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

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

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Transcript of Proceedings  
Public Inquiry Hearing,  
held at The Fort Garry Hotel,  
222 Broadway, Winnipeg, Manitoba

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TUESDAY, JANUARY 22, 2013

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1 JANUARY 22, 2013

2 PROCEEDINGS CONTINUED FROM JANUARY 21, 2013

3

4 THE COMMISSIONER: All right, Ms. Walsh.

5 MS. WALSH: Thank you, Mr. Commissioner. Our  
6 first witness is Jennifer Strobbe. If we could have her  
7 sworn in, please.

8 THE COMMISSIONER: Yes.

9 THE CLERK: If you could just stand for a moment.  
10 It is your choice to swear on the Bible or affirm without  
11 the Bible.

12 THE WITNESS: I can swear on the Bible.

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

15 THE WITNESS: Jennifer Strobbe.

16 THE CLERK: And spell your first name.

17 THE WITNESS: J-E-N-N-I-F-E-R.

18 THE CLERK: And the last name.

19 THE WITNESS: S-T-R-O-B-B-E.

20

21 **JENNIFER STROBBE**, being first duly  
22 sworn, testified as follows:

23

24 THE CLERK: Thank you.

25

1 MS. WALSH: Mr. Commissioner, I'd like to start  
2 by entering another exhibit, this will be Exhibit 23.

3 THE COURT: You don't have a package of exhibits  
4 for this witness, the documents?

5 MS. WALSH: No, this is the only document that  
6 this witness --

7 THE COMMISSIONER: Okay.

8 MS. WALSH: -- will be referred to.

9 THE COMMISSIONER: Right. And what is that?

10 MS. WALSH: Exhibit 23 is three pages of computer  
11 screen shots provided by the Department of Family Services.  
12 The witness will be asked questions about this document,  
13 but ultimately I expect that we will have a witness from  
14 the department who will explain how the document was  
15 prepared.

16 THE COMMISSIONER: Right. And that -- yes,  
17 Exhibit Number 23.

18 MS. WALSH: Yes.

19

20 **EXHIBIT 23: AUDIT SEARCHES RE**  
21 **PHOENIX SINCLAIR**

22

23 THE COMMISSIONER: All right.

24 MS. WALSH: It's very difficult to read this  
25 document. It's even worse on -- well, that's better.

1 Thank you. I wonder would it help the witness to have a  
2 hard copy as well?

3 THE WITNESS: I have one.

4 MS. WALSH: Okay. All right. Thank you. Do you  
5 have the copy that we prepared or a copy that your lawyer  
6 gave you?

7 THE WITNESS: No, I was just given this.

8 MS. WALSH: Okay, good. Good, good. Simply  
9 because we made changes.

10

11 DIRECT EXAMINATION BY MS. WALSH:

12 Q So let's start with some background. You were  
13 employed at the Crisis Response Unit in 2005?

14 A Yes.

15 Q What was your position?

16 A Crisis Response Unit social worker.

17 Q What did that involve?

18 A That involved responding to situations with  
19 families that required a 24 hour response. It involved  
20 answering and screening phone calls. If there were  
21 allegations of abuse or neglect opening intakes and  
22 streaming the intakes to whoever they needed to go to be  
23 responded to.

24 Q And as of August, 2005, how long had you been  
25 employed there?

1 A At the Crisis Response Unit?

2 Q Yes.

3 A I believe I had started in May of 2005.

4 Q Oh, I'm advised that -- my mike is on. The  
5 witness --

6 A Oh, am I not close enough. Sorry.

7 Q Maybe pull the microphone closer to you. Is it  
8 the witness that you can't hear? So you can probably bend  
9 it right.

10 A I'll just move closer.

11 Q Okay. So, sorry, you said you started at the  
12 Crisis Response Unit in May of 2005?

13 A Yes.

14 Q How long did you stay there?

15 A I believe I was there from May, 2005 until 2007.

16 Q As part of your job you would receive phone calls  
17 from members from the community?

18 A Yes.

19 Q What types of calls would you receive?

20 A Oh, you could receive any types of calls. We  
21 received calls where people are reporting allegations of  
22 abuse, or neglect, where people are calling for assistance  
23 for families, people are calling for resources. People  
24 sometimes call looking for information. You can get a  
25 variety of different calls.



1 Q Okay. What was the first thing you did when you  
2 received a call?

3 A The first thing I did I would ask the caller why  
4 they were calling. Generally depending on -- sometimes you  
5 could get people calling in who were clearly in crisis, so  
6 you would try and talk them through that, and, and gather  
7 details as to why they were calling, but generally when  
8 people call you ask why they're calling, the family they're  
9 calling about, the child that they're calling about. You  
10 ask for some demographics, you would take that information  
11 and input it on the system to ensure to see if that family  
12 had, had previous contact. You would do some initial  
13 screening.

14 Q So when you say see if they were on the system is  
15 that the CFSIS system?

16 A Yes, CFSIS and the Intake module.

17 Q The Intake module was, as they say, live by May  
18 of 2005 --

19 A Yes.

20 Q -- is that right? So doing a CFSIS search would  
21 have been part of your normal daily duties?

22 A Yeah.

23 Q Would you -- when you -- as part of doing a CFSIS  
24 search would you do what we've heard called a prior contact  
25 check?

1 A Yeah, that is a prior contact check.

2 Q What's the purpose of performing a prior contact  
3 check?

4 A The purpose at the time of taking a call is to  
5 see -- to confirm whether or not a family is currently  
6 involved with child welfare. Typically we were not  
7 supposed to get calls put through to us if they had an open  
8 case, but sometimes that did happen. It also helps you do  
9 a risk assessment to see if that family has had prior  
10 contact with the agency, what that contact looks like, just  
11 to get a general history on the family.

12 Q At what point in your work would you run a PCC?

13 A Generally what I would do is if I had received a  
14 call, and I was gathering information, and I had received  
15 the family's name, I would ask for that information and put  
16 that in the computer right away.

17 Q Would you ever randomly search for an individual?

18 A No.

19 Q I want to go through and confirm the process of  
20 doing a PCC in terms of the evidence that the Commission  
21 has already heard. If we could put Exhibit 16 on the  
22 screen please, starting with page 7.

23 THE COMMISSIONER: Is this Exhibit 7?

24 MS. WALSH: Exhibit 16, page 7.

25 THE COMMISSIONER: Okay.

1 BY MS. WALSH:

2 Q This exhibit was part of a power point  
3 presentation about CFSIS and the Intake module that was  
4 presented to the Commission by Amber Violette on the first  
5 day of hearings in September of 2012. I just want to go  
6 through it and see if it matches your understanding of, of  
7 how a PCC was done in 2005.

8 So starting at page 7 it says:

9

10 "Persons Records  
11 Every person involved in either a  
12 CFSIS or IM --"

13

14 That's Intake Module?

15 A Yeah.

16

17 "-- case had a Person Record.  
18 Persons Records Stores information  
19 about a person. CFSIS and IM  
20 share 'Person Records'."

21

22 And what, what did you understand that to mean,  
23 that they share person records?

24 A Basically that if you would run a name on CFSIS,  
25 and if you run a name on the IM, all the same information

1 should appear.

2 Q Okay. Then let's turn to page 9 of the exhibit,  
3 please.

4

5 "Prior Contact Checks

6 Used to determine prior contact

7 with Child and Family Services

8 based on names that are:

9 - Spelled alike

10 - Sound alike

11 - Age alike

12 - Gender alike

13 - Are associated with other

14 names used by the individual.

15 Returns up to 100 of the closest

16 matches

17 Person profile and prior contact

18 checks helps the worker find the

19 person they are searching for by

20 locating the person record on

21 CFSIS."

22

23 Does that match your understanding of, of how you

24 did a PCC in '05?

25 A Yes.

1 Q And, finally, if we could turn to page 8, please.

2 So this, this shows what a person record looked  
3 like when you pulled it up on the screen; is this what the  
4 screen would look like in '05?

5 A On CFSIS, this is on CFSIS I'm imagining?

6 Q Well, on this page you see CFSIS cases on the  
7 left and Intake on the right, the two boxes.

8 A Yeah, I would imagine that's what that screen  
9 would look like.

10 Q Okay. And you see at the top it's got the name  
11 type, it's got surname, and then first name; do you see  
12 that?

13 A Yes.

14 Q And then a box for the gender, the age, date of  
15 birth, and then in terms of under CFSIS cases it has the  
16 status of the cases, and whether they're -- what type of  
17 case they are, whether they're a protection file, or a  
18 child in care file, and on the intake it's got the various  
19 intakes when they were opened, when they were concluded, so  
20 this matches your understanding of how a PCC functioned in  
21 2005?

22 A Yes.

23 Q And I think you said the procedure was the same  
24 whether you were doing a, a CFSIS search or a PCC?

25 A Yes, like it's looking up a person on the system.

1 Q And so then when you do a prior contact check, a  
2 PCC, then if you got a number of matches you would have to  
3 click on the various matches, and then look on the person  
4 profile for that match to see what information the system  
5 had, if any, about the individual?

6 A Yes.

7 Q Okay. And so then that would tell you their  
8 name, their date of birth, it would also tell you other  
9 people associated with them in the system?

10 A Yes.

11 THE COMMISSIONER: Ms. Walsh, ask her what -- I  
12 don't understand. What name is she looking for? A name  
13 she got in the phone call, I understand --

14 MS. WALSH: We haven't got to the specifics yet,  
15 Mr. Commissioner.

16 THE COMMISSIONER: All right.

17 MS. WALSH: I'm just going through the process.

18 THE COMMISSIONER: I'll wait ...

19 MS. WALSH: Okay, thank you.

20 THE COMMISSIONER: -- patiently.

21 MS. WALSH: All right. I just want to confirm  
22 the process as much for my benefit as, as anything.

23 THE COMMISSIONER: That's fine.

24 MS. WALSH: Thank you.

25

1 BY MS. WALSH:

2 Q And, and as we see the -- when you would do a  
3 search, and click on a person profile information would  
4 come up saying what type of CFS involvement they had had,  
5 for instance, if they were a child in care, or if there  
6 were persons associated with them who had protection files  
7 relating to them?

8 A Yes. You would be able to see their history in  
9 any document that they've been attached to.

10 Q So now let's go to Exhibit 23, please, and  
11 that's, that's the document that we just filed today.

12 Now, the Department of Family Services has  
13 provided the Commission with a series of computer  
14 printouts, and we're advised by the Department that these  
15 are printouts of what they call search audit queries for  
16 the name Phoenix Sinclair, and my understanding is that  
17 this document, Exhibit 23, shows when a worker has  
18 conducted a search on CFSIS for a particular individual,  
19 that's what an audit query shows, and in this particular  
20 case Exhibit 23 shows searches done for Phoenix Sinclair.

21 So what I'd like to do --

22 THE COMMISSIONER: Where, where is Phoenix's name  
23 there?

24 MS. WALSH: Well, we're going to go through that  
25 line by line because it is difficult to read, Mr. Sinclair

1 (sic), but for instance that first --

2 THE COMMISSIONER: Oh, I see. Okay.

3 MS. WALSH: -- there are various spellings of  
4 Phoenix's name on the document.

5 THE COMMISSIONER: Okay. Carry on.

6

7 BY MS. WALSH:

8 Q So I'm going to go through the three pages.  
9 They're not in any particular order it seems, in terms of  
10 chronology, but go through the three pages and show where  
11 your name comes up as having done a search, and then we'll  
12 come back and ask more questions, but just so that we're  
13 familiar with the document, and all reading it the same  
14 way.

15 So if we look on, this is page 1 of the document,  
16 at the very bottom you'll see the time of 11:05 a.m.; do  
17 you see that?

18 A Yes. Certainly.

19 Q Okay. Now, at the left -- towards the left -- at  
20 the very left-hand margin of the screen on the bottom  
21 that's your name --

22 A Yes.

23 Q -- Strobbe, Jennifer? And then it says "SrchP"  
24 what did that stand for?

25 A I don't know.



1 Q Okay.

2 A Search person is my best guess.

3 Q Okay. That's not part of something that you  
4 would enter?

5 A No, I don't enter that.

6 Q Okay. Then, and I'm looking at the one on the  
7 very bottom, we have the, the name Phoenix spelt "Pheonix,  
8 Sinclair"?

9 A Yes.

10 Q And a date of August 24, 2005, and a time of  
11 11:05 a.m. so we're reading that correctly?

12 A Yeah.

13 Q Okay. Then still on the same page, if you scroll  
14 up you'll see on the right-hand side the time 3:26, so then  
15 going to the far left on that line again there's your name,  
16 Strobbe, Jennifer, and it says, January -- or "Jan00", this  
17 time it says "Sinclair, Phoenix" and 3:26 p.m., so that's,  
18 that's a correct reading of the document?

19 A Yes.

20 Q Okay. Then second from the bottom again on the  
21 left-hand margin we've got your name, Strobbe, Jennifer,  
22 this time what's typed in is "sinclair, phoenix", the  
23 difference being that it's a small S and a P, and the date  
24 and time are August 24, 2005 at 3:29 p.m., and, and the  
25 11:05 entry at the very bottom, by the way, is also August

1 24, 2005; right?

2 Then if we go to the next page, page 2 of this  
3 exhibit, your name appears at the very top, but I think  
4 that's an overlap, that's a duplication of the screen that  
5 we just saw on page 1, so what's being sort of blacked out  
6 I think was actually highlighted, and that also says 11:05,  
7 and I think that's just the same entry that we saw on the  
8 bottom of page 1.

9 Then there is another entry for you at 3:31 p.m.,  
10 midway down, and again it's -- so Strobbe, Jennifer, and  
11 this search is "Phoenix, Sinclair" at -- on August 24, 2005  
12 at 3:31 p.m.

13 Do you have any recollection -- first of all,  
14 does, does this then show that you did a number of searches  
15 for variations on the name Phoenix Sinclair on August 24,  
16 2005?

17 A Yes.

18 Q And do you have any recollection of performing  
19 these searches?

20 A No.

21 Q With respect to the search that had "Jan 00" do  
22 you know why you would have put in those parameters?

23 A Generally if you get a call and somebody -- this  
24 is hypothetical, if somebody doesn't know the age of a  
25 child, or the age of a person, you would put an approximate

1 age in, so for instance if somebody said somebody was  
2 around 35 I would put 35 in, and then that year would come  
3 up, and it would always come up as January 1st, is from my  
4 recollection.

5 Q Okay.

6 A Or my understanding.

7 Q And we see that you've done different searches  
8 using different variations on the spelling of the name,  
9 sometimes putting Sinclair before Phoenix, vice versa, what  
10 would be the reason for that?

11 A I could have -- it could have been a mistake so  
12 sometimes you can enter something in wrong, and then you  
13 realize you entered it wrong, so you would switch it  
14 around. I could have ran it quickly a few times, and came  
15 up with a match possibly that didn't look like the right  
16 one, so I ran it again. It's -- you do things so fast when  
17 you're running names, and you're doing screening that I  
18 can't explain exactly why I would have done that, but it  
19 definitely happens though.

20 Q When, when you're doing a PCC does it make a  
21 difference which name you put first?

22 A Yes, it would make a difference. On the IM I  
23 believe that the matches may come up anyways. It's  
24 possible that they would come up, and if they didn't that's  
25 why I would have switched it around again.

1 Q Okay. Did you understand that Sinclair was the  
2 last name of this individual?

3 A I don't know because I don't remember doing this.

4 Q Okay. If a box on the screen then had prompted a  
5 spot for the last name, and a spot for the first name,  
6 would you have put Sinclair in as the last name, or you  
7 don't know?

8 A I would imagine if somebody said her first name  
9 is Phoenix and her last name is Sinclair I would have put  
10 Sinclair as the last name.

11 Q Based on what the, the screen prompts you to do  
12 in terms of --

13 A Yeah.

14 Q -- filling in the box? Okay. Do you know what  
15 the results of the searches that we see you did on August  
16 24, 2005, what the results of those searches were?

17 A I don't know.

18 Q Do you know why you would have done multiple  
19 searches on the same day about the same person?

20 A I can't remember. It would be speculating to say  
21 why I would have done that.

22 Q Do you know whether you opened a referral  
23 regarding Phoenix Sinclair on August 24, 2005?

24 A No. The records show that I didn't.

25 Q Do you know why you didn't?

1           A        Again I don't remember the context of the call,  
2       or why I ran her name, so to speculate I would imagine that  
3       I didn't receive information at that time that would  
4       indicate there was a child protection concern that we  
5       needed to follow up on.

6           Q        Okay. And we'll come back to that. With respect  
7       to results we know that Phoenix Sinclair had a child in  
8       care file in the system, and her parents had protection  
9       files relating to her certainly as of 2005. Do you know  
10      whether you would have seen that information when you ran  
11      the searches that we just looked at?

12          A        I would imagine that I would have, but I don't  
13      recall.

14          Q        But that's information that would have come up  
15      based on doing the, the searches that you did?

16          A        Yes.

17          Q        So you told me that you wouldn't do random  
18      searches?

19          A        No.

20          Q        So something would have prompted you to do these  
21      searches on Phoenix Sinclair on August 24, 2005?

22          A        Yes.

23          Q        Likely a phone call?

24          A        Likely, yes.

25          Q        We heard evidence yesterday from a witness who

1 said that she made a number of calls to various Child and  
2 Family Service agencies in the province, she made all the  
3 calls on one day in August of 2005, and her evidence was  
4 that she told the people who answered her calls at the  
5 agencies she gave them Phoenix Sinclair's full name,  
6 Phoenix Victoria Hope Sinclair, Phoenix's date of birth,  
7 that the caller was the girl's aunt, and that she was  
8 looking for the girl, that it had been months since she had  
9 seen her, that she wanted to talk to the social worker who  
10 dealt with her to get assurance she was okay. She couldn't  
11 remember when she testified if she actually used the word  
12 "concerns".

13 Now, do you recall receiving such a call on  
14 August 24, 2005, or at any time in August of 2005?

15 A I don't recall.

16 Q And you have no notes or documentation of calls  
17 that you received, unless they resulted in a, in a  
18 referral, an opening?

19 A That's correct.

20 Q And we're talking about a call that would have  
21 been made seven and a half years ago?

22 A Yes.

23 Q So it's not surprising that you wouldn't remember  
24 a specific call?

25 A Yeah.

1 Q Is it possible that this call, that the witness  
2 testified about, was the reason that you were doing  
3 searches for Phoenix Sinclair on August 24, 2005?

4 A It's possible, yes.

5 Q Certainly you said you wouldn't do random  
6 searches and likely you were performing a search relating  
7 to Phoenix because someone had called the agency?

8 A Yes.

9 Q About Phoenix?

10 A Yes, I would imagine that's why I ran her name.

11 Q Now, let me ask you this. If you received a call  
12 from someone who gave you that information, Phoenix's name,  
13 her date of birth, that they were an aunt, that they hadn't  
14 seen Phoenix in many months, what, if anything, would you  
15 have done with that information?

16 A I probably would have asked a few more questions.  
17 Whether or not there were concerns that were being  
18 reported. If there were no concerns reported I really  
19 wouldn't do anything with that information. I, I can't  
20 share information about a child that's been involved with  
21 our, with our system.

22 Q At what point would you run the, the search with  
23 respect to talking to the individual?

24 A Generally I would run a search -- from my  
25 practice from before, working in CRU, I would have run a

1 search at the time of taking the call, or around that time,  
2 probably during the time of taking the call.

3 Q In terms of asking the witness questions or,  
4 sorry, the caller questions would you be doing that to  
5 determine whether there were child protection concerns  
6 being reported?

7 A Yes.

8 Q And would you consider the evidence that I read  
9 out to you, the information that I read out to you, as  
10 constituting a child protection concern?

11 A And the information you read out again was that  
12 she hadn't seen Phoenix?

13 Q Yes.

14 A Not without additional information, no.

15 Q What about if you combine the information that  
16 she hadn't seen Phoenix for many months with the results of  
17 what a search on Phoenix we know would have shown, that is  
18 a five year old child who had had CFS activity every year  
19 of her life, including two apprehensions?

20 A Without further information I, I would not see  
21 that as a child protection concern. There could be a lot  
22 of reasons why somebody hasn't seen a child, so without  
23 information to indicate that that child -- there was a  
24 concern at this time I likely would not have seen that as a  
25 child protection concern.



1 Q Did you know Stan Williams?

2 A No. I believe I met him in passing a few times.

3 Q Mr. Williams, if we go to page -- oh, the page  
4 that we've got in front of us actually, page 2, you see  
5 where your entry for 11:05 shows up, third from the top?

6 A Yes.

7 Q Then right below that is an entry for Stan  
8 Williams, who did a PCC "January 00 Sinclair, Phoenix" on  
9 August 24, 2005, four minutes later at 11:09 p.m.

10 Do you recall whether you would have had any  
11 communications with Mr. Williams that day?

12 A I don't recall, no.

13 Q Is it possible that you did?

14 A I, I can't remember. It's, it's unlikely that I  
15 would have, but I, I can't recall for sure.

16 Q The information on CFSIS would have shown that  
17 Mr. Williams was the worker for Phoenix when she was  
18 apprehended in 2003, so if you had seen that would that  
19 have prompted you to phone Mr. Williams?

20 A Likely not at that point, no, but I don't know  
21 for sure.

22 Q Okay. As we're going to see, and as we can see  
23 from the screen there were other workers in the system who  
24 performed searches relating to Phoenix Sinclair on the same  
25 day, August 24, 2005. Deanna Shaw, Marie Chammartin and

1 Nicole Lussier. Did you know any of those individuals?

2 A Yes.

3 Q Did you have any discussions with any of those  
4 individuals on August 24, 2005 about Phoenix Sinclair, or  
5 the searches you were doing?

6 A Not that I recall, no.

7 Q Would it have been something that you might have  
8 done to pick up the phone and call another worker?

9 A No, not, not generally. There doesn't appear to  
10 be a reason that I would have done that.

11 Q You told us you would get calls as a CRU worker  
12 for all kinds of reasons, including people looking for  
13 resources, so for instance -- and, and we've heard evidence  
14 to that effect in this Commission that people would call  
15 asking about swimming lessons or parenting programs, that  
16 sort of thing. If a caller phoned you with that kind of  
17 information would you run a search if they also gave you  
18 the name of someone. They said, I'm the parent of Jane  
19 Doe, and I'd like to know where I can get her into swimming  
20 lessons. Would you run a search of Jane Doe?

21 A Well, if somebody identified that they were going  
22 for -- looking for swimming lessons I probably would tell  
23 them they have the wrong number and not run a search. If  
24 somebody was calling looking for parenting classes or  
25 looking for something related to family issues I likely

1 would run a search because that again is part of your  
2 assessment.

3 Q So you wouldn't do a search for every kind of  
4 call, but you would do a search if you were trying -- if  
5 there was something about the call that prompted you to  
6 query whether there were child protection concerns?

7 A That's correct, yeah.

8 Q And so there must have been something about the  
9 call that you received on August 24, 2005 that prompted you  
10 at least to wonder whether the call related to child  
11 protection concerns?

12 A Yes, I would imagine.

13 Q As a CRU worker did you receive any training on  
14 assessing the validity of a call, or the sincerity of a  
15 call?

16 A Not specific probably to assessing phone calls,  
17 but we do receive training when we begin with child welfare  
18 core module training that is based on risk assessment and  
19 safety assessments, family assessments, so you do receive  
20 assessment training, not that I recall specific to phone  
21 calls though.

22 Q The evidence of the witness who testified  
23 yesterday said that none of the people that she spoke to at  
24 CFS agencies asked her any questions. You have no specific  
25 recollection of a call on August 24, 2005?

1 A No.

2 Q And no notes?

3 A No.

4 Q All you can say is that you did five searches of  
5 Phoenix Sinclair's name on August 24, 2005?

6 A Yes.

7 MS. WALSH: Thank you. Those are my questions.

8 THE COMMISSIONER: Mr. Gindin?

9 MR. GINDIN: Good morning. Just trying to do  
10 something about the hearing.

11 MR. RAY: It's down the hallway.

12 THE COMMISSIONER: Is the hearing not coming  
13 through?

14 MR. RAY: There, there appears to be some sort of  
15 music or something coming up, it's kind of interfering with  
16 counsel's ability to hear, so we're just seeing if we can  
17 do something by closing the door.

