



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

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

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

WEDNESDAY, MAY 8, 2013

APPEARANCES

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

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

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

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3

4 THE COMMISSIONER: Morning.

5 MS. WALSH: Morning.

6 THE COMMISSIONER: Mr. Smorang.

7 MR. SMORANG: Good morning, Mr. Commissioner.

8 THE COMMISSIONER: Nice to have you back.

9 MR. SMORANG: Nice to be back. I, I was admiring
10 your new surroundings there. Very cozy.

11 THE COMMISSIONER: Well, we, we're nomads, we
12 move from place to place.

13 MR. SMORANG: Yes.

14 THE COMMISSIONER: You caught us in the
15 Marlborough.

16 MR. SMORANG: Today, as I'm sure you're aware, is
17 the evidence of the MGEU.

18 THE COMMISSIONER: Yes.

19 MR. SMORANG: Which is represented by Janet
20 Kehler, a staff representative. I expect to be finished
21 with her direct this morning and with your indulgence I
22 will be taking her through some of the realities of what a
23 union is and what a union does and then what the union did
24 in this case. We will, by necessity, be spanning a fairly
25 large timeframe beginning in about 1990 and ending at the

1 present, but again, we will be glossing over, we're not
 2 going to be getting into a lot of detail, but just strictly
 3 speaking, I guess, because we're in phase two, this is
 4 where Ms. Kehler was slotted. I think it's appropriate for
 5 her to be here, but with your indulgence we will be kind of
 6 moving through the efforts by the union over a fairly long
 7 period of time.

8 THE COMMISSIONER: I think that's quite
 9 satisfactory.

10 MR. SMORANG: Thank you, sir.

11 Has she been sworn, Madam Clerk? Or affirmed, I
 12 believe.

13 THE CLERK: Stand for a moment. And you advised
 14 you would like to affirm?

15 THE WITNESS: Yes.

16 THE CLERK: Thank you. State your full name to
 17 the court.

18 THE WITNESS: Janet Helen Kehler.

19 THE CLERK: And spell me your first name.

20 THE WITNESS: J-A-N-E-T.

21 THE CLERK: And your middle name?

22 THE WITNESS: H-E-L-E-N.

23 THE CLERK: And your last name?

24 THE WITNESS: K-E-H-L-E-R.

25 THE CLERK: Thank you.

1 **JANET HELEN KEHLER,** affirmed,
2 testified as follows:

3

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

5 MR. SMORANG: I should also indicate, Mr.
6 Commissioner, for your benefit and the benefit of counsel,
7 Ms. Kehler has before her a binder which contains the
8 Commission disclosures that she will be referring to as
9 well as the more recent disclosures which are set out on
10 the screen. It would not be my intention to file the
11 witness summary as an exhibit, and so although it's up
12 there --

13 THE COMMISSIONER: All right.

14 MR. SMORANG: -- preference would not be to put
15 it in as, as an exhibit proper.

16

17 DIRECT EXAMINATION BY MR. SMORANG:

18 Q So starting off, then, with your background, Ms.
19 Kehler, you are a staff representative, that is your title,
20 and you are employed by the Manitoba Government and General
21 Employees Union often referred to as MGEU?

22 A That's correct.

23 Q And how long have you been a staff rep?

24 A I've been employed there since about 2006.

25 Q By way of education, you hold a bachelor of

1 social work and a bachelor of arts, both from the
2 University of Manitoba?

3 A That's correct.

4 Q And I understand that you began your career in
5 child welfare in approximately 1990 with Winnipeg Child and
6 Family Services?

7 A Yes.

8 Q As a social worker?

9 A Yes.

10 Q So doing the math, then, you were a social worker
11 for approximately 16 years, from 1990 through to 2006?

12 A Yes.

13 Q And then since 2006 for about the last seven
14 years you have been a full-time staff representative
15 employed by the union?

16 A That's correct.

17 Q Prior to going to the union to be a staff rep and
18 then in your 16 years as an employee and a social worker, I
19 understand you were involved with the union through that
20 period as well?

21 A Yeah. Yes. I would say since about '91, shortly
22 thereafter my employment began. I started a variety of
23 roles as a member of the union: as a shop steward, shortly
24 thereafter as the president of my local with Winnipeg Child
25 and Family, and continued on in very similar capacity,

1 either a president or a vice-president of my local and then
2 subsequently, when we moved into the civil service, as a
3 member of component executive right up until 2006.

4 Q All right. Just, just for the sake of
5 understanding, a shop steward is kind of a, a first level
6 union representative, person who probably is amongst the
7 workers daily; it is kind of their first point of contact?

8 A Yes. A shop steward, there's often one in, in --
9 we try to have one in every work location, often with
10 different shift configurations, those kinds of things.
11 It's, the shop steward's role is really there to be a
12 conduit, I would say, to that of the union. They provide
13 us information about what's going on. They share
14 information about we're doing. They're first contact for
15 members who may have an issue to either support them or to
16 redirect them back to us.

17 Q All right. And then, again following the
18 hierarchy, there would be a president of the local, perhaps
19 a vice-president of the local?

20 A Um-hum.

21 Q And as I understand it, there are currently
22 approximately 13 locals within MGEU that have social
23 workers working in them?

24 A That's correct.

25 Q Let's talk a little bit about MGEU generally. I

1 understand MGEU, being the union representing provincial
2 government employees in this province, has approximately
3 34,000 members?

4 A The MGEU across the province has, yes, sorry,
5 34,000 members.

6 Q And they're all working in Manitoba for the
7 province government or something that perhaps at one point
8 was the province government?

9 A Or another public service type organization.

10 Q Right. I understand that on average there are a
11 hundred and fifty or so collective agreements, all in place
12 at any given moment, comprising all of those 34,000
13 members?

14 A That's correct.

15 Q Of the 34,000, I'm told that approximately 700 of
16 them are social workers?

17 A Seven hundred of them I would say are child
18 protection social workers. There's other social workers we
19 represent as well in a variety of different fields, but
20 child welfare, I would say that's a big chunk of them.

21 Q And I'm advised that those 700 are situate in
22 approximately 60 different work sites?

23 A That's correct.

24 Q And again, drilling back down again, in about 13
25 different locals?

1 A That's correct.

2 Q Okay. Perhaps goes without saying but to
3 confirm, that the way that the union is funded is entirely
4 by virtue of members' union dues that are deducted from
5 members' pay cheques?

6 A That's correct.

7 Q The role of the union, in general terms, would be
8 to bargain collective agreements?

9 A Yes. We bargain collective agreements, but then
10 it's also our obligation, between bargaining collective
11 agreements, to provide service to members where really we
12 are enforcing or policing the provisions of the collective
13 agreement between negotiations.

14 Q In fairly short summary, what is the union's role
15 in terms of advocating for members?

16 A I think unions can define their role more
17 narrowly or more broadly. The MGEU has defined our role, I
18 would say, more broadly and we really try and respond to
19 what members are asking us to do. So I think bargaining
20 collective agreements are sort of the bare minimum;
21 providing service to members on those issues. And
22 providing service to them may take the form of advocacy, it
23 might be about a violation of the collective agreement but
24 it might be on other workplace issues. So lots of our
25 collective agreements have language related to labour

1 management committees, workplace health and safety
2 committees, but I would also say advocating for them also
3 often is about giving voice to their concerns, which may
4 have nothing to do with collective agreement provisions, it
5 may simply be workplace issues or issues related to their
6 work that they want to see change. And, and that would be
7 in relation to members but I would also say that's lobbying
8 that we would do in relation to provincial or federal
9 governments as well.

10 Q How does the union routinely communicate with its
11 members and receive communication from its members?

12 A In this day and age more and more so
13 electronically, I would suggest to you. We have a Facebook
14 page. Clearly, technology isn't my best friend but that's
15 one way. Members will often e-mail information back and
16 forth, questions; telephone. We have local meetings where
17 the entire group may be called together. But there are, I
18 would say, probably the much more frequent way is through
19 all of the contact we have with them, whether it's
20 representing an individual member, whether it's assisting
21 or participating in workplace committees they have. So it
22 really takes all different forms of, of communication. And
23 I'm -- again I would say when you have a membership that's
24 quite diverse, the more diverse our communication styles
25 are, the better we're able to know what the issues are.

1 Q For example, if, if a member was to phone your
2 general office number, they would be connected to a fairly
3 well-established and elaborate communications centre which
4 would, which would initially find out what their concern
5 was and then perhaps appropriately send them to someone
6 else who would be knowledgeable about that area?

7 A Yeah, we -- sorry, yes, we do have a resource
8 centre.

9 Q Um-hum.

10 A That operates hours beyond that of what most of
11 our staff work, because it operates 12 hours a day five
12 days week so that's often a first point of contact for
13 members where they can get preliminary information or be
14 redirected or be provided -- redirected back to their staff
15 rep.

16 Q So until recently, as a staff representative you
17 were assigned to service social worker units?

18 A Yes.

19 Q And as I understand it, of the 13 locals there
20 are two or three staff reps that would be assigned some
21 combination of those 13?

22 A Yeah. Yes. Because clearly I can't provide
23 service to members outside of Winnipeg or much beyond, so
24 staff representatives like myself are assigned based -- to
25 provide service based on geographic location to members

1 across the province.

2 Q Okay.

3 A Responsibilities related to bargaining their
4 collective agreement, though, are often more centrally
5 done. So, for example, now currently I'm bargaining in
6 collective agreement for Métis Child and Family
7 (inaudible). They are operated in Winnipeg but also
8 outside. I'll bargain for the entire group but I'll have
9 colleagues who will provide service to those members across
10 the province.

11 Q Okay. And, and I guess when we use the word
12 "service", what are we speaking about?

13 A Really, my comments before I think here are
14 appropriate: Where you are assisting members in what are
15 their rights and, and obligations under the collective
16 agreement. It might mean assisting them with WCB, it might
17 mean giving them information about what their health
18 benefits are. It might mean they are in disagreement with
19 their employer about something. It might mean they're
20 being disciplined or being sanctioned by their employer.
21 It really can take a, a really endless list of things to
22 do.

23 Q Okay.

24 A And we really try and have our work be driven by
25 the requests of the members that we represent.

1 Q In terms, then, of communication to you, is there
2 a defined hierarchy or could a member phone you or a shop
3 steward phone you or a local president phone you, or any
4 one of those different people, depending on the issue?

5 A They can and often do.

6 Q All right.

7 A They may -- sorry.

8 Q As a staff rep, just to work up, now, the org
9 chart --

10 A Um-hum.

11 Q -- you report to someone called the director of
12 negotiations?

13 A Correct.

14 Q And that individual reports to someone called the
15 director of operations?

16 A That's correct.

17 Q And that person ultimately reports to the
18 president of the union and the four vice presidents who are
19 called the officers?

20 A That's correct.

21 Q I understand that the union also has a 32-member
22 board of directors?

23 A Yes.

24 Q Which essentially is the -- well, does what a
25 board would do, I guess, between your bi-annual general

1 meetings of the union?

2 A Yes. The highest decision-making body of our
3 union is the convention we hold every two years. At our
4 convention, clearly 34,000 members can't attend so those
5 members elect delegates. There's approximately 335 that
6 come to our convention every two years. At that convention
7 they'll elect their president, their four provincial
8 officers and then vote on a number of resolutions. Between
9 convention, the board of directors provides governance to
10 the organization.

11 Q All right. You talked about a hundred and fifty
12 collective agreements in force at any given time. What's
13 the average range of time that a collective agreement
14 lasts, from minimum to maximum?

15 A Some -- I would say a year is the shortest I've
16 seen a collective agreement. Lots of our agreements run
17 two, three four years. I would say five is probably the
18 top end that I've ever, in my experience, seen.

19 Q As a provincial union, the MGEU is affiliated
20 with a national group called the National Union of
21 Provincial Government Employees, NUPGE?

22 A Yes.

23 Q And NUPGE has member of -- its members consist of
24 the various provincial government employee unions across
25 Canada?

1 A That's correct.

2 Q I understand that there are, within the national
3 organization, various sections and organizations such as
4 would, would result in, say, social workers having a
5 national conference every two or three years to deal with
6 social worker issues?

7 A Yes. NUPGE will hold conferences for specific
8 groups. Child welfare has been one, Probation's been
9 another, but -- and they'll bring together representatives
10 from across Canada from that work group, which has proven
11 to be very beneficial for myself as a staff rep but also
12 for those members because it affords them an opportunity to
13 have some awareness of what's going on across Canada for
14 members and for clients and service.

15 Q All right. Specifically focusing in on the
16 collective bargaining function of your union, I understand
17 that there's no, no written-in-stone rule, but as a general
18 rule, when it's getting close to bargaining, each side,
19 that is the union on one hand, the employer on the other
20 hand, will create bargaining proposals or opening proposals
21 and exchange those so that you have an opportunity to see
22 what the other side wants?

23 A Um-hum.

24 Q They can see what you want --

25 A Um-hum.

1 Q -- that type of thing?

2 A Yes.

3 Q Leads to face-to-face bargaining, attempts to
4 reach and ultimately successfully reaching, in most cases,
5 a collective agreement?

6 A That's correct.

7 Q How does the union decide what goes into its
8 proposals?

9 A Ultimately, that process is driven by the members
10 of that local. As a staff representative, it would be my
11 job to coordinate or oversee that process. We often start
12 from looking at proposals that we had the last round that
13 we weren't able to successfully achieve and then survey
14 that from the membership to see if those issues are still
15 of relevance or importance to them.

16 They -- we also then go through an exercise where
17 we meet with all of those members to talk about what are
18 the new issues, what are the important issues that they
19 want to see changed or improved to their collective
20 agreement.

21 Q Okay. And I take it some of your members will
22 actually sit on the bargaining committee, depending, again,
23 through --

24 A Absolutely.

25 Q -- elective processes?

1 A Absolutely. My role as the staff rep is really
2 to be their vehicle to lead the dialogue between themselves
3 and the employer so that ultimately they decide what, what
4 type of package they'll end up taking back to the
5 membership.

6 Q Okay. Now, in terms of a collective agreement --
7 we're not going to go through any, any agreements in detail
8 but typically you would find things in a collective
9 agreement that you would expect: wage rates, hours --

10 A Vacation.

11 Q -- of work, benefits. But you mentioned earlier,
12 and I'd like you to just focus for a second on some of the
13 committee work that we find in collective agreements, both
14 standing committees, such as a labour management committee,
15 and then ad hoc or special interest committees such as a
16 workplace safety and health committee?

17 A Yes. I think beyond those standard provisions,
18 again, the collective agreement is really there to try and
19 improve upon the working conditions of members and often
20 their interests go beyond just what I would characterize as
21 the bare bones of hours of work and vacation and those
22 types of things. Members want an opportunity to have
23 further discussion with the employer to resolve workplace
24 issues, and I think to feel better about the work they're
25 doing. So labour management committees are one way to do

1 that, workplace health and safety committees are another
2 way that they often use those as a vehicle to try and
3 address concerns.

4 Q And I would assume that there would be some form
5 of representation on those committees by both sides,
6 whether equal or otherwise?

7 A Absolutely. Those committees are not typically -
8 - they're not, they are not decision-making bodies but they
9 are consultative bodies which are intended to lead to
10 problem-solving.

11 Q All right. And I assume that minutes are taken
12 of those meetings?

13 A Minutes are taken of those meetings. They're
14 often distributed in a variety of ways. In, I think,
15 almost all of our workplaces there is a union bulletin
16 board where those minutes will be posted. Some groups will
17 have those things on line. Some employers will e-mail them
18 out. But there's a way for not just the committee
19 participants but the larger, the entire workplace to be
20 aware of what those activities are and, again, to give us
21 feedback about we want you to go this way or that way.
22 That's not as important to us or this issue is more
23 important to us.

24 Q Okay. You mentioned very briefly, I'd like you
25 to come back to it, the union's role and particularly your

1 union's role in communicating directly with the government,
2 that is, the politicians. When and why does that occur, in
3 general?

4 A I would say that happens very much on a case by
5 case basis. Our first efforts will always be to try and
6 work through issues in the workplace, and I would say on a
7 low level. First, I think people are always looking to try
8 and work it out directly with their immediate supervisor.
9 Some of those issues can't or, or aren't able to be solved
10 at that level so they go to the next level, and on through
11 the organizational chain of command.

12 When -- at those more senior levels, when we have
13 discussions with, with the most -- the highest level of
14 management in organization and they are either unwilling or
15 unable to facilitate and different solution, then looking
16 to what we consider to be the ultimate decision-makers,
17 which would be government given the type of work we do,
18 that would be a time when we would try and enlist their,
19 their time to try and problem-solve.

20 Q Okay. So when you're kind of front-line member,
21 individually or as a group, have, have workplace issues
22 with things such as workload or stress or moral, how does
23 the union become aware of those?

24 A I would say through all of the mediums that I
25 talked about or vehicles that I talked about before.

1 They'll e-mail, they'll call, they'll talk about it at
2 local meetings. Those types of things spill out when they
3 become too much in all kinds of settings in the workplace.
4 I don't for a second think that members only talk to us
5 about it. I know and believe they talk to management
6 within their own organization, they do that problem-solving
7 and, and as a union we would say that's appropriate. We
8 don't need to be involved in every single one of those
9 discussions. We're there to assist members if they need
10 that support and they'll be the ones to tell us, in
11 whatever way they choose to, that they need that support
12 from us, so it will happen in a, in a wide variety of
13 ways.

14 Q Just in terms of frequency, if you could help us,
15 would it be daily or once a week or once a month that
16 you would normally hear from members on a workplace
17 issue?

18 A Every day throughout the day, and the bigger the
19 issue the more communication we get on it.

20 Q Okay.

21 A So ...

22 Q So you started in 1990?

23 A Yes.

24 Q And you started as a social worker with Winnipeg
25 Child and Family Services?

1 A Yes.

2 Q All right. Was workload an issue back in 1990?

3 A Yes.

4 Q Has there been a time, to your knowledge, since
5 1990 that it hasn't been an issue?

6 A No.

7 Q You may have talked about this but I'd like you
8 to focus on the issue of workload. How does the union
9 address workload issues with the employer in this case,
10 MGEU and this employer?

11 A I would say to you, as a union we can't address
12 workload in that we can't ultimately make those decisions.
13 Those are employer decisions about how the work decisions
14 get made. But in this circumstance, what we have tried for
15 many years, we've tried a variety of tools, whether it's a
16 workplace committee, whether it's focus groups, staff
17 surveys we've participated in, facilitated change
18 management groups, some that we've established, some that
19 the employer has facilitated, some that we have coordinated
20 together. I think there's been lots of genuine efforts
21 been made to try and reconfigure the work differently, do
22 it differently, do it better. But in our history, when we
23 have made those efforts within the organization, whether it
24 was Winnipeg Child and Family or government, if we were not
25 able to achieve what our members were satisfied with, then

1 just as I described before, we would go, we would have an
2 escalation of that concern, an escalation of who we'd be
3 trying to engage to problem-solve.

4 Q Okay. So that -- and we'll get into some of
5 those escalations in a little while.

6 What about in terms of attempts to bargain,
7 bargain wording. Has the union tried that as a tool?

8 A We have. We've tabled language in '96 and 2000
9 in terms of Winnipeg --

10 Q Okay.

11 A -- Child and Family Services collective --

12 Q Before, before we go farther, let's go to that
13 language, and that's -- sorry, Madam Clerk, we've lost our
14 ... We're going to go to tab "F", which is a new
15 disclosure, Mr. Commissioner.

16 THE COMMISSIONER: Do we have that booklet, Madam
17 Commission counsel?

18 MS. WALSH: Is it this?

19 MR. SMORANG: It should be four pages, tab
20 "F".

21 Mr. Commissioner, we're going to be giving you a
22 binder, and I apologize because I haven't been here and I
23 don't quite get the, the way things have been working, but
24 I'm told by Commission counsel that the binder will be
25 marked as an exhibit. And it contains all of the

1 Commission disclosures and the new disclosures that are on
2 our screen that this witness will be referencing.

3 THE COMMISSIONER: That will be helpful. And
4 that will be exhibit what, 59?

5 THE CLERK: Fifty-nine.

6

7 **EXHIBIT 59: MGEU BINDER OF**
8 **DOCUMENTS RE THE EVIDENCE OF JANET**
9 **KEHLER**

10

11 THE COMMISSIONER: Thank you.

12 THE CLERK: Exhibit 59.

13 THE COMMISSIONER: Yes.

14 THE WITNESS: I have one. Thank you.

15 MR. SMORANG: Mr. Commissioner, just for the
16 record, I am advised that I should make it clear to you,
17 sir, that this binder contains documents that are already,
18 have been disclosed, and those will have CD numbers. That
19 will be the first kind of three-quarters of the binder.

20 THE COMMISSIONER: Right.

21 MR. SMORANG: And then towards the end of the
22 binder, I believe you should have tabs "A" through "H", and
23 those are documents that were not disclosed until recently,
24 but they have all been disclosed now. And so some of the
25 CD numbers may have already been marked as exhibits; I

1 don't know that. But at any rate, I think we've got them
2 all now in one binder and that should be good for this
3 witness.

4 THE COMMISSIONER: Thank you.

5 MR. SMORANG: So I'm going to ask the witness and
6 you, Mr. Commissioner, to turn to tab "F".

7 THE COMMISSIONER: Well, wait a minute. There's
8 -- this book I've got has got dates. Are there -- I don't
9 -- oh, way at the back. All right.

10 MR. SMORANG: Yes.

11 THE COMMISSIONER: Yeah, yeah. Tab "F"?

12 MR. SMORANG: Yes, please.

13 THE COMMISSIONER: Yeah. Right.

14

15 BY MR. SMORANG:

16 Q Just to describe the documents before we get into
17 them, Ms. Kehler, I'm advised that tab "F" contains four
18 pages, each page representing a portion of the union's
19 bargaining proposal in each of four rounds, the first page
20 being 1996, and it's marked on the top right-hand corner.
21 The second being 2000, the third being 2006 and the fourth
22 being 2010, correct?

23 A That's correct.

24 Q So starting with the first page, which is 1996,
25 this is a, a proposal by the union to the government to

1 include language into the collective agreement that would
2 have taken place in 1996 and I want to refer you
3 specifically to paragraph number one, workload.

4 THE COMMISSIONER: Well, wait a minute. I don't
5 have that. All I have is one page in tab "F".

6 MS. WALSH: Yeah. Our, our binder is different.
7 Maybe it ...

8 MR. SMORANG: There. It's your tab "H".

9 MS. WALSH: "H".

10 MR. SMORANG: But it shouldn't be "H", though,
11 because on the screen it shows it as "F".

12 MS. WALSH: Right. So staff (inaudible).

13 MR. SMORANG: Okay. No, no worries. So tab "H"
14 it is, then, in the exhibit.

15 THE COMMISSIONER: So has tab "F" got relevance
16 at this moment?

17 MR. SMORANG: Does not, sir.

18 THE COMMISSIONER: All right. So we're going to
19 tab "H"?

20 MR. SMORANG: Yeah. And I'm going to have this
21 problem as we move through, so perhaps on the break I'll
22 just check and see what everyone else's documents have, but
23 I know this --

24 THE COMMISSIONER: And that's what's on the
25 screen now is tab "H"?

1 MR. SMORANG: Tab "H".

2 THE COMMISSIONER: Yeah.

3

4 BY MR. SMORANG:

5 Q Okay. So we have the first page, which is one
6 page out of the 1996 union bargaining proposal, correct?

7 A That's correct.

8 Q And the proposal by the union is under the
9 heading, Workload:

10

11 "The employer shall not reduce the
12 workforce through lay-off,
13 attrition or cut back without a
14 corresponding reduction in the
15 workload."

16

17 And then it says:

18

19 "In all areas, workloads shall
20 meet the standards as set out by
21 the Child Welfare League of
22 America."

23

24 A That's correct. If I may, sorry, just to back
25 up, to say the collective agreement language is important

1 for us and for members because it's really the only tool
2 that we have that can obligate the employer to do
3 something. So that's where tabling language specific to
4 workload, as you'll see when we go through it, I guess, is,
5 is why that's important for members, because there's no
6 other way for us to really impose anything upon the
7 employer.

8 Q And we'll get into that in a few moments.

9 So tab "F" there -- sorry, tab "H", the first
10 page, is your attempt in 1996 to put that wording into the
11 collective agreement. And I won't get into it in any
12 detail, but if we can just briefly move to Commission
13 disclosure 1786, which is in the binder. Yes, page number
14 36718.

15 And I believe this document may have been
16 referenced in this inquiry already, but in any event I want
17 you to just confirm for me that in your bargaining
18 proposal, when you asked for the workloads meeting the
19 standards as set out by the Child Welfare League of
20 America, this is what you're talking about?

21 A That's correct.

22 Q This is a website excerpt, I take it, from the
23 Child Welfare League of America and speaks of recommended
24 caseload and workload standards and ratios?

25 A That's correct.

1 Q Okay. So, back to "H". You spoke briefly about
2 kind of a tool to enforce, and the wording you were looking
3 for was, and I'm reading now from the second paragraph of
4 that first, number one, workload:

5

6 "... workloads shall meet the
7 standards ..."

8

9 All right. So you didn't get this in. You were
10 not able to convince the employer to accept this language,
11 correct?

12 A That's correct.

13 Q And so if it had been in, just from a process
14 point of view --

15 A Um-hum.

16 Q -- let's assume you'd gotten it in and a worker
17 had come to you and said, my workload is in excess of the
18 standard.

19 A Um-hum.

20 Q How does the union enforce something like this?
21 What is the process, generally speaking?

22 A I think this, like any other perceived violation
23 of the collective agreement, there is a process outlined
24 where there is an escalation of what I would call problem-
25 solving. The grievance process, grievance and arbitration

1 process is really how I've always envisioned as a formal
2 dispute resolution mechanism, so it requires the parties to
3 meet, to have discussion. There's opportunity to present
4 our side of the story, then the employer's side of the
5 story to the, to the most senior level of management in the
6 organization. But failing agreement between the parties or
7 resolution that is satisfactory to either party, it allows
8 us to file for arbitration. And then the matter is
9 presented by -- to an arbitrator or an arbitration board
10 where they have a level of independence and can hear the
11 evidence from both sides, and the decision by the
12 arbitrator is binding to both parties.

13 Q Right. Now, I'm sure there is a grievance
14 process within your collective agreement in terms of the
15 steps that you've talked about informally. You were aware
16 that in this province, under our Labour Relations Act,
17 there are provisions allowing for what is commonly referred
18 to as expedited arbitration?

19 A Yes.

20 Q And as I understand it, through those provisions,
21 essentially a hundred and twenty-day window is created: 30
22 days for the grievance, and then if it's referred to
23 arbitration, within 90 more days the arbitrator has to hear
24 and decide the case.

25 A That's correct. So, so the value really for us

1 is it's not just problem-solving that ultimately has to
2 lead to an outcome for resolution, it's also a process that
3 has timeframes attached to it. So neither side can, you
4 know, delay and either party can, can enforce those
5 timeframes to the other so that's the other advantage of
6 that process.

7 Q All right.

8 A And the expedited arbitration means it goes just
9 that much faster.

10 Q Okay. So not successful in '96. Can we flip the
11 page then, within tab "H", and move to 2000. Understand
12 the union tried again in 2000?

13 A Yes.

14 Q And there is, under the second general heading,
15 Caseload Levels?

16 A Correct.

17 Q And this is the union's proposal to add a new
18 article on caseload levels?

19 A That's correct.

20 Q I would characterize this as perhaps a bit of a
21 softer proposal than your 1996 proposal?

22 A Yes. Both of these proposals, sorry, were tabled
23 in relation to Winnipeg Child and Family Services but, yes,
24 it was an effort to, to see if a softer proposal would be
25 more palatable to the employer.

1 Q And what you're saying there, and it speaks for
2 itself, but it says:

3

4 "In view of increasing case
5 complexity and excessive workloads
6 and related administrative
7 expectations, the Agency and the
8 Union shall work together to
9 establish reasonable and
10 appropriate caseload levels."

11

12 So you're talking about a cooperative process to,
13 to establish what is a reasonable level?

14 A That's correct.

15 Q And:

16

17 "The parties shall consider
18 factors such as case type, case
19 mix and location. [and] ... be
20 guided ... by [the] caseload
21 levels recommended by the Child
22 Welfare League ..."

23

24 A That's correct.

25 Q So rather than saying in ninety -- as you said in

1 '96, they shall be.

2 A Um-hum.

3 Q You're saying, we shall meet, we shall talk, and
4 we shall be guided by a number of things including?

5 A That's correct.

6 Q Okay. Again, not successful?

7 A That's correct.

8 Q You were not able to get this language into the
9 collective agreement. And I guess I should, just for the
10 sake of, of clarity, up until now you have nothing in the
11 collective agreement about workload?

12 A That's correct.

13 Q All right. So this is '96 and then 2000 are your
14 first attempts to get something?

15 A That's correct.

16 Q In 2003, which was the next round, you tried
17 again and you were actually able to get something into the
18 collective agreement?

19 A That's correct.

20 Q And that we will move briefly to what is my tab
21 "A". Madam Clerk, tab "A". I hope it's everyone else's
22 tab "A". It's the excerpt from the current collective
23 agreement, March 27, 2010 --

24 THE COMMISSIONER: Oh, it's not --

25 MR. SMORANG: -- to March 27, '14.

1 THE COMMISSIONER: -- at page -- not the next
2 page.

3 MR. SMORANG: No. We're moving, sorry, we're
4 moving to tab "A".

5 THE COMMISSIONER: All right.

6 MR. SMORANG: Which is the current collective
7 agreement. Is that everyone's tab "A"?

8 MS. WALSH: Yes.

9 MR. SMORANG: Okay. Thank you.

10

11 BY MR. SMORANG:

12 Q So this is what you've got now --

13 THE COMMISSIONER: That -- wait a minute. My tab
14 "A" is the agreement from 2010 to 2014.

15 MR. SMORANG: Exactly. That's where we are.

16 THE COMMISSIONER: Oh, I thought we were at two
17 o-three.

18 MR. SMORANG: We are in the sense that --

19

20 BY MR. SMORANG:

21 Q Ms. Kehler, would you confirm that the language
22 that is currently in the collective agreement today was
23 negotiated first in 2003?

24 A That's correct. It was --

25 Q So you got it in '03 and it's remained the same

1 until today?

2 A That's correct.

3 THE COMMISSIONER: All right. Let me make a note
4 of that. All right.

5

6 BY MR. SMORANG:

7 Q And so again, we, we -- you started in '96 saying
8 we want a, we want something that says you shall comply
9 with child welfare; 2000 you softened it a bit: let's
10 meet, let's talk, let's consider some factors. What, what
11 did you achieve in 2003? What does this wording oblige the
12 employer to do?

13 A This language here comes from the civil service
14 agreement, has application beyond child welfare. It's for
15 the entire civil service. But essentially, it requires the
16 employer to meet and discuss those concerns with us, and I
17 would say, suggest to you that that's really the end of
18 their obligation.

19 Q So if we, we look at the first sentence, there's
20 an acknowledgment that in some areas the, the manageability
21 of excessive workload may be of concern. Then it speaks
22 of:

23

24 "... where both the Union and the
25 Employer are in agreement that

1 discussions may be beneficial ...
2 the two parties agree to [meet]
3 ..."

4

5 A Yes. And I don't recall a time when the, when we
6 have invoked this memorandum and suggested to the employer
7 that workloads were beyond what members considered
8 excessive. I don't know of a time when they ever didn't
9 meet with us.

10 Q Okay.

11 A So I think getting their agreement that workload
12 was a problem hasn't been the issue. I think they, when we
13 enlisted their support to meet, they've met with us, but
14 certainly that is the extent of their obligation pursuant
15 to this letter.

16 Q So, okay, if it's the extent of their obligation,
17 explain that in terms of a potential grievance. How, how
18 and under what circumstances could the union grieve this
19 paragraph?

20 A I believe the only way we could grieve this is if
21 they actually refused to meet with us. They would first
22 have to agree there was excessive workload and then after
23 they'd agreed it was excessive and then said, but we're
24 still not going to meet with you, I think we could file a
25 grievance to say you're not following it and I would say a

1 win, if that's the right word, on that would be that they
2 could then be forced to meet with us, but that really would
3 be the end of the road.

4 Q Okay. So this is something?

5 A It's helpful. Yeah, it's helpful but it
6 certainly doesn't obligate the employer beyond those
7 discussions.

8 Q Okay. And you have, since 2003, up until today,
9 been able to keep that language in?

10 A That's correct.

11 Q But that hasn't stopped you from trying to
12 improve it?

13 A That's correct.

14 Q And now we're going to go back to tab "H", Mr.
15 Commissioner, and continue where we left off, which is the
16 2006 proposal, which is the third page in.

17 A Again, this is a proposal that went into the
18 civil service agreement.

19 Q Well, just wait till --

20 A Sorry.

21 Q -- the Commissioner gets to it.

22 MR. SMORANG: Tab "H", Mr. Commissioner, third
23 page.

24 THE COMMISSIONER: Yes, I have it.

25

1 BY MR. SMORANG:

2 Q You're looking at bullet number three or
3 paragraph number three --

4 A Yes.

5 Q -- Ms. Kehler?

6 A Yes.

7 Q And in paragraph number three you're proposing to
8 negotiate language that will deal with excessive workload
9 issues and language that acknowledges the employer's
10 responsibility for ensuring appropriate assignment of work
11 and accountable where workloads exceed manageable levels.

12 A Yes.

13 Q So break that down for us. What are you looking
14 for there?

15 A My -- well, this goes beyond the intention of
16 memorandum number 13 where there the employer's obligation
17 is to meet and discuss, and this actually says if workloads
18 are, are beyond people's capabilities it's the employer's
19 responsibility to re-assign the work in a way that, excuse
20 me, where it's manageable and establishes the employer's
21 accountability related to that.

22 Q All right. And you were not able to convince the
23 employer to accept that language 2006?

24 A We were not.

25 Q And so you tried again in 2010?

1 A That's correct.

2 Q And that's the next page. And in particular,
3 paragraph number eight.

4 A That's correct. This language again was
5 attempted to be negotiated into the civil service agreement
6 and number eight actually lists specific work areas, Child
7 and Family Services being the first one; Employment and
8 Income Assistance, Community Living and Children's Special
9 Services. Those are all groups that are, in the main,
10 staffed by social worker staff throughout the civil
11 service. And again, we were trying to get the employer to
12 agree to language where there'd be a joint committee to
13 work through those issues. But that failing, failing
14 resolution on manageable workload issues that we would
15 actually be able to take the matter to binding arbitration.

16 Q All right. So in summary, the, the paragraph
17 asks for the establishment of committee, committee
18 consisting of employer and union?

19 A That's correct.

20 Q Has to meet within 30 days?

21 A That's correct.

22 Q Has to have achieved resolution within 90 days?

23 A Correct.

24 Q And if not, after 90 it could continue to meet or
25 either party could say, we're going to binding arbitration?

1 A That's correct.

2 Q Okay.

3 A But we didn't achieve that language either.

4 Q You were not able to get that language?

5 A No.

6 Q You have disclosed and provided, for illustration
7 purposes, language that exists in other provinces?

8 A Yes.

9 Q And I would turn us to tab "B", please, "B" as in
10 Bob. This is an excerpt from the current, or at least
11 current as of 2011, collective agreement in the Province of
12 Alberta, between the province and the Alberta Union of
13 Provincial Employees?

14 A That's correct.

15 Q Representing their social services component?

16 A Yes.

17 Q And this document, if we turn to the second page,
18 contains a letter of intent regarding a workload appeal
19 process?

20 A Yes.

21 Q Can you take us through in general what this
22 document provides for?

23 A I think the document was seen for them to be
24 helpful in that it outlines a process, an appeal process
25 whereby employees can more formally alert their manager and

1 alert their committee about workload issues. This
2 document, however, is very specific that it's not subject
3 to the grievance or arbitration procedure. And again,
4 there are some process issues there that I think are
5 helpful for the parties but ultimately the deputy minister,
6 if you go to the last page, the deputy minister or the most
7 senior person in the organization has final decision-
8 making. So again, from our perspective, it does afford and
9 provide opportunity and provide some structure and process
10 to try and work through those issues but ultimately the
11 decision-making continues to rest with the same person as I
12 would suggest to you our memorandum number 13 does.

13 Q Management?

14 A Yes.

15 Q If we could just look briefly at it. The screen
16 is appropriate right now because it takes us to the
17 heading, Workload Appeal Process, on the second page of the
18 document, the first real page, which says, Letter of
19 Intent, at top. So it says:

20

21 "The Workload Appeal Process shall
22 be available to those Employees
23 whose assigned workload exceeds,
24 for a period of sixty (60)
25 calendar days, the workload

1 standard implemented and approved
2 in the particular program in which
3 they work."

4

5 So although it doesn't set out in this document
6 what that standard may be, there appears to be a standard
7 that has been established?

8 A There's a standard for each area.

9 Q Yes.

10 A So they've got a different standard for child
11 welfare, for employment and income assistance. They've
12 established that within those work areas.

13 Q Okay. So first of all, we've got a, we've got
14 essentially a benchmark?

15 A Correct.

16 Q In Alberta. And if an employer feels that for 60
17 days in a row their workload has been above that benchmark,
18 then they can initiate this appeal process?

19 A That's correct.

20 Q And it is a three-level process, as you indicated
21 earlier, moving up the chain, first to the district
22 manager, then to the director, and ultimately to the deputy
23 minister. But at the end of the day, if the deputy
24 minister doesn't have a problem with what exists, that's
25 the end of that?

1 A That's correct.

2 Q Okay. So better than ours why?

3 A I think they have, first of all, established some
4 benchmarks, and they have a joint committee, workload --
5 it's called the workload appeal committee, which can
6 review. I think it's also a process whereby, as social
7 workers, they know if you have a problem, this is, this is
8 the direction you need to go in. And so I think there's
9 some value in that, that it's explicit, it's outlined. The
10 collective agreement, because it's there, is a tool, it's a
11 way to educate people about what they're to do. So -- and
12 the escalation is clearly outlined, so there's no
13 hesitation or presumably there would be less hesitation for
14 a member to put their hand -- for a staff member to put
15 their hand up and say, I have a problem with this, because
16 now they know exactly how to do it, they know where it's
17 going to go; it's an understood process that everybody's
18 agreed upon.

19 Q Okay. So that's Alberta. We're going to move to
20 tab "C". I hope everyone's tab "C" is, is the Ontario
21 collective agreement.

22 This is an excerpt from the current collective
23 agreement between the Catholic Children's Aid Society of
24 Toronto and CUPE local 2190 who represents the social
25 workers there?

1 A Yes.

2 Q And we have, starting on the next page, set out
3 what is article 28 of their collective agreement?

4 A That's correct.

5 Q Again, characterize this article for us in terms
6 of some of the things you've been talking about, setting
7 standards, process, enforceability, et cetera?

8 A I would say this one, from our perspective, has
9 some significant improvements than the last document did.
10 First of all, we know that this language has been
11 arbitrated, it forms part of their collective agreement.
12 But even if you started at the beginning of the document in
13 2801, I think it's the third sentence in, it talks about
14 the society recognizing, so the employer there, recognizing
15 the responsibility to provide services to employees in
16 accordance with the Child and Family Services Act and to
17 conform to current ministry standards. So I think that's
18 important because it's the employer recognizing, we have
19 some obligations there, too. It also talks about the
20 responsibility of the society to establish and maintain
21 effective infrastructure to facilitate the employee's
22 achievement of standards. So it, it -- I think sort of
23 sets a framework that achieving standards, good service,
24 there is a shared accountability or responsibility between
25 the employees and the employer, so I think that's an

1 important foundation of the document.

2 In 2803 it also talks about how cases ought to be
3 assigned and outlines that, which I believe is informative
4 for the members but also instructive for the management.
5 So for those first line supervisors who are probably the
6 ones who are actually assigning the work, so there's real
7 benefit to that.

8 If I go to the next page it also again talks
9 about all the other pieces that have to be in place to
10 achieve good work. It talks about ongoing supervision, it
11 talks -- in number two it talks about documentation at
12 number three. Number four, it's an ongoing workload
13 review. So there's, there's a maintenance that has to
14 occur, again, where it's not just the employee who needs to
15 put their hand up to say there's a problem. There's some
16 obligation for the employer to be maintaining it or
17 overseeing it. And, and again, looking towards the
18 infrastructure in number six, it talks about filling
19 vacancies. And number seven talks about coverage where
20 people are having absences. So it's, it's a much more,
21 it's a more complete picture, I believe, in terms of how an
22 employer and employees ensure that work is done well.

23 In, in 2805 it goes on to talk about the mutual
24 responsibility of the employee and the supervisor to ensure
25 compliance with ministry standards. So it talks about that

1 working relationship that really has to be in place for
2 good work. And then it goes further to talk about if all
3 those things are in place but you're still not able to
4 achieve work up to the ministry standards, if you can't do
5 the work in that way, in 2807 it talks again about the,
6 that escalation process of, of, in number one, it talks
7 about discussions, in number two it talks about their joint
8 workload committee that they have. So again, there's
9 management and labour working together to sort of sort out,
10 well, what do we need to do here to, to find a way to
11 ensure that each worker is able to meet standards? And
12 again, at the end of the day, if all of those things happen
13 or don't happen the way they're supposed to, it's open to
14 the arbitration process. So there's somebody with some
15 independence to try and bring the parties back to doing
16 things the way they've agreed to do.

