



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

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

Transcript of Proceedings
Public Inquiry Hearing,
held at the Winnipeg Convention Centre,
375 York Avenue, Winnipeg, Manitoba

THURSDAY, NOVEMBER 22, 2012

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

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3

4 THE COMMISSIONER: All right. Mr. Gindin,
5 please.

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

7 THE COMMISSIONER: Morning.

8

9 **LAURA MARIE FORREST**, previously
10 sworn, testified as follows:

11

12 CROSS-EXAMINATION BY MR. GINDIN:

13 Q Ms. Forrest, my name is Jeff Gindin. I appear
14 for Kim Edwards and Steve Sinclair.

15 A Good morning.

16 Q I have some questions for you. You were asked,
17 yesterday, whether you were a registered social worker or
18 not registered, and I think you said that you weren't
19 registered?

20 A That's correct.

21 Q I'm just curious as to the difference between
22 being registered and not registered?

23 A I honestly don't know why I didn't register.
24 It's a voluntary service. I'm not certain that, at the
25 time, that I thought that I needed to, so ...

1 Q Are there advantages to --

2 A Are there --

3 Q -- being registered?

4 A I'm sorry? What?

5 Q Are there advantages to getting registered?

6 A I believe that there's some expectations with
7 regards to certain training. I don't know how many front
8 line CFS workers are registered. Perhaps more, you know,
9 persons involved in therapeutic intervention with families.
10 I think that they're, a lot of them are registered, so ...

11 Q In any event, you didn't do whatever was required
12 to be registered?

13 A I didn't make an application and pay the fee to
14 register, that's correct.

15 Q Yeah. You also testified that there were times
16 when it was difficult to comply with best practice. Recall
17 that?

18 A Yes, I do.

19 Q And were you talking about a particular time
20 period? Were you talking about the time that you were
21 involved with the Phoenix Sinclair matter?

22 A There were periods of time that perhaps were more
23 difficult.

24 Q Um-hum.

25 A Certainly during the restricting of the agency

1 there was added, added chaos and stress for staff and, and
2 workers because of the changes that were occurring. So I'd
3 probably have to say that, yes, there was a little bit more
4 difficulty during that period of time --

5 Q And what --

6 A -- and that would have been during those years,
7 certainly during the year that I was involved in the, in
8 that case, that was when the process was --

9 Q Was there --

10 A -- kind of beginning.

11 Q Was there a particular best practice that was
12 getting neglected?

13 A Certainly, you know, seeing families as quickly
14 as you would like to see them, that would be one of them,
15 probably, if you didn't have enough staff and the demands
16 were increasing. So that would interfere with that, at
17 least.

18 Q And that would be an important --

19 A Yes, it would.

20 Q -- part of your work, right?

21 A Yes, it would.

22 Q You talked about how you would often meet with
23 your supervisor, whoever that might be at a particular
24 time, where you would discuss plans for cases, et cetera.
25 Were there notes kept of your meetings with your

1 supervisor?

2 A I don't recall if there were or not.

3 Q I know that you said that the things you did
4 ended up making their way into your transfer summary or ...

5 A My, my notes were on my transfer summary.

6 Q Right.

7 A So I know whatever I did on the file I would put
8 them onto the computer, so ...

9 Q But in terms of these meetings with supervisors,
10 strategy sessions I think is the way you've termed them.

11 A Um-hum.

12 Q You can't tell us whether there was a set of
13 notes that kept track of that?

14 A I didn't keep a set of notes of that.

15 Q Okay.

16 A If there was something that was relevant on a
17 case that I had discussed with the supervisor, that would
18 be in a note on my, in my recording.

19 Q When you say you didn't keep those notes, are you
20 saying you didn't make notes?

21 A Mostly, if, if I just had a conversation with
22 somebody, I would go and add it to my, my recording. So
23 mostly, I didn't really keep notes on intake. If there
24 were any notes, it might be a demographic of a family,
25 birth date or whatever, just because those are hard for me

1 to remember off the top of my head, but just a general
2 conversation or planning, that I could remember and put
3 into my recording fairly quickly.

4 Q I don't recall seeing anything in the material
5 that would discuss meetings that you had and --

6 A Um-hum.

7 Q -- discussions that you had about a certain case
8 plan with anyone in particular.

9 A Yeah.

10 Q That doesn't mean that didn't happen?

11 A It, it doesn't mean that it didn't happen --

12 Q All right.

13 A -- yes.

14 Q And I guess we can conclude that there are no
15 notes that you kept of those particular meetings?

16 A That would -- well, if it's not noted
17 specifically in my recording, I probably didn't take a note
18 about it.

19 Q All right. You spoke about the role of an, of an
20 intake worker, which is what you were --

21 A Yes.

22 Q -- at that time. You went through quite a long
23 list of responsibilities that you had, such as assessing
24 family situations, determining the type of intervention
25 required, meeting with families, and there was quite a

1 number of things that you talked about. You ended up
2 summarizing it by saying there was a broad range of
3 services that you would be expected to provide. You recall
4 that?

5 A Yes, I do.

6 Q Do you think maybe the list of services was, was
7 too broad for one particular worker to handle?

8 A It's, it's the nature of intake. I mean, we are
9 the first level of contact and so these are the requests
10 for service. So the types of duties we would do, I don't
11 know if that was too broad or if it was just enough people
12 or time to get everything done that we needed to get done.

13 Q You were with a group of about six?

14 A There were six in my unit, yes.

15 Q What's your opinion on the idea of perhaps being
16 more specialized, in terms of what each of the social
17 workers are doing? Perhaps some of them could concentrate
18 on part of this list and the rest could work on a different
19 part of this list?

20 A Yeah.

21 Q Would that make some sense?

22 A It could to some degree but you might find that
23 the ones that are specialized in mental health eventually
24 become very overwhelmed because we have a lot of mental
25 health issues within families. So if you only give those

1 particular referrals or cases to those specialized workers,
2 you're going to overwhelm them because many families that
3 we deal with struggle with that kind of a challenge. So I
4 think you need to be mindful of that, so ...

5 Q On the other hand, they would become more
6 specialized in a particular area?

7 A That's true, but then you need to make sure then
8 you have enough staff to cover off the demands that are
9 going to be presented because there's going to be many.

10 Q Now, when you, pardon me, started working on this
11 file, the typical way you start is to get the history --

12 A Um-hum.

13 Q -- together and read it?

14 A It's, it's a place that I start. I'm not going
15 to gather it all up probably in the first day but it's
16 something that I will gather up during my, my involvement
17 with the family, yes.

18 Q We heard from Kathy Epps Peterson who told us all
19 about her involvement in the matter.

20 A Um-hum.

21 Q And the things that she recorded. Did you ever
22 talk to her about her involvement?

23 A I did not speak with her about her involvement,
24 no.

25 Q But you were familiar with it; you read the

1 material?

2 A I would have read the material.

3 Q And according to her evidence, she had a meeting
4 with Steve Sinclair and some of his family members back in
5 July of 2001.

6 A Um-hum.

7 Q And it would appear from everything I've seen
8 that no one really spoke to Steve or saw Phoenix between
9 that meeting with Kathryn Epps Peterson and the
10 apprehension in June of '03 if we don't consider the
11 hospital visit with --

12 A Um-hum. Yeah.

13 Q -- with Phoenix, correct?

14 A Yes, but during that time that file was also
15 closed.

16 Q Correct.

17 A So nobody --

18 Q But the fact remain --

19 A -- would have seen her because that file was
20 closed.

21 Q Correct. And that's a problem with a file being
22 closed, is that there's no involvement at that point,
23 right?

24 A CFS can't stay involved with families when their
25 files are closed. They won't -- they can't monitor that.

1 If that's the case, then we may as well open a file with
2 every family and keep it open forever just to make sure
3 that nothing will happen. Is that what you're suggesting?

4 Q Well, I'm suggesting that this decision to close
5 a file is a very important one.

6 A Yes, it is.

7 Q And sometimes perhaps there should be a third
8 category between open and closed, such as pending or on
9 hold --

10 A Um-hum.

11 Q -- so that at least someone monitors the
12 situation?

13 A But then there would be that expectation to be
14 monitoring. Then we may as well keep the file open then.
15 But we don't necessarily keep files open just to monitor.

16 Q Um-hum.

17 A You know, it has to be some sort of an activity
18 occurring during that time. It's very invasive for
19 families if you're just keeping a file open just in case.

20 Q Which can sometimes be necessary?

21 A If the file should, should stay open, then it
22 should stay open. If it's deemed ready to be closed, then
23 it's closed.

24 Q Um-hum.

25 A So ...

1 Q But then we have that period of time between
2 someone deciding to close a file --

3 A Um-hum.

4 Q -- and the administrative act of closing it --

5 A Um-hum.

6 Q -- which in this case was from November to
7 actually, to, to March of 2002.

8 A Um-hum, yeah.

9 Q A long period of time where someone said, let's
10 close the file.

11 A Um-hum.

12 Q Yet it wasn't officially closed --

13 A Um-hum.

14 Q -- for a long period of time, right? But the
15 fact remains that according to the evidence no one would
16 have seen Phoenix or Steve between July of '01, the meeting
17 with Kathryn Epps --

18 A Um-hum.

19 Q -- and June '03 when the child was apprehended,
20 at least a social worker wouldn't have, from the evidence
21 that I can see.

22 A And what would that mean for you, then?

23 Q I'm just pointing out the fact that there was a
24 long period of time that went by. Whatever that means,
25 that will be for someone else to determine.

1 A Yeah.

2 Q But that's a fact.

3 A Yeah.

4 Q Correct?

5 A And I guess at the time of closing, Steven was
6 feeling that he didn't want services --

7 Q Well --

8 A -- there was no indication at that time from the
9 worker that that was necessary. Again, you would probably
10 have to speak to somebody else about that dilemma of the
11 file being closed and not closed administratively. That
12 would not be something that I could talk to really. That's
13 not what I can do.

14 Q Yesterday we ended up actually discussing what
15 happens when close -- when files are closed.

16 A Um-hum.

17 Q Commissioner asked you some questions about that.

18 A Um-hum.

19 Q When a file is closed, there's no work done in
20 it?

21 A That's correct.

22 Q Correct?

23 A Yes.

24 Q When a file is still open, someone keeps track of
25 things and --

1 A Um-hum.

2 Q -- continues to work on it?

3 A Um-hum.

4 Q Right? So when you see a notation that file is
5 closed March of '02 --

6 A Um-hum.

7 Q -- that can be somewhat misleading if the file
8 was put aside to be closed but actually wasn't for three or
9 four months, right?

10 A Well, I mean, the work, in and of itself, is done
11 as of that date so that's, that's what that date reflects.

12 Q As is a date someone decides it should be closed?

13 A Yes.

14 Q Which in this case, according to the evidence,
15 was October.

16 A Um-hum.

17 Q Of 2001.

18 A Um-hum.

19 Q Even though it actually wasn't closed for many
20 months later.

21 A Um-hum.

22 Q Now, February the 28th, '03, that's when you --
23 around that time, at least, that's when you become
24 involved, when you find out about Phoenix being in the
25 hospital with respect to the foreign object in her nose,

1 correct?

2 A Yes, that's correct.

3 Q Now, I take it you would want to know who had
4 brought her into the hospital?

5 A That was why I called, to get that information,
6 yes.

7 Q And --

8 A And that's why I asked Steven who brought her to
9 the hospital, yes.

10 Q You didn't get, you didn't get the information
11 from Steven?

12 A I did not.

13 Q Did you contact the doctor?

14 A I did not contact the doctor. They sent the same
15 information in a letter, so --

16 Q A letter --

17 A -- even though I'd asked about the name of the
18 person in my telephone message to them.

19 Q The letter closed by saying, if you have any
20 questions, please call me?

21 A Um-hum. Yes.

22 Q Remember that?

23 A And I did not call the doctor; you're correct.

24 Q Okay. Did that strike you as odd, that someone
25 would bring a child into a hospital and they wouldn't have

1 the name of that person somewhere on their file?

2 A It is odd, but I don't know what or who recorded
3 that information at the hospital. You would have to ask
4 them that.

5 Q Do you know anybody from your office who went
6 down to the hospital to look at the records to see if
7 somewhere somehow it might have been recorded?

8 A I, I didn't, and I don't know if anybody did.

9 Q Now, that first time that you met with Steve, you
10 described him as being in a foul mood, right? And I think
11 we've heard evidence, and may have come from you as well,
12 that nobody is really happy to see you guys show up at
13 their house?

14 A Um-hum. That's correct.

15 Q That's pretty typical and standard?

16 A Yes, it is.

17 Q And that's just an unfortunate byproduct of the
18 kind of work that you do sometimes?

19 A And because of the perception that is about us
20 and our service, yes.

21 Q And there is that perception out there that
22 they'd rather not see you and that --

23 A Yes.

24 Q -- kind of thing? Strikes me that that is
25 something that has to be improved somehow; would you agree?

1 A I would agree, yes. It would be much more
2 helpful if people were aware of what CFS workers actually
3 did do in the course of the work with their families as
4 opposed to what they think we do.

5 Q That would --

6 A It would be much more helpful.

7 Q That would make your job a little easier?

8 A It would make working with these families more
9 effective.

10 Q Um-hum.

11 A Yes.

12 Q So you'll agree that there's this general
13 distrust out there?

14 A Yes, there.

15 Q And probably even more so by individuals who
16 themselves have been put in care and have gone through some
17 difficult things?

18 A Yes.

19 Q Right? That particular meeting, when you said he
20 was in a foul mood, I think you noted that he was sober at
21 that time?

22 A Yes.

23 Q You then told us about the efforts that you made,
24 your field trip.

25 A Um-hum.

1 Q I think you went, obviously on February 28th you
2 were there. Phoenix was not?

3 A That's correct.

4 Q Right?

5 A Yes.

6 Q You then went a number of times in, a couple of
7 times in March, once in April and a couple times in May?

8 A Um-hum.

9 Q And essentially, no one answered the door is what
10 happened?

11 A That's correct, yes.

12 Q Would you have gone in the daytime?

13 A I would have gone in the daytime, yes.

14 Q Yeah.

15 A Or various -- I don't have a set time, but I
16 would have gone probably various times throughout the day
17 so I don't have any --

18 Q Some time during your normal daytime working
19 hours?

20 A Um-hum. Yes.

21 Q Did you ever think of going there in the evening?

22 A I did not, no.

23 Q Are you saying -- I know you didn't do it.

24 A Um-hum.

25 Q I'm asking whether you considered it or anyone

1 considered maybe making a visit in the evening?

2 A I don't recall that.

3 Q Now we've --

4 A I'd left, I'd left cards in the door. He knew I
5 was trying to contact him. So it's not like he wouldn't
6 have known I was there or attempting to contact him.

7 Q Right.

8 A Oftentimes if I've left a card people will
9 contact me and ask me why I'm coming to the door. So I
10 mean, it's not that he didn't know I was coming and trying
11 to still make contact with him.

12 Q But you also knew that his opinion --

13 A Yes.

14 Q -- of what you had to do was to -- wasn't a
15 terrific one?

16 A Yes.

17 Q And there was some distrust there because of his
18 own experiences. So it was a factor that maybe you weren't
19 called back?

20 A Um-hum.

21 Q But at the same time, no one went there in the
22 evening or the weekend to see if they could find him there?

23 A Not during that time, yes.

24 Q Yeah. Or to see if maybe you could see
25 Phoenix --

1 A Um-hum.

2 Q -- right? Nobody did that?

3 A No.

4 Q Now, we've heard some evidence as well from the
5 material that there was information on the file with a,
6 with a list of contacts --

7 A Um-hum.

8 Q -- you recall that? And that included members of
9 Steve's family?

10 A Um-hum.

11 Q And it also had Kim Edwards' address on there,
12 right?

13 A Um-hum.

14 Q You made no attempts to contact any of these
15 people, and I think your answer was that, well, we didn't
16 want to be intrusive and you wanted to somehow build up
17 some trust with Steve and deal with him directly if you
18 could --

19 A Um-hum.

20 Q -- correct? But you knew already that he wasn't
21 that interested in calling you or communicating with you,
22 right?

23 A Well, yes. I mean, that was suggested in the
24 history, but that doesn't mean that I can't still keep
25 trying to do that.

1 Q That's right.

2 A So I could take a chance. It's, it's, it's a
3 chance, it's a decision to make as to whether or not
4 invading somebody's privacy and calling family that may or
5 may not give me the information, whether that will impact
6 on my ability to work with this person, you know. And, and
7 would have that increased my chances of seeing him of
8 Phoenix? I don't know. I don't know that answer. I don't
9 know if you know that answer.

10 Q I suggest it was worth a try?

11 A It could have been. And, and that could be
12 something that I could have said, yeah, you know, I should
13 have maybe done some other things in that regard. I'm not
14 going to say I did everything absolutely wonderfully in
15 this regard.

16 Q So --

17 A Obviously you're pointing out that I haven't.

18 Q Now, I think when you were asked that a few times
19 by Commission counsel, you, you didn't like the idea of
20 sort of phoning these people and making demands?

21 A I don't. I, I do not think that that's a
22 respectful way to work with people, and it doesn't actually
23 work very well to, to do that, in my experience.

24 Q What about calling them in a gentle way and not
25 necessarily making demands but simply inquiring if they've

1 seen Steve, if they could give you some information, if
2 maybe you could have a meeting? It's ...

3 A Again, you could try that --

4 Q Yeah.

5 A -- you're right, and I don't know what would
6 happen and I, and I don't. It's, it's easy to say that
7 now, after all of this --

8 Q Yeah.

9 A -- knowing what we know, what could be done and
10 what could not have been done.

11 Q Right.

12 A And I agree, we always look at that in these
13 kinds of circumstances.

14 Q And these concerns that you had about what people
15 might think or trust that could develop with him, they're
16 all trumped by the best interest of Phoenix, clearly,
17 right?

18 A Not necessarily. It's --

19 Q No.

20 A -- just I have to find a way to, to get involved
21 with this family, and obviously you're suggesting I could
22 have done more. It has been suggested I could have done
23 more with the reports. I probably could have done a few
24 other things. I didn't at that time. I also don't know
25 what else was going on for me at that time with other

1 families. So based on the presenting information, lack of
2 other information suggesting that the care of this child
3 was being compromised, you know, those were some of the
4 decisions that were made at that time.

5 Q Okay. I'm not suggesting for a minute that you
6 did lots of things wrong.

7 A Um-hum.

8 Q We all could have done some things better likely.
9 But in this particular instance --

10 A Um-hum.

11 Q -- whatever you were thinking for whatever
12 reasons, there were no attempts made to connect with
13 members of Steve's family?

14 A There weren't.

15 Q We had Kim's address on the file. Anyone go
16 there to the house and see if maybe she could help you with
17 some information?

18 A I did not.

19 Q No. Did you ask anybody else to try?

20 A No, I didn't. I also had no information to
21 support that Phoenix wasn't being cared for. If it's, if
22 there's -- he told me that she was being looked after. So
23 between him or his private care arrangements, she was being
24 cared for.

25 Q But you -- it was important to make a number of

1 field trips to try to, to try to find out more things?

2 A Because I still, because I still didn't know
3 enough what was going on, and I did have concerns about not
4 having enough information. I didn't feel I could just
5 close off a file or my involvement without getting a better
6 sense of what was happening with this family. So yes, I
7 hung onto it longer than what -- I don't know -- I hung
8 onto it for as long as I did trying to see him and in the
9 hopes and belief that I would see him and find out what was
10 happening and assess the situation.

11 Q I'm not suggesting you shouldn't have made those
12 efforts.

13 A Um-hum.

14 Q I'm suggesting that there were a few other
15 efforts, along with that, that might have been done.

16 A They might have been done, yes.

17 Q You obviously sought, found it necessary to make
18 these field trips on five or six occasions, but --

19 A Um-hum.

20 Q -- no one went to Kim's address.

21 A Yeah.

22 Q No one contacted his sisters.

23 A And perhaps my reality at that time was if those
24 were the times that only I could go out and attend to this.
25 I don't know if my time was more free to try and make

1 contact with other people either, if I was doing other work
2 on other families. So to suggest that I didn't take the
3 time to make the effort, perhaps that was the most amount I
4 could do with that case. And if I didn't have more time to
5 be start looking for other people that if I did or did not
6 know that they were involved --

7 Q Um-hum.

8 A -- then that may have been maybe why I wasn't
9 considering that at that time either.

10 Q But a phone call doesn't take that much time?

11 A It might in my day, actually; so I mean, you're
12 right, it may not, it may.

13 Q You talked about the apprehension of Phoenix in
14 June and difficulties that you face as social workers when,
15 on the one hand, you have to apprehend, on the other hand
16 you have to deal with the parents and explain what you've
17 done and try to work with them, correct?

18 A Yes. Um-hum.

19 Q You think it might be a better idea if, if the
20 same social worker that wasn't involved with one part of
21 that, in other words, different workers --

22 A Um-hum.

23 Q -- handled those different aspects --

24 A Yeah.

25 Q -- to avoid this type of difficulty or conflict?

1 A Well, I wasn't the worker that was directly
2 involved in the apprehension but I am a CFS worker so
3 depending on how the family is responding to the agency, I
4 don't know whether that would make a difference, because
5 the family is angry that the child has been brought into
6 care. I don't know if it matters if it's a different
7 worker that takes on the task of actually discussing that
8 apprehension with them, which is what the case would have
9 been on this one. What matters is how you approach the
10 family and work with them on this, so I don't know if it
11 would make a difference or not, to be honest.

12 Q At one point you indicated in your summaries that
13 we talked about earlier that, you concluded that there were
14 not appropriate care-givers who could look after the child.
15 I saw that in one of -- in, in your report. You recall
16 making that observation in your final ...

17 A In my assessment?

18 Q One of your final assessments, I'm trying to
19 find the exact page, but I --

20 A Um-hum.

21 Q -- recall that from your evidence, that --

22 A Okay.

23 Q -- one of the concerns later on --

24 A Yeah.

25 Q -- when it was changed to a higher risk, was

1 that --

2 A Um-hum.

3 Q -- you didn't think there was appropriate care-
4 givers who were looking after the child.

5 A If I put that into my assessment, that would have
6 been a summarization of all the information I would have
7 gathered during my involvement. So certainly at the time
8 of apprehension, there was obviously that concern for her
9 at that time. I don't know that I can say that she was
10 always not looked after by proper care-givers because
11 obviously she was. She came into care healthy, happy, you
12 know, showing, you know, very positive behaviours. So
13 there would have been some, some care-givers that were
14 providing her good care, but at the time of the
15 apprehension there were inappropriate care-givers.

16 Q But prior to that, we heard from Kathy Epps
17 earlier that she seemed satisfied with the assistance he
18 was getting from his sisters?

19 A Um-hum.

20 Q As well as Kim Edwards, his friend?

21 A Um-hum.

22 Q You were aware of that at least --

23 A Yes.

24 Q -- prior to date of the apprehension?

25 A Yes.

1 Q Yeah.

2 A So he was making good choices in terms of some
3 people that he was choosing to look after her, yes.

4 Q Right. And you had, as you said earlier, had
5 never spoken to Kim Edwards?

6 A I had not met her or spoken with her, no.

7 Q When the child was apprehended in June, there was
8 a note that you made that the worker had contacted Steve's
9 sister on that, on that day, June 24th.

10 A Okay.

11 Q Do you know who that was?

12 A Who Steve's sister was?

13 Q No, who contacted Steve's sister at that point?

14 A That -- I guess if it says worker, that would be
15 me.

16 Q That would be you?

17 A Um-hum.

18 Q Okay. So that was done after the apprehension?

19 A Yes. Often, after apprehensions of children we
20 get a lot of calls from different family, so we would speak
21 with them, you know, in response to the situation.

22 Q And you recall you were talking about the
23 children's logs that you looked at, and we discussed that
24 the other day?

25 A Um-hum.

1 Q And there were things in there that indicated
2 that certainly Steve was doing some things right. We have
3 information that Phoenix was well behaved, potty trained,
4 had a good appetite.

5 A Um-hum.

6 Q Appeared clean and obviously no injuries were
7 observed or anything like that. So that would be an
8 indication that he was doing some things appropriately?

9 A Yeah. That would be an indication of somebody
10 who was caretaking her was doing a good job.

11 Q You were also talking about the difficulties that
12 you sometimes had because you weren't sure if families were
13 being honest with you in terms of the information they were
14 giving you --

15 A Um-hum.

16 Q -- correct?

17 A Yes.

18 Q We know from this case that there was evidence
19 that Steve, when Phoenix was born, was pretty candid and
20 straightforward about reasons why they weren't really
21 prepared to --

22 A Um-hum.

23 Q -- take care of a child, right?

24 A Yes.

25 Q He was certainly straightforward and candid about

1 his feelings about CFS based on his own experiences; he
2 made no bones about that?

3 A Um-hum.

4 Q That was obvious to you when you saw him?

5 A Yes.

6 Q You were also discussing the issues with
7 resistant family or a resistant person and whether there
8 was any training around that?

9 A Um-hum.

10 Q Or policies around that?

11 A Yeah.

12 Q And there really wasn't, right?

13 A There -- I mean, there is, there is some training
14 available, like, like a course or, like just a one or two-
15 day kind of a thing, in terms of dealing with resistant
16 families. Again, it was -- as it was an ongoing issue it
17 was often, you know, something that was a common discussion
18 point between colleagues or with a supervisor in terms of
19 how you could approach a family or work with a family. But
20 in terms of official training, at that time I don't recall
21 it. Now, that might have changed because there is, you
22 know, there is improvements in mentoring new workers when
23 they come in to the, you know, to work with the system, so
24 that, that is probably changing in that direction, but at
25 the time there wasn't anything formal that I can recall.

1 Q But the mere fact that someone is resistant by
2 itself --

3 A Um-hum.

4 Q -- is just one consideration in terms of what you
5 should be doing?

6 A Not quite clear what you're meaning.

7 Q Well, you've got a resistant client who isn't
8 that much in favour of --

9 A Um-hum.

10 Q -- getting support at least from CFS?

11 A Um-hum.

12 Q Even though we have evidence that he would get
13 supports elsewhere, which also wasn't unusual, right?

14 A Um-hum. Yes.

15 Q But the mere fact that someone is somewhat
16 resistant, doesn't mean they don't have problems or don't
17 need your assistance or ...

18 A That's correct. And I mean, with this case, I
19 mean there was some positive things with what Steven was
20 doing with Phoenix and, and that could have been built
21 upon. It was not all negative. And, and I didn't approach
22 this family's situation with a negative attitude. I
23 believe that whatever needed to change could change because
24 he had some strengths --

25 Q Right.

1 A -- obviously.

2 Q Um-hum. But this, this, this notion of people
3 being resistant, that really goes back to what we talked
4 about earlier, and that's the perception --

5 A Um-hum.

6 Q -- that people have?

7 A Well, based on some of their experience, which I
8 could not, I would never minimize for them. But then
9 there's also a public perception that's also, it's also
10 part of our, part of the job that we have to -- it's part
11 of our job, I guess is what I'm trying to say --

12 Q You have to --

13 A -- what we have to deal with, yes.

14 Q -- have to contend with that?

15 A Yes.

16 Q Yeah. You, you then talked about the court
17 appearance that you went to. That was July 7th?

18 A July 2nd.

19 Q Or July 2nd? (Inaudible) three, do I have that
20 right?

21 A Yes.

22 Q You talked about the fact that Samantha was there
23 and that she was with somebody?

24 A Yes.

25 Q Do we know who that was?

1 A She identified the name. I believe I put that in
2 my report. I don't know who that was.

3 Q No.

4 A I didn't know that he would be there that day. I
5 didn't know who would be there that day, actually, to be
6 honest.

7 Q Was this -- was your impression that she was with
8 this person in a relationship?

9 A She told me that she was with that person, yes.

10 Q Did you inquire about who that person was?

11 A I asked her the name and she gave me his name,
12 and I believe a date of birth, which is on the addendum as
13 well.

14 Q Okay.

15 A So ...

16 Q Was --

17 A And that would have been information that would
18 have been helpful to the worker had they, you know, pursued
19 further work with Samantha to see who would be in her life
20 and --

21 Q Um-hum.

22 A -- what kind of a person this would be for
23 Phoenix.

24 Q Yeah.

25 A So ...

1 Q That would be an obvious thing you'd want to
2 check out, obviously?

3 A Absolutely, yes.

4 Q Because if Samantha was ever going to be with
5 this child, you'd want to know who was with her?

6 A Right.

7 Q What their background was?

8 A Yes.

9 Q Whether they had a criminal record, whether they
10 had previous involvement with --

11 A Um-hum.

12 Q -- CFS, et cetera?

13 A Yes. And that would come along with your further
14 work with the family. At the time that I had seen her on
15 that day and gotten that information, my, my involvement
16 with the family was really done but I was still trying to
17 gather whatever information that could be helpful.

18 Q Right. And that, I think you'll agree, is pretty
19 well something that any social worker would want to know
20 and look into and check out?

21 A I would agree that that's what they --

22 Q Yeah.

23 A -- do, yes.

24 Q You also mentioned that you thought, you thought
25 that a parenting, a parenting capacity assessment be

1 considered around this time --

2 A Um-hum.

3 Q -- July of '03?

4 A Um-hum.

5 Q Is that the first time that, that that occurred
6 to you, that that might be a good idea?

7 A Well, I think I suggested that in the court plan,
8 I believe, so in my assessment, you know, you want to look
9 at their parenting abilities and what would be required for
10 support. So in terms of presenting a plan to the court,
11 that would be an option for us to consider, yes.

12 Q Yeah. What did you take that to mean, a
13 parenting capacity assessment?

14 A Well --

15 Q Was that something a social worker does, a
16 psychologist? Who does that?

17 A Yeah. Parenting capacity assessments are often
18 contracted outside of the agency, so we would secure the
19 services of a psychologist or a psychiatrist, depending on
20 the parents' functioning, and we would assist -- we would
21 ask for a parenting capacity assessment to see whether or
22 not, to see what the concerns would be preventing a parent
23 or what we would need to work on with that parent to help
24 them be a better parent.

25 Q Did you have a list of people that you dealt

1 with?

2 A We do, we do have a list of available therapists
3 and practitioners, yes.

4 Q Is that something that was easy to arrange or
5 took a long time, or took too long or ...

6 A It, it can take a while, depending. Not
7 everybody has, not all practitioners have availability so
8 you have to maybe contact quite a few. Some specialize in
9 what they will provide for an assessment so you have to
10 match your assessor with your family. So it's not an
11 automatic, you know, thing that can be done very quickly.
12 You do have to do some work with that.

13 Q We heard some evidence that couple years earlier,
14 two years earlier, Dr. Altman was asked to do a, an
15 assessment of Samantha, not a parental capacity assessment
16 but --

17 A Um-hum.

18 Q -- just with respect to depression.

19 A Right.

20 Q Do you think perhaps a parental capacity
21 assessment is something that might have been considered
22 much sooner than July of '03 when you were in court
23 discussing that plan?

24 A Should it have been done sooner?

25 Q Um-hum.

1 A I can't speak to what the decisions were, like
2 for the workers. I don't know. Perhaps if it would have
3 been done in conjunction with, you know, our involvement,
4 it might have given people a more accurate picture or a
5 more honest picture about what Samantha was like as a
6 parent. Obviously, there were deficits in her parenting
7 and that's why I would have made that suggestion. I would
8 have been curious. But a parental capacity assessment is
9 just one piece of information. They look at a person for a
10 few sessions and they ask them questions during those
11 sessions, and that is their information. It has to be done
12 with the involvement of an agency who is probably more
13 involved on a, you know, more regular basis and can see
14 that parent. Like you maybe -- maybe during visits, you
15 know, watching that parent interact with their children
16 during those visits, because a parent, parental capacity
17 assessment is this much of, of their -- of an involvement
18 with a family. Ours is much longer and ongoing. So the
19 two could work together to determine what would be best.

20 Q I appreciate it's only one thing.

21 A Yeah.

22 Q But couldn't hurt to have done it sooner?

23 A It could have been done sooner. I don't know if
24 it would have made a difference but it could have been done
25 sooner, yes.

1 Q Just one more point, and these, this relates to
2 Mr. Commissioner asking you some questions towards the end
3 of your testimony yesterday. You were talking about
4 closing files and that process, and I think you said at the
5 end that you can still access files even if they're closed?

6 A You can access the information of a family even
7 if it's closed, yes. Like, that, the information in my
8 transfer summary, it would be on CFSIS. So even if the
9 family file was closed you could still access that
10 recording.

11 Q So the concept of closing a file, is that just
12 something that sort of puts that file in a situation where
13 you -- no one has to work on it?

14 A It's a determination that no other involvement by
15 this agency needs to occur, and so, and, and nobody else
16 will be following up on it.