18 THE COMMISSIONER: Someone's looking into that;  
19 are they?

20 MR. RAY: I think so.

21 THE COMMISSIONER: Well, if it becomes a problem  
22 let me know.

23 MR. RAY: Thank you.

24

25

1 CROSS-EXAMINATION BY MR. GINDIN:

2 Q Good morning, Ms. Strobbe. My name is Jeff  
3 Gindin. I appear for Kim Edwards and Steve Sinclair. I  
4 just have a few questions for you.

5 You talked about your involvement with CFSIS, as  
6 well as the intake module. Are there differences?

7 Q They have the same database. The intake module  
8 is used to create intakes and CFSIS is used to -- I'm, I'm  
9 not actually -- there is a difference on the system, I'm  
10 not exactly sure what the difference is, but they all -- if  
11 you run a name they turn up the same results.

12 Q The intake module is something that came in a  
13 little bit later, is that correct, in your --

14 A That's correct.

15 Q When a call would come in, and I appreciate that  
16 you don't recall what these calls were about, whatever they  
17 were it prompted you to do a number of searches; right, we  
18 know that? Do you make notes of any kind as a call comes  
19 in?

20 A As a call comes in I, I would have my own notes,  
21 yes, that I would write on and keep my information on.

22 Q And that would be the name of the person being  
23 called about, or things of that nature?

24 A Yeah, the concerns reported.

25 Q And these are handwritten notes?

1 A That's correct.

2 Q And where would those notes be now?

3 A Those notes would have been shredded at CRU.

4 Q And when do they get shredded?

5 A I personally kept my notes for a period of time  
6 to reflect back on, and when I left CRU I would shred my  
7 notes, that's how I did that.

8 Q Are we talking about a few months until they're  
9 shredded or longer?

10 A It could be a few months, yes. I, I generally  
11 would keep them my entire time at CRU, so I would have them  
12 in my desk.

13 Q And how long were you at CRU?

14 A I believe at that point it was for a year and a  
15 half, almost two years.

16 Q Those notes that we're talking about, if we had  
17 them now, they would give us information about the call  
18 that came in, or why you did the search, for example?

19 A Most likely, yes.

20 Q And shredding these notes is this something that  
21 you were instructed to do, is this a policy of some kind?

22 A It was just practice at that time.

23 Q Um-hum.

24 A There was no file to keep the notes in at that  
25 point if you weren't opening anything, and you were

1 imputing -- if you were you were imputing your notes within  
2 24 hours so at that point we were not keeping notes.

3 Q Notes could be kept in places other than a file?

4 A Yeah.

5 Q So without those notes you really can't tell us  
6 what lead you to do these searches, or what information you  
7 were given or requested; right?

8 A That's correct.

9 Q In terms of the results of the searches once you  
10 conducted them are there notes of what it is you found?

11 A I would -- would I make my own notes?

12 Q Yes.

13 A At times I would, but at times I would just  
14 review that on the system as well.

15 Q Okay. And, again, if you made your own notes of  
16 the searches that you conducted, and what you found, we  
17 don't have those anymore either?

18 A No.

19 Q Now, you were asked about Stan Williams, and our  
20 information is that he was the social worker several years  
21 earlier, and wasn't involved after that period of time, in  
22 '03, yet it shows him doing a search four minutes after you  
23 did one. That could be because you for some reason decided  
24 to let him know about the search you made, based on the  
25 search that you did and perhaps discovered his name; is

1 that reasonably possible?

2 A Is it -- that I would advise Stan of that?

3 Q Yeah.

4 A With the information that I have now it would not  
5 be part of my practice. I cannot say a hundred percent  
6 because I don't remember, but generally that would not be  
7 something that I would do at that point.

8 Q So if you did a search and saw that he was one of  
9 the social workers involved you're saying it wouldn't be  
10 your practice to contact him?

11 A Generally speaking no.

12 Q Did you receive any training with respect to  
13 standards, or anything like that?

14 A At this time I'm not sure if I had received  
15 standards training yet, but I have since.

16 MR. GINDIN: Thank you.

17 THE COMMISSIONER: Thank you, Mr. Gindin. Mr.  
18 Paul?

19

20 CROSS-EXAMINATION BY MR. PAUL:

21 Q Good morning, Ms. Strobbe. My name is Sacha  
22 Paul. I am one of the lawyers for Winnipeg CFS and for the  
23 department, and my questions are going to be sort of  
24 general in nature, if I, if I can put it that way.

25 Again in this particular time of 2005 you are a,



1 a CRU worker, and one of the jobs of course is to, to  
2 answer phones; correct?

3 A Correct.

4 Q Correct. And in terms of practically how you're  
5 doing it one of the things that you're doing is you're  
6 going onto the computer system and entering names onto the  
7 system to find people from time to time?

8 A That's correct.

9 Q And my understanding is that there were two types  
10 of searches that could be done on the computer system. One  
11 being a prior contact check; is that correct?

12 A Yes.

13 Q And the other one being a search person?

14 A Yeah. I'm, I'm not a hundred percent educated on  
15 what the difference of the terms are, but, yes, there's --

16 Q Okay.

17 A -- different ways of running somebody.

18 Q My understanding, and maybe this will jog your  
19 memory, or maybe it won't, but my understanding is that a  
20 prior contact check is meant to be sort of a broader  
21 search, whereas a search for a person is meant to be a more  
22 particular search; do you have that same understanding or  
23 do you know either way?

24 A That sounds correct.

25 Q Okay. And in terms of your general practice here

1 in 2005 again this would be -- in August of 2005, if I can  
2 put it this way, it would be a couple of months into when  
3 the intake module was rolled out at CRU. Sorry, I think it  
4 came in in May, 2005, and now we're in August.

5 A When I -- yeah, and when I started in May I was  
6 using the IM so --

7 Q Right. So the intake module --

8 A -- I believe it started just before then.

9 Q Okay. And my understanding of the intake module  
10 is that what it was really meant to do is to track -- I'm  
11 not sure what the best way to describe this as, but new  
12 referrals coming into the system, no incidences that  
13 require some level of followup; is that correct?

14 A That's correct.

15 Q Right. And the reason you'd open a file on the  
16 intake module is because you were satisfied that there was  
17 some child protection concern that required some level of  
18 investigation?

19 A Yes, that's correct.

20 Q Right.

21 A We would open an intake.

22 Q Right. And that's, that's the term "open an  
23 Intake" on the intake module?

24 A Yes.

25 Q And where you do not open an intake on a

1 particular file it's because you were of the view that  
2 there was no child protection concerns?

3 A That's correct.

4 Q Right. And my understanding of the evidence here  
5 is that there's no intake opened in August of 2005; is that  
6 your --

7 A Yes.

8 Q -- understanding as well?

9 A Yes, it is.

10 MR. PAUL: Okay. If I could just have one  
11 moment, Mr. Commissioner.

12 THE COMMISSIONER: Yes. Take your time, take  
13 your time.

14 MR. PAUL: I think I'm done, but I just want to  
15 be sure.

16 Mr. Commissioner, those are my questions. I hope  
17 it brought some clarity.

18 THE COMMISSIONER: Thank you, Mr. Paul.

19 MR. PAUL: Thank you.

20 THE COMMISSIONER: Mr. Saxberg?

21 MR. SAXBERG: Good morning, Mr. Commissioner.  
22 Thank you.

23

24 CROSS-EXAMINATION BY MR. SAXBERG:

25 Q Good morning, Ms. Strobbe. My name is Kris

1 Saxberg, and I act for ANCR.

2 Now, in 2005 you were working in CRU; correct?

3 A That's correct.

4 Q And three days you'd be on telephones, and three  
5 days you'd be doing fields?

6 A That's correct, yeah.

7 Q So when, when you would have done these searches  
8 it's likely you were on the phones?

9 A Yes.

10 Q And your job, when you're on phones, is to take  
11 calls that come through the reception to you in order to  
12 receive information; correct?

13 A That's correct.

14 Q Receive information related to child protection  
15 matters?

16 A Yes.

17 Q And then to document that information, open a  
18 file, and assess it, and, and then eventually to make a  
19 recommendation as to what's to be done next, whether it's  
20 to go to Intake or further field work by the other unit;  
21 correct?

22 A That's correct.

23 Q Now, if someone -- if a call comes through  
24 reception and someone is calling not to give information,  
25 but to seek it, to seek information from you what are the

1 policies and procedures that you were to follow in that  
2 circumstance?

3 A Well, under the Act I can't share any  
4 information, so that's basically what I would be telling  
5 that person is that we can't share that information. I  
6 would ask them if they had any concerns in regards to that  
7 situation that they needed to report.

8 Q Right. And so your, your instructions from your  
9 supervisor, from, from those above you at, at CFS, would be  
10 to not give information out if someone's calling you merely  
11 to seek information; correct?

12 A Correct.

13 THE COMMISSIONER: Who was your supervisor at  
14 that time?

15 THE WITNESS: You know, I, I actually don't  
16 recall who was supervising me at that time.

17 THE COMMISSIONER: Thank you.

18

19 BY MR. SAXBERG:

20 Q And we had heard evidence from SOR number 10  
21 yesterday that she had called seeking information about the  
22 whereabouts of Phoenix Sinclair, and would that then  
23 constitute a situation where you would be precluded from  
24 providing that information?

25 A I would not provide that information, correct.

1 Q And, and then you would -- you certainly wouldn't  
2 refer that file to any other social worker either; would  
3 you?

4 A No.

5 THE COMMISSIONER: Was there some rule that you  
6 would share it if the person identified as a blood  
7 relative?

8 THE WITNESS: No, it makes -- no.

9

10 BY MR. SAXBERG:

11 Q And if you had been given -- based on your usual  
12 practice at the time if you had been given any information  
13 to indicate that there was a possibility of a child missing  
14 what would you do?

15 A Well, if a child was missing I obviously would be  
16 following up further. Contacting the police, that may  
17 warrant -- that likely would warrant opening an intake to  
18 do further followup. It would be gathering more  
19 information.

20 MR. SAXBERG: Okay. Those are my questions.

21 THE COMMISSIONER: Thank you, Mr. Saxberg. Mr.  
22 Khan, no?

23 All right. I guess -- Mr. Ray.

24 MR. RAY: Yes, Mr. Commissioner. Trevor Ray for  
25 the record.

1 CROSS-EXAMINATION BY MR. RAY:

2 Q Just one question, Ms. Strobbe. You, you were  
3 asked a question about if you knew Stan Williams was the  
4 worker in 2003, given the information that you were  
5 presented with, would you call him, and you stated "likely  
6 not". Can you just explain to us why you would not in  
7 those circumstances call Stan Williams.

8 A Just to kind of -- again this is speculating, but  
9 if I did not open an Intake that obviously meant that I  
10 didn't have reason to believe there were child protection  
11 concerns. The only reason I would call a previous worker  
12 are in situations where it may be an emergency, or a crisis  
13 was provided to me and I needed to complete a fast  
14 assessment, and thought that that previous worker may be  
15 able to give me more information than what I had found on  
16 the system, or provide me with some more information that  
17 may be able to assist me at that point. That would be the  
18 only reason that I would see me calling a previous worker.

19 Q And in a situation if you felt that a new file  
20 was to be opened, given a presenting problem, and if Stan  
21 Williams had been a previous Family Services worker at some  
22 point in time, would that file necessarily go to Mr.  
23 Williams to your knowledge?

24 A No.

25 MR. RAY: No. Thank you. That's all my

1 questions. Thank you.

2 THE COMMISSIONER: Thank you. Ms. Walsh?

3

4 RE-EXAMINATION BY MS. WALSH:

5 Q Ms. Strobbe, you said you couldn't remember the  
6 name of your supervisor. Do you know whether your  
7 supervisor was aware that you were shredding your notes?

8 A I would imagine that they would have been, yes.  
9 It, it was practice not to keep your notes, so the only  
10 option would be to shred them, so I would imagine they  
11 would know that.

12 Q Do you know whether your supervisor ever did any  
13 searches to see what CFSIS searches had been done on a  
14 given day by the workers in their unit?

15 A If, if they themselves checked to see -- I don't  
16 know if that was part of their supervisory role, I'm not  
17 sure.

18 Q Did your supervisor ever talk to you about  
19 searches that you had run?

20 A If it was -- not, not specifically that I recall,  
21 no.

22 Q Okay. Now, the exhibit 23 that we looked at  
23 showed that you ran a number of searches relating to  
24 Phoenix Sinclair --

25 A Um-hum.



1 Q -- starting at 11:05 in the morning and the last  
2 one at 3:31 p.m., so does the fact that you ran searches at  
3 various times, more than one search at various times during  
4 the day, does that tell you that you might have had some  
5 concerns about Phoenix Sinclair?

6 A It doesn't necessarily mean that. I, again, can  
7 only guess as to why I ran searches. If I had received  
8 information possibly at 11:05 I'd obviously run a search  
9 then. At the end of the day the times look close to me, so  
10 I know again indicating that if I am running a name very  
11 fast, or if I'm looking for different matches, the practice  
12 still can be for me to run numerous -- run at numerous  
13 times in a short period of time. It's kind of just habit  
14 to do it that way.

15 Q What about the gap between the, the first search  
16 at 11:05 and then the next search after three, does that  
17 tell you that you had more than one call, or that you were  
18 still thinking about the call you'd received?

19 A I don't know, I don't remember.

20 Q If, if you had referred the matter to -- opened  
21 it to Intake, if you had written up a, a report, then more  
22 work could have been done to investigate whether there were  
23 child protection concerns; right?

24 A Yes, but in order for me to open an intake I need  
25 to be presented with concerns that would warrant a child

1 protection investigation.

2 Q And that's, that's your own judgment call?

3 A That's my assessment at the time, that's part of  
4 the screening of CRU.

5 Q And Mr. Saxberg asked you about documenting, he  
6 said that you would have documented information, but you  
7 didn't write up a, a report of any sort?

8 A In this case --

9 Q In this case.

10 A -- no, I did not.

11 Q No. And you told the, the Commission that you  
12 can't share information with someone, but that doesn't mean  
13 that you can't take the information you've received, or a  
14 determination you've made as part of a phone call, and go  
15 on to, to do a child protection investigation?

16 A I would take the information that I received, and  
17 if I felt that that in itself warranted a child protection  
18 investigation, because there were allegations of abuse or  
19 neglect, or something that screened in that warranted  
20 further follow-up then I would open something, and I would  
21 take that information.

22 MS. WALSH: Thank you.

23 THE WITNESS: Yeah.

24 THE COMMISSIONER: Thank you, Ms. Walsh. All  
25 right, witness, thank you, you're completed.

1 (WITNESS EXCUSED)

2

3 MS. WALSH: The next witness will be Marie  
4 Chammartin, please.

5 THE CLERK: Do you wish to swear on the Bible or  
6 affirm without the Bible?

7 THE WITNESS: It doesn't matter.

8 THE CLERK: The Bible?

9 THE WITNESS: The Bible.

10 THE CLERK: Okay. State your full name for the  
11 court.

12 THE WITNESS: Marie Chammartin.

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

14 THE WITNESS: M-A-R-I-E.

15 THE CLERK: And your last name, please.

16 THE WITNESS: C-H-A-double M-A-R-T-I-N.

17 THE CLERK: Sorry, C-H-A ...

18 THE WITNESS: Double M --

19 THE CLERK: Double M --.

20 THE WITNESS: -- A-R-T-I-N.

21

22 **MARIE CHAMMARTIN**, sworn, testified

23 as follows:

24

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

1 DIRECT EXAMINATION BY MS. WALSH:

2 Q Ms. Chammartin --

3 A Yes.

4 Q -- you were employed as the front desk  
5 administrative staff person at the Joint Intake Response  
6 Unit in 2005?

7 A That's correct.

8 Q What exactly was the Joint Intake Response Unit?

9 A Well, the Joint Intake Response Unit was a unit  
10 that had six people, three people on the phones and three  
11 people on -- sorry, six people on the phones and six people  
12 as backup.

13 Q Was that located at 835 Portage Avenue?

14 A That's correct.

15 Q The Joint Intake Response Unit included what  
16 we've called CRU?

17 A That's correct.

18 Q And it ultimately became what we call ANCR?

19 A Well, ANCR was JIRU when we first started in  
20 2005, and then it became --

21 Q Right.

22 A -- ANCR, yes.

23 Q Yes, that's what I meant. That the --

24 A Um-hum.

25 Q -- Joint Intake Response Unit became ANCR?

1 A That's right.

2 Q Okay. And what did your position involve?

3 A I was an administrative role as receptionist  
4 switchboard operator.

5 Q Okay. So what, what did your job duties involve?

6 A Well, I would receive calls and first assess if  
7 they were regarding child welfare, and if they were get the  
8 information as to the particular child that they were  
9 calling in regards to, and make a prior contact check to  
10 see if there was an assigned worker, or if it was a new  
11 referral, and, and then re-direct the call to the  
12 appropriate department, or the appropriate person.

13 Q Would you be -- when you said you would screen  
14 the call to see if it was a child welfare matter, so would  
15 you sometimes open it to, or refer it to, a CRU worker to  
16 open a file?

17 A Well, what I meant by that is that sometimes we'd  
18 get calls which are not child welfare related, so you'd get  
19 calls from people that are looking for welfare, EIA, or,  
20 you know, the different -- abuse of elderly people, or  
21 calls that are not relating to child welfare.

22 Q If you got a call that was not related to child  
23 welfare would you do -- and you still had a name of someone  
24 would you a, a prior contact check?

25 A Not if it's not regarding child welfare. That

1 call would just be redirected to the proper channels.

2 Q You're not a social worker?

3 A I am not a social worker.

4 Q So what would be the first thing that you would  
5 do when you received a call?

6 A So, again, if it concerns child welfare matters  
7 then I would get the name of the child that the caller is  
8 calling in regards to, and again do a prior contact check  
9 to see if the file is open, or if it's a new referral, and  
10 you would also try to get the mother's name, if possible,  
11 if they had that information.

12 Q Would you also look to see the history if the  
13 file were not opened?

14 A It shows up on your screen if the file is not  
15 opened, yes. That's, that's part of opening up the prior  
16 contact check.

17 Q Right. So even if a file's not open if, if the  
18 individual has a history with CFS that would be something  
19 you could see when you did the prior contact check?

20 A Yes, certainly.

21 Q Did you ever give your name to a caller?

22 A The only time that I would give my name, which  
23 would be my first name, was if a caller would ask for my,  
24 my name.

25 Q Would you ever randomly search, do a PCC on

1 someone?

2 A No, I have no reason at all to, to do that.

3 Q So you would do a search in response to --

4 A A call.

5 Q -- a call? Okay. Did you take notes of the  
6 calls you received?

7 A There are no notes taken. What I do is I write  
8 down on a piece of paper the child's name, the mother's  
9 name, the age, birthday, the closest thing to a note, if  
10 you want to call it that, it could be a message. If the  
11 call could not get through to the CRU where I would take a  
12 message and then just write a small overview of, you know,  
13 just of the presenting problem.

14 Q The pieces of paper did you keep those pieces of  
15 paper?

16 A The, the people's names and ages are shredded,  
17 right. There's -- you would not know the reason that  
18 people were calling, like there would be no information  
19 except the person's name and age.

20 Q In August of 2005 do you recall who your  
21 supervisor was?

22 A I believe -- there, there were some changes at  
23 that time, but I'm pretty certain that it was Faye Jashym.

24 THE COMMISSIONER: Who?

25 THE WITNESS: Faye is F-A-Y-E, and then Jashym is

1 J-A-S-H-Y-M.

2 THE COMMISSIONER: J-A-S-H-Y-M?

3 THE WITNESS: Yes.

4

5 BY MS. WALSH:

6 Q Do you know whether Ms. Jashym was aware of the  
7 fact that you were shredding these pieces of paper that had  
8 information on them?

9 A Yes.

10 Q She was aware?

11 A She would have known that, yes.

12 Q So part of your job was to receive telephone  
13 calls from members of the community?

14 A That's correct.

15 Q Would that be the majority of the calls, would  
16 be --

17 A No, we get, we get police calls, we get  
18 hospitals, schools, the public, various -- yeah. Yes, yes.

19 Q So on the screen in front of you is exhibit 23.  
20 These are printouts of what I'm advised are called search  
21 audit queries for the name Phoenix Sinclair, and this  
22 document shows when someone conducted a search on CFSIS for  
23 a particular individual. If we could have page 1 on the  
24 screen, please.

25 Now, you see there's a, there's a number of names



1 that have been blacked out, and your name is right where  
2 the hand on the screen is, on the left-hand side; is that  
3 your name?

4 A Yes.

5 Q Okay. And opposite that it says "01 January, 00  
6 Sinclair, Phonix" spelt P-H-O-N-I-X, and the date of that  
7 search is August 24, 2005, and the time appears to be 2:50,  
8 or is that 2:58?

9 A You know, it's really hard to read the exact  
10 time. I ...

11 Q It's one of those two?

12 A It's one of those, yes.

13 Q Okay. Then if you go down two more lines your  
14 name appears again. The search is "January 00 Sinclair,  
15 Phoenix" spelt P-H-O-E-N-I-X. Again on August 24, 2005 at  
16 2:56 p.m.

17 A That's correct.

18 Q Now, these are searches that you performed  
19 relating to Phoenix Sinclair on August 24, 2005?

20 A That's correct.

21 Q Do you know why you would have put "January 00"?

22 A I would assume that the caller just gave me her  
23 age, so I would have put in the child's age and then it  
24 would show up as ...

25 Q You mean rather than a specific birth date?

1 A That's correct.

2 Q Do you have any recollection of performing these  
3 searches?

4 A No, I'm sorry, I do not.

5 Q You told us that you wouldn't do a search on a  
6 random basis, so is it fair to assume that you did these  
7 searches in response to receiving a phone call?

8 A That's correct.

9 Q About Phoenix Sinclair?

10 A That's correct.

11 Q We -- you have no recollection, I would assume,  
12 as to what the results of these searches would be?

13 A Definitely not.

14 Q Or were?

15 A No.

16 Q We know that in August of 2005 Phoenix Sinclair  
17 was in the CFSIS system having been apprehended, and having  
18 -- she had a child in care file that was opened in 2000 and  
19 2003, and her parents had intakes associated with her, and  
20 protection files where activity was recorded every year of  
21 her life from 2000 to 2005. That information you  
22 understand would have shown up when you typed in Phoenix  
23 Sinclair's name?

24 A That's correct.

25 Q And so you would have seen that information?

1 A Yes.

2 Q Did you know Stan Williams?

3 A I knew him, I, I knew him to have seen him a few  
4 times, I didn't know -- I don't -- I didn't really know him  
5 though.

6 Q If you opened -- if you did a, a CFSIS search and  
7 saw that there had been a particular worker involved with a  
8 child, who was the subject of the search, would you ever  
9 contact that worker?

10 A If it was a closed file, no.

11 Q Do you have any recollection of having had any  
12 communications with Mr. Williams regarding Phoenix  
13 Sinclair?

14 A No, I do not.

15 Q If you had made a call to Mr. Williams, for  
16 instance, would you have made notes of that call?

17 A No, I would not, no.

18 Q Other individuals whose names show up as having  
19 done CFSIS searches on the same day that you did, with  
20 respect to Phoenix Sinclair, are again Deanna Shaw, Nicole  
21 Lussier and Jennifer Strobbe. Do you know those  
22 individuals?

23 A I do.

24 Q You worked with some of them?

25 A I worked at one time with, with all of those

1 workers, yes.

2 Q Okay. Do you recall whether you had any  
3 discussions with any of those workers about Phoenix  
4 Sinclair?

5 A No, I did not.

6 Q You have no recollection, or you know you didn't  
7 have --

8 A You know, I don't -- no. Like I don't remember  
9 anything about the case that mattered, no, no, and I don't  
10 remember having discussed with anyone.

11 Q Now, you said that you would not have done a  
12 random search?

13 A That's correct.

14 Q And that something would have prompted you to do  
15 the search, likely a, a call that you received?

16 A That's correct.

17 Q I think you've been sitting here this morning,  
18 but I'm going to go through this anyway.

19 A Oh, no, that's fine.

20 Q Thank you. We heard evidence yesterday from a  
21 witness who said that she made a number of calls to various  
22 CFS agencies in the province. She made the calls all on  
23 the same day in August of 2005. Her evidence was that she  
24 told the CFS workers who answered the calls Phoenix's full  
25 name, Phoenix Victoria Hope Sinclair, her date of birth,

1 that she was the girl's aunt, that she was looking for the  
2 girl, that it had been many months since she had seen the  
3 child, that she wanted to talk to the social worker who  
4 dealt with Phoenix to get an assurance that Phoenix was  
5 okay. She couldn't remember whether she actually used the  
6 word "concerns".