17 Q You didn't mention 2808, and 2808 speaks of the
18 union getting information from the employer on a monthly
19 basis, essentially case assignments, statistics, detailing
20 each case --

21 A Um-hum.

22 Q -- carrying worker. How, if at all, is that
23 important to the union?

24 A I think my experience has been when the union
25 receives notification on those types of issues, and we get

1 them in a variety of ways, whether they're critical
2 incidents in the workplace or workload, it really allows us
3 to sometimes be the voice for workers who don't -- who are,
4 for whatever reason, whether they're feeling a level of
5 intimidation or whether the culture in their specific unit
6 is to not sort of put your hand up, it allows us to assist
7 people in that. So even if a worker in a specific unit
8 isn't putting their hand up to say there's a problem, it
9 affords us an opportunity to, to make contact, say, you
10 know, it looks like you got a problem over here, what do we
11 need to do to find resolution without necessarily that one
12 person having to do it. They can, but that's, I think, a
13 safeguard there to ensure that everybody, the process is as
14 transparent as it can be.

15 Q Okay. We're going to leave the collective
16 bargaining process and move on to a different area.

17 In the balance of your testimony we're going to
18 talk about the period of time that you were a social worker
19 and then have been a staff rep up until now, and two themes
20 that we will discuss throughout will be workload, number
21 one, and constant state of change, number two. So I'd like
22 you to just kind of introduce those to us. First of all,
23 workload, we've talked a bit about it but how, in the
24 union's view, does excessive workload affect the services
25 that a child welfare worker can provide?

1 A You mean in their day-to-day --

2 Q Yeah.

3 A -- work? What we hear over and over again is
4 social workers want to go to work and do the work in a way
5 that makes them feel good about the outcomes that families
6 are getting. And I, I see people struggling to, to feel as
7 satisfied about the work they do sometimes. Because very
8 often when workload becomes too high, workers, rather than
9 making decisions based on best practice, begin to make
10 decisions strictly based on risk, so it becomes a more
11 reactive rather than a proactive way to do work. So rather
12 than attend to things that again I think lead to best
13 practice, whether that's, you know, completing your
14 documentation, I think other witnesses have talked about
15 how paperwork's often something that sort of gets prioritized
16 (sic) down, because people want to ensure that they're
17 attending to issues related to risk. So they're going to
18 go to that family where they think a child may be in harm's
19 way. Where families will come for visits, I think there is
20 real clinical benefit for workers spending time and
21 understanding the relationship and the contact that goes on
22 between a parent and a child in those visits. But workers
23 have often said if a child is, for example, in an agency
24 office and they're having a visit with a family, that child
25 is likely not at risk in that moment so rather than perhaps

1 spending as much time observing that visit, they'll attend
2 to other matters at their desk, whether it's phone calls or
3 e-mails or reports or seeing other clients. I think things
4 like children, assisting children who are moving from one
5 placement to another, having what is called placement
6 visits to transition children, those types of things which
7 are good practice but are not related to risk often get
8 prioritized down.

9 Advocacy is, I think, something that's quite
10 fundamental to the social work profession but advocacy may
11 be a risk issue but may not. So things like trying to
12 expedite a daycare placement, advocating with E and IA,
13 facilitating with housing, those types of advocacy pieces
14 don't always get the attention that social workers would
15 like to give them if they had more time for that.

16 Q So from the union's perspective -- no, perhaps a
17 jaded observer might say, look, a union's job is to get
18 people as much money as it can and have them work as little
19 as possible. That's what a jaded person might say, an
20 uneducated person, perhaps.

21 Workload is something that you are concerned
22 about, you're testifying about it, you're going to --

23 A Um-hum.

24 Q -- testify about it all morning. Why is workload
25 of concern to the union?

1 A Workload is really only of concern to the union
2 because it's a concern to our members. I would, I would
3 agree with you that a jaded or perhaps incorrect person
4 would have a negative view in that respect and, and I would
5 say some unions more narrowly define what they do for
6 members. They do see their obligations more specifically
7 related to collective agreement provisions, and I think
8 fundamentally that is our job. But, but we've really, you
9 know, we really always characterized ourselves as a member-
10 driven union and in this respect, this workforce in
11 particular, and it's not just this local but this group of
12 members, child welfare workers within this local, are
13 people who have demanded of us over the years that although
14 they certainly want good collective agreement provisions,
15 what has been of far greater importance to them for all the
16 years that I've been involved is they're wanting to feel
17 good about the work they do. I believe their demanding of
18 us to address issues of workload is how they see advocating
19 for their clients. So in the same way they might advocate
20 with E and IA, their demanding of us to assist them
21 addressing their workload issues is the way that they're
22 advocating for their clients, because they know that if
23 they have more time to spend with their clients, they will
24 be able to do better work.

25 Q Okay. That's the first theme, workload. The

1 second theme: constant state of change. Why is that a
2 theme of, of your concern and some of the evidence we're
3 going to hear this morning?

4 A I think some change is common in child welfare,
5 both in Canada and the United States, but the amount of
6 change that this workforce has had to manage with over the
7 last number of years has really had such a negative impact
8 on their ability to do the work in the way they want to do
9 it.

10 In the -- you know, I'll sort of start mid-'80s
11 to upwards of, say, '95-ish, six-ish, there's a number of
12 restructurings. The organization goes from -- and, and
13 I --

14 Q We'll get into the details later. I'd rather --
15 high level. Why is a constant state of change a detriment
16 in the union's view, in terms of the work that your members
17 are doing?

18 A Because it doesn't allow them to really fully
19 implement one change before they're being asked to do
20 another one. And each change, however good it is, without
21 drawing any judgments on it at all, creates a level of
22 work. So when you have a workforce who's already saying,
23 I'm, I'm pretty maxed out in terms of my ability to do the
24 work that in any way feels okay and then you ask them to
25 take on an additional change, each change has work, whether

1 it's case transfers, whether it's moving offices, whether
2 it's any of that. And not only does it have more work, it
3 naturally, then, also has an implication for service.
4 Every time there's a restructure and a reorganization,
5 families get new social workers, their social workers' are
6 -- time is further absorbed with managing the issues
7 related to change rather than the focus being the clients,
8 which is really who they're there to serve. So that's
9 where change, again, it's not that it's all bad but, but
10 knowing the capacity of the workforce and their ability to
11 provide service throughout that change I think has to be
12 really well understood before you decide it's time to make
13 another change.

14 MR. SMORANG: Okay. Mr. Commissioner, I'm about
15 to move into specifics. I don't know what your practice is
16 in terms of morning break. I'm at your disposal.

17 THE COMMISSIONER: If, if this is a convenient
18 time, we'll take a mid-morning break.

19 MR. SMORANG: Thank you.

20 THE COMMISSIONER: For 15 minutes. Thank you.

21

22 (BRIEF RECESS)

23

24 THE CLERK: All right. We're back on the record.

25 Thank you.

1 MR. SMORANG: Thank you.

2

3 BY MR. SMORANG:

4 Q All right. So you talked about the two themes,
5 workload on one hand and constant state of change. We're
6 going to divide the rest of your testimony into three
7 distinct periods: First period, up to 2000; second period,
8 from 2000 to 2005, essentially the span of the life of
9 Phoenix Sinclair; and after 2005 till now.

10 So starting with the first, up to 2000, you've
11 already told us that you were a social worker from 1990,
12 Winnipeg Child and Family Services. You talked briefly
13 about workload, you talked about the union's attempts to
14 bargain language into the collective agreement in 1996 and
15 again in 2000. Anything more to say about workload during
16 that period up to 2000?

17 A No, I think workload was an area of concern
18 between the parties really for as long as I can remember
19 and, as it's been explained to me, even from days previous
20 to that.

21 Q All right. So how about constant state of
22 change? You were going to talk, and I asked you to
23 wait, about some of the specific changes that occurred
24 '80s/'90s.

25 A Um-hum. Again, I think I said I think some state

1 of change is natural in an organization. I think in child
2 welfare it's not uncommon, not just in Manitoba, in Canada
3 and internationally, but I would say, again, I think as an
4 organization, you always have to decide what the capacity
5 of your workforce is and the implications for service to
6 know how quickly you ought to move through each change.

7 In the mid '80s to, I would say, '90s there was a
8 time when the organization went from a centralized to a
9 decentralized model. They went from a program-based model
10 to a, a, pardon me, service-based model. So there's been
11 different internal changes that have occurred,
12 restructuring. But certainly there's no stepping away from
13 the fact that from the point of 2004 where the organization
14 has seen more change more rapidly than ever before.

15 THE COMMISSIONER: Since when?

16 THE WITNESS: Since, I would say since 2000,
17 since 1999. And certainly devolution being the largest
18 initiative that child welfare has taken on in Manitoba
19 without question.

20

21 BY MR. SMORANG:

22 Q And as I understand it, devolution began to be
23 talked about as early as 2000?

24 A Yes. I would say in 1999 they, they implemented
25 a program-based model so we really had not fully

1 implemented that program model when the memorandums of
2 agreement were signed between the Province of Manitoba and
3 the First Nations organizations, the First Nations north,
4 south and the Métis authority, Métis federation. So
5 really, we had not fully implemented those changes. Then
6 the memorandums were signed, which, at the very beginning,
7 didn't have, didn't impact the work directly although it
8 certainly created a level of concern, I think, for folks
9 about what that meant. I think, first and foremost, people
10 were worried about, well, who's going to do this work and
11 will I have a job and what will happen.

12 So the outcome of that was through, again through
13 some advocacy through the union, we met with the minister
14 at the time. He, in an effort to, I think, assure the
15 workforce that -- and to, I think also to, not to reassure
16 them but also to assure themselves of, of a level of
17 cooperation, because people wouldn't be distracted by it,
18 he gave the union a letter, which really reassured
19 everybody that, I think the words were, no one would be --
20 no employees, as of a certain date of hire, would be
21 disadvantaged through the process. So that people knew if
22 you were hired before somewhere in 2001, you wouldn't be
23 laid off. So that was helpful for some folks. Obviously
24 it couldn't cover off everybody.

25 The consequence of that, or the government's way

1 of managing their liability related to that and the
2 unfortunate part of that was forward from spring 2001
3 upwards to, I believe, 2008, every staff member was hired
4 on a term basis.

5 Q Okay. We'll get into terms in a minute. We've
6 kind of segued from the first period up to 2000 into the
7 second period, 2000 to 2005. And so you talked about the
8 agreement being signed and devolution starting to be of
9 concern to your members and --

10 A Um-hum.

11 Q -- concern about ability to keep their employment
12 and the letter from the minister.

13 A Yes.

14 Q Now you've taken us to the hiring practices that
15 began and the term positions. Now, roughly when did this
16 begin?

17 A In 2001.

18 Q All right. And explain what it was and why it
19 was of significance to the union?

20 A It was important for members to know that
21 devolution -- what we were trying to say to them is, we
22 want you to fully cooperate and participate in that
23 process, both in planning and implementation, and to be
24 able to do so without worry that you're not going to have a
25 job really. So the minister's letter was helpful for some.

1 I think others continued to be concerned about that, and
2 their concerns were not sufficiently allayed by either the
3 minister's letter or our reassurances, but that was, that
4 was the intention of that letter and that was helpful.

5 To continue to have a workforce, though, a
6 growing workforce who was hired on a term basis really
7 created a level of instability, though, because all those
8 people who were hired on term never ever knew when that
9 term was going to come to an end. What is a good ending to
10 that story is all those people did eventually continue to
11 have employment. The unfortunate part of that was many of
12 those folks who were hired on term, of course, didn't
13 remain employees of, of the civil service or didn't remain
14 employees of child welfare, because they obviously needed
15 to assure themselves of employment. So without being
16 offered, being able to be assured of permanent employment,
17 I think it put the organization in a much more difficult
18 recruitment or retention exercise, so made it hard for them
19 to stabilize their workforce in relation to that.

20 Q And so that began around 2001, you said. So
21 we're, we're into this second period, 2000/2005. We know
22 that devolution didn't actually occur till 2005.

23 A Um-hum.

24 Q But was talked about as early as 2001 or 2000,
25 sorry.

1 A Um-hum.

2 Q How would you describe this five-year period
3 generally, in terms of the --

4 A And I'll just, I'll just clarify. Devolution did
5 begin in 2003 in the rural and northern areas.

6 Q Yes, sorry.

7 A But the largest part of that happened in '05.
8 But I would say that period of 2000 really to 2006 would be
9 characterized as the most chaotic time in child welfare's
10 history in Manitoba. It was -- there was such a level of
11 energy and busyness that went along with that and
12 uncertainty on so many levels, it wasn't just uncertainty
13 about people's work circumstances, it was uncertainty about
14 how the work was going to be done, about how to make sure
15 that people got service along the way, about how to make
16 sure there was some -- how, as a social worker, do you make
17 sure the family that you're providing service to, who you
18 want to see have a good outcome, how do you make sure that
19 their needs don't get lost through this big restructuring
20 of services? And to be clear, devolution was something
21 that both the MGEU and our members did support, have
22 supported and continue to support. There's no question
23 about their belief, their shared belief with the province
24 that First Nations and Métis people ought to have control
25 over that service. It's not about that.

1 Our objection and concern was really about the
2 process along the way and how we get there, and making sure
3 that we take care of all of the people along the way that
4 need to be taken care of. But, yeah, I would, I would,
5 without hesitation, characterize it as the most chaotic
6 time in child welfare's history in Manitoba.

7 Q And again, going back to some of the process
8 information you gave us earlier today about how the union
9 finds out about things, when the union says that, and
10 you're here to represent the union, how does it know,
11 through 2000 to 2005, that this is a chaotic time for your
12 workers?

13 A I would say the amount of meetings we had with
14 members, with the employer, with different employer groups,
15 with all of those folks, was at an all-time high. And some
16 of that was what came from angst and concern and problem-
17 solving. Some of it was, was really well intentioned where
18 we were trying to work productively and positively together
19 with the parties. Whether that was government, whether
20 that was management in the agency, whether that was front
21 line supervisors, I think people were trying to figure out
22 how, within the things that they control, can they try and
23 make this go as well as they can. So the contact we had
24 with members, I would say to you, was -- like, and just to
25 be clear, my participation at that time, I was still

1 working for the agency at the time, but it became more and
2 more and more a part of my role as an activist where I was
3 less at work and the union was often paying my wages
4 because there were so many meetings related to that where
5 the staff representative who was providing service before I
6 came on staff, where virtually their entire workload was
7 related to facilitating all the committees and work that
8 was going on, which I'm not suggesting is a bad thing but
9 just to give you a sense of the amount of work that was
10 involved for everybody related to that. And even when I
11 started my job in 2006 at the MGEU, that was my exclusive
12 piece of work where now that's not. It's not considered a
13 workload in my agency, in my organization, to simply be
14 looking after civil service child welfare but in 2006 it
15 was.

16 Q So you mentioned some of the specifics regarding
17 the chaotic period. You talked about workload, you talked
18 about change, you talked about this impending devolution,
19 you talked about term employees. Talk about training
20 during this period.

21 A If I could, I'd just go back a little further.
22 Training -- I would say of the things that members often
23 had talked about in the history, workload's one of them,
24 training was also the other one. So much so that, in fact,
25 when we talked previously about a union bargaining working

1 conditions, typically for members wages, hours of work,
2 vacation, this group of members demand train -- demanded
3 training dollars. So rather than asking to have more money
4 put in their pocket, which is a more traditional union
5 negotiation, in the old Winnipeg Child and Family Service
6 agreements we actually bargained training dollars, and we
7 did that because those members wanted training, felt they
8 were lacking in training and, and felt confident that if it
9 wasn't in the collect agreement they wouldn't get any
10 training. So that was the history of child welfare leading
11 up to that time. And in those early years we continued to
12 advocate for people to get training as a union because they
13 felt they couldn't get it through their employer. And I'm
14 not suggesting they got none, I'm saying the, from the
15 workers' perspective, it was insufficient.

16 THE COMMISSIONER: And what are you
17 characterizing as the early years?

18 THE WITNESS: I would say up until 2006 people
19 really felt they didn't get training. In 2006 things
20 really started to change. People got standards training.
21 In today's day and age they get quite a bit more training.
22 I'll just, to give you an example, fairly recently, last
23 year, we -- I bargained a collective agreement for another
24 -- for ANCR, another agency we've talked lots about here.
25 That group absolutely said to me no way do we want to put

1 proposals in on training because we're getting lots of
2 training. So they -- their priorities have shifted in
3 terms of what the union's role is. But up until 2006, that
4 was an ongoing concern, that people felt they didn't have
5 enough training, whether it was training related to the
6 standards and the employer's expectations or whether it was
7 training specific to dealing with issues that were
8 prevalent in their work, domestic violence, child
9 development, child abuse investigation, all those kinds of
10 things.

11

12 BY MR. SMORANG:

13 Q We're going to move back to the binder and I'm
14 going to ask you to turn to Commission disclosure 1661,
15 which is at page 34653.

16 THE COMMISSIONER: Is this at a tab?

17 MR. SMORANG: It is at a tab, Mr. Commissioner.
18 It should be your first tab if your binder is same as mine.
19 CD1661.

20 THE COMMISSIONER: Yes.

21

22 BY MR. SMORANG:

23 Q In terms of this memo, I believe that Ms. Trigg
24 has testified about it and I won't take you through it in,
25 in line by line, but certainly it, the theme of the

1 document, apparent on its face, is encouragement of
2 innovation, we see innovation mentioned a number of times
3 in the document, creativity, promotion of creativity.

4 From the union's perspective, were your workers
5 concerned about this? And if so, what was the message you
6 were getting?

7 A The message that workers got from this message,
8 and I'll clarify that, there was a staff member at the time
9 who was also elected to the board of WCFS and the message
10 at that board meeting, as well as the message that stands
11 off from this is this was really a cost-driven document.
12 It had to do with days care, it had to do with --

13 MR. MCKINNON: Mr. Commissioner, I rise at this
14 point because now what we are dealing with is, as I
15 understand it, information this witness received from
16 someone else who was a representative of the union on the
17 board and she wants to talk about what was discussed at the
18 board level. I think that's -- I know we've been very
19 tolerant of hearsay at this, at this inquiry but I think if
20 we're going to get into specifics of what a particular
21 person told her about particular meetings, and I can assure
22 you that it's an issue, I don't think this is a fair way to
23 proceed.

24 MR. SMORANG: Mr. Commissioner, this may arise
25 again and so perhaps we can deal with it now.

1 Clearly, the union's purpose in bringing forward
2 this document and other documents which will follow is
3 specifically to explain to you why the union did what it
4 did. We're not putting this forward for the truth of it,
5 we're putting it forward to show you or give the union a
6 basis upon which it took further actions, and there will be
7 other documents of this nature. So I can assure Mr.
8 McKinnon and certainly the Commissioner, that we are not
9 directly leading this evidence for the truth of it but for
10 the purposes of justifying action or further steps taken,
11 which would be normally an exception to the hearsay rule.

12 THE COMMISSIONER: Has this letter surfaced
13 previously at the hearing?

14 MR. SMORANG: I believe Ms. Trigg testified about
15 this.

16 MS. WALSH: Yes.

17 THE COMMISSIONER: Yes. Is it an exhibit per se
18 or ...

19 MS. WALSH: It's been entered into the public
20 record.

21 THE COMMISSIONER: Yes.

22 MS. WALSH: It's part of our disclosure so it
23 didn't need to be a separate exhibit. But I think, I think
24 Dr. Trigg did speak to it.

25 THE COMMISSIONER: Okay. I'll, I'll read it --

1 MR. MCKINNON: Just, just --

2 THE COMMISSIONER: Yes.

3 MR. MCKINNON: -- to make sure my objection is
4 clear, I'm not objecting to Mr. Smorang asking this witness
5 about this memorandum. I'm objecting to Mr. Smorang asking
6 this witness what another witness told her was discussed
7 about this at a board meeting.

8 THE COMMISSIONER: Well, I think he said he's not
9 going to go there. Am I right, Mr. Smorang?

10 MR. SMORANG: Yeah. I'm, I'm interested in what
11 the union learned from workers about concerns resulting
12 from this. And I appreciate that is also hearsay, but it
13 is, again, how the union gets information, from the
14 workers.

15 THE COMMISSIONER: But you don't propose to give
16 evidence as to what happened at a board meeting --

17 MR. SMORANG: I do not.

18 THE COMMISSIONER: -- at which this witness was
19 not in attendance?

20 MR. SMORANG: I do not.

21 THE COMMISSIONER: Does that deal with the
22 matter, Mr. McKinnon?

23 MR. MCKINNON: Thank you, Mr. Commissioner. If,
24 if we can limit it to that, that would be acceptable.

25 THE COMMISSIONER: Well, if, if you think it's

1 gone beyond that, I'll expect to hear you -- see you on
2 your feet again.

3 MR. MCKINNON: Thank you.

4 THE COMMISSIONER: All right, Mr. Smorang, I
5 think we understand each other.

6 MR. SMORANG: Okay.

7

8 BY MR. SMORANG:

9 Q So just to take us back to where we were, you
10 were speaking of this memo being a cost-driven document.
11 Again, from the perspective of what the union learned from
12 its workers, what, if any, concerns arose, generally
13 speaking, about this message?

14 A The message that workers understood from this was
15 the agency was concerned about costs related to increased
16 days care, specifically at the time more children would be
17 placed in hotel placements, which isn't just expensive,
18 it's not considered great care, and so workers felt the
19 message here was be innovative, try to look at other
20 things, manage risk, and in doing so the agency will
21 support you in managing risk differently. So in other
22 words, not apprehending. Apprehension is a way to manage
23 risk. And, suggesting you look at other ways to manage
24 risk through what's characterized --

25 THE COMMISSIONER: Short of, short of

1 apprehending?

2 THE WITNESS: Correct.

3

4 BY MR. SMORANG:

5 Q All right. So this memo is dated December 10th,
6 2001.

7 A Yes.

8 Q Also in the, in that year there was a focus group
9 research project undertaken, and I'm going to turn you to
10 Commission disclosure 2119, and in particular starting at
11 page 44819.

12 MR. SMORANG: That should be towards the end of
13 your binder, Mr. Commissioner, just before the letter tabs.
14 2119.

15 THE COMMISSIONER: Yes, I have it.

16

17 BY MR. SMORANG:

18 Q Now, this is a, a document at 2119 that's
19 actually three documents, so just let's identify them. We,
20 we appear to have a two-page memo at the beginning dated
21 December 9th, 2002 from Elaine Gelmon to supervisors and
22 social workers. You see that?

23 A Yes.

24 Q First two pages. And then the next two pages
25 after that are a memo from executive management to staff,

1 and that's a, about a six or seven-page document. And then
2 we get to 44827, and all of the pages that follow that
3 appear to be a report prepared by a company called
4 Viewpoints Research on a focus group?

5 A Yes.

6 Q All right. So looking first at that report, as I
7 understand it there were focus groups conducted, that is,
8 workers were grouped in a variety of different groups,
9 depending on their -- whether they were short-term employee
10 or a long-term employee or even a former employee, and
11 their views were solicited?

12 A Correct.

13 THE COMMISSIONER: Staff members were, were the
14 focus groups, were they?

15 THE WITNESS: They were.

16

17 BY MR. SMORANG:

18 Q And if we look, for example, at the last --

19 A Sorry, pardon me. They were long-term staff
20 members, short-term members and former staff members, so
21 people who had recently left the employ of the agency.

22 Q So, so if we go to 44859, which is appendix "A"
23 to the report.

24 THE COMMISSIONER: Oh, oh we're still back on
25 that tab.

1 MR. SMORANG: Yeah, still on that same tab but --

2 THE COMMISSIONER: Yes.

3 MR. SMORANG: -- the last four or five pages of
4 it, four pages of it. 44859.

5 MS. WALSH: I think binders that were prepared
6 for us don't have that.

7 THE COMMISSIONER: Mine jumps from 44858 to
8 44862.

9 MS. WALSH: It can be just pulled up on the
10 screen.

11 MR. SMORANG: Okay. Well, it's on the screen,
12 Mr. Commissioner, so if we can work with that.

13 THE COMMISSIONER: Okay.

14 MR. SMORANG: We'll have to get those four pages
15 for you.

16

17 BY MR. SMORANG:

18 Q What we see on the screen is appendix "A",
19 recommended changes, and then it says there's a question:

20

21 "Thinking about the quality of
22 your work life, what 3 things
23 would you change at WCFS related
24 to front line child protection?"

25

1 Then if you scroll down the page, you'll see on
2 the left-hand side numbers, one, two, three, four, five,
3 six seven, all the way down that page. And then onto the
4 next page, eight, nine, ten and eleven. Those are, I
5 understand, eleven different groups of people, eleven
6 different focus groups?

7 A Yes.

8 Q And if we go back to the beginning of that
9 appendix, these are long-term child protection workers.
10 You see the title just above the box?

11 A Yes.

12 Q Okay. So this is the eleven groups of long-term
13 child protection workers and they are answering the
14 question put to them:

15

16 "... what 3 things would you
17 change? ..."

18

19 And as we move through that page and look at what
20 the groups have said, we see the words, reduce or cap or
21 lower caseload and workload quite frequently?

22 A Yes. All of this, that -- almost all of those,
23 when the workers say they want that, it's, again I would
24 say it's related to service, though.

25 THE COMMISSIONER: Where's the question? These

1 are the answers, I gather.

2 MR. SMORANG: If the, if the clerk could just
3 move the -- scroll down a little bit more -- or up, sorry.
4 Scroll up. There's the question.

5 THE COMMISSIONER: Oh, I see.

6 MR. SMORANG: Just below:

7

8 "Thinking about the quality of
9 your work life, what 3 things
10 would you change at WCFS related
11 to front line child protection?"

12

13 So Mr. Commissioner, as I understand the
14 document, each group's three answers are contained in the
15 one, two, three, which appears beside the group number.

16 THE COMMISSIONER: All right.

17 MR. SMORANG: So, for example, if we look at
18 group number one, their first answer is:

19

20 "Some reprieve, even a few months
21 reduced caseload."

22

23 If you look at group number two, their first answer:

24

25 "Cut back on paper work and less

1 rigidity with regard to paperwork
2 - more time to work with clients."

3

4 Group three:

5

6 "Capped caseloads."

7

8 is their number two answer.

9 Group four:

10

11 "Fewer cases/lower [workloads]

12 ..."

13

14 Group five, their third answer:

15

16 "Workload makes it impossible to
17 do good work."

18

19 Going down to group seven, number one:

20

21 "Caseloads should be capped."

22

23 We go to group nine on the second page:

24

25 "Lighter caseload."

1 is their number one answer.

2 Group 10:

3

4 "Smaller, manageable caseloads."

5

6 is their number one answer.

7 Group 11, their number two answer:

8

9 "Resources and expectations fit."

10

11 BY MR. SMORANG:

12 Q So this is what the long-term folks are saying?

13 A Yes. And if I could just clarify, those numbers
14 one through 11 that you just went through I don't believe
15 are eleven groups but eleven people, so that those eleven
16 people made up the one focus group related to long-term
17 protection workers. And then similarly, on the next page,
18 the short-term case -- there was eight people, not eight
19 groups.

20 Q I'm sorry. You're correct.

21 THE COMMISSIONER: So you're saying it's 11
22 individuals not --

23 THE WITNESS: Yes, yes.

24 THE COMMISSIONER: -- 11 different focus groups.

25 THE WITNESS: Eleven individuals, yeah.

1 BY MR. SMORANG:

2 Q Who formed a group called long-term child
3 protection workers?

4 A Right.

5 Q I'm sorry, you're right. And then if we go to
6 short-term, which is the next grouping on page 44861, looks
7 like there was eight of those. And again, I think each one
8 of the eight speaks of caseload or workload or the
9 provision of more workers to do the work?

10 A Yes.

11 Q And if we then go to the third group, former
12 child protection workers, there's eight of them. So these
13 are people who've left?

14 A Yes.

15 Q And they're also, I think except for number five,
16 every one of them speaks of caseloads, limiting number of
17 cases, being overworked.

18 A Right. And they, they went to these folks as
19 well because the purpose of this was really to look at how
20 could they recruit and retain staff members in front line
21 positions, and I -- others have talked about the amount of
22 turnover there is in those positions and how very often the
23 -- at, at the time more junior workers were absorbing that
24 work so that's where they looked not just to folks who'd
25 been there a long time or short time but people who had

1 recently left, to hear from them, what would have kept you
2 there.

3 Q So if we can move back to 44829, which is taking
4 us back into the body of the report. We are at a page
5 called Conclusions and Recommendations.

6 THE COMMISSIONER: Now, what tab is that at?

7 MR. SMORANG: That's the same tab, Mr.
8 Commissioner, just moving back in that same document to
9 44829.

10 THE COMMISSIONER: Oh, yes.

11

12 BY MR. SMORANG:

13 Q There is Conclusions and Recommendations. And
14 then if we flip to the next page, under Recommendations,
15 this is now 44830, the first recommendation is:

16

17 "Every effort should be made to
18 reduce caseloads. This would
19 reduce stress among social workers
20 and greatly improve their job
21 satisfaction."

22

23 You see that?

24 A Yes.

25 Q And in terms of the bullets that appear below

1 that recommendation, I would just point out the third
2 bullet. What does that speak to?

3 A The highlight there is people are training in
4 orientation for staff, so again they can feel well-prepared
5 to meet the organization's expectations and do the work in
6 a way that leads to good outcomes.

7 Q And if we flip the page to the next page, 44831,
8 these bullets continue. The third bullet down, Caseload
9 Coverage, what does that speak to?

10 A Well, this is about training is important but
11 training also takes people out of the workplace and that
12 means those left back are doing additional work. So
13 they're saying if you're going to have people away on
14 training vacation, those, that should be considered in the
15 work assignment.

16 Q And the next bullet about the University of
17 Manitoba?

18 A Well, they were trying to suggest that the
19 university, the social work program should be changed to
20 make it less theoretical and more relevant, again, I think
21 with the belief that although a social worker degree is,
22 has value in people doing that work, that when people leave
23 the faculty they're quite unprepared to, to start off their
24 work as a child protection worker. So thinking that not
25 only would the agency do training but perhaps there's

1 additional work that the university could do.

2 Q Moving down a couple of bullets, about the fourth
3 from the bottom, it speaks of stability, as much stability
4 as possible. You see that?

5 A Yes.

6 Q The next bullet speaks of keeping social workers:

7

8 "... fully informed on the
9 progress towards devolution."

10

11 You see that?

12 A Yes.

13 Q And the next bullet speaks of paying attention:

14

15 "... to building and ensuring
16 support for supervisors who social
17 workers felt are often caught
18 between senior management's
19 concern for reducing spending and
20 pressure from social workers to
21 ensure service for clients."

22

23 A Yes.

24 Q Okay. So these are recommendations, and this
25 report resulting from these consultations is dated November

1 28, 2001 yet the first two documents we looked at, the two
2 memos, one from Elaine Gelmon and one from executive
3 management, are dated in December of 2002. That's a year
4 later.

5 A Yes.

6 Q What can you tell us about when the workers
7 received a copy of this survey result?

8 THE COMMISSIONER: Who conducted the survey?

9 MR. SMORANG: Viewpoints Research is the name of
10 the company.

11 THE COMMISSIONER: On behalf of whom?

12 MR. SMORANG: If you look at --

13 THE WITNESS: On behalf --

14 MR. SMORANG: Go ahead.

15 THE WITNESS: Sorry. Management took on this
16 initiative.

17 THE COMMISSIONER: Management took the
18 initiative?

19 THE WITNESS: Yes, they did. There was
20 representatives from the union who worked with management
21 and Viewpoints in terms of establishing what some of the
22 questions might be. I think, again, there was a shared
23 desire to look at what things could happen to try and
24 encourage the recruitment or retention of, of staff in the
25 front line positions. And that work then was subsequently

1 done in 2001. The results came forward shortly thereafter
2 and the union received, you know, some preliminary
3 information about what had happened but management did not
4 feel or did not release that information to staff. And I
5 would say to you we struggled with them for quite some
6 time.

7 THE COMMISSIONER: You said the union received
8 information?

9 THE WITNESS: We got some preliminary information
10 on the survey results. But the management did not
11 release the survey to staff. To my knowledge, the full
12 survey was, was never really released to them other than
13 the, the staff who actually participated in the focus
14 groups. But after almost a year of insistence that workers
15 ought to hear about what management learned from
16 the survey, then they, they sent out the memo that you
17 see before you, the ones that are dated December 9th,
18 2002 is when they finally, a year after they did the
19 survey, shared with staff what the results of that survey
20 were.

21 MR. SMORANG: So if we go to that memo that was
22 given to staff, and it begins at 44821, within that same
23 tab, Mr. Commissioner.

24 THE COMMISSIONER: Yes.

25

1 BY MR. SMORANG:

2 Q That's about a seven-page memo that, to the
3 union's knowledge, all staff would have received?

4 A Yes, they did.

5 Q And it speaks of the agency contacting --
6 contracting with Viewpoints to conduct the groups and it
7 talks about a variety of topics. And then there's bold.
8 What is the significance of the bold; why is it bold, do
9 you know?

10 A Those were the themes that came out from the
11 feedback. So management had the survey, they pulled out
12 those themes, which they've numbered one through, pardon
13 me, one through seven, there were seven themes that came
14 from the feedback they had from members. In the document
15 there they, you know, summarize or paraphrase, whatever the
16 right word is, the feedback they got from members that
17 Viewpoints gave them, and then the italics below is
18 executive management's response to the issues that workers
19 identified.

20 Q So if we go, for example, to Stability at 44824,
21 which is bullet number four, point number four.

22 A Yes.

23 Q The, the non-italics part, the first bullet, you
24 say is, is the summary of what they've been told?

25 A Yes.

1 Q And it says:

2

3 "Staff have expressed frustration
4 with the constant state of change
5 that the agency has experienced,
6 particularly in recent years."

7

8 A Yes.

9 Q And in terms of their answer to that, if you
10 will, the italics part just below that, they begin by
11 saying:

12

13 "Stability, control over our
14 future, long-term planning...there
15 is no disagreement with these
16 goals from Program Management. It
17 is difficult to find our place in
18 setting the direction of the
19 Agency when the changes that
20 have such a significant impact
21 occur mostly at an external
22 level."

23

24 A Correct.

25 Q Okay. And there is more. I don't mean to

1 suggest that's all they say but that's what I'm going to
2 point to you now. And then if we look at workload, which
3 is on the next page, page 44825, number six, there's a
4 recognition in the bullet that staff have made many
5 recommendations around workload concerns, and we went
6 through some of their answers a few minutes ago in appendix
7 "A". This is what they say about that. In the bottom of
8 44825, under the italics bold portion:

9

10 "Workload is a pressing issue that
11 is identified in most child
12 welfare agencies as being a major
13 contributor of stress and job
14 dissatisfaction. It is also a
15 complicated issue to address
16 partly due to the difficulty in
17 accurately measuring workload,
18 partly due to the lack of
19 resources required to adequately
20 meet the demand for services."

21

22 They go on, on the next page, 44826, the top:

23

24 "Program Management agrees that
25 workload is a critical issue

1 throughout the Agency."

2

3 They speak, in the next paragraph, of following
4 other agencies across Canada handling workload challenge,
5 that they're open to considering ideas from other agencies.
6 They say:

7

8 "However, as in other
9 jurisdictions, the current
10 political climate is not
11 sympathetic to strategies that
12 involve increasing staff.
13 Provincial standards often add to
14 workload and time constraints, and
15 the Agency tries to balance
16 between challenging those
17 standards, where appropriate and
18 assisting staff to meet them in a
19 responsible manner."

20

21 So how does the union, or how did the union react
22 to this memo in terms of the answers that you were getting
23 from program management to the concerns raised by your
24 workers?

25 A There was a level of satisfaction that the

1 results were released but I would say, you know, without
2 going through every detail in the letter, the overall
3 feeling from folks was a feeling of hopelessness because in
4 management's response, what, what staff understood is we
5 understand that there's problems, we're sympathetic to
6 those problems, but we really don't have the tools to be
7 able to address those in a meaningful way. So I think that
8 was a real disappointment for folks because I think they
9 engaged in this process believing that not only would we
10 understand the problem and we'd find a way to problem-solve
11 in a more meaningful way.

12 Q All right.

13 A Yeah. And, and if I could, some of the solutions
14 that, that did come, although again, good solutions, really
15 put additional work back on staff. Things like the
16 mentorship program, really good ideas but it didn't last
17 long because what happened was the senior folks who were
18 the mentors already had an existing and full caseload and
19 then they had to take on additional work to be mentors,
20 which they couldn't sustain, so programs like that really
21 just fell by the wayside.

22 Q All right. So November of '01, the report
23 issues. December '02 it's released to your members.
24 You've just told us what the reaction was. If we can go,
25 then, to Commission disclosure 1663. Page 24662, the first

1 page.

2 So this is a letter just 10 days later, 10 days
3 after staff get the memo that we've just talked about, the
4 union writes to the minister?

5 A Yes. Well, that's not a coincidence but it's on
6 the heels. Staff received that feedback, and again, I
7 think prior to that, really were hoping for some further
8 solutions to the workload issue they were experiencing at
9 the time, to the training issues, to the supervision
10 issues, to all of those themes, those seven themes that
11 were outlined by management, and their perception of that
12 memo really was no big changes coming your way. And their
13 frustration was then expressed to us to say, you need to
14 help us do something, we need to do something different
15 because we feel this problem needs a more urgent attention.
16 So it was at that request of the members that we wrote the
17 letter to Minister Caldwell on the 19th.

18 Q All right. So if we can just go to the end of
19 that letter first, which is 34664, we see that it's signed
20 by two -- or actually four individuals.

21 A Um-hum.

22 Q Looks like the president and the chief steward of
23 local 210 and of local 209. Who are -- what are those
24 locals?

25 A At that time, Winnipeg Child and Family Services

1 had two bargaining units. One was the supervisors'
2 bargaining unit, which is 209, and one was the workers'
3 unit, which was 210. And this was clearly a shared issued
4 between supervisors and staff and those leaders of that
5 group felt this letter needed to go urgently so they signed
6 the letter and it went to the minister.

7 Q Okay. And the letter, if you go back to the
8 first page, 662, talks to the minister, in the second
9 paragraph, about the agency having been through a number of
10 structural changes, talks about major upheavals in terms of
11 devolution and transition, but then goes on to say, in the
12 third paragraph, this isn't really about that. What this
13 is about is the headings, workload, vacancy management,
14 service cuts, labour management relations.

15 A Right.

16 Q And in terms of workload, on the first page, the
17 letter speaks of workload having long been of great concern
18 to us, caseload numbers unmanageable for some time but this
19 has recently become desperate for a number of reasons.
20 Speaks of some statistics, number of days in care having
21 jumped dramatically, agency being unable to retain staff,
22 stress and sick leave usage and workers compensation claims
23 increasing significantly. So the point of the letter being
24 to, to highlight these areas in terms of using some
25 statistics and numbers?

1 A Right. I think as, as I said before, these
2 issues have been a concern for a long time but they were
3 really, at that time, becoming to a point where people's
4 concern and their feeling of -- I, I didn't feel like I was
5 doing as good a job before as I could but now I'm really
6 feeling like families and children are at risk because of
7 my inability to do my work.

8 Q If you go to the top of page 2, there's a, an
9 asterisk and there is a reference there, at the very top of
10 page 2, to the early 2001 focus group study.

11 A Yes.

12 Q And it says:

13

14 "... although the study was
15 completed one year ago and
16 a number of important
17 recommendations were made,
18 Executive Management refused to
19 release the study until two weeks
20 ago and only after continuous
21 pressure from our union."

22

23 A Correct.

24 Q That's the study we talked about a few moments
25 ago?

1 A Yes.

2 Q In terms of people being at risk, if we go to the
3 end of the letter, just the last couple of paragraphs, the
4 third last paragraph:

5

6 "It is for the above reasons that
7 we feel we must put this
8 government on notice the children
9 and families who require
10 protection services in Winnipeg
11 are at risk and we as workers feel
12 unable to ensure their safety.

13 Finally, we ask there be a
14 complete review of this Agency as
15 a whole and thereby giving due
16 consideration to the concerns we
17 have raised."

18

19 A Yes.

20 Q And this was sent to the minister in December
21 2002?

22 A Yes.

23 Q It ends, the letter, with an expression that they
24 look forward to a meeting on January 7th, 2003?

25 A Yes.

1 Q Do you know if that meeting happened?

2 A It didn't happen on that date but it did happen.

3 Q I'm advised that one of the positive results, or
4 one of the results, you'll tell us whether it was positive
5 or not, of this letter and that meeting was the creation of
6 something called the common table.

7 A Yes.

8 Q Explain to the Commissioner what the common table
9 was, who was at it, how long it lasted, whether it was
10 useful or not.

11 A After Minister Caldwell received the letter, he
12 invited the representatives of that group to a meeting
13 where we discussed the content of the letter and we
14 discussed our concerns. And he was, expressed his concern
15 at some of those things, too, and asked his senior level
16 folks, ADM Mark Billinkoff and ADM Peter Dubienski, to
17 begin to engage with us directly so that he had a more
18 direct link from his office to agency management and the
19 staff of the agency. So he instructed his two ADMs to form
20 what was later called the common table. They participated.
21 The president of the supervisors group, Rob Wilson and Rick
22 Manteuffel participated and the other names on the list,
23 Jan Henley, Phyllis Toews, as well as two staff
24 representatives from the MGEU. That group -- and then also
25 the senior management of Winnipeg Child and Family. At the

1 time, Dr. Trigg was there, and I believe her director of
2 human resources attended as well.

3 Q Okay. Just to, just to summarize what you just
4 said, at this common table on the management side, if you
5 will, were the ADMs, senior management?

