



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

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

Transcript of Proceedings
Public Inquiry Hearing
held at the Winnipeg Convention Centre,
375 York Avenue, Winnipeg, Manitoba

MONDAY, DECEMBER 10, 2012

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MR. R. BUCHWALD, for Ms. Debbie De Gale

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1 DECEMBER 10, 2012

2 PROCEEDINGS CONTINUED FROM DECEMBER 6, 2012

3

4 THE COMMISSIONER: Good morning, everyone.

5 UNIDENTIFIED PERSON: Good morning.

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

7 THE COMMISSIONER: Everybody settled in a new
8 location? I'm afraid I'm going to have to move that
9 screen, maybe.

10 MS. WALSH: Yes, because it's right in the line
11 of vision of --

12 THE COMMISSIONER: It is.

13 MS. WALSH: -- the Commissioner and our desk.

14 THE COMMISSIONER: Can we put it over there?

15 MS. WALSH: Maybe.

16 THE COMMISSIONER: Don't have to put it too far,
17 then I, I'll be able -- no, maybe you better put it all
18 over so I can see that pedestal as well. That's fine.

19 UNIDENTIFIED PERSON: That okay?

20 THE COMMISSIONER: Yes.

21 MS. WALSH: Can you see both counsel podiums this
22 way, Mr. Commissioner?

23 THE COMMISSIONER: Pardon?

24 MS. WALSH: Can you see both counsel podiums?

25 THE COMMISSIONER: Yes, I can.

1 MS. WALSH: Oh, perfect.

2 THE COMMISSIONER: Yeah, counsel table's a little
3 hidden, but I'm sure they're behaving themselves.

4 MS. WALSH: We'll keep an eye on them.

5 THE COMMISSIONER: Yes. That's fine.

6 MS. WALSH: Mr. Commissioner, our first witness
7 is a source of referral.

8 THE COMMISSIONER: Your first witness is?

9 MS. WALSH: A source of referral.

10 THE COMMISSIONER: All right.

11 MS. WALSH: So we will have to ask the media and
12 the public to leave the room while the witness is sworn in.

13 THE COMMISSIONER: Yes.

14 MS. WALSH: Please.

15 THE COMMISSIONER: This'll be very brief. You've
16 been through it before. This is a source of referral who's
17 entitled to have the -- her identity not disclosed, and the
18 swearing in process will take 30 seconds or thereabouts and
19 then we'll have you all back in, please.

20

21 (INQUIRY PARTICIPANTS, EXCEPT FOR THE COMMISSIONER,
22 COMMISSION COUNSEL AND MR. BUCHWALD, LEAVE THE COURTROOM)

23

24 MS. WALSH: Witness, are you there?

25 THE WITNESS: Yes, I am.

1 MS. WALSH: Okay, good morning. Thank you. Now,
2 can you see me?

3 THE WITNESS: Actually, your screen has gone
4 black now.

5 MS. WALSH: Not good. How do we fix that?

6 THE CLERK: She won't be able to.

7 MS. WALSH: Is she not supposed to be able to
8 see?

9 THE CLERK: I think that she doesn't see anybody
10 (inaudible).

11 MS. WALSH: In the past, they have.

12 THE WITNESS: I was seeing everything just
13 before, like, a few seconds ago.

14 THE COMMISSIONER: It just --

15 MS. WALSH: Maybe it's because the cameraman
16 left.

17 THE CLERK: Oh, that's right. The camera is
18 hooked into the video.

19 MS. WALSH: Right. So it's just while you're
20 being sworn in, to protect your identity, we've emptied the
21 room except for your counsel and, and Commission counsel
22 and, of course, the Commissioner. So that includes --

23 THE WITNESS: Okay.

24 MS. WALSH: -- the cameraman.

25 THE WITNESS: That's fine.

1 MS. WALSH: Okay. And, and hopefully you have
2 all the documents with you?

3 THE WITNESS: Yes, I do.

4 MS. WALSH: And if, if I refer to a document that
5 you don't have, we'll deal with it. So let's start by
6 swearing you in, please.

7 THE CLERK: Okay, I'm just going to stop the
8 recording, Mr. Commissioner.

9 THE COMMISSIONER: Yes.

10

11 **SOR #3**, affirmed, testified as
12 follows:

13

14 MS. WALSH: We're just getting everyone back in
15 the room.

16 THE COMMISSIONER: We'll have the camera --

17 THE WITNESS: Okay.

18 THE COMMISSIONER: We'll have the cameraman back
19 in.

20 THE WITNESS: Okay.

21

22 (INQUIRY PARTICIPANTS, EXCEPT FOR THE COMMISSIONER,

23 COMMISSION COUNSEL AND MR. BUCHWALD,

24 RE-ENTER THE COURTROOM)

25

1 MS. WALSH: Good morning, Witness. Can you see
2 me now?

3 THE WITNESS: Yes, I can.

4 MS. WALSH: Okay. So the cameraman is back in
5 the room.

6 THE WITNESS: Okay.

7 MS. WALSH: So you, you can see me and you can
8 hear us all right?

9 THE WITNESS: Yes, I can.

10 MS. WALSH: Good, thank you.

11 So the witness was duly sworn in while everyone
12 was out of the room.

13 And I will just say at the outset, just a
14 reminder to all that are in here, members of the public and
15 the media, as in the past when we have had sources of
16 referral, please be careful in reporting on or discussing
17 this evidence, that you not report anything that might
18 disclose the identity of this witness. All right.

19

20 DIRECT EXAMINATION BY MS. WALSH:

21 Q So, good morning.

22 A Good morning.

23 Q In 2003, you were living in Manitoba?

24 A Correct.

25 Q And starting in April of that year, you were

1 employed by Employment and Income Assistance as a student
2 case coordinator; is that --

3 A That's correct.

4 Q You were working part-time.

5 A Yes.

6 Q Employment and Income Assistance, is that also
7 known as social assistance?

8 A Yes.

9 Q You continued to do that work in 2004?

10 A Yes.

11 Q At that time you were responsible for the Point
12 Douglas area in Winnipeg?

13 A That's correct.

14 Q Then you obtained work as a permanent case
15 coordinator for EIA?

16 A Yes.

17 Q That was by 2005?

18 A Correct.

19 Q And you did that work until you stopped working
20 with EIA in 2007.

21 A That is correct.

22 Q Can you tell us, please, what was involved in
23 being an EIA case coordinator?

24 A The involvement with a case worker is to deal
25 with the financial assistance for families. For me, it was

1 in the downtown-Point Douglas area, so it's meeting their
2 basic needs according to the, the government requirements.

3 Q Did your job involve speaking with clients?

4 A Yes, it did.

5 Q Did you also do field visits?

6 A Yes, I did.

7 Q As an EIA worker, did you have an obligation to
8 look out for a child's safety or well-being?

9 A I believe so. For myself, I think anyone that
10 does work with families has an obligation to ensure safety
11 of all children.

12 Q In terms of how the EIA files were kept, my
13 understanding is that there were hard or paper copies of
14 files and a system that contained electronic files. Is
15 that right?

16 A That's, that's correct.

17 Q The name of the electronic system was S-A-M-I-N,
18 SAMIN?

19 A Yes.

20 Q Please tell us what information SAMIN contained?

21 A SAMIN would contain the applicant's name, their
22 social insurance number, anybody who's on the file, their
23 health number, where they are residing, any medical needs
24 that they require, previous employment information, what
25 their basic needs would be allowed for rent and personal

1 needs, and also case notes that would record what was going
2 on on the file.

3 Q Did the information contain the individual's date
4 of birth?

5 A Yes, it did.

6 Q When you say "anyone on the file," what do you
7 mean?

8 A Anyone that is in the household collecting
9 benefits from social assistance.

10 Q Did you, as an EIA case coordinator, have access
11 to this information with respect to any and every client
12 who was in the system?

13 A Yes.

14 Q Who had access to the SAMIN files?

15 A All case workers and directors under the
16 Employment Income Assistance program.

17 Q And how would you get that access?

18 A I believe you sign a commission of oath and you
19 -- it was done by the department once you were employed
20 there.

21 Q And then you would simply log into the system?

22 A Yeah, you'd have a user name and password to get
23 into the system.

24 Q Did workers who were employed by Child and Family
25 Services have access to the SAMIN files?

1 A Not that I'm aware of.

2 Q And with respect to the hard copy or paper files,
3 what information did those files contain?

4 A Those files would contain a copy of the
5 application form that was done. It would have a copy of
6 their identification, so photo identification or health
7 card. It would also have a copy of their rental
8 information. Any forms that are coming into the office
9 that obviously we couldn't put onto the electronic system,
10 it would be kept in the hard copy file.

11 Q And when you as a worker looked up an
12 individual's file, would the system show all the people who
13 were on that person's budget?

14 A Yes.

15 Q So that would include spouses, partners,
16 dependent children?

17 A That's correct.

18 Q Did the EIA system generate any kind of alert?

19 A Alert for?

20 Q From CFS, for instance.

21 A Nothing that CFS could put in the file. If, if
22 there was a birth alert or something that had come through
23 from CFS, our department could put in a case alert that
24 would come up on that screen to alert to contact them if,
25 if -- once the child was born or for whatever reason

1 they're requiring or any department's requiring contact.

2 Q So that would be information that CFS would give
3 EIA, and then EIA would record it on the individual's file.

4 A Yes, they would have to send the information in.

5 Q Okay. In 2004, what was your understanding of
6 the relationship between EIA and CFS in terms of
7 information sharing between the two?

8 A It's been a while since I've worked there so I
9 can't recall exactly the role. Like, I know we did have
10 contact with them, and if we had any concerns we would
11 contact back and forth with regard to any mutual clients
12 that we had.

13 Q What would be an example of a concern that you as
14 an EIA worker would convey to CFS?

15 A If we had any allegations of the child not
16 residing in the home, we may call them to find out if we do
17 have records that CFS was involved in the family. Any kind
18 of custody disputes, we would contact CFS because our
19 department doesn't get involved with that, whereas the
20 placement of the child. Any kind of concerns -- if we've
21 gone out to do a home visit and we had concerns with
22 regards to the home or the child, we'd make contact --
23 well, we would contact the Child and Family Services to
24 discuss that. And if the family discloses that they have
25 contact with CFS we may call them to confirm if there's,

1 like, a temporary placement, and work with Child and Family
2 Services to help reunify the family and ensure that that
3 needs are in place for that family.

4 Q Thank you. And an example of information that
5 CFS would convey to you as an EI worker?

6 A They may tell us that they are involved with the
7 file, and if they are reunifying families, they may tell
8 us, you know, kind of what the short-term plans were and
9 how long, you know, the child would be out of the home, for
10 us to, you know, help. If it was going to be a long-term,
11 we may not help depending on how long the child will be in
12 care, but if it was a short-term then we would work with
13 CFS for that.

14 Q So is it fair to say that information was shared
15 both ways between EIA and CFS?

16 A Yes.

17 Q And information would be shared around child
18 protection issues and around EIA budget issues?

19 A Correct.

20 Q Do you recall any instances when you were an EIA
21 worker, when Child and Family Services called you to
22 request information and you refused to give that
23 information?

24 A I can't personally recall.

25 Q That never happened while you were a worker?

1 A I can't say for sure that I can remember a
2 particular instance of that, but usually if it's a safety
3 concern, depending on the situation and what is being
4 asked, we, we -- I may have given information. But I can't
5 say personally that I can -- said anything or had a
6 personal case that I remember.

7 Q If a CFS worker called you and said they were
8 doing an investigation into a child protection concern and
9 needed information, would you have provided information on
10 that basis?

11 A I would have, yes.

12 Q Did Child and Family Services ever provide you as
13 an EIA worker with any documents from a CFS file, like a
14 closing summary or a transfer summary?

15 A Not that I am aware of, no.

16 Q I believe you said that sometimes you would
17 become aware of the fact of a child being removed from a
18 home. How would you become aware of that information?

19 A If my recollections are correct, there was a
20 report that would come out that would highlight duplication
21 of funds, so when they would enter Child and Family
22 Services, their -- there's a number that would come up to
23 show duplication of child benefits -- I believe the child
24 benefit tax -- because they would put a hold on it when the
25 children would enter Child and Family Services.

1 Q And from time to time would a CFS worker simply
2 pick up the phone and call you to give you information
3 about a child and whose budget they should be on, for
4 instance.

5 A I don't have any personal recollection of that
6 but I would assume that they would -- if they knew, maybe,
7 that they're involved with Employment Income Assistance,
8 they may contact us.

9 Q Okay. I understand that you were Steve
10 Sinclair's EIA worker in April and May of 2004.

11 A That's what the records do show, yes.

12 Q So you just referenced the records. Do you have
13 any independent recollection of your involvement as Mr.
14 Sinclair's worker?

15 A No, I don't.

16 Q So you have reviewed the recordings that you made
17 and any documents that our office has provided you.

18 A That's correct.

19 Q Okay. What, generally, was involved in being Mr.
20 Sinclair's EIA worker?

21 A Helping with regard to issuing basic needs to
22 him, so basic needs for rental, for housing, as well as for
23 any basic needs. Also, working with him either to get into
24 some kind of programming of employment, and just ongoing
25 case management of his file.

1 Q You would have had access to his entire SAMIN
2 file?

3 A That is correct.

4 Q And that's true of all EIA workers, they have
5 access to the entire file of the individual with whom
6 they're working?

7 A Yes.

8 Q And you have access to the online files of other
9 individuals in the system.

10 A Yes.

11 Q So I want to refer you now to some documents and
12 I appreciate that you're, you're where you are, so please
13 feel free to, to raise any questions. If you're not
14 following with the documents that I'm referring you to,
15 take your time.

16 A Okay.

17 Q Let's start with page 28653. You have that?

18 A Yes, I do.

19 Q Okay. This is from Mr. Sinclair's EIA file,
20 which is Commission disclosure 1580. You'll see at the top
21 of the recording there's a date, April 13, 2004?

22 A Yes.

23 Q Okay. So this is an example -- this document
24 that we're looking at, this is an example of what the SAMIN
25 notes look like; is that right?

1 A That's correct.

2 Q And when one reads them, you read from the bottom
3 up. So we see that --

4 A Yeah.

5 Q -- the -- sorry.

6 A Yes, it's --

7 Q Yes, okay. Thank you. So we see that the lower
8 entry is dated March 11, 2004, and the one above it is
9 April 13.

10 A Yes.

11 Q The entry for March 11, 2004 is entered by
12 someone whose initials are SSO. That was Mr. --

13 A Correct.

14 Q Sorry. That was Mr. Sinclair's --

15 A Sorry.

16 Q No, no, that, that's fine; you're doing just
17 fine. SSO was Mr. Sinclair's previous worker.

18 A That is correct.

19 Q But because you told us that you had access to
20 his entire file, I want to just have you go through with us
21 some of the previous recordings, if you don't mind. If --

22 A Okay.

23 Q Can you turn to page 28660, please?

24 A And what was that number again, sorry?

25 Q 28660.

1 A I'm not sure I have that one.

2 Q Do you have 28659?

3 A I have 28659, yes.

4 Q All right. Let's start with that one, then.
5 That's fine.

6 MS. WALSH: Can we have that on the screen,
7 please.

8 UNIDENTIFIED PERSON: Which number?

9 MS. WALSH: 28659.

10

11 BY MS. WALSH:

12 Q So reading from the bottom, the date is February
13 5, '04.

14 A Um-hum.

15 Q And you'll -- I'm going to read it but, but I'll
16 ask for your assistance with some of the abbreviations so
17 that we can decipher this, if you don't mind.

18 A Okay.

19 Q C-T-Z, that's citizen or --

20 A Correct.

21 Q So that's, that's the, the client?

22 A Yes.

23 Q So, citizen calling, returned CC's call. CC
24 stands for what?

25 A Case coordinator.

1 Q Okay, thank you.

2

3 ... is inquiring about EIA. CC
4 asked if child still with him. He
5 says no she is living with her
6 godfather. He placed her there as
7 he doesn't have a place, is
8 staying temporarily with a friend.
9 CC asked who has custody of child.
10 Citizen says he does. Set up
11 IR --

12

13 What's IR?

14 A I believe it's intake review.

15 Q Thank you.

16

17 ... for February 9/04 at 9:30. CC
18 called CFS Stan Williams who was
19 citizen's worker before. Left
20 message asking if he is still CFS
21 worker and if not who is.

22

23 And then this note continues above that?

24 A Yes.

25 Q It says:

1

2

CC asked if citizen looking for

3

work. He says no, he is going to

4

Ojibway school with his buddy, is

5

planning to enroll soon. CC asked

6

if he is looking for work, he says

7

no. CC advised he is a WE --

8

9

What's that?

10

A Work -- it's work expectation.

11

Q So someone who's supposed to be looking for work?

12

A That's correct.

13

Q Okay.

14

15

... and has to look for

16

employment. Citizen seemed

17

surprised. CC reminded him he

18

would have been advised of this at

19

PIO --

20

21

A Pre-intake orientation.

22

Q Okay.

23

24

... and intake. Need to know when

25

man moved from Manitoba Housing

1 and when he placed child with
2 godfather, is he paying for
3 child's food, et cetera.

4

5 And then page 28658.

6 A Um-hum.

7 Q You've got that?

8 A Yes.

9 Q Great. So this intake continues: "Both man and
10 child to manual budget on INCA." What does that mean?

11 A Which means that they sent it -- made it a manual
12 file, which means that a case coordinator would have to
13 manually release the benefits. It didn't just
14 automatically go out, so the case worker would have to
15 issue the benefits themselves.

16 Q Okay. And INCA, what was that?

17 A INCA was one of the screens that would show the
18 information regarding the files. So it's usually the
19 first, first screen that you would go to, that would give
20 all the information about that applicant.

21 Q Okay. "Is he entitled to FA or GA benefits?"
22 What are those?

23 A FA is father's allowance and GA is general
24 assistance.

25 Q Okay. "CC checked INSL." Do you know what that

1 would be?

2 A I'm not recalling that. I know it's a screen,
3 but I can't remember what is on that screen.

4 Q Okay. And there is somebody whose name's blacked
5 out.

6

7 However his file closed January
8 '04 and address for Jan was
9 different. CC called CFS Stan
10 Williams, left message for him to
11 call if he still involved in this
12 case.

13

14 And then the intake continues at the top of the
15 page:

16

17 Received a phone call --

18

19 We're still on February 5, '04.

20

21 Received a phone call from CFS
22 Lisa Mirochnick. She is involved
23 with this family as godparents
24 (previous foster parents) had
25 called her to let her know they

1 had child and that Steve had
2 placed her with them to care for
3 while he looks for a place. Steve
4 still has custody but Lisa's
5 concern is Steven's casual
6 placement of child with godparent.
7 CC has since sent Lisa an email
8 asking for further input as
9 needed. One issue with CFS and
10 EIA is why ...

11

12 Let's go to the next page, 28657. You have that?

13 A Yes.

14 Q

15 ... why citizen moved out of
16 Magnus Avenue as he has been there
17 for a few years. CC called Carmel
18 Taylor at Manitoba Housing. She
19 advised citizen received an
20 eviction notice for non-payment of
21 November and December rent. He
22 moved out on January 20/04 so
23 Manitoba Housing owes EIA part of
24 January rent. Carmel advises a --

25

1 I think that should be:

2

3 ... couch, TV and chair were left
4 at the house and were disposed of
5 by Manitoba Housing. Carmel
6 advises citizen did not seem upset
7 about the move, was okay with
8 moving out.

9

10 Continues at the top:

11

12 Carmel also advises the place was
13 not trashed, but needed repair and
14 cleaning.

15

16 Then we go to page 28656.

17 A Yes.

18 Q And we have an intake review dated February 9,
19 '04?

20 A Yes.

21 Q It says:

22

23 CC met with citizen this morning,
24 discussed his child, and
25 accommodations. Citizen says --

1

2 And "citizen" you understand to be Steve
3 Sinclair?

4 A Yes.

5 Q Okay, thank you.

6

7 ... says child temporarily with
8 godparents. He gives them money
9 for food. This is a temporary
10 arrangement until he finds a
11 place. CC or case coordinator
12 gave him 30 days to find a place
13 and then his file will be changed
14 to GA, and he will be a WE.
15 Citizen okay with this, thinks a
16 month is enough time to find a
17 place. CC had changed file from A
18 to M.

19

20 What does that mean?

21 A Automated to manual.

22 Q Thank you.

23

24 Changed back to A as citizen says
25 he gives godparent money for food.

1

2

Then it continues at the top:

3

4

CC asked where citizen staying.

5

He is at his sister's place now.

6

Sister is Sheila. He says he is

7

looking for a place but it's hard

8

as there are few vacancies. He

9

wants to stay in the North End to

10

be near his family. Case

11

coordinator asked about Ojibway

12

school. He says his brother

13

teaches this on Monday and

14

Wednesday from four to six at

15

William Whyte School. Advised

16

citizen if he hasn't found a place

17

within 30 days, and have his child

18

back in his care --

19

20

Now I'm at page 28655 --

21

A Um-hum.

22

Q

23

... file will be changed to a

24

single WE. Citizen to stay in

25

touch with case coordinator.

1 Relayed February --

2

3 Or maybe it would be "released"?

4 A Looks like released.

5 Q Released, thank you.

6

7 ... February EI benefits in full
8 to citizen. He was advised to pay
9 child's care provider
10 approximately \$110 per month for
11 food, et cetera.

12

13 Then we have a notation on March 1st, '04. It
14 says: "Please release rent form."

15 And then on page 28654, we have March 8, '04, a
16 shelter review again:

17

18 Citizen called, left a message.

19 He needs a rent form.

20

21 On March 11, '04, a general follow-up:

22

23 Citizen calling asking about his

24 March EIA. None issued to date.

25 Need to know if citizen has child

1 in his care, and where he is
2 living. Spoke with citizen later.
3 He says child went back to
4 godfather's a week ago, and he is
5 looking for a place for the two of
6 them. Case coordinator will
7 release EIA today, prorated March
8 11 to 31st, and advised citizen
9 his file will be changed to GA as
10 of April '04 if child not living
11 with him. Citizen seemed okay
12 with this.

