



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

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

Transcript of Proceedings
Public Inquiry Hearing,
held at the Eaton Hall, Marlborough Hotel,
331 Smith Street, Winnipeg, Manitoba

MONDAY, MAY 6, 2013

APPEARANCES

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

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G. BRODSKY, Q.C., for Witness, Ms. B. Schibler.

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1 MAY 6, 2013

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3

4 THE COMMISSIONER: Good morning, everyone in our
5 new location.

6 MR. OLSON: Good morning.

7 Good morning, Mr. Commissioner.

8 THE COMMISSIONER: Mr. Olson.

9 MR. OLSON: I understand that Ms. Bowley has a
10 few more questions she would like to put to the witness.
11 She has canvassed the other counsel and nobody has any
12 objection to that.

13 THE COMMISSIONER: All right.

14 MS. BOWLEY: Thank you, sir.

15

16 **SANDRA LEE STOKER**, previously
17 sworn, testified as follows:

18

19 CROSS-EXAMINATION CONTINUED BY MS. BOWLEY:

20 Q Ms. Stoker, earlier in this inquiry a member of
21 senior management testified that he, as Chief Executive
22 Officer of CFS, had the responsibility for ensuring that
23 his staff had the best tools available to them to collect
24 information and it was his responsibility to ensure that
25 staff are trained in knowing what information to get. Do

1 you agree with that evidence as it relates to senior
2 management responsibility?

3 A Yes.

4 Q And do you agree that the need for the best tools
5 applies to supervisors, as well?

6 A Yes.

7 Q And that relates, in part, to why you introduced
8 and clearly articulated policies after you arrived at JIRU?

9 A Yes.

10 Q And you continued to implement more clearly
11 articulated policies for workers and supervisors after the
12 unit became ANCR; is that right?

13 A That's correct.

14 Q And you clarified expectations of both workers
15 and supervisors?

16 A Yes.

17 Q And you continue that process on an ongoing
18 basis?

19 A Yes, that's a continual process.

20 Q And that same member of senior management also
21 testified, saying it's one thing to make standards
22 available, we can't hold our staff accountable until we've
23 had the opportunity to train them in exactly what those
24 expectations mean and what our expectations are in
25 day-to-day practice to meet them. Do you agree with that

1 statement as it relates to senior management?

2 A Yes.

3 Q And you would agree that that statement about
4 training relates to supervisors, as well?

5 A Absolutely. I would say it relates to the whole
6 organization.

7 Q And would you agree that supervisor's ability to
8 provide good quality supervision is dependent on training
9 and tools and clarity of expectations and standards?

10 A Yes, I would say that they would definitely need
11 the training and the expectations in terms of a standard
12 and a policy.

13 MS. BOWLEY: All right, thank you. Those are my
14 questions.

15 THE WITNESS: Thank you.

16 THE COMMISSIONER: Thank you, Ms. Bowley.

17 Mr. Gindin, please.

18 MR. GINDIN: Good morning, Mr. Commissioner.

19

20 CROSS-EXAMINATION BY MR. GINDIN:

21 Q Good morning.

22 A Good morning.

23 Q I represent Kim Edwards and Steve Sinclair, my
24 name is Jeff Gindin. Last week you were telling us about
25 the binder with materials that I think you said you had

1 basically organized?

2 A Yes.

3 Q And that was a binder that contained standards?

4 A Yes.

5 Q And what else was in there?

6 A It had the Child and Family Services Act.

7 Q Legislation, right.

8 A Yes. The Regulations.

9 Q Um-hum.

10 A Particularly Child Abuse Regulation and the new
11 Joint Intake and Designated Agency Regulation. And the
12 1999 standards, the remnants package which was from 1988
13 what was pulled out and kept. And the 2004 draft
14 standards.

15 THE COMMISSIONER: 2004 what?

16 THE WITNESS: Draft provincial standards.

17

18 BY MR. GINDIN:

19 Q And that was a binder that made available to each
20 office, I presume.

21 A Upon request.

22 Q Oh.

23 A I had been doing some work with Winnipeg Child
24 and Family Services, particularly 835 Portage and they had
25 undergone some -- or some changes and were about to undergo

1 some changes, of course, with devolution coming up so it
2 was one of the ways in which I supported that particular
3 office and that particular agency.

4 Q Was there a requirement that the workers actually
5 read what's in the binder?

6 A I can't speak to that, that would be up to the
7 management at 835 Portage that I provided it to.

8 Q I see. Do you know whether there was anything in
9 the binder that related to best practice? We've heard that
10 there were -- there's a number of researched articles on
11 the subject and we've heard about some of them here. Did
12 the binder contain anything relating to best practice
13 literature?

14 A No, not best practice literature just best
15 practice that would have been incorporated into the
16 standards, the legislation, the regulations.

17 Q Now, the standards, I think you said, are really
18 the minimal rules for minimal behaviour, I suppose, at the
19 very least, that somebody should be doing with respect to a
20 particular matter; right?

21 A Yes.

22 Q Best practice, however, goes beyond that, would
23 you agree?

24 A Yes.

25 Q For example, it would add professional judgment?

1 A Yes.

2 Q Discretion.

3 A Professional judgment, yes.

4 Q Yeah. Which includes discretion, depending on
5 the circumstances presented to you?

6 A It includes a level of decision making ability,
7 yes.

8 Q And common sense?

9 A Well, common sense, it depends in what terms. To
10 me, that's a term I would not apply in our professional
11 field, I think best practice would be the more suitable
12 term.

13 Q So are you --

14 A What's common sense to one person may not be
15 common sense to another.

16 Q You're saying there's no room for common sense in
17 the application of best practice? That --

18 A I would imagine people are incorporating their
19 version of what's common sense into best practice.

20 Q Um-hum.

21 You were talking about auditing files.

22 A Yes.

23 Q I think you said that you audited 10 percent of
24 the files and this would be where, exactly? Which, which
25 files are we talking about?

1 A We're -- it's currently ongoing right now, we're
2 in the -- at the tail end of the process, I would say. We
3 took 10 percent across all five programs.

4 Q I see.

5 A So it's not 10 percent across -- it's 10 percent
6 total but within each program by the files that they
7 closed, we audited 10 percent of those and it was a random
8 selection.

9 Q So 90 percent of the files aren't audited and you
10 do it on the basis of, of, of a random selection?

11 A Yes.

12 Q So that you can't be assured that the more
13 complicated or -- files are in fact the ones looked at?

14 A I would say the more complicated files have a
15 higher likelihood at being looked at because often if it's
16 a complicated matter, or high profile matter, or some
17 matter of severity, we have other quality assurance
18 mechanisms that are in place, particularly if they come to
19 my attention or to the attention of my director of service.

20 We conduct the full -- I conduct a full file
21 review, I start from our -- beginning of our involvement to
22 the end, so I would say the higher -- the more difficult
23 the matter the higher likelihood somebody, other than the
24 supervisor and the worker are seeing that file.

25 Q If they come to your attention?

1 A Yes. Or if they come to the associate AD or the
2 program director's attention.

3 Q And which would require someone to bring it to --

4 A Yes.

5 Q -- your, your attention?

6 A Usually in our system those files have a way of
7 making their way up rather quickly.

8 Q Not always but ...

9 A Not always.

10 Q All right. I'm just a little confused about one
11 thing you said with respect to telephone calls.

12 A Yes.

13 Q And I think you used the phrase putting the,
14 putting the phone on not busy?

15 A Yes. That's what the system calls it, not busy.

16 Q Which is supposed to indicate that you're too
17 busy to answer?

18 A Well, what it indicates is the worker is working
19 on some other matter at that time.

20 Q Um-hum. Okay. And do you have any records in
21 terms of how often that was done or the calls that may have
22 been attempting to get through while that was done?

23 A We can definitely pull that.

24 Q So you have that somewhere?

25 A Yes.

1 Q Any idea of whether that's a large number, a
2 small number?

3 A Currently it's a very small number. I also said,
4 last week, that we're at anywhere from 95 to 100 percent
5 phone capacity, which means 95 percent of the calls are
6 being answered, up to a hundred, there have been weeks that
7 where we've reached a hundred percent. It means every time
8 the phone goes through to after hours or our crisis
9 response program it is answered.

10 Q That's now?

11 A That's now. That's been consistently, I would
12 say, and after hours it's been over the last three years
13 that that change has occurred and at the crisis response
14 program, in the last three years we've seen a continual
15 improvement with the best results being within this last
16 year.

17 Q But in 2006 and before, it would have been
18 different?

19 A Yes.

20 Q And any idea how it was then or what the numbers
21 are?

22 A Our service model review, in 2000 -- the data was
23 from 2009 -- showed it was about 68 percent, I believe.

24 Q So there's a large improvement now?

25 A Yes.

1 Q And maybe I got this wrong but I think Mr. Olson
2 asked you a question and you had indicated that you only
3 kept track of calls that weren't child welfare related
4 calls? You may be talking about something else. Do I have
5 that right?

6 A No, I would say we keep track of every matter
7 that's referred to our attention, they're just entered into
8 the intake module differently. If it's a non-child welfare
9 matter the easiest one may be a new family coming to
10 Winnipeg and wanting daycare, knowing where --

11 Q Um-hum.

12 A -- how to find daycare or how to find Income and
13 Employment Assistance, then those would be entered as a
14 non-child welfare matter, strictly I'm calling to find out
15 where I can access these services. If we receive service
16 regarding potential child welfare issue then those are
17 opened on the intake module and we start the screening
18 process.

19 Q Okay. Now, you were being referred to tab "E"
20 of, of the massive binder before you and I'm not so sure
21 you need to look at it but if you do, we will. But what
22 you were talking about was that you were comparing the
23 number of calls during the day versus the numbers of calls
24 after hours in the evening, I suppose. And I think you
25 concluded that there were -- most of the calls -- most of

1 the time people called after regular hours. I think that
2 was what the statistics showed. If I'm wrong, please
3 correct me.

4 A I think it's about -- a little higher in the
5 evening but about 50/50 I would say.

6 Q Okay, close to the same?

7 A Yes.

8 Q Perhaps a little higher in the evening?

9 A Yes.

10 Q All right. What about the capacity to do fields
11 in the evening when perhaps most calls, in fact, come in
12 after regular hours? Is that something that's easy to do
13 in the evenings?

14 A It hasn't been an issue for us. We have the
15 capacity to respond to all child welfare emergencies with
16 the exception, potentially, of overnights and that's why
17 we've increased our staffing during that time.

18 Q You're talking about now again?

19 A Yes.

20 Q Because we've heard evidence, for example, that
21 certain workers, in an effort to contact Samantha and other
22 people, if they do their work properly, never seem to go
23 out the evenings or the weekends to attempt that. Has that
24 changed?

25 A All of our partner agencies have the ability to

1 put -- send us what they call a service request. So if
2 they are having, for example, a family that they're having
3 difficult, difficulty contacting and they've made attempts
4 during the day they can refer that to our after hours
5 program.

6 Q Is there some way of assessing whether people are
7 actually going out on evenings and weekends when people are
8 likely to be home and easier to find?

9 A That would be up to the managing agency to refer
10 that matter. If we get a service request then it's clearly
11 documented on the intake module what steps we took.

12 Q Okay. You can't tell us now whether that's
13 happening more than it was?

14 A I can tell you --

15 Q Prior to?

16 A -- for sure it's happening more than it was.

17 Q Oh, I see.

18 A I get a report every month from the after hours
19 director and in that report is the number of service
20 requests we have received from our partner agencies and,
21 and this is a rough estimate, because I'm going from
22 memory, but we receive over a hundred of those requests a
23 month from our partner agencies. Not all similar
24 circumstance but they -- it's continually gone up as our
25 partner agencies are more familiar with what service they

1 can request of ours.

2 Q So I suppose you would come to appreciate that
3 there are times when it's wiser to go out in the evening or
4 the weekends in an effort to make contact?

5 A Yes.

6 Q Supervisor's training, I think you indicated that
7 that's an area that you're trying to slowly improve on.

8 A Yes.

9 Q At least prior to '06 I believe the evidence
10 disclosed that there wasn't much of that happening. And
11 now I understand that the effort is to have them train
12 several times a year in, in some way. Is that right?

13 A For the newer supervisors, yes, and then that --
14 depending on their skill and their developmental goals,
15 yeah.

16 Q Is there any effort being made to train new,
17 newer supervisors prior to actually starting to work?

18 A Yes. I think I spoke about this last week, at
19 ANCR we have a process of -- it's not a written policy yet
20 but it -- well, it's incorporated into our human resource
21 policies and procedures where, if there are front line
22 staff will be -- they're identified or their supervisor has
23 identified them as having the potential and the goal of
24 moving into management, then they can start their training
25 earlier.

1 So we have front line staff who attend the
2 supervisor core training now and some other leadership
3 opportunities and they would develop that plan with their
4 supervisor with the goal of moving into management.

5 Q Is that still in progress or is that ...

6 A It's available now and has been for the last two
7 years.

8 Q Last two years, okay. On the subject of
9 information sharing, I understand that that's still a work
10 in progress. Is that fair?

11 A Yes. But we've made some --

12 Q Um-hum.

13 A -- strides in that area, for sure.

14 Q For example, some of the evidence we've heard at
15 this inquiry was that in 2004, for example, EIA had
16 information about Wes McKay claiming Phoenix Sinclair on
17 his budget.

18 A Right.

19 Q Yet CFS really wasn't aware of, of that and
20 didn't know enough information about Wes McKay which is a
21 serious problem. Has that kind of thing been fully
22 addressed now or is it still something that you're working
23 on?

24 A I think we've, we've got a procedure in place now
25 that's working but anything can always be better.

1 Q Um-hum.

2 A But I'm hearing that the information sharing,
3 particularly with EIA, is at a place now where that's more
4 -- it's easier to share that information

5 Q So it's better than it was back then?

6 A Yes.

7 Q Is there still room for improvement there?

8 A There's always room for improvement.

9 Q And what would you like to see that hasn't been
10 done yet in that regard?

11 A Well, it's a, it's a resource issue but I would
12 like one -- I would like designated people in some of our
13 key -- with our key collaterals to be able to contact and
14 receive that information. Sometimes it's a, it's a
15 discussion and you have to ensure the person that you're
16 conducting a child protection investigation under the Child
17 and Family Services Act so if had one person or two people
18 you could contact, then that would cut down on not having
19 to have that discussion repeatedly.

20 Q Um-hum. Now, when you looked at the last four
21 openings that occurred in this case, I have noticed the,
22 the term, a couple of times in your witness summary,
23 parental capacity unknown. Right? Now, when you refer to
24 parental capacity, what exactly are you referring to? Are
25 you referring to the fact that there was no parental

1 capacity assessment on the file?

2 A No, that was -- no, I was not. That was the
3 issue in the intake module that best suited the presenting
4 issue at the time. It wasn't a perfect one --

5 Q Um-hum.

6 A -- but I believe with -- it was basically -- it
7 was, you wanted to go out and assess the parenting and
8 assess their risk, that's why we were called from EIA and
9 from the hospital, so there wasn't a issue in the intake
10 module that said person with previous history has now had a
11 new child. So I picked the issue that best fit.

12 Of course, if I was actually working on that
13 file, my case notes would support why I picked the issue
14 that I did and would more clearly outline and identify what
15 the issues were.

16 Q In, in this case here, we heard that when Phoenix
17 was born it was noticed almost immediately that Samantha
18 was emotionally ambivalent towards Phoenix.

19 A Yes.

20 Q And then there was evidence that parental
21 capacity assessment was ordered and there were some
22 problems with getting it done, et cetera. Are there any
23 recommendations that you would make with respect to
24 something more concrete in terms of a parental capacity
25 assessment actually being performed in some fashion, some

1 structured fashion?

2 A In my experience, parental capacity assessments
3 are something that occur at the ongoing service level or
4 longer term service and are often -- most often used when
5 you are considering either reunifying a family or
6 potentially seeking a permanent order of guardianship --

7 Q All right.

8 A -- on a child. At the intake level we now do a
9 strengths and needs assessment and I would say we would not
10 look at parental capacity assessments at intake, that's an
11 area where ongoing services would need to examine whether
12 or not it was necessary.

13 Q Somebody should be looking into that?

14 A Yes, but I think our assessment tools are also
15 better now so that would at least help the worker to make a
16 decision whether they needed a further assessment.

17 Q In this case we know that Phoenix was apprehended
18 at birth.

19 A Yes.

20 Q And so the issue later became whether Phoenix
21 should be returned. Do you see the need for a parental
22 capacity assessment in circumstances like that of some form
23 when you know that the parent is emotionally flat towards
24 their own child and yet now the child may be returned.
25 Should there not be some form of way -- formal way of

1 assessing parental capacity in those kinds of
2 circumstances?

3 A I think it's on a case-by-case basis, I know at
4 ongoing service, and I believe there would be witnesses
5 testifying to this later, they do have to do a
6 re-assessment and probability of future harm before they
7 would reunify a child. And they would also update their
8 strengths and means assessments.

9 Q Um-hum.

10 A Whether or not you want to use a formalized
11 parental capacity assessment would depend on the case, it
12 can't be -- it's not a broad stroke across all cases.

13 Q So the probability of future harm forms that are
14 now developed --

15 A Yes.

16 Q -- do they take into account the issue of
17 parental capacity?

18 A The --

19 Q You would think there would be a connection
20 between the parental capacity and the probability of future
21 harm.

22 A The probability of future harm is a risk
23 assessment tool so it would indicate the probability of a
24 child being harmed in the future. I would say that it's
25 the strengths and needs assessments that would look at

1 parental capacity and then look at different domains in
2 emotional, emotional wellbeing, mental health, substance
3 misuse, so that would be at least a place --

4 Q Um-hum.

5 A That's your starting point and then whatever
6 further assessments you need from there would come -- that
7 would show up as a need, potentially, for that family or
8 for your case planning process.

9 Q And who would do that? We've heard about
10 psychiatrists in this case, being asked to do that. Is it
11 your view that that is something for a psychologist or a
12 psychiatrist or do you feel social workers can do it or
13 should be trained to do it?

14 A I think that they can assess parental capacity to
15 some degree.

16 Q Um-hum.

17 A And I think with the new tools they are being
18 trained towards that. If you want a formalized assessment
19 then you would need minimally someone with a Masters of
20 Social Work or a psychologist.

21 Q Okay. The last opening with respect to the
22 Phoenix Sinclair matter was in March of '05 and you've told
23 us that with these new tools and new procedures it would
24 have been handled quite differently.

25 A Yes.

1 Q One of the ways is, of course, that the child
2 would be seen; right?

3 A Yes.

4 Q Likely the file wouldn't be closed, based on
5 whatever information was there at the time?

6 A Not at intake it would not have been closed.

7 Q And the outcome would have depended on these
8 things being done, of course?

9 A Yes.

10 Q So if the child was seen and there was abuse
11 noted, perhaps physical or even emotional would have been
12 perhaps discovered, then is it likely that the child would
13 have been apprehended?

14 A That would have definitely been a consideration
15 and I would say, given the history with that family the
16 likelihood is very high.

17 Q Um-hum. Now, you were asked to comment on the
18 various openings and you were looking at each opening in
19 isolation for the simple reason that we don't know what
20 would have happened if it was treated differently.

21 A I was looking at each opening based upon the
22 information I had in front of me. I wouldn't say in
23 isolation because whenever you open a file you look at the
24 history from start up until the point --

25 Q Right.

1 A -- you receive it.

2 Q So when you looked at the fifth, and sixth, and
3 seventh openings, you would consider the previous --

4 A Yes.

5 Q -- openings?

6 A Absolutely.

7 Q Except in your example here, and your analysis
8 here, hard to, to consider those things because each one of
9 them would have been dealt with differently now?

10 A For the last four.

11 Q Yeah.

12 A Yes.

13 Q Okay. And I just wanted to clarify one thing.
14 You were talking about doing some -- looking at some
15 statistics. You mentioned 550 apprehensions in 2011.

16 A Yes.

17 Q And then 660 in 2012?

18 A Yes.

19 Q And you were talking about which agencies,
20 agencies were included in that analysis?

21 A Those are -- that's just ANCR.

22 Q Okay.

23 A That's the number of children that ANCR
24 apprehended.

25 Q Is there any statistics on what percentage of

1 that is of the total number of families you were dealing
2 with?

3 A Well, those are number of children --

4 Q Number of children.

5 A -- so a family could have one child, they could
6 have multiple children. I could tell you, with the right
7 information, how many families we were working with.

8 Q Um-hum.

9 A At intake, roughly in a year, they would have
10 received anywhere from 200 to 300 referrals a month. So if
11 you times that by 12 that's between 2400 and 3600 families.

12 Q I'm asking that because we heard some statistics
13 in terms of federal funding where they made an assumption
14 that seven percent of families in certain --

15 A Right.

16 Q -- areas were apprehended.

17 A Right.

18 Q I'm just curious as to whether that's a
19 meaningful number or it actually relates to reality or not.

20 A I couldn't say.

21 Q But you were saying there was about 3600 a year?

22 A At intake, solely. If we also look at the
23 services provided by our abuse program, and our early
24 intervention program, it would be much higher.

25 Q I just wanted to refer you to -- and I'm not sure

1 how to get this up on the screen, if it's possible, but tab
2 GG of Exhibit 52, I think is the binder.

3 THE CLERK: Fifty-one.

4 THE COMMISSIONER: Fifty-one.

5 MR. GINDIN: Is it 51 or 52?

6 MR. OLSON: Fifty-one.

7 MR. GINDIN: Fifty-one. All right.

8 UNIDENTIFIED PERSON: Fifty-two is the
9 (inaudible).

10

11 BY MR. GINDIN:

12 Q If we can look at page 7. Now, there's a number
13 of recommendations that you see before you; right?

14 A Yes.

15 Q And you played a role in, in making those
16 recommendations; right?

17 A No.

18 Q Or no?

19 A I did not play a role in making them. It was the
20 Southern First Nations that were preparing the Province of
21 Manitoba.

22 Q I see. All right. And recommendations 18
23 through to 23 all seem to deal with the problems with the
24 phone --

25 A Yes.

1 Q -- system; right?

2 A Yes.

3 Q So I take it that that was a real concern?

4 A Yes, it was.

5 Q And if we can just go to the next page. Oh,
6 pardon me, we'll go back one page.

7 That's one area where the recommendations were
8 looked into seriously --

9 A Yes.

10 Q -- and then things were done?

11 A Yes.

12 Q And so you would agree that the issue with the
13 phone system was certainly a significant one that needed to
14 be addressed; right?

15 A Yes, it did.

16 Q And these recommendations between numbers 18 and
17 23, do you know when they were actually dealt with and
18 completed?

19 A Well, we received them in March 2010, I believe,
20 that's when our service model review report came out and we
21 started to work on them immediately.

22 Q Okay. Okay. And what was the date again, pardon
23 me?

24 A March 2010 is the day the report came out.

25 Q And at page 19 of this particular portion, if you

1 can go to page 19. Number two there again deals with a
2 problem we've heard about for a long time.

3 A Yes.

4 Q And that's the problem with CFSIS?

5 A Yes.

6 Q Okay. And rather than that being complete, it
7 just says "forwarded".

8 A Yes.

9 Q Do you see that? Now, we've been hearing about
10 problems with CFSIS that go back a long time, way back to
11 the beginning of the time period we're dealing with here.
12 I'm curious as to why that's taking such a long time to
13 solve. What are the obstacles of that being solved, as far
14 as you know?

15 A I'm not the best person to answer that question.
16 ANCR has used CFSIS and the intake module since I arrived
17 there and prior to that. All I know is that sometimes we
18 see that there are difficulties with other agencies but I
19 would imagine the workers from the province or the
20 authorities would be better to speak to why -- what the
21 struggles are with agencies using CFSIS.

22 Q Okay. Now, at tab O, again pardon me if I go
23 over something that you may have talked about already
24 because an awful lot of materials to absorb.

25 A That's okay.

1 Q But if we can have a look at tab O which refers
2 to, I believe, a letter that you wrote.

3 A Yes.

4 Q And essentially in that letter you were pointing
5 out things that troubled you about the system and --
6 correct?

7 A Well, I wouldn't say about the system, I was
8 pointing out some concerns that ANCR had with the
9 structured decision making matrix, we call it --

10 Q Right.

11 A -- service decision making matrix and its
12 potential to impact a family's ability to access family
13 enhancement services.

14 Q On page 2 of that letter, if you can just read
15 out the first few sentences, I'm just curious as to what
16 you meant by that?

17 A You want me to read them out?

18 Q Just the first few sentences.

19 A Okay. In the first paragraph?

20 Q Yes.

21 A

22 "Three elements of the
23 exclusionary criteria have in --"

24

25 THE COMMISSIONER: Just a minute, what paragraph

1 are you reading from?

2 MR. GINDIN: This would be the top paragraph on
3 page 2 of that letter.

4 THE COMMISSIONER: Oh. All right, that's fine,
5 I, I have it.

6 THE WITNESS:

7
8 "Three elements of the
9 exclusionary criteria have in
10 ANCR's view the potential to limit
11 the appropriate streaming
12 decisions for some families. The
13 criteria remove any capacity for
14 professional judgement in case
15 dispositions. There are
16 situations where there may have
17 been a serious non-accidental
18 injury to a child in the family
19 where the caregiver was not the
20 individual who caused the injury.
21 In such circumstances a referral
22 to ... (family enhancement) or
23 community resources might be the
24 appropriate response but this
25 option is prohibited by the

1 criteria."

2

3 BY MR. GINDIN:

4 Q Okay. So the criteria that you're referring to,
5 that you feel remove any capacity for a professional
6 judgment in certain areas, would be what again?

7 A Is the structured decision making service
8 decision matrix. So it's what you look at, you have your
9 safety assessment, whether a child is safe, unsafe or safe
10 with a plan or conditionally safe. Your probability of
11 future harm level, from low to high. And then what they
12 would say, other factors or your professional judgment but
13 there are some exclusionary criteria and one of them is if
14 there is a serious non-accidental injury to a child you
15 cannot send it to family enhancement.

16 Q And what --

17 A If the criteria prevents a family from going to
18 family enhancement it means you must stream them to
19 protection. Now, that doesn't prevent any worker from
20 working with a family in the protection stream with a
21 family enhancement approach but, of course, you get
22 different funding, depending on which case you send and I
23 think if you send a family to family enhancement it's a
24 different approach with them and that's -- helps to engage
25 them.

1 Q So is that a change that you think needs to be
2 made or ...

3 A I would like it to be considered.

4 Q Um-hum.

5 A Yes.

6 Q Now, at tab L of these documents here, that's the
7 Differential Response Project Evaluation Report which was
8 dated March --

9 A Yes, that's ANCR's.

10 Q It was dated March 2012.

11 A Yes.

12 Q Right? Have there been more recent evaluations
13 since then?

14 A No, not (inaudible).

15 Q And one point in there, and again if we have to
16 refer to the page we can, but I'm not so sure we do. You
17 were evaluating the, the project and you were -- indicated
18 that 10 percent of the families never ended up connected
19 with family services.

20 THE COMMISSIONER: Just a minute, what tab is
21 that you're --

22 MR. GINDIN: It would be tab 11.

23 THE COMMISSIONER: Tab 11.

24 MR. GINDIN: And I think it's page 5 and maybe
25 that will help you.

1 THE COMMISSIONER: Of, of Exhibit 51?

2 MR. GINDIN: Of Exhibit 51.

3 THE CLERK: It's Tab L.

4 MR. GINDIN: Tab L, tab L.

5 THE WITNESS: Tab L.

6 THE COMMISSIONER: Tab L.

7 MR. GINDIN: And I'm not sure if you know which
8 portion I'm referring to but if you have a look at page 5
9 that might help you.

10 THE WITNESS: And which part are you looking at?

11 MR. GINDIN: I was trying to get page 5 up there,
12 first of all.

13 THE WITNESS: Yes, that's page 5.

14

15 BY MR. GINDIN:

16 Q There's a number 3 about half way --

17 THE COMMISSIONER: Okay, just a minute now.

18 MR. GINDIN: Yeah.

19 THE COMMISSIONER: Page 5 of Tab L?

20 THE WITNESS: Yes.

21 MR. GINDIN: That's correct.

22 THE COMMISSIONER: I have it.

23 MR. GINDIN: You have it there?

24 THE COMMISSIONER: Yes.

25

1 BY MR. GINDIN:

2 Q If one looks at number 3 at that portion, towards
3 the end of that first paragraph, they were talking about
4 "nine out of ten families were connected to external
5 resources without difficulty." You see that portion?

6 A Under point three?

7 Q Under point three, just a little bit towards the
8 end of that --

9 A Oh, okay.

10 Q -- opening paragraph.

11 A Yes.

12 Q So I take it 10 percent of the families had a
13 problem? I'm not sure what you're --

14 A Well, that was nine out of 10 families so you
15 can't say 10 percent which would mean they weren't
16 connected to ...

17 Q The question is what about the other 10 percent?

18 A They would have remained in our system.

19 Q Okay.

20 A Either through our early intervention program is
21 that -- that would be referred -- what they're looking at
22 there is brief services so if you are able to do a thorough
23 assessment with the family in terms of their strengths and
24 needs and then you can link them to the community resources
25 that they need.

1 Of course, all these tools are done in
2 conjunction with the probability of future harm and the
3 safety assessment so if a family had children or had a high
4 enough risk level, you wouldn't close the file, regardless
5 of whether you linked them to the appropriate services or
6 not, that would be transferred for ongoing service.