7 Do you recall receiving such a call?

8 A I do not.

9 Q And given that it's seven and a half years ago  
10 that's not surprising. You would have in a given day  
11 received how many calls in 2005?

12 A I remember one -- or for a few days anyway  
13 recording the volume of calls going just through to CRU,  
14 that's not just through the switchboard for various  
15 departments that also are at ANCR, and when recording those  
16 calls I remember that there was a volume of 250 calls, and  
17 that would have just been for CRU, so, yes, there was a  
18 very high volume of calls coming in.

19 Q And without notes documenting the contents of a  
20 call you wouldn't be able to remember a specific call?

21 A No.

22 THE COMMISSIONER: If you looked up Phoenix's  
23 name, and found a closed file, would that make any  
24 differences to what you would do if indeed you found there  
25 was an open file in her name?

1           THE WITNESS:  If there was an open file the call  
2 would have been transferred to that assigned worker.  If it  
3 is a closed file the call is referred to the Crisis  
4 Response Unit.

5

6 BY MS. WALSH:

7           Q       So under what circumstances would you refer a  
8 call on to the Crisis Response Unit?

9           A       If it's a child welfare nature, for one, and if I  
10 did a prior contact check on the child, and there was  
11 nothing opened, no assigned worker, then the call would go  
12 to the Crisis Response Unit.

13          Q       It would?

14          A       If it was a closed file or, no, it was a new  
15 referral, and it regarded child welfare, then the call  
16 would be transferred to the Crisis Response Unit.

17          Q       Are you able to tell whether that happened in  
18 this case, whether you referred the call on to a CRU  
19 worker?

20          A       I'm afraid I can't.  I have absolutely no  
21 recollection of doing these prior contact checks, of a call  
22 coming in regarding Phoenix.

23          Q       The fact that other workers did searches that day  
24 that doesn't help you in determining whether you referred  
25 the call on to a CRU worker?

1           A        I guess that if there was a prior contact check  
2 done by a CRU worker not long after I put a call through  
3 chances are that it would have been a call through to, but  
4 then also if the lines are busy for the Crisis Response  
5 Unit it's possible that a message is taken, and then the  
6 prior contact check would be done later when the call is  
7 returned.

8           Q        But the message would be given to a CRU worker?

9           A        That's correct.

10          Q        And you weren't a social worker?

11          A        That's correct.

12          Q        So in terms of determining whether a matter was a  
13 child welfare matter --

14          A        Um-hum.

15          Q        -- was that something you were able to determine  
16 on your own?

17          A        Yes. You know, it's, it's -- the part that I  
18 played, my role, is, is really not defining as much if it's  
19 child protection, or, you know, it's, it's more -- again if  
20 somebody's calling looking for financial assistance through  
21 EIA or as you said previously swimming lessons, or  
22 something along that line.

23          Q        Those kinds of things you know -- you're able to  
24 say those are not child welfare matters?

25          A        And I can redirect them to the proper

1 departments, that's correct.

2 Q But in this case where the evidence of the  
3 witness was that she was the aunt, and had not seen Phoenix  
4 for many months, and was calling in to Child and Family  
5 Services for that reason, and then you did a prior contact  
6 check which showed a lengthy history for the child, would  
7 you consider that to be a child welfare matter?

8 A Yes, I would. It was concerning a child.

9 Q So that would be the kind of call that would  
10 prompt you to refer it to a CRU worker?

11 A That's correct. If there was no open case then  
12 it would be.

13 Q And if there was an open case you would refer it  
14 to the worker who was assigned?

15 A Assigned worker, that's correct.

16 Q It wasn't part of your duties to recommend  
17 whether or not a file should be opened?

18 A Definitely not.

19 Q You weren't able to give information out to a  
20 caller about a child?

21 A No, definitely not.

22 Q If we look at page 3 of exhibit 23 you see your  
23 name is there on the left-hand side again?

24 A Yes.

25 Q It shows a PCC, a prior contact check, 01



1 January, '82, Kematch, Samantha. Again on August 24, 2005  
2 at 2:57 p.m.

3 So that shows us that in addition to searching  
4 Phoenix Sinclair's name you were searching Samantha  
5 Kematch's name?

6 A That's correct.

7 Q And you have no way of recalling what, if  
8 anything, you did after doing these searches?

9 A No, I can just again surmise that if there were  
10 child welfare concerns, and it was a closed file, then it  
11 would have been -- the call would have been transferred to  
12 the Crisis Response Unit.

13 Q And you can certainly say that on August 24, 2005  
14 you conducted two searches for Phoenix Sinclair and one for  
15 Samantha Kematch?

16 A That's what the records show, yes.

17 MS. WALSH: Thank you. Those are my questions.

18 THE COMMISSIONER: Mr. Gindin, please.

19

20 CROSS-EXAMINATION BY MR. GINDIN:

21 Q Good morning. My name is Jeff Gindin. I appear  
22 for Kim Edwards and Steve Sinclair. I just have a few  
23 questions for you.

24 Firstly with respect to the notes that you kept,  
25 the handwritten notes with details on it, would they

1 include the presenting problem or the reason for the call?

2 A I assume that you're referring to a message that  
3 I would have taken --

4 Q Yes.

5 A -- for the Crisis Response Unit, and there would  
6 have been a brief overview of what I understood the caller  
7 was presenting the problem as --

8 Q Um-hum.

9 A -- and that would have -- yes, I would have  
10 written that down on the message.

11 Q And where, where might that message be now if it  
12 was in fact done?

13 A You know, I'm sorry, the message would have been  
14 given to the Crisis Response Unit.

15 Q Um-hum. I see. But the notes that you,  
16 yourself, keep of the information with respect to the call  
17 that you're receiving, whenever the call comes in to you,  
18 those are no longer available; correct?

19 A At the time in 2005 there was no copies of a  
20 message kept at reception. That has changed since then.  
21 There is a carbon copy that is kept, but at that time it  
22 was just one single sheet that was handed in to the CRU,  
23 and that's --

24 Q I'm not referring to what you may have handed in  
25 to them --

1 A Oh, my -- oh, sorry, sir.

2 Q -- but your own personal, your own personal notes  
3 that you make.

4 A Okay. Those were not -- well I guess that's  
5 where I was a little confused because all that I take is  
6 the names and the birth date, or the age of a child --

7 Q Um-hum.

8 A -- and those are put into a shredding box at the  
9 end of the day.

10 Q Okay. So whether or not those notes would  
11 disclose a precise birth date, that you were given or not,  
12 you can't recall?

13 A No.

14 Q Now, we see here from the information that  
15 there's a search done at 2:50, 2:56 and 2:57. Three  
16 searches that are done within about a seven minute period.  
17 Two of Phoenix and one of Samantha. Would that tell us  
18 that you likely got three calls, or can you say?

19 A I guess at first I, I guess -- like we weren't  
20 sure if that was 2:58 or 2:50, right, when we were looking  
21 at the --

22 Q Right.

23 A -- search previously. It would -- to me it would  
24 make more sense if it was 2:56, 2:57 and 2:58 where you  
25 would do a check on Phoenix and then I would have done a

1 check on, on Samantha, and then maybe the caller might have  
2 said, oh, I'm sure that there's a file open, or -- and then  
3 perhaps that would have been the reason why I would have  
4 re-entered Phoenix's name.

5 Q Um-hum.

6 A I'm just guessing, sir, I'm sorry.

7 Q Obviously something provoked you to do a search?

8 A That's correct.

9 Q If someone is simply calling to ask you  
10 information about somebody you wouldn't really do a search  
11 typically?

12 A I'm sorry, let me just repeat what I think that  
13 you said to me. If somebody was just calling for  
14 information on someone?

15 Q Yes.

16 A I would again do a prior contact check, and see  
17 if there was an assigned worker, and if there was I would  
18 transfer that call again -- I'm sorry to repeat myself, to  
19 the worker and if not if they had concerns about a child  
20 then I would put again the call through to the Crisis  
21 Response Unit.

22 Q So one of the reasons that you might do a search  
23 is that some concerns were expressed to you?

24 A That's correct.

25 Q And you can't help us in any way with respect to

1 the reason for the calls you got, how many calls you may  
2 have got, none of that you're able to help us with; right?

3 A Are you referring, sir, on this particular  
4 matter?

5 Q Yes, on this particular day.

6 A No, I have no recollection at all, at all about  
7 the calls that would have come in on Phoenix. I'm sorry,  
8 no.

9 Q It's possible, for example, that you might have  
10 gotten a call, the person could have asked you your name  
11 because they wanted to call back, or needed to call back,  
12 and you would have given the name, and they would have  
13 called you back again; that could have been the case?

14 A It could have. I'm looking at the times that  
15 elapsed in between these searches. I would think that it  
16 was probably one search that I was doing on the family by  
17 the times that show up on, on my computer screen here.  
18 Again, sir, I'm just guessing.

19 Q So if your search revealed that there was no open  
20 file --

21 A Um-hum.

22 Q -- what would you likely do?

23 A If there was no open file --

24 Q Um-hum.

25 A -- the call always goes to the Crisis Response

1 Unit if someone has child welfare concerns.

2 Q And if your information revealed that there was a  
3 closed file you would likely refer it again to CRU?

4 A That's correct. The call does not go to the  
5 previous worker, it goes to the Crisis Response Unit.

6 Q And you really can't tell us so that's what you  
7 did?

8 A No.

9 MR. GINDIN: Thank you.

10 THE COMMISSIONER: Mr. Paul.

11 MR. PAUL: Thank you, Mr. Commissioner.

12

13 CROSS-EXAMINATION BY MR. PAUL:

14 Q You know my name I'm sure.

15 A Yes.

16 Q Sacha Paul for Winnipeg CFS and the department,  
17 and as I'm hearing the evidence I'm trying to understand  
18 the structure of how -- intake work at this time. If I can  
19 put it this way again. You're an administrative support  
20 staff person?

21 A That's correct.

22 Q And one of your jobs is to receive calls coming  
23 into the agency?

24 A That's correct.

25 Q And is it fair to say that that job includes say

1 if someone's calling for the executive director, your job  
2 is to then to refer that on to the executive director --

3 A Yes.

4 Q -- or is it simply directed to child protection  
5 concerns, if I can put it that way?

6 A No, we have various departments at ANCR.

7 Q Okay.

8 A So you have from Human Resources, to Intake, to  
9 payroll, accounting, yes.

10 Q So, so you're working all sorts of phones and all  
11 sorts of calls?

12 A For all the departments in, in the building, yes.

13 Q In 835 Portage?

14 A That's correct.

15 Q Okay. So, again, the calls you can get could be  
16 as mundane as, could you put me through to the HR  
17 department, please?

18 A That's correct.

19 Q And, again -- so essentially your role is to, if  
20 I envision it, to route people to the right people?

21 A That's correct. That's a very good word.

22 Q Okay. And as part of that, if I can put it this  
23 way into our structure of Intake, you as the admin. support  
24 staff are at the very front line of the calls, and if there  
25 is some child protection concern underneath you are the CRU

1 people?

2 A That's correct.

3 Q Right. And as I gather it then if you are  
4 getting general calls of things that are clearly not child  
5 protection, like swimming lessons, you're able to deal with  
6 that then and there; right?

7 A That's correct.

8 Q But if you have any question whatsoever about a  
9 call being child protection you're sending it to CRU;  
10 right?

11 A That's correct.

12 Q And, again, this --

13 THE COMMISSIONER: Well, just let me ask this  
14 question. Do you send it there before you make your  
15 search?

16 THE WITNESS: No, sir. If they're calling on a  
17 particular child I do a prior contact check to see if it's  
18 an assigned case, if it's an open file already. It would  
19 only go to the Crisis Response Unit if there was no worker  
20 involved in the case.

21 THE COMMISSIONER: Yeah, yeah.

22 MR. PAUL: And I misspoke on that. I was --

23 THE COMMISSIONER: Yeah. I, I thought you were  
24 implying it was automatic over --

25 MR. PAUL: Yeah. No, no, I misspoke. I, I left



1 out details.

2

3 BY MR. PAUL:

4 Q As part of your routing function if you got a  
5 call that could have a child protection concern with it  
6 you're going to go onto the computer system to see where I  
7 should direct that call; correct?

8 A That's correct.

9 Q And if there is an open file you're going to send  
10 it to the open worker; right?

11 A That's correct.

12 Q And if there's a closed file then you'd send it  
13 to CRU?

14 A Again correct.

15 Q Okay. And then it would be fair to conclude that  
16 in this particular case, if indeed the print-out shows  
17 searches being done at 2:56, 2:57 and 2:58 that's most  
18 likely you handling one call at that time?

19 A That's what I would certainly think, yes.

20 THE COMMISSIONER: Why do you say that?

21 THE WITNESS: Pardon me, sir?

22 THE COMMISSIONER: Why do you say that?

23 THE WITNESS: Well because at the time, right --

24 THE COMMISSIONER: So you're ruling out three  
25 separate calls; are you?

1           THE WITNESS: I would think, sir, because at the  
2 time of the input into the computer, in the short span that  
3 that was, I'm just guessing that that would have been one  
4 call that I did first on Phoenix, then on to the mother,  
5 and then for whatever reason -- maybe the caller said, I'm  
6 sure that there's a file open, or whatever, I then again  
7 re-entered Phoenix's name. I can't be certain, sir,  
8 because I do not remember doing those inputs, I'm just  
9 guessing.

10           THE COMMISSIONER: I understand.

11           MR. PAUL: Mr. Commissioner, those are my  
12 questions.

13           THE COMMISSIONER: Thank you, Mr. Paul.

14           MR. PAUL: Thank you.

15           THE COMMISSIONER: Mr. Saxberg.

16           MR. SAXBERG: Thank you, Mr. Commissioner.

17

18           CROSS-EXAMINATION BY MR. SAXBERG:

19           Q     Good morning, Marie. My name is Kris Saxberg,  
20 and I act for ANCR. I just want to clarify one very small  
21 matter. You'd mentioned that Faye Jashym you believe was  
22 your supervisor?

23           A     I believe she was, sir. There was a transition  
24 of staff for a little -- you know, so I believe at that  
25 time that it was Faye.

M. CHAMMARTIN - CR-EX. (SAXBERG)

M. CHAMMARTIN - CR-EX. (RAY)

1 Q And the time that we're speaking of is August,  
2 2005?

3 A That's correct.

4 Q And my information is that Faye didn't start at  
5 JIRU until September 11, 2007.

6 A Oh, really. Obviously I was wrong. I'm sorry.  
7 It could have been Tracy -- I'm not sure because they had  
8 quite a change in staff at that time, so I'm not sure, sir,  
9 I'm sorry.

10 MR. SAXBERG: Okay, okay. Thank you. Those are  
11 all my questions.

12 THE COMMISSIONER: Mr. Ray.

13

14 CROSS-EXAMINATION BY MR. RAY:

15 Q Ms. Walsh asked you a question about -- or, or  
16 put to you some facts that we've heard in this hearing that  
17 Phoenix and -- or her family, her father, her mother, had a  
18 CFSIS history that would have shown up, and you indicated  
19 to us that you would have -- I think your evidence was you  
20 would have seen that when you did your, your prior contact  
21 search, or prior contact check.

22 As the administrative person would you go further  
23 into checking into the file and reviewing the, the CFSIS  
24 history, and doing all those things that a social worker  
25 would do, or would you simply just -- you would, you would

1 be aware of it, but then you'd pass it on to the social  
2 worker, which ...

3 A My only concern is if a file is open or not. I  
4 have no reason to go into case notes or any other  
5 additional information.

6 MR. RAY: Thank you. That was my only question.

7 THE COMMISSIONER: Ms. Walsh.

8 MS. WALSH: Just one area of clarification.

9

10 RE-EXAMINATION BY MS. WALSH:

11 Q As the, the person on the front line, or  
12 administrative desk, there were a number of options the way  
13 a call could come in. A call could come to you and you  
14 would do a search, and then pass it on to a CRU worker;  
15 that's, that's one thing that could happen if you answered  
16 a call?

17 A Yes.

18 Q Or you could answer a call and determine that  
19 this was something completely unrelated to child welfare,  
20 and you wouldn't do anything more with it?

21 A I would just redirect. As a rule we have a  
22 resource manual that tells us, you know, the numbers where  
23 a person could reach the department that they were looking  
24 for.

25 Q And could calls sometimes come in and not go

1 through you, be answered directly by a CRU worker?

2 A No, they do not. There's, there's three of us at  
3 reception and the calls come in on the main line, and then  
4 they're transferred to the CRU.

5 Q So when the CRU worker does a search it could be  
6 in response to a call that you have transferred to them?

7 A That's correct.

8 Q Or information that you've given them?

9 A That's correct.

10 Q Since in this case we see that you did three  
11 searches, two relating to Phoenix, one relating to her  
12 mother Samantha Kematch, is it fair to assume that you then  
13 transferred the matter to a CRU worker?

14 A It would be fair to assume that if the caller was  
15 calling in regard to child welfare concerns, and I saw on  
16 my screen that there was no open file then that would be  
17 the normal procedure would be to transfer that call to the  
18 Crisis Response Unit.

19 Q And in this case what we see is that you did your  
20 searches around 2:56, 2:57 and then searches were done by a  
21 CRU worker, Ms. Strobbe, at 3:21 -- sorry, 3:26, 3:29,  
22 3:31, so it could be that those searches were done because  
23 you transferred the call that you had received, or the  
24 information you'd received to Ms. Strobbe?

25 A That's a fair assumption, yes.

1 Q Since the calls come to you first why does your  
2 name not show up more frequently in these search audit  
3 queries?

4 A Let me try to understand here what you're saying  
5 to me. That my name only shows up three times as doing a  
6 prior contact check while as does various workers that have  
7 more -- like let's take Jennifer Strobbe has more times  
8 that she shows up as having done a prior contact check.  
9 Now she would have been doing work -- sorry.

10 Q No, go ahead.

11 A She would have been doing various searches for  
12 whatever she was working on at the time, that's -- or maybe  
13 also it could be that someone else, like another  
14 receptionist -- I'm trying to see what kind of -- like  
15 there are three receptionists so it's possible that another  
16 receptionist would have gotten the call, and transferred  
17 the call to, to CRU, I'm not too sure. I don't know, I --

18 THE COMMISSIONER: Did you, did you and Ms.  
19 Strobbe do the same kind of work, you, you had comparable  
20 positions?

21 THE WITNESS: No, we do not, sir. I am just an  
22 administrative role, while as Jennifer Strobbe is a social  
23 worker.

24 THE COMMISSIONER: Yes.

25 THE WITNESS: She was working with the Crisis

1 Response Unit.

2 THE COMMISSIONER: Yes.

3 THE WITNESS: Yes.

4

5 BY MS. WALSH:

6 Q And just -- counsel for the department has just  
7 asked me to clarify that the exhibit 23 that we have the  
8 screen shots from in front of you is only with respect to  
9 searches done relating to Samantha Kematch or, or Phoenix  
10 Sinclair, but there are a number of different workers who  
11 show having done searches --

12 A Um-hum.

13 Q -- and your name is not entered as frequently, or  
14 shown as frequently as, as all those workers.

15 A I have no explanation for that.

16 Q Did, did you do a PCC with respect to every call  
17 you received?

18 A Again the only time that I do a PCC is if it's  
19 child welfare concerns and then, yes, if they're calling  
20 about a particular child I will always do a prior contact  
21 check, unless the caller would say, can I speak to so and  
22 so. Then you just put the caller through to whoever  
23 they're asking to speak to.

24 Q Oh, that's, that's something interesting because  
25 we have heard witnesses testify that sometimes they would

1 call an agency and ask to speak to a specific worker, so  
2 that happened from time to time?

3 A Yes, it does. I mean sometimes, you know,  
4 another social worker or, or a client will have been given  
5 the name of a worker, and they'll, they'll phone for, for  
6 that particular worker.

7 Q And when that happens you transfer the call to  
8 the worker?

9 A To the worker that they're requesting to speak  
10 to, yes.

11 Q Or leave them a message if they're not around?

12 A Oh, yes, the caller would leave the message, yes.

13 Q So just finally as a, as a non-social worker you  
14 -- when you answer a call and you do a PCC, and you find  
15 that the person about whom the call is made has a history  
16 if the file is closed then you would refer the matter to a  
17 CRU worker?

18 A If the file is closed, or if it's a new referral,  
19 that call goes to the Crisis Response Unit, yes.

20 Q You said there was another receptionist working  
21 at the same time that you were working?

22 A That's correct.

23 Q Do you know -- and who was that?

24 A At that time I believe it was Harold Miller.

25 Q Do you know whether his practice was the same?



1           A        You know, from what I could tell, yes, we -- I  
2    mean we, we did the same line of work, right, and it is  
3    standard, if that's what you're referring to is if a file  
4    is opened it goes to the worker -- is that what you're  
5    referring to?

6           Q        Yes.

7           A        Yes, yes.

8           Q        So the screen in front of you shows second from  
9    the top the name Harold Miller, do you see that?

10          A        Yes, I do.

11          Q        And it shows a search of Samantha Kematch?

12          A        Yes.

13          Q        On August 24, 2005 at 10:54 p.m. -- a.m. -- a.m.  
14    or p.m.?

15          A        It would have to be a.m. Harold doesn't work  
16    night duties.

17          Q        Okay. And then we know that a CRU worker did a  
18    prior contact check at 11:05 a.m., so is it possible that  
19    Mr. Miller transferred the referral -- the call that  
20    resulted in his doing a prior contact check at 10:54 to a  
21    CRU worker?

22          A        Again that would be a fair assumption.

23                    MS. WALSH: Thank you very much.

24                    THE WITNESS: Thank you.

25                    THE COMMISSIONER: Thank you, Ms. Walsh. I'm

1 just going to ask other counsel. You, you raised a new  
2 matter or two there --

3 MS. WALSH: Yes.

4 THE COMMISSIONER: -- Mr. Miller in particular.  
5 Does anyone else want to ask anything?

6 All right. Thank you.

7

8 (WITNESS EXCUSED)

9

10 THE COMMISSIONER: Shall we take our mid-morning  
11 break then?

12 MS. WALSH: Yes, thank you.

13 THE COMMISSIONER: We'll adjourn for 15 minutes.

14

15 (BRIEF RECESS)

16

17 MS. WALSH: Can you swear the witness in, please,  
18 or affirm.

19 THE CLERK: It is your choice to swear on the  
20 Bible, or affirm without the Bible.

21 THE WITNESS: The Bible.

22 THE CLERK: The Bible. State your name for the  
23 court, please.

24 THE WITNESS: Deanna Nicole Shaw.

25 THE CLERK: Please spell your first name.

1 THE WITNESS: D-E-A-N-N-A.

2 THE CLERK: And your middle name.

3 THE WITNESS: Nicole N-I-C-O-L-E.

4 THE CLERK: And your last name.

5 THE WITNESS: Shaw S-H-A-W.

6

7 **DEANNA NICOLE SHAW,** sworn,

8 testified as follows:

9

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

11

12 CROSS-EXAMINATION BY MS. WALSH:

13 Q Ms. Shaw, do you go by the first name Deanna or  
14 Nicole?

15 A Deanna.

16 Q You were employed at Métis Child and Family  
17 Services as a family services worker in August of 2005?

18 A Yes, I was.

19 Q What did your employment involve?

20 A I was assigned a caseload of families and  
21 children at home or, or in care, and my job was to work  
22 with the family, and see they -- and hope that the children  
23 could be reunified at some point, and/or if the children  
24 were at home that they were safe, and that we could work on  
25 the issues why the case was open, and that they could stay

1 home.

2 THE COMMISSIONER: Just pull that little mike  
3 closer to you; will you, please.

4 THE WITNESS: Sure.

5 THE COMMISSIONER: Thank you, witness.

6 THE WITNESS: Okay. Thank you. Better?

7

8 BY MS. WALSH:

9 Q How would -- would you ever receive calls from  
10 the community?

11 A Not typically, no.

12 Q Sometimes?

13 A Not that I ever recall.

14 Q How would a matter be referred to your attention?

15 A I would be assigned a case from my supervisor,  
16 once it would go through CRU, that channel, it would be  
17 transferred over to Métis at that time.

