



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

THURSDAY, JANUARY 17, 2013

APPEARANCES

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MR. D. OLSON, Senior Associate Counsel

MR. R. MASCARENHAS, Associate Commission Counsel

MR. S. PAUL, Department of Family Services and Labour

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

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

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

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

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

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WITNESS :

DIVA MARIA FARIA

Direct Examination (Walsh)

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2 PROCEEDINGS CONTINUED FROM JANUARY 16, 2013

3

4 THE COMMISSIONER: Now, Ms. Walsh, this is our
5 last day in this location for a while, I gather.

6 MS. WALSH: That's right.

7 THE COMMISSIONER: So are you going to make some
8 public announcement of that?

9 MS. WALSH: Well, I think, it's up on our website
10 but, but yes, while you're on the topic, for the following
11 three weeks, I believe, we'll be at the Fort Garry Hotel,
12 so thank you.

13 THE COMMISSIONER: I think that should be on the
14 record here for the, for those members of the public that
15 wish to follow.

16 MS. WALSH: Good. Our first witness,
17 Mr. Commissioner, is Ms. Faria.

18 THE COMMISSIONER: Right.

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

22 THE WITNESS: I'll swear on the Bible.

23 THE CLERK: Okay. Just take the Bible in your
24 right hand. State your full name to the court.

25 THE WITNESS: Diva Maria Faria.

1 THE CLERK: And spell me your first name.

2 THE WITNESS: D-I-V-A.

3 THE CLERK: And your middle name?

4 THE WITNESS: M-A-R-I-A.

5 THE CLERK: And your last name, please?

6 THE WITNESS: Faria, F-A-R-I-A.

7 THE CLERK: Thank you.

8

9 **DIVA MARIA FARIA**, sworn, testified

10 as follows:

11

12 DIRECT EXAMINATION BY MS. WALSH:

13 Q Good morning.

14 A Good morning.

15 Q Let's start with just a little background. You
16 have a bachelor of social work from the University of
17 Manitoba?

18 A That's correct.

19 Q And you obtained that in 1992?

20 A That's correct.

21 Q You also have a master's of social work from the
22 University of Manitoba?

23 A That's correct.

24 Q You completed your master's in 2005?

25 A No, I completed my master's in 2009.

1 Q 2009, thank you. What was the focus of your
2 master's?

3 A The focus of my master's was social services
4 policy administration and as part of the requirements of
5 the fulfillment of my master's degree, I conducted a, I
6 developed a quality assurance protocol for the General
7 Child and Family Services Authority.

8 Q Is that in use today?

9 A Yes, it is.

10 Q When did you first start working for Winnipeg
11 Child and Family Services?

12 A Could I get a copy of my CV, please?

13 Q I don't have a copy of your CV. My understanding
14 is that you started working in 1992.

15 A That is correct.

16 Q And your position was as an intake social worker?

17 A I initially began as a family services social
18 worker.

19 Q My understanding is that you were a family
20 services worker from September of '92 until November of
21 '92; does that sound right?

22 A That is correct.

23 Q Then you became an intake social worker?

24 A Yes.

25 Q Still for Winnipeg CFS?

1 A Yes.

2 Q You held that position from November of '92 until
3 July of '99?

4 A Yes.

5 Q After working for the intake department, I
6 understand you became an abuse services coordinator for
7 Winnipeg Child and Family Services?

8 A Yes, that's correct.

9 Q And you held that position from July of '99 to
10 August 2000?

11 A That's correct.

12 Q What did your role as an abuse services
13 coordinator involve?

14 A Well, I ran five abuse committees, two of which
15 were rural because at that time we serviced what is now
16 known as Eastman Child and Family Services, so we had a
17 committee in Steinbach and one in Beausejour and the other
18 committees were in Winnipeg. And so basically my
19 responsibility was to ensure that social workers completed
20 abuse investigations in compliance with the requirements of
21 the child abuse committee guidelines. So once a worker and
22 supervisor completed a child abuse investigation, that was
23 submitted to me and then that would be taken to the child
24 abuse committee for review and decisions would be made as
25 to whether or not, you know, we would proceed with

1 registration of an individual on the registry and also a
2 review of the, of the abuse, of the abuse investigation
3 that was conducted.

4 Q Then after August of 2000 you became a crisis
5 response unit supervisor for Winnipeg CFS?

6 A That is correct.

7 Q You held that position from August of 2000 to
8 November 2005?

9 A That is correct.

10 Q And we'll come back to that work. So from 1992
11 to 2005 you were employed by Winnipeg Child and Family
12 Services?

13 A That is correct.

14 Q After being a CRU supervisor, you became a
15 program specialist for Protection and Family Services?

16 A Yes.

17 Q You held that position from November '05 to
18 November '07?

19 A Yes, that's correct.

20 Q And at that point your employer was the General
21 Authority?

22 A Yes, that's correct.

23 Q What did that position involve?

24 A In that position I was a protection specialist
25 and so there were three positions at the authority at the

1 time: One was issue management, one was protection and one
2 was resources. So my position entailed anything that the
3 authority would have been dealing with that would have been
4 of a protection nature. So as part of that I was
5 responsible for all the child death referrals that came
6 into the authority and in working with agencies around
7 submitting, ensuring that they were compliant with the
8 recommendations of section 10 reports. During my time
9 there I completed a section 4 review and I also worked with
10 the agencies around looking at internal reviews with
11 respect to child deaths as well.

12 Q That's actually the position you were in when
13 Phoenix Sinclair's death became known to the agency?

14 A That's correct.

15 Q Where are you currently employed?

16 A I'm currently employed with service delivery
17 support, community service delivery and I report to the
18 executive director of rural and north, which is Debbie
19 Besant.

20 Q What does your current position involve?

21 A My current position is a -- I am a Child and
22 Family Services program specialist, leading practice
23 specialist and my position entails doing a lot of policy
24 work, standards development, program reviews, workload
25 reviews specific to Child and Family Services. I work

1 specifically with the General Child and Family Services
2 government agency, which is known as Winnipeg Rural and
3 North. So that includes Winnipeg and the rural and
4 northern agencies which are Interlake, The Pas, Thompson,
5 Churchill, Eastman and Parkland.

6 Q Is your employer now the department?

7 A Yes, it is.

8 THE COMMISSIONER: Now is that -- are you through
9 running through all that? Because I have a question for
10 the witness. I want to know what your employment was in
11 March of 2005.

12 THE WITNESS: In March of 2005 I was employed as
13 the crisis response unit supervisor at Winnipeg Child and
14 Family Services.

15 THE COMMISSIONER: Crisis response unit
16 supervisor?

17 THE WITNESS: Crisis response unit supervisor for
18 Winnipeg Child and Family Services. At the time it was
19 referred to as JIRU or Joint Intake Response Unit.

20

21 BY MS. WALSH:

22 Q You were the crisis response unit supervisor at
23 Winnipeg Child and Family Services from August of 2000, I
24 think you said, till November of 2005?

25 A That is correct.

1 THE COMMISSIONER: August what, '02?

2 MS. WALSH: August 2000.

3 THE COMMISSIONER: Yes, August 2000. And that's
4 the job you were in until November 2005?

5 THE WITNESS: That is correct.

6 THE COMMISSIONER: Thank you.

7

8 BY MS. WALSH:

9 Q Now we talked about your formal university
10 education. When you were at university taking your
11 bachelor of social work, did you take any courses that
12 focused specifically on child welfare?

13 A No, I did not. However, I did have a field
14 placement in a Child and Family Services office.

15 Q What period of time was that?

16 A That would have been 1990 to 1992.

17 Q Now in terms of training once you started your
18 employment, your counsel has provided me with a list of the
19 courses that you have taken starting in 1996 to the
20 present. I'm just going to go through with you the
21 training that you took up to the time that you left
22 Winnipeg Child and Family Services and stopped being a
23 front line supervisor, if you like. So when you first
24 starting working at Winnipeg CFS, in 1992, did you receive
25 any training from the agency?

1 A Did I receive any training from the agency? I
2 received the case manager competency based training which
3 is the social work competency based training. I also
4 received the --

5 Q Let me just stop you there because according to
6 the document that your counsel has provided to me that was
7 in 1998.

8 A I'm sorry, what, what timeframe --

9 Q So my question was you told us you first started
10 working at the agency in 1992. So I wanted to know when
11 you first started working at the agency, did the agency
12 give you any training?

13 A When I, when I started working at the agency, I
14 was, I was actually placed with a senior worker who I
15 shadowed for a period of two weeks.

16 Q What about any formal courses?

17 A I'm not sure I understand the question.

18 Q Okay.

19 A Like you're asking me from what -- or for what
20 period of time are you asking --

21 Q Okay.

22 A -- specifically?

23 Q Sure. You told us you started working in 1992 at
24 CFS, Winnipeg CFS.

25 A Okay.

1 Q And the information that I received from your
2 counsel shows training courses starting in 1996. So let me
3 just ask you this way, between '92 and '96, do you recall
4 whether you received any training from the agency or
5 otherwise?

6 A I do not recall.

7 Q So in 1996 you received training that was called
8 New Directions Family Systems Intervention training. You
9 took level 1 in 1996 and level 2 in 1997?

10 A That's correct.

11 Q Then from February till May of 1998, you took
12 Case Manager Competency Based training?

13 A That's correct.

14 Q And that involved three areas, case planning and
15 family centered casework, the effects of abuse and neglect
16 on child development and separation, placement and
17 reunification?

18 A That's correct.

19 Q And in March of 2001 you took a course called
20 Aboriginal Awareness at Red Willow Lodge?

21 A That's correct.

22 Q And in October of 2002 you took training called
23 the Minnesota Alternative Response System?

24 A That's correct.

25 Q And then starting in '02 and going into '03 you

1 took Supervisor Competency Based training?

2 A That's correct.

3 Q Okay. Managing -- and that covered four areas,
4 managing within a Child and Family Services system,
5 managing work through other people, transfer of learning,
6 and supervising and managing group performance.

7 A That's correct.

8 Q Okay. And that was all between '02 and '03.
9 Going back to 1999 when you were an abuse services
10 coordinator, did you receive any training with respect to
11 that position?

12 A Yes, I did.

13 Q It's not listed in the document that I've been
14 provided but there was some training you received?

15 A There was training that did occur and it was for
16 the, for the entire committee, like I participated in it
17 with the committee membership.

18 Q The core competency training that you took from
19 February to May of 1998, did that training address
20 standards?

21 A No, it did not.

22 Q Did it address risk assessment?

23 A No, it did not.

24 Q When you became a crisis response unit supervisor
25 in August of 2002, did you receive additional training at

1 that point, is that -- with respect to being a supervisor?

2 A I know that I did attend the Tony Morrison
3 training on, of Supervision in Social Care. I don't
4 remember what year that was.

5 Q Okay. And in fairness --

6 THE COMMISSIONER: Ms. Walsh, was that August
7 2002 or 2000?

8 MS. WALSH: She became a crisis response unit
9 supervisor in August of 2000.

10 THE COMMISSIONER: Yes. I think you mentioned --

11 MS. WALSH: Did I misspeak?

12 THE COMMISSIONER: I thought you mentioned, you
13 said 2002. I could be wrong. But it is 2000?

14 MS. WALSH: It is. My apologies.

15

16 BY MS. WALSH:

17 Q According to the document that I assume you
18 provided to your counsel which, which your counsel's
19 provided to me, you took supervisor competency based
20 training starting in October of 2002. So my question
21 really is, you started work as a supervisor in 2000. Did
22 the agency give you any training at that point?

23 A No.

24 Q So you got your training as a supervisor two
25 years after you started work as a supervisor; is that fair?

1 A Yes, that's correct.

2 Q And I've read out the topics that the supervisor
3 competency based training covered and those courses were
4 taken in 2002 and 2003. Did those courses address
5 standards?

6 A No, they did not.

7 Q What about risk assessment?

8 A No, they did not.

9 Q Let's, let's just finish with what I'm advised
10 was your training up to the time that you left Winnipeg
11 CFS. In 2003, you took training called Working Together as
12 a Team and then the Tony Morrison training that you're
13 talking about in '03, Staff Supervision in Social Care.
14 Then from 2003 to 2004, you took a number of courses under
15 the heading Leadership Competency Development?

16 A That's correct.

17 Q And that included modules relating to the
18 foundation for effective leadership, effective
19 interpersonal skills, developing others, developing the
20 work environment and developing personal effectiveness
21 skills?

22 A That's correct.

23 THE COMMISSIONER: And where did you take these
24 courses?

25 THE WITNESS: That was through the Civil Service

1 Commission.

2 THE COMMISSIONER: Thank you.

3

4 BY MS. WALSH:

5 Q And again, through the Civil Service Commission,
6 in 2004 you took a course entitled Managing under the
7 Collective Agreement?

8 A That is correct.

9 Q And another course in 2004 called Staffing Skills
10 for Managers and HR Professionals?

11 A That's correct.

12 Q And then in 2004, November of 2004, you took a
13 course through the Addictions Foundation of Manitoba
14 entitled Working with Families who Misuse Alcohol and Other
15 Drugs in Child Welfare?

16 A That's correct.

17 Q And then you took another course called
18 Intervention Strategies for Addictions also in 2004 through
19 the Addictions Foundation of Manitoba?

20 A That is correct.

21 Q And as I said, I have been provided with a
22 lengthy list of courses that you've taken since you left
23 Winnipeg CFS starting in 2006, but I'm not going to review
24 those with you. Now have you ever received training on
25 standards?

1 A As that document outlines, the -- I received
2 standards on the General Authority Case Management
3 Standards Framework training in September of 2010.

4 Q Okay. So at the time that you were involved
5 with, with Phoenix Sinclair's family, you had not received
6 any training on standards?

7 A No, I had not.

8 Q And we know that you were involved on three
9 separate occasions in providing services to Phoenix
10 Sinclair's family in 2003, 2004 and 2005, right?

11 A That's correct.

12 Q And we're going to discuss that throughout the
13 day. At that time then, you had not received training on
14 standards?

15 A No, I had not.

16 Q Were you aware of standards, and do you know what
17 I mean when I say standards --

18 A Yes.

19 Q -- the, the foundational or provincial standards?

20 A Yes, I'm aware of what you're referring to.

21 Q What, if any, awareness did you have of standards
22 during the time that you were a crisis response unit
23 supervisor?

24 A In March of 2004, I was handed a manual by my
25 program manager, Dan Berg. I guess, I'm not sure what the

1 title was specifically but program manager, service
2 manager. And that was a manual that had been provided to
3 him by Ms. Sandie Stoker from the General Authority. I
4 still have that manual in my possession today. And in that
5 manual was a number of policies, procedures, standards,
6 regulations that were contained in that manual.

7 Q That was in March of 2004?

8 A That is correct.

9 Q And you say he handed it to you. What, what was
10 the reason for him handing that document to you?

11 A That --

12 Q Mr. Berg -- let me just, 'cause we're -- sorry to
13 interrupt you, but Mr. Berg was your supervisor; is that
14 right?

15 A That is correct.

16 Q Okay.

17 A That manual was distributed to all the
18 supervisors in the program, in the Joint Intake Response
19 Unit program, and it basically, from my recollection that
20 really was the first time. Prior to that I had what was
21 referred to as the blue binder which was the '99 standards
22 that was in my office. But that was really the first
23 memory that I had of actually receiving a copy of the
24 standards.

25 Q And were you given any instructions when you were

1 handed the, the --

2 A No, there was absolutely no training, no
3 instructions that accompanied that binder?

4 Q And what about the -- when we say the binder I
5 think I meant the manual in '04, or are you calling that a
6 binder too?

7 A Well, really what it was, it was a binder that
8 consisted of a number of policies and procedures. So it
9 had -- I mean we always had the Child and Family Services
10 Act but it had a copy of the Child and Family Services Act,
11 a copy of the Child and Family Services regulations, it had
12 a copy of the Authorities Act, the Authorities regulations,
13 it had, the Child Abuse Committee Guidelines were in it,
14 the '99 standards, the draft 2001 standards, Case
15 Management Standards and that's, and it was all contained
16 in one package.

17 Q So the document that you got in March of '04, is
18 that the document that contained the draft '01 standards?

19 A It contained the 1999 and the draft '01.

20 Q Were you given any training at that point with
21 respect --

22 A No.

23 Q -- to standards?

24 A No, I was not.

25 Q So in 2004, 2005, what awareness did you have of

1 standards per se?

2 A It was what was contained in that manual, in that
3 binder. You know whenever we had a question we would go
4 refer to it. We would consult with one another as
5 supervisors or we would consult with our program managers
6 and at that time the authority had been created around 2003
7 and if we had standards questions we would also consult
8 with the program specialist at the authority which at the
9 time would have been Ms. Sandie Stoker.

10 Q When you were carrying out your work as a CRU
11 supervisor, did you actually rely on and refer to
12 standards?

13 A At times, yes.

14 Q Not always?

15 A Not always, no.

16 Q Okay. When would you refer to and rely on
17 standards?

18 A If we had a question, if I had a question about
19 what the requirement was about a timeline I would refer to
20 the documents.

21 Q So in 2004, 2005, what -- because we -- there
22 were a number of --

23 A Yeah.

24 Q -- versions of standards --

25 A Yes.

1 Q -- out there in 2004, 2005; is that fair?

2 A That is very fair. The program standards were in
3 a transition period, so often that was part of the issue.
4 It was very confusing to know what standards were in effect
5 when, you know, because there was the '99 standards, the
6 2001 were draft standards, there were the remnants, there
7 was what they referred to as the remnants. And then in, on
8 July 1st, 2005, we have a new set of standards and then
9 some revisions were made to the introduction of those
10 standards in 2008. So I think there was a lot of confusion
11 about the standards during that period of time

12 Q So when you talk about in '04 and '05, referring
13 to standards, do you remember which version of the
14 standards you referred to?

15 A Well, for the December '05, it would have been
16 the --

17 Q The December '05?

18 A I'm sorry, March '05, sorry.

19 Q Um-hum.

20 A For March '05 it would have been the January 2005
21 standards.

22 Q And in December '04?

23 A That is a little less clear. It would have, it
24 would have -- in my mind it was the 1999 standards because
25 the 2001 standards were draft.

1 Q Now did you actually go and look at standards?

2 A Yes.

3 Q Okay.

4 A Yeah. If we had a question, you know, and I was
5 consulting with another supervisor, I might have a look at
6 the standard. Because we weren't trained on the standard
7 we might, you know, contact somebody at the authority. But
8 would I say that the standards were the primary documents
9 that we used, I would say no.

10 Q So in 2004, 2005, what guided how you did your
11 work in that case?

12 A Well we used -- obviously the Child and Family
13 Services Act guided how we did our work.

14 Q What do you mean by that?

15 A Well the act really is the legislated foundation,
16 you know, that guides the work that we do. It really
17 outlines what the duties of agencies and the authority and
18 the director are, as well as the office of the advocate.
19 It, it outlines our responsibilities to families with
20 respect to family services, protection matters, you know,
21 how we seek orders, when we seek orders, timelines around
22 orders and also services to children and confidentiality.

23 Q And it's set out in fairly broad terms?

24 A Yes, it is.

25 Q So you relied on the act. What else?

1 A Well, we would have relied on the act. We would
2 have relied on the guidelines around reporting a child in
3 need of protection. We would have relied on the child
4 abuse committee guidelines and, you know, the standards as,
5 as needed.

6 Q Do you remember being interviewed by Andy Koster
7 after the death of Phoenix was discovered?

8 A Yes, I do.

9 Q And I expect that Mr. Koster will testify that
10 not a single person that he interviewed spoke in terms of
11 standards.

12 A I don't remember what my specific discussion was
13 with Mr. Koster with respect to that matter.

14 Q And we will look at the records of your interview
15 with Mr. Koster and we can do that now but when I looked at
16 them I didn't see any specific records of your saying
17 standards. Is it fair that you really didn't think of
18 standards per se when you were carrying out your work in
19 '04, '05?

20 A I think that that is, it's fair to say that.

21 Q What else guided you in your work, best practice?
22 Would that be ...

23 A Sure, best practice guided, I mean clinical
24 experience, peer consultation, management consultation,
25 best practices guided the work that we did, our training

1 that we received, core competency based training,
2 supervisor competency based training guided our practice.

3 Q Did you receive training on CFSIS?

4 A I did. I don't remember when.

5 Q Okay. And are you a registered social worker?

6 A No, I'm not.

7 Q Any reason why not?

8 A Just because it's not a requirement.

9 Q You're not delivering services right now, would
10 that make a difference or no?

11 A I think it would. Currently I don't work
12 directly with any, with a client population, so. But I
13 think if I was that I probably would look at registering.

14 Q You think registration is a good thing?

15 A Absolutely.

16 Q Why is that?

17 A Because I think it lends credibility to the
18 profession and it also, you know, allows, you know, if
19 there's concerns about service or practice, it allows the
20 public an avenue to, to pursue, you know, like a complaints
21 review process if required through an official body.

22 THE COMMISSIONER: And what work is it you're
23 doing right now?

24 THE WITNESS: I'm a Child and Family Services
25 program specialist, leading practice specialist. So that

1 entails, most of my work really is currently policy program
2 development, standards development. I also do a lot of
3 training with respect to the new general authority practice
4 models, so that I do training with respect to structured
5 decision making as well as the current, the general
6 authority case management standards as well as solution
7 focused approaches to practice and child welfare.

8 THE COMMISSIONER: And your employer is?

9 THE WITNESS: My employer is the Province of
10 Manitoba.

11 THE COMMISSIONER: Thank you.

12

13 BY MS. WALSH:

14 Q I asked you if you were registered. Have you
15 ever been registered?

16 A No.

17 Q And let's talk about supervision. First of all,
18 as we've just discussed, when you were a supervisor at CRU
19 in '04 and '05, your supervisor was Mr. Dan Berg?

20 A That is correct.

21 Q His title was assistant program manager?

22 A That is correct.

23 Q And what sort of supervision did Mr. Berg provide
24 to you?

25 A Mr. Berg was available to me if I required

1 ongoing supervision because of the nature of the work that
2 we did, it was crisis response. So often we were dealing
3 with very high risk imminent matters and often that would
4 require immediate supervision. We also, he also met with
5 me on a monthly basis to talk about other matters that
6 weren't directly case specific. So that might have been
7 human resource issues that we might have been managing, it
8 might have been with respect to operational matters, it
9 might have been with respect to, you know, my own, you know
10 my own personal professional development, that kind of
11 thing.

12 Q So you would talk to Mr. Berg about specific
13 cases if you wanted to seek his advice?

14 A Yes, absolutely.

15 Q And how often did you do that, do you think?

16 A It really varied. You know, throughout the
17 course of a day I could, you know, consult with him quite
18 frequently or not at all. It really depended on the nature
19 of the cases that we were managing. Anything that was high
20 risk, for example, there were requirements, so death of a
21 child, you know, significant serious injuries to a child,
22 high profile cases. There were requirements that we report
23 those types of matters to our managers.

24 Q And he was easily accessible to you?

25 A Yes, he was.

1 Q Okay. If we can pull up page 29621, please. I
2 just want to go through the organizational chart of intake
3 at the time that you were involved in this file.

4 MS. WALSH: I think probably, Madam Clerk, the
5 way it came up is the way we'll have to look at it on the
6 screen. You can't get it smaller, is that right? Is that
7 the problem?

8 THE CLERK: Would you like to have it smaller?

9 MS. WALSH: Well, we can, we can work with it.
10 That's perfect. Thank you.

11

12 BY MS. WALSH:

13 Q You've got that in front of you, Ms. Faria. So
14 you see at the bottom it says April, bottom left-hand
15 corner it says April 25, 2003. And this is a chart of the
16 crisis response unit, after hours unit and intake, all the
17 management people. Am I correct in understanding that the
18 structure was essentially the same in 2004, 2005?

19 A That's correct.

20 Q Okay. And not just the structure but the actual
21 individuals in the positions? Let's go through it. At the
22 very top of the organization of this area was Mr. Harrison,
23 program manager?