7 Q And one final point I wanted to deal with. In
8 your evidence last week you were talking, of course, about
9 all the changes and how things would be done differently
10 now and I think Mr. Olson asked you about these mysterious
11 searches that were done that we don't really know why.
12 That wouldn't happen now because everything --

13 THE COMMISSIONER: I didn't get that, serious
14 what?

15 MR. GINDIN: Mysterious searches that were
16 made --

17 THE COMMISSIONER: Oh.

18 MR. GINDIN: -- by a number of individuals who
19 weren't able to explain to us why they made searches.

20

21 BY MR. GINDIN:

22 Q You recall that --

23 A Yes.

24 Q -- that question. That is something, I take it,
25 that wouldn't happen now with the documentation that is

1 required, or, or could it still happen?

2 A You do not -- we do not document every person
3 that we search up in CFSIS when we're doing our opening.
4 So I think the example I used, if you have somebody with
5 similar names or the exact same name, which often happens,
6 you have to look in different people to determine if you
7 have the right person to attach to your file. Now, you
8 wouldn't document in your case notes I searched this
9 person, this person, this person, this person. All our
10 staff sign an oath of confidentiality, they sign an
11 internet and system usage policy which says they're using
12 the system to do their work, and so we would expect people
13 to do prior -- as many prior contacts checks as they needed
14 to ensure they had the right people that they were looking
15 at.

16 Q But if these particular individuals were doing
17 those searches because they received a call of some kind,
18 that should be documented?

19 A Yeah. If they received a call regarding the
20 safety or concerns about a child, yes.

21 Q Okay. Now, you were being asked some questions
22 about the importance of prior history and you used this
23 particular phrase, that no more should someone be able to
24 say, you know, they didn't do it, so I won't. You recall
25 that --

1 A Yes.

2 Q -- phrase that you used? And, of course, you
3 were referring to anyone who comes to contact with a file
4 now --

5 A Yes.

6 Q -- and reviews the history of it. They should
7 not be saying well, maybe something should, should have
8 been done earlier but it wasn't so I just won't?

9 A That's correct.

10 Q Okay. So, therefore, every worker who looks at a
11 matter and has to look at the history of a matter is, is
12 responsible in terms of what went on before; right?

13 A Not in terms of what went on before, they're not
14 responsible for the --

15 Q No.

16 A They're responsible to ensure this family
17 receives service in accordance with our policies and our
18 procedures so if something should have happened, say at a
19 different level --

20 Q Um-hum.

21 A -- that didn't and you receive it to say
22 something -- maybe at crisis response program they, they
23 didn't identify one of the main issues in the system,
24 you're responsible to add that issue.

25 Q All right. And so if you look at previous

1 matters and you feel, as a social worker that, you know,
2 and perhaps that shouldn't have been closed so quickly or
3 maybe something more should have been done, then there's a
4 responsibility, you're saying now, to actually do something
5 about that?

6 A If we receive a referral and we, we have policies
7 and procedures in place that you must meet --

8 Q That's now?

9 A That's now, yes.

10 Q Back, prior to 2005, are you saying that wasn't
11 really the case?

12 A I can't speak to -- I wasn't there at the time.

13 Q Okay. But as a philosophy, you'll agree that
14 it's a good one, that when you look at a matter and you're
15 now looking at it, you see things that maybe you think
16 should have been done, you would have a responsibility to
17 perhaps try and do what you think --

18 A And that -- I --

19 Q -- should have been done?

20 A -- I think without being too subjective, yes.
21 Everyone has their own personal opinion about what maybe
22 could have been done differently, or how you would have
23 done something but if you saw something where a standard
24 wasn't met or a policy or procedure of your organization
25 wasn't done then, yes, it's your responsibility to fulfill

1 that, regardless of what occurred previously.

2 Q And that would apply to every additional person
3 who comes in contact with that file?

4 A Yes. But you can't go -- you can't change what's
5 happened in the past, you can only change how you handle
6 that situation now.

7 Q Right. You can attempt to correct something that
8 you think should have been done?

9 A Yes.

10 Q And if you don't you have, you have a
11 responsibility to do that now?

12 A You have a responsibility to ensure you comply
13 with the standards and the policies of the organization.

14 Q And if you felt perhaps that hadn't happened in
15 the past you have a responsibility to attempt to do
16 something about that?

17 A Well, you would because if you're complying with
18 the standards, and the policies and the procedures then you
19 would be upholding your mandate and what's expected of you.
20 Like, I'm not sure ...

21 Q Well, if you -- if a social worker takes a look
22 at a matter and has some doubt about whether standards were
23 followed, they shouldn't be saying well, they weren't
24 followed so I'll just forget about that and --

25 A Right. They should say I am now -- I know what

1 the standards I need to follow are --

2 Q Um-hum.

3 A -- I know what our policies and procedures are,
4 so this is what I need to do now.

5 MR. GINDIN: All right. Thank you. Those are my
6 questions.

7 THE COMMISSIONER: Thank you, Mr. Gindin.

8 THE WITNESS: Thank you.

9 THE COMMISSIONER: Mr. McKinnon, please.

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

11

12 CROSS-EXAMINATION BY MR. MCKINNON:

13 Q Ms. Flett, I am Gordon McKinnon, I act for the
14 Department and Winnipeg CFS. Stoker, sorry, Sandy Stoker.

15 I, I, I wanted to ask you just one thing that
16 arose out of Mr. Gindin's cross-examination and to seek
17 some clarification and it relates to the letter you wrote
18 to Elsie Flett.

19 A Yes.

20 Q And I think that's tab O in your evidence.

21 A Yes.

22 Q And it's up on the screen in front of you now. I
23 just want to clarify, if I can, or get you to confirm my
24 understanding of the issue that you are raising in this
25 letter.

1 My understanding of the issue you are raising in
2 this letter is that it's your conclusion that as a result
3 of the structured decision making and this matrix, SDM
4 matrix which was approved by standing committee, it's your
5 concern that there may be some low risk cases that should
6 be treated as low risk cases, going over to the protection
7 stream when you think they should be in the prevention
8 stream. Am I -- is, is that your concern that you're
9 articulating here?

10 A I would -- it's regardless of risk.

11 Q Okay. But there are -- and I'm using the word
12 low risk --

13 A Right.

14 Q -- but the issue that you're identifying is that
15 some cases are being referred to the protection stream and
16 you think they could be adequately and perhaps better dealt
17 with in the prevention stream?

18 A Yes.

19 Q Okay. And your concern, as I understand it, is
20 that the prevention stream is less interventionist in terms
21 of their dealings with that family, that's your concern?

22 A Yes, it's a different approach with families.

23 Q Right. And there may be some cooperation, for
24 example, with the family and your, your, your, your concern
25 which you're raising in this letter is let's take the less

1 intrusive approach on cases like that.

2 A Where you know the children are safe and you feel
3 that you could -- the family is engaged, yes.

4 Q Okay. So your concern in this is not about the
5 safety of children?

6 A No.

7 MR. MCKINNON: Thank you. That's all I wanted to
8 clarify.

9 THE COMMISSIONER: All right. Anyone else? It
10 would --

11 MR. RAY: Mr. Commissioner, I'm just having one
12 quick comment with my client, if you --

13 THE COMMISSIONER: All right.

14 MR. RAY: I might have a moment. I don't know if
15 there is anyone else that would like to go while I'm doing
16 that.

17 THE COMMISSIONER: I guess you're the only
18 remaining questioner, Mr. Ray.

19 MR. RAY: Okay.

20 THE COMMISSIONER: Or Mr. Funke?

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

22

23 CROSS-EXAMINATION BY MR. FUNKE:

24 Q Ms. Stoker, my name is Jay Funke, I'm here on
25 behalf of the Assembly of Manitoba Chiefs and Southern

1 Chiefs Organization this morning. I only have just a few
2 questions for you, dealing specifically with your evidence
3 regarding the structured decision making tool that you
4 referred to last week. And, in particular, I want to talk
5 to you about comments that you made with respect to its,
6 its efficacy as a tool and what you indicated was your view
7 that it has improved outcomes for children, in Manitoba.

8 One of the things that you had commented on in
9 your testimony, if I have recorded it correctly and if I
10 haven't please let me know, I wrote down that what you said
11 was that the tool was statistically valid and reliable.

12 A Yes.

13 Q Do I have that right?

14 A Yes.

15 Q Okay. And could you explain to us exactly what
16 you meant by statistically valid?

17 A I'll do my best. It is -- basically in lay
18 person terms I would say when you say something is
19 statistically valid and reliable, it means it's consistent
20 and accurate.

21 So that if you had the same facts and a different
22 worker applied the tools they would come out with the same
23 outcome, the same risk level. Or if you had a family with
24 similar circumstances they, too, would come out with a
25 similar risk level.

1 It's an objective tool.

2 Q Sure. Now, in fairness, I have reviewed your
3 educational history and you have a Bachelor of Arts degree
4 from 1993 and a Masters degree in Sociology from 1998;
5 correct?

6 A Yes.

7 Q And you're not suggesting to the Commissioner,
8 today, that you are an expert in research analysis or
9 statistical analysis; is that correct?

10 A I would say I probably have a very strong
11 foundation, as part of my Honours degree we had to take
12 advanced social statistic analysis and I also, as part of
13 my Masters degree, did a thesis which involved doing my own
14 research and my own analysis of that, so I would say I
15 probably have, with my Arts degrees, more statistical
16 background that someone with a BSW.

17 Q No, I'm not suggesting it's a comparative
18 analysis, I'm saying do you feel that you're qualified to
19 provide an opinion about the statistical validity of this
20 tool or are you relying on information that has been
21 provided to you by others?

22 A I would rely on the Children's Research Centre,
23 for sure.

24 Q All right. So you're not offering independent
25 advice that you conducted a statistical analysis of the

1 tool nor are you saying that you're here to offer an
2 independent assessment as to its validity?

3 A No, that would not be something that I would do
4 in this role.

5 Q Okay. That's what I'm trying to clarify.

6 A Okay.

7 Q Now, when you say that it's reliable in the sense
8 that it's irrespective of the individual worker, who is
9 applying the tool, and the same information inputted into
10 the tool will have similar or consistent outcomes?

11 A Yes.

12 Q All right. You would agree with me, however,
13 that if there is a inherent bias in the tool or if there is
14 a flaw in the tool, that if applied consistently results in
15 consistently flawed results, the very fact that it's
16 reliable and that it repeats consistent results doesn't
17 ensure its accuracy. Would you agree with me?

18 A Yes, but I would say the fact it's an empirically
19 tested and designed tool which means they, they built this
20 tool on years of research around what's best known to be
21 predictors of risk in families.

22 Q Again, that's based on what you've been told by
23 the people who developed the tool?

24 A Yes.

25 Q And that you have not performed an independent

1 assessment to verify that?

2 A No, I have not.

3 Q Now, you also indicated that, that the tool, as I
4 understood your testimony, indicated that the use of the
5 tool helps to ensure that workers are more thorough when
6 they conduct a file review in order to prepare the tool; is
7 that correct?

8 A Yes.

9 Q But isn't it the case that workers were always
10 required to conduct a thorough file review before they
11 assessed risk or safety of the child?

12 A Yes.

13 Q So the fact that we have a new tool doesn't
14 change the expectations on the workers, they've always been
15 required to do that and they continue to be required to do
16 that?

17 A Yes.

18 Q And, in fact, one of the aspects of a case that
19 we've heard described to us so far by workers who have
20 testified is that there were errors made or omissions made
21 as file transfer summaries or closing summaries were
22 prepared in this case, where the worker had failed to
23 include information that was noted earlier in the file and
24 that wasn't included in that closing or transfer summary.

25 A Right.

1 Q And that subsequent workers, when they access the
2 file, only review the most recent case transfer summary or
3 closing summary --

4 A Yes.

5 Q -- and because they didn't explore further into
6 the file they never realized that there was missing
7 information that wasn't contained in those summaries?

8 A Yes.

9 Q If someone using this modern tool made the same
10 error and in terms of completing the, the assessment set
11 out in the SDM, relied similarly on the most recent
12 summary, whether that be a file transfer summary or a
13 closing summary, the simple fact that they're using SDM
14 wouldn't address that fundamental error, would it?

15 A No, that's why when we train our staff on how to
16 use the structured decision making tool it is emphasized
17 that you have to review the entire history, you can no
18 longer just go on the last closing summary, you have to go
19 in and look at.

20 Q But then in that case what you're relying on to
21 ensure that that oversight doesn't occur again is not the
22 tool but worker training?

23 A Absolutely. Any tool you use is only as good as,
24 as, as the way in which it's used and the person that's --
25 the training the person has to use it.

1 MR. FUNKE: Thank you, Mr. Commissioner, those
2 are my questions.

3 THE COMMISSIONER: Thank you, Mr. Funke. Mr.
4 Ray?

5 MR. RAY: Yes, Mr. Commissioner.

6 Good morning, Mr. Commissioner, thank you. Good
7 morning, Ms. Stoker --

8 THE WITNESS: Good morning.

9 MR. RAY: -- my name is Trevor Ray, I'm counsel
10 for a number of the social workers and for the MGEU. I
11 just have a few questions, hopefully I won't be too long
12 and we'll get you finished sometime today.

13

14 CROSS-EXAMINATION BY MR. RAY:

15 Q I want to start with just a fairly narrow issue
16 and that relates to the evidence of Alana Brownlee that was
17 given as it relates to her efforts to find the missing
18 supervision files.

19 You will recall that during her attempts to find
20 those files you -- she wrote to you an e-mail asking can
21 you tell me -- help me out with these files and tell me
22 what there -- where they are, they're missing. And you
23 responded to her, and your response is Exhibit 26. Madam
24 Clerk, there's no need to pull that up on the computer but
25 for your notes, Mr. Commissioner, it's Exhibit 26 and it's

1 an e-mail from Ms. Brownlee to Ms. Stoker on July 27th,
2 2011.

3 THE COMMISSIONER: And it's Brownlee to Stoker
4 that's Exhibit 26, is it?

5 MR. RAY: Sorry, it's from Stoker to Brownlee,
6 my, my apologies.

7 THE COMMISSIONER: Her reply.

8 MR. RAY: That's correct, Ms. -- I'm focusing on
9 Ms. Stoker's reply to Ms. Brownlee.

10 THE COMMISSIONER: Yes.

11

12 BY MR. RAY:

13 Q And in your response to Ms. Brownlee's inquiry,
14 you had a, you had a comment that you added that stated
15 that when you got to JIRU in 2005 intake supervisors were
16 not doing formal scheduled supervision and they were only
17 doing ad hoc supervision.

18 A Yes.

19 Q And then you further commented that they tried to
20 convince you they didn't need to do supervision. And if I
21 understand your comments correctly, what they were saying
22 is they were trying to convince you they didn't need to do
23 formal scheduled supervision but that they were continuing
24 to do ad hoc supervision. Is that correct?

25 A Yes, that's correct.

1 Q And we've heard evidence that because these were
2 intake supervisors that ad hoc supervision was pretty much
3 the norm in terms of the way intake supervisors supervised
4 their staff; is that correct?

5 A It was the practice, yes.

6 Q And that's because of the nature of intake being
7 an ongoing -- maybe let me rephrase that -- it's much more
8 difficult to have scheduled supervision at intake and much
9 of it is ad hoc because supervisors and social workers are
10 continually interacting on cases regularly throughout the
11 week?

12 A I would agree with the latter part, that it is --
13 there is continual case consultation and what we call ad
14 hoc supervision, which basically means case consultation.
15 I would not agree that it's difficult to provide
16 supervision at intake.

17 Q By scheduled, scheduled supervision is more, more
18 difficult to arrange for an intake supervisor and intake
19 worker than perhaps a family services worker?

20 A It has, it has its challenges but it's doable.

21 Q Thank you. And at the time, of course, when you
22 came to JIRU, that was September 2005?

23 A Correct.

24 Q Okay. And we know, at that point in time, that
25 there was no formal supervision policy that was directed at

1 intake supervisors; is that correct?

2 A Yes. There was a formal -- there was a
3 supervision policy for Winnipeg Child and Family Services
4 but, from what I was told by the intake supervisors there,
5 they did not feel it applies to them at the time because of
6 the unique work of intake.

7 Q And we've, and we've heard that evidence from a
8 number of --

9 A Right.

10 Q -- people that it was really more directed at
11 family service worker supervisors as opposed to intake
12 supervisors.

13 A Right.

14 Q And as a result of that, of course when you came
15 in you went forward and developed a specific policy for
16 intake supervision; correct?

17 A Intake and abuse, yeah, we, we actually sat down
18 as a management team with the supervisors present. We
19 looked at the Winnipeg Child and Family Services
20 supervision policy and then we designed something we felt
21 would fit better for the intake supervisors but still
22 ensure staff were getting regularly scheduled supervision.

23 Q Thank you. You've asked -- had a number of
24 questions asked of you about standards and you would agree
25 with me that even if social workers are trained and

1 knowledgeable about the standards, that the standards,
2 themselves, still have to be something that is achievable.
3 And by achievable I mean you would have to have, as a
4 social worker, a proper workload, a proper case load, and
5 an ability to meet the standards that are drafted?

6 A Yes.

7 Q And we've heard much evidence on -- from social
8 workers, from supervisors and from senior management, all
9 who have agreed that high workloads and high case loads
10 impact many of the key duties that social workers have to
11 perform and which are contained in the standards. You
12 would agree with that?

13 A Yes.

14 Q And you would agree with that, that would be
15 things such as taking notes, doing thorough history reviews
16 when investigating a case, doing a thorough case assessment
17 and the reports, those things would be impacted by workload
18 and case load?

19 A I think what's impacted is your ability to comply
20 with all the standards and sometimes you may have to make
21 decisions around your practice and which ones you can
22 consistently comply with. That's usually set around risk
23 and safety of children.

24 Q Thank you. So what you're saying is that at, at
25 times there are certain standards that have to be

1 sacrificed by social workers in order to make sure that
2 they meet the other standards which perhaps are more
3 important to meet?

4 A Yes. You want to ensure that you're complying
5 with standards and the requirements on cases where -- on
6 allegations of abuse or neglect where children are
7 potentially unsafe and there's a risk level, that's
8 sometimes where your focus has to be.

9 Q Thank you. We've heard evidence about -- I won't
10 call it a conflict but for lack of a better term, let's use
11 that. A conflict between CRU and intake that often existed
12 when CRU was attempting to refer cases to intake and
13 because of whatever was happening at intake, intake
14 requested that CRU go back and do the work that was
15 referred to intake; correct?

16 A Yes.

17 Q And we've heard your evidence about the
18 significant improvements that have been made to intake
19 generally and when I say generally I mean all intake, tier
20 2 intake --

21 A Right.

22 Q -- CRU --

23 A CRU.

24 Q -- after hours, abuse intake.

25 A Yes.

1 Q And you've been able to do that because of the
2 increased funding you've received?

3 A We've, we've --

4 Q Partially?

5 A -- we've put -- yes, partially because of the
6 increased funding and some additional positions that we
7 have added at ANCR.

8 Q Okay. And, and the increased funding has allowed
9 you to add, I guess, as I was saying or as you said,
10 positions to ANCR through various of the -- various number
11 of the units, abuse, intake --

12 A We received increased funding for abuse and
13 intake, yes.

14 Q Okay. And you've also had increased training
15 dollars that have assisted you in that regard, as well?

16 A We don't get funded specifically for training,
17 that hasn't changed, it just depends how we allocate --
18 what budget I allocate.

19 Q I see.

20 A I can't say that we did increase -- we've had a
21 pretty -- we've had a very supportive training budget in
22 the last three years, but that's an internal decision that
23 I make.

24 Q My question to you is as -- having had those
25 improvements, do you see as many cases now which are

1 referred from CRU or after hours to intake and which, for
2 whatever reason, intake is incapable of doing and requires
3 that they be sent back to CRU?

4 A No.

5 Q And would you agree with me that in addition to
6 the additional staffing, and the funding, and the training,
7 that you now have clear policies and an expanded intake
8 unit, tier 2 intake unit, which has assisted you --
9 assisted intake in avoiding referring cases back to CRU?

10 A Yes. And there's also some expectations now that
11 regardless who is handling the file, the expectations are
12 the same. So if it's an allegation of abuse or neglect, a
13 safety assessment and a risk assessment must be done before
14 that file is closed, whether CRU is the one that's doing it
15 and closes the file after hours or intake.

16 So there's less ability -- I mean, if everyone is
17 clear on what needs to be done, and I think that cuts down
18 on the ability to -- the push and pull of, of intakes.

19 Q Thank you. Would you agree that -- I, I
20 understand that the CRU staffing, at CRU, has been
21 increased by two permanent phone positions; correct?

22 A They're not permanent.

23 Q Full-time, I'm sorry.

24 A Yes. Two full-time phone screeners who are
25 social work staff, yes.

1 Q And that is in addition to the compliment that
2 existed in roughly 2005?

3 A Yes.

4 Q Would you agree with me that by increasing the
5 tier 2 intake staffing, the after hours staffing, and the
6 abuse intake staffing, and doing so fairly significantly,
7 that that has assisted the workload and case load within
8 CRU and that you haven't had to, therefore, increase as
9 much the staffing within the CRU, itself?

10 A I'm just thinking.

11 Q I know it was a bit of a long question. Does,
12 does increasing staffing at tier 2 intake --

13 A Um-hum.

14 Q -- assist CRU by allowing tier 2 intake to do the
15 jobs that they should be focusing on and not referring that
16 work back to CRU? And avoid backlog?

17 A I don't know if I would agree with that because
18 the practice has changed that if something comes up to
19 intake, it's coming up to intake.

20 Q I see.

21 A So I mean, I think the intake is getting it no
22 matter what, it's not going back down to CRU now unless
23 there's potentially -- I mean, if it's a matter that's got
24 to be investigated, it's an allegation of abuse or neglect,
25 we know CRU doesn't necessarily have the time to go and

1 conduct the fields that have to be conducted on those
2 matters.

3 So the extra resources at intake have helped tier
4 2 intake, definitely, but I think if we were going to have
5 higher expectations on the crisis response program to do
6 some of those things then we would have to increase the
7 resources at the front end, as well.

8 Q And, and that's -- that was my, I guess, the
9 point of my question is that we've heard evidence that CRU
10 in the past had done many quasi-tier 2 intake --

11 A Yes.

12 Q -- type work, many cases or much work that was
13 along the lines of abuse --

14 A Right.

15 Q -- investigation and now that CRU is able to just
16 refer those cases directly to those units, without fear of
17 them coming back --

18 A Right.

19 Q -- that's, that's assisting CRU?

20 A Right. There's also some times there's
21 discussions but it's definitely assisting CRU. We've,
22 we've shifted the focus to, to the crisis response program
23 has to be available to answer the phones and so their
24 capacity to do the extensive assessments that we now do at
25 intake are comprised. There may be days when they do have

1 the capacity and they may choose to because they have the
2 time to go out and do the fields that are required but it's
3 no longer -- there's no -- regardless a file -- an intake
4 is treated the same way so we recognize that it's the
5 crisis response program and they may not have, may not have
6 the time to do what needs to be done on that file. So it
7 automatically has to go up.

8 Q To, to one of the intake units?

9 A Yes.

10 Q Thank you. With respect to the abuse unit, or
11 the abuse intake unit, the evidence that we have is that
12 the staffing has increased by, by one unit which is
13 increasing the staffing by roughly one-third.

14 A Yes.

15 Q That's correct? Okay. And what I believe you --
16 we saw in the numbers is that the abuse work that they --
17 that that entire unit is doing is roughly doubled, is that
18 correct?

19 A I would say about 70 percent it's gone up.

20 Q Okay. And is that because of there's just an
21 increased number of calls in the general -- within the
22 general definition of abuse or does it also result from the
23 fact that the definition of abuse has been expanded
24 somewhat or is it a combination?

25 A I think it's the definition of abuse that's been

1 expanded somewhat.

2 Q Okay. And is that, that one-third increase, in
3 relation to the, the doubling of the, the workload, or the
4 70 percent increase of the workload that you described, do
5 you have adequate funding allocated to you so that you can
6 staff the abuse intake appropriately at this time?

7 A I believe we do at abuse, if I look at the number
8 of referrals and the number of, of investigators we have to
9 take investigations. I'm always cautious, though, when I
10 use strictly numbers because that's only -- that's actually
11 case load not workload.

12 Q And I, I guess my, my, my -- I'm always focusing
13 on workload so ...

14 A Right. I mean, you can have one abuse
15 investigation from start to finish you can finish in a day.
16 If it's an inappropriate physical discipline, with no
17 injury, that's minimal and then you can have abuse
18 investigations that take a month. So it really is the
19 supervisors, when they're assigning their abuse
20 investigations to their workers, to know what
21 investigations they're dealing with.

22 And so numbers are very complicated with abuse
23 work, that would be my caution because you could have a
24 referral then it's as simple as two interviews then it can
25 be closed or you could get a referral and you're doing 40,

1 50 interviews.

2 Q I see. Is it fair to say that the current abuse
3 workers are dealing with anywhere in the neighbourhood of
4 30 to 60 cases per, per abuse worker?

5 A Not active but open, yes.

6 Q Open.

7 A And we are still looking at a time before we got
8 additional resources and we were staffed up because you may
9 have funding for positions but filling them, as well, and
10 leaves. So there is a bit -- they're working very hard to
11 clear up paperwork on the old files where the investigation
12 is completed. It's just you need to get it written up and
13 submitted so that's why I say there is a different, too,
14 between active and what we would calling waiting paper.

15 Q Okay. Thank you. I would like to refer you to
16 Tab U in your materials. And this is really just a point
17 of clarification.

18 A Okay.

19 Q The, the last column on the right-hand side
20 references an average number of intakes received per worker
21 for the month.

22 A Yes.

23 Q And then you have a rough average at the bottom
24 there of 14?

25 A Yes.

1 Q That, that is the number of new cases received
2 per worker; correct?

3 A Yes.

4 Q That's not the number of cases each worker is
5 carrying --

6 A No.

7 Q -- at a given time; correct?

8 A That's new referrals.

9 Q Thank you. So it's -- then it's quite possible
10 that they would be carrying more than the 14 case average?

11 A Usually they are, yes.

12 Q Thank you. You mentioned in your evidence that
13 ANCR is funded differently. We heard much about the
14 funding models, the one to 25 case ratio, the 1 to 20 case
15 ratio, and if I understand, ANCR is funded on a flat number
16 of EFTs?

17 A Yes, with 15 percent overhead.

18 Q Right. Correct. And --

19 THE COMMISSIONER: What was that, 15 what?

20 THE WITNESS: Fifteen percent overhead so for
21 operational requirements.

22

23 BY MR. RAY:

24 Q I, I understood from your evidence that you've
25 said, you've said you were hoping to move to what I

1 understood is a designated intake agency funding model.

2 A Yes.

3 Q Is that correct? And that's a different funding
4 model than what you're obviously being currently funded
5 through?

6 A It potentially could be, I'm not sure what it
7 will look like.

8 Q I see. Okay. The goal, or your goal, would be
9 to increase funding, I am assuming, from what you're
10 currently receiving?

11 A My goal would be to ensure we have the funding to
12 support the services that we need to provide in compliance
13 with the standards and the legislation.

14 Q And would that increase the number of full-time
15 positions that you currently have?

16 A It potentially could.

17 Q Would that be a goal to increase the number of
18 positions?

19 A If they were needed, yes.

20 Q Are they needed?

21 A I would say we, we -- in order to continue to
22 provide the level of service we're currently providing some
23 additional resources may be required.

24 We're definitely doing more thorough assessments
25 at the intake level now and those take time so we need to

1 ensure we have the time that we -- to devote to that type
2 of work.

3 Q I have a question for you about training, your --
4 ANCR is doing much more training than -- and all the
5 agencies are doing much more training than was ever done
6 before?

7 A Yes.

8 Q Are you currently funded to backfill for
9 training? So if a social worker is off on a training
10 course, are you funded to backfill that social worker so
11 that their job is being done while they're off on training?

12 A No. The only exception would be at after hours
13 because the staff would have to attend training during the
14 day so in order not to -- and then, of course, if they're
15 in training all day you wouldn't want them to go on shift
16 that night so we do fill the shift and we do get a small
17 portion of funding to backfill after hour shifts. But
18 during the day, no.

19 Q And are you -- and you're not -- as I understand
20 it you're currently not funded to backfill for absences
21 where a person is on vacation or on long term sick leave,
22 as well, are you?

23 A No, we're not, we hold that vacancy.

24 Q And currently, as I understand it, one of your
25 supervisors in one your main units, the CRU unit, is

1 currently having to cover both units because the other
2 supervisor is away on a -- on long term sick leave and
3 you're unable to fund filling that position?

4 A Yes, that's consistent across our agency.

5 THE COMMISSIONER: That what?

6 THE WITNESS: If a supervisor is gone, either on
7 a vacation or a long term sick leave we cannot fill that
8 position, we don't have the funding to backfill. So
9 another supervisor covers.

10 We have a coverage and we -- it's between 50 and
11 60 percent of workload is the maximum someone can cover.
12 So you have four supervisors you always have to have two
13 present. And if you're at CRU -- the crisis response
14 program, there's two supervisors so --

15

16 BY MR. RAY:

17 Q One --

18 A -- 50 percent is one.

19 Q One is away and the other one is doing both
20 units; correct?

21 A Yes. Usually the program director will assist in
22 coverage but they can't be available every day for that.

23 Q Of course. And that would significantly increase
24 the workload of that particular supervisor that's covering
25 for both units, obviously?