13

14 And then we're back to page 28653, which is where
15 we started. So the March 11, '04 is still entered by the
16 previous worker. A-C-C-A-D, what would that stand for?

17 A It's called ACCA'D, so activated.

18 Q Okay.

19

20 ... for March and cancelled cheque
21 so CC can prorate from March 11 to
22 31st.

23

24 And then on April 13, '04, that's where you make
25 your first entry. Is that right?

1 A Correct.

2 Q We've, we've blocked out your initials, but you
3 know those to be your initials under the heading, Entered
4 By?

5 A Yes.

6 Q And so here it says:

7

8 April 13, '04, shelter review.

9 Man called and stated that he
10 plans on rent sharing with cousin
11 for the month of May. He is
12 bringing in his rent cheque. Man
13 stated that his daughter is still
14 living with him.

15

16 So why was Steve Sinclair calling at this time?

17 A It appears that he was changing where he was
18 living, and that he would need to disclose that to us in
19 order for us to continue to release benefits to him.

20 Q And you understood his daughter was still living
21 with him at that time?

22 A That is what it states, yes.

23 Q Let's go next to page 28652. Have you got that?

24 A Yes, I do.

25 Q Great. So at the top of the page is an entry

1 that you put in, dated May 5, '04. You see that?

2 A Yes.

3 Q We're going to come back to that in a minute, but
4 first I want you to look at the first entry chronologically
5 on that page, dated April 26, '04.

6 A Yes.

7 Q This says -- first of all, it says it's entered
8 by COK.

9 A Um-hum.

10 Q That's a different worker?

11 A Yes.

12 Q Whose worker did you understand this to be?

13 A Reading the notes, it looks like another, another
14 client that's on the system.

15 Q Okay. And if I tell you that this was Wes
16 McKay's worker, based on the review of the documents that
17 you've seen, is that your understanding?

18 A That -- yeah, from previous discussions on that,
19 yes.

20 Q Okay. So we have an entry now on Mr. Sinclair's
21 SAMIN note that was entered by COK, who was Wes McKay's
22 worker, and it says the following: CCO -- that's the same
23 as CC, the case coordinator?

24 A Yes.

25 Q Okay.

1

2

... did an intake on a GA
childless couple. Man has
pancreatic cyst and has a medical
note excusing WE at this time.

3

4

5

6

7

W-O, is that woman?

8

A Yes.

9

Q

10

... is two months pregnant and is
also caring for a DC --

11

12

13 meaning dependent child?

14

A Correct.

15

Q

16

... (Phoenix Sinclair) who is
supposedly under PF --

17

18

19

Is that putative --

20

A Parental father.

21

Q Parental father, thank you.

22

23

... case as per woman. She has
been caring for dependent child
since November 7/03. Worker

24

25

1 contacted to advise of situation.

2 Case effective April 26/04.

3

4 Now, how would a note from Mr. McKay's worker get
5 put into Steve Sinclair's SAMIN file?

6 A It appears that when they came in at the point of
7 intake they must have seen there's a discrepancy between
8 the dependent child and they would have made a note onto
9 Steven Sinclair's file.

10 Q So "they" being Mr. McKay's worker?

11 A Yeah, or whoever did that intake, the CO -- yeah.

12 Q COK.

13 A Yeah.

14 Q So when COK received information about Phoenix,
15 once that information was typed in it would pull up Steve's
16 budget?

17 A Yeah, it would show whose file she was on if she
18 was active in the system.

19 Q And was COK, Mr. McKay's worker, able to enter
20 this notation directly into Mr. Sinclair's file?

21 A Yes.

22 Q Even though he was not Mr. Sinclair's worker.

23 A Correct.

24 Q That's something that you could all do as EIA
25 workers?

1 A I believe -- like, I believe so. I know intake
2 workers definitely can do it and I -- my recollection isn't
3 perfect with regards to this, but I believe we could make
4 case notes in all files.

5 Q Okay. So now if we turn to page 28242 -- do you
6 have a package that starts with 28242 and ends with 28254?

7 A Two-eight -- yes, I do.

8 Q Great. This is from our disclosure 1578, which
9 is Wes McKay's EIA file, and this is an application for
10 employment and income assistance. You see on 28242 this --
11 the applicant is Karl McKay. And then it says --

12 A Yes.

13 Q You've got that?

14 A Yes, I do.

15 Q Good. Then it says there's a second adult, and
16 we have the name, Samantha Dawn Kematch?

17 A Correct.

18 MS. WALSH: Can we scroll to see the full page,
19 please?

20

21 BY MS. WALSH:

22 Q She's identified as common-law, and the effective
23 date of that is January 1, 2004.

24 A Yes.

25 Q And if we go to the last page of this package,

1 28254, this package being the, the application documents --

2 A Um-hum.

3 Q -- you'll see that --

4 MS. WALSH: If we can scroll to have the whole
5 document on the screen, please? And scroll down a little.
6 Oh, not that much. 28254. Thank you.

7

8 BY MS. WALSH:

9 Q So we -- you can see you've got Karl McKay's
10 signature as the applicant and --

11 A Yes.

12 Q -- and Samantha Kematch's signature as the spouse
13 or common-law partner, and their signatures are dated April
14 26, 2004.

15 A Yes.

16 Q The note that we were just looking at, that was
17 made by COK, Wes McKay's worker --

18 A Um-hum.

19 Q -- on 28652, that was also dated April 26, '04?

20 A Yes.

21 Q So that's the same date that the application was
22 signed by Ms. McKay -- Mr. McKay and Ms. Kematch.

23 A Correct.

24 Q And that, that matches what you said you
25 understood would have happened, that they -- Mr. McKay and

1 Ms. Kematch came into the office and, and filled out an
2 application form.

3 A Yes.

4 Q And when we look at the note that was written by
5 COK on April 26, '04 --

6 A Um-hum.

7 Q -- it says, "Worker contacted to advise of
8 situation." The worker being you?

9 A If -- yeah, if I was Steven Sinclair's case
10 worker at that time, then I would assume that it would have
11 been me.

12 Q And how, again, would Wes McKay's worker have
13 known that you were Steve Sinclair's worker?

14 A Because on the INCA screen it would say who the
15 case worker was for that particular file.

16 Q And the, the common denominator would have been
17 the name Phoenix?

18 A Yes.

19 Q Okay. What was your understanding as to why Mr.
20 McKay's worker was contacting you?

21 A With -- it would be with regards to the child,
22 Phoenix Sinclair, and they wouldn't be able to provide
23 benefits if she was residing with that family because she
24 was currently receiving funds through her father on his
25 file.

1 Q So just so that I understand what, what is
2 happening at this point or what, what your understanding
3 was as of April 26, '04, Samantha Kematch and Wes McKay
4 filled out an application for EIA benefits, the effect of
5 which was to add Samantha Kematch to Wes McKay's budget; is
6 that right?

7 A That appears so, yes.

8 Q And they came into the EIA office to fill out
9 that application and sign it, and met at that time with Wes
10 McKay's worker.

11 A Worker or an intake worker.

12 Q Okay. At the time they came into the office to
13 fill out the application, the woman, Samantha Kematch, said
14 that she had been caring for a dependent child, Phoenix,
15 since November 7, '03.

16 A Yes.

17 Q And that information then led Wes McKay's worker
18 to enter the information on Steve Sinclair's file.

19 A It would appear so, yes.

20 Q And to contact you as Steve Sinclair's worker.

21 A Yes.

22 Q So now if we go back to your note of May 5, '04,
23 on page 28652 ...

24 A Yes.

25 Q Thank you. It says:

1

2

Shelter review. Man is rent

3

sharing with Memory Pond client.

4

CCO is still unsure of where the

5

child is. Rent form states there

6

are two adults and one child. CCO

7

has called and left messages for

8

man and man has not gotten in

9

contact with CCO.

10

11

What is it that you are indicating in this note?

12

A That he has provided our office with

13

documentation, so the rent form, and it's showing that he's

14

still declaring the child residing with him, and that I've

15

been trying to contact him to find out the whereabouts of

16

his dependent child, Phoenix Sinclair.

17

Q So at this point, as of May, '04, you weren't

18

certain who Phoenix was living with.

19

A That is correct.

20

Q And that was something that you wanted to

21

determine?

22

A Yes.

23

Q Was that from the perspective of whose budget she

24

should be on?

25

A Yes.

1 Q Okay. Now, if you'll turn -- the next document
2 I'd like you to look at, please, is page 28753.

3 A Yes.

4 Q You have that?

5 A I do.

6 Q Good. And that's again from Commission
7 disclosure 1580, Steve Sinclair's EIA file. This is a fax
8 which was received from Christian Okotcha to your
9 attention.

10 MS. WALSH: Can you pull it --

11 THE WITNESS: Yes.

12 MS. WALSH: -- up on the screen, please? Thank
13 you.

14

15 BY MS. WALSH:

16 Q So this says -- it's dated May 10, '04, to you
17 from Christian Okotcha:

18

19 "As discussed, case number
20 (537620)" --

21

22 which we saw from the application is Wes McKay's case
23 number.

24

25 "... I hereby fax you a copy of

1 the Revenue Canada tax credit and
2 attached Legal Aid letter."

3

4 So you knew that Christian Okotcha was Wes
5 McKay's worker?

6 A That, that is who I'm receiving it from, so I
7 would assume it was his worker, yes.

8 Q It says -- the fax says, "As discussed." Do you
9 have a recollection of having had a discussion with Mr.
10 Okotcha?

11 A I don't personally have recollection, no.

12 Q So then if we turn to the next page, which is one
13 of the documents referred to in the fax, page 28754 --

14 A Yes.

15 Q -- what is this document?

16 A This is the federal government child tax benefit.

17 Q It says at the top, Samantha Kematch, and it
18 gives a Furby Street address?

19 A Yes.

20 Q And later on, down the document it says, "We have
21 established that you are eligible for Phoenix."

22 A Yes.

23 Q What's your understanding of the significance of
24 this document?

25 A Well, this is showing us that she has filed for

1 the child tax benefit for this child, Phoenix Sinclair.
2 And usually when a person's filed for this, it gives us the
3 understanding that the child is in that parent's case.

4 Q Thank you. The date at the top says January
5 20th, 2004?

6 A Yes.

7 Q Then if you turn to page 28755 ...

8 A Yes.

9 Q This is the letter from Legal Aid which was also
10 referenced in the fax?

11 A Yes.

12 Q It's dated May 6, '04; it's to the attention of
13 Christian Okotcha, re Samantha Kematch. And it says:

14

15 "... I wish to confirm the
16 following" --

17

18 And the box that's checked off is:

19

20 "An application for Legal Aid has
21 been taken and there is
22 approximately a two-week waiting
23 period for approval."

24

25 In brackets, "Custody of Phoenix Sinclair."

1 MS. WALSH: Can you scroll down to the bottom of
2 the page, please?

3

4 BY MS. WALSH:

5 Q And it's signed by a paralegal, and then it says:

6

7 "Phoenix has been in Ms. Kematch's
8 care and control since November
9 7/03, however, the child continues
10 to be on Nelson Sinclair's budget.
11 Please amend your records to
12 provide benefits to Ms. Kematch
13 for Phoenix temporarily until the
14 matter is confirmed in court."

15

16 So this, this is all part of the fax that you
17 receive on May the 10th, '04?

18 A Yes.

19 Q If we go back to page 28753, and go to the top of
20 the page, it shows that the fax was sent at 9:48. You see
21 that, at the top of the fax?

22 A Yes.

23 Q So then according to the records we have --
24 because you've said you have no independent recollection,
25 which is understandable -- you sent an email to Lisa

1 Mirochnick on May 10th at 4:30. If we could turn to page
2 36968?

3 A Yes.

4 Q You've got that. And this is from you to Lisa
5 Mirochnick, and it says:

6

7 "Hi Lisa,

8 "I have called and left
9 message regarding Steve Sinclair
10 and the custody of his child
11 Phoenix Sinclair. I have received
12 a copy of the national child tax
13 benefits for Samantha Kematch
14 showing that she's been receiving
15 money for Phoenix. I also have a
16 copy from Legal Aid that she has
17 put in an application for custody
18 and they are requesting we pay
19 temporarily for Phoenix until the
20 matter goes through. I have not
21 been able to get a hold of Steve
22 Sinclair. He did call and left a
23 message but no number to be
24 reached at. I would like to know
25 from you if I should remove this

1 child from his budget because the
2 mother has had this child since
3 November 7, '03, as the
4 application states. Please email
5 me back and advise me what you
6 would like to do considering you
7 stated that the mother is not to
8 have the child."

9

10 So why is it that you were writing Ms. Mirochnick
11 at this point?

12 A From what I can see -- as I have no personal
13 recollection of this -- is that there was some discrepancy
14 with regards to where this child should be placed and who
15 should have custody.

16 Q Do you know how you came to contact Ms.
17 Mirochnick?

18 A I can only say that her name came up in one of
19 the case notes, that that may have directed me to contact
20 her directly.

21 Q Right. One of the notes that we reviewed earlier
22 this morning.

23 A Yes.

24 Q Okay. In this email you state that "the mother
25 is not to have the child." Do you recall where you got

1 that information from?

2 A No, I don't recall that.

3 Q Then we know from the documents that after you
4 wrote this email on May the 10th, you phoned intake at CFS
5 on May 11. If we turn to page 37344?

6 A Yes.

7 Q You have that?

8 A I do.

9 Q And do you have pages -- up to page 37347 and all
10 the pages in between?

11 A Yes, the three pages, I do.

12 Q Thank you. So this form is a CRU intake document
13 dated May 11, 2004. Do you recall calling CFS on May 11?

14 A I do not have a personal recollection, no.

15 Q If we turn to page 37346, you see the top of the
16 page, it says "source of referral"?

17 A Yes.

18 Q Your name is blacked out, but your title as an
19 EIA worker is still visible?

20 A Yes.

21 Q Then under -- and the time of referral is 9:30
22 a.m. Then under presenting problem or intervention it says
23 the following -- and it's got your name blacked out.

24

25 "... called to report that

1 Samantha has brought in a letter
2 from her lawyer claiming that she
3 has been caring for Phoenix since
4 Nov. /03 and requested that she be
5 provided financial assistance for
6 Phoenix. [Source of referral]
7 stated that the father, Steven
8 Sinclair, has been receiving
9 assistance for Phoenix however, he
10 has been giving it to family
11 friends, Kim and Rohan Stevenson.
12 [Source of referral] was concerned
13 about Phoenix being in her
14 mother's care, as it was [her]
15 understanding from the previous
16 CFS worker that she would be at
17 risk in either her mother or
18 father's care. Upon checking
19 CFSIS, this worker was able to
20 confirm this to be true. [Source
21 of referral] provided updated
22 demographic information on all
23 concerned. This worker advised
24 [source of referral] that I will
25 look into this matter and get back

1 to [her]."

2

3 Are you able to say whether this is an accurate
4 reflection of the call that you made to CFS?

5 A I can't say for sure, but it seems that there is
6 some recollection from notes that does state this
7 information in my file.

8 Q And the document notes that you provided updated
9 demographic information on all concerned. This would have
10 been information that you had through access to the EIA
11 file?

12 A That is correct.

13 Q What sort of demographic information were you
14 able to provide?

15 A I would assume that it would be an address for
16 where they were living and a telephone number.

17 Q "They" being Steve Sinclair?

18 A Yes.

19 Q Okay. Then the next record of your involvement
20 shows that you sent a letter to Lisa Mirochnick. If you
21 turn to page 39 -- sorry, 36967, you sent --

22 A Yes.

23 Q -- an email. 36967.

24 A Yes.

25 Q So this is an email dated the next day, May 12th,

1 2004. And it says:

2

3 "Hi Lisa,

4 "Sorry to keep bugging you

5 but other people from the agency

6 are really confusing me. They

7 state that their files say nothing

8 about the child not being allowed

9 to stay with mother Samantha

10 Kematch but I do believe you told

11 me that the child is not to be in

12 the mothers care. Maybe I took it

13 wrong maybe not. Can you verify

14 that with me. All I really want

15 to know now is where the child is

16 and for how long just so I can

17 take her off of her father's case

18 and assess if there should be an

19 overpayment if the child has been

20 with the mother from Nov 7/03

21 until now like she has stated to

22 our department and legal aid. Can

23 you please get back to me as soon

24 as possible."

25

1 Do you have any recollection as to who from the
2 agency you would have been communicating with?

3 A I have no personal recollection, no.

4 Q Do you have any recollection of, of having any
5 phone conversations with Ms. Mirochnick?

6 A No, I don't, unfortunately.

7 Q Why were you writing this email to Ms.
8 Mirochnick?

9 A I assume because I was aware that she was her --
10 Phoenix, Phoenix Sinclair's case worker at some point in
11 time with the family, and I guess she most likely was my
12 first line of contact and obviously she could give me some
13 information which would have resulted in me contacting her
14 again.

15 Q Were you concerned about Phoenix's well-being at
16 this point?

17 A I would say that I was, considering if I was
18 given information that she wasn't supposed to be with the
19 parent that obviously was coming in stating that she had
20 her, that I would have been concerned for the child.

21 Q In terms of what you did after writing this email
22 on May 12th, if we turn back to the notes that you made in
23 Steve's EIA file, you'll pull up page 28651. You got that?

24 A Yes. Yes, I do.

25 Q Thank you. And this is from Mr. Sinclair's EIA

1 file, disclosure 1580. So May 13, '04, it says:

2

3 Spoke with Andy from CFS re
4 Phoenix's whereabouts. He states
5 that the chain of effects happened
6 that November/03 mother had child.
7 Then January/04 parents agreed to
8 have Phoenix stay with godparents.
9 Steve was receiving funds for
10 Phoenix but stated to old worker
11 that he was giving it to the
12 godparents. They had Phoenix
13 until April '04. At that time
14 Phoenix's mother Samantha took her
15 back into her care.

16

17 It continues at the top:

18

19 At present time CFS states that
20 the child is in the mother's care.
21 Andy stated that they are 95
22 percent sure the chain of effects
23 happened like that. They still
24 need to do an assessment on the
25 child remaining with the mother but

1 for now that is where Phoenix is.
2 Woman has tried to contact Steve
3 by phone and by --

4

5 Or is that "worker"?

6 A It could have been worker --

7 Q Okay.

8 A -- yeah.

9 Q

10 ... and by mail to contact her.
11 Citizen has made no contact with
12 worker yet. Man still has not
13 contacted CCO for May '04
14 benefits.

15

16 So in terms of Andy -- do you have page 36962?

17 MS. WALSH: Can we pull that up on the screen for
18 us, please? Thank you.

19

20 BY MS. WALSH:

21 Q You may not have that in the package that was
22 sent to you.

23 A No, I don't.

24 Q Okay. What, what it is, is a memo dated May 13,
25 2004 from Andy Orobko to someone named Carolyn Parsons.

1 The subject is Steve Sinclair. It says:

2

3 "Carolyn:

4 "I've spoken to the
5 godparents and the E&IA worker -
6 here is the chain of events."

7

8 And then he outlines, starting in November, '03,
9 "Mom gets Phoenix from Dad," et cetera. So his reference
10 to speaking to the EIA worker, that would have been you?

11 A I would assume from the notes, yes.

12 Q Okay, thank you. Then if we go to page 28650, do
13 you have that?

14 A Yes, I do.

15 Q So you have a recording dated May 13, '04 still,
16 and it says:

17

18 "Child has been removed from file
19 as per child is living with mother
20 now as advised by CFS. Steve is
21 now a GA. Letter sent to advise
22 him of the change."

23

24 A Yes.

25 Q So this reflects that you've had communications

1 with CFS.

2 A That's correct.

3 Q And you have clarified that Phoenix is with her
4 mother.

5 A Yes.

6 Q You had previously expressed to CFS concerns
7 about Phoenix or that you had noted concerns about Phoenix
8 being in the care of her mother. Did you know if those
9 concerns had been addressed at this point?

10 A I personally couldn't say, but I, I guess I would
11 assume that considering that Child and Family Services was
12 involved with the family and was looking at doing an
13 assessment, that they were taking into consideration the
14 safety of Phoenix.

15 Q Now, still on page 28650 --

16 A Yes.

17 Q -- the entry at the top dated May 17, '04:

18

19 Spoke with man this date. Man

20 stated that he has his daughter.

21 When CCO stated that CFS confirmed

22 the daughter with the mother he

23 stated okay. CCO told man the

24 child was taken off of his file.

25 He didn't seem to care. Man

1 wanted his May/04 BN.

2

3 A Basic needs.

4 Q

5 CCO asked how he was supporting
6 himself, stated that he has had
7 general labour jobs day by day.
8 CCO stated he needed to claim the
9 income before any funds could be
10 released.

11

12 So at this point was Phoenix off Mr. Sinclair's
13 budget?

14 A It would appear so, because the previous note had
15 stated that she was removed.

16 Q Do you have page 28620?

17 A Yes, I do.

18 Q Is this an INCA screen?

19 A Pardon? Sorry?

20 Q Is this what you had referred to as an INCA
21 screen?

22 A Yes.

23 Q It's dated at the top, May '04.

24 A Um-hum.

25 Q Does this show that Steve Sinclair, as of May

1 '04, no longer has Phoenix on his budget?

2 A That is correct.

3 Q Now, in terms of where Phoenix was moved for EIA
4 budgeting purposes, can you turn, please, to page 28208?

5 A Yes.

6 Q And you'll see at the top the -- under the entry
7 dated May 28, '04, is an entry by COK who we saw was Wes
8 McKay's worker?

