



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 Eaton Hall, Marlborough Hotel,
331 Smith Street, Winnipeg, Manitoba

THURSDAY, MAY 16, 2013

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

MS. C. DUNN, for Ka Ni Kanichihk Inc.

Mr. T. BOCK, for Child Advocate

MS. B. BOWLEY, for Witness, Ms. Diva Faria

INDEX

	Page	
PROCEEDINGS	1	
 <u>WITNESSES:</u>		
JOHN CHARLES RODGERS		
Direct Examination (McKinnon)	7	
Cross-Examination (Olson)	18	
Cross-Examination (Gindin)	29	
Cross-Examination (Bowley)	38	
Examination by the Commissioner	78	
DARLENE FRANCES MACDONALD		
Direct Examination (Olson)	81	
Cross-Examination (123	
Cross-Examination (127	
Cross-Examination (136	
Cross-Examination (137	
Examination by the Commissioner	139	
PROCEEDINGS	144	
 <u>EXHIBITS:</u>		
81	Booklet of correspondence referencing report sharing	6
82	2011-2012 annual report of the Children's Advocate	93
83	Agreed set of facts re Jim Chabai	144

1 MAY 16, 2013

2 PROCEEDINGS CONTINUED FROM MAY 15, 2013

3

4 THE COMMISSIONER: Good morning.

5 MS. WALSH: Morning, Mr. Commissioner. Before
6 Mr. McKinnon begins his examination of Mr. Rodgers, one
7 point that I wanted to put on the record.

8 When Carol Bellringer, the auditor general,
9 testified she was asked a question to which she did not
10 have the answer at the time, and she advised that she would
11 follow up with the answer.

12 THE COMMISSIONER: Yes.

13 MS. WALSH: She was asked when her, her office's
14 follow-up process was changed from three years after a
15 report was issued to one year, and she has advised me by
16 e-mail that the change is first reflected in the auditor
17 general's January 2012 report titled, Follow-Up of
18 Previously Issued Recommendations. It is a public document
19 on the website of the auditor general.

20 I'll just read from a portion of it. It says:

21

22 In the past, we waited for 3 years
23 after the issuance of an audit
24 report before requesting the
25 status update. We then continued

1 to obtain a status update for an
2 audit report until such time as
3 every recommendation was
4 implemented. This year, we
5 decided that the progress made to
6 address our recommendations and
7 the scrutiny of our reports by the
8 Public Accounts Committee ...
9 warranted a change in our
10 approach. As a result, we have
11 requested status update for all
12 reports issued prior to June 30,
13 2011 rather than waiting 3 years.
14 And, we are no longer providing
15 updates for those recommendations
16 listed in last year's follow-up
17 report.

18 A status update for our report
19 titled Child and Family Services
20 Division Pre-Devolution Child in
21 Care Processes and Practices
22 issued in December 2006 has not
23 been included in this report.
24 Significant changes to the
25 organizational structures and

1 complexity of the issues warrant a
2 different approach. We will be
3 completing a thorough follow-up of
4 that report in the upcoming
5 months. We will issue an update
6 which will include details about
7 the changes to the system and how
8 our recommendations are being
9 addressed post-devolution. The
10 update will be released to the
11 Legislature as soon as it is
12 complete, which will make it
13 available to the Commission of
14 Inquiry into the Circumstances
15 Surrounding the Death of Phoenix
16 Sinclair which has been mandated
17 to consider our 2006 report."

18

19 So I think that matter has now been clarified.

20 Thank you.

21 THE COMMISSIONER: Thank you.

22 Mr. McKinnon.

23 MR. MCKINNON: Thank you, Mr. Commissioner. Mr.

24 Rodgers is being recalled today for two purposes: The

25 first is for me to, at the request of Ms. Walsh, to lead

1 his evidence on the issue that we've been describing as
2 report-sharing.

3 THE COMMISSIONER: Yes.

4 MR. MCKINNON: And the second is to be cross-
5 examined by Ms. Bowley. That arises out of the conflict of
6 interest issue that was identified some time ago when Mr.
7 Saxberg didn't cross-examine --

8 THE COMMISSIONER: Yes.

9 MR. MCKINNON: -- this witness. So those are the
10 two purposes. We're going to do the first one as a
11 discrete stand-alone issue and then allow Ms. Bowley to
12 address her issues second.

13 THE COMMISSIONER: Right.

14 MR. MCKINNON: And yesterday, Mr. Commissioner, I
15 didn't have copies of the CDs that we were going to refer
16 to when Mr. Schellenberg testified. Today I have made
17 copies so that you can look at the paper as opposed to
18 having to follow along on the screen. Do you want me to
19 mark those as an exhibit or just provide them to you for
20 your reference?

21 THE COMMISSIONER: CVs of who?

22 MR. MCKINNON: These are the Commission
23 disclosures of the four letters that this witness will be
24 referred to.

25 THE COMMISSIONER: Oh. Well, we marked the ones

1 yesterday, didn't we?

2 MR. MCKINNON: We -- no, we did not. We didn't
3 have paper copies.

4 THE COMMISSIONER: Oh.

5 MR. MCKINNON: We only had the electronic copies
6 yesterday.

7 THE COMMISSIONER: Yes.

8 MR. MCKINNON: Would you prefer to have them
9 marked as paper copies or ...

10 THE COMMISSIONER: Have you got the paper copies
11 of the ones we referred to yesterday?

12 MR. MCKINNON: Yes. And we'll be referring to
13 the same ones today.

14 THE COMMISSIONER: I think it would be beneficial
15 to have them so I have them ready, available to me.

16 MR. MCKINNON: Thank you.

17 THE COMMISSIONER: So perhaps the clerk can -- do
18 you want them to each have a separate exhibit number or a
19 package?

20 MR. MCKINNON: I've put them together as a
21 package of four.

22 THE COMMISSIONER: All right.

23 MR. MCKINNON: And they're tabbed 1 to 4.

24 THE COMMISSIONER: Tabs 1 to 4.

25 THE CLERK: Exhibit 81, Mr. Commissioner.

1 THE COMMISSIONER: All -- both tabs.

2 THE CLERK: Yes.

3 THE COMMISSIONER: Or all four tabs?

4 THE CLERK: All four tabs.

5 THE COMMISSIONER: Exhibit 84.

6 THE CLERK: 81.

7 THE COMMISSIONER: 81. Tabs of correspondence
8 referred to Schellenberg.

9 MR. MCKINNON: Let's call them referencing
10 report-sharing. Because they'll be referred to both
11 witnesses.

12 THE COMMISSIONER: But already addressed by
13 Schellenberg.

14 MR. MCKINNON: They've been addressed
15 by Schellenberg and they'll now be addressed by Mr.
16 Rodgers.

17 THE COMMISSIONER: Right.

18 THE CLERK: Do you have them, sir? Maybe I'll
19 ... Exhibit 81.

20 THE COMMISSIONER: Exhibit 81. Thank you.

21

22 **EXHIBIT 81: BOOKLET OF**
23 **CORRESPONDENCE REFERENCING REPORT**
24 **SHARING**

25

1 **JOHN CHARLES RODGERS**, previously
2 sworn, testified as follows:

3

4 DIRECT EXAMINATION BY MR. MCKINNON:

5 Q Mr. Rodgers, for the record, you've been --
6 you've testified several times previously. Today we're
7 calling you to speak about this issue of report-sharing
8 concerning a time when you were the executive director of
9 child protection.

10 And Mr. Commissioner, for the record and
11 according to my notes, that was February 6th, 2006 until
12 January 22nd, 2007, a period of about 11 months. Does that
13 sound right to you, Mr. Rodgers?

14 A Yes, it does.

15 THE COMMISSIONER: Director of child protection?

16 MR. MCKINNON: Director of child welfare,
17 sometimes referred to as the director of child protection.

18 THE COMMISSIONER: Oh, the director. Yes.

19

20 BY MR. MCKINNON:

21 Q The -- at that time you were the statutory
22 director?

23 A That's correct.

24 Q Now, Mr. Rodgers, as you're aware we've been --
25 made number of references in this inquiry to the report of

1 the chief medical examiner with respect to the death of
2 Phoenix Sinclair and that's sometimes referred to as the
3 Section 10 review or the Section 10 report?

4 A Yes.

5 Q You're aware of that document?

6 A Yes.

7 Q My understanding is that document is dated
8 September 18th, 2006?

9 A That's my recollection.

10 Q We've also made reference to a special case
11 review prepared by Andrew Koster. That's sometimes
12 referred to as the Section 4 review or the Section 4
13 report, and that's dated September 2006 but there's no day,
14 just a month. Is that your recollection?

15 A At the end of September I believe we received it.

16 Q So for the record, your recollection is it was
17 received near the end of September 2006?

18 A Yes.

19 Q Do you have a specific recollection of when the
20 reports were sent to you, as director of child protection?

21 A My best recollection of that would have been very
22 early after they were received by the department, so
23 probably within the first week of October.

24 Q And we've seen documents, I'm going to direct you
25 to Commission disclosure 835. That's at tab 1 in front of

1 you.

2 MR. MCKINNON: Madam Clerk, for the record, it's
3 page 18031.

4

5 BY MR. MCKINNON:

6 Q Now, this is a letter, if we can turn to the
7 second page, a letter signed by Linda Burnside, director of
8 authority relations. Can you tell who she was and who she
9 reported to?

10 A She, as you mentioned, was the director of
11 authority relations at the Child Protection Branch. And
12 she reported directly to me.

13 Q Okay. So this is one of your staff when you were
14 the statutory director?

15 A One of my senior staff.

16 Q And is she writing this letter effectively on
17 your behalf?

18 A Yes.

19 Q And this letter is addressed to Mr. Dennis
20 Schellenberg. You were here yesterday when he testified?

21 A Yes.

22 Q And Mr. Schellenberg, at that time, was the chief
23 executive officer of the general authority and this letter
24 would indicate that you are sending to him a copy of the
25 Section 10 report?

1 A Yes.

2 Q Now, in the first paragraph of this letter there
3 is reference to the issue of confidentiality. I won't read
4 the whole thing, Mr. Commissioner, but perhaps you could
5 indicate, Mr. Rodgers, to the Commissioner what that
6 reference to confidentiality is and why it's there?

7 A I guess, first of all, I need to emphasize, as
8 did Mr. Schellenberg yesterday, that these are templated
9 letters. It's the same wording and every letter that goes
10 out with a Section 10 report, we still get them today, very
11 similar language. The -- my understanding would be that
12 these are considered sensitive reports and confidential
13 because they're case-specific.

14 Q Now, my understanding, and stop me if, if I'm
15 wrong or your recollection is different, but my
16 recollection is at this time they were also confidential
17 under the fatal inquiries Act. Do you have any information
18 about that?

19 A That, that -- not specifically. That is likely
20 true.

21 Q So you're indicating this is a templated letter
22 and the sentence in paragraph one dealing with
23 confidentiality says what?

24 A I'm sorry?

25 Q Just if you could tell the Commissioner, read to

1 the Commissioner the sentence dealing with confidentiality.

2 A

3 "We are including a copy of this
4 confidential report for your
5 information."

6

7 That one?

8 Q Yes. The next few sentences.

9 A

10 "Given the sensitive nature of the
11 report, we ask that you not make
12 copies of the report nor share its
13 contents without the written
14 permission of the Executive
15 Director of the Child Protection
16 Branch. However, a copy of the
17 CME'S report may be shared with
18 staff of the Winnipeg, Rural and
19 Northern Child and Family Services
20 (Winnipeg regional office) (WCFS)
21 who are directly involved with the
22 matter for purposes of reviewing
23 the recommendations in the CME's
24 report."

25

1 Q And I see this letter is carbon-copied to Ms.
2 Darlene MacDonald, who was the acting chief executive
3 officer of Winnipeg CFS at the time, attaching a copy of
4 the report. Was it your expectation that that reference to
5 confidentiality would apply equally to her?

6 A Yes.

7 Q Now, if I can take you to the next tab in the
8 four tabs at Exhibit 81.

9 A And, and just an additional point there. That,
10 that c.c. list would be standard. It would go out to the
11 agency executive director and the others as -- that are
12 listed there.

13 Q I'm now going to ask you about the Section 4
14 report prepared by Mr. Koster.

15 MR. MCKINNON: If you turn to tab 2, Madam Clerk,
16 it's page 13261 in the Commission disclosure.

17

18 BY MR. MCKINNON:

19 Q This is a letter from you to Mr. Schellenberg
20 enclosing a copy of the Section 4 report, correct?

21 A Yes.

22 Q And it's also carbon-copied to Ms. Darlene
23 MacDonald, the acting CEO of Winnipeg CFS?

24 A Yes.

25 Q And there's a, a statement as to confidentiality

1 in that report as well. If I could get you to read that
2 one, starting with "Given the sensitive nature of the
3 report."

4 A Sure.

5

6 "Given the sensitive nature of the
7 report, we ask that you not make
8 copies of the report nor share its
9 contents without the written
10 permission of the Executive
11 Director of the Child Protection
12 Branch."

13

14 Q And that would have been you?

15 A That's correct.

16 Q That's a little bit more restrictive in terms of
17 confidentiality than was in the reference to the Section 10
18 report. Why was that?

19 A My recollection as to why there was greater
20 restrictions put on this was for number of reasons but
21 mainly Mr. Koster's report contained certain information
22 that the other reports did not, and in particular there
23 was, in Mr. Koster's report, specific information from
24 interviews he did with individual staff. There were
25 summaries of interviews and there were occasions where Mr.

1 Koster put in quotes from those interviews; often
2 sometimes, what somebody said about somebody else or what
3 somebody told somebody else. So this gave this report a
4 different set of information. And while I don't recall how
5 the concern got raised and I don't think I have any
6 documents in behind it, I do recall that we were also
7 concerned that Mr. Koster may not have fully informed the
8 people being interviewed that they -- there would be a
9 summary of their interview or that they might be quoted in
10 the report, so we were also concerned that there may be a
11 breach of what would have been an expectation of privacy.
12 So we did put extra restrictions on the distribution of
13 this report.

14 Q Okay. Now, I'm going to take you to tab 3 of
15 that bundle of documents in front of you. I understand
16 that you -- these are, these are three e-mails that went
17 back and forth?

18 A Yes.

19 Q You were not a party to any of these three mails,
20 three e-mails; am I correct in that?

21 A Yes.

22 Q But you've been made aware of these e-mails
23 through this inquiry process?

24 A Yes.

25 Q And in a nutshell, the first of the three e-mails

1 is the one at the bottom and it's from someone named Pat
2 Wawyn to Darlene MacDonald and others reminding her about
3 the confidentiality of the Section 4 report. Just for the
4 benefit of the Commissioner, who is Pat Wawyn?

5 A Pat, excuse me, Pat Wawyn is the intake and
6 issues management specialist at the general authority.

7 Q Okay. So it's an employee of the general
8 authority reminding the Winnipeg CFS of the confidentiality
9 issue.

10 And then if we move up the page there's a, an
11 e-mail back. It's from Darlene MacDonald to Pat Wawyn and
12 others and it's, indicates:

13

14 "The contents need to be shared
15 with a few select managers ..."

16

17 And it goes on to say:

18

19 "for instance, I want feedback
20 from Ellen with respect to the
21 foster care recommendations ... I
22 need to discuss with Rob and Dan
23 feedback re the recommendations"

24

25 Again, that's not something you were aware of at

1 the time, but you've been made aware of through these
2 proceedings, correct?

3 A Of this e-mail, you're referring to?

4 Q Yes.

5 A Yes.

6 Q And then the third in that string of e-mails is
7 from Dennis Schellenberg who spoke yesterday or testified
8 yesterday:

9

10 "Please ensure you get Jay's
11 written consent to share with
12 specific people.
13 Dennis"

14

15 A Yes.

16 Q You see that?

17 A I do.

18 Q And the Jay being referred to is obviously
19 you?

20 A It is, although I noticed he didn't remember I
21 was director at the time, but ...

22 MR. MCKINNON: Now, if we could turn to tab 4,
23 Mr. Commissioner. This is a -- and for the record, Madam
24 Clerk, it's page 18039.

25

1 BY MR. MCKINNON:

2 Q This is a letter that we've seen before today.
3 This is the same letter which was at tab 2 but it's a
4 different copy or a different version of that letter, and
5 you'll see it was on another file. And there's a
6 handwritten note at the bottom of that page saying:

7

8 "permission to produce 3 copies"

9

10 And there's a signature. Can you tell us whose signature
11 that is?

12 A That is my signature.

13 Q And do you have any recollection as to the
14 circumstances around your authorizing the permission to
15 produce three copies?

16 A My recollection of this is very vague. My only
17 recollection is that this occurred at a meeting between
18 myself and Ms. MacDonald where she made the request for
19 permission to produce three copies. And because there was
20 some urgency to respond to the recommendations in a timely
21 way, I made a decision to authorize release right there.
22 That's why you see it done this way with my signature.

23 Q Do you have any other, do you have a recollection
24 of being asked to share the Section 4 report or the Section
25 10 report any further than would be indicated by this note?

1 A No.

2 MR. MCKINNON: Those are my questions, Mr.
3 Commissioner.

4 THE COMMISSIONER: All right. Mr. Olson?

5 MR. OLSON: Morning, Mr. Rodgers.

6 THE WITNESS: Good morning.

7 MR. OLSON: Can you put page 18031 on the
8 monitor, please.

9

10 CROSS-EXAMINATION BY MR. OLSON:

11 Q This is a letter with respect to the Section 4
12 report. In this letter that you were read with Mr.
13 McKinnon, it indicates that permission would be required to
14 share the report generally and the permission would be
15 required from yourself; is that right?

16 A Yes.

17 Q And it says there's an exception, and it says:

18

19 "... a copy of the CME's report
20 may be shared with staff of the
21 Winnipeg, Rural and Northern Child
22 and Family Services ..."

