



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

MONDAY, NOVEMBER 26, 2012

APPEARANCES

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

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MR. N. SAUNDERS, Assembly of Manitoba Chiefs and Southern Chiefs Organization Inc.

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3

4 MS. WALSH: Yes, just waiting for the clerk.

5 THE CLERK: We're on the record.

6 MS. WALSH: Are we good now?

7 THE CLERK: Yes.

8 MS. WALSH: Okay. Thank you.

9 Morning, Mr. Commissioner, are you ready to
10 begin?

11 THE COMMISSIONER: Yes, I'm ready.

12 MS. WALSH: Good.

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

15 THE WITNESS: Affirm, please.

16 THE CLERK: If you could stand please? State
17 your full name for the court.

18 THE WITNESS: Debra Joy Poskar.

19 THE CLERK: Spell me your first name.

20 THE WITNESS: D-E-B-R-A.

21 THE CLERK: And your middle name?

22 THE WITNESS: J-O-Y.

23 THE CLERK: And your last name?

24 THE WITNESS: P-O-S-K-A-R.

25 THE CLERK: Thank you.

1 THE COMMISSIONER: P-O-S-K?

2 THE WITNESS: A-R.

3 THE COMMISSIONER: Thank you.

4

5 **DEBRA JOY POSKAR,** affirmed,

6 testified as follows:

7

8 THE CLERK: Thank you.

9 MS. WALSH: Morning, Ms. Poskar.

10 THE WITNESS: Good morning.

11

12 DIRECT EXAMINATION BY MS. WALSH:

13 Q We've heard from a number of social workers;
14 you're a lawyer?

15 A I am.

16 Q And what's your current position?

17 A I am currently in-house counsel at Winnipeg Child
18 and Family Services Branch.

19 Q And how long have you been in that position?

20 A I have been in this role for, it'll be 16 years,
21 early 2013.

22 Q And so for 16 years, you've worked for the, the
23 agency, now known as the branch, Winnipeg Child and Family
24 Services?

25 A Not quite, I have worked, initially I worked for

1 six years for Tapper Cuddy as in-house counsel at Winnipeg
2 Child and Family Services and at the conclusion of about
3 six years, I became an employee of the government, but I've
4 held the same job for the past 16 years --

5 Q Okay.

6 A -- just under a different employer.

7 Q And as of 2003, what did your role involve?

8 A In 2003, my role was, as it is today, I was in
9 in-house counsel for Winnipeg Child and Family Services
10 Branch. I dealt with matters as they came into the agency
11 with respect to children that were brought into care. I
12 attended docket courts, attended pre-trials.

13 THE COMMISSIONER: Just not quite so fast.

14 THE WITNESS: Sorry.

15 THE COMMISSIONER: Okay.

16 THE WITNESS: I attended docket courts, pre-
17 trials, meetings, I prepared motions, attended motions
18 hearings, attended uncontested hearings and did
19 occasionally some of the trials.

20

21 BY MS. WALSH:

22 Q Can I ask you to pull the microphone just a
23 little bit closer to you as well, please? Thank you.

24 And who did you report to in 2003?

25 A In 2003, I reported to Darlene MacDonald.

1 Q What was her title?

2 A I believe, at that time, and I could be wrong,
3 I'm not certain if she was the acting CEO at that time, or
4 if she was a program manager.

5 Q Okay. And now, who do you report to?

6 A I now report to Alana Brownlee, who's the CEO of
7 the agency.

8 MS. WALSH: Okay.

9 THE COMMISSIONER: What's the name?

10 THE WITNESS: Alana Brownlee.

11

12 BY MS. WALSH:

13 Q So just with respect to my question regarding
14 Darlene MacDonald's role, we have, in front of you, a
15 document, our Exhibit 15, that shows the chain of command
16 at various points of service delivery to Phoenix. So if we
17 can go to 2003 please, is my question.

18 THE COMMISSIONER: You say this is Exhibit 18?

19 MS. WALSH: Exhibit 15.

20 THE COMMISSIONER: Fifteen.

21

22 BY MS. WALSH:

23 Q So that shows Darlene MacDonald. Now we'll have
24 to scroll back up to the titles, as program manager?

25 A That's quite possible, yes.

1 Q Okay. So that's who you reported to?

2 A Yes.

3 Q Okay. And is that who you received instructions
4 from with respect to a given file?

5 A No, I received instructions from the assigned
6 social worker, or in some cases, the assigned social
7 worker's supervisor, depending on who was available.