17 Q And again, it's just -- there's either the open
18 file or the closed file. There's --

19 A Yes.

20 Q -- not, there's no process of something in
21 between?

22 A There isn't at this time, so I don't know if that
23 will be helpful. Because again, if you have an in between
24 then you have to have, you have to be very specific what's
25 going to be happening on that file. If you have a file

1 open and nothing happening and something happens on it,
2 then you're going to be asking me questions about why I had
3 a file open to me and doing nothing on it. So it doesn't
4 make any sense to keep a file open if you're not actively
5 working on it. So at the time of closing it's determined
6 that there is no further work required by the agency, the
7 family situation, while maybe not perfect or maybe there is
8 some level of risk, that the safety of the child, the
9 wellbeing of the child is, is determined to be good enough
10 that the file can be closed.

11 Q Is --

12 THE COMMISSIONER: If I can interrupt. When you
13 go to CFSIS to get your information --

14 THE WITNESS: Um-hum.

15 THE COMMISSIONER: -- is there anything telling
16 you that you're getting your information from a closed
17 file?

18 THE WITNESS: Yes, there would be. It would show
19 that the file was closed. Like, you would go -- you would
20 say -- say if that file was closed and you wanted to access
21 it, you would see that that file was already closed but you
22 could still access the information.

23 THE COMMISSIONER: Yeah. That's not a
24 prohibition to you getting the information?

25 THE WITNESS: That's correct.

1 THE COMMISSIONER: Thanks, Mr. Gindin.

2

3 BY MR. GINDIN:

4 Q Seems to be a prohibition, though, in terms of
5 actually working on the file?

6 A It's a closed file. You're not working --

7 Q Right, exactly.

8 A -- on a closed file.

9 Q Exactly.

10 A Yeah.

11 Q We've seen files close in this case that have
12 memos attached to them with certain unresolved issues or
13 certain things that should still be considered or
14 monitored.

15 A Um-hum.

16 Q But yet when the file is closed, they wouldn't
17 be.

18 A They wouldn't be. And again, families do have
19 unresolved issues. Doesn't mean that they're not still
20 going to work on them with their support people involved or
21 their families. We can't keep files open just because
22 there are unresolved issues either. You have to, you have
23 to look at every family situation, but to keep a file open
24 because there's an unresolved issue, we would close no
25 files. We would be active with almost every family in the

1 city and then you would -- then that's not possible.
2 That's not the way the system can, can work.

3 Q But when the file is closed and still has
4 unresolved issues, you really have to rely on the client
5 having resources of some other type --

6 A Well, at some --

7 Q -- to deal with their problems?

8 A At some point there is the responsibility of --

9 Q Yeah.

10 A -- the parent to ensure that their child is being
11 looked after, and if they can't, if there's family to
12 assist them, that they enlist those family or resources,
13 and, and call those people upon to help if they, if they're
14 not going to rely on an agency to help them with that.
15 There is some responsibility there, too.

16 Q And here there was evidence that we've heard that
17 Steve, for example, did a number of things, went to Ma Mawi
18 and --

19 A Um-hum.

20 Q -- took parenting classes and --

21 A Yeah. So --

22 Q -- the Boys and Girls Club and --

23 A So he had the capacity in relationship with those
24 resources and that was probably helpful for him.

25 MR. GINDIN: Okay. Those are my questions.

1 Thank you.

2 THE WITNESS: Thank you.

3 THE COMMISSIONER: Thank you, Mr. Gindin.

4 Mr. Saxberg.

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

6

7 CROSS-EXAMINATION BY MR. SAXBERG:

8 Q Good morning, Ms. Forrest. It's Kris Saxberg.

9 A Good morning.

10 Q I'm acting for ANCR and for three of the
11 authorities that regulate child welfare in Manitoba. I
12 want to start first, if we could call up CD1802 and page
13 38015. Thank you.

14 And this is the -- it's an excerpt from the
15 Rhonda Warren internal report, and you were taken to this
16 document yesterday. You recall that?

17 A Yes, I do.

18 Q Could you scroll down to the bottom of the page
19 and there's a critique in here near the bottom of the
20 second last bullet that says:

21

22 "Allowing a child to have a
23 foreign object embedded in her
24 nose for three months without
25 medical attention is clearly

1 neglectful and a thorough
2 investigation ..."

3

4 should have, should have been done.

5 A Um-hum.

6 Q You see that?

7 A Yes, I do.

8 Q You agree with me, you agree that that's, that
9 it, the characterization of it as neglectful is fairly
10 accurate?

11 A Like allowing a child, is that like --

12 Q Yeah.

13 A Well, the words here are allowing a child. I
14 don't know if it was allowed or if, if something had
15 happened and maybe some of the -- the person didn't know as
16 long as it was there for. So yes, if you allow something
17 to happen to a child in that regard, that would be
18 considered neglectful.

19 Q Right. And Ms. --

20 A Not knowing.

21 Q Correct. Thank you. And Ms. Warren here, in her
22 report, she does not say, though, that this was a child in
23 need of protection. She doesn't conclude that, does she?

24 A She does not conclude that.

25 Q No. So, and that can happen where you have

1 concerns and there's neglectful conduct but it doesn't mean
2 a child is in need of protection, correct?

3 A That's correct.

4 Q That happens quite regularly with intake
5 functions --

6 A Where things happen with children and they're not
7 in need of immediate protection but in need of some
8 service, yes.

9 Q Exactly.

10 A Yes.

11 Q There's an investigation that's warranted but the
12 child is not in need of protection. It happens on a
13 regular basis, correct?

14 A Yes, it does.

15 Q And, well, in fact, the numbers that, that this
16 Commission will hear show that approximately half of the
17 intakes, files that are investigated, wind up being closed
18 on intake, just as a general assertion. You agree with
19 that?

20 A I don't know what the numbers are but, yes, we
21 do, upon investigation, close many files on intake --

22 Q Right. And --

23 A -- based on finding that the children are not in
24 immediate need of protection and, and that the files can be
25 closed. Doesn't mean that the family problems aren't

1 resolve -- they may be unresolved, but there are steps,
2 there's processes being done to ensure that the safety and
3 wellbeing of the child is there.

4 Q And it doesn't mean that there weren't valid
5 concerns or that there -- but it means that the file, that
6 the child isn't in need of protection and services aren't
7 mandated so the file can be closed. That happens from time
8 to time?

9 A Yes, it does.

10 Q Now, if we could turn up CD number 1 and page 29.
11 The first report that we just looked at, that was Rhonda
12 Warren's internal report. The second report that I'm
13 drawing your attention to is Andy Koster's external report.

14 A Um-hum.

15 Q And on page 29, at finding number 15, he, he's
16 indicated that it was commendable that you went out as soon
17 as you did to do your investigation.

18 A Um-hum.

19 Q You saw that?

20 A Yes.

21 Q But then he goes on to say that, essentially,
22 that a more assertive approach should have been taken in
23 terms of the investigation; that's, that's his only
24 critique; is that fair?

25 A That's his critique there, yes.

1 Q But he doesn't say that the child was in need of
2 protection; he does not conclude that, does he?

3 A Not in this part of the report, no, not in there.

4 Q And there's no assertion that the child should
5 have been apprehended at that time based on that referral
6 by Mr. Koster, is there?

7 A That's correct, yes.

8 Q I want to take you to a third report now, and
9 this is the report at CD number 2 and page 140. This is
10 the report of the Office of the Chief Medical Examiner and
11 it's prepared by Jan Christianson-Wood. And you're
12 familiar with it?

13 A Yeah -- well, as -- yes.

14 Q You were taken to it yesterday?

15 A Yes.

16 Q And on page 140, in the italicized section at the
17 top of the page, here, the report writer is saying the
18 child was clearly a child in need of protection under the
19 Act. You saw that yesterday --

20 A Yes.

21 Q -- that's been pointed out.

22 A Um-hum.

23 Q Correct?

24 A Yes.

25 Q And that's a determination that Jan Christianson-

1 Wood has made in this report during her review of your work
2 and other work relating to this family from 2000 to,
3 through to 2005, correct?

4 A Yes.

5 Q Now, are you aware that there was a, another
6 Office of the Chief Medical Examiner's office report that
7 was conducted into your work?

8 A No.

9 Q If we could turn to CD764.

10 A So this is the first time I will be seeing this?

11 Q Yes. And at page 1768. Now, this is a report
12 that was prepared relative to the death of Ms. Sinclair's
13 and Mr. -- sorry, Ms. Kematch and Mr. Sinclair's other
14 child, [REDACTED]. And it was conducted -- if we could turn to
15 page 17697 and scroll to the bottom. It's prepared by
16 Ginette Abraham LaPointe but it's reviewed by Jan
17 Christianson-Wood. Do you see that?

18 A Yes, I do.

19 Q That's the same report writer from the earlier
20 report that said that the child was in need of protection,
21 correct?

22 A Yes.

23 Q And if you can just quickly turn back to page
24 17680. Scroll down to the date. Yes. You see that the
25 report was prepared on October 2nd, 2003. Do you see that?

1 A Yes, I do.

2 Q Now, that's a period after you've done all the
3 work that you did in connection with this file, correct?

4 A Yes, it is.

5 Q And it's, of course, a report that's prepared
6 before anyone knows what's going to happen to Phoenix
7 Sinclair?

8 A Yes.

9 Q Because she, as we know, was murdered in 2005.

10 And if you, if we could turn to page 17693 -- I'm
11 sorry, 17694. And you'll see that, that the narrative here
12 takes the reader of the report through the period including
13 June 21st, where the after-hours call is received and
14 where, eventually, Mr. Sinclair, because of his condition,
15 the agency intervenes and apprehends Phoenix. Do you see
16 that?

17 A Yes, I do.

18 Q So it's dealing with that period of time that you
19 were handling the file.

20 A Yes.

21 Q And if we could turn, then, to the findings of
22 the report, which is on the next page, 17695. Sorry,
23 apologize again. The findings are on page 17697. And they
24 say:

25

1 "The special investigator feels
2 that the Winnipeg Child and Family
3 Services has met their mandate
4 with respect to this case."

5

6 Do you see that?

7 A Yes, I do.

8 Q And that:

9

10 "Summaries were complete and on
11 file. Child in Care reviews were
12 complete. Family assessment
13 information was complete."

14

15 Do you see that?

16 A Yes, I do.

17 Q And finally, it says:

18

19 "It was relatively easy to follow
20 the paths the family had taken
21 from the summary. This file met
22 Provincial Program Standards and
23 as well maintained."

24

25 Do you see that?

1 A Yes, I do.

2 Q Do you agree with those findings, in connection
3 with your work to that point in time?

4 A To that point in time, I would agree. Other than
5 not seeing her quickly enough, I would agree.

6 Q Okay, yeah. And that's fair, that you, you've
7 admitted that certainly would have been better if you could
8 have been able to make contact with, with Mr. Sinclair and
9 seen Phoenix in this case, correct?

10 A Yes.

11 THE COMMISSIONER: Just a moment, Mr. Saxberg.

12 Witness, do you know this person, Ginette
13 Abraham-Lapointe?

14 THE WITNESS: I'm familiar with the name. I
15 don't think I've directly worked with her but I am -- she,
16 she was involved in the system for a period of time, yes.

17 THE COMMISSIONER: She worked with Child and
18 Family Services?

19 THE WITNESS: I believe she did, yes.

20 THE COMMISSIONER: At that time?

21 THE WITNESS: Not at that time. She was now
22 working for this, this office. But at some point she did
23 work within the system, yes.

24 THE COMMISSIONER: What, what is "this office"?

25 THE WITNESS: This is the chief medical

1 examiner's office.

2 THE COMMISSIONER: Oh. Oh --

3 THE WITNESS: Yes.

4 THE COMMISSIONER: -- I see.

5 MR. SAXBERG: Right. And if you could scroll
6 down further on the document that we're seeing, it was
7 reviewed by Jan Christianson-Wood who also prepared the
8 earlier report.

9

10 BY MR. SAXBERG:

11 Q But just following up on what, what you're
12 indicating, you had mentioned to Mr. Gindin that you were
13 relying on Mr. Sinclair telling you that Phoenix was safe
14 with a friend?

15 A Um-hum.

16 Q You agree on that point as well, in terms of
17 being fairness and, and the overall work done, that it's
18 not best practice to take the parent's word that their
19 child is, is not being maltreated; you've got to do your
20 own investigation?

21 A You still have to do further investigation, yes.

22 Q And, and also on that score, did you consider
23 sending the after-hours unit out?

24 A I don't recall at that time, no.

25 Q But that, that was an option you could have done?

1 A It could have been, I suppose, yes.

2 Q And that, the after-hours is the, is the unit at,
3 at, now, ANCR that handles all CFS cases in Winnipeg after
4 hours?

5 A Yes, that's correct.

6 Q So they could go out there at night to see, to
7 maybe make contact, and that does happen from time to time
8 that you would do that?

9 A You could, depending on the nature of the case,
10 yes, and if you believe that a child was in need of
11 protection especially, so ...

12 Q Now, in terms of file maintenance and, and
13 procedures and, you know, what rules you were following at
14 intake, at the time you were delivering services, there was
15 a intake program description and procedures manual that was
16 in place at the time, and you were familiar with that,
17 right?

18 A Yes, I believe so.

19 Q Could you turn up CD992. Oh, sorry. You're
20 waiting for the page, I guess. Page 19625. And this
21 document is the intake program description and procedures
22 manual that was in place in July 2001. Do you see that?

23 A Yes, I do.

24 Q That's the document you were referring to?

25 A Yeah. Yes.

1 Q And you would have been familiar with the
2 procedures and protocols in this document at the time you
3 were delivering services to Phoenix?

4 A At the time I would have had this, and yes.

5 Q And you could turn to page 19641, and scroll to
6 the bottom of it. You see there's a section, under the
7 heading, Recording Outline. You see that?

8 A Yes, I do.

9 Q And it indicates that:

10

11 "... Intake Units have committed
12 to a standardized 'Recording
13 Package', which includes a
14 formalized method of recording
15 data and completing the 'Transfer
16 and Closing Summary' ... on each
17 case ... or closing."

18

19 See that?

20 A Yes, I do.

21 Q And there was that standardized recordkeeping
22 process in place at the time you delivered services to
23 Phoenix, correct?

24 A Yes.

25 Q And attached to this manual as appendixes are the

1 standardized forms that you were to fill in with every case
2 you were working on.

3 If you could turn up 19659. There was a, there
4 was a CFSIS face sheet that had to be filled out on all
5 files and it was in, in the material? If you could turn to
6 -- that's correct?

7 A Yes.

8 Q One, one of the forms --

9 A Yes.

10 Q -- was a face sheet. It's not shown here, so ...
11 But if you turn to 19660. There's the CRU intake and
12 after-hours unit form that we've seen throughout this
13 proceeding. It was a standardized form. It had headings,
14 you had to fill in certain information on every single
15 file, correct?

16 A Correct, yes.

17 Q And if you turn to page 19666. This is the
18 intake transfer summary form. This is the information that
19 procedure -- in accordance with procedures and policies in
20 place at the time you had to fill out when you were doing
21 an intake transfer summary, correct?

22 A Yes.

23 Q And you did that and your form complies with this
24 document?

25 A Yes.

1 Q That's correct?

2 MR. SAXBERG: I'd like, Mr. Commissioner, that
3 the entire contents of CD992 be deemed, I supposed, to have
4 been referred to so they can, so that the document can be
5 referred to in closing submission and/or as, as you did
6 with the time sheets, that the entire procedural manual
7 could be made public.

8 MS. WALSH: We can do it in, we can do that in
9 one of two ways. We can either enter the entire document,
10 even though it's in our disclosure as an exhibit, as a hard
11 copy, or we can simply, as we did with the time sheets,
12 indicate the pages in their entirety that, that CD992,
13 including pages whatever to whatever, from the beginning to
14 the end, are to be entered into the public record. That
15 might be the simplest way.

16 THE COMMISSIONER: That's what you're suggesting,
17 I think --

18 MS. WALSH: Yeah.

19 THE COMMISSIONER: -- Mr. Saxberg.

20 MR. SAXBERG: Yes.

21 MS. WALSH: Yeah.

22 THE COMMISSIONER: All right.

23 MS. WALSH: So that's, that's certainly something
24 that, that can be done.

25 THE COMMISSIONER: That will be done.

1 MS. WALSH: Thank you.

2 MR. SAXBERG: Thank you.

3

4 BY MR. SAXBERG:

5 Q If we could turn up page 37461. This is a fax.

6 And, stop right there. And it's dated March 13, 2003.

7 You're familiar with this document?

8 A Yes, I am.

9 Q Looked at it the other day. This is the letter
10 from the Child Protection Centre outlining concerns they
11 had with respect to this object in Phoenix Sinclair's nose?

12 A Yes.

13 Q Is that correct?

14 A Yes.

15 Q And the important thing is, this wasn't sent
16 until March 13th, 2003, correct?

17 A Yes, that's correct.

18 Q And so they're expressing formally their concerns
19 about this matter, March 13, 2003. The file came to you on
20 February 28th?

21 A Yes.

22 Q So given the fact that -- well, let me back up a
23 second.

24 It is the case, though, that the Child Protection
25 Centre phoned after hours the day after Phoenix was at the

1 hospital on February the 26th --

2 A Yes.

3 Q -- correct?

4 A Yes, I did.

5 Q And would you agree that the fact that the
6 hospital itself isn't raising these concerns formally for a
7 couple weeks after the incident is an indication how they
8 feel about the matter in terms of its severity, is it not?

9 A If there was a severe incident at the hospital,
10 my experience is that a, a referral to us and request for
11 service would be, would have been probably much more
12 immediate. There would have been involvement by a hospital
13 social worker. There would have been a clear indication
14 that this needed, like, assistance right away. That was
15 not the information that was contained in the referral from
16 the hospital initially. And the follow-up letter in
17 response to my request for more information basically --
18 which came at this date, basically outlined the same
19 information. So my thought was that they did not -- it was
20 not an urgent critical event in, in their perception at the
21 time of referral.

22 Q And it's my information and a subsequent witness
23 will provide this view, that the referral was made to
24 ensure that Phoenix was receiving the antibiotics that were
25 prescribed.

1 A Yes.

2 Q Is that --

3 A Yes.

4 Q -- was that your view?

5 A That she was receiving treatment to follow up.

6 Q Right. And the concern was to ensure that the
7 care-giver would, would get the prescription and would --

8 A Yes.

9 Q -- make sure that Phoenix received those
10 antibiotics?

11 A Yes.

12 Q And you weren't aware, or you're not aware that
13 the expected evidence of Kim Edwards is that she and Rohan
14 Stephenson were looking after Phoenix on virtually a full-
15 time basis during the period of time in which this object
16 was in Phoenix's nose? Were you --

17 A I was not aware of it during my involvement.

18 Q And are you aware that -- well, the expected
19 evidence is going to be that it was Rohan Stephenson that,
20 that brought --

21 THE COMMISSIONER: Pardon? Speak up.

22

23 BY MR. SAXBERG:

24 Q That it was Rohan, Ms. Edwards' spouse, that
25 brought Phoenix to the Child Protection Centre. Were you

1 aware of that?

2 A Not at the time of my involvement.

3 Q Were --

4 A Now I'm aware of it --

5 Q And now --

6 A -- obviously.

7 Q Were you aware that the, the expected evidence is
8 or that the, the assertion is that Phoenix had been taken
9 to a clinic twice before by Ms. Edwards and that the clinic
10 had refused to treat her?

11 A I was not aware of that.

12 Q And finally, with respect to the safety
13 assessment being five days, I just want to be clear, your,
14 your -- you went out right away, and you were commended for
15 that, but you had no disagreement with the five-day
16 response being selected as the appropriate response time,
17 correct?

18 A That's correct, yes.

19 Q Now, you left working as an intake worker in
20 2009; is that right?

21 A Yes, I did.

22 Q What month was that?

23 A April or May of 2009.

24 Q Okay.

25 A Um-hum.

1 Q And when you left, it was a new organization that
2 was in place performing that intake function. That new
3 organization is referred to as ANCR?

4 A Yes.

5 Q And ANCR came to be in February of 2007?

6 A Um-hum.

7 Q That's right?

8 A Yes.

9 Q And you would have then been a seconded employee
10 from the previous organization, which was Winnipeg Child
11 and Family Services?

12 A That's correct.

13 Q So you remained a seconded employee until you
14 left in 2009?

15 A That's correct, yes.

16 Q And you commented yesterday that -- and I think
17 you were just speaking very generally, but that there were
18 no improvements in workload during your time as an intake
19 worker; you said that?

20 A I did say that. Intake is a very busy function
21 so workloads were generally almost always high. So in
22 terms of seeing a lesser number or that kind of thing, I
23 didn't actually expect it to be lower.

24 Q And you'd indicated that -- I thought it was a
25 good comment to make -- that you said sometimes it's not

1 what you should be doing -- or what you should be doing
2 becomes what you can do?

3 A That's correct, yes.

4 Q And that was because a factor of the workload.
5 But you did indicate earlier today that devolution in 2005
6 had made the situation more challenging than before or
7 after; is that fair?

8 A It was challenging in that there was a lot of
9 change within the, within the structure and organization,
10 and so that made for some of those challenges. You were --
11 staff were leaving, new staff were coming, so there was
12 that challenge along with the workload that we also had to
13 face as an agency.

14 Q Right. And that was an extra challenge that was
15 in place in around the time you were providing services to
16 Phoenix, but that wasn't a challenge that you faced in 2007
17 or in 2009, for instance?

18 A In 2009 there was a bit of a shortage for a
19 period of time of staff. I, I believe that that did get
20 resolved over time. But at the time that I had left there
21 was not as many intake workers as -- the complement of
22 staff was not full --

23 Q Okay.

24 A -- because of whatever reason, whether people
25 left their positions or whatnot. So it was not a full

1 complement at the time so it was a little bit of a
2 struggle.

3 Q And I'm going to get to, to that, who was in
4 place in 2009 when you left. But what you're referring to
5 is there were vacancy problems at ANCR --

6 A Yes.

7 Q -- in 2009 because a lot of people, like you, for
8 instance --

9 A Um-hum. Um-hum.

10 Q -- who were seconded, performing that work, left?

11 A Yes. People were leaving, yes.

12 Q And so when someone like you, who had been doing
13 intake since 1994 leaves, it's a challenge for the
14 organization to find --

15 A Yes, it is.

16 Q -- someone that's as good as you to do that job,
17 right?

18 A It's -- yeah, you want to put staff back in when
19 they're leaving, yes.

20 Q So that was a transitional issue. And as you
21 say, those vacancies were eventually filled with bodies
22 and, and qualified people?

23 A Yes.

24 Q To your knowledge?

25 A To my knowledge, yes.

1 Q Yes. So now, you were talking about no
2 improvements to workload, but there's certainly, and I
3 think you admitted this, were improvements to the delivery
4 of service and to the procedures at intake between 2005 and
5 2009 when you left; is that fair?

6 A Yes, there were efforts to make that happen and
7 they were happening, yes.

8 Q Well, I just want to bring to your attention some
9 of the changes that occurred there. For instance, you'd
10 mentioned the first being the intake module coming online
11 in May of 2005.

12 A Um-hum.

13 Q Yes?

14 A Yes.

15 Q And that was a significant change in terms of how
16 intake was able to do its work, that it facilitated you to
17 be able to do your job?

18 A Yes.

19 Q For instance, the, the intake module is a
20 computer program that allows you to, in an easier way,
21 attach parties that are related to the file; is that fair?
22 Would you agree with that? It's easier to perform that
23 function?

24 A Yes. It also requires your recording to be
25 attached for -- much more quickly, so that's also a good

1 thing.

2 Q It's, it's live; as soon as you --

3 A Yeah.

4 Q -- type in your information, it's there for
5 everybody in the ANCR --

6 A In the ANCR organization.

7 Q -- everyone at ANCR to see --

8 A Yes.

9 Q -- immediately that information?

10 A Um-hum.

11 Q So you couldn't wind up with a situation where,
12 because someone hadn't put the information on the system
13 for a while, it was missed by the next worker, correct?

14 A Yes.

15 Q And that's very important for ANCR because you're
16 dealing with matters in a very small period of time,
17 correct?

18 A Yes, that's correct.

19 Q So having that information available immediately
20 to everyone was a big improvement to the system; you agree?

21 A Yes, it was. Yeah.

22 Q And it also would have helped, for instance, as I
23 said, in attaching people that are related to the file, and
24 in this case, for instance, would have made it easier to
25 attach Kim Edwards to the file and her information; would

1 you agree with that?

2 A Yes.

3 Q And that might have helped you be able to
4 identify her a lot sooner in terms of making contact with,
5 with Steven and to find out where Phoenix was during
6 February of 2003; is that fair?

7 A Possibly, yes. Yeah, that's fair.

8 Q So that could have helped?

9 A It could have helped, yes.

10 Q And would you agree that in the new post-2005,
11 safety assessments for 24-hour responses became mandatory,
12 full safety assessments?

13 A Yes, I think so. Vaguely. You know what, it's
14 been a little while so I --

15 Q Yeah.

16 A -- so I haven't looked at those forms for a while
17 so ...

18 Q And another change that occurred with the advent
19 of the I.M., intake module, was that that safety assessment
20 is standardized in terms of questions that are asked
21 wherein workers are prompted to make certain inquiries to
22 ensure that children are safe; is that fair?

23 A Yes, it's fair.

24 Q And that wasn't around during the period that you
25 were providing services to Phoenix --

1 A No.

2 Q -- but was put in place later?

3 A Yes, it was.

4 Q Also, the response time is selected automatically
5 by the computer once you select issues, under --

6 A Yes.

7 Q -- the I.M.; you're familiar with that?

8 A Yes, I am.

9 Q So therefore there's no discretion, should,
10 should the worker have picked 48-hour response time, 24-
11 hour or five day, right now the computer tells you.

12 A Um-hum.

13 Q Is that fair?

14 A The computer tells you based on the answers
15 that's within that program, yes.

16 Q And another item, you'd agree that there were new
17 standards manuals that were put in place by ANCR during the
18 period that you were there, correct?

19 A Yes.

20 Q And as -- and you'll be familiar with the fact
21 that in 2005 the province put in place new standards for
22 child welfare and that these -- is that fair? New
23 standards for child welfare came into place in 2005?

24 A I don't know the date but I know that there was a
25 change, yes.

1 Q And that the new ANCR procedural manuals that
2 were in place then during that period were a reflection of
3 those new standards; would you agree with that?

4 A I, I suppose I would.

5 Q In terms --

6 A I don't, I don't remember, I don't know what -- I
7 don't recall what they looked like now so I'm, I'm going
8 with what the information that you're providing me as being
9 factual.

10 Q Well, if you don't have any recollection, make
11 sure that you're fair to say that --

12 A Yeah.

13 Q -- and if you don't, don't --

14 A I know there --

15 Q -- agree with me just to agree with me.

16 A -- was a change in the standards. I don't know
17 -- I mean, I -- in terms of the new policy and procedure,
18 if it -- if you're saying that, I don't know specifically
19 if it was, but I know that there were changes in policies
20 and procedures standards manuals, yes.

21 Q Okay. And one of the major changes that's
22 relevant to this case is the client contact change; you
23 agree with that? Client contact policies?

24 A Yes.

25 Q And one of them that would have been in place

1 before you left ANCR was, was the requirement now to ensure
2 that you always see a child in an investigation?

3 A Yes.

4 Q Now, that standard wasn't in place during the
5 period you were providing services to Phoenix, correct?

6 A That is correct, yes.

7 Q But it was in place before you left in 2009,
8 correct?

9 A Yes, I believe it was.

10 Q Now, there were also some initiatives with
11 respect to workload relief that were brought in post the
12 Phoenix Sinclair tragedy, and my understanding is that
13 since 2008 there was approximately 3.5 additional positions
14 at ANCR as a result of workload relief. Are you familiar
15 with that? Were you aware of that?

16 A You know what, I'm not, I can't recall. I don't
17 know how many extra workers they hired in that timeframe.

18 Q In 2009, and I don't know if it was right around
19 the time you were leaving or close to it, a new abuse
20 unit --

21 A Um-hum.

22 Q -- was established at ANCR.

23 A Um-hum.

24 Q Do you remember that?

25 A Yes.

1 Q Okay. And that new abuse unit added eight
2 positions to abuse intake programs; is that fair?

3 A Yes. They were responsible for the abuse
4 investigations, the file that they were working on still
5 also remained open with the general intake worker. So yes,
6 so they were --

7 Q Right.

8 A -- working -- you still had the file as a general
9 intake worker but now you also had an abuse worker assigned
10 to that file, so ...

11 Q Right. And, and there had -- that additional
12 eight was an increase from, from 12 workers that were there
13 before. So it was, it was a significant increase in
14 manpower in the abuse unit; you agree with that?

15 A Yes.

16 Q And another big change that happened at that
17 time, if we could turn to CD919, and that's page 18430.
18 This document is the abuse investigation criteria that was
19 in place at ANCR. Are you familiar with this document,
20 seen it before? You might want to scroll down.

21 A I can't recall when I would have seen it. It's
22 possible I may have, but it's been a long time since I've
23 been in that agency so ...

24 Q Were you aware that the criteria for abuse
25 investigations was expanded at ANCR in that period when the

1 new abuse was coming on line in 2009 and that the effect of
2 that expansion of the abuse criteria would be to relieve
3 some of the work for intake?

4 A I'm going to say I'm not aware of how, how it was
5 expanded. I don't know. I know we had the extra workers
6 and that obviously was to assist in providing, you know,
7 you know, more workers available for abuse investigations.
8 I don't know what -- how the criteria was expanded. I
9 can't recall it, I'm sorry.

10 Q If we could turn back to CD992, which was the
11 policy and procedures in place during the period that you
12 were providing work on the Phoenix Sinclair file. And I
13 just want to look at the -- turn to the abuse criteria
14 page. It's at --

15 A I'm assuming that it has been expanded because
16 you're showing me that --

17 Q Yeah.

18 A -- this was what it was and this is what is now,
19 and I think I did say earlier that there were improvements
20 and there were some changes. Workload was always an issue
21 in intake but I, I, I do note that there were improvements
22 and changes --

23 Q Okay.

24 A -- within the agency, so I'm not going to deny
25 that.

1 Q Okay. And maybe we can just sort of short
2 circuit going through all the documents by -- if you'd
3 confirm that if the abuse unit increases, becomes more
4 robust and handles more cases, that's going to relieve some
5 of the pressure at intake. Would you agree with that?

6 A With respect to abuse investigations, yes.
7 Um-hum.

8 Q Yes, because it's -- if, if there's more of the
9 cases that are being referred as abuse cases, that's going
10 to relieve that workload at intake, correct?

11 A Yes.

12 Q And are you familiar with, in 2007, that there
13 was a workload diversion process at ANCR where low and
14 medium files were diverted to the family enhancement
15 workers?

16 A Yes.

17 Q And that was another step that was taken by ANCR
18 and ANCR management to alleviate the workload issues at
19 intake; is that fair?

20 A Yes.

21 Q And in 2008, the old geographic boundaries that
22 determined who received what case at intake were, were
23 removed. Do you remember that?

24 A Yes.

25 Q So in the period of time dealing with Phoenix

1 Sinclair, there were four geographic boundaries, the
2 northeast, northwest, south and central, correct?

3 A That's correct.

4 Q And you were at northwest, we heard?

5 A I was at northwest.

6 Q But in 2008 those geographical boundaries were
7 removed and cases were assigned based on a rotation to
8 ensure equal --

9 A Um-hum.

10 Q -- distribution of work among workers; is that
11 fair?

12 A Among the available intake workers that were
13 taking cases, yes.

14 Q And that that would help in terms of workload for
15 individuals, for certain individuals; is that fair?

16 A Yes.

17 Q And it also, my understanding is that it would
18 take into account, then, people being absent because of
19 vacation or sick leave --

20 A Um-hum.

21 Q -- or because they're taking training courses; is
22 that fair?

23 A That would be reflective of that, yes.

24 Q So that would have been an improvement that would
25 assist in workload; is that fair?

1 A It would disburse it more evenly, but the
2 workload was still there.

3 Q Yes.

4 A Yeah.

5 Q And I understand there was also an apprehension
6 rotation list. Are you familiar with that?

7 A I vaguely recall it, yes. Yeah.

8 Q And that's balancing -- when a case is very
9 serious there's an apprehension; that's fair?

10 A Yes.

11 Q And so when there's an apprehension there's more
12 work to do; is --

13 A Yes, there is.

14 Q -- that fair? And so this rotation list was
15 spreading around when, when a worker had a serious case
16 that involved an apprehension, the next apprehension would
17 go to another worker; is that fair?

18 A Yes, that's correct.

19 Q And that assisted in workload?

20 A That assisted in disbursing those kinds of cases
21 so that they weren't specific to a particular unit. But
22 again, workload issues continued because numbers of
23 referrals were increasing. So I mean, again, it does
24 disburse it, makes it more evenly amongst units, but it
25 doesn't minimize the amount of work that people were still

1 dealing with in that system, so ...

