



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

THURSDAY, FEBRUARY 7, 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. S. PAUL, Department of Family Services and Labour

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

MR. H. COCHRANE, 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; Ms. A. Murdock, Ms. S. Cochrane, Ms. A. Kakewash, Ms. D. McKay-Garson and Mr. K. Murdock

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

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

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

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1 FEBRUARY 7, 2013

2 PROCEEDINGS CONTINUED FROM FEBRUARY 6, 2013

3

4 THE COMMISSIONER: Good morning. Oh, I see we
5 have a change of players at the counsel table this morning.
6 Mr. Globerman, you're ready? Mr. Cochrane, you're
7 representing --

8 MR. COCHRANE: Yes.

9 THE COMMISSIONER: -- all four, all four
10 witnesses today --

11 MR. COCHRANE: That's right.

12 THE COMMISSIONER: -- or five, I guess there are?

13 MR. COCHRANE: There's five, yes, Mr.
14 Commissioner.

15 THE COMMISSIONER: Yes. You're counsel for them?

16 MR. COCHRANE: That's correct.

17 THE COMMISSIONER: Right? All right. Mr.
18 Globerman, are you ready?

19 MR. GLOBERMAN: I am. Before we begin, Mr.
20 Commissioner -- before we begin, yesterday you granted an
21 interim order prohibiting the publication of certain names,
22 identities, and, and granting them anonymity. These
23 individuals are going to testify in March. Some of the
24 witnesses that will testify today will be asked about their
25 involvement and knowledge of those individuals and for that

1 reason those individuals that will testify in March, the
2 subject of the publication ban, have been given pseudonyms.
3 A key has been provided to the witness and one for yourself
4 and, and all counsel, providing the pseudonyms to each of
5 those individuals. So I, I ask you, Ms. Murdock, to be
6 aware of that when giving your evidence today, to use the
7 pseudonyms instead of their actual identities.

8 THE COMMISSIONER: And you've instructed the
9 witnesses to make reference to those individuals by the,
10 the DOE number?

11 MR. GLOBERMAN: Yes. The witnesses are aware of
12 that.

13 THE COMMISSIONER: And as was pointed out
14 yesterday, if there's a slip up and we'll advise on that
15 occurring if a name comes out that shouldn't, so that the
16 media understands where they're at on that point.

17 MR. GLOBERMAN: Yes, Mr. Commissioner.

18 THE COMMISSIONER: All right. So we're ready to
19 proceed then?

20 MR. GLOBERMAN: We are.

21 THE COMMISSIONER: You can swear the witness or
22 affirm the witness, please.

23 THE CLERK: Yes. If you could stand for a
24 moment. Take the Bible in your right hand. State your
25 full name to the court.

1 THE WITNESS: Angela Mary Murdock.

2 THE CLERK: And just spell me your first name,
3 please.

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

5 THE CLERK: And your middle name?

6 THE WITNESS: Mary, M-A-R-Y.

7 THE CLERK: And your last name.

8 THE WITNESS: Murdock, M-U-R-D-O-C-K.

9 THE CLERK: Thank you.

10

11 **ANGELA MARY MURDOCK,** sworn,
12 testified as follows:

13

14 THE CLERK: Thank you, you may be seated.

15

16 DIRECT EXAMINATION BY MR. GLOBERMAN:

17 Q Good morning, Ms. Murdock.

18 A Good morning.

19 Q I understand that originally you are from Fisher
20 River, Manitoba?

21 A Yes.

22 Q Did you live there in 2005?

23 A No.

24 THE COMMISSIONER: Witness, just move in to the
25 microphone, will you be so kind? Thank you.

1 BY MR. GLOBERMAN:

2 Q Where did you live in 2005?

3 A In Selkirk, Manitoba.

4 Q I understand that you now live in Winnipeg,
5 Manitoba?

6 A No, I live in, in Fisher River.

7 Q Okay. How long have you lived there?

8 A For the past year.

9 THE COMMISSIONER: Mr. Globerman, just raise your
10 microphone a bit, please.

11

12 BY MR. GLOBERMAN:

13 Q Have you ever lived in Winnipeg?

14 A Off and on.

15 Q Do you have any family from Fisher River?

16 A Yes, all my family is from there.

17 Q Okay. And you keep in contact with them?

18 A Yes.

19 Q In 2005 did you ever go to Fisher River?

20 A Yes, I did.

21 Q How often would you say you went there?

22 A I went there often because my family is from
23 there.

24 Q Have you ever owned a house in Fisher River?

25 A Yes.

1 Q I'd like to show you a few photographs. Madam
2 Clerk, can you please pull up Commission disclosure 0045,
3 page 3056?

4 These photographs were taken by Constable
5 Chartier and Corporal Hooker of Forensic Identification
6 Services, in Winnipeg, in March of 2006, and were filed as
7 exhibits at the criminal trial of Karl Wesley McKay and
8 Samantha Kematch. Photograph one, which is the top
9 photograph on the page, shows the front of a residence and
10 photograph two, if you could scroll down, shows the back of
11 that same residence on PR224 in Fisher River. Is this the
12 house you owned in Fisher River?

13 A Yes.

14 Q And you owned this house in 2005?

15 A Yes.

16 Q Now, in looking at these two photographs, is this
17 an accurate reflection of what the outside of your house
18 looked like in 2005?

19 A Yes.

20 Q Have you ever lived in this house?

21 A Yeah, I did.

22 Q When did you live in this house?

23 A When it was first built.

24 Q Can you recall how long you lived in the house
25 for?

1 A A couple of years, two years.

2 Q Do you still own this house?

3 A No, I don't.

4 Q How long did you own the house for?

5 A I, I don't recall.

6 Q I'd like to show you one more photograph, it's
7 page 26 -- pardon me, photograph 26 on page 3069. Again,
8 this photograph was filed as an exhibit at the criminal
9 trial of Karl McKay and Samantha Kematch.

10 Now, this photograph is an aerial view of the
11 front of the house and it shows a house to the southeast of
12 your house and a house across the street. The road that's
13 depicted there is that PR224?

14 A Yes.

15 Q Now --

16 THE COMMISSIONER: What do you call it, Key R24?

17 MR. GLOBERMAN: P-R.

18 THE COMMISSIONER: P-R.

19

20 BY MR. GLOBERMAN:

21 Q Is this an accurate reflection of how that area
22 looked in 2005?

23 A Yes.

24 Q Now, PR224, the road you've just identified, is
25 this a main road that goes into Fisher River First Nation

1 Reserve?

2 A Yes, it is.

3 THE COMMISSIONER: Now, in, in picture 26 there
4 are three buildings there, which one is the one we're
5 dealing with as one time owned by this witness? The one on
6 the right at the bottom, near 26, or the one up in the
7 trees?

8 MR. GLOBERMAN: The one in the middle, Mr.
9 Commissioner.

10 THE COMMISSIONER: Thank you. That's, that's the
11 house there in the middle, witness, is it; correct? In, in
12 picture 26?

13 THE WITNESS: Yes.

14 THE COMMISSIONER: Thank you.

15

16 BY MR. GLOBERMAN:

17 Q In 2005, was this a busy area?

18 A Well, it's the main highway going through the
19 reserve. Yes, it is.

20 Q Lots of people would drive by?

21 A Yeah.

22 Q We can see a home across the street and one
23 beside your house but would you say your house, was it
24 close to neighbours?

25 A Yes, it is.

1 Q Again, we can see on the photograph but it's hard
2 to tell how far away these, these homes are. How far away
3 were these houses from your home?

4 A I don't know exactly how far they are but you can
5 see everything.

6 Q Could you see people if -- when they were
7 outside?

8 A Yes, you can see who the people are.

9 Q Okay. Now, again, I'm looking at this
10 photograph. We can see a house across from PR224, across
11 from your house, and it's in the upper right-hand corner.

12 A Um-hum.

13 Q Was that house there in 2005?

14 A Yes.

15 Q Do you recall whose house that was in 2005?

16 A Keith Murdock.

17 Q And, again, I suppose you can't tell me how far
18 away that house was from yours?

19 A No.

20 Q Now, we, we can't see because of this photograph
21 but were there other houses across from your house on the
22 other side of PR224 in, in 2005?

23 A Yes.

24 Q How many houses were there?

25 A Three.

1 Q And were they close to Mr. Murdock's house?

2 A Yes.

3 Q And could you see those houses clearly?

4 A Yes.

5 Q If people were outside could you see them?

6 A Um-hum.

7 Q Again, in looking at this photograph we can see a
8 house towards the bottom of the photograph, towards the
9 southeast of your house. Was that house there in 2005?

10 A Yes.

11 Q Do you recall who owned that house in 2005?

12 A Larry Murdock.

13 Q Larry Murdock. Okay. Can you tell me how far
14 away that house is from yours?

15 A I can't tell you how far. It's, it's close.

16 Q Now, again, because we can't tell from this
17 photograph, were there other houses located along your side
18 of the street on PR224 in 2005?

19 A Yes, there was.

20 Q How many would you say were, were there?

21 A One on each side.

22 Q Okay. Can you tell me how far away they were?

23 A No.

24 Q Okay. The house you owned in Fisher River,
25 depicted on photograph one and two on page 3056, and the

1 middle house on page 3069, did you rent this house out to
2 people on the reserve?

3 A Yes, I did.

4 Q When did you begin renting this house out?

5 A Before I rented to that Wesley I rented it out
6 once before that.

7 Q And you can't recall when that was?

8 A Nelson Sinclair, Junior.

9 Q Okay. It was my understanding that the band
10 controlled housing on the reserve?

11 A Yes.

12 Q How is it you were able to rent your house then?

13 A I just -- I wasn't supposed to but I did.

14 Q Okay. Are you still renting the house today?

15 A No.

16 Q You mentioned that you rented this house to Karl
17 McKay. Do you recall when that was?

18 A I can't remember.

19 Q We know that Samantha Kematch was seen by a Child
20 and Family Services worker, in Winnipeg, on March 9th, 2005
21 and that sometime after that she and Karl Wesley McKay
22 moved to Fisher River. Do you have any idea when in 2005
23 you may have rented the home to them?

24 A I don't recall.

25 Q Were you living in Winnipeg at that

1 time?

2 A In Selkirk.

3 Q In Selkirk, pardon me.

4 A Yes.

5 Q How were you able to rent the home to them if you
6 were living in Selkirk?

7 A Through my mother.

8 Q Is that how you came to rent the home to Mr.
9 McKay and Ms. Kematch?

10 A Yes.

11 Q What did your mother tell you?

12 A Just by word, that she heard that they were
13 looking for a place and were willing to give me money for
14 it.

15 Q How did your mother know Mr. McKay and Ms.
16 Kematch?

17 A I don't know. She doesn't know them.

18 Q So how, how would she have become aware that they
19 were renting the home? Or needed the home, pardon me.

20 A I don't know.

21 Q What is your mother's name?

22 A Marilyn Garson.

23 THE COMMISSIONER: What was that, your mother's
24 name?

25 THE WITNESS: Marilyn Garson.

1 BY MR. GLOBERMAN:

2 Q Did you know anything about Mr. McKay and Ms.
3 Kematch at that time?

4 A No.

5 Q Did you know anything at all about their family?

6 A No, I didn't.

7 Q Did your mother make the arrangements for the
8 renting of your home to Mr. McKay and Ms. Kematch?

9 A Yes.

10 Q Did you or your mother keep any kinds of records
11 with respect to renting the home to Mr. McKay or Ms.
12 Kematch?

13 A No.

14 Q Did they have to sign anything in order to rent
15 the home from you?

16 A No.

17 Q So it was just a verbal agreement?

18 A Yes.

19 Q Okay. Do you recall when Mr. McKay and Ms.
20 Kematch moved into your house?

21 A I don't recall.

22 Q Do you recall what season it was?

23 A I can't even say.

24 Q Had you ever met Mr. McKay or Ms. Kematch before
25 they moved into your house?

1 A No.

2 Q Did you know anything at all about them?

3 A No.

4 Q Did you know if they had any children?

5 A No.

6 THE COMMISSIONER: Did you ever meet them?

7 THE WITNESS: No.

8

9 BY MR. GLOBERMAN:

10 Q Did you know if anyone else besides them was
11 living in that house that you rented to them?

12 A No.

13 Q You said that your mother made the arrangements
14 for Mr. McKay and Ms. Kematch to rent your house. When
15 they did move into your house were you aware of that?

16 A Yes.

17 Q How did you find out that Mr. McKay and Ms.
18 Kematch had moved into your house?

19 A How did I find out?

20 Q Yeah.

21 A Oh, my mother told me.

22 Q Okay. Do you recall when you became aware of
23 this?

24 A Of when they moved in?

25 Q Yes.

1 A Well, my, my mother told me when they moved in.

2 Q How was rent collected from Mr. McKay and Ms.
3 Kematch?

4 A They would usually put it in my bank.

5 Q So they had your account number?

6 A Yes.

7 Q How often would you collect the rent?

8 A Once a month.

9 Q Would you ever actually go to the house to
10 collect the rent?

11 A Just once.

12 Q Okay. Did they pay the rent?

13 A Yes.

14 Q During the time that Mr. McKay and Ms. Kematch
15 rented the home from you, did you ever talk to them on the
16 phone?

17 A Once.

18 Q Who did you talk to?

19 A The Karl, Wesley.

20 Q How did you know how to get in touch with him?

21 A I, I don't recall.

22 Q Do you recall when you spoke to him?

23 A I don't recall when I spoke to him, no.

24 Q Do you recall what you talked about on the phone?

25 A He's been -- he gave my rent money to somebody

1 else and they spent it. That's when I talked to him.

2 Q Do you know who he would have given your rent
3 money to?

4 A Just people I knew.

5 Q Did you go to the house while Mr. McKay and Ms.
6 Kematch lived there?

7 A Yes, I did.

8 Q Do you recall when you went?

9 A I don't recall.

10 Q Do you recall who was there when you went to the
11 house?

12 A I -- just the lady, the Samantha.

13 Q Oaky. She answered the door?

14 A Yes.

15 Q When you went there that day were there ever any
16 children around?

17 A No, because she wouldn't open up the door. Just
18 a crack she opened it up.

19 Q So did you ever go inside the house?

20 A No.

21 Q Okay. Did you ask to go outside (sic) the house?

22 A No.

23 Q Did you ever see DOE number 1 or DOE number 2 at
24 the time? And you can look at the key in front of you for
25 assistance.

1 A No.

2 Q We heard evidence that Ms. Kematch had a baby on
3 November 30th of 2004. Did you ever see that child in
4 Fisher River?

5 A No.

6 Q Did you ever see a little girl at the house?

7 A No.

8 Q Did you ever see Phoenix Sinclair?

9 A No, I didn't.

10 Q Did you know anything about Phoenix Sinclair
11 during the time that you were renting the home to Mr. McKay
12 and Ms. Kematch?

13 A No.

14 THE COMMISSIONER: What was your purpose of going
15 to the house, witness?

16 THE WITNESS: To collect my money.

17 THE COMMISSIONER: Oh.

18 MR. WOOD: Yes.

19 THE COMMISSIONER: But you just went once though?

20 THE WITNESS: Yes.

21

22 BY MR. GLOBERMAN:

23 Q When did you first become aware of the existence
24 of Phoenix Sinclair?

25 A The news.

1 Q After she had --

2 A Yeah.

3 Q -- passed away? Do you recall anything unusual
4 about your visit to the home that day?

5 A No.

6 Q And you only went to the house that one time
7 during the time that they were renting the house from you?

8 A Yes.

9 Q Other than the telephone call with Mr. McKay that
10 you refer to, did Mr. McKay or Ms. Kematch ever contact you
11 when they lived in the house?

12 A No.

13 Q Do you know how long they lived in the house for?

14 A Six, seven months.

15 Q Do you recall when they moved out?

16 A I don't recall.

17 Q Did they advise you that they were going to be
18 moving out?

19 A No, I told them they had to move out.

20 Q Why did you tell them that?

21 A Because they didn't come up with the rent that
22 one month.

23 Q So you told them they had to move out --

24 A Yeah.

25 Q -- because they didn't have the rent. Did she

1 respond to you or did Mr. McKay respond to you in any way?

2 A They said that they were moving out anyway.

3 Q Okay. Other than that occasion, did you see them
4 or have any contact with them when they moved out?

5 A No.

6 Q And do you recall when it is that they moved out?

7 A No, I don't.

8 Q Did you see Mr. McKay or Ms. Kematch after they
9 moved out of the house?

10 A No.

11 Q Do you know where they moved to after they moved
12 out of the house?

13 A No, I don't.

14 Q And just to confirm, you said you learnt about
15 Phoenix Sinclair's death on the news?

16 A Yes.

17 MR. GLOBERMAN: Okay. I have no further
18 questions for this witness, Mr. Commissioner.

19 THE COMMISSIONER: Thank you, Mr. Globerman.

20 All right, who wishes to cross-examine this
21 witness? Mr. Ireland, have I got it right?

22 MR. IRELAND: We have never met on the record,
23 Mr. Commissioner. It is David Ireland.

24 THE COMMISSIONER: Yes.

25 MR. IRELAND: That's right. I'll continue the

1 theme with new faces. It's my first time at the podium. I
2 don't have very many questions at all.

3 THE COMMISSIONER: Very -- all very refreshing.

4 MR. IRELAND: Yes, absolutely.

5 THE COMMISSIONER: All the new faces.

6

7 CROSS-EXAMINATION BY MR. IRELAND:

8 Q Ms. Murdock, as I just said to Commissioner
9 Hughes, my name is David Ireland. I'm one of the lawyers
10 that acts for Steve Sinclair and Kim Edwards. You know who
11 they are?

12 A No.

13 Q Okay. They're people who are parties to the
14 inquiry; okay?

15 A Okay.

16 Q I originally had a number of questions I was
17 going to ask you, Mr. Globerman has been quite thorough in
18 his examination so I don't have as many as I thought. Just
19 a couple of things.

20 Mr. Globerman had asked you when you lived in
21 your house in Fisher River and you said you weren't sure.
22 Then you said it was when it was built. Do you know when
23 it was built?

24 A I don't recall when it was built though.

25 Q Do you know roughly? Are we talking about 10

1 years ago, 20 years ago?

2 A Maybe '96.

3 Q You were also asked questions about who lived in
4 your home, who you rented your home to, before Samantha and
5 Wesley were there and you said you rented it to a Mr.
6 Sinclair, I think, Nelson Sinclair?

7 A Yes.

8 Q Okay. Was it just Nelson Sinclair who was living
9 there?

10 A And Jen Crate, his girlfriend.

11 Q Okay. Just the two of them?

12 A Yes. Oh, I, I think they had children.

13 Q They had children?

14 A Yes.

15 Q Okay. And what about after Wesley and Sam lived
16 there, did you rent your house again?

17 A Yes, I did.

18 Q Do you know who you rented it to?

19 A Crystal McKay.

20 Q Okay. And when Crystal moved there was it just
21 Crystal?

22 A I think she had children.

23 Q Okay. And when you say you think she had
24 children --

25 A Yeah, she did have children.

1 Q Okay. Did you ask her if she had children or did
2 you know Crystal?

3 A I, I know she had children.

4 Q Right. Did you know Crystal before she rented
5 your house?

6 A Yes.

7 Q Is that how you knew she had children, you just
8 happened to know?

9 A Yeah, I knew her.

10 Q Okay. You've testified that you didn't know
11 there were any children living there when Sam and Wes were
12 living there; is that right?