24 A That's correct.

25 Q Okay. And then below that were two assistant

1 program managers, Mr. Berg and Mr. Wilson?

2 A That's correct.

3 Q Mr. Berg was your direct supervisor?

4 A Yes, that's correct.

5 Q And so he supervised you as a CRU supervisor.
6 Andy Orobko as an intake supervisor and Carolyn Parsons as
7 an intake supervisor?

8 A Yes, that's correct.

9 Q And then on the other side Mr. Wilson -- the CRU
10 supervisor is vacant as of 2003. Mr. Doug Ingram was an
11 intake supervisor and Kevin O'Toole was also an intake
12 supervisor.

13 A That is correct.

14 Q Now am I correct in understanding that
15 Diana Verrier filled the CRU supervisor position
16 ultimately?

17 A Yes. And during that period of time I covered
18 the two teams, so I was supervising both teams.

19 Q When, do you recall when Ms. Verrier came on?

20 A I do not recall.

21 Q Okay. So you can't recall how, how long you
22 covered both teams?

23 A It was a very lengthy period of time.

24 THE COMMISSIONER: In other words there would be
25 another block out here when she came on?

1 THE WITNESS: Well where you see --

2 MS. WALSH: You see where it says vacant --
3 sorry, go ahead, yeah.

4 THE COMMISSIONER: Does it say vacant here?

5 THE WITNESS: Yeah, where it says vacant
6 Diana Verrier --

7 THE COMMISSIONER: Just a minute. I don't know
8 where that is. Where does it say vacant?

9 THE WITNESS: Under Rob Wilson.

10 THE COMMISSIONER: Oh, all right. I get you,
11 yes.

12 THE WITNESS: Diana Verrier filled that position.

13 THE COMMISSIONER: Did you and Verrier not do the
14 same work?

15 THE WITNESS: We did the same work. We reported
16 to different assistant program managers.

17 THE COMMISSIONER: Oh, I see. Both of these,
18 both sides did the same work, it was just the two different
19 teams; is that right?

20 THE WITNESS: That's correct.

21

22 BY MS. WALSH:

23 Q I think we heard evidence from Ms. Verrier of
24 involvement, at least by May of 2004. Does that sound
25 right, that she would have been on board by then?

1 A That sounds correct.

2 Q And then also under Mr. Berg were abuse
3 supervisors, community supervisors. Under Mr. Harrison
4 were AHU supervisors, two of them, Janet Kehler,
5 Kim Gardner (phonetic) and then Rick Manteuffel and on the
6 other side again under reporting to Mr. Wilson were abuse
7 and community supervisors.

8 A That's correct.

9 Q So that's, that's what the employment structure
10 looked like and contained in '03, '04, '05, with the
11 addition of Ms. Verrier sometime in '04?

12 A That's correct.

13 Q Okay. And then how many people, how many workers
14 reported to you?

15 A I had a total of six social workers, one admin,
16 and I had an Employment and Income Assistance liaison staff
17 that also reported to me. So I had a total of eight staff.

18 THE COMMISSIONER: You had, what, six social
19 workers, one admin and what was the other one?

20 THE WITNESS: She was an Employment and Income
21 Assistance liaison so what she did was if there were minors
22 that were looking at being emancipated, on assistance, that
23 staff person would be conducting the assessments to make a
24 determination for Employment and Income Assistance.

25 THE COMMISSIONER: I understand.

1 BY MS. WALSH:

2 Q And we're talking about '04 and '05, that's how
3 many workers you had during that timeframe?

4 A That's correct.

5 Q The role of the administrative support person was
6 what?

7 A The administrative support kept all of our
8 statistics, basically did all of our inputting on CFSIS.
9 The administrative supports would collect the reports in
10 the morning from after hours, would sort them, would
11 prepare them for us for when we arrived in the morning.
12 Any reports that needed to be assigned directly to intake
13 or abuse intake, she would ensure, they would ensure that
14 that occurred and whatever other administrative duties, you
15 know, that might have been assigned to them. I don't
16 remember all of them.

17 Q And other CRU, the other CRU unit, did it have
18 the same number of staff?

19 A Yes, it had, it had six social workers and one
20 admin support.

21 Q No EI?

22 A No, the EIA liaison was for both teams and I was
23 assigned the responsibility of supervising and managing
24 her.

25 Q And you also said that you filled in as

1 supervisor for both crisis response units for a period of
2 time?

3 A Yes, for a lengthy period of time up to, I'm not
4 -- up to the point that Diana began the position. But both
5 Diana and I covered for one another in the absence of the
6 other. So if we were on vacation, we were attending
7 meetings, we would be responsible for the 12 staff.

8 Q And in fact I recall that we heard from
9 Ms. Verrier that she would point out that sometimes you
10 would initial something that was relating to her team
11 because she wasn't there and you were filling in for her.

12 A That's correct.

13 Q So you supervised Roberta Dick?

14 A Yes, I did.

15 Q Shelly, now known as Willox, know as Shelly Wiebe
16 in 2004?

17 A Yes, I did.

18 Q Bill Leskiw?

19 A Yes, I did.

20 Q And Christopher Zalevich?

21 A Yes, I did.

22 THE COMMISSIONER: What was the last name?

23 MS. WALSH: Christopher Zalevich.

24 THE COMMISSIONER: Oh, yes.

25

1 BY MS. WALSH:

2 Q How did you carry out your supervision of the
3 people who reported to you?

4 A Because the nature of our work was emergent, high
5 risk, highly complex cases, day to day case management
6 supervision was on an open door basis. So staff came to me
7 as needed on an ongoing basis, so, and that was simply
8 because of the emergent nature of our work. So staff would
9 come to me at any time during the day so I always had to be
10 available. If I wasn't available I had to make
11 arrangements for another supervisor to be available in my
12 absence. So it was constant. I also did do monthly
13 supervision with my staff after the Tony Morrison training
14 and that was really more, not necessarily related to case
15 management decisions but looking at more, you know, some
16 more of the human resource piece, so working with staff,
17 you know, on staff development, you know, maybe learning
18 plans, that kind of thing. Given the nature of the work
19 and the volume of the work at crisis response unit,
20 maintaining those monthly supervision, that monthly
21 supervision of staff was not always possible.

22 Q So you were available to workers on a daily
23 basis?

24 A That's correct.

25 Q What --

1 A And so, I mean workers could be lined up at my
2 door, so if I've got a worker in my office who's consulting
3 about an emergency, and I have another worker -- we've now,
4 a CRU worker is now going out on another matter. You know,
5 I would basically have to prioritize for that day. You
6 know, somebody might have to wait while I attended to
7 somebody else and, you know, provided them with direction.
8 I could be in the middle of consultation and a staff could
9 be calling me from the field to request authorization to
10 apprehend a child. It was ongoing. There wasn't -- you
11 know, it's not like family service where you would schedule
12 time to do case management consultation. It was ongoing
13 and it was also related to the length of time that we kept
14 cases at CRU as well.

15 Q What kind of hours did you keep as a supervisor?

16 A Well, generally our hours were supposed to be
17 8:30 to 4:30. That generally was not how it worked. Often
18 we were there much later -- much earlier and much later.
19 It really depended on what was happening for us for the
20 day. If we had staff out dealing with emergencies, our
21 philosophy is that we made, as supervisors we made every
22 effort to ensure that our staff had returned and that
23 everybody was accounted for before we left for the day.
24 And at the time workers carried cell phones so if they were
25 still out in the field and it was five o'clock and they're

1 dealing with an emergent matter, we would have been meeting
2 with the after hours supervisors to talk about what was
3 happening in terms of that transition period to after
4 hours. So often times it would -- it was often, you know,
5 8:00 to, you know, whatever, 6:00 because it was often very
6 difficult to get out for 4:30, especially if your staff
7 were dealing with an emergent matter and you had to see
8 that through.

9 Q As a supervisor did you have other
10 responsibilities beyond being available to discuss cases
11 with your workers?

12 A Well, absolutely. You're dealing with, you know,
13 you're dealing with administrative responsibilities, so I
14 did all the time sheets, I did requests for vacation, you
15 know. There, there may have been working committees that
16 you may have been asked to sit on. In those circumstances
17 the other supervisor would cover during that period of
18 time. And there was also human resource matters that you
19 had to manage. So I mean there were times where you were
20 dealing with disciplinary matters, union related matters,
21 you know, with human resources so that was also a part of
22 the function. And the other piece of my work really was I,
23 I dealt largely with the community, with collaterals. I
24 had multiple calls from collaterals. Because we were
25 crisis response and we, we received all the requests for

1 service during day hours, any written referrals that came
2 in to the agency, nationally or provincially, would come
3 through me or Diana. We would review those. We would be
4 dealing with those individuals, those sources of referrals
5 and so there was huge paperwork responsibilities.

6 THE COMMISSIONER: Were you able to get the job
7 done?

8 THE WITNESS: Were we able to get the job done?
9 Yes.

10

11 BY MS. WALSH:

12 Q Yes, there were certain types of decisions that
13 required your approval as supervisor.

14 A That's correct.

15 Q And when I say certain types of decisions I mean
16 with respect to case management. What were those
17 decisions?

18 A Well, the decision to apprehend children required
19 supervisory approval unless it was emergent and, you know,
20 social workers, you know, and children were at imminent
21 risk and it was not possible. I mean in those types of
22 situations a social worker would have to do what they'd
23 have to do, right.

24 Q So apprehensions. What else?

25 A If a case was being opened, either if it was

1 being opened or if a case was being closed, a supervisor
2 would have to review that.

3 Q When you say opened, what do you mean?

4 A If a case was either being opened to intake or
5 abuse intake. And we also opened up cases to our perinatal
6 unit, those just went direct. That was the only exception
7 where a case would go directly to a family service team.

8 Q So a decision to transfer a file or a family from
9 CRU to intake or abuse intake, those decisions needed your
10 approval as a supervisor?

11 A That's correct.

12 THE COMMISSIONER: Well, just better slow down
13 now. We're coming to something. The witness talks
14 terribly fast.

15 MS. WALSH: She does.

16 THE COMMISSIONER: So I'm going to have to slow
17 down here and deal with -- the matter of transfer of files
18 is critically important here.

19 MS. WALSH: Thank you.

20 THE COMMISSIONER: So I'd like you to just go
21 over that again and have the witness slow down, please.

22 MS. WALSH: Okay, thank you.

23

24 BY MS. WALSH:

25 Q Decisions that required your approval included

1 apprehensions?

2 A That's correct.

3 Q If a file was being transferred from the crisis
4 response unit to the intake unit, that required your
5 approval?

6 A That's correct.

7 Q Similarly if a file was being transferred from
8 the crisis response unit to the abuse intake unit, that
9 required your approval?

10 A That's correct.

11 Q And if a file was going to be closed at the CRU
12 level that required your approval?

13 A That's correct.

14 Q Anything else? Any other decisions with respect
15 to case management that required your approval as
16 supervisor?

17 A Not that I can think of at the moment.

18 Q Let's turn to page 29040. This is from
19 commission disclosure 1634. This is the Winnipeg Child and
20 Family Services supervision policy. At the top it says
21 "Implementation March 1, 2004" Are you familiar with this
22 document?

23 A I vaguely remember it.

24 Q Can you say whether it was something you were
25 expected to comply with in 2004 and 2005?

1 A It says it was implemented in March 2004, so
2 obviously. I don't know.

3 Q Okay. So it was something you were expected to
4 comply with?

5 A Yes.

6 Q Starting on page 29040, under the definition
7 section. I'm just going to go through portions of the
8 document and ask you whether, what the document says is
9 consistent with your understanding of what you were
10 required to do and what you did as a supervisor.

11 A Okay.

12 Q So that's what we're going to do. The definition
13 of supervision:

14

15 "Supervision is a relationship
16 process between supervisor and
17 staff, in both one-to-one and
18 group settings, intended to meet
19 certain organizational,
20 professional and personal
21 objectives. These objectives or
22 functions are:

23 Management - Competent,
24 accountable performance and
25 practice

1 Education - Continuing
2 professional development and
3 reflective practice

4 Support - Assisting the staff
5 to operate within the system

6 Mediation - Engaging the
7 individual with the organization"

8

9 Does that match how you viewed your role as supervisor in
10 '04 and '05?

11 A Yes.

12 Q So part of your role involved ensuring that the
13 workers who you supervised carried out their work in a
14 competent manner?

15 A Yes.

16 Q And another part of your role was to offer
17 support to the workers you supervised?

18 A Yes.

19 Q Was it ever your experience that those roles
20 conflicted?

21 A As a supervisor I tried to be as supportive as
22 possible with my staff, especially given the difficult
23 nature of the work that we do. In terms of ensuring
24 accountability, that was always primary. So if there was
25 concerns with respect to accountability those would be

1 addressed and, you know, those would either be addressed in
2 consultation with my program manager or those would be
3 addressed, you know, in conjunction with our human
4 resources professionals.

5 Q Was the support role something that was a large
6 part of what you did in '04 and '05?

7 A I think, I think it is a large part of what you
8 do because as a supervisor in child welfare, because of the
9 nature of the work, social workers are having to make
10 difficult decisions every day, social workers and
11 supervisors, and they're often having to deal with very
12 traumatic, difficult experiences that at times lead to
13 vicarious trauma. And so as a social worker, you know, you
14 really have to -- as a supervisor you really have to have
15 an awareness of the impact of the work on your staff and
16 trying to be supportive in that way. So if a staff person
17 had a critical incident where they may have been assaulted
18 during the course of an apprehension where they might have,
19 you know -- I mean our staff are witnessing horrendous
20 abuse of children, you know, and, and that has an impact
21 personally and psychologically. So you know, ensuring that
22 our staff had the professional resources available to them
23 in the event of those types of incidents. But they also,
24 that they have support in terms of knowing, you know, that
25 there was always somebody there that they could turn to for

1 consultation and for guidance as well. But, you know, it's
2 a mixture of the two and, you know, it's very difficult,
3 very draining work emotionally.

4 Q The work as a CRU worker you mean?

5 A The work of child protection in general. I think
6 that there are certain positions within the organization,
7 crisis response and abuse in particular, where you're
8 dealing with imminent, high risk, tragic, sad, horrendously
9 horrible situations that you're seeing on a day in, day out
10 with respect to the lives of children and, you know, that
11 really impacts staff. So I think that there are certain
12 positions, much like, you know, the police department where
13 vicarious trauma certainly is, is more significant. But
14 for all of child welfare. I mean that doesn't mean that a
15 social worker in family services isn't going to be exposed
16 to a child death or to horrendous abuse on a caseload.

17 THE COMMISSIONER: Well I think that explains it
18 very well the tough job that you have to do.

19 THE WITNESS: Thank you very much.

20

21 BY MS. WALSH:

22 Q And would those comments apply to the work of a
23 supervisor as well?

24 A To the supervisor as well? Absolutely. There
25 are many sleepless nights with respect to the work that you

1 do and, you know, it's traumatic work and people have to
2 process that with their managers. There needs to be a
3 level of self awareness about the impact on you personally
4 and the impact on you in terms of your, of your family
5 life. It certainly is, it's something that as supervisors
6 you experience just as you do with your staff. You know,
7 you're witnessing it just the same. These children are
8 being apprehended. Often they're being brought to the
9 office. It was not uncommon for me, you know, to bath
10 children, like infants, because they were filthy, you know,
11 neglected, you know, seeing children with burns and bruises
12 and fractures and, you know, that is very, you know that is
13 very psychologically and emotionally challenging.

14 Q Thank you. Still on page 29040, you see towards
15 the bottom of the page it says:

16

17 "Recording and Documentation.
18 Both supervisor and staff will
19 maintain notes regarding key
20 decisions and themes that are
21 discussed in supervision. The
22 supervisor will maintain
23 supervision records that that will
24 document case discussions
25 and discussions regarding

1 the employee's professional
2 development and personnel issues."

3

4 Did you maintain notes regarding key decisions and themes
5 discussed in supervision?

6 A Well, there's a difference between case
7 management supervision and supervision with respect to
8 human resource issues.

9 Q Okay, did you maintain --

10 THE COMMISSIONER: Difference between what?

11 THE WITNESS: Supervision related to human
12 resource issues or to staffing issues.

13

14 BY MS. WALSH:

15 Q Okay. So let's start with case management
16 issues. Did you maintain notes relating to case management
17 issues discussed during supervision?

18 A I did not maintain notes. If I had, because of
19 the emergent nature of the work and because of the volume
20 of cases we were managing, if I had case specific
21 information that I wanted added to a record, I would make
22 an electronic, I would make an electronic copy of that
23 information on the CFSIS record and I would sign it.

24 Q So, so that's how -- if one were looking at the
25 file, one would know whether there was a note made by you

1 because you would have signed it?

2 A Yes. Now if it was related to a human resource
3 matter that we were managing then I would be working with
4 human resources and any documentation with respect to that
5 staffing issue would go into the human, that individual's
6 human resource file.

7 Q And otherwise you maintained no other note, no
8 notes?

9 A Well, I mean if I got a call say from a
10 collateral in the community, I might do a handwritten note
11 and then I would transcribe it electronically, sign it and
12 so that it would indicate that I was the one that spoke to
13 that individual, I was the one that received that case
14 specific information and then I would sign it with my own
15 name.

16 Q In terms of, and we'll come back to this, but in
17 term of entering a note like you're describing on CFSIS
18 what would be the process?

19 A I would just do it in a Word document, give it to
20 my admin and she would enter it.

21 Q Okay. So you would do the Word document, type
22 it, sign it and then give it to the admin person?

23 A I would do the Word document. She would attach
24 it on to CFSIS and then she would return a hard copy to me
25 that I would sign. Because she would add it to the

1 existing CFSIS document, right?

2 Q But would the CFSIS records have a version that
3 was signed by you?

4 A No, the physical, the physical file would have
5 the signed version.

6 Q So by looking at CFSIS one wouldn't be able to
7 tell whether there was a note made by you in the file?

8 A I'm not certain. That's something you'd need to
9 confirm with my admin.

10 Q Any reason why you wouldn't sign it before it was
11 entered into CFSIS?

12 A Because it would be inputted -- like I would do
13 it on a Word document and then it would be inputted into
14 the remainder of the CFSIS document.

15 Q We're going --

16 A I wouldn't -- we weren't allowed to attach things
17 to CFSIS, only admin support could do that.

18 Q Sure. But, but why wouldn't you sign it before
19 it was attached to CFSIS? Why wouldn't you have a signed
20 document to be attached?

21 A Because you, you can't physically do that. So
22 you would give the Word document to the admin. The admin
23 would attach that to the ongoing report, the ongoing CFSIS
24 report, and then she would give us the report to sign.
25 Because only admin could attach, could attach documents to

1 CFSIS.

2 THE COMMISSIONER: But when you had gone through
3 that process, your signature ultimately would appear.

4 THE WITNESS: Yes, that's correct.

5

6 BY MS. WALSH:

7 Q So we've heard evidence repeatedly from workers
8 and supervisors that they would have a Word document,
9 referring for instance to a report that they've prepared --

10 A Right.

11 Q -- that they would sign the document and then
12 hand it to the admin person and that's why we see
13 repeatedly in the files signed versions --

14 A Yeah.

15 Q -- of documents.

16 A That's, if I'm getting a CRU report I'm going to
17 sign it and give it to my admin.

18 Q Okay.

19 A But if I'm personally adding a note to a CRU
20 report, I'm going to give that to my admin to attach to
21 that report and then I'm going to sign it just as I would
22 in the initial process.

23 Q Why, why the distinction in terms of your
24 signature?

25 A I'm, I'm just attaching the written portion of my

1 contacts. So that would be in addition to the report.

2 Q Right. But why wouldn't, why wouldn't you have
3 the signed version of those notes entered into CFSIS just
4 the same way that the signed version of reports is entered
5 into CFSIS?

6 A If I were to sign that additional note that I did
7 on Word, the admin would likely have to scan that to, to do
8 that. It's -- I'm not sure how to explain it better but if
9 I got the final CRU AHU report, I would sign it off.

10 Q Right.

11 A And then it would go to my admin for her to enter
12 it on CFSIS.

13 Q And she'd have to scan that to show that the
14 signed version was in CFSIS?

15 A No, she wouldn't have to, she wouldn't have to
16 scan that. That would just -- I don't know what the
17 administrative process would be after that.

18 Q Okay.

19 A But say --

20 THE COMMISSIONER: But it was only where you made
21 your own notes that the signature appeared later?

22 THE WITNESS: It was when I made my own notes,
23 say I got additional information on a case that one of my
24 workers would have been working on. I would have done an
25 electronic version of that on Word and I would have given

1 it to my social worker or my admin to add to their report.
2 So when I would get it, it would include my, my note on
3 there and I would sign off. So I sign off on the final
4 product.

5 MS. WALSH: Okay.

6 THE COMMISSIONER: But if you were signing
7 approval of the work of one of your staff, a sign-off or a
8 closing as an example --

9 THE WITNESS: Yes.

10 THE COMMISSIONER: -- that would go directly in
11 without -- with your signature on it without it having to
12 come back to put your signature on at a later time?

13 THE WITNESS: That's correct.

14

15 BY MS. WALSH:

16 Q So when we, and eventually we will today, look at
17 a variety of CRU reports that bear your signature --

18 A Um-hum.

19 Q -- you're saying that by the time you've signed
20 those documents any notes that you might have made would
21 already be incorporated into them?

22 A That is correct.

23 Q So remind me, please, when we come to looking at
24 the various reports that have your signature, to have you
25 identify whether there's any portion of the recordings that

1 was actually added by you.

2 A I can say to you now that there were not in any
3 of those contacts.

4 Q Okay, thank you.

5 THE COMMISSIONER: In this file?

6 THE WITNESS: In this file, yes, that's correct.

7

8 BY MS. WALSH:

9 Q Let's turn to page 29044, please. So again,
10 under the heading "Supervisor Notes":

11

12 "The role of the staff is to
13 provide case management services
14 ... The role of the Supervisor is
15 on capacity building with respect
16 to the supervisee."

17

18 And then it goes on to say:

19

20 "Provincial standards outline,
21 very specifically, the record
22 keeping responsibilities of the
23 social worker or case manager.

24

25 It is recommended that
Supervisors record the following:

- 1 - Case material discussed in
2 supervision.
3 - Supervision activity.
4 - Information that belongs in a
5 personnel file."

6

7 Now is what you've just told us how you documented or
8 followed that aspect of the policy?

9 A With crisis response, because of the volume of
10 the cases that go through crisis response and the emergent
11 nature and the ongoing supervision that happens at crisis
12 response, the social worker documents supervision of case
13 specific or consultation that's case specific when they are
14 doing the report.

15 Q And is that one of the things that you would look
16 for when you received your report before you signed off on
17 it?

18 A Possibly.

19 Q In other words, if a social worker had documented
20 a discussion with you?

21 A Yes. Normally, if there had been a discussion
22 that would, that would be documented on, on the CRU after
23 hours report.

24 Q And would you be able to remember whether that
25 had occurred and looked for it when you saw the report?

1 A Most likely, yes.

2 Q In 2003, 2004, 2005, did you feel that you had
3 enough time to provide appropriate supervision for your
4 workers?

5 A I, I believe that we did, yes.

6 Q Okay. Do you know whether your workers were
7 trained on standards?

8 A I'm not 100 percent certain but I believe they
9 were not.

10 Q And that would have been something you would have
11 been aware of at the time you were their supervisor?

12 A During my time as their supervisor, I had no
13 knowledge of staff being trained in standards.

14 Q That is, so far as you knew they had not received
15 that training?

16 A That's correct.

17 Q Now as a supervisor, I think we looked at the
18 definition of supervision. Part of your responsibility was
19 to ensure that the workers you supervised carried out their
20 jobs properly?

21 A That's correct.

22 Q And that would include complying with best
23 practice. If they weren't aware of standards, I don't know
24 if we can say standards.

