



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

WEDNESDAY, DECEMBER 12, 2012

APPEARANCES

MS. S. WALSH, Commission Counsel

MR. D. OLSON, Senior Associate Counsel

MR. N. MASCARENHAS, Associate Commission Counsel

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

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

MR. K. SAXBERG and **MR. L. BERNAS**, for General Child and Family Services Authority, First Nations of Northern Manitoba Child and Family Services Authority First Nations of Southern Manitoba Child and Family Services Authority Child and Family All Nation Coordinated Response Network

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

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

MR. J. FUNKE , for Assembly of Manitoba Chiefs and Southern Chiefs Organization Inc.

INDEX

Page

WITNESS :

KIMBERLY-ANN EDWARDS

Direct Examination (Walsh)

1

PROCEEDINGS

189

1 DECEMBER 12, 2012

2

3 MS. WALSH: Morning, Mr. Commissioner.

4 THE COMMISSIONER: All right, Ms. Walsh.

5 MS. WALSH: Our witness today is Kim Edwards.

6 THE CLERK: Just stand for a moment. Is it your
7 choice to swear on the Bible or affirm without the Bible?

8 THE WITNESS: The Bible.

9 THE CLERK: Take the Bible in your right hand.
10 State your full name to the court.

11 THE WITNESS: Kimberly-Ann Edwards.

12 THE CLERK: And just spell your first name
13 please.

14 THE WITNESS: K-I-M-B-E-R-L-Y.

15 THE CLERK: And your middle name?

16 THE WITNESS: Hyphenated, A-N-N.

17 THE CLERK: And your last name?

18 THE WITNESS: E-D-W-A-R-D-S.

19 THE CLERK: Thank you.

20

21 **KIMBERLY-ANN EDWARDS,** sworn,

22 testified as follows:

23

24 MS. WALSH: Good morning, Ms. Edwards.

25 THE WITNESS: Good morning.

1 MS. WALSH: Now you're soft-spoken, so --

2 THE WITNESS: Yeah.

3 MS. WALSH: -- just make sure that you pull the
4 microphone close enough to you so we can all hear you.

5 THE WITNESS: Is that good?

6 MS. WALSH: And would you prefer to be called
7 Ms. Edwards or Kim today?

8 THE WITNESS: Kim.

9 MS. WALSH: Kim, all right.

10

11 DIRECT EXAMINATION BY MS. WALSH:

12 Q All right. You are a long time friend of Steve
13 Sinclair's?

14 A Yes, I am.

15 UNIDENTIFIED PERSON: I'm not sure if the mic is
16 on. Is the mic on?

17 MS. WALSH: Oh, well that would certainly help,
18 wouldn't it?

19 THE WITNESS: There you go.

20 MS. WALSH: Well done, okay.

21 THE COMMISSIONER: Is it on? If, if, if you
22 can't be heard, let the sheriff know and, and that will
23 come up here and we'll do something about it. That goes
24 for the people at the back or counsel at the tables.

25 MS. WALSH: I think now that, that the microphone

1 is on, it'll be a lot easier.

2 THE WITNESS: Yes.

3 MS. WALSH: Good. I struggle with that everyday
4 actually, whether it's on or off.

5

6 BY MS. WALSH:

7 Q You're a long time friend of Steve Sinclair's?

8 A Yes, I am.

9 Q You were Phoenix's godmother?

10 A Yes.

11 Q Who gave you that title?

12 A Steve.

13 Q You refer to yourself as godmother, not foster
14 parent?

15 A Yes.

16 Q And as I told Steve last week, we are very sorry
17 for your loss.

18 A Thank you.

19 Q How did you meet Steve?

20 A I was walking home from a Bible meeting one
21 night, and I met him at a gas station. We sparked up a
22 conversation. We had a few things in common, music. So we
23 started hanging around and playing music and talking,
24 Bible. That's how, you know, how we met.

25 Q You say you shared a love of music?

1 A We shared a love of music.

2 Q Okay. Do you know how old Steve was when you met
3 him?

4 A I believe he was 18 -- 17, 18 years old.

5 Q Was he in a relationship with Samantha Kematch
6 when you met him?

7 A No. Like not that I'm aware of.

8 Q Were you married, or in a relationship?

9 A I was married but separated.

10 Q At some point, you married -- or began a
11 relationship with and then married Rohan Stephenson?

12 A Yes.

13 Q When was that?

14 A I believe the relationship began after my first
15 son was born, so it would be '89.

16 Q '89?

17 A '89, yes.

18 Q Do you have children?

19 A Yes, I do. I have three --

20 Q You said you -- you told me you just have one son
21 born?

22 A I have three of them.

23 Q Any of them with Rohan Stephenson?

24 A The youngest.

25 Q Do you recall when you first met

1 Samantha Kematch?

2 A Yes. I was at home at 1331 Selkirk, and Steve
3 had just -- I hadn't seen him for a while, and he popped by
4 with a baby and Samantha. So I was shocked to see Phoenix
5 and that was the first time I met Samantha.

6 Q You said you hadn't seen Steve for a while before
7 that?

8 A Yeah. When I say a while, I'd say, I don't know,
9 maybe four or five months, maybe even longer.

10 Q So did you know that he was -- he and Samantha
11 were expecting a baby?

12 A No, I, I met Phoenix that day.

13 Q Do you recall when that was?

14 A That was the -- I, I would say -- I can't recall
15 exact date, maybe July of 2000.

16 Q Did you know anything about Samantha's
17 background?

18 A Nothing.

19 Q Did you know that she had had a baby before she
20 had Phoenix?

21 A Not until after. I found out maybe after Echo
22 was born about it. I didn't really know anything about
23 Samantha.

24 Q So when you first met her, you didn't know that
25 she --

1 A I didn't know --

2 Q -- had had a baby.

3 A I didn't know about the baby.

4 Q That wasn't something Steve discussed with you?

5 A No.

6 Q What do you remember about that first meeting
7 with Steve and Samantha and Phoenix?

8 A That the -- that Phoenix was just adorable. It
9 was just like, it was one of our regular kind of meetings.
10 Me and Steve sat and talked and played guitar and played
11 with the, the baby. She was only four months old. Four
12 months old, they don't really do much, so. And Samantha
13 just sat there and she wasn't rude or, she was just quiet
14 and, you know --

15 Q Did you --

16 A -- it's not unusual.

17 Q Did you know that Phoenix had been apprehended at
18 birth?

19 A Again, right away on that first, that first
20 initial visit, no.

21 Q Do you recall when you learned that CFS was
22 involved with Steve and Samantha and Phoenix?

23 A Yes. After, it was after -- I'm assuming it was
24 after that they got her back is when I found out about them
25 being involved with CFS, because Steve said they had just

1 got her back, so. But there was never a long discussion
2 about, you know, my baby was taken by CFS and given back.

3 Q Okay. We heard evidence that the Phoenix had
4 visits with Samantha and Steve while she was still in the
5 care of CFS, and then ultimately was returned to them
6 permanently in September of 2000?

7 A Yes.

8 Q Where were you living at that time?

9 A 1331 Selkirk.

10 Q Who owned that house?

11 A Bev and Sylvan Stephenson (phonetic).

12 Q Who were they?

13 A They were my mother and father-in-law.

14 Q Who lived there with you?

15 A Me, my daughter and my two sons and Phoenix when
16 Phoenix moved in.

17 Q What about Mr. Stephenson?

18 A Ron stayed there a lot. A couple weeks here --
19 when he lived out in the country, I was out in the country
20 a couple weeks. Nothing was really ever documented, but he
21 had his own residence.

22 Q Sorry?

23 A He had his own residence.

24 Q Other than 1331 Selkirk?

25 A Other than 1331 Selkirk.

1 Q In the city Of Winnipeg?

2 A No, in the R.M of Reynolds, I believe. It was a
3 little town called McMunn. Wasn't even a town, there were
4 three houses and a mailbox.

5 Q Okay. And we'll come back to how much time each
6 of you was spending in the house later.

7 A Okay.

8 Q But the house on Selkirk was owned by his
9 parents?

10 A Yes.

11 Q Okay. And I understand that you and
12 Mr. Stephenson separated in 2003?

13 A We separated in 2003, yes. We separated before
14 that, we were separated before I even met Steve. We were
15 married in, the end of, the ending of 2006, November of
16 2006. We went to Jamaica. Within, I would generously say
17 three and a half months, we were separated. We had a
18 relationship that was a make up, break up, make up, break
19 up. It wasn't volatile, it wasn't angry. When we couldn't
20 be around each other we went away from each other.

21 Q Okay. So then, as I said, we'll explore as we go
22 through the dates when you were living in the residence on
23 Selkirk Avenue, and when you weren't.

24 A Okay.

25 Q Did you say you separated or divorced in 2006?

1 A No, actually my divorce was final, I believe, it
2 was either 2009 or 2010, just before Rohan Stephenson
3 remarried.

4 Q And you married when? Just -- sorry, there's
5 just a little bit --

6 A Oh I'm sorry, I'm married in '96, I'm sorry.

7 Q So you married Rohan Stephenson in '96?

8 A Yes.

9 Q And you separated --

10 A Separated and then we tried reconciling,
11 separated, tried reconciling. We've always remained
12 friends. We haven't been as close as we once were, once he
13 remarried and after he landed in the hospital. But we've
14 always remained cordial. Like we can attend birthday
15 parties and -- like we don't, you know, have dinner
16 together, but when our grandchildren have birthday parties
17 or, or our children have events we attend and we all get
18 along.

19 Q So you told us that you first met Phoenix in the
20 summer of 2000, and starting at that point until the last
21 time you saw Phoenix, which I expect we'll hear was in
22 2004, I want to go through with you that timeframe and have
23 you tell us when Phoenix was spending time with you and how
24 much time she was spending with you, all right? And so
25 we'll, we'll do that sort of overview, and then we'll come

1 back to some more specific aspects of, of her time with
2 you. But let's start with an overview. You said that you
3 met Phoenix in, you think it was July of 2000? Could it
4 have been August?

5 A It could have been August.

6 Q Okay. And then we know that Phoenix was returned
7 to Steve and Samantha in September of 2000. Did you see
8 her at that point?

9 A Samantha or Phoenix?

10 Q Phoenix.

11 A Phoenix? Yes, Steve would come over for visits
12 and so forth. Once we reconnected after those months that
13 we hadn't seen each other, he started coming around much
14 more frequently and he would bring Phoenix but not Samantha
15 with him.

16 Q Okay. So is that the fall of 2000?

17 A That would be the fall of 2000, yes.

18 Q During that time --

19 A Late summer, fall.

20 Q Pardon me?

21 A Late summer, fall. Depending on when you, you
22 know, the clock fall -- if you're talking about actual fall
23 that would be October, November. But it would have been
24 more late, you know, summer. So late August, September.

25 Q Okay. What about in October, September, October,

1 November of 2000?

2 A Well by October, I would say that Steve was -- I
3 was taking Phoenix on the weekends. Steve had asked me if
4 I would, you know, just give them, you know, a break on the
5 weekends and I gladly did it. And, and then by November I
6 would say it had sort of flipped. November, December, it
7 flipped where I would have her during the week and then she
8 would go home on the weekends. Some weekends she would go
9 home, other weekends she wouldn't.

10 Q Okay. So then, what about -- was that true for
11 December of 2000 as well?

12 A Yes, and January.

13 Q January of 2001?

14 A Yes. And February and March and part of April.
15 I had her from, like during the week from the time it has
16 been stated that CFS gave her back to Samantha and Steve
17 until the birth of Echo. Because it was, the pregnancy was
18 one of the reasons why Steve had asked me to do it, because
19 he thought that Samantha pushing the baby away and he used
20 words like hormonal, she's being hormonal. And she just,
21 you know, she's crying and so forth and I really don't want
22 the baby around that, and I like -- I like what you got
23 here, Ms. Edwards.

24 Q He said I like what you got here?

25 A Yeah. Like, he, he always told me that he loved

1 my little family, my family was great.

2 Q So we heard -- we know that Echo was born in
3 April of 2001 and you say by that time Phoenix was spending
4 most of the time during the week with you?

5 A Yes.

6 Q Was she still going home on weekends?

7 A She was going home some weekends. Like when I
8 say she was spending her time with me during the week, it's
9 not like Steve wouldn't see her, you know, at all during
10 that week. He would come by and visit and we would play
11 guitar and stuff like that, but Phoenix would stay with me.

12 Q During this time when Phoenix was at your house
13 in 2000, and now we're up to the spring of 2001, did
14 Samantha come to visit Phoenix when Phoenix was staying
15 with you?

16 A I recall maybe one time that she had come while
17 she was, was pregnant.

18 Q You said Steve came to visit?

19 A Steve came to visit all the time.

20 Q And Echo was born at the end of April, 2001?

21 A Yes. And Phoenix went home -- it was -- I said,
22 you know, maybe you should take Phoenix, introduce her to
23 her little sister and bond with family, and so Phoenix went
24 home.

25 Q Okay. Do you recall where Phoenix was when Echo

1 died?

2 A I believe, I might be recalling this wrong, but I
3 believe that she was at my house, the, the morning that
4 Echo died, and I was supposed to be dropping her off. I
5 was going to go out to McMunn. I, I remember I had the car
6 packed. It was early in the morning, maybe about 8:30,
7 9:00, when I got a phone call from Denise Hoogavorst. She
8 knew Steve, and she's the one that had informed me that the
9 baby had passed away and that the police had taken Steve to
10 the police station.

11 Q Now that was in July of 2001 that she passed
12 away. You said that you took Phoenix back home when she
13 was born at the end of April, 2001. Did Phoenix stay at,
14 at the house with Steve and Samantha then once they brought
15 the baby home?

16 A Yes, I'm sure it was just that Phoenix was there
17 for a visit because she always wanted to, to come to my
18 house. If she -- if I went to visit, she would want to
19 come with me or if one of -- most likely it would have been
20 my, my oldest child, my daughter, would stop in and say hi
21 to Steve and Phoenix would want to, to leave with her and
22 Steve would allow Phoenix to come with me.

23 Q To leave with your daughter and come back to your
24 house?

25 A Yeah.

1 Q Okay. Did you attend Echo's funeral?

2 A Yes, I did.

3 Q Where was Phoenix that day?

4 A She was with Denise Hoogavorst's mother, Irma
5 Hoogavorst (phonetic).

6 Q And that's a friend of Steve's?

7 A Denise, yes. She was actually at, at this point
8 a friend of all of ours.

9 Q Okay. So then, Phoenix's -- Phoenix (sic) died
10 in July of '01, so in the summer of 2001, where was Phoenix
11 living?

12 A In the summer of 2001 she was back living with
13 me?

14 Q How did that happen?

15 A After Echo passed away, Steve was, he was a real
16 mess, like all he did was play his guitar and it was just
17 one song for the longest time and sometimes that would
18 entail drinking and it was actually him and his sisters,
19 and his sisters, I don't believe that they're still married
20 but his sister's husband asked me if I would take Phoenix
21 back because they thought Phoenix would be safe and, to be
22 honest with you, everybody believed that that was the best
23 place for Phoenix. In fact, I believe it was Geni's
24 husband who once -- I was taking Phoenix home one day and I
25 hadn't met Richard yet, and he goes oh, you're Phoenix's

1 mom. I corrected him and, and said, no Samantha -- and
2 before I could get Samantha's name out, he said I know who
3 you are and you're Phoenix's mom.

4 Q Geni is Steve's, one of Steve Sinclair's sisters?

5 A Yes.

6 Q And Richard was her husband?

7 A Yes.

8 Q So in the summer of 2001, Phoenix was staying
9 with you after the funeral, after Echo's funeral?

10 A I believe, yes. I picked her up from -- because
11 I had a vehicle, I picked her up from where she was being
12 babysat and I really don't recall whether I went home or I
13 went to Steve's. I think it's more likely I went to
14 Steve's.

15 Q So for the rest of July and August of 2001,
16 Phoenix stayed with you?

17 A For the first month or so, she was between homes.
18 We were bringing her back and, you know -- just so Steve
19 could see her and just remember that he did have Phoenix
20 still and not to forget that he had Phoenix alive.

21 Q Did you -- did Phoenix stay overnight with Steve
22 during that time?

23 A Yes.

24 Q So now the fall of 2001, September, October,
25 November, where was Phoenix spending her time?

1 A With me.

2 Q Overnight?

3 A Overnight. There was a period for a little while
4 where Steve didn't come -- when I say a little while, I
5 mean, like, I would say in the span of, I'd say six weeks
6 where he, he didn't come around at all.

7 Q When was that?

8 A That, that would be the summer, end of summer and
9 fall. So I would say late summer there was a little bit of
10 time that he didn't come around.

11 Q And then up to the end of, of 2001, Phoenix was
12 staying with you?

13 A Yes.

14 Q And Steve was visiting?

15 A Yes.

16 Q Was Phoenix living with you full time at that
17 point?

18 A Pretty much. Like, she would go home and Steve
19 would have her for, you know, a day or two. And again,
20 Phoenix would want to come back. Because that's, that was
21 home to her. Like that's where all of the toys were,
22 that's where all of, you know, like, we were, like the
23 people that were every day in her life.

24 Q What about --

25 A And Steve would let her.

1 Q Sorry?

2 A And Steve would let her.

3 Q Okay. What about January, February, March of
4 2002, the next year, where was Phoenix spending her time?

5 A With me. Like, she was -- the, the way that --
6 Phoenix's main residence was my home. She would spend, you
7 know, weekends at Geni's or, or Sheila's, Steve's sisters,
8 or she would, you know, spend a few days at home with dad.
9 But it was never, okay, Kim's going to have her for a
10 weekend on such and such a day, Steve's going to take her
11 and then on such and such date Kim's going to take her
12 back. It was, it was -- Phoenix came and went from her
13 family and my home as she wanted to. If she wanted to --
14 say, Sheila, I remember Sheila once coming to my house and
15 wanting to take Phoenix and Phoenix wanted to go with her.
16 Go with aunty for a little while, go swimming. I believe
17 that one time, my daughter actually ended up bringing her
18 back from the pool. But, but Sheila took her and went
19 swimming and my daughter always went swimming on, I think
20 it was Wednesdays she would do the swimming at Centennial
21 pool.

22 Q So from the summer of 2001 to, I'm stopping March
23 of 2002, if Phoenix wasn't staying with you, did you know
24 where she was?

25 A Yes.

1 Q And you said sometimes she would be with one of
2 Steve's sisters?

3 A Sometimes she would be with one of Steve's
4 sisters. If she went to Steve's then Steve said, okay,
5 Sheila you can take her or okay, Geni you can take her, I
6 wouldn't know. He would phone me and say, okay well
7 Geni's, you know, got her or anything like that but check
8 in. But if she was taken from my home, say she was with me
9 and Geni or Sheila or Angie asked Steve to take Phoenix
10 somewhere, they would have to come and ask me. I wouldn't
11 -- Steve wouldn't phone me and say, okay, well Geni's
12 coming or Sheila's coming. It would always be, well Kim,
13 you've got to ask Kim because I don't know what Kim's got
14 planned for, for Phoenix.

15 Q So they would ask you directly if they wanted to
16 pick Phoenix up?

17 A Sometimes they would ask me directly,
18 sometimes --

19 Q Okay.

20 A -- you know, Steve would phone and say it's all
21 right that, you know, do you got any plans or is it okay if
22 Geni picks or whoever picks up Phoenix and it would always
23 be, yes, like -- Phoenix was my never kept from the family.

24 Q What was the, the neighbourhood like? Where was
25 your house on Selkirk with, in relationship to where Steve

1 lived and Steve's sisters lived? Can you just paint that
2 picture for us?

3 A Absolutely. I lived right on Selkirk Avenue --
4 I'm not really good with direction -- on the far side of
5 McPhillips going towards King Edward. My neighbourhood was
6 a, a nice neighbourhood, quiet. Steve's neighbourhood, not
7 as quiet. He was more towards the heart of the, the north
8 end, where I was more the beginning of the, the suburb of
9 the north end. And our house in relation to each other was
10 a straight line, it's like a zigzag. We were -- if you
11 give me a sec I can count the blocks, maximum ten blocks
12 away from each other.

13 Q Between your house and Steve's house?

14 A Yeah. If you walk the diagonal I think you could
15 walk it in like 15 minutes.

16 Q And what about Steve's sisters' houses?

17 A At that time, I really didn't know where Sheila
18 lived. But Geni lived on the same street as Steve and you
19 had to pass Geni's house to get to Steve's house.

20 Q Okay. Between September of 2000 and March of
21 2002, did anyone from Child and Family Services ever
22 contact you with respect to Phoenix?

23 A No.

24 THE COMMISSIONER: What were those dates again?

25 MS. WALSH: September 2000 when Phoenix was

1 returned to her parents, and March of 2002 which is where
2 I've stopped in our chronology of where Phoenix lived.

3 THE COMMISSIONER: And your question was?

4 MS. WALSH: My question was, during that time,
5 did anyone from Child and Family Services contact
6 Kim Edwards?

7 THE COMMISSIONER: And your answer was?

8 MS. WALSH: No.

9

10 BY MS. WALSH:

11 Q So, now from April of '02 -- in April of '02,
12 Phoenix turned two, right?

13 A Yes.

14 Q From April of '02 until the end of '02, where was
15 Phoenix living?

16 A My house.

17 Q Was the relationship the same in terms of Phoenix
18 spending some time with her father as well?

19 A Yes, that always remained consistent.

20 Q How often during that period, from April to
21 December of '02, did Steve come visit Phoenix at your
22 house?

23 A As I just said, like, the, the -- it remained
24 consistent. Like he was always there. We were friends.
25 We hung out not only with Steve and I friends, but Steve's

1 friends were my friends. So say Denise and her boyfriend
2 were, were coming over. Steve might come with them. It,
3 it -- like I said, it was never said, Steve would just pop
4 in. It was one of my peeves with Steve is that he would
5 just coming knocking on my door.

6 Q Now you said he was friends with you. Did he
7 interact with Phoenix when he came over?

8 A He played with Phoenix, he interacted with
9 Phoenix. He would -- he'd put her on her lap and they'd
10 play guitar together. Like he was right involved with,
11 with Phoenix, that was his little girl.

12 Q During that time, so we're, we're still in April
13 to December of '02, did Phoenix also spend time at Steve's
14 house?

15 A I'm sure she did.

16 Q Overnight?

17 A Overnights, yes.

18 Q What about with his sisters?

19 A I'm sure that happened too. I don't recall ever
20 a time that the sisters came and, and took her from me to
21 spend the night. So when she was Steve, I would have got a
22 phone call just to say, you know, Phoenix is going to stay
23 at Geni's tonight and play with the cousins or whatever.

24 Q Now we've heard evidence that sometime towards
25 the end of 2002, Phoenix got some foam stuck in her nose.

1 What do you remember about that?

2 A I, I remember noticing her nose. She always had
3 a runny nose, like all kids have runny noses. But I, I
4 noticed the fact that her nose was always running at which
5 point once it started to get raw and red, I thought that
6 maybe it was a sinus infection or something, and told Steve
7 to take her to the clinic which was just right there on
8 Selkirk.

9 Q Do you recall when this was approximately?
10 Before Christmas of '02? After?

11 A I think that I noticed, I think it was more in
12 January that I noticed the -- December, end of December,
13 January.

14 Q So that would be December '02, January '03?

15 A Yeah.

16 Q Okay. So you said you told Steve to take her to
17 the doctor?

18 A Yeah.

19 Q Did he?

20 A I'm not sure whether he did or not. But it --
21 the problem never went away.

22 Q So then what?

23 A So then I took her to, down to the -- I can't
24 remember the name of the doctor, but he's been the same
25 doctor and there's a pharmacy right next door. It's called

1 the Good Neighbour Pharmacy, I think.

2 Q Good Neighbour Pharmacy?

3 A Yeah. And I took her into the doctor and I got
4 in to see the doctor, told him that I didn't have her
5 medical card. And he looked up her nose, took a scope and
6 looked up her nose and said that she had a piece of foam in
7 there. But he couldn't remove it because he didn't have
8 the, her medical information, but I could take her home and
9 take a pair of tweezers -- he asked if I had a pair of
10 tweezers, I said yes. He said that I could take a pair of
11 -- take her home and just pull it out myself. I thought
12 that to be fairly strange and odd, like if it's that easy
13 can't you just pull it out, forget, you know, the bill, but
14 he didn't. So I took her home and I believe Ron was there,
15 'cause he would have to have been because my kids wouldn't
16 have been left completely alone while I was at the doctor's
17 office and I don't bring them all. And I asked him to hold
18 Phoenix while I did this, like hold her head very tightly.
19 He's a health care aide, so he can, you know, restrain.
20 And I, I put the tweezer just up her nose and was able to
21 grab the foam, and as soon as I tightened it and pulled,
22 Phoenix just started screaming like really bad, like she
23 was in a lot of pain. And I just immediately pulled the
24 tweezers out of her nose and we let her go and comforted
25 her. And I believe it was at that time Ron said, you know,

1 that's it, I'm taking her down to the Health Science
2 Centre.

