

24 A Because they said that she, they couldn't get  
25 Phoenix down to the city in time to, to see the

1 investigators.

2 Q What did you tell her?

3 A No, I didn't know anybody with a little girl.

4 Q Were you suspicious about anything at that point?

5 A No, I, because I had dropped off my son and went  
6 out with some friends.

7 Q You had dropped off your son where?

8 A With his dad.

9 Q Did you have any contact with your father after  
10 the investigators had come to his apartment?

11 A Yes, that night, he had called me and asked me if  
12 I could pick up my -- pick baby girl and baby boy.

13 Q Did you ask him why?

14 A No, I didn't. I told him that I, that I couldn't  
15 and he said that Sam had been arrested.

16 Q Did he tell you what she had been arrested for?

17 A No.

18 Q Did you ask him?

19 A No.

20 Q So he asked you if, if you could come pick up  
21 baby girl and baby boy and what did you respond?

22 A I told him I couldn't because I had started  
23 drinking that day.

24 Q Did you have any contact with your father after  
25 that conversation?



1           A     No.  Oh, well, during that conversation, he told  
2 me that he had, that he had gotten Amanda to take the  
3 babies.

4           Q     Did you, at some point, speak to your grandmother  
5 about what was going on?

6           A     No, not until the next morning, after that day  
7 and I called my grandma and asked her what was going on and  
8 she told me that my dad had been arrested for murder and  
9 she hung up.  She was crying on the phone and I called the  
10 caretaker and he told me that he had been arrested for the  
11 murder of Phoenix.

12          Q     You called the caretaker of --

13          A     747 McGee.

14          Q     And he told you that your father had been  
15 arrested for the murder of Phoenix Sinclair?

16          A     Yes.

17          Q     What did you think when you heard that  
18 information?

19          A     I was shocked.  I didn't know what to think.  I  
20 couldn't think.  I didn't know what to do.

21          Q     You said you were shocked; why were you shocked?

22          A     Because I couldn't believe it, I couldn't believe  
23 it.  Like I said, he'd just told me weeks earlier that she  
24 was living with her dad and summer before, she was living  
25 with, like, staying with aunt, like, and all the

1 explanations they gave seemed legitimate at the time,  
2 so ...

3 Q During the time you spent with Phoenix Sinclair,  
4 was there an occasion where you suspected she was being  
5 abused?

6 A No.

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

9 THE COMISSIONER: Thank you, Ms. McCandless.

10 Mr. Gindin, are you, are you ready to go, or do  
11 you want a break?

12 MR. GINDIN: I can go.

13 THE COMISSIONER: Fine.

14 MR. GINDIN: Good morning, ma'am, my name is Jeff  
15 Gindin, I appear for Kim Edwards and Steve Sinclair and I  
16 have a few questions for you.

17 THE WITNESS: Okay.

18

19 CROSS-EXAMINATION BY MR. GINDIN:

20 Q You told us that when you were 16, that, I  
21 believe you said you put yourself in care --

22 A Yes.

23 Q -- is that correct?

24 A Yes.

25 Q And at that time, you had a son and you wanted to

1 make sure that he was okay?

2 A Yes.

3 Q And that experience, you said, was a, a good one?

4 A Yes, I had an awesome worker.

5 Q And was it one particular worker that you had  
6 during that period?

7 A Yes.

8 Q And --

9 A Her name was Cindy (phonetic).

10 Q -- do you recall her name?

11 A Her name was Cindy.

12 Q And you described her as awesome and that was, I  
13 presume, one of the reasons that your experience was, was a  
14 good one, because you, you got along well with her and she  
15 helped you?

16 A Yes.

17 Q Okay. And how long were you connected with  
18 Cindy?

19 A She was my worker for maybe six, seven months and  
20 then she gave up her job with CFS and got, and I had to get  
21 a different worker.

22 Q Okay. And how long did you have the other worker  
23 for?

24 A I had lots of different workers. I had my file  
25 open for 10 years.

1 Q Oh, I see. And did you have some difficulty with  
2 some of the workers?

3 A No.

4 Q But most of the time, you were with this one  
5 worker?

6 A Yeah, in the beginning.

7 Q Okay. And you say 10 years, do you mean --

8 A After I was, after I turned 18, they thought I  
9 needed my file open for support, for, because I was a young  
10 mother.

11 Q Um-hum.

12 A Once they were ready to close my file --

13 Q So you --

14 A -- my dad was arrested and then they said that  
15 they wanted to keep it open for support.

16 Q -- so your father was --

17 A (Inaudible) --

18 Q Pardon me?

19 A -- to get some --

20 Q Go ahead.

21 A -- counselling.

22 Q All right. So your file was open for a long  
23 time?

24 A Yes.

25 Q Okay. Now, you also mention that your dad was

1 violent with you on one occasion?

2 A Yes.

3 Q You talked about how he slapped you in the face?

4 A Yes.

5 Q Do you recall how old you were at that time?

6 A I was about 15 or 16.

7 Q Okay. Did I, did I hear you say that, at the  
8 time, you and he were drinking together?

9 A We weren't both drinking together, but we were  
10 both drinking at the time. I went to (inaudible) and I  
11 asked him for some money and he didn't want to give me  
12 money.

13 Q Um-hum.

14 A And it got to an argument and then, I guess he  
15 slapped me to snap me out of it, I don't know.

16 Q Um-hum. And he was drinking at that time?

17 A Yes.

18 Q And did, did, did you say you were as well?

19 A Yes.

20 Q Okay. Then you were, then you spoke about  
21 meeting Samantha and you described her as being weird?

22 A Yeah.

23 Q Okay. Did she show much emotion?

24 A No.

25 Q Is that what you were telling us you found weird?

1           A     Yeah, she's, yeah, she never showed emotion. She  
2 was, like, quiet too.

3           Q     Um-hum. And when you met Phoenix, you thought  
4 she was a happy little girl, healthy, normal weight and at  
5 that time, she was about three, I think you said; right?

6           A     Yes.

7           Q     You also talked about when you were living on  
8 Furby, or at least when they were living on Furby, you  
9 mentioned that she, that Phoenix sometimes went to visit  
10 her foster mother, Kim; correct?

11          A     Yeah, it was, I remember seeing her gone all the  
12 time. I --

13          Q     Um-hum.

14          A     -- always seen her with her grandma.

15          Q     Okay. But you did see her go to visit Kim?

16          A     I didn't see her go -- (inaudible) I -- the only  
17 time I knew she was there was when I, we picked her up.

18          Q     Okay.

19          A     Like, I wasn't really close with Samantha or her  
20 grandma.

21          Q     I see. And how, how do you know she went to  
22 visit Kim? Were you there, were you in the car?

23          A     No, Bertha, I -- Bertha would come over a lot.  
24 She used to come and cook supper at my house, or come  
25 borrow some food and --

1 Q Um-hum.

2 A -- use my phone, watch some TV.

3 Q Okay. Did you know Kim, her foster mother?

4 A No.

5 Q Okay. Ever see her or meet her?

6 A No.

7 Q Okay. But you were aware of her --

8 A Yes.

9 Q -- at the time? And you know that at least on  
10 one occasion, you recall, there was a visit between Phoenix  
11 and Kim; right?

12 A Yes.

13 Q You then told us about seeing Phoenix on McGee,  
14 you noticed that she was quieter?

15 A Yes.

16 Q You noticed that -- some bruises; right?

17 A Yes.

18 Q She seemed thinner; right?

19 A Yes.

20 Q And you noticed that she really wasn't playing a  
21 lot?

22 A She was quiet when she played with my son.

23 Q Um-hum. And I think you said you saw bruises on  
24 two occasions?

25 A Yes.

1 Q Now, when you saw the bruises, this was after  
2 your dad had slapped, slapped you that time you told us  
3 about; right?

4 A Yes.

5 Q And I think you were told that a deer jumped in  
6 front of the car and Phoenix hit the dashboard?

7 A It wasn't a car, he was a truck driver.

8 Q And did he say that --

9 A They were driving his semi truck.

10 Q Oh. So he would have been driving his semi truck  
11 with, with Phoenix in the car, in the truck?

12 A Yes.

13 Q And a deer jumped out and Phoenix hit a  
14 dashboard; is that what he told you?

15 A Yes.

16 Q Okay. And when you saw that bruise, did you  
17 think about calling CFS?

18 A Well, they gave me a legitimate answer; right? I  
19 didn't think, because it's, you know, like, I have been --  
20 I remember riding in the truck before and it is bouncy and  
21 you know --

22 Q Um-hum.

23 A -- I didn't think to call CFS because --

24 Q Well, did you consider that, other factors, such  
25 as Phoenix being quieter, seeming different, being thinner,



1 seeing --

2 A I thought it was maybe because she didn't, you  
3 know, see her grandma too, like --

4 Q Um-hum.

5 A -- I think after they he had moved out, Samantha  
6 and Bertha didn't talk as much.

7 Q Um-hum. Now, I know you, I know you said you  
8 didn't call and the question I'm asking you is, did you,  
9 did you actually think about it, or consider it?

10 A No, I didn't think about it, or consider it.

11 Q And I ask that because you told us that you had a  
12 pleasant experience with CFS, yourself, years earlier and  
13 wondering why you didn't consider it, since you did have,  
14 according to what you said, pretty good experience with CFS  
15 yourself?

16 A But not everybody's experience is the same.

17 Q But you did say that yours was a good one; right?

18 A Yes.

19 Q There's a second time that you saw a bruise on  
20 Phoenix's arm and you asked about it; correct?

21 A Yes.

22 Q And you got another explanation, which didn't  
23 cause you suspicion at the time, you say; right?

24 A Yes.

25 Q Okay. You also saw that Phoenix was being kept

1 in this dark room. The explanation you were given was that  
2 she, it was a time out --

3 A Yes.

4 Q -- right? Did you ever see Phoenix misbehave?

5 A No. Not when I was visiting, but I wasn't there  
6 all the time.

7 Q Right. But when you were there, you didn't see  
8 that?

9 A No.

10 Q And you noticed, as well, that Phoenix was quiet  
11 when Samantha was with her, but different when Samantha  
12 wasn't; right?

13 A Yes.

14 Q Now, you told us about July of 2005, that you  
15 were picked up and driven to a barbeque?

16 A Yes.

17 Q That was in Fisher River; right?

18 A No.

19 Q No? That was where?

20 A In Winnipeg.

21 Q In Winnipeg? Okay. And Sam and Wes were in the  
22 vehicle?

23 A Yes.

24 Q And no one else?

25 A My friend, my friend was over and he gave me and

1 my friend a ride to this barbeque.