23

24 A I'm sorry, you refer to this as a Section 4.
25 This is a Section 10.

1 Q I'm sorry, the Section 10 report. Permission --
2 sorry, permission -- sorry:

3

4 "... copy of the CME's report may
5 be shared with staff of the
6 Winnipeg, Rural and Northern Child
7 and Family Services (Winnipeg
8 regional office) ... who are
9 directly involved with the matter
10 for purposes of reviewing the
11 recommendations in the ..."

12

13 You can scroll down a bit.

14

15 "... in the CME's report."

16

17 To me that suggests that those staff involved,
18 clearly explicitly says the staff involved in the matter
19 can be shown the report.

20 Is that your understanding?

21 A Yes.

22 Q Okay. And do you understand why that would be
23 included in this letter, why that phraseology?

24 A It would be included in the letter from the
25 perspective of the director primarily to assist the agency

1 in preparing the recommendations that are required in their
2 response to the report.

3 Q We heard from Mr. Schellenberg yesterday that
4 part of the reason for this sort of language was so that
5 those involved would be able to learn from what
6 recommendations were made in the report and what, what
7 actually happened or what was recorded, what the findings
8 were, that sort of thing. Do you agree with that?

9 A Yes.

10 Q Would you have expected the report to be shared
11 with those staff involved?

12 A That was a decision that we left to agency
13 directors. The letter doesn't set out any expectations on
14 that.

15 Q Would you have expected Ms. MacDonald to share
16 the report with her staff?

17 A That was a decision that I left to her.

18 Q Did you have any discussion with her about that?

19 A No.

20 Q Okay. And you, and you didn't -- I'm not sure if
21 you answered the question whether you had an expectation
22 that she would or would not share the report?

23 A I, I did not set out an expectation for her.

24 Q Not one way or the other?

25 A Not one way or the other.

1 Q Okay.

2 A As, as I testified earlier, we do have that
3 expectation now.

4 Q Okay. You know that the report wasn't shared
5 with the staff involved?

6 A Yes.

7 Q Okay. In your personal view it ought to have
8 been shared with the staff involved?

9 A In my personal view. In hindsight, given the
10 practice that we have today that we believe to be the ideal
11 learning opportunity, I think, as I testified in phase one,
12 I'm not sure -- in fact, I don't agree that entire report
13 should be shared with all staff who were involved. I
14 believe there's an opportunity for learning and that does
15 depend on the content of the report and what the findings
16 are for contents to be shared with specific staff who were
17 involved in the activities that are referenced in those
18 contents. So I would say my personal view is, today, yes.

19 Q Okay. Thank you.

20 THE COMMISSIONER: You're answering yes to what
21 question?

22 THE WITNESS: In my personal opinion is it
23 valuable to share the contents of the report with staff, I
24 would say yes.

25 THE COMMISSIONER: Give me that again.

1 THE WITNESS: I was asked if I thought there was
2 value in sharing --

3 THE COMMISSIONER: Value.

4 THE WITNESS: -- the contents of the report with
5 staff for purposes of learning, and that's the practice we
6 have in place today.

7

8 BY MR. OLSON:

9 Q The staff involved in the circumstances that led
10 to the report at the time wouldn't have been aware of what
11 the report commented on till they were actually shown a
12 copy of the report in -- with respect to their involvement
13 in this inquiry?

14 A The detailed contents, no. Probably would have
15 been aware of the recommendations because the agency was
16 preparing responses to recommendations in, as were much of
17 the system because of all of the recommendations that came
18 in on all the reports. So there may have been some general
19 familiarity with the recommendations.

20 Q Okay. Think you said that the Section 4 report,
21 the language was more restrictive than the Section 10
22 report, in terms of sharing?

23 A Yes.

24 Q And that's because there were more specific
25 findings, particularly with respect to individuals, in

1 comments with respect to individuals?

2 A No. It was not, not in relation to findings. It
3 was because there was information there that was directly
4 from interviews with staff and on occasion there were
5 direct quotes from staff that were cited in Mr. Koster's
6 report.

7 Q And I just want to understand why, in your view,
8 there, that would be more problematic in terms of sharing
9 it with the staff involved? Just not quite sure I follow
10 the reasoning behind that.

11 A Two, two reasons. One, in those interviews
12 you've got staff commenting about the work of others,
13 sharing their personal view on that, workers talking about
14 supervisors, et cetera. And secondly, again, because of
15 the direct quotes and the detail of those summaries, we
16 were concerned that the people who were interviewed had an
17 expectation of privacy that there would not be quoted in
18 the report and therefore we were, wanted to be more careful
19 about who that report was distributed to because of that.

20 Q Would there be some value, though, to having the
21 staff involved, know what others were -- what others were
22 saying or what they were commenting on to get a sense of
23 what happened and how things might be fixed, or how to
24 improve what they may have done or, or not done?

25 A Generally, yes.

1 Q Or to make sure that things were being
2 interviewed to them were accurate?

3 A Sorry?

4 Q Or to ensure that things that were being said or
5 attributed to them were accurate?

6 A Yes, for sure. For sure that -- now, I don't
7 know if Mr. Koster did that, but whenever you do research
8 or work like this, that would be something that should be
9 done to ensure that the staff verify that what you're
10 putting in the report is accurate from those interviews.

11 Q Okay.

12 A I can't recall if Mr. Koster did that or not.

13 Q With respect to the issue of whether, whether or
14 not Ms. MacDonald asked for permission to share any of the
15 reports, firstly, would she have needed permission to share
16 the Section 4 report --

17 A Yes.

18 Q -- your permission? Yes?

19 A Yes.

20 Q And you said the only permission you can recall
21 giving was what's indicated on the letter at page number
22 18039 --

23 A Yes.

24 Q -- your notation?

25 A Yes.

1 Q Okay. So no, no permission that you can recall
2 for her -- for her asking to share with staff members
3 involved?

4 A Not that I can recall.

5 Q Okay. Then with --

6 THE COMMISSIONER: Wait a minute. You said --
7 are you talking about the approval that this witness gave
8 to, on, on the letter?

9 MR. OLSON: Yes, let's just pull that up so it's
10 clear. 18039, if you scroll down to the bottom of the
11 page.

12 THE COMMISSIONER: Yes.

13

14 BY MR. OLSON:

15 Q The -- where it says, in handwriting, permission
16 to produce three copies. And if you scroll down a little
17 bit further there's your signature?

18 THE COMMISSIONER: And, and then you asked would
19 MacDonald need permission to share the Section 4 report,
20 and the answer was yes?

21 THE WITNESS: Yes.

22 THE COMMISSIONER: And you gave the permission?

23 THE WITNESS: Yes.

24 THE COMMISSIONER: For three copies?

25 THE WITNESS: That's correct.

1 THE COMMISSIONER: And then what did you say
2 beyond that?

3

4 BY MR. OLSON:

5 Q And that was, well, that was three specific
6 copies to the three individuals she had indicated she
7 wanted to share the report with --

8 A Yes.

9 Q -- previously?

10 A Yes, I assume so.

11 Q That was in the e-mail that you reviewed with Mr.
12 McKinnon?

13 A Yes.

14 Q Okay.

15 THE COMMISSIONER: In the e-mail?

16 MR. OLSON: The e-mail is located ...

17 THE COMMISSIONER: Well, permission is on the
18 letter.

19 MR. OLSON: The permission is on the letter.

20

21 BY MR. OLSON:

22 Q And your recollection was that the permission was
23 being, it was -- there was some urgency to the request for
24 sharing you said, I think?

25 A Yes.

1 THE COMMISSIONER: Was the request to do this
2 sharing in the e-mail?

3 MR. OLSON: The e-mail, it's the e-mail that's at
4 tab 3.

5 THE COMMISSIONER: Yes.

6 MR. OLSON: Which is page 18041.

7 THE COMMISSIONER: Yes. What's that got to do
8 with this?

9

10 BY MR. OLSON:

11 Q Are you able to explain that, what your
12 understanding is?

13 A The, the, the request was in an e-mail from Ms.
14 MacDonald to Mr. Schellenberg. Mr. Schellenberg rightly
15 indicated that he didn't have the authority to give
16 permission, that had to come from the executive director.

17 THE COMMISSIONER: So MacDonald requested
18 permission in e-mail to Schellenberg.

19 THE WITNESS: That's correct.

20 THE COMMISSIONER: And Schellenberg made the
21 request to you?

22 THE WITNESS: No. Mr. Schellenberg wrote back to
23 Ms. MacDonald indicating that she needed my approval, which
24 then comes through that handwritten note and signature.

25 THE COMMISSIONER: And you gave it to MacDonald?

1 THE WITNESS: Yes.

2 THE COMMISSIONER: Directly.

3 THE WITNESS: Yes.

4

5 BY MR. OLSON:

6 Q As indicated on the letter at page 18039?

7 A Yes.

8 THE COMMISSIONER: Okay. I follow now.

9 MR. OLSON: Okay.

10

11 BY MR. OLSON:

12 Q Had Ms. MacDonald requested your permission to
13 share it with the staff involved, does that -- would you
14 give that permission?

15 A I would have certainly had a discussion with her
16 about which contents and with which staff. And I probably
17 would have consulted with the assistant deputy minister
18 before giving permission to share it further.

19 Q And in your view would it have been appropriate
20 to share that report with the staff involved? You may have
21 already answered that partly but I just want to be clear.

22 A Yeah. Again, it would have depended on which
23 contents with which staff. If there were, you know,
24 parameters on that and there weren't breaches of what we
25 thought were expectations of privacy, again, for

1 opportunities of learning, as we do today, it might have
2 been helpful, yes.

3 THE COMMISSIONER: So you knew where these three
4 copies were going?

5 THE WITNESS: From the e-mail request, Ms.
6 MacDonald indicated the three individuals she wished to
7 share it with.

8 THE COMMISSIONER: And you were comfortable
9 sharing it with them?

10 THE WITNESS: Yes.

11 THE COMMISSIONER: But not beyond, without
12 consulting with the, with the deputy minister?

13 THE WITNESS: I would have asked; if there was
14 going to be further distribution, I probably would have
15 consulted.

16 MR. OLSON: Thank you, Mr. Rodgers, those are my
17 questions.

18 THE WITNESS: You're welcome.

19 THE COMMISSIONER: Thank you, Mr. Olson.

20 Mr. Gindin.

21

22 CROSS-EXAMINATION BY MR. GINDIN:

23 Q Mr. Rodgers, I just wanted to clarify some of
24 these letters. The Section 10 report, that's the one that
25 you now agree should have been shared with the specific

1 staff involved; is that right?

2 A Again, I believe my comments were the appropriate
3 contents with the appropriate staff.

4 Q And that's because that's a learning process for
5 them and would have been nice to have at that time?

6 A That's how we approach it today, yes.

7 Q Pardon me. I meant the Section 10 report that
8 we're talking about right now. You --

9 A Yes.

10 Q -- understand that?

11 A Yes.

12 Q Yeah. And you now agree that that would have
13 been something they could learn from --

14 A Yes.

15 Q -- and, and perhaps they should have seen that?

16 A Yes.

17 Q Now, what I'm wondering is why you're restricting
18 that to the specific staff that was involved. Wouldn't
19 other staff also learn something from having seen a report
20 like that?

21 A I -- and again, I've seen many of these reports
22 and I won't disagree with you on that. But often the
23 reports are about cases that involve multiple staff and you
24 got comments and findings about the work of those staff
25 that I'm not sure it is, is appropriate to be shared with

1 colleagues all the time; and sometimes the, the wording in
2 there is, in my view, not something that would be shared
3 from one staff to the other about each other's work. So to
4 me it depends on the contents of the report. I've also
5 seen reports where I would say the entire contents, there's
6 no issue with sharing them with staff. But I, I think
7 there needs to be some attention paid to judgments that are
8 in there about when there's multiple staff involved on a
9 case.

10 Q Are you concerned about the personal feelings of,
11 of certain staff members based on what others might have
12 said? Is that what's ...

13 A I, I don't think there's any problem in sitting
14 down and sharing findings of reports without getting into a
15 comparison of the work that was done by particular
16 individuals.

17 Q Staff, of course, works as a team, correct?

18 A Yes.

19 Q A team effort?

20 A Yes.

21 Q And they have to all get along? It helps?

22 A They don't have to.

23 Q But it helps if they do?

24 A Yes.

25 Q And you're wondering whether they can handle

1 reading a report that where some may criticize others?

2 A And I'll go back to my previous point. Sometimes
3 I've seen reports like that where that would be a concern
4 based on the, some of the judgments that are there in those
5 reports.

6 Q And you're saying that that's more important than
7 the ultimate advantage of making children more safe because
8 social workers now know what they may have done wrong
9 sooner?

10 A No, I'm not saying that.

11 Q Okay. Moving on to the other report, the Section
12 4 report, which your letter gives permission but in a more
13 restrictive way, right?

14 A Yes.

15 Q Reasons you gave for, for that extra restriction
16 was because people are giving private opinions of other
17 people's work --

18 A No.

19 Q -- and you're concerned about that in some way?

20 A Well, that. But again, because the report is
21 quoting individuals and summarizing information that was
22 obtained through personal interviews.

23 Q Okay. Why is that?

24 A And they are, and they do have comments about
25 others.

1 Q And, and why is that a problem?

2 A Because again, I had two concerns about that.
3 One was the specific quotes about one person saying
4 something about another person's work, and secondly again,
5 because I don't believe that people were fully informed,
6 when they were interviewed, that they may be quoted or
7 there would be a summary of their interview in the report,
8 so I was concerned that they had an expectation of privacy.

9 Q Did you know whether they expected their
10 interviews to be private or not?

11 A That would be a standard expectation in a review
12 like this or research like this unless you give consent.

13 Q And you also indicated you were concerned that
14 perhaps some of the quotes might not be accurate?

15 A Yes.

16 Q Well, couldn't the people involved easily
17 straighten that out?

18 A If, if it's their quote, yes.

19 Q Yeah. So if they became aware of it and were
20 concerned about what someone else said about them, they
21 could certainly sit down and ask if it was accurate and ask
22 what they meant and have a reasonable discussion for the
23 benefit of the system?

24 A Sorry, I didn't follow.

25 Q Couldn't the people who might have been

1 criticized by the quotes of others simply deal with that
2 internally with those people rather than not seeing the
3 report at all?

4 A Yes.

5 Q Certainly there would be advantages to seeing it,
6 regardless of some of these concerns that you had?

7 A Yes.

8 Q Now, the issue of the reports being sensitive and
9 not being shared you say was routine?

10 A Yes.

11 Q Is that something, is that a policy? Is that
12 part of the statute? Is that written, written down
13 somewhere?

14 A Certainly -- it would be -- you're talking about
15 the wording in the letter?

16 Q Yes.

17 A Like, the confidentiality provisions are in
18 statutes and --

19 Q Of course.

20 A -- I believe Mr. McKinnon referred to the
21 fatalities inquiry Act and it would be Section 76 the Child
22 and Family Services Act, so there would need to be
23 protections on that information.

24 Q Let me be --

25 A The wording it --

1 Q Let me be more specific. I think I --

2 A Sure.

3 Q -- might help you on your, in your answer.

4 A Thanks.

5 Q The idea that permission needs to be given by
6 you --

7 A Yes.

8 Q -- where does that come from?

9 A I'm not sure I can answer that, Mr. Gindin. That
10 was the practice when I was in this position. I signed a
11 number of these letters; they all had the same wording.
12 And as I mentioned earlier, we still get reports like this
13 with letters that read this very way.

14 Q And the last question was, when you added your
15 initials okaying that the Section --

16 A Four.

17 Q -- 4 report could now be shared with three
18 individuals --

19 A Yes.

20 Q -- do you recall those three individuals?

21 A Those three individuals were listed in the
22 e-mail.

23 Q I don't have it handy but ...

24 So according to what I now know, Ellen -- you
25 know who that would be?

1 A Yes.

2 Q Her full name is?

3 A Ellen Peel.

4 Q And her position at the time?

5 A Program manager responsible for resources.

6 Q Okay. And Rob would be?

7 A Rob Rogala and, again, a program manager, I'm not
8 sure I can give his exact title.

9 Q And Dan would be Dan --

10 A Service manager, I believe.

11 Q And --

12 A And Dan would be second service manager.

13 Q And that --

14 A Dan Berg.

15 Q Dan Berg. And whatever concerns that you had
16 about the report not being shared, none of those concerns
17 related to these three individuals seeing it?

18 A I gave permission; that's correct.

19 Q Okay. For example, did you know whether those
20 three people were mentioned in the report in any way?

21 A I don't believe they were. They certainly -- I
22 don't believe there were any interviews with those three
23 that were in the report.

24 Q And the advantage to them seeing the report would
25 have been what at the time?

1 A The request I received from Ms. MacDonald was for
2 distribution to her three program managers for purposes of
3 preparing responses to the recommendations. Ms. Macdonald
4 would have felt that was important to include her
5 management team in the development of those responses.

6 Q Was it expected that those three people might
7 want to speak to some staff members?

8 A Was it expected?

9 Q Or -- yes.

10 A I did not set out that expectation. I didn't set
11 that expectation. I, again, I leave that to the agencies.

12 Q And if they felt that in order to prepare a
13 response they might want to speak to some of the people
14 mentioned in the report about whom the report spoke, would
15 you have expected they would do that, or was that something
16 that wasn't allowed?

