



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 Fort Garry Hotel,
222 Broadway, Winnipeg, Manitoba

WEDNESDAY, FEBRUARY 6, 2013

APPEARANCES

MS. S. WALSH, Commission Counsel

MR. D. OLSON, Senior Associate Counsel

MS. K. MCCANDLESS, Associate Commission Counsel

MR. N. GLOBERMAN, Associate Commission Counsel

MR. R. MASCARENHAS, Associate Commission Counsel

MR. G. MCKINNON and **MR. S. PAUL**, for Department of Family Services and Labour,
and for Witness Ms. Alana Brownlee

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

MR. K. SAXBERG and **MR. S. SCARCELLO**, 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, **MR. G. DERWIN**, and **MR. D. IRELAND**, for Mr. Nelson Draper Steve
Sinclair, Ms. Kimberly-Ann Edwards

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

MR. W. GANGE and **MS. K. BOMBACK**, for DOE #1, DOE #2, DOE #3, and DOE #4

MR. J. KROFT, for Canadian Broadcasting Corporation, CTV Winnipeg, Global Winnipeg,
and Winnipeg Free Press,

INDEX

	Page
PROCEEDINGS	1
<u>WITNESS:</u>	
ALANA SMITH BROWNLEE	
Direct Examination (Walsh)	9
PROCEEDINGS	129
SUBMISSION BY MR. GANGE	132
PROCEEDINGS	138
RULING BY THE COMMISSIONER	140
SUBMISSION BY MR. KROFT	140
PROCEEDINGS	145
<u>EXHIBITS:</u>	
24 Family Services Mandatory Agency Recording, Timelines And Policy, Proposed July 13, 2001	4
25 Winnipeg Child and Family Services Supervision Policy, updated December 20, 2012	6
26 Emails To And From Alana Brownlee	6
27 Angela Balan's agenda planning diary 2000	7
28 Winnipeg Child And Family Services Archived Items, December 2012	7
29 Family Services and Housing Records Authority Schedule No. 0361 re Family Files	8
30 Family Services and Consumer Affairs Records Schedule No. 0362A re Child-In-Care Files	8

1 FEBRUARY 6, 2013

2 PROCEEDINGS CONTINUED FROM FEBRUARY 5, 2013

3

4 THE COMMISSIONER: Now, Ms. Walsh, before you
5 start, I have another matter to deal with this morning.

6 Mr. Saxberg, I intend to address a matter -- a
7 question to you and you may want to respond. I'm sure you
8 will at some point. You can stay where you are if you
9 like, and then come forward to the microphone when I'm
10 finished, if that be satisfactory. Whatever suits.

11 Just before we adjourned yesterday, you were
12 asked -- you asked several questions of witness MacDonald
13 about her view of the need for an assigned social worker to
14 see a child about whose safety a concern had been expressed
15 prior to the closing of the file. Your questions were
16 obviously prompted by the events that occurred on March the
17 9th, 2005, and which have been extensively reviewed before
18 this Commission.

19 On Monday of this week the CEO of the, of the
20 client you -- of a client that you represent before this
21 Commission, a senior and experienced social worker,
22 expressed his opinion that in a circumstance such as I have
23 referenced it would be an error for the child not to be
24 seen by an assigned social worker prior to closing the
25 file.

1 Unless you are proposing to argue against the
2 acceptance of the opinion of the CEO of your client's
3 Authority, I do not see how you can continue to advance a
4 line of questioning similar to yesterday's questioning of
5 witness MacDonald to future witnesses, nor make a closing
6 statement contrary to the opinion expressed by the CEO of
7 your client.

8 The foregoing is not to say that I have reached a
9 conclusion on the issue of closing or not closing the file
10 on March the 9th. Not at all. Such a decision is many
11 months away. But I have a serious concern that you are in
12 a conflict of interest in representing the multiple clients
13 that you do. That is particularly so when it is
14 appreciated that besides representing the Authority to
15 which I have referred, you also represent the supervisor
16 who signed off on the March 9th, 2005 file closing.

17 It would be helpful to the work of this
18 Commission to have this matter resolved at an early date,
19 and I invite you to speak to this matter when you are ready
20 to do so, either some time today or tomorrow.

21 So I would just ask you to let me know if you
22 wish to speak to it now at any length, or would you like to
23 reserve your position to do that when you're ready to do
24 so, hopefully some time later today or tomorrow.

25 MR. SAXBERG: Well, just preliminarily, if I may,

1 there isn't a conflict between my client's position that
2 I'm aware of, at all, and I certainly am not taking the
3 position as an individual. I've asked questions to clarify
4 that there were no express rules requiring the child be
5 seen, and I've always, in each of those lines of
6 questioning, indicated that it was appropriate that the
7 child be seen and that that was best practice.

8 THE COMMISSIONER: All right. Is that, is that
9 the full response you'd like to make to what I've said this
10 morning?

11 MR. SAXBERG: Well, I'll reserve the right to
12 add.

13 THE COMMISSIONER: All right. Fair enough.

14 MR. SAXBERG: Thank you, sir.

15 THE COMMISSIONER: All right, Ms. Walsh.

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

17 I want to begin by filing a number of documents
18 as exhibits that will be referred to in this witness's
19 testimony. I suppose we can start by having the witness
20 sworn in, and then I can file the documents.

21 THE COMMISSIONER: Right.

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

24 THE WITNESS: The Bible.

25 THE CLERK: All right. State your full name for

1 the court.

2 THE WITNESS: Alana Smith Brownlee.

3 THE CLERK: And spell me your first name.

4 THE WITNESS: A-L-A-N-A.

5 THE CLERK: And your next name, please?

6 THE WITNESS: Smith, S-M-I-T-H.

7 THE CLERK: And then?

8 THE WITNESS: And Brownlee, B-R-O-W-N-L-E-E.

9

10 **ALANA SMITH BROWNLEE,** sworn,

11 testified as follows:

12

13 MS. WALSH: So I have exhibits that will become
14 -- documents that will become Exhibits 24 through 30.

15 Exhibit 24 will be the timelines and policy,
16 proposed July 13, 2001.

17 THE COMMISSIONER: Thank you. That's Exhibit
18 24.

19 MS. WALSH: Thank you.

20 THE CLERK: Exhibit 24.

21

22 **EXHIBIT 24: FAMILY SERVICES**
23 **MANDATORY AGENCY RECORDING,**
24 **TIMELINES AND POLICY, PROPOSED**
25 **JULY 13, 2001**

1

2 MS. WALSH: Next is a document entitled Winnipeg
3 Child and Family Services Supervision Policy, updated
4 December 20th, 2012.

5 MR. MCKINNON: I was just going to clarify, Mr.
6 Commissioner, with the permission of Ms. Walsh and all the
7 other lawyers, I have given the witness a binder containing
8 all of these exhibits and the other Commission disclosures
9 that are likely to be referred to today. So she has a
10 binder in front of her, not in the same order, but
11 certainly --

12 THE COMMISSIONER: That'll be helpful.

13 MR. MCKINNON: -- all the same documents.

14 So the first -- Exhibit 24 is tab 3, Witness.

15 MS. WALSH: Would you like a pen, in that case?
16 You've got -- okay.

17 THE WITNESS: Yeah, I'm just trying to figure out
18 how to keep it -- you're going to refer to 24 as the
19 number?

20 MS. WALSH: Yes, but I'll also tell you what it
21 is.

22 THE WITNESS: Okay.

23 MS. WALSH: Sure, if you've got tab 3 and you
24 want to write Exhibit 24 on it. They'll also be called up
25 on the screen.

1 THE WITNESS: Okay.

2 MR. MCKINNON: Ms. Brownlee, would you like some
3 sticky notes? Would that help?

4 THE WITNESS: That would help a lot.

5 MS. WALSH: Did we mark that as Exhibit 25?

6 THE CLERK: Exhibit 25.

7

8 **EXHIBIT 25: WINNIPEG CHILD AND**
9 **FAMILY SERVICES SUPERVISION**
10 **POLICY, UPDATED DECEMBER 20, 2012**

11

12 MS. WALSH: Okay. Next are a series of emails
13 from and to the witness.

14 THE COMMISSIONER: To the witness?

15 THE CLERK: From and to.

16 THE COMMISSIONER: From and to. Exhibit 26.

17 THE CLERK: Exhibit 26.

18

19 **EXHIBIT 26: EMAILS TO AND FROM**
20 **ALANA BROWNLEE**

21

22 MR. MCKINNON: That's tab 12 in the binder, for
23 the witness.

24 THE COMMISSIONER: Thank you.

25 MS. WALSH: The next document is comprised of

1 portions of the date book from Angie Balan between 2000 and
2 2001.

3 THE COMMISSIONER: What dates?

4 MS. WALSH: For a period between 2000 and 2001.

5 THE COMMISSIONER: Right.

6 MS. WALSH: Exhibit 28 -- 27, correct?

7 THE COMMISSIONER: Exhibit 27.

8 MR. MCKINNON: Tab 13.

9 THE COMMISSIONER: Exhibit 27.

10 THE CLERK: Exhibit 27.

11

12 **EXHIBIT 27: ANGELA BALAN'S AGENDA**
13 **PLANNING DIARY 2000**

14

15 MS. WALSH: Next we have a document entitled
16 Winnipeg Child and Family Services Archived Items, December
17 2012.

18 THE COMMISSIONER: Exhibit 28.

19 THE CLERK: Exhibit 28.

20

21 **EXHIBIT 28: WINNIPEG CHILD AND**
22 **FAMILY SERVICES ARCHIVED ITEMS,**
23 **DECEMBER 2012**

24

25 MR. MCKINNON: Tab 11.

1 THE COMMISSIONER: Thank you.

2 MS. WALSH: The next document is entitled Records
3 Authority Schedule Number 0361, re family files.

4 MR. MCKINNON: That's tab 14.

5 THE COMMISSIONER: Exhibit 29.

6 THE CLERK: Exhibit 29.

7 THE COMMISSIONER: Thank you.

8

9 **EXHIBIT 29: FAMILY SERVICES AND**
10 **HOUSING RECORDS AUTHORITY SCHEDULE**
11 **NO. 0361 RE FAMILY FILES**

12

13 MS. WALSH: And finally, a document entitled
14 Record Schedule Number 0362A regarding child-in-care files.

15 THE COMMISSIONER: Exhibit 30.

16 MR. MCKINNON: Tab 15.

17

18 **EXHIBIT 30: FAMILY SERVICES AND**
19 **CONSUMER AFFAIRS RECORDS SCHEDULE**
20 **NO. 0362A RE CHILD-IN-CARE FILES**

21

22 MS. WALSH: So we've got that marked as exhibit
23 30? Okay. We're ready to begin, then. Thank you.

24

25

1 DIRECT EXAMINATION BY MS. WALSH:

2 Q Good morning, Ms. Brownlee.

3 A Good morning.

4 Q You testified on the very first day of our
5 proceedings in September of last year.

6 A Yes.

7 Q And to remind everyone, you are the current CEO
8 of Winnipeg Child and Family Services?

9 A Yes.

10 Q You've been in that position since 2011?

11 A Yes, July 2011.

12 Q We've asked you to come back today to give
13 evidence regarding the whereabouts of notes made by
14 supervisors who provided services to Phoenix and her
15 family, and to provide evidence about notes made by the
16 family support worker who provided services.

17 A Yes.

18 Q I understand that you undertook a search for the
19 supervisor's notes beginning in July of 2011; is that
20 right?

21 A That's correct.

22 Q What prompted that search?

23 A That was at the request of my legal counsel.
24 They had -- he had identified through the course of
25 preparation for the Inquiry and the interviews with the

1 supervisors, that they were requesting access to their
2 supervisor notes in order to, to prompt their recall.

3 Q Now, I'm having a little bit of trouble hearing
4 you. I wonder if you can pull your microphone closer.

5 MS. WALSH: I don't know about you, Mr.
6 Commissioner.

7 THE COMMISSIONER: Yes, that would be helpful.

8 THE WITNESS: Is that better?

9

10 BY MS. WALSH:

11 Q Yes, thank you. If we pull up page 40376, this
12 is a news release dated October 11, 2006. It says:

13

14 "[The] premier announces
15 Commission of Inquiry into the
16 death of Phoenix Sinclair."

17

18 So we know that the Inquiry was originally called
19 for in 2006. Are you aware of any steps that the agency or
20 the department took to preserve documents and information
21 relating to the Inquiry?

22 A At the point that Phoenix's death was learned of
23 by Winnipeg CFS, the CEO, who was at that time Darlene
24 MacDonald, requested the file from the closed file room
25 because the file had been closed, and she had it maintained

1 at the Wesley executive office. And she also put a
2 confidential status on the case on CFSIS so that the case
3 couldn't be accessed.

4 Q Prior to the search that you undertook in July
5 2011 -- and we will go into some detail about that
6 eventually this morning -- do you know if any efforts were
7 made to locate notes made by supervisors?

8 A Prior to, to my search I don't believe there
9 were, as I don't think it was identified that the
10 supervisor notes were missing. The file was considered
11 intact and it hadn't been identified that the supervisor
12 notes weren't on the file.

13 Q And as I understood your testimony earlier, what
14 identified that those notes were not on the file was when
15 the supervisors began to prepare for their participation in
16 this Inquiry.

17 A That's correct.

18 Q During the period 2000 to 2005, record keeping
19 and record retention was governed by legislation,
20 standards, and policies.

21 A That's correct.

22 Q So what I'd like to do is start by going through
23 those standards, policies, and, and legislation as a
24 background.

25 MS. WALSH: If we can pull up on the screen,

1 please, a portion of The Child and Family Services Act,
2 Section 76(22).

3 Actually, before we even get to that, if we can
4 go to the definition section, which will be on the first or
5 second page.

6 Can you scroll, please, to probably the third
7 page. Well, you know -- there, perfect, thank you.

8

9 BY MS. WALSH:

10 Q You see at the top of the page the definition of
11 record --

12 A Yes.

13 Q -- is identified and it says:

14

15 "'Record' means a record of
16 information in any form, and
17 includes information that is
18 written, photographed, recorded or
19 stored in any manner, on any
20 storage medium or by any means,
21 including by graphic, electronic
22 or mechanical means, but does not
23 include electronic software or any
24 mechanism that produces records."

25

1 A Yes.

2 Q So that's the definition of records.

3 MS. WALSH: Now, if we can turn to Section
4 76(22)? Perfect, thank you.

5

6 BY MS. WALSH:

7 Q Subsection 22, entitled Retention, storage, and
8 destruction of records:

9

10 "Subject to subsection
11 (14)" --

12

13 which deals with child-in-care files,

14

15 "... an agency shall retain, store
16 and destroy records made under
17 this Act in accordance with the
18 regulations."

19

20 A Yes.

21 MS. WALSH: Now, let's turn to the regulations,
22 which I believe you also have, Madam Clerk, on the stick.
23 Regulation 16/99, we go to Part 4, so I think ... It'll be
24 Section 8, so a little bit farther, please. Good, thank
25 you.

1

2 BY MS. WALSH:

3 Q Part 4 is entitled Agency Records. Subsection
4 8(1) says, Definition of "agency record":

5

6 "... means a record made under the
7 Act that is in the custody or
8 control of an agency."

9

10 "This Part applies to agency
11 records."

12

13 9(1), Duty to adopt security safeguards:

14

15 "Subject to the provisions of the
16 Act and the standards established
17 by the director, an agency shall
18 ensure that the information in an
19 agency record is

20

21 "(a) protected by the agency
22 adopting reasonable
23 administrative, technical and
24 physical safeguards that ensure
25 the confidentiality, security,
accuracy and integrity of the

1 information; and
2 "(b) accessible only to
3 persons employed, retained or
4 consulted by the agency and only
5 when access to the record is
6 needed to carry out their
7 responsibilities under the Act in
8 relation to the person to whom the
9 record relates."

10

11 And if we go to 9(2), that relates to closed
12 child-in-care records.

13 MS. WALSH: Can we scroll down, please?

14 I don't think we need to go into detail on that
15 one. Go to Section 10, please.

16

17 BY MS. WALSH:

18 Q Retention of agency records:

19

20 An agency shall ensure that on
21 completion of a service, the
22 agency record is

23 (a) closed in accordance with
24 procedures established by the
25 director; and

1 (b) retained by the agency
2 for the period of time and in the
3 manner established by the director
4 in order to ensure that the
5 subject of the agency record has a
6 reasonable opportunity to obtain
7 information from the record as
8 permitted under the Act, and
9 assist the agency in providing
10 services under the Act.

11

12 I'll just stop there. Are you aware of any
13 directions that came from the director as referenced in
14 Section 10?

15 A The record -- the director does not establish any
16 direction related to destruction of records; therefore,
17 agencies are required to obtain all case related records
18 indefinitely or permanently until such time as the director
19 makes a different resolution.

20 Q Okay. Still under Regulation 11(1), Destruction
21 of agency records:

22

23 An agency shall ensure that an
24 agency record is destroyed in
25 accordance with procedures

1 established by the director; and
2 in a manner that protects the
3 privacy of the person to whom the
4 record relates.

5

6 And finally, 11(2):

7

8 An agency that destroys an agency
9 record shall keep a record of the
10 person whose record is destroyed
11 and the time period to which the
12 record relates; and the method of
13 destruction and the person
14 responsible for supervising the
15 destruction.

16

17 Would these regulations and the legislation that
18 I've outlined, would all of this apply to the protection
19 files of Samantha Kematch and Steve Sinclair?

20 A Yes, they would.

21 Q And also the child-in-care file of Phoenix
22 Sinclair?

23 A Yes.

24 Q I also understand that Winnipeg CFS was governed
25 by the Government Records Schedule, and I'll refer you to

1 Exhibit 29.

2 MS. WALSH: No, I think you've got the wrong ...

3 Would it be the one at the top? Yes. So the
4 first one or the -- like, the -- sorry, the second-last.

5 UNIDENTIFIED PERSON: Three -- 361.

6 MS. WALSH: The first of the two that are -- the
7 second-last document. That should be it. Yes, thank you.

8

9 BY MS. WALSH:

10 Q That's Exhibit 29 on the screen in front of you.

11 A Yes.

12 Q What exactly is this document? It's entitled a
13 Records Authority Schedule, it's numbered 0361. It says
14 it's from the Department of Family Services and Housing,
15 and the series title is family files. What is it?