13 A Yeah.

14 Q Okay. Are we to take it from that that you
15 didn't ask them if they had children?

16 A No.

17 Q Okay. Did it, did it matter to you who was
18 living in the house?

19 A No, it didn't.

20 Q It wasn't a question that you typically ask how
21 many people would be living there?

22 A No.

23 Q When the Commissioner asked you before if you'd
24 met Samantha or Wesley you said no but then we, we talked
25 about a brief meeting that you had when you were collecting

1 rent. So you met Samantha just on one occasion?

2 A Um-hum.

3 Q How long did you speak with her for?

4 A Just long enough to ask her where Wesley was and
5 that was it. She said that he wasn't home.

6 Q Right. And, and to ask for your rent?

7 A Yes.

8 Q Okay. And did she pay you?

9 A No.

10 Q Okay. So she said Wesley's not here you'll have
11 to deal with him, that kind of thing?

12 A Yes.

13 Q Okay. Another question Mr. Globerman asked you
14 was about this incident where you talked to Mr. McKay, Wes,
15 on the phone.

16 A Um-hum.

17 Q He said that he'd given his rent cheque to
18 someone else?

19 A Yes.

20 Q And you said just people I, I knew. Do you know
21 who those people are?

22 A Yes.

23 Q Yeah. Can you tell us who they are?

24 A It was my boyfriend's family at the time.

25 Q Okay. He just said I gave it -- did he -- what

1 I'm asking you, I suppose, is did he give you a specific
2 name? Did he say I gave it to so and so?

3 A He said he dropped it off at this house --

4 Q Okay.

5 A -- in Selkirk, yeah.

6 Q Whose house?

7 A Maureen.

8 Q Maureen?

9 A Maureen Walker.

10 Q And that was somebody you knew?

11 A Yes.

12 Q And, in your view, was that the case, had he
13 dropped it off with Maureen?

14 A Pardon me?

15 Q Had he dropped the rent with that person?

16 A Yes.

17 Q I know it's very difficult at this stage to
18 recall dates --

19 A Um-hum.

20 Q -- so long ago. Mr. Globerman asked you when you
21 found out about Phoenix had been murdered.

22 A Um-hum.

23 Q You said you found out on the news. How did you
24 know it was your house? Was the house on the news?

25 A It was on the news, yes.

1 Q Do you recall when you first heard from police?

2 A I don't recall.

3 Q But it was after you saw the news?

4 A Yes.

5 Q Okay. After you saw what had happened on the
6 news, did you call anybody in Fisher River?

7 A My mom.

8 Q Okay. Was there anyone else that you recall
9 speaking with?

10 A No.

11 Q When the police did speak to you, you recall
12 giving them a statement; is that right?

13 A Um-hum, yes.

14 Q Okay. When you gave the police your statement
15 had you ever spoken to the police before that or was that
16 the first time you'd spoken to them?

17 A The first time.

18 Q Okay. And that was after, obviously, you knew
19 what had happened from the news?

20 A Yes.

21 Q You have talked about, and it's -- the map is
22 still on the screen -- the house where Keith Murdock lives.
23 You know Keith?

24 A Yes.

25 Q Do you ever recall making a phone call to Keith?

1 A No.

2 Q You don't recall that?

3 A No.

4 Q Okay. Perhaps we can have a quick look at your,
5 at your statement that you made to the police that you
6 recall making. If I might just take one second.

7 If we go to page 5474. Again, excuse me. I beg
8 your pardon, 5495. This is a statement that Mr. Murdock
9 made to the police. Now, I obviously know you didn't make
10 this statement. If we just scroll down.

11 We can go through this but what Mr. Murdock says
12 in the second paragraph is he's talking about getting a
13 call from, from Angela Murdock. Is, is that you, do you
14 think? You can just take a second to read that.

15 THE COMMISSIONER: Whose statement is this?

16 MR. IRELAND: This is a statement of the
17 gentleman who owned the house across the road, Keith
18 Murdock, who is giving evidence at the inquiry, as well.
19 Upcoming.

20 THE COMMISSIONER: Right.

21

22 BY MR. IRELAND:

23 Q Have you had a read of that paragraph, Ms.
24 Murdock?

25 A Um-hum.

1 Q And -- please go ahead.

2 A I don't recall because it's been so long ago.

3 Q Right.

4 A Yeah.

5 Q No, and that's, and that's fair. That's why I'm
6 showing it to you.

7 A Yes.

8 Q That Mr. Murdock, Keith Murdock's likely going to
9 testify that that's what occurred.

10 A Um-hum.

11 Q So that's why I'm showing it to you. You have no
12 recollection of that conversation?

13 A I, I don't.

14 Q Okay. But it would be your understanding, having
15 looked at it now, that you likely saw the news, knew it was
16 your house --

17 A Yes.

18 Q -- and had made the call --

19 A Um-hum.

20 Q -- and subsequently know that tests were made of
21 your house and things like that, from the police?

22 A Yes.

23 Q Right. Very well, thank you.

24 When we talked about the time that Wes and
25 Samantha lived in your house in Fisher River you said you

1 really couldn't be sure of when it was and I appreciate
2 that. When you went to collect rent that one time from
3 Samantha, do you recall if it was in the summer or the
4 winter?

5 A I don't recall.

6 Q Don't recall at all if there was snow or anything
7 like that?

8 A I, I don't recall.

9 MR. IRELAND: Okay. Mr. Commissioner, those are,
10 are my questions. Thank you, Ms. Murdock.

11 THE COMMISSIONER: Thank you, Mr. Ireland.

12 All right, any --

13 MR. PAUL: No questions.

14 UNIDENTIFIED PERSON: No questions, Mr.
15 Commissioner.

16 THE COMMISSIONER: Mr. Ray?

17 MR. RAY: No questions, thank you, Mr.
18 Commissioner.

19 THE COMMISSIONER: And no one else back there?
20 No.

21 All right. Well, I guess, Mr. Cochrane, your
22 turn.

23 MR. COCHRANE: I have no questions, Mr.
24 Commissioner.

25 THE COMMISSIONER: Thank you. Any

26

1 re-examination, Mr. Globerman?

2 MR. GLOBERMAN: No, Mr. Commissioner.

3 THE COMMISSIONER: All right. Witness, you are
4 completed and thank you very much for your attendance.

5 THE WITNESS: Thank you.

6

7 (WITNESS EXCUSED)

8

9 THE CLERK: Please stand for a moment. Is it
10 your choice to swear on the Bible or affirm without the
11 Bible?

12 THE WITNESS: The Bible.

13 THE CLERK: The Bible?

14 THE WITNESS: Yeah.

15 THE CLERK: Okay. Take the Bible in your right
16 hand. State your full name for the court.

17 THE WITNESS: Shirley Norma Cochrane.

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

19 THE WITNESS: S-H-I-R-L-E-Y.

20 THE CLERK: And your middle name?

21 THE WITNESS: Norma, N-O-R-M-A.

22 THE CLERK: And the last name, please.

23 THE WITNESS: Cochrane, C-O-C-H-R-A-N-E.

24 THE CLERK: Thank you.

25

1 **SHIRLEY NORMA COCHRANE**, sworn,
2 testified as follows:

3

4 THE CLERK: Thank you. The water is fresh for
5 you.

6 THE WITNESS: Okay.

7

8 DIRECT EXAMINATION BY MR. GLOBERMAN:

9 Q Good morning, Ms. Cochrane.

10 A Good morning.

11 Q You live in Fisher River, Manitoba?

12 A Yes, I do.

13 Q Have you lived there your entire life?

14 A Yes, I have.

15 Q I understand that in 2005 you were the Band
16 Assistance administrator in Fisher River First Nation?

17 A Yes, I was.

18 Q Did you receive any training for this position?

19 A No.

20 Q Have you received any formal education for this
21 position?

22 A I've had some related to but not specific to the
23 social service area.

24 Q What education have you received?

25 A Some business training.

1 Q What was involved in being a Band Assistance
2 administrator, in 2005, in Fisher River?

3 A To, to run the welfare program for clients. Like
4 to -- for any -- sorry. We maintained, like, any clients
5 that came in and I processed this, then we went -- we did
6 their, their applications and, and just make sure they
7 qualify for, for their, their benefits.

8 Q Are you currently a Band Assistance
9 administrator?

10 A I'm assistant. I'm currently an Indian
11 registration administrator.

12 Q How long have you been doing that work for?

13 A I -- that was my main, my main -- that's my main
14 employment or position and I just assist the, the current
15 administrator.

16 Q And how long have you been doing that for?

17 A I've been -- June of 2003.

18 THE COMMISSIONER: June of '03?

19 THE WITNESS: Yes.

20

21 BY MR. GLOBERMAN:

22 Q And where do you do this work?

23 A It's connected to our band office. We have our,
24 we have our own social -- income -- we call it income
25 assistance, I think the word for -- to that. Or do you

1 want me to refer to it as social?

2 Q No, no, that's fine.

3 A Social services. We have our own office.

4 Q Okay.

5 A Yeah.

6 Q Have you ever worked for Intertribal Child and
7 Family Services?

8 A No, I've never worked for Child and Family
9 Services.

10 Q So you are not the Shirley Cochrane that worked
11 for ICFS?

12 A No. No.

13 Q Okay. You mentioned working for Indian
14 registration?

15 A Yes.

16 Q Briefly what's involved in, in that work?

17 A That's maintaining a band, band list.
18 Registering babies, reporting marriages, issuing treaty
19 cards, assisting people in making sure that their children
20 are registered under the Indian Act, mainly.

21 Q I would just like to ask you a few general
22 questions about how band assistance works in Fisher River.
23 How would someone apply for band assistance in Fisher River
24 in 2005?

25 THE COMMISSIONER: Apply for what?

1 MR. GLOBERMAN: Band assistance.

2 THE WITNESS: Well, welfare, band assistance.

3 MR. GLOBERMAN: Okay.

4 THE WITNESS: Again, there's many names. Well,
5 normally clients come into the office and they meet with
6 one of the workers and that they make it known that they
7 want to apply for the assistance with Fisher River.

8

9 BY MR. GLOBERMAN:

10 Q Can you describe the, the process at all?

11 A Normally they would -- one person would sit down
12 with them and they would do intake on the information.
13 So ...

14 Q Are applications for welfare or band assistance,
15 social assistance, are they made in person?

16 A Yes.

17 Q What are the eligibility requirements for band
18 assistance in Fisher River?

19 A That they're -- they have no other income and
20 that -- coming to them so that it's supposed be their last
21 resort. If not -- like if they have employment and so it's
22 if -- income assistance is meant to be your last, your last
23 resort for benefits, monies, a source, source of income, I
24 guess.

25 Q How many people in Fisher River are, are on band

1 assistance?

2 A Normally you would have a client, a client of
3 about 320 and it sometimes goes up in the summer when
4 students come home or, or when fishermen are off the lake,
5 that type of thing.

6 Q How often is band assistance paid out?

7 A Once a month or in the middle of the month.

8 Q Can you pull the microphone a little bit closer
9 to you?

10 A Sure, sorry.

11 Q I'm having a hard time hearing you. Thank you.

12 A Once a month or in the middle of the month.

13 Q Okay.

14 A Some clients would go monthly or one was -- we
15 call the other one semi-monthly.

16 Q Do recipients of band assistance have to come to
17 the actual band office to receive their cheques or are they
18 mailed out?

19 A No, they're received in person.

20 Q I understand that band members can claim
21 assistance for their children. In 2005, would every child
22 claimed for have to be seen?

23 A It would be normal -- the normal practise, yes.

24 Q And is that as of the time of the application?

25 A Yes.

1 Q Do you know if this was happening in practise at
2 the time, in 2005?

3 A I would have to assume so.

4 Q And is this the case today?

5 A Yes.

6 Q In 2005, was there any kind of form or checklist
7 for the band assistance person, like yourself, to indicate
8 that the child was seen?

9 A No.

10 Q What about today?

11 A Today we, we, we do use a checklist, yes.

12 Q In 2005, were notes kept of meetings that band
13 assistance had with people applying for assistance?

14 A Yes.

15 Q At that time, in 2005, did Band Assistance do
16 home visits for all families receiving assistance?

17 A No.

18 Q What about today?

19 A We do some but it's normally in area of special
20 needs, when they put in requests for their home for the
21 appliances or there's a, there's a list of things they
22 qualify for.

23 Q Are there random checks for families receiving
24 social assistance?

25 A No.

1 Q Were there in 2005?

2 A No.

3 Q So you mentioned that for special needs there
4 might be a home visit to assess whether or not the band
5 paid out those special needs. In that situation there was
6 a home visit made to the person's residence?

7 A Yes. The individual would put in letters and
8 that's how the home visits were done.

9 Q If Band Assistance in Fisher River saw a child
10 and had concerns about that child, would Band Assistance
11 share that information with Child and Family Services?

12 A Yes.

13 Q In 2005, was that done?

14 A On occasions I guess there would be cases when
15 that would be done.

16 Q And under what circumstances?

17 A Sometimes it would even be another individual
18 that would contact us on behalf of that child, they didn't
19 want to do it but they wanted us to. They'd let us know of
20 information. Maybe, maybe if it was a school teacher or
21 the child was not -- maybe they weren't getting -- having
22 lunches the way normal kids would have a lunch or something
23 like that. So, you know, their basic needs weren't being
24 met so can you check into something like that for us.

25 Q Okay. Who would Band Assistance in Fisher River

1 contact if it had concerns about a child? Would it be
2 Intertribal Child and Family Services, the school in Fisher
3 River, Winnipeg CFS, or somewhere else?

4 A I believe we were -- we would have been with
5 something that's the closest to us which would be the
6 Fisher River Child and Family or maybe the health centre.
7 It depends on the situation, I guess, that the child was
8 in.

9 Q Are you aware of any privacy concerns that Band
10 Assistance had in determining whether or not to share
11 information with Child and Family Services?

12 A No.

13 Q In 2005, would Child and Family Services ever
14 contact Band Assistance for information?

15 A Yes.

16 Q Under what circumstances?

17 A Sometimes it's to see if they were on, on the
18 program because then they work together, the programs would
19 work together on situations.

20 Q Is that --

21 A Whether --

22 Q Sorry.

23 A Go ahead.

24 Q No, no, you go ahead.

25 A Like just -- well, we worked very closely with

1 our, our CFS in, in the community because -- making sure
2 the children's needs are met or else letting us know this
3 child has been apprehended, can you take this child off the
4 budget. And they usually give us a paper for what the
5 length of time that they're going to be off or -- sometimes
6 it has a timeframe and that's pretty well it, just a
7 general apprehension paper.

8 Q Is that the case today that, that CFS would
9 contact Band Assistance for information under those same
10 circumstances?

11 A Yes.

12 Q In 2005, did Employment and Income Assistance for
13 the Province of Manitoba and Band Assistance in Fisher
14 River ever share information?

15 A Yes.

16 Q When would you share information?

17 A It would -- if a person was on EI or was eligible
18 for EI then there -- they had a form that they would fill
19 out with their name, their social insurance number and we
20 would mail it -- fax it away and what would come back to us
21 was the same form and it would tell us if that person was
22 eligible for EI, how many weeks they had coming to them and
23 the amount. And that's what came back to us.

24 Q We heard evidence from Tim Herkert, who is the
25 Director of the Service Delivery Support Branch with the

1 Department of Family Services and Labour, he gave some
2 evidence about how Employment and Income Assistance works
3 in Manitoba, and he said that when EIA, Employment and
4 Income Assistance, becomes aware that one of its clients
5 has moved to a reserve, that Employment and Income
6 Assistance will typically not contact the band but will
7 wait for the band to contact it. Has that been your
8 experience?

9 A I would say yes, but by those forms that would be
10 the only contact.

11 Q Okay.

12 A Not a voice -- not by voice -- not by talking to
13 somebody.

14 Q Okay. When Band Assistance becomes aware that a
15 person who used to be receiving benefits from Employment
16 and Income Assistance has moved to Fisher River, what
17 information will --

18 A I'm sorry, could you repeat that again? Sorry.

19 Q When Band Assistance in Fisher River learns that
20 a person who used to be receiving benefits from Employment
21 and Income Assistance has moved to Fisher River, what
22 information will flow from Band Assistance to EIA?

23 A It would be that form that we used with their
24 name and treaty -- name and social, social insurance
25 number. And then, I guess, just a cover page that has

1 Fisher River Social Services on it.

2 Q Would that document contain any other
3 information?

4 A No.

5 Q Did you know Karl Wesley McKay, in 2005?

6 A No. Only through the -- sign the cheques.

7 Q Okay. So you signed his cheques?

8 A At -- yes.

9 Q What else did you know about him?

10 A At some point, I guess, as, as time -- that
11 timeframe went on, knowing that that's -- that where he
12 lived, in Angela Murdock's home, that that's where he
13 resided. That's, that's all I know of him.

14 Q Did you know anything about his family?

15 A No.

16 Q Did you know Samantha Kematch?

17 A No.

18 Q Did you ever see her in Fisher River?

19 A No, I didn't.

20 Q Did you know who Mr. McKay was living with in
21 Fisher River?

22 A No, I didn't.

23 Q Do you know where he was living in Fisher River?

24 A In -- just in Angela Murdock's home, residence.

25 Q How did you know that?

1 A Because, like, it's the main road and then you
2 drive by there and you know who's, who's occupied the home.

3 Q Did you ever see Mr. McKay in Fisher River?

4 A On one occasion in our office.

5 Q Do you remember when that was?

6 A I just know it was one day that he was talking to
7 my co-worker. I, I can't recall the specific day.

8 Q Okay. And who was your co-worker at that time?

9 A Reginald Kirkness.

10 Q Do you have any recollection of Mr. McKay coming
11 into the Band Assistance office, in Fisher River, in April
12 of 2005?

13 A No, I don't.

14 Q I'd like to refer you to a few documents.

15 A Yes.

16 Q The first one is found at Commission disclosure
17 0092, page 4775. You can see at the top this document is
18 labelled the budget and decision form. And if you can
19 scroll down, Madam Clerk. You can see on the bottom
20 left-hand corner it's dated April 18, 2005. Do you
21 recognize this document?

22 A It's one of our applications for benefits.

23 Q Was this particular form prescribed by the
24 federal government?

25 A Yes.

1 Q Did you have anything to do with the completion
2 of this particular document?

3 A No, I did not.

4 Q Did you have anything to do with Mr. McKay's
5 application for band assistance in April of 2005?

6 A No, I did not.

7 Q Were you in the Band Assistance office on April
8 18th, 2005?

9 A Yes.

10 Q Who at Band Assistance was responsible for
11 completing this particular application?

12 A Reginald Kirkness.

13 THE COMMISSIONER: What's the name?

14 THE WITNESS: Reg -- sorry. His full I --
15 Reginald Kirkness.

16

17 BY MR. GLOBERMAN:

18 Q If you look at the bottom of the page you'll see
19 a signature beside issuing authority. Do you know whose
20 signature that is?

21 A It would be Karl McKay.

22 Q No, no, pardon me, at the very bottom of the, of
23 the document. Just see it says issuing authority.

24 A Oh, I'm sorry.

25 Q Do you know whose --

1 A Reg Kirkness.

2 Q And it's my understanding that he is since
3 deceased?

4 A Yes, he is.

5 Q And have you completed these types of documents
6 before in your capacity as a Band Assistance administrator?

7 A Yes, I have.

8 Q I'd just like to ask you a few questions about
9 this application form. If you could scroll up, please,
10 Madam Clerk.