9 A Yes.

10 Q And in fact, this document is taken from our
11 disclosure 1578, which is Wes McKay's EIA file. And what's
12 recorded is:

13

14 Citizen attended the office to add
15 DC -- dependent child -- (Phoenix
16 Sinclair) to the case. DC added
17 effective May 28/04.

18

19 And then what's, "DPIF to be calculated and
20 issued"?

21 A I believe it's a deficit payment.

22 Q So what is, what is happening there?

23 A So what they're doing is from the time that they
24 removed Phoenix from Steven Sinclair's, they're issuing now
25 benefits for Phoenix for that time.

1 Q To Wes McKay?

2 A Yes.

3 Q Okay. Then if you turn to page 28239.

4 A Yes.

5 Q Do you have that and page 28240?

6 A I just have the 28239; I don't have a 4-0.

7 Q Okay. So 28239 is an application to add
8 dependents?

9 A Yes.

10 Q And the name is "Sinclair, Phoenix Victoria"?

11 A Yes.

12 Q Now, we have the next page, which is 28240, which
13 is dated -- it has signatures of Karl McKay and Samantha
14 Kematch dated May 28, '04. I appreciate you don't have
15 this in front of you today. I believe you have reviewed
16 this document in the past, being the second page of the
17 application to add dependents on Mr. Sinclair's -- Mr.
18 McKay's budget.

19 A Yes.

20 Q So this document, then, starting at page 28239,
21 is the actual application that was filled out on May 28,
22 '04 to add Phoenix to Mr. McKay's budget.

23 A Yes.

24 Q And we saw that that was -- that fact was
25 reflected in the SAMIN note that we had looked at

1 previously at page 28208.

2 A That's correct.

3 Q So once this had been done, as of May 28, '04, if
4 someone had typed Phoenix's name into the SAMIN system,
5 would they have been able to see that Phoenix was on Wes
6 McKay's budget?

7 A Yes.

8 Q And if a worker did that, would they also see
9 whatever information EIA had about Mr. McKay?

10 A Mr. McKay, yes.

11 Q And that would include his date of birth?

12 A Correct.

13 Q Would that have been true, say, seven months
14 later, in December of 2004?

15 A If the child's still on the file? I'm sorry, I
16 don't know what you're asking me.

17 Q So, so you've said that as of May 28, '04, if a
18 worker typed in Phoenix's name into the EIA system they
19 would see that she was on Wes McKay's budget.

20 A Correct.

21 Q And after May 28, '04, if a worker had typed in
22 Phoenix's name, would they have been able to see that
23 Phoenix had been on Mr. McKay's budget even if she were no
24 longer on his budget?

25 A Yeah, it would show all files that Phoenix would

1 have been on, on our system.

2 Q Okay. And then that would show the information
3 about the file, the, the client themselves, Mr. McKay.

4 A Yes.

5 Q Including his date of birth?

6 A Correct.

7 Q Was a person's date of birth information that EIA
8 workers would share with CFS if CFS called and said they
9 were investigating a child protection concern?

10 A I personally can't recall that, unfortunately,
11 sorry.

12 Q You can't recall whether that's something that
13 you would have shared if asked?

14 A Yeah. I, I don't believe I would, but I can't
15 say I did or didn't.

16 Q I'm not asking about in this case.

17 A Okay.

18 Q I'm saying generally, if, if a CFS worker called
19 and said they were investigating a child protection concern
20 and needed an individual's date of birth, was that
21 information that you would have shared?

22 A If it was required for, for protection, very
23 likely, yes.

24 MS. WALSH: Okay, thank you.

25 Okay, Witness, those are all the questions that I

1 have of you. There may be some questions that other
2 lawyers have of you. Are you all right to, to proceed
3 without a break at this point?

4 THE WITNESS: Yes.

5 MS. WALSH: Okay, thank you.

6 THE COMMISSIONER: All right. Who wishes to
7 start the questioning? Mr. Gindin's on his feet, Mr. Ray.

8 Witness, Mr. Gindin is going to introduce himself
9 and who he acts for, and he will have some questions for
10 you.

11 THE WITNESS: Okay.

12

13 CROSS-EXAMINATION BY MR. GINDIN:

14 Q Yes, my name is Jeff Gindin; I represent Kim
15 Edwards and Steve Sinclair. Can you hear me okay?

16 A Yes, I can.

17 Q I just have a few questions.

18 MR. GINDIN: If we can bring up page 36948,
19 please? Sorry, pardon me, 36967, sorry.

20

21 BY MR. GINDIN:

22 Q This is the email that was sent by you to Lisa
23 Mirochnick, a worker with CFS. Recall that? You were
24 shown that earlier?

25 THE COMMISSIONER: She's just looking.

1 THE WITNESS: Sorry, I'm just looking for it
2 here.

3 MR. GINDIN: All right.

4 THE COMMISSIONER: She, she's got it.

5 THE WITNESS: 36967?

6

7 BY MR. GINDIN:

8 Q Yes, that's correct.

9 A Yes.

10 Q Now, what you see --

11 A I have it.

12 Q Yes. In that email, it would appear that you
13 have been speaking with some people from CFS, correct?

14 A Yes.

15 Q Right. And you're advising her that you're
16 somewhat confused because you've been told by Lisa herself
17 that the child ought not to be with Samantha, yet other
18 workers from CFS are saying they have no record of such a
19 warning. Is that basically what you're saying there?

20 A That appears to be, yes.

21 Q Okay. So we can assume, therefore, that you must
22 have spoken to some workers from CFS about whether the
23 child should be with Samantha or not, and it would appear
24 that they couldn't locate any such a warning. We can, we
25 can --

1 A That may appear, yes.

2 Q And so that concerned you, and so you contacted
3 Lisa to try to straighten that out, right?

4 A Yes, it appears.

5 Q It also appears from your -- this email, and
6 perhaps another one, that Lisa would have at some point
7 contacted you and told you that the child should not be
8 with Samantha.

9 A Yes.

10 Q And so this, this is now May the 12th of 2004,
11 and clearly we can say from this that you've been in some
12 contact with Lisa Mirochnick and other workers at CFS on
13 the issue of where Phoenix is, the fact that she's with
14 Samantha, apparently, and your concern was that you've been
15 advised she should not be there, right?

16 A It appears that way, yes.

17 Q And the reason that you acted as you did is
18 because it seemed clear to you that there was a child
19 protection concern here and they ought to, to know what's
20 going on, right?

21 A Yes, I would assume that, yes.

22 Q When you get information such as one of the
23 documents advises that Samantha says she had the child
24 since November of '03, is that something you normally look
25 into yourself or simply record it?

1 A Normally, if there's a concern or a dispute, we
2 would look into it because we have to know where the child
3 is and whose -- who should be receiving benefits for the
4 child. But if there is no custody or no, like, dispute
5 over the child's whereabouts, then normally we wouldn't
6 look into it. If the mother's coming in or the father's
7 coming in stating that they have the child and there's no
8 recollection or no concerns with regards to that parent
9 having a child, we wouldn't look into the parent having
10 that child.

11 Q And once you advise CFS of whatever concerns you
12 had, as you did here, then I expect that your expectation
13 is they would look into it.

14 A That is correct.

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

16 THE COMMISSIONER: Thanks, Mr. Gindin.

17 Anybody, anybody else? Mr. Ray, Mr. Saxberg?

18 MR. SAXBERG: Could I just have one minute to
19 (inaudible), Mr. Commissioner.

20 THE COMMISSIONER: Yes.

21 MR. SAXBERG: Thank you.

22 THE COMMISSIONER: Counsel are just conferring,
23 Witness, so we'll just be a minute or so till we know
24 whether there's going to be more questions, and if so, from
25 whom.

1 THE WITNESS: Okay.

2 THE COMMISSIONER: All right. Counsel's just
3 coming to the table, so you will have questions from Mr.
4 Ray, who will introduce himself.

5 THE WITNESS: All right.

6

7 CROSS-EXAMINATION BY MR. RAY:

8 Q Good morning. My name is Trevor Ray. I
9 represent the Manitoba Government Employees Union and some
10 of the social workers, in particular, Ms. (inaudible), who
11 you have mentioned in your evidence. I just have a few
12 questions for you.

13 You would have been, I assume, the EIA worker for
14 several people, and one of the questions we have, would you
15 have happened to have been the EIA worker for Ms. Kim
16 Edwards? Do you recall that name?

17 A I do not recall that name.

18 Q You mentioned that you would occasionally provide
19 information to social workers, provided that a release was
20 signed by your client; is that correct?

21 MR. PAUL: I'm not sure that was her evidence
22 about releases.

23 MR. RAY: Oh, okay. My apologies.

24 THE COMMISSIONER: Are you withdrawing that
25 question?

1 MR. RAY: That, that question is withdrawn, Mr.
2 Commissioner, thank you. That was --

3 THE COMMISSIONER: That question's withdrawn,
4 Witness.

5 THE WITNESS: All right.

6

7 BY MR. RAY:

8 Q You mentioned that -- you gave some evidence
9 about Mr. McKay coming in and having Phoenix transferred
10 over to his budget, correct?

11 A I'm not -- I don't recall personally, but
12 whereabouts was that stated?

13 Q You referenced a document. I don't believe that
14 you were Mr. McKay's worker, were you?

15 A No, I was not.

16 Q Okay. When -- let me ask you generally. When a
17 person comes in and seeks to have a child placed on their
18 budget, is there a requirement that the EIA person see the
19 child?

20 A Not that I'm aware of. As long as all of the
21 identification is provided, the child does not have to be,
22 I believe, (inaudible), from my recollection.

23 Q Now, you indicated that you have no independent
24 recollection of the file and that your knowledge of the --
25 that you testify about today came from reviewing the

1 documents; is that correct?

2 A That is correct.

3 Q And you indicated in your evidence that based on
4 your review of the file, you had some concerns for
5 Phoenix's safety. Could you please turn to page 28658?
6 You have a note there that says, starting -- it's in the
7 first paragraph, about two-thirds of the way down:

8

9 "... Lisa's concern is Steve's
10 casual placement of child with
11 godparent."
12

13 A This wasn't actually my note. This was the
14 previous worker's note.

15 Q Okay. Do you have any other knowledge or
16 information or recollection beyond that notation as to why
17 you would have suspected Lisa would have a concern of -- or
18 would have communicated a concern to you about Phoenix?

19 A No personal recollection that I can give.

20 MR. RAY: Thank you. Those are my questions.

21 THE COMMISSIONER: Thank you, Mr. Ray.

22 MR. RAY: Thank you, Mr. Commissioner.

23 THE COMMISSIONER: Mr. Saxberg?

24 Counsel Saxberg is coming to the microphone. He
25 will introduce himself, Witness.

1 THE WITNESS: Okay.

2 MR. SAXBERG: Thank you, Mr. Commissioner.

3

4 CROSS-EXAMINATION BY MR. SAXBERG:

5 Q It's Chris Saxberg. I act for ANCR and three of
6 the authorities that regulate child welfare agencies in
7 Manitoba.

8 I just wanted to ask a quick question and it
9 relates to a document that Commission counsel was reviewing
10 with you so hopefully you have it handy. I have page
11 number 37346. It's from the May 11 CRU intake form written
12 by Debbie De Gale. Do you have that May 11 CRU intake
13 document, Witness?

14 A What number is that, sorry?

15 Q The page number I have on the bottom is 37346.

16 A Yes.

17 Q And in the first paragraph, second-last sentence,
18 there's a redaction -- and I take that redaction refers to
19 you -- "provided updated demographic information on all
20 concerned." Do you see that?

21 A Um-hum.

22 Q Is that yes?

23 A Yes.

24 Q So that's you that provided the updated
25 demographic information?

1 A That is what it does say, yes.

2 Q And demographic information would be people
3 living in the home, family members, that sort of thing; is
4 that right?

5 A I would assume that it would have been an address
6 and a phone number.

7 Q But wouldn't it also include the fact you were
8 aware that, that Karl McKay was with Samantha Kematch at
9 that time based on the information that you reviewed with
10 Commission counsel earlier this morning?

11 A I would have been aware of the file, as stated,
12 but I, I can't personally recall that I gave that
13 information about Karl to CFS.

14 Q Right. And I just wanted to confirm that, that,
15 that Employment and Income Assistance was aware that
16 Samantha and Karl were living together and that this
17 application to have Phoenix on their budget had been made
18 -- and that's correct, right -- at that time, May 11th?

19 A At that time it appears that they did apply
20 together, yes.

21 Q And that's information that you could have shared
22 with Winnipeg CFS, but it doesn't look, from the document
23 that we're looking at, as though you did share that
24 information with them, does it?

25 A That appears so, yes.

1 Q So at that point in time CFS wouldn't have known
2 about Karl Wesley McKay unless you told them, correct?

3 A I couldn't personally say what they know or what
4 they would have known.

5 MR. SAXBERG: Okay, that's fair. Okay, thank
6 you.

7 THE COMMISSIONER: Thank you, Mr. Saxberg.

8 Mr. Khan, any questions?

9 MR. KHAN: No, no questions.

10 THE COMMISSIONER: All right, Mr. Paul, I think
11 you're on.

12 MR. PAUL: No questions.

13 THE COMMISSIONER: All right. Any re-
14 examination?

15 MS. WALSH: I just have one matter.

16

17 RE-EXAMINATION BY MS. WALSH:

18 Q Can you pull up, please, page 28208, the SAMIN
19 notes?

20 A All right. Yes.

21 Q If you look at the entry for May 28, '04.

22 A Um-hum.

23 Q That's the date that the file indicates that
24 Phoenix was added to Wes McKay's budget, was May 28, '04.

25 A That's correct.

1 Q Okay. I just wanted to confirm that because
2 we've been looking at the intake that recorded your call,
3 which was from May 11th, '04.

4 MS. WALSH: I have nothing further, Mr.
5 Commissioner.

6 THE COMMISSIONER: All right.

7 Witness, thank you very much. All the questions
8 have been asked and I appreciate your cooperation.

9 THE WITNESS: Thank you.

10 MS. WALSH: Thank you.

11

12 (WITNESS EXCUSED)

13

14 THE COMMISSIONER: We'll now take our 15-minute
15 mid-morning break.

16 MS. WALSH: Thank you, Mr. Commissioner.

17 THE COMMISSIONER: So, so we stand adjourned now
18 for 15 minutes.

19

20 (BRIEF RECESS)

21

22 THE COMMISSIONER: I'm advised we don't have a
23 witness. Is that correct, Ms. Walsh?

24 MS. WALSH: Yes, Mr. Commissioner. I'm advised
25 that our next witness is not scheduled to appear until two.

1 THE COMMISSIONER: All right. That's
2 unfortunate, but if we have no witness we cannot proceed,
3 so we'll have to stand adjourned till two o'clock this
4 afternoon.

5 MS. WALSH: Thank you.

6

7 (LUNCHEON RECESS)

8

9 THE COMMISSIONER: All right, Ms. Walsh.

10 MS. WALSH: Good afternoon, Mr. Commissioner.
11 Our next witness is Debbie De Gale, and to my left is her
12 counsel, Mr. Richard Buchwald.

13 THE COMMISSIONER: Welcome.

14 MR. BUCHWALD: Good afternoon, Mr. Commissioner.

15 THE COMMISSIONER: Welcome.

16 THE CLERK: Could you just stand for a moment?
17 Is it your choice to swear on the Bible or affirm without
18 the Bible?

19 THE WITNESS: With the Bible.

20 THE CLERK: State your full name -- or take the
21 Bible in your right hand. State your full name to the
22 court.

23 THE WITNESS: Debbie Lynn De Gale.

24 THE CLERK: And just spell me your first name,
25 please.

1 THE WITNESS: D-E-B-B-I-E.

2 THE CLERK: And your middle name?

3 THE WITNESS: L-Y-N-N.

4 THE CLERK: And your last name?

5 THE WITNESS: It's capital D-E, space, capital G-
6 A-L-E.

7 THE CLERK: Thank you.

8

9 **DEBBIE LYNN DE GALE,** sworn,

10 testified as follows:

11

12 THE CLERK: Thank you. You may be seated. The
13 water's (inaudible).

14

15 DIRECT EXAMINATION BY MS. WALSH:

16 Q Good afternoon, Ms. De Gale.

17 A Good afternoon.

18 Q Let's start with some background questions.
19 First of all, you are a social worker?

20 A Yes.

21 Q And you work for Winnipeg Child and Family
22 Services?

23 A Yes.

24 Q Your position is of a prior contact check worker?

25 A Yes.

1 Q What does that position involve?

2 A It involves researching files and -- for
3 employment purposes and for prior children in care, for
4 their histories.

5 Q You received your Bachelor of Social Work from
6 the University of Manitoba in 1986?

7 A Yes.

8 Q And you began working in child welfare in 1987
9 for Northwest CFS?

10 A Yes.

11 Q That was as a family services worker.

12 A Yes.

13 Q In Winnipeg.

14 A Yes.

15 Q Then you became an intake worker for the same
16 agency?

17 A Yes.

18 Q You worked at Northwest CFS until the spring of
19 1991.

20 A Yes.

21 Q In 1992 you were hired as the area supervisor for
22 the government in the Northwest Territories?

23 A Yes.

24 Q What did that position involve?

25 A I was in charge of three communities in the

1 remote -- in the high Arctic, and I was in charge of three
2 communities for child welfare, age and handicap,
3 corrections, and social assistance.

4 Q In 1994 you left the Northwest Territories and
5 worked at the Elizabeth Fry Society in Winnipeg for a
6 number of years?

7 A Yes.

8 Q That was as a justice liaison coordinator?

9 A Yes.

10 Q Then in 1996 you worked for Child and Family
11 Services of Western Manitoba in Brandon?

12 A Yes.

13 Q You held a number of positions there?

14 A I did various duties there.

15 Q So family services ...

16 A Family services, intake. I designed a parenting
17 program for them and I ran it.

18 Q In 1997 you began working for Central Child and
19 Family Services in Winnipeg as a family services worker?

20 A Yes.

21 Q In 2000 or 2001 you became a permanent ward
22 worker?

23 A Yes.

24 Q That was for Winnipeg Child and Family?

25 A Yes.

1 Q Then you became a crisis response worker in 2002
2 or 2003.

3 A Yes.

4 Q Which one, do you recall?

5 A I believe it's 2003.

6 Q In 2004 you were a CRU worker when you delivered
7 services to Phoenix Sinclair and her family?

8 A Yes.

9 Q And that was with Winnipeg Child and Family
10 Services.

11 A Yes.

12 Q I understand that in late 2006 or 2007 you were
13 seconded to the agency known as ANCR?

14 A Yes.

15 Q In 2008 you went back to Winnipeg Child and
16 Family.

17 A Yes.

18 Q From 2008 to 2010, you worked for Winnipeg CFS as
19 a family services worker?

20 A Yes.

21 Q And since September of 2010, you've held the
22 position you currently hold.

23 A Yes.

24 Q Are you a registered social worker?

25 A No.

1 Q Have you ever been?

2 A No.

3 Q We've heard reference in these proceedings to
4 workers receiving core competency training. Is that
5 something that you received?

6 A Yes.

7 Q Do you recall when you received it?

8 A I believe it was 2001.

9 Q What did that training consist of?

10 A It was orientation to all of the protective
11 services that we were expected to perform. Abuse, risk
12 assessment ...

13 Q Did it take place over the course of more than
14 one day?

15 A Oh, yes, it took months.

16 Q Have you received training specific to being a
17 crisis response worker?

18 A No.

19 Q In the various intake forms and summaries that we
20 have been looking at in Phoenix's family's files, we've
21 seen reference to a recording entitled history, sometimes
22 social history. Did you ever receive training in how to
23 prepare a history?

24 A No.

25 Q What's the significance of the history portion of

1 a file recording?

2 A The significance of, of the history is knowing
3 what the tendencies of that particular family would be,
4 what have been the past issues, what services have been
5 provided already, and it gives you a good insight of where
6 to go from there.

7 Q In 2004 when you were a crisis response worker or
8 in the Winnipeg CFS crisis response unit, who was your
9 supervisor?

10 A In 2004?

11 Q Yes.

12 A It was Diana Verrier.

13 Q Was she the supervisor -- your supervisor for the
14 entire time that you were a crisis response worker at
15 Winnipeg CFS?

16 A No.

17 Q What period of time was she your supervisor, do
18 you recall?

19 A Maybe a year, at most.

20 Q Do you recall what her supervision of you
21 consisted of?

22 A When we would write up our reports, then we would
23 hand them in to her. If we had any questions about what to
24 do with certain cases, we would go and consult with her.
25 If we had supervision, we would meet with her and discuss

1 our cases and, and our performance.

2 Q Did you have regular supervision meetings with
3 her?

4 A I believe she tried to do it about every second
5 week.

6 Q Can you describe for us the role of the crisis
7 response unit in 2004?

8 A The role was to take calls on cases. If they
9 were already open, then we would pass it on to the assigned
10 worker. If it wasn't open, then we would take that
11 information and assess it and decide whether we open it,
12 decide whether we would provide services ourselves, or
13 whether we would pass it onto tier two intake.

14 Q Was there an expectation as to how long a CRU
15 worker was to be involved with a family or a file?

16 A The CRU was meant as a short-term response. We
17 -- normally we would take the information and pass it on
18 within a day or two to backup or either to CRU intake, or
19 deal with it and close it.

20 Q What was backup?

21 A Backup, we had two teams at CRU. One was team A
22 and one was team B. And while team A was on telephones
23 taking new calls, then team B would be backup. So if there
24 was something urgent that needed to be handled, then the
25 next team would go out on those calls.

1 Q And team B was still part of CRU.

2 A Yes.

3 Q I want to refer you to a document entitled Intake
4 Program Descriptions and Procedures. It's at page -- it
5 starts at page 19625. Are you familiar with this document?

