



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

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

Transcript of Proceedings
Public Inquiry Hearing,
held at the Pan Am Room, Second Floor, Winnipeg Convention Centre,
375 York Avenue, Winnipeg, Manitoba

WEDNESDAY, JULY 24, 2013

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2 PROCEEDINGS CONTINUED FROM JULY 23, 2013

3

4 THE COMMISSIONER: Good morning. Now, let me
5 find your, I have your brief. All right. Mr. Funke,
6 you're on this morning?

7 MR. FUNKE: Indeed. Good morning, Mr.
8 Commissioner. I'd like to start by thanking the
9 Commissioner for allowing me the opportunity to, to recover
10 yesterday. I apologize for not being available yesterday,
11 I, yesterday afternoon, but unfortunately ill health
12 prevented me from attending.

13 THE COMMISSIONER: Well, I'm sure -- as long as
14 you're your best today, that's okay.

15 MR. FUNKE: Thank you. I, I hesitate to say I'm
16 at my best, but certainly well enough to proceed, so thank
17 you very much for the opportunity.

18 As you know, Mr. Commissioner, I'm here on behalf
19 of the Assembly of Manitoba Chiefs Secretariat Inc. and the
20 Southern Chiefs Organization and presenting oral
21 submissions on their behalf, with respect to the inquiry
22 and recommendations that you may make with respect to the
23 evidence that you've heard flowing from the hearings.

24 As we are well aware, the commission of inquiry
25 into the circumstances surrounding the death and

1 disappearance of Phoenix Sinclair was announced by
2 Manitoba's minister of Justice on March 25th, 2011, in
3 response to the overwhelming public concern regarding the
4 events surrounding Phoenix's death and disappearance,
5 questions regarding the extent to which she and her family
6 were involved in child welfare services prior to her death
7 and disappearance and in light of that involvement, how her
8 death and disappearance could have passed undetected for so
9 long. As a result, this Commission was tasked with a
10 number of objectives.

11 In addition to making specific inquiries into the
12 three areas identified in your mandate, which were the
13 services -- well, sorry, the child welfare services
14 provided or not provided to Phoenix Sinclair and her
15 family, under the CFS Act, any other circumstances, apart
16 from the delivery of child welfare services, directly
17 related to the death of Phoenix Sinclair and why her death
18 remained undiscovered for several months.

19 The Commission was also directed to make
20 recommendations, as you consider appropriate, to better
21 protect Manitoba children, that are relevant to the current
22 state of child welfare services in Manitoba.

23 As we have heard, throughout this inquiry, the
24 current state of child welfare in this province is grave
25 indeed. We've been told that there are currently nearly

1 10,000 children in care in Manitoba and although the
2 aboriginal population of Manitoba is only slightly more
3 than 150,000 people, which corresponds to less than 15
4 percent of our provincial population, aboriginal children
5 account for nearly 85 percent of children in care.
6 Although there are nearly 10,000 children in care in this
7 province, there are many more children that are in contact
8 with the child welfare system, who are not in the care of a
9 child welfare agency, but who are receiving services from
10 an agency and are at risk of coming into care if their
11 situations deteriorate. We've also heard that the vast
12 majority of these children are also First Nations children.
13 We've also heard that the First Nations population of
14 Manitoba is the fastest growing segment of our population.

15 It is clear, from these statistics, that the
16 child welfare system in Manitoba is indeed in crisis, which
17 is of particular concern to the members of the 63 First
18 Nations in Manitoba, their families and their leadership.

19 However, the overrepresentation of First Nations
20 children within the child welfare system is not a new
21 phenomenon. Rather, it is reflective of a trend that has
22 been developing for some time. This was certainly the case
23 at the time that Phoenix was born and while she and her
24 family were receiving child welfare services during her
25 short and tragic life.

1 We have heard evidence during the inquiry that
2 Phoenix and her family faced the same circumstances, which
3 contribute to the disproportionate number of First Nations
4 families coming into contact with the child welfare system
5 and their overrepresentation among children in care and
6 which likely contributed to Phoenix and her family coming
7 into contact with the child welfare system and which
8 ultimately resulted in her being in need of its protection.

9 As a result, we submit that there are a number of
10 lessons to be learned from the evidence that has been
11 presented during this inquiry. And although it is
12 important that we understand what improvements to the
13 system are required, in order to better serve children who
14 are in need of its protection, so that agencies entrusted
15 with providing those services are better able to prevent
16 tragedies, such as the one that befell Phoenix, it is
17 perhaps even more important to examine the structural and
18 systemic factors that cause these families to require the,
19 the intervention of the services that those agencies
20 provide and what we can do, as a society, to address those
21 factors. And hopefully, prevent children, such as Phoenix,
22 from falling into circumstances where they require our
23 protection.

24 We submit that that analysis must begin by
25 reviewing the evidence that we have heard, to identify the

1 systemic and structural factors, which the research has
2 demonstrated as contributing to the increased number of
3 families and children in the system. Once those factors
4 have been identified, we can then analyze potential
5 strategies designed to address them. The evidence adduced
6 at the inquiry has demonstrated that an increased emphasis
7 on services designed to prevent the occurrence of
8 maltreatment, by addressing social determinants of health,
9 such as poverty, poor housing and the impact of colonialism
10 on First Nations people not only reduces the incidents of
11 families coming into contact with the child welfare system,
12 but assists I further reducing the number of children who
13 require protective services, and by extrapolation, the
14 number of children ultimately at, at risk of suffering from
15 extreme abuse.

16 In addition, we must also be prepared to examine
17 whether the manner in which protective services are being
18 delivered actually results in improved outcomes for the
19 children and families that they are intended to assist. As
20 we have heard, during these hearings, there is considerable
21 debate whether the practice of apprehension and placement
22 in out-of-home care results in improved outcomes for
23 children and whether a system that sees those children
24 remain in the home instead, with supports in place, may
25 actually result in better outcomes for those children and

1 families.

2 We must also consider the extent to which racial
3 bias influences the application of screening criteria, the
4 assessment of risk and the apportionment of responsibility
5 for systemic and structural factors and the extent to which
6 these and other factors play in the overrepresentation of
7 First Nations children in care and families who come into
8 contact with the child welfare system.

9 We must also consider to the extent to which
10 funding and the manner in which it is calculated
11 contributes to the establishment of a system that has
12 resulted in epidemic numbers of children in care and
13 whether that funding is sufficient to enable the agencies
14 to ask -- providing these services to families to do so in
15 an effective and equitable manner.

16 Finally, we must also examine the role of First
17 Nations leadership and community-based organizations within
18 the child welfare system and the evidence that demonstrates
19 the relationship between positive social outcomes for First
20 Nations families and children and the extent to which First
21 Nations exercise control over the child welfare system and
22 the solutions and services developed to address the factors
23 that cause those families to come into contact with that
24 system.

25 Turning to my submissions with respect to phase

1 1, as we know, phase 1 of this inquiry dealt with the
2 particular circumstances of Phoenix's death and
3 disappearance and the services provided or not provided to
4 her and her family, by Winnipeg CFS, prior to the
5 transition of files to First Nations agencies during the
6 AJI-CWI process. That process, which has become commonly
7 known as devolution.

8 It is important to note that First Nations
9 leaders reject any use of the term devolution, as that term
10 fails to reflect the right of First Nations to exercise
11 meaningful control over the development and delivery of
12 child welfare services to the children and families of
13 their communities. The term devolution suggests that this
14 power has been conferred upon them, by the Province, or
15 some other external authority, which First Nations leader
16 reject outright. The inherent right to exercise meaningful
17 control over the development and delivery of these services
18 is not one merely asserted by the First Nations, but
19 rather, has been formally recognized by the Province of
20 Manitoba and was explicitly acknowledged in a memorandum of
21 agreement which Manitoba signed with First Nations leaders
22 and which ultimately gave rise to the CFS Authorities Act.

23 Rather, First Nations leaders prefer to refer
24 this process of one of, as one of transition, towards the
25 restoration of First Nations jurisdiction over child

1 welfare services for the children and families of their
2 communities.

3 THE COMMISSIONER: Is that agreement you referred
4 to between your client and the Government an exhibit?

5 MR. FUNKE: I would have to double check, Mr.
6 Commissioner. I certainly know that it was provided in our
7 disclosure material. Whether or not it was introduced in
8 evidence during Mr. Bone's testimony, I would have to
9 double check on that.

10 THE COMMISSIONER: Well --

11 MR. FUNKE: If not, it's certainly in our
12 disclosure documents and can be entered as an exhibit.

13 THE COMMISSIONER: All right. I'll have
14 Commission counsel look at that.

15 MR. FUNKE: Certainly. I can also advise that,
16 certainly, that that document, the memorandum of
17 understanding, was referred to in evidence by a number of
18 different witnesses that you heard from. Norman Bone
19 referred to it, Billie Schibler also referred to the
20 memorandum of understanding, as did Elsie Flette, during
21 her testimony. So there were a number of witnesses who
22 referred to the memorandum and the passage that I just
23 referred to, which is the recognition of the right to have,
24 to exercise meaningful control over the development and
25 delivery of those services.

1 THE COMMISSIONER: Well, we'll trace that down.
2 I'll, I'll --

3 MR. FUNKE: Certainly.

4 THE COMMISSIONER: -- I want to see it.

5 MR. FUNKE: Yeah. To the extent that the failure
6 provide services to Phoenix and her family has been
7 attributed either directly or indirectly to the process
8 that has become known as devolution, it must also be noted
9 that at no time was Phoenix's file ever transferred to a
10 First Nations agency under that or any other process, nor
11 did she ever receive service from a First Nations agency.
12 Moreover, there was nothing in the design of the AJI-CWI
13 process that contributed to the tragedy of her death and
14 responsibility for the failure to provide services to
15 Phoenix and her family, during the time that she was
16 engaged with the child welfare services, has been
17 acknowledged, by both Winnipeg CFS and the Department, who
18 were solely responsible, at the time that Phoenix was
19 involved in the system, to ensure that adequate services
20 were provided to her and her family. To the extent that
21 preparations for the transition of child welfare files to,
22 to First Nations agencies contributed to any failure to
23 provide adequate services to Phoenix and her family, it
24 must be noted that control over those processes were also
25 entirely within the control and responsibility of Winnipeg

1 CFS and the Department. This has been public acknowledged
2 by the Department and through their counsel, in these
3 proceedings and the Province should be commended for their,
4 for their candour and their accountability in this regard.

5 What is important to note is that any failure to
6 provide those services did not result from any defect
7 inherent in the AJI-CWI policy or design, but rather, due
8 to the manner in which CFS and the Department managed the
9 implementation of that policy.

10 To the extent that Winnipeg CFS no longer
11 provides child welfare services to First Nations families,
12 except in rare circumstances and now operates under the
13 oversight and responsibility of the General Authority,
14 First Nations and their leadership are not involved and do
15 not have an interest in any changes that may have been, or
16 are yet to be implemented by those entities. As a result,
17 I will not be making any submissions on recommendations
18 that may arise from any evidence heard during phase 1 of
19 the inquiry, except to say that, to the extent that those
20 recommendations may impact on First Nations child welfare,
21 those -- sorry, it is, it is submitted that no such changes
22 should be considered or implemented, except in partnership
23 with First Nations leaders.

24 THE COMMISSIONER: Mr. Funke, let me just ask
25 you this question. I, I notice you're reading from a

1 document --

2 MR. FUNKE: Yes.

3 THE COMMISSIONER: -- it's not the brief you
4 filed?

5 MR. FUNKE: It is not.

6 THE COMMISSIONER: Carry on.

7 MR. FUNKE: Negations (sic) regarding the
8 processes which define the partnership between the Province
9 and First Nations, continue outside the confines of these
10 proceedings. However, it is submitted that those processes
11 must, at a minimum, reflect the acknowledged right of First
12 Nations to exercise meaning, meaningful control over the
13 development and -- excuse me. It is submitted that those
14 processes must, at a minimum, reflect the acknowledged
15 right of First Nations to exercise meaningful control over
16 the development and delivery of these services to the
17 families and children of their communities.

18 I pause for just a moment, Mr. Commissioner, in
19 light of your question. If the Commission would like to
20 have a copy of my oral submission, I certainly can provide
21 that to Commission counsel, so that if you wish to refer to
22 it later, it's of some benefit.

23 THE COMMISSIONER: You can confer with counsel on
24 that. I think we are getting transcripts ultimately, but
25 it might be better to get it in that form. But I'll let

1 Commission counsel speak to that.

2 MS. WALSH: Certainly, we can do that and if you
3 provide it, we'll circulate it. And if --

4 MR. FUNKE: Certainly.

5 MS. WALSH: -- anyone else wants to do that,
6 we'll circulate it. But you're right, the transcripts are
7 being prepared.

8 THE COMMISSIONER: Yes. But I mean, you're
9 saying some significant things that I want to study and so
10 I wanted to be sure I, I got it in --

11 MR. FUNKE: Certainly.

12 THE COMMISSIONER: -- some permanent form.

13 MR. FUNKE: Absolutely. Turning now to phases 2
14 and 3 of the inquiry, before I deal directly with the
15 evidence heard during phase 2, it is important to note the
16 political context within which the six reviews, mentioned
17 in the terms of reference occurred, the changes to the
18 legislation that were introduced by the Province subsequent
19 to Phoenix's death and the process by which those changes
20 occurred.

21 As we have heard, Phoenix's death and the
22 subsequent discovery that she had been missing since her
23 murder in June 2005 occurred against the backdrop of the
24 AJI-CWI process and the major changes that were occurring
25 at that time within the child welfare services in Manitoba.

1 The CFS Authorities Act had been proclaimed in 2003,
2 previously mandated First Nations CFS agencies were now
3 operational province-wide, many newly created First Nations
4 agencies had received their mandates, seconded employees
5 had been transferred to First Nations CFS agencies and the
6 case file transfers from non-aboriginal agencies to the
7 First Nations and Métis agencies had just been concluded.

8 As a result, the First Nations leadership took a
9 less prominent role in the AJI-CWI process at that time, as
10 the First Nations CFS authorities and agencies were now
11 implementing operational changes and adjusting to
12 delivering child welfare service on a province-wide basis.
13 Furthermore, the First Nations leaders were prepared to
14 respect the integrity of the criminal investigation into
15 Phoenix's murder and allow those proceedings to be
16 concluded before considering further changes to the child
17 welfare system.

18 However, the Province passed an amendment to the
19 CFS Act, known as Bill C-33, early in 2008, even before the
20 trial of Samantha Kematch and Karl Wesley McKay had
21 concluded, which introduced significant changes to the Act,
22 including the prioritization of the safety and security of
23 a child whenever assessing their best interests.

24 Leaving aside, for a moment, whether this
25 amendment achieved the results intended, it is important to

1 note that, in passing this amendment, First Nations leaders
2 were not consulted in any manner, prior to this legislative
3 amendment being introduced. From the perspective of First
4 Nations leaders, this signaled a marked departure from the
5 Province's previous commitment to a partnership with First
6 Nations leaders, respecting the functioning and control of
7 the child welfare system in Manitoba. First Nations
8 leaders further submit that this amendment signaled a
9 significant change in CFS policy towards ever greater
10 vigilance, on the part of the CFS system and its workers,
11 with a particular focus on the safety of children in the
12 system, the result of which was an increased tendency
13 towards apprehensions. You have heard evidence, at this
14 inquiry, of similar reactions in other jurisdictions in
15 response to high profile child deaths. Indeed, this very
16 point was highlighted by Dr. Mownie (phonetic) (sic)
17 Brownell, who cautioned against such a response during her
18 testimony on June 5th, 2013. Dr. Brownell testified as
19 follows. The question was put to her by Ms. Walsh:

20

21 "Now, you start off by making a
22 comment about the type of response
23 that is often seen to a tragedy
24 such as the one that this
25 Commission has looked at. Tell us

1 about --"

2

3 Her answer: "Yes."

4 The question continues:

5

6 "-- your comments there."

7

8 Ms. Brownell:

9

10 "Yeah. I've said that it's a knee-
11 jerk response and I'm certainly
12 not the first person to say that.
13 In fact ... very often there's a
14 knee-jerk response to high profile
15 and very tragic deaths like, like
16 the one of Phoenix, but it's
17 important for us not to lose sight
18 of ... the whole prevention and
19 universal focus that I've been
20 talking about, and not to form
21 policy based on that very tragic -
22 -that one very tragic case. And
23 we know it's not, it's not the
24 only case, but if we form policy
25 based on those cases, then

1 basically we'll end up taking more
2 and more kids into care and as ...
3 we talked about through the
4 morning, that sort of takes away
5 funds from prevention services and
6 I think that it's the prevention
7 services that are going to make
8 the big difference in, in child
9 maltreatment."

10

11 Again, that was her evidence from June the 5th,
12 2013.

13 And we can see that it's difficult to ascertain
14 the precise impact that this shift in policy may have
15 had on the numbers of children in care in Manitoba, but
16 what is clear is that the numbers have continued to
17 increase, rather than decrease, since this amendment was
18 introduced. In addition, this focus on safety
19 and security, with a commensurate emphasis on the
20 protection of children, also risks drawing scarce resources
21 away from, from prevention programs and services that are
22 designed to address the circumstances that contribute to
23 neglect, rather than abuse. This is significant, because
24 of the long term consequences of neglect on children. As
25 Dr. Nico Trocmé stated, when he testified on May

1 28th:

2

3 When compared to any other form of
4 maltreatment, including physical,
5 sexual and emotional abuse,
6 neglected children stand out.

7

8 While children exposed to abusive environments
9 frequently require more urgent response, children exposed
10 to periods of persistent neglect experience significantly
11 more severe outcomes than any other form of maltreatment.
12 Furthermore, the reactive nature of protection service is
13 inadequate to address the devastating of effects (sic) of
14 neglect, which requires early, preventative interactions
15 that focus not only on prevention of recurrence, but
16 prevention of occurrence as well.

17 It is therefore our submission that this
18 increased emphasis on the safety of children and the
19 ongoing practice of apprehension and placement in out of
20 home care has further contributed to the overrepresentation
21 of First Nations children in care in Manitoba, due, in
22 large part, to the systemic bias that exists within the
23 system and the structural factors that act
24 disproportionately against First Nations families.

25 Finally, it must also be noted that due to the

1 legislative framework within which the six reviews were
2 conducted, there was no opportunity for First Nations input
3 or consultations during the reviews, or in the preparation
4 of the reports that were produced.

5 The Commission heard a significant amount of
6 evidence dealing with factors that contributed to the
7 overrepresentation of First Nations families and I turn to
8 that evidence now.

9 There's been a significant amount of research
10 conducted which has examined the factors that contribute to
11 the maltreatment of children and specifically with respect
12 to the factors that contribute to the overrepresentation of
13 First Nations children in the child welfare system. Dr.
14 Trocmé, who serves as the director of the Centre for
15 Research on Children and Families at McGill University,
16 testified on May 28th. He testified that First Nations
17 children and families are investigated for alleged
18 instances of maltreatment at a rate four times higher than
19 non-aboriginal families, while substantiated investigations
20 occur at a rate five times higher than non-aboriginal
21 families.

22 Dr. Trocmé testified that maltreatment was
23 defined as including physical abuse, physical neglect,
24 emotional maltreatment and sexual abuse. Dr. Trocmé also
25 noted that although First Nations families were

1 overrepresentation across all forms of maltreatment, the
2 rate of overrepresentation was not consistent. He noted
3 that while there is only a slight degree of
4 overrepresentation, for example, with respect to sexual
5 abuse, there is dramatic overrepresentation in cases
6 involving neglect, where the incidence is eight times
7 higher amongst First Nations families. Dr. Trocmé further
8 testified that First Nations children are 12 times more
9 likely to be apprehended and placed in out of home care
10 than their non-aboriginal counterparts.

11 According to Dr. Trocmé, there is nothing about
12 First Nations families per se, that would explain this
13 overrepresentation. Rather, it reflects the reality that
14 First Nations children and their families are simply living
15 in far worse conditions than non-First Nations families.

16 Dr. Cindy Blackstock, the executive director of
17 the First Nations Child and Family Caring Society,
18 testified that the primary contributing factors that lead
19 First Nations families into contact with the child welfare
20 system are poverty, poor housing and substance abuse, which
21 in the case to First Nations people is closely related to
22 the Indian residential schools experience.

23 This is similarly reflected in the testimony of
24 Dr. Brad McKenzie, Dr. Alexandra Wright and Dr. Marni
25 Brownell.

1 Moreover, Dr. Blackstock also testified that
2 there is a trend in child welfare to codify risks that are
3 outside of parents' control, such as poverty and poor
4 housing, as indicators of parental deficits. Her evidence
5 was that this trend results in poor parents, particular
6 First Nations parents, who suffer disproportionately from
7 poverty, being classified and substantiated for neglect in
8 ways that are unfair. Dr. Blackstock testified that
9 neglect is the primary form of maltreatment that causes
10 families to come into contact with the child welfare
11 system, but there is no clear definition, that is applied
12 uniformly, within the system. This results in significant
13 disparity in the criteria being applied by workers when
14 identifying instances of maltreatment, which may similarly
15 contribute to the overrepresentation of First Nations
16 families.

17 Although the Commission heard evidence regarding
18 the introduction of the structured decision making tools,
19 which were introduced in an attempt to eliminate these
20 discrepancies, Jay Rodgers, the executive director of the
21 General Authority, acknowledged that the current CFS Act
22 and the SDM training materials failed to provide such a
23 definition of neglect. Moreover, Mr. Rodgers acknowledged
24 that the use of SDM tools has been adopted, notwithstanding
25 that a study to validate those tools is not possible until

1 they have multiple years of data available to analyze,
2 notwithstanding the Children Research Centre, who developed
3 the SDM, SDM tools currently being implemented, that they
4 caution against transporting the tool from one jurisdiction
5 to another, without performing validation testing. We
6 submit that this caution is particularly concerning, in
7 light of Mr. Rodger's evidence regarding the validation
8 study undertaken in Minnesota, which demonstrated an
9 anomaly in the use of the SDM tools when applied to the
10 Native American population in that jurisdiction.
11 Nevertheless, Mr. Rodgers testified that he was not
12 concerned about a cultural or racial bias in the tool.
13 Suffice to say that First Nations leaders do not share his
14 confidence.

15 Other factors have also been identified as
16 contributing disproportionately to the overrepresentation
17 of First Nations families in Manitoba. Dr. Marni Brownell,
18 an associate professor in Community Health Science, with
19 the Faculty of Medicine, at the University of Manitoba,
20 testified then, in addition to the correlation that has
21 been identified between socio-economic status and health
22 education and social outcomes, there is a further
23 correlation between poor outcomes for children and factors
24 such as deep poverty, whether the child's mother was in
25 teenage years when she had her first child and whether the

1 child had received child welfare system. Dr. Brownell
2 discovered that if a child possessed even one of these
3 factors, their outcomes were much poorer than those with
4 none. If a child possessed two factors, their outcomes
5 were worse than those with a single factor and those who
6 possessed three factors suffered worse outcomes than those
7 with two.

8 Dr. Brownell also described an intractable cycle
9 of perpetuating risk that she discovered in her research,
10 such that if you grew up with any of these identified
11 factors and experienced poor outcomes, your children will
12 also be exposed to those factors.

13 We also heard from Dr. Shauna MacKinnon, the
14 director of the Manitoba office of Canadian Centre for
15 Policy Alternatives, who testified that poverty affects
16 First Nations families disproportionately and that the
17 depth of poverty and length of time that people suffer in
18 poverty are significant factors. She described how poverty
19 and social exclusion are interrelated and how deep and
20 protracted poverty often results in people feeling that
21 they're not really a part of society. The less you have
22 access to, she described, the further disengaged you become
23 and a sense of hopelessness and helplessness sets in. Her
24 evidence was that these issues cannot be quickly or easily
25 resolved.

1 Dr. MacKinnon testified that suitable and
2 affordable housing is a critical issue in reducing poverty
3 and increasing social inclusion. Social assistance rates
4 for housing are far too low and haven't been substantial
5 increased since 1992, whereas rents have increased
6 significantly in that same timeframe. She testified that
7 solutions to the chronic housing shortage would include
8 developing more subsidized housing resources and
9 encouraging more private housing development. The
10 regulation of rent increases also needed to be improved to
11 prevent abuses. Social assistance rates also needed to be
12 increased for people renting privately.

13 The Commission also heard from Dr. Jino Distasio,
14 the associate vice president of Research and Innovation, at
15 the University of Winnipeg, who described the First Nations
16 mobility study, a collaboration with the Assembly of
17 Manitoba Chiefs and the Manitoba Métis Federation, which
18 was intended to examine the mobility of First Nations Métis
19 and Inuit persons moving into Winnipeg and their service
20 utilization patterns. It quickly became about the lack of
21 core services, not just the lack of housing, but also
22 transitional supports. Dr. Distasio gave further evidence
23 suggesting that this demonstrates a complex pattern of
24 mobility among First Nations persons and policies need to
25 catch up with that. He testified that the Eagle Urban

1 Transition Centre was created in an attempt to make that
2 mobility pattern more seamless. He advised that people end
3 up taking money from other limited resources, like their
4 food budget, in order to pay for housing and they then end
5 up at the food bank. He described it as an industry of
6 poverty and feels that we need to increase the housing
7 rates, particularly for families, which are well below what
8 they should be. He suggested that there has been no
9 meaningful change in the housing situation in over 40
10 years. He identified the two most important issues in
11 finding -- sorry, in terms of housing, was first in finding
12 adequate shelter -- I apologize. The two most important
13 issues in finding adequate shelter he identified were the
14 lack of financial resources and the availability of shelter
15 in general. Not surprisingly, he also found that racism
16 still played a role in shutting people out of the housing
17 market.