6 A Yes.

7 Q For the union were staff representatives and the
8 local folks that have signed this letter?

9 A Correct.

10 Q Okay. How many times did it meet?

11 A I don't know for sure.

12 Q Roughly?

13 A A half a dozen.

14 Q Okay. And how long did it meet for, in terms of
15 when was the last meeting?

16 THE COMMISSIONER: Were you present at the
17 meetings?

18 THE WITNESS: I was present at two of them, the
19 last two.

20 THE COMMISSIONER: And you think there were about
21 how many?

22 THE WITNESS: Six. We met over about a two-year
23 period, reviewed some of these things. There were some
24 positive outcomes that came from these, this conversation.
25 An example of that would be in the, in the letter to

1 Minister Caldwell we talk about concern about the hotel
2 policy. That's the second from the last paragraph on the
3 second page. And that came from a push and a policy from
4 government for children not to be living in hotels when
5 they're brought into placement, which we agreed with and is
6 a good thing, but had concern about the implementation of
7 that, that the desire to keep kids out of hotels was
8 actually splitting up sibling groups and the end worker saw
9 that as a bad thing. So subsequent to this group
10 committee, folks from this group worked together and
11 developed what later became known as the hotel policy,
12 which talked about when kids should or shouldn't be in
13 hotels and that kind of thing. So that was a positive
14 outcome that led -- that workers were satisfied with
15 because they felt it led to better service. Things like --
16

17 BY MR. SMORANG:

18 Q I don't need details, just --

19 A Sorry.

20 Q -- just in terms, though, of the table, you've
21 expressed a general statement that there were some
22 advantages and there were some successes?

23 A Yes.

24 Q And just to get us back into chronology here,
25 this is still before you have any collective agreement

1 language?

2 A Yes.

3 Q The collective agreement language was not
4 achieved until the beginning of the 2003 collective
5 agreement?

6 A Correct.

7 Q All right. So meetings are helping?

8 A Yes.

9 Q All right. Do you know why the common table
10 stopped?

11 A I don't know for sure.

12 Q Fair enough. Can we move to 1664, CD1664 and
13 page 34666. This is a letter --

14 THE COMMISSIONER: Now, just a minute. Where is
15 this?

16 MR. SMORANG: 1664, Mr. Commissioner, CD --

17 THE COMMISSIONER: What tab?

18 MR. SMORANG: CD1664.

19 THE COMMISSIONER: Oh, 1664. Yes, okay.

20

21 BY MR. SMORANG:

22 Q This is a letter August 3rd, 2004 to the Minister
23 of Family Services and it's signed by a staff
24 representative Jan Malanowich. So Jan was a staff
25 representative that serviced social workers at that time?

1 A Yes.

2 Q Why was this letter written?

3 A Devolution had begun in the rural and northern
4 areas in 2003 so cases, some cases at this time had already
5 transferred. There was a number of issues that those staff
6 were identifying and this letter was sent really to assist
7 in finding some resolution for them but also we knew the
8 much larger exercise was to occur in Winnipeg upcoming, so
9 to try and say, let's pay attention and let's do some of
10 these things differently, and really to say to government,
11 let's pay attention to issues relating to staff, let's pay
12 attention to issues relating to service and, and make sure
13 we all know when everybody's going to be ready for the much
14 larger move in Winnipeg.

15 Q There are obviously a great number of questions
16 being posed in this --

17 A Yes.

18 Q -- letter to the minister regarding the whole
19 question of transition dates and process, et cetera?

20 A Yes.

21 Q On the second page of the letter, 34667, at the
22 bottom, there are concerns that Ms. Malanowich indicates:

23

24 "Staff have regarding:

25 - workload adjustment;

- 1 - increased travel;
2 - Intake, Foster Care, and
3 Adoptions being encompassed in a
4 single position;
5 - Changes to Supervisory
6 Structure;
7 - and impact on Integrated Service
8 Delivery."
9

10 A Yes.

11 Q Again, the union would have learned of these from
12 your members?

13 A Yes. Part of the work that we do in the
14 structure we have, at least within the civil service, is in
15 all of our local, in all the, those groups that we have
16 across the province, the hundred and fifty, we have
17 connection to them, but in the civil service, because we're
18 also geographically broad, the social workers in the civil
19 service are part of their own component and they have --
20 that, that group of people, the presidents from across
21 Manitoba come together every two to three months as a
22 component and they talk about issues of mutual concern, and
23 that's where we would have sort of gotten the lay of the
24 land across the province and would have generated this type
25 of letter.

1 Q On the third page of the letter, the third last
2 paragraph, Ms. Malanowich writes:

3

4 "There is currently no process
5 within the department for workers
6 to share concerns. What
7 opportunity is there for workers
8 to get together to discuss common
9 issues and concerns?"

10

11 Goes on to say:

12

13 "There appear to be no staff
14 meetings or communication strategy
15 planned around the critical dates
16 for transition. The process of
17 transition has left some staff
18 feeling very devalued ..."

19

20 Talks about previous transition experiences and asks the
21 employer to give consideration to supports.

22 A Yes.

23 Q All right. 1665, CD1665, the next one in your
24 binder, Mr. Commissioner, it should be.

25 THE COMMISSIONER: Yes.

1 BY MR. SMORANG:

2 Q Which is another letter to the minister, this
3 time February 21st, 2005, roughly six months after Ms.
4 Malanowich's letter that we just referred to, and this is
5 Mr. Olfert, the president of the union, writing directly to
6 the Minister of Family Services.

7 Is there any significance to the fact that we
8 have the president of the union writing now and we've had
9 staff reps and local presidents writing up until now?
10 Sorry, we're on page 34670.

11 A I would say, not to take away from local
12 presidents when they write letters, they do, and they're
13 speaking on behalf of their group, that's what they're
14 elected to do, but certainly the president of the MGEU
15 with 34,000 members can't possibly be knowledgeable on
16 all the issues that goes on with over a hundred and
17 fifty collective agreements and 34,000 members. But
18 when there are issues that are of such great concern
19 where members feel there's a safety issue for the public or
20 for themselves or where we feel a greater level of
21 escalation or attention needs to be paid, those would be
22 times when the president would engage, and, and very much
23 particularly we move to engaging the minister at some
24 level.

25 Q All right. So this is a letter, as I say, six

1 months after Malanowich writes to the minister, the
2 president writes to the minister, with regard to some
3 issues that we would like to discuss. That's the first
4 sentence. The president goes through some of the
5 background history. You've talked about a lot of this
6 already, I won't go through it, but the 1998, 1999, 2000,
7 right through to 2003 on the first page, speaks about
8 vacancies and term positions as being a problem.

9 A I'm sorry, can I back up a little bit on that?

10 Q Yes.

11 A To -- I talked about the change, the period of
12 change that we went through leading up to when the
13 memorandums for AJI were first announced but a significant
14 change at that time was also in 2004 all of the staff of
15 Winnipeg Child and Family moved over to the civil service.
16 The significance of that is there for staff but, but the
17 significance of that for that for service is that they
18 moved over in June of '04 and then in and around January of
19 '05 they were advised that any outstanding vacation they
20 had, had to all be taken pursuant to civil service policy.
21 You can't carry bank beyond March 31st of that, of that
22 vacation year.

23 Q Can we just turn to the third page of the letter.

24 A Oh, I'm sorry.

25 Q And the third paragraph down where Mr. Olfert

1 speaks, says:

2

3 "On December 20, 2004, we met with
4 ... Sid Rogers and ... Jay
5 Rodgers, ... and ... Glenda
6 Edwards, ... requested an
7 extension to the timelines. We
8 believed that ... timeframes would
9 further tax an already taxed
10 workforce. We further requested
11 that due to the time restraints
12 that the employer allow employees
13 to carry forward any unused
14 vacation to make the manageability
15 of .. timeframes more obtainable."

16

17 A Yes.

18 Q Is this the issues of which you're speaking?

19 A Yes.

20 Q Okay. So start --

21 A So ...

22 Q -- start back where you were, then.

23 A Okay.

24 Q There was an issue of people moving into a
25 different kind of classification of employment.

1 A Well, we moved in '04 but then in January of '05
2 what came together was the deadlines for AJI. Devolution
3 had become more finalized so around January of '05 workers
4 began with much greater vigor to get their case transfers
5 done.

6 Q And just to --

7 A And --

8 Q -- to move up one paragraph. In Mr. Olfert's
9 letter, he says:

10

11 "I am sure ... you are aware of
12 the time frames throughout this
13 process floated until late
14 December 2004, when all of a
15 sudden it was announced that the
16 whole process of transferring
17 cases, finding home positions for
18 employees with guaranteed
19 employment and seconding employees
20 to the Aboriginal agencies and the
21 General Authority would be done by
22 April, 2005."

23

24 So that's this "all of a sudden" that you're
25 speaking of?

1 A Yes. Yes. So the timeframe for AJI had been
2 more formalized so work had to begin in earnest to get
3 those case transfers done. And right on the heels of that,
4 people were also advised they had to take any unused
5 vacation because in the old collective agreement they came
6 from, people had been allowed to carry vacation; so some
7 staff would have had none, some staff would have had a
8 little bit, some staff would have had a lot, depending on
9 what their personal circumstances were. So that's the
10 timing of this letter, being in February '05, is because
11 all of those things have just started to come to members'
12 attention in January of '05 and then come to our attention.
13 So that's really what prompted this letter to the minister
14 at the time, is we were just really concerned that this was
15 going beyond the capacity of the workforce to be able to
16 manage and that there would be some significant service --
17 potential, potentially some significant service issues as a
18 result.

19 Q Okay. The result being that a whole bunch of
20 people had to take vacation or lose it within a very short
21 period of time?

22 A Right.

23 Q Resulting in short staff in those critical months
24 just before devolution?

25 A Right. Right. So more work to do but less staff

1 to do it is really the formula for us.

2 Q So the union was essentially saying to the
3 government, please extend the period during which staff can
4 retain vacation without using it right now?

5 A Yes. We were saying, you have to move one or
6 the other, move the amount of vacation you have to take
7 or move the deadline a little further forward for AJI.
8 Again, it's, it's about the process that really is the
9 issue, not about the decision to move forward but how we do
10 it.

11 Q And going, jumping ahead a little bit here but
12 just so that we can answer the question, what was the
13 government's answer?

14 A No.

15 Q Did they make any accommodation?

16 A The time -- the deadline for AJI did move.

17 THE COMMISSIONER: When you talk about deadline
18 for AJI, you're talking about devolution?

19 THE WITNESS: Yes. Pardon me, yeah.

20 THE COMMISSIONER: Yeah.

21 THE WITNESS: And the devolution, the transfer of
22 cases in Winnipeg, where originally it was April 25th, they
23 moved it to May 2nd, and I believe at a later date it, I
24 think it moved to May the 16th-ish.

25

1 BY MR. SMORANG:

2 Q What about on the vacation side, what did they
3 do?

4 A There was a memo that went out for staff, in
5 exceptional circumstances only staff could carry forward up
6 to five days' vacation. But I'm not aware that that --
7 staff felt that was clearly insufficient response to the
8 issue.

9 Q And so in your recollection, did staff take their
10 vacation?

11 A In the main, yes, they did. They had to.

12 Q And did that --

13 A They had to.

14 Q -- have an effect?

15 A Well, the impact was the work that they were
16 supposed to do didn't get done or their colleagues did it.
17 And again, people were being asked to do more and now you
18 had less to do it.

19 MR. SMORANG: Not sure what your practice has
20 been, Mr. Commissioner. It's about 12:05. I'm not going
21 to finish before lunch.

22 THE COMMISSIONER: Well, we'll, we'll carry on
23 till 12:30.

24 MR. SMORANG: Thank you.

25

1 BY MR. SMORANG:

2 Q All right. So the, the letter ends, second last
3 paragraph, and I guess the significance, or the sad irony
4 is that this letter was written in February 2005 and what
5 Mr. Olfert says two lines from the end is:

6

7 "We do not want children or
8 families that we serve to fall
9 through the cracks."

10

11 A Correct.

12 Q That is in February. If we move to the next
13 document, which is CD1666 beginning at 34673. This is a
14 letter written by Mr. Jay Rodgers, acting CEO of Winnipeg
15 Child and Family Services to Jan Malanowich in March of
16 2005?

17 A Yes.

18 Q Now, this is a reply to her letter. He doesn't
19 show the date, but he's replying to her letter of August
20 3rd, 2004, the one we went through a few minutes ago?

21 A I believe so.

22 Q So that's seven months after her letter she's
23 getting a reply from Mr. Rodgers?

24 A I believe so.

25 Q He says, in the first paragraph:

1 "I agree that this is a
2 particularly difficult, stressful
3 and unsettling period for all
4 staff ..."

5

6 And then he goes on to talk, over the balance of
7 the first page and most of the second page, about something
8 he refers to as the transition supports plan?

9 A Yes.

10 Q What is that and what did it offer?

11 A Winnipeg management at the time struck a
12 committee, I believe they called it the transition support
13 committee. They had a couple of staff, senior staff who
14 were working towards developing some solutions to
15 facilitate the transition. I believe they also then had a
16 handful of staff who volunteered. So that committee worked
17 out some ideas to manage the additional work that they were
18 being asked to do.

19 In January of this year the plan that that
20 committee had developed was also presented at a staff
21 meeting.

22 Q January of 2005?

23 A That's correct.

24 Q Okay.

25 A Jay presented it, Mr. Rodgers presented it at a

1 staff meeting. There was a couple of additional idea that
2 came forward from staff and those suggestions were
3 incorporated into the plan that he's outlined in his
4 letter. And do you want me to go through the components of
5 the plan?

6 Q Not in particular. What I'd like you to do is
7 just advise as to, from the union's perspective, based on
8 what you heard from your workers, did it assist?

9 A I believe the, the feedback from workers on this
10 plan is that it was well intentioned and offered some
11 assistance, was helpful to some extent. But when you start
12 to look at the balance of how much additional work people
13 were being asked to do with lots of people away and the
14 amount of support that was offered through this plan, it
15 was far -- it was a, an imbalance. It in no way compared
16 to the amount of additional work that the system was being
17 asked to do.

18 Q At the bottom of the second page of the letter,
19 34674, last paragraph, Mr. Rodgers confirms what you've
20 already told us, which is that management was going to
21 allow staff to carry over up to five days of vacation into
22 the fiscal year, next fiscal year, and advising that
23 that would be considered only in very exceptional
24 circumstances?

25 A Correct.

1 Q You were in the workplace in, in the first months
2 of '05, still there. What was the work environment in, in
3 terms of the workplace in, in those months that you've
4 talked about?

5 A You know, I've used the word "chaotic" before.
6 It fits. People were running from place to place getting
7 done what they needed to do and looking for help and
8 support in whatever way they could get it, whether it was
9 finding people just to do their photocopying so that that
10 was one task somebody could do for them, whether it was
11 finding computer that was available, whether it was seeking
12 tech support because the computer had crashed because the
13 system was so overloaded with people doing so much work,
14 but I think there was a real feeling of sadness because
15 people knew in days gone by they weren't meeting their
16 clients' needs, and in this environment at the time they
17 knew they were doing an even, they were doing even a --
18 they were doing the job more poorly than they ever had
19 before. So for people who have chosen this work and do it
20 because they care about people, this was a tremendously
21 difficult time for them.

22 THE COMMISSIONER: Tremendous what?

23 THE WITNESS: Tremendously difficult time for
24 them.

25

1 BY MR. SMORANG:

2 Q The union had a meeting with the minister in July
3 of that year, July of 2005, and it prepared and took a
4 letter to the minister for that meeting?

5 A Yes.

6 Q And I will ask everyone to turn, please, to
7 Commission disclosure 2118, page 44815.

8 THE COMMISSIONER: Tab what number?

9 MR. SMORANG: 2118 towards the end of your
10 binder, just before the letter tab.

11 THE COMMISSIONER: Yes. Yes, I have it.

12

13 BY MR. SMORANG:

14 Q Now, this is a letter, it's a typewritten
15 document at least, it has a date July 11, '05 and it is
16 respectfully submitted, in the third page, by Jan Henley
17 and Eleanor Payne both a social worker and a supervisor
18 within Winnipeg Child and Family Services. Why is this not
19 on union letterhead?

20 A Because it was hand-delivered. They delivered it
21 and then -- to the minister and then read it to her during
22 the course of the meeting.

23 Q So this letter was presented physically to the
24 minister --

25 A Yes.

1 Q -- at a meeting --

2 A Yes.

3 Q -- on July 11th?

4 A Yes.

5 Q So the letter starts off, in the first paragraph,
6 acknowledging the time the minister has found in her busy
7 schedule to meet and to engage in informal conversation
8 around issues related to devolution and implementation of
9 AJI-CWI?

10 A Yes.

11 Q In the second paragraph there is a reiteration of
12 support for the initiative and pointing out that:

13

14 "... after enduring years of an
15 inconsistent and unstable
16 workforce, we have worked
17 diligently toward government goals
18 in a co-operative patient manner."

19

20 A Yes.

21 Q It then goes on to talk about a number of
22 concerns, and the first heading is Lack of Organization.

23 A Um-hum.

24 Q And I won't go take you through all the bullets,
25 they're there for, for us to read. But it then goes on,

1 the second page, into the third page, speaking of the
2 impact of that on staff -- sorry, on service first and then
3 on staff?

4 A Yes.

5 Q And what were the concerns in that regard by the
6 union? On service, first of all?

7 A Well, I think there were so many issues that
8 happen when people are overwhelmed and busy, and I say that
9 not just about the workers. I think management and those
10 that were planning the devolution process were, you know,
11 it was an extraordinarily -- it was, it was a tremendous
12 initiative that took the energy and the attention, rightly
13 so, of everyone. And there are some things that related to
14 the process that had some important impacts on service,
15 things like children/parents visits being disrupted and you
16 had more staff turnover and frustrated foster parents and
17 volunteers, and schools complaining and people couldn't get
18 a hold of their worker and, and some of those things can be
19 explained by there's always bumps in the road that you have
20 to get over with a new initiative. But I think for those
21 workers who had to face those families every day, you know,
22 broadly those that are removed can say, well, we couldn't
23 have figured everything out. But for those people on that
24 day, their concern is themselves and their family and their
25 children, and those are the people that these workers had

1 to face. They weren't in an office planning it, they were
2 the people that had to -- and, and even our admit staff
3 that we represent, they were the ones that had to say, no,
4 I don't know who your worker is, or, no I don't know when
5 your kids are coming for their visit today. So there was
6 those that were tremendously difficult for staff and
7 continued to be at the time of our letter.

8 I think for client -- for the social workers,
9 it's hard to face those issues and then turn your cases
10 over when they didn't feel there was a really good process
11 for tracking all of it. There was files that went from one
12 place to another where there wasn't a great administrative
13 process to make sure if I leave it here you sign for it
14 there. So there's important work that goes with those
15 files. Work -- it's not just a file, it represents work
16 that people have done with a family and wanting to make
17 sure that none of them get lost or none of the information
18 is lost because they want to make sure that those families
19 continue to receive service in the way that they deserve
20 to. And this process left people feeling like their
21 ability to ensure that was compromised further.

22 Q In terms of what the union is asking for, that we
23 find on the third page just above the last couple
24 paragraphs:

25

1 "We are respectfully requesting:"

2

3 So there are a number of, five in total
4 number --

5 A Um-hum.

6 Q -- requests being put by the union to the
7 minister?

8 A Yes. Well, we were asking for, again, a re --
9 that somebody look at, somebody with a level of
10 independence, to say is this really going to work in the
11 way it's intended to? And an independent person to help
12 work through some of the problems that had come about. We
13 were also asking for a re-assessment of the initial
14 distribution of resources. The process related to
15 devolution is that there was a resource transfer table,
16 which other witnesses have talked about as, as well, where
17 the, where the more senior folks decided where the work was
18 going to go and how the resources that were going to go
19 with it. But what we found early on in the devolution
20 process is the resources went, meaning the staffing
21 dollars, but the work didn't move in the way that it was
22 expected to, so staff were saying the work is still here,
23 we want you to re-assess that and we want the resource to
24 come back. So an example that I think is cited in the
25 letter is place of safety homes where previously there was,

1 I believe six or seven place of safety workers who were
2 overseeing in excess of 500 homes. That unit, because of
3 the process related to the work moving went down to two
4 people. So now you had two people who had responsibility
5 related to over 500 place of safety homes, and that they,
6 they now had to do that work. So there needed to be a
7 reassessment of where's the work and where should the
8 resource be to that, and that's what we're asking for
9 there.

10 Q In terms of number four in particular, you are
11 asking the department review and implement a workload
12 standard that better reflects the service demands placed on
13 the system?

14 A Well, and that's really trying to say whoever
15 does the work, whether it's the civil service or whether
16 it's a First Nations agency or Métis agency, you should
17 really look at how you measure it so the people that you're
18 asking to do the work are actually able to do it in the way
19 that you're asking them to do it. So we've talked about
20 some of those things before but in a more formal way here
21 we're saying, measure the work, make sure you resource it
22 adequately.

23 Q You end the letter, or the union ends the letter:

24

25 "We feel it is important to inform

1 you that there continues to be
2 much confusion, increased
3 workload, staff turnover and
4 deteriorating morale within Child
5 and Family Services. Under such a
6 stressed work environment we are
7 extremely concerned about our
8 ability to ensure the safety of
9 the clients we serve."

10

11 Now, I understand that you didn't get a response
12 to this letter from the minister for about four months when
13 ADM Dubienski wrote to the union?

14 A Yes.

15 Q And we're going to turn to ADM Dubienski's
16 response, which is CD1667.

17 THE COMMISSIONER: Well, did the minister give
18 any response during the meeting?

19 THE WITNESS: We spoke during the meeting and she
20 thanked us for the information, and there was no -- no, she
21 simply received the information during the meeting.

22 THE COMMISSIONER: Was the, was the content of
23 the letter discussed?

24 THE WITNESS: It was. The letter was read to
25 her. We talked about the issues. We provided specific

1 examples to her about where those concerns came from.

2 THE COMMISSIONER: Thank you.

3

4 BY MR. SMORANG:

5 Q 1667 is the ADM's response in November.
6 Understand that the union had dialogue with the minister
7 prior to getting this letter about the lack of response?

8 A Yes. Peter Olfert, who was the president of the
9 MGEU at the time, had had some conversation with the
10 minister at the time and had expressed dissatisfaction with
11 the fact that we hadn't heard anything since the July
12 meeting. And then subsequently we received this letter
13 November of '05.

14 Q So this is ADM Dubienski and can you just
15 generally review the letter in terms of what it contains,
16 not line by line, of course, and the union's reaction to
17 the response? Sorry, 34677.

18 A The letter here from Mr. Dubienski we really
19 heard as we appreciate your concerns but feel that we have
20 done whatever we can and should have done in relation to
21 all of those. So there was no further action or change as
22 a result of the July letter that we'd sent. In, in this
23 letter, Mr. Dubienski reiterates the efforts and
24 initiatives that Jay Rodgers articulated in the March
25 letter. He also talks about the department --

1 Q Just before you go on, you talked about his, his
2 reiterating what Rodgers had said. We go to the second
3 page, about the third paragraph down, he makes reference to
4 Rodgers and he makes reference to the transition support
5 plan and he speaks about the plan, again, in bullet form?

6 A Yes. And it's, it's slightly different words but
7 it is the same plan.

8 Q If you go to the third page, 34679, second last
9 bullet, he talks about a reaffirmation that the integrated
10 service delivery initiative is an integral part -- sorry,
11 that Child and Family Services is an integral part of the
12 ISD plan. Can you explain what the ISD plan is generally?
13 Perhaps we've heard about it already here, I'm sorry, I
14 wouldn't know.

15 A Integrated service delivery is a new way to
16 offer, or a different way to offer service whereby
17 different disciplines work together towards providing
18 service for a family, and I think it's been characterized
19 as sort of the one-stop shop. In Winnipeg it was called
20 WISE (phonetic), the Winnipeg Integrated Service Delivery,
21 but broadly across the province it was called ISD or
22 Integrated Service Delivery. It had been rolled out in the
23 rural areas so rather than having a child protection in an
24 office, a child protection team, and E and IA team, a
25 children special services team, you might have one

1 supervisor who now oversees one or two of each of those
2 workers. So for example, in Jan Malanowich's letter where
3 she talks about concerns related to (inaudible) supervision
4 structure, that was a concern because previously you had a
5 manager who had, for example, employment and income
6 assistance experience overseeing those workers, so we had
7 expertise in that area. And similarly, in child welfare,
8 those child welfare workers at this time, in the rural
9 areas, could very likely have a supervisor who had no prior
10 child welfare experience, who had to sort of learn the work
11 behind that.

12 Q Maybe --

13 A When this was -- why this was important for us at
14 this time --

15 Q Yes.

16 A -- is because child welfare was still struggling
17 to adapt and fully implement all of what was related to
18 devolution because this letter came in November of '05.
19 Some of the cases had only transferred as late as October
20 of '05, like just barely a month ago, and what we were
21 reading here is, be clear that integrated service delivery
22 is still very much on the table So even though child
23 welfare had not fully absorbed and implemented all the
24 changes related to devolution, the government was letting
25 us know that this second, albeit smaller, initiative is

1 still on the table and we intend to move ahead. So that
2 felt very much that our concerns that we had raised saying
3 the system has, is beyond capacity in terms of
4 accommodating change, that clearly had not been heard at
5 this stage of the game. So that was the significance of
6 that.

7 Q Okay. Just again, just to go ahead, was ISD
8 ultimately implemented?

9 A No. In two thousand and -- there was pieces of
10 it, so workers did start to have additional meetings,
11 supervisors did, they did --

12 Q Don't need the details.

13 A Sorry. But full -- the government made a
14 decision in 2010 not to move ahead with it.

15 Q All right. So it survived at least as a plan
16 until at least 2010 when it was abandoned?

17 A Yes.

18 MR. SMORANG: Okay. All right. I'm about to
19 move, then, into the third timeframe, which is 2006 to now.

20 THE COMMISSIONER: Well, this might be, this
21 might be a convenient time to break.

22 MR. SMORANG: I can indicate that I'm, I'm coming
23 close to the end. I don't imagine being much longer than
24 30 minutes or so when we reconvene.

25 THE COMMISSIONER: All right. That gives us some

1 indication as to the others asking their questions. So
2 we'll adjourn now until two o'clock.

3

4 (LUNCHEON RECESS)

5

6 THE COMMISSIONER: All right, Mr. Smorang.

7 MR. SMORANG: Thank you, sir. In the break we
8 were able to fill in the pages that you had been missing
9 from CD2119 so when you go back to your material you'll
10 find three pages that were no -- that weren't there before.

11 THE COMMISSIONER: Thank you.

12

13 BY MR. SMORANG:

14 Q So, Ms. Kehler, we're going to move, then, in to
15 the third and final period of time, which is 2006 to now.
16 And again, before we get into the details in some of the
17 documents, can you comment generally on the union's
18 information concerning the constant state of change issue
19 and the workload issue?

20 A I would say members characterize that period of
21 time as the additional work that had come about as a result
22 of devolution continued, and in some circumstances was
23 exacerbated because resources hadn't yet been readjusted.
24 But I would also say there was a very significant shift in
25 the last few years in terms of additional resources being

1 put into child welfare, much more training than workers
2 have seen, certainly in my history in child welfare, a
3 greater direction in terms of standards. So there really
4 was -- things have moved significantly. But I would also
5 add that, I would say up until really very recently, some
6 of those workload issues became much worse for some staff
7 in certain areas where they felt quite desperate in terms
8 of their circumstances so there's a bit of an evolution
9 over that period of time in terms of getting worse then
10 getting better.

11 Q How about in terms of the constant state of
12 change? Where has, where has that evolved to?

13 A Change continued for a period of time, both
14 changes to some processes related to devolution, changes to
15 the computer system, those kinds of things, but I would say
16 there's a greater level of stability in the system now than
17 there once was, for sure.

18 Q Now, we've looked this morning at your attempts
19 to bargain language regarding standardization of workload
20 all the way back to 1996 when you were looking for language
21 that would have obliged the employer to maintain the
22 standards as set by the Child Welfare League of America.
23 As we stand today, are there workload standards?

24 A No.

25 Q And we've also heard your evidence this morning

1 of the union's attempts to bargain increased language in
2 2006 and 2010?

3 A Yes.

4 Q Certainly falling within the period that we are
5 in now. At this point, does the union support, continue to
6 support the concept of standards when it comes to workload
7 and also accountability and, if so, why?

8 A Very much so. I think -- and we talk about the
9 union supports it, I think it's really, again, it's driven
10 by what our members have told us. Members -- as I
11 mentioned, in 2006 they started get, started to get
12 training on what the standards, capital -- the foundational
13 standards of the province were. I think getting that
14 additional direction from the employer on what the
15 expectations are, having additional training has been
16 really important for them. And when you build that
17 training in, we would say, then as long as you're sure you
18 resource it adequately, then that's really how it allows
19 you to build accountability in, and workers, members, want
20 that. They want a fair process under which their work
21 should be judged and I think really that's kind of what I'm
22 trying to provide the Commissioner today, is, is a sense of
23 context to understand and to judge the actions of those
24 workers, whatever they did or didn't do, in the context
25 that they did it. And when we talk about having standards

1 and, and resourcing it, it really is about that supply and
2 demand equation, the demand being what clients need you to
3 do, what demands the employer sets in terms of training, in
4 terms of standards, be it, be it the, the provincial
5 standards, whether it's the authority standards, whether
6 it's the employer standards, those are good things. But
7 each of those things has to be measured, from our
8 perspective. And by that I would, I would suggest to you,
9 you have to operationalize those standards. You have to
10 decide how much time does each thing take, what do I want
11 you to do, what's a reasonable period of time or an average
12 time to do it in and then figure out how many workers do we
13 need to be able to do that work. And then really you have
14 a system where you can say, I expect you to do this and if
15 you don't I can hold you accountable for that. And that's
16 a fairness equation that workers want and that we want to
17 support as well.

18 Q Once again I'll play the jaded uneducated
19 individual who might say, why would a union want to hold
20 its members accountable with the employer? Isn't that --
21 doesn't that go against what a union would want in terms of
22 the potential, then, for a member to be badly evaluated,
23 potentially disciplined, potentially dismissed?

24 A I -- a union's role isn't to remove
25 accountability. A union's role is to ensure fairness in

1 the process. And, and members want fairness to the
2 process, they want to be judged fairly, they want to ensure
3 that when an employer is making a decision they're weighing
4 all the appropriate issues in considering the right
5 solution, and members want that because they don't just
6 feel accountable to their employer, they feel accountable
7 to the families and children they provide service to.
8 That's why they do this work and they want to feel good
9 about those outcomes.

10 Q And so in terms of its ongoing quest to achieve
11 bargaining language in the collective agreement, the union
12 maintains -- and we'll talk a little bit more about that
13 towards the end of your testimony -- the union maintains
14 its desire to bargain something better into the collective
15 agreement than it has now?

16 A Yes. In absence of that, any policy, procedure,
17 committee that we strike with the employer, again I would
18 say however well intentioned and sincere the desires of the
19 participants, it doesn't have any real teeth behind it.
20 And so for us, the collective agreement is our tool. It's
21 a way that we create accountability not just for the
22 employees but for the employer. It's a way that somebody
23 with some independence, because we're here now and I don't
24 suspect we'll have a child welfare inquiry soon again, it's
25 a way that we build accountability on an ongoing basis, and

1 it's a way that I believe with some good process you
2 empower those workers to be a part of the process that
3 ensures that standards get met, that ensures they're being
4 resourced adequately. Workers don't want just themselves
5 to do a good job, they want the person beside them, they
6 want to see everybody achieving that standard, because
7 people don't -- nobody feels good when you go to work every
8 day and you're really hard and the person beside you isn't
9 being held to a standard, because you know that you're all
10 still fundamentally looking after the same group of people,
11 the same population. And again, they want to do it because
12 they -- they do that work because they want to see good
13 outcomes for families.

14 Q We can move to production CD1668, which is at
15 page 34682.

16 THE COMMISSIONER: What are -- what tab number is
17 it?

18 MR. SMORANG: 1668.

19

20 BY MR. SMORANG:

21 Q This is a letter dated May 10, 2006 addressed to
22 three different entities, the union, the Manitoba
23 association and the university faculty of social work?

24 A Yes.

25 Q And it is signed by 11 people?

1 A Yes.

2 Q That you, many of whom you know?

3 A Yes.

4 Q And you know them to be all in one unit, one
5 particular unit within Winnipeg Child and Family Services,
6 the downtown unit?

7 A Yes.

8 Q And of these 11, nine I understand are social
9 workers, one in the capacity as a, a supervisor, and two
10 are not?

11 A Correct.

12 Q So here's 11 employees writing a letter to their
13 union, to the professional association and to the
14 university?

15 A Yes.

16 Q What concerns does this letter raise?

17 A Well, they're writing to all of us seeking
18 support for their circumstance. This letter is written May
19 10th of '06, which is just around the time when, when in
20 excess of 2500 cases have been transferred to Winnipeg
21 Child and Family. These workers talk about the level of
22 experience they have, they talk about the amount of change
23 they've been through, but they're really articulating to
24 these bodies, and they sent a subsequent letter to
25 management as well, just how desperate they're feeling at

1 that current time. They articulate their desire to meet
2 standards and yet their inability to do so and share their
3 concern about that current circumstance, given their
4 workload. And they articulate it has to do with the
5 resource transfer that I talked about this morning. It
6 talks about their concerns related to the integrated
7 service delivery model that I talked about this morning.
8 And they're really demanding -- I mean, they're advocating
9 for themselves but they're asking those three bodies to
10 advocate for them as well because they don't really know
11 where to go. And I think, you know, what I, what I want to
12 say about this is when I talked this morning about the
13 different ways that members communicate to us, obviously
14 this is one of them, but I also think about Dr. Wright's
15 comments here about what should social workers do who feel
16 they're not meeting a standard and not -- or there's
17 impediments to good practice. And she really talked about,
18 I think, exactly what these folks did, about enlisting the
19 support of professional association, management, your
20 union, whatever.

21 I would say other social workers did this kind of
22 thing many times. These folks brought a level of formality
23 to their circumstance. But again, they, I think, say it
24 really well in the last page where they say:

25

1 "There has never been a time in
2 the history of Child Welfare in
3 this province when your support
4 has been so desperately needed."

5

6 I think it really captures the essence of their letter.

7 Q You mentioned just in passing a moment ago that
8 they sent a version of this to their employer. And if we
9 can turn to page 3 of the letter, and in particular it's
10 page 34684, the third paragraph. They say:

11

12 "We are sending the same letter to
13 our Union, the Faculty of Social
14 Work, and the Manitoba Association
15 of Social Workers so the three
16 organizations have professional
17 attachments and responsibilities
18 for the integrity of our work and
19 profession receive the same call
20 for help. We are also sending a
21 letter to our Program Manager and
22 [the] CEO of Winnipeg Child and
23 Family Services. Our Executive
24 Management has repeatedly been
25 apprised of our situation;

1 however, our concerns have not
2 been presented to them in written
3 form until now."

4

5 Do you have personal knowledge that such a letter
6 was sent?

7 A I do.

8 Q And in terms -- you've summarized the contents of
9 the, of the letter. I just want to drill down a little
10 bit. If we go to, back to page 2 of the letter, in the
11 third paragraph they speak of caseloads. It begins:

12

13 "In the meantime, our caseloads
14 continue to grow. We are at the
15 raw number of 36 very complex
16 cases for each Child Protection
17 Worker. As a result, the quality
18 of service is wanting, albeit we
19 are desperately trying to meet the
20 designed standards and provide the
21 services our clients expect and
22 deserve. According to the
23 Standards of Practice outlined in
24 the Canadian ... American studies
25 that were quoted in the discussion

1 papers submitted prior to the 1999
2 Winnipeg Child and Family Services
3 reconfiguration, the maximum
4 number of cases ... a Child
5 Protection Worker should safely
6 manage in the Core Area of a large
7 City would be twenty ..."

8
9 So you'd said capital "S" standards earlier. So
10 is that the kind of standard you were talking about, a
11 standard set not by the workplace but by an external body
12 such as, by way of example, these ones?

13 A Well, people talk about standards of work but
14 there are also, we also talk about standards in terms of
15 which -- here, which I really believe are talking about the
16 provincial foundational standards. Yeah, that's what
17 they're talking about here. They're talking about the
18 inability to meet the province's standards.

19 Q Just in the next paragraph, I won't read the
20 whole thing but they make reference to 16 more cases than
21 best practice, and in bold they say:

22
23 "Those 16 cases translate into 44%
24 extra work that we are expected to
25 accomplish during the work day

1 according to set standards."

2

3 A Yes.

4 Q All right. So you may not be able to speak for
5 what the MIRSW or the University of Manitoba did as a
6 result, but I understand as a result of this letter the
7 union quite quickly sought a meeting with government under
8 the memorandum of understanding 13, the language you have
9 in your collective agreement?

10 A That's correct.

11 Q And if we move to the next production, CD1669,
12 page 34688, we see not even four weeks later a letter from
13 Mr. Olfert, the union president, to Mr. Stevenson, director
14 of labour relations with a c.c. to the minister requesting
15 a meeting to discuss workload issues under the memorandum
16 of agreement?

17 A Yes.

18 Q Mr. Olfert says:

19

20 "The current workloads are taking
21 a toll on the health and wellness
22 of our members, and are affecting
23 the quality of service provided to
24 the public of Manitoba.

25 It is absolutely critical that

1 [the] government begin to address
2 this issue.

3 An immediate response to this
4 request is required."

5

6 Do you know if there was an immediate response to
7 this letter?

8 A There was a meeting that was held subsequent to
9 this letter.

10 THE COMMISSIONER: Pardon?

11 THE WITNESS: There was a meeting that was held
12 subsequent to this letter.

13

14 BY MR. SMORANG:

15 Q Were you at that meeting?

16 A I was not.

17 Q The same fall, that is, three months later, the
18 union issued a press release, and that is CD1670, the next
19 document in the material, October 11, 2006. Page 34690.
20 Is that a copy of the news release?

21 A Yes, it is.

22 Q Why did the union issue this news release?

23 A I think for a couple of reasons. There was
24 really important work and information that came from those
25 reports. Many of our members participated --

1 Q What reports?

2 A Well, this release came after the Strengthening
3 the Commitment, Honouring the Spirits, essentially what
4 I've characterized as the Changes for Children initiative.
5 This is where that started. When the external news of
6 those came out and the recommendations were shared, again,
7 because so many of our members had participated in some of
8 those interviews, which resulted in the reports, we felt it
9 was important to acknowledge that to all of our members.

10 It was also important for us to reiterate to
11 government and to our members that we would be taking
12 forward a position on their behalf that the implementation
13 of that process, the Changes for Children initiative and
14 how the dollars that were allocated to it would be spent,
15 that front line workers ought to have a seat at the
16 implementation table with our belief that some of the
17 circumstances that came about through devolution could
18 perhaps have been anticipated by the people who do the
19 work. This was an opportunity for them to be heard. And,
20 and yeah, I would say there was a level of optimism that
21 child welfare was getting that level of attention and would
22 have additional dollars put in. So I think our members are
23 always looking again to make sure that we're going to
24 support them in participating in that process.

25 Q In just the, just below the middle of the

1 document there are four bullets, and above those bullets it
2 says:

3

4 "Social workers advocated for:"

5

6 And these, I take it from the previous paragraph, are
7 social workers who brought forward ideas during the
8 interviews of the review team. The second bullet:

9

10 "the review and implementation of
11 a workload standard;"

12

13 So again, the union was aware that the workers
14 who were interviewed were continuing to advocate for a
15 workload standard?

16 A Yes. And some of that came about because some of
17 that work has been done differently in different provinces.
18 Some child welfare staff had more knowledge of that through
19 participation in that national conference that I talked
20 about this morning. And, and people -- again, a workload
21 standard or workload assessment tool, whatever expression
22 you want to use, is really about, I would say it's again
23 about a fairness issue. It's, it's making sure that the
24 right people are available to do the work that you want
25 them to do.

1 Q Going to move towards the end of the binder, Mr.
2 Commissioner, to tab "D" as in Donald. And I hope that
3 there is a memo there dated January 10th, twenty -- 2007.
4 "D". Are we ... Yeah. At least it's on the screen
5 anyway, not that the screens are on. Do we have it? Are
6 you ...

7 MS. WALSH: It's got it in our copy.

8 MR. SMORANG: Yes, thank you.

9 THE COMMISSIONER: Yes, I have it.

10 MR. SMORANG: Okay.

11

12 BY MR. SMORANG:

13 Q So this is, this is a memo to supervisors from
14 Elaine Gelmon. Who's Elaine Gelmon?

15 A She was the manager of human resources at the
16 time for Winnipeg Child and Family's branch.

17 Q And it's unfortunately a poor copy. I take it
18 that's the best copy that you could locate?

19 A Yes.

20 Q I think we can read what we need. It appears
21 that this document is, the subject is sick leave report.
22 It says:

23

24 "We have completed a Sick Leave
25 report for all staff of [Winnipeg

1 Child and Family Services] for the
2 years July 1, 2004 to June 30,
3 2005 and July 1, 2005 to June 30,
4 2006."

5

6 Those are the two fiscal years, '04/'05, '05/'06?

7 A Yes.

8 Q And if we look at the findings on the second page
9 under overall sick leave she reports that, including
10 all employees for each of the two years, sick leave
11 increased:

12

13 "This represents an increase of
14 ... 29.2% ... from 11.36 days to
15 14.47 days, compared to the
16 industry average of 9.5 days.
17 [and] The cost of the sick leave
18 [has] increased ... 34.5% [in
19 those two years]."

20

21 A Yes.

22 Q And that's just in Winnipeg Child and Family
23 Service workers?

24 A That's correct. I would say the, if I could, the
25 importance about receiving that kind of information as a

1 union is it really confirmed what lots of members had been
2 saying, and that is people were being asked to do too much
3 and they were actually, their health was struggling as a
4 result, but also speaks to what that means for those that
5 are left behind because there's a workload that goes with
6 that and really exacerbated the circumstances those that
7 were left behind found themselves in.

8 Q We flip to the next page of the document, there
9 is an analysis, bottom half of that page. Yeah, there it
10 is. Says:

11

12 "The overall increase in sick
13 leave is significant. A number of
14 factors could be contributing to
15 this increase in sick leave.

16 Among those factors could be:

17 • number of system wide changes
18 in child welfare - [the]
19 transition ...

20 • ... length of time over which
21 these changes have occurred and
22 ... unknown length of time by
23 which WIS will be implemented

24 • ... increased workload ...