8 Q Okay. And we heard evidence that Phoenix was
9 first apprehended in 2000; were you involved with the court
10 proceedings regarding that apprehension?

11 A No, I was on maternity leave at that time.

12 Q Okay. And then we heard evidence that she was
13 apprehended again in June of 2003; you were involved in the
14 legal proceedings surrounding that apprehension?

15 A That's correct.

16 Q Okay. In what capacity?

17 A I was the counsel for the agency, that attended
18 most of the docket appearances at that time. There was one
19 docket appearance I did not attend, I was away on holidays.

20 Q So can you tell us what a docket appearance is?

21 A Certainly.

22 Q Has it changed, like, from 2003 to today?

23 A Somewhat it has, in the sense that the Aboriginal
24 Justice Inquiry Initiatives have occurred since 2003. And
25 so Winnipeg, who then was an intake agency, is no longer an

1 intake agency. The intake agency today is now the ANCR
2 network, also known as All Nations Coordinated Response
3 Network Agency.

4 Q So in 2003, what did docket court look like?

5 A In 2003, at that point in time, I attended the
6 first docket appearance, which I believe was on July 2nd of
7 2003. At that time, the assigned social worker was Laura
8 Forrest, who was an intake worker. Prior to the matter
9 appearing in docket court, either it would have been the
10 intake worker, or the night duty worker, would have alerted
11 one of our paralegals. The paralegal, upon being alerted
12 the child was brought into care, would file a petition and
13 notice of hearing in court. The petition and notice of
14 hearing that's filed in court must be filed within what's
15 called four juridical days of the apprehension, juridical
16 meaning court operating days, court working days.
17 Following the filing of the apprehension, within four
18 juridical days, it must then be set down to a court hearing
19 within seven juridical days of the filing. And then once
20 it appears on that docket, it can be adjourned, from time
21 to time, as the presiding master may see fit.

22 Q So, and in terms of just a docket court, what's a
23 docket court?

24 A A docket court is the first court that deals with
25 matters that come before, where a child has been

1 apprehended. Docket courts can only deal with things by
2 way of consent. So it will deal with consent orders. It
3 will deal with service issues. It may deal with
4 preliminary motions, with respect to agreement on
5 production of certain third party documents and that is
6 essentially the role of a, a docket court.

7 Q And has that role changed since 2003?

8 A No, no.

9 Q So the change that you identified with the coming
10 into existence of ANCR, what was the effect of that change
11 on the docket court?

12 A There's now an extra level of docket court and
13 perhaps that might be what it's called and that is with the
14 Aboriginal Justice Inquiries, ANCR is now the intake agency
15 for the City. So, for example, if a new family had a child
16 that was in need of protection and that child was
17 apprehended today, that child does not have previous links
18 to another agency, that new matter would be apprehended by
19 the ANCR network and then they would have to do the ADP,
20 which is the authority determination protocol process, with
21 the family, to determine what authority would provide
22 service. And upon that being determined, there is then
23 what's called a Section 28 transfer docket that occurs,
24 that transfers that family's matter to the appropriate
25 agency.

1 Q Okay. So that's post-2003?

2 A That's post-2003.

3 Q Okay. So would the docket court deal with
4 matters that were contested?

5 A If a matter was contested, then the master who
6 presides over a docket court would then have the matter set
7 down for pre-trial conference before a justice of the Court
8 of Queen's Bench.

9 Q And the official who presides over docket court
10 for child protection proceedings is a master?

11 A In most cases, except the agency, that being
12 Winnipeg Child and Family Services Branch, does have one
13 office, which is a French designate office. That's at St.
14 Vital office and that office's matters appear at the St.
15 Boniface courthouse, at 227 Provencher.

16 Q Presided over by a family court judge?

17 A That is presided over by a family court judge.

18 Q And in 2003, were, with the exception of matters
19 in St. Boniface, was it a master who presided over the
20 docket court?

21 A Yes.

22 Q And at what point would you, as counsel, receive
23 the file?

24 A If it was a matter that was a recent
25 apprehension, upon it being set down for a court hearing,

1 or a docket hearing, at that point in time, I would, about
2 three days before the docket hearing, I would receive a
3 list from one of my paralegals, indicating that a number of
4 matters are to appear on the docket. And at that point in
5 time, my file would start to be created.