16 A It's a document that outlines the governmental
17 process related to files and records specific to Child and
18 Family Services or specific to our branch, Winnipeg Child
19 and Family Services. So it outlines what documentation or
20 files are being referenced, and then it outlines the
21 process for retention of those records.

22 Q If we turn to page 4 of the exhibit ...

23 MS. WALSH: There it is, thank you.

24

25 BY MS. WALSH:

1 Q Are you able to explain what this schedule
2 identifies?

3 A It identifies two types of records: incidental
4 service files and family case files.

5 Incidental service files are defined as files
6 that involve a brief, one-time-only contact, so it would be
7 more of a record related to an intake function such as a
8 caller calling in and asking for a referral to a parenting
9 class or asking for something, so something where there's
10 no action taken. Those files are to be maintained for two
11 years within the branch or within Winnipeg CFS. They're
12 then sent to the government's central filing area for five
13 years, and they're able to be destroyed after seven years.

14 Q So that's -- you're reading from the columns, one
15 entitled Retention, the other entitled Disposition.

16 A Yes.

17 Q Okay. And the second type of file?

18 A The second type of file are the family case
19 files, so that would involve protection files, voluntarily
20 family service files, any service provided in a long-term
21 nature to a family. Again, they're retained within our
22 branch for a two-year period of time, they're sent to
23 government records for 28 years, and then they are sent to
24 archives, to be retained permanently unless otherwise
25 dictated by the director.

1 Q Which has not occurred.

2 A Yes.

3 Q Then the next, Exhibit 30 ...

4 MS. WALSH: Be the last document on that list.

5

6 BY MS. WALSH:

7 Q This schedule pertains to child-in-care files?

8 A Yes, it does.

9 Q If we turn to page 10 of the schedule, what does
10 this tell us about retention and disposition of child-in-
11 care files?

12 A It essentially tells you the same thing. The
13 difference with this is there's a differentiation in
14 timelines between files made pre-1999 and files made
15 following March 16th, 1999. But essentially, once the file
16 is closed they're to be retained by the branch office for a
17 two-year period of times, sent to government records for 28
18 years, and then subsequently to archives where they're
19 maintained permanently.

20 Q So essentially what you've told us is records are
21 to be kept in the branch for two years -- branch office for
22 two years?

23 A Yes.

24 Q Then records are to be transferred to the
25 government records centre and stored for 28 years?

1 A Yes.

2 Q Following that, they are to be transferred and
3 permanently maintained at archives.

4 A Yes.

5 Q Thank you. Now, there were also standards which
6 applied to record keeping during the time that Phoenix and
7 her family received services.

8 MS. WALSH: We can start with page 18701, please.
9 And this is from Commission disclosure 983.

10 MR. MCKINNON: That's tab 1 in your binder.

11 THE COMMISSIONER: Which exhibit number is it?

12 MS. WALSH: We're now into the Commission
13 disclosure --

14 THE COMMISSIONER: Oh.

15 MS. WALSH: -- Mr. Commissioner, and I believe --

16 THE COMMISSIONER: Yes.

17 MS. WALSH: -- you will have the documents, as
18 you --

19 THE COMMISSIONER: Yeah.

20 MS. WALSH: -- usually do, in a folder.

21 THE COMMISSIONER: I, I -- have I got a folder
22 here?

23 MS. WALSH: Were they not put on your table?
24 Maybe they're --

25 THE COMMISSIONER: Yes.

1 MS. WALSH: -- still on our table.

2 THE COMMISSIONER: I think I have them.

3 MS. WALSH: Oh, you've got them?

4 THE COMMISSIONER: Yes, I have.

5 MS. WALSH: So the first document you should
6 have, Mr. Commissioner, should have a number at the bottom
7 right-hand corner, page 18701. Do you have that?

8 THE COMMISSIONER: Yes.

9 MS. WALSH: Okay. Good.

10

11 BY MS. WALSH:

12 Q This is from the 1988 standards; is that right?

13 A Yes.

14 Q Okay. At the top of the page it says subject is
15 Intake Process, dated September 1988. And if we scroll
16 down towards the bottom, please, of the page, number 221.7,
17 entitled Record Keeping and Management:

18

19 "A written record is
20 maintained of all intake inquiries
21 and referrals. The agency
22 conducts quarterly reviews of all
23 inquiry and referral material to
24 ensure that appropriate services
25 are provided and to identify

1 needs/gaps in the service system."

2

3 Now, in 1988, CRU didn't exist as a separate
4 unit.

5 A No.

6 Q When services were first delivered to Phoenix and
7 her family in 2000, I don't believe it existed as a
8 separate unit.

9 A Not until 2001.

10 Q Did this standard apply to the services that were
11 delivered ultimately through CRU?

12 A Yes, because it's, it's talking about intake as a
13 function, rather than two different program areas within
14 the intake function.

15 Q And before we go any further, can you explain to
16 us -- describe for us your understanding as to the
17 differences, if any, in note-taking by workers at CRU
18 intake and family services?

19 A There's a significant difference between them
20 mainly because of the scope of involvement. So, for
21 example, after-hours, their involvement is for a shift,
22 that individual worker. So the expectation has always been
23 that they take whatever notes they take during the course
24 of receiving a phone call or going out on a field. The
25 expectation is that those notes are then transcribed into a

1 comprehensive report and that report -- the after-hours
2 report is considered their case note. So they may have
3 jotted down what I would call scratch notes, and I believe
4 we heard testimony of after-hours workers saying that those
5 would be shredded, but those would not be considered their
6 case notes for the record. They would be considered -- the
7 case notes for their involvement would be the after-hours
8 report.

9 Similarly, CRU has a brief level of involvement
10 and the expectation is that -- prior to the intake module
11 that they would do a typed report that would be a
12 summarization of all their involvement. It would include
13 their observations, all their contacts, the information
14 they receive from the referral source, essentially, a
15 comprehensive report. And again, that was considered their
16 case note. So anything they had jotted down on a paper
17 format was not considered the record. The record was
18 considered the typed document, and those were required to
19 be typed based on the need for people to be able to read
20 and have a comprehensive legible report that then went to
21 the next stage.

22 Intake services provides a little broader
23 involvement. The expectation was still that they would do
24 an intake report that would summarize their involvement,
25 would summarize their assessment, would summarize their

1 interventions, and that it would be comprehensive and
2 detailed and that there would be nothing contained in
3 written notes that would not be contained in their typed
4 report although, because they could provide services up to,
5 you know, a 90-day period of time, there may have been
6 times where they had notes that may not have been contained
7 in the report and then they would have been expected to
8 keep those handwritten notes if there was a difference
9 between the report.

10 Family services typically is involved with
11 families for much longer periods of time. Our average --
12 current average length of service is just over two years.
13 So because of the frequency of that type of contact,
14 workers typically keep handwritten notes, although we are
15 starting to see more staff that do typed notes. Those case
16 notes, they may, they may very well, as in a similar
17 fashion to the intake and CRU, have jot notes but they're
18 expected to transcribe any jot notes into handwritten
19 detailed case notes that, that, again, identify their
20 contact, purpose of the contact, their observations, their
21 assessments, and what occurred.

22 Q And what you've described, was that true for the
23 period 2000 to 2005?

24 A Yes.

25 Q We heard evidence relating to notebooks, evidence

1 sometimes referring to steno pads. Are you aware of the
2 distinction?

3 A The steno pads would be what I would say would be
4 utilized when people are doing what I would call their
5 scratch notes, jot notes. So if you're on a phone call,
6 people would have the steno pad, they would be jotting down
7 pertinent information, and then they would be transcribing
8 that. So if they were a CRU worker, they would be typing
9 that into either the intake module or into a Word document.
10 If they were in ongoing family services, they would be
11 taking those jot notes and transcribing them into a binder
12 format. Typically, family services maintain their, their
13 documentation in a binder format unless they're typing
14 their notes directly and then they maintain them on a, on a
15 drive and attach them to CFSIS.

16 Q And we'll, we'll see -- once we continue through
17 the standards, we'll, we'll see where the standards
18 reference what you've described. One more thing before we
19 proceed with, with going through the standards, and then
20 the policies. For the period 2000 to 2005, what types of
21 notes was it expected supervisors might make?

22 A Until 2004, there was no standard policy related
23 to supervision notes. The standards are silent on the
24 requirement for supervision notes. So generally, in my
25 experience and to my knowledge, supervisors in family

1 services always maintained a record of their supervision
2 with their staff. It was maintained from a case management
3 perspective in the sense that in order for them to fully do
4 their job adequately and be able to recall the details of
5 the case plan for every family that they're responsible
6 for, which would be -- if we assume every worker has
7 approximately 30 cases it would be, you know, 200 and some
8 cases that they would be accountable for.

9 Typically, the practice was that they would
10 maintain a binder system that would go by worker and then
11 by family, although some supervisors would do by supervisor
12 and by date rather than by family. It was an individual
13 preference. And they would maintain that and that would
14 assist them in their follow-up supervisions with, with
15 their staff. They would be able to reflect back on what
16 the previous supervision had been, what had been agreed on
17 in terms of next steps, and then they would be able to have
18 ongoing discussion and dialogue with the worker in terms of
19 what the next steps, had those occurred, what additional
20 information had they learned, and that assisted them
21 related to the decision making.

22 Q So you've talked about notes made by family
23 services supervisors --

24 A Yes.

25 Q -- of the supervision sessions they had with

1 workers.

2 A Yes.

3 Q Still dealing with family services supervisors,
4 were there other types of notes that supervisors might
5 make?

6 A Yeah, typically supervisors would have three
7 types of notes: the case consultation and supervision I
8 just described. They also would maintain notes related to
9 human resource issues, so it may be maintaining information
10 related to training needs, identifying areas for growth,
11 identifying areas of strength, identifying performance
12 issues. Those would be maintained separately from the case
13 note discussions or case consultation discussions that
14 would occur.

15 Generally, those would be used to continue to
16 evaluate performance and would be summarized in a
17 performance evaluation. They would be used to assist
18 supervisors and workers in identifying areas of interest,
19 areas for future training, and they may be used for
20 progressive discipline. If the issue or the matter moved
21 to a progressive disciplinary function, then that
22 information would be transferred to the human resource file
23 as part of that process.

24 Q Otherwise, if it -- if that information -- those
25 notes were not transferred to the human resource file,

1 where would they be maintained?

2 A They would be maintained in the supervisor's
3 office, and that would be based on the issue never
4 escalating to that point.

5 Q Would they be in a separate -- they be kept
6 separately from the supervision notes?

7 A Yes. The third type of note that a supervisor
8 may make would be direct contact with clients and families,
9 so they may receive a phone call where they're talking
10 directly to a parent, they may attend a meeting directly
11 with a parent, they may be getting a call from a collateral
12 directly about a parent or a family or a concern, or about
13 a child. They may have calls from collaterals about
14 children, foster parents. So that kind of direct contact,
15 supervisors would immediately write that up and that would
16 go immediately on the case file.

17 Q And when, when I used the expression "supervision
18 notes," what I was referring to was notes of supervision
19 sessions.

20 A Yes.

21 Q So direct contact, notes of direct contact by
22 supervisors were put into the case file.

23 A Yes.

24 Q Otherwise, they were expected to take notes of
25 their supervision sessions with workers, and those were

1 kept in a binder. And the third type of note would be
2 relating to HR issues, which would be kept separate and
3 could sometimes make their way into the worker's HR file.

4 A Yes.

5 Q Okay. Thank you.

6 A And the difference with, I guess -- I had spoken
7 to the family service supervision structure. I hadn't
8 really spoken to the intake-CRU supervision structure.

9 Q Right.

10 A And when I'm speaking about the supervision
11 notes, even with family services, I should clarify.
12 Although there's regularly scheduled supervision sessions,
13 social workers on a routine basis typically access
14 direction and consultation with their supervisor on an as-
15 needed basis, and supervisors are expected to be as
16 available as possible to staff. So there would be -- I
17 guess ad hoc is the word that's been used here -- ad hoc
18 supervision that would occur on a regular basis. So even
19 if you had supervision every two weeks, you would probably
20 still be accessing your super, supervisor on a weekly basis
21 for direct consult on something that has just occurred or
22 that you need immediate direction on.

23 Q Would those consultations be expected to be
24 documented by either the worker or the supervisor?

25 A It's less likely that they would be documented at

1 that point in time. It's more likely that they would be
2 followed up, then, in a subsequent supervision. So, for
3 example, a worker coming in with a critical issue and
4 needing to make a decision related to an apprehension. The
5 supervisor would generally, generally then be involved in
6 supporting the worker through that process, supporting
7 them, trying to secure placement for the child, trying to,
8 you know, de-escalate the parents and those kind of things.
9 So they may not have then recorded it, but in a follow-up
10 supervision it's likely then to be referenced back to,
11 Okay, we've done this now, what are our next steps?

12 Q Now, as you identify, what you've just described
13 was in reference to family services supervisors.

14 A Yes.

15 Q What about supervisors at intake and CRU? What
16 kinds of records did you expect -- you, the agency --
17 expect they would keep?

18 A The nature of the supervision for CRU and intake
19 is quite different than family services, primarily because
20 the nature of the service is quite different. So for CRU,
21 their involvement is 48 hours, maybe up to five days. So
22 in that kind of a structure a biweekly or monthly
23 supervision schedule is not going to meet the service needs
24 of the social worker. They're not going to get the timely
25 direction, supervision, and discussion, and case

1 consultation they need. So CRU is very much structured to
2 be able to meet daily supervision needs of the staff.
3 Based on that, it was expected that the, the CRU document
4 would be an accurate reflection of the discussions,
5 dialogue, and case planning.

6 So if, for example, the case record in the CRU
7 report came back and, and the report was there and the
8 consultation looked different or the case plan looked
9 different than what had been discussed, it would be
10 expected that the supervisor would modify that report or
11 change that report or do an addendum to that report. "Do
12 an addendum to that report" is what I mean by modifying.
13 They wouldn't change what the worker said, to, to
14 incorporate their supervision and their direction.

15 Q So at the CRU level, the record of the -- that
16 the worker makes itself would reflect activities by the
17 supervisor.

18 A Yes.

19 Q Is that right? Okay.

20 A Because the purpose of the supervision notes,
21 primarily, at that point, is to reflect and to prompt the
22 supervisor for their next supervision session. So with
23 CRU, because you would probably be consulting once, maybe
24 twice on a case, the nature of the record needs to look
25 different, so the idea -- or the concept would be that,

1 that it should be reflective of the report, and the
2 decision that has been made at intake should be -- or CRU
3 -- related to the disposition of the case and the plan and
4 the next step should be reflective of that consultation.

5 Q If a supervisor -- CRU supervisor made notes
6 relating to HR issues, would those be retained in a similar
7 fashion to the way you describe family service supervisor's
8 notes?

9 A Yes.

10 Q What about if a CRU supervisor had direct contact
11 with someone, a collateral or a client?

12 A Yes, they should be embedding that within the,
13 the CRU report.

14 Q What about intake supervisors?

15 A The intake supervisor is -- their role is a
16 combination, I would say, of the CRU supervision and the
17 family services supervision. They are providing services
18 for a longer period of time. However, they do still really
19 need to be available to staff for a more direct and daily
20 type of consultation.

21 There were, I think, efforts to have them use a
22 biweekly supervision schedule and structure much the same
23 as was, was attempted with family services, in order to be
24 able to provide both the immediate supervision that intake
25 requires as well as the longer term supervision for cases

1 that were open for a longer period of time. So the
2 consultations that were done over a long period of time,
3 that would be more a scheduled supervision session. There,
4 there should have been notes, then, from those types of
5 sessions.

6 Q Where would those be kept?

7 A Same idea. They would be maintained in a binder
8 system in their office.

9 Q Okay. And otherwise, if an intake supervisor had
10 direct contact with a file in any way, then that would be
11 reflected directly in the file.

12 A And prior to 2004 there wasn't a policy related
13 to this, so the supervision notes were really and truly to
14 assist the supervisor in being able to carry out their
15 roles. So the supervisor would be maintaining systems that
16 would assist them in being able to stay on top of the
17 cases, to be able to manage the work, to be able to recall
18 and give appropriate direction. So most supervisors
19 structured it related to what worked best for them
20 individually as the supervisor.

21 Q And just because I didn't, I didn't get an actual
22 answer from you, just --

23 A I'm sorry.

24 Q Not a problem, I'm just mindful of the record.
25 If an intake supervisor had direct contact with a

1 collateral or a family member, for example, that would be
2 reflected directly in the case recording.

3 A Yes, it would be typed directly in. I think
4 there was -- Mr. Orobko had -- directly had his, his
5 section of the intake report based on his direct contact
6 with Mr. Sinclair.

7 Q Yes, and, and --

8 A So that would be an example of what, what it
9 would look like. The, the supervisor would have it -- the
10 notes typed directly into the intake report.

11 Q Right. And that was actually also on Ms.
12 Kematch's file, and Mr. Orobko took over direct service
13 delivery for a period of time and, and that's reflected
14 directly in the case recording. That's the evidence that
15 we've heard.

16 A Yeah.

17 Q Thank you. And, and it's reflected in the
18 records.

19 THE COMMISSIONER: You're, you're nodding your
20 agreement.

21 THE WITNESS: Yes.

22 THE COMMISSIONER: You have to speak --

23 MS. WALSH: Sorry, I thought I heard yes, but
24 thank you for ... Thank you.

25

1 BY MS. WALSH:

2 Q Then carrying on with the 1988 standards, we just
3 looked at Section 221.7 dealing with Record Keeping and
4 Management. Then if we turn to Section 311 on page
5 18768 ...

6 Actually, let's go back one page to page 18767,
7 please. This is the intake process standards, and 311.1 is
8 entitled Intake Procedures. So the procedures that relate
9 to recording, then, are on the next page. It's described
10 as page 2, Procedures. Number 1:

11

12 "All referrals of child protection
13 concerns should be recorded
14 immediately."

15

16 And number 2:

17

18 "The nature of the allegations are
19 recorded as detailed as possible."

20

21 So that sets out, if we scroll through there --
22 and I won't go through the entire document, but if we just
23 stop for a minute, this sets out the various matters that
24 need to be documented during the course of, of intake work
25 with a file?