1 A Yes.

2 Q Tab L, it's page 44790. Page, page 11 of Tab L,
3 I think, page 11 of the report, it's CD -- Commission
4 disclosure page 44790.

5 Do you have that page in front of you, at the top
6 it says: "What 3 things do you feel would improve the SDM
7 assessment process?"

8 Yeah, I'm sorry, Madam Clerk, that's -- it's not
9 page 11 of the document, it's page of the report. I'm not
10 sure what page of the document that is. I'm sorry.

11 THE COMMISSIONER: Is it tab L?

12 MR. RAY: It's survey, survey results, Tab L.

13 THE COMMISSIONER: Is it Tab L?

14 MR. RAY: Yes, Mr. Commissioner.

15 THE COMMISSIONER: Well, I've got --

16 UNIDENTIFIED PERSON: Are you sure he's got the
17 right document?

18 MR. RAY: Yes.

19 THE COMMISSIONER: The, the page you identified
20 has two graphs on it. There it is.

21 MR. RAY: Pardon me?

22 THE WITNESS: Okay.

23

24 BY MR. RAY:

25 Q Yeah, it looks like question 21 at the top of the

1 page?

2 A Okay.

3 Q Yes, that's it, Madam Clerk. Thank you. And
4 it's just -- this is a staff -- as I understand this is a
5 staff review of the new tool --

6 A Yes.

7 Q -- that's the new tool. And what they've, what
8 they've, what they've identified as problems, and not that
9 it's necessarily a criticism but they would need more
10 resources, fewer cases, more opportunity for follow up with
11 families and more staff?

12 A Yes.

13 Q To end -- to better operate the tools. Is that
14 correct?

15 A Yes.

16 Q And we've heard some evidence that the tool is
17 somewhat more time consuming to use, is that because of a
18 combination of the number of things that you would have to
19 input as well as perhaps some unfamiliarity with the tool?

20 A I think it's a combination of both, getting more
21 familiar with the tool. Once you're trained in it then the
22 more you use it the more efficient you become and the more
23 effective you become at using it. But it is more time
24 consuming and it's built to be that way because you're
25 engaging with the families and you're having some very in-

1 depth discussions with them.

2 Q Thank you. And I'll, I'll come to that point, I
3 have a question of that -- about that but I want to try to
4 clear up something we've heard a lot about, Mr.
5 Commissioner, and I'm, I'm a little bit confused at this
6 stage and it has to do with CFSIS and it has to do with the
7 access of ANCR social workers to CFSIS recordings of other
8 agencies. And I was of the understanding, perhaps
9 incorrect, and you could correct me if I'm wrong, that as
10 an ANCR social worker conducting an investigation on CFSIS
11 I am unable to go into the recordings of another agency and
12 see their actual recordings. I would be able to go on
13 CFSIS and see that they had made a recording but not
14 actually read their report. Is that correct?

15 A No, it's not.

16 Q That's incorrect?

17 A Yes.

18 Q And that you indicated in your evidence that
19 certain -- I thought I heard you say certain people at ANCR
20 have access to those documents?

21 A Everybody at the crisis response program and
22 after hours has provincial-wide access.

23 Q Okay.

24 A Which means they can go into any file and look
25 because we could get a call from anywhere in Winnipeg but

1 we also provide another service for other DIAs, we're the
2 only staffed DIA -- like in the office, with social workers
3 on their computers in the night.

4 So if you have an on-call worker, say in
5 Thompson, and they really need to get some information off
6 of CFSIS, they can phone our ANCR after hours program and
7 then we can go in and get it for them.

8 Q Okay.

9 A So that's why we have provincial-wide access.

10 The other way is when the intake model is built
11 and there is -- so when you have an intake open to you, so
12 at intake or abuse or family enhancement you would have an
13 intake that's transferred to you, you can access any case
14 through your intake. It ensures you're not just looking at
15 other people's cases but you're, you're assigned as the
16 worker. So you can go in through your intake and look at
17 the history and see the recordings from other agencies.

18 Q Okay, thank you for clarifying that. Is that a
19 new, relatively new change that ANCR has been able to
20 access those documents of other agencies?

21 A Well, that's the way they -- and to my
22 understanding because I was, I was an intake module trainer
23 at some point, that's the way the intake module has always
24 been, people often forget that you can go in through
25 your --

1 Q Through --

2 A -- intake and see whatever case. But at after
3 hours and the crisis response program within a few -- I
4 would say a year of ANCR being operational we were able to
5 get provincial access.

6 Little -- there are still some, I would say, not
7 struggles but restricted cases are a bit different, only
8 supervisors can get into restricted cases on other agencies
9 because there's an extra -- you want to be extra cautious
10 if a file is marked restricted there is a reason for that
11 so ...

12 Q Thank you. There was some evidence about
13 culturally appropriate workers and you had mentioned that,
14 as part of ANCR's cultural appropriateness you have two
15 elders and two elder helpers?

16 A Yes.

17 Q And would those four positions be funded through
18 your general funding allotment?

19 A Yes, they're part of our full-time equivalence.

20 Q Okay. And are those -- and this is not at all
21 intended as a criticism, are those individuals trained
22 social workers, as well?

23 A No.

24 Q So --

25 A They are elders and elders helpers.

1 Q All right. Thank you.

2 I would like to clarify your evidence that you
3 gave about ANCR receiving anonymous calls and calls from
4 minors. Your evidence is very clear that you absolutely
5 accept calls from people who wish to remain anonymous?

6 A Yes.

7 Q And also calls from minors?

8 A Yes.

9 Q You would agree with me that if you, if you know,
10 that that was always the policy at Winnipeg CFS,
11 particularly during the time of, of Phoenix's file;
12 correct?

13 A Yes, I would agree with that.

14 Q Okay. We heard evidence from Ms. Davidson that,
15 in fact, when an anonymous call came in she accepted the
16 call and referred it on to the CRU unit?

17 A Yes, I can say that confidently that we -- it was
18 the practice that I had, when I was a front line worker and
19 when I was a supervisor, but when -- also when I was at the
20 General Authority I reviewed several files that belonged
21 with -- to Winnipeg Child and Family Services and there
22 were -- it's, it's always been there.

23 Q Thank you. You gave evidence about improved
24 relations with collaterals and collateral agencies?

25 A Yes.

1 Q And you gave evidence about improved policies
2 with Public Health and, in particular, EIA?

3 A Yes.

4 Q And we heard evidence in phase one, from
5 Constable Baker, who -- it was his view that if a social
6 worker called him directly he would be willing to share
7 information with that social worker directly and he's a
8 member of the RCMP and was the member that investigated
9 Phoenix's death. Not to fault Constable Baker because he
10 obviously wouldn't be familiar with the internal workings
11 of ANCR or the agency but if I understand your evidence, in
12 reality that's not what social workers are being told to do
13 in terms of their access to that type of information. Is
14 that correct?

15 A Correct.

16 Q Thank you. I would like to ask you some
17 questions that arise from Mr. Gindin's questioning and he
18 was attempting to address this issue of common sense. And
19 you would agree, firstly, that common sense or a worker's
20 discretion are obviously going to be improved with greater
21 training, greater experience, better education within the
22 social work field, exposure to standards, training on
23 standards, all those sorts of things?

24 A Yes, absolutely.

25 Q And, in fact, the very existence of the SDM tool

1 -- I'm not suggesting that it's intended to eliminate
2 common sense but isn't it intended to really standardize
3 the types of things that social workers look at so that
4 there's really less discretion and you're, you're really
5 standardizing that based on empirical evidence that really
6 would go beyond the common workings or the common knowledge
7 of a social worker?

8 A Yes.

9 Q Okay.

10 THE COMMISSIONER: Sorry, you're saying there's
11 no room left for the application of common sense by the
12 social worker in doing her work or his work?

13 THE WITNESS: There is but I would use the term
14 professional judgment as opposed to common sense. And that
15 comes in addition to the tools, you have to use the tools
16 and then to take a look at the whole picture --

17 THE COMMISSIONER: You still apply your
18 professional common sense or what, what do you call it?

19 THE WITNESS: Professional judgment.

20 THE COMMISSIONER: Professional judgment.

21 THE WITNESS: Yes.

22 THE COMMISSIONER: You prefer that to common
23 sense?

24 THE WITNESS: Yes, I do. Because in my
25 experience workers -- there was a, there was a lot of

1 inconsistency in terms -- without the standardized tools
2 there was inconsistencies between what some workers thought
3 was common sense and what other workers think. With common
4 sense comes your, your whole background, your whole
5 socialization.

6

7 BY MR. RAY:

8 Q You, you would agree with me that professional
9 judgment is going to be exercised in one way by one worker
10 and in another way by another worker, not necessarily
11 because they lack common sense but because their personal
12 experiences are different?

13 A Well, your professional judgment should be based
14 upon your professional experience, not your personal
15 experiences. Social workers, we are taught and trained to,
16 to hold your own biases in check and in place and that's --
17 your biases come out in what you think is common sense so
18 we need to ensure, when we're making decisions, that it's
19 on our professional judgment and what we've been taught,
20 and trained, and experienced, and that needs to be held in
21 check because some people --

22 THE COMMISSIONER: But each --

23 THE WITNESS: -- would see --

24 THE COMMISSIONER: -- each, each --

25 THE WITNESS: -- things as more severe.

1 THE COMMISSIONER: -- each social worker is
2 entitled to form their own professional judgment, aren't
3 they?

4 THE WITNESS: Yes.

5

6 BY MR. RAY:

7 Q I guess maybe to, to illustrate just by use of a,
8 a simple example, if you're a social worker who has worked
9 exclusively in the north end for, for 15 years and you're
10 going in and out of homes that perhaps are in a, you know,
11 worse condition, for varying reasons, than a social worker
12 who goes into Whyte Ridge on a daily basis, for 20 years,
13 and you switch positions, the social worker who was
14 formally working in the south end, in Whyte Ridge, and
15 walks into a home and, and sees the condition of the home,
16 is going to view that perhaps much, much differently and
17 perhaps assess it at a different risk value than the social
18 worker than went the other way; correct?

19 A Yes.

20 Q And I'm not -- I know you shouldn't be basing
21 your decisions based on the, the state of the home and the
22 -- and all those sorts of things that we've heard about,
23 but that's one example as to how one person's impression of
24 a situation would vary, depending upon their own personal
25 experience.

1 A Yes. And that's why it's very important that,
2 when you're using your professional judgment, you're also
3 factoring in what would be -- we would call cultural
4 sensitivity, or cultural competence, cultural safety
5 factors because we -- and by culture I just don't mean race
6 or ethnicity, it's very diverse.

7 So, absolutely, poverty brings some conditions
8 that, you know, people aren't used to seeing but that
9 doesn't make -- mean that those kids aren't safe.

10 Q Correct.

11 A And they're not cared for. And you have to hold
12 that in check.

13 MR. RAY: Thank you, Mr. Commissioner, those are
14 my questions. Thank you, Ms. Stoker.

15 THE COMMISSIONER: Thank you, Mr. Ray. Now, is
16 there anyone else? If not, Mr. Olson? Oh, pardon me, Mr.
17 Saxberg? Can't see you behind that screen.

18 MR. SAXBERG: I have no questions.

19 THE COMMISSIONER: Thank you. Mr. Olson?

20 MR. OLSON: I do have some questions, I'm just
21 wondering if it would be an appropriate time to take the
22 morning break?

23 THE COMMISSIONER: Yes. If you're going to be a
24 little while, yeah.

25 MR. OLSON: Be a few minutes.

1 THE COMMISSIONER: Yes, all right, I think that's
2 fair. So we'll take a 15 minute break now.

3

4 (BRIEF RECESS)

5

6 RE-EXAMINATION BY MR. OLSON:

7 Q I want to ask you some questions first about the
8 searches we've talked about earlier. You were asked some
9 questions today about them, as well, that were done on
10 August 24, 2005 for Phoenix Sinclair?

11 A Yes.

12 Q So first, what was the role of the receptionist
13 at CRU at that time in 2005?

14 A It would be similar to the same role that they
15 perform today. They receive all calls that come into ANCR
16 or at that time intake at Winnipeg CFS.

17 Q So every phone call that comes in the
18 receptionist picks it up?

19 A Yes.

20 Q Do you they do a, a screening function?

21 A They do a minimal screening function in terms of,
22 for example, if a school phoned and said I'm calling, I've
23 got concerns about this child, Susie Smith, they would
24 enter Susie Smith's name and date of birth, if it's the
25 school they would have it. And then they would check to

1 see if it's currently at, at that -- our current time they
2 would check to see if it's currently open to another
3 agency.

4 Q To do that --

5 A At that time --

6 Q -- to do that they would do a CFSIS search then?

7 A Yes.

8 Q Okay. Is it a CFSIS search or a search on the
9 intake module, or is there a difference?

10 A It's -- you could do it -- a search for a person
11 or a prior contact on either system.

12 Q It doesn't really matter.

13 A It's the same, it checks the same person
14 database.

15 Q The same database.

16 A Yes.

17 Q Same information.

18 A Now, at ANCR we use the intake module so that's
19 how we train to do it on there but you could do it on
20 CFSIS, as well.

21 Q Okay. So they do the search, see if there's a
22 file open to another agency.

23 A At -- in 2005 it would have been to another
24 worker.

25 Q To another worker.

1 A And then they would transfer the caller to that
2 worker.

3 Q Okay. Now, assuming that there was not a file
4 open to another worker, so it was a closed file but there
5 was a file in the past.

6 A Right.

7 Q What happens?

8 A They would refer -- if it was concerns about a
9 child, they would refer it to the crisis response program.

10 Q So they make that initial determination if it's a
11 concern about a child?

12 A They're very cautious, anything that -- if
13 they're saying I'm phoning about a child they refer it.
14 They're not trained to screen in and out, in terms of Child
15 and Family Services.

16 Q So unless it's clearly not a child protection
17 concern --

18 A Right.

19 Q -- the caller just says I want to know what your
20 resources are for "X", you know --

21 A They would still refer that.

22 Q Okay.

23 A The only way it wouldn't get referred would be is
24 do you have the number for the mobile crisis unit.

25 Q Okay.

1 A Or do you have the number for west region CFS.
2 Then they would refer it out. They have to take calls so
3 if someone called ANCR looking for myself and said I would
4 like to speak with Sandy Stoker, they would forward it to
5 my line. So they do other reception duties.

6 Q Okay. So they -- the file is closed, they
7 transfer it to a CRU worker?

8 A Yes.

9 Q CRU worker gets that call, they would then do a
10 search on CFSIS?

11 A Yes, if they were, if they were -- if they had
12 determined that this was a matter applicable to Child and
13 Family Services, yes.

14 Q If it's not a matter applicable to Child and
15 Family Services do they still do a search?

16 A They may or may not, depending on the information
17 they gather from the source of referral.

18 Q Okay. So there's no right answer when it comes
19 to that, some would, some maybe don't.

20 A Well, it would depend on what information the
21 source of referral was presenting.

22 Q If it was a child protection concern that was
23 being presented --

24 A Yes.

25 Q -- they would do search?

1 A Then they would. Yes.

2 Q If it was not a child protection concern being
3 presented?

4 A They may. Just say it was a parent phoning and
5 saying I'm struggling with my teenager.

6 Q Okay.

7 A And I'm looking for some supports around how I
8 could better parent my teenager, they would do a search
9 then. The only time they wouldn't necessarily do a search
10 is if someone said, if they said I'm new to town and I want
11 to know about child daycare.

12 Q What if it were a family member saying I haven't
13 seen my five year old relative for months?

14 A I would imagine they would do a search.

15 Q Okay.

16 A We would still ask further questions, is that
17 unusual that you haven't seen them; when was the last time
18 you saw them; have you talked to the parents? It would be
19 a multitude of questions.

20 Q Okay. Now, should that type of call, should
21 there be a recording made?

22 A Yes.

23 Q Okay. If there's not a recording made of that
24 type of call, that -- there would be different reasons for
25 that.

1 A Yes.

2 Q One reason could be the worker just failed to
3 make a recording?

4 A Yes.

5 Q Right? Because there's no way to make the worker
6 make a recording.

7 A That's right.

8 Q Two, a worker determined, inappropriately, that
9 it wasn't a child protection concern?

10 A That could be one of the reasons they choose not
11 to.

12 Q Or three, maybe the recording was made but it
13 just wasn't found?

14 A If you make a recording in, in the system, in the
15 intake module, particularly, it would be found.

16 Q Okay. Have I missed any other possibilities you
17 can think of?

18 A They could have -- I mean depending on the time
19 and the day, they could have another call coming in where
20 they would have maybe made a recording but the -- they got
21 a call out on an urgent child protection matter that needed
22 to be written up right away and some work needed to be done
23 so in, in order to get that finished and that -- where it
24 needs to go, so we can ensure the safety of the child, they
25 may not have -- if they didn't feel that it was

1 particularly relevant.

2 We really stress, at ANCR, to open up an intake
3 module when you receive those calls because that's the way
4 we track our work.

5 Q Oh, okay.

6 A That's the way we track the volume of work and we
7 always say that that's -- shows how busy we are, what type
8 -- I mean, it's important, particularly as we know the
9 ongoing service level case numbers mean something for
10 funding of our resources.

11 Q Right.

12 A We're not sure what our funding model is going to
13 look like but the only way we can show how busy we are is
14 by using the intake module. Phone calls show one thing but
15 people phone about all kinds of issues. So we stress, if
16 you receive a call regarding a child, create an intake
17 module because that's a reflection of your, of your work
18 that you've done and it's important to capture that, for
19 many reasons.

20 Q I think you confirmed last time, though, that
21 there is still -- the, the same sort of thing could still
22 happen today, a worker just doesn't make record of a call
23 that comes in?

24 A It could happen, it shouldn't happen but it
25 could.

1 Q Okay. I want to move on now, there were some
2 questions put to you about Exhibit 51, which were the
3 documents that you provided, tab O. If you can just pull
4 that up onto the screen.

5 So this was your letter to Ms. Elsie Flett?

6 A Yes.

7 Q And you had some concerns about the SDM matrix?

8 A The matrix, yes.

9 Q Right. Mr. McKinnon suggested or had you confirm
10 that part of your concerns were about the appropriatenesses
11 of -- appropriateness of the services.

12 A Well, that my concern was that some of the
13 exclusionary criteria could limit a family's ability to
14 work -- or be referred to the family enhancement stream.

15 Q Right. Because in some cases it would be more
16 appropriate to refer certain families to the family
17 counseling stream?

18 A Yes, if you can ensure the safety of the child,
19 and the family is engaged and protective of their children
20 then, yes.

21 Q And under the way the matrix operates, you can't
22 -- you just couldn't do that.

23 A It, it prevents you from -- yeah, there are
24 exclusions, they're saying you should not.

25 Q Right. It -- in other words, it fetters the

1 social worker's exercise of clinical judgment --

2 A Yes.

3 Q -- in that case.

4 A We have set up a process at ANCR that if we want
5 to close a file in which there's a high risk level, or we
6 want to stream a family to family enhancement, which may
7 not fit with some of the exclusionary criteria, that has to
8 be reviewed and approved by a program director.

9 Q Okay.

10 A If we're -- if the social worker and the
11 supervisor are in support of this family receiving family
12 enhancement services or not being in need of further child
13 welfare services, then we've set up a process and we track
14 those, actually. So any of those matters are tracked so
15 that we have information to share around -- this is a new
16 matrix so we know there will be -- we'll continue to review
17 it. So we track it to say here's what we're experiencing
18 at ANCR.

19 Q Okay. So you're working out the bugs?

20 A Yes.

21 Q When did that, that initiative come up where you
22 could actually do that, what you were just telling us?

23 A When we went live, in July 2012, there were
24 circumstances that were being brought to my attention with
25 concerns about this, this matter and also sometimes closing

1 a file in which it came up -- when children were safe but
2 there was a high risk and so we said well, we don't want to
3 force families to receive services that they don't need but
4 we need to track this, we need to make sure that we're
5 recording our decisions, why those decisions are being
6 made, and how often this is occurring. Is it a one-off or
7 is it something we're seeing on a regular basis and then we
8 can share that information with the office -- with the
9 standing committee and, and we have something other than
10 just our opinion to back it.

11 Q Okay. You said July 2012 is when --

12 A Yes.

13 Q This letter that you're writing is February 22nd,
14 2013.

15 A Yes.

16 Q So the issue that you're discussing in this
17 letter, the fettering of the social worker's discretion was
18 still an issue for you at that time?

19 A Yes. Well, there would -- the matrix was -- the
20 matrix was finalized.

21 Q Okay.

22 A Up until then, when we had originally trained
23 there was a draft so there were a few minor changes, so it
24 was a continual process.

25 Q I see.

1 A But at this point it's, it's no longer in a
2 draft, it's final, so we felt that was the time to put our
3 concerns in. I had raised my concerns verbally with Ms.
4 Flett throughout the whole process when I had met with her.

5 Q Okay. Is it still a concern for you?

6 A Yes, this letter is relatively new, it's only the
7 beginning of May so -- it doesn't prevent us, ANCR still
8 has the ability to make decisions so we just wanted it on
9 the record to say here's some of our concerns.

10 Q Are you --

11 A Families still get service.

12 Q Right. Just not the services that you
13 necessarily want to provide or you see in the best interest
14 of the family?

15 A Yes. And this isn't on every case. As I said,
16 ANCR transfer between 24 and 36 hundred files so --

17 Q Right.

18 A -- this isn't -- this is not on every single
19 case.

20 Q Is it on a significant enough number of cases
21 that it causes you concern?

22 A Significant enough for me to put it in writing.

23 Q Right.

24 A But I wouldn't say it's not a majority or over
25 half, it's -- you want every family to get the best service

1 they can get, so if you're seeing that they're not then you
2 should do something.

3 Q The thing about a standardized tool is it, it, is
4 it aims to treat all families as if they were -- they could
5 fit into categories; right?

6 A Yes.

7 Q And the reality is, is that families and children
8 aren't necessarily that easy to fit into categories?

9 A That's correct.

10 Q And so when you try to fit them into categories
11 sometimes you're -- it's like fitting a round peg into a
12 square hole or however that saying goes.

13 Q Yes. So you end up with the result that you
14 don't necessarily want as a social worker.

15 A Yes. And that's where your professional judgment
16 would come in. Consultation with the supervisor. If
17 necessary, consultation with the program director and we
18 stress, when you make your -- when you use your
19 professional judgment you need to document that, you need
20 to look at the assessment and then why you've made the
21 decision that you made and those should match.

22 So, for example, if someone came out at a high
23 risk because of historical factors solely, I think Ms.
24 Flett had spoke about this last week, and maybe they had
25 been sober and clean for 10 years, or maybe she -- the mom

1 had postpartum depression when she had her children, 15
2 years ago, whatever that may be and if you don't have any
3 of those signs now, you may use your -- that would be a
4 circumstance where we may close a file, kids are safe, it's
5 high risk, but there are no immediate safety concerns,
6 there's no immediate risk factors and it just wouldn't make
7 sense to refer that family for ongoing service. So those
8 -- the decision making has to be documented and clearly
9 articulated as to why.

10 Q Is there room with the tool to do that, to
11 override the, the requirements of the tool and make your
12 own clinical judgment?

13 A Well, that's what professional judgment is then
14 we're saying but if you look at the matrix it says
15 recommended action.

16 Q Right.

17 A With the exception of those exclusionary
18 criteria.

19 Q Okay.

20 A So when it says recommended it's not that -- you
21 know, you shall, it's saying this is recommended but
22 knowing that professional judgment can factor in other
23 factors.

24 Q Okay. Mr. Funke sort of got into the issue of if
25 there are certain errors built into the tool that maybe

1 don't take certain cultural issues into account, those
2 errors will be repeated if not in a standardized tool. Is
3 that something that you, you would agree with?

4 A No.

5 Q No? Okay. You haven't seen that happening
6 with --

7 A No. And this tool is being used internationally.
8 So it's being used in the United States, it's being used in
9 Australia, it's being used in Europe, it's being -- now
10 being used across Canada and the Children's Research Centre
11 is -- this is not a new tool, it's been used since the
12 early 2000s in other areas.

13 What I can say is that we are concerned about
14 does this tool necessarily fit a hundred percent with
15 Manitoba children and families I know that discussions have
16 occurred with Children's Research Centre and they are
17 saying, after a time period, that it makes sense for them
18 to go back in and look at it with data, you have to have
19 data because it is a scientifically designed tool, you just
20 can't alter it.

21 Q Right.

22 A So they're prepared to do that and I believe that
23 we will do that here in Manitoba to make sure, and there
24 could be some possible changes and they have done that in
25 other jurisdictions is my understanding, after people have

1 used the tools I've heard between three and five years is
2 the -- just from my memory. They'll go back in, work with
3 that jurisdiction and then if, if there's different risk
4 factors or if there's things that need to be changed then
5 they can do that in a way to -- that ensure that the tool
6 remains valid and reliable --

7 Q I see.

8 A -- and consistent.

9 Q So that to put this in terms that I -- hopefully
10 I get my understanding on it is you can't just change a
11 tool to make it suit your needs here in Manitoba as you
12 wish; right?

13 A Absolutely, not.

14 Q You have to identify what needs you think need --

15 A Right.

16 Q It needs to meet, take it back to the designer of
17 the tool in Wisconsin, or wherever that may be and get
18 their okay to make some changes.

19 A They will do -- they actually do it for you.

20 Q They did it, okay.

21 A They'll go with -- they'll look at your data and
22 then based upon the data here in Manitoba then they'll make
23 what changes need to be made and they own the license for
24 it so it's ...

25 Q So you, you -- your, your discretion is somewhat

1 fettered in that regard, as well?

2 A Absolutely. In terms of risk it is. That's why
3 they say it's a whole combination of safety assessment, the
4 risk assessment, strengths and needs and then professional
5 judgment.

6 Q I just wanted to ask you some --

7 A It's also -- I think it's important to stress
8 it's not a tool we use on every child protection case, it's
9 only on allegations of abuse or neglect. And it's only
10 used where the abuse or neglect is alleged by a caregiver.
11 So if it's a third party, it's not appropriate to use that
12 tool and they teach you that and they train you that. It's
13 -- the alleged offender of an abuse investigation is a
14 third party you don't use the -- you do a different risk
15 assessment and a different assessment.

16 Q Just in terms of training on the tool, when, when
17 do the social workers get trained on it?

18 A Oh, we did a massive training before ANCR
19 implemented the tools, from March to July of 2012. And
20 then now it's one of the first training that they attend.
21 We have -- there's structured decision making training
22 offered by our authority on a regular basis, I couldn't
23 tell you what the calendar is but we also have trainers
24 within our -- ANCR five or six structured decision making
25 trainers, as well, so if we couldn't get them into that

1 early enough then they can also receive sort of a one-to-
2 one training by someone who has been trained to be a
3 trainer.

4 Q Okay. These trainers are in-house trainers then?

5 A Yes.

6 Q And they were trained by presumably someone
7 from --

8 A Yes, they were trained by the Southern Authority
9 trainer for differential response and actually ANCR's
10 differential response coordinator is a trainer, as well,
11 so ...

12 Q Okay. Is any training on the SDM tools done
13 through the University of Manitoba?

14 A No.

15 Q Has that been discussed all at the university?

16 A I don't think I can answer that, I don't believe
17 it has but I wouldn't be able to give a conclusive answer.

18 Q Just wanted to go to the report at tab L that you
19 were asked some questions about. The report, itself, is at
20 Commission disclosure page number 44752.

21 So this is the Child and Family All Nations
22 Coordinated Response Network Differential Response Pilot
23 Project Evaluation Final Report - March 2012?

24 A Yes.

25 Q So this was the response of the project

1 evaluation; right?

2 A Yes.

3 Q Okay. I just want to put a couple of things to
4 you that I noticed when I was going through the report. If
5 we go to page 44786. Under the draft, if you scroll down
6 to the bottom of the page, it says: "How would you rate
7 the overall quality of the assessment provided?" And this,
8 correct me if I'm wrong, this is going through the, the --
9 how the SDM is working, this is --

10 A Yes.

11 Q And this is --

12 A The assessment tools.

13 Q And this is the evaluation being done by the
14 social workers who are using it in practice?

15 A This is interviews and surveys that occurred with
16 the social workers who are using the tools, yes.

17 Q Okay. I see. It looks like, if I'm reading this
18 correctly, the biggest response was average?

19 A Yes.

20 Q So most of the workers were finding that the tool
21 was average?

22 A And that's in the family enhancement program,
23 yes.

24 Q Okay.

25 A If you see the actual number of workers that

1 rated it, it was six.

2 Q So six of the workers found it average?

3 A Yes.

4 Q Three found it to be good. One found it very
5 good. One found it to be excellent and one wasn't sure?

6 A Wasn't sure, yes.

7 Q Okay. If we go to the next page, which is 44787,
8 question 16 -- scroll down to the bottom of the page a bit.
9 "Do you think that the time spent on the additional tools
10 is" and the, the answer, the largest answer was too much?

11 A Too much.

12 Q And you had six again. So that's by far the, the
13 largest response. We talked a little bit about that
14 before.

15 A Yes.

16 Q Has there been, has there been anything to
17 address that concern? Is anything in the works?

18 A Well, in terms of the tools that I believe are
19 more time consuming so one thing that we've done at intake
20 is the assessment team that was part of this pilot project
21 has now become the fifth intake unit so we've added some
22 additional resources.