25 A Yeah. If there was, if there was a concern about

1 a case, you know what, we would go back, speak to our
2 staff. If we had questions or concerns we would go back,
3 speak to them, review the information. We may redirect.
4 We might make other suggestions. That was, that was an
5 ongoing process.

6 Q Okay. So how was it that you were able to ensure
7 that workers were complying with their responsibilities
8 under, under the Child and Family Services Act, for
9 instance?

10 A Well, we did -- we reviewed their cases on a --
11 we did ongoing consultation with staff about the referrals
12 that they were managing. We also reviewed the written
13 material that they provided to us. We met with them to
14 discuss process, whether that be -- I mean there was, you
15 know, depending on what was, what might be happening for an
16 individual staff but say if they were, you know, if some
17 staff, you know, may have had issues in putting on, like
18 managing electronic records in terms of, you know, having
19 difficulties, you know. Like for some staff, like working
20 on a computer was more difficult so they might need typing
21 training, that kind of thing, so I mean we were constantly
22 -- I think the primary way that we did that was really
23 through supervision and reviews of, of the documents.

24 Q The documents meaning the documents that the CRU
25 workers prepared?

1 A That's correct. That's the, that would be the
2 CFSIS face sheet, the CRU after hours report and the safety
3 assessment.

4 Q Now during the time that you were a crisis
5 response unit supervisor, were there instances where you
6 determined that a worker was not performing their job
7 adequately?

8 A Yes.

9 Q And what, if anything, did you do in that case?

10 A Well, there's a difference between not performing
11 your job adequately and, you know, not doing, like you know
12 missing something on an assessment or missing a step. If
13 there were concerns about performance, you know, that, we
14 would speak directly with that staff person or we might
15 have to get human resources involved with respect to
16 addressing the concerns. So we would meet with them and
17 talk about -- you know, I might, you know, if there was
18 concerns about the way a staff person wrote reports or the
19 quality of a report, I might save up those reports and
20 then, you know, meet with that staff to review the reports
21 and the concerns in those reports and talk about, you know,
22 possible means of addressing the concerns, you know, or
23 things that I'd be looking for specifically.

24 Q With respect to the workers who were under your
25 supervision in '03 to '05, delivering services to Phoenix

1 Sinclair and her family, were there ever performance issues
2 relating to the services delivered to Phoenix and her
3 family?

4 A With respect to the staff involved?

5 Q Yes.

6 A No.

7 Q From your perspective?

8 A From my perspective.

9 Q As a supervisor?

10 A That's correct.

11 Q Okay. We heard evidence from Shelly Willox,
12 Shelly Wiebe, that she kept notes in a notepad and used the
13 notes to create her reports and eventually she shredded the
14 handwritten notes. We heard similar evidence from
15 Mr. Zalevich. Is that something you were aware of when you
16 were supervising them?

17 A I'm not sure that I was aware of that. I don't
18 remember.

19 Q Would that have been an acceptable practice?

20 A At the time, yes.

21 Q Was, in '04 and '05, was there any policy about
22 how workers were to keep their notes?

23 A Not that I'm aware of.

24 Q What about a shredding policy, were you aware of
25 that?

1 A No.

2 Q I just want to go into some more specific detail
3 as to things that you did as a CRU supervisor. Let me
4 start by saying did, did your practice remain the same from
5 2000 to 2005?

6 A I would say yes.

7 Q Okay. So the first thing that, that you would do
8 when a matter came to your attention would be to assign it
9 to a worker?

10 A That's correct.

11 Q And let me back up. How would a matter come to
12 your attention as the CRU supervisor?

13 A It could come to my attention in a multitude of
14 ways. It could, in the morning it could have been handed
15 to me by my admin from after hours. So it's possible that
16 if there was something emergent that needed to be managed
17 that had, that after hours, you know, may have been
18 finishing up with or was indicating that needed to be
19 followed up on the following morning, first thing, that
20 would be assigned to CRU immediately. So if my staff were
21 on back up for that day, I would be assigning that to them.
22 If a referral had come to us, most of the referrals would
23 have been assigned via the phone screener. So if the phone
24 screeners are receiving a call that's emergent, they're
25 writing up the report because Diana would have been

1 supervising them, she would have been managing those
2 reports. Sometimes -- so then Diana would then, you know,
3 indicate to me that this is emergent, it needs to be
4 followed up on, I would assign it to my staff. So it could
5 come through phone screening. It could also come via a
6 number of routes for referral. We received faxes, we
7 received written referrals. Those could also be assigned.
8 Whatever -- with respect to faxes, emails, written
9 referrals, whatever we could move up that we could manage
10 at a supervisor level and an admin level that didn't have
11 to be assigned to CRU we would do that. So we would
12 actually, Diana and I would actually do our own CRU after
13 hours report and send the case directly up. So an example
14 of that would be, you know, if we had received a written
15 referral from out of province and we had determined that it
16 was nothing imminent or emergent but it met the criteria
17 for referral to intake, then Diana and I would just do the
18 actual CRU after hours report and send it up directly, our
19 staff would never actually see those cases, and that was
20 really our attempt to sort of manage some of the workload
21 for them. So that might be, I mean, another way. So
22 there's a multitude of routes in which cases or requests
23 for service came in and we assigned those to our staff.

24 Q When you --

25 THE COMMISSIONER: But when you, when you didn't

1 assign them to your staff you sent them straight to intake,
2 is that what I hear?

3 THE WITNESS: Yes, either intake or abuse intake,
4 depending on what, what the written referral was, yeah.

5 THE COMMISSIONER: Either regular intake or abuse
6 intake?

7 THE WITNESS: That's correct.

8

9 BY MS. WALSH:

10 Q How would you decide which worker to assign a
11 matter to?

12 A Really it would depend on what the numbers were
13 for that day and how many cases I had already given staff.
14 So we would look at the number of, you know, the number of
15 request for service that were coming in. We would look at
16 the nature of the request for service. So if I have a
17 staff person that's dealing with something, you know, high
18 risk, sensitive, difficult, that's going to be very time
19 consuming, I might, you know, just assign them, you know,
20 that one case and distribute the work amongst other staff.
21 So, you know, it really would have depended on what was
22 happening for us on that particular day in terms of how we
23 assigned and it was really to try and equalize the work,
24 not only in terms of case numbers but also in terms of
25 workload. So that would have been severity, gravity of the

1 case.

2 Q When you gave a matter to a worker, did you have
3 a discussion with them typically?

4 A Normally, yes.

5 Q About the nature of the referral?

6 A Yes.

7 Q And about what you expected them to do?

8 A Sometimes, not always. Sometimes the cases were
9 assigned, the worker would, the worker would review the
10 case. Generally if it was a high risk emergent matter, I
11 likely would have met with the staff to review and do some
12 consultation prior to them even getting involved. But
13 often times it would, it would mean like the first step
14 would be really be that they would need to start doing all
15 the prior contact checks, the CFSIS checks, that kind of
16 stuff. It really would have depended on what was
17 available.

18 Q And then while the worker was doing their work,
19 you would have interaction with them?

20 A Yes, on an ongoing basis.

21 Q Then at some point in time, and my understanding
22 is that in the CR unit that point in time would usually
23 arrive within a day or two, the worker would be write up
24 their report?

25 A Yeah, often times they would be writing up the

1 report as it went because it would start with that phone
2 screener or with after hours. So the report would have
3 already been started and they would just be continuing.
4 So, you know, it's not that they wait, it's not that they
5 waited till the end of all their work being done, it was
6 ongoing, they were always adding to the report based on
7 what they were doing.

8 Q And a CRU report was supposed to include
9 demographic information; is that right?

10 A Yes.

11 Q History?

12 A Yes.

13 Q The presenting problem?

14 A Yes.

15 Q Whatever intervention or action had taken place;
16 is that right?

17 A That's correct.

18 Q And a recommendation as to what should be done
19 with the matter?

20 A That's correct.

21 Q Okay. Then once that was prepared, that report,
22 what was the process for getting it to you?

23 A I'm not 100 percent clear around what the
24 administrative process was and my admin would be able to
25 speak to that more clearly. But the case would then, if it

1 was for workers on back up and my team was on back up, it
2 would come to me. And then I would review the CRU after
3 hours report and sign it and then hand it to my admin who
4 would then take care of the administrative process. If
5 there was, you know, if there was a question around whether
6 or not the referral met the mandate for service, or I felt
7 that there was going to be issues, moving the case onto
8 intake or CRU, I may go and consult with the, either the
9 intake abuse supervisor or the intake supervisor prior to
10 bringing it down and having, having it formally entered
11 onto CFSIS.

12 Q When you say issue with respect to whether a
13 matter met the mandate, what do you mean?

14 A Well whether or not -- you know there were many
15 referrals that we received that either could be addressed
16 in the community that were not necessarily of a protection
17 nature or that met the mandate under the act, so a child in
18 need of protection.

19 Q Okay. A child in need of protection? Is that
20 what I heard you say, a child in need of protection?

21 A Well, need for us to conduct a protection
22 investigation, sorry.

23 Q By the time that you reviewed a report, was it
24 typed and signed by the worker generally?

25 A I believe that it was signed by the worker.

1 Q And in a typed form then?

2 A Yes.

3 Q Okay. Would there ever be occasions when a
4 worker would discuss their recommendation with you before
5 they typed up their report?

6 A Yes.

7 Q Once you received the worker's report, what did
8 you do with it?

9 A I reviewed it. I would sign it and either
10 discuss it with intake or abuse or give it to my admin for
11 her to enter on to CFSIS and to do whatever the
12 administrative process was from there.

13 Q Okay. In terms of your review of the report, was
14 there any information in particular that you were looking
15 for when you reviewed it?

16 A I would look at the entire document. So I would
17 be looking at the history, I would be looking at the
18 demographic information and I would be looking at the
19 content of the report and the recommendation and the
20 findings.

21 Q By the time you received the report, did you
22 always know what the worker's recommendation was?

23 A Sometimes, yes.

24 Q But not always?

25 A Not always.

1 Q And then you had to consider whether you agreed
2 with the worker's recommendation?

3 A That's correct.

4 Q Were there instances where you did not agree with
5 their recommendation?

6 A Yes, there was. But generally, by the time it
7 got to me we had had enough discussion about it that that
8 was not generally the norm.

9 Q And so if you disagreed with the worker's
10 recommendation, what did you do?

11 A I would return it to them and we would have a
12 discussion about, you know, what was the reasons for the
13 recommendation and then try to come to some mutual
14 understanding of how the file should proceed.

15 Q So by the time you signed a report that was
16 indicative of your agreeing with the recommendation that
17 the worker set out?

18 A That's correct.

19 MS. WALSH: Mr. Commissioner, it is 11 o'clock
20 and I'm about to get into a new area, so if you'd like to
21 take the mid-morning break now?

22 THE COMMISSIONER: I think that's reasonable.
23 We'll take a 15 minute mid-morning break.

24 MS. WALSH: Thank you.

25

1 (BRIEF RECESS)

2

3 THE COMMISSIONER: Ms. Walsh?

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

5

6 BY MS. WALSH:

7 Q Ms. Faria, I want to talk about the role of CRU
8 generally but first let's put it into the context of, very
9 briefly, the mandate of the child welfare system which you
10 have referred to already.

11 On the first day of the hearings in this
12 proceeding we heard evidence from the current Director of
13 Winnipeg Child and Family Services about the mandate of the
14 child welfare system and she said that the safety of
15 children is ensured through the ability of agencies to
16 conduct abuse investigations, child protection
17 investigations when children are considered possibly in
18 need of protection. Would you agree with that description?

19 A Yes.

20 Q So one of the main functions of the child welfare
21 system is to determine whether a child is in need of
22 protection?

23 A That's correct.

24 Q When I use that phrase, that's in the sense of
25 the child's life, health and emotional well being?

1 A That's correct.

2 Q And that mandate was true in 2000 right up to the
3 current time?

4 A Yes.

5 Q Now in terms of a child welfare agency carries
6 out this mandate, the crisis response unit is at the front
7 end of service delivery; is that fair?

8 A Yes.

9 Q And that's the unit which will provide the first
10 response to a referral?

11 A Yes. I'd like to correct that, sometimes it's
12 after hours.

13 Q Sometimes after hours?

14 A Yes.

15 Q Okay, thank you. When I talk about referrals, I
16 want to just confirm something, we've heard evidence that
17 this inquiry from other workers, social workers and
18 supervisors that in order to carry out its mandate, the
19 child welfare system relies to a large extent on the
20 community bringing concerns to the agency's attention.

21 A That's correct.

22 Q And so the child welfare system relies on health
23 care workers, EIA workers, members of the public to bring
24 concerns about child protection matters to its attention?

25 A That's correct.

1 Q And that's important because if an agency is not
2 aware of any concerns then it has no ability to respond?

3 A That's correct.

4 Q In terms of the crisis response unit, let's pull
5 up page 19625. This is a document entitled intake --
6 "Winnipeg Child and Family Services Intake Program
7 Description and Procedures".

8 A Okay.

9 Q Are you looking for a hard copy of the document
10 as well?

11 A Yeah, I've got the hard copy in front of me.

12 Q You've got it, okay.

13 A Thank you.

14 Q Is this a document that you're familiar with?

15 A Yes.

16 Q And you were familiar with it in '03, '04 and
17 '05?

18 A Yes.

19 Q So I'm just, in the same way that we went through
20 the supervision policy, I want to go through portions of
21 this document and see if, if what's set out in the document
22 is consistent with your understanding of how the CRU, how
23 it functioned when you were supervisor there.

24 A Okay.

25 Q So starting at page 19628, under the heading

1 "Program Description" it says:

2

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

22 The case management decisions
23 at the CRU and AHU would include:

24 - Is the referral eligible and/or
25 appropriate for Winnipeg Child and

1 Family Services?

2 - Are the children safe or in need
3 of protection?

4 - What immediacy of response does
5 the referral warrant?

6 - Will the referral be opened to
7 the Agency, and (if so), under
8 what case category?

9 - Can the case be opened and
10 closed at the CRU and AHU level?
11 If so, what are the criteria for
12 doing so?"

13

14 And does all of what I have read match your understanding
15 of the role of the crisis response unit during the time you
16 were a supervisor there?

17 A Yes.

18 Q Then the document goes on under "Service
19 Provision and Assessment":

20

21 "With respect to the day-to-day
22 provision of services the CRU and
23 AHU will:

24 a) Interface with Intake and
25 Abuse Units as well as with the

1 Agency as whole and with external
2 Agencies.

3 b) Respond to any crisis
4 involving assessing and
5 intervention in situations where a
6 child may be at acute risk of
7 abuse or neglect. The CRU will
8 respond to all situations where a
9 response is required within 24
10 hours or within 48 hours (on cases
11 not open to other agency units).

12 Situations requiring a
13 response between 48 hours and 5
14 days or longer will be the
15 responsibility of the Intake and
16 Abuse units; a file will be opened
17 and forwarded to the appropriate
18 unit. Where the Abuse units
19 cannot respond within the 24 or 48
20 hour time period the CRU
21 will conduct a preliminary
22 investigation, establish safety
23 and then transfer the file to the
24 appropriate abuse unit."

25

1 Again, does what I've just reviewed match your
2 understanding of what the CRU unit was doing when you were
3 supervisor?

4 A Yes.

5 Q Then if we go to page 19634, under the heading
6 "Recording Outline: Closings - CRU":

7 THE COMMISSIONER: Page what?

8 MS. WALSH: 19634.

9 THE COMMISSIONER: 34, thank you.

10

11 BY MS. WALSH:

12 Q You've got that, Ms. Faria?

13 A Yes, I do.

14 Q

15 "a) Cases warranting no response
16 or no further response after AHU
17 or CRU intervention may be closed.
18 If there is a previous case
19 history, a file review shall be
20 conducted prior to closing."

21

22 Is that consistent with how your unit functioned at the
23 time you were supervisor?

24 A Yes, that is correct.

25 Q And,

1 "b) Generally speaking, if a
2 matter may be resolved and the
3 case closed with limited further
4 intervention (a few phone calls or
5 a field) the case may be kept by
6 the CRU beyond 48 hours to
7 facilitate the case disposal."
8

9 What about that, was that consistent with how the unit
10 functioned when you were a supervisor?

11 A Yes, however we did not keep cases for a very
12 lengthy period of time because of the volume of the work
13 and the gravity of the work that we were managing at the
14 time.

15 Q Did you say because of the volume and the gravity
16 of the work?

17 A Yes.

18 Q All right. I'm sure we'll discuss that more as
19 we go on today.

20 THE COMMISSIONER: Just what was the
21 qualification, witness?

22 THE WITNESS: The volume of work, so the case
23 numbers --

24 THE COMMISSIONER: Yes.

25 THE WITNESS: -- and also the gravity of the

1 work.

2 MS. WALSH: Mr. Commissioner, I believe that the
3 witness said, and you can correct me if I'm wrong, that
4 they did not keep cases for very long because of those
5 factors.

6 THE COMMISSIONER: Oh, that's, that's what I
7 missed.

8 MS. WALSH: Yeah. And then --

9 THE COMMISSIONER: Because of what, the volume of
10 the work?

11 THE WITNESS: The volume of the work and the
12 gravity, the emergent nature of the cases we were managing.

13 THE COMMISSIONER: All right.

14

15 BY MS. WALSH:

16 Q And then,

17

18 "c) All cases opened to Intake,
19 Abuse or any other unit shall
20 remain with that unit for
21 assessment, intervention or
22 closing. Cases shall not be
23 returned to the CRU except when
24 the receiving unit cannot
25 reasonably respond in the time

1 frame required to ensure safety.
2 Such a return shall be negotiated
3 between receiving unit supervisor
4 and the CRU supervisor. Once
5 cases are opened to an Intake or
6 Abuse Unit they shall not be
7 returned for the sole purpose of
8 further information gathering."

9

10 Is that consistent with how the unit functioned when you
11 were a supervisor?

12 A No.

13 Q Okay. What, what's the difference?

14 A That it cites here that cases will only be
15 redirected to CRU when the unit cannot reasonably respond,
16 however cases were returned to CRU for other reasons
17 beyond, you know, lack of capacity to respond at intake or,
18 or abuse intake.

19 Q Can you give us an example?

20 A And where it states that cases are open to intake
21 or abuse unit they shall not be returned for the sole
22 purpose of further information gathering, that happened all
23 the time.

24 THE COMMISSIONER: I'm having a problem with the
25 witness looking at the screen and as a result you're not

1 getting into the microphone.

2 THE WITNESS: Okay.

3 THE COMMISSIONER: Would you move that over in
4 front of you?

5 THE WITNESS: Like this?

6 MS. WALSH: You can pull the, you can physically
7 pull the stand.

8 THE COMMISSIONER: Move the, move the base over.

9 THE WITNESS: Okay, sorry.

10 THE COMMISSIONER: That's better.

11 THE WITNESS: Okay.

12 MS. WALSH: I find the acoustics in here are very
13 difficult.

14 THE WITNESS: I'm sorry, Sherry, could you please
15 repeat the question?

16

17 BY MS. WALSH:

18 Q So when I read item (c) under "Recording Outline:
19 Closings - CRU" and asked if that was consistent with how
20 the unit functioned when you were a supervisor, you said
21 no. So go ahead and tell us what's different or why you
22 say that.

23 A Well if cases were returned to CRU, you know,
24 even when, you know, intake did have the capacity to
25 reasonably respond and cases were returned to CRU for the

1 sole purposes of information gathering. So when it says
2 this shall be negotiated between receiving unit supervisor
3 and CRU supervisor, there often were discussions between
4 supervisors about that. But this, this indicates for the
5 sole purpose of the case, of intake or abuse not reasonably
6 being able to respond and there were reasons why the cases,
7 where cases were returned beyond that.

8 Q Are you saying then, and the last sentence of (c)
9 says:

10

11 "Once cases are opened to an
12 Intake or Abuse Unit they shall
13 not be returned for the sole
14 purpose of further information
15 gathering."

16

17 Are you saying that that's not consistent with how the unit
18 functioned when you were there?

19 A That's correct.

20 Q That in fact CRU would receive files back from
21 intake for the purpose of information gathering?

22 A CRU would receive cases back from intake and from
23 abuse intake for the purposes of information gathering,
24 yes.

25 Q From both of those intake units, abuse and

1 general intake?

2 A Yes, that's correct.

3 Q Okay. Now you see it says, it uses the term once
4 cases are opened to an intake or abuse unit. What's your
5 understanding of what that term means?

6 A Well that would mean that either CRU -- it could
7 mean that a case went directly from after hours to an
8 intake team. Because sometimes what would happen is that
9 Diana and I would review an after hours report in the
10 morning and make the decision that instead of assigning
11 that to CRU, it would go directly to after hours. So the
12 case could come directly from after hours or it would be
13 signed off by Diana or I for it to be opened to. So for me
14 that meant my -- once my worker has signed it and once I
15 have signed it, we've completed the safety assessment and
16 we've given it a response time and we have indicated that
17 the matter needs to be open to intake, that's what open
18 means.

19 Q Okay. Does it -- is the term opening to intake
20 contrasted with referring to intake?

21 A I would say it means the same thing, referring
22 and opening.

23 Q I know earlier this morning you told us that
24 sometimes you or Ms. Verrier would actually walk a file up
25 to intake rather than simply handing it to the

1 administrative person to send it to intake.

2 A That's correct.

3 Q And what was the reason for that?

4 A Because we -- there were certain cases and we
5 would refer to them as grey cases --

6 Q As, sorry, what?

7 A As grey cases.

8 Q Grey?

9 A So there's black and white cases and there's grey
10 cases and because we were having some difficulties
11 referring cases to abuse intake and to general intake, in
12 those cases where we consider them to be grey cases, and we
13 knew and to avoid administrative hassles we would go up and
14 have a discussion with the intake or abuse supervisor about
15 the referral, that this is coming up to you and, you know,
16 just letting you know and then we would have a discussion
17 around, you know, how the case should proceed.

18 Q So when you say to avoid administrative hassles,
19 you mean to avoid having the administrator open the
20 document to intake on CFSIS?

21 A Yes, and then having the case come back down and
22 having to change that onto CFSIS and change workers and so
23 it was just easier for us to go up and have that discussion
24 with the, with the receiving supervisor.

25 Q Was this happening in '04 and '05?

1 A Yes.

2 Q Now you said grey, a grey case, as opposed to
3 black and white. What did you mean?

4 A So a black and white case would be a child with
5 an injury, a child disclosing sexual abuse, a child born in
6 the hospital in withdrawal. Those would be, you know,
7 domestic violence. Those would be accepted, no questions.
8 A grey case, an example of that would have been the case
9 that we, that Shelly Wiebe and I managed, where you don't
10 have any new concerns being presented, there's no new
11 concerning information but there's a history and we have
12 young children in the home. So that would be a case where
13 we would know that, you know, the program criteria for
14 referral for intake or abuse was going to be problematic in
15 terms of getting that case accepted. It had gotten to that
16 point where we knew that, you know, with those types of
17 cases we would struggle to get those accepted by intake or
18 abuse.

19 Q So you've jumped ahead a little bit because
20 you've given us the example of the intervention and file
21 opening in December of '04 as an example of a grey case --

22 A Um-hum.

23 Q -- and we're going to come back to that. Am I
24 correct in understanding that you're saying that you mean a
25 case was grey because you didn't know whether intake would

1 accept it in the sense that they would refuse to do work on
2 the file?

3 A I think in terms of meeting the criteria for
4 referral to the program based on the program descriptions
5 that are outlined in this manual.

6 Q So can you be specific?

7 A So, for example, with abuse intake, unless -- I'm
8 just trying to see where the criteria for referral to abuse
9 intake is. Just give me a moment, please.