25 • ... uncertainty and results of

1 the home position determination

2 and ...

3 • ... continued uncertainty of
4 permanent assignments ..."

5

6 A Yes.

7 Q If we can move to 1673, CD1673, page 34748. This
8 is a memorandum from Sonia Privost-Derbecker, executive
9 director of ANCR at that time?

10 A Yes.

11 Q October of 2008. I understand you've produced
12 this document primarily for the first paragraph which
13 speaks of a high vacancy rate and an extremely high
14 caseload with several staff carrying over 80 investigations
15 and some carrying a hundred investigations at ANCR at that
16 time?

17 A Yes.

18 Q So this is October '08?

19 A Yeah.

20 Q 1674, the next document, is a follow-up memo also
21 from the same person, the executive director.

22 MR. SMORANG: That's CD1674, Mr. Commissioner.

23 THE COMMISSIONER: Yes.

24 MR. SMORANG: Page 34751.

25

1 BY MR. SMORANG:

2 Q Again, you've produced this on the issue of
3 caseload where Ms. Privost-Derbecker says, in the first
4 sentence:

5

6 "Over the past year, the workload
7 of Abuse Investigations has been
8 steadily increasing. I know how
9 hard the program teams have been
10 working to stay on top of an ever
11 increasing case load,"

12

13 That's the first two sentences?

14 A Yes.

15 Q And then she speaks, in the last paragraph on
16 that same page, of there being:

17

18 "... still work to do to ensure a
19 balanced work load and ... resolve
20 case load issues in the longer
21 term."

22

23 A Yes.

24 Q The next disclosure, CD1675, which is a letter to
25 the minister dated November 10, 2008, page 34754, letter

1 from Peter Olfert, president of MGEU. Now, there are a
2 number of concerns raised about ANCR in this letter. I am
3 mostly interested in bottom of page 2, where Mr. Olfert
4 speaks of workload and service implications. And he
5 writes, the bottom of page 2, that:

6

7 "In the last year, ... about 135
8 staff at ANCR,"

9

10 Sorry:

11

12 "... of ... 135 staff ... 45 have
13 left the Agency."

14

15 A Yes.

16 Q This was the information the union had?

17 A Yes.

18 Q He speaks, in the next paragraph, of:

19

20 "... an inadequate number of
21 staff, in particular experienced
22 staff, and caseloads have become
23 dangerously high."

24

25 A Yes.

1 Q He goes on to say:

2

3 "Abuse workers, who ought to be
4 carrying caseloads of 15 to 25,
5 are carrying an average of 65
6 cases and, in some instances, in
7 excess of 100 ..."

8

9 A Yes.

10 Q Am I assuming he got that information from the
11 memo we just looked at from ...

12 A We had that information from members.

13 Q Okay.

14 A But the memo really just confirmed the, the
15 information.

16 Q He says:

17

18 "Intake workers, intended to carry
19 caseloads of 15 to 20, are
20 struggling to manage with a
21 caseload average of 38 or more."

22

23 A Yes.

24 Q Goes on, in the last paragraph, to say that:

25

1 "... ANCR has now ... decimated
2 [an] inexperienced workforce who
3 are struggling with high caseloads
4 and low morale. This means that
5 children and families suffer
6 because the workers at ANCR cannot
7 respond to families in crisis in
8 an effective or timely way; they
9 cannot adequately monitor safety
10 plans put in place for children;
11 and families are left in limbo
12 while awaiting a determination
13 from a worker."

14

15 Again, this is information you would have
16 received from your members at ANCR?

17 A Yes, it is.

18 Q The last paragraph on the third page, Mr. Olfert
19 writes in bold:

20

21 "Mr. Minister, I am writing to you
22 today to put on the record our
23 members concerns for the safety
24 and wellbeing of children in
25 Winnipeg. On behalf of the MGEU,

1 I implore you to remove the
2 Executive Director of ANCR
3 immediately and to launch a
4 comprehensive investigation into
5 the management practices and
6 services capacity of the agency."

7

8 A Yes.

9 Q Were there meetings subsequent to this letter?

10 A There was.

11 Q And was the result satisfactory to MNU -- to
12 MGEU?

13 A No. And, and what I would qualify that with,
14 what the members were looking for was immediate relief
15 related to how they're providing service to families, and
16 that was not available.

17 Q The next four productions, 1676, 1677, 1678, 1679
18 are all examples that you have brought forward of e-mails
19 sent from your members to the union or to management,
20 copied to the union, concerning workload issues in and
21 around January 2009?

22 A That's correct.

23 Q You provide them not for their content in
24 particular but as examples of workers speaking out and
25 providing the union with information about the situation at

1 that time?

2 A As well as they're trying to reach out to
3 management as well. They're trying to problem-solve at
4 whatever, what -- wherever they can.

5 Q And I understand that shortly after those e-mails
6 the union sent another letter to the minister, and this is
7 now CD1680, January 15th, 2009.

8 A Yes.

9 Q Again signed by the president of the union, Mr.
10 Olfert?

11 A Correct.

12 Q Page 34769. Thank you. Mr. Olfert says to the
13 minister, in the second paragraph:

14

15 "You will recall that in our
16 November 10th letter we talked
17 about the crisis in service
18 provision at ANCR, including ...
19 high caseload averages in the
20 Intake units. To date, the
21 pressure on these units has not
22 been alleviated ... in fact, the
23 response by ANCR management has
24 further exacerbated the
25 situation."

1 A Yes.

2 Q He indicates later on in that same paragraph
3 that:

4

5 "... [the] members have approached
6 us yet again to assist them."

7

8 A Um-hum.

9 Q Then the last sentence on that first page, Mr.
10 Olfert writes:

11

12 "Although we remain committed to
13 working with you and the Southern
14 Authority, our members are
15 becoming increasingly desperate
16 and they are fearful that another
17 tragedy may take place."

18

19 A Yes.

20 Q Do you know what he's referring to in terms of,
21 when he says another tragedy, what is he referring to?

22 A They're referring to Phoenix Sinclair.

23 THE COMMISSIONER: Pardon?

24 THE WITNESS: He's referring to Phoenix Sinclair.

25

1 BY MR. SMORANG:

2 Q CD1681, page 34772 is the minister's reply to Mr.
3 Olfert?

4 A Yes, it is.

5 Q And the minister indicates, in the second
6 paragraph, that he has asked Ms. Elsie Flette, chief
7 executive officer of the First Nations of Southern Manitoba
8 Child and Family Services Authority to respond and he
9 attaches her response?

10 A Yes, he does.

11 Q And although his letter is undated, her letter,
12 which is the next page, is dated January 21st?

13 A That's correct.

14 Q And in Ms. Flette's letter, if we can turn to the
15 second page of her letter at 34774, fourth paragraph begins
16 with the sentence:

17

18 "Overall caseloads have decreased
19 slightly but remain higher than we
20 would like."

21

22 A That's correct.

23 Q If we can move back to the lettered tabs, tab
24 "E", should be a minutes of a provincial child welfare
25 committee meeting May 15th, '09. That's a meeting you were

1 at?

2 A Yes, it is.

3 Q Why is this document being produced?

4 A Because the, one of the attendees at the meeting
5 is Jay Rodgers who, at the time, was the CEO, continues to
6 be, of the general authority. And the information that was
7 shared there related to workload, outlines that Winnipeg's
8 had a 90 percent increase in staff but approximately 11
9 percent increase in workload. And purpose of our dialogue
10 at this time, because it's 2009, is some additional dollars
11 had been provided to child welfare related to workload
12 relief, but our point here was, but there's been, there's
13 been an increase in work as well, so the workload relief
14 couldn't achieve or had not yet achieved what it was
15 intended to.

16 Q Can you turn to, for the Commissioner and
17 counsel, tab "F", for you, Ms. Kehler, tab "H", a letter
18 from four individuals from the union to Mr. Dubienski, June
19 11th, 2010. "H" of the -- "H" for you. Yes, thank you.
20 There it is.

21 What is this?

22 A This is, we've written to Peter Dubienski, who
23 was the assistant deputy minister for community service
24 delivery and we're now invoking the provisions contained in
25 memorandum number 13 because yet again, at this time

1 members are telling us they're not managing the current
2 workload and so we're asking to meet with the government to
3 talk about what possible solutions are available.

4 Q All right. So you showed us a little earlier a
5 letter from 2006 invoking that letter of understanding or
6 memorandum of understanding. Now you're -- this is an
7 example of the same process but in June 2010?

8 A Correct.

9 Q Were there meetings?

10 A There were. There were two.

11 Q And what, if any, improvement in the workload
12 situation resulted from those meetings?

13 A At those meetings the government shared their
14 intentions with us related to the new funding model. But
15 at that time there was no immediate relief for folks.

16 Q As a final area before I complete my examination,
17 Ms. Kehler, you are aware that the Commissioner's task in
18 this inquiry, in part, is to make such recommendations as
19 he considers appropriate to better protect Manitoba
20 children. So from the perspective of MGEU, what would it
21 like to see in a Commissioner's recommendation?

22 A We would like to see a recommendation from the
23 Commissioner which obligates the employer to bargain with
24 us language that specifies standards and accountability,
25 language that --

1 Q Just hold on for a second.

2 A Sorry.

3 Q Carry on.

4 A We want to be able to use the arbitration
5 procedure as a way to bring accountability to, to the
6 employer, to the funder, to the people that establish the
7 terms and conditions of work for folks so that we don't
8 ever find ourselves back here again.

9 MR. SMORANG: Thank you very much. Those are my
10 questions, Mr. Commissioner.

11 THE COMMISSIONER: Thank you, Mr. Smorang.

12 Ms. Walsh.

13

14 CROSS-EXAMINATION BY MS. WALSH:

15 Q Thank you for your contextual background, it was
16 very helpful. If we can turn to page 7334, please, and
17 that will come up on the screen for you. 7334. This is a
18 page from --

19 THE COMMISSIONER: Just a minute. Just a minute.

20 MS. WALSH: It will -- you don't have it in front
21 of you, Mr. Commissioner.

22 THE COMMISSIONER: Oh, oh, all right.

23 MS. WALSH: It was part of Commission disclosure
24 208.

25 THE COMMISSIONER: Right. Right.

1 MS. WALSH: I can actually give you a hard copy.

2 THE COMMISSIONER: No, I, I can follow it on the
3 screen.

4

5 BY MS. WALSH:

6 Q This is from the second of two follow-up reports
7 that were issued by the ombudsman's office following up on
8 the implementation of the recommendations contained in
9 Strengthen the Commitment, which was the report that came
10 out of their office in conjunction with -- co-authored by
11 Billie Schibler and Michael Hardy.

12 And one of the things that they were looking at
13 was the process for standards development. You can see
14 that it says:

15

16 "In response to our recommendation
17 that no standard be implemented
18 without the opportunity for
19 meaningful comment by front line
20 workers from each Authority, the
21 Standing Committee approved The
22 Provincial Standards for Child and
23 Family Services Development
24 Protocol. We note that one of the
25 key principles of the Protocol

1 states:

2 Those expected to comply with
3 foundational standards should be
4 consulted during development to
5 ensure that standards are user
6 friendly and reflect practice
7 realities to the greatest extent
8 possible."

9

10 Now, are you familiar with this protocol?

11 A I am.

12 Q Are you able to say whether the protocol was
13 followed with respect to any changes to standards since
14 2006?

15 A I know that some consultation with staff
16 occurred. I can't say what happened in all four
17 authorities because we don't represent members in all four
18 authorities. I do know in the general authority there was
19 some consultation that occurred with some staff prior to
20 the roll-out of standards.

21 Q Which leads me to my next question, and that is,
22 which of the workers in the system, the union that you
23 represent does represent?

24 A We have members in the general -- who are
25 mandated under the general authority and we have members

1 who are mandated under the southern authority. We don't
2 have any -- and pardon me, and we have members mandated
3 under the Métis authority. So we have no MGEU members
4 under the northern authority.

5 Q And are all of the child welfare workers under
6 those three authorities that you listed, are they all
7 members of your union?

8 A No. The Métis authority, all the members are
9 represented by the MGEU. In the southern authority,
10 members who work at ANCR are represented by the MGEU and
11 members who work at Southeast Child and Family are
12 represented by the MGEU.

13 Under the general authority, we represent all of
14 the civil service members. So rural and northern services
15 as well as the Winnipeg Child and Family Services branch.

16 So there are very few exceptions but there are a
17 couple of small groups like Jewish Child and Family that we
18 don't represent. We also don't represent the workers in
19 central Manitoba. We only represent the supervisors'
20 group.

21 Q To the extent that there are workers under the
22 authorities that you don't represent, are they members of
23 other unions or are some of them not unionized?

24 A The members at the northern authority, to my
25 knowledge, are now union members. Under the general

1 authority, the social work group in Portage la Prairie,
2 central Manitoba, are organized and represented by CUPE.

3 Q You talked about wanting to consult with respect
4 to, I think the verb was to operationalize standards.

5 A Um-hum.

6 Q Can you just explain a little bit more what that
7 means?

8 A That, that's my word, by the way, that's not --

9 Q Okay.

10 A -- found anywhere else. But by that, when we've
11 participated in some of those national conferences related
12 to child welfare workers, in some areas there's been effort
13 made to essentially time-test the tasks that are expected
14 by the employer. So for example, if you're -- I'll use the
15 structured decision-making tools, since that's had lots of
16 dialogue here -- to say the safety assessment takes this
17 much time and to estimate that time for all of the tasks
18 that are involved in providing service on a case. Based on
19 the foundational standards, the standards set by the
20 authority and then also adding in the employer standards,
21 if you sort of time-test those things you should then be
22 able to know how many cases each worker is able to meet
23 those standards on, and that -- I was talking about that as
24 sort of the supply and demand equation. The supply is the
25 social workers. So if they're away on holidays, on sick

1 leave, on training, whatever, that's time away from their
2 ability to provide service. So we'd like to see it time-
3 tested or operationalized so that the employer and staff
4 can know what is an appropriate case count. Is one to ten
5 an appropriate case count? Is one to thirty? Is one to
6 fifty?

7 And I would say to you it is not the union's role
8 to decide what tasks ought to be done or not be done. That
9 is, that's the employer's decision to make and whether
10 that's the government or the authority or the agency, they
11 establish what is the minimum standard that has to be met.
12 And we would simply say, whatever standard you decide,
13 whatever level of service ought to be provided, ensure that
14 you're resourcing it adequately so that staff can fulfill
15 the functions you've asked them to do. So that's what I
16 mean by operationalizing them.

17 Q Do you know whether that's ever been done?

18 A I'm not aware that it's ever been done. I don't
19 believe it has been done. But that would be -- again I
20 would say -- and, and workers ask about that a lot because
21 it's not only the foundational standards that are
22 relatively new for them but there's a belief or a
23 perception that when this inquiry concludes there may be
24 more standards and that that's not a bad thing. But if
25 whatever the appropriate caseload is now, if you add

1 additional work, not every standard but some standards will
2 add additional work and that that should be accounted for
3 in the case numbers that people have.

4 Q I assume that would necessarily involve some
5 consultation, then, with your members, that process --

6 A I think it has, I think it has to be --

7 Q -- necessarily.

8 A -- consultative, but again, I believe the
9 decision on how that's done really rests with the employer.

10 Q You said this morning that one of the issues with
11 excessive workload was that it makes workers make decisions
12 based on risk rather than on best practice.

13 A Um-hum.

14 Q Did I have that right?

15 A Yes.

16 Q Okay. And you gave some specific examples such
17 as not spending time with a family during a family visit
18 because the worker knows the child is, is safe?

19 A Um-hum.

20 Q Not having time to advocate about housing issues,
21 for example. So in terms of understanding your evidence,
22 is your evidence that one effect of excessive workload was
23 that workers were limiting their involvement with a family
24 once they had satisfied themselves as to the immediate risk
25 issues to a child?

1 A Can you repeat the question one more time. I
2 think I heard what you said but I --

3 Q Yeah. Yeah. I want to make sure I understand
4 your evidence. Is, is it that one of the effects of
5 excessive workload was that workers were limiting their
6 involvement with a family once they had satisfied
7 themselves as to immediate risk issues?

8 A I guess I've just never characterized it that way
9 before. But I, I think you're understanding me. Yeah, I
10 think they find themselves moving -- yes, I would agree
11 with you.

12 Q With respect to the services which were delivered
13 or not delivered to Phoenix Sinclair and her family, is it
14 your evidence that workload had an impact on those
15 services?

16 A I would say I'm not in a position to comment on
17 the specifics of this case. I've not looked at the
18 information really with that lens.

19 Q Okay.

20 A I think really what I want to present here today
21 is however you judge and assess the work that people did or
22 didn't do in this case, to caution you to make sure you
23 have a full picture of the context that they were doing
24 that work in.

25 Q Now, has the union ever, at any point, made

1 recommendations to management or to the province regarding
2 solutions to workload concerns?

3 A We have. You know, the -- when I talk about some
4 of the solutions that they tried over time, and again I
5 want to say I believe those were implemented with good
6 intentions because I believe whoever -- whether you call
7 yourselves the government, the employer, they want to have
8 good outcomes, outcomes for families, too. But too often
9 the solutions from members' perspective have really been
10 what I would characterize as reshuffling the deck. If you
11 don't take away some of the standards that exist or you
12 don't increase the staff to do the work, then that's really
13 all you're doing from their perspective, you're just moving
14 it around. And we've heard a variety of different
15 initiatives that have happened here, whether they're
16 characterized as volume management or different types of
17 approaches, whether you move away from geographic
18 boundaries, those types of things have all been tried. In
19 the main, they are really just moving the same work around
20 and dividing it up differently amongst the same people. So
21 I think from members' perspective, either you're -- if you
22 really want to address the workload issue you have to bring
23 more people in or you have to give direction to say do less
24 with the same number of people so you can offer service to
25 more people. And I think that's where they've often sought

1 direction: Tell me which standards are less important so I
2 know that I'm paying attention to the ones that are really
3 important to you.

4 Q Okay. So the, the recommendations or the
5 suggestions that you've identified are increasing staff?

6 A Um-hum.

7 Q Or decreasing standards?

8 A Yeah. And decreasing standards, I'm cautious
9 about that because it sounds like -- but you do have to
10 then prioritize certain standards, really.

11 Q What about prevention efforts; isn't that a
12 fundamental way to decrease workload?

13 A I would agree that staff have often raised
14 opposition to any limitations put on prevention efforts. I
15 know in a couple of our letters we actually say to the
16 minister we're concerned about the reduction of prevention
17 efforts. At the same time, I understand the push-pull that
18 members do that exist between prevention and protection
19 services and why protection services sometimes, for lack of
20 a better word, wins out. But there's --

21 Q Does it have to be an either/or?

22 A But, sorry, but I -- you're correct. I would
23 also say, though, that members have understood that those
24 prevention efforts have often really given a lot of bang
25 for the buck. I know Lance Barber talked about it and I

1 think we even reference it in one of our letters, those
2 social workers they had in housing complexes, I think there
3 was a view that not only did that give a lot of good
4 outcome, for example, for those clients, it also changed
5 people's perception, that community, of what child welfare
6 did. So no question that prevention efforts are well
7 supported by staff but -- yeah, no question they are.
8 Absolutely.

9 Q And you've been here virtually every day. I
10 haven't, I haven't been taking attendance but I have seen
11 you here virtually every day and I think you were here when
12 Marnie Saunderson testified, and she talked about
13 acknowledging an increase in staffing levels. But she said
14 at the same time that issues, underlying issues such as
15 poverty are getting worse.

16 A Um-hum.

17 Q And is that what you're hearing from your
18 members?

19 A Yes, very much so. And I would add, when I
20 referenced that May memo, May 15th, 2009 one, where they
21 talked about Winnipeg's had this, a 90 percent increase in
22 staff but an 11 percent increase in caseload --

23 Q Right.

24 A -- that was the information that was presented to
25 us factually, but the information anecdotally from workers

1 is, well, it feels like we've had a lot more than an 11
2 percent increase because that number reflected caseload.
3 Their experience was they'd had a much greater increase in
4 workload because of the complexities of the work. They
5 would echo Billie Schibler's comments that child welfare
6 work has become increasingly complex and, and so that makes
7 it much more difficult. And when we talk about lots of the
8 underlying issues and why people get involved in child
9 welfare, poverty being a great determiner, those are things
10 that social workers don't have the ability to impact
11 really.

12 Q Which unit did you work in at Winnipeg CFS?

13 A Throughout my entire history or the last one --

14 Q Between 2000, 2005.

15 A I was the manager of the after-hours unit for
16 Winnipeg Child and Family Services branch and then that
17 became JIRU and that became ANCR, but it's all the same
18 job.

19 Q You said that the work environment was one of
20 sadness.

21 A Um-hum.

22 Q I think that was by '05 --

23 A Um-hum.

24 Q -- '06?

25 A Um-hum.

1 Q Was that the case in your particular unit?

2 A After-hours work is different than daytime work.
3 Those staff, by virtue of their schedule, are quite removed
4 from the daytime activities. In fact, I would say that in
5 my role as a manager there I always saw it as being a
6 conduit to try and make those staff feel more a part of the
7 agency. But during that tremendously difficult time, that
8 isolation from the rest of the organization also isolated
9 them from a lot of that. So I would say the work team that
10 I had, we were certainly aware of the change, we could tell
11 the difference in terms of the service requests we were
12 getting, we could tell in terms of the volume we were
13 getting, but there was not the same level of change to
14 their work that there was for everybody else, so I would
15 say we were not -- that was not the experience of the team
16 that I worked with.

17 Q You said that at the time of devolution, staff
18 were being asked to do additional work?

19 A Um-hum.

20 Q Can you just clarify what that additional work
21 was?

22 A The case transfers are probably the single
23 greatest piece of work folks were doing. Whether a worker
24 was leaving their unit through the devolution and re-
25 assignment process or not, because the work was getting

1 reshifted and nobody knew which case was staying in which
2 team, every case had to have a case summary on it so
3 everybody had to do that work. And those that started in
4 earnest in January, even if you finished a case summary you
5 still had to continue -- you were still providing service
6 to that family so people, excuse me, continued to produce
7 addendums and additions and those kinds of things, so there
8 was -- the paperwork that was required for folks was
9 extensive during that time, and that was probably the
10 single biggest increase for them.

11 Q And for Winnipeg CFS, when would that have been
12 the case?

13 A They would have started in and around January of
14 '05 and that would have continued right through until May,
15 end of May-ish '05.

16 Q Did workers in the after-hours units have to
17 complete those case summaries?

18 A They did not.

19 Q What about in the CRU?

20 A After-hours and the CRU, the nature of their work
21 is they turn it around very quickly, after-hours even more
22 quickly, where CRU might carry a case for a day or two or
23 three, after-hours doesn't. When your shift is over, when
24 you leave the office, your work on that case is concluded.
25 So they don't leave until they're done everything they're

1 going to do.

2 Q So for the CRU workers, were they required to do
3 transfer summaries?

4 A No. Their work, their paperwork was unchanged
5 through that process.

6 Q I think you also said there was additional work
7 because staff were required to take their vacation time
8 within a --

9 A Yes.

10 Q -- certain limited period?

11 A Yes.

12 Q Is, is that part of the additional work?

13 A Yes. Sorry, and if I could just expand --

14 Q Sure.

15 A -- on that a little bit, if I could.

16 What also changed during that time period is
17 staff -- there was a change made to the CFSIS system at
18 that time. The intake module was introduced at that time
19 to ANCR as well. And what also began subsequent to that
20 is, there was the ADP process but also Section 28
21 transfers. So where previously when ANCR would have done
22 -- or I guess it was JIRU at the time, when they would have
23 done an apprehension they were very likely doing it on
24 behalf of Winnipeg Child and Family Services which they
25 were a part of. Subsequent to May 16th, '05 when there

1 were, I think, at that time, 16 agencies in Winnipeg they
2 would have been providing service for, every time they do
3 an apprehension on behalf of another agency they now have
4 to do a Section 28 transfer through the court so that
5 creates --

6 Q So --

7 A -- an, an administrative process for them as well
8 that didn't exist before.

9 Q So that was for apprehensions after May 16, '05?

10 A Correct.

11 Q Do you know, did any staff forego their vacation
12 as a result of the devolution process?

13 A I am not aware of any staff foregoing vacation.
14 What I would have more knowledge of is staff who had, back
15 in the day what we called, flex time. So people would have
16 worked late or stayed late. In days gone by it would have
17 been a paper exchange possibly between you and your
18 manager: I stayed two hours, I'll take a day this week or
19 I'll take two or three days next week, that kind of thing.
20 I think lots of that time was lots to that process. I
21 don't believe vacation time was.

22 Q Now, you've, you've walked us through a variety
23 of correspondence between the union, management, the
24 department, and that correspondence was specific to staff
25 at Winnipeg Child and Family Services as it existed at the

1 time of devolution?

2 A Yes.

3 Q And we know, of course, that that agency along
4 with the entire system has reconfigured since devolution.
5 So I want to know how things are today, and I'm going to
6 take you through a variety of, of headings to ask you how,
7 how are things today, what's the status today. So let's
8 start with workload.

9 A Members would say generally they are doing -- the
10 standard of which they are able to do work is better now
11 than it's been for many years.

12 Q When you say "the standard" --

13 A I mean small "S".

14 Q -- meaning their ability to comply with
15 standards?

16 A Their ability to comply.

17 Q Okay.

18 A First of all, I would say they have a greater
19 knowledge of the standards than they ever had before.

20 Q Oh.

21 A There has been an increase to staff, but I would
22 say that members continue to feel that they can't achieve
23 all of the standards.

24 THE COMMISSIONER: Just a minute. Are you asking
25 about standards or workload?

1 MS. WALSH: I asked about workload. The answer
2 is coming out --

3 THE WITNESS: Sorry.

4 MS. WALSH: -- via standards.

5 THE WITNESS: Sorry.

6 THE COMMISSIONER: I assumed you were going to
7 come to standards and --

8 MS. WALSH: I am. I am.

9 THE COMMISSIONER: All right. Well, let's,
10 let's --

11 MS. WALSH: But I --

12 THE COMMISSIONER: Is there anything else you
13 want to say about workload or are these --

14 THE WITNESS: I can back it up. I'll try this
15 differently, then. Sorry.

16 THE COMMISSIONER: But if they're so, so
17 intertwined that you can't, then you can't.

18 THE WITNESS: They -- from members' perspective
19 they, it's really hard to separate them out because the
20 standards establish the workload to a great extent.

21 I often, I talk to workers about, about the
22 employer's ability to set expectations. And, and when we
23 talk about the funding model and those things rolled
24 together, I often say it's not for us or a worker to
25 decide, it's for the employer to decide. So you can

1 establish one to ten, one to twenty, one to a hundred
2 cases, you decide what you're going to do with them. And
3 what's that about is the employer deciding at what level of
4 risk they're prepared to manage. So --

5

6 BY MS. WALSH:

7 Q What do you mean by that?

8 A I guess the best comparison I give you is maybe a
9 hospital one, if I could. If you break your leg and you're
10 in a hospital you might be in a room of one to six people
11 and that nurse might have to watch three rooms like that
12 with 12 people because they probably think you're doing
13 okay and you'll buzz if you need some help. If you're in
14 the ICU, your nurse probably has one or two patients to
15 deal with, and I believe that's because the hospital is
16 managing risk. They see those patients who are more ill at
17 a level of risk. I think the comparison is there to be
18 made to child welfare.

19 The more monitoring you do, the more intensively
20 you work with a family the more you're able to understand,
21 appreciate and mitigate the risk related to a family. So
22 that if you -- if a worker has a hundred cases to manage,
23 you're managing a higher level of risk because you can't
24 really know that well what's going on with a hundred
25 different families. If you have five families, I would

1 assume you have a far greater appreciation of what the
2 level of risk is and you have far greater opportunity to
3 work with that family to mitigate whatever risk is there.

4 So I sort of roll standards and workload together
5 because standards are the way that the employer
6 communicates to a worker, this is what we expect you to do
7 with a family, this is the amount of contact you're
8 expected to have, this is the kind of assessments we want
9 you to have, this is what we want you to do. So when they
10 do that, they are -- I'm saying creating work but I don't
11 mean that -- but you're deciding how much work, at a
12 minimum, ought to go on each family, so that's why I sort
13 of tie those things together.

14 Q So is the --

15 THE COMMISSIONER: Is there anything else you, is
16 there anything else you can say in answer to the question
17 of your assessment of workload today?

18

19 BY MS. WALSH:

20 Q Is the workload manageable?

21 A Workers would say they are not meeting all the
22 standards today. They're not --

23 Q Is that, is that --

24 THE COMMISSIONER: What about, what about, what
25 about the question that she just asked, whether the

1 workload --

2 THE WITNESS: Sorry.

3 THE COMMISSIONER: -- is manageable?

4 THE WITNESS: They are not managing the workload
5 today.

6

7 BY MS. WALSH:

8 Q Let's back up because there's a distinction
9 between caseload and workload --

10 A Yes.

11 Q -- right? Okay.

12 Under the new funding model, funding is based on
13 caseload?

14 A Yes.

15 Q So that's the number of files that a worker is
16 expected to be able to manage?

17 A Yes.

18 Q How you understand that?

19 A That's how I understand that.

20 Q But that is not necessarily the same as workload?

21 A Correct.

22 Q Okay. So the new funding model is one to 20, 20
23 files for protection workers and 20 -- or 20 files for
24 prevention workers and 25 for protection workers?

25 A Right.

1 Q And that's been in effect since 2010?

2 A I believe so.

3 Q First of all, is that, in fact, the caseload that
4 your members are carrying?

5 A No.

6 Q What are they carrying in terms of caseload?

7 A I would say the number varies, depending on where
8 you work, depending on your work team, and I would say that
9 because -- and I'm not suggesting that the government isn't
10 funding at that level, by the way. I'm sure if they say
11 we'll fund you at one to twenty-five --

12 Q Right.

13 A -- they do.

14 Q Um-hum.

15 A But in doing so, it obligates the organization to
16 fund centralized services such as foster care through those
17 one to twenty-five dollars because you only get staff based
18 on protection cases but agencies still have to have foster
19 care workers to licence and supervise foster homes.

20 For the First Nations and Métis agencies that I
21 work with, many of them have cultural workers, they'll have
22 elders, those types of workers aren't built into the
23 funding model either and so if an organization decides
24 that's important and they want to have those, that means
25 that they have to fund those through the one to twenty-five

1 or one to twenty dollars.

2 Q Okay.

3 A So that then necessitates an increase in those
4 people's caseload so that there's enough money left to fund
5 those other positions.

6 Q And what kind of caseloads are your members
7 carrying in Winnipeg, for instance?

8 A I would say I have heard a range of 24 to 38.

9 Q Are those protection workers?

10 A Yes. Maybe 36, 20 -- yeah, there was a range
11 that's been reported to us.

12 Q Okay. And then in terms of workload, is that a
13 manageable amount?

14 A No. And if I could, I think workers, at least
15 from what I've heard, struggle to under -- even understand
16 the difference between one to twenty and one to twenty-five
17 because -- I'll go back to my analogy of the nurse -- with
18 the families where you're providing prevention services,
19 they are afforded additional time and energy from the
20 worker because the ratio is smaller.

21 Q Right.

22 A Whereas the families who are protection files
23 where they're dealing with issues of risk, they, those
24 workers carry a higher caseload. And I think their
25 feedback is there's a greater level of complexity sometimes

1 to those cases, which necessitates additional time.

2 Q So what, in the union's view, would amount to a
3 more manageable workload or, I guess another way of looking
4 at it is what kind of model for funding would work better?

5 A And I would say to you, I can't give you the
6 number because I haven't time-tested those standards
7 either. So I -- you know, I'll be that broken record today
8 to say, you can set the standards wherever you want and you
9 can set the number wherever you want, that's the employer's
10 obligation. And again, whether that comes from the
11 government or the authority, that's their obligation to
12 decide at what level people ought to be provided service.
13 We're simply saying, if you want people to be accountable
14 to that level of service, ensure that you establish the
15 infrastructure in a way that actually allows them to do the
16 work. So, so I can't give you a number because I haven't
17 time-tested them either.

18 Q Are you hearing from your members that they feel
19 that children are being put at risk because of an inability
20 to manage their workload?

21 A I, I believe they are still making decisions
22 based on risk so I don't think they are leaving children at
23 risk per se but they want to move in the same direction,
24 they want to move in a direction of best outcomes, not just
25 risk.

1 Q So many of the things that we heard, for
2 instance, from Dr. Wright about doing assessments, that
3 sort of thing, she said is time-consuming?

4 A Yes.

5 Q And you're saying that that is sometimes what
6 gets sacrificed?

7 A Exactly.

8 Q Okay.

9 A So much like -- sorry, if I could, but when we
10 talk about that supply and demand balance, all -- there's
11 lots of good things in terms of standards, there's lots of
12 good things in terms of training. The SDM tools have been
13 a good introduction as well. All of those things take
14 additional time so even if you increase the number of staff
15 that are there, you have to make sure you increase it
16 sufficiently to allow for all of the other demands you make
17 upon their time.

18 Q So it's not as simple as saying, what's the
19 solution? You're saying that there has to be more
20 evaluation before you're able to say what needs to be done
21 to ensure that workload is manageable?

22 A I think, I think the employer needs to time-test
23 what their expectations are and know for sure that they
24 have resourced it appropriately and then, and then make
25 sure everybody's accountable to doing the work they expect

1 it to be done.

2 Q Is that an issue of supervision?

3 A I think it's an issue of resourcing and it's an
4 issue of supervision. But again, supervision is something
5 that has to be -- like all those things sort of come back
6 around, right? That's how you build accountability into
7 the system.

8 Q Do you have -- does the union have any views with
9 respect to the nature of the funding model being one that
10 is based on numbers rather than need? And if not, that's
11 fine, but ...

12 A I don't -- need of who? Maybe you could ...

13 Q Well, the funding model is based on a number of
14 cases so it's really based on caseload rather than an
15 assessment of workload or --

16 A Um-hum.

17 Q -- need in terms of the type of work.

18 A I, I think if we knew they had really tested what
19 their expectations were then we'd know if their number was
20 appropriate, but -- so we can't know that and I don't think
21 they can either.

22 Q Okay. Moving on, then, with my -- my general
23 heading was, how are things today? Let's move on from
24 workload to training. I think you said there have been
25 improvements?

1 A Yes.

2 Q Okay. Is there anything more that you think
3 needs to be done with respect to training?

4 A No -- we -- no. I think the feedback from
5 members is the training they are getting now is -- not to
6 say there aren't still things that people need to learn
7 but --

8 Q Right.

9 A -- certainly the way training looks today and the
10 way it looked 10 years ago is dramatically improved.

11 Q Okay. Standards, you've talked about them to an
12 extent. One issue with standards is whether they are
13 communicated to staff, where are things at with that today?

14 A My understanding from members is they get
15 training on standards. The standards are available to them
16 in hard copy, they're available online, and they form part
17 of conversation in the workplace now where they did not
18 before.

19 Q Right. So that's an improvement?

20 A Absolutely.

21 Q What about ability to comply. Does that take us
22 back to your comments on workload?

23 A It does. It does. So I would say again, workers
24 are having to make decisions based on which standards
25 they're going to meet and which ones they won't based on

1 risk factors sometimes.

2 Q So is, is your answer that they're saying they
3 are not able to comply with all the standards?

4 A That is my answer.

5 Q Civility in the workplace in terms of the
6 workforce. Has that improved?

7 A Yes, it has. In 2008 the government stopped
8 hiring social workers on term and, in fact, quite a number
9 of the folks who were on term were converted to permanent
10 positions. We also have made some efforts to assist the
11 employer. We facilitated a recruitment and retention
12 workshop with all four authorities in 2008. In 2009 the
13 MGEU also -- 2008, 2009, put on a public campaign related
14 to work that social workers do. There was a series of
15 television commercials and those kinds of things
16 highlighting some of the good work. I think that -- and we
17 did those, by the way, in consultation with, with the
18 employer representatives to talk about what are some
19 messages we want to deliver. So I think there's greater
20 stability in the workforce than there has been.

21 Q Okay. Support in times of crisis?

22 A I'm aware of the general authority having a
23 fairly robust crisis -- or pardon me, critical incident
24 stress management team, and I believe it's available all
25 across the authority. Every staff member in the general

1 authority has available to that. I know ANCR has an
2 operationalized team as well. I don't know about the other
3 organizations, I have not heard from my other groups that
4 they have that as well, so I think there's more support
5 than there was before.

6 Q Okay.

7 A But I can't tell you definitively across the
8 system.

9 Q Supervision?

10 A Part of the funding model also addresses the
11 ratio of staff to supervisors, so there's been some
12 improvement there. I would say the supervision policy has
13 also improved that to some extent. Supervisors also
14 receive more training now than they did before. What I
15 would say to you is, all of the extra work that social
16 workers are doing now, though, also then requires
17 additional work on behalf of the supervisors. So I
18 believe, again, they're doing better at supervising staff
19 than they have before but they do struggle to meet all the
20 demands that are required of them. And again I would say
21 we should really look at very specifically what is it that
22 you ask the supervisor to do and how much reasonably should
23 a person do. So I wouldn't say to you I'm in a position to
24 say one to five or one to six is correct. I would simply
25 say there, again, look at what you're asking them to do and

1 then ensure that they've got enough hours in a day to do
2 it.

3 Q When you say, you make reference to extra work,
4 extra work compared to what?

5 A Well --

6 Q Or, when?

7 A Well, when staff -- supervisors sign off on
8 assessments, they sign off on closing summaries, they sign
9 off on all those reports that staff --

10 Q Yes.

11 A -- generate, the supervisor has to sign them off.

12 Q Right. And --

13 A Staff --

14 Q -- that was true between 2000 to 2005?

15 A It was.

16 Q Okay.

17 A But staff generate more now than they ever have
18 before. Now, in zero, zero to -- 2000/2005 they did a lot
19 related to devolution, but in days gone by it wasn't
20 uncommon to not have a written formal updated assessment on
21 a lot of files. Now, now it's required in a much more
22 structured way than it was before. So all of that work,
23 additional work that workers are doing now related to the
24 structured decision-making tools related to those
25 assessments, all of that still has to be signed off by the

1 supervisor.

2 Q I just want to make sure that I understand. When
3 you say "additional work", we heard that for the period
4 2000 to 2005 supervisors had to sign off when there was a
5 transfer of a file?

6 A Yes.

7 Q And that's still the case?

8 A Yes.

9 Q Or when a file was recommended to be closed?

10 A Yes.

11 Q And that's still the case?

12 A Yes, it is.

13 Q Okay. Is there an additional occasion in which
14 supervisors are required to sign off?

15 A There's -- you know, I may be getting into
16 dangerous ground here, but I believe the structured
17 decision-making tool, at least as it's been explained to
18 me, requires re-assessment with more frequency than would
19 have been required before, so those re-assessments also
20 have to be signed off with the supervisor related to
21 incidents and related to changes in the family structure
22 where -- and you know what, I'll stop now, because I --

23 Q So when you talk --

24 A -- think I'm getting in deep water where I'm
25 perhaps not able to respond.

1 Q I just asked because you said there's extra work,
2 so I wanted to know if what you're saying constitutes extra
3 work as compared to the period 2000 to 2005.

4 A And I would say to you, I would not compare the
5 work they're doing now to the work they did in 2000/2005
6 because the supervisors -- that, that was a unique period
7 of time related to preparations for devolution and related
8 to workload. This is, I would -- as I'm trying to describe
9 it to you, must like that of the workers. There have been
10 additional supports put in place for supervisors now, just
11 like there are for social workers, but along with the
12 structured decision-making tools and the new standards,
13 those bring some work with them for social workers. And
14 whenever a worker produces that type of paperwork, that
15 also then has to have sign-off by the supervisor. Does
16 that make more sense when I say that?

17 Q Well, it does. And I was going to ask you, what
18 if any effect the introduction of the structured decision-
19 making tool has had on your work, your workers?

20 A It has brought additional work but I would say
21 it's been -- people talk about it as a good thing, they
22 talk about it as bringing structure to the assessments,
23 they talk about it bringing consistency. So, yeah, it's
24 been considered a good thing, it's just the, the additional
25 work that goes with it has to be accounted for. But, but a

1 positive change in terms of family assessments.

2 Q And are you hearing that that additional work is
3 as the result of a learning curve or something that is now
4 going to be a permanent function?

5 A I believe it's both. I believe it's both. And I
6 think Sandie Stoker actually probably articulated it better
7 than I can. There is some extra learning at the outset
8 that will get less as people develop familiarity but it
9 will always be extra work by intention.

10 Q Okay.

11 A Because it's intended to require additional
12 contact with families, it's intended for you to meet with
13 people more often, it's intended for you to meet everybody.
14 Like, yeah, it's intended to require you to do that.

15 Q What, if anything, are you hearing from your
16 members about the new service delivery model that goes
17 along with differential response?

18 A I think again, workers often enjoy the work of
19 prevention because it affords them an opportunity to
20 potentially effect change at a much earlier stage with a
21 family where the likelihood of improved and longer benefits
22 for the family exist. So I think there's optimism about
23 that. The workers -- at least I'll speak at Winnipeg Child
24 and Family -- have not been able to maintain themselves at
25 the one to twenty so they haven't yet fully realized what

1 that prevention model ought to bring.

2 Q Mean they have a higher caseload --

3 A Right.

4 Q -- than that?

5 A Yeah.

6 Q So that was my next question. Are you hearing
7 whether the prevention stream is sufficiently resourced?

8 A My understanding is Winnipeg CFS DR team runs
9 around 24 to 26 so they're just not there yet. So I guess
10 there's potential for that but they're, they're not in a
11 position to say whether they've achieved all that it's
12 intended to.

13 Q Okay. Where are things at with respect to
14 whether or not workers have reports shared with them,
15 reports such as special investigation reports, Section 4
16 reports? We heard at this inquiry that none of the workers
17 about whom findings were made knew anything about those
18 reports. Those reports were not shared with those workers.