6 A No. Well, I was as of last week --

7 Q As of --

8 A -- when I was shown it.

9 Q As of last week in preparation for your
10 testimony.

11 A Yes.

12 Q This document, it's dated July 2001. You can see
13 that on the screen in front of you.

14 A Yes.

15 Q This is not a document that you were familiar
16 with in 2004?

17 A No.

18 Q So it's not a document you consulted when you did
19 your CRU work in '04?

20 A No.

21 Q I'm going to read to you from a portion of it
22 that describes the CRU and after hours unit and ask you if
23 that's consistent with your understanding as to how the
24 unit functioned. If we turn to page 19628?

25 You're all right with the documents on the screen

1 in front of you?

2 A Yes.

3 Q So this is entitled Crisis Response Unit and
4 After Hours Unit, Program Description. Says:

5

6 "In creating a working
7 definition as to what the mandate,
8 duties and protocols could be for
9 the AHU and CRU, we have borrowed
10 from the definition and philosophy
11 of the Agency's Case Management
12 Standards Intake definition."

13

14 Now, were case management standards something
15 that you were familiar with in 2004?

16 A As a family worker.

17 Q All right. What about as a CRU worker?

18 A According to this policy and procedure?

19 Q Well, let me ask you this: When you performed
20 your duties as a CRU worker in 2004, what governed how you
21 carried out your responsibilities?

22 A What governed it was that I was supposed to take
23 the information, assess it, pass it on, deal with it, close
24 it.

25 Q Did you follow standards or policies or an

1 understanding of best practice?

2 A It would have been a common understanding.

3 Q A common understanding, did you say?

4 A Yeah.

5 Q Of -- common understanding of what?

6 A Of, of the work at that particular time. We
7 didn't -- I did not have these policies and procedures.
8 There was an understanding of how the job should be done.

9 Q I see.

10 A And, and I did it accordingly. According --

11 Q So when you say a common understanding, you mean
12 you and your colleagues.

13 A Yes.

14 Q So were you following best practice, then?

15 A Yes.

16 Q So back to this program description. It says:

17

18 "The CRU and AHU mandate is
19 to process all referrals for
20 service to the Agency, to gather
21 and screen information, to
22 determine the validity of the
23 referrals, and to assign priority
24 levels to referrals to ensure
25 further assessment or

1 investigation occurs if required.
2 As well, the CRU and AHU would
3 have the primary obligation to
4 ensure the safety and well-being
5 of children at risk (as prescribed
6 in the Child and Family Services
7 Act, Part III, Child Protection),
8 which may include responding to
9 and investigating allegations of
10 serious physical and/or sexual
11 abuse and/or neglect.

12 "The case management
13 decisions at the CRU and AHU would
14 include:

15 "- Is the referral eligible
16 and/or appropriate for Winnipeg
17 [CFS]?

18 "- Are the children safe or
19 in need of protection?

20 "- What immediacy of response
21 does the referral warrant?

22 "- Will the referral be
23 opened to the Agency, and (if so),
24 under what case category?

25 "- Can the case be opened and

1 closed at the CRU and AHU level?

2 If so, what are the criteria for

3 doing so?"

4

5 Does that description accord with your
6 understanding of the responsibilities of the CRU unit when
7 you were working in it in 2004?

8 A Yes.

9 Q What type of call would have warranted mandated
10 service?

11 A Something that we would have considered that a
12 child would have been at risk.

13 Q Mandated service referred to what? Mandated by
14 the legislation?

15 A Yes.

16 Q Were you required to document every call you
17 took?

18 A No.

19 THE COMMISSIONER: Pardon?

20 THE WITNESS: No.

21

22 BY MS. WALSH:

23 Q Which types of calls were you not required to
24 document?

25 A If we got a phone call from somebody wanting some

1 resource -- community resource information, something to do
2 with community programming. Sometimes they just wanted
3 some advice and if we didn't feel that, that there was any
4 children that were going to be at risk in the process or if
5 we felt that they were going to follow through with our
6 advice, then we didn't need to open up an intake.

7 Q So what you've described would be a call that
8 would not require mandated service.

9 A Correct.

10 Q And those calls you did not need to record.

11 A Right.

12 Q When you did document calls, where did you
13 document them?

14 A We used to do our reports right onto the computer
15 into Word.

16 Q Into Word. And then would the report get entered
17 into the CFSIS program?

18 A It would, it would be attached after, yes.

19 Q And we'll, we'll come back to that process. In
20 2004 were you aware of any standards that governed what you
21 needed as a worker to document in your file recordings?

22 A Formal standards, no. We had an understanding
23 what was needed. I suppose if I was an inexperienced
24 worker then I might have had further training on that.
25 However, I'd been -- I had done it for quite a while.

1 Q You're talking by 2004.

2 A Um-hum.

3 Q Okay. What did you understand you needed to put
4 into your recordings?

5 A You had to have all the demographics of all
6 concerned, you had to have all of the information regarding
7 what the concerns were, you had to document any involvement
8 that you would have had into the, the report, and a
9 conclusion.

10 Q Did you use the CFSIS system, the electronic
11 system, when you were a CRU worker?

12 A Yes.

13 Q How did you use it?

14 A We used to look up on CFSIS to see if there was
15 any prior involvement with the family. If there was any
16 reports attached, then we could be able to open them and
17 read them.

18 Q When you received a referral, is that when you
19 would log onto CFSIS?

20 A We'd already be logged on. We pretty much stayed
21 logged on all the time.

22 Q I see. So when you received referral then -- a
23 referral, then you were able to go into CFSIS and look to
24 see if there had been prior involvement with a family?

25 A Yes.

1 Q And if there had, how much of the family's CFSIS
2 file would you typically review?

3 A It would really depend on, on how thorough the
4 information was. We would start with the last one.

5 Q The last closing summary?

6 A The last report that would have been attached.
7 If there was a good history there and what involvement that
8 curtailed, then we probably wouldn't have to go too much
9 further. But if we didn't get enough information on the
10 last report that was attached, then we would go to the next
11 one and the next one.

12 Q Going back in --

13 A Try -- yes.

14 Q -- in time.

15 A Yes.

16 Q Would you also, as a CRU worker, ask to see a
17 family's or a client's paper file?

18 A Yes.

19 Q A hard copy?

20 A Yes, if there wasn't enough information attached
21 on CFSIS, then we would request the paper file.

22 Q When you say if there wasn't enough information,
23 how would you know whether the information was sufficient
24 on CFSIS?

25 A If I still had questions about the history.

1 Q You were a CRU worker in '03, '04, and '05?

2 A Yes.

3 Q Did you, during that time, experience any
4 impediments to your work in the CRU unit?

5 A Probably the biggest issue was being able to
6 access information online, being able to get into
7 information from other agencies.

8 Q What do you mean? What was the problem?

9 A The problem was, was quite often if they've had
10 prior history with one of the aboriginal agencies, we would
11 not be able to access their information. If it was another
12 agency outside Winnipeg, we would not be able to access
13 their information. So if we, if we called those agencies
14 and we weren't able to get a hold of anybody right away to
15 give us their information and -- regarding their
16 involvement, then if we can't access their information
17 online, it, it just delayed the process a lot.

18 Q So you're saying that the information on CFSIS
19 that you had working at Winnipeg CFS only contained the
20 records that were specific to Winnipeg Child and Family
21 Services --

22 A Yes.

23 Q -- as an agency. And otherwise you would have to
24 call to another agency, it wasn't electronically linked?

25 A Yes.

1 Q Do you know whether that's changed?

2 A The last I heard, it was still the same.

3 Q Once you opened a file at CRU, what were your
4 options in terms of what you could do with the file?

5 A If I was able to deal with the issues myself
6 while -- after I've taken the information, then I would.
7 And if I was able to handle the situation on my own, then I
8 would just do an open and close, or I would make a referral
9 to somewhere where I thought that they would be able to get
10 the services that they need. If --

11 Q You mean outside CFS?

12 A Yes.

13 Q Okay.

14 A I would be able to open it up if, if mandated
15 services were warranted, I could pass it on to our backup
16 unit or to, to intake for further follow-up, or to abuse
17 intake. Yeah.

18 Q When you were a CRU worker, were you familiar
19 with an issue of files being returned to CRU after you had
20 recommended they be transferred to tier two intake?

21 A It happened on occasion.

22 Q How frequently?

23 A It really depended on workload demand, I guess,
24 from the upstairs.

25 Q What do you mean?

1 A Quite often we opened up cases and we expected
2 it'd go to tier two intake, but they were backlogged and
3 their workload -- and if it was relatively minor issues,
4 then it would be brought back to us to handle.

5 Q Did that ever happen to you?

6 A Maybe a couple of times.

7 Q Do you recall whether you were able to deal with
8 the matter and close the file?

9 A Yes, if I was asked to do it, I did it.

10 Q Could you still, if you were asked to do some
11 more work, recommend at the end of that work if you felt
12 necessary that it go back to tier two?

13 A Then I would send it back.

14 Q That was an option to you -- for you?

15 A It would be something that I did if, if it
16 required more long-term service.

17 Q And on what occasions would you close a file at
18 the CRU level, as opposed to transferring it on to tier
19 two?

20 A I -- if it closed, then it would be something
21 that I would be able to handle on my own, whether I, I talk
22 with the individuals that it involved. Maybe -- there
23 could have been times when I dealt with it for a few days,
24 and then when I went on backup then I would go out on it,
25 too.

1 Q Did you need your supervisor's approval before a
2 file could be closed at CRU?

3 A Yes.

4 Q Is that true for transferring to intake as well?

5 A Yes.

6 Q Would you recommend closing a file if you thought
7 there were safety concerns about a child?

8 A No.

9 Q Once a file was closed, was there any monitoring
10 of the family or the child?

11 A No.

12 Q In cases where you transferred a file to intake,
13 did you know what happened to the file after that point?

14 A Not usually.

15 Q Now, you referred to abuse intake and general
16 intake or regular intake. Was -- am I correct?

17 A Yeah.

18 Q What was the difference between those two types
19 of intake and is that -- also, when you talk about tier two
20 intake, is that what you mean, tier two being either abuse
21 or regular intake?

22 A Tier two would be regular intake.

23 Q So can you explain the differences in '04 between
24 abuse intake and regular intake or tier two?

25 A The difference between referring to general

1 intake and that abuse intake was often we would send cases
2 that we thought to be more of an inappropriate discipline
3 to regular intake, whereas if we clearly thought the child
4 was being abused or appeared to be at risk of being abused,
5 we would send it on to abuse intake.

6 Q How would you as a CRU worker know which intake
7 it should be referred to?

8 A There, there is, there is a line that you can
9 cross when it comes to physical discipline or physical
10 abuse. You know, if at any given time there's bruises,
11 markings, cuts, injuries, weapons being used, all that kind
12 of thing, that would go directly to abuse intake.

13 Q And otherwise, if you were not aware of those
14 specific types of concerns, you would refer the matter to
15 general or regular intake?

16 A Yes.

17 Q During your time as a CRU worker, what was your
18 workload like?

19 A There were some days that were really busy, and
20 then there were other days where it wasn't so busy. But
21 you always, always had to be ready to go when the calls
22 came in. It, it could -- it was a very busy time and you
23 could get a lot of calls that you had to deal with, but if
24 something serious came in we could put the phones on hold
25 and just deal with that particular case. So in that regard

1 it could be manageable, if you're able to do that.

2 Q Were there ever times when you were a CRU worker
3 when you felt your workload was not manageable?

4 A I, personally, was able to make it manageable.

5 Q Going back to the document that is still in front
6 of you, the intake program description, if we turn to page
7 19635, please? You see there's a heading at the top of the
8 page, Safety Assessment?

9 A Yes.

10 Q And I appreciate your telling me that, that you
11 hadn't seen this document until preparing for --

12 A Right.

13 Q -- for your testimony. It says:

14

15 "CRU and AHU social worker will
16 assess the immediate safety of
17 children. This may include but is
18 not limited to the following
19 factors."

20

21 And it lists a number of factors. Was it your
22 understanding that those factors were factors you needed to
23 take into account?

24 A Yes.

25 Q So regardless of your not having familiarity with

1 the document, you're familiar with the, the contents as we
2 see them in front of you?

3 A Yes, those are things that I would look at.

4 Q And then on the next page, 19636, just above the
5 heading 24 Hour Response, it says:

6

7 "All cases in which safety or
8 risk is a factor shall be assigned
9 a response time of 24 hours, 48
10 hours or 5 days. The criteria for
11 determining a response time based
12 on severity and vulnerability is
13 as follows."

14

15 So there you see 24-hour response and the heading
16 Severity, and it lists a number of various criteria or
17 factors.

18 MS. WALSH: If we can scroll down, please, and
19 onto the next page.

20

21 BY MS. WALSH:

22 Q And then under the heading Vulnerability, "High
23 priority (immediate response or within 24 hours) (life
24 threatening/dangerous)," it lists young child or
25 developmental age. When you were a CRU worker, did you

1 understand that young child or developmental age was a
2 criterion to be taken into account when assessing risk?

3 A Yes.

4 Q And did you understand it to be something that
5 could lead to a response time of responding within 24
6 hours?

7 A Yes.

8 Q What did you understand "young child or
9 developmental age" to mean?

10 A A child, a child who is not able to talk, not
11 able to make a phone call, somebody who is not able to
12 protect themselves, somebody who may have been handicapped,
13 somebody who's not able to feed themselves or take care of
14 themselves in any way.

15 Q During the time that you delivered services to
16 Phoenix Sinclair and her family, did you understand Phoenix
17 to fall within this category of young child or
18 developmental age?

19 A Yes.

20 MS. WALSH: The next document to pull up, please,
21 is page 20260. 20260. Good, thank you.

22

23 BY MS. WALSH:

24 Q And this is a document entitled CRU Joint Meeting
25 Minutes, dated February 3, 2004. And in the people listed

1 as present, they have Debbie.

2 A Yes.

3 Q Do you understand that to be you?

4 A Yes.

5 Q Okay. And if we scroll through to the next page,
6 please, 20261, item number 13, Assessments, says:

7

8 "There were concerns raised about
9 assessments being made over the
10 phone that should be done by a
11 field to the home. As much as is
12 possible, when there is a concern
13 about a child in the home, the
14 home and the child should be seen
15 by a worker. If the decision is
16 made to complete an assessment via
17 telephone or through a collateral
18 this should be reviewed and
19 approved by the Supervisor."

20

21 Do you remember this issue being a concern in
22 2004?

23 A It looks familiar. Yeah.

24 Q And what is determined there outlined at item 13,
25 was that your understanding of what a CRU worker was

1 required to do?

2 A Yes.

3 Q Were you aware of any standards that addressed
4 the issue of face to face contact on the part of a worker?

5 A Yes. The -- well, the face to -- well, most
6 cases, the expectation would be to try and do face to face
7 with the client. If there was any allegations of a child
8 being abused, you had to see the child.

9 Q So now I want to take you to your specific
10 involvement with Phoenix's family.

11 MS. WALSH: If we can pull up, please, page
12 37344. And we can just scroll through to the end of the
13 document which ends at 37347 so the witness can see the
14 entire document.

15 Go back to the first page now, please.

16

17 BY MS. WALSH:

18 Q This document that we're looking at is an intake
19 document that you prepared?

20 A Yes.

21 Q So if we look at the first page, which is 37344,
22 it says, To Northwest intake from Debbie De Gale -- that's
23 you -- and it's dated May 11, 2004.

24 A Yes.

25 Q The history section encompasses several pages.

1 It's there on page 37344 and it goes onto the next page.

2 MS. WALSH: If we can scroll through that,
3 please?

4

5 BY MS. WALSH:

6 Q What did you rely on to create the history that's
7 in this document?

8 A That information would have come from prior
9 reports that were attached to CFSIS.

10 Q Do you know whether you reviewed only the most
11 recent report in CFSIS or went farther back than that?

12 A I don't, I don't recall how many I might have
13 looked at.

14 Q I think you told us that your practice depended
15 on, on what you saw in the information.

16 A Yes.

17 Q Looking at the history that you've documented
18 here -- and if you like we can go back to the previous page
19 and let you review it -- I want to know what you thought
20 was important to determining the level of risk with respect
21 to this intake. Which aspects of the history?

22 THE COMMISSIONER: Have you covered how the
23 intake occurred?

24 MS. WALSH: We're coming to that.

25 THE COMMISSIONER: All right.

1 MS. WALSH: Thank you.

2 THE COMMISSIONER: Go ahead. Sorry.

3 MS. WALSH: No, no problem.

4 THE COMMISSIONER: As long as you're coming to
5 that.

6 MS. WALSH: We will, certainly.

7 THE COMMISSIONER: All right. Now, what was your
8 question?

9

10 BY MS. WALSH:

11 Q My question was, in looking at the history that
12 you created, Ms. De Gale, which aspects of the information
13 were significant to you in assessing the level of risk with
14 respect to this referral that had come in.

15 A Their past history and the fact that there --
16 that the children had, had been apprehended in the past --
17 or she had been.

18 Q Okay.

19 A That, that the parents seem to be unstable, that
20 they appeared to have ongoing substance abuse issues, that
21 their relationship was unstable, that there seemed to be
22 ongoing issues of neglect.

23 Q What about on the next page, please? The last
24 sentence:

25

1 "... it was noted in the worker's
2 recording that Phoenix would be at
3 risk if the situation changed and
4 she was in [the] care of either
5 parent."

6
7 A Right. I saw that in the last intake prior to my
8 opening, that, that the parents had been quite unstable and
9 the child seemed to be going back and forth between them,
10 that, that -- and at the time the father seemed to be
11 having a lot of substance abuse issues and that he had
12 placed child with friends, and that it seemed to be an
13 acceptable arrangement. And it was my understanding that
14 they were informed that they were not to give the parents
15 back to the -- or the child back to the parents, and that
16 if the child was to ever be put back into the parents' care
17 that the child would be at high risk.

18 Q Did you identify risks with respect to the
19 mother, as well?

20 A Yes.

21 Q And those are set out in your history? Can
22 you --

23 A I believe so.

24 Q -- give an example?

25 A An example?

1 THE COMMISSIONER: I'm not sure, I'm not sure
2 your question's clear.

3

4 BY MS. WALSH:

5 Q Which aspect of the history that you documented
6 identified concerns about Phoenix being in the care of her
7 mother? Were there risks associated with Samantha that you
8 documented in your history?

9 A That she had substance abuse issues and ... I'd
10 have to look at the whole page here, that one, but ...

11 Q Want to go back to the previous page?

12 A Just, just her instability and her substance
13 abuse and that kind of thing.

14 Q Okay. So then if we turn to page 37346, at the
15 top you have the source of referral. That's the person
16 from whom you received the call?

17 A Yes.

18 Q And you see we've redacted their name but you've
19 identified them as an EIA worker?

20 A Yes.

21 Q Okay. And then below that, you write the
22 presenting problem or intervention.

23 A Yes.

24 Q Is that based on information you received from
25 the source of referral?

1 A Yes.

2 Q So I'm just going to go through that. It says:

3
4 "[The source of referral]
5 called to report that Samantha has
6 brought in a letter from her
7 lawyer claiming that she has been
8 caring for Phoenix since Nov. /03
9 and requested that she be provided
10 financial assistance for Phoenix.
11 [Source of referral] stated that
12 the father, Steve Sinclair, has
13 been receiving assistance for
14 Phoenix however, he has been
15 giving it to family friends, Kim
16 and Rohan Stevenson. [Source of
17 referral] was concerned about
18 Phoenix being in her mother's
19 care, as it was [her]
20 understanding from the previous
21 CFS worker that she would be at
22 risk in either her mother or
23 father's care. Upon checking
24 CFSIS, this worker was able to
25 confirm this to be true. [Source

1 of referral] provided updated
2 demographic information on all
3 concerned. This worker advised
4 [the source of referral] that I
5 will look into this matter and get
6 back to [her]."

7

8 Now, how were you recording this conversation
9 that you were having?

10 A I would have been taking notes.

11 Q Handwritten notes or --

12 A Yes.

13 Q -- typing?

14 A Handwritten.

15 Q And then you transfer those handwritten notes
16 into a Word document?

17 A Yes.

18 Q At the time that you receive this referral, what
19 was your understanding as to whose care Phoenix was in?

20 A The mother was saying the child was in her care.

21 Q Okay. Did you have an understanding as to who,
22 whose care she was supposed to be in?

23 A She was supposed to be in Kim and Rohan
24 Stevenson's care.

25 Q So after you received the call, did you check

1 CFSIS?

2 A Yes.

3 Q What did that tell you?

4 A That told me that at the, at the time of the last
5 closing, the child was in the care of Kim and Rohan
6 Stevenson's care and not to be removed without the agency's
7 prior approval.

8 Q So then you go on to document your actions after
9 you receive the call; is that right?

10 A Yes.

11 Q So you say:

12

13 "[Phone call] to Kim and
14 Rohan Stevenson. The person that
15 answered the phone stating that I
16 had the wrong phone number."

17

18 A Correct.

19 Q And then you have documented:

20

21 "[Phone call] to Steven. The
22 phone number has been
23 disconnected."

24

25 A Yes.

1 Q And then you say:

2

3 "[Phone call] to Samantha.

4 She claimed that she has been

5 caring for Phoenix since last

6 November."

7

8 MS. WALSH: You can scroll up, please?

9

10 BY MS. WALSH:

11 Q

12 "This worker asked her how that

13 came to be since, just in Feb.,

14 Phoenix had been privately placed

15 with Kim and Rohan Stevenson.

16 Samantha claimed that it was in

17 fact her, who had placed Phoenix

18 with the Stevenson and not Steven.

19 This worker asked her how long

20 Phoenix had been staying with the

21 Stevensons. Samantha stated that

22 Phoenix had been at the

23 Stevenson's for a month. This

24 worker asked her why she would put

25 Phoenix to stay with the

1 Stevensons for that length of
2 time, especially given the fact
3 that she had only come back into
4 her care recently (according to
5 Samantha). Samantha then appeared
6 to be at a loss for words, then
7 suddenly she uttered a profanity
8 and hung up the phone on this
9 worker."