11 Now, this document, beside spouse, lists Samantha
12 Kematch and below that, under children, only you can see
13 three children, Phoenix Sinclair, a name that has been
14 redacted, and a name that has been given the pseudonym DOE
15 number 1. Was Mr. McKay claiming band assistance for these
16 individuals?

17 A Yes.

18 Q Would these individuals have been in the band
19 office when the document was completed?

20 A It would be the practise that they would have
21 been there, yes.

22 THE COMMISSIONER: And claiming assistance for
23 how many?

24 THE WITNESS: It says three individuals there.

25 THE COMMISSIONER: Three?

1 THE WITNESS: Yes.

2 MR. GLOBERMAN: Three children, Mr. Commissioner,
3 and, and one spouse, Ms. Kematch.

4 THE COMMISSIONER: Yes.

5

6 BY MR. GLOBERMAN:

7 Q In 2005, did you ever see DOE number 1, DOE
8 number 2, who is not listed on this form, or Phoenix
9 Sinclair in Fisher River?

10 A No, I did not.

11 Q Have you ever seen them?

12 A No, I did not.

13 Q According to this document, which is dated April
14 18, 2005 and Ms. Phoenix Sinclair as a child being claimed
15 for, would Band Assistance in Fisher River have known that
16 Phoenix Sinclair was in Fisher River as of the date of this
17 application, April 18, 2005?

18 A It would be the practise that they would have
19 been -- had to have been in Fisher River, yes.

20 Q If you look at the top left-hand side of the
21 document you will see that it lists a family member for
22 Karl Wesley McKay and I can't tell if that says 8573 or
23 573. And then there is one listed for Samantha Kematch,
24 1760. What do these numbers mean?

25 A It's their --

1 THE COMMISSIONER: Just a minute, where, where,
2 where are those numbers?

3 MR. GLOBERMAN: At the top of the document on the
4 left-hand side you'll see Karl Wesley McKay's name.

5 THE COMMISSIONER: Yes.

6 MR. GLOBERMAN: To the left of that is a family
7 number.

8 THE COMMISSIONER: Yes.

9 MR. GLOBERMAN: And below that you can see
10 Samantha Kematch's name.

11 THE COMMISSIONER: Yes.

12 MR. GLOBERMAN: And a family number beside her
13 name.

14 THE COMMISSIONER: And where are the numbers
15 you're asking about?

16 MR. GLOBERMAN: Those -- the two numbers directly
17 beside their names.

18 THE COMMISSIONER: Oh, okay.

19

20 BY MR. GLOBERMAN:

21 Q I'm just asking Ms. Cochrane what those numbers
22 mean.

23 A That would be their band treaty number,
24 individual treaty number.

25 Q And why do they have different family numbers or

1 treaty numbers?

2 A Because every individual has their own.

3 Q You'll see beside, to the right of Mr. McKay,
4 Karl Wesley McKay's name and Samantha Kematch's name,
5 beside band it says Pine Creek. Would Band Assistance in
6 Fisher River have contacted anyone at Pine Creek to
7 complete this document?

8 A It would be practise for them to contact Pine
9 Creek to see if they had an open file in their social
10 services, different.

11 Q If you refer to the -- if you take a look at the
12 children only section on the left-hand side of the document
13 with the names Phoenix Sinclair, a redacted child's name
14 and, and DOE number 1, the document lists family numbers
15 for these children. Beside Phoenix Sinclair's name it says
16 1336 and what appears to be LSM. Does this mean anything
17 to you?

18 A That would be her treaty number for Lake St.
19 Martin.

20 Q We know that Phoenix's mother was Samantha
21 Kematch. Why is Phoenix's family number different than her
22 mother's?

23 A Well, I'd have to assume she was registered under
24 her father's number.

25 Q Would Lake St. Martin have been contacted by Band

1 Assistance at Fisher River to complete his application?

2 A It would be the practise, yes.

3 Q Beside the redacted child's name on the left-hand
4 side of the document under children only, the second name
5 there that has been blacked out, the family number 1760
6 appears to be written and I believe it says Pine Creek. Is
7 that your reading of what is written there?

8 A Yes.

9 Q And beside DOE number 1 there's a family number
10 3360 and what appears to be Peguis. Is that your
11 understanding of what that says?

12 A Yes.

13 Q Would Peguis have been contacted by Band
14 Assistance at Fisher River to complete this application?

15 A It would be the practise, yes.

16 Q Why would they have been contacted?

17 A To see if any -- if this child -- these children
18 are being claimed by anyone under that number or obviously
19 the father. So it may be under a father's file.

20 Q Again, taking you back to the children only
21 section of the document, beside Phoenix Sinclair's name,
22 beside the date of birth it's -- the number five is circled
23 and below that, beside DOE number 1's name, the number 12
24 is circled. What do these numbers mean?

25 A It would -- their ages.

1 Q So DOE number 1 would have been 12 years old at
2 the time?

3 A Yes.

4 Q That would have made him school age?

5 A Yes.

6 Q Would the school have been contacted to make sure
7 that he was registered for school?

8 A It would be the practise that they, they -- if
9 they were school age they -- that they would have been
10 registered for school.

11 Q In looking at this document or just based on your
12 own knowledge, do you know if DOE number 1 was registered
13 for school or not?

14 A I do not know.

15 Q And it, it, it doesn't appear to me that there is
16 a place on this particular document that would indicate
17 that?

18 A No.

19 Q If you could please scroll down, Madam Clerk.
20 Thank you. Just a little bit further. You'll see the box
21 there that says briefly state conditions for social
22 assistance eligibility. What information typically goes in
23 this section?

24 A That would be an area for the intake worker to
25 make notes on the client and staying -- sitting down with

1 them and to put any information that's -- pertains to
2 their, their new application.

3 Q And, and what information do you see written
4 here?

5 A I see --

6 THE COMMISSIONER: Maybe you could read out just
7 what --

8 THE WITNESS: Sure.

9 THE COMMISSIONER: -- is written there, witness,
10 would you, please?

11 THE WITNESS: Sure. I was going to do that, yes.
12 I see Winnipeg, number 583472, Gloria Vesby, P-R-O-V, so
13 provincial, Sagkeeng, Wesley on EI, March 17th, 2005.

14

15 BY MR. GLOBERMAN:

16 Q Now, with respect to the first line of
17 information, the W-P-G, the number, Gloria Vesby, P-R-O-V,
18 what does this information tell you?

19 A That tells me that that is -- they're a case
20 number. They -- on the Winnipeg provincial office and
21 Gloria Vesby was the worker.

22 Q Did you know Gloria Vesby in April of 2005?

23 A No, I did not.

24 Q Would she have been contacted by Band Assistance
25 at Fisher River?

1 A Yes.

2 Q Why would she have been contacted?

3 A She would have been contacted so that -- to let
4 her know that these individuals are making application on
5 Reserve and she would give the names -- he -- the person
6 would give the names and then that's letting provincial
7 know then to close their file.

8 Sometimes it would be to forward some information
9 that they could forward, whether it be a dietary under a
10 doctor's note or something like that.

11 Q The second line underneath the line we just
12 referred to, says Sagkeeng, Wesley on EI and what appears
13 to be March 17, 2005. What does this information tell you?

14 A I don't, I don't know what Sagkeeng would
15 represent, I just know that Wesley on EI, March 17, 2005
16 would represent that that was the last time he received EI.

17 Q What's --

18 A Oh, but I don't know what Sagkeeng would be.

19 Q Do you know if Sagkeeng would have been
20 contacted?

21 A I would assume that Reg, that my co-worker,
22 contacted the -- Sagkeeng.

23 Q And, and would he have contacted Sagkeeng for the
24 same reason that, that you assume Ms. Vesby would have been
25 contacted?

1 A Yes.

2 Q Phoenix Sinclair was not Mr. McKay's biological
3 daughter. This is not indicated anywhere on this form;
4 correct?

5 A No.

6 Q Would Band Assistance normally want to know who
7 the other parent was?

8 A Yes.

9 Q How would Band Assistance determine who the other
10 parent was?

11 A I would -- in the intake I would assume that the,
12 the worker would ask the individual on the children that
13 they're claiming for.

14 Q Would Band Assistance contact the other parent?

15 A In some cases, yes.

16 Q Why would they contact the other parent?

17 A Maybe that individual -- just for who the
18 caregiver is. Like that's what the -- I'm just trying to
19 find the word here. The primary caregiver, that's the one
20 I -- that's, that's to make sure nobody else is claiming
21 family allowance or funds for that individual.

22 Q There's, there's no indication on this form --

23 A No.

24 Q -- that Phoenix Sinclair's biological father was
25 contacted?

1 A No.

2 Q Now, in, in looking at this document there's
3 several names, Karl Wesley McKay, Samantha Kematch, Phoenix
4 Sinclair, a name which has been redacted and DOE number 1,
5 individuals with different last names. How would Band
6 Assistance make sure that no one else was claiming for
7 these children, for example DOE number 1 and Phoenix
8 Sinclair?

9 A Well, it would be by contacting the bands or
10 well, city welfare, I guess, to make sure these individuals
11 were not on any, anybody's file.

12 Q Okay. I just wanted to clarify that.

13 A Um-hum.

14 Q If you look to the right-hand side of the
15 document it says period from May 1, '05 to May 31, '05 and
16 then above that it says: less income, slash recovery,
17 slash other and what appears to be \$888.

18 I'd now just like to show you a series of cheques
19 that were written from Fisher River Social Services to Karl
20 McKay. Madam Clerk, can you please pull up Commission
21 disclosure 0092, page 4778?

22 Now, at the, at the top it says, at the top it
23 says "Fisher River Cree Nation Social Services" and all the
24 cheques say this. Is Fisher River Cree Nation Social
25 services more commonly known as Band Assistance in Fisher

1 River?

2 A It's more commonly known as the welfare office.

3 Q Okay.

4 A Yes.

5 Q Now, this cheque is dated May 1, 2005 and is in
6 the amount of \$888. Did you sign this cheque?

7 A No, I didn't.

8 Q Can you tell, by looking at it, who did?

9 A Yes.

10 Q Who signed this cheque?

11 A The first is our chief, second is one of council
12 members and the third is our CFO.

13 Q And I notice that the address or the postal code
14 underneath Karl McKay's name, under general delivery, says
15 Koostatak, Manitoba, R0C 1S0 and that is the same postal
16 code that's underneath Fisher River Cree Nation Social
17 Services. Does that mean that Mr. McKay would have had to
18 physically come into the band office to receive this
19 cheque?

20 A Yes.

21 Q And is that true of all the cheques that had the
22 same postal code --

23 A Yes.

24 Q -- underneath Mr. -- okay. If you could go to
25 the next page, page 4779. This is cheque from, from Fisher

1 River Cree Nation Social Services to Karl McKay, dated May
2 4, 2005. Did you sign this cheque?

3 A No, I didn't.

4 Q Can you tell, by looking at it, who did?

5 A The same three people, David Crate, Carl Cochrane
6 and Jeanette Cochrane.

7 Q And, again, he would have had to come into the
8 office to receive this cheque?

9 A Yes.

10 Q If you could go to the next page, Madam Clerk,
11 page 4780. This is a cheque from Fisher River Cree Nation
12 Social Services to Karl Wesley McKay, dated May 13, 2005,
13 in the amount of \$100. Again, did you sign this cheque?

14 A No, I didn't.

15 Q Do you know who did?

16 A Yes, I do.

17 Q Who signed it?

18 A Two of our council members and on the bottom is
19 our CFO's signature.

20 Q And what are those individual's names?

21 A John McKay, Vincent Crate and Jeanette Cochrane.

22 Q And, and, again, Mr. McKay would have had to come
23 into the office to receive this cheque?

24 A Yes.

25 Q If you could go to the next page, page 4781, this

1 is a cheque from Fisher River Cree Nation Social Services
2 to Karl McKay dated June 1, 2005 in the amount of \$869.64.

3 A Yes.

4 Q Did you sign this cheque?

5 A No, I didn't.

6 Q Do you know who did?

7 A Three of our council members, Carl Cochrane, John
8 McKay and Vincent Crate.

9 Q And, again, Mr. McKay would have been in the band
10 office to receive this cheque?

11 A Yes.

12 Q I just have a few more to go through. If you
13 could put up the next page, page 4782. Thank you, Madam
14 Clerk.

15 Again, this is a cheque from Fisher River Cree
16 Nation Social Services to Karl McKay, in the amount of
17 \$969.64 and it's dated July 1, 2005. Who signed this
18 cheque?

19 A Three of our council members, Vincent Crate, Carl
20 Cochrane and John McKay.

21 Q And Mr. McKay would have been in the Band
22 Assistance office to receive this cheque?

23 A Yes.

24 Q The next cheque is found at page 4783, the next
25 page. It's dated August 1, 2005 and it's in the amount of

1 \$969.64. Do you know who signed this cheque?

2 A Carl Cochrane, Jeanette Cochrane and David Crate.

3 Q And he would have been in the band office to
4 receive that?

5 A Yes.

6 Q The next cheque is found on the next page, page
7 4784. It's dated September -- oh, pardon me -- September
8 1, 2005 in the amount of \$969.64. Do you know who signed
9 this cheque?

10 A John McKay, David Crate and Jeanette Cochrane.

11 Q And Mr. McKay, again, would have been in the
12 office to receive this cheque?

13 A Yes.

14 Q The next cheque is found at page 4785 which is
15 for \$80. This one found at page 4786. Pardon me, that
16 last one at 4785 is dated September 14, 2005. Did you sign
17 this cheque?

18 A Yes, I did.

19 Q And, and Mr. McKay would have been in the band
20 office -

21 A Yes.

22 Q -- that day? Who else signed this cheque?

23 A Shirley Cochrane, Jeanette Cochrane and Keith
24 Murdock.

25 Q If we go to the next page, it's 4786. We have a

1 cheque from Fisher River Cree Nation Social Services to
2 Karl McKay, dated October 1, 2005 in the amount of \$524.82.
3 It appears as though you signed this cheque again; correct?

4 A Yes, I did.

5 Q Who else signed this cheque?

6 A Vincent Crate and Reginald Kirkness.

7 Q And, again, he would have -- Mr. McKay would have
8 been in the office to receive this cheque?

9 A Yes.

10 Q The next cheque is found at page 4787. It's
11 dated October 15, 2005 in the amount of \$524.82, from
12 Fisher River Cree Nation Social Services to Karl McKay. I
13 see your signature there. You signed that cheque?

14 A Yes.

15 Q Who, who else signed that cheque?

16 A Keith Murdock and Reginald Kirkness.

17 Q And, again, he would have been in the office at
18 that time?

19 A Yes.

20 Q Mr. McKay, that is. The next cheque is found at
21 page 4788. This cheque is from Fisher River Cree Nation
22 Social Services to Karl McKay, in the amount of \$1,049.64
23 and it's dated November 1, 2005. Did you sign this cheque?

24 A Yes, I did.

25 Q Who else signed this cheque?

1 A Reginald Kirkness and John McKay.

2 Q And he would have -- Mr. McKay would have been in
3 the office at that time?

4 A Yes.

5 Q If you could go to the next page, Madam Clerk.
6 This is a cheque from Fisher River Cree Nation Social
7 Services to Karl McKay, dated December 1, 2005 in the
8 amount of \$1,049.64. This cheque has been declared void.
9 Does that mean that the last cheque that was paid to Mr.
10 McKay was the previous one, dated November 1, 2005?

11 A Yes.

12 Q And he began receiving band assistance in -- on
13 May 1st, 2005?

14 A Yes.

15 Q To issue the cheque to Mr. McKay on November 1,
16 2005 would Band Assistance have had to confirm his
17 residence in Fisher River at that time?

18 A It would be when they came in to receive their
19 cheque that he was living on reserve, yes.

20 Q Would, would Fisher River have to confirm his
21 specific residence, where that was?

22 A No.

23 Q According to our records and the cheques that
24 we've just reviewed, 11 cheques were paid to Mr. McKay
25 between May 1st and November 1st of 2005. In certain

1 months multiple cheques were sent in. For example, three
2 were sent in May and two were sent in September and two
3 were sent in October. Do you know why that would have been
4 the case?

5 A By looking at them, it would be different
6 adjustments in the first month to his file.

7 Q What type of adjustments?

8 A Dietary and I believe the \$80 represents a
9 disability.

10 Q Is that why the amount varies --

11 A Yeah, it varied.

12 Q -- from cheque to cheque?

13 A Yes, until it like looks like it became steady.
14 So then all of the double -- all the amounts were correct
15 for that.

16 Q You, you mentioned seeing Mr. McKay that one time
17 at the Band Assistance office. Do you recall when the last
18 time you saw him was?

19 A No, I don't.

20 Q I just have a couple more questions. If this
21 family, Karl McKay and Samantha Kematch, the children,
22 they're including Phoenix Sinclair, had not applied for
23 band assistance would the band have had any way of knowing
24 that they were in Fisher River?

25 A Only, I guess, by their residence. Like, as a --

1 like I said, that, that the home they lived in was right
2 where you drove by so, you know, and then there would be
3 some contact with, whether it be a store or whatever.
4 People will wonder or know who they were by being out,
5 whether it to the mail, post office or something like that.

6 Q Do you recall when you first learned of Phoenix
7 Sinclair?

8 A It would be, I guess, when, when the, the case
9 came up.

10 Q Just one moment, please.

11 A Yes.

12 Q I just have one last question for you.

13 A Sure.

14 Q If someone, for example Child and Family
15 Services, had called the band office looking for Phoenix
16 Sinclair or Samantha Kematch or, or Karl McKay, what would
17 the band have been able to tell them?

18 A That they had a file open with us in the Band
19 Assistance office and, I guess if they asked who was on
20 the, the file, then we would share that information.

21 Q What was the process for accessing that
22 information and sharing it?

23 A Just speaking over the phone with the
24 administrator, I guess. That would be the link.

25 Q And, and that would be the case if someone called

1 looking for Phoenix Sinclair?

2 A Yes.

3 MR. GLOBERMAN: I have no further questions for
4 this witness, Mr. Commissioner.

5 THE COMMISSIONER: Thank you, Mr. Globerman.

6 Cross-examination? Mr. Ireland?

7 MR. IRELAND: Thank you, Mr. Commissioner.

8

9 CROSS-EXAMINATION BY MR. IRELAND:

10 Q Good morning, Ms. Cochrane.

11 A Good morning.

12 Q My name is David Ireland, I'm one of the lawyers
13 that acts for Steve Sinclair and Kim Edwards; okay?

14 A Yes.

15 Q I don't have very many questions for you at all,
16 in fact.

17 Mr. Globerman asked you questions regarding what
18 you would do if someone came into the band office or the
19 social services office and brought up a child welfare
20 concern, something about -- you, you mentioned something
21 about a kid not having lunch or something like that and you
22 said that you would call either the health centre or the
23 Intertribal Child and Family Services; is that right?

24 A Yeah.

25 Q Okay. I suppose I'm curious as to how often that

1 would happen.

2 A It, it hasn't happened too often in my employment
3 with the program.

4 Q Right. And, again, you've been there some time;
5 is that right?

6 A Yes.

7 Q Okay. And it hasn't happened very often?

8 A Not, not in that case, no. Like I said, the, the
9 main area is usually the, the office contacting us on
10 apprehensions so that we can take the children off of the
11 budget if they are on our program.