1 A Yes.

2 Q Now, between 2000 and 2005, how were workers made
3 aware of these standards?

4 A Well, the 1988 standards were, were used to
5 create templates for intake related to their reports and
6 for the after-hours reports. So a lot of information
7 outlined in terms of the steps and what needs to be
8 recorded generated the template, and that was the transfer
9 of learning, so to speak, in terms of ensuring that, that
10 staff knew what needed to be recorded.

11 Q How was compliance with recording procedures
12 monitored?

13 A In terms of after-hours and intake, those reports
14 were immediately reviewed by their supervisors and were
15 signed off, which in a lot of ways provides as continuous
16 quality improvement opportunity for the supervisor to have
17 a very good sense of the strengths and perhaps areas that
18 require improvement for their staff. They would know
19 whether the reports are well written, whether they're
20 comprehensive, whether the actions taken were appropriate,
21 and whether their planning and recommendations were
22 appropriate. So I would say that that would be kind of
23 the, the, the primary role of quality assurance within,
24 within the agency at that time, would be the immediacy of
25 the reviews and the supervisors' immediacy of signing off

1 on those reports.

2 Q So that's at AHU and CRU. What --

3 A And intake.

4 Q And intake. And then at the family service
5 level?

6 A At family service, the quality assurance
7 processes are related to a lot of -- there is reliance on
8 workers identifying and describing to their supervisor what
9 is going on with them in the case. Supervisors would also
10 rely on reviewing other documents during different points
11 in time of their case involvement. So, for example,
12 supervisors review court particulars which summarize
13 grounds for an apprehension and what the subsequent
14 planning for an order is, and it generally also
15 incorporates a history of the involvement. So that's a
16 good synopsis and summarization of the work that's going on
17 in a case.

18 They also review assessment documents, social
19 histories, placement referral reports for children in care,
20 annual reviews for children in care that have been in, in
21 care for a year, which then summarizes what services have
22 been provided for a year.

23 So there's a number of documents that supervisors
24 in family services review that gives them, I guess, a check
25 and balance related to the work that's being done by the

1 social worker, as well as the information they're provided,
2 so they have a better sense of the consistency between the
3 information they're being provided.

4 Q We turn to page 18771, still in the 1988
5 standards, relating to intake still. This is entitled
6 Intake Administration, 313.1, and then -- actually, 313.2,
7 Intake Recording:

8

9 "All referrals alleging a child in
10 need of protection are recorded in
11 a format which contains standard
12 information."

13

14 And then if we turn to the next page -- it says,
15 "See Procedures, page 2."

16 A I should also add -- sorry, just with --

17 Q Yes.

18 A -- with the quality assurance piece, another
19 opportunity where the supervisor has the opportunity to
20 review the, the complete case file is at the point that any
21 case is either transferred or is closed to the agency. At
22 that point the supervisor signs off on the entire file, so
23 they would then have an opportunity to review what the case
24 notes of the worker might look like, as well as all the
25 other documentation related to the case plan.

1 Q Thank you. Now, these procedures relate to
2 intake and again it says:

3

4 "All referrals on intake contain
5 as much information as possible
6 including" --

7

8 And just as some examples, identifying information, so:

9

10 Parents' names (including
11 maiden name, cross references,
12 aliases);

13 Parents' birth date or ages,
14 addresses, work and home telephone
15 numbers;

16 [Goes down to] name and
17 birthdate or age of child in
18 question, those of siblings;

19 [Refers to] names, addresses,
20 and telephone numbers of school,
21 daycare, family doctor, other
22 involved agencies, any significant
23 others regarding the child/family;

24 Previous involvement with
25 Child and Family Services, and

1 reasons for involvement, if known.

2

3 Then it says that other information to be
4 documented includes the presenting situation.

5 MS. WALSH: If you can scroll down, please, so we
6 can see that?

7

8 BY MS. WALSH:

9 Q

10 "How did the referral source
11 come to believe a child is in need
12 of protection? (eyewitness to
13 incident, observations of child,
14 family dynamics, observable
15 injuries, told by child, told by
16 third party)?

17 "Are the concerns general?"

18

19 Et cetera.

20 Goes over onto the next page, and includes such
21 items as what is known about the child's personality, what
22 is known about the parents' personalities.

23 These are, again, all things which were to be
24 documented; is that right?

25 A Yes.

1 Q Then if we turn to page one-eight -- and that was
2 all at the intake process level, whether it was tier two or
3 ultimately CRU intake.

4 A Yes.

5 Q We turn to page 18774, this now deals with family
6 service workers?

7 A Yes.

8 Q Okay. Section 320.2, if we can scroll down,
9 please. Case recording:

10

11 "All case recording regarding
12 child protection cases is
13 initialed and dated by the worker
14 and is read, initialed and dated
15 by the supervisor."

16

17 And then 320.3, Worker case notes:

18

19 "All child protection workers are
20 provided with and make use of a
21 daily case notebook which contains
22 the worker's handwritten notes for
23 ongoing reference and in the event
24 of a court hearing. The notebook
25 remains the property of the

1 agency...."

2

3 Was this the, the notebook that you were
4 describing earlier this morning?

5 A Yes, it's commonly referred to as a little black
6 book and it's a small binder that -- it has evolved over
7 time, but initially was a small binder that had loose-leaf
8 that was put in.

9 Q Sorry, did you say loose-leaf?

10 A Loose-leaf.

11 Q Um-hum.

12 A At different points there was different other
13 recording structures. There was a point in time where case
14 notes had a data assessment plan format and there -- so
15 there were pads of paper that had that format. Currently,
16 it's a large binder like this, and workers use loose-leaf
17 and, and handwrite, or they type them into Word documents
18 in the computer.

19 Q At the time that Phoenix and her family received
20 services from the family services unit, that would have
21 been between 2000 and 2003.

22 A Yes.

23 Q So at that point the notebooks that are referred
24 to in the standards, that would have been a binder with
25 loose-leaf?

1 A Yes.

2 Q Okay. And if we go through on the procedure
3 section, next page, 18775, under the heading Case notes:

4

5 Notes are made on all cases
6 immediately after the occurrences
7 of the events.

8 The data includes date, time,
9 names and addresses of people
10 involved; significant details
11 pertinent to the case; and date
12 and time of the recording.

13 Notes include all contacts,
14 including telephone and written
15 communications with clients,
16 relatives, neighbors and agencies.

17 Notes also include
18 unsuccessful attempts to contact
19 the client and appointments missed
20 or cancelled.

21

22 What was the reason for that inclusion?

23 A It's important to include that from a variety of
24 perspectives. One is, I guess, to document efforts made at
25 contacting clients. The other point is if it's

1 appointments that are missed or cancelled, that can
2 demonstrate lack of follow-through with planning,
3 resistance to engagement with the agency on the part of the
4 client. So if you have a history of frequent failed
5 appointments and frequent failed visits, it's important to
6 be noting that.

7 Q Number 5 says:

8

9 Notes are legible in case
10 they are admitted to court or, in
11 the worker's absence, another
12 person needs to read them.

13 Loose leaf is suggested so
14 that case notes can be put on the
15 file immediately and remain there
16 accessible for court use.

17 Notes are retained for all
18 cases at least two years following
19 case closing unless information in
20 the notes has been recorded in the
21 file. Notes regarding child abuse
22 cases are not be destroyed until
23 the information has been recorded
24 in the file.

25

1 When it says that the loose-leaf notes are to be
2 put on the file, where were they to be contained?

3 A Generally, the practice was that the handwritten
4 case notes would be placed in an envelope and signed off by
5 the social worker, and the envelope would have their name,
6 case notes, and the time frame or the time period that the
7 notes provided the service for. So 2000 -- January 2000
8 till May 2001, for example.

9 Q And we have heard evidence and seen evidence of
10 notes that were retained in the file, and ultimately I'm
11 going to identify the evidence that we heard with respect
12 to that.

13 Number 7:

14
15 Notes are retained for all
16 cases at least two years following
17 case closing unless information in
18 the notes has been recorded in the
19 file.

20
21 Is that consistent with what we looked at with
22 the record schedule?

23 A What this is referencing is transcribing
24 handwritten notes into a typed format, so that notes are to
25 be retained -- if they're transcribed into a typed format,

1 they're then considered a duplicate record and then can be
2 destroyed.

3 Q We heard evidence that witnesses had some
4 confusion about which standards were in effect at a given
5 time during the course of the period in which services were
6 delivered to Phoenix Sinclair and her family.

7 A Yes.

8 Q What is your understanding as to which standards
9 relating to record keeping were to apply between that
10 period, 2000 to 2005?

11 A At different points in time -- I believe that up
12 until 2005 primarily, the administrative standards or the
13 1988 standards would have applied. There isn't a
14 substantive difference between the different sets of
15 standards when it comes to the actual recording practice.
16 The, the Act and, and the standards still require
17 documentation related to intake, nature of the referral.
18 So the same type of information is required to be
19 collected, regardless of which set of standards was in
20 place.

21 Q The agency also had policies addressing recording
22 keeping --

23 A Yes.

24 Q -- for the period in which services were
25 delivered to Phoenix and her family.

1 MS. WALSH: If we can pull up Exhibit 24, please?

2 MR. MCKINNON: Tab 3 in your binder.

3 MS. WALSH: Madam Clerk, we've got the wrong
4 document on the screen.

5 THE CLERK: (Inaudible).

6 MS. WALSH: You had them earlier. Is it a
7 different stick? Possibly a different stick. It'd be
8 relating to Alana Brownlee. That's how you had them
9 identified.

10 There you go. Exhibit 24. This is entitled
11 Timelines and Policy, proposed July 13, 2001.

12 MR. MCKINNON: It's Exhibit A.

13 MS. WALSH: That's the one, Appendix A. So what
14 you've got in front of you is the document we marked as
15 Exhibit 24.

16 THE COMMISSIONER: I have it.

17 MS. WALSH: You have it, Mr. Commissioner?

18 THE COMMISSIONER: Yes.

19 MS. WALSH: Good, thank you.

20

21 BY MS. WALSH:

22 Q This is entitled Family Services Mandatory Agency
23 Recording Timelines and Policy, proposed July 13, 2001. I
24 understand this was the policy that was in effect from July
25 13, 2001 until it was amended in November of 2004.

1 A Yes.

2 Q And it applied to family services workers during
3 that period.

4 A Yes.

5 Q Just looking at this first page, in bold capitals
6 it says:

7

8 "Winnipeg Child and Family
9 Services and its staff are
10 professionally and publicly
11 accountable for services provided.
12 Accountability is demonstrated in
13 and measured by information and
14 materials contained within formal
15 case records. Accordingly, case
16 records will be standardized in
17 terms of case recording content as
18 well as organization and
19 maintenance of file records.
20 Adherence to this agency standard
21 will be monitored by means of
22 regularly scheduled file audits."

23

24 That's per agency policy, 1996.

25 Then the document goes on to say:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

"While we might all hold to higher professional standards in an ideal world, we recognize the reality of existing caseloads and workloads and outline what is believed to be minimally acceptable recording expectations for which we can individually and collectively be held accountable. This file recording needs to reflect sound social work/child welfare practice including assessment and planning as well as service intervention.

"The enclosed binder provides a copy of each of the Mandatory Family Services Recording Forms, the User Guides ... and examples of these completed forms."

And then it goes on, for instance, if we scroll down towards the bottom, to talk about:

"Contact notes will be

1 written legibly on loose-leaf or
2 typed within 24 hours of the
3 contact and placed on the file or
4 in a contact binder. The social
5 worker will initial each page and
6 include a date and the name of the
7 case reference."

8

9 And if we go to the next page:

10

11 "At 6 months from the
12 assignment date, a Family
13 Assessment and a Service Plan will
14 be typed and completed by the
15 family service worker, signed off
16 by the social worker and Unit
17 Supervisor and placed on the
18 family file."

19

20 Did this policy apply to work performed at
21 intake?

22 A No, it applied to family services only.

23 Q Okay. What applied to intake is the procedure
24 manual that we've seen at CD 992. If we can pull up age
25 19625, just to have you confirm, please.

1 A Okay.

2 Q 19625.

3 A Yes.

4 Q So that's, that's the document that contains the
5 recording requirements in terms of policy relating to
6 intake --

7 A Yes.

8 Q -- process, the intake process and the units that
9 carry that process out.

10 A Yes.

11 Q If we can go to page 33024, please? This is an
12 excerpt from the Winnipeg Child and Family Services
13 Policies and Procedures Manual. It's the amended version
14 of the family services mandatory agency recording
15 timelines. It says it's amended November 19, 2004.

16 A Yes.

17 Q Do you recall what the reason -- do you know what
18 the reason for the amendment was?

19 A There were two changes made to the document. One
20 was to identify and recognize the transition of Winnipeg
21 Child and Family Services from a private agency to a branch
22 of government, so the wording --

23 THE COMMISSIONER: Change, changes made when?

24 THE WITNESS: When Winnipeg changed to be a
25 branch of government in 2003, so the policy was still in

1 effect but the wording would have been incorrect relating
2 to how the agency was described, so that's one change that
3 was made in this document.

4 THE COMMISSIONER: In two-o-three.

5 THE WITNESS: In 2004 it was amended.

6 THE COMMISSIONER: Oh, I see. Yes, all right.

7

8 BY MS. WALSH:

9 Q This is -- just to be clear, this is an amended
10 version of Exhibit 24.

11 A Yes. The second change that was made to, to the
12 policy was a change related to the requirement to complete
13 a risk assessment on any child prior to reunification of
14 children under the age of 12 who had been in the care of
15 the agency or the branch for more than 30 days. So those
16 would be the two changes in this document.

17 Q There's also a policy at page 33019. This is
18 entitled File Cleaning and it's dated January 2003. You've
19 got that?

20 A Yes.

21 Q So this identifies:

22

23 "A maximum of one year's worth of
24 disbursements would be kept on
25 open files."

1

2

It identifies that:

3

4

"Covering sheets from faxes can be

5

disposed of if they don't contain

6

any pertinent information."

7

8

Under the heading, Recording Section, it details

9

that:

10

11

"The front section holding

12

dictation is clipped with a

13

fastener in the left hand corner

14

in chronological order."

15

16

There's a reference to the legal section and how

17

it's to be maintained and what information remains.

18

On the next page, there's a reference to the

19

medical section where applicable.

20

And then under the heading, Correspondence, it

21

says:

22

23

All basic correspondence,

24

letters, memos, exceptional

25

circumstance funding requests,

1 risk assessment form (from CRU),
2 current disbursements, greens
3 belonging only on the child's file
4 in the back section.

5 This section also is
6 organized with the most current
7 information placed on top working
8 down to the bottom.

9 Family Support Worker's notes
10 -- as there can be a significant
11 amount of notes, it is recommended
12 that they be maintained separately
13 within the correspondence/reports
14 section of the file with the most
15 current date on top.

16 And After Hours -- there can
17 also be significant reports here
18 and if preferred can be clipped
19 and kept together in chronological
20 order.

21

22 And then with respect to closed files:

23

24 "[The] current policy states
25 that when a file is closed all

1 disbursements, telephone messages
2 and duplicate material is removed
3 and shredded. Any handwritten
4 notes which appear significant, or
5 workers' case notes are placed in
6 a 'worker's notes' envelope,
7 stamped and placed in the back of
8 the file. These notes should be
9 dated and initialed by the worker
10 who wrote them.

11 "[And] a placement report
12 should be printed from CFSIS and
13 placed on the back of the [child-
14 in-care] file."

15

16 That's consistent, in terms of the handwritten
17 notes, with what you described earlier?

18 A Yes.

19 Q Then if we pull up page 33021, please. This is
20 entitled File Maintenance Policy and it's dated June 2004.
21 Again, these policies that we're looking at, they related
22 to family services workers, this policy that we've got --

23 A Yes.

24 Q Okay. Now, this document has a background. It
25 says:

1

2

"The issue of inheriting

3

files that someone hasn't

4

maintained has been raised both

5

from the worker and the admin

6

perspective as people move from

7

job to job."

8

9

What's your understanding of the purpose of this

10 policy?

11

A This policy was trying to sort out difficulties

12

related to the, the maintenance of a file that's been open

13

for a significant period of time. Again, when you're

14

talking about files being open for several years, you would

15

have some social workers who are very good at maintaining

16

and putting all the documentation correctly in the file and

17

correctly in their various file compartments. There was

18

other social workers who would use an accordion file folder

19

with A, B, C, and then quarterly the administrative staff

20

had been asked to take the files and clean them up and

21

organize them appropriately and ensure everything was in

22

the correct compartments.

23

So the issue was trying to more clearly define

24

what was the, the role and responsibility of admin staff,

25

what was the role and responsibility of the social worker,

1 and also ensuring, at the point that someone was moving to
2 a new job, that the files were appropriately organized for
3 the incumbent coming in as opposed to, to be kind of in a
4 disorganized state.

5 Q So if we look at this policy, for example, it
6 says, "Day-to-day file maintenance is a worker's
7 responsibility," and it lists a number of items, and then
8 it says, "Overall file maintenance is an administrative
9 responsibility," and lists a number of items. So what I
10 understand you're saying is this policy identified who was
11 to do what with respect to organizing and maintaining the
12 file.

13 A Yes.

14 Q Okay, thank you. And finally, dealing with
15 policies, if we can pull up page 33011, please? This is
16 the Winnipeg Child and Family Services File Policy dated
17 October 2004.

18 MS. WALSH: You should have a copy of this as
19 well, Mr. Commissioner, starting at page 33011. They all
20 look very similar, so --

21 THE COMMISSIONER: I don't see it.

22 MS. WALSH: -- I think if you look at the --

23 THE COMMISSIONER: But, but --

24 MS. WALSH: -- page number at the bottom --

25 THE COMMISSIONER: It's, it's on, it's on the

1 screen and I, I will be able to follow it from there.

2 I have it. I have it.

3 MS. WALSH: Thank you.

4

5 BY MS. WALSH:

6 Q Now, the -- this policy, to the extent that it
7 deals with file content, starts at page 33014. You'll see
8 there's a heading midway down the page that says, Physical
9 File Content. Have you got that, Ms. Brownlee?

10 A Yes.

11 Q Yeah, okay. And it includes a face sheet, then
12 it makes reference to a recording section -- if we turn the
13 page -- to a legal section, a medical section. This looks
14 very similar to the 2003 policy that we had just been
15 looking at in terms of the one entitled File Cleaning.