23 Family enhancement, they have a -- they're a one
24 to 20 ratio so they don't get more than 20 cases,
25 typically, and this is -- they were really new at using

1 these tools. I am hearing that as people use the tools
2 more frequently they become more efficient and effective at
3 it but yeah, they are more time consuming than -- they're a
4 better product, they're a better assessment but they do
5 take more time and hopefully with time we may need
6 additional resources.

7 Q And if that occurs is there a plan in place to
8 secure those resources?

9 A I would do everything I could to secure those
10 resources, yes. But I, I am funded through the -- from the
11 Southern Authority through the province so I would advocate
12 for them and, and make it known what I felt we needed to
13 continue to do that.

14 Q Go to the next page please, at 44788. Question
15 18 I found interesting. "How has the implementation and
16 use of the SDM tools impacted the assessment process?"

17 A Yes.

18 Q You have five people answering a little worse and
19 five people answering a little better, in terms of family
20 enhancement. What do you take from that?

21 A I take -- family enhancement is a program that
22 was developed, the staff that form that program, that were
23 seconded to us, was -- they were social workers who were
24 used to working in the community organizations and they
25 hadn't, up to up that point, used any case management

1 processes. They did a different type of work, they weren't
2 originally dealing with child protection matters. It was
3 more voluntary family services matters. So this was a very
4 different way of working for them and it was a shift in
5 their, in their role, really, within the organization.

6 So I would see that when they would say a little
7 worse it was -- they were used to engaging with families
8 from a more of a community perspective. This is now a case
9 management perspective. So they would feel that their
10 assessments of -- when working with these families had
11 changed and for some of them it was, it was a shift in role
12 and that's sometimes difficult for people when they really
13 enjoyed the way they used to work with families and are now
14 being told this is how we now want you to work with
15 families.

16 Q Seems a little more clinical in terms of filling
17 out a form and --

18 A Yes, exactly.

19 Q -- choosing numbers and --

20 A Where they may have been located in a community
21 resource centre and were definitely doing social work with
22 families but in a less structured way.

23 Q Right.

24 A So what I'm hearing now from family enhancement,
25 it's now the early intervention program, is I think if we

1 did the exact same survey you would see it different.

2 Q Okay. The question above that, question 17, if
3 you just scroll up the page.

4 A Yes.

5 Q

6 "To what extent would you agree or
7 disagree that the SDM process
8 represents best practice for
9 assessing families?"

10

11 The largest response there was somewhat agree?

12 A Yes.

13 Q Can you offer any insight into, into this
14 response?

15 A And again, the majority were family enhancement
16 staff, I think my response would be similar, it was a
17 different way of assessing families and these were social
18 workers who had come at the community level which is less
19 intrusive, you're often working with voluntary families who
20 want to be engaged and now their role was shifting.

21 So again, I think that they would -- it's -- that
22 would be the reason for why, it was, it was a more clinical
23 standardized structured process that they were having to
24 deal with which wasn't why some of them have got into
25 social work.

1 Q Page 44789. Go down to question 20, "Additional
2 comments about the SDM process." It says:

3

4 "Problems with tools: do not
5 always appear accurate; Doesn't
6 always catch identified needs;
7 does not fit with some complex
8 cases."

9

10 Those seem to be the things that we've talked
11 about earlier, today; is that the same thing that you've
12 been hearing from some workers?

13 A I don't hear it as much anymore, to be quite
14 honest.

15 Q Okay.

16 A I think as we've rolled it out across ANCR and
17 people are more familiar with it, I don't -- I actually
18 hear some degree the opposite, that workers are really
19 embracing the tools and finding that as an effective way to
20 engage with families, particularly around their strengths
21 and needs. I mean, the probability of future harm is
22 pretty standardized so we've all talked about we know we're
23 seeing a lot of high risk families and that's a concern for
24 us because what, what does that mean in terms of services
25 that the family can receive. But I'm hearing -- I'm also

1 hearing from our partner agencies, who are receiving our
2 assessments, that they find them incredibly useful and
3 helpful to start working with that family. We consistently
4 are hearing that across the board, that they're more
5 satisfied with the product that ANCR is producing in terms
6 of being able to provide services, so ...

7 Q Okay.

8 A I think this was done very early on, it's a small
9 group, it was done when they were just using the tools and
10 so ...

11 Q That's sort of, when you look down at bullet
12 number four, that seems to speak to what you just
13 mentioned, beneficial to have assessment completed before
14 referral is made to family enhancement, is that --

15 A Yes, that was one of the things that we were
16 looking at through our pilot project --

17 Q Um-hum.

18 A -- is -- and this is our family enhancement
19 program so when should, when should families get streamed
20 to our family enhancement? Should it come right from the
21 crisis response program, should we have intake do a more
22 thorough assessment? And some of the workers said they
23 liked having the whole package but then some of the
24 opposite workers said they liked doing the tools with the
25 family because that's when they started to engage with the

1 family, get to know them and so we've decided it can go one
2 of two ways. What's important is that the assessments are
3 done.

4 Q Okay.

5 A Sometimes family enhancement will receive a case
6 -- if we transfer it from ANCR then they get the whole
7 package.

8 Q The last page I want to ask you about on this
9 report is 44790. Question 21, this was the question -- the
10 area that was put to you earlier today. In terms of the
11 three things that would improve the SDM assessment process,
12 the first -- the predominantly chosen answer was more
13 resources in the community to support families.

14 A Yes.

15 Q And that was by far the -- you know, chosen by
16 workers. Has that continued to be the case, do you know?
17 Is that what you've heard in terms of feedback from
18 workers?

19 A Yes.

20 Q And what does more resources in the community
21 mean? Is that when you talk about collaterals like --

22 A Community resources, right, you identify that
23 this family has some needs and so you want to link them to
24 organizations that can help them meet those needs or help
25 improve upon and there are sometimes lack of resources or

1 waiting lists. So the needs are there, it's just -- I know
2 the communities is taxed with being able to respond.

3 Q In terms of needs would these be things like
4 addictions programs?

5 A Yes.

6 Q Those are often immediate needs?

7 A Yes. Addictions, mental health.

8 Q Mental health.

9 A Some of them could be cultural supports --

10 Q Cultural, right.

11 A -- or cultural programming. Some of them could
12 be respite, some could be -- I mean there's a whole
13 litany --

14 Q Daycare, along the lines of respite?

15 A Daycare, yes.

16 Q Okay. Even housing would be probably another
17 example.

18 A Housing is a huge need in many of our families.

19 Q Then, of course, fewer cases would be self-
20 explanatory.

21 A Yes. Well, I'm hearing consistently that these
22 -- that it takes -- these tools are more time consuming,
23 that workers like what they're doing with families but
24 they're more, they're more time concerning -- consuming so
25 to -- workload struggles sometimes.

1 Q Prior contact checks, you, I think, said that
2 there is now an obligation to do prior contact checks on
3 every case.

4 A Yes.

5 Q And that would include all adults living in the
6 house?

7 A Yes.

8 Q All adults providing care to children in the
9 house?

10 A All adults living in the home.

11 Q Period.

12 A Usually, yes.

13 Q Is that's something that's changed from 2005 or
14 has that been a requirement?

15 A I think it's always been a requirement, I think
16 we're just more clearly articulating it now.

17 Q I see. You -- I think you said, and I don't want
18 to put words into your mouth, but I think you said you do
19 whatever you can to get the, the name, to get the
20 information you need to do the check?

21 A You do the best that you can, yes.

22 Q And what would that include, what, what would you
23 -- if you know a name, and we know we had a name here, Wes
24 McKay, for example.

25 A Um-hum.

1 Q How would you go about getting the, the name?

2 A Well, I would ask --

3 Q So you can do a search?

4 A Well, you can ask -- in that situation I would
5 ask Samantha for the name and the date of birth. Now,
6 people aren't readily turning that over. I would ask him
7 if he was in the home. We could check with Manitoba
8 Health, we can check with EIA, we can check with police but
9 sometimes you can only get what they're prepared to give
10 you and it's, it's a difficult balance and sometimes you
11 have to use your social work skills in terms to -- as a way
12 to obtain that because if they don't provide it to you then
13 what?

14 Q Right. But first you can, you can ask people in
15 the house, you can ask --

16 A Absolutely.

17 Q -- the person, themselves?

18 A Yes.

19 Q And then you can go to collaterals and ask them.

20 A Yes. It can be more difficult than you would
21 think.

22 Q Okay. You said the intake module would make it
23 -- I want to make sure I understand this, it would make it
24 easier to do a prior contact check?

25 A It's the same way to do it. I think what the

1 intake module does is before you can attach a person to
2 that intake you have to -- it automatically brings you to
3 do a prior contact check.

4 Q Okay.

5 A And it's one way of making sure -- it was
6 originally intended to make sure you're attaching the right
7 person.

8 Q Okay.

9 A Because there are -- it's a pretty big database
10 and there are people with the same name and similar dates
11 of birth so -- but if you don't have a date of birth you
12 actually have to read some things about that person and
13 then that's how you will know if you're attaching the right
14 person.

15 Q So if you wanted to attach someone like Wes McKay
16 you start typing, you start typing that person's name into
17 Adam, into the --

18 A Yes. You put in Wes McKay into the intake
19 module.

20 Q Do names start popping up that you have to look
21 at --

22 A Yes.

23 Q -- look at and see and make sure --

24 A And then you have to go through and look.

25 Q Okay. And you want to make sure you get the

1 right person so you have to go in and look?

2 A Absolutely. So you would be looking for some
3 information that would confirm for you that's the right
4 person.

5 Q Okay.

6 A If you didn't have a date of birth -- if you had
7 a date of birth and you were confident in it, that's
8 obviously the easiest way.

9 Q Okay.

10 A But if not, you would look for some information,
11 who is he associated with, what are some other names that
12 come up?

13 Q Okay. And that's -- how does that differ from,
14 differ from what CFSIS was?

15 A When you used to open -- well, one, workers never
16 worked opened the file in CFSIS, they would do the prior
17 contact check separately, it was an administrative function
18 to actually open the file in CFSIS.

19 So you would type in his name, in CFSIS, if you
20 were going to and it forces you to check it but now, before
21 even if -- you can attach a person without doing a prior
22 contact check in CFSIS, in the intake module you can't. I
23 guess that's the main difference.

24 And with the administrative staff opening the
25 files and attaching the people --

1 Q Right.

2 A -- they're not looking to make sure they're
3 attaching the right people. So if they couldn't find an
4 exact match, with the date of birth, they would create a
5 new one.

6 Q They would just put a new one in, doesn't
7 necessarily have to be the right person's, just someone's
8 in the file.

9 A That's -- that was one of the downfalls of that
10 system. Sorry.

11 Q That's okay.

12 A This way you can actually look. It's the worker
13 who's doing it, they know what they're looking for, they
14 know a bit about the person, so --

15 Q Right.

16 A -- the odds of attaching the correct person, I
17 think are better.

18 Q With the intake module how it is now, post-2005,
19 is there a requirement to actually attach every individual
20 in the house into the module?

21 A Yes.

22 Q So there's a requirement there now. Is there a
23 way to enforce that requirement?

24 A Well, it would be one by when the supervisor is
25 reviewing the file, if you see a name come up in the case

1 notes, they should be attached as a -- into that intake.

2 Q Okay, so that's --

3 A And if they're not, then --

4 Q So it comes down to supervisor diligence.

5 A Worker, supervisor.

6 Q Worker diligence.

7 A And depending on what type of case, if it's an
8 abuse case, there's another way to ensure you're attaching
9 because when you enter statistical information about abuse
10 investigations you have to name the offender.

11 Q Right.

12 A And to name them in the system he has to be
13 attached.

14 Q Okay.

15 A He or she has to be attached.

16 Q Just for a normal protection file it would come
17 down to, like I said, supervisor --

18 A Yes.

19 Q -- diligence and worker diligence.

20 A Right.

21 Q And same --

22 A But it's -- the other way is, for example, when I
23 did the tools on the last four openings, Karl McKay was
24 identified as a secondary caregiver in the probability of
25 future harm.

1 Q Right.

2 A So if I'm doing a probability of future harm, on
3 him, as a primary or secondary caregiver, he needs to be
4 attached to the case.

5 Q Right.

6 A And so there's different mechanisms but
7 ultimately there is -- it's up to the worker and the
8 supervisor and then anyone who may also come across that
9 file, whether it's a program director or the associate ED
10 of service or myself to -- the first thing when you're
11 reviewing a file you look and see who is in this file
12 because you want to know, as you're reading through it,
13 who, who's -- basically who is who.

14 Q Who is who.

15 A And what are you looking for.

16 Q And I, I -- in terms of there being any
17 difference prior to the intake module, in terms of who
18 would be -- whether or not there is a requirement to
19 attachment individuals into CFSIS, I take it there was
20 nothing different?

21 A I -- well, I think the expectation was you would
22 attach, minimally, the parents.

23 Q Right.

24 A And the children. But I think there were
25 different practices around anyone else in the family.

1 Q What about the boyfriend living in the house?

2 A Well, if it was a common-law partner then I would
3 say yes, you attached him.

4 Q Okay.

5 A But that's -- common-law can be somewhat of a
6 fluid term in our society now.

7 Q Right.

8 A So -- and people aren't always very forthcoming
9 as to when they're living with someone but because it's --
10 particularly if they're on income and employment assistance
11 we know they're not going to tell us if they have someone
12 living with them.

13 Q In those cases you might have to do some
14 investigating, as well?

15 A Yes. And sometimes they will still not admit to
16 it.

17 Q Right.

18 A But if you're going to the home continually and
19 they're there, but it's very -- it's pretty unusual for
20 someone to say I, I have a boyfriend living with me and
21 this is who he is, and here's his name and date of birth
22 and -- it can be challenging.

23 Q Okay. Last area of questioning I have for you is
24 before the weekend Ms. Bowley asked you a question about
25 your wanting certain clarity on standards.

1 A Yes.

2 Q You remember that? She asked you about, in
3 particular, standard regarding seeing all the children in
4 the family.

5 A I don't recall being asked that but ...

6 Q I think the question was, and you'll have to let
7 me know if you recall this. There was concern, and I think
8 it's in document -- I think we had document 20260, I think
9 that's the page number -- on the screen, it was minutes
10 from a meeting.

11 A Yes.

12 Q You remember that?

13 A Yes.

14 Q And if we scroll down a little bit, I think it's
15 a little more ...

16 Number 13,

17

18 "... assessments being made over
19 the phone that should be done by a
20 field to the home. As much as is
21 possible, when there is a concern
22 about a child in the home, the
23 home and the child should be seen
24 by a worker. If the decision is
25 made to complete an assessment via

1 telephone or through a collateral
2 this should be reviewed and
3 approved by the Supervisor."
4

5 A Yes.

6 Q I don't think that was read out to you but I
7 think this was on the screen at the time. The question
8 was, when you came on board you had concerns about
9 clarifying the standards and particularly the standard
10 about seeing all the children in the family.

11 A This --

12 Q Do you have a recollection of that?

13 A Yeah. And I can't recall if it was a standard or
14 if it was best practice.

15 Q Or what --

16 A Yes.

17 Q -- whatever.

18 A I do recall that.

19 Q Okay. Now, when it comes to seeing children in a
20 family, if there's a specific -- if there's a call about an
21 abuse allegation made about a child --

22 A Yes.

23 Q -- was there ever any need to clarify the need to
24 see the child who is the subject of that abuse allegation?

25 A Yes.

1 Q There was a need to clarify that, that's --

2 A In some situations there was. When an abuse
3 allegation is one in our -- at the time in the system they
4 only saw it as an abuse investigation when it was being
5 conducted by the abuse program. So if it went up to the
6 abuse program and abuse was conducting an investigation,
7 then one of the things they would do was see and interview
8 the child. But there were some circumstances in which
9 there were allegations of physical discipline that were
10 handled through another child protection matter where it
11 was stressed that you have to actually go out and see the
12 children.

13 Q If there is a child protection investigation
14 going on though?

15 A Yes.

16 Q And workers are going to go to the home?

17 A Ideally yes.

18 Q Would, would you expect the workers to see the
19 child who is a subject of abuse allegation?

20 A I do.

21 Q Would you -- is that something that would need to
22 be clarified with social workers?

23 A At that time it, it -- yes.

24 Q So that's not something that you would think
25 would be common sense to a worker?

1 A To me it was which is why, why I drafted the
2 policy. But when I arrived there, in September of 2005, it
3 was one of my main concerns that I spoke with my colleagues
4 about, spoke with my supervisors about, spoke with my staff
5 about it at program meetings and forwarded to the executive
6 director of JIRU saying this is a real concern that I have,
7 I had seen phone social work occurring and I had seen
8 people not -- reviewed intakes because I also would cover,
9 as part of learning the organization, I would cover for
10 supervisors when they were absent, as was my way to get to
11 know staff, get to know processes and I spent about six
12 months to a year doing that, and it was not uncommon for
13 people to go out and speak only with the parents and not
14 see the children.

15 Q So you actually saw that happening in practice?

16 A Yes.

17 Q So, social workers would go out to homes where
18 there were abuse allegations --

19 A Not abuse allegations, child protection.

20 Q Child protection allegations --

21 A Yes.

22 Q -- which may involve concerns of abuse, not, not,
23 not confirmed abuse, where there is, for example, marks or
24 implements used but someone is concerned about a --

25 A If it --

1 Q -- child being abused.

2 A -- was a broad concern --

3 Q Right.

4 A -- such as this one where I said may -- there --
5 you know, I think this child is being abused --

6 Q Right.

7 A -- yes. If there were more specifics then no.
8 If there was an allegation that this child was hit and had
9 an injury, those children were seen.

10 Q Okay. But a broad allegation of abuse --

11 A When the, when the allegations were broad, that I
12 think that there was definitely times when children weren't
13 being -- and not I think, I know, there were times when not
14 all children were being seen.

15 Q And that would cause you a great deal of concern?

16 A It caused me enough concern that I wrote a client
17 contact policy about it and it was discussed widely.

18 Q Okay. That, I take it, in your view wasn't --
19 would that, in your view, that practice of not seeing
20 children meet the mandate of the agency?

21 A Well, when I think of mandate I take -- think of
22 legislation so I believe that agency was operating under
23 what they thought was -- that they were meeting their
24 mandate and that they were doing their job, as they felt
25 that they should do it. But we always learn, and we always

1 develop and people have different practices. How do you
2 assess, say a thing about going into people's homes; right?
3 You have to go into their home to conduct a thorough
4 assessment, and meeting with someone at the office isn't
5 going to allow you to do that.

6 Q Of course, how do you assess the safety of a
7 child without actually seeing the child.

8 A Seeing the child. Yes. But until the intake
9 module existed there was no actual safety assessment. The
10 tool that they were using as a safety assessment tool was
11 really a response time tool and not a safety assessment.

12 THE COMMISSIONER: Are you familiar with the
13 circumstances of the last time the social workers went out,
14 in March of 2005, to the home?

15 THE WITNESS: Yes, I am.

16 THE COMMISSIONER: And I had a witness here who
17 said that based upon what the allegations were, that the,
18 the file would not be closed, should, should not have been
19 closed and, and the -- anyone -- a social worker who had
20 experience and applied common sense would know that the
21 child should be seen before that occurred. Would -- do you
22 agree with that?

23 THE WITNESS: I would agree and I would disagree.
24 I would say from my own perspective, yes, but knowing that
25 I arrived there four months later there were many

1 circumstances in which the practice was not to see the
2 children, it was not a onetime event.

3 THE COMMISSIONER: Yes, but regardless of the
4 practice, if you had an experienced social worker and
5 applied, I take it what you would call professional
6 judgment, he or she would have known that that child should
7 have been seen before the file was closed?

8 THE WITNESS: Not in that environment.

9 THE COMMISSIONER: Not so?

10 THE WITNESS: Not so in -- not at that time and
11 that place.

12 THE COMMISSIONER: Explain yourself to me.

13 THE WITNESS: I will for sure.

14 There were many senior social workers in that
15 organization at the time, many of them continued to work at
16 ANCR after. They were there on secondment. And it had
17 become an accepted practice that going out, speaking with
18 the parent, sometimes the workers felt, and you can have a
19 worker with 20 years child protection experience or two,
20 that that was sufficient at that time, given the
21 allegations that came in, that were broad and narrow and
22 given looking at what's happened previously.

23 So I would say many -- those decisions were being
24 made at that time there by senior workers, junior workers
25 and it was an accepted practice, unfortunately.

1 THE COMMISSIONER: Would you agree -- was it a
2 practice you agree with?

3 THE WITNESS: No. Personally, no.

4 THE COMMISSIONER: And --

5 THE WITNESS: And that's why --

6 THE COMMISSIONER: -- and --

7 THE WITNESS: -- I arrived I wrote a policy
8 saying --

9 THE COMMISSIONER: And do you, do you --

10 THE WITNESS: -- we have to see children.

11 THE COMMISSIONER: -- say that, applying your
12 professional judgment?

13 THE WITNESS: Yes.

14 THE COMMISSIONER: So you don't -- do you agree
15 or not agree with the witness who said that, that a social
16 worker should have known that that child should have been
17 seen before the -- a social worker with experience should
18 have known that, that child should have been seen before
19 the file was closed?

20 THE WITNESS: I do agree but I also think it's
21 important to look at the, the environment in which that
22 work was occurring when you have multiple examples of it
23 not happening. And it's a supported practice by
24 management, then social workers will be -- come to think
25 that that's the accepted practice.

1 THE COMMISSIONER: Well, are you saying that that
2 was the accepted practice?

3 THE WITNESS: Yes.

4 MR. OLSON: Could we just bring up the -- Madam
5 Clerk, the top of this document, please?

6

7 BY MR. OLSON:

8 Q And when you look at the, the date here, it's
9 February 3, 2004.

10 A Yes.

11 Q And we see who is present at this meeting, we
12 have Shelley, Diana, Diva, Josh, Bill, Chris, Allyson,
13 Angie, et cetera. You're not, you're present here, are
14 you?

15 A No.

16 Q No. Okay, this was before your time?

17 A Yes. I was -- believe I was at the General
18 Authority at that time.

19 Q Right. After the CRU minutes are you saying you
20 still experienced these -- what we're talking about here,
21 that is children not being seen --

22 A When I arrived in September 2005? Yes.

23 Q Right. And it was still something that appeared
24 to be sanctioned by supervisors and management?

25 A Yes.

1 MR. OLSON: Thank you, those are my questions.

2 THE COMMISSIONER: Thank you, Mr. Olson.

3 All right, witness, you're completed. Thank you
4 very much.

5 THE WITNESS: Thank you.

6

7 (WITNESS EXCUSED)

8

9 THE COMMISSIONER: Now, do you want to -- I guess
10 maybe the best thing to do is to adjourn till 1:45, is it?
11 Mr. Funke, your witness next?

12 MR. FUNKE: Yes, Mr. Commissioner, thank you.
13 Given the time, it's -- given the nature of my witness'
14 testimony, which will be presented in a Power Point
15 presentation, it doesn't make sense to start his testimony
16 now.

17 THE COMMISSIONER: Why don't we, why don't we
18 adjourn now till 1:45?

19 MR. FUNKE: Very good.

20 THE COMMISSIONER: We so stand adjourned.

21 MR. FUNKE: Thank you.

22

23 (LUNCHEON RECESS)

24

25 THE COMMISSIONER: Now, have we a witness?

1 MS. WALSH: Mr. Commissioner, just before we
2 begin, a couple of housekeeping matters. It does look like
3 we'll have to sit on Wednesday evening. Counsel were
4 suggesting we sit from 7:00 to 9:00, if that works for you.

5 THE COMMISSIONER: That's fine.

6 MS. WALSH: Okay, thank you. And I've told
7 everyone to be prepared to sit, if necessary, next week in
8 the evenings, Tuesday and Wednesday, but we'll see how we
9 go.

10 THE COMMISSIONER: Well, if we need --

11 MS. WALSH: Also --

12 THE COMMISSIONER: -- we'll sit the same hours.

13 MS. WALSH: Okay, thank you. It is very warm in
14 here and counsel have asked if they could have permission
15 to remove their jackets?

16 THE COMMISSIONER: Absolutely.

17 MS. WALSH: Thank you.

18 THE COMMISSIONER: Ties if need be.

19 MS. SAUNDERS: Good afternoon, Mr. Commissioner.

20 THE COMMISSIONER: Yes.

21 MS. SAUNDERS: Jessica Saunders.

22 THE COMMISSIONER: Yes.

23 MS. SAUNDERS: I am assisting Mr. Jay Funke in
24 his representation of the Assembly of Manitoba Chiefs.

25 THE COMMISSIONER: Yes.

1 MS. SAUNDERS: And the Southern Chiefs
2 Organization. My apologies, Mr. Commissioner, we do not
3 have a CV in front of you for the next witness, Mr. Norman
4 Bone, but I can inform you that he will be providing a CV
5 to the Commission and we will hear from this witness on his
6 qualifications in my introductory questions.

7 THE COMMISSIONER: And, and his name is?

8 MS. SAUNDERS: Norman Bone.

9 THE COMMISSIONER: Norman Bone, B-O-N-E?

10 MS. SAUNDERS: Yes.

11 THE COMMISSIONER: Right.

12 MS. SAUNDERS: And Mr. Commissioner, with your
13 indulgence, I would provide a brief introduction to the
14 evidence that this witness will speak to.

15 We have heard in phase one, and in the early
16 start of phase two of this inquiry, from the people who
17 were responsible for the delivery of the child and family
18 services system, the people who, in this case, were most
19 impacted by the child and family services system, and
20 others, including those from First Nations CFS agencies and
21 authorities' staff regarding the delivery of child and
22 family services and how it has changed.

23 It's our intention to provide you with a
24 chronology and overview of First Nation involvement in
25 child welfare in order to assist in providing you with some

1 background to consider in making your recommendations.
2 Further, our client suggests that a chronology and overview
3 of First Nation involvement in child welfare will be of
4 assistance to you in considering the issue of and solutions
5 to the overrepresentation of First Nations children in the
6 child welfare system, as you had welcomed in your comments
7 of April 15th, 2013.

8 As you will hear from Mr. Bone, he has over 20
9 experience -- 20 years of experience in the role of First
10 Nations child and -- First Nations leadership in child
11 welfare. He is an expert in this area in his own right and
12 so my introductory questions will discuss that experience.
13 With that, I would please ask if Mr. Norman Bone could
14 please come to the stand.

15 THE CLERK: Is it your choice to swear on the
16 Bible --

17 THE WITNESS: Yes.

18 THE CLERK: -- or affirm without -- you'll swear
19 on the Bible?

20 THE WITNESS: Yes.

21 THE CLERK: Okay, just take the Bible in your
22 right hand then. Let me just get this binder out of your
23 way.

24 State your full name to the court.

25 THE WITNESS: Norman Bert Bone.

1 THE CLERK: And spell me your first name.

2 THE WITNESS: N-O-R-M-A-N.

3 THE CLERK: Your middle name, please?

4 THE WITNESS: B-E-R-T.

5 THE CLERK: And your last name?

6 THE WITNESS: Bone, B-O-N-E.

7 THE CLERK: Thank you.

8

9 **NORMAN BERT BONE**, sworn, testified

10 as follows:

11

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

13

14 DIRECT EXAMINATION BY MS. SAUNDERS:

15 Q Mr. Bone, you are a member of the Keeseekoowenin
16 First Nation?

17 A Yes.

18 Q Okay. I understand that it's often shortened to
19 Keesee, so I'll refer to it as Keesee throughout my
20 examination.

21 A Yes.

22 THE COMMISSIONER: And how would you spell that?

23 MS. SAUNDERS: K-E-E --

24 THE COMMISSIONER: K-E-T?

25 MS. SAUNDERS: K -- sorry, my apologies, K-E-E --

1 THE COMMISSIONER: Yes?

2 MS. SAUNDERS: S-E-E-K-O-W-E-N-I-N (sic).

3 THE COMMISSIONER: E-N-I-N?

4 MS. SAUNDERS: E-N-I-N.

5 THE COMMISSIONER: And how do you pronounce the
6 abbreviation?

7 MS. SAUNDERS: Keesee.

8 THE COMMISSIONER: Keesee?

9 MS. SAUNDERS: Yes.

10 THE COMMISSIONER: Got it.

11

12 BY MS. SAUNDERS:

13 Q Okay. Mr. Bone, where is Keesee located?

14 A It's three hours from -- west from here, one hour
15 north of Brandon. And it's K-O-O.

16 Q Yes, my apologies.

17 A Not the single "O".

18 Q Yes, my apologies, K-O-O.

19 A Yeah.

20 MS. SAUNDERS: So, Mr. Commissioner, he, he just
21 corrected it, it's K-O-O.

22 THE COMMISSIONER: K-O-O. Fine.

23

24 BY MS. SAUNDERS:

25 Q And what is the approximate on reserve population

1 of Keesee?

2 A On reserve is 500, it fluctuates around there and
3 the off-reserve is 500.

4 Q Okay. And what would be the closest rural
5 community to Keesee?

6 A Elphinstone.

7 Q Elphinstone. Were you raised in Keesee?

8 A Yes.

9 Q I would like to begin by hearing briefly about
10 your experience and growing up in your community. What can
11 you tell us about your upbringing, specifically in terms of
12 who was involved in your upbringing?

13 A Well, I was raised by my parents and the
14 grandparents on both sides of my, of my family, on my dad's
15 side and my mom's side, the great-grandparents on both
16 sides and, and numerous aunts and uncles that were alive
17 and living with us at the time.

