



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

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

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

TUESDAY, JANUARY 15, 2013

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

MS. K. BJORNSON, for Manitoba Métis Federation and Métis Child and Family Services Authority Inc.

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1 JANUARY 15, 2013

2 PROCEEDINGS CONTINUED FROM JANUARY 14, 2013

3

4 THE COMMISSIONER: Good morning.

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

6 UNIDENTIFIED PERSON: Good morning.

7 THE COMMISSIONER: All right. You can proceed to
8 swear today's witness, or affirm.

9 THE CLERK: Sir, if you could just stand for a
10 moment? Is it your choice to swear on the Bible or affirm
11 without the Bible?

12 THE WITNESS: On the Bible.

13 THE CLERK: All right. Take the Bible in your
14 right hand. State your full name for the court.

15 THE WITNESS: Christopher Zalevich.

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

17 THE WITNESS: C-H-R-I-S-T-O-P-H-E-R.

18 THE CLERK: And your last name?

19 THE WITNESS: Z-A-L-E-V-I-C-H.

20 THE CLERK: Thank you.

21

22 **CHRISTOPHER ZALEVICH,** sworn,
23 testified as follows:

24

25 THE CLERK: Thank you.

1

2 DIRECT EXAMINATION BY MS. WALSH:

3 Q Good morning, Mr. Zalevich.

4 A Good morning.

5 Q Let's start with your background. You have a
6 degree in human ecology and family studies from the
7 University of Manitoba?

8 A Yes.

9 Q You obtained that in 1999.

10 A That's correct.

11 Q Now, I understand that you worked as a volunteer
12 for Winnipeg Child and Family Services after you graduated?

13 A I did.

14 Q You also volunteered with the John Howard Society
15 and you did some counselling at Headingley for about a
16 year?

17 A With the John Howard Society.

18 Q Then you began working as a family services
19 worker for Winnipeg Child and Family Services in January of
20 2001?

21 A Yes.

22 Q You held that position until September or October
23 of 2002.

24 A Yeah. Yes.

25 THE COMMISSIONER: Started when?

1 MS. WALSH: Started in January 2001 as a --

2 THE COMMISSIONER: '01.

3 MS. WALSH: -- family services worker.

4 THE COMMISSIONER: And held the position to when?

5 MS. WALSH: September or October of 2002.

6

7 BY MS. WALSH:

8 Q And then you worked at abuse intake until May of
9 2003?

10 A Yes.

11 Q What was your position at abuse intake?

12 A As a social worker.

13 Q And just very briefly -- we will talk more about
14 this -- but what is abuse intake? What was it in May of
15 2003 and, and prior to that, the year before, when you were
16 there?

17 A Abuse or abuse intake follows up with referrals
18 of, of allegations of abuse and does investigations,
19 whereas there's an allegation that a child's being abused
20 and there's something specific that's being alleged, either
21 physical or sexual in nature.

22 Q So you said it follows up referrals of validated
23 abuse instances.

24 A I don't know if "validated" would be a correct
25 word.

1 Q I thought I heard you say validations of abuse.

2 A Sorry, allegations.

3 THE COMMISSIONER: Allegations.

4 MS. WALSH: Allegations, ah, thank you.

5

6 BY MS. WALSH:

7 Q Then you went back to the family services unit
8 and stayed there until October of '03?

9 A Yes.

10 Q So that was from May of '03 to October '03?

11 A Yeah.

12 Q After that, you began working at the crisis
13 response unit?

14 A Yeah.

15 Q So that was in the fall of 2003?

16 A That's correct.

17 Q In March of 2005, you were involved in the
18 provision of services to Phoenix Sinclair and her family?

19 A Yes.

20 Q You were still employed -- working in the crisis
21 response unit at that time?

22 A Yes.

23 Q And from, from the fall of 2003 until the
24 present, you have been working as a crisis response worker?

25 A Yes.

1 Q Right now you are seconded from Winnipeg Child
2 and Family Services to the agency known as ANCR?

3 A Yes.

4 Q So same position, just different employer.

5 A Right, yeah.

6 Q Or different agency. Let's talk a little bit
7 about your training. You don't have any formal training as
8 a social worker, is that right, in terms of, of your
9 university education?

10 A Correct.

11 Q Okay. When you started working as a family
12 services worker in 2001, had you received any direct
13 training in child welfare?

14 A No, not in child welfare.

15 Q When you started work at Winnipeg Child and
16 Family Services, were you given any training?

17 A No.

18 Q So that's when you began working in the fall of
19 2001 -- or in 2001. After --

20 A In January of 2001.

21 Q January, sorry. After January 2001, at any point
22 when you were working at Winnipeg CFS, did you receive any
23 training with respect to child welfare?

24 A I'm presuming you're talking about formal
25 training like university-type training, or which kind of

1 training?

2 Q Or courses or training provided by the agency.

3 A The training that I received from the agency was
4 based on core competency training, and that occurs for all,
5 all social workers. The other training that I received was
6 informally through supervisors or co-workers.

7 Q The core competency training, when did you
8 receive that?

9 A I started that training in approximately
10 September or October of 2001.

11 Q So about ten months --

12 A Yes.

13 Q Nine, ten months after you started working at
14 CFS?

15 A Approximately, yeah. Somewhere around that time,
16 so ...

17 Q What did the competency training involve?

18 A It's been a long time. Training with respect to
19 families that we work with regarding neglect, how to -- how
20 we approach marginalized families, being understanding and
21 compassionate of what they are, they are involved in.
22 There is -- it's been a long time so it's hard to remember
23 directly, but it's related to child welfare services.

24 Q Okay. You said that you worked as an abuse
25 intake worker?

1 A Yes.

2 Q Did you receive any training specific to that
3 position?

4 A No.

5 Q Did you receive any training specific to being a
6 crisis response worker?

7 A No.

8 Q Have you received training with respect to the
9 provincial or foundational standards?

10 A In the last few years, yes.

11 Q How recent, when you say the last few years?

12 A I'm going to approximate somewhere around 2008,
13 2007.

14 Q Okay.

15 A Sorry, I apologize if I have the year wrong.

16 Q No, that's fine. So 2007, 2008, you think?

17 A Yeah, I think so.

18 Q You hadn't received that training as of 2005?

19 A No.

20 Q Have you received training with respect to how to
21 use CFSIS, the electronic data system?

22 A Yes.

23 Q Do you recall when you received that training?

24 A No, I don't recall when I received that.

25 Q Have you had any ongoing training with respect to

1 the use of CFSIS, or was it a one-time training?

2 A I believe it was a one, one-time training, and
3 the majority of, of training or learning about CFSIS has
4 come from asking co-workers questions.

5 Q Have you received any training with respect to
6 what to include when you create a history?

7 A The creation of, of histories is, is an ongoing
8 debate at -- not necessarily a debate, but there's no
9 standardized history that workers follow.

10 Q So with respect to my, my question about whether
11 you received training with respect to, to how to create
12 one, what's your answer?

13 A I would say the training that I received
14 regarding histories has come through support or
15 constructive criticism from my supervisors.

16 Q But no formal training.

17 A No formal training.

18 Q What about -- have you received training with
19 respect to what needs to be reviewed when you are assigned
20 a file?

21 A Formal training?

22 Q Yes.

23 A No.

24 Q Any other kind of training?

25 A Co-workers and supervisors again. Practical work

1 (inaudible) practice work.

2 Q What about with respect to file recording, what
3 needs to be documented?

4 A It may have been included in the competency based
5 training, so I may have received it there. I can't
6 remember.

7 Q So if you didn't receive formal training with
8 respect to things like creating a history, what about ...
9 Let me ask you this, first: What about risk assessment?
10 Have you had any formal training with respect to risk
11 assessment?

12 A Not that I recall.

13 Q So if you haven't received formal training with
14 respect to risk assessment, what to include when creating a
15 history, how have you known how to do your job? Would you
16 agree that those are aspects of your job?

17 A Those are aspects, yes. How do I know how to do
18 those things? From having read previous reports, from
19 having a caseload in family service, reading through files,
20 learning from how other workers have done these, seeing
21 what I believe is strengths or stronger types of file
22 recordings and picking up on, on those and utilizing them
23 myself. And if I'm supported on using those by my
24 supervisor, then I, then I continue to do that.

25 Q We'll, we'll talk about your supervisor; we'll

1 come to the, the kind of support that you had. You said
2 that you didn't have training in standards. Is it fair to
3 say, then, that when you performed your job you didn't rely
4 on standards, per se?

5 A Correct. I wasn't directly thinking about what
6 standard I was following at, at this point or at this point
7 on different files.

8 Q Were -- is it fair to say you were governed by
9 your understanding of best practice?

10 A I would say that, yeah.

11 Q Based on your experience on the job and your
12 interaction with co-workers and supervisors.

13 A Yeah.

14 Q Okay. Have you ever looked up standards online,
15 for instance?

16 A Prior to 2005?

17 Q Yes.

18 A I don't recall having done that, no.

19 Q When we say prior to 2005, what about as of March
20 of 2005?

21 A I can't recall doing that as of March of 2005.

22 Q Is that something that you now do?

23 A We've received training in standards since
24 then --

25 Q Is that the training --

1 A -- so it's not something that I would do on a
2 regular basis at all.

3 Q Is that the training you said you got in '07 or
4 '08?

5 A Yeah.

6 Q Were you ever aware -- in 2005, let's say. As of
7 2005, were you, were you aware of the existence of a
8 Winnipeg Child and Family Services policy and procedures
9 manual?

10 A I believe there was one. I -- it's not a clear
11 recollection that I have.

12 Q So I gather it wasn't something that you referred
13 to when you were performing your job in 2005, for instance?

14 A No.

15 Q Let's talk about the crisis response unit in
16 general. In 2005, what was the role of the crisis response
17 unit?

18 A There's a variety of, of tasks that the crisis
19 response unit was involved in and so the ... There's a
20 huge variety of, of things that we did and I don't think I
21 can fairly encompass what the role of, of the crisis
22 response unit is. I don't think it's my --

23 Q Okay.

24 A I don't think I'm best -- the best person to
25 discuss that.

1 Q Fair enough.

2 A But I can, I can say that --

3 Q Yeah.

4 A -- our role was to respond to new referrals that
5 we received on files that were not currently open. And
6 that's kind of, in general, what we were doing.

7 Q Okay. So let's go to page 19625. You've got a
8 screen in front of you and I know that your counsel has
9 documents in front of you. The document is Commission
10 disclosure 992.

11 MR. RAY: That document may not be in your, in
12 your binder, Chris.

13 THE WITNESS: Okay.

14 MR. RAY: I do have one here.

15 MS. WALSH: Do you have a copy of it for him?
16 Yeah.

17 MR. OLSON: It's, it's been highlighted and
18 tabbed, but (inaudible).

19 UNIDENTIFIED PERSON: (Inaudible).

20

21 BY MS. WALSH:

22 Q So your counsel has kindly given you a copy of
23 the document.

24 A Sorry, what page is that again?

25 Q Well, actually, let's go to page 19628. You've

1 got the document. Do you recognize this document? It's,
2 it's entitled Winnipeg Child and Family Services, Intake
3 Program Description and Procedures. Have you ever seen
4 this document before?

5 A Prior to seeing it from my counsel, I would ...

6 Q Well, prior --

7 A Yeah.

8 Q As of 2005, had you seen the document?

9 A I may have. I, I don't recall.

10 Q You, you can't recall whether it's a document you
11 would have consulted in 2005?

12 A No, I don't remember.

13 Q Is it likely that you did consult a document such
14 as a procedure manual such as this in 2005?

15 A It's likely that I've seen this, but I can't say
16 with certainty. Like, I don't have an independent
17 recollection of saying, Oh, I remember seeing that.

18 Q And going to --

19 A And this, this looks like a document that would
20 be an intake program description and procedures document.

21 Q You don't have a recollection of, of going back
22 and consulting a document like this one, or this one, when
23 you were performing your services in '05.

24 A No, I don't.

25 Q I'm going to walk you through portions of it and

1 ask you if you agree with the program description in terms
2 of your understanding of the work that your unit was doing.

3 A Sure.

4 Q So we're on page 19628, under the heading Program
5 Description, the second paragraph:

6
7 "The CRU and AHU mandate is
8 to process all referrals for
9 service to the Agency, to gather
10 and screen information, to
11 determine the validity of the
12 referrals, and to assign priority
13 levels to referrals to ensure
14 further assessment or
15 investigation occurs if required.
16 As well, the CRU and AHU would
17 have the primary obligation to
18 ensure the safety and well-being
19 of children at risk (as prescribed
20 in the Child and Family Services
21 Act, Part III, Child Protection),
22 which may include responding to
23 and investigating allegations of
24 serious physical and/or sexual
25 abuse and/or neglect."

1

2 Does that match your understanding of, of the
3 role of your unit?

4 A Yes.

5 Q Okay. Then it goes on to say:

6

7 "The case management
8 decisions at the CRU and AHU would
9 include:

10 "Is the referral eligible
11 and/or appropriate for Winnipeg
12 Child and Family Services?

13 "Are the children safe or in
14 need of protection?

15 "What immediacy of response
16 does the referral warrant?"

17

18 MS. WALSH: Can you scroll up, please?

19

20 BY MS. WALSH:

21 Q

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

25 "Can the case be opened and

1 closed at the CRU and AHU level?
2 If so, what are the criteria for
3 doing so?"

4

5 So does that match your, your understanding of,
6 of your unit's role --

7 A Yes.

8 Q -- in '05?

9 A Yeah.

10 Q Then under the heading Service Provision and
11 Assessment:

12

13 "With respect to the day-to-
14 day provision of services the CRU
15 and AHU will:

16 "- Interface with Intake and
17 Abuse Units as well as with the
18 Agency as a whole and with
19 external Agencies.

20 "- Respond to any crisis
21 involving assessing and
22 intervention in situations where a
23 child may be at acute risk of
24 abuse or neglect. The CRU will
25 respond to all situations where a

1 response is required within 24
2 hours or within 48 hours (on cases
3 not open to other agency units).

4 "Situations requiring a
5 response between 48 hours and 5
6 days or longer will be the
7 responsibility of the Intake and
8 Abuse units; a file will be opened
9 and forwarded to the appropriate
10 unit. Where the Abuse units
11 cannot respond within the 24 or 48
12 hour time period the CRU will
13 conduct a preliminary
14 investigation, establish safety
15 and then transfer the file to the
16 appropriate abuse unit."

17

18 So does all that I've read match your
19 understanding of the work that your unit did as of '05?

20 A Yes.

21 Q Then if you turn to page 19634. Towards the
22 bottom of the page under the heading, Recording Outline:
23 Closings - CRU. You see that?

24 A I do.

25 Q So a) says:

1

2

"Cases warranting no response

3

or no further response after AHU

4

or CRU intervention may be closed.

5

If there is a previous case

6

history, a file review shall be

7

conducted prior to closing."

8

9

Does that -- is that consistent with your

10 practice in 2005?

11

A Yes.

12

Q And with how you understood the unit functioned

13

in 2005.

14

A Yes.

15

Q

16

"Generally speaking, if a

17

matter may be resolved and the

18

case closed with limited further

19

intervention (a few phone calls or

20

a field) the case may be kept by

21

the CRU beyond 48 hours to

22

facilitate the case disposal.

23

"All cases open to Intake,

24

Abuse or any other unit shall

25

remain with that unit for

1 assessment, intervention or
2 closing. Cases shall not be
3 returned to the CRU except when
4 the receiving unit cannot
5 reasonably respond in the time
6 frame required to ensure safety.
7 Such a return shall be negotiated
8 between receiving unit supervisor
9 and the CRU supervisor. Once
10 cases are open to an Intake or
11 Abuse Unit they shall not be
12 returned for the sole purpose of
13 further information gathering."

14

15 So, again, is all that consistent with your
16 understanding of the role of the CRU in 2005?

17 A Yes.

18 Q If you turn to page -- the next page, 19635, you
19 see the heading Safety Assessment?

20 A Yes.

21 Q And it says:

22

23 "CRU and AHU social worker
24 will assess the immediate safety
25 of children. This may include but

1 is not limited to the following
2 factors,"

3

4 and then it lists a number of factors.

5 Now, do you agree that, that this was part of
6 your responsibility as a CRU worker?

7 A Yes.

8 Q Okay. And if you turn to page -- the next page,
9 it's got a 24 Hour Response and then the following page,
10 19367, has the heading Vulnerability, and it says "young
11 child or developmental age" as one of the factors for high
12 priority, immediate response, or within 24 hours.

13 Now, at the time that you were involved in
14 providing services to Phoenix and her family in March of
15 '05, were you aware that the age of a child was a factor
16 which contributed to vulnerability?

17 A Yes.

18 Q And what was the reason for that?

19 A A young child is less likely to have lots of
20 contact with other collaterals, such as school. They're
21 also less able to speak out for themselves and defend
22 themselves, and if they need to get away by themselves,
23 they're less physically able to, to do that. They're
24 dependent on their caregiver.

25 Q In, in March of 2005, Phoenix was just under

1 five. Did you consider that she fell within that
2 vulnerable age group?

3 A Phoenix would have been more vulnerable than
4 someone that's school age. I'm not sure if, if the young
5 child or developmental age referred to in this document is
6 age four, three, two, that kind of stuff, so I'll speak for
7 answering your question as opposed to what this document is
8 referring to.

9 Q So let me ask you this: In 2005 when Phoenix was
10 -- in March of 2005 she was just under five. Did you
11 consider her to be vulnerable because of her age?

12 A The risk to, to Phoenix would be increased
13 because of her age.

14 Q Now, I'm speaking in the time frame 2005. How
15 did matters come to the attention of the crisis response
16 unit?

17 A They could either come by way of fax, email,
18 letter, people doing walk-ins, people calling the crisis
19 response unit. They could come in -- and that'd be on
20 phones. They could come from the after-hours program.
21 They could possibly come from intake programs or possibly
22 the abuse program.

23 Q And was there a period of time during which you
24 understood CRU was typically to keep a file?

25 A Hold on to a file?

1 Q Yes.

2 A I'm not sure how long you're, you're referring
3 to.

4 Q Well, we've seen reference in the document that I
5 was just going over with you of a reference to 24 hours, 48
6 hours response time during which CRU would carry out its
7 work. Did, did you have an understanding of a time frame
8 in which CRU would generally hang on to a matter before
9 making a decision about it to do something else with it?

10 A Typically the crisis response unit held on to
11 files for -- by held on, I mean followed up with files --
12 their 24 hour response time. There were occasions where
13 the crisis response unit would follow up with referrals
14 that were not 24 hours, such as 48 hours, or even for up to
15 five days or more than five days. So essentially we would
16 hold -- sometimes be dealing with matters that received a
17 response time of, of more than, than five days. Ideally,
18 my understanding of the crisis response unit has always
19 been that the intent is to hold on to things or respond to
20 things that are meant for within a 24-hour basis.

21 Q And why is that?

22 A We follow up on things that are within 24 hours
23 because we're the crisis response unit and that is, that is
24 our role. We're given things to hold on to that are
25 longer, sometimes because they can be closed at the crisis

1 response unit. Let's say, for example, serving someone
2 with court documents, it doesn't need a longer term worker
3 to do that so we could possibly fulfil something like that,
4 and that would be an up to five day or more than five day
5 response time. Essentially, what I, what I'm referring to
6 is being -- taking some of the pressure off of other units,
7 is what CRU was also used for.

8 Q Okay. We'll talk some more about that in a bit.
9 Now, I, I think I started using the phrase "hold on to" but
10 I think you, you used what's probably a better phrase,
11 which mean -- which was doing work on the file. That's,
12 that's what you meant by --

13 A Yeah. Following up.

14 Q Following up, okay. Who was your supervisor
15 during the time that you were involved in Phoenix
16 Sinclair's file in March of '05?

17 A Her name's Diva Faria.

18 Q And from, from your perspective, what did her
19 supervision of you consist of?

20 A Daily consultations of either files or intakes
21 that I was generating. That would be the quickest way I
22 could describe them.

23 Q Who would initiate those daily consultations?

24 A Well, it could be either one of us.

25 Q Was she easily accessible to you?

1 A She was.

2 Q Did you also have regularly scheduled meetings
3 set up with Ms. Faria?

4 A We, we did, and there were -- I'm sure there were
5 times where that wasn't possible because of all sorts of
6 pressure. So I can't remember, as of March of 2005, if I
7 was receiving regular supervision. Like, for example,
8 monthly supervision, I can't comment on what it looked like
9 at that time.

10 Q Were there certain actions or decisions with
11 respect to the work that you did on a file where you needed
12 your supervisor's approval or authorization?

13 A An example of that would be if we were to
14 apprehend a child. That is one area where a supervisor's
15 approval would be needed before such an action occurred, so
16 that's, that's one example, yeah.

17 Q What else?

18 A Closing the file.

19 Q Okay.

20 A You referenced approval. Those are, those are
21 two main things that stick out in my mind.

22 Q What about transferring a file to another unit?

23 A That, that would also be a supervisor's approval,
24 yes.

25 Q Now, I understand that in '05 the crisis response

1 unit was organized such that the workers were divided into
2 two types of functions.

3 A Yes.

4 Q Can you describe those functions?

5 A The functions that you're referring to are
6 between the two teams. One team would be on phones,
7 screening phone calls and receiving referrals in that way.
8 When that team is doing that, the second team is responding
9 to referrals such as the ones I described earlier, like
10 where we were following up with files that came in from the
11 phone team or from the after-hours team or through, like I
12 was saying, fax, letter, email. The second team that I'm
13 referring to, which I'll just call being on fields, would
14 also respond to walk-ins as well, I believe.

15 Q Okay. So one team was on phones?

16 A Yes.

17 Q While the other team was on fields.

18 A And these two teams would rotate on a three-day
19 basis.

20 Q You were a member of one team.

21 A I was on team A.

22 Q Team A. When a team was on fields, is that also
23 sometimes referred to as being on backup?

24 A That's correct.

25 Q How many people were there in your team, in 2005.

1 A I think there was six social workers on my team.

2 Q Was there also an administrative person?

3 A Yes.

4 Q And a supervisor.

5 A Yes.

6 Q The super -- and the other team, did it have the
7 same number of staff?

8 A I believe so, yeah.

9 Q The supervisor for the other team was Diana
10 Verrier?

11 A That's right.

12 Q I'm talking in '05.

13 A Yeah.

14 THE COMMISSIONER: Of which team, A or B?

15 THE WITNESS: Team B.

16 MS. WALSH: Team B, so Mr. --

17 THE COMMISSIONER: Who, who --

18 MS. WALSH: -- Zalevich was team A, and his
19 supervisor was Diva Faria.

20 THE COMMISSIONER: Faria, of team B?

21 MS. WALSH: The, the names sound very familiar.

22 So Mr. Zalevich's supervisor is Ms. Faria, F-A-R-I-A --

23 THE COMMISSIONER: Yes.

24 MS. WALSH: -- team A, and team B is Verrier --

25 THE COMMISSIONER: Oh, okay.

1 MS. WALSH: V-E-R-R-I-E-R.

2 THE COMMISSIONER: I've got it.

3 MS. WALSH: I know it sometimes becomes
4 confusing; they each have a first name that begins with a D
5 and ...

6

7 BY MS. WALSH:

8 Q So the role of a worker, the team on phones, was
9 what specifically?

10 A Team on phones would receive phone calls through
11 reception. People -- collaterals, people in the community
12 would call in with referrals regarding child protection
13 concerns or sometimes consults, whether or not something
14 was a child protection concern. Or sometimes they would
15 want information on pretty much anything, sometimes.
16 Essentially, it was, it was a general line that workers
17 could expect to receive any sort of call at any time.

18 Q What were they -- workers who were on the phones
19 expected to do with the calls?

20 A Gather information, make a brief assessment based
21 on the referral, the -- sorry, the information that they
22 could gather from the person and then write that up; look
23 up the history, write that up; make a decision -- or
24 recommendation, sorry, as opposed to a decision, on how
25 quickly something needed to be responded to or where it

1 needed to go or if it needed to be closed. That's in
2 general, what that team did.