2 Q Right. And, and, and that's fair, fair comment.

3 A Yeah. And the efforts are being made to try and
4 make it easier, yes, but the workload issues were still
5 there.

6 Q And it's a fair comment. Because the demand for
7 your services is going to change --

8 A Yes.

9 Q -- from year over year and as population
10 increases demand may increase; is that --

11 A Well --

12 Q -- for your services?

13 A And as the challenges that our families in the
14 communities face, there's more and more issues, more and
15 more complex situations. The, that demographic, those,
16 those needs and issues have changed over the years.

17 Q But in terms of the management at ANCR, they were
18 doing -- they were making these changes to address workload
19 issues, and you agree with that?

20 A There was effort on that part, yes.

21 Q And in terms of training, because you've
22 commented on training, do you agree that in, in April, now
23 this might have been just around when you left, there was a
24 re-assignment of a senior intake worker to a position where
25 they were training all new intake workers, dedicated

1 position to train new intake workers? Familiar with that?

2 A I, I heard about that but I -- again, that was
3 about the time that I was leaving so it didn't, you know,
4 impact me directly.

5 Q Okay. And then you went over -- went back to
6 Winnipeg CFS --

7 A Yes, I did.

8 Q -- and you were doing family services?

9 A Yes, I was.

10 Q And so in that capacity -- you've moved out of
11 that now and you're working in foster placement?

12 A I was working in -- out of that, and now I'm in
13 foster placement, yes.

14 Q Yes. But you'd just be familiar -- you, you'd be
15 familiar generally with the fact that the system is, is
16 going through some significant changes in terms of how it
17 assesses families now?

18 A Yes. Yes, I am.

19 Q And that includes the implementation of
20 structured decision-making --

21 A Yes.

22 Q -- and which are, are -- well, can you describe
23 your understanding of structured decision-making for
24 assessments?

25 A I didn't actually really take part of the

1 training because that was about the time that I was leaving
2 my family service position. But I believe it's a tool used
3 to, to kind of outline the process by which you would meet
4 with the family, what kind of factors you would consider in
5 your work with the family. So it helps you in response
6 time, intervention, assessment of risk. So it's, it's a
7 fairly -- I think it will be a fairly valuable tool once
8 everybody becomes more comfortable using it.

9 MR. SAXBERG: Okay. Thank you for that. Those
10 are all my questions.

11 THE WITNESS: Thank you.

12 THE COMMISSIONER: Thank you, witness.

13 All right. Who else has questions, if anybody?

14 MR. MCKINNON: No questions.

15 THE COMMISSIONER: All right. I guess we're
16 ready for -- you have questions, Mr. Ray?

17 MR. RAY: I, I only have a few questions, Mr.
18 Commissioner. I think if, with your indulgence we could do
19 those now and be --

20 THE COMMISSIONER: Yes, if you --

21 MR. RAY: Can take our break and let the witness
22 be excused.

23 THE COMMISSIONER: -- just got three questions,
24 we'll take them now.

25 MR. RAY: Okay.

1 CROSS-EXAMINATION BY MR. RAY:

2 Q We've heard from your evidence that Phoenix came
3 in to the hospital on February 25th. We know that from the
4 CRU report that was taken by Ms. Roberta Dick and passed on
5 to you, and we know that she was treated and we know that
6 she was released by, by an adult -- together with an adult
7 that we now know was her primary care-giver, one of her
8 primary care-givers, Mr. Stephenson.

9 THE COMMISSIONER: We don't know that yet.

10 MR. RAY: Sorry, we don't know that. We expect
11 to hear that.

12 THE COMMISSIONER: All right.

13 MR. RAY: Pardon me.

14

15 BY MR. RAY:

16 Q The hospital releases them on the 25th after
17 they've been attended to, and then they call you or call
18 CRU on the 26th near the end of the business day,
19 approximately 3:00 in the afternoon.

20 The Child Protection Centre, that's at the
21 Children's Emergency Hospital, right?

22 A Yes, it is.

23 Q Okay. And that's, I assume that that's not just
24 a general practitioner, those are people that would be well
25 versed in injuries to children and suspicions about

1 children and suspicious injuries?

2 A That would be my belief, yes.

3 Q And in your experience, when the Child Protection
4 Centre at the Children's Hospital has a serious concern
5 about a serious issue of medical neglect, do they call
6 right away or do they wait a day?

7 A No, they would call right away.

8 Q And in your experience, when the Child Protection
9 Centre has a serious concern about serious medical neglect
10 or the health of a child, do, do they at least try to
11 record the name of an adult that brings them in?

12 THE COMMISSIONER: Or do you, do you know that?

13 THE WITNESS: I, I honestly don't know what their
14 recording policy is.

15

16 BY MR. RAY:

17 Q Okay. That's fine. Would you expect them to?

18 A If there was a serious concern, I would expect
19 more information would be gathered but --

20 Q Would you expect them to know that that type of
21 information would be helpful to you in conducting your
22 assessment?

23 A I don't know if I can answer that, to be honest.

24 Q Now, you've, you've testified that you got the
25 file on February 28th, that you, that same day, called the

1 hospital inquiring for more information. You called back
2 Cathy Morrison, who, who I understand was the person that
3 called in the first place, correct? Is that right?

4 A Yes.

5 Q Okay. And when did anyone at the hospital,
6 according to your records, first get back to you?

7 A I believe the first contact would have been that
8 letter that I received via fax.

9 Q And just to clarify, did, did Ms. Morrison get
10 back to you?

11 A I don't have any notes recording that so I
12 believe that that did not occur.

13 Q Mr. Gindin asked you a couple questions about the
14 timing between when a decision to close a file is made and
15 the actual closure.

16 A Um-hum.

17 Q And he referenced some evidence we heard from Ms.
18 Epps who stated that she made a decision in October of 2001
19 roughly, together with her supervisor, to close the file
20 but that, in fact, the actual closing summary was not done
21 until March.

22 A Um-hum.

23 Q Are you aware, from your review of the file, were
24 you aware that Ms. Epps actually made the decision in
25 October or, or you, or are you only aware the date that it

1 would be typed and processed?

2 A I would have made note of the date that it was
3 processed. I don't know what would have occurred, like in
4 that circumstance, what she describes.

5 Q And during that period of time, if a new concern
6 or a referral came in about the family --

7 A Um-hum.

8 Q -- while the file is awaiting closure --

9 A Um-hum.

10 Q -- what would happen with that concern from ...

11 A That would be referred to that worker who still
12 had that file as showing waiting closure. That would be
13 referred to that worker and that unit supervisor to tend
14 to, to address the issue.

15 Q And Mr. Gindin asked you if you considered going
16 down to the hospital to ask to inspect the hospital records
17 to determine whether their records actually showed, they
18 name the person that brought Phoenix in.

19 A Um-hum.

20 Q You called the hospital. Did you expect them to
21 get back to you?

22 A I did expect that they would get back with some
23 information, yes.

24 Q If you did the types of tasks that Mr. Gindin was
25 suggesting, what kind of an impact would that have on your

1 ability to do the normal day-to-day child protection tasks
2 that you would expect you would be doing?

3 A Well, obviously, it would, it would take time
4 away from trying to make contact with families if I'm going
5 to the hospital or making requests of hospitals to get
6 written reports. I got a written report eventually but
7 yes, it would directly impact my day-to-day.

8 Q You talked a little bit about intrusiveness
9 and that you have to balance how you investigate a
10 situation.

11 A Um-hum.

12 Q And you don't want to become overly intrusive,
13 keeping in mind that you also want to get information, is
14 how I understood your evidence. Do you have any, any
15 experience with a situation where you, I don't want to say
16 got aggressive, but investigated into a situation where,
17 unbeknownst to you, the child was safe, the child was being
18 adequately cared for, and you inserted yourself into the
19 family, the family life. Do you have any experiences,
20 negative or positive, where that's happened and you had
21 some feedback from the family about that?

22 A I don't know if -- I've had experience in when
23 I've walked into a family situation to, to assess their,
24 their situation and found that there have been no concerns
25 to warrant further investigation. And depending on how you

1 approach the family, they can either accept that in a, in a
2 more positive light or they can still be very angry and
3 hostile towards you about your involvement and your
4 interference, so ... Normally I'm not an aggressive type
5 of person. That is my style. So I wouldn't -- depending
6 on, I guess depending on a circumstances: if I walked into
7 a home and came upon a drinking party, I would not so much
8 be aggressive but would probably be somewhat assertive and
9 crafty in terms of how to get that child out of that place
10 as quickly and safely as possible. So I don't know if that
11 answers your question. But I mean, again, it's always
12 about the, how you approach the family. Even, even if you
13 find no concerns you could still do it in a way that they
14 might leave that experience knowing, yeah, that's her job,
15 she's got to check things out, we understand that, as
16 opposed to, don't ever come back here again with whatever
17 names they're going to call you, because there's nothing
18 wrong here.

19 Q Is it fair to say that investigating into a
20 situation where there are, in reality there are no child
21 protection concerns can create animosity between social
22 workers and families?

23 A Absolutely.

24 Q And does that, in the future, have an impact on,
25 if there's another concern months down the road, does that

1 potentially have an impact on the next social worker's
2 ability to create a relationship with this family and try
3 to solve problems?

4 A If they've had a negative experience then it
5 could impact on their ability to continue the work with the
6 family. Obviously, we have to investigate every concern
7 that comes in, regardless of how they're going to, how
8 they're going to respond to us. But yes, every time you
9 contact a family and make another contact with them makes a
10 -- it impacts them and it does impact your ability to do
11 the job.

12 Q So Mr. Gindin talked --

13 THE COMMISSIONER: Now, are these questions
14 arising out of the re-examination? You said you had three
15 questions. You --

16 MR. RAY: I, I said a few questions, I'm sorry.
17 This is my last question.

18 THE COMMISSIONER: You probably, had, you
19 probably had 10 now.

20 MR. RAY: I think this is my last question.

21 THE COMMISSIONER: Where are you, where are you
22 going?

23 MR. RAY: Well, I'm canvassing questions that Mr.
24 Gindin raised on cross-examination, Mr. Commissioner.

25

1 BY MR. RAY:

2 Q Mr. Gindin, which was going to be my last
3 question, Mr. Gindin asked you whether the best interests
4 of any -- Phoenix, and I'm saying any child --

5 A Um-hum.

6 Q -- trumps intrusiveness?

7 A Um-hum.

8 Q And given what we've --

9 THE COMMISSIONER: Trumps what?

10 MR. RAY: Trumps intrusiveness, I think is what
11 he asked.

12

13 BY MR. RAY:

14 Q And given the situation I've just described,
15 isn't -- is it possible that intrusiveness, overly, being
16 overly intrusive, could, in fact, result in a child's best
17 interests not being protected?

18 A Yes, it is.

19 MR. RAY: Thank you. Those are my questions.

20 THE COMMISSIONER: All right. We're ready for
21 any re-examination.

22 MS. WALSH: Mr. Commissioner, did you want to
23 take the break first?

24 THE COMMISSIONER: How long do you think you'll
25 be?

1 MS. WALSH: Well, maybe 10 minutes at the most.

2 THE COMMISSIONER: Oh, well we perhaps better
3 take our mid-morning break, then.

4 MS. WALSH: Okay.

5 THE COMMISSIONER: All right. We'll rise for 15
6 minutes.

7

8 (BRIEF RECESS)

9

10 RE-EXAMINATION BY MS. WALSH:

11 Q Ms. Forrest, I just want to clarify a couple of
12 matters. You have on the screen in front of you the crisis
13 response unit intake form from the call that came in from
14 the Child Protection Centre on February 26, 2003, the
15 second page of it. And under the heading, presenting
16 problem, interventions, the second paragraph says:

17

18 "The foreign body was removed from
19 Phoenix's nose and the discharge
20 in the nose was very foul
21 smelling. The mucosa in her nose
22 was red and sore. Antibiotics
23 were prescribed but [they] did not
24 know if the antibiotics would be
25 given to Phoenix or not. The

1 hospital requested that this
2 matter be assessed further given
3 the concerns related to physical
4 and medical neglect and inadequate
5 care of the child."

6

7 And you read this form?

8 A Yes, I did.

9 Q So that last sentence, that -- that the hospital
10 requested that this matter be assessed further, given the
11 concerns related to physical and medical neglect and
12 inadequate care of the child --

13 A Um-hum.

14 Q -- that's why this matter was referred, right?

15 A Yes, it was.

16 Q Okay. And then if we could pull Exhibit 8,
17 Schedule "E", please. So Schedule "E" is a portion of the
18 Child and Family Services Act. It's under Part III, which
19 is the involuntary section of the Act relating to
20 involuntary services. And, and what does that mean,
21 involuntary services?

22 A It means services that are provided to a family
23 whether, whether or not they agree to such. So it's, it's
24 child-protection related directly.

25 Q Okay.

1 A It's not a voluntary service.

2 Q Okay. And so I just want to clarify the, the
3 definition of a child in need of protection. Under Section
4 17(1) the definition is:

5

6 "For the purposes of this Act, a
7 child is in need of protection
8 where the life, health or
9 emotional well-being of the child
10 is endangered by the act or
11 omission of a person."

12

13 And then they give some illustrations, the Act
14 gives some illustrations of a child in need in 17(2).

15 A Um-hum.

16 Q And it says:

17

18 "Without restricting the
19 generality of subsection (1), a
20 child is in need of protection
21 where the child

22 (a) is without adequate care,
23 supervision or control;

24 (b) is in the care, custody,
25 control or charge of a person"

1 And if you look at sub (iii):

2

3 "who neglects or refuses to
4 provide or obtain proper medical
5 or other remedial care or
6 treatment necessary for the health
7 or well-being of the child or who
8 refuses to permit such care or
9 treatment to be provided to the
10 child when the care or treatment
11 is recommended by a duly qualified
12 medical practitioner;"

13

14 A Um-hum.

15 Q So is it your evidence -- or it's fair to say
16 that, that based on the referral that came in from the
17 Child Protection Centre, Phoenix was a child in need of
18 care, potentially?

19 A She was a child in need of attention, yes.

20 Q Okay. And being in need of -- and potentially
21 being in need of protection?

22 A Based on further assessment that would be
23 determined.

24 Q But that assessment would certainly have to be
25 done?

1 A Yes.

2 Q And the, the reference to a child being in need
3 of protection, that doesn't automatically mean that a child
4 will be apprehended?

5 A That's correct, yes.

6 Q But it does mean that the situation has to be
7 investigated?

8 A Yes, it does.

9 Q Okay. If we could pull up page 17680, please.
10 17680.

11 Now, this is a document that you were referred to
12 when you were being asked questions by counsel for ANCR and
13 the authorities, and this document is the report that was
14 conducted by the Office of the Chief Medical Examiner. It
15 was ultimately finalized as of October '03, but I just
16 wanted to clarify. This was an investigation into the
17 death of Phoenix's baby sister, correct?

18 A That's what I've been told today, yes.

19 Q Right. Who died in July of 2001?

20 A Yes.

21 Q Okay. Just wanted to make sure that there wasn't
22 any confusion about who this reported related to or whose
23 death it related to.

24 And if we can turn to page 37037. This is part
25 of the transfer summary --

1 A Thank you. Thank you very much.

2 Q -- that was prepared by your supervisor, Mr.
3 Orobko, not when he was supervising your work in '03 but in
4 2000 when he took over the file from Ms. Saunderson. And
5 this was prepared and put into, it was in Ms. Kematch's
6 file, and this is a -- it's relating to Phoenix and this is
7 a transfer summary you would have seen?

8 A Yes.

9 Q And you'll see that in that last paragraph, Mr.
10 Orobko says:

11

12 "The assigned worker [at that time
13 in 2000] shall have two primary
14 issues to sort through in the
15 coming months. Firstly, the
16 question of parental motivation
17 and commitment will need to be
18 assessed and weighed on an on-
19 going basis. Secondly, it will be
20 necessary to determine Samantha's
21 parental capacity."

22

23 And we saw that when you were in court in July of
24 2003, you also referred to the need to look at a parental
25 assessment or an assessment of Ms. Kematch's parental

1 capacity?

2 A Yes, that's correct.

3 Q And do you recall, is that something that you
4 would have discussed with Mr. Orobko, when he was
5 supervising your work on the file?

6 A It would have been probably one of the things we
7 did discuss, yes, as to what the plan could be at court.

8 Q Makes sense.

9 And I have just one final area that I wanted to
10 ask you about, with your indulgence.

11 You've talked a fair bit about the general
12 mistrust that people have of the, of child welfare system
13 if they become the subject or -- of, of the system.

14 A Um-hum.

15 Q Is it fair to say that there's, from your
16 observations, a perception of the system performing a
17 policing function and that that's part of where the
18 mistrust comes from?

19 A It's, it is probable in that way. I think people
20 think that we -- think that's, people think -- perhaps they
21 may think, I don't want to say that it happens all the
22 time, but perhaps the perception is, is that we as CFS
23 workers go out and just randomly interrupt families' lives
24 and remove children from their homes without any rationale
25 or reason and that we have this great power to decide

1 what's going to happen with that child. And what they
2 don't understand is that we are accountable when we do
3 determine that children are in need of an apprehension and
4 protection and in removing them we are accountable to
5 courts and families and other resources, and we're not
6 there to try -- we're honestly not there to disrupt or
7 interfere with families' lives; we really do want to help
8 if we can. But the other part of that is that we have to
9 have families that are willing to work with us on that, as
10 well. So it's not as simple as just us, like the CFS
11 system and the workers involved; it's other portions that
12 need to become involved to make things better, so ...

13 Q But in terms of the perception and where the
14 mistrust comes from, the language that, that's used, the,
15 that CFS worker has to --

16 A Yes.

17 Q -- understandably, investigate, report,
18 apprehend, go to court, those are functions that sound a
19 lot like policing functions?

20 A Yes. And they're very negative. And that's what
21 people focus on.

22 Q And because of that, it's not surprising that a
23 family would view a CFS involvement with some mistrust?

24 A And negativity, yes.

25 Q And so then if that's the case, then does that

1 make it difficult for the worker to establish a
2 relationship with the family?

3 A It can, yes.

4 Q And make it difficult to work with the family?

5 A Yes.

6 Q So my last question is, do you have any ideas
7 about how to fix that?

8 A I think it would be too long of a list probably
9 to go through but perhaps if maybe there was more awareness
10 or better education as to what the system actually does do
11 and what the challenges are. Certainly this inquiry maybe
12 will inspire some different thinking about the challenges
13 that the system itself faces and what it's had to overcome
14 to try and provide better work for families. It's an
15 ongoing -- it's, it's -- the changes in this are ongoing:
16 staffing, policies, procedures, always changes to try and
17 make things better so that we could do our job better. So
18 I don't know how you can change such a very long-held
19 perception. In all of my time in CFS, which has been 22
20 years, it has been that way.

21 Q In terms of maybe a, I don't know if you call it
22 a different model of service delivery, but to sort of
23 overcome that, that perception of us and them --

24 A Um-hum.

25 Q -- do you ever gather all of the significant

1 others or the people that we see listed each time under the
2 demographics in a file recording --

3 MR. MCKINNON: Mr. Commissioner ...

4 THE COMMISSIONER: Yes.

5 MR. MCKINNON: I wish to raise an objection just
6 in terms of this being an entirely new area that didn't
7 arise, in my view, out of her direct examination or her
8 cross-examination.

9 THE COMMISSIONER: Well, I think that's true, but
10 I think under the Rules counsel has a fairly wide latitude
11 at this point, but how much further are you going with
12 this?

13 MS. WALSH: I'm not going much further. We've
14 heard a lot of answers from this witness, who is a witness
15 of long-standing experience, and I simply want to put this
16 one thought to her or ask her whether this is something
17 that's ever done. I was in the middle of putting it to her
18 when my, my friend objected, and I simply wanted to ask her
19 whether this one aspect of service delivery is ever done
20 and whether, if it's not something that's done, whether she
21 thinks it would be a good idea.

22 THE COMMISSIONER: Well, are you objecting to
23 the, her questioning about what could be done to overcome
24 the negative perception that is out there in the public
25 mind?

1 MR. MCKINNON: Yeah. In my mind, that's an
2 entirely new area.

3 THE COMMISSIONER: Well, what's, what's wrong
4 with it?

5 MR. MCKINNON: There's nothing wrong with it.
6 It's just a question of none of the other parties now have
7 an opportunity to explore whatever the, the witness'
8 answers are.

9 THE COMMISSIONER: Well ...

10 MR. MCKINNON: Have no idea what they'll be.

11 MS. WALSH: Certainly the issue of mistrust is
12 not new.

13 THE COMMISSIONER: The -- we're under --

14 MS. WALSH: Rule 35.

15 THE COMMISSIONER: -- 35(d) at this point:

16

17 "Commission counsel will then have
18 the right to re-examine the
19 witness. Except as otherwise
20 directed by the Commissioner,
21 Commission counsel may adduce
22 evidence from a witness during re-
23 examination by way of both leading
24 and non-leading questions."

25

1 MR. MCKINNON: Yes. And I'm not objecting to the
2 leading aspect. I'm, I'm just concerned it's an entirely
3 new area and my, my understanding of the focus and intent
4 of the rules is that cross-examination is wide but re-
5 examination is to be narrow, and that's my only concern,
6 Mr. Commissioner.

7 MS. WALSH: Mr. Commissioner, Mr. Gindin, on
8 cross-examination, did ask about the perceptions.

9 THE COMMISSIONER: There's been a lot about, lot
10 about it. And that's what you're dealing with, is the
11 perception in the public mind. I, I think -- I heard you,
12 Mr. McKinnon, but I don't think it's an unreasonable
13 question based upon what did come out in re-examination.
14 I, I -- the perception thing I think came out in chief
15 through, through Commission counsel but certainly in cross-
16 examination it was dwelt upon and, and I just can't see a
17 problem with this witness being asked if she's got any
18 suggestions for a solution to it. That's really where
19 we're at, isn't it?

20 MR. MCKINNON: That's where we're at, and I hear
21 you, Mr. Commissioner, you've ruled and I accept your
22 ruling.

23 THE COMMISSIONER: Thank you.

24 MS. WALSH: Thank you.

25

1 BY MS. WALSH:

2 Q So I'm curious whether, as a means of addressing
3 issues of mistrust and a feeling of -- and this is not the
4 words that you used, but a feeling of CFS versus the
5 client, do you ever call a meeting of all of the
6 significant others that, as I was saying, that you see
7 listed in the demographics, all the people who are in a
8 family's life, including the collaterals? For instance, in
9 this case we saw that the family member's sisters were
10 listed, friends, Kim Edwards was listed, Nikki Taylor
11 Humenchuk the, their support person from, from the Boys and
12 Girls Club, those were all people that were listed in, in
13 the demographics in the summaries, right?

14 A Um-hum.

15 Q And so the question is, is -- do you ever, "you"
16 as CFS, do you ever start off when you get a referral about
17 a concern and bring everybody together that's in this
18 family's life, including the family, and sit down and talk
19 about the strengths and, and weaknesses or challenges and,
20 and include all of the people, including the family, in
21 addressing the concerns in that way?

22 A Yes, that is possible. Maybe not so much at the
23 intake level, but when you're working with the family at a
24 family service level, that is a possibility that can occur
25 with a family.

1 Q And you've been a family service worker.

2 A Um-hum. Yes, I have.

3 Q Have you ever done that?

4 A Yes, I have.

5 Q And has that been an effective way of addressing
6 mistrust issues?

7 A To some degree, yes, because there's always going
8 to be a little bit there, depending on the circumstance of
9 the family. But you've been able to discuss and try to
10 address the issues in a respectful and supportive way
11 with the family, and, and my experience is that you will
12 go a lot further with them; even if the outcome may not
13 be always what the family wants, they can accept it
14 maybe.

15 THE COMMISSIONER: But that deals with the family
16 you're dealing with.

17 THE WITNESS: Yeah.

18 THE COMMISSIONER: It doesn't deal with the
19 overall perception you talked about that --

20 THE WITNESS: Yeah.

21 THE COMMISSIONER: -- that's initially there when
22 you make your --

23 THE WITNESS: Yeah.

24 THE COMMISSIONER: -- first move, doesn't it?

25 THE WITNESS: And the overall perception -- child

1 welfare has a role in terms of keeping children and
2 families safe, so part of that role requires us to perform
3 duties and tasks that families and/or people who don't know
4 the circumstances may not agree with or understand. I
5 don't know how to overcome that. I do not have an answer
6 for that, to be honest.

7 THE COMMISSIONER: I think that's a good place to
8 leave this.

9 MS. WALSH: Thank you. I have no further
10 questions of this witness.

11 THE COMMISSIONER: No. Now, it may be -- you can
12 take your seat.

13 It may be unusual, but because the rules are
14 there, but I've got some flexibility vested in me, as far
15 as I'm concerned, I think I have and I'm satisfied -- I
16 believe I have. Having said that, Mr. McKinnon is there
17 something arising out of that questioning you're concerned
18 about being left where it is? And if there is, I'll hear
19 you and perhaps allow you to put some questions.

20 MR. MCKINNON: I don't think I have any
21 significant concerns, but to some extent they were
22 addressed by Ms. Walsh when she asked this witness if she
23 ever had these kinds of conferences. And let me just make
24 this point:

25

1 CROSS-EXAMINATION BY MR. MCKINNON:

2 Q You're aware, witness, that there have been
3 recent developments at Winnipeg CFS with the development of
4 a new practice model.

5 A Yes, I am, and I talked about that. Yes.

6 Q And, and, and the concept of -- I'm not going to
7 come up with the right term, but the, the circle of
8 supports, meeting and getting together --

9 A A systems meeting.

10 Q Systems meetings --

11 A Yes.

12 Q -- where you would get the kinds of collaterals
13 that Ms. Walsh has referred to, that is part of the new
14 practice model?

15 A I'm aware of it. I believe I spoke to that, that
16 I thought that that would be a very helpful tool --

17 Q Right.

18 A -- for workers.

19 Q So these kinds of things are continuing to
20 develop and unfold at Winnipeg CFS where you're now
21 employed?

22 A Yes, and I think I spoke to that.

23 Q Thank you.

24 A Yes.

25 THE COMMISSIONER: All right, witness. You're --

1 you've been on a long time but you're finally finished.

2 THE WITNESS: Thank you.

3 THE COMMISSIONER: Thank you very much for your
4 appearance and cooperation.

5 THE WITNESS: Thank you.

6

7 (WITNESS EXCUSED)

8

9 THE COMMISSIONER: All right, who's next?

10 MS. WALSH: Next, next is Ms. Roberta Dick.

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

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

14 THE COMMISSIONER: All right. State your full
15 name to the court.

16 THE WITNESS: Roberta Dick.

17 THE CLERK: And spell me your first name?

18 THE WITNESS: R-O-B-E-R-T-A.

19 THE CLERK: And your last name?

20 THE WITNESS: D-I-C-K.

21 THE CLERK: Thank you.

22

23 **ROBERTA DICK**, sworn, testified as

24 follows:

25

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

2

3 DIRECT EXAMINATION BY MS. WALSH:

4 Q Morning, Ms. Dick.

5 A Morning.

6 Q I'm Sherri Walsh. We've spoken on the phone but
7 we haven't met in person.

8 A That's right.

9 Q Now, I understand that you are recently retired?

10 A Yes.

11 Q As of 2012?

12 A Right.

13 Q Okay. And at the time of your retirement, you
14 were employed by ANCR?

15 A Yes.

16 Q And you were employed as a, a CRU worker?

17 A That's right.

18 Q And I understand that you formally or officially
19 retired in 2010 but then you continued to work on a casual
20 basis for ANCR until 2012?

21 A That's right, yeah.

22 Q And you started working with Winnipeg Child and
23 Family Services in 1992?

24 A Right.

25 Q And you worked at the central intake unit?

1 A I did.

2 Q And when the CRU unit was created in 2001, you
3 worked for that unit?

4 A I did, yeah.

5 Q And then when JIRU, joint intake response unit,
6 was created you worked for that unit?

7 A I did, yeah.

8 Q And then when that unit became ANCR, you worked
9 for ANCR?

10 A That's right.

11 Q Okay. And you have a bachelor of social work?

12 A I do.

13 Q And you obtained that in 1992?

14 A 1990.

15 Q 1990.

16 A I wasn't employed until 1992.

17 Q Okay. And can you just tell us, what does a CRU
18 worker do?

19 A Well, we take calls from people in the community
20 with concerns about families in regards to child protection
21 matters or child neglect matters.

22 Q And then what do you do once you've received a
23 call?

24 A Then we refer it either for an immediate response
25 from the backup unit or --

1 Q Within the CRU unit?

2 A That's right.

3 Q Okay.

4 A And then if it isn't considered something that
5 needs to be dealt with immediately, then it is sent up to
6 intake for an assignment to a worker.

7 Q As a CRU worker, you have a very limited period
8 of time in which you're involved with a file generally?

9 A That's right.

10 Q That's the expectation?

11 A The expectation is you take the call, write up
12 your report and send it on for follow-up so that you're
13 able to take the next phone call.

14 Q And in 2003, you had a very limited involvement
15 Phoenix Sinclair's family?

16 A That's right.

17 Q If we can pull up page 37397, please. We go --
18 so this, this is the CRU Intake & AHU Form dated February
19 26, '03.

20 A That's right.

21 Q And it says, from Roberta Dick. That's you?

22 A That's me.

23 Q Okay. And if we go to the next page, is that
24 your signature at the end of the document?

25 A Yes.

1 Q It is -- okay.

2 A I don't have my glasses on.

3 Q Oh. Are you able to see the screen, then?

4 A Yeah.

5 Q Do you need to borrow a paid of --

6 A No, no. I have.

7 Q You're okay. All right. And we reviewed this
8 form yesterday with Ms. Forrest, who received the form when
9 it was transferred to intake. If you look at the
10 presenting problem or intervention --

11 A Yes.

12 Q -- that's based on information that you received
13 from the caller?

14 A That's right. Cathy Morrison called in this
15 report and gave me the information about Phoenix having a
16 foreign body in her nose.

17 Q Since November of '02?

18 A Right.

19 Q And, and they told you that:

20

21 "The godfather had told Steve to
22 take Phoenix to the doctor at that
23 time, but Steve never did. [and]
24 The godfather decided to bring her
25 to the hospital for treatment."

1 A That's right.

2 Q Do you make notes as the call comes in?

3 A Yes.

4 Q Right. And then --

5 A We do, we do handwritten notes and then we write
6 up the report.

7 Q Okay. So then this report is based on the notes
8 that you took when the call was referred to you?

9 A That's right.

10 Q As you're speaking to the person?

11 A Yeah.

12 Q Okay. So then you record:

13

14 "The foreign body was removed from
15 Phoenix's nose and the discharge
16 in the nose was very foul
17 smelling. The mucosa in her nose
18 was red and sore. Antibiotics
19 were prescribed, but [the caller]
20 did not know if the antibiotics
21 would be given to Phoenix or not.
22 The hospital requested that this
23 matter be assessed further given
24 the concerns related to physical
25 and medical neglect and inadequate

1 care of the child."

2

3 So that's all information that you received from
4 the hospital?

5 A That's right.

6 Q Okay. And if we go back to the previous page,
7 you see that you're addressing it to North West.

8 A Right.

9 Q Is that the northwest intake unit?

10 A Yes, it is.

11 Q And how did you know to address it to that unit?

12 A It was based on the address where Steven Sinclair
13 lived.

14 Q So then that's my next question. Is how did you
15 know that this incident related to Steve Sinclair?

16 A Well, because he was the father of Phoenix
17 Sinclair. And even though I didn't know who had brought
18 the child to the hospital, it's, the case is assigned based
19 on the care-giver at the time.

20 Q But based on the information that you received,
21 you had Phoenix's name?

22 A Right.

23 Q Did you -- did the caller also give you Steve
24 Sinclair's or did you find him by typing Phoenix into the
25 system?

1 A I believe I found him by typing in his -- her
2 name in the system.

3 Q And seeing who was her care-giver?

4 A Right.

5 Q Okay. And when we talk about the system, that's
6 the CFSIS --

7 A That's right.

8 Q -- the electronic system?

9 A That's right.

10 Q Okay. So once you received the call from the
11 hospital, what did you do?

12 A I wrote up the report and then recommended that
13 it be followed up for further assessment by the northwest
14 intake unit.

15 Q So in terms of writing up the report, you went
16 into CFSIS to see if Phoenix was in there?

17 A Um-hum.

18 Q Is that right?

19 A Yes.

20 Q And then you found that she was connected to her
21 father, Steve?

22 A That's right.

23 Q Okay. And then did you look at Mr. Sinclair's
24 file relating to Phoenix?

25 A I don't remember doing that but I looked into her

1 mother's file history and based on the fact that there was
2 previous history regarding the mother, that's why it gets
3 assigned to an intake unit --

4 Q Okay.

5 A -- from the beginning.

6 Q And so then under the history heading, you've
7 got:

8

9 "For detailed child welfare
10 history see October 2, 2000 under
11 Samantha Kematch"

12

13 A That's right.

14 Q So that's where you're telling a worker to go
15 look at Ms. Kematch's --

16 A That's right.

17 Q -- file and the --

18 A And --

19 Q -- last summary?

20 A That's right. And things have changed now. Now
21 we have to write out a more comprehensive history; we can't
22 just indicate that there was previous history. We have to
23 inform the assigned worker more details about the history,
24 but in 2003 we had to be brief because of the volume of
25 work we had.