18 Q Okay. And so extended family then played a
19 large --

20 A Yes, we had an --

21 Q -- role in your upbringing?

22 A -- an extended family at that, that we had a good
23 connection with. I believe they, they were the -- my
24 initial teachers, I guess, of everything that I have come
25 to know about, about who I am so ...

1 Q Okay. And how did your family provide for your
2 care?

3 A We lived off the land in the, in the sense of
4 where my dad did some trapping, and fishing and hunting,
5 and, and seasonal work during, during the summer, the area
6 is neighbours to -- neighbour to an agricultural area so he
7 worked as -- for different farms and my mother did some
8 similar work, also. And -- but we basically learned to
9 live -- where we lived, on the reserve, was, was sort of a
10 bit of an isolated side of the reserve where we lived off
11 the land in terms of, I guess, gathering our food, eating
12 ducks and rabbits and partridges, that lifestyle.

13 Q And so in your upbringing, what was your
14 experience, if any, with Indian residential schools?

15 A Well, with Indian residential schools my
16 experience was with my father went to Indian residential
17 school and he was there, I guess, all of his young life and
18 for most of his young life and our neighbours, many of his
19 uncles, I guess, we knew that had grown up in residential
20 school, they talked about their experiences there. Not,
21 not the in-depth experiences, I guess, but some of their
22 experiences initially in terms of attending the, the
23 residential school. I think the closest one that, that
24 Keesee reserve went to was Virden. There was, there was
25 one residential school there. There was also the, the one

1 over at Pine Creek or Capineau (phonetic) and the one at
2 Sandy Bay and one in Brandon.

3 Q Okay. And so what have been -- what was the
4 broader experience of your community then in Indian
5 residential schools?

6 A Well, knowing the stories of my community and the
7 amount of, I guess, homes in those days that -- and I'll
8 say that every, every community is affected or impacted by
9 the residential school experience, that there was always a
10 story that came out of, you know, each one of those
11 families where, you know, somebody was at residential
12 school from the previous generation or the current
13 generation and later learned that there was some of the
14 children were also in residential school as I was growing
15 up.

16 Q Okay. And what was your -- the experience of
17 your community then with Children's Aid Societies, if any,
18 at that time?

19 A We became aware of Children's Aid, I think when
20 we moved kind of from an isolated area to -- I guess,
21 closer to the edge of the reserve or edge of town of
22 Elphinstone and being also raised with my, with my aunts
23 and my grandfather at their place and became aware to
24 always be on the watch for, for Children's Aid Society, you
25 know, not really knowing what initially first until we

1 started to hear, well, from aunt, where I know one of the
2 workers had come around, said they had always wanted her to
3 give up her children. She was raising them as a, as a
4 single mom at the time and those two aunts actually that,
5 that lived with my grandfather. And that's, I guess, my
6 first memory or -- memory of Children's Aid in that sense
7 and -- as a child growing up on the reserve there.

8 Much like the residential school it was -- we, we
9 developed a little bit of fear around those two, those two
10 types of discussions around, you know, as children growing
11 up to, to stay out of sight or not to play too much in the
12 open and, and just the way that our, our little
13 neighbourhood was, is that I guess not like today's
14 neighbourhoods, you see lots of playgrounds, but our
15 playground was just the woods around each of our, our homes
16 and -- but that is how we, we had grown up there.

17 Q Okay, thank you.

18 A Okay.

19 Q In terms of your education, where did you attend
20 elementary school?

21 A I went to a mixed school, I guess, at
22 Elphinstone. I started there, it was the '60s, I, I went
23 to that school and oh, I think about '59, '60, I don't know
24 when I started going to school there in the -- it was a
25 time that was -- they still, they still referred to us as

1 savages in the history book and, you know, those kinds of
2 situations we ran into as, as children, you know, going to
3 school right, right, right next to our -- in our
4 neighbourhood, right next to the reserve, eh?

5 Q Um-hum.

6 A Did -- I think I stayed there and completed up to
7 Grade 8 and then eventually ended up going to -- moving to
8 Winnipeg, also, too.

9 Q Okay. And so in Winnipeg there you attended high
10 school?

11 A Yeah, junior high, high school there.

12 Q Okay.

13 A Yeah.

14 Q Okay. I understand you attended the University
15 of Manitoba in -- two years, in approximately 1976 until
16 1978 in working towards a Bachelor of Arts degree; is that
17 correct?

18 A That's correct, yes.

19 Q Okay. And so how was it then that you became
20 involved and a leader in your community?

21 A Well, what happened is I -- I guess, I -- my, my
22 university study were interrupted by a visit home and being
23 a young adult and, and just getting home and talking to
24 other relatives, who are roughly my same age, as a young
25 adult and being interested in, in current affairs and

1 having discussions about, about issues around the
2 community, itself, at that time, and one of the things that
3 I participated in was, was always playing a little bit of a
4 lead role in, in having discussions or having -- or being
5 part of the discussions that were taking place at that time
6 and what -- in the end I think what happened is I got
7 myself nominated and elected to, to the councillor position
8 and yeah, that interrupted my university study. I wasn't
9 intending to do that but I guess I gained the type of
10 support, being the oldest -- from, by history, being the
11 oldest in my family and I was working, in charge of my
12 brothers so -- and not necessarily in charge of my brothers
13 but working with my brothers and living out within the
14 community and gained that kind of a respect from other
15 cousins that were, that were within the community.

16 Q Oh, okay. I understand you served as councillor
17 of Keesee for approximately two years, until about 1980; is
18 that correct?

19 A That's correct, yeah.

20 Q Okay. You were then elected as chief of Keesee
21 from approximately 1980 until approximately 1989 to 1990;
22 is that correct?

23 A That's correct.

24 Q And I understand that in approximately 1991 until
25 about 1995 to 1996 you were hired as a prevention resources

1 worker with the West Region Child and Family Services in
2 Keesee; is that correct?

3 A That's correct.

4 Q What did this position involve?

5 A Well, that position involved, at the time, I
6 guess, being assigned to help establish a standalone place
7 for the Child and Family Services program. Being
8 relatively new we -- the work that I, I had undertook there
9 was setting up an old office and creating an office for
10 Child and Family Services as part of the prevention
11 resource services. We also gathered, by that time, the
12 information related to as to why kids were, were coming
13 into care and we started looking at the -- designing
14 programs to, to, to address those situations, if it was
15 parenting or alcohol or drug abuse, neglect, abandonment,
16 sexual abuse, those kinds of programs, awareness programs,
17 we would run out, out of that office, out of that, I guess,
18 new home for Child and Family Services within my community.

19 Q Okay. Thank you. So you also worked at the
20 Keesee band office from 1996 to 1997 in economic
21 development. Is that correct?

22 A That's correct, yeah.

23 Q You were also the manager of the Keesee Gaming
24 Centre, from 1997 to 1999?

25 A Correct.

1 Q You were also nominated for and elected as
2 councillor for a two year term, again, in 1999 to 2001. Is
3 that correct?

4 A Yes.

5 Q I understand you were then elected again as chief
6 in 2001 and held that position until fairly recently, in
7 April of 2013; is that correct?

8 A Yes.

9 Q As part of your role as chief of Keesee you were
10 also invited in other boards and organizations. Is that
11 fair to say?

12 A Yes. I was, yeah.

13 Q Okay. And you also participated at provincial
14 chiefs' tables within other First Nations organizations.
15 Would that be fair to say?

16 A That's correct, yes.

17 Q Okay. And which organizations?

18 A Southern Chiefs Organization and Assembly of
19 Manitoba Chiefs Organization.

20 Q And so those are fairly -- those organizations
21 are the names that they've gone by as fairly recently and
22 so were you also involved prior to, to the AMC and the SCO,
23 say under previous organizations at all?

24 A Yes. Well, when they got started, back in 1980,
25 I was invited or, or not invited but I actually, I guess,

1 was part of the movement of the tribal council development
2 at, at West Region area, and that had just got itself
3 incorporated in '79 and I think Child and Family in '82.

4 We also were involved at the, at the, at the, at
5 the very early stage of this, is when MIB was, was doing, I
6 guess, a reorganization from MIB to Four Nations
7 Confederacy.

8 Q Okay. And sorry, if you could just say what MIB
9 is?

10 A Okay, Manitoba Indian Brotherhood.

11 Q Thank you.

12 A Okay.

13 Q Okay.

14 A And I was -- participated at that level. I also,
15 later on, it were -- changing itself to Assembly of
16 Manitoba Chiefs so ...

17 Q Okay.

18 A And ...

19 Q You've also held numerous portfolios of the
20 Tribal Council, as you have mentioned, and as well as the
21 AMC and SCO level, including at various times child
22 welfare?

23 A Yes.

24 Q Okay.

25 A In the first part of the -- I guess my political

1 involvement in the community or advocacy involvement was
2 quite extensively with, with the development of West Region
3 Child and Family Services.

4 Q All right.

5 A And that started, I think -- well, it started
6 from the chiefs' table at West Region Tribal Council and
7 then it, it came a side by, a side-by-side organization
8 called Western Child and Family, got incorporated in '82.

9 Q Okay. All right. And what is your view of
10 leadership's role in child welfare?

11 A Well, our, our -- the role -- our role has always
12 been, I guess, advocacy for children, advocacy for families
13 and we've played that role at all of the levels and there
14 was -- I guess the way that I viewed it is that, is that
15 because nobody else was doing it for us so we had to play
16 that role for -- at each of those levels, right from the
17 community, as chief, to the tribal level, tribal council
18 level, and eventually to the provincial -- at the
19 provincial level into the national level. So we were
20 always given the responsibility that, that the advocacy of
21 child and family services was one of, one of the
22 priorities.

23 And in the early part of the, the '80s when we
24 got involved, I remember there was the whole movement about
25 the issues coming to the leadership tables about child and

1 family services, about beginning to look at getting
2 involved with child and family services in a more, I guess,
3 what we've ended up with, a corporate way. And in the
4 earlier days, we had the responsibility as a (inaudible)
5 for our children, I guess we've done that, living on the
6 reserve with our parents through a system of supports that
7 we've developed as, as, as family. And at the same time, I
8 guess outside the reserve was the development of, of, of
9 institutions like child -- Children's Aid Society and
10 eventually our, our own organizations.

11 The movement of, of child and family services
12 came from trying to respond to members within our
13 communities that are asking where are the kids at the time,
14 just coming out of the -- I guess the, the residential
15 school era there are a time that, that many, many children
16 were lost to that system and, and the same kind of question
17 was starting to arise in, in the, in the -- from the
18 removal of our children through the Children Aid Society, I
19 guess, in the late '50s, and '60s, and '70s and, and in
20 response of that it became a very current item for, for all
21 leadership, you know, in the early '80s, to, to, to address
22 or to, to look for that, you know, where are the children
23 that were adopted out, where, where are they? What was --
24 happened to them and we took the steps initially, the
25 thinking around at the time was that as we -- we understood

1 that, that Section 88 of the Act, some of the, some of the
2 responsibilities that the federal government had over
3 Indians was being transferred -- was transferred over to,
4 to, to the provinces. And I think, you know, Child and
5 Family Services might have been one of them and -- but we
6 understood that we it didn't necessarily support that, that
7 was done after, without our, our consent or consultation, I
8 guess, in, in those days, we couldn't find any evidence of
9 it anyway, so the way that we, we addressed it, it was to
10 say well, okay, we have this legislation that, that maybe
11 we can use or maybe we cannot use, well, we'll borrow the
12 legislation is what -- the term, I guess, we, we made peace
13 with it as, as chiefs, and said, okay, we'll borrow the
14 legislation and, and use that to, to implement a program
15 for ourselves on reserve but ...

16 Q Okay. If just can -- and we'll get to this in
17 the presentation but the section that you referred to,
18 Section 88, that would have been the Indian Act?

19 A Of the Indian Act.

20 Q Okay. We'll get to that in the presentation.

21 A Pardon me, I'm sorry. Sorry.

22 Q And so, just one, one last question before we get
23 to the, to the presentation, you had introduced the concept
24 of borrowing legislation and so in borrowing then, next
25 would then be, after borrowing legislation that would then

1 lead to what?

2 A Well, well, well, what was supposed to happen, I
3 remember the thinking of that was -- at the time was that
4 we would borrow the legislation and practice the use of, I
5 guess, of, of legislation within our communities and start
6 creating our own, like, and we've done that with the
7 development of the agency, we would create our own child
8 caring agency and we would start to put -- having our own
9 people to participate in being employed in those careers
10 and to, to work at the, work at the -- I guess in, in
11 running child and family service type programs.

12 We, we got involved with that, that was -- I
13 guess the term that I have used in the past was that in a
14 sense that we got really occupied with, with the issues
15 that were arising, run a child care organization in those
16 early days and we were, we were running into the issues of
17 why kids were coming into care right off the bat and we got
18 really involved with that and we had a -- we would have
19 children -- our own workers, you know, out in the field and
20 through our organizations, doing that work.

21 The -- what I'm looking for -- the word I guess
22 is that the, the, the other priorities that, that kind of
23 we put on a shelf was, was developing our own system,
24 within our own jurisdiction, and said well, we'll need to
25 have our own, you know, our own Indian child welfare as, as

1 First Nations and so -- and that went on the shelf
2 temporarily because we had to do the work that was, you
3 know, currently being addressed to -- with it, so, but ...

4 Q Okay, thank you. And so you've worked with the
5 Assembly of Manitoba Chiefs and the Southern Chiefs
6 Organization to prepare a presentation to be delivered
7 before the inquiry today; is that correct?

8 A Yes.

9 MS. SAUNDERS: Okay. If we could please have the
10 Power Point brought up.

11 THE CLERK: (Inaudible.)

12 MS. SAUNDERS: The Power Point, Chronology and
13 Overview.

14 THE CLERK: (Inaudible.)

15 MS. SAUNDERS: Okay, yeah. Chronology and
16 Overview, I'll, I'll speak louder.

17 THE COMMISSIONER: Do I have it?

18 MS. SAUNDERS: It should be up on the screen.
19 Are the screens okay, Mr. Bone and Mr. Commissioner?

20 THE WITNESS: Yes. I, I am fine.

21 (UNIDENTIFIED PERSON): (Inaudible) have another
22 copy for the Commissioner?

23 MS. SAUNDERS: Yes, Mr. Commissioner, we have
24 provided hard copies of the presentation.

25 THE COMMISSIONER: Thank you.

1 MS. SAUNDERS: There may be some minor changes in
2 the slides. And so those changes will be reflected on the
3 screen.

4 THE CLERK: And that's Exhibit 53.

5 MS. SAUNDERS: Exhibit 53? Thank you.

6

7 **EXHIBIT 53: CHRONOLOGY AND**
8 **OVERVIEW OF FIRST NATION**
9 **INVOLVEMENT IN CHILD WELFARE**

10

11 BY MS. SAUNDERS:

12 Q All right, whenever you're ready, Mr. Bone.

13 A Okay. Okay, thank you. I guess this will be,
14 this will be a Chronology and Overview of First Nation
15 Involvement in Child Welfare, dated May 6, 2013. Next.

16 This presentation will provide: A chronology of
17 events that have occurred in child and family welfare as it
18 affects First Nation children and families, communities.

19 An overview of the involvement of the First
20 Nation leaders and others in advocating for changes in
21 First Nation Child Welfare law, policy and practice. Next.

22 Other events, outside of child welfare, are
23 included to provide context.

24 A brief introduction to First Nation and federal
25 and provincial government relations is also provided.

1 Note: This is not a complete list of events.
2 There may be more events that occurred that are also, in
3 the AMC and SCO's view, relevant and important events.

4 This presentation was prepared in looking at the
5 AMC and SCO child welfare documents in preparation for the
6 Phoenix Sinclair Inquiry and is based on those documents.

7 For more detailed information see AMC, SCO's
8 documents at Exhibit 47 in this Inquiry.

9 Terminology. Indian First Nation, Aboriginal and
10 Indigenous, you'll see the list I use, as an old-timer, in
11 the -- referring to myself and ourselves, sometimes as
12 Indian and legally that we're, we're still Indians so ...

13 Also on there is the Crown, Crown, Government of
14 Canada, federal government. "Crown" refers to the reigning
15 monarch of the colonial governments in place at various
16 times. Today, references to the Crown refer to the
17 Government of Canada/federal government.

18 First Nations leaders, includes: the Chief and
19 Council of First Nation "Band" as defined in the Indian
20 Act; the Grand Chief of the Assembly of Manitoba Chiefs and
21 its predecessors, the Manitoba Indian Brotherhood (MIB) and
22 Four Nations Confederacy; and the, the Grand Chief of
23 Southern Chiefs Organization (SCO).

24 Indian Affairs (IA) Indian, Indian and Northern
25 Affairs, it's, it's gone through quite a bit of different

1 names and the recent one is AANDC, NDC.

2 First Nation Child Welfare and First Nation Child
3 and Family Services. Both references in this presentation
4 will be used and refer to some of the area of law and
5 policy.

6 First Nations and Government Relations. The
7 history of First Nation and government relations is
8 extensive. This brief introduction will outline what the
9 AMC and SCO view as key events that have had an impact on
10 First Nation Child Welfare. I'll miss the bottom lines.
11 Next.

12 Established the Royal Proclamation. Established
13 a system of government for former French colonies and
14 included a framework for relations between the Crown and
15 First Nations. First Nations where lands were recognized
16 as being distinct from lands forming part of the colonies
17 and not -- could only be transferred to the, to the Crown
18 through a nation-to-nation process. Next.

19 Numbered Treaties. Treaties numbered one to six
20 and 10 were signed nation-to-nation between the Crown and
21 First Nations in Manitoba between 1871 and 1906. First
22 Nations view the signing of these treaties as a sacred
23 process. First Nations entered into treaties to ensure
24 that, "so long as the sun shines, the grass grows and the
25 rivers flow," First Nations languages, culture, traditions,

1 and relationship to the land would be protected. Next.

2 The treaties were prepared by the federal
3 government, negotiated and signed to set out the rights of
4 the First Nations and the federal government to use and
5 enjoy lands held by First Nations. The signing of treaties
6 was a process that created a relationship and continues to
7 govern the parties to the treaties in all their dealings.
8 Next.

9 The Constitution Act. The division of the
10 powers, Section 91 and 92 of the Act set out the areas of
11 responsibility for the federal and provincial governments.
12 There's 91, Section 91 and 92 there. I won't read the
13 rest.

14 Indian Residential Schools 1974-1997. "Indian
15 Residential Schools" as defined in the Indian Residential
16 School Settlement Agreement refers to the
17 post-Confederation schools operated by the federal
18 government in partnership with a number of churches. And
19 it was operated from approximately 1874 to 1997. While
20 many of the Indian Residential Schools closed in the
21 mid-70s, the last school did not close until 1997. Next.

22 Established during the numbered treaty
23 negotiations, the government wanted to assimilate Indian
24 children by removing them from their families and
25 communities to be educated in government funded schools

1 operated by churches. The federal government recognized
2 that these policies of assimilation were aimed to "kill the
3 Indian in the child" and were wrong.

4 In its Statement of Apology, on June 11, 2008 the
5 federal government further recognized that, "the legacy of
6 the Indian Residential Schools has contributed to social
7 problems that continue to exist in many communities today."
8 Next.

9 Pre-Indian Act Legislation. 1874 to Present
10 Date. Numerous policies and laws at this time on the care
11 of First Nation children as well as policies and laws on
12 First Nations generally, were aimed at accomplishing the
13 Canadian government's role of assimilating First Nations
14 into the dominant culture.

15 1850, 1857, 1969. (Inaudible.) Pre-Indian Act
16 Legislation voluntary at one point involuntary
17 enfranchisement. For example: Indian women in marrying
18 non-Indian women -- non-Indian men automatically would lose
19 their status. Changes to deal with these provisions were
20 not made until 1985.

21 The Indian Act, 19 -- 1876. The Indian Act was
22 first passed in 1876. Among other things, the Indian Act
23 provides for, and the list says: administration of Indian
24 Affairs; a superintendent general of Indian Affairs is to
25 be responsible for administering the Indian Act. Defines

1 who is entitled to be registered as an "Indian". Defines
2 what a "Band" is. Establishes "reserves" for the use and
3 benefit of Indian bands. Required enfranchisement of
4 Indians in certain circumstances.

5 The Indian Act included many of the provisions
6 from earlier pieces of legislation. The Indian Act has
7 been revised numerous times. However, many of the same
8 provisions from earlier version remain intact today.

9 The Post-Indian Act Legislation and Policies, and
10 there's an example. Regulation related to the Education of
11 Indian Children, passed in 1894. Allowed for the Indian
12 child from 6 to 16 of the age -- of age to, to be removed
13 where the child was "not being properly cared for or
14 educated" or whose parent(s)/guardian(s), were "unfit or
15 unwilling" to provide the education of a child.

16 Noted as one of the earliest pieces of
17 legislation that set out certain circumstances that would
18 allow for the removal of First Nation children from their
19 families.

20 1886-1940s. The Pass system. The Pass System
21 was a policy enforced by Indian Affairs that prohibited
22 First Nations from leaving their reserve unless provided
23 pass signed by the Indian Agent. The pass set out when the
24 First Nation person could leave, could leave, leave the
25 reserve or they could go and when they had a -- when they

1 had to return to reserve.

2 I guess one example -- I know there's many
3 examples that have probably been spoken about, you know,
4 across Canada. I know one example that we experienced, I
5 guess, within our families at Keeseekoowenin was the, the
6 permission go and sell grain. Our people were actually
7 farming on the reserve and one of my uncles had to get
8 permission to -- from the Indian Agent to, to take his --
9 load up his wagon and to go and sell his grain which is
10 just a mile from where his farm was in the town of
11 Elphinstone and he had to get the Indian Agent to, to give
12 permission to take his wagon down there and get it unloaded
13 and, and taken back. And that's one example, I know that,
14 that we have, I guess, within, within our, within our
15 community. I know there was many examples from different
16 First Nations that, that are around in our area. Next.

17 Chronology and Overview of First Nation
18 Involvement in Child Welfare. This is the chart there
19 reads (inaudible). Next.

20 1876 to present date. Indian Affairs
21 Responsibility for Child Welfare on the, on the Reserve.
22 The Indian Agent provided services to First Nation children
23 and families. Services were minimal, children were often
24 apprehended and placed in Residential Schools. Next.

25 Early Child Welfare Legislation in Manitoba.

1 Various child welfare legislation was passed in Manitoba
2 from 1887-1922.

3 The Apprentices and Minors Act. Passed in
4 Manitoba in 1887 led to the establishment of a
5 superintendent of neglected and dependent children. In
6 1895 The Humane Societies Act. A revision to the Humane
7 Societies Act in Manitoba allowed for the creation of
8 societies that provided service to children in addition to
9 the animals.

10 In 1898 an act of the, an act for the betterment,
11 the Better Protection of Neglected and Dependent children.
12 Passed in Manitoba in 1898, led to the establishment of
13 Children's Aid Society of Winnipeg.

14 In 1922 a Child Welfare Act passed and, and led
15 to the establishment of foster homes with revisions. Later
16 in the 1950s to the establishment of group homes. Next.

17 1947. Canadian Welfare Council and Canadian
18 Association of Social Workers. The presentation to a
19 parliamentary committee on possible changes to the Indian
20 Act. They describe the living conditions on reserves as
21 inadequate and services provided to First Nation
22 communities as being incompatible with services provided to
23 non-First Nation communities. They state, "Indian children
24 who are neglected lack the protection accorded under social
25 legislation available to white children in the community."

1 They condemn the practice of placing First Nation Children
2 in Residential Schools. Next.

3 In 1951 they have an amendment to the Indian Act.
4 Include Section 88. This amendment allowed the provincial
5 laws to apply on reserves. As a result the, the Province
6 of Manitoba's child welfare laws applied to First Nation
7 living on a reserve.

8 Just with that one, that -- where I made
9 reference earlier was I guess the early practice, from what
10 I gather, was done by, by, by Indian Affairs or the
11 department at that time without a process of consulting --
12 I have never seen -- or like a resolution of my council
13 that said that they supported the Act got amended from the
14 Section 88.

15 Amendment to the Act of '51, amendment -- section
16 -- this, this -- I'll go to the next one. Next.

17 "The Sixties Scoop". In the 1960s to the '80s,
18 the "Sixties Scoop", the policies of child welfare
19 authorities that allowed for apprehension and placement of
20 First Nations children in middle class, non-First Nation
21 homes throughout Canada, the United States and overseas
22 countries. The Sixties Scoop resulted in the loss of
23 culture and connection to family and community for First
24 Nation children impacted by these policies. The effects of
25 the Sixties Scoop continued to impact First Nations

1 children, families and communities today. Next.

2 1966. The Hawthorne Report. Indian Affairs
3 commissioned the Hawthorne Report to examine the living
4 conditions on First Nation reserves. This report described
5 child welfare on reserve as bearing from "unsatisfactory to
6 appalling". Next.

7 The Bilateral Agreement, 1996, between Indian
8 Affairs and -- Canada and the Province of Manitoba. In the
9 Agreement, Indian Affairs and the Province of Manitoba
10 agreed to share costs of extending services provided by
11 Children's Aid Societies of Eastern, Western and Central
12 Manitoba to 14 Southern First Nations under the Canada
13 Assistance Plan.

14 Provincial child welfare services were available
15 only on an urgency basis and in the cases of extreme
16 neglect. Other assistance was provided by Indian Affairs.
17 Indian Affairs reimbursed the Province for, for per diem
18 costs of providing services for First Nation children.
19 Next.

20 The remaining 45 First Nations in the Province,
21 at the time, were not provided service under this or any
22 other agreement. The Agreement was negotiated without the
23 consultation and involvement of First Nations. It remained
24 in, in place until the signing of the Manitoba Indian Child
25 Welfare Agreements in the 1980s.

1 The Manitoba Indian Brotherhood, 1968, was the
2 formation of that organization, comprised of all the First
3 Nation Bands of Manitoba at a time -- at that time, and
4 established the -- to advocate on issues to -- of common
5 concern to Manitoba First Nations.

6 1971. Wahbung: Our Tomorrows. The Manitoba
7 Indian Brotherhood published Wahbung: Our, Our Tomorrows,
8 a position paper on the federal government that was signed
9 by all members of the Manitoba Indian Brotherhood. It sets
10 out the First Nation approach to economic and social and
11 educational development. Inadequate service -- community
12 services, marginalization and poverty were just some of the
13 obstacles defined or identified by the Manitoba Indian
14 Brotherhood. Next.

15 The Manitoba Indian Brotherhood called for a
16 "total" approach to economic and social development,
17 educational development. Called for concentrated efforts
18 in all the areas of services, including: child welfare,
19 housing, education, justice and economic development. To
20 support economic and social educational advancement of
21 First Nations. Next.

22 Early First Nation CFS Agencies 1974-1977. The
23 establishment, their establishment. First Nations were
24 concerned that communities were being inadequately served
25 through the provision of services by Indian -- Children's

1 Aid Society and Indian Affairs, and Indian Affairs in the
2 bilateral agreement of 1966. Advocacy by First Nation
3 leadership and community members led to the establishment
4 of the First Nation, of the First Nation Child and Family
5 Services Agencies. Also established -- it also established
6 the local Child Care Committees. Next.

7 At that time, these agencies did not have full
8 mandates set up to provide child and family services under
9 the provincial or other legislation to their communities.
10 They were set up to allow First Nations to develop our own
11 child and family services programs. The following First
12 Nations entered in agreements with INAC for this purpose.

13 Fort Alexander Band (now known as Sagkeeng,
14 referred to. This is 1974. The Pas Band (now Opaskwayak
15 Cree Nation). 1976, Peguis Band. The Peguis First Nation
16 of 1990 -- 1977. Next.

17 THE COMMISSIONER: Ms. Saunders, if you want to
18 sit, that's not problem.

19 MS. SAUNDERS: Oh, oh, I thank you, Mr.
20 Commissioner.

21 THE COMMISSIONER: We were -- this is very
22 interesting going through this, and the chief is doing the
23 talking, and if you have questions, I am sure you'll ask
24 them, but there's no need for you stand if -- unless you
25 want to.

1 MS. SAUNDERS: Oh, thank you very much.

2 THE WITNESS: It's a considerable time, sorry.
3 I'm trying to read fast, too.

4 THE COMMISSIONER: No, no, you're doing fine.

5 THE WITNESS: I'm starting to -- okay, thanks.
6 Next then.

7 Local child care committees. By First Nation
8 task force in 1993, most committees were not funded and
9 ceased to exist.

10 Just a little note on that, I think.

11

12 BY MS. SAUNDERS:

13 Q Yeah. Were you able to get through the first
14 slide on child care committees or -- if we can just ...

15 A Maybe I'll go back -- can I go back to it?

16 Q If we could just go back.

17 A I don't know if I missed.

18 Okay, again yeah. This Local Child Committees,
19 this allowed community members to stay informed on issues
20 of -- and became involved in the delivery of child welfare
21 service in the communities and as more communities became
22 involved in delivering services, almost every reserve had a
23 committee or the majority of the reserves would have a
24 committee and I think some of those committees are still in
25 existence today. I'm not sure how much they're, they're

1 being utilized but I know within my community there's -- I
2 think there's the ability for us to have a local child
3 welfare committee, even though the funding or if somebody
4 directed us not to, not to have them anymore we still saw
5 the value of them, they were the connection to the --
6 directly to all the, the families within the community and
7 they would assist, I believe, they would function, they
8 would assist the, the work done, carried -- that had to be
9 carried out by the, by the workers, whether it was a CFS
10 worker, or a prevention worker, or a treatment worker and
11 so -- and some of the connections they were able to
12 provide. Next.