12 Q Right. And that would be Intertribal contacting
13 your office?

14 A Yes. And then ...

15 Q Right.

16 A Yes.

17 Q What, what about members of the community coming
18 into your office and then you calling Intertribal, how
19 often would that happen?

20 A Not -- if they had a concern and then if -- we
21 would direct them to where they needed to go and if they
22 felt uncomfortable with bringing forth that information
23 then we would do that for them and contact that, that
24 office. Somebody from the --

25 Q Very well.

1 A Or the administrator will.

2 Q And that's, that's what I'm interested in.

3 A Okay.

4 Q So when you would call the office, based on a
5 concern that someone brought to you, in your experience of
6 doing that would there ever be any resistance to receiving
7 information from you, as I suppose a third party? So not
8 the person making the complaint, somebody passing it on.
9 Were you ever given resistance in terms of them wanting to
10 speak to the actual person making the complaint?

11 A What do you mean by resistance?

12 Q Well, I suppose what I mean by that is did you
13 ever encounter any difficulty in making such a referral?
14 If you were to call the office, for example, and say so and
15 so just came into our office and said they're concerned
16 about a certain child, in your experience would, would the
17 agency act on that?

18 A Brush me off?

19 Q Yes. That's a good way of putting it, would you
20 be brushed off? Would they say we have to speak to the
21 person directly or would they say okay, thanks for the
22 information, we'll follow up?

23 A No, I've never been brushed off. I mean, they
24 would take my -- take -- they would -- it's normal practise
25 for them to take the information and -- I, I can't speak

1 for them though.

2 Q Of course.

3 A Yeah. So ...

4 Q But they would take you seriously?

5 A Yes.

6 Q That's -- okay, very well. You mentioned a
7 health centre. There's a health centre on Fisher River
8 First Nation; is that correct?

9 A Yes, it's connected. Our band office and welfare
10 were all connected in one big building.

11 Q Okay. So when you say a band office, where,
12 where you worked, that's not just social services, there's
13 the --

14 A No.

15 Q Is the band governance based in there, as well?

16 A The -- yes.

17 Q Right.

18 A There's many different umbrella I think --

19 Q Okay.

20 A -- offices in that same area.

21 Q And the health centre?

22 A The health centre is a building on its own in
23 another -- just like down the sidewalk.

24 Q Okay. Is the health centre staffed there all the
25 time, is there a --

1 A Yes.

2 Q -- nurse that staffs it or is there a physician
3 that, that staffs it all the time or do they come in?

4 A There are certain days that --

5 Q Right.

6 A -- physicians would come to our community.

7 Q Okay.

8 A I'm not sure that -- I know that it was -- I'm
9 not sure if they had that, that privilege then. Like we
10 would go Hudson, our next community --

11 Q Okay.

12 A -- in 2005.

13 Q Right. Okay. Mr. Globerman was asking you
14 questions about where Wesley lived and you said that you
15 knew where he lived and it was off the, the main road
16 there.

17 A Yes.

18 Q I'm asking you this question because I come from
19 a very small place. I could probably tell you everyone who
20 lived in that place and where they lived but I might not be
21 able to tell you exactly how I knew that. Is it fair to
22 say that Fisher River is a fairly small community?

23 A Yes.

24 Q And that you would know where people live just --
25 if they were in the community for some time you might just

1 find that information out. Is that fair?

2 A Yes.

3 Q This question might be difficult to answer, I'll
4 preface that before I ask it. Many of the questions that
5 Mr. Globerman asked you about the children who were listed
6 on the, the list, connected to different bands of First
7 Nations. We've talked about Lake St. Martin, Pine Creek,
8 things like that. Is that a situation, in your experience,
9 that would come up often, that people would move, perhaps
10 from one community to another and be attached, as it were,
11 to another community? Is that common?

12 A Transient? Like that's what we like to refer,
13 like because they're -- whether it be city or back on the
14 reserve.

15 Q Right. Yeah, that's exactly what I'm asking.

16 A Mainly our own community members that we know,
17 they're back and forth for employment or back, if it didn't
18 work out, they're back home but families that we don't
19 know, like, like -- well at -- because our housing is so
20 limited on the reserve, like --

21 Q Right.

22 A -- for people to move in, like it's not common.
23 But then they do have -- you're talking about, like,
24 different --

25 Q Yeah.

1 A -- treaty numbers, different --

2 Q Correct.

3 A Yeah.

4 Q We -- I supposed what I'm asking, in essence, is
5 would you have to follow up on those calls quite regularly?

6 A It would be normal practise, yes.

7 Q Right. So it's not something that would be
8 unusual?

9 A No.

10 Q Okay. And you, you mentioned housing there and
11 it being in, in short supply. The, the cheques that we're
12 talking about, that were issued to, to Wesley McKay, he
13 came into the office, himself, we would say that -- and
14 picked those cheques up?

15 A Yes.

16 Q Could cheques be mailed to people?

17 A No.

18 Q They couldn't, everybody had to --

19 A Yes.

20 Q -- pick them up?

21 A Yes. That's one practise that we, we liked to do
22 because we wanted to see those individuals in, in our
23 office.

24 Q Very well.

25 A It was part of the, the reason of proving they're

1 on reserve.

2 Q Right. Because you need to go on reserve to
3 receive the benefits.

4 A Yes.

5 Q Is that correct? Okay. And you're talking about
6 -- I think you said maybe three -- 300 or so, or it could
7 be more people?

8 A Um-hum.

9 Q Who would -- so those would be fairly busy times?

10 A Yes.

11 Q Yeah, when people are picking up their cheques.

12 A Yes.

13 MR. IRELAND: Mr. Commissioner, I believe those
14 are my questions. Thank you very much.

15 THE COMMISSIONER: Thank you, Mr. Ireland.
16 Anybody else for questions before Mr. Cochrane has his
17 chance? Mr. Paul?

18

19 CROSS-EXAMINATION BY MR. PAUL:

20 Q Good morning, my name is Sacha Paul, I'm one of
21 the lawyers with Winnipeg CFS and the department. I just
22 have one question about your general factus. As a Fisher
23 River band employee my understanding from your evidence
24 that you gave earlier is that from time to time band
25 assistance may call CFS if they had a concern. Is that

1 correct?

2 A Yes.

3 Q And when you say CFS it would be fair for me to
4 assume that you really mean Intertribal CFS?

5 A Community offices.

6 Q And the community office --

7 A In the community.

8 Q -- is intertribal?

9 A Yes.

10 MR. PAUL: Okay. That's it, Mr. Commissioner,
11 those are my questions. Thank you.

12 THE COMMISSIONER: That's good clarification.
13 Mr. Khan?

14

15 CROSS-EXAMINATION BY MR. KHAN:

16 Q Hello, my name is Hafeez Khan, I'm counsel for
17 Intertribal Child and Family Services. I have a very short
18 question, as well, and it may have been asked but -- and if
19 it was I missed it so I apologize. Are you from Fisher
20 River?

21 A Yes, I am.

22 Q And you've lived there all of your life?

23 A All my life. Yes.

24 MR. KHAN: Thank you. That's my only question.

25 MR. GLOBERMAN: I don't have any further

1 questions, Mr. Commissioner.

2 THE COMMISSIONER: And you have no questions, Mr.
3 Cochrane?

4 MR. COCHRANE: I have no questions, Mr.
5 Commissioner.

6 THE COMMISSIONER: All right. That completes
7 that witness then and so thank you very much, you're
8 completed, you can take your leave.

9 THE WITNESS: Thank you.

10 THE COMMISSIONER: And we'll take our mid-morning
11 break now and adjourn for 15 minutes and then take the next
12 witness.

13

14 (BRIEF RECESS)

15

16 THE CLERK: Okay, we're now on the record.

17 MS. MCCANDLESS: Good morning, Mr. Commissioner,
18 we have one more witness before the lunch break.

19 THE COMMISSIONER: Please.

20 THE CLERK: Would you please stand for a moment.
21 Is it your choice to swear on the Bible or affirm without
22 the Bible?

23 THE WITNESS: On the Bible.

24 THE CLERK: On the Bible? Okay. Just take the
25 Bible in your right hand and state your full name to the

1 court.

2 THE WITNESS: Florence Agnes Bear.

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

4 THE WITNESS: F-L-O-R-E-N-C-E.

5 THE CLERK: And your middle name, please?

6 THE WITNESS: Agnes, A-G-N-E-S.

7 THE CLERK: And your last name?

8 THE WITNESS: Bear, B-E-A-R.

9 THE CLERK: Thank you.

10

11 **FLORENCE AGNES BEAR,** sworn,

12 testified as follows:

13

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

15

16 DIRECT EXAMINATION BY MS. MCCANDLESS:

17 Q Good morning, Mrs. Bear.

18 A Good morning.

19 Q You'll see in front of you, you have a document
20 that's entitled witness key. There has been an interim
21 order granted, granting anonymity and a publication ban
22 with respect to four individuals. You'll see their names
23 in front of you, and beside them there is a number with the
24 word DOE in front of it. If during the course of your
25 testimony you need to refer to any of these individuals,

1 according to the order granted by Mr., Mr. Commissioner,
2 please refer to them by their DOE and number.

3 A Um-hum.

4 Q And I will do the same.

5 A Okay.

6 Q You live in Peguis First Nation, in Manitoba?

7 A Yes.

8 Q How old are you?

9 A Fifty.

10 Q And how far is Peguis from Fisher River First
11 Nation?

12 A It's about six, seven miles.

13 Q So how far -- how long of a drive?

14 A About 10 minutes.

15 Q Is that from your house?

16 A From my house to Fisher River.

17 Q How long have you lived in Peguis?

18 A About 30 years.

19 Q Do you have family in Fisher River?

20 A Yes, that's where I'm originally from, Fisher
21 River.

22 Q And who in your family lives in Fisher River?

23 A Pretty well everybody.

24 Q And I understand that you are a relative of Karl
25 Wesley McKay?

1 A Yes.

2 Q How are you related to him?

3 A That's through my dad -- his dad and my grandpa
4 were brothers.

5 Q And you are also the sister of Madeline Bird?

6 A Yes.

7 Q And I understand that Ms. Bird is a worker with
8 Intertribal Child and Family Services on Fisher River?

9 A Yes.

10 Q Do you know if that was the case in 2005?

11 A Pardon me?

12 Q Was that also the case in 2005? Did she work
13 there in 2005?

14 A Yes.

15 Q You're sisters also with Darlene Garson?

16 A Yes.

17 Q Have you know Mr. McKay, that's Karl Wesley
18 McKay, all your life?

19 A No.

20 Q When did you first get to know him?

21 A I figure he was around 16 years old.

22 Q Had you had any contact with him in your
23 childhood?

24 A No.

25 Q Did you know him to have family in Fisher River?

1 A No.

2 Q Do you know if he had ties to Fisher River?

3 A I don't. He didn't have no siblings living in
4 Fisher River.

5 Q Do you know if his father lived in Fisher River
6 at any point?

7 A No, his father, at the time, was in Winnipeg.

8 Q At what time was this?

9 A When he was 16.

10 Q Okay. Now, in the period after he was around 16
11 and I -- you would have been around the same age --

12 A Um-hum.

13 Q -- did you have contact with him over the years
14 after that point?

15 A No.

16 Q Would you ever speak to him?

17 A Pardon me?

18 Q Would you ever speak to him on the phone?

19 A Like, when he was 16?

20 Q In your adulthood.

21 A No.

22 Q Early adulthood.

23 A No.

24 Q Do you know where it was that he lived over the
25 years?

1 A No, I have no idea.

2 Q Did you ever know him to live in Winnipeg?

3 A Yes.

4 Q Okay. When did you know he was living in
5 Winnipeg?

6 A When he was, I think, in 2005.

7 Q Okay. Did you consider yourself close with him
8 at all?

9 A No. No.

10 Q I understand you did have some contact with Mr.
11 McKay in 2005; is that correct?

12 A Yes.

13 Q Where were you living in 2005?

14 A Winnipeg.

15 Q Was that for all of 2005?

16 A Yes.

17 Q Did you move back to Peguis at some point that
18 year?

19 A I moved back in September.

20 Q Did you visit Peguis or Fisher River in the
21 summer of 2005?

22 A Well, we had to, to visit my mom's, I was back
23 and forth to my mother's.

24 Q Okay. Do you know whether Mr. McKay was living
25 in Fisher River at some point in 2005?

1 A Yes.

2 Q And how did you know that?

3 A He told me in the spring that he was trying to
4 move to Fisher River.

5 Q Where were you when he told you this?

6 A I was in the school, aboriginal.

7 Q And where is that located?

8 A Higgins.

9 Q In Winnipeg?

10 A Aboriginal Centre, yes.

11 Q What were you doing there?

12 A I was in school there, taking my -- getting my
13 Grade 12.

14 Q Was this a chance meeting you had with him?

15 A No. Like he just all of a sudden showed up at --
16 he was at the door and I gone on my coffee break.

17 Q Were you expecting to see him that day?

18 A No.

19 Q Was he with anyone at that time?

20 A No.

21 Q And how long did you spend with him when you saw
22 him that day?

23 A It was just around a couple of minutes.

24 Q And I believe you said this was some time in the
25 spring of 2005?

1 A Yes.

2 Q Did you have a conversation with him at that
3 time?

4 A No, I was on my way to class.

5 Q What -- did you speak to him at all?

6 A Yes, he just asked if he could buy me a coffee
7 and I, I just got off my coffee break.

8 Q And you said that's when you learned that he was
9 living in Fisher River?

10 A He said he was going to move out.

11 Q Did he mention who he was going to move out with?

12 A No, he didn't.

13 Q Did he mention a girlfriend at that time?

14 A No.

15 Q Did he mention any children to you --

16 A No.

17 Q -- on that occasion?

18 A No.

19 Q I understand you also saw Mr. McKay in Dallas,
20 Manitoba in 2005; is that right?

21 A Yes.

22 Q Can you tell the Commissioner where Dallas,
23 Manitoba is located?

24 A It's north of Fisher Branch.

25 Q Is that between Fisher River and Peguis?

1 A Dallas is in between Peguis and Fisher River.

2 Q Is it on Provincial Road 224?

3 A Yes.

4 Q And where did you see Mr. McKay?

5 A I seen him at the Marciniak's store.

6 THE CLERK: I'm sorry.

7 THE WITNESS: Marciniak's.

8 MS. MCCANDLESS: Perhaps I could try to spell it
9 for the record. I believe it's M-A-R-C-I-N-I-A-K.

10 THE WITNESS: Yes, I spell it like this, sorry.

11 THE COMMISSIONER: And is that a geographic
12 location or ...

13 MS. MCCANDLESS: I believe the witness said that
14 it was a store, located at Dallas, Manitoba.

15 THE WITNESS: Yes.

16

17 BY MS. MCCANDLESS:

18 Q And were you expecting to see him there or did
19 you just run into him?

20 A I just ran into him.

21 Q Now, was this before or after you had seen him at
22 the Aboriginal Centre in Winnipeg?

23 A After.

24 Q Who were you with that day?

25 A My sister, Darlene.

1 Q That's Darlene Garson?

2 A Yes.

3 Q Who was with Mr. McKay that day? Was there
4 anyone with him?

5 A Samantha. She had a baby, the baby was about
6 eight or nine months, I figured. And she had baby Phoenix.

7 Q Was there anyone else with them?

8 A No, just them and Wesley.

9 Q Was -- were there any relatives of Wesley with
10 them?

11 A Wesley had the, the mother was inside the store,
12 he was waiting for, for his mom.

13 Q And do you know his mom's name?

14 A Gloria.

15 Q Gloria, do you know the last --

16 A McKay.

17 Q McKay. Now, where exactly was everyone when you
18 saw them?

19 A Wesley was standing outside the car and Gloria,
20 mom, was inside the store. And Samantha and the babies
21 were in the back of the car.

22 Q Were they in the parking lot?

23 A Yeah.

24 Q At the time did you know that was Samantha
25 Kematch?

1 A I didn't know. That's the first time I've, I've
2 -- first time that I met her, I didn't -- wasn't introduced
3 to her last name, it was just Samantha.

4 Q And someone told you her name was Samantha?

5 A Wesley did.

6 Q Now, you mentioned there was a baby and -- baby
7 Phoenix with them, as well, is how you described it. Was
8 that correct?

9 A Yes.

10 Q Did you have a conversation with Mr. McKay on
11 that occasion?

12 A No, I just asked him where they were off to.

13 Q And where were you standing at the time?

14 A I was standing on the driver's side and he was
15 on, on the other side of the vehicle, in the passenger
16 side.

17 Q And during this time were Samantha and the
18 children in the car?

19 A Yes.

20 Q Did you ask Mr. McKay about the children?

21 A Yes, I, I looked in the window on the door then I
22 asked well who is this baby -- like whose boy is this
23 because I, I thought that was a boy.

24 Q Who did you think was a boy?

25 A Baby Phoenix.

1 Q And why did you think that Phoenix was a boy?

2 A Because she had sheared hair.

3 Q Now, Mrs. Bear you remember giving a statement to
4 the RCMP on March 15th, 2006?

5 A Yes.

6 Q I'm just going to take you to a portion of that
7 statement. So if, Madam Clerk, you could pull up
8 Commission disclosure 102 and that's page 4917. Towards
9 the bottom of what you see on the screen there, can you see
10 that freely?

11 A Yes.

12 Q There's a question by Lasson and the question is:

13

14 "Okay. Can you describe the
15 little girl that you saw in the
16 back?"

17

18 A Um-hum.

19 Q And, and you say: "She had kinda long hair."

20 A Um-hum.

21 Q Does -- did she --

22 THE COMMISSIONER: Just a minute, now where, where
23 is that on this statement?

24 MS. MCCANDLESS: This is the -- just at the bottom
25 half of the page. There's a --

1 THE COMMISSIONER: Of 4917?

2 MS. MCCANDLESS: Yes. This is Mrs. Bear's
3 statement to the RCMP, in March of 2006, and there's a
4 question asked of her: "Can you describe the little girl
5 that you saw in the back?"

6 THE COMMISSIONER: Just a minute now, let me find
7 that.

8 Oh, in the middle of the page. All right. I'm
9 with you.

10

11 BY MS. MCCANDLESS:

12 Q I just wanted to ask you about that, that
13 information you gave to the RCMP. Do you stand by what you
14 said that day?

15 A Pardon me?

16 Q Do you -- is that still what you -- how you
17 remember seeing the child that day? Today you say she had
18 a shaved head?

19 A Um-hum. At the time I -- there was the, the baby
20 girl and then she kind of had, like, a big head of hair, as
21 far as here. At the time I thought baby Phoenix was a boy.
22 It --

23 Q Okay. So if I understand your evidence you --
24 you're saying you were mistaken at the time that you spoke
25 to the RCMP about Phoenix's hair?

1 A Yes. I, I -- because at the time the police
2 asked me like I seen the picture at the time on t.v. and at
3 the time she had -- so he told me like don't go by t.v. or
4 whatever but then I, I kind of described baby Phoenix as
5 the one that I seen on the t.v. with her, with her hair,
6 too.

7 Q Okay. So if I understand what you're saying, you
8 had seen a photo of Phoenix around the time that her death
9 was discovered and in the photo she had long hair?

10 A Yes.

11 Q Okay. So I would just like to refer you to a
12 photograph now and Madam Clerk, if you could pull up
13 Exhibit 7. Mr. Commissioner, I don't believe that exhibit
14 is before you but it will appear on the screen.