2 Q No kids in the car though?

3 A No.

4 Q Okay. And you asked about Phoenix, I think you  
5 said?

6 A Yes.

7 Q And this time, you were told she was with an aunt  
8 in Ontario?

9 A Yes.

10 Q Did you ask why?

11 A No.

12 Q Did you ask for how long?

13 A No.

14 Q Um-hum. You told us that you visited them in  
15 Fisher River in October of '05, around Thanksgiving; right?

16 A Yes.

17 Q And you noticed the house was cold; right?

18 A Yes.

19 Q I think that's what you said. And I think you  
20 said that -- now, who was there at that time, when you  
21 visited the house in Thanksgiving at --

22 A My dad --

23 Q Um-hum.

24 A -- Sam and the baby girl.

25 Q Okay. You said that Samantha was smoking drugs?

1 A Yes.

2 Q Crack cocaine; right?

3 A Yes, on the visit that I went when I went to go  
4 help her pack.

5 Q Are we talking about the same visit at  
6 Thanksgiving?

7 A No.

8 Q This is a different visit?

9 A Yes.

10 Q Now, was that after the Thanksgiving visit?

11 A Yes.

12 Q Shortly thereafter?

13 A Yeah, a couple weeks maybe.

14 Q And was that in Fisher River as well?

15 A Yes.

16 Q And that's the time you say you saw her smoking  
17 crack?

18 A Yes.

19 Q And who was there then?

20 A Myself, my son and the baby girl and Samantha.

21 Q So she was smoking crack with her baby girl at  
22 home?

23 A Yes.

24 Q And your son was there as well?

25 A (Inaudible) I kept the babies in the room.

1 Q Okay. And Samantha was pregnant at that time?

2 A Yeah, she went for a ride and she came back and  
3 she came back and when I came out, she was sitting in the  
4 kitchen, smoking crack.

5 Q Um-hum. Well, did you consider calling CFS at  
6 that time?

7 A No, because I didn't want my sister growing up in  
8 care.

9 Q I see, okay.

10 A You know, there's other parents that do a lot  
11 worse drugs and sometimes some of these parents even sit in  
12 the same room as -- but she wasn't, I was keeping the kids  
13 in the room with me.

14 Q And you say you didn't want your son -- is that  
15 what you said? Growing up in care?

16 A I said my sister.

17 Q Oh, your --

18 A I didn't do drugs, I don't do drugs, I kept my,  
19 you know, my son was okay with me.

20 Q Okay. So you're talking about Samantha's baby  
21 girl, when you say --

22 A Yes.

23 Q -- I didn't want her growing up in care --

24 A Yes.

25 Q -- right? Did you give it some thought and say,

1 you know, I should maybe report this? Here's someone  
2 smoking crack in front of their baby girl?

3 A Well, she wasn't doing it in front of her.

4 Q But the baby girl was home?

5 A Yes, and I was keeping her in the room.

6 Q And Samantha was pregnant?

7 A Yes.

8 Q And, and why, why did you, why were you concerned  
9 about growing up in care? What, what --

10 A Because I couldn't see her getting -- like, my  
11 other sisters I have, they grew up in care.

12 Q Um-hum. And did you not see them again?

13 A Barely.

14 Q So are, are you saying you didn't even consider  
15 it, or --

16 A I didn't consider it.

17 Q Okay. All right. Did you ask about Phoenix at  
18 that time?

19 A No, because asked them a couple of weeks earlier,  
20 at Thanksgiving, where she was and --

21 Q Yeah, that's --

22 A -- they said she was living with her dad.

23 Q -- was that the time they say they, she was  
24 living with her aunt or with her dad?

25 A Her dad --

1 Q Okay.

2 A -- at that time.

3 Q Okay. Did you ask whether they'd heard from  
4 Phoenix, or spoken to her, or how she was?

5 A No.

6 Q And they never really talked about Phoenix;  
7 right?

8 A No.

9 Q Did you find that odd?

10 A No.

11 Q No? I presume you often talk about your son?

12 A I talk about my kids all the time.

13 Q So you didn't find it odd that they never  
14 mentioned Phoenix?

15 A No, I didn't because I, we, we had other things  
16 to talk about. Like, I never asked them, they just said  
17 that she was living with her dad and I took that.

18 Q Um-hum. You told us then that you were in her,  
19 in their apartment, in 2006, and that you were there a few  
20 times and you now had a new baby boy; right?

21 A Yes.

22 Q Did you ask about Phoenix then?

23 A No, because I didn't know that they were still  
24 keeping, like, getting any, like, keeping for her, because  
25 they said that she was gone to live with her dad --

1 Q Okay.

2 A -- in October, so --

3 Q Um-hum.

4 A -- I didn't ask about her.

5 Q Okay. This is now 2006 we're talking about?

6 A I know.

7 Q So --

8 A I'm saying, I didn't ask, since 2005, because  
9 they said that she was living with her dad.

10 Q Okay. Did you ask how she was?

11 A No.

12 Q Or whether they talked to her, or what's new with  
13 her?

14 A No.

15 Q And they never talked about her?

16 A No.

17 Q Now, you told us about EIA people coming over  
18 there and I think they woke you up; right?

19 A Yes.

20 Q They asked you where Phoenix was?

21 A Yes.

22 Q You said you didn't know?

23 A I didn't know.

24 Q I thought you just told us that she was living  
25 with her dad?



1 A Well, I, well, I didn't know.

2 Q You mean you didn't know whether they were  
3 telling you the truth that she was living with her dad, or  
4 her dad?

5 A I didn't know that they were collecting monies  
6 for her --

7 Q Um-hum.

8 A -- and then when they came and asked, I didn't  
9 know what to say until, like, like, later on and --

10 Q Um-hum.

11 A -- the next day, when I knew what was going on.

12 Q Um-hum. But at the time, they asked you where  
13 Phoenix was, according to what you knew, she was living  
14 with her dad?

15 A Yes.

16 Q But instead of telling them that, you said I  
17 don't know; right?

18 A Yes.

19 Q And who was it that asked --

20 A It was kind of a, it was a rude awakening. I was  
21 sleeping and they pushed me. Like, and I just got up and  
22 got ready and I left.

23 Q When you say they pushed you, do you mean  
24 verbally, or physically?

25 A Like, physically, like, they --

1 Q Oh.

2 A -- pushed me on the floor and I got up.

3 Q Okay.

4 A I was sleeping, I was sleeping on the floor and  
5 they pushed me and I got up.

6 Q Okay. Now, you talked about being asked if you  
7 knew anyone who had a kid around five years old; was it,  
8 was it Samantha who asked you that?

9 A Yes, she called me that afternoon.

10 Q Okay. So she's asking you if you know someone  
11 with a five year old girl who can pretend to be Phoenix;  
12 right?

13 A Yes, I thought they were just committing some  
14 welfare fraud.

15 Q Okay. Well, did you think about calling anyone  
16 at that time?

17 A No.

18 Q Okay. And then later you, I understand, got a  
19 call from Wes to tell you that Samantha had been arrested?

20 A Yeah, but he didn't say for what. I thought it  
21 was for fraud.

22 Q Okay. So, but you didn't ask?

23 A No.

24 MR. GINDIN: Those are my questions, thank you.

25 THE COMMISSIONER: Thank you, Mr. Gindin.

1 Mr. Paul?

2 MR. PAUL: Good morning, witness, my name is  
3 Sacha Paul. I'm one of the lawyers for Winnipeg CFS and  
4 the Department and I just have a couple of brief questions.

5

6 CROSS-EXAMINATION BY MR. PAUL:

7 Q In your direct testimony, you spoke about seeing  
8 Kim Edwards and, I think, the retrieval of Phoenix  
9 Sinclair; do you recall that?

10 A I didn't see -- we parked on the street --

11 Q Um-hum.

12 A -- Samantha got out of the truck. She went  
13 walking to this house, gone for a few minutes, came walking  
14 back with Phoenix and clothes, a bag of, a garbage bag of  
15 clothes, I think, think it was a garbage bag.

16 Q A full garbage bag of clothes?

17 A Quite a few clothes, sets of clothes. I don't  
18 know how much were in there, but yeah, she came out with  
19 clothes.

20 Q Like a full sized bag?

21 A Almost, yes.

22 Q Okay. And I'm trying to, again, help, to the  
23 extent I can, put this in terms of a chronological  
24 perspective. But let me get back -- whose house were you  
25 at, at that time? I'm just trying to see where Kim Edwards

1 fits into all of this.

2 A When we went to pick up Phoenix?

3 Q Yeah.

4 A A house on Selkirk --

5 Q Okay.

6 A -- Avenue.

7 Q And did you know who lived there at the time?

8 A On the way there, they said that they were  
9 picking, they were picking up Phoenix from Kim and Ron, I  
10 think she said.

11 Q Okay. And, and I don't want to ask you about  
12 specific dates, per se, but is it fair to say that after  
13 that pickup, that Phoenix remained with Kematch and McKay  
14 for the rest of the time that you knew them?

15 A Yes.

16 Q Okay. We've heard some evidence from Kim  
17 Edwards, awhile back now, that the last time that she saw  
18 Phoenix would have been in April of 2004; would that be in  
19 and around the time that this interaction took place, to  
20 the best of your recollection?

21 A It may have, I'm not sure, I don't remember when,  
22 exactly, we picked up Phoenix that time.

23 Q And did Mr. McKay or Mr., or Ms. Kematch tell you  
24 the reasons for the pickup at all?

25 A No.

1 Q No? Just one final point, and I'm not sure if I  
2 heard this correctly, so please excuse me if I'm incorrect  
3 on this. My friend, Mr. Gindin, was asking you some  
4 questions about, I believe, the time that Mr. McKay hit  
5 you; do you recall that?

6 A Yes.

7 Q And my understanding, from your evidence, that  
8 that would have occurred, I think you said early 2005?

9 A When he hit me --

10 Q Yeah.

11 A -- I was 15 or 16 years old, at the time, so it  
12 must have been in 2002 maybe.

13 Q Oh, okay, my apologies, my apologies. My  
14 understanding, sorry, I'm confusing two things. My  
15 understanding is your falling out with Mr. McKay would have  
16 occurred in early 2005; is that correct?

17 A Yes.

18 Q And that was the cell phone incident?

19 A Yes.

20 Q Okay. Now, we have heard some evidence from both  
21 Amanda McKay and Lisa Marie Bruce, that they noticed a  
22 change for the worse in how Kematch and McKay treated  
23 Phoenix Sinclair after the birth of their baby girl in  
24 November of 2004; would you agree with their assessment?

25 A I wouldn't know. They lived, both Lisa and

1 Amanda lived in the same apartment building and I didn't,  
2 like, so they saw them a lot more than I did.

3 Q Okay. Were you aware of the birth of the baby  
4 girl in November of '04?

5 A Yes, I have a son the same age --

6 Q Okay.

7 A -- as the baby girl.

8 Q And let's get Bruce and, and McKay out of the,  
9 out of the story here. Would it be fair to say, based on  
10 your experience, that the way that Kematch and McKay  
11 treated Phoenix changed after the baby girl was born in  
12 November of 2004?

13 A Can you repeat that please?

14 Q Would it be fair to say, and again, if we can  
15 focus in November of 2004, when the little baby girl was  
16 born, the question that I have is whether or not the way  
17 Phoenix Sinclair was treated after the birth of that child  
18 changed, in the sense that Kematch and McKay treated  
19 Phoenix worse after the new baby came along?

20 A I -- maybe.

21 Q Okay. We've also heard evidence from Amanda  
22 McKay and, and Lisa Bruce, that they saw a, a bruise on  
23 Phoenix Sinclair's face after November 2004, possibly in  
24 January 2005. And my question to you is whether or not the  
25 bruises that you saw occurred at that same time, late 2004,

1 early 2005?

2 A They may have. It's probably the same bruise,  
3 because I haven't, I don't know the timelines, like, I've  
4 only seen the bruise on her arm and the bruise on her face.