17 A Yes, they could have done that.

18 MR. GINDIN: All right. Those are my questions,
19 thank you.

20 THE CLERK: Ask you to spell Peel?

21 THE WITNESS: P-E-E-L.

22 THE CLERK: And Rogala?

23 THE WITNESS: R-O-G-A-L-A.

24 THE COMMISSIONER: Who else? All right. Not
25 seeing anybody else. Mr. McKinnon.

1 MR. MCKINNON: Nothing on re-examination.

2 THE COMMISSIONER: Thank you. Mr., Mr. Olson?

3 MR. OLSON: Nothing further.

4 THE COMMISSIONER: So now we'll go to the second
5 part of Mr. Rodgers' examination by Ms. Bowley.

6

7 CROSS-EXAMINATION BY MS. BOWLEY:

8 Q Good morning, Mr. Rodgers.

9 A Good morning.

10 Q It's Bernice Bowley for Diva Faria. And although
11 you are wearing your Winnipeg CFS hat, I do want to set
12 some context for you in terms of my questions to follow,
13 and that will begin with a brief summary of the
14 improvements that we've heard with respect to the system
15 during this phase two. And to the extent that you can
16 agree with me in a very summary way, those improvements
17 include a lower workload for front line workers and
18 supervisors; is that right?

19 A Yes.

20 Q And a wide array of clear and helpful tools to be
21 used by front line workers and supervisors; is that right?

22 A Yes.

23 Q And we've heard about extensive and timely and
24 practical training of front line workers and supervisors;
25 is that right, too?

1 A Yes.

2 Q There are clear standards now?

3 A Yes.

4 Q And clear expectations on front line workers and
5 social work -- and supervisors?

6 A I would agree.

7 Q And in general, a bit of a change in philosophy
8 in terms of balancing the safety of children with keeping
9 them with their families as much as possible; is that
10 right?

11 A Can you elaborate on that a bit perhaps?

12 Q Well, I think I heard Alana Brownlee say the
13 other day that there's been a shift in the philosophy
14 through the SDM tools and standards to, while keeping
15 children safe, also working with the families as much as
16 possible to keep them in the home?

17 A Yeah. I'm not sure I would describe it as a
18 shift in philosophy as a shift in practice with the tools
19 and the practice model we've introduced. I think we're
20 more effective at it than we used to be.

21 Q All right. That helps me. Thank you.

22 And we don't need to belabour this point any more
23 than it has been, but it's important to have workers
24 thoroughly trained on the standards and the policies and
25 procedures because, in part, child protection work can be

1 fluid or fast-moving in what's going on with workers and
2 families?

3 A No question.

4 Q And obviously it deals with very complex and
5 emotional situations?

6 A Yes.

7 Q And situations are often nuanced in terms of
8 what's presented to social workers and what they have to
9 deal with and what they have to try to get behind?

10 A Yes.

11 Q And would you agree with me that it's also
12 important to have workers and supervisors thoroughly
13 trained on the standards and the policies and the
14 procedures because the terms and phrases that are used in
15 those materials, and depending on their presentation in
16 those materials, can be open to interpretation?

17 A I would, I certainly agree with you. I would go
18 further in that it is equally as important, if not more
19 important, for supervisors and workers to have the same
20 training in how practice is done. So it's not just the
21 policies and the standards and procedures, it's what are
22 our expectations for day-to-day practice for families.

23 Q So then now we have a more complete package. We
24 have, we have standards, we have policies and procedures,
25 we have training on those things and we have training on

1 how to apply those things to actual day-to-day practice?

2 A Absolutely.

3 Q And to get back to that idea that without the
4 things we've just talked about, terms and phrases in
5 materials being applied inconsistently, what's obvious to
6 one worker may not be obvious to another worker; is that
7 right?

8 A That's correct. That is one of the primary
9 reasons why we selected the SDM tools was to bring that
10 consistency of interpretation into the decision-making
11 process, yes.

12 Q Because I think I heard Karen McDonald say
13 yesterday that what's adequate to her may not be adequate
14 to someone else, as an example?

15 A Yes.

16 Q And the consistency that you are driving for in
17 these SDM materials and all of the training and all of the
18 policies and, and the whole package that we've talked about
19 is consistency in terms of evidence-gathering and then
20 consistency in terms of how that evidence is used and
21 applied within the tools; is that right?

22 A Absolutely. That's exactly the purpose of those
23 tools.

24 Q Would you agree with me that the need for
25 training in order to ensure that kind of consistency and

1 quality of services was known to the Manitoba child welfare
2 system in 2001 to 2005?

3 A The importance of training?

4 Q Yes.

5 A Yes.

6 Q And it was known back then that front line
7 workers and supervisors needed training in order to be able
8 to meet standards and expectations?

9 A Yes.

10 Q And the standards, training on standards and
11 expectations back then in 2001 to 2005 were known to be
12 necessary in order for workers to achieve best practices?

13 A Yes.

14 Q And then to move upward a bit, you'd agree with
15 me, I think, that in those years, 2001 to 2005, training
16 for supervisors was equally important?

17 A Yes.

18 Q And to the extent that supervisors of CRU were
19 supposed to provide advice and guidance to their workers
20 under them, they needed to be trained on the standards and
21 the expectations?

22 A Yes.

23 Q And then to the extent that those supervisors
24 were not trained on standards and expectations and policies
25 and procedures, their ability to do the, the supervision

1 that was expected of them was compromised to some, some
2 extent?

3 A Compromised?

4 Q To the extent that they didn't have training on
5 the standards, on the policies and procedures, would those
6 supervisors' ability to provide the supervision they were
7 expected to do, was it compromised?

8 A Their ability would certainly be enhanced if they
9 had the training.

10 Q And to the extent that they didn't have training
11 and their abilities were not enhanced, were their abilities
12 compromised?

13 A Yes.

14 Q Again moving up the chain a bit now. Among their
15 duties, would you agree that intake assistant program
16 managers have responsibility for seeing that their
17 supervisors, including the CRU supervisors, received
18 appropriate training on standards, policies and procedures?

19 A Yes.

20 THE COMMISSIONER: Intake what? What, what
21 (inaudible) describe that position? You started by --

22 MS. BOWLEY: Intake --

23 THE COMMISSIONER: Intake what?

24 MS. BOWLEY: Assistant program managers.

25 THE COMMISSIONER: Assistant program managers.

1 And what did you ask him about it?

2 MS. BOWLEY: I asked whether, among their duties,
3 they had a responsibility to ensure that their supervisors
4 received appropriate training on standards, policies and
5 procedures. And his answer was, yes.

6 THE COMMISSIONER: All right.

7

8 BY MS. BOWLEY:

9 Q And similarly, as we move up, then, program
10 managers, among their duties, had a responsibility to
11 ensure that the assistant program managers were fulfilling
12 their obligations to provide adequate training on
13 standards, policies and procedures for supervisors?

14 A Yes.

15 Q You would agree with me that ongoing development
16 and improving policies and procedures was important in the
17 child ware -- child welfare system 2001 to 2005?

18 A As it is now, yes.

19 Q And are you aware that after Sandie Stoker
20 arrived at intake, at JIRU, as it then was, she began
21 drafting and implementing various policies to assist the
22 workers and supervisors there?

23 A Generally aware of that, yes.

24 Q And she implemented written policies and
25 procedures as she said, to provide the workers and

1 supervisors under her with clear expectations. Are you
2 aware of that having been done by her?

3 A I heard some of her testimony in that regard,
4 yes.

5 THE COMMISSIONER: And that's at intake?

6 MS. BOWLEY: That's correct. She was responsible
7 for intake and early intervention. She arrived there in
8 September of 2005.

9

10 BY MS. BOWLEY:

11 Q And as I asked you with respect to training, the
12 assistant program manager would have responsibility for
13 developing and improving policies and procedures for the
14 CRU units beneath him; is that right?

15 A Yes.

16 Q And similarly, then, above the assistant program
17 manager, the program manager would have responsibility for
18 seeing that that was occurring?

19 A Yes. That would be a shared responsibility.

20 Q Would you agree with me that when the crisis
21 response unit got up and running in 2001 to 2005 it was a
22 fairly novel or unique unit? And by that I mean the system
23 had moved from area-based work to function-based work and
24 now you have this unit who is responsible for being the
25 first point of contact and short-term contact? That's

1 where I'm going with that.

2 A It was certainly new that it was now being done
3 centrally for the entire catchment area of Winnipeg and
4 surrounding, but that function would have been performed in
5 the areas.

6 Q Right. But now it's all in one --

7 A Yes.

8 Q -- place?

9 A It's all centralized.

10 Q Yes. And crisis response, in and of itself, I
11 think was a bit different because of the limited and short-
12 term nature of what it was supposed to do before it passed
13 things upward to intake and abuse intake?

14 A The structure was unique, yes.

15 MS. BOWLEY: Madam Clerk, could you please pull
16 up briefly Commission disclosure 992 page 19625.

17

18 BY MS. BOWLEY:

19 Q This is the intake policies and procedures
20 manual. You see that, Mr. Rodgers?

21 A I do.

22 Q Oh. Scrolling by quickly. This was a document
23 drafted by Rhonda Warren; is that right?

24 A I don't know.

25 Q Okay. You can see, in the bottom right-hand

1 corner, that it was created in July of 2001?

2 A Yes.

3 Q That's six or seven months after the crisis
4 response unit came into existence?

5 A Yes.

6 Q And to your knowledge, that was really the only
7 policy and procedure document that the crisis response unit
8 had from July of 2001 until after January of 2005?

9 A Not sure I have specific and direct knowledge of
10 that.

11 Q Do you agree that due to the nature of the
12 situation within the crisis response unit that those
13 supervisors were not expected to closely follow the
14 supervision policy which came in, I think in March of 2004?
15 Do you have knowledge of that?

16 A No.

17 Q I need your help on this, I think: You were
18 chair of the interim management board of Winnipeg Child and
19 Family Services from November of 2001 to March of 2003; is
20 that right?

21 A Yes.

22 Q Or thereabouts?

23 A Yes.

24 Q And as part of that, would the program manager
25 have been reporting to you and the board in any formal

1 way?

2 A It would have been the CEO.

3 Q CEO. Okay, thank you.

4 Just give me one second.

5 MS. BOWLEY: I'm sorry, Mr. Commissioner, I seem
6 to have a wrong page reference and I just need a moment.

7 THE COMMISSIONER: Take your time.

8 MS. BOWLEY: Okay, thank you.

9

10 BY MS. BOWLEY:

11 Q Mr. Rodgers, while you were chair of that interim
12 management board you gave evidence earlier in this inquiry,
13 I think with respect to your role there, that you had two
14 primary areas of emphasis in addition to the, to the usual
15 things, to manage expenditures there and to prepare the
16 Winnipeg Child and Family Services agency to become a
17 branch of government; is that right?

18 A Yes. And a third one was we took a number of
19 initiatives to improve service during that time.

20 Q And you said, as well, that preparing the
21 Winnipeg Child and Family Services agency to become a
22 branch of government turned out to be a lot more work than
23 you initially expected; is that right?

24 A Yes.

25 Q So then Linda Trigg was chief executive officer

1 of Winnipeg Child and Family Services from July of 2001 to
2 July of 2004; do you recall that?

3 A I do.

4 Q And so then she would have reported to you,
5 during your term as chair of that interim board; is that
6 right?

7 A Yes.

8 Q Now, she gave evidence at this inquiry that one
9 of her primary responsibilities was to keep Winnipeg Child
10 and Family Services running as smoothly as possible. Were
11 you here for that?

12 A No.

13 Q Okay. Do you agree with that as, as that being
14 one of her primary responsibilities?

15 A Sure.

16 Q And she framed those responsibilities as
17 occurring during the changes as a result of devolution. Do
18 you agree with that?

19 A Yes.

20 Q And that she was part of the planning for
21 devolution?

22 A Not sure what you mean by that. She would have
23 been certainly a key player in how we were to implement
24 devolution within Winnipeg Child and Family but not part of
25 broader planning of how devolution was to be done.

1 Q She would have been planning, then, for the
2 purposes of her and the people below her?

3 A Yes. Yes.

4 MS. BOWLEY: Madam Clerk, could you please pull
5 up page number 39788. It's Commission disclosure 1891.

6

7 BY MS. BOWLEY:

8 Q Mr. Rodgers, this is an inter-office memorandum
9 drafted by Linda Trigg to the interim management board
10 dated November 19 of 2001, and you were asked some
11 questions about that before, correct?

12 A Yes.

13 Q Now, on the next page, 39789 -- and before I ask
14 you anything about that, as I recall your evidence when you
15 were here last time, you said that you looked at this memo
16 and it was a helpful framework for the work that you were
17 doing; is that right?

18 A This was -- yes. This was shortly after the
19 interim board had been appointed by the government and this
20 was Dr. Trigg's initial briefing paper to the board of what
21 the challenges and issues were at that time. And the board
22 found it very helpful and we acted on many of the things
23 that are cited in this memo.

24 Q And this refers, again, to the complete
25 reorganization in 1999 from an area structure to a program

1 structure? You see that?

2 A Yes.

3 Q And it was her comment that not as much attention
4 was paid to day-to-day processes, the way programs relate
5 to one another and organizational culture. Do you agree
6 with that as the state of affairs in November of 2001?

7 A I believe she's referring to the process, the
8 reorganization?

9 Q Yes.

10 A I wasn't part of that.

11 Q Right. But you received this memo in November of
12 2001 and her comments seem to be current with that time
13 period, and I'm asking whether you agree that these things
14 were still an issue?

15 A At that time?

16 Q Yes.

17 A I can't say that we necessarily agreed these were
18 still an issue. This was her opinion. We were a brand new
19 board. We needed time to get familiar with the
20 organization before we would know whether those things were
21 still an issue with the agency.

22 Q Right. And this letter would have been received
23 shortly after you started there, correct?

24 A I believe it was one of our first meetings where
25 we had a discussion about this.

1 Q Dr. Trigg also gave evidence earlier at this
2 inquiry that her number one concern or among her top
3 concerns was the issue of training. Did she communicate
4 that to you in your position as chair of the interim
5 board?

6 A I don't have a specific recollection but I'm sure
7 she probably did.

8 Q And she also gave evidence that there were
9 brainstorming ideas about training at the management table.
10 Would that -- and it's not clear from her transcript.
11 Would that management table have included you or was Dr.
12 Trigg referring to her management table?

13 A She was referring to her management table.

14 Q She also said that it didn't make sense to re-
15 arrange things only to unravel it six months later. Did
16 she ever communicate something like that to you?

17 A I'm not sure what that's referring to.

18 Q My understanding is that it was referring to
19 putting into place training programs for the systems below
20 her. Was that ever communicated to you by her?

21 A I have no, no specific recollection of that
22 language related to training. We did have a number of
23 discussions with devolution pending to what extent we would
24 make program changes, that then would be affected by the
25 implementation of devolution. That's what she may have

1 been referring to with those comments.

2 Q So would it have been the case, then, that some
3 program changes were put on hold or not implemented because
4 of devolution coming, that is, it wouldn't make sense to do
5 all these things only to have them change within a
6 relatively short period of time?

7 A I can't say that there were any planned program
8 changes that were put on hold. We did do a number of
9 program changes that I mentioned earlier, we thought helped
10 improve service before devolution occurred. I have no
11 specific recollection of anything we intentionally delayed.

12 Q And am I correct that the program changes you
13 just referred to were more in terms of workload relief and
14 support for workers during that process, like the
15 transition team?

16 A That, that was, that was part of it. But there
17 were also some other changes that occurred during my tenure
18 as board chair.

19 Q Would those changes have occurred to the crisis
20 response unit?

21 A No. Not specifically.

22 Q Well, not at all. I mean, other than workload
23 relief there weren't any changes in the structure and
24 program of the crisis response unit while you were there?

25 A Crisis response being part of the bigger intake

1 system. We did make a structural change where we took what
2 was, what used to be the community program, which was a
3 separate and distinct program, and we did bring it into the
4 umbrella of intake.

5 Q Right.

6 A So while it did have a direct impact on the
7 structure of CRU, it created another set of resources that
8 was available as part of the intake process.

9 Q And that came under Dan Berg's purview?

10 A Yeah. Patrick Harrison --

11 Q Okay.

12 A -- would have been the program manager.

13 Q Rob Wilson was assistant program manager from
14 March of 2003 to March of 2008; so he would have been under
15 your chain of command, then, when you were CEO July of 2004
16 to February of 2006, right?

17 A Yes.

18 Q And he said that in order for him to learn the
19 intake program, it was split so that as between him and Dan
20 Berg they each had a CRU unit, they each had an intake
21 unit, they each had an abuse unit. Do you recall that?

22 A Yes.

23 Q And so then in terms of him going up the chain,
24 it would be he and Dan Berg meeting with Patrick Harrison
25 and then Patrick Harrison coming to you with whatever

1 issues needed to be dealt with; is that right?

2 A Yes. At, in my role as CEO.

3 Q Yes.

4 A Yes.

5 THE COMMISSIONER: And Harrison immediately below
6 you?

7 THE WITNESS: Yes.

8 THE COMMISSIONER: And Berg and who?

9 MS. BOWLEY: Rob Wilson.

10 THE COMMISSIONER: Wilson. As assistant program
11 managers?

12 MS. BOWLEY: Yes.

13

14 BY MS. BOWLEY:

15 Q Rob Wilson gave evidence earlier at this inquiry
16 that, to the effect that a lot of their work, meaning he
17 and Dan Berg, as assistant program managers, for intake
18 related to the transitional issues, including policies,
19 procedures, engaging teams, problem-solving and hiring.
20 Would you agree with as being a big part of their role?

21 A Sure.

22 Q And that role was related to getting matters
23 ready for devolution; is that right?

24 A The whole -- the entire agency would have been
25 involved in that process, yes.

1 Q Now, Patrick Harrison, program manager, intake
2 and early intervention, from March of 2003 to July of 2005,
3 as we've established, is, was below you at that time, and
4 he said that he was responsible for making sure the proper
5 policies and programs were in place. Do you agree with his
6 characterization of his role?