1 Q Okay. So then you did go into some more detail
2 in the next two paragraphs?

3 A That's right, yeah.

4 Q And that's information that you got from Ms.
5 Kematch's file?

6 A That's right.

7 Q Okay. So let's go to the next page, please. So
8 under the heading Recommendations, it says:

9

10 "It is recommended that this case
11 should be followed up for further
12 assessment. Based on the safety
13 assessment, this case should be
14 responded to within five days."

15

16 A That's right.

17 Q And the safety assessment you're referring to is
18 the document safety assessment?

19 A That's right.

20 Q So let's look at that next, please, page 37464.
21 And this document runs from 37464 to 37467. Was this
22 document, this safety assessment document, was this
23 something that you had to fill out every time you received
24 a call?

25 A Yes.

1 Q And what was the purpose of the document?

2 A To help us determine how quickly a case should be
3 followed up on.

4 Q So it helped you determine response time?

5 A Right.

6 Q Okay. So if we look at the document, the first
7 heading is 24 Hours Response.

8 A Right.

9 Q

10 "High priority - immediate
11 response or within 24 hours - life
12 threatening/dangerous"

13

14 And it lists a number of criteria with boxes to
15 check off.

16 A Right.

17 Q Then we go to -- scroll down, please, to the next
18 heading. Then the next heading is:

19

20 "48 Hours Response
21 Medium priority - damaging and
22 potentially damaging - response
23 required within 48 hours"

24

25 And again it lists a number of criteria. Keep

1 scrolling, please. And then the third heading for possible
2 response is With 5 Days Response. And you checked off one
3 of the boxes under that response?

4 A That's right. Low Medical Neglect.

5 Q Low Medical Neglect. And so that says:

6
7 "(Failure to make appointments for
8 routine medical/dental care; no
9 follow up on plan of medical
10 treatment or medication; failure
11 to make appointments for routine
12 medical/dental care (e.g.
13 Immunizations); no follow up on
14 plan of medical treatment of
15 medication.)"

16
17 Now, why did you determine that this was the
18 appropriate response?

19 A Because it wasn't a life-threatening condition
20 and it was just to make sure that the treatment would be
21 followed through by making sure the care-givers gave
22 Phoenix the required medication.

23 Q So you, you chose the five-day response or --
24 because you thought they, the main reason for the call was
25 concern about whether the child would receive her

1 antibiotics?

2 A That's right.

3 Q Okay. If we can go back to page 37398. What
4 about the concern that you note:

5

6 "The hospital requested that this
7 matter be assessed further given
8 the concerns related to physical
9 and medical neglect and inadequate
10 care of the child."

11

12 Did you take those factors into consideration?

13 A I did.

14 Q And if we go back to the safety assessment form,
15 page 37464, scroll down to 48 hours. Under the heading
16 Moderate Medical Treatment. You see that criteria?

17 A Yes.

18 Q

19 "(Serious lack of medical and/or
20 dental care causing suffering to
21 the child.)"

22

23 Is there -- did you consider whether that should
24 have been the more appropriate box to check off?

25 A I did consider it and maybe in hindsight it would

1 have been a better idea that I pick the moderate medical
2 treatment. But I was also considering giving the assigned
3 worker the ability to choose how soon they could go out and
4 investigate, based on their caseload demands.

5 Q So are you saying that ...

6 A It, it would be up to the intake worker to
7 determine how quickly he or she could respond to the
8 concern of medical neglect.

9 Q So do I understand that you're saying you chose
10 the five-day response rather than the 48-hour response in
11 order to accommodate workload demands at intake?

12 A Yes.

13 Q And was that something that you commonly did?

14 A Yes, it was a judgment call.

15 Q And was that something that your coworkers did,
16 as well, do you know, at --

17 A I don't know.

18 Q -- the CRU unit?

19 A I don't know.

20 Q Was it the subject of discussion among you and
21 your colleagues?

22 A We often asked each other what the thoughts were
23 but I don't remember if I asked coworkers whether I should
24 have picked the moderate or the five-day response.

25 Q What about the, the notion or, of choosing the

1 response time to accommodate workload demands at intake.
2 Was that something that was the subject of discussion with
3 your colleagues?

4 A Yes. I believe so.

5 Q What about with your supervisor?

6 A She would give direction as to whether or not we
7 should decide on the response time based on workload
8 demands. We would often know when there were a lot of
9 files opened; and based on that, we would try and balance
10 the workload.

11 Q And that was something your supervisor was aware
12 of?

13 A Yes.

14 Q Okay. And if we scroll down to the end of this
15 form, please, the next page. So here again you've checked
16 of within five-day response?

17 A Yes.

18 Q And then scroll down, please. Keep going. Thank
19 you.

20 And then it says: Case to intake.

21 A That's right.

22 Q So that reflects your decision to transfer the
23 case?

24 A Yes.

25 Q And then under the heading, supervisor/

1 consultant, you haven't checked off yes or no.

2 A I, I don't remember consulting but ...

3 Q What does consulting mean?

4 A We would go speak to the supervisor in our office
5 to decide whether it should be going to the backup unit or
6 to the intake unit, because bear in mind, we were expected
7 to be answering phones as often and as quickly as we could
8 and get reports written. And if our supervisor wasn't
9 available to consult, that would take us away from the
10 phones more than necessary. When I submit my report, the
11 supervisor reads it and if she does not -- he or she does
12 not believe the response time is correct, then she would
13 have come back to me to say, I think you need to change the
14 response time.

15 Q And did that ever happen?

16 A No.

17 Q But this form, this CRU form, did you hand it to
18 your supervisor when you completed it?

19 A Yes.

20 Q And that would be the opportunity for the
21 supervisor to review it?

22 A That's right.

23 Q Okay. And then how does the form get up to
24 intake?

25 A The, the form is signed by the supervisor and

1 then given to the administrative staff and then it's
2 assigned to the intake unit. And once it's assigned to the
3 intake unit under the supervisor's name, then the
4 administrative staff of the intake unit would, upon
5 direction of that supervisor, would assign it to a worker.
6 So Mr. Orobko would have assigned it to a worker for
7 follow-up and then that worker's name would be attached to
8 the file by the administrative staff of the northwest unit.

9 Q Well done. So you physically handed the CRU
10 document and the safety assessment to your supervisor?

11 A That's right.

12 Q And who was your supervisor at the time, can you
13 recall?

14 A Diva Faria.

15 Q That's F-A-R-I-A?

16 A That's right.

17 Q If we can pull up page 29, please. What I have
18 in front of you, Ms. Dick, is a page from a report that was
19 prepared after Phoenix's death was discovered through the
20 offices of the Children's Advocate. It reviewed the
21 services that were provided to Phoenix and her family and
22 made findings and comments. It was prepared by Andrew
23 Koster.

24 Did you ever meet with or speak to Andrew Koster?

25 A No.

1 Q Have you ever been shown this report or any
2 portions of it?

3 A No.

4 Q Until?

5 A Until ...

6 Q This week?

7 A Yeah.

8 Q So if you look at F15, "F" standing for finding:

9

10 "The initial contact after the
11 referral was made in two days
12 rather than the five indicated on
13 the safety assessment. This was
14 appropriate since the child was
15 very young.

16 The safety assessment provided too
17 low a risk. Phoenix was a young
18 child and it was important to
19 establish that she was recovering.
20 It was commendable that the
21 assigned worker went earlier than
22 had been previously assessed."

23

24 Do you have any comments on this report-writer's
25 finding that the safety assessment was too -- provided too

1 low a risk? In other words, that they disagreed with the
2 five-day assessment?

3 A Well, now I'm second-guessing myself because
4 initially I thought the five-day response was appropriate
5 but in hindsight it might have been better if I had put the
6 two-day assessment or the 48 hours response time.

7 THE COMMISSIONER: But as you pointed out, it's a
8 matter of judgment.

9 THE WITNESS: That's right.

10

11 BY MS. WALSH:

12 Q And do you recall whether you put the five-day
13 assessment because of trying to give leeway to the intake
14 unit?

15 A I did, yes.

16 Q That --

17 A I, I remember that.

18 Q You do.

19 A Because I remember we were really busy with --

20 Q Okay.

21 A -- a lot of cases coming in.

22 Q So, so that affected your, the exercise of your
23 judgment?

24 A That's right.

25 MS. WALSH: Okay. Thank you. Those are my

1 questions. There may be lawyers who have other questions.

2 THE COMMISSIONER: Mr. Gindin.

3

4 CROSS-EXAMINATION BY MR. GINDIN:

5 Q Good afternoon. My name is Jeff Gindin, I
6 represent Kim Edwards and Steve Sinclair.

7 A Okay.

8 Q I just have a couple of questions. Pardon me.

9 You were just asked about the process by which
10 you would sometimes your supervisor might have a look at
11 the judgment call that you made and make a correction or
12 try and change that. You were asked if it eve happened;
13 you said no. Did you mean it never happened in this case?

14 A That's right, yeah.

15 Q Is that --

16 A But it has, it has happened in other cases where,
17 if I had put five-day response and the supervisor thought
18 it would be better 48 --

19 Q Yes.

20 A -- she would come to me with that.

21 Q So on occasion the supervisor has changed your
22 judgment call?

23 A That's right.

24 Q It just didn't happen here?

25 A Right.

1 Q In this case. And the supervisor was Diva Faria?

2 A Right.

3 Q And do you recall whether that was ever discussed
4 with her?

5 A I don't remember.

6 Q But the usual process would be that the
7 supervisor would have a look at the safety assessment form
8 and had the option of suggesting a change. But that didn't
9 happen here?

10 A That's right.

11 Q And you've said that perhaps you might have erred
12 and should have been different. But then you told us that
13 you were erring on the side of the worker's caseload?

14 A Right.

15 MR. GINDIN: Thank you.

16 THE COMMISSIONER: Anyone else out there?
17 Appears not. Mr. Ray?

18 MR. SAXBERG: It's Mr. Saxberg, actually. But I
19 don't have any -- oh, sorry.

20 MR. RAY: I'm (inaudible) in behind you.

21 MR. SAXBERG: Sorry about that.

22 MR. RAY: Just have one moment. I want to
23 clarify something --

24 THE COMMISSIONER: Yes.

25 MR. RAY: -- with my friend, please.

1 CROSS-EXAMINATION BY MR. RAY:

2 Q Ms. Dick, my name is Trevor Ray. I represent a
3 number of social workers and the MGEU. Did you say, do you
4 have your glasses here today?

5 A Yes.

6 Q Would you mind putting them on for us? Just I'd
7 like to direct your attention to something and it's not a
8 very clear signature so I just wanted to ask you a question
9 about page 37398, please.

10 Is that -- do you see that? Okay, do you see
11 37398? Okay. Do you see that?

12 A Yeah.

13 Q Do you see that signature at the bottom?

14 A Yes, it isn't mine. It's Diva Faria's.

15 Q Okay. So that's not your signature. In fact --

16 A No.

17 Q -- it's the signature --

18 A No.

19 Q -- of your supervisor?

20 A Yeah. Usually, that's -- the supervisor signs
21 off. Sorry. I made a mistake because I didn't --

22 Q Okay.

23 A -- have my glasses.

24 Q That's fine. No, no apologies necessary.

25 And just above Ms. Faria's signature, it

1 states:

2

3 "Based on the safety assessment,
4 this case should be responded to
5 within five days."

6

7 A Right.

8 Q So it would appear that she had maybe perhaps not
9 reviewed the actual safety assessment document, but she
10 certainly knew that the safety assessment suggested a five-
11 day response and she appears to have signed off on that
12 document?

13 A That's right.

14 Q Okay.

15 A They usually sign off on the intake form.

16 Q And in this case, the CRU form --

17 A Right.

18 Q -- that you --

19 A I'm --

20 Q -- prepared, correct?

21 A Yeah.

22 THE COMMISSIONER: That R.D. typed at the last
23 line, that's you?

24 THE WITNESS: That's me.

25 THE COMMISSIONER: And that means you prepared

1 the document?

2 THE WITNESS: That's right.

3 THE COMMISSIONER: But it, in fact, was signed by
4 the supervisor?

5 THE WITNESS: That's right.

6 THE COMMISSIONER: And is that the usual
7 practice?

8 THE WITNESS: Yes.

9

10 BY MR. RAY:

11 Q You would agree with me that what you're doing
12 when you do a safety assessment is you're essentially
13 making a judgment call on, on the risk as it presents to
14 you and the presenting concern, correct?

15 A That's right.

16 Q Okay. And in this case, you stated you made a
17 judgment call and you said you felt that five days was
18 appropriate and your supervisor signed off on that,
19 correct?

20 A Right.

21 Q And you mentioned some evidence about sometimes
22 you would perhaps, in a situation where it could go either
23 way, you may go the opposite way and to allow intake
24 workers time to get to the case because of their caseloads?

25 A That's right.

1 Q Okay. I assume that you would not deliberately
2 misdiagnose or mischaracterize a assessment or a response
3 time where it was clear that it required much sooner
4 attention?

5 A That's right.

6 Q And you wouldn't do that because you know that
7 the next social worker that takes your CRU report relies
8 upon your assessment, right?

9 A That's right.

10 Q Okay. You stated that the source of referral
11 described to you a concern that they weren't sure whether
12 the antibiotics would be given, correct?

13 A Right.

14 Q Okay. And that's what you understood the concern
15 to be, correct?

16 A That's right.

17 Q Okay. And my understanding is you didn't
18 understand the concern to be that Phoenix would suffer from
19 further and future physical or medical neglect or
20 inadequate care because you understood already from the
21 source of referral that, in fact, Phoenix had been treated
22 and released with an adult and given the prescription,
23 correct?

24 A That's right.

25 Q So her ailment that she came into with the

1 hospital was, in fact, treated properly is your
2 understanding, correct?

3 A That's right.

4 Q So it wasn't as though she left the hospital
5 untreated?

6 A Untreated. right.

7 MR. RAY: Thank you. Those are my questions, Ms.
8 Dick.

9 THE COMMISSIONER: Thank you. Mr. McKinnon?

10 MR. MCKINNON: No questions.

11 THE COMMISSIONER: Thank you. Mr. Saxberg.

12 MR. SAXBERG: I've no questions.

13 THE COMMISSIONER: Commission counsel?

14 MS. WALSH: I have no questions, Mr.
15 Commissioner.

16 THE COMMISSIONER: All right, witness. Thank you
17 very much.

18 THE WITNESS: Thank you.

19 THE COMMISSIONER: You're completed your turn.

20 THE WITNESS: Thank you.

21

22 (WITNESS EXCUSED)

23

24 THE COMMISSIONER: Now, looking at the clock,
25 maybe we should adjourn until 1:45. that would give us our

1 usual hour and a half. And you've two witnesses for this
2 afternoon?

3 MS. WALSH: Yes.

4 THE COMMISSIONER: Is that optimistic or
5 reasonable?

6 MS. WALSH: No. No, I think it's reasonable.

7 THE COMMISSIONER: All right. Well, we'll, we'll
8 adjourn now till 1:45.

9 MS. WALSH: Thank you.

10

11 (LUNCHEON RECESS)

12

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

15 THE WITNESS: I can swear on the Bible.

16 THE CLERK: Swear on the Bible? All right.
17 Stand for a moment. Take the Bible in your right hand.
18 State your full name to the court.

19 THE WITNESS: Kim Hansen.

20 THE CLERK: Spell us your first name, please.

21 THE WITNESS: K-I-M. Well, it's actually K-I-M-
22 B-E-R-L-Y, Kimberly Hansen.

23 THE CLERK: And just spell us your last name.

24 THE WITNESS: H-A-N-S-E-N.

25 THE CLERK: Thank you.

1 **KIMBERLY HANSEN**, sworn, testified
2 as follows:

3

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

5

6 DIRECT EXAMINATION BY MR. OLSON:

7 Q Ms. Hansen, you have a bachelor of social work
8 from the University of Manitoba?

9 A Yes, I do.

10 Q And you obtained that degree in 1992?

11 A Yes, I did.

12 Q Okay. And you've also taken some professional
13 development courses since obtaining your degree?

14 A Yes, I have.

15 Q Okay. And what's, what types of courses have you
16 taken?

17 A I've taken a number of risk assessment courses,
18 suicide, domestic, risk assessments, a number of abuse
19 investigation courses, vicarious trauma, trauma to
20 children, anything that's related to the job I would take.
21 Mental health first aid, that kind of -- those kinds of
22 things.

23 Q Okay. And has that been throughout the years
24 you've, you've taken these courses?

25 A I can say that I would take at least two a year.

1 Q Okay. Now, I understand that you are registered
2 as a social worker; is that right?

3 A Not through the MIRSW, no, I --

4 Q Oh, you're not?

5 A I am not registered; no, I am not.

6 Q Okay. You began working for Child and Family
7 Services in 2001?

8 A Yes, as an after-hours worker, and I remain there
9 today.

10 Q And that's a, is a point five position?

11 A It's point five, which is half time.

12 Q Okay. And do you hold another position as well?

13 A Yes. I work at St. Boniface Hospital in
14 emergency department there in a part-time position, as
15 well.

16 Q Okay. And when did you start in that position?

17 A 2000.

18 Q Okay. And is that a child welfare-related
19 position?

20 A Not at all.

21 Q Okay.

22 A There could be child welfare that comes in
23 through the emergency department but typically St. Boniface
24 does not get children.

25 Q Okay. When you began your, your employment with

1 Winnipeg CFS -- and you said that was in the after-hours
2 unit?

3 A Yes, it was.

4 Q And, and you still work in the after-hours unit?

5 A Yes, I do.

6 Q Do you recall what training you received when you
7 initially started?

8 A I, I completed the core competencies training
9 and then I took numerous training throughout the years
10 there. That would be included in the professional
11 development courses that I took. Also took SDM training,
12 the structured decision, which is the probability of future
13 harm; taken ASIST training, the suicide risk assessment.

14 Q When did you take the --

15 A I took the abuse investigation training that I
16 thought was really particular to after-hours emergency.

17 Q Okay. And you mention the SDM training, that's
18 the structured decision-making tool?

19 A That's right, yeah.

20 Q And when did you take that training?

21 A Believe two years ago.

22 Q Two years ago. Okay. And is that a tool you've
23 been using since?

24 A Yes, it -- yes, it is.

25 Q Okay. Did you receive any on-the-job training?

1 A I received quite a bit of on-the-job training.

2 Q Okay. And how was that training done?

3 A Well, when I first started at after-hours we get
4 an orientation, regular consultation with a supervisor.
5 And the nature of after-hours is, is that you work very
6 closely with a supervisor. I can say right now that I've
7 always had really good supervisors who are very, very
8 experienced and always available, and I go to them often.
9 It's just the nature of the job is we have to be in close
10 contact with them.

11 Q Now, how does after-hours unit, which is
12 sometimes called AHU, how does that differ from the crisis
13 response unit which is --

14 A Um-hum.

15 Q -- CRU?

16 A The AHP, the after-hours program.

17 Q Okay. That's --

18 A Is --

19 Q -- another acronym for it as well, is AHP?

20 A Yeah. And it is, it is a program where we
21 respond to child protection concerns after hours. So we
22 start at four o'clock in the afternoon.

23 THE COMMISSIONER: What time?

24 THE WITNESS: Monday ...

25

1 BY MR. OLSON:

2 Q Four o'clock?

3 A Monday to Friday, we start at four o'clock in the
4 afternoon, work to eight thirty a.m. the next day, and we
5 do all stat holidays and all weekends. So we would start
6 at a weekend at four o'clock, and after-hours would be
7 responsible till eight thirty on Monday morning.

8 Q And has that changed since when you started
9 working as an after-hours unit -- after-hours worker until
10 the day?

11 A No. Those hours have been the same for me.

12 Q Same hours. And is it the same function you
13 perform today as you did then?

14 A Responding to child welfare protections in the
15 community.

16 Q Okay.

17 A I could just say that it's gotten much busier.

18 Q Okay.

19 A And that, I can also just add that the, the
20 incidents that we respond to have become much more acute,
21 as well, since I've started.

22 Q Okay. And by "acute" you mean ...

23 A The seriousness of the, of the situations that
24 we're called to.

25 Q Okay. And when you say it's gotten busier over

1 the years, do you mean in terms of workload or contacts or
2 both?

3 A All. All of what you said.

4 Q Okay. And in terms of the difference between AHU
5 or AHP and CRU, are you, would you -- do you perform the
6 same function as CRU, it's just a different time of day?

7 A You can say that we're similar because we respond
8 to emergencies, the CR, the crisis response program or the
9 crisis response unit, as it's known, also responds to
10 emergencies in the daytime, so in that respect, yes, they
11 have to respond to emergencies as well as after-hours
12 program.

13 Q And so in many instances you would be the first
14 point of contact where there is a child welfare concern
15 from the public or whomever?

16 A We could be the point of entry, yeah, into the
17 child welfare system. That does happen. But often we
18 see people that are already involved in the child
19 welfare system, be it a brand new case or be it they're
20 getting services already. We get something called service
21 requests --

22 Q Okay.

23 A -- from other agencies.

24 Q And does that mean, for example, the family
25 service worker is having trouble connecting with somebody

1 during regular hours they might ask you to do it?

2 A That could be a reason but not necessarily so.
3 There's many, many reasons that we get service requests.

4 Q So what sort of -- just a couple of examples of
5 other reasons you might get a service request?

6 A It could be something as simple as picking up a
7 child at the Manitoba Youth Centre after hours because
8 they're not released from there, and driving them to a
9 shelter or to their foster home. Or it could be something
10 like a service request, to check on the wellbeing of a
11 family because the children were just returned.

12 Q Okay. We heard some evidence earlier today about
13 the worker visiting Steve Sinclair during the day but not
14 at night-time, the evening. Is that a service you could
15 provide if a worker asked you, you know, could you try to
16 make contact with this person at a different time of day?

17 A Absolutely. Many people are working so we need
18 to have a system that we can see people when they're at
19 home in the evening.

20 Q And was that true back in 2001, 2002 as well as
21 today?

22 A We would take service requests, certainly for
23 that, yeah.

24 Q And so is that -- that's part of your job
25 description, then, as an after-hours unit worker?

1 A To make contact with people in the evening, is --

2 Q Right.

3 A -- your question? Yes.

4 Q Okay. And then in terms of the other portion,
5 you, you would answer phones for things coming in, in the
6 evening?

7 A Yeah. We are responsible to answer the
8 telephones. It's an emergency line and it's after-hours
9 emergency, so ...

10 Q Okay. And so when -- are there a certain number
11 of people in the after-hours unit that just answer phones,
12 or how is that ...

13 A We're, we all, we all come in and we all are
14 responsible for a telephone, and we sit at a desk and we
15 answer phones. And depending on the telephone call, you
16 may not answer the phone if you have to go out and do a
17 field on the nature of the referral, and/or you can be on
18 the phones all evening, depending on what the call is
19 about --

20 Q Okay. So --

21 A And depending on what you're assigned to do by
22 your supervisor. If you're given, you know, a service
23 request to do, it takes you away from the phone, right.

24 Q Okay. And if you're not there to answer the
25 phone, how does that call get handled?

1 A The other workers will answer it. There's always
2 somebody to answer the telephone all the time. It's an
3 emergency phone and we pick it up all the time.

4 Q Okay.

5 A Calls never go unanswered.

6 Q Okay. And we will be hearing evidence in due
7 course about calls coming in through, I guess, a front desk
8 and then being routed to the workers, the after-hours
9 workers; is that, is that how the system works?

10 A There is nobody at the front desk on after-hours.
11 They've gone home. They answer the phone till 4:30, then
12 they leave the building, then after-hours takes all the
13 calls.

14 Q Okay. And is that just done electronically,
15 then? How is it the calls come to a worker?

16 A I don't know what you mean by "electronically".
17 There's, I'm not sure, 12 to 15 phones. I've never really
18 counted them. They just come in. And I know that ANCR has
19 a system of how, how the calls are routed. I'm not the
20 person to describe that, but --

21 Q All right.

22 A -- I know it's, it's a newer system and the calls
23 are routed through all the workers. At times, if you have
24 to leave your desk, say a child comes to the front door at
25 eight o'clock at night or the police arrive, you have to

1 leave your desk, there is a mechanism to put your phone on
2 "not ready" so that you can respond to a walk-in that comes
3 in.

4 Q Okay.

5 A But then other workers would pick up after you.
6 But there's always someone there to answer the phone.

7 Q Okay.

8 A It's an emergency service, so ...

9 Q When you get a call, when a call comes in with
10 respect to a child welfare issue, what do you, do you --
11 what's the first thing you do?

12 A Well, you have to try to get identifying
13 information, as much information as you can. You want to
14 know who the person is calling about, what their call is.
15 You have to get information that would allow you to make a
16 decision around a response time, how quickly you're going
17 to go out, how quickly you need to respond to it. You
18 would have to determine if it's an open file. You just try
19 to get as much information as you can from the caller and
20 what the nature of the call is and how you're going to
21 respond to it.

22 Q So you get as much information as you can from
23 the caller.

24 A Demographically, the name, the children involved,
25 the age of the children.

1 Q The concern?

2 A The concern.

3 Q And that's --

4 A The address of where the concerns -- am I
5 speaking too close?

6 THE CLERK: (Inaudible).

7 THE WITNESS: The address of where the concern is
8 happening.

9

10 BY MR. OLSON:

11 Q Okay. So as much as you can get?

12 A Um-hum.

13 Q And then to get -- to see if the file is opened,
14 you -- would you -- now, going back to 2003 when you were
15 involved in this file --

16 A Um-hum.

17 Q -- would have looked to CFSIS to see if there was
18 an open file?

19 A Well, typically that is something that a worker
20 would do because we have that ability to look at the
21 computer and see if a file is open while we're talking on
22 the telephone.

23 Q Okay.

24 A But if you're speaking about the call that I got
25 in June of 2003, I didn't get that via a phone call. I got

1 that through a, a request from a supervisor to follow up on
2 a field that previous workers had gone out on.

3 Q Right. And we'll come to that specific --

4 A Yeah.

5 Q -- call. But just typically, when you get a
6 call, you do a search on CFSIS to see if there's an open
7 file?

8 A That's right. We can search by address, we can
9 search by name.

10 Q And that will tell you whether or not there's
11 been contact with that individual; is that ...

12 A That's right. Can tell you if the file is open,
13 if it's closed, how long it's been closed.

14 Q Okay.

15 A The kids, how many kids there are.

16 Q And so CFSIS is something that you would have
17 used from when you started as an after-hours unit worker?

18 A That's right.

19 Q And then at some point, I believe in 2005, the
20 intake module was introduced?

21 A That's right.

22 Q And --

23 A And I got training in both of those, too, by the
24 way.

25 Q Okay.

1 A I forgot to mention that.

2 Q So you had training in both?

3 A In CFSIS and in the I.M., absolutely.

4 Q So you've had a fair amount of experience using
5 both programs?

6 A I would say so.

7 Q Okay.

8 A I feel comfortable with the systems.

9 Q And do you still use the CFSIS program?

10 A I do.

11 Q Okay. In 2003, when you were involved in this,
12 in this case, where was the after-hours unit actually
13 located?

14 A 835 Portage Avenue, same place it is today.

15 Q Okay. And do you know how many AHU workers were
16 employed at that time?

17 A During that night or in total?

18 Q In total, just in that period.

19 A No, I can't say that I've ever really counted
20 because we have permanent people, we have permanent full-
21 time people, we have permanent part-time people, we also
22 have a pool of casual people --

23 Q Okay.

24 A -- who are really experienced. They usually work
25 day side and they can come and do some shifts at after-

1 hours when, you know, people are on vacation, stuff like
2 that.

3 Q So if somebody's away, the casual person can fill
4 in for that spot?

5 A Right, because it is an emergency service we do
6 need to have a certain number of workers on. So if you're
7 away sick or if you're a vacation or all that kind of
8 stuff, you are replaced because we do need to respond to
9 emergencies and you are replaced, so we're lucky to have a
10 great group of casual people that have a lot of experience
11 that can come in and do the job.

12 Q And so that's, the purpose of that is to have a
13 full complement of staff?

14 A That's right, yeah.

15 Q Okay. And --

16 A To get all the work done.

17 Q Okay. Now, I understand you have also worked in
18 the crisis response unit from time to time; is that right?

19 A I have, because there are some days of the week
20 that I don't work and that I have the opportunity to go and
21 work there, so I filled in there once in a while as well.

22 Q Okay. So you've, you've experienced that side of
23 things as well?

24 A Day side and crisis response, yes.

25 Q Okay. And so is there a difference, then, in

1 terms of the work in the CRU than the AHU?

2 A During the day you have the opportunity to
3 confirm information, to speak with collaterals. You can
4 talk to schools, you can talk to hospitals, you can talk to
5 people in the daytime. At after-hours, 3:00 in the morning
6 there's not a lot of people you can call.

7 Q Okay. So that's one big difference, then?

8 A One big difference, yeah. You can put more of a
9 complete file together, you can get a better picture.
10 After hours, of course everything is closed, you don't
11 really have a lot of collaterals besides the police and
12 Manitoba Housing, the shelters, MYC, the places that, you
13 know, are open 24 hours.

14 Q Okay. And so I take it, then, you must rely
15 quite a bit on the information you pull off of CFSIS and
16 now the intake module, is that --

17 A As much as we can, yes.

18 Q Okay. And when you say as much as you can, what
19 do you mean by that? Is -- are there limitations?

20 A Yeah. Sometimes a family hasn't had any contact
21 with child protection. Sometimes the files are restricted;
22 we're not able to get into them. Sometimes there's not,
23 there isn't just a whole lot of information because there
24 hasn't been a lot of activity, so it really depends on, you
25 know, that particular family.

1 Q And what about in terms of the reliability of the
2 information on the computer system, whether it's CFSIS or
3 the intake module?

4 A I find that sometimes files aren't up to date,
5 that they're -- you know, a child is in care or a child is
6 not in care and the files haven't been changed, addresses
7 are wrong, children haven't been added onto the family
8 grouping, so you always have to make sure that you're
9 including all of the children when you're doing a field.
10 You have to account for where they all are.

11 Q So sometimes the information isn't all there?

12 A Sometimes that can happen, just like any other
13 system, I suppose.

14 Q Does that still happen today?

15 A Occasionally.

16 Q Okay. Now, the -- you've had a chance to review
17 your involvement in this file and it's very limited?

18 A Yes, that's correct.

19 Q Do you have any independent recollection of your
20 involvement?

21 A With regard to which incident?

22 Q With regard to the 2003 incident.

23 A Well, to be perfectly honest, initially I didn't
24 until Mr. Ray showed me. It was a very typical after-hours
25 summertime request that I was sent out to.

1 Q Okay.

2 A And I recall the 2005 incident very, very clear
3 because it was very different. Was a different source of
4 referral, the, the one in 2000 -- like the first one
5 was very typical and, but now that I've read it, I -- there
6 are certain parts of it that I absolutely remember quite
7 well.

8 Q Okay.

9 A But going out to the house itself on Magnus, I
10 don't remember that because it's a --

11 Q Okay.

12 A -- a very typical after-hours request.

13 THE COMMISSIONER: I'm just not following --

14 THE WITNESS: Sorry, Justice Hughes.

15 THE COMMISSIONER: -- the first one and the
16 second one, so --

17 MR. OLSON: Yeah. Let, let me just clarify that.

18 THE COMMISSIONER: Clarify that, please.

19

20 BY MR. OLSON:

21 Q So the first involvement you had in the file was
22 in 2003, right?

23 A That's right.

24 Q And we'll look at -- it's from Commission
25 disclosure 1796, page 37378.

1 THE COMMISSIONER: When was the second
2 involvement?

3 MR. OLSON: The, the second involvement, Mr.
4 Commissioner, was after Phoenix's death was discovered.

5 THE COMMISSIONER: Okay.

6 MR. OLSON: And we won't be going through that
7 involvement today.

8 THE COMMISSIONER: With this witness at all or --

9 MR. OLSON: With this witness.

10 THE COMMISSIONER: -- or later?

11 MR. OLSON: With this witness we won't be going
12 through that involvement.

13 THE COMMISSIONER: So we're just talking about
14 her --

15 MR. OLSON: Just the first, the 2003.

16 THE COMMISSIONER: -- her 2003 involvement.

17 MR. OLSON: That's right.

18 THE COMMISSIONER: All right.

19 THE WITNESS: So like I said, this was very
20 typical after-hours request and that's why I didn't recall
21 it at the beginning, because it was something that we do an
22 awful lot of.