3 Q Did -- and is that when he did?

4 A Yes. He, he did take her to the Health Science
5 Centre and they did take the material out of her nose.

6 Q And we've seen records that showed that that was
7 at the end of February 2003?

8 A Yes.

9 Q Did anyone from Child and Family Services contact
10 you after that hospital visit?

11 A No.

12 Q So then from the end of February 2003 to June of
13 2003, where was Phoenix?

14 A Again, my house was her primary residence, she
15 was with me. She'd be with Steve for, you know, a few
16 days. The sisters would take -- the relationship between
17 myself, Steve and his family and Phoenix, and my family, it
18 remained consistent.

19 Q So that was true for 2001, 2002 and 2003?

20 A Yes.

21 Q In June of 2003, were you living in Winnipeg?

22 A Yes.

23 Q You talked about a property in McMunn?

24 A Yes.

25 Q Did you spend time there at any point?

1 A Yes, we went out there quite a lot actually. It
2 was my father's property. We had horses out there. It was
3 -- I think it was actually the year Phoenix was born that
4 we started collecting the horses. And my dad started to
5 buy the horses. My dad had a habit of saying I want that
6 and then go out and do it and then worry about it later.

7 Q Did you take Phoenix out to McMunn?

8 A Several times, like she was out there a lot. I
9 was out there a lot. And if Steve -- if Phoenix was with
10 me and I said, okay I'm going to out and visit, or I'm just
11 going to go out to the country for, you know, a while just
12 to get away out of the city, Phoenix would go with me
13 because Phoenix was part of my family.

14 Q Now we've heard evidence that Phoenix was
15 apprehended from Steve's care by CFS at the end of June of
16 2003?

17 A Yes.

18 Q Where were you at that point?

19 A I would have been in McMunn.

20 Q Why?

21 A I went out there to visit Ron, took my kids and
22 went out to, to visit Ron in McMunn. And this particular
23 time, Phoenix didn't go with us, I don't recall why. I
24 just remembered thinking that Steve needed to spend some
25 time with Phoenix, a large amount of quality time, and that

1 I was going out there. I, I believe I told him I was going
2 out for a couple of weeks but I ended up staying a little
3 bit longer.

4 Q Were your kids not in school in Winnipeg?

5 A You know, I'm thinking that they were in school,
6 but I'm the type of person, like the last week of school
7 where there's nothing to do and if there's like a, a plan
8 to do something, then it's not really that important.
9 It's, you know, they're not learning anything. They're not
10 missing anything.

11 Q Do you remember when you came back to Winnipeg,
12 when it was?

13 A I don't remember the exact date it was, no, but I
14 do remember coming back to Winnipeg. I don't think it
15 would have been the first night that I arrived back, but
16 the next day I would have went over to see Phoenix and I
17 remember knocking on the door and Steve telling me that she
18 was apprehended, that CFS had apprehended her. And he had
19 a -- I remember it because he had a, a very difficult time.
20 Like he wasn't trying to hide it or anything, he was just,
21 you know, he was just having a very difficult time telling
22 me that, you know -- I guess all of the time spent trying
23 to protect Phoenix was I guess in vain at this point,
24 because CFS had taken her. We honestly didn't think that
25 we were going to have Phoenix placed in my home.

1 Q When she was apprehended you mean?

2 A Yes.

3 Q So was this, this was sometime after June of
4 2003?

5 A Yes.

6 Q Was it July?

7 A It would have been in July, yes. Like, I was
8 gone for maybe a month, so like I would -- I would say the
9 end of July. I can't give you exact dates.

10 Q So after Steve told you that Phoenix had been
11 apprehended, what happened?

12 A The first thing that I said was, well need to --
13 we need to go get her and suggested that we call Stan
14 Williams, his social -- he knew the social worker's name, I
15 didn't, I said the social worker, let's call the social
16 worker and just fess everything up and maybe because
17 there's the, the bond, the established bond with Phoenix
18 they will put her with me.

19 Q And when you say fess everything up, what do you
20 mean?

21 A That Phoenix was living with me -- and, and this
22 whole time after they had returned her, like her primary
23 residence -- I keep saying living with me, but my primary
24 residence, it was Phoenix's home, it was her sanctuary.
25 Everybody knew it was her sanctuary.

1 Q So Steve called his social worker, Stan Williams?

2 A Yes. I believe we actually made the phone call
3 together but he spoke with the worker.

4 Q And as a result of that, what happened?

5 A I was called by Stan Williams and an appointment
6 was set up to come and fill out the paperwork in regards to
7 putting her in my home and for them to do a, I guess a home
8 check, I believe is what he called it, was a home check.

9 Q And as I said, we're going to come back and go
10 through the details of all of that once we've established a
11 general chronology. So Phoenix did come back to your house
12 at some point?

13 A Yes.

14 Q What do you remember about that? How did she get
15 there?

16 A Stan Williams drove her to my home.

17 Q Do you remember when that was?

18 A That would have been about three days, three days
19 after the initial home visit from him.

20 Q Okay. And we'll see, we'll see what his notes
21 show but would that be in around August of '03 or end of
22 July?

23 A Yes.

24 Q And then what?

25 A What do you mean then what?

1 Q Phoenix lived with you?

2 A Yes, Phoenix lived with me. Phoenix lived with
3 me from the time that Steve, or sorry, that Stan Williams
4 put her in home until the day that Stan Williams, I believe
5 it was a month later, maybe a month later -- wasn't --
6 October maybe, so maybe two months later Stan Williams
7 called me and asked me if I believed that Steve is ready to
8 take back care and control of Phoenix and at that time I
9 said no, not really. I don't think he's going to do
10 anything to her and she's just going to end up back here,
11 very frank with that. But then the next day or the day
12 after that I got a phone call saying we've decided that to
13 return Phoenix to her father and if you could just, you
14 know, pack up her stuff and bring it along with Phoenix to
15 her dad, if you can just do that because you're his friend.

16 Q That was at the beginning of October?

17 A Yes, that was when Phoenix went back home to her
18 dad.

19 Q 2003?

20 A Yes.

21 Q During the time that Phoenix was placed with you
22 by Child and Family Services, do you remember having
23 contact with Stan Williams?

24 A I'm sorry, can you repeat that?

25 Q While Phoenix was placed with you --

1 A Yes.

2 Q -- while she was under apprehension, do you
3 remember having contact with Stan Williams?

4 A Other than that one phone call telling me, or I
5 guess the two phone calls, the first one asking me if Steve
6 was ready and then the second phone call telling me to
7 bring her home now.

8 Q You said he visited your home before he brought
9 Phoenix?

10 A Yes.

11 Q What about anyone else from CFS? During the time
12 that Phoenix was in your care officially while she was
13 apprehended, do you recall contact from anyone else at CFS?

14 A No, I don't. It's not that I, I recall or I
15 don't recall. There was no contact. The only social
16 worker I ever spoke to, whether it be -- but at this point
17 the only social worker I had spoke to was Stan Williams, on
18 the phone, in person.

19 Q We heard evidence from a Mr. Rojas that he
20 communicated with you by mail and came to visit you and
21 we're going to come back to that but do you recall
22 receiving communications from him and meeting with him?

23 A It didn't happen.

24 Q He was not a social worker like Stan Williams.
25 He was a place of safety worker, which we've heard was a

1 support program.

2 A Again, I never met anybody but Stan Williams, not
3 no foster home coordinator, nothing like that, no social
4 worker, just Stan Williams.

5 Q So did you pack Phoenix up and return her to her
6 father at the beginning of October '03?

7 A Well, I won't say I packed Phoenix up. I packed
8 some of her stuff and took her to her dad.

9 Q Did she stay with Steve at that point?

10 A Yes, she did, but she again would come back for
11 visits and she would come back to spend nights. Again,
12 there was never any keeping track of this so she would come
13 stay with me for like three or four days and go home for a
14 few days.

15 Q So we're into the end of 2003, October, November,
16 December. Was Ron living in the home with you at this
17 point?

18 A Ron was staying there a lot at this point. He
19 was there in the home. I don't understand your question.

20 Q How much time was Ron --

21 A Was Phoenix or Ron?

22 Q Ron.

23 A He was there a lot. I won't deny that he was
24 there a lot. Like I said up until 2004 when he got sick we
25 had a make up, break up kind of thing and but we had always

1 remained friends. Like if he needed me for something I
2 would be there. If I needed him for something, he'd be
3 there. We were friends. We started out as best friends
4 and then we got married ten, however many years later and
5 it all went downhill after the piece of paper. But we
6 were, we started out as best friends, so he was around a
7 lot. I won't say he lived there at this point. I believe
8 in December of 2003 he moved in when I moved out.

9 Q And you moved out?

10 A Yeah, I said I'm gone for good you --

11 THE COMMISSIONER: What month was that?

12 THE WITNESS: December.

13 THE COMMISSIONER: '03?

14 THE WITNESS: It was, I believe it was December
15 '03, yes.

16 THE COMMISSIONER: '03.

17 THE WITNESS: December 26th, I believe.

18

19 BY MS. WALSH:

20 Q Where were your children by December of '03,
21 where were they living?

22 A They were still -- the children, two of the
23 children had, they had spent some time out in McMunn that
24 they had done. They were living, the two boys were living
25 with their dad on the farm. And I believe they did a whole

1 school year on the farm. Unfortunately I don't recall what
2 year that was and I would have to look back at report
3 cards, if I even have those report cards because, again,
4 when we split, I don't know whether Ron has those report
5 cards or I have those report cards.

6 Q Well, how much time were the boys spending in
7 Winnipeg?

8 A They were going to school out in McMunn, so they
9 would be spending like the weekends with me or I would be
10 going out to visit them.

11 Q What about your daughter?

12 A My daughter lived with me for a while.

13 Q In '03 when you were still living in the home on
14 Selkirk, where was your daughter?

15 A She would have been with me.

16 Q On Selkirk, living on Selkirk?

17 A On Selkirk, living on Selkirk. Until Ron moved
18 in in December my daughter was with me.

19 Q Okay. So you said December '03 Ron moved in
20 permanently and you moved out?

21 A Yes.

22 Q And when you moved out where did you go?

23 A Oh gee, I couch surfed for a while.

24 Q Couch surfed?

25 A Staying at friends' houses, couch surfed. I

1 stayed on Juno Street, it's just off William, for it was
2 only a couple of weeks I stayed on Juno, maybe, maybe a
3 month. Then I moved to a residence on Winnipeg Avenue, way
4 up Notre Dame.

5 Q When was that?

6 A That would have been maybe the end of ...

7 Q Are we still in '03 or are we now into '04?

8 A No, we are in, we're into '04 now, like when I
9 left --

10 Q So January '04?

11 A -- in December I went to Juno Street and then the
12 middle of January, February, so I would say the end of
13 February I moved into, around the end of February I moved
14 into the residence on Juno, or I'm sorry, Winnipeg Avenue
15 from Juno.

16 Q And how long did you stay in that house on
17 Winnipeg Avenue?

18 A I believe it was May I left.

19 Q So from February to --

20 A To May.

21 Q -- to May 2004; is that right?

22 A Yeah, I would say late February. I don't know
23 exact dates, that's a long time ago, and to be honest with
24 you, that is -- it was a rough period of my life, you know.
25 I was living, or I was staying on people's couches. I was

1 relying on, you know, other people. This wasn't something
2 that I was used to doing. I was used to having a home
3 and ...

4 Q Why was it a rough period?

5 A I just left my husband. I was going through my
6 own personal feelings of my life is absolutely going
7 nowhere, I'm doing nothing. Let's just say an identity
8 crisis or we could say, you know, a semi-mid life crisis, I
9 don't know, call it whatever you want. I was just going
10 through my own difficult time. And the fact that I moved,
11 I believe it was five times or six times in just as many
12 months because I was not liking the -- I would move in and
13 I didn't like the area or what was going on around me.

14 Q So --

15 A Like my neighbours and such.

16 Q -- from say November to, and December of 2003,
17 where was Phoenix spending time?

18 A Again, between my house and Steve's house.

19 Q When you say your house at that point you still
20 mean Selkirk?

21 A 1331 Selkirk, yes.

22 Q Do you recall Samantha picking Phoenix up at some
23 point before the end of December 2003?

24 A No, I don't recall Samantha picking her up. I
25 recall Samantha coming to the house and I would have been,

1 I don't know why, probably just visiting, but I was at 1331
2 one particular day and Samantha had come with, I believe,
3 it was Karl.

4 Q Karl McKay?

5 A Karl McKay, yes, and asked to take Phoenix
6 trucking with them, like on the road in a big rig across
7 the country, I knew Samantha's brother and I knew that she
8 had a job and so forth and even with all that, I didn't
9 think it was a great idea to put a baby in the truck and
10 drive across country. I called Steve, we talked. He said
11 I don't think that we should let her take her and I told
12 her no, she went away. But I don't actually recall the
13 date.

14 Q Do you know when that was?

15 A That would have been February.

16 Q Of '04?

17 A Of '04. Same year that she come back to, to --

18 Q Okay. So you jumped ahead two months ahead from
19 where I was but that's fine.

20 THE COMMISSIONER: Just a minute. It was -- was
21 it February '04 she came and wanted to take Phoenix out in
22 the truck?

23 THE WITNESS: Yes.

24 THE COMMISSIONER: That was February '04?

25 THE WITNESS: Yes.

1 THE COMMISSIONER: When was the last time prior
2 to that that you had seen Samantha?

3 THE WITNESS: Oh Lord. I would have to say, I
4 don't really recall the last time that I had seen Samantha.
5 I had only seen Samantha maybe, and this is being generous,
6 about seven times in all the time that I had Phoenix.

7 THE COMMISSIONER: You saw her about seven
8 times --

9 THE WITNESS: In total.

10 THE COMMISSIONER: -- over the period you had
11 Phoenix?

12 THE WITNESS: Yes.

13 THE COMMISSIONER: And were those seven times,
14 times Samantha came to your house?

15 THE WITNESS: I believe Samantha came to my house
16 about maybe four times. They were just in and out visits,
17 it wasn't any kind of, you know, there 15 minutes, hi. You
18 know Phoenix, Phoenix plays shy, okay, see you later.

19

20 BY MS. WALSH:

21 Q We heard evidence from Steve that you went with
22 him to pick Phoenix up from Samantha on Furby Street, I
23 think it was at the beginning of 2004. Do you remember
24 doing that?

25 A I remember driving him there. We were with

1 somebody else, I can't recall who it was, but yes, I do
2 remember driving him there.

3 Q Do you remember where you took Phoenix once you
4 picked her up?

5 A No, I don't recall.

6 Q So in January, February and March of 2004, where
7 was Phoenix spending time?

8 A Between 1331 Selkirk with Ron, myself on Winnipeg
9 and Steve and his family. When I say Steve, I just mean
10 his family.

11 Q And you said you had moved out by then.

12 A Yes.

13 Q Were you still spending time on, at the Selkirk
14 Avenue house?

15 A Yes. When I first left I was back every day. I
16 would go there every day, spend mornings, afternoons. Well
17 I shouldn't say mornings. To me morning is about noon.
18 I'd go there around noon and stay until the evening time
19 sometimes. Sometimes I would leave if I had something else
20 I had to do but it started where I was like going every
21 day, sort of tapered off to every second day, every third
22 day and it was like this until Rohan went into the
23 hospital.

24 Q When was that?

25 A I believe it was October of 2004.

1 Q So in January of 2004, were any of your children
2 living in the Selkirk Avenue home?

3 A I believe the boys were. I recall my, my
4 daughter had gone out to live with my father because my
5 father was now living in McMunn and a horse fell on my dad
6 and broke his leg and I remember my daughter, I believe she
7 was 16 at the time, 17, asked if she could move out to
8 grandpa's house to look after him because he was a single
9 man and he was by himself.

10 Q Your sons, you said, had been at school at some
11 point in McMunn?

12 A I believe the school they went to was in
13 Reynolds. It was called Reynolds School.

14 Q But --

15 A And it was in the town of Whitemouth, or it was
16 called Whitemouth School in the R.M. of Reynolds.

17 Q You're not able to be sure of when that was?

18 A No.

19 Q So can you recall when you moved out of Selkirk
20 Avenue by January of '04, can you recall whether the boys
21 were living in Winnipeg on Selkirk Avenue?

22 A The boys were living with Ron on Selkirk Avenue
23 when I moved out. In fact my daughter was living on
24 Selkirk Avenue when I moved out.

25 Q When did she go stay with your father?

1 A Well, the date that pops into my mind is her, her
2 sweet 16. She was born in '86, so what year would her 16th
3 birthday be? I suck at math.

4 Q 2002, I think. But, but what, what -- I'm trying
5 to -- I'm looking at the period of January --

6 A I understand what -- it's just my dad broke his
7 leg in 2003.

8 Q Okay.

9 A So but I was there, I lived my life, I know that,
10 that Phoenix was there. But you've got documents that say
11 that she was, you know, apprehended in 2003 when I have a
12 recollection of not that year and I have resigned to that I
13 am, I've completely somehow lost a year, somehow.

14 Q Okay, and we'll come back to that. But so we're
15 in, we're in 2004. You're not living on Selkirk Avenue,
16 Rohan is living there.

17 A Um-hum.

18 Q And --

19 A When I left in December of '03 is what these
20 documents are stating, all three of my children were living
21 at home --

22 Q With --

23 A -- with Ron --

24 Q Okay.

25 A -- in the home at 1331 Selkirk.

1 Q Okay. And you were coming to visit on Selkirk
2 Avenue?

3 A Yes, on a very regular basis. Like I said, it
4 started off daily but ...

5 Q In January and February of '04?

6 A It would have been pretty much a daily basis at
7 that time.

8 Q And where was Phoenix?

9 A Would either be with myself or with Ron.
10 Sometimes I would go and I would just pick up Phoenix and I
11 would take her back to Winnipeg Avenue or I'd take her out
12 for the day and bring her back to Ron at night. I wasn't,
13 I really didn't -- where I was staying I didn't have a crib
14 for her or -- I had a bed, I had one, you know, bed, but it
15 wasn't, she didn't have her toys there, she didn't have,
16 she didn't have anything there. She didn't have --
17 anything she played with there. She didn't have her
18 clothes there, she didn't have -- you know.

19 Q So you spent more time with Phoenix at the
20 Selkirk Avenue home in '04?

21 A Then -- in '04. Then in --

22 Q Then at your house on Winnipeg Avenue?

23 A At Winnipeg. But Phoenix had visited my house on
24 numerous occasions on Winnipeg Avenue.

25 Q And was the same arrangement with Steve visiting

1 and sometimes taking her --

2 A Yes, Steve actually -

3 Q -- in January and February of '04 taking place?

4 A Yes. I recall actually several visits while I
5 resided on Winnipeg Avenue where Steve came to visit. I
6 don't recall where I was going at the time but I had asked
7 him if he would come and watch Phoenix. I said me bringing
8 -- it would have been easier for him to take the bus up to
9 me than for me to get Phoenix all ready and can you just
10 come up. You can stay in the house for a couple
11 of days, come spend some time with Phoenix and he was glad
12 to.

13 Q What about in March and April of '04, where was
14 Phoenix spending time?

15 A Well March and up until when Samantha came and
16 took her in April she was again between the three of us,
17 either Magnus with Steve and his family, Selkirk or
18 Winnipeg Avenue.

19 Q Do you recall when it was that Samantha picked
20 Phoenix up?

21 A I don't. Like I recall when she -- but I don't
22 recall when Samantha went and picked her up.

23 THE COMMISSIONER: Were you home at the time?

24 THE WITNESS: No. I, I don't believe.

25

1 BY MS. WALSH:

2 Q Was it before Phoenix's birthday at the end of
3 April?

4 A Yes.

5 Q How did you find out that Samantha had picked
6 Phoenix up?

7 A I believe Ron told me.

8 Q Do you recall how soon after he told you after
9 she had been picked up?

10 A It wouldn't have been very long.

11 Q So do you recall when was the last time that you
12 saw Phoenix?

13 A I, I really do have a strong recollection but
14 it's not clear, but I surely recall being at Selkirk Avenue
15 the day that Samantha came and picked her up, because I
16 recall thinking that it was a wonderful idea that her mom
17 was coming to take her to go birthday shopping and wanted
18 to spend some, you know, a little bit of time with her.
19 Like I never had mom pick her up, but the dad only.

20 Q So but I thought you just said that Ron phoned
21 and told you that Samantha had picked Phoenix up.

22 A And I just said that I, I have a vague
23 recollection of actually being in there because I remember,
24 I remember details clearly, like where she was going to
25 take her and, and that she was going to return her at

1 supper time.

2 Q And what was your understanding of where Samantha
3 was going to take Phoenix?

4 A Just take her to -- she was going to take her
5 down to Portage Place and to the park and play with her and
6 buy her stuff for her birthday 'cause she had just got her
7 pay cheque. Like I said, I remember details but ...

8 Q And that was the last time you saw Phoenix?

9 A There's a lot that's very, very confusing to me
10 actually. After seeing a lot of these documents and it's
11 not that I'm, I'm the one that's mistaken because I, like I
12 was there, I lived it, and a lot of these documents the
13 dates are -- they just don't make sense to me.

14 Q Okay. Well we'll go through some documents with
15 some dates. So that's, that's a very brief chronology of
16 the time that Phoenix spent with you from the time you
17 first saw her until the time you last saw her. So now what
18 I want to do is go back and ask you some specific questions
19 relating to that time period. When Phoenix was first
20 returned to Steve and Samantha in the fall of 2000, do you
21 remember what Steve was like as a father?

22 A Well, he wasn't your, you know, typical dad, you
23 know, but he was a good dad, when he was around he was
24 really good with her.

25 Q Did you say he wasn't your typical dad?

1 A No, he wasn't your typical, what somebody you
2 say, you know what is a good dad, right, a good dad does
3 all these things. A good dad doesn't hand his baby off,
4 but I think this is what society sees as a good dad.

5 Q Well what did you observe?

6 A Well, he was really good. What I observed he was
7 an awesome dad.

8 Q Okay. Can you give an example?

9 A He was a friend to my children, he was an awesome
10 uncle to the kids that he helped to raise. He was, he was
11 great with kids.

12 Q And at that same time when Phoenix was first
13 returned to Steve and Samantha, did you observe Samantha
14 around Phoenix?

15 A Not much. A couple of times that she came to my
16 house, but other than that, no, not when she was first
17 returned to her.

18 Q How was Samantha when you did see her with
19 Phoenix?

20 A I would say, she would try to reach out to
21 Phoenix. Like she wasn't completely cold or distant, like
22 she did try and reach out to her. There was one occasion
23 where she came over to my house and Phoenix had just woken
24 up from a nap. And Phoenix didn't really like to go to
25 anyone when she first woke up and she would just stay on my

1 lap, not on my lap but lay on my lap, put her head on my
2 lap and stuff like that and she wouldn't go to her. And I
3 guess that particular day it upset Samantha and she had
4 called her a bitchy baby and I believe that's the last time
5 that I saw Samantha and that would have been in the
6 summertime and I recall summertime because I can see the --
7 I can close my eyes and I can see it, we're sitting in
8 front of my window and there's grass and there was no snow.

9 Q The summer of 2000 and just after she was
10 returned?

11 A No, no, no, no. She would have been about two.
12 She was talking and walking.

13 Q So this is after Echo?

14 A Yeah, 'cause she came down the stairs herself and
15 she was walking.

16 Q Just after Echo had died?

17 A Yes, this is well after Echo had died.

18 Q I see.

19 A But like I said, I didn't really observe. Other
20 than the first meeting when Steve and Samantha and Phoenix
21 came for that first initial visit, I didn't really observe
22 Samantha with Phoenix at all because Phoenix was here with
23 me and Samantha was over there. There was no interaction.
24 She had no problem with me having her child. She knew
25 exactly where Phoenix was. She knew that my door was open

1 to anyone who wanted to visit Phoenix.

2 Q Do you remember seeing Samantha with Echo when
3 Echo was born?

4 A No, I really don't.

5 Q Did you know Samantha and Steve --

6 A I recall --

7 Q -- separated?

8 A I know all about the -- I was, I was called
9 during the separation because Steve asked me to bring
10 Phoenix back to my house to stay with me on the full time,
11 can you look after her because Samantha had left him with
12 Phoenix and a newborn. So Phoenix would have been 13
13 months, 14 months.

14 Q So Steve asked you to take Phoenix and he'd
15 continue to care for Echo?

16 A He kept the baby and he would take care of Echo
17 and at that, at that point he could have asked me to take
18 both of the babies and I probably would have.

19 Q And you said you did attend to Echo's funeral?

20 A Yes, I did.

21 Q What do you remember about that?

22 A Just about the funeral day or events leading up
23 to the funeral or just the day?

24 Q Well, the funeral itself?

25 A The funeral itself, I remember taking Phoenix

1 over to Mrs. Hoogavorst's and I remember going back to the
2 funeral home and being a little disturbed by the presence
3 of police. I really didn't understand the presence of the
4 police and then I believe it was, it was either Steve or
5 one of his sisters who explained the police presence and
6 what was going on between, like the animosity that was
7 going on between Samantha and Steve during this time. I
8 remember Steve's family pushing me towards Steve and me
9 feeling a little awkward by it because I had never dealt --
10 to be honest with you, Echo's death was the first death
11 that I had ever dealt with in my life so I felt a little
12 odd that the family was pushing me towards Steve but Steve
13 had a very high respect for me and he always came to me
14 when he, when he needed some kind of guidance he would come
15 and he would sit down and we would talk and so forth and so
16 I'm assuming that was the logic behind the family.