7 A Yes.

8 Q And he said that he was responsible for looking
9 at, "looking at" being his words, the policies and programs
10 to make sure that they were delivering the services
11 intended. Do you agree with that?

12 A I do.

13 Q He also says that he spent a good deal of time
14 speaking with community groups and organizations to
15 maintain a strong relationship with them. Do you agree
16 that he spent a lot of time doing that?

17 A I certainly agree that that was one of his roles.
18 I can't speak to how much time he spent doing it.

19 MS. BOWLEY: Mr. Commissioner, it's just before
20 11:00.

21 THE COMMISSIONER: Yes.

22 MS. BOWLEY: I probably have another 20 minutes
23 or thereabouts. If you want to break now, we can; if you
24 want to keep going, I'm fine to keep going.

25 THE COMMISSIONER: We've been going an hour and a

1 half, then, so I think it's maybe appropriate time to take
2 a 15-minute break.

3

4 (BRIEF RECESS)

5

6 THE CLERK: All right, we're back on the record.

7 MS. BOWLEY: Thank you, Mr. Commissioner.

8 THE COMMISSIONER: Ms. -- Diane -- at some
9 point --

10 THE CLERK: Oh, I'm sorry.

11 THE COMMISSIONER: -- for both of us or all of
12 us.

13 THE CLERK: Yeah.

14 THE COMMISSIONER: Go ahead. Or do you need to
15 be back there?

16 THE CLERK: No, I'm okay. That's fine.

17 MS. BOWLEY: I'll wait, just ...

18 THE CLERK: It's okay.

19 MS. BOWLEY: She'll -- well, you'll be in front
20 of the witness and I would like to see him.

21 THE CLERK: Okay.

22 THE COMMISSIONER: He needs it more than I do,
23 I'm sure.

24 THE CLERK: Would you like another?

25 THE WITNESS: (Inaudible). Not going to be long

1 now. I just need one. Thank you.

2

3 BY MS. BOWLEY:

4 Q All right, then. Where were we? I was talking
5 with you about your program manager, Patrick Harrison. He
6 gave evidence at this inquiry that he had reviewed the
7 intake manual and was of the view that no further edits
8 were needed to it. Did he report that to you at any point?

9 A No.

10 Q He also gave evidence that he was mindful that
11 the intake program would change with devolution and it was
12 made clear to him, he used the word "us" that there would
13 be a revision, a review of it because a different authority
14 would be assuming responsibility for intake and they would
15 want to review the, the whole thing. Is that something
16 that you would have made clear to him?

17 A I do recall having discussions with Mr. Harrison
18 about that, and I'm not sure which time period he's talking
19 about when he came to be of that opinion. But during some
20 of the time when I was CEO, Patrick and I, Mr. Harrison and
21 I had regular supervision sessions, so I do recall having
22 those kind of discussions with him.

23 Q He also gave evidence to the effect that the
24 changes to the intake program did not seem to be a worthy
25 effort because it was going to be changing. Did he

1 communicate that to you?

2 A I've no specific recollection of that or what
3 changes he, he was referring to that were being
4 contemplated at the time.

5 Q Was it your view, did you share that view with
6 him, that changes to the intake program would not be a
7 worthy effort because it was going to be changing once
8 devolution was complete?

9 A It's, it's a difficult question to answer without
10 knowing the specifics of what changes he's referring to.
11 If there were changes being proposed that would have had an
12 immediate benefit to the quality of service, I would
13 disagree with him. If they're broader organizational
14 structural changes to intake, then I would have agreed with
15 him.

16 Q Well, to be fair -- I thank you for that answer
17 and that's great, and to be fair to you I'll just, I'll
18 read to you what he said so that you have greater context.
19 He's the one who identified Rhonda Warren has having
20 written or authored --

21 A Okay.

22 Q -- the intake manual. He called it the:

23

24 "... foundation document for our
25 purposes as we were operating the

1 intake service."

2

3

And then he went on to say:

4

5

"... I reviewed it, [and thought]

6

obviously, recently and thought it

7

was a very reasonable document for

8

the time. It was a like a good

9

description, over 60 pages with

10

appendices of what we needed to do

11

so we didn't update it, I guess

12

particularly, that I can recall.

13

There were no further edits.

14

Also, we were very mindful that

15

the intake program would change

16

with devolution and that was, that

17

was made clear to us, that there

18

would be a revision, a review and

19

perhaps a revision as a different

20

authority assumed responsibility

21

for intake, that they would want

22

to review the whole thing. So it

23

didn't seem to be a worthy effort

24

at that time because it was going

25

to be changing."

1 Did he communicate that to you?

2 A I don't recall discussions about the
3 applicability of the 2001 document the way you've described
4 it. And again, if Mr. Harrison was speaking to the period
5 just prior to devolution and it's important to remember
6 that when Winnipeg Child and Family Services went through
7 devolution, mostly in May 2005, the intake function didn't
8 transfer till later on.

9 Q February of 2007?

10 A February 2007. And, and post-2005 Mr. Harrison
11 was also working with the, what was known as the JIRU
12 board, and he may have had direction from them that changes
13 were contemplated once it moved to a different authority.
14 I do recall having those kinds of discussions with him
15 during that time period.

16 Q Thank you for that. Would you agree, though,
17 that throughout his time as program manager at intake and
18 early intervention, which was March of 2003 to July of
19 2005, with his evidence, when he said that he was looking
20 at the policies and programs to make sure that they were
21 delivering the services intended?

22 A Yes.

23 Q And he would have been doing that throughout that
24 period of time where he was program manager for intake and
25 early intervention?

1 A Yes.

2 Q And are you able to agree that from 2001 until
3 the online standards of January of 2005 -- and I don't want
4 to get into a debate about when those were implemented and
5 trained upon -- but from July of 2001, when we have the
6 intake manual, and January of 2005, if not later, there
7 were no updated policies or procedures documents for the
8 crisis response unit. Do you agree with that?

9 A That would be my understanding, that the 2001
10 document was the document that was in place during that
11 time period.

12 THE COMMISSIONER: 2001 document?

13 THE WITNESS: Yes.

14 MS. BOWLEY: And Mr. Commissioner, just for your
15 notes, that 2001 document is Commission disclosure 992
16 starting at page 19625.

17 THE COMMISSIONER: That's the 2001 document.

18 MS. BOWLEY: July 2001, yes. Winnipeg Child and
19 Family Services intake program, description and procedures.

20 THE COMMISSIONER: Thank you.

21

22 BY MS. BOWLEY:

23 Q And Mr. Rodgers, I'm using you a bit to, to clear
24 up the record because you're sort of the only witness I can
25 get at with respect to phase one, at this time at least.

1 Are you familiar with the orientation manual that has an
2 update date of May 10, 2004?

3 And I'll ask the clerk to put it on the page.
4 It's page, starts at page 29048.

5 Have you seen that before?

6 A I, I have seen it before, not for some time.

7 Q Are you able to agree with me, and I'll take you
8 to the pages ... Well, first of all, let's, let's start at
9 the beginning. This, this is an orientation manual that
10 was produced generally for Winnipeg Child and Family
11 Services, correct?

12 A That's my understanding.

13 Q And at the end of that paragraph on screen, on
14 page 29048, it says:

15

16 "We hope ... this Orientation
17 Manual will be helpful to you,
18 whether you are a new employee to
19 the Branch, or one who has been
20 around awhile and just wants to
21 check out what's new."

22

23 So can we consider that to be the general purpose
24 of this orientation manual?

25 A Sure.

1 Q Do you have knowledge of that, though?

2 A Knowledge of it?

3 Q Yeah, that that was its purpose. Do you have any
4 knowledge of this manual?

5 A Like I said, I haven't read it for a number of
6 years. When I did read it, that would have been my
7 understanding.

8 Q And if we could move forward within that document
9 to page 29076.

10 Are you in a position to agree or disagree with
11 me that this section with respect to the crisis response
12 unit is a cut and paste with two typographical corrections
13 over and above what was in the July 2001 manual?

14 A Yes, I think so.

15 Q Mr. Rodgers, can you agree with me, keeping in
16 mind the functions and the chain of command as we reviewed
17 them, that from the start of the crisis response unit in
18 January of 2001 until well after March of 2005, the workers
19 and supervisors of that unit received no training on the
20 standards in effect?

21 A That would be my understanding.

22 Q And is it correct that the standards training on
23 the January of 2005 online standards did not take place for
24 those workers until 2008/2009?

25 A That would be my understanding with, if I could

1 just sort of give one qualifier to that. I was not aware
2 of any training program that was specific to the standards
3 like we have now. Staff, though, who participated in core
4 competency training, as part of that training would have
5 had discussions about standards or the standards they
6 thought were in place and how it related to what they were
7 learning in court. But there was no specific comprehensive
8 training on standards.

9 Q Well, and we've heard evidence from other
10 witnesses that the core competency training did not include
11 training on standards. So would you agree that whatever
12 discussions might have been had on standards during those
13 core competency training sessions were informal?

14 A Yes. Yes, I would.

15 Q And you don't know, in fact, that the crisis
16 response workers and supervisors were part of those
17 informal discussions?

18 A I do not.

19 Q Dan Berg gave evidence that when he started as
20 assistant program manager in 2003 he was not aware --
21 sorry, he was not given any written performance evaluations
22 of the supervisors and workers under him. Do you have any
23 knowledge of that?

24 A I do not.

25 Q He also gave evidence that he did not perform any

1 performance evaluations on CRU supervisors from the time of
2 his arrival there in 2003 until, he wasn't sure, March or
3 so of 2005. Do you have knowledge of that?

4 A I do not.

5 Q I'm going to put a series of questions to you and
6 I'm going to ask you if you agree or disagree with them as
7 they relate to the crisis response unit.

8 The crisis response unit workers and supervisors
9 did not have decision-making authority over upper
10 management's expectations of their performance; is that
11 correct?

12 A Yes.

13 Q And they did not control the number of workers
14 hired to do the work; is that correct?

15 A Yes.

16 Q And they didn't control the setting of the
17 standards; is that correct?

18 A Yes.

19 Q And despite their requests, they did not get
20 training on those standards because that decision was
21 beyond their control as well?

22 A Yes.

23 Q And so would you agree that basically they had to
24 come to work and do the best that they could under these
25 circumstances without clear expectations, without up-to-

1 date policies and procedures, without training on
2 standards?

3 A Yes, the way you've described it. And I -- if I
4 could just comment. I don't know to what extent, in day-
5 to-day supervision there was conversation, conversations
6 about the standards and how the standards applied into
7 their work. I can only confirm that there was no formal
8 comprehensive training program in standards like we have
9 today.

10 Q Well, and to the extent that those discussions
11 might have occurred, they would be based on someone
12 possibly having the opportunity to merely read the
13 standards; is that right?

14 A Yes.

15 Q And you'd agree with me that merely reading the
16 standards is not an adequate basis for training?

17 A Absolutely.

18 Q Again, a few more things I want to know whether
19 you agree or disagree with. It was the responsibility of
20 those above the crisis response unit workers and
21 supervisors, the assistant program manager and the program
22 manager and onward to do these things: to provide clear
23 expectations?

24 A Yes.

25 Q To set up-to-date and appropriate standards for

1 their unit?

2 A Yes.

3 Q To provide training on those standards?

4 A Yes.

5 Q To provide a workload and resources that allowed
6 them to fulfill the standards?

7 A Yes.

8 Q And to provide a workplace and resources that
9 allowed them to achieve best practices on a consistent
10 basis?

11 A Yes.

12 Q And do you agree that those people from 2001 to
13 2005 were not given those things, leaving out the workload
14 issue?

15 A I can agree that perhaps they weren't given those
16 things to the extent that would have been most appropriate
17 for best practice, yes.

18 Q Now, in terms of devolution or devolution, I'm
19 not sure which, we've heard a lot about it and I've
20 certainly heard you say that you agree with it and that it
21 was an important task and function, correct?

22 A Yes.

23 Q Would you also agree with me that it was an
24 almost unprecedented initiative, it was vast and huge in
25 its scope and the number of things that needed to be done?

1 A I would say it wasn't almost unprecedented, it
2 was unprecedented.

3 Q It was huge --

4 A Absolutely.

5 Q -- is that right?

6 A Absolutely.

7 Q And people in Winnipeg CFS at the time, 2001 to
8 2005, did -- sorry, put a great deal of time and focus on
9 trying to make that transition happen as best it could; is
10 that right?

11 A I would agree.

12 THE COMMISSIONER: And what timeframe do you say
13 devolution took from beginning to end?

14 THE WITNESS: For the province, for the Province
15 of Manitoba?

16 THE COMMISSIONER: Yes.

17 THE WITNESS: 2001, and I would say till 2007,
18 when the intake function was moved over to ANCR.

19 THE COMMISSIONER: That was the last part of it?

20 THE WITNESS: That was the last part of it be
21 completed so the, the original memorandums of understanding
22 and then the planning would have been launched in 2001.
23 Legislation in 2003 to devolve powers. And then the
24 transfer service completed by February 2007.

25 THE COMMISSIONER: And transfer of service

1 commenced when?

2 THE WITNESS: Two -- shortly after the
3 legislation was signed in 2003. And I can't remember the
4 order but they did the regional offices first and did
5 Winnipeg Child and Family Services last, beginning in May
6 2005.

7 THE COMMISSIONER: So two to five was the crucial
8 area of transfer of files?

9 THE WITNESS: Post-November, post-November 2003
10 to May 2005.

11

12 BY MS. BOWLEY:

13 Q And Mr. Rodgers, please correct me if I'm wrong,
14 devolution was announced in 1999?

15 A I would have said the year 2000 but ...

16 Q Okay. And although operational tasks may not
17 have taken place until after that, certainly notional
18 preparations were underway?

19 A Yes. It's also important to keep in mind that
20 there were a number of different deadlines for when
21 devolution was to be completed. This was an unprecedented
22 task so it was difficult to predict how long it was going
23 to occur, so I would agree with you that staff at Winnipeg
24 would have been thinking about preparation right from the
25 day of the announcement.

1 Q And some preparations would have started as early
2 as 2001?

3 A In Winnipeg?

4 Q Yes.

5 A Operationally, I wouldn't say so, but it was
6 certainly on people's minds.

7 Q Conceptually, these things were being talked
8 about?

9 A Sure, absolutely.

10 Q And having that knowledge of the devolution
11 transfer in the back of people's minds, planning was being
12 effected as early as 2001?

13 A Yes.

14 Q Now, I know as part of the devolution process, it
15 being vast and unprecedented, a lot of work was put into
16 trying to make it go as smoothly as possible, correct?

17 A Yes.

18 Q And I mean, you, you've talked a lot about the
19 support teams and other things that were put into place?

20 A Yes.

21 Q Was it the case that the crisis response unit was
22 basically left in place as it was from 2001 to 2005 because
23 of upcoming devolution when it would be taken over another
24 -- taken over by another authority?

25 A No.

1 Q Well, we haven't had any updates to the policies
2 and procedures between 2001 to 2005, correct?

3 A Yes.

4 Q We didn't have any training on the standards
5 between 2001 and 2005, correct?

6 A Yes.

7 Q We didn't have any substantive changes to the
8 function of CRU between 2001/2005, correct?

9 A Yes.

10 Q You did add some workload support within that
11 period, correct?

12 A Yes.

13 Q But other than that, nothing was really done with
14 the crisis response unit from 2001 till after March of
15 2005; is that right?

16 A Yes. I only said no because you said due to
17 devolution, and, and again, if there had have been things
18 we could have done to strengthen service immediately during
19 that time period, we would have done it.

20 Q I'm not, I'm not being critical, but was it not
21 the case that because of the breadth of scope of devolution
22 that changes to the policies and the procedures and the
23 function of CRU was fairly low down the list of priorities?

24 A On, perhaps on Mr. Harrison's list of priorities.
25 It wasn't, that wasn't high on my list of priorities as

1 CEO, I'll agree with that.

2 Q And bit of a change of topic. We heard Mr.
3 Schellenberg say yesterday that a decision was made to hold
4 off on operationalizing, I think was his word,
5 operationalizing standards until after devolution. Did you
6 hear him say that?

7 A Yes, I did.

8 Q Was that a decision made at the time, of which
9 you were aware?

10 A That's a decision that's made in, I'm, I'm
11 recalling two letters perhaps, and they would have been
12 2001, 2002, where Mr. Schellenberg informed the agencies of
13 delays in implementing the standards. I can't -- during
14 that time, I'm chair of the board. I'm not sure I had any
15 direct knowledge of those letters.

16 Q Thank you. And just so that the record is clear,
17 you are referring to the letters with respect to standards
18 that were reviewed with Mr. Schellenberg last night?

19 A I am. I believe the 2002 letter indicates the
20 delay until such time as the authorities are in place.

21 MS. BOWLEY: Again, just for the record, Madam
22 Clerk, if you could pull up page 19699, please.

23

24 BY MS. BOWLEY:

25 Q Not to quibble with you, Mr. Rogers, but I think

1 this is the letter you're referring to, July 12 of 2001?

2 A Yes, that's it.

3 MS. BOWLEY: Changing stream once more, Madam
4 Clerk, could you please pull up Exhibit 15 from back in the
5 early days. And page 2 of that document.

6

7 BY MS. BOWLEY:

8 Q I just want to review with you, Mr. Rodgers, the,
9 the chain of command that we've been talking about. If you
10 go down to the fourth row, February 26 of 2003, and moving
11 toward the right. At that time, Rhonda Warren is the
12 assistant program manager of intake and CRU?