6 Q So it could be just a few days before appearing
7 on the docket?

8 A Correct.

9 Q And what type of information would you receive,
10 typically, before appearing on the docket?

11 A The paralegals' docket had a number of matters on
12 it and for each matter that was on it, it would indicate
13 the parents' names, the child's names, the child's age,
14 whether the parents were served, if so, what date the
15 parents were served upon. If the parents were served for a
16 future date, it would indicate that. It would indicate if
17 the aboriginal agency was served, if the family had that
18 sort of cultural heritage. It would also indicate briefly
19 as to what instructions the paralegal might have had from
20 the worker. So for example, if the worker had notified the
21 paralegal that they needed some more time for planning,
22 there might be the word planning on there, or adjourn for
23 planning. It would also indicate whether or not the birth
24 certificate had been received, because as part of
25 proceeding with an order, proof of the child's age and

1 parentage needs to be supplied, which is done through a
2 certificate through Vital Statistics and that's the sort of
3 information it would contain.

4 Q Would you be given information as to why the
5 child came into care?

6 A No.

7 Q Would you meet with the social worker with, on a,
8 for a given file, before your appearance on docket court?

9 A Not always. Meet in person? Almost never.
10 There are telephone calls that I do get before a docket
11 appearance from a worker who's seeking advice, or may have
12 an issue that they need some legal clarification on and
13 that sort of discussion would occur. Or if they had
14 something out of the norm, I would get those calls as well.
15 But if there was a matter where the issues had been sorted
16 out between agency social worker and the parents, on those
17 type of matters, I often did not get calls.

18 Q Okay. So you wouldn't typically have a
19 discussion with the social worker as to the reasons for
20 requesting the order?

21 A No.

22 Q Okay. That wasn't part of your job description,
23 or your role?

24 A My job is, as a lawyer, which is to provide legal
25 advice to the agency on the matters that are before the

1 court. But with respect to planning, that's certainly not
2 what, what my professional training is, but I'm there to
3 provide the agency with legal advice. And at the docket
4 court, they're matters that can only proceed by consent, so
5 if a parent is not in agreement with a specific order
6 that's being requested by the agency, it then moves to
7 another forum and at that other --

8 Q To another, sorry?

9 A -- forum --

10 Q Forum?

11 A -- another forum, which is a pre-trial
12 conference. And at that stage of the proceedings, I'm
13 advised of much more information than at the docket level.

14 Q So in docket court, what were the options as far
15 as the types of orders the agency could seek from the
16 court?

17 A The types of orders that Winnipeg Child and
18 Family Services Branch has sought is either a supervision
19 order, a temporary order, or a permanent order. There is
20 also the possibility that the third party may come forward
21 and apply for guardianship, but those guardianship orders
22 could not be heard on the docket. They had to be heard by
23 a justice. The master didn't have the jurisdiction to deal
24 with those matters and still doesn't today.

25 Q Okay. Is that sometimes called an alternate

1 placement order?

2 A No, Winnipeg Child and Family Services Branch has
3 rarely done that alternate placement order, which is
4 Section 38(1)(b) orders, is what we refer them, to them as.
5 When we do a transfer of guardianship, it's actually a
6 guardianship application that is filed by the third party
7 themselves and that matter is heard by a justice.

8 Q Okay. So you said typically you would ask for an
9 order of supervision, an order of temporary guardianship,
10 or an order of permanent guardianship?

11 A Correct.

12 Q So let's just review what each of those is.
13 What's an order of supervision? And, and what you're
14 saying was true in 2003?

15 A Correct.

16 Q Okay. So what's an order of supervision?

17 A An order of supervision is a finding that, at the
18 time that the child was apprehended, the child was, or
19 children were, in need of protection. Under a supervision
20 order, at the time the order's granted, the child or
21 children still are in need of protection, but the
22 circumstances have been mitigated to the point where the
23 child or children are able to be put back with one parent
24 or both parents, whoever's been deemed to be the safe --

25 Q But the --

1 A -- body.

2 Q -- apprehension order is still in effect?

3 A The apprehension order was still in effect. The
4 difference, though, between a supervision order and a
5 temporary order, or a permanent order, is under a
6 supervision order, once that order's granted, the agency no
7 longer has guardianship. Under a temporary order or a
8 permanent order, when those orders are granted, the agency
9 has guardianship of the child or children.