3 Q You talk about gathering information. Where
4 would they gather that information? I know you said from
5 the caller or the --

6 A That --

7 Q -- source of referral.

8 A That is one place that they would gather
9 information from, from the source of referral. Or they
10 would call collaterals such as public health, EIA, Manitoba
11 Health, police, schools, any number of sources.

12 Q And the history, where would they get the history
13 from?

14 A From CFSIS.

15 Q From CFSIS.

16 A Yeah.

17 Q So the, the person on phones would be expected to
18 look up the subject of the call on CFSIS?

19 A Yes.

20 Q Then on backup or fields, what, what were the
21 duties of the worker?

22 A To -- well, the -- on -- well, on fields, the
23 supervisor would assign referrals that came off of -- from
24 any one of those areas that I referred to before. But in
25 this case, they would get a referral from phones and

1 supervisor would assign it to a worker, maybe have a
2 discussion about what needed to be happening -- perhaps not
3 -- and the worker would follow up on that referral.

4 Q Did every file go from phones to fields or
5 backup?

6 A No.

7 Q What, what might happen from phones?

8 A The file could go directly to intake. It could
9 go directly to abuse. It could be closed at phones.

10 Q When you say intake, you're distinguishing that
11 from abuse intake?

12 A Yes. I'm referring to tier two intake when I use
13 the general term "intake.:"

14 Q Tier two intake.

15 A Yeah.

16 Q Sometimes called general intake?

17 A Yes.

18 Q So a call could go from phones to backup or to
19 abuse intake or to general intake, or it could be closed.

20 A Yes. They would do a write-up and then send it
21 to one of those units or close it.

22 Q Who made the decision as to what action to take
23 from phones?

24 A Social worker would -- based on the gathered
25 information, they would decide whether or not it should be

1 suggested that it goes to intake or backup or abuse intake,
2 or to be closed. But ultimately if it goes to one of those
3 units or if it's closed, it's based upon the supervisor.

4 Q Ultimately, it's the supervisor's decision?

5 A Yes. Unless the social worker doesn't believe
6 that there's child protection concerns, then a call could
7 be logged.

8 Q A call could be logged?

9 A Yes.

10 Q What does that mean?

11 A So if someone's asking about what counselling
12 resources are in my area and they don't want to give their
13 name or the name of the client that's going to be accessing
14 these services, then the worker could provide that
15 information to the caller and just log a phone call and
16 say: I took a call at this time. It was anonymous. No
17 child protection concerns. It took me this long. That
18 sort of thing.

19 Q Where was that log kept?

20 A I believe there was a handwritten log sheet at
21 each --

22 Q Is this true in 2005?

23 A That's what I recall.

24 Q What were the criteria for each of the options in
25 terms of what you could do with a referral once it came in

1 on phones? Let's start with going to fields.

2 A If the, if the person on phones believed that it
3 required an immediate follow-up, that, that'd be one
4 criteria. If that same person also thought that it could
5 be something that's dealt with at the crisis response unit
6 and, and not require or need longer term follow-up, then
7 they would also suggest that referral to go to the crisis
8 response unit.

9 Q What about to go to intake?

10 A If it looked like there was longer term service
11 that needed to be done: more intense involvement, more
12 follow-up, more assessment -- a grander scale intervention
13 is how I would kind of describe it -- and if in -- within
14 that referral at the same time, if there wasn't any
15 immediate need for a response, then it could go to intake.

16 Q And abuse intake, what was the criteria for
17 recommending it go there?

18 A Abuse intake would receive referrals related to
19 sexual abuse and physical abuse, where there was specific
20 information received to indicate that abuse had occurred,
21 such as -- like, a disclosure from a child, if there was
22 marks or bruises on a child, an implement that was used,
23 that's some of the criteria.

24 Q And what about for closing? What was the
25 criteria for closing it right after phones?

1 A Closing it from phones as opposed to it going to
2 backup?

3 Q Yes.

4 A If -- from my practice, I would say that while on
5 phones if I believed that there was no need for further
6 service or that what was requested of me -- information,
7 let's say -- then I would say that it could be closed.

8 Q What about criteria for closing the file at CRU
9 after it's gone to backup?

10 A If a backup worker determined that it didn't
11 appear that more -- that there was more need for follow-up,
12 then a recommendation would be put on that file to, to
13 close it. And then the supervisor would review that file.

14 Q When you say --

15 A Or all, all files that are being closed or
16 transferred.

17 Q No need for backup in terms of -- no need for
18 further work in terms of what?

19 A In terms of the social worker following up with,
20 with the person, with, with the client. If, if that worker
21 has followed up with the client and it appears that the
22 referral or the presenting problem has been addressed, then
23 they could suggest that it should be closed.

24 Q Would you close a file if you had concerns for a
25 child's safety or well-being?

1 A If I had child protection concerns, then I
2 wouldn't -- it's my practice to not close the file.

3 Q And do you define a child protection concern as
4 a, as a concern for a child's safety or well-being?

5 A Yeah.

6 Q The criteria that we've just gone through with
7 respect to when it was appropriate to transfer or make
8 certain decisions when a call comes in, whether to go from
9 phones to backup or to intake or to abuse intake, or to
10 close a file, was that criteria set out anywhere in 2005,
11 that you're aware of?

12 A I don't recall a specific document that, that
13 says that, what I've just said.

14 Q So again, this was something that you knew based
15 on your work experience.

16 A Yeah.

17 Q Let, let's talk a little bit about CFSIS. You
18 used CFSIS in 2005?

19 A I did.

20 Q What did you use it for?

21 A I use -- reports that I generate or work on go to
22 CFSIS, and that's a computer base that workers -- other
23 workers or myself could look at documents that have either
24 been generated already, work that's already been done,
25 like, referring to a history check, looking at people's

1 names to see if someone already has an open file because,
2 if so, then the referral would go to the ongoing worker or
3 the worker that has that file. So it's a computer system
4 that we used at, at that time to -- for those functions.

5 Q Okay. You used it when you were working on
6 phones?

7 A Yes.

8 Q Would you use it to look up histories of
9 individuals about whom you got referrals?

10 A Yeah.

11 Q Would you use it to see if they had a file in the
12 system, in the Child and Family Services system?

13 A So long as it's on the system, then, yes, I would
14 look up -- I would use it to try and find whatever's been
15 made available on the computer system.

16 Q And that would be because then you'd want to see
17 what information the system had about them with respect to
18 child welfare concerns?

19 A Yes. So long as it's on the system.

20 Q What do you mean when you say "so long as it's on
21 the system"?

22 A Sometimes files are not included in -- on CFSIS
23 or not added to CFSIS because of a number of reasons. And
24 I believe that's because of lack of resources or, or
25 because, historically, before a certain timeline, CFSIS

1 wasn't being used. So there could be a physical file but
2 CFSIS wouldn't necessarily reflect that, like, the
3 information, I mean, within that file.

4 Q Did you, as a CRU worker, have access to a
5 physical file?

6 A If ... I can't recall in CRU if we received just
7 the report that we were working on or the entire physical
8 file.

9 Q So you can't recall whether you could have access
10 to it or not in '05?

11 A No, I can, I can recall that. A physical file
12 can be requested, back in '05.

13 Q You could request it.

14 A I believe so.

15 Q And was that your practice?

16 A I can't recall.

17 Q Okay. Would it be your practice if you looked
18 someone up in the computer system and didn't find any
19 information about them?

20 A If I don't find any information on CFSIS, then
21 that says that there's no physical file.

22 Q So the existence of all physical files is
23 recorded in CFSIS, the fact of the file.

24 A Yes, I think that's correct.

25 Q So you're just making a distinction between the

1 contents of the file?

2 A That's exactly right.

3 Q The contents of the paper file may be different
4 than what's entered into CFSIS.

5 A Yes.

6 Q Like any computer system, CFSIS is as good as the
7 data that's being put into it. Is that what you're saying?

8 A Yes.

9 Q Are you telling me that in 2005 you experienced
10 problems with using CFSIS?

11 A CFSIS is only as good as the information that's
12 included in it. So if I'm relying solely on what's there,
13 I'm assuming that, I'm assuming that what's on CFSIS is
14 accurate.

15 Q So in '05 when you were on phones, you would go
16 into CFSIS to see if there was information about the person
17 who you'd received a referral -- who was the subject of a
18 referral?

19 A That'd be my practice, yeah.

20 Q Did you make the same use of CFSIS when you were
21 on backup?

22 A Yes.

23 Q Do you know who was responsible for ensuring that
24 information would be entered onto CFSIS?

25 A I typed up the information and then our admin

1 support would connect it to CFSIS. I -- that's what I
2 believe is how it occurred.

3 Q In '05, we're still talking.

4 A Yes, yeah.

5 Q Okay. So you would hand your typed Word
6 document, was it?

7 A Um-hum. Yeah.

8 Q Yes. To --

9 A It'd be on a template.

10 Q You had a template --

11 A Yeah.

12 Q -- did you say?

13 A Yes.

14 Q And you would hand that to the admin person?

15 A I would hand, I would hand my document in to my
16 supervisor, and then once -- if it needs to be either
17 corrected for whatever reasons or ... Once she's signed
18 off on it, then the admin support would connect it or add
19 it into CFSIS.

20 Q So was it your understanding that your supervisor
21 gave the report to the admin person?

22 A Yes.

23 Q And we'll come in a moment to look at your
24 report, but was it your practice to sign your reports?

25 A My reports would be signed.

1 Q At what point did you sign them?

2 A When I finished my -- when I'm handing it in to
3 my supervisor.

4 Q So you would type them, sign them, hand them to
5 your supervisor.

6 A Yes.

7 Q And was it your expectation that your supervisor
8 would sign the report as well?

9 A Yeah. Yes, she would sign all reports unless she
10 wants changes made to them. Then she wouldn't sign the
11 report, but ...

12 Q And --

13 A If it's ready to be taken out of my hands to go
14 wherever it needs to go, then she would sign.

15 Q Did you ever put any documentation directly onto
16 a paper file?

17 A The paper document that I would hand in would go
18 into a paper file. So I wouldn't independently take a
19 paper and stick it into a file. Like, by paper, I mean
20 documents that I'm generating, like referrals or, or case
21 notes or that sort of thing. If you want to be very
22 detailed, if there was, like, hospital information or stuff
23 like that that needed to go into a paper file, then a paper
24 like that could go into a file.

25 Q And would you personally put it into the file?

1 A If I had the physical file, then I would put it
2 in there.

3 Q Otherwise, if you didn't actually have the
4 physical file, what would you do?

5 A I, I believe that I would attach it to the report
6 that I was receiving. It would go to the admin and the
7 supervisor.

8 Q Now, in 2005, what information on CFSIS did you
9 review?

10 A I would review the history that, that is attached
11 to, to my clients.

12 Q Okay. Now, is there a difference between what
13 you reviewed depending on whether you were on phones or
14 backup?

15 A It's the same system. It would be the same
16 information that, that is available.

17 Q Okay. When you were on backup, though,
18 generally, typically, you would be receiving a report that
19 had already been generated by the person on phones?

20 A Yes.

21 Q Okay. And if you were on phones, you would
22 create the initial intake report.

23 A Yes.

24 Q So was there a difference in, in what you
25 reviewed on CFSIS in either case?

1 A If I'm on fields and the person on phones has
2 given me their document and my supervisor has given me that
3 document, then that document won't be on CFSIS yet, from
4 what I recall, because it's still not finished.

5 Q Would you review that document, though?

6 A Yes.

7 Q Would you review anything else on CFSIS in that
8 case?

9 A I would look for previous, previous information,
10 previous summaries, transfers, closings.

11 Q Okay. Was that your practice?

12 A Yes. That would be best practice, that I would,
13 I would try and do that as much as I could.

14 Q Okay. Generally, were you able to do that when
15 you were on backup?

16 A I would say for the most, most part, I would be
17 able to.

18 Q And how far back into someone's history would you
19 look in terms of looking at previous summaries recorded?
20 Would you look at just the, the most recent one just before
21 the, the opening that you've got, or go farther back?

22 A Ideally, I would want to look over everything I
23 could. That's ideal.

24 Q Well, when you --

25 A Sometimes it would depend on more recent closings

1 or transfers, and look at their history that's in those
2 files or in those documents.

3 Q Okay. When you say ideally, do you mean that was
4 the standard or expectation of you as a CRU worker?

5 A There would be an expectation of, of having
6 looked through the file history.

7 Q Everything that's on CFSIS about someone.

8 A That would be the ideal. That's not a practical
9 expectation to have.

10 Q Practically, what were you able to do in 2005?

11 A I would say look at some of the more recent
12 closings or summaries.

13 Q Okay.

14 A Transfers, yeah.

15 Q So you wouldn't generally just rely on the
16 history of the intake worker, if you're on backup, of the,
17 of the CRU worker who's given you the file.

18 A No.

19 Q You would go beyond that?

20 A Yes.

21 Q Okay. We heard evidence that history is
22 important. Is that something you agree with?

23 A Yes.

24 Q Why --

25 A It's something to take into consideration.

1 Q And why is that?

2 A History is important to, to review to know what's
3 gone on in the past. It's something to see where, where a
4 parent's been and what a parent has done or not done; see
5 what strengths they have or don't have; see what
6 improvements they've made. Maybe they've been somewhere
7 that hasn't been very good and they've done -- made a lot
8 of efforts to improve their situation. So it's important
9 to see both the good efforts by the client and, and things
10 that are negative, let's say.

11 Q In 2005 when you were on phones, was there a
12 document that you were required to fill out, a safety
13 assessment form?

14 A There's a -- I believe there's a safety
15 assessment form, but I don't know that it's a required form
16 to fill out.

17 Q And I'll just pull it up on the screen so that
18 we're sure we're talking about the same form. Go to page
19 36934, please. Is this the document that you were thinking
20 of and talking about?

21 A Yeah.

22 Q So you, you are familiar with this document, this
23 type of document.

24 A Yes, I've seen that document.

25 Q Have you ever filled one out?

1 A I believe that I have, yes.

2 Q You can't say whether or not it was a requirement
3 to fill it out?

4 A Right. I, I just can't remember that I had or
5 would have filled out that document for every report that I
6 was working on. I just don't remember.

7 Q Was it something that -- when you received a file
8 once you were on backup, was it something that you looked
9 for?

10 A I, I don't remember.

11 Q What's your understanding of the purpose of, of
12 the safety assessment form?

13 A Safety assessment form has a number of different
14 check-off boxes, as, as you can see. And where applicable,
15 the worker would check off the boxes that are related to
16 the presenting problem or the referral that they're working
17 on. If, you know, you scroll down on that same form or
18 later in the form, there's an area that designates whether
19 it's recommended that a response time of immediate or
20 within 24 hours or within 48 hours or more than five days
21 or within five days -- that section, yes -- one of those
22 boxes would be checked off if a file was going to be
23 forwarded for further follow-up.

24 Q Was it something that other workers -- was it
25 your expectation that other workers would be looking for

1 this document for further work with respect to, to being
2 guided by it and if they were doing further work?

3 A I don't necessarily know that the worker would be
4 looking for it as a opposed to using this tool to say to a
5 supervisor that this is what I recommend and this is why I
6 recommend it.

7 Q But in any event, you, you don't think you used
8 it regularly.

9 A I can't recall whether I used it regularly. So I
10 may have, in fact, used it all the time. I just don't
11 remember.

12 Q You're still a CRU worker. Is it a document you
13 use now?

14 A I don't use that document now.

15 Q And you --

16 THE COMMISSIONER: Did, did it go out of use or,
17 or you just opted not to use it?

18 THE WITNESS: Oh, it, it went out of use. It
19 wasn't a personal decision to stop using it.

20

21 BY MS. WALSH:

22 Q When did --

23 A The intake module came into, into being and we
24 use that, and that computer system refers to response times
25 based on, based on the presenting problem.

1 Q Do you recall when the intake module came into
2 effect?

3 A I think it was around 2007.

4 Q In 2005, did you have a system for note taking
5 and recording keeping?

6 A We would have -- those notes were called progress
7 notes and they'd be -- different workers use different
8 sizes, essentially, of books, I mean. So it could be just
9 a ring binder with loose-leaf pages on it, and that's where
10 I take my notes down. I had a system of, of recording who
11 was the case reference, what was the date that I'm working
12 on this, and probably numbered my pages one, two, three,
13 four, that sort of thing, so I can keep information
14 together.

15 Q Was this practice the same whether you were on
16 phones or backup?

17 A Yes.

18 Q At what point would you make your notes?

19 A If I'm on phones, sometimes I'll do them as I'm
20 talking to someone on the phone. Sometimes I'll write
21 information down after I talk to people, be it the source
22 of referral or other collaterals. On fields, sometimes I'd
23 be writing as I spoke to someone, sometimes I would write
24 those notes after, after I had completed the field and had
25 already gone back to the office.

1 Q How did you decide what to make note of?

2 A I would try and record information that would --
3 that was what I believed to be important to what was going
4 on. Or take notes down so that it would remind me of, of
5 things to type when I was back at the office.

6 Q Okay, so what did you do with these handwritten
7 notes?

8 A After I was done with them or ...

9 Q Yes.

10 A I would -- when I, when I have the notes and I'm
11 typing down information, that's -- I would use them for
12 that. And afterward I would keep them near my desk in a
13 box so that I could reference them if I needed to in -- for
14 some reason, like, in the future.

15 Q How long did you keep them?

16 A I can't remember. I would -- my notes often were
17 kept for, for months.

18 Q And then?

19 A Shredded.

20 Q Who shredded them?

21 A I, I believe I did.

22 Q Was there -- did you have access to a shredder in
23 the agency?

24 A I think there was a shredding box, as opposed to
25 a physical shredding machine.

1 Q So this practice of, of keeping your notes for a
2 while and then shredding them, was this something that you
3 had been told to do by someone in the agency?

4 A It was a practice that I did, I, I believe on, on
5 my own. I don't know what the formal expectation is for
6 how long to keep notes.

7 Q Do you know whether your supervisor was aware of,
8 of your practice of shredding your notes?

9 A I, I believe so.

10 Q What makes you think that?

11 A I don't know. I believe -- I don't know exactly
12 why she would believe that, other than seeing that I have a
13 box of notes near my desk that I'm holding on to and there
14 being a shredding box around, and then sometimes seeing
15 that that box is empty.

16 Q Do you still do that with your handwritten notes?

17 A I, I have handwritten notes that go back for a
18 number of years.

19 Q Sorry, I didn't catch that.

20 A I have handwritten notes that go back a number of
21 years. I haven't shredded my notes in a long time.

22 Q Okay. And where are they kept now?

23 A They're by my desk, in a box.

24 Q Must be a big box at this point.

25 A It's a big box.

1 Q Okay. Do you know if, if a hard copy of your
2 notes was ever put into a specific file?

3 A I may have done that back in around 2005 and
4 preceding the intake module.

5 Q You can't recall specifically?

6 A That's, that's correct, yeah, I can't recall
7 specifically.

8 THE COMMISSIONER: But before your notes went in
9 the shredding box, the information from them had been fed
10 into the CFSIS system, had it?

11 THE WITNESS: That's correct, yeah. I would
12 never shred information that needed to be put on CFSIS.

13

14 BY MS. WALSH:

15 Q Was the information in your handwritten notes
16 transferred into your typed document verbatim?

17 A No.

18 Q So there would be information left in your
19 handwritten notes that wasn't put into the file?

20 A No. There'd be information on the file that
21 wouldn't be in my handwritten notes.

22 Q Okay. You said that information wouldn't be put
23 in verbatim from your handwritten notes to the document
24 that went into the CFSIS.

25 A If I recorded a direct quote and wanted to use

1 that on CFSIS, then I would transfer that verbatim. There
2 would be some information that would be transferred
3 verbatim, but a lot of the -- or sometimes, as I indicated
4 earlier, if I'm, if I'm just jotting down short notes to,
5 to remind me of things, then I would use those short notes
6 to elaborate on in CFSIS.

7 Q So was there any information that was kept in
8 your handwritten notes that wasn't put into the file
9 recording, the formal CFSIS file recording?

10 A I wouldn't exclude information from my
11 handwritten notes.

12 Q So is that no?

13 A Any important information in my handwritten notes
14 would go into the -- into CFSIS.

15 Q Why would you hang on to your handwritten notes
16 in that case at all?

17 A Sometimes we get calls for -- where a caller
18 gives us a bunch of information, it's not deemed to be
19 something that needs follow-up right now, and that -- let's
20 say that caller wants to do -- let's say that caller's a
21 teacher and they're saying -- is doing a consult with one
22 of us but doesn't want to give us information such as who
23 the child is because there aren't necessary -- necessarily
24 child protection concerns, but they want to do a consult,
25 so I keep those notes so that if that teacher called me

1 three months down the line and said, I spoke to you in
2 February, then I can refer back to those notes and we can
3 pick up where we left off.

4 Q What about notes specific to work you did on a
5 file, though? Why would you keep those for any period of
6 time?

7 A I believe for the same reason, if I wanted to
8 refer back to them. I can't recall if all of my progress
9 notes went into CFSIS files back in March of 2005 or before
10 that date.

11 Q Let's talk specifically about your involvement
12 with Phoenix Sinclair. You became involved with her family
13 in March of 2005?

14 A Yes.

15 Q Do you have any independent recollection of your
16 involvement with this family?

17 A My independent recollection is ... I do believe
18 I have independent recollection of this. The difficulty
19 with this is after having learned of, of Phoenix's passing,
20 then I was provided with my report and had a look at it, so
21 I don't know if my independent recollection is spawned from
22 reading that report at that time or if it truly is from not
23 having seen that report. I believe that I do have some
24 independent recollection, though.

25 Q Okay. Let's pull up page 36926. This is from

1 Commission disclosure 1795, which is Samantha Kematch's
2 protection file.

3 A Sorry, what page again?

4 Q 36926.

5 A Okay.

6 Q And if you look, that, that particular document
7 goes all the way from 36926 to 36930. You have that
8 document?

9 A Yes.

10 Q And what is this document?

11 A This is the template that I was referring to
12 earlier. It's the crisis response unit intake and after-
13 hours user -- after-hours unit form. This is the form that
14 was used back at that time to generate recordings or --
15 onto CFSIS, between the crisis response units and when
16 passing them on to the -- either the intake unit or, or
17 our, or our abuse program.

18 Q Now, you completed portions of the document that
19 we're looking at, right?

20 A Yes.

21 Q I just wanted to clarify which portions represent
22 your work. The portion that you completed starts at the
23 bottom of page 36928.

24 A The, the portion that I completed starts on
25 36926 --

1 Q Two-six.

2 A -- where I added my name and the, the date that I
3 was involved or, or received this file.

4 Q So where it says, "From: Jacki Davidson
5 AHU/Christopher Zalevich (CRU)", you've added that?

6 A I would have added "Christopher Zalevich."

7 Q And actually, while we're looking at that, let's
8 pull up page 36931. Now, this is the CRU intake and AHU
9 form for the same intake, but you see it says, "From:
10 Jacki Davidson" and doesn't have the additional information
11 of your name.

12 A Yes.

13 Q So this page that we're looking at is what the
14 form looked like at the time that you got it, and then you
15 added your name?

16 A I'd say that's accurate.

17 Q So if we --

18 THE COMMISSIONER: What pages did you go to?

19 MS. WALSH: So, Mr. Commissioner --

20 THE COMMISSIONER: You were at 36928, and then
21 where'd you go?

22 MS. WALSH: We were at 36928.

23 THE COMMISSIONER: Yes.

24 MS. WALSH: And I was asking Mr. Zalevich if
25 that's where his work started --

1 THE COMMISSIONER: I understand.

2 MS. WALSH: -- and he pointed out that actually
3 his work starts at page 36926, the very first page of that
4 document. If you go to the front of it --

5 THE COMMISSIONER: Yes.

6 MS. WALSH: -- you see where it says, "From:
7 Jacki Davidson/Christopher Zalevich"?

8 THE COMMISSIONER: Yes.

9 MS. WALSH: He added "Christopher Zalevich."
10 That's his contribution.

11 THE COMMISSIONER: Right.

12 MS. WALSH: And I, I'm simply pointing out that
13 prior to Mr. Zalevich becoming involved, the document did
14 not have his name on the first page --

15 THE COMMISSIONER: I see.

16 MS. WALSH: -- and that's the page that's on the
17 screen, page 36931.

18 THE COMMISSIONER: Other than adding his name,
19 his work commences at 36928.

20 MS. WALSH: I believe that's correct.

21 THE WITNESS: Yes.

22

23 BY MS. WALSH:

24 Q Is that right, Mr. Zalevich?

25 A Yes, yes.

1 THE COMMISSIONER: Thank you.

2

3 BY MS. WALSH:

4 Q And then from three -- from the bottom of 36928
5 to the end of 36930, that represents the portion of the
6 document that you completed?