13 A Yes.

14 Q And Darlene MacDonald is the program manager of
15 intake and CRU?

16 A Yes.

17 Q And then we have Elaine Gelmon?

18 A Yes.

19 Q What was her role?

20 A I believe she was chief operating officer at that
21 time.

22 Q And what did that mean in terms of her function?

23 A This is February 2003.

24 Q And if you don't know, I don't want to make you
25 struggle.

1 A Yeah. My understanding was that she was chief
2 operating officer so she was predominantly responsible for
3 the -- she would have been overall responsible for service
4 delivery.

5 Q Thank you.

6 MR. MCKINNON: It might help the witness if we
7 referred to the headings on the chart, which is at
8 the first page. There's two titles for that box. It's
9 either --

10 THE WITNESS: There you go.

11 MR. MCKINNON: -- director of --

12 THE WITNESS: Yeah.

13 MR. MCKINNON: -- program services and later
14 chief operating officer.

15 THE WITNESS: Yes. So I believe she's chief
16 operating officer at this time.

17

18 BY MS. BOWLEY:

19 Q Right. And then above her, using the headings,
20 chief executive officer in February of 2003 is Linda Trigg?

21 A That's correct.

22 Q If you could go to the next page, please.

23 The fifth row down, December 1, 2004 to December
24 7, 2004. If we move upward beyond the crisis response unit
25 we have Dan Berg as assistant program manager; is that

1 right?

2 A Yes.

3 Q Then Patrick Harrison as program manager?

4 A Yes.

5 Q And then you as CEO?

6 A Yes.

7 Q And then similarly, the last row, March 5 to 7,
8 2005, above CRU we again have Dan Berg and Patrick Harrison
9 as assistant program manager and program manager, and then
10 you?

11 A And Rob Wilson as assistant --

12 Q Oh, yes.

13 A -- program manager.

14 Q Thank you.

15 A Yes.

16 Q Rob Wilson was the other half of the assistant
17 program manager team?

18 A Yes.

19 Q Mr. Rodgers, on one of your many times here you
20 gave evidence, on February 4 of 2013, and you said:

21

22 "-- There's no question, from the
23 findings in those external
24 reviews, that we had to [pay, that
25 we] really [had to] pay attention

1 to clarity about standards, but
2 it's one thing to make standards
3 available. We can't hold our
4 staff accountable until we've had
5 the opportunity to train them in
6 exactly what those expectations
7 mean and what our expectations
8 are, in day-to-day practice to
9 meet them."

10

11 Do you still stand by that statement?

12 A It's difficult to hold our staff accountable to
13 the expectations and standards if we don't clarify them and
14 train them. Yes.

15 MS. BOWLEY: Thank you. Those are my questions.

16 Thank you, Mr. Commissioner.

17 THE COMMISSIONER: All right. Mr. Olson?

18 MR. MCKINNON: Nothing on re-examination. I
19 can't even remember the rules as to what had (inaudible).

20 THE COMMISSIONER: I'm not sure, I'm not sure
21 we're ready for re-examination yet.

22 MR. OLSON: Nothing.

23 THE COMMISSIONER: Other counsel?

24 MR. MCKINNON: I think the understanding, Mr.
25 Commissioner, was that this would be limited to the one

1 counsel because she didn't get the opportunity to cross-
2 examine the first go-round.

3 THE COMMISSIONER: That's, that's right. Yes.
4 Yeah.

5 MR. MCKINNON: And that was my recollection.

6 THE COMMISSIONER: Yeah.

7 MR. OLSON: That's correct.

8

9 EXAMINATION BY THE COMMISSIONER:

10 Q All right, Witness, I have one question for you.
11 You'll recall a few minutes ago Ms. Bowley put a number of
12 propositions to you about the functioning of the CRU, eight
13 or nine propositions, and you agreed with all of them?

14 A Yes.

15 Q Given those answers with respect to the timeframe
16 being dealt with, what was the quality of service being
17 delivered to the public by CRU?

18 A Which timeframe are you referring to, Mr.
19 Commissioner?

20 Q Well, the timeframe that those, those questions
21 were put to you about the, the, the status of what was
22 going on at CRU. And if we -- if you're not sure what
23 timeframe that was, then we can get the record checked.

24 A Okay. I would answer that within the context of
25 the time period when I was CEO. That would have been the

1 time period when I had the most direct knowledge of the
2 quality of service.

3 Q Well, you -- let's take it the timeframe when you
4 gave those affirmative answers to those propositions that
5 were put to you.

6 A I was understanding that as being my knowledge of
7 CRU when I was CEO.

8 Q All right.

9 A And ...

10 Q And I'm saying that, given the answers you gave
11 to those propositions, what is your assessment of the
12 quality of service that CRU was delivering to the public?

13 A I, I thought it was delivering a high quality
14 service. I had a number of discussions with Mr. Harrison.
15 I believe we made some changes, like I talked about
16 earlier, in terms of adding the community program in, which
17 gave them more resources. So it was my view that they were
18 providing a quality service.

19 THE COMMISSIONER: All right. Thank you. Now,
20 just stay here. Ms. Bowley, that's a question that I put
21 to him that I wanted answered. I'd allow you to ask any
22 further questions, if any come to your mind, arising out of
23 it, as a matter of fairness.

24 MS. BOWLEY: I don't have any questions arising
25 out of that. Thank you.

1 THE COMMISSIONER: Thank you.

2 Witness, you're completed and for the last time.

3 THE WITNESS: Do you want me back in phase three?

4 THE COMMISSIONER: No, no. I don't think you're
5 on the list, are you?

6 THE WITNESS: No.

7 THE COMMISSIONER: Thank you very much.

8

9 (WITNESS EXCUSED)

10

11 THE COMMISSIONER: Mr. Olson.

12 MR. OLSON: We're ready to start with our next
13 witness.

14 THE COMMISSIONER: We'll, we'll get going with
15 it, yeah.

16 Now, I have to tell you, I can't sit beyond five
17 o'clock today, so judge yourself accordingly, and when
18 you're -- when we break for lunch, if you want to confer
19 about how long the -- with your colleagues how much of a
20 lunch break we take, you can do that and it can be
21 shortened if you think we're going to need the time and
22 your colleagues are available.

23 MR. OLSON: Certainly. The next witness will be
24 Darlene MacDonald.

25 THE WITNESS: Thank you.

1 THE CLERK: Is it your choice to swear on the
2 Bible or affirm without the Bible?

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

4 THE CLERK: All right. Take the Bible in your
5 right hand. State your full name to the court.

6 THE WITNESS: Darlene Frances MacDonald.

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

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

9 THE CLERK: Your middle name?

10 THE WITNESS: F-R-A-N-C-E-S.

11 THE CLERK: And your last name, please.

12 THE WITNESS: M-A-C capital D-O-N-A-L-D.

13 THE CLERK: Thank you.

14

15 **DARLENE FRANCES MACDONALD, sworn,**

16 testified as follows:

17

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

19

20 DIRECT EXAMINATION BY MR. OLSON:

21 Q Good afternoon, Ms. MacDonald.

22 A Good afternoon.

23 Q You testified earlier this year, in February, as
24 the program manager and chief executive officer of Winnipeg
25 Child and Family Services, and you're back now testifying

1 as Children's Advocate, Manitoba.

2 A That's correct.

3 Q We went through your curriculum vitae in February
4 so I'm not going to do that again. I'll just remind the
5 Commission that you have a bachelor of arts and a masters
6 in social work; is that right?

7 A That's correct.

8 Q And really, cursorily, you worked in the child
9 welfare system for a number of years, eventually becoming
10 CEO of Winnipeg Child and Family Services in February 2006
11 and you stayed in that position until April 2011?

12 A That's correct.

13 Q Okay. And then you've been children's advocate
14 in Manitoba since April of 2011; is that right?

15 A 2011?

16 Q Right.

17 A Yes, correct.

18 Q Thank you. What's the process of becoming
19 children's advocate?

20 A Well, basically, there was an ad in the paper and
21 I made an application for it. I was selected for an
22 interview and I was interviewed by a panel of, a committee
23 appointed by leg. assembly. And basically, was offered the
24 position and an order in council was made determining that
25 I was the children's advocate for Manitoba.

1 Q Was there any particular reason you decided to
2 apply for the position?

3 A It's always been a goal of mine. It was a
4 relatively new position. It's been in existence for
5 approximately 10 years, and I knew that the former
6 children's advocate's term was coming available and I
7 thought it might be something I would be very, very
8 interested in. As you said, I've practised in child
9 welfare all my career and I felt, even though I was very
10 child focused and family-centred, I certainly wanted to
11 look at a career where I could be clearly child-centred,
12 and this would give me the opportunity. And I was quite
13 excited and humbled and honoured to be chosen.

14 Q I understand it's a term position?

15 A Yes, it is.

16 Q That term is set out in the Child and Family
17 Services Act?

18 A That's correct.

19 Q Would you know when the term expires?

20 A The term -- it actually for the possibility of
21 two three-year terms, so my term will be up next April and
22 there would possibly be a review and a consideration of an
23 additional three years at that point in time. No longer
24 than a six-year term.

25 Q Maximum is six years?

1 A That's right.

2 Q And the authority to act as children's advocate
3 is granted, then, under the Child and Family Services Act?

4 A That's correct.

5 Q That's pursuant to Section 8?

6 A Yes.

7 Q Okay. What is the role, as you understand it, of
8 the children's advocate of Manitoba?

9 A Basically, the role is, the first obligation is
10 to advise the minister in matters relating to the welfare
11 and interests of children that are receiving or entitled to
12 receive services under the Child and Family Services Act
13 and the Adoption Act. We also can review and investigate
14 complaints that we receive. Another part would be to
15 represent children, other than legal representation. I am
16 responsible for tabling an annual report on a yearly basis.
17 And also, in 2008 it was amended so that the children's
18 advocate would review circumstances of death for children
19 who had been involved in the child welfare system a year
20 prior to their death. And some of the conditions, then,
21 are laid out in that Act.

22 Q Okay. So in terms of your basic duties as, as
23 children's advocate, those are, there's basically two
24 roles. One is as in, sort of what you've described as an
25 advocacy role for children?

1 A That's correct.

2 Q And the other is doing these reviews?

3 A Special investigation reviews on children's
4 deaths, yes.

5 Q And those are often called SIR reviews?

6 A That's correct.

7 Q And that was a role that was previously, that was
8 previously done under Section 10 of the --

9 A Yes.

10 Q -- Fatality Inquiries Act; is that right?

11 A Yes. It was transferred in 2008 to the Office of
12 the Children's Advocate.

13 Q When you're considering your responsibility to
14 children in Manitoba, what guides your, your activity in
15 that regard?

16 A The Child and Family Services Act, the best
17 interest of the child. The paramount concern is the safety
18 and security of the child.

19 Q When you're looking at the best interests of the
20 child, how do you, how do you determine that? What is it
21 you consider?

22 A Well, what -- it's guided by the Act but what's
23 important for the children, as I said, the safety and
24 security, the stability of a family, the cultural
25 importance for the child, the right to education, the right

1 to health, the right to family.

2 Q Okay. How many people work at the office?

3 A I have approximately 30 staff.

4 THE COMMISSIONER: How many?

5 THE WITNESS: Thirty, approximately.

6

7 BY MR. OLSON:

8 Q How does that break down in terms of the, say the
9 advocacy side and the investigations, the SIR side?

10 A Within advocacy I have four intake officers and
11 six -- no, four intake officers and six advocacy officers,
12 and I have a program manager that oversees that. With
13 regards to the SIR, I have a program manager and
14 approximately 10 staff doing investigations.

15 Q So is approximately equal on both sides?

16 A Yes.

17 Q Okay. And in terms of the employment -- sorry,
18 employment --

19 THE COMMISSIONER: That, that adds up, that adds
20 up to 21 and yourself 22. Are the other eight
21 administrative?

22 THE WITNESS: There is a deputy children's
23 advocate and there are, there's an office manager.

24 THE COMMISSIONER: Yes.

25 THE WITNESS: And finance manager and four admin

1 officers.

2 THE COMMISSIONER: That, that accounts for them
3 all.

4 THE WITNESS: Thank you.

5

6 BY MR. OLSON:

7 Q Is there just one office?

8 A Yes, there is.

9 Q Where is it located?

10 A It's on Portage Avenue.

11 Q Okay. All the staff work out of the one office?

12 A That's correct. They do fly into communities on
13 a regular basis.

14 Q Does the office serve all of Manitoba?

15 A Yes, it does.

16 Q And all Manitoba children?

17 A That's correct.

18 Q Okay. And when you say they fly, fly to other
19 places regularly, can you give me an example where they
20 would, where they would go?

21 A They would fly maybe into Thompson, they would
22 fly into Cross Lake. They would fly into various
23 communities across the Province of Manitoba. They travel
24 through The Pas, you know, Steinbach, various
25 jurisdictions.

1 Q And what would there be, the purpose of their
2 flying into these jurisdictions be generally?

3 A Basically, we would have received some concerns
4 or some complaints and so the advocacy officers would have
5 travelled in to deal with the complaints and the
6 investigators would be travelling in to review files and to
7 meet with people in the community surround children's
8 deaths.

9 Q What is the general background of most of your
10 employees? Where do they come from?

11 A Most of my employees would come from child
12 welfare. They would have a BSW, some have MSWs, a variety
13 of degrees. We had a retired RCMP officer.

14 Q We've, we've had a number of social workers
15 testify at this inquiry who now work at your office.

16 A That's correct.

17 Q Is there any sort of prerequisite that they have
18 a social work, social work degree -- that workers from your
19 office, when you employ them, have a social work
20 background?

21 A Yes. That would be one requirement. When we're
22 advertising for positions we would ask for a minimum of a
23 BSW.

24 Q Okay. And why is that?

25 A I think it's important, in the work that we're

1 doing, that people understand, particularly child welfare,
2 and would have a social work degree, would have an
3 understanding of the work that's being done in the system.

4 Q Okay.

5 THE COMMISSIONER: And how many of those have
6 been employed in child welfare delivery in the Province of
7 Manitoba?

8 THE WITNESS: I would say the majority of them.

9 THE COMMISSIONER: In other words, they came from
10 your, same background as you had from, from the delivery of
11 the services to the advocacy's office?

12 THE WITNESS: The majority, yes. Um-hum.

13 THE COMMISSIONER: Thank you.

14

15 BY MR. OLSON:

16 Q Is there an emphasis in your office on providing
17 culturally relevant services?

18 A Yes, there is.

19 Q Tell us a little bit about that?

20 A Well, basically, there is training provided to
21 the staff. As we speak, we have the former Grand Chief,
22 Ovide Mercredi at our office talking about treaty rights
23 for the staff. They are expected to take a variety of
24 training. We do have an elder on our advisory committee.
25 We -- as I said, we have staff meetings on a monthly basis

1 where we invite people in from the university. We just
2 recently had the treaty commission in as well. And there
3 is lots of staff development. And as our people travel up
4 to community, too, they're, they're aware of circumstances
5 and cultural beliefs and expectations, and particularly in
6 doing child death reviews as well.

7 Q What, what about child death reviews?

8 A To be, to be very cognizant of cultural beliefs
9 and expectations in doing those reviews.

10 Q Okay. You're talking about in the manner of
11 conducting the reviews?

12 A That's right.

13 Q Who is it you report to?

14 A I actually report through the speaker of the
15 house to leg. assembly.

16 Q Okay. And how often?

17 A How often?

18 Q Do you report.

19 A I actually table, I'm required to table my report
20 once a year so I've had two reports at this point in time.
21 So I've met with them on two occasions. I also have had
22 the opportunity to request staff so I have met with
23 committee of leg. assembly, which is the legislative
24 assembly on management commission, and that's purely
25 administration, and that is the committee you would ask for

1 more finances or for staffing positions. I've met with
2 them on one occasion.

3 THE COMMISSIONER: Just --

4 MR. OLSON: Sure.

5 THE COMMISSIONER: -- I just don't understand.
6 What committee of the house do you report to on the way to
7 the report going to the speaker?

8 THE WITNESS: To, to the leg. assembly.

9 THE COMMISSIONER: Yes, but, but what committee
10 of the house do you, do you report to, if any?

11 THE WITNESS: Just to a committee of leg.
12 assembly . That's it.

13 THE COMMISSIONER: A committee of the legislative
14 assembly?

15 THE WITNESS: That's right.

16 THE COMMISSIONER: And what's that committee
17 called?

18 THE WITNESS: It is called committee of
19 legislative assembly.

20 THE COMMISSIONER: And how many members of the
21 house are on that?

22 THE WITNESS: I believe there's 57.

23 THE COMMISSIONER: Oh, the whole, the whole
24 house?

25 THE WITNESS: That's right.

1 THE COMMISSIONER: There's no -- other than the
2 management committee you've just referred to, there's no
3 other committee --

4 THE WITNESS: No.

5 THE COMMISSIONER: -- that you report to?

6 THE WITNESS: That's right.

7 THE COMMISSIONER: There's no, there's no child
8 services committee?

9 THE WITNESS: No, there is not.

10 THE COMMISSIONER: So you, you, you prepare your
11 report, you walk it over to the house.

12 THE WITNESS: That's right.

13 THE COMMISSIONER: And it goes directly to the
14 speaker?

15 THE WITNESS: That's correct.

16 THE COMMISSIONER: And he files it.

17 THE WITNESS: He files it. And then there would
18 be -- I mean, obviously not all 57 members would meet with
19 me when, when I, you know, when the report is tabled, and
20 when I speak to my report, there is a committee, but it's
21 just a committee of leg. assembly.

22 THE COMMISSIONER: It's the whole house sitting
23 in committee?

24 THE WITNESS: Right.

25 THE COMMISSIONER: Is there any committee that

1 you meet, that you meet with between annual reports?