18 In addition to poverty and poor housing, Dr.
19 Blackstock and other witnesses described the effects of
20 colonization, particularly the incidence of substance abuse
21 related to that experience as one of the key social
22 determinants of health among First Nations people and one
23 of the primary structural factors that contribute to
24 contact with the child welfare system. Moreover, they
25 described a system that was ill-equipped to respond to the

1 legacy of those policies.

2 Dr. Blackstock further testified that a cultural
3 bias persists, within the child welfare system, that
4 operates to the disadvantage of First Nations children and
5 families, which results from the failure to provide social
6 workers with training on the inter-generational historical
7 trauma that results from the residential schools
8 experience.

9 Dr. Robert Santos, associate secretary to the
10 Healthy Child Committee of Cabinet, testified before you
11 regarding the significance of early childhood development.
12 But during his evidence, he also described the research of
13 Amy Bombay (phonetic), a psychologist who had completed her
14 PhD in neuroscience at Carlton University, who has
15 published two papers, illustrating a growing bridge between
16 the emerging research in the field of epigenetics and the
17 history of trauma experienced by indigenous people in
18 Canada, particularly as it relates to the Indian
19 residential schools experience. She has written a review
20 paper about inter-generational trauma and identifies
21 epigenetics as a likely mechanism to explain how the
22 negative effects of trauma, even those which occurred
23 several generations ago, can still persist.

24 As was pointed out to me recently, First Nations
25 people did not need this research to confirm that the

1 inter-generational impacts of colonial policies, such as
2 the residential school system and the Sixties Scoop, were
3 still acutely felt in First Nations communities.

4 To help put that observation into context, Dr.
5 Blackstock reminds us that there are currently three times
6 more First Nations children in out-of-home care in Canada
7 than were ever involved in the residential schools at its
8 height.

9 Dr. Bradley McKenzie, a professor at the
10 University of Manitoba, in the Faculty of Social Work,
11 testified that the overrepresentation of First Nations
12 children in care can be traced to factors such as poverty
13 and housing, as well as the impact of colonialism on
14 aboriginal people, including the legacy -- excuse me,
15 including the legacy of residential schools and historical
16 marginalization.

17 Dr. McKenzie testified that, in his opinion, in
18 order to reverse the effects of colonization, First Nations
19 communities must be able to develop their strengths and
20 institutions to work collaboratively with child welfare
21 orgs and institutions responsible for the education and
22 development of young people, which in turn, requires
23 economic development sufficient to generate employment
24 opportunities.

25 He further testified that self-determination is

1 an important component of that recovery, which includes not
2 only the ability to establish local priorities, but also
3 the capacity to manage each community services and
4 industries. It includes the ability to make governance
5 related decisions, to direct the development and delivery
6 of important services in the local communities, such as
7 health, education and child welfare and to negotiate with
8 governments around other developments that ought to exist.
9 This applies to First Nations communities both on and off
10 reserve, he said, although he acknowledged that the process
11 would be more complicated off reserve.

12 We also heard evidence with respect to the impact
13 of the delivery of child welfare system to aboriginal
14 families by non-aboriginal agencies and by workers who are
15 provided with insufficient training to educate them on the
16 impact of colonial policies and practices.

17 Elsie Flette, the executive director of the
18 Southern First Nations Network of Care, also known as the
19 Southern Authority, identified the delivery of child
20 welfare system to aboriginal families by non-aboriginal
21 agencies as a contributing factor to the overrepresentation
22 of First Nations children in the child welfare system.

23 Despite their efforts to redress this deficiency,
24 Sandie Stoker, the executive director of the All-Nations
25 Coordinated Response Network, otherwise known as ANCR,

1 testified that ANCR does not employ, employ a
2 representative number of First Nations employees in their
3 intake department. This is all the more concerning as ANCR
4 is the first point of contact for most First Nations
5 families who become involved in the child welfare system in
6 Winnipeg. We heard evidence that often these families
7 receive services from ANCR for as long as 90 days before
8 being transferred to a First Nations child welfare agency
9 that is better equipped to provide culturally appropriate
10 services.

11 This inquiry has also heard from many witnesses
12 who testified that the staff employed not only at intake,
13 but in the field of child protection generally, are often
14 the least experienced social workers on an agency's staff
15 and that a high rate of turnover is not uncommon, due to
16 burnout and other factors. In addition, Dr. Wright and Dr.
17 Frankel both testified regarding the relative lack of child
18 welfare specific training that is provided as part of the
19 social work degree program, offered through the University
20 of Manitoba, particularly with respect to the training on
21 the effects of the historical marginalization of First
22 Nations people, although there are initiatives underway
23 which apparently are designed to attempt -- or are --
24 excuse me, are designed in an attempt to address those
25 deficiencies.

1 I turn now to the topic of prevention versus
2 protective services.

3 The Commission has heard a great deal of evidence
4 regarding the value of efficacy of prevention programs,
5 including statistics that indicate, for every dollar spent
6 on prevention services, the system will realize between
7 five and 17 dollars saved in protection and other related
8 services. More important than the economic argument,
9 however, is the fact that prevention services reduce the
10 incidents of families coming into contact with the child
11 welfare system and the reduced demand for protection
12 services mean that fewer children are at risk of the type
13 of serious abuse that Phoenix Sinclair suffered.

14 Although the Province has incorporated the
15 differential response model and its new EPFA funding model,
16 Assistant Deputy Minister, Carolyn Leoppky, acknowledged,
17 in her testimony, that differential response is not, by
18 itself, an adequate response to the need for prevention
19 services.

20 Further, Dr. Trocmé testified, regarding the
21 distinction between prevention services, designed to
22 prevent the occurrence of maltreatment, versus prevention
23 services designed to prevent the recurrence of
24 maltreatment. He testified that while child welfare system
25 would focus on prevention of recurrence and prevention of

1 impairment services, public health services can focus on
2 prevention before occurrence.

3 Services targeting the chronic needs of children
4 and families would be considered prevention of recurrence,
5 or prevention of impairment services. Those are the types
6 of services that child welfare agencies provide.
7 Prevention before occurrence services would be the programs
8 aimed at supporting children and families before they come
9 to the attention of the child welfare system. Those
10 services, he identified, are the most successful with
11 respect to their efficacy.

12 One example of prevention services that Dr.
13 Trocmé described was the nurse-family partnership, that
14 targets high risk, first-time mothers. This program is
15 very similar to the Manitoba Strengthening Families
16 Maternal Child Health Program, described by Wanda Phillips-
17 Beck in her testimony. This program has been identified in
18 the Health Council of Canada report: Understanding and
19 Improving Aboriginal Maternal and Child Health in Canada,
20 as an example of best practices in service delivery that is
21 making measurable outcomes.

22 Dr. Santos, associate secretary to the Healthy
23 Child Cabinet, also testified that early childhood
24 development is another fundamental component in effective
25 intervention and prevention strategies. Dr. Santos

1 testified that while the early years of a child's life do
2 not necessarily set their destiny, they do set the
3 foundation for what comes later. The most significant
4 opportunities occur between the child's time in the womb
5 and before they start kindergarten. He described 40 years
6 of evidence demonstrating the lifelong benefits of early
7 childhood development. It is the most effective approach
8 in crime prevention and the foundations of economic
9 productivity and prosperity, because the economic condition
10 depends on the knowledge and skills of people.

11 Kerry McCuaig, excuse me, an Atkinson Fellow at
12 Early Childhood Policy at the Atkinson Centre at the
13 University of Toronto, testified that a universal approach
14 it required to provide all children with early child
15 services, particularly those services supporting the
16 development of a child and supporting parents. Her
17 evidence was that if we attempt to target those
18 interventions only to vulnerable people -- sorry,
19 vulnerable children, we miss out on helping other children
20 who would similarly benefit from those programs. Her
21 evidence was that in order to reduce vulnerability
22 generally, a universal approach is required.

23 She also commented on the Healthy Child Committee
24 of Cabinet, and the fact that it involves eight different
25 ministries which come together to discuss issues of

1 interest to children and youth, which is supported, as
2 well, by the Healthy Child Coalitions at the local level,
3 with support from the Province. In this regard, she
4 testified that this approach is similar to other
5 jurisdictions where there are multiple ministries involved,
6 but none with a specific mandate. She recommends that the
7 Province must gain control of this chaos and utilize the
8 assets that already exist in public education, rationalize
9 the services that are currently being provided and deliver
10 them with a greater degree of coherence. She also
11 recommended that Province needs to develop an early
12 education curriculum which would merge the dominant culture
13 with knowledge and understanding of the aboriginal culture
14 and practice.

15 Commission also received a great deal of evidence
16 regarding the significance, excuse me, of incorporating
17 community-based solutions in prevention services, which are
18 key to ensuring positive social outcomes for children and
19 families.

20 Dr. Wright testified and gave evidence confirming
21 that communities have the right to determine what is best
22 for their children and families and that child welfare was
23 a collective concern.

24 Dr. Blackstock echoed those comments and observed
25 that community-based solutions are the most successful, in

1 terms of intervention and preventing First Nations families
2 from coming into contact with CFS agencies.

3 Dr. Santos, in his evidence, described a multi-
4 layered system of early childhood intervention, starting
5 with universal supports, all the way to target
6 interventions for children with identified needs. His, his
7 evidence was that as you get closer to those targeted
8 services, it becomes harder and harder to do that on a
9 universal or provincial level, because the mix of toxic
10 stressors and protective factors vary from community to
11 community. In Dr. Santos' opinion, we need to understand
12 the local context, capacities, strengths and challenges and
13 then tailor the mix for what children need in each
14 community, as opposed to trying to apply a one-size-fits-
15 all provincial system.

16 Dr. McCuaig similarly testified that in term of
17 early intervention programs, above all else, First Nations
18 families need to be reconnected to their communities.
19 Community supports are essential to prevent recidivism.
20 These programs must have a prominent presence and become a
21 feature of the community.

22 Dr. McKenzie testified regarding his evaluation
23 of the West Region CFS Block Funding Pilot Project in 1994
24 and found that Winnipeg Regional CFS was able to save money
25 and reduce the rate of children in care over time. By

1 2004/2005, he testified that approximately 40 percent of
2 the block funding budget was spent on alternative
3 programming that helped the community build capacity. So
4 just one example of a community-based solution that is
5 successful in reducing child protection concerns by
6 applying those funds to prevention.

7 Dr. McKenzie found that Winnipeg -- sorry, West
8 Region CFS approach has been both successful and cost-
9 effective. Quality assurance odds, audits were positive in
10 demonstrating that cost-effectiveness was not achieved at
11 the expense of child safety.

12 Similarly, Dr. McKenzie testified that the
13 description of the Nisichawayasihk Cree Nation Family and
14 Community Wellness Centre and its related programs, fit the
15 community caring model that he described.

16 He also testified that strong leadership in the
17 community and a strong economic base are essential to the
18 caring community model, although other elements are needed
19 as well.

20 However, Dr. McKenzie cautioned against diverting
21 funds previously allocated to differential response, or
22 family enhancement, away to community-based organizations
23 and advised that doing so would be a very serious mistake.
24 This is not to say that NGOs don't have a larger role to
25 play, but CFS agencies and NGOs need to be strengthened to

1 coordinator those services. Both the SCO and AMC support
2 strengthening the roles of non-mandated agencies such as Ma
3 Mawi Wi Chi Itata and Ka Ni Kanichihk and the Urban --
4 sorry, the Eagle Urban Transition Centre, to name but a
5 few, to assist in providing these vital and essential
6 services to the First Nations communities.

7 Although the SCO and the AMC are jointly
8 recommending that there be an increased emphasis on
9 prevention services, both with respect to prevention of
10 occurrence and recurrence, we acknowledge that protection
11 services will always be a fundamental component to the
12 child welfare system. Nevertheless, there is concern that
13 the current model of apprehending children, when protection
14 concerns arise and placing them at out-of-home care does
15 not necessarily result in better outcomes for children.

16 In discussing her research, Dr. Brownell
17 testified that due to the risk that children in care will
18 experience poor outcomes, there is a concern regarding the
19 high rates at which children continue to be taken into
20 care, despite the lack of evidence that this form of
21 intervention is effective or will result in improved
22 outcomes for these children. Similarly, there is little
23 evidence to suggest that removing children from their
24 homes, due to either neglect or abuse and placing them in
25 out-of-home care results in better outcomes than would be

1 achieved by allowing children to remain in the home with
2 intensive supports in place.

3 This theme was echoed both in Dr. Blackstock and
4 Dr. Trocmé's evidence as well, the concern being that child
5 welfare interventions may, in fact, cause more harm than
6 they prevent. Unfortunately, there is little research
7 currently available on this critical issue.

8 Dr. Brownell further testified that the reliance
9 on out-of-home placements may, instead reflect inadequate
10 funding for preventative and supportive interventions.
11 Interventions that could allow children to remain safely in
12 the home. If so, maintaining the current funding model
13 could simply serve to perpetuate a vicious cycle. Taking
14 funding out of prevention and putting it into out-of-home
15 care reduces the ability to alleviate those factors that
16 contribute to maltreatment, resulting in more children
17 being apprehended and placed in out-of-home care. The ever
18 increasing number of children in care raises obvious
19 questions about the sustainability of that system.

20 The Commission also heard a great deal of
21 testimony about the new funding model that was introduced
22 in 2010, known as the enhanced prevention funding approach.
23 Assistant Deputy Minister, Carolyn Loeppky, testified
24 regarding the key principles upon which the new EPA funding
25 model was based. They were identified as the need to

1 ensure that funding allocated would be equitable,
2 regardless of location, whether on or off reserve, whether
3 federal or provincially funded. The need to identify
4 adequate funding for authorities and by extension, the
5 agencies that they oversee, to meet their respective
6 mandates. And finally, the need to develop the new stream
7 of prevention services referred to as family enhancement.

8 Assistant Deputy Minister Loepky also testified
9 that provincial foundational standards apply both on and
10 off reserve and that the funding model and resources are
11 intended to ensure consistent service delivery both on and
12 off reserve. Nevertheless, funding disparity between the
13 federal EPA formula and the provincial formula does lead to
14 inequities in services to First Nations children.

15 Cheryl Freeman, management consultant for the
16 Nisichawayasihk Cree Nation Family and Community Wellness
17 Centre, identified a number of deficiencies in the current
18 EPFA funding model, including those related to both core
19 service and non-core service delivery funding. She
20 conducted a side-by-side comparison of the federal and
21 provincial funding models, based on the same number of
22 service files and discovered that there was a very
23 significant difference in the levels of funding that
24 resulted. Based on a sample of 440 cases, the federal
25 government funding model would fund 44 positions, whereas

1 under the provincial model, only 24 positions are funded.
2 The difference in funding, calculated between the two
3 models, based on the same number of 444 cases, after
4 adjustments were made to make the models comparable,
5 indicated that an agency would still receive over two
6 million dollars in additional funding, based on the federal
7 funding model, compared to the provincial funding model.

8 Dr. Blackstock gave further evidence with respect
9 to the concept of substantial equity, in terms of child
10 welfare funding. As Dr. Blackstock explained, the
11 overriding issue, in terms of funding, is not one of
12 equality, but rather one of equity. For example, if you
13 were to compare the circumstances of a non-First Nations
14 child, who typically has less significant needs and the
15 circumstances of a First Nations child, who, as a result of
16 colonization, typically presents with more complex and
17 varied needs, it stands to reason that it may take more
18 money and resources to bring the circumstances of the First
19 Nations child up to the standards set out in the statute
20 and regulations, particularly where the safety and
21 wellbeing of the child is paramount. Where one group of
22 children requires more resources to remedy the greater
23 extent of disadvantage from which they suffer, that is
24 substantive equity.

25 Not surprisingly, Dr. Trocmé testified that a

1 child welfare case involving a First Nations child is more
2 complex than one that does not. All other things being
3 equal, his evidence was that a case involving a First
4 Nations child will therefore require more resources to
5 manage.

6 Notwithstanding the principles upon which the
7 EPFA funding model was said to have been based, Assistant
8 Deputy Minister Loepky, acknowledged in her testimony,
9 that the current funding model does not provide for needs
10 based funding appropriate for each community, but rather
11 the funding model is calculated based on the number of
12 children receiving services from each agency on an equal,
13 but not equitable basis. Moreover, Assistant Deputy
14 Minister Loepky, acknowledged that the Province did not
15 rely upon an evidence-based model in formulating the new
16 provincial EPFA funding. Instead of basing funding on
17 calculation of the cost to provide equitable levels of
18 service in each community, funding was instead based on a
19 consideration of the allocation the Province felt it was
20 able to contribute to the new funding model. And I've
21 tried, as carefully as I possibly could, to make sure I
22 used exactly the language that ADM Loepky used in her
23 evidence.

24 To paraphrase, the Province determined what they
25 thought they could afford and split the pie up afterwards.

1 It was not based on a calculation or an assessment of what
2 the needs of each community was.

3 This resulted in operational costs for agencies
4 being fixed at 15 percent of salaries, with little
5 consideration to the increased operational costs that
6 agencies may experience because of the additional cost of
7 providing services either in remote communities, or across
8 multiple sites. In addition, this also impacted on the
9 ratios that were used to calculate caseloads under the new
10 model. The federal ratio for caseloads per worker was set
11 at 20 to one, whereas the provincial ratio was set at 25 to
12 one, again, because the Province determined it simply
13 couldn't afford to match the federal ratio.

14 It is further submitted that the Province has
15 imposed minimum requirements for eligibility to receive the
16 new EPFA funding, that impose additional limitations on
17 First Nations agencies. Agencies are required to meet
18 three criteria. First, they must be CFSIS compliant, they
19 must run balanced budgets and they must agree to repay the
20 children's special allowance monies that they receive from
21 the Federal Government. I say repay, because the request
22 is actually to remit those monies received from the federal
23 department to the provincial department.

24 I'll deal with each of those criteria in turn.

25 CFSIS compliance creates a number of issues for

1 First Nations leaders, not the least of which concerns
2 ownership of the data that is collected by the system. The
3 Province takes the position that once this data is captured
4 by CFSIS, it becomes the property of the Department and can
5 be used by them accordingly. First Nations leaders take
6 quite a different position, which is that information
7 pertaining to their membership continues to belong to the
8 First Nations and they, the leaders, are responsible for
9 making decisions regarding security of data and
10 confidentiality, storage, data sharing agreements, in terms
11 of use. In addition, standards for ethical, effective
12 research have been incorporated by First Nations leaders
13 which require that first the free and prior informed
14 consent on collective, collective and individual levels be
15 obtained, that the OCAP principles be respected, which
16 stipulate that First Nations have ownership, control,
17 access and possession of their data and that First Nations
18 ethical standards must be respected.

19 In addition, the requirement that agencies
20 operate balanced budgets creates potential inequities
21 between First Nations agencies and Winnipeg CFS. Although
22 we are advised that the Province will be clarifying
23 evidence that was presented at the inquiry in this regard,
24 such that the Province no longer absorbs the deficits
25 incurred by Winnipeg CFS since the new funding model came

1 into effect and that they are now similarly expected to
2 operate on balanced budgets, as are First Nations agencies,
3 we submit that the impact of the inadequate history of
4 funding has left many First Nations with significant
5 deficits that must be recovered out of the new funding that
6 they are receiving. What I mean by that is Winnipeg CFS
7 was allowed to run deficits up until 2010. Those deficits
8 were merely absorbed by the Province and were not carried
9 on, year by year, by Winnipeg CFS. First Nations agencies,
10 on the other hand, who ran deficits were required to carry
11 those deficits from year to year and continue, in many
12 cases, to carry those deficits to today. New funding that
13 has been made available to those agencies under the new
14 EPFA funding model, which is designed to provide services
15 to families and children, must first be used to pay off
16 those accumulated deficits, before those services can be
17 provided to First Nations families and children. In our
18 submission, that creates a systemic factor that reduces the
19 availability of services to First Nations families in a
20 disproportionate way.

21 Finally, with respect to the CSA issue, which is
22 the children's special allowance, ADM Loeppky confirmed,
23 for the Commission, that the Federal Government hasn't yet
24 made a final decision with respect to the assignment of CSA
25 monies and whether compliance with the demand from the

1 Province that those funds that have been received by the
2 agencies be remitted to the Province, (inaudible) -- sorry,
3 amounts to a violation under the federal CF, CSA Act. As a
4 result, agencies that have received a demand from the
5 Province to remit CSA funds are therefore caught in a
6 catch-22. If they remit the funds, as demanded by the
7 Province and the Federal Government determines that that is
8 a breach of the CSA Act, the agency is potentially subject
9 to sanctions and prosecutions by the Federal Government.
10 However, if the agency does not remit those funds to the
11 Province, 20 percent of their funding under the new model
12 will be withheld. ADM Loepky acknowledged that that is a
13 very difficult position for the, the agencies to be in.
14 They're caught between a demand from the Province and the
15 prospect of potential prosecutions by the Federal
16 Government. Not surprisingly, many of these agencies have
17 simply not complied with that demand.

18 ADM Loepky further acknowledged that although
19 prevention is recognized to reduce long term expenses,
20 significantly more resources continue to be expended on
21 protection services, due to the high cost of out-of-home
22 care.

23 With respect to the goal of providing funds for
24 the enhanced prevention services described by Assistant
25 Deputy Minister Loepky, Cheryl Freeman testified that the

1 only funds available to the agencies to spend on such
2 services are referred to as service purchase dollars, which
3 is calculated at a rate of \$1300 per family, per year.
4 Now, that may sound like a lot of money, but when you do
5 the math, it works out to only 27 dollars per week, per
6 family, no matter how many children may be in that family.
7 This was described as being massively inadequate by Ms.
8 Freeman.

9 Turning now to the roles of First Nations
10 leadership within the governance of the child welfare
11 system, I make the following comments: As was discussed
12 briefly in my introductory comments, the Province of
13 Manitoba entered into a memorandum of understanding and a
14 protocol agreement with the AMC, as well as the MKO and
15 Manitoba Métis Federation in the spring of 2000, to
16 implement significant changes to the child welfare system,
17 in response to recommendations made in the Aboriginal
18 Justice Inquiry. The signing of this MOU began a process
19 that would result in a significant reorganization of Child
20 and Family Services in Manitoba, which saw First Nations
21 receive province-wide statutory authority for the delivery
22 of mandated Child and family services. The protocol
23 agreement established a partnership, with the four parties
24 agreeing to a joint common table process, using a consensus
25 model of decision making, thus the Aboriginal Justice

1 Inquiry - Child Welfare Initiative began.

2 The First Nations leaders agreed to this
3 initiative, in order that significant changes to the well,
4 child welfare system would be implemented. Changes which
5 would see First Nations take care of their own children and
6 families, not just on reserve, but province-wide, and to
7 ensure the service of, services would be provided in a
8 culturally appropriate manner.

9 The First Nations leaders were and continue to
10 concerned and disheartened by the alarming numbers of
11 children who are separated from their families because of
12 their involvement in the child welfare system. This
13 practice of separating children from their families is seen
14 as a continuation of policies and practices which find
15 their roots in a deep history of colonial based
16 institutions, which were similarly responsible for policies
17 that led to the residential schools era and the Sixties
18 Scoop, which have permanently and irrevocably damaged the
19 continuity of First Nations families and communities and
20 have contributed to negative and often tragic social
21 outcomes for First Nations people. Understandably, First
22 Nations leaders are concerned about the fragmentation of
23 traditional family units and the loss of community
24 practices that traditionally saw First Nations flourish and
25 live a good and healthy life.

1 First Nations leaders maintain that these
2 separation practices have also contributed to the grim
3 socio-economic reality confronting many First Nations
4 families and children throughout Manitoba. As we have
5 heard, this reality includes deep and protracted poverty,
6 disproportionate rates of incarceration and criminal
7 lifestyles, substance abuse, mental health challenges,
8 infant and early mortality and all too frequent tragic
9 deaths.

10 First Nations leaders believe that the tragedy
11 suffered by Phoenix was, in large part, the result of
12 centuries of colonial-based policies and practices, which
13 have been forced upon the First Nations people of Canada.
14 The history of this province, like the history of this
15 country, is one of colonialism, complete with all of its
16 traditions, practices and failings and although recounting
17 that history is frequently unpleasant, we cannot deny that
18 the consequential effects and impacts of that history
19 continue to be felt disproportionately by First Nations
20 people and that the dominant culture continues to bear a
21 collective obligation to redress these historical
22 inequities.

23 In signing the memorandum of understanding in
24 2000, First Nations leaders recognize that the AJI-CWI
25 would result in transferring responsibility for delivering

1 provincially mandated child and family services to First
2 Nations, albeit on an interim measure. The decision to
3 endorse this process was a difficult one, as First Nations
4 leaders were reluctant to sign an agreement that saw
5 legislative control over child and family services remain
6 with the Province, particularly as the current legislation,
7 policies and programs were seen to produce barriers for
8 First Nations peoples, but most importantly because it did
9 not fully recognize or implement First Nations inherent
10 jurisdiction over child welfare.