17 I remember Samantha and I thought it was very sad
18 that Samantha rode to the cemetery in a police car. I
19 didn't, at the time I didn't know the circumstances of any
20 of that. I remember standing over the grave and the
21 minister talking. I remember Steve walking away, turning,
22 and just walking away. He couldn't take the emotion that
23 he was feeling and he walked away. I remember Geni, his
24 sister Geni, I remember looking and watching Steve walk
25 away and then looking back and seeing Geni walk towards me

1 and asking me to go and talk with him and that's what I
2 did. I remember after leaving the cemetery thinking the
3 same, that it was sad that Samantha was, you know, in the
4 back of a police car being driven away and I remember going
5 and picking up Phoenix from Denise Hoogavorst's mom.

6 Q Where did you take her?

7 A Like I said, I don't really recall where I took
8 her but because of what was going on and how my friend was
9 grieving, I think I might have taken her home to Steve but
10 not taken her home and dropped her off, but taken her home
11 and stayed there --

12 Q With Steve?

13 A -- and talked with Steve.

14 Q And in the weeks following Echo's death did you
15 spend time with Steve?

16 A I tried spending time with Steve and at this
17 point he had started drinking a little bit more than what
18 he normally did. He was going into despair, his daughter
19 had just died, you know. But Phoenix was my priority.

20 Q Pardon me?

21 A Phoenix was my priority. Once Phoenix began
22 staying with me it was all about Phoenix, everything was
23 always about Phoenix.

24 Q So this is the summer of 2001. Tell us what
25 Phoenix was like at that point.

1 A She was one who got -- she was walking, running
2 around, playing, trying to skateboard, trying to, trying to
3 do everything that my kids were doing. She was --

4 Q She would have been just over a year.

5 A She would have been just over a year, yeah.

6 Q Was she talking?

7 A She was talking. She was talking by the time she
8 was, oh I'd say 10 months. Not sentences or conversations,
9 but she was talking. I'd say by the time she was 16, 17
10 months she was having, you know, small sentence structure
11 and talking. You could communicate with her. She'd let
12 you know what -- she would speak when she wanted. She
13 wasn't a child that would cry or, I hate using this term
14 for a child, but she wasn't a child that would cry or whine
15 for something. She would ask for it.

16 Q I think you told us that during this time, the
17 summer of 2001, after Echo died, you did not receive any
18 contact from Child and Family Services?

19 A None.

20 Q I just want us to look at the closing summary
21 that was prepared by Delores Chief-Abigosis. It starts at
22 page 36999, it runs to 37008.

23 THE COMMISSIONER: Where does it start?

24 MS. WALSH: 36999.

25 THE COMMISSIONER: Yes.

1 MS. WALSH: You have that, Mr. Commissioner?

2 THE COMMISSIONER: Yes.

3

4 BY MS. WALSH:

5 Q And this is a closing summary dated August 16,
6 2001. You're all right seeing the documents on the screen?

7 A Yes.

8 Q If we turn to page 37000, under the heading
9 "Extended Family, Significant Others, Other Agency", if you
10 scroll down to the bottom you see your name is there?

11 A Yes, I do.

12 Q And you're described as Steve's friend and next
13 to telephone it has your address and that was accurate
14 information in 2001?

15 A Well, I certainly didn't give the agency my name
16 and address, so I can't really give you an answer as to
17 it's accurate. That I was his friend, yes.

18 Q And that you were living on Selkirk Avenue?

19 A And that I was living on Selkirk. Steve may have
20 told them but it's --

21 Q You didn't give this information?

22 A I didn't give them this information.

23 Q Okay. And if we go to the next page, 37001,
24 you're listed again as Kim Edwards, Steve's friend, no
25 phone, 1331 Selkirk Avenue. Did you not have a phone in

1 2001?

2 A I did, I did. I had not only a house phone but a
3 cell phone.

4 Q So a landline and a cell phone?

5 A And a cell phone.

6 Q Did Steve?

7 A He did for a while but I don't recall him having
8 a phone for a long period of time.

9 Q So he didn't communicate with you primarily by
10 telephone?

11 A No, he wouldn't. Steve doesn't really primarily
12 communicate with anybody by telephone. He gets up, he
13 walks to where they are and communicates with them face to
14 face.

15 Q So did Ms. Chief-Abigosis try to get in touch
16 with you in July of 2001?

17 A No.

18 Q If we turn to page 37003, scroll to the bottom of
19 the page, under the heading "July 6, 2001" it says:

20

21 "Field to 740B Magnus to meet with
22 Steve. Steve was at home with his
23 youngest child --"

24

25 THE COMMISSIONER: Just where are you reading

1 now?

2 MS. WALSH: At the bottom of page 37003.

3 THE COMMISSIONER: Yes. July 6th?

4 MS. WALSH: Yes.

5 THE COMMISSIONER: Okay, carry on.

6

7 BY MS. WALSH:

8 Q So Phoenix, she lists,

9

10 "... was not at home she was at
11 his friend Kim Edward's home for
12 the afternoon. Steve stated he
13 gets her to watch her if he needs
14 to go somewhere. The house was
15 very clean, although it was
16 sparely furnished, and there were
17 about six kittens including the
18 mother. Steve stated that he is
19 looking for a home and that the
20 kittens would be ready in about
21 two weeks to leave their mother."

22

23 A home for the kittens. So that, that reference to Steve
24 to telling the social worker that Phoenix was your place
25 for the afternoon, that makes sense to you?

1 A Sure, I remember the six kittens.

2 Q You do?

3 A But I've never saw no social worker and no social
4 worker ever got in touch with me.

5 Q Other than Stan Williams?

6 A Other than Stan Williams.

7 Q Now you said that after Echo died, Steve was, I
8 can't remember the words you used, he was, he was sad.

9 A He was falling in -- yeah, he was, he was -- his
10 daughter had just died, yeah, I'll just use the word sad.

11 Q And he was drinking?

12 A Yeah, he was drinking.

13 Q Was he getting any help, assistance for his
14 drinking, to stop drinking?

15 A I, I don't know, I don't believe so, no. Can I
16 just add something? What I do know about that time period
17 when Steve was drinking after Echo died is he had a lot of
18 influence, like outside influence telling him, like you
19 know, drink this and, you know, let's just get drunk and
20 you'll forget, instead of, you know, Steve, you know, face,
21 you know, your grief head on and you'll get through this,
22 you know, stuff that family services should have been
23 doing.

24 Q We've heard evidence from the social worker who
25 was involved with apprehending Phoenix in June of 2003 that

1 Phoenix called most women mom. What did Phoenix call you?

2 A Well, when -- because Phoenix was living with me
3 and I had my kids with me and my kids were calling me mom,
4 Phoenix started calling me mom and we explained to her the
5 best that you could explain to a baby, I wasn't mom, I
6 wasn't her mom and I, I got my children to call me nana. I
7 didn't know Samantha as, you know, good friends or whatever
8 but I still knew her and I thought that it would be a
9 little awkward if Samantha came to visit, so I got my
10 children to start calling me nana. So Phoenix would have
11 just, just picked up on it. And my children would call me,
12 like they'd be excited and they'd call me and they'd say
13 like mom, nana, mom, and they would do this on a regular
14 basis, just forgetting, and what Phoenix picked up was nana
15 mom.

16 Q So that's what Phoenix called you, nana mom?

17 A Nana mom. She didn't call women mom. She -- and
18 she didn't discriminate between men and women. If she
19 didn't know your name or she forgot what your name was, she
20 would call you "hey you" is what she would call you. She
21 wouldn't -- you know what I mean? Like if you approached
22 her she wouldn't look at you and say and oh hi mom. Like
23 Phoenix, you know, was --

24 Q She didn't do that?

25 A No, she said hey you.

1 Q Do you recall what she called Steve?

2 A She called him dad.

3 Q What about Rohan?

4 A She called him big guy. But again, like he
5 explained, he couldn't pronounce the, the actual word big,
6 so she called b'guy (phonetic).

7 MS. WALSH: Mr. Commissioner, would this be an
8 appropriate time to take a break? I'm going into a
9 different area.

10 THE COMMISSIONER: Yes. We'll take a 15 minute
11 break and you'll be back on the stand after that time. All
12 right.

13 MS. WALSH: Thank you.

14 THE COMMISSIONER: We'll stand adjourned for 15
15 minutes.

16

17 (BRIEF RECESS)

18

19 THE COMMISSIONER: Ms. Walsh, before we start,
20 were arrangements made to continue yesterday's witness
21 tomorrow afternoon?

22 MS. WALSH: I'm advised that she was not
23 available because of her work commitments, so we will have
24 to explore next week and I've asked her counsel to ask her
25 what her availability is for next week.

1 THE COMMISSIONER: All right.

2 MS. WALSH: So maybe we'll have an answer by this
3 afternoon.

4 THE COMMISSIONER: So tomorrow you'll carry on
5 with the regularly scheduled?

6 MS. WALSH: That's right.

7 THE COMMISSIONER: Thank you.

8

9 BY MS. WALSH:

10 Q So, Kim, you were telling us that Phoenix called
11 Rohan, Big Guy.

12 A B'guy.

13 Q What was her relationship with him like?

14 A It was awesome. It was like a really sweet
15 relationship because it didn't -- it started out when I
16 first decided that I would take Phoenix. He warned against
17 it, saying this is just going to lead to heartache bringing
18 that baby home. In fact, throughout all those years a lot
19 of people told me (inaudible) bring that baby home, just,
20 you know, friends and people who really didn't know much
21 about the situation and just saw a little aboriginal baby
22 and a black woman.

23 Q So what was her relationship with Rohan like?

24 A It was great, it was awesome.

25 Q Okay.

1 A It was a daughter-father relationship.

2 Q Now you told us that you did have contact with
3 Stan Williams in 2003 after Phoenix had been apprehended.

4 A Yes.

5 Q So I want to go through some of, of that contact.
6 If we pull up on the screen, please, page 37519. So these
7 are -- you see the name at the top says Stan Williams?

8 A Yes.

9 Q These are Mr. Williams' handwritten notes from
10 Steve Sinclair's file. It shows, the notes show two
11 visits, home visits, July 29th and July 30th. So July 29
12 says:

13 Home visit with Rohan and Kimberly
14 Stephenson re POS.

15

16 Place of safety. And then the next day says:

17

18 Home visit to ... Rohan ...

19

20 I don't know what the word is.

21

22 ... Rohan and Kim, to have Rohan
23 and Kim sign criminal records
24 check. Court adjourned till Aug
25 13/03.

1 Do you remember those visits with Mr. Williams?

2 A Yes, I do.

3 Q What did he do when he came -- were these visits
4 at that home on Selkirk Avenue?

5 A Yes, they were.

6 Q So what took place during the visits?

7 A Nothing really. Mr. Williams came and we went in
8 and we sat at my kitchen table and that's where stayed the
9 whole time that we had talked. He asked, he asked about
10 the house.

11 Q What do you mean?

12 A How many bedrooms, whether it had a basement, so
13 forth. Told him that I had the three bedrooms. He asked
14 me about fire extinguishers. I told him that I had a fire
15 or a smoke detector on the second floor as well as the main
16 floor and we had fire extinguishers again on, one on the
17 second floor and one on the main floor. He asked about
18 whether we had one in the basement and I said that we did
19 not, we didn't have smoke alarm in the basement, nor did we
20 have a fire extinguisher and he informed me that I would
21 have to purchase another fire extinguisher for the basement
22 as well as put the two fire extinguishers that I did have
23 up to date.

24 Q Did Mr. Williams walk through the house at all?

25 A No.

1 Q Do you recall how long the visit with him lasted?

2 A Generously speaking I think it lasted about 45
3 minutes, an hour.

4 Q Do you recall what else he spoke about other than
5 the house?

6 A Yeah. He asked, because I told him that, you
7 know, I did have friends that came over a lot. He asked
8 who would be attending the house on a regular basis. So I
9 gave him a list of mutual friends that I had spoke earlier
10 about in regards to Steve and myself. Gave him Ron's name
11 on that list and we talked about how he would try and have
12 Phoenix -- because this is, this is -- there was no
13 guarantee at this point at the meeting. He told me that he
14 would try very hard to, to return Phoenix into my home and
15 at that time, like in the conversation I'm sure I told him
16 how I would look after Phoenix and I would be willing to
17 continue to look after Phoenix and in the situation that,
18 you know, we were in till she turned of age. And I, and I
19 distinctly recall him saying, and he didn't use words like
20 the devolution or anything like that, but he did make
21 mention that he may have to remove Phoenix from my home
22 because it wasn't culturally appropriate and, you know, I'm
23 sure I said my opinion on, on that, but it wasn't like a
24 long conversation or anything. And he said that there
25 shouldn't be a problem putting her with me, it was just

1 keeping her with me.

2 Q On the long term?

3 A On the long term.

4 Q And if we can pull up page 36620, please. This
5 is a document entitled a "Place of Safety Placement Form"
6 and it consists of two pages. If we can scroll through
7 both pages, please. So do you remember this form? Just
8 can you scroll it so you can see the date, please, at the
9 bottom. There, thank you.

10 A I vaguely remember this form.

11 Q Okay.

12 A I didn't remember any of the forms to be honest
13 with you.

14 Q This isn't a form that has your signature
15 anywhere, does it?

16 A No, I do not see my signature.

17 Q It's got a place for the social worker,
18 supervisor's approval and a resource manager's approval.
19 And the social worker and his supervisor signed it on
20 July 31st, '03, which is the same day that Mr. Williams
21 recorded his second home visit with you. You'll see
22 under --

23 A There was only one home visit. Stan Williams
24 only came to my home once and then he brought Phoenix in
25 and I wouldn't call that a home visit because when he

1 brought Phoenix to me, I remember this day so clearly
2 because of what Phoenix did. He drove up in front of my
3 house and before he could even have the ignition turned
4 off, Phoenix was out of her seatbelt, like her car seat,
5 and was opening her door onto the street and Mr. Williams
6 had to rush and jump out of the car because Phoenix would
7 have jumped out of the car right onto the road because I
8 was just sitting on my stoop waiting for her.

9 Q So this was after your visit where Mr. Williams
10 talked to you about your house?

11 A Yes. So those were the only two times that I
12 ever saw Stan Williams. So there wasn't two home visits.
13 There was the one home visit where he came and he asked the
14 questions.

15 Q And then the next time you saw him was when he
16 brought Phoenix to you?

17 A Yes.

18 Q Okay.

19 A And then I never saw him again after that.

20 Q All right. On this place of safety form, if we
21 can just scroll up, please. No, the page that we were on,
22 page 36620. That's good, thank you. You see it says:

23

24 "Relationship to child: Godparents
25 (spiritual mentors)"

1 A Well, that whole godparents thing, to be honest
2 with you, I believe it was 2007 the media was publishing,
3 this was back when the media was publishing nobody missed
4 slain child, foster mother, so forth. I was doing a lot of
5 screaming at the, at the press, writing letters and so
6 forth and I recall -- I don't recall what reporter asked me
7 but there was a group of reporters and they said well what
8 would you rather be called than a foster mother and I made
9 it clear to them that because I had only -- I don't recall
10 using the word place of safety, but I was never her foster
11 mom and I only got one support cheque. I didn't consider
12 myself a foster mother but her, the person who raised her.
13 And I believe it was Steve who I posed the question to and
14 he said well say godmother. So godmother didn't come into
15 the picture when this was signed, this form was signed.
16 Spiritual mentor would be more of a term that would have
17 been used to describe me and Steve.

18 Q So the term godparents then, that's Stan
19 Williams' description? It's his handwriting.

20 A It is his handwriting, isn't it? But then again
21 he did not pass away until 2009.

22 Q Okay. Are you saying you wouldn't have described
23 yourself as a spiritual mentor to Mr. Williams?

24 A No, I'm saying that I wouldn't have described
25 myself as a godparent at the time.

1 Q He may have put that down.

2 A Yeah.

3 Q Well, he clearly put it in his handwriting.

4 A Spiritual mentor, relationship to child? I
5 wasn't a spiritual mentor to the child, I was more of a
6 spiritual mentor to Steve.

7 Q Okay.

8 A I was a nurturer to the child.

9 Q A nurturer?

10 A That's what I would put it if I was a social
11 worker.

12 Q On the left-hand side near the top it says, next
13 to Rohan Stephenson:

14

15 "Not living in the home but is co-
16 parenting."

17

18 A Yes.

19 Q Do you know whose handwriting that is?

20 A No. Could even be (inaudible), I'm not, I'm just
21 speculating, it could be Stan's because there's writing and
22 then there's printing.

23 Q Right. It's not your handwriting?

24 A But it's not my handwriting.

25 Q Was that an accurate statement?

1 A Yes, that was an accurate statement.

2 Q That was the information that you provided to
3 Mr. Williams?

4 A Yes, at the time that he came into my home I had
5 explained my situation. Because I was, I guess afraid that
6 my situation would impact on whether I would be able to
7 take Phoenix or not being --

8 Q What do you mean your situation?

9 A Being separated and being on welfare, having Ron
10 in the home a lot and so forth. I wasn't -- I didn't know
11 anything about fostering. I knew about, you know, looking
12 after a child. I didn't know nothing about the foster care
13 system really and I didn't know whether someone on welfare
14 would be an ideal candidate for a foster parent for lack of
15 better term, the establishment. I've since learned it
16 doesn't really take much to be a foster parent.

17 Q So you were on social assistance at this time in
18 July of '03?

19 A Yes.

20 Q What, I'm not sure I'm following what the
21 significance of whether or not Mr. Stephenson was living in
22 the home would co-parenting have to your being on social
23 assistance.

24 A Well, the relation would be with Ron living not
25 in the home and co-parenting Phoenix, that he would have to

1 have all the checks done and so forth and that Phoenix
2 would be, at least part of the time, at another residence
3 besides 1331 Selkirk.

4 Q Did you tell Mr. Williams that Phoenix was going
5 to be somewhere other than 1331 Selkirk?

6 A I'm sure we both did. I recall Ron being there,
7 the day that I met with Stan Williams. I remember him
8 sitting in the living room and not really being part of the
9 conversation.

10 Q Ron sat in the living room?

11 A Yeah.

12 Q And you and Mr. Williams --

13 A And it was a very open, it was a very open area.
14 You walked through the front door there was a living room
15 and then the dining room and then my kitchen was sort of a
16 box. And he just sat in the, in the living room and I
17 don't know what he did but I remember that it was just Stan
18 and I sitting in the kitchen alone and I had made coffee.

19 Q Were you receiving your social assistance cheques
20 at the address on Selkirk Avenue?

21 A On 1331 Selkirk, yes, I was.

22 Q Was Mr. Stephenson receiving mail at that address
23 as well?

24 A I don't believe so, maybe. Could have, he could
25 have been.

1 Q Well, if you don't know ...

2 A I don't know. He could have been. I'm sure he
3 received a piece of mail here or there but he had a mailing
4 address in McMunn.

5 Q Now this form --

6 A And I also believe that up until at least the
7 time we divorced his mom or his sister would bring him mail
8 that was going to his mother's house and we had, he hadn't
9 lived in his mother's house since he was 15 years old.

10 Q Okay. This place of safety, this form is called
11 a place of safety placement form.

12 A Okay.

13 Q Did Stan explain to you the legal significance of
14 being a place of safety?

15 A Not really, no. Not in any great detail. I'm
16 sure he went through the checklist, I can't really recall,
17 but he didn't go into any great detail other than, you
18 know, Phoenix is home with you and you know that she's, you
19 know. It was a very casual encounter with the social
20 worker.

21 Q Did you know when Phoenix was placed with you
22 while you were a place of safety, did you know that you
23 could not legally give Phoenix back into the care of either
24 parent?

25 A Yes, I did.

1 Q If Mr. Williams didn't explain that to you how
2 did you know that?

3 A Because when I was 17 years old my daughter was
4 apprehended by Winnipeg Child and Family Services and she
5 was placed with a foster mother who felt that once a week
6 visits for one hour would not retain the mother-daughter
7 bond and felt that it'd be very important considering that
8 it wasn't an alcohol problem or a drug problem or anything
9 like that, that took --

10 Q So your daughter had been in a place of safety
11 relationship?

12 A Yeah. And the foster mother was fired because
13 she had brought Frankie (phonetic), my daughter, over to
14 visit with me when she had made friends with my dad, would
15 have coffee with him, bring Frankie over to visit. I lived
16 in one of his houses upstairs from him and I would see --

17 Q So that previous experience with your daughter --

18 A That's how I knew.

19 Q -- gave you an understanding as to the legal
20 significance of a place of safety?

21 A Yes.

22 Q During the time that --

23 A I was never at any point told that Steve could
24 not come over and visit or it was like open, as they call
25 an open visits. He can come openly and specifically I was

1 told he could come openly, but never was I ever told that
2 he couldn't come and pick her up.

3 Q You were never told that by a social worker?

4 A No.

5 Q What about Samantha, did anyone from Child and
6 Family Services say anything to you about Samantha?

7 A No, there was really no talk about Samantha. As
8 far as Stan Williams was concerned, Samantha was out of the
9 picture because I had had her for three years.

10 Q During the time that you and Rohan were a formal
11 place of safety, did either of you let Samantha or Steve
12 pick Phoenix up and take her home?

13 A During the time I was a place of safety?

14 Q This, this place, at the time of this place of
15 safety agreement was in effect in 2003.

16 A Can we just address the whole place of safety?
17 My home at 1331 Selkirk was --

18 THE COMMISSIONER: Just indicate what the period
19 of the place of safety was.

20

21 BY MS. WALSH:

22 Q So I'm talking about -- I know that you want to
23 say something but let's just --

24 A Yeah, go ahead.

25 Q -- deal with my question first.

1 A Go ahead.

2 Q It will be, I think it will be easier. Thank
3 you. And we'll get, we'll get to what you want to say, not
4 to worry, but just for clarity, you were made a formal
5 place of safety as of the end of July 2003 is when this
6 place of safety placement form was signed.

7 A Okay.

8 Q And you return Phoenix in October of 2003 when
9 the temporary court order expired. So during that time
10 period, did either -- that's the time period that I'm
11 referring to as the formal place of safety --

12 A Okay.

13 Q -- in terms of a legal context.

14 A And did either one of them pick her up or visit
15 her?

16 Q Did you or Rohan, during that time, allow either
17 Steve or Samantha to pick Phoenix up and take her to their
18 home?

19 A I, I don't, I don't recall. I don't recall
20 whether Steve took her or not but I know Steve was around,
21 but I don't think --

22 Q Around, around your house?

23 A -- that she (sic) took her to, to stay with him,
24 like overnight or anything like that because he would know
25 that he wouldn't be able to do that with me being a formal

1 place of CFS safety.

2 Q And what about Samantha during that same time
3 period?

4 A Samantha wasn't around.

5 Q Sorry for the confusion.

6 A That's okay, I create a lot of confusion myself.

7 Q So let's turn to page 36624. This is a letter
8 dated August 14, 2003 from Mario Rojas of the Foster Home
9 Development Unit. It's addressed to you and Mr. Stephenson
10 on Selkirk Avenue. It says:

11

12 "Dear Kimberly and Rohn;

13 Please find enclosed a copy
14 of the Notice of Agreement to
15 Provide Placement form. This is to
16 save for your records.

17 As you may or may not be
18 aware, the Place of Safety
19 Placement is for short term
20 arrangements only and does not
21 have the same licensing standards
22 as a foster home. I have been
23 assigned to assist you with any
24 questions or concerns that you may
25 have regarding any administrative

1 or support services you may need.
2 Please contact this office at your
3 earliest convenience so that an
4 appointment can be made."

5

6 Do you remember getting this letter?

7 A No, I never received this letter.

8 Q Do you remember having any contact with
9 Mr. Rojas?

10 A Again, I never had any contact with any social
11 worker besides Stan Williams.

12 Q Okay. So let's turn to page 36625 and if we
13 look, starting at page 36625 and let's scroll through the
14 pages until we get to 36631, please, and then we'll come
15 back to that just so you can see what the document is. And
16 this is checklist.

17 A Absolutely, that's what it is. Can you scroll
18 back down for just a moment?

19 Q Do you want to start at the first page?

20 A I believe it was the first page, the first or
21 second page.

22 Q Okay. Let's, let's start with the first page,
23 36625. So this is called, this document is called a
24 "Notice of Agreement to Provide Placement". This is the
25 document that, the letter we were just looking at said it

1 enclosed. It says, I, Kimberly Stephenson --

2 A Okay, I see it. What I'm quite confused on is
3 whose handwriting is that, writing my name Kimberly
4 Stephenson?

5 Q That's not your handwriting?

6 A No, it's not. If you scroll down a bit more --

7 Q What about the printing?

8 A Yeah, why would my -- why wouldn't he put in
9 Phoenix if this document was, was done by Mr. Rojas with me
10 present, then why would he fill out everything else except
11 for my signature, Ron's signature and why would I print
12 Phoenix's name instead of him?

13 Q No, I don't, I don't think that, that -- so far
14 the letter from Mr. Rojas doesn't say that he was there
15 with you for this document. I think that's Mr. Williams'
16 signature on the bottom left-hand corner.