10 So on a supervision order, for example, when a
11 supervision order is granted, typically there are
12 conditions attached to that supervision order when made,
13 which you don't see with a temporary order or a permanent
14 order. And those supervision orders may be something to
15 the like of not to consume alcohol, to meet regularly with
16 the assigned social worker, to accept the supports of a
17 parenting educator, to allow the agency access into the
18 home, as the agency may be, may deem appropriate and to
19 allow the agency the ability to see the child, or children,
20 as the agency may deem appropriate. But the child is
21 living with the parent or parents, depending upon who the
22 agency assessed to be safe. And at that point in time,
23 once the order is granted, the agency no -- does not have
24 guardianship of the child.

25 Q Just so that I understand, in order to obtain a

1 supervision order, does there have to have been an
2 apprehension --

3 A Yes.

4 Q -- first?

5 A Yes.

6 Q And when, when we use that term, does that mean
7 that the agency becomes the guardian?

8 A At, at the time of an apprehension is the --

9 Q Yes.

10 A -- agency a guardian? I don't think the agency
11 has full guardianship status. It's somewhat of a de facto
12 guardian.

13 Q Okay. And so you're saying with a supervision
14 order, guardianship remains with the parents?

15 A Once it's granted, guardianship remains with the
16 parents, yes.

17 Q Okay. How often are those types of orders sought
18 and granted?

19 A It's -- they're not sought as often as the other
20 forms of orders, which are a temporary order, or a
21 permanent order. I do -- last week, for example, on
22 docket, there -- I had, I think, 53 matters. I think there
23 was one supervision order.

24 Q Do you know why that is? Why they're not used
25 frequently?

1 A I think it's dependent upon what the social
2 worker views to be safe or appropriate for that particular
3 family.

4 Q What's a temporary order?

5 A A temporary order is where the child was again,
6 in need of protection at the time of apprehension, in need
7 of protection at the time the order is granted and the best
8 interests of the child or children are served by the child
9 remaining in care, because the risk at home, or whoever the
10 caregivers were, remains too great.

11 Q And how is that different from a permanent order?

12 A A permanent order is where there is no
13 foreseeable chance, in the immediate future, or in time
14 enough for the child or children for the parents to
15 remediate the issues which brought the child or children
16 into care.

17 Q So it's contemplated, at that point, the child
18 will not be returned --

19 A That's correct.

20 Q -- to her parents?

21 A That's correct. A permanent order also rescinds
22 all parental rights, which a temporary order does not do.

23 Q So what's an example of a parental right that
24 continues to exist during the time of a temporary order?

25 A You are still the, technically the parent. When

1 a permanent order is granted, by virtue of the legislation,
2 you are no longer the parent of that child in any legal
3 sense. Your rights have vanished.

4 Q And to obtain a temporary order, or a permanent
5 order, what do you need to present to the court?

6 A At docket court, or at pre-trial --

7 Q Yes.

8 A -- or at trial? At docket court?

9 Q At docket court?

10 A It's, it's up to the presiding master, as, or
11 justice of the Court of Queen's Bench, as to what they wish
12 to present. When it's at docket court, it's an order by
13 consent. Again, those are the only orders that can be
14 heard and Section 38(2) of the legislation allows the
15 master to determine what, if any, evidence they wish to
16 hear.

17 Q Okay. In, in 2003, how frequently were docket
18 courts held?

19 A At that time, I believe Winnipeg Child and Family
20 Services Branch had a docket court on Wednesdays, Fridays
21 and the second and fourth Thursday of the month at St.
22 Boniface.

23 Q Okay. And would they last the whole day?

24 A The St. Boniface docket court was briefer, in the
25 sense that it related to one office's matters and the other

1 two dockets were generally a morning. They would start at
2 9:30. For example, last week we went from 9:30 until 1:00.
3 More the norm is to be done by noon.

4 Q And if -- can you recall, as of 2003, how many
5 matters would typically be on the agenda, on the docket
6 court, on a given morning?

7 A With respect to the file in question that we're
8 here for today, with respect to Phoenix Sinclair, I believe
9 on July 2nd there were roughly 36 or 38 matters. On July
10 9th, I believe there were 46. The next docket, on July
11 16th, I believe there were roughly 40. And I believe on
12 the last docket I appeared on for that matter, on August
13 13th, I believe there were 46.

14 Q And were the docket courts half days in 2003 as
15 well?

16 A Yes.

17 Q So that's a lot of matters to be dealt with in,
18 in the space of one-half day?

19 A Yes.

20 Q Was there a legal test that needed to be
21 satisfied in order to obtain a, an order of temporary
22 guardianship in 2003?