16 A Yes.

17 Q Okay. But this is an updated '04 policy.

18 A This policy is more comprehensive. The file
19 cleaning policy was specific to, when you're closing a
20 file, what you do with those particular sections. This
21 policy is, is a broader policy related to what you do with
22 different categories of files such as expectant parent
23 services, voluntary family services, how you identify the
24 file numbering process, so it's a broader policy.

25 Q Okay. If we turn to the next page, under the

1 heading Miscellaneous File Material, it says:

2

3 "Contact/case notes shall
4 remain with the worker, in a
5 binder, minimally until case
6 closure/transfer at which time
7 they will be placed in an envelope
8 at the back of the file, and
9 signed by the worker when placed
10 in an envelope for the file."

11

12 So that's consistent with what we've seen to
13 date?

14 A Yes.

15 Q

16 "Case Summaries/Supervisory
17 Audits will be fastened in the top
18 left-hand corner and will be filed
19 from first review to last, pages
20 being numbered consecutively.
21 Annual reviews will be signed off
22 by the supervisor and the social
23 worker.

24 "Upon closing/transfer unit
25 admin will, ensure the case file

1 is in the order as above. As part
2 of this the short case summary ...
3 and Legal status Report will be
4 attached in the file recording
5 section with the legal report
6 attached ..."

7

8 And, and then it goes on to identify that where necessary
9 that we put into volumes.

10 So that covers the policies, the standards, and
11 the legislation that refer to note taking, with the
12 exception of the supervisors' policy that we know came into
13 effect in 2004.

14 A Yes, because you'll note that none of these
15 policies comment on, at all, supervisory notes.

16 MS. WALSH: Mr. Commissioner, if you'd like we
17 could take the morning break and then come back and deal
18 with the supervisor's notes specifically.

19 THE COMMISSIONER: Seems reasonable. We'll
20 adjourn now for 15 minutes.

21 MS. WALSH: Thank you.

22

23 (BRIEF RECESS)

24

25 THE CLERK: Okay, we're back on the record

1 (inaudible).

2

3 BY MS. WALSH:

4 Q If we can pull up page 29040, please? This is
5 the Winnipeg Child and Family Services Supervision Policy.
6 It says, Implementation March 1, 2004.

7 A Yes.

8 Q Now, none of the standards or policies that we
9 reviewed today specifically made reference to notes made by
10 supervisors.

11 A Correct.

12 Q So is this policy that we're seeing the first
13 time that supervisors' notes are specifically addressed in
14 a documented form in a Winnipeg Child and Family Services
15 agency policy?

16 A Yes.

17 Q Okay. And which supervisors was this policy
18 intended to apply to?

19 A It was intended and was drafted by a working
20 group of family service supervisors. The intent was in
21 recognition that it wouldn't necessarily specifically apply
22 to the nature of supervision being given at intake. So
23 intake, CRU, and after-hours took, I think, the spirit and
24 the intent behind the supervision policy, but subsequently
25 drafted a supervision policy that was specific to CRU and

1 intake.

2 Q And have we seen that policy?

3 A Has the Commission?

4 Q Yes, has, has --

5 A I'm, I'm not sure.

6 Q -- that been identified through you to us?

7 MR. MCKINNON: I'm sorry, I missed the --

8 THE WITNESS: The JIRU --

9 MR. MCKINNON: -- issue.

10 THE WITNESS: -- supervision policy?

11

12 BY MS. WALSH:

13 Q That -- so that would be once, once intake was
14 done by JIRU, is your understanding --

15 A Yes, there's --

16 Q -- that --

17 A -- a JIRU supervision policy.

18 MR. MCKINNON: That's right. We have not
19 produced it and it would be '05, which would be after the
20 Phoenix Sinclair case was closed, so it would be Mr.
21 Saxberg's client and -- I don't even know if it's been
22 produced by Mr. Saxberg.

23 MS. WALSH: Did you want to speak to that? Mr.
24 Saxberg, do I understand that that's going to be coming in
25 some future evidence?

1 UNIDENTIFIED PERSON: I'm sorry, I (inaudible).

2 MS. WALSH: Perhaps if you could just come to the
3 microphone so I can speak into the microphone? Thank you.

4 UNIDENTIFIED PERSON: (Inaudible).

5 MS. WALSH: Okay.

6 MR. MCKINNON: Just for the record, in our
7 summary of evidence that we produced on behalf of this
8 witness, we do make reference to the fact that there was a
9 policy created in 2005 relating to intake and CRU, but that
10 policy was created by JIRU, joint intake response unit,
11 which broke off from Winnipeg CFS in May of '05, and JIRU
12 is now ANCR, which is Mr. Saxberg's client. So this
13 witness wasn't intending to get into the policy that was
14 created in 2005 by another --

15 THE WITNESS: I just want to --

16 MS. WALSH: Right. Nor did, nor did I want her
17 to --

18 THE COMMISSIONER: After --

19 MS. WALSH: But --

20 THE COMMISSIONER: After the Phoenix file was
21 closed.

22 MR. MCKINNON: After the Phoenix file was closed,
23 yes.

24 THE WITNESS: I just want to clarify, I don't
25 know the date of the development of the policy. I know

1 that JIRU identified and were working on a policy in 2005,
2 and I don't know the exact date of the creation of
3 subsequent supervision policy.

4 MS. WALSH: And as I said, Mr. Commissioner, I
5 wasn't intending to take the witness through that policy,
6 but it simply seemed to me that the question would be
7 asked, Well, what was there for intake --

8 THE COMMISSIONER: All right.

9 MS. WALSH: -- as of 2004.

10 THE COMMISSIONER: All right. What is it you
11 want to know from Mr. Saxberg?

12 MS. WALSH: Whether -- and perhaps Mr. Saxberg
13 doesn't have the answer at this point, but whether he's
14 going to be at some point providing us with disclosure of a
15 policy, or whether he's already provided it in the many
16 pages, that shows the policy relating to supervisors once
17 JIRU and then ANCR were constituted.

18 THE COMMISSIONER: After the Phoenix file was
19 closed?

20 MS. WALSH: Yes.

21 THE COMMISSIONER: Does that become relevant?

22 MR. MCKINNON: I think it's only relevant to
23 whether we fix what appears to be a problem. I think
24 that's the relevance of it.

25 MS. WALSH: Which is, which is why I assumed that

1 if we were going to hear about it, we would hear about it
2 in phase two, which is when I turned to Mr. Saxberg to make
3 that inquiry.

4 MR. SAXBERG: And, yes, yeah, there is policy in
5 place at ANCR and you will hear about it in full, phase
6 two.

7 THE COMMISSIONER: In phase two.

8 MR. SAXBERG: And it has been disclosed.

9 MS. WALSH: Good, thank you.

10 THE COMMISSIONER: Thank you.

11

12 BY MS. WALSH:

13 Q So then the policy that we're looking at, which
14 is CD 1634, specifically was created to apply to family
15 service workers, is your understanding?

16 A Supervisors.

17 Q Or, sorry, supervisors?

18 A Yes.

19 Q And we've heard evidence from some supervisors
20 from intake and CRU that they felt it did apply to them to
21 a certain extent. Mr. Berg is an assistant program
22 manager, I believe, testified that it wouldn't apply in the
23 same way that it would apply to a family services unit, and
24 during the time that services were delivered to Phoenix and
25 her family there was no other written policy relating to

1 supervisors and supervision other than the policy we have
2 in front of us?

3 A Yes, and I think -- in terms of application, I
4 think the principles and purpose and the importance of
5 supervision are applicable to supervisors generically, and
6 that, that was the point of the policy. The applicability
7 of and the ability of -- and whether it's of value for CRU
8 or intake to have biweekly supervision versus the daily
9 supervision and their ability to keep notes in the same way
10 as the family services, is where the -- this policy is, is
11 less applicable to intake and after -- or CRU and after-
12 hours supervisors.

13 Q And prior to 2004 there was nothing in writing
14 about supervisors specifically.

15 A Correct.

16 Q Okay. We can turn to page 29044, please. This
17 is entitled Supervisor Notes. It's Addendum B. And if we
18 scroll down, please, so we can see, to the bottom of the
19 page, under the heading, Record of the Supervision Session,
20 refers to what should be recorded, and then it says:

21

22 "These notes are available to
23 the Supervisor and the supervisee.
24 These notes should be used to
25 inform annual performance reviews.

1 These notes can also be accessed
2 in the event of a grievance,
3 discipline, inquiry or complaint.
4 They should not/cannot be
5 destroyed. Upon completion of
6 performance reviews, as noted
7 above, the supervisor notes should
8 be placed in a sealed envelope and
9 filed in his or her office. When
10 a Supervisor leaves the Branch her
11 or his notes should be summarized
12 into a performance appraisal and
13 then archived as per our Branch's
14 archiving process.

15 "When a supervisor has direct
16 contact or provides an
17 intervention on a case (i.e. a
18 phone call with a client), this
19 material should be recorded as per
20 our Branch recording policy and
21 provided to the assigned social
22 worker for inclusion on the client
23 file."

24

25 Now, what were supervisors to be guided by before

1 this policy came into existence, with respect to
2 maintaining notes?

3 A Prior to this policy, supervisors maintained
4 notes based on the need to do so in order to do their job
5 effectively, and manage the volume of information and be
6 able to track case plans and progress on case plans and how
7 families were doing from supervision to supervision
8 session. So their notes, really, for all intents and
9 purposes, were for their own purposes to, to manage their
10 job.

11 This document was intended to, like, highlight
12 the importance of regular supervision and quality of
13 supervision in terms of needing to guide workers in their
14 decision making and ensuring that decision making is a
15 shared responsibility. It also took the step towards
16 recognizing that notes should be something broader than
17 just for the individual supervisor's purposes and
18 responsibilities.

19 Unfortunately, it's not very clearly worded in
20 terms of the notes. As I said before, there's, there's
21 generally three kinds of notes that supervisors keep.
22 One's related to HR functions, which this I think clearly
23 spells out should, should either be, you know, put into a
24 performance appraisal, go into an HR file, or go into the
25 branch's archiving. Then it speaks specifically to case

1 notes where there's direct client involvement and that
2 those need to go in the file, and then it doesn't actually
3 comment directly about the third set, which is the, the
4 notes related to the supervision section.

5 So my understanding from some of the canvassing
6 that I've done related to finding this is there was quite a
7 discrepancy amongst supervisors related to what they should
8 be doing with those specific notes, and some believe that
9 they should be maintaining them in binders and continuing
10 that practice, and leaving those binders, should they leave
11 their position, for the incoming or incumbent supervisor.
12 Others believe that the notes should be archived so there
13 was -- and, and there would have been some that would have
14 felt they should -- been -- have gone on the case file, but
15 that would be, I would say, more in the minority.

16 Q So prior to this policy being implemented, you're
17 saying there was a lack of consistency in terms of what
18 supervisors did with their notes, how they retained them?

19 A I would say following this policy. Prior to this
20 policy, their practice would have been simply to keep your
21 notes in your office in perpetuity. And you would -- if
22 you left your position, those notes would be left for the
23 supervisor coming in because that supervisor would require
24 those notes. So you would have instances where you might
25 have in a binder notes documented from three different

1 supervisors over three periods of time on cases that had
2 remained open for that length of time.

3 Q Which we saw occurred in this case. There was a
4 file open during the course of different supervisors,
5 during the time that family services were provided to
6 Phoenix and her family.

7 A I'm referencing more where the supervisor, the
8 supervisor changes, but the file remains open.

9 Q Yes.

10 A So if the case is open for, say, a four-year
11 period of time and in that four-year period of time there's
12 two different supervisors, the binder would have the notes
13 from both supervisors. And they might also have notes from
14 two different workers from the same case over that same
15 period of time.

16 Q So the evidence we heard in this case was that,
17 for instance, Angie Balan filled in for the maternity
18 leave --

19 A Yes.

20 Q -- of Lorna Hanson.

21 A Yes.

22 Q So that would be an example --

23 A That would be --

24 Q -- of a file --

25 A -- an example, yes.

1 Q -- staying open with different supervisors.

2 A Yes.

3 Q So prior to the existence of this policy, prior
4 to March of 2004, you described the expectation as to where
5 the supervisors' notes were to be kept when the supervisor
6 left their office. What about when the file was closed?

7 A My understanding is the practice was that, that
8 supervisors continued to maintain those notes in their
9 office, but would keep them in a different format. So
10 some, some maintained them in the binder at the back of the
11 binder, indicating a closed file. Some put them into their
12 file cabinet in file folders. Some put them into
13 envelopes. But they still maintained them again in their
14 offices.

15 Q And that, in that case where a file was closed,
16 what would happen if the supervisor left their position?

17 A They would still be retained in their office.

18 Q Then once this policy came into effect what was
19 to happen if a file was closed, with the supervisor's
20 notes?

21 A Well, from reading the policy, you could
22 interpret it that notes should have been archived.

23 Q Okay. And do you know what was happening in
24 fact?

25 A Again, I would say that there was discrepancies

1 in terms of what was happening. Certainly, clearly,
2 supervisors viewed archiving as one of the options because
3 there is -- we have quite a significant number of boxes of
4 archived supervision notes, so clearly that was, I think,
5 the largest interpretation. Certainly, some other
6 supervisors were unclear and continued to just maintain
7 records within their office.

8 Q What about, once the policy came into effect,
9 what was the expectation if the supervisor left their
10 office but the file was still open?

11 A That they would leave the, the notes in their
12 office for the incoming supervisor.

13 Q And what's your understanding as to the practice?

14 A That would be the practice.

15 Q So once this policy was implemented, am I right
16 in understanding that there was still some discrepancy
17 between supervisors as to how their notes of supervision
18 were to be retained?

19 A Yes.

20 Q And was that inconsistency or discrepancy
21 rectified ultimately by the agency?

22 A It's still what I would call a work in progress.
23 We've identified it and we have subsequently amended our
24 supervision policy. I think that the -- this Inquiry has
25 made it significantly clearer to our management team at

1 Winnipeg CFS that, that supervisor notes need to be on the
2 case file and that they need to be there because workers --
3 most decisions that workers made on -- during the life of
4 the case are consulted with their supervisor and it's very
5 clear we know in practice that it's a shared
6 responsibility.

7 The fact that the file is not containing those
8 supervisory notes detracts from that shared responsibility
9 and doesn't clearly articulate what information was
10 discussed, how the decision came to be made. So we have a
11 new policy that is, is, I think, much clearer, less open to
12 interpretation, that at the point of case transfer or
13 closure, the supervision notes should be placed on the file
14 or must be placed on the file.

15 We're also working on developing a check box that
16 goes -- that admins look at, at the point of closing file,
17 and that the workers would sign that their notes have been
18 placed on the file, the supervisor would sign their notes
19 are placed on the file, and we would identify auxiliary
20 notes such as family support workers are placed on file.
21 Just so it's clear that there actually -- one, it's, I
22 guess, a reminder to make sure you get the supervisor
23 notes. Two, it's also a clear document that, yes, we had
24 the notes or that we didn't have the notes. So those are a
25 couple of the steps we're working on.

1 Q When you say "we," you mean the agency, Winnipeg
2 Child and Family Services, the --

3 A Yes.

4 Q -- the branch?

5 A As a management, as a management group. It's new
6 for supervisors to be putting -- regularly putting their
7 supervision notes on the case file. So with any new
8 process there's always the implementation period, and we
9 just passed that supervision policy in, in December.

10 Additionally, we've also identified that there's
11 a significant number of cases that are consulted at a
12 higher level. So cases are brought to my attention and I'm
13 consulted on, they're regularly brought to the service
14 managers related to complex cases, and have difficulties
15 and are given direction. And we've also included in the
16 supervision policy that those discussions should also be
17 placed on the case file so it's clear when cases have been
18 brought to a higher level of management.

19 Q So with an assistant program manager or program
20 manager, for instance --

21 A We don't have assistant program managers.

22 Q Okay. That's a change --

23 A Yes.

24 Q -- in the agency from when services were
25 delivered to Phoenix. Are there program managers?

1 A Yes.

2 Q Okay. So their contact with the file is --

3 A Yeah, they --

4 Q -- going to be recorded --

5 A -- supervise the supervisors.

6 Q Okay. And that, that contact is supposed to be
7 recorded?

8 A Yes. That's part of our new policy.

9 Q So let's pull the, the new policy up. That's
10 Exhibit 25, and that's at B.

11 MR. MCKINNON: Tab 10?

12 THE WITNESS: Yeah.

13 MS. WALSH: So that's Exhibit 25, Mr.
14 Commissioner.

15 THE COMMISSIONER: Yes, I have it.

16

17 BY MS. WALSH:

18 Q This is entitled Winnipeg Child and Family
19 Services Supervision Policy. It says, Implementation March
20 1, '04, updated January '09, June 2012, and finally
21 December 20, 2012. This is the policy that you've just
22 been speaking about?

23 A Yes.

24 Q If we turn to the next page, please, towards the
25 bottom of the page, under the heading, Recording and

1 Documentation, this says:

2

3 "The shared responsibility
4 between the Supervisor and the
5 worker should be reflected within
6 the case file. Therefore,
7 Supervisors should maintain a
8 record of their case reviews and
9 these records should be placed on
10 the case file as Supervision Notes
11 when the case file is closed or
12 transferred.

13 "Provincial standards outline
14 the record keeping
15 responsibilities of the social
16 worker or case manager. The
17 Standards also outline key
18 decision making points that
19 require review by the supervisor."
20

21 So this is a change from the policy wording in
22 March of 2004.

23 A Yes.

24 Q This was not an expectation that was articulated
25 at that time.

1 A Yes, we, we tried to streamline this policy. We
2 took out some of the content that was related, I think, to
3 training and guidance, and we're using that and we're --
4 our intent is to develop practice guidelines for
5 supervisors and have this be more streamlined in terms of
6 expectations versus training. We've also removed the HR
7 component of the policy because that's covered under other
8 HR documentation. So this is really referencing only
9 direct client contact for supervisors, as well as their
10 ongoing regular supervision and consultation of their
11 staff.

12 Q So you had originally identified there would be
13 three types of notes that a supervisor might record -- HR,
14 direct contact, or notes of supervisions sessions -- and
15 this policy, the December 20, 2012 policy, addresses direct
16 contact and notes of supervision sessions.