7 A Yes.

8 Q Can you explain to us how it is that you filled
9 out this document?

10 A I would have received an electronic form, I
11 believe, on CFSIS at the time or -- I don't know what area
12 on the computer that I brought the document up from, but I
13 would receive a physical copy of it -- the one that you
14 referred to from Jacki -- and then I would locate that
15 document and, and then start working on it.

16 Q So you would locate the document in the computer
17 system?

18 A Yeah. I, I don't remember exactly where I would
19 find it or -- but that is where I would locate it and start
20 working on it.

21 Q And you would be able to make changes to the
22 document right on the system.

23 A I don't recall if there would be Jacki's original
24 document saved in a separate area without me -- so that I
25 couldn't, let's say, alter her recordings or something like

1 that. I don't know how that -- I don't recall how that
2 worked.

3 Q But how is it that you were able, for instance,
4 to add your name to the first page of the document?

5 A There is -- there was an area on the computer
6 where I could bring up a document. I just don't know
7 exactly where that was, and if it was separate and apart
8 from a saved copy of Jacki's document somewhere else in the
9 -- on the system.

10 Q Okay. So there may have been a saved copy of the
11 document that Jacki Davidson filled out, but in any event,
12 you also had access to a version of her document that you
13 could add to.

14 A Yes.

15 Q If you look at page 36926, the document refers to
16 a call that was received by after-hours on March 5, 2005.
17 When were you assigned the file?

18 A March 7th, 2005.

19 Q Who assigned the file to you?

20 A I believe it was Diva.

21 Q Diva, your supervisor?

22 A Yes.

23 Q And how did, how did that happen?

24 A She would have brought me the paper version and
25 either handed it directly to me or put it on my desk.

1 Q And then you would have gone into the system to
2 work on it.

3 A Then I would have reviewed the paper document,
4 yeah.

5 Q Would have reviewed the paper document and then
6 also gone in to find the electronic document?

7 A When I'm going to write or type into it, then I
8 would have located that.

9 Q So that's, that's later, after you -- at some
10 point after you've done some work.

11 A Yeah. Or in this case it could have been right
12 when I received a paper document I could have gone on the
13 system and said I wrote this -- or I received this on March
14 7th, '05.

15 THE COMMISSIONER: Is that the day you received
16 it, March 7th?

17 THE WITNESS: Yes. So it's likely that at that
18 time on March 7th I would have recorded in there my name
19 and that it's March 7th, '05 that I received this.

20

21 BY MS. WALSH:

22 Q On, on that first page, 36926.

23 A Yeah.

24 Q Okay. If we look at 36928, you'll see at the top
25 it says, "For consideration by CRU." It's my understanding

1 the evidence has been that that's where Jacki Davidson's
2 work ended, and then the file was assigned to Richard
3 Buchkowski on March 7th.

4 A Yes.

5 Q Is that, is that your understanding of --

6 A That's how I would read that.

7 Q -- what happened?

8 A Yes.

9 Q So -- and then from there where it says, File
10 assigned to Richard Buchkowski on March 7, '05, the rest of
11 the recording down to where it says Recommendations, that's
12 work recorded by Mr. Buchkowski.

13 A That's correct.

14 Q Okay. And then as we said, then your work
15 appears.

16 A Yes.

17 Q Okay. What did you understand had taken place
18 prior to your receiving the file?

19 A I, I don't understand what you mean.

20 Q In terms of at the agency, a call came in on
21 March 5 --

22 A Yeah.

23 Q -- 2005, received by Jacki Davidson. She
24 transferred it or it was then transferred to Richard
25 Buchkowski. And what was your understanding of what Mr.

1 Buchkowski did before the file came to you?

2 A He received the file, did some follow-up and
3 recorded what he did on, on this file. And that's -- so
4 from -- my understanding of what happened in this file is
5 from Richard's notes.

6 Q Did you ever talk to Mr. Buchkowski at the time
7 that you were working on this file?

8 A I don't have a recollection of speaking with him
9 about what he did on this file.

10 Q Would that have been your practice?

11 A Sometimes I would talk to, to previous worker and
12 sometimes not.

13 Q What about Ms. Davidson? Did you speak with her?

14 A No.

15 Q Would that have been your practice?

16 A It would not have been my practice to, to talk to
17 Jacki. She's an after-hours worker and was working on the
18 weekend, and I'm a day-side worker so she's not available
19 to me to discuss files.

20 Q You see where it says under Recommendations,
21 still in Mr. Buchkowski's reporting, "It is recommended
22 that this file be opened to Intake." Did you take note of
23 that when you received the file?

24 A I, I don't have independent recollection of doing
25 that, but it would be my practice to see that Richard wrote

1 down it was recommended this go to intake.

2 Q What was your understanding of what that meant?

3 A That it would go to tier two intake. That's what
4 he had thought. That's my understanding of -- from reading
5 that sentence. As opposed to coming to the crisis response
6 unit or to abuse, it'd be going to tier two intake.

7 Q Did the file go to intake, so far as you know?

8 A I don't know if this file was taken to intake
9 based on his recommendations and if it was turned away. I
10 don't know if the supervisor, Diana Verrier, made that
11 decision or not. That's -- it's not in the notes and it's,
12 it's not something that I would have been involved in. So
13 if there was that sort of an interaction --

14 THE COMMISSIONER: Well, wouldn't --

15 THE WITNESS: -- I don't partake in that.

16 THE COMMISSIONER: With that recommendation,
17 wouldn't you have inquired before you took it on, as to
18 whether it had made that trip to intake or not?

19 THE WITNESS: No, I wouldn't inquire about that.

20 THE COMMISSIONER: You just accept it from your
21 supervisor.

22 THE WITNESS: Yes. I, I would accept that
23 Richard has made this to his supervisor and she's spoken
24 with my supervisor and/or intake has -- a supervisor has
25 seen it. Some managerial level has looked at this and has

1 decided that this will come to me as opposed to going to
2 intake.

3 THE COMMISSIONER: Well --

4 THE WITNESS: So I wouldn't question --

5 THE COMMISSIONER: -- as, as opposed to going to
6 intake or after it came back from intake?

7 THE WITNESS: I guess either-or. It could be
8 either.

9

10 BY MS. WALSH:

11 Q You don't know why it is that you received the
12 file on March 7th as opposed to the file going somewhere
13 else.

14 A No, I, I don't know.

15 Q You just know that on March 7th you were assigned
16 this file.

17 A Yes.

18 Q By your supervisor.

19 A Yes.

20 MS. WALSH: Mr. Commissioner, this, this would be
21 a good time for a break, if you'd like to take the morning
22 break.

23 THE COMMISSIONER: Yes. We'll adjourn now for 15
24 minutes.

25 MS. WALSH: Thank you.

1

2

(BRIEF RECESS)

3

4

THE COMMISSIONER: All right, Ms. Walsh.

5

MS. WALSH: Thank you, Mr. Commissioner.

6

7 BY MS. WALSH:

8

Q Mr. Zalevich, two things I want to just address before we continue on with your specific involvement.

9

10

MS. WALSH: If we can pull up page 36931 on the screen, please.

11

12

13 BY MS. WALSH:

14

Q This is something that your counsel has very kindly brought to my attention. I just wanted to, while we have you, just ask you about this. Now, this, this is the version of Jacki Davidson's intake report before you add your name to it.

15

16

17

18

19

A Yes.

20

Q You see that? And you see there's handwriting on the document. It says September '09 or September 81 --

21

22

A Yes.

23

Q -- above Samantha Kematch and Sinclair.

24

A Yes.

25

Q And then although specifics have been redacted,

1 there's -- around the middle of the page it says, "friend
2 of Samantha's." Is that your handwriting?

3 A This appears to be my handwriting, yes.

4 Q So you would have had a hard copy of Ms.
5 Davidson's report and been making handwritten notes on it?

6 A I would have had a hand -- sorry, I would have
7 had a hard copy that would have been just like every hard
8 copy of notes, like, the referral that my supervisor would
9 have given to me.

10 Q Okay. And, and in this case it appears that you
11 were making some, some notes while --

12 A Yes.

13 Q -- you were working on the file.

14 A Yes.

15 Q Now, do you recall what those notes pertain to?
16 You said -- it, it shows, "friend of Samantha's."

17 A And, and I don't know why I wrote those notes or
18 how I know a friend of Samantha's or, or that date on
19 there. But that looks like my handwriting.

20 Q Okay. So you don't recall what caused you to
21 make those notations?

22 A No.

23 Q Then if we go back to the document that you added
24 information to, page 36926, we see under the, under the re
25 where it says, "No home phone," and then it says, "Messages

1 or contact can be made through" -- and that's redacted,
2 that information was not on the front page of Ms.
3 Davidson's report that we were just looking at -- so is
4 that information that you added as well?

5 I can tell you that the name that's been redacted
6 in handwriting on the document we looked at is the same as
7 the name that we're looking at on the typed version, if
8 that helps you.

9 A Oh, okay. It's certainly possible that I wrote
10 or typed, "Messages or contact can be made through" so-and-
11 so.

12 Q You can't recall how you got that information?

13 A I don't know where I got that information from,
14 yeah.

15 Q Thank you.

16 A And I don't know with certainty that I typed
17 that, though.

18 Q Okay. Just, then, one other thing. In terms of
19 context of, of our understanding the nature of work that
20 CRU was doing at the time in '05, you said that typically
21 the CRU worker was expected to hang on to a file in the
22 sense of working with it for a short period of time, 24
23 hours to 48 hours.

24 A Yeah, that's, that's the intent.

25 Q And was that because as a CRU worker you're

1 constantly receiving new referrals?

2 A Yeah. Yes, that's ...

3 Q And so that's part of why the CRU unit is, is
4 simply not set up to do any kind of long-term work with a
5 file.

6 A Right. Certainly possible that a CRU worker
7 would hold on -- would be working on a file for more than,
8 for more than two days.

9 Q Right.

10 A Certainly possible.

11 Q The intent of, of the unit was to keep taking new
12 files, new referrals, and, and therefore not hang on to a
13 file to do any long-term work with a family.

14 A Ideally, yes. Yeah.

15 Q Because you have to keep taking the new files,
16 the new referrals.

17 A Yeah, like, for instance, if I was gathering
18 information and a file was going to intake and I didn't
19 have that information yet, then, like, from, from a school
20 or social assistance and they just hadn't got back to me,
21 then I would hold on to that until I, until I got it.
22 Like, that's one possible scenario. So, just an example.

23 Q And is it fair to say that at the CRU level when
24 you're doing an investigation, you're not set up to do as
25 fulsome an investigation as they are at the intake level.

1 A That's, that's correct.

2 Q As a CRU worker, your job involved assessing
3 whether a child was in need of protection?

4 A Yes.

5 Q In the sense of whether they were at risk in
6 terms of their safety and well-being?

7 A We would be following up on, on the referral in
8 -- with that in mind, yes.

9 Q And if you couldn't make that determination based
10 on the work that you were able to do at the CRU level,
11 you'd then recommend that the file be transferred to intake
12 to have that determination made?

13 A Yes.

14 Q Now, coming back to your specific involvement
15 with the file, do you recall what information you reviewed
16 when you received this file?

17 A I would have reviewed Jacki's information and
18 Richard's information.

19 Q So the history starting at page 36926, would you
20 have started with that?

21 A That's where I would have started.

22 Q And then continuing over to 36927?

23 A I would have reviewed that as well.

24 Q And you would have reviewed the Presenting
25 Problem and Intervention section?

1 A Yes.

2 Q And then on page 36928, you would have seen Ms.
3 Davidson's recommendation and the information recorded by
4 Mr. Buchkowski, including his recommendation.

5 A That's right.

6 Q Did you read anything else with respect to
7 Samantha Kematch or Phoenix Sinclair?

8 A Ideally, it would have been my practice to look
9 at previous file history.

10 Q Do you recall what you did in this case?

11 A No, I, I don't have independent recall of, of
12 that.

13 Q And you say "ideally." Is that because you
14 weren't always able to review --

15 A It's, it's --

16 Q -- more?

17 A -- my practice to do it whenever possible.

18 Q And were there occasions when that was not
19 possible?

20 A Yes, there is occasions where that's --

21 Q Why would that be the case?

22 A If, if there's an emergency that's come to my
23 attention that needs to followed up on right now, I don't
24 have time to go through a file history that's extensive.
25 So in that case I would follow up directly with the matter

1 at hand as opposed to going through a number of documents.

2 Q Was that the case with respect to this matter?

3 A No.

4 Q So you can't recall specifically what else you
5 reviewed, but you had a practice to review other
6 information?

7 A Yeah.

8 Q Do you know what was expected of you by your
9 supervisor?

10 A She would expect I would review the pages that
11 you referred to, and likely understood that I would have
12 reviewed history -- out -- like, the file history --

13 Q You mean not --

14 A -- summary.

15 Q Not the history that's recorded by Ms. Davidson,
16 but actually going into CFSIS and looking at previous
17 recordings.

18 A I'd say it'd be safe to say that that's what she
19 would be understanding.

20 Q Okay. If we look at page 36926, the, the first
21 thing after demographic information, it says, Closed
22 December '04. Then it says, History taken from CRU
23 open/close December 1, '04. So you read that.

24 A Yes.

25 Q What, what did that mean?

1 A It means that there was a file opened and closed
2 at the crisis response unit on December 1st, 2004. And I
3 don't know if December 1st is the opening date or the
4 closing date.

5 Q Okay. So you were aware that a file had been
6 opened in December of 2004 with respect to Samantha
7 Kematch.

8 A Yes.

9 Q Did you know why the file was opened in December
10 of '04?

11 A I would have to read further into the history of
12 -- that Jacki wrote down and see if it's included there.

13 Q Do you want to take a minute to do that?

14 A Correct me if I'm wrong, but it doesn't appear
15 that the December information is included.

16 Q That, that's correct.

17 A Okay.

18 Q Now, that December opening was just about three
19 months before the time that you receive the file, right?

20 A Yes.

21 Q So the history that Ms. Davidson has recorded
22 does not summarize any of what happened at the December '04
23 opening.

24 A That's the way it appears.

25 Q So do you recall whether you looked in CFSIS to

1 see what was done on this file in December of '04?

2 A No, I, I don't recall.

3 Q And do you have any recollection of what happened
4 with respect to Ms. Kematch and CFS in December of '04?

5 A Here today? I believe there was involvement with
6 -- between the crisis response unit worker and public
7 health.

8 Q Did you know that at the time that you were
9 working on the file in March of '05?

10 A I don't remember.

11 Q So you -- what you just told me about what you
12 know today is because of your participation in the Inquiry.

13 A Yes. Yeah, and I just don't know if at that time
14 I reviewed that file. I may have, but I don't know.

15 Q So you said you reviewed the presenting problem.
16 I just want to go over that. It's on page 36927.

17

18 "[SOR] spoke to an ex foster child
19 today. She refused to provide me
20 with the person's name. This
21 person told [the SOR] that she
22 suspects that Samantha Kematch is
23 abusing her daughter Phoenix.
24 [SOR] does not have any details as
25 to what this alleged abuse might

1 be. Also this person suspects
2 that Samantha may be locking
3 Phoenix in her bedroom. I
4 explained that we need to speak
5 directly to [the SOR's source of
6 referral], but despite being an
7 agency foster home she refused to
8 disclose the name. [SOR] does not
9 have an address or phone number
10 for Samantha other than she lives
11 in apartment one beside the
12 Maryland Hotel. I explained
13 that" --

14

15 MS. WALSH: Can you turn the page please?

16

17 BY MS. WALSH:

18 Q

19 "... without an address we will be
20 unable to follow up. The last
21 address on CFSIS is on McGee.

22 "For consideration by CRU."

23

24 So that's, that's the presenting problem that you
25 were aware of when the file was assigned to you.

1 A Yes.

2 Q And just confirming the process, the file went to
3 Mr. Buchkowski, who wrote up his report, and your
4 understanding is that he would have given that to Ms.
5 Verrier, who would have then given it to Ms. Faria.

6 A Mr. Buchkowski puts on a recommendation for his
7 supervisor to consider. I don't know if it went directly
8 from, from Diana to Diva, or if it went from Diana to
9 intake back to Diana to Diva, or if it went between Diana
10 to Diva to intake back to Diva to me, or together if they
11 approached intake. Those details aren't included in -- on
12 the report.

13 Q And in 2005 --

14 A But that is one way, yes.

15 Q -- those various options that you describe to me,
16 was that unusual in terms of how a file would move around?

17 A No. The most standard kind of expectation would
18 be that the file would go from, in this case, Richard to
19 Diana to Diva to me, if there was no intake part included.

20 THE COMMISSIONER: But there was a recommendation
21 here that it go to intake.

22 THE WITNESS: Right.

23 THE COMMISSIONER: So what would you expect would
24 happen with that kind of a recommendation?

25 THE WITNESS: I would expect that Diana would

1 have considered what Richard had to say, and then it's,
2 it's out of Richard's hands at that point and it's up to
3 Diana to discuss that with, with Diva or intake.

4 THE COMMISSIONER: Why with Diva?

5 THE WITNESS: I, I include Diva in that because
6 if it's gone to intake and then come back to CRU, then
7 Diana would, would talk to Diva about that.

8 THE COMMISSIONER: If it's gone to intake and
9 come back.

10 THE WITNESS: Yeah, yeah.

11 THE COMMISSIONER: You would expect if she's
12 going to talk to Diva, it would have made that trip up
13 there and back, then.

14 THE WITNESS: I, I believe so, yeah. Yeah.

15

16 BY MS. WALSH:

17 Q Or could Ms. Verrier have talked to Ms. Faria
18 directly without --

19 A Yes.

20 Q -- going up to intake first?

21 A Possible, yeah.

22 Q And in 2005, were there occasions when CRU would
23 send -- would recommend that a matter go to intake and
24 intake would send it back and ask for more work to be done?

25 A Yes.

1 Q And on those occasions did CRU have to then close
2 the file at CRU?

3 A No, they wouldn't have to close it. If intake
4 was asking for more information, it could be that they
5 wanted more information and it would go back to intake.

6 Q So depending on the results of the further work
7 that CRU would do, the file might be closed at CRU or be
8 recommended to go back to intake.

9 A Yeah. It all depends on what they're asking CRU
10 to do.

11 Q Right. But the fact that a file might have come
12 back from intake didn't necessarily mean that CRU had to
13 keep it and close it.

14 A That's correct.

15 Q At the time that you received this file, were you
16 on phones or backup?

17 A On March the 7th, I was on phones.

18 Q How do you know that?

19 A Richard was on backup and Richard's on team B,
20 and he's attending to this on March the 7th, so I can't be
21 on fields. I'm on phones.

22 Q So you're on phones on March the 7th. When did
23 you go to backup?

24 A March the 8th.

25 Q Now, in reviewing the, the presenting problem

1 that I just read out from the referral, did you consider
2 this referral to be serious?

3 A All referrals are important, so I'm not sure
4 exactly in what way you're referring to it as being
5 serious. I'm going to assume that -- what you mean and I
6 would say that I did not believe that this was a very
7 serious referral that required an immediate response.

8 Q It was serious enough that it did require a
9 response, though.

10 A Correct, yes.

11 Q A field response.

12 A Yes.

13 Q Okay. When you received the file, did you
14 address your mind as to whether it was something that
15 should be referred to abuse intake, for instance, as
16 opposed to general intake?

17 A Sorry, can you repeat the first part of your --

18 Q Yeah.

19 A -- of your question?

20 Q When you received the file --

21 A Yes.

22 Q -- when you got the file and you took a look at
23 the report, did you address your mind to whether this was a
24 matter that should be referred ultimately to abuse intake
25 as opposed to general intake?

1 A No, my, my supervisor assigned this file to me,
2 and it's not for me to be thinking that this needs to now
3 go to abuse or intake.

4 Q Okay. You're there to make -- to do an
5 investigation.

6 A Yes, yeah.

7 Q And, and one of the results of the investigation
8 could be that it could be referred to abuse intake or to
9 general intake.

10 A Both of those are possible, or it could be
11 closed.

12 Q And either way, it didn't matter. You knew that
13 you still had to go out and do an investigation.

14 A Yes.

15 MS. WALSH: If we pull up page 36928 and scroll
16 down to the bottom, please.

17

18 BY MS. WALSH:

19 Q We're on page 36928. Now, you, you write that
20 you received the file on March the 7th and you go out to
21 Ms. Kematch's home on March the 9th. Why the, the gap of
22 two days?

23 A On March the 7th, I would have received it
24 towards the end of the day, end of my work shift.
25 Typically, files would be assigned to workers -- I think in

1 this scenario it should have been assigned on March 8th in
2 the morning because that's when I would have technically
3 received it, because that's when I would have started on
4 fields. Why I received it on March the 7th, I don't know.
5 It could be because that's when the reports were being
6 looked at and assigned, because perhaps there was going to
7 be a lot more reports coming from after-hours that, that
8 evening. I don't know exactly why I was assigned on, on
9 March the 7th.

10 The expectation on March the 7th in the afternoon
11 would not have been for me to follow up with this intake --

12 Q Okay.

13 A -- or this file at that, at that time.

14 Q So what was the expectation when you got the file
15 on March the 7th?

16 A That I would be receiving it on March the 8th for
17 follow-up.

18 Q Then why didn't you go out on March the 8th?

19 A I don't know if I was present at work on March
20 the 8th or if I was away, sick. That's a possibility.
21 Another possibility is that there's other files that have
22 been assigned that take -- that are taking priority over
23 this one.

24 Q You don't have a record as, as to why it is that
25 you went out on the 9th and not the 8th.

1 A No.

2 Q Do you know what, what the expectation of you was
3 with respect to going out on the 8th as opposed to the 9th?

4 A No.

5 Q Do you recall having any discussion with your
6 supervisor when the file was first assigned to you?

7 A No, I don't recall having a discussion.

8 Q Was it typical to have a discussion with your
9 supervisor when you received an assignment?

10 A My practice would have been to have a discussion
11 with a supervisor before or when I'm getting -- receiving a
12 file, yes, or while I'm working on it, or afterwards. I
13 would have frequent discussions with supervisor.

14 Q Okay. Would you document those discussions?

15 A On -- in this file, there's nothing documented.

16 Q Was it your practice to do that?

17 A I don't, I don't recall if that was my practice.

18 Q So the document -- I'm still on the bottom of
19 page 36928. It notes that you made a field to Samantha
20 Kematch's home with co-worker Leskiw. Why -- and that,
21 that's Bill Leskiw. It's a male, right?

22 A Yes.

23 Q Why did you go out with Mr. Leskiw?

24 A Mr. Leskiw and I both work on team A, team A
25 together, so we would have both been on fields. We had --

1 as workers on the same team, we would go out in pairs,
2 which was a decision that our program had come up with so
3 that we could minimize risk and have another set of eyes or
4 questions to be asked by the second person, because we
5 don't know what we're walking into at any time so we feel
6 it's kind of a -- it's, it's helpful to have two people.
7 But why I went with Bill as opposed to another co-worker,
8 I, I don't know.

9 Q Prior to going out to Ms. Kematch's home, did you
10 discuss the referral with Mr. Leskiw?

11 A I often would, would give him a summarized
12 version of -- like, this is what we're walking into, so
13 he's not going into a situation that's completely not
14 knowing what's, what's happening, or he may have read my
15 report. In this case, I don't know what I said to Bill or
16 if I asked him to read this.