13 Anyways, okay by 1993 most committees were, were
14 not funded and ceased to exist. First Nations task force
15 report in 1993 recommended the revival of the Committees;
16 believed Committees should be a mainspring for the
17 operation of child welfare services in communities;
18 believed that committees should have a clear mandate and
19 sufficient power and resource to exercise that mandate. It
20 was recommended that they be elected or chosen by the
21 elected Chief and Council or the local authority as the
22 community -- or however the community may decide.

23 Recommended that -- they also recommended that
24 they be established both on and off reserve because they
25 were having the ability now to, to, to provided advice for

1 their membership that were located on and off the reserve.
2 Next.

3 West, West Region Tribal Council/CFS. The
4 Western Tribal Council established in '79. As I mentioned
5 earlier, the communities were -- are Valley River, Pine
6 Creek, Skownan, Crane River and Ebb and Flow, Rolling
7 River, Keeseekoowenin, Gambler's, and Waywayseekappo.

8 And this organization was created, I guess
9 incorporated in 1982. The West Region CFS mandate was, was
10 given in 1985. The Board of Directors of the Western
11 Tribal Council and the West Region CFS comprised of Chiefs
12 from each of the member First Nations.

13

14 BY MS. SAUNDERS:

15 Q Okay. And so earlier in your, your -- our
16 introductory questions of you, Mr. Bone, this -- these were
17 the boards that you were speaking of, and that you were
18 involved in?

19 A Yes, this is one of them, yes.

20 Q Okay.

21 A This is one of the, the, the one right, I guess,
22 within reach of our community, it's at the tribal level and
23 we organize ourselves that way. There was nine reserves in
24 our west -- around Riding Mountain National Park and --
25 that are originally, I guess, were, were all family members

1 that lived in the Riding Mountain area prior to -- during
2 -- prior to contact and prior to, I guess, modern times and
3 the -- we have -- since the creation -- I guess since that
4 treaty was made and the creation of reserves, they were
5 fanned out to live within the different reserves around
6 Riding Mountain National Park and that old connection was
7 revived in, in the late '70s, early '70s, to, to become the
8 West Region Tribal Council.

9 Q Thank you.

10 A Next. Just, just a comment. I think just with
11 the tribal council, there, there are many -- I know in
12 Manitoba there is, there is more tribal councils that are
13 very similar to the West Region Tribal Council, I think in
14 -- I can't remember the exact number but there's -- without
15 -- throughout Manitoba the chiefs have organized themselves
16 in, in tribal councils.

17 THE COMMISSIONER: Based on geography?

18 THE WITNESS: That's right.

19 THE COMMISSIONER: Yeah.

20 THE WITNESS: Yeah. Yes. And, and I know
21 organizations actually become kind of a dual, a dual -- one
22 of them is they become a place for continued political
23 advocacy but also working on advisory services or, or
24 actually working with -- together to deliver programs and
25 services. Okay, in -- I'll just carry on.

1 The Manitoba Indian Child Welfare Subcommittee of
2 1977. The subcommittee was comprised of representatives
3 from the Manitoba Indian Brotherhood and in provincial and
4 federal governments. It was established in, in 1977 to
5 review the needs of First Nation people in child welfare
6 and develop plans and proposals to respond to those needs.
7 Next.

8 The subcommittee report was released in 1980 and
9 it called for major reforms to the system and acknowledged
10 that the Numbered Treaties and the Constitutional Act of
11 1867 placed First Nations in a unique position and
12 recognized that the extended families in the community were
13 essential resources in providing for the wellbeing of the
14 child. The subcommittee recommended that the First Nation
15 be included in and involved at all levels of the delivery
16 of child and family services. Next.

17 They also found -- the subcommittee found that
18 "The current state of affairs in unacceptable to both the
19 Indian people and to those professionals involved in the
20 area of child welfare as it is fragmented, discriminatory
21 and at the mercy of political and jurisdictional disputes."
22 Next.

23 In 1980 there was a reorganization of the, of the
24 Chiefs Organization, that was MIB, to form the Four Nations
25 Confederacy, compromised of the Southern First Nations

1 members of the Manitoba Indian Brotherhood, the Northern
2 First Nation members went to form the Manitoba Keewatinowi
3 Okimakanak in 1981.

4 1980, FNC Response to the Report on the Manitoba
5 Indian Child Welfare Subcommittee. FNC called for a
6 significant increase in social service worker positions
7 within bands and tribal councils. Next.

8 FNC proposed that service workers would be
9 trained so that they would gradual assume responsibility
10 for providing child and family services. The workers would
11 be a person of First Nation ancestry, work on the reserve
12 and develop services based on the First Nation beliefs,
13 values and customs and traditions.

14 It was important for us, as chiefs at the time,
15 that, that the workers not only be First Nation but the
16 workers would develop services and practice in a way that
17 was based on First Nation beliefs, values, customs and
18 traditions.

19 And as First Nation communities developed the
20 ability to provide services, that the province would
21 transfer authority to the Tribal Council and groups of
22 First Nations communities. In West region it was 1985, the
23 time that that occurred.

24 The whole process, actually, was -- the term that
25 I use was Indianizing the vehicle of, of the, of the, of

1 the legislation, I think, that we were borrowing to use,
2 like, so ...

3 I think we wanted to make sure that, that we had
4 workers from our communities that were going to be employed
5 within that system. Went as far as, in the early stages,
6 and I think it's still functional in West region in, in
7 developing a program with -- jointly with the University of
8 Manitoba to make our workers become eligible to have social
9 work degrees as part of the process, while they're employed
10 or during their employment. Next.

11 The -- 1981 the establishment of Dakota Ojibway
12 Child and Family Services, DOCFS. It was the first Child
13 and Family Services agency in Canada. It was established
14 by an agreement between Canada and Manitoba and Dakota
15 Ojibway Tribal Council to provide child and family services
16 to any DOTC member of First Nations.

17 This, this tribal council just south of West
18 Region tribal council area, around the Brandon,
19 southwestern Manitoba area, that's where, that's where this
20 organization is. Next.

21 The Manitoba Indian Child Welfare Agreement,
22 1982. Also known as a Tripartite Agreement or master
23 agreement, or, or master agreement arose from discussions
24 between the governments of Manitoba and Canada and the Four
25 Nations Confederacy, after the release of the Manitoba

1 Indian and Chief Welfare subcommittee report in 1980.

2 Just a reminder that the FNC was the, was, was
3 the organization of chiefs now that was formerly MIB. In
4 entering into the tripartite agreement the, the parties
5 established a framework by which the First Nation would
6 acquire the authority and responsibility for child welfare.
7 Next.

8 It was an agreement-in-principle that emphasized
9 the need for programs and services to: Support First
10 Nation family, family life, prevent family breakdown and
11 prevent the removal of children. It provided services in
12 accordance with the provincial legislation.

13 Parties on, on the, on the Tripartite Agreement
14 would sign them -- would then sign the Subsidiary
15 Agreements which would set out the administrative and
16 financial details for the provision of services. So each
17 tribal area would sign its own subagreement coming from a
18 master agreement.

19 From the leadership's perspective, we were
20 talking about sovereignty -- for the time being, we were
21 "borrowing" the legislation to learn a system so that we
22 could eventually deliver it on our own, in our own way.
23 And like the long range objective for us, I guess, the
24 leadership at the time was, was to, to work on the creation
25 of, of our own legal way of, of, of delivering child and

1 family services on, on, on the sovereign side of our world.

2 Next.

3 Got side tracked, carried away.

4 From 1982 to '91 the Tripartite Agreements was
5 signed with First Nations Child and Family Services
6 agencies. Numerous Indian -- now I'm going to use Indian
7 agencies -- numerous, numerous Indian agencies and other
8 groups of the First Nations communities in, in Manitoba
9 entered into Tripartite Agreements to provide a full range
10 of child and family services for their communities under
11 provincial legislation or under the borrowed legislation.
12 Next.

13 The Government of Manitoba establishes a Review
14 Committee on Indian and Metis Adoptions and Placements in
15 Manitoba with was the Kimelman Inquiry. The inquiry was
16 headed by Judge Kimelman and -- under the Manitoba
17 Provincial Court to focus on specifically Aboriginal
18 children adopted out of the community and placed in
19 non-Aboriginal foster placements.

20 At this time, Manitoba placed a ban on adoption
21 of Aboriginal children outside of Canada. Next.

22 1983. Canadian Council on Social Development, a
23 report by Patrick Johnson, "Native Children and the Child
24 Welfare System." This provided the first comprehensive
25 statistical review of First Nation children, Indian --

1 First Nation child welfare.

2 Author Patrick Johnson is noted for coining the
3 term the "Sixties Scoop". Found, it found that the First
4 Nation children were consistently overrepresented in child
5 welfare services and identified escalating rates of First
6 Nation children coming into foster care and being adopted
7 into foreign countries. Next.

8 1985, No Quiet Place: Review Committee on Indian
9 and Metis Adoptions and Placements - "The Kimelman Report".
10 It criticized the provincial government's operation of
11 child welfare system in Manitoba, as practicing "cultural
12 genocide" against Aboriginal families and communities.
13 Next.

14 This report on the cultural bias in child welfare
15 system: "practiced at every level from the social worker,
16 who directs the -- who works directly with the family,
17 through to the lawyers who represent the various parties in
18 the custody case, to the judges who make the final
19 disposition of the case".

20 The Kimelman Report made a number of
21 recommendations, including the idea of control of child
22 welfare for children residing off-reserve to Aboriginal
23 agencies.

24 1987. A moratorium on any child welfare
25 development. 1987/1988 the evaluation of -- okay, I'll

1 read that -- INAC Imposes a Nation-Wide Moratorium on
2 Indian and Child Welfare Development while it is
3 Self-Evaluated.

4 Evaluation states. The Evaluation states that
5 the Tripartite Agreements are more of a hindrance than the
6 tool and the highlights -- than the tool and the highlights
7 the concern that the cost involved in the delivery of child
8 and family services to First Nations are escalating.

9 This -- just to -- a brief note on that, I think
10 what was happening, also, was once we started to take over
11 child and family services as Indian agencies, through our
12 entities, it is the -- we, we began, I guess, having to get
13 into the practice of apprehending children because of the
14 issues as, as we were uncovering as to the difficulties
15 that for a parent, that the families were experiencing. So
16 we had to start removing the, the children from the homes
17 and there -- it had pushed the numbers up quite high.

18 I think, for example, I don't want to -- I think
19 later on, I'm not sure right now, from West region area we
20 are now at a level of 600 kids in care so I know my
21 community is, is at a level of 30, 32, I think, 34 children
22 that are in care currently.

23 But I, I -- it, it -- and when I mentioned
24 earlier that we became involved as chiefs, occupied with
25 service delivery for those, for those children, I guess

1 we've done that for the past, you know, 20 some odd years,
2 and since we got involved with Child and Family Services
3 and it, it put on, on hold our, our, our work to, to work
4 on creating the, the, the -- an Indian Child Welfare Act
5 that's, that's passed by our jurisdiction in order to, to
6 deliver the service, or to carry out the service.

7

8 BY MS. SAUNDERS:

9 Q And in -- if I may, Mr. Bones. So in delivering
10 services to your community, just I guess reflected in the
11 numbers, I know we don't have specifics but could you
12 comment as to the extent that you are able to, at this
13 time, provide culturally appropriate child and family
14 services and the impact that that had on your community.

15 A Well, what we're able to do is, is once we've
16 created our, our, our own initiative at the local level,
17 really at the reserve level, it allowed us to be able to,
18 to have, for example, like our gatherings within our own
19 language with some of the people that needed to speak, for
20 example, in our own language. So we were able to talk
21 about delivering a service in our own language and we were
22 able to also, at that local level, also be able to practice
23 some of the -- incorporate some of our practices, our
24 cultural practices, for example, having a feast, we would
25 be able to incorporate that with, with, with the practices

1 of, of the program, whatever programs that we were running.

2 We were able to also, I guess, begin the
3 practices of -- I would call it Indianizing all the work or
4 Indianizing what we were doing in terms of child and family
5 services and we were able to invite our, our membership to
6 participate in awareness kinds of workshops and conferences
7 or, or activities right at the local level so that they
8 could hear more about the, the, the protection issues that
9 we have to deal with or just to -- they began learning
10 about the findings that we came across that were related
11 to, for example, like why kids were coming in care was a
12 lack of parenting skills by young parents so, so we were
13 able to talk about that right at the local level with our
14 membership and deliver, like, a parenting program. So
15 that's just one not -- one, one example. Sometimes you
16 were able to include that with the help of local elders who
17 either came speaking in our own language or participated
18 with the old ideas from our earlier times in parenting and
19 family matters but --

20 Q Um-hum.

21 A -- that's one of the, one of the examples.

22 Another one would be, for example, the
23 establishment or the development of, of men's groups or
24 women's groups and youth groups. A lot of that work that
25 started with, with, with a child and family service program

1 that was, I guess, being embraced because we were able to
2 Indianize some of its activity and people became
3 comfortable in, in coming to the, to the awareness
4 workshops that we were providing through that process
5 so ...

6 Q Okay, thank you.

7 A In, in 1987, 1990 -- 1987, 1988, INAC imposed a
8 nation-wide moratorium on Indian child welfare development
9 while it's self-evaluating.

10 The evaluation states that the Tripartite
11 Agreements are more of a hindrance than a tool and
12 highlights the concern that costs involved in the delivery
13 of child and family services are escalating. I'm not sure
14 if I read through that once already so ...

15 Q That's fine.

16 A I thought I already did. I'll go -- next.

17 But here again, I would say it's that the
18 findings were, as I was saying, that the findings were is
19 that we were getting into the actual work and some of the
20 families you would have to remove the children or you would
21 have to provide treatment services for them. So what was
22 happening, I guess in the early '80s into, into the current
23 time is the drive of the numbers of the demand for more,
24 more workers, more resource people, more -- you know to
25 deal with the situation that, that we're finding within our

1 communities. And, and beginning the new finding as to why
2 were, why were the parents having a problem, you know,
3 parenting their children? Then we realized that well,
4 their, their, their mother was either -- or, or -- was
5 either in a residential school so they weren't taught to be
6 a parent by their mother or in that sense, in the original
7 sense of being, you know, like -- or else the children were
8 either -- or, or the mother was apprehended so, so young,
9 young moms were finding, were, were starting basically from
10 scratch in terms of trying to become a parent or trying to
11 become -- start their own families, so ...

12 Q Okay. And sorry, Mr. Bone, I just -- if you need
13 a break at any time we can suggest to the Commissioner, if
14 you need a break now, at three o'clock maybe, we do have a
15 mid-afternoon break if you need to.

16 THE COMMISSIONER: Would you like a 10 minute or
17 15 minute break now?

18 THE WITNESS: Sure, okay. Yeah.

19 THE COMMISSIONER: All right.

20 THE WITNESS: Yes.

21 THE COMMISSIONER: Well, then, we're going to sit
22 a long time today, we may take two, but we'll take a 15
23 minute break now and then come back and carry on.

24 THE WITNESS: Thank you very much.

25 THE COMMISSIONER: Thank you.

1 MS. SAUNDERS: Okay. Thank you.

2

3 (BRIEF RECESS)

4

5 MS. SAUNDERS: If we can just have the Power
6 Point back on the screen. There you go. Okay.

7 THE COMMISSIONER: There we are.

8

9 BY MS. SAUNDERS:

10 Q And, Mr. Bone, whenever you're ready.

11 A Thank you.

12 Q Thank you.

13 A The Assembly of Manitoba Chiefs, 1988.
14 Re-organization of Four Nations Confederacy to form the
15 Assembly of Manitoba Chiefs (AMC). The AMC is the
16 coordinating body on common issues and strategies mandated
17 by Chiefs-in-Assembly. The Chiefs-in-Assembly is
18 comprised of all the Chiefs in those First Nations in
19 Manitoba who choose to be members of the AMC.

20 The Chiefs-in-Assembly is the forum for First
21 Nations in Manitoba to conduct nation-to-nation discussions
22 and to address common issues and concerns in order to
23 develop common strategies and initiatives.

24 The constitution of AMC was adopted in September
25 1994. It currently represents 59 of the 63 First Nations

1 in Manitoba. Next.

2 Back to the -- no, the Aboriginal Justice
3 Inquiry, 1988. The Government of Manitoba calls for a
4 public inquiry into the administrative of justice on the
5 aboriginal people commonly known as the "Aboriginal Justice
6 Inquiry". Created in response to the murder of Helen Betty
7 Osborne in 1971 and the death of J.J. Harper, 1988.

8 Headed by Associate Chief Justice of Manitoba of
9 the Court of Bench, Alvin Hamilton and Associate Chief
10 Judge Murray Sinclair. Next.

11 INAC management document 1989. INAC releases a
12 Indian Child and Family Services Management Regime
13 Document. The core theme of the document focused on the
14 steady increase in the costs of delivering child and family
15 services to First Nations. The document sets out a
16 management regime that proposed a long-term plan that
17 included, among other things: Funding for protection
18 services only, with little prevention; and the funding of
19 agencies based on the formula. Next.

20 An analysis of the document was done by
21 consultants on behalf of the First Nations Child and Family
22 Services Agencies and found that: Capping would occur on
23 annual increases; no enhancement of services would take
24 place; set rates were too low and low conditions of
25 communities were not considered. Consultants recommended

1 these issues need, needed to be addressed. Next.

2 The 1991 Contribution agreements and Funding
3 under Directive 20-1. INAC considers the Tripartite
4 Agreements to have expired by '91 and proceeds to fund
5 on-reserve First Nations agencies through the signing of
6 yearly Contribution Agreements under the INAC's Program
7 Directive 20-1.

8 Developed by INAC without extensive consultation
9 of First Nations. Next.

10 '91, the Report of the AJI is released and
11 Chapter 14 of the Aboriginal Justice Inquiry on Child
12 Welfare provides an extensive review of the operation of
13 the child welfare system in Manitoba and provides
14 recommendations to change the system. Next.

15 They recommended that: Aboriginal and
16 non-Aboriginal child and family services agencies be
17 provided with sufficient resources to provide communities
18 with the full range of direct service and preventative
19 programs mandated by The Child and Family Services Act.

20 Revisions of The Child and Family Services Act
21 that state that Aboriginal people are entitled to services
22 in a manner which respects their unique status, and their
23 cultural and linguistic heritage. Next.

24 Okay. The jurisdiction of the First Nations
25 Agency is to be extended to include off-reserve band

1 members. First Nations Agencies to be provided with the
2 sufficient resources to ensure that expanded mandate can be
3 effectively carried out. Mandating of an Aboriginal child
4 and family service agency to be established in the City of
5 Winnipeg. Next.

6 '92, the Manitoba First Nations Repat Program.
7 Established in '92 to repatriate First Nations adoptees to
8 their families and communities. Even though there was a
9 demonstrated need for the continuation of the program, the
10 Department of Indian and Northern Affairs decided that the
11 funding for the program would be discontinued by 2001.

12 Q Mr. Bone, if you could just maybe explain the
13 repatriation program and, and how it was utilized by
14 members of your community. Based on your understanding at
15 the time.

16 A Okay. Well, the way that I understood it was
17 that the money was made available by the department to, to
18 assist, I guess, the, the demand that was arising all
19 through the process for some of the children that were
20 adopted, for example, out of country, maybe United States
21 and maybe as far as England or other countries in Europe
22 but to, to assist in bringing them back home so they can
23 reunite with their, with their families and I think the
24 department was -- I remember the department made some money
25 available to be utilized by the agencies to, to assist with

1 that, with that work and there were numerous examples. I
2 know, I remember, I think they were in the press that -- or
3 announcement made as a result of that work and, and from
4 what I understand is that work is, even though it's not
5 funded, I guess the agency is still trying to conduct a
6 little bit of that work, you know, when, when the need
7 arises so ...

8 Q Okay. Thank you.

9 A Next. The First Nation Child and Family Task
10 Force, 1993. January 1993. Establishment of the task
11 force. Established by the AMC and the federal and
12 provincial governments, the Task Force was to: Examine the
13 provision of child and family services to the First Nations
14 children and identify strengths and weaknesses in the
15 system; strengthen quality management and governance of
16 child and family services to First Nations children;
17 develop a plan of action for addressing the immediate
18 service and operational issues in First Nation Agencies as
19 well as a strategy for longer term structural changes.
20 Next.

21 Travel -- this Task Force travelled to the First
22 Nations communities throughout Manitoba, hearing from
23 Manitoba hearing from First Nations leaders and AMC
24 directors, staff and community members. The Task Force
25 final report was released in November '93. Next.

1 And it also reached a fundamental conclusion that
2 "power and responsibility for First Nations child and
3 family services must shift from where it rests now to the
4 First Nations people." And the plan called for a
5 progressive transition to self-government where "the First
6 Nations will design for themselves, appropriate structure
7 and service delivery of their children and families". A
8 delivery system. Next.

9 The Task Force suggested that this transition
10 should occur in three stages: Short-term, intermediate,
11 long-term. Short-term being with the creation of a First
12 Nation Directorate to provide services in accordance with
13 the provincial legislation and work on a transition plan
14 and research a development of law, codes, standards and
15 protocols. Next.

16 The intermediate plan involved the passing of a
17 federal First Nations Child and Family Services Act. The
18 -- finally, the long-term plan, First Nations would assume
19 full responsibility for their child and family services in
20 which the Task Force's view was up to the First Nations to
21 determine. Next.

22 Another initiative, back in 1994 to 2007 was the
23 Framework Agreement, Agreement Initiative, signed by the
24 AMC, on behalf of Manitoba First Nations and the Minister
25 of Indian Affairs and Northern Development to: Begin a

1 process towards self-government of First Nations in
2 Manitoba; and to build a renewed relationship with Canada.
3 Next.

4 The three main objectives of FAI were to:
5 Restore the First Nations, jurisdiction over areas of
6 government affecting First Nations; dismantle the, the
7 existing departmental structures of the department as they
8 affect First Nations in Manitoba; and develop and recognize
9 First Nation governments in Manitoba, legally empowered to
10 exercise the authorities required to meet the needs of
11 First Nations people. Next.

12 If AMC led the Comprehensive Table dealing with
13 the broader issues on -- of FAI, the MKO was the table lead
14 for child and family -- family child -- Child and Family
15 Service Table. SCO was the lead for education. Child and
16 family services was identified as a priority. The AMC
17 Chief in Assembly passed a resolution September 13, 1994
18 expediting the negotiations occurring at the Child and
19 Family Table. Next.

20 From 1996 to 2000 a number of projects were
21 completed in, in the Child and Family Table of the FAI and
22 to assist FAI negotiators in reaching an Agreement in
23 Principle in -- on Child and Family matters. On -- one of
24 the key areas to be addressed in the agreement or AIP on
25 Child and Family matters was the exercise of jurisdiction

1 by First Nations in providing child and family services off
2 reserve. Next.

3 FAI, Delegated Authority versus Full Jurisdiction
4 was a theme explored at length by FAI negotiations.
5 Definition, Delegated Authority referred to the
6 administrative control over "devolution" of authority and
7 the responsibility for a particular area without the
8 transfer of legal jurisdiction over such area. Full
9 Jurisdiction, the inherent right of self-government
10 referred to the exercise of jurisdiction over particular
11 areas including the right to make laws and to not simply
12 administer the laws or directives of another government.
13 Next.

14 An Agreement in Principle was drafted but never
15 signed. Funding for the FAI was discontinued. In 2005
16 (sic) the AMC voted to dissolve the FAI, citing on the
17 absence of the federal commitment to the process. Next.

18 Southern Chiefs, 1998. It was the formation of,
19 of the Southern Chiefs Organization, and "Accord of SCO"
20 adopted by the Chiefs in 1998. SCO began operating in
21 1998. The Constitution of SCO was adopted in July 2000.

22 Southern Chiefs' Organization establish a forum
23 specifically for the Southern First Nations of Manitoba.
24 Southern Chiefs Organization was the entity established to
25 give effect to the Accord and derives its mandate from the

1 Chiefs-in-Summit, made up of Chiefs of those southern First
2 Nations entitled to the membership in the SCO. Currently,
3 represents 33 out of the 36 southern First Nations. Next.

4 THE COMMISSIONER: It was a geographic division,
5 was it?

6 THE WITNESS: Yes.

7 THE COMMISSIONER: Okay.

8 THE WITNESS: There was the north, the north and
9 south --

10 THE COMMISSIONER: Then to put those of you that
11 lived close together in, in the one organization.

12 THE WITNESS: Yes, that was -- yeah.

13 THE COMMISSIONER: Yeah, north and south.

14 THE WITNESS: Yes.

15 THE COMMISSIONER: Yeah.

16 THE WITNESS: Yeah, the MKO had done this
17 earlier, I think it was in the early '80s where they took
18 that move, yeah. Yeah. They became known as the Manitoba
19 Keewatinowi Okimakanak now Manitoba Keewatinow Okimakanak,
20 I think is what the new name is but it's still -- there's
21 those two organizations who have come together --

22 THE COMMISSIONER: Yes.

23 THE WITNESS: -- under the heading of AMC, yeah.

24 THE COMMISSIONER: I followed that, yeah.

25 THE WITNESS: The First Nations Caring Society,

1 1998. It was the formation of the First Nations Child and
2 Family Caring Society of Canada, caring -- which is a
3 caring society established to provide research, policy,
4 professional development and networking. Report to the
5 Agencies in caring for First Nations children and youth and
6 families. Next.

7 The joint policy review '99. Joint process
8 between DIAND and the Assembly of First Nations (AFN) to
9 review DIAND national policies on First Nations CFS.
10 Research done to look at possible solutions to concerns
11 with the national policies. Next.

12 Aboriginal Justice Implementation Commission,
13 1999. The Government of Manitoba Establishes an Aboriginal
14 Justice Implementation Commission to address
15 recommendations of the AJI report. In fast-tracking issues
16 relating to the child and family services for aboriginal
17 peoples, the Government of Manitoba established the
18 Aboriginal Justice Implementation Committee. The AJIC
19 developed an action plan to address the original
20 recommendations in Chapter 14 of the AJI Report. Next.

21 This recommended that the Government of Canada --
22 Government of Manitoba enter into an agreement with the AMC
23 and the Manitoba Metis Federation towards a plan of First
24 Nations -- for First Nations and Metis communities to
25 develop and deliver Aboriginal child and family services.

1 Next.

2 AJI-CWI 2000. The Aboriginal Justice Inquiry and
3 Child Welfare Initiative. Memorandums of Understandings
4 entered into between the province and Manitoba. The
5 Province of Manitoba and AMC, on behalf of Southern,
6 Southern First Nations; MKO and Northern First Nations and
7 on MMF FOR the Metis people marked the beginning of the
8 AJI-CWI. Next.

9 AMC MOU states that the delivery of child and
10 family services and programs to the First Nations in
11 Manitoba must respect their unique status, as well as their
12 cultural and linguistic heritage. The MOU recognized that
13 First Nation people have a right to control the delivery of
14 child and family services and programs for their respective
15 community members. Next.

16 AMC, MKO, MMF and the province enter into a
17 Protocol Agreement to establish a common process for
18 implementing change to the current system. The Protocol
19 Agreement created a framework for separate and distinct
20 province-wide child and family services mandates for First
21 Nations in Manitoba and Metis people. AMC had a --
22 representatives in nearly all of the working groups
23 responsible for the implementation of the AJI-CWI. Next.

24 The Southern Authority/AMC/SCO. November 24th,
25 2003. The Child and Family Services Authorities Act

1 Proclaimed (The Authorities Act). There was -- the
2 establishment of the Southern, and Northern, Metis and
3 General Authorities. And each of the sections, are Section
4 6, responsible for the 6(3), that refer the -- hang on,
5 drink some water.

6 The Section 3 -- Section 6 of the Authorities
7 Act, the AMC has the responsibility for appointing a board
8 of directors for Southern Authority. Section 22 of the
9 Authorities Act, Southern Authority to provide an annual
10 report and audited financial statements to the Minister and
11 the AMC.

12 Section 58(c) of The Authorities Regulation, the
13 Grand Chief of SCO has a seat at the Leadership Council.
14 Section 58.1 of the Authorities Regulation, the Grand Chief
15 of the AMC sits as the ex-officio member of the Leadership
16 Council. Next.

17 Duties of the Authorities. Required to develop
18 culturally appropriate services, practices and procedures
19 consistent with provincial legislation. Section 19(b),
20 develop objectives and priorities for providing child and
21 family services consistent with provincial objectives and
22 priorities; (c), ensure that culturally appropriate
23 standards for services, practices and procedures are
24 developed; (d), ensure that the standards developed under
25 clause (c) are consistent with provincial standards,

1 objectives and priorities. Next.

2 The Joint NPR Final Report. The National Policy
3 Review Final Report, 2000, found that the federal
4 government funding formula Directive 21 -- 20-1 did not
5 provide sufficient funding for First Nation agencies to
6 deliver culturally based and statutory child and family
7 services on reserve, compared with the services to other
8 Canadians.

9 Important to note that the federal government
10 funding issues, the federal funding issues as to -- they
11 have an impact on the ability for First Nation agencies to
12 comply with provincial legislation. Next.