17 A Yes.

18 Q And just finishing with, with this document, it
19 says:

20

21 The role of the Supervisor is
22 to review risk and safety
23 assessment information, family
24 assessment information --

25

1 Turn to the next page, please.

2

3 ... case planning; care plans for
4 children and youth in care;
5 contact with parents, children,
6 and youth.

7 "The Supervisor may also have
8 direct contact or provide an
9 intervention on a case (i.e. a
10 phone call with a client). This
11 information is to be recorded as
12 per our Branch recording policy
13 and is to be placed on the case
14 file."

15

16 Under the heading, Case Consultation, it says:

17

18 "Case consultation may occur with
19 the Service Manager, the CEO or
20 others with expertise such as
21 staff members of the General
22 Authority. These consultations
23 should be documented and included
24 on the case file at the point of
25 transfer or closing. This would

1 include regular supervision
2 sessions for the Supervisor with
3 the Service Manager where case
4 consultation and discussion
5 occurs."

6

7 So that's what you just described to us.

8 A Yes.

9 Q So on occasions where the supervisor discusses a
10 specific case with their supervisor, that discussion should
11 be recorded and the recording maintained in the case file.

12 A Yes. Again, along with the same principle that
13 it's a shared responsibility for decision making and that
14 those discussions -- the direction that's being given
15 should all be recorded on the case file to, to be clear
16 that decision making is not resting with the social workers
17 alone.

18 Q Now, before we get into the direct efforts that
19 you made to locate notes made by supervisors, I think it
20 would be helpful to outline a review of the -- some of the
21 evidence that we heard from specific supervisors who
22 testified earlier in this Inquiry. And I think that would
23 be helpful when we look at, at the results that your
24 searches yielded.

25 MS. WALSH: You don't have a reference -- I'm not

1 referring you to a specific document, Mr. Commissioner.

2 THE COMMISSIONER: You're going to make a review,
3 is that what I hear you say?

4 MS. WALSH: Yes. Yes.

5 THE COMMISSIONER: Put evidence, as you
6 understand it, to this witness.

7 MS. WALSH: Correct.

8 THE COMMISSIONER: All right.

9 MS. WALSH: With respect to the pages from the
10 transcripts that we took this reference from so that
11 everyone in the room can, can --

12 THE COMMISSIONER: Can check.

13 MS. WALSH: -- check it on their own, yes. I
14 just think it'll be helpful, as I said, when we review with
15 this witness the results of the searches that she
16 undertook.

17 THE COMMISSIONER: This was -- precedes that, in
18 effect.

19 MS. WALSH: Yes.

20 THE COMMISSIONER: Yes.

21 MS. WALSH: This, this is what she could, for
22 instance, be looking for.

23

24 BY MS. WALSH:

25 Q So we heard evidence on November 14th from Mr.

1 Orobko, who was an intake supervisor. He stated that he
2 maintained supervisory notes in his office and took them
3 with him upon leaving the agency. He further stated that
4 he destroyed them after a period of five years.

5 MS. WALSH: And I'm not intending, Mr.
6 Commissioner, to be comprehensive in my reference to the
7 evidence of these various witnesses, just certain excerpts.

8 THE COMMISSIONER: Yes, and if any counsel feels
9 that you've missed something important or misinterpreted,
10 they'll have the opportunity to say that.

11 MS. WALSH: Absolutely.

12 THE COMMISSIONER: And maybe we should inquire
13 about that once you're through, before we put the questions
14 to the witness. So --

15 MS. WALSH: Certainly, we can.

16 THE COMMISSIONER: So there's, there's reasonable
17 consensus for the accuracy of what you're putting.

18 MS. WALSH: Yes.

19 THE COMMISSIONER: I'm sure it's accurate, but --

20 MS. WALSH: That'd be fine.

21 THE COMMISSIONER: -- is it comprehensive to meet
22 the needs of other counsel.

23 MS. WALSH: Right. It may be that they'll need
24 to hear the questions that I'm asking first to determine
25 that, but, but I'm in your hands.

1 THE COMMISSIONER: We'll see.

2 MS. WALSH: Okay.

3

4 BY MS. WALSH:

5 Q So that's from pages 22 and 23 of his transcript
6 from November 14th.

7 A I did find three boxes of supervisory notes which
8 contained supervision notes from Mr. Orobko.

9 MR. MCKINNON: I think, I think she wants to put
10 all of these suggestions --

11 THE COMMISSIONER: Yes.

12 MR. MCKINNON: -- to you and then -- she doesn't
13 want you to answer one at a time. So --

14 THE COMMISSIONER: Yeah --

15 MR. MCKINNON: -- I think she wants --

16 THE COMMISSIONER: I, I think she's going to --

17 MR. MCKINNON: -- to lay a foundation --

18 THE WITNESS: Okay.

19 THE COMMISSIONER: She's going to set --

20 THE WITNESS: Sorry.

21 MS. WALSH: Not at all.

22 THE COMMISSIONER: -- set the scene for you.

23 THE WITNESS: Okay.

24 THE COMMISSIONER: You can sit back and listen.

25 THE WITNESS: That means I'll have to remember

1 everything.

2 MS. WALSH: Well, it's not so much, Mr.
3 Commissioner, what I'm doing is, is a suggestion or a
4 question, but certainly I'll go back if the witness wants
5 me to review anything. I thought it would be appropriate
6 for everyone listening to the evidence to have some
7 refreshment of what we heard.

8 THE COMMISSIONER: I think what you're doing is
9 quite appropriate.

10 MS. WALSH: Thank you. And certainly if, if any
11 of the counsel want to add something, that will be --

12 THE COMMISSIONER: That's --

13 MS. WALSH: -- extremely helpful.

14 THE COMMISSIONER: That's my only concern, that
15 they have that opportunity.

16 MS. WALSH: Absolutely.

17

18 BY MS. WALSH:

19 Q We also heard testimony from Mr. Orobko -- and I,
20 I don't have the, the transcript reference at this point,
21 but we saw in the recordings that when he provided direct
22 service during a transition period for his workers, that
23 his notes were in both Samantha Kematch's file and I think
24 there was some small note taking in Mr. Sinclair's file and
25 -- both handwritten and typed when he had direct service

1 delivery. But as a supervisor this is what he said: that
2 he maintained notes in his office, took them with him upon
3 leaving the agency, and destroyed them after a period of
4 five years.

5 With respect to Angela Balan, who was a family
6 services supervisor, she stated that she would take typed
7 supervisory notes during or shortly after supervision with
8 a worker, she would print them off, initial them, and place
9 them in a binder. She stated that each worker had their
10 own binder of family service supervision notes. She didn't
11 place the notes in case files. She stated that the notes
12 were missing.

13 And I believe you indicated that it was through
14 contact with a supervisor who was preparing for this
15 Inquiry that it came to light that you needed to look for
16 the supervisor notes and my understanding is that that was
17 Ms. Balan.

18 A Yes, that's correct.

19 Q On cross-examination, she stated that she left
20 the files in the binders for the next supervisor, Ms.
21 Hanson, when she left. She also stated that notes were not
22 to be destroyed and that they were to be archived once a
23 file was closed. And I'm referring to pages 136 to 138 of
24 her transcript from November 27, 2012 and pages 146 to 148
25 of her transcript from November 28, 2012.

1 With respect to Lorna Hanson, who was also a
2 family services supervisor, she stated that she would have
3 taken handwritten supervisory notes and kept them in
4 individual binders for each worker. She stated that at
5 some point she did try to place case specific notes in the
6 case files directly. The witness stated that she has been
7 through Phoenix's file and her notes were not there. She
8 could not recall if she specifically put her notes on
9 Phoenix's file. She stated that she kept them intact when
10 leaving, and that once a file was closed, they were to be
11 put on the case file. This is taken from page 42 to 45 of
12 her transcript from November 29, 2012.

13 MS. WALSH: And certainly, Mr. Commissioner, I
14 welcome if counsel have other areas that they want to
15 raise.

16 THE COMMISSIONER: Is that as far as you're going
17 before you start your --

18 MS. WALSH: No, no.

19 THE COMMISSIONER: No? Carry on.

20 MS. WALSH: Thank you.

21

22 BY MS. WALSH:

23 Q With respect to Heather Edinborough, who was also
24 a family services supervisor, the witness stated that she
25 kept handwritten supervision notes that she would take

1 during supervision. She stated that she kept the notes in
2 binders and that each worker had a separate binder. It was
3 her understanding that her supervisory notes did not go on
4 the case file until the case was closed. She stated that
5 she was surprised that none of her supervisory notes were
6 on Phoenix's file. She stated that she left all her active
7 file notes in the binders in her office when she left.
8 This is taken from pages 26 through 29 of her transcript of
9 November 30, 2012.

10 Doug Ingram was a supervisor of an intake unit.
11 He stated that he kept one-page notes on intakes during
12 supervision, including things like addresses, phone
13 numbers, and a basic idea of where the case was going. He
14 also stated he would have kept notes of direction he had
15 given workers while the case was open. He stated that he
16 shredded them when the file was closed because they were to
17 remind him and they weren't detailed. He stated that they
18 were just scratch notes for his own benefit. He stated
19 that he did not take substantial case specific notes of
20 supervision. This is from pages 38 to 40 of his transcript
21 from December 4, 2012.

22 Diana Verrier was a supervisor of a CRU unit.
23 She stated that she did not keep case specific notes, but
24 did take down reminders for herself in regards to HR and
25 scheduling issues. She stated that regular supervision in

1 CRU was more about HR and professional development, rather
2 than case specific. The witness did not believe she had
3 any supervision notes when she left the agency. She stated
4 anything specific to the worker would be on their HR
5 personnel file. This is from pages 85 through 88 of her
6 transcript from December 11, 2012.

7 Carolyn Parsons, who was a supervisor of an
8 intake unit. She stated that she did not make any
9 supervisory notes and she assumed, based on past practice,
10 that workers would document any outcome or direction from
11 supervision in their case notes. She stated that she was
12 aware that the supervision policy applied to her and she
13 did keep some personnel related notes, but she did believe
14 it was geared more towards family service than intake. She
15 also stated that she would keep notes on a printout of a
16 worker's case list, but that the case list would be thrown
17 out and reprinted as cases were constantly opening and
18 closing at CRU. On cross-examination, she stated that she
19 made some notes after the supervision policy came into
20 place and that she would have left them behind when she
21 left intake. She did not know where they were now. This
22 is taken from pages 14 to 18 of her testimony of December
23 18th and pages 112 through 115 of December 18th.

24 Finally, Diva Faria, who was a supervisor of a
25 CRU unit, stated that she did not keep case specific notes,

1 and if she wanted to make a record, she would do so in
2 CFSIS and sign it. She stated that she may have taken a
3 note like this if she received a call from a community
4 collateral, but she didn't regularly keep case specific
5 notes. She stated that human resources notes would go on
6 the worker's personnel file. In cross-examination, she
7 stated that it was her expectation that workers would
8 record consultations with her in their notes. She also
9 stated that the supervision policy applied to family
10 services, not intake. This is taken from pages 42 to 43 of
11 her transcript of January 17th and pages 83 to 84 of her
12 transcript from January 21, 2013.

13 As I said, we've also seen documents from the
14 files of Samantha Kematch, CD 1795, and Steve Sinclair, CD
15 1796, where we saw copies of the handwritten notes that
16 were made by Mr. Orobko, Ms. Greeley, Ms. Forbes, and Mr.
17 Williams.

18 So that's a refresher, a review of what has been
19 testified to with respect to the existence of, of notes.

20 THE COMMISSIONER: Those handwritten notes were
21 Orobko?

22 MS. WALSH: Orobko, Greeley, Parsons, Forbes --
23 oh, sorry, not Parsons. Forbes, and Stan Williams.

24 THE WITNESS: I believe there was also Delores
25 Chief-Abigosis' handwritten notes in the file.

1

2 BY MS. WALSH:

3 Q I think there are typed notes from Ms. Chief-
4 Abigosis. We can confirm that.

5 A It could be. I just recall there being some
6 notes. Whether they're handwritten or typed, I'm not sure.

7 Q And that, that may be.

8 THE COMMISSIONER: All right. Now, based upon
9 that information, you --

10 THE WITNESS: I also believe that there was one
11 page of Ms. Balan's typed supervision that was also --

12 MS. WALSH: That's --

13 THE WITNESS: -- on the file.

14 MS. WALSH: That's what I mean when I --

15 THE WITNESS: Yes.

16 MS. WALSH: -- when I say that there were typed
17 notes from supervision that Ms. Chief-Abigosis incorporated
18 into her file recording.

19 THE WITNESS: Yes.

20 MS. WALSH: And we'll pull that page up --

21 THE WITNESS: Sorry.

22 MS. WALSH: -- in just a minute. Page 37022, if
23 we can pull that page up, please? And --

24 THE COMMISSIONER: Now --

25 MS. WALSH: -- if we scroll down --

1 THE COMMISSIONER: Before you put your questions,
2 are you ready to start questioning based upon what you've
3 put to the witness?

4 MS. WALSH: Yes.

5 THE COMMISSIONER: Well, I'll just hear -- Mr.
6 Ray has a point.

7 MR. RAY: Yeah, I just would like to consult with
8 Ms. Walsh, if I may for a moment, just to --

9 THE COMMISSIONER: Oh, sure.

10 MS. WALSH: -- clarify something. Thank you.

11 THE COMMISSIONER: Sure.

12

13 BY MS. WALSH:

14 Q So with respect to Ms. Chief-Abigosis recording
15 directly into her case file recordings a record of her
16 supervision with Ms. Balan, we have page 37022, and you see
17 the heading, it says, Supervision - February 5, 2001. And
18 that page and onto the next page, Ms. Chief-Abigosis
19 testified that that reflected directly her supervision
20 session with Ms. Balan.

21 A Yes.

22 Q And that's from the transcript of Ms. Chief-
23 Abigosis's testimony from November 26, 2012 at page 157.

24 So having, having been refreshed as to evidence
25 that we've heard over the course of the last few weeks

1 regarding notes that supervisors recalled having made or
2 workers' references to notes, tell us, please, what efforts
3 you made to locate notes made by supervisors relating to
4 services delivered to Phoenix and her family for the period
5 2000 to 2005?

6 A Initially, I started with identifying, I guess,
7 the -- who the supervisors were. I requested my office
8 manager look at identifying all of the, the potential
9 storage spaces that our -- where Winnipeg CFS has boxes of
10 information. But she started primarily with our file room
11 and our archived file material.

12 I also contacted, contacted Heather Edinborough
13 as well as Angie Balan to ask them if they had any recall
14 of what they had done with their notes when they left their
15 respective positions in the Jarvis office.

16 And then I contacted Sandie Stoker to see if
17 there was any Winnipeg CFS records that may still have been
18 retained at ANCR even though the, the transition had
19 already occurred. I didn't think that that was a very
20 likely chance that the supervisions notes were there, but I
21 also felt it was important to be able to make sure that we
22 didn't leave any stone unturned. So I asked her to review
23 what her understanding was. She contacted her supervisors,
24 who replaced the supervisors who we're looking for, and
25 they identified that when they assumed their new positions

1 there was no, there was no notes left in the offices.

2 One of the things through my search that we did
3 identify was that at the point in time of devolution the
4 supervisors -- this -- the, the Kematch-Sinclair family was
5 served by our Jarvis office, and at the point of
6 devolution, the four family service teams that were
7 maintained in the Jarvis office were subsequently disbanded
8 so those supervisors were redeployed. Some of them were
9 seconded to other agencies. The staff within those teams,
10 some were seconded to different agencies, some remained
11 within Winnipeg. But as a group, none of those teams
12 remained intact and the office itself was transferred to a
13 different CFS agency and we vacated those premises.

14 Q So what happened to the files, then, that were in
15 the Jarvis office as of the date of devolution taking
16 effect at Winnipeg, which would have been May of 2005?

17 A The majority of the files that were contained in
18 the Jarvis office were disbursed to different aboriginal
19 agencies, and they would have gone at different points in
20 time depending on which aboriginal agency that file was
21 going to. So files would go in blocks to specific
22 aboriginal agencies. So -- and any files that were
23 maintained by Winnipeg CFS would have then been transferred
24 to the Winnipeg CFS office that was going to be serving
25 that catchment area.

1 Q Now, Phoenix's file and any files relating to
2 Phoenix would have been closed --

3 A Yes.

4 Q -- by May of 2005.

5 A Yes.

6 Q What happened with files that were closed as of
7 that time in the Jarvis office?

8 A The files that were closed would not have been at
9 the Jarvis office. There was a file room where closed
10 files were. It was originally at 835 Portage. As part of
11 the devolution process, the closed files and the Winnipeg
12 CFS files were relocated within Winnipeg CFS because 835
13 Portage became JIRU, then eventually ANCR, building.

14 Q So the files were, were not at the Jarvis office,
15 but as of May 2005, were there still binders, for instance,
16 as you described, left by supervisors who provided services
17 during the period 2000 to 2005?

18 A Up until the actual file closure -- or the office
19 closure and the, the staff leaving those offices, those
20 binders would have been intact. I have not been able to
21 determine what happened to those binders. I've -- just in
22 terms of some other steps, I've contacted Elaine Gelmon,
23 who is the former chief operating officer, several other
24 people that were in a operational capacity and who were
25 responsible for identifying and, and moving those files,

1 office equipment that was being transitioned to other
2 agencies and organized or moved between offices. And none
3 of them have any recall specific to what would have
4 happened to supervisors' binders.

5 I've also talked to the admin staff, two of the
6 admin staff that were admin officers for, for Heather and
7 Angie and Lorna and -- just in terms of any of their recall
8 of what would happen with supervision notes. They don't
9 recall placing supervision notes on case files. They
10 recalled that they were in the binder and they were really
11 the responsibility of the supervisor, and they have no
12 recall of what would have occurred at the point of the
13 devolution of that specific office.

14 Q I want to take you to the emails that reflect the
15 inquiries that you say you made starting in July of 2011.

16 MS. WALSH: If we can pull up Exhibit 26, please?

17 MR. MCKINNON: You found it at tab 12?

18 MS. WALSH: We can scroll down to the bottom of
19 the page, please, because they always start from the bottom
20 up. Thank you.