11 However, First Nations leaders recognize that the
12 AJI-CWI represented progress and it was anticipated that
13 mechanisms would be incorporated to empower First Nations
14 to exercise meaningful control over the development and
15 delivery of more culturally appropriate child welfare
16 services, albeit within the provincial legislative scheme.
17 As Norman Bone stated in his testimony, we, as First
18 Nations leaders, have been borrowing legislation, until we
19 realized the goal of restoring full jurisdiction for child
20 welfare to First Nations communities.

21 In this way, the AJI-CWI represented an interim
22 measure towards strengthening the authority and operations
23 of First Nations child welfare agencies. First Nations
24 leaders continued to move towards the goal of the
25 restoration of full jurisdiction over child and family

1 services. Restoring this jurisdiction entails First
2 Nations assuming control over the system of First Nations
3 child welfare, creating stable relationships between the
4 Crown and First Nations, based on a respect for treaty, a
5 respect and honour for treat and inherents (sic) rights and
6 mechanisms that ensure financial certainty.

7 To that end, it is helpful to analyze the current
8 role of First Nations leaders in the existing child welfare
9 system. The AMC and its northern counterpart, the MKO, are
10 currently the appointing bodies of the two First Nations
11 authorities, the Southern and Northern Authorities. Chief
12 and council also play a role in governance. They're
13 responsible for appointing the boards of the individual
14 agencies that provide services. Grand chiefs of the SCO
15 and the MKO have now been named to membership of leadership
16 council. Leadership council is a political body that
17 exists between the Manitoba Métis Federation, now the SCO,
18 which previously was the AMC, the MKO and the minister.

19 Agencies deliver services to First Nations
20 families and children throughout the province and
21 authorities are responsible for their oversight and
22 developing culturally appropriate standards. As I
23 indicated, chiefs appoint representatives who control
24 policy of both the authorities and the agencies, but
25 currently enjoy no meaningful opportunity to partner on

1 developing policy outside leadership council. It's
2 important to note that leadership council is an informal
3 process and unlike standing committee, has no office or
4 resources that have been committed by the provincial
5 government to supporting its functions. Given that the
6 partnership in the AJI-CWI is between First Nations leaders
7 and the Government, it is concerning to the First Nations
8 leaders that the venue for these discussion (sic) receive
9 such little support, relative to the support that their
10 bureaucratic counterparts at standing committee receive.
11 Standing committee, as I remind the Commissioner, is
12 between the executive directors of the authorities.
13 There's an entire office that has been funded to support
14 their activities. AJI-CWI, however, was a partnership
15 between the leadership of First Nations and the leadership
16 of this province. That office does not enjoy the support
17 from the Province that the bureaucratic office does. From
18 a First Nations perspective, this is a shift in control
19 that is inconsistent with the AJI-CWI.

20 As Norman Bone testified, the current system that
21 arose from the AJI-CWI is not the ultimate goal and never
22 was. Rather, it is merely a step in that process. As he
23 described it, First Nations have merely been borrowing the
24 current legislation as an interim step in the process
25 towards a restoration of First Nations jurisdiction over

1 child and family services. This approach is supported by
2 the testimony of a number of experts who testified at the
3 inquiry.

4 Dr. Wright acknowledged that First Nations
5 communities must be empowered to take control and be
6 responsible for the care of their children, in order to
7 provide positive outcomes.

8 Dr. Blackstock underlined the importance of First
9 Nations self-government and autonomy, as it relates to
10 positive social outcomes for their communities. First, she
11 discussed the Cornell and Kalt study at the, at the
12 American Indian Project, at Harvard, which demonstrated
13 that the higher the degree of sovereignty in First --
14 sorry, in Native American communities, the better the
15 socio-economic outcomes were. Similarly, a study
16 undertaken by Chandler and Lalonde, in southern British
17 Columbia, demonstrated that the prevalence of youth suicide
18 rates and other social outcomes, in 16 First Nations, were
19 directly related to the degree of self-determination
20 enjoyed by those communities in which the children and
21 families were living.

22 Norman Bone testified that the process to
23 establish traditional governance models for communities
24 that have different and complex interests and needs may
25 take some time to develop. As a result of colonization,

1 First Nations people do not all have the same connection to
2 their historical traditions. There are traditional people
3 who adhere to traditional teachings. There are neo-
4 traditional First Nations people who gravitate towards a
5 blend of cultures and non-First Nations people -- sorry,
6 non-traditional First Nations people who are more connected
7 to, or who have adopted the dominant societal values.

8 In addition, there are a significant number of
9 First Nations in Manitoba, many tribal councils, numerous
10 numbered treaties and a wide variety of linguistic groups.
11 As a result of these complexities, Mr. Bone acknowledged
12 that the development of a First Nations child welfare
13 governance model may well require some considerable time,
14 resources and knowledge to develop and implement.
15 Nevertheless, nothing in the current system, nor in the
16 current legislation, abrogates or derogates from the First
17 Nations' right to do so. Nevertheless, First Nations
18 leaders would prefer to work together with their partners
19 at the Province, to ensure that the transition to full
20 nations jurisdiction is as smooth and successful as
21 possible.

22 As a result, First Nations leaders believe that
23 for improvements to First Nations child welfare in Manitoba
24 to be effective at producing positive outcomes for First
25 Nations children and families, a renewal of the partnership

1 between the Province and First Nations leadership is
2 required. The AJI-CWI was the process developed to achieve
3 those improvements, which saw the province and First
4 Nations working together towards that shared goal. It
5 included a review process, which was designed to be
6 responsive to issues arising from its implementation, which
7 included the leadership council. The Province and First
8 Nations leaders should be encouraged to take advantage of
9 that structure and reengage in a discussion focused on both
10 short term and long term strategies to implement the
11 changes being proposed at this inquiry. However, it must
12 be remembered that the AJI-CWI process was never intended
13 to be and is not the final goal for First Nations child
14 welfare. Rather that goal is the restoration of First
15 Nations jurisdiction over a child welfare system which is
16 culturally appropriate and based on First Nations values,
17 traditions and practices.

18 As a result, the response to the present state of
19 First Nations child, child welfare must be twofold. First,
20 to identify and implement solutions that seek to reduce the
21 overrepresentation of First Nations children in care and
22 second, to work collectively with First Nations leaders
23 towards the ultimate goal of an autonomous First Nations
24 child welfare system.

25 The partnership that arose from the MOUs and

1 which was essential to the successful implementation of the
2 AJI-CWI process, recognized both the inequality and power
3 enjoyed by the province, relative to the other parties and
4 the need for a commitment to the equality of partners.
5 There was an acknowledgement that consensus meant more than
6 consultation and there must be a willingness to share power
7 within a working relationship of openness, transparency and
8 accountability. This was reflected in the development of
9 the detailed implementation plan, otherwise known as the
10 DIP, which guided the restructuring of the Child and Family
11 Services system in Manitoba. The DIP provided a
12 comprehensive framework for planning and implementing the
13 new system. It was developed as a detailed plan, under a
14 project management format and was designed to be flexible
15 and responsive to change of circumstances. As such, it was
16 described as a rolling document and continues to be seen as
17 such by First Nations leaders. The DIP was developed in a
18 manner that allowed it to be amended within the consensus
19 of the four parties of the AJI-CWI.

20 First Nations leaders want to see the Province
21 return to the AJI-CWI process and sit down with them to re-
22 open the DIP and address the outstanding, incomplete items,
23 which includes a review of the current legislation, a
24 reform of group two resources -- and just for the
25 Commission's benefit, group two resources refers to

1 placements of children out of care that does not involve
2 private home foster homes. It includes, as well as a
3 review of the Office of the Children's Advocate and the
4 design and implementation of direct services and management
5 information systems.

6 It is the submission of First Nations leaders
7 that a review of the AJI-CWI process, including to
8 potential changes to services in legislation, is both
9 essential and long overdue. However, First Nations leaders
10 also recognize that the Commission's ability to make
11 recommendations in this regard is limited. As you have
12 stated from the outset, the mandate of this inquiry did not
13 include a systemic review of First Nations child welfare
14 and we respect that. However, it is unfortunate that that
15 was not included in your mandate, as it appears that most
16 of the problems afflicting the pleasant, the present state
17 of First Nations child welfare are indeed systemic in
18 nature and very likely would have benefited from your
19 review and consideration. Nevertheless, the AMC and SCO
20 submit that the goal of restoring First Nations
21 jurisdiction to provide child welfare services for their
22 own children and families should guide the Commissioner's
23 deliberations and any recommendations that you may make to
24 the Government of Manitoba.

25 I now deal with the specific recommendations that

1 I included in my written submissions, Mr. Commissioner.

2 THE COMMISSIONER: And that's at page what?

3 MR. FUNKE: I actually don't have the benefit of
4 my own written submissions in front of me. It's --

5 THE COMMISSIONER: All right. I, I --

6 MR. FUNKE: -- the last --

7 THE COMMISSIONER: -- I have it here.

8 MR. FUNKE: -- three or four pages.

9 THE COMMISSIONER: That's starting at page 36.

10 MR. FUNKE: Thank you. And I'll warn you --

11 THE COMMISSIONER: Yes.

12 MR. FUNKE: -- I have somewhat reorganized the
13 order of the recommendations that I made, but I still have
14 preserved the number of the recommendations. I'll refer
15 you to the number of recommendations --

16 THE COMMISSIONER: Well --

17 MR. FUNKE: -- as I go through them.

18 THE COMMISSIONER: -- I've, I've noticed
19 throughout, you, you've made references to what's in what
20 you filed.

21 MR. FUNKE: Yes.

22 THE COMMISSIONER: I -- it seems to me that what
23 you're presenting today is a replacement and expansion of
24 the, of the first document.

25 MR. FUNKE: It's just expanding on the, the

1 material that was contained in my written submissions, Mr.
2 Commissioner. Well, as we study this, myself and
3 Commission counsel, it seems to me that everything that's
4 in the written document you filed a week ago, or 10 days
5 ago, is, is within the document you've read from, which
6 also includes many other factors?

7 MR. FUNKE: Certainly. Not -- the submissions
8 that I'm making today do not contain all of the material
9 that's in my written submissions. I have done through the
10 evidence that I've included in my oral submissions today
11 and only highlighted the most significant portions of it.
12 There's significantly more in my written submissions that I
13 have not referred to in my oral submissions today. So --

14 THE COMMISSIONER: But, but there's significantly
15 more in your oral submission today than is in your written
16 submission?

17 MR. FUNKE: There's no question that there is,
18 particularly with respect to the role of First Nations
19 leadership. Their, their vision of the future First
20 Nations child welfare, background information with respect
21 to the relationship between the Province and my clients and
22 the history that resulted in the system that we have before
23 us today.

24 So as I say, I've gone through my recommendations
25 and I've tried to organize them in such a way as to deal

1 with the, the twofold approach that I've described in my
2 submissions. One being the immediate changes that need to
3 be made to the child welfare system to address the short
4 term critical issue, which is the overrepresentations of
5 First Nations children.

6 THE COMMISSIONER: Now, I'm just looking at the
7 clock; about how long do you expect to be?

8 MR. FUNKE: It depends, Mr. Commissioner, on -- I
9 suspect that during my discussion of the recommendations,
10 you may have some comments or questions for me and that
11 this portion of my submission may be more of a discussion
12 between us than a real presentation by me. If that's the
13 case, it may be an appropriate time to take a break.

14 THE COMMISSIONER: All right. We'll take a 15
15 minute break now.

16

17 (BRIEF RECESS)

18

19 THE COMMISSIONER: All right, Mr. Funke.

20 MR. FUNKE: Thank you, Mr. Commissioner.

21 As I stated just before we took our midmorning
22 break, I've reorganized my recommendations that were made,
23 my written submissions, in order to reflect my oral
24 submissions this morning, which identified the twin goals
25 that First Nations leaders hope to accomplish as a result

1 of this inquiry, first, to identify and implement solutions
2 that address the immediate crisis of the overrepresentation
3 of First Nations children in care and second,
4 recommendations designed to reestablish the process by
5 which First Nations may achieve their goal of an autonomous
6 First Nations child welfare system. To that end, the AMC
7 and SCO submit that any recommendations that result from
8 this inquiry will be implemented through a renewed AJI-CWI
9 process, in partnership between the Province and First
10 Nations leaders.

11 Turn now to the specific recommendations that we
12 have made.

13 First, that the Province and First Nations
14 leaders initiate a process to evaluate whether the current
15 practice of apprehension and placement in out-of-home care
16 results in better outcomes for children, compared to
17 leaving children in the home with appropriate supports in
18 place. Commission has heard significant evidence regarding
19 this practice and questions that have been raised about the
20 efficacy of this practice and whether or not it actually
21 results in improved outcomes for children. The experts who
22 have provided evidence on that point have all indicated
23 that there's essentially a paucity of research to suggest
24 whether or not this practice does, in fact, result in
25 better outcomes for children. The evidence that has been

1 adduced indicates that children who are placed in out-of-
2 home care after being apprehended from their parents do
3 suffer further harms. That we know. The question isn't
4 whether or not they suffer harm as a result of placement in
5 out-of-home care, but rather, whether or not they would be
6 better off if left in the home, notwithstanding the
7 evidence of maltreatment, if appropriate supports and
8 services were put in place to ensure their safety in the
9 home. The question is, would they do better if those
10 services were put in place, such that the children could
11 remain in the home.

12 In that regard, I ask the Commission to consider
13 the evidence of Felix Walker, who gave testimony with
14 respect to the Apprehending the Parent program in Nelson
15 House. That is very similar to what was being suggested by
16 putting placements in -- or sorry, putting services in the
17 home, to ensure that the children's safety and security is
18 ensured without creating the kind of drastic trauma that
19 can result from moving a child from their, from their
20 family home. So I ask the Commission to consider that
21 recommendation, in light of not only the expert evidence
22 that you've heard, but also the anecdotal evidence that
23 you've heard from Mr. Walker in that regard.

24 The second recommendation is that the Province
25 and First Nations initiate a process to evaluate whether

1 the current funding practices contribute to the removal of
2 children from their homes and placement in out-of-home care
3 and thereby perpetuate the cycle of overrepresentation of
4 First Nations children and families in the system. Again,
5 this harkens back to Dr., believe it was Dr. Brownell's
6 evidence, suggesting that -- sorry, McCuaig, not Brownell,
7 suggesting that the removal of children and placing them in
8 out-of-home care results in these increased costs that are
9 associated with out-of-home care. That was also the
10 evidence of ADM Loepky, that it is a very expensive system
11 to maintain.

12 THE COMMISSIONER: Now, while you've said you've
13 rearranged the -- what's in your written document, are your
14 numbers still the same? You're, you're referring to them
15 at a different time, or are they different recommendations?

16 MR. FUNKE: No, they're the same recommendations.

17 THE COMMISSIONER: Okay. So this is which
18 number, or which --

19 MR. FUNKE: Number 2 in my --

20 THE COMMISSIONER: Oh, this is number 2?

21 MR. FUNKE: It is.

22 THE COMMISSIONER: Right. Okay.

23 MR. FUNKE: So I'm suggesting that there, there
24 needs to be a process to evaluate whether or not the
25 current funding model promotes this practice of

1 apprehension and placement in out-of-home care. And the
2 reason I suggest that is that the Commission has heard
3 evidence that many of the services that children and
4 families require cannot be provided by an agency until
5 after a child has been apprehended, because funding for
6 those services does not exist prior to apprehension. So
7 the question then is, does that create an incentive, a
8 systemic incentive to apprehend children so that services
9 can be provided? If the system was set up in such a way
10 that those services could be provided to children while
11 remaining in the home, without an apprehension occurring,
12 would that enable the system to provide sufficient services
13 to preserve the family unit, while addressing the
14 protection concerns that may present themselves? And if
15 so, would that lead to better outcomes for children?

16 The evidence of the experts that you've heard at
17 the inquiry seems to suggest that the current funding model
18 creates a built-in incentive towards apprehensions. And
19 that's a self-feeding cycle, because once the apprehension
20 has occurred, the cost of providing those service (sic) is
21 substantially more when the child is placed in out-of-home
22 care. So I'm suggesting that there needs to be a study
23 undertaken to determine whether or not the funding model
24 can be adapted so that if those services are provided while
25 the child remains in the home, whether or not that (a)

1 preserves families longer and (b) results in reduced
2 expenditures of the system. If so, the argument goes, that
3 money may be available for further preventative services,
4 so we can draw money away from protection and reinvest it
5 in prevention, try to balance the scales, as it were.

6 Right now, the province has a significantly
7 disproportionate expenditure with respect to protection
8 services, relative to preventive services. Can we try to
9 right that balance by examining alternate ways of providing
10 funding for agencies who are providing services to families
11 who find themselves in circumstances where their children
12 are in need of protection? Is it possible to address those
13 needs without removing the children, with appropriate
14 services in place?

15 My third recommendation is that the Province and
16 authorities develop specialized training for social workers
17 designed to assist them in better understanding the multi-
18 generational impacts of colonization and its contribution
19 towards the incidents of neglect. And I'm suggesting that
20 there ought to be particular emphasis placed on the correct
21 attribution of responsibility for structural factors that
22 contribute towards neglect.

23 This goes back to the evidence of Dr. Blackstock
24 and Jay Rodgers. Dr. Blackstock testified that there are a
25 variety of social determinants of health that, that operate

1 disproportionately to place First Nations children at
2 higher risk of maltreatment, but more importantly, some of
3 those factors, particularly poverty, relate to factors that
4 are not within the control of the parents, that they are
5 structural factors that, that are, that are generated from
6 external sources, which is a lack of economic opportunity,
7 lack of education opportunity, et cetera.

8 THE COMMISSIONER: Might, mighten (phonetic)
9 (sic) that better be, or maybe in conjunction with, or
10 separate from the curriculum matter at, at institutions
11 that train social workers? Isn't this a subject that is,
12 is pretty basic, based upon workers being trained to go out
13 into the field in this province?

14 MR. FUNKE: The difficulty is, Mr. Commissioner,
15 is that not all case managers, employed within the
16 province, with agencies, have BSWs, or come to the
17 profession with that educational background. As a result,
18 many of those workers are dependent upon the training that
19 they receive from the agencies and authorities, to ensure
20 that they have the skills and training necessary to ensure
21 that they do their jobs both correctly and efficiently and
22 efficaciously.

23 THE COMMISSIONER: I, I understand.

24 MR. FUNKE: So our recommendation is, is that to
25 ensure that workers have a better understanding of the

1 multi-generational impacts of colonization and to
2 understand that when ascribing responsibility for these
3 factors that contribute towards maltreatment, it's
4 essential that the system ensure that those, that that,
5 that those training opportunities exist within the system.
6 We cannot rely on external training and educational systems
7 to ensure that our workers come to the system with that
8 education.

9 And as I say, this goes back to the evidence of
10 Dr. Blackstock, who's identified that these external
11 structural factors have a significant contribution towards
12 the constellation of neglect and neglect is by far the most
13 prominent reason that families come into contact with the
14 agency. And as a result, properly attributing the factors
15 that contribute to neglect, either to the parent, or to
16 structural factors outside their control, is essential in
17 determining whether or not it's within the parents' power
18 to do anything to address those factors.

19 Dr. Blackstock's argument is, is that if those
20 factors are outside the control of the parents, it's unfair
21 to hold them accountable for those circumstances and to
22 suggest to them that these are factors that they need to
23 address, in some fashion, before they can have their
24 children returned to their care, or escape the risk that
25 their children may be apprehended.

1 Jay Rodgers, in his evidence, talked about the
2 use of the SDM tool and acknowledged that when applying the
3 SDM tool, there is no definition for neglect, either within
4 the Act, or within the SDM training manuals, that would
5 address this underlying concern about the inconsistency of
6 criteria that workers apply in determining whether or not
7 neglect is active in this particular family unit and
8 determining whether or not the child's at risk or whether
9 or not child protection concerns exist such that the child
10 ought to be apprehended. It's a fundamental issue. The
11 SDM tools are designed to try to apply a universal standard
12 across which all parents and families are treated equally
13 and to try to standardize the process of apprehensions in
14 appropriate circumstances. If one of the fundamental
15 criteria that determines whether or not a child is need of
16 services, or is in need of protection is whether or not
17 that child is neglected, one would assume that the
18 definition of neglect is a fundamental component of that
19 assessment. Unfortunately, the Act does not provide any
20 assistance in that regard and neither do the training
21 manuals. As a result, it's left to the individual worker's
22 assessment of the circumstances to determine whether or
23 not, in their opinion, that child suffers from neglect or
24 not.

25 If we've learned nothing from this inquiry, the

1 evidence of Dr. Trocmé and Dr. Blackstock should leave us
2 with no doubt that neglect is a very complex and often
3 difficult concept to grasp correctly and to, to
4 appropriately apportion responsibility for neglect. And as
5 a result, we take the position that there needs to be
6 specialized training for social workers in that regard, to
7 ensure that they are doing that job properly.

8 I'm now going to move to my fourth
9 recommendation, Mr. Commissioner and I do that simply
10 because it also deals with training --

11 THE COMMISSIONER: Yes?

12 MR. FUNKE: -- to make my presentation somewhat
13 more logical.

14 Our next recommendation is, is that the
15 authorities develop and implement initiatives such as the
16 aboriginal social worker training program described by Dr.
17 Blackstock in her evidence, to ensure that graduating
18 social work students are better prepared for the
19 requirements of child welfare work before starting their
20 career working with children and families. We're not
21 suggesting that it necessarily has to be the program
22 described by Dr. Blackstone, but a similar program that
23 needs to be applied by the authorities before people start
24 working in the field as case managers or social workers is
25 essential to ensure that they have the minimum level of

1 training and competence necessary to provide services to
2 children and families. We appreciate that training is an
3 ongoing obligation of both the employer and the employee
4 and we support that. Nevertheless, it is not appropriate
5 to wait until after a case manager or a social worker has
6 been employed in that particular field for three to six
7 months before core competency training is applied and other
8 forms of training are offered to that individual, to try to
9 address basic competence. We're not suggesting that the
10 obligation to provide core competency training should be
11 provided prior to the commencement of employment, but we
12 are suggesting that some policy needs to be developed to
13 address the minimum level of competence before workers
14 start working in the field.

15 Turn to number 5. That initiatives such as the
16 Touchstones of Hope program be implemented to develop and
17 implement community-based solutions in the delivery of
18 child welfare system to First Nations children and
19 families.

20 Dr. Blackstock described the Touchstones
21 (phonetic) of, Touchstones of Hope program in her evidence
22 and what's important to understand about that particular
23 program, and again, the AMC and the SCO are not
24 recommending that it necessarily needs to be that
25 particular program, but a program very much akin to that

1 program should be encouraged for use throughout the system.
2 Dr. Blackstock's testimony was that the Touchstones of Hope
3 program can be used at virtually all levels of development
4 and implementation, but particularly so at the community
5 level. It's particularly effective at the community level
6 in developing services that are the most likely to produce
7 positive social outcomes in the community, because it
8 engages the community, at all levels, in the development of
9 those policies and practices. It creates a culture of
10 ownership within the community and assists in investment
11 and tie-in into the results.

12 THE COMMISSIONER: Well, the involvement of
13 community participation has become a very --

14 MR. FUNKE: Absolutely.

15 THE COMMISSIONER: -- important theme in, in all
16 we've heard.

17 MR. FUNKE: Yes.

18 THE COMMISSIONER: And will, and will, in some
19 form, be reflected in my report and what recommendations we
20 make.

21 MR. FUNKE: Thank you. Turning to my
22 recommendation at number 8, Mr. Commissioner, with respect
23 to our conversation about the lack of a, a clear definition
24 for neglect, our recommendation is that roles and
25 procedures be developed which allow greater discretion in

1 the ability to override the structured decision making
2 tools that have been implemented, until such time as a
3 validation test has been conducted to determine whether or
4 not the tools reflect a cultural anomaly such as that noted
5 with the native American population in Minnesota.

6 THE COMMISSIONER: No, that's number 9 in the
7 book I have.

8 MR. FUNKE: Should be viii, which should be 8.
9 Oh, I apologize, you're right, it is number 9.

10 THE COMMISSIONER: Yeah, long as we understand
11 we're --

12 MR. FUNKE: Yeah.

13 THE COMMISSIONER: -- talking about the same one.

14 MR. FUNKE: We're talking about number 9 --

15 THE COMMISSIONER: Yeah.

16 MR. FUNKE: -- in my written materials, thank
17 you.

18 THE COMMISSIONER: That's, that's fine.

19 MR. FUNKE: This goes back to the evidence that
20 we heard from Jay Rodgers, with respect to the caution that
21 the Children's Research Council issued with respect to
22 applying the SDM tools in one jurisdiction where there's
23 not been a validation study performed. And that's because
24 there is some concern about the, the applicability of the,
25 of the population pool that was utilized in the development

1 of the tool and whether or not it corresponds to the
2 population pool that the tool will be applied to in the new
3 jurisdiction. Children's Research Council says before you
4 do that, or before you rely on the results, you should do a
5 validation study.