17 Q Okay. So you didn't have a practice one way or
18 the other as --

19 A My practice typically would have been to -- in
20 either of those ways, to inform my co-worker what we were
21 going out on.

22 Q I expect we'll hear evidence from Mr. Leskiw that
23 he had not reviewed the intake report that you had from Ms.
24 Davidson. Would that surprise you?

25 A No. I may have given him a verbal summary.

1 Q I expect that, in fact, Mr. Leskiw's going to
2 testify that he had no information about this call and why
3 you were going out.

4 A That's all right.

5 Q Would that surprise you?

6 A I don't know what Bill can recall from 2005.

7 Q What I'm asking is, I expect that we'll hear from
8 Mr. Leskiw that you did not provide him with any
9 information about this referral, nor did he make himself
10 aware of the specifics of this referral, so that would
11 include not discussing the specifics of the referral with
12 you before the two of you went out.

13 A It'd be my practice to discuss with my co-workers
14 what we're going out on.

15 Q You don't have a specific recollection in this
16 case.

17 A It was my practice, but to answer that question,
18 then, no.

19 Q The file was assigned to you.

20 A It's my file.

21 Q Okay. Was it your responsibility to familiarize
22 Mr. Leskiw with the specifics of the referral?

23 A No, it would be no one else's responsibility to
24 do that. It'd be my responsibility to talk to Bill.

25 Q So let's, let's see what you recorded. Now, how,

1 how did you determine what information to record in this
2 document?

3 A I would either include information in this
4 document from the notes that I wrote down or from what I
5 recall from being there. The information that I choose to
6 include would be everything that I could remember that I
7 believe was important to, to include.

8 Q And how would you make that determination? What,
9 what was important to include?

10 A I like to -- in my practice, I like to, like to
11 record what I've seen, what I've heard, what kind of
12 discussions we've had, information that's pertaining to the
13 presenting problem. Sometimes record information that's
14 not pertaining to the presenting problem, information that
15 I think is important to my supervisor to read. Sometimes I
16 include information that I believe to be possible -- or
17 possibly important for future workers to read.

18 Q So when you do a recording, is it your
19 expectation -- was it your expectation in '05 -- that your
20 supervisor would read your report?

21 A Yes, she would read all my reports.

22 Q Were there ever occasions when you would provide
23 a report to your supervisor with a recommendation and not
24 discuss it otherwise, just, just communicate through
25 providing your report?

1 A That's certainly a possibility.

2 Q Was it your practice to have a discussion with
3 your supervisor at the time of making a recommendation?

4 A My practice at that time would have been to, to
5 say to my supervisor, This is what I've done on this file,
6 and then handed it in to her so she can get a verbal and a
7 written copy. Of course, that's dependent on, on
8 operations and if she has three other workers talking to
9 her in the office at the same time. Could be all sorts of
10 things that would inhibit me from having a verbal
11 conversation.

12 Q Okay. Do you recall --

13 A But I tended to, to do that.

14 Q Do you recall with this particular file, by the
15 time you made the recommendation at the end of your
16 involvement, whether you had a discussion about your
17 recommendation with Ms. Faria?

18 A Yes, I do. I did have a discussion with Diva
19 about this.

20 Q Okay. We'll come back to that because you're
21 saying that that was at the end of your involvement, at the
22 time you were making a recommendation.

23 A Yes.

24 Q Okay. So looking at what you recorded, starting
25 on page 36928, you say that on March 9, '05:

1

2

"Field to Samantha's home at ...

3

McGee Street with co-worker

4

Leskiw. As there were no keypads"

5

--

6

7

MS. WALSH: 36, 36928, Mr. Commissioner.

8

THE COMMISSIONER: I, I have it.

9

MS. WALSH: Okay.

10

11 BY MS. WALSH:

12

Q

13

"As there were no keypads outside

14

of the building to contact

15

Samantha, workers gained access to

16

the building with the assistance

17

of another tenant that was also

18

entering the building. Samantha

19

greeted workers at the door with a

20

somewhat shy demeanour but did not

21

want to allow workers into her

22

apartment as she had someone

23

visiting with her. Workers could

24

hear that the television was

25

quietly on. This writer did not

1 notice any sounds of a party
2 occurring or that there was more
3 than one other adult in the home.

4 "Agency workers spoke with
5 Samantha in the hallway and
6 provided her with the details of
7 the presenting problem. Samantha
8 was curious about who called and
9 was advised that the Agency cannot
10 legally provide that information.
11 Samantha accepted this and
12 speculated that she knew who the
13 SOR was.

14 "Workers initially advised
15 Samantha that the referral was
16 about an allegation of her abusing
17 Phoenix. Samantha responded by
18 saying that she had yelled at
19 Phoenix a few days ago and seemed
20 surprised that someone may have
21 heard her. This writer then
22 indicated that the referral
23 indicated that it was believed
24 that Samantha had locked Phoenix
25 in her bedroom. Samantha stated

1 that she and Phoenix share a
2 bedroom. This writer then asked
3 if the bedroom door has a lock on
4 the outside of the [room].
5 Samantha confirmed that there is a
6 lock on the outside of the door.
7 Workers warned Samantha that it is
8 not safe to lock her in the room
9 in the case of a fire. Samantha
10 agreed.

11 "At this time Samantha could
12 hear that her youngest child ...
13 was becoming upset inside the
14 apartment. Samantha returned into
15 her apartment and brought [the
16 child] into the hallway. [The
17 child] appeared to be a content,
18 healthy, clean, and well-dressed
19 baby. She was smiling and
20 comfortable with Samantha.

21 "Workers asked if Phoenix is
22 attending school or daycare.
23 Samantha advised that she is not
24 in daycare and will be attending
25 school next September.

1 "This writer asked if there
2 was anything that Samantha needed
3 support with from the Agency and
4 if she also has supports as a
5 parent. Samantha indicated that
6 she was doing well and did not
7 require agency supports.

8 "This writer provided
9 Samantha with an Agency card
10 should she require any Agency
11 supports."

12

13 I'm going to stop there and go back over the, the
14 recording and, and the work that you did, starting at, at
15 the beginning.

16 When you were going out to Ms. Kematch's home,
17 you were going out to determine whether the information
18 that was provided by the source of the referral -- of
19 referral was accurate?

20 A That's what I'm following up on, yes.

21 Q You were looking to see whether Phoenix was being
22 abused in some way?

23 A That'd be the intent.

24 Q Now, you record at the top of page 36929 that Ms.
25 Kematch answered ...

1 MS. WALSH: Top of page 36929, please. Thank
2 you.

3

4 BY MS. WALSH:

5 Q That:

6

7 "[Ms. Kematch answered] with a
8 somewhat shy demeanour but did not
9 want to allow workers into her
10 apartment as she had someone
11 visiting with her."

12

13 What was significant about this information that
14 you documented?

15 A It presents to the reader -- any future readers
16 or my supervisor -- context for what I'm seeing at the time
17 and how Samantha is presenting at that, at that moment.

18 Q Okay.

19 A Sometimes we have very different responses to, to
20 arriving at someone's door.

21 Q Okay. And what about the fact that you record
22 that she said she didn't want to allow workers into her
23 apartment as she had someone visiting with her?

24 A Why did I record that?

25 Q Yes.

1 A It's to indicate, this is why I'm not inside the
2 apartment.

3 Q Okay. Then you say:

4

5 "Workers could hear that the
6 television was quietly on. This
7 writer did not notice any sounds
8 of a party occurring or that there
9 was more than one other adult in
10 the home."

11

12 What's the significance of your recording that
13 information?

14 A We often get referrals that are -- that have
15 items like that going on, that there is a party going on or
16 that sort of thing. It sets the stage for what's happening
17 while I'm talking to her. It's more context.

18 Q Context. This particular referral didn't say
19 anything about a party, though.

20 A Not at all.

21 Q Did you believe that Samantha did, in fact, have
22 a visitor in her apartment?

23 A I believed her.

24 Q You did. So when you say:

25

1 "This writer did not notice any
2 sounds of a party occurring or
3 that there was more than one other
4 adult in the home,"

5

6 you mean you thought there was one visitor?

7 A Yes.

8 Q You didn't know whether they were male or female?

9 A No.

10 Q You didn't see anyone.

11 A No.

12 Q Were you at all suspicious that Ms. Kematch came
13 out into the hallway, instead of inviting you and Mr.
14 Leskiw inside her apartment?

15 A It doesn't necessarily mean that, that something
16 is -- that she's hiding something, if that's what you're
17 implying.

18 Q So you didn't read anything into the fact that
19 Ms. Kematch spoke with you in the hallway and did not
20 invite you into the apartment.

21 A She indicated that she has someone visiting with
22 her and so that's why she's not letting us into the
23 apartment.

24 Q Did she actually say that, or you made that
25 assumption?

1 A I wrote, She did not -- but did not ...

2

3 "[She has a] shy demeanour but did
4 not want to allow workers into her
5 apartment as she had someone
6 visiting with her."

7

8 Q So you accepted that as her reason why she didn't
9 want you in the apartment.

10 A Yes.

11 Q Did Mr. Leskiw go into the building with you?

12 A He was beside me, yes.

13 Q So you and Mr. Leskiw were standing in the
14 hallway of Ms. Kematch's building?

15 A Yes.

16 Q And did she come to the door and stand in the
17 doorway, or did she come right out into the hallway? When
18 you say, "Agency workers spoke with Samantha in the
19 hallway," were all three of you in the hallway?

20 A Bill and I were in the hallway, and I don't know
21 -- it's, it's my recollection that she's standing in her
22 doorway, as opposed to coming into the hallway and closing
23 the door.

24 Q Do you recall whether you could see into the
25 apartment?

1 A I can't see much of, of the apartment whatsoever.

2 Q You don't have --

3 A (Inaudible).

4 Q Sorry?

5 A Sorry. Because she's standing in, in, in that
6 doorway area.

7 Q You don't have any record of any documentation of
8 what the inside of the apartment looked like.

9 A There's, there's nothing recording -- there's no
10 recording of that.

11 Q Because you weren't aware of what the inside of
12 the apartment looked like.

13 A No.

14 Q Did you actually ask Ms. Kematch if you could
15 come inside her apartment?

16 A Based on the recording, I, I can't recall if I
17 asked her if we could come inside.

18 Q Typically, if you had asked her, would you have
19 recorded that fact?

20 A I think so, yeah.

21 Q Given the nature of the allegation about a
22 bedroom door being locked and the fact that the caller was
23 suspicious about abuse, would you not have wanted to go
24 into the apartment itself and assess the home environment?

25 A That would be -- ideally, I would have. Knowing

1 the outcome of what's gone on, ideally, yeah, I would have
2 wanted to do that.

3 Q I appreciate that you have hindsight, but if we
4 can try and, and -- if you can try to put yourself back in
5 2005, was there any reason why you didn't insist on going
6 in to see the apartment itself?

7 A We had a vague referral of, of a -- using the
8 term "abuse," which is often used but does not necessarily
9 mean abuse as per the criteria of how an abuse
10 investigation would, would see abuse. We were often
11 operating under -- involving ourselves under the least
12 intrusive measures. Those are a couple of reasons that
13 would kind of prevent me from, from insisting.

14 Also, from my notes, not hearing that there's,
15 like, a bunch of people in the place, there's a party going
16 on, that sort of thing, that would also say to me that, you
17 know, had I heard those things I'd be more insistent upon
18 going into the home.

19 Q It's fair to say that you were erring on the side
20 of respecting Ms. Kematch's privacy in not insisting on
21 going inside the apartment?

22 A At that time, yeah.

23 Q And when you say it was a vague referral of
24 abuse, that's partly why you needed to, to go out to the
25 apartment, right, to see what, what the allegation involved

1 and whether it was substantiated in any way.

2 A Right.

3 Q And in terms of whether the allegation that the
4 criteria for referring to abuse intake, you told me that,
5 that didn't matter, that didn't affect whether or not you
6 were going to go out to investigate.

7 A No, it would -- we would go out, either way.

8 Q Do you recall, did you -- you used the term
9 "workers" in the plural. You say, "Agency workers spoke
10 with Samantha." Did you and Mr. Leskiw both speak with Ms.
11 Kematch?

12 A From using the plural, then I believe that, that
13 is what that suggests. I don't have an independent recall
14 of what Bill said as opposed to what I said, or if Bill
15 said something. I'm assuming that he has, according to my
16 notes.

17 Q Do you recall whether you at the time were
18 relying on Mr. Leskiw in any way?

19 A Sorry, can you repeat that?

20 Q Do you recall whether you were relying on Mr.
21 Leskiw in any way?

22 A I think as co-workers we expect each other to
23 support one another. There would be some level of
24 understanding that your co-worker's also there within that
25 investigation because often -- because they have a separate

1 set of eyes, experiences, and can ask separate questions,
2 and if there are safety concerns toward workers, then
3 that's another person that is actively involved in
4 assessing that or ...

5 Q Can you recall whether you specifically asked Mr.
6 Leskiw for his opinion about anything?

7 A While we were speaking with Ms. Kematch?

8 Q Yes.

9 A No, I don't recall.

10 Q At any other time did you ask for his opinion?

11 A No.

12 Q Or advice?

13 A No. I don't recall doing that. If --

14 Q Now, you say that:

15

16 "Agency workers spoke with
17 Samantha in the hallway and
18 provided her with the details of
19 the presenting problem. [She] was
20 curious about who called and was
21 advised that the Agency cannot ...
22 provide that information. She
23 accepted this and speculated that
24 she knew who the SOR was."

25

1 Did she tell you who she thought it was?

2 A I don't remember.

3 Q If she had, would you have recorded that?

4 A I have recorded that in the past.

5 Q Then you go on in the paragraph that says:

6

7 "Workers initially advised

8 Samantha that the referral was

9 about an allegation of her abusing

10 Phoenix. Samantha responded by

11 saying that she had yelled at

12 Phoenix a few days ago and seemed

13 surprised that someone may have

14 heard her."

15

16 What did you think about that response from Ms.

17 Kematch?

18 A I thought that this is certainly an explanation

19 of what could have occurred or led someone else to believe

20 that she was being abused. This was an explanation.

21 Q So in other words, that, that the -- Samantha

22 yelling at Phoenix might have been the abuse that the

23 source of referral was referencing?

24 A Right, yes.

25 Q And that's based on what Ms. Kematch said to you.

1 A At that moment, yes. That's ...

2 Q Okay. Then you went -- you go on to say:

3

4 "This writer then indicated that
5 the referral indicated that it was
6 believed that Samantha had locked
7 Phoenix in her bedroom. Samantha
8 stated that she and Phoenix share
9 a bedroom."

10

11 You asked if the bedroom door had a lock on the
12 outside, and Samantha confirmed there was a lock on the
13 door, and you warned Samantha it wasn't safe to lock her in
14 the room in the case of fire.

15 So at this point was the aspect of the, the call,
16 the referral, relating to Phoenix being locked in the
17 bedroom, was that confirmed?

18 A She confirms that there's a lock on the outside
19 of the door, of the bedroom door.

20 Q And did you formulate an opinion as to whether
21 she confirmed that Phoenix was being locked in the bedroom?

22 A It was my opinion that she had used that for that
23 purpose.

24 Q So that part of the, the call, the source of
25 referral's information was confirmed at that point.

1 A Yes.

2 Q Then you go on to say:

3

4 "At this time Samantha could
5 hear that her youngest child ...
6 was becoming upset [in] the
7 apartment."

8

9 And you document that she returned with the baby,
10 who appeared to be content, healthy, clean, and well-
11 dressed. Why were you recording this information?

12 A I believed it was important for future readers or
13 my supervisor to want to know how did this -- how did
14 Samantha respond to the child, that I witnessed. She
15 responds to the child and the child appears content,
16 healthy, clean, and well-dressed, looks like a well-cared-
17 for baby.

18 Q Now, did you know whether the child that you saw
19 was the child about whom the source of referral had called?

20 A Source of referral is, is referring to Phoenix,
21 as opposed to this child, who's younger.

22 Q You knew that the, that the baby was not Phoenix.

23 A Yes.

24 Q Okay. Then you record that you asked if Phoenix
25 is attending school or daycare. Why did you ask that?

1 A I can't recall specifically if I asked that
2 question as part of a conversation, to say, Is Phoenix here
3 or is she possibly at school or daycare? That's one
4 scenario. It could be generated from Richard's notes from
5 having contacted the school division and learning that she
6 hasn't been enrolled since the previous year or 2004. It's
7 also very possible that I'm asking Samantha about that to
8 find out if she's registering her child for school this
9 coming fall when she'd be in kindergarten. It's one of
10 those -- it's likely one of those situations.

11 Q But your records don't give you any idea as to
12 which, if any, of those scenarios was the case.

13 A Not definitively, no. My records don't say that.

14 Q So you were aware that Phoenix had been
15 registered, in the fall of '04, at Wellington School and
16 that she was inactive. She was reported as, as not
17 attending.

18 A Yes.

19 Q Did you ask Ms. Kematch why that was the case?

20 A No.

21 Q Did you think of contacting the school to see if
22 they had any information about Phoenix?

23 A I didn't, no. Like, I didn't contact the school.

24 Q And you didn't consider contacting them.

25 A I don't recall if I considered it or not, but

1 it's not in my notes if I did.

2 Q Okay. And then you say:

3

4 "This writer asked if there
5 was anything that Samantha needed
6 support with from the Agency and
7 if she also has supports as a
8 parent. [She said] she was doing
9 well and did not require agency
10 supports."

11

12 Now, you took her word for it that she didn't
13 need any help as a parent?

14 A I took her word, and having seen the, the younger
15 child and her interaction, that was also an indication of
16 how she was doing with that child. And she appeared to be
17 doing well, the younger child, I mean.

18 Q Was -- we know when -- we're going to come to
19 your recommendation, but we know ultimately that you
20 recommended that the file be closed, right?

21 A Yes.

22 Q Was Ms. Kematch's -- the fact that she declined
23 agency supports a factor in your decision to recommend that
24 the file be closed?

25 A That's, that's one piece.

1 Q Okay.

2 A Yeah.

3 Q We know from having heard evidence about Ms.
4 Kematch's protection file and her history with CFS from the
5 time that Phoenix was born, that Ms. Kematch often declined
6 support, offers of support. Did -- and we've seen the file
7 recordings that documented that. Was that something that
8 you were aware of in terms of, of the history on this file?

9 A I don't remember if I was aware of that.

10 Q If you had been aware of it would that have
11 influenced what you did on this file, what decisions you
12 made?

13 A I, I believe it would have had an impact or it
14 would have --

15 Q In, in what way?

16 A It would have been taken into consideration on
17 whether or not I recommend it be closed. I don't -- I
18 would have considered when that occurred and things that
19 have occurred since that time --

20 Q But --

21 A -- as part of it.

22 Q -- you don't have any, any documentation as, as
23 having been aware of, of previous recordings where Ms.
24 Kematch declined support.

25 A No, I don't -- I'm not aware, unless it's in

1 Jacki's history that I could refer to quickly, but ...

2 Q That wasn't something that, that factored into
3 your decision, the history with respect to her declining
4 supports.

5 A Not from my notes, not that I can see.

6 Q Did you see Phoenix before you left Ms. Kematch's
7 apartment?

8 A No.

9 Q Did you ask to see Phoenix?

10 A I'm assuming that I have, because I've -- because
11 I asked about her being in school or, or if she's at
12 daycare.

13 Q If you had asked to see Phoenix, either you would
14 have seen her or you would have been told by Ms. Kematch
15 why you couldn't see her, right? Isn't that fair to
16 assume?

17 A Yeah, I, I would say that's fair to assume.

18 Q And in that case the response to your request
19 would have been recorded, right? Either you would have
20 seen her and commented on what you saw, or you would have
21 indicated why you couldn't see her.

22 A If I had seen her, yes, I would have recorded in
23 -- what I saw and -- yes.

24 Q But if you had made a request to see her and the
25 request had been denied, you hadn't seen her, wouldn't you

1 have recorded why that was the case?

2 A Ideally, yeah. If she said Phoenix is at so-and-
3 so's place, or she's over there, or something like that,
4 then that would have been good to have in those notes.

5 Q Well, if, if you'd asked the question, you would
6 have had one of two answers. Either she was there and you
7 would have seen her and commented on it, or she wasn't
8 there and, and you would have known that, and, and
9 commented on that. Wouldn't you?

10 A She's not there and I don't see her, and it's not
11 in my notes that I did see her because she's not there. I
12 don't see her.

13 Q And it's not in your notes as to whether you even
14 asked if she was there.

15 A It would have been my practice to say -- to ask
16 to see Phoenix.

17 Q Is there anything in your notes that says what
18 Ms. Kematch's response was to your asking where Phoenix
19 was?

20 A Not that I recall.

21 Q Is it possible you didn't ask to see Phoenix?

22 A No. I think I would have asked to see Phoenix.

23 Q There's nothing in your recording, though, that
24 says whether you asked, and if so, what the response from
25 Ms. Kematch was.

1 A No.

2 Q And there's nothing in your recording that says
3 where Phoenix was when you were at the apartment.

4 A No.

5 Q Let's look at the recommendations that you made
6 towards the bottom of page 36929. So you say:

7

8 "This file was opened by the
9 [after-hours unit] after a call to
10 them was made on Saturday, March
11 5, 2005. They were advised that
12 the caller believed that Samantha
13 is abusing her daughter Phoenix
14 although there were no details
15 surrounding the abuse other than
16 the caller believing that Samantha
17 was locking Phoenix in her
18 bedroom. The caller did not have
19 an address for Samantha other than
20 that she lives in apartment #1
21 beside the Maryland Hotel. The
22 [after-hours unit] explained that
23 without an address, they could not
24 follow up. Worker Buchkowski
25 located Samantha's address as

1 being #1-747 McGee but could not
2 gain access to the building.

3 "This writer and worker
4 Leskiw met with Samantha at ...
5 McGee Street. Samantha presented
6 as calm and somewhat shy. She did
7 not want to allow workers into the
8 home as she had company. Workers
9 warned and cautioned Samantha
10 about locking Phoenix in her
11 bedroom. Workers viewed [the baby
12 who] appeared to be healthy and
13 well-cared for.

14 "Workers did not note any
15 protection concerns and so this
16 matter can be closed to the Crisis
17 Response Unit at this time."

18
19 When making the recommendation to close the file,
20 did you take Phoenix's age into consideration?

21 A I would assume so, yes.

22 Q What, what were the, the factors that went into
23 your -- the recommendation that you made to close the file?

24 A At that time I would have considered that -- the
25 details of my report, that I had gone to the home -- I'm

1 summarizing, but that Samantha's given me a possible
2 explanation of why someone would suggest that she may be
3 abusing her child because she's yelled at her child. I
4 would also consider that I've warned and cautioned her
5 about using a lock on her door for -- on the bedroom door,
6 for safety concerns. I would also consider that I've seen
7 the younger child, who presents as being healthy and well
8 cared for, and Samantha's interaction with her is, is
9 appropriate and loving. Appears to be doing well with her
10 child. So those are some of the factors that I would take
11 into consideration.

12 Q Ultimately, who made the decision to close the
13 file?

14 A I recommend that the file be closed. A file
15 can't be closed, like I said earlier, unless it's closed by
16 a supervisor.

17 Q Were you at all uncertain as to whether or not it
18 was safe to close the file on March the 9th, 2005?

19 A I had a discussion with, with Diva, like I said
20 earlier, to review what I had done on a file, on this file,
21 and from that discussion, it was closed.

22 Q But my question was, were you at all uncertain as
23 to whether or not it was safe to close the file, from
24 Phoenix's perspective.

25 A I can't remember.

1 Q May I ask it this way: As, as a result of the
2 visit that you made to Ms. Kematch's home, were you able to
3 make a determination as to Phoenix's safety and well-being?

4 A I believed at that time that she was, that she
5 was safe. Had I -- if I didn't believe that she was safe,
6 then I wouldn't have closed or made that recommendation to
7 close the file.

8 Q How were you able to make that determination
9 without seeing Phoenix?

10 A At that time I was considering what the
11 presenting problem was and what I had seen.

12 Q So you accepted Ms. Kematch's explanation of
13 yelling at Phoenix as being what the source of referral
14 meant by abuse?