10 Q Certainly, take your time.

11 A Okay, so --

12 THE COMMISSIONER: What page?

13 THE WITNESS: Page 19645.

14 THE COMMISSIONER: That's, that's on the screen.

15 MS. WALSH: Yes.

16 THE WITNESS: Okay.

17

18 BY MS. WALSH:

19 Q So?

20 A So, for example, unless the referral -- if we had
21 made the decision to open up a case to intake because we
22 felt that -- I'm sorry, to abuse intake because we felt it
23 should be followed up by abuse intake, unless it met the
24 strict criteria outlined in this referral process, it would
25 not be accepted by intake. So that means if there wasn't a

1 physical injury or child, a sexual exploitation. So
2 basically they would look at child sexual abuse, child
3 physical abuse where there was a current injury and a
4 disclosure from the child. So if there was no injury, if,
5 if there was concerns of physical abuse and there was no
6 injury, suspicious death where there is no disclosure but
7 an injury is suspicious, where the injury was caused by an
8 implement, where there is disclosure of a specific incident
9 of physical aggression without an injury of such severity
10 that an injury could have occurred, punching, slapping,
11 shaking. And in here, I mean it even refers to the term
12 "grey cases" requiring flexibility.

13 Q So those items that you've just read out for us,
14 if you didn't have evidence of those items then you would
15 not refer the matter, I mean CRU when I say you, to the
16 abuse intake, right?

17 A There were times where we were, where we would
18 refer to abuse intake even though it didn't mean these
19 parameters.

20 Q Okay.

21 A And then there would be discussion between the
22 CRU supervisor and the abuse intake supervisor. And at
23 times a program manager was brought in to make a
24 determination. So an example of that might be, you know,
25 an allegation of a child being choked where there was no

1 physical injury, right. So that would have been something
2 that, you know, would have been discussed at abuse intake
3 in terms of whether or not that would have been an
4 appropriate referral for them because it would not
5 necessarily meet the criteria as outlined in this program
6 description.

7 Q Okay. So then another option for referring a
8 matter from CRU was to regular intake?

9 A That's correct.

10 Q Okay.

11 A And so, I mean here it talks about grey cases or
12 sometimes cases were shared, I mean were shared between
13 intake and abuse intake. Because it wasn't always clear,
14 because, you know, the presenting issue did not always meet
15 the criteria that was outlined in the referral.

16 Q For abuse intake. So then as the document says,
17 a recommendation could be made that an abuse intake worker
18 and an intake worker handled the matter.

19 A Yeah. And generally then that would involve a
20 third supervisor having to be involved in those
21 discussions.

22 Q Okay. Then let's pull up page 19640. This is
23 from the same document that had the CRU description and the
24 abuse intake description.

25 MS. WALSH: I don't think you have it,

1 Mr. Commissioner.

2 THE COMMISSIONER: No.

3 MS. WALSH: It's just a single page, if you do.

4 THE COMMISSIONER: I can follow it on the screen.

5 MS. WALSH: Thank you.

6

7 BY MS. WALSH:

8 Q Do you have that, Ms. Faria?

9 A Yes.

10 Q So that's got the heading "Intake Program
11 Description" and the third paragraph:

12

13 "The Intake Program's mandate is
14 to provide assessment,
15 investigation, intervention and
16 planning on all cases which fall
17 within the confines of the Child
18 and Family Services Act, in
19 particular the provision of
20 services under both Part II
21 (Services to Families) and Part
22 III (Child Protection) of the
23 Act."

24

25 And so then scrolling down to under part III, which deals

1 with child protection:

2

3 "Under Part III ... the Intake
4 Units would be responsible for
5 assessing whether children are in
6 need of protection 'where life,
7 health or emotional well-being of
8 the child is endangered by the act
9 or omission of a person ...

10 Such assessment, investigation,
11 intervention and planning would
12 include investigating all
13 allegations of a child being in
14 need of protection ..."

15

16 So that's the criteria for intake handling a file as set
17 out in the manual?

18 A That's correct.

19 Q Okay. So you're saying sometimes you would walk
20 a matter up to either abuse intake or regular intake to
21 talk about the file with the supervisor?

22 A That's correct.

23 Q Of the intake unit?

24 A Yes.

25 Q And that that's a process we had -- this whole

1 conversation started with our looking at page 19634.
2 Scroll down, please. Thank you. And you're saying that,
3 that the process whereby you would actually walk a file up
4 to an intake supervisor or an abuse intake supervisor to
5 discuss it first was different than what's been outlined in
6 the document in front of us?

7 A That's correct.

8 Q And is it your evidence that there were occasions
9 when intake, an intake supervisor would refuse to accept a
10 referral from CRU because on the basis that the matter did
11 not meet the mandate of the Child and Family Services Act?

12 A Yes, that's correct. And that further
13 information needed to be gathered in order to determine
14 that.

15 Q Okay. So that's, that's the second part of my
16 question. In that case what the intake supervisor would be
17 asking CRU to do would be to gather more information to
18 make a determination as to whether the matter fell within
19 the mandate of the act?

20 A Yes, that's correct.

21 Q And we'll come back to this when we talk about
22 the December '04 intervention in particular, but we have
23 heard evidence at this inquiry from a number of intake
24 supervisors who have said that, we've agreed that there
25 would be occasions when they would ask CRU to gather more

1 information, to do more work in the sense of gathering more
2 information, but that it was not their intention that the
3 file could not come back to intake after that further work
4 had been done by CRU?

5 A If further information had been obtained, that
6 would either meet the criteria as outlined in the
7 orientation manual or that would meet the mandate under the
8 act.

9 Q And in a situation where at any point in CRU,
10 whether you're handling the matter before, just when you
11 first get the referral or because intake has asked CRU to
12 get more information, in a situation where the unit has not
13 been able to make a determination as to whether or not a
14 child is in need of protection in the sense that you are
15 not able to determine the child's safety, you're not able
16 to make a determination that there are no child protection
17 concerns, in that case, CRU would transfer the file to
18 intake to do that further investigation, right?

19 A Well, in that case we would -- could you repeat
20 the question again? I just want to make sure I understand
21 it.

22 Q Yeah, let me be more simple --

23 A Okay.

24 Q -- in my question. Where CRU was not able to
25 determine that a child was not in need of protection,

1 because you said that the mandate of the CRU unit was a
2 short term mandate.

3 A Right.

4 Q Right. So if within the space of a day or two or
5 however long the unit had it, you still weren't able to say
6 there are no child protection concerns regarding this
7 referral, in that case you would recommend that the file be
8 referred to intake where they were better set up to do a
9 longer, more fulsome investigation?

10 A If we were not able to do that at CRU, yes.

11 Q So now let's, let's carry on, on page 19635 and
12 this is under the heading "Safety Assessment". I'm still
13 in the Intake Program Description and Procedures Manual.
14 You see it says:

15

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

21

22 And a number of factors are outlined and those were factors
23 that your unit would take into account in determining the
24 immediate or in assessing the immediate safety of children
25 about whom a referral was made?

1 A Yes.

2 Q And then on the next page there's a heading "24
3 Hour Response" and a number of criteria are listed under
4 "Severity". Then on the next page, 19637, still under the
5 24 hour there's a heading "Vulnerability":

6

7 "High priority (Immediate response
8 or within 24 hours) (Life
9 threatening/dangerous) ..."

10

11 And the first criteria listed is young child or
12 developmental age. And were you aware when you were a
13 crisis response supervisor that a young child had a
14 particular vulnerability?

15 A Yes.

16 Q What was the reason for that vulnerability?

17 A Well, we would be looking at the age of the child
18 but we would also be looking at the developmental capacity
19 of the child. But age of the child was significant,
20 especially if a child was under the age of five, often
21 because they're non-verbal, often because children under
22 the age of five, you know, that can create a stressful home
23 environment as anybody who's parented young children would
24 know and also if those children are not in school or
25 connected to day care, they're, they're isolated and

1 there's less eyes on them in terms of the community being
2 able to identify concerns or be able to collaborate,
3 collaborate information about safety.

4 Q Now you told us in terms of the options that a
5 CRU worker had at the end of doing their assessment and
6 intervention, they could recommend that a file go to abuse
7 intake.

8 A Yes

9 Q Or intake?

10 A That's correct.

11 Q Or recommend that a file be closed?

12 A That's correct.

13 Q Now we've looked at the criteria for abuse intake
14 and intake. What were the criteria for closing a file?

15 A Well, it would really depend on what the nature
16 of the referral would be, but, you know, essentially the
17 worker would, you know, need to complete an assessment and
18 after the completion of the assessment there would have to
19 be no known protection concerns for the case to be closed.

20 Q Now, in terms of CRU generally, you said that
21 that unit is responsible for being the first line of duty
22 into the child welfare system; is that correct?

23 A Yes, along with after hours.

24 Q And with after hours, thank you. And CRU workers
25 have to be available to take new referrals as they come in,

1 right?

2 A That's correct.

3 Q So am I correct in understanding that given that
4 responsibility, CRU workers were not expected to have long-
5 term contact with a family or child?

6 A No.

7 Q That was not part of their job description?

8 A No.

9 Q And when you say no, you're agreeing that I'm
10 correct in saying that?

11 A I agree, yes. But I'm also -- it wasn't just
12 about not having long-term contact, it was also about the
13 nature of the contact. Unlike intake, who could keep a
14 case open for several months, CRU did not have that
15 capacity and so the type of investigation that would be
16 conducted at intake or at abuse intake, would be very
17 different from what would happen at a CRU level given the
18 emergent nature of our work, the case numbers we were
19 managing and also our staffing numbers. So by that I mean
20 that, you know, for example, with an abuse investigation,
21 you know, following the whole abuse investigation process,
22 that would not have been something that CRU would have
23 done. I mean it may have intervened in an abuse matter to
24 secure immediate safety of a child and then moved on, moved
25 the case on to abuse intake for them to conclude a

1 comprehensive abuse investigation that was required by the
2 policies and procedures that existed at the time.

3 Q Right. So a CRU worker was not expected to get
4 to know a child in much detail, if at all?

5 A A CRU worker, that would not be a function or a
6 responsibility for a CRU worker.

7 Q So when a file was opened at CRU, the worker
8 would only be expected to have limited opportunity to gain
9 information about a child or a family; is that fair?

10 A That's fair.

11 Q And so if more information was wanted or needed
12 before you could determine whether there were child
13 protection concerns, that would be a reason to refer a
14 matter to intake?

15 A Yes, if intake would accept it based on that
16 information.

17 Q Well, never mind if they accepted it. From the
18 standpoint of a CRU worker, you told me that the criterion
19 for closing a file was if there were no child protection
20 concerns.

21 A That's correct.

22 Q So given the limited opportunity for a CRU worker
23 to conduct an investigation, if the worker felt that more
24 investigation needed to be done before you could determine
25 whether or not there were child protection concerns, then

1 that would be a reason why a CRU would make a referral to
2 intake?

3 A Yes, absolutely.

4 Q Okay. Just one more area before we get into the
5 specific involvement with Phoenix's family. I want to talk
6 briefly about CFSIS.

7 A Okay.

8 Q Did your workers have access to CFSIS in 2003,
9 2004, 2005?

10 A Yes.

11 Q And how did you expect them to make use of it, in
12 what way did you expect them to make use of it?

13 A Once a request for information came in the
14 expectation was that they would complete a CFSIS check to
15 garner any historical information that might be available
16 on the family and to determine if there was any additional
17 files that might be linked to that particular family. So
18 sometimes with various family constellations you might
19 have, you know, more than one secondary caregiver, you
20 might have children living with various care providers. So
21 there may be other files associated with that, so we would
22 have, you know, the worker look into that as well, so.

23 Q When you say conduct a search on CFSIS, what did
24 that involve?

25 A What did that involve?

1 Q Or a review.

2 A So they would input the name of the primary
3 caregiver, any other, any other adults residing in the home
4 and basically look at the CFSIS records and information
5 that was available on the CFSIS records for those, for
6 those individuals.

7 Q Did you expect the workers that you supervised to
8 look at more than -- well how much of the CFSIS recordings
9 did you expect your workers to review?

10 A I would have expected them to review whatever
11 recording was available on CFSIS.

12 THE COMMISSIONER: What was that answer?

13 THE WITNESS: I would expect them to review
14 whatever recording was available on CFSIS to them.

15

16 BY MS. WALSH:

17 Q So if, for instance, a file had been opened in
18 the past, you would expect them to look at that most recent
19 opening and closing?

20 A Yes.

21 Q And would you have expected them to go
22 historically beyond that?

23 A Yes.

24 Q Do you know whether the workers that you
25 supervised in '04 and '05 were aware of that expectation?

1 A I believe they were aware.

2 Q What's the basis for your saying that?

3 A That was a process that was followed. It was,
4 you know, I believe it's in the procedures here that a
5 CFSIS check needed to be conducted. When, I mean they were
6 required to produce a history so, you know, in order to be
7 able to do that you would have to conduct a CFSIS check and
8 also to obtain, you know, demographic information and it
9 was also really important, especially if we were
10 apprehending children, to determine if there were any
11 significant others involved in that case so that if, you
12 know, there was extended family that we could place
13 children with, you know, that was all relevant to our case
14 plan.

15 Q Did you say you received training on CFSIS? I
16 don't know if I asked you that.

17 A I did. I don't remember the specific dates.

18 Q Okay. What about the workers you supervised, do
19 you know what training they may have received?

20 A I know that both myself and my staff were trained
21 on CFSIS and I do not remember specifics of that because
22 it's been so many years.

23 Q When you said you also expected that the workers
24 would look for whether there were additional files, did you
25 mean paper files?

1 A No, I meant -- well, they would do a CFSIS check
2 with respect to, you know -- so, for example, in this
3 matter there was two files, right? There was a file on the
4 father and there was a file on the mother.

5 Q Right.

6 A So minimally I would have expected them to, you
7 know, when they did their CFSIS checks to review the CFSIS
8 information on both files.

9 Q Both of those files or each of those files
10 related to Phoenix Sinclair?

11 A Yes.

12 Q Did you ever conduct a CFSIS review yourself on a
13 file?

14 A Yes.

15 Q How often did you do that?

16 A Not very often. Generally that was the
17 responsibility of the social worker. If, for example, I'm
18 receiving a phone call from someone and they're phoning to
19 make a complaint, they're phoning to give me new
20 information on a case, I might go into the CFSIS record to
21 see if there's a social worker involved with the case, if
22 one of my social workers is involved. If they are involved
23 sometimes there might be a recording attached that would
24 indicate to me why they're involved, so yes, I would do a
25 CFSIS check. Part of our function too at CRU is we were

1 also responsible for doing file reviews, so excerpted
2 summaries for former children in care. So if we received a
3 request for an excerpted summary or file information,
4 generally that would not have been something I would have
5 assigned to a staff person. I would have done that myself
6 and I would have conducted a CFSIS check in order to be
7 able to track down that information. So, yes, throughout
8 the course of my work I would have done CFSIS checks. What
9 I have done -- would I have done a secondary CFSIS check on
10 a CRU after hours report that I was receiving from a
11 worker? Probably not.

12 Q You said that one of the things you expected a
13 worker to look for, or one of the reasons you expected a
14 worker to do a review at CFSIS was to be able to prepare a
15 history.

16 A That's correct.

17 Q Now we've heard that in terms of how the CRU
18 workers organized themselves, one unit would be on phones
19 for several days and the other unit would be on backup or
20 field.

21 A Yes, that's correct.

22 Q Did you have a different expectation as to what a
23 worker should review depending on whether they were on
24 phones or backup or field?

25 A I know, from what I recall I know that workers

1 that were on phones did do CFSIS checks and did histories.
2 Depending on how busy of a phone day that was, how
3 comprehensive that historical information might have been
4 really depended on the time available to that worker, with
5 the expectation that that would be passed either to backup
6 CRU or to intake or abuse. If at -- if the front screener
7 is taking a call, they're required to do a CFSIS check
8 because sometimes there may be, you know, you may be
9 getting information from a caller and there may be
10 information on CFSIS that might assist you or might --
11 either the case might be open to someone already. There
12 might have been a recent investigation that relates to the
13 pertinent information that's being received. So it would
14 be critical for that phone screener to do that and when
15 they're opening it up, either to backup or to, or to abuse
16 intake, it was very -- I'm just trying to think. There
17 were times where cases did go straight from phone screening
18 to intake or abuse intake. So a good example of that would
19 be if we have the hospital phoning. There's a child at the
20 hospital, multiple fractures, suspicious injuries, that
21 would automatically go to intake from the screener.

22 Now depending on how quickly they needed to get
23 out there, the CRU phone screener might just write up the
24 initial referral information and finish up the history
25 later and, you know, they might just the physical, you

1 know, like a hard copy and then all of the administrative
2 stuff might follow because it's emergent, somebody needs to
3 go out now.

4 Q Right.

5 A So that would happen all the time.

6 Q My question was -- and actually before I ask that
7 question, I think you've pointed out something in terms of
8 when I ask you about options for what a CRU worker could
9 recommend and we talked about abuse intake, general intake,
10 closing, another option would be to have it go out to
11 fields or backup still in CRU?

12 A Yes, yes, that's correct.

13 Q Okay. So in that case, when a CRU field or
14 backup worker received a file, did you expect them to do
15 the same kind of review on CFSIS that you would expect the
16 person on phones to do?

17 A The backup worker would have had additional time
18 because there wouldn't be the pressures of, you know,
19 ongoing calls that are coming in. So, you know, we
20 certainly -- I mean there would be an expectation that both
21 would record as much -- review CFSIS and record as much
22 history as possible to get as comprehensive as possible.
23 In reality the backup worker would have had more time to do
24 a more comprehensive review of CFSIS than the phone
25 screener. And again, that really depends on what would

1 have been happening at phone screening for that particular
2 day and how busy it was and how many calls were in the cue
3 for, for the phone screeners.

4 THE COMMISSIONER: Let me understand this. With
5 respect to what you said about your expectation about going
6 into CFSIS and getting the history and in this instance you
7 referred to the two files, were you talking about your
8 expectation with respect to the phone screener or the
9 members of your staff once they got the file or the
10 reference?

11 THE WITNESS: The phone screener would have been
12 required to doc, to review the CFSIS records on both, both
13 families. Now in terms of the recorded history, depending
14 on if it was going to the backup screener and depending on
15 the urgency of the case, depending on the volumes of calls
16 that were coming in at CRU, the phone screener may have,
17 you know, just in terms of what was documented in the
18 screening, the backup screener may have added to that.

19 THE COMMISSIONER: But in most instances the file
20 would, would -- the reference would make its way to one of
21 your six staff members?

22 THE WITNESS: That's correct.

23 THE COMMISSIONER: And what would your
24 expectation be with respect to their use of CFSIS to get
25 information?

1 THE WITNESS: The expectation would have been
2 that they would have reviewed CFSIS on both of those cases
3 and would have, whatever was available on CFSIS and would
4 have completed the most, you know, whatever, the most
5 comprehensive history they possibly could.

6 THE COMMISSIONER: Notwithstanding that they
7 would have already had in front of them whatever reference
8 to CFSIS, CFSIS had been made by the phone screener?

9 THE WITNESS: That's correct.

10 THE COMMISSIONER: Thank you.

11

12 BY MS. WALSH:

13 Q And just to be clear, the phone screener was also
14 a CRU worker?

15 A That's correct.

16 THE COMMISSIONER: Yes, I understand that.

17 MS. WALSH: Okay.

18

19 BY MS. WALSH:

20 Q I think it's fair to say that in the '04 and '05
21 involvements with Phoenix's file, your workers were on
22 fields or backup?

23 A Yes.

24 Q Let's start with the involvement in '03, which
25 was a brief involvement from your perspective. We're going

1 to pull up on the screen page 37397, please.

2 Now, Ms. Faria, as you've identified, you had
3 involvement as a supervisor in '03, '04 and '05 with
4 Phoenix's family?

5 A That's correct.

6 Q You've had an opportunity to review the
7 recordings that were made in connection with that
8 involvement?

9 A That's correct.

10 Q Do you have any recollection of your involvement
11 with this family independent of the recordings that were
12 made in the files?

13 A I do not.

14 Q We've heard evidence from Roberta Dick that she
15 received a referral from the Child Protection Centre in
16 February of 2003 after Phoenix was brought to the
17 Children's Emergency with an object in her nose that had
18 been there for approximately three months. You were
19 Ms. Dick's supervisor at that time?

20 A That's correct.

21 Q So the document that's on the screen in front of
22 you is the CRU intake form that was prepared by Ms. Dick.
23 It's dated February 26th, '03. If we go to the next page,
24 at the bottom of page 37398, is that your signature?

25 A Yes, it is.

1 Q Okay. And the presenting problem on that page
2 reads:

3

4 "On February 26, 2003, [source of
5 referral] called to report that
6 Phoenix was brought to Children's
7 Emergency by her godfather on
8 February 25, 2003. According to
9 the [source of referral], Phoenix
10 had a foreign body in her nose
11 since November 2002. The
12 godfather had told Steven to take
13 Phoenix to the doctor at that
14 time, but Steven never did. The
15 godfather decided to bring her to
16 the hospital for treatment.

17 The foreign body was removed
18 from Phoenix's nose and the
19 discharge in the nose was very
20 foul smelling. The mucosa in her
21 nose was red and sore.
22 Antibiotics were prescribed, but
23 [individual] did not know if the
24 antibiotics would be given to
25 Phoenix or not. The hospital

1 requested that this matter be
2 assessed further given the
3 concerns related to physical and
4 medical neglect and inadequate
5 care of the child."

6

7 And then the recommendations are:

8

9 "It is recommended that this case
10 should be followed up for further
11 assessment. Based on the safety
12 assessment, this case should be
13 responded to within five days."

14

15 And you signed off on that recommendation.

16 A That's correct.

17 Q So let's pull up the safety assessment which is
18 found at page 37464. You have that, Ms. Faria, it's on the
19 screen but did you --

20 A Yeah.

21 Q Okay.

22 A Thank you.

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

24 THE COMMISSIONER: Yes.

25

1 BY MS. WALSH:

2 Q So this is the safety assessment form that was
3 filled out by Ms. Dick and if you go to page 37465, this by
4 the way is opened, this document is from Mr. Sinclair's
5 file?

6 A Yes, that's correct.

7 Q Okay. Page 37465 under the heading "Within 5
8 Days Response" you see that the box that's been checked off
9 is "Low Medical Neglect" which is further described as:

10

11 "(Failure to make appointments for
12 routine medical/dental care; no
13 follow up on plan of medical
14 treatment or medication; failure
15 to make appointments for routine
16 medical/dental care (e.g.
17 Immunizations); no follow up on
18 plan of medical treatment of
19 medication.)"

20

21 And that that warranted a five day response. Now you
22 obviously agreed with that assessment?

23 A That's correct.

24 Q Do you recall if you consulted with Ms. Dick on
25 this referral?

1 A I have no independent recollection of any
2 consultation, only what's in the written record.

3 Q Fair enough. Ms. Dick testified that she had
4 considered checking the box under the "48 Hour Response"
5 time, "Moderate Medical Treatment". You see that box?
6 Described as serious lack of medical and/or dental care
7 causing suffering to the child.

8 A Yes.

9 Q But instead, she chose the five day response time
10 to give the intake worker some leeway to accommodate their
11 workload demands and that this was something she commonly
12 did. She also testified that choosing a response time to
13 accommodate workload demands at intake was something that
14 she had discussed with you. Do you agree with that?

15 A When I look at this referral, I agree with the
16 five day response time. This was a referral that the
17 hospital waited a day to refer this to us. And the child
18 had already been given medical care and the agency was now
19 following up with the concern around, well obviously around
20 the concern that medical care had not been sought for that
21 length of period but also the fact that there was concerns
22 around whether or not the prescribed antibiotics were going
23 to be, you know, adhered to by the caregiver. So there was
24 concerns of medical, of medical neglect. If the child had
25 not been seen medically, we would have given this an

1 immediate to 24 hour response.

2 Q Of course if the child had not been seen
3 medically then this referral wouldn't have come in from the
4 Child Protection Centre.

5 A Well, I'm just saying hypothetically, if we had
6 received information that the child had a foreign object in
7 her nose --

8 Q I see.

9 A -- and had not been seen medically, we would have
10 gone out immediately to, to ensure that the child obtained
11 medical attention.