18 Q And in August, 2005, who was your supervisor?

19 A I believe it was Cindy Knott, I'm not sure if --  
20 I only worked there for a short period of time, so I'm not  
21 sure if she was still there or not, or if we were in  
22 transition between supervisors.

23 Q Were there times when a call would be transferred  
24 to you from the front reception say?

25 A The only time that a call was usually transferred

1 to me is, is if it had something to do with the cases that  
2 I was assigned.

3 Q So if, if your name showed up --

4 A Yeah.

5 Q -- on a, on a file then, then a person answering  
6 call might refer the caller to you?

7 A That's correct.

8 Q And during the course of your employment you  
9 would do searches on CFSIS?

10 A Yes.

11 Q And prior contact checks?

12 A Yes.

13 Q When would you do those kinds of searches?

14 A If I got any information about the -- well, I  
15 would do any of them in terms of the cases that I was  
16 assigned to, if I needed any information. At times if  
17 there were -- you know, information a client, that I was  
18 working with, gave me information about somebody else I  
19 would possibly do a prior contact check to look into that  
20 and refer the information on, as it needed to be, and/or  
21 possibly if a coworker of mine needed assistance with  
22 something then I may do a prior contact check with one of  
23 their cases, or information they were looking for to help  
24 them out.

25 Q Would you ever randomly do a search on someone?

1           A       No, I wouldn't.

2           Q       We've heard evidence that sometimes callers would  
3 phone CFS and look for information about matters that  
4 really weren't child welfare related, about EIA or swimming  
5 lessons, that sort of thing. If you received a call like  
6 that would that prompt you to do a prior contact check on  
7 someone?

8           A       I don't ever recall getting a phone call like  
9 that, being a family service worker, however, if I did,  
10 unless there was a child protection concern, no, I wouldn't  
11 do a prior contact check.

12          Q       And what exactly is the purpose of a prior  
13 contact check?

14          A       To determine if the case is open or closed,  
15 and/or to find a history on the family, and what that  
16 history may entail.

17          Q       And when you're looking at whether a family has a  
18 history is that because you're looking to determine whether  
19 there are child protection concerns?

20          A       That's correct.

21          Q       Let's, let's go to page 2 of exhibit 23. I don't  
22 know if, if you were sitting here all morning.

23          A       Yes, I was.

24          Q       All right. So you're familiar with what this  
25 screen printout is?

1 A Yeah.

2 Q Okay. So there are a number of searches that  
3 show you having performed searches relating to Phoenix  
4 Sinclair?

5 A Yes.

6 Q And let's just review them, please.

7 A Sure.

8 Q There is -- we see your name on the left side,  
9 one, two, three, four, five names down.

10 A That's correct.

11 Q You see it says, "ph%/Sinclair" and that was done  
12 on August 24, 2005 at 2:15 p.m.?

13 A That's correct.

14 Q And what do those search parameters mean?

15 A I haven't worked for Child and Family a number of  
16 years, but I think what it looks like is that means that I  
17 was searching a person with a name that starts with P-H,  
18 and a last name of Sinclair, and I think that the  
19 percentage sign means to leave it open in terms of  
20 spelling, but I don't --

21 Q So to allow the, the search to be sort of broad  
22 enough to, to capture the P-H and the Sinclair?

23 A Right.

24 Q Right.

25 A That's what I believe, I don't remember, but I

1 think that's what that probably means.

2 Q So there's one at 2:15 p.m. and then your name  
3 shows up again, this time searching P-H-O-N-I-X, Sinclair  
4 -- no, sorry.

5 A I-E-X, I believe.

6 Q I-E, right. And that's also at 2:15 p.m.?

7 A Yes.

8 Q Right. And then there's one that shows you  
9 searching P-H-O-N-E-I-X, Sinclair, also at 2:15 p.m.?

10 A Correct.

11 Q And then there's one that shows "Jan00 Sinclair,  
12 Victoria, Hope, Phoenix" at 2:14 p.m.?

13 A Correct.

14 Q So we know that you did four searches all within  
15 the space of a minute looking for Phoenix Sinclair?

16 A Correct.

17 Q Why were there -- why do we see multiple searches  
18 with different parameters in them?

19 A Well, I don't recall, however, I can speculate  
20 that I was trying to determine -- I didn't know how to  
21 spell her name, so I've tried -- it looks like I've, you  
22 know, spelled Phoenix a few times, and then tried the P-H  
23 and the percentage sign to see if that would bring anything  
24 up, as well as a general search of -- the last one being,  
25 you know, maybe the approximate age that Phoenix was and



1 her full name.

2 Q And the "Jan 00" what's the significance of that?

3 A That's -- I don't recall exactly how to do that,  
4 but I know that if you could remember putting in a name --  
5 or an age, sorry, an approximate age that January is the  
6 generic month that comes up, and ...

7 THE COMMISSIONER: And by the time that would be  
8 the first search you made; would it?

9 THE WITNESS: Right. Yeah, according to the  
10 time, but I don't know for sure, but I don't think that --  
11 now after preparing for here the Phoenix part is spelt  
12 differently, too.

13

14 BY MS. WALSH:

15 Q With the full name?

16 A Yeah.

17 Q It looks like Phoenix is "P-H-O-N ... maybe ...

18 A I-E-X, I think.

19 Q I-E-X, right, which was not how Phoenix actually  
20 spelt her name.

21 A Right.

22 Q Okay. Do you know why you performed these  
23 searches?

24 A I do not.

25 Q Did you have access to CFSIS? This, this would

1 show that in August of 2005 you did have access --

2 A I did.

3 Q -- to CFSIS?

4 A Yes, I did.

5 Q Did you also have access to the Intake Module?

6 A I don't believe so. I -- before I was seconded  
7 to Métis in June of '05 I worked for the intake department,  
8 so I recall using the Intake Module then, and it had just  
9 come out, and so -- but I don't -- I'm not aware of any  
10 reason why I would need it as a family service worker, at  
11 Métis --

12 Q But you had full access to information on CFSIS?

13 A Yes.

14 Q Now, in August of 2005 you were not an  
15 administrative telephone receptionist; right?

16 A No.

17 Q You were not a CRU worker?

18 A No.

19 Q You were a family services worker?

20 A Correct.

21 Q So can you tell us what the possibilities would  
22 have been for prompting you to do these four searches of --  
23 Phoenix Victoria Hope Sinclair?

24 A I can only speculate, but either --

25 Q Based on your practice.

1           A       Yeah, either -- I suppose -- I don't ever recall,  
2 but I suppose it is possible that a call could be  
3 transferred to me by mistake, and if somebody was concerned  
4 about Phoenix I would do a search to see if it was open and  
5 closed. If a coworker received a call or was aware of any  
6 information on a family I would do a search, could possibly  
7 do a search to help them to see what I could find on the  
8 system. If, you know, a family I was working with was  
9 concerned about a family, and they brought it to my  
10 attention, then I would do a search that way.

11           I also at the time at Métis, Métis Child and  
12 Family had their intake phone right at -- right in the same  
13 room as I worked in for the -- like the Dauphin area and  
14 those things, so I suppose it could be possible that I  
15 would -- if that intake worker was needing help, and I was  
16 right there, I could possibly try to help them as well.

17           Q       So you might have answered a call directly from a  
18 member of the community, you mean?

19           A       Yeah, only if it was transferred to me by  
20 mistake, but if the intake worker that took those calls was  
21 -- got a call and needed some help, or what have you, and I  
22 was sitting there, and didn't have too much going on at  
23 that time, then I could potentially help them.

24           Q       Okay.

25           A       And search somebody on the system.

1 Q Do you have any way of knowing what the results  
2 of the search were?

3 A No, I don't.

4 Q We know that Phoenix had a history, by 2005 she  
5 had been apprehended on two occasions. Once at birth and  
6 then again in 2003, and there had been CFS activity in her  
7 -- relating to her every year of her life, that each of her  
8 parents had a protection file relating to her. That  
9 information would all have shown up when you did a search  
10 of Phoenix's name?

11 A I would assume so. I don't recall. I'm only  
12 aware of that information following the inquiry and,  
13 and ...

14 Q So you don't know why you did a search, but you  
15 know that you wouldn't just do one randomly?

16 A Right, correct.

17 Q And then what would be the possibilities for what  
18 you would do following conducting a search if you found  
19 that there was a person with history, and a closed file?

20 A If for whatever reason I got information that  
21 Phoenix was being abused or neglected I would assist the  
22 caller and/or the worker to channel that call in the right  
23 direction, and whether that would be, you know, forwarding  
24 them on and me following up with CRU, or me taking  
25 information down and talking to a CRU worker, or those

1 kinds of things, I don't ever recall anything like that  
2 happened, but I would just make sure that it went in the  
3 direction it needed to go.

4 Q Do you know whether you referred this matter to  
5 Intake?

6 A I do not recall anything to do with Phoenix  
7 Sinclair.

8 Q We heard evidence from a witness yesterday who  
9 said that she called CFS agencies, a number of different  
10 agencies, all on the same day in August of 2005 --

11 A Okay.

12 Q -- and told the people that she spoke to that --  
13 she gave them Phoenix's full name, Phoenix Victoria Hope  
14 Sinclair, her date of birth, she said she was the child's  
15 aunt, that she had not seen the child for many months. If  
16 you had received that information --

17 A Um-hum.

18 Q -- and done a search and seen that Phoenix had a  
19 history with CFS, what, if anything, would you have done?

20 A All I could tell the caller was that I couldn't  
21 provide any information, and direct them to call CRU Intake  
22 if, if it looked -- probably -- I mean at that time we know  
23 the file was closed, so I would have saw that, but if the  
24 file was open then I would direct them to the assigned  
25 worker.

1 Q Would you ever -- would it ever be the case that  
2 you would have made the referral to Intake yourself in  
3 those circumstances?

4 A If they -- with the limited information that you  
5 just mentioned, about that she hadn't seen Phoenix for  
6 awhile, then I wouldn't have made a referral myself. If  
7 there was more detailed information that Phoenix was being  
8 hurt, or something like that, then I would have.

9 Q So the fact that somebody makes a call to CFS,  
10 says they haven't seen their niece for many months, and you  
11 see that that person has -- that child has -- the niece has  
12 an extensive history that wouldn't be enough for you to at  
13 least refer the matter to be further investigated?

14 A No.

15 Q What, what would the caller have to say, what  
16 words would the caller have to use?

17 A I mean you get a variety of things, but what I  
18 would be looking for would be is something that they were  
19 aware that Phoenix was being hurt, you know whether -- and  
20 that they're aware of that or seen it, or what have you  
21 more specifically, what was going on for her. I mean lots  
22 of kids are often at various places and lots of times  
23 people are looking for information when they call the  
24 agency, and we're not able to provide that to them, so  
25 without more details to give me the indication that Phoenix

1 was being hurt then, no, I wouldn't follow that up.

2 Q Were you ever associated with a Child and Family  
3 Services Agency or did you ever work for a Child and Family  
4 Services Agency that was associated with either the  
5 community of Lake St. Martin or Pine Creek?

6 A No, I was -- no, I never did.

7 Q Did -- were you ever the family services worker  
8 for a person whose name was similar to Phoenix Sinclair's?

9 A Not that I recall.

10 Q Did you know Stan Williams?

11 A I know of him, but it wouldn't be somebody that I  
12 would talk to, no.

13 Q Do you recall whether you had any communications  
14 with Mr. Williams about Phoenix Sinclair, or the searches  
15 that you were doing on August 24, 2005?

16 A No, I do not remember.

17 Q If when you did those searches you saw from the  
18 history that Mr. Williams had been Phoenix's worker in  
19 2003, when she was in care, would that have prompted you to  
20 make a phone call to him?

21 A Not with the information that you gave me in  
22 terms of the source of referral. No, I would not.

23 Q Do you have any recollection of, of speaking to a  
24 caller testifying, who, who gave you information, as I just  
25 described the witness yesterday, testified?

1           A        No, I don't recall any calls or anything to do  
2 with Phoenix whatsoever.

3           Q        Was it your practice if, if somebody phoned you,  
4 whether it was a member of the community or another worker,  
5 to make notes of a conversation?

6           A        No, not if it hadn't -- nothing to do with a case  
7 that I was following, unless like I said if there was  
8 concerns, immediate concerns, of child protection then I  
9 would document it and forward it to CRU in written form,  
10 and probably verbal. That paper trail would be there.

11          Q        So all that you can say is that for whatever  
12 reason you performed a number of searches relating to  
13 Phoenix Victoria Hope Sinclair, Phoenix Sinclair, on August  
14 24, 2005?

15          A        That's correct.

16                   MS. WALSH: Thank you. Those are my questions.

17                   THE WITNESS: Thank you.

18                   THE COMMISSIONER: Mr. Gindin, please.

19

20                   CROSS-EXAMINATION BY MR. GINDIN:

21          Q        Ms. Shaw, my name is Jeff Gindin. I appear for  
22 Kim Edwards and Steve Sinclair.

23                   I just have a couple of questions. You talked  
24 about the various possibilities, and one of them -- in  
25 terms of how you would get this call, or do the search I



1 mean.

2 A Correct.

3 Q One of them was that it might have been  
4 transferred to you by mistake; how often did that happen?

5 A I don't recall.

6 Q Pardon?

7 A Sorry. I don't recall.

8 Q Was that --

9 A I, I only speculated that it's a possibility --

10 Q Okay.

11 A -- but I don't remember.

12 Q No, but do you actually recall being -- calls  
13 being transferred to you by mistake?

14 A No specifics, no.

15 Q I presume that would be pretty rare?

16 A I suppose it depended on who was working the  
17 phones, and how long they'd been there, or whether they  
18 were just covering, and what have you, but --

19 Q So --

20 A -- it's possible to push the wrong number.

21 Q Yes. But you can't help us as to whether that  
22 happens often or --

23 A No.

24 Q -- extremely rarely?

25 A Sorry, I haven't worked for Child and Family in

1 seven and a half years, and this -- sorry, I don't  
2 remember.

3 Q Okay. Just one other thing. You were asked  
4 about what you might do if you did do a search, and that  
5 practice would change depending on whether you found there  
6 to be an open file versus a closed file?

7 A Correct.

8 Q Can you just clarify that again as to how -- what  
9 you might do, would change, depending on whether the file  
10 was open or closed.

11 A With what information, sorry?

12 Q If you did a search --

13 A Um-hum.

14 Q -- and found that there was a closed file what  
15 might you do then?

16 A It was dependant on why I was doing the search.  
17 Sorry, I'm not clear on what you're asking.

18 Q Well, you might find out from doing a search that  
19 there's an open file on the, on the person you're  
20 searching?

21 A Correct.

22 Q If that was the case what would you do?

23 A If there was an open file then I would forward --  
24 if it was a call come in I would forward the person to that  
25 particular worker that the case was assigned to.

1 Q Okay.

2 A And if it was closed I would forward them to the  
3 CRU department.

4 MR. GINDIN: All right. Thank you.

5 THE COMMISSIONER: Mr. Paul.

6

7 CROSS-EXAMINATION BY MR. PAUL:

8 Q Ms. Shaw, my name is Sacha Paul. I'm the lawyer  
9 for Winnipeg CFS and the department, as you know I'm sure.

10 A Yeah.

11 Q Just a few questions. Again in August of 2005  
12 you were working for the Métis Child and Family Services  
13 Agency, if I can put it that way?

14 A That's correct.

15 Q Where were you physically located?

16 A I was physically located on a location on Main  
17 Street.

18 Q Okay.

19 A I don't recall the exact address, but it was  
20 across from where Wendy's used to be.

21 Q Okay. So you were on Main Street, and I think  
22 you'd agree with me that Winnipeg CFS Intake, CRU and  
23 Intake, they were located on 835 Portage?

24 A That's correct.

25 Q So you're physically in separate buildings?

1 A That's right.

2 Q Right. And, again, in terms of the structure of  
3 where we fit into the whole child welfare system, you're a  
4 Family Services worker doing long term work?

5 A That's correct.

6 Q And then, of course, above you would be Tier 2  
7 Intake and above that would be CRU?

8 A At 835 Portage, yes.

9 Q Yeah, the system generally?

10 A Yes.

11 Q Right.

12 A Yeah.

13 Q And, again, in August of 2005 my understanding,  
14 and you can correct me if I'm wrong, is that now that  
15 you're with a different agency you wouldn't have access to  
16 CFSIS files that are held by Winnipeg CFS?

17 A That's correct.

18 Q Right. The only thing you could conceivably  
19 access would be other intakes on the Intake Module?

20 A Yeah -- honestly I don't remember much about the  
21 Intake Module at all, but now that you say it, yeah, CFSIS  
22 -- anything to do with other agencies cases then those were  
23 blocked, we could see when they're open -- like if they  
24 were open and closed, but --

25 Q Right.

1           A       -- we wouldn't be able to pull up any further  
2 details.

3           Q       So you'd get names of the workers who were  
4 assigned to a particular case, and whether or not it was  
5 open or closed, but the actual details then wouldn't be  
6 something you'd be privy to because --

7           A       Right.

8           Q       -- you're at a different agency?

9           A       Correct.

10          Q       Okay. And in terms of Stan Williams do you know  
11 if he was working at the Métis Child and Family Services  
12 Agency at that time? Do you know anything about him?

13          A       No, I don't.

14                 MR. PAUL: Okay. Mr. Commissioner, those are my  
15 questions. Thank you.

16                 THE COMMISSIONER: Thank you, Mr. Paul.

17                 All right. Who else -- Mr. Saxberg, no  
18 questions?

19                 I guess we're on to you then, Mr. Ray.

20                 MR. RAY: No questions, Mr. Commissioner.

21                 THE COMMISSIONER: Any re-examination?

22                 MS. WALSH: Oh, I'm sorry.

23                 THE COMMISSIONER: Re-examination?

24                 MS. WALSH: Just one question.

25

1 RE-EXAMINATION BY MS. WALSH:

2 Q With respect to having access to the Intake  
3 Module that you would have at least have seen whether there  
4 had been an intake, or the fact of an intake in March of  
5 2005?

6 A I would assume so, but I honestly don't remember.

7 MS. WALSH: Okay. Thank you very much.

8 MR. PAUL: Sorry, I have one point --

9 MS. WALSH: Yeah, sure.

10

11 CROSS-EXAMINATION BY MR. PAUL:

12 Q If I can ask just one question following up on  
13 that. This is my understanding of, of the, of the intakes  
14 is that in March of 2005 Winnipeg wasn't yet on the Intake  
15 Module.

16 A I don't remember.

17 Q You don't know?

18 A No.

19 Q Assuming that's the case is it the case that the  
20 only thing you'd be able to see if you were to do a search  
21 would be -- again the file is open under the CFSIS  
22 column --

23 A Good point.

24 Q -- and under the Intake Module you'd have to see  
25 if there was actually an IM open file under that column?

1 A Correct.

2 Q So if I can try and summarize the point then  
3 there are two columns -- in terms of if I do a search on a  
4 person I can see two columns, one with the CFSIS file, the  
5 other one would be the Intake Module files, if I can put it  
6 that way --

7 A Um-hum.

8 Q -- and the only time you're going to get into the  
9 Intake Module column, practically speaking, would be after  
10 May of 2005, when the Intake Module was up and running in  
11 Winnipeg?

12 A Sounds correct, yeah.

13 MR. PAUL: Okay. That's my understanding,  
14 but ...

15 THE WITNESS: Thank you.

16 MS. WALSH: Well are you saying that the data  
17 would not have been entered prior to May of '05; is that  
18 what you're saying?

19 MR. PAUL: I think, I think what, what I'm  
20 suggesting, and maybe Mr. Saxberg would be a better person  
21 to put it ...

22 MS. WALSH: Right.

23 UNIDENTIFIED PERSON: (Inaudible).

24 MS. WALSH: So it was May --

25 MR. SAXBERG: It was May.

1 MS. WALSH: Okay. So intakes that occurred  
2 before May of '05 would not be recorded or show up. Okay.  
3 Thank you.

4 MR. PAUL: Okay. So, so long as -- I apologize  
5 for, for coming up with that point.

6 MS. WALSH: No, no, that's fine. Mr.  
7 Commissioner, any questions relating to that?

8 THE COMMISSIONER: No, I, I have notes in my  
9 book. I'll, I'll need some work on that when I see the  
10 transcript because I'm not sure I followed it all, but I  
11 don't think there's any need to take it further right now.

12 MS. WALSH: Okay. Thank you very much.

13 THE WITNESS: Thank you.

14 THE COMMISSIONER: Thank you, witness.

15 THE WITNESS: Thank you.

16

17 (WITNESS EXCUSED)

18

19 THE COMMISSIONER: All right. The next witness.

20 What time is it? Yes, we have time to start  
21 someone else.

22 MS. WALSH: I just have one more witness before  
23 the, the noon break, Mr. Commissioner.

24 THE COMMISSIONER: That's fine.

25 THE CLERK: Is it your choice to swear on the



1 Bible or affirm without the Bible.

2 THE WITNESS: With the Bible.

3 THE CLERK: All right. Take the Bible in your  
4 right hand, and state your full name to the court.

5 THE WITNESS: Nicole Lussier.

6 THE CLERK: And spell your first name.

7 THE WITNESS: N-I-C-O-L-E.

8 THE CLERK: And your last name.

9 THE WITNESS: L-U-S-S-I-E-R.

10

11 **NICOLE LUSSIER**, sworn, testified

12 as follows:

13

14 DIRECT EXAMINATION BY MS. WALSH:

15 Q Ms. Lussier, you were employed with Métis Child  
16 and Family Services from May of 2005 to February, 2007?

17 A That's correct.

18 Q What was your position?

19 A I was a Family Services social worker.

20 Q What did that position involve?

21 A I had open child protection files, and open child  
22 in care files.

23 Q You were never an assigned worker to Phoenix  
24 Sinclair, this matter?

25 A No, I was not.

1 Q As part of your job would you receive phone calls  
2 from the community?

3 A Not typically.

4 Q Were there occasions when you did?

5 A I can think of a few occasions where I have  
6 received calls from the community, yes.

7 Q How would those come to you?

8 A Generally speaking the one that I'm thinking of  
9 in my mind is an open file on, on my caseload that I had  
10 gone out on. When I had done a home visit the client's  
11 sister was in the home, had met me, knew me, she had  
12 concerns with regards to a neighbour, and a few weeks after  
13 meeting me she did call me at my office.

14 Q Would calls come to you through a receptionist?

15 A Only if they pertained to my caseload.

16 Q Or if the receptionist thought they might pertain  
17 to your caseload?

18 A Correct.

19 Q You would do CFSIS searches and prior contact  
20 checks during the course of your work?

21 A Correct.

22 Q When would you do those kinds of searches?

23 A When there was a change in my family that I'd be  
24 working with, say if I have a single mother with some kids,  
25 and her boyfriend moved into the home, I may do a prior

1 contact check on him, just to see if there were any  
2 concerns.

3 Q So what's the purpose of doing a prior contact  
4 check?

5 A To see if they have had any previous involvement  
6 with Child and Family Services, and if there are any  
7 concerns with regards to the individual.

8 Q Okay. Would you ever randomly search a name?

9 A No, there has to be a purpose for doing a check.

10 Q So on the screen in front of you let's turn to  
11 page 1, please, of exhibit 23. You've been sitting here  
12 this morning --

13 A I have.

14 Q -- so you've heard what exhibit 23 is?

15 A I have.

16 Q Now you see where the hand is on the left-hand  
17 side, it says "Lussier, Nicole"?

18 A Um-hum.

19 Q And then "Jan00 Sinclair, Phoenix" on August 24,  
20 2005 at 1:57 p.m.?

21 A Correct.

22 Q So does that show that you did a prior contact  
23 check of Phoenix Sinclair on August 24, 2005, at 1:57 p.m.?

24 A That's correct.

25 Q Do you know why you did that check?

1           A        I have no independent recollection of doing this  
2 prior contact check.

3           Q        What would be the possibilities?

4           A        What I thought of after being notified of this  
5 check is I had a different Phoenix Sinclair who was  
6 indirectly related to one of the cases that I was assigned  
7 to, so possibly if the family had given me some information  
8 in regards to that I, I may have done a check that way.

9           Q        When you say "the family" what do you mean?

10          A        The family that I was working with.

11                THE COMMISSIONER:    What did you say about a  
12 different or a wrong -- or another Phoenix Sinclair?