17 A So that would be Mr. Williams' handwriting on the
18 very top put in my name?

19 Q At the top, it looks like it, yes. And then
20 there are two signatures above Mr. Williams. Do you
21 recognize one of those as yours?

22 A Yes, I do.

23 Q Which one, the one on the left or the right?

24 A The one on the left.

25 Q Okay. And the one on the right is Rohan

1 Stephenson's?

2 A I believe so, yes.

3 Q And the date is July 29, '03?

4 A Yes.

5 Q So do you recall how it was that you signed this
6 document? Was this brought to you by Mr. Williams when he
7 visited with you?

8 A I believe so because there was a bunch of
9 documents that were left with me to fill out and I said
10 that I would read, I would bring them in and deliver them
11 by hand to speed up the process as what ...

12 THE COMMISSIONER: That is you say you signed
13 this on the one time that Stan Williams visited you in the
14 kitchen in your home?

15 THE WITNESS: Yes, all -- and then there was a
16 stack of, of documents for me to fill out --

17 MS. WALSH: Well we'll come to some of those
18 other documents.

19 THE WITNESS: -- left me with, there was a whole
20 bunch of documents left with me to fill out.

21 MS. WALSH: Okay, we'll look at those.

22

23 BY MS. WALSH:

24 Q This document was signed once Stan Williams was
25 there on the 29th, does that seem right?

1 A Yes.

2 Q Okay. And then as we saw, the next page is
3 entitled "Children's Foster Home Provincial Requirements
4 Checklist". Again, I think that must be Mr. Williams'
5 handwriting at the top and it goes through a variety of
6 items -- you can -- you don't have to scroll through it
7 again, thank you -- with respect to your house.

8 A Um-hum.

9 Q So this is, this is what you said you talked with
10 Mr. Williams about, about various aspects of your home?

11 A Absolutely.

12 Q Okay. And I think you said that there was an
13 issue about the fire extinguisher.

14 A Yes.

15 Q If we turn to page 36627.

16 A I just would like to make one note on point 3 of
17 that document.

18 Q Sure. Can we scroll up, please?

19 A Where it says windows and doors used for
20 ventilating purposes are fitted with screens and I believe
21 that says all but one.

22 Q Yes.

23 A Not one of my, not one of my windows on 1331
24 Selkirk had screens on them and most of them were just
25 straight out window, like just window, they didn't open.

1 My front window, it was like a big bay window, didn't open.
2 My back window had no screen. There was no screens on the
3 upstairs windows and there was no screen on my bedroom
4 window.

5 Q Did you see this document when it was filled out?

6 A I didn't see it at the time. I would have
7 pointed out that there would have been no screens on my
8 windows whatsoever.

9 Q Okay. If we go to page 36627, item 18 refers to
10 a fire extinguisher and it says, there's a notation about
11 recharging or replacing. I think you told us that there
12 was one issue you recall --

13 A Yeah.

14 Q -- about a fire extinguisher.

15 A Yeah, it was that I needed one for the basement
16 and as I've said, they said to bring in the other two and
17 have them updated.

18 Q Did anyone from CFS ever check back with you to
19 see if you have done that?

20 A No. Did I do that? No, I didn't. I didn't have
21 the money to. Can't really go out and buy a fire
22 extinguisher when you're obtaining welfare of, I think it
23 was \$458 and, you know, you can't do that and I didn't do
24 it and they didn't check for it.

25 Q And if we just go back to page 37519 for a

1 minute, 37519. Thank you. You see there's, towards the
2 bottom, there's an entry next to August 1, '03?

3 A Yes, yes, I do.

4 Q That appears to be different handwriting than
5 Mr. Williams. It says:

6
7 Writer called Kim to see how
8 things went with Phoenix. She
9 replied by telling me that things
10 are great, she's doing good, she
11 is in home.

12

13 Do you, do you know who that person was who spoke with you?

14 A Again, I spoke with Stan Williams on the two
15 occasions, the first one being when he came into my home
16 and the second one being when he brought Phoenix back. I
17 spoke to no one else.

18 Q So it looks then like you had your home visit
19 with Mr. Williams on July 29th and then he brought Phoenix
20 back on the 30th, because by August 1st the notation is --

21 A No, it wasn't the next day he brought her.
22 Three, at least, at the very least three days went by.

23 Q Okay. Let's look at page --

24 A I mean three days would have to go by. Something
25 would have to go by in order for those checks to come in.

1 It takes time to get those checks, right?

2 Q You're talking about criminal record checks?

3 A I'm talking about criminal records checks,
4 background checks and all the checks that you need to do in
5 order to make sure that there's not someone who is violent
6 or a pedophile or, you know, those kind of checks. They
7 wouldn't be done -- like he you came to visit me in the
8 afternoon and he brought her, you know, 12 hours later or
9 24 hours later, there's no way that he got this information
10 right away. So she did not come back the very next day, or
11 come to me the very next day.

12 Q Well, we'll look at the consents for the criminal
13 records checks that you signed in a minute. Let's look at
14 page 37520, please.

15 So you see there's a note dated September 10th.
16 It's the second note in Mr. --

17 A Yes.

18 Q -- that we understand to be Mr. Williams'
19 handwriting, regarding a call with you on September 10th.
20 It says:

21

22 [Phone call] to Kim - Phoenix
23 doing fine. Dad (Steve) coming
24 around more often and not while
25 drinking. Place of safety

1 (something) has been assigned and
2 finances are rolling in.

3

4 Maybe it's place of safety --

5 A Burden? Could it be burden?

6 Q I'm not sure, but something has been signed,

7

8 ... and finances are rolling in.

9 All is well. Phoenix is getting

10 over the flu.

11

12 That's a conversation you don't necessarily remember?

13 A Yeah, no, it never -- I, I don't recall that ever
14 taking place. Like I said, I recall talking to Stan
15 Williams twice and both times it was in person. I didn't
16 even talk to him the first time that Steve had phoned and
17 told him that he would like to place Phoenix with me.

18 Q Did you receive any payments while you were this
19 formal place of safety?

20 A Yes, I did.

21 Q And how did you get those monies?

22 A I believe it came through the mail.

23 Q You got cheques in the mail?

24 A Pardon?

25 Q Cheques in the mail?

1 A Yeah, I believe that the cheque came in the mail.

2 Q Do you recall how many cheques, how often you
3 received payments?

4 A I received one payment, like by the time I
5 actually got this payment, Phoenix had already been home
6 for, I'd say a week or so. She was already returned home
7 and their final paperwork was done and I received a cheque.
8 Because I wasn't, I recall, I wasn't sure whether I was to
9 keep it or not because she went home.

10 Q So let's look at page 36634.

11 THE COMMISSIONER: 366 ...

12 MS. WALSH: 34.

13

14 BY MS. WALSH:

15 Q It's a set of three documents that ends at page
16 36636. It's entitled "An application for a Licence to
17 Operate and Maintain a Children's Foster Home". If you
18 look at the bottom of the page -- please scroll down,
19 please. Keep going. Good, thank you. You see it's dated
20 September 23, 2003?

21 A Yes, I do.

22 Q And is that your signature on the left?

23 A Yes, it is.

24 Q And Ron's on the right?

25 A I believe so, yes.

1 Q Now if we go up to look at the form, whose
2 handwriting or printing is that?

3 A Where it says my name and Ron's name?

4 Q Yes.

5 A That would be my handwriting.

6 Q Okay.

7 A And my little stars that I do that on everything,
8 I make those stars.

9 Q So how is it that you got this document?

10 A This was one of the documents that was left with
11 me the day that Stan had come and did the initial home
12 visit.

13 Q You completed the forms after he left?

14 A Yes, I did, but I don't believe that I did it
15 that exact same day because this was a licence to operate a
16 foster home. Now we were still dealing with whether I was
17 going to be able to keep her as, you know, a place of
18 safety because my home wasn't culturally appropriate.

19 Q And in fact we saw the date that it was signed
20 was September 23, '03.

21 A Yes.

22 Q So what did you do with these forms? They appear
23 to be signed on September 23, '03. Let's look at all three
24 pages, please. We'll just take a minute to take a look at
25 that and then scroll down, please. It asks a number of

1 questions. It says:

2

3 "What are your principal reasons
4 for wanting to be a foster
5 parent?"

6

7 And again, is that your handwriting or printing?

8 A Yes, it is. The -- it appears that the whole
9 document, like the writing on the document is mine.

10 Q So you put:

11

12 "Love (had child on and off since
13 she was three mo. old)"

14

15 A Yes.

16 Q And scroll down to the bottom, please. And
17 again, is that your signature and Ron Stephenson's
18 signature?

19 A Yes, it is.

20 Q And the date that you signed was September 23,
21 '03?

22 A Yes.

23 Q What did you do after you completed and signed
24 this form?

25 A I don't recall the address of the office -- I

1 don't recall the address but I remember taking these forms,
2 like all the forms in and handing them in at the place
3 where I was supposed to go.

4 THE COMMISSIONER: You recall handing it in?

5 THE WITNESS: I recall hand delivering these
6 documents. I just don't recall the location, but I brought
7 these documents in myself.

8

9 BY MS. WALSH:

10 Q So let's look at page 36637, which is a single
11 page entitled "Consent for a Criminal Record Check".

12 A Yes.

13 Q Again, is that filled out in your printing?

14 A Yes.

15 Q What about under "Reason for the consent", is
16 that your handwriting?

17 A No, it doesn't look like my handwriting at all.

18 Q Do you know whose handwriting it is?

19 A I have no idea.

20 Q And at the bottom it's dated September 23, 2003
21 and is that your signature?

22 A Yes, it is. In filling this out I may have left
23 that -- not, like not filled out because I wouldn't be sure
24 whether it would be me that would have to fill it out or
25 not so I would leave it blank and then expect somebody to

1 say oh, this part isn't filled out so you're going to have
2 to come back or so. But that is not my handwriting, that
3 is definitely not Ron's handwriting but the rest of this
4 form is my handwriting.

5 Q And are you telling us that this was one of the
6 documents you walked over to an office along with the
7 application --

8 A Yes, I am.

9 Q -- that we just looked at? Okay.

10 We heard evidence from Mr. Rojas that he had a
11 meeting with you on September 23rd, the date these are
12 signed, these documents, that lasted about an hour and a
13 half. Do you remember that? Does that jog your memory?

14 A It never happened.

15 Q He said that at that meeting you filled out the
16 foster home application and signed the consent for the
17 criminal records check.

18 A I never met Mr. Rojas.

19 Q Okay.

20 A I never spoke with him on the phone. I met Stan
21 Williams and Stan Williams alone.

22 Q So let's look at page 43572. This is an email
23 from Mr. Rojas to Stan Williams and it's dated
24 September 23, 2003 and it says:

25

1 "Hello Stan:
2 Long time no talk. I hope you are
3 doing OK. Well, having Heather as
4 a supervisor sure helps a lot.
5 Enough of brown nosing to Heather.
6 I met with the above-named care
7 provider this morning."

8
9 And if we go back up to the subject line it says Child:
10 Phoenix Sinclair, date of birth April 23, 2000, place of
11 safety provider, Kimberly Stephenson. He says:

12
13 "I met with the above-named care
14 provider this morning. She asked
15 to be placed in a twice a month
16 budget since it is hard to make
17 ends meet. I could easily do that
18 with accounting, providing that
19 you are in agreement.

20 I also looked the health
21 numbers for her and, again, if you
22 are OK with this I could call her
23 and provide those to her.

24 The third issue that we spoke
25 about was the possibility of Day

1 Care for Phoenix. I encouraged
2 her to look around and to talk to
3 you about it.

4 The fourth issue we spoke
5 about was respite. I explained to
6 her that in the [place of safety]
7 rate there is a value of \$54.30 a
8 month for that purpose.
9 Understanding that it isn't very
10 much money, I could also make a
11 case with my supervisor and obtain
12 approval from our budget. I would
13 need from you some relevant
14 information that could help me out
15 on this. Once that is approved, I
16 will take care of the rest.

17 Thank you so much Stan and
18 take care."

19

20 And it's signed Mario Rojas. So having seen that email and
21 what Mr. Rojas has told Mr. Williams, does that change your
22 evidence that you did not meet with --

23 A No, not at all.

24 Q -- Mr. Rojas?

25 A I met Stan Williams. I never met any other

1 social worker. I never met a foster home coordinator. I
2 never met any supervisor. I never talked to anybody on the
3 phone. I talked to -- all the time from 2000 until Phoenix
4 was taken by Samantha, I never met any social worker
5 besides Stan Williams. So I don't know what goes on in the
6 Manitoba CFS offices that they can do stuff like this where
7 they can write up letters and say that they've done jobs
8 and not actually gone out and done their job. But I never
9 met the man.

10 Q Did you ever talk about day care with
11 Mr. Williams?

12 A No, I wouldn't talk about day care with
13 Mr. Williams because providing other people day care was
14 what I did to make extra money to, what was Mr. Rojas'
15 words, make ends meet. I can take \$20 and make it really
16 stretch and I would never use the term "to make ends meet".
17 If anything like that was discussed, I wouldn't say can I
18 have the money twice a month because I don't know how to
19 budget because I can budget really well.

20 Q Did you ever talk about respite with
21 Mr. Williams?

22 A Respite, that would be having someone take the
23 children for a couple of hours while I go out to a movie or
24 go to the bar, have a couple of drinks and stuff like that.
25 That's what respite is?

1 Q I guess, do whatever you want, go shopping --

2 A Yeah. No, I probably wouldn't have talked
3 respite because I had Ron's family, plus I had my father
4 who loved children and I had my brother and his wife and so
5 forth that were already taking my own children, I guess in
6 respite.

7 Q Then let's turn to page 36618. This is a letter
8 addressed to you from Mr. Rojas dated October 10, 2003:

9

10 "Dear Kimberly;

11 I am writing to you to inform
12 you that your Place of Safety
13 Foster file with Winnipeg Child &
14 Family Services is now closed.
15 Phoenix Sinclair was placed in
16 your home on July 31, 2003. Our
17 files indicate that Phoenix was
18 discharged from your home on
19 October 3, 2003. Your file and
20 contact with this agency was
21 specifically for the care and
22 concern of this child. Because the
23 agency no longer has children
24 placed in your home, your file as
25 a Place of Safety is now closed.

1 Winnipeg Child and Family
2 services and I would like to take
3 this opportunity to thank you for
4 the care and commitment you have
5 shown toward Phoenix while in your
6 care. If in the future you would
7 like to foster children on a
8 general basis, please contact our
9 foster recruitment coordinator for
10 information and an invitation to
11 an agency foster parent
12 orientation."

13

14 Can you scroll up, please? And it says: Sincerely, Mario
15 Rojas.

16 Do you remember receiving this letter?

17 A No, I do not.

18 Q The fact that Phoenix was, as he says, discharged
19 from your home on October 3rd, that's accurate? Phoenix
20 went back to Steve around that time?

21 A I couldn't tell you the exact date.

22 Q Was it around that time?

23 A Yes, it was in October.

24 Q So in terms of when Phoenix went back to Steve's
25 care officially, did you think that Steve was ready to

1 parent?

2 A No, I, I didn't really. Only because if Steve
3 was completely ready to parent, Phoenix wouldn't be living
4 the majority of her time with me and I remember explaining
5 that to Mr. Williams, saying that she would just end up
6 being brought back to me, not necessarily because Steve
7 wasn't ready to parent her, but that Phoenix would most
8 likely want to come back to her home because that's what it
9 was, my home was her home. When you move away from, anyone
10 go away from home, do you want to stay away from home very
11 long? No, you want to get back to the bed that you
12 normally sleep in and the tub that you normally take a bath
13 in and to have your stuff that you normally have and that
14 was Phoenix.

15 Q You told this to Mr. Williams?

16 A I told this to Mr. Williams that Steve would
17 bring Phoenix back to me. The exact words was she would
18 just return to me.

19 Q When did you tell him this?

20 A When he phoned me and asked me if I, if I
21 believed that Steve was ready to take her back and I, at
22 that time, said no. Not because of drinking, not because
23 of drugs, not because of violence, not because of anything
24 other than the fact that he was still grieving his
25 daughter. He was still drinking but mainly because of the

1 fact that Phoenix wanted to be in my home. She wanted to
2 be -- don't get me wrong, she loved being at her dad's but
3 every, everything about her world was at my house. The
4 cool stuff was at my house, the drums were at my house, the
5 keyboard was at my house, the electric guitars were at my
6 house, you know?

7 Q What was her relationship like with your
8 children?

9 A Awesome, absolutely awesome. She, she would try
10 and mimic them. Like with Frankie, Frankie loved to go
11 swimming, so Phoenix would go swimming. Phoenix was, at
12 the time, I believe she was two. She could go into the
13 deep end of Centennial Pool because she could swim laps
14 that required that you have to swim the lap of the pool, I
15 believe it was twice, once each side. And then, you know,
16 with my son Paul he was right into skateboarding. She
17 would want to skateboard. She was, she was a kid. She
18 loved being a kid. She loved having the advantage of being
19 a really cute kid and never getting the word no. If
20 anybody ever told her no, all she would do, if, if b'guy
21 was around, she'd just look at him and go b'guy and then
22 he'd, what do you want, Phoenix? And, and she would get
23 it. If she wanted a toy my children were playing with,
24 she'd get it. That would just be that, she's the baby,
25 give it to her.

1 Q So you said, you told Mr. Williams you didn't
2 think that Steve was ready to parent Phoenix. I think you
3 told us that you did, however, take Phoenix at
4 Mr. Williams' request back to Steve at the beginning of
5 October 2003?

6 A Yes, but I don't think that I would use the term
7 he wasn't ready to parent because I think what he did was
8 something that a parent who loves a child does.

9 Q Meaning?

10 A Meaning that Steve didn't drop his baby off so he
11 could go partying and drinking and doing drugs. He dropped
12 his baby off because he liked the atmosphere of my house.
13 He liked he politeness of my children. Like my children
14 knew their Ps and Qs. He wanted to keep her safe from CFS
15 because all you have to do is have a barbecue and have some
16 drinking, or not a drinking party, have some alcohol and
17 all of a sudden it's construed into a drinking party and
18 CFS comes and they take your children, like drinking
19 alcohol is prohibition and you never see them again. Well,
20 not unless you're in an office with a person there
21 intimidating you're writing notes and so forth, you don't
22 see your children again once they go in the system, unless
23 you know somebody in that system.

24 Q After Mr. Williams asked you to take Phoenix back
25 to Steve, did you hear anything from Mr. Williams or anyone

1 at CFS?

2 A No.

3 Q So that was the beginning of October 2003. At
4 some point after that you had told us Phoenix came back to
5 live with you?

6 A She came back to stay with me, I won't say live.
7 Like I said, she lived with all of us. She lived at my
8 house primarily, but, yes, Phoenix did come back. I
9 remember, I think this is the months between October of
10 2003 and December of 2003. I remember doing, taking her
11 shopping, Christmas stuff. I remember decorating the tree.

12 THE COMMISSIONER: Was she just visiting on the,
13 from day to day or did she come to stay with you?

14 THE WITNESS: Like I was explaining to Ms. Walsh,
15 we lived 10 blocks apart so sometimes she would come and
16 she would stay with me for like say two or three days and
17 on another occasion she would be with me in the morning and
18 then I would walk over to visit or have a coffee with Steve
19 or vice versa and then she would end up back at Steve's
20 house, but by the evening time she would be back with me.
21 So it was just an ongoing back and forth. There was no
22 restriction to anybody including Samantha. Had somebody
23 told me not to give Phoenix to Samantha, I wouldn't have.
24 One after the bitchy baby incident, I really didn't have a
25 high opinion of Phoenix, or not Phoenix, of Samantha at

1 all.

2

3 BY MS. WALSH:

4 Q That's the time that you said Samantha called
5 Phoenix a bitchy baby?

6 A Yeah. If I had my way, Samantha wouldn't have
7 been involved because Phoenix had a mom doing what moms do.

8 Q Is it fair to say that Samantha ever placed
9 Phoenix with you in 2003 or 2004?

10 A It's an outright lie if were you to say that to
11 me. Samantha never asked me to look after her baby at any
12 point. Steve did.

13 Q Now you told us that at the end of December 2003,
14 you moved out of the house on Selkirk and Rohan stayed
15 there --

16 A Yes.

17 Q -- with your children?

18 A Yes.

19 Q As of January of 2004, did you and Rohan have any
20 kind of arrangement in place as to who would be caring for
21 Phoenix?

22 A No, no arrangement, just an understanding. Just,
23 just a normal every day this is what happens in the life
24 of, of the Edwards-Stephenson-Sinclair clan. There was no
25 plan that I would have her for a week and then you would

1 take her on the weekends. It wasn't like a, for example,
2 like a divorce custody visitation arrangement. There was
3 never any kind of arrangements like that.

4 Q Mr. Stephenson's evidence was that he remembered
5 a time when you were not around the Selkirk Avenue home as
6 much in 2004.

7 A Yes.

8 Q And what time period was that, which part of '04?

9 A That I wasn't around as much? I would say it
10 would have tapered off --

11 Q I'm talking in the time period between January
12 and April of '04.

13 A Well, then I'd say Mr. Stephenson, or Ron, also
14 testified that he has a really bad recollection and I was
15 around every day, practically every -- I wouldn't say every
16 day, I'd guarantee you I was there every day. I was, to be
17 fair, I'd say like every second day, but sometimes it was
18 every day or second or third day, but for the majority of
19 that time period t was pretty much every day. I went back
20 then --

21 Q I think you said that --

22 A -- to eat and ...

23 Q I think you said you would arrive around noon.

24 A Yeah, I can't -- you know, maybe sometimes I
25 would arrive earlier but I can't see me arriving much

1 earlier before noon because I'm really not a morning person
2 at all.

3 Q How long would you stay?

4 A The, sometimes, like I said, I would, I would
5 leave in the afternoon or whatever if I had something I had
6 to do. But for the most part I would wait for my kids to
7 get home from school and, like I just said, I would eat
8 there and then around maybe 7:30, eight o'clock, when they
9 were starting to get ready to go to bed, I would leave.
10 Some days I wouldn't be there at all.

11 Q So by this time we're in January of '04. What
12 was Phoenix like at this point?

13 A What do you mean what was Phoenix like? She was
14 like a kid, doing the things that she was always doing.

15 Q You told us when she was 13 months she was
16 already walking and starting to talk. So by the time she
17 was three, three and a half --

18 A At three what was she doing? Things that she was
19 doing, well ...

20 THE COMMISSIONER: She would be three and a half
21 then.

22 THE WITNESS: Yes, she'd be three and a half.

23

24 BY MS. WALSH:

25 Q Yes, that's right.

1 A She would be just being a three and a half year
2 old kid. She would be skateboarding. I remember one time,
3 one particular time that I thought this kid was just -- now
4 there is, there's some true grit in a baby. Is I lived on
5 Winnipeg Avenue which is, it was down by the Canadiana,
6 route 90, and we walked from my address on Winnipeg Avenue
7 all the way to Ron's house one afternoon and she walked
8 from Winnipeg Avenue until about, I guess we were just
9 approaching the tracks, so about two blocks shy of our
10 destination before she lifted up her arms and said I'm
11 tired. She -- Phoenix did everything. Phoenix,
12 Phoenix ...

13 Q She was a trooper.

14 A She was.

15 Q So let's turn, please, to page 37356. This is a
16 CRU intake and AHU form. It consists of four pages ending
17 at 37359. At the top you see it's dated January 16, 2004.

18 A Yes, I do.

19 Q If you go to the last page, which is 37359, in
20 the top paragraph, the top sentence, it says SOR, which
21 stands for source of referral, meaning a person who calls
22 in a concern to the CFS,

23

24 "... told me that she discovered
25 that some people came to pick up

1 Phoenix around Jan. 2/04 and took
2 her to their place in Selkirk?"

3

4 Is this, do you think, when you and Steve picked Phoenix up
5 from Samantha on Furby Street?

6 A Yes, I believe that is the, the time that they're
7 talking about here.

8 Q And then towards the end of that paragraph
9 there's a reference to the Stephensons' home. It says:

10

11 "... it is recommended that
12 Phoenix be placed with the
13 Stephensens' should she return to
14 "care". An attempt to speak with
15 the Stephensen family was
16 unsuccessful as both the home
17 telephone number along with
18 Mr. Stephensen's work phone number
19 are 'out of service' at this
20 time."

21

22 Do you recall whether the home had a working phone and
23 whether Mr. Stephenson had a working phone in January of
24 '04?

25 A Well, I know that there was a phone at, I don't

1 know when this, the phone was ever disconnected at 1331
2 Selkirk after I left. What I do know is they were given a
3 telephone number, my cell phone number, and to this date if
4 you dial that number you will receive an answer and the
5 person that answers the phone will be either my niece Haley
6 (phonetic) or my niece Kayla (phonetic), they're twins and
7 they share everything. But one of them would pick up the
8 phone and if someone said is Kim Edwards there or is Kim
9 there the first thing that would come to their -- they
10 wouldn't say oh no, this is wrong, you have a wrong number,
11 they would say that is my aunt. My aunt gave me this phone
12 or the contract.

13 Q You're saying you gave the cell phone number to
14 who?

15 A I was saying that this is years after --

16 Q Okay.

17 A -- Phoenix.

18 Q All right.

19 A I believe it was 2004 or 2005 that that cell
20 number was taken over, like the contract, I couldn't pay
21 the contract and that contract was taken over.