10

11 A Yes.

12 Q Do you have an independent recollection of this
13 phone call?

14 A Yes.

15 Q What, what do you recall?

16 A I recall calling her and asking her if Phoenix
17 was actually in her care. She said she was. And I asked
18 her when that came to be. She claimed to be that it was
19 since the November before. And I said, That doesn't make
20 any sense because the child had been with the father and
21 then the father had placed the child with the Stevensons.
22 And she said, no, in fact, it was her who placed the child
23 with the Stevensons, not Steven. And I said, Well, none of
24 this is making any sense, and the date that she was
25 providing wasn't jiving. And when I questioned her further

1 on that, she tended to angry and hung up.

2 Q How is it that you can recall this conversation
3 independent of looking at your notes?

4 A On occasion there are some calls that we take
5 where the client has a tone or their behaviours we find
6 quite concerning. She seemed to be very wishy-washy. The
7 fact that she swore at me and stuff. Those kinds of things
8 stick out in your mind. The fact that she seemed to place
9 very little importance on us trying to piece this all
10 together and not being concerned in the slightest, you tend
11 to remember those kinds of calls. I was extremely
12 concerned about the safety of this child because the child
13 was not supposed to be with her or Steven.

14 Q Did this call with Samantha affect your risk
15 assessment?

16 A Very much so, although I had probably assessed it
17 very high even before I spoke with her.

18 Q Why is that?

19 A Because nobody seemed to know really where this
20 child was.

21 MS. WALSH: And if we can go to the next page,
22 please.

23

24 BY MS. WALSH:

25 Q This is page 37347 and this is your

1 recommendation? This is where you put your recommendation?

2 A Yes.

3 Q And you indicate:

4

5 "Based on the above-noted
6 information, the case is to be
7 opened for further follow-up by
8 Intake to ascertain where the
9 child should be living and whether
10 a safety concern exists if the
11 child is in the parent's care. The
12 safety assessment is assessed to
13 be within a 48-hour follow-up
14 response."

15

16 There's a line for your signature, but your
17 signature is not there. Is that the signature of your
18 supervisor, Ms. Verrier?

19 A Yes.

20 Q And then it's dated May 11, '04. Why did you
21 choose a 48-hour response time?

22 A I didn't.

23 Q The document indicates a 48-hour response time.
24 Do you know why that is?

25 A That report's been altered.

1 THE COMMISSIONER: That was what?

2 THE WITNESS: It's been altered.

3 MS. WALSH: Altered.

4

5 BY MS. WALSH:

6 Q Now, how are you able to say that the report was
7 altered?

8 A Because when I first started the interviews for
9 this process --

10 Q You mean the inquiry?

11 A Yes. And I met with my then-lawyer, the union
12 lawyer, Trevor -- don't remember his last name.

13 Q Ray.

14 A Ray. And Carolyn Loepky, and I believe the
15 lawyer's name was Sacha Paul. They asked me what my
16 recollection was of that intake. I told them. Then they
17 said would I be --

18 Q What, what did you tell them?

19 A What did I tell them? I told them that I
20 recalled getting a phone call from the EIA worker, that the
21 EIA worker told me that Samantha had been into the office
22 with a letter from the lawyer stating that Phoenix was in
23 her care at that particular time, that it was their
24 understanding that Phoenix was not supposed to be in either
25 parent's care due to risk factor and she was concerned

1 about the child's safety.

2 Q Did you tell them what response time you
3 indicated on the intake?

4 A The EIA worker?

5 Q No, sorry, in your meeting --

6 A Oh.

7 Q -- with Ms. Loeppky and her counsel.

8 A Yes, I told them that I recalled that I would
9 have put a 24 immediate response on that case.

10 Q So after you told them that, then what happened?

11 A Then they asked me if I would be surprised if
12 that's not what my report said. I said I would be very
13 shocked because, based on the information they provided,
14 based on the history, based on the child's age, and the,
15 the very last sentence of the last report that the child
16 would be at risk in either one of the parents' care, that I
17 would ever put a 48-hour response on such an intake. Then
18 they proceeded to show me my report.

19 Q "They" being Ms. Loeppky and her counsel?

20 A Yes.

21 Q Okay.

22 A And showed me the report, and I said that report
23 has had to have been altered because I recall other details
24 of things that I did on this particular case that are not
25 in the report, I -- and I would never have assessed it more

1 than 24-hour report -- response.

2 Q Is the report that you were shown at the meeting
3 you're discussing, is that the report that we just looked
4 at?

5 A Yes.

6 Q Okay.

7 A Then they decided to end that meeting and they
8 said they would -- I, I suggested they check CFSIS and the
9 file and stuff, I said, because I do not believe I put
10 that. And so they terminated the, the meeting at that
11 time, said they would check that and they would call me
12 back at a later date.

13 They called me back about a month later and asked
14 me to come in. When I got there, Ms. Loepky said to me,
15 You'll be very pleased to know that we were able to confirm
16 that your report was actually altered.

17 Q That it was altered.

18 A Yes.

19 Q And how did they know that?

20 A They showed me the safety assessment that was
21 done that we had to do with every intake that we did before
22 we turned it in, and it showed where I had marked a 24-hour
23 immediate response, where it was X'd out or marked out,
24 initials beside it, and a 48-hour response put after.

25 Q Just going to take a minute. We have the

1 original files here and I have the copy of the document
2 you're talking about, but I think it would be helpful for
3 the Commissioner to see the original document.

4 MS. WALSH: I'm just going to take a minute to
5 get it. It should be behind us. My apologies for the
6 delay. Sorry, Mr. Commissioner.

7 THE COMMISSIONER: That's all right.

8 MS. WALSH: We'll just take a minute.

9 THE COMMISSIONER: That's all right.

10 MS. WALSH: Mr. Commissioner, since it is five to
11 three, perhaps if we take a ten-minute break then I'll be
12 able to pull the document out and you'll have the original
13 document for your review.

14 THE COMMISSIONER: All right. We'll take a ten-
15 minute break and we may take another ten-minute one later
16 in the afternoon if we --

17 MS. WALSH: Thank you.

18 THE COMMISSIONER: -- go for a while.

19 MS. WALSH: Thank you.

20 THE COMMISSIONER: We'll rise for ten minutes.

21

22 (BRIEF RECESS)

23

24 THE COMMISSIONER: All right, Ms. Walsh.

25 MS. WALSH: Thank you, Mr. Commissioner.

1 Of course, we found the document the second that
2 we broke for our recess but, in any event, what we have
3 done is taken the document called Safety Assessment out of
4 the original file for Steve Sinclair, his protection file,
5 and so I'd like to mark that as an exhibit. We also have a
6 copy in our electronic disclosure that we'll bring up on
7 the screen, but I'd like you to have the original.

8 THE COMMISSIONER: All right. That's exhibit
9 what, 18?

10 THE CLERK: Exhibit 18.

11 THE COMMISSIONER: And how do you describe the
12 document?

13 THE CLERK: Safety assessment.

14 MS. WALSH: Dated May 11, 2004.

15 THE COMMISSIONER: Thank you.

16

17 **EXHIBIT 18: SAFETY ASSESSMENT**

18 **DATED MAY 11, 2004**

19

20 MS. WALSH: And if we could pull the electronic
21 version on the screen, please? It starts at page 37445.

22

23 BY MS. WALSH:

24 Q So I'm going to walk you through this document,
25 Ms. De Gale. Starting at the top, in handwriting, it says

1 Sinclair and Kematch, has a file number, a date of May 11,
2 2004, and your name. Is that your handwriting?

3 A Yes.

4 Q And then you'll see that there is a heading, 24
5 Hours Response --

6 MS. WALSH: If we can scroll through that,
7 please?

8

9 BY MS. WALSH:

10 Q -- and a number of boxes. And none of those --
11 I'm going to --

12 MS. WALSH: Sorry, I'm going to need scrolling
13 assistance. Thank you.

14

15 BY MS. WALSH:

16 Q None of the boxes listed under the 24 Hours
17 Response are checked off.

18 A Right.

19 Q Okay. Then we go down to the bottom and we see
20 48 Hours Response. And over to the next page, and there's
21 a line through the box, Neglect. Did you fill that line
22 in?

23 A Yes.

24 Q Okay. It says:
25

1 "Neglect (Overall care chronically/
2 persistently inadequate; caregivers
3 lack food; physical living
4 conditions pose a risk to children -
5 unsanitary, no heat or water.)"

6

7 Then it says "sustane" or substance abuse. Is
8 that your handwriting?

9 A Supposed to say substance abuse; I misspelled it.

10 Q Sure. And that -- but that is your handwriting?

11 A Yes.

12 Q And do you know what's been crossed out?

13 A No, I don't.

14 Q Okay. Why did you fill in the box "Neglect"?

15 A Because I also recall getting a phone call from a
16 person that same day who claimed to be an aunt -- it was
17 either of Samantha or Steven, one of the two; I can't
18 recall which one -- who said that she was concerned about
19 the well-being of Phoenix because she didn't know which
20 parent the child was with. She was concerned about the
21 treatment that the child had been getting. They felt she
22 was neglected and that the parents had a history of being
23 mean to her.

24 Q Is this a call that you received after you spoke
25 to the EIA worker?

1 A Yes.

2 Q This information is not recorded in the intake
3 form that we just looked at, is it?

4 A No.

5 Q You told me earlier that there were other details
6 that were not in the report. Is this information what you
7 were referring to?

8 A Yes, that and the fact that I had -- well, the,
9 the aunt had said that when she spoke with the mother, the
10 mother said the child was with the father. When she --
11 then she tried to get a hold of the father and nobody
12 seemed to know about the child being with the father and
13 that they thought he was in Ontario. So she, she was
14 concerned about the whereabouts of this child.

15 Q The aunt.

16 A Yes.

17 Q Is that information that you recall recording in
18 your intake report?

19 A No. Nor is the fact that I called those -- an
20 agency in Ontario and a child welfare agency on reserve to
21 see if they had had any contact with either one of these
22 parents and had witnessed that the child was actually with,
23 with them.

24 Q Let's just back up for a minute. My question had
25 been, the information that you received from the aunt, did

1 you -- do you have a recollection of writing that
2 information down into your report?

3 A Yes, I, I record everything that I do.

4 Q But you didn't see it in the report that we just
5 looked at.

6 A No.

7 Q And the other information that you say you did
8 not see in your report was, was what, again?

9 A That I made phone calls to child welfare agencies
10 in Ontario and on reserve here in Manitoba, to see if they
11 had any contact with these parents and if they recalled
12 seeing the child with the parents.

13 THE COMMISSIONER: Just let me understand. Are
14 you saying that -- Witness, that you, you wrote this into
15 your report but as you look at your report now, it's not
16 there?

17 THE WITNESS: Correct.

18 THE COMMISSIONER: And that is -- you have
19 written it in, in Exhibit 18 or in the, the intake
20 document?

21 THE WITNESS: Well, the neglect would have been
22 as a result of the aunt's phone call.

23 THE COMMISSIONER: So that would have gone into
24 this Exhibit 18, would it?

25 THE WITNESS: Yes.

1

2 BY MS. WALSH:

3 Q But the information that you're saying you would
4 have recorded about the aunt's phone call and your
5 subsequent calls, that's information that you would have
6 recorded in the intake form?

7 A Yes.

8 Q And that's information that you say you did not
9 see when you looked at the intake document that we were
10 looking at on the screen.

11 A That's correct.

12 MS. WALSH: And that's page 37344 through 37347.
13 Mr. Commissioner, do you -- is that clear?

14 THE COMMISSIONER: Yes, I understand now.

15 MS. WALSH: Thank you.

16

17 BY MS. WALSH:

18 Q So going back to the safety assessment form, you
19 say that you, you checked off neglect and you wrote down
20 substance abuse. Then if we scroll down to the bottom of
21 that page, please, it's got the five-day response and
22 nothing is checked off under that. And then you have
23 Section B Safety Decision. And then on the next page it
24 says 24 Hours Response and that's checked off, there's a
25 line through it, and someone's initials --

1 A Correct.

2 Q -- and then 48 Hours Response is also checked
3 off.

4 A Yes.

5 Q Now, did you make either or any of those markings
6 that we see on that page which is page 37447?

7 MS. WALSH: If you'll please scroll to that page?
8 Thank you.

9 THE WITNESS: I would have marked the 24 Hours
10 Response.

11

12 BY MS. WALSH:

13 Q Is that with a line going through it?

14 A Yes.

15 Q In the same way that if we look at the previous
16 page, please, you put a line through the word --

17 A Yes.

18 Q -- the box "neglect"? We scroll, scroll down
19 through the document, please, and we'll come back to this
20 in a minute, this page, but let's just look at the --

21 THE COMMISSIONER: In other words, you did not
22 make the cross on, on 48 Hours Response.

23 THE WITNESS: No.

24 MS. WALSH: We'll come back to that in a minute.
25 I just want to show the, the worker the entire -- the

1 witness the entire document.

2 So if we can scroll to the last page, please?

3

4 BY MS. WALSH:

5 Q Section D, it says, Unit CRU. Did -- and CRU has
6 a line through it. Did you make that marking?

7 A Yes.

8 Q And then it says, Case to Intake. Did you make
9 that marking?

10 A Yes.

11 Q And the worker says, Debbie De Gale. Is that
12 your handwriting?

13 A Yes.

14 Q The date of assessment, May 11, '04, is that your
15 handwriting?

16 A Yes.

17 Q Supervisor consulted, it says no. Was that your
18 mark?

19 A Yes.

20 Q What did that mean, supervisor not consulted?

21 A That means I didn't talk to the supervisor before
22 I handed the report in.

23 Q The safety assessment?

24 A Yes.

25 Q And the intake report?

1 A Right.

2 MS. WALSH: Okay. Let's go back to the previous
3 page, please, page 37447.

4 THE COMMISSIONER: Just one minute, please.

5 All right.

6

7 BY MS. WALSH:

8 Q So the initials beside the 24 Hours Response, are
9 those your initials?

10 A No.

11 Q And the marking that goes across the diagonal
12 line, is that your marking?

13 A No.

14 Q And the X in the 48 Hours Response box, is that
15 your marking?

16 A No.

17 Q Do you know whose markings those are?

18 A Well, the initials beside the crossed-out 24
19 hours would -- appears to be DV, which would have been my
20 supervisor, Diana Verrier.

21 Q You told us you were shown this safety assessment
22 at a second meeting that you had with Ms. Loeppky and her
23 counsel?

24 A Yes.

25 Q Okay. At that point, did they tell you who had

1 made the markings on the document that were not your
2 markings?

3 A Yes, Carolyn Loeppky told me it was Diana
4 Verrier.

5 MS. WALSH: If we can pull up page 37347?

6

7 BY MS. WALSH:

8 Q This is the last page of the intake report that
9 you prepared that we had just been looking at earlier, and
10 it doesn't have your signature on it. Was it your practice
11 to sign your intake reports?

12 A I always signed them.

13 Q At what point would you sign them?

14 A Just before handing them in to the supervisor.

15 Q So was that the practice that you followed, that
16 at the end of doing your work, you would hand in to your
17 supervisor your intake report?

18 A Yes.

19 Q And the safety assessment form?

20 A Yes.

21 Q Was the safety assessment form a required
22 document for you to fill out?

23 A Yes.

24 MS. WALSH: If we go back and look at the safety
25 assessment form for a minute, please, page 37445.

1

2 BY MS. WALSH:

3 Q And we look under the heading, 24 Hours
4 Response --

5 MS. WALSH: Can you scroll up so we can see the
6 entire ...

7

8 BY MS. WALSH:

9 Q You didn't check off any boxes under 24 Hours
10 Response. Why is that?

11 A I didn't feel any of the issues properly fit
12 those descriptions.

13 Q Is it your evidence that the safety assessment
14 nonetheless indicated that you were recommending a 24-hour
15 response?

16 A Say that again, please?

17 Q You're telling us that you didn't check any of
18 the boxes listed under 24 Hours Response. Were you
19 recommending in this safety assessment a 24-hour response?

20 A Yes.

21 Q So that's indicated not under this page that
22 we're looking at, page 37445.

23 A Right.

24 Q That's indicated on page 37447?

25 A Yeah.

1 MS. WALSH: If we can just scroll to that page,
2 please?

3

4 BY MS. WALSH:

5 Q So we'll come back to this in a minute. I want
6 to know, while you were supervised by Ms. Verrier, did she
7 ever change file recordings, to your knowledge?

8 A Yes.

9 Q What types of recordings did she change?

10 A Most often the response time.

11 Q When she did that, would she consult with you
12 first?

13 A No.

14 Q How is it that you're aware that she made those
15 changes?

16 A Because often cases that are dealt with in the
17 past reopen, and often I -- myself and other workers would
18 open -- reopen cases, and we would look at the report and
19 say, I would never have said that, or I didn't do that, or
20 there's no way I would have assigned it that kind of a
21 response time.

22 Q And is this something you were aware of by May
23 11, 2004?

24 A Possibly.

25 Q Is the fact of Ms. Verrier making changes to your

1 recordings something you were aware of after May 11, 2004?

2 A Possibly.

3 Q Did you ever talk to Ms. Verrier about her
4 changing your reports or recordings?

5 THE COMMISSIONER: Are you talking about this
6 report or other reports?

7 MS. WALSH: No, I'm talking about other ones.

8

9 BY MS. WALSH:

10 Q My understanding is that you were not aware that
11 this particular report was altered until you met in
12 preparation for this inquiry with Ms. Loepky; is that
13 right?

14 A That's correct.

15 Q So now I'm talking about other occasions.

16 A I did -- I do recall that one had reopened and
17 that I noticed that something had been changed. One of the
18 first indication when I would look at something that I had
19 closed before and reopened was the fact that my signature
20 wasn't there. If it wasn't there, that means something had
21 to have been changed on it and reprinted.

22 I recall in a supervision with her one time
23 telling her I would appreciate her not doing that to my
24 reports, and that if she wanted something changed, she
25 needed to come discuss it with me and if we came to an

1 agreement -- but then I would -- I would change it, but I
2 would document that it was in consultation with her and
3 that I was directed to do so. And otherwise, if she wanted
4 to change, to change things, that she needed to do her own
5 recording after my recording was complete.

6 Q So that's something you say you discussed with
7 Ms. Verrier?

8 A Yes.

9 Q Was that before May 11, 2004 or after?

10 A I don't recall.

11 Q Do you recall what her response was to you?

12 A To me, she acted like she appreciated what I
13 wanted her to do and indicated that she would not do it
14 anymore.

15 Q In the instances where Ms. Verrier had changed
16 your response time, did she ever tell you why she did that?

17 A I don't recall speaking about any particular
18 case, just that it was a well-known factor that sometimes
19 workload demand prevented us from following up in the, the
20 response time that was indicated. So it was, it was that
21 sort of understanding.

22 Q That the response time would be altered because
23 of workload demands?

24 A Often, yeah.

25 Q You say you discussed your concerns about Ms.

1 Verrier changing or making changes to your file recordings
2 with her. Did you ever discuss those concerns with anyone
3 else at the agency?

4 A I discussed it with a couple -- or at least one
5 or two of my colleagues because they had had come across
6 the same situation and we sat there and complained that it
7 was happening and that it shouldn't be happening.

8 Q These were colleagues at CRU?

9 A Yes.

10 Q Do you recall which colleagues?

11 A Richard Buchkowski, and it's possible Barb Klos,
12 and I'm very sure that Shelly Willox was present while we
13 were complaining about it.

14 Q Do you recall their responses?

15 A Pretty much that it wasn't a proper thing to do
16 and we were upset with it.

17 Q Did they say whether they had had similar
18 experiences?

19 A Richard did. He complained to me several times
20 that his report had been altered.

21 Q Do you recall whether that was before or after
22 May 11, 2004?

23 A No, I don't recall.

24 Q Did you ever raise your concern with Ms.
25 Verrier's supervisor?

1 A No.

2 Q Did you know who her supervisor was?

3 A It's a possibility of two different program
4 managers.

5 Q If you had wanted to raise the issue with her
6 supervisor, could you have?

7 A Yes.

8 Q You didn't feel the need to?

9 A No, I felt that her and I had discussed it and
10 come to an agreement.

11 Q You've held a number of different positions in
12 your career and had a number of different supervisors?

13 A Yes.

14 Q Was it your expectation that if a supervisor
15 wished to change a notation you made in a file recording,
16 that he or she would discuss it with you first?

17 A Yes.

18 Q And was that your experience, in fact?

19 A Yes.

20 Q The safety assessment document that you filled
21 out, did you say that was a document that you were required
22 to fill out?

23 A Yes.

24 Q As a CRU worker?

25 A Yes.

1 Q Was it a tool that helped you assess response
2 time?

3 A All those factors are taken into consideration,
4 but often there was times when I made my own judgment and I
5 felt that, that it warranted a faster response time than
6 what may have shown up in the safety assessment.

7 Q Okay. I'm going to ask you a question about the
8 safety assessment form in general. For the most part, the
9 criteria that we saw listed under the three categories --
10 24-hour, 48-hour, and five-day response -- mirror the
11 criteria that are listed in the manual that we were looking
12 at earlier, the document entitled Intake Program
13 Description and Procedures. And you recall that I showed
14 you that one of the criteria to use in assessing response
15 time was age of the child. There's no such criteria on the
16 safety assessment form itself.

17 A Correct.

18 Q Is that something that you were aware of when you
19 were working in CRU, that that criteria was not listed on
20 the safety assessment form?

21 A Well, I've never seen the policy and procedure to
22 go by, and therefore if it's lacking in the safety
23 assessment, then you wouldn't see that.

24 Q But the fact that the 24-hour -- the boxes under
25 the 24-hour response, none of them refer to the age of the

1 child.