13 The Joint NPR Final Report. DIAND continued --
14 DIAND and AFM set up a National Advisory Committee to
15 implement recommendations. Commissioned the Caring Society
16 to do a research into solutions. A Caring Society
17 publishes the Wend:De Reports of 2005. Next.

18 2006, Changes for Children, 2006. Province of
19 Manitoba announces "Changes for Children: Strengthening
20 our Commitment to Child and family and well -- child and --
21 Child Welfare" Action Plan. Changes for Children involved
22 the implementation of recommendations from the external
23 reviews of the child and family services system completed
24 in 2006.

25 The Implementation Team comprised of two external

1 chairs, CEOs of the four Authorities, two representatives
2 from Manitoba Child and Family Services and Housing and was
3 set up to oversee the process. Next.

4 Still carrying on. Implementation plans
5 developed by the Implementation Team were to: always
6 respect the spirit and intent and longer term objectives of
7 the AJI-CWI, and; clearly and demonstrably strengthen the
8 capacity of the child and family services system. Next.

9 The Caring Society Complaint, 2000 (sic) to
10 present. February 27th, 2007 to present date. The Caring
11 Society and the AFM filed a complaint with Canadian Human
12 Rights Commission. Assembly of First Nations and the
13 Caring Society alleged that the Government of Canada
14 provides inadequate (sic) levels of child welfare funding
15 to First Nations children and families on reserve.

16 Referred to the, the Canadian Human Rights
17 Tribunal, a number of procedural delays - hearings that
18 start in February 2013. Hearings are expected to continue
19 to August 2013. Next.

20 The National Advisory Committee. Committee
21 meeting in Winnipeg, June 2005 -- 2007. INAC presents a
22 plan for regional roll-out of prevention focused approach
23 to child welfare services on reserve. INAC indicates that
24 the new model is based on the Alberta model of prevention
25 services and says that the plan of -- for the new model has

1 strong focus on working together with interested partners
2 in Manitoba. Next.

3 AMC Resolution of 2007. AMC -- it's on R-E, the
4 National Advisory Committee to create a "Made in Manitoba"
5 Prevention/Early Intervention Framework and Funding Model
6 for On-reserve Service Delivery.

7 The AMC passes a resolution directing AMC Chiefs
8 to work with the Province of Manitoba, INAC, and the
9 Southern and Northern Authorities, First Nation agencies
10 and the MKO in forming a National Advisory Committee to
11 develop a new "Made in Manitoba" model and approach -- a
12 service framework, pardon me -- to ensure early
13 intervention and family enhancement services are delivered
14 to families residing on reserve. Next.

15 AMC Resolution, continued. Directed that any
16 framework and funding model would incorporate Jordan's
17 Principle, a first -- a "child first" principle including,
18 promising practice models demonstrated by success First
19 Nation programs. Next.

20 The Southern Chiefs Resolution, 2008, May 2008.
21 Re: First Nations' Child Care and Family Services. The
22 Southern Chiefs Organization passed a resolution for the
23 development of a model First Nations' Child Care and Family
24 Services law. In the resolution SCO authorizes, among
25 other things, the allocation of resources to complete this

1 work and the development of a work plan. Next.

2 The -- it states -- the SCO states objectives:
3 of developing and implementing First Nations' child and
4 family services law; to ensure that First Nations are
5 accountable for the care of First Nation children; to
6 protect and protect First Nations' nationhood and First
7 Nation citizens from assimilation in the application of
8 non-First Nation laws. Next.

9 Transfer of responsibility, 2008/2009. Transfer
10 of Responsibility in Leadership of the Southern First
11 Nation Network of Care for AMC to SCO. AMC signed the MOU
12 in the AJI-CWI in 2000 on behalf of the Southern First
13 Nations, at a time when SCO was in its infancy. The AMC
14 and SCO acknowledged from the outset, that SCO would
15 eventually assume responsibility in the place of AMC as
16 appointing -- as the appointing body of any leadership
17 council -- and on the Leadership Council. Next.

18 In 2008 SCO and in 2009 AMC, passed resolutions
19 in support of this transfer of responsibility. To date,
20 the AMC remains the appointing body in, in The Authorities
21 but SCO has take its place on the Leadership Council. AMC
22 remains an ex-officio member of the Leadership Council.
23 Next.

24 In conclusion. At this, at this juncture, in the
25 First Nation Child Welfare, we have the benefit of

1 recommendations from -- and there's a list there that the
2 -- I guess the -- all the information I had just previously
3 presented. The Canadian Child Welfare Council and Canadian
4 Association of Social Workers of '47; the Hawthorne Report;
5 Wahbung: Our Tomorrows of '71; The Manitoba Indian Child
6 Welfare Subcommittee Report of 1980. The Canadian Council
7 on Social Development by Patrick Johnson. Next.

8 No Quiet Place: Review Committee on Indian and
9 Metis Adoptions and Placements - "The Kimelman Report of
10 1985. The Report of the Aboriginal Justice Inquiry of
11 1991. The First Nation's Child and Family Service Risk
12 Force of 1993. The Framework Agreement Initiative (FAI) of
13 '94 to 2007. And the joint policy review final report of
14 2000. And the Joint Policy Review Final Report of 2000.
15 The Wen:De Report of 2005. The Reports for Implementation
16 in Changes for Children of 2006. Next.

17 Most of the recommendations from earlier reports
18 speak to the need to: Recognize the impact that policies
19 of assimilation have had on First Nation communities and
20 work towards ensuring that they are not continued;
21 acknowledge that First Nations communities are in the best
22 position to identify how to meet the needs of the community
23 members; ensure that a holistic or a "total" approach is
24 taken to child welfare - look at, at solutions in all
25 service areas - child welfare, housing, education and

1 economic development. Next.

2 Review programs like the Repat Program and Local
3 Child Care Committees, that have worked with First Nation
4 communities; review resolutions between First Nations and
5 the federal and provincial governments; ensure that
6 everyone is involved and contributing the best resources
7 possible to provide the care of First Nation children. And
8 realize, hopefully to realize that we have been "borrowing
9 legislation" and to realize the goal of restoring full
10 jurisdiction of child welfare to First Nations communities
11 as part of the process. Next.

12 There are a number of recommendations that have
13 been made in order to approve First Nation Child Welfare.
14 Many of these recommendations from earlier reports need to
15 be looked at. If we want recommendations to work for First
16 Nation children, families and communities, we need to look
17 to this history and engage First Nation communities in
18 determining how best to move forward. Next.

19 I guess the two house analogy is this way, it's
20 -- you know, prior, prior to contact we were, we were a
21 sovereign people. If you take a look at the left chart it
22 says that sovereignty self-government, we had the
23 responsibility of all aspects of our lives within this
24 area, you now know or we all know as Manitoba so we, we had
25 a full house of responsibilities as First Nation people,

1 where we were Ojibway, Dakota, Cree, Dene, and we were
2 living in, in such a way, I guess I refer to it sometimes
3 as living down to a science prior to contact as you
4 couldn't have lived -- imagine this past winter we have
5 just gone through, you know, without having to be organized
6 in such a way that you were able to, to survive and live
7 and look after and care for your family.

8 After the -- you know I'll use 1870, I guess, as
9 a, as a marker that -- well, even I know it started more
10 than about the development of the federal government which
11 we know as, know as Canada, along with the provinces and
12 its -- all its municipal governments but there's a move all
13 those years as to empty out our house, our side of the
14 house through responsibilities taken on via the Indian Act,
15 on our behalf, to, to, to look, look after Indians, I
16 guess, and care for Indians and it's, it's kind of led to a
17 -- not kind of, we know that it's led to a bit of a tragic
18 situation for many of our children, many of our families,
19 many of our, many of our families and, and it created a --
20 you know, initially when we were a very sustainable and
21 independent people we now become a very dependent people as
22 a result of the systems that were attempted, I guess, over
23 the past 141 years, or since the making of treaties in this
24 neighbourhood. Next page.

25 Going on with this two house analogy in terms of

1 part of an eventual -- if we're looking at making some
2 suggestion of changes and I wanted to lead this
3 information, some of this information during -- is that
4 prior to contact we had a full house of responsibilities,
5 and then the initial visitors had an empty house,
6 basically. They, they came and, and acquired, I guess, the
7 love for this country like, like, like we have and began to
8 set up their, their -- all their procedures, their
9 governments, and, and the way that they wanted to do
10 business.

11 Shortly after treaty time was -- is, is when that
12 process started of emptying our house, as part of the whole
13 process, eh. Various pieces of legislation were used to
14 empty or to restrict much of our activity as First Nation
15 people and our house was, therefore, in the past 141 years,
16 has almost been emptied, emptied as a result where we're
17 being invited to participate under the -- I guess the, the,
18 the heading of being a Canadian citizen and, and to create
19 a full house under the federal, provincial systems, and
20 where maybe that reserves may end up in that category but
21 we're finding extreme difficulty in terms of the way that
22 everything was set up, to be able to function within that
23 system because it's, it's one of dependency.

24 The answer to all of the, the -- you know, to
25 most of this is the creation -- and I know all the various

1 reports have, have hinted and said it outright and all the
2 inquiries and all the suggestions of -- in terms of the
3 reports being presented this afternoon, have pointed to, to
4 allowing a situation where First Nations could grow and
5 develop or redevelop their, their whole sovereignty to
6 operate as a, as a, as a full partner in, in this place we
7 call Canada, much like the federal, provincial system has
8 evolved and it's operated itself and developed itself to
9 become a full house of, of all of its rules and regulations
10 and how it governs itself but it's -- I think we need a
11 time now to say -- to begin the -- as First Nations that we
12 create our, our full house of sovereignty, our
13 responsibilities where we would give back to the, the, the
14 care for our own children in a very legal sense, you know,
15 as we move towards growth, I guess, in this country we know
16 and call as Canada.

17 Or -- and specifically, Manitoba, you know, in
18 terms of the way that we can move. And I'm not sure if
19 those -- if I ...

20

21 BY MS. SAUNDERS:

22 Q No -- and in your comments to me previously, in
23 explaining this, this two houses analogy, correct me if I'm
24 wrong but if it's fair to say that it's the ultimate goal
25 of First Nations to rebuild that house in order that the

1 two houses may live side by side. Is that fair to say?

2 A That's fair to say. We've been experimenting,
3 over the past, you know, 20, 30 years with, with all of the
4 different kinds of programs and services that we have been
5 able to access from the federal, provincial systems, to
6 look at working towards rebuilding those houses and
7 rebuilding our house towards our own sovereignty.

8 For example, like the -- through Child and Family
9 Services, I know when it's -- you know, some people have
10 difficulties with that but we, we kind of embraced it in a
11 different way, we've utilize that, that program, those
12 programs and services to rebuild or some work around, for
13 example, counseling, you know, getting people used to, to,
14 to looking at what has happened to them in their tragedies
15 in the past hundred years, you know, as a result of
16 residential school or a placement outside the, the homes
17 and, and we, we now have another program, several other
18 programs within my community, for example, that are saying
19 we need counselling, we need, we need that approach, we
20 need more awareness programs and that start was done by one
21 of the program like Child and Family Services and --
22 because it brought the first treatment workers, right
23 direct on site to the community and where people were
24 allowed to do treatment right on site, within the
25 community, almost like having to take treatment and then

1 without having to leave the community, they were able to
2 deliver some of those services for some of those people
3 that required that kind of help but -- and that's becoming
4 a new standard within our community. So that's one
5 example, the prevention programming and rebuilding the
6 parenting program, for example, or, or family management
7 program and realizing, you know, what has happened to many
8 of our people who are now -- people are accepting and, and
9 joining up and, and participating in those programs, right,
10 right on site, on the reserve, where, you know, 20 years
11 ago that -- where they were non-existent or they wouldn't,
12 they wouldn't participate, we now -- we all have that --
13 some examples of that experience over the past 20 years,
14 starting to become to, I guess, of some success, you know,
15 where, like I said, I know that my community we have a
16 neighbouring -- we have, we have a situation that actually
17 in, in my community, where you have three programs working
18 jointly together, you know, to prepare -- to, to implement
19 services of that nature for people's personal growth and
20 self-growth and, and -- which is needed right, right on
21 site in the community.

22 Q Right. And so these programs aren't necessarily
23 large funded programs, requiring a lot of infrastructure,
24 these are, are --

25 A No, they're --

1 Q -- if I can say --

2 A No.

3 Q -- like programs that are, are very basic --

4 A Yeah, yeah.

5 Q -- that just require an opportunity for people to
6 speak about their experiences and, and, and begin the, the
7 path of seeking help to whatever it is they may need within
8 the community. Is that fair to say?

9 A That's fair, yeah. We started a -- for example,
10 another example, I guess, is coming up with -- I know we
11 did a men's group program dealing with, dealing with
12 violence, you know family violence and getting to look at
13 that issue in terms of getting to understand on how it
14 became part of their belief system and to unravel that,
15 getting them to work with -- back in the, in the '90s,
16 short, yeah, in the '90s where we started that program.

17 We now have -- it wasn't too long ago, in my
18 community, that I went on a Sunday to attend a men's group
19 meeting. You would have never heard of it before, a men's
20 group meeting that didn't have to be organized by a
21 political character like me or any of the counsellors, it
22 was somebody within the system that we created through one
23 of the programs that was meeting men in, in the afternoon,
24 on a Sunday -- 17 men, I was surprised to find that, that
25 number so high within my own, own community, but they were

1 used to coming together to begin to talk about the issues
2 that, that they needed to talk about and they weren't
3 really all political, they were, you know, service type
4 issues in terms of their own growth and so ...

5 MS. SAUNDERS: Okay. All right. All right,
6 well, thank you, Mr. Bone. Those are all my questions, Mr.
7 Commissioner.

8 THE COMMISSIONER: Thank you. We'll take any
9 cross-examination now. I guess you're next, aren't you,
10 Ms. Walsh?

11 MS. WALSH: I am.

12 THE COMMISSIONER: I keep forgetting this. Yeah.

13 MS. WALSH: I know, I do, too, from time to time.

14

15 CROSS-EXAMINATION BY MS. WALSH:

16 Q We'll work backwards with -- starting with your
17 most recent evidence, Mr. Bone. You talked about an
18 on-site treatment program that was successful. Is that
19 part of the West Region work?

20 A Yes, yes.

21 Q Okay. And is it your understanding, we've
22 certainly seen very positive evaluations of the -- what was
23 called the 10 year pilot project of West Region service
24 delivery. Would you agree that, that project represented
25 successful delivery of service?

1 A Yes. Yes.

2 Q So that the type of services and delivery model
3 of services that West Region had been doing is something
4 that, that you think is, is worthwhile to pursue?

5 A Yes. I think we were able to, for example I
6 guess the prevention and the long combining with the
7 treatment activities (inaudible).

8 Q Okay. Now, you've talked about the two houses
9 analogy. If we could go to the previous page, please. On
10 the left-hand side you have spirituality, caring for
11 children, governance structures, preserving, cultivating
12 and protecting the land and sustainability. I would call
13 those outcomes or ...

14 A Yes. Yeah. This side of, this side of that,
15 that structure would -- I guess that's a sample of some of
16 the activities that, you know, when you, when you say what
17 did you do, how did you look after yourself as a sovereign
18 people? So, you know, I mean.

19 Q And, and then on the other side you have
20 ultimately, rather than sustainability, dependency, and my
21 question is what, in your view, needs to be done in order
22 to achieve the, the goals that we see on the left-hand
23 side? I think you've talked about it a little bit but I
24 want to make sure that I understand --

25 A Okay.

1 Q -- what, what you think needs to be done.

2 A Well, I guess what, what needs to be done is, is
3 the way that I would understand it, is, is we're not asking
4 to be given the responsibility, I think we're looking, the
5 right term I'm looking for is to have, I guess, society
6 acknowledge that we have the responsibility, that we would
7 proceed that way, and if the governments would, would,
8 would recognize that, that we can, you know, run our own
9 family services program then let's work towards that and
10 design that, you know, according to the way that those
11 people within those particular reserves or that, that
12 Ojibway tribe wants to do them, do their, their child and
13 family services there.

14 Q And are you saying that the AJI/CWI has not
15 achieved that?

16 A It's pointed to it, we're not completely achieved
17 all of that. If we did I don't think I would -- if it was
18 done I wouldn't be saying, saying that right now. Like, if
19 it was -- if my community was ultimately, let's say, living
20 from the results of those reports right now we, we wouldn't
21 have the situation in terms of, you know, children in care
22 because I, I think what we need to do is, is continue --
23 what's the word I'm looking for -- continue actually
24 exercising what has been identified, you know, all of the,
25 all of the, all the recommendations that came, came -- come

1 out of those reports, out of that report, eh.

2 Q And perhaps we're going to be hearing more
3 evidence about this from other witnesses, put forward by
4 the AMC, are we?

5 My question -- because otherwise I'll, I'll --
6 I'll start with you.

7 A Okay.

8 Q We've seen what the Authorities, the Act, has
9 done in terms of, of implementing devolution and the
10 AJI/CWI, and I hear you to be saying that, that that work
11 has not fully achieved the, the items that you've got on
12 the left side of your two houses analogy, culminating in
13 sustainability, so what more needs to be done to achieve
14 that?

15 A Well, what more needs to be done, basically, is I
16 think the -- because of the -- I guess I can point towards
17 an agreement that was made between ourselves and, and, and
18 Canada, was the treaty that was made in 1871 and if that
19 was honoured I think we would have the resources and be
20 able to, you know, to be able to implement some programs
21 that are very similar, similar to what's happening within
22 the provincial side of, of the world.

23 If we had the money to hire counsellors, for
24 example, and to hire treatment workers or psychologists to
25 work with those individuals that have been affected by the

1 residential school system or the, the removal of their
2 children through the CAS system, I think we would, we would
3 definitely benefit from it because right now we don't get
4 that money directly, it's flowed to us through a corporate
5 entity, we know as the West Region Child and Family
6 Services Organization; right?

7 And I think that's why like I have this door
8 here, if you, if you look at the, the -- that's what that
9 represents for -- I've left that open, like the, the door,
10 the doorway between the two entities, is legislation,
11 Indian Act comes through that door. Legislation is coming
12 through that door, right, and that's -- but it's very
13 limited, except I'm not -- I can't clarify that, I don't
14 know if I can --

15 Q No, no.

16 A But, but what's I'm getting at is that we need
17 to, we need to have the resources to be able to, to carry
18 out that work, eh, so ...

19 Q Those are resources that you're looking for -- to
20 receive from the federal government then?

21 A It doesn't matter where it comes from, in our, in
22 our minds, whether it's federal or provincial. We've
23 always argued for a resource share agreement from the, from
24 the leadership side of the table, in terms of still what
25 should happen for -- of all the resources in, in, in Canada

1 but if there is some kind of mechanism that could be made
2 available, that's hopefully we would use that.

3 Q So specifically, from the province's end, what
4 would you like to see happen?

5 A Well, I guess we're, we're on this journey right
6 now, in terms of, of taking the step, I think we would need
7 that, that step though to, to carry on for me to make sure
8 that I guess what I would, would call for, as, as I know
9 there's, there's the Leadership Council, if that could be
10 implemented in a more, what, what -- it seems like we've
11 been in this struggle -- with a more meaningful way of
12 where we could make our presentations or where we could
13 definitely say here is the way that we should -- it should
14 be assessed, if that could be really implemented, that
15 maybe that might work. I don't know, but ...

16 Right now we have difficulty, actually, of
17 course, with the creation of our own organization on our
18 side of the house and we've used -- for example we've used
19 AMC over the years because it kind of -- it, it -- we were
20 left with that when the north decided to carry out on their
21 own and set up their own systems and work towards their own
22 systems and we decided do that, you know, a little later on
23 in Southern Chiefs Organization and so we have to design
24 our resolutions so that we could adjust that, just, just --
25 and we're still not there yet, anyway, like I don't know if

1 that practise is, is a hundred percent right now, you know,
2 where the, the minister is meeting directly with the
3 chiefs, you know, to, to have these discussions, a free
4 flowing discussion about where we should go in terms of
5 this particular area of child and family services.

6 THE COMMISSIONER: Well, would you make changes
7 to the Authorities Act or are there some other changes of,
8 of the devolution program that you would advocate having
9 occur or am I'm just trying to -- with devolution having
10 occurred, I'm just trying to find out from the provincial
11 perspective what additional developments you're advocating
12 here.

13 THE WITNESS: Well, I think what, what -- I guess
14 what we would do is, is we would -- it might not be too
15 different in terms of if we have to develop an Indian Child
16 Welfare Act that was approved by the, by the Ojibway
17 peoples, along with our leadership, for implementation it
18 might not look very different than the, the federal,
19 provincial act, eh, because protection of children will
20 still be one of the priorities identified and how we
21 implement it, there might be some differences in it but the
22 whole thing is, is this is based on where we would have the
23 authority to be able to create that act for ourselves and
24 implement that act for ourselves for our own. You know, I
25 think if we received acknowledgement from the provinces or

1 from Canada to say well, do that -- do you have a law
2 because from way back when, I'm just remembering a
3 discussion that was taking place, I guess in the hallways
4 around the development of this, in the 1980s, in the early
5 '80s, was that, was that we would develop our own
6 jurisdiction and on, on -- in the meantime, we'll use the
7 federal, the federal, provincial system, which we now have,
8 which is the provincial Child Welfare Act, we'll use that
9 as the -- as, as a learning tool for ourselves to be able
10 to deliver the, the programs and services that we need.

11 So we've experimented, I guess, with that for the
12 past 20 years and we're still not done, I guess, with that
13 work and we need to take a look at how the system is
14 working and, and assess that, like, from the Indian side of
15 the table, we need to really look at that and, and what can
16 we use and what can you use within a system of the
17 provincial legislation.

18 And I guess what I'm getting at is that we have
19 to create for ourselves, as First Nations people, the
20 ability to say here's our law, and this is the one that we
21 need to implement. By the way, when you end up reading it,
22 they might be very similar to the, to the one that the
23 province is using. It's much like the United States and
24 Canada, you know, they have some very similar laws. I
25 think for ourselves we need to move that way, to make

1 ourselves really accountable for the delivery of, of, of
2 child and family services or other kinds of services,
3 so ...

4

5 BY MS. WALSH:

6 Q So my understanding which is fairly limited of
7 what devolution was about and the passing of the
8 Authorities Act was to, to hand over some control to the
9 First Nations communities for the delivery of child welfare
10 services. Is that not what happened?

11 A No.

12 Q And why not?

13 A No. We just put brown faces into the, into the
14 chairs.

15 Q What is it about, I mean, the legislation --

16 A Pardon the expression.

17 Q -- there was new legislation passed, the
18 Authorities Act was passed and, and all the things that
19 flowed with those provisions, so what is it about the, the
20 new setup of, of the four authorities and, and the delivery
21 of services through the four authorities that has not
22 given, in your view, First Nations people the, the
23 authority they need, in fact, to deliver child welfare
24 services? What's missing?

25 A It's, it's not necessarily approved by us, I

1 think that's the point I'm trying to make. We're, we're,
2 we're trying to approve it, we would need to take a law, we
3 need to work on a law and we need to implement it and, and
4 approve it and have the, the authority to approve our child
5 and family services law on our side of the house. I think
6 that's what -- that, that's what's missing.

7 We're borrowing the legislation until we get
8 there. We're using, you know, what, what, what has been, I
9 guess, the system has accommodated, you know, some of the
10 lobbying that it's done over the years to deliver child and
11 family services but we have an authority, we have the
12 ability of an authority as a nation, we have the ability as
13 a sovereign nation. We have the authority to be able to
14 implement one of those, one of those laws, like that --
15 like child and family services.

16 Q So you want new legislation?

17 A No, we need to, I guess, need an acknowledgement
18 by, by the federal and provincial systems that we could
19 design our own system and implement it.

20 Because we said we would borrow legislation
21 because we didn't have a law to begin with, in 1980, we
22 didn't have, we didn't have -- when we were coming to the
23 tables, you know, concerned about delivering the child and
24 family services and wanted to deliver it and practice that
25 whole ability --

1 Q So --

2 A -- we didn't have our own written law, at that
3 time.

4 Q -- are you looking then for more control over the
5 design of the actual delivery of child welfare services
6 within the existing legislative structure?

7 A Yes.

8 Q And when I say you, who is you?

9 A I think the, the First Nations people --

10 Q And I mean that respectfully --

11 A Yeah.

12 Q -- I just --

13 A Yeah.

14 Q -- I just don't know --

15 A Me and, and the First Nations that we represent,
16 you know, the, the membership of our, of our, of our tribe.

17 Q So I'm going to move on for --

18 A Okay.

19 Q To a couple of more specific questions. If we
20 can turn to page 86, please.

21 THE COMMISSIONER: I don't think those pages are
22 numbered in my --

23 MS. WALSH: No, they weren't numbered in mine, I
24 was following along at the top.

25 THE WITNESS: At the top, yeah.

1 THE COMMISSIONER: Okay.

2 MS. WALSH: As we went, so I think, Mr.
3 Commissioner, you're going to have to follow along on the
4 screen, perhaps.

5 THE COMMISSIONER: On the screen, I guess. All
6 right.

7

8 BY MS. WALSH:

9 Q This slide discusses plans for a regional rollout
10 of a prevention focused approach for child welfare services
11 on reserve and it suggests basing it on the Alberta model.
12 Do you know what happened, did anyone look at the Alberta
13 model that you're aware of?

14 A I think we had people -- like I didn't look at it
15 in terms of all the detail but I know from the leadership
16 side we've assigned people to, to look at that information
17 for us.

18 Q And what were the results? Did, did you find
19 that the Alberta model was favourable?

20 MS. SAUNDERS: Mr., Mr. Bone has indicated that
21 normally that's for technicians to, to look at and so while
22 this was referenced in the, the broad scheme of the, the
23 national advisory committee establishment, I'm not sure,
24 Mr. Bone, if you're able to comment on, on the exact
25 results of --

1 THE WITNESS: Not on the exact results.

2 MS. SAUNDERS: Okay.

3 THE WITNESS: No, no.

4

5 BY MS. WALSH:

6 Q Do you know whether it was favoured?

7 Are we going to hear anything about that?

8 MS. SAUNDERS: Favoured by, in terms of
9 leadership, whether the leadership favoured it or?

10 MS. WALSH: The First Nations leadership, yes.

11 MS. SAUNDERS: Okay.

12

13 BY MS. WALSH:

14 Q I raise it because, looking at the Alberta model,
15 was a recommendation in Strengthen the Commitment so now
16 I'm interested to see well, you know, there was other focus
17 on the Alberta model and I would like to know from, from
18 your perspective what, if anything, was thought about that
19 model.

20 MS. SAUNDERS: Well, Mr. Bone, correct me if I'm
21 wrong, you said that you, you likely had technicians who
22 would have looked into the Alberta model but as to whether
23 or not the --

24 THE WITNESS: What were the results --

25 MS. SAUNDERS: -- First Nations, themselves --

1 THE WITNESS: -- I don't have that information.

2 MS. SAUNDERS: -- were consulted, yeah, were they
3 consulted on the --

4 THE WITNESS: No.

5 MS. SAUNDERS: -- Alberta model by the
6 national --

7 THE WITNESS: No.

8 MS. SAUNDERS: -- advisory committee, that's
9 something that -- can you recall that or?

10 THE WITNESS: No, no, no.

11 MS. SAUNDERS: Okay.

12

13 BY MS. WALSH:

14 Q If we turn to the next page please. This
15 resolution to create made in Manitoba, prevention, early
16 intervention, framework and funding model for on reserve
17 service delivery, do you know what happened with this
18 resolution?

19 A It's not completely enacted, anyways, so we're
20 still in the, in the middle of, I guess, having a
21 discussion and part of this process probably relates to all
22 of that.

23 Q And, again, perhaps we'll hear more from --

24 A Yeah.

25 Q -- some of your colleagues but has an

1 alternative, if you like, service delivery model been
2 drafted along the lines, for instance, of, of what this
3 resolution is calling for?

4 A No, no. I'm not aware of that.

5 Q Go to page 31, please.

6 Here you talked about the establishment of the
7 early First Nation Child and Family Services agencies. And
8 do you know whether these agencies were able to do
9 sufficient work to identify whether they had success in
10 reducing the numbers of children who were brought into
11 care?

12 A Well, I -- yeah, we -- what happened there was
13 the -- I, I guess we didn't reduce the numbers, what
14 happened was there was the, was the finding of the work,
15 actually, when we started to create our own agencies and we
16 had our own employees and, and working within the system,
17 as we started to work towards that, I, I think it stopped
18 some kids from care but then what happened is when we
19 started to get it to work, the, the, the numbers started to
20 increase.

21 And the Children's Aid Society, I'm not sure what
22 they did, aside from maybe the -- responding to, I guess,
23 the, the move by the First Nations people to, to relook at
24 everything that we're doing in terms of how we're doing
25 child and family services.

1 Q I think I didn't make myself clear.

2 A Okay.

3 Q What I was curious to know was whether these
4 First Nations agencies were able to do more on the side of
5 prevention and --

6 A Okay.

7 Q -- I suppose fewer apprehensions.

8 A Yes.

9 Q And has that been identified, was that -- were
10 the results of that work written up anywhere?

11 A Yes. If you take a look at the -- I think you
12 would have to call for all the annual reports of West
13 Region, for example, and you can track what, what, what
14 kind of programs and services were delivered in each of
15 those areas and I'm pretty sure that the other tribal
16 council agencies that, that were doing the similar work,
17 they would probably have that information. But I know
18 there you would be able to find the reports coming back as,
19 as to the kinds of preventative programs that they were
20 conducting within their communities, so ...