23 MR. OLSON: Okay.

24 THE WITNESS: Respond to drinking parties.

25

1 BY MR. OLSON:

2 Q Right. So this was the initial request and it's
3 to Laura Forrest from Bev Hutchinson?

4 A Bev Hutchinson would have opened the file. She's
5 the first one to -- she, she took the call, actually, 10:50
6 a.m. on June the 21st.

7 Q Okay. And so the presenting problem, then, that
8 indicates why the call was made?

9 A That's right, yeah.

10 Q And here it was:

11

12 "An anonymous adult male contacted
13 the Agency to report that there
14 was a drinking party occurring
15 at ..."

16

17 A Um-hum.

18 Q

19 "... the aforementioned address."

20

21 A That's right.

22 Q And that's being B740 Magnus?

23 A That's right. That's what I mean by typical a
24 drinking party in the summertime.

25 Q Pretty typical call?

1 A That's right. We respond to those pretty
2 quickly --

3 Q Okay.

4 A -- because there's children in the midst, you
5 know, with an intoxicated care-giver or a care-giver under
6 the influence, something we would respond to quickly.

7 Q Is that generally considered a higher risk
8 situation than some others?

9 A Yeah. I could say, could say so, depending on
10 the age of the children and how many adults and where. But
11 we would typically respond to that pretty fast.

12 Q And what is it about the age of the children that
13 makes it different?

14 A They're not able to protect themselves, a young
15 child.

16 Q Okay. So they're particularly vulnerable, then?

17 A Yeah.

18 Q And, and is there an age range that you, you look
19 at when you make that consideration?

20 A No. We would look at age and we would look at
21 all the other indicators --

22 Q Okay.

23 A -- as well.

24 Q So here it says the caller:

25

1 "... noted that he believed that
2 there were three adults in the
3 home, including dad and that there
4 were two adults who he believed
5 were passed out in the home. He
6 noted that Phoenix was in the home
7 and not receiving adequate
8 supervision. He stated that
9 police were in attendance at the
10 home earlier this morning at
11 approximately 4:00 a.m. to break
12 up the drinking party."

13

14 A Um-hum.

15 Q And then it has, phone call to Winnipeg, or WCP.

16 A Winnipeg Police.

17 Q Okay.

18

19 "worker spoke with dispatch who
20 indicated that the last time that
21 they attended the home was in
22 April/03."

23

24 And the worker in this case, is that Bev
25 Hutchinson?

1 A Yes, Bev Hutchinson.

2 Q And if we could scroll to the next page, please.

3 A I just might mention, there was an indicator in
4 there, there's a young child but there's a number of
5 intoxicated adults so that even makes it worse because
6 there's a big party and there's a child in the middle of it
7 all, right.

8 Q Okay. So that's another factor, there's more
9 than one person there?

10 A Bev, Bev would have looked at that and I, I noted
11 that as well.

12 Q Okay. And the fact that some of the adults had
13 been passed out and the police had contact, is that --

14 A That's right.

15 Q Okay.

16 A Drinking heavily, police involvement, a young
17 child in the home.

18 Q So those are all things that cause you concern as
19 a worker?

20 A They're, they're indicators that the child would
21 be at greater risk, yes.

22 Q Okay. And then it says phone call to police --
23 read that part. Says:

24

25 "This worker accompanied by co-

1 worker Williams attended to the
2 aforementioned address. Steven
3 was present along ..."

4

5 THE COMMISSIONER: Just a minute. What, what
6 time was this about you went there?

7 THE WITNESS: I'm not there until the end of the
8 report. This is a colleague of mine that took the initial
9 call, Commissioner.

10 THE COMMISSIONER: Oh --

11 THE WITNESS: She, she was the first one to
12 answer the telephone. I believe it was almost eleven
13 o'clock.

14 THE COMMISSIONER: So the reference to "this
15 worker" is not to this witness?

16 MR. OLSON: This is not this witness. This is
17 the report that the witness would have read before she went
18 out to the home.

19 THE COMMISSIONER: Oh. I wasn't aware of that.
20 All right.

21

22 BY MR. OLSON:

23 Q So it says:

24

25 "This worker accompanied by co-

1 worker Williams attended the
2 aforementioned address."

3

4 So that would be Ms. Hutchinson and Mr. Stan
5 Williams?

6 A No, it's Bev Hutchinson and Diane Williams.

7 Q Okay, sorry.

8 A Not Stan. It's Diane.

9 Q Sorry.

10

11 Steven was present along with
12 Phoenix, who was playing in the
13 front yard. Steven was entirely
14 cooperative with workers and
15 admitted to drinking. He
16 presented as same although he was
17 clearly able to hold a discussion
18 with workers and did not present
19 as intoxicated. He would be
20 unable to care for Phoenix. Asked
21 if there was anyone else in the
22 home as Steve spoke with workers
23 while sitting on the front step.
24 Steve acknowledged that there was
25 and stated that he and his buddy

1 Aaron had just a couple of beers
2 this morning. He indicated that
3 his sister, Angie, was also
4 present in the home. Asked if he
5 was going to be continuing to
6 drink today, he stated that he may
7 or may not. He was warned and
8 cautioned about ensuring that
9 Phoenix had appropriate care
10 should he continue to drink. He
11 indicated clearly that he
12 understood same and identified his
13 sister, Genny, who lives at 756
14 Magnus as an appropriate care
15 provider to Phoenix and easily
16 accessible and always willing to
17 provide care. Steven was thanked
18 for his cooperation and was also
19 advised that another team would be
20 out this evening to conduct
21 another sobriety check. He
22 acknowledged same.

23

24 So that's the -- and then it says, for follow up
25 by p.m. staff?

1 A That's right.

2 Q That's you, you're p.m. staff; is that right?

3 A That wasn't me in particular but it was staff
4 that were starting to come in at four o'clock.

5 Q Okay.

6 THE WITNESS: Sorry.

7 THE COMMISSIONER: But is that, the, the initial
8 response to the phone that there were people passing out
9 and heavy drinking going on?

10 MR. OLSON: That's, that's my understanding.

11

12 BY MR. OLSON:

13 Q This is a response to the initial concern; is
14 that right?

15 A If you look at the time line, it looks like Ms.
16 Hutchinson, she would have gotten the call 10:50 a.m.
17 and --

18 Q So that's under, time of referral?

19 A Right. That's when she would have answered the
20 telephone.

21 Q Okay.

22 A And if you go down a little bit further ...

23 Q Now, this is describing the steps she took?

24 A That's right.

25 Q Okay.

1 A And it looks like they responded pretty quickly.

2 Q Okay.

3 A Not sure if you want me to describe my
4 interpretation of that.

5 Q No, that's, that's fine. Please go ahead.

6 A Okay. Looks like she and Diane responded very
7 quickly because of what was identified by the source of
8 referral. Looks like Mr. Sinclair wasn't able to state
9 that he was not going to drink anymore. There was concern
10 that he may drink and they were concerned enough to say
11 that we're going to send other workers out in the
12 afternoon. After-hours workers are constantly rotating.
13 We get people --

14 Q Okay.

15 A -- on a Saturday starting at 7:00 and 8:00 then
16 4:00, then 10:00 at night, then 12:00 at night. They're
17 constantly rotating. So she gave this to 4:00, 4:00 p.m.
18 staff.

19 Q Okay. So 4:00 p.m. staff. And you said that was
20 not you at that point?

21 A No.

22 Q Okay. Do you know when you -- what time you
23 would have come in to work?

24 A Well, when I read this report, I would have come
25 in at four o'clock as well.

1 Q Okay.

2 A Because I took the report from Janice McRae, who
3 was working during the day.

4 Q We can look at your entry, which is at page
5 37383. So you recognize this as your entry?

6 A Yes, I do.

7 Q Okay. And so on the top it says, J. McRae, June
8 22nd, 2003. June 22nd, 2003 6:00 p.m., Hansen. What, what
9 does that mean?

10 A I would have come to work and I would have been
11 assigned this field either by a supervisor with Janice
12 McRae, or Janice McRae asked me to deliver food to the home
13 of Steven Sinclair and his daughter Phoenix. Janice had
14 just been out there --

15 Q Okay.

16 A -- and she was following up the other concerns
17 that the workers had identified, that Steven, you know, had
18 been under the influence. They had found that there was no
19 food in the home and that's something that we will do, is
20 we will bring food and basic needs to families. And that's
21 what I was asked to do --

22 Q Okay.

23 A -- was to go and drop off some food to Mr.
24 Sinclair and Phoenix.

25 Q Now, was Janet McRae, was she part of after-hours

1 as well?

2 A Yes, she is.

3 Q Okay.

4 A Yeah.

5 Q And was she a co-worker or was she on a prior
6 shift?

7 A She was working during the day.

8 Q Okay.

9 A Most likely from 8:00 to 6:00. This was a
10 weekend. I'm not sure if it was a Sunday. I, I think it
11 was a Sunday because the 21st would have been a Saturday,
12 and Janice would have worked 8:00 to 6:00 and I would have
13 come in at 4:00 and I would have been asked -- I was asked
14 to bring food out to Mr. Sinclair and his daughter Phoenix.

15 Q Okay. And would you have read the, the report we
16 just looked at minutes ago?

17 A Absolutely. I would have read it right from the
18 beginning.

19 Q Okay. And so with that, it says you and
20 colleague C. Ponce.

21 A Yeah.

22 Q And who's, who is C. Ponce?

23 A Claudia Ponce.

24 Q Okay.

25

1 "... knocked on the door and
2 Steven answered."

3

4 I notice there were two of you going here.

5 A After-hours goes in pairs all the time.

6 Q Okay. And is that still the case today?

7 A Yes, it is.

8 Q And was, is a reason for going in pairs?

9 A I would say safety would be the number one
10 reason. We're -- you know, three o'clock in the morning
11 we're standing, you know, on William Avenue.

12 THE COMMISSIONER: I'd, I'd be very surprised if
13 you didn't go in pairs.

14 THE WITNESS: We, we always do, Commissioner
15 Hughes, yes. Often we have to take the police with us as
16 well, depending on the situation.

17

18 BY MR. OLSON:

19 Q Okay. In this case, though, the police didn't
20 attend with you, is that ...

21 A They had been in the house but I did not see any
22 reason to take the police with me. I myself feel quite
23 capable of doing many things without the police. I, I do
24 have to use the police sometimes just to keep the peace.

25 Q Okay. So it says:

1 "... Steven answered. We went
2 into the living room and the
3 writer immediately smelled the
4 strong odor of marihuana. Steve
5 readily admitted to smoking
6 marihuana, denied being 'stoned'
7 rather just 'buzzed'. The writer
8 tried to engage a dialogue with
9 Steve indicating that he has been
10 drinking to the point of
11 intoxication during the weekend
12 and now his choice of substance
13 has changed and under the
14 influence is under the influence
15 and still inappropriate. Steve
16 reported that Phoenix was
17 'upstairs sleeping' as well as his
18 'sister'. The writer advised that
19 when we are standing on the front
20 step as the window was open we
21 heard a number of persons in the
22 home. He insisted that it was
23 just himself, his sister ...
24 besides the very tall friend that
25 just left.

1 Steven did not display any insight
2 into the writer's concerns. The
3 further into the conversation we
4 got the more Steven became non
5 co-operative. He stood sideways
6 so the writer had to speak to his
7 profile. His manner became
8 flippant and the writer left
9 advising that she would need to
10 consult with a supervisor
11 regarding his continued use of
12 drugs/alcohol."

13

14 And then it says:

15

16 "Phone call to Acting Supervisor
17 Audrey Lumsden.

18

19 That's your supervisor? That was your
20 supervisor?

21 A It says acting. Audrey was a supervisor during
22 the day and she was working that particular day or evening,
23 acting as a supervisor at after-hours.

24 Q Is that because your, your normal supervisor was
25 away?

1 A On vacation.

2 Q Okay.

3 A Something. Vacation or sick. Just wasn't there.

4 I don't recall what ...

5 Q Okay. So you're -- now, you're calling her to
6 report what you, what you observed with Steve?

7 A I'm calling her to report concerns I have for
8 Phoenix in the home, because when I, I went to the home,
9 Mr. Sinclair had stopped drinking alcohol but he had
10 started to, you know, use another substance. And when I
11 wrote, under the influence is still under the influence,
12 he's still high, he's still, you know, not sober enough to
13 take care of his child.

14 Q Okay. So that was your assessment at the time,
15 he was not sober enough to care for Phoenix; is that ...

16 A That's right.

17 Q Okay. And so the discussion you had with your
18 supervisor led you to the determination that Phoenix would
19 have to be apprehended?

20 A That's right.

21 Q Okay. And the considerations we talked about
22 before, are those the considerations that went into that
23 decision?

24 A Yes. But in this particular case it would be
25 that I think we were the fifth set of workers to go into

1 the home. He knew that after-hours was involved. He knew
2 that our involvement was, he was informed that our
3 involvement was to try to help him sober up, try to help
4 him have a safe home for Phoenix, and that he -- well, he
5 wasn't able to do that so it, to me, he, he wasn't able to
6 do that. I think I was the fifth set of workers that, that
7 was going into the home and I had just thought that that
8 was enough.

9 Q Okay.

10 A Over two days, so ... There's more in there,
11 though, saying that there was also gang members in the
12 home.

13 Q Right.

14 A And the police identified them as Indian Posse.
15 So if you're -- there's gang members in the home and you've
16 got a little child of three with gangs, there's violence
17 and drugs and weapons and no one really seems to be taking
18 care of her, so ...

19 Q Not really the safest place for Phoenix at that
20 point?

21 A Not at all.

22 Q Okay. So just to continue on. It says:

23

24 "The writer advised the Winnipeg
25 Police Services would be

1 necessary.
2 Phone call to Winnipeg Police
3 Services. We waited approximately
4 1.5 hours for a car and entered
5 the home again at 6:24 p.m. There
6 were a number of young men in the
7 home who all scattered out the
8 back door. Prior to entering the
9 home Constable 1818 advised that
10 he had attended the home on an
11 unrelated call yesterday and that
12 a number of Indian Posse members
13 were in the home and that he had
14 difficulty arousing Steve who was
15 laying on the couch. The
16 constable also remarked that
17 Steven 'is really not a bad guy'"

18
19 So, first of all, this is an example of where you
20 call the police when you're apprehending a child? Do, do
21 you always call the police in that, in those circumstances?

22 A No. The police are called, I call the police
23 mostly to keep the peace. When we want -- when we do an
24 apprehension, we want to do it the least traumatic way to a
25 child and to anybody in the house, as well as the

1 community. We try to do it quietly. I go in quietly and I
2 would leave quietly.

3 Mr. Sinclair certainly was not angry all the
4 time, wasn't hostile all the time, wasn't belligerent all
5 the time. I, I knew that when I first talked to him. But,
6 you know, he was under the influence and the more I started
7 talking to him and challenging him around his behaviour,
8 smoking marihuana now and not drinking alcohol and, you
9 know, not having basic needs in the house and not providing
10 a safe environment, I think he became agitated and became
11 hostile that way, through my challenging behaviours of him,
12 and that Phoenix was there. There was also a number of
13 Indian Posse in the house so I thought it would be in the
14 best interests of Phoenix to do it that way, to keep the
15 peace, and also safety for everybody else, including myself
16 and my partner.

17 Q And just, just while you're waiting for the
18 police for approximately hour and a half, where would
19 Phoenix be at that time?

20 A She would have been in the house.

21 Q Okay. And where would you have been?

22 A In the van outside.

23 Q So you're just waiting for the police to show up?

24 A Yeah. We, we don't typically sit right in front
25 of the house. That would be kind of silly.

1 Q Okay.

2 A You know, but we're not too far away. And, you
3 know, the police respond as quickly as they can. They
4 usually respond faster than an hour and a half. It must
5 have been a busy night.

6 Q Okay. So --

7 A That's ...

8 Q That's a little longer than usual, then?

9 A They're, they're usually faster than that, I'd
10 say.

11 Q Okay. And it says:

12

13 "The writer had to address Steve a
14 number of times and requested his
15 attention. Steve could not
16 understand the severity of the
17 situation, i.e., being under the
18 influence all weekend with Phoenix
19 being cared for by a number of
20 people, in particular being cared
21 for by his sister, 'Angie, aka
22 Danielle' whose children are
23 presently in care, no food in the
24 home (although he indicated his
25 wallet was stolen). Steve did

1 remark to the worker ... 'I
2 usually don't get like this when I
3 have Phoenix around'. However,
4 this remark did not evolve into
5 any insight."

6

7 So first of all, just a reference to Steve's
8 sister, how were you aware of that?

9 A When Bev Hutchinson had first gone out, Danielle,
10 that's the sister you're talking about --

11 Q Right.

12 A -- right now, Danielle was identified as a
13 substitute care-provider. When we go into a home and if
14 person, if a parent is intoxicated or under the influence
15 of something, I mean, we look to family who can, you know,
16 provide a safe environment while the parent sobers up, and
17 that's who Danielle was. Workers had come back to the
18 office and found that Danielle herself had an open
19 protection file and that indeed her kids were in care, as
20 well. So she would not be an appropriate care-provider
21 because her own children were in care.

22 Q And then it says:

23

24 "Steve was not co-operative. He
25 blamed Winnipeg Police Services

1 and Child and Family Services for
2 'picking on him'. The Constable
3 described how he was unable to
4 rouse him from his 'sleep'
5 yesterday.

6 The writer requested Phoenix's
7 shoes and jacket. Steve could not
8 locate her jacket.

9 Phoenix was driven to PLR without
10 incident."

11

12 That's Place Louis Riel?

13 A Yeah. Um-hum.

14 Q

15 "We noted that she called most
16 females 'Mom'. Phoenix presents
17 as a happy girl. She is clean
18 with clean clothes. Her hair is
19 cut short and she is speaking
20 appropriately for her age.

21 The writer would like to point out
22 that Steve does present with
23 potential. He appears to be a
24 bright young native man. Winnipeg
25 Police Services also noted that he

1 does not have 'much of a record'
2 but with associates such as 'IP'
3 perhaps it will only be a matter
4 of time. The writer wondered why
5 Steve continued on with marihuana
6 when he certainly knew Child and
7 Family Services would be attending
8 to his home with food."

9

10 First, the description of Phoenix, is there a
11 reason you included that in your notes?

12 A Included which part?

13 Q Just anything --

14 A Describing her?

15 Q -- about Phoenix, describing her.

16 A We always describe children. She was three years
17 old. I think the note about calling most females Mom I
18 think is most telling. A three-year-old child
19 developmentally is very attached to their mother. They'll
20 usually hide behind, you know, their mother or father's
21 legs. Their mom is their lifeline. Phoenix didn't -- she
22 called me Mom. She was calling me Mom the entire time. I
23 remember that. When I took her to the PLR, she was calling
24 the care-givers there Mom. So to me that just shows that
25 there's no consistent care provider. It's a lack of

1 attachment to, you know, to a mother figure. And she
2 didn't make strange to anybody either. She was really
3 happy. She didn't display any behavioural sort of
4 indicators of a child that would be afraid of strangers at
5 all, that would be afraid of adults. I remember her being
6 happy and content and really just going to anybody. This
7 is a three-year-old child who developmentally really is
8 wary of adults and strangers, and I just noted that her
9 hair is really, really short and just a lot of young
10 aboriginal girls, toddlers, have long hair and, you know,
11 she just, you know, had really, really short hair and for
12 some reason I thought that was odd.

13 Q Okay.

14 A But she verbally, I mean she was speaking well,
15 you know. Her verbal skills were good for three years old.
16 But it was just very odd that she was calling me Mom.

17 Q And so did you put that in, in the notes so that
18 the next worker involved would see it and maybe rely on
19 that information?

20 A Yeah, a lack of a care-giver, a lack of a mother
21 figure.

22 Q Okay. And then the comments you made about Steve
23 presenting with some potential, is there a reason you noted
24 those things?

25 A Yeah. Steven, Mr. Sinclair was certainly able to

1 be polite and cooperative and, you know, I think that, I
2 thought at the time with some counselling that he would be
3 able to gather some insight, you know, into some of the
4 changes that he needed to make in his life. And I didn't
5 see him as a, an angry hostile young man at all, you know.
6 Apprehending a person's child will certainly bring out
7 anger and hostility in a person, especially if they're
8 under the influence. But that's not who I saw.

9 Q So you --

10 A And neither did the police. They, they said that
11 as well.

12 Q So you didn't get the impression that was his
13 general demeanour, then?

14 A No.

15 Q Okay.

16 A There's also something in there that he said, I
17 usually don't get like this around Phoenix, and that spoke
18 to his determination to try to provide her a good home and
19 to try to be a good dad and, and not be under the
20 influence, yeah, so ...

21 Q Okay.

22 A Pretty tough for a young kid in the North End,
23 I'd say.

24 Q And then, Phoenix was placed in a hotel
25 placement, and why was that?

1 A We wouldn't have had any shelters or any foster
2 homes available to us.

3 Q Okay. So was the lack of available --

4 A The lack of a shelter, right.

5 Q Okay.

6 A But I have to say they're clean, they're good,
7 they're appropriate for a three-year-old. She got, she
8 would have gotten good care there.

9 Q Did you -- I notice -- we've heard that
10 considerations are sometimes made to have the child stay
11 with a family member or a friend. Was that -- did you give
12 any consideration to that in this case?

13 A Absolutely. We, we look to family. That's what
14 we would do first. Some, sometimes it's hard because it's
15 3:00 in the morning, people aren't answering their
16 telephones. Bev Hutchinson did, did agree to Danielle -- I
17 don't know if her last name is Sinclair -- being a care-
18 provider and then found that she had an open file with her
19 own kids in care. Then there was Genny. I don't know her
20 last name. Genny was deemed to be an appropriate care-
21 provider. Genny had been looking after Phoenix --

22 Q Okay.

23 A -- on this particular weekend. When I arrived,
24 Genny was bringing Phoenix back to Steven and he was still
25 under the influence, so it was just a pattern, you know,

1 that he was going to continue drinking.

2 Q And just with respect to the decision to
3 apprehend Phoenix. As, as an after-hours worker, can you
4 make the decision on your own or ...

5 A No, I don't. We're, we're always in pairs. I
6 would have talked to, to Claudia Ponce about it and then I
7 would have got back into the van. I think I even told
8 Steven that I wanted to consult with a supervisor around
9 his continued substance abuse. We have to talk to a
10 supervisor before we apprehend and there's always a
11 supervisor available. So I would have had a lengthy
12 discussion with Audrey Lumsden and she probably would have
13 looked at available information and that we would come to
14 the decision together that Phoenix would have to come into
15 care.

16 Q Now, I just want to have you confirm that the
17 documents at Commission disclosure 1797, page 37640. We,
18 we heard about these yesterday and I think they're called,
19 referred to as green sheets?

20 A Greens.

21 Q Greens?

22 A At one time I think they were the colour green.

23 Q Okay.

24 A That's what I, that's what I always thought.
25 Long time ago, you know, prior to any sort of computer

1 typing of them.

2 Q And the name just, just stuck so ...

3 A Greens.

4 Q So it's greens. Okay.

5 A Yeah. Historically I think they were green at
6 one time.

7 Q And we, we heard that this document is to be
8 filled out whenever there is an apprehension; is that
9 right?

10 A An apprehension or re-apprehension. In this case
11 it was a re-admission. She had already been apprehended
12 once so I --

13 Q Okay.

14 A -- ticked of re-admission.

15 Q I see. And you would have filled this form out,
16 then?

17 A Yes.

18 Q Okay. At the top of the form it's addressed to
19 Laura Forrest. I think it's -- scroll down a bit.

20 THE COMMISSIONER: What time in the night was it
21 that you apprehended the child?

22 THE WITNESS: It would have been early evening.
23 I'd have to go back and have a look, probably around six
24 thirty, seven o'clock, I -- just off the top of my head.
25 I'd have to go back and look at my notes, Commissioner.

1 THE COMMISSIONER: Yeah, that area of the
2 evening.

3 THE WITNESS: That's Bev getting the call at
4 10:50 on June 21st. It's probably a Saturday,

5

6 BY MR. OLSON:

7 Q Sorry. Just looking now at page 37378. This you
8 said was a call getting -- Bev getting the call at what
9 time?

10 A At, the time of referral was 10:50 a.m.

11 Q Okay.

12 A And I remember at the very end of this report, I
13 think I said I entered the house at six twenty --

14 Q Okay.

15 A -- at 6:24 p.m. And that would have been on the
16 Sunday.

17 Q I just wanted to ask you, on the top of the form,
18 Laura Forrest is, is noted at the worker there. Is there a
19 reason for that? She --

20 A Um-hum. The file was open to intake and Laura
21 Forrest was the intake worker. I'm the after-hours
22 emergency worker. I'm dealing with what's going on in the
23 very moment. And this file would have been forward to
24 Laura Forrest at 8:30 on Monday morning.

25 Q Okay. So 8:30 Monday morning she would see this

1 form?

2 A She would -- yeah, it would go to her.

3 Q Do you know how it's brought to her attention?
4 Is it left on her desk or, or do you know?

5 A All the, all the after-hours reports are, are
6 read and authorized by supervisors at after-hours
7 emergency, and then they are given to the various agencies.
8 So they'd have gone to Laura's supervisor at intake. She
9 would have read it and then she would have given it to
10 Laura.

11 Q Okay.

12 A And I noted that I c.c.'d it to Tammy Kell
13 (phonetic) who was the worker for Angie Sinclair, because
14 Angie Sinclair was also involved in this. So we'll
15 sometimes c.c. things to workers if their client is
16 involved in it, so they'll have some knowledge that their
17 client was, you know, some, somewhere on the weekend or
18 something that would have pertained to them, and then copy
19 the placement desk so they know that we used the PLR that
20 night.

21 Q So everyone will be aware of what happened over
22 the weekend?

23 A That's right.

24 Q Okay.

25 A Yeah.

1 Q Do you recall if you spoke with Laura Forrest
2 with respect to this apprehension?

3 A I would say I would not. I typically would leave
4 at midnight or two o'clock in the morning and I would not
5 speak to the worker the next day unless there was a
6 question about my report. She may call or the supervisor
7 may call. But that did not happen in this case.

8 Q Okay. But that does happen in some cases?

9 A It can happen. You can -- after-hours can get a
10 call. It can go through your supervisor; they may call you
11 just to confirm something.

12 Q I just want to take you to one, one of the
13 reports, the Section 4 report. This is a report prepared
14 by Andrew Koster, page 30. Were you interviewed by Mr.
15 Koster?

16 A I'm sorry, what's the question? Where, where are
17 you --

18 Q Were you -- before you look at the report, do you
19 recall being interviewed by Mr. Koster?

20 A Koster?

21 Q Koster.

22 A No. I was not interviewed by Mr. Koster, not
23 that I remember.

24 Q Do you know if you were ever shown a copy of the
25 report that he prepared, the Section 4 report?

1 A Who is Mr. Koster?

2 Q He's, he prepared the Section 4 report.

3 A Oh, right. Okay. No, I don't think so.

4 Q Okay. If you look at finding number 17.

5 A Oh, I'm sorry, I --

6 Q You recall this now?

7 A I do, yes.

8 Q Okay.

9 A I'm sorry. I -- the, the name "Koster" just
10 threw me off.

11 Q Okay.

12 A I do have this. Yes, I do.

13 Q Okay. And was this shown to you, then, in
14 connection with the inquiry?

15 A Yes, it was.

16 Q Okay. So before that you, you'd never seen it,
17 then?

18 A Before that, no.

19 Q Okay. It just says:

20

21 "The After Hours staff did
22 appropriate after hours emergency
23 service

24 Staff provided appropriate follow-
25 up with the referral by visiting

1 the home and then following up as
2 long as there appeared to be a
3 potential danger for Phoenix. The
4 decision to ultimately apprehend
5 her was also warranted. They did
6 due diligence by completing a
7 record check after the first visit
8 when they returned to the office.
9 Their recording was detailed and
10 concise."

11

12 My understanding is this would pertain to the,
13 partially to your involvement in this file. Do you have
14 any comments with respect to this finding?

15 A Yes, I would say that after-hours attempted to
16 provide support to Mr. Sinclair, you know, attempted to
17 work with him trying to help him help himself stay sober,
18 providing him counsel on -- that he needs to stay -- I mean
19 in, in that report there would -- it wouldn't be verbatim
20 of the words that we said to him but I do know all of the
21 other workers and myself would say, you know, try to keep
22 him sober, try to have an appropriate house and to sort of
23 have him develop insight into what's going on into his home
24 is not safe for his child. So I think there were -- I was
25 the fifth set of, of workers to go to, to his home in a

1 two-day period. I would say that's an awful lot of
2 support. So I think we, we did do our due diligence in, in
3 helping him try to help himself.

4 Q Okay. Is, is there anything in particular you
5 can attribute your ability to deliver services the way you
6 did in this case?

7 A I'm not, I'm not clear of the question.

8 Q You were able to, you were able to go out, see
9 the family, decide to apprehend Phoenix. And the report-
10 writer here says it was, it was appropriate work that you
11 did. Is there anything that you feel allowed you to do
12 that sort of work?

13 A Well, the other workers had gone out and, you
14 know, I had been out the fifth time, and I just, you know,
15 saw him as unable to see himself sober and not able to
16 accept the help that we were trying to offer him.

17 Q Okay.

18 A So ...

19 Q And I think earlier you said workload was always
20 high at after-hours, even today?

21 A Typically in the summer, after-hours is very,
22 very busy.

23 Q Okay. And do you know if this would have been a
24 period of high workload?

25 A I can't say with a hundred percent how busy it

1 was at the office because I was waiting for police for an
2 hour and a half. But I can say that sometimes if we are
3 waiting for police or if we're waiting somewhere, at a
4 hospital for information or whatever, that sometimes we are
5 called because it's so busy that we have to prioritize our
6 work. I was not called away that night so I would say that
7 it probably wasn't a very, very busy night that night
8 because I wasn't called away, that I was allowed to wait
9 for the police for an hour and a half because sometimes
10 we're not allowed to do that because of the work.

11 Q Okay.

12 A Like there might be an abandoned child left
13 somewhere and we would have to go to that child first.

14 Q So a high priority issue might come up?

15 A That's right.

16 Q What would then happen with the apprehension that
17 had been planned?

18 A We -- the police will have called us, and if I
19 was available I would have went. If, if somebody else was
20 available, then they would have went. We would have met
21 the police regardless.

22 Q Okay.

23 A I'm sorry.

24 Q So do you -- would you say that workload would
25 impact your ability to deliver services to clients in cases

1 like this?

2 A I have to say that some of the fields that would
3 not be absolutely necessary to go out on, that we may not
4 get to those but we always get to those children that are
5 at risk.

6 Q Okay.

7 A But sometimes we, we may get a service request,
8 you know, just to do a wellbeing check on a family, the
9 worker hasn't been able to get a hold of them, you know,
10 for a while or something like that.

11 Q So in other words, some of the calls you would
12 get that you've determined were lower priority, they may
13 not get service?

14 A We, we may not get, get to those. But we always
15 would, would get to those that we have determined to be
16 high, high priority.

17 Q Now, you still work in AHU. Is that the case
18 today, as well?

19 A Absolutely.

20 Q Okay. Have you noticed any changes in, in AHU in
21 terms of workload over the past couple of years?

22 A I think it's got busier and that the calls have
23 become more acute, like I said at the beginning. There's
24 more gangs out there, there's more violence out there.
25 There's random shooting, there's random attacks. Poverty I

1 think is taking its toll on people.

2 Q Are you familiar with the differential response
3 program?

4 A Yeah, I'm familiar with it. You have to remember
5 I've only ever worked after-hours so I'm not familiar,
6 really acquainted with a lot of the day side.

7 Q Okay. What about the SDM is something you
8 mentioned, the --

9 A That's right.

10 Q -- structured decision-making?

11 A Yeah. I had training in that, and that's
12 something that we use at after-hours as well.

13 Q I know we'll hear a lot more about, about this in
14 the future but it is something you've been using for some
15 time now, then?

16 A Couple of years now. Maybe not that long, I'm
17 sorry.

18 Q Okay. And can you just briefly explain what it
19 is?

20 A Well, it's got indicators on it where we have to
21 sort of assess a family for number of previous child
22 protection concerns: drug and alcohol, mental health,
23 abuse investigations, all those kind of indicators, and
24 that it would, in the end it would determine the, the risk
25 that the family is at, high risk, low risk or medium risk.

1 Q Okay. And is this a tool you're required to use
2 every time you open a new file?

3 A Yes.

4 Q Okay. So for each family, any, any call you get
5 and you open a file, you have to go through this tool?

6 A That's right. We also have to do a history on
7 the family, as well.

8 Q Okay.

9 A Child welfare history.

10 Q And in terms of affecting your workload, has this
11 helped out?

12 A It allows us to get to know the family better,
13 yes.

14 Q But in terms of affecting your workload, has, had
15 this --

16 A Not at after-hours, no.

17 Q Okay.

18 A No.

19 MR. OLSON: Those are my questions for this
20 witness.

21 THE COMMISSIONER: Thank you, Mr. Olson. All
22 right. Who -- have you got an agreement who's next? Do
23 you want to confer or ...