22 Q We're in 2004, looking at this document.

23 A Right.

24 Q You're not saying you gave that cell phone number
25 to someone --

1 A No, I'm saying that cell phone number is still
2 today connected to the same 981-1187 number that it was.
3 So to say that the phones were disconnected and they
4 couldn't reach us and that --

5 Q Well, the reference in the document that we're
6 looking at is a home telephone number --

7 A And the work phone. I'm pretty sure that if you
8 look back through phone books, you'll find that 1010
9 Sinclair has had the same phone number for quite a few
10 years and --

11 Q That's where Mr. Stephenson worked?

12 A That is where he was working, yeah. I'm sure
13 that they don't just change the phone number considering
14 the work that they do.

15 Q Let's turn to page 37357. You see under the
16 heading "Significant Others", it lists Kimberly and Ron
17 Stephenson --

18 A Yes.

19 Q -- 1331 Selkirk Avenue. There is a phone number
20 that we've blacked out for the purposes of making this
21 document public and there is a work phone number for Ron as
22 well. You don't recall giving anyone at CFS your cell
23 phone number?

24 A I gave Stan Williams my cell phone number. I
25 would have used all my numbers.

1 Q Okay.

2 A Back then I was, I was home but I was a very hard
3 person to reach.

4 Q Why is that?

5 A Just 'cause I was out. I was -- like when I said
6 I was a hard person to reach, I was a hard person to reach
7 at home because I was out. I had a cell phone. Cell
8 phones work that way where you take it and they can reach
9 you at any point in time.

10 Q Let's turn to page 37350. This is an intake
11 closing summary. It runs to page 37355 if you want to just
12 go to that page, please, so we can see the date. Do you
13 see it's dated February 13, 2004 and it's, the intake
14 worker is listed as Lisa Mirochnick. Now these documents
15 that I'm showing to you, these are, you understand these to
16 be records from Steve or sometimes Samantha's Child and
17 Family Services protection files?

18 A Yes.

19 Q Prior to your obtaining standing to participate
20 in this inquiry, have you seen any of these records?

21 A I wouldn't be able to, they're confidential
22 records.

23 Q So that's a no?

24 A Yes.

25 Q So the intake closing summary that we're looking

1 at was written by, as I said, Lisa Mirochnick. Did you
2 ever meet her?

3 A No.

4 Q Do you recall ever speaking with her?

5 A Again, I spoke with Stan Williams, I met with
6 Stan Williams. He's the only social worker that I ever had
7 contact with.

8 Q If we turn to page 37352, you'll see there's an
9 entry dated January 21, '04.

10 A Yes.

11 Q Just scroll down, please. No, no, you've gone
12 too far. Thank you. January 21, '04, it says:

13

14 "Workers Lisa and Monica Marx
15 attended to 1331 Selkirk Ave.
16 Rohan and Kim are Phoenix's
17 godparents and were a Place of
18 Safety for her in 2003. Phoenix
19 was present in the home. Ronan
20 stated that they have been looking
21 after her since beginning of
22 January. I asked him where Steven
23 was or what he was up to? He said
24 he didn't know and that there's
25 lots of rumors and everyone is

1 saying different things. He would
2 not elaborate. He said they are
3 willing to take Phoenix as long as
4 necessary. They do not care about
5 the money from CFS in terms of
6 being a POS again. They are happy
7 to look after her. Rohan states he
8 doesn't actually live here but
9 stays here sometimes. He works in
10 the country. Kim has other
11 children and is on Social
12 Assistance. I advised him I would
13 be looking for Steven to talk to
14 him and would get back to Rohan.
15 They don't have a phone any more."

16

17 Now were you present on that day when the worker came and
18 spoke with Rohan?

19 A No.

20 Q And the reference to they then, that's not based
21 on a conversation with you?

22 A No.

23 Q Let's go to page 37449. This is a letter dated
24 February 13, 2004, from -- can you scroll up, please, so we
25 can see the whole document? Right down so that we can see

1 the signature, please? Thank you.

2 It's from Lisa Mirochnick and as we saw -- can
3 you just scroll up to the top, please. Thank you. It's
4 addressed to Rohan and Kim Stephenson, 1331 Selkirk Avenue.

5 A Yes.

6 Q It says:

7

8 "I am writing to follow up with
9 our conversation on January 21,
10 2004."

11

12 Now you said you did not have a conversation with
13 Ms. Mirochnick on that date?

14 A No.

15 Q Or any date?

16 A Or any date.

17 Q Okay.

18 A I had conversations with Stan Williams only.

19 Q Then in the letter she goes on to say:

20

21 "At that time you indicated that
22 you would be willing to care for
23 Phoenix under a private
24 arrangement for as long as is
25 necessary. I have now spoken with

1 Steven who has agreed that you can
2 care for Phoenix. I have told
3 Steven that the agency has serious
4 concerns about his current
5 lifestyle, as well as Samantha's.
6 He has been advised that he is not
7 to take Phoenix back into his care
8 without contacting this agency and
9 having a risk assessment done. So
10 please be advised that the agency
11 hopes you will continue to care
12 for Phoenix and will contact us
13 should this situation change.

14 Should you have any further
15 questions, please contact this
16 writer or after hours ..."

17

18 Now I think you said you were receiving social assistance
19 cheques at the address on Selkirk Avenue.

20 A Yes.

21 Q Were you receiving other mail as well?

22 A I was.

23 Q Okay. You don't recall receiving this letter?

24 A No.

25 Q Did Rohan ever mention this letter to you?

1 A If this letter came Rohan would hand it to me and
2 say you've got mail. Do I think Ron would have opened it?
3 No.

4 Q Even though it was addressed to both of you?

5 A Yes.

6 Q Okay.

7 A And fact be told, I did everything. Like Ron not
8 only, he worked, he had it, but when it came to anything
9 important, of any kind of importance, any kind of important
10 papers, filing -- I got a job application to fill out, will
11 you fill it out for me kind of deal. I did everything, so
12 for Ron to open that and deal with something like that, for
13 Ron to deal with a foster home guy or the social worker or
14 whatever, it would just be he would direct them to me,
15 unless of course I wasn't present and there was only the
16 months that you're talking about, January to April of '04
17 would be when he would have to look after things himself.
18 But this, I was never shown this letter, I was never told
19 about this letter. I was never given this letter by Ron
20 and the first time I saw this letter was in 2006.

21 Q And how was that?

22 A I tried to be in touch with the report writer, I
23 believe it was Andy Koster's team, and I believe it was
24 about six weeks I tried to get on record with this
25 information that I'm leaving with you today and I could not

1 do it until I recalled that I was collecting welfare and I
2 was declaring children and I had Phoenix. Phoenix was
3 documented in my welfare records and there was an
4 investigation in 2004 into me and I said to the premier's
5 assistant, I believe the man's name was Brian, I don't have
6 his last name, and said you must hold the proof of this and
7 within three days after telling the premier's assistant who
8 I was talking to about my welfare record, on Rorie Street,
9 Mr. Koster phoned me. I believe, he said he was on his, on
10 the road in, I believe he was coming in from Ontario to
11 take an interview with me. And when that interview
12 occurred, we sat down and he opened a file and just sort of
13 tossed that paper, you know, slid the paper across the
14 table at me and he said, this is why CFS lost track of her.
15 So that's the first time I saw that letter.

16 Q Was when you met with Mr. Koster in 2006?

17 A Yes.

18 Q Okay. You said Rorie Street, were you living on
19 Rorie Street in 2006?

20 A No, Rorie Street would be the EIA office --

21 Q I see.

22 A -- they in which I dealt with.

23 Q Okay. You said you didn't receive this letter.
24 Do you recall whether Rohan talked to you about a social --

25 A This letter.

1 Q No, no, wait till --

2 A Oh, I'm sorry.

3 Q It's okay. Whether he talked to you about the
4 social worker, Lisa Mirochnick, having come to see him in
5 January of 2004?

6 A I don't recall a conversation with Rohan in
7 regards to any social worker again until 2006.

8 Q So do you recall Rohan saying to you that CFS
9 asked if you would, you and Rohan would keep Phoenix and
10 let CFS know if Steve wanted her back?

11 A I do not recall this conversation with Rohan at
12 all, no.

13 Q So far as you were concerned from January to
14 April 2004, the arrangement, I think you told me with
15 Phoenix in the house was the same as it had been in years
16 passed?

17 A There was just one more residence that she had.

18 Q After February of 2004, did you have -- so now
19 I'm in that period, from February to April of '04. What
20 contact, if any, did you have with Samantha Kematch? You
21 told us about a time when she wanted to take Phoenix on the
22 road. Was that in this period?

23 A Yes, that was in that period.

24 Q Okay. That was before she took her for the
25 last --

1 A In April. That would have been in February of
2 2004 --

3 Q Okay.

4 A -- by your records.

5 Q By the records that we've provided to you?

6 A Yes, by the records that you have and the
7 documents and the facts that you have.

8 Q Okay. So let's look at page 36963. This is a
9 CRU intake and AHU form. It's dated May 11, 2004. It's
10 with respect to a report that CFS got regarding concerns
11 about Samantha. And if you look at the bottom of page
12 36965, it documents the worker speaking to Samantha and
13 this is what Samantha had told her:

14

15 "She claimed that she has been
16 caring for Phoenix since last
17 November. This worker asked her
18 how that came to be since, just in
19 Feb. Phoenix had been privately
20 placed with Kim and Rohan
21 Stevenson, Samantha claimed that
22 it was in fact her, who had placed
23 Phoenix with the Stevensons and
24 not Steven. This worker asked her
25 how long Phoenix had been staying

1 with the Stevensons. Samantha
2 stated that Phoenix had been at
3 the Stevensons for a month."

4

5 And was that, was that an accurate piece of information
6 that Samantha had placed Phoenix with you and Mr.
7 Stephenson?

8 A Again, that's an outright lie. That is not
9 accurate.

10 Q What Samantha told the worker?

11 A That statement, what Samantha told the worker.
12 At no time did Samantha ever ask me to look after her
13 child, it was Steve.

14 Q Let's pull up page 37444, please, and this is a
15 memo dated May 13th, 2004 from Andy Orobko to Carolyn
16 Parsons. This was in Steve Sinclair's file and it says:

17

18 "Carolyn:
19 I've spoken to the godparents and
20 the E&IA worker - here is the
21 chain of events."

22

23 And then he outlines that:

24

25 "Nov. 2003 - Mom gets Phoenix from

1 dad - she cares for 2 months.
2 Jan. 2004 - Mom takes Phoenix to
3 godparents - needs time to set up
4 home. She visits occasionally. Dad
5 doesn't visit."

6

7 First of all I'm just going to stop there. Do you recall
8 speaking with Andy Orobko from CFS? He was a supervisor.

9 A No, it never happened. It's not that I can
10 recall or I can't recall, it never happened.

11 Q Do you know whether he would have spoken to
12 Rohan?

13 A Couldn't answer that.

14 Q Okay.

15 A That's something you'd have to ask Ron.

16 Q The notation that in November '03 Mom got Phoenix
17 from Dad and cared for her for two months, was that
18 accurate?

19 A I don't believe that it's accurate because if
20 Samantha had her for two months I would haven't have seen
21 her over the Christmas months and I remember distinctly
22 Phoenix being part of the, you know, the Christmas
23 celebration and the trimming of the tree and so forth.

24 Q Okay. I think you did tell us about that.

25

1 "Jan. 2004 - Mom takes Phoenix to
2 godparents - needs time to set up
3 home. She visits occasionally. Dad
4 doesn't visit."

5

6 Was that accurate?

7 A Not at all.

8

9 "Apr. 2004 - Mom retrieves Phoenix
10 about 1 month ago. Goes to Legal
11 Aid to start custody application."

12

13 What about that statement, April '04?

14 A I couldn't tell you what Samantha Kematch did. I
15 didn't know Samantha so ...

16 Q In terms of her retrieving Phoenix --

17 A Well, in terms of retrieving Phoenix, that's what
18 that's what happened, was she came and she got Phoenix,
19 whether it be from Ron or from me or from both of us who --
20 I remember being at the house but these records show and
21 it's been testified that I wasn't, so, but, yeah, it's
22 accurate that she got -- whether she went to Legal Aid to
23 start custody --

24 Q That you can't comment.

25 A -- I can't comment on. But, yeah, she did come

1 and take her.

2 THE COMMISSIONER: Now are we getting close to a
3 time to break?

4 MS. WALSH: We could, Mr. Commissioner. I just,
5 I have one more question and then we can --

6 THE COMMISSIONER: Well, whenever you're at a
7 convenient point.

8 MS. WALSH: Okay, thank you.

9

10 BY MS. WALSH:

11 Q If you had -- this is May of 2004, May 13, 2004.
12 You say that you did not speak to Mr. Orobko around this
13 time or at any time.

14 A Yes.

15 Q If you had spoken to a CFS worker around this
16 time, what would you have told them?

17 A I don't know, that would be speculation. What
18 would I have told them? I probably would have insisted
19 that Phoenix at least come back to me until Samantha could
20 be eased into her life because she was a complete stranger.
21 But other than that, I don't know what I would have said or
22 what I would have done.

23 MS. WALSH: So why don't we leave it there for
24 the noon break, Mr. Commissioner.

25 THE COMMISSIONER: All right. We'll rise now

1 until 2:00 p.m.

2

3

(LUNCHEON RECESS)

4

5

THE COMMISSIONER: Ms. Walsh?

6

MS. WALSH: Good afternoon, Mr. Commissioner.

7

8

BY MS. WALSH:

9

Q I just wanted to clear up one thing from before
10 the break. Did I understand you to be saying that Phoenix
11 was on your welfare budget, that you were receiving welfare
12 payments for Phoenix?

13 A No, I wasn't receiving welfare payments for
14 Phoenix. I received all the funding that I received from
15 Child and Family Services. However, because I was on
16 welfare, they were aware that Phoenix was living with me
17 and there's incidents when Phoenix -- where I've -- not
18 incidents with Phoenix but incidents with my worker where I
19 had the opportunity to mention Phoenix to them in regards
20 to looking after her and being able to as well pick after,
21 look after the children that I, I was also providing day
22 care for.

23

Q So that was information you were disclosing to
24 EIA --

25

A Yes.

1 Q -- with respect to your own budget?

2 A Yes.

3 Q Okay.

4 A And I received no payment from them.

5 Q Thank you. Now we were talking about the time
6 when Samantha picked up Phoenix in April of '04 being the
7 last time that you saw Phoenix.

8 A Yes.

9 Q Did you have concerns when you found out that
10 Samantha had taken Phoenix and not returned her?

11 A I had -- the concerns that I had weren't that
12 Samantha was going to hurt her or anything like that but
13 the concerns were of, say, she just wouldn't have been with
14 me, I wouldn't have known where she was. But I didn't have
15 like any -- oh, if, if Samantha has Phoenix she's going to
16 hurt her or if Phoenix would be in any danger, I had no
17 inkling that Samantha was, you know, whatever in --

18 THE COMMISSIONER: Were you --

19 THE WITNESS: I knew nothing about Samantha
20 Kematch.

21 THE COMMISSIONER: Were you home when Samantha
22 came for her?

23 THE WITNESS: Like I had said earlier, there, I
24 don't completely recall, I can't say I'm completely
25 positive, but there is a memory of knowing that Samantha

1 was just taking her shopping for her birthday and so I have
2 a memory of knowing this but it's not something that I was
3 told, it was something that I knew firsthand. But I don't
4 rightly remember whether I was there or not that day.

5

6 BY MS. WALSH:

7 Q So whether you were there the day that Samantha
8 picked Phoenix up or whether you found out about it from
9 Rohan --

10 A Yes.

11 Q -- what was your expectation as to when Phoenix
12 would be returned?

13 A In a few -- if not -- my expectation was she
14 would have been returned that night and that's why I
15 believed that I may have been there but I won't say I was
16 positively. But my expectation if she hadn't returned her
17 that night she would have gotten bored with looking after
18 her and brought her to me or to Steve, would have dropped
19 her off at one of our houses. But that's not to say she
20 was like here, I want to place my baby with you. It would
21 just be she would be bringing her home.

22 Q And Samantha did not bring Phoenix back --

23 A No.

24 Q -- to either you or Rohan?

25 A Or Steve, no.

1 Q Or Steve. What did you do when you realized that
2 was the case?

3 A I think that it may have been three days, it may
4 have been, you know, four days but not much more than that.
5 I just called Steven or I went and seen him. I talked to
6 Steve, let's just say I talked to Steve, and asked him when
7 Phoenix was coming home and he told me that she was still
8 with Sam and we talked, like just conversation, and I said
9 that we should phone CFS and let them know and this is
10 something that we both did. I do not believe that we were
11 together at the time. I remember phoning the CFS worker
12 and I was by myself. Well, I wasn't by myself, I was with
13 my -- there were people there but Steve wasn't there or
14 anybody involved wouldn't have been there just, like say my
15 neighbour or ... But when I called ...

16 Q When did you call CFS?

17 A As I said about, I would say three or four days,
18 no more than four days after. It was the same day I spoke
19 with Steve.

20 Q What phone did you use to make the call, do you
21 remember?

22 A I don't. It may have been my neighbour's phone
23 because I was living on Winnipeg Avenue and I did not have
24 a house phone but I did have my cell phone and my cell
25 phone went on, on minutes. So I was very friendly with my

1 neighbour, morning coffee and stuff like that, so I would
2 have used that phone if not my cell phone. I don't recall
3 what phone I used.

4 Q Why were you calling CFS?

5 A I was calling CFS to speak with Stan Williams,
6 just because Phoenix was in my home, she's been raised in
7 my home for all this time and her mom had her. So I was
8 phoning to, for to get Stan involved, hopefully to bring
9 Phoenix back home to me or Ron or Steve, someone that she
10 had been raised with and not the stranger she was with and
11 I understand that she was her mother but ...

12 Q How did you know what number to contact
13 Mr. Williams at?

14 A I didn't. I think I just phoned Northwest Child
15 and Family Services number. Like I didn't have a piece of
16 paper I referred to. I'm the type of person who utilizes
17 411 all the time.

18 Q What happened when you phoned CFS?

19 A Not a lot. I phoned and I got, I'm assuming, an
20 intake worker and I asked for Stan Williams. I was put on
21 hold for, it wasn't a long time, and the same person that
22 answered the phone came back and said that Mr. Williams
23 wasn't available and she took a message for him to return
24 my call. That call was never, wasn't returned by Stan and
25 I believe it was the next day I called back to the office

1 and just spoke with the intake and unfortunately I didn't
2 get that person's name. I wouldn't think of doing
3 something like that at the time. I do now, but not then.
4 And I was given the information that Phoenix was with her
5 mother and that I was no longer her foster mother and that
6 Phoenix was no longer my concern.

7 Q Who told you this?

8 A The person who answered the phone when I phoned
9 Winnipeg --

10 Q That's the person whose name you didn't take?

11 A It was actually Northwest Child and Family
12 Services at the time.

13 Q This is the person who answered the phone --

14 A Yes.

15 Q -- the second time when you called back?

16 A Yes. So I don't know whether it was the same
17 person that I talked to the previous day or not, but it was
18 a woman.

19 Q Did Stan Williams call you back?

20 A No, I never received --

21 Q Did you ever speak with him again?

22 A No.

23 Q Did you contact anyone else?

24 A I did phone the Winnipeg Police to see if there
25 was anything that I could do, if I had any power to do

1 anything and I was told that Steve, if Steve had a concern
2 he would have to phone them and they could act on, on Steve
3 but they couldn't, I couldn't do anything. I had no
4 authority. Not told in the same way that, you know, you're
5 not her foster mom, there's no concern to say that I had no
6 authority to, to do anything or have them act.

7 Q Do you know what Steve was doing?

8 A No. I wasn't with Steve so I can't comment on
9 what Steve was doing.

10 Q You said that you both called.

11 A We -- well that was what we were going to do so I
12 went, I made my phone call but as to whether Steve made his
13 phone call, I can't answer that, I won't answer for Steve.

14 Q You said you phoned the police department.

15 A Yes.

16 Q And we know that ultimately after Phoenix's death
17 was discovered you gave a statement to the police.

18 A Yes, I did.

19 Q On May 16, or March 16 -- well this says March
20 14. Sorry, March 14, 2006. So let's look at that, please.
21 It's starting at page 5076. Sorry, I've lost the page but
22 in this statement you do indicate that you phoned the
23 police after three days. Here we are, page 5080. So the
24 paragraph says:

25

1 "And then in April, like
2 everything was, you know, just
3 normal everyday life. And then in
4 April of 2003, Samantha showed up
5 at his house at 1331 Selkirk and
6 said; you know, 'My life is
7 changing, I'd like to take Phoenix
8 for a visit.' And Rohan, like he
9 knew that, you know, Steve wasn't
10 gonna say no. He said, 'Sure. Take
11 her to the park. Have fun. She's
12 your daughter. Because moms should
13 be with daughters.' Or 'Moms
14 should be with babies.' And that's
15 what he did. And when she took her
16 out of the house for a visit that
17 day, she never brought her back,
18 ever.

19
20 I phoned the Winnipeg like after
21 like three days."

22

23 And further down the page it says:

24

25 "I phoned the Winnipeg Police,

1 like the nonemergency line and
2 spoke with whatever Constable ..."

3

4 So that's what you're talking about in terms of
5 phoning the police?

6 A That is what I'm talking about, yes.

7 Q Okay. Now what I've read out refers to April of
8 2003 rather than April of 2004. We'll come back to that.

9 A All right.

10 Q Okay. Did you do anything else? You said you
11 phoned CFS. You spoke to someone and they gave you certain
12 information. You phoned the police, they gave you certain
13 information. Did you do anything else after Phoenix was
14 not returned?

15 A Other than just ask friends, mutual friends who
16 knew Samantha and so have you seen Phoenix, no. What else
17 could I do? I'm being told by an agency that placed her
18 with me because they apparently, throughout their records
19 had concerns in regards to the child and the child's
20 safety, I'm told I was no longer the foster parent, so I
21 have no concern, and told by the Winnipeg Police that I
22 have no authority to do anything.

23 Q I think you told us that over the entire time
24 that you had Phoenix staying or living with you, Samantha
25 only visited would you say five times, seven times?

1 A I think that what I told you was being generous
2 maybe seven times.

3 Q Over that three and a half year span?

4 A Yeah.

5 Q On those occasions did you ever seen Samantha be
6 physically abusive to Phoenix?

7 A No, I did not.

8 Q Did you see her be verbally abusive to Phoenix?

9 A Other than call her a bitchy baby, no, I did not
10 myself witness her --

11 Q Okay.

12 A -- do this.

13 Q We heard evidence that Steve told his former
14 social worker from when he was a child, Kathy Epps, that he
15 was worried about Phoenix being in Samantha's care. This
16 was in July of 2001, that he was concerned about her
17 discipline methods. Did he ever tell you about those
18 concerns?

19 A Well, no, he didn't tell me about any
20 disciplinary concerns. Like she was, but she was like an
21 infant, she was one-year-old. Like what kind of
22 disciplinary concerns could there possibly be? He had
23 concerns about the fact that when she cried she would give
24 her her bottle or change her and then set her aside and not
25 have any, you know, bond time or cuddle time.

1 Q And you're referring to the time when she was an
2 infant because, as you said, by --

3 A Well, she would have only been one in '01.

4 Q And then Samantha and Steve separated?

5 A Yes.

6 Q And Samantha was not caring for Phoenix?

7 A Exactly.

8 Q You had many more occasions to observe Steve with
9 Phoenix. Did you ever see him be physically or verbally
10 abusive with Phoenix?

11 A Never, never. Steve is the type of person,
12 whether it be his child or anybody's child, he gets down
13 and he plays with them and he brings himself to a child-
14 like level and children gravitate to him.

15 Q Between April of 2004 and March of 2006, did you
16 stay in contact with Steve?

17 A I'm sorry, what were the dates again?

18 Q So April of 2004 when Samantha picked Phoenix up
19 and March of 2006 when you heard about Phoenix's death, did
20 you stay in contact with Steve?

21 A No, not, not so much, no.

22 Q Why is that?

23 A I don't think I -- just life happens. People go
24 in separate directions. I did not -- we, although we had
25 mutual friends, let's just say that Rohan inherited the

1 friends after the divorce because for some reason people
2 seem to think they have to take sides and stuff like that.

3 Q And you didn't have the common bond of Phoenix at
4 that point in your life?

5 A I guess so, if you want to say that, but yeah.

6 Q What about Samantha Kematch, between April of
7 2004 when she picked Phoenix up and March of 2006 when you
8 learned of Phoenix's death, did you have any contact with
9 Samantha Kematch?

10 A None.

11 Q Did you hear anything about her?

12 A No. Just things that her brother's girlfriend
13 would tell me in regards to she had seen Phoenix or that, I
14 recall one time she -- I believe this was in 2004, it could
15 have happened in 2005, I'm not sure, but I had seen her and
16 she had said that she was wanting to take custody or take
17 Samantha to court and gain guardianship of Phoenix.