5 MR. PAUL: Okay. Mr. Commissioner, those are my  
6 questions.

7 THE COMISSIONER: Thank you, Mr. Paul.

8 Anyone else have questions before Mr. Gange? It  
9 would appear not.

10 THE COMISSIONER: Won't be very long until we're  
11 through, witness, just may be a few more questions.

12 Mr. Ray?

13 MR. RAY: No, thank you, Mr. Commissioner.

14 THE COMISSIONER: Right. Mr. Gange?

15 MR. GANGE: Mr. Commissioner, I just had a couple  
16 of questions of, of the witness.

17

18 CROSS-EXAMINATION BY MR. GANGE:

19 Q You -- I'm going to ask a couple of questions  
20 about Wesley, because there's some contradictory things  
21 about him, about his personality. You described -- you,  
22 you didn't see Wesley while you were growing up and the  
23 first time you met him was about at the age of 13; is that  
24 correct?

25 A Yes.

1 Q You lived with your maternal grandparents for,  
2 for that period of time?

3 A Yes.

4 Q Your maternal grandparents, in fact, did not want  
5 you to have anything to do with Wesley; isn't that correct?

6 A Yes.

7 Q They, they didn't -- it, it would be fair to say,  
8 they didn't like him?

9 A Yes.

10 Q And, and at the same time, when you did finally  
11 meet him, to you, his daughter, you described him as, as,  
12 as a dad and that he acted with you as a best friend?

13 A Yes.

14 Q And the -- your first child was Wesley's first  
15 grandchild; is that correct?

16 A Yes.

17 Q And how did Wesley treat your son?

18 A He was really good to my son. He gave him  
19 everything he wanted and needed and ...

20 Q And in fact, while you were on your own, with,  
21 with that first child, Wesley helped support you; isn't  
22 that correct?

23 A Yes, he did.

24 Q The, the, the fact that Wesley was charged with  
25 murder and ultimately convicted of murder was an enormous



1 surprise to you; was it not?

2 A Yes, it was.

3 Q And today, your children do not know that Wesley  
4 McKay was charged and convicted of the murder of Phoenix  
5 Sinclair; is that correct?

6 A That's correct. My, my children don't know of  
7 him. They, they thought their grandfather is passed away.

8 Q So at, at the time that these events were taking  
9 place, in, in 2004, 2005, the bruising of Phoenix, did you  
10 have any sense whatsoever that Wesley could have, could  
11 have hurt a, a, a child like Phoenix?

12 A No.

13 MR. GANGE: Thank you, those are my questions.

14 THE COMMISSIONER: Thank you, Mr. Gange.

15 Ms. McCandless?

16 MS. MCCANDLESS: No re-exam, Mr. Commissioner.  
17 This would be an opportune time for the morning break.

18 THE COMMISSIONER: All right. Witness, you  
19 are completed your questioning, thank you very much  
20 for attending and you can leave now, or any time you  
21 wish.

22 THE WITNESS: Thank you.

23

24 (WITNESS EXCUSED)

25

1 THE COMMISSIONER: Thank you. Yes?

2 MS. MCCANDLESS: We do have one witness scheduled  
3 who can be ready after the morning break.

4 THE COMMISSIONER: All right. We'll take a 15  
5 minute mid-morning break.

6

7 (BRIEF RECESS)

8

9 MR. OLSON: We're now ready to hear from the next  
10 witness, who is an SOR, SOR number 9. We will require an  
11 exclusion.

12 THE COMMISSIONER: Well, this is the last time  
13 we'll have to clear the room, as I understand it.

14 MR. OLSON: I believe so.

15 THE COMMISSIONER: So we'll ask for the indulgence  
16 of the gallery, if they'll step out for the final time.

17

18 (SOR #9 SWORN ON THE RECORD - REDACTED)

19

20 **SOR #9**, sworn, testified as  
21 follows:

22

23 THE CLERK: Thank you.

24 THE COMMISSIONER: Mr. Olson?

25

1 DIRECT EXAMINATION BY MR. OLSON:

2 Q Witness, what's your current age?

3 A Twenty-nine.

4 Q You're from Winnipeg?

5 A Yes.

6 Q Have you lived here your entire life?

7 A Yes.

8 Q Now, I understand that you were friends for some  
9 time with Samantha Kematch and I want to talk --

10 A Yeah.

11 Q -- to you today about your relationship with her  
12 and your knowledge of her daughter, Phoenix Sinclair. I  
13 understand that you have a child with Samantha Kematch's  
14 older brother; is that right?

15 A Yes.

16 Q You met her -- Ms. Kematch's older brother when  
17 you were quite young?

18 A Yeah.

19 Q How old were you at the time?

20 A About 14 or 15.

21 Q Okay. Was he young as well?

22 A He was about 17.

23 Q Okay. And when did you have a baby with him?

24 A 2000.

25 Q And so how old were you at the time?

1 A Just turned 17.

2 Q How is it you came to know Ms. Kematch?

3 A When I stayed with her brother, she came by and  
4 visit and that was the first time that we met.

5 Q Was that after you had your baby?

6 A No, it was before.

7 Q Okay. And you became friendly with her?

8 A Yeah.

9 Q Okay. Do you recall what year that was?

10 A Probably '99, maybe '98.

11 Q Did you also know Steve Sinclair at that time?

12 A Yeah.

13 Q Do you recall whether or not Mr. Sinclair and Ms.  
14 Kematch were in a relationship at that time?

15 A No, they weren't.

16 Q Okay. Do you recall, at some point, they did  
17 become involved with each other?

18 A Yeah.

19 Q Okay. And you were friends with both of them?

20 A Yes.

21 Q Okay. Were you close with Ms. Kematch at this,  
22 at around 1999?

23 A Not really, no, we were just starting out the  
24 friendship.

25 Q Did you become closer throughout the years?

1 A Yeah.

2 Q Okay. I understand you lived with Ms. Kematch  
3 and Mr. Sinclair for a period of time; do you recall when  
4 that was?

5 A Probably 2000.

6 Q That was before Phoenix Sinclair was born?

7 A Yeah.

8 Q Okay. And you were aware that she was born April  
9 23rd, 2000?

10 A Yes.

11 Q Okay. So are you able to tell us approximately  
12 how long before Phoenix was born that you lived with Ms.  
13 Kematch and Mr. Sinclair?

14 A Probably November, October, November of '99.

15 Q Okay. Were you aware that Ms. Kematch was  
16 pregnant?

17 A No.

18 Q Were you aware that she was pregnant before she  
19 had Phoenix?

20 A No.

21 Q When did you learn that she was pregnant?

22 A At the doctor's, I had an appointment because I  
23 was pregnant and at the, the Women's Hospital, I came up on  
24 the elevator and when I got off, I seen her and Steve and  
25 they were holding a, a car seat with a baby and I asked

1 them whose baby? And they were like, they said it was  
2 theirs.

3 Q Were you surprised by --

4 A I was shocked.

5 Q -- were you --

6 A Yeah.

7 Q -- surprised by that?

8 A Yeah.

9 Q So that was the first time you learned when she  
10 actually just had the baby at that time?

11 A Yeah.

12 Q Okay. Did you know whether or not they were  
13 taking the baby home with them?

14 A They said they were, they weren't taking her  
15 home, because they weren't prepared.

16 Q Okay. What was your understanding as to what was  
17 going to happen with the baby?

18 A I'm not sure.

19 Q Okay. Were you aware that CFS was involved?

20 A Yeah, I just knew that that's where the baby was  
21 going.

22 Q Okay. Is that something that Samantha told you?

23 A Yeah.

24 Q Were you aware that Samantha had some past  
25 involvement with CFS?

1           A     I knew she had a, another child before that that  
2 was in care.

3           Q     Did you know anything about the circumstances of  
4 that child being in care, or why that child was in care?

5           A     I just knew that she went out for a program at  
6 Wayway, a parenting place, or whatever --

7           Q     Okay.

8           A     -- and that she didn't finish and then she came  
9 back to Winnipeg.

10          Q     Can you describe, for us, what, what Samantha  
11 Kematch was like? We've heard other witnesses describe her  
12 as being somewhat flat, or not showing a lot of emotion;  
13 how would you describe her?

14          A     She was okay, I guess. She, she, yeah, she never  
15 really had emotion. I don't know, I can't -- she was happy  
16 sometimes and we always liked joking around.

17          Q     Did she seem excited that she had a new baby?

18          A     Not really.

19          Q     When you contrast her to Steve Sinclair, for  
20 example, did, did, did Steve seem excited about the new  
21 baby?

22          A     Yeah, he seemed happy about it.

23          Q     And what about Samantha Kematch, did, did --  
24 compared to Steve, did she seem happy?

25          A     She was okay, not as happy as Steve, but it's

1 just that she had another baby, I guess.

2 Q Did you get the impression that she tried to hide  
3 the pregnancy?

4 A Yeah.

5 Q Okay.

6 A I didn't, I didn't know she had the, she was  
7 pregnant until she had her, so she did a good job hiding  
8 it.

9 Q Did Ms. Kematch ever share any of her experiences  
10 with you about CFS or, or what she thought about Child and  
11 Family Services?

12 A No.

13 Q Were you aware as to whether or not there was any  
14 contact with Child and Family Services at that time, with  
15 Samantha Kematch and Steve Sinclair?

16 A Can you say that again?

17 Q Did you know whether or not CFS was in contact  
18 with Samantha Kematch and Steve Sinclair at that time?

19 A I don't know, no.

20 Q Do you remember when Steve Sinclair and Samantha  
21 Kematch got Phoenix Sinclair back from CFS?

22 A A little bit.

23 Q Okay.

24 A I don't know.

25 Q You do remember them, them getting her back



1 eventually?

2 A Yeah.

3 Q Because she was at home with him at one, at some  
4 point?

5 A Yeah.

6 Q And you were --

7 A Yeah.

8 Q -- you were still friends with them?

9 A Yeah.

10 Q Would you visit them at, at, at their apartment?

11 A Yeah.

12 Q Do you remember where that apartment was?

13 A They had a, a side-by-side on Magnus.

14 Q In terms of parenting, who did most of the  
15 parenting of Phoenix?

16 A That I could see, when I was over there, would be  
17 both --

18 Q Okay.

19 A -- I guess, more, more or less Steve though.

20 Q Okay. So Steve did a little more than Samantha?

21 A Yeah, I think.

22 Q Okay. Can you recall how Samantha acted with  
23 Phoenix Sinclair?

24 A She had little patience of --

25 Q When you, when you say she had little patience,

1 what do you mean by that?

2 A When she'd feed her, I seen that, because she  
3 wasn't ready when she was trying to feed her, that she'd  
4 be, like, kind of get agitated, well, when she was feeding  
5 her, like, cereal.