13                THE WITNESS:    Right.

14                THE COMMISSIONER:    What, what did you say about  
15 that?

16                THE WITNESS:    That I, I was involved with a  
17 family who had a child, not this Phoenix Sinclair for the  
18 inquiry, but a, a different child by that same name, but I  
19 was not that child's worker.

20                THE COMMISSIONER:    Is that how you're explaining  
21 the entry here?

22                THE WITNESS:    It's a possibility.    That's what I  
23 originally thought of after being notified that I had done  
24 a prior contact check.

25                THE COMMISSIONER:    What do you think now?

1 THE WITNESS: I'm not sure, given all the other  
2 people who have done prior contact checks.

3

4 BY MS. WALSH:

5 Q On the Phoenix Sinclair who's the subject of this  
6 inquiry?

7 A Right.

8 Q So it's possible that that's who you were  
9 searching?

10 A Yes.

11 Q Have you ever worked with an agency, a Child and  
12 Family Services Agency, associated with the Lake St. Martin  
13 Band?

14 A No, I have not.

15 Q Or Pine Creek?

16 A No, I have not.

17 Q The witness who testified yesterday told us that  
18 in August of 2005 she called a number of agencies in the  
19 province calling about Phoenix Sinclair, and she testified  
20 that she contacted the Band to locate the agency that Lake  
21 St. Martin deals with because a mutual acquaintance had  
22 told her that that was the Band for Phoenix Sinclair's  
23 father, and that when she contacted that Band she was  
24 directed to contact a social worker by the name of Nicole.  
25 That she spoke to a social worker named Nicole who told her

1 that she was no longer the pending social worker for  
2 Phoenix, and that the case had been transferred to Stan  
3 Williams.

4 Do you have any recollection of having such a  
5 call?

6 A No, I do not.

7 Q Would you have taken notes of a call like that?

8 A Yes, if someone had called like that I would have  
9 probably taken a note as I'm talking to the person.

10 Q And would you have kept those notes?

11 A For a period of time, yes.

12 Q For how long?

13 A I, I had a box next to my desk that I used for  
14 shredding and when that box got full then we would shred  
15 it.

16 Q So this is a call that would have come in in  
17 August of 2005.

18 A Um-hum.

19 Q How long would it have taken for you to fill up  
20 that box to the point of needing to shred?

21 A I'm estimating probably a good four to six  
22 months.

23 Q Is it possible that you spoke to the witness who  
24 testified yesterday?

25 A I have no recollection of speaking to anyone with

1 those kind of concerns.

2 Q It's seven and a half years later.

3 A Um-hum.

4 Q It's possible that the call happened and you  
5 don't remember it?

6 A It's a possibility, yes.

7 Q Did you know Stan Williams?

8 A Yes, I did.

9 Q Did he work in the same agency that you did?

10 A Yes, I did -- or, yes, he did, sorry.

11 Q So when the witness testified yesterday that she  
12 spoke to someone named Nicole --

13 A Um-hum.

14 Q -- who said that the case had been transferred to  
15 Stan Williams it's possible that you are the Nicole who  
16 spoke to the, the witness?

17 A Again I have no recollection of this. I, I do  
18 not recall doing this. Anything is a possibility.

19 Q Did you have access to CFSIS in August of 2005?

20 A Yes, I did.

21 Q So if you had done a prior contact check on  
22 Phoenix Sinclair you would have been able to see that she  
23 had a history with CFS?

24 A Yes.

25 Q Would you have been able to see that she had had

1 an intake as recent as March of 2005, a file opening and  
2 closing?

3 A I believe so, yes.

4 Q Stan Williams was the social worker for Phoenix  
5 Sinclair when she was apprehended in 2003. Would you have  
6 been able to see that information doing a prior contact  
7 check?

8 A Yes, I believe so.

9 Q Would there ever be occasions where seeing that  
10 information you would have advised an individual that Stan  
11 Williams was the worker to call?

12 A No.

13 Q Would -- if you had spoken to an individual who  
14 identified that they were the aunt of Phoenix Sinclair,  
15 gave you information about Phoenix's name, said that they  
16 had not seen Phoenix for many months, and you did a prior  
17 contact check as a result what, if anything, would you have  
18 done with that information?

19 A If the caller is not giving me any further child  
20 protection concerns I would have advised them that if  
21 they're wanting a well being check, or they want to report  
22 further concerns, they can call CRU and report that.

23 Q So the fact of seeing that the child has a  
24 history, and a recently opened and closed history with CFS,  
25 would not have prompted you personally to refer a matter to



1 Intake?

2 A Not with something more specific in terms of  
3 abuse or neglect.

4 Q Did you work with Deanna Shaw?

5 A Yes, I did.

6 Q She also did a search of Phoenix Sinclair on the  
7 same day. Do you know why that would be the case?

8 A No, I do not.

9 Q Do you recall whether you would have discussed  
10 these searches of Phoenix Sinclair with Ms. Shaw?

11 A I don't recall having any conversations with Ms.  
12 Shaw in regards to Phoenix Sinclair.

13 Q But it's possible?

14 A Again anything's possible.

15 Q You have no notes or recollection of anything  
16 specific, other than knowing that you did a search of  
17 Phoenix Sinclair on August 24, 2005?

18 A Correct.

19 Q The witness who testified yesterday said that  
20 none of the workers that she spoke to asked her any  
21 questions in response to the information that she provided;  
22 you're not able to say whether you had a call, and if so  
23 whether you asked this witness any questions?

24 A Yeah, again, I don't recall having a caller call  
25 me with such concerns.

1 Q But you're not denying that it took place, you  
2 just have no recollection?

3 A Yeah, I have no recollection.

4 Q Seeing when you did the prior contact check,  
5 seeing that Stan Williams had had involvement with this  
6 family, and given as you said that he was a co-worker at  
7 Métis Child and Family Services, would you have mentioned  
8 the matter to Stan, would you have told him you had  
9 received information about Phoenix Sinclair?

10 A Most likely not without further child protection  
11 issues being presented. I see this more as someone seeking  
12 information, rather than a child protection report.

13 Q Was Mr. Williams physically in the same office as  
14 you?

15 A Yes, he was.

16 THE COMMISSIONER: Was that Mr. Williams?

17 MS. WALSH: Yes.

18

19 BY MS. WALSH:

20 Q So seeing that -- doing a search and seeing his  
21 name come up would not have been enough for you to, to have  
22 a chat with him about the fact that you've recently  
23 received some information about Phoenix?

24 A No. In my mind, given what you're giving me of  
25 what the caller said, there is no information to report.

1 I, I see it as she was looking at trying to find Phoenix  
2 Sinclair. You know, he was the worker two years previous,  
3 you know he has no current involvement, and again I don't  
4 recall having any conversation with Stan in regards to this  
5 matter.

6 Q So someone calling CFS and saying they haven't  
7 seen their niece in many months, and you're finding out  
8 that the niece has a lengthy Child and Family Services  
9 history, that's not enough for you to refer a matter to  
10 Intake?

11 A For me, myself, no. Like I testified earlier I  
12 would have told the caller, you know, if they have concerns  
13 they can report it to CRU, certainly they can -- CRU is  
14 able to go out and do a well being check on the child, but  
15 for me to physically type up a referral and send it over to  
16 CRU, no.

17 Q But you may have told them to call CRU  
18 themselves?

19 A Oh, for sure, yes.

20 Q What about the witness' evidence yesterday that  
21 she was told that someone named Nicole was the worker for  
22 Phoenix Sinclair, does that prompt you to have any  
23 recollection of having had a discussion with that witness?

24 A No, it does not, and again I was not the worker  
25 for Phoenix Sinclair.

1 Q But you were involved with the file of a person  
2 who had a name similar to Phoenix Sinclair?

3 A Indirectly. I was never assigned to that, that  
4 other Phoenix Sinclair.

5 Q When you say "indirectly" what do you mean,  
6 without identifying who that individual was?

7 A That's what I'm trying to be able to, to say. I  
8 was assigned to the family, I was not assigned to the other  
9 Phoenix Sinclair.

10 THE COMMISSIONER: Well, do we know there was a  
11 second Phoenix Sinclair?

12 MS. WALSH: There is someone in the system with a  
13 name similar to Phoenix Sinclair.

14 THE COMMISSIONER: Okay.

15

16 BY MS. WALSH:

17 Q And you were assigned to a family who was  
18 connected with that individual?

19 A Correct.

20 Q And that information was true as of August, 2005?

21 A Yes.

22 MS. WALSH: Thank you. Those are my questions.

23 THE COMMISSIONER: Thank you. Mr. Gindin.

24

25

1 CROSS-EXAMINATION BY MR. GINDIN:

2 Q Good afternoon. My name is Jeff Gindin. I  
3 appear for Kim Edwards and Steve Sinclair. I just have a  
4 couple of questions for you.

5 You told us that you worked with Métis CFS from  
6 May 5th on for a couple of years.

7 A Um-hum.

8 Q Prior to that where were you working?

9 A I was working at Abuse Intake for Winnipeg Child  
10 and Family Services.

11 Q Okay. So you've had quite a bit of experience in  
12 this area; right?

13 A With intakes, yes.

14 Q Yeah. You indicated that -- when you were asked  
15 what might prompt you to do a search the example you gave  
16 was that, for example, if a, if a boyfriend moved into a  
17 home that would be a reason why you would do a search?

18 A Right. In 2005, as a family service worker.

19 Q Do you mean a search of the boyfriend?

20 A Right.

21 Q That would be a pretty obvious --

22 A Right.

23 Q -- thing to do even back then; right?

24 A Right.

25 Q Okay. You talked about Stan Williams. He was

1 actually in the same office as you?

2 A That's correct.

3 Q Where would he be physically compared to where  
4 you would be sitting?

5 A We, we were all in one large room together.  
6 There was several little desks set up in one large room.

7 Q Um-hum. And, and you knew him for awhile?

8 A I, I first met him in 2005, and I knew him up to  
9 his death in 2009.

10 Q How long would you have worked with him?

11 A I actually worked with him at Métis until he left  
12 Métis, and then we were both working for the government at  
13 Access River East.

14 Q Okay. But in August of '05 how long would you  
15 have worked with him at that time?

16 A In August of '05 I would have worked with him  
17 since May of '05.

18 Q So for three or four months?

19 A Correct.

20 Q And you would see him daily --

21 A Right.

22 Q -- and he'd be in the very same room as you?

23 A Yes.

24 Q If, if you had done a search and his name came up  
25 it's quite possible that you would have casually mentioned

1 to him that his name came up in a search?

2 A Again anything's a possibility. I don't recall  
3 having a conversation with Stan in regards to this matter.

4 Q You're not saying it didn't happen though?

5 A Again -- yeah, anything's a possibility.

6 Q Okay. You indicated that you were involved with  
7 another Phoenix Sinclair file?

8 A Correct.

9 Q So if the caller that we've been talking about,  
10 that told us they called in --

11 A Right.

12 Q -- with some information or concerns, had been  
13 given the other Phoenix Sinclair information by accident --

14 A Right.

15 Q -- she well may have been told -- given your name  
16 because you had an involvement in that other matter?

17 A I was not assigned to the other Phoenix Sinclair  
18 so my name would not have shown up on CFSIS under that  
19 other Phoenix Sinclair.

20 Q It wouldn't have shown up in any way, no mention  
21 of it?

22 A It would have shown up under the other Phoenix  
23 Sinclair's family, but not under --

24 Q So -- I see.

25 A -- under, under the other Phoenix.

1 Q So if that happened to be what the search was for  
2 your name might have been -- might have come up?

3 A Under the family, yes.

4 Q And that name could have been given to the  
5 caller, dealing with the wrong Phoenix Sinclair, but it  
6 might have happened?

7 A I guess it's a possibility.

8 MR. GINDIN: Yeah. Okay. Thank you.

9 THE COMMISSIONER: Mr. Paul.

10

11 CROSS-EXAMINATION BY MR. PAUL:

12 Q Good afternoon, Ms. Lussier. Sacha Paul for  
13 Winnipeg CFS and the department.

14 So, again, as I understand your evidence you were  
15 working with the Métis Child and Family Services Agency in  
16 August of 2005?

17 A Correct.

18 Q Stan Williams is also a worker, or working at the  
19 Métis Child and Family Services Agency at this time?

20 A Correct.

21 Q The Métis Child and Family Services Agency is a  
22 separate agency from Winnipeg Child and Family Services;  
23 right?

24 A Correct.

25 Q You are located at two physically different



1 locations; right?

2 A That's correct.

3 Q If I can then turn up exhibit 16, page 8, and  
4 correct me if I'm wrong, but if you were to do a search on  
5 a person you could get for that given person here at the  
6 bottom --

7 THE COMMISSIONER: Just a minute. This is, this  
8 is exhibit what?

9 MR. PAUL: This is exhibit 16.

10 THE COMMISSIONER: Sixteen.

11 MR. PAUL: This was something I probably should  
12 have put, should have put to Ms. Shaw to try and bring some  
13 clarity to the matter, and maybe you can assist the  
14 Commissioner in this regard.

15

16 BY MR. PAUL:

17 Q But if you were to do a search on a person you  
18 can see in the bottom there'd be one column for CFSIS cases  
19 and the other column for Intake cases?

20 A Correct.

21 Q That looks familiar to you?

22 A Yes.

23 Q Right. And again at this time, because both you  
24 and Stan Williams are working for the Métis CFS agency, if  
25 the CFSIS case showed that it was open to Winnipeg you

1 wouldn't be able to actually open that file?

2 A That's correct.

3 Q Right. The only thing you'd be able to see under  
4 that CFSIS thing is that there was a file either open or  
5 closed; correct?

6 A Correct.

7 Q And again this is my assumption, but if you see  
8 at the very bottom it looks to be like a toolbar that you  
9 could scroll, scroll over; do you see that?

10 A Okay, yes.

11 Q Yeah. So my understanding, and you can correct  
12 me if I'm wrong, that if you were to scroll that over you  
13 could conceivably see the last worker, whoever that may  
14 have been, assigned to that last file?

15 A Correct.

16 Q And so you wouldn't actually know anything about  
17 that particular file because you couldn't open it if it was  
18 another agency's?

19 A That's correct.

20 Q And that would be the case for both you and Stan  
21 Williams?

22 A Yes.

23 Q And that's the case because you're working for  
24 the Métis CFS agency and not Winnipeg; right?

25 A Correct.

1 Q And, again, back to the point that I think I  
2 might have confused the Commissioner with, the last  
3 witness, is that there's one column for CFSIS cases, the  
4 other column is for Intakes --

5 A Um-hum.

6 Q -- and that means files opened through the Intake  
7 Module?

8 A Right.

9 Q Right. So if there was Intake open to receive, a  
10 CFSIS, in this case it wouldn't show under the Intake  
11 column, it would be some place in the CFSIS case list;  
12 right?

13 A That's correct.

14 MR. PAUL: I think those are my questions, Mr.  
15 Commissioner.

16 THE COMMISSIONER: Thank you, Mr. Paul.

17 Mr. Saxberg? Mr. Ray?

18 MR. RAY: Yes, just briefly for the record Trevor  
19 Ray.

20

21 CROSS-EXAMINATION BY MR. RAY:

22 Q Ms. Lussier, if a person called you and they were  
23 presenting you with information, and you did a CFSIS  
24 search, and the CFSIS search showed that there was a past  
25 history, whether the file was currently open or currently

1 closed --

2 A Um-hum.

3 Q -- would you ever acknowledge to the caller that  
4 there was a history with that particular family or child?

5 A No.

6 Q And why would you not ever tell a caller that  
7 there was a past history with a particular family or child?

8 A Due to PHIA and FIPPA we're not allowed to  
9 release that kind of information. We are not allowed to  
10 release who has contact with the system.

11 Q Okay. And, and because you know you're not  
12 permitted to release that information, due to privacy  
13 issues, would you expect you would ever tell a caller that  
14 you are no longer the worker for a Phoenix Sinclair; for  
15 example?

16 A No.

17 Q And do you think you would ever tell a caller  
18 that Stan Williams is now or was previously the worker for  
19 a Phoenix Sinclair?

20 A No.

21 Q And if a caller somehow got through to you, and  
22 was raising issues, I'm not even going to say concerns  
23 because the source of referral in this case could not  
24 recall if they even said concerns, would it be your  
25 practice to ask probing questions of the caller to try to

1 determine if there was or was not an issue?

2 A I, I would have tried to gather some information  
3 to determine if there were immediate child protection  
4 concerns.

5 MR. RAY: Thank you. Those are my questions, Mr.  
6 Commissioner. Thank you.

7 THE COMMISSIONER: Any re-examination?

8 MS. WALSH: I just have one question.

9

10 RE-EXAMINATION BY MR. WALSH:

11 Q Did I hear you say that in August of 2005 you and  
12 Mr. Williams were physically located in the same room?

13 A Yes.

14 Q Could you overhear each other's phone  
15 conversations?

16 A I, I guess it's a possibility, yeah. I mean  
17 there was a group of us all in the same room.

18 Q And could you talk to each other during the  
19 course of the day?

20 A Of course.

21 MS. WALSH: Thank you. Those are my questions,  
22 Mr. Commissioner.

23 THE COMMISSIONER: All right, witness, thank you  
24 very much. You're completed.

25 THE WITNESS: Thank you.

1 (WITNESS EXCUSED)

2

3 THE COMMISSIONER: And I guess it's time for the  
4 noon break, so we'll adjourn until two o'clock.

5 MS. WALSH: Thank you.

6

7 (LUNCHEON RECESS)

8

9 THE COMMISSIONER: All right, Ms. Walsh.

10 MS. WALSH: Thank you, Mr. Commissioner. Can we  
11 have the witness sworn or affirmed, please.

12 THE CLERK: If you could just stand for a moment.  
13 Do you wish to swear on the Bible or affirm without the  
14 Bible?

15 THE WITNESS: Affirm without the Bible.

16 THE CLERK: All right. State your full name,  
17 please.

18 THE WITNESS: Edward Tim Herkert.

19 THE CLERK: And spell us your first name.

20 THE WITNES: Edward E-D-W-A-R-D, Tim Herkert, H-  
21 E-R-K-E-R-T.

22 THE CLERK: H-E-R ...

23 THE WITNESS: K-E-R-T, and I go by Tim.

24

25

1                   **EDWARD   TIM   HERKERT**, affirmed,  
2                   testified as follows:

3

4                   THE CLERK: Thank you, sir.

5

6                   DIRECT EXAMINATION BY MS. WALSH:

7                   Q       Mr. Herkert, we have called you to testify today  
8                   for a number of reasons, to shed some light on the  
9                   Employment and Income Assistance system that was in effect  
10                  in 2004, 2005, and to the extent that there are changes  
11                  currently, to advise of that, and then also to help us walk  
12                  through the documents that we have in our production  
13                  relating to the EIA files for Samantha Kematch, Karl McKay  
14                  and Steve Sinclair.

15                  A       Certainly.

16                  Q       Let's start with some background.

17                  A       Okay.

18                  MS. WALSH: Mr. Commissioner, you should have a  
19                  series of documents relating to this witness.

20                  THE COMMISSIONER: I don't know as I have. No, I  
21                  don't think so. Are they in a black binder.

22                  MS. WALSH: No, I think they would have been in a  
23                  file folder from our office.

24                  THE COMMISSIONER: I don't think it's come here,  
25                  but anyway ...

1 MS. WALSH: Thanks very much. That'll make it  
2 much easier for you.

3 THE COMMISSIONER: Thank you.

4

5 BY MS. WALSH:

6 Q So starting with some background, Mr. Herkert,  
7 you have a Bachelor of Administrative Studies and  
8 Psychology?

9 A I have a Bachelor of Arts degree with majoring in  
10 admin. studies and psychology, yes.

11 Q In 1985 you began working for Employment and  
12 Income Assistance as a case coordinator?

13 A Yes.

14 Q What did that position involve?

15 A Essentially that position would involve managing  
16 a caseload, providing income assistance for, for those  
17 folks that were on that caseload, taking applications for  
18 those individuals, testing eligibility, and ongoing day to  
19 day case management for that, that caseload.

20 Q Okay. So working directly with clients?

21 A Absolutely.

22 Q In 1990 you worked as a program specialist?

23 A Yes.

24 Q And what was that?

25 A That was a program specialist with Employment and



1 Income Assistance. That would have been working out of a  
2 corporate office primarily providing support for field  
3 offices and complex cases, supporting ministerial questions  
4 or concerns that might be arising through the minister's  
5 office, essentially troubleshooting concerns that were  
6 raised with regard to that particular program, and --

7 Q And you -- sorry.

8 A -- and there would also be quite a bit of  
9 interaction with individual clients who were raising  
10 concerns about the benefits they were being provided or not  
11 provided.

12 Q You stayed in that position for two years?

13 A Approximately, yes.

14 Q Then from '92 to '95 you were the director of the  
15 Social Services Appeal Board?

16 A Roughly that timeframe, I think I was there for  
17 about two years or two and a half years as the, as the  
18 Director for the Social Services Advisory Committee.

19 Q Okay. Then you worked as an Assistant Director  
20 with EIA?

21 A Yes.

22 Q From '99 to 2003 you were the Director of  
23 Winnipeg North, Employment and Income Assistance?

24 A Yes.

25 Q Then you became the area director for both

1 downtown and the Point Douglas communities in '03?

2 A Yes, and I was the area director for Family  
3 Services, not just Employment and Income Assistance, for  
4 both downtown and the Point Douglas community areas.

5 Q Family Services as in Child and Family Services?

6 A Family Services that would -- there were a range  
7 of services that were, were part of the basket of services  
8 provided by Family Services. Essentially with the  
9 exception of Child and Family, so that would include things  
10 like child care, EIA, supports for children with  
11 disabilities, supports for adults with disabilities.

12 Q Then in '05 you became the area director for the  
13 downtown community area?

14 A Yes.

15 Q And what did that involve?

16 A Similar to Point Douglas and downtown. That  
17 would essentially be supervising a large component. I  
18 would have overall responsibility for that basket of  
19 services that I just described for that community area. I  
20 would be reporting to a community area director, and so  
21 essentially I was supervising or -- the work of supervisors  
22 who would have -- they would be directing field staff, so I  
23 had a number of supervisors reporting to me during those  
24 years.

25 Q EIA supervisors?

1           A        EIA supervisors as well as others, yes.  Other  
2 programs.

3           Q        Then you worked for the Service Delivery Branch  
4 as a Project Specialist?

5           A        Yes.

6           Q        And then as Director of Integrated Services and  
7 Supports?

8           A        Yes.

9           Q        What did that mean?

10          A        The Director of Integrated Services and Supports  
11 that service delivery support branch is a -- as it sounds,  
12 a support branch for Family Services.  All of the  
13 specialists for the various programs work out of that  
14 branch, and I would have supervised a number of those  
15 specialists, including EIA specialists, so they're  
16 providing the support again for all of the -- province wide  
17 they're providing support for dealing with complex cases,  
18 addressing ministerial concerns, working with the various  
19 policy branches, assisting to identify where there's policy  
20 concerns, and working with the field support, any questions  
21 or issues that the field was facing.

22          Q        Relating to employment and income assistance  
23 issues?

24          A        Yes.

25          Q        And other community service issues?

1 A Yes.

2 Q And where are you currently working?

3 A Currently I'm with the St. James Assiniboia South  
4 community area, and I'm working as a supervisor within  
5 that, that community area within Winnipeg, and I supervise  
6 currently EIA staff, as well as other Family Service  
7 programs as well.

8 Q Are you currently involved in any policy  
9 development with respect to employment and income  
10 assistance?

11 A Not to a large degree. The majority of my work  
12 currently is with -- is day to day field management.

13 Q What is employment and income assistance?

14 A Essentially employment and income assistance  
15 it's, it's a large government program providing financial  
16 support for individuals who for whatever reasons find  
17 themselves unable to financially manage, so individuals  
18 that are, that are eligible under certain categories of  
19 assistance, whether it's a sole support parent, or a person  
20 with a disability, or, or an individual who may be  
21 employable, but simply has not been able to secure  
22 employment that meets their basic needs. We would, through  
23 employment and income assistance, provide basic, modest  
24 financial supports to ensure that person has the  
25 necessities of life.

1 Q In terms of the types of workers who are employed  
2 through Employment and Income Assistance you talked about  
3 case coordinators?