15 Do you recognize the girl in that photograph?

16 A Yes.

17 Q Okay. And was that the child that you saw in the
18 car that day?

19 A Without the hat, yes.

20 Q Thank you. Did you have a conversation with Mr.
21 McKay that day about the children --

22 A No.

23 Q -- in the car when you were at Marciniak's store?

24 A No, we just -- after my sister is ready to go we
25 pulled out.

1 Q Okay, did you, did you ask Mr. McKay who the kids
2 were?

3 A I asked whose little boy this was and, and the
4 baby girl.

5 Q And what did Mr. McKay tell you?

6 A That -- I asked if that was his baby and, and he
7 commented no, she's too ugly to be mine and there is no
8 resemblance.

9 Q When you say you asked Mr. McKay about the baby,
10 do you mean the infant or the little girl?

11 A After I asked -- I said: Whose, whose little boy
12 this is? Then he said: That's not a boy, that's
13 Samantha's girl.

14 Q And is that when he said she is too ugly --

15 A Yes.

16 Q -- to be --

17 A I asked him --

18 Q -- mine?

19 A -- I just said: Oh, I didn't know you had a
20 girl.

21 Q Did you see anyone interacting with Phoenix that
22 -- on that occasion?

23 A No.

24 Q Did you see how Ms. Kematch was with her?

25 A She was baby feeding, she was going to get up and

1 mom just used her left arm and asked -- kind of pushed her
2 to sit down.

3 Q Did you speak to Phoenix at all?

4 A No.

5 Q Did you try to speak to her?

6 A I, I just said: Oh, hi. And that, that was all
7 I said.

8 Q Did she say anything to you?

9 A No, she just kind of looked at me.

10 Q Was there anything else about her that stood out
11 to you that day?

12 A No.

13 Q Did she look happy or sad or ...

14 A At the time that I found her she looked sad.

15 Q What was she wearing?

16 A She was wearing rubbers and she had shorts on, a
17 t-shirt.

18 Q And you said she had no hat on that occasion?

19 A No hat, no.

20 Q Did Mr. McKay tell you anything about where they
21 were going that day?

22 A They were on their way to Fisher Branch, he said
23 he was taking his mother to Fisher Branch.

24 Q And while you had this conversation with Mr.
25 McKay, where was your sister, Darlene?

1 A She was just -- she went inside the store to buy
2 a card.

3 Q How long was that visit, in total?

4 A It was not even two minutes, three minutes.

5 Q Do you remember approximately what time of year
6 it was?

7 A 2005.

8 Q Was it springtime?

9 A It was in the summer. I figure it was about two
10 weeks, in June, that day I seen them.

11 Q Sometime in early June?

12 A Yes.

13 Q Did you have any concerns about Phoenix when you
14 saw her that day?

15 A No, no.

16 Q Was there anything you knew about Mr. McKay that
17 would make you be concerned that he was around children?

18 A No, because I never really knew Wesley.

19 Q Did you know anything about Samantha Kematch at
20 that point?

21 A I -- first time that I met her.

22 Q Had you ever known Mr. McKay to be violent?

23 A No.

24 Q Did you see Mr. McKay at any other time in 2005?

25 A In August we, we played quarter bingo and I went

1 to pick him up.

2 Q Where did you pick him up from?

3 A At the, at the, the house where he was staying.

4 Q Do you know whose house it was?

5 A He was renting it from Angie Murdock.

6 Q Madam Clerk, if you could pull up page 3056 and
7 that's an excerpt from Commission disclosure 45. If you
8 can show both photographs in the frame, please. Do you
9 recognize this house?

10 A Yes.

11 Q And is that the house that you picked up Mr.
12 McKay from in 2005?

13 A Yes.

14 Q Do you remember how many times you were at that
15 house in 2005?

16 A I picked him up in October for Thanksgiving
17 dinner.

18 Q And you had mentioned picking him up, as well,
19 for quarter bingo?

20 A Yes.

21 Q And you said the quarter bingo was in August
22 2005?

23 A Yes.

24 Q Did you go inside the house that day?

25 A No. I just honked outside.

1 Q And who came out?

2 A Wesley, Samantha and the baby.

3 Q When you say the baby, is that the same baby you
4 had seen --

5 A Yes.

6 Q -- in the car? Okay, the one that was about, you
7 said, eight or nine months old?

8 A Yeah.

9 THE COMMISSIONER: Now, this is -- is this
10 October time we're talking about?

11 MS. MCCANDLESS: August.

12 THE WITNESS: August.

13 THE COMMISSIONER: Oh, the August.

14

15 BY MS. MCCANDLESS:

16 Q Did you ask about Phoenix, or the little girl,
17 that day?

18 A No.

19 Q Did Mr. McKay or Ms. Kematch mention her?

20 A No.

21 Q Could you see any signs of children having lived
22 in the house? Was -- were there toys in the yard or
23 anything of that nature?

24 A No, not that I know.

25 Q And how did Mr. McKay seem on that occasion?

1 A He was quiet.

2 Q What did you think about that?

3 A Nothing.

4 Q Did you ask him what was going on?

5 A I can't remember.

6 Q Did you ask Ms. Kematch how things were going?

7 A In October I did.

8 Q Now that day you went to play quarter bingo and
9 where did you go?

10 A We went to my house.

11 THE COMMISSIONER: You're back in --

12 THE WITNESS: In Peguis.

13 THE COMMISSIONER: -- in August now, are you?

14 MS. MCCANDLESS: Yes, still in August.

15

16 BY MS. MCCANDLESS:

17 Q You've said you went to your house in Peguis?

18 A Yes.

19 Q And how long was that visit that day?

20 A It was about a couple of hours.

21 Q And was anyone else from your family there that
22 day?

23 A Pretty well, pretty well everybody, half of my
24 siblings.

25 Q Was Madeline Bird there?

1 A Yes.

2 Q Was Darlene Garson there that day?

3 A Yes.

4 Q How many people, in total, were at your house?

5 A I figure about, totalling with the kids, I figure
6 about 25.

7 Q Do you remember anyone mentioning Phoenix's name
8 that day?

9 A No.

10 Q Do you know how long Mr. McKay stayed at Angie
11 Murdock's house?

12 A No, I don't.

13 Q Did you ever see the individual who is being
14 referring to as DOE number 1, out in the community?

15 A No.

16 Q Or the individual who is being referred to as DOE
17 number 2?

18 A No.

19 Q Did you know if Phoenix Sinclair was living in
20 Angela Murdock's house --

21 A No.

22 Q -- in 2005? Did you ever go inside Angela
23 Murdock's house in 2005?

24 A When I picked up -- picked them up for
25 Thanksgiving morning the door wasn't locked and then I just

1 knocked and walked in.

2 Q This was the October 2005 --

3 A Yes.

4 Q -- occasion? And if you could just tell the
5 commission what happened that day when you came to the
6 house.

7 A In?

8 Q October 2005.

9 A October? I picked him up for, for Thanksgiving
10 dinner, my mom was finishing up the dinner and I -- I don't
11 know, just thought -- went and asked them if they wanted to
12 come and have dinner with us. So they just -- I just went
13 inside in there and they, they just packed and they left.
14 They come, come with me.

15 Q Were they expecting you that day?

16 A No.

17 Q Did you walk in or knock on the door?

18 A I knocked and then since the door wasn't -- I
19 just opened it.

20 Q And who was there when you walked into the house?

21 A Samantha and Wesley and the baby.

22 Q Did you not feel welcome when you came to the
23 house that day?

24 A I didn't feel welcome, no.

25 Q And why was that?

1 A I don't know.

2 Q Why did you feel that way? Was there something
3 someone said or did to make you feel unwelcome?

4 A I, I assume because he didn't -- I assume because
5 when I opened the door just without them saying come in, I,
6 I assumed that's why.

7 Q What parts of the house were you in that day?

8 A I just walked in straight to their -- to the --
9 well, to where Wesley was playing the computer and that's
10 as far as I went.

11 Q How long were you in the house for?

12 A I was only in there for a couple of minutes.

13 Q Did you see any signs of a child or children
14 living there, any toys, anything like that?

15 A I really don't remember if -- seeing any toys, I
16 don't remember seeing any toys, I don't think.

17 Q Did you ask about the little girl, or Phoenix?

18 A No, no.

19 Q Did either Mr. McKay or Ms. Kematch mention her
20 on that occasion?

21 A No.

22 Q And you brought them over for Thanksgiving
23 dinner?

24 A Yes.

25 Q And how many people were at that dinner?

1 A My mother and half of my siblings.

2 Q What's your mother's name?

3 A Ida.

4 Q What's her last name?

5 A McKay.

6 Q And was Madeline Bird there that day?

7 A Yes.

8 Q Who else was there?

9 A Well, there was my husband and my children.
10 There was Darlene and her husband, Joe.

11 Q That's Darlene Garson?

12 A Yes.

13 THE COMMISSIONER: And, and whose house was the
14 Thanksgiving dinner?

15 THE WITNESS: My, my mother's, Ida McKay.

16 THE COMMISSIONER: Ida's?

17 THE WITNESS: Yes.

18 THE COMMISSIONER: Thank you.

19

20 BY MS. MCCANDLESS:

21 Q Is that house located on Peguis or --

22 A Fisher River.

23 Q Fisher River. Did Mr. McKay and Ms. Kematch come
24 stay with you at some point?

25 A Towards the end of October after the long

1 weekend.

2 Q What -- and what year is that?

3 A 2005.

4 Q This was your home in Peguis?

5 A Yes.

6 Q And you said that was after the long weekend, so
7 after the Thanksgiving dinner?

8 A Yes.

9 Q How did he come to stay at your house?

10 A He phoned my husband and, and asked my husband if
11 he could come and stay with us a couple of days till they,
12 they find a place and said that they were kicked out of
13 their, their place and they needed a place to stay, that
14 they were told to get out of that house right away.

15 Q Okay. And that was Angela Murdock's house?

16 A Yes.

17 Q So who all stayed with you at your home on
18 Peguis?

19 A Wesley, Samantha and the baby.

20 Q How long did they stay with you?

21 A Four nights.

22 Q And can you describe what Mr. McKay was like
23 around that time?

24 A He was in the bedroom, he, he didn't come out of
25 the bedroom. He stayed in the bedroom.

1 Q Did he tell you what was wrong?

2 A I asked Samantha: What's wrong with Wesley?

3 Q What did she say to you?

4 A She said he was depressed.

5 Q Did you ask why?

6 A I just said: What does he have to be depressed
7 about? That's all I said.

8 Q What about Ms. Kematch, what was she like around
9 that time?

10 A She would play with her baby. She would -- when,
11 when she wanted to go and have a smoke she would go and put
12 the baby in her bedroom and when she had done her smoke she
13 would go get the baby back out and play with her.

14 Q Did she ever behave towards the baby in a way
15 that was concerning to you?

16 A No.

17 Q Did Mr. McKay ever act in a way that was
18 concerning to you?

19 A There was -- well, he spent all the time in the
20 bedroom, I -- he -- when we -- I only -- he would only come
21 out when he had to use the washroom.

22 Q Were you ever afraid of Mr. McKay?

23 A No, no, I didn't -- not at the time until I, I
24 asked my husband, I wanted them out of my house and I told
25 my daughter, strip that bedding out of that bedroom because

1 it was so, so -- there was an awful smell coming from it
2 and I just -- the way he looked, the way he looked I never
3 -- that look on his face it kind of scared me.

4 Q So was there any particular reason why they left
5 your house --

6 A I --

7 Q -- after the four nights?

8 A -- I, I told my husband I wanted them out because
9 I thought Wesley was HIV positive.

10 Q Did you know that Samantha Kematch was pregnant
11 at that time?

12 A No.

13 Q Did you ever ask about Phoenix when they stayed
14 with you?

15 A No.

16 Q Did you ever hear her name mentioned by anyone
17 when they stayed with you?

18 A No.

19 Q Do you know where Mr. McKay and Ms. Kematch went
20 after they stayed at your house in Peguis?

21 A I drove them to Winnipeg. I dropped them off on,
22 on some place on Dufferin Avenue.

23 Q And who was with you at that time?

24 A My daughter.

25 Q And who did you drive to --

1 A I drove --

2 Q -- Dufferin.

3 A -- Samantha, Wesley and the baby.

4 Q Did you know where it was you were taking them
5 to?

6 A He said his daughter's.

7 Q Did you ask about Phoenix during that trip?

8 A No.

9 Q Did either of them mention Phoenix's name during
10 that trip?

11 A No.

12 Q Did you have any more contact with Mr. McKay
13 after you drove him and Ms. Kematch to Dufferin, in
14 Winnipeg?

15 A A few times he would phone and, and ask if I
16 picked up a fridge and stove he gave us.

17 Q What did he want you to do?

18 A With the fridge and stove?

19 Q Yes.

20 A Well, it -- he gave us a fridge and stove, it was
21 at his dad's, in the garage, because he didn't have money
22 to pay us for -- I guess for helping them, just to, to stay
23 there, the four nights that we gave them and to help them,
24 to give a ride to Winnipeg.

25 Q Where was his dad's?

1 A His dad is -- his dad's house is located in
2 Fisher River.

3 Q And what do you know his dad's name to be?

4 A William John McKay.

5 Q Okay. Do you recall when it was you first
6 learned about Phoenix's death?

7 A 2006.

8 Q Apart from the day that you saw her in the car at
9 Marciniak's, did you see Phoenix Sinclair any other time?

10 A No.

11 MS. MCCANDLESS: Those are my questions for this
12 witness, Mr. Commissioner.

13 THE COMMISSIONER: Thank you, Ms. McCandless.

14 Mr. Ireland?

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

16 Hello, Ms. Bear.

17 THE WITNESS: Hi.

18

19 CROSS-EXAMINATION BY MR. IRELAND:

20 Q My name is David Ireland and I'm one of the
21 lawyers who acts for Steve Sinclair and Kim Edwards. Okay?

22 A Um-hum.

23 Q I just have a few questions to ask you based on
24 some things that you told Ms. McCandless. You've told us
25 here today, Ms. Bear, that you were not particularly close

1 with Mr. McKay; is that fair?

2 A Um-hum. Yes.

3 Q That you knew him when he was younger but then
4 you didn't know him for some time?

5 A Yes.

6 Q Ms. Bear, do you recall in 2006 you made a
7 statement to the police? Do you remember that?

8 A 2006?

9 Q I believe so.

10 A Yes.

11 Q Yeah. So after or during the time the police
12 were investigating what happened to Phoenix, they
13 interviewed you; is that right?

14 A Pardon me?

15 Q They interviewed you, they talked to you.

16 A Yes.

17 Q Okay. During the course of these proceedings
18 have you had a chance to look at that statement again?

19 A Here, this one?

20 Q I'm not sure it's in front of you or not.

21 A I didn't, I didn't look at it, no.

22 Q You didn't review it?

23 A No.

24 Q Okay. I'm going to ask for the statement to be
25 brought up on the screen and I'm going to ask you some more

1 questions about what you remember about it. Okay?

2 A Okay.

3 Q It's Commission disclosure 102, I believe, 4916
4 is the page.

5 So, again, it begins by saying that the date is
6 March the 15th, 2006. Does that sound right to you? You
7 recall --

8 A Yes.

9 Q Yeah, you might not remember exactly --

10 A Yes.

11 Q -- but it's right? Okay.

12 I've read this statement, Ms. Bear, I'm going to
13 take you to little parts of it that I want to discuss with
14 you; okay?

15 A Um-hum.

16 Q If we can go to the next page, please, Madam
17 Clerk. And just scroll down a little bit.

18 You'll see, a little more than half way down the
19 page, it says Lasson and he asks a question -- he or she,
20 I'm not sure actually. It says: "How do you know Wesley,
21 Florence?" Do you know -- can you see where I am?

22 A Yes.

23 MR. IRELAND: Mr. Commissioner, you have that, as
24 well?

25 THE COMMISSIONER: How do you know Wesley?

1 MR. IRELAND: Yes.

2 THE COMMISSIONER: Yes.

3

4 BY MR. IRELAND:

5 Q And you answer:

6

7 "I've known him from ah, it's my
8 cousin. I've known him ... I
9 known him quite a while. Like he
10 ah, he always ... phoned me. When
11 I'm in Winnipeg he ... when I was
12 staying there he helped me move in
13 to my apartment and ... we've
14 always kept in touch."

15

16 Do you remember telling the police that, Ms.
17 Bear?

18 A No, I don't.

19 Q Just so that we're clear, and it's very important
20 to be clear on these little distinctions I'm going to make.

21 A Um-hum.

22 Q Do you recall talking to the police?

23 A Do I remember talking to the police?

24 Q Right.

25 A Yeah, I remember talking --

1 Q Okay.

2 A -- to the police.

3 Q Okay.

4 A But I don't remember talking about that there.

5 Q You, you --

6 THE COMMISSIONER: Where did, where did you talk
7 to the police?

8 THE WITNESS: No, after, after they found out --
9 I found out baby Phoenix was murdered, that's when
10 detectives came to see me.

11 THE COMMISSIONER: At your house?

12 THE WITNESS: Yes.

13

14 BY MR. IRELAND:

15 Q Okay, just, just when you say baby Phoenix there,
16 I'm just going to jump in on that, as well, because it's a
17 little confusing when you gave your testimony. You know
18 that when you saw Phoenix in 2005 she wasn't a baby.
19 You're aware of that, she was a little girl?

20 A Um-hum.

21 Q Okay. Because we are also talking about a baby
22 that was with Wesley and Samantha, so it's just --

23 A Okay.

24 Q It's quite confusing.

25 A Okay.

1 Q So if you could refer to Phoenix simply as
2 Phoenix that would be appreciated.

3 A Okay.

4 Q Okay, thanks. So again, you recall making the
5 statement but the part I've read out to you, about how you
6 would always stay in touch with Wes, you don't recall that?

7 A I don't remember, no.

8 Q Is it true? Did you stay in touch with him?

9 A With -- no.

10 Q No, it's not true?

11 A No. And I don't remember him helping me move in
12 an apartment.

13 Q You don't remember Wes helping you move in an
14 apartment?

15 A No.

16 Q And it sounds like you don't remember telling the
17 police that either?

18 A No.

19 Q Okay.

20 A I don't remember that. I don't remember it.

21 Q If we can move to page 4919. You've testified
22 here today, Ms. Bear, that Wes was depressed.

23 A Um-hum.

24 Q That you were told he was depressed; is that
25 right?

1 A By Samantha, yes.

2 Q Right. Okay. If we can look, Mr. Commissioner
3 and, and Ms. Bear, just where the little hand is and it
4 says: "Bear". You've been asked by Lasson: "Okay. So
5 after summer time what other contact did you have with
6 Wesley?" Can you see that?

7 A Yes.

8 Q Okay. And you go on to answer:

9

10 "Ah just, oh just phone calls ...
11 he just, just phone calls that was
12 about it an' then I'd just pick
13 him up an' you wanted ta go visit
14 or ... we'll pick him. I'd ask
15 you wanna come visit just ta get
16 them outta there 'cause he was
17 always depressed."

18

19 A Um-hum.

20 Q

21 "So we just thought about him an',
22 like we just thought about him,
23 pick him up for company --"

24

25 It says:

1 -- 'cause that's how my family
2 is. We always visit one another."