6 Q Would she become upset at her easily?

7 A It seemed that way, yeah.

8 Q Did you ever see her discipline Phoenix?

9 A No.

10 Q In your view, did -- was she -- would she act  
11 like a typical mother with a new baby?

12 A I don't know.

13 Q Did you have any concerns about how she treated  
14 Phoenix?

15 A A little bit, she just, it seemed like she got  
16 agitated with her quickly.

17 Q Were you still spending time with Steve Sinclair  
18 and Samantha Kematch when Echo was born?

19 A Not really, no.

20 Q Okay. Do you remember when Echo was born?

21 A No, not really.

22 Q Okay. Did you know who -- do you recall ever  
23 seeing Echo as a baby?

24 A A couple times, I think, I can remember.

25 Q Okay. Do you know who took care of Echo?

1           A     Both of them, until they broke up and then Steve  
2 had her.

3           Q     Okay. How did you become aware of that?

4           A     It was Samantha.

5           Q     Okay. So were you still friendly with her at  
6 that time?

7           A     Yeah.

8           Q     Okay. Were you keeping in touch with her?

9           A     Just sometimes, when she'd come by or phone.

10          Q     What did you think of the fact that she -- that,  
11 that Steve had Echo and not Samantha?

12          A     I thought it was kind of weird. I don't know why  
13 she was -- I asked her why she, like, why she didn't take  
14 her, or keep her, but she didn't have a place to stay,  
15 so --

16          Q     Samantha didn't --

17          A     -- she let Steve --

18          Q     -- Samantha didn't --

19          A     -- have her.

20          Q     -- have a place to stay at the time?

21          A     Yeah.

22          Q     And so Steve was a bit more stable, in that he  
23 had an apartment still?

24          A     Yeah.

25          Q     Do you know where Phoenix was at the time?

1 A At Kim's, I believe.

2 Q That's Kim Edwards?

3 A Yeah.

4 Q Did you know Ms. Edwards?

5 A A little bit.

6 Q How did you know her?

7 A I met her through Steve.

8 Q And what did -- were you friends with her?

9 A A little bit, yeah.

10 Q Okay. And how did you know that Phoenix was with  
11 her?

12 A Because Steve didn't have her and when, when she  
13 wouldn't be at home, that's where she'd be, is over at  
14 Kim's.

15 Q Okay. Did you know Ron Stephenson, as well, or  
16 Rohan Stephenson?

17 A Yeah.

18 Q Okay. Did you ever talk to either of them about  
19 Phoenix?

20 A No.

21 Q Either Ron or Kim?

22 A No.

23 Q Did you ever visit Phoenix at Ron or Kim's place?

24 A No.

25 Q Do you recall when Echo died?

1 A A little bit.

2 Q Okay. What do you remember about that?

3 A I remember, I don't really remember, but I  
4 remember some parts. At the funeral, it was kind of hot,  
5 like, it wasn't, I don't know the word is, there was a lot  
6 of hostility between the families.

7 Q Okay. Were you at the funeral?

8 A Yeah.

9 Q Did you talk to Samantha about it at all, about  
10 Echo's death?

11 A Not really. She wasn't really much on sharing  
12 her feelings --

13 Q Okay.

14 A -- the way she felt.

15 Q Do you know why Phoenix was at Kim Edwards'  
16 place, rather than Steve's place?

17 A I don't know. I can't remember really. She was  
18 there a lot more, more, more than she was at home. That's  
19 all I know.

20 Q Okay. After Echo's death, did you -- when was  
21 the next time you would have had some contact with  
22 Samantha?

23 A I don't know. She was kind of doing her own  
24 thing. I can't recall really.

25 Q Do you remember attending school with her?

1 A Yeah.

2 Q Was that the Fresh Start Program?

3 A Yeah, in Gordon Bell.

4 Q Okay. Can you just tell us a little bit about  
5 what that program is?

6 A It's an upgrading program to get your GED.

7 Q Okay. And so this was a program that you were  
8 enrolled in?

9 A Yeah.

10 Q And Samantha was enrolled in it at the same time  
11 as you?

12 A Yeah.

13 Q And so you were both working towards getting  
14 your, your GED?

15 A Yeah.

16 Q Okay. Do you recall when that was, what year?

17 A Two thousand -- the end of 2001, to the beginning  
18 of 2002, I think --

19 Q Okay.

20 A -- 2002.

21 Q And so did you start hanging around with Samantha  
22 again at this time?

23 A Just more or less at school --

24 Q Okay.

25 A -- and we kept in touch.

1 Q Did you know where Phoenix was at that time?

2 A Kim's.

3 Q Okay. So she was still with Kim?

4 A Yeah.

5 Q Is that what Samantha told you?

6 A Yeah.

7 Q Okay. Was Samantha dating anyone at the time, or  
8 seeing anyone?

9 A Yeah.

10 Q Okay. Was it Wes McKay or someone else?

11 A Somebody else.

12 Q Okay. Do you recall where she, Samantha was  
13 living at the time?

14 A At a rooming house on Sherbrook.

15 Q Okay. Did you ask her why she didn't have  
16 Phoenix in her, in her care?

17 A No.

18 Q Did you see Phoenix during this time --

19 A No.

20 Q -- anytime after 2002, to say, 2003 or 2004?

21 A No.

22 Q When's the next time that you saw Phoenix?

23 A Probably sometime in 2004.

24 Q Okay. Can you recall where that was?

25 A I think I seen her walking with her. She came by

1 to my place and she had her.

2 Q She brought, Samantha brought Phoenix over to  
3 your, your place?

4 A Yeah.

5 Q And, and I understand you had a child about the  
6 same age as Phoenix?

7 A Yeah.

8 Q So would they play together?

9 A Yeah.

10 Q Do you remember seeing them play together?

11 A Yeah.

12 Q How old would Phoenix have been at the time?

13 A She would have been four.

14 Q Okay. Can you recall how, how they played  
15 together, like, describe their interaction?

16 A They played good. My son was always happy to --  
17 when she'd come around.

18 Q Okay. And was Phoenix like a regular, normal  
19 child at the time?

20 A Yeah.

21 Q Okay. Did you notice anything unusual about her,  
22 any unusual bruising, or marks, or anything like that?

23 A No.

24 Q Did you know where Ms. Kematch was living at that  
25 time?



1           A     At that time, she had an apartment on Colony or  
2 something, across, the same street as that bus depot.

3           Q     The Greyhound Bus Depot?

4           A     Yeah.

5           Q     Okay.

6           A     She said she had an apartment there and she was  
7 working and yeah.

8           Q     Do you know if she was, was seeing a new person?

9           A     Yeah.

10          Q     Who was that?

11          A     She was seeing this guy named Daniel.

12          Q     Okay. And at some point she started dating Wes  
13 McKay?

14          A     Yeah.

15          Q     You were aware of that?

16          A     Yeah, I can't remember when they started though.

17          Q     Okay. Do you remember how you became aware that  
18 she started dating him?

19          A     I can't recall.

20          Q     Just, just before, just before she started seeing  
21 Wes McKay, do you recall how Samantha was with Phoenix, in  
22 terms of her parenting of Phoenix?

23          A     Same as when she was a baby, she had, like,  
24 little patience.

25          Q     So over all the time that you knew Samantha

1 Kematch, did that change, her parenting style, did her, did  
2 the lack of patience change? Did it get any worse or any  
3 better?

4 A It was about the same.

5 Q Okay. How often would you see Samantha with  
6 Phoenix?

7 A Once or twice a month maybe.

8 Q Okay. Okay. And you said, I think, this was in  
9 2004?

10 A Yeah.

11 Q And would this always be at your house?

12 A Yeah.

13 Q Did you ever go over to her place?

14 A When she lived on McGee, I think I went once or  
15 twice, or a few times maybe.

16 Q Okay. Was she with Wesley McKay by that time?

17 A Yeah.

18 Q Okay. What do you recall about Wesley McKay?  
19 First of all have you, had you met, did you ever meet him?

20 A Not -- I don't know. I met him -- I don't even  
21 know when I met him.

22 Q But you did meet him before?

23 A Yeah.

24 Q What did you, what did you think of him?

25 A He seemed all right, when I first met him.

1 Q Did you -- did that change over time?

2 A What do you mean?

3 Q Well, you said, when I first met him, he seemed  
4 all right. Did --

5 A Yeah. He was, he was okay around people. He  
6 didn't -- I don't know.

7 Q Did, did Samantha tell you some things about you  
8 that made you change your, what you thought of him?

9 A Yeah.

10 Q What did she tell you about him?

11 A She said he, he would, he too would have, like, a  
12 short temper and stuff and he, like, he was mean.

13 Q Did she say how, how, what he would do, what, how  
14 he was mean?

15 A He said he, or she said he, I think, he'd get mad  
16 and, like, call her down and a couple times, he got  
17 physical with her.

18 Q Did she describe what, what he would do to her  
19 physically?

20 A I can't really remember.

21 Q What about his interaction with Phoenix? Did  
22 she, did she talk about that?

23 A I can't remember.

24 Q So you don't recall if she ever said he was  
25 hurting Phoenix, or abusive towards Phoenix?

1 A No.

2 Q Okay. Did you notice any change in her behaviour  
3 towards Phoenix around this time?

4 A I don't know.

5 Q Did Samantha ever tell you she was scared of Wes  
6 McKay?

7 A I don't know. She, she didn't -- I don't think  
8 she said that she was scared.

9 Q Did you get the impression she was scared of him?

10 A A little bit, but she never, she never would say  
11 things. Like, I'm, oh, I'm scared of him, or she would  
12 just know, like, I don't even know, she'd, like, go  
13 somewhere, or go for a walk.

14 Q What do you mean? When he was around?

15 A If they were arguing or something like that, then  
16 she would try to, like, not bother with him.

17 Q Okay. Did you ever see them together, Wes McKay  
18 and Samantha Kematch?

19 A Yeah.

20 Q And what was their interaction like?

21 A When I'd be around, they'd be, they'd be joking  
22 with each other --

23 Q Okay.

24 A -- and talk.

25 Q Was it always that way?

1 A When I was around, yeah.

2 Q Okay.

3 A When I seen them.

4 Q Did you see Mr. McKay's interaction with Phoenix?

5 A Sometimes, when I'd be there.

6 Q And did you see anything that caused you any  
7 concern?

8 A I just, I noticed, with him, he, he had very  
9 little patience.

10 Q What do you mean by that?

11 A I recall one time, when I visit them, after they  
12 had their other kids, like, the baby was crying, or -- and  
13 then he'd, like, he got mad and agitated and he'd be like,  
14 take care of that kid, hurry up. Like, he wouldn't, he  
15 didn't have patience for the baby crying.

16 Q Okay. And what about Samantha, did you notice  
17 her treat Phoenix any differently after the baby was born?

18 A She kind of, she -- I don't know. She'd, I don't  
19 know, she'd have the little patience and she'd get mad and  
20 she'd always be in the, the room.

21 Q Who would always --

22 A But she --

23 Q -- Phoenix would always be in the room?

24 A Yeah.

25 Q You're talking about the bedroom?

1 A Yeah.

2 Q And when you say she'd always be in the room, you  
3 mean they'd put Phoenix in the room, as a form of  
4 discipline?

5 A She would be in there when I'd go, when I'd  
6 visit.

7 Q Okay. So she wouldn't be around you a lot then?

8 A No.

9 Q Okay. Did you find that unusual?

10 A Yeah.

11 Q Okay. Did you ever ask Samantha about that?

12 A No.

13 Q Any reason why not?

14 A No. She -- I don't know, I never -- she's not  
15 one to talk about things and I just never asked her.

16 Q Okay. Just so we have a timeline, we know that  
17 the baby was born November 30th, 2004, and the changes  
18 you're, you're describing, or about Phoenix being locked,  
19 or put into the room, that was around the time the baby was  
20 born; is that what you're saying?