21

22 BY MS. WALSH:

23 Q So there's an email starting July 27, 2011 at
24 8:31 a.m., from you to Sandie Stoker. And Sandie Stoker at
25 this point was --

1 A She is --

2 Q -- in what position?

3 A -- the CEO of ANCR.

4 Q Okay. Thank you.

5

6 "Re: Hughes Inquiry, Hi Sandie."

7

8 Now, we've redacted portions that were not
9 relevant to this Inquiry from the email.

10

11 "On another note -- mainly former
12 CRU and intake Supervisors are
13 asking or wishing for their
14 supervisory notes -- the binders.
15 Do you have any idea of what you
16 guys would have done with those
17 when supervisors changed jobs?
18 The specific ones are: Diva
19 Faria, Diana Verrier, Doug Ingram?
20 Diva and Diana would have been CRU
21 and Doug was intake not sure what
22 team."

23

24 And if we can scroll up to see Ms. Stoker's
25 response, please?

1 So at 9:50 that morning, she responded:

2

3 "Hi Alana,

4 "In regards to the
5 supervision books, I cannot speak
6 to Diva's or Dianna's as that was
7 Rob Wilson's program. After they
8 left there were major renovations
9 and I am not sure where their
10 information ended up or if it was
11 sent back to [Winnipeg Child and
12 Family Services] when ANCR went
13 live. Perhaps Pat Harrison would
14 know. I will double check here
15 though. In terms of Doug's
16 supervision notes, he was the
17 supervisor for North Intake B
18 (formally North West Intake). I
19 will ask the current supervisor to
20 check the office but I am
21 confident there will not be
22 anything as when I got to JIRU in
23 September 2005 the Intake
24 Supervisors were not doing formal
25 scheduled supervision, only

1 supervision on an ad hoc basis.
2 They actually tried to convince me
3 they did not need to do
4 supervision. It was then that I
5 developed the JIRU Supervision
6 policy. Doug struggled with
7 completing supervision with his
8 staff up until the time he
9 departed from ANCR. I will get
10 back to you."

11

12 Then if we go to the next page, please, and again
13 starting at the bottom of the page.

14 On July 27, the same day, at 9:56, Ms. Stoker
15 sent an email to Penny Smith and Lisa Savoie:

16

17 "Hi Penny and Lisa.

18 "I have been contacted by
19 Alana Brownlee as ex-WCFS Intake
20 Supervisors are asking for their
21 supervision notes from when they
22 worked here at CRU and Intake.
23 This is in regards to the Phoenix
24 Sinclair Inquiry. The individuals
25 requesting this information are

1 Diva Faria, Dianna Verrier (both
2 who supervised CRU) and Doug
3 Ingram (Supervisor at Intake). I
4 have informed Alana that I am not
5 aware of the supervision practices
6 at CRU before ANCR went live as
7 that was not my program and
8 suggested she check with Pat
9 Harrison. I also informed her
10 that when I arrived in September
11 2005, Intake supervisors were not
12 performing scheduled supervision.
13 Given that I did say that we would
14 check, Lisa when you were at CRU
15 do you recall seeing any
16 supervision notes from Diana or
17 Diva, if so do you know where they
18 would be? I think all we can do
19 is ask Trudy if she is aware of
20 any old supervision notes for CRU
21 and ask Barb Lisi to double check
22 her office" --

23

24 We can go to the next page, please.

25

1 "... as that is where Doug sat the
2 whole time he was here. Can you
3 check with them and get back to me
4 so I can advise Alana? Thank you
5 so much."

6

7 Going back to the previous page, please.

8 Lisa Savoie responded to Ms. Stoker July 27 at

9 10:12:

10

11 "When I started at CRU as a
12 Supervisor, there were no
13 Supervision notes that I had to
14 start with on staff from any other
15 supervisor. I do not know where
16 they would even be. The only
17 thing I can think of that might
18 have knowledge of that would be
19 Rob Wilson. It is possible that
20 CRU did not conduct regular
21 Supervision due to the on-going
22 nature and consulting which
23 happens hourly with staff. Sorry
24 I could not be of any help but
25 there were no Supervision notes

1 from any other supervisor."

2

3 And at the top of the page, Ms. Stoker at
4 10:25 ...

5 MS. WALSH: Go up to the top of the page, please?
6 It should be the ... No, it's the ... Should be the top
7 of this page.

8 Do you not have that? Sent Stoker at 10:25 --
9 there it is. Perfect, thank you.

10

11 BY MS. WALSH:

12 Q From Sandie Stoker at 10:25, forwarded the email
13 from Ms. Savoie to you, "For your information."

14 Then if we go to page 4 of this exhibit, please,
15 and scroll to the bottom, you sent an email at 12:46 to
16 Heather Edinborough. Have you got that? You're with me?

17 A Yes.

18 Q Okay, thank you.

19

20 "Hi Heather,

21 "On another note. I have
22 been asked by Carolyn Loeppky to
23 try and track down your
24 supervisory notes. These are back
25 from 2003 so no easy task even if

1 possible. After talking about it
2 here the best chance we thought
3 was to ask if you could remember
4 what you did with them when you
5 left your position and if you
6 could remember who replaced you.

7 "Let me know if you have any
8 other ideas."

9

10 If we scroll to the top of the page to see her
11 response, please?

12 At 6:05 p.m., Ms. Edinborough responded:

13

14 "I left the Jarvis office
15 when the devolution occurred and I
16 went to Eastman. Several agencies
17 took over the Jarvis office and I
18 have no particular recollection of
19 where the team that used to be
20 'mine' would have gone as everyone
21 was scattered to the winds. So
22 who would have taken
23 responsibility for my binder of
24 supervision notes is anyone's
25 guess. Perhaps one of the admin

1 assistants who were in the
2 building who didn't move could
3 answer that. Perhaps Heather
4 Ford, or Joanne Godin? Joanne was
5 my admin and she may remember what
6 was done with those sorts of
7 things."

8
9 MS. WALSH: If we go to page 5, please? Scroll
10 to the bottom of the page.

11

12 BY MS. WALSH:

13 Q Then on that evening at 6:16, on July 27th,
14 there's an email from you to Joanne Godin:

15

16 "Hi Joanne,

17 "I have an odd question for
18 you. I am trying to track down
19 supervisor notes that Heather
20 Edinborough would have kept in a
21 binder way way back when she was a
22 supervisor at the Jarvis office.
23 She suggested that you might have
24 some recall of what happened to
25 something like that after she went

1 to Eastman. The other odd
2 question is do you recall who took
3 over from her supervising that
4 team?

5 "Thanks for any help you can
6 give me."

7

8 At the top of the page we have Ms. Godin's
9 response. On July 28th, she responded:

10

11 "Hello Alana,

12 "First of all congratulations
13 on your new position. ... As to
14 your questions I don't know what
15 happened to the binders that
16 Heather had. The only thing I
17 know for sure is that Angie Balan
18 was the supervisor that took over
19 when Heather left. Don't know
20 where Angie is working now. Sorry
21 Alana that's all I can help you
22 with. If there's anything else I
23 can help you with don't hesitate
24 to give me a shout."

25

1 Finally, on page 6, on July 27th there's an email
2 from you from the afternoon, 12:44, to Angie Balan:

3

4 "Hi Angie, I hope you are
5 doing well. Carolyn Loeppky has
6 asked that I try to locate
7 supervisory notes for you. As I
8 am sure you are aware there wasn't
9 really a formal system for
10 supervisory notes back then. In
11 discussing it here we thought our
12 best hope was to see if you could
13 recall what you did with your
14 supervisory notes when you changed
15 positions and if you could recall
16 who replaced you. We thought we
17 could try and track it back
18 through people that way.

19 "Let me know what you think."

20

21 At the top of the page, Ms. Balan responded on
22 August 2nd:

23

24 "Hi Alana...sorry for the
25 delay in response but just back

1 from holidays today. I am doing
2 well...thanks for asking. I hope
3 you are well...and [congrats] on
4 your new position.

5 "At the time of my
6 involvement in this case I was in
7 a term supervisory position --
8 covering Lorna Hanson's maternity
9 leave from July 2000 [to] July
10 2001. In July 2001 Lorna returned
11 to her position, and I accepted a
12 permanent supervisory position at
13 Jarvis (Penny Smith's former
14 position also at Jarvis).

15 "At the point of my
16 departure, supervisory notes for
17 all open cases were kept in
18 Binders, one for each worker, and
19 all organized by family name. So
20 if the case was still open in July
21 2001, then it would have been left
22 in the assigned worker's
23 supervisory binder for Lorna's
24 use. If the case was closed -- it
25 simply went into a file

1 drawer/desk -- then remained there
2 for the next supervisor as there
3 was no clear direction on where to
4 store these notes as they were not
5 put on the Agency file.

6 "It was my recollection that
7 at the point of 'go-live' in 2005
8 (AJI-CWI), all supervisory notes
9 were to be boxed and then archived
10 under the Supervisor's name.

11 "Hope this helps....let me
12 know if you have any further
13 questions.

14 "... Angie"

15
16 So those are the emails that you were able to
17 locate and provide to us, showing the efforts that you made
18 by way of contacting various supervisors searching for
19 notes.

20 A Yes. I mean, I also had direct conversations
21 with, with other people, such as Heather Ford, who is noted
22 in the email, Rob Wilson, Patrick Harrison, as well as my
23 other service managers.

24 Q And what was the results of those conversations?

25 A The results were essentially the same. There was

1 no -- there was agreement that supervisory notes had been
2 archived and supervisors had been archiving supervisory
3 notes, but there was not a consistent practice,
4 particularly leading up to 2004. And that there -- no one
5 had any specific recall of what occurred when the Jarvis
6 office was devolved, so to speak, in terms of those
7 specific binders. And the next step, obviously, was we
8 went through the archives of the supervisory boxes and
9 though -- although I did find supervisory boxes and
10 supervisory notes for specific supervisors, I did not find
11 anything specific to this case.

12 Q You did find --

13 THE COMMISSIONER: Now, now, are you at a point
14 to break for lunch, or do you --

15 MS. WALSH: I could --

16 THE COMMISSIONER: Or --

17 MS. WALSH: I certainly could, Mr. Commissioner.

18 THE COMMISSIONER: Well, if you've got a few
19 questions on this, we'll take them. If not, we'll ...

20 MS. WALSH: I, I think it would be fine to break
21 for lunch.

22 THE COMMISSIONER: All right.

23 MS. WALSH: I've also been advised that because
24 of the amount --

25 THE COMMISSIONER: Just a minute. Witness, you

1 can step down. Well, I don't know how long we're going to
2 be, so maybe you better stay there.

3 Go ahead.

4 MS. WALSH: Counsel have advised me that because
5 of the, the amount of information that is coming from this
6 witness and, and because it's just being digested now --
7 and, and I fully understand that -- that they may seek to
8 cross-examine this witness at some later date after they've
9 had a fuller opportunity to go over the information with
10 their clients, so that this witness will likely not be
11 cross-examined, subject to, to your decision today.

12 THE COMMISSIONER: How much longer do you expect
13 to be?

14 MS. WALSH: No more than an hour, and probably
15 not even that long.

16 THE COMMISSIONER: All right. Then there's --
17 what about that motion that was returnable at 1:30 today?

18 MS. WALSH: I think we made it for two.

19 THE COMMISSIONER: All right.

20 MS. WALSH: I think it would be appropriate for
21 me -- I would like to be able to finish this witness and
22 then we can deal with that motion after I finish with, with
23 Ms. Brownlee, especially in light of, of advice from
24 counsel that they would prefer not to cross-examine her
25 today, with your permission.

1 THE COMMISSIONER: All right. Well, I'll be
2 amenable to that, and you can confer with them before we
3 reconvene as to when they feel they might be ready to be in
4 that position.

5 MS. WALSH: Thank you.

6 THE COMMISSIONER: And the motion will be argued,
7 then, later this afternoon?

8 MS. WALSH: Well, it'll be spoken to, and I
9 gather there are submissions from counsel with respect to
10 what should be done with, with arguing the motion, so I
11 will leave that for counsel to, to address.

12 THE COMMISSIONER: All right.

13 MS. WALSH: But Mr. Gange will be here for two
14 o'clock, and as I said, if, if you would permit me to
15 finish --

16 THE COMMISSIONER: Oh, yes.

17 MS. WALSH: -- my direct with Ms. --

18 THE COMMISSIONER: Oh, yes.

19 MS. WALSH: -- Brownlee, then, before we get to
20 the motion, that would be helpful.

21 THE COMMISSIONER: Yes, would -- and those four
22 potential witnesses are scheduled to testify when? Not
23 tomorrow.

24 MS. WALSH: No.

25 THE COMMISSIONER: All right. So we'll, we'll do

1 it on that basis. We'll, we'll continue with this witness
2 at two o'clock, and then the motion can be spoken to after
3 that.

4 MS. WALSH: Thank you.

5 THE COMMISSIONER: All right. And, and also
6 we'll deal with when counsel feel they'd be ready to cross-
7 examine.

8 MS. WALSH: Okay, thank you.

9

10 (LUNCHEON RECESS)

11

12 THE COMMISSIONER: All right, Ms. Walsh.

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

14

15 BY MS. WALSH:

16 Q Ms. Brownlee, we were discussing the steps that
17 you had taken -- caused to have taken to find or to locate,
18 look for, supervisors' notes. And you were just getting
19 into -- we, we looked at the emails and you also said that
20 you had discussions with individuals and then you had a
21 staff person do some physical searches. If you could tell
22 us about that.

23 A Initially I had her do a search of our archive
24 records to determine if there was any supervision notes
25 related to this file, and she reported back that there were

1 no supervision notes related to that maintained in any of
2 our archived boxes.

3 I subsequently did, I guess, a more thorough
4 search in the sense that I began looking at -- based on the
5 conversations I'd had with the various supervisors and
6 trying to piece together what may or may not have happened
7 to the supervision notes, so then we physically went
8 through 18 boxes of archived supervision notes that
9 potentially could have been related to services provided
10 out of the Jarvis office starting specifically with the
11 three family service supervisors and then other individuals
12 that were identified as taking over supervision for one of
13 the individuals noted, as well as any boxes that were
14 perhaps vague, just to ensure what was contained in the box
15 and to, to determine if there was anything related to the
16 Sinclair-Kematch files.

17 Q Where were these boxes located?

18 A In archives.

19 MS. WALSH: We can pull up Exhibit 28, please.

20 Go up to the top. Oh, no ...

21

22 BY MS. WALSH:

23 Q This is a document that you prepared?

24 A Yes.

25 Q So tell us what this document indicates.

1 A This document indicates what I was able to
2 discover related to supervision notes that we have in
3 archives for Winnipeg CFS. Section 1 itemizes the, the
4 contents of the boxes I went through by the three specific
5 supervisors, Angie Balan, Lorna Hanson, and Heather
6 Edinborough.

7 Q So let's take a minute and walk through what the
8 results revealed. So if we --

9 A So --

10 MS. WALSH: If we -- can we scroll down to see
11 more of the page, please? Thank you. So -- oh, not quite
12 that far.

13

14 BY MS. WALSH:

15 Q So we're under -- the first one is boxes relating
16 to Angie Balan?

17 A Yes.

18 Q And under E, Box 124, you have:

19

20 Supervisory Notes for the Jarvis
21 team. Filed by Social worker and
22 her notes only. And open files
23 only.

24

25 A Yes.

1 Q And -- okay --

2 A So, so that's a summary of what the notes were.
3 So her filing system was by social worker, and then within
4 each social worker it was then by family. Her supervision
5 notes contained her notes only, there was no previous
6 supervisors filed within this section, and the notes ran
7 from 2001 until 2003.

8 Q There's a reference to Stan Williams. What is
9 that?

10 A The list, the list contained here identifies all
11 the social workers on which she had supervision notes.
12 Because Stan Williams was one of the workers on, on the
13 Phoenix Sinclair case, I specifically noted which files
14 were there where there were supervision notes, and there
15 was no notes related to this case.

16 Q So no notes related to the case under Angie Balan
17 or in her boxes?

18 A Yes.

19 Q And including boxes or notes relating to Stan
20 Williams, nothing related to Phoenix Sinclair.

21 A Yes.

22 Q I don't see a reference -- under this box 124, I
23 don't see any reference to Delores Chief-Abigosis, whom we
24 know that Ms. Balan supervised for a period between 2000
25 and 2001.

1 A Yes, I couldn't find any supervision notes for
2 Delores Chief-Abigosis or for Kerri-Lynn Greeley.

3 Q Okay. The reference to "open files only," what
4 does that mean?

5 A From reading the documentation related to the
6 supervision notes on all those cases, at the point of them
7 being archived, those files were all open.

8 Q And we know that Phoenix's file was closed as of
9 May 2005 and before that when the files were transferred
10 through devolution.

11 A Yes. And there was no supervision notes related
12 to cases that had been closed during that period of time.

13 Q In any of the boxes that you looked for?

14 A In, in any of the boxes for Angie.

15 Q For Angie, okay. Now, let's go scroll down,
16 please, to Lorna Hanson. Box 123, what did you find?

17 A These were her supervision notes related to the
18 Jarvis team. They were also filed by individual social
19 worker, and within each individual social worker, then
20 subsequently by family name. Her files contained notes
21 from previous supervisors, so some of them dated back to
22 1999, as far back as that.

23 Her particular supervision was related to the
24 period from 2003 to 2005, and they were also only notes on
25 open files only. There was no supervision notes related to

1 closed cases. And I didn't find anything related to the
2 Sinclair-Kematch file, nor did I find anything related to
3 her supervision of Kerri-Lynn Greeley or Delores Chief-
4 Abigosis.

5 Q Okay. If you turn the page, please? Heather
6 Edinborough, what, what did you search and what did you
7 find?

8 A I found supervision notes for her when she was
9 again supervising a Jarvis team. Again, they were filed by
10 social worker and then subsequently by family. Her notes
11 also contained supervision from previous supervisors,
12 again, some of them going back as far as 1999, depending on
13 the length of the case. Again, it was for open files only.
14 I did find supervision notes related to her supervision of
15 Stan Williams, but none of the cases where it relates to
16 the Sinclair-Kematch file.