19 A Um-hum.

20 Q Has that changed?

21 A I know that there has been opportunities where
22 staff have met with management or staff of the OCA related
23 to some of those investigations, so I'm aware that they
24 have, some have felt they've more opportunity to input
25 before the report has been finalized, and that seems to

1 have been well-received. But I can't say to you across the
2 board what change has or hasn't been made there.

3 Q Do you think that that's an important role for
4 workers to have?

5 A I think it's critical. I think it's critical for
6 them to learn. I think it's critical for them to know what
7 you should or shouldn't have done and to do so in a way as
8 expeditiously as possible to ensure that on the go-forward
9 you do better.

10 Q We heard yesterday Mr. Walker talk about how, at
11 his agency, when there's a critical incident, they bring
12 together everyone involved, the workers, the foster
13 parents, the family. Do you have any views on that?

14 A I don't. I didn't hear his testimony, I'm sorry,
15 so I can't offer an opinion on that.

16 Q But at the very least you think that reports
17 should be shared with the workers who are involved?

18 A Absolutely.

19 Q Do you have any views on registration?

20 A As a union we've not taken a position on
21 registration. We certainly have no opposition to it but
22 have not taken a formal position, in part because we
23 haven't really canvassed our membership broadly on their
24 perspective on that.

25 Q Do you think that's something that your

1 membership should be consulted about?

2 A I expect it will be shortly.

3 THE COMMISSIONER: Who -- by whom?

4 THE WITNESS: We'll take that initiative. And I
5 would say that conversation, on an issue like that, we
6 would use not only sort of our regular communication but
7 we'll also periodically contract with a research firm to do
8 some work with us so we have some independent data that we
9 can rely on. So some of that conversation has already
10 happened at my workplace but we don't have anything
11 formalized yet.

12

13 BY MS. WALSH:

14 Q Will you be looking at the legislation that's
15 been drafted?

16 A Yes.

17 Q That legislation speaks to protection of title
18 but not practice.

19 A Correct.

20 Q Is that an issue that you'll be considering?

21 A Yes.

22 Q In terms of education, you talked a bit about the
23 University of Manitoba. Let me start by asking you if your
24 union has any views on what qualifications are necessary
25 for child welfare workers?

1 A We do not.

2 Q Do you have any views on who should provide
3 training for child welfare workers?

4 A We do not.

5 Q Is that something that you plan to look at?

6 A No. I would say those responsibilities are
7 really appropriately rest with the employer. Whether
8 that's their direct employer, their authority or the
9 government, I think it's up to them to decide.

10 Q Has the union engaged ever in discussions with
11 the University of Manitoba regarding curriculum?

12 A No.

13 Q Is that something that you think should happen?

14 A No, I don't. I think, I think it's up to an
15 employer to decide what you want people to do and what
16 skills you think they need to do that work. And some
17 agencies or authorities will decide they want every one of
18 their staff to, at a minimum, have a BSW and others will
19 decide differently. And we would say it really is up to
20 each organization to decide how they want to staff that.
21 We would only take a position to say, whatever you ask them
22 to do, make sure you've given them the skills and the
23 resources to do it. And whether that's staffing levels or
24 whether that's training, but make sure you've set the stage
25 for their success because that's how an organization will

1 assure the success of its clients, as well.

2 Q So you don't see a role for your members to sit
3 down with the university and talk about the kinds of
4 skills, the kinds of courses they need to give them the
5 necessary skills to be a child welfare worker, for
6 instance?

7 A I think members will do that but I don't think
8 they will do that through us as a vehicle.

9 Q Okay.

10 A I think they will do it and I know they do do it.
11 They'll just do it through a different vehicle.

12 Q You heard Dr. Wright talk about the importance of
13 individual personal commitment on the part of workers.

14 A Um-hum.

15 Q Is that something that you agree is important?

16 A Absolutely.

17 Q What, in your view, needs to take place to
18 promote that commitment?

19 A To promote individual commitment to the work?

20 Q Um-hum. Or, put another way, do you know of any
21 impediments to that kind of commitment?

22 A Sorry, I'm, I'm, I'm struggling with the word
23 "commitment" because when you become an employee, by virtue
24 of that there is a commitment that you make to do the work
25 that you've been hired to do. There is a personal

1 commitment that, in terms of I have to go home every day
2 and live with myself, but there's the commitment I've made
3 to my employer. So I see that as inherent in, I'm here,
4 therefore to some extent I am committed. But I --

5 Q But is there something that's necessary to
6 support that commitment?

7 A That -- yeah, that's actually where I was going
8 to go next.

9 But as a worker, and not to say these are factory
10 workers just putting the screw in when it goes by, but they
11 really don't control the workplace at all. They don't
12 decide where the office is going to be located, how closely
13 connected it is to families, they don't decide what kind of
14 hours we're going to work, they don't decide what kind of
15 services we're going to offer, they don't say, we're going
16 to be half prevention, half this. They don't, they don't
17 decide what the standards are, they don't decide how many
18 workers we get. They really have no ability to make those
19 decisions. They can advocate, they can express views, they
20 can scream and shout, which I believe our evidence says
21 they've tried to do that to make things better, but in the
22 end they don't have the ability to make those decisions and
23 so it does come down to, your job is to come to work every
24 day and be competent and conscientious for your eight hours
25 and do the best you can with the circumstances that are

1 entirely set by your employer, and I think that's all they
2 really can do.

3 Q Finally, you talked about a recruitment campaign
4 that you worked on some years ago. What else can be done
5 to improve or to promote recruitment of child welfare
6 workers?

7 A When we invited the representatives from the four
8 authorities to that recruitment and retention workshop, we
9 brainstormed a series of ideas with them. I invited one of
10 the representatives from the Manitoba Nurses Union to come
11 and present on their recruitment and retention strategy.
12 We invited Leslie Turnbull, who's the director of
13 Viewpoints Research, to come and share the results of a
14 survey we had recently done with child welfare workers
15 across Manitoba. So we brought that information and we
16 brainstormed for a couple of days with the representatives
17 from the four authorities about what might be effective in
18 terms of recruitment and retention for social workers. In
19 the end, each of the authorities sort of went away and said
20 they would take that information and then look at
21 developing their own recruitment and retention strategies.
22 I don't know for sure what they ever did with --

23 Q What's your recommendation for a recruitment
24 strategy? Do you think one's necessary, first of all?

25 A I do because all of the agencies that I work with

1 are often talking about their challenges in terms of
2 hiring. I think child welfare has to become a place where
3 people feel good about the work they're providing to
4 families and I think that attracts people to the work.
5 When you look at social work, social work fields, areas of
6 service that have high recruitment and retention, they are
7 often places where people feel good about the work they're
8 doing and I think child welfare has to move in that
9 direction and look to those other agencies that have good
10 recruitment and retention and say, what is it that we need
11 to do like them. So I can't tell you specifically except
12 that's the direction I would go.

13 Q Okay. I said finally, but I have two quick
14 questions.

15 You showed us statistics about sick leave --

16 A Um-hum.

17 Q -- increasing. What is it today? I don't mean
18 specifically the statistics, but has, has it decreased?

19 A Yes.

20 Q Okay.

21 A I think we brought that memorandum really to give
22 as an example to say what a significant impact that period
23 of time had on workers in terms of health-related issues
24 but also to be, to, to bring forward another circumstance
25 that resulted in increased workload for those left behind.

1 But that type of sick leave we saw in that era I've not
2 heard reported in child welfare's history again.

3 Q And this really is finally. I want to make sure
4 I understand. You talked about a standard around workload.
5 Were you talking about the creation of a foundational
6 standard, a provincial standard?

7 A No. I'm really talking about a workload
8 measurement tool that would really more establish, I guess,
9 a benchmark of this is how many low risk cases we think a
10 person can reasonably provide service to, this is how many
11 medium risk or high risk. But I guess it's really more of
12 a benchmark to say, this is what we expect or a range
13 within which we expect an average worker can provide
14 service to a family and ought to be able to meet all of the
15 standards that have been set by all the parties who get to
16 set standards.

17 Q And that would be something that would be
18 developed through consultation between workers and
19 management?

20 A Absolutely.

21 MS. WALSH: Okay. Thank you, those are my
22 questions.

23 THE COMMISSIONER: All right. Thank you, Ms.
24 Walsh. We'll take a 15-minute mid-afternoon break.

25

1 (BRIEF RECESS)

2

3 THE CLERK: All right. Good to go.

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

5

6 CROSS-EXAMINATION BY MR. MCKINNON:

7 Q Ms. Kehler, my name is Gordon McKinnon. As you
8 know, I'm the lawyer for the department and Winnipeg CFS.
9 I have several questions for you today.

10 I'm going to start out by just talking about the
11 collective bargaining issues which you raised in your
12 direct examination with Mr. Smorang. And, and I want to
13 talk about the MGEU. There's the, the full MGEU, the full
14 union, is 34,000 if my notes are right?

15 A That's correct.

16 Q And then there's the smaller unit of about 700
17 that would be Child and Family Service workers?

18 A Right.

19 Q Okay. And I'm going to try and get you just to
20 confirm for the record, for the Commissioner, what things
21 are you're talking about that would apply to the 34,000 and
22 what things apply to the 700.

23 So for example, when we look at your new
24 disclosure, which is my tab "A", that's the memorandum of
25 agreement number 13, my understanding is this is the copy

1 from the current master agreement of the MGEU with the
2 government of Manitoba?

3 A That's correct.

4 Q So that workload manageability issue is a, is an
5 issue that would apply to all 34,000 members of MGEU, not
6 just the 700 that are Child and Family Service workers?

7 A This would apply, has application to the 14,000
8 civil servants and also the identical --

9 Q Okay. So that's helpful. So of the 34,000,
10 14,000 are civil servants?

11 A Correct. And this memorandum also has
12 application to the approximately hundred and fifty members
13 at ANCR because their collective agreement has the same
14 provision.

15 Q Okay. And the ANCR group would be part of the
16 700 that you talked about?

17 A Correct.

18 Q Okay. But my point -- the fundamental point is,
19 this concept of workload manageability is a concept that's
20 throughout the various units you, your union represents
21 with the government of Manitoba, it includes, certainly
22 includes the CFS units that you represent but also includes
23 all kinds of other units?

24 A Yes.

25 Q And it has been around -- I know I looked at the

1 2006 master agreement, it was there. I think your evidence
2 was it was even before 2006?

3 A It shows up for the first time in 2003, the
4 '03/'06 agreement.

5 Q And if I look at your document exhibit "B", and
6 I'm calling it exhibit, Mr. Commissioner, it's tab "B" --

7 THE COMMISSIONER: Yes.

8 MR. MCKINNON: -- in the exhibit that's been
9 marked. Tab "B".

10 THE COMMISSIONER: Yeah.

11

12 BY MR. MCKINNON:

13 Q This is a portion of a collective agreement
14 involving the Alberta union of provincial employees so the
15 Alberta equivalent of the MGEU?

16 A That's correct.

17 Q And this was an agreement that was reached
18 between the Province of Alberta and its employees involved
19 in the child welfare system?

20 A That's correct.

21 Q Correct?

22 A Yes.

23 Q Now, you have, and your lawyer has brought these
24 documents out, starting in 1996, your union has tendered
25 proposals to bargain or, or, am I using the correct phrase,

1 when --

2 A Yes.

3 Q -- you're entering the bargaining process you
4 tender your, I'll call it your wish list. What's the
5 correct phrase for that?

6 A They're bargaining proposals.

7 Q Okay. Your bargaining proposal. You have
8 tendered wording in the past that would require or request
9 that the employer agree to a process to allow your union to
10 grieve workload issues, correct?

11 A Correct.

12 Q And that, the wording in those proposals was
13 intended for the 700 that were child welfare workers or was
14 it broader than that?

15 A It -- the ones that we listed in '96 and I
16 believe 2000 --

17 Q Right.

18 A If I may just check so I'm sure. The '96 and the
19 2000 proposals were tendered at the Winnipeg Child and
20 Family Services bargaining table.

21 Q Okay.

22 A So those were specific to Winnipeg Child and
23 Family Services.

24 Q Okay.

25 A And the ones that we brought forward in 2006 was

1 for the civil service broadly, so for the 14,000, and the
2 2010 proposals you see there was intended for, you'll see
3 the title at the top, it says Social Sciences Component.

4 Q Right.

5 A So that is a portion of the civil service
6 agreement. It's a sub-group of the civil service where,
7 where all the social workers are contained in.

8 Q Okay. And the point I'm trying to make is that
9 with the exception of your '96 proposal, your 2006 proposal
10 and your 2010 proposal was much broader than the scope of
11 this particular inquiry. You were looking at all kinds of
12 different units within the civil service of Manitoba where
13 you were interested in having some grieve ability on
14 workload issues?

15 A Sorry, one more -- can you ... In, in which
16 years did you say? Sorry, can you repeat it for me?

17 Q In, in 2006 and 2010 you were proposing some sort
18 of process to deal with or define workload in a collective
19 agreement that was much broader than CFS?

20 A Yes and no. In 2006 the language is intended,
21 was proposed to have application to the entire civil
22 service, so to that group of 14,000.

23 Q Right.

24 A But the 2010 one, because it's proposed under the
25 social sciences component, that's a group that's probably

1 more in the neighbourhood of 2200 --

2 Q Okay. But again, broader than --

3 A -- where the --

4 Q -- broader than the 700 CFS workers?

5 A Broader than, but they are the lion's share of
6 that group.

7 Q Okay. My point is that this issue of workload
8 manageability is broader than CFS from the union's
9 perspective. It's an issue that involved other units
10 outside of CFS that would have nothing to do with child
11 welfare, based on your proposals?

12 A Well, I would agree that the 2006 proposal is
13 broader than CFS but the other ones were intended much more
14 specifically for that group.

15 Q But even you said in 2010, I thought you said it
16 was about 2200.

17 A It is.

18 Q That's broader than CFS.

19 A It is broader.

20 Q Okay.

21 A I'm simply saying to you, it's from that group
22 that that proposal came from, that that's where the push
23 was coming from. That's where the membership -- that's the
24 portion of the membership that brought that forward. They
25 make up a big portion of that group and they were also the

1 ones who were actively pushing us at that time and that's
2 where the proposal came from.

3 Q But that's not my question. My question to you
4 is that your proposal would have gone beyond that group.
5 Your proposal --

6 A Yes.

7 Q -- was to involve other sectors of government?

8 A Yes.

9 Q And when you're at the collective bargaining
10 table, you know this process I'm sure better than I do, but
11 you would expect management to cost all of the proposals
12 that you put forward?

13 A Absolutely.

14 Q And you would expect, and I don't know what the
15 number would be, but you would expect they would have
16 costed that proposal as well?

17 A I, I don't believe they costed it. I don't think
18 they could accurately cost it unless they'd gone through
19 the time study that I talked about before but I think --
20 sorry, if I could just finish this one point. But I --

21 Q Go ahead.

22 A But I would say there's no question that they
23 would have looked at it and known intuitively, as we did I
24 may add, that there was a significant cost attached to it.

25 Q Right. And the bargaining process is one of give

1 and take?

2 A Correct.

3 Q And you put forward proposals on workload
4 sometimes with a recognition that you won't get those but
5 that it will be used as part of the bargaining process as
6 something that you can give in order that you might get
7 somewhere else, for example, wages or working conditions
8 or, or vacation or sick leave or something else; it's a
9 bargaining process?

10 A It is a bargaining process but I, I'm not sure I
11 would agree with what I understood you to say, that we put
12 those in with the intention of withdrawing them to get
13 something else. Maybe I misheard you but --

14 Q I'm not -- let me, let me take away from
15 intention. The outcome was you withdrew it?

16 A That's correct.

17 Q And the outcome was you agreed to an agreement
18 that didn't contain these provisions?

19 A Yes.

20 Q And in acting in the best interests of your
21 members, that's the, what the union did?

22 A Yes.

23 Q And now there is a, a, a collective agreement
24 between your union and the employer that was entered into
25 through that process, and if I understand what you're here

1 doing, and I'm going to ask you to confirm this, you're
2 here saying that notwithstanding that you entered into --
3 you proposed this wording, you entered into an agreement
4 that didn't contain this wording, you're now inviting a
5 third party, this Commissioner, do intervene and suggest
6 that the employer should have agreed to this wording?

7 A I didn't say he -- they -- he should have in
8 history. What I asked is for a recommendation on the go-
9 forward that the parties would negotiate those provisions.

10 Q But two parties have to negotiate, both the union
11 and the employer?

12 A Yes.

13 Q And you -- the, the two parties have negotiated
14 this and they've come to an agreement that didn't contain
15 this?

16 A Yes.

17 Q Correct?

18 A Correct.

19 Q So you have, through the process of free and fair
20 collective bargaining, come to an agreement that didn't
21 contain this provision, correct?

22 A Correct.

23 Q And would you agree with me that the right to
24 determine the scope of work and workload is a management
25 right unless it's given away at the bargaining table?

1 A Yes, I would agree.

2 Q So you're here asking the Commissioner to remove
3 from management a management right that came through a
4 collective bargaining process. Is that what you're asking
5 the Commissioner to do?

6 A I'm asking the Commissioner to, I'm ask -- our
7 membership is so clear that workload has such a significant
8 impact on the delivery of service and it is their desire to
9 enhance the level of service they provide, and a way, one
10 way to enhance the level of service is to ensure that the
11 workload is appropriate and they are --

12 Q There's no -- I'm not disputing your, your, your
13 clients' desire, your members' desire.

14 MR. SMORANG: Think she was in the --

15 THE WITNESS: And I, I just, I just --

16 MR. SMORANG: -- middle of her answer there, Mr.
17 Commissioner.

18 THE COMMISSIONER: Yeah. I think, Mr. McKinnon,
19 let her finish.

20 MR. MCKINNON: Thank you.

21 THE COMMISSIONER: Then you can ask as many
22 questions as you want, but let her finish --

23 MR. MCKINNON: Fair enough.

24 THE COMMISSIONER: -- her answers.

25 MR. MCKINNON: Fair enough.

1 THE WITNESS: So their desire is to see better
2 outcomes and they're using us as their vehicle to make that
3 happen. And I'm -- I guess you're right, I'm attaching the
4 Commissioner to that because I believe workload is
5 important for him to consider in terms of how to enhance
6 and ensure the ongoing improvements of the child welfare
7 system in Manitoba.

8

9 BY MR. MCKINNON:

10 Q And I --

11 A So I would say, yes, I think having collective
12 agreement language to that extent is important. I'm asking
13 the Commissioner to do something in relation to that. I'm
14 not aware that the government or any agency who oversees a
15 collective agreement is required to follow the
16 Commissioner's recommendation, but when I think about one
17 of the things that this inquiry can do in terms of ensuring
18 service to children and families in Manitoba, I see that as
19 an important part of it.

20 Q My suggest to you, though, is that you're not
21 just asking the Commissioner to deal with workload, you're
22 asking the Commissioner to put workload in a collective
23 agreement which is fundamentally different. Would you
24 agree with that?

25 A No, I wouldn't, and I, and I'll qualify that, if

1 I could. Because you can address workload without
2 provisions in a collective agreement.

3 Q That's, that's -- I agree.

4 A But putting in a collective agreement brings
5 accountability to the parties because we are bound by that
6 and if either party violates it there's a process, an
7 independent process, who can weigh the facts and then bind
8 the parties to a resolution. So do you have to have a
9 collective agreement to deal with workload? No, you don't.
10 But is it a way to ensure accountability? I believe it is.

11 Q In a collective agreement there are management
12 rights and there are union rights; you would agree with
13 that?

14 A Yes, I would.

15 Q And would you consider it reasonable for an
16 employer to come before the Commissioner and urge the
17 Commissioner to take away a union right? Would you
18 consider that to be reasonable?

19 A I don't know, I guess I haven't thought about
20 what all the possibilities are of what he might do. But I
21 would say that, I would say that the Commissioner, I would
22 assume, is going to make recommendations for social workers
23 in the same way, well, not in the same way but he is going
24 to make recommendations to social workers in terms of how
25 they do their job. I believe that's a possible outcome.

1 And I'm here asking him to do the same thing for the
2 employer, that this is not just about workers making
3 changes, it's about everybody making changes so that the
4 system functions in the way it should.

5 Q There is absolutely no dispute. And, and perhaps
6 my question's not clear. I'm not suggesting that the
7 Commissioner shouldn't make recommendations that affect the
8 employer. What I'm suggesting is that those
9 recommendations shouldn't be made to change a collective
10 agreement that management and labour have freely and fairly
11 bargained. That's my suggestion to you. I'm putting it to
12 you in the context of if you look at it, the shoe's on
13 the other foot, my suggestion to you is you would consider
14 it quite unreasonable and outrageous for an employer to
15 come and suggest the collective agreement should be
16 modified to take away a union right. That's my suggestion
17 to you.

18 A You know, I guess I see all of us are accountable
19 but I see the employer's accountability as different from
20 that of the workers, so I guess that's why I don't take
21 offence to the suggestion in the same way that you perhaps
22 have.

23 Q Let me move on. You spoke about the constant
24 change that occurred between 2000 and 2005, and, and I
25 think there's evidence from management that, that supports

1 what you're saying; I'm not challenging the concept. But
2 in terms of the constant change that took place between
3 2000 and 2005, would you agree with me that some of that
4 change was both progressive and important?

5 A Yes.

6 Q And the creation of aboriginal agencies providing
7 culturally appropriate service to aboriginal people living
8 in Winnipeg, would you agree with me that that was an
9 important change?

10 A Yes.

11 Q And would you agree with me that that was
12 unprecedented?

13 A Yes.

14 Q And it involved mandating new agencies and hiring
15 new workers; you'd agree with that as well?

16 A Yes, I would.

17 Q And in many cases those aboriginal workers were
18 being retained to provide services that had formerly been
19 provided by members of MGEU?

20 A I'm sorry, could you say that again, please?

21 Q When the aboriginal, aboriginal agencies are
22 being established in Winnipeg, my understanding of your
23 evidence is those agencies are, for the most part, non-
24 unionized?

25 A In terms of the number of agencies. But the

1 number of workers probably balances out fairly evenly.

2 Q Well, to the extent that there are agencies from
3 the north operating in Winnipeg, those are non-union
4 workplaces?

5 A That's correct.

6 Q And to the extent that cases end up being
7 transferred to non-union workplaces, they're being done by
8 workers who are not represented by you with the exception
9 of the ones that were on secondment?

10 A Yes, that's correct.

11 Q And would you agree that there was no way
12 effecting this kind of change without disruption?

13 A I would agree.

14 Q And it's difficult for the members you represent;
15 this was particularly difficult for them because even
16 though they had job security, which you spoke of --

17 A Um-hum.

18 Q -- and even though there was assurances by the
19 minister that no one would lose their employment, which you
20 spoke of --

21 A Um-hum.

22 Q -- it, it did create some limits on their
23 mobility in their employment; is that fair? In the sense
24 that upward mobility was more difficult because they were
25 being seconded and then there would be seconded to an

1 aboriginal agency or another agency and it would make their
2 career advancement, it would place some limits on their
3 career advancement?

4 A No, I don't agree.

5 Q You don't agree with that?

6 A No, not at all.

7 Q My understanding at the time is that while the
8 Winnipeg CFS workers were being seconded to the aboriginal
9 agencies, the intent was eventually to have those secondees
10 return to Winnipeg CFS or other employment in government
11 and, to the extent possible, hire aboriginal workers in the
12 aboriginal agencies. That's your understanding?

13 A That was the intention, and I think that happened
14 in many circumstances. But it also happened where those
15 secondees were subsequently offered employment in those
16 agencies and severed their ties with the government and
17 start working there.

18 Q And you don't think that that series of events
19 impacted the potential career advancement of those
20 secondees?

21 A No, I don't think so. I think some of them found
22 new opportunities in those aboriginal agencies. Lots of
23 them that went had a lot of child welfare experience, had
24 been doing it for a long time. A number of them were moved
25 into supervisory or management positions in those

1 aboriginal agencies, opportunities that may very well not
2 have been afforded to them had they remained with the, you
3 know, old Winnipeg Child and Family Services branch. And I
4 would say for those that were part of the civil service,
5 those that were interested in advancing, I think the civil
6 service looked at those people the same way and would have
7 afforded them that same opportunity. I don't -- I'm not
8 suggesting there wasn't an impact but -- the idea of upper
9 mobility, I've never heard that concept reference. I don't
10 believe that's the case.

11 Q Okay. It certainly would have had an impact on
12 the union in the sense of they were going to non-union
13 workforces?

14 A What do you mean by "an impact"?

15 Q Reduction in the number of your members?

16 A Not at all. They continued to be union members
17 and remit dues that entire time.

18 Q But when they left Winnipeg CFS and became hired
19 by an aboriginal agency they would no longer be a member of
20 your union unless they happened to be at ANCR?

21 A That would be true but their chair would have
22 been filled by somebody else, would have been -- like, I'm
23 not sure -- are you suggesting that their going there had a
24 negative impact on us in terms of dues? Is that -- sorry,
25 maybe I'm ...

1 Q I'm just asking you to confirm a fact. I'm not
2 suggesting motive. You've, you've interpreted --

3 A Yeah.

4 Q -- that motive.

5 A Okay.

6 Q But these would be workers who were, at one time,
7 members of your union, would leave your union when they
8 joined a non-union workforce; is that correct factually?

9 A Yes. If somebody ceases to be a member, then
10 they cease to be a member. Yes, that's correct.

11 Q Going to jump around a little bit now and take
12 you to CD1661.

13 THE CLERK: (Inaudible) page number?

14 MR. MCKINNON: I'm just looking for it.

15 THE WITNESS: 34653.

16 MR. SMORANG: 34653.

17 MR. MCKINNON: Thank you.

18

19 BY MR. MCKINNON:

20 Q This is the e-mail from Linda Trigg --

21 THE COMMISSIONER: Do you know what number it is
22 in, in this book that was given this morning? It's in
23 here.

24 MR. MCKINNON: 1661.

25 THE COMMISSIONER: Oh, 1661. Okay. Yeah, yeah.

1 I have it.

2

3 BY MR. MCKINNON:

4 Q Now, this was the e-mail -- sorry, the memo from
5 Linda Trigg, the interim CEO of Winnipeg CFS, which you
6 spoke to, you spoke about in response to questions from Mr.
7 Smorang?

8 A Yes.

9 Q And you gave some evidence that you felt that the
10 purpose of this document, that it was interpreted poorly by
11 the workforce who -- to whom it was sent; that is, it was
12 interpreted as being about money. Was that -- do I have it
13 right that that was your evidence?

14 A I think they felt it was motivated by that.

15 Q The document itself is entitled Agency Support.

16 A Um-hum.

17 Q You see that?

18 A I do.

19 Q It urges social workers to use their best
20 judgment?

21 A Yes.

22 Q It says that if they, if despite that results are
23 not what was hoped for and intended you will receive
24 support and not censure from management. You see that?

25 A I do.

1 Q Dr. Trigg -- you were here when Dr. Trigg gave
2 evidence with respect to this matter?

3 A Yes, I was.

4 Q She said that she, she believed that workers felt
5 they were not being supported if they made decisions to
6 keep children in care -- or to keep children in the home,
7 sorry, and, and there was a subsequent tragedy, so Dr.
8 Trigg was trying to reassure staff, she said, that if they
9 use their best clinical judgment and a tragedy ensued, they
10 would be supported. And I'm trying to understand how you
11 interpret that as being about money?

12 A Because the dialogue that went along with this
13 was also about the hotel policy at the time. The minister
14 at the time had been in the press a number of times about
15 that. The -- there was -- it wasn't just a memo that was
16 e-mailed out to staff and left, there was conversation that
17 went along with it so it's, it's, it's how people read it
18 but it's also about how the dialogue went when managers and
19 staff were talking about it.

20 Q Talking about the hotel policy, I think Dr. Trigg
21 testified, and you're in agreement, that hotels are not an
22 ideal --

23 A Absolutely.

24 Q -- solution and so moving children out of hotels
25 is not a bad thing, that's a good thing?

1 A Right.

2 Q And in terms of protecting children, taking
3 children into care should be a last resort --

4 A Absolutely.

5 Q -- correct?

6 A Yes.

7 Q And if there are ways that children can be kept
8 safe and at home, that's preferable?

9 A Yes.

10 Q And has the effect of saving money, but I'm going
11 to suggest to you that that was not the goal. I'm going to
12 suggest to you the goal was laudable, that is, keeping
13 children safe and at home?

14 A I do not believe that's what this was about.

15 Q Okay.

16 A Although I would agree with you that keeping
17 children at home whenever they're safe to be there is the
18 objective of child welfare.

19 Q You were here when Lance Barber testified?

20 A In the main.

21 Q He said that although money was always, funding
22 was always an issue, he would not let that hamper
23 decision-making at Winnipeg CFS. Were you here when he
24 said that?

25 A I believe I was, yes.

1 Q You were here -- were you here when Dr. Trigg
2 talked about several initiatives to reduce what she
3 referred to as days care? And you know what that means?

4 A I do.

5 Q And just for the Commissioner, would you tell him
6 what days care is?

7 A A way that the agency has often tracked their --
8 it's not just about how many children are in care but how
9 many days each child remains in care, so they do a
10 calculation, usually on an annual basis, counting the
11 number of days each child has been in care and that's
12 characterized as days care, and is often an indication of
13 work. It's also how agencies are funded, is through the
14 number of days care.

15 Q And Dr. Trigg testified that she, how she
16 described a parent, teens, parent teen specialization team
17 with, the initiative was to try and reduce the number of
18 intakes. Do you recall her evidence on that point?

19 A I do. And I remember the initiative.

20 Q And that was, my understanding, part of the same
21 discussion that was happening around this time period that
22 this memo went out. Is that your recollection?

23 A The time period, I think you're correct, is
24 similar. I would simply say that's not -- staff didn't tie
25 that to this memo, although the time period may have been

1 quite similar.

2 Q My suggestion to you is this, that rather than,
3 than this initiative to take fewer children into care being
4 driven by money, it was being driven by good policy, and
5 that is, initiatives that were initiated at Winnipeg CFS,
6 like the parent teen conflict team, like the addictions
7 initiative, trying to prevent children from coming into
8 care and that that's a good thing, not a bad thing.

9 A I agree with you that those are good things, but
10 can you ask me your question again, I apologize.

11 Q My suggestion to you is that this memo and those
12 initiatives were aimed at the purpose of preventing
13 children from coming into care, which is a good thing, and
14 that you should not interpret this memo or those
15 initiatives in a, as a bad thing. Would you agree with
16 that?

17 A I don't agree -- sorry, back up. I agree with
18 you that those initiatives were intended to do good things
19 and I agree with you that it's important for the agency to
20 look at initiatives that reduce days care. I can only say
21 to you, when this memo came out and based on the dialogue
22 that occurred, that people understood it in a different
23 context than you are characterizing it.

24 Q And --

25 A And --

1 Q -- when you say people understood it --

2 THE COMMISSIONER: Just let her finish.

3 MR. MCKINNON: Sorry.

4 THE WITNESS: And I, I can only say to you -- I
5 mean, if you're suggesting how it should or shouldn't have
6 been understood, I can say to you what I heard from people
7 because although those good initiatives were going on,
8 there was also lots of pressure for folks about the
9 deficit, lots of pressure for folks about not just that the
10 hotels were bad care but they were very expensive, so I
11 think you have to mix all of that together to understand
12 how people interpreted the memo in that way. Rightly or
13 wrongly, that's how people understood it.

14

15 BY MR. MCKINNON:

16 Q Okay. So what you're giving me is what people
17 interpreted -- how people interpreted and how they
18 expressed it to you, not what was conveyed to you by
19 management at the time?

20 A Well, I suppose that depends on who you call
21 management because the conversations that I'm talking
22 about, when the memo was delivered, happened at unit
23 meetings where supervisors and staff would have had that
24 conversation. So can I say to you, you know, senior
25 management delivered that? No, I can't, because I wasn't

1 there when they did that. I can only say to you what was
2 reported to me, and that is the conversation that people
3 had in their unit meetings with their manager about, about
4 that initiative and what that meant. So --

5 Q And the suggestion that, that hotels are both
6 expensive and bad policy, that's true; would you agree?

7 A Yes and no, and I'll tell you why, if I could.
8 Yes, hotels are not the right place for children to be.
9 Families are the right place for children to be. And if
10 they can't be with their own family, then putting them with
11 another family is the better alternative to a hotel.

12 Q Right.

13 A But what you see in the letters that we have on a
14 go-forward, and I, I think it's to Minister Caldwell, where
15 we talk about some concern about the hotel policy, is
16 members weren't saying or weren't disagreeing with the
17 government that kids shouldn't be in hotels, but what we
18 disagreed with was the way the hotel policy was being
19 implemented, that they felt that it had a detrimental
20 impact on children. And so we took, took opposition to the
21 initial implementation of that and then, through the common
22 table, found a way to work out a revised hotel policy,
23 which the -- Jay Rodgers, who was, I believe, at the
24 protection branch at the time, and Rick Manteuffel, who was
25 the then president of the supervise union, they worked

1 through revised approach so that made the implementation of
2 that policy much better.

3 Q Again, I -- we're going over old history here but
4 would it be fair for me to say this, that you, you would
5 agree that hotels are expensive?

6 A Yes.

7 Q You agree that as a policy, that shouldn't be
8 pursued?

9 A Yes.

10 Q And you agree that eventually what happened was
11 a, a working group got together, representatives from
12 various groups, and you say including the union --

13 A Yes.

14 Q -- and they corrected that?

15 A Yes.

16 Q Thank you. Now, the next document I'm going to
17 take you to is number 1663. That's a letter to Minister
18 Caldwell. That may be the one you were just referring to,
19 I don't know. This is a letter that was written on
20 December 19th, 2002?

21 A Yes.

22 Q Now, we heard evidence from Dr. Trigg that
23 although she was the CEO of Winnipeg CFS at the time, she
24 wasn't copied with this letter?

25 A She was not.

1 Q And she testified that the very first point you
2 make under workload about the increase in the number of
3 days care was inaccurate, that it wasn't an increase from
4 22,000 to 30,000. She said it was actually two percent
5 increase. Were you here when she testified to that?

6 A I was. And I heard that differently. So can I
7 check that with you? What we intended to say there ...

8 Q No. No. It could be we have a misunderstanding
9 here.

10 A I, I don't think --

11 Q Let me try and narrow it, and if we do have a
12 misunderstanding --

13 A Okay.

14 Q -- I don't want to beat this dead horse.

15 A Okay.

16 Q My understanding of Dr. Trigg's evidence is that
17 she said it was a two percent increase, let's put it that
18 way.

19 A My recollection of her evidence as well as seeing
20 her written response when she gave evidence, is that we
21 don't actually disagree on the facts. Our information here
22 is to suggest that days care went from 22,000 in one year
23 to 30,000 the next year. So, an increase of 8,000 days
24 care.

25 Q Okay.

1 A And my recollection of Dr. Trigg's evidence is
2 she talked about a six or seven thousand days care
3 increase. So when I heard her evidence I thought we were
4 agreeing.

5 Q Would you agree with this, that it's sad that
6 here we are, 11 years later, arguing about something that
7 happened in 2002 because you didn't copy Dr. Trigg with
8 this letter?

9 A Is it --

10 MR. SMORANG: I'm not sure I understand the
11 question. Had Dr. Trigg been copied with this letter we
12 wouldn't be having this conversation; is that the question?

13 THE COMMISSIONER: I think that's --

14 MR. MCKINNON: That's the question, yes.

15 THE COMMISSIONER: I think that's the question.

16 THE WITNESS: I --

17 MR. SMORANG: I don't understand the question.
18 If Dr. Trigg had been copied with this letter --

19 MR. MCKINNON: We're having a dispute today about
20 something that happened 11 years ago, and Dr. Trigg wasn't
21 made aware of this by the union at the time that it
22 happened.

23 THE WITNESS: Dr. Trigg was made aware of it.
24 She just didn't have a copy of the letter.

25

1 BY MR. MCKINNON:

2 Q Okay.

3 A But she was aware of all of the issues.

4 Q You also, in this letter, talk about problems
5 with the retention of frontline staff, and this is the
6 letter to the minister. And you complain about the fact
7 that it took a year to release the Viewpoints Research
8 report?

9 A Yes.

10 Q But at the time you wrote the letter, I
11 understand you had a copy of the report?

12 A Yes.

13 Q And your letter says that sick leave usage and
14 WCB claims had increased significantly and Dr. Trigg
15 testified that the rates were constant.

16 A Yes.

17 Q Let me take you to 1664. This is a letter
18 written in August of 2004 and it's in the context of the
19 impending devolution.

20 A Yes. It's just after some of the transfers in
21 the rural and northern regions had begun.

22 Q And, and it's pending at Winnipeg?

23 A Correct.

24 Q And one of the questions you're raising here is
25 how unionized workers will be able to function in a non-

1 unionized environment. Do you see that?

2 A No. Can you tell me where you're reading from?

3 Q I'm going to have to find it. The bottom of page
4 34666, you say:

5

6 Recognizing seconded employees
7 will be covered by the master
8 agreement yet will be working for
9 a non-unionized environment during
10 the life of the secondment term,
11 how will labour/management
12 relations work?

13

14 So you're concerned about labour/management
15 relations related to devolution. Fair?

16 A Related to unionized staff in a non-unionized
17 workplace.

18 Q Right. That's one of the concerns you're
19 expressing to the minister?

20 A Yes.

21 Q A legitimate union concern?

22 A Yes, I --

23 Q Yes.

24 A -- believe so.

25 Q Just wanted to correct one thing with respect to

1 the Commission disclosure 1665. You testified to Mr.
2 Smorang that employees of Winnipeg CFS were made -- became
3 part of the department in 2004. I think that if you look
4 at that letter, on page 34670, second last paragraph, that
5 was April 1st, 2003.

6 A Yes. They became a branch of government in 2003
7 still covered by the Winnipeg Child and Family Services
8 collective agreement. And in June 2004 became fully civil
9 servants covered under the civil service master agreement.

10 Q Yeah. And the distinction between those dates
11 isn't operational, it has to do with the collective
12 bargaining process, which agreement?

13 A It -- yeah, because their terms and conditions of
14 work changed when they moved in '04.

15 Q Sorry, when they moved in '04?

16 A Yes.

17 Q But the change took place in '03. What changed
18 in '04 other than the collective agreement?

19 A Well, it was the collective agreement, but that
20 changed the terms and conditions of their work. So I would
21 agree with you, some things changed for them in '03 when
22 they moved over to government and then the collective
23 agreement change came in '04, so that was those two phases
24 of that.

25 Q And when I look at this letter, my

1 characterization of it is that the topic of change which
2 Mr. Smorang led you through is, is described in this letter
3 but you say:

4
5 "... all of a sudden it was
6 announced that the whole process
7 of transferring cases, finding
8 home positions for employees with
9 guaranteed employment and
10 seconding employees to Aboriginal
11 agencies and the General Authority
12 would be done by April 25, 2005."

13
14 It's the reference to "all of a sudden
15 announced". My understanding was that this process had
16 been ongoing for many years, that the agency and the
17 workers, and in fact I think they all testified that this
18 was sort of something that was -- they were all well aware
19 of prior to, certainly, the date of this letter, which was
20 February 21st, 2005. Would you agree with that?

21 A I would agree they were aware. I think we're
22 acutely aware when the memorandums were signed in 2000.
23 But the work on devolution that went on between 2000 and
24 2004 really, from a worker's perspective, some important
25 stuff early on and then the whole idea of devolution sort

1 of fell off people's radar because they didn't hear what
2 was happening, they didn't know what was happening. I
3 think there was doubt at different points in time if it was
4 actually going to happen. And then the dates started
5 coming for things to happen but the dates moved quite a few
6 times. We specified the April 25th, the May 2nd, the May
7 16th dates but there was other target dates along the way,
8 many of which were not achieved or were moved. So I think
9 when November came and then the date really sounded firm,
10 that caught people off guard. I think that's why we used
11 the word "all of a sudden" because at some point people
12 really began to wonder if it was really going to happen.

13 Q But when --

14 A And then when something firm came, that's what
15 felt --

16 Q And when you say --

17 A -- okay, now it's really happening.

18 Q When you say you were surprised it was really
19 going to happen, I understood your evidence a moment ago
20 that this process started in 2003 at some rural agencies
21 and you would have been witnessing it happen agency by
22 agency and you knew Winnipeg was going to be last. I'm
23 trying to understand why it would have been a surprise when
24 it actually happened?

25 A I would say from the chair I sat in at the time,

1 I was not as surprised by it because as somebody who sat on
2 a provincial component exec, I had had the benefit of
3 hearing from those rural members what was happening and how
4 the process was rolling out. But for those Winnipeg staff,
5 they didn't have the benefit of that, so for them it felt
6 like all of a sudden this is happening and now I've got
7 five months to get a whole lot of work done, so that's
8 where it felt like, all of a sudden I have to get all this
9 done for them.

10 Q So fair enough to say that it wasn't a surprise
11 to you?

12 A It was not a surprise to me, but I'm here
13 speaking on behalf of others.

14 Q And when we look, the response to your union's
15 letter was Mr. Rodgers' letter, which is at 1666 page
16 34673. And we've heard Mr. Rodgers testify to this as
17 well. There were all kinds of supports put in place to
18 facilitate what I think we've agreed is an unprecedented
19 change in the structure of CFS in Manitoba?

20 A There were a variety of supports put in place.

21 Q And I won't take you through those again. We've
22 heard them many times, Mr. Commissioner.

23 Now, when we go to production 2118, this was the
24 July 11th, 2005 letter that you hand-delivered to the
25 minister?

1 A Yes.

2 Q And this is about five weeks or three weeks,
3 depending on whether you use May 2nd or May 16th, but a
4 short time after the go-live date when Winnipeg CFS
5 devolved its cases to the aboriginal agencies, correct?