21 A Yeah.

22 Q Okay. Do you recall -- well, do you recall ever  
23 seeing any bruises or marks on Phoenix around that time?

24 A No.

25 Q Okay. Do you recall Phoenix acting any

1 differently?

2 A I can't recall.

3 Q Do you recall if Samantha Kematch treated Phoenix  
4 any differently physically?

5 A I can't think. She -- when I go to the house,  
6 she'd be -- I don't -- she -- I don't even recall really.  
7 She -- I didn't see any change in the way she, she was with  
8 her.

9 Q You said Phoenix would be in the room, would you  
10 know, was the light on in the room when she was there --

11 A Yeah.

12 Q -- in the room? Was the door open or closed  
13 usually?

14 A Closed.

15 Q Okay. Did you know what Phoenix would be doing  
16 in the room?

17 A No.

18 Q Okay. Would you hear anything in the room?

19 A No.

20 Q Okay. Would you talk to Phoenix?

21 A Yeah, when she would, when I'd get there, if I  
22 visit her, I would be like, hi, Phoenix, how are you  
23 and ...

24 Q Did she talk to you?

25 A A little bit.

1 Q Did she look healthy to you, like a normal child?

2 A She looked, yeah, she looked like Phoenix, I  
3 guess.

4 Q Okay. Did Phoenix ever say anything to you, or  
5 your family, about her mom?

6 A I don't know, can't remember.

7 Q You can't recall? Okay. Do you recall seeing a  
8 lock on the bedroom door?

9 A No, I don't remember.

10 Q Okay. And you're not, you're not saying that you  
11 never saw one, it's just you -- today, you, you don't have  
12 a memory of that?

13 A Yeah.

14 Q Okay. Do you have a memory of ever contacting  
15 Child and Family Services?

16 A Yeah.

17 Q Okay. Can you tell us about that?

18 A I phoned a number and said that, to check in, I  
19 guess, like, something, it wasn't right at that house, with  
20 Phoenix.

21 Q Do you recall what number you called?

22 A No, I got it off, of like, a paper that I seen,  
23 like, that has, like, resources and like, one of those  
24 information sheets --

25 Q Okay. And how do you know --



1 A -- that had a bunch of numbers.

2 Q -- and how did you know it was Child and Family  
3 Services?

4 A Because on that thing, it said Child and Family  
5 Services.

6 Q Okay. Do you recall who you talked to?

7 A No.

8 Q Do you recall when this was?

9 A I can't recall the date, or around when.

10 Q If we put it in relation to when Samantha and,  
11 and Mr. McKay moved out to Fisher River, would that assist  
12 you?

13 A No, I, I can't even remember they moved out  
14 there.

15 Q Okay. Do you recall what the person at CFS said  
16 to you?

17 A No.

18 Q Was this after the baby was born?

19 A I don't know.

20 Q Can't recall?

21 THE COMMISSIONER: Do you, do you remember that  
22 they moved out to Fisher River? I know you don't know when  
23 that was, but do you remember them moving to Fisher River?

24 THE WITNESS: I remember her saying she was  
25 moving out there. I can't remember the date or month.

1 THE COMMISSIONER: But do you know when this was  
2 you phoned CFS, in relation to when they moved out to  
3 Fisher River?

4 THE WITNESS: I think it would have been before  
5 they moved out there.

6 THE COMMISSIONER: Do you know about how long  
7 before?

8 THE WITNESS: I don't know, a month, a, a month  
9 or two maybe, I don't know.

10 MR. OLSON: Okay. That's, that's helpful.

11

12 BY MR. OLSON:

13 Q Do you know if anyone ever contacted Ms. Kematch,  
14 anyone from CFS contacted her?

15 A I remember her saying CFS went there to see her  
16 and then when she opened the door, she just said she had  
17 company, or, and then they said okay and then they left.

18 Q Okay. This is something that she, she told you?

19 A Um-hum.

20 Q Okay. Did, did she tell you whether or not she  
21 really had company over?

22 A She said she didn't, she just said that she did.

23 Q Did she tell you who was there?

24 A No.

25 Q Did she tell you whether or not she let them in?

1           A     No, she didn't let them in, because it was just,  
2     would have been her and Phoenix home, but she told, when  
3     they knocked at her door, that she told them that she had  
4     company over, so they couldn't, like, they wouldn't go,  
5     come in.

6           Q     Okay. Did she say the name of the workers?

7           A     No.

8           Q     Did she say if there was more than one worker?

9           A     No.

10          Q     Did you, did you think it was because of your  
11     call to CFS that these workers came by her apartment?

12          A     No. I don't know.

13          Q     Okay. Do you recall what it was that made you  
14     call CFS?

15          A     Just how she was, her patience, I guess, with  
16     her.

17          Q     And so it was Samantha Kematch's behaviour  
18     towards Phoenix that was causing you the concern?

19          A     Um-hum.

20          Q     What about Wes McKay's behaviour towards Phoenix?  
21     Was there anything he was doing that caused you concern?

22          A     I can't recall that, how he was.

23          Q     Had you ever called CFS in the past?

24          A     No.

25          Q     And I, I'm, I apologize, apologize if I've asked

1 you this before, can you recall what you said to the CFS  
2 worker?

3 A I don't know.

4 Q And I'm, I'm not asking for the exact words you  
5 used, but just what, what is it you were, you, you conveyed  
6 to the worker, were trying to convey?

7 A To see, to go check on her, like, that she was, I  
8 don't know, like, neglected, kind of. Like, she was always  
9 in the room and when she had, I think when she had -- I  
10 don't even know if she had -- just, she wasn't, like, she  
11 wasn't being cared for. Like, she was, but she wasn't.

12 Q Okay. Do you recall whether or not you gave  
13 Phoenix Sinclair's full name?

14 A I don't recall.

15 Q What about Samantha Kematch's full name?

16 A Yeah, I told them the name of her and where,  
17 where they lived, their apartment.

18 Q Okay. What about Karl McKay? Did you give his  
19 name?

20 A No.

21 Q Pardon me?

22 A No.

23 Q No? Okay. Did they tell you they would visit  
24 Samantha's home?

25 A No, I don't recall them saying that.

1 Q Now, you can't -- did, did you say earlier, you,  
2 you knew that they moved out to Fisher River, but you can't  
3 recall the, the details of that move?

4 A Yeah.

5 Q Okay. Did you stay in touch with Samantha after  
6 they moved out there?

7 A Yeah.

8 Q Did she tell you why they were, they moved out  
9 there?

10 A No.

11 Q How is it you stayed in touch with her?

12 A Instant messaging and web cam.

13 Q Okay. Did you talk about Phoenix at all?

14 A I don't know. I'd always ask how are the kids?

15 Q And did she tell you anything about Phoenix?

16 A No.

17 Q We've heard some evidence that Ms. Kematch would  
18 come in to Winnipeg, from time to time, for some prenatal  
19 care; did she --

20 A Yeah.

21 Q -- did you see her at all during those, those  
22 times where she would come in to Winnipeg?

23 A I can't recall.

24 Q Do you recall when Samantha Kematch moved back to  
25 Winnipeg?

1 A From Fisher River?

2 Q Right.

3 A It would have been late in the year, like,  
4 November.

5 Q Okay. We just heard from --

6 A I'm not sure of the year, November 2004, maybe, I  
7 think.

8 Q Okay.

9 A They came back and they stayed with Wesley's  
10 niece, or no, Wesley's daughter, but then they, they had to  
11 leave there, so I left them come stay with me at my  
12 apartment.

13 Q Okay.

14 A And they stayed with me for about a month and  
15 then they got their apartment --

16 Q So they stayed --

17 A -- their own apartment at McGee.

18 Q -- so they stayed with you for a month?

19 A Yeah.

20 Q What do you recall about that, when they stayed  
21 with you? Would that -- could that have been in 2005?

22 A I think it would have been December 2004. I'm  
23 not sure what the year --

24 Q Okay.

25 A -- but I know they stayed with me for the month

1 of December and then they moved out. They got their  
2 apartment in December 31st.

3 Q Okay. And you said they stayed with you for  
4 about a month?

5 A Yeah.

6 Q Both Wesley and Samantha?

7 A Yeah.

8 Q What was Samantha like during this time?

9 A She seemed normal, how she always was.

10 Q Okay. And what about Wesley?

11 A Wesley, he was, he was okay. He looked different  
12 from when he, he looked skinny from when they moved out to  
13 Fisher River and then at night time, he'd have a hard time  
14 sleeping.

15 Q Okay. We've heard that he was fairly sick at the  
16 time, is, was that your experience?

17 A Yeah.

18 Q Did --

19 THE COMMISSIONER: Did they have any children with  
20 them when they came back?

21 THE WITNESS: Yeah, they had their daughter,  
22 their younger one and then she was pregnant.

23

24 BY MR. OLSON:

25 Q Did you --

1 A Yeah, she -- yeah.

2 Q -- did you ask them about Phoenix, where Phoenix  
3 was?

4 A I asked -- sometime when they were in Fisher  
5 River, they took, Wes was driving trucks --

6 Q Um-hum.

7 A -- and they went to go visit -- or no, they went  
8 out to Calgary or something and they said one of Wes'  
9 nephews were watching his kids --

10 Q Right.

11 A -- and Phoenix.

12 Q Um-hum.

13 A And when they, they were out there, they said  
14 that his nephew had warrants and he got picked up and the  
15 kids got taken into care. And his sons went back, they,  
16 they called their mom and they went to their mom and they  
17 told me that Phoenix got apprehended.

18 Q Okay. And so Phoenix then would have been where,  
19 in the care of CFS?

20 A Yeah, that's what they said to me.

21 Q Okay. So your understanding, when they moved in  
22 with you, was that Phoenix was where?

23 A In care.

24 Q Okay. And was that your understanding for the  
25 full period of time they stayed with you?



1 A Yeah.

2 Q Did you hear them tell anyone else that Phoenix  
3 was anywhere else, other than in CFS care?

4 A Yeah, we went to go visit her auntie --

5 Q Okay.

6 A -- once and then she asked where Phoenix  
7 was --

8 Q Okay.

9 A -- and they told her that she was with Wes'  
10 sister.

11 Q Okay. So that's something different than she  
12 told you?

13 A Yeah.

14 Q Did that make you suspicious?

15 A A little bit. I kind of wondered why and I think  
16 she didn't -- I know her and her auntie didn't get along,  
17 like, she didn't like her, so I thought maybe, like, she  
18 just didn't want to tell her that she was in care.