24 MR. MCKINNON: No questions, Mr. Commissioner.

25 THE COMMISSIONER: Thank you, Mr. McKinnon.

1 MR. GINDIN: I have no questions.

2 THE COMMISSIONER: Mr. Saxberg.

3 MR. SAXBERG: No questions.

4 THE COMMISSIONER: Guess that leaves you, Mr.,
5 Mr. Khan.

6 MR. KHAN: I have no questions.

7 THE COMMISSIONER: Thank you. Mr. Ray.

8 MR. RAY: Oh, I'm sorry, I thought Mr. Khan said
9 one question.

10 THE COMMISSIONER: No.

11 MR. RAY: No, Mr. Commissioner, no questions.
12 Thank you.

13 THE COMMISSIONER: All right, witness. Thank you
14 very much.

15 THE WITNESS: Thank you, Commissioner.

16 THE COMMISSIONER: You've obviously satisfied
17 everybody in the room with no other questions so you're
18 free to go, and I thank you very much for appearing.

19 THE WITNESS: Thank you, Mr. Commissioner.

20

21 (WITNESS EXCUSED)

22

23 THE COMMISSIONER: Now, do you want to take the
24 mid-afternoon break before you start the next witness or,
25 or do you want to go right into?

1 MR. OLSON: I think it would make sense to take a
2 break.

3 THE COMMISSIONER: All right. We'll take a 15-
4 minute break.

5

6 (BRIEF RECESS)

7

8 THE COMMISSIONER: I don't think we need re-swear
9 this witness. I'm sure he appreciates he's still under
10 oath or affirmation, as the case may be.

11 MS. WALSH: Thank you, Mr. Commissioner.

12

13 **ANDREW WALLY OROBKO**, previously
14 sworn, testified as follows:

15

16 DIRECT EXAMINATION BY MS. WALSH:

17 Q Mr. Orobko.

18 A Good afternoon, Ms. Walsh.

19 Q We previously heard from you with respect to your
20 involvement with Phoenix's family in 2000.

21 A That's correct.

22 Q You were Marnie Saunderson's supervisor and then
23 you took over from Ms. Saunderson when she had a conflict
24 because of her relationship with the support worker from
25 Boys and Girls Club, and at that point you did, you

1 provided direct service to Phoenix's family?

2 A That's correct, Ma'am.

3 Q And then in 2003 you provided service again
4 because you were Laura Forrest's supervisor?

5 A Correct.

6 Q And I think you were here throughout Ms.
7 Forrest's testimony yesterday and today?

8 A I was.

9 Q And you were her supervisor throughout the entire
10 time that she provided services to Phoenix's family?

11 A I was.

12 Q Okay. And so in 2003, you would have received
13 the CRU intake form that Roberta Dick filled out?

14 A That is correct.

15 Q That would have come to you from the CRU
16 supervisor?

17 A Correct.

18 Q Okay. And we don't need to pull it up at this
19 moment, but that's page 37397, just for the record.

20 What did you do when you got that form?

21 A My practice of the day, when I would receive the
22 report or the referral from the CRU unit, would be, of
23 course, to review it in its entirety and I would then have
24 a, take the opportunity to look at any closed file
25 pertaining to that family and/or review any of the closed

1 recording that I could access on the CFSIS system. After
2 those two tasks would have been completed, I would have
3 then made the decision who was I going to assign the matter
4 to, and I then would have walked it over to that worker and
5 personally assigned it to them.

6 Q So do I understand you to be saying that you
7 would have looked at the paper file and the CFSIS
8 recordings?

9 A In this case, Ms., Ms. Forrest's recording
10 indicates that she received the referral and the file at
11 the same time, so that would suggest to me that the file
12 was also made available to me, because I would have been
13 the one to have delivered it to her.

14 Q Okay.

15 A So certainly I would have had a chance to
16 reviewed any closed recording that was in that file and,
17 again, and/or any closed recording that might have been
18 available on CFSIS at the time. But the closed file would
19 have been my first source of information.

20 Q Okay. So let's take a look at the, the closing
21 summary that would have been in the file. That's at page
22 37385. This is the closing summary from March 1st, 2002
23 and it runs to the end of page 37396. If we go to the
24 second last page, page 37395, please.

25 So this closing summary is a summary that you

1 would have looked at when you got, first received the
2 referral?

3 A That's correct.

4 Q Okay. And so would you have, have looked at what
5 the unresolved problems and recommendations for the future
6 were?

7 A My practice in the day was to immediately go to
8 the end of the most recent closing summary. By and large
9 the practice at the time was that there would be a bit more
10 of an assessment and then headings such as unresolved
11 problems and recommendations. In this case I would have, I
12 would have gone to the end of this recording, I would have
13 read these two, these two captioned sections. I suspect I
14 probably would have also backtracked bit into the file just
15 to get a little bit more substance.

16 Q So in terms of resolved problems, we've got the
17 reference to:

18

19 "... refer to Samantha Kematch's
20 file for Child Welfare issues
21 relating to her. Steve has
22 suffered significant losses in his
23 life - the most recent - the loss
24 of an infant daughter.

25 Until Steve became a ward of the

1 Agency he grew up in an
2 environment that was rife with
3 alcohol abuse, domestic violence
4 and sexual abuse. [and] Although
5 [he] received therapy while in
6 care, ... worker [says they're]
7 concerned that these issues may
8 reoccur in the future.

9 Steve always has been and still
10 remains a very quiet and private
11 person. He finds it extremely
12 difficult to reach out for help
13 and to talk about his issues. It
14 remains unclear whether Steve has
15 difficulty with alcohol. Steve
16 admits to drinking occasionally,
17 and he remains at risk of
18 developing a substance abuse
19 problem.

20 Steve has indicated that Mama Wi
21 had not provided him with the
22 assistance he had expected and
23 [he] claimed that the resource had
24 'taken Samantha's side' in their
25 dispute. This reduces the

1 resources available to Steve
2 unless it has been resolved."

3

4 And then, under Recommendations for Future:

5

6 "If or when Mr. Sinclair and Ms.
7 Kematch resolve their relationship
8 and resume cohabitation, that the
9 Agency accessed and monitor Ms.
10 Kematch's parenting style. There
11 are concerns expressed by Mr.
12 Sinclair about her treatment and
13 disciplined methods used on
14 Phoenix.

15 Family of origin issues may need
16 to be addressed for Steve. Ron
17 Kane was [his] therapist and would
18 be willing to see Steve again.

19 If this file should re-open the
20 above issues along with the
21 possibility of substance abuse
22 needs to be addressed.

23 Genny Sinclair - Steve's sister
24 remains a strong support for all
25 the Sinclairs - Steve, Sheila and

1 Angie (all three siblings were/and
2 are wards of this Agency) To this
3 worker's knowledge Genny has been
4 a 'Christian' and alcohol free for
5 a number of years now."

6

7 And then on the last page, the reason for the
8 transfer closing says:

9

10 "Steve is the primary care-giver
11 for Phoenix. He has not requested
12 any services from the Agency and
13 at this time no community
14 resources are indicating any
15 concerns. Since there are no
16 child welfare concerns at present,
17 this worker recommends that this
18 file be closed."

19

20 So that was all information that you reviewed and
21 had available to you when you supervised Ms. Forrest?

22 A That's correct, Ma'am.

23 Q And was it your understanding that the file was
24 now being opened because now there were child welfare
25 concerns being raised?

1 A Yes. The matter that was referred to us by the
2 Children's Hospital.

3 Q Okay. And you said you referred the matter to
4 Ms. Forrest?

5 A Correct.

6 Q So if we can turn to page 37368. These are her
7 notes of her intervention, starting with February 28, 2003
8 when the case was assigned to her. And you -- we noted
9 that -- or she, she talked with us about the fact that she
10 attended and met with Steve on February 28th but did not
11 see Phoenix, and then she went back on March 12th, March
12 13th. No neither occasion was either Steve or Phoenix
13 there. Same with March 31. And then she wrote:

14

15 "In the absence of other concerns,
16 and with caseload demands,
17 subsequent fields to the home were
18 only attempted on April 17, May 1
19 and May 9, 2003 and all were
20 unsuccessful in establishing
21 contact with Steve and Phoenix."

22

23 Do you recall whether you discussed with Ms.
24 Forrest her lack of success in making contact with Steve
25 and with Phoenix?

1 A Do I have a date or a time when I had a specific
2 conversation with her, no. But certainly within her
3 recording, it's clear that during that time she would have
4 had several conversations with me.

5 Q Why do you say that?

6 A On, on a, on a daily basis, I could have four,
7 five or six staff come into my office at any one time, on
8 multiple occasions during a day, to provide updates, to
9 seek out some consultation or to seek out some form of, you
10 know, authorization or approval to carry out a case
11 management function. And, and our practice at the time was
12 that those things or the outcomes of those conversations
13 would always find their way back into the record, in the
14 actions or the, in the interventions that our staff took.
15 Ms. Forrest testified a number of times that she would have
16 consulted with me. And while the, the exact dates may not
17 be listed here, I certainly have every, every confidence
18 that we had a number of conversations about this matter
19 during that time.

20 Q Did you consider asking an after-hours worker to
21 go out and see if they could locate Mr. Sinclair or
22 Phoenix?

23 A While it might have been considered, it was
24 never, it was never an option for me. And, two reasons for
25 that. I think, again, Ms., Ms. Forrest spoke about how

1 our, our best professional judgment was that we were going
2 to try to, to deal with the matter. Ms. Forrest was going
3 to attempt to go back out, see Mr. Sinclair, build a
4 relationship with him and try to address the concerns that
5 had been raised. But the after-hours service, you know,
6 I'd supervised that unit for several years and I always did
7 view it primarily as, as a crisis response service. I
8 didn't view this as a, as a, as a crisis situation
9 necessitating immediate response or a crisis response. So
10 our best professional judgment suggested we were going to
11 deal with the matter throughout the day side and so
12 for that reason I never considered using the after-hours
13 unit.

14 Q Okay. What about Ms. Forrest's comment in her
15 notation under March 31, '03:

16

17 "In the absence of other concerns,
18 and with caseload demands,
19 subsequent fields to the home were
20 only attempted ..."

21

22 on given dates. Did you have any understanding as to what
23 she meant when she made that reference?

24 A I would offer the following: At that time, on,
25 on March -- sorry, on February 28th, 2003, on March 31st,

1 2003, what we knew to be true is that Mr. Sinclair had been
2 independently parenting Phoenix since, I believe, July of
3 2001, a period of close to 20 months, and this, the matter
4 that came to us from the hospital was the first community
5 concern that had been raised with us that questioned his
6 ability to care. And so -- and, and you've also heard
7 testimony that that matter, which was one that we came to
8 view as a matter of lower grade medical neglect, was the
9 only matter that we had in front of us and no community
10 member had reported any other concerns in that time since
11 Ms. Forrest, since Ms. Forrest had charge of that file. So
12 that is, that is the, my, my interpretation of the comment
13 in the absence of other concerns.

14 The issue or the interpretation of the statement
15 with caseload demands, certainly at that point in 2003
16 workload was, again was, was a very pressing and just, just
17 a very worrisome issue for us within that unit.

18 By 2003 we were firmly wrapped up in the
19 restricting of the agency and that was bringing all sorts
20 of operational, psychological and emotional demands on us
21 as a unit. And during unit meetings, when staff would talk
22 about these issues and they would talk about workload
23 demand, when they would talk about their inability to meet
24 standards or best practice because workload demands were
25 proving a barrier, my direction to my staff was, we need to

1 honestly reflect that in our recording. And if in this
2 case our ability to provide a more timely response was
3 impacted by workload issues, then that needed to be fairly
4 reflected in her recording.

5 Q Okay. And so that's what you understand her
6 recording to mean when she refers to caseload demands?

7 A I do.

8 Q And by May of, of 2003 it's almost three months
9 since the agency has received a report that Phoenix has
10 been brought into the Children's Hospital by an unnamed man
11 with an object in her nose that has been there for so long
12 she has terrible infection. She's a three-year-old child.
13 Was it not a concern to you that, by almost three months --
14 that almost three months had passed and the agency had not
15 seen Phoenix?

16 A The fact that we were not able to provide a more
17 rapid or a more timely response, of course that was a
18 concern, of course it was. But again, we -- I think all of
19 us who've come up here, we, I think we've all asked the
20 same tolerance, that the, the matter of Phoenix Sinclair
21 was not the only matter that we were dealing with at that
22 time and we can't look back at this through an isolated
23 lens.

24 In that timeframe, from February 28th until the
25 end of June, the entire time that Ms. Forrest had charge of

1 this matter, I believe there were statistics generated last
2 week that showed that a, 400 cases came into our unit
3 during that time. And so our -- when we look at this
4 matter, and with what we knew to be true at the time,
5 again, was I concerned we weren't getting out quicker?
6 Absolutely. But in view of other workload demands or in
7 view of other cases of medical neglect that were far more
8 serious than this, we just didn't have the ability to, to
9 do it any, any quicker. Yes, it was a concern but we did
10 the best we could with the resources that we had at the
11 time.

12 Q Did you -- could you tell from looking at the
13 closing summary from March of '02 when was the last time
14 that the agency had seen Phoenix? Do you know whether you
15 made a note of that?

16 A I knew what Ms. Epps' closing summary indicated
17 so if you could pull it back up, that's --

18 Q Sure.

19 A -- all I could reference.

20 Q Let's try page 37389, please. We look at the
21 reference for, to July 4, 2001.

22

23 "Several concerns have been
24 referred regarding the care of the
25 children and the parents' use of

1 alcohol and violence.
2 Cory Donald - on call worker -
3 field to the home during my
4 absence from work. According to
5 Cory Donald, he ... met with Steve
6 at his home ... Steve appeared
7 sincere, open and honest in his
8 discussion with Cory. Samantha
9 left the home and the two children
10 are in care of their father. The
11 house was clean and Steve did have
12 assistance from extended family to
13 care for the children if needed."

14

15 The next recording says, for July 6, '01:

16

17 "Steve was at home with his
18 youngest child, Phoenix was ..."

19

20 think it should be, with her friend:

21

22 "... Kim Edwards', home for the
23 afternoon."

24

25 Perhaps if you could scroll to the next page.

1 Do you, do you know whether the recording for
2 July 4, '01 indicates whether Phoenix was in the home?

3 A I know only what the recording is reflecting
4 here.

5 Q And do you read it --

6 A I, I --

7 Q -- as indicating whether Phoenix was there or
8 not?

9 A I think the recording is silent --

10 Q Okay.

11 A -- on whether she was or was not there on the
12 July 4th recording.

13 July 6th I think is, is making a statement that
14 Phoenix --

15 Q Phoenix is --

16 A -- was her friend. I believe -- I'll interpret
17 that to be was at her friend's.

18 Q Right. So let's keep going. Then they talk
19 about seeing the baby. July 3, '01. The worker talks
20 about receiving a request from Kathy Epps.

21

22 The children were in care of Steve
23 with assistance from Genny. Field
24 was made.

25

1 Do you see any reference there that refers to
2 whether Phoenix is seen?

3 A No, I'm not seeing that. Again, I would suggest
4 Ms. Epps, who's the author of this, would maybe be better
5 able to answer. Maybe the child was present. It's silent
6 on the issue of whether the child was or was not present.

7 Q And I -- that's a fair comment, and I think Ms.
8 Epps' evidence was that she didn't see Phoenix.

9 We could just scroll to the end of the document.
10 I don't believe that there's any reference to Phoenix being
11 observed. Keep going to the end, please.

12 So you didn't make a note, when you picked up the
13 file, as to, as of '03, when Phoenix had last been seen by
14 the agency? I didn't see that in Ms. Forrest's recording
15 or ...

16 A No. No. Again, the, the validity or the
17 inclusiveness of Ms. Epps' recording wasn't my concern. I
18 was her supervisor. I think what was, what was more
19 telling for me was that Phoenix was seen and was seen by
20 probably the best person possible, and that was a
21 Children's Hospital emergency room doctor --

22 Q And --

23 A -- on February 25th.

24 Q And that viewing caused the Children's Hospital
25 to call CFS with concerns?

1 A It, it did. But it -- that, that viewing also
2 did a few other things. It also indicated to us that she
3 was presenting, save for the infection in the nose, she was
4 not presenting with any signs of maltreatment or abuse or,
5 or she was not failing to thrive. The -- who better than a
6 child, Children's Hospital emergency room doctor to be able
7 to give an opinion as to a child's wellbeing and health?
8 So when we took charge of that file on the 26th, our
9 starting point was, this child had been seen and had been
10 seen by, you know, probably the best person available the
11 time, which was a pediatrician, and was not reporting to us
12 anything other than the infection in the nose, the plug,
13 the pluggage and the infection in the nose. So that was
14 our starting point. The, the infection notwithstanding, we
15 appeared to have a health child not presenting with signs
16 of maltreatment or abuse.

17 Q Okay. And just to be sure that we're on the same
18 page, if we look at the recommendations that came in on the
19 CRU form, page 37398, the second paragraph under Presenting
20 Problem/Intervention says:

21

22 "The hospital requested that this
23 matter be assessed further given
24 the concerns related to physical
25 and medical neglect and inadequate

1 care of the child."

2

3 So that's, that's the call that came in to the
4 agency.

5 A Absolutely. There was no question the hospital
6 checked on the child's wellbeing, because again, an
7 emergency room doctor had done that, but questions around
8 the parenting, questions around the parental decision,
9 around why was this child not seen medically earlier,
10 parental motivation, those were the things that we were
11 most interested with at that time.

12 Q Okay. We heard evidence from Ms. Forrest that
13 she spoke with Mr. Sinclair on February 28, '03 and he told
14 her that Phoenix was in the care of a friend, and Ms.
15 Forrest did not take any steps to look for that friend or
16 find Phoenix in the care of that friend. Is that something
17 you would have expected her to do?

18 A At that point, we had no information in front of
19 us to suggest that, that she was with an alternate care-
20 giver who was presenting any risk or threat of harm to her.
21 That was not our primary reason for being involved at that
22 time. And, and in all honesty, Mr. Sinclair was within
23 his custodial rights as a parent to select an alternate
24 care-giver for his child and he was under no obligation to
25 share that identity with us or, or to vet, vet it by us for

1 our approval. So again, our primary concern was to, to
2 go back and see Mr. Sinclair and again address issues with
3 him of parental motivation, parental capacity, what got
4 you to this point where your child, you know, had
5 apparently not received medical attention for some time,
6 help us understand that, Steven. That was our primary
7 focus.

8 Q But, but you didn't need -- the agency didn't
9 need to just see Mr. Sinclair. More importantly, the
10 agency needed to see Phoenix, right?

11 A Again, our starting point was, when we took
12 charge of this matter on February 28th, the child had been
13 seen by an emergency room pediatrician who had treated the,
14 the nose blockage, had treated for the infection or
15 prescribed antibiotics and who was not indicating otherwise
16 that there was, you know, maltreatment or, or neglect of
17 this child. Seeing Phoenix with her father, seeing the
18 interaction and, and, and using that as a way to assess his
19 motivation, capacity, absolutely. Absolutely. But --

20 Q I think Ms. Forrest said at the very least the
21 agency needed to confirm that Phoenix was being given her
22 antibiotics.

23 A Certainly.

24 Q And how --

25 A Certainly.

1 Q -- would you do that unless you saw Phoenix? Not
2 you personally, but the agency.

3 A Certainly. And that was one of, you know, one of
4 the things we had to assess, absolutely.

5 Q And if you go to page 37386. This is the second
6 page of the closing summary from March of 2002 from Mr.
7 Sinclair's file. And you see under the heading Significant
8 Others it lists a number of people, Nikki Taylor from the
9 Boys and girls Club, Genny Sinclair, Steve's sister, and
10 Kim Edwards, and it gives contact information for each of
11 them. And this information was available to Ms. Forrest
12 and to you when you assumed conduct of the file?

13 A It would have, yes.

14 Q Okay. Would you have expected Ms. Forrest to use
15 this information to try and locate Phoenix?

16 A At the time, our professional judgment and the,
17 and the plan that I supported was that we were not going to
18 reach out to, to extraneous or extended family, that we
19 were going to continue our efforts to, to approach Mr.
20 Sinclair on this matter. And so the, the question of, of
21 could we or should we have reached out to these people,
22 again, I think, I think Ms. Forrest testified, and
23 eloquently so, that, you know, we weighed that out, we
24 weighed the, the possible benefits of it, we weighed the
25 possible down sides or repercussion of that and made the

1 decision that we were not going to do it at that point but
2 we were going to continue to pursue the matter with Mr.
3 Sinclair.

4 Q And so although the agency knew that, that they
5 had to see Phoenix, Ms. Forrest was making attempts on a
6 number of days, you didn't think that it would be a good
7 idea to try and locate her by contacting any of the other
8 people listed as significant others to see if she was with
9 them?

10 A Yeah. I'm going to, I'm going to submit that,
11 that Ms. Forrest was hard-pressed to even get out to see
12 Mr. Sinclair. And I think if there was other things that
13 may have or could have or should have been done, if she
14 didn't have the time to do the most primary case management
15 function, which was go out and find the parent, I think she
16 would have been hard-pressed to have done those things as
17 well.

18 But again, I just need to come back and, and
19 just, and, and state again, we were, we were talking about
20 one case out of 400 that came in during that time and a
21 case that, on our priority level and amidst all of the
22 other things that we were going on, we were still viewing
23 it as a case of lower grade medical neglect and, and we
24 afforded this the most time and the most resources that we
25 could, balanced off against all the other things we were

1 dealing with at that time. We weren't just working on this
2 one matter at that time.

3 Q Ultimately, we heard evidence that the family --
4 the file was transferred to family services for ongoing
5 services?

6 A Correct.

7 Q And that was under your supervision and, and with
8 your approval?

9 A That is correct.

10 Q Do you recall why it was that you determined that
11 the file should be transferred for ongoing services?

12 A It became clear as this matter sort of reached
13 its zenith in June of, of 2003, it became clear that there
14 were, there were some significant child welfare matters
15 that, that were unresolved that, that needed to be
16 addressed. Ms., Ms. Forrest had, had made every effort to
17 -- after the child came into care, made every effort to
18 consult with Mr. Sinclair, had some preliminary
19 consultation with the mother, but it was clear that there
20 were still too many matters, too many worries, too, too
21 many child protection issues left unresolved for us that,
22 that, that would warrant anything other than transferring
23 this case on for longer involvement and continued
24 assessment.

25 Q And we went through with Ms. Forrest the

1 assessment and statement of risk that she prepared, and it
2 was followed by a plan. Did you have input in formulating
3 that plan?

4 A Yes. The practice at the time was that any plans
5 that were being developed by us for transfer to a family
6 service unit, those plans would have been developed in
7 consult with me and ultimately subject to my approval. All
8 of that is, is all tied up within the, the initials at the
9 end of that report.

10 Q And it was your expectation that the plan would
11 be carried out by the family services worker?

12 A I think I previously testified that the, the
13 family service units welcomed the recommendations and
14 welcomed suggested case plans by the intake unit. That
15 was, that was at their, their request. They welcomed that.
16 But I did know that when a file left our charge and it went
17 over to a family service unit, it was now their
18 responsibility to case manage and, and they would, they
19 would make decisions and they would bring that case to
20 whatever conclusion they thought was appropriate.

21 And again, information changes and there's new
22 developments, new assessments are undertaken. So I would
23 never have an expectation that that case plan would be
24 followed to the tee. It was, it was there as a starting
25 point and recommendations for the assigned worker, but it

1 was their domain and their purview to, to, to take the case
2 plan in another direction if they so choose.

3 Q Um-hum. So if we look at the plan at page 37373.
4 Maybe that's not the page, but keep going, please. There
5 it is, 37374. That the:

6

7 "Assigned worker to establish
8 contact with both parents to
9 continue with a further assessment
10 of this situation and their
11 circumstances."

12

13 And you indicate, under number one, or it's
14 indicated:

15

16 "What the parents should or need
17 to do if Phoenix is to be returned
18 to their care is to be determined
19 by the assigned worker upon their
20 further contact, [and] assessment
21 of the family."

22

23 So that's consistent with what you're telling us?

24 A Correct.

25 Q And if we just scroll to the next page, please.

1 And there you have your signature.

2 And after the file was transferred, did you have
3 any further involvement with the family?

4 A No, my, my involvement would have been limited to
5 certainly reading, approving this document, consultation
6 with Ms. Forrest, but no direct interaction or contact with
7 any family members.

8 Q Okay. We do know that your name comes up one
9 more time in the file. In May of 2004, Phoenix's family
10 comes to your attention as supervisor of the northwest
11 intake briefly, and we will hear about that referral, Mr.
12 Commissioner, in December, our December, next month. But
13 while we have Mr. Orobko here, I just want to take him to
14 the document that he filled out in connection with that
15 referral.

16 So if you go to page 37444. We're still in Mr.
17 Sinclair's file. This is a memo from you to Carolyn
18 Parsons dated May 13, '04. Who was Carolyn Parsons?

19 A Carolyn Parsons was one of my colleagues. She
20 was the supervisor for the central Winnipeg -- she was, she
21 was the supervisor for the intake responsible for central
22 Winnipeg.

23 Q Okay. You were northwest, she was central?

24 A She was central, correct.

25 Q Okay. So the subject is Steve Sinclair file. It

1 says:

2

3 "Carolyn:

4 I've spoken to the godparents and
5 the E&IA worker - here is the
6 chain of events.

7 November '03 - Mom gets Phoenix
8 from dad - she cares for 2 months.

9 January '04 - Mom takes Phoenix to
10 godparents - needs time to set up
11 home. She visits occasionally.
12 Dad doesn't visit.

13 April '04 - Mom retrieves Phoenix
14 about 1 month ago. Goes to Legal
15 Aid to start custody application.

16 - No one knows where dad is.

17 - E&IA is cutting off his
18 benefits.

19 - E&IA would like assessment from
20 CFS prior to giving mom benefits.

21 - No formal custody papers in
22 place.

23 As dad has not been seen, and he
24 has not cared for Phoenix in at
25 least 6 months (not even visited

1 her), and as there is no formal
2 custody, I believe Mom is our
3 client."

4

5 And then those are your initials.

6 A Correct.

7 Q So why were you providing this information to Ms.
8 Parsons?

9 A Well, although it's not here, at that time a new
10 referral had come up from the CRU unit downstairs and it
11 had been forwarded to my attention. Again, it's -- I don't
12 think it's necessary to look at it, but it had --
13 suggesting that a new intake assessment had to occur on Mr.
14 Sinclair. I would have reviewed that matter. I would have
15 reviewed, again, all the closed file recording available to
16 me. Something in all that must have, must have triggered
17 some further thinking on my part and then I took those
18 steps: spoke to godparents, the EIA worker. And as a
19 result -- and then as a result of that information I
20 gathered, it became clear to me that, that Steven Sinclair,
21 who was living in north Winnipeg at the time, was in
22 actuality not the primary care-giver for the child. My
23 information suggested that it was actually Mom, and Mom was
24 living in central Winnipeg at that time. So the purpose of
25 this memo was to indicate to Carolyn, you know what, I've

1 just done some leg work here, this is not a northwest
2 intake case, this is a central Winnipeg case and I'm
3 forwarding this to you for your continued follow-up.

4 Q So did it, do you think it came to you because
5 you had been the last intake supervisor prior to this
6 referral?

7 A You know, without seeing it, I couldn't, I
8 couldn't tell you why it --

9 Q Okay.

10 A -- came to me, but I'm, I was -- I'm going to
11 assume that the CRU worker downstairs maybe just had some
12 preliminary information, made an assumption that it had to
13 go up to northwest, my further investigation suggested, no,
14 it was, it was erroneously addressed to me.

15 Q And so you were making a determination as to
16 which intake unit should properly handle the, the referral
17 that came in --

18 A Yeah.

19 Q -- in May of '04?

20 A Yeah, that's correct.

21 Q Okay. And your determination was that it wasn't
22 your unit because, in fact, Phoenix was now with her
23 mother?

24 A Correct, and she was living in a different
25 geographic catchment area.

1 Q Okay. And if we go to page 37516, is that your
2 handwriting?

3 A It is.

4 Q So these appear to be notes that are a verbatim
5 copy of the memo that, the typed memo that we just looked
6 at. You've had a chance to look at these?

7 A I can't recall. Maybe, maybe in your office or
8 Mr. McKinnon's office. It certainly is my handwriting,
9 yes.

10 Q Okay. And this appears to be the, the
11 information, the same information that's in the typed
12 document that we just looked at?

13 A Correct.

14 Q Why are these notes in the file?

15 A I imagine my secretary, Anna Sikora, who typed
16 this up after I gave this to her, probably put them in
17 there.

18 Q Okay. So I think you told us earlier that you
19 didn't put all of your notes in the case file?

20 A Any, any notes where I was directly involved in a
21 case, for example, the first opening of the, of Samantha
22 Kematch's file, when Phoenix was apprehended, and then when
23 I took charge of the file, any case where I was providing
24 direct service or intervention to a family, I -- those
25 notes were provided, put on file as any of my workers'

1 notes would have been. So any notes regarding case-
2 specific material where I had direct contact, direct
3 intervention, absolutely. And in my six years there's
4 probably hundreds of files where I served as the primary
5 worker, and all of them would have had handwritten notes on
6 the file.

7 Q And those were left on the file?

8 A They were, yes. Case-specific notes all were
9 left on the, on the files.

10 Q And when you say "case-specific notes", what are
11 you contrasting that with?

12 A Notes about, personal notes that I might have
13 maintained regarding issues with my staff, human resource
14 issues, personnel matters, family issues, personal matters,
15 vacation plans, things that were of a more personal private
16 nature but were related to my staff; personnel matters, HR
17 matters.

18 Q Those, those notes didn't go in the file?

19 A No, because they, they weren't, they didn't
20 pertain to, to the case and, and generally they were both
21 private information about my staff, health information,
22 family information, vacation plans, those things, you
23 know --

24 Q And I think you told --

25 A -- didn't belong there.

1 Q -- us the last time that no one asked you for
2 those notes when you left and you took them with you, and
3 ultimately destroyed them?

4 A Yes. During a housekeeping session in my current
5 office.

6 Q I just want to ask you briefly about the nature
7 of the relationship between a worker and their supervisor.
8 You were supervisor for a number of years?

9 A And continue to, yes.

10 Q How would you describe that relationship?

11 A The --

12 Q What's its purpose?

13 A The, the working relationship between a child
14 welfare supervisor and child welfare social worker I think
15 could be, could be described at times as one that was
16 intense, emotional, personal, very substantive. On the one
17 hand, as a child welfare supervisor, I, I had to
18 continually support and guide and assist and help my staff
19 deal with the day-to-day grief and sadness and tragedy of
20 what they were seeing, vicarious trauma, as it were. So as
21 a supervisor, that was one of my primary responsibilities:
22 help my staff manage and cope and -- with, with some
23 unimaginable scenes of, of sadness.

24 On the other hand, my staff were not robots.
25 They all had family matters, personal issues, things that

1 were going on in other parts of their life, and I had to be
2 aware of that and try to support them with those things and
3 specially as it pertained to, to, you know, their ability
4 to do their job. And underneath all of that, I had to be a
5 leader, I had to be a role model. I had to set standards
6 for my staff. I had to hold them to expectations and I had
7 to correct, do correction if expectations weren't being
8 met. All three of those things, that's, that's a very
9 potent combination. So the -- it's a, it's a, it was a
10 very powerful relationship, absolutely.

11 Q And do you think were there times when the
12 various aspects of the roles were conflated or interfered
13 with each other? Did your role as a support interfere with
14 your objectivity and acting as a correction?

15 A I'll say this, I, I, I believe that an
16 overburdened child welfare supervisor, one who perhaps
17 doesn't have a strong professional or personal support
18 network and who has a desire to protect their staff, I
19 think at times their objectivity could be vulnerable for,
20 for being strained. That's a general statement I'm going
21 to make.

22 My own personal experience is thus: in my, 20,
23 24 years, 25 years with working for the provincial
24 government, my, my basic experience has been that I have
25 had good sound supervision, I've had supportive supervision

1 over all that time, and, and I've also had a wonderful
2 family and a wonderful support network. So for myself, on
3 a personal level, I never felt that my objectivity was
4 strained, but I, I certainly could envision a scenario for
5 a child welfare supervisor overburdened and maybe without
6 the same support network that I have, I could see where
7 objectivity at times could become strained, certainly.

8 Q And I gather your evidence is that with respect
9 to the services that you supervised regarding Phoenix's
10 file, that was not the case with respect to any workers
11 that you supervised; your objectivity was not interfered
12 with?

13 A No, it was not.

14 Q Okay. Who within the agency is responsible for
15 making sure that services are being delivered to a family
16 in compliance with standards, protocols, best practice?