6 THE COMMISSIONER: What do you mean by discretion
7 to override? To, to ignore?

8 MR. FUNKE: What I'm suggesting is that there
9 ought to be a parallel system. I have no problem
10 whatsoever, nor do my clients, with the use of the SDM
11 tools in a trial process that runs parallel to the
12 traditional risk assessment model. My position is, is, and
13 the position of my clients, is that where a trained social
14 worker determines that their assessment of risk,
15 probability of future harm, safety, future needs, strengths
16 and needs of the family, is inconsistent with the SDM
17 tools, the professional expertise of the worker ought to be
18 paramount. And we've heard some conflicting evidence about
19 whether or not, when the application of the actuarial tool
20 that's contained within the SDM is applied to families,
21 whether or not workers have the discretion to either rate
22 that higher, or rate that lower, in terms of the score that
23 results. It's my understanding, from the evidence that
24 we've heard, that the worker has the ability to elevate the
25 risk that has been identified through the use of the

1 actuarial tools, but is not currently allowed to reduce the
2 risk that's been identified through the use of the
3 actuarial tools. Our submission is, is that, based on the
4 fact that there is this lack of a clear definition of
5 neglect, and because of the concerns with respect to a lack
6 of validation testing, that the current reliance on the SDM
7 tools is perhaps excessive. Although Mr. Rodgers testified
8 at the inquiry that he had no concern about a racial bias
9 skewing the results of the application of that actuarial
10 tool, my clients differ in that regard, particularly in
11 light of the evidence that we have about the cultural
12 anomaly that was identified in Minnesota.

13 The actuarial tool that underlies that assessment
14 component of the SDM tools has been valid, has, there's
15 been validation studies with respect to the application of
16 that tool in a variety of different communities. The only
17 one that I'm aware of and that was disclosed in the
18 evidence before the Commission, is the validation study
19 that took place in Minnesota, which, as everyone knows, is
20 our neighbour across the border. What population group was
21 disclosed as demonstrating an anomaly in the application of
22 that tool? The Native American population. It stands to
23 reason that when that tool, which was developed in
24 California, was tested in Minnesota, which disclosed an
25 anomaly and is now being used in Manitoba, the concern that

1 there may be a similar anomaly in Manitoba is one that's of
2 significant concern to my clients, particularly in light of
3 the caution that's been issued by the developers of that
4 tool, about applying the tool in differing jurisdiction
5 without conducting validation studies. What we're saying
6 is that we perhaps need to take a cautious step back, run
7 parallel system, to see whether or not it is resulting in
8 anomalies and until that validation study is, is
9 undertaken, not to rely exclusively, or as, as heavily as
10 the system appears to be relying, at this point, on those
11 particular tools.

12 Turn now to the recommendation -- and I
13 apologize, it appears at number 8 in my original materials.
14 That immediate efforts be made to increase the level of
15 First Nations representation among ANCR staff, to ensure
16 that culturally appropriate services are delivered by staff
17 that better reflect the cultural make-up of their
18 clientele.

19 My clients certainly have sympathy for the
20 evidence of Ms. Stoker, who indicated that they have
21 laudable objectives, in terms of trying to secure staff
22 that better reflect the cultural makeup of their clientele
23 group. Not to put too fine a point on it, 85 percent of
24 the families that they deal with are either aboriginal or
25 First Nations. Right now, Ms. Stoker's evidence was that

1 37 percent of ANCR's staff are First Nations or aboriginal.
2 That is a significant gap. She could not provide
3 statistics, in fairness, for what percentage of the intake
4 staff are First Nations or aboriginal. But given the
5 evidence with respect to some of the other departments at
6 ANCR that have a greater representation than 37 percent of
7 First Nations or aboriginal staff, it stands to reason that
8 the representation in the intake department is less than 37
9 percent.

10 In light of the fact that ANCR is the first point
11 of contact for most First Nations agencies that deal with
12 the child welfare system, particularly in Winnipeg, but
13 statistically, province-wide, that is an area of great
14 concern to my clients. They are not receiving culturally
15 appropriate services, to the extent that the individuals
16 who are delivering those services share the same cultural
17 background and that's a significant point that's been
18 raised throughout the inquiry, particularly by the
19 executive director of the Southern Authority, who's
20 responsible for the oversight of ANCR. Although we
21 recognize that they have employment goals that have been
22 set out, that are designed to, to achieve a better
23 representation of First Nations and aboriginal people at
24 ANCR, we're suggesting that a recommendation needs to be
25 made that further resources need to be committed on that.

1 There needs to be a greater emphasis on ensuring that that
2 representation is provided.

3 Alternatively, one of the questions that you put
4 to Ms. Hastings, during her testimony, during the inquiry,
5 Mr. Commissioner, was whether or not some of the services
6 that are currently being provided by ANCR perhaps should,
7 instead, be transitioned over to the First Nations
8 agencies. That's an alternative. One of the things that
9 happens right now at ANCR, as I indicated in my submissions
10 this morning, is that once that intake process has
11 occurred, ANCR frequently retains the file for 90 days and
12 only transfers that file over to a First Nations agency if
13 that family services can't be concluded within that
14 timeframe. So in many cases, families are never
15 transitioned to a First Nations agency, or they are only
16 transitioned after 90 days.

17 Ms. Hastings described at -- that creates a
18 situation of some difficulty for the First Nations agency
19 because they are dealing with families that have been
20 involved with the system for 90 days and now they come into
21 the situation anew, without that continuity, and also, in
22 some cases, having to reestablish a trust relationship with
23 individuals who have not been working with a culturally
24 appropriate service provider and that creates additional
25 barriers to try to create that trusting relationship.

1 So an examination should be made and, and should
2 be given to considering whether or not those services
3 provided by ANCR, ought not to be better provided by a
4 First Nations agency.

5 I turn now to recommendation number 10 in my
6 materials. That is that the Province immediately invest
7 more heavily in early intervention strategies, such as
8 early childhood development programs, designed to alleviate
9 the risk factors that contribute to toxic stress for
10 developing children, Those efforts must be coordinated at
11 the community level, to ensure that these strategies
12 properly identify the specific factors contributing to
13 toxic stressors, faced (phonetic) in each, faced in each
14 community.

15 This deals with the evidence of Dr. Robert
16 Santos, who testified on the very last day of the inquiry.
17 Dr.'s, Dr. Santo's evidence was quite striking, with
18 respect to the impact that adverse childhood experiences
19 have on children and the effect of toxic stressors on not
20 only brain chemistry, but also early brain development.
21 His evidence was very clear with respect not only to the,
22 the, the chemical reaction to that, but also with respect
23 to this notion of epigenetics, emerging field of
24 epigenetics, that shows that the hormonal response of the
25 body to these toxic stressor experiences actually turns on

1 or turns off different genetic markers and that that then
2 contributes to this intergenerational impact that those
3 types of adverse childhood experiences can have, not only
4 on the child experiencing them, but also on their
5 offspring. That is profound evidence which reinforces a
6 long held knowledge within the First Nations community of
7 the intergenerational effects of residential schools and
8 other colonial practices that have this multi-generational
9 history of trauma that it has introduced into those
10 communities. Clearly, if there's anything we can do, as a
11 society, to try to redress that, by providing these types
12 of interventions in the communities, Dr. Santos, in his
13 evidence, suggested that a, it, it reached the point of a
14 moral imperative to do that. Certainly my clients would
15 agree.

16 Related to that recommendation is my next
17 recommendation at number 11 in my original materials, which
18 is that the Province and First Nations leaders establish a
19 task force to examine how to better coordinate and delivery
20 a system promoting early childhood development and related
21 services across the province, including on all 63 reserves
22 in the Province of Manitoba and that the Province enter
23 into negotiations with the Federal Government and First
24 Nations to fund the delivery of that program.

25 I say that because, quite obviously, a lot of

1 children that ultimately end up in Winnipeg and are born to
2 First Nations families are born to them in communities on
3 reserve. The Province has a complex funding relationship
4 with the Federal Government and the provision of services
5 and in order to ensure that these services are provided
6 province-wide, not merely off reserve but on reserve as
7 well, they need to join with their partners at the First
8 Nations leadership level and the Federal Government, to
9 work on that collaboratively.

10 Next dealing with recommendation number 13 in my
11 original materials, on page 38, we recommend that the
12 Province enter into discussions with the Federal Government
13 and the AMC, to ensure that funding for the Manitoba
14 Strengthen Families Maternal Child Health program is
15 sustained and expanded so that all 63 First Nations in the
16 province receive those services.

17 As you know, from hearing the evidence of Wanda
18 Phillips-Beck, who is the director of that program, that
19 program currently is only sufficiently funded to the extent
20 that it is offered on 14 First Nations in Manitoba. The
21 similar program that's offered by the Province, of course,
22 is offered throughout the province. But 49 of the 63 First
23 Nations in this province do not have a similar program
24 available to them and that is purely as a result of the
25 lack of sufficient funding.

1 As Wanda Phillips-Beck indicated in her
2 testimony, when the initial pilot project funding was
3 provided, they had a difficult decision to make. Do we try
4 to provide services across all 63 First Nations in a way
5 that we don't feel is going to be effective, given the
6 level of funding? Or do we choose 14 communities in which
7 to provide these services, where the funding is adequate to
8 hopefully --

9 THE COMMISSIONER: And now you're talking about
10 exclusively federal funding?

11 MR. FUNKE: Yes.

12 THE COMMISSIONER: Yes.

13 MR. FUNKE: Yes. The reality, of course,
14 however, is that given Dr. Distasio's evidence, that these
15 children don't remain on First Nations reserve. Because of
16 the migration patterns of First Nations people, they
17 frequently move back and forth from reserve, to Winnipeg,
18 and other urban centres and back to reserve. If we have
19 this patchwork system of maternal child health, which is
20 available in some communities and not others, it's
21 available in some reserves and not others, it's available
22 in urban communities off reserve, but not reserve
23 communities, you --

24 THE COMMISSIONER: So what, what do you suggest
25 my recommendation should be with respect to that?

1 MR. FUNKE: That the Province partner with the
2 Federal Government and First Nations, to ensure that that
3 funding is provided, so that that program is available
4 across the province on all 63 First Nations.

5 THE COMMISSIONER: So you're saying if the
6 Federal Government isn't going to do it, the Province
7 should?

8 MR. FUNKE: I'm saying that they need to talk to
9 each other, to figure out who's going to do it. It comes
10 back to Jordan's Principle that, that Dr. Blackstock
11 referred to. These services should be provided to First
12 Nations children. There is no dispute about that. The
13 only dispute is about who's going to pay for it. What I am
14 suggesting, on behalf of my clients, is that that
15 discussion needs to happen and the Province, if the Federal
16 Government is not going to initiate it, the Province has an
17 obligation to do so. Because these children frequently do
18 not remain on First Nations reserves, that the benefits
19 that these programs offer to those children and families
20 accrue to those children and families as they age and grow
21 up and become adults and become members of the community
22 off reserve. If we are interested in investing in their
23 future and by contrast, if we're interested in the outcomes
24 of not investing in that future and the future social costs
25 that we will deal with if those programs aren't provided,

1 then it's incumbent upon the Province of Manitoba to ensure
2 that those services are provided to all members of this
3 province.

4 THE COMMISSIONER: On reserve?

5 MR. FUNKE: Including on reserve.

6 THE COMMISSIONER: Okay. I hear you.

7 MR. FUNKE: I'm not suggesting to you that it is
8 necessarily the Province responsibility to fund. What I am
9 suggesting is that the Province has a interest in ensuring
10 that that funding is provided and that they should enter
11 into negotiations with both the Province -- sorry, with
12 both the Federal Government and the First Nations
13 government, to ensure that that funding is provided. And
14 I'm not going to gainsay, you know, how those discussions
15 should evolve. That's a process of negotiation that I
16 respect and my clients respect, but that discussion needs
17 to happen.

18 THE COMMISSIONER: Okay.

19 MR. FUNKE: Dealing next with recommendation
20 number 12, on page 38, we are recommending that the
21 Province enter into discussions with the Eagle Urban
22 Transition Centre, determine its funding requirements and
23 commit to the long term, sustained funding of that program.

24 Jason Whitford, who is the director of that
25 program, testified at the inquiry in a rather poignant way.

1 He described his role as essentially being a boardroom
2 panhandler and that 80 percent of his time was spent just
3 on trying to secure ongoing funding for the operation of
4 the program.

5 Given the evidence of Dr. Distasio about the
6 migration patterns of First Nations people in Manitoba and
7 the difficulty that they have in relocating to Winnipeg and
8 the impact that this has not only with respect to social
9 determinants of health, such as poverty and poor housing,
10 that there's significant benefit to be had from the
11 establishment of a program like the Eagle Urban Transition
12 Centre. That, like many of the other programs that we've
13 heard about, pays dividends down the line in ensuring that
14 people who have those supports are in a better capacity, in
15 a better position to be able to be contributing members of
16 the community and reduce their dependence on other social
17 services. To that extent, preserving the funding of the
18 Eagle Urban Transition Centre only makes good economic
19 sense, from the Province's perspective and as a result, in
20 addition to the moral imperative to provide that service to
21 assist people who are transitioning back and forth from the
22 city of Winnipeg, there is an inherent self-interest, from
23 the Province's perspective in ensuring that that program
24 continues to receive ongoing funding. And as a result,
25 we're asking the Commission to make a recommendation in

1 that regard.

2 Dealing with recommendation number 14 in my
3 submissions, my written submissions, it's a very similar
4 and related point, is that the Province and First Nations
5 leaders establish a task force to identify both short term
6 and long term solutions to address the shortage of safe,
7 accessible and affordable housing in Winnipeg.

8 THE COMMISSIONER: Wait a minute now. I don't --
9 you -- oh, that's 14 --

10 MR. FUNKE: Fourteen on page 38.

11 THE COMMISSIONER: I, I have you, yes.

12 MR. FUNKE: Yeah.

13 THE COMMISSIONER: Yeah.

14 MR. FUNKE: And if I may, I'm going to suggest to
15 the Commission that that perhaps ought to be expanded from
16 Winnipeg to everywhere in the province. The evidence that
17 we heard at the inquiry was that that problem is
18 particularly acute in Winnipeg, but it should be examined
19 throughout the province, to see if there are other areas
20 that suffer similarly with respect to a lack of appropriate
21 available housing, particularly for people who find
22 themselves in a socio-economic, socio-economically
23 disadvantaged --

24 THE COMMISSIONER: I.e., in a state of poverty?

25 MR. FUNKE: I.e., in a state of poverty?

1 THE COMMISSIONER: And question: Who's
2 responsibility is that? Where do, where do the various
3 levels of government fit into that?

4 MR. FUNKE: Exactly.

5 THE COMMISSIONER: I'd be interested to hear you
6 on that.

7 MR. FUNKE: Well, I think that requires further
8 study and that's --

9 THE COMMISSIONER: Pardon?

10 MR. FUNKE: -- I think that requires further
11 study and that's my submission, is that there needs to be a
12 task force called to investigate that in further detail to
13 determine where and, and how those investments ought to be
14 made. I, I'm not sure --

15 THE COMMISSIONER: But, but where, where does
16 responsibility to, to deal with the issue of, for instance,
17 of adequate housing --

18 MR. FUNKE: Sure.

19 THE COMMISSIONER: -- that, that is a need that
20 comes about because of the poverty and lack of economic
21 opportunities --

22 MR. FUNKE: Yes.

23 THE COMMISSIONER: -- that exist in, in certain
24 areas of the province?

25 MR. FUNKE: Well, I think there's -- it's shared

1 responsibility. There is clearly a lack of housing on
2 reserve. That's a, largely a federal responsibility and
3 shared equally, as well, with First Nations leaders. Off
4 reserve, you're looking at a multi-layered level of
5 responsibility between the Province and municipal
6 governments, as well as the involvement of First Nations
7 leaders in identifying the needs of their community
8 members. So I think that the responsibility is a shared
9 one.

10 THE COMMISSIONER: So, all right, I, I hear you.
11 But be -- you're saying once there has been movement from
12 the reserve, off reserve --

13 MR. FUNKE: Yes.

14 THE COMMISSIONER: -- to Winnipeg, as a prime
15 example, then the responsibility shifts from the Federal
16 Government to the Provincial Government?

17 MR. FUNKE: Absolutely. I think, in terms of
18 housing, the jurisdictional responsibility, I think, is
19 easier to resolve because of the physical location of the
20 housing shortage. So if there's a housing shortage on
21 reserve, quite clearly, that's the primary responsibility
22 of the Federal Government. Conversely, if there's a lack
23 of housing in Winnipeg, then that, quite clearly, is the
24 responsibility of the Province and the municipal government
25 and I think that that, I think the, the task in

1 ascertaining responsibility for the solutions for those
2 particular problems is easier to identify when you're
3 dealing with a fixed asset like housing.

4 Dealing with my recommendation number 15 on page
5 38, it's our recommendation that a new funding model be
6 developed and implemented for First Nations children
7 welfare agencies that is needs based, that the resulting
8 funding amounts be provided to those agencies, according to
9 their needs. That a study be conducted that focuses on the
10 costs of providing services in remote communities and that
11 a study be conducted, develop a funding model that is
12 appropriate to each community. That that funding model be
13 changed from one that's based on the number of children
14 receiving services, to one that calculates and provides
15 funding based on the needs of the system to deliver
16 services.

17 This goes back to the evidence that we've heard,
18 both from ADM Loepky and also from Dr. Blackstock, about
19 the need to provide equitable funding and as was reflected
20 in Dr. Trocmé's evidence.

21 If we have two families, one that is a First
22 Nations family and one that is not, the First Nations
23 family is far more likely to suffer disproportionately from
24 the effects of colonial policies that have resulted in them
25 being in a significantly disadvantaged position,

1 particularly when you factor in the circumstances such as
2 remoteness. His evidence was that it will require more
3 resources to address the needs of that family than it will
4 to address the needs of a family that doesn't suffer from
5 those, those factors that contribute to that level of
6 disadvantage.

7 THE COMMISSIONER: And as a result, what should,
8 what should flow there from?

9 MR. FUNKE: So what should flow there from is the
10 Province should conduct a study to determine what are the
11 actual costs of delivering services in various communities
12 throughout Winnipeg, to various clientele groups, to
13 determine what are the actual costs of delivering services
14 that are necessary to address the needs of those
15 communities?

16 So, for example, if you're providing services in
17 South Indian Lake, which is a remote community that is
18 accessible -- or I'm sorry, is inaccessible by road, for
19 much of the year, that the, that there are very few
20 services in place in that community, that the ability to
21 provide child and family services in that community is, is
22 intrinsically more expensive than it is to provide similar
23 service in Winnipeg. In addition to that, the needs of
24 that community is significantly greater, because of the
25 effects of colonial policies that have been applied in our

1 history. As a result, calculating funding on an equal
2 basis that says, for every child that Winnipeg CFS has, you
3 get X number of dollars and for every child that NCNCF
4 gets for delivering services in, in South Indian Lake, they
5 get the same number of dollars. That dollar intrinsically,
6 goes much further in Winnipeg than it does in South Indian
7 Lake, particularly where that child in Winnipeg doesn't
8 have the same level of need that the child in South Indian
9 Lake does.

10 THE COMMISSIONER: Now, many of the
11 recommendations you've reviewed so far call for a study, or
12 a review?

13 MR. FUNKE: Yes.

14 THE COMMISSIONER: Have you any proposal where
15 everything can be conducted by one review body, or are the,
16 are these separate, distinct reviews that you think should
17 be set up in each of these instances?

18 MR. FUNKE: That's an excellent question. My
19 response to that is, is that it depends. The position that
20 my clients take is that much of the issues, or many of the
21 issues that we're asked to identify, throughout the course
22 of this inquiry, invariably will involve negotiations
23 between First Nations leaders and the Province. We do not
24 take the position that we ought to dictate to that
25 partnership exactly the mechanism by which these

1 recommendations ought to be implemented. Nor are we asking
2 you to dictate the process by which these various, various
3 recommendations ought to be implemented. Our overarching
4 recommendation is that all of the recommendations that flow
5 from this inquiry ought to be implemented and only ought to
6 be implemented with the full partnership of First Nations
7 leaders and that is in keeping with the overarching spirit
8 of AJI-CWI. As a result, many of the recommendations that
9 you will make, in terms of their implementation, will be a
10 matter of further discussion, we anticipate, between the
11 Province and First Nations leaders.

12 THE COMMISSIONER: All right. Who are -- I don't
13 mean individuals, but you talk about the First Nations
14 leaders --

15 MR. FUNKE: Yes.

16 THE COMMISSIONER: -- who are they? Are they --
17 do they stand united on, on what you're talking about?

18 MR. FUNKE: They do and they don't and I'll try
19 to explain why. Although the AMC, the MKO, the SCO have
20 all played varying roles, in the development of First
21 Nations child welfare up to this point, there is not
22 guarantee that, in terms of the future of First Nations
23 child welfare that those will be the organizations that
24 will be negotiating with the Province, in terms of
25 developing that future system. And that all comes back to

1 the notion of sui generis, that each of the First Nations
2 is an independent nation that has signed a treaty with the
3 Government of Canada. And as a result, those relationships
4 are individual between the nations. So although the AMC
5 and the SCO and the MKO are pollilo (phonetic), political
6 organizations that have grown up around the need for
7 collective representation of shared interests of their
8 constituent members, and that's been reflected in the
9 current legislation, there's no guarantee that that will be
10 reflected in future discussions, because each of those
11 First Nations has to determine, for itself, how they are
12 going to organize, in terms of achieving this notion of
13 First Nations jurisdiction over child and family services.

14 THE COMMISSIONER: Well, then who, who is it that
15 the Province will confer with, with respect to
16 implementation of my recommendations?

17 MR. FUNKE: With respect to that, with respect to
18 the recommendations that comes out of this inquiry, that
19 will be the AMC and the SCO. That AJI-CWI process is still
20 in effect. That framework still exists. Both the AMC and
21 the SCO are both still at leadership council. AMC is there
22 on an ex officio basis, the SCO has just recently been
23 appointed to a seat at leadership council, so both
24 organizations will continue to have a role. So when I'm
25 talking about the implementation of the recommendations,

1 I'm speaking specifically of AMC and SCO, in terms of First
2 Nations leaders.

3 As that process develops, however, as we hope and
4 anticipate that it will, towards the realization of First
5 Nations jurisdiction over child welfare, that may involve a
6 transition to other bodies that are going to represent the
7 interests of First Nations people. It may be individual
8 bands, those, those bands may organize on the basis of
9 tribal groups, they may organize on the basis of treaty
10 groups. They may organize on the basis of geographical
11 representation by a linguistic commonalities, we don't
12 know. And it's up to each individual First Nation to make
13 that determination for itself. And so I've been, I've used
14 the term First Nations leaders intentionally, throughout my
15 submissions, to reflect the fact that they retain that
16 ability to choose how they want to organize and not to
17 suggest to the Commission that it has to happen in any
18 specific form or, or process. That's something that will
19 be developed in consultation and through discussions and
20 negotiations with the Provincial Government as we move
21 forward.

22 And, and it's important to note that the First
23 Nations leaders recognize that there's an important role to
24 be played by the Province in partnership, in developing and
25 realizing that goal of First Nations jurisdiction. I hope

1 that answers your question.

2 So getting back to the issue of funding, we were
3 talking about equitable funding, versus equal funding and
4 that's what I was getting at, in terms of providing
5 services to families who suffer disproportionately from
6 circumstances that, that tend to be structural in nature,
7 that cause them to come into contact with First Nation --
8 or sorry, with child welfare agencies, akin to the evidence
9 that was provided by Dr., Dr. Blackstock and also
10 reflecting the evidence of Dr. Trocmé that because of other
11 factors that, that are at play, including geographical
12 remoteness, that it simply costs more to deliver services
13 to First Nations families than it does to non-First Nations
14 families and that needs to be reflected in this new funding
15 model and that needs to be developed in partnership.

16 Now, what we heard from Cheryl Freeman was that
17 the next round -- and this was echoed in the testimony of
18 ADM Loepky, is that the next round of discussions with
19 respect to the future of the EPFA and the new funding model
20 is coming up within the next couple of years and that is
21 certainly an opportunity for them to have that discussion
22 about re-examining the fundamental principles on which the
23 funding now, model was based and how have they done, in
24 terms of realizing those goals?

25 ADM Loepky was quite candid, in terms of the

1 principles upon which the funding model was premised. We
2 take the position that the, that the actual results, that
3 the implementation of that funding model fails to meet
4 those objectives. And there are a variety of reasons why
5 that is and that's something that needs to be discussed at
6 the next round of discussions.

7 But what we are asking you to, to recommend is
8 that there be a commitment to providing those services on
9 the basis of equitable funding, to ensure that the goals of
10 the Act are met.

11 THE COMMISSIONER: And you're, you're speaking to
12 which recommendation when you say that?

13 MR. FUNKE: This is still recommendation number
14 15.

15 THE COMMISSIONER: Fifteen? Yes --

16 MR. FUNKE: Yeah.

17 THE COMMISSIONER: -- all right.

18 MR. FUNKE: It, it seems, to my clients, to stand
19 to reason that if we know it costs X number of dollars to
20 provide a service, that we ought not to provide a different
21 level of funding because that's what the Province has
22 determined it can afford, not when it comes to child
23 welfare. The long term consequences of underfunding child
24 welfare protect, pretictarily (phonetic) (sic) with respect
25 to prevention services is simply too high. Moreover, there

1 is a significant amount of evidence to suggest that there's
2 a profound economic benefit to be realized by enhancing
3 funding now with respect to preventions services and that
4 will realize savings down the road. It's a difficult sell
5 for any province to try to persuade its electorate that we
6 spend more now and we'll save money later. It sounds like
7 a recipe for losing the next election, but it's what's
8 right and it's what should be done.