2 THE WITNESS: No, there's not.

3 THE COMMISSIONER: Thank you.

4 MR. OLSON: Thank you. I have a copy of a
5 2011/2012 annual report. Pass it up. Mark it as an
6 exhibit.

7 THE CLERK: Exhibit 82. Exhibit 82.

8

9 **EXHIBIT 82: 2011-2012 ANNUAL**
10 **REPORT OF THE CHILDREN'S ADVOCATE**

11

12 THE COMMISSIONER: Thank you. This is the annual
13 report of the Children's Advocate for the year 2011-2012.

14

15 BY MR. OLSON:

16 Q Would this be the annual report that you provide
17 to the committee?

18 A Yes, it is.

19 Q When you provide this report, do you go through
20 it with the committee or do you just deliver it?

21 A I just deliver it, and then I am called to
22 committee and I will appear before them and they will have
23 a copy of this and ask me a number of questions.

24 Q Could just take a minute to look through, through
25 the report. Who, who are you primarily writing the report

1 for, first of all?

2 A Primarily reporting for agencies, authorities,
3 various stakeholders, the public and children.

4 Q And how does one get a copy of the report once
5 it's published?

6 A Basically, we mail out about 350 copies. We also
7 put it on our website. And our staff do a variety of
8 presentations throughout the community and throughout the
9 province. They will take copies with them, as well, as
10 many of our pamphlets and brochures and other writing
11 material that we have.

12 Q Turn to page 14 of your report. There is a box
13 that says, children in care.

14 A Yes.

15 Q Says:

16

17 "The number of children in care
18 has increased progressively over
19 the years from 5,782 in 2004 to
20 9,432 in 2011, for a total
21 increase of 3,650 children. As a
22 proportion of the population of
23 children in Manitoba, there has
24 been an increase of children in
25 care during this time from 2% to

1 3.25%."

2

3 And then you cite the source being Manitoba
4 Family Services and Labour.

5 A That's correct.

6 Q As children's advocate, does that concern you,
7 that sort of an increase?

8 A It always concerns me about an increase of
9 children in care, yes.

10 Q And the purpose of putting that sort of
11 information in your report would be what?

12 A Well, I guess to bring it to public attention
13 that there has been an increase in, in kids in care.
14 However, we're not quite sure the reason for that. It
15 could be -- and our office needs to do a little bit more
16 work on that, it could be the fact that there's an
17 extension of children in care over the age of 18. I think
18 there's approximately 400. So that could account for the
19 rise.

20 Also, I know for a fact in B.C. they do not count
21 kids in care that are placed in kinship situations and
22 family homes, and in Manitoba we do count kids that are
23 placed in their family homes. So they would account for
24 the number of kids in care, but it's just not broken down
25 accordingly.

1 Q Is that something that's changed since 2004 in
2 Manitoba?

3 A No, it's not.

4 Q Okay.

5 A I, I think there has probably been more of an
6 increase of kids placed with families and relatives.

7 Q Since 2004?

8 A That's correct, yes.

9 Q Is that something you actually know or is it just
10 something you suspect?

11 A No, I actually know that but I don't have the
12 breakdown according to numbers.

13 Q Okay. Is this something that your office is
14 looking into, the reasons for the increase in numbers?

15 A Yes, it is. I have recently requested a policy
16 analyst and I've made some restricting in my office so that
17 we're better able to look at numbers.

18 Q Does your office service just children in care or
19 all children of Manitoba in terms of advocacy services?

20 A We, we just service children that are involved in
21 the child welfare system.

22 Q Just children in the system?

23 A That's right.

24 Q Would that include children in, in the protection
25 side of the system as well as children in care?

1 A Yes, it would.

2 Q Just flip to the next page, under total requests
3 for services. Can you just explain, on page 15, what this
4 chart is indicating under Total Case Files Opened
5 Individual Advocacy.

6 A You mean in 2000 2012 advocacy service received a
7 total of 2,382 requests for service?

8 Q Right.

9 A Those would have been requests coming through our
10 front door, and it represents a 3.5 increase from the,
11 from, from the previous year.

12 Q So there was more demand, that much more demand
13 for your services from the previous year, is what it's
14 showing?

15 A Yes.

16 Q Okay. And when it comes to the reason for your
17 services being requested, can you tell us what the, the
18 main reason your services are requested?

19 A Well, they can be requested for a number of
20 reasons. There are -- I guess we are largely seen as a
21 complaint-based service, so a number of people calling us.
22 Could be to navigate the system, it could be foster parents
23 calling us, it can be kids themselves calling us, it can be
24 judges, it can be MLAs, it could be any member of the
25 community phoning us.

1 Q Who predominantly calls you, or are you able to
2 break that down?

3 A Basically, I would say community members, family
4 members, foster parents. We also have referrals from
5 judges that have been on the increase lately.

6 Q Okay. So judges are calling you because of what
7 they're seeing in their courtrooms?

8 A That's correct.

9 Q And they call you to, to do what, to get -- maybe
10 you can explain that a bit.

11 A Yeah. Normally, normally either they would call
12 me and then it would be followed by a letter outlining
13 concerns that they have seen in their courtroom. Some of
14 the current concerns may be lack of access for families to
15 their children or it could be a factor that a child was
16 removed from a foster placement and they want us to look
17 into it or, you know, any, any number -- the planning,
18 basically, the planning for children.

19 THE COMMISSIONER: Do I understand you to say,
20 then, that if a child comes to you for advocacy services,
21 but that child does not come from a family that is
22 receiving services from one of the agencies --

23 THE WITNESS: That's right.

24 THE COMMISSIONER: -- or was not -- or is not
25 already a child in care, that you can do nothing for that

1 child by way of advocating?

2 THE WITNESS: That's correct. I mean, we would
3 definitely -- if the child came to our office, we would
4 talk to the child and try to refer. But yes, we, we only
5 deal with children that are involved with child welfare in
6 the Province of Manitoba.

7 THE COMMISSIONER: So somebody would have had to
8 have made a complaint to, to child welfare authorities to
9 activate a file within one of the agencies before you would
10 be able to step in and be of assistance to the child that
11 was at your door seeking advocacy services?

12 THE WITNESS: That's correct.

13 THE COMMISSIONER: Thank you.

14

15 BY MR. OLSON:

16 Q Is that because of a limitation imposed by the
17 Child and Family Services Act?

18 A That's correct. It's a limitation by our
19 legislation that's embedded in the Child and Family
20 Services Act and our limited mandate.

21 Q Do you have any views on that limitation?

22 A Yes. I mean, we're the Office of the Children's
23 Advocate. We should be an office for all children. But
24 basically, we are an office for just children receiving
25 services from child welfare. And we never see a child that

1 stands alone in child welfare. There's always, you know,
2 involvement with health or justice or any number --
3 education, a big one, for instance.

4 Q Who do you see as a client when you're providing
5 services?

6 A Who do I see as a client?

7 Q Who is the client?

8 A Oh, who is the client. The child is the client.

9 Q Do you take instructions from the, from the child
10 or how do you, how do you operate?

11 A I guess it depends on the age of the child.
12 Obviously is a very young child. The child is usually
13 accompanied by a family member or a foster parent or an
14 agency worker. Also, children come to us on their own and
15 particularly if they are 12 and they are vocal, or 10 and
16 vocal, we definitely meet with them and hear what they have
17 to say, and we really practice from ensuring the voice of
18 the child is heard so that we would represent that child,
19 we would go with them to the agency to talk with their
20 social worker, to make sure that they get their viewpoints
21 across on what it is that they're needing.

22 Q Am I right that most of the concerns are concerns
23 that the child, or perhaps the family, has with the way the
24 agency is dealing with their particular matter?

25 A It could be the way the agency is dealing with

1 their matter. They, they may have questions and concerns
2 about not being able to see their siblings, not having
3 family visits. They may not particularly care for their
4 placement they're in. And, there's a variety of things.

5 Q Do you have to deal with other collaterals as
6 well?

7 A Yes. We, we do get phone calls from other
8 collaterals, and also we do call service meetings when we
9 don't feel a child's needs are being met so that we try to
10 look at all the service providers that are involved and we
11 may orchestrate a meeting where we bring everyone together
12 and make sure that the interest of the child is paramount
13 and is being serviced and heard.

14 Q We've heard a lot of concerns about privacy
15 legislation PHIA and FIPPA.

16 A Right.

17 Q How do you deal with privacy issues when you're,
18 when you're trying to get everyone at the table to talk
19 about concerns?

20 A Normally we cite that everything we're talking
21 about is confidential under the Child and Family Services
22 Act but we are all there for the purpose of making sure
23 that the child's best interests is adhered to, so
24 collectively we are able to have a discussion and move
25 forward.

1 Q Does that usually work, then, in allaying
2 concerns about privacy concerns?

3 A Yes, I believe so.

4 Q And are you able to work in that fashion with
5 schools and --

6 A No. As again, our legislation is very limited
7 with respect to the schools only if the child is involved
8 in the, in child welfare, then we are able to talk with the
9 schools about what is going on for that child.

10 Q So again, that's another limitation of --

11 A Yes, it is.

12 Q -- the Act?

13 A Um-hum.

14 Q And is that something else you'd like to see
15 changed?

16 A Yes, for sure.

17 Q Terms of the age of the children that you
18 service, if we look at page 16 of your report, you have a
19 pie chart with age of child/youth?

20 A Um-hum.

21 Q And when I looked at it, you have zero to two
22 years, 14 percent and three to five years 12 percent. And
23 if you look at those two together, that's about 26 percent
24 of the children you serve?

25 A That's correct.

1 Q So that, that zero to five-year range is about a
2 quarter of all the children you serve, then?

3 A That's correct.

4 Q Okay. How is it you service those children?

5 A Basically, those children would come to our
6 attention primarily through foster parents. We actually
7 just completed strategic planning at our office and we are
8 really trying to target zero to ten. And basically, we are
9 doing, as I said, a lot of presentations in the communities
10 and we are trying to get the word across that we are here,
11 and we are also working with the Manitoba Federation of
12 Foster Parents and trying to get our pamphlets out and
13 asking foster parents to contact us.

14 Q Can you just describe for the Commissioner how,
15 how it is you deal with a typical case that comes in when
16 you're, when you're doing an advocacy case for a child?

17 A Well, basically if we receive a phone call it
18 would go directly to our intake department, and an intake
19 worker would deal with the information.

20 Q So one of those four workers --

21 A That's correct.

22 Q -- gets the initial intake?

23 A That's correct. And they would determine what
24 the complaint was. If the person calling in was just
25 looking for information or hadn't contacted the appropriate

1 agency, we would direct them to do that, but we would
2 continue to follow up to make sure the concerns were
3 addressed.

4 Q Okay.

5 A If a child, in fact, walked into our office, the
6 child would be seen immediately.

7 Q Um-hum.

8 A And we would sit with the child, determining what
9 the issues were, and again follow that through to make sure
10 it was resolved.

11 Q Does the intake worker have access to the CFSIS
12 or intake module system?

13 A Yes, they do.

14 Q Okay. And is that full access?

15 A Yes, it is.

16 Q So they can see, they can do a search and see
17 what involvement that child has had with the system?

18 A All across the province, provided it's entered
19 into the system, yes.

20 Q Okay. And how is that information used by the
21 intake worker?

22 A You -- the information would be used to check
23 what agency was involved, what, obviously what authority
24 was involved, what the complaints may be or what work has
25 been done by the agency. So they would be able to take a

1 synopsis of that and determine where to go.

2 Q Okay. Does --

3 A Also determine, sorry, to direct the person that
4 was calling to the appropriate agency as well.

5 Q Okay. If you turn over to page 17 of your annual
6 report. A few things I want to look at on this page, but
7 first we have top concerns related -- Top CFS Related
8 Concerns by Category.

9 A Yes.

10 Q And the first top issue is rights, being 38
11 percent. What, what is encompassed by that heading?

12 A By what?

13 Q Under the heading Rights. What ...

14 A The rights? It means that we certainly feel that
15 children are quite capable of giving information and lots
16 of times we're seeing that children aren't included in
17 their planning, so that would have been one of the top
18 concerns, that children have a right to express what's
19 necessary for them with regards to maybe schooling or
20 planning or, you know, their access to their families or
21 siblings.

22 Q So is that a matter of, then, the children's
23 advocate providing the child with information about their,
24 his or her rights or ...

25 A Or probably to accompany the child to speak to

1 the social worker to say that this child is old enough,
2 they have a say, they want you to listen to what they need
3 to be involved in or with.

4 Q Now, you have 11, 11 workers for the entire
5 province?

6 A Yes.

7 Q And I think you, you had over a thousand active
8 or intake cases?

9 A That's correct.

10 Q Is -- do you have enough resources to service the
11 number of cases that are coming in?

12 A I mean, I think anybody in this day and age would
13 say they would love more resources. In the past year we, I
14 guess two years ago we just had three intake workers. Now
15 we do have four intake workers and we're feeling we're able
16 to do a lot, a lot more work on the front end and then be
17 able to transfer the cases, more complex cases, through to
18 the advocacy workers. They are averaging, in our April
19 statistics, about 42.5 cases each.

20 Q You -- is your view, is that a high number or ...

21 A I think it's a very high number given the complex
22 nature of the cases we're dealing with.

23 Q Is there a limit to how much time a worker can
24 have a case file for?

25 A No. The intake worker usually tries to have

1 resolution within 90 days but advocacy worker will stay
2 involved until the issue is resolved.

3 Q Okay. I take it that can -- can that be a number
4 of years?

5 A Yes, it could be, yes.

6 Q The next top heading is Case Planning.

7 A That's right.

8 Q What would that involve?

9 A Case planning would be, again, is there a case
10 plan, is the child aware of the case planning, do they know
11 what's happening with their family, do they know if they're
12 going to court, if they're under a VPA, what's happening
13 for, for that particular case.

14 Q Okay. And is it the same idea, the worker would,
15 if necessary, accompany the client, the child, to the
16 agency to go through the case plan and make sure it's
17 appropriate? Is that the sort of thing the office does?

18 A It could be, or it could be simply phoning the
19 social worker to determine maybe the case plan wasn't
20 reflected on CFSIS but it would be determining what is
21 happening for that child.

22 MR. OLSON: See it's now 12:30. This would,
23 might be a good time to break for the lunch.

24 THE COMMISSIONER: All right. How long do you
25 think we should break considering we want, ideally we'd

1 like to complete this and the next witness today, if that's
2 possible.

3 MR. OLSON: I would suggest an hour, maybe till
4 1:30.

5 THE COMMISSIONER: Is that -- anyone have a
6 problem with that, counsel? All right. Seems as though
7 everyone can be back, so we'll adjourn now till -- for one
8 hour, till 1:30.

9 MR. OLSON: Thank you.

10

11 (LUNCHEON RECESS)

12

13 THE COMMISSIONER: All right, Mr. Olson.

14 THE CLERK: Just if I can have (inaudible).

15 THE COMMISSIONER: There, your clock's back on.

16 THE CLERK: Yeah. I, I actually turned it off
17 because it won't let me record. I'm going to try rebooting
18 the computer.

19 THE COMMISSIONER: Okay.

20 THE CLERK: All right, we're back on the record.

21 THE COMMISSIONER: Oh, good.

22 THE CLERK: (Inaudible) moment.

23 THE COMMISSIONER: Okay?

24 THE CLERK: No.

25 THE COMMISSIONER: No? False alarm.

1 THE CLERK: (Inaudible).

2 THE COMMISSIONER: It looks like what?

3 THE CLERK: It looks like I'm unable to type now
4 and it's telling me it's recording but I can't hear it. I
5 just want to wait so I can hear it. (Inaudible) loading
6 the program.

7 Okay, we're back on -- oh, it shut off again.

8 THE COMMISSIONER: Gone again.

9 THE CLERK: Okay. It's back on again. We're
10 back on the record. It's good.

11 THE COMMISSIONER: All right.

12 MR. OLSON: Great.

13 THE COMMISSIONER: Mr. Olson, we're under way.

14 MR. OLSON: Good.

15

16 BY MR. OLSON:

17 Q Before the lunch break we were looking at page 17
18 of your report. Just in terms of the demographics that
19 your office serves, under racial origin you indicate that
20 the advocacy services shows that 69 percent of the youth
21 involved with your advocacy services, sorry, is -- are
22 aboriginal children and youth. That's up slightly from
23 last year, which was 65 percent. And the majority of
24 children and youth, 76 percent were children in care with
25 the CFS system. Is that fairly, the numbers being up

1 slightly, is that fairly consistent year over year?

2 A Yes, it is.

3 Q And do you have any idea as to why that is, why
4 those numbers seem to keep growing? And I appreciate
5 you've only been a children's advocate for a short time,
6 but --

7 A Yeah.

8 Q -- historically?

9 A Well, I, I would hope that people are becoming
10 much more aware of the office so they are seeking us out.
11 And we have also done a lot of outreach to youth and are
12 doing a number of youth focus groups. So I, I feel like
13 they are much more aware of the office and are actually
14 coming by a little bit more. Our presentations in the
15 community are approximately three times a week now. I
16 think we, we are trying to get the face of the office out
17 there a little bit more, so I think people are finding it
18 helpful and useful to come to the office. So I think we
19 are having more referrals as a result of that.

20 Q In terms of outreach, what does your office do?

21 A Of outreach? Well, of course, we do our
22 individual, individual advocacy on cases. We also look at
23 systemic problems. We actually do, like I said, a number
24 of presentations. We're out in the communities. We work
25 with foster parent network. We're into schools doing

1 presentations. We are into various support offices, into
2 agencies and authorities with our presentation. We have
3 done new pamphlets. We also have done youth letters, youth
4 newsletters. We also have done a variety of suicide
5 prevention letters and we have them translated in Cree and
6 Ojibway and are getting a number of requests for those
7 letters. So I think, I think we purposely have put
8 ourselves out there so that people would be more aware of
9 the office.