4 A Yes.

5 Q And those are people who manage a caseload of  
6 actual clients?

7 A Yes.

8 Q And then we've also heard reference to  
9 information specialists, I think; what, what are those  
10 workers?

11 A Within, within any EIA office you have case  
12 coordinators who are managing the caseloads, but they have  
13 -- they would have a number of information specialists  
14 within each office that would provide some financial  
15 transaction support, so there may be -- and, and the  
16 numbers vary from office to office, but there would be  
17 staff that would provide some -- they would be entering  
18 information into our database, the SAMIN database, which  
19 we're going to talk about I'm sure this afternoon, and, and  
20 assisting in sort of paying bills, working with landlords,  
21 processing forms, those kinds of activities.

22 Much of that can be done by the case  
23 coordinators, but to assist them in their workload some of  
24 that work may be handed off to information specialists.

25 Q Okay. And were those types of workers in

1 existence in '04 and '05?

2 A Yes.

3 Q And currently?

4 A Yes.

5 Q And in '04 and '05 were there employees who were  
6 designated simply to answer the phone?

7 A In the community area offices I would say that's  
8 not the case. There, there were certainly staff that were  
9 providing clerical admin. support, and part of that role  
10 would be to answer the phone, but they would do many things  
11 in addition to that, such as paying bills, processing  
12 forms, and payments and so forth.

13 Q So we've heard evidence about Employment and  
14 Income Assistance files, and how they're kept, and as you  
15 identified we've heard about an electronic database known  
16 as SAMIN --

17 A Yes.

18 Q -- S-A-M-I-N, it stands for ...

19 A Social Allowance Management Information Network.

20 Q How long has SAMIN been in existence?

21 A SAMIN was originally introduced in the mid-1980s,  
22 1985 or 1986, in that timeframe.

23 Q The way it looked in 2004, 2005 does it look the  
24 same today?

25 A In large part it does. The core processes for

1 SAMIN and what it looks like is very much the same.  
2 There's been many changes over the years, but for the most  
3 part the system does the same tasks for us.

4 Q What information does the SAMIN database contain,  
5 and I'm focusing on 2004, 2005 --

6 A Yes.

7 Q -- so let's assume that that's the timeframe that  
8 I'm referring to, and if there's a major change that we  
9 should be aware of currently then please feel free to  
10 advise.

11 A Yeah. No, I would say -- just to answer the  
12 second part of that question is there hasn't -- there has  
13 not been any significant changes since that time. There  
14 would be additional screens that would have been generated,  
15 but for the most part it would look very much the same.

16 SAMIN is a tool, it's a database that's used  
17 every day by the majority, if not all EIA staff in the  
18 field, on a daily basis. It, it has -- in it's database it  
19 has the case records of all participants who are currently  
20 active, as well as basic information for all clients who  
21 were previously active, and whose files may be closed. We  
22 have an electronic case note function which is, is quite  
23 large, and, and as well it includes all of the financial  
24 transactions and financial history of those transactions  
25 for each, each case.

1 Q Does the SAMIN network show the entire history  
2 then of an individual who is or has received income  
3 assistance?

4 A Yes.

5 Q Whether or not their file is open --

6 A Yes.

7 Q -- or active? And we've heard evidence from an  
8 employee, an Income Assistance worker, that you could type  
9 in a person's name into the system, and the system would  
10 show the history of all the budgets, the various  
11 individuals whose budgets that person had been on --

12 A Um-hum.

13 Q -- is that your understanding?

14 A Whenever an individual is making an application  
15 or approaching EIA for assistance we would check to see if  
16 that person has a history within the database, and we would  
17 be able to key in or type in that person's name usually  
18 with some additional identifying information to be able to  
19 determine if they've been a previous recipient of EIA,  
20 where they were receiving EIA, and what file they may have  
21 been attached to, and if they were attached to that file as  
22 the applicant or as a dependent child, and so -- because we  
23 would want to tie that -- we would want to sort of  
24 understand that person's history within SAMIN, and going  
25 forward to see if they're eligible.



1 Q Okay. Who has access to the SAMIN network?

2 A EIA staff would, would all have access to that  
3 information. They would be able to view -- they would be  
4 able to do that kind of search that I just described. They  
5 would be able to view information, they would be able to  
6 view case records. They would, however, only be able to --  
7 depending on their classification, and their role within  
8 the system, they would only be able to sort of undertake  
9 certain transactions, typically only for cases that are  
10 active within their community area, but they would be able  
11 to --

12 Q In terms --

13 A -- view essentially that history that we just  
14 described.

15 Q They would be able to view the history?

16 A Yes.

17 Q Regardless of the type of worker that they were?

18 A Yes.

19 Q What, what information would an EIA worker need  
20 to search for someone on the SAMIN database?

21 A It's sort of a -- you would, at minimum, you  
22 would need the individual's name, and we would be able to  
23 do a search. If one was able to have any additional  
24 information such as a social insurance number, a date of  
25 birth, even an address, those kinds of things would assist

1 us in being able to confirm that we're able to identify the  
2 person.

3 Q But at minimum a name would allow you to do a  
4 search?

5 A Yes, it would allow us to do a search. The  
6 accuracy of the search would, would then depend on how many  
7 people have a name that's similar, or --

8 Q Right.

9 A -- you know, other factors.

10 Q So then as you said to confirm whether the person  
11 who comes up is the person you're looking for then the  
12 workers would look at other identifying information?

13 A Typically, yes.

14 Q And did you say that case workers can enter  
15 information directly into the SAMIN database, all case  
16 workers, or ...

17 A Case workers can enter information into the  
18 database for cases that are open within their community  
19 area, they can enter that information, they can take action  
20 or they can sort of process transactions within their  
21 community area. They can view, however, cases that are  
22 open in other community areas, or cases that have been  
23 closed, but they wouldn't necessarily be able to enter  
24 information with the exception of case notes. One can  
25 enter case notes on other files, but they wouldn't

1 necessarily be able to enter information on demographics.

2 Q So case notes can be entered by a worker on any  
3 individual's files --

4 A Yes.

5 Q -- directly? Now how does someone apply for  
6 employment and income assistance in '04, '05?

7 A And, and that process is similar today as it was  
8 in '04, '05. For the most part individuals make contact  
9 with our offices. There would -- in most offices there is  
10 something that we refer to as a pre-intake orientation  
11 session, which are often sort of group information sessions  
12 so that we may -- we typically would, would have group  
13 intake information sessions several times a week, depending  
14 on the volume within a particular area.

15 A person would, would attend one of those  
16 sessions, get some basic information about what will be  
17 required of them for that application process, what  
18 information they need to bring with them, and then a  
19 separate individual intake appointment is established where  
20 they would meet with an intake staff person, they would  
21 complete an application, we would essentially be taking  
22 information from them in terms of their income and their  
23 assets, their circumstances, and then we would determine  
24 whether they qualify for financial support.

25 There are other factors as well, but that is the

1 core, the core sort of process that we do.

2 Q So they have to apply in person?

3 A Yes.

4 Q And if --

5 A The --

6 Q Sorry, go ahead.

7 A Sorry. Just in -- for the most part that is the  
8 case. In some isolated or rural areas there may be  
9 processes established that are somewhat different. If an  
10 individual can't attend the office we may take the  
11 application over the phone, and then verify the information  
12 in some process afterwards, but that in the city of  
13 Winnipeg would not occur.

14 Q And to add let's say a spouse or a partner to an  
15 individual's -- the term you used wasn't budget, it was  
16 file, or ...

17 A I'm not sure.

18 Q What's, what's the term to use, to add to  
19 someone's budget?

20 A Well, to add to someone's case --

21 Q Case, okay.

22 A -- but, but certainly --

23 Q If -- to add a partner would that person have to  
24 come in in person to an office?

25 A Absolutely, and we would require the signature of

1 that adult person, so if they're adding a common law  
2 spouse, or, or they've become married and want to add their  
3 partner, we would ask that person to attend. They would  
4 have to sign a new application because of the change in  
5 their circumstances. We would want to know about that  
6 person's financial affairs, again to test if there's  
7 financial eligibility going forward. If there's, if  
8 there's a child that's entered the family home, and there's  
9 a desire to add the child as a dependent child to their  
10 budget, we would again require the adults to attend the  
11 office and we would require information about that child;  
12 identifying information, documentation of ID, that kind of  
13 thing, and then --

14 Q Like a birth certificate?

15 A Yes.

16 Q Would you need to see the child before the child  
17 could be added as a dependent?

18 A Typically not. We would -- in some instances  
19 families will bring their children with them to the office,  
20 but in many instances they would not. Children may be in  
21 school, or engaged in child care. We wouldn't require  
22 them to take their child out of school to attend our  
23 offices for that, for that purpose.

24 Q Generally speaking is there an expectation that  
25 an EIA worker or case coordinator will have regular contact

1 with their clients?

2 A Yes.

3 Q And then does the EIA office have investigators  
4 assigned to them as well?

5 A In Winnipeg each of the community areas has at  
6 least one investigator assigned, and if there are  
7 questions, if the case coordinator feels that there is  
8 something amiss, if they're, if they're uncomfortable or if  
9 there's some information that makes them suspect that there  
10 may be some misrepresentation they could refer the case to  
11 the investigator for follow-up or for verification of  
12 circumstances.

13 Q How does someone's EIA file get closed?

14 A A variety of instances or a variety of reasons, I  
15 should say. If someone moves outside of, of the  
16 jurisdiction, if they leave Manitoba they would no longer  
17 be eligible obviously for provincial income assistance.

18 If they move into a reserve community would be  
19 another example because they would no longer be under the  
20 authority of Manitoba but would be a federal  
21 responsibility, so we would close the file, and most often  
22 it's because of a change in their financial circumstances,  
23 where simply that person may have, or -- because we're  
24 actively working with many of our clients to assist in  
25 securing employment, so once employment is secured if their

1 income level is such that they no longer qualify that would  
2 be a reason to close the file.

3 Q After a file is closed can a worker still record  
4 information on an individual's case notes?

5 A Yes.

6 Q So let's talk about information sharing now with  
7 Child and Family Services. We have heard evidence that  
8 there is routine communication between Employment and  
9 Income Assistance and Child and Family Services. In 2004,  
10 2005 were there circumstances where Child and Family  
11 Services would initiate a contact to Employment and Income  
12 Assistance?

13 A There certainly could be. That's -- the level of  
14 communication is such that we have many clients that we  
15 share between programs, between EIA and Child and Family  
16 Services, and, and I would suggest -- I would state there  
17 is contact daily in 2004 and 2005 as there is today between  
18 workers on, on -- in both programs there's ongoing regular  
19 contact, working collaboratively, planning reunifications,  
20 advising of, of changes in family circumstances. That  
21 communication is back and forth constantly.

22 Q So what are some examples of instances where CFS  
23 would phone to give information to EIA?

24 A There may be instances or -- and just off the top  
25 of my head I can certainly identify cases where the CFS

1 worker may be aware that a family is in receipt of EI, or a  
2 sole support parent they might be calling our offices to  
3 advise that they're, they're wanting the individual parent  
4 to participate in some sort of program, and they may be  
5 asking EIA if there would be supports able to be provided  
6 for, things like transportation and so on and so forth,  
7 that we would have that conversation with, with a CFS  
8 worker.

9           There might be instances where if the -- if  
10 there's an established relationship between the CFS worker  
11 and the EI worker if there, if there -- if CFS is working  
12 with a family, and there's a determination made that an  
13 apprehension is, is going to occur, or is occurring, or has  
14 occurred. There may be instances where CFS will advise the  
15 EI worker of that.

16           There's often many instances where CFS staff will  
17 ask the individual to report that to his or her EIA worker,  
18 and then sometimes follow up to make sure that's done.  
19 There's variations of that, but it occurs many times I  
20 would suggest every day.

21           Q       What about examples of instances where EIA would  
22 initiate a call to CFS?

23           A       Something similar. If EIA staff were advised, or  
24 became aware of -- that the family circumstances may have  
25 changed, that a child may no longer be in, in a particular



1 home, and EIA is aware that that family was being followed  
2 by CFS we would reach out to CFS to, to confirm what the  
3 status is. Has there been a change? Has there been an  
4 apprehension? To confirm those circumstances that would be  
5 a very frequent reason to call and make contact.

6 Q If an EIA worker had child protection concerns  
7 that would be another example --

8 A Absolutely.

9 Q -- when they would call CFS?

10 A Absolutely. Because of the nature of EI work our  
11 staff are often in individual's homes, and we routinely,  
12 and regularly have advised our staff, directed our staff,  
13 that they -- if they become aware or see, or understand,  
14 or, you know, see any issues that are concerning to them  
15 that is a requirement. We ask that they make contact with  
16 CFS to report those circumstances, and share them.

17 Q So then in terms of information that CFS might  
18 request from EIA what are some examples of that?

19 A Again there, there are many examples. I  
20 described just a moment ago that kind of requesting, sort  
21 of collaborative support around some activities. There may  
22 be that can you -- you're asking if EI can provide some  
23 financial supports.

24 There's also quite frequently EIA contacting --  
25 or CFS I should say contacting EIA to confirm

1 circumstances, is a family in receipt of EIA, what are our  
2 records showing of that, of that family's circumstances,  
3 the demographics and so on.

4 Q So --

5 A That's also a fairly regular contact I would  
6 suggest, yes.

7 Q Requests for demographic information by CFS is  
8 fairly common?

9 A I would suggest, yes, it is.

10 Q And what does an EIA worker need to know or hear  
11 before they share that information?

12 A I would suggest there's two things that, that we  
13 would direct our staff to be confident and comfortable  
14 with.

15 One is that if an individual were to make  
16 telephone contact with them, and advise that my name is Tim  
17 Herkert, and I'm with CFS, I as in the EIA worker would  
18 want to be confident that I am talking to someone who  
19 represents CFS, and that I'm not talking to someone from  
20 the community who is portraying themselves as being a CFS  
21 representative.

22 Secondly, we would want to be confident that,  
23 that this relates to a child welfare matter.

24 For the most part when CFS calls, and we're  
25 confident that they are who they are, we understand that to

1 be the case, there will be instances and, and I would  
2 suggest that in many instances the staff will take that  
3 next step to just question and say, Is this related to  
4 child protection. If the answer is, yes, EIA staff would  
5 be directed to share information as requested.

6 Q So if, if a call does come in from CFS  
7 identifying that they're doing a, a child protection  
8 investigation, what information is the EIA staff person  
9 able to share, are there any limits?

10 A I would suggest that there, there is no limits.  
11 They would, they would be directed to share what  
12 information would be required to support that  
13 investigation.

14 Q Now, was there a specific phone line or a phone  
15 number that CFS workers, I'm talking '04, '05, or currently  
16 --

17 A Yes.

18 Q -- are given to use when they are seeking say  
19 demographic information in the course of a child protection  
20 investigation?

21 A Yes. In -- there's two, and, and I'll, I'll try  
22 and explain it fairly simply and quickly. There's, there's  
23 two ways probably to reach into EIA by CFS staff. If the  
24 CFS staff person knows who the EIA worker would be, or  
25 which office they're working in, they would probably make

1 contact with that office directly, or that individual  
2 worker.

3 In many instances they may not know if the family  
4 is, is being supported by EIA, or they would not have  
5 anywhere to start sort of determining that, it's a large  
6 program, so there is an EIA -- what I would describe to  
7 you as an EIA records line that would be there where CFS  
8 staff could call, and receive basic information as required  
9 to support an investigation.

10 Q So in a case where a worker, a CFS worker,  
11 doesn't know whether there is an EIA worker, and they call  
12 the information line, the records line, is the EIA worker  
13 instructed to tell the CFS person about the actual case  
14 worker, and, and connect them with the individual's actual  
15 case worker?

16 A I've never supervised staff in that direct role,  
17 but everything that I understand would say that that staff  
18 answering that records line, again if they're confident  
19 that, that they're speaking with CFS staff, they're  
20 confident that there's, there's a protection matter being  
21 addressed, they would, they would provide -- my  
22 understanding is they would provide whatever information is  
23 requested or required to support that investigation and  
24 support that worker, and --

25 Q The case worker is going to know more than the

1 person on the records line?

2 A And, and absolutely. Typically what that would  
3 entail is, is advising is the person in receipt of EIA, if  
4 they're open in a particular office who the current EIA  
5 case coordinator is, and probably contact information for  
6 that case coordinator, so that you can -- we can begin  
7 developing that collaborative relationship between workers.

8 Q In 2004 and 2005 and today are there any issues  
9 with respect to privacy concerns that affect the exchange  
10 of information between EIA and CFS?

11 A I would suggest to you in my experience there,  
12 there are -- there is not any significant privacy concerns.  
13 I am aware that there's the -- and when you refer to the  
14 EIA records line I am aware that there's been some  
15 discussions over the last year or so regarding the volume  
16 of calls made to that line, and I'm aware that there's some  
17 conversations going on around best -- to confirm best  
18 practices and best processes for sharing of that  
19 information, but to my knowledge it's not related to  
20 privacy concerns. It's more around process.

21 Q So you, you mentioned somebody moving to a  
22 reserve as being a reason why a file would be closed, so I  
23 just want to explore that a little further.

24 A Yes.

25 Q So if a person who's receiving employment and

1 income assistance moves to a First Nation Reserve community  
2 what happens to their EIA file?

3 A When, when EIA becomes aware that the person has  
4 moved outside of the jurisdiction, and, and is no longer  
5 residing off reserve then, then EIA would close that file.  
6 The typical experience would be that when an, when an  
7 individual or family moves onto the reserve community they  
8 -- if they're requesting assistance from that Band the Band  
9 typically makes contact with EIA and confirms that -- and  
10 confirms when they've been assisted, until what date, and  
11 they would arrange for a transition, a smooth transition  
12 for the Band to pick up and provide assistance through the  
13 federal system.

14 Q Okay. And if an individual, or a family, tells  
15 EIA that they're moving to a reserve does EIA notify the  
16 Band of that fact?

17 A In, in some instances they may, but often they  
18 would not. What they would typically do is a case note  
19 that the individual has moved. They might suspend the  
20 benefits because they're aware that the individual might be  
21 moving, and we would probably be waiting for the Band to  
22 make contact with us to confirm that the individual is  
23 actually there.

24 In some instances individuals may approach us and  
25 say, we're planning to make a move, but then subsequently

1 the situation changes and they reside -- they continue to  
2 reside in the community area, and not make the move, so we  
3 wouldn't typically call the, call the, the Band until we  
4 know the person's actually made that move and is there, and  
5 that can change from case to case depending on the  
6 circumstances.

7 Q Was there in '04, '05 any kind of formal policy  
8 about information sharing between Band assistance and  
9 employment and income assistance?

10 A Not a formal policy, no, but there is ongoing  
11 regular contact between the Bands in, in our EIA system.  
12 It's a fairly common practice, very common practice.

13 Q What would be an example of a reason why a Band  
14 assistant would contact EIA?

15 A The primary reason would be to -- they would want  
16 to know to what date provincial assistance has been  
17 provided for, and they would then be able to arrange a date  
18 where they would provide -- be providing assistance, so  
19 there would be no overlap of assistance.

20 Q Now I want to turn to the specific information  
21 that we have with respect to Phoenix Sinclair and her  
22 family.

23 A Okay.

24 Q You didn't personally have any involvement with  
25 Phoenix or her family?

1 A No, I did not.

2 Q But we're going to ask you to help us out and,  
3 and walk through some of the EIA files that we have.

4 A Okay.

5 Q So if we could start with page 28316. Now  
6 there's a screen in front of you where these documents are  
7 coming up, but it looks like your counsel has also given  
8 you hard copies. This would be found in Commission  
9 disclosure 1579, which is Samantha Kematch's EIA file.

10 A Yes.

11 Q So you're welcome to follow along either with  
12 your hard copy or on the screen. Now, we've heard --

13 A I have that page.

14 Q You've got it, okay. Thank you.

15 We've heard evidence from Helen Waugh that she  
16 was contacted by a CFS worker on December 1, '04 following  
17 which she made the entry that we see on the screen, the  
18 December 1, '04 entry. Now, do you know Helen Waugh?

19 A Yes.

20 Q What kind of a worker was she in terms of her  
21 category of employment?

22 A Helen -- when we were describing a few minutes  
23 ago that sort of records line, EIA records line, in '04,  
24 '05 a large part of what Helen would have done would be to  
25 respond to inquiries on that line.



1 Q So she didn't have direct involvement with  
2 clients as their worker?

3 A No, she would not have had any case manager or  
4 case coordinator responsibility.

5 Q Okay. So the entry that she's written is:

6  
7 Investigation verification  
8 December 1, '04. 3rd party  
9 information - Dec. 1/04 - caller,  
10 Shelley Wiebe, CFS, to inform us  
11 that Samantha is living common law  
12 with Wes McKay, father of newborn  
13 baby just yesterday Nov. 30/04.  
14 He is listed at the hospital as  
15 the father of the baby.

16  
17 And then she's got her name.

18 A Yes.

19 Q Now, does this mean that -- well, do you have an  
20 understanding as to what this entry refers to?

21 A Yes.

22 Q This, this is essentially what I would describe  
23 as a third party allegation, or a concern that's been  
24 raised to her, which was -- the, the records line that,  
25 that we've described as, as being a source of information

1 for CFS staff is, is a line that also is available or known  
2 by many people in the community, other agencies as well,  
3 and they -- so the people answering, the staff answering  
4 this line would often receive calls advising that there may  
5 be some misrepresentation, there may be some alleged  
6 fraudulent activity, and so they would record that  
7 information, share that with the relative case  
8 coordinators, who would then be required to follow up on  
9 that to ensure there's no fraud or misrepresentation.

10 Q So that's how you read this entry?

11 A In large part, yes.

12 Q Then if we go to page 28317.

13 A Yes.

14 Q This says:

15

16 "General follow-up December 03/04.

17 A/N in office."

18

19 "A/N" stands for what?

20 A Above named.

21 Q Ahh, okay, so that's Samantha Kematch?

22 THE COMMISSIONER: Just -- let me just ask. What  
23 was the date of this communication, the first one?

24 THE WITNESS: The first one?

25 THE COMMISSIONER: You've just been talking about

1 with Helen Waugh.

2 THE WITNESS: December 1, 04.

3 THE COMMISSIONER: That's the date the contact  
4 was made?

5 MS. WALSH: Yes.

6 THE WITNESS: That's the day the recording is  
7 made, which would -- but that would typically be the date  
8 of the contact as well.

9 THE COMMISSIONER: Of the conversation?

10 THE WITNESS: Yes.

11 THE COMMISSIONER: December 1, '04?

12 THE WITNESS: Yes.

13 THE COMMISSIONER: Okay, thank you. Carry on.

14

15 BY MS. WALSH:

16 Q So now we have a recording made two days later  
17 still in Ms. Kematch's file, and this says:

18

19 "Above named, Samantha Kematch in  
20 office to add newborn baby to  
21 budget. Issued \$75, DPIF --"

22

23 What does that stand for?

24 A The \$75 is, is a special need allowance, and the  
25 DPIF is essentially what's referred to as a deficit payment

1 reflecting the, the additional, the additional costs for  
2 having that child in the home for the balance of that  
3 month.

4 Q Okay.

5

6 "Issued special needs BS --"

7

8 "BS" standing for?

9 A I believe that's bedding supplies.

10 Q Okay.

11

12 "\$150.00 for Phoenix and special  
13 needs BT."

14

15

16 A It's a question I can't -- I'm not sure what that  
17 means.

18 Q

19 "\$42 x 2 for bedding for above  
20 named and Phoenix. Advised of 7  
21 and 3 year policy."

22

23 What's that?

24 A And that's referencing our policy with regard to  
25 provisions of beds and bedding. Typically if one is

1 provided with funds for -- an allowance for the purchase of  
2 a bed that they're required, or expected, to maintain that  
3 bed for a period of seven years before they would be  
4 eligible for special needs again for the bed. A three year  
5 policy reflects the issuance of funds for bedding or  
6 bedding supplies.

7 Q Then it says:

8

9 "Above named stated P/F --"

10

11 Which I understand is the putative father.

12 A Correct.

13 Q

14 "-- is Carl Wesley, stated has not  
15 maintenance agreement at this  
16 time, advised to pursue."