9 Next recommendation I'll ask your, Mr.
10 Commissioner, you turn your attention to is number 17 on
11 page 39.

12 THE COMMISSIONER: Yes.

13 MR. FUNKE: And this deals with the
14 recommendation that the Province and First Nations leaders
15 immediately meet to review the AJI-CWI process. This would
16 include an evaluation of the current child welfare
17 legislation and structures, it would establish a process to
18 ensure that community-based and culturally appropriate
19 preventative services are jointly developed and supported,
20 to reverse the trend of ever increasing numbers of children
21 coming into care. And by that, I refer to programs such as
22 Mawi Wi Chi Itata and Ka Ni Kanichihk. And to identify and
23 implement changes to the delivery of services which
24 recognizes the unique challenges faced by First Nations
25 communities.

1 And finally --

2 THE COMMISSIONER: And, and you say that, that
3 within that, within the AJI-CWI process will be found the,
4 the, the commitment that community-based and culturally
5 appropriate preventive services are jointly developed and
6 so on?

7 MR. FUNKE: I'm suggesting that you recommend
8 that they address those factors when they meet to review
9 the AJI-CWI process. Based on the evidence that we've
10 heard here at the inquiry, there seems to be an
11 overwhelming amount of evidence that community-based
12 solutions are the best solutions to promote positive social
13 outcomes for both children and family.

14 THE COMMISSIONER: Yes, I understand that, but I,
15 I, I'm just trying to get --

16 MR. FUNKE: Oh, the --

17 THE COMMISSIONER: -- at is, how, how -- what --
18 how does reviewing the, the AJI-CWI process centre on that
19 theme?

20 MR. FUNKE: Because it's a comprehensive process
21 that's designed to deal with all issues surrounding child
22 welfare.

23 THE COMMISSIONER: Well, is it detail that you
24 want to look at within the, the, in that arrangement of
25 some years ago, or, or is it just how that was conducted,

1 that then the relationship should be conducted that way
2 now?

3 MR. FUNKE: There are certain, there are certain
4 aspects of the protocol agreement and the DIP which dictate
5 the relationships between the Province and First Nations
6 leaders. We're not suggesting that those need to be
7 restructured, that that framework is currently in place and
8 is sufficient to allow those discussions to continue on a
9 forward basis --

10 THE COMMISSIONER: So, so --

11 MR. FUNKE: -- a progressive basis, to address
12 these issues. All we're suggesting is that the
13 recommendation that needs to be made is to encourage the
14 Province to recommit to that process and reengage with
15 First Nations leaders at the AJI-CWI table, to address
16 these issues.

17 THE COMMISSIONER: So that's where you say these
18 issues should go to be looked at and studied?

19 MR. FUNKE: Absolutely. It's First Nations
20 leaders who are supposed to have meaningful control over
21 the development and delivery of services to the children
22 and families of their communities. With all due respect,
23 there's an important role to be played by agencies.
24 There's an important role to be played by authorities. But
25 when it comes to determining the future direction of the

1 legislation, and the overarching systems that govern child
2 welfare in Manitoba, that falls to the legislative
3 authorities, that being the Province of Manitoba, which
4 represents all of the members of this province and with
5 respect to First Nations communities, that falls to their
6 elected, duly elected, democratically elected leadership.
7 Those discussions need to happen on a nation-to-nation
8 basis, between the Province and the First Nations
9 leadership and that is precisely what the AJI reflects and
10 what it was intended to achieve.

11 THE COMMISSIONER: Well, then you're saying I
12 should make no recommendation about the issues referred to
13 in that recommendation, other than to say, let that process
14 take hold of it?

15 MR. FUNKE: I'm asking you to recommend to the
16 Province that they recommit to that process, reengage and
17 sit down with the, with the First Nations leadership at the
18 earliest opportunity, because that's the only place that
19 those discussions can happen. They need to happen and they
20 need to be encouraged to happen quickly. They need to be
21 encourage to come back to the table and to recommit to that
22 process. That's where the notion of self-government comes
23 in, that's where the notion of autonomy comes in, that's
24 where the notion of self-direction comes in. That's where
25 the ability of First Nations leaders to have a meaningful

1 opportunity to exercise control over the future development
2 of the system will take place. It's essential to the
3 ongoing success of the First Nations child welfare system.
4 And it was always the place that was intended to be the
5 venue for those discussions. The problem is, is that those
6 discussions have fallen off the track, so to speak, and
7 they need to be, they need to be reengaged.

8 THE COMMISSIONER: All right.

9 MR. FUNKE: And in conclusions, I, I refer the
10 Commissioner to my original recommendation at 16, on page
11 39, and I finish where I started, that whatever other
12 recommendations may be made before you, and which other,
13 whatever recommendations you may make, as a result of your
14 findings at the inquiry, that the implementation of those
15 recommendations, arising from the inquiry, that impact upon
16 First Nations children and families or communities, be
17 developed in partnership with First Nations leaders to
18 preserve the intent of the AJI-CWI and to reflect the right
19 of First Nations to exercise meaningful control over the
20 development and delivery of services to the families and
21 children in their communities.

22 In conclusion, Mr. Commissioner, the AMC and SCO
23 wish to ensure that this process --

24 THE COMMISSIONER: Now, just before you do --

25 MR. FUNKE: Sure.

1 THE COMMISSIONER: -- I don't think you've spoken
2 to numbers 6 and 7 and you may not want to. But I, I, I
3 think I'm correct, am I not, that you didn't speak to those
4 two?

5 MR. FUNKE: I, I think I did address the issue in
6 number 7, when I spoke earlier about number 3, with respect
7 to better --

8 THE COMMISSIONER: Oh, I see --

9 MR. FUNKE: -- training --

10 THE COMMISSIONER: -- yes.

11 MR. FUNKE: -- and dealing with the issue of
12 neglect. And I think, with respect to number 6, that, to a
13 certain extent, is subsumed in my comments with respect to
14 the role of First Nations leadership at the, at the AJI-CWI
15 table and also with respect to my comments regarding the
16 Touchstones of Hope program and developing other non-
17 mandated agencies to provide services to, to communities.
18 This emphasis on the notion of community-based solutions.

19 THE COMMISSIONER: I, I follow.

20 MR. FUNKE: So I, so I think that's subsumed in
21 my other comments.

22 THE COMMISSIONER: Okay.

23 MR. FUNKE: But thank you very much for drawing
24 that to my attention.

25 As I was saying, Mr. Commissioner, in conclusion,

1 the AMC and SCO wish to, to ensure that this process,
2 meaning this inquiry, and the recommendations that result
3 from it, honour Phoenix Sinclair's life and also want to
4 take the opportunity to once again express their sincere
5 condolences to both Steve Sinclair and to Kim Edwards, for
6 their terrible and profound loss. The First Nations
7 leaders of this province are committed to ensuring that
8 Phoenix did not die in vain and are committed to working in
9 partnership with Manitoba stakeholders to renew the AJI-CWI
10 process, to identify and address the systemic impediments
11 and failures of the current child welfare system and to
12 implement those changes which will honour and protect First
13 Nations children, families and communities.

14 Thank you very much.

15 THE COMMISSIONER: Thank you, Mr. Funke.

16 Mr. Khan?

17 MR. KHAN: Mr. Commissioner, if I can have just
18 five minutes, and I can assure you I'll be done before the,
19 the noon break.

20 THE COMMISSIONER: Oh, in other words, if you
21 have five minutes now, you'll be done by quarter to 1:00?

22 MR. KHAN: I'll be done, most likely, by 12:30.

23 THE COMMISSIONER: You will get the five
24 minutes --

25 MR. KHAN: Thank you very much.

1 THE COMMISSIONER: -- starting now. Just go
2 ahead, I'm just going to pick up the, the brief that's
3 coming up.

4

5 (BRIEF RECESS)

6

7 THE COMMISSIONER: All right, Mr. Khan.

8 MR. KHAN: Good afternoon, Mr. Commissioner.
9 Now, Mr. Commissioner, do you have my written
10 submissions --

11 THE COMMISSIONER: Yes, I have.

12 MR. KHAN: -- before you? It, it's my intention
13 today just to, to briefly discuss or expand upon my written
14 submissions. I think I've, I've gone through that very
15 specific issue in great detail and I don't think there's
16 much more I need to add.

17 Having had the benefit of --

18 THE COMMISSIONER: I have, I have read it.

19 MR. KHAN: Okay. Thank you. Now, having had the
20 benefit of listening to both Mr. Cochrane's and Mr. Funke's
21 submissions, there's really not much more for me to add and
22 for your consideration, when you're making recommendations.
23 I'll just, am going to outline a few points that I think
24 are important with respect to my client, but that's it.

25 Now, you may recall, about two years ago, on, on

1 June 28th, I appeared before you, on behalf of Intertribal
2 Child and Family Services and we sought standing, in part,
3 to, to clarify misconceptions (phonetic) (sic) that
4 existed regarding our involvement or really lack of, in, in
5 the Phoenix, in, in the, in the tragedy of Phoenix
6 Sinclair. At that time, and unfortunately, it continues to
7 this day, there's, there's a belief, amongst certain
8 portions of the public that either Intertribal had a file
9 on Phoenix, or the file was transferred to -- sorry,
10 Intertribal had a file on Phoenix, the file was transferred
11 to Intertribal, or in some way, we were responsible for,
12 or, or could have prevented the tragedy. We're very
13 thankful for having been given the opportunity to
14 participate and I think, after hearing the evidence, it's
15 quite clear that first of all, there was certainly no, no
16 file held by Intertribal on Phoenix or on, or her family.
17 Secondly, it's clear that Intertribal was, was unaware that
18 Phoenix was in the community. And, and thirdly, at no time
19 did Intertribal receive any communications or, or referrals
20 concerning Phoenix Sinclair.

21 And now, apart from the investigation through
22 this inquiry, the Section 4 report, the Section 10 report,
23 as part of the Section 10 report, the RCMP also
24 investigated this specific issue. All have concluded that,
25 that any such allegation is unfounded. And our request on,

1 on that part is that if, if, if your findings are, are
2 consistent with those findings, that, that there be, that
3 be expressed clearly in your report.

4 And that's, that's all that I really have to say
5 with respect to the, the fact finding phase of the inquiry.

6 Now, Mr. Commissioner, if there is, if there's
7 anything unclear in my written submissions, or you, or you
8 have any questions, I, I would appreciate the opportunity
9 to, to respond or clarify anything.

10 THE COMMISSIONER: No, I've read it and I, I
11 understand what you've said. I, I've underlined the, and
12 highlighted a number of statements, but I don't think I've
13 written any questions, as I have in some briefs. No, I
14 understand your position.

15 MR. KHAN: Thank you very much, Mr. Commissioner.

16 Now, a few points that we just wanted to
17 highlight and, and are raised by, or discussed by both Mr.
18 Cochrane and Mr. Funke. First of all is the issue of
19 independence and flexibility.

20 THE COMMISSIONER: The what?

21 MR. KHAN: Independence and flexibility.

22 THE COMMISSIONER: Yes?

23 MR. KHAN: The province is dotted with, with
24 various agencies and within those agencies, various offices
25 and sub-offices and it's clear that the, the purpose for

1 having all these agencies and all these offices is that the
2 various communities that we serve all have certain
3 distinctions.

4 THE COMMISSIONER: All have to what?

5 MR. KHAN: Certain distinctions.

6 THE COMMISSIONER: Yes.

7 MR. KHAN: There's cultural distinctions between
8 each agency, Fisher River being one of them. And the key,
9 in addressing the needs of, of the various communities that
10 we're serving, is to maintain a certain -- and, and, and
11 promote a certain level of independence and flexibility by
12 the, to the agencies that are serving those communities. I
13 think what we know from history and what the, the evidence
14 that we've seen during this, the, this inquiry is that
15 when, at the front line level, a certain amount of
16 flexibility and support for innovation is given,
17 communities are offering the best place to find the
18 solutions that they are seeking. And Mr. Commissioner,
19 when drafting your recommendations, we only ask that you
20 keep that in mind.

21 Also is the issue, the issues that we are dealing
22 with today are, in many respects, more complex than they
23 were before. There are more, more drug issues. They're
24 not simply alcohol issues as they've been in the past.
25 We've got gang issues, blended families, more transiency.

1 Also are, as Mr. Funke discussed, the, the results and the
2 effects of colonization and the residential schools. What
3 we're dealing with as part of -- in addition to the, what
4 we've discussed in terms of proverty (phonetic), poverty,
5 drug addictions and so on, is somewhat a, a breakdown of
6 the social fabric and it's, it's that social fabric that
7 needs to be built back. These are long term issues that
8 require long term solutions and there must be a commitment
9 to, to work on long term solutions and see them through.

10 Mr. Commissioner, I had previously provided an,
11 an affidavit, as part of the publication ban hearings, in
12 July of 2012. It's the affidavit of Shirley Cochrane
13 (phonetic), it's dated April 3rd, 2012. In that affidavit,
14 Shirley Cochrane, who is the former executive director of
15 Intertribal, discusses in, in, in some detail the
16 importance of relationships. In, in effect, child and
17 family services, at the front level, at the front line
18 level is, is very dependent upon its ability and the, its
19 workers' abilities to foster relationships. This is both
20 with, with collaterals, with the community itself and most
21 importantly, with the parents that it serves.

22 Now, I bring this up because you had asked the
23 parties to make comments on the registration of social
24 workers. Now, in, in our respectful view, there's three,
25 there are three elements to a good social worker. One, of

1 course, is the, is education. There, there, there has to
2 be a basic level of education. Secondly is training and
3 training is offered within the system. But thirdly, and
4 it's, it's been discussed a little bit during the inquiry,
5 but not in great detail and that is, quite frankly, certain
6 people are, are, are simply, are good at social work,
7 others don't have the aptitude for it. The building of
8 relationships depends on the ability of the individual
9 worker to understand the needs of parents and to be able to
10 approach them in a way that, that allows parents to trust
11 them some, to some degree. Now, these relationships,
12 especially in protection cases are, are, of course, forced.
13 But what we've, what we've found is, as long as parents are
14 treated with respect and dignity, those relationships can
15 be fostered. And I'll give you an example, in terms of the
16 approach, because it's about the approach.

17 Mr. Sinclair, Steve Sinclair testified during the
18 inquiry with respect to a worker called Stan Williams. And
19 I'm not going to refer to the, the actual work Mr. Williams
20 did, but just Mr., Mr. Sinclair's, his view on Mr.
21 Williams. Mr. Sinclair had testified that he had a
22 distrust for the system and he, he didn't really trust
23 workers. He did state though that he felt a connection
24 with Mr. Williams and that he felt that he could trust him,
25 to a point, of course. And he felt that Mr. Williams can

1 understand him.

2 Ms. Shavonne, Ms., Ms. Shavonne Hastings
3 testified about the issue of trust with families and she
4 explained that, in her experience, it's about being open
5 and direct with families and educating them about their
6 roles, that is, the social workers' roles and so on.

7 Ms. Ducha (phonetic), from the former Ex Callie
8 (phonetic). I've always known as the Ex Callie because I,
9 I actually went to school next to that building. She
10 discussed also the issue of building relationships with,
11 with, with people who -- with, with their clients. And
12 even though clients were aware that the information they
13 would provide to her could be reported if it was relevant
14 and that their children could be apprehended, they would
15 still provide the information that they need to, to, to, to
16 service the client. The, the point being is that it takes
17 a certain personality, a certain type of person to do that
18 work. It's no easy work. It's stressful work and when,
19 when we're looking at having a, meeting the needs of, of
20 the various communities, there has to be a certain amount
21 of independence at the agency level to choose the
22 appropriate person to, to either be working with
23 collaterals or families.

24 In principle, there's no objection to the
25 registration of social workers. I think the devil is in

1 the details and Miriam Brown did discuss it in, in her
2 evidence, which is there's a, there's a concern as to
3 whether there'll be sufficient support for First Nations
4 social workers. There's also a concern as to who would
5 qualify to register.

6 Now, in rural communities, and, and also in
7 remote communities, the work pool is somewhat limited.
8 That doesn't mean that there are qualified people who could
9 do the job properly. There's also an impediment, or
10 barriers to obtaining social worker degrees and so on. The
11 University of Manitoba has, has, has provided evidence to
12 that. If, if those barriers aren't dealt with, the
13 registration of social workers, in itself, could be, could,
14 in fact, hinder the ability of agencies to provide the
15 proper services to the, to their communities.

16 And that's our submissions with respect to the
17 registration of social workers.

18 THE COMMISSIONER: And the barriers you speak of
19 are what?

20 MR. KHAN: Well, it, it would, it further limit
21 who they may be able to hire for --

22 THE COMMISSIONER: I, I --

23 MR. KHAN: -- to do the job.

24 Now, I understand that, that that issue has not
25 been, has not been completely dealt with and I, I think

1 we're still waiting to see what, what the transitional
2 board wants to do with that.

3 With respect to Mr. Gindin's recommendation that
4 the files be opened in the children, child's name, as
5 opposed to the parents', we would echo Mr. Cochrane's
6 submissions and that is we're not too sure what, what, what
7 the exact purpose would be. There would certainly be huge
8 administrative issues in, in, in, in converting that over
9 and, from our experience, that hasn't been an issue, in
10 terms of providing proper services or getting the, the
11 information we need on families.

12 THE COMMISSIONER: Thank you.

13 MR. KHAN: So, in our respectful view, there's,
14 there's no need for that.

15 With respect to the recommendations regarding the
16 independence of the Children's Advocate Office, or the
17 Children's Advocate, of course, we are in support of an
18 independent child, Children's Advocate and, and those,
19 those are our submissions on that issue as well.

20 And with respect to the recommendation that there
21 should be a clear acknowledgement by the Manitoba
22 Government that the overrepresentation of aboriginal people
23 in the child welfare system requires a concerted effort to
24 increase funding and develop programs to deal with poverty,
25 poor housing, substance abuse in all communities across

1 Manitoba, we certainly agree. But we would simply like to
2 note that Fisher River, as a community, is itself working
3 towards a more holistic approach, sort of one-stop shop,
4 similar to the evidence that was provided by Mr. Felix
5 Walker. And we would agree that capacity building at the,
6 at the community level is necessary for solving some of the
7 problems that lead to families being in contact with Child
8 and Family Services.

9 Mr. Commissioner, there's no doubt that stronger
10 communities lead to more healthy lifestyles, which radiates
11 into all other aspects of life.

12 We are not in agreement with the separation of
13 prevention services from protection services. And again,
14 if you're looking at a rural setting, such as Fisher River,
15 to start the, the costs involved, and the resources
16 necessary, would, would much better be used, useful
17 somewhere else. However, families often do move from one
18 stream to another, because they may move from a protection
19 stream to a prevention stream and so -- and back and forth.
20 And we don't see any benefit in having those two streams
21 separated.

22 Now, I appreciate that there is, there is a,
23 there's always an underlying distrust, or apprehension
24 when, when CFS is involved. I don't think that separating
25 those two streams will, will deal with it. I think the

1 best way to deal with it is, is simply having proper
2 training and having the proper workers in place to build
3 relationships with families. In our respectful view, the,
4 the best way to deal with families are to deal with them in
5 a respectful manner. Have them engage in the process and I
6 think that comes, that, that brings about some of the
7 better, better resolutions to the issues that arise.

8 So Mr. Commissioner, there's, there's nothing,
9 not much more for me to say. Our, our concerns, I, I
10 should say, are, are mainly about preserving a certain
11 amount of independence and flexibility at the agency level,
12 allowing us to do the work that we need to serve our
13 clients and as well as making sure we have the tools to do
14 so.

15 Subject to any questions, those are my
16 submissions.

17 THE COMMISSIONER: Thank you, Mr. Khan.

18 MR. KHAN: Thank you.

19 THE COMMISSIONER: All right. Well be ready to
20 go at two o'clock again, Ms. Walsh, will we?

21 MS. WALSH: Yes, Mr. Commissioner and we'll start
22 with the General Authority.

23 THE COMMISSIONER: All right. We'll do, start
24 with the General Authority at two o'clock.

25 MS. WALSH: Thank you.

1 THE COMMISSIONER: Until then, we stand
2 adjourned. Thank you.

3

4 (LUNCHEON RECESS)

5

6 THE COMMISSIONER: All right, Ms. Harris, I guess
7 the afternoon is yours.

8 MS. HARRIS: Well let's hope I'm not that
9 longwinded, Mr. Commissioner, and thank you.

10 Seated to my left is Mr. Rodgers, child -- the
11 General Authorities' CEO.

12 And to begin, I would like to just briefly
13 reiterate the comments of my colleagues, which is that the
14 work which is being done here is important work, because
15 Mr. Funke, in his comments earlier this morning, is quite
16 correct, that withstanding that there have been enormous
17 improvements to the system, that there is still much to do
18 to improve the state of the delivery of child welfare
19 system in Manitoba and to keeping kids safe, preferably in
20 their homes, which is where that we know that they do best.

21 Mr. Gindin, in his comments, two days ago, is
22 also correct when he said that the entire culture of child
23 welfare system delivery needs to change and we believe that
24 it is changing.

25 It's not my intention today to go through the

1 evidence in detail with respect to the manner in which the
2 recommendations from the external reviews were implemented
3 by the General Authority. I think the evidence was very
4 well canvassed, both in writing and in Mr. Rodgers' oral
5 evidence in May and that evidence went unchallenged, in
6 terms of the manner in which those implementations were
7 implemented. I would, again, remind your, Mr. Commission,
8 that Exhibit 73, which is Mr. Rodgers' written witness
9 statement has detailed information with respect to the
10 manner in which specific recommendations were implemented
11 and how.

12 THE COMMISSIONER: Exhibit 73 was it?

13 MS. HARRIS: Yes, sir.

14 THE COMMISSIONER: Yes.

15 MS. HARRIS: If it's of assistance, as well,
16 Exhibit 74 were, were the two binders of documents --

17 THE COMMISSIONER: Yes.

18 MS. HARRIS: -- which had all of the General
19 Authority's source documents, including that, the
20 evaluation of Dr. Brad McKenzie of the differential
21 response pilot projects within the General Authority and
22 that's located at tab L, like Larry. Although I won't
23 refer to the study line and, and verse, I will refer to it
24 generally and, and it'll be there for your review at a
25 future time if that is of assistance to you.

1 It's my submission, Mr. Commissioner, that this
2 inquiry and the Manitoba people can be satisfied by the
3 wealth of evidence that has been presented, that the child
4 welfare system, as it existed in 2005, particularly as it
5 relates to Winnipeg Child and Family Services is no longer
6 the child welfare system we have today.

7 Throughout this submission, I will emphasize two
8 themes. The first is, in keeping with Dr. Wright's view
9 and the view of others who gave evidence in this inquiry,
10 that we need to focus on evidence based practice of social
11 work and focus on attaining or coming as close as possible
12 to obtaining best practices or leading practice.

13 In particular, I would ask you, Mr. Commissioner,
14 to consider, throughout my submission and throughout my
15 response to some of the recommendations which have been
16 made so far, whether or not those recommendations actually
17 would be evidence-based in nature. In other words, whether
18 the implementation of certain recommendations would fall
19 within the definitions of Dr. Wright, as to whether those
20 actually qualify as evidence-based practice, which means
21 grounded in, in research and also referring to that loop,
22 that continuous loop of feedback between the theory and
23 then the practice and the practice informing the theory.

24 THE COMMISSIONER: Now, you're talking about
25 recommendations in the reports or the recommendations

1 you're making?

2 MS. HARRIS: Future recommendations.

3 THE COMMISSIONER: Future recommendations?

4 MS. HARRIS: Yes.

5 THE COMMISSIONER: Right.

6 MS. HARRIS: The other theme that I will focus on
7 in some measure of detail is why the General Authority
8 believes that our practice model, which is specific to the
9 General Authority, functions at the core of a functional
10 and responsive child welfare system within the General
11 Authority. I promise I won't refer to my written
12 submissions, or written submissions again, but I do want to
13 refer to paragraph 57 of the written submissions, which --

14 THE COMMISSIONER: Well, you'll, you'll, you'll
15 refer to it when you come to your recommendations, I
16 assume? Or are, am I --

17 MS. HARRIS: Oh, yes, of course.

18 THE COMMISSIONER: -- yes. Paragraph 57. All
19 right.

20 MS. HARRIS: Which simply says that:

21
22 "... the core and ... most
23 essential, component of [the]
24 General Authority's vision for a
25 truly functional and responsive
26 child welfare system lies in the

1 development of its own, Authority-
2 specific practice model. The
3 General Authority's Practice Model
4 is in the process of being
5 implemented and [it] should be
6 fully implemented in all agencies
7 and service regions mandated by
8 the [GA] by early 2014."

9

10 I would like to address a couple of comments that
11 have been made throughout the oral evidence and a concern
12 that the General Authority has, which is that we've been
13 quite vocal about the types of changes that general, the
14 General Authority has implemented in response to the
15 recommendations from the external reviews. And one of the
16 themes that has arisen is, well, why isn't this happening
17 somewhere else, or is this happening in this authority, or
18 that authority? And I want to make clear that the fact
19 that the General Authority is practicing in this way does
20 not mean that the General Authority believes that its way
21 of practicing is, should be valued in a, in, in a manner
22 which is greater than what other authorities are doing.
23 Other authorities very well may be addressing the same
24 issues in a different manner. If they don't do it the way
25 the General Authority does it, in other words, it doesn't
26 mean that the way that the other authorities are
27 functioning is wrong.

1 We also wish to make very clear that attempting
2 to impose what works at the General Authority level system-
3 wide, across the province, would not only be paternalistic
4 on the General Authority's part, it would also fly in the
5 face of the intention of AJI-CWI and we reaffirm our utmost
6 respect for the intention of the Aboriginal Justice Inquiry
7 - Child Welfare Initiative. So when the question's asked,
8 why hasn't it been done elsewhere, I say, it's not for us
9 to say, to judge or to impose and it very well may be
10 happening in a different manner.