3

4 Do you remember saying that to the police?

5 A Yes.

6 Q When you say your family, you've talked today
7 about your sisters, and you've talked about, I think,
8 Madeline Bird and Darlene Garson, those are your sisters?

9 A Yes.

10 Q Do you have any other siblings?

11 A There's 16 of us.

12 Q Sixteen?

13 A Um-hum.

14 Q Okay. Well, we're not going to go through them.

15 A Um-hum.

16 Q But what I would ask -- I think you've said a
17 couple of times half of my siblings were there.

18 A Um-hum.

19 Q So when you say that, is that half of them live
20 where you live --

21 A Yes.

22 Q -- and half of them don't?

23 A Half of them live in Fisher River and half of
24 them --

25 Q Live elsewhere?

1 A Yes.

2 Q Very well. So the half that we're talking about
3 that live in Fisher River, includes Darlene and Madeline;
4 is that right?

5 A Yes.

6 Q Okay. So when you're talking about that's how
7 your family is to the police, you're talking about your
8 sisters, as well?

9 A Yes.

10 Q Okay. You told me today, Alice (sic), about
11 bumping into Wesley at the Aboriginal Centre on Higgins.

12 A Um-hum.

13 Q Do you remember that?

14 A Um-hum.

15 Q When you bumped into him there, were you there
16 with anybody? I know there were other people there but
17 were you there with somebody?

18 A I was -- I left the coffee shop, I was on my way
19 back to my class.

20 Q Okay. Were you there with one of your sisters?

21 A She was there, yeah, but I don't know if she was
22 there with me.

23 Q Okay. So when we say she, which sister are we
24 talking about?

25 A Darlene.

1 Q Darlene?

2 A Um-hum.

3 Q Okay. So you were there with, with Darlene. You
4 weren't there with Madeline?

5 A No.

6 Q Okay. In the time we've been talking around,
7 2005, around that time, do you ever remember visiting
8 Wesley in Winnipeg at all?

9 A No.

10 Q Okay. When you bumped into him at the Aboriginal
11 Centre, that was the only time that you saw Wesley in
12 Winnipeg?

13 A Yes.

14 Q You talked about two times that you socialized, I
15 suppose, with Wesley in Fisher River. Once in August where
16 you played the bingo.

17 A Um-hum.

18 Q And once again in October. Were those the only
19 two times that you would see him socially?

20 A That's -- as far as I could remember was August
21 and October.

22 Q At the October Thanksgiving time, you said you
23 had dinner at your mom's house.

24 A Um-hum.

25 Q You know where Wesley was staying in Fisher

1 River, at Angie Murdock's house, you know that house? You
2 know where it is?

3 A Yes.

4 Q Okay. Is your mom's house close to that house of
5 not?

6 A It's about, I -- about a mile.

7 Q Oh, so it's not right next to it --

8 A No.

9 Q -- I think it's about a mile away, okay.

10 I just have a couple more questions for you, Ms.
11 Bear. When Wesley called your husband and asked if he
12 could stay with you, and you agreed to have him stay for a
13 few days, do you recall if any family, your family, visited
14 you at that time?

15 A No, no.

16 Q So you can say --

17 A At the time when Wesley was staying at the house
18 you mean or --

19 Q That's correct.

20 A -- is that what you're talking about? Nobody
21 came around, no.

22 Q Nobody came, neither of your sisters would have
23 been there?

24 A No. Not that I remember, no.

25 Q You told Commission counsel that you ran into

1 Wesley and Sam, Phoenix and the baby outside of the store.

2 A Um-hum.

3 Q You described your interaction there and it
4 sounded like you were -- it was a friendly interaction with
5 Phoenix, that you were being nice to her.

6 A Um-hum.

7 Q Okay. She obviously caught your eye and you were
8 talking to her?

9 A Um-hum.

10 Q Commission counsel asked you on a number of
11 occasions after that if you ever asked about her and you
12 responded that you, you didn't. Was there ever an occasion
13 where her, her name came up in any way?

14 A Within the time that I seen her at the Marciniak
15 store?

16 Q No.

17 A Are we talking?

18 Q After that.

19 A No.

20 Q So during the time that you socialized with Mr.
21 McKay and during the time that he was living with you,
22 there was never a point where you had made any comment
23 about Phoenix or any comment was made to you about Phoenix?

24 A No.

25 MR. IRELAND: Very well. Mr. Commissioner, those

1 are my questions.

2 THE COMMISSIONER: Thank you, counsel.

3 MR. IRELAND: Thank you.

4 THE COMMISSIONER: Mr. Khan?

5

6 CROSS-EXAMINATION BY MR. KHAN:

7 Q Hello, my name is Hafeez Khan, I'm counsel for
8 Intertribal Child and Family Services. Just a couple of
9 questions. You're from a large family.

10 A Yes.

11 Q There's about -- there's 16 siblings?

12 A Sixteen.

13 Q Are your parents also from large families?

14 A Yes.

15 Q You must have a lot of cousins.

16 A Pardon me?

17 Q Do you have a lot of cousins?

18 A We have a lot of cousins, yes.

19 Q Do you know all of your cousins?

20 A No.

21 Q Do you know all of your parents' cousins?

22 A No.

23 Q Have you ever talked to Madeline about Wes
24 McKay --

25 A No.

1 Q -- in 2005?

2 A No.

3 Q Had you ever mentioned to her that you had seen
4 Wes McKay's children?

5 A No.

6 Q Has she ever talked to you about Wes McKay?

7 A No.

8 MR. KHAN: Thank you. Those are my questions.

9 THE COMMISSIONER: Thank you, Mr. Khan. Anybody
10 else? It would appear not so do you have anything further?

11 MS. MCCANDLESS: That, that's it.

12 THE COMMISSIONER: We're through with this
13 witness?

14 MS. MCCANDLESS: Yes, we're right on schedule,
15 Mr. Commissioner, so ...

16 THE COMMISSIONER: All right. Witness, you're,
17 you're through and thank you for coming and you, you can
18 leave.

19 THE WITNESS: Okay, thank you.

20

21 (WITNESS EXCUSED)

22

23 THE COMMISSIONER: All right, we'll adjourn till
24 two o'clock.

25 MS. MCCANDLESS: Yes. We have two more witnesses

1 this afternoon.

2 THE COMMISSIONER: And they look --

3 MS. MCCANDLESS: At two o'clock.

4 THE COMMISSIONER: -- doable in the afternoon, do
5 they?

6 MS. MCCANDLESS: I believe so.

7 THE COMMISSIONER: All right. Well, if not --
8 we'll, we'll, we'll start at 2:00 if we need to run a
9 little over we will to finish them. All right?

10 MS. MCCANDLESS: Thank you.

11 THE COMMISSIONER: We adjourn till two o'clock.

12

13 (LUNCHEON RECESS)

14

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

16 THE COMMISSIONER: All right, Ms. McCandless.

17 MS. MCCANDLESS: Good afternoon, Mr.
18 Commissioner, we are ready for our first witness this
19 afternoon.

20 THE COMMISSIONER: Thank you.

21 THE CLERK: If you could just stand for a moment.
22 Is it your choice to swear on the Bible or affirm without
23 the Bible?

24 THE WITNESS: I'll swear.

25 THE CLERK: Swear on the Bible? Okay. Just take

1 the Bible in your right hand then. State your full name to
2 the court.

3 THE WITNESS: Darlene McKay-Garson.

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

5 THE WITNESS: D-A-R-L-E-N-E.

6 THE CLERK: And your middle name?

7 THE WITNESS: M-A-Y.

8 THE CLERK: And your last name, please?

9 THE WITNESS: M-C-K-A-Y.

10 THE CLERK: And then Garson?

11 THE WITNESS: G-A-R-S-O-N.

12 THE CLERK: And is it hyphenated? Is it -- is
13 there a hyphen in between them or is it --

14 THE WITNESS: Yeah.

15 THE CLERK: -- two? Hyphenated, okay.

16

17 **DARLENE MAY MCKAY-GARSON**, sworn,

18 testified as follows:

19

20 THE CLERK: Thank you, you may be seated.

21 There's fresh water for you there, as well.

22

23 DIRECT EXAMINATION BY MS. MCCANDLESS:

24 Q Good afternoon, Mrs. Garson. Before we begin, I

25 just wanted to point out to you that there is a document in

1 front of you, it's entitled witness key. There has been an
2 order granted, on an interim basis, by the Commissioner
3 that -- of the -- none of the four names that you see in
4 front of you shall be referred to. If you need to mention
5 any of these names in the course of your testimony or if I
6 bring them up, I will be referring to them by the DOE and
7 the number beside them. Okay?

8 A Yes.

9 Q Mrs. Garson, you live in Fisher River?

10 A Yes.

11 Q How old are you?

12 A Forty-seven.

13 Q How long have you lived in Fisher River?

14 A All, all my life.

15 Q Have you ever lived anywhere else?

16 A In the, in the city for about a year.

17 Q When you say the city?

18 A Winnipeg.

19 Q You are related to Karl Wesley McKay?

20 A Yes.

21 Q How are you related to him?

22 A He's my second cousin.

23 Q Your maiden name is McKay?

24 A Yes. I didn't -- I got married and never changed
25 it.

1 Q Would you prefer I refer to you today as Mrs.
2 McKay or Mrs. Garson?

3 A Mrs. Garson.

4 Q Did you know Karl Wesley McKay growing up?

5 A Not since I, like, when I was 14. I mean like
6 later on in -- 14 years old, that's when I met him.

7 Q Where did you meet him?

8 A I can't recall.

9 Q Okay. I think if you can speak up a little bit
10 louder, maybe pull the microphone closer that would be
11 helpful.

12 She said can't recall. Can't recall.

13

14 BY MS. MCCANDLESS:

15 Q Would you consider yourself close with Mr. McKay?

16 A I'm not sure.

17 Q You started to get to know him when you were
18 younger. When you were a young adult did you spend any
19 time with him?

20 A No, just when I -- when we visited him at his
21 house.

22 Q In Winnipeg or?

23 A I'm not sure.

24 Q Okay. So you -- did you spend much time with him
25 before he came to Fisher River?

1 A No.

2 Q Your sister is Florence Bear?

3 A Yes.

4 Q And also Madeline Bird?

5 A Yes.

6 Q And I believe Mrs. Bear testified this morning
7 that there are actually 16 brothers and sisters.

8 A Um-hum.

9 Q Is that right?

10 A Yes.

11 Q So you lived in Fisher River in 2005?

12 A Yes.

13 Q Whereabouts in Fisher River did you live?

14 A It was like two houses down from where Wesley
15 lived.

16 Q So that was on Provincial Road 224?

17 A Yes.

18 Q Was this close to Angela Murdock's house then?

19 A Yes, like two houses in between us.

20 Q How long of a walk was it from your house to
21 Angela Murdock's house?

22 A Five minutes.

23 Q And did you live with anyone in 2005?

24 A My husband, Joe Garson.

25 Q Joe Garson?

1 A Yes.

2 Q Could you see Angela Murdock's house from your
3 house?

4 A Like when we go into the front, yeah, into the
5 yard.

6 Q Out your front yard you can see --

7 A Yeah.

8 Q -- Angela Murdock's house?

9 A Yes.

10 Q Could you see if there were people in the yard
11 or --

12 A No.

13 Q -- what they were doing or anything like that?

14 A No.

15 Q Did you learn at some point that Karl Wesley
16 McKay had moved to Fisher River?

17 A Can you repeat it?

18 Q Did you, did you find out at some time that Mr.
19 McKay was living in Fisher River?

20 A When I bumped into him one time, it's -- at the
21 slots, he told me that he moved just next door from us, two
22 doors down.

23 Q Okay. You said you bumped into him at the?

24 A VLTs.

25 Q VLTs. And whereabouts was that?

1 A The -- in Fisher River.

2 Q In the, in the town?

3 A Yeah, right around the main reserve medical
4 centre.

5 Q Okay. Was he with anyone at the time?

6 A He was by himself.

7 THE COMMISSIONER: Was this --

8 MS. MCCANDLESS: Yeah.

9 THE COMMISSIONER: -- in 2005, as far as we know?

10 THE WITNESS: Yes.

11

12 BY MS. MCCANDLESS:

13 Q Do you know roughly when it 2005 that was?

14 A No.

15 Q So what do you recall about seeing him that day?
16 Do you remember what he told you?

17 A He just told me he moved into Angie's house.

18 Q Did you see him regularly in Fisher River in
19 2005?

20 A Not very often, just when I bumped into him here,
21 whenever.

22 Q Okay.

23 A When he goes out.

24 Q So you saw him around town a little bit?

25 A I was at the, the band office one day, then he

1 was at the health centre and I asked him to give me a ride
2 to the slots.

3 Q Okay. This was at a different time then?

4 A Yeah.

5 Q Maybe I'll ask you a little bit more about
6 specific times you saw him in a minute. So you learned
7 that he was living in Fisher River sometime in 2005. Did
8 you find out, at that time, if he was living with anyone?

9 A Not till I bumped into him at the store.

10 Q Okay. And so I'll ask you some question about
11 that. You said you bumped into him at the store. What
12 store was that?

13 A Marciniak's country store.

14 Q And I've been told that the proper pronunciation
15 is Marciniak's; is that right?

16 A Yeah.

17 Q Okay. And is that located in Dallas?

18 A Yes.

19 Q And can you tell the Commission what you remember
20 about that day?

21 A I just came out of the store and there and he was
22 there gassing up at the gas station there and I went, I
23 went -- he had his windows rolled down so I went and talked
24 to him, asked him what he was up to, what he was up to. He
25 said he was taking his mother-in-law, Gloria, to Fisher

1 Branch for groceries.

2 And then Samantha is in the back with her little
3 girl and there's this other girl and, and I asked him whose
4 little boy is that and then he said oh, she -- that's not a
5 little boy, it's Samantha's step-daughter, Phoenix.

6 Q I think I'll take you back a little bit and ask
7 you some details about what you have just said. So you saw
8 him at Marciniak's store and who were you with that day?

9 A I was my sister, Florence.

10 Q Okay. And do you remember when that was?

11 A No, but it was hot out that day.

12 Q Do you remember the year?

13 A No.

14 Q Was -- could it have been 2005?

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

16 Q And maybe I'll ask you again. Who was with Mr.
17 McKay that day?

18 A There was Wesley and in front was his, his step-
19 mom, Gloria. In the back was Samantha and this older
20 little girl and their baby.

21 Q And this was in a car?

22 A Yes.

23 Q Did you talk to Mr. McKay then?

24 A Well, I guess I just -- like that's when I asked
25 him what he was up to, he said he's going to Fisher Branch.

1 Q Where was your sister, Florence, when you were
2 talking to Mr. McKay?

3 A She was just in the store.

4 Q And did Mr. McKay introduce you to anyone?

5 A Just to Samantha.

6 Q Samantha Kematch?

7 A Yes.

8 Q Did he give you the last name at that time?

9 A He said my girlfriend, Samantha.

10 Q Did you ask him about the children in the car?

11 A Yes, I asked him whose kids are those? And he
12 said that was his baby. And I asked him whose little boy
13 is that? And he just said she's not a boy, she's a girl,
14 and Samantha's daughter, Phoenix.

15 Q What did Phoenix look like?

16 A She had short hair once -- I thought she was a
17 boy because of her hair and she, she was wearing long
18 rubbers and a white striped shirt, I think long sleeve.

19 Q How did Phoenix seem that day?

20 A She just sat in the back seat of the car like
21 right, right up against the seat, she was like staring.

22 Q Did you speak to her?

23 A No.

24 Q Did you see her speaking with anyone?

25 A No.

1 Q How long was your visit that day?

2 A At the store?

3 Q Yeah.

4 A Just about -- just when there chatting and I just
5 went to sit back in the van.

6 Q And by the time you saw them at Marciniak's store
7 that day, had, had you already seen Mr. McKay, did you know
8 he was living in Fisher River by that point?

9 A I can't recall.

10 Q Do you know where Mr. McKay lived when he first
11 arrived at Fisher River in 2005?

12 A He was staying at his -- across from his dad's,
13 at his brother's house.

14 Q And what's his brother's name?

15 A Billy. Billy, I don't know, Kakewash.

16 Q Okay. Do you know if a Linda Kakewash lived
17 there at the time?

18 A Then when she lived there.

19 Q How did you find out that Mr. McKay was living in
20 that, in that first house, the Kakewash house?

21 A When I used to drive there, I used to see his car
22 there but I didn't bother if -- going in and out or visit.

23 Q And where was that house?

24 A It was like down the road from us. I don't know
25 how much, how much miles that is.

1 Q How far would it be to walk? How long would it
2 take you to walk there?

3 A It's about, probably about 20 minutes.

4 Q From Angela Murdock's house?

5 A No, from Angie's, just five minutes and the one
6 where Wesley first lived is was probably like a 20 minute
7 walk there.

8 Q Did you ever visit that house?

9 A No.

10 Q Do you know who he was living with there?

11 A No, he didn't mention it.

12 Q Now, we have heard that he lived, he lived in
13 Angela Murdock's house at some point. Do you know why he
14 went to Angela Murdock's house?

15 A He said that when it -- time I talked to him
16 there he said his brother kicked him out.

17 Q Mr. McKay told you that his brother kicked him
18 out?

19 A Yes.

20 Q Did he say why?

21 A No.

22 Q How was it that you came to know that Mr. McKay
23 was living in Angela Murdock's house?

24 A When I just bumped in, at the slots there, and
25 when I went there, he was there.

1 Q Did he ever come by your house?

2 A Yes.

3 Q Tell me what you remember about that.

4 A He -- I -- he was putting a part on our car and
5 then one day he come over and he's, he's by himself and
6 then another time he come for tea and he was by himself,
7 again. And then there was one time when he and Samantha
8 came over, just them two.

9 Q So he came to your house on three occasions?

10 A Yes.

11 Q Three times? Do you know when it was, in what
12 period of time that was?

13 A No.

14 Q Do you remember what the weather was like around
15 that time?

16 A Well, when Wesley worked on the car it was like
17 warm, warm out.

18 Q And when he came to your house for tea.

19 A It was nice out that day, too.

20 Q This was in 2005?

21 A I can't recall.

22 Q Now, at the time that you had started to see Mr.
23 McKay around Fisher River, did you know anything about
24 Samantha Kematch?

25 A No, not until he introduced me at the store.

1 Q Did you know who was living with him at Angela
2 Murdock's house?

3 A No, not until I -- like I went there for tea.

4 Q So you said there were three, three times then
5 that Mr. McKay came to your house and you also went to
6 Angela Murdock's house for tea.

7 A Yes.

8 Q Is that right? One time Mr. McKay came to your
9 house to work on a car?

10 A Yes.

11 Q Can you tell me about the other times that he
12 came?

13 A To the house?

14 Q Yeah, to your house.

15 A What I, I, I -- when he phoned me he says come
16 over for tea, so he asked me to make tea so I did and, and
17 then I had fried -- I made some fried, I made some fried
18 bread to take home. I didn't stay there long.

19 Q Did Phoenix ever come with him on those
20 occasions?

21 A No.

22 Q Did you see the baby at any time?

23 A No.

24 Q They -- do they bring the baby -- did he bring
25 the baby with him to your house?

1 A No, just came.

2 Q And there was one occasion where he came with
3 Samantha Kematch to your house, as well?

4 A Yes, it was another time.

5 Q And was the baby with him that day?

6 A No.

7 Q Was -- and when I say the baby I'm talking about
8 the younger -- the infant.

9 A No, they were by themselves.

10 Q Did you ever ask them about Phoenix?

11 A When I -- the first time I went there for tea, I,
12 I asked them well, where's your step-daughter, Phoenix?
13 And they just said -- they said they're off with their
14 granny.