15 A Yes.

16 Q And you didn't want to see Phoenix to determine
17 whether Ms. Kematch's explanation was accurate?

18 A Ideally, workers would want to -- ideally,
19 workers or I would want to see Phoenix.

20 Q Was there anything preventing you from seeing
21 Phoenix?

22 A It was my understanding that Phoenix wasn't
23 there.

24 Q So you couldn't see her that day at that visit.

25 A Right.

1 Q Was there any reason why you couldn't keep the
2 file open until Phoenix had been seen?

3 A I, I don't know what, what was -- also, if there
4 was other factors impacting my ability to go see her. I'm
5 assuming that there wouldn't, that there wouldn't be
6 something directly related to me not closing the file.

7 Q Sorry, I'm not sure I'm following you. You knew
8 that you hadn't seen Phoenix on March the 9th, 2005.

9 A Yes.

10 Q Was there anything that prevented you from
11 recommending that the file be kept open so that further
12 investigation could be done specifically so that Phoenix
13 could be seen and, and interacted with?

14 A No, there's nothing that's preventing my
15 recommendation that that occur.

16 Q In light of the fact that Ms. Kematch confirmed
17 that she'd been locking Phoenix in her bedroom, were you at
18 all concerned that she might be doing other things that
19 were not in Phoenix's best interest?

20 A At that time when she confirms that she's been
21 locked -- when she's been using a lock on -- that there's a
22 lock on the door, she's explained that -- she's provided me
23 with a possible reason for why someone would suggest that
24 she's being abused. Then at that time I'm not thinking
25 that Phoenix is being abused.

1 Q No, but you, you did confirm that, that Samantha
2 was locking Phoenix in the bedroom and that that wasn't a
3 safe practice.

4 A Right.

5 Q So given that that had been confirmed, did you
6 not worry that there might have been other things that
7 Samantha was doing that were not in Phoenix's best
8 interests?

9 A She doesn't confirm that she's locked Phoenix in
10 the room. She says that there's a lock on the door.

11 Q I thought you told me that you understood that
12 that aspect of the referral had been confirmed.

13 A Well, in that case, from reading my notes, from
14 going back into my notes, then it appears as though -- that
15 she's confirmed that there's a lock on the outside of the
16 door.

17 Q What was your understanding of the purpose for
18 the lock on the outside of the bedroom door?

19 A That she's locking Phoenix in, in her room.

20 Q Right. And that was something you didn't think
21 was safe.

22 A For fire and -- yes, for reasons like -- such as
23 case of a fire.

24 Q So given that you knew Samantha Kematch was doing
25 something that was not safe with respect to Phoenix, that

1 had been confirmed, did you not worry that maybe she was
2 doing other things that weren't in Phoenix's best
3 interests?

4 A Having, having a lock on a door and placing a
5 child into a room is, is, is not a good practice. It's not
6 saying that she's putting Phoenix in the room, locking the
7 door, and leaving her there unattended altogether. It
8 could be that she's getting a time out.

9 Q Did you ask her anything about that?

10 A No.

11 Q There's nothing in your notes that, that
12 documents any kind of conversation as to what would happen
13 if Phoenix was locked in the bedroom.

14 A No, there's -- if -- no, there's nothing to say
15 that in the notes.

16 Q In March of 2005 you understood that best
17 practice required that you see the child who was the
18 subject of a referral when you go out to do an
19 investigation, right?

20 A Ideally, yes. When --

21 Q Now, when you, when you say "ideally" -- you use
22 that, that term a lot. Are you talking -- are you using
23 the term in the sense of something that ought to be done,
24 or something that exceeds what ought to be done?

25 A It -- when I use that term, it means that this

1 would be the best thing to occur.

2 Q And in fact, seeing the child who is the subject
3 of a referral had been the matter of discussion in your
4 unit.

5 A It was ...

6 Q Let, let me pull up a document --

7 A Sure.

8 Q -- for you. Page 20260. You see that? This is
9 entitled CRU Joint Meeting Minutes, February 3, 2004. It
10 shows a number of individuals present. There is a Chris
11 present. Is that you?

12 A Yeah.

13 Q So you attended this joint meeting of the two CRU
14 units -- the two CR units.

15 A Yes.

16 Q And if we go to the next page, point 13, under
17 the heading Assessments, it says:

18

19 "There were concern raised about
20 assessments being made over the
21 phone that should be done by a
22 field to the home. As much as is
23 possible, when there is a concern
24 about a child in the home, the
25 home and the child should be seen

1 by a worker. If the decision is
2 made to complete an assessment via
3 telephone or through a collateral
4 this should be reviewed and
5 approved by the Supervisor."

6

7 So that's something that you're aware of as of
8 March 2005?

9 A Yeah. Yes.

10 MS. WALSH: Mr. Commissioner, this would be an
11 appropriate time, if you want to take the noon break.

12 THE COMMISSIONER: Yes, I think that's
13 reasonable. We'll adjourn now till two o'clock this
14 afternoon.

15 MS. WALSH: Thank you.

16

17 (LUNCHEON RECESS)

18

19 THE COMMISSIONER: All right, Ms. Walsh.

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

21

22 BY MS. WALSH:

23 Q Mr. Zalevich, by the end of your visit with Ms.
24 Kematch, were you satisfied that you had all the
25 information that you needed to complete your investigation?

1 A I believed that I did at the time, yeah.

2 Q And the point of your investigation was to
3 determine whether there was any risk to Phoenix in terms of
4 her safety and well-being?

5 A The point was to follow up with the, the
6 presenting problem.

7 Q But -- sure, but what was it that you had to
8 determine?

9 A Her well-being, yes.

10 Q We know from the source of referral that they
11 were a foster parent who called in. Did that influence in
12 any way -- the fact that it was a foster parent who made
13 that referral, did that influence how you handled this
14 matter in any way?

15 A No, it, it wouldn't have an impact on how I would
16 handle it.

17 Q I think you said that one of the things you
18 relied on in believing that Phoenix was safe was the fact
19 that the baby looked healthy and, and well cared for. Is
20 that right?

21 A Yes.

22 Q So at that moment were you using the baby as a, a
23 proxy for Phoenix's well-being?

24 A That was, that was one of the, that was one of
25 the points that I would use in, in coming up with my

1 recommendation, yeah. She was -- she influenced how I
2 followed through with this.

3 Q The baby.

4 A Yes.

5 Q Did you consider whether it was possible that
6 Phoenix was being abused even though the baby was not?

7 A I'm sure that would have been in my mind.

8 Q And did that influence what you did on this file?

9 A I would have taken that point into consideration
10 during my follow-up and conversation with, with Samantha.

11 Q How long was the visit with Samantha?

12 A From, from reading my notes and what I recorded,
13 I, I would say that this was maybe 20 minutes, maybe.

14 Q At the most?

15 A That's what -- yeah, at the most, I'd, I'd say.

16 Q Okay.

17 A But I can't, I can't say for sure. But I think
18 it'd be safe to say that.

19 Q And the entire visit you and Mr. Leskiw were
20 standing in the hallway.

21 A Yes.

22 Q What did you do after the visit was over?

23 A We left and we went back to the -- I don't know
24 if we had other fields right afterward. Eventually we
25 would go back to the office. So I'm not sure if there were

1 other emergencies or, or fields that we were following up
2 with. I can't recall.

3 Q Then once you got back to the agency, what did
4 you do?

5 A Eventually I would be speaking with, with my
6 supervisor about having met with Samantha and following up
7 this referral. So I would have written, I would have
8 written up my notes, like -- sorry, or entered them into --
9 onto CFSIS or on my document, sorry.

10 Q Do you recall whether you would have spoken to
11 your supervisor before you had your notes typed and signed?

12 A No -- yes, I would have talked to my supervisor
13 before she signed it. Are you asking about my signature on
14 the form?

15 Q Yes.

16 A Okay. I would have entered in my notes and then
17 put my signature on there, and then gone to Diva and talked
18 to her about, about this referral. It's -- that doesn't
19 mean it would -- it had also been my practice to also
20 return to the office and talk to my supervisor upon
21 entering into the office to say this is what we're doing.
22 So --

23 Q Do you recall --

24 A -- I guess I'm going to --

25 Q -- whether that's what you --

1 A I'm going to back up a little bit first and I
2 would say that I can't say for sure that my notes were
3 typed up first and then I spoke to her, or if I spoke to
4 her first and then typed up my notes.

5 Q Okay. If we look at the last page of your
6 report, page 36930 ...

7 MS. WALSH: We seem to have nothing on the
8 screen.

9 UNIDENTIFIED PERSON: I've got the right number
10 entered.

11 THE WITNESS: Do you need to scroll up on that
12 screen, maybe?

13 MS. WALSH: Oh.

14 THE CLERK: I probably need to (inaudible).

15 MS. WALSH: That means we have to reboot.

16 THE CLERK: (Inaudible) up on your next one
17 (inaudible).

18 MS. WALSH: Okay.

19

20 BY MS. WALSH:

21 Q You have the -- do you have a hard --

22 A I do have a copy.

23 Q -- copy of the --

24 A Yes.

25 Q -- document in front of you? And you can see

1 that your signature and Ms. Faria's signature are each
2 dated March 9, 2005?

3 A Yes.

4 Q And that's the same day that you visited Ms.
5 Kematch.

6 A Yes.

7 Q So it would appear that, that you typed up your
8 report and made your recommendations all on the same day as
9 the day you visited Ms. Kematch.

10 A Yes.

11 Q Does that help you in identifying at what point
12 you spoke with your supervisor, in terms of when that
13 document was signed?

14 A Not with certainty.

15 Q Are you certain that you did have a conversation
16 with Ms. Faria?

17 A Yes.

18 Q And what did that -- where did that conversation
19 take place?

20 A In her office.

21 Q Was anyone else there?

22 A Mr. Leskiw.

23 Q What do you remember of that conversation?

24 A My practice would have been to discuss what, what
25 had happened or what had occurred. I don't --

1 THE COMMISSIONER: You, you asked him what he
2 remembered. I don't think it's what your practice was. Do
3 you remember anything about it?

4 THE WITNESS: Oh, okay.

5 THE COMMISSIONER: That was the question.

6 MS. WALSH: Okay.

7 THE COMMISSIONER: You may want to ask him about
8 his practice, but your question, as I understood it, was,
9 was what, what took place, as he remembers it.

10

11 BY MS. WALSH:

12 Q Do you remember a specific conversation with Ms.
13 Faria on March the 9th, 2005?

14 A Yeah.

15 Q Thank you. You do.

16 A Thank you.

17 Q Okay. And how is it that you're able to remember
18 a specific conversation?

19 A Stands out in my mind.

20 Q Did you take notes of the conversation?

21 A No.

22 Q Has it always stood out in your mind?

23 A Yes. Yeah.

24 Q Not just something that you remember as the
25 result of having to participate in the Inquiry.

1 A That had a big influence on me remembering that
2 conversation.

3 Q Did you remember the conversation independent of
4 your participation in the Inquiry in terms of looking at --
5 which would have involved looking at your recordings?

6 A Yes. Prior to learning of Phoenix's passing and
7 seeing my recordings, I had remembered that, that, that
8 conversation.

9 Q What do you recall of the conversation?

10 A I remember reviewing what had happened. I don't
11 remember exactly what I said. I had asked if -- I don't
12 know how I asked her the question or what words I used, but
13 I remember we had discussed briefly that -- should this be
14 closed or not, and part of that conversation had -- was
15 around whether Phoenix had been seen, and, and I said that
16 she had not been seen.

17 Q Did Ms. Faria specifically ask you that?

18 A I don't remember if that point came up because
19 she asked me or because I volunteered that information.

20 Q Okay.

21 A And she said that ideally, yes, she should have
22 been seen, but that this file could be closed.

23 Q What was your response to that?

24 A I closed the file.

25 Q Did you have any understanding as to why, if she

1 was saying ideally Phoenix should be seen, the file should
2 still be closed?

3 A The part where she's referring to ideally she
4 should be seen likely comes from the unit meeting minutes
5 that you referred to earlier today, from February of 2004
6 or 2005. The part where she says, yes, this can be closed,
7 I can't comment on, on how she came up with, with --

8 Q Sure.

9 A -- formulating that.

10 Q I, I appreciate that. I wondered what your
11 understanding was, if you had one, as to why Ms. Faria felt
12 that it could be closed notwithstanding the fact that
13 Phoenix hadn't been seen.

14 A I don't, I don't know.

15 Q So did Ms. Faria provide you with an explanation
16 as to why you did not need to go back to see Phoenix?

17 A No.

18 Q Do you recall whether Ms. Faria mentioned that
19 she had been involved with this family in the December 2004
20 intake, three months earlier?

21 A I don't remember that.

22 Q You don't remember her saying that? Or whether
23 she --

24 A No.

25 Q Whether she mentioned it?

1 A No, I don't remember whether she mentioned that
2 or her saying that.

3 Q Is that something you think you would have
4 remembered if you had been told that?

5 A No.

6 Q Do you recall whether Mr. Leskiw made any
7 comments about whether Phoenix should be seen?

8 A Yes. Bill didn't say whether she should be seen.

9 Q So what did you do after your meeting with Mr.
10 Leskiw and Ms. Faria?

11 A The file was closed. I either wrote up my notes,
12 notes then and then provided her with the report, and then
13 it was closed. I, I believe that's how the timeline went
14 on that day.

15 Q If, if Ms. Faria had instructed you to go back
16 and see Phoenix that day, could you have gone to do that?

17 A I believe it was towards the end of the day when
18 this occurred and that I wouldn't have been able to
19 personally go back out, given the shift. And had she
20 wanted someone to -- had she wanted that to occur, it would
21 either go to -- be forwarded to our after-hours unit or to
22 myself the following day or to the other unit when they
23 came on to backup.

24 Q Once the file was closed, was there any further
25 monitoring of Phoenix?

1 A No. Not, not by me.

2 Q You didn't have anything more to do with this
3 family after March 9, 2005.

4 A This was the last I heard of this family.

5 Q Now, at the time that you made your
6 recommendation to close the file, you had other options,
7 right? You didn't have to recommend closing the file?

8 A Sure, there's, there's always options.

9 Q So one of your options would have been to refer
10 the matter to intake?

11 A That would be an option that's available to me,
12 yeah.

13 Q And intake then could have -- would you have
14 expected that intake then would have gone out to see the
15 child?

16 A If, if intake was assigned this file, then I
17 would expect them to, to continue to follow up and, during
18 that course, see Phoenix but ...

19 Q So your counsel just wants me to, to clarify.
20 When I said to you that at the time that you recommended
21 closing the file and I said you had other options, that was
22 in terms of if -- instead of closing the file you could
23 have recommended doing other things. Is that how you
24 understood my question --

25 A Umm ...

1 Q -- to be understood?

2 A Sorry, go ahead.

3 Q Any time you're dealing with a file as a CRU
4 worker, at the end of your work you make a recommendation
5 as to what should be done, right?

6 A Yes.

7 Q And those recommendations include having the file
8 referred to intake, right, or abuse intake; is that right?

9 A Yeah.

10 Q Or closing the file.

11 A Yes.

12 Q Or having the file go on to another backup
13 person, I suppose, at CRU.

14 A I could, I could make any one of those
15 recommendations.

16 Q And specifically in this case, on March 9, 2005,
17 there was nothing preventing you from making a
18 determination that instead of closing the file, the file
19 should be referred to intake.

20 A I don't make the determination to close the file
21 or to send it to intake.

22 Q Making the recommendation to do that.

23 A I do a recommendation.

24 Q So you recommended closing the file --

25 A Yes.

1 Q -- on March 9, 2005, but among the things that
2 were available to -- for you to do, among the
3 recommendations that were available to you to make, would
4 have been to refer the matter to intake.

5 A That is one option that --

6 Q Okay.

7 A -- we could perform, or I could write --

8 MS. WALSH: Mr. Ray, does that satisfy your
9 concern?

10 MR. RAY: I could probably just deal with it by
11 way of (inaudible), thank you.

12 MS. WALSH: Okay.

13

14 BY MS. WALSH:

15 Q And one of the reasons that you would recommend
16 that a file go to intake as opposed to being closed would
17 be to have further investigations done.

18 A If there was a need for further follow-up, then
19 we would send something to intake.

20 Q So that they could do further investigation.

21 A Yes.

22 Q And I think you just told me that if you had done
23 that, the -- your expectation would have been that intake
24 would have gone out to see Phoenix.

25 A When --

1 Q Or make efforts to do that.

2 A Yes, that would be one of their roles to play in
3 this.

4 Q And would you agree with me that, that abuse can
5 take many forms? Physical, emotional.

6 A Yes, I would agree with that.

7 Q Sexual?

8 A Yes.

9 Q And it wouldn't always be obvious from just
10 looking at a child as to whether a child is being abused.
11 Would you agree with that?

12 A If a child is being emotionally abused, you --
13 it's pretty hard to tell from looking at them.

14 Q I think Mr. Buchkowski testified that probably
15 what you'd have to do to properly assess whether a child
16 had been, for instance, emotionally or sexually abused
17 would be to interact with them. Do you agree with that?

18 A Yes.

19 Q And that type of interaction would take place
20 during an investigation that would take more time than
21 typically you would have at CRU?

22 A If you're, if you're implying an abuse
23 investigation, then, yes, they would have -- they would
24 spend more time doing that sort of interaction.

25 Q Or any investigation where you're going to be

1 spending time interacting with the child.

2 A That would take longer than, than me and my
3 involvement at, at this doorway.

4 Q And so that would be one of the reasons why you
5 would want to refer a matter to intake, so that someone
6 could take the time to interact with the child, Phoenix in
7 this case?

8 A That, that would be a reason to refer to intake.

9 Q Now, you didn't recommend that the matter be
10 referred to intake. You recommended that the matter be
11 closed.

12 A Yes.

13 Q And I think you've gone through already this
14 morning, the reasons why you felt it was safe to close the
15 file.

16 A Yes.

17 Q Were there any other factors that affected your
18 recommendation to close the file, beyond what you've listed
19 in your intake report?

20 A Those would be indirect factors, I would, I would
21 say.

22 Q And what --

23 A But not directly.

24 Q Were there any indirect factors that influenced
25 the recommendation that you made to close this file?

1 A Not the recommendation.

2 Q Okay. Were there any indirect factors that
3 influenced the work you did on this file?

4 A There's indirect factors that influence how we
5 are able to carry through with our work.

6 Q Can you be specific?

7 A Pressure, time constraints, lack of staff. Those
8 are some areas.

9 Q Are you saying there were pressures that affected
10 how you handled Phoenix Sinclair's file?

11 A I'm saying that those pressures don't directly
12 reflect on my recommendation to close the file, but there's
13 pressures that we work within that make it more difficult
14 to follow through as much as social workers would like to,
15 on each and every file.

16 Q Okay, well, let's be specific about this file.
17 Were there any pressures that affected how you delivered
18 services to Phoenix Sinclair and her family?

19 A Sorry, can you repeat that again?

20 Q Well, you mentioned to me -- I asked you if there
21 was anything other than what's recorded in your report that
22 affected how you did your work with respect to Phoenix and
23 her family, and you said -- you mentioned indirect
24 pressures. And my question is, were there any indirect
25 pressures that specifically affected how you handled

1 Phoenix Sinclair's file? And if so, what were they?

2 A Not specifically. If you're asking me if
3 Phoenix's file was isolated as in comparison to other files
4 and if those pressures directly impacted this particular
5 file compared to other ones in a different way, then I
6 would say no. There weren't pressures that impacted how I
7 worked on this file specifically, compared to other files.

8 Q In 2005, in March of 2005, were there pressures
9 that affected your ability to deliver services to families?

10 A Yes.

11 Q What were they?

12 A Workload pressure, lack of staffing. Those were
13 -- there was a lot of change due to devolution. There was
14 the whole context of, of change and pressure that was
15 occurring, that had occurred over a number of years.

16 Q And how did that affect your ability to deliver
17 services to families?

18 A It makes it more difficult to, to do the job. It
19 makes it more difficult.

20 Q In what way? Can you give a specific example,
21 maybe?

22 A I would say that there's pressure as -- to move
23 things on and to keep things moving, and to relieve some of
24 the stress from other areas as well.

25 Q Can you be more specific?

1 A Sure. If you have lots of files being assigned
2 to you, you need to address each of those files and
3 prioritize those files, and so I could be working on other
4 files that also are more emergent or appear to be more
5 imminent in, in nature to respond to. So that's one way.
6 There's pressure to not be sending things to intake to some
7 degree -- not directly related to Phoenix -- but because
8 when files -- when it's believed that a file should go to
9 intake and it gets turned away and sent back down, then
10 that's more pressure because the intake unit can't -- or
11 units can't manage that at that time. So there's pressure.

12 Q And you're just talking generally, right? You're
13 not saying that you're aware of any specific pressure that
14 influenced how you handled Phoenix's file?

15 A I was speaking in generality, yeah.

16 Q And so generally in 2005, did you, as a CRU
17 worker, feel pressure to close files rather than transfer
18 them to intake?

19 A Yes, I would agree with that.

20 Q So pressure not just to get the file out of CRU,
21 but to get it out of the system completely.

22 A They're not out of the system, but to close the
23 file, yeah.

24 Q They're not an active open file --

25 A Yeah.

1 Q -- once closed. Okay, thank you. You said that
2 workload was a pressure that you felt in 2005?

3 A Yes.

4 Q You're still a CRU worker. Has that pressure
5 changed?

6 A There's still lots of pressure at CRU.

7 Q Can you be specific?

8 A The system's under constant change, which is a
9 source of pressure. Some areas have, have changed
10 dramatically, improvement. There's -- it's a difficult
11 position due to workload and complexities of the files that
12 we -- and the referrals that we get. I don't know how much
13 you want me to elaborate.

14 Q Is your job -- do you feel that it is any less
15 pressured than it was in 2005?

16 A There have been areas where, where improvements
17 have been made to relieve some of that pressure since 2005,
18 but the workload hasn't decreased.

19 Q Have you had additional staff added to your unit?

20 A We've had improvements on when staff are away,
21 workers can be called in to, to fill in those positions.

22 Q We'll come back to changes in a little while.
23 What's your working day? How many hours?

24 A It's 8:30 till 4:30, Monday to Friday.

25 Q With a lunch hour?

1 A With a lunch hour.

2 Q Was that true in '05?

3 A That was the same.

4 Q Did you ever take work home with you in '05?

5 A I've taken work home in the past. I can't
6 remember if, in '05, I was taking work home.

7 Q What, what kind of work would you take home, if
8 you were taking work home?

9 A Writing up case notes, like into -- from, from my
10 paper documents into a computer file.

11 Q And now, how often do you take work home?

12 A I don't.

13 Q So when your shift is done, you're done?

14 A Yeah. Unless I need to stay after work and
15 continue to work on files that need to go to after-hours or
16 be attended to faster than, than that.

17 Q And how often --

18 A There are situations that --

19 Q -- does that happen?

20 A Not very often.

21 Q What about in '05?

22 A I, I can't recall.

23 Q I think several times today you told me that your
24 shift would be ending and so you wouldn't do something
25 until the next day.

1 A The after-hours unit comes on at four o'clock, so
2 if fields were going to be done after four o'clock, unless
3 I'm already out in the field it would be sent to the after-
4 hours unit and they would proceed outside of regular work
5 hours.

6 Q And when I look at, at your report, I don't see
7 any mention of Wes McKay. Is that fair?

8 A He's not mentioned in this report.

9 Q He's not mentioned in your recording, nor is he
10 mentioned in the demographic information prepared by Ms.
11 Davidson, nor is he mentioned in the history that she
12 prepared.

13 A That's right.

14 Q He was mentioned in the intake from December of
15 2004 where he was identified as the father of Ms. Kematch's
16 baby. Was that something that you were aware of in the
17 file recordings?

18 A I don't remember, in 2005, if I was aware of
19 that.

20 Q So you don't remember if you read the December
21 2004 recording.

22 A No. Not, not an independent --

23 Q Do you --

24 A -- recollection at that time.

25 Q Sorry?

1 A It's not a recollection that I have of having in
2 2005 at the time that I had the file.

3 Q There's no mention of Mr. McKay in your file
4 recording. Is it fair to assume that you were not aware of
5 him when you were delivering services to Phoenix and her
6 family in March of '05?