17

18 A That should probably read, stated, has no  
19 maintenance agreement at this time.

20 THE COMMISSIONER: Pardon?

21 MS. WALSH: Right.

22 THE WITNESS: I, I believe that should reference:  
23 Stated, has no maintenance agreement, rather than reading  
24 "not maintenance agreement". So we would --

25 MS. WALSH: So --

1           THE WITNESS:  -- we would be asking, as it's a  
2 typical request whenever a child has entered into the  
3 budget, we would be asking the single parent if there's, if  
4 there's child support that has been arranged, or is being  
5 pursued, and we would require the, the sole support mother  
6 to pursue child support as she's able to.

7           Q       So does this mean that Samantha Kematch was  
8 physically in an EIA office on December 3, '04?

9           A       I would understand that to be true, yes.

10          Q       And at this point she's receiving income  
11 assistance on her own budget?

12          A       I believe so.

13          Q       And it appears that Phoenix is also on her  
14 budget?

15          A       She's adding Phoenix to the budget -- oh, no,  
16 Phoenix is already on the budget at that time.  Yes.

17          Q       So if we then go to page 28424 this appears to be  
18 the application to add the new baby.

19          A       Okay.

20          Q       You got that?

21          A       Yes.

22          Q       And if you turn the page you'll see it's dated  
23 December 3, '04.

24          A       Yes.

25          Q       And then the third page in this application, if

1 you'd go to the next page, please --

2 A Yes.

3 Q -- it's the live birth certificate which has --  
4 if you'd scroll down, please, so we can see more of it.  
5 Thank you.

6 The father of the baby who's being added is Karl  
7 Wesley McKay, and it shows his date of birth.

8 A Yes.

9 Q And is that typical information to have when a  
10 baby is being added to a budget?

11 A It, it would absolutely be typical to request  
12 something like this, the registration of live birth, or  
13 some, some identification for that child to confirm  
14 eligibility for that child. In, in many instances, and,  
15 and, you know, if, if the putative father is listed then  
16 that would be information that's valuable to EIA because we  
17 would be requesting that parent pursue child support, and  
18 that would be essentially seen as evidence, or proof that  
19 this in fact is the father.

20 Q Okay. So this is in -- on December 3, '04 that  
21 this application is signed?

22 A Yes.

23 Q Now, if we go back in time, and we go to Karl  
24 McKay's file, at page 28155, this is a --

25 THE COMMISSIONER: Just before you leave that you

1 directed his attention to the third page, and stamped  
2 across it it says "this is not a birth certificate", so my  
3 question is what is it?

4 THE WITNESS: It's, it's a registration of live  
5 birth document that at the time was handed out at the  
6 hospital. Typically as parents would leave the hospital  
7 they would be given this document. They would then use  
8 this document typically to pursue with Vital Stats. the  
9 provision of an actual birth certificate subsequently, but  
10 for the -- for EIA purposes in '04, '05 we viewed this  
11 document as a legitimate identification to add the child to  
12 her case.

13 THE COMMISSIONER: This came into the possession  
14 of your department on the 3rd of December?

15 THE WITNESS: The individual applicant probably  
16 would have brought that with her to the office. We would  
17 have taken a photocopy of that document for the file.

18 THE COMMISSIONER: Thank you.

19 THE WITNESS: I'm sorry, what page were you ...

20

21 BY MS. WALSH:

22 Q Now I'm in Commission Disclosure -- I'm not sure  
23 how your documents are organized, Commission Disclosure  
24 1578, which is Karl McKay's EIA file, and I'm at page  
25 28155.



1           When you look on the screen, Mr. Herkert, you can  
2 see the page numbers in a box at the top of the screen,  
3 just to orient you.

4           A       Okay.

5           Q       You've got that. So as I said now we're going  
6 back in time. We were on December 3, 2004. Now we're back  
7 in time, and we've gone from Samantha's file to Wes McKay  
8 or Karl McKay's file. This is a letter dated April 26,  
9 2004 advising that Mr. McKay's application to employment  
10 and income assistance with Ms. Kematch on his budget had  
11 been approved --

12          A       Yes.

13          Q       -- is that right?

14          A       Yes.

15          Q       So if we look at that first paragraph it says,  
16 "Please be advised --"

17

18                   "DEAR MR. MCKAY

19                   Please be advised that your  
20                   application to the Employment and  
21                   Income Assistance program has been  
22                   approved. Benefits are payable  
23                   effective APRIL 26 2004 for the  
24                   person(s) listed below. An  
25                   explanation of your monthly

1                   benefits follows."

2

3                   And it shows "Karl W. McKay and Samantha D.  
4                   Kematch"?

5           A        Correct.

6           Q        So what is this letter?

7           A        This is a confirmation of eligibility letter that  
8                   would be sent as a follow-up to an application that was  
9                   taken, and that's confirming that -- as it indicates that's  
10                   confirming that both -- Karl McKay is the head of the  
11                   house, he's eligible for assistance with Samantha Kematch  
12                   identified as common law spouse, and the detail then there  
13                   is the level of benefits provided for that family for that  
14                   period of time.

15          Q        So as of, or after April 26, 2004, if an EIA  
16                   worker had searched Samantha Kematch's name would they have  
17                   been able to see that she was on Karl W. McKay's budget?

18          A        The, the answer to that is, yes, but it would  
19                   depend how one searches that information for Samantha  
20                   Kematch, and if -- this, this is the tricky part that I was  
21                   looking forward to having to explain.

22                   If one simply identifies Samantha Kematch as the  
23                   search name it will, it will identify Samantha Kematch's  
24                   demographic information, and it will then list the cases,  
25                   the file numbers that she may have been a part of, whether

1 as a child, as a common law spouse, or perhaps as an  
2 applicant, so at the bottom of that screen print there  
3 might show -- depending on the number of cases she would  
4 have been involved with it would identify all of those  
5 cases.

6 If one then went down and checked each of those  
7 individual cases one would find Samantha Kematch's  
8 involvement with Mr. Karl McKay on that date. That would,  
9 that would be evident there, but it would require that  
10 additional step to go and check those individual cases.

11 Q So a matter of clicking on the various budgets or  
12 files that are identified?

13 A The individual case numbers that would be  
14 identified, to check each one to see who was involved in  
15 that particular case, yes.

16 Q And that could all be done on a computer?

17 A Yes.

18 Q So if, if -- as of April 26, 2004 or following a  
19 worker, an EIA worker, had been asked to search for  
20 Samantha Kematch to see whose budgets she had been on  
21 recently, and they would have been able to find that she  
22 was on Karl McKay's budget; right?

23 A Yes.

24 Q And then in that case could they also find out  
25 information about Karl McKay in terms of his demographic

1 information?

2 A Yes.

3 Q And if a CFS worker asked the EIA worker for that  
4 information, because they were doing a child protection  
5 investigation, the EIA worker would have been able to  
6 provide that information?

7 A If, if the EIA worker did, did those steps that I  
8 just described, and checked each of the individual cases,  
9 they would be able to see that. The, the initial  
10 information -- if, if you simply ask me to check Samantha  
11 Kematch, and I key in Samantha Kematch, I would -- and if  
12 she has a currently active case at any point in the future,  
13 that's the, that's the case that would pop up for me.  
14 Those other cases, previous involvement that she was  
15 previously involved with would be identified at the bottom  
16 of that screen.

17 Q The same screen?

18 A The same screen, absolutely. If you asked me to  
19 search Karl McKay or Wes McKay and I keyed in Karl McKay or  
20 Wes McKay, then, then again I'm going to see a list of  
21 similar to -- I think what we saw this morning on the CFSIS  
22 records. You would, you would see a list of multiple names  
23 that might look like, sound like, might be Karl McKay, or  
24 might -- names that are similar or alike, so that would be  
25 -- and that, that could be many pages, the lists of

1 possibilities, so where I described earlier in our  
2 discussion that, that if one had additional information,  
3 such as the date of birth or a social insurance number,  
4 you'd be much more confident about being able to find that  
5 match if you simply do a check on the name.

6 If you check on the individual cases that  
7 Samantha Kematch was tied into or connected with one would  
8 find -- one would have found Karl McKay in one of those  
9 cases, absolutely. It's a --

10 Q Right. So that's --

11 A -- different kind of search.

12 Q -- that's my question. So if somebody says -- a  
13 CFS worker wants to know is -- who is this Wes McKay that  
14 Samantha Kematch is with, and they phone EIA, and they say,  
15 Can you look up Samantha Kematch's budget history --

16 A Yes.

17 Q -- and see if she's been on a budget of a Karl  
18 McKay, or a Karl Wes McKay or a Wes McKay then --

19 A Yes.

20 Q -- the worker, the EIA worker, could type in  
21 Samantha Kematch's name, see her history of budgets, see  
22 that she's on the budget of someone named Karl McKay, as  
23 we've just seen --

24 A Yes.

25 Q -- and then they would have the information --

1 demographic information about that Karl McKay?

2 A If they searched that way they would find that  
3 information, absolutely. If the, if the CFS worker had,  
4 had said, Can you search, do you have a Karl McKay, and  
5 they didn't --

6 Q Right.

7 A -- do it that way by looking at Samantha's  
8 previous attachments --

9 Q Yes.

10 A -- it would have been a more difficult search.

11 Q But my question was if they'd asked for the  
12 search to be done on Samantha Kematch --

13 A Absolutely.

14 Q -- and to see whose budget she was attached to,  
15 they would find the Karl McKay whose budget we see she was  
16 added to in April of '04?

17 A Yes. Yeah.

18 Q Okay. Thank you for that explanation.

19 A Sorry.

20 Q And certainly Employment Income Assistance as of  
21 April, 2004 and following would have had demographic  
22 information about Karl McKay, Karl W. McKay, including his  
23 birth date, his social insurance number --

24 A Yes.

25 Q -- all of that?

1 A Yeah.

2 Q And they would have been in, in a position to  
3 provide that information to a CFS worker if asked?

4 A Yes.

5 Q Now, if we go to page 28242 --

6 THE COMMISSIONER: Just a minute. Where did his  
7 social insurance number information come from, or on what  
8 document is it shown?

9 THE WITNESS: We looked at it earlier, the, the  
10 application. I think -- I believe we looked at it earlier,  
11 the application that would have been taken in 2004.

12 THE COMMISSIONER: Oh, yes.

13 THE WITNESS: As part of that application we  
14 would have requested social insurance information, number  
15 information, and that would be entered into our system.

16 THE COMMISSIONER: Okay. Thank you.

17

18 BY MS. WALSH:

19 Q The other way we could find it is there's a  
20 screen called an Inca screen, I-N-C-A, for individuals who  
21 are receiving employment and income assistance --

22 A Yes.

23 Q -- and that screen has demographic information?

24 A Yes.

25 Q So, for instance, if we want to see Wes McKay's

1 Inca screen from going back to 2002 if we go to page 28185  
2 on the screen. I don't think it's in your package, Mr.  
3 Commissioner, but --

4 THE COMMISSIONER: 281 -- no, okay.

5 MS. WALSH: Yeah, but it'd be up on the screen.

6 THE COMMISSIONER: Yes, that's fine.

7

8 BY MS. WALSH:

9 Q So Mr. Herkert this is, this is an Inca screen,  
10 and does this show Mr. McKay's social insurance number next  
11 to his birth date?

12 A Yeah, but it's blacked out on this document.

13 Q Right.

14 A Yes.

15 Q We've, we've redacted --

16 A It's there. Yeah.

17 Q -- it for his privacy, but, but a worker would  
18 have the access to that information --

19 A It would be evident.

20 Q -- in an unredacted form?

21 A Yes.

22 Q So that's, that's the kind of information that  
23 EIA keeps on an individual, their birth date, their social  
24 insurance number, their public health insurance number?

25 A Yes.



1 Q Okay. So now if we go to page 28242 this is --  
2 and we go to page 28254, the last page.

3 A Okay.

4 Q This is the application that's signed by both  
5 Karl McKay and Samantha Kematch associated with adding Ms.  
6 Kematch to Mr. McKay's budget on April 26, 2004?

7 A Yes.

8 Q And that would have involved both Ms. Kematch and  
9 Mr. McKay physically being in the office?

10 A Correct.

11 Q Now, I want to turn you to an entry in Steve  
12 Sinclair's EIA file, which is Commission Disclosure 1580.  
13 If we can pull up page 28652, please.

14 A Okay.

15 Q And you see there's an entry dated April 26,  
16 2004?

17 A April 26, '04, yes.

18 Q You see that, and it says:

19

20 "CCO did an intake on a G.A.  
21 childless couple. Man has  
22 pancreatic cyst and has a medical  
23 note excusing ..."

24

25 A "Work expectations."

1 Q "-- at this time." Thank you.

2

3 "Woman is two months pregnant and  
4 is also caring for a dependant  
5 child (Phoenix-Sinclair) who is  
6 supposedly under putative father's  
7 case as per woman. She has been  
8 caring for dependant child since  
9 November 7, '03. Worker contacted  
10 to advise of situation. Case  
11 effective April 26, '04."

12

13 Now, my understanding is that this is information  
14 that was entered in Steve Sinclair's file by Wes McKay's  
15 case coordinator.

16 A I didn't look -- when we looked at that last  
17 application in April, 26, '04, I didn't look to see which  
18 case coordinator had signed that application. Was that C-  
19 O-K, Christian (inaudible)?

20 Q The actual application, do you want to pull up  
21 the signature page, that's where you're saying that would  
22 appear?

23 A Yes.

24 Q Page 28254 under the signature of the witness.

25 MR. PAUL: Ms. Walsh, if I can just jump in for

1 one second. Mr. Herkert, some of the initials on that  
2 screen have been redacted to protect the source of  
3 referrals' identity so if you can bear that in mind when  
4 you're speaking about the workers we'd appreciate it.

5 THE WITNESS: Okay.

6

7 BY MS. WALSH:

8 Q So the signature of the witness --

9 A The signature of the witness matches the initials  
10 that we see on 28652.

11 Q So that's Mr. McKay's worker?

12 A That's the individual that took that application,  
13 yes.

14 Q And entered the information on Steve Sinclair's  
15 file?

16 A Correct.

17 Q And that's an example -- if we go back to 28652,  
18 please. That's an example of one worker entering case  
19 notes on another worker's client's file?

20 A Correct.

21 Q And we heard evidence from Mr. Sinclair's worker,  
22 whose identity has been kept confidential, that Mr. McKay's  
23 worker contacted her with information about Phoenix that  
24 had become known to him, specifically this information as  
25 reflected in the case note.

1           Now, how, how would Mr. McKay's worker have been  
2 aware of Mr. Sinclair and his connection with Phoenix?

3           A     I'm, I'm not certain of the answer to that  
4 question.

5           Q     Okay. Maybe, maybe it'll reveal itself as we go  
6 through the --

7           A     Okay.

8           Q     -- the documents in that case.

9                     Let's look at page 28208, and this is in Karl  
10 McKay's file.

11                    Your pages might be a little bit out of order,  
12 Mr. Commissioner, if you look at the next page from what  
13 you've got.

14                    THE COMMISSIONER:    I'm, I'm following you all  
15 right.

16                    THE WITNESS:    28208?

17                    MS. WALSH:    Right.

18                    THE WITNESS:    Okay. I don't know that I have  
19 that.

20                    MS. WALSH:    Actually, no. I'm sorry. I've  
21 mislead you. Let's go back to 28652.

22

23 BY MS. WALSH:

24           Q     Looking at the April 26, '04 entry you see the  
25 reference to the P.F. case and there's a case number on the

1 third line?

2 A Yes.

3 Q So it says that the woman is two months pregnant,  
4 also caring for a dependant child, Phoenix Sinclair, who's  
5 supposedly under the putative father's case, and there's a  
6 number.

7 A Yes.

8 Q So is that how the worker would have connected to  
9 Mr. Sinclair's file?

10 A I suspect so.

11 Q So by looking up Phoenix's name, and seeing whose  
12 budget she was on?

13 A He would have seen that Phoenix was probably  
14 still active under that case, and would have wanted to  
15 alert that worker to that circumstance.

16 Q And how would he have been aware that Phoenix was  
17 active under Mr. Sinclair's file?

18 A By doing a search, by doing a search of, of  
19 Phoenix's name in the SAMIN database, so as described  
20 earlier whenever someone is coming in to have an  
21 application taken, or to add anyone to a particular case  
22 staff would typically do what's referenced as a prior  
23 contact check, and a check on that person's history within  
24 SAMIN, not just for the applicant, but for any of the  
25 individuals that -- for which benefits are being requested,

1 and that would have popped out for that individual worker  
2 then to say, hmm, here's a situation, it appears that this  
3 person is already being supported under another case, and -  
4 -

5 Q So that's an example of --

6 A -- would wanted to alert --

7 Q -- when I said to you if you typed in an  
8 individual's name you could see whose budgets they were on?

9 A Yes.

10 Q So in this case when, when Ms. Kematch and Mr.  
11 McKay come in to have Ms. Kematch added to Mr. McKay's  
12 budget, and they indicate that they're caring for Phoenix,  
13 the worker types in Phoenix Sinclair's name and sees that  
14 she's on Steve Sinclair's budget?

15 A Right.

16 Q And then that allows him to make a note in Steve  
17 Sinclair's file?

18 A This needs to be followed up on, yeah.

19 Q Okay. So then if we go to page 28208 we're back  
20 in Karl McKay's file. This is an entry made in Mr. McKay's  
21 file dated May 28, 2004, you see the top entry?

22 A Yes.

23 Q And it says -- again it's entered by C-O-K, who's  
24 Mr. McKay's worker.

25

1                   "Citizen attended the office to  
2                   add dependent child Phoenix  
3                   Sinclair to the case. Dependent  
4                   child added effective May 28,  
5                   '04."

6

7                   And then there's --

8           A        Deficit payment.

9           Q        To be calculated, and issued. And the  
10           application that accompanies adding Phoenix to Mr. McKay's  
11           budget starts at page 28239, and on page 28240 you see that  
12           the application is signed by Karl McKay and Samantha  
13           Kematch on May 28, 2004?

14          A        Correct.

15          Q        And if we go back to the first page it shows that  
16           the application is to add a dependent child, Phoenix  
17           Victoria Sinclair?

18          A        To their budget, yes.

19          Q        Right. So as of May 28, 2004 Phoenix Sinclair is  
20           in the EIA records as being on Wes McKay's budget?

21          A        Yes.

22          Q        And that information will always be in the EIA  
23           records, even when she's no longer on his budget?

24          A        Correct.

25          Q        So if a CFS worker had called EIA any time as of

1 May 28, '04, or following, and asked them to search Phoenix  
2 Sinclair to see whose budgets she was, or had been on, then  
3 they would have found Karl McKay's name and budget?

4 A After May 28, '04 that information should have  
5 been there, yes.

6 Q Yes. And if the CFS worker said, I'm doing a  
7 child protection investigation and I want some demographic  
8 information about Karl McKay the EIA person would have been  
9 in a, in a position to provide that information?

10 A Yes, and again based on the conversation we had  
11 earlier if -- depending on how that search was being made,  
12 and what information was given to the EIA staff person,  
13 that search would have been successful, or less successful  
14 depending on the amount of information offered.

15 Q If, if the CFS worker had said, please search  
16 Phoenix Sinclair and see whose budgets she has been on, or  
17 is on, then they would have come up with Wes -- Karl Wes  
18 McKay?

19 A Correct.

20 Q And then the EIA worker would have had access to  
21 Karl McKay's demographic information, including his birth  
22 date?

23 A Correct.

24 Q And would have been in a position to provide that  
25 information to a CFS worker?



1           A       Yes.

2           Q       And if we go to page 28167 this is a letter dated  
3 August 4, 2004 to Mr. McKay. It says:

4

5                       "I am writing with regard to your  
6                       eligibility for the Employment and  
7                       Income Assistance program. Please  
8                       be advised that, effective JULY 01  
9                       2004 you will no longer be  
10                      eligible for Employment and Income  
11                      Assistance benefits, and your file  
12                      will be closed."

13

14                    So once Mr. McKay's file is closed what happens  
15 to the people who are on his budget?

16           A       Benefits are no longer provided to Mr. Karl McKay  
17 and anyone who is on his budget. The benefits for the  
18 entire budget would cease.

19           Q       But the records of their having been on the  
20 budget would still remain in the file, in the system?

21           A       Yes, the file would effectively be showing as  
22 closed on our system.

23           Q       Let's go to Samantha Kematch's file, page 28320.

24                    Starting with the bottom entry, April 7, '05,  
25 "Shelter review, woman L/M" -- what would "L/M" be?

1           A        I believe that's left message.

2           Q        "Left message with this case coordinator advising  
3 that -- has given notice to landlord of move."

4           A        Yes.

5           Q        And then on April 8, 2005 still in Samantha  
6 Kematch's file it says:

7

8                   "Shelter review.    Woman has not  
9                   found alternate accommodations as  
10                  of yet.  Moving because has people  
11                  attending her place that she wants  
12                  to get away from.  Woman has given  
13                  notice to landlord and states  
14                  that ..."

15

16       "Security deposit."

17

18                   "-- will be returned, rental rates  
19                   reviewed."

20

21                   Now, was there any expectation as to what an EIA  
22 worker was supposed to do with this kind of information,  
23 the information that Ms. Kematch is moving because she has  
24 people attending her place she wants to get away from?

25           A        You know, based on that little bit of information

1 it's hard for me to respond to that. She's not indicating  
2 -- she's just saying that there's people she wants to get  
3 away from, but she's not indicating why, or if there's --  
4 if she's feeling at risk. If I was the case coordinator I  
5 would want to explore that a little bit further myself to,  
6 to see what is meant by that and what is happening, and,  
7 and is she at risk, does she need other supports more  
8 urgently, but I can't speak for that worker at that time, I  
9 don't know what that conversation was.

10 Q Okay. So workers weren't given any specific  
11 direction that you're aware of as to how to respond to that  
12 information?

13 A No, but it would be an expectation that if, if we  
14 were, if we were determining that someone was at risk, or,  
15 or in danger, we would want to explore that, and to ensure  
16 that they knew of options available to them to seek safety.

17 Q Let's go to page 28321.

18 A Yes.

19 Q So the bottom entry says:

20

21 "April 11, 2005 --"

22

23 Page 28321, Mr. Commissioner.

24 A Yes.

25 Q

1                   "April 11, 2005 woman has decided  
2                   to move to her reserve. Requested  
3                   file close for end of April, '05,  
4                   and then Keeseekoowenin."

5

6                   My apologies for pronunciation. What does that  
7 information tell you?

8           A        She's indicating obviously to her worker that  
9 she's, she's leaving the jurisdiction and moving to, to the  
10 reserve community at that time, so the worker's indicating  
11 that this file could be closed upon her making her move.

12          Q        So if CFS -- if the CFS worker had called to EIA  
13 in April of 2005, after April 11, 2005, trying to locate  
14 Samantha Kematch, because of a child protection  
15 investigation, would EIA have been in a position to say  
16 she's moved to a reserve?

17          A        Typically on the, on the case closure reasons,  
18 and this is something that would be I believe recorded,  
19 certainly in the case notes certainly this case closure is  
20 noted. The -- if, if the questions were pursued, do you  
21 know where she's moved to, we would have that electronic  
22 case recording that we could share that information, yes.

23          Q        You could. Okay.

24          A        Yeah.

25          Q        Now, let's go to page 28205, and this is back in

1 Karl McKay's file, Commission Disclosure 1578. Do you see  
2 the entry for November 28, 2005?

3 A Correct, yeah.

4 Q It says:

5  
6 "Couple in office because have  
7 just moved back from Fisher River.  
8 Couple have already received Band  
9 social assistance for November,  
10 2005."

11

12 A "Phone call."

13 Q

14 "Phone call to Band office --"

15

16 Thank you.

17 Q

18 "-- to verify no further aid into  
19 December, 2005. Couple currently  
20 living on Dufferin Avenue."

21

22 A "No cost rent."

23 Q

24 "Staying with family. Woman  
25 pregnant, expected date of

1 confinement December 15, '05.  
2 Older dependent child with  
3 different putative father not  
4 receiving maintenance."

5

6 A The --

7 Q Sorry?

8 A -- the "W.T." refers to maintenance being waived  
9 temporarily.

10 Q Okay. And that's with respect to older dependent  
11 child?

12 A Yes.

13 Q

14 "Man stating he has medical  
15 problems, has doctor's notes  
16 stating unable to work, to provide  
17 further information, 2000 calorie  
18 diet."

19

20 A "Work expectations."

21 Q

22 "Deferred for both."

23

24 So this states that the couple has come into the  
25 office, an EIA office, and advised that they have moved

1 back from Fisher River?