15 Q Do you know when they told you this?

16 A No, I can't remember.

17 Q So they had told you they sent her -- sent
18 Phoenix to live with her granny?

19 A Yes.

20 Q Now, I would like to ask you about the times that
21 you went to Angela Murdock's house. How many, how many
22 times were you at Angela Murdock's house?

23 A Oh, three times.

24 THE COMMISSIONER: Two, two, did you say?

25 THE WITNESS: Three.

1 THE COMMISSIONER: Three.

2

3 BY MS. MCCANDLESS:

4 Q And were these social visits or what was the
5 reason you were going over?

6 A Just to visit Wesley.

7 Q And did you ever see any children there?

8 A No, just the -- wait I just -- well, yeah, I just
9 saw the -- their little girl that was furniture walking
10 just -- that's his only one.

11 Q The, the baby then the, the younger child you
12 saw?

13 A Yes.

14 Q Did you see any signs in the house that there had
15 been a little girl living there, the five year old girl
16 living there?

17 A No.

18 Q Did you hear either Mr. McKay or Ms. Kematch ever
19 mention Phoenix's name?

20 A No.

21 Q Now, at the time that you had asked them about
22 Phoenix, and they told you that she was with her granny,
23 what -- how, how did they act when they gave -- when you
24 got that information?

25 A Well, they just started laughing.

1 Q Did you ask any more questions after that?

2 A No.

3 Q Did you find it unusual that they were laughing?

4 A No.

5 Q And you've mentioned when you went to Angela
6 Murdock's house, I believe you said on three occasions, did
7 you ever see anyone at that house, apart from Wes McKay,
8 Samantha Kematch and the infant?

9 A No, just them three.

10 Q Did you ever come with anyone there?

11 A With my -- one day I went with my friend, Nadine.

12 Q Your friend Nadine?

13 A Yes.

14 Q And what's Nadine's last name?

15 A Hudson.

16 Q Hudson?

17 A Yes.

18 Q Did you know at some point that Wes McKay and
19 Samantha Kematch moved out of Angela Murdock's house?

20 A I don't remember.

21 Q Did you, did you eventually learn that they
22 weren't living there anymore?

23 A I can't recall.

24 Q Did Mr. McKay ever tell you that he wasn't paying
25 rent to Angela Murdock?

1 A Can you repeat it?

2 Q Did Mr. McKay ever tell you that he hadn't paid
3 rent to Angela Murdock?

4 A He said he was paying rent but that's all he told
5 me.

6 Q Did he ever tell you that Ms. Murdock had kicked
7 him out?

8 A No.

9 Q Do you know where Mr. McKay went later in 2005?

10 A No.

11 Q Your sister is Florence Bear?

12 A Yes.

13 Q Did you know that they were staying with your
14 sister at some point in 2005?

15 A Yeah, because we were --I remember (inaudible).

16 Q Okay. But you did know at some point they were
17 living with your sister; is that right?

18 A Yes.

19 Q And would October 2005 be around the time that
20 they were living there, as far as you knew?

21 A At my sister's?

22 Q Yes.

23 A I can't remember.

24 Q Did you ever see any children with Mr. McKay,
25 outside?

1 A No.

2 Q Did you ever see Mr. McKay walking outside with a
3 little girl?

4 A One time they, they were walking by our house
5 with -- pushing the little one in a stroller, and there's
6 this older girl walking behind them.

7 Q Was that some time in 2005?

8 A I don't remember.

9 Q Can you just tell the Commission what you
10 remember that you saw?

11 A That day they were walking by when I went outside
12 there Samantha was swearing at the little girl to, like,
13 f-ing hurry up and walk. I just went back in the house.

14 Q Perhaps I'll just ask you some questions. So you
15 were -- were you at your house when you saw this?

16 A Yes, I just went out the back door to walk around
17 the house and they were just walking by the driveway.

18 Q And who did you see?

19 A Wesley, Samantha and the little girl and pushing
20 a stroller and there was another little -- a girl walking
21 behind.

22 Q And you heard them -- someone talking to the girl
23 that was walking behind?

24 A Yeah.

25 Q Everyone.

1 A Yes. And then she was like yelling, like
2 swearing.

3 Q Who was swearing?

4 A Samantha.

5 Q Was she saying anything else?

6 A Well --

7 Q Do you remember like how she phrased it?

8 A Well, like she just said -- like yelled, like
9 f-ing hurry up and walk, like. That is it and I went into
10 the house.

11 Q Did what you saw make you concerned at the time?

12 A I didn't -- I can't recall.

13 Q Did you recognize the little girl who was walking
14 behind everyone?

15 A No.

16 Q Do you know if that was Phoenix?

17 A I'm not sure because, because of the distance.

18 Q Did Mr. McKay ever ask to borrow anything from
19 you?

20 A He wanted to borrow a spade to -- he said he
21 wanted to dig a trench. He had water around his house.

22 Q Did he phone you or did he come to your house?

23 A I was at my parents' house when he pulled in.
24 Then he, he asked me if my dad was home and I said no.
25 Then I asked why, what do you want him for? And he said I

1 want to borrow his spade. I said: No, my dad is not going
2 to (inaudible). So I told him I had one, it was by the
3 tree. Go and pick it up.

4 Q So if I understand you correctly, he asked if he
5 could borrow a spade and you told him he could go pick it
6 up from --

7 A Yeah. Well, he -- first I told him no, then I
8 called him back to my dad's to say that -- told him he
9 could use my spade, it's by the trees.

10 Q Do you know if he ended up taking it?

11 A Yes, he did because I checked when I got home.

12 Q Do you know when?

13 A It was nice out that day, anyway, he comes -- he
14 came for lunch.

15 Q And do you recall giving a statement to the RCMP
16 on March 21, 2006 after Phoenix's death came to light?

17 A I don't know. Do I remember?

18 Q Do you remember --

19 A I remember giving the statement but --

20 Q -- having spoken to them?

21 A -- I don't remember like what I told them.

22 Q And do you remember telling the RCMP about the
23 spade?

24 A Well, yes.

25 Q And did you eventually give them that spade?

1 A I told him he could just go pick it up, it was by
2 the tree.

3 Q The RCMP.

4 A Oh the --

5 Q Did they take that -- anything from you
6 eventually?

7 A Yes, they, yes, they, they took the, the spade
8 because I had an extra one, I said take both of them, I
9 didn't know which one he used.

10 Q Do you recall when it was, the last time you saw
11 Mr. McKay in Fisher River?

12 A No.

13 Q Was it around the time that he had borrowed the
14 spade from you or was it much later?

15 A I saw him around late -- like after he borrowed
16 the spade he was, he was still around.

17 Q Do you remember the last time you saw Samantha
18 Kematch in Fisher River?

19 A No.

20 Q Had you ever known Mr. McKay to be violent?

21 A No.

22 Q Do you remember going to a barbeque at Florence
23 Bear's house sometime in the summer of 2005?

24 A I don't remember the barbeque but I remember a
25 big party there.

1 Q At Florence Bear's house?

2 A Yes.

3 Q And do you remember if -- do you remember Mr.
4 McKay and Ms. Kematch being there?

5 A Yes, they were.

6 Q And did they have any children with them then?

7 A Just their baby girl.

8 Q And was Madeline Bird there that day?

9 A Yes.

10 Q Do you remember anyone mentioning Phoenix that
11 day?

12 A No.

13 Q Did you know that Samantha Kematch was pregnant
14 in the summer of 2005?

15 A I think Wesley told me that she was expecting.

16 Q How many times, in total, did you see Phoenix?

17 A Just at that store that day and then I'm not sure
18 (inaudible) that day.

19 Q And apart from the one conversation you had where
20 they told you -- where Mr. McKay and Ms. Kematch had told
21 you they sent Phoenix to live with her granny, did you hear
22 any mention of Phoenix Sinclair?

23 A From Wesley?

24 Q Or from anyone.

25 A No.

1 Q How did you learn that Phoenix Sinclair had been
2 killed?

3 A I don't know, like I heard like three different
4 rumours after that. I heard that she was, like, buried in
5 cement or something.

6 Q This was after you had --

7 A After --

8 Q -- heard about her death?

9 A After, yeah it was after the cops were
10 questioning everyone there.

11 Q Did you have any contact with Mr. McKay or Ms.
12 Kematch after Phoenix's death came to light?

13 A Yes. He called me from jail.

14 Q And who, who called you from jail?

15 A Wesley.

16 Q And did he tell you -- what did he tell you about
17 the spade he had borrowed from you?

18 A Well, I asked him if -- is that why you borrowed
19 my spade? And he said: Yes, he said he used it to bury
20 the little girl.

21 Q At the time that he had borrowed the spade from
22 you, did you think anything of it?

23 A No.

24 MS. MCCANDLESS: Those are my questions, Mr.
25 Commissioner.

1 THE COMMISSIONER: Thank you. All right. Who
2 wishes -- Mr. Ireland?

3 MR. IRELAND: Thanks, Mr. Commissioner. I think
4 I only have one or two very brief questions.

5

6 CROSS-EXAMINATION BY MR. IRELAND:

7 Q Ms. Garson, good afternoon, my name is David
8 Ireland. I'm one of the lawyers that acts for Steve
9 Sinclair and Kim Edwards; okay?

10 You talked to Commission counsel about a time
11 where you met up with Wes and he took you to play or you
12 were playing slots.

13 A Yes, I just walked into the slots, he was --

14 Q Right, he didn't --

15 A -- in the slot area.

16 Q Okay. He didn't take you there?

17 A No.

18 Q Okay. Did you know Wes ever to be driving taxi
19 in the community, to be taking people around?

20 A Wesley?

21 Q Yeah, Wes.

22 A I can't recall.

23 Q Can't recall?

24 A No.

25 Q Commission counsel asked you about a time where

1 you saw Wes and Sam and two little girls walking by your
2 house. Do you remember that?

3 A When he was walking by with Samantha?

4 Q Right. Do you recall being asked about that?

5 A From the?

6 Q From Ms. McCandless just now? When they turned
7 around or Samantha turned around and said hurry up or words
8 to that effect to the little girl.

9 A Can you repeat it again?

10 Q Yeah, of course. When you were testifying before
11 you talked about seeing Wesley, Samantha, the baby and the
12 little girl following behind them and Sam was shouting at
13 the little girl. Do you remember that?

14 A Yes.

15 Q Okay. And you've also told us about the, the
16 borrowing of the spade.

17 A Yes.

18 Q Yes?

19 A Yes.

20 Q Do you know which one came first? Do you know if
21 you saw them outside first or he borrowed the spade first?

22 A I can't recall.

23 Q You can't recall?

24 A No.

25 Q Do you know if they were close together in time?

1 A I don't know.

2 Q You don't --

3 A I don't remember.

4 Q You don't have a recollection?

5 A No.

6 MR. IRELAND: That's fine, just needed to ask.

7 Those are my questions then. Thank you.

8 THE COMMISSIONER: Thank you, Mr. Ireland. Mr.

9 Khan?

10

11 CROSS-EXAMINATION BY MR. KHAN:

12 Q Hello, Ms. Garson.

13 A Hello.

14 Q My name is Hafeez Khan, I'm counsel for
15 Intertribal Child and Family Services. I just have a few
16 questions for you.

17 Has Madeline ever discussed Wes with you in 2005?

18 A No.

19 Q Has she ever discussed anything about her work
20 with you?

21 A No.

22 Q Did you ever discuss anything about Wes with
23 Madeline?

24 A No.

25 Q Did you ever mention to Madeline about Phoenix

1 or, or, or the infant?

2 A No.

3 Q Has Wes ever discussed to you anything about
4 Child and Family Services' involvement in his life?

5 A No, he didn't.

6 Q Now, you're from a large family.

7 A Yes.

8 Q And you're from a large extended family; right?

9 A Yes.

10 Q Your, your mom and your father, they have large
11 families, too?

12 A Yeah.

13 Q Right? So the family is pretty big in the
14 community?

15 A Yes.

16 Q Right? Would I be wrong to say that the people
17 that you're, you're familiar with the people that you grew
18 up with in the community?

19 So most of the cousins that you know, for
20 example --

21 A Are from the community.

22 Q Are from the community. The people that you know
23 more personally, closer to you?

24 A Yes.

25 Q And with your siblings you mention that you get

1 together from time to time; is that correct?

2 A For family?

3 Q Or should I say your sister mentioned that you
4 get together?

5 A Yeah, for family, family get-togethers --

6 Q Right.

7 A -- or Christmas or ...

8 Q Do you also get together just at random at, at
9 times, drop-bys to say hello?

10 A Could you repeat it again?

11 Q Do you ever just randomly get together, just drop
12 by someone's home once in awhile to say hi, say your
13 mother's place?

14 A Yeah, just visit each other, whatever.

15 Q Pretty common?

16 A Yeah, just go play cards or something.

17 Q So it's a pretty open family?

18 A Yeah.

19 Q Is that a yes, sorry?

20 A Yes.

21 MR. KHAN: Yes. Okay, thank you, those are my
22 questions, Mr. Commissioner.

23 THE COMMISSIONER: Thank you, Mr. Khan. Anybody
24 else? I guess, Mr. -- Mr. Cochrane, any questions?

25 MR. COCHRANE: I have no questions.

1 THE COMMISSIONER: All right. Any
2 re-examination, Ms. McCandless?

3 MS. MCCANDLESS: No re-examination, Mr.
4 Commissioner. I wonder, we only have one witness left for
5 the day, if we might take an early afternoon break and come
6 back at three o'clock?

7 THE COMMISSIONER: Yes, that's, that's
8 reasonable. Witness, you're finished, thank you very much
9 for your attendance and you can leave now.

10 THE WITNESS: You're welcome.

11

12 (WITNESS EXCUSED)

13

14 THE COMMISSIONER: All right, we'll adjourn for
15 15 minutes.

16

17 (BRIEF RECESS)

18

19 THE COMMISSIONER: All right, Ms. McCandless.

20 MS. MCCANDLESS: Thank you, Mr. Commissioner. We
21 are ready for our last witness of the day.

22 THE COMMISSIONER: Thank you.

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

25 THE WITNESS: The Bible.

1 THE CLERK: All right. Just stand up for a
2 moment. And state your full name to the court.

3 THE WITNESS: Keith Stanford Murdock.

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

5 THE WITNESS: K-E-I-T-H.

6 THE CLERK: And your middle name?

7 THE WITNESS: Stanford, S-T-A-N-F-O-R-N -- O-R-D.

8 THE CLERK: And your last name?

9 THE WITNESS: Murdock, M-U-R-D-O-C-K.

10 THE CLERK: Thank you. Will you just take the
11 Bible in your right hand.

12

13 KEITH STANFORD MURDOCK, sworn,
14 testified as follows:

15

16 THE CLERK: Thank you. You may have a seat.

17

18 DIRECT EXAMINATION BY MS. MCCANDLESS:

19 Q Good afternoon, Mr. Murdock. You live in Fisher
20 River?

21 A Yes.

22 Q How long have you lived there?

23 A The majority of my life.

24 Q How old are you?

25 A Forty-five.

1 Q I understand you're currently employed as a
2 compliance resource officer in Fisher River?

3 A Yes.

4 Q What does being a compliance resource officer
5 involve?

6 A Mainly drug testing within our community.

7 Q Have you been employed in the past as a band
8 councillor?

9 A 2005. In the year 2005, for two years.

10 THE COMMISSIONER: Are you still a band
11 councillor?

12 THE WITNESS: No, I'm -- no. I was a band
13 councillor for one term.

14 THE COMMISSIONER: Right.

15 THE WITNESS: A term consists of two years.

16 THE COMMISSIONER: In 2005?

17 THE WITNESS: Yes.

18

19 BY MS. MCCANDLESS:

20 Q In 2005 what was the on reserve population in
21 Fisher River?

22 A About 1700 on reserve.

23 Q And was it a community where people generally
24 knew who was coming and going from the reserve? Do people
25 know each other on reserve?

1 A It depends. It depends on the family. Like when
2 I say family, my family for an example, we have relatives,
3 each family has -- like there's Murdocks, there's Crates,
4 there's McKays, there's Sinclairs, we all pretty much know
5 one another but the extended family members, we probably
6 wouldn't be able to identify them.

7 Q You lived in Fisher River in 2005?

8 A Yes.

9 Q And where in Fisher River did you live?

10 A Lot 175.

11 Q And what route is that, is that on?

12 A 224.

13 Q It's Provincial Road 224?

14 A Yes.

15 Q Madam Clerk, if I could just have you pull up a
16 document, please, it's Commission disclosure 45, the page
17 number is 3069.

18 You'll see you're looking at a photograph here --

19 A Yes.

20 Q -- on the screen. Can you tell me what this
21 photograph depicts?

22 A There's three homes on there. There's my, my
23 home, the home that Wesley lived in, and my Uncle Bus
24 (phonetic).

25 Q So where in the photograph is your home?

1 A Mine is to the top. When you're looking at the
2 screen, it's to the top right.

3 Q The top right, okay. And is this an accurate
4 depiction of the layout in 2005?

5 A Yes.

6 Q Now, the house across the street --

7 A I'm sorry, the house across -- right across from
8 me.

9 Q Yes.

10 A That's my, my cousin, Delmar Sinclair. The one
11 to the right here, at the bottom, is Angie -- Angela
12 Murdock's home where Wesley was living.

13 Q Okay.

14 A I believe.

15 Q At the bottom of the photograph?

16 A Yes. Yes, that's the one right here. I just
17 wanted to make sure.

18 Q And for how long have you lived in that home?

19 A I lived in that home -- we got the home in 1988.

20 Q And you had mentioned that you knew that Mr.
21 McKay was living in Angela Murdock's house at some point in
22 2005?

23 A Yes.

24 Q Do you recall when it was you first learned that
25 he was living there?

1 A I can't really recall the exact month in 2005 but
2 it was in the summer.

3 Q Do you know how long he lived there for?

4 A I can't recall the actual timeframe.

5 Q Do you know who he was living with in the house?

6 A I know he had a partner and two kids.

7 Q I'll ask you more about the children in a moment.

8 Did you ever meet Mr. McKay?

9 A Yes.

10 Q When did you first meet him?

11 A I met him when he came to -- when I was
12 counsellor he came to the band office with a concern and
13 there was -- when he came to me at that time the, the
14 concern was housing related.

15 Q Okay. Do you recall any details about that?

16 A He was looking for a home to stay in.

17 Q Do you -- so you said it -- you were a band
18 counsellor at the time?

19 A Yes.

20 Q Do you know roughly when he had -- you had this
21 conversation with him?

22 A I can't recall the exact date.

23 Q Did you ever socialize with Mr. McKay?

24 A No.

25 Q What did you know about him?

1 A When he came into our community in 2005, I know I
2 -- I knew he was a part-time bus driver for one of the
3 local members in the community, they had a contract for
4 driving buses.

5 Q So he drove a bus in Fisher River in 2005?

6 A Yes, part-time or whenever needed, I guess.

7 Q What kind of a bus did he drive?

8 A A school bus.

9 Q Did you know who he associated with in Fisher
10 River?

11 A No.

12 Q Did you know if he had family ties to Fisher
13 River?

14 A Yes.

15 Q What do you know about that?

16 A He was related to the McKay family. The McKay
17 family is a pretty large family on our community.

18 Q During the time that Mr. McKay lived across the
19 street from you, you had mentioned a partner. You also
20 mentioned some children.