7 A I would, I would say that.

8 Q Do you recall whether you asked Ms. Kematch if
9 there were any other adults living in the home?

10 A I don't remember if I asked her that and my notes
11 don't reflect me saying that.

12 Q Remember -- do you recall whether you asked her
13 who the, the new baby's father was, whether he lived with
14 her?

15 A No, I, I don't remember.

16 Q If you had asked that information, would you
17 likely have recorded it?

18 A Yes.

19 Q We've heard evidence from CRU workers that they
20 understood, as of 2004, that adults -- other adults living
21 in the home with a child needed to be investigated as, as
22 part of an assessment, a safety assessment of -- relating
23 to a child. Is that something that you were aware of in
24 2005?

25 A You mentioned earlier in your question 2004.

1 Q Right. Because --

2 A Did you mean --

3 Q -- the, the witnesses that we heard from were
4 testifying from the perspective of 2004. This was
5 something that they were aware of. So in 2005, were you
6 aware that as part of doing a risk or safety assessment of
7 a child, you'd want to, to know something about the adults
8 living in the home.

9 A I would want to include all the individuals that
10 are living in this home. I would want to include them in
11 my report.

12 Q Do you recall whether Ms. Faria asked you whether
13 there were any other adults living in the home when you met
14 with her?

15 A I don't remember if she asked me that.

16 Q Now, there is evidence before this Commission
17 that there was information available on CFSIS about Karl
18 Wesley McKay, and that that information was available
19 certainly as of March 2005. That's found in Exhibit 19,
20 for the record. And Mr. Zalevich, as a result of, of
21 participating in this Inquiry, you are now aware of
22 information about Mr. McKay that you were not aware of in
23 2005; is that right?

24 A I believe so, yes. Yeah.

25 Q And I'm going to paraphrase and, and tell me if,

1 if I'm wrong, but you've, you've now -- as a result of
2 participating in the Inquiry, you've now become aware that
3 as of 2005 CFSIS had information that Mr. McKay had a
4 history of domestic violence?

5 A Yes, I know that now.

6 Q And that he had been identified as not being safe
7 around children?

8 A Yes.

9 Q That he had a record of convictions for assaults
10 and had been charged with assaulting his partner.

11 A Yes.

12 Q And that there was correspondence from Probation
13 to Child and Family Services warning about how violent Mr.
14 McKay was and, and likely to reoffend.

15 A I know that now.

16 Q That's not information that you knew when you
17 were handling Phoenix's file; is that right?

18 A That's correct.

19 Q In fact, I think you said that you didn't even
20 know that Wes McKay was living with Samantha Kematch in
21 2005.

22 A Yes.

23 Q If you had known that Wes McKay was living with
24 Ms. Kematch when you went out to investigate the allegation
25 on March 9, 2005, would you have done a CFSIS search of Mr.

1 McKay?

2 A Yes, if he was living -- if I had known that, I
3 would have checked his name.

4 Q And if you had done a CFSIS search and seen the
5 information that we just described as being in CFSIS, would
6 that have influenced the services that you delivered to
7 Phoenix and her family?

8 A I would have taken into consideration, yes.

9 Q And would it -- could you be more specific?

10 A It would have influenced my follow-up or
11 recommendations.

12 Q Meaning what?

13 A It could mean that based on what I'm reading
14 about Mr. McKay, more follow-up could be needed.

15 Q In which case you would not have recommended the
16 file be closed?

17 A It would have influenced my position, yes.
18 Whether or not it definitely would have meant that I sent
19 it to intake or closed it in 2005, I'm not sure. But I
20 would have considered it, sure, as important information.

21 MS. WALSH: Can we pull up on the screen, please,
22 page 36925?

23

24 BY MS. WALSH:

25 Q I don't know if you can help me with this, Mr.

1 Zalevich. This is called a Child and Family Services Case
2 Summary, Short Face Sheet, Protection Kematch, Samantha
3 Dawn, it says, from March 10, '04, to March 11, '05. It's
4 got the agency, Winnipeg CFS, and case status closed
5 effective March 9, 2005. You see all of that at the top of
6 the document?

7 A Yes.

8 MS. WALSH: Mr. Commissioner, do you have the
9 document I'm referring to?

10 THE COMMISSIONER: I'm just looking for it.

11 MS. WALSH: You should. It's a single page.

12 THE COMMISSIONER: I don't think so, but go
13 ahead.

14 MS. WALSH: It's on the screen.

15 THE COMMISSIONER: Yes, I see that.

16 UNIDENTIFIED PERSON: Is it possible to --

17 THE COMMISSIONER: That's, that's fine.

18 UNIDENTIFIED PERSON: -- make -- expand it a
19 little bit, just to make it a little larger?

20 MS. WALSH: I don't know, can we expand this
21 document? It, it's not easy to read, I know.

22 UNIDENTIFIED PERSON: (Inaudible).

23 UNIDENTIFIED PERSON: One -- 110 percent or
24 something like that.

25 MS. WALSH: Okay. Is that better?

1 UNIDENTIFIED PERSON: Yeah, thanks.

2

3 BY MS. WALSH:

4 Q Mr. Zalevich, are you able to see this all right?

5 A Yes, thank you.

6 Q Yeah, okay.

7 THE COMMISSIONER: Oh, I have it.

8 MS. WALSH: You do.

9 THE COMMISSIONER: Yeah.

10 MS. WALSH: Oh, good. Thank you.

11

12 BY MS. WALSH:

13 Q So it says effective date near the top right-hand
14 side, March 9, 2005. And then if you scroll down it has an
15 address on McGee Street. And if you scroll down some
16 more ...

17 MS. WALSH: Keep scrolling, please, so we can see
18 more of the document.

19

20 BY MS. WALSH:

21 Q You've got client persons in case, in brackets,
22 current, and you've got the name Samantha Kematch and her
23 birth date, names of children that have been redacted,
24 Phoenix Sinclair, and then it says Wes McKay with a birth
25 date of January 1, 1980 with a question mark, common-law

1 spouse, and whether he's aboriginal has not been
2 determined. And then you'll see there's a heading Service
3 Provider. And if you scroll down you'll see your name at
4 the very bottom as -- listed as the primary social worker
5 with a start date of March 7, 2005. Do you know what this
6 document is?

7 A It's, it's a document taken from CFSIS which
8 refers to service provider and client -- or persons
9 involved, but it's not something that I would be bringing
10 up or normally work with on my -- like, in my paper
11 recordings that I would --

12 Q Okay.

13 A Like the ones that we've been reviewing today.

14 Q Do you have any idea why a Wes McKay was attached
15 to this case? You see the name Wes McKay --

16 A Yeah, yeah.

17 Q -- with a birth date of January 1980, with a
18 question mark.

19 A Yeah.

20 Q And as we saw at the top, this was effective
21 March 9, 2005. Do you, do you know why it is that there is
22 a Wes McKay listed on this document?

23 A As of ...

24 Q March 9, 2005.

25 A No, because I was not aware of Wes McKay as of

1 March 9th, 2005.

2 Q So you had no involvement with preparing this
3 document.

4 A I don't know when this document was prepared.
5 I'm assuming it came from around that time, but ...

6 Q The date at the top, if you go to the top right-
7 hand corner ...

8 MS. WALSH: If you scroll up, please? Keep
9 going.

10

11 BY MS. WALSH:

12 Q See it says March 10, 2005?

13 A Yeah.

14 Q You didn't have anything to do with either
15 creating this document --

16 A No.

17 Q -- or reviewing it?

18 A No.

19 Q Okay, thank you. If we go back to your report,
20 page 36930 ...

21 MS. WALSH: And we can make it smaller again.
22 Maybe not that small.

23

24 BY MS. WALSH:

25 Q The last paragraph of your report says:

1

2

"Workers did not note any

3

protection concerns and so this

4

matter can be closed to the Crisis

5

Response Unit at this time."

6

7

And it's signed and dated March 9, 2005.

8

A Yes.

9

Q At the time that, that you made that assessment,

10

that you did not note any protection concerns, you had not

11

stepped inside Ms. Kematch's apartment. Is that right?

12

A Oh, sorry, I thought you were going to say more.

13

Q Sorry. Is that, that right, you hadn't done

14

that?

15

A That's right, yes.

16

Q You had not investigated who the father of the

17

new baby was and whether he was living in the home?

18

A No, I didn't know about the father of the baby,

19

whether he was listed in the home, nor was it in the

20

presenting problem.

21

Q You didn't know -- you didn't see Phoenix at the

22

time that, that you made an assessment that there were no

23

protection concerns.

24

A That's right.

25

Q And you didn't know where she was.

1 A I didn't know where she was on that date.

2 Q Had you ever seen Phoenix?

3 A No. No.

4 Q Did you know when the agency had last seen
5 Phoenix, when you made this assessment there were no
6 protection concerns?

7 A No.

8 Q So the assessment that you made about there not
9 being protection concerns was based on the visit that you
10 had with Ms. Kematch in the hallway?

11 A It's based on that and information I would have
12 reviewed. So the preceding worker information, like --

13 Q You mean --

14 A -- from --

15 Q -- the history that Ms. Davidson wrote up?

16 A That's what I --

17 Q Or Mr. Buchkowski's?

18 A That's what I recall, yeah.

19 Q So -- sorry, I interrupted you.

20 A Oh.

21 Q The information that reviewed, written by Mr.
22 Buchkowski?

23 A Yes. And -- sorry.

24 Q And Ms. Davidson?

25 A Yes, from my report, yes.

1 Q Now, do you recall how you found out that Phoenix
2 Sinclair had died?

3 A One of my co-workers had come to me at work and
4 had mentioned that Phoenix had passed away, and showed me
5 my report.

6 Q The report that we just looked at?

7 A Yes.

8 Q Did you at that time or at any time prior to
9 preparing for the Inquiry, did you have any meeting with
10 your employer to discuss your involvement in the matter?

11 A There was the reviews done by different --
12 different reviews that were done.

13 Q Yes.

14 A So I'm not sure if --

15 Q But aside from that --

16 A -- if that's what --

17 Q -- we're going to -- I'm going to talk with --

18 A Okay.

19 Q -- you about those in a minute.

20 A Sure.

21 Q But those -- but aside from the reviews that were
22 done, did, did your employer ever sit down with you and
23 say, Mr. Zalevich, let's look at what you did here and what
24 happened in this case?

25 A Not that I recall. I could be wrong, but I don't

1 recall it.

2 Q And, and as you say, there were a number of
3 reports that were commissioned after Phoenix's death was
4 discovered. One of them was a report prepared by Andrew
5 Koster and Billie Schibler. We call it the Section 4
6 report because it was prepared pursuant to Section 4 of The
7 Child and Family Services Act. Remember being interviewed
8 by Mr. Koster in connection with that report?

9 A Yes.

10 Q So if we can pull up page 36875. These are the
11 interview notes that Mr. Koster took of his interview with
12 you.

13 MS. WALSH: Scroll down, please. There we go,
14 where it says, Chris in March of '05.

15 THE COMMISSIONER: Are they in the main volume?

16 MS. WALSH: No, they should be on your desk,
17 though, Mr. Commissioner. I think they were in the
18 material that the office prepared for you. Three pages
19 stapled together, I think, that ...

20 THE COMMISSIONER: What's, what's the top of it?

21 MS. WALSH: There's no heading because -- but at
22 the --

23 THE COMMISSIONER: All right.

24 MS. WALSH: You should have, starting at page
25 36874. The top paragraph says McKay, the first word.

1 THE COMMISSIONER: Yes, I have it.

2 MS. WALSH: Oh, good. So on the next page, Mr.
3 Commissioner, I'm turning the witness to page 36875.

4 THE COMMISSIONER: Yeah.

5

6 BY MS. WALSH:

7 Q Mr. Zalevich, have you got that?

8 A I do, thank you.

9 Q Good, okay. So this is what Mr. Koster has
10 documented from his interview with you. He says:

11

12 "The abuse call.

13 "Call comes in March 5, 2005,
14 after hours and the call is taken
15 by an afterhours worker, Jacki
16 Davidson. Often, after hours only
17 dealt with immediate emergency's.

18 "They (CRU) try to ascertain
19 if there was merit. Chris had
20 been in the abuse unit in 2002 for
21 seven months. He did have
22 experience.

23 "He definitely has been
24 trained not to believe that this
25 would warrant investigation by the

1 abuse unit. More information
2 would have to be required, also if
3 just the word abuse was a criteria
4 then the abuse unit, would be
5 further swamped. If he had seen
6 anything to raise his suspicions
7 at the home, he would have been
8 more intrusive. Even today cases
9 are sent back 'hey this isn't
10 ours, if there is no confirmation
11 of bruising. They are the ones
12 that are supposed to confirm the
13 abuse but if there is not
14 confirmation at the beginning they
15 do not want to receive them and it
16 is left to CRU to make the
17 decision.

18 "Worker remembers the mother
19 is acting in a shy manner and the
20 message that she does not want her
21 visitor to know it is CFS at the
22 door. She stepped into the
23 hallway after Chris identified
24 himself. Chris thought that her
25 answers to the concerns were good.

1 "Best practice to look at all
2 the recording of past history.
3 Sometimes he is able and sometimes
4 not."

5

6 So going back to the beginning of, of those
7 notes, are those notes an accurate reflection of what you
8 said to Mr. Koster?

9 A I don't recall in my -- in the entirety of what I
10 said to Mr. Koster, so if there was other notes that he
11 could have taken or should have taken, then I can't comment
12 on, on that.

13 Q Okay. In terms of what's there ...

14 A In terms of what's there, this appears to be the
15 result of the conversation between myself and Andrew.

16 Q Does it seem to be an accurate recording of what
17 you would have said or what you did say?

18 A It appears that way, yes.

19 Q Do you have an independent recollection of, of
20 your interview with Mr. Koster?

21 A I remember being in an interview with him. But I
22 would have to go by -- from notes to remember what I said.

23 Q Did he ever send you a copy of the notes that he
24 took, the ones that we're looking at?

25 A That doesn't stand out for me.

1 Q Did you make any notes?

2 A No.

3 Q So is there anything else you want to comment on
4 with respect to Mr. Koster's recording of your interview
5 with him?

6 A No.

7 Q Let's look at the, at the report that he
8 prepared, page 49.

9 MS. WALSH: And this, Mr. Commissioner, is CD
10 number 1.

11 If we can scroll to the top of that page, please?

12 Have you got that, Mr. Zalevich?

13 THE COMMISSIONER: Yes.

14 MS. WALSH: Mr. Commissioner, you've got it?

15 THE COMMISSIONER: Yes.

16 MS. WALSH: Good.

17

18 BUY MS. WALSH:

19 Q And Mr. Zalevich?

20 A Yes, thank you.

21 Q So we are all, literally, on the same page. This
22 is entitled The Seventh Protection Opening: From March 5,
23 2005 to March 9, 2005. And basically, as I read this page,
24 it's an outline of factual recordings. Is there anything
25 in, in what Mr. Koster has recorded or documented here

1 that, in your view, is not accurate? And take your time.

2 A This looks like it came from that report, yeah.

3 Yes.

4 Q And under the heading March 9, 2005, if we scroll
5 to the bottom, please, where you see the reference, "Worker
6 #2," that's you?

7 A Yes.

8 Q You understand that to be you?

9 A I, I believe that to be me, yes.

10 Q Okay. If we turn to page 50, again, this is a
11 factual recording, starting at the top of the page. Can
12 you tell me if there's anything that is not factually
13 accurate that's documented on this page, please?

14 THE COMMISSIONER: Just, just take your time,
15 Witness.

16 THE WITNESS: Thank you.

17 MS. WALSH: Yeah.

18 THE WITNESS: Yeah, I, I believe that this is
19 taken from that report and based on that report, yes.

20

21 BY MS. WALSH:

22 Q Factually accurate, page 50?

23 A I think so, yes.

24 Q Okay. And the reference to "Worker #3," you
25 understand that to be Mr. Leskiw?

1 A Yeah. Yes.

2 Q Then page 51, you see a reference to "Interview
3 with Worker #2," which we identified as you. That appears
4 to be a reproduction of, of what we discussed in terms of
5 what was in Mr. Koster's notes. But take a minute and, and
6 let us know if there's anything that's not accurate there,
7 please.

8 A Okay, yes.

9 Q That's accurate?

10 A Yes.

11 Q Okay. Turn to page 53, please. So then Mr.
12 Koster made a number of findings, starting with finding 38:

13

14 "The Agency erred in not treating
15 this as an alleged abuse call and
16 not allowing it to be opened as an
17 abuse referral assigned to the
18 abuse Unit.

19 "When the CRU did not find
20 any reason to overturn the intake
21 decision they had little choice
22 but to close it. The CRU did not
23 have the agency mandate to
24 continue on with cases on [their]
25 own that did not meet intake

1 criteria for opening."

2

3 You have any comments with respect to that
4 finding and those remarks?

5 A With respect to the finding, the abuse unit
6 wouldn't have accepted this referral.

7 Q You agree with that.

8 A I, I'm saying that the abuse unit would not have
9 accepted this referral.

10 Q I see. Okay.

11 A Yeah.

12 Q I think -- sorry, do you have any other comments?

13 A I just want --

14 Q Carry on.

15 A Just a moment, thank you.

16 Q Sorry.

17 A I think that's all. That's the only comment I
18 have.

19 THE COMMISSIONER: Before you leave that, I've
20 got a question to ask you, Ms. Walsh. In the comment under
21 the finding, as you read it, "when the CRU did not find any
22 reason to overturn the intake decision." Have we heard
23 about that intake decision?

24 MS. WALSH: I think ultimately we'll have to ask
25 Mr. Koster what he was referring to there.

1 THE COMMISSIONER: All right. I just don't know
2 what it is and I -- if I was supposed to, I want to find
3 out. But obviously not.

4

5 BY MS. WALSH:

6 Q Mr. Zalevich, you said you didn't know what the
7 circumstances were that, that meant that the file was
8 assigned to you; is that right?

9 A Right. And that's kind of why I paused to look
10 at, at the lines that, that are being referred to, because
11 I'm not exactly sure what Andrew's meaning in here.

12 Q Right.

13 THE COMMISSIONER: All right.

14

15 BY MS. WALSH:

16 Q And, and mostly, Mr. Zalevich, what I'm doing is
17 -- because, because comments have -- and findings have been
18 made about various workers involved in delivering services
19 to Phoenix and her family, out of fairness to all of you
20 I'm making sure -- my colleague and I are making sure that,
21 that you all see what was said about you and have an
22 opportunity to respond, if you're able to.

23 A Thanks.

24 Q So I don't expect -- if you don't know what Mr.
25 Koster's referring to, you don't have to, to have a

1 response. It's up to you.

2 A Okay. Thanks.

3 Q So you told me that -- just now, that abuse would
4 not have accepted this referral?

5 A This referral would not have fit abuse's criteria
6 for an abuse referral.

7 Q And I think you told me that --

8 A Yes.

9 Q -- that that didn't make a difference as to
10 whether or not you would go out to investigate it.

11 A No, it would not make a difference whether or not
12 we would investigate it, yes.

13 Q And if you had determined that, in fact, more
14 investigation needed to be done, you could have sent it to
15 general intake, if, if that had been your assessment.

16 A Certainly one possible route, yes.

17 Q What about finding 39, F39? Now, this is F39,
18 the second one, the one that comes after F38, because
19 there's one before that, too.

20

21 "The determination not to treat
22 this as an abuse case because it
23 did not in their opinion, meet the
24 strict definition of the Act was
25 inappropriate and not in the

1 spirit of the legislation. It was
2 a direct reflection of an agency
3 adjusting its practice to meet an
4 overload situation."

5

6 Have any comments about that?

7 A I don't think it's my position to comment on, on
8 that.

9 Q Fine.

10 THE COMMISSIONER: That recommendation isn't
11 based on anything this witness said, is it?

12 MS. WALSH: I don't believe so, but it is based
13 on the intake that involved this witness.

14 THE COMMISSIONER: Yes, I understand that.

15 MS. WALSH: The Seventh Protection Opening, as
16 it's called, yes.

17 THE COMMISSIONER: I understand that.

18

19 BY MS. WALSH:

20 Q And then, F40:

21

22 "This decision had dire
23 consequences for Phoenix because
24 it meant that the 14 required
25 steps in an abuse investigation

1 which would have potentially saved
2 her life, were not met."

3

4 Is your answer the same?

5 A Yes.

6 Q And F41:

7

8 "Phoenix should have been seen and
9 the case should not have been
10 closed but the blame does not lie
11 with the line staff and supervisor
12 directly involved. They attempted
13 to have this case assessed and
14 sought for intervention as an open
15 intake case."

16

17 Have any comment about that?

18 A No, I don't.

19 Q Do you read that as, as referring to anything you
20 did or your supervisor did?

21 A I did not seek to have intervention by, by an
22 intake unit.

23 Q Anything more before we leave this report, that
24 you want to comment on?

25 A No.

1 Q So then the next report, we'll pull up page 162,
2 please. This is the Section 10 report, Mr. Zalevich.

3 A Is that Rhonda Warren's report?

4 Q No, this is --

5 A Or which --

6 Q -- Jan Christiansen-Wood's, through the Office of
7 the Chief Medical Examiner.

8 A Is there a CD number on them?

9 Q Two.

10 A Sorry.

11 Q 0002.

12 A And what page, again?

13 Q Page 162.

14 A Okay.

15 Q You have that?

16 A Yes.

17 Q The first main paragraph, four lines up from the
18 bottom says, "Instead the" ...

19

20 "The worker recommended that the
21 Intake Unit open the file for
22 further service. Instead, the
23 file returned to a worker in the
24 Crisis Response Unit on Monday,
25 March 7, 2005. The worker went

1 out to the home again on
2 Wednesday, March 9 and gained
3 entry to the building when another
4 tenant was entering."

5

6 Then the report goes on to describe your actions.

7 Can you just take a look at that next paragraph
8 and tell me whether that's an accurate reflection of the
9 work that you did, please?

10 A In the, in the start of your comment you referred
11 to the bottom four lines?

12 Q Yes.

13 A Right.

14 Q And then the next paragraph:

15

16 "The worker described Ms.
17 Kematch as having 'a somewhat shy
18 demeanour'."

19

20 A Yeah.

21 Q That paragraph.

22 A Yes, in that first part, though --

23 Q Yes.

24 A -- it says that "the worker went out to the home
25 again." It's not again. I only went out once.

1 Q It was Mr. Buchkowski who had gone out
2 originally.

3 A That must be who he's referring to.

4 Q Okay, thank you.

5 A So -- sorry, that can't be Mr. Buchkowski,
6 because, because he didn't go out on Wednesday.

7 Q Okay. So it's just plain not accurate.

8 A It's just -- the word "again" is not accurate.

9 Q Thank you.

10 A You were asking about the following paragraph,
11 though?

12 Q Yes.

13 A And, sorry, what was your question?

14 Q Is that an accurate reflection of, of what you
15 did and reported?

16 A Yes.

17 Q And then in italics, the statement:

18
19 "There is no indication in
20 the file that Ms. Kematch was
21 asked directly if she had ever
22 locked Phoenix in the bedroom,"

23

24 is that accurate?

25 A From the file recording, that would be an

1 accurate statement.

2 Q And then the last paragraph on that page, can you
3 review that, please, and tell me whether that's accurate.

4 A That, that paragraph isn't entirely based on my
5 recording.

6 Q The last paragraph?

7 A Yes.

8 Q It's not entirely based on your recording?

9 A That's correct, yes.

10 Q Which parts are not based on your recording?

11 A The last sentence, starting with "Ms. Kematch was
12 asked if she needed supported," there's a hyphen and then a
13 statement after that.