17 A The Child and Family Services at the time, and I
18 suspect it still does, operated on a, on a hierarchical
19 organizational model. I was response -- as a unit
20 supervisor, I was responsible for the, for the, for the
21 conduct and the, and the performance and behaviour of my
22 staff and, and the thousands of files that we worked on in
23 my time I was responsible for ensuring that standards were
24 met as best the practice possible was pursued and that, and
25 that my expectations of my staff were met. That was my

1 responsibility and I, I've appeared before this Commission
2 taking full responsibility for anything my staff did or did
3 not do. But that being said, I also had assistant program
4 managers and program managers and directors and CEOs who,
5 whose responsibility was to be accountable for the work
6 that I was response -- that I was delivering and the
7 service that I was delivering to the community. So while
8 I'll sit here and, again, will take responsibility for
9 everything that my staff did and, and champion it and be
10 accountable for it, there were others above me who were
11 responsible for what I was doing.

12 Q And just for the record, that hierarchy is
13 reflected in Exhibit 15. Why don't we pull that up,
14 please.

15 This is a document that was entered into
16 evidence, Mr. Commissioner, on the first day. Was prepared
17 by the department at our office's request. And so if you
18 scroll to the next page, please, you can see for the entry
19 February 28th, '03 to July 2nd, '03, you've got Laura
20 Forrest and then Andrew Orobko and then Rhonda Warren until
21 March 22nd and then Dan Berg after March 22nd, '03. And
22 that, that category, we've got the worker, you're the
23 supervisor. The next category is assistant program
24 manager?

25 A I believe that was the working title, yes.

1 Q Okay. And then the next category above that was,
2 I believe, program manager?

3 A Program manager, correct.

4 Q So you've got Darlene MacDonald until March 22nd,
5 '03 and then Patrick Harrison after March 22nd, '03, and
6 then Elaine Gelmon until March 22nd, '03, and then a direct
7 report to the CEO, the CEO being Linda Trigg. If we want
8 to just go back to the previous page, that will give us the
9 designations.

10 THE COMMISSIONER: Well, let me ask you, are the
11 positions these people held not recorded on there?

12 MS. WALSH: Pardon me?

13 THE COMMISSIONER: You've gone through all those
14 names.

15 MS. WALSH: Yes.

16 THE COMMISSIONER: Where is it indicated what
17 positions they hold?

18 MS. WALSH: That's why I've just pulled up the
19 previous page, Mr. Commissioner, so you can see --

20 THE COMMISSIONER: Oh, oh.

21 MS. WALSH: -- what the top of the column is.

22 THE COMMISSIONER: Oh, it wasn't there. I
23 see.

24 MS. WALSH: Right. Exactly.

25 THE COMMISSIONER: Okay.

1 MS. WALSH: So that's why I just asked us to look
2 at the previous page.

3 THE COMMISSIONER: That makes more sense.

4 MS. WALSH: It does, doesn't it. So we've got
5 social worker, supervisor, assistant program manager,
6 program manager, director of program services, CEO, ADM and
7 DM.

8

9 BY MS. WALSH:

10 Q So if we go back to the, the next page, so then
11 we've got Laura Forrest the worker, Andrew Orobko
12 supervisor, Rhonda Warren and Dan Berg in '03 taking over
13 one from the other as assistant program manager, and then
14 program managers. I think Gelmon was -- we just go back
15 for a minute -- director of program services, later chief
16 operating officer, and then -- the next page, please.
17 Linda Trigg is the CEO and then the ADM and the deputy
18 minister. So that's, that's the, the chain of command that
19 you were referring to?

20 A That's correct.

21 Q Okay. Thank you. We can take that off the
22 screen, then. Thank you.

23 You told us before that there were occasions when
24 you would walk, or you would take a matter back down to the
25 supervisor of the CRU and ask them to do some more work?

1 A That's correct.

2 Q That didn't happen frequently but it did happen?

3 A That's correct.

4 Q And my question is, when you did that, was it
5 necessarily implied that CRU then had to keep the file at
6 that point? That is, could they still transfer it back to
7 intake if they felt more work needed to be done before it
8 was safe to close the file?

9 A Yeah, that's, that's fair. There was never an
10 expectation that the matter, if I did -- if I walked the
11 matter back downstairs to a CRU supervisor, you know, sort
12 of shared my thoughts, and if we both agreed that the CRU
13 supervisor would take the matter back, certainly the
14 understanding was if they took it back and, you know,
15 gathered further information or, or did some additional
16 steps, if there was still -- if it was still determined
17 that the matter needed to come back upstairs, then of
18 course it would come back.

19 Q Now, how did you find out about Phoenix's death?

20 A I think like most citizens, I, I learned of her
21 death through the media accounts of it.

22 Q And prior to meeting with our office, had you
23 ever seen any of the reports that were prepared that looked
24 at the services that were delivered to her and that were
25 prepared after her death was discovered?

1 A No, Ma'am, not at all. I, I wasn't even aware
2 that I had any substantive involvement in this matter until
3 I almost accidentally learned of it in 2011, and then I was
4 -- but, again, that was almost, almost accidental. I was
5 not formally made aware that I had any involvement in this
6 matter until I believe Mr. McKinnon's office reached out to
7 me in the spring of this year.

8 Q Might have been the spring of 2011? Might it
9 have been the spring of 2011, not 2012?

10 A I, I don't think so, no.

11 Q Okay.

12 A I think it was just this year where I, I received
13 formal correspondence that --

14 Q Okay.

15 A -- I was going to be -- I was, a potential
16 witness in this matter.

17 Q Okay. So if we pull up the internal case review
18 that was prepared by Rhonda Warren, CD1802, page 38015, we
19 scroll down to the bullet that reads:

20

21 "On February 26, 2003 the Agency
22 received a referral from
23 Children's Hospital that Phoenix
24 was brought to the hospital by her
25 'Godfather' as she had a foreign

1 object stuck in her nose, which
2 has become infected. The object
3 had been there since November ...
4 The hospital did not get the name
5 or address of the person who
6 brought Phoenix to the hospital.
7 The worker did attend Steve's home
8 on February 28 ... [he] said he
9 had no knowledge of it. In the
10 letter from the Hospital the
11 Godfather mentioned that they (he
12 and Kim) had noticed that
13 something was stuck in Phoenix's
14 nose and had advised Steve to get
15 it checked out, he did not ...
16 Steve refused to give the worker
17 the name of the person caring for
18 Phoenix so no further follow-up
19 was done. Allowing a child to
20 have a foreign object embedded in
21 her nose for three months without
22 medical attention is clearly
23 neglectful and a thorough
24 investigation of Phoenix's living
25 situation should have been

1 conducted at that time, with or
2 without Steven's consent. It must
3 be noted that the Intake worker
4 did make numerous attempts to
5 connect with Steve during March,
6 April and May 2003 but was not
7 successful in finding him ..."

8
9 So you were the supervisor during this particular
10 opening, file opening. Did you want to comment on the
11 report writer's finding that a thorough investigation of
12 Phoenix's living situation should have been carried out?

13 THE COMMISSIONER: Well, does the witness
14 understand the circumstances under which that report was
15 prepared?

16 MS. WALSH: I think he does. I think we have
17 discussed this. But, thank you.

18

19 BY MS. WALSH:

20 Q This was a document that was prepared, I believe
21 we'll hear from Ms. Warren, by virtue of a file review;
22 that is, she looked at the Kematch and Sinclair files as
23 they related to Phoenix and the child in care files. She
24 didn't meet with anyone?

25 A Correct. I see -- okay, so just some, sorry,

1 general response. The -- I, I, I do have some struggle
2 with, with any, any assessor making recommendations or, or,
3 or, or doing critical analysis or making critical judgments
4 of, of actions that my staff did or did not take without
5 those people having been a part of that process and without
6 them having been interviewed for it. If, if she was
7 charged with doing a file review, I, I understand what a
8 file review is. But to take it to a step where you're
9 passing critical judgment without staff having had a chance
10 to talk about the matter, share their context and share
11 other information, I, I think that's a big jump in a, in a,
12 in a process. So I, I do, I do have to raise that.

13 Q And in addition to the -- or aside from the
14 process, which I hear you saying, do you have any comments
15 about the finding that the living situation should have
16 been investigated?

17 A Okay. I, I believe that, that Ms. Forrest
18 investigated and assessed this matter to the best of her
19 abilities and to the best of her resources at the time, and
20 that's, and that's been my, my position, I think, ever
21 since I, I saw this matter. I need to say this: The --
22 and with the greatest of respect, please, Ms. Warren was,
23 was the assistant program manager responsible for CRU,
24 after-hours and intake from 1999 through 2003, so --

25 Q We saw March 22nd, 2003.

1 A Right.

2 Q Yes.

3 A Yes. So, so the, the bulk or much of the after-
4 hours and CRU and intake involvement that has been reviewed
5 thus far at this committee -- or, sorry, at this
6 Commission, was conducted on her watch, and, and I'm only
7 suggesting was -- would she have been the best -- in terms
8 of a person doing a file review, she, she diligent, hard-
9 working organizer, I suspect she would have been a
10 wonderful choice to have done a file review. Taking it to
11 a step where she was making critical judgments of the work
12 that we had done that had occurred on her watch, I just, I
13 have some discomfort with that, but ...

14 Q Anything more about this report before we move on
15 to another report?

16 A No. No, Ma'am.

17 Q Okay. Then the next report that I want to take
18 you to is the report that we call the Section 4 report
19 because it was prepared to Section 4 of the Child and
20 Family Services Act. It was prepared through the offices
21 of the Children's Advocate and, for the most part, prepared
22 by an individual named Andy Koster. Did you ever meet Mr.
23 Koster?

24 A No. Again, I was not aware of any of the reviews
25 nor was I a party to any involvement with them. And I

1 don't know Mr. Koster personally.

2 Q Okay. Did you ever meet with Ms. Schibler, who
3 was listed as a co-author?

4 A Oh, absolutely. Ms. Schibler was a former
5 colleague. She was a long-time child protection worker in
6 north Winnipeg.

7 Q But did you meet with Ms. Schibler with respect
8 to --

9 A As a part of this --

10 Q -- your involvement on --

11 A -- process? No, no.

12 Q -- this file?

13 A Of course not, no. No.

14 Q So let's look at the relevant portions of the
15 report. It's CD1. Let's start with page 18.

16 So when was the first time that you were shown
17 this report or portions of it?

18 A I believe I first saw this, this, this portion of
19 this segment of the report in Mr. McKinnon's office earlier
20 this year.

21 Q Okay. And you see it says:

22

23 "On April 25, 2000 ..."

24

25 So this refers to your, the time when you were

1 first involved with Phoenix's family:

2

3 "... the parents indicated that
4 they wanted to have the baby
5 returned and they said ...
6 Samantha's mother was going to
7 arrive later that day."

8

9 And it goes into the, the case recording. That's
10 fairly factual?

11 A Correct.

12 Q We go to the next page, please. And, the
13 findings, finding four is:

14

15 "The Intake Worker completed her
16 tasks appropriately, thoroughly,
17 and in the best interests of
18 Phoenix and her parents."

19

20 And finding five:

21

22 "The initial case plan was
23 appropriate and detailed."

24

25 A All those findings I'm very much in agreement

1 with.

2 Q Do you want to comment on whether you're aware of
3 anything in particular that allowed your unit, at that
4 point, to perform services in the manner in which it did?

5 A Well, I believe I've, I've always cited for this
6 inquiry the fact that I just had a wonderful group of
7 professionals there and, and the work that was done was a
8 reflection of their commitment and their professionalism,
9 and that was the, that was the strength that I had as an
10 intake supervisor.

11 Q Okay. What was the workload like in 2000, April
12 of 2000?

13 A Well I, you know, I think my testimony is -- I, I
14 talked about workload as, as an overriding concern from,
15 from '99 through, you know, through 2005, 2006. That's why
16 I think my previous comments about workload, I think can
17 stand at this point. I've nothing to add --

18 Q Okay.

19 A -- at this point.

20 Q So, but your, your evidence is that workload
21 didn't interfere with your unit's ability to perform
22 services in April of 2000?

23 A At that point, no. On, On this particular case,
24 no, not at all.

25 Q Okay. Turn to page 29 of the same report,

1 please.

2 So the first finding on that page, F15 says:

3

4 "The initial contact after the
5 referral was made in two days
6 rather than the five indicated on
7 the safety assessment. This was
8 appropriate since the child was
9 very young.

10 The safety assessment provided too
11 low a risk. Phoenix was a young
12 child and it was important to
13 establish that she was recovering.
14 It was commendable that the
15 assigned worker went earlier than
16 had been previously assessed."

17

18 THE COMMISSIONER: Which, which report is this?

19 MS. WALSH: This is the Section 4 report. We're
20 still in the Section 4 report.

21 THE COMMISSIONER: Oh, still on -- all right.

22 MS. WALSH: We previously looked, Mr.
23 Commissioner, at finding four of that report and now we're
24 at 15, findings 15 and 16.

25 THE COMMISSIONER: I follow you.

1 BY MS. WALSH:

2 Q So finding 16:

3 "Phoenix should have been
4 physically viewed by the worker as
5 soon as possible. This was not
6 done.

7 The worker did try to establish
8 contact, but this should have been
9 more of a priority after the state
10 that the father presented himself
11 in with a black eye. It is
12 possible during this period of
13 time that Phoenix was with Kim and
14 Rohan Stephenson on a semi-
15 permanent basis (this is hard to
16 determine even in a subsequent
17 interview with Kim Stephenson
18 herself as part of this review).
19 This family had become known to
20 the Winnipeg CFS the year before
21 when Steve had mentioned that he
22 had placed Phoenix there for an
23 afternoon.

24 Although nothing serious happened
25 to Phoenix in this period of the

1 case file that we are aware of,
2 the potential for harm was quite
3 high and the agency should have
4 been more assertive in their
5 pursuit of establishing further
6 contact with Steve. A court
7 application for a supervisory
8 order could have been one
9 approach."

10

11 You have any comments with respect to those
12 findings?

13 A Finding 15, the type, the bold type, I've, I've
14 got no objection with. The comments that the safety
15 assessment provided too low a risk, I, I'm very satisfied
16 that Ms. Dick's assessment was accurate based on the
17 information that she had, and I do not have any objection
18 to the safety assessment and the, and the response time
19 that she provided.

20 In, in -- on the spectrum of medical neglect,
21 that was a very appropriate response.

22 Q Okay.

23 A All right. Finding 16.

24 THE COMMISSIONER: Just a minute now.

25 THE WITNESS: Sorry, Commissioner.

1 UNIDENTIFIED PERSON: (Inaudible).

2 THE WITNESS: I'm sorry?

3 UNIDENTIFIED PERSON: (Inaudible).

4 THE COMMISSIONER: What did you, what did you --
5 you dealt with Dick's assessment of the risk. Then what
6 was the next matter that you spoke to?

7 THE WITNESS: I made my comment. I'll -- I, I, I
8 believe that Ms. Dick's safety assessment was accurate.

9 THE COMMISSIONER: Yes.

10 THE WITNESS: And appropriate.

11 MS. WALSH: And now he's going to --

12 THE WITNESS: And now I'm moving --

13 MS. WALSH: -- the next one.

14 THE COMMISSIONER: Oh, oh, is that -- I thought
15 you made some further comment on that.

16 THE WITNESS: I think, I think my comment,
17 Commissioner, was on the spectrum of medical neglect, if we
18 were to look at this incident of medical neglect and put it
19 on the spectrum that we would deal with, I, I believe this
20 was a very appropriate assessment by Ms. Dick.

21 THE COMMISSIONER: Yeah, that's, that's what you
22 added. I, I didn't get it. Okay, carry on.

23 THE WITNESS: All right. Thank you. The finding
24 16, and again, the bold type:

25

1 "Phoenix should have been
2 physically viewed by the worker as
3 soon as possible. This was not
4 done. "

5
6 Again, I think testimony introduced here
7 suggested that Ms. Forrest made every, every effort to do
8 this and made subsequent efforts and again, within the
9 demands on her time and with her workload demands, she,
10 she, she, she made every best effort possible to pursue
11 this matter. So I'll -- that's the bold type.

12 The, the comments around the court application
13 for a supervisory order could have been one approach. I'm,
14 I'm both perplexed and, and confused, or maybe, maybe
15 disappointed by that. Ms. Schibler, who is a co-author of
16 this report, who I've got the greatest respect for, I'm a
17 great admirer of, was a north Winnipeg protection worker
18 for many years and is no stranger to Manitoba's family
19 court system. It, it was a legal and a technical
20 impossibility for us to make an application for a
21 supervisory order and I think evidence has been heard to
22 that effect here. A supervisory order is not an
23 investigative tool. Maybe it is in Ontario. I believe Mr.
24 Koster is from Ontario, and maybe the, the family court
25 system has different options available to it, but a

1 supervisory order is one remedy that an agency can pursue
2 if a child is under apprehension. And so for -- and again,
3 we -- supervision orders, we use them, they were rare but
4 we did use them over the years. But again, a child --
5 there had to be reasonable and probable grounds that a
6 child was in need of protection, a child had to be placed
7 under apprehension, and you would then go back to docket
8 court and, and seek a supervision order from the
9 magistrate, or the master, whoever was there. So that's,
10 that's a -- and Ms. Schibler knows that. Ms., Ms. Schibler
11 would have obtained a number of supervision orders. So I
12 just need to say that that suggestion I think is, was maybe
13 made, maybe by Mr. Koster who just didn't have a sound
14 working knowledge of the Manitoba family court.

15

16 BY MS. WALSH:

17 Q And aside from the supervisory order, any other
18 comments about those findings?

19 A

20 "... agency should have been more
21 assertive in their pursuit of
22 establishing further contact ..."

23

24 Again, our, our, our testimony and my, my opinion
25 is that based on, based on everything that we knew to be

1 true at that time, based on, on the, on the data and the
2 information that we had, we pursued this matter as
3 vigorously as we could, again, with the, with the demands
4 and the, and the resources and all the rest that we were
5 dealing with at the time.

6 Q And if we go to findings 17 and 18, you scroll
7 down, please. Finding 17 talks about:

8

9 "The After Hours staff did
10 appropriate after hours emergency
11 service"

12

13 And you were the intake supervisor when -- not
14 for the after-hours staff but you were Ms. Forrest's
15 supervisor when she received the after-hours --

16 A Um-hum.

17 Q -- assessment. And then finding 18:

18

19 "The intake worker, in completing
20 his assessment and writing what he
21 did at the point of transfer,
22 demonstrated the necessary
23 conviction that it takes to keep
24 children safe.

25 This is the dedication to a

1 child's well being that is
2 required and should be sought and
3 then nurtured by child welfare
4 organization. I believe that he
5 was trying to convey to the new
6 ongoing worker that the agency
7 needs to make sure that it did
8 what was right for Phoenix. This
9 is a highlight in the management
10 of this case."

11

12 My understanding is that that's a reference to
13 the risk assessment recording that Ms. Forrest did at the
14 end of her transfer summary.

15 A Yeah, my understanding as well, Ma'am, yes.

16 Q You have anything to comment on that?

17 A Well, Ms. Forrest, as, as all of the
18 professionals who I, I had the honour of supervising there
19 at north intake, they were wonderful professionals. That
20 was the quality of work that I was, I was very fortunate to
21 have, to have been responsible for and to have oversaw that
22 group. So, and you know, and I'm happy that that work was
23 recognized on her behalf. It may very well have been
24 singularly the best child welfare assessment done on that
25 matter, so, so kudos to Ms. Forrest.

1 Q And finally, there was one more report that was
2 specific to the services delivered to Phoenix, and that was
3 a report that's, we refer to as the Section 10 report. It
4 was prepared pursuant to Section 10 of the Fatality
5 Inquiries Act. We pull up page 139, please. It was
6 prepared by Jan Christianson-Wood. Again, I gather you
7 didn't speak to Ms. Christianson-Wood with respect to your
8 involvement on this file?

9 A No, I did not.

10 Q So you'll see, towards the bottom of the page it
11 says:

12

13 "An Agency worker visited Mr.
14 Sinclair's home on February 28,
15 2003, ..."

16

17 Just above that, talks about the referral coming
18 in from the Child Protection Centre. That's fairly factual
19 information, those three paragraphs? Refers to the fact
20 that:

21

22 "Home visits were attempted
23 without success ..."

24

25 And we go to the next page, please. Then, in

1 italics, the report writer has said:

2

3 "As the 'unidentified man' was
4 clear that Mr. Sinclair had failed
5 to follow through with necessary
6 medical care reportedly for a
7 period of months, Phoenix was,
8 under s.17 of the Child and Family
9 Services Act, a 'child in need of
10 protection'. A check with the
11 Child Protection Centre on April
12 19, 2006 revealed that the man
13 identifying himself as Phoenix's
14 'godfather' (no name was noted on
15 the chart) ... was clear that he
16 had been concerned about Phoenix's
17 condition since November
18 particularly as her father had not
19 acted to remedy it. There had
20 been an earlier visit to a walk-in
21 clinic which resulted in a
22 recommendation to take Phoenix in
23 to a hospital to have the object
24 removed."

25

1 And then, after the portion in italics, my
2 understanding is that what's recorded again is, is factual
3 information taken from the file. Just want to take a look
4 at that and scroll down, please.

5 Do you agree that that's factual information
6 from, from the file?

7 A You know, I, I don't believe I've seen this
8 but --

9 Q Okay.

10 A -- I'm, I, I don't, I will, I will accept that,
11 that yes, that's factual accounting, yes.

12 Q Before we -- let's go back up to the portion in
13 italics, please. Do you have a comment on the, on the
14 writer's recording that Phoenix was a child in need of
15 protection when she was brought into the Child Protection
16 Centre?

17 A No. I, I do not believe that there -- on that
18 date there was reasonable and probable grounds to believe
19 that she was a child I need of protection. On, on February
20 28th, when we took charge of this matter -- well, here I'll
21 back it up.

22 Certainly the, the hospital staff at Children's
23 emergency, well trained, wonderful professionals; the Child
24 Protection Centre, you know, best of -- probably the best
25 of its kind in this country; certainly they had no reason

1 to believe that there was any immediate threat or risk to
2 the child which would have warranted an immediate call to
3 us. They certainly weren't of the opinion that she was in
4 need of protection. So, there's our starting point.

5 Reasonable and probable grounds are needed to, to
6 make that rendering, that a child is in need of protection.
7 What we had on the 28th was essentially hearsay. We had an
8 unidentified source who was, who was indicating that a
9 child had been neglected by a parent for three months. But
10 that's, that's all it was. It was third-hand and it was
11 hearsay. There was no doubting that the child had an
12 object up her nose and that there had been some irritation,
13 but did we have reasonable and probable grounds to believe
14 that this was an act or an omission of an act by a parent?
15 No. We were investigating and we were trying to determine
16 if that was the case, but was there sufficient evidence on
17 that date to believe that that was a child in need of
18 protection? No, there wasn't.

19 Q Are you equating a child in need of protection as
20 meaning someone who has to be apprehended?

21 A Not necessarily, no.

22 Q So you're not saying that it was hearsay that the
23 hospital made and reported on the physical findings that it
24 did; those are finding of a medical nature that it clearly
25 reported on?

1 A Yeah. Well again, the -- it's not the, it's not
2 the presence of a, of a, of an object up a nose that
3 renders a finding of in need of protection, it's an act or
4 an omission by a parent. And on the 28th, all we had was
5 this hearsay from this unidentified source that the father
6 had been neglectful. And, and --

7 Q So if we --

8 A -- and so for -- and again, there -- that, that
9 warranted investigation and Ms. Forrest did everything she
10 could to assess that. But did the child meet the legal
11 definition at that, on that day? No. No, she didn't.

12 Q So it wasn't just that the object was in the nose
13 but that it had been left there for three months or for
14 long enough to have created an infection?

15 A Well, again, it was - that was the, that was the
16 hearsay information that was being provided to us by the --

17 Q But the fact of the infection wasn't hearsay.
18 That, that was a medical fact?

19 A Oh, absolutely. Absolutely. But, but again, one
20 can walk into any elementary school in this city and you'll
21 see a whole range of infections, eyes and ears and pink
22 eye, and you know, toddlers insert things up their noses
23 and, like, so the mere presence of the infection, no. But
24 the suggestion that there was neglectful parenting or an
25 omission or an act, absolutely, those are things that we

1 needed to investigate, which Ms. Forrest was trying to do.

2 Q Okay. So then if we carry on through this
3 report, please. You were reading the following paragraphs
4 on page 140 and my understanding from looking at them is
5 that they're simply factual recordings based on what was
6 recorded in the file.

7 A I'll accept that, certainly.

8 Q And similarly, on the next page, page 141, the
9 same thing:

10

11 "Attempts were made to contact Mr.
12 Sinclair over the following days."

13

14 That's noted.

15 The report writer notes:

16

17 "Phoenix's first days in care were
18 documented in Agency logs."

19

20 And she notes information from those logs. She
21 refers to:

22

23 "An intake assessment of the
24 situation noted that Mr.
25 Sinclair's capacity to parent had

1 been deteriorating."

2

3 This is all just factual --

4 A Um-hum.

5 Q -- reporting that the report-writer is commenting
6 on from the transfer summary that Ms. Forrest prepared?

7 A Correct. Sure.

8 Q And same thing on the next page, page 142. And
9 then Ms. Forrest's assessment is repeated verbatim, or
10 portion of it, right?

11 A Right.

12 Q And then if we go to, finally, the -- page 143,
13 the report writer notes:

14

15 "In reviewing the court
16 transcripts provided by ...
17 external counsel and the legal
18 file provided by WCFS, it appears
19 that, despite several requests, no
20 particulars were provided by the
21 assigned Family Services worker.
22 The intake worker had developed a
23 detailed and thoughtful assessment
24 of the family and a recommendation
25 that Phoenix stay in care until

1 her safety could be assured by
2 means of demonstrated, observable
3 change in her parents. The worker
4 was present at the court date when
5 Ms. Kematch agreed to a consent
6 order of three months and a
7 suggested plan of a parenting
8 capacity assessment and
9 participation in a type of
10 parenting education program. The
11 intake worker was clear that Mr.
12 Sinclair had failed to respond to
13 all efforts to involve him in the
14 planning of what would be needed
15 to bring Phoenix home. It was
16 also clearly stated that ongoing
17 planning would be the
18 responsibility of the assigned
19 Family Services worker."

20

21 Was that consistent with what you under -- what
22 you had discussed with Ms. Forrest regarding the, the plan
23 once Phoenix was apprehended?

24 A I, I believe Ms. Forrest -- a matter that is not
25 given enough attention in that summation is the

1 recommendation by Ms. Forrest that further contact needed
2 to be made with parents and further assessment occur. I
3 wish that would have been highlighted a little bit more
4 strongly. But overall, the gist is fine.

5 Q Okay. And I had asked Ms. Forrest about her
6 recommendation that is on the record from her court
7 appearance July of '03 that a parenting capacity assessment
8 be done of Ms. Kematch, that is something that you had
9 recommended when -- or identified as being necessary for
10 any following workers when you were involved in 2003?

11 A My --

12 Q I mean in 2000, I'm sorry.

13 A Yes. My, my recommendation in 2000 had been for
14 a psychiatric or a psychological assessment of, of
15 Samantha. I never made a statement around a parenting
16 capacity assessment, and the two are quite, quite
17 different. So in my --

18 THE COMMISSIONER: Just a minute. What was --

19 THE WITNESS: Sorry.

20 THE COMMISSIONER: -- your recommendation in
21 2000?

22 THE WITNESS: In 2000 it was that the, that Ms.
23 Kematch be asked to undergo a psychiatric and/or
24 psychological assessment. I did not specifically mention a
25 parenting --

1 THE COMMISSIONER: To, to determine what?

2 THE WITNESS: Just to, just to provide the
3 assigned worker an overview as to her cognitive functioning
4 and her mental health, state of her mental health.
5 Neither, I, I --

6 MS. WALSH: To be fair to the witness, if we
7 could bring up that, the recording of those
8 recommendations, of the witness' recommendations, Mr.
9 Commissioner, if that would be helpful.

10 THE COMMISSIONER: Well, I just wanted to know
11 what it was he was recommending that the psychiatrist or
12 the psychologist assess.

13 MS. WALSH: So --

14 THE COMMISSIONER: And you've answered that, have
15 you, fully?

16 THE WITNESS: I believe I have, Commissioner.

17

18 BY MS. WALSH:

19 Q So if we pull up page 37037 and actually look at
20 the page before that. This is part of the case plan from
21 2000. You saw it just a minute ago on, on the following
22 page, your signature?

23 A Correct, yes.

24 Q Item number four, that:

25

1 "Some form of psychiatric/
2 psychological assessment will need
3 to be undertaken with respect to
4 Samantha ..."

5

6 A Correct.

7 Q And then on the next page, on the last page of
8 that assessment, you say -- or transfer summary:

9

10 "The assigned worker shall have
11 two primary issues to sort through
12 in the coming months. Firstly,
13 the question of parental
14 motivation and commitment will
15 need to be assessed and weighed on
16 an on-going basis. Secondly, it
17 will be necessary to determine
18 Samantha's parental capacity."

19

20 So that was something that you thought any
21 following workers would need to assess?

22 A Oh, absolutely.

23 Q In 2000?

24 A Oh, certainly. And, and for a family service
25 worker who's carrying a case for a long period of time,

1 that's, that's the heart of what they do. They're always
2 assessing parental capacity, which again, is what a
3 professional social worker can and should do. The, the
4 issue, though, of contracting a psychologist and/or
5 psychiatrist to do a parenting capacity assessment, again,
6 that's, that could be one way or that's one tool that could
7 help a social worker do an ongoing assessment of capacity.

8 Q Sure. My question actually wasn't with respect
9 to the request that was made of, of Dr. Altman and, and
10 whether -- and the issue of getting a psychological
11 assessment. I'm simply pointing out that you indicated
12 that the ongoing family services worker would need to
13 determine parental, Samantha Kematch's parental motivation
14 and her parental capacity?

15 A Yes, on (inaudible), absolutely. On an ongoing
16 basis, that's ...

17 Q Right. And that --

18 A Absolutely.

19 Q -- was consistent with the plan that Ms. Forrest
20 articulated when she appeared in court three years later
21 in, in July of 2003, that Ms. Kematch's parental capacity
22 should be assessed?

23 A On -- yeah, ongoing, on, the on -- the continued
24 themes of assessing parental motivation and parental
25 capacity, yes.

1 Q Right.

2 THE COMMISSIONER: But when you made your
3 recommendation and that plan, is that what you anticipated
4 the psychiatrist or the psychologist would evaluate?

5 THE WITNESS: No. No, Commissioner, no, I did
6 not. I -- if I -- if it was my belief that the agency
7 should have contracted with a psychiatrist or psychologist
8 for a parental capacity assessment, I would have spoken
9 very specifically to that, and I didn't in this case. It
10 was just for me, my -- I -- my, my notes reflect that when
11 I met Ms. Kematch originally I was struck by what I
12 perceived to be, you know, cognitive issues, possibly
13 mental health issues, so my recommendation for the
14 psychiatric or psychological assessment was to help the
15 worker understand what that was all about.

16

17 BY MS. WALSH:

18 Q And your reference to a worker having to look at
19 Samantha parental capacity in 2000, that was a
20 recommendation to be followed by a social worker?

21 A That's correct. And, and that's the heart of
22 what family service workers do, absolutely, yes.

23 Q And the same would -- was true for Ms. Forrest's
24 articulation of the need for a parental capacity assessment
25 in 2003; that was something to be looked at by a social

1 worker?

2 A If you could, if you could pull up her, her
3 recommendations again, I'll speak, so I can speak
4 accurately to that.

5 Q Yeah. Take you to the transcript. Bear with me
6 for one moment.

7 So if we pull up page 35107. This is a portion
8 -- if you want to go, actually, so you can see what it is,
9 page 35104 you can see this is a transcript from child
10 protection proceedings on July 2nd, 2003. 35104. So I
11 think, actually, the court got the style of cause wrong on
12 this, but the fact of the transcript being on, proceedings
13 on the 2nd day of July, 2003, that's what we were looking
14 at. And if we look at page 35107, or start with page 35106
15 so you can see who's speaking, you see at line 13, Ms.
16 Forrest addresses the court. And she says:

17

18 "Our plan, at this point, is to
19 request a three-month order of
20 temporary guardianship with
21 respect to Phoenix, the intent
22 being to work with either ...
23 parents, to resolve any of the
24 issues of concern that resulted in
25 the child coming into care so

1 [that] she could be reunited with
2 them."

3 And if you turn the page, please, she says it's
4 to be:

5
6 "... transferred to a family
7 service worker for the long-term
8 follow-up ... It would be
9 suggested that perhaps a parenting
10 capacity assessment or some
11 parenting support programs be
12 incorporated in with Samantha, so
13 that she can address any issues of
14 concern from past involvement with
15 her."

16

17 And Ms. Forrest's evidence had been that that
18 would have been something she would have discussed with
19 you; is that right?