18 Q Who said this?

19 A Do you want me to say the person's name?

20 Q No. Just was it a friend, a friend of Samantha's
21 said this to you?

22 A This was, this was Samantha Kematch's brother --

23 Q I see.

24 A -- his girlfriend.

25 Q Told you that Samantha wanted to gain custody?

1 A No, that she wanted, her and Samantha's brother
2 wanted to gain custody or guardianship of Phoenix.

3 Q Okay. Did you try to see Phoenix through these
4 people?

5 A These people didn't get to see Phoenix, that's
6 why they were wanting to take guardianship of Phoenix.

7 Q I see. So they were telling you --

8 A And this -- yeah.

9 Q -- they didn't have contact either?

10 A Yeah, they didn't have very much contact with
11 Phoenix and they had heard -- I don't know what I should
12 say here and what I shouldn't say. Like should I say what
13 they told me or?

14 Q Well, were you told anything that allowed you to
15 follow up in contacting Phoenix?

16 A Did I have any contact with Phoenix after 2004
17 when Samantha took her? No, I had no -- if, if Mickey and
18 Crystal could have brought Phoenix to me to visit, they
19 would have brought Phoenix to me to live is what I'm
20 saying.

21 Q That's Samantha's brother and his wife?

22 A Yes. Because Samantha's brother had the --
23 Samantha's brother also was a very good friend of Steve's
24 and mine, would jam with us. I believe Mickey stayed with
25 me for a couple of weeks. We were really good friends,

1 his, his girlfriend. So he, he was under the impression
2 that Phoenix was in the perfect spot and that was with me.
3 He too didn't have a very high opinion of CFS.

4 Q Are you telling us that they were also looking
5 for Phoenix?

6 A They were also looking for Phoenix.

7 Q Do you know when that was?

8 A I believe 2004, could have been 2005. Like I
9 said, I didn't -- I wasn't in constant contact with these
10 people because I was in a completely different circle of
11 friends.

12 Q Do you recall how it was that you learned that
13 Phoenix was actually missing?

14 A Yes. I came home from work one night, one
15 evening, and I got a phone call from Rohan. And we hadn't
16 talked for a few months and the only thing -- he didn't say
17 hello or anything like that. He just said do you know
18 Phoenix is missing? And I sort of just replied, no, she's
19 not, because I heard just maybe two days before that
20 Phoenix was back in Child and Family Services care and I
21 had told my boyfriend, the person I was living with at that
22 time, it wasn't can she come to live with us or anything
23 like that, it was, okay, Phoenix is coming to live with us.
24 So it was, it was Ron that phoned me and told me this and
25 I, I didn't believe him at first. And then he just said to

1 me, no, I'm telling you she's missing, the RC, or the --
2 yeah, he said the RCMP are here looking for her. And
3 that's how I found out that she was missing.

4 Q And then how did you find out that she had
5 actually been murdered?

6 A The next night. The RCMP were supposed to come
7 and see me, they had said that they were going to come and
8 talk to me. They were supposed to come the next day which
9 would have been a Friday, I believe, and they didn't, they
10 didn't come see me on Friday and my dad phoned me and he
11 was crying and he said what was her name? And he was
12 trying to remember Samantha's name because none of us ever
13 knew her or -- and he was all panicked. And so I told him
14 what her name was and my dad said it was her and she's gone
15 and that's how I found out.

16 And then I believe it was the next day or maybe
17 the Monday, I don't know, after that time just sort of, you
18 know, just blurs for a little bit until I actually was able
19 to contact people in government and start documenting dates
20 and almost immediately I started trying to get to CFS and
21 to the AMC and to everybody, the truth of this girl and
22 nobody, not one of them listened until that information,
23 and I testified that I told the premier's assistant, Brian,
24 about the welfare, that's what I'm really good somewhere,
25 with the government listening to me. I could take -- or

1 Christine Melnick took a meeting with me for like 30
2 seconds, well actually it was an hour and 45 minutes, said
3 she patted her dry eye, while I told the story with no
4 tears in my eyes. And her assistant wrote mad notes for an
5 hour and 45 minutes. I asked for a 15 minute meeting with
6 her. I had it all written down and so I was just taking
7 what I had written down, sat me down on her comfy couch and
8 did all this and that's that.

9 Q So we'll come back to some of that
10 correspondence.

11 THE COMMISSIONER: Now, witness, would you like a
12 little break?

13 THE WITNESS: No, I'm good, I can keep going.
14 This ain't new to me. I have been going for six years and
15 this is -- I've been waiting for six years to, to do this,
16 so even if the tears come, I don't need a break, as long as
17 you can understand what I'm saying.

18

19 BY MS. WALSH:

20 Q So after you heard that Phoenix had been killed
21 you were interviewed by the police and we're going to come
22 back to the statement that you gave. Ultimately you
23 testified at the murder trial?

24 A If you want to call it testifying, yes.

25 Q That was in 2008, right?

1 A Yes.

2 Q Were you allowed to attend the trial and listen
3 to the evidence?

4 A No. When I was able to get through to the Crown
5 that was handling the case, he had suggested to me that I
6 don't attend the trial and that Steve doesn't attend the
7 trial because we may be called as witnesses. And then I, I
8 don't know how long after that, it wasn't much longer, like
9 within, you know, I would say like a week or so I was
10 contacted by victim services, who were great with the
11 family, by the way, and my victim services worker also
12 suggested that maybe Steve's sisters and anybody close to
13 us didn't attend the trial at which point I said well
14 somebody has to because nobody's listening to the family
15 and we don't have a lawyer and somebody has to be there and
16 they had agreed to just let Geni in and his sisters go with
17 Steve and I could not attend the trial until after I
18 testified.

19 Q And I understand that you testified towards the
20 end of the trial?

21 A I believe, yes.

22 Q Now we know that there were a number of reports
23 that were prepared after Phoenix's death was discovered
24 that looked into the Child and Family Services that Phoenix
25 and her family received. One of the reports was prepared

1 through the Office of the Chief Medical Examiner by Jan
2 Christianson-Wood. Were you ever interviewed by Ms. Wood,
3 Christianson-Wood?

4 A Never. Unless she was the woman in the room with
5 Andy Koster the day that I met with him.

6 Q No. So let's pull up page 145, please.

7 THE COMMISSIONER: Which report is this?

8 MS. WALSH: This is the Section 10 report,
9 Mr. Commissioner, and while you're over at your reports if
10 you'll pull out the Section 4 report we'll go through that
11 one next. So we're in the Section 10 report.

12 THE COMMISSIONER: Right.

13

14 BY MS. WALSH:

15 Q We call it the Section 10 report because it was
16 prepared pursuant to Section 10 of the Fatality Inquiries
17 Act. So page, it's page 145 of our disclosure. It's page
18 29 of the report. You see at the top of the page it says:

19

20 "Place of Safety with Kimberly Ann
21 Edwards and Rohan Wayne
22 Stephenson."

23

24 A Yes.

25 Q You've seen this report as part of your

1 participation or this portion of the report as part of your
2 participation in this inquiry?

3 A Yes.

4 Q Is that the first time that you were shown this
5 report?

6 A This particular report, yes.

7 Q Okay. So --

8 A Actually before I answer that, is there a cover
9 page? Because when, when certain reports came in the
10 Family Services minister at the time, I believe it was
11 Christine Melnick, had couriered or had offered to courier
12 all Phoenix's reports to me and I recall picking them up.
13 So I don't know whether I received the medical examiner's
14 report or not.

15 Q The cover page is page 117?

16 A No, this was not one of those reports.

17 Q There were other reports though that the minister
18 did deliver to your house?

19 A I actually went and picked them up at the time.
20 In dealing with anything in regards to Phoenix I made
21 arrangements to either pick correspondence up from them or
22 hand deliver all information in regards to Phoenix directly
23 to the premier's. Everybody got it in triplicate. The
24 premier's office got it, the Family Services minister got
25 it, as well as I believe INAC.

1 Q So you're talking about correspondence that you
2 delivered to the department?

3 A Yes, because I wasn't being able to deliver it to
4 the people who should have been taking it from me and that
5 was the supervisors, such as Elsie Flett, who I was trying
6 to reach.

7 Q So but you just told us that the Minister of
8 Family Services delivered certain reports to you.

9 A Yes.

10 Q Do you recall which reports were delivered to
11 you?

12 A The ones --

13 Q Did you get Andy Koster's report?

14 A -- strengthening the commitment.

15 Q Okay.

16 A Is strengthening the commitment the one that
17 dealt solely with Phoenix?

18 Q No.

19 A It was the one that dealt solely with Phoenix and
20 the strengthening the commitment ones.

21 Q Okay. So the report that dealt solely with
22 Phoenix that you might be referring to is the one prepared
23 by Andy Koster.

24 A Yes, that's the one.

25 Q Okay. And we'll look at that in a minute.

1 A I don't know what it's titled.

2 Q So with this report that we're calling the
3 section 10 report, if we can go back to page 145, please.
4 So this says:

5

6 "It was at this point that the
7 involvement of Kimberly and Rohan
8 ... Stephenson was formalized by
9 the Agency. After Phoenix's
10 disappearance became an issue in
11 the media during the spring of
12 2006, Kimberly Edwards ... was
13 vocal about the lengthy periods of
14 care she and her former husband,
15 Rohan, provided for the child.

16 Kimberly Edwards and Rohan
17 Stephenson applied in 2003 to be
18 licensed as a Place of Safety for
19 Phoenix Sinclair. In the
20 application forwarded to Manitoba
21 Family Services, it was noted that
22 Kimberly was living at 1331
23 Selkirk Avenue while Rohan lived
24 in McMunn, a hamlet an hour east
25 of Winnipeg in the R.M. of

1 Reynolds. The information in the
2 [place of safety] file indicated
3 that the couple were separated at
4 the time of the application. The
5 reason for separation was not
6 noted nor does it appear that a
7 reason was requested or questions
8 asked about why they were making a
9 joint application, other than to
10 note that they were co-parenting."
11

12 Now what I've read so far, those two paragraphs,
13 are those accurate?

14 A Yes.

15 Q Okay. The next paragraph:
16

17 "It was not clear from the file
18 why Mr. Stephenson's place of
19 residence was not examined for its
20 suitability as a [place of safety]
21 if the couple were co-parenting.
22 In addition, the personal
23 reference referred only to the
24 suitability of Kimberly Ann
25 Edwards. Mr. Stephenson remains an

1 enigma. The reason for the
2 couple's separation was not
3 explored - was it due to alcohol,
4 drugs, violence, gambling or
5 incompatibility?

6 Provincial Standard 411 for
7 Place of Safety in a family
8 residence specifies: "Placement in
9 a family residence is not to
10 exceed two weeks unless the family
11 applies to provide care as an
12 approved foster home' ...

13 Given that the placement did
14 exceed two weeks and that the
15 caregivers were a separated couple
16 proposing (somehow) to co-parent,
17 it was incumbent on the Agency to
18 ensure that Phoenix was in a
19 satisfactory placement. It was
20 also required that the foster
21 parents apply to be licensed. None
22 of this was done during her
23 placement."

24

25 Is there anything in there in terms of what's

1 factually documented that you want to comment on?

2 A Other than the fact that we had actually
3 explained our situation to Stan Williams and that we were
4 separated and why you see that little piece off to the side
5 in the place of safety document that states he wasn't
6 living in the residence. We explained to Stan Williams why
7 we were separated and he knew that it wasn't due to
8 violence or drugs or alcohol or anything like that. I
9 would say that that's not really accurate.

10 Q Okay.

11 A Now that I know things, I would have to say that
12 the whole place of safety thing, I wasn't really accurate
13 either because I never went into being a foster home and if
14 a place of safety is two weeks, then I was a place of
15 safety much longer than that.

16 Q So then if we turn to the next page:

17

18 "Ms Edwards was noted to have a
19 child, aged 14 years, living at
20 home as did Mr. Stephenson, whose
21 son, aged 12 years, lived at home.
22 The person who provided a
23 reference had known Ms Edwards for
24 '6 or 7 years' and stated that
25 'Phoenix is better off there.

1 Phoenix has been taken care of by
2 Ron (sic) and Kim for extended
3 periods of time. Positive
4 reference.

5 Phoenix was moved from a
6 foster home to Ms Edwards'
7 Winnipeg home on July 31, 2003.
8 She became a Temporary Ward by an
9 order of consent on August 13,
10 2003. The order would end
11 October 2, 2003, seven weeks after
12 Mr. Sinclair appeared in court.

13 Ms Edwards had some previous
14 involvement with the Agency -- a
15 Protection file was opened and
16 closed in her name on June 30,
17 1990. A child ... was referenced.
18 As Ms Edwards indicated in the
19 [place of safety] application that
20 she had never received service
21 from any child welfare agency,
22 this is somewhat puzzling."

23

24 Do you want to comment on that?

25 A In this particular incident that was closed and

1 open on that day, that was due to a threat, a threat of
2 physical harm to both me and my two-year-old son at the
3 time, he was two. And that, and of course that would --
4 because of the violence that would force or mandate CFS to
5 come and check the situation at which time they saw that it
6 was a threat that was made by someone, it was made by my
7 son's father and I hadn't had contact with him, and neither
8 had my son, in two years.

9 Q So CFS did contact you?

10 A On that particular incident, yes, absolutely, the
11 Winnipeg Police were involved and I believe it actually
12 took me bringing the man's address and work address to the
13 police before they could capture him and --

14 Q So the file --

15 A -- do anything.

16 Q The CFS file was opened and closed on the same
17 day?

18 A Yes.

19 Q Why did you not indicate that you had that
20 involvement?

21 A Because my son was two when this happened and it
22 was something that I hadn't just, it just didn't -- I
23 didn't think of it at the time because --

24 Q How many years later was --

25 A Well, if my son was --

1 Q -- your application? Was -- as, as the report
2 says here your son was 14. Is that the same son?

3 So was it 12 years earlier?

4 A Well, because those names are redacted and the
5 fact that it only mentions two children and I have three
6 children, at the time we would have Phoenix it would be my
7 daughter that would be 14, not my son. My son would be the
8 12-year-old and then I would have another 10-year-old son.

9 Q Well, in any event, the reference to the file
10 being opened and closed on the same day says it took place
11 in 1990.

12 A Well, if my -- like I said, if that name that's
13 redacted is my daughter, then it would have been -- or my
14 son, it would have been 12 years. However, my son, if
15 we're going on my children's ages for the time --

16 Q I think I confused you.

17 A No, I --

18 Q I think I confused you. The, the reference is to
19 June of 1990. So you were filing out the place of safety
20 application we saw in 2003. So that was 13 years later.

21 A Oh, okay. So I would only have two children at
22 the time. Okay. Twelve years.

23 Q So you're saying because it had been so long
24 before, you didn't remember it or you didn't think it was
25 necessary to refer to it?

1 A No, it would have just slipped my mind. I
2 wouldn't have recalled it because as we've already heard in
3 this commission, it's absolutely impossible to remember six
4 years back, let alone 12.

5 Q What about you told us earlier today that you
6 have had some contact with CFS when your daughter was born.

7 A It wasn't actually when my daughter was born. My
8 daughter would have about a year.

9 Q But in any event, that wasn't information that
10 you indicated on the place of safety form?

11 A Again, at this time if Andrew (phonetic) was 14,
12 Frankie would have been 16. It was a period, a brief
13 period, I believe it was one year. My daughter was
14 returned to me because it wasn't an issue of alcohol or
15 drugs or anything like that in regards to myself. It was
16 in regards to me being an abused wife or common-law,
17 whatever you want to say, and I was only 17 years old at
18 the time and CFS came in. It was actually my dad who
19 phoned CFS because took my daughter (phonetic). But CFS
20 came in and took my daughter and just left me in that
21 situation. I left that situation and within a year, a
22 year, I'm sorry, a year and a half, my son was born and I
23 had her returned to me and I never had any other CFS
24 involvement at all. I don't even think that after my
25 daughter was returned there was any kind of follow up,

1 anything, in regards to my own file. So it's something
2 that just, you know, I raised my children.

3 Q So is it that you didn't think of that --

4 A Solely, it's not because I --

5 Q -- service when you filled out --

6 A -- trying to hide.

7 Q -- the form in '03?

8 A Yeah. No, it wasn't because I was trying to hide
9 the fact because when I was shown this document I went,
10 yeah, Frankie, I forgot about, I forgot about that incident
11 with Frankie. So it's not that I tried to hide or lie to
12 them or anything like that.

13 Q So let's talk about the section 4 report, that's
14 Andrew Koster's report. You do recall meeting with Andrew
15 Koster?

16 A Yes, I do.

17 Q In 2006?

18 A Yes, I do.

19 Q Where did you meet with him?

20 A I met him in the office of the Children's
21 Advocate when it was across from CBC, the CBC building.

22 Q Who set up that meeting? How was it arranged?

23 A Well, as I said for about six weeks I was calling
24 and pestering the Child and Family Services minister in
25 regards to getting a meeting with them and as well as the

1 premier, or the premier's office. And it wasn't until I
2 divulged to him that I had recalled the welfare records in
3 which are under my name in which Phoenix was declared, or
4 not declared, but they were informed of Phoenix and when I
5 did that, I, I got the meeting so I guess -- I don't know,
6 who do you want to say arranged the meeting? I was trying
7 to arrange the meeting and then after all this came to
8 light and a few days passed and they were, you know, able
9 to look into it. Then Andy, I believe it was Andy Koster,
10 who phoned me and instigated the --

11 Q Who you have known to phone Mr. Koster?

12 A Pardon?

13 Q Would you have known to phone Mr. Koster? Would
14 you have known that he was preparing a report?

15 A No, not at the time I was -- I would have known
16 his name but I wouldn't of -- maybe I contacted Mr. Koster.
17 I just recall vividly going -- the way that I look at
18 things is everybody has a boss and if you start at the top,
19 I know it's the conventional way to do things, but if you
20 start at the top then you might get some answers and that's
21 what I did.

22 Q So you were contacted by Mr. Koster?

23 A Yes, after I explained to the premier's
24 assistant, like I say.

25 Q Okay.

1 A I don't have his last name. His name is Brian
2 and he had --

3 Q How long did you meet with Mr. Koster?

4 A About 20 minutes.

5 Q If we can pull up -- let's start with page 2,
6 please. This is the cover page of Mr. Koster's report.

7 A Yes.

8 Q Is this the report that was couriered to you by
9 the Minister of Family Services?

10 A Again, it was offered to be couriered to me.
11 They had phoned me in the morning and offered to courier it
12 and I had, I was -- I believe I worked that day and I just
13 worked at the MTS Centre and said that I would go to the
14 legislative building and pick it up from their offices and
15 they allowed that.

16 Q And was that shortly after the report came out in
17 the fall of '06?

18 A It was the day the report came out. I remember
19 members of the press contacting me and telling me that the
20 report was out and it was -- and this was early in the
21 morning. Understand that for the first -- actually up
22 until I received the lawyers, the press was the one that
23 informed the family of anything and not by way of being
24 intrusive or so forth. I would get a phone call from this
25 reporter saying are you aware of this, Kim. No, I'm not,

1 can I get back to you or can you get back to me so I can
2 look into it myself.

3 Q Okay. Let's turn to page 38, please.

4 A And it was shortly after that that I got the
5 phone call from the minister saying we have this report for
6 you, how would you like us to get it to you.

7 Q Were you told that the report was to be kept
8 confidential?

9 A No. How confidential is it?

10 Q This report was not released to the public is my
11 understanding.

12 A Well, no one ever told me that it was a
13 confidential report and I picked it up from the top.

14 Q Okay. If you look under the heading "In-person
15 Interview with the Former Foster Parent who looked after
16 Phoenix during this Period of Time", these two paragraphs,
17 I believe are the portion of the report that covered your
18 interview with Mr. Koster. It says:

19

20 "Kim Stephenson (now Edwards) was
21 interviewed at the Office of the
22 Child Advocate and in the presence
23 of another staff member who also
24 participated. The interview was
25 wide ranging as this investigator

1 listened to her concerns in the
2 handling of this file in general.
3 She did indicate that in her
4 remembrance Phoenix Sinclair lived
5 with her on and off for her first
6 three years. She was not clear on
7 specific time frames and felt that
8 some of the events occurred more
9 in 2003 than in the beginning of
10 2004.

11 She thought that the agency
12 had not contacted her after Steven
13 received custody back from her in
14 September of 2003. She also
15 indicated that neither she nor
16 Rohan Stephenson, her former
17 husband, remember receiving the
18 letter that was sent from Winnipeg
19 CFS that is reproduced here in
20 this report. She did not believe
21 that she was still living at that
22 address on Selkirk at that time.
23 Later her husband Rohan apparently
24 confirmed to her that he had not
25 received the letter either. At

1 that particular time she thought
2 that she might have been looking
3 after a friends' home which she
4 did for three months in 2004,
5 although she did concede that she
6 had not officially moved nor
7 changed her address with the post
8 office. She was adamant that she
9 did not receive the letter.
10 Finally she felt that the letter
11 was not from the right worker who
12 had the file and that the date
13 must be wrong. A later phone call
14 from her also re-iterated her
15 position that the letter was sent
16 out at a time which was not
17 consistent with her remembrance of
18 when they were looking after
19 Phoenix Sinclair."

20

21 Do you want to comment on that?

22 A Where do I start? Got the appointment. In fact
23 got the phone call, met with him three hours later at the
24 office of the Children's Advocate. They took me into -- I
25 waited there for a bit in the waiting room. They took me

1 into a room. The second person was there. Mr. Koster was
2 very polite and cordial and we sat down. He turned on a --
3 there was a tape recorder in the middle of the table and he
4 turned on the tape recorder as soon as we sat down and were
5 comfortable. And that's when he, he had a file and it was,
6 it was open like he just opened it a little bit and got the
7 piece of paper out of it and I was sitting at the end of
8 the table and he grabbed it, he just grabbed the piece of
9 paper and he tossed to me like that and said, well, what
10 are you -- do you remember getting this? And I looked at
11 it and I remember scanning through everything and seeing
12 all the inaccuracies of that letter and the things that
13 just didn't make sense to me. Like the letter being dated
14 to, or addressed to Ron and I, or Steve's name being Steven
15 on the letter.

16 Q This is the letter that we looked at this morning
17 dated February 13, '04 from Lisa Mirochnick?

18 A Yes.

19 Q Okay.

20 A And I told him, like I never recalled ever seeing
21 that letter and then started to find out the fact that I
22 did not live at the address at that time, the fact that why
23 is Ron on this document as well as myself. Pointed out the
24 dates that he refers to in 2000 to 2003, her living with
25 me, stuff like that. Then --

1 Q Is Mr. Koster accurate in recording what you said
2 to him?

3 A No, not at all.

4 Q Okay. What's written there that's not accurate?

5 A Like I -- that we had an extensive conversation
6 in regards to this. Like the timeframe in which I'm
7 telling you this incident happened was 20 minutes. Within
8 the first, I'd say ten minutes, he shut the recorder off
9 after he could not convince me that I was mistaken.

10 Q About your timelines?

11 A About my timeline. I would not budge on my
12 timeline. He shut the tape recorder off. We talked a
13 couple of minutes more in regards to, well, you know,
14 people forget things and so forth and at this point I'm
15 thinking my time has been wasted and I'm sure if you look
16 back through my work records I was supposed to work but
17 didn't go to work because I had this meeting to attend. I
18 felt my time was wasted. There was no tears, there was no
19 rage, there was no anger, anything like that. Said well I
20 guess we're done here because you're not listening to me,
21 like you're investigating but you're treating me like I'm,
22 you know, lying to you and not listening. And I went to
23 get up and the second person that was in the room with us
24 picked up a box of Kleenex and I was just as dry eye as I
25 am now looking at you, sir, and said do you need a tissue?

1 And I won't say exactly what I said, but I said what the F
2 do I need a tissue for? And walked out and walked across
3 the street to CBC offices and asked for Karen Pauls and sat
4 down with Karen Pauls and told her what had just happened
5 in the Children's Advocate interview with Andy Koster and
6 that's how that meeting went. There was no extents of me
7 telling him this and me telling him all that stuff.

8 Q So where, where Mr. Koster says, "Finally she
9 felt that the letter was not from the right worker who had
10 the file," did you tell him that?

11 A I told him all of that. I addressed everything.
12 I addressed who is this Lisa, who is --

13 Q So my question, my question is --

14 A Is it accurate? No.

15 Q Well, so where Mr. Koster says, "Finally she felt
16 that the letter was not from the right worker who had the
17 file", is that what you said to Mr. Koster?

18 A No.

19 Q Did you think it was from the right worker?

20 A No. I told him that -- this is -- find the
21 recording that he turned on and everything, like I said, in
22 that before he shut --

23 Q Just, just tell us what you can remember saying
24 to Mr. Koster.

25 A I just did tell you what I could remember in

1 detail. And I said to Andy, I told you, I pointed out all
2 the inaccuracies or the mistakes, the facts of that letter,
3 such as the address. I was no longer at that address.
4 That I didn't believe that Ron would be on that document
5 because Ron wasn't on -- and I'm sure at the time I did not
6 recall that one piece of paper that I signed, the place of
7 safety. But I told him everything. I addressed
8 everything, including Nelson Draper Steve Sinclair's name
9 and why it was spelt Steven, because his name isn't Steven.
10 There's no "N" in his name.