10 Q And as a result of that outreach, have you seen a
11 demand for your services increase?

12 A Yes, we have.

13 Q Page 6 of your report.

14 A Six?

15 Q Page 6. And this is under the Executive Summary
16 portion. Under Themes and Recommendations, Views of
17 Children and Youth.

18 A Yes.

19 Q You've written:

20

21 "The OCA receives frequent reports
22 from children and youth related to
23 a lack of contact with or lack of
24 response from, their social
25 workers. Although high caseloads

1 and demands of frontline work
2 might make it difficult, hearing
3 and considering the views of
4 children and youth needs to be a
5 priority."

6

7 Is that -- that's a complaint you receive often
8 from your clients?

9 A Yes, it is.

10 Q And what does your office do in terms of helping
11 with that issue?

12 A Well, basically, as I mentioned, previously we've
13 been doing a lot of youth outreach and youth focus groups
14 and we're hearing primarily from them about lack of contact
15 with their worker. Again, we would follow up with the
16 agency and talk about the issues and, you know, request
17 that there is more follow-up. And we, we greatly
18 understand the large caseloads that social workers have and
19 it would be our hope that social workers would receive a
20 more manageable caseload.

21 And social work, as you probably know, is all
22 about relationship-building and no matter what, kids have a
23 voice and you can't plan adequately without hearing the
24 voice of the child. So we continue to follow with the
25 agency to say, you do have to be meeting with your child,

1 it's his right, and it's his right to be part of a plan.

2 Q So following up with agency and --

3 A That's right.

4 Q -- making sure they're doing what they ought to
5 be doing?

6 A Right. And helping the child with their voice,
7 too, by either accompanying the child, you know, having him
8 speak, maybe practising with us but going with him so that
9 he is able to get his point across or their point across to
10 the social workers.

11 Q As children's advocate, do you, do your advocacy
12 officers experience any difficulty themselves in, in
13 communicating with the workers and getting attention from
14 the workers?

15 A They may at times, you know, maybe a phone call
16 isn't returned right away, but they're pretty persistent
17 and they will follow it up until the complaint is resolved.

18 Q Okay. Along those same lines, under Family
19 Assessment, you've written:

20

21 "The OCA continues to see cases
22 where there has been little ..."

23

24 And again, this is on page 6:

25

1 "... where there has been little
2 or no assessment conducted at
3 critical times during service
4 delivery to children and families.
5 Such assessment is vital in terms
6 of understanding potential risk of
7 harm to children and youth."

8
9 So you've identified this as a theme that keeps
10 coming up?

11 A Right.

12 Q In the review of files that you see?

13 A Yes.

14 Q And these are files that the -- your office has
15 assessed from, from the actual files you've looked at?

16 A That's correct.

17 Q And it's not just one file, it's many files
18 you've looked at?

19 A That's correct.

20 Q Okay. And this would be files that were current
21 to the year of the report?

22 A Yes.

23 Q And today, you continue to look at files. Is it
24 still an issue that comes up?

25 A It can be an issue but we're seeing more of an

1 increase of family assessments or different tools that are
2 now being used, like structured decision-making, safety
3 assessments on file that we haven't seen before.

4 Q That's what I was going to ask you about next, is
5 we've heard evidence today about the structured decision-
6 making tools and assessments, and we heard evidence
7 yesterday about those same tools. What have you seen, as
8 children's advocate, in terms of those tools and how
9 they're being used?

10 A What I've --

11 Q Have you -- has it been -- has there been an
12 improvement in terms of file recordings?

13 A Yes. We're starting to see a great improvement,
14 and actually seeing a number of assessments on files now
15 that we wouldn't have seen before.

16 Q And is that something you're seeing from all the
17 authorities or is it certain authorities or ...

18 A We're seeing more of it. At this point in time I
19 couldn't tell you which -- if it's every authority. We are
20 seeing an improvement in it across.

21 Q Is that something that's just starting to happen
22 now or is it -- has it been happening for a while or ...

23 A I would say there's more evidence of it in the
24 past six months.

25 Q What about workload, do you hear, do you hear

1 feedback from social workers in terms of their workload
2 now?

3 A Yes, we do.

4 Q What sort of feedback are you hearing?

5 A Well, basically, you know, there's, there's a
6 workload associated with a caseload. The amount of time
7 someone's pay -- you know, the amount of time someone's in
8 court or, you know, taking a child to therapy or taking a
9 child to visit so, you know, in enrolling a child in
10 school. There is an awful lot of work associated with one
11 case, and although workers might complain about their
12 workload, we would still say it is all about relationship-
13 building and you do need to make the time for your child;
14 if not, then you need to bring that to the attention of
15 your supervisors and management.

16 Q We heard yesterday from Ms. Brownlee that
17 there's still a lot of a crisis response sort of system
18 occurring.

19 A Right.

20 Q Is that something you're seeing in the children's
21 advocate office?

22 A Yes.

23 Q Have you seen -- you've heard of the family
24 enhancement program?

25 A Yes, I have.

1 Q And have you seen that in that -- how that's been
2 working in practice?

3 A Not really. Basically, I'm aware of family
4 enhancement and the funding and we certainly would support
5 much more preventative services for families. That's
6 really important. But I'm also aware that in family
7 enhancement, the case count is from zero to twenty, but
8 still with protection it's one to twenty-five. And I guess
9 although I see prevention as extremely important, those
10 cases are usually low to medium risk. Prevention -- or
11 protection is medium to high risk so I don't understand the
12 difference in case counts. I would think everybody needs a
13 limited caseload or case, yeah, case count to be able to
14 give appropriate service.

15 Q I want to move on now to the special
16 investigation reviews.

17 A Okay.

18 Q That's the other function of your office, is to
19 conduct those reviews, and we talked about the staffing you
20 have to do --

21 A That's --

22 Q -- that now.

23 A That's correct.

24 Q What is the purpose of, of the reviews?

25 A The purpose of the reviews is to basically review

1 the services that the child has received a year prior to
2 his death and to determine if there can be any
3 recommendations that can be made to improve those services
4 and if, if anything was possible even to prevent the death
5 of a future child.

6 Q So it's primarily to look at the services
7 provided and check to see if there is anything that might
8 be done in the future to prevent a similar death from
9 occurring?

10 A Right. And also to look at standards, to see
11 what standards were met.

12 Q Okay. And when you're looking at standards, is
13 it -- are you looking at the specific standards or are you
14 looking at best practice in terms of social work, or what
15 is it exactly you're measuring?

16 A I think we are mostly looking at standards. And
17 I mean, and to see if there were face-to-face visits done,
18 if there were assessments on file, how often the child was
19 seen, is there any recording. That usually is a benchmark
20 that we're looking at.

21 Q In terms of the budget, your budget allocated to
22 special investigation reviews and child advocacy are the
23 two sides of what, what you do in your office.

24 A Right.

25 Q Can you, can you tell me roughly how that breaks

1 down?

2 A I can't off the top of my head.

3 Q Okay.

4 A What I can tell you, in our special investigation
5 we have 10 positions. Five are permanent and five are term
6 positions.

7 Q Um-hum.

8 A And those term positions have been just allocated
9 for, for three years, and it was to help us get caught up
10 with the backlog that came over after proclamation, or
11 along with proclamation.

12 Q Okay.

13 A So basically, you know, if we have 10 social
14 workers in special investigation and 11 in advocacy, so
15 it's, it's basically even.

16 Q Okay. Who do you provide the reports to?

17 A The reports go to the Minister, to the Office of
18 the Ombudsman and to the Office of the Chief Medical
19 Examiner.

20 Q Do you know what happens from there?

21 A Basically, the Minister would, I think, refer
22 them to the Department of Child and Family Services, and
23 those reports would be then sent out to the appropriate
24 agency and authorities.

25 Q In terms of your recommendations, do you ever

1 find out what happens with them?

2 A Yes, we do.

3 Q Okay.

4 A Currently, the ombudsman has that responsibility
5 of monitoring the recommendations so we work very closely
6 with that office.

7 Q So you're involved in that process, then?

8 A Yes, I am.

9 Q Okay. Is there, is there any obligation for the
10 recommendations to actually be carried out or are they just
11 simply recommendations?

12 A They are recommendations.

13 Q Are the reports themselves made public?

14 A No, they are not.

15 Q Is there any reason why they're not made public
16 that you're aware of?

17 A They are the minister's reports and it would be
18 up to her to determine if they were made public or not.

19 Q Do you have any views on whether or not they
20 should be made public?

21 A I certainly believe in accountability, public
22 accountability, and, and I believe portions of the reports
23 could be made public.

24 Q If you had a wish list today in terms of what you
25 could do as children's advocate or what things you would

1 want to enable you to do your, to fulfill your function,
2 first of all on the advocacy side, what would you be
3 looking for?

4 A I certainly believe that I would like to see,
5 self-serving, as independent legislation and expanded
6 mandate. I would also like to see social workers with
7 capped caseloads or reasonable caseloads so they can give
8 the attention and build relationships with the children
9 that they need to build relationships with. I would
10 certainly like to see communication enhanced across the
11 system and to, I guess another, possibly self-serving, but
12 for the improvement of children, is to almost make it
13 mandatory that our office is notified if there's any kind
14 of changes in child welfare at all about anything new
15 happening. We often are left to the rumour mill to hear
16 what's going on. We don't have a connection to find out
17 what the changes are in child welfare.

18 Q Is there any sort of reporting line between you
19 and the authorities or any other agencies?

20 A No, there is not. I, I do have monthly meetings
21 with the Child Protection Branch. I meet regularly with
22 the acting deputy minister.

23 Q Is there anything else you want to add in terms
24 of a wish list or things that would ...

25 A I think that's good start.

1 Q Okay. The report itself, do you -- your, sorry,
2 your annual report, do you ever receive any feedback on its
3 contents?

4 A On the contents of my annual report?

5 Q Your report.

6 A Yes, I do.

7 Q And from, from who do you receive feedback?

8 A Basically, from agencies, authorities, many
9 stakeholders, youth themselves. We deal very -- we work
10 very closely with Voices, which is child in care network,
11 and also MLAs may give us some suggestions. And when I
12 appear before committee, I'm normally told about the
13 report, what they think is working, not working or what is
14 good. And actually, we've had a lot of positive feedback
15 in the last two years.

16 MR. OLSON: Thank you very much. Those are my
17 questions for you.

18 THE COMMISSIONER: Mr. Bock, do you have
19 questions for your client?

20 MR. BOCK: I have no questions, Mr. Commissioner.

21 THE COMMISSIONER: Thank you. All right. Who in
22 the gallery would like to ask any questions? Mr.
23 Scarcello.

24 MR. SCARCELLO: Thank you, Mr. Commissioner.

25

1 CROSS-EXAMINATION BY MR. SCARCELLO:

2 Q Good afternoon, Ms. MacDonald.

3 A Good afternoon.

4 Q My name is Shawn Scarcello. I'm legal counsel
5 for ANCR, the southern authority and the northern
6 authority.

7 Now, just for some clarification, and I might
8 have misheard you or you might have misspoke, you were
9 talking about the children that you are, your office is
10 able to serve under the Act?

11 A Yes.

12 Q And you had mentioned that you were statutorily
13 limited to only serving children who are receiving services
14 from child welfare?

15 A Yes.

16 Q Do you recall saying that? Now, I'm going to
17 suggest to you that's not entirely accurate.

18 MR. SCARCELLO: And Madam Clerk, if you could
19 pull up the CFS Act. And if you could scroll down to
20 Section 8.2.

21 THE COMMISSIONER: 8.2?

22 MR. SCARCELLO: 8.2

23

24 BY MR. SCARCELLO:

25 Q I'm going to suggest to you, Ma'am, and I'll get

1 to the specifics actually in a second, but generally
2 speaking, you're entitled to --

3 THE COMMISSIONER: No, wait a minute. It's not
4 eight brackets.

5 MR. SCARCELLO: Sorry, 8.2, Madam Clerk. Yeah,
6 is a little ways down.

7 THE COMMISSIONER: We're past -- yeah, we're,
8 we're into there.

9 MR. SCARCELLO: There. The duty section. That's
10 fine.

11

12 BY MR. SCARCELLO:

13 Q Now, under the Act your office has a section both
14 on duties and then on powers. I'll get to both of them,
15 but generally speaking, I'm going to suggest to you that
16 you have both the duties and powers to provide services to
17 children who are receiving child welfare services?

18 A Yes.

19 Q And also to children who may be entitled --

20 A Right, right.

21 Q -- to receive services under the Act, and I
22 wanted to make that clear, that we weren't left thinking is
23 only children who are currently involved in the child
24 welfare system, but it can also be children who come to
25 your attention that should be involved, and that your

1 office can act as a stop-gap in that sort of situation.

2 You'd agree with me?

3 A It's an interpretation, yes.

4 Q Well, under 8.2(1):

5

6 "The children's advocate shall

7 ..."

8

9 And then it says:

10

11 "(a) advise the minister on
12 matters

13 (i) relating to the welfare and
14 interests of children who
15 receive or may be entitled to
16 receive services"

17

18 A That's correct.

19 Q So I don't think that's an interpretation,
20 that's, that's what it says.

21 MR. SCARCELLO: And if we go to, Madam Clerk,
22 8.3.

23

24 BY MR. SCARCELLO:

25 Q These are the powers of the children's advocate.

1 A Yes.

2 Q And at (a) it says you can:

3

4 "... conduct inquiries,
5 investigate, report on, and make
6 recommendations regarding any
7 matter

8 (i) relating to children who
9 receive or may be entitled to
10 receive services under this
11 Act,"

12

13 A Right.

14 Q And just one other matter for clarification. I
15 might have misheard you on this, too. You just went
16 through a little quickly. But on your special
17 investigation reviews, and you spoke about the threshold
18 being that the child must have received services from child
19 welfare within one year of their death?

20 A That's correct.

21 Q Now, just to be clear, when you're doing your
22 investigation and your report, you're not just looking at
23 that one year prior for that child's life but you're
24 looking at all the child welfare services provided to that
25 child during their lifetime?

1 A That's correct. We're determining what reviews
2 we, we are doing based on the one. For instance, if we're
3 notified by the Office of the Chief Medical Examiner and we
4 would be looking to see whether or not that child received
5 services within a year prior to its death.

6 Q Right. But your report isn't limited to that --

7 A No, not at all.

8 Q -- one year; it can go back?

9 A That's right.

10 Q And I just wanted to make that clear.

11 A Okay.

12 MR. SCARCELLO: Okay. Thank you. Those are my
13 questions, Mr. Commissioner.

14 THE COMMISSIONER: Thank you., Mr. Scarcello.

15 Anybody else? Mr. Gindin.

16

17 CROSS-EXAMINATION BY MR. GINDIN:

18 Q Good afternoon. Jeff Gindin, for the record.

19 A Good afternoon.

20 Q Representing Kim Edwards and Steve Sinclair.
21 Just a few questions.

22 With respect to the wish list that you were asked
23 about, you did mention that there's no real follow-up in
24 terms of the recommendations you make with respect to
25 finding out what stage they're at. Is that something you

1 wish there was some mechanism for as well?

2 A Could you repeat the question, no follow-up?

3 Q Well, I believe you were asked about whether
4 there's any sort of system whereby the recommendations that
5 you make --

6 A Right.

7 Q -- come back to you in terms of progress and that
8 kind of thing. Is that accurate?

9 A No, not ... I think I had mentioned that we're
10 working closely with the office of the ombudsman, and he is
11 there to look at the recommendations and to make sure
12 they're being followed through. So we are actually
13 receiving information on the recommendations and the
14 follow-through.

15 Q Is that something new or is that always so?

16 A Yes, it is something new.

17 Q I see.

18 A Yes.

19 Q And that's a positive step.

20 A Oh, very positive.

21 Q Yeah. Mr. Rodgers testified, can't recall which
22 week that was now, but indicating that when you do your
23 special investigations reports, you would send over a draft
24 to him prior to its final completion?

25 A That's correct.

1 Q And I understand, is that a process that's still
2 being reviewed?

3 A Yes. It's a process I started when I first went
4 in, or first became children's advocate, and yes, it was to
5 be in effect for approximately six months and then to be
6 reviewed. I've met individually with the CEOs of the
7 authority but draft is still on there. They do feel that
8 the process is going fairly well but it's still under
9 review.

10 Q I see. You've told us how you believe that your
11 office should be completely independent?

12 A That's correct.

13 Q Correct. Do you think sending over draft reports
14 before they're completed over to the general authority, for
15 example, impacts in any way on the appearance of
16 independents?

17 A I don't believe so.

18 Q Is there a reason why it's sort of up for review,
19 this protocol?

20 A Just simply for feedback. There, there is
21 timeframes that they have to review the reports. We want
22 to know if that's working. So we want to look at, at both
23 sides if we have anything that needs to be tweaked to make
24 it a better process.

25 Q So they have some input into your report before

1 it's made final?

2 A Yes. They do have input because what we were
3 hearing before is the drafts would come out and they had no
4 opportunity to correct what they felt might have been
5 incorrect information --

6 Q Um-hum.

7 A -- or also to have input into some of the
8 recommendations.

9 MR. GINDIN: Just one other thing. If we can
10 have a look at Exhibit 82, which is your annual report,
11 page 15, according to my document here. I may have the
12 wrong page number. No, it would be the next page, I
13 believe. Sorry. Yes.

14

15 BY MR. GINDIN:

16 Q Now, this list of concerns, pardon me, these are
17 CFS-related concerns, correct? That's what the list is?

18 A Yes.

19 Q And this relates to -- pardon, pardon me. I'm
20 going to need some water here.

21 THE COMMISSIONER: Well, that's one thing we've
22 got lots of.

23 MR. GINDIN: One thing we've lots.

24 THE COMMISSIONER: Take your time.

25 MR. GINDIN: Okay, thank you. Think I'm all

1 right now.