12 Q Okay. So you're saying looking at the file
13 recording, the presenting problem, that looking at that
14 today you agree with the recommendation that you made at
15 that time or signed off on?

16 A Yes.

17 Q Now my question actually had been something
18 different. Ms. Dick testified that you would give
19 direction as to whether or not the workers in her unit
20 should decide on the response time based on workload
21 demands and that they would often know when there was a lot
22 of files open and that based on that they would try and
23 balance the workload. That was something that you were
24 aware of?

25 A I have no recollection of having a discussion of

1 that nature with Ms. Dick. I can say that, like with any
2 other job, we prioritize cases every day based on what was
3 happening for us in terms of caseload numbers and what was
4 happening for us in terms of emergent matters that we were
5 dealing with. In this particular situation we opened the
6 case to intake. So this was not a matter that CRU -- this
7 is a good example of a case that comes in at phone
8 screening and goes direct to intake for follow up. So this
9 was not a matter that was addressed at CRU. Intake always
10 has the discretion, that's our recommendation in terms of
11 the timeframe, intake always has the recommendation to go
12 out sooner if they deem that that's -- but based on, based
13 on the information available to us that was the decision
14 that we made at the time.

15 Q And in '03 and following, did you give direction
16 to your workers that in identifying a response time they
17 should accommodate the workload demands of the intake unit?

18 A No.

19 Q Were you aware that at least one worker was doing
20 that?

21 (OFF RECORD DISCUSSION BETWEEN COUNSEL)

22

23 BY MS. WALSH:

24 Q Were you aware as to whether or not workers in
25 your unit were accommodating, were identifying response

1 time on the safety assessment to accommodate workload at
2 intake?

3 A No.

4 Q If you had been aware of that, would you have
5 considered that acceptable practice?

6 A The response time really should have been based
7 on what, what was available in the safety assessment. Now
8 that when you look at the safety assessment it really is a
9 judgment call to some degree because it's not really
10 accompanied by a policy procedure manual. It's not --
11 those response times are really not related to any
12 standards that we were aware of. There was no formal
13 training with respect to the safety assessment. So I think
14 that those are all factors that need to be taken into
15 consideration in terms of where were at, at the time with
16 respect to the safety assessment. If a response time was
17 being modified to accommodate workload, that would not have
18 been acceptable, although we did have to prioritize cases
19 every day. So ...

20 Q In exercising their judgment, was it acceptable
21 for a CRU worker to factor in the workload at the intake
22 unit in determining response time?

23 A I don't even know how they would know what the
24 workload at the intake unit would be, which is why that
25 question confuses me.

1 THE COMMISSIONER: I think the witness has said
2 no to that question, have you, witness?

3 THE WITNESS: Well, could you repeat the
4 question, please?

5

6 BY MS. WALSH:

7 Q I asked you, you said that determining response
8 time was a judgment call --

9 A Yes.

10 Q -- taking into account many factors.

11 A Yes.

12 Q And I asked you whether one of the factors,
13 acceptable factors, would it be an acceptable factor to
14 take into consideration the workload of the intake unit?

15 A No, if the safety assessment indicated a specific
16 response time then that's what the response time should
17 have been. If, if the intake unit could not facilitate
18 that, then you would certainly need to look at who else
19 could manage that referral. So a good example of that
20 would be that there were times at CRU where we had
21 absolutely all of our staff out on emergencies and we would
22 get an emergent matter come in or a safety assessment would
23 be conducted and, you know, if the response was immediate
24 to 24 hours, we would have to pull somebody from intake to
25 assist us with that.

1 Q So when Ms. Dick testified that -- I said to her:
2 Do you recall whether you put the five day assessment
3 because of trying to give leeway to the intake unit? She
4 said: I did, yes. In your view is that an acceptable
5 reason to make a determination as to response time?

6 A No.

7 MR. SAXBERG: If I might, just to be fair to
8 Ms. Dick, she, she gave a lot of testimony after that point
9 and made it very, very clear that she wasn't going to --
10 she wouldn't -- if the safety of the child was an issue she
11 wouldn't be responding to workload issues in determining
12 her assessment and she was saying that if it could have
13 gone either way, she may have been erring on the side of
14 giving intake some flexibility. It wasn't a she decided
15 five days because of intake's workload.

16 THE COMMISSIONER: Well, I want the witness to
17 have every opportunity to say everything she wants to say
18 and I think up till now she has, but she did give that
19 answer no to that same question ten minutes ago.

20 MR. SAXBERG: No, no, I was speaking, to clarify
21 the record, vis-à-vis what Ms. Dick said.

22 THE COMMISSIONER: Oh, oh.

23 MR. SAXBERG: Not, not -- this witness was clear
24 that --

25 THE COMMISSIONER: Yes.

1 MR. SAXBERG: -- those points were put to her and
2 her position is clear on the record, but in terms of what
3 Ms. Dick's evidence is, I'm just letting you know that that
4 was an answer she gave at one point in her testimony. She,
5 she modified it on several occasions after that point.

6 THE COMMISSIONER: Oh I thought you were talking
7 about this witness. You didn't make -- I didn't get you
8 were speaking of Ms. Dick's testimony. Well, that will be
9 in the transcript.

10 MR. SAXBERG: Yes, absolutely.

11 THE COMMISSIONER: Yes.

12 MS. WALSH: I think, Mr. Commissioner, this would
13 be a good time for the noon break. I'm about to start the
14 December '04 involvement.

15 THE COMMISSIONER: Yes, I think that's
16 reasonable. We're just about at our regular time. So
17 we'll adjourn until two o'clock and you'll have to be back
18 then, witness.

19 THE WITNESS: Thank you.

20 MS. WALSH: Thank you.

21

22 (LUNCHEON RECESS)

23

24 THE COMMISSIONER: All right, Ms. Walsh.

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

1 BY MS. WALSH:

2 Q Ms. Faria, you next became involved with
3 Phoenix's family in December of 2004; is that right?

4 A That's correct.

5 Q And I think you said this morning that you have
6 no independent recollection of your involvement with this
7 family other than what's in the file recordings?

8 A That's correct.

9 Q Was there anything unique or unusual about this
10 file, Phoenix's family's file, either in terms of the
11 nature of the facts or the nature of the services that were
12 delivered by the agency to the family?

13 A No.

14 Q And is that true for all of your involvement with
15 the file?

16 A Yes.

17 Q So let's turn to page 36949, please. This is a
18 CRU intake and AHU form prepared by Shelly Wiebe. It's
19 dated December 1, 2004. If we turn to the last page,
20 36952, is that your signature next to Ms. Wiebe's
21 signature?

22 A Yes, it is.

23 Q And just for the record, Shelly Wiebe is now
24 known as Shelly Willox, they're one the same person. When
25 she testified here she identified herself as being

1 Shelly Willox.

2 A Okay, thank you.

3 Q You were Ms. Wiebe's supervisor at the time that
4 she prepared this intake form?

5 A Yes, I was.

6 Q And I think you testified that you would sign an
7 intake form and you would review it before signing it?

8 A Yes.

9 Q You signed the form on December 1st, 2004; is
10 that right?

11 A Yes, that's correct.

12 Q And before you signed it you read the form?

13 A Yes, that's correct.

14 Q And this was a matter that involved a referral
15 received by the child protection unit?

16 A So when you refer to child protection unit are
17 you --

18 Q I mean the crisis response unit, I'm sorry.

19 A What was the question again, I'm sorry?

20 Q This referral came to the attention of the crisis
21 response unit?

22 A Yes.

23 Q And the unit's role was to determine whether
24 there were any child protection concerns relating to
25 Phoenix.

1 A No. Based on the nature of the referral, the
2 unit's role, the referral was with respect to the birth of
3 a new infant in the home. So CRU was involved because of
4 the birth of a new infant.

5 Q So you told me this morning that the mandate of
6 the agency, of the system and the agency in fulfilling that
7 mandate and CRU's role in fulfilling that mandate was, upon
8 receiving your referral, to determine whether there were
9 child protection concerns relating to the subject of the
10 referral. Isn't that why the unit is receiving a referral,
11 to make that assessment?

12 A So the CRU was receiving a referral from the
13 hospital regarding the birth of a new infant in the home.

14 Q Okay. Is it your evidence then that the role of
15 the unit, upon receiving this referral, was to determine
16 whether there were child protection concerns relating to
17 the birth of the infant, relating to the infant herself?

18 A The role was to determine whether there were
19 child protection concerns with respect to all the children
20 in the home.

21 Q I see. So relating to both Phoenix and the new
22 baby?

23 A Yes, but the referral was specific to the fact
24 that there was a newborn infant in the family unit.

25 Q Yes. So if we look at the history, that's on

1 page 36949, in reviewing the CRU form, you would have
2 reviewed the history?

3 A Yes, that's correct.

4 Q So what information, if any, is significant in
5 this history to an assessment of whether there were child
6 protection concerns relating to any of the children in this
7 family?

8 A Well, I think all of the information in this
9 history would have been relevant information.

10 Q Okay. So that includes the fact of Ms. Kematch
11 having been a permanent ward of Child and Family Services?

12 A That would have included that, yes.

13 Q And the reasons why she had come into care?

14 A Yes, although it's not uncommon for most, if not
15 all, of our families to have historical involvement with
16 the agency as, as minors.

17 Q But it's a significant piece of the history to
18 take into account?

19 A Yes, absolutely.

20 Q Sure. Also significant was the fact that
21 Ms. Kematch's first child was becoming a permanent ward of
22 Child and Family Services?

23 A Yes, that's correct.

24 Q And the fact that Phoenix herself had been
25 apprehended at birth?

1 A Yes.

2 Q The death of Ms. Kematch's third child?

3 A Yes.

4 Q The fact that Phoenix was apprehended again in
5 2003?

6 A Yes.

7 Q The fact that Phoenix spent much of her life not
8 in the care of Ms. Kematch?

9 A Yes.

10 Q And the fact that CFS was involved again in May
11 and July of 2004?

12 A Yes.

13 Q And noted at that point that Phoenix appeared
14 healthy and well?

15 A Yes, and that there was a low risk assessment and
16 the case was concluded in July of '04, based on that, of
17 the finding of a low risk assessment.

18 Q Now this history, since you've raised the low
19 risk assessment, this history doesn't tell you what the
20 various risk assessments were for the various other
21 occasions when the file was opened, does it?

22 A No, it does not.

23 Q I believe you said you would have expected
24 Ms. Wiebe to review all the summaries from the previous
25 openings on CFSIS?

1 A Yes.

2 Q Do you recall what you reviewed from this file in
3 December of '04?

4 A What I would have looked at would have been this
5 report, the CRU intake after hours unit form. There should
6 have been a face sheet that would have been attached to
7 this which would have provided the basic demographic
8 information for the family and a safety assessment. Those
9 would have been the three documents that as a supervisor I
10 would have looked at.

11 Q And we'll come back to those other two documents
12 that you referred to. You wouldn't have done a CFSIS
13 review yourself?

14 A No, I would not have.

15 Q Let's turn to page 36950. So here's -- scroll
16 down please so we can see more of the page. The source of
17 referral then is identified as a social worker from the
18 Women's Hospital.

19 A Yes.

20 Q And then on the next page, the "Presenting
21 Problem/Interventions" says as follows:

22

23 "SOR called to report that
24 Samantha was admitted to hospital
25 yesterday and delivered her fourth

1 child, a baby girl ... states that
2 the birth weight was 3837 grams
3 and the Apgars were 9 and 9.

4 SOR states that Samantha did
5 receive good pre-natal care prior
6 to the birth of this child, and
7 notes that there are no known
8 health concerns with respect to
9 [the baby] at this time. SOR
10 states that there was no reported
11 drug or alcohol use during this
12 pregnancy.

13 SOR states that Samantha
14 disclosed that she was previously
15 involved with the Agency back in
16 the summer of 2004, due to
17 concerns with respect to her four
18 year old daughter, Phoenix. SOR
19 states that Phoenix is currently
20 residing in the home with Samantha
21 and her common-law partner, Wes
22 McKay (date of birth unknown).
23 SOR notes that Wes is the father
24 to this new child, and is expected
25 to be a support to Samantha.

1 After reviewing the recorded
2 documentation on CFSIS, this
3 worker consulted with supervisor,
4 Faria, with respect to the
5 Agency's role with respect to this
6 matter. Faria agreed that this
7 matter should be referred to
8 intake for ongoing follow up and
9 assessment of the home environment
10 at this time."

11

12 So just tell us what your understanding then was of the
13 presenting problem in this case.

14 A There really wasn't a presenting problem. The
15 hospital was making a referral to us because they had met
16 with Samantha at the hospital and she had indicated that
17 she had had a previous contact with the agency in the
18 summer of 2004.

19 Q So your understanding was this matter was
20 being referred to CFS because of Ms. Kematch's history with
21 CFS?

22 A That is correct and now the birth of a newborn
23 into the family unit.

24 Q That's, that's a significant factor for CFS to
25 consider?

1 A Yes, it is.

2 Q And also the addition of a new man living in the
3 home?

4 A It would -- we would have looked into the
5 information about a new partner in the home, especially as
6 he's identified as the birth father for the new infant. At
7 the time the, the requirements, there really were no
8 standards or requirements that exist today with respect to
9 the prior -- to the extent of, you know, with respect to
10 prior contact checks on the secondary caregivers in the
11 home. The focus would have been the primary caregiver,
12 especially in this situation, where no presenting
13 concerning information is being provided to us about the
14 secondary caregiver in this home which would have been
15 Wes McKay.

16 THE COMMISSIONER: Did you say you would or
17 wouldn't have looked into McKay?

18 THE WITNESS: We would have --

19 THE COMMISSIONER: And you started to answer that
20 question, you said, I didn't get it, whether you said would
21 or wouldn't.

22 THE WITNESS: We would have because he was
23 identified as the birth father to the newborn infant.

24 THE COMMISSIONER: Thank you.

25

1 BY MS. WALSH:

2 Q And I think you said this morning that one of the
3 things you would be looking at in looking at a report was
4 was there information about other adults in the home.

5 A Yes.

6 Q And so as we've just read out, you agreed with
7 Ms. Wiebe that the matter should be referred to intake for
8 ongoing follow up and assessment of the home environment?

9 A Yes, I agreed that the case should be opened to
10 intake.

11 Q And for ongoing follow up and assessment of the
12 home environment?

13 A That is the language that's in the report. I
14 don't know that that's precisely what I communicated to
15 her.

16 Q Okay. Why would you want the matter referred to
17 intake, why did you want it to go to intake?

18 A I would want it sent to intake because strictly
19 based on the family history and the fact that there's a
20 newborn infant in the home.

21 Q So would the presence of a new partner in the
22 home be part of what needed to be assessed by intake?

23 A At the time, if there was concerning information
24 presented, we would still, you know, do a CFSIS check, try
25 to determine the identity of the person. If there was

1 concerning information presented about the new partner in
2 the home we certainly would want to assess that as well.

3 Q And you'd only know whether there was concerning
4 information if you looked into who the new partner was.

5 A Right.

6 Q And the idea of the need to assess a new father
7 in the home, for instance, that wasn't a new concept as of
8 2004, right? That's something that was being written about
9 in the child welfare literature in the nineties?

10 A It was significant to assess any adults in that
11 home that might be providing care to those children.

12 Q So in this case did you expect that Ms. Wiebe
13 would get information about who Wes McKay was?

14 A Yes.

15 Q Did you expect that she would do a prior contact
16 check on CFSIS with respect to Mr. McKay?

17 A Yes.

18 Q At the time that this referral came in, Phoenix
19 was how old, four?

20 A Four years old. No, less than that, I think.

21 Q And so was that also something that needed to be
22 considered in doing an assessment of the home and the
23 children in the home?

24 A Yes.

25 Q But based on the presenting problem, what was

1 Ms. Wiebe's role once she got this assignment?

2 A Well, her role would have been to get as much
3 information from the source of referral with respect to the
4 current partner in the home, you know, what contacts the
5 source of referral would have had with this mother, you
6 know, if she had any concerns. The report clearly
7 identifies that, you know, this was an infant that was born
8 healthy, that the mom had received good pre-natal care,
9 that there were no known health concerns, and there was no
10 reported use of drugs or alcohol during the pregnancy. And
11 this, and the fact that the baby was born healthy and Apgar
12 scores were taken at the hospital and this is a mom that
13 received regular pre-natal care, those are indicators that
14 would support mom's report of not abusing drugs or alcohol
15 during pregnancy.

16 Q Did you expect that Ms. Wiebe would carry out an
17 assessment of risk with respect to both the baby and
18 Phoenix?

19 A Yes. Now just to clarify, we had made the
20 decision to open up this case to intake, so the expectation
21 was that intake would do that assessment.

22 Q So while we're looking at the recording, after
23 Ms. Wiebe documents that you agreed the matter should be
24 referred to intake for ongoing follow up and assessment of
25 the home environment, then Ms. Wiebe documents:

1 "On Dec. 1/04 this worker left a
2 voice message for the SOR, asking
3 that she reconnect with the Agency
4 to report Samantha's expected date
5 of discharge."

6

7 And she goes on to say:

8

9 "On Dec. 1/04 this worker ..."

10

11 So we're all still on the same day,

12

13 "... this worker contacted EIA to
14 inquire about the demographic
15 information of Samantha's common-
16 law partner, Wes McKay. Worker
17 was advised by EIA that Samantha
18 only has one child listed on her
19 budget, and that there is not
20 expected to be a common-law
21 partner residing in the home.
22 Therefore the date of birth for
23 Wes McKay could not be obtained."

24

25 Now what was your understanding as to why Ms. Wiebe was

1 contacting EIA?

2 A Because she is attempting to determine greater
3 demographic information with respect to Wes McKay.

4 Q Why did she want that information?

5 A Because that is a very common name and without a
6 birth date, if you do a CFSIS check it would be difficult
7 to determine which Wes McKay this would have been.

8 Q So you knew that in 2004 it was possible to
9 conduct a search for Mr. McKay without having his exact
10 birth date?

11 A Yes.

12 Q I'm going to ask to have Exhibit 22 brought up,
13 please. If we can turn to page 2. Exhibit 22 is an
14 admission as to facts made by the Department of Family
15 Services and Labour. It's volume 3 of admissions and facts
16 made by the department. And this document outlines the
17 procedure by which a prior contact check was done in CFSIS
18 in 2004 and 2005. Paragraph 2 reads:

19

20 "PCC (or prior contact searches)
21 are conducted by entering the
22 individual's first name and last
23 name, any other 'known as' names,
24 gender and approximate age/date of
25 birth. As of 2000 - 2005, the PCC

1 search created a list of 50
2 closest matches based on
3 variations of those names that are
4 based on spelled-alike, sound-
5 alike, age-alike, as well as
6 gender-alike. A PCC will then
7 give a percentage match indicating
8 how similar the search is to the
9 person records in CFSIS."

10

11 Paragraph 3 says:

12

13 "The individual conducting the PCC
14 search may then review the results
15 generated by the search, and the
16 information contained in CFSIS, to
17 determine which, if any, of the
18 closest matches is the person he
19 or she is looking for."

20

21 Were you aware of this process in 2004?

22 A It's been a number of years. I'm not -- I would
23 assume that yes, that you could, you could actually do a
24 CFSIS check without a birth date.

25 Q And you expected that Ms. Wiebe would do a PCC on

1 Mr. McKay?

2 A Yes.

3 Q Do you know whether she did one in fact?

4 A All I know is what's recorded in the document,
5 which says after reviewing the recorded documentation on
6 CFSIS.

7 Q That's before the comments -- if we can pull up
8 page 36951, please. So you're referring to the paragraph,
9 the fourth paragraph down, it says: "After reviewing the
10 record documentation on CFSIS ..."

11 A Yes, I know, I mean she reviewed the
12 documentation on CFSIS. I'm not sure -- you know,
13 obviously Shelly and I were having discussions about this
14 matter. You know, she'd document some of that in the
15 recording. I don't have any recollections of my
16 discussions with her, but it's possible that she could have
17 reported to me that, you know, she did a prior contact
18 check. I don't know that definitively.

19 Q You said that your understanding as to why
20 Ms. Wiebe recorded, two paragraphs later, that she was
21 contacting EIA to get information about Wes McKay was
22 because she wanted to do a prior contact check on him; is
23 that right? Did I have that right?

24 A Yeah, she would be contacting EIA to get
25 demographic information. Because in -- there's a paragraph

1 says, which says Samantha and her common-law partner,
2 Wes McKay, date of birth unknown. So if she were to enter
3 that, more than one Wes McKay would have come up. So, you
4 know, without a birth date --

5 Q Did you know that at the time?

6 THE COMMISSIONER: Just let her, just let her
7 finish.

8 MS. WALSH: Sorry.

9 THE WITNESS: Without a birth date she would have
10 absolutely no way of definitively identifying which
11 Wes McKay this was and if it was a similar Wes McKay that
12 might have been identified in other files.

13

14 BY MS. WALSH:

15 Q We'll come back to that, but I want to know what
16 you understood at the time that you signed off on the
17 recommendation on December 1st, 2004. Did you understand
18 that Ms. Wiebe had done a prior contact check on Mr. McKay?

19 A My understanding was that she had done a prior
20 contact check on Mr. McKay and now was contacting EIA to
21 get a birth date in order to determine, to be able to make
22 a match with CFSIS. That would have been a normal course
23 of action, right. So if I'm an intake worker I'm getting a
24 referral on Samantha Kematch with a common-law partner,
25 Wes McKay, it's automatic that you do a CFSIS check on both

1 names. You just would not do it on one and not the other.
2 But without a birth date there's absolutely -- I mean
3 unless it was a really unusual name, it would be unlikely
4 that she would be able to make a definitive match.

5 Q Okay. Do you know whether Ms. Wiebe -- you're
6 saying that you think that she looked for Mr. McKay on
7 CFSIS, that she did a prior contact check on CFSIS?

8 A That would have been normal procedure.

9 Q But do you know whether she did in fact?

10 A Do I know whether she did in fact? I could only
11 speculate because I don't remember what conversations I
12 would have had with Ms. Wiebe, but in, in here it indicates
13 that she reviewed the file information on CFSIS.

14 Q Is there any information in Ms. Wiebe's recording
15 about Mr. McKay, other than the fact that he's the father
16 of the new baby?

17 A Well, yes. She indicates that she contacts EIA
18 to find out, to get demographic information on Wes McKay.

19 Q Yes. Is there any indication that she obtained
20 any information about Mr. McKay in the recording? Does she
21 put any information about Mr. McKay other than the fact
22 that he's the father of the new baby?

23 A Well, she did indicate that after contacting EIA
24 that there was no, that there was not expected to be a
25 common-law partner residing in the home. Therefore the

1 date of birth of Wes McKay could not be obtained.

2 Q Does that tell you then that Ms. Wiebe did not in
3 fact, that you were aware that she did not in fact do a
4 search of Mr. McKay, a prior contact check of Mr. McKay?

5 A What that tells me is that based on the fact that
6 EIA is not identifying a common-law partner in the home and
7 she was not able to identify a birth date for Wes McKay,
8 that she would have no capacity to definitively identify or
9 to make a connection between this Wes McKay and another
10 Wes McKay that might come up on CFSIS.

11 Q Did you know whether Ms. Wiebe even made an
12 attempt to match Wes McKay in CFSIS to do any kind of prior
13 contact check to see if she could find the Wes McKay who
14 was the father of this new baby?

15 A It was a matter that was normal procedure and if
16 she's trying to get a birth date for Wes McKay and it
17 indicates that she reviewed the recorded documentation on
18 CFSIS, that would indicate to me that she's done a prior
19 contact check on Wes McKay.

20 Q And in that case would you not have expected to
21 see what the results of that contact check were in her
22 recording?

23 A No.

24 Q But I thought you told me that information about
25 other adults living in the home was significant to a risk

1 assessment?