20 A I, I wasn't present in docket that day so I --

21 Q No.

22 A -- again, have no, no direct recollection of the
23 statement that she made. I, I think what I was asking was
24 to have a look at her transfer summary, what were her
25 recommendations there; was it specifically a parenting

1 capacity assessment by a psychologist or just ongoing
2 assessment by the worker --

3 Q Don't believe --

4 A -- that's what I was looking for.

5 Q -- she references that in the transfer summary
6 itself. She references it in her transcript. So my, my
7 only question had been --

8 A Um-hum.

9 Q -- whether it's your understanding that a
10 parenting capacity assessment would be done by a social
11 worker, that that would be something for the ongoing family
12 service worker to do?

13 A Well, yes. Well, certainly that was -- I would
14 -- that would have been left to the discretion of the
15 ongoing worker and their supervisor, whether they just
16 wanted to continue to conduct assessment around capacity or
17 whether, you know, they would contract it out to get a more
18 specialized assessment done. That would be their --

19 Q Thank you.

20 A -- their assessment to make.

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

23 THE COMMISSIONER: What, what date is that
24 transcript that's on the screen?

25 MS. WALSH: July 2nd, 2003.

1 THE COMMISSIONER: All right. Thank you, Ms.
2 Walsh.

3 Well, now, seeing the time, I'm prepared to sit
4 to 5:00 but if, if you don't think we can get through the
5 cross you may wish to leave it till Monday. But Mr.
6 Saxberg, I see you're on your feet.

7 THE WITNESS: S-I-K-O-R-A.

8 MR. SAXBERG: Thank you, Mr. Commissioner. I'll
9 try to be timely.

10 THE COMMISSIONER: How many others have
11 questions? Mr. Gindin. Mr. Ray, no. Mr. McKinnon?

12 MR. MCKINNON: We'll see how Mr. Saxberg does but
13 I may have.

14 THE COMMISSIONER: That's a fair answer. Mr.
15 Khan?

16 MR. KHAN: I don't expect to have any questions.

17 THE COMMISSIONER: All right. Thank you. Go
18 ahead.

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

20

21 CROSS-EXAMINATION BY MR. SAXBERG:

22 Q And good afternoon, Mr. Orobko.

23 A Good day, Mr. Saxberg.

24 Q See you back. Could we turn up page 37444.
25 That's from CD1796.

1 Now, this is the document that you went over with
2 Ms. Walsh. You prepared this document?

3 A My secretary would have typed it. I provided her
4 the handwritten notes and she typed same.

5 Q It's your content?

6 A It is, sir.

7 Q Yeah. And it says you've spoken to the
8 godparents.

9 A Correct, sir.

10 Q And who are they?

11 A I believe I would need to have the, the original
12 CRU report in front of me, because I imagine reference to
13 godparents was made in that report, so, so ...

14 Q Was it Kim Edwards?

15 A Without seeing that original report, I, I can't
16 say that with certainty, sir.

17 Q Rohan Stephenson?

18 A I know that they have, as these proceedings have
19 gone on, they have come to be known or have been referred
20 to as the godparents. But again, I, when I reference
21 godparents here, that would have been something I would
22 have pulled out of the CRU report that came up to me at
23 that time. So if in that report it said, identified Ms.
24 Edwards as the godparents, then that's who I would have,
25 that's who I would have been referencing there.

1 Q Okay. But this is saying that you had spoken to
2 them.

3 A Um-hum.

4 Q Do you, do you recall speaking with Ms. Edwards?

5 A Okay. My notes reflect that I spoke to people
6 who were identified as godparents. This, this is an
7 interdepartmental memo. So that's what my notes reflect,
8 that whoever was identified as godparents in that CRU
9 report, I made a phone call to them. And the information
10 that follows is what I would have gleaned from that phone
11 call.

12 Q You're referring to which document?

13 A In or around May 13th, a CRU report must have
14 come to my attention, and I would have reviewed that and
15 then that's the document that I would have launched this
16 action on.

17 Q Could we turn up page 36965. Is this the, is
18 this the document you've been referring to where it's
19 referencing Kim and Rohan Stephenson?

20 A I -- again, this would be the first time I've
21 seen this document in nine years, so if you can scroll
22 maybe, like go up to the stop. This is page 3 of 4. Is
23 there a page 1 or a page 2?

24 Can maybe somebody just scroll, like just slowly
25 through it? That's, that's ...

1 THE COMMISSIONER: Yes, go as slow as the witness
2 wants.

3 THE WITNESS: Okay, you can carry on.

4 Okay. Maybe stop, maybe stop there. Carry on.

5 Okay, yeah. That would have been the document,
6 because I see the addendum at the bottom that was put on
7 this.

8

9 BY MR. SAXBERG:

10 Q And there's reference in there, as we've seen, to
11 Kim and Rohan Stephenson?

12 A Yes. Yes, sir.

13 Q Stephenson, sorry. Just to correct the record,
14 I've probably misstated that a few times. It's ...

15 And if we can go back, then, to your document
16 37444 now. And the first statement is in November 2003 it
17 says that Mom, that's Samantha Kematch?

18 A Correct.

19 Q

20 "... gets Phoenix from the dad"

21

22 And that would be Steven Sinclair. Do you see
23 that?

24 A I do, sir.

25 Q So at this point in time, Phoenix came back into

1 Samantha Kematch's care not from CFS; is that correct?

2 A That would be correct.

3 Q It wasn't CFS that returned Phoenix?

4 A No, sir. It looks like it was a private
5 arrangement between the two parents.

6 Q And then it says that in April of 2004, according
7 to the godparents, the mother, being Samantha again,
8 retrieved Phoenix. You see that?

9 A In April of '04?

10 Q Yes.

11 A Yes.

12

13 "Mom retrieves Phoenix about 1
14 month ago."

15

16 Q And are you aware as to who the mom retrieved
17 Phoenix from?

18 A From that line of notation, it would suggest that
19 she retrieved Phoenix from the godparents.

20 Q Okay. And the expected testimony from Rohan
21 Stephenson is that it was him that returned Phoenix to
22 Samantha in April of 2004. Are you familiar with that? Or
23 had you --

24 A No. No, sir.

25 Q Were you aware of that at the time?

1 A No, sir. I'm, I'm only aware of what I have in
2 front of me here.

3 THE COMMISSIONER: Well, did you agree that the
4 Stephensons are the godparents referred to at the outset of
5 that document?

6 THE WITNESS: I, I believe, yes.

7 THE COMMISSIONER: You, you --

8 THE WITNESS: I do, Commissioner, yes.

9 THE COMMISSIONER: Okay.

10

11 BY MR. SAXBERG:

12 Q And then it also indicates -- well, let me -- so
13 was it CFS, was it Winnipeg CFS that returned Phoenix
14 Sinclair to Samantha Kematch?

15 A Based on this, sir, no, it was not.

16 Q In April of two --

17 A At that, at that time, no.

18 Q In April of 2004?

19 A I'm, I, I don't have Samantha Kematch's file from
20 2004 so I, I can't say that for certainty. The information
21 that I've added -- that I've included here was information
22 gleaned from my contact with the godparents and with, with
23 an EIA worker.

24 Q And, but what it's saying here is that the
25 godparents have told you that the mom retrieved Phoenix

1 about a month ago and, and the note, timeline you've put
2 down is April 2004. Do you see that?

3 A I see that, sir, yes.

4 Q And do you have any recollection of the
5 godparents telling you that that was a concern to them,
6 that they had returned Phoenix to Samantha and they were
7 concerned?

8 A No. I, I have no recollection other than what's
9 contained in that, that memo.

10 Q But had they told you that there was a concern
11 about Phoenix being with Samantha at that time is something
12 that you would have noted?

13 A Well, were, were the godparents not the original
14 source of referral on the CRU report?

15 Q No, it was the EIA ...

16 A Was the EIA worker?

17 Q Yes.

18 A Okay. All right. So all, all I can suggest,
19 sir, is, is my only recollection is what I have contained
20 there.

21 THE COMMISSIONER: Who was that worker? Or, do
22 we know?

23 MR. SAXBERG: This is SOR number ...

24 MS. WALSH: Three.

25 MR. SAXBERG: S.

1 THE COMMISSIONER: If, if you want to tell me --

2 MS. WALSH: It's going to be a witness to come,
3 Mr. Commissioner. It's one of the sources of referral.

4 THE COMMISSIONER: Oh, okay.

5 MS. WALSH: That's why you'll recall --

6 THE COMMISSIONER: Okay.

7 MS. WALSH: -- that I said, when I asked --

8 THE COMMISSIONER: Okay.

9 MS. WALSH: -- Mr. Orobko about this document,
10 we're going to be hearing more about it in December, but
11 while he was here I wanted to make --

12 THE COMMISSIONER: I follow.

13 MS. WALSH: -- take advantage of his presence.

14 THE WITNESS: If I could, Mr. Saxberg, the -- my
15 -- what I was trying to accomplish at the time here was
16 ensuring that the proper unit was assigned to this matter
17 so that follow-up could, could occur. So I, you know, my
18 calls to the EIA worker, my call to the godparents, was not
19 the start of an intake process, it was simply more, more of
20 an administrative function to determine which unit was
21 needed to be charged with this and which unit would be
22 providing follow-up.

23

24 BY MR. SAXBERG:

25 Q No, and I appreciate that. The bottom line is

1 that Steve Sinclair was living in the northwest region;
2 that's under your ambit, correct?

3 A Correct, sir.

4 Q Samantha Sinclair -- Samantha Kematch, rather,
5 was living in central region, correct?

6 A Correct, sir.

7 Q And you determined, based on the information that
8 we're looking at here, that the person to assess in this
9 circumstance is not Steven Sinclair, it's Samantha Kematch
10 because she's the last person, according to this
11 information, to have care and control of Phoenix, correct?

12 A Correct. My, myself and the central -- because
13 again, I, I was not, I didn't supervise the -- Ms. Parsons.
14 She would have been in agreement with that because she, she
15 accepted charge of the file and pursued --

16 Q Right. And --

17 A -- pursued it.

18 Q And I'm not being critical of your decision, I'm
19 just indicating that you decided that the assessment should
20 be of Samantha Kematch because she's the last person,
21 according to this information, to be looking after Phoenix,
22 correct?

23 A Correct. I determined that. I didn't decide it
24 but I determined it, yes.

25 Q And all I wanted to do was establish very clearly

1 that the reason she was the last person looking after
2 Phoenix Sinclair had nothing to do with CFS placing Phoenix
3 with Samantha Kematch --

4 A Oh, correct.

5 Q -- correct?

6 A Correct, sir. Correct.

7 Q And it looks like she was, Phoenix was retrieved
8 from the godparents and given to Samantha Kematch,
9 according to your information here, correct?

10 A I, I think my, my simple sentence suggests that
11 Mom retrieved Phoenix, that she, that she retrieved the
12 child.

13 Q Yes.

14 A Or she assumed care and control of the child, but
15 there was no intervening step by any agency.

16 Q But it was retrieved from the godparents?

17 A That was the information that I, that I suggest
18 there, yes.

19 Q Just in -- just very quickly, in terms of the
20 significance of having enough evidence to make the
21 determination that a child's in need of protection, I want
22 to -- you're familiar with the court procedures and with
23 the Child and Family Services Act as it relates to those
24 procedures?

25 A Yes, sir.

1 Q Correct?

2 A Yes, sir.

3 Q You'd indicated that you attended most of the
4 proceedings on behalf of your staff during your period as
5 supervisor, correct?

6 A That's correct, sir.

7 Q And do you agree with me -- I -- Mr.
8 Commissioner, we don't have the full Act as part of the
9 record. I'm going to suggest that we put the entire Act in
10 as an exhibit at some point, every section. I don't
11 believe we have every section in it, but section --
12 otherwise I'd refer you to it, but Section 38 of the Child
13 and Family Services Act is the section that says, upon
14 completion of a hearing, under this part, a judge who finds
15 a child is in need of protection shall order, and it lists
16 a whole bunch of remedies. You familiar with that?

17 A It's been, it's been several years since I've
18 seen a copy of the Act so I, I can't directly speak to
19 that, sir. But I, but, but, but I, I will say this: That,
20 I believe, is where a matter has gone to a trial, not, not
21 a consent order.

22 Q That's right. I'm talking about a trial wherein
23 the court finds that a child is in need of protection, then
24 the court has the authority to issue certain orders, one of
25 which could be an order of supervision, correct?

1 A Yes. And, and, and a master can also issue an
2 order of supervision if it's a consent order, if parents
3 are agreeing to it. And that would occur at the docket
4 that, that Ms. Forrest attended or that I attended on
5 behalf of my unit.

6 Q But your understanding is that a court need -- a
7 judge needs to determine that a child is in need of
8 protection at the time of the apprehension and at the time
9 that they're going to issue the order under Section 38,
10 correct?

11 A Okay. Matters rarely went to trial. It was very
12 rarely. But if, but if it did, if a child was placed under
13 apprehension because an agency felt it had reasonable and
14 probable grounds and the parents did not agree with that
15 and would not consent to working, you know, content to any
16 -- consent to any order, then the agency had no choice but
17 to take it to pretrial, and then to trial, and then to let
18 a judge render that final decision.

19 Q Right. And they have to establish the child is
20 in need of protection at the time of the apprehension and
21 at the time that the court's going to make its order. And
22 my question then is: Did you have grounds to be able to
23 establish that in, as a result of the Child Protection
24 Centre referral?

25 A No. I think my testimony has been that we did

1 not have reasonable and probable grounds, we did not have
2 sufficient evidence upon which to place that child under
3 apprehension.

4 Q And you're under the -- in respect of the Child
5 and Family Services Act, that's a very important piece of
6 legislation for you in doing your job, correct?

7 A It, it sets out our powers, our obligations and
8 legal tests that we need to meet.

9 Q And the very first thing in that Act which every
10 worker has to be mindful of at all times in performing
11 their functions, is the declaration of principles, correct?

12 A It's an important part of that document, yes.

13 Q And the fourth declaration of principle is that:

14

15 "Families and children have the
16 right to the least interference
17 with their affairs to the extent
18 compatible with the best interests
19 of children and the
20 responsibilities of society."

21

22 You realize that?

23 A I'm fully aware of that. And, and I'll also say
24 that when Child and Family Services conducts its business
25 and we attempt to work with families, we don't do that in a

1 bubble where families are stripped of all their legal,
2 civil or constitutional rights: right to privacy, right to
3 not have unwarranted entry into their home. The list is
4 endless. And those are all rights every citizen here had
5 in 2003, those are rights Mr. Sinclair had in 2003.

6 Q And that's something that you would have been
7 mindful of during your entire participation in this file?

8 A Absolutely. The, they -- there were, there were
9 legal constitutional restrictions parameters that we had to
10 be mindful of. There was not a single-minded -- I heard a
11 comment earlier here that the wellbeing of the child
12 outstrips all. It doesn't. It doesn't. There, there --
13 again, the Child and Family Services Act, Freedom of
14 Information Act, PHIA, all of those things, Constitution,
15 you name it, there was many legal rights that families and
16 parents had that we had to be respectful of and that we had
17 to honour, absolutely.

18 MR. SAXBERG: Thank you. Those are all my
19 questions.

20 THE COMMISSIONER: Just, just before you leave,
21 when you made the statement that we did not have sufficient
22 grounds to apprehend the child, you were referring to 2003?

23 THE WITNESS: Yes, the -- based on the, the
24 report that came to us from the Children's Hospital.

25 THE COMMISSIONER: Yes.

1 THE WITNESS: Yes, Mr. Commissioner.

2 MR. SAXBERG: Yes. Sorry, I wasn't speaking of
3 June after the drinking party. That's a different matter.
4 I was --

5 THE COMMISSIONER: Yeah. I --

6 MR. SAXBERG: -- specifically referring to the
7 referral.

8 THE COMMISSIONER: I just wanted to narrow that.

9 MR. SAXBERG: Yeah.

10 THE COMMISSIONER: Right.

11 MR. SAXBERG: Thank you. That's a very good
12 clarification.

13 THE COMMISSIONER: Thank you, Mr. Saxberg. Mr.
14 McKinnon, do you -- does that -- all right.

15 Mr. Gindin, come on.

16

17 CROSS-EXAMINATION BY MR. GINDIN:

18 Q Good afternoon.

19 A Good day, Mr. Gindin.

20 Q On the screen right now is the document we've
21 been talking about, and this document was a memo that you
22 sent to Carolyn Parsons, correct?

23 A Correct, sir.

24 Q And that was based on information that you would
25 have gleaned, you say, from another document which we had

1 on the screen earlier?

2 A Well, that would have been my starting point.
3 The information contained here primarily came from two
4 phone conversations that I had, that I enjoyed, one with an
5 EIA worker and the other with godparents.

6 Q And where, where do we have any notes about you
7 speaking to the godparents? Where is that contained?
8 Where do you get that from?

9 A Again, this was a, this was an administrative
10 memo, Mr. Gindin. My workers have all testified that as
11 they, as they worked on a case and as they did things, they
12 just went right to their, the format and they just typed in
13 and they just kept typing.

14 Q Um-hum.

15 A So, so as I -- on that day I made those phone
16 calls, I immediately prepared those handwritten notes that
17 I then gave to my secretary, Anna, who then typed them and
18 this file went over to Ms. Parsons.

19 Q When you say you spoke to the godparents, are you
20 saying by telephone or in person?

21 A I'm, I'm, I'm assuming it was telephone, sir.

22 Q Okay. You can't really recall?

23 A I, I'm -- my assumption at the time -- from eight
24 years ago, no, sir. No.

25 Q No.

1 A But if I had made a visit to the family home, if
2 the family had come in, that, that would have been noted.

3 Q Okay.

4 A So, so my assumption is that it was a telephone
5 conversation.

6 Q And do you know who with?

7 A No.

8 Q Who did you speak to on the phone?

9 A No, sir. I've indicated the godparents and the
10 EIA worker.

11 Q So if we assume the godparents are Kim Edwards
12 and Rohan Stephenson, which the evidence clearly will show,
13 you're saying you spoke to each of them?

14 A My, my notes indicated I spoke to the godparents.
15 I, I have no recollection beyond what is here, sir.

16 Q Okay. Now, I suggest that the evidence will
17 show, from Kim Edwards, for example, that she never spoke
18 to you in her life. What do you say to that?

19 A Mr. Gindin, I'll guess you'll have to call me
20 back and I'll speak to it after I hear that testimony.

21 Q Well, assume --

22 A I do, I do know, sir, I do know that Ms. Walsh
23 has a printed transcript from Employment and Income
24 Assistance --

25 Q Um-hum.

1 A -- which references the phone call that I made to
2 them.

3 Q Yeah.

4 A So I, I would suggest, sir, and Mr. -- you know,
5 Mr. Gindin, I'm under oath here, and if I'm indicating that
6 I, I made a phone call and I spoke to them, then I'm
7 stating that that's what I did, sir.

8 Q I'm not doubting that you may have spoken to a
9 worker from E and I, E and A. What does that stand for, by
10 the way?

11 A That's Employment and Income Assistance, sir.

12 Q I'm not doubting that you may have spoken to them
13 and got some information. But I'm suggesting to you that
14 you never spoke to Kim Edwards. Do you have some note that
15 you can show me that details the conversation that you had
16 and that it was with her, in fact?

17 A Yes. Well, as far as your suggestion, sir, my
18 notes indicate that I had a conversation with them. Again,
19 my, my mission that day was to sort out an administrative
20 matter as to where this file rightfully belonged. My notes
21 indicated I made a call that day, and I stand by my notes,
22 sir.

23 Q Okay. But you have no recollection of doing
24 that?

25 A No, I have no recollection of, of any of my

1 involvement in this matter from all those years ago.

2 Q You have a note of the phone number that you
3 called?

4 A I believe that matter, a phone number, would have
5 been contained within the file.

6 Q Well, let's have a look at page 36965, if we can.
7 And I think -- we'll go back two pages, pardon me, 36963 to
8 start with. I think this is the form that you indicated
9 that you would have looked at prior to making the memo
10 about the phone call, right?

11 A I believe so, sir, yes.

12 Q Well, let's look through that form and tell me
13 where it says in there, gives any details about a telephone
14 call with Kim Edwards. You can look through it.

15 A Well, this --

16 Q As you --

17 A -- this isn't my document, sir.

18 Q No, but you said that's what you looked at.

19 A Correct.

20 Q To inform you when you made the memo.

21 A Correct, it was based on this.

22 Q Okay. So I'm looking at this and asking you
23 where in that document did it tell you or remind you that
24 you spoke to Kim Edwards.

25 A I have a memo that indicates. This, this would

1 have come up to me, Mr. Gindin, and based on, as I read
2 through it and as I checked information on the CFSIS
3 system, as was my practice --

4 Q Um-hum.

5 A -- that would have led me to make a couple of
6 phone calls to clarify which unit was properly responsible
7 for dealing with this matter.

8 Q You're making assumptions based on documents
9 you're shown without any memory of the events, correct?

10 A I just have, I just have, I just have a recording
11 there that indicates I made phone calls that day to clarify
12 some administrative information to determine where this
13 file needed to go.

14 Q It doesn't say who you spoke to, though?

15 A No. My notes indicate that I spoke to the
16 godparents and the EIA worker.

17 Q No details of the conversation?

18 A The information -- again, my -- the basic
19 information that I was looking for, trying to determine who
20 needed to be properly charged with this file, that
21 information I obtained, that information I indicated in the
22 memo and took that matter over to Carolyn Parsons, and that
23 would have ended my involvement at that time.

24 Q And how many phone calls do you say you made?

25 A I --

1 Q To the godparents?

2 A Indicates -- again, I can only recollect what is
3 in my memo, sir.

4 Q Well, actually you can't recollect what's in your
5 memo --

6 A No.

7 Q -- you've told us that.

8 A All I know is what is in my memo, Mr. Gindin.

9 Q You're assuming the memo is correct, then,
10 because you have no recollection of what occurred?

11 A No. As I've mentioned, I have no direct
12 recollection of any of the events of this matter. All I
13 know is what is contained in that memo that I sent to Ms.
14 Parsons.

15 Q Okay. You've, you've seen Kim Edwards here in
16 court in this?

17 A I believe so, yeah.

18 Q You've seen her, right?

19 A I have, sir.

20 Q Yeah. You've never met her before seeing her
21 here, correct?

22 A I can't recall. I can't recall. I thought there
23 was a Kim Edwards who used to foster for Child and Family
24 Services that maybe I placed children with, but I can't
25 recall. That was, that was many years ago and many

1 children and many cases ago.

2 Q And you say you spoke to her on the phone because
3 it appears from a memo that that's what it says, right?

4 A It doesn't appear, sir. My memo indicates that I
5 spoke to godparents that day.

6 Q And you couldn't possibly be mistaken about
7 anything?

8 A In the matter of the memo in front of me, sir --

9 Q Um-hum.

10 A -- Mr. Gindin, again, I'm indicating that I spoke
11 to godparents that day and the EIA worker.

12 Q And if they say otherwise, they're just wrong?

13 A I, I will hear your, your witness testimony, sir.
14 I'm free to come back if, if need be.

15 Q You mean you might change your position after
16 hearing it?

17 A No, sir. I said I'd be free to come back and
18 answer any further questions down the road.

19 Q Well, I'm asking you now. If --

20 A No, sir, no.

21 Q -- they say they never spoke to you?

22 A Mr. Gindin, I'm under oath.

23 Q Right.

24 A I am, I am testifying as truthfully and as
25 factually and as honestly as I can.

1 Q But you could be mistaken?

2 A In the matter of this memo, sir, I have no reason
3 to believe I am mistaken.

4 Q All right.

5 A Wow, if I had a lawyer here, I bet they'd be
6 objecting, Mr. Gindin.

7 Q What would be the objection? I'm just curious.

8 A Just the line of questioning, sir.

9 Q That's your opinion, I guess.

10 A It is.

11 Q Let's go back to some of your other evidence.

12 THE COMMISSIONER: No, Mr. Gindin, just before
13 you leave that. I refrain from interfering but the one
14 point that has been clarified, all the questioning is about
15 whether there was a conversation with, with Kim Edwards.

16 MR. GINDIN: Yes.

17 THE COMMISSIONER: But the reference in his
18 document says he had the conversation, and he says today as
19 he recalls it, with the godparents.

20 MR. GINDIN: Correct.

21 THE COMMISSIONER: There's been no talk about
22 whether he might have had the conversation with Mr.
23 Stephenson.

24 MR. GINDIN: Yes. And I'm not sure about that
25 information so I haven't talked about that. I'm just

1 discussing Kim Edwards, who's my client.

2 THE COMMISSIONER: All right.

3

4 BY MR. GINDIN:

5 Q And if your note refers to the fact you may have
6 spoken to him, we'll hear from him. But your note seems to
7 refer to the fact that you spoke to both of them, and
8 that's what I'm disputing. You understood that?

9 A Yes. My memo indicates "godparents" in the
10 plural.

11 Q Yeah.

12 A Perhaps one answered and handed the phone over to
13 the second.

14 Q Or perhaps the "S" that's there shouldn't be
15 there. That meaning in the way it was typed. Could be an
16 error?

17 A Well, if you pull my handwritten notes up, I'll
18 tell you if there's an "S" or not.

19 Q All right.

20 A If -- again, if that's needed.

21 Q Well, let's move on to something else. You were
22 asked earlier about the work of Laura Forrest. Remember?
23 And Ms. Walsh asked you if you had considered going out in
24 the evening or having someone go out in the evening to see
25 if there could be some contact made with respect to the

1 fact that there were five or six efforts made during the
2 daytime. You recall that?

3 A Correct.

4 Q Correct?

5 A Correct, sir.

6 Q I wasn't sure what you said. Did you say that
7 you considered that possibility but decided against it or
8 didn't even consider it?

9 A I, I believe that while it may have been
10 considered, we, we made the decision that we were going to
11 pursue a different course of action.

12 Q I appreciate that. But the fact is that after
13 five efforts during the daytime to make contact that were
14 unsuccessful, the decision was not made, well, let's try
15 this at night, correct?

16 A No. Correct, sir.

17 Q Yeah.

18 A Correct. Which is not to suggest that we might
19 not have eventually got to that point.

20 Q Um-hum.

21 A But in the timeframe that we're talking about,
22 no. We had, we had not made that decision nor had we made
23 that request.

24 Q You indicated, in fact, that at that point you
25 never made the decision to either go out at night or make

1 any contacts with the various named individuals in the file
2 such as Nikki Humenchuk or some of these other people,
3 correct?

4 A That's correct.

5 Q You said at that point in time that decision was
6 not made?

7 A Yes.

8 Q That point in time includes the entire month of
9 March, correct?

10 A Correct, sir.

11 Q It includes the entire month of April and the
12 entire month of May and well into June?

13 A That's correct, sir.

14 Q So we weren't talking about one particular day,
15 we're talking about quite a few months?

16 A Yes, the point in time, sir, yes.

17 Q And -- yeah. And at no point in time during
18 those three and a half or four months was a decision made
19 to go and try a visit at night when people are more likely
20 to be home or to contact some of the other people listed in
21 the demographic information on the file?

22 A Yes. Well, again --

23 Q Right?

24 A -- again, sir, question asked and question
25 answered. We have both testified that we'd settled on an

1 alternate course of action here that we were going to
2 continue to exhaust efforts during the daytime and reach
3 out to Mr. Sinclair ourself, and we've testified to that a
4 number of times now.

5 Q All right. And your evidence was that, in your
6 view, everything possible was done to make contact?

7 A No, sir.

8 Q You --

9 A No, sir. I said that Ms. Forrest, to the best of
10 her ability, with the demands that were on her and the time
11 and resources available, did the best job that she could
12 under the circumstances.

13 Q Um-hum. And you're saying there wouldn't be one
14 moment left over to make a phone call to one of the
15 contacts on that list?

16 A Again, sir, we -- at that point it wasn't that
17 that wasn't a consideration. We had made an alternate plan
18 that --

19 Q Um-hum.

20 A -- we were going to continue to pursue and try to
21 engage Mr. Sinclair in this matter. That was the plan that
22 we had agreed upon.

23 Q I understand, and I'm questioning the plan now.
24 I know that was your plan. That's clear. But over all
25 those months, five or six visits didn't produce any results

1 yet there was no decision made to either go out at night or
2 try and contact the other people on that list, correct?

3 A I --

4 Q That's clear.

5 A Again, answered and -- asked and answered several
6 times now, sir.

7 Q You never suggested that someone go out, for
8 example, to Kim Edwards? Her address as in the
9 information.

10 A Again, asked and answered, sir.

11 Q Did you consider it?

12 A Our, our plan was to continue to try to approach
13 and engage Mr. Sinclair on this matter. Again, we made the
14 decision we were not going to reach out to extended family,
15 to other members of the community. Ms. Forrest testified
16 very eloquently about issues around invasion, private --
17 privacy issues. Our plan at the time was to continue to
18 pursue this with Mr. Sinclair.

19 Q In spite of five or six failed attempts to
20 contact him and the passage of almost four months --

21 A In --

22 Q -- you were going to --

23 A In, in -- in light of what we knew to be true at
24 the time, the fact that your client had been parenting,
25 apparently quite successfully --

1 Q Um-hum.

2 A -- for almost a 20-month period, that in that
3 time there had been no community concerns raised about your
4 client and his ability to parent save for this, this issue
5 regarding the notes, all right.

6 Q Um-hum.

7 A Based on the fact that the, the whole incident
8 involving the infected nose was a matter that was prioritized
9 downwards in our unit as being of lower grade --

10 Q Um-hum.

11 A -- medical neglect compared to everything else
12 that we were dealing with. Mr. Sinclair was within his
13 custodial rights to make alternate arrangements for his
14 child. You yourself know he was not obliged or compelled
15 to tell us about them or to vet them through us.

16 Q Um-hum.

17 A All of those things were all factored into our
18 decision to continue to approach your client and try to
19 engage with him to discuss this matter further.

20 Q I understand that. But Laura Forrest found it
21 necessary, with your supervision, to actually make efforts
22 to try and contact him on a number of occasions,
23 unsuccessfully.

24 A Correct, sir.

25 Q Fair? Right?

1 A Correct.

2 Q And that's as far as you went in your efforts to
3 connect with him?

4 A Those are the efforts we had made until the third
5 weekend in June --

6 Q Right.

7 A -- when Phoenix came into care.

8 Q All right. And these decisions, in terms of how
9 far you should go or whether you should call other people,
10 these were all judgment calls, right?

11 A Yes, those are, yes, professional judgment
12 decisions, professional judgment calls that were ultimately
13 my responsibility and under my authority, sir.

14 Q And the judgment was that even though she had
15 time to go out to make these field trips, there doesn't
16 appear to have been any time to make a phone call to any
17 family member?

18 A Again, Mr. Gindin, question asked, question
19 answered. We, we have, we have testified why we chose not
20 to make any phone calls to family members. I don't know
21 how else to respond to that, sir.

22 Q We've heard some evidence that it appeared as
23 though Steve Sinclair wasn't very trusting of the child
24 welfare system or various agencies, and that was clear to
25 Laura Forrest and she testified to that extent. You recall

1 that?

2 A Yes, I think that's, that's been, I think, test
3 -- I think a number of people who have, who interacted with
4 Mr. Sinclair have testified to that effect, yes, sir.

5 Q And you knew as well that he was utilizing other
6 people to assist him?

7 A We --

8 Q Family members were involved?

9 A Well, we knew as of February 28th -- well,
10 certainly Ms. Epps' closing summary talked about him having
11 some family members that he chose to rely on for support.
12 And we knew, as of February 28th, when we took charge of
13 that matter, that he had made arrangements for what seemed
14 to be a committed care-giver, who I believe is, now turned
15 out to be your client, to care for the child and, and had
16 the child taken into the hospital.

17 Q Yeah.

18 A So yes, yes, your client, you know, was, was
19 making some rather good custodial parent decisions with
20 alternate caregivers.

21 MR. GINDIN: Those are my questions, thank you.

22 THE COMMISSIONER: Thank you, Mr. Gindin. Mr.
23 McKinnon?

24 MR. MCKINNON: Nothing (inaudible).

25 THE COMMISSIONER: Thank you.

1 MR. MCKINNON: Thank you.

2 THE COMMISSIONER: Counsel, any re-examination?

3 MS. WALSH: No, Mr. Commissioner, I've no further
4 questions.

5 THE COMMISSIONER: All right. You are completed
6 your testimony, witness. I thank you very much for you
7 coming and your cooperation.

8 THE WITNESS: Thank you, Mr. Commissioner.

9

10 (WITNESS EXCUSED)

11

12 THE COMMISSIONER: So we, as I see the calendar,
13 we stand adjourned now till Mr. -- do you have anything,
14 Mr. Saxberg?

15 MR. SAXBERG: No.

16 THE COMMISSIONER: Okay. We -- you just want to
17 get out of here.

18 We stand adjourned until 9:30 Monday morning.

19 MS. WALSH: Thank you.

20 THE COMMISSIONER: As of now. Thank you.

21

22 (PROCEEDINGS ADJOURNED TO NOVEMBER 26, 2012)