19 MR. OLSON: All right.

20 THE COMMISSIONER: And they told her she was with  
21 whom?

22 THE WITNESS: They told her she was with Wes'  
23 sister.

24 THE COMMISSIONER: Thank you.

25

1 BY MR. OLSON:

2 Q So did you do anything further about that? Did  
3 you ask Samantha or Wes about why they would have said  
4 that?

5 A No.

6 Q Did you consider calling CFS yourself, to find  
7 out if Phoenix was in care?

8 A No.

9 Q Do you recall when the last time you saw Phoenix  
10 Sinclair was?

11 A No.

12 Q Do you recall where the last time you saw her  
13 was?

14 A No.

15 Q Did you have any contact with Ms. Kematch, after  
16 she was arrested?

17 A That weekend that she got arrested, I was in  
18 Ontario and then I called her on Friday before I left, I  
19 drove my dad to a funeral and my brother was watching my  
20 kids and I told her to stop by during the weekend, to check  
21 up on them, make sure they were okay. And she said, she  
22 said all right. And then when I got back into the city, I  
23 think it was Sunday, Sunday night, she phoned me, in the  
24 morning the next day, and then she said that she was in  
25 jail. And I asked her for what and she, she didn't say

1 anything. And then I found out, on the news, what happened  
2 and then I stopped talking to her. I never accepted her  
3 phone calls after that.

4 MR. OLSON: Okay. Well, thank you, those are my  
5 questions for you. The other lawyers will probably have  
6 some questions for you now.

7 THE COMISSIONER: Mr. Gindin?

8 MR. GINDIN: Thank you.

9 Now, ma'am, my name is Jeff Gindin. I represent  
10 Kim Edwards and Steve Sinclair. Can you hear me all right?

11 THE WITNESS: Yeah.

12

13 CROSS-EXAMINATION BY MR. GINDIN:

14 Q Okay. You told us earlier that you recall when  
15 Phoenix was born; correct?

16 A (Inaudible).

17 Q And, and how you didn't know that Samantha was  
18 even pregnant until the baby was born; right?

19 A Yeah.

20 Q And while Samantha didn't show much emotion,  
21 Steve seemed pretty happy about it; right?

22 A Yeah.

23 Q Okay. And you also told us that there were times  
24 when Phoenix wasn't with Steve and you knew, you knew that  
25 Phoenix was with Kim Edwards --

1 A Yeah.

2 Q -- or at her place --

3 A Yes.

4 Q -- much of that time; right?

5 A Yeah.

6 Q When you were over at McGee, you would be at the  
7 apartment where Wes and Sam, and Phoenix, were living;  
8 right?

9 A Yeah.

10 Q And some of the things that happened there  
11 eventually led you to make a call to CFS; right?

12 A Yeah.

13 Q And I'm going to suggest to you that one of the  
14 things that you saw there, that caused you some concern,  
15 was a, a lock on the bedroom door?

16 A Um-hum.

17 Q Do you recall that?

18 A No, I don't know, like, can't remember the chain  
19 link lock.

20 Q But you --

21 A I know there was one on the main door, like, to  
22 the hallway.

23 Q Okay. And if I suggested to you that you noticed  
24 the lock on the bedroom door and that did concern you,  
25 would you agree with that?

1 A Yeah.

2 Q Okay. Now, there were a number of things that  
3 concerned you. You thought that Samantha had very little  
4 patience for Phoenix; right?

5 A Yeah.

6 Q With respect to the relationship between Wes and  
7 Samantha, you actually told her to leave McKay, Wes McKay,  
8 didn't you?

9 A Yeah.

10 Q So you must have been told some things about that  
11 relationship that caused you concern?

12 A Yeah.

13 Q And you were told that he was violent toward her;  
14 right?

15 A Yeah.

16 Q So you were aware that Wes was violent, based on  
17 what she told you; right?

18 A Yeah.

19 Q That was one of the things that would obviously  
20 concern you; right?

21 A Yeah.

22 Q And you also saw Samantha be aggressive with  
23 Phoenix?

24 A Um-hum.

25 Q Did you see her grab her by the arm and be

1 somewhat aggressive?

2 A I think so.

3 Q Yeah.

4 A I don't know, I can't remember.

5 Q Samantha was a friend of yours; right?

6 A Yeah.

7 Q And I presume it would be a difficult thing to  
8 call CFS on someone who was a friend of yours; right?

9 A Yeah.

10 Q Now, obviously you had seen some things that  
11 caused you to call anyway; right?

12 A Yeah.

13 Q Okay. You told us you didn't see any bruises or  
14 marks on Phoenix's face; right?

15 A Um-hum.

16 Q But you did see enough things that caused you to  
17 feel that the right thing to do would be to call CFS;  
18 right?

19 A Yeah.

20 Q That is, you didn't need to actually see bruises  
21 or marks to come to that conclusion; right?

22 A Yeah.

23 Q We know that Wes and Samantha moved to Fisher  
24 River in April of 2005, that's the evidence we've heard and  
25 you, you were aware of them moving; right?

1 A Um-hum.

2 Q And the call that you made to CFS, I think you  
3 said, was a month or two prior to them moving --

4 A Yeah.

5 Q -- correct? Okay. You also told us that, at  
6 some point, Samantha told you that CFS came around; right?

7 A Yeah.

8 Q And that was obviously before they moved to  
9 Fisher River; right?

10 A Yeah.

11 Q And that was in March, wasn't it? If they, if we  
12 assume that they moved in April of '05, I'm suggesting to  
13 you that she told you in March that CFS came around; does  
14 that sound reasonable?

15 A Yeah.

16 Q Okay. And what she told you was that they came  
17 around and wanted to come in. She didn't want them to come  
18 in; right?

19 A Yeah.

20 Q And she told them that she had company when, in  
21 fact, she really didn't; right?

22 A Yeah.

23 Q And did that cause you some suspicion, as to why  
24 she wouldn't want them to come in and see Phoenix?

25 A Yeah.

1 Q And you, of course, had already called CFS by  
2 that point; right?

3 A Yeah.

4 Q You ever think about calling them again about  
5 what Samantha had now told you, how she tried to dodge them  
6 and pretend she had company?

7 A No.

8 Q By the way, you indicated that when they were in  
9 Fisher River, you communicated with Samantha through the  
10 internet; right?

11 A Yeah.

12 Q Did you have any trouble connecting with her?

13 A No.

14 Q And how many times did you do that, speak to her  
15 over the computer?

16 A Usually almost every day we'd instant message  
17 each other.

18 Q Okay. And that was for what period of time? Are  
19 we talking about a month or two, or?

20 A I don't know --

21 Q Well, if we know that they moved in --

22 A -- it would have been --

23 Q -- in April --

24 A -- during the summertime and --

25 Q -- so likely for quite a few months then; right?



1 A Yeah.

2 Q And you communicated regularly?

3 A Yeah.

4 Q Through the internet; right?

5 A Yeah.

6 Q Um-hum. That was the first time you ever called  
7 CFS, you said; right?

8 A Um-hum.

9 Q Pardon me?

10 A Yeah.

11 Q Yes?

12 A Yes.

13 Q Was it difficult for you to make that call?

14 A Yeah.

15 Q I take it you felt strongly enough to, to do it  
16 anyway; right?

17 A Um-hum.

18 Q Okay. Were you alone when you made that call, do  
19 you, do you remember?

20 A Yeah.

21 Q And was it a cell phone that you used, or was it  
22 a landline? Do you recall?

23 A It might have been my cell. I don't think I had  
24 my house phone.

25 Q Okay. So you're not sure which one? Did you

1 have a, a, did you have a landline at that time?

2 A I can't remember.

3 Q Okay.

4 A It might have been my cell phone.

5 Q Okay. Do you recall whether you told anyone else  
6 about the things you saw that bothered you?

7 A No.

8 Q And of course, you didn't want, you didn't want  
9 to tell anybody you made that call because you were a  
10 friend of Samantha's?

11 A Yeah.

12 Q And you didn't want her to find out; right?

13 A Yeah.

14 Q And on the phone, you would have given, of  
15 course, Samantha Kematch's name and address; right?

16 A Yeah.

17 Q I think you said that you didn't mention Wes  
18 McKay; do you know why you didn't mention that?

19 A No.

20 Q Were you, were you afraid of Wes a little bit?

21 A No, I just -- no, I wasn't scared of him.

22 Q Now, in terms of where Phoenix was, at the times  
23 that you saw Wes or Sam without her, you were given a few  
24 different stories; right?

25 A Yeah.

1 Q And you were told once that Phoenix was with Wes'  
2 sister?

3 A Yeah.

4 Q And you were told another time that Phoenix was  
5 actually with CFS?

6 A Yeah.

7 Q And were these things told to you during that  
8 month of December when you say they stayed with you?

9 A No.

10 Q Before that, or after that?

11 A Before.

12 Q Okay.

13 A It would have been, I would believe, in the  
14 summertime --

15 Q This would be the --

16 A -- is when they said they went to Calgary and  
17 that's when Phoenix got apprehended.

18 Q Okay. And would, that would be the summertime  
19 after they moved to Fisher River, or before?

20 A I think they were living in Fisher River.

21 Q Okay. So that would be in the summer of '05?

22 A Yeah.

23 Q And just correct me if I recall this correctly  
24 (sic), but I think you said that you didn't check to see if  
25 she really was, that is, Phoenix, with CFS, when you heard

1 about the --

2 A No, I never checked.

3 Q And did you check -- go ahead.

4 A When, when I heard the story that Phoenix was in  
5 Wes' sister's, like, Wes's sister had her, was that they  
6 came in, I think she was in the city for an appointment and  
7 we went and visited her aunt and then her aunt asked her  
8 where Phoenix was and that's when she told me -- no, she  
9 told her aunt that she was with Wes' sister and I already  
10 knew -- because she told me that she was in CFS, so I  
11 didn't think, I didn't think she wanted her aunt to know  
12 that she was in care.

13 Q Okay. So Wes' --

14 A And --

15 Q Um-hum. Go ahead.

16 A -- yeah, that, yeah, and then at a later date,  
17 after that, Samantha's auntie called me and asked me which  
18 CFS agency she was in, because she said she tried phoning  
19 them, phoning around for her and they had no record of  
20 Phoenix being in care.

21 Q Um-hum. This is what Samantha's aunt told you?

22 A Yeah.

23 Q And Samantha's aunt, do you know her name?

24 A Yeah.

25 Q What's that? No -- well, hold on, before you

1 answer that. Oh, you don't have to give us the name,  
2 sorry, sorry for asking, you're not allowed to give us her  
3 name. So this person told you that they tried calling  
4 around and really couldn't find out anywhere where Phoenix  
5 was with CFS; right?

6 A Yeah.

7 MR. GINDIN: Okay. Thank you, those are my  
8 questions.

9 THE COMMISSIONER: Thank you, Mr. Gindin.

10 Mr. Paul?

11 MR. PAUL: One, one moment.

12 THE COMMISSIONER: Yes.

13 MR. PAUL: No questions, Mr. Commissioner.

14 THE COMMISSIONER: Thank you, Mr. Paul.

15 Mr. Ray?

16 MR. RAY: No questions, Mr. Commissioner.

17 THE COMMISSIONER: No questions?

18 All right. Mr. Gange?

19 MR. GANGE: And Mr. Commissioner, I have no  
20 questions for the witness either.

21 THE COMMISSIONER: Thank you.

22 Mr. Olson?

23 MR. OLSON: I have no further questions.

24 THE COMMISSIONER: Witness, you're completed and  
25 thank you very much for your attendance and answering the

1 questions that have been put to you today. You can leave  
2 now.

3

4 (WITNESS EXCUSED)

5

6 MR. GANGE: Mr. Commissioner, this concludes my  
7 involvement with the inquiry. I'd like to thank you for  
8 your patience with me, Commission counsel for their  
9 assistance and my learned friends for putting up with me  
10 throughout this thing, thank you.