14 Q "As she had every time this question had been
15 asked," that's a comment from the report writer --

16 A Yeah, as opposed to --

17 Q -- not from you.

18 A -- my report.

19 Q The rest of that paragraph accurate?

20 A Yeah.

21 Q Thank you. And then on the next page, 163, near
22 the top, we see, in bold, it says:

23

24 "Although the Agency had sent

25 workers out to investigate a

1 complaint of maltreatment of
2 Phoenix, the child was not seen
3 nor was her location requested.
4 [The baby's] condition was
5 accepted as a proxy for Phoenix's
6 condition."

7

8 Want to comment on that statement?

9 A I can't recall if I asked for Phoenix's location,
10 and I can't glean that from the report.

11 Q What about the comment that:

12

13 "[The baby's] condition was
14 accepted as a proxy for Phoenix's
15 condition"?

16

17 A The baby's condition was considered as being a
18 variable that would influence what had occurred. I don't
19 know if it's fair to suggest that the baby was a proxy for
20 Phoenix's condition. I just -- I don't feel that I can
21 fully state that.

22 Q Then the, the first lines of the next paragraph:

23

24 "The problems with this
25 approach are obvious; if one child

1 in the family is used as a proxy
2 for the health, condition and
3 developmental progress of other
4 children in the family, a sick
5 child can be missed and an abused
6 or neglected child overlooked."

7

8 Do you have any comments with respect to that
9 statement? That's, that's the report writer's comment.

10 A I, I would agree that that is a certain
11 possibility.

12 Q Turn to page 172, please, later on in the report.
13 Can you read the first two paragraphs, please?

14 A Sorry, 172?

15 Q One seventy-two.

16 A I don't ...

17 Q You don't have it that far.

18 A I'm missing some pages.

19 Q Okay. Do you -- now, my copy's marked up.

20 MS. WALSH: Mr. Ray, do you have a copy?

21 THE COMMISSIONER: I have a clean copy here.

22 MS. WALSH: Do you?

23 THE COMMISSIONER: The witness (inaudible).

24 UNIDENTIFIED PERSON: I do have a copy if the
25 Commissioner wants his (inaudible).

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

2

3 BY MS. WALSH:

4 Q So it's also on the screen. So it reads:

5

6 "The Agency's final 'contact' with
7 Phoenix" --

8

9 "contact" in quotation marks,

10

11 "... in March 2005 should have
12 resulted in a demand to see her,
13 to see her home and to ensure that
14 she was well and living with her
15 mother. The family history
16 demanded this as a minimum
17 standard of casework following up
18 on a report of possible child
19 abuse--the current program
20 standards for child protection
21 (2001) specifically require that
22 the child who is the subject of an
23 abuse report be seen by the
24 investigating worker. There was
25 no observation of the child or any

1 record of a demand to see her.
2 Considering that the allegation
3 involved child abuse and confining
4 a child in a locked room, the
5 Agency's willingness to once more
6 be dismissed by Ms. Kematch is
7 deeply disturbing. It is,
8 however, when the literature on
9 child deaths is considered, not
10 unique. While the Branch complied
11 by ensuring that there was a
12 timely follow-up of the
13 allegation, the remainder of the
14 investigation did not meet the
15 standards."

16
17 Do you have any comment with respect to that
18 paragraph?

19 A The line that talks about -- and I'll just read
20 it, "The current program standards for child protection,"
21 in brackets, 2001. So they're implying or they're stating
22 specifically 2001, this is a standard. It says:

23
24 "[It] specifically require[s] that
25 the child who is the subject of an

1 abuse report be seen by the
2 investigating worker."

3

4 I don't know if that's as of 2001 or of 2005, if
5 that is an absolute -- I don't know if the standards at
6 that time are referred to in such an absolute manner. And
7 I don't, I don't believe that they are.

8 Q And the next -- is there anything more with
9 respect to that paragraph you want to comment on?

10 A If you can give me a moment, then?

11 Q Sure.

12 A I haven't written reports but -- like this, but
13 the use of the term "deeply disturbing" is very subjective,
14 I think. That's just a side comment.

15 Q Okay.

16 A Otherwise, I'm okay with that paragraph.

17 Q Before we go on, when was the first time that you
18 saw either Mr. Koster's report or the Section 10 report
19 that we're looking at now?

20 A Oh, I can't remember when I first saw those
21 reports.

22 Q Did you see either of the reports before your
23 involvement with this Inquiry?

24 A I don't remember, to be honest.

25 Q So the next paragraph, still on page 172, says:

1
2 "The new online Child Welfare
3 Standards for intake services
4 provide direction to workers in
5 situations such as these. Under
6 'Intake Decision' on p.3 of the
7 Intake section, the case
8 management decision at that point
9 (among others) is 'Are all
10 children involved safe?' Based on
11 this question, the decision to
12 close the Intake in March 2005
13 without ensuring that Phoenix was
14 safe was a violation of the newest
15 Provincial Standards. The report,
16 which included allegations of
17 confinement and physical abuse,
18 warranted a Child Protection
19 Investigation under the Assessment
20 section of the standards. The
21 Investigation, under Section 18.4
22 of The Child and Family Services
23 Act, required that the case
24 manager have 'face to face contact
25 with: the child alleged to be in

1 need of protection, any other
2 children living in the household,
3 any caregiver, custodial parent or
4 guardian (other than the alleged
5 offender)."

6

7 And then she references page 5 of the 2001 Assessment
8 section.

9 You have comments with respect to this paragraph?

10 A My report did not include an allegation of
11 physical abuse.

12 Q And the standards that are referenced in this
13 paragraph, are those standards that you were aware of in
14 2005?

15 A When she comments, "the new online standards,"
16 are those standards from 2005? Is --

17 Q Are, are you asking that as a question?

18 A Yes.

19 Q And --

20 A When she says "new" --

21 Q Right.

22 A -- does that mean in 2005? Because I don't
23 recall when this report was ...

24 Q This report was prepared in 2006.

25 A Do you know if the new online standards are from

1 2006 or ...

2 Q No, and it's, it's a fair question that we will
3 ultimately have to put to the writer of the report.

4 So, so is it fair to say you don't know which
5 standards the report writer's referring to in these
6 comments?

7 A Not -- yeah, I'm not confident in being able to
8 answer that. Yeah, I don't know.

9 Q And I think your evidence to me was that you
10 didn't refer to standards in carrying out your work.

11 A That would be my evidence, yes.

12 Q If we turn to the recommendations, some of the
13 recommendations that were made by this report writer,
14 starting at page 176, scrolling down to recommendation
15 number two:

16

17 "The chief medical examiner
18 recommends that the General
19 Authority ensure that the program
20 standards for investigation of
21 allegations of mistreatment of
22 children are followed by agencies
23 under its jurisdiction,
24 specifically the requirement to
25 ensure that the children involved

1 are safe be fulfilled by ensuring
2 that a child about whom a report
3 of suspected abuse or neglect is
4 made is seen by the investigating
5 worker(s)."

6

7 You have any comment with respect to that
8 recommendation?

9 A That recommendation's been -- sorry, that
10 recommendation's been followed through on, is currently
11 followed in practice.

12 Q I believe you told me that it was always your
13 understanding that best practice required that the, the
14 child who was the subject of the allegation be seen.

15 A Yes. I did say that.

16 Q Recommendation number three, towards the bottom
17 of page 177:

18

19 "... that the Child Protection
20 Branch ensure provincial training
21 for child protection includes or
22 references literature emphasizing
23 that the care or condition of one
24 child in a family cannot be taken
25 as a proxy for the care or

1 condition of any other child in
2 the same family."

3

4 You have any comments with respect to that?

5 A No.

6 Q Anything else that you want to comment on with
7 respect to this report before we leave it? And take your
8 time.

9 A You had referred me back to recommendation number
10 two where I said that ideally it'd be best practice, right?

11 Q Yes.

12 A And then in here it's, it's written more that,
13 that the child definitely be seen. So my comment is that,
14 yes, current practice is that this recommendation is being
15 followed.

16 Q Anything else with respect to this report?

17 A Not to the areas that you've pointed out to me.

18 Q Okay. You got the report in front of you and,
19 and I know that you have had opportunities to look at it in
20 the past. Is there anything else that you wanted to
21 comment on?

22 A This is a long report and I haven't made notes on
23 it to comment.

24 Q Okay. So nothing has stood out in your
25 preparation?

1 A No.

2 Q Let's turn to the last report I want to discuss
3 with you. This is the report that was prepared by Rhonda
4 Warren, at page 38010, Commission disclosure 1802.

5 A 38010?

6 Q Yes.

7 A Don't have that page.

8 Q You don't.

9 THE COMMISSIONER: I, I can follow it on the
10 screen.

11 MS. WALSH: Okay.

12 THE COMMISSIONER: Let you have this.

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

14 UNIDENTIFIED PERSON: Sorry, what page? Sorry.

15 MS. WALSH: 38010.

16 UNIDENTIFIED PERSON: (Inaudible).

17

18 BY MS. WALSH:

19 Q So you see the reference to March 9, 2005?

20 A Yes.

21 Q Can you read that paragraph and let me know if
22 it's accurate, please?

23 A The bolded part or the unbolded part?

24 Q The unbolded part -- well, March 9, 2005.

25 A Okay.

1 Q

2 "CRU workers attended
3 Samantha's residence. Samantha
4 answered the door but would not
5 allow workers into her apartment
6 as she had company."

7

8 Stop me when you -- if, if and when you think
9 there's something inaccurate, how about that?

10

11 "Workers informed Samantha that
12 they were there as a result of a
13 community complaint that she was
14 abusing Phoenix."

15

16 A Did I, did I tell Samantha that it was a
17 community complaint?

18 Q That's not accurate?

19 A I, I'd have to look at the notes again, at the,
20 at the report.

21 Q Do you want to have your report pulled up or do
22 you have it in front of you?

23 A I can, I can look it up.

24 I don't, I don't see the words "community
25 complaint."

1 Q So that's not a word that you used.

2 A If it's, if it's used in general, then -- I
3 wouldn't have used those words with Samantha.

4 Q Okay. Going on:

5
6 "Samantha responded that she
7 yelled at Phoenix a few days
8 before but denied abusing Phoenix.
9 Workers also asked her if she
10 locked Phoenix in her room.
11 Samantha admitted that she had a
12 lock on the outside of the bedroom
13 door. Workers cautioned her on
14 this practice, as it was not safe
15 in case of fire. Samantha briefly
16 went into the apartment and got
17 [the baby] and brought her out
18 into the hall. The baby looked
19 healthy and well cared for.
20 Workers at no time saw Phoenix.
21 In addition there is no recording
22 to detail that any Social Worker
23 has seen Phoenix since January 21,
24 2004 when the Stephenson's [were]
25 caring for her. Samantha declined

1 the offer of Agency supports and
2 the file was closed with the
3 following comment:

4 "'Workers did not note any
5 protection concerns and so
6 this matter can be closed to
7 the Crisis Response Unit at
8 this time.'"

9

10 A I'm going to -- sorry.

11 Q I'm sorry, what did you say?

12 A Well, I was going to say that in the report the
13 comment about Phoenix not being seen till -- since January
14 21st, '04, I'm going to assume that to be factual.

15 Q Okay. Without making an assumption, though, you
16 don't know for sure.

17 A Yes.

18 Q Okay. You don't recall whether you reviewed
19 prior recordings relating to Ms. Kematch.

20 A I don't remember if I had reviewed those
21 recordings.

22 Q And actually, I can tell you that there is a file
23 recording that notes that the agency saw Ms. Kematch in
24 July of 2004, but that's not something that you can recall
25 whether or not you're aware of?

1 A No, I can't.

2 Q At the time that you were delivering services, I
3 mean.

4 A Right.

5 Q Okay. Any other comments with respect to this
6 portion of the report?

7 A No.

8 Q And if we go to page 38016, you'll see there's a
9 bullet that says:

10

11 "In March 2005 a complaint was
12 received stating Samantha was
13 abusing Phoenix and locking her in
14 a bedroom."

15

16 A I see that.

17 Q I just want to know if what's recorded at that
18 bullet is accurate, from your perspective.

19 A It's a summarizing statement, yes.

20 Q Okay.

21 A It's not taken verbatim from the report.

22 Q Do you have any other comments with respect to
23 what's indicated?

24 A No.

25 Q And finally, let's go to page 38038, please.

1 MS. WALSH: Scroll down, please, to where it
2 says, "Did the Agency comply with Agency procedures...."

3

4 BY MS. WALSH:

5 Q The first question actually says:

6

7 "Did the Agency comply with
8 standards in conducting an abuse
9 investigation?"

10

11 And it's indicated that:

12

13 "It is determined, after
14 review, that the Agency did not
15 meet standards in completing this
16 investigation."

17

18 Do you have a comment with respect to that?

19 A I'm not the reviewer that wrote this report and I
20 don't have the standards in front of me, so ... I don't
21 know if you want me to take this as being accurate or not.

22 Q What about the description of conducting an abuse
23 investigation?

24 A I'm sorry, did you refer to that?

25 Q Where, where it says:

1

2

"Did the Agency comply with
standards in conducting an abuse
investigation?"

5

6

7

Did you view what you were doing as an abuse
investigation?

8

A I wasn't in the abuse unit.

9

10

Q You were investigating an allegation of abuse; is
that fair?

11

12

A I was investigating, investigating an allegation
where the source of referral used the word "abuse."

13

Q Okay. And then finally it says, in bold:

14

15

16

17

"Did the Agency comply with
Agency procedures when conducting
this investigation?"

18

19

And in italics, the report writer says:

20

21

22

23

24

25

"The Agency's response to
this complaint is concerning.
Phoenix was not seen. The
apartment was not seen. Samantha
admitted that there was a lock on

1 the outside of the bedroom door
2 she and Phoenix shared. No reason
3 for this lock was given. If the
4 lock was deemed necessary by
5 Samantha due to acting out by
6 Phoenix, this would indicate that
7 there were problems in Mom's
8 ability to control this little
9 girl. The history of this case,
10 whereby so many sporadic
11 caregivers had cared for Phoenix
12 should have resulted in a red flag
13 to the workers that all was not
14 well in this home. No questions
15 were asked about Samantha's
16 present partner and father to [the
17 baby]. Add the allegation that
18 Samantha (and or Wes) was being
19 abusive to Phoenix should have put
20 this case in a 'high risk'
21 category and a complete
22 investigation and assessment
23 should have occurred."

24

25 Do you have any comments with respect to those

1 remarks?

2 A I think there's speculation in these comments.

3 Q Can you be specific?

4 A Early in that paragraph, it says:

5

6 "If the lock was deemed necessary

7 by Samantha due to acting out by

8 Phoenix...."

9

10 That's -- the reviewer doesn't know that that was what was

11 going on or --

12 Q Okay.

13 A -- if it was worse than that or, or much more

14 innocent than that. There wasn't an allegation about Wes

15 being abusive to Phoenix, yet she includes Wes being in

16 there.

17 Q Is that it?

18 A I think that's about it.

19 Q Okay. So the last thing I want to ask you

20 about --

21 MS. WALSH: And Mr. Commissioner, maybe I could

22 just finish this before we take the afternoon break.

23

24 BY MS. WALSH:

25 Q -- the reports that we've reviewed -- and I'm,

1 I'm finished with the reports now -- were commissioned in
2 2006 in response to, to Phoenix's death and they made a
3 number of recommendations. A number of recommendations
4 were made as the result of, of these reports. Now, you're
5 still in the same work position, employment position that
6 you were in when you delivered services to Phoenix and her
7 family, right?

8 A Yes.

9 Q So can you tell us what changes you are aware of
10 in the system that have been implemented since you worked
11 on Phoenix's file?

12 A Most specifically, I'll refer back to the change
13 of needing to ensure that we see the child that is the
14 subject of the allegation, and not just seeing the child,
15 but seeing all children in the home. That's, that's the
16 primary change that stands out in my mind with respect to
17 changes that have been a result of, of this.

18 I'm sure there's many more changes that have
19 occurred in -- and I don't think I'm the best person to
20 specifically comment on, on the agency's changes that
21 they've made because they're not just on, on my level, but
22 there are larger scale changes that have occurred.

23 Q Sure, and I appreciate that, and I, I was only
24 interested in hearing from you with respect to the changes
25 that have affected your workplace. Anything else?

1 A The agency since that time has changed from
2 Winnipeg Child and Family to JIRU to ANCR. Those are
3 organizational changes and a change in philosophy. And
4 there's a change in the computer system for -- from the
5 CFSIS to the intake module. By way of philosophy, because
6 I think you're going to ask me about that --

7 Q Yes.

8 A -- it's about culturally appropriate services in
9 -- with respect to ANCR. That has been one of the main
10 changes. In addition to that change, there's more of a
11 focus on primary prevention as opposed to being a
12 responsive agency. So we have a large family enhancement
13 program, or early intervention program as it's now titled.
14 Those are some big changes that have occurred.

15 Q And the intake module, how has that changed how
16 you do your work?

17 A It's intended to be able to access information
18 more easily, to see who's involved in a case more easily,
19 to include those persons.

20 Q Is the information that's in the intake modules
21 the same as what was in CFSIS, just organized differently?

22 A I would say that's safe to say, yeah, to describe
23 it like that.

24 Q And you've found that an improvement?

25 A It's an improvement, I believe. And it's also an

1 addition to the workload.

2 Q An addition to workload?

3 A I think there's more work as a result. It's not,
4 it's not a negative statement; I'm just pointing it out.

5 MS. WALSH: Okay. Those are my questions, Mr.
6 Zalevich. Mr. Commissioner?

7 THE COMMISSIONER: All right. We're going to
8 take our mid-afternoon break. I'm going to -- looking at
9 the clock, I don't want to hurry anybody, and if we don't
10 finish this witness today, we'll carry on tomorrow. But
11 notwithstanding that, I think we'll call a ten-minute
12 adjournment and hope we're back in twelve.

13 MS. WALSH: You're starting to get to know us.
14 Thank you. Thank you, Mr. Zalevich.

15

16 (BRIEF RECESS)

17

18 THE COMMISSIONER: Mr. Gindin, please.

19 MR. GINDIN: Thank you.

20

21 CROSS-EXAMINATION BY MR. GINDIN:

22 Q Mr. Zalevich, my name is Jeff Gindin. I
23 represent Kim Edwards and Steve Sinclair.

24 A Hi, there.

25 Q You were asked earlier if you had any independent

1 recollection of your involvement here in March of 2005 or
2 if part of it might be based on some things you read since.
3 You recall that question?

4 A Yes.

5 Q I wasn't sure of what you meant by your answer.
6 First of all, when did you see any documentation regarding
7 this matter for the first time?

8 A After Phoenix had passed away.

9 Q Okay. Was it --

10 A And I don't know what date or which month.

11 Q And what is it that you saw? You took a look at
12 your old report?

13 A I was provided with a copy of my, of my report,
14 yeah.

15 Q And so you had a chance to read it back then.

16 A Yes.

17 Q And that -- when you read it -- let me put it to
18 you this way: At that time, before you read it, did you
19 have a good recollection of your involvement?

20 A You'd have to ask me at that time.

21 Q So you don't know.

22 A I don't think I could, I don't think I could
23 fairly answer your question.

24 Q Would you have a recollection now of the other
25 cases that you handled over the years, without looking at

1 your notes?

2 A No.

3 Q I think you -- when you were asked about why you
4 might not have gone out March the 8th, rather than the 9th
5 -- recall that -- you indicated that, Well, I don't know if
6 I was sick or working that day. When you had a chance to
7 review your notes, whenever that was after you heard of the
8 death, did you then go and have a look to find out if, in
9 fact, you were working that day or not?

10 A I don't have records at my disposal to find out
11 whether or not I was working on March the 8th. I don't
12 have them now, and I didn't have them at that time.

13 Q You made no inquiries then?

14 A No, I didn't make inquiries about March 8th.

15 Q You told us that you couldn't recall whether you
16 might have had a discussion with Mr. Buchkowski, Richard,
17 who had gone out couple days before you, right?

18 A Right.

19 Q But you would have read his report.

20 A His notes would be in the report that I received,
21 yes.

22 Q And you knew clearly that he had made two efforts
23 and didn't actually see her, correct?

24 A That's what his notes indicate.

25 Q And it was also pretty clear to you that his goal

1 was to go out and try and see Phoenix, and, and he didn't
2 do it. He didn't see her. You knew that.

3 A I knew that he didn't see her.

4 Q You didn't --

5 A I don't --

6 Q -- know that --

7 A I don't, I don't know what his -- if his -- if
8 you're suggesting that it was his goal to see Phoenix, or
9 if it was his goal to see Samantha, or if it was his goal
10 to see both of them.

11 Q Well, don't you agree that it would have been a
12 good idea to see Phoenix?

13 A Absolutely.

14 Q But you knew that that wasn't successful, that
15 his efforts weren't successful.

16 A Yes.

17 Q When you were asked about whether or not or why,
18 perhaps, you didn't go out on the 8th, one of your answers
19 was you didn't feel it required an immediate response. You
20 recall that?

21 A I do recall that, yes.

22 Q All right. Now, we heard from Richard Buchkowski
23 who told us that to him this was a high priority matter and
24 he found it necessary to go there immediately and not once,
25 but twice that day. Do you have a different opinion than

1 him?

2 A I don't know the, the reasons for why Mr.
3 Buchkowski tried twice on one day, if that was due to the
4 nature of the referral, his assessment of risk, or if it
5 was because this was the last day that he was on fields at
6 the time.

7 Q But he viewed it as a high priority matter.

8 A I wasn't aware of that.

9 Q Do you agree with that or not?

10 A From his notes, I would, I would suggest --

11 Q I'm not asking you if you agree with his viewing
12 it as a high priority item, but --

13 A I --

14 Q -- do you disagree that it was a high priority
15 item?

16 A I'm going to disagree that he viewed this as a
17 high priority matter.

18 Q Okay. He told us that in court.

19 A His recommendations have that this file go to
20 intake.

21 Q Pardon me?

22 A His recommendations say that this file should go
23 to intake.

24 Q Right.

25 A So if it's a high priority matter, it wouldn't be

1 suggested that it go to intake.

2 Q So if he said that to us in court here, you're,
3 you're disputing that?

4 A I'm giving you my opinion from what I'm reading
5 from the document.

6 Q Okay.

7 MR. RAY: With respect, I don't know that the
8 witness can comment about what Mr. Buchkowski thought or
9 was impressed upon in terms of what he did, other than what
10 he read in the report. And I think he'd be speculating to
11 answer otherwise.

12 MR. GINDIN: Mr. Commissioner, I think that I can
13 discuss with any witness what other witnesses may have said
14 on the same subject, to get their response. We've been
15 doing that for months.

16 THE COMMISSIONER: Why isn't that appropriate,
17 Mr. Ray?

18 MR. RAY: I don't think he can say what he --
19 what Richard Buchkowski did or did not know, or what he did
20 or didn't feel.

21 THE COMMISSIONER: No, but --

22 MR. RAY: He can be asked his own opinion as to
23 what he impressed -- what his impression was on the file.
24 I don't think he knows what Mr. Buchkowsi did why he did.

25 THE COMMISSIONER: Well, what you're probing, Mr.

1 Gindin, I think, is whether this witness agrees that this
2 was a high priority matter.

3 MR. GINDIN: That's correct, that's --

4 MR. RAY: That's acceptable, but not whether --
5 what he knew about whether Mr. Buchkowski felt it was or
6 not.

7 THE COMMISSIONER: Well, I think we know that Mr.
8 Buchkowski told us it was.

9 MR. GINDIN: Yes.

10 THE COMMISSIONER: Do we not?

11 MR. GINDIN: Yes, we do.

12 MR. RAY: Yes.

13 MR. GINDIN: That's what he said. I'm asking
14 this --

15 THE COMMISSIONER: So I think he can ask the
16 witness if he agrees with that, that testimony.

17 MR. RAY: I have no problem if that's the
18 question, Mr. Commissioner.

19 MR. GINDIN: And that was the question.

20 MR. RAY: (Inaudible).

21

22 BY MR. GINDIN:

23 Q I told you that Mr. Buchkowski came here and told
24 us he viewed it as a high priority item and so he made sure
25 he went out right away to see or at least attempt to see

1 Phoenix. Do you agree with that classification or not?

2 A I would say that this presenting problem would
3 not generate an immediate response.

4 Q So you disagree with him.

5 A I don't know if Mr. Buchkowski is saying that a
6 high priority matter is also equivalent to an immediate
7 response.