11 THE COMMISSIONER: But what is the name of the,
12 of the committee where the, the four authorities' CEOs sit?

13 MS. HARRIS: If that's the, the office of the
14 standing committee, Mr. Commissioner.

15 THE COMMISSIONER: Yes.

16 MS. HARRIS: And --

17 THE COMMISSIONER: But it, but it, it should be a
18 clearinghouse for good ideas being passed on; should it
19 not?

20 MS. HARRIS: I believe that it is. There was
21 also, and I don't know if it was intended to be this way,
22 but it certainly sounded this way to me, in, in listening
23 to Mr. Gindin's submission on Monday, that there was this
24 perception that perhaps the General Authority wasn't
25 sharing information at standing committee, or that that

1 information wasn't being well received by the authorities
2 and that's simply not the case. The General Authority does
3 share its information about what it's doing and how it's
4 doing it with the other authorities and sometimes there's
5 collaboration in that, in that vein, with an example being
6 the rollout of some of the SDM tools, which was adopted by
7 all, all of the authorities and implemented and is being
8 implemented.

9 THE COMMISSIONER: Who, who chairs that
10 committee?

11 MS. HARRIS: That's a good question. I'm advised
12 by my client that the chair rotates amongst the members.

13 THE COMMISSIONER: And, but there's a fifth
14 member besides the four --

15 MS. HARRIS: Yes, that would be the assistant
16 deputy minister, Ms. Loepky.

17 THE COMMISSIONER: The deputy minister?

18 MS. HARRIS: Yes. There's a tension here though,
19 Mr. Commissioner, because we have this unique system in
20 Manitoba with the four authorities and there is a tension
21 in that the goal is that there is consistency across the
22 province, so that children receive the same quality of
23 service, irrespective of their race, their culturally
24 appropriate authority, their cultural background, or their
25 geographic location, even within an authority. And it's

1 going to be a difficult task for you, Mr. Commissioner, to
2 have to address that and deal with the tension between
3 those two concepts and needs.

4 As I just mentioned, we only wish to highlight
5 what's working within the General Authority and offer some
6 insight along the way, perhaps as to what might be helpful
7 in the future. I will also comment further about funding
8 and workload issues. I will also deal with the issue of
9 the public perception and the public's trust and individual
10 families' trust in the child welfare system. And as I just
11 mentioned, with respect to the issue of evidence-based
12 practice, I will be, throughout my discussion of our own
13 recommendations and the recommendations of others, be
14 asking you to consider, prior to making any recommendation,
15 whether it meets the sniff test, so to speak, as to whether
16 that recommendation, in fact, would meet Dr. Wright's
17 definition of, of, of being consistent with evidence-based
18 practice and to look at all proposed recommendations,
19 including ours, through that lens.

20 There are four components to the General
21 Authority's practice model and there's more detail about
22 those components in our written materials. Those are the
23 structured decision making tools, the signs of safety,
24 solution-focused practice techniques and last, but
25 certainly not least, the training that brings all of those

1 techniques together into one seamless, cohesive practice
2 model.

3 The practice model was an evolution which came
4 out of the differential response pilot projects, which took
5 place as a result of the funding that came through Changes
6 for Children.

7 I wasn't going to go into the issue of the
8 effectiveness of the SDM tools and how that's improved the
9 system, because I thought the evidence was fairly clear on
10 that point. But in light of Mr. Funke's comments this
11 morning, unfortunately, I do have to spend some time in
12 that area. And it's very important, from a conceptual
13 standpoint, because Mr. Funke's recommendation that flew,
14 that, that flowed from his comments is based upon an
15 erroneous understanding of the way that the tools were
16 introduced in Manitoba and how they function.

17 First, it was the evidence of Mr. Rodgers that
18 prior to any tool, risk assessment tool being chosen, or
19 to, to -- or explored, there was an enormous amount of
20 research done, looking at the different methods of
21 improving risk assessment. It was Mr. Rodgers' evidence
22 that the existing risk assessment tool was simply
23 ineffective. And in order to implement differential
24 response in the pilot projects, there needed to be a way of
25 determining which children were at the most risk, so that

1 the resources that would be needed to help specific
2 families would be directed appropriately. That's the
3 purpose of a risk assessment tool.

4 Once the research had been done and you'll
5 recall, perhaps, and it is in Mr. Rodgers' evidence, so I
6 won't go into detail about it, that there were different
7 types of risk assessment tools which could be used and
8 ultimately, as a result of the research that was conducted
9 by the General Authority, the conclusion that the General
10 Authority came to was that the structured decision making
11 tools of the Children's Research Centre, which are
12 actuarially based, would be the most accurate type of risk
13 assessment tool. Mr. Commissioner, you have the actual
14 documents in your materials. You can see the types of
15 questions that the workers have to deal with and the manner
16 in which they're directed, both in the document itself and
17 through their training, to see what types of questions need
18 to be answered with respect to static factors, neglect and
19 abuse.

20 Once there was extensive training in Manitoba,
21 within the General Authority and then also this tool was
22 picked up and, and take -- this is one of those
23 collaborations between the four authorities that actually
24 has been incredibly successful. But I'm speaking
25 specifically of the General Authority. Once the tool was

1 selected, the Children's Research Centre then came to
2 Manitoba, worked with the General Authority in training, on
3 the use of those tools. The Children's Research Centre
4 retains the licence to the SDM tools and there was an
5 implication, at one point in time, which was dealt with by
6 Mr. Rodgers, in his evidence, that this was a money
7 generating kind of licence. It's not. It's a not-for-
8 profit organization. But the reason they retain control
9 over their licence is to ensure that the tool is being used
10 properly and people are being properly trained to deal with
11 it. The Children's Research Centre doesn't simply turn
12 over a package. They continue to work with the
13 jurisdictions that are using their tools, to ensure that
14 the tools are doing what they're supposed to do. The
15 Children's Research Centre is the last body that wants
16 there to be bias, for example, in its tool. And so what
17 happens is training. The introduction of the tool on a
18 pilot stage and then the rollout. And then what happens is
19 that the tool is used and it generates data. And as part
20 of the process, what happens, after there's enough data, is
21 there is then a validation study, because you can't
22 determine if there's bias until you are using the tool in
23 the population that you're concerned about and if there is
24 evidence of bias, it's corrected at the point of the
25 validation study. And that's what happened in Minnesota

1 and Mr. Funke was very clear about relating to Minnesota,
2 Minnesota, Minnesota, but there are validation studies that
3 have occurred in a number of jurisdiction across the world,
4 not just in the United States, including in Australia,
5 where there's a large aboriginal population. Which isn't
6 to say that their issues are the same as the aboriginal
7 population's issues in Manitoba, that's not what I'm saying
8 at all, but that the tool is being used with minority
9 populations where there could be issues of cultural bias
10 and they've been addressed.

11 When Mr. Rodgers, in his evidence, said, he
12 doesn't have concerns about racial bias, it's on the basis
13 of his understanding of the research that has been done
14 across the world on the use of this tool and the fact that
15 there has been, basically, very little to no racial bias in
16 the jurisdictions in which its been used. Minnesota, there
17 was an anomaly and then the Children's Research Centre
18 worked with that jurisdiction to correct that anomaly.
19 That's the process.

20 At this point, we are very near to having enough
21 data, from the risk assessment tool, which we've renamed
22 the probability of future harm tool, to conduct that
23 validation study in Manitoba.

24 THE COMMISSIONER: All tools that were not
25 available to you in 2000 to 2005?

1 MS. HARRIS: That's correct, sir.

2 THE COMMISSIONER: Or to the system?

3 MS. HARRIS: That's correct. And I'm trying not
4 to say this in a manner which would be offensive, but it,
5 but that, that the strength of it would still be heard by
6 you, Mr. Commissioner, the suggestion that there should be
7 -- that there -- or that there is no process to deal with
8 the issue of bias with the use of this tool in Manitoba is
9 simply incorrect. Full stop.

10 There was also a misstatement of the evidence.
11 In the concern about bias being that there are these static
12 factors which you can't change, for example, having
13 previously experienced abuse in your childhood, that
14 factor, on the risk assessment, is always there, it's
15 always scored. And it, therefore, does elevate the risk
16 level. It is true that on the initial probability of
17 future harm assessment, that that risk assessment cannot be
18 adjusted. That is true. What was missing from Mr. Funke's
19 presentation today, on this issue, is that probability of
20 future harm is used because there's a re-assessment at --
21 six weeks later and throughout the life of the file, that
22 risk assessment is repeated. And six weeks later, at the
23 next assessment, the capability for a supervisor to
24 override and drop the risk level, as a result of a static
25 factor which has proven not to be a concern in the

1 particular case of that particular family is entirely
2 possible. That's where clinical judgment comes into play,
3 Mr. Commissioner.

4 And again, all risk assessment tools do is assist
5 in identifying families which need the service most
6 urgently and helping to stream them most appropriately.
7 Risk assessment tools are not used to apprehend children.
8 If any agency in the province of Manitoba -- and I can
9 assure you that no agency within the General Authority is
10 doing so -- is using the risk assessment tool to apprehend
11 children, they are using the tool incorrectly and that's
12 why training is so incredibly important. I'm not saying
13 that is happening. What I'm saying is that, that, that
14 notion had, had been raised at previous times in this
15 inquiry and I want it made very clear --

16 THE COMMISSIONER: What, what notion -- repeat
17 that?

18 MS. HARRIS: The notion that the risk assessment
19 tool is used to apprehend children and that children are
20 being apprehended on the --

21 THE COMMISSIONER: Oh --

22 MS. HARRIS: -- basis of a risk assessment tool.
23 That is absolutely not the purpose of the tool. And if
24 that were the case, then tool is being used.

25 THE COMMISSIONER: -- because there's a place for

1 clinical judgment and --

2 MS. HARRIS: No, because there's a different
3 assessment that deals with whether or not children are safe
4 in their homes and that's called the safety assessment.

5 THE COMMISSIONER: Oh, oh, the -- okay.

6 MS. HARRIS: And the safety assessment -- the two
7 tools are used almost simultaneously. At the beginning of
8 an intake file, there's a safety assessment conducted --

9 THE COMMISSIONER: Yeah.

10 MS. HARRIS: -- to determine if a child is safe
11 enough to remain at home, or if the child needs to come
12 into care and be apprehended, in order to deal with the
13 immediate safety issues. That's the tool that is used to
14 determine whether a child is apprehended or not.

15 The probability of future harm tool is also used,
16 because assuming a child is safe at home, there still needs
17 to be an assessment of the likelihood that that child will
18 come to harm if the child welfare system does not intervene
19 and provide services to the family to stop that from
20 happening. That's the purpose of the risk assessment tool.

21 When Ms. Flette, of the Southern Authority, gave
22 evidence with respect to the issue of bias and the use of
23 the risk assessment tool, while she said it was, of course,
24 a concern to you, she did not see any immediate problems.
25 I'm paraphrasing. And she also said that it was extremely

1 well received with her -- with the families that they were
2 working with in the Southern Authority. And similarly, Dr.
3 McKenzie's evaluation of the pilot project, where these
4 tools were being used, generated a similar response on the
5 part of families, which is that they liked the way the
6 tools worked, they were -- they trusted the, their worker
7 and that they would contact the agency if they felt they
8 needed help again. So it's done exactly what we're worried
9 about, which is that people will mistrust the agency to the
10 point where they won't contact the agency. We are now
11 seeing that already in its early stages. That process is
12 being reversed with the families who have come into contact
13 with workers who are trained to use these tools and I'll
14 explain why in a bit.

15 So what I say to you, you, Mr. Commissioner, is
16 that in the face of objective evidence, that the tools do
17 not yet appear to have any cultural bias and are working
18 and families appreciate their use and they're building
19 trust between agency workers and the families that are
20 being served. And the, I submit, red herring of an
21 argument that there's, might be a problem with cultural
22 bias, so we should stop using this tool, or we should, we
23 should do something in tandem, there's simply no evidence
24 to support that. And when I suggest to the Commission that
25 when we make decisions and when the, when you make your

1 findings and your recommendations, Mr. Commissioner, it
2 come through the lens of being evidence-based, this is
3 exactly what I'm talking about.

4 Mr. Commissioner, you will be tasked and have
5 been tasked with making recommendations and I'm sure there
6 will be many. And one of the things that hopefully will
7 happen is that those recommendations will fit together like
8 the pieces of a puzzle that come together to draw a
9 complete picture of what the changes need to look like.

10 The General Authority's overall goal, and I don't
11 speak for any other authority, but I would assume they
12 would agree with this statement is that the goal of child
13 welfare system that are being provided by the four
14 authorities and certainly the General Authority, is that we
15 want to keep kids safe at home, we want to reduce the number
16 of children that are in care and that we want to prove
17 (sic) the outcomes, lifelong outcomes for kids who have had
18 to come into contact with the child welfare system,
19 particularly the kids who have come into care. That's what
20 the dedicated workers, who, on the front lines, and who are
21 administrators within the child welfare system do. That's
22 why they get out of bed in the morning and they do what has
23 got to be one of the most difficult jobs that anyone can
24 manage.

25 When I say this, I'm taking -- I would like to

1 take now a conceptual step backwards and talk about how
2 differential response has evolved in our system. And this,
3 and this ties into some of the recommendations that have
4 made by other parties to these proceedings, that have
5 already given their oral submission and submitted their
6 written arguments and it, and it hopefully address some of
7 those things.

8 Indirectly, I will address Mr. Gindin's first
9 recommendation, in the course of this conversation, so I
10 won't deal with it at the back end.

11 Part of the problem, as I've witnessed these
12 proceedings, in phase 2, in particular, unfold, is that in
13 explaining how differential response works, we've almost
14 oversimplified the concepts and in doing that, we've lost
15 touch with what actually happens on the ground, when social
16 work is being practiced in any, with any given family. In
17 particular, the use of the word prevention is being used in
18 two different ways. It's being used to talk about services
19 which are provided by community-based organizations, which
20 is really primary prevention, dealing with those systemic
21 factors that give rise to people coming to the child
22 welfare system: Poverty, systemic racism, drug and alcohol
23 abuse, any of those issues, being food insecure, all of
24 those issues. That's primary prevention. Then you hear
25 the concept of prevention versus protection, with these

1 differential response themes and that prevention work is
2 really prevention work that's intended to prevent further,
3 more intrusive involvement with the child welfare system,
4 on the parts of those families. The difference is that
5 while the community-based organizations can provide the
6 kind of supports and, and assistance that may stop a family
7 from ever having to come into contact with the child
8 welfare system, once a family has made contact with the
9 child welfare system, irrespective of whether, whatever's
10 gone, whatever's happened in that family is sufficient to
11 actually apprehend a child, because the child is no longer
12 safe, once that family's come into contact with the child
13 welfare system, the child welfare system needs to address
14 and, and help that family remedy what the problems are, so
15 that their children are safe and can be kept at home. It's
16 specialized social work.

17 I know that Mr. Funke has referred to Dr.
18 Trocmé's diagram and the Province also included Dr.
19 Trocmé's diagram in the, on page 36 of their written
20 submissions. You don't have to look at it, Mr.
21 Commissioner, but it, it's this diagram here.

22 THE COMMISSIONER: I'm familiar with it, yes.

23 MS. HARRIS: The red markings are mine.

24 THE COMMISSIONER: Okay.

25 MS. HARRIS: And what I'd like to add to Dr.

1 Trocmé's diagram, which talks about the prevention services
2 that stop a family from having contact with the system and
3 then the types of child welfare services that are provided
4 to stop the recurrence of abuse, is that there's like a --
5 there's a bit of a grey area and the grey area is that it's
6 also the job of the child welfare system, and that's where
7 we're already doing here in Manitoba, to stop a child from
8 ever experiencing physical abuse, or sexual abuse, or
9 neglect, to a degree that they are harmed to the point
10 where they require apprehension. We are the early
11 intervention specialists, when it comes to families who
12 need assistance, stepping in and providing that support and
13 that guidance and, and the services that are provided by
14 the child welfare system, to stop the, to, to prevent the
15 need for further intervention.

16 So to summarize, where there's no conduct which
17 immediately causes an agency concern that a child is at
18 risk of harm, that's where community-based organizations
19 can do the most good and rightly they should be providing
20 those services, to stop the, their ever needing to come
21 into contact with the child welfare system. Of course,
22 those same community agencies can provide services to
23 people who are already in, you know, working within the
24 child welfare system, but that primary prevention role is
25 an incredibly crucial one.

1 There are, however, instances where safety has
2 already been compromised for a child, but the need for
3 apprehension is not yet there and that's what the child
4 welfare system does.

5 I think this is a good reason, and I don't know
6 if it was the original reason, why the term family
7 enhancement was, started, started to be used to describe
8 the prevention work that is done in the child welfare
9 system, but I think it's a good term to use to make a
10 distinction between primary prevention and secondary
11 prevention, which is what the child welfare system does.

12 I submit to you, Mr. Commissioner, that the
13 evidence in this inquiry, throughout, has been overwhelming
14 that the better trained child welfare workers are and their
15 supervisors, the more education social workers have, the
16 better they are equipped to do their jobs. That's what
17 this comes down to in a great many ways. In 2005, it's an
18 unfortunate circumstance, but our social workers were not
19 equipped the way they are now equipped, to provide child
20 welfare services. And I'd submit to you, Mr. Commissioner,
21 that doing child welfare work, and you'll note I'm not
22 saying child protection work, and I'm avoiding the term
23 protection and I'm doing so deliberately, because I think
24 it narrows what child welfare is, in terms of the services
25 that are provided, because it, it, it conjures of the, the

1 notion of plucking children under apprehension and
2 protecting them from their parents, as opposed to trying to
3 keep families together, by functioning functionally.

4 But child welfare is a branch of social work
5 that's a specialization. The external reviews were quite
6 clear about what happens when folks who aren't fully
7 adequately trained and equipped are working within such a
8 difficult area of social work. It can't be emphasized
9 enough. Child welfare work is a highly specialized area of
10 social work.

11 THE COMMISSIONER: And is there a place for any
12 specialization within the specialty of child welfare?

13 MS. HARRIS: My -- I don't want to speak on
14 behalf of the university. I understand that, from the
15 evidence of Dean Frankel, earlier, that there were some --
16 that, that -- and he can -- perhaps this, this can be dealt
17 with in rebuttal from the University, there are barriers to
18 creating specialties and that sort of thing, but what is
19 happening now, within the General Authority, is that from
20 the moment a new graduate is hired, that new graduate is
21 being trained and the type of training and the intensity of
22 the training that we are providing, within the General
23 Authority, is such that we are helping our social workers
24 specialize in the delivery of child welfare services.
25 That's what we're doing. We're doing it on the job. I'm

1 not suggesting that it has to be a formal specialization in
2 school. I think that's for others to determine and not me,
3 but that is the work of the General Authority now.

4 THE COMMISSIONER: But are you training in, in,
5 in prevention and protection?

6 MS. HARRIS: Absolutely. And that's why -- and
7 one of the thing -- the comments --

8 THE COMMISSIONER: As separate avenues?

9 MS. HARRIS: They're not separate avenues and
10 that's part of the conceptual difficulty. We -- as I've
11 said, we've oversimplified prevention versus protection so
12 much. The goal is the same.

13 THE COMMISSIONER: Yeah, oh, yes, quite.

14 MS. HARRIS: The goal, the goal, which means the
15 -- and the techniques that are taught within the General
16 Authority, using the General Authority's practice model and
17 our training, and our leading practice specialists, which,
18 as you'll recall, are highly trained social workers who are
19 on site to guide and reinforce the "classroom work" that is
20 happening at the, at, in, within agencies, so that workers
21 know how to apply what they're learning in theory and
22 they're doing it on the job.

23 THE COMMISSIONER: But, but not everybody who,
24 who has the benefit of prevention services, hopefully is
25 not going to need protection services.

1 MS. HARRIS: That's correct. But protection
2 services -- and again, I, in my brief, I refer to it as
3 investigative, as, as opposed to protection --

4 THE COMMISSIONER: All right.

5 MS. HARRIS: -- and the reason for that is that
6 it's a continuum. And if a child is no longer safe at home
7 and an apprehension becomes necessary, and there is an
8 investigative component, because now the agency has two
9 jobs to do, the first job is to put together the evidence
10 for a court to, you know, under the Act, to demonstrate
11 that a child is in need of protection, meeting the tests,
12 and that there needs to be some intervention, in the form
13 of a court order, to protect this child, because --

14 THE COMMISSIONER: Yeah.

15 MS. HARRIS: -- the situation is simply that
16 dire, whether that's an order of supervision, or temporary
17 order, or permanent order. But, at the same time, that,
18 the work with the family never stops. And it's the same
19 type of work as what we call prevention. It's working with
20 families to help them understand what their, what their
21 needs are, what the problems are that are giving rise to
22 the lack of safety for their children, what their strengths
23 are, where they need to build and assist them in getting to
24 a point, whether their kids have been taken into care or
25 not, that they can again parent their children, with their

1 children safe at home.

2 And the intrinsic nature of the work is the same.
3 When we conceptualize it as two separate streams, this
4 protection order here and prevention order here, it, it
5 gives us this image, in our minds, that once protection
6 work is happening, that underlying work, to reunite
7 families, to, to make it so that parents have the skill set
8 to keep their kids safe at home, so that the factors that
9 gave rise to the children not being safe at home, are not
10 trying to be alleviated in a collaborative and cooperative
11 way with the families. They're wearing two hats, for sure,
12 but the work is still happening.

13 The distinctions, protection versus prevention, I
14 would submit to you, Mr. Commissioner, are affecting many
15 different areas of, potential areas of recommendation for
16 you, Mr. Commissioner, simultaneously. So I'll touch on
17 some of them and, to, to illustrate.

18 One of the things that we've heard is that part
19 of the reason that parents don't contact the agency when
20 there's a problem, looking for help, is because there's a
21 mistrust in the child welfare system. That gave rise to
22 Mr. Gindin's recommendation that prevention be hived off
23 from protection. And what the General Authority practice
24 model teaches, using the SDM tools, which yes, are risk
25 assessment tools, but also collect objective data and that

1 objective data can then be shared with the families, and is
2 being shared with the families. So that instead of a
3 family, a, a, an adult caregiver being told your child's
4 being apprehended because, you know, you passed out drunk
5 and no one's with your child, is able to say, is to, is
6 able to depersonalize and say, we are worried about. And
7 the signs of safety techniques teach social workers how to
8 engage in that conversation. It's an incredibly difficult
9 conversation to have and as Dr. McKenzie said in his
10 evidence, nobody trusts the agency when you start, it has
11 to be build. The SDM tools allow social workers to use
12 their other techniques, solution focused inquiry techniques
13 and, and the signs of safety, but it also gives them the
14 data to say, we are concerned about this. This is what
15 we're concerned about. We're concerned that if you are not
16 able to care for your child, your child is left unattended
17 and is therefore at risk. Or we are concerned that when
18 your child is witnessing domestic violence in your home,
19 that your child is emotionally unsafe and physically
20 unsafe. These are the things we're worried about.

21 One of the techniques that are, that's used and
22 that general, the, the General Authority trains every
23 single social worker to use is to ask, is to, it to talk
24 about three questions. And I'm skipping ahead in my
25 submission a bit, but it seems like a good place, what are

1 we worried about? What's working well? And what are the
2 next steps? That's the conversation. Whether a child is
3 unsafe enough that he or she needs to be apprehended, or
4 whether that child is safe at home, but there are some
5 concerns that there may need to be further intervention
6 down the road? That's the conversation. And every social
7 worker at the General Authority, using our practice model,
8 is trained to have that conversation and those
9 conversations are what build trust between clients and
10 agency workers.

11 Another example of the type of training that the
12 General, General Authority workers all receive that helps
13 in the engagement, engagement with family and again, this
14 can be whether children are currently under apprehension,
15 or an order, or whether they're still at home, but the
16 agency's working with those kids, example is called the
17 three houses. And, and you heard about this earlier in
18 evidence with Ms. Brownlee and our leading practice
19 specialist at Winnipeg Child and Family Services. Children
20 are engaged and their voices are animated by saying that
21 there's three houses. I think I'm getting this right.
22 There's a house of worries, there's a house of dreams,
23 there's a house of good things and I think there's a safety
24 house, there might be four houses.

25 But what happens is, the child -- the worker is

1 trained to work with that child, to put that information
2 together and then that information is shared with the
3 parents and again, there's an objective way of, of engaging
4 with parents. Doesn't matter if it's a protection file, or
5 if it's a prevention file, I say, in quotation marks.
6 Where parents are given the opportunity to see how whatever
7 is happening in that household is affecting that child,
8 from the child's perspective, that's what we talk about,
9 when we talk about animating the voice of a child.

10 And very few parents, when they see what is
11 happening, what the effect of whatever is going on in that
12 household is having on their child, very few parents don't
13 want to help. It happens that there are parents who simply
14 cannot, or are not willing to engage in helping their
15 children. But most parents want to help.

16 So, in short, or perhaps in long, child welfare
17 workers, within the General Authority all know and learn
18 the same techniques to engage with families, build trust,
19 build rapport, understand the needs of children and
20 understand the needs of adult caregivers. They're all
21 trained to help parents get to the point where there's
22 enough evidence that the parents are able to see to their
23 children's best interests by act of protection demonstrated
24 over time, that their kids can come home and be safe at
25 home.