21 Q And I know we -- last week we looked at an
22 analysis, a favourable analysis of the West Region --

23 A Okay.

24 Q -- pilot project that's published in the one day
25 report. Is that, is that what you're referring to?

1 A Yes.

2 Q Okay. And, and that analysis did indicate not
3 only a cost benefit analysis but also a reduction in the
4 numbers of children who come into care.

5 A Yes.

6 Q But I just wanted --

7 A Yeah, yeah.

8 Q -- to be sure that I understand --

9 A Okay, okay.

10 Q -- which agencies and what work you have
11 identified as --

12 A Okay.

13 Q -- being successful. So it's the West Region
14 work that you're referring to?

15 A The West Region work, yeah.

16 Q Okay.

17 A Yeah.

18 Q The, the local child care committees that you
19 discussed, tell, tell us a bit more about those. Do any
20 still exist?

21 A There's a reference to them. Again, I was -- I
22 know for the, for the Keeseekoowenin reserve I can say that
23 I know it's a matter of, I think there, there are some
24 members identified to be the committee and there was a
25 difficulty that arose, a couple of years ago, where -- with

1 the committee that, that had said that the sharing of
2 information, confidential information, of case
3 conferencing, for example, like when -- if they're advising
4 to, to that kind of work to a worker, they were, they were
5 unsure as to how to address or to look after that, to be
6 able to provide a positive influence to case planning to
7 the case worker. And in a sense, you know, I believe that,
8 that there was -- from my reserve it would be still in
9 existence and it just hasn't been active because they
10 haven't been able to go beyond how do you deal with
11 confidential information, confidential information of a
12 family so ...

13 Q And who sits, typically, on these committees?

14 A It would be one, one representative from council.
15 You might have some elders on it or some program people
16 from another area, from -- whether sometimes it would be
17 from education or from health or social services, just --
18 it changes over the years, it has changed over the years.

19 Q And the purpose of the committee?

20 A To play an advisory role to the, the CFS worker,
21 the prevention worker, and the -- a treatment worker.

22 Q Advising based on what, their expertise in the
23 engagement with the community or?

24 A Engagement with the community in terms of working
25 with -- for example, if we're working on designing more on

1 the, let's say, a family management program or a parenting
2 program, they would identify that and participate with that
3 kind of a discretion or, or of the need for, for a men's
4 group need, or the need for other groups like the women's
5 group or other activities related to awareness of
6 information related to the issues of child care.

7 MS. WALSH: Thank you, those are my questions.

8 THE WITNESS: Okay.

9 THE COMMISSIONER: Thank you, counsel. All
10 right, who else would ask -- wish to ask questions? Mr.
11 Cochrane?

12 THE WITNESS: Can I get some water?

13 THE COMMISSIONER: Yes, some water.

14

15 CROSS-EXAMINATION BY MR. COCHRANE:

16 Q Mr. Bone, my name is Harold Cochrane, I'm counsel
17 to the Southern Authority, Northern Authority and ANCR and,
18 of course, we know each other --

19 A Yeah.

20 Q -- from having prior dealings and, and we've
21 worked together in the area of child protection many years
22 ago, which you recall.

23 A Yeah.

24 Q So I just have a few questions, a few questions
25 and I'm hoping -- because I don't think the -- I guess the

1 first question is are you, are you speaking, today,
2 personally or on behalf of AMC or on behalf of SCO?

3 A SCO and AMC.

4 Q SCO and AMC. Okay.

5 Mr. Commissioner, I'm -- I don't have the page
6 numbers of the presentation so unfortunately I can't refer
7 to a page number but --

8 THE COMMISSIONER: No, I'm in the same situation.

9 MS. WALSH: I've been numbering some of them.

10 THE COMMISSIONER: Tell us what the heading is
11 and ...

12 MS. WALSH: What are you looking at?

13 MR. COCHRANE: The, the heading is duties of
14 authorities and it's near the end.

15 THE COMMISSIONER: Can Commission counsel help
16 with their ...

17 MS. WALSH: Try 81. No, 80, 80, I think it's 80.

18 MR. COCHRANE: Eighty. Slide 80. Yes.

19

20 BY MR. COCHRANE:

21 Q Mr. Bone, that should be on your, your screen
22 there. And you touched very briefly on this during your,
23 your presentation so I want to have just -- I have a few
24 questions for you in that regard.

25 Now --

1 THE COMMISSIONER: How many pages were there, or
2 frames, in all, were there?

3 MS. WALSH: Well, I don't have all the --

4 THE WITNESS: Ninety-nine?

5 MS. WALSH: Ninety-nine?

6 THE COMMISSIONER: Ninety-nine. That gives me
7 some idea -- that's fine.

8 MR. COCHRANE: Yes, thanks.

9

10 BY MR. COCHRANE:

11 Q So I just wanted to -- again, your -- you talk or
12 the section talks about culturally appropriate standards
13 for service and that's the point you made during your
14 direct questioning and I want to just -- you, I understand,
15 co-authored an article, I believe this is you, May/June
16 1995, Child Welfare, Child Welfare League of America. And
17 do you recall co-authoring that article?

18 A The placement, the placement, the placement of?

19 Q Yeah, it has to do with -- it's called Child and
20 Family Standards in First Nations, An Action Research
21 Project. Authors are Brad McKenzie, Esther -- I'm going
22 to, I'm going to --

23 A Esther Seidl.

24 Q I'm going to butcher this -- sorry?

25 A Esther Seidl.

1 Q Seidl. And Norman Bone?

2 A Yeah.

3 Q Okay. So -- and this was the article that you
4 had --

5 A Yeah.

6 Q Okay. I have a copy for the Commissioner and
7 for, for the witness.

8 THE COMMISSIONER: Do you want to have that
9 marked?

10 MR. COCHRANE: Yes, sir.

11 THE COMMISSIONER: All right, that would be, that
12 would be Exhibit?

13 THE CLERK: I believe it's 54. Yes, 54.

14

15 **EXHIBIT 54: CHILD WELFARE JOURNAL**
16 **OF POLICY PROCEDURE AND PRACTICE:**
17 **CO-AUTHORED BY MCKENZIE, SEIDL AND**
18 **BONE**

19

20 MR. RAY: Mr. Cochrane, do you have a copy for --

21 MR. COCHRANE: I've got --

22 MR. RAY: -- counsel for the witness?

23 MR. COCHRANE: No, I've only got three copies,
24 Mr. Commissioner. But you could use this one.

25 MR. RAY: Thank you.

1 THE COMMISSIONER: Well, I, I -- you, you keep
2 the, the exhibit in case you need it and I'll -- I can see
3 it after.

4 MS. SAUNDERS: Okay, thank you.

5 MR. COCHRANE: Perhaps what I'll do then, Mr.
6 Commissioner, I will refer more thoroughly to some of that,
7 that -- the findings that I want to bring to your
8 attention.

9

10 BY MR. COCHRANE:

11 Q This is an article, Mr. Bone, that you
12 co-authored in 1995, and it -- I think it's an excellent
13 article, by the way, so I just wanted to -- because you
14 make some important findings in there that I wanted to
15 bring to the Commissioner's attention.

16 Mr. Commissioner, I'm going to grab -- I think I
17 have one more copy.

18 I've got one more copy, if that's of any
19 assistance to you, Mr. Commissioner.

20 THE COMMISSIONER: Well, there's -- counsel need
21 it more than I do. Is there any counsel wants the use of
22 it? Mr. Ray?

23 MR. RAY: As long as I get a copy at some point,
24 Mr. Commissioner, if there's anything that arises from this
25 then --

1 THE COMMISSIONER: All right.

2 MR. RAY: -- we could deal with it then.

3 MR. COCHRANE: So, Mr. Commissioner, just to give
4 some context then to this, to this, this research project.

5 THE COMMISSIONER: Do you want me to look at the
6 copy you have then on the --

7 MR. COCHRANE: Sure, that would, that would be
8 helpful.

9 THE COMMISSIONER: And if counsel want this when
10 I am finished with it, for their cross-examinations, they
11 can have it.

12 Going to what page?

13 MR. COCHRANE: I am going to jump right into the
14 third page, which is page 3 --

15 THE COMMISSIONER: Clerk, you had a --

16 MR. COCHRANE: Page 635.

17 THE COMMISSIONER: -- you have clip? Page what?

18 MR. COCHRANE: 635.

19 THE COMMISSIONER: 635. Okay.

20

21 BY MR. COCHRANE:

22 Q Now, the, the article starts, of course, with
23 some, some background information, similar to what Mr. Bone
24 provided today and this is the tripartite agreements and --
25 that he talked about so it gives that reference. And the

1 last paragraph on page 635 talks about West Region CFS.
2 Mr. Bone has also talked about that this afternoon. So
3 this, this, this research project, Mr. Bone, if I'm
4 correct, focused on West Region Child and Family Services.
5 Is that correct?

6 A That's correct.

7 Q Yes. And West Region, I understand, is an agency
8 that serves nine First Nation communities, including
9 Keesee?

10 A That's right.

11 Q Yeah. And the, the program launched -- or sorry,
12 that agency "launched a project designed to develop
13 culturally appropriate child welfare standards through a
14 community-based participatory research process" is what the
15 article talks about. I'm looking at the last paragraph on
16 page 635, Mr. Commissioner.

17 THE COMMISSIONER: Well, you don't have it, do
18 you? Come and take, come and --

19 THE WITNESS: No, no, but, but I remember --

20 THE COMMISSIONER: -- come and take this one so
21 you can follow it, Chief. Just take that over with you.

22

23 BY MR. COCHRANE:

24 Q Mr. Bone, I'm on -- one, two, three, four, if you
25 flip four pages in, the top right corner is page 635.

1 A Okay.

2 Q So this is just giving some background for the
3 Commissioner's benefit of what the -- that project was
4 about. So it was, it was to develop culturally appropriate
5 child welfare standards in those nine communities. In
6 addition, at the bottom of page 635:

7

8 "In addition, the project was
9 designed to develop standards in
10 communities where services had
11 already been provided by First
12 Nations authorities for more than
13 a decade."

14

15 Authorities, in that context, I believe, is
16 referring to agencies because the, the four authorities
17 didn't exist at the time of this article.

18 And so I flip the page, it's page 636. Now, sort
19 of the mid-way through that page, there's a statement there
20 and it says:

21

22 "The development of new,
23 culturally appropriate standards
24 and models of practice requires
25 considerable time, resources, and

1 knowledge."

2

3 Do you see where I'm referring to, Mr. Bone?

4 A Yes.

5 Q And do you still agree with that finding today?

6 A Yes.

7 Q It goes on a bit more and it says:

8

9 "In First Nations communities,
10 this process is complicated by the
11 high demand for crisis services,
12 the recognition that many
13 traditional cultural practices
14 have been lost through exposure of
15 children to residential schools
16 and other assimilative instruments
17 in the dominant society, and
18 limited financial resources."

19

20 Do you see where I'm referring to that, Mr. Bone?

21 A Yes.

22 Q And would you agree with that statement today, as
23 well?

24 A Yes, I still agree with it.

25 Q And if we were to flip the page to page 637,

1 which is the next page, right at the top you again talk
2 about the complexity of identifying culturally specific
3 child welfare standards and you say: "The identification
4 of culturally specific welfare standards is ... quite
5 complex."

6 And I think that you've already agreed with that?

7 A Yeah.

8 Q Yes. And then you talk about some of, some of
9 the challenges that, that are faced when you're looking at
10 new culturally appropriate standards -- I'm going to refer
11 to a little bit -- sorry, a few more of the statements.

12

13 "Although it is now generally
14 accepted that early First Nations
15 societies embraced a holistic,
16 interdependent lifestyle, a social
17 and political structure based on
18 the clan system and extended
19 families --"

20

21 We talked about that today.

22

23 "-- and a decision making process
24 based on mutual cooperation and
25 the building of consensus --"

1 You state,

2

3 "-- it is not clear whether such
4 differences are retained today,
5 particularly in First Nations
6 communities located in close
7 proximity to non-aboriginal
8 communities."

9

10 And then, and then I think one of -- an important
11 question is then asked. It says that:

12

13 "Even if differences can be
14 identified --"

15

16 So that's the previous comment that is made.

17

18 "-- should the focus be on
19 defining Aboriginal values and
20 related standards as they are
21 practiced today after more than
22 three centuries of contact, or on
23 traditional values that may
24 reflect an (idolize) idealized the
25 vision of (social) provision?"

1 That's, to me, an important question.

2 So I wanted to ask you a question now because I
3 think what you're getting at is, is, is the challenge faced
4 today in the context of residential schools and, and the,
5 the past traditional governance models that were in place,
6 the difficulty today of trying to establish culturally
7 appropriate standards is you've got some communities that
8 are more traditional than others --

9 A Yeah.

10 Q -- so it makes it very complex, I think is what
11 you were saying.

12 A Correct, yeah.

13 Q Okay. And then near the bottom of six -- page
14 637, the statement is:

15

16 "Although tradition values and
17 practices can be used to inform
18 the development of child welfare
19 standards, communities may
20 identify with traditional aspects
21 of culture to varying degrees."

22

23 You see that statement there, Mr. Bone?

24 A Yes. Yeah.

25 Q And would you still agree --

1 A Yeah.

2 Q -- with that today?

3 A Yes, yes.

4 Q Okay. And then you talk about what, what you're
5 categorizing as a traditional -- I'm just trying to make
6 sure I've got the right word here -- lifestyle, and so
7 traditional lifestyle patterns, non-traditional lifestyle
8 patterns and what you've called pantraditional lifestyle
9 patterns. So those are the three and then you, you give --

10 A Yeah.

11 Q -- a fairly good explanation of, of each of
12 those. Traditional, as you state, are those that have a
13 "strong appearance to traditional values and practices".
14 Neo-traditional, are those that are a "blend of traditional
15 and non-traditional values". And, of course, then you've
16 got non-traditional lifestyles which are -- they've adopted
17 the dominant society values and have become alienated --
18 sorry, adoption of the "dominant societal values". So
19 those are the three categories you've talked about.

20 So, that's what -- the findings you've made in,
21 in the article and I think they're, I think they're well
22 reasoned. So if you could paint a picture then from that
23 for the Commissioner. Now, in Manitoba, you're speaking
24 for AMC.

25 A Yeah.

1 Q In Manitoba there are, what, 62 or 63 First
2 Nations. I think 63.

3 A Sixty-three, 62, for sure. I know there's,
4 there's some communities, I think, are trying to attain
5 reserve status --

6 Q Yeah.

7 A -- I believe.

8 Q Yeah. There's always a question if it's --

9 A Yeah.

10 Q -- 62 or 63 and there are --

11 A Sixty-two.

12 Q Sixty-two. And there are, as I count, six or
13 seven tribal councils in the province?

14 A Yeah. Yes.

15 Q And there are, as well, six or seven linguistic
16 groups, Cree, Oji-Cree, Ojibway, Dene, Dakota, Sioux.

17 A Yeah.

18 Q In the province. And, of course, we have First
19 Nations here in Manitoba that are signatory, as I count, at
20 least four or five different numbered treaties in the
21 Province of Manitoba. Is that correct?

22 A Yeah, that's correct, yeah.

23 Q Four or five --

24 A Yeah, that's right, yeah.

25 Q -- treaties that, that --

1 A One, two -- yeah, five.

2 Q Five.

3 A Ten. I think there's treaty 10.

4 Q Yeah, I believe it's four, yeah.

5 A Four, yeah.

6 Q Anyway, the point is that, as you stated in the
7 article, when you're dealing with First Nations in Manitoba
8 with those different linguistic groups, different tribal
9 council regions, different treaty areas, some are
10 traditional, some are non-traditional, the idea of
11 developing then culturally appropriate standards, as you
12 say in your article, is difficult, it's complex and it's
13 a -- would you agree with that?

14 A I agree with that, yes.

15 Q And so to develop these things it would be
16 unreasonable to expect these standards to be developed
17 overnight, it's going to take some time?

18 A That's correct, yeah.

19 Q Yeah.

20 A I think, I think when, when you take a look them
21 -- the findings then, basically, you can still go out
22 today --

23 Q Yeah.

24 A -- and do this work and probably still come up
25 with the same findings.

1 Q Yeah. Yeah. All right.

2 I'm going to switch gears a little bit. Under
3 the -- you made some comments to Ms. Walsh about the
4 AJI/CWI process and I don't want to misstate anything but
5 you, you have reference the concept more than once about
6 borrowing laws or, or standards. I'm thinking of,
7 referring to the AJI --

8 A Yeah.

9 Q -- CWI --

10 A Yeah.

11 Q -- process.

12 A Yeah.

13 Q And I know, of course, having some involvement in
14 that process that, that was, was not the end game as far as
15 First Nations were concerned and you talked about that.

16 A That's correct.

17 Q And that is the reason why -- and that's
18 evidenced by the fact that there is a -- what we call a
19 non-derogation clause in the Authorities Act and
20 specifically, Mr. Commissioner, it's found at Section 3 and
21 there are two sub-sections to that, that section and it
22 illustrates the point that Mr. Bone is making very clearly
23 and, and I think -- I don't have it verbatim but Section
24 "A" of that non-derogation clause states very clear that
25 the AJI/CWI process is not to abrogate or derogate from

1 self-government discussions, present or future.

2 It also, sub-(b), talks about does not abrogate
3 from aboriginal or treaty rights so that was, that was very
4 clear, I understand --

5 A Yes.

6 Q -- in those discussions. So the, the, the
7 understanding going in and the understanding coming out was
8 that AJI/CWI was -- it was not the end game, it was always
9 meant to be an interim measure.

10 A Yeah, yeah, yes.

11 Q So to speak. And that --

12 A That's right, yeah.

13 Q -- that's where we are today.

14 A Yeah.

15 Q Yeah. In terms of the First Nation law we have
16 talked about, and I've, I've heard you talk many times
17 about that, at the chiefs' assemblies and both today and
18 (inaudible) I've attended over the years so I'd like, I'd
19 like for a clearer picture to be painted for the
20 Commissioner because I think there was some confusion and
21 Ms. Walsh had asked some questions about that --

22 A Yeah.

23 Q -- so I want to, I want to take you back to
24 that --

25 A Sure.

1 Q -- if, if you are okay with that.

2 Now, I've heard terms today, I've heard a treaty
3 approach to that, I've heard a sovereign nation approach.
4 I heard your counsel, the other day, talk about
5 self-determination, and sovereignty of my clients. Those
6 terms, of course, are not interchangeable, right, they,
7 they have --

8 A Yeah, yeah.

9 Q -- they have very important --

10 A Specific, yeah.

11 Q -- very important meanings so -- which is why I
12 wanted, hopefully if you can, you can clear up what it is
13 Manitoba First Nations are, are pursuing here in, here in
14 Manitoba.

15 So when we talk then about a First Nation law, a
16 First Nation child and -- child welfare law, are you able
17 to comment on which -- on what basis you see the law being
18 put forth? Is it a, is it a -- you also talked about
19 Section 9124, right, which is --

20 A Yeah, yeah.

21 Q -- federal jurisdiction and 9223, I think it was
22 in your, in your --

23 A That's right.

24 Q Sorry, 13, 9213, which is provincial
25 jurisdiction. How do you see it fitting into this, this

1 jurisdictional uncertainty? How do you see the First
2 Nation law fitting in there?

3 A Okay. I guess I can begin with -- and thank you
4 for reminding me with the, with the article that -- thank
5 you for bringing that.

6 Q Yeah.

7 A The -- a situation has to occur in this time, and
8 I'm not sure if I can say that the -- that somebody has to
9 give permission to it and I'm not asking that, that a, that
10 a federal/provincial system gave us permission to, but what
11 has to occur here is that, is that the First Nations have
12 to sit on their side of the house, to sit down and have
13 this discussion.

14 Q Yeah.

15 A And sit down and say, okay, if we're looking at
16 having laws or saying -- we've been saying it for 20, 30
17 years, even longer than that, I think it -- I know for my
18 community, the, the reminder of the struggle started in
19 1920 when AFM was -- well, was, was called the League of
20 Indian Nations then, you know. But the discussion, what
21 has to occur is, is that, is that we have to have a
22 discussion, as First Nations people, as to what that law
23 would look like and we have to design it as per -- with our
24 help, with our own -- hopefully with representatives that
25 we've already sent off to school to come and help us design

1 these --

2 Q Yeah.

3 A -- these laws for us in terms of all the proper
4 writings of these. And we have to create a forum for
5 ourselves to be able to, to design this child welfare law,
6 for example, if that's what -- could be education, could be
7 a number of them.

8 So we would have to sit down on our side of the
9 house and, and the, the current system, the way we're
10 receiving service, would have to recognize that we're doing
11 that and that the current system would have to -- so, okay,
12 for the time being carry on and deliver the services
13 because we still got to, you know, provide services to, to
14 children and families.

15 So what we, what we have to do, as First Nations
16 people, is we have to sit and design this child welfare law
17 and hopefully it won't take, like a hundred years --

18 Q Um-hum.

19 A -- or, or you know. I think we have enough
20 people that are, that are articulate enough, in terms of
21 assisting with that exercise so that we can design a law
22 that we can implement within our jurisdiction.

23 Now, our, our, our jurisdiction has been very
24 limited to me, you know, depending on where you're sitting
25 at it, you're sitting at the, at the modern table, you sit

1 like at the Indian Act table you're saying well, gee whiz,
2 I can only implement this on my reserve, and it's 5000 or
3 6000 acres. I can only implement there.

4 Or if you're sitting at the treaty table, for
5 example, saying well, I think wait a minute, I think this
6 law has to be implemented for us within the, the treaty two
7 area or the treaty one area or the treaty four or five
8 area.

9 Q All right.

10 A But we have to be able to design a law that could
11 be implemented for specifically our people within that,
12 within that frame.

13 Q Right.

14 A And so I think what has to be -- what has to take
15 place is, is that, is that time out, if you want to call
16 it, and where the First Nations people are allowed to be
17 able to simply design that, without the pressures of saying
18 no, no, you've just got to continue to assimilate, you've
19 just got to continue to be, you know, colonized. And I
20 think what has to take place is, is just that, is, is they
21 allow for that and if somebody has to make somebody
22 available I think there's a, there's an onus on, on all of
23 us to be able to do that, just, just to make some money
24 available to get a group to, you know, to be able to design
25 that because of the complexities of what we found, back in

1 '95. When you, when you take a look at, you know, some of
2 the -- some of our communities are, are more Christian,
3 some of them are more traditional, some of them have more
4 treaties, some of them -- when you go to those findings
5 some people are, are speaking all English, some people are
6 speaking all Ojibway, eh?

7 Q Um-hum.

8 A So if we find always there's something --
9 depending on the hearing that you're at, eh. If you find
10 all of that and say okay, you got to go through a process
11 to be able to sit down and we, ourselves, are going to have
12 a consultation exercise with our own people and, and, and
13 design, you know, an end product.

14 Q So you referenced the, the Southern Chiefs
15 Organization Resolution which, which is -- I don't have the
16 slide number again, Mr. Commissioner, but it's --

17 A It was pointing on to take the -- to begin to
18 take that responsibility.

19 Q Yeah, it's, it's --

20 A To take that --

21 Q Yeah, it's, it's --

22 MS. WALSH: Eighty-seven.

23 MR. COCHRANE: Sorry?

24 THE WITNESS: To take that --

25 UNIDENTIFIED PERSON: Eighty-seven.

1 MR. COCHRANE: Eighty-seven, slide 87.

2

3 BY MR. COCHRANE:

4 Q And I'm just wondering then -- oh, that's,
5 that's --

6 A That's it.

7 Q -- the ANC resolution. It would be after that.

8 A Southern Chiefs Organization --

9 Q It's the Southern Chiefs Organization --

10 A Yeah.

11 Q -- you referred to earlier that a resolution --

12 A Yeah.

13 Q Okay, there -- it's on the screen now, Mr.
14 Commissioner, that's slide 89. This is a resolution passed
15 by SCO for the development of a model First Nations Child
16 and Family Services law. Do you have any updates on that?
17 Do you -- has that consultation you've talked about, that,
18 that --

19 A No.

20 Q -- sitting down --

21 A No, that's --

22 Q -- and figuring things --

23 A No, no.

24 Q That hasn't happened?

25 A No, it hasn't happened yet.

1 Q Okay. In terms of developing that law or, or
2 giving it legal enactment, do you, do you see a process
3 where you would engage the Province of Manitoba and the
4 federal government? Would you see a tripartite discussion
5 taking place?

6 A Possibility, if you want to refer to it as a
7 tripartite but it wouldn't -- the engagement wouldn't be
8 like a permission, one where the First Nations are having
9 to ask for permission.

10 Q Right.

11 A Because I think the, the way I understand it is
12 the Canadian constitution recognized that for us we would
13 have that ability to, to, to be that nation; right? I
14 know, I think way back when, even the Royal Proclamation of
15 1763 says that they recognized us as a nation.

16 Q Yeah.

17 A So ...

18 Q And do you see one First Nation law for, for the
19 Province of Manitoba, do you see 62 or 63 different laws,
20 depending on the First Nation or what, what is envisioned
21 there for -- if you could explain that to the Commissioner.

22 A Some, some of it -- some of the -- I guess some
23 of the discussions, I guess, would be -- and it sounds like
24 the last discussion that we talked about would be around
25 the laws of -- by tribe, like Ojibway or Dakota --

1 Q Um-hum. So a tribal affiliation?

2 A Yeah, yeah, yeah. I think that's how it would be
3 because --

4 Q So one --

5 A Yeah.

6 Q Like an Ojibway law --

7 A Ojibway.

8 Q -- a Cree law.

9 A Ojibway, Cree, yeah.

10 Q Okay.

11 A Yeah.

12 Q Of course, we're, we're talking --

13 A Because our findings, our findings all relate --
14 are in relation to child and family services, if I was
15 using them, would be in my language, you know, yeah, so.

16 Q So there -- following that model and potentially
17 up to five or six different laws --

18 A Yes.

19 Q -- in the province. Any thought into how those
20 laws, those First Nation laws, would, would coexist with
21 the existing provincial laws?

22 A I think the way that they could coexist is if you
23 take a look at -- again, that's -- we, as First Nations,
24 acceptance, the acceptance of, of modern growth, of modern
25 growth in terms of finding ourselves in this situation I

1 think would help and contribute to, to designing one that
2 could identify that connection, by being part of, you know
3 -- like what I was getting at is that, is that in the end
4 we might find that our laws have been very similar if it's,
5 if it's protection or maybe, maybe you would have an equal
6 emphasis on prevention or something, like on treatment, you
7 know, but ...

8 Q Okay. And we're still early on, obviously.

9 A Yeah, we're still, so ...

10 Q And in the process, yeah. Fair, yeah, that's
11 fair.

12 A Yeah, so ...

13 Q As you know, under the current provincial law,
14 and under the CFS Act, specifically, the, the primary focus
15 is the best interests of the child. Has that been -- have
16 you -- has, has SCO or AMC talked about that principle in
17 the context of development of its First Nation law?

18 A I haven't seen any documentation but I know
19 discussions about, about that has occurred, like, you know.

20 Q Okay. All right. And we're still -- yeah. And
21 then in terms of to whom the First Nation laws would apply
22 to, any discussion there, would it, would it apply to
23 anyone on the territory, would it apply just to First
24 Nation people or to whom would it apply?

25 A It would apply, apply to those people within

1 that, that jurisdiction.

2 Q So it would be --

3 A Within that --

4 Q -- a territorial based --

5 A It may end up being a territory based, yeah.

6 MR. COCHRANE: Mr. Commissioner, I have no
7 further questions.

8 THE COMMISSIONER: Thank you, Mr. Cochrane.

9 MR. COCHRANE: Thank you, Mr. Bone.

10 THE WITNESS: Thank you.

11 THE COMMISSIONER: Mr. McKinnon?

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

13

14 CROSS-EXAMINATION BY MR. MCKINNON:

15 Q Mr. Bone, my name is Gordon McKinnon, I'm a
16 lawyer for the department, CFS department and Winnipeg CFS.
17 I just wanted to follow up on one thing that arose out of
18 your discussion a moment ago with Mr. Cochrane and it was
19 very helpful to me to hear your answers about our current
20 system not being the end game and the non-derogation clause
21 which is in the Authorities Act so that what we're talking
22 about today, at this inquiry, is what I'm going to call the
23 current, the current situation, the current -- can we keep
24 going, are you okay to keep going?

25

1 (FIRE ALARM SOUNDS)

2

3 THE WITNESS: I don't smell any smoke.

4 THE COMMISSIONER: Eh? Well, will someone go
5 down -- Sheriff, go down and see what's going on, and come
6 back and bring us a report. If we have to get moving,
7 we'll move.

8 I suspect we're being told to leave. Well ...

9 I don't want to be responsible for everybody
10 being in an untenable position. Do you want to close for
11 the day? I'm sorry if we have to do that but it sounds to
12 me as though we have to leave.

13 MR. MCKINNON: I have only got about two minutes,
14 Mr. Commissioner, and I hate to bring the witness back.

15 THE COMMISSIONER: All right, I would have
16 thought ...

17 Well, I think we had better stand adjourned until
18 9:30 tomorrow morning, I think it's the only thing we can
19 do. You'll have to come back, Chief, in the morning.

20 THE WITNESS: Okay.

21

22 (PROCEEDINGS ADJOURNED TO MAY 7, 2013)