17 Q So the files indicating supervision by Ms.
18 Edinborough of Mr. Williams were for the period 2001-2003?

19 A Yes.

20 Q But none of them related to her supervision of
21 Phoenix's files.

22 A No.

23 Q And then item number 2, Roman numeral II, what is
24 that?

25 A These were, these were archived boxes that, that

1 we went through where it was either a vague reference so I
2 wanted to ensure what the contents were, or there may have
3 been a possible connection to one of these teams, so I
4 wanted to make sure that there was nothing contained
5 within. So, for example, box 40 is for supervision notes.
6 These are filed by the file name or the case reference, and
7 they're for the period of time 1995 to 1999. Andy Orobko
8 did have file notes in there, but nothing specific to this
9 case.

10 Q And there are -- the records relating to Phoenix
11 begin in 2000.

12 A Yes.

13 Q But you did find supervision notes made by Mr.
14 Orobko for that period, '95 to '99?

15 A Yes.

16 Q And, and other intake supervisors for that
17 period.

18 A Yes. Ken Kroeker would have been an intake
19 supervisor. The other ones would have been ongoing service
20 supervisors.

21 Q All right. If we turn the page --

22 THE COMMISSIONER: Just a minute. Before you --
23 what, what did you find with respect to Orobko --

24 THE WITNESS: He --

25 THE COMMISSIONER: -- in box 40?

1 THE WITNESS: He did have supervision notes on
2 some cases that were filed in archives, but not specific to
3 this case.

4 THE COMMISSIONER: Not, not Phoenix.

5 THE WITNESS: Yeah.

6

7 BY MS. WALSH:

8 Q And they related to the period which pre-dated
9 Phoenix's birth.

10 A Yes.

11 MS. WALSH: Mr. Commissioner, that shows that
12 they were for the period '95 to '99, so that pre-dates --

13 THE COMMISSIONER: Oh.

14 MS. WALSH: -- Phoenix's birth.

15 THE COMMISSIONER: Yes, quite. I -- yes. And
16 the same the next box, I see.

17 THE WITNESS: Yes.

18 MS. WALSH: Yes.

19

20 BY MS. WALSH:

21 Q Then if we look at the next page, box 42.

22 A Yes, so this was filed again for the period of
23 time 1997 to 2003. The notes are filed by file name, as
24 opposed to by worker. Again, Mr. Orobko had archived
25 supervision notes for that period of time, but nothing

1 specific to this family.

2 Q Okay.

3 THE COMMISSIONER: Same for Parsons?

4 THE WITNESS: Yes. Same for Carolyn Parsons, and
5 the next two subsequent boxes.

6 MS. WALSH: If we can scroll down, please?

7

8 BY MS. WALSH:

9 Q In box 45, who is Bob Christle?

10 A Bob Christle is one of the supervisors that
11 replaced, I believe, Heather Edinborough. So I did
12 reference his material with the idea that perhaps, much
13 like Heather and Lorna had supervision notes of previous
14 supervisors, perhaps their notes were then contained within
15 his, his supervision. His case notes that were archived
16 were specific only to him and had no information from
17 pervious supervisors.

18 Q If we scroll down, please, to page 4. You've
19 looked through his supervisory notes, Mr. Christle's notes,
20 at box 200, as well.

21 A Yes. Again, this is when he was supervising the
22 Jarvis team, and his notes go back from supervision from
23 2000 till 2005. His notes included both supervision on
24 open files as well as on closed files.

25 Q Did you find anything relating to Phoenix

1 Sinclair and --

2 A No.

3 Q -- her family? Item number 3, Roman numeral III,
4 what is that?

5 A These were -- these are additional archived
6 supervisory boxes. I did not examine them beyond the table
7 of contents for each box as I couldn't identify any
8 connection or potential connection to this case. So these
9 are supervisors that are in different program areas,
10 different geographic locations, providing services. It
11 also contains supervision notes related to assistant
12 program managers.

13 Q So -- and that's the case that goes all the way
14 to the end of the document?

15 A Yes.

16 Q So the searches that you conducted yielded the
17 following results. You found records of supervisory
18 sessions made by supervisors at Winnipeg Child and Family
19 Services, made during the period 2000 to 2005?

20 A Yes. If -- also, if you include, I guess,
21 previous supervisions contained, supervision notes go back
22 to 1999.

23 Q Okay. But for the period of time during which
24 services --

25 A Yes.

1 Q -- were delivered to Phoenix, you did find
2 records made by supervisors of their sessions --
3 supervisory sessions during that period in which services
4 were delivered to Phoenix and her family?

5 A Yes.

6 Q Among the supervisors whose notes you found were
7 some of the supervisors who delivered services to Phoenix
8 and her family?

9 A Yes.

10 Q But none of the records that you located related
11 to any services delivered to Phoenix and her family.

12 A Yes.

13 Q Beyond the description that you've given us of
14 the searches and the inquiries that you've made, do you
15 have any explanation as to why you were not able to find
16 any notes relating to supervisory sessions for services
17 delivered to Phoenix and her family?

18 A No, I can't explain what happened to the records.

19 MS. WALSH: Can pull up Exhibit 27, please.

20 THE COMMISSIONER: Which number?

21 MS. WALSH: Twenty-seven.

22

23 BY MS. WALSH:

24 Q Now, this is Angie Balan's date book, portions of
25 it, ranging from June of 2000 to June of 2001. Now, you

1 did locate this document.

2 A Yes, it was in her supervision archive box with
3 her Jarvis team and her supervision notes.

4 Q So that was from the previous exhibit that we
5 were looking at?

6 A Yes.

7 Q That was box 124; is that right? Got that?

8 A Yes.

9 Q We've entered the portions of the date book into
10 evidence. I'm not going to walk you through every single
11 page where there is a reference to supervision with Ms.
12 Chief-Abigosis. I can advise -- and if counsel find
13 otherwise, they can indicate -- our review of this
14 document, of Exhibit 27, shows that there were 26 occasions
15 of supervision documented between October 5, 2000 and June
16 25, 2001 where Ms. Balan documented that she supervised Ms.
17 Chief-Abigosis. So between October 5, 2000 and June 25,
18 2001, Ms. Balan's date book evidences 26 separate
19 supervision sessions with Delores Chief-Abigosis.

20 THE COMMISSIONER: Yes.

21 MS. WALSH: So that's, that's simply there for
22 the, for the record.

23 THE COMMISSIONER: But is there any indication as
24 to what cases she was supervising her on?

25 MS. WALSH: No, Mr. Commissioner. For instance,

1 if we want to look at, at one of the pages, just to see
2 what it looks like ... Let's pull up ...

3 Well, I don't know how you're going to scroll
4 through this easily. It starts in October of 2000. Are
5 there page numbers on here?

6 UNIDENTIFIED PERSON: (Inaudible).

7 MS. WALSH: Ah, I don't have them on my copy,
8 though.

9 THE COMMISSIONER: What day in October or -- I've
10 got -- I have the weeks of October here.

11 MS. WALSH: So it's October the 25th.

12 THE COMMISSIONER: Twenty-fifth.

13 MS. WALSH: You'll see that at ten o'clock it
14 says, Delores?

15 THE COMMISSIONER: Yes.

16 MS. WALSH: So that's, that's one example. If we
17 go to November 21st as another example, you'll see Delores
18 at nine. So, Mr. Commissioner, they just indicate the name
19 of the social worker and no other details.

20 THE COMMISSIONER: Well, I, I find that -- I
21 found the name -- oh, I see.

22 MS. WALSH: But I can certainly take you through
23 each of the 26 --

24 THE COMMISSIONER: Just, just the name of the
25 social worker each time.

1 MS. WALSH: Yes.

2 THE COMMISSIONER: Okay.

3 MS. WALSH: For the most part. There may be
4 occasions where -- I see, for instance, relating to someone
5 else, it says, Review of case, but I don't think there's
6 any case names in this document. To the extent that there
7 are, they're redacted and they don't relate to Phoenix
8 Sinclair.

9 MR. MCKINNON: I just wanted to clarify that.
10 Yes, the, the -- where there was a specific case name
11 mentioned, we've redacted that, and we can confirm --

12 THE COMMISSIONER: If it wasn't this case.

13 MR. MCKINNON: -- none of them were this case,
14 yes.

15 MS. WALSH: So just as another example, if we
16 want to go to January 8th, 2001.

17 THE COMMISSIONER: No, I think I've got it.

18 MS. WALSH: You'll see at 1:30 it says, Delores
19 supervision.

20 THE COMMISSIONER: Yes, I see that.

21 MS. WALSH: That's an example. Again, the next
22 week, January 15th, 2001, at 1:30 to 3:00, it says, Delores
23 supervision. So those are, those are simply examples, Mr.
24 Commissioner, but as I said, we counted 26 occasions
25 between those dates.

1 THE COMMISSIONER: I understand.

2

3 BY MS. WALSH:

4 Q So that was located in the box.

5 A Yes, it was.

6 Q Thank you. The other area that we had asked you
7 -- the other item that we had asked you to search for were
8 the notes of the family support worker who provided
9 services to Phoenix and her family.

10 A Yes.

11 MS. WALSH: And we do have evidence, if we pull
12 up Exhibit 14, please. We go to page 7 of that exhibit.

13 THE COMMISSIONER: Exhibit 14?

14 MS. WALSH: Yes. I wouldn't have given you that
15 for today, Mr. Commissioner, so unless you have --

16 THE COMMISSIONER: Oh.

17 MS. WALSH: -- all the exhibits in front of
18 you --

19 THE COMMISSIONER: No, no.

20 MS. WALSH: -- you can see it on the screen,
21 however.

22 THE COMMISSIONER: Sorry, sorry. They're
23 probably here.

24 MS. WALSH:

25

1 BY MS. WALSH:

2 Q This is from the first volume of admitted facts
3 made by the department. Paragraph 24 says:

4

5 "A Family Support Worker ...
6 provided in-home services to
7 Samantha Kematch and Steve
8 Sinclair in 2000. This was a
9 services provided by the Family
10 Support Program through Winnipeg
11 CFS.

12 "The Family Support Program
13 does not have a copy of the
14 [family support worker's] contact
15 notes relating to services
16 provided to Samantha Kematch and
17 Steve Sinclair. Winnipeg CFS
18 cannot locate a copy of the
19 [family support worker's] contact
20 notes."

21

22 Now, what was the protocol in the agency in 2000
23 relating to how family support workers' notes were to be
24 maintained?

25 A Family support workers were to complete contact

1 notes. They had a specific template that they were to use
2 for each contact that they had in their providing service.
3 They provide a variety of goals. They are to submit them
4 on a biweekly basis, at minimum monthly. They submit them
5 to their family support coordinator, who is the person that
6 provides immediate supervision.

7 The family support coordinator reviews the notes
8 to ensure that they're comprehensive, meeting our
9 requirements related to content of the notes, as well as
10 for information related to supporting them or working with
11 them related to the services that are being provided.

12 The notes are then sent to the social worker for
13 that specific case, and the social worker reviews them and
14 places them on file. So they should be coming in on a
15 regular monthly basis when there's an ongoing contract.

16 Q Did you make efforts to locate the family support
17 worker's notes in this case?

18 A I did. I spent some time with the family support
19 program looking through the possibility that they were
20 contained within the support program themselves. They do
21 not keep any of their records. The records (inaudible) to
22 be placed on the file, so we weren't able to locate
23 anything there. The only documents we could locate were
24 Ms. Belanger's time sheets which did document on her
25 biweekly pay period which families she was seeing, and we

1 were able to identify the contacts that she would have with
2 Ms. Kematch and Mr. Sinclair.

3 Q And those documents have been put into evidence.

4 A Yes.

5 Q Would those documents typically have been
6 expected to be placed in the actual file?

7 A No, those are --

8 Q Family file.

9 A Those are finance records.

10 Q Do you know when the agency first became aware
11 that the family support worker's notes were not located in
12 the protection files?

13 A It's my understanding that when Jan Christianson-
14 Wood with the, the CME's office did her file review, that
15 was the first time it was noted that the notes were not on
16 file.

17 Q That was in 2006?

18 A Yes.

19 Q Do you know what, if any, steps were taken to
20 locate the family support worker's documents at that time?

21 A I'm not aware.

22 Q Do you have any idea what happened to Ms.
23 Belanger's notes with respect to her involvement with
24 Phoenix's family?

25 A I don't have direct knowledge. It would be

1 speculation. But I would speculate that they were never
2 put on the file, that she never submitted notes. Otherwise
3 I would expect -- I would find it unlikely that the entire
4 history would be missing.

5 MS. WALSH: Those are my questions. Thank you
6 very much. Unless, Mr. Commissioner, you have any
7 questions --

8 THE COMMISSIONER: No.

9 MS. WALSH: -- of the witness.

10 THE COMMISSIONER: No. No, well, we'll what
11 counsels' wishes are with respect to cross-examination.

12 Mr. Gindin?

13 MR. GINDIN: Mr. Commissioner, I think I speak
14 for all of us that we're not really ready to deal with
15 cross-examination at this point.

16 MR. MCKINNON: (Inaudible).

17 MR. GINDIN: Save one. Except for Mr. McKinnon.

18 THE COMMISSIONER: I'm sure.

19 MR. GINDIN: I guess the best idea would be some
20 time after the break, perhaps March 4th, or that week.

21 THE COMMISSIONER: Yes, I understand you have a
22 full day tomorrow of witnesses; is that correct?

23 MS. WALSH: We do, yes.

24 THE COMMISSIONER: Yeah, and there -- and that
25 wouldn't --

1 MS. WALSH: And I don't think --

2 THE COMMISSIONER: -- give, that wouldn't --

3 MS. WALSH: -- that counsel would --

4 THE COMMISSIONER: -- give you much time, anyway.

5 MS. WALSH: I don't think counsel would be
6 ready --

7 THE COMMISSIONER: No.

8 MS. WALSH: -- for tomorrow.

9 THE COMMISSIONER: Well, it'll have to be after
10 the break. I, I understand why you can't do it today.

11 MS. WALSH: I would like to have it done before
12 the end of phase one, however.

13 THE COMMISSIONER: Yes.

14 MS. WALSH: This witness is coming back in phase
15 two, but that's going to be for a separate form of
16 testimony.

17 THE COMMISSIONER: Oh, I, I think it should be
18 done before phase one closes.

19 MS. WALSH: Thank you.

20 THE COMMISSIONER: Mr. McKinnon?

21 MR. MCKINNON: I'll just go on record that
22 obviously the witness would prefer to have this done and
23 over with, but we recognize what counsel is saying.
24 However, the witness is not available the first week in
25 March. She's coming back from her vacation that week and

1 could be available the second week of March, to schedule it
2 in then --

3 THE COMMISSIONER: Well --

4 MR. MCKINNON: -- at the convenience of
5 Commission counsel.

6 MS. WALSH: We'll take that into consideration.

7 THE COMMISSIONER: Well, we'll certainly
8 accommodate that. All right.

9 MS. WALSH: Thank you.

10 THE COMMISSIONER: So we do -- there's about
11 three weeks in March when we're still on phase one, is --

12 MS. WALSH: Yes.

13 THE COMMISSIONER: Are we not?

14 MS. WALSH: So --

15 THE COMMISSIONER: Well, we'll -- you can work it
16 out with counsel what date that would be, and the witness,
17 but it certainly won't be till after she returns.

18 MS. WALSH: Yes, and it won't be a problem for
19 scheduling.

20 THE COMMISSIONER: All right.

21 MS. WALSH: Thank you.

22 THE COMMISSIONER: You can step down for today.

23 THE WITNESS: Thank you.

24 THE COMMISSIONER: Thank you very much.

25

1 (WITNESS STOOD DOWN)

2

3 MS. WALSH: Now, Mr. Commissioner, we have the
4 motion that was filed, Mr. Gange's motion.

5 THE COMMISSIONER: Yes.

6 MS. WALSH: He's just out of the room.

7 Oh, there he is.

8 THE COMMISSIONER: If you want ten minutes, I
9 have no problem with that.

10 MR. GANGE: Thank you, Mr. Commissioner. I think
11 that, I think that we're just about ready to proceed.

12 THE COMMISSIONER: Okay.

13 MR. GANGE: I don't want to delay this any
14 further.

15 THE COMMISSIONER: Okay, well, I, I didn't mean
16 to interrupt you.

17 MR. GANGE: Perhaps I can start and, and I'll
18 advise you of a couple of, of points.

19 THE COMMISSIONER: All right.

20 MR. GANGE: I am here today, Mr. Commissioner, on
21 behalf of four potential witnesses that I have identified
22 in a notice of motion as DOE number 1, number 2, number 3,
23 and number 4. Each of those witnesses has filed an
24 affidavit and the notice of motion has asked for a number
25 of things.

1 They are that a publication ban in the form of
2 prohibiting any form of publishing, broadcasting, or
3 otherwise communicating by television, Internet, radio, in
4 print, or by any other means, the name, face, or identity
5 of these four witnesses be issued by you.

6 The second thing that I've asked for is that you
7 order that these witnesses provide their testimony in the
8 same fashion as the SORs did, that is, that they -- that,
9 that they provide a video conference that would be
10 available to you and to you alone, and that the audio
11 portion of their testimony be available to everybody in the
12 hearing room.

13 The third thing that I've asked for is that the
14 witnesses be referred to for the purpose of this hearing as
15 DOE number 1, DOE number 2, DOE number 3, and DOE number 4.

16 I, I would also ask, Mr. Commissioner, that a
17 sealing order be granted with respect to the website. What
18 I have provided to the Commission --

19 THE COMMISSIONER: What, what was that request?

20 MR. GANGE: That a sealing order --

21 THE COMMISSIONER: Oh, yes.

22 MR. GANGE: -- with respect to --

23 THE COMMISSIONER: Okay.

24 MR. GANGE: -- to the affidavits as to the
25 identity.

1 THE COMMISSIONER: Yes.

2 MR. GANGE: All counsel and all media have
3 received from me copies of the affidavits that have been
4 sworn by the four individual witnesses. They are not
5 signed, those copies. The only party that has a signed
6 copy of the affidavits is the Commission itself, and I
7 would ask that, that, that the names be sealed in order to
8 protect the integrity of this motion.