1 THE COMMISSIONER: Well, I, I, I appreciate that
2 full explanation you've given, it's been very helpful.

3 MS. HARRIS: Thank you, Mr. Commissioner.

4 Mr. Commissioner, it's very warm; would you give
5 me leave to remove my jacket, I --

6 THE COMMISSIONER: Absolutely.

7 MS. HARRIS: -- before I expire? Thank you.

8 THE COMMISSIONER: That's -- we established that
9 rule, I think, last summer.

10 MS. HARRIS: Yes. Now, part of the reason that
11 this distinction of protection versus prevention is there,
12 is because it's a, it's a distinction in our funding model
13 right now. Cases that are classified as prevention files
14 are funded one way and cases that are classified as
15 protection files are funded a different way. And funding,
16 for prevention files, lasts for 180 days, at that ratio.
17 The work that's being done with that family doesn't change
18 on day 181. What changes is the ratio, from a funding
19 standpoint, one to 20, versus one to 25, I believe, is the
20 number. And that's reinforced, the -- I submit, artificial
21 distinction, between protection and prevention, is that the
22 funding is different. It's not that the work, or the goal
23 of the work is different. And in the General Authority,
24 the techniques which are being used are certainly not
25 different. It's that the funding is different.

1 When we talk about trust and the public
2 perception of agencies and, and agencies being these bodies
3 that swoop in and remove children and are difficult to deal
4 with, those of us who have practice child protection work
5 as lawyers remember the days when parents heard messages
6 from workers such as -- and not every worker did this, but
7 it happened -- if you want to get your kids back, you've
8 got to take this parenting program, that substance abuse
9 program and you'll get your kids back. And the parents
10 would go and they would complete the parenting program, or
11 they'd complete the substance abuse program. They'd say,
12 okay, I want my kids back. And they'd say, well, you're
13 still drinking, you can't have your kids back. And there
14 would be this incredible of sense of disappointment and
15 frustration on the part of parents, because they didn't
16 understand why they weren't getting their kids back,
17 because they were doing everything the agency said. But
18 what they were not doing and what was not being accurately
19 -- and, and communicated in a way that parents could
20 actually work with, was that the actions which were giving
21 rise to the children in their household being unsafe were
22 still happening, which is why now, our social workers are
23 trained, within the General Authority, to teach parents
24 that what we're looking for are acts of protection,
25 repeatedly, over, or over time. We're looking for repeated

1 acts of protection, on the part of parents, over time. So
2 it's not go take a program and you're done, it's this is
3 what we're worried about.

4 The training that we now give our social workers
5 within General Authority allows them to apply this method,
6 the methodological shift, the, the, the shift in
7 methodology to working with families and that's what's
8 going to build trust over time. There are other issues
9 which affect public perception and I'll get to those. But
10 really, at the end of the day, what we're doing is working.
11 And I can tell you, Mr. Commissioner, how we know what
12 we're doing is working, because notwithstanding the fact
13 that the number of children who are coming into care
14 continues to increase, you heard evidence that in the
15 General Authority, the number of children aged zero to 17,
16 coming into care is decreasing. We have different
17 challenges, within the General Authority, than the other
18 authorities do and there may be systemic -- I'm, I'm sure
19 there are, systemic challenges. I'm not suggesting that we
20 have the magic solution and that it's simply what we're
21 doing here that's working. But what we are doing is
22 working. We know it's working, because we now have the
23 data to demonstrate that it's working and we still don't
24 have full rollout of this -- of our practice model across
25 the entire GA system. We already are getting the data back

1 that the number of kids being taken into care is dropping
2 and the number of kids that are safe at home is increasing.

3 THE COMMISSIONER: Did that come out in Mr.
4 Rodgers' evidence?

5 MS. HARRIS: Yes, sir.

6 THE COMMISSIONER: Yeah.

7 MS. HARRIS: I believe it's also in the written
8 evidence.

9 If I may just have a moment.

10 Again, referring to Dr. McKenzie's study of the
11 differential response pilot project, at the time that Dr.
12 McKenzie studied our pilot project, within the General
13 Authority, signs of safety techniques and the solution-
14 focused (inaudible) techniques were not yet fully being
15 implemented. The success of the techniques which were
16 being used, even in the absence of those additional
17 techniques, was overwhelmingly positive. Families were
18 overwhelmingly positive about the experience they had with
19 their workers in the differential response pilot project.
20 And Dr. McKenzie recommended that the General Authority
21 practice model continue with the training to back it up.
22 And the training is key, because you can have all the
23 theory in the world. If your workers don't know how to use
24 it and apply it on a day-to-day basis, it stays locked up
25 and it's not being practiced.

1 Going back to Mr. Gindin's recommendation that
2 the functions of prevention and protection, or as I will
3 call it, family enhancement and investigation, should be
4 split and that different workers should provide those
5 services, the main rationale for that is the assumption
6 that where there is an investigation, because there's an,
7 there's been an apprehension, that there is automatically a
8 dynamic where no work can happen because there can't be any
9 trust. And with respect, it's my submission that that's
10 the symptom. But we have no evidence that the reason
11 there's no trust is because there's been an investigate,
12 there's an investigation that's occurred. There's no trust
13 because we didn't work with families in a way that builds
14 trust and now we are learning and teaching our social
15 workers how to do that. But it's not necessarily -- and
16 there's no evidence that's been put before this inquiry to
17 suggest that the act of the investigation, in and of
18 itself, destroys trust. We know that's not the case,
19 because it's working here. It's working in the General
20 Authority.

21 The General Authority is addressing the root of
22 the problem by way of the practice model, we're not just
23 treating the symptom.

24 And again, Mr. Commissioner, I'm not suggesting
25 that everybody has to do it the way the General Authority

1 does it, but I am here to ensure that the general -- that,
2 that the Commission is aware that there are things that are
3 working and I'm sure there are others.

4 THE COMMISSIONER: Whenever you want a break, you
5 -- we'll, we'll break at some point this afternoon. If
6 you, if you, if you want it now, that's fine. If not,
7 it'll be any time in the next half hour.

8 MS. HARRIS: If I could just have a moment please
9 and I'll just see how far -- whether I should --

10 THE COMMISSIONER: Sure.

11 MS. HARRIS: I actually think this would be a
12 great time to take a break, Mr. Commissioner --

13 THE COMMISSIONER: Yes.

14 MS. HARRIS: -- and then I can come back and, and
15 speak more fully to Mr. Gindin's recommendation and our
16 response to that.

17 THE COMMISSIONER: All right. We'll take a 15
18 minute mid-afternoon break.

19 MS. HARRIS: Thank you, Mr. Commissioner.

20

21 (BRIEF RECESS)

22

23 THE COMMISSIONER: Ms. Harris --

24 MS. HARRIS: Thank you, Mr. --

25 THE COMMISSIONER: -- just before we get started,

1 we -- I, I made mention of the statutory committee, the
2 standing committee --

3 MS. HARRIS: Yes, sir.

4 THE COMMISSIONER: -- is it a statutory body that
5 is structured under the Authorities Act?

6 UNIDENTIFIED PERSON: Yes.

7 MS. HARRIS: Yes.

8 THE COMMISSIONER: I thought that --

9 MS. HARRIS: Yeah --

10 THE COMMISSIONER: -- yeah.

11 MS. HARRIS: -- yes, it is.

12 THE COMMISSIONER: See, for the last half, three-
13 quarters of an hour, what you really did for us was tell a
14 good news story, as to the results that you're seeing in
15 the, in the General -- the agencies that come under the
16 General Authority. And I, I'm, I've, I've raised this
17 before, but I'm most interested to know, to, to, to -- I
18 want to be sure that there's a mechanism in place where
19 these other authorities have the opportunity of, of knowing
20 the positives that, that one authority is achieving, which
21 might well, through the adoption of the same process, be
22 achievable across the province.

23 MS. HARRIS: And I would, I would submit to you,
24 Mr. Commissioner, that that's in fact the case and is
25 happening. As I said earlier, I -- the information is

1 certainly available at standing committee. You know,
2 there's a sharing of information between all four
3 authorities and that information is available at standing
4 committee. I can't speak to whether other authorities are
5 considering some of these --

6 THE COMMISSIONER: Does, does, does this --

7 MS. HARRIS: -- initiatives or not, or
8 considering different initiatives, or, or are already using
9 different initiatives. I can't speak to that, but I can
10 assure you, Mr. Commissioner, that the exchange of
11 information is taking place at standing committee.

12 THE COMMISSIONER: -- does the standing committee
13 have a secretariat, as such? That is, is, anybody work for
14 the standing committee?

15 MS. HARRIS: Yes, there are employees to the
16 standing committee.

17 THE COMMISSIONER: Yes.

18 MS. HARRIS: Yes.

19 THE COMMISSIONER: Yeah.

20 MS. HARRIS: There's, there's -- the office of
21 the standing committee does have staff, yes.

22 THE COMMISSIONER: See, one of the things that's,
23 that's on my mind is, I come from British Columbia, where
24 we have a, a representative for children of youth, which is
25 comparable to the Advocate's position here in, in many ways

1 and that position gets involved in much more active work
2 than the advocate does here, to the benefit of the children
3 and families of British Columbia. And I'm looking for some
4 role for beefing up the advocate's office here, bearing in
5 mind we're dealing with an entirely system, because of, of
6 what has become called devolution. And I'm just wondering
7 whether, in my own mind, whether there's some role for some
8 oversight responsibilities of the advocate's office with
9 respect to coordinating and seeing that the good work that
10 the standing committee is undoubtedly doing is being spread
11 through -- province-wide, to bring results right across the
12 province.

13 MS. HARRIS: I can't speak to that, Mr.
14 Commissioner.

15 THE COMMISSIONER: No, I'm, I'm just musing as
16 I --

17 MS. HARRIS: Yes.

18 THE COMMISSIONER: -- try to figure out how, how
19 we are going to improve the system, over and above, beyond
20 the, the improvements that you've effectively told us about
21 this afternoon.

22 MS. HARRIS: And, and again, that, that harkens
23 back to the tension that I, I raised earlier, at the
24 beginning of my submission, because I, I do understand that
25 there is a concern on the part of making sure there's a

1 consisten (phonetic), consistency in the quality of
2 services delivered, but the services themselves may not be
3 the same and that's sort of the beauty of the, the unique
4 system, system we have in Manitoba. And as far as the
5 General Authority's concerned, we wouldn't want to take a
6 step back from where we are as a result of AJI-CWI.

7 THE COMMISSIONER: No, I, I quite agree. Thank
8 you thought for that response.

9 MS. HARRIS: Thank you. Going back to the, the
10 recommendation to split the functions of prevention
11 services and protection or investigation services, just a
12 couple of things that I'd like to note. First is that Dr.
13 McKenzie, in his oral evidence, was asked if he though that
14 they, that units should be split within the child welfare
15 system and he, his position was neutral on that, he
16 didn't --

17 THE COMMISSIONER: That was who?

18 MS. HARRIS: Dr. Brad McKenzie.

19 THE COMMISSIONER: Doctor?

20 MS. HARRIS: Brad McKenzie.

21 THE COMMISSIONER: Yes, yeah.

22 MS. HARRIS: His position was neutral on that.
23 He didn't have a position either way on whether or not it
24 would function better as split units and, and as, as
25 cohesive units. Mr. Rodgers' evidence, under examination

1 by Ms. Walsh, and that's at page 236, I believe, of his
2 transcript, from May 14th and I'm paraphrasing somewhat,
3 but Ms. Walsh asked Mr. Rodgers, if we had prevention units
4 that did only prevention work, or if the units were
5 blended? And Mr. Rodgers' response was that within the
6 General Authority system, we do have prevention -- units
7 where only prevention work is done. But we also have
8 blended units and from the General Authority standpoint,
9 his evidence was that the only way to achieve full rollout,
10 system wide, of prevention services, is to have blended
11 units where there's mixed case loads and social workers
12 have loads where they're working with families where the
13 children are at home and they have caseloads where the
14 children are under apprehension and/or in care. There's a
15 number of reasons for that, but there is a resource issue,
16 in particular, because we're not all in urban centres,
17 where it's possible to have dedicated units that do certain
18 things. In rural areas, there's really no resource to
19 separate those types of case loads. So by way of example,
20 in Churchill, we have one social worker that deals with
21 child welfare services in the Churchill region. And so
22 that one social worker has to do prevention work and has to
23 do investigative work.

24 THE COMMISSIONER: Yeah.

25 MS. HARRIS: It's not a burden for that one

1 worker, because that one worker has been trained to do
2 that.

3 There's a couple of pragmatic pieces that I would
4 like to touch on before I move on to other areas of this,
5 of, of our submission, around the notion of splitting off
6 the functions of, of prevention and, and protection and
7 I've already stated that I, that it's a somewhat artificial
8 distinction, because the work, the techniques used are the
9 same the task of reuniting families is the same, although
10 there are additional tasks that have to happen when there's
11 an investigation. But already, particularly in Winnipeg,
12 any file that makes, makes it past intake, the family's
13 encountering a minimum of two workers. They're dealing
14 first with a worker from whatever the designated intake
15 agency is. And then assuming that that matter requires
16 ongoing service, and can't be resolved, let's use ANCR as
17 an example, within ANCR's prevention service plan and it
18 needs to take longer, that file is then being referred to
19 whatever agency belongs to the culturally appropriate
20 authority. If there's an investigation and there's been an
21 apprehension, it's automatically going. There are
22 instances where, of course, ANCR provides prevention
23 services in house and the file is able to be resolved and
24 it never does have to get referred to on. So it's -- I
25 should -- I, I misspoke when I said it, you'll always have

1 two workers, but a significant portion of the time, any
2 given file that makes it past intake is going to, the, that
3 family's going to see two workers. And if continuity's a
4 concern, and it is, we don't want -- when you've done the
5 work of building trust for the family, you don't want to
6 have multiple workers having to engage with that family.
7 And so when we consider separating the functions, what
8 you're at risk of doing is that you're potentially
9 increasing the number of workers that that family has to
10 engage with and have to deal with in sort of, potentially
11 somebody new.

12 There's fluidity between the streams. You can
13 have a file that starts out as a family enhancement file
14 and something shifts in the family and, and the child is no
15 longer safe at home and does have to be apprehended. And
16 conversely, a child might be apprehended and either
17 returned without the agency obtaining a court order,
18 because it's been resolved by some other means, or a child
19 is returned under an order of supervision from the court
20 and that work still is going to happen. And so, you know,
21 there -- if you want to envision them as two streams, if
22 you really, if you really want to use some sort of
23 metaphorical picture, I suggest that you use two streams
24 that figure eight and weave in and out of each other.

25 It, it, it's our submission that it should be

1 left to the authorities to determine how they feel that
2 their families, based on whatever the factors are,
3 including geography, however they feel that the delivery
4 prevention services works best, should be a decision left
5 to the authorities and their agencies. And with all due
6 respect to Mr. Gindin's recommendation that the function
7 should be split, this is an example of where I've asked
8 the, the Commission to look at the problem through an
9 evidence-based lens, because we don't have any evidence
10 that splitting those functions will serve families better.
11 The concern is that there won't be trust. But as I said,
12 that's a symptom and the cause is not necessarily the
13 existence of an investigation, it's the way we work with
14 our families.

15 It's a bit of an aside, Mr. Commissioner, but I,
16 I feel like I ought to mention, and it's somewhat off
17 topic, but nevertheless, when we talk about primary
18 prevention, what those community-based organizations do and
19 we talk about prevention work, within a child welfare
20 context, I did want to mention, because this has come up
21 throughout, throughout the inquiry, you know, for example,
22 the, the allegation that children are apprehended because
23 there's no food in the house and we have heard that
24 agencies certainly don't apprehend children because there's
25 no food in the house. But also do some of the work -- you

1 know, it's, it's not the primary focus of the work that we
2 do in child welfare, but, but certainly there are many
3 agencies and workers who deal with food insecure families
4 and provide them with those kinds of provisions and then,
5 and try to get them to places where, you know, they can
6 deal with that food insecurity and trying to deal with
7 those more systemic issues of neglect, or at least trying
8 to address some of the problems. So I just wanted to
9 mention that. It doesn't really --

10 THE COMMISSIONER: Right.

11 MS. HARRIS: -- fit anywhere, but I did want to
12 mention that, you know, I think that workers are quite
13 sensitive to the systemic problems that their families are
14 encountering that they work with, and trying to help them
15 through that, whether that's through referrals to community
16 agencies, or by stocking the pantry.

17 I'm turning now to the topic of public perception
18 and public trust and confidence as well. And, and when I
19 say public, I also mean trust on the micro level, as
20 between families and agencies, but also the perception of
21 the child welfare system in, in general.

22 You've already heard my submission with respect
23 to the fact that we do believe that the practice techniques
24 which are now being employed will have the effect, over
25 time, of ameliorating the negative, the negativity, in

1 terms of the perception of what child welfare agencies do,
2 as the way that we practice social work filters down and
3 more and more people encounter it and have positive
4 experiences, that will happen. And it's, and it's not that
5 people did not have positive experiences. One of the
6 witnesses in phase 1, in fact, gave evidence to the fact
7 that she had a very positive experience with her social
8 worker and that it was of great assistance to her, when she
9 was single parenting as a minor.

10 Other factors which we have identified, reduce
11 confidence in the child welfare system and fosters mistrust
12 in child and family services, include, to, to some extent,
13 media reporting. Some of the feedback we receive from our
14 new Canadians, in the New Canadians Initiative that you
15 heard about, Mr. Rodgers gave evidence, which is a program
16 entitled to, in time, intended to educate new, new Canadian
17 about the child welfare system, about our child welfare
18 laws, what we do, et cetera. Some of the feedback that
19 came back from that is that they thought that Child and
20 Family Services just took children away, because that was
21 all they were reading in the paper.

22 There's two reasons for this. When there are
23 apprehension which are high profile and are picked up by
24 media outlets, it's important to remember, of course, all
25 of the information that gave rise to that apprehension, all

1 of the data in the record, that's all protected under
2 section 76 of the Act. And so, when you hear of a
3 startling situation in the media, around the apprehension
4 of children, for example, of course parents are upset and
5 of course, parents have their own view and perspective and
6 parent advocates have their own view and perspective and
7 there is reporting about that. But the agency and the
8 authority, of course, cannot and should not -- it's not in
9 the, the best interests of children -- discuss that. So
10 there's this entire body of factual information that is not
11 within the purview of the public and should not be within
12 the purview of the public. And that balance is, is, is
13 missing sometimes in that, in that reporting. And it's no,
14 it's not the media's fault, but it's just, it, it's just
15 the outcome of one party being able to air its case in the
16 media, or, and, and, and it's heart wrenching, reading
17 about anybody's child who's been apprehended for any reason
18 and then separated from their parent, from, from his or her
19 parents. It's heart wrenching. It's every parent's worst
20 nightmare. But there is usually a pretty good reason why
21 children are apprehended and those details never are made
22 public because even our hearings are closed, again, as they
23 should be. There's always much more to the story.

24 It would be helpful if, when media reported on
25 those types of cases, that there were mention of the fact

1 that there are facts which cannot be made public and will
2 never be made public and that it doesn't mean that there
3 isn't cause for concern, that there is, but for the
4 protection of children, we simply can't discuss the other
5 side of the story.

6 Conversely, and this is now changing, but
7 historically, there have been really very few media reports
8 or articles that talk about the work that Child and Family
9 Services agencies do. That's now beginning to change. For
10 example, recently, there was an article about the General
11 Authority's new Canadian Initiative that I just mentioned,
12 where the media reported on and, and, and participated in
13 the education of the public about what Child and Family
14 Services agencies do and how we engage with families and
15 how we actually do help people. We don't just snatch
16 children. And the more that those types of stories are
17 reported, the greater the public confidence in the, in
18 agencies and the authorities will be and the more those
19 types of stories are reported, the more there will be
20 balance and that will have an effect on families who have
21 to engage with the agency at a future point in time and
22 not, in dispelling their own fears about what agencies do
23 and that's a place where the media could really help
24 families, not just, you know, the image of the authority,
25 or the image of an agency, but really help families

1 understand that child welfare agencies are not necessarily
2 these negative bodies that don't, that do nothing but harm
3 families and in fact, actually help.

4 THE COMMISSIONER: Yeah, but I, I must say that
5 I, I do think the, the media here has done a pretty good
6 job --

7 MS. HARRIS: Yes.

8 THE COMMISSIONER: -- in letting the public know
9 that the purpose of this Commission is to make some, make
10 recommendations that are going to better the welfare of, of
11 Manitoba children and I think the media has conveyed
12 that --

13 MS. HARRIS: Absolutely.

14 THE COMMISSIONER: -- as sad a story as, that's
15 brought us together, we're -- the hope is that good for
16 families and children is going to come out of this and I
17 think the media's got that across pretty well. That's
18 not --

19 MS. HARRIS: Absolutely.

20 THE COMMISSIONER: -- that's not to suggest
21 you're, you don't make a point, that good, good news
22 stories could well be told from time to time, to the
23 benefit of the system, but I think that that's just an
24 observation that comes to mind, based upon what you said.

25 MS. HARRIS: And, and as I said, there was a time

1 when there was very little positive reporting. That is
2 changing and I, and I do want to make it very clear that we
3 do see that that reporting is changing and it is helping
4 change the public perception of what we do.

5 Mr. Gindin is also correct that we do need more
6 public awareness about what agencies do and how we do it.
7 And so -- and Ms. Walsh, also under examination, when she
8 was examining Mr. Rodgers, said, well, this New Canadians
9 Initiative, where you're going out and you're educating
10 these new communities and you're, you're meeting people and
11 you're engaging and you're translating into multiple
12 languages information videos about what we do, wouldn't
13 that benefit everybody? And the answer's yes, of course it
14 would. And we support the notion that there be a
15 recommendation that would assist in the public awareness
16 campaign about what agencies do and how they engage.

17 Turning now to funding, Mr. Commissioner, I'm not
18 going to take a long time in funding, that's the good news.
19 You've read, Mr. Commissioner, a number of recommendations
20 about funding and the reality is there is more that needs
21 to be done and that does mean that there does need to be
22 more funding. There is also a fiscal reality that we can't
23 do everything. So my comment will be limited to two areas.

24 The first is that Mr. Funke's recommendation that
25 money should be diverted from protection and streamed into

1 prevention will not work. The reason why the child welfare
2 system is working so much better now than it did in 2005 is
3 because, to the Government's credit, the incredible influx
4 of monies into the child welfare system and what we've
5 heard is, as much as it's better, it's still not enough
6 yet. So while primary prevention, those community-based
7 agencies, while that's funding's extraordinarily important,
8 it can't be funded at the expense of the child welfare
9 system, because we still need the child welfare system to
10 function the way it's functioning right now and better.

11 And I won't go through most of the
12 recommendations that we've heard about funding, but I will
13 say many of the recommendations we've heard about funding
14 make a lot of sense, having domestic violence specialists I
15 agencies, for example, it makes a lot of sense. But I
16 think that what the General Authority is recommending to
17 you, Mr. Commissioner, is that the issue of funding be
18 dealt with in a two-pronged manner. First, it's our
19 submission that the Government should immediately fund
20 cases at a ratio of one to 20. Dr. McKenzie suggested the
21 ratio should be somewhere between one and 15 cases and one
22 and 20 cases. It's not ideal, it's, it may, very well may
23 not be enough, but it is something that we know can help
24 right now. And what, what that would be doing, Mr.
25 Commissioner, is a, is removing this artificial distinction

1 between what's a prevention case and what's a protection
2 case? Because we're, we're funding them the same because
3 the work is very similar and can be just as intensive,
4 irrespective of what stream it's in, then we should be
5 funding them the same way. That would render -- if, if, if
6 you were to make that recommendation, Mr. Commissioner, for
7 example, that would do away with some other recommendations
8 that have been made. For example, ANCR's recommendation
9 that prevention cases be funded beyond a hundred and eighty
10 days would simply be moot, because we would be treating all
11 these cases the same. There wouldn't be a need for an
12 extension of how long we fund a prevention case.

13 That having been said, we agree with the
14 submissions of ANCR, the Northern Authority, the Southern
15 Authority and the MGEU, that -- and it form (sic) part of
16 our own submission, that we don't have a good sense of what
17 caseload can be managed and meet provincial standards and
18 in the case of our authority, our practice model. We don't
19 know that and that should be studied.

20 Before we study that though, there's one more
21 recommendation we'd like to insert in between, which is
22 that we don't actually have a sense of which provincial
23 standards actually are in line with leading practice at the
24 present time. So rather than study the existing standards
25 and say your caseload, to, to, to meet the existing

1 provincial standards is, pluck a number out of the air, one
2 to 15, one to 17, let's find out which one, which of those
3 standards actually is in keeping with leading practice and
4 then let's determine what the caseload ought to be to
5 manage meeting those provincial standards with confidence.
6 And that takes time, which is why we're, we're making the
7 recommendation that the Commission can help right now by
8 immediately recommending that the Government immediately
9 fund at one to 20 and then the time can be taken to look at
10 other aspects of the funding formula that need to, that,
11 that need to change. Of particular concern to ANCR and the
12 Northern Authority and the Southern Authority and the
13 General Authority and I'm sure others, is the issue around
14 geography and how that creates differences in expenses that
15 aren't really accounted for, for example. Things like
16 dealing with children with high levels of need and what
17 that does, in terms of the amount of intensity in service
18 provision to a family with high needs children. That's
19 another. But I'd submit to, to you, Mr. Commissioner,
20 that's work that has to be figured out and that can happen
21 in the second stage, where the funding formula is looked at
22 by all the stakeholders and those types of issues are
23 addressed. I do think they need to be addressed and
24 there's many lists from -- before you, about the types of
25 issues that are -- and there's lots of evidence before you,

1 Mr. Commissioner, about what, what's causing the problems.
2 So we do recommend that not only is the funding formula
3 looked at, but looked at with a view to dealing with some
4 of those inequities.