2 A So if you're asking -- again, it's, it's how it's
3 worded in the report. So if you're asking me would I have
4 expected her to record I did a CFSIS check and these were
5 the matches that came, the potential matches that came up,
6 I would not have expected her or any of my staff to
7 identify what potential matches might have come up on
8 CFSIS. In consultation with me, throughout the course of
9 discussions about the nature of this case, we may have had
10 that discussion informally, but I would not expect my staff
11 to record that on, on a CRU report.

12 Q Would you have expected your staff to indicate
13 whether or not they were successful in determining that
14 they had found the correct individual as a result of doing
15 a prior contact check?

16 A I would not necessarily have expected that to be
17 placed in the recording, no. I mean that's what the face
18 sheet is for. So if she had identified the correct Wes
19 McKay with the birth date, that would have gone into the,
20 into the face sheet which contains the demographic
21 information.

22 Q Is there anything in Ms. Wiebe's recording that
23 you signed off on that tells you whether or not Mr. McKay,
24 Wes McKay, the father of the new baby, had a history with
25 CFS?

1 A No.

2 Q Ms. Wiebe testified that she did not in fact do a
3 prior contact check on Mr. McKay. If you had known that,
4 would that have influenced --

5 THE COMMISSIONER: Just one moment. Oh, I'm
6 sorry.

7 MR. RAY: I'm sorry, Mr. Commissioner. I'm
8 arising because I believe Ms. Wiebe's testimony was that
9 she could not recall and that she maintained that
10 throughout her evidence. I believe my friend may, and I
11 don't have her transcript with me, but I believe my friend
12 may have put to her whether it was possible she didn't and
13 she said it may have been possible, but I don't believe she
14 ever said I did not do a check.

15 THE COMMISSIONER: Well, let's get that clarified
16 because that can't be put to the witness if it wasn't said.

17 MS. WALSH: My understanding is that that was her
18 admission on cross-examination.

19 THE COMMISSIONER: Do we have the transcript?

20 Mr. Gindin?

21 MR. GINDIN: I seem to recall that that was an
22 admission made during cross-examination, that if she had
23 done the search she would have made the notes and I think
24 the question was can we assume therefore you didn't do the
25 search and she agreed. That's the way I recall it. I

1 don't have my notes here and I don't have the transcript
2 but I recall it as being pretty clear.

3 THE COMMISSIONER: Well, I could, I could check
4 my notes maybe. Has the transcript been prepared from
5 that --

6 MS. WALSH: We'll pull up the transcript, we'll
7 get the transcript, Mr. Commissioner, and clarify that.

8 MR. RAY: And perhaps the distinction is when
9 asked whether you can assume you didn't and she simply --

10 THE COMMISSIONER: Pardon?

11 MR. RAY: Perhaps there is a distinction,
12 Mr. Commissioner, because I do recall Ms. Walsh asking
13 Ms. Wiebe repeatedly whether, whether she did in fact do or
14 not do a check and she said repeatedly she could not recall
15 one way or the other. Mr. Gindin may have asked her
16 whether she is -- we can assume from the fact it's not
17 recorded and I think maybe she, she agreed with -- and I
18 don't know because I don't have the transcript -- but I
19 think there's a distinction between asking specifically and
20 responding specifically do you recall and saying I don't
21 recall.

22 THE COMMISSIONER: Well, I gather they're getting
23 something on the screen, so.

24 MS. WALSH: We'll get the transcript and I do
25 want to be absolutely fair to the witness, so we'll leave

1 that question aside then.

2 THE COMMISSIONER: Yes, and bear in mind Mr.
3 Ray's comment. I don't know whether your question was
4 based upon a question Mr. Gindin put. I guess maybe it
5 was.

6 MS. WALSH: Yes.

7 THE COMMISSIONER: Yes, well draw that out and
8 then we'll, we'll see what is an appropriate question based
9 on that and if counsel have some concerns that it's not an
10 appropriate question I'll listen to them.

11 MS. WALSH: Thank you.

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

13

14 BY MS. WALSH:

15 Q In any event, Ms. Faria, you'll agree that
16 there's no information about whether the Wes McKay, who's
17 identified as the father of the new baby now living in the
18 home with Phoenix, has a history with Child and Family
19 Services?

20 A No, there is no information that there was any
21 concerning information with respect to Wes McKay or that he
22 has a history with respect to Child and Family Services.

23 Q The only information that the recording has is
24 that he is the father of the new baby and living common-law
25 with Ms. Kematch?

1 A That is correct.

2 Q And so was that one of the reasons why you agreed
3 with the recommendation to transfer the file to intake
4 because more information needed to be gathered about
5 Mr. McKay?

6 A One of the reasons would have been -- to transfer
7 the file to intake ...

8 Q Sorry, were you agreeing with me?

9 A I'm just thinking.

10 THE COMMISSIONER: She's thinking.

11 THE WITNESS: Yeah.

12

13 BY MS. WALSH:

14 Q Oh, sorry, I didn't know if I had missed
15 something.

16 A I think for me the primary -- I mean we have
17 absolutely no concerning -- I'm thinking about at the time.
18 There was no concerning information being presented to us
19 about Mr. Wes McKay. We were not able to definitively
20 identify who this individual was or that there was previous
21 child welfare involvement. And we have a referral where
22 there are no protection concerns being indentified by the
23 hospital social worker and in my mind, I was transferring
24 this case to intake based on the fact, based on, on the
25 family history and based on the fact that there was two

1 young children in the home, one of which was a newborn
2 infant, who was the reason for the referral.

3 Q And as you said, the fact that there's another
4 adult living in the home who you knew was not Phoenix's
5 biological father?

6 A Yes.

7 Q Now if we -- still on page 36951, then it says:

8

9 "On Dec. 1/04 ... this worker
10 reconnected with the SOR ... at
11 Women's Hospital ... Worker asked
12 ... when she expected discharge
13 date would be for Samantha and ...
14 advised that Samantha might be
15 leaving today after 5:00 p.m., or
16 sometimes tomorrow, depending on
17 the hospital's need for the bed.

18 The safety assessment is
19 completed and on file. Based on
20 the information provided by the
21 SOR the Safety Assessment, at the
22 time of writing, is considered as
23 within a 48-hour response."

24

25 A Can we move, move the ...

1 Q Sorry, what would you like to look at?

2 A Yeah, okay, thank you. I just -- the report
3 wasn't in front of me.

4 Q Ah. Do you need me to go through that again?

5 A No, I think I'm okay. Thank you.

6 Q So the file was assessed as a 48 hour response.
7 What was the significance of, of that response time?

8 A The significance -- I'm just looking at the
9 discharge date.

10 MS. WALSH: Can we scroll down, please, so the
11 witness can see more of the document?

12 THE WITNESS: So the 48 hour response was likely
13 due to the discharge date. Ideally, you know, they like to
14 do an assessment before the baby is discharged with the
15 mom, although in this situation you already have a younger
16 infant in the, in the home. And I would have to look at
17 the safety assessment to look at what was in the safety
18 assessment that, that resulted in that determination.

19

20 BY MS. WALSH:

21 Q Sure, let's pull that up, that's page 36934. Now
22 this is one of the documents that you reviewed at the time
23 that you signed off on the referral to intake?

24 A Yes, it is.

25 Q And the purpose of the safety assessment form is

1 what?

2 A The purpose of the safety assessment form is to
3 answer the question is there a concern with respect to
4 safety now. Today, today's safety assessment then looks at
5 establishing a safety plan for the child. At the time that
6 was not the case and the safety plan would then answer the
7 question, if there are imminent or immediate concerns with
8 respect to a child's safety, how are those going to be
9 addressed immediately. So that's what a safety plan is.

10 Q Is that what you're calling the safety assessment
11 form, a safety plan?

12 A No. This is, this is -- I'm speaking about today
13 that's what it looks like, that's what a safety assessment
14 looks like and then there's --

15 Q I'm asking you.

16 A -- and there's a risk assessment form, okay.

17 Q Okay, so --

18 A So the safety assessment establishes or immediate
19 or imminent safety.

20 Q Are you talking about today or at the time of
21 December 1st, '04?

22 A I'm talking about today.

23 Q Can we talk about December 1st, '04?

24 A Okay.

25 Q So the safety assessment document, this form that

1 we see in front of us --

2 A Yes.

3 Q -- what was its purpose, that was my question.

4 A That was to assess immediate safety or immediate
5 imminent safety and in this, and with respect to this
6 safety assessment, it produced response times.

7 Q Was it mandatory for every CRU file opening to
8 have a safety assessment form prepared?

9 A I do not know if it was mandatory. I believe
10 when we looked at the orientation manual it did speak to,
11 that a safety assessment had to be completed with all CRU,
12 AHU reports.

13 Q I think you told us this morning it was a
14 document that you looked for when you were reviewing a
15 report.

16 A Yeah. I'm just speaking in terms of, you know,
17 what the requirements were and standards were in policy. I
18 can tell you what regular practice was and regular practice
19 was that this safety assessment was required.

20 Q So if we turn to the next page, 36935, under the
21 heading "48 Hours" in the box that says "Other", can you
22 read that? It's very small.

23 A Yeah.

24 Q You're able to see that?

25 A Yeah.

1 Q It says:

2

3 "Michelle ..."

4

5 And Ms. Wiebe testified that she meant to say Samantha,

6

7 "... has had extensive Agency
8 involvement and was a permanent
9 ward of Cree Nation CFS as a
10 child. Prior Agency concerns that
11 Michelle has had three children,
12 only one of is currently in her
13 care."

14

15 So what was the significance of that to you?

16 A Well, the significance of that is that we're
17 giving this a 48 hour response for intake and it's based
18 on, it's solely based on the history of prior involvement
19 with the agency.

20 Q According to the form that we're looking at?

21 A According to the form, yes.

22 Q Now if we pull page 36941, this is a CFSIS case
23 sheet.

24 A Yes.

25 Q Now is this the CFSIS sheet that you've been

1 referring to as, as one of the documents that you would
2 look for in addition to the safety assessment and the
3 actual report?

4 A Yes, yes, it is.

5 Q So what does this document -- at the top right-
6 hand corner it's got a date, December 1, '04. Ms. Wiebe
7 testified this was her handwriting. Would you have
8 expected this to be filled out by the worker?

9 A Yes.

10 Q And then it's got the name of the case reference
11 is Samantha Kematch. Now actually when we look at the
12 intake form, just go back to page 36949.

13 A Okay.

14 Q You see the "re" says Samantha Kematch and
15 Wes McKay --

16 A Yes.

17 Q -- with one address. So did that indicate to you
18 that the referral was with respect to both of those
19 individuals?

20 A No, that indicates to me that this referral was
21 with respect to Samantha Kematch and Shelly has, has
22 written on the face sheet and on the CRU intake after hours
23 form the information that she's been given by the source of
24 referral that Samantha Kematch and Wes McKay reside at the
25 same address.

1 Q Okay. So if we go back to the CFSIS case sheet,
2 that's page 36941, that's got then, it's a case category is
3 protection. The case reference it says mother and it's got
4 Samantha Kematch and her address and date of birth. And
5 then under father it's got McKay, Wes, and the address is
6 the same. And then there's no other information filled out
7 about Mr. McKay.

8 A Right.

9 Q And would you have noticed that at the time that
10 you received this, the intake report?

11 A Yes.

12 Q And would that have prompted you to ask Ms. Wiebe
13 why there was no information about Mr. McKay other than the
14 name and address?

15 A Well, I, again I can only speculate because I do
16 not remember my, what discussions I had with Ms. Wiebe.
17 All I know is what's before me in the written record. That
18 we -- Shelly and I would have had, would have had
19 discussions about the fact that all -- the only identifying
20 information she had about Wes McKay was the name that was
21 provided with no birth date which is the reason for
22 contacting EIA to get greater demographic information.

23 Q And so this CFSIS case sheet then, would that
24 confirm that at the time that you referred the matter to
25 intake you didn't have any information about Mr. McKay

1 other than his name, his address, the fact that he's the
2 father of the new baby living with Samantha?

3 A That's correct.

4 Q So your practice would have been to review the
5 CFSIS case sheet at the same time that you reviewed
6 Ms. Wiebe's intake report?

7 A I would look at the face sheet. The focus would
8 have been the report.

9 Q So looking at page 36952 then, at the end of
10 Ms. Wiebe's activity on December 1st, 2004, she recommended
11 the file be open for assessment and intervention and you
12 agreed with that?

13 A Yes, that's correct.

14 MS. WALSH: That's the last page of the CRU
15 intake form that we were looking at, Mr. Commissioner.

16 THE COMMISSIONER: Yes, I have it here, yeah.

17

18 BY MS. WALSH:

19 Q Now the next page I'd like us to pull up please
20 is page 36943. This -- from page 36943 to 36948 is a
21 further file recording made by Shelly Wiebe with respect to
22 Samantha Kematch. If we go to page 36948, that's your
23 signature?

24 A Yes, it is.

25 Q The form says typed on December 7, 2004. Is that

1 the date that you signed the document or do you know?

2 A I don't know for certain.

3 Q If we go to page 36946, you see the heading
4 "Interventions"?

5 A Yes.

6 Q Now this appears to be cut and pasted to the CRU
7 form that we just finished looking at that was dated
8 December 1, 2004; is that fair?

9 A Yes.

10 Q Okay. So under "Interventions" it says:

11

12 "On Dec. 2/04 this worker received
13 the above referral information
14 back from CRU supervisor, Faria,
15 for ongoing follow up and
16 assessment. Worker was directed
17 by Faria to connect with the
18 mother, offer the family supports,
19 and close the file to CRU - if the
20 Agency is unable to mandate
21 services within the home at this
22 time."

23

24 Now, what, what is that telling us?

25 A It tells us that the file went up to intake and

1 for whatever reason was returned to CRU.

2 Q Is this one of those instances where you told us
3 you walked the referral up to intake yourself rather than
4 giving it to the administrator to have it opened on CFSIS?

5 A I personally don't have any recollection of doing
6 that, but it's likely that that's what would have happened
7 in this matter.

8 Q Do you have any recollection as to why this
9 matter came back to Ms. Wiebe on December 2nd, 2004?

10 A I do not have a recollection as to why the matter
11 came back, I could only speculate, and I suspect it was
12 because -- there were absolutely no new protection concerns
13 being presented to the agency. This mother had received
14 regular pre-natal care, the infant was healthy and there
15 were no concerns noted by the hospital. It was opened
16 simply based on the history.

17 Q You're just speculating though?

18 A I'm speculating, yes.

19 Q You don't have any notes that would help you
20 recall why it is that the matter came back to Ms. Wiebe on
21 December 2nd?

22 A I do not.

23 Q And there's nothing in the file recording, so far
24 as I could tell, that indicates why that was the case.

25 A That's correct.

1 Q So if we turn -- we're still on page 36946 where
2 Ms. Wiebe says:

3

4 "Worker was directed by Faria to
5 connect with the mother, offer the
6 family supports, and close the
7 file to CRU - if the Agency is
8 unable to mandate services within
9 the home at this time."

10

11 What, what did that mean, if the agency is unable to
12 mandate services within the home at this time?

13 A If there are no protection, no identifiable
14 protection concerns with respect to the newborn infant or
15 any other children in the home.

16 Q Including Phoenix?

17 A Yes.

18 Q And was it your understanding, in terms of
19 connecting with the mother, that someone would physically
20 go out and see Ms. Kematch?

21 A I don't, I don't know what specifically my
22 discussions would have been with Shelly with respect to
23 whether or not that was, you know, likely it would have
24 been that we would have liked somebody to, we would have
25 liked Shelly to go and connect with the mom and, and do an

1 initial assessment to see if there was any further
2 information that we could glean so, you know, either that
3 the case, if there were concerns, that the case could be
4 open to intake and if not, you know, perhaps services could
5 be secured elsewhere in the community if required or the
6 case could be closed.

7 Q So then reading on, it says:

8

9 "On Dec. 2/04 at 2:33 p.m. this
10 worker attempted to contact
11 Samantha at home phone number ...
12 Worker left a voice message asking
13 Samantha to return the phone
14 call ...

15 On Dec. 3/04 at 1:03 p.m.
16 this worker attempted to contact
17 Samantha Kematch at phone number
18 ... There was no answer. Worker
19 left a voice message asking
20 Samantha to return the phone call
21 today before 4:30 ...

22 On Dec. 3/04, at 1:10 p.m.
23 this worker contacted the SOR, ...
24 at Women's Hospital ... Worker
25 spoke to [the SOR] and asked her

1 to provide the discharge date for
2 Samantha. [The SOR] confirmed
3 that Samantha was discharged from
4 the hospital on Wednesday night.

5 On Dec. 3/04 at 1:15 p.m.
6 this worker consulted with the
7 supervisor, Faria, regarding this
8 matter and the Agency's inability
9 to connect with Samantha via phone
10 at this point in time. Faria
11 suggested that worker contact
12 [public health nurse] involved
13 with the family, inquire if Public
14 Health has been out to the home,
15 and if there are no concerns
16 identified by the [public health
17 nurse] worker is to close the
18 protection file."

19

20 So Ms. Wiebe's recordings then show that she was
21 unable to connect with Ms. Kematch on December 2nd and 3rd
22 and she consulted with you after that.

23 A That's correct.

24 Q As her supervisor, did you think that there was
25 anything else that Ms. Wiebe could have done to try to

1 establish contact with Ms. Kematch?

2 A Given the nature of the referral, that there was
3 no presenting concern, I was satisfied with the efforts
4 that Ms. Wiebe had taken. The standard at the time was
5 that, you know, if a contact was required within 48 hours
6 we could use, in these types of circumstances where there
7 was no concerning information being presented to the
8 agency, we could use a reliable collateral in the community
9 to confirm the safety of, of the children without direct
10 contact with the children. So that was the decision that I
11 made at the time.

12 Q So that's why you suggested that Ms. Wiebe
13 contact the public health nurse?

14 A That's correct.

15 Q She would have been a reliable collateral?

16 A Yes.

17 Q And were you relying on a specific standard at
18 the time? Did you turn your mind to a specific standard?

19 A Yes. That standard is -- it's located in all --
20 it's located in all the standards in the 1999, in the draft
21 2001 and it's also included in the, in the 2005 standards
22 as well and -- I'm just looking, I'm just looking at the
23 '99 standards. One moment, please.

24 Q Maybe I can help.

25 A Okay, thank you.

1 MS. WALSH: Can you pull up on the screen page
2 19189. And actually, so that we know what we're looking
3 at, let's pull up page 19158.

4 THE WITNESS: Thank you.

5

6 BY MS. WALSH:

7 Q This is entitled "Case Management Standards Child
8 and Family Services, September 16, 1999". I think you told
9 me this morning that these were the standards that you
10 referred to in December of '04, the '99 standards.

11 A Yeah, yes.

12 Q And so if we turn to page 19189, number 3:

13

14 "If the rating for response time
15 is in the high or medium range
16 (i.e. within 48 hours or less),
17 the worker ensures the safety of
18 the child either through direct
19 contact or through confirmation of
20 the child's safety by a reliable
21 source."

22

23 So is that what you were referring to?

24 A Yes.

25 Q And in this case the reliable source was the

1 public health nurse?

2 A That's correct.

3 Q Would the public health nurse have had access to
4 Ms. Kematch's Child and Family Services history?

5 A No, she would not have.

6 Q Did you know whether this public health nurse had
7 the same training as a CRU worker in terms of assessing
8 child protection concerns?

9 A I would not.

10 Q Did you know in December of '04 whether the
11 public health nurse had any information about Phoenix
12 herself?

13 A I do not. Again, this referral was with respect
14 to the new, to the birth of a newborn infant in the home
15 and it would have, we would have been asking the public
16 health nurse if she had concerns with respect to both
17 children.

18 Q You were asking whether she had concerns with
19 respect to both children?

20 A The expectation when -- if Shelly were asking if
21 there protection concerns or if we, we were confirming
22 whether there was protection concerns it would be with
23 respect to both children, including the newborn infant whom
24 this referral was about.

25 Q And my question was did you at any point, in

1 December of 2004, know what information the public health
2 nurse had about Phoenix, if any?

3 A No.

4 Q If we look at page 36947, back to Ms. Wiebe's
5 intake report, that long paragraph documents Ms. Wiebe's
6 contact with the public health nurse, Mary Wu. You've
7 reviewed this document?

8 A Yes, I have.

9 Q And is there any indication in the file recording
10 that Ms. Wiebe prepared that Ms. Wu ever saw Phoenix?

11 A There's the line:

12

13 "Mary advised that she had been to
14 see Samantha since her discharge
15 from hospital."

16

17 So she had been out to the home. There's no information
18 specific to Phoenix.

19 Q There's no indication that Ms. Wu saw Phoenix?

20 A No. However, Shelly asks her directly that if
21 she has been out to the home does she have any concerns. I
22 think the important line for me here is that Shelly makes
23 it very clear to her what her professional obligation is
24 with respect to reporting any concerns of a child
25 protection nature. So that would be the line:

1 "... worker advised Mary that the
2 Child and Family Act supercedes
3 PHIA, and indicated that any
4 professional is obligated to
5 contact WCFS to report risk to a
6 child if there are concerns.
7 [And] Mary advised that she is
8 aware of this ..."

9

10 Q Based on Ms. Wiebe's file recording, what did you
11 understand the public health nurse to be telling her?

12 A I understood that Ms. Wu was clearly articulating
13 that she understood that the Child and Family Services Act
14 supersedes PHIA and FIPPA and that she fully understood her
15 obligation to report under the act.

16 Q And in your view was this information sufficient
17 for Ms. Wiebe to conclude there were no child protection
18 concerns with respect to Phoenix?

19 A In light of the fact that there was absolutely no
20 new protection concerns being presented to the agency, in
21 light of the fact that there was no concerning information
22 being presented with respect to the common-law partner in
23 the home, in light of the fact that we have a public health
24 nurse, a reliable collateral in the community where a
25 standard indicates we can use as a substitute to viewing

1 children, who is indicating to us that she fully
2 understands that the Child and Family Services Act
3 supersedes PHIA and FIPPA and is reporting that she
4 understands her obligation to report, that was sufficient
5 information to indicate to me that she did not have
6 protection concerns.

7 Q With respect to Phoenix?

8 A With respect to the children in this home, the
9 newborn infant and Phoenix.

10 Q Ms. Willox, or Ms. Wiebe's evidence was that --
11 well if you go to the bottom of page 36947, you see that
12 Ms. Wiebe noted that she asked for the name of Ms. Wu's
13 supervisor.

14 A Yes.

15 Q And her evidence was that she expected you would
16 follow up with the public health before closing the file.
17 Did you intend to do that?

18 A If I felt that the public health nurse -- if the
19 public health nurse had not clearly indicated her, like the
20 fact that she fully understood her duty to report, or if I
21 felt that there potentially could be protection concerns, I
22 would not have closed the file prior to speaking to the
23 supervisor. In my mind, I was closing this satisfied that
24 with the information that we had and the fact that we had a
25 professional in the community that was clearly articulating

1 that she understood her obligation to report, that
2 indicated to me that there were no protection concerns and
3 she may very -- and if there were no protection concerns,
4 she actually would have been in breach of PHIA and FIPPA
5 had she provided us with any information.

6 Q So if we turn to the next page, 36948, under
7 "Recommendations". First of all, you see that the
8 information about the supervisor, the public health nurse
9 supervisor had been provided to you for ongoing follow up.
10 Did you ever call back to Ms. Wu's supervisor?

11 A I have no recollection of that.

12 Q So under "Recommendations" -- if you had would
13 you have made notes of it, by the way?

14 A No, I would not have. It was not case specific,
15 it was operational. It was not uncommon for me to speak to
16 multiple collaterals in the community. This was also not
17 uncommon for us to have issues with information sharing
18 with Public Health. As a matter of fact we had a very good
19 working relationship with respect to information sharing.
20 It was an issue with Employment and Income Assistance and
21 there were meetings that happened with respect to
22 addressing information sharing with Employment and Income
23 Assistance. Did I record the outcome of those meetings in
24 the records? No, because those were operational in nature.
25 So if I was speaking to Ms. Wu's supervisor about

1 information sharing or her staff person's understanding of
2 information sharing, that would have been an operational
3 matter, that would have not been case specific.