23 A At the docket?

24 Q Yes.

25 A Again, the -- because you're dealing only with

1 consent orders, and the parent is either consenting, and if
2 the parent is not attending, Section 38(2) deems their
3 consent, which is, according to the case law, a finding of
4 protection. So the, the way the legislation, the case law
5 is set out, is that as soon as you consent, or you're
6 deemed to consent, there is protection at the time of
7 apprehension and there's protection at the time the order
8 is granted.

9 Q So, in terms of -- my question was, is there a
10 legal test that needs to be satisfied, at the docket court,
11 for a temporary order to be granted?

12 A I, I, I'm not certain I'm, I'm gathering the
13 question that you're asking.

14 Q What -- before the master will grant a temporary
15 order, what does the, a master have to be satisfied of?

16 A The case law indicates, for an order to be
17 granted, it's protection at the time that the child was
18 brought into care and there is protection at the time the
19 order is granted.

20 Q You mean protection is necessary? When you --

21 A Protection is a necessary finding, however,
22 Section 38(2) of the legislation, which is the matters that
23 appear before the docket on a consent basis, that
24 protection finding is automatically found as soon as a
25 consent is entered.

1 Q And you say consent is deemed?

2 A The consent is deemed if the parent does not
3 attend. And if the parent does attend and is not
4 consenting, then you enter into the next phase of the
5 proceedings, which is to go through a pre-trial conference.

6 Q Okay. So the master doesn't have to be presented
7 with evidence as to why the child came into care?

8 A I, I don't know that I can speak to what the
9 court, what the court's thinking is. What I can tell you
10 is, is that at the docket court, the court does not ask for
11 the reasons of apprehension.

12 Q And you typically don't provide that?

13 A The only time it is provided is on a permanent
14 order that goes by consent at docket. In some of those
15 cases, the masters, more often than not, will ask for the
16 reasons of apprehension at the time, as well as the issues
17 that were present at the time and that continue to be
18 present, that do not allow the parent or parents to care
19 for the child or children.

20 Q That's for a permanent order?

21 A That's for a permanent order. However, on a
22 temporary order, those, that is never asked.

23 Q We will, in looking through the transcripts, we
24 will see the court ask about a plan?

25 A Correct.

1 Q So that is information that the master is
2 interested in?

3 A Yes.

4 Q Would you describe the, the docket court that
5 relates to seeking temporary orders as a perfunctory
6 process?

7 A It's limited in its jurisdiction because of the
8 powers that are vested into a master, pursuant to the Child
9 and Family Services Act and the Court of Queen's Bench Act
10 and Court of Queen's Bench Rules. There are a variety of
11 things that can happen at the docket, but as soon as a
12 parent is not consenting, that's where it stops at docket
13 and it goes on to the next level.

14 Q Okay. So for obtaining a temporary order, the
15 master has to be convinced that the parents are consenting?

16 A Correct.

17 Q Or they deem the parents to be consenting?

18 A If the parent does not attend and they were
19 served by the agency, given notice of the proceedings and
20 they do not attend docket, Section 38(2) allows their
21 consent to be deemed.

22 Q Okay. Now, you said that you were involved in
23 Phoenix's apprehension in 2003 --

24 A Correct.

25 Q -- do you have any independent recollection of

1 that involvement?

2 A I attended four docket appearances on that matter
3 and that matter proceeded relatively quickly. The first
4 docket appearance was on July 2nd, the last docket
5 appearance was on August 13th and during that, I suppose,
6 six week period, I wasn't in the office for two weeks, I
7 was on holidays. I don't have any recollection of the
8 factual underpinnings of that particular matter.

9 Q Okay. You say that that was relatively quick --

10 A Yes.

11 Q -- for proceedings?

12 A Yes.

13 Q Is -- was there a, a more typical timeframe in
14 which temporary order proceedings took place?

15 A I don't think there's a typical timeframe. There
16 is certainly an impetus from the court and from the parents
17 to have matters proceed to adjudication as quickly as
18 possible, be it the setting of a pre-trial or being the
19 setting of trial dates. We're talking about children who
20 have been taken from their families, so certainly the court
21 does move in that direction. That being said, as for the
22 typical timeframe on a docket, it's dependent upon how
23 quickly parents can be located and served. It depends upon
24 whether the parents are in agreement with the agency's
25 plan. It's dependent upon how quickly a birth certificate

1 comes from Vital Statistics. Sometimes that can come quite
2 quickly. Sometimes it can take months, depending on the
3 circumstances at the time. So I don't know that I can say
4 there's a usual time, but that matter proceeded to
5 conclusion within a six week period.