2 A That's correct.

3 Q That's something that you knew from using the
4 safety assessment form.

5 A Right.

6 Q Was that a criterion, though, that you used in
7 assessing response time?

8 A I always did.

9 Q In this case, why is it that you chose a 24-hour
10 response time?

11 A Based on the history and the presenting concerns,
12 the age of the child, I felt that the child could be at
13 severe risk and I decided to go with the 24-hour response
14 time.

15 Q What was your expectation as to what was going to
16 happen after you made that recommendation?

17 A My expectation that it would be assigned to, at
18 minimum, backup to go out immediately on.

19 Q The backup side of CRU.

20 A Yes.

21 Q Your intake report, you said you would have
22 handed in to your supervisor?

23 A Yes.

24 Q In a Word format?

25 A Yeah.

1 Q And then how did it get entered into CFSIS?

2 A Our admins would attach it to CFSIS.

3 Q Once a record was put into CFSIS, could it be
4 altered by anyone?

5 A It could be altered by myself or it could be
6 altered by the supervisor, program manager, and ...

7 Q When was your first opportunity to look at the
8 intake document in the form that we saw it on the screen?

9 A The first time I would have had it in my
10 possession would have been -- it would have been given to
11 me when Andy Koster came to the agency a few years back to
12 interview us for a report that he was doing.

13 Q And we know that Andy Koster was one of the
14 authors of a report that we are referring to in this
15 proceeding as a Section 4 report. It's one of the reports
16 listed in the order in council as being a report for this
17 inquiry to take into consideration. Were you scheduled to
18 be interviewed by Mr. Koster?

19 A I was told I would be interviewed that day. He
20 was interviewing everybody who had been involved with the
21 case.

22 Q Who told you that?

23 A My then supervisor was Kevin O'Toole.

24 Q This would have been in '06, after Phoenix's
25 death was discovered.

1 A Yes.

2 Q Do you recall how you found out about Phoenix's
3 death?

4 A I'm not sure whether I heard about it from the
5 media first or from our supervisor.

6 Q So then you said that you were told that you were
7 going to be interviewed by Mr. Koster?

8 A Yes.

9 Q Where was that interview to take place?

10 A It would have been at the office at 835 Portage
11 Avenue.

12 Q Is that the agency where you worked?

13 A Yes.

14 Q What were you shown at that point? Your last
15 involvement in the file had been in May of '04?

16 A Yeah.

17 Q So were you shown any documents in preparation
18 for your interview with Mr. Koster?

19 A I was given my report.

20 Q The intake report that we just looked at now?

21 A Yes.

22 Q And when you saw it, did you notice that there
23 was anything inaccurate on it?

24 A I don't recall being concerned about anything.
25 It's, it's a very good possibility I hadn't really looked

1 at it, either.

2 Q Sorry, that you hadn't what?

3 A It was a good possibility I hadn't really looked
4 at it in detail. I was -- I still had to -- my job to
5 perform that day and there was a number of people being
6 interviewed, and it's a good possibility I just put it
7 aside until my time came and I would take a fast look over
8 it.

9 Q Okay. And were you interviewed, in fact, by Mr.
10 Koster?

11 A No.

12 Q You thought you were going to be.

13 A Yes.

14 Q What happened?

15 A I don't know.

16 Q Were you given a reason as to why you were not
17 interviewed?

18 A No.

19 Q You were at the agency expecting to be
20 interviewed?

21 A Yes.

22 Q And then at some point you were told the
23 interview was not going to take place.

24 A Yes. Kevin O'Toole came to me and said, Mr.
25 Koster is finished with his interviews. And I said, But I

1 didn't get interviewed. And he says, Well, I don't know
2 why, but I need to get the report back from you. So I gave
3 it to him.

4 Q You gave him back the report?

5 A Yes.

6 MS. WALSH: Okay. We're going to -- we're almost
7 done with this -- with my examination of this witness, Mr.
8 Commissioner, and I'm going to take her through Mr.
9 Koster's report. But just before we get there, I just
10 want --

11 THE COMMISSIONER: Well, take, take your time.
12 We're --

13 MS. WALSH: Okay.

14 THE COMMISSIONER: We've got a day and a half or
15 just a full day for this witness?

16 MS. WALSH: Yes. I want to just walk through the
17 rest of the file recordings that we have in the CFS files
18 relating to this particular intake from May of '04. So if
19 we can pull up on the screen, please, page 36962.

20

21 BY MS. WALSH:

22 Q This is a memo dated May 13, 2004 to Carolyn
23 Parsons from Andy Orobko. It's -- it was located in Mr.
24 Sinclair's file. It says:

25

1 "Carolyn:

2 "I've spoken to the
3 godparents and the E&IA worker."

4

5 MS. WALSH: I'm not sure if you actually have a
6 copy of this, Mr. Commissioner.

7 THE COMMISSIONER: No, I don't think I do.

8 MS. WALSH: It's the single-page memo on your
9 screen.

10 THE COMMISSIONER: All right.

11

12 BY MS. WALSH:

13 Q And Mr. Orobko outlines the chain of events
14 starting with:

15

16 November 2003 - Mom gets
17 Phoenix from dad - she cares for 2
18 months.

19 January '04 - Mom takes
20 Phoenix to godparents -- visits
21 occasionally.

22 April '04 --

23

24 And I'm paraphrasing,

25

1 ... Mom retrieves Phoenix about 1
2 month ago. Goes to Legal Aid to
3 start custody application.
4 - No one knows where dad is.
5 - EIA is cutting off his benefits.
6 - EIA would like assessment from
7 CFS prior to giving mom benefits.
8 - No formal custody papers in
9 place.

10

11 And finally he says:

12

13 "As dad has not been seen and
14 he has not cared for Phoenix in at
15 least 6 months (nor even visited
16 her), and as there is no formal
17 custody, I believe mom is our
18 client."

19

20 Is this a memo that you would have seen?

21 A No.

22 Q I didn't expect that you had, but want it to be
23 part of where I'm taking you so that you can see where your
24 intake report ultimately ended up.

25 A Um-hum.

1 Q When you opened your intake report, it was in Mr.
2 Sinclair's file; is that right?

3 A Right.

4 Q So then you see what happened in terms of
5 investigating through the agency as to whose file should,
6 in fact, be opened, as reflected in Mr. Orobko's memo.

7 And then on page 37343, this is still in Mr.
8 Sinclair's file, a closing summary. Says:

9

10 "Upon further investigation
11 it was discovered that mom,
12 Samantha Kematch, has Phoenix in
13 her custody. As such, Steve
14 Sinclair's file will be closed and
15 Samantha Kematch's file will be
16 opened to Central Intake."

17

18 Originally, we saw on your intake form that it
19 said to Northwest Intake.

20 A Yes.

21 Q That was because it was relating to Mr.
22 Sinclair --

23 A Yes.

24 Q -- and where he lived.

25 A Yes.

1 Q Now it's going to be open in the mother's name,
2 in Samantha Kematch's name, and a different intake.

3 A Correct.

4 Q And so the case is closed on intake as of May 13,
5 '04. That's Mr. Sinclair's file is now closed.

6 A Right.

7 MS. WALSH: So then if we go to page 36963, which
8 I think you do have, Mr. Commissioner.

9 THE COMMISSIONER: Yes, I have it.

10

11 BY MS. WALSH:

12 Q Now, this is a CRU intake and AHU form, but this
13 time it says to Central intake. It's got from Debbie De
14 Gale on it, May 11, 2004, re Samantha Kematch.

15 MS. WALSH: And if we scroll through the pages to
16 the end of the document which is found at page 36966 ...

17 Just -- if we just stop for a minute.

18

19 BY MS. WALSH:

20 Q As you're looking at this document, it appears
21 that it is identical to the intake we were looking at in
22 Mr. Sinclair's file, the document that you created --

23 A Um-hum.

24 Q -- or that --

25 A Yes.

1 Q That was in Mr. Sinclair's file as being the
2 document you created.

3 A Yes.

4 Q All right.

5 MS. WALSH: And just carry on, please, to the
6 end. If we stop there, please?

7

8 BY MS. WALSH:

9 Q On the last page, again, there's your
10 recommendation:

11

12 "Based on the above-noted
13 information, the case is to be
14 opened for further follow-up by
15 Intake to ascertain where the
16 child should be living and whether
17 a safety concern exists if the
18 child is in the parent's care.
19 The safety assessment is assessed
20 to be within a 48-hour follow-up
21 response."

22

23 Your evidence, I understand, is that you did not,
24 in fact, write that it should be a 48-hour follow-up
25 response.

1 A Correct.

2 Q And then there are two lines for signatures, and
3 neither of them is filled out.

4 A Correct.

5 Q Do you have any understanding as to why that's
6 the case?

7 A Because Mr. Orobko would have added to the bottom
8 of that report, and in order to do so and then print it
9 off, then, because of the document being attached to CFSIS,
10 in order to print that off the signatures would not be
11 there.

12 Q Okay.

13 A So it wasn't added to the original.

14 Q So were you given an intake report to sign, to
15 place in Ms. Kematch's file?

16 A No.

17 Q And then there's an -- a paragraph at the bottom
18 of this document that says:

19

20 "Upon further investigation
21 it was discovered that mom,
22 Samantha Kematch, has Phoenix in
23 her custody. As such, Steve
24 Sinclair's file will be closed and
25 Samantha Kematch's file will be

1 opened to Central Intake (see memo
2 on file this date)."

3

4 And it's got Mr. Orobko's name typed in and the
5 date.

6 A Yes.

7 Q So what is your understanding as to what
8 transpired after you filled out your intake report?

9 A Well, if there was no documentation at the end of
10 my report from our backup team, that means that it went
11 straight to tier two intake, and that Mr. Orobko did some
12 checking and, and according to him was able to verify that
13 the child was with the mother.

14 Q And so then Mr. Sinclair's file was closed and
15 Ms. Kematch's file was opened.

16 A Yes.

17 Q You had no involvement at that point, as of May
18 13, '04, with the file?

19 A No.

20 MS. WALSH: Going back to the report that was
21 prepared by Mr. Koster, if we can pull that up on the
22 screen, please, page 41.

23

24 BY MS. WALSH:

25 Q So what's on the screen in front of you is a

1 portion of Mr. Koster's report. Were you ever given Mr.
2 Koster's report to read?

3 A I was given a portion of that report that covered
4 my piece, by Trevor Ray.

5 Q When was that?

6 A That was after our meetings with Ms. Loepky and
7 Sacha Paul.

8 Q In preparation for your participation in this
9 inquiry.

10 A Yes.

11 Q So Mr. Koster's report was written in 2006. You
12 say you were shown the portion of the report that related
13 to your involvement. That would have been in 2011 or 2012?

14 A Somewhere around there. I'm losing track of
15 these meetings.

16 Q Do you recall whether you were shown Mr. Koster's
17 report before or after you were advised that your intake
18 document and safety assessment form had been altered?

19 A After.

20 Q If you look at page 41 under the heading, "The
21 Fifth Protection Opening: From May 11, 2004 to June 14,
22 2004," what's written there up to May 13, '04 appears to be
23 simply a factual narrative. Is there anything inaccurate
24 in that narrative as it relates to your involvement? Take
25 your time.

1 A The first three paragraphs is a narrative of my
2 involvement.

3 Q And is it accurate?

4 A Yeah.

5 Q And then the fourth paragraph you're saying is
6 not with respect to your specific involvement?

7 A That would have been Mr. Orobko's involvement.

8 Q Okay. Where it says:

9

10 "The worker had seen the concerns
11 written in the file if and when
12 either Steve Sinclair or Samantha
13 Kematch was take over the care of
14 Phoenix again. She called for a
15 48 hour safety assessment response
16 on this at the Intake level",

17

18 is that not referring to your involvement?

19 A Yeah.

20 Q So that's the fourth paragraph.

21 A Right. But it was since Phoenix was apparently
22 living with Samantha, Steven could not be -- well, yeah.

23 Q Well, you -- so you told us that it was --

24 A Well, when I looked at it there, I was thinking
25 that Mr. Orobko's comments were reflecting in there --

1 Q I see. So --

2 A -- that she was actually living with the mom and
3 stuff. I was not able to confirm that when I spoke to the
4 mother.

5 Q So that aspect of the narrative doesn't relate to
6 the investigation that you did. The fact that Phoenix was
7 apparently --

8 A Yes.

9 Q -- living with the mom and Samantha Sinclair's
10 file was open to intake, that was -- her file was open to
11 intake after your involvement, you're saying.

12 A Yes.

13 Q But then where the report goes on to say:

14

15 "The worker had seen the concerns
16 written in the file if and when
17 either Steve Sinclair or Samantha
18 Kematch was [to] take over the
19 care of Phoenix again. She called
20 for a 48 hour safety assessment
21 response on this at the Intake
22 level",

23

24 that, you understood to be referring to your involvement?

25 A Yes, he was referring to my involvement.

1 Q And was that an accurate description of your
2 involvement, in fact?

3 A No.

4 Q And that's because you told us that you
5 recommended at 24-hour response.

6 A Yes.

7 Q Then if we turn to page 43 of the report, go down
8 to the bottom, please, under the heading Findings. So
9 we're at page 43, finding 27:

10

11 "The Safety Assessment called for
12 a 48 hour response. It would have
13 been important to go out the same
14 day when previous concerns about
15 the mother's parenting and
16 possible drug problems are
17 considered.

18 "The previous worker had
19 written concerns about both
20 parents in the previous closing.
21 In addition, the agency had not
22 had contact with Phoenix for
23 months and it would be important
24 due to her age to go out as soon
25 as possible to determine her

1 living conditions and safety. The
2 CRU worker had to have the file
3 accepted in Intake and work load
4 may have been a consideration and
5 so the time frame could have been
6 tailored to meet the intake
7 response capacity. Workers had
8 indicated that this was done on
9 occasion."

10

11 You want to comment on first the finding and then
12 the paragraph that elaborates on the finding?

13 A What's the question?

14 Q So the, the finding that it would have been
15 important to go out the same day when previous concerns
16 about the mother's parenting and possible drug problems are
17 considered appears to be critical of a 48-hour response.

18 A Yes, he's being critical of that, but that's not
19 what I did.

20 Q And then where he goes on to say that:

21

22 "The CRU worker had to have the
23 file accepted in Intake and work
24 load may have been a consideration
25 and so the time frame could have

1 been tailored to meet the intake
2 response capacity",

3

4 is that something that you did?

5 A No.

6 Q In your experience as a CRU worker, was workload
7 a criterion for determining response time?

8 A No.

9 Q Was it something that you ever took into account
10 in assessing response time?

11 A No.

12 Q So where Mr. Koster says, "Workers had indicated
13 that this was done on occasion," was that something that
14 you were aware of, that workers had on occasion taken
15 workload into account in determining response time?

16 A No.

17 Q In any event, you never spoke with Mr. Koster.

18 A No.

19 Q Anything else you want to say about this
20 particular report?

21 A No.

22 Q And you say that you saw the report after you
23 were told that your documents had been altered.

24 A Yes.

25 Q And I want to take you to one more report. There

1 was a report prepared by --

2 A No, no, I saw my report before I was told it had
3 been altered. I had instructed them to go and check it out
4 because I believed it was altered.

5 Q Who did you ask to check it out?

6 A Carolyn Loepky.

7 Q So when we're talking about report, my question
8 was -- just to make sure that we're not confusing when
9 we're talking about report, because when I use the word
10 report, I mean your intake report.

11 A Yes.

12 Q Did you know that your intake report was altered
13 or had you been advised of that before you saw Mr. Koster's
14 report or after?

15 A Before.

16 Q So you saw Mr. Koster's comments after you had
17 been advised that your report -- your intake report had
18 been altered.

19 A Yes.

20 Q Okay. Thank you.

21 A I had never seen his report before. I had no
22 idea what conclusion he had come to.

23 MS. WALSH: And if we can pull up page 152,
24 please. Just scroll up a little, please. Thank you.

25 Just scroll down a little. Okay, that's good,

1 thank you.

2

3 BY MS. WALSH:

4 Q So another report that was prepared after
5 Phoenix's death was discovered, that looked at the services
6 that Phoenix and her family received from Child and Family
7 Services, was a report prepared through the Office of the
8 Chief Medical Examiner pursuant to the provisions of
9 Section 10 of the Fatality Inquiries Act, so we refer to it
10 as the Section 10 report. Were you ever interviewed by
11 anyone from the Office of the Chief Medical Examiner?

12 A No.

13 Q You've seen this report or the, the portion of
14 the report that I've shown on the screen in front of you.
15 You were shown that in preparation for this inquiry?

16 A This is from the chief medical examiner, now?

17 Q Yes.

18 A No, I haven't.

19 Q You've never seen it at all?

20 A No.

21 Q All right. Well, we'll go through it in a
22 minute. So your evidence is that you were never shown the
23 Section 10 report. It was prepared by Jan Christianson-
24 Wood.

25 A No, I haven't.

1 Q You've never seen portions of it.

2 A No.

3 Q All right. So what I'm reading to you from and
4 what's on the screen in front of you is a portion of that
5 report, and it says the following. Under the heading, the
6 -- or it says:

7

8 "The next documented contact
9 with Employment and Income
10 Assistance occurred on May 11,
11 2004 when an Income assistance
12 worker called to report that Ms
13 Kematch had brought in a letter
14 claiming she had been caring for
15 Phoenix since November 2003 and
16 requesting financial assistance.
17 She claimed that Mr. Sinclair had
18 given the allowance he received
19 for Phoenix to Kimberley and Rohan
20 as they had been caring for the
21 child. The income assistance
22 worker was concerned about the
23 risk to Phoenix in her mother's
24 care. The intake worker confirmed
25 the statement of risk and

1 attempted to contact both Kimberly
2 Edwards and Steven Sinclair but
3 without success."

4

5 Is that an accurate description of the work that
6 you did upon receiving the call from EIA?

7 A Yes.

8 Q And then the report goes on to say:

9

10 "The worker called Ms Kematch
11 and challenged her on the
12 inaccurate information about where
13 Phoenix had been, how long Ms
14 Kematch had cared for her and Ms
15 Kematch's assertion that Ms
16 Edwards had cared for Phoenix for
17 only a month. Ms Kematch ended
18 the call after swearing at the
19 worker. The CRU intake worker
20 assigned a 48 hour response time
21 for a safety assessment due to the
22 history and the risk level.

23 "As Ms Kematch was designed a
24 'high risk' caregiver, a response
25 time reflecting this would have

1 been appropriate."

2

3 Now, those paragraphs that I read out to you just
4 now, was that an accurate description of your work? Where
5 it says:

6

7 "The worker called Ms Kematch and
8 challenged her on the inaccurate
9 information about where Phoenix
10 had been",

11

12 was that accurate?

13 A Yes.

14 Q

15 "... how long Ms Kematch had cared
16 for her and Ms Kematch's assertion
17 that Ms Edwards had cared for
18 Phoenix for only [one] month",

19

20 those were things you challenged Ms. Kematch on?

21 A Yes.

22 Q

23 "Ms. Kematch ended the call after
24 swearing at the worker."

25

1 A Yes.

2 Q

3 "The CRU intake worker assigned a
4 48 hour response time for a safety
5 assessment due to the history and
6 the risk level."

7

8 A No, I did not assign that response time.

9 Q Do you agree with the statement:

10

11 "As Ms Kematch was designed a
12 'high risk' caregiver, a response
13 time reflecting this would have
14 been appropriate"?

15

16 A Yes.

17 Q And is that the response time you gave?

18 A Yes.

19 Q And that was 24 hours.

20 A Yes.

21 MS. WALSH: Thank you, Ms. De Gale. Those are my
22 questions.

23 THE COMMISSIONER: All right. Who's going? Mr.
24 Saxberg.

25 You can go ahead, Mr. Saxberg.

1 MR. SAXBERG: Okay, thank you, Mr. Commissioner.

2

3 CROSS-EXAMINATION BY MR. SAXBERG:

4 Q My name's Chris Saxberg and I act for ANCR and
5 three of the authorities that regulate child and welfare
6 agencies in this province, the three authorities other than
7 the Métis authority. I also act for certain witnesses,
8 including Diana Verrier.

9 Now, can I -- I just want to start by putting
10 something -- putting some of your evidence into perspective
11 here because it seems that it's being kind of delivered in
12 a, in a, in a somewhat dramatic way. But you talked about
13 an altered document, right?

14 A Yes.

15 Q And you're using this term "altered document,"
16 but you're not, you're not saying that, that it was -- you
17 know who changed it. It was your supervisor --

18 A Yes.

19 Q -- right? And it's also the case that your
20 supervisor's entitled to change it, correct?

21 A No.

22 Q You don't believe your supervisor's entitled to
23 change it.

24 A Not my report.

25 Q Well, isn't your supervisor ultimately

1 responsible for determining what the response time is?

2 A Yes.

3 Q Yes. And isn't your supervisor the person who is
4 to determine what ultimately happens with any file, whether
5 it goes to the CRU backup or whether it goes to intake or
6 whether it goes to intake -- abuse intake --

7 A Yes.

8 Q -- or whether it gets closed? That's the
9 supervisor's job.

10 A Yes.

11 Q Right? And all that's happened here is that you
12 -- you're saying now -- and we'll get to, to how you come
13 to that, but you're saying now that your 24-hour response
14 time was changed to 48 hours.

15 A Correct.

16 Q By your supervisor.

17 A Yes.

18 Q Who was entitled to do exactly that because the
19 buck stops with her. It's her decision to make, correct?

20 A Correct.

21 Q And two people -- two reasonable people can
22 disagree on what the response time is in any situation.

23 A Absolutely.

24 Q And one person could think it's 24 hours --
25 especially in the situation where on that safety assessment

1 that we looked at, there's no box to even check under 24
2 hours, correct?

3 A Correct.

4 Q And, in fact, you checked off a box under the
5 48-hour category, correct?

6 A Yes.

7 Q And it -- I'm sure it happened quite often where
8 workers disagreed on what the appropriate response time is
9 because it's a judgment call; is that fair?