6 A Correct.

7 Q And I just want to put this in a context for the
8 Commissioner. And that was a massive change?

9 A Yes.

10 Q And you wouldn't expect that kind of change to
11 happen without some degree of disruption, some degree of
12 difficulty, some administrative challenges; is that fair?

13 A That's fair.

14 I just, sorry, to that point would add, we knew
15 that when we wrote that letter. We knew that it was a
16 giant upheaval and that there would be some disruption.
17 The purpose behind the letter, though, is, first of all, to
18 say, listen to the people that are doing the work to try
19 and minimize the disruption.

20 Q Right.

21 A And also to say, here are some problems that have
22 come about as a result of this unprecedented initiative and
23 how can we fix that.

24 Q And you gave evidence in response to questions by
25 Ms. Walsh over the course of the next several years things

1 did improve?

2 A Not, not for several years, though.

3 Q Not --

4 A They didn't improve. They actually got worse.
5 And then in the last few years there's been some
6 improvements.

7 Q It got worse before it got better; is that fair?

8 A That's absolutely my evidence.

9 Q And so is it fair for me to say, then, that what
10 you're complaining to the minister about in this letter you
11 hand-delivered to her, is a transitional issue, it is now
12 resolved?

13 A I need to look.

14 I would say to you that the issues that are
15 articulated in this letter are resolved with the exception
16 of a request that the department review and implement a
17 workload standard that better reflects the service demands
18 placed on the system.

19 Q Fair enough.

20 A But I would agree the other issues are
21 transitional and have been addressed.

22 Q Fair enough. And let's go to the issue of
23 workload today or caseload today.

24 You made reference to, and you included in your
25 productions, the minutes of a meeting -- may take me a

1 moment to find those. They -- my recollection is there was
2 a -- tab "E", there was reference to a 19 percent increase
3 in staff and an 11 percent increase in workload, correct?

4 A Correct.

5 Q And that was in 2009?

6 A Correct.

7 Q And that would have been before -- well, let me
8 ask you this: Do you know whether that was before or after
9 the introduction of differential response and those
10 additional staff?

11 A I don't know for sure.

12 Q But it certainly was -- and my information is
13 that the increase came in 2010, it was a significant
14 increase in 2010 related to differential response?

15 A I can't --

16 Q You can't comment?

17 A I can't date the differential response --

18 Q Okay.

19 A -- dollars, sorry.

20 Q And my information as well is that I think we can
21 agree it was before the introduction of the new funding
22 model?

23 A Yes.

24 Q And my, my information today, and I'm looking at
25 production 1855, page 39139, is that if you were to ask --

1 and these numbers were prepared by Mr. Rodgers, who's the
2 person I think you're citing in this memo?

3 A That's correct.

4 Q My information is that if you were to ask him the
5 same numbers today, and he will testify to this soon, is
6 that the increase in staff is 32.8 percent and the increase
7 in caseload is 8.6 percent. Do you have any information on
8 that?

9 A I have the same data you do.

10 Q Okay.

11 A I just would want to highlight, caseload and
12 workload are not the same number.

13 Q Well, let's see if we can talk a little bit about
14 that because my information is that, and I've heard you,
15 you talked about a timing tool or a timing, time the --

16 A Talked about a workload measurement tool.

17 Q Well, let's -- you used the phrase timing,
18 though, what -- have to find my notes. Do you recall that
19 phrase?

20 A Can I have some more water, please?

21 I believe I talked about time testing the
22 standard.

23 Q Time tested. That's the phrase I was looking
24 for.

25 A Thank you.

1 Q Is it your position that the work being done by
2 social workers can be somehow time-tested, that is, you can
3 say it takes one hour to do an assessment or it takes half
4 an hour to do a safety assessment?

5 A That's absolutely my evidence.

6 Q And would you not agree with me that the time it
7 takes to do a safety assessment would vary significantly
8 depending upon whether the information is available or at
9 hand?

10 A Right, I would agree. But I --

11 Q Sometimes -- let me finish. Sometimes it might
12 take -- you might have to attend the home, you might have
13 to go to collateral sources, you might have to do all kinds
14 of things to do a proper assessment whereas on other
15 occasions it might be readily available on the file.

16 A Um-hum.

17 Q Would you agree with that?

18 A I would agree with that.

19 Q So would you agree that it wouldn't be practical
20 to try to time a test, a particular assessment or a
21 particular tool?

22 A No, I would not agree.

23 Q Okay. Tell me how you could time-test a tool?

24 A Well, Alberta's child welfare system has managed
25 to do some of that, B.C. has done some of that. Inherent

1 in the Child Welfare League of America's numbers that they
2 come up with, they make some assumptions, some estimations
3 about the time that is required. They don't just pull
4 those numbers out of a hat. And I would suggest to you
5 that in the same way the Child Welfare League of America
6 makes some assumptions about approximately how long certain
7 things should take for a certain kind of case, that
8 Manitoba can look at their own standards, not the standards
9 set by the Child Welfare League of America but by the
10 standards Manitoba has set for what is considered good
11 practice and can approximate the amount of time it takes
12 the same way. Now, will those time factors always be dead
13 on? Absolutely not. I agree with you that sometimes it
14 will go quicker and sometimes it will take longer. But
15 given the thousands of families that are provided service
16 to, the thousands of children that are provided service to
17 every year, I believe there are some reasonable
18 approximations or range that can be attached to the work
19 that you do. And to do that allows the government, then,
20 to responsibly estimate, whenever they make a change to the
21 standards, what the corresponding workload is, so that
22 you'll always have a sense of if we're asking people to do
23 this, whatever that activity is, that we didn't ask you to
24 do before, we don't believe there's additional time that
25 goes along with that, it's just a different way to do it.

1 But if we ask you to do that, we know we're, for example,
2 doubling the number of times you need to see a child in
3 care, we know we're going to need to add, then, additional
4 time to a worker's day to accompany that standard. That's
5 what I'm talking about.

6 Q But you would agree with me that not all
7 standards increase workloads. Standards can reduce
8 workload if they specify very concretely what's required?

9 A Absolutely. That's why I just said that. Some
10 standards will increase workloads, some will not.

11 Q And, and my understanding, for example, with
12 structured decision-making is that while -- and you've
13 spoken about this -- that while there may be a bit of a
14 learning curve involved, one of the advantages of it is
15 that it focuses the worker on the information that's
16 essential to make a decision as opposed to all kinds of
17 collateral information that may not be particularly
18 relevant or helpful so it helps to focus workers. So
19 again, policies and standards can both increase and
20 decrease workload depending upon what they ask?

21 A I think there's two questions in what you just
22 asked me, so can I separate them out?

23 What I -- when your last question of -- sorry,
24 maybe you could ask me again.

25 Q Just the point I'm making is that sometimes a

1 standard or a structure, whether you call it a standard or
2 whether you call it a structure that is imposed by an
3 employer, or whether it's a policy or a practice --

4 A Um-hum.

5 Q -- it could either increase or decrease workload
6 depending on what it's asking the, the --

7 A I agree.

8 Q -- the worker to do?

9 A I agree.

10 Q And when you talk about Child Welfare League of
11 America, my understanding is that guideline was developed
12 in the mid-1990s?

13 A I believe --

14 Q Do you know that?

15 A I, I can't tell you for sure what year --

16 Q Okay.

17 A -- but I, I believe you're --

18 Q It's --

19 A I can't tell you for sure.

20 Q It's my understanding that that does not reflect
21 our service model. Would you have any information on that?

22 A I would say to you that they, as I just did,
23 Child Welfare League of America has some assumptions
24 inherent in their numbers, and I believe Manitoba does
25 child welfare differently than almost any jurisdiction I've

1 ever heard of.

2 Q Right.

3 A The concept of devolution and concurrent
4 jurisdiction is unique to Manitoba. And so I -- where in
5 days gone by we have tabled proposals related to Child
6 Welfare League of America, I'm saying to you today I think
7 our standards are different, our circumstances are
8 different and we should tailor the requirements of the
9 workforce based on that. And --

10 Q Right. And --

11 A -- and -- sorry, if I could just add to that,
12 it's not just about the foundational standard set by the
13 province. The Authorities Act allows the authorities to
14 establish their own standards. They can't go lower or
15 contradict the foundational standards but they can add
16 additional standards, and their additional standards may or
17 may not add additional work as well.

18 Q Right.

19 A And the individual employers mandated under the
20 authorities also have the ability to implement, I don't
21 know if you'd call them standards, but policies and
22 procedures --

23 Q Policies and practices.

24 A -- related to the work and those policies and
25 practices may or may not add additional work as well. So

1 all along the way I would say, whenever you add a
2 requirement for a worker, if you want to ensure they're
3 able to do that work you need to ensure that you're
4 resourcing them adequately --

5 Q Right.

6 A -- at every stage of the game so that if the
7 province is going to allow the authorities to create
8 additional standards, if the authorities are going to allow
9 their agencies to do that, then you have to -- then each of
10 those has to find a way to resource it accordingly or you
11 will set people up to be unable to meet the standards or
12 the --

13 Q And ultimately --

14 A -- expectations.

15 Q Ultimately, that's a management responsibility?

16 A Absolutely.

17 Q Right. And just back to the Child Welfare League
18 of America, in terms of even if you exclude the fact that
19 Manitoba has this unique model with devolution and, and
20 concurrent jurisdiction, even excluding that, just looking
21 inside Winnipeg CFS as an example, our model is, again,
22 quite unique, and, and I'm thinking, for example, at
23 Winnipeg CFS they don't conduct their own abuse
24 investigations, they would call -- they rely on resources
25 from ANCR to do their abuse investigations, that kind of

1 thing. Everybody's unique; would you agree with that?
2 Every agency has some unique features to it?

3 A I would agree that every agency has some unique
4 features to it. What they all have in common is their
5 mandate to provide child welfare services, and that is the
6 common thread that allows them to understand more commonly
7 how much time it takes to do certain pieces of work because
8 all of them are doing family service. They're all
9 providing services to children in care, they're all
10 providing -- all of that is common with all of them.

11 Q Going to take you to your letter of May 10th,
12 2006. We can ...

13 A Sorry. Do you know what CD number that is?

14 MR. RAY: 16, 1668.

15 MR. MCKINNON: 16 ...

16 MR. RAY: 68.

17 MR. MCKINNON: 68.

18 THE COMMISSIONER: Tab?

19 MR. RAY: 1668. It's page 34682.

20 THE COMMISSIONER: But is it in one of the tabs,
21 "A", "B", "C", "D"?

22 MR. MCKINNON: No, it's a CD.

23 MR. RAY: Yeah.

24 MR. MCKINNON: Commission disclosure 1668.

25 THE COMMISSIONER: All right.

1 MR. RAY: I think yours is marked 1668, Mr.
2 Commissioner.

3 THE COMMISSIONER: 1668.

4

5 BY MR. MCKINNON:

6 Q Just for clarification, this is not, and you made
7 this clear to Mr. Smorang, this is not a letter written by
8 the union, this was a letter received by the union?

9 A Correct.

10 Q And it was written by one unit in downtown
11 Winnipeg?

12 A Correct.

13 Q And this was also written, this is about one year
14 after the go-live date of --

15 A Correct.

16 Q -- devolution. Now, we heard evidence from
17 Miriam Browne of the Manitoba Association of Social Workers
18 that she invited this group to meet with her and they, they
19 didn't accept her invitation. Were you here when that
20 evidence was given?

21 A I, I don't recall the specifics of, of her
22 response, sorry.

23 THE COMMISSIONER: Which group are you saying she
24 invited?

25 MR. MCKINNON: This is addressed to Miriam Browne

1 Miriam Browne gave evidence, and my --

2 THE COMMISSIONER: Yes, yes.

3 MR. MCKINNON: -- recollection --

4 THE COMMISSIONER: Yes.

5 MR. MCKINNON: -- Mr. Commissioner, is Miriam
6 Browne was prepared to meet with this group.

7 THE COMMISSIONER: With which group?

8 MR. MCKINNON: The group that signed this letter.

9 THE COMMISSIONER: Oh, the sign -- the authors of
10 the letter.

11 MR. MCKINNON: And they did not make an
12 arrangement to meet with her. That's my understanding of
13 her evidence.

14 THE WITNESS: Yeah. Sorry, I have a vague
15 recollection. My best recollection is they tried to
16 schedule it and then it didn't work out, and then either
17 side just -- it never came to fruition.

18

19 BY MR. MCKINNON:

20 Q That's my understanding as well.

21 A Okay.

22 Q My suggestion to you is that if these authors
23 were serious and had a serious problem, they could have
24 arranged to meet with Miriam Browne?

25 A Those are two different things from my

1 perspective. To say that their problem wasn't serious and
2 that's why they didn't have the meeting I, I find that to
3 be a leap. I think their problem was serious. Did they
4 not follow up on a meeting with her? That may very well
5 be. But I don't believe that that discounts the concerns
6 they bring forward.

7 Q I'm suggesting to you it puts it into some doubt
8 that they wouldn't follow up with a meeting.

9 A And it may to you, but it puts it in no doubt to
10 me, and it put it in no doubt to the others who were aware
11 of this unit. Management met with these folks after. The
12 management received the letter, management met with them.
13 We, as a union, followed up with them. And shortly
14 thereafter we invoked memorandum number 13 on their behalf.
15 And I would also add that the concerns they are expressing
16 in this letter did not come as a surprise when we received
17 this letter because we had heard this from lots of other
18 workers at that time. So I don't doubt the facts of their
19 letter.

20 Q My understanding is that the complaints in this
21 letter were related to increases in workload subsequent to
22 devolution. Is that your understanding?

23 A The increases in workload they had came about in
24 part as a result of devolution.

25 Q Right.

1 A Because greater resources flowed away from WCFS
2 or resources went expecting that the service would go --
3 the work would go as well and not as much of the work went
4 as was anticipated. So that, at the beginning of
5 devolution, left more work back at WCFS.

6 Q My understanding of that is that what, what
7 occurred after May of 2005 is that more aboriginal people
8 chose the general authority than they had anticipate --

9 A That's correct.

10 Q -- in the remodeling.

11 A That's correct.

12 Q And that resulted in a temporary increase in
13 workload that's reflected in this letter?

14 A That's correct. So that's why I say to you, I
15 don't doubt, in fact, that's what they say in this letter.
16 So we are agreeing with the contents of their letter.

17 Q Again, I'm just, I'm just suggesting that the
18 failure to follow up ought to cause me and any reasonable
19 person to have a concern as to how serious the problem
20 is.

21 A Well, I --

22 Q But let me --

23 A -- just say to you that I find myself to be a
24 reasonable person and I don't agree.

25 Q Okay.

1 A So we disagree.

2 Q You've made that point.

3 But in terms of the issue that's being
4 identified, this was something that arose after May of
5 2005. You will agree with me that Phoenix Sinclair's file
6 was closed in March of 2005?

7 A Yes, I would agree.

8 Q And I'm advised that shortly after this letter
9 was written, Darlene MacDonald took this matter up with the
10 department and I think Ms. MacDonald gave evidence about
11 this, and there was in, influx of new positions, first
12 12.5, then 8 for a total of 20.5 new positions in around
13 2007. Do you recall her evidence on that point?

14 A I recall there being an influx of staff and I
15 can't recall the exact date but I do recall that.

16 Q My suggestion to you is that this is another
17 wrinkle, unfortunate unforeseen circumstance that happened
18 as a result of devolution and it was subsequently dealt
19 with by management. Would you agree with that?

20 A I would say that this came about in part as a
21 result of devolution, not entirely, because the workload
22 issues that we spoke about pre-date devolution.

23 Q Yes. And --

24 A And, sorry --

25 Q -- and I don't want to, I don't want to cut you

1 off, I don't want to -- but we can agree that workload's
2 been an issue from the, the '90s all the way through to the
3 present time. It's always a workload, there's always been
4 a workload issue in CFS. I'm not disputing that. But
5 what's identified in this letter is a concern related to
6 something that happened post-May of 2005; is that your
7 understanding?

8 A That is correct.

9 Q Okay.

10 A What, what I stopped to qualify is that when you
11 say it was a wrinkle that was subsequently worked out, the
12 resource transfer table issues and the redistribution of
13 that was dealt with through additional staff in 2008.

14 Q Okay.

15 A So I would say to you the increase came in '05
16 and yes, it was resolved in 2008. But a three-year delay
17 in resolving that I would not characterize as a wrinkle
18 because that wrinkle has people attached to it and, more
19 importantly, I would say again the clients who are in
20 receipt of service, management has this broad picture,
21 overview of what's happened in child welfare and
22 devolution. Workers have, you know, this picture. But for
23 clients and families at this level who are receiving
24 service, those initiatives are completely inconsequential
25 to them. What's important to them is the service they get

1 today and, and the issues that are articulated in this
2 letter, those resource transfer table issues were -- took
3 approximately three years to be addressed. And along the
4 way, then, three years people wait for that.

5 Q I don't think you're going to get a disagreement
6 from me that service is important. My understanding is
7 that it was early 2007 when the, when the staff were
8 brought in, but we'll hear other evidence on that.

9 A Yes.

10 Q This letter also makes reference to the changing
11 demographics in Winnipeg. At page 2 of the letter it talks
12 about the rising number of new Canadians coming into the
13 City of Winnipeg and to Winnipeg CFS. Again, my
14 understanding is that Winnipeg CFS subsequently developed a
15 newcomers unit. Are you familiar with that?

16 A Yes, I am.

17 Q And similarly, the letter written to Mr.
18 Stevenson on June 2006, that again predates the various
19 initiatives that we've just talked about, the providing
20 workload relief?

21 A I'm sorry, I ...

22 Q The letter that you wrote Mr. Stevenson, it's
23 CD1669, page 34688 --

24 A Yes.

25 Q -- dated June 6th, 2006.

1 A Yes.

2 Q Again raises the issue of workload. That
3 predates all these initiatives we've just spoken about to
4 provide workload relief?

5 A I'm -- you know what, sorry, can I just ask you
6 to be specific. Those initiatives related to workload
7 relief. Are you talking about those ones that are
8 articulated in Jay Rodgers' letter to us?

9 Q No. I'm talking about the --

10 A Okay.

11 Q -- 12.5 staff in 2007 followed by 8 staff
12 followed by --

13 A Yes.

14 Q -- the family enhancement staff --

15 A Okay.

16 Q -- followed by the new funding model.

17 A Thank you. Yes, this predates that.

18 Q I'm just -- one of the documents that was in your
19 binder was Commission disclosure 1671 and it is an article
20 entitled Empowering Social Workers in the Workplace. It's
21 by the Association, the Canadian Association of Social
22 Workers. Mr. Smorang didn't refer you to that document but
23 I'd just like to refer you to a couple of passages from
24 that document.

25 My understanding is that this document talks

1 about levels of stress; it talks about difficulty
2 recruiting and, and retaining skilled social workers in
3 family protection; it talks about the stressful environment
4 and the difficulties of the child welfare practice. These
5 are national problems; would you agree with me on that
6 point?

7 A Yes.

8 Q The sense of alienation of frontline workers and
9 low morale, that's a national problem; would you agree with
10 me on that?

11 A Yes, I would say they were exacerbated by some
12 local circumstances but I think you are correct, you find
13 those in other child welfare agencies as well.

14 Q The sick leave report that you made reference to,
15 tab "D".

16 A Yes.

17 Q Just take you to the last sentence in that
18 report.

19 THE COMMISSIONER: "B" for Bob?

20 MR. MCKINNON: "D" as in Donald.

21 THE COMMISSIONER: Thank you.

22 MR. MCKINNON: And it's a poor copy, Mr.
23 Commissioner, but I think what it says --

24 THE COMMISSIONER: I have it.

25 MR. MCKINNON: I can't read the first word.

1 BY MR. MCKINNON:

2 Q But it says:

3

4 "... without further analysis, it
5 is not possible to conclude
6 anything from this data beyond the
7 ..."

8

9 A Obvious.

10 Q

11 "... obvious increases or
12 decreases in sick leave days."

13

14 That's what this report concluded?

15 A That's what it concluded. I would say the
16 analysis is worth paying attention to given that it came
17 from the director of human resources, but I think you're
18 right, in the end she could not definitively attribute the
19 changes in sick leave to any one thing.

20 Q Thank you. Mr. Smorang asked you about
21 production 1673, page 34748. And really, should probably
22 be looked at in conjunction with the next one, November 4th
23 of '08, page 34751. My understanding is this was a
24 situation that arose at ANCR in 2008?

25 A That's correct.

1 Q And I, my recollection of the evidence of Sandie
2 Stoker, and I can't say for sure whether she testified to
3 this but it's certainly in her written summary of evidence
4 which is filed as an exhibit, is that she says with respect
5 to the abuse, abuse investigation program at this time,
6 there were two supervisors and 12 investigators. That
7 would have been in 2005. This is 2008. My understanding
8 is, at this point, reading the memo, there were 11
9 investigators and three vacancies. So there was a problem,
10 as I understand this letter, being created as a result of
11 vacancies. Is that your understanding?

12 A I think the vacancies made it worse. But if
13 there's 11 investigators and their, their caseloads are
14 between eighty and a hundred, bringing on three more
15 investigators is -- I'm not very good at math, but it still
16 isn't going to bring their caseloads down to anywhere
17 that's a reasonable number. So I think it was a problem
18 with workload, it wasn't just the three vacancies.

19 Q Fair point. With respect to today, I'm, I
20 understand there are now three supervisors and 24
21 investigators --

22 A Right.

23 Q -- and that this problem is under control?

24 A If I recall Sandie Stoker's evidence, their abuse
25 workers are carrying an average of 30 to 40 now is what I

1 heard, so it's certainly much improved but the numbers
2 aren't yet where they ought to be. But it's certainly less
3 than half of what we have here.

4 Q CD1675. This is a letter that Mr. Smorang asked
5 you to comment on. The first heading in this letter is, is
6 Crisis in Leadership. And if I take you to the last line
7 of this letter, in bold, the union is really looking for
8 the removal of the executive director of ANCR. That's what
9 you're seeking in this letter. Fair?

10 A We were seeking a number of things, for things to
11 be improved, but we felt the removal of the executive
12 director was critical to those being achieved.

13 Q And that has occurred?

14 A Yes, it has.

15 Q Mr. Smorang took you to CD1676, 77, 78 and 79.
16 Those four CDs relate to various e-mails between members of
17 your union and ANCR management?

18 A Yes.

19 Q The author of two of these e-mails, I understand,
20 was Marnie Saunderson who gave evidence at this inquiry on
21 September 6, 2012?

22 A Yes.

23 Q Were you here when she gave evidence?

24 A Yes, I was.

25 Q You recall she was cross-examined by Mr. Saxberg?

1 A Yes, I --

2 Q On these points?

3 A Yes, I recall.

4 Q And he suggested to her, and I think she agreed,
5 that one of these two complaints related to the fact that
6 there was two administrative positions and one was vacant,
7 so there was some backup being created as, at the
8 administrative level with file closing if --

9 A Yes.

10 Q -- memory serves me.

11 A Yes.

12 Q And she agreed with him that that was solved
13 promptly, as I recall?

14 A I don't recall how quickly it was, but I recall
15 she said that problem had been resolved.

16 Q And the other one was with respect to workload at
17 tier two intake. Again, my notes that Mr. Saxberg cross-
18 examined Ms. Saunderson and she agreed that changes were
19 made at ANCR to go from a geographically-based intake
20 system to a rotational system which rectified the second
21 problem within a matter of weeks after the e-mail was
22 written. You recall that testimony?

23 A I recall her talking about the change of
24 boundaries, which assisted in the workload issue, but I
25 don't recall that the problem was entirely resolved.

1 Changing the boundaries certainly evened out the workload
2 but --

3 Q Correct.

4 A -- but didn't resolve it. It --

5 Q Well, we'll --

6 A -- but it did -- the reassignment of work created
7 greater equity, I think, in how the work was, was handled.

8 Q Would you defer to Ms. Saunderson's evidence on
9 that, who was the one who wrote the complaint? Would you
10 -- if she accepted that it was resolved, would you accept
11 it was resolved?

12 A I would say that Marnie Saunderson spoke on
13 behalf of Marnie Saunderson and I'm here speaking for all
14 of those intake workers, so I would say certainly in no way
15 would be disputing her information about what her
16 experience was at all. But I would say that these intake
17 workers would say the problem is better now and became
18 better a while back, but certainly the feedback we got is
19 not that it was better in a few weeks.

20 Q Okay. You spoke in respect to questions, and I
21 can't remember whether it was by Mr. Smorang or Ms. Walsh,
22 but the integrated service delivery issue.

23 A Yes.

24 Q We have heard some about that but not a lot about
25 that at this inquiry. One of the comments you made is that

1 sometimes as a result of integrated service delivery, that
2 you can have someone supervising a protection worker who's
3 not experienced in protection work. Was that your
4 testimony?

5 A Yes.

6 Q Now, my understanding is that only occurs in
7 certain rural areas and it's extremely rare. Is that your
8 understanding?

9 A I would -- not exactly. So integrated service
10 delivery was really only fully implemented in the rural and
11 northern areas. The intention was to bring it to Winnipeg.
12 As I said before, or this morning, that, that initiative
13 was, I'm not sure what the right word is, put on hold or
14 abandoned, but in 2010 we were advised that the government
15 was not proceeding so efforts related to that stopped in
16 Winnipeg. In the rural and northern areas where staff
17 are being supervised by someone who doesn't have experience
18 and expertise in their area, I would say is not just a
19 child welfare issue, that, that we heard that from people
20 who work in Employment and Income Assistance, that they
21 were accustomed to being supervised from someone who sort
22 of came up through that stream and had that working
23 knowledge. And the same was true for child welfare
24 workers. And through the process of integrated service
25 delivery, that changed so you now had supervisors, some of

1 whom may have child welfare experience and may be
2 supervising child welfare person, but will also have a
3 variety of other programs they oversee and vice versa. I
4 could be an Employment and Income Assistance supervisor and
5 now have child welfare and all those other programs under
6 me. So that was, that's what I intended to say this
7 morning.

8 Q And, and that was a long answer but I don't think
9 it answered my question, which is, is it --

10 A Sorry.

11 Q -- would you agree with me that that's extremely
12 rare in the rural areas?

13 A I, I can't give you a number so --

14 Q Thank you.

15 A -- I can't say.

16 Q And --

17 THE COMMISSIONER: Just -- go ahead. I wanted --
18 we'll discuss how long we're going to go and when we take
19 our adjournment, so in that we're coming back --

20 MR. MCKINNON: Okay. And I'm literally at my
21 last question so ...

22 THE COMMISSIONER: Pardon?

23 MR. MCKINNON: I'm literally at my last question.

24 THE COMMISSIONER: Oh, your very last question?

25 MR. MCKINNON: My very last.

1 THE COMMISSIONER: Very good.

2

3 BY MR. MCKINNON:

4 Q Just the comment that you just made about
5 integrated service delivery in Winnipeg and it was
6 abandoned in 2010, my information is that what happened in
7 Winnipeg is that there was an alternative proposal put
8 forward in many of the units and that was a co-location
9 strategy?

10 A That's, that's my understanding as well.

11 Q Okay. So I just wanted to get, from the
12 Commissioner's perspective, it was an alternate solution.

13 A Yes.

14 Q And co-location means it's, it's sort of, if I
15 can -- these are my words, not yours, obviously, sort of
16 the best of both worlds. You have the family service
17 workers being supervised by a family service supervisor.

18 A Um-hum.

19 Q You have the other workers being supervised by
20 workers who are familiar with their area of work. But from
21 the service user, from the family's perspective, it's a one
22 stop shop?

23 A Yes.

24 Q And they may not know who's supervising who.
25 They, they know they can go to one building and they can

1 get their needs met whether they're child protection,
2 whether -- and I'm not even sure I know what else is
3 included in the integrated service delivery. Can you help
4 me with that?

5 A Well, they're in -- often in those access
6 centres, so health services are in there, Employment and
7 Income Assistance, children's special services, rehab,
8 child welfare, and I would agree with you that the co-
9 location has, has really offered the best of both worlds
10 from a, from a user perspective, from a client's
11 perspective. They're able to receive those services there.
12 I think from workers' perspective it affords them the
13 opportunity to more easily communicate and hopefully
14 collaborate with the other service providers.

15 Q And so at least on this one we have some common
16 ground that, that this could be perceived as a good
17 outcome?

18 A Right.

19 Q Okay.

20 A Is that the place to end, then?

21 MR. MCKINNON: That's a good place to end.

22 Thank you, Mr. Commissioner.

23 THE COMMISSIONER: All right. Now, who else will
24 be, after the break, wants to cross-examine this witness?

25 MR. SCARCELLO: I have a few questions. Probably

1 10 minutes.

2 THE COMMISSIONER: Right. Well, it would look,
3 then, that we will get to Mr. Funke's witness tonight,
4 then. You'll be -- you have some more questions, Mr.
5 Smorang, for, for your client?

6 MR. SMORANG: Only one, well, one brief area.

7 THE COMMISSIONER: Ms. Walsh?

8 MS. WALSH: I don't.

9 THE COMMISSIONER: All right. Well, then we'll
10 adjourn now till seven o'clock, finish the cross-
11 examination and then take the next witness.

12

13 (DINNER RECESS)

14

15 THE COMMISSIONER: All right. Mr. Scarcello, are
16 you next?

17 MR. SCARCELLO: Scarcello. Yes. Good evening,
18 Mr. Commissioner.

19 THE COMMISSIONER: You could inaugurate our
20 evening sittings.

21 MR. SCARCELLO: Thank you.

22

23 CROSS-EXAMINATION BY MR. SCARCELLO:

24 Q Good evening, Ms. Kehler. Just a few questions
25 for you. I know you've heard that before, but I promise.

1 You had testified previously about some
2 correspondence from the union, MGEU, and some social
3 workers regarding some concerns with ANCR.

4 A Yes.

5 Q You recall that? And the last letter that you
6 had produced was a letter from Mr. Olfert, excuse me, from
7 January 15th, 2009?

8 A Yes.

9 Q You know that letter I'm speaking of? That's, of
10 course, over, just over four years ago, and you're asking
11 for a change in management at ANCR, right?

12 A Yes. Among other things.

13 Q Among other things. And you've already testified
14 that, of course, there was a change in management after
15 that fact?

16 A Yes.

17 Q You know that? And I understand that there is a
18 much improved working relationship today between ANCR and
19 MGEU; would you agree with that?

20 A I would.

21 Q And would you agree that there has also been many
22 improvements at ANCR over the last four years?

23 A I would.

24 Q For example, and you've testified to this,
25 there's been improved training of staff?

1 A Yes.

2 Q To the point where your members no longer want
3 the union to even bargain training issues?

4 A That's right. That have entrusted that
5 responsibility fully with the employer, appropriately so.

6 Q Because they're satisfied with what's happening
7 in that regard?

8 A Yes.

9 Q Now, when speaking about workload, you had
10 testified, and this is just from my notes today, but you
11 had said that there have been lots of genuine efforts to
12 reconfigure the work to make it better. And you recall
13 saying that or something like that?

14 A Something like that, yes.

15 Q And I'm just wondering, when -- just to be clear,
16 when you use the word "it", to reconfigure the work to make
17 it better, I took that to mean you were talking about
18 workload, to --

19 A Yes.

20 Q -- make improvements.

21 And when you're talking about these genuine
22 efforts, I understood that to mean that you were speaking
23 about efforts on both sides of the table, the employer and
24 the union?

25 A Yes, that's correct.

1 Q And when you were speaking about that, you spoke
2 of change management groups; you'd given that as an
3 example, where there were some genuine efforts to improve
4 workload by both management and the MGEU. Do you recall
5 using that term, change management groups?

6 A I, I did. Change management was, I would say,
7 much broader. It wasn't just about workload but certainly
8 some of the positions that came to ANCR, there were some
9 additional positions.

10 Q Okay. And I'll -- maybe we'll get --

11 A Sorry.

12 Q -- into that just so we can --

13 A Okay, sorry.

14 Q -- talk more about that. So when you, when you,
15 you had said change managements groups, that's the term
16 you'd used, now I understand that in January 2010 that
17 there was put in place a three-year change management
18 process, was what it was called, at ANCR.

19 A That's correct.

20 Q And it was called for by ANCR's board of
21 directors and the southern authority?

22 A Yes.

23 Q And that the MGEU was directly involved in this
24 process with ANCR?

25 A Yes.

1 Q And I also understand that this change management
2 process was to deal with both service and operational
3 recommendations?

4 A Yes.

5 Q So when you used the term, change management
6 groups, were you speaking to -- or given -- speaking about
7 this change management process that you and I have just
8 spoke about?

9 A Yes.

10 Q Okay.

11 A Is it my microphone that's doing that?

12 MS. WALSH: No, we're just --

13 MR. SCARCELLO: There's a humming, I think.

14 MS. WALSH: I don't know if you can hear this,
15 but feedback from the electronic system. But the clerk has
16 tried to address it, so ...

17 THE WITNESS: Okay.

18 THE COMMISSIONER: Is it -- it's not --

19 MS. WALSH: Maybe you're not hearing it at your
20 end.

21 THE COMMISSIONER: Maybe that's why I was -- is,
22 is the audio not on?

23 MS. WALSH: It's on but it's humming.

24 THE CLERK: I turned down the speakers on the
25 pole. Usually (inaudible) I don't know if there's any

1 improvement.

2 MS. WALSH: Yeah. Maybe you fixed it.

3 THE CLERK: I don't know.

4 MR. SCARCELLO: I think it's gone away.

5 THE COMMISSIONER: So the witness is not being
6 heard at the back?

7 THE CLERK: I think she's fine.

8 THE COMMISSIONER: Well, then what's the problem.

9 THE CLERK: There's a humming, a feedback,
10 amongst us here, we can hear a humming noise.

11 THE COMMISSIONER: Oh.

12 MR. SCARCELLO: Are we okay to --

13 MS. WALSH: But if it's being recorded, we'll
14 just carry on.

15

16 BY MR. SCARCELLO:

17 Q Thank you. So going back to this change
18 management process.

19 A Um-hum.

20 Q Now, I understand that in this process what
21 happened was that three consultants were hired who made,
22 excuse me, recommendations after investigating and looking
23 into those issues we just spoke about?

24 A Yes.

25 Q And I understand that those consultants consulted

1 with the staff members at ANCR?

2 A Yes, they did.

3 Q And I understand that they made recommendations
4 to add or create new positions to better deal with workload
5 and to better serve clients of ANCR?

6 A I don't know if it was those outside consultants
7 that made those recommendations but certainly they
8 facilitated a process where there was consultation with
9 staff. They, I think, also used the quality assurance
10 review that the southern authority had done and I think all
11 of that sort of came together and there were some
12 additional funds, albeit temporary, that were given to ANCR
13 that did assist in workload issues.

14 Q Right. And I understand from, as a result of
15 that, ANCR, although it was temporary, it was able to hire
16 25 new staff members?

17 A Yes.

18 Q To go into various areas and of course that
19 would, you would agree, help or alleviate those workload
20 concerns?

21 A I would agree.

22 Q Now, you had mentioned as temporary. My
23 understanding is that because funding hadn't been secured,
24 long term funding for these positions, that they were all
25 hired as term positions at ANCR. Is that your

1 understanding?

2 A Yes, that's correct.

3 Q Those 25 or so positions. And I understand that
4 in March 2012 ANCR and the southern authority had
5 negotiations with the province to secure additional funding
6 to keep those positions; were you --

7 A To keep --

8 Q -- aware of that?

9 A To keep some of those positions, yes.

10 Q And that they did receive some further funding
11 but not enough to keep all of those --

12 A That's correct.

13 Q -- position that had been --

14 A That's my --

15 Q -- put in place?

16 A -- understanding as well.

17 Q And I understand that nevertheless approximately
18 12 of those positions were retained?

19 A Yes.

20 Q Which --

21 A That was my understanding as well.

22 Q Which, of course, although not as good as 25
23 still helps in alleviating those workload concerns. It's
24 better than before?

25 A Certainly.

1 Q And I assume you'll agree that by ANCR and the
2 authority directing that this process take place and
3 conducting this change management process and by involving
4 the union in this process, that this was the sort of
5 genuine effort to improve workload that you were testifying
6 to previously on both sides of the table for putting in
7 real efforts to address that issue?

8 A I -- sorry, can you ask me one more time? Sorry.

9 Q Yeah. You had spoken to previously about this
10 genuine effort to address workload issues?

11 A Yes.

12 Q And you'd mentioned that, for example, was this
13 change management process was an example of that?

14 A Yes.

15 Q So then you'll agree that because the southern
16 authority was who called for this change management process
17 and that ANCR was directly involved, of course, being the
18 entity that it was all about, that they put in genuine
19 efforts on their own to improve workload and this is an
20 example of that?

21 A I would agree.

22 MR. SCARCELLO: Thank you. Those are my
23 questions.

24 THE COMMISSIONER: Thank you, Mr. Scarcello.

25 Now, is there anybody else? I think not. Mr.

1 Smorang, have you got a question?

2

3 RE-EXAMINATION BY MR. SMORANG:

4 Q If we can turn back to disclosure 1663, 34662.
5 You remember Mr. McKinnon asking you questions about this
6 letter?

7 A Yes.

8 Q He was critical of, of you for not copying Ms.,
9 or Dr. Trigg with a copy of this letter?

10 A Yes.

11 Q He suggested to you that Dr. Trigg disagreed with
12 the number of days care that you had indicated in the
13 letter jumped from 22,000 to 30,000?

14 A Yes.

15 Q He suggested to you that Dr. Trigg felt it was
16 significantly less than that?

17 A Yes.

18 Q He also suggested to you that we perhaps wouldn't
19 be having the debate today had you sent a copy of that
20 document to Dr. Trigg?

21 A Yes.

22 MR. SMORANG: Could we please, Madam Clerk, go to
23 page 39816. This will not be before you, Mr. Commissioner,
24 but it will be on the screen.

25 THE COMMISSIONER: Right.

1 MR. SMORANG: This is a letter, if we could
2 scroll down, Madam Clerk, to the bottom of it, written on
3 December 19th, 2012 -- or, sorry, December 31st, 2012, so
4 some 11 days later -- 2002, I'm sorry, thank you for that
5 -- scrolling down, written by Dr. Trigg. If you can just
6 go right to the end of it, just so we can see who wrote it.
7 All right.

8

9 BY MR. SMORANG:

10 Q You heard Dr. Trigg testify?

11 A I did.

12 Q Do you have recollection of this letter?

13 A I have not seen this letter but I did when she
14 gave evidence.

15 Q Yes. So we can go back to the first page. She
16 indicates to ADM Dubiensi:

17

18 "I am writing to provide
19 information in response to your
20 request of December 30 ...
21 regarding a letter to the Minister
22 dated December 19, 2002 about 'the
23 present [child -- the present]
24 crisis in child welfare at
25 Winnipeg Child and Family

1 Services'."

2

3 Do you recognize her description as a reference
4 to your letter to Doctor -- or to Mr. Caldwell?

5 A Yes, I do.

6 Q And in terms of days care, in paragraph number
7 one she indicates:

8

9 "... the number of days care has
10 increased by 10,328 over last year
11 or by 2%, not by ..."

12

13 eight thousand essentially as suggested by the union?

14 A Correct.

15 Q So it appears not only does she not agree with
16 you, as Mr. McKinnon suggested, but the reason she doesn't
17 agree with you is that there were, in fact, more increases
18 than you had suggested in your letter, not less?

19 A That's correct.

20 MR. SMORANG: Thank you. That is my question in
21 redirect.

22 THE COMMISSIONER: All right. Ms. Walsh, any
23 questions?

24 MS. WALSH: No, Mr. Commissioner.

25 THE COMMISSIONER: All right, witness, you are

1 completed. Thank you very much.

2

3 (WITNESS EXCUSED)

4

5 THE COMMISSIONER: Thank you, Mr. Smorang.

6 Mr. Funke.

7 MR. FUNKE: Evening, Mr. Commissioner. Funke,

8 for the monitor. Next witness that I'd like to call on

9 behalf of the AMC and the SCO is Cheryl Freeman. Ask Ms.

10 Freeman to come to the stand, please.

11 I apologize, Mr. Commissioner, I have -- I hadn't

12 asked Ms. Freeman how she intends to bind her conscience,

13 leave that to Madam Clerk.

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

15 Bible or affirm without the Bible?

16 THE WITNESS: On the Bible.

17 THE CLERK: All right. Take the Bible in your

18 right hand. Stand for a moment. And, state your full name

19 to the court.

20 THE WITNESS: Cheryl Anne Freeman.

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

22 THE WITNESS: C-H-E-R-Y-L.

23 THE CLERK: Your middle name?

24 THE WITNESS: A-N-N-E.

25 THE CLERK: And your last name, please?

1 THE WITNESS: F-R-E-E-M-A-N.

2 THE CLERK: Thank you.

3

4 **CHERYL ANNE FREEMAN,** sworn,

5 testified as follows:

6

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

8 THE COMMISSIONER: Yes, Mr. Funke.

9 MR. FUNKE: Mr. Commissioner, I had -- it was my
10 intention to commence this evening by filing as an exhibit
11 a collection of materials that Ms. Freeman had support --
12 excuse me, had compiled in support of her testimony this
13 evening. There appears to have been some perhaps
14 miscommunication between my office and Commission counsel's
15 office. It was my understanding Ms. Ewatski was, had a
16 binder of material prepared to be filed as an exhibit but
17 it doesn't appear to be available to us in the room.

18 MS. WALSH: What is this? Is this not
19 everything?

20 MR. FUNKE: No, it's not.

21 MS. WALSH: What's missing? (Inaudible) your
22 copy?

23 MR. FUNKE: I have my copy digitally but ...

24 THE COMMISSIONER: You don't have a hard copy?

25 MR. FUNKE: (Inaudible). No, this is fine.

1 MS. WALSH: Yeah?

2 MR. FUNKE: Yeah, this is good. Yeah, perfect.

3 It actually does have everything, Mr.
4 Commissioner. I didn't believe it had but there's actually
5 two different pages to the index. When I look at the
6 second page it does appear that everything is complete. So
7 I'd like to file this as the next exhibit in the matter
8 before the Commission.