4 Q Are you saying that you did not make notes of
5 matters that you define as operational?

6 A Yes.

7 Q And what, what were operational matters?

8 A If there was issues around information sharing.
9 If we had -- for example, if we had issues with the school
10 around allowing us access to interview children, that kind
11 of thing, I would, you know, I would be following up either
12 with the school principal or with the superintendant or my
13 program manager would. Those are not case specific
14 dealings. Those would not be recorded in a case specific
15 record. If, for whatever reason, I felt that Ms. Wu had
16 protection concerns or did not comprehend her obligation
17 to, to report, I would have left this open. I would have
18 spoken to her supervisor. I would have gotten confirmation
19 and I would have closed it at that point. The fact that I
20 closed it before I spoke to the supervisor, I was satisfied
21 based on no presenting information that with, that Ms. Wu,
22 that Shelly Wiebe was able to communicate her
23 responsibility and that Ms. Wu indicated that she fully
24 understand, stood that and based on that had no protection
25 concerns.

1 Q So under the heading "Recommendations" on page
2 36948, it says:

3

4 "After consultation with the
5 public health nurse, and a review
6 of the information attached on
7 CFSIS, it was determined that
8 there does not appear to be a
9 known risk to the children
10 residing in Samantha's care at
11 this time. Therefore this matter
12 is being closed at CRU, until
13 further information or a request
14 for services is brought to the
15 Agency's attention.

16

17 The wording "there does not appear to be a known risk to
18 the children" sounds equivocal to me. Am I wrong?

19 A Well, we were closing the case based on the fact
20 that we had no information about any risk to these
21 children. There was no new concerning information being
22 presented to us. We knew that the baby was born healthy.
23 We knew that this mom had received regular pre-natal care.
24 We knew that Public Health had attended to the home,
25 understood their obligation to report to us, made and

1 clearly indicated that they had nothing to report. Based
2 on that, we had no information that there was any risk to
3 these children and made the determination to conclude the
4 case at CRU.

5 Q So on December 1st, 2004, you had recommended a
6 referral to intake for ongoing follow up and assessment of
7 the home environment, right?

8 A That's correct. That's, that's Shelly's language
9 by the way, so that would have been what Shelly documented.
10 What I, what I specifically communicated to her, I don't, I
11 don't know because I wouldn't have a recollection of that.

12 Q But certainly on December 1st, 2004, you
13 recommended that the file not be closed but instead be
14 referred to intake for further investigation?

15 A That's correct.

16 Q And then on December 7th, 2004, you authorized
17 that the file be closed at CRU without going on to
18 intake?

19 A That's correct, because as per the standard we
20 had a reliable source in the community identify that there
21 was no protection concerns and there was no new information
22 of a protection nature being, being made to the agency with
23 respect to this referral.

24 Q So in terms of what changed between December 1st
25 and December 7th, 2004, in terms of assessing risk to the

1 children in the home, was the change the information that,
2 or the conversation that Ms. Wiebe had with the public
3 health nurse?

4 A That's correct.

5 MS. WALSH: I wonder, Mr. Commissioner, if we
6 could just either take five minutes or take the 10 minute
7 break now.

8 THE COMMISSIONER: We're at the point for our
9 mid-afternoon break so we'll -- like I said the other day,
10 we'll take 10 and hope we're back in 12.

11 MS. WALSH: Thank you.

12

13 (BRIEF RECESS)

14

15 MS. WALSH: Thank you, Mr. Commissioner. And I
16 did find the, the portion of the transcript that I was
17 thinking of and we'll come to that in a minute but just so
18 you know that I will, I will put to the witness the
19 evidence that I was referring to.

20 THE COMMISSIONER: Yes, re-put your question and
21 then I'll hear counsel.

22 MS. WALSH: Yes. But I'm not doing that at this
23 very moment.

24 THE COMMISSIONER: No, I understand.

25

1 BY MS. WALSH:

2 Q So, Ms. Faria, at the time that the file was
3 closed on December 7th, 2004, you knew that the file
4 recording had no information about Wes McKay and whether he
5 had a history with Child and Family Services?

6 A Yes.

7 Q And you knew that Ms. Wiebe had not seen either
8 Phoenix or the baby for that matter?

9 A No, because the standard indicated that if we
10 used a reliable source in the community that wasn't a
11 requirement.

12 Q Sure. I just want to know what you, what you
13 were aware of in terms of the facts at the time that you
14 recommended closing the file on December 7th. So you knew
15 that there was no information about whether Wes McKay had a
16 history with CFS, right? That's right?

17 A I'm sorry, what was the question?

18 Q At the time you recommended closing the file on
19 December 7th, 2004, you knew that there was no information
20 in the file as to whether, or in the file recording as to
21 whether Mr. McKay had a history with CFS?

22 A There was no concerning information presented
23 about Mr. McKay nor did I have any information that he had
24 a history with CFS.

25 Q And you knew that Ms. Wiebe had not seen Phoenix?

1 A That is correct.

2 Q And you knew that she hadn't even spoken to
3 Samantha Kematch?

4 A That is correct.

5 Q And am I correct in understanding that at that
6 time the agency had not seen Phoenix since July of 2004?

7 A The agency had not seen Phoenix since July of
8 2004 at which time they had seen Phoenix and had given that
9 case closing a low risk assessment.

10 Q Right. And at the time that the file was closed
11 on December 7th, you had no information that the public
12 health nurse or any other collateral had actually seen
13 Phoenix?

14 A The information that I had was that the public
15 health nurse had been out to the home as indicated in the
16 report and acknowledged that she was fully aware of her
17 obligation under the Child and Family Services Act to
18 report any concerns of protection of children and that she
19 had no concerns, protection concerns to report to the
20 agency. So based on that, I was satisfied that there were
21 no protection concerns in this matter.

22 Q Did you assume that the public health nurse had
23 seen Phoenix?

24 A The public health nurse acknowledged that she had
25 been out to the home and she had no protection concerns.

1 Q But you had no information as to whether the
2 public health nurse had seen Phoenix though?

3 A No. Again, this referral was with respect to the
4 newborn infant in the home and with respect to Phoenix.

5 Q The file was at CRU from December 1st to December
6 7th. Was there any reason why you didn't send either
7 Ms. Wiebe or another worker out to fields to see Samantha
8 and Phoenix?

9 A There could have been a multitude of reasons why
10 we made that decision. I can only speculate. We have a
11 referral that has no new concerning information being
12 presented to the agency. It could have been with respect
13 to what we might have been managing at the time with
14 respect to other, other cases, other emergent matters. So
15 I, I have no specific recollection of what would have been
16 the foundation of that decision.

17 Q You were referring us to the 1999 standards which
18 you said you relied on in making decisions on this file. I
19 just want to take a look at those more closely. If we can
20 pull up, please, page 19191 from the 1999 standards. Can
21 you see it says under "Assessments and Investigation -
22 Standards":

23

24 "The worker continues the
25 assessment/investigation of all

1 child protection allegations
2 referred from intake or identified
3 in an active case. The
4 assessment/investigation includes:
5 - contact with the referral source
6 - face-to-face contact with the
7 child alleged to be in need of
8 protection
9 - face-to-face contact with
10 other children residing in the
11 household ..."

12

13 And then you referred us to page 19189 in these same
14 standards, item 3, which says:

15

16 "If the rating for the response
17 time is in the high or medium
18 range ... the worker ensures the
19 safety of the child either through
20 direct contact or through
21 confirmation of the child's safety
22 by a reliable source."

23

24 So that first page that I just showed you, page
25 19191, it says that the assessment/investigation includes

1 face-to-face contact with the child alleged to be in need
2 of protection. Did you understand that to be the standard
3 required in a child protection investigation?

4 THE COMMISSIONER: Just a minute. Mr. Saxberg?

5 MR. SAXBERG: Well, the standards that she's
6 referring to are not the intake standards. She's referring
7 to the family service standards. Intake standards are the
8 ones that she had previously referred to.

9 MS. WALSH: Okay.

10 MR. SAXBERG: That's why it says --

11

12 BY MS. WALSH:

13 Q Is that your understanding?

14 A That is correct.

15 Q And what, why would the standards be different?

16 A Because the, the function at CRU and intake would
17 be very different than a function, the function at family
18 services. I think you would have to speak to somebody who
19 is an expert in the standards to get the question to that,
20 I don't know.

21 Q Okay. So your understanding is that the -- when
22 we're looking at the 1999 standards, if a file were at
23 family services and a child protection investigation were
24 going on, face-to-face contact with a child alleged to be
25 in need of protection was a requirement?

1 A It was a requirement but there was a provision
2 that if, if contact was deemed to be within 48 hours, that
3 we could use a reliable source, especially in a referral
4 such as this where there is no presenting concerning,
5 concern.

6 Q The presenting concern, you told me the file was
7 opened because of Ms. Kematch's history, right? That was
8 one of the reasons --

9 A It was open based on the history and the fact
10 that she had a newborn infant in the home.

11 Q And a new partner?

12 A Yes. But there were no new concerns with respect
13 to any imminent, immediate safety to the children --

14 Q Right.

15 A -- with this referral.

16 Q But because of the history, the fact of the new
17 baby, the fact of a new partner, that was reason to
18 investigate whether there were child protection concerns
19 relating to Phoenix?

20 A Related to the newborn infant and Phoenix, yes.

21 Q And --

22 THE COMMISSIONER: I think we've been over that,
23 pretty well covered now.

24 MS. WALSH: Yes, thank you.

25

1 BY MS. WALSH:

2 Q And so your evidence is that the reason that you
3 recommended closing the file on December 7th, '04, was
4 because you understood that the public health nurse had
5 been to the home and had no concerns?

6 A The reason I recommended the case be closed was
7 because there was no new presenting information. We knew
8 that this mother had regular pre-natal care, the infant was
9 born healthy, both of which are indicators, you know, are
10 positive indicators in terms of drug or alcohol use during
11 the course of the pregnancy. There was no really
12 concerning information being presented about the common-law
13 partner in the home. I don't recall specifically what my
14 discussions would have been with, with the intake
15 supervisor or with Shelly but likely some consideration
16 would have, would have occurred with respect to the low
17 risk finding by intake in July as well. And then ultimately
18 with, with the fact that a reliable collateral in the
19 community had been out to the home, advised that she
20 understood her obligations under the Child and Family
21 Services Act. She understood that the Child and Family
22 Services Act superseded PHIA and FIPPA and she had no
23 concerns to present to the agency. Based on all of that,
24 we made the determination to close the case.

25 Q And am I correct in reading Ms. Wiebe's intake

1 report that you signed off on, on December 7th, '04, that
2 there is no information about Phoenix at all in that
3 recording?

4 A No, there was not.

5 Q Just before we go on to the next, the '05
6 involvement, Ms. Faria, I want to be fair to you and what I
7 had to said to you earlier was based on, on my notes of
8 Ms. Wiebe's evidence and we've now got her transcript. My
9 understanding was that she ultimately testified that she
10 did not do a prior contact check on Mr. McKay and the basis
11 of that evidence is as follows. It was in cross-
12 examination.

13 MS. WALSH: I have shown this, Mr. Commissioner,
14 to Mr. Saxberg and Mr. Ray and I'm on page 73 of the
15 transcript from January 8th, 2013, and the question is:

16

17 "Q On the issue of whether
18 you did a search ..."

19

20 This is Mr. Gindin,

21

22 "... whether you did a search on
23 Wesley McKay, my understanding is
24 that you don't have any real
25 independent recollection of a lot

1 of what went on back then?

2 A That's correct.

3 Q So you have to rely on
4 the notes that are shown to you
5 and the reports that you made?

6 A Yes.

7 Q And there are no notes
8 that you made a search?

9 A No, there are not.

10 Q And had you in fact even
11 begun to make a search and find
12 out certain things, we now know
13 that there would be other steps
14 you'd have to take --

15 A Yes.

16 Q -- to continue on.

17 A Yes.

18 Q And isn't -- wasn't it
19 your position that doing that kind
20 of search is something that would
21 take hours and hours and that
22 often workers just wouldn't have
23 enough time to, to do something
24 like that?

25 A Depending on the nature

1 of the involvement, yes.

2 Q Had you done a search
3 you certainly would have made
4 notes?

5 A I would hope so, yes.

6 Q And had you discovered
7 anything in that search of any
8 consequence you would have marked
9 that down somewhere?

10 A I would hope so, yes.

11 Q And you've also told us
12 that if you knew the things that
13 were revealed to you from this
14 file, you certainly wouldn't have
15 recommended closing the file?

16 A That's correct.

17 Q So since you did
18 recommend closing the file, can't
19 we not assume that you didn't do a
20 search?

21 A I suppose so."

22

23 So it was on that basis that I put to the witness
24 that the evidence of Ms. Wiebe was that she had not done a
25 PCC search.

1 THE COMMISSIONER: Now are you proposing to go
2 any further?

3 MS. WALSH: No. I just wanted to be fair to the
4 witness as to where I had that information from.

5 THE COMMISSIONER: All right.

6

7 BY MS. WALSH:

8 Q So let's pull up, please, the file opening from
9 March 2005, page 36926. And if we turn to the last page of
10 this intake form, page 36930 --

11 THE COMMISSIONER: Just, just let me get -- this
12 is a new one, isn't it?

13 MS. WALSH: Yes, Mr. Commissioner.

14 THE COMMISSIONER: Two six, I have it.

15 MS. WALSH: 36926 is the first page.

16 THE COMMISSIONER: I have it, yeah.

17 MS. WALSH: Ms. Faria, you've got that on the
18 screen and --

19 THE COMMISSIONER: Yes.

20 THE WITNESS: Yes, I do.

21

22 BY MS. WALSH:

23 Q So if we look at the last page of this recording,
24 page 36930, that's your signature on the document?

25 A Yes, it is.

1 Q And you signed it on March 9, 2005?

2 A Yes, I did.

3 Q Now if we go back to the first page, page 36926,
4 the form says it's from Jackie Davidson/Christopher
5 Zalevich. You didn't supervise Jackie Davidson, right?

6 A No, I did not. She was an after hours social
7 worker.

8 Q Right. But you did supervise Mr. Zalevich?

9 A Yes, I did.

10 Q Now if we look at page 36928, you see where -- if
11 we scroll down, please. You see where it says after
12 recommendations there's Mr. Buchkowski's signature, or a
13 line for it, and Ms. Verrier's and then it says on March 7,
14 '05, "this writer received this file for additional follow
15 up", do you see that?

16 A Yes, yes.

17 Q So is that the point at which the CR unit became
18 involved with this file, March 7th?

19 A No, CRU would have, would have become involved
20 earlier than that. They would have become involved when
21 Richard was assigned the case because Richard was a CRU
22 social worker.

23 Q You're absolutely right. What I meant to say is
24 March the 7th the day that your unit became involved?

25 A Yes.

1 Q Thank you. Do you know how the matter came to
2 your unit?

3 A I do not.

4 Q Now did you assign the file to Mr. Zalevich?

5 THE COMMISSIONER: Richard is on the other team,
6 is that it?

7 THE WITNESS: Yes, Richard is on the other team
8 and he's supervised by the other supervisor, Mr. Verrier.

9 THE COMMISSIONER: Yes.

10

11 BY MS. WALSH:

12 Q So the file was with the other CR unit when it
13 came in on March 5, '05 and on March 7, '05 it comes to
14 your unit?

15 A Yeah, it looks like it went up to intake.

16 Q And what's your reason for saying that?

17 A It says it is recommended that this file be
18 opened to intake.

19 Q Other than that reference in the file where it
20 says it is recommended this file be opened to intake, do
21 you have any knowledge as to whether the file went to
22 intake?

23 A No.

24 Q And as we said, you don't know how it is that the
25 file came to your unit?

1 A No.

2 Q So you assigned the matter to Mr. Zalevich on
3 March the 7th, would that be fair?

4 A Yes.

5 Q Was there any particular reason you assigned it
6 to him?

7 A Again, it just would have depended on, you know,
8 how the case assignments were done for the day. There's no
9 specific reason.

10 Q And we saw your signature on the last page of the
11 document. The entire form, starting on page 36926, is five
12 pages. Would you have read all five pages before signing
13 the document?

14 A Yes.

15 Q So that would include the history on page 36926?

16 A Yes.

17 Q It appears that the history in this file opening
18 was copied from the, directly from the December 1st, 2004
19 opening and just take a look at this history and then I'll
20 pull up the history from the December 1st, 2004 opening, if
21 you would.

22 A Okay.

23 MS. WALSH: And if we pull up page 36949, please.
24 And can you please pull up enough of the document so the
25 witness can see the whole document?

1 BY MS. WALSH:

2 Q Oh you've got hard copies so you're able to
3 compare that way.

4 A Um-hum.

5 Q That's great. It looks to me like the history
6 from the December 1st, '04 opening and the March 5 opening
7 are identical.

8 A Yes.

9 Q Cut and pasted?

10 A Yes.

11 Q And then if we go back to the March 5, '05
12 opening, page 36926, so under "History" it says: "Taken
13 from CRU open/close Dec. 1/04." So if the history
14 references the fact of the December '04 opening, but
15 there's no information in the actual history about what
16 happened during the December '04 opening, you agree?

17 A Yes.

18 Q Would you have expected the history that appears
19 in the March 5, '05 intake to include a reference to what
20 actually happened in December of 2004?

21 A Yes.

22 Q Now you told us this morning that sometimes you
23 would review an intake report when it came to you before
24 assigning it to a worker. Do you recall whether you did
25 that in this case? Would you have reviewed --

1 A I would have --

2 Q Would you have reviewed Ms. Davidson's report
3 and --

4 A It's, it's possible.

5 Q Okay.

6 A I don't remember if I did or not.

7 Q Do you recall whether you noticed at any point in
8 your involvement with this opening that in fact there was
9 no information about what happened in December of 2004 in
10 terms of CFS involvement?

11 A Not that I recall.

12 Q If we look at the next page, 36927, there is a
13 reference to the baby born November 30, 2004. Do you see
14 that?

15 A Yes.

16 Q But there's no information in the history about
17 the baby's father.

18 A That's correct.

19 Q Would you have looked for that information when
20 you received this referral?

21 A Not necessarily.

22 Q When you received this referral in March of 2005,
23 did you remember that just three months earlier you had
24 been involved with this same family?

25 A No, I did not.

1 Q So the fact that Ms. Wiebe had had a discussion
2 with EIA and the fact that she had a, what she described as
3 a frustrating conversation with the public health nurse,
4 that wasn't something that stood out in your memory three
5 months later?

6 A In those three months, between December '04 and
7 February of '05, we received 3,700 referrals, request for
8 service. Of those, Diana and I opened and closed 1500
9 referrals. There was no, there was nothing exceptional
10 about that contact in '04 and given the volume of calls
11 that we got at CRU, there was -- and the number of reports
12 that I read on a daily basis, there is -- it would not have
13 been uncommon for me not to remember this.

14 Q So you didn't remember when you got this file in
15 '05 that there had been a Wes McKay involved with this
16 family three months earlier?

17 A No, I did not.

18 Q You told us earlier today that you expected the
19 workers in your unit to review the information on CFSIS as
20 to past file recordings?

21 A That is correct.

22 Q In this case was it your expectation that
23 Mr. Zalevich would have reviewed past file recordings with
24 respect to Ms. Kematch on CFSIS?

25 A Yes.

1 Q Would you have expected him to look for the most
2 recent one, the one from December of '04?

3 A Yes.

4 Q And others going back farther in time?

5 A Yes.

6 Q How would Mr. Zalevich have known that was your
7 expectation?

8 A The last contact with the family, I mean you
9 would go back to the last contact with the family, that
10 would probably, after you receive a referral that would
11 probably be the very first thing that you would do was to
12 find out why the agency was last involved.

13 Q Let's turn to the presenting problem now in March
14 of 2005 at page 36927. So this time the source of referral
15 is noted to be an agency foster parent and the presenting
16 problem says that,

17

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

1 alleged abuse might be. Also this
2 person suspects that Samantha may
3 be locking Phoenix in her bedroom.
4 **I** explained that we need to speak
5 directly to [the source of
6 referral's] SOR, but despite being
7 an agency foster home she refused
8 to disclose the name. [SOR] does
9 not have an address or phone
10 number for Samantha other than she
11 lives in apartment one beside the
12 Maryland Hotel. I explained that
13 without an address we will be
14 unable to follow up. The last
15 address on CFSIS is on McGee."

16
17 And then,
18

19 "For consideration by CRU."
20

21 What was significant from that presenting problem in your
22 mind?

23 A We have a non-specified allegation of abuse and
24 we have a report that a parent is locking the child in the
25 bedroom.

26 Q And so those were matters that needed to be

1 investigated to see if they were true?

2 A Yes.

3 Q So based on the presenting problem what needed to
4 take place in terms of investigation and assessment?

5 A Workers needed to attend the home and meet with
6 the parent to discuss the concerns that were being
7 presented to the agency and it would have ideally, best
8 practice would have been to have seen all the children in
9 the home.

10 Q Well, we'll come back to that. I didn't see a
11 safety assessment form in connection with this opening.
12 Ought there to have been one?

13 A Yes, there should have been. When Richard made
14 the recommendation that the case be open to intake, a
15 safety assessment should have been completed at that time.

16 Q Nor did I find a CFSIS case sheet done for this.

17 A And again, a face -- okay, a CFSIS face sheet
18 would normally have accompanied this document.

19 Q So in your view, what was an acceptable response
20 time considering the presenting problem?

21 A I'd have to look at the original safety
22 assessment.

23 Q You mean a form, you want to see a copy of a
24 form?

25 A Yes, I'd like to look at the original safety

1 assessment form, please.

2 Q I think 36934, I think is the one that Ms. Wiebe
3 prepared. Let's try that. Oh good.

4 A So when we look at the information being
5 presented we have a non-specified allegation of abuse and
6 we have information with respect to a child being locked in
7 their room. When we look at the safety assessment that was
8 in place at the time, under 24 hour response I do not see
9 any categories upon which that would fit with respect to
10 the information that's been presented to us. Could you
11 please scroll down the safety assessment?

12 I'm just looking under 48 hour response. I don't
13 see anything where it would fall under a 48 hour response.
14 Can we go to five day response, please?

15 I would probably give it a five day response
16 under "other" and I would indicate non-specified allegation
17 of abuse, allegation of child being locked in their room.
18 Now with respect to -- yeah, that's ...

19 Q So you would have -- if you'd been the person
20 filling out the safety assessment form, you would have
21 assessed a response time that was longer than the response
22 time that was assessed for the December '04 opening, file
23 opening?

24 A Based on, on the information and the safety
25 assessment, yes.

1 Q There's no category under any of the headings for
2 age of the child to be taken into consideration but we did
3 see when we looked at the intake manual that that was one
4 of the factors under 24 hour response. What about
5 Phoenix's age, where would that factor into the response
6 time?

7 A Certainly age of the child would be a
8 consideration. Given that you have information that's
9 coming from a second hand party and you have a non-
10 specified allegation of abuse and a child being locked in
11 their room, you could have possibly given this a 48 hour.
12 But that was part of the struggle for us, right, in terms
13 of, of assessing response time and risk on these cases, was
14 because they're really, you know, I guess, you know, if we
15 look at, if we look at the standards around what the
16 definitions are of five days immediate response, that might
17 also be helpful as well in terms of making that
18 determination, although that wasn't happening at the time.

19 Q So you would have given it a five day response
20 time?

21 A Based on, on the safety assessment, yes.

22 Q You mentioned that the referral information was
23 second hand?

24 A Yes.

25 Q And what, if any, effect did that have on how

1 this matter was addressed?

2 A Well, it impacted our capacity to get specific
3 information about the nature of the allegation of abuse
4 that was being presented. So we have no identified issue,
5 no identified incident, you know, being presented to us as
6 to what specifically is defined by abuse and in the context
7 of child welfare, the word abuse is used daily and it means
8 very different, radically different things to different
9 people and often times it's used incorrectly. It's,
10 it's -- you know, people will call and, you know, make a
11 report that a child is being abused because they have
12 excessive chores, for example. So I mean, you know, just
13 because the word "abuse" was used, we really were not able
14 to connect the original source to determine what the exact
15 nature of that allegation was.