11 THE COMISSIONER: Well, we, we thank you very  
12 much for your participation, Mr. Gange, you've been very  
13 much of assistance to us, considering the clients that you  
14 represented who were, up to that point, without counsel --

15 MR. GANGE: Thank you, sir.

16 THE COMISSIONER: -- and I'm very grateful for  
17 your taking on that assignment.

18 MR. GANGE: Thank you, sir.

19 THE COMISSIONER: Yes?

20 MS. WALSH: Mr. Commissioner, we are almost  
21 finished with phase 1. That was, in fact, the last witness  
22 that we plan to call. I have some further documents that I  
23 want to put into evidence to complete phase 1 and to start  
24 phase 2. We could either take a five minute break and then  
25 go through for another half hour, or we can take the lunch

1 break and come back.

2 THE COMISSIONER: Well, let's confer, take a five  
3 minute break and you confer with your legal colleagues and  
4 whatever the consensus is will be satisfactory with me.

5 MS. WALSH: Okay.

6 THE COMISSIONER: If it's that we do adjourn  
7 until two o'clock, then you can just let the room know that  
8 and it can be communicated to me. If they want to come  
9 back now, I'm available.

10 MS. WALSH: Thank you.

11 THE COMISSIONER: We rise.

12

13 (BRIEF RECESS)

14

15 MS. WALSH: Thank you, Mr. Commissioner. To  
16 complete the record for documents entered into evidence for  
17 phase 1, I want to tender, into the public record, the  
18 entirety of the following Commissioner disclosure  
19 documents, starting with Commission disclosure 46, the RCMP  
20 statement of Karl Wesley McKay, dated March 10, 2006. And  
21 so I'm not going to identify the page numbers, the  
22 documents are going in in their entirety.

23 Next, CD, Commission disclosure 81, the RCMP  
24 statement of Samantha Kematch, also dated March 10, 2006.

25 Commission disclosure 10, Court of Queen's Bench

1 record of proceedings in respect of McKay and Kematch.

2 Commission disclosure 11, the amended direct  
3 indictment, charge for first degree murder, Section 235 of  
4 the Criminal Code in respect of McKay and Kematch.

5 Commission disclosure 12, the disposition signed  
6 by Madam Justice Simonsen, in respect of Kematch, life  
7 imprisonment, without eligibility for parole, for a minimum  
8 of 25 years.

9 Commission disclosure 13, the disposition signed  
10 by Justice Simonsen in respect of McKay, life imprisonment,  
11 without eligibility for parole for a minimum of 25 years.

12 Commission disclosure 14, the certificate of  
13 appeal, the Court of Appeal certificate of decision, in  
14 respect of McKay.

15 And Commission disclosure 15, the certificate of  
16 decision from the Court of Appeal in respect of Kematch.

17 So, Mr. Commissioner, this brings us to the end  
18 of page 1 of these proceedings. As you know, the purpose  
19 of phase 1 was to address the requirements of paragraph 1  
20 of the Order in Council which established this inquiry,  
21 namely, to inquire into the circumstances surrounding the  
22 death of Phoenix Sinclair and in particular, to inquire  
23 into the child welfare services provided or not provided to  
24 Phoenix Sinclair and her family, under the Child and Family  
25 Services Act, any other circumstances, apart from the



1 delivery of child welfare services directly related to the  
2 death of Phoenix Sinclair and why the death of Phoenix  
3 Sinclair remained undiscovered for several months.

4           Since the commencement of public hearings on  
5 September 5, 2012, Mr. Commissioner, you have heard  
6 evidence from 81 witnesses. This evidence, heard over the  
7 course of 54 days of hearings, has, I hope, provided you  
8 and the public with answers to the many questions which  
9 have been asked over the years, in an effort to understand  
10 the tragedy that befell this little girl. One of the most  
11 central of those questions being, as I said in my opening  
12 remarks on September 5, 2012, to consider how it is that in  
13 our society, a small child can become so invisible to an  
14 entire community, one which includes social service  
15 agencies, schools, neighbours, friends and family, so  
16 invisible as to literally disappear.

17           As a result of the evidence you have heard these  
18 many months, some of the story of Phoenix Sinclair's life  
19 has been told. Certainly her life cannot be reduced to  
20 evidence which is heard in a public inquiry. But I think  
21 it's fair to say that Manitobans will always remember  
22 Phoenix's face and the stories that were told by those who  
23 knew and loved her. And as many people have commented to  
24 me today, today, April 23rd, would have been Phoenix's  
25 thirteenth birthday.

1           I recognize that no matter what their evidence,  
2     testifying at this inquiry has not been an easy task for  
3     the witnesses from whom you heard. I thank every witness  
4     for the courage and dignity they showed in answering the  
5     many questions which were posed to them by counsel.

6           And now, Mr. Commissioner, we are ready to  
7     proceed to what we have described as phase 2 of the  
8     inquiry.

9           Where phase 1 focused on the circumstances of  
10    Phoenix Sinclair's life and death, including the child  
11    welfare services provided or not provided to her and her  
12    family, phase 2 will focus on the child welfare system  
13    itself and in particular, how the system has responded to  
14    the lessons learned from Phoenix's death.

15          According to paragraph 3 of the Order in Council,  
16    you must consider the findings which were made in the  
17    reviews and reports listed in paragraph 3, in that  
18    paragraph of the Order in Council and the manner in which  
19    the recommendations set out in those reviews have been  
20    implemented.

21          Mr. Commissioner, I'm going to tender those  
22    reviews, in their entirety now, into the public record.  
23    They have always formed a part of Commission disclosure,  
24    but this is the first time that we are putting them into  
25    the public record, in their entirety. Those reviews are as

1 follows: (a) A Special Case Review in Regard To The Death  
2 Of Phoenix Sinclair, authored by Andrew J. Koster and  
3 Billie Schibler in September 2006. This is Commission  
4 disclosure number 1 and has been referred to often as the  
5 Section 4 report.

6 (b) Investigation Into the Services Provided to  
7 Phoenix Victoria Hope Sinclair, Department Of Justice,  
8 Office of the Chief Medical Examiner, published on  
9 September 18, 2006. This is Commission disclosure 2 and is  
10 what we have referred to as the Section 10 report.

11 (c) Strengthen the Commitment: An External  
12 Review of the Welfare System, authored by Michael Hardy,  
13 Billie Schibler and Irene Hamilton, released on September  
14 29, 2006. This is Commission disclosure 3.

15 (d) Honouring Their Spirit: The Child Death  
16 Review, a Report to the Minister of Family Services and  
17 Housing, Province of Manitoba, authored by Billie Schibler  
18 and James Newton, published in September 2006. That's  
19 Commission disclosure 4.

20 (e) Strengthening Our Youth: Their Journey to  
21 Competence and Independence, A Report on Youth Leaving  
22 Manitoba's Child Welfare System, authored by Billie  
23 Schibler, Children's Advocate and Alice McKewan-Morris  
24 published in November 2006. That's Commission disclosure  
25 5.

1           (f) Audit of the Child and Family Services  
2 Division Pre-Devolution Child in Care Processes and  
3 Practices, authored by Carol Bellringer, Auditor General,  
4 published December 2006. And that's Commission disclosure  
5 6.

6           I also want to put into the public record, in its  
7 entirety, the internal review, which was commissioned by  
8 the General Authority, at the same time these other reports  
9 were commissioned, upon the discovery of Phoenix's death.  
10 This is the report which was written by Rhonda Warren. It  
11 is one of the fact specific reviews, the findings of which  
12 we have been putting to various witnesses over the course  
13 of the last many months. It is Commission disclosure 1802.

14           The terms of reference of this Commission require  
15 you to consider the findings and implementation of the  
16 recommendations from the six reports, which were listed in  
17 the Order in Council, in order to avoid duplication in the  
18 conduct of the inquiry, and to ensure that the  
19 recommendations you make are relevant to the current state  
20 of child welfare services in Manitoba. You may give the  
21 reviews any weight, including accepting them as conclusive.

22           Now that you've had the benefit of hearing oral  
23 evidence from so many witnesses, and to avoid duplication  
24 in the conduct of the inquiry, we have determined that it  
25 will not be necessary to call the writers of the fact

1 specific reports, to testify. Their reports have been put  
2 to the witnesses as a matter of fairness, to allow the  
3 witnesses an opportunity to respond, in public, to the  
4 findings and comments made about their actions. Now that  
5 the reports are in evidence in their entirety, they are  
6 fully available for you to consider, when you make your own  
7 findings and recommendations in your report.

8           This inquiry represents the first time that the  
9 findings and recommendations of the Section 10 report, from  
10 the Office of the Chief Medical Examiner, have been made a  
11 matter of public record. The recommendations from the  
12 Section 4 report were made a matter of public record after  
13 the report was published, but the content of that report,  
14 and in particular, its findings and conclusions, were not  
15 made available to the public until now. Similarly, the  
16 complete findings and recommendations of the internal  
17 review have not been a matter of public record until now.  
18 The other four reports that were listed in the order in  
19 council were made public, upon their completion. Counsel  
20 for the Department of Family Services had provided us with  
21 a chart which identifies where those reports can be found  
22 on line and I think it would be helpful to mark this as an  
23 exhibit and enter it into our disclosure.

24           THE COMMISSIONER: Agreed. And that'll be Exhibit  
25 thirty --

1 MS. WALSH: Seven.

2 THE COMMISSIONER: -- seven, 37?

3

4 **EXHIBIT 37: CHART OUTLINING**  
5 **PARTICULARS FOR SIX REPORTS**

6

7 THE COMMISSIONER: Thank you.

8 MS. WALSH: In filing these reports, Mr.  
9 Commissioner, as --

10 THE COMMISSIONER: Just before you leave that --

11 MS. WALSH: Yes?

12 THE COMMISSIONER: -- there was -- to one of the  
13 reports, there as an exhibit, the best practices paper, by  
14 Ms. Wright; is that -- be in an -- it was an appendix one  
15 of the reports; is that --

16 MS. WALSH: Yes.

17 THE COMMISSIONER: -- going in too?

18 MS. WALSH: Yes, that's part of --

19 THE COMMISSIONER: That's part of it?

20 MS. WALSH: -- Strengthening the Commitment.

21 MS. WALSH: That would be --

22 THE COMMISSIONER: That's fine.

23 MS. WALSH: -- considered part of entering --

24 THE COMMISSIONER: Yes.

25 MS. WALSH: -- that document, that report in its

1 entirety.

2 THE COMISSIONER: Yes.

3 MS. WALSH: In filing these reports, Mr.  
4 Commissioner, as with all the evidence which has been  
5 entered in the public record, it will be open to counsel,  
6 when they make their final submissions, to refer to the  
7 reports, including making arguments, based on the evidence  
8 which was adduced during the course of the inquiry  
9 proceedings, that portions of the fact specific reports,  
10 for example, should or should not be given weight by you  
11 when you write your own report.

12 In determining whether or not to call the writers  
13 of the fact specific reports, we have fully consulted with  
14 counsel for all parties, intervenors, witnesses, and the  
15 report writers themselves.