9 THE COMMISSIONER: And what is it?

10 THE CLERK: It's Exhibit 60, Mr. Commissioner.

11 THE COMMISSIONER: But what is, what is the
12 document?

13 MR. FUNKE: It's a collection --

14 THE CLERK: Called AMC - SCO phase two documents
15 - Cheryl Freeman.

16 MR. FUNKE: It's a collection of reports and
17 tables that assist the Commission in understanding the
18 funding model that has been presented, known as the EPFA or
19 the enhanced prevention focused approach.

20 MS. WALSH: I'm sorry. Apparently they can't
21 hear you at the back, and even I can't hear you very well
22 so ...

23 MR. FUNKE: Is that better?

24 MS. WALSH: Lift it up, thank you.

25 MR. FUNKE: Perhaps not.

1 MS. WALSH: Little bit higher.

2 THE COMMISSIONER: Yes.

3 MR. FUNKE: There we are.

4 MS. WALSH: Yes.

5 MR. FUNKE: So just again, the materials that we
6 file before the Commission this evening, Mr. Commissioner,
7 are a series of tables and reports that Ms. Freeman has
8 compiled to assist the Commission understanding the new
9 funding model that has been proposed and prepared by both
10 the federal and provincial governments, which has been
11 known and referred to at the Commission so far as the
12 enhanced prevention focused approach.

13 THE COMMISSIONER: Enhanced ...

14 MR. FUNKE: Prevention focused approach, EPFA.

15 THE COMMISSIONER: Enhanced --

16 MR. FUNKE: That's the new funding model that's
17 been developed --

18 THE COMMISSIONER: Enhanced focused --

19 MR. FUNKE: Enhanced prevention ...

20 THE COMMISSIONER: Prevention.

21 MR. FUNKE: Focused approach.

22 THE COMMISSIONER: Focused approach.

23 MR. FUNKE: Yeah. EPFA. That's the new funding
24 model that's been developed by the province and the federal
25 government in cooperation with the authorities and it's the

1 new funding model that provides funding for all the
2 agencies in Manitoba. And so Ms. Freeman is here to help
3 the Commission understand how that new funding model was
4 arrived at and how, how it operates.

5 THE COMMISSIONER: Has Commission counsel got a
6 copy of this?

7 MS. WALSH: We do, thank you.

8 MR. FUNKE: And it's been provided to, to all of
9 the lawyers who are before you as well, Mr. Commissioner.

10 THE COMMISSIONER: Thank you.

11

12 **EXHIBIT 60: COLLECTION OF REPORTS**
13 **AND TABLES RE EPFA FUNDING MODEL -**
14 **COMPILED BY CHERYL ANNE FREEMAN**

15

16 MR. FUNKE: Ordinarily, Mr. Commissioner, the
17 next exhibit that I would file would be Ms. Freeman's
18 curriculum vitae but we noticed late this afternoon that
19 her CV has her personal address on it, and so what we
20 propose to do is to wait until tomorrow to file it with the
21 Commission after we've redacted her home address from it
22 because, as you know, it would become an exhibit in the
23 cause and matter of public record. We don't necessarily
24 want people to know Ms. Freeman's home address. So what I
25 propose to do at this point is just run through her CV with

1 her on the record and then we'll file it tomorrow with the
2 Commission's permission.

3 THE COMMISSIONER: Yeah, the exhibit that was
4 just filed is number 60.

5 MR. FUNKE: Thank you.

6

7 DIRECT EXAMINATION BY MR. FUNKE:

8 Q Yes, Ms. Freeman, for the, for the benefit of the
9 Commissioner, I understand that you're currently a
10 management consultant; is that correct?

11 A Yes, I'm self-employed as a management
12 consultant.

13 Q And one of your clients is the Nisichawayasihk
14 Cree Nation Family and Community Wellness Centre; is that
15 correct?

16 A Correct.

17 Q And that's the same wellness centre that Mr.
18 Felix Walker, who testified yesterday, is executive
19 director of; is that correct?

20 A Correct.

21 Q I understand as well that you received your
22 bachelor of commerce, honours, from the University of
23 Manitoba in 1986?

24 A Correct.

25 Q That you are a chartered accountant with the

1 Manitoba Institute of Chartered Accountants and have been
2 since 1990?

3 A Correct.

4 Q That prior to operating as an independent
5 consultant, from April 2009 through March 2010, you were a
6 consultant with the Awasis Agency of Northern Manitoba; is
7 that correct?

8 A Correct.

9 THE COMMISSIONER: With the what agency?

10 MR. FUNKE: Awasis Agency of Northern Manitoba.

11 THE COMMISSIONER: Right.

12

13 BY MR. FUNKE:

14 Q From November of 2002 through February of 2009, I
15 understand as well that you were also the chief financial
16 officer of what is known as the northern authority; is that
17 correct?

18 A Correct.

19 Q From January of 1999 to November of 2002, you
20 were also a financial analyst with the Winnipeg Regional
21 Health Authority?

22 A Correct.

23 Q And from August 1997 through January of 1999 you
24 were a finance advisor, again, with Awasis Agency; is that
25 correct?

1 A Correct.

2 Q And finally, October of 1992 to August 1997, you
3 were the finance director with Awasis Agency, again in
4 northern Manitoba; is that correct?

5 A Correct.

6 Q Now, as we indicated, you've been called to
7 testify this evening to assist the Commission understanding
8 the new funding model and the origin of the funding model
9 that is presently in place here in Manitoba; is that
10 correct?

11 A Correct.

12 Q And I understand to that end that you have
13 compiled a number of tables and reports to assist the
14 Commissioner in understanding that funding model and its
15 origins?

16 A Yes.

17 MR. FUNKE: Madam Clerk, could you please call up
18 tab number 101 in the material that's been provided to the
19 Commissioner.

20 MS. WALSH: It's not in this binder. The binder,
21 the binder that we have --

22 THE COMMISSIONER: There's no tab 101 in this
23 book.

24 MS. WALSH: No. Exhibit 60 starts with tab 102.

25 MR. FUNKE: Well, it was certainly provided.

1 THE COMMISSIONER: Well, I know, Mr. Funke, there
2 was great concern at the office of the lateness of you
3 getting your documents in.

4 MR. FUNKE: These documents have been provided
5 for some time, Mr. Commissioner.

6 THE COMMISSIONER: Well, there were some that
7 came Monday, I understand.

8 MR. FUNKE: Well, we, we submitted corrected
9 records yesterday when I noticed that there was an error
10 but these documents have certainly been with the Commission
11 for some time now.

12 THE COMMISSIONER: Well, we'll have to use what's
13 on the screen, then, because we don't seem to have it.

14 MS. WALSH: It appears we'll just have to follow
15 along on the screen.

16 THE COMMISSIONER: I think so.

17 MR. FUNKE: Madam Clerk, perhaps you could resize
18 the diagram so that the entire diagram fits on the screen
19 for ease of reference. If you --

20 THE CLERK: (Inaudible).

21 THE WITNESS: If you, if you scroll up towards
22 says a hundred and two percent.

23 MR. FUNKE: There's a drop-down menu.

24 THE WITNESS: There's a drop-down.

25 THE CLERK: (Inaudible).

1 MR. FUNKE: Exactly. If you make that 75
2 percent, the whole thing should fit on the screen.

3 THE CLERK: (Inaudible).

4 MR. FUNKE: Very good. That's good enough.

5

6 BY MR. FUNKE:

7 Q Ms. Freeman, if you could perhaps explain to the
8 Commissioner what exactly this diagram demonstrates and
9 what it's intended to show?

10 A Certainly. First of all, it's a very simplified
11 diagram to try and capture some very complex history. So
12 understand that it is a very simplified diagram to assist
13 in understanding the progression of funding methods for
14 First Nation agencies, CFS agencies.

15 So the first thing to know is historically that
16 First Nations agencies have always been dually funded both
17 on the federal side and from the provincial side.

18 THE COMMISSIONER: They've always been what?

19 THE WITNESS: Dually funded.

20 THE COMMISSIONER: Dually.

21 THE WITNESS: Funded dually. Two. Funded by two
22 dual funders.

23

24 BY MR. FUNKE:

25 Q There's a dual funding approach, as I understand

1 it, there's a funding stream that's available through the
2 province and a second funding stream that's available
3 through the federal government; is that correct?

4 A Correct. Two funders.

5 Q And I understand as well that there are typically
6 two different areas that have been traditionally funded in
7 terms of the work that is performed by a child welfare
8 agency; is that correct?

9 A Traditionally, yes, there have been two streams:
10 administration or operations --

11 THE COMMISSIONER: And the dual is the federal
12 government and the provincial government?

13 THE WITNESS: Correct.

14

15 BY MR. FUNKE:

16 Q And as I understand it, both the federal
17 government and the province government, the funding is
18 available that comprises two different components from each
19 funder; is that correct?

20 A Correct.

21 Q One of the components is with respect to
22 operations and the other component is with respect to
23 maintenance; is that correct?

24 A Correct. Administration generally being
25 representing the staffing and operations. The maintenance

1 representing the direct children costs, foster homes,
2 therapy, for children that are in care. So there's two
3 streams of funding from each funder or for each funding
4 authority, the province and the federal.

5 Q And I understand that maintenance is
6 traditionally paid as a flow-through in terms of the
7 reimbursement of eligible expenses; is that correct?

8 A Correct.

9 Q All right.

10 A Though the, the two bodies funded in a different
11 cash flow method, they're both on a reimbursement basis.

12 Q That's with respect to maintenance?

13 A With respect to maintenance.

14 Q And your diagram, as I understand it, in the
15 centre there is a green bar that runs vertically and that's
16 intended to represent the flow-through funding that is
17 provided by both the federal and provincial governments for
18 maintenance expenses for children in care; is that correct?

19 A Correct.

20 Q Right.

21 A And that funding mechanism has been consistent
22 from the beginning.

23 Q And as I understand it, on the left side of your
24 diagram is a graphic representation of the development of
25 provincial funding to First Nations agencies over time and

1 on --

2 A As I recall it, yes.

3 Q Yeah. And on the left side is a graphic
4 representation of the history of the federal funding for
5 First Nations agencies; is that correct?

6 A Correct.

7 Q All right. If we could just briefly look at the
8 federal side for a moment. I understand that federal
9 funding, prior to the current model, was provided through
10 something known as directive 20-1; is that correct?

11 A Correct.

12 Q Perhaps you could tell the Commissioner on what
13 basis 20-1 was calculated?

14 A 20-1 was a formula that was driven by zero to 18
15 children, child population on reserve.

16 Q And I understand that -- sorry, perhaps I'll ask
17 you this question: Do you understand the precise nature by
18 which directive 20-1 funding was calculated by the federal
19 government?

20 A No, we -- in my experience with the agencies, we
21 never received a explanation as to the components of that
22 directive 20-1, what the components were or how they were
23 derived.

24 Q Okay. And was that funding static?

25 A It wasn't static in the fact that it was adjusted

1 every year based on actual LRT or what they called the
2 population figures for every December. So the population
3 for the following year was driven out by the actual
4 population of the previous December.

5 Q And I understand that that directive 20-1 was
6 enacted in 1991; is that correct?

7 A Correct.

8 Q And that funding, from the time of its enactment
9 from 1991 through to the implementation of the new funding
10 model, directive 20-1 guided all federal funding to First
11 Nations agencies for services provided on reserve; is that
12 correct?

13 A Correct.

14 Q Right. And was there an adjustment at any time
15 with respect to the directive 20-1 funding to First
16 Nations?

17 A There was originally, when directive 21 -- 20-1
18 got started, they used to do a COLA adjustment every year
19 where they would adjust the component levels. That stopped
20 at some point and my recollection, I can't remember exactly
21 when, but it did stop.

22 Then, in, I'm just referring to ... in '07/'08,
23 Indian Affairs did identify that they were going to do a
24 COLA adjustment. At that time it was calculated at 8.24
25 percent approximately based on the population, or the

1 figure that came out of the population running to the
2 formula. That 8.24 percent was theorized to be
3 representative of COLA for the previous four years where
4 there was no COLA received, cost of living adjustment. So
5 that occurred in '07/'08.

6 From that point on, that COLA adjustment remained
7 static. So in effect, after that year there were no
8 further COLA adjustments and the only thing you saw was
9 adjustments based on volume.

10 As you would expect, that if a COLA was going to
11 continually occur, instead of being eight percent it will
12 go up to 10 percent, perhaps 12 percent. It would
13 accumulate. The fact that it remained static for those
14 remaining years basically means no additional COLA was
15 given after that point.

16 Q And just for the record, when you say COLA,
17 you're referring to cost of living adjustment?

18 A Correct.

19 Q Now, turning to the provincial side.

20 A One other -- perhaps a couple other points to
21 make, sorry, Jay, in response to the directive 20-1, was at
22 the beginning of April 1st, 1991 to its version before the
23 new funding model, there was a couple of adjustments in
24 what was viewed to be covered under directive 20-1. At the
25 beginning, there was, the agencies were able to bill legal

1 expenses through the maintenance. At some point, and
2 again, I can't remember the exact year, the federal
3 government decided that the directive 20-1 was actually to
4 have covered those expenses and stopped, or ceased the
5 ability for the agencies to recoup their legal costs
6 associated with child in care through the maintenance. So
7 the definition of what directive 20-1 was to cover was
8 expanded.

9 Additionally, outside of this 20-1 there was
10 funds that were available called family support service
11 dollars. Again, that was separate from the 20-1 funding
12 but again at a point the federal government changed their
13 perspective on what 20-1 covered and pulled that back from
14 the agencies and put it under directive 20-1. So it
15 changed two significant times during that period as far as
16 what the federal government expected that funding to cover.

17 Q And that was just for the provision of services
18 for First Nations children who were receiving services from
19 the agency on reserve; is that correct?

20 A Correct.

21 Q Now, turning to the provincial side, prior to the
22 AJI-CWI we've heard testimony that the agencies did not
23 provide service to children either apprehended off reserve
24 or children who were provincial responsibility. So perhaps
25 you could explain to the Commissioner how it is that prior

1 to the AJI-CWI and the expansion of the First Nations
2 agencies off reserve, under what circumstances the First
3 Nations agencies would receive funding from the provincial
4 government?

5 A There were two separate and distinct
6 circumstances. The first one was if a child was
7 apprehended on reserve that didn't qualify for treaty
8 status, they were deemed to be provincial and that's the
9 provincial responsibility.

10 The second scenario was related to the child
11 being apprehended off reserve and the province making
12 arrangements in their care plan to return the child to the
13 community, whether that's extended family, foster, whatever
14 it was, the child was returned to the community.

15 In order to facilitate case management, the
16 federal -- the province government transferred those cases
17 to the First Nations agencies so they could do the case
18 management in the community. Those are the two scenarios
19 where a child, at that point, was a provincial
20 responsibility funded by the provincial government but
21 contained within the First Nations CFS service delivery.

22 Q Now, in your diagram you've indicated that, in
23 the first box on the left-hand side under the provincial
24 heading, you've described it as the supervision rate?

25 A Correct.

1 Q Perhaps you can just explain to the Commissioner
2 what that means and how that was calculated?

3 A This, if my memory serves me correctly, occurred
4 before I actually got to Awasis Agency, and my memory of
5 this is more when I was an auditor. Prior to coming to
6 Awasis I was an auditor who actually audited Awasis
7 financial statements and their records. And I recall the
8 billings having a rate attached to each day care, so it was
9 called the supervision rate. So for each day of care that
10 they recorded on their maintenance, they were allowed to
11 bill a supervision rate.

12 Q And I understand that that was to correspond to
13 the operational costs associated with providing care to
14 that child; is that correct?

15 A Correct.

16 Q And that was also based on what we know now as
17 something called days care?

18 A It was related to that, yes.

19 Q Now, I understand that at some point the
20 provincial government changed the mechanism by which that
21 funding was provided to First Nations agencies prior to the
22 AJI-CWI; is that correct?

23 A Yes. At, at some point it changed from the
24 supervision rate to what I am more familiar with, which is
25 called the central support grant. It was still based on

1 days care but it was funded on a grant basis, on a
2 quarterly basis to the agencies.

3 Q Okay. And just for clarity, perhaps you could
4 explain your understanding what days care and what that
5 means and how it's calculated?

6 A Days care represents the actual number of days a
7 child is in paid care of an agency. So whether that be a
8 foster home payment, there were kinship rates at one time,
9 group home, residential, it's for any paid day care. There
10 are scenarios where a child can be in non-pay care but days
11 care for this purpose were paid days care.

12 Q And that's calculated on the basis of a full
13 calendar year, correct?

14 A Correct.

15 Q Now, was there a consequence in terms of the
16 province's movement towards the central support grants in
17 terms of whether or not agencies were accepting children
18 either transferred to the agency from the province or with
19 respect to children apprehended who didn't have status?

20 A There was a point just prior, a few years prior
21 to the AJI where a number of the agencies actually stopped
22 accepting cases from the province because, as an agency,
23 you understood how many days care you were funded for and
24 how that translated into the number of children in care at
25 any one time. That funding was adjusted by the province

1 periodically when your days in care went up and it got to a
2 point where that adjustment wasn't occurring and more and
3 more kids were being asked to be transferred to the agency,
4 and the agencies got to the point where they said, we can't
5 accept anymore because the funding has gotten to the point
6 that we're accepting more children than we're being funded
7 for.

8 Q Now, I understand that the funding continued on
9 the central support grant basis until the transition, which
10 has now become known as devolution, occurred; is that
11 right?

12 A Correct.

13 Q And with devolution came a new funding mechanism
14 from the province; is that right?

15 A Correct.

16 Q Perhaps you can explain to the Commissioner how
17 that new funding was handled and how it was, how it was
18 determined as part of the devolution process?

19 A Okay. Maybe one point before I talk about --

20 Q Certainly.

21 A -- the devolution transfers.

22 Just prior to the devolution or around the exact
23 same time of the devolution, at that point I was the chief
24 financial officer at the northern authority, and the
25 central support grant, which was historically driven by

1 days care, that component of being funded on days care was,
2 was taken right off the description, in a sense frozen at a
3 certain level, and there was no more consideration of days
4 care and how that factored into the level of the central
5 support grant. That amount was frozen. Again, that was
6 either right before devolution or around the same time as
7 the discussions of the RTT tables happened.

8 Then the AJI came along and the devolution came
9 along and each region was identified as a regional transfer
10 table. The responsibility of that table was to divide up
11 what was referred to as the funding envelope amongst the
12 agencies -- actually, amongst the authorities based on
13 their caseload that was identified or cases that were
14 identified. So there was a number of components.

15 First of all, was the determination of the
16 funding envelope. My recollection of those funding tables
17 is the funding envelope was brought to the table and little
18 or no explanation or rationalization was provided for any
19 workload association or division, especially in the
20 northern regions, Thompson and Normand, which I'm more
21 familiar with, because the services in those regions were
22 part of an integrated service. And there was a
23 determination by the region on how shared positions,
24 clerical, perhaps management, were split and assumptions
25 were made on the, on the -- or determinations were made on

1 the workload that were associated with CFS. Those
2 calculations determinations were not shared with the
3 resource transfer table.

4 Q Okay. Perhaps just take a step back and perhaps
5 provide some context for the Commissioner. Now, at the
6 time of the AJI-CWI, it's my understanding that in order to
7 determine which files would be transferred from Winnipeg
8 CFS or other non-First Nations agencies to the First
9 Nations agencies, first we had to identify which were the
10 eligible files for transfer, correct?

11 A Correct. That was the authority determination
12 protocol. And for each RTT table there was a case transfer
13 table and there was --

14 THE COMMISSIONER: Are you talking about
15 devolution?

16 THE WITNESS: Yes.

17 MR. FUNKE: We are exactly talking about
18 devolution, Mr. Commissioner.

19

20 BY MR. FUNKE:

21 Q So as part of that devolution process they went
22 through something called the authority determination --

23 THE COMMISSIONER: And when you keep talking
24 about AJI process, you're talking about devolution?

25 MR. FUNKE: That's exactly correct.

1 THE COMMISSIONER: Okay.

2 MR. FUNKE: Yeah. The AJI-CWI resulted in a
3 number of initiatives that ultimately resulted in the
4 process that's now become known as devolution.

5 THE COMMISSIONER: Yeah.

6 MR. FUNKE: The passing of the Authorities Act
7 and the transfer of files from Winnipeg CFS and other non-
8 First Nations agencies through the authorities and then to
9 the appropriate First Nations agencies.

10

11 BY MR. FUNKE:

12 Q So you talked about something called the
13 authority determination protocol. Perhaps you could just
14 explain, to the best of your understanding, how that
15 process operated?

16 A The authority determination protocol required
17 staff to look at a file and the family associated with that
18 file were to determine their preference in service
19 delivery, and their preference being one of four choices:
20 the general authority, the southern authority, the northern
21 authority or the Métis authority. So the case transfer
22 table was charged with the responsibility of going through
23 all the files and to determine the ADP on each file, which
24 would then determine how many cases would be identified as
25 going to the northern authority, how many were going to the

1 southern authority and so on. Because cases are fluid,
2 there was an agreement for each transfer table, an
3 agreement at a point in time where the cases would be
4 reviewed and counted and that would be the counts that
5 would come forward to the resource transfer table for
6 resource splitting.

7 Q So the resource transfer table, as I understand
8 it, then, was a table that was set up so that we could --
9 that the province and the authorities could determine the
10 number of resources that were available in that region to
11 provide service to those families that had previously
12 received services from the non-First Nations agencies, what
13 portion of those resources would then be transferred to
14 either the newly mandated First Nations agencies or those
15 that had previously had a mandate but were now expanded to
16 include service across the entire province; is that
17 correct?

18 A Correct.

19 Q And that's how they determined how much of those
20 resources would now be available to those First Nations
21 agencies; is that correct?

22 A Now much would be transferred along with the
23 cases to support the cases that were transferred, yes.

1 Q Now, were there any concerns raised at the time
2 with respect to resources that were not included in the
3 resource transfer table process?

4 A Yes, there were definitely concerns about what
5 was included in the funding envelope, especially in the
6 regions that fell under the province as a department. The
7 funding envelope or service delivery in a provincial
8 department is far different than service delivery for a
9 standalone agency simply by the fact that the government
10 has a huge infrastructure behind --

11 THE COMMISSIONER: The government what?

12 THE WITNESS: The government has a huge
13 infrastructure behind those service deliveries.

14 The funding envelopes that were looked at for
15 those departments only contained historical data within
16 that immediate service delivery. For example, the
17 government has a large purchasing department that looks
18 after arranging contracts for the government, be they
19 printers, be they cell phones, whatever. They have the
20 ability and the power, as a large province, to negotiate
21 very favourable purchase agreements. There's a number of
22 departments like that that fall outside of the direct
23 service.

24 THE COMMISSIONER: Yes, Mr. Paul.

25 MR. PAUL: Mr. Commissioner, if I could just

1 raise an objection on the basis of relevance. We seem to
2 be going into historical comments about resource transfer
3 tables with respect to matters that have long since passed.
4 I'm, I'm failing to see the connection to, to the Phoenix
5 Sinclair matter, which is why I'm rising on this basis to
6 note my objection. I'm not sure exactly where this is
7 going at the time but I wanted to note that.

8 MR. FUNKE: Certainly. It's our position, Mr.
9 Commissioner, that in order for you to understand the
10 current circumstances under which First Nations agencies
11 are required to provide service to children that are their
12 responsibility with particular relevance to children who
13 are a responsibility of the provincial government, which is
14 what we're talking about right now, you have to understand
15 not only the current funding model but also the previous
16 funding model and how that operated and what conditions the
17 First Nations agencies were required to deal with, operate
18 under, in terms of providing services at the time. So what
19 we're talking about right now is the funding that was
20 available to a First Nation agency that would have received
21 the transfer of a file at the time that Phoenix Sinclair
22 was alleged to have been in Fisher River, for example and
23 what was the funding that was available to an agency at
24 that time in terms of its service delivery.

1 In addition, what we're going to hope to
2 demonstrate to you today and perhaps tomorrow as well, is
3 that certain funding shortfalls that we allege were, were
4 in place at the time resulted in agencies having to
5 compromise services and run deficits which they have been
6 required to carry forward and have never been
7 satisfactorily addressed by the province. It's our
8 position that in both of those ways it impacts on the First
9 Nation CFS agencies' ability to deliver the very services
10 that they required to under the, not only the CFS Act but
11 also under the Authorities Act and is the subject of this
12 inquiry.

13 THE COMMISSIONER: Mr. Paul.

14 MR. PAUL: The only thing I'd add for
15 consideration is, is in terms of assessing the relevance of
16 going into this issue is to consider Mr. Walker's testimony
17 yesterday with respect to his views on the adequacy of the
18 funding model. I think his testimony was quite favourable
19 to that funding model. Again, I, I'm simply raising for
20 this Commission's consideration.

21 THE COMMISSIONER: Well, I must say I, I
22 certainly didn't expect to get all this technical financial
23 assistance. It's -- I have a great difficulty getting the
24 relevance of it but --

25 MR. FUNKE: Well --

1 THE COMMISSIONER: -- Commission counsel, have
2 you got anything to contribute on this?

3 MS. WALSH: I'm hopeful that we can get to the
4 specific point that Mr. Funke wants to make shortly.

5 THE COMMISSIONER: Well, that's why I've stayed
6 quiet because I hope he's going to get there soon.

7 MR. FUNKE: And I appreciate that, Mr.
8 Commissioner. The difficulty is, is that -- and I don't
9 mean to be trite, but we've heard a great deal of evidence
10 about the fundamental causes that contribute to the over-
11 representation of First Nations children in the child
12 welfare system in Manitoba. A lot of that has to do with
13 the lack of resources, concerns with respect to poverty --

14 THE COMMISSIONER: Well --

15 MR. FUNKE: -- poor housing and substance abuse,
16 the underlying causes that contribute to the over-
17 representation of children in the, in the system. I've
18 heard your comments, Mr. Commissioner, where you've
19 indicated that you hope to hear, during the course of this
20 inquiry, some explanation as to why that's the case. Our
21 position is, is that the First Nations agencies' ability to
22 address those fundamental contributing causes to the
23 elevated numbers of First Nations children who are in care
24 is directly proportionate to the number of resources that
25 have been made available to those agencies and try to

1 combat those contributing forces. Now, if that's not
2 relevant, I'll move on. But I take the position that
3 that's the, what's at the core of that issue: What
4 resources have been made available to the First Nations
5 agencies to address those contributing causes and if
6 there's been a historical inequity that can be connected to
7 the increasing numbers of First Nations children who are in
8 care in this province I think is the subject of further
9 inquiry by, by yourself. That's my submission.

10 THE COMMISSIONER: Mr. Paul.

11 MR. PAUL: The only thing I would add, Mr.
12 Commissioner, is that if there is concerns about the
13 present funding model, that I think (inaudible) get
14 straight to that point. I don't think the, the historical
15 information, in our view, is relevant. Thank you.

16 THE COMMISSIONER: Well, I hope you get through
17 the historical work fairly quickly, Mr. Funke, and get to
18 the point that's relevant to the funding of today.

19 MR. FUNKE: And we intend to do that, Mr.
20 Commissioner.

21 THE COMMISSIONER: I, I'll let you continue but
22 I, of course, make no finding at this point as to what I
23 consider the relevance of it to be until we've heard the
24 thing. But I'd appreciate you going through the, whatever
25 it is you want to do historically, without an over-

1 abundance of detail and get on to the point of what's
2 causing your client a problem.

3 MR. FUNKE: And I'm try --

4 THE COMMISSIONER: And I'm, and I'm interested to
5 hear that.

6 MR. FUNKE: Very good. Thank you.

7

8 BY MR. FUNKE:

9 Q All right. So as I understand your evidence,
10 then, Ms. Freeman, you're saying that there were certain
11 embedded costs in government operations that weren't
12 adequately reflected in the resource transfer tables; is
13 that correct?

14 A Correct, and that was identified at the resource
15 transfer tables and recognized by all parties.

16 Q And I understand as well you had earlier given
17 evidence with respect to fractional costs with respect to
18 services and/or capital costs and equipment that wasn't
19 easily divisible amongst the various agencies that were
20 required to share in those assets; is that correct?

21 A Correct. Any time you split anything and you
22 take a centralized service and divide it amongst the number
23 of locations and service delivery, you do create a
24 splitting of hard numbers. For example, half person. We
25 can't really have half a person or half an FTE for a full-

1 time position such as reception. Half a printer, half the
2 costs associated with a printer/fax. It's all fractional.
3 So the point is when you split something, one -- take a
4 whole and split into four you do sometimes increase costs
5 simply because you have to have repetitive that were once
6 shared.

7 Q I understand that based on the resource transfer
8 tables there were a number of paid positions that were
9 transferred to each of the agencies at the time of
10 devolution; is that correct?

11 A Correct.

12 Q And the individuals who came with those paid
13 positions were the seconded workers that we've heard about
14 in evidence?

15 A Correct.

16 Q And I understand as well that there was a
17 discussion at the resource transfer tables at the time that
18 the amounts available to the agencies reflected in those
19 seconded positions, it was the intention that those amounts
20 would be revisited over time to adjust for potential
21 increases in case volume; is that correct?

22 A The RTT was talked about that over time the
23 province would review the caseloads in each region and to
24 each authority and agency in order to adjust for any
25 increase in volumes.

1 Q And did that ever occur?

2 A No, it did not.

3 Q I under --

4 A Oh, I'm sorry, one correction. There was a one-
5 time workload adjustment done in '06/'07. It started in
6 '06/'07.

7 Q And in fact, that's, that's the workload relief
8 that we've heard already referred to throughout the
9 inquiry; is that correct?

10 A Correct.

11 Q Right. And that was a one-time payment that was
12 divided amongst the -- sorry, not one time. A one-time
13 increase that was divided amongst the various agencies in
14 the province; is that correct?

15 A Correct.

16 MR. FUNKE: Madam Clerk, if you could bring up
17 the exhibit tab 106 in our disclosure materials. And for
18 your edification, Mr. Commissioner, that's the extent to
19 which we wanted to provide historical information just to
20 give you a context --

21 THE COMMISSIONER: Thank you.

22 MR. FUNKE: -- for the information that's about
23 to be presented.

24 THE COMMISSIONER: Thank you.

25 MR. FUNKE: Madam Clerk, you should be able to go

1 up to view.

2 THE WITNESS: If you go up to the ...

3 THE CLERK: Yeah, all right.

4 THE WITNESS: Rotate view on the very top,
5 clockwise.

6 MR. FUNKE: Very good. There you go.

7

8 BY MR. FUNKE:

9 Q Now, this is a PowerPoint, Ms. Freeman, that I
10 understand was developed some time in 2008, correct?

11 A Correct.

12 Q And presented on October 7th, 2008. And who was
13 responsible for preparing this PowerPoint?

14 A Mr. Scott Amos (phonetic) from the federal
15 government.

16 Q Very good. And I understand that at the time
17 that this PowerPoint was presented and during your
18 involvement, you were the chief financial officer for the
19 northern authority; is that correct?

20 A Correct.

21 Q And I apologize if I failed to be clear about
22 this, but I understand as well that during the resource
23 transfer tables and your involvement in that process during
24 AJI-CWI, you were once again participating in that process
25 on behalf of the northern authority as their chief

1 financial officer at the time; is that correct?

2 A Correct.

3 Q Right. Perhaps you can just go through the
4 PowerPoint with us, then. And we'll take a look at one
5 page at a time

6 MR. FUNKE: Madam Clerk, if you'd go to the next
7 page, please.

8 THE COMMISSIONER: This was a PowerPoint
9 presented by the feds at the time of negotiating the new
10 agreement; is that it?

11 MR. FUNKE: It was jointly prepared between the
12 federal government and the provincial government. It was,
13 at that time, a joint initiative between the two of them to
14 address what was perceived to be funding inequities or
15 funding insufficiencies for First Nations agencies.

16 THE COMMISSIONER: And arising out of it the, the
17 formula came?

18 MR. FUNKE: This is the direct process that
19 resulted in the new funding formula that's present --

20 THE COMMISSIONER: Is there value in going
21 through this whole PowerPoint then if that's, if we know
22 the result of it?

23 MR. FUNKE: In my submission it is very
24 illuminating in terms of the things that -- various factors
25 that were considered in determining the new funding model,

1 Mr. Commissioner, and it's important because it also
2 identifies some things that were not considered in the new
3 funding model.

4

5 BY MR. FUNKE:

6 Q So in terms of the background and history, it
7 identifies that on the 13th of June, 2007 First Nations
8 Child and Family Service national advisory committee
9 meeting was held here in Winnipeg.

10 MR. PAUL: Mr. Commissioner, again, I rise on the
11 objection. If there are concerns about the present funding
12 model, can simply get to that point. The historical
13 background, in our view, isn't relevant. If there's a
14 concern today, this witness is more than free to speak to
15 it. The historical traction to it we say is irrelevant to
16 the present state.

17 THE COMMISSIONER: Well, Mr. Funke, do you plan
18 to go through all those pages of this document that we're
19 -- that was prepared for all those years ago to get to the
20 funding agreement we've got now?

21 MR. FUNKE: The difficulty, Mr. Commissioner, is
22 that what we're dealing with here is an incredibly complex
23 funding model, and if we don't lay some form of background
24 for you to understand the funding model, the concern is, is
25 that it's a difficult model to --

1 THE COMMISSIONER: Well, why don't you --

2 MR. FUNKE: -- wrap your head around.

3 THE COMMISSIONER: Why don't you go to the model
4 and, and put it out on the table, and if there's questions
5 arising out of it I think we can rely on Commission counsel
6 to, to ask those questions. I think we'd better get to the
7 funding model. I don't see why, what relevance there is in
8 listening to a document that was prepared those years ago
9 in order to arrive at a funding model. We've got the
10 funding model and let's hear what you want to say about it.

11 MR. FUNKE: All right. If I can have just a
12 moment, then.

13

14 BY MR. FUNKE:

15 Q Ms. Freeman, it's my understanding that in the
16 current funding model there is an agreement in terms of the
17 division of responsibility for certain funding
18 responsibilities, is that correct, in terms of the portion
19 that the province will pay and the portion that the federal
20 government will pay; is that correct?

21 A Yes.

22 Q And what is that?

23 A The agreement that came out of the funding table
24 was that based on the number of children in care at the
25 time we were looking at this model, which was the summer of

1 2008, and we looked at the previous years' children in care
2 statistics, it indicated that on a province-wide basis,
3 provincially funded children in care represented
4 approximately 60 percent of total children in care and the
5 remaining 40 percent was federal children in care. That
6 determination guided the splitting of the core or the
7 shared costs.

8 When an organization delivers service, of course,
9 there's core costs, and because you have two streams of
10 service, service delivery on and off reserve, that core
11 cost is really shared and covers both sets of streams of
12 service delivery, so that core costs should be shared. And
13 that 60/40 split was how they determined those core costs
14 to be shared.

15 Q Perhaps just to assist the Commission, Ms.
16 Freeman, you can explain what you mean by "core costs"?

17 A Core costs in the definition of this model are
18 anything that's not directly related to service delivery,
19 so it's your executive director, your finance department,
20 your statistical department, your HR, your overriding
21 policy and procedure, it's your research, anything that's
22 not, may not necessarily deal with direct service delivery.
23 If we look at the province, the Child Protection Branch to
24 a certain extent is core.

25 Q And when you're talking about the province's

1 contribution of 60 percent of core funding and the federal
2 government's contribution of 40 percent of core funding,
3 you're talking about provincial-wide funding for that
4 agency, correct? You're not just talking about services on
5 reserve, you're talking about services province-wide?

6 A Correct.

7 Q And I understand that that was based on the
8 statistical analysis that was conducted with respect to the
9 total provincial population, is that correct, not just with
10 respect to any particular agency?

11 A The total children in care in the province.

12 Q It's my understanding as well that core funding,
13 which was provided under the new model by both the federal
14 and provincial government, there had been previously no
15 core funding provided to the agencies by the province prior
16 to the new funding model; is that correct?

17 A I wouldn't say no; it was very small.

18 Q So this was a significant improvement on core
19 funding?

20 A Very significant, yes.

21 Q Okay. Now, I understand as well that in terms of
22 calculating core funding, agencies have been broken up into
23 categories otherwise known as small, medium and large; is
24 that correct?

25 A Correct.

1 Q And perhaps you can tell the Commissioner what
2 the criteria are for determining whether or not an agency
3 is small, medium or large?

4 A There were three separate criteria that was
5 looked at. The first one was full-time equivalence or
6 staffing levels. The second one was the population of the
7 zero to 18 population on reserve for those First Nation
8 agencies as well as the number of cases that the First
9 Nations agency was carrying. So of those three categories,
10 all the agencies were reviewed and ranked and grouped.
11 When we looked at all the agencies in those three
12 categories we sort of then came to an identification of
13 grouping and we said between this range and this range is
14 going to be small, this range and this range is medium and
15 large, so forth, based on what we actually saw, to try and
16 group the agencies. Once that was done and we came up with
17 the ranges for each of those categories, the agencies were
18 plot or identified, small, medium, large. If they met any
19 one category or two of the categories were medium, they
20 would become a medium. If two of them were large, it would
21 become a large. But if someone had two medium and one
22 large, they were a medium. So as long -- they were
23 categorized, whenever they met two of the categories in the
24 same range.

25 Q And so how does the designation of either being a

1 small, medium or large agency affect the funding that an
2 agency would receive with respect to their core functions?

3 A There are a number of components in the core
4 funding that are based on whether you're small, medium,
5 large. There are variances in staffing level and there are
6 variances in funding with respect to certain operational
7 costs identified with core. So there was a -- your level
8 of funding was affected by whether you were small, medium
9 and large.

10 Q Now, with respect to, you talked earlier about
11 two different components of funding that every agency
12 receives, one is maintenance and one is operations, in
13 terms of the overhead component that is included under the
14 new funding model, how is it that overhead is calculated in
15 terms of the, of the funding?

16 A On both the core and the service delivery side,
17 overhead is calculated at 15 percent of total salaries and
18 benefits.

19 Q And how was that 15 percent number arrived at?

20 A There was a lot of discussion at the table around
21 that. There's not a lot of research or evidence out there
22 that identifies what an organization's operational cost
23 will be as a percentage of their salaries and (inaudible)
24 how do you determine what percentage of an organization
25 costs should be core. And more so within the government

1 departments, because again, the infrastructure within the
2 government there's not a nice clean line and identification
3 of core costs. So the 15 percent historically really came
4 from the previous funding models and structures that the
5 government did. Any time there was a secondment or -- in
6 the central support grant or other calculations of segments
7 of funding, 15 percent was a consistent number that was
8 always used so that was carried forward to here.

9 Q And was there any concern expressed at the time
10 in terms of core services that were not identified in the
11 funding model?

12 A Yes. We had a concern with the admin/clerical
13 positions identified in the core. We felt it under-
14 represented what the agencies were actually already
15 experiencing in regards to staffing level for finance,
16 stats and admin support. We also were concerned that there
17 was no communication. The new funding model was attached
18 with the expectation that it would be a family, or family
19 focused prevention, lots of terms have come and gone over
20 the years and the expectation was that it was going to be
21 viewed as a change in traditional Child and Family Services
22 delivery, one that switched from protection to prevention.
23 So the agencies were concerned that without having a
24 communication in the core that the agencies would be
25 challenged in trying to get that message out to the

1 community and making those connections and that networking
2 that would help the agencies change the community's view of
3 Child and Family Services from one of protection to one of
4 prevention.

5 We also had a concern about IT or computer
6 support positions. While the model has, in recognition or
7 accommodation of some IT costs, there is no recognition or
8 identification of a position for IT. So again, an agency
9 that has multiple locations has --

10 THE COMMISSIONER: Now, just a minute. Are these
11 concerns you had at the time the new funding agreement was
12 being --

13 THE WITNESS: At the table? Yes.

14 THE COMMISSIONER: But it was ultimately, the
15 agreement was negotiated?

16 THE WITNESS: I wouldn't use the term
17 "negotiated".

18 THE COMMISSIONER: What would you use?

19 THE WITNESS: I would use the term that the
20 federal and province government came to an agreement
21 amongst themselves what they would fund but I wouldn't say
22 that the agencies were in agreement with it. The agencies
23 sat at the table and identified their concerns, raised
24 their issues, asked for things, but I'm not sure I would
25 categorize it as negotiations.

1 MR. FUNKE: There was a consultation, Mr.
2 Commissioner, but it wasn't negotiated.

3 THE COMMISSIONER: Well, is your point that the
4 dissatisfaction that existed then, that you're having your
5 witness point out, exists today?

6 MR. FUNKE: That's correct, Mr. Commissioner.

7 THE COMMISSIONER: Well, why don't you just get
8 on with, with the current situation?

9

10 BY MR. FUNKE:

11 Q Well, my next question is, were those concerns
12 ever resolved?

13 A No.

14 Q They continue?

15 A Yes.

16 Q Thank you. There was also a concern raised at
17 the time with respect to the model's failure to address the
18 additional costs incurred by an agency that was required to
19 provide services across multiple sites; is that correct?

20 A Correct.

21 Q Perhaps you can explain what that means to the
22 Commission.

23 A Again, when you talk about splitting funding,
24 when you take a single dollar calculation and split it
25 amongst locations there is a splitting or fractioning of

1 costs and equipment, people. So the way the model is
2 calculated, it doesn't take into account multi locations,
3 so then the number is calculated as if it is delivered from
4 a single location.

5 Q So why would that, why does that make it more
6 expensive to deliver services?

7 A Especially in First Nation communities and
8 especially for an agency has multi communities, when you
9 have a calculation that gives you four admin staff and you
10 have eight locations to serve, you get half an admin staff
11 for each location. It causes an issue with some minimum
12 service delivery.