8 Q Let me ask you something else, then. You told us
9 that one of the reasons that you take somebody with you on
10 a venture like this is so you would have another set of
11 eyes and, and another set of perhaps questions, right?

12 A Yes.

13 Q And, of course, you're referring to Mr. Leskiw.

14 A Yes.

15 Q And I take it your evidence was that he never
16 asked any questions.

17 A I don't recall if Bill asked any questions.

18 Q Had he done that, you might have made a note of
19 that?

20 A It's very possible that I would have noted his
21 question. I don't know that I would have noted that in my
22 notes, that Mr., Mr. Leskiw asked this question as opposed
23 to this question was asked of Ms. Kematch.

24 Q He was more experienced than yourself?

25 A He is.

1 Q And there's nothing in your notes referring to
2 any questions asked by him, any opinions expressed by him,
3 any discussions had with him. There's nothing like that at
4 all, right?

5 A It's not included in my notes, no.

6 Q Getting, getting to your notes of your visit, all
7 right? And we can move onto page three-six ... I'm just
8 looking for the right page ...

9 THE COMMISSIONER: Nine-two-eight or nine-two-
10 nine?

11 MR. GINDIN: So many references to that -- those
12 notes in various locations.

13 THE COMMISSIONER: There are.

14 UNIDENTIFIED PERSON: Are you talking about
15 (inaudible) report?

16 MR. GINDIN: Yes, the actual report where you
17 tell us what you observed.

18 THE COMMISSIONER: I have it at 36928 --

19 MR. GINDIN: Yes.

20 UNIDENTIFIED PERSON: Nine-two --

21 THE COMMISSIONER: -- to 30.

22 MR. GINDIN: Yes, 36928 is where it starts.

23

24 BY MR. GINDIN:

25 Q Do you have that up?

1 A Yes, I do.

2 Q Now, you indicate there that Samantha did not
3 want to allow you in. Correct? Go to the top of 36929,
4 and it says that right at the top.

5 A Yes, that's what I wrote.

6 Q Okay. And then when you told her about the
7 complaint, it appears as though her initial concern was who
8 made it. Right?

9 A Yes.

10 Q And she wanted to know who called, and she even
11 kind of tried to figure it out and told you she thinks she
12 knows, right?

13 A That's right.

14 Q That was her initial response to you advising her
15 of the complaint that you received.

16 A Yes.

17 Q So her initial response was not to deny or get
18 upset, but, but wanted to know who would have made that
19 complaint, correct, according to your notes?

20 A This is a common response.

21 Q But that's -- that is the case here --

22 A And --

23 Q -- according to your notes.

24 A And in my notes, that's what I'm recording.

25 Q Yeah. Now, you've, in your experience, become

1 aware that sources of referral obviously call in on
2 occasion and report matters of concern, right? You've
3 heard of that before.

4 A Of sources of referral calling?

5 Q Yeah, calling in to CRU, just as was --

6 A That's how we receive --

7 Q Yeah.

8 A -- phone call --

9 Q That's how you -- yeah, so you --

10 A -- phone reports --

11 Q -- you've got --

12 A -- I'm aware of --

13 Q -- experience with that.

14 A I'm aware of that, yes.

15 Q These are people who are calling in to report
16 concerns. Correct?

17 A Yes.

18 Q Sometimes, very often, it may be a friend who
19 knows the individual but feels it necessary to make a call.
20 You've heard of that before as well, correct?

21 A I don't know if I would say that it's very often.

22 Q You've heard of it happening.

23 A I've heard of friends calling the agency, yes.

24 Q Yes. And in this case we know that someone took
25 the time to call in to Jacki Davidson, as you heard,

1 correct, which you became aware of, indicating that -- an
2 allegation of abuse. That's the word that was used, at
3 least, right?

4 A Yes.

5 Q Also indicating that Phoenix may be locked in her
6 bedroom.

7 A Yes.

8 Q So those are the main kind of allegations that
9 you were aware of, although you didn't know more details,
10 but those basic things were you aware of, correct?

11 A Yes, correct.

12 Q And her response was, to those two things --
13 abuse, locking Phoenix in the bedroom -- was that she may
14 have yelled at Phoenix a few days ago, right?

15 A Yes.

16 Q And you accepted that as a reasonable explanation
17 for the complaint and concerns that were called in to Ms.
18 Davidson; is that right?

19 A Yes, I, I -- that was part of my -- that was one
20 factor that came into, into this.

21 Q And you simply accepted that: Well, that
22 explains the, the abuse allegation. I think that's what
23 you said earlier.

24 A I wouldn't say "simply accepted."

25 Q Well, did you -- what did you do about it? What

1 did you do about that explanation, if you didn't accept it?

2 A It's taken into consideration in the context with
3 all the other information that I have.

4 Q You told us that she admitted to you that she put
5 a lock on the bedroom door, right, that there was a lock on
6 the bedroom door?

7 A She confirmed that there's a lock on there, as
8 opposed to her putting a lock on the door.

9 Q Okay. Did you ask to go see it?

10 A My notes don't indicate that.

11 Q If you would have asked to go see it, you would
12 have noted that down.

13 A I believe I would have.

14 Q If she let you go see it and you came in, you
15 would have obviously described what you saw, correct?

16 A Yes.

17 Q So we can assume you didn't ask and you didn't go
18 in, right?

19 A I'm going by my notes.

20 Q Right.

21 A Yeah.

22 Q That's all we can go by.

23 A Yeah.

24 Q It's a long time ago, right?

25 A Yes.

1 Q So she admits that there's a lock by the bedroom
2 door. Did you ask if Phoenix was actually put in that room
3 with the door locked?

4 A My notes indicated that I indicated to Samantha
5 that it was believed that Samantha had locked Phoenix in
6 her bedroom.

7 Q Okay. What was her response?

8 A From the notes, it says Samantha stated that she
9 and Phoenix share a bedroom.

10 Q That's the only response about that, isn't it?

11 A And she adds that she's confirming that there's a
12 lock on the outside of the door.

13 Q So she tells you there's a lock on the door.

14 A Yes.

15 Q You ask if Phoenix is being locked in that room,
16 she says, We share a room. Did you ask her again, Well,
17 but is she locked in that room?

18 A The notes don't say that.

19 Q That's not in your notes, right?

20 A That's right.

21 Q Did you ask whether she's ever locked in that
22 room and left there alone? Not in your notes, either, is
23 it?

24 A I don't remember the specific questions that I
25 asked her.

1 Q But there's no notes indicating you asked her
2 those things.

3 A That's right.

4 MR. GINDIN: If we can have page 172 brought up,
5 please?

6 THE COMMISSIONER: What is this?

7 MR. GINDIN: This goes back to one of the reports
8 that we referred to earlier.

9 THE COMMISSIONER: Oh, yes, okay.

10 THE WITNESS: Which Commission disclosure is
11 that?

12 MR. GINDIN: I'm sorry, I don't ... One?

13 MS. WALSH: 0002.

14 MR. GINDIN: Oh, two.

15 THE COMMISSIONER: Whose report is it?

16 MR. GINDIN: Oh, yes.

17 MS. WALSH: Number two.

18 MR. GINDIN: Number two.

19 MS. WALSH: Commission disclosure two, the
20 Section 10 report.

21 MR. GINDIN: Section 10 report.

22 THE COMMISSIONER: Whose report?

23 MS. WALSH: Jan Christiansen-Wood.

24 THE COMMISSIONER: All right. I have it.

25

1 BY MR. GINDIN:

2 Q Oh, that was the page you didn't have? I think
3 it's on the screen, though. You were asked about this
4 earlier.

5 A Okay.

6 Q Now, I'm going to suggest to you, Mr. Zalevich,
7 that when you were asking Samantha about whether she locked
8 Phoenix in the bedroom and she admitted to you that there
9 is a lock on the door, that you should have said, I want to
10 come in and I want to have a look at your bedroom, and I
11 want to see if Phoenix is there.

12 A You can suggest that, yeah.

13 Q Well, you were, you were, you were shown this
14 paragraph earlier. Look at the first few sentences:

15

16 "The agency's final 'contact'
17 with Phoenix in March 2005 should
18 have resulted in a demand to see
19 her, to see her home and to ensure
20 that she was well and living with
21 her mother."

22

23 You were asked about that paragraph, asked if you
24 had any comments. You didn't say anything. That's the
25 same suggestion I'm making to you now, that you should have

1 demanded to come in and see what's going on. Do you
2 disagree?

3 A It wasn't agency standard.

4 Q It wasn't an agency standard.

5 A That's my understanding, yes.

6 Q And that's why you didn't do it.

7 A I'm letting you know what the standards were.

8 Q I'm asking you if you think you should have done
9 that, even now, upon reflection.

10 A In knowing what had occurred, absolutely, I would
11 have wanted to go in.

12 Q And at the time you could have chosen to be more
13 aggressive and you could have chosen to demand to come in
14 and have a look for yourself. You could have done that.
15 You chose not to, I appreciate that, but certainly that
16 could have been done.

17 A Okay.

18 Q We heard from Richard yesterday who said that if
19 he came to the house and saw Phoenix, saw a bruise or
20 anything like that, he would have immediately had her
21 apprehended. So you obviously have a lot of power.

22 A I didn't listen to Richard's testimony.

23 Q What's that? I'm telling you what he said; you
24 can accept that.

25 A Thank you.

1 Q I'm not going to lie to you.

2 A Oh, no, I don't think you were going to lie.

3 Q That's what he said.

4 A Okay.

5 Q That if he had seen actual harm to her, he would
6 have had her apprehended.

7 A Yes.

8 Q You could have done the same thing if you had
9 seen some harm, correct?

10 A Yes.

11 Q And if you went in -- and let's assume you went
12 in, and in the bedroom you see a whimpering, crying five-
13 year-old child hiding behind the bed, you would have done
14 something about it, wouldn't you?

15 A Of course.

16 Q Had you chosen to go in, who knows what would
17 have been there.

18 A Who knows.

19 Q That's right. I think at one point you said if
20 you -- you said that there weren't -- there wasn't any
21 noise or people around in the apartment. And I think you
22 said that if there were noises consistent with a party, you
23 would have gone in. That's the evidence you gave earlier.

24 A Okay.

25 Q So a party and the sounds of a party would have

1 been enough for you to go in, but an allegation that
2 perhaps a child is being locked in a bedroom isn't enough?

3 A Being locked in a bedroom and being left
4 unsupervised, for instance, like a parent leaving the home
5 or something like that, is certainly a serious allegation.
6 A child being locked in a room perhaps for a time out is
7 not.

8 Q Did you ask if it was perhaps for a time out? I
9 don't see that in your notes.

10 A No.

11 Q Did you ask any -- for any reason why the child
12 might be locked in a bedroom? Not in your notes.

13 A No.

14 Q You didn't even ask if the child was ever left in
15 that bedroom, locked, alone. It's not in your notes,
16 either, right?

17 A It's not in my notes.

18 Q You said you were respecting -- one of your
19 answers had to do with respecting Samantha's privacy. That
20 was part of your thinking, right?

21 A Yes.

22 Q Would you agree with me that Phoenix's safety
23 might be more important than that?

24 A Absolutely.

25 Q So that was -- Phoenix's safety is certainly

1 paramount to Samantha's privacy.

2 A Yeah.

3 Q You asked the question, Is Samantha at school or
4 daycare?

5 A It appears that I did that.

6 Q That's in your notes, so it looks like you asked
7 that question.

8 A I don't know the context specifically of how I
9 asked that question.

10 Q But the question was asked.

11 A Yes.

12 Q By yourself, it would appear?

13 A Yes.

14 Q We don't seem to have recording -- or do you,
15 correct me if I'm wrong -- of what the response would be to
16 that. Something about she's not registered for school yet?
17 Maybe you can have a look. That would be towards the
18 bottom of, of that page.

19 A Sorry, can you repeat your question, then?

20 Q Well, I'll just read from your notes. Workers
21 asked --

22 A Sure.

23 Q -- if Phoenix is attending school or daycare.

24 A Okay.

25 Q The way it's written, you might have both asked,

1 correct?

2

3 "Workers asked if Phoenix is
4 attending school or daycare.
5 Samantha advised that she is not
6 in daycare and will be attending
7 school next September."

8

9 And that's really the whole sum of your notes on
10 that issue, correct?

11 A Right.

12 Q So we don't have anything like, well, if she's
13 not in daycare and she's not in school, so where is she?
14 Seems like the most obvious question in the world. It's
15 not in your notes that you asked it.

16 A No, it's not --

17 Q Correct?

18 A -- in my notes.

19 Q Do you think you asked it?

20 A I can't recall if I asked her.

21 Q It's possible you wouldn't?

22 A Did you say wouldn't or would?

23 Q It's possible you wouldn't have asked that
24 question?

25 A It's possible either way.

1 Q Okay. You've acknowledged to us the importance
2 of seeing Phoenix or any child who there might be some
3 concerns about, correct?

4 A Yeah.

5 Q You then go on to say that you asked about
6 whether she needed support from the agency, and she
7 indicated that she did not. And one of the reasons you
8 gave earlier was that, well, she didn't really need or want
9 any of our services so that was also a factor in closing
10 the file. Correct?

11 A That's what that says.

12 Q So again, you're asking or commenting on what
13 Samantha may want in terms of assistance when one of the
14 major concerns here is what Phoenix may need, wouldn't you
15 agree, as opposed to what Samantha may want?

16 A That statement is in response to me asking her if
17 she wants agency services.

18 Q Okay. Would you agree with me that what the
19 child, Phoenix, may need in terms of safety is more
20 important than what Samantha, the mother, may want in terms
21 of help from you?

22 A A child's safety is more important than what a
23 mother wants --

24 Q Yes.

25 A -- in terms of services.

1 Q Thank you. When you asked her about whether
2 there was abuse going on and you told her the details, did
3 you expect her to say, Yes, indeed, I'm abusing my child,
4 come right in?

5 A Which, which details are, are you referring to?

6 Q The first comments you made to her, that you were
7 there because of an abuse allegation and you wanted to know
8 about that, right? That was what you told her.

9 A Yes.

10 Q And she told you that, Well, I may have yelled at
11 the child a few days ago. Now, seems that you're placing a
12 lot of reliance on the conversation that you're having with
13 her all by itself. Correct?

14 A That's the way it appears.

15 Q I'm asking you if you really expect someone to
16 answer that question by saying to you, Yes, I am abusing my
17 child, come right in, I'll tell you all about it. That's
18 pretty unlikely, isn't it?

19 A I don't know what the likelihood of that would
20 be. I think it would be unlikely, but --

21 Q Well, I wasn't asking you for a statistical
22 analysis, but you agree that it would be unlikely to hear
23 someone say that.

24 A Yeah.

25 Q When you put something in your report, which,

1 which you did here, "Workers did not note any protection
2 concerns" -- I think that's the actual phrase -- do you
3 mean that there's no notes of any protection concerns or
4 that there's nothing recorded that would indicate a
5 protection concern? I'm not quite sure, when you use that
6 phrase, no -- "did not note any protection concerns."

7 THE COMMISSIONER: You want to know whether he
8 meant --

9

10 BY MR. GINDIN:

11 Q What do you mean by that?

12 THE COMMISSIONER: -- not observed, did not
13 observe any, or did not write them?

14

15 BY MR. GINDIN:

16 Q What do you mean by the word "note"? Does that
17 mean you didn't record any and therefore the file's going
18 to be closed, or you didn't see any?

19 A What I mean when I, when I say that is that I did
20 not see any.

21 Q And, of course, you were in the hallway the whole
22 time, right?

23 A That's what my notes say.

24 Q Yeah. And they would be accurate, as far as you
25 can tell us.

1 A Yes.

2 Q One point I think you said that Samantha went
3 into her apartment and got the other child, right?

4 A Yes.

5 Q Did you follow her in or get a little closer to
6 have a look?

7 A No, I didn't.

8 Q No. Did you ever ask her, in fact, if you could
9 come in, after the initial moment that you saw her? I
10 think at the beginning she tells you, I'd rather you didn't
11 come in, I have some visitors. Right?

12 A That's right.

13 Q Did you ever ask her again a little bit later?

14 A No, I didn't ask her a second time.

15 Q You told us that you were somewhat impressed with
16 the way she handled the newborn, right?

17 A I was.

18 Q And you disagree that you used that as a proxy
19 for how she would handle Phoenix, although it was a factor?

20 A Right.

21 Q Now, we heard evidence here from witnesses that
22 there was a difference between the way Samantha treated
23 Phoenix and the newborn, that she appeared to be very proud
24 of the newborn, and very friendly and warm, but not so with
25 Phoenix. We heard evidence of that. So you --

1 A I wasn't aware of that.

2 Q You weren't aware of that, but you weren't aware
3 of it either way. You just weren't aware of anything about
4 that, right?

5 A About that.

6 Q Well, you didn't have much history or details to
7 work with -- or did you -- when you went there? We know
8 you had Davidson's report, right? We know you had
9 Buchkowski's report. We know those things.

10 A Yes.

11 Q But anything other than that, doesn't appear that
12 you had.

13 A It doesn't appear that I, that I had, and I don't
14 recall having seen information that should suggest that she
15 treats her youngest differently than Phoenix.

16 Q But it wouldn't surprise you that different
17 children are treated differently.

18 A Parents treat their children differently often,
19 yes.

20 Q Yes. Okay. So the mere fact that you saw her
21 with the newborn doesn't really tell you how she treats
22 Phoenix or whether Phoenix is in the bedroom or not, or
23 even at home, does it?

24 A It also doesn't say that she is being abused.

25 Q Doesn't say either way. Right? Doesn't --

1 A No.

2 Q -- tell you much, does it?

3 A It tells me how she's treating her youngest
4 child.

5 Q Yes. But tells you nothing about how she's
6 treating Phoenix.

7 A That's right.

8 Q So you left without seeing the bedroom with a
9 lock on it, right? Correct?

10 A That's what we've discussed today, yeah.

11 Q Yes. And you left without seeing Phoenix. We
12 know that, correct?

13 A Yes.

14 Q And that same day you recommended that the file
15 be closed, correct?

16 A Yeah.

17 Q You could have left it open another day or two
18 and made another field -- or someone else, doesn't have to
19 be you. That obviously was an option that could have been
20 decided on. Right? We know that you didn't, but it was an
21 option.

22 A The decision to close the file is, is not mine.

23 Q But you recommended it.

24 A It's a recommendation, but a file is not closed
25 by myself at all.

1 Q You recommended that it be closed, correct?

2 A That's what my notes say.

3 Q You could have recommended that it be kept open a
4 little longer so we can follow up and try and see Phoenix
5 again. Or go back. Correct?

6 A I could have recommended that.

7 Q And I think you told us there was a conversation
8 you had with Diva Faria, who was your supervisor, and was
9 the conversation about whether you perhaps should have seen
10 Phoenix?

11 A That's what I spoke about.

12 Q Yeah. And I, I believe your, your evidence is
13 that you asked whether perhaps you should have seen
14 Phoenix; is that the way it came out?

15 A I don't know exactly how it came out.

16 Q But --

17 A If it was me asking her or if it was her saying
18 that, just from my description of what had occurred. So I
19 can't accurately respond to that.

20 Q It may have been that you said, You think I
21 should have seen Phoenix.

22 A It may have been, but I won't say that this
23 definitely was looking like that.

24 Q If, in fact, you did say that at that time, that
25 would seem to indicate to me that you were still having

1 some doubts about whether or not the file should simply be
2 closed.

3 A If I had said that, then that would, would elicit
4 -- it would sound like I had doubts. If I didn't say that
5 and it was presented or came out in a different manner,
6 then it wouldn't be suggesting that I had doubts.

7 Q Okay. Now, she might have said -- the other
8 alternative is that she said to you, Perhaps you should
9 have seen Phoenix.

10 A It could have come out that way as well.

11 Q So let's say she said that. Would you have then
12 disagreed and said, No, no, there's no way we want to see
13 Phoenix, or what would you have said?

14 A If my supervisor said that I should go see
15 Phoenix, then I would have gone and seen Phoenix. And if
16 it wasn't my -- like, if I didn't have an opportunity to go
17 do that because of timelines, then it would have been
18 forwarded on to either the after-hours unit or to intake to
19 perform that function.

20 Q This was happening -- this discussion, I think
21 you said, was happening towards the end of the day?

22 A That's what I believe.

23 Q Yeah. Towards the end of the day, that's when
24 AHU comes in.

25 A Yes.

1 Q So it would have been as simple as walking down
2 the hall, I suppose, or same room, and saying, Hey, how
3 about if one of you guys goes out and checks this out.
4 That's all it would have required, right?

5 A Yes.

6 Q I mean, they're in the same -- are they in the
7 same room?

8 A They're in the same building, on the same floor.

9 Q Yeah, same building. Around the same time that
10 you're getting ready to finish work, they're coming in.

11 A Yes.

12 Q Right? One of the things you said was that you
13 decided to close the file because you believed Phoenix was
14 safe. Right?

15 A That's what I believed at the time.

16 Q Isn't it more accurate to say that you had no
17 idea? You hadn't seen her; you didn't know if she was
18 home. So isn't it more accurate to say, I really didn't
19 know, at the very best?

20 A It could be described in a number of different
21 ways, and that's -- you're entitled to --

22 Q Well, I'm asking --

23 A -- believe that.

24 Q -- if you agree. I'm asking you if you now agree
25 with me that the most you could have known at that time --

1 not having seen her, not having gone in, not having checked
2 out the bedroom -- is that you just don't know. You were
3 in the same position as you were before you went there.

4 A You could say that.

5 Q Okay. There was pressure, I think you said, at
6 least generally, to close files and keep things moving,
7 right?

8 A That's right.

9 MR. GINDIN: I have nothing further.

10 THE COMMISSIONER: Thank you, Mr. Gindin.

11 All right. Now, are there other questions? Mr.
12 Paul? Mr. Ray?

13 MR. RAY: Mr. Commissioner, I'm just noting it's
14 almost 4:30. I don't know how much longer other witness --
15 other people are going to be questioning the witness.

16 THE COMMISSIONER: That's just what I'm going to
17 canvass.

18 MR. RAY: Okay, that's ...

19 MR. PAUL: I'll probably have some questions. I
20 would appreciate, though, if we were able to adjourn today
21 so I can gather my thoughts with the hopes of being
22 briefer. I believe Mr. Saxberg does have some questions as
23 well.

24 THE COMMISSIONER: All right. That would
25 indicate we are going to be here a while and, and so I will

1 adjourn until 9:30 in the morning and, and we'll have to
2 have you back, Witness.

3 And then we'll carry on with the other witnesses
4 as scheduled for tomorrow. Does that sound reasonable?
5 All right. We're adjourned now until 9:30 tomorrow.

6 MS. WALSH: Mr. Commissioner --

7 THE COMMISSIONER: Yes?

8 MS. WALSH: -- if I may, just one piece of
9 business.

10 THE COMMISSIONER: Yes.

11 MS. WALSH: I've had an inquiry from the media
12 about identification of sources of referral and whether
13 it's appropriate for them to identify the gender of the
14 source of referral. Some media outlets are avoiding that,
15 some are not.

16 My recommendation would be, subject to anything
17 you have to say, that where possible the gender be avoided,
18 not identified, so that the SOR just be identified as an
19 SOR, as a friend or -- and that their gender not be
20 identified.

21 THE COMMISSIONER: I think, I think to, to honour
22 the, the purpose and reason that sources, sources of
23 referral are entitled to that courtesy from the court, that
24 your recommendation is correct and they should avoid
25 mentioning the gender of the -- so that there's just no

1 meaning towards who it might be.

2 MS. WALSH: Thank you.

3 THE COMMISSIONER: All right. You can leave the
4 stand, Witness. Thank you --

5 THE WITNESS: Thank you.

6 THE COMMISSIONER: -- very much. We'll see you
7 tomorrow.

8 THE WITNESS: Thank you, sir.

9

10 (PROCEEDINGS ADJOURNED TO JANUARY 16, 2013)