16 Q But that didn't affect the need to go out and see
17 Phoenix?

18 A No.

19 Q And this, the source of the referral was a foster
20 parent, you knew that?

21 A Yes.

22 Q Would you have expected that a foster parent
23 would have perhaps a better idea of what abuse meant than,
24 as you said, just the average person?

25 A Not necessarily.

1 Q Was there ever any attempt to phone the foster
2 parent back to ask for more details?

3 A Not that I can see in the report.

4 Q And Mr. Zalevich received the file on March 7th
5 and he didn't go out to the home until March 9th. Do you
6 know why he didn't go out until March 9th?

7 A I do not.

8 Q And we know that Mr. Leskiw accompanied
9 Mr. Zalevich to Ms. Kematch's home?

10 A Yes.

11 Q Did you assign Mr. Leskiw to do that?

12 A No.

13 Q Do you know how it is that Mr. Leskiw went out
14 with Mr. Zalevich?

15 A I don't know how that came to be but it was not
16 uncommon for workers to field together.

17 Q Okay. What was your understanding as the
18 supervisor on the unit as to Mr. Leskiw's role in this home
19 visit?

20 A Mr. Leskiw was accompanying Mr. Zalevich. That's
21 not uncommon at crisis response unit for workers to go in
22 tandem simply because when you're going out to meet a
23 family you just never know what you're going to encounter.
24 Chris would have been the primary worker on the case so he
25 would have had primary responsibility for the matter but

1 certainly Bill would have been a second set of eyes in
2 terms of actually being present, you know, when they
3 attended to the home.

4 Q And would you have expected Mr. Leskiw to review
5 any portion of the CRU report or the history, the
6 presenting problem before going out?

7 A No.

8 Q No?

9 A No.

10 Q Okay. So in terms of what has been documented,
11 we start on page 36928, scrolling down towards the bottom:

12

13 "March 9, 2005 - Field to
14 Samantha's home at 1 - 747 McGee
15 Street with coworker Leskiw. As
16 there were no keypads outside of
17 the building to contact Samantha,
18 workers gained access to the
19 building with the assistance of
20 another tenant that was also
21 entering the building. Samantha
22 greeted workers at the door with a
23 somewhat shy demeanor but did not
24 want to allow workers into her
25 apartment ..."

1 Can you scroll the page, please?

2

3 "... as she had someone visiting
4 with her. Workers could hear that
5 the television was quietly on.
6 This writer did not notice any
7 sounds of a party occurring or
8 that there was more than one other
9 adult in the home."

10

11 Now was there any significance to the fact that Ms. Kematch
12 did not want to let the workers into her apartment?

13 A It indicates here that she had someone visiting
14 her so it was an issue of confidentiality.

15 Q You're making that assumption?

16 A Yes.

17 Q There's no record of the workers actually asking
18 to go into the apartment. Considering the allegations in
19 this referral would you have expected the workers to
20 actually ask to be allowed into the apartment?

21 A If she had someone at the home and they were
22 wanting to have a confidential conversation with her, I
23 could see why they would have met with her in the hallway.

24 Q So you wouldn't have expected the workers to want
25 to go in and verify whether there was a lock on the door or

1 what was happening in the home?

2 A No, not necessarily. They were out there to have
3 a discussion with the mom with respect to the allegation of
4 a lock being used, a child being locked.

5 Q And suspected abuse.

6 A And an allegation of non-specified abuse.

7 Q Okay. There's no note of the workers asking who
8 else was present in the home, including partners or other
9 children. Would you have expected the workers to ask that
10 question?

11 A Who else was present or who was living in the
12 home?

13 Q Either one.

14 A I would have expected them to ask, you know, who
15 was living in the home.

16 Q And if they had asked that question to record the
17 answer?

18 A Yes.

19 Q Now I've been saying workers, plural. Did you
20 expect that both Mr. Zalevich and Mr. Leskiw would be
21 asking questions?

22 A I would have -- well, I don't know what, what
23 decisions Mr. Zalevich or Mr. Leskiw made about how they
24 were going to be conducting that interview. Sometimes
25 workers go out, one worker will interview, one will take

1 notes. Sometimes a worker will do both. You know, if
2 you've got two workers out sometimes a worker will assist
3 another worker by asking a question that might have been
4 missed. I don't know what arrangements or what agreements
5 Mr. Zalevich or Mr. Leskiw came to with respect to who was
6 going to be doing what during that field visit.

7 Q So then if we read on in the recording:

8

9 "Agency workers spoke with
10 Samantha in the hallway and
11 provided her with the details of
12 the presenting problem. Samantha
13 was curious about who called and
14 was advised that the Agency cannot
15 legally provide that information.
16 Samantha accepted this and
17 speculated that she knew who the
18 SOR was.

19 Workers initially advised
20 Samantha that the referral was
21 about an allegation of her abusing
22 Phoenix. Samantha responded by
23 saying that she had yelled at
24 Phoenix a few days ago and seemed
25 surprised that someone may have

1 heard her. This writer then
2 indicated that the referral
3 indicated that it was believed
4 that Samantha had locked Phoenix
5 in her bedroom. Samantha stated
6 that she and Phoenix share a
7 bedroom. This writer then asked
8 if the bedroom door has a lock on
9 the outside of the room. Samantha
10 confirmed that there is a lock on
11 the outside of the door. Workers
12 warned Samantha that it is not
13 safe to lock her in the room in
14 the case of a fire. Samantha
15 agreed.

16 At this time Samantha could
17 hear that her young child ... was
18 becoming upset inside the
19 apartment. Samantha returned into
20 her apartment and brought [the
21 child] into the hallway. [The
22 child] appeared to be a content,
23 healthy, clean and well-dressed
24 baby. She was smiling and
25 comfortable with Samantha.

1 Workers asked if Phoenix is
2 attending school or daycare.
3 Samantha advised that she is not
4 in daycare and will be attending
5 school next September. This writer
6 asked if there was anything that
7 Samantha needed support with from
8 the Agency and if she also has
9 supports as a parent. Samantha
10 indicated that she was doing well
11 and did not require agency
12 supports.

13 This writer provided Samantha
14 with an Agency card should she
15 require any Agency supports."

16
17 Now there is no note of the workers asking
18 whether Phoenix was in the home. Considering that the
19 allegations were with respect to Phoenix, would you have
20 expected the workers to ask that question?

21 A Yes.

22 Q And then to document the answer?

23 A Yes.

24 Q There's no note of the workers asking to
25 physically see Phoenix. Would you have expected them to

1 ask to see her?

2 A It was always -- the approach that we took was
3 that it was best practice to see children and we made it
4 clear to social work staff that children were to be seen
5 whenever possible.

6 Q So would you have expected the workers in this
7 case to ask to see Phoenix?

8 A It would have been best practice for them to have
9 seen Phoenix, yes.

10 Q From reviewing the file recording, did you make
11 an assumption as to whether Ms. Kematch was admitting to
12 locking Phoenix in the bedroom?

13 A From reviewing the file recording, all I see is
14 that she admits that there's a lock on the outside of the
15 bedroom door. I do not read that she admits to locking the
16 child in a bedroom.

17 Q So based on your review of the recording, did you
18 know whether the allegation that Phoenix was being locked
19 in the bedroom had been validated or not?

20 A I'm reading that she's indicating that there's a
21 lock on the outside of the door, not that she is locking
22 the child in the bedroom.

23 Q Did you know one way or the other from looking at
24 the recording?

25 A I don't see any recording here that indicates

1 that the child was being locked in the bedroom.

2 Q Do you have any information in the recording that
3 says that the child was not being locked in the bedroom?

4 A No.

5 Q According to the file recording, Ms. Kematch
6 heard her youngest child crying and brought her out into
7 the hallway and there's comments about how the child
8 looked. Was there any significance to that observation
9 when you read it?

10 A Yes. We were out there to assess all the
11 children in the home and certainly, you know, from looking
12 at this I see that, you know, that the child presented
13 well, was healthy, looked clean, well cared for and that's
14 important information in terms of the assessment.

15 Q You knew though that the source of referral's
16 allegation of suspected abuse was not with respect to the
17 baby?

18 A Yes.

19 Q What did you understand the workers to have done
20 by way of investigating the allegation that the source of
21 referral suspected abuse with respect to Phoenix?

22 A I'm sorry, what was the question?

23 Q What, what did you understand the workers did by
24 way of investigating the allegation of suspected abuse with
25 respect to Phoenix?

1 A Well, they had a discussion with her about, that
2 there was a non-specified allegation of abuse. The mom,
3 the mother identified that this was yelling, in the form of
4 yelling at the child. And they also went out to the home
5 to speak to the mother about the concern that a child may
6 be locked in her room which is never an acceptable
7 parenting practice. And so they had a discussion with the
8 mom about the concerns with respect to that and the safety
9 issues associated with that.

10 Q So that's your answer as to what the worker's
11 investigation of the allegations that came in on the source
12 of referral consisted of?

13 A Yes.

14 Q Was it not essential at the point where the
15 workers are standing in the hallway to insist on going into
16 the apartment see Phoenix?

17 A Well, I don't, first of all, I don't know that
18 Phoenix is there because I don't know if the social worker
19 has asked that question. When I look at this report I can
20 only, at this point, speculate because I'm just seeing
21 what's in the written report. I cannot remember what
22 discussions I would have had with Bill or with Chris with
23 respect to their contact in this matter. So I would not
24 have just been taking the information that's in this report
25 into consideration but I would have also would have been

1 taking whatever information or discussions I would have had
2 with Chris about, about his visit to the home. So I don't
3 know, I can't say definitively that that wasn't, that that
4 information was not communicated to me. I can only say
5 it's not in this report.

6 Q You certainly knew, by looking at the report and
7 by whatever discussions you may or may not have had with
8 Mr. Zalevich,, that neither Mr. Zalevich nor Mr. Leskiw saw
9 Phoenix Sinclair on March 5, '05?

10 A Yes.

11 Q And for all anyone knows she could have been
12 locked in the bedroom when those two workers were standing
13 in the hallway.

14 A We don't have information to that effect.

15 Q We don't know one way or the other.

16 A No.

17 Q Now if we look at page 36929, scrolling down
18 towards the bottom, please. Under the heading
19 "Recommendations":

20

21 "This file was opened by the
22 [after hours unit] after a call to
23 them was made on Saturday, March
24 5th, 2005. They were advised that
25 the caller believed that Samantha

1 is abusing her daughter Phoenix
2 although there were no details
3 surrounding the abuse other than
4 the caller believing that Samantha
5 was locking Phoenix in her
6 bedroom. The caller did not have
7 an address for Samantha other than
8 that she lives in apartment #1
9 beside the Maryland Hotel. The
10 [after hours unit] explained that
11 without an address, they could not
12 follow up. Worker Buchkowski
13 located Samantha's address ... but
14 could not gain access to the
15 building.

16 This writer and worker Leskiw
17 met with Samantha at ... McGee
18 Street. Samantha presented as
19 calm and somewhat shy. She did
20 not want to allow workers into the
21 home as she had company. Workers
22 warned and cautioned Samantha
23 about locking Phoenix in her
24 bedroom. Workers viewed [the
25 baby] who appeared to be healthy

1 and well-cared for.

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 Now do I understand your evidence to be that you
8 don't recall whether you discussed this matter with
9 Mr. Zalevich in addition to reviewing his report before you
10 signed off on it?

11 A I do not recall.

12 Q Mr. Zalevich testified that he recalled having a
13 conversation in your office and while he didn't remember
14 exactly the words he used, he remembered discussing briefly
15 with you whether or not the file should be closed and part
16 of that conversation included whether Phoenix had been
17 seen. He informed you that Phoenix had not been seen. He
18 can't remember if you asked that or if he volunteered the
19 information, that you told him ideally Phoenix should be
20 seen but that the file could still, should still be closed.
21 Now are you denying that Mr. Zalevich or are you saying
22 that Mr. Zalevich's recollection is not accurate?

23 A No, I'm saying I do not remember that
24 conversation.

25 Q So it may have happened?

1 A Yes.

2 Q You agreed with Mr. Zalevich's recommendation to
3 close the file?

4 A Yes.

5 Q At the time that you authorized the file to be
6 closed, how were you able to satisfy yourself as to
7 Phoenix's safety and well being? That there were no child
8 protection concerns considering that Ms. Kematch had not
9 allowed the workers into her home, Phoenix had not been
10 seen by the workers, the recording contained no information
11 about the father of the baby living in the home, the file
12 history showed Ms. Kematch had an extensive history with
13 CFS and the fact that Phoenix was of a young and vulnerable
14 age, how were you able, given all of that, to make a
15 recommendation or to authorize closing the file?

16 A Again, I can only go on what's in the written
17 record. I do not remember what discussions I would have
18 had in addition to this document with respect to what
19 follow up Chris or what questions would have been asked.
20 Regular practice, best practice of CRU was that children be
21 seen. That was communicated to our staff and that's in a
22 minute, in one of our unit meeting minutes and that's
23 something that we strived for in terms of ensuring that
24 that happened. Were there times that that didn't occur?
25 Yes. And when you look at that unit meeting minute we're

1 clearly identifying that there's, that those concerns do
2 happen and that's, that, you know, that we're striving,
3 that best practice really is to see children whenever
4 possible.

5 At the time there was no specific requirement in
6 the standard that we have face-to-face contact with all
7 children in, when conducting an investigation. That
8 standard came into effect in 2008 in the introduction of
9 the case management standards. We had sent this case up to
10 intake. It was refused or declined by intake. There was
11 no standard that, that the children be, that there be face-
12 to-face contact on all protection investigations. That was
13 a best practice standard that we set for ourselves and we
14 tried to achieve. Did we do that on every case?
15 Absolutely not. Looking at, in light of the fact that I do
16 not remember what conversations I would have had with
17 Mr. Zalevich, with respect to his assessment, looking
18 strictly at the report in front of me, I can only speculate
19 but I think it potentially could have been, you know, the
20 nature of the referral. We have an allegation of non-
21 specified abuse and we also have an allegation of a child
22 being locked in their room which does not meet the referral
23 for criteria for abuse.

24 So based on, based on the nature of the referral
25 and comparing that to the gravity of other situations that

1 we were managing at CRU, as well as based on the
2 recommendations of Chris who, who was a younger staff but
3 had seven months of abuse experience and, you know, even
4 though the recommendation wasn't made by Bill, Bill did
5 attend. Bill was a seasoned 15-year veteran of child
6 welfare and if he had, you know, if Bill had concerns or if
7 he felt that something else needed to occur, he would have
8 definitely brought that to Chris's attention or to my
9 attention.

10 So based on the nature of the referral and based
11 on the recommendations of Chris, I made the decision to
12 close the case.

13 Q Did you consider any other options other than
14 closing the case?

15 A Well, the case, with the information that was
16 available, did not meet the criteria for referral to abuse
17 intake, it did not meet the criteria for referral to intake
18 and we have two social work staff recommending that it be
19 closed.

20 Q When you say it did not meet the referral to go
21 to intake, what do you mean?

22 A Diana sent it to intake initially and somehow the
23 referral ended back at CRU.

24 Q But you have no information about what at all
25 transpired?

1 A I know that the report indicates that the case
2 was open to intake and returned to CRU. That's what,
3 that's what's in the recording.

4 Q That is we discuss -- in cases where intake would
5 return a file to CRU to have more work done, that didn't
6 mean that you couldn't send it back to intake if you
7 thought there were still child protection concerns or you
8 weren't sure whether there was child protection concerns,
9 right?

10 A Well, we were satisfied that there were no
11 protection concerns based on the recommendations of the two
12 staff.

13 Q That's why you closed the file, because you were
14 satisfied there were no child protection concerns?

15 A I can only speculate as to why I closed the file
16 because I do not remember what conversations I would have
17 had with Chris about his contact in the home. There was no
18 requirement at the time for face-to-face contact with
19 children under the standards. Based on the soft nature of
20 the referral, and the presenting information and the
21 recommendations of the staff, we made the decision to close
22 the case.

23 Q In your role as a CRU supervisor, you were
24 involved with Ms. Kematch and Phoenix on two separate
25 occasions three months apart, right?

1 A That's correct.

2 Q On December 1, 2004, you had approved a
3 recommendation to transfer the protection file relating to
4 Samantha and Phoenix to intake because you wanted more
5 assessment done, correct?

6 A That's correct.

7 Q And that assessment never took place. The file
8 was closed on December 7th, 2004, right?

9 A I'm sorry, I'm confusing that with the 2003
10 referral, the two. Could you repeat that, please?

11 Q In 2004, on December 1st, 2004, you saw that you
12 signed off on a file recording where Ms. Wiebe indicated
13 that the file was recommended to be transferred to intake
14 for follow up, for ongoing follow up and assessment of the
15 home environment.

16 A Yes, and we did close that for reasons which I've
17 already indicated.

18 Q Based on the fact that the public health nurse
19 had been to the house?

20 A And based on the fact that there were no new
21 presenting concerns.

22 THE COMMISSIONER: Ms. Walsh, I'm going to stop
23 you, looking at the clock. I assume you'll have questions
24 for this witness relating to two or three of the reports.

25 MS. WALSH: That's right, Mr. Commissioner.

1 THE COMMISSIONER: Well, I don't think we'll get
2 to that today.

3 MS. WALSH: No, I don't either.

4 THE COMMISSIONER: Have you any -- have you many
5 more questions before you're ready to move there?

6 MS. WALSH: About ten minutes, depending on the
7 length of the witness's answers. If we could just finish
8 the witness's involvement with the March '05.

9 THE COMMISSIONER: Well, is that totally
10 inconvenient for any counsel? If not, I'll, I'll -- we'll
11 take it to that point tonight then.

12 MS. WALSH: Thank you.

13

14 BY MS. WALSH:

15 Q So the file was closed on December 7th, 2004. No
16 one from CFS had been out to Ms. Kematch's house or seen
17 Phoenix, right?

18 A That's correct.

19 Q And then three months later the file is open to
20 the agency again. The file comes back to your attention
21 and although workers went out to the apartment, they did
22 not see Phoenix, nor did they go into the home, correct?

23 A That's correct.

24 Q And you agree that both the recording from the
25 December 2004 involvement with Phoenix and her family and

1 the recording from the March '05 involvement with Phoenix
2 and her family contain no information about Phoenix
3 herself?

4 A No.

5 Q You agree with that statement?

6 A Yes. In the physical report, yes.

7 Q And in light of what you told me you understood
8 was best practice, the fact that seeing, the importance of
9 physically seeing a child had been the subject of a
10 discussion at a joint CRU meeting in February of 2004, how
11 do you reconcile that with closing the file, particularly
12 in March of '05, without physically seeing Phoenix to
13 ensure her safety and well being?

14 A Again, I can only speculate. Looking back at the
15 written referral in front of me, it would have been based
16 on the fact that we had a non-specified allegation of abuse
17 and we have a concern presented with respect to a child
18 being locked in a room. Workers attended to the home and
19 they spoke to the, to the parent about that concern. When
20 I read the report there's also no information indicating
21 that she actually admitted to locking the child in her
22 room. And we have the recommendation of my, my CRU staff,
23 recommending that the file be closed. We had, we had two
24 social work staff attend to the home and identified no
25 protection concerns. There was also no requirement that

1 face, for face-to-face contact in protection investigations
2 at the time, under the standards, which was another factor.
3 Today the requirement is that there is face-to-face contact
4 on all, with all children on all cases.

5 Q And did you actually direct your mind to there
6 not being a standard requiring face-to-face contact in
7 March of '05 when, when you agreed with closing the file
8 without that contact?

9 A If there was a standard that required us to have
10 face-to-face contact with all children for all
11 investigations, then we would have required that. We set
12 that as a best practices standard for ourselves. We tried
13 to achieve it. Were we able to achieve it 100 percent of
14 the time? Absolutely not.

15 Q So in March of 2005, when you agreed to close the
16 file, was there anything preventing the agency from
17 carrying out what you acknowledge was best practice and
18 seeing Phoenix?

19 A Again, I can only speculate. It would have, it
20 would have -- it could have depended on a multitude of
21 factors. It could have depended on, you know, what was
22 happening for us organizationally, what was happening for
23 us in terms of the other, more urgent matters that we were
24 dealing with at CRU on that particular day. We were a
25 crisis response unit. We dealt with high risk imminent

1 matters. Operationally as well, we did not -- because our
2 responsibility was short term involvement on cases, we did
3 not have the same capacity to hold cases and to do the
4 extensive types of investigations, that would have been
5 done at intake, which is why it's critical that the fact
6 that this case did not move on to intake, that that would
7 have been, also been another factor in us not being able to
8 achieve best practices in this matter.

9 THE COMMISSIONER: Do you know who dealt with it
10 when it was up in intake and, and sent back down?

11 THE WITNESS: I do not know. It would have been,
12 this would have been, this would have gone to the central
13 intake abuse supervisor, so whoever the central intake
14 abuse supervisor was at the time.

15

16 BY MS. WALSH:

17 Q And when a file -- there's no information in the
18 file as, the recording as to what happened with respect to
19 it going to intake and not being accepted, but that would
20 have occurred while Ms. Verrier was supervising the matter,
21 right?

22 A Yes.

23 Q And there's no indication in the file that after
24 Mr. Zalevich and Mr. Leskiw failed to see Phoenix on March
25 the 9th, '05, you referred the matter up to intake for them

1 to do further follow up and see Phoenix?

2 A No, because I had an assessment by two social
3 workers that there were no noted protection concerns.

4 Q And that's, that's why you closed the file, not
5 because you thought intake wouldn't take it but because you
6 had no child protection concerns?

7 A Yes. Now the factors around us not being able to
8 achieve best practice in this matter and see the child,
9 that relates, that one, the fact that intake didn't take
10 the case would have been one of the factors.

11 Q But you didn't try to get intake to take the case
12 after the workers had failed to see Phoenix?

13 A If that had been addressed by -- after the
14 workers had seen Phoenix?

15 Q Had failed to see Phoenix.

16 A If intake had already refused the case and there
17 was no new information and I have social workers that are
18 identifying there's no new protection concerns, I was not
19 in a capacity to move that case up to intake.

20 Q If you had felt that there were child protection
21 concerns or you didn't know whether there were child
22 protection concerns, you could have gone to your assistant
23 program manager and said, look, I think intake needs to
24 take this, somebody needs to resolve this.

25 A Yes.

1 Q You didn't do that?

2 A No. If I felt that there were child protection
3 concerns, I would have not have closed this case.

4 Q Right, thank you.

5 MS. WALSH: Mr. Commissioner, this would be an
6 appropriate place to end my questions for today.

7 THE COMMISSIONER: So you're ready to move on to
8 the, when we commence Monday morning, we'll move on to the
9 three reports?

10 MS. WALSH: I believe so, yes.

11 THE COMMISSIONER: And then we'll take the cross-
12 examinations from other counsel.

13 MS. WALSH: Yes.

14 THE COMMISSIONER: All right.

15 MS. WALSH: And we will be at the Fort Garry
16 Hotel as you reminded everyone at the outset.

17 THE COMMISSIONER: Yes, and where in the Fort
18 Garry, do you know?

19 MS. WALSH: The 7th floor.

20 THE COMMISSIONER: 7th floor?

21 MS. WALSH: Yes.

22 THE COMMISSIONER: So that's where we will -- and
23 that is because this room is not available. We're not
24 moving around town by choice, but we've got to have a place
25 to meet and that's the most suitable so we'll be there at

1 9:30 on Monday morning and until that time we now stand
2 adjourned.

3 MS. WALSH: Thank you.

4 THE COMMISSIONER: Thank you, witness. I guess
5 you'll have to come back for Monday morning.

6 THE WITNESS: Yes. Thank you.

7 (PROCEEDINGS ADJOURNED TO JANUARY 21, 2013)