10 A Yes.

11 Q And you're not suggesting that there was anything
12 malicious or wrongfully intended here by Ms. Verrier
13 changing the response time, are you?

14 A My opinion is, if somebody changes my work and
15 makes it look like something I did, then they didn't do it
16 in proper faith. If she wanted to change that report or
17 change the response time in any way, she should have
18 documented after my report was finished and put that it was
19 her decision to change the response time due to whatever
20 reason she, she found fit. Do not make something of mine
21 appear to be like I did it when I didn't do it.

22 Q But she took responsibility for it. She wrote
23 her initials beside it. So how is that saying that it's
24 yours?

25 A But it has appeared to just about everybody who's

1 reviewed any of this paperwork that it appeared to be my
2 decision and my assessment when it wasn't.

3 Q Exactly. You're talking about Mr. Koster's
4 report which we looked at, which is page 43.

5 MR. SAXBERG: If we could turn that up? It's CD
6 number 1, page 43. And if we scroll to the bottom, finding
7 27.

8

9 BY MR. SAXBERG:

10 Q This is the finding that you were just taken to
11 by Commission counsel and it indicates:

12

13 "The Safety Assessment called for
14 a 48 hour response. It would have
15 been important to go out the same
16 day when previous concerns about
17 the mother's parenting and
18 possible drug problems are
19 considered."

20

21 Do you see that?

22 A Yes.

23 Q And that's what this is all about. That's what
24 all -- this whole testimony that you're giving about the
25 response time changing is all just a response to this

1 criticism, that instead of it being 24 hours it should have
2 been 48 hours; isn't that fair?

3 A No, that's not fair. The reality of it is that
4 the question of that came up long before I saw Mr. Koster's
5 report.

6 Q The question of it came up. Who, who, who posed
7 the question?

8 A Who posed the question?

9 Q Yeah, you're talking -- you're saying the
10 question of this matter came up. How did it come up?

11 A In my interview with Carolyn Loepky and Sacha
12 Paul.

13 MR. SAXBERG: Could we turn to the CRU intake
14 form? 37344 is the page number. Now ... If we just
15 scroll down this first page? Okay, you can stop there.

16

17 BY MR. SAXBERG:

18 Q Are you suggesting that someone changed any of
19 these words on this page, that --

20 A In the history?

21 Q On, on what we're looking at right now, yes,
22 under History. But are you suggesting any of those words
23 were changed?

24 A No.

25 Q And if we could turn to the next page, the

1 history carries on. It's -- you testified that you wrote
2 this history from the CFSIS records, correct?

3 A That's where I would have got the information
4 from.

5 Q So that's where you got the information from?

6 A Yeah.

7 Q You remember that specifically, as opposed to the
8 hard copy of the file?

9 A I don't believe I got the hard copy of the file.

10 Q But you don't remember, right?

11 A I wouldn't have got it same day.

12 Q Well, no, I'm asking if you remember whether or
13 not you had the hard copy.

14 A I can't say for sure, no.

15 Q So you don't remember. Is that right?

16 A I guess, yeah.

17 Q Right. It was eight years ago.

18 A Um-hum.

19 Q And do you remember exactly when you started at
20 CRU as a worker?

21 A About 2003.

22 Q You, you weren't sure about that when you were
23 giving your, your evidence, whether it was 2002 or 2003.
24 Is it the case that it could have been 2002?

25 A No, I don't think so.

1 Q And you also said you didn't know who Diana
2 Verrier's supervisor was, the next up in the line.

3 A Could have been one of two people. There was
4 various --

5 Q Who --

6 A -- program managers at the time and they switched
7 around.

8 Q Who were they?

9 A Rob Wilson, Dan Berg, and Patrick Harrison.

10 Q Right. And you would have know which one was her
11 -- was, was assigned to her at the time, you just don't
12 remember, correct?

13 A They were all above us at one time.

14 Q No, but the assistant program --

15 A At that particular time, no, I don't remember.

16 Q As you sit here today, you don't remember who
17 Diana Verrier's boss was --

18 A No.

19 Q -- correct? You don't remember that.

20 A No.

21 Q And you don't remember seeing that manual that
22 Ms. Walsh took you through.

23 A No.

24 Q But that doesn't mean you didn't see it. It just
25 means you don't remember, right?

1 A No, I never had one when I was there.

2 Q You know that, you can recall that that, that
3 manual was not there?

4 A Yes.

5 Q And, and so if subsequent or previous witnesses
6 have testified that was the manual that was around for
7 anyone doing CRU, they're wrong? Is that what you're
8 saying?

9 A No, I'm not telling them they're wrong at all.

10 Q Is it possible that your memory of that could be
11 wrong?

12 A No.

13 Q It was eight years ago.

14 A No.

15 Q No? So did we confirm that you're not alleging
16 that any of the words on the second page that we're looking
17 at were altered?

18 A No, I'm not alleging that.

19 Q Sorry?

20 A I'm not alleging that.

21 Q And I notice you say in the, in the middle of
22 this history, it says:

23

24 "... Samantha drinks alcohol and
25 smokes 'rock' in front of

1 Phoenix."

2

3 Do you see that? It's about midway through the
4 paragraph.

5 A That would have been in the history I observed,
6 yes.

7 Q Would have been in the history?

8 A Yes.

9 MR. SAXBERG: If we could turn up 36974? And just
10 scroll up so we can all sort of get a context for what this
11 is, if you scroll to the top.

12

13 BY MR. SAXBERG:

14 Q It's dated January 15, 2004 and it's a report
15 prepared by Jacki Davidson. You remember Jacki, right?

16 A Yes.

17 Q And she worked with you in CRU?

18 A She was an after hours worker.

19 Q Okay, right. And she's writing this memo to CRU,
20 and if you scroll to the next page, then, it says in the
21 second-last sentence:

22

23 "[Blank] alleges that Samantha
24 goes out drinking frequently
25 leaving Phoenix with" --

1

2 And then it's so-and-so blanked out.

3

4 "... [who] allegedly smokes 'rock'
5 when Phoenix is present."

6

7 And that's where -- this is the document you
8 would have got the, the information from about that
9 allegation as to the actual after hours report --

10 A I don't know --

11 Q -- in preparing your history?

12 A I don't know if that's the document I got it
13 from.

14 Q Well, you would have got it from a document
15 that's --

16 A Yes.

17 Q -- derived from this report of after hours,
18 correct?

19 A I don't know what document I got it from.

20 Q And if we go back to page 37345, you've indicated
21 that Samantha drinks --

22 THE COMMISSIONER: Just a minute, which document
23 is this?

24 MR. SAXBERG: This is now back to her intake
25 report.

1 THE COMMISSIONER: All right. Three-seven --

2 MR. SAXBERG: May 11th, 2004.

3 THE COMMISSIONER: Yes, I have it.

4

5 BY MR. SAXBERG:

6 Q So we're, we're four months down the road here
7 and you're writing about this Samantha drinking and, and
8 you've got it wrong here in terms of your history. You,
9 you've, you've written, "Samantha drinks alcohol and smokes
10 'rock' in front of Phoenix" when the allegation that this
11 hearing's heard and that was just incorporated into the
12 document we just looked at was that it was, it was the
13 mother that was smoking rock in front of Phoenix. Were you
14 aware that you got that wrong?

15 A That Samantha did it?

16 Q It wasn't an allegation of Samantha smoking rock,
17 it was an allegation of her mother. Were you aware that
18 that's what the allegation was?

19 A No.

20 Q No? But you agree it's, it's important to get
21 the history right, isn't it?

22 A Yes.

23 Q And in this case you didn't get the history
24 right, at least in accordance with the way that after hours
25 recorded it and Jacki Davidson recorded it. That's a

1 pretty significant thing, if it's a difference between
2 Samantha being the one that's alleged to be smoking crack
3 cocaine and her mother being the one --

4 A That's if I took that information from that
5 particular document.

6 Q Well, I'm going to put it to you that no other
7 document says anything differently.

8 A Okay.

9 Q And that that's the evidence that this Commission
10 has already heard. The source of the information that
11 Samantha is smoking crack cocaine comes from you because
12 you got it wrong in your report. Are you aware of that?

13 You aren't aware of that?

14 A No.

15 Q And if you look down to the bottom of this
16 document, you'll note the last sentence that you write --
17 and this is a sentence you say wasn't altered, correct?
18 You're not alleging this sentence was altered, correct?

19 A No.

20 Q It says:

21

22 "As this appeared to be an
23 acceptable arrangement, no further
24 action was taken at the time,
25 however, it was noted in the

1 worker's recording that Phoenix
2 would be at risk if the situation
3 changed and she was in the care of
4 either parent."

5

6 Do you see that?

7 A Yes.

8 Q You didn't say high risk here. You, you didn't
9 say that there was a high risk situation in this history;
10 you, you said risk. Right?

11 A Correct.

12 MR. SAXBERG: And if we can scroll down to the
13 next page?

14

15 BY MR. SAXBERG:

16 Q In this first paragraph, are you alleging that
17 anyone has changed the wording in this paragraph?

18 A Yeah.

19 Q And again you're, you're, you're saying that:

20

21 "... the previous CFS worker that
22 she would be at risk in either her
23 mother or father's care."

24

25 You didn't say high risk there as well.

1 A Okay.

2 Q You, you've written this report but you're not
3 saying it's a high risk. Not in here. Correct?

4 A I put risk.

5 Q Right. Well, it can be low, medium, or high.
6 You just put risk, correct?

7 A Risk is risk.

8 Q Risk is risk?

9 A Yeah.

10 Q And if we can continue to scroll down and -- is
11 there anything in here that you're saying was altered?

12 A No.

13 Q Okay. And if we go to the next page, this is the
14 page -- you're saying that the 48-hour follow-up response
15 is what was changed on this document. Is that what your
16 evidence was, that it should say 24 hours instead of 48
17 hours.

18 A Correct.

19 Q That's right. And you'll confirm, then, then,
20 that instead it was you that said this should "be opened
21 for further follow-up by Intake." Those were your words,
22 you wrote that, correct?

23 A Correct.

24 Q That's correct. And you also said, "to ascertain
25 where the child should be living." You wrote that,

1 correct?

2 A The last paragraph was all okay.

3 Q Pardon me?

4 A I can't say for sure what my wording would have
5 been in that particular report in that last paragraph.

6 Q Well, that's, that's something new. You're just
7 saying that now, right? Now you're saying that this
8 paragraph, you can't tell what's changed about it?

9 A What I'm saying is that paragraph has been
10 altered.

11 Q But you can't tell -- I'm, I'm --

12 A Can I say exactly which words were changed? No,
13 I can't. But it looks like it would have been and is
14 consistent with what I would have said that led up to
15 24-hour response.

16 Q Okay. So I had asked you if, then -- you're
17 agreeing that you would have written "for further follow-up
18 by Intake," and you said yes.

19 A Yes.

20 Q And then I said you would have written "to
21 ascertain where the child should be living."

22 A Right.

23 Q Right? And then finally, "whether a safety
24 concern exists if the child is in the parent's care," you
25 would have written that as well --

1 A Correct.

2 Q -- correct? Yes?

3 A Yes.

4 Q You're not -- it doesn't say that there's a
5 determination that, that's being made that it's a high risk
6 and that it requires an immediate response. Instead,
7 you're talking about it going to intake, first of all,
8 which has significance, correct?

9 A Intake could mean either backup CRU or intake
10 tier two.

11 Q That's not right.

12 A That's how we used to put it.

13 Q Well, let's look at the, let's look at the safety
14 assessment form, if we could, which is page 37448. It's
15 the document that you said was altered.

16 A Right.

17 Q When you mean changed by your supervisor.

18 And, and just on that point, when you say that
19 this document that we're looking at, this safety, is
20 altered, you confirmed that every single marking on the
21 document was yours except the one where the supervisor
22 wrote her initials beside it.

23 A Correct.

24 Q Right? So when you say altered, there isn't
25 anything altered about it except the supervisor's written

1 in her initials and, and put an X in the 48-hour box,
2 correct? That's what you're calling altered.

3 A Yes.

4 Q Yes? And if we go to the last page, 37448,
5 you'll see right here under Section D, Resulting Case
6 Action Taken, it says, AHU or CRU beside unit, that, that's
7 where it's coming from. That's where the report's coming
8 from because that's where they all start, it's either after
9 hours or CRU. Correct?

10 A Right.

11 Q Then it says -- then it's your job -- and when I
12 say you, I mean ultimately it's the supervisor's job -- to
13 decide what happens after that and how fast it gets dealt
14 with, correct?

15 A Correct.

16 Q Diana Verrier, in this case, that was her job.

17 A Right.

18 Q And underneath that it says case goes to, and
19 they've got four boxes: Intake, Abuse, and CRU. You see
20 that?

21 A Yes.

22 Q Intake means intake. It means tier two intake,
23 correct? And you've checked it off here.

24 A Yes. We, we, we checked off intake because it
25 wasn't our decision whether it went to backup or whether it

1 went straight up to tier two. If we put intake, that was
2 sufficient enough. It's up to the supervisor to decide
3 where it goes from there.

4 Q CRU and intake and abuse are discrete areas,
5 correct? They're discrete areas with discrete functions,
6 correct?

7 A Correct.

8 Q CRU is completely separate from intake. They
9 have different roles and responsibilities, correct?

10 A Correct.

11 Q So you writing down that it's going to intake
12 doesn't make any sense if your idea is that it goes to CRU.
13 Doesn't make any sense. Does it?

14 A It does in our mind because the supervisor has a
15 choice to send either one of them out.

16 Q Yeah. The supervisor can make the choice and you
17 were making the recommendation that it go to intake and
18 that's consistent with a 48-hour response, isn't it?

19 A No.

20 Q Intake doesn't do 24-hour responses. You'll
21 confirm that for the record, won't you?

22 A Sometimes they did. Not intake.

23 Q Yes.

24 A Abuse intake.

25 Q Right. Intake, as in the intake that's being

1 referred to as tier two intake here, it never does 24-hour
2 response, does it?

3 A Yes, they did. There were occasions when cases
4 did go upstairs and they sent intake workers out
5 immediately.

6 Q Yeah. That's different. That's not the same
7 thing that I'm suggesting. The role of CRU was to do those
8 24-hour immediate responses. That's the whole point of the
9 crisis response unit, correct?

10 A Not always.

11 Q And when a matter is higher than 24 hours, 48 or
12 three to five days, it gets bumped upstairs to what they
13 call a tier two intake, and that's the regular, that's the
14 regular way that things work, correct?

15 A That would be the normal.

16 Q That's the normal. And so you checked off the
17 box -- you've admitted that that was your signature, that
18 that's your marking on this page. You checked off intake,
19 and intake doesn't deal with 24-hour responses.

20 A They did sometimes.

21 Q And if the evidence of previous witnesses and
22 subsequent witnesses is that, that you're wrong, that
23 intake does not do 24-hour emergency responses, you're
24 saying that evidence is wrong? And, and the manual, it
25 says that as well.

1 A Did everything go by the book? No, it didn't.

2 Q Are you making the suggestion that in this
3 particular case that there's a reason that you ticked off
4 intake -- and I'm telling -- and I'm saying to you that
5 only -- intake means it had to be a 48-hour response that
6 was in your mind, and your, your response to that is, is to
7 say there have been exceptional circumstances where intake
8 does a 24-hour?

9 A There were circumstances when intake did go out
10 on immediate response.

11 Q Shouldn't you have checked off that CRU box if
12 you were looking for a 24-hour response?

13 A Yes.

14 Q You agree to that. You should have checked that
15 off. That's the appropriate box to check off.

16 A I did.

17 Q No, no. We're looking at this document right --
18 on the screen in front of you.

19 A Yeah.

20 Q And you checked off intake, you didn't check off
21 CRU. And you should have checked off CRU if you wanted a
22 24-hour response, correct? You have to agree with that.

23 A I would say my habit at that particular time
24 would mean that I mostly marked intake.

25 Q You what?

1 A I would have routinely marked intake rather than
2 CRU, because it was not my decision in the end where it
3 went to.

4 Q So I just want to make sure I understand what
5 you're saying. You're saying that you -- your testimony
6 was that you had a strong recollection that you wanted this
7 to be a 24-hour response, correct?

8 A Correct.

9 Q You know that only CRU does 24-hour responses,
10 correct?

11 A No.

12 Q Except in exceptional circumstances, you said,
13 right?

14 A Exceptional circumstances.

15 Q But here you checked off intake, that doesn't do
16 24-hour responses except, you say, in exceptional
17 circumstances.

18 A CRU is intake. It's just a different tier of
19 intake. There's tier one, there's tier two. If we wanted
20 it to go on back -- or to be followed up, we put intake. I
21 put intake.

22 Q If you -- if we could just turn up 36974, it was
23 the Jacki Davidson document. She wrote, "For follow up by
24 CRU." She didn't write down intake.

25 A Because it would come from after hours to CRU if

1 it wasn't a previously open case.

2 Q You know a lot of matters go straight from AHU to
3 intake.

4 A Pardon?

5 Q A lot of matters that, that are after hours unit
6 reports go straight to intake. They do. Right?

7 A The usual practice was when after hours opened up
8 a case it would go to the CRU supervisor. Then the CRU
9 supervisor would send it normally upstairs to tier two or
10 assign it back up for CRU. That was always my
11 understanding.

12 Q Now, if we go to the first page of the safety
13 assessment ... Sorry, 37445. And under 24 Hours Response
14 you've got a bunch of categories that are to guide you in
15 determining when a matter is a 24-hour response, for
16 immediate response or within 24 hours, correct?

17 A Correct.

18 Q And you didn't check off any of these boxes,
19 right?

20 A Correct.

21 Q And at the very bottom --

22 MR. SAXBERG: If you could scroll down a little
23 bit?

24

25 BY MR. SAXBERG:

1 Q -- there's a box that says Other. You can put
2 any reason you wanted in there, couldn't you?

3 A Yeah.

4 Q And you didn't.

5 A No.

6 Q And then if we turn to the next page, you checked
7 off, Neglected, which is a 48-hour response, correct?

8 A Correct.

9 Q And then you also checked off -- wrote under
10 Other here -- and this is under Other under 48 Hours
11 Response, you wrote substance abuse, correct?

12 A Right.

13 Q And in your testimony you indicated that
14 substance abuse and, and parenting were the two concerns
15 you had, correct? In your history, that's what you
16 indicated were the two concerns you had.

17 A Two. Two of, yes.

18 MR. SAXBERG: And so if you scroll down, then ...

19 Go right to the bottom if you could, please, to
20 page 4. Yeah, right there.

21

22 BY MR. SAXBERG:

23 Q And then you see you didn't consult the
24 supervisor on this one.

25 A No.

1 Q Right? Now, if we scroll back up -- and the
2 supervisor's Diana Verrier, correct?

3 A Um-hum.

4 Q If we scroll back up and stop right there, the,
5 the initial on 24 hours is Diana Verrier and you're saying
6 that you would have, have originally put in the 48-hour
7 response time. Do you see that -- sorry, I've got it
8 backwards, the other way around. You're saying you
9 originally would have indicated a 24-hour response time and
10 you're saying that Diana then puts the X in the 48 hours,
11 correct?

12 A Correct.

13 Q But isn't it the case that, that Diana Verrier,
14 as your supervisor reviewing this document, seeing you had
15 checked off no boxes under 24 hours, seeing how you had
16 checked off a box under 48 hours, and seeing how you had
17 written substance abuse as being the issue, that she would
18 have corrected your mistake from 24 hours to 48 hours.
19 Wasn't that -- isn't that the case?

20 A No.

21 Q How was Diana Verrier going to know you wanted a
22 24-hour response when you didn't check off any of the boxes
23 under 24 hours, and when you checked off the box in 48-hour
24 and then you wrote in "substance abuse" in Other under 48
25 hours?

1 A I didn't put 48 hours.

2 Q How is she to know that wasn't a mistake? The,
3 the two pages before --

4 MR. SAXBERG: If you scroll to the page prior to
5 this one and keep scrolling up. Okay, right there.

6

7 BY MR. SAXBERG:

8 Q 48 Hours Response.

9 A Yes.

10 Q And scroll down. You're telling your supervisor
11 neglect is one of the concerns under 48 Hours Response when
12 -- by submitting this document and not consulting with her
13 in advance, correct?

14 A Correct.

15 Q And you're also telling her substance abuse is
16 one of the -- is the concern.

17 A Right.

18 Q And then if you keep scrolling down, you're
19 saying that you initially put in a 24-hour check.
20 Wouldn't, wouldn't that 24-hour check be incorrect with the
21 information above it?

22 A If she was confused on it, I think she would have
23 came and talked to me, don't you?

24 Q And that's assuming that you're there.

25 THE COMMISSIONER: Just a minute. Was it a 24-

1 hour check or a 24-hour statement on page 4 or the last
2 page -- yes, page 4.

3 MR. SAXBERG: The document's on screen right now,
4 I think that's page 3.

5 THE COMMISSIONER: Oh, I thought you were back on
6 the CRU intake form.

7 MR. SAXBERG: No, no, we're looking at the safety
8 assessment document.

9 THE COMMISSIONER: Well, you were there a minute
10 ago. All right. Go ahead.

11 MR. SAXBERG: And the witness is indicating that
12 she had typed 24-hour response or delineated a 24-hour
13 response, and I'm indicating all of the information above
14 that -- so if we scroll up ... Stop right there.

15 I'll just wait for you to get the document, Mr.
16 Commissioner. It's the safety assessment document. It
17 says Safety Assessment.

18 THE COMMISSIONER: Yes. Yes.

19 MR. SAXBERG: Yeah. So on -- when I --

20 THE COMMISSIONER: But is there an allegation
21 that anything was changed on this document other than the
22 top of page 3?

23 MR. SAXBERG: No. And then she's confirmed that
24 it's all her information.

25

1 BY MR. SAXBERG:

2 Q And what I'm suggesting is that when the
3 supervisor gets this document, the, the fact that you
4 clicked off a 24-hour response time would appear to that
5 supervisor to be incorrect with the information -- the
6 other information you put on the document; isn't that fair?