9 I understand, Mr. Commissioner, that Mr. Kroft,
10 on behalf of some of the media, is here, sitting at the
11 back, and I understand -- I, I believe that I'm correct
12 that none of the parties shall be taking a position, as far
13 as I understand, with the exception of Mr. Khan, and that
14 Mr. Khan will be advancing a position that, that I have not
15 given sufficient notice and he would like time to consider
16 this motion with his client.

17 So -- and I can tell you, Mr. Commissioner, that
18 I am quite fine, as, as the lawyer for the witnesses, if
19 this matter were to be adjourned, if, if that suits your
20 purpose, on one condition, and that is that you would grant
21 an interim order until the hearing of the motion -- until
22 Mr. Khan is able to get full and final instructions from
23 his client, that you would grant an interim order that the
24 witnesses be referred to as DOE number 1, DOE number 2, DOE
25 number 3, and DOE number 4 until such time as the motion is

1 actually heard.

2 And the reason that I ask for that is because it
3 is my understanding that some of the next witnesses that
4 are to appear before you will be making reference to at
5 least one of the four witnesses. And as a result, if, if
6 the motion is, is adjourned, it makes it difficult for Ms.
7 Walsh and Commission counsel to proceed with the other
8 witnesses who might then be referring to the witnesses by
9 name, so that it wouldn't -- from my perspective, it would
10 not be an imposition in any way that the witnesses, until
11 such time as a final ruling was made, referred -- that
12 witnesses that are called now would refer to these four
13 witnesses under that anonymised fashion.

14 THE COMMISSIONER: That is, they would be
15 instructed to, to that effect.

16 MR. GANGE: That's correct. And, and that if,
17 if, for instance, during the testimony somebody forgot --
18 as did happen from time to time during the SOR testimony --
19 Ms. Walsh would remind the witness, the press would be
20 reminded of the publication ban with respect to that
21 evidence, and matters could proceed.

22 I am hopeful that at the end of the day there
23 will be nobody that will object to the motion, and then I
24 will only have to convince you of your, of your
25 jurisdiction to grant such a motion. So that's my

1 preliminary comment.

2 Ms. Walsh and I have had, have had a discussion
3 amongst ourselves that -- and I don't know if it fits for
4 anybody else -- but, but at the same time I think the only
5 person that's really interested is Mr. Khan. I don't, I
6 don't think that anybody else is interested, but they can
7 advise you if, if, if they have a difference of opinion
8 with, with my next comment.

9 And that is that February 27 -- pardon me,
10 February 26 -- Tuesday, February 26, would, would be a date
11 -- I know that the Commission is not sitting; I know that
12 you're adjourned during that time period. I would be
13 available during that day to, to -- if, if necessary, to
14 make the argument. I believe that Mr. Khan would be
15 available, and I believe that that would give Mr. Khan time
16 to obtain instructions from his client, and I believe that
17 Ms. Walsh is available on February 26. That, of course,
18 leaves you, and it leaves anybody else that has any
19 comments. But those are my preliminary comments, sir.

20 THE COMMISSIONER: Is that the only day that week
21 you're available?

22 MR. GANGE: Unfortunately, Mr. Commissioner, I am
23 leaving on a, on a holiday that I have a ticket for on the
24 morning of February 27 at about four in the morning.

25 THE COMMISSIONER: Well, then how would you be on

1 the Monday?

2 MR. GANGE: The Monday is a little bit more
3 difficult -- well, the, the Monday I would, I would ...
4 The Monday, something could be worked out. It, it --
5 there's a little bit of a problem in that while this has
6 all been going on, I also have been involved in the Public
7 Utilities Board hearing and final argument is set for
8 Monday the 25th so that it does cause me a bit of a
9 problem, but --

10 THE COMMISSIONER: The only day that --

11 MR. GANGE: -- if we had a set time --

12 THE COMMISSIONER: The only --

13 MR. GANGE: -- we could do that.

14 THE COMMISSIONER: The only day that week that
15 I've made a firm commitment is on Tuesday, the --

16 MR. GANGE: Oh.

17 THE COMMISSIONER: -- the 26th.

18 MR. GANGE: I see.

19 THE COMMISSIONER: That's -- it's a problem for
20 me, just that day. Any other day that week ... It's going
21 to be a problem.

22 MR. GANGE: Well, well, then it may be -- if we
23 set the hearing, if we set the hearing for, say, three
24 o'clock on, on the afternoon of the 25th, I know that I
25 would be available because the, the other hearing, I will

1 -- I can make arrangements to have my place in the argument
2 queue slotted in.

3 THE COMMISSIONER: Well, Mr. Khan, when do you
4 expect to get your instructions?

5 MR. KHAN: I'll be meeting with my client in
6 Fisher River this Friday, so I would appreciate sufficient
7 -- you know, a bit more time to discuss this with my
8 client. I do think -- and Mr. Gange and I have discussed a
9 little bit outside the hall. I do think -- I am hopeful
10 that in terms of our concerns with respect to his motion,
11 that they'll be dealt with and that we won't actually have
12 a -- that we wouldn't be contesting at that stage. But I
13 cannot, I cannot put that position down at this time. So I
14 just need more time to discuss with my client and also to
15 discuss with Mr. Gange.

16 THE COMMISSIONER: You, you -- do you contemplate
17 your position might be different than the other counsel?

18 MR. KHAN: It may be. I understand none of the
19 other counsels are, are taking a position.

20 THE COMMISSIONER: Yes. I'm saying, do you
21 contemplate your position might be different from theirs?

22 MR. KHAN: It might be, yes.

23 THE COMMISSIONER: Okay. Okay. Well, look, I'm
24 inclined to set this over till tomorrow and see if I can
25 make some other plans for the commitment I've made that

1 day.

2 MR. GANGE: If, if, Mr. Commissioner, you wish to
3 my position right now, I, I can do that, and then you could
4 adjourn it to, to allow Mr. Khan time. I don't know if you
5 want to do that, but I, I'm quite prepared to put my
6 position on the record right now. It's, it's, it's not all
7 that lengthy and --

8 THE COMMISSIONER: Oh, I --

9 MR. GANGE: -- it's not all that complicated.

10 THE COMMISSIONER: I think we should deal with it
11 all at once if we can.

12 MR. GANGE: Okay, thank you.

13 MR. KHAN: Thank you.

14 THE COMMISSIONER: Let me -- let's put this over
15 till tomorrow and I'll see if I can make -- I want to hear
16 you, Mr. Kroft, without question, today, on some points,
17 but let's put it over till tomorrow.

18 You got a problem, Ms. Walsh?

19 MS. WALSH: No, simply as, as Mr. Gange
20 indicated, the next witnesses who are scheduled -- and we
21 have potentially five witnesses scheduled for tomorrow --

22 THE COMMISSIONER: No, no, I'll just announce
23 whether I can be available for that Tuesday tomorrow.

24 MS. WALSH: So with respect to whether, as Mr.
25 Gange indicated, you will be dealing with the matter on an

1 interim basis because there is the concern --

2 THE COMMISSIONER: Oh, I'll --

3 MS. WALSH: -- that the next witnesses may --

4 THE COMMISSIONER: I'll, I'll deal with that
5 today.

6 MS. WALSH: Okay.

7 THE COMMISSIONER: I'll deal with the ...

8 MS. WALSH: Just, just because we need to know
9 what to tell tomorrow's witnesses.

10 THE COMMISSIONER: Well, if there's no objection,
11 I'll make the interim order as requested by Mr. Gange this
12 afternoon. So ordered now.

13 MS. WALSH: Okay, thank you.

14 THE COMMISSIONER: Now, Mr. Kroft, I want to hear
15 from you in that -- who do you represent and ...

16 MR. KROFT: I'm representing the same media
17 outlets that I was representing earlier in this hearing.
18 That is CBC, CTV, Free Press, and Global. I, I had come
19 not knowing about -- or just recently learning about Mr.
20 Khan's issue. I had come expecting to be the only one to
21 speak about anything and I had come with a practical
22 solution which might still be a practical solution along
23 the lines of how we dealt with the SORs back in the summer
24 time.

25 I can say, and my clients do want me to say, that

1 the material that has been filed we do not believe is
2 sufficient to meet the evidentiary requirements at law.
3 That being said, the question really is how do we deal with
4 that and can we deal with that in a way where the evidence
5 goes in because if, if there's not a practical issue about
6 reporting, that it may just be an exercise in, in, in legal
7 theory as opposed to practical application to, to argue a
8 point. That, that may change if Mr. Khan decides that his
9 clients require him to make a submission before the matter.

10 So I -- what I'm going to propose -- I'd like to
11 clarify the order, first of all, because that was one of my
12 client's concerns, and I've spoken with Mr. Gange about it
13 just to make sure they understand what the interim order
14 will cover. And my understanding is -- and I think it's
15 Mr. Gange's understanding, as well -- that while the names
16 and faces are covered by the order, there is no issue with
17 the media reporting the relationship of the John or Jane
18 Doe to Mr. McKay. So they couldn't name a name but they
19 could say the daughter of or the son of Mr. McKay and
20 indicate that relationship.

21 THE COMMISSIONER: Is that an issue that would
22 come up tomorrow, Ms. Walsh?

23 MS. WALSH: The identity may come up --

24 THE COMMISSIONER: Well --

25 MS. WALSH: But, but --

1 THE COMMISSIONER: They'll be referred to as DOE
2 number whatever.

3 MS. WALSH: Yes, that, that should be fine.

4 THE COMMISSIONER: But, but will the relationship
5 to Mr. McKay --

6 MS. WALSH: It may.

7 THE COMMISSIONER: -- come up during the
8 questioning?

9 MS. WALSH: It may. It's hard to, to determine.

10 THE COMMISSIONER: All right. So you're -- what
11 you're raising is, can the identity -- can the relationship
12 be revealed.

13 MR. KROFT: Yes. And I've discussed with Mr.
14 Gange, it's not his intention -- he can confirm that it's
15 not his intention that there be any bar on somebody
16 reporting that Mr. McKay's son whatever. It's just --

17 THE COMMISSIONER: Well --

18 MR. KROFT: -- the name shouldn't be used.

19 THE COMMISSIONER: If Mr., if Mr. Gange is
20 content on that basis, then I don't imagine anyone else is
21 going to object to the relationship being revealed. And if
22 that is so, then it'll go as you indicated and as Mr. Gange
23 agrees to.

24 MR. KROFT: And, and, and the other related point
25 in terms of how they report is that the -- they can --

1 thinking a little bit about the obiter -- I didn't think
2 about it -- gender identity, in other words, they can say
3 she testified as and he testified. They'd like to be able
4 to do that. I think it follows from what we just said --

5 THE COMMISSIONER: I think it follows.

6 MR. KROFT: -- and Mr. Gange is --

7 THE COMMISSIONER: Mr. Gange --

8 MR. KROFT: -- fine with that.

9 THE COMMISSIONER: -- do you agree?

10 MR. GANGE: I don't know how there are any other
11 way it could, could be done on that, so I, I -- my clients
12 aren't concerned about, about gender.

13 THE COMMISSIONER: All right.

14 MR. GANGE: And, and, and the, the relationship
15 thing, I will confirm that I said that to Mr. Kroft.

16 THE COMMISSIONER: All right.

17 MR. KROFT: And then the only -- just in terms of
18 what our position will ultimately be, assuming that Mr.
19 Gange is able to work things out with Mr. Khan and there's
20 nobody else that's proposing to, to argue the point, the
21 media is prepared to take the position that it won't
22 participate -- it doesn't think that the material's
23 sufficient so it's not contending that, in fact, four media
24 can consent on behalf of the whole public in any event,
25 that there are three positions that I will be advancing as,

1 as conditions to taking that position. And, and it's the
2 same things that we said when we were dealing with the
3 sources of referral, and that is that once the testimony is
4 given so that we have disclosure of what it is and how
5 identity might be relevant, the media should be free to, to
6 make an application at that time to revisit the matter if
7 it turns out that the evidence is other than what is
8 expected.

9 THE COMMISSIONER: Just review that one again for
10 me?

11 MR. KROFT: The media will -- the media doesn't
12 have the substance of the information. It really has no
13 basis at this time to assess whether it wishes to make a
14 point of identity. Based on the, the little bit of
15 material that's been released in the affidavits, they are
16 content to stand down at this time, listen to the evidence.
17 They -- and unless there's some, unless there's something
18 that they don't expect, they don't expect that they'll be
19 interested in reporting the particular names in any event,
20 in which case there's no point in investing in argument
21 purely on principle.

22 THE COMMISSIONER: But if they did, then they
23 would --

24 MR. KROFT: But if they did --

25 THE COMMISSIONER: -- they would make the request

1 to be allowed to, to, to reveal the identity?

2 MR. KROFT: They would do so once they've had the
3 disclosure of what is going to be said, just like we did
4 with the SORs and --

5 THE COMMISSIONER: But they, they'd honour the,
6 the, the commitment unless and until I make some order at
7 their request.

8 MR. KROFT: Yes. And as long as they're standing
9 down and waiting to see if there actually is an issue is
10 without prejudice to their ability to make their arguments
11 to you as to why you should vary this situation, they're --
12 they would be fine to proceed on that basis. Now, if -- I,
13 I don't have instructions and Mr. Khan is going to argue it
14 in any event and it may not be as practical a solution in
15 that case, but for the time being, those are my
16 instructions.

17 THE COMMISSIONER: All right. Anything you want
18 to say about that condition, Mr. Gange?

19 UNIDENTIFIED PERSON: (Inaudible).

20 THE COMMISSIONER: All right.

21 MR. GANGE: No, Mr. Commissioner, I -- no.

22 THE COMMISSIONER: And Ms. Walsh, have all media
23 that are -- that have been attending this hearing been,
24 been served --

25 MS. WALSH: Yes.

1 THE COMMISSIONER: -- mindful of the fact that
2 while Mr. Kroft represents most of them, not all of them.

3 MS. WALSH: That's correct. We did not confine
4 it to serving Mr. Kroft.

5 THE COMMISSIONER: Is there any other media
6 representatives want to be heard on the matter?

7 All right. Hearing none, we'll ... Mr. Funke?

8 MR. FUNKE: Yes, Mr. Commissioner. Of course,
9 the Commission is aware that my clients are not parties to
10 these proceedings, but rather --

11 THE COMMISSIONER: Yes.

12 MR. FUNKE: -- are only interveners. Having said
13 that, you did hear from us on the original publication ban
14 both with respect to the social workers whose identities
15 were sought to be protected, as well as the SORs and other
16 witnesses who sought similar protection at the time. My
17 clients have not yet advised me whether or not they wish to
18 advance a position on this matter and seek to be heard on
19 Mr. Gange's motion.

20 I raise -- or I rise at this point to put you on
21 notice of that simply because with respect to the date
22 that's being mooted as continuation, I'm out of the country
23 that week. Should my client wish to seek to be heard on
24 the matter, I would not be available that -- the last week
25 of February.

1 THE COMMISSIONER: Well, could you get somebody
2 to stand in for you?

3 MR. FUNKE: I may be able to, and I'll certainly
4 be able to advise you of that tomorrow morning.

5 THE COMMISSIONER: I'm leaning to tell my
6 commitment that I'm going to break it and -- because I, I
7 don't want this delayed.

8 MR. FUNKE: Certainly. Let me see what I can do
9 about making somebody else my office available on the 26th
10 of February, then. I'll advise you tomorrow.

11 THE COMMISSIONER: All right.

12 MR. FUNKE: Thank you.

13 THE COMMISSIONER: Well, I think I'm going to
14 break the commitment I've made for that day because I don't
15 want this delayed. And so I think we will set this for
16 the, for the Tuesday. It's the 26th, is it not?

17 MR. GANGE: That's correct.

18 THE COMMISSIONER: Yes. Yes. All right. I, I'm
19 going to, I'm going to do that, and I'll, I'll break the
20 news to my committees, whatever they're called, later in
21 the day. So we'll, we'll adjourn this matter, then, till
22 9:30 on the -- on Tuesday, the 26th.

23 MR. GANGE: Mr. Commissioner, will --

24 THE COMMISSIONER: And the interim, the interim
25 order will be in place.

1 MR. GANGE: Thank you. So, so the sealing order
2 and the, and, and the interim order with respect to, to the
3 DOE.

4 THE COMMISSIONER: Correct.

5 MR. GANGE: Thank you, Mr. Commissioner, and I
6 will see you, if need be, on the 27th.

7 MS. WALSH: No.

8 THE COMMISSIONER: Well, now --

9 MS. WALSH: Sixth.

10 MR. GANGE: Twenty-sixth, I'm sorry.

11 THE COMMISSIONER: Now, why --

12 MR. GANGE: I keep --

13 THE COMMISSIONER: -- do you say "if need be"?

14 MR. GANGE: Well, I, I -- no, I will see you on
15 the 26th. I'll take that away.

16 THE COMMISSIONER: Well ...

17 MR. GANGE: Yes, I will, I, I will see you --

18 THE COMMISSIONER: I was --

19 MR. GANGE: -- on the 26th.

20 THE COMMISSIONER: I was encouraged to hear that,
21 but I --

22 MS. WALSH: No, you can't.

23 THE COMMISSIONER: You're, you're taking it away,
24 so --

25 MR. GANGE: Well, the only reason I said that,

1 Mr. Commissioner, was that if Mr. Khan withdraws his
2 objection, then there will be -- then, then there will be
3 nobody taking a position. I, I recognize that, that you
4 may still wish to hear from me --

5 THE COMMISSIONER: Well, we may --

6 MR. GANGE: -- or, or you may not.

7 THE COMMISSIONER: We may -- if Mr. Khan isn't
8 taking a position, we may deal with that -- may be able to
9 deal with it in some other way.

10 MR. GANGE: Yes. That, that was the only thing
11 that I was referring to.

12 THE COMMISSIONER: Okay.

13 MR. GANGE: Thank you, and that concludes my
14 matter. Thank you very much, Mr. Commissioner.

15 THE COMMISSIONER: Thanks, Mr. Gange.

16 MS. WALSH: Mr. Commissioner, we have no
17 witnesses scheduled for the rest of the day. We have them
18 scheduled starting tomorrow morning.

19 THE COMMISSIONER: All right. Anything else to
20 be dealt with today?

21 Hearing not, then we'll adjourn until 9:30
22 tomorrow morning.

23 MS. WALSH: Thank you.

24

25 (PROCEEDINGS ADJOURNED TO FEBRUARY 7, 2013)