13 Q Okay. Now, turning to non-core service delivery
14 funding, there are also concerns with respect to the
15 funding model in that regard; is that correct?

16 A Correct.

17 Q With respect to after-hours, how is that
18 addressed in the funding model?

19 A After-hours, on the federal side, is a percentage
20 of salaries.

21 Q And on the provincial side?

22 A On the provincial side it's not included in the
23 model because those services are covered by the designated
24 intake agencies.

25 Q And what is the model's approach to placement

1 workers?

2 A On the federal side, the federal government
3 allows a calculation of one worker for every 30 child-in-
4 care files. There is no such equivalent on the provincial
5 side.

6 Q Perhaps you can explain for the Commissioner what
7 a placement worker is?

8 A Placement worker, in my understanding, because
9 I'm not a social worker, placement worker is a position
10 that is charged with the responsibility of looking after
11 the foster homes, the licensing, the monitoring, the
12 relationship of that foster home. They're charged with the
13 responsibility of looking after that resource.

14 Q So the agency's operations on reserve in that
15 regard are funded by the federal government but the
16 agency's requirement to provide that service off reserve is
17 not funded?

18 A I'm not sure it's not funded. It's, it's
19 expected to be covered off by the case manager positions.

20 Q So it's an addition --

21 A So where, where the, where the federal government
22 sees it as a separate and distinct calculation, on the
23 provincial side that separate and distinct calculation is
24 absent.

25 Q I understand it's the same position taken with

1 respect to foster workers, that's funded separately by the
2 federal government but not funded directly by the
3 provincial government; is that correct?

4 A Foster worker and placement worker are one and
5 the same.

6 Q Okay. Now, there's also something in the model
7 known as service purchase dollars. Perhaps you can explain
8 to Mr. Commissioner how that works and how it's calculated?

9 A On the federal side, first of all, service
10 purchase dollars are what an agency would use in providing
11 services to either the families and for which children are
12 already in care, families which do not have children in
13 care. So those purchase services are meant to either help
14 return the child to the family or prevent the child from
15 coming into care. Purchase services. That can be therapy,
16 it can be in-home supports, it can be emergency services,
17 and to some extent it can even be community initiatives
18 that are prevention-focused that address a target group.
19 Those purchase services on the federal side are calculated
20 at a hundred dollars per child population between the age
21 of zero and 18, not child cases but child population. On
22 the provincial side it's a hundred and -- \$1,300 per case,
23 family case, whether it be a protection family case or
24 whether it be what's called a family enhancement case.

25 MR. FUNKE: And perhaps, Madam Clerk, if you

1 could bring up material under tab number 102 in our
2 disclosure. That might be of some assistance to the
3 Commissioner. And if you could resize that so it fits a
4 little better on the screen. Thank you.

5 So Mr. Commissioner, what you see on the screen
6 before you now is a side-by-side comparison of the two
7 different funding calculations that are comprised within
8 what is known as the EPFA funding model. I think this will
9 be of particular interest to, to the Commission. Think
10 it's what you've been looking for, is the calculation of
11 the funding models and a side-by-side comparison on a line-
12 by-line comparison between the federal and provincial
13 governments.

14

15 BY MR. FUNKE:

16 Q Perhaps, Ms. Freeman, you could just go through
17 those lines and talk about the comparisons between the
18 provincial and federal funding models and how they relate
19 to one another?

20 A As we've sort of alluded to, the, the positions
21 in the core component are funded 60 percent by the federal
22 government, 40 percent by the provincial government. The
23 determination of the number of positions that you receive
24 as an agency are determined on whether you're classified as
25 a small, medium or large agency. So you can see a small

1 gets 10, a medium gets 11 and a large gets 15.

2 Q Okay. Before we go on, maybe you could just
3 explain, what positions in an agency are represented by
4 core?

5 A In the PowerPoint there's actually a slide that
6 details the number of positions and what they actually are.
7 If the clerk can call it up. It's the --

8 Q No, you can just tell us. We don't need to pull
9 it up.

10 A Okay. Give me a minute so I can find it.

11 The positions consist of an executive director, a
12 director of finance, admin or clerical positions, and that
13 will vary based on the agency size. Statistical, financial
14 analyst, and that's only available to an agency who's
15 classified as large. An executive assistant, an HR
16 specialist, a quality assurance specialist, a secretary-
17 receptionist and a child abuse coordinator.

18 Q Okay. Now, in terms of the, the comparison
19 between the two different funding streams, I notice that
20 with respect to the provincial side under the heading of IT
21 it notes that there are zero dollars available; is that
22 correct?

23 A That's correct.

24 Q So what does that mean in terms of an agency's
25 funding for information technology services?

1 A It essentially means there's no allocation
2 associated with the core for computer-related costs. That
3 is the only line that is specifically identified as IT. On
4 the provincial side, you will see down on the service
5 delivery side, it's the third box from the bottom on the
6 right-hand side screen, and you see that there's an IT
7 allocation on the service delivery side as well.

8 Q Now, it says capped at funding transferred
9 through the resource transfer tables. You can just tell us
10 how that was calculated at the RTTs.

11 A At the RTTs, the computer support and IT were one
12 of the functions that were identified as being paid for
13 outside of the funding envelope, one of those government
14 infrastructure costs. There was a lot of discussion at the
15 table and it was identified that the government at the time
16 contracted with a third party that provided desktop
17 support. And desktop support is not system networking,
18 it's not looking at the needs of an agency as far as
19 hardware/software connections. Desktop support is simply
20 if you have a problem with Word or you have a problem with
21 your printer printing, or you have a problem accessing
22 CFSIS, that's desktop application.

23 Q So the total IT allocation that the province has
24 identified in their funding model to the agency is capped
25 at the equivalent of a hundred and ten dollars per full-

1 time equivalent per month as I understand it, correct?

2 A Right.

3 Q And that's --

4 A Based, based on the full-time equivalent staffing
5 positions that were transferred under the RTT which were
6 never adjusted for (inaudible).

7 Q And as I understand it, with respect to, we're
8 using Nisichawayasihk Cree Nation, the wellness centre, as
9 our funding model for this presentation, that was
10 approximately nine positions; is that correct?

11 A I'm just going to refer to the tab that we have
12 some of that detail. (Inaudible) looked at it. Nine point
13 -- have to take my math -- 9.18 minus .68, so 8.5.

14 Q Eight point five positions were transferred to
15 the RTT. So the total fund -- IT funding component in the
16 new model is approximately a thousand dollars a month?

17 A I'm an accountant but without my calculator I'm
18 lost.

19 Q Okay. Nevertheless, one of the --

20 A It translated to about \$30,000 a year.

21 Q Okay. And it's my understanding that
22 notwithstanding that there's no core funding under IT and
23 limited funding under the service delivery model,
24 nevertheless one of the criteria in order to receive your
25 funding through the new funding model is that the agency

1 must be CFSIS compliant, correct?

2 A Correct.

3 Q But other than that amount that you've just told
4 us about, there's no other funding available to assist the
5 agency in becoming CFSIS compliant; is that correct?

6 A Not on the provincial side, no.

7 MR. FUNKE: Now, Madam Clerk, if you could move
8 to the second page of this exhibit, please.

9

10 BY MR. FUNKE:

11 Q Now, Ms. Freeman, I understand that this is a
12 table that you have developed to compare the funding model
13 through the federal government with the funding model
14 through the provincial government based on the same number
15 of files; is that correct?

16 A Correct.

17 Q So you can do a side-by-side comparison of the
18 funding model between the two different funding sources?

19 A Correct.

20 Q And what did you find when you compared the two
21 different funding models based on the same number of files?

22 A We found, if you can -- Madam Clerk, if you can
23 scroll down. We found that there was significant
24 differences between how the federal government funds a case
25 and how the provincial government funds a case. We used

1 the example of 440 cases and you can see the total service
2 delivery funding under the federal government creates 44
3 positions, which is the first column. Under the province
4 it creates 24 positions. The dollar value difference
5 between those two is 2.4 million.

6 Now, if you look further down you can see I carry
7 the 2.4 million. You'll see I subtract a number of
8 figures. What I have subtracted is funding lines within
9 that model that are funded on the federal side and have
10 been identified to either be funded somewhere outside the
11 provincial model, not in here.

12 Q So --

13 A So to be fair, I have that amount to reduce that
14 discrepancy or the variance.

15 Q So that's just a correction to eliminate those
16 variables in order to make the models --

17 A Comparable.

18 Q -- parallel?

19 A Correct.

20 Q Nevertheless, based on the same number of files
21 that an agency is responsible for with respect to those
22 services that are federally funded compared to the same
23 number of files that the agency would be responsible for
24 that are provincially funded --

25 A Um-hum.

1 Q -- you're indicating that under the federal
2 model, the agency would receive two million dollars more in
3 funding for the same number of files?

4 A Correct.

5 Q And as I understand it, when the model was
6 initially developed, the federal government and the
7 provincial government started from the same assumptions; is
8 that correct?

9 A For the most part, yes. There was some
10 identification of issues on the provincial side that they
11 said they would have to take back, and we knew at the table
12 that they were, they would be a problem.

13 Q But the intention was, to, to the greatest extent
14 possible, to try to create funding parity between the
15 province and the federal government; is that correct?

16 A Correct.

17 Q And as I understand it, one of the things that
18 you also demonstrate on this, on this table is that as the
19 number of files increases, the disparity increases; is that
20 correct?

21 A For the most part, yes.

22 Q So the larger the agency the greater the penalty
23 in terms of the difference between the provincial and
24 federal funding?

25 A Correct.

1 MS. WALSH: Mr. Commissioner, could we have a
2 five-minute recess?

3 THE COMMISSIONER: Yes.

4 MS. WALSH: Thank you.

5 THE COMMISSIONER: All right. We will take a
6 five-minute break.

7

8 (BRIEF RECESS)

9

10 MR. FUNKE: I see we're back on. Thank you very
11 much, Mr. Commissioner, for a moment to, to regroup and
12 collect our thoughts. I think what will be of great
13 assistance to the Commission is the material that we
14 provided under tab 104 of our disclosure material. I'll
15 ask Madam Clerk to bring that up, if she can.

16 THE COMMISSIONER: 104?

17 MR. FUNKE: 104. Can just make it a little bit
18 bigger so everybody can see it. Thank you very much.

19

20 BY MR. FUNKE:

21 Q So Ms. Freeman, on this page are a number of
22 different tables. As I understand it, these tables are
23 designed to help understand how the funding model
24 translates into staff and time that staff has available to
25 spend with the families and children that are their

1 responsibilities; is that correct?

2 A Correct.

3 Q And I realize that this afternoon, or this
4 evening now, we're spending a lot of time talking about
5 money, funding and calculations to determine how that money
6 moves from the federal and provincial government to the
7 agencies; is that correct?

8 A Correct.

9 Q Is it of some assistance, in terms of discussing
10 the funding model, to think of this issue not in terms of
11 money but, rather, in terms of time?

12 A Very much so.

13 Q One of the things that we've heard so much about
14 at this inquiry is that workers talk about caseload and
15 workload; is that correct?

16 A Correct.

17 Q And that because of caseload and workload they
18 have a limited amount of time to spend with each child and
19 with each family and on the services and duties that they
20 have that are required in order to perform their job
21 functions; is that correct?

22 A Correct.

23 Q All right. So the very first table that appears
24 at the top left-hand corner of this page talks about the
25 resource transfer tables; is that correct?

1 A Correct.

2 Q All right. And what this diagram represents is
3 the positions that were available to this particular agency
4 at the time of AJI-CWI, what we know as devolution, and the
5 positions that were made available to them as a result of
6 the transfer of cases from Winnipeg CFS and other non-First
7 Nations agencies to NCN wellness centre at the time; is
8 that correct?

9 A Correct.

10 Q Okay.

11 A One, just one clarification. Because Brandon
12 came on later, so while the, the resources may have been
13 transferred to the agency at different points in time, the,
14 the direct service workers or the FTEs were determined at
15 the original transfer table and there were no adjustments
16 made.

17 Q So at the RTTs, at those resource transfer
18 tables, when they were determining how many positions would
19 be available to, to the wellness centre, although they may
20 not have been made available to them immediately, the
21 calculation was done all at once?

22 A Correct.

23 Q So the number of positions in terms of direct
24 service workers, that's what DSW stands for, correct?

25 A Correct.

1 Q The total number of direct service workers that
2 were available to the agency as a result of devolution was
3 9.18; is that correct?

4 A Correct. It does contain the .68 of the workload
5 that came after the RTT tables.

6 Q And that's the workload relief --

7 A Workload relief.

8 Q -- adjustment that you talked about earlier,
9 correct?

10 A Correct.

11 Q Right. As I understand it, that was a five
12 million dollar increase in the funding that was made
13 available to all agencies across the province; is that
14 right?

15 A My understanding, my recollection, it was five
16 million total, yes.

17 Q Okay. Now, the total number of cases that were
18 transferred over to the wellness centre at that time were
19 220 provincial cases; is that correct?

20 A One clarification. It wasn't actual cases, it
21 was what the cases that we used to determine funding,
22 because again, the cases were determined at a point in
23 time, because cases are fluid, and in order to be able to
24 do work at the resource transfer table, they had to have a
25 static or a number to divide resources so a point in time

1 was chosen. What actual cases were transferred may have
2 differed from what was funded.

3 Q Sure. But in terms of the funding model, it was
4 based on a point-in-time calculation of the number of cases
5 that were eligible to be transferred to the wellness
6 centre, correct?

7 A Correct.

8 Q And that's represented by the number of 220,
9 which is right next to 9.18, right?

10 A Correct.

11 Q And the number next to that, which is 23.97,
12 represents the ratio of cases per worker under the resource
13 transfer table; is that right?

14 A Correct.

15 Q And at one to roughly 24 were right in the right
16 in the model target that we've heard about as being one
17 point -- one worker for every 25 files; is that correct?

18 A For the protection service delivery, yes.

19 Q Okay. And that's where things stood at the time
20 of devolution?

21 A Correct.

22 Q Now, I understand what you were explaining
23 earlier was that the resources that were made available
24 through the RTTs were never adjusted in terms of volume
25 other than that one-time work, workload adjustment; is that

1 correct?

2 A Correct.

3 Q And so from the time of devolution in 2005 and
4 2006 all the way to the introduction of the funding model,
5 other than that one workload relief adjustment, those,
6 those staffing levels remained constant; is that right?

7 A The funding for the staffing levels remained
8 constant.

9 Q However, as I understand it, with the increases
10 of children coming into care throughout that same time
11 period, the number of cases that the agency was responsible
12 for during that time increased and increased significantly;
13 is that correct?

14 A Correct.

15 Q And if we look at the very next table, which is
16 next to it, that says at the top, as at 10/11, that
17 represents the number of cases that the wellness centre was
18 responsible for in the fiscal year 2010/2011; is that
19 right?

20 A That's what was reported at the year end annual
21 reporting.

22 Q And again, that's a point in time.

23 A Point in time.

24 Q Indication of the number of cases that the
25 wellness centre was servicing?

1 A Correct.

2 Q And we can see that those cases now have, has
3 risen to 483 cases; is that right?

4 A Correct.

5 Q Over double the number of files that they were
6 responsible for in 2005 and 2006; is that correct?

7 A Correct.

8 Q And there was no corresponding increase in
9 staffing levels; is that correct?

10 A Other than the workload relief, correct.

11 Q And as a result, when we look at the ratio of
12 cases per worker in 2010 and 2011, we see that the ratio
13 rose to the point where every worker was then responsible
14 for almost 53 cases; is that right?

15 A Correct.

16 Q As I understand it, that corresponds to Mr.
17 Walker's testimony yesterday where he indicated that at one
18 point things got so bad the workers at his agency were
19 carrying over 50 files?

20 A I wasn't privy to his testimony.

21 Q But if he did testify to that, in fact, that's
22 what this table reflects?

23 A Correct.

24 Q All right. And now the new funding model next to
25 that shows that we now have 18 workers that are funded

1 under the new model, correct?

2 A Correct.

3 Q And when we look at the number of files, which is
4 483 to 18 workers, we see that the ratio is now down to
5 just under 27 cases per worker; is that right?

6 A Correct.

7 MR. FUNKE: Madam Clerk, if you can just scroll
8 down, please.

9

10 BY MR. FUNKE:

11 Q Now, the table at the bottom right-hand corner is
12 a breakdown of days in care, and you'd already spoken
13 earlier about what days in care represents, correct?

14 A Correct.

15 Q And this shows between level one and levels two
16 through five what percentage of the children in care with
17 this particular agency are placed either in level one
18 placements or in level two or higher placements; is that
19 correct?

20 A Correct.

21 Q As I understand it, that demonstrates that as of
22 2011 and 2012 there were just over 45,000 days in care
23 represented by children in those placements; is that right?

24 A Correct.

25 Q And that represents just under 58 percent of the

1 children who were in care with the agency at that time?

2 A Correct.

3 Q So that means that 58 percent of the children in
4 care fell into special needs categories --

5 A Correct.

6 Q -- that required a placement in either level two
7 or higher placement; is that right?

8 A Correct.

9 Q And that's an indication that those children,
10 because they have special needs, require more time and
11 effort in managing those files; is that correct?

12 A That's my understanding. I'm not a social worker
13 but that's my understanding.

14 Q And that's also an increase over what the
15 distribution was in 2005 and 2006; is that correct?

16 A Correct.

17 Q At that time, it was 54, just under 54 percent of
18 children in care who required a special needs placement; is
19 that right?

20 A Correct.

21 MR. FUNKE: Madam Clerk, if you could turn to the
22 next page, page 2. That's fine, thank you.

23 Mr. Commissioner, this, this page shows a number
24 of different tables that indicates the staffing allocation
25 at the agency as a result of the new funding model.

1 BY MR. FUNKE:

2 Q And it's my understanding, Ms. Freeman, if we
3 look again at the table at the top left-hand corner of the
4 page, under total funded, which is the last column to the
5 right of that table, it shows the total number of positions
6 that are funded through the new funding model; is that
7 correct?

8 A On just the service delivery side?

9 Q On the service delivery side, not including core?

10 A Correct.

11 Q Right. And the other columns show the breakdown
12 of the actual positions that exist at the agency in their
13 Winnipeg and Brandon office in the first column?

14 A Yes.

15 Q In the second column is Thompson?

16 A Yes.

17 Q Not including the staff that are provided for
18 under the designated intake agency?

19 A Correct.

20 Q The next column shows the total proposed staffing
21 levels; is that correct?

22 A Correct.

23 Q And again, this is based on the budget for 2013
24 and 2014?

25 A Is based on the proposed budget. That also is

1 related to the business plan that was submitted to the
2 province --

3 Q Certainly.

4 A -- and the, the authority and federal government.

5 Q Now, that table shows us that although there are
6 29 funded positions, it shows that there are only actually
7 27.16 positions that are proposed for the budget?

8 A Correct.

9 Q Can you explain to us why, if the model funds 29
10 positions, there are, in fact only 27, slightly over 27
11 positions that are being proposed in the 2013/2014 budget?

12 A If you look further down the left-hand side of
13 the table below entitled Operating, you'll notice that the
14 funded amount for operating is 250,000, and you'll see that
15 the projected costs of operating are 407,000. That
16 difference is the reason why the staffing levels are less
17 than what is in the funded model because more costs has to
18 be, have to be expended on operating than expected or
19 allowed for in the funding model.

20 The other reason, if you look in the top table
21 again, the very bottom classification, finance, admin and
22 statistical, you may recall that I indicated that there was
23 a concern about the level of admin, finance and statistical
24 positions created under the funding model and how we felt
25 that it wasn't representative of what the agencies were

1 actually experiencing, would experience.

2 Q Okay. We'll get to that in a moment, but I want
3 to stay with your commentary under the, under the operating
4 heading.

5 Now, when you're showing those costs for lease
6 space, travel, office supplies, communications, et cetera,
7 and it says projected, that's the budget figures for
8 2013/2014, correct?

9 A Correct.

10 Q And that's for the total operating budget for all
11 three locations of the agency; is that right?

12 A Provincial.

13 Q Provincial locations of the agency; is that
14 correct?

15 A Correct.

16 Q Right. Now, this reflects the concept that you
17 referred to earlier in your testimony when you talked about
18 the, some of the difficulties in terms of providing
19 services over multiple sites; is that correct?

20 A Correct.

21 Q And as a result, there are additional costs in
22 operating the agency over those multiple sites; is that
23 right?

24 A Correct.

25 Q Now, whereas your funding for the agency to

1 provide services off reserve across those multiple sites is
2 not based on actual figures; is that right?

3 A I'm sorry, say that again, Jay?

4 Q The funding allocation that's provided to the
5 province in terms of those operating costs is not
6 calculated based on actual expenditures?

7 A Correct.

8 Q It's my understanding that the operating
9 allocation under the funding model is provided as a
10 percentage of salaries and benefits; is that correct?

11 A Correct.

12 Q On both sides, on both the provincial and the
13 federal model, it's 15 percent?

14 A Correct.

15 Q And that's how we get to the total of 250,947?

16 A Yes.

17 Q Now, the actual expenditures for the agency to
18 provide those services is significantly more; is that
19 right?

20 A Yes.

21 Q About a hundred and forty-three thousand dollars
22 more; is that correct?

23 A A hundred and fifty-six thousand nine hundred and
24 ten dollars.

25 Q Your math's better than mine.

1 And as I understand it, that difference in the
2 operating budget has to be recovered by the agency in some
3 other fashion because it's under-funded with respect to
4 those operational costs; do I have that right?

5 A Correct, because the expectation is that the
6 agency provide a balanced budget position and balance
7 operations.

8 Q In fact, the agency is required, as part of its
9 business plan over the five-year term of the business plan,
10 it is required to have a balanced, balanced budget over the
11 five years; is that correct?

12 A Correct.

13 Q The agency may incur a deficit in any one given
14 year so long as at the end of the five years they balance
15 their budget?

16 A No. They have to have a balanced budget every
17 year.

18 Q Every year. Okay. I apologize, I misunderstood.

19 Now, in terms of that shortfall on the operations
20 of a hundred and fifty-seven thousand dollars, do I
21 understand your testimony then to be that the way that the
22 agency rationalizes that loss is by taking money that was
23 otherwise intended for direct service workers as salaries
24 for positions and reallocating those funds to offsetting
25 their operational costs?

1 A Correct. There is no other pool of money to take
2 it from.

3 Q So the only way for them to be able to cover
4 their operating costs is to short-staff the agency?

5 A Correct.

6 Q Now, when we look at the table in the upper right
7 -- upper left-hand corner and we talk about the various
8 staffing positions, I see that there -- we'll go down line
9 by line. Mid-management there's one person in Winnipeg, in
10 Brandon and point seven in Thompson; is that correct?

11 A Yeah.

12 Q So we have a supervisor who's responsible in
13 Winnipeg for the Winnipeg and Brandon sub-offices?

14 A Correct.

15 Q And we have another one in Thompson who's
16 responsible for that office?

17 A Correct.

18 Q And the reason that it's point seven is because
19 they split their time between the supervision of the direct
20 service workers in Thompson and point three of their time
21 is spent on the designated intake agency; is that right?

22 A Correct.

23 Q Which is funded separately?

24 A Correct.

25 Q And that's how we get 1.7 positions?

1 A Correct.

2 Q And again, this reflects the idea that it's more
3 difficult and more complex to provide services over
4 multiple sites?

5 A Correct.

6 Q And there's no reflection in the funding model
7 for the necessity to provide services over multiple sites;
8 is that right?

9 A Correct.

10 Q So although the agency is only funded for one
11 position in mid-management, they are in fact, by virtue of
12 the, the necessity to provide services over multiple sites,
13 employing 1.7 people in that position?

14 A Correct.

15 Q All right. With respect to supervisors, then, I
16 see that there are four total funded: there's one in
17 Thompson and none in Winnipeg and Brandon; is that correct?

18 A Correct. Just one clarification, the supervision
19 role is included in the mid-management position under
20 Winnipeg and Brandon and it's classified as a mid-
21 management because the location is separate from the head
22 office, that there are operational requirements that she is
23 responsible for that a unit supervisor would not normally
24 be responsible for, simply because of the distance from the
25 head office and the fact that's a separate and distinct

1 location. So she takes on some administrative mid-
2 management roles.

3 Q So the agency, then, has managed to rationalize
4 those services, they're funded for five positions but they
5 filled 2.7; is that correct?

6 A Correct.

7 Q Now, the next line is case managers, and we call
8 them case managers because not every case manager has a BSW
9 and as a result they don't call themselves social workers;
10 is that correct?

11 A Correct.

12 Q But when we hear the term social worker in this
13 model, case manager essentially means the same thing?

14 A Correct.

15 Q Right. And the funding model provides for 18
16 case managers; is that correct?

17 A Correct.

18 Q And on that number we saw on the previous page,
19 that if we have 18 case managers the ratio of cases per
20 worker is approximately one to 27; is that correct?

21 A Correct.

22 Q Based on the funding model?

23 A Correct.

24 Q And I see that in reality we have 13 positions
25 proposed instead of 18; eight in Winnipeg and Brandon and

1 five in Thompson; is that correct?

2 A Correct.

3 Q Right. Now, the next line is foster care, and I
4 see that there's zero funding provided for foster care; is
5 that correct?

6 A Correct.

7 Q And that's because that, in, in the province's
8 funding model, is not singled out as a separate line item?

9 A Correct.

10 Q However, the agency has two workers, one in
11 Winnipeg and Brandon and one in Thompson, dedicated to that
12 function; is that right?

13 A Correct.

14 Q Now, there's also a line for case aides. There's
15 two individuals who have been hired as case aides?

16 A Correct.

17 Q And that's not reflected in the funding model,
18 correct?

19 A Right.

20 Q Perhaps you can explain to the Commission what
21 your understanding of a case aide is?

22 A Case aide is more than an administrative support
23 but not quite the BSW case manager level, so it can assist
24 the case manager in functions associated with case
25 management but doesn't do direct case management. However,

1 they have more responsibilities than a simple
2 administrative assistant and have more technical knowledge
3 than an administrative assistant.

4 Q And I understand as well that because the
5 requirements for that position are not as significant as a
6 case manager, the agency can hire people into that position
7 at a reduced cost; is that right?

8 A Correct.

9 Q Essentially, a lower salary?

10 A It's a lower (inaudible) classification, yes.

11 Q And again, the agency is able to rationalize cost
12 by employing those people to assist their case managers; is
13 that correct?

14 A Correct.

15 Q Now, family enhancement, there's two positions
16 under the funding model specifically for family enhancement
17 but those positions have not been reflected in the budget
18 for 2013 and '14 either in Winnipeg and Brandon or in
19 Thompson; is that correct?

20 A Correct.

21 Q It's my understanding that's because the agency
22 expects that service to be provided by case managers?

23 A In the scenario in order to be within the budget,
24 the role of family enhancement is, is put into that case
25 management position. It's not identified out separately.

1 Q And then the final line you had already referred
2 to earlier, finance, admin and statistical. The provincial
3 funding model provides for four positions for an agency of
4 the size of the wellness centre?

5 A Correct.

6 Q But because of the multiple site locations and
7 other requirements, the agency actually operates seven
8 people in those positions; is that correct?

9 A Correct.

10 Q Right. And so that's how we get to 27 total
11 staff out of 29 funded, correct?

12 A Correct.

13 Q Yeah. With respect to the direct service workers
14 that are funded --

15 THE COMMISSIONER: Now, are you through with that
16 table?

17 MR. FUNKE: I'm largely through with that table,
18 Mr. Commissioner.

19 THE COMMISSIONER: Well, it's nine o'clock, and
20 we agreed we would sit from 7:00 to 9:00, and I want to be
21 fair to people who made plans for that time period only.
22 Is -- you say "largely through". Have you more questions
23 about that table?

24 MR. FUNKE: I could spend probably another five
25 to ten minutes on this page, Mr. Commissioner. I can ask a

1 few questions of the witness in terms of other items of
2 funding that are not provided under the model, and then I
3 suspect I'll be done my direct.

4 THE COMMISSIONER: Well --

5 MR. FUNKE: It's up to you whether we continue
6 now or I can always have the witness continue with her
7 direct in the morning.

8 THE COMMISSIONER: I'll look to, I'll look to
9 Commission counsel for advice.

10 MS. WALSH: It looks, it looks like we could
11 finish this witness tonight if we all stay maybe no more --
12 I personally can't stay more than a half an hour.

13 THE COMMISSIONER: Well, that would be helpful
14 certainly to our progress, but I, I didn't want, don't want
15 to inconvenience anybody if they've made a commitment. But
16 if everyone's prepared to stay for the few minutes Mr.
17 Funke refers to and any -- there may be some examinations,
18 too, we might have to do tomorrow if there's going to be a
19 lengthy cross-examination, but go, go ahead, Mr. Funke,
20 then.

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

22

23 BY MR. FUNKE:

24 Q Now, with respect to the table that appears at
25 the top right-hand side of the screen, that represents the

1 number of case that the model is premised on, correct?

2 A Correct.

3 Q And funded for. And then, under the March 2012
4 column, that shows the actual cases at a point in time with
5 the agency; is that correct?

6 A Correct.

7 Q And below that are the funded positions?

8 A Correct.

9 Q For DSWs and the average workload?

10 A Correct.

11 Q And because it shows 20 DSW positions, that's a
12 combination of the 18 case managers that are funded under
13 the model and the two family enhancement workers; is that
14 correct?

15 A Correct. And the reason I did that is because in
16 the projected staffing we don't distinguish between
17 different types of worker. It's all rolled up into one
18 case manager.

19 Q And if we look at the funded positions that are
20 20 under the model and the number of cases, we have a ratio
21 of 24 cases per worker; is that correct?

22 A Correct.

23 Q If we look at the actuals that are projected for
24 the next year's budget, however, we have 13 DSW workers
25 that are responsible for 419 cases and shows an actual

1 caseload of 32 files per worker; is that correct?

2 A Correct.

3 Q And as I understand it that, because the funding
4 model is based on a point-in-time analysis of 480 cases,
5 that the number of positions that the agency is funded for,
6 even though they currently only have 419 files as of March
7 2012, that number would have to rise above 480?

8 A Correct. It would actually have to go to 500,
9 525 before another position was added.

10 Q Exactly. So would have to rise considerably
11 above 480 before another position would be allocated under
12 the funding model?

13 A Correct.

14 Q So although the current case file ratio for each
15 worker is 32 cases per worker, in fact, it would have to
16 reach almost 40 files per worker before the agency would
17 receive another worker under the model; is that correct?

18 A Correct.

19 Q Now, in terms of time, we keep talking about
20 money is time and time is money, and in terms of the time
21 that every worker under the current funding model has to
22 spend with each child, that's reflected in the table that
23 appears below that, correct?

24 A Correct.

25 Q And so that's broken down into three columns.

1 The first is the family enhancement column; is that right?

2 A Correct. That's the assumption under the model.

3 Q The assumption under the model is it's 20 files
4 per worker?

5 A Correct.

6 Q And we talk about the number of hours that each
7 worker has in a calendar year, the total number is eight
8 hundred -- sorry, 1,885?

9 A Correct.

10 Q That's based on a standard 7.25 hour day?

11 A Correct.

12 Q And then from that you've subtracted days that
13 the worker is unavailable for work; is that correct?

14 A Correct.

15 Q And that's reflective of vacation, statutory
16 holidays?

17 A Sick days.

18 Q Sick days, a day a month for supervision and
19 staff meetings and one week of training per year on
20 average, correct?

21 A Correct.

22 Q And as a result, the net hours is 1,493.5
23 throughout the year?

24 A Correct.

25 Q Broken down into monthly groups. That's a

1 hundred and fourteen point nine hours a month?

2 A Correct.

3 Q On a case-by-case basis, that means that that
4 worker then would have, on average, 5.7 hours per month per
5 case?

6 A Correct.

7 Q Or 1.1 hours per week per case?

8 A Correct.

9 Q And that's the model for the, for the family
10 enhancement funding?

11 A Yes.

12 Q That's prevention dollars?

13 A Yes.

14 Q That's the model. Under protection, the same
15 calculations result in a time allotment per file per worker
16 per month of 4.6 hours per month per file?

17 A Correct.

18 Q And on a weekly basis it works out to point nine
19 hours per week per file; is that correct?

20 A Correct.

21 Q And we're talk about files, we're talking about
22 children?

23 A Children in care files, family files.

24 Q So based on the provincial funding model, if
25 we're meeting those targets, that means that each worker

1 has slightly less than an hour a week with each child?

2 A Correct.

3 Q Now, under the current funding that the agency
4 receives, because of the rationalization of services that
5 are required, because the funding model does not provide
6 for multiple sites, it does not provide for their full
7 operational costs, the best we can do at this point is 32
8 files per worker; is that correct?

9 A Right.

10 Q And those workers provide combined services; is
11 that correct?

12 A Correct.

13 Q Both prevention and protection?

14 A Correct.

15 Q Based on 32 files per worker, that means that
16 each worker spends only 3.6 hours per case per month?

17 A Correct.

18 Q Or point seven hours per week per child or per
19 file; is that correct?

20 A Correct.

21 Q And that is even less if we use the ratio of one
22 to almost 40 files --

23 A Correct.

24 Q -- per worker.

25 A It will go --

1 Q It will go down --

2 A -- go down.

3 Q -- even more. Now, with respect to the funding
4 model we've addressed some of the deficiencies in the
5 funding model, and I understand that that's not the only
6 ones that have been recognized; is that correct?

7 A Correct.

8 Q And do I understand as well that it's not just
9 the agency that has indicated there are items not funded
10 under the funding model; is that correct?

11 A Correct.

12 Q Perhaps you can tell us what some of those items
13 are that remain outside the funding envelope that agencies,
14 nevertheless, still have to incur costs for?

15 A I'm just going to refer to some of my notes.

16 Q Certainly.

17 A The lists can get quite extensive but some of the
18 major points, an agency, as a standalone agency, is
19 required to do an annual general meeting. Those costs
20 aren't included anywhere in the funding model but is a
21 legislative requirement. For an agency, that's multiple
22 communities throughout Manitoba to have an annual general
23 meeting, to bring, to get people and representatives and
24 board members can be costly. That's not in the annual
25 general meeting -- or in the funding model.

1 Costs for, costs related to the requirement for a
2 child abuse committee is not reflected in the model.

3 We've already talked about IT concerns, the fact
4 that there's no IT position, nothing to help the agency
5 identify and structure its network system, give computer
6 support to its staff, especially when there is a, you know,
7 a reliance on technology today. And we go further and
8 further into that expression when we talk about data
9 collection in order to get information to properly inform
10 what impacts are, so data collection is important and in
11 this day and age is computer reliant. The absence of an IT
12 is significant.

13 There's been mention before about the cultural
14 component, elders.

15 The ability to do policy development research.
16 There's no positions in the agency to expand or look at
17 alternatives. It's service delivery. There is no policy
18 research.

19 Training for the support workers that deal with
20 the children in care, and I'm not talking about the ones
21 that are identified in the service delivery. These are
22 workers that directly work with the children and the
23 families, respite, support workers, intervenor, parent
24 aides, there's no training dollars available to train those
25 individuals when they're working with children. And

1 there's expectation for documentation and observation.
2 That feeds back into the system and in a child's case plan
3 and care management.

4 Paralegal; volunteer coordination. Before
5 devolvment, Winnipeg had a volunteer coordinator and
6 volunteers. That isn't present in the agencies so there's
7 not the ability to perhaps mitigate some of the costs,
8 reduce some of the costs by engaging volunteers in the
9 community.

10 Those are the main components. The other
11 challenge that's in -- well, it's in the federal, it's not
12 in the provincial -- is travel. Travel is assumed to come
13 out of operating dollars. When you have a service delivery
14 such as Child And Family Service delivery where there's the
15 expectation that the worker's out in the field engaging
16 families, children, foster homes, there's a lot of travel
17 so there is an expectation for reimbursement and costs.
18 That travel increases when the foster home placements are
19 out of an immediate urban environment and some of the rural
20 offices have foster homes that are quite widespread out of
21 their immediate urban area so travel is another component.

22 Q So Ms. -- just if we can talk about that for a
23 moment, Ms. Freeman. So what you're saying is that there's
24 no specific allocation for travel and that has to come out
25 of the operating funds that are calculated at 15 percent

1 salaries and benefits; is that correct?

2 A Correct. It is a requirement.

3 Q So the same calculation that we've seen in
4 operations, the bottom left-hand corner of this page, those
5 travel costs are not independently funded by the province?

6 A Correct. And you can see the allocation or the
7 estimate for travel costs is \$96,000.

8 Q But workers are required to attend for training;
9 is that right?

10 A I'm sorry?

11 Q Workers are required to attend for training?

12 A I'm, I'm --

13 Q Workers, workers are required, during the course
14 of their employment, to attend for training; is that
15 correct?

16 A Correct. Correct.

17 Q And very frequently, when we're talking about
18 agencies that have service delivery requirements that
19 spread their agency across the province, those, those
20 training opportunities aren't always in the same community
21 where the workers are situated; is that right?

22 A Correct.

23 Q So the workers have to travel for that training?

24 A Correct.

25 Q And that's not independently funded in the model?

1 A Correct.

2 Q That has to come out of this operational budget;
3 is that right?

4 A Correct.

5 Q If workers have to do face to face visits, and
6 we've heard about a 30-day requirement where workers have
7 to see children every 30 days --

8 A Sure.

9 Q -- workers have to travel for that purpose; is
10 that correct?

11 A Correct.

12 Q In a community like Winnipeg, those travel costs
13 aren't always significant?

14 A Correct.

15 Q But when we're talking about service delivery in
16 remote parts of the province where the workers have to go
17 out, do those 30-day face-to-faces, is there a
18 disproportionate impact in terms of travel costs?

19 A I think so, yes.

20 Q And are those travel costs reflected in the
21 funding model?

22 A No. The, the one other impact since devolution
23 and the creation of the designated intake agencies is the
24 role of intake in a different fashion than what we, we
25 historically understand it to be. A lot of times we talk

1 about intake, we talk about intake at the designated
2 agency, at ANCR, where it's a contact from a third party
3 and they deal with that intake. When I talk about intake I
4 also think about the whole process as associated with
5 accepting cases from the designated intake agency. There
6 is a requirement to ensure that those cases are assigned,
7 are reviewed. That whole process is new to the system,
8 didn't exist before devolution, and there is no recognition
9 of that cost in the funding model on the provincial side.
10 Agencies also deal with intake during business hours. If
11 it's an open case, ANCR or the designated agency doesn't
12 deal with it, and the agency has to do an intake protocol
13 on open cases. That's not recognized in the model. So
14 when we look at the case workload and the hours per week,
15 that doesn't take into account hours associated with taking
16 either cases being transferred in from the DIA or dealing
17 with intakes on open cases.

18 Q The last thing I want to talk to you about is
19 service purchase dollars that are focused towards
20 prevention, the family enhancement model. And I understand
21 that there are \$1300 available per, per file or -- sorry,
22 per family per year; is that correct?

23 A Correct.

24 Q And that's intended to provide prevention dollars
25 to keep those families and children from coming into, from

1 coming into care; is that correct?

2 A On the family enhancement side; on the protection
3 side it's dollars that are used for either families that
4 are attached to children in care in the hopes that the
5 children will be returned home, or voluntary family files
6 that fall outside of the definition of family enhancement
7 but still go towards preventing children from coming into
8 care.

9 Q So these, these funds are designed to provide
10 various services and goods to those families that the idea
11 is that it (inaudible) those goods and services provided to
12 those families in a timely fashion it would prevent those
13 children from needing further protection services from the
14 agency; is that correct?

15 A Correct.

16 Q If you can, can you break that down for us in
17 terms of what's available per family per month and per
18 week?

19 A Okay. If I can ask the clerk to go back to 102,
20 please. This is the model -- the next, the second page of
21 that and down to the bottom, please. Thank you.

22 You'll see where it says family enhancement
23 purchase services. The annual allocation per family is a
24 thousand three hundred dollars and when you talk about a
25 case, the criteria for a family to remain family

1 enhancement is 270 days. If the case is open longer than
2 270 days the case moves to protection. So, \$1300. But
3 that means that there is, in the course of a year the max
4 amount of families that you can deal with in that \$1300 is
5 1.35 cases. And I mean, how can you have a point three
6 five case, but that's how the math works out.

7 If you have two cases, two families in a year,
8 then you have to split that money. But if you have a max
9 amount, it's 1.35. You divide that by month, that equates
10 to a hundred and eight dollars available per month per
11 family. If you break that down to week, that's \$27.

12 Q Yes.

13 A So --

14 Q And that's per family, not per child?

15 A Per family.

16 Q So \$27 a week for enhancement dollars per family?

17 A Correct.

18 Q So if you have multiple children in a family,
19 then that \$27 per week has to be shared between the needs
20 of all of those children?

21 A It's the needs of the family as opposed to
22 individuals. If a family needs therapy, if a family needs
23 emergency services, we've talked about emergency services,
24 if they need in-home support, (inaudible), an intervenor,
25 whatever is identified as the need for that family, the

1 cost is a hundred and eight dollars per month. So if, at
2 the beginning of the month, you spend a hundred dollars on
3 a family and that family case is closed, you open up
4 another family for that month, you have nothing to spend
5 otherwise you go over budget.

6 MR. FUNKE: Thank you, Ms. Freeman. Those are my
7 questions, Mr. Commissioner.

8 THE COMMISSIONER: Thank you, Mr. Funke.

9 Now, will there be cross-examination?

10 MS. WALSH: I have a few questions and I
11 understand that there are some others, so perhaps we should
12 resume tomorrow.

13 THE COMMISSIONER: I think we'd better adjourn
14 for the day, then. We'll resume the, this witness with the
15 cross-examinations tomorrow morning at 9:30.

16 THE CLERK: Thank you.

17 THE COMMISSIONER: Stand adjourned.

18

19 (PROCEEDINGS ADJOURNED TO MAY 9, 2013)