11 Q You were --

12 A I told him everything including the worker and
13 then this tape recorder was shut off and that's it.

14 Q Was it your understanding that he shut the tape
15 recorder off because of the discrepancy in the timelines?

16 A I think the reason he shut the tape recorder off
17 is because he could not convince me that I was mistaken in
18 those timelines.

19 Q Okay. So let's, let's --

20 A And he didn't want to be on tape convincing me
21 otherwise.

22 Q Let's talk about the timelines now, okay. So
23 let's go back to the statement that you gave to the police.
24 It starts at page 5076. We're going to go through it, but
25 am I correct in understanding now that you recognized that

1 in your discussion with the police you were off by one
2 year?

3 A Could you say that again, please? I'm sorry.

4 Q In the information that you gave to the police --

5 A Um-hum.

6 Q -- you were in fact off by one year.

7 A I will resolve to the fact that what this
8 commission has and the documents I was off by a year.
9 However, when I think back to my own life, to major events
10 in my own life, such as leaving my husband on Christmas
11 Day, the year my daughter had her sweet 16, I will
12 remember --

13 Q So you told --

14 A -- and my daughter turned 16 in 2002.

15 Q I think you told us that you left your --

16 THE COMMISSIONER: What page are you saying in
17 the police report?

18 MS. WALSH: Pardon me?

19 THE COMMISSIONER: What page are you talking
20 about in the police report?

21 MS. WALSH: Well we're just about to go through
22 the police report, Mr. Commissioner. It starts at page
23 5076 and I'm just about to take the witness to 5078.

24 THE COMMISSIONER: All right.

25 MS. WALSH: But we haven't got into that.

1 THE COMMISSIONER: But you did refer her to that
2 page earlier.

3 MS. WALSH: Yes.

4 THE COMMISSIONER: All right, go ahead.

5

6 BY MS. WALSH:

7 Q So you told us today that you left Rohan
8 in December of '03, right? You were very clear about
9 that.

10 A Yes, I was.

11 Q And that Phoenix was picked up by Samantha after
12 that?

13 A Yes.

14 Q And so that is consistent with Phoenix being
15 picked up by Samantha in the spring of '04?

16 A Yes, to my resolve and your documents that have
17 been shredded --

18 Q Okay, Ms. Edwards --

19 A -- lost, altered.

20 Q You're clear that you separated from
21 Mr. Stephenson in December of '03?

22 A I am clear that I separated December 25th, well
23 it wasn't exactly the 25th, it was the 26th I left, the
24 year my daughter turned 16. My daughter's birthday is
25 December 28th, '86.

1 Q So --

2 A So but your files say 2003 I separated so I will
3 say 2003 I separated. It's 2003 -- everybody -- Ron
4 testified to having a bad memory but he could remember that
5 he never, didn't live on -- so let's just say I resolve to
6 your facts that you were given to by the social workers and
7 the investigators who never really bothered to talk to me
8 until I backed them in the corner and they had to and they
9 did it just to appease me and shut Kim Edwards up because
10 at the time I didn't have a lawyer stopping me from talking
11 to the press and the press wanted to talk to me.

12 Q I understand and I know you're upset.

13 A Yes, I'm upset because you know what, I have
14 every right to be.

15 THE COMMISSIONER: I think we'll take a mid-
16 morning break, or I guess it's afternoon now.

17 MS. WALSH: Sure.

18 THE COMMISSIONER: A mid-afternoon break for 15
19 minutes.

20 MS. WALSH: Sure, thank you.

21

22 (BRIEF RECESS)

23

24 THE COMMISSIONER: Please proceed.

25

1 BY MS. WALSH:

2 Q Kim, after Phoenix's death was discovered in
3 March of '06, other than Mr. Koster, did anyone from Child
4 and Family Services call you to talk about the time that
5 you took care of Phoenix?

6 A No.

7 Q You said you, you had the one interview with
8 Mr. Koster. You weren't interviewed by anyone from the
9 agency?

10 A No.

11 Q You weren't interviewed by the Office of the
12 Chief Medical Examiner?

13 A No. Oh, though I did have contact with the
14 Office of the Chief Medical Examiner in regards to
15 Phoenix's, finding out about -- we had assumed when we
16 first found out, that her remains would be released to us.
17 So it was the chief medical examiner which I had to speak
18 to in regards to that.

19 Q Okay.

20 A But for Phoenix, for the investigative purposes,
21 no.

22 Q And you weren't able to sit through the evidence
23 at the criminal trial?

24 A No.

25 Q So by the end of the trial, did you have the

1 answers you were looking for?

2 A Not at all.

3 Q And over the years since you learned of Phoenix's
4 death, is it fair to say that you have spent a lot of time
5 looking for answers?

6 A No, it wouldn't be fair to say a lot of time.
7 I've totally dedicated my entire life. I changed -- I have
8 no children at home. All my children are grown up. I
9 adopted the, the childless lifestyle, I was in a rock and
10 roll atmosphere. I changed my life completely around.
11 Things that I wouldn't normally think were taboo like
12 having a house party with all my friends and drinking.
13 That sort of tapered off to almost no existence whatsoever
14 because I wanted to make sure that I would be taken
15 seriously and that my lifestyle wouldn't be a consideration
16 as to whether someone would take stock in my foundation, I
17 guess our foundation, Steve and I. When --

18 Q I'm going to ask you about your foundation in a
19 minute --

20 A And it was --

21 Q -- but in terms, in terms of over the last six
22 years, I asked you if you spent a lot of time looking for
23 answers. Is your evidence that you've spent all your time
24 looking for answers, is that what I'm -- am I right in
25 understanding that?

1 A Yes.

2 THE COMMISSIONER: No, I don't think she said
3 that.

4 THE WITNESS: Yeah. No, that is what I'm saying,
5 Your Honour. There's a first --

6 MS. WALSH: She said she devoted her life.

7 THE WITNESS: Up until, up until trial time I was
8 looking to, for answers in regards to trial and I finally,
9 I think it was about a month before the trial I was finally
10 able to get through to the Crown and speak with him. And
11 after that, I believe it was in between the trial and the
12 appeal I went to, or I attended a walk, that grandmothers
13 from Fairford, they were walking from Fairford to Winnipeg,
14 I attended that. I had formed the foundation in 2007 to
15 protect Phoenix's name and image and so forth but that
16 failed profusely. In 2009 I started working with the
17 foundation full time, and when I say full time, I mean from
18 morning till night and that was my focus of my attention
19 all the time to the point that most of my friends went away
20 because all I would talk about was the children, and not
21 Phoenix. Phoenix -- other than a few correspondence to the
22 government making comparison to what happened to her, it
23 was always about the other children for me. So all my time
24 was dedicated, not just some. I quit my job.

25

1 BY MS. WALSH:

2 Q And that's dedicated to in part you've been
3 looking for information about Phoenix and also dealing with
4 other children whose lives have been touched by the Child
5 and Family Services system?

6 A As I said, when we got through to the Crown, we
7 were able to get -- I was able to sit and tell this story
8 without structured questions or anything like that. He sat
9 there and he listened to the story from beginning to end.
10 And as far as the trial went, I read the transcripts, I
11 know what happened to Phoenix. I have those answers.
12 Steve has those answers. So, no --

13 Q My understanding --

14 A -- my time was dedicated to helping other
15 children because there were so many other children's deaths
16 after Phoenix.

17 THE COMMISSIONER: That's what, that's what I
18 understood.

19 THE WITNESS: Yes.

20 THE COMMISSIONER: So now I think you can put
21 your next question.

22 MS. WALSH: Okay.

23 THE COMMISSIONER: I think the witness has made
24 that clear.

25

1 BY MS. WALSH:

2 Q With respect to Phoenix, I'm dealing just with
3 Phoenix now, you have over the years made a number of phone
4 calls, written a number of letters to politicians, to the
5 child welfare authorities about Phoenix?

6 A Only when needed.

7 Q Okay. And you --

8 A For the first year it was -- well I won't say a
9 whole year. From April or March when I found out until I
10 believe it was December of that year I wrote a lot of
11 letters to every agency and organization that would play a
12 role and most of those agencies and organizations are
13 playing a role today.

14 Q And particularly in that first year you said
15 after you learned of Phoenix's death --

16 A Yes.

17 Q -- you were looking for information about what
18 happened to Phoenix.

19 A Regarding just Phoenix.

20 Q Right.

21 A And then at trial time I was getting information
22 that we were looking for, just basic that was your child
23 kind of information, not the confidential stuff, not the
24 stuff that pertains to the investigation or the trial, just
25 this is what would do it, just a little tiny bit of

1 respect. Deals were made, families were contacted in
2 regards to a -- first degree murder trial of a child and
3 the family was never consulted period until a month before
4 trial time. That's what I'm saying. And the first year
5 that I wrote letters, it was in regards to Phoenix only.
6 The second year, the only time I wrote any kind of letter
7 to the government was at trial time going I thought we were
8 going to testify. We can't sit in the trial. I wrote
9 another one to the government after the trial because the
10 press had falsely stated that we were disappointed with the
11 justice system. And then after the correspondence stopped
12 because I didn't want to do anything to jeopardize the
13 appeal in keeping those people behind bars. And then in
14 2009 I started speaking again and I wasn't speaking on
15 behalf of Phoenix. I wasn't lobbying for this commission.
16 This was a bonus for me, getting the commission called. I
17 didn't lobby for this. What I did lobby for though is for
18 the other children. So only a year of that did I write
19 letters in regards to Phoenix.

20 Q And during the time when you wrote letters in
21 that year about Phoenix, is it fair to say that you didn't
22 have a lot of information about what had happened to
23 Phoenix in terms of her involvement with Child and Family
24 Services?

25 A Up until the trial, yes, that's very accurate to

1 say, we had no information except for what was being given
2 to us by our friends in the press. And when the press
3 contacted me it wasn't always just to tell the story. It
4 was just to make sure that the family knew this because the
5 press knew that the government wasn't telling us anything.

6 Q Do you think that in that first year when you
7 were looking for information you may have said things which
8 you now know were not accurate?

9 A Yes.

10 Q At one point you started a petition.

11 A Yes, I did.

12 Q Let's just take a look at just the first page of
13 that petition, 11774. So this petition has a number of
14 names, it's got 311 names. I haven't actually counted but
15 I see that that's the number that's written there. I'm not
16 putting into the public record all of the names but I --

17 A I understand.

18 Q -- have been shown the signatures. What, what
19 were you doing with this petition?

20 A This particular petition was actually I wasn't
21 really getting anywhere. This petition was calling for the
22 resignation of Christine Melnick. It was a very hastily
23 done petition, found out that it was garbage once I handed
24 it in. It wasn't in the right format or anything like
25 that, so it was three, what did you say, 311 names weren't

1 actually recognized. This petition basically was started
2 because the family was being ignored trying to get
3 information and that's why this petition -- this petition
4 was also actually given to the premier.

5 Q And it's stamped on -- it's got the "premier's
6 office" stamped on it thought.

7 A Yeah, it was, it was actually hand delivered by
8 the premier, or hand delivered by me to the premier's
9 office. And there's a great big long, actually a musing
10 story. I cornered him in his office and he couldn't come
11 out and go past me and go home without going past me and
12 that's how that petition -- and I enclosed that petition.
13 In handing that into the, the minister I had said that I
14 was withdrawing that petition that I just wanted to have it
15 because Christine Melnick had just taken the meeting with
16 me and sat down and I had told her that I would no longer
17 call for her resignation if she was going to do something.

18 Q And if we just scroll down to see the entire
19 page, you say that you want accountability.

20 A Yes.

21 Q This was with respect to Phoenix's murder?

22 A Yes.

23 Q And with respect to the services that she
24 received from Child and Family Services?

25 A Or didn't receive, yes.

1 Q You also spoke on the phone with Elsie Flett and
2 you referred to earlier who was the CEO of the Southern
3 Authority and that was also in that first year in April of
4 '06?

5 A Yes.

6 Q Let's pull up the notes that Ms. Flett took of
7 that call, page 18535. Now did you make notes of your
8 phone call with Ms. Flett?

9 A No, I didn't.

10 Q Okay. Do you normally make notes of your phone
11 calls?

12 A No.

13 Q Do you know who initiated this call?

14 A I initiated the call.

15 Q Okay. Why were you calling Ms. Flett?

16 A I was calling Ms. Flett to give her the same
17 information that I had just talked to Christine Melnick
18 about. I had written about -- all the documents, all the
19 information that I had given to the people in authority to
20 do something, it was to talk about Phoenix and where she
21 was, how I had her, so forth, to offer up the names of the
22 really important people that they should really talk to in
23 regards to this, knowing that we had been looking for her
24 and so forth and that's why I was contacting Elsie Flett.

25 Q So let's just go through these notes and I'll ask

1 you to comment on them. Do you remember the conversation?

2 A Yes.

3 Q Okay. You've read the notes?

4 A Yes.

5 Q Okay. It starts off, it says -- were you ever
6 shown these notes prior to your participation in the
7 inquiry?

8 A No.

9 Q

10 "Kim stated that she was the legal
11 foster mom in August and
12 Sept/2002; worker was Stan
13 Williams."

14

15 So I guess what I'd like is as we go through them
16 if you think that something was not accurately recorded in
17 terms of what you said, are you able to do that or do you
18 not have sufficient recollection to comment?

19 A No, I have perfect recollection of this
20 conversation because I had never, in all my life, been
21 treated so indignantly and completely dismissed.

22 Q Had you ever met Ms. Flett before?

23 A No.

24 Q She took your call though?

25 A Yes, she did.

1 Q Okay. So let's go through this line by line. So
2 that first line, was that something you stated?

3 A Yes, I'm sure that it is something I would have
4 stated.

5 Q

6 "When Phoenix's mom came to take
7 her -- bio dad had brought her to
8 Kim's -- bio mom had no
9 involvement with her in the first
10 three years of her life."

11

12 A Yes, I'm sure that --

13 Q That's accurate?

14 A It's not verbatim but I'm sure I would have said
15 that information, yes.

16 Q

17 "Took her from Kim's home in April
18 2003"

19

20 A Yes.

21 Q

22 "All lost contact; 'they were
23 looking for her
24 Kim phone CFS to speak to Stan
25 Williams"

1 Why don't we just say that you'll stop me if there's
2 something that you think you didn't say.

3 A Okay.

4 Q

5 "Earlier -- taken from Kim's home
6 -- she called Stan Williams and
7 within five days of her phone call
8 she had Phoenix back."
9

10 A Well, I would not have said five days. I would
11 have said about three days because that too is something
12 that even at the time I was very shocked that Phoenix was
13 back with me within three days.

14 Q This is when you came back from McMunn as you've
15 told us --

16 A Yes.

17 Q -- and found out that Phoenix had been
18 apprehended?

19 A Yes, and then phoned the worker and within three
20 days she was back in our -- I was even surprised then, so I
21 would not have said. I would have been more, you know, I
22 would have said generously or our being generous at four or
23 whatever but I wouldn't have given five.

24 Q

25 "She was in a foster home on a

1 reserve in this time."

2

3 A This is something that I was -- that was related
4 to me by Steve. He had commented I think she's on the
5 reserve, but then again --

6 Q That's where he thought she'd be placed?

7 A -- parents don't really know where the foster
8 parents or the foster homes are, so.

9 Q

10 "By Jan/03 she was back with Kim.
11 Kim tried to find Phoenix but no
12 one knew where she was."

13

14 A Well, I, I -- January? It would be July.

15 Q Right.

16

17 "Kim tried to find Phoenix but no
18 one knew where she was.

19 Uncle on the mom's side -- Mickey

20 Kematch -- was looking for her.

21 No one could find her.

22 No one called the police -- Kim

23 did not call the police."

24

25 A No, back up to no one called the police. I would

1 not have said that no one called the police because I
2 called the police.

3 Q

4 "Mickey said they were looking for
5 her at Fisher River.

6 Mickey's girlfriend's mother is a
7 producer at CBC.

8 Steve's sister -- Jenny -- Kim
9 spoke to her after Samantha was
10 charged at the courthouse.

11 Kim did not know the family well."
12

13 Can you scroll up, please?

14 A Back up to speaking with Geni at the courthouse
15 after Samantha was charged, is this in regards to Phoenix's
16 murder because the only time that I was ever at the --
17 didn't go to the bail hearing, I stayed away from the bail
18 hearing. After the bail hearing I met with a reporter
19 friend and she told me what happened at that bail hearing.

20 Q So you don't think you said that?

21 A I know I didn't say that.

22 Q Please scroll up, please.

23 A Why would I say that I went to the courthouse and
24 talked to Geni when I didn't go to the courthouse at all?

25 Q

1 "Kim did not know the family
2 well."

3

4 A This is not something that I would not say -- or,
5 I'm sorry, this is something that I would, yeah, I would
6 not say because I knew the family well, I knew Samantha's
7 brother well and relatives, cousins and so forth as well as
8 I knew Steve's family --

9 Q No one in the family --

10 A -- well enough.

11 Q Sorry.

12 A No, go ahead.

13 Q

14 "No one in the family has spoken
15 up.

16 Phoenix did not have --"

17

18 A No, I don't agree with that either because Steve
19 was telling everybody, like for instance at the Family
20 Services Minister's office they needed confirmation that
21 they could speak to me on Steve's behalf. Steve gave
22 it to them. The medical examiner, again needed
23 confirmation from Steve. I believe they took that
24 confirmation over the phone. So, yeah, no, that's also not
25 accurate.

1 Q

2 "Phoenix did not have a horrible
3 existence -- she had a family that
4 loved her at Kim's -- she was a
5 happy child when she was with
6 them.

7 She had -- "

8

9 A Yes, I said that.

10 Q Okay.

11

12 "She had her for 3 years and no
13 one checked on her."

14

15 A Again, I would have said that.

16 Q

17 "When Steve had her, she was no[t]
18 well looked after."

19

20 "No well looked after" is what is says, so I mean I know
21 you didn't make that note, so I don't know ...

22 A I would never say that, no, that's not accurate.

23 Q

24 "CFS came out in response to a
25 call from someone about a party."

1 A Again, I would not use party. I would have
2 probably described it -- I'm sure I said that too but I
3 would have described it as a barbecue and then put in, you
4 know, the two cents of you (inaudible) like a drinking
5 party. But mostly out of facetiousness because -- may I
6 just say something? After every point that you read, from
7 here on in can I just give you a little demonstration of
8 the way that my call was received?

9 THE COMMISSIONER: Well, I think what you're
10 being asked is whether these statements are correct.

11 THE WITNESS: Some of them are correct.

12 THE COMMISSIONER: Well then --

13 MS. WALSH: So let's just carry on with that,
14 okay?

15 THE COMMISSIONER: Then, then just say, just say
16 correct and we move on and if the next one isn't then
17 you'll tell us what's wrong with it.

18 THE WITNESS: Okay.

19

20 BY MS. WALSH:

21 Q

22 "After Echo died, Steve's family
23 took Phoenix for a while."

24

25 A Yes.

1 Q

2 "Samantha and Steve were separated
3 at this time."

4

5 You're just, you're going to tell me when something is not
6 correct, right?

7

8 "Police needed to escort Samantha
9 at Echo's funeral."

10

11 Can you scroll up, please?

12

13 "Kim did what she could to look
14 after her.

15 Stan Williams told her that her
16 case was one that was going to be
17 transferred July 2002/early Sept
18 2002.

19 Kim said that ..."

20

21 And I'm not sure what's redacted there,

22

23 "... case was 'fizzled out'.

24 No home visits from the first
25 worker --"

1 A I don't know what that means.

2 Q No, I won't ask you to comment on that.

3

4 "No home visits from the first
5 worker involved.

6 Second worker was Stan Williams.

7 'White establishment' is bending
8 over backwards.

9 Phoenix was on Fisher --"

10

11 A That is a statement that would not come out of my
12 mouth at that time and the reason I use the "white
13 establishment" term today is because of reading it in this
14 document. I would have said white agencies or the white
15 authority in regards to not putting race in, just making
16 the distinction between the aboriginal authorities that I
17 was trying to speak with and being able to speak with the,
18 the white authorities.

19 Q What is it that -- do you think you said white
20 authorities are bending over backwards?

21 A No, I know I said white agencies. Not white --
22 I'm just not like that.

23 Q White agencies.

24 A I'm not a protestor, I don't use words like
25 establishment and stuff like that.

1 Q Okay, so you said white agencies?

2 A Yes.

3 Q What did that mean?

4 A I just explained to you what that means, it was
5 just a --

6 Q But bending over backwards meaning what?

7 A They were bending over backwards to help. We
8 were, were getting meetings with them, they were taking
9 phone calls. Normally, in fact when I called for the
10 meeting with Christine Melnick I was told to write a letter
11 of request and I just, I guess my sense to the woman,
12 because on the phone with you, why don't you take my
13 request over the phone, give me a date and then I'll go.
14 But if you need a letter I'll write it to you but just give
15 the appointment now.

16 Q Okay.

17

18 "Phoenix was on Fisher River
19 reserve."
20

21 Is that something you said?

22 A I'm --

23 Q Third from the bottom.

24 A -- pretty sure I would have mentioned Fisher
25 River because I'm knowledgeable in the fact that she was

1 found dead on Fisher River, yes.

2 Q

3 "Christine Melnick has been very
4 co-operative with her."

5

6 A Yes.

7 Q

8 "Spoken with Frank Whitehead at
9 AMC."

10

11 Did you speak with Mr. Whitehead?

12 A I spoke with a few people at the AMC and, and his
13 name sounds, it rings a bell.

14 Q Okay. Can we scroll to the next page, please?

15

16 "She has to live with the fact
17 that she did not try hard enough
18 to find her."

19

20 A This is not something that I would convey to
21 Ms. Flett.

22 Q Is that something you believe?

23 A In my heart, yeah, I did. Like in hindsight if I
24 had done more instead of saying what more can I do,
25 yeah.

1 Q

2 "Samantha and Steve do not need
3 the help and the sympathy."

4

5 Is that something you said?

6 A Why would -- no.

7 Q Kim --

8 A I can say that whole, the whole sympathy and it's
9 sympathy that in which Steve needed and all he was getting
10 was empathy. But as far as Samantha, I wouldn't, I
11 wouldn't at this point make any reference to her --

12 Q Kim wants the --

13 A -- talking with Elsie Flett.

14 Q Sorry?

15 A In talking with Elsie Flett at that time in April
16 of taking that one phone call. This was a, wow, it's a
17 long phone call.

18 Q

19 "Kim want the native agencies to
20 recognize that she (Phoenix) was
21 her (Kim's) child; short of
22 putting her to her breast, she was
23 her flesh and blood."

24

25 A Okay, that's something that I would say in the

1 heat of the moment and I'm sure by the, and I'm sure we're
2 coming up to the ending of our conversation. By this time
3 I'm sure that I was in a very enraged state because after
4 everything that I said, Ms. Walsh, all she said was that's
5 just speculation. I'm telling you this is who you need to
6 go see. That's just speculation. Phoenix was with me.
7 That's just speculation. I was Phoenix's godmother, or not
8 godmother, I was Phoenix's foster mother. That's just
9 speculation, we don't know that, dear, that's just
10 speculation.

11 Q You're saying that's what Ms. Flett responded to
12 you?

13 A That's all she did after everything I said.

14 Q Do you recall how long this conversation took?

15 A How long, maybe 15 minutes.

16 Q Okay.

17

18 "Wants to leave her fight with
19 dignity and respect for the
20 children who are going to die.

21 Human compassion is what she wants
22 to get out there."

23

24 A I'm sorry, I'm --

25 Q Are you with me?

1 A Yeah.

2 Q You see where we are? Okay.

3 THE COMMISSIONER: Carry on.

4 THE WITNESS: Wants to fight with dignity and
5 respect for the children who are going to die? No, I never
6 said that.

7

8 BY MS. WALSH:

9 Q

10 "Human compassion is what she
11 wants to get out there."

12

13 A I'm getting -- that's exactly what I was looking
14 for but it's not something that I would convey to an
15 ignorant person saying to me well I'm presenting her facts
16 while she's doing nothing to investigate, that's just
17 speculation, dear, it's not something I would convey to
18 her.

19 Q

20 "Native children because of
21 devolution are at the highest risk
22 -- because of the transfer."

23

24 A Again, even though Mr. Williams had spoke to me
25 about cultural appropriateness, I never heard the word

1 devolution until, oh I guess it would have been that summer
2 and it was a reporter who mentioned the word devolution and
3 just sort of pointed out the irony of the word. So, no, I
4 never mentioned anything about the devolution or so forth,
5 but there were a few different places where I was mentioned
6 being racist and this is of course in the presence -- like
7 I don't -- oh, and there was a commentary actually written,
8 like when you write into the comments section, written by a
9 chief accusing me of being racist and that's what I was, I
10 was racist until they found I had an Ojibway son.

11 Q

12 "All kids are at risk."

13

14 A Yes, they are, they're in grave danger.

15 Q Is that, is that what you said?

16 A That would be something that I would say being
17 ignored, bringing the child to the authorities.

18 Q

19 "Kim stated that person to person,
20 'most of my friends are native' --
21 they all said she would have a
22 fight on her hands getting
23 anything from the native
24 authorities."