2 A Correct.

3 Q And that they have an older dependent child from  
4 a different father with them?

5 A Yes.

6 Q And then if you turn to page 28170.

7 And, Mr. Commissioner, I'm almost done, and then  
8 we could take the break after I'm finished my direct, if  
9 that works for you.

10

11 BY MS. WALSH:

12 Q Page 28170, this is a letter to Karl McKay from  
13 EIA, this is dated December 16, '05.

14 A Yes.

15 Q It says:

16

17 "DEAR MR. MCKAY

18 Please be advised that your  
19 application to the Employment and  
20 Income Assistance program has been  
21 approved. Benefits are payable  
22 effective DECEMBER 01 2005 for the  
23 person(s) listed below. An  
24 explanation of your monthly  
25 benefits follows."

1           And they show Karl W. McKay, Samantha D. Kematch  
2 and Phoenix Sinclair.

3           A       Yes.

4           Q       Now we know that at this point Phoenix Sinclair  
5 was no longer alive. How is it that EIA was paying  
6 benefits for her in December of 2005?

7           A       When they made the application they obviously  
8 advised our staff that she was still with them. Our staff  
9 took that information believing it to be true at that time,  
10 and would have, would have ensured that they were providing  
11 support for, for Phoenix. They did not know at that time  
12 that Phoenix was no longer with us.

13          Q       Clearly. So in '04 and '05 was there any kind of  
14 protocol or policy with respect to how a worker would have  
15 to verify the existence of a dependent child?

16          A       There, there always is expectation that, that our  
17 staff, by the process of having taken the application,  
18 they're asking lots of probing questions, and they're  
19 asking very direct questions in terms of that child. They  
20 would, they would want to confirm as part of the  
21 application -- they would ask, is that child with you, is  
22 -- you know, depending upon the age of the child is the  
23 child in school, what grade or what school, they would ask  
24 those kinds of things to confirm, and based on the  
25 responses from the parent they would, they would sort of



1 follow up with that.

2 If the worker had had any inclination, or had any  
3 concerns that the information being presented was not  
4 accurate we likely would have referred the case to an  
5 investigator for verification, or the worker would have  
6 made efforts to verify that either themselves either by  
7 attending the home, or making, making a number of phone  
8 calls to try and do whatever they could to establish the  
9 whereabouts, or the, the circumstances of that application.

10 Q But --

11 A In this particular instance there doesn't appear  
12 to be any indication that the worker had misgivings at the  
13 time of having taken the application.

14 Q And, again, we saw one INCA screen from 2002 for  
15 Mr. McKay, and let's look at the one for December, 2005, at  
16 page 28193.

17 A Yes.

18 Q And this shows that as of December, 2005, Mr.  
19 McKay had on his budget Samantha Kematch, Phoenix Sinclair  
20 and a child born November 30, 2004?

21 A Correct.

22 Q And then one more document to show you.

23 THE COMMISSIONER: Just a minute. That's dated  
24 December ...

25 MS. WALSH: Near the top of the page, Mr.

1 Commissioner, it says, December, '05.

2 THE COMMISSIONER: December, '05, yeah, okay.

3

4 BY MS. WALSH:

5 Q And then, finally, page 28195. This is an INCA  
6 screen, at the top it's dated January, '06, and now it  
7 shows people involved are Karl W. McKay, Samantha D.  
8 Kematch, Phoenix V. Sinclair, and a baby born November 30,  
9 '04 and one born December 12, '05.

10 A Yes.

11 Q Those are all individuals who are reported as  
12 being actively on Mr. McKay's budget?

13 A Correct.

14 MS. WALSH: Thank you, Mr. Herkert, those are my  
15 questions.

16 THE WITNESS: Okay.

17 THE COMMISSIONER: All right. We'll take a 15  
18 minute mid-afternoon break, and then other lawyers will  
19 have questions for you, witness, I would assume.

20 THE WITNESS: Okay.

21 MS. WALSH: Thank you.

22

23 (BRIEF RECESS)

24

25 THE COMMISSIONER: All right, Mr. Gindin, you're

1 going first?

2 MR. GINDIN: Yes, thank you, Mr. Commissioner.

3

4 CROSS-EXAMINATION BY MR. GINDIN:

5 Q Sir, my name is Jeff Gindin, I appear for Kim  
6 Edwards and Steve Sinclair. I just have a few questions  
7 for you.

8 We've heard some evidence here that the  
9 information sharing between CFS and EIA, at least according  
10 to some witnesses, has become more difficult in recent  
11 years; is that something you can comment on?

12 A Only briefly, and I don't have a lot of sort of  
13 direct information to relate to that.

14 Q Um-hum.

15 A I had related earlier in the, in the conversation  
16 that I was aware that there was some conversations or  
17 discussions around the volume of calls that the EIA records  
18 line is currently receiving from CFS, and I know that  
19 there's some -- there has been some discussions related to  
20 identifying good process or best practice around dealing  
21 with that, that level of calls, or that volume of calls I  
22 should say, but beyond that I'm not aware of anything  
23 directly. My, my --

24 Q I was, I was --

25 A -- experience has been, and what I would say to

1 you is that, that for the vast, vast majority of contact  
2 between CFS and EIA that there's, there's quite  
3 collaborative interaction between programs.

4 Q I was referring to perhaps privacy issues or  
5 something along that line; are you aware of anything that  
6 makes it more difficult to communicate between the two?

7 A No, no, I'm not.

8 Q No. You recall you were asked about what would  
9 occur if someone asked an EIA worker to search let's say  
10 Samantha Kematch, for example.

11 A Yes.

12 Q And you told us how a list of files would drop  
13 down?

14 A Yes.

15 Q And then it would depend on what you did next;  
16 right?

17 Now, assuming that a search like that was done  
18 within a month or two of Karl McKay ending up on her same  
19 budget; is there a chronological order to the list that  
20 would come down, would it be the most recent first or how  
21 would that work?

22 A You know, I believe it is recent to -- like sort  
23 of current to historical.

24 Q Um-hum.

25 A But honestly sort of not having looked at it with

1 that in mind I can't recall if it's from the bottom up or  
2 the top down.

3 Q I see.

4 A But they would be in, they would be in some order  
5 reflecting that.

6 Q You're not sure if it would be a chronological  
7 order or not?

8 A Well, I believe they're in order, but I can't  
9 remember if it's top -- as I say which direction it goes.

10 Q Okay. Now, just directing you back to the April  
11 8, '05 computer print-out where we have Samantha indicating  
12 that she was moving because she wanted to get away from  
13 somebody or something like that; do you recall that?

14 A Yes.

15 Q That would be something that you would expect  
16 your workers to probe a little bit, I presume?

17 A I would suggest to you that best practice would  
18 be to clarify that, that kind of a comment made by a  
19 participant. I, I would expect our worker's best practice  
20 would be that we would explore that a little bit to  
21 determine if there's risks to that person, do they need any  
22 additional -- do they need to seek safety or initial, you  
23 known, supports of that sort.

24 Q And depending on, depending on the answers you  
25 received might it be that an EIA worker would call CFS?

1           A           That would be speculation on my part. I suppose  
2 that could be an option, it could be many, many things.

3           Q           Okay. And you'll recall the information that you  
4 gave that in December of '05 we have Karl McKay claiming  
5 Phoenix on his budget, along with two other children --

6           A           Yes.

7           Q           -- and we now know of course that Phoenix was not  
8 alive at that time. Are you able to tell us what amount of  
9 money he would receive more by claiming a third child  
10 versus just the two that he had --

11          A           I don't know --

12          Q           -- that we know existed?

13          A           I'm sorry, I don't know the exact amount. It  
14 would be, it would be a very modest amount. I would  
15 suggest to you less than \$200 a month.

16                   MR. GINDIN: I see. Thank you.

17                   THE COMMISSIONER: All right. Anyone else?

18                   Mr. Haight.

19                   MR. HAIGHT: Mr. Commissioner, you'll recall I  
20 act for Helen Waugh --

21                   THE COMMISSIONER: Yes.

22                   MR. HAIGHT: -- and I was just advised this  
23 morning by Commission counsel, for which I thank her, that  
24 the evidence given by Mr. Herkert today may touch upon the  
25 evidence previously given by Ms. Waugh, and I have heard

1 the evidence, and I would like to ask a couple of  
2 questions, so I am seeking leave to do so.

3 THE COMMISSIONER: Leave granted.

4 MR. HAIGHT: Thank you, sir.

5

6 CROSS-EXAMINATION BY MR. HAIGHT:

7 Q Mr. Herkert, as you heard I, I act for Helen  
8 Waugh. Just a few brief questions, sir.

9 A Yes.

10 Q You were asked about the December 1, 2004 entry  
11 made by Ms. Waugh, and for ease of reference it's  
12 Commission Disclosure 1579, page 28316. Yes, you have that  
13 before you, sir, and --

14 A Yes.

15 Q -- as I -- your description of that document,  
16 having not been the author, but just looking at it, and  
17 from your experience, sir, was, was that it appeared to you  
18 to be information provided by a third party, in this case a  
19 CFS worker, to be passed on to a case worker?

20 A I would believe so, yes.

21 Q Yes. And knowing what you know of Ms. Waugh's  
22 position in December of 2004 that would not be information  
23 that she would be obliged to follow up on, based on her  
24 employment duties?

25 A No. She would -- her role would simply have been

1 to take that information and to pass that on for  
2 appropriate follow up by case managers or investigators.

3 Q Right. And, and then you were asked by  
4 Commission counsel that if you had conducted a search of  
5 Samantha Kematch you could see who was on her budget, based  
6 upon the searches that you described, and -- but you would  
7 agree with me, sir, that looking at Ms. Waugh's entry of  
8 December 1, 2004, it appears that Ms. Waugh was not asked  
9 to do a search of Samantha Kematch?

10 A I would suggest that based on the information in  
11 front of me that Helen Waugh would have in all likelihood  
12 looked at Samantha Kematch's information, and would have  
13 picked up on, on the basic information for Samantha Kematch  
14 in order to access the appropriate file number and to pass  
15 that information along.

16 What is less obvious to me is, is how -- and what  
17 questions were then asked of her in terms of further  
18 searches --

19 Q Okay.

20 A -- for Mr. McKay.

21 Q Right.

22 A That wasn't obvious to me in looking at this case  
23 note, or, or how or whether she was prompted to do those  
24 searches for Mr. McKay.

25 Q Right. But based upon what you recall of, of Ms.



1 Waugh's performance on the job you would have expected that  
2 she would have done a search of at least Samantha Kematch?

3 A Certainly, yes.

4 Q Yes.

5 A I, I was aware of Helen's work for many years,  
6 and found her to be quite competent.

7 MR. HAIGHT: Thank you. Those are my only  
8 questions, sir. Thank you.

9 THE COMMISSIONER: Thanks, Mr. Haight.

10 All right. Mr. Saxberg?

11 MR. SAXBERG: Thank you, Mr. Commissioner. Good  
12 afternoon, Mr. Herkert. My name is Kris Saxberg. I act  
13 for ANCR and I act for three of the child welfare  
14 authorities in the Province of Manitoba.

15 THE WITNESS: Okay. Thank you.

16

17 CROSS-EXAMINATION BY MR. SAXBERG:

18 Q Firstly, we're looking at the screen here, and  
19 this is part of the record that would appear if you were to  
20 call up Samantha Kematch's file in and around December 1,  
21 2004; correct?

22 A You're looking at 28316?

23 Q That's right.

24 A Okay.

25 Q And is that correct that that's a page --

1           A       This, this would be a case note that would be  
2 recorded on her electronic file.

3           Q       Right.  And -- well the information above would  
4 have been available to Ms. Waugh when she -- on December 1,  
5 2004, correct, the, the information above her case note.

6           A       Yes.

7           Q       And she's recorded a note that says that CFS, in  
8 particular Shelly Wiebe, has --

9           A       I'm sorry, I'm sorry, I need to step back one  
10 moment.  You're asking that the -- the additional case note  
11 that's at the top of the screen?

12          Q       No, the case note at the bottom of the screen  
13 written by Helen Waugh.

14          A       The case note at the bottom of the screen pre-  
15 dates the case note at the top of the screen, if that makes  
16 sense to you.

17                   THE COMMISSIONER:  By three days?

18                   THE WITNESS:  Both are dated December 1, '04.

19                   THE COMMISSIONER:  Oh, yes, I see.

20

21 BY MR. SAXBERG:

22          Q       Right.  And why do you -- I'm saying that the  
23 note at the top was there first; is that not the case?

24          A       No.

25          Q       Okay.  So if a note was written first by Ms.

1 Waugh and then after that Samantha Kematch called; is that  
2 the way I should read it?

3 A That would be my information, yes.

4 Q Okay. And the information that Ms. Waugh has  
5 recorded is that CFS and Shelly Wiebe in particular has  
6 indicated that Samantha's living common law with a Wes  
7 McKay; you see that?

8 A Yes.

9 Q Now, if a search of the name Wes McKay, exactly  
10 as it's spelt on the document we're looking at, was done  
11 without a birth date, without a social insurance number,  
12 without anything else, what would happen?

13 A It would be on a screen called INSL or inquire  
14 name short list, and you would enter the name, McKay,  
15 comma, Wes, and if you hit enter you would get I would  
16 suggest to you page upon page of names that would end in  
17 the surname McKay --

18 Q Right.

19 A -- might have an initial, W; might have another  
20 given name, but it would be page after page, after page of  
21 possible hits.

22 Q That's right. And so if you did that type of  
23 search, without more information, you wouldn't be able to  
24 locate the Wes McKay that CFS was looking for, and that we  
25 are all familiar with as a result of this Commission;

1 correct?

2 A It would be, it would be very difficult to  
3 accurately say that they've identified the right person,  
4 yes.

5 Q And as you sit here you, you know that his name  
6 isn't Wes McKay in any event, it's Karl Wesley McKay;  
7 correct?

8 A Correct.

9 Q Now, if we could turn to page 28377, this is from  
10 the same CD number, 1579. This document shows that Ms.  
11 Kematch had an open active EIA file as of November 10,  
12 2004; correct?

13 A Correct.

14 Q And it shows that she has one child connected to  
15 her and that's Phoenix Sinclair; correct?

16 A Correct.

17 Q And as we know -- as you've testified at this  
18 point in time Karl Wesley McKay does not have an open or  
19 active file; correct?

20 A That's my understanding, yes.

21 Q And Samantha Kematch is not being remunerated or  
22 on the basis of any support for Karl Wesley McKay at this  
23 point in time; correct? He's not on her budget?

24 A She would not be receiving any support for Mr.  
25 McKay, no.

1 Q Right.

2 A She would be receiving benefits only for herself  
3 and her child at this time.

4 Q Right. And, and that of course suggests that,  
5 that she's not supporting another individual in that  
6 household that's living with her; correct?

7 A I'd, I'd -- that'd be speculative on my part, but  
8 certainly the amount of funds that she was receiving EIA  
9 funds are very modest and she would be hard pressed to  
10 support anyone else beyond the two of them.

11 Q Okay. And if Karl McKay was working fulltime and  
12 living in this household Samantha wouldn't be qualified for  
13 that EIA either; would she?

14 A If, if Mr. McKay was -- correct, if Mr. McKay was  
15 residing in that home and they were residing as a common  
16 law couple, and he had income, that information was not  
17 known to us, and that would have affected her entitlement  
18 to support, yes.

19 Q Right, right. So in December of -- December 1,  
20 2004, to Employment and Income Assistance knowledge  
21 Samantha Kematch is not living common law; correct?

22 A Correct.

23 Q And so one would expect if CFS was to call EIA  
24 inquiring about a common law partner that EIA would express  
25 its knowledge at the time that there is no common law

1 partner, based on the information that EIA has --

2 A Correct.

3 Q -- December 1st; that's correct?

4 A Yes.

5 Q And if we could turn up page 36945, it's from CD  
6 1795, which is Samantha Kematch's CFS file, and this is a  
7 note prepared by Shelly Wiebe of her discussion with EIA on  
8 December 1, 2004.

9 And I'm looking at the second last paragraph on  
10 the screen before us. It says:

11

12 "On Dec. 1/04 this worker  
13 contacted EIA to inquire about the  
14 demographic information of  
15 Samantha's common-law partner, Wes  
16 McKay. Worker was advised by EIA  
17 that Samantha only has one child  
18 listed on her budget --"

19

20 And I'll stop there. That was accurate information?

21 A Yes.

22 Q And you would have expected that an EIA worker  
23 would have conveyed to Winnipeg CFS if they'd -- if  
24 Winnipeg CFS had asked for that information; correct?

25 A Yes.

1 Q And then the next line is:

2

3 "-- and that there is not expected  
4 to be a common-law partner  
5 residing in the home."  
6

7 And I'll stop there. You've already confirmed that that  
8 would have been EIA's information at the time, and they  
9 would have conveyed it if asked; correct?

10 A Correct.

11 Q Now, you'd indicated that if EIA called up the  
12 name Samantha Kematch they'd get a search result back, and  
13 that search result would indicate if Samantha Kematch had  
14 been linked to other clients' budgets; is that fair?

15 A Yes, the -- because Samantha Kematch, because  
16 Samantha Kematch had an active case at that time it would  
17 have, it would have brought forward that information where  
18 she was the applicant in that particular case, and listed  
19 below in that same stream there would have been additional  
20 information identifying other cases that previously or  
21 historically she was, she was attached to those cases.

22 Q Right. And so we know that she was attached with  
23 Steven Sinclair at one point, that would be one of the  
24 matters?

25 A Correct.

1 Q And we know that she was attached with her  
2 mother, and that would be another one of the matters?

3 A Correct.

4 Q And we also heard that she was attached with Karl  
5 Wesley McKay at one point?

6 A Yes.

7 Q That would be another one of the matters?

8 A Yes.

9 Q All of them closed?

10 A Correct.

11 Q And they would all indicate closed?

12 A Yes.

13 Q That means that's not the current status, that's  
14 not the current information that EIA has at the time, it  
15 means that it was a previous involvement; correct?

16 A Those, those reflected previous attachments.

17 Q Right. That aren't, aren't current, and aren't  
18 the, the case as of December 1, 2004?

19 A Correct.

20 Q Now, would it say on that screen that we're  
21 talking about would it have the name Steve Sinclair or  
22 Bertha --

23 A No, it would not.

24 Q It would just have a file number; wouldn't it?

25 A It would have a file number, it would reflect



1 what Samantha's role in that case was, whether she was an  
2 applicant or a, or a common law partner, or a dependent  
3 child.

4 Q Right.

5 A And then that would list the, the opening and  
6 closing of that attachment of that file.

7 Q But it wouldn't say McKay?

8 A No, it would not.

9 Q That screen does not say McKay, and in order to  
10 find out if there was a connection with a McKay you'd  
11 actually have to get that file number, and then click onto  
12 it and search for who that file involved; correct?

13 A Correct.

14 Q So if Helen Waugh, for instance, did this exact  
15 inquiry, she typed in Samantha Kematch, on that screen that  
16 shows she was involved in past budgets there's no mention  
17 of the name McKay?

18 A No, unless she took those next steps to --

19 Q Yeah.

20 A -- inquire on each of those specific cases she  
21 wouldn't -- it wouldn't have been obvious at a glance.

22 Q And, and even though it would say that she was  
23 linked to this budget in a common law situation the  
24 information on the screen is indicating that that's no  
25 longer the case?

1 A It would not have been current.

2 Q Because -- it wouldn't be current because it's --  
3 those are closed files?

4 A Correct.

5 Q Now, has EIA ever -- has it, has it done training  
6 seminars between EIA and the SAMIN system and CFS  
7 personnel?

8 A Not that I'm aware of.

9 Q So it's fair to say no one at CFS would know what  
10 we've all learned here today about how to link with respect  
11 to those -- to that budget information two individuals on  
12 the SAMIN system; correct?

13 A I couldn't say that with certainty, but I would  
14 be surprised if many, if any, CFS staff would have that  
15 degree of knowledge, unless they previously worked for EIA,  
16 which is quite possible.

17 Q Right. Unless --

18 A But --

19 Q Right.

20 A -- it would not be general knowledge.

21 MR. SAXBERG: Those are all my questions. Thank  
22 you.

23 THE COMMISSIONER: Thank you, Mr. Saxberg.

24 Any other questioners before Mr. Paul? I guess  
25 you're on, Mr. Paul.

1 MR. PAUL: No questions, Mr. Commissioner.

2 THE COMMISSIONER: Any re-examination?

3 MS. WALSH: Just very briefly because of course  
4 we are looking to make recommendations to better protect  
5 Manitoba children, and when somebody is looking for  
6 information sometimes the answer they get is only as good  
7 as the question that they ask --

8 THE WITNESS: SAXBERG: Those are all my  
9 questions. Thank you.

10 THE COMMISSIONER: Thank you, Mr. Saxberg.

11 Any other questioners before Mr. Paul? I guess  
12 you're on, Mr. Paul.

13 MR. PAUL: No questions, Mr. Commissioner.

14 THE COMMISSIONER: Any re-examination?  
15

16 RE-EXAMINATION BY MS. WALSH:

17 Q Just very briefly because of course we are  
18 looking to make recommendations to better protect Manitoba  
19 children, and when somebody is looking for information  
20 sometimes the answer they get is only as good as the  
21 question that they ask --

22 A Yes.

23 Q -- and in fact I did ask Ms. Wiebe whether she  
24 had asked Ms. Waugh to search for Samantha Kematch to see  
25 whose budget she'd been attached to, and she couldn't

1 recall, and I asked the same question, did you search for  
2 -- asked them to search Phoenix Sinclair, and she couldn't  
3 recall, so if we now know that if you ask for EIA to search  
4 for a given person's name that will give you all of the  
5 budgets that that person has been attached to, and you can  
6 simply click on an individual recording then and see  
7 information about the person whose budget they're attached  
8 to, and it's a matter of, of clicking the computer button  
9 and seeing who someone is attached to and what information  
10 is there about that individual?

11 A I would have said -- just one subtle that you  
12 said that I would have, would have changed. When you  
13 indicated that had -- and I'm not sure I'm going to phrase  
14 this correctly, but, but had the question been asked of  
15 Helen Waugh, can you check if Mr. McKay has previously been  
16 attached to Samantha, or has Phoenix previously been  
17 attached to Mr. McKay that would have prompted, in my  
18 opinion, Helen Waugh to do, to do the additional checks,  
19 and we, we wouldn't be having this conversation about that  
20 search. Had, had Ms. Wiebe simply asked, can you search to  
21 see if you have any record of Wes McKay, as I suspect we  
22 know today that would have been a very difficult response  
23 for Helen to accurately respond to.

24 Q That's not the question though, and thank you.  
25 The question, the question that I asked Ms. Wiebe whether

1 she had done --

2 A Yes.

3 Q -- and the question that I'm saying should be  
4 posed is, if you type -- please type in Phoenix Sinclair's  
5 name, and tell us -- and she's only five, or four, so she's  
6 not going to have a lengthy history --

7 A Yes.

8 Q -- of EIA involvement, right, and tell us whose  
9 budgets Phoenix Sinclair has been on, and after May 28,  
10 2004, if that question had been posed to an EIA worker then  
11 they would have seen that she'd been on Steve Sinclair's  
12 budget --

13 A Yes.

14 Q -- and she'd been on Karl Wesley McKay's budget?

15 A Yes.

16 Q And that would have been the way to find out  
17 information about Carl Wesley McKay?

18 A Could have been, yes.

19 Q And that search could be done in a matter of a  
20 few clicks of the mouse?

21 A Um-hum. Yes.

22 MS. WALSH: Thank you.

23 THE COMMISSIONER: All right, witness, you are  
24 finished. Thank you very much for your appearance.

25 THE WITNESS: Thank you. Okay.

1 (WITNESS EXCUSED)

2

3 THE COMMISSIONER: Now, do you want to start  
4 another witness or ...

5 MS. WALSH: It's up to you, Mr. Commissioner.  
6 It's clearly not going to be finished. My friend is going  
7 to be examining the next witness, he, he certainly won't  
8 finish today.

9 THE COMMISSIONER: Well, I think maybe then being  
10 the hour it is we'll stand down until nine-thirty tomorrow  
11 morning.

12 MS. WALSH: Thank you.

13 THE COMMISSIONER: All right.

14

15 (PROCEEDINGS ADJOURNED TO JANUARY 23, 2013)