16 Starting this week, you will, however, hear  
17 evidence from Billie Schibler, the former Children's  
18 Advocate and co-author of many of the reports which are  
19 listed in the order in council. You will also hear, this  
20 week, from Carol Bellringer, the Auditor General, whose  
21 office prepared not only the report listed in paragraph 3,  
22 at subparagraph (f), but also a follow-up review, which was  
23 released in September 2012 and I'll enter that into  
24 evidence when we hear from her on Thursday of this week.

25 Irene Hamilton, with whom Ms. Schibler

1 co-authored Strengthen the Commitment, was the Ombudsman at  
2 the time that report was commissioned and published. By  
3 legislation, the Ombudsman is not compellable to testify at  
4 a hearing. The report, however, is now in evidence in its  
5 entirety.

6 Ms. Hamilton, in her role as Ombudsman, prepared  
7 two progress report, following the release of the report,  
8 Strengthen the Commitment. Those are found at, at  
9 Commission disclosure 207 and 208 respectively and I would  
10 ask that those two follow-up reports be entered into  
11 evidence in their entirety. So that was Commission  
12 disclosure 207 and 208.

13 THE COMMISSIONER: And they are reports by the  
14 Ombudsman?

15 MS. WALSH: Yes, following, reporting on the  
16 progress of the implementation of the recommendations that  
17 were made in her report, Strengthen the Commitment. So the  
18 first report, Commission disclosure 207, covers the period  
19 November 2006 to March 31, 2008. Strengthen the Commitment  
20 was at paragraph --

21 THE COMMISSIONER: Just, just one --

22 MS. WALSH: -- 3(c).

23 THE COMMISSIONER: -- minute. That is, she  
24 authored which of the reports you've already put in, in,  
25 out of the order in council, Strengthen --



1 MS. WALSH: (C).

2 THE COMISSIONER: -- the Commitment?

3 MS. WALSH: Yes.

4 THE COMISSIONER: Which is which one?

5 MS. WALSH: (C).

6 THE COMISSIONER: (C)? Oh, the Strengthen the  
7 Commitment (inaudible), yes, okay. Reports on --

8 MS. WALSH: And then she, she did two follow-up  
9 reports, monitoring the progress of the implementation of  
10 the recommendations from that report.

11 THE COMISSIONER: And that's 207 and 208 and they  
12 will be entered as exhibits, or, or just entered in?

13 MS. WALSH: Well, they're -- we don't need to  
14 because --

15 THE COMISSIONER: No.

16 MS. WALSH: -- they've already been in our  
17 disclosure, but they're now in the public record in their  
18 entirety.

19 THE COMISSIONER: In, in -- right. All right.

20 MS. WALSH: Then in 2011, the Ombudsman's office  
21 issued a report called Report on the Process for the Review  
22 of Child Welfare and Collateral Services, after the death  
23 of a child. This reviewed the process of child death  
24 reviews, which were being conducted by the office of the  
25 Children's Advocate, following recommendations made by the

1 Ombudsman, in Strengthen the Commitment.

2 Those recommendations were that those child death  
3 reviews be conducted, or the responsibility to conduct  
4 those reviews be transferred from the Office of the Chief  
5 Medical Examiner, to the Office of the Children's Advocate.  
6 In 2008, this recommendation was implemented, through  
7 amendments to the Child and Family Services Act and the  
8 Fatality Inquiries Act respectively. That report is at  
9 Commission disclosure 1749 and again, I would have it  
10 entered in its entirety.

11 THE COMMISSIONER: Right.

12 MS. WALSH: It's also a matter of public record  
13 through the Ombudsman's office.

14 A follow-up to that report was published by the  
15 Ombudsman's office in March of this year. Again, although  
16 a public document, I'd like to put it into evidence in our  
17 proceedings. So that will be the next exhibit.

18 THE COMMISSIONER: And that'll be Exhibit 38?

19 MS. WALSH: Yes.

20 THE COMMISSIONER: And it's entitled what?

21 THE CLERK: It's entitled Follow-up Report on the  
22 Process for the Review of Child Welfare and Collateral  
23 Services After the Death of a Child.

24 THE COMMISSIONER: By the Ombudsman?

25 MS. WALSH: Yes.

1 THE COMMISSIONER: And it's what, 2012, did you  
2 say?

3 MS. WALSH: 2013.

4 THE COMMISSIONER: 2013?

5 MS. WALSH: It was just released in March of this  
6 year.

7 THE COMMISSIONER: Right.

8

9 **EXHIBIT 38: FOLLOW-UP REPORT ON**  
10 **THE PROCESS FOR THE REVIEW OF**  
11 **CHILD WELFARE AND COLLATERAL**  
12 **SERVICES AFTER THE DEATH OF A**  
13 **CHILD**

14

15 MS. WALSH: As you indicated last week -- are we  
16 back on? You okay?

17 THE COMMISSIONER: Thank you.

18 MS. WALSH: With respect to recommendations made in  
19 the reviews, and changes made to the child welfare system,  
20 we will be focusing on those recommendations and changes  
21 which are most relevant to the facts that we have heard  
22 about Phoenix's life and death, because not all of the  
23 reports that were commissioned, after Phoenix's death, were  
24 fact specific. Some of them were of a more systemic nature  
25 and were not necessarily all relevant to the circumstances

1 which led to this inquiry being called.

2 As you know, in this phase, we have given counsel  
3 for parties with standing an opportunity to lead their  
4 clients through their evidence. In doing this, I have  
5 asked them to provide the Commission with evidence which  
6 outlines the most significant changes which have been made  
7 to the child welfare system since Phoenix's death was  
8 discovered and in particular, to inform you as to what, if  
9 any, influence those changes would have had on the child  
10 welfare services which were delivered to Phoenix and her  
11 family.

12 The evidence will come from witnesses put forward by  
13 the Department of Family Services and Labour, the child  
14 welfare authorities and ANCR. We will also hear evidence  
15 as to the impact and effect of those changes and of the  
16 implementation of the recommendations made in the various  
17 reports following the discovery of Phoenix's death. This  
18 evidence will come from the Assembly of Manitoba Chiefs and  
19 Southern Chiefs Organization, who have been granted party  
20 standing for phases 2 and 3 and from the Manitoba  
21 Government Employees Union, the union to which many of the  
22 child welfare workers, who testified, belong.

23 We will start phase 2 tomorrow morning by hearing  
24 from a member of the University of Manitoba's Faculty of  
25 Social Work who has prepared a background paper at the

1 Commission's request entitled a Review of Best Practices in  
2 Child Welfare. The report on child -- best practices that  
3 you just asked me about was authored by the same  
4 individual. She's expanded on that report at our  
5 request.

6 THE COMISSIONER: And it has, it has been circulated  
7 to counsel, has it?

8 MS. WALSH: Yes, it has. We will also hear tomorrow  
9 from the Dean of the University of Manitoba's Faculty of  
10 Social Work.

11 On a practical note, Mr. Commissioner, I remind  
12 counsel that where counsel for a party has been granted the  
13 opportunity to lead their client's evidence, examinations  
14 of witnesses will be in accordance with the order of  
15 examination described in rule 36 of the Commission's  
16 amended rules of procedure and practice, which provides as  
17 follows: Counsel will examine the witness in accordance  
18 with the normal rules governing the examination of one's  
19 own witness in court proceedings, unless otherwise directed  
20 by you. Then Commission counsel will be entitled to  
21 examine the witness. Commission counsel may adduce  
22 evidence by way of both leading and non-leading questions.  
23 Then other parties with standing will be entitled to cross-  
24 examine the witness. Counsel for the witness will then be  
25 entitled to re-examine the witness. Commission counsel

1 will be entitled to conduct a final re-examination. And as  
2 you cautioned last week, in leading their client's  
3 evidence, counsel should be mindful of allowing sufficient  
4 time for questions by other lawyers, as per the rule that I  
5 just described.

6 The last two documents I want to put into the --

7 THE COMMISSIONER: And, and, and the timeframes were  
8 worked out with counsel, I gather?

9 MS. WALSH: Yes, they were.

10 THE COMMISSIONER: All right.

11 MS. WALSH: I think all the counsel would have liked  
12 at least twice the amount of time that has been allotted to  
13 them, but they've been very cooperative in putting together  
14 presentations that will meet our schedule.

15 THE COMMISSIONER: Fit those time slots.

16 MS. WALSH: Yes. The last two documents that I want  
17 to put into the public record are the most recent  
18 statistics from the Department of Family Services,  
19 regarding the numbers of children in care. So the first  
20 one is entitled: Children in Care from March 31, 2006 to  
21 March 31, 2012.

22 THE COMMISSIONER: From what date to what?

23 MS. WALSH: From March 31, 2006 --

24 THE COMMISSIONER: Yes.

25 MS. WALSH: -- to March 31, 2012.

1 THE COMMISSIONER: Right. That's Exhibit 39.

2 THE CLERK: Exhibit 39.

3

4 **EXHIBIT 39: STATISTICS REGARDING**  
5 **CHILDREN IN CARE FROM MARCH 31,**  
6 **2006 TO MARCH 31, 2012**

7

8 THE COMMISSIONER: Thank you.

9 MS. WALSH: And the final document is virtually  
10 identical to Exhibit 39, however, you will see that at the  
11 bottom of the document, there's some additional information  
12 about the age of majority traditional, transitional  
13 planning.

14 THE COMMISSIONER: That's Exhibit 40.

15 THE CLERK: Exhibit 40.

16

17 **EXHIBIT 40: STATISTICS REGARDING**  
18 **CHILDREN IN CARE FROM MARCH 31,**  
19 **2006 TO MARCH 31, 2012, INCLUDING**  
20 **INFORMATION RESPECTING AGE OF**  
21 **MAJORITY TRANSITIONAL PLANNING**

22

23 THE COMMISSIONER: Thank you.

24 MS. WALSH: And I will leave it to one of the  
25 witnesses from the department to explain that last comment

1 about age of majority youth transitioning out, in the event  
2 that you need further information about that.

3 As you can see from Exhibits 39 and 40, the number  
4 of children in care, as of March 31, 2012, was 9,730.

5 That completes my remarks and the documents that I  
6 want to put into evidence for today.

7 THE COMMISSIONER: Well, thank you very much, that  
8 is, it was a good summary to close out phase 1, which is,  
9 we're, I think we're all glad we're there. It's taken  
10 longer than we thought, but I think it's been an  
11 extensive and exhaustive and has covered the ground  
12 thoroughly.

13 MS. WALSH: Thank you.

14 THE COMMISSIONER: So that -- and you have prepared  
15 us for the opening of phase 2 tomorrow, which will not be  
16 as lengthy a session as phase 1, but of obvious importance  
17 to the work of this Commission, as will be phase 3, which  
18 we'll get to fairly soon as well.

19 MS. WALSH: Yes.

20 THE COMMISSIONER: So with that, we'll adjourn now  
21 until 9:30 tomorrow morning and then start the first  
22 witness in phase 2.

23 MS. WALSH: Yes, that will be Dr. Wright.

24 THE COMMISSIONER: Dr. Wright. Thank you very much.

25 MS. WALSH: Thank you.



1           THE COMMISSIONER: We now stand adjourned.

2

3           (PROCEEDINGS ADJOURNED TO APRIL 24, 2013)