25

1 A Yeah, that's something that I would convey to her
2 because that is what my native friends were conveying to me
3 is this fight is useless, why are you wasting your time?
4 Why are you going to quit your job? Why are you devoting
5 all your time to his because you're going to get nowhere.
6 No one ever gets anywhere. I have friends, highly educated
7 friends, who worked for some of the organizations that are
8 being represented today and left that to take a menial
9 labour job.

10 Q

11 "Her conversation with me did not
12 put her at ease -- just left more
13 questions.

14 Kim stated that --"

15

16 A Who is saying that, her or me?

17 Q I read it as Ms. Flett saying that you told her
18 that her conversation with you did not put you at ease, but
19 I may be wrong.

20 A Yeah, I don't think that I would tell her that,
21 you know, I'm sorry, Ms. Flett, the conversation we're
22 having is not putting me at ease. It would have been more
23 this is a useless conversation, you're doing nothing and so
24 forth, but it wouldn't have been put like that, no.

25 Q

1 "Kim stated that native people
2 don't care about Phoenix."

3

4 A Could have done it, considering the stuff that I
5 was going through and how I was being ignored and how I was
6 being treated indignant and how a member of an organization
7 being represented here today, when calling asked me, why
8 are you fighting so hard, you're not even Indian.

9 Q Okay.

10 A So, yeah, did I think that the native at that
11 time or now, today, whether they care? No.

12 Q Let's just finish with the --

13 A I'm sure I said that to her.

14 Q

15 "Kim stated 'not once did you say
16 I'm sorry and I feel for your
17 grieving -- the conversation is
18 over, good-bye' and hung up."

19

20 Is that what you said?

21 A Yes, I'm sure I said that. I'm sure that there
22 were a lot more words in there.

23 Q Okay. And as we discussed since that first year
24 after Phoenix's death you have learned more facts, more
25 information?

1 A Yes.

2 Q Okay.

3 A A lot more.

4 Q Now tell us very briefly, but so that we
5 understand what it is, what is the Phoenix Sinclair
6 Foundation?

7 A Well, what the Phoenix Sinclair Foundation
8 started out to be was an organization that helped direct
9 people to grief counselling and so forth. And it didn't
10 really stay that way for very long once I started
11 collecting clients. And then basically what we do is we
12 help families who, who we investigate ourselves. We
13 require drug tests. If our clients don't take the drug
14 tests on a weekly basis, we know of a clinic that does
15 weekly drug testing. If they didn't do that we didn't take
16 them on as clients. What we did was we put all their
17 documents together, or the little bit of documents that
18 they would have, present it to the social worker's say
19 supervisors or so forth. We'd -- if we couldn't find them
20 a lawyer, or have Legal Aid approve them to be represented
21 what we did was we sat with them, we went through their
22 cases and said, you know what, if you can, if you know the
23 etiquette of a courtroom and a judge allows you to present
24 your own case, you can represent yourself. We would help
25 prepare cases to present to court because most of my

1 clients were actually declined Legal Aid. So that's what
2 we do. We just advocate for families and children.

3 And most, you must know that most of the clients
4 of the foundation are not moms and dads who are, you know,
5 recovering from something. They are aunts and uncles and
6 grandparents who are trying to take the children out of the
7 system completely without having CFS support the child but
8 just take them and raise them because they are, they're
9 children and it is their responsibility ultimately, because
10 family is the main thing that children need. And if mom
11 and dad can't be doing it, there's no reason why grandma
12 who raised mom and dad, unless of course there's some kind
13 of history why they wouldn't be able to raise the children
14 and take the children, or aunt and uncle who live in say
15 Charleswood be able to take the child of a, of a fallen
16 family member, let's just say, and who's ended up down on
17 Main Street. And that's what we do.

18 Q Both you and Steve gave victim impact statements
19 at the criminal trial.

20 A Yes, we did.

21 Q You read Steve's for him.

22 A Yes, I did. It was actually at the request of
23 the judge.

24 Q And last week you heard me read portions of
25 Steve's victim impact statement to the inquiry.

1 A Yes, I did.

2 Q Would you like me to read some portions of yours?

3 A If you'd like.

4 Q This is, starting at page 3004 -- oh, we don't
5 need to bring it up on the screen but for the purposes of
6 the record, it's from CD0038 and I'm going to be reading
7 from portions of page 3004 to page 3009. So you start this
8 way:

9

10 "I loved Phoenix immensely and it
11 is beyond words to describe how I
12 felt about that precious child and
13 the honour it was for me to raise
14 her for three years. In all
15 honesty, I believe she was a gift
16 sent to me from the heavens."

17

18 "I fell madly in love with this
19 child the moment I laid eyes on
20 her. She was perfect. Her skin
21 was the colour of a china doll.
22 Her eyes so deep you could not see
23 to her soul, big brown mesmerizing
24 saucers. She had a smile that lit
25 up the universe and she had such

1 infectious laughter. Sometimes
2 Phoenix and my ex-husband would
3 just sit and look at each other
4 and laugh until their sides hurt
5 and they could laugh no more at
6 one another's laughter. It would
7 light your heart up in a second.
8 It did not matter your mood and my
9 heart breaks into a thousand
10 pieces knowing how he loved her as
11 his own and the way him and Steve
12 shared a fatherly bond thinking
13 only of Phoenix, double the love,
14 as Steve would say this himself.

15 I know her death hit him like
16 a ton of bricks. If given the
17 chance, we would have raised her
18 into adulthood alongside our own
19 children, given her everything
20 that we gave to them whether we
21 were together or not.

22 She was the closest to Rohan
23 I think. He treated her like a
24 queen. I swear if Phoenix wanted
25 to sit down or lay where you were

1 sitting on the sofa, he would tell
2 you to give it up for her and she
3 mischievously used that a lot but
4 that was fine with everyone, even
5 my children."
6

7 "Phoenix Victory Hope will
8 always be considered my daughter
9 and their sister. Forget the word
10 foster because none of us felt in
11 our hearts there was any
12 difference by blood. The word
13 foster has its implications we do
14 not wish to accept collectively as
15 her family, not just us but most
16 Phoenix's biological families on
17 both sides. We are her collective
18 family, united for her in life and
19 we are still united with her death
20 -- I'm sorry -- we are still
21 united. Her death has only made
22 the ties stronger. We love that
23 little girl with all of our hearts
24 and we'll miss her forever."
25

1 "I have come to terms with
2 what these people did to Phoenix
3 but I will never understand how or
4 why they could take a wonderfully
5 bright child so full of love and
6 affection with excitement for life
7 and just turn her into what they
8 did and I know her spirit is free
9 and it shall live forever in our
10 hearts and in people's minds.
11 That is how the family and I want
12 her remembered. This is how I
13 want her remembered."
14

15 A Yes.

16 Q Can you tell us what you hope you to see come
17 from this inquiry?

18 A Accountability, future accountability. If she
19 can't have the accountability of -- I just want
20 accountability for the next child. That when a worker goes
21 out, they better make sure that they see the child because
22 if they don't they can be held criminally responsible in
23 some way. Accountability for when documents get shredded.
24 Social workers are looking for a new career, or documents
25 get misplaced or confidential information. Just

1 accountability all around for their behaviour.

2 Q Thank you, Ms. Edwards.

3 MS. WALSH: Those are my questions,
4 Mr. Commissioner.

5 THE COMMISSIONER: All right. Thank you,
6 Ms. Walsh.

7 Who is going to be first? Mr. Saxberg?

8 MR. SAXBERG: If I could just have a moment --

9 THE COMMISSIONER: Sure.

10 MR. SAXBERG: -- with Mr. Gindin.

11 THE COMMISSIONER: Sure.

12 MR. SAXBERG: On a preliminary matter.

13 THE COMMISSIONER: You want five minutes I'll
14 give it to you.

15 MR. SAXBERG: I think that would be good.

16 THE COMMISSIONER: All right. We'll take a
17 break.

18

19 (BRIEF RECESS)

20

21 MS. WALSH: Mr. Commissioner --

22 THE COMMISSIONER: Well, that was a long five
23 minutes.

24 MS. WALSH: It was.

25 THE COMMISSIONER: I'm hopeful some real progress

1 has been made.

2 MS. WALSH: I'm not sure that that's the case,
3 but perhaps. My understanding is counsel have advised that
4 they wanted to make a motion before they're prepared to
5 begin cross-examining.

6 THE COMMISSIONER: Mr. Saxberg?

7 MR. SAXBERG: I don't want to start off by
8 disagreeing with commission counsel, but I'm going to have
9 to. It's not a motion. We're going to ask for an
10 adjournment, a brief adjournment in order to bring
11 documents forth to the commission which we believe are
12 extremely relevant to the issues that are before you. And
13 those documents in their existence have only come to our
14 attention through the evidence that we heard today from the
15 witness, that evidence being that she had a daughter at a
16 time when she was a minor who was taken into care herself,
17 which, as you'll know from the evidence, leads to a sealed
18 file and so it's for that reason that the information
19 wasn't known to us. Being aware now that there is that
20 sort of information, the reason why it's relevant is
21 because you'll recall that Ms. Edwards indicated that --

22 MR. GINDIN: Can I have a minute?

23 THE COMMISSIONER: Yes.

24 MR. SAXBERG: And Mr. Gindin has reminded me not
25 to be so exuberant about this. I don't need to get into

1 the details, except to say if you're satisfied with us
2 telling you we believe that it's very important information
3 on a very important point that's needed prior to cross-
4 examination. Now we have that, some of the, some of the
5 information, maybe all of it, that we'll need to proceed on
6 that point but we want to distribute it before cross-
7 examination to all the parties and most particularly
8 commission counsel and make sure that everyone is
9 comfortable with us proceeding with our cross in light of
10 having reviewed that information. That's point number one.

11 Point number two is, as you'll be aware there is
12 a very stark difference in evidence between Ms. Edwards and
13 Mr. Stephenson about who was residing in the house and
14 when. And we believe that the employment and insurance, or
15 the employment income and information files relating to
16 that household at 1331 Selkirk Avenue might be, would be
17 very, very important to determining who was living there at
18 the relevant times, including when this household was a
19 place of safety for Phoenix Sinclair. So there are two
20 very, very important issues.

21 THE COMMISSIONER: I don't get your second point,
22 Mr. Saxberg. What is that, where is that going to take us?

23 MR. SAXBERG: The issue is that the information
24 from those records will help us understand whether or not
25 Mr. Stephenson's evidence that Ms. Edwards was not residing

1 in the home at the time the home was a place of safety.
2 It's going to allow us to better understand the issues and
3 what the facts were on that point, that very important
4 point.

5 THE COMMISSIONER: Very important in what way?

6 MR. SAXBERG: Well, this is a foster home where
7 the state has got an order from the court to apprehend a
8 child and place that child from the state having concluded
9 a dangerous place where the child's in need of protection
10 into a foster home which is part of the, a safe refuge, a
11 place of safety, where at that point in time the
12 guardianship is with CFS. And the issue is what, who was
13 living in that home and whether or not the place of safety
14 applicants were telling the truth to CFS about who was
15 living in that home and those related issues. The
16 employment and income assistance we heard from this
17 witness --

18 THE COMMISSIONER: Well, what, is that a matter
19 you're saying goes to credibility?

20 MR. SAXBERG: It goes to far more than -- well,
21 it obviously goes to credibility but it also goes further
22 than that because it's going to tell us who was looking
23 after Phoenix when she was residing in that home during the
24 period that there was, that she was under the care of CFS.
25 The way the evidence stands right now, we don't know who

1 was living in there, in that home when Phoenix was placed
2 there July 31st, 2003 until October 2003. We have
3 contradictory evidence on who was living there. And the
4 employment and income assistance records will tell us
5 because that's, because we heard today that, that the, that
6 Ms. Sinclair, or sorry, Ms. Edwards was on social
7 assistance and she had, as part of her budget, her two
8 children but not Phoenix and that's going to, that
9 information and what was being conveyed to employment and
10 income assistance is going to be extremely important in
11 helping us understand what the facts are. And it's a
12 simple matter of getting a subpoena from the commission to
13 extract those very same records that we already have for
14 Karl Wesley McKay, that we already have for Steven
15 Sinclair, that we already have for Samantha Kematch.
16 They're all involved of course in this matter but so are
17 the foster parents, so are Rohan Stephenson and Kim Edwards
18 and, and those same records are, are relevant to that issue
19 and of course they are also very relevant to the issue of
20 credibility which, based on the conflicting evidence, is an
21 issue.

22 THE COMMISSIONER: Mr. Gindin -- are you through?
23 Mr. Gindin?

24 MR. GINDIN: Mr. Commissioner, I don't believe
25 that any sort of adjournment is required. The records that

1 Mr. Saxberg has referred to from me and EIA in terms of
2 Steve Sinclair, Samantha or Karl McKay were relevant
3 because they demonstrated where Phoenix was and who Phoenix
4 was with.

5 THE COMMISSIONER: Well, what did you say?

6 MR. GINDIN: Those records demonstrated where
7 Phoenix was and they show us when Phoenix was being claimed
8 by Samantha and also Karl McKay. That's why those records
9 were relevant, because we're here, concerned about Phoenix.
10 Kim Edwards isn't on trial. And there are discrepancies
11 with respect to lots of the evidence we've heard where
12 people don't necessarily agree one with the other and
13 certainly that's no reason to adjourn the proceedings or
14 delay proceedings. There are differences between Rohan
15 Stephenson's recollection and Kim's in terms of dates.
16 Rohan Stephenson indicated, for example, that his memory is
17 quite bad and a statement was read to him that he agreed
18 with, saying to the police that Kim would have a better
19 recollection of some dates, but we're going back a long
20 period and there's going to be some differences. So after
21 all this time, it's my submission that counsel should be
22 ready to cross-examine tomorrow.

23 THE COMMISSIONER: All right. What about the
24 first point? You dealt with the, with the --

25 MR. GINDIN: Yes.

1 THE COMMISSIONER: -- Mr. Saxberg's second point.
2 What -- he's made a first point about wanting the sealed
3 file with respect to the child that was apprehended.

4 MR. GINDIN: Well, he's talking about a period of
5 time that would go back about 26 years. That would be when
6 Ms. Edwards was 17, I think, according to the evidence. I
7 can't see how that would be relevant to this inquiry, going
8 back to some file 26 years ago when she herself was a
9 child. It's a sealed file. Our position is it's not
10 relevant and there's no reason she should consent in any
11 way to some sealed file of hers, sealed file of hers from
12 that long ago being opened. So the basic objection, first
13 and foremost, is I don't see the relevance of any file
14 from, dealing with Kim Edwards at the age of 17.

15 THE COMMISSIONER: All right. Anyone else want
16 to speak to this?

17 All right. You want to --

18 MR. SAXBERG: Can I just offer a brief --

19 THE COMMISSIONER: -- reply, Mr. Saxberg?

20 MR. SAXBERG: Can I just offer a brief reply?

21 THE COMMISSIONER: Pardon?

22 MR. SAXBERG: Could I offer --

23 THE COMMISSIONER: Yes.

24 MR. SAXBERG: -- a brief reply?

25 THE COMMISSIONER: Yes.

1 MR. SAXBERG: Firstly, with respect to the first
2 issue, we're saying we have those documents and we're
3 offering the courtesy of giving the other parties like
4 Mr. Gindin the opportunity of seeing them first before we
5 introduce them to the witness.

6 THE COMMISSIONER: You say you have them?

7 MR. SAXBERG: Yes.

8 THE COMMISSIONER: From --

9 MR. SAXBERG: Yes.

10 THE COMMISSIONER: With respect to the child born
11 26 years ago?

12 MR. SAXBERG: We -- the matters relate to the --
13 it's 1998, I believe, is the timeframe and they, the
14 material -- there is a sealed file and when I originally
15 talked to Mr. Gindin we're proposing to take steps to get
16 that, but we've since learned that there's also information
17 on the matter on Ms. Edwards' protection file which has
18 been located and obtained and we now have in our
19 possession. So what I was asking for was, I was allowing
20 for the adjournment today of cross, which is probably a
21 moot matter anyway given the time, in order, and saying
22 that I would provide those documents to counsel and prior
23 to the cross-examination out of fairness. That's the first
24 issue.

25 THE COMMISSIONER: Well --

1 MR. SAXBERG: So it was today's adjournment.

2 THE COMMISSIONER: You can provide them to them
3 tonight then I assume.

4 MR. SAXBERG: Yes, yes.

5 THE COMMISSIONER: Well then is there a, is there
6 a -- does that dispose of your first issue?

7 MR. SAXBERG: That's the first issue, yes.

8 THE COMMISSIONER: Well, just a minute. Let's
9 hear Ms. Walsh.

10 MS. WALSH: It's not just a matter of providing
11 documents that are going to be used on cross-examination to
12 counsel for the witness because our rules specifically
13 provide, and I'm looking at rule 41 --

14 THE COMMISSIONER: That's why we have a
15 commission counsel. Rule 41, yes.

16 MS. WALSH: Yes.

17

18 No document shall be used in
19 cross-examination or otherwise
20 unless copies of the document have
21 been provided to commission
22 counsel in a timely manner
23 pursuant to paragraphs 17 and 18,
24 or leave of the commissioner has
25 been granted.

1 The point being that there has to be in all, everything
2 that we've done there has been full disclosure to all of
3 the parties in advance so that no one is taken by surprise.

4 THE COMMISSIONER: Thank you. Anything you want
5 to say further?

6 MS. WALSH: Well, simply that if, if any counsel
7 is going to use a document in cross-examination that we
8 haven't been previously provided with they're going to have
9 to either seek leave from you or provide it to us first and
10 allow us to circulate it to all the parties.

11 MR. SAXBERG: Right, so that's what we're
12 suggesting we do tonight is to provide that and solicit if
13 there's any objection at this point. The reason why the
14 documents hadn't come to our attention is because we had
15 absolutely no idea and there was no disclosure of this in
16 advance after witness interviews that this witness had a
17 child that was taken into care when she was 17 years old
18 and was in care for a year and a half as we heard today for
19 the first time.

20 THE COMMISSIONER: Well, Ms. Walsh, are you aware
21 of the contents of these documents?

22 MS. WALSH: I am not, no.

23 THE COMMISSIONER: How do they come into your
24 possession, Mr. Saxberg?

25 MR. SAXBERG: Well, when we heard that evidence

1 today, my clients then made inquiries relating to
2 Ms. Edwards and her stepfather and then that's where the
3 information was then retrieved.

4 THE COMMISSIONER: And the information was, the
5 information was obtained from whom?

6 MR. SAXBERG: Well from, from Child and Family
7 Services and I believe it's Western Child and Family
8 Services.

9 MS. WALSH: Wouldn't you need to get the same
10 kind of order to make use of this information that we had
11 with all of the records? We weren't able to make use of
12 any CFS records --

13 THE COMMISSIONER: On the basis, on the basis --

14 MR. SAXBERG: Oh, unless you're CFS.

15 THE COMMISSIONER: -- of confidentiality.

16 MS. WALSH: Right. So we, we were not able to
17 make use of any of the records until we obtained an order
18 from the Court of Queen's Bench. So I don't know how we
19 could make use of documents now unless they're not those
20 kinds of documents.

21 MR. SAXBERG: Well --

22 THE COMMISSIONER: Well, Mr. Ray, what is it you
23 want?

24 MR. RAY: I'm not proposing to throw a wrinkle
25 into this at all, Mr. Commissioner, I just wanted to say

1 from a practical perspective I've learned regrettably this
2 afternoon that the witness that's expected to give evidence
3 after Ms. Edwards, due to a family emergency involving her
4 children is not available for tomorrow, to begin her
5 evidence tomorrow afternoon. I've made mention of that to
6 Ms. Walsh and Mr. Olson. I don't understand that we're
7 going to be forcing her to come and give evidence under the
8 circumstances. So I don't think we would be having a
9 witness in any event and if it means that we now have
10 additional time because of her unavailability and if that
11 assists you in making your decision regarding my friend's
12 motion, I thought I'd just point that out to you because I
13 don't think it's going to end up being any addition delay
14 because we're going to have that time in any event.

15 THE COMMISSIONER: Well, what about Ms. Walsh's
16 point with respect to whether these are documents that can
17 be publically released?

18 MR. SAXBERG: Well that's --

19 THE COMMISSIONER: Without an order of the Court
20 of Queen's Bench.

21 MR. SAXBERG: Well, I'll have to go back and look
22 at Justice Joyal's order to see if it's broad enough to
23 encompass these documents because I believe there was a
24 clause that said any -- I'll have to go back and look at
25 it, but it may be broad enough to encompass documents that

1 are relevant to the work of this commission. And obviously
2 from a common sense perspective, of course any CFS
3 documents that are relevant to you fulfilling your mandate,
4 one would assume would or should have been contemplated in
5 that order and if they weren't then --

6 MS. WALSH: Well, that's --

7 MR. SAXBERG: So anyway, I'll have to go back and
8 look at that. That's a point that we can deal with
9 offline.

10 MS. WALSH: Well we'll have to take a look at
11 that but my recollection is that the orders were very, the
12 order was very specific to the documents that were
13 presented to Justice Joyal and in fact when we needed more
14 documents we had to go back and seek a second order, albeit
15 by consent. So I don't, I don't know that the existing
16 orders are broad enough to encompass new information.

17 THE COMMISSIONER: Well, I think the best thing
18 to do is to adjourn until 9:30 tomorrow morning and,
19 Mr. Gindin, have your client here. Depending upon what
20 takes place, we may well want to complete the cross-
21 examination tomorrow. I'm not ruling on that now till I've
22 looked at this overnight and looked at the order of
23 Mr. Justice Joyal as you will and I'll hear you on the
24 point before we do anything further in the morning,
25 Mr. Saxberg, but if I can rule tomorrow I will be because I

1 think it's in the public interest that this inquiry proceed
2 and get done and, and meet with the requirements of the
3 order in council and deliver a report to the people of this
4 province and there will only be an adjournment if it's a
5 matter of critical importance because I think we've taken
6 long enough to get to this point and this inquiry needs to
7 proceed with business, barring some situation that shows
8 almost an emergency to exist.

9 MR. SAXBERG: And, Mr. Commissioner, just to be
10 clear, no one on this side was asking for an adjournment of
11 the inquiry, no one. We were only asking for an
12 adjournment of the cross-examination and there's no
13 reason --

14 THE COMMISSIONER: Well that, that --

15 MR. SAXBERG: That's all, just to be clear.

16 THE COMMISSIONER: Sir, that means we can't get
17 the cross-examination done tomorrow, that's what I'm
18 speaking about.

19 MR. SAXBERG: Okay.

20 THE COMMISSIONER: And it's another delay and,
21 and I propose to have as few if any of those as possibly
22 can be after the time it's taken us to get this far. So
23 no, I realize, no (inaudible) to adjourning the inquiry but
24 you're asking that we not cross-examine tomorrow, isn't
25 that your request?

1 MR. SAXBERG: Well it was only for today actually
2 but ...

3 THE COMMISSIONER: Well, no, but, but tomorrow.

4 MR. SAXBERG: No, no, the adjournment was today
5 and that's why I said it's moot because we've already gone
6 past the time.

7 THE COMMISSIONER: Yeah, but can you see any way
8 that cross -- if I were to grant the request you made,
9 could you see the cross-examinations taken place tomorrow?

10 MR. SAXBERG: Yes.

11 THE COMMISSIONER: Oh well, okay. I back up.

12 MR. SAXBERG: If I send out the documents tonight
13 and in accordance with the rules you're fine with them
14 being used during the cross-examination, that takes care of
15 issue number 1 subject to the review of Justice Joyal's
16 order.

17 With respect to issue number 2, we were going to
18 ask that a subpoena be issued and that that information
19 could be provided and, and maybe it doesn't need to come
20 through this witness but at least we'll be on track to
21 receiving that information and having it presented at some
22 point later during the inquiry. We have five months to go.

23 THE COMMISSIONER: Oh, well I can, I can take my
24 time with that then.

25 MR. SAXBERG: Yes.

1 THE COMMISSIONER: I thought you, you -- if you
2 got your order we wouldn't cross-examine tomorrow.

3 MR. SAXBERG: No, it was today that we are asking
4 for the cross -- it just took us this long to get through
5 the process.

6 THE COMMISSIONER: Well, it's an hour ago we
7 adjourned for five minutes --

8 MR. SAXBERG: Yeah.

9 THE COMMISSIONER: -- so I can figure that one
10 out.

11 MR. SAXBERG: Yeah.

12 THE COMMISSIONER: Mr. Gindin?

13 MR. GINDIN: We don't know anything about these
14 documents, obviously we haven't seen them. There may well
15 be an argument tomorrow morning about relevance once we
16 have seen them.

17 THE COMMISSIONER: Well, I think, I think
18 commission counsel undoubtedly will take a look at
19 Mr. Justice Joyal's order now and I would suggest to
20 Mr. Saxberg that you confer with commission counsel over
21 the next hour and there should be no distribution of those
22 documents unless you get concurrence through commission
23 counsel.

24 MR. SAXBERG: Yes.

25 THE COMMISSIONER: And if you don't get that

1 concurrence and you want to speak to the matter again
2 tomorrow morning, I'll certainly hear you.

3 MR. GINDIN: Okay, thank you.

4 THE COMMISSIONER: All right. We're adjourned
5 till 9:30 tomorrow morning.

6 MS. WALSH: Thank you.

7

8 (PROCEEDINGS ADJOURNED TO DECEMBER 13, 2012)