7 A No.

8 Q Why isn't that fair?

9 A Because quite often I would make the assessment
10 of a 24-hour response. Sometimes the things didn't fit
11 within the categories there and I would put 24-hour
12 response. If a supervisor ever had any questions about
13 what I had come up with on my report or my safety
14 assessment, the proper thing would have been to confirm
15 with me if that was a mistake, not too assume.

16 Q Why are you clicking off information in the
17 48-hour response boxes if you don't intend a 48-hour
18 response? Why would you do that?

19 A Because some of the categories there fit with it.

20 Q Yeah, so if they fit that means it's a 48-hour
21 response because that's what this tool is telling you.
22 You've got nothing checked off in 24 hours.

23 A Right. Things don't always fit there.

24 MR. SAXBERG: If we could turn to ...

25 I've gone into overtime. It's --

1 THE COMMISSIONER: Pardon?

2 MR. SAXBERG: I've gone into overtime. It's --

3 THE COMMISSIONER: Oh.

4 MR. SAXBERG: It's twenty to five.

5 THE COMMISSIONER: No problem. We, we had some
6 downtime this morning, so if you'd like to continue --

7 MR. SAXBERG: Yes.

8 THE COMMISSIONER: -- for a while, that's fine
9 with me.

10 MR. SAXBERG: Thank you.

11 If we could turn to page 36968. Sorry, it's
12 actually 36967.

13

14 BY MR. SAXBERG:

15 Q Now, this is an email from source of referral
16 number three who testified earlier today, to Lisa
17 Mirochnick. And it says:

18

19 "Sorry to keep bugging you
20 but other people from the agency
21 are really confusing me. They
22 state that their files say nothing
23 about the child not being allowed
24 to stay with mother Samantha
25 Kematch but I do [not] believe you

1 told me that the child is not to
2 be in the mothers care. Maybe I
3 took it wrong maybe not. Can you
4 verify that with me."

5

6 Then it goes on. You see that?

7 A Yeah.

8 Q Now, the source of referral number three, from
9 Employment and Income Assistance, was the source that you
10 spoke to in preparing your May 11 intake, correct?

11 A Correct.

12 Q That is the source of referral with the
13 presenting problem, correct?

14 A Correct.

15 Q It was an EIA worker calling you and, and giving
16 you this information that they were aware that Phoenix was
17 with Samantha, correct?

18 A Correct.

19 Q And in this email the EIA worker is saying that
20 you confused her, and she's indicating by saying there's
21 nothing in the file that said that the mother -- that
22 Phoenix was not allowed to stay with the mother. You told
23 her that?

24 A I don't see my name there.

25 Q Well, but she's saying that she was confused by

1 dealing with someone at CFS, and you were the person she
2 dealt with. You're the one that took the intake, correct?

3 A I took the intake information from the EIA
4 worker.

5 Q Okay, I, I want to take you to page 28652. Now,
6 this is information that the Commission saw this morning
7 from Employment and Income Assistance. April 26,
8 Employment and Income Assistance is aware that Samantha
9 Kematch is living with Karl McKay and that she's considered
10 common-law with Karl McKay as of January 1st, 2004.

11 That was information that the Commission heard
12 this morning. Is that information that you were aware of?

13 A No.

14 Q No, that's right. If we could turn to page
15 37341, this is the face sheet which you filled out in
16 connection with this May 11, 2004, correct?

17 A Correct.

18 Q And your job -- one of your main functions when
19 you're on phones, taking calls, and writing up reports, is
20 to get demographic information, correct?

21 A Right.

22 Q And you've got to get all the demographic
23 information, you've got to get the key information,
24 correct?

25 A As much as I can, yes.

1 Q As much as you can. It's a serious
2 responsibility, correct?

3 A Right.

4 Q And, in fact, in your report, the one that we've
5 been looking at, the intake report, you indicated that the
6 SOR "provided updated demographic information on all
7 concerned" to you. That, that's in your report at page
8 37346. Sorry ...

9 Yes, page 37346, first paragraph, second-last
10 sentence.

11 THE COMMISSIONER: This is the intake document.

12 MR. SAXBERG: Now we're back at the intake
13 document, her intake document. Sorry to bounce around.
14 I --

15 THE COMMISSIONER: All right.

16 MR. SAXBERG: I just want to show that the
17 information is there, that it says -- and that's the SOR
18 that's been redacted.

19

20 BY MR. SAXBERG:

21 Q That's your source of referral, correct?

22 A Right.

23 Q "... provided updated demographic information on
24 all concerned."

25 A Correct.

1 Q And it's important to get the information on all
2 concerned, correct?

3 A Yes.

4 Q And if we go back, then, to the face sheet -- and
5 that's going to be the document where you have all your
6 demographics -- that's at 37341. You've here indicated
7 that the file's opened up in Steven's name.

8 A Yes.

9 Q And that's what you're opening it up in, correct?

10 A Correct.

11 Q And, and that was another mistake you made. It
12 shouldn't have been opened in Steven's name.

13 A Wasn't a mistake.

14 Q You're saying it was a mistake?

15 A No, we open the cases on the last known custodial
16 parent.

17 Q But the, the, the referral that you're getting is
18 dealing with Phoenix being in the care of her mother,
19 correct?

20 A That the mother was claiming to have the child.

21 Q Right. Because you talked to her. She told you
22 she had Phoenix, correct?

23 A The mother?

24 Q Yes.

25 A Yes.

1 Q Yeah. So you knew that Phoenix was with Samantha
2 and yet you --

3 A We hadn't proved --

4 Q -- opened it up under Steven's name.

5 A We didn't prove it yet.

6 Q You hadn't proved it, but that's what she'd been
7 telling you.

8 A That's what she said, yes.

9 Q Right. And you hadn't -- you didn't hear from
10 anybody that, that Phoenix was in Steven's care. No one
11 was alleging that. There was no information available to
12 you that that was the case, correct?

13 A Just that the mother was claiming to have the
14 child.

15 Q Right. And you know that, that the last report
16 that Winnipeg CFS had was that Phoenix was with Rohan
17 Stephenson.

18 A Yes. And our information was that Steven had
19 placed the child with him. He was the last custodial
20 parent.

21 Q And if we scroll down this page, under the
22 important -- this is the important demographic information
23 that you're putting together, correct, on the page --

24 A Um-hum.

25 Q -- on the update that you refer to.

1 MR. SAXBERG: So we scroll down it. Yes, right
2 through to the next page. Just stop right there.

3

4 BY MR. SAXBERG:

5 Q You, you'll notice that you say your concerns,
6 protection concerns -- this is on page 2 now of the face
7 sheet -- your, your concerns are parent's substance abuse
8 -- "parents substance abuse, child at risk." Correct?

9 A Correct.

10 Q That's what you've written there. And that
11 you're getting information from the EIA worker.

12 Samantha Kematch was living with Karl McKay in a
13 common-law relationship at this point in time, and that's
14 what the evidence is and was this morning. You didn't ask
15 the EIA worker who was providing you with the updated
16 demographic information about who was living in that
17 household, did you?

18 A My understanding was that it was Samantha who was
19 living there.

20 Q Well, you -- the evidence today was that EIA was
21 fully aware that the people living in that home were
22 Karl --

23 A Um-hum.

24 Q -- McKay and Samantha Kematch, and that they --
25 and that Samantha Kematch was on Karl McKay's budget. But

1 you didn't know that because you didn't ask, correct?

2 A I don't know.

3 Q But it was your job to find out who was in that
4 house with Samantha, wasn't it?

5 A I can assure you if they would have told me Karl
6 McKay was in that home, he would have been on those
7 demographics.

8 Q Exactly.

9 A I was not given that information.

10 Q Right. If they would have told you, you
11 definitely would have put it on here because it's very
12 important information, isn't it?

13 A Yes, that would be.

14 Q Critical information. And, in fact, you then
15 would have done a prior contact check on Karl Wesley McKay,
16 wouldn't you?

17 A Definitely.

18 Q And you -- that's what you do, that's what you do
19 exclusively now. You know what prior contact checks are
20 all about. It would be very important to do a prior
21 contact check on Karl Wesley McKay had you known he was
22 living there, correct?

23 A Definitely.

24 Q Had you asked. Had you asked, you would have
25 learned that he was living there.

1 A All I can say is I was not given any indication
2 that she was with anybody else.

3 Q But it was your job to find out who's in that
4 home.

5 A I may have asked. I don't know. I can't
6 remember.

7 Q But you said if you had asked and you were told,
8 you definitely would have wrote it on here and you didn't
9 write it on here.

10 A I definitely would have.

11 Q Yeah. You didn't write it on here, and as a
12 result, there was no prior contact check done on Mr. McKay.
13 And that information would have been very important to the
14 next worker that took this file.

15 A It would have been, had I known about it.

16 Q And had you asked the right demographic
17 questions, got the right demographic information including
18 information on Karl Wesley McKay, it would have been your
19 job to do the prior contact check.

20 A Correct.

21 Q And then the next worker would have been aware of
22 Mr., Mr. McKay's past.

23 A Correct.

24 Q And that would definitely have influenced the
25 response time, correct, and what that worker did, correct?

1 A Very likely.

2 Q So you got the allegation against Samantha wrong,
3 saying it was her that was smoking crack cocaine, correct,
4 as we've shown, and you missed you this important
5 information about who's in that home that -- where Phoenix
6 is, is alleged to be living in. You didn't find out who
7 all was in that home, but that was your job as an intake
8 worker, as the CRU worker at that point, correct?

9 A That would have been.

10 THE COMMISSIONER: Now are you nearly through,
11 Mr. Saxberg, or --

12 MR. SAXBERG: I think I can finish in the next
13 ten minutes.

14 THE COMMISSIONER: In the next ten minutes?

15 MR. SAXBERG: Yeah.

16 THE COMMISSIONER: All right. We'll run for --
17 that'll get us just to five o'clock.

18

19 BY MR. SAXBERG:

20 Q My understanding -- you, you testified that
21 documents can be changed by a supervisor or a program
22 manager, correct? Documents on CFSIS could be changed by a
23 supervisor or a program manager.

24 A Yes.

25 Q You sure about that?

1 A Yes.

2 Q Because my information -- and it comes from a
3 good source -- is that once the administrator attaches the
4 Word document to CFSIS, the only one who can alter it is
5 the person the document was created for. It was always the
6 worker. Isn't that the case?

7 A If -- okay. Under the new CFSIS system, yes, if
8 I put a report on there, I would be able to change it.
9 After I send it forward, it could be changed by someone
10 above me. Under the old system, under the Word system, if
11 I put it on there and it was attached, then it could be
12 changed by me or the supervisor.

13 Q And I'm putting it to you that that's not true,
14 that it's, that it's not the case that anyone can change
15 that Word document on CFSIS -- back then, at the relevant
16 time -- other than the worker.

17 A That's not my understanding.

18 Q And what is the source of your understanding? I
19 mean, you've never been a supervisor, right?

20 A I have, but not there.

21 Q Pardon me?

22 A I have been a supervisor, but not there.

23 Q Not there. And so what is the source of your
24 information, then?

25 A The source of my information would have been from

1 either admins or supervisors that worked in the CRU.

2 MR. SAXBERG: Could we turn to page 36926? And if
3 we scroll down, this is a CRU intake form from March 2005.
4 And continue to scroll down. And stop there.

5

6 BY MR. SAXBERG:

7 Q This is just another CRU intake form, and here
8 you'll see under recommendations that it's recommended that
9 the file be "opened to Intake."

10 THE COMMISSIONER: Who created this document?

11 MR. SAXBERG: This is a document -- if we go back
12 to the front page, it'll say it's from March. It's created
13 by Jacki Davidson and Chris Zalevich.

14 THE COMMISSIONER: Right.

15

16 BY MR. SAXBERG:

17 Q But the point is here, again, when a matter goes
18 from CRU and there's recommendation that it goes to intake,
19 that it's usually assigned to -- that it goes to intake,
20 which is a separate unit, and has been referred to as tier
21 two intake. Do you see that?

22 A Yeah.

23 Q Simply giving you another example of another CRU
24 form wherein when CRU is advancing the file, when they
25 write intake it means intake. Doesn't mean something else.

1 A For me, it meant follow-up.

2 Q Now, you've, you've indicated that there's
3 information missing from your intake report. Is that
4 right?

5 A Yes.

6 Q We went through it and I asked you what you say
7 changed, and, and your -- and you'd indicated which words
8 you believed had changed relating to the 48-hour response
9 time being an amendment to what you say you wrote. But you
10 also say there was other information in there. Is that
11 right?

12 A There's other information that I recall, that I
13 don't see in that report.

14 Q Say that again? I, I'm sorry, I didn't hear you.

15 A There's other things that I recall doing on this
16 case that I do not see in this report.

17 Q But they're not recorded in the intake -- CRU
18 intake form we've been looking at, correct?

19 A No, I don't see it there.

20 Q No. Okay. And how -- why are you saying that
21 that's the case? I mean, how is it that, that the
22 information that you say you remember typing in here isn't
23 here anymore? What are you asserting?

24 A I'm asserting it's been removed.

25 Q By whom?

1 A I can't point fingers.

2 Q You can't point fingers. And why?

3 A I can't say exactly who did it.

4 Q You can't say who did it, but why would they do
5 it?

6 A That would be my assumption.

7 Q Well, I'm asking you if you can explain why
8 you're saying you put information into a report and now
9 it's not there any longer.

10 MR. BUCHWALD: Mr. Commissioner, I object to this
11 question.

12 THE COMMISSIONER: Yeah, I didn't understand her
13 to say that. What is your question?

14 MR. SAXBERG: The witness is indicating that
15 information has been removed from this document, the CRU
16 intake report. That's the May 11, 2004 CRU intake and
17 after hours form.

18 THE COMMISSIONER: You're talking about the CRU
19 intake and AHU form.

20 MR. SAXBERG: From May 11, 2004.

21 THE COMMISSIONER: All right. I didn't
22 understand her to say that that was the case with respect
23 to anything but on page 4.

24 MR. SAXBERG: Well, maybe she can clarify that.

25 THE COMMISSIONER: That, that's what I've

1 understood her to say. The, the only changes that you're
2 saying that you recognize that there are changes is on
3 what's page 4. We -- put that up on the screen, please.

4 MR. SAXBERG: It's 37347.

5 THE COMMISSIONER: Yes, well, 37 -- that's not on
6 the screen now. 37347. There, there it is.

7 You, you said you --

8 THE WITNESS: I --

9 THE COMMISSIONER: -- believe there are some
10 changes made there.

11 THE WITNESS: Yes. On the final paragraph --

12 THE COMMISSIONER: Yes.

13 THE WITNESS: -- of that report.

14 THE COMMISSIONER: But are you saying that you
15 believe there are changes made in the first -- anywhere in
16 the first three pages?

17 THE WITNESS: Yes, I do recall things that I did,
18 that I would have documented, that are not there. But
19 they're not there and he's asking me why would somebody do
20 that.

21 THE COMMISSIONER: Well, I don't -- you wouldn't
22 know why someone else might do it --

23 THE WITNESS: Exactly.

24 THE COMMISSIONER: -- would you?

25 THE WITNESS: That I can only assume, and that

1 wouldn't be fair to say.

2 THE COMMISSIONER: Well, you heard her. Where,
3 where did you -- did you want to go further with that, and
4 if so, where?

5 MR. SAXBERG: Yeah, I certainly do want to go
6 further with it because she's alleging that --

7

8 BY MR. SAXBERG:

9 Q You're alleging you took information from an aunt
10 and you don't remember who the aunt was.

11 A I don't recall her name.

12 Q And you're also alleging that you received
13 information about Steve being in Ontario, Steve Sinclair
14 being in Ontario, correct?

15 A This is what the aunt professed.

16 Q And are you aware that, that the evidence that
17 this Commission's heard is that Steve Sinclair did not go
18 to Ontario until long after the May 11th intake that you're
19 talking about.

20 A No, I'm not --

21 Q Are you aware of that?

22 A -- aware of that.

23 Q And isn't it quite possible, then, that you're
24 confusing your timelines here with respect to when you did
25 this additional activity and that's why it's not in your

1 report?

2 A No.

3 Q Sorry?

4 A No.

5 Q No, what?

6 A I did that report all in one day, and I -- and,
7 and in order to do that, I would have had to close off my
8 phone and work solely on this particular case. If I handed
9 it in that particular day to the supervisor for follow-up,
10 I'm -- I couldn't be confusing it with anything that
11 happened after that.

12 Q But Steve Sinclair wasn't in Ontario until long
13 after this. That's the evidence. That's his evidence.
14 How do you explain that?

15 MR. BUCHWALD: Objection.

16 THE COMMISSIONER: Well, she, she can only say
17 what --

18 THE WITNESS: I can't answer that.

19 THE COMMISSIONER: -- she was told. I don't
20 think she can explain that. I don't think that's a
21 reasonable question at all. She -- how can she explain
22 that? She's telling us what she was told.

23 MR. SAXBERG: I'm, I'm just trying to see if it's
24 -- the test as to whether or not she has the time frame
25 right in terms of this recollection from eight years ago of

1 receiving information but it not being in a report.

2 THE COURT: Mr. Buchwald?

3 MR. BUCHWALD: She's answered the question --

4 THE COMMISSIONER: I, I --

5 MR. BUCHWALD: -- on more than occasion.

6 THE COMMISSIONER: That's my view.

7

8 BY MR. SAXBERG:

9 Q What -- you're suggesting that when -- prior to
10 Mr. Koster -- the interview that he was going to do on you,
11 you had suggested that you didn't have any concerns about
12 additional information not being in your report or about
13 your assessment of response time being changed, correct?

14 A I didn't have any concerns at the time.

15 Q Pardon me?

16 A I did not have any concerns at the time.

17 Q Right. You said you didn't have concerns prior
18 to when you originally looked at your intake report back in
19 2006, correct?

20 A If I looked at it.

21 Q Well, I thought your evidence was that you had
22 looked at it.

23 A I was given it. I don't recall if I actually
24 looked at it. I was working that day.

25 Q And what your evidence is, is that five years

1 later, in an interview in which Ms. Loepky was in
2 attendance, among others, at that point in time, that's
3 when you gained memory that you'd received this additional
4 information and that you'd originally provided a 24-hour
5 response time? Is that fair?

6 A Not sure I understand the question.

7 MR. BUCHWALD: I'm going to object to the tone of
8 the question.

9 THE COMMISSIONER: I think she's, she's stated
10 all along she, she knew she -- that was her position on the
11 24 hours. She's, she's never varied from that. That was
12 her position.

13 MR. SAXBERG: No, it -- I'm asking that in 2006
14 she didn't have any concerns about her work being altered.

15 THE COMMISSIONER: Well, she said that she was
16 working that day. What she said in chief is totally
17 consistent with what she just told you, that she was
18 working all that day and she may not have looked at that
19 page.

20

21 BY MR. SAXBERG:

22 Q Did you -- would you agree that the reference --
23 referral that was provided May 11th from the Employment and
24 Income Assistance worker wasn't a unique referral in terms
25 of the type of cases that you would deal with daily?

1 A No, it wasn't unique.

2 Q And how many of those cases would you be dealing
3 with every day?

4 A How many calls did we get every day?

5 Q Yeah, calls, matters that you would have been
6 dealing with on a day to day basis.

7 A On any given day, sometimes we got up to 30
8 calls.

9 Q And you agree that you would have received some
10 very serious, horrific referrals about dangerous --
11 children being placed in dangerous positions, correct?

12 A Yes, I did get some --

13 Q That --

14 A -- of those calls.

15 Q Very dramatic and matters that needed immediate
16 24-hour response, correct?

17 A Correct.

18 Q And when that happens, the matter would be -- you
19 would have the backup team responding to it immediately,
20 correct?

21 A That was the plan.

22 Q And many of those would have been very memorable
23 in terms of their severity, correct?

24 A Correct.

25 Q And as you said, this was not a unique case.

1 This was more run of the mill compared to those instances.

2 A No, I never said this was run of the mill.

3 Q I, I know you didn't say run of the mill, but you
4 had said it wasn't unique.

5 A No, I said it, it wasn't unique ... Okay, it
6 wasn't the typical case that we would get a call on.

7 Q It wasn't the typical?

8 A No.

9 Q So what was atypical about it?

10 A Pardon?

11 Q What was different about it, then?

12 A By virtue of the fact that the previous worker
13 had said the child would not -- would be at risk in either
14 parent's care and now the parents are saying the child's
15 back in their care.

16 Q That was something that was unique, that hadn't
17 happened before, that type of situation?

18 A Yeah, it did, and those are things that we sent
19 -- we would want people go out on right away.

20 THE WITNESS: Excuse me, I could really use a
21 washroom break.

22 THE COMMISSIONER: Yeah, well --

23 MR. SAXBERG: I, I think I can wind --

24 THE COMMISSIONER: Are you finished?

25 MR. SAXBERG: Yeah.

1 THE COMMISSIONER: Yes. That's fair enough,
2 you've been here a long time.

3 You're through, are you, Mr. Saxberg?

4 MR. SAXBERG: Yes.

5 THE COMMISSIONER: All right.

6 Now, Witness, there will be some other lawyers
7 who want to have some questions --

8 THE WITNESS: Um-hum.

9 THE COMMISSIONER: -- for you tomorrow, so I'm
10 immediately going to adjourn now. Mr. Saxberg is finished.
11 We'll rise until 9:30 tomorrow morning and we now stand
12 adjourned. I'm going to shuffle my papers here, so you can
13 leave the stand.

14 THE WITNESS: Okay, thanks.

15 THE COMMISSIONER: We're through for today, and
16 thank you for speaking up.

17 THE WITNESS: Thank you.

18 THE COMMISSIONER: You had every right to.

19

20 (PROCEEDINGS ADJOURNED TO DECEMBER 11, 2012)