2

3 BY MR. GINDIN:

4 Q Now, this list represents concerns that have been
5 brought to your attention --

6 A That's correct.

7 Q -- that relate to CFS?

8 A Yes.

9 Q All the various agencies, correct?

10 A Yes.

11 Q And the total would be 6,687 in the course of a
12 year; is that correct?

13 A Yes.

14 Q Okay. And then you try to break them down to
15 various different concerns. And for example, three or four
16 down it says Responsiveness. What does that relate to?

17 A I believe that would be when a person would have
18 called us to say that the social worker, the agency isn't
19 getting back to them, how, how long that has taken, and if
20 it's repeated concerns.

21 Q So in the course of a year, you had 545 different
22 calls concerned with CFS responding on time or things of
23 that nature?

24 A That's correct.

25 Q All right. Accessibility, is that a different

1 issue? Right under that.

2 A Accessibility I believe would be to treatment,
3 mental health services, et cetera.

4 Q Accessibility to collateral --

5 A Right.

6 Q -- sources. I see. All right.

7 And when you say Accountability, down a bit on
8 that page, where you have a hundred and thirty-six concerns
9 expressed to you, what do you mean by that?

10 A Accountability?

11 Q Yes.

12 A Hum. I would believe it is accountability of the
13 social worker to get back to the family with regards to
14 plans that are happening, with regards maybe visits that
15 are going on.

16 Q All right. And quality of care, more towards the
17 top, 738 different calls, I presume, relating to the
18 quality of care.

19 A Right.

20 Q Can you expand on that a little bit in terms --

21 A Quality of care, likely most of those calls are
22 resulting about the care the child is receiving in foster
23 care or the foster care, foster parent calling us
24 indicating maybe that the special needs aren't being met,
25 that allowances aren't adequate for the child, and it could

1 be their own special needs rates aren't being paid.

2 Q So this list deals with all of the various issues
3 that are raised with your office in terms of social
4 workers, the work they do, various agencies, et cetera,
5 correct?

6 A That's right.

7 Q And the very top of the list is Rights. What
8 would that refer to, for example?

9 A An example of rights? Like, a child's right to
10 privacy, for instance. And one of the things that our
11 office is really trying to concentrate in is child rights,
12 and we did have a workshop this year where we brought
13 trainers in from UNICEF on children's rights impact
14 assessments. And we had invited the authorities, the
15 ombudsman and human rights and our staff to participate in
16 that conference and to be zeroing in on focusing directly
17 on the child through the eyes of the child and having the
18 child as a centre point and everything else around.

19 Q So if a child were to call --

20 A Yes.

21 Q -- with a complaint about social workers or the
22 agency, would that show up under rights or would that show
23 up some --

24 A Yes, it would.

25 Q I see. All right. And when these calls come in

1 concerning various workers or agencies, you follow up and
2 speak to the people who should be spoken to; is that your
3 role?

4 A It depends on the nature of the call if I would
5 personally follow up on it or not, but --

6 Q Well, someone from your office?

7 A Yes, definitely our office would.

8 Q And is there some sort of record kept in terms of
9 the percentage of these types of calls that are resolved?

10 A Yes, there is.

11 Q Do you know what that would be?

12 A I don't have that off the top of my head

13 THE COMMISSIONER: Do you ever report publicly
14 on, on the success of, that you have on behalf of those
15 who've made complaints to you?

16 THE WITNESS: We have just restructured our
17 office, and I do have a person how who is doing quality
18 assurance and Okun (phonetic) measurements, so we'll be
19 able to, but no, only in our reports, when we're doing
20 letters of closure, we would then be telling the agency
21 that they've successfully addressed our concerns. Or in
22 child death reviews we do comment on the excellent service
23 that has been provided.

24 THE COMMISSIONER: What if they haven't
25 satisfactorily addressed your concerns?

1 THE WITNESS: Then we actually write a letter to
2 follow up indicating that those concerns have to be
3 followed up on, and we continue until they are addressed.

4 THE COMMISSIONER: And that letter is written to
5 whom?

6 THE WITNESS: Letter would be written to the
7 agency and copied to the authority. And if we don't have a
8 response from the agency or the authority we then go up the
9 ladder to the Child Protection Branch indicating that we
10 don't have a favourable response and it needs to be
11 followed up on.

12

13 BY MR. GINDIN:

14 Q You've dealt with a number of the questions I had
15 in mind. But do you have a, a sense of whether most of
16 these issues that are addressed have a successful
17 conclusion or not?

18 A Not sure that could be a yes or a no answer.

19 Q It's just more often than not that these issues
20 are addressed?

21 A I think, I think agencies and authorities take
22 our office fairly seriously and I do think that they try to
23 follow up the complaints that we put forward, yes.

24 Q But despite those efforts you aren't able to tell
25 us whether there's a successful conclusion. Most of the --

1 A I don't think there's always a successful
2 conclusion, but I, I do believe that, you know, most people
3 are very much focused on child's rights and want the best
4 for a child and will try their utmost to fix the situation
5 that has occurred.

6 Q You can't really tell us the degree to which your
7 office is successful in dealing with all of these various
8 issues that come to you?

9 A I think we're fairly successful in dealing with
10 the issues.

11 Q But you have no statistics for us?

12 A No, not off the top of my head. Next year I'll
13 have them.

14 MR. GINDIN: Okay. Thank you. Those are my
15 questions.

16 THE COMMISSIONER: Thank you, Mr. Gindin. Anyone
17 else? Mr. Khan.

18

19 CROSS-EXAMINATION BY MR. KHAN:

20 Q Good afternoon.

21 A Good afternoon.

22 Q My name is Hafeez Khan. I'm counsel for
23 Intertribal Child and Family Services. It's a pleasure.

24 Just one question for you. You mentioned you
25 have about 30 staff?

1 A Yes.

2 Q The majority, the majority of your staff, are
3 they from -- were they previously working with an, one of
4 the agencies at some point?

5 A Yes, they were.

6 Q Do you know what proportion of your staff would
7 come from an agency under the general authority as opposed
8 to, say, the northern or southern authority or the Métis
9 authority?

10 A Not off the top of my head. They come from a
11 variety of different agencies.

12 Q Would they be -- would it be about of equal
13 portion or do you find that there are more a particular
14 authority?

15 A I have a number of staff who've come from ANCR,
16 from west region, and from, there's a few from Winnipeg
17 Child and Family.

18 MR. KHAN: Okay. Thank you. That's my only
19 question. Thank you.

20 THE COMMISSIONER: Mr. Funke.

21

22 CROSS-EXAMINATION BY MR. FUNKE:

23 Q Good afternoon, Ms. MacDonald. My name is Jay
24 Funke. I'm here on behalf of the Assembly of Manitoba
25 Chiefs and the South Chiefs Organization. I just want to

1 ask you --

2 A Good afternoon.

3 Q -- a question to -- good afternoon. Just want to
4 ask you a question to follow up on what Mr. Khan was asking
5 you about. Do you know which portion of the 30 employees
6 with the Office of the Children's Advocate would self-
7 identify as either aboriginal or First Nation?

8 A Actually, the stats are about 16.9. Not, not as
9 many staff as we would like, that's for sure.

10 Q I just wanted to ask you another question. You
11 had indicated that previous grand chief Ovide Mercredi was
12 at your office. Just want to ask you a question about
13 that. Are you saying that he's currently employed with
14 your office or is he at your office doing a presentation?

15 A He was doing a presentation this morning, as a
16 matter of fact.

17 Q All right. And how long do you anticipate that
18 he's going to be at the office? Is it just for one day or
19 is it longer than that?

20 A We actually had Jamie Wilson (phonetic) out to
21 see us a couple of months ago, and actually he's continued
22 his involvement with us. We have a number of stakeholders
23 who are looking at a, an aboriginal youth conference on
24 treaty rights next year. So Jamie Wilson had suggested
25 that the former grand chief come out to speak to us, so he

1 was there all this morning.

2 Q And you also indicated that you have an elder on
3 staff; is that correct?

4 A Not on staff. On, on our council.

5 Q Okay. So you don't have any specific cultural
6 advisers on staff, then?

7 A No, we do not.

8 MR. FUNKE: Thank you, Mr. Commissioner. Those
9 are my line of questions. Thank you.

10 THE COMMISSIONER: Thank you, Mr. Funke. Anyone
11 else?

12 Well, I just have two or three questions.

13

14 EXAMINATION BY THE COMMISSIONER:

15 Q When you go to the agencies in the advocacy role
16 on behalf of youth, do you find it a problem that you're
17 working with people who you or your staff have previously
18 worked with by being fellow colleagues and employees of the
19 same employer?

20 A We definitely have a conflict of interest policy
21 so that we -- if somebody, for instance, came from west
22 region, they're not to work with cases from west region, at
23 least for a period of time, or particularly any cases they
24 may have been personally involved with. So I think in
25 answer to your question, Manitoba has a very small social

1 work community so most people have worked in child welfare.
2 But no, I haven't seen it as a problem. And like I said,
3 the office has very definite conflict of interest so, so
4 they really need to declare up front.

5 Q Are the only reports you issue your annual report
6 and the special investigation reviews following deaths, are
7 those the only reports you issue?

8 A No. We also do what we call systemic issues and
9 we look at -- this year we, we released a report on complex
10 cases. We also have released a report on kids aging out of
11 care. And presently I'm working with the other advocates
12 across Canada. We're waiting to release a report on kids
13 aging out of care as well, viewpoints from different
14 provinces.

15 I also have issued, just recently, a report on
16 youth, our youth focus group, an executive summary. So
17 those are other reports that we, we issue. They are public
18 reports.

19 Q And in those reports do you make recommendations?

20 A Yes, we do.

21 Q And what follow-up is there on those
22 recommendations insofar as implementation is concerned?

23 A We follow up, particularly if they are made to
24 the minister. We, we have meetings with her and we, we do
25 follow up and ask for periodic updates on what's happening,

1 what's transpiring. Also, with our aging out of care,
2 there were recommendations made for consistent standard for
3 services for kids that are 15, 16, what, what standards
4 need to be looked at so that a child will be ready to age
5 out of care at 18. So we follow up periodically asking for
6 responses to where they're at with the recommendations.

7 Q All right. But you're sole attendance on a
8 legislative committee of the house is the one time you
9 appear with your annual report?

10 A That's correct.

11 Q You don't have ongoing access to, to ministerial
12 -- to a house committee?

13 A No, I do not.

14 Q Do you -- you said in your wish list that you
15 would, you -- on your wish list was an expanded mandate?

16 A Yes.

17 Q Give me what you -- how you'd like to see and in
18 what way you'd like to see your mandate expanded?

19 A Well, I think that most of the kids, well, even
20 that we're involved with now, are involved in the justice
21 system. And I do think, in reviewing situations, we see
22 that we could make recommendations towards justice or
23 education or health and we're not able to do that. So
24 those are things I think a child needs to be all encompass,
25 encompassing for a child.

1 Q And, and your -- so your Act, you're telling me,
2 restricts you really to, to the advocacy role and the
3 special investigations?

4 A That's correct, that are involved with child
5 welfare.

6 Q All right. Where do you get your authority to
7 issue the kind of systemic reports you indicate that you've
8 done on aging out and things like that? Where, where is
9 your authority for that?

10 A It is in the Act that it says that we can make --
11 if we see gaps in services we can make recommendations, so
12 that's what we can do.

13 Q So just review again for me what -- where you'd
14 like to see your mandate expanded?

15 A Through justice and education and health, if
16 possible. If I could just go back. For instance, in one
17 of our SIR reports lately we saw issues with housing and we
18 made -- we're not usually able to make recommendations
19 towards housing, but what we ended up doing was making
20 recommendations under our report, we did send it to the
21 minister. We have to rely on the minister to send that to
22 the minister responsible for housing.

23 Q Would that be a special report to the minister
24 or, or in the --

25 A No, that was the, the death of a child. It was

1 the special --

2 Q Oh, in a death of a child.

3 A That's right.

4 Q In your special investigation.

5 A Right.

6 Q I see.

7 A So like I say, when we're making those
8 recommendations we can't make recommendations per se to
9 justice or to health.

10 THE COMMISSIONER: All right. That's, I think
11 those answer the questions I have. Anyone else, then? Are
12 we finished? Mr. Bock?

13 MR. BOCK: I have nothing, Mr. Commissioner,
14 thank you.

15 THE COMMISSIONER: All right, Witness. Thank you
16 very much. You've completed.

17 THE WITNESS: Thank you.

18

19 (WITNESS EXCUSED)

20

21 THE COMMISSIONER: Now, where are we?

22 MR. OLSON: We had one final witness scheduled
23 for today but we've managed to come to an agreement with
24 respect to an agreed set of facts. Believe Mr. Paul is
25 going to speak to it.

1 THE COMMISSIONER: Yes.

2 MR. PAUL: Sorry, Mr. Commissioner. There is one
3 final matter of filing an additional exhibit, which, if I
4 can get from Mr. Olson.

5 Mr. Commissioner, we've managed to eliminate the
6 witness Jim Chabai from the list. All parties have agreed
7 to file the witness summary and a binder, eight tabs, as
8 the, as the next exhibit. So I will pass it for filing and
9 I can give you a brief description as to how it fits in.

10 THE COMMISSIONER: This is the evidence that Mr.
11 Chabai would have given, is it?

12 MR. PAUL: Yes, indeed.

13 THE CLERK: Exhibit 83.

14 THE COMMISSIONER: 83?

15 THE CLERK: 83.

16

17 **EXHIBIT 83: AGREED SET OF FACTS**

18 **RE JIM CHABAI**

19

20 MR. PAUL: Mr. Commissioner, just to put this in
21 a bit of context, this is -- oh, I'm sorry.

22 THE CLERK: Exhibit 83.

23 THE COMMISSIONER: Thank you.

24 MR. PAUL: This is dealing with a technical
25 aspect of CFSIS. It's meant to replace the withdrawn

1 agreed statements of fact, volume 3, which, as I discussed
2 some months ago, we had to withdraw because I made an error
3 in how that information was presented. This is meant to
4 correct that error.

5 I don't propose to go through it in terms of time
6 but I'm happy to do so if you want me to, Mr. Commissioner.

7 THE COMMISSIONER: Well, I think just ...

8 MR. PAUL: I can give you a very high level
9 overview, if you wish.

10 THE COMMISSIONER: Yeah, just give us an outline
11 of what, what's contained in here.

12 MR. PAUL: And I will apologize, Mr.
13 Commissioner, because this will be very technical in terms
14 of two types of searches that can be done on CFSIS.

15 THE COMMISSIONER: Yes.

16 MR. PAUL: As you'll see from the very first
17 page, it explains how two searches are done. One is a
18 prior contact check and the other is a search for person.

19 THE COMMISSIONER: Yes.

20 MR. PAUL: And the next two pages deal
21 technically with how those searches score, et cetera.

22 THE COMMISSIONER: Yes.

23 MR. PAUL: The pages at the bottom of page 2 and
24 page 3 deal with person records and what searches would
25 have -- we've done our best to replicate what a search

1 would have done in 2004, and you can see that being
2 described in appendix 4, 5, 6 and 7.

3 THE COMMISSIONER: Oh, I see. Appendix ... I
4 see.

5 MR. PAUL: Again, meant to correct the previous
6 error that I made in the agreed statement of facts volume
7 3. One moment.

8 Mr. Commissioner, I think it can speak for itself
9 and I think other parties are able to speak to it when they
10 believe it's appropriate to do so. So I'm simply proposing
11 that we file it.

12 THE COMMISSIONER: Yes. Right. Commission
13 counsel, any comment you want to make on it?

14 MR. OLSON: No. My understanding is that's
15 agreeable with all parties.

16 THE COMMISSIONER: We accept that as evidence.

17 MR. OLSON: It's accepted as evidence.

18 THE COMMISSIONER: Mr. Ray?

19 MR. RAY: Yes, Mr. Commissioner. Thank you.
20 Ray, for the record. Just one further comment about my
21 friend's new exhibit that's been put in. As a result of
22 the exhibit, what -- and I've advised Commission counsel of
23 this, I will be going back to review the evidence of two
24 social workers in particular and to determine if it's
25 necessary to call additional evidence on their behalf. At

1 this point in time I can advise I can think of one fact
2 that may be -- we may seek to add. I don't believe it's a
3 contentious fact and I think we can probably simply do it
4 again by written agreement. I'm going to undertake to do
5 that as early as possible. Hope to have that done by the
6 middle of next week.

7 THE COMMISSIONER: And it arises out of the
8 contents of this document?

9 MR. RAY: That's correct, because this document
10 replaces evidence that was put to two particular witnesses
11 prior to our discovery that admission of fact three was
12 incorrect.

13 THE COMMISSIONER: Right. All right. You'll
14 keep Commission counsel posted on that?

15 MR. RAY: I will, of course. Yeah.

16 THE COMMISSIONER: Right. Does that complete us
17 for today, then, and completes phase two?

18 MR. OLSON: Phase two is completed.

19 THE COMMISSIONER: Well, that's good news. And a
20 week Monday morning we will commence phase three, and it
21 will run for two weeks, and then the evidence phase will be
22 completed.

23 MR. OLSON: That's right. And we have the Delta
24 for phase three.

25 THE COMMISSIONER: At the Delta Hotel.

1 MR. OLSON: For the first week of phase three.

2 THE COMMISSIONER: For the first week, and then
3 where for the second week?

4 MR. OLSON: I think we're back at the Convention
5 Centre.

6 THE COMMISSIONER: All right. Unless there's
7 anything else, then, we'll adjourn until a week Monday
8 morning.

9 MR. OLSON: Very good.

10 THE COMMISSIONER: Thank you.

11 MR. OLSON: Thank you.

12

13 (PROCEEDINGS ADJOURNED TO MAY 27, 2013)