5 It's the General Authority's submission that
6 workload continues to be one of the most important, if not
7 the most important factor in ensuring the safety of
8 children in Manitoba.

9 A number of parties have made recommendations
10 with respect to the availability of block funding and I
11 think those are clear. I don't think that, unless you need
12 me to go into it, Mr. Commissioner, I won't. I think that
13 they're quite clear on their face.

14 One of the recommendations the General Authority
15 has asked the Commission to consider is to assist in
16 funding --

17 THE COMMISSIONER: Is there a number for it, or
18 do you know?

19 MS. HARRIS: I'm trying to find it, Mr.
20 Commissioner, just give me one moment please. It's
21 paragraph 113, it's at page 38.

22 THE COMMISSIONER: One thirteen?

23 MS. HARRIS: Yes. And it's at page 38 of our
24 written submission. And we've asked that the Commission
25 make the recommendation that funding be made available to

1 the authorities to conduct evaluations and that's precisely
2 what Dr. Wright was talking about. It's precisely what Dr.
3 McKenzie's talking about. It's precisely what the CRC
4 wants us to do in validating, in conducting validation
5 studies.

6 In order to practice child welfare well --

7 THE COMMISSIONER: Yes.

8 MS. HARRIS: -- we need to close the feedback
9 loop and that means we need to do evaluations, so that we
10 can measure outcomes and see if what's working is working
11 the way we want it to and if changes need to happen. And
12 right now, evaluations are being funded by the General
13 Authority out of other areas of its budget, because there's
14 no line item for that. So we are now at the point where we
15 have enough data to conduct a value, a validation study
16 with respect to the SDM tools. We don't have the funding
17 available to do that and the funding will have to either
18 come out of some other area of the budget, or it'll have to
19 wait. And I'd submit that that is a piece that is vitally
20 important for us to do the work that we need to do from an
21 evidence-based standpoint. The exception to that, of
22 course, is, I, I don't want to mislead anyone, the, the,
23 the differential response evaluation that was conducted by
24 Dr. McKenzie was funded, but the validation study we would
25 need to undertake is not.

1 THE COMMISSIONER: On, ongoing evaluations?

2 MS. HARRIS: Ongoing evaluations are not, that's
3 right. Mr. Commissioner, you heard a lot of evidence from
4 Mr. Rodgers, back in May, about the need to improve the way
5 that we deal with youth who are aging out of care. There
6 are a number of initiatives that were GA and for the
7 benefit of all four authorities, or within the GA. I'm
8 very pleased and I did make mention of this in my written
9 submissions, but I'm very pleased that one of the
10 recommendations that Mr. Rodgers made orally to you, back
11 in May, which was that the aftercare program that was
12 designed by the General Authority, for which we received
13 funding from, from a private source, the Royal Bank of
14 Canada, and from our own budget, has now been, there's been
15 an announcement and the Province is now funding that
16 aftercare program. And so the, the, the Province ought to
17 be recognized for the fact that they have taken the step of
18 making that resource available so that every youth who has
19 been in care, who's, who's aged out of care has access to a
20 network of supports that include financial planning
21 assistance, job search assistance, counseling, et cetera.

22 We do continue to recommend that the Child and
23 Family Services Act ought to be amended to provide for
24 extensions of care not to age 21, but to age 25, which
25 would bring it into line with other provinces. And also to

1 include children who turn 18 as temporary wards of the
2 agency, because right now, the way that the section reads
3 is that it's, it's limited to permanent wards of an agency.
4 And so there's no difference to a kid who turns 18, whether
5 he's a temporary, or she is a temporary ward, or a
6 permanent ward --

7 THE COMMISSIONER: No.

8 MS. HARRIS: -- and that ought to be reflected in
9 the legislation.

10 We also do submit that the Province ought to fund
11 tuition layers for former youth in care, so that they can
12 attend post-secondary educational institutions. Currently,
13 although a number of educational institutions have
14 announced tuition labour programs, the cost of that is
15 being borne by the institution and to some extent there's
16 limitations on spaces because of that. That is simply
17 something we should be doing for kids who turn 18 in care,
18 or who, who are former permanent wards.

19 I think, Mr. Commissioner, you might recall that
20 we also made a recommendation, back in May, which, unlike
21 other requests for funding, which are, which just, just
22 are, are requests for the monies available to do the work
23 that we need to do, one of the recommendations that the
24 General Authority's made is that the, the Commission could
25 assist us with permanency planning for children, for

1 permanent wards, by recommending that there be regulatory
2 changes implemented to assist foster parents in adopting
3 their, their foster children.

4 THE COMMISSIONER: Oh, yes.

5 MS. HARRIS: What -- Mr. Rodgers gave evidence
6 about this back in May. One of the difficulties that, that
7 we have is that children, particularly children with
8 additional needs, or special needs, who are permanent wards
9 of the system and are in foster care, are in long term
10 placements where their foster parents would, in fact, be
11 quite happy to adopt them, but there's absolutely no
12 financial assistance in doing so, in a, in, in a couple of,
13 in a couple of ways. Firstly, in order to process any
14 adoption in Manitoba, you need a lawyer, pretty much. You
15 need a home study and there's a cost to that home study and
16 there's a cost to that home study. There are criminal
17 checks and child abuse registry checks. There are all --
18 and any number of things that have to be done and the costs
19 of actually processing an adoption are not currently
20 defrayed. And for some families, that's simply not
21 affordable. More importantly, and again, particularly for
22 kids who are in care, who have special needs, any respite
23 care that they would have had as foster parents, they don't
24 get unless they qualify under some other program through
25 the Government. But the continued respite care and

1 supports that they get, as foster parents, terminates.

2 And thirdly, it's the General Authority's
3 submission that some reduced -- not at the same level as a
4 child maintenance payment, but some reduced financial
5 support, to assist foster parents who chose to adopt
6 children in their care, to defray their costs, again,
7 particularly for kids with special needs, or additional
8 needs, would be helpful. Because even if you were
9 expending resources by maintaining some financial
10 assistance to those now adoptive parents, you are still
11 taking kids out of the system, you're reducing the number
12 of children in care and it's always going to be less
13 expensive to have that child be in a permanent home where
14 the families are equipped to provide for their needs.
15 That's in children's best interests. And it actually can
16 save the Government money, in terms of child maintenance
17 costs. So we do recommend that the Commission consider
18 that.

19 And the last recommendation, with respect to
20 funding, relates to being able to establish what we called
21 an innovation fund, Mr. Rodgers called an innovation fund,
22 where --

23 THE COMMISSIONER: What, what paragraph is that?

24 MS. HARRIS: It's at paragraph 114, sir.

25 THE COMMISSIONER: Right.

1 MS. HARRIS: And the innovation fund would allow
2 authorities to pilot projects that they thought, they think
3 will be of benefit to their demographic, such as the New
4 Canadians Initiative, in the case of the General Authority,
5 because as you heard from Dr. Wright, one of the biggest
6 changes in the child welfare world is the new challenge of
7 dealing with new Canadians who come from many, many
8 different cultural and racial backgrounds. That initiative
9 was, again, funded out of the General Authority's budget.
10 So money was taken from somewhere else to pay for that
11 initiative, because the General Authority felt it was
12 really important. If there were an innovation fund, then
13 authorities could make application to say we want to pilot
14 this project and if the project, in fact, proved to be
15 successful, or to be meeting the outcomes that were set out
16 in the initial pilot, then that, that, then there could be
17 funding to continue that. And that's, again, an example of
18 how we foster evidence-based practice.

19 The last recommendation is at paragraph 115, that
20 we make, subject to me double checking with my client, is
21 that it was recommended in the external reviews that the
22 General Authority be brought into its full legislative
23 mandate. That has not occurred and the General Authority
24 can do the work that it does better if it has its, it, it
25 has been brought into its full legislative mandate.

1 There's no difference between the kind of work the General
2 Authority does than the work that other authorities do and
3 it does have a unique relationship with government, but
4 nevertheless, the legislative scheme is that it stands
5 alone, just as, as the other three authorities do and it
6 ought to be permitted, so that again, the best interest of
7 the children can be met in the most efficient way possible,
8 with the authority determining what its demographic and the
9 people that it serves need.

10 THE COMMISSIONER: They, they -- the limitation
11 that there's now is unique to the General Authority?

12 MS. HARRIS: It's unique to the General
13 Authority, but there's no legislative basis for the
14 limitation. If I could just have a moment?

15 I will now, very, very briefly (inaudible) --

16 THE COMMISSIONER: I, I think Commission counsel
17 wondered if, if that was correct?

18 MS. WALSH: Just --

19 THE COMMISSIONER: Am I --

20 MS. WALSH: -- to elaborate on what, what the
21 limitation is?

22 MS. HARRIS: What the, what the limitation is?

23 MS. WALSH: Um-hum.

24 MS. HARRIS: The General Authority does not
25 receive the same core funding that the other authorities

1 receive, for example. The core funding --

2 MS. WALSH: Do we have evidence of that?

3 MS. HARRIS: One of the other issues is that
4 currently, the monies that would normally flow through the
5 General Authority, to be dispersed to its agencies, to the
6 extent that those monies are set aside for the service,
7 Winnipeg Child and Family Services and rural and northern
8 Family Services, those monies do not flow through the
9 General Authority. They don't ever come to the General
10 Authority. So the General Authority, which is mandated
11 under the Authorities Act, to fund its agencies, isn't
12 permitted to fund its agencies and isn't able to, to manage
13 that funding in the way that it sees fit. And it has tied
14 the hands of the authority and that's the crucial issue.
15 There are other issues with respect to the legislative
16 mandate, but with, with respect to the issues that are
17 before the Commission, that's the key issue.

18 Going back to the recommendations of others and
19 then I will complete my submission, Mr. Commissioner, I've
20 already dealt with Mr. Gindin's first of the four
21 recommendations that you'd asked counsel to address, which
22 was the splitting of services. Think that our position
23 with that is clear.

24 With respect to the second recommendation of Mr.
25 Gindin's, which is that the files be opened in the name of

1 the child, while we agree conceptually that there should be
2 some form of virtual master file, similar to what ANCR
3 does, where all names are searchable, we can't simply
4 endorse that. It's incredibly complicated from an, an
5 administrative standpoint. It would be very difficult, in,
6 in reality, to actually implement something like that. And
7 while certainly making sure that cross-referencing is, is
8 available, so that if you input an adult's name and all the
9 kids that, that adult is a caregiver to, for example, pop
10 up, or vice versa, while, of course, we should be cross-
11 referencing, simply opening files in the name of the child
12 is not the solution.

13 With respect to the recommendation that the role,
14 that that the Children's Advocate not be a child welfare
15 worker, we do not endorse that recommendation. Again, we
16 do agree that the, the Children Advocate ought to be an
17 independent party. It is the submission of the General
18 Authority, however, that the Children's Advocate not only,
19 it should not only be available that some, a child welfare
20 social worker could be the Children's Advocate, that it's
21 crucial that someone with child welfare experience, or, or
22 understands the child welfare system, be the Children's
23 Advocate. It doesn't have to be a social worker. Could be
24 a lawyer, could be other professionals in the system, but
25 there's really no way, in practical terms, for the

1 Children's Advocate to really function in the way that it,
2 it, it's been created in legislation, if the person who
3 runs the office has no understanding of how child welfare
4 works.

5 The notion that there be a cooling off period,
6 for example, is something that we would support, where, you
7 know, the Children's Advocate didn't handle cases from an
8 agency that it just came from and that would apply to the
9 staff as well. Not for an inordinate period of time, but
10 for a moderate amount of time, like, perhaps a year.

11 I've already made comments with respect to the
12 issue of the public perception and public education.

13 With respect to funding for primary prevention
14 services, again, we've already submitted that we do believe
15 that the funding for primary prevention is, is crucial and
16 essential, but not at the expense of the funding which is
17 flowing and needs to, to be increased to the child welfare
18 system, so that we can do the job that we're doing well.
19 Because, at the end of the day, the back stops with this,
20 this system, in ensuring the safety of children in our
21 province and we have to be able to make sure that our
22 workers can do their jobs to the best of their abilities
23 and make sure that children are as safe as we can make
24 them.

25 With respect to -- and, and, and it's a similar

1 recommendation that this morning Mr. Funke suggested, that
2 as I'd said, funding be diverted. And we would submit to
3 you, Mr. Commissioner, with no shortage of emphasis, that
4 it would never be safe to divert monies from, from
5 protection services, or child welfare services, as I've
6 classified them, and send them to planning prevention and
7 simply cut those services. It just simply isn't safe for
8 children.

9 ANCR's -- and I won't go through all of this, the
10 recommendations of ANCR and the Northern and Southern
11 Authority. We agree with a great many of them. But just
12 to touch on a couple, recommendation number 19 of ANCR
13 and --

14 THE COMMISSIONER: Number what?

15 MS. HARRIS: Number 19.

16 THE COMMISSIONER: Yes?

17 MS. HARRIS: -- of ANCR and the Northern and
18 Southern Authority, we do agree, with some qualification,
19 that we do need an update to CFSIS, at minimum, if not a
20 replacement to the system. But I would go one step -- the
21 General Authority does wish to go one step further with
22 respect to the use of CFSIS and this was an -- it may or,
23 it may or may not have been in the written submission, but
24 certainly, Mr. Cochrane did mention this one in his
25 submission yesterday, that CFSIS keeps kids safe and

1 agencies should be using it. The General Authority would
2 like to take that statement one step further and it's the
3 General Authority's position that CFSIS clearly keeps
4 children safer and allows for the gathering of objective
5 data to evaluate and measure outcomes and accordingly, it
6 should be required of all agencies to use CFSIS, as a
7 condition of their mandate.

8 THE COMMISSIONER: But, but you're not supporting
9 the development of a new information system, are you?

10 MS. HARRIS: We are.

11 THE COMMISSIONER: Well, then I, I thought you --
12 what does that do to CFSIS then?

13 MS. HARRIS: Whether it's improving CFSIS as it
14 currently exists --

15 THE COMMISSIONER: Oh --

16 MS. HARRIS: -- or implementing a brand new
17 one --

18 THE COMMISSIONER: -- well, then is improving
19 CFSIS an alternative to a new system?

20 MS. HARRIS: Yes, potentially.

21 THE COMMISSIONER: Okay. Yeah.

22 MS. HARRIS: My point with CFSIS, or whatever
23 information is in place though, Mr. Commissioner, is that,
24 as Mr. Cochrane indicated, there's some concern that some
25 agencies are simply not using CFSIS --

1 THE COMMISSIONER: Yeah, I understand that.

2 MS. HARRIS: -- that it be a requirement and a
3 condition of mandate, of being mandated, that whatever
4 information system is used provincially, is used by every
5 single agency.

6 THE COMMISSIONER: Oh, I understand that. But as
7 I understand that recommendation number 19 --

8 MS. HARRIS: Yes.

9 THE COMMISSIONER: -- if you're going to develop
10 a new system, doesn't (sic) it inherent that that means
11 scrapping CFSIS?

12 MS. HARRIS: Yes.

13 THE COMMISSIONER: And your position is either
14 revise CFSIS, or, or a new system?

15 MS. HARRIS: I think that my client's position
16 would be that the, a new system would be the ideal.

17 THE COMMISSIONER: It would be what?

18 MS. HARRIS: It would be ideal to have a new
19 system.

20 THE COMMISSIONER: Yeah, I'm just concerned about
21 cost.

22 MS. HARRIS: Yes, which is why we, we, we're
23 saying with qualification or improving the existing one,
24 but ideally, CFSIS should be replaced and it should be
25 used. And there should be sanctions for agencies who

1 choose not to use it.

2 I have a very small number of comments with
3 respect to a couple of the recommendations made this
4 morning by Mr. Funke. Mr. Funke made two recommendations
5 in his brief. And unfortunately, my copy, the page number
6 is written in a different language and I can't read it, but
7 under submissions, regarding recommendations, it's the
8 second page of submissions, and it would be subparagraph
9 vii and subparagraph ix.

10 THE COMMISSIONER: What page?

11 MS. HARRIS: I don't have a page number, Mr.
12 Commissioner --

13 THE COMMISSIONER: Oh.

14 MS. HARRIS: -- because, as I said --

15 THE COMMISSIONER: Oh.

16 MS. HARRIS: -- the page numbers are written in a
17 different language on my copy.

18 THE COMMISSIONER: Oh, I see.

19 MS. HARRIS: Yeah, it's page 38, sir.

20 THE COMMISSIONER: Thank you.

21 MS. HARRIS: The first is:

22

23 "That a proper definition of
24 neglect be developed for use in
25 conjunction with the

1 implementation of the SDM tools in
2 order to isolate and eliminate the
3 potential for racial bias to be
4 introduced by workers applying
5 differing conceptions of neglect."

6

7 In, in his oral submission, Mr. Funke made a number of
8 comments about Mr. Rodgers' evidence, which we disagree
9 with. I did review the transcript over the lunch hour and
10 fundamentally, there's a couple of points. Firstly, the
11 indices of neglect in the tools are quite explicit. So
12 while I appreciate -- and Mr. Rodgers' evidence was
13 represented by Mr. Funke as saying, as Mr. Rodgers'
14 agreement there was no definition of neglect in the Act.
15 That was not Mr. Rodgers' evidence. Mr. Rodgers' evidence
16 was that it was -- and I don't want to misquote him,
17 because I think it's important, so I'm actually going to
18 pull up the transcript, if that's okay? If I could just
19 have one moment.

20 I'll find it and I'll come back to it, because I
21 did write it down and I, I will come back to the exact
22 quote. But I think --

23 THE COMMISSIONER: That's fine.

24 MS. HARRIS: -- in any, in any event, Mr.
25 Rodgers' evidence was not that there was no definition of

1 neglect, but that it was not as well developed under the
2 Act, as the definition of abuse, to paraphrase.

3 THE COMMISSIONER: Right.

4 MS. HARRIS: But taking back to the SDM tools,
5 again, there are, there are three areas of information sort
6 of gathered in the risk assessment tool. One is, are those
7 static factors, like historical abuse, another are indices
8 of neglect and the other is, is indices of abuse. They're
9 described. And in fact, for example, there's a caution in
10 the SDM tool around the appearance of cleanliness of
11 children's physical persons, saying make sure that you're
12 not imposing a cultural bias around what level of
13 cleanliness for kids should look like, like, and so,
14 it's -- the training and the tool itself are quite explicit
15 in what those indices of neglect are. It's not left up to
16 the worker to decide what they think neglect is. There are
17 very specific indices of neglect.

18 The second recommendation, which I would like to
19 touch on and if I appear to be strong in my language, Mr.
20 Commissioner, it's somewhat deliberate.

21 THE COMMISSIONER: Let me find it.

22 MS. HARRIS: Is again, the same page, page 38 --

23 THE COMMISSIONER: Yes.

24 MS. HARRIS: -- subparagraph iv.

25 UNIDENTIFIED PERSON: (Inaudible).

1 MS. HARRIS: Oh, sorry, 37? Page 37, sorry,
2 subparagraph ix.

3 THE COMMISSIONER: Yes.

4 MS. HARRIS:

5
6 "[The] rules and procedures
7 allowing greater discretion to
8 override the SDM tools be
9 implemented until such time as a
10 validation test has been conducted
11 to determine whether the tools
12 demonstrate a cultural 'anomaly'
13 such as that noted with Native
14 American population in Minnesota."
15

16 I've already touched on this to some extent, but
17 my comments are as follows: Firstly, all four authorities,
18 three of which are aboriginal in nature, have determined
19 that this is the best tool available to assess risk for
20 children right now. And a validation study will be
21 conducted and if there is any concern about bias,
22 notwithstanding that most of the studies, overwhelmingly,
23 suggest that there is no bias, there was an anomaly in, in
24 Minnesota and the CRC worked with the Minnesota
25 jurisdiction and fixed it, which is, as I said earlier, is

1 part of that process of implementation of the tool, it, it
2 ends with the validation study. So that if there are any
3 anomalies, it can be, it can be fixed.

4 The, the four authorities are the experts in how
5 child welfare services ought to be delivered to ensure the
6 safety of children. And with all due respect, this
7 recommendation is as far from being evidence-based as you
8 can get. There is absolutely no evidence whatsoever to
9 suggest that that recommendation will serve the interests
10 of Manitoba children. What we have is a wealth of evidence
11 that the risk assessment tool, which was in place before
12 the SDM probability of future harm tool was implemented by
13 all four authorities, is that that risk assessment was
14 woefully inadequate. So Mr. Funke's suggestion this
15 morning that people should just opt to use the one they
16 want, until there's a validation study, would put Manitoba
17 children at risk.

18 Lastly, Mr. Funke, in his comments, was somewhat
19 critical of the way that social workers are trained in
20 Manitoba and suggested that social workers needed to be
21 trained from the very beginning of their careers and I
22 would like to simply remind the Commission that we already
23 are training our social workers at the very beginning of
24 their careers and our mandatory minimum training, which is
25 all in the materials, Exhibit 73 and 74, does this.

1 We also know that training and this was the
2 evidence of Ms. Brownlee and our leading practice
3 specialist, has to be modular in nature. It, it, it's not
4 as effective to do, say, 10 days of classroom training, all
5 in a, in a, in a bunch, because the ability to retain what
6 is learned in the classroom is lost if it's not put into
7 place and practiced. So within the General Authority and
8 I'm sure the other authorities have their own schedules for
9 training, and I know they do, but I can only speak
10 specifically to ours, our, our new graduates are trained
11 before they start working. They're trained while they're
12 working and their training is ongoing. And we know, and it
13 was the evidence of Ms. Brownlee and our leadings (sic)
14 practice specialist, that without application of what is
15 learned in the classroom, so to speak, eight percent of
16 what is taken in is lost. And that's why when we train, we
17 train in a modular way. We have leading practice
18 specialists on hand to assist in the ongoing training, so
19 that our workers learn how to apply the techniques they
20 learn on the job, on real files, so that they retain the
21 information and that their practice improves.

22 Subject to any questions you may have, Mr.
23 Commissioner, that would conclude the General Authority's
24 submission.

25 THE COMMISSIONER: No, I, I've raised anything I

1 have as we've gone along, Ms. Harris, so I thank you for
2 your presentation.

3 MS. HARRIS: Thank you so much. Mr.
4 Commissioner, as I conclude, I did, do want to say, again,
5 I was also one of the lawyers who stepped in late in this
6 process, so I'd like to thank you again for the work that
7 you've done and thank Commission counsel. And also thank
8 the, my other colleagues in the room, because they provided
9 invaluable assistance in ensuring that I, personally, was
10 brought up to speed very quickly and I appreciate that.

11 THE COMMISSIONER: Well, those of you --

12 MS. HARRIS: Thank you.

13 THE COMMISSIONER: -- that came in late did a
14 remarkable job in getting up to speed and I'm pleased to
15 know that everyone cooperated in making that possible --

16 MS. HARRIS: Absolutely.

17 THE COMMISSIONER: -- because you, you certainly
18 got there.

19 MS. HARRIS: Thank you.

20 THE COMMISSIONER: Now, Ms. Walsh, how are we
21 doing with our schedule?

22 MS. WALSH: We're ahead of schedule. The next
23 submission would come from the Department and I suspect
24 that they would prefer to start tomorrow morning.

25 THE COMMISSIONER: Oh, I wouldn't start today,

1 no.

2 MS. WALSH: And then, and then we'll see how far
3 we get. I think the consensus in the room is that if we
4 could not sit, at least Friday afternoon, that would be
5 fine and come back for Monday for any further submissions
6 or replies, that likely will be finished everything by the
7 end of Tuesday.

8 THE COMMISSIONER: That would mean a, a Friday
9 noon adjournment this week and --

10 MS. WALSH: Right.

11 THE COMMISSIONER: -- complete by closing time of
12 Tuesday of next week?

13 MS. WALSH: At the latest, yes. That's right.

14 THE COMMISSIONER: Anyone argue with that
15 proposed timetable?

16 Well, if not, we'll endeavour to run with that
17 and start Mr. McKinnon's presentation at 9:30 tomorrow
18 morning.

19 MS. WALSH: Thank you and so those who follow on
20 the schedule should be prepared. I, I'm told that Mr.
21 McKinnon will likely take his full three hours, which is
22 fine, but then the others should be prepared to, to follow.

23 THE COMMISSIONER: Oh, yes, I want everyone to
24 have the opportunity of taking their allotted time, if they
25 want it, yes.

1 MS. WALSH: But then others should be, should be
2 ready to go.

3 THE COMMISSIONER: Yes, yes, that's --

4 MS. WALSH: Yeah.

5 THE COMMISSIONER: -- if we're going to hold to
6 that timetable and some of us will make plans around that,
7 so that, that would be the intention.

8 MS. WALSH: Good, thank you.

9 THE COMMISSIONER: Thank you. We'll adjourn
10 until 9:30.

11

12 (PROCEEDINGS ADJOURNED TO JULY 25, 2013)