21 A Yes.

22 Q Did you know their names?

23 A No.

24 Q How did you know there were children living
25 there?

1 A I seen them playing outside.

2 Q Can you describe what you saw?

3 A Just normal kids playing around in the front
4 yard.

5 Q Were they boys, girls?

6 A It looked like a boy and a girl. I couldn't
7 really tell. When you see them, when you see them it's
8 like when you, when you see somebody playing outside you
9 don't really -- you don't stop and stare to see who it is,
10 you just take a glance and you notice some kids playing
11 there.

12 Q Did you know around what age the children were?

13 A Pretty young, about eight years younger.

14 Q Eight, eight --

15 A Eight or 10 --

16 Q -- or younger?

17 A Eight to 10, eight to 10 years old, I guess. I
18 couldn't recall the ...

19 Q Did you know who the children were?

20 A No.

21 Q So you never learned their names?

22 A No.

23 Q Do you know if either of those children were
24 Phoenix?

25 A I couldn't tell you because I had never seen a

1 picture of Phoenix.

2 Q Until?

3 A Until --

4 Q You have now seen --

5 A Yes.

6 Q -- what she looks like and do you recall if
7 either of those children looked like ...

8 A It could have, could have, could have been her
9 but I couldn't visually see her because there was one day
10 -- well, one evening Wesley was walking on the road -- as
11 you look at the monitor, towards the left corner, up by the
12 road south on the Provincial Road 224, there's a store, a
13 local convenience store, Wesley was walking by, beside our
14 driveway, with two kids.

15 Q And were those the same children you had seen --

16 A Yes.

17 Q -- outside the house?

18 A Yes.

19 Q Did you know that two of Mr. McKay's sons had
20 spent time in the house in, in the summer of 2005?

21 A Could you repeat that, please?

22 Q Did you know that Mr. McKay had sons that spent
23 time --

24 A No.

25 Q -- in that house in 2005?

1 A No.

2 Q Did you ever see anyone else outside the house
3 that Mr. McKay was staying at?

4 A No.

5 Q You said you knew he had a partner?

6 A Yes.

7 Q Did you ever see his partner?

8 A I seen him -- I would see them getting in and out
9 of a vehicle, maybe, maybe that one time, I guess.

10 Q Did you ever meet his partner?

11 A No.

12 Q Now, I'll just take you back and ask you about
13 what you had seen -- these children outside the house. Did
14 you see anything that concerned you?

15 A No.

16 Q Did you see toys outside the house?

17 A Yes.

18 Q What --

19 A Boy toys, like little trucks or pails, playing
20 around outside.

21 Q Did you ever see a baby outside?

22 A No.

23 Q Now, do you recall, after Phoenix's death came to
24 light in 2006, do you recall contacting the RCMP with some
25 information?

1 A Yes.

2 Q What was the purpose of you contacting the RCMP?

3 A After learning or hearing, when I was on council,
4 our chief, at that time, contacted us, informed us that
5 there was an incident on the community and ...

6 After I found out to -- found out the local
7 person that was identified I knew, knew it was the incident
8 and the incident took place across from my home. So --
9 could you repeat the question again, please?

10 Q Sure. What was it that you got in touch with the
11 RCMP to tell them about?

12 A What I seen.

13 Q Okay.

14 A Happen during the night, outside the -- Wesley's
15 home.

16 Q Okay. Could you please tell the Commission what
17 it is you saw?

18 A This was late in the night, probably between
19 10:00, 12:00 a.m. Me and my wife were sleeping. While we
20 were laying down up -- laying down upstairs. And I
21 couldn't sleep so I got up and came downstairs and sat at
22 my dining-room table to have a smoke. And it was pretty
23 dark out, it was nice outside, you could see the stars.

24 There was a vehicle pulled into -- down Wesley's
25 driveway and there was a vehicle pulled in and backed up

1 towards the front of his house, to his front steps.

2 I knew it was his car because when you live
3 around -- live in our area you, you, you get to know the,
4 the shape of each vehicle, the taillights. As I knew it
5 was his car and his car backed up to the, the steps, I
6 noticed his taillights, it was a Ford Tempo, I believe.
7 The vehicle was running.

8 And I didn't pay attention right away till I
9 looked back to his house again and I noticed this person
10 going in and out of his house, the front door was open,
11 the, the light above the door was on. This person looked
12 like Wes. I couldn't tell for sure if it was him but his
13 body shape like Wes, his figure, the same size, it was
14 thin. And I knew that was his vehicle.

15 And when he would exit the home I noticed him
16 carrying two, two garbage bags, like how a person would
17 carry garbage out to the garbage bin.

18 He then entered the home again and he came back
19 out again, carrying something in his arms and like a, like
20 a person carrying a rug or a person carrying a child. And
21 I couldn't tell if he put -- if he was putting the garbage
22 bags in the -- or the items that he was carrying, carrying
23 out, I didn't know if he was putting them in the trunk or
24 in the back seat of his car. But I knew his tail -- his
25 trunk was open because you could see it, you could tell

1 when he was walking to the back of the car, that one tail
2 light would go out. You could tell he was walking. So I
3 knew he was going back to the back of the car. I knew that
4 one load of the garbage bags he was going to the, to the
5 trunk but the last load trip he -- the last trip he took
6 from his house he put something in the back seat of his car
7 because I never seen the back light go out.

8 Shortly after that, the vehicle -- well, he went
9 upstairs to close his door, got in his vehicle and pulled
10 out, headed -- heading south -- I meant northeast into our
11 community.

12 Q Thank you. If he was heading northeast, if you
13 refer to the photograph in front of you.

14 A Would be north.

15 Q Okay.

16 A Right down towards the Fisher River.

17 Q So towards the, the right hand side of the
18 photograph?

19 A Towards the right, right, yes.

20 Q What time of year was this?

21 A Pardon?

22 Q When did you see this happen?

23 A I can't recall if it was 2005 or 2006.

24 Q Do you know what month?

25 A I couldn't tell if it was -- remember if it was

1 late fall or early fall. But it was in the fall, I
2 believe, I'm not -- I can't recall the exact date. I can't
3 remember. All I know is it was nice out that evening
4 and ...

5 Q You do recall giving a statement to the RCMP?

6 A Yes.

7 Q Would it assist you to refer to that to recall?

8 A Pardon?

9 Q I can refer you --

10 A Sure, please.

11 Q -- if it would assist you. Do you have a copy of
12 your statement in front of you?

13 A No.

14 Q Madam Clerk, if you could pull up page 5504. And
15 this is a copy of the statement you gave to the RCMP on
16 March 14th, 2006?

17 A Um-hum.

18 Q You recall making this statement? I'll just have
19 you read over what's on the page there.

20 A You want me to read it?

21 Q No, just read it over to yourself for a moment.

22 A Okay.

23 Q Does reading that assist you in recalling when
24 you saw this happen?

25 A Late July. This happened in late July. I can't

1 recall -- like now I can't recall it but I do remember the
2 weather but I know it was -- no, I can't, can't remember.

3 Q That's fine. When you saw Mr. -- what, what you
4 believe to be Mr. McKay coming in and out of the house, was
5 he with anyone else?

6 A No.

7 Q Was there a particular reason why you wanted to
8 tell the RCMP about this incident?

9 A After, after I learned about the incident, that
10 night when I was sitting at the dining-room table and I
11 seen what I seen that evening, that night, I don't know
12 whether or not if what I witnessed was Wesley carrying out
13 Phoenix so I didn't want to carry that with me, so I
14 forwarded that -- forwarded what I seen to the RCMP.

15 Q At the time that you had seen this happen, did
16 you think anything of it?

17 A No.

18 Q Did it make you suspicious?

19 A After I heard about the incident, yes.

20 Q And when you say the incident, you're, you're
21 referring to Phoenix's death?

22 A Yes, yes.

23 Q Did you ever see anything else outside of Mr.
24 McKay's house that was out of the ordinary?

25 A Furniture. I seen a dresser, mattress was piled

1 in front of his driveway that following day. I don't think
2 it was that following day but I do remember seeing that and
3 shortly after that, that's the last time I seen Wesley or
4 -- in that unit.

5 Q And was there anything happening with the
6 mattress, did you --

7 A Burnt it -- I noticed it was like a -- I noticed
8 the colour of it, it was like a -- what do you call, square
9 type of colours on it and I do recall coming back, coming
10 back later on that evening from work that the mattress was
11 on fire. I do recall that.

12 Q You saw a mattress burning outside of his --

13 A It was burning outside but the other furniture
14 was gone.

15 Q And did you think anything of that at the time
16 you saw it?

17 A No. I just thought he was moving out, moving out
18 or something.

19 Q Did you ever see any adults interacting with the
20 children outside the home where Mr. McKay was living?

21 A No.

22 Q When you saw Mr. McKay walking with children down
23 the street you had mentioned on the way to the store --

24 A Um-hum.

25 Q -- that one day. Was there anything that stood

1 out, to you, about that day?

2 A No, it was like an adult pair walking with their
3 two kids down the road.

4 Q Did you ever know that Phoenix Sinclair was in
5 the house across the street from you?

6 A No.

7 MS. MCCANDLESS: Thank you. Those are my
8 questions.

9 THE COMMISSIONER: Thank you, counsel. All
10 right. Mr. Ireland?

11 MR. IRELAND: Thank you, Mr. Commissioner. I
12 don't, in fact, have very many questions.

13

14 CROSS-EXAMINATION BY MR. IRELAND:

15 Q Good afternoon, Mr. Murdock, it's David Ireland,
16 I'm one of the lawyers that acts for Steve Sinclair and Kim
17 Edwards; okay?

18 A Um-hum.

19 Q You mentioned in your testimony that you thought
20 Wes was (inaudible) he was driving a bus on the community.
21 Is that right?

22 A Yes.

23 Q A school bus. Who would he be driving that
24 school bus for?

25 A Barbara Murdock.

1 Q Okay. Who is Barbara Murdock?

2 A Barbara Murdock is the wife of deceased Frank
3 Murdock. She had the contract for the bus, school bus, and
4 she, she was looking for drivers that, that year so Wes was
5 driving whenever her bus driver wasn't available.

6 Q Okay. Did you know that through Wes or through
7 Barbara?

8 A Pardon?

9 Q Did you know that Wes was driving? Did Wes tell
10 you that or did someone else tell you?

11 A I seen him driving the bus.

12 Q Oh, right. So you just saw him driving around?

13 A Yeah. Well, I seen him driving a bus because his
14 bus -- Barbara's bus picked up my kids for school. So Wes,
15 Wes was driving, Wes was driving it one morning there,
16 that's why I knew he was -- he got a job or was working for
17 Barbara every now and then, I guess.

18 Q Okay. When, when you saw him driving the bus you
19 said that Barbara had the contract. So who did she have
20 the contract with?

21 A The Board of Education.

22 Q Okay. And that's in Fisher River?

23 A Yes.

24 Q Okay. So the Board of Education gives someone a
25 contract to run the bus service in, in the community?

1 A Yes.

2 Q It is outside the community, as well?

3 A Pardon?

4 Q Is it outside of the community, as well, or just
5 within Fisher River?

6 A Just within Fisher River.

7 Q Okay. Do you have anything -- when you were on
8 the council, did you have anything to do with that, with
9 the signing of those contracts or anything like that?

10 A No.

11 Q Okay. And you have -- you don't have a business
12 relationship with Barbara, you just know her, she's the
13 person who has the contract?

14 A Yes.

15 Q Okay. Ms. McCandless has referred you to your --
16 one of your police statements. Do you recall making more
17 than one statement to the RCMP?

18 A I just remember doing a written one.

19 Q Right.

20 A Yeah.

21 Q You did a written one and then you were
22 interviewed, as well.

23 A Then I was interviewed, yes.

24 Q Right. In both of those statements do you recall
25 saying that -- to the RCMP that you got a phone call from

1 Angela Murdock shortly after people found out about the
2 murder?

3 A Yes.

4 Q You recall that Angela had, had phoned you and I
5 think you said you phoned her back?

6 A Yes.

7 Q Can you tell us about that conversation?

8 A She phoned me -- well, I got a message from her
9 so I returned her call and she was pretty scared when she
10 was speaking to me. She was worried about -- we already
11 knew about the -- what was going on, I think, and she was
12 worried about -- she said something about forensics were
13 after her, wanting to ask her questions because there was a
14 death in her unit. And something about Wes wanted to paint
15 her floor, her basement floor. And I told her -- I
16 encouraged her all -- the only thing I could say to her was
17 encourage her to report it to the RCMP or proper
18 authorities in regards to what she had shared with me.

19 Q Right. And Ms. Murdock testified this morning
20 she did speak with the RCMP and she testified that she had
21 found out about Phoenix's murder on the news and actually
22 saw her house but she didn't recall the conversation so I
23 just wondered if, if you had recalled it and you have.

24 A Yeah.

25 MR. IRELAND: Thank you, Mr. Murdock, I have no

1 further questions.

2 THE COMMISSIONER: Thank you, Mr. Ireland.

3 MR. IRELAND: Thank you.

4 THE COMMISSIONER: Mr. Paul?

5 MR. PAUL: Thank you, Mr. Commissioner.

6

7 CROSS-EXAMINATION BY MR. PAUL:

8 Q Sacha Paul, I'm one of the lawyers for Winnipeg
9 CFS and the department. I have just one small matter in
10 response to some questions put to you by Mr. Ireland. I
11 think your evidence you gave to the Commissioner was that
12 Barb Murdock had a contract with the Board of Education.
13 Is that correct?

14 A Yes.

15 Q And that Board of Education, that's a band run
16 thing; right?

17 A Yes.

18 Q Okay. Run by Fisher River?

19 A Yes.

20 MR. PAUL: Right. Mr. Commissioner, that's my
21 sole question.

22 THE COMMISSIONER: Thank you.

23 MR. PAUL: Thank you.

24 THE COMMISSIONER: Anybody else before Mr.
25 Cochrane? It would appear not. Mr. Cochrane, any

1 questions?

2 MR. COCHRANE: I have no questions, Mr.
3 Commissioner.

4 THE COMMISSIONER: Thank you. Any
5 re-examination?

6 MS. MCCANDLESS: No re-examination, Mr.
7 Commissioner.

8 THE COMMISSIONER: Witness, you are completed and
9 I thank you very much for your attendance and appearance
10 here.

11 THE WITNESS: You're welcome.

12

13 (WITNESS EXCUSED)

14

15 THE COMMISSIONER: Now does that -- that
16 completes the witnesses for today, does it?

17 MS. MCCANDLESS: Yes, that does, Mr.
18 Commissioner.

19 THE COMMISSIONER: All right. Now I have one
20 other matter I want to return to, the matter I raised
21 yesterday morning about the conflict of interest issue. I
22 don't see Mr. Saxberg here. Mr. Cochrane, you're here from
23 the firm, are you?

24 MR. COCHRANE: Yes, I am.

25 THE COMMISSIONER: I, I indicated I -- when Mr.

1 Saxberg was ready to speak to that matter I would like to
2 hear him, either yesterday or today.

3 MR. COCHRANE: Yes.

4 THE COMMISSIONER: He spoke briefly yesterday.
5 Is there anything else to be said? Do you know?

6 MR. COCHRANE: Mr., Mr. Commissioner, I do know
7 that he is addressing the matter this afternoon with each
8 of our clients. Beyond that, I'm not able to speak to the
9 matter at this point.

10 THE COMMISSIONER: All right. But as far as you
11 know, he has nothing else to -- make no other
12 representations to me here?

13 MR. COCHRANE: I, I believe he may be addressing
14 the matter but I am certainly not within a position to do
15 that this afternoon.

16 THE COMMISSIONER: All right. Well, then that we
17 are going to be adjourned for a three week period now, I
18 don't wish to have this matter stand indefinitely because I
19 would like it explored and, and some answers, and it seems
20 to me that the logical -- you, you can be seated when I
21 speak --

22 MR. COCHRANE: Thank you.

23 THE COMMISSIONER: -- if you want to respond
24 after, Mr. Cochrane, you certainly may. It seems to me
25 that the logical way of exploring the matter that I raised

1 yesterday would be to have an opinion obtained from the Law
2 Society. I think it's an area that it would be in a,
3 should be in a position to be of assistance to the
4 Commission.

5 I indicated, yesterday, that I had a concern
6 about whether there would be a conflict with respect to the
7 supervisor who signed off on March the 9th, that being Ms.
8 Faria and -- on the one hand and the authorities on the
9 other. I have given further thought and think that the
10 matter should be looked at from the same supervisor and the
11 -- her -- counsel's role of also acting for witness Dyck
12 and the -- with respect to acting for Faria and -- the same
13 supervisor that is, and the witness, Berg.

14 So I am now directing Commission counsel, in the
15 fair and impartial manner in which they have conducted this
16 inquiry to date, to seek the opinion of the Law Society of
17 Manitoba, making available to it such transcript excerpts
18 that counsel believes will assist the Law Society in
19 looking at this matter and we'll -- and I would ask that
20 the Law Society, if it's in a position to do so, render us
21 an opinion as to whether there is a conflict of interest
22 situation here, if it's possible within the next three
23 weeks while we stand adjourned and I would look for the
24 cooperation of all concerned. I would request that
25 whatever documentation Commission counsel sends to the Law

1 Society that all parties and interveners with standing in
2 front of this Commission, through their counsel, receive a
3 copy of that material and I would hope that Mr. Saxberg and
4 his firm will give their full cooperation to the Law
5 Society. It's a delicate matter that I believe should be
6 sorted out so that all parties who have standing here get
7 the representation they deserve throughout the balance of
8 the Commission and it is for that reason, and my concern
9 whether there is a conflict present, in the instances I
10 have referred to, that I am requesting this opinion be
11 obtained.

12 Now, does -- is there anything else you might
13 like to say, Mr. Cochrane, on behalf of Mr. Saxberg and the
14 firm?

15 MR. COCHRANE: I have to admit, Mr. Commissioner,
16 that I, I, I have had very little discussion with Mr.
17 Saxberg. I, of course, was not here yesterday and I was in
18 the north yesterday, so I have not had the benefit of a lot
19 of discussion with him other than I do know he is meeting
20 with, with our clients this afternoon.

21 I can assure you, though, that we will, of
22 course, cooperate fully and -- with the Law Society and
23 with, with your direction and, of course, with Commission
24 counsel.

25 THE COMMISSIONER: Well, I much appreciate that

1 and I think it's to everybody's advantage to get the matter
2 looked at --

3 MR. COCHRANE: Yes.

4 THE COMMISSIONER: -- and so we can carry on when
5 we reconvene, I believe it's on the 4th of March. Is that
6 correct?

7 MS. MCCANDLESS: Yes, that's correct.

8 THE COMMISSIONER: All right. Is there -- are
9 there any other matters to be attended to today, before we
10 adjourn? And we're going to be back at the Convention
11 Centre, I guess, are we, next time?

12 MS. MCCANDLESS: Yes, we are.

13 THE COMMISSIONER: All right.

14 Thank you all for your attendance and we will see
15 you in three weeks times.

16 MS. MCCANDLESS: Thank you. Good afternoon.

17 THE COMMISSIONER: We'll stand adjourned.

18

19 (PROCEEDINGS ADJOURNED TO MARCH 4, 2013)