6 Q Okay.

7 A And that was because the parents were consenting.

8 Q Okay. So I think you said you don't typically
9 receive information as to why a child has come into care;
10 was that true with respect to Phoenix?

11 A That's true.

12 Q And did you speak with her social worker, Laura
13 Forrest, in advance of appearing on July 2nd, '03?

14 A Not to the best of my recollection, no.

15 Q What about with the family services worker who
16 was going to be taking over the file, Stan Williams? Do
17 you recall whether you spoke with him?

18 A I don't recall speaking with Stan Williams. I
19 recall receiving instructions, the file transfer to Stan
20 Williams, as of the July 9th docket appearance and at that
21 point, I received instructions from a paralegal that Mr.
22 Williams was still in the planning stages. There was the
23 possibility of the agency giving consideration to a
24 supervision order and the matter was put over from the July
25 9th docket to the 16th, from the 16th to the 30th. I

1 wasn't at that 30th docket. And then from the 30th docket
2 to the 13th and at the conclusion of the planning stages, I
3 was advised, on the morning of the 13th, that Mr. Williams
4 would be seeing a three month temporary order.

5 Q So just, if we can turn to some of the documents,
6 if we look at page 34948, CD1692.

7 Scroll up please, so we can see the full
8 document.

9 This is a petition and notice of hearing which
10 was filed in the Court of Queen's Bench on April 27, 2000,
11 in respect of the apprehension at Phoenix's birth. And you
12 said you weren't in attendance, but your name is identified
13 as the lawyer on the petition?

14 A My last day at work was April 28th, 2000, which
15 was a Friday and I didn't return to work until September
16 5th of 2000.

17 Q Okay. Who needs to be served with the petition
18 and the notice of hearing in the case of an apprehension?

19 A Section 30 dictates who needs to be served,
20 pursuant to the Child and Family Services Act. The parents
21 need to be served. If a child is 12 years of age or older,
22 that child needs to be served. And if there was a care
23 provider who was caring for the child that wasn't a parent,
24 that individual needs to be served, as well as any
25 aboriginal agency. The legislation says where the child is

1 registered with that band, but we as a practice, have
2 always served the aboriginal agency, if we believe that the
3 child or family has the possibility of affiliation with
4 that band or bands.

5 Q Was that true before devolution as well?

6 A Yes.

7 Q So now if we go to page 35021, this is from
8 CD1709 and this is a petition and notice of hearing that
9 was filed in the Court of Queen's Bench on June 25, '03 and
10 again, your name appears on the cover page. This relates
11 to the appearance that you were involved with?

12 A Correct.

13 Q And if we go to the next page, it shows the date
14 of appearance to be, in the second paragraph, July 2nd,
15 2003?

16 A Correct.

17 Q And if we go to the next page, there are a number
18 of boxes checked off. It says:

19

20 "AND FURTHER TAKE NOTICE that one
21 of the following orders may be
22 made if the child PHOENIX VICTORIA
23 HOPE SINCLAIR, is found to be in
24 need of protection, namely ..."

25

1 And you've checked off all four boxes?

2 A Correct.

3 Q Was that standard practice?

4 A That was standard practice then, it's still
5 standard practice today.

6 Q Okay. And if you go to the bottom of page 35024,
7 under the, under the signature line, it says case worker,
8 Laura Forrest?

9 A Correct.

10 Q That was information you would have been provided
11 with?

12 A The, as you can see, the signature on there is
13 not mine. The signature is the paralegal's and that is the
14 information the paralegal would have been provided with.

15 Q So the paralegal prepares the notice of petition
16 and hearing?

17 A Correct.

18 Q Okay. And then, for example, if we got to CD1717
19 -- I actually don't have a page number. Have you got a
20 page number?

21 So if we go to page 36059, we can see this is an
22 affidavit for service for Anishinaabe Child and Family
23 Services?

24 A Correct.

25 Q And why were they served?

1 A One of the parents would have had community
2 affiliation with that agency. I, my, my, my recollection
3 is correct, I believe West Region Child and Family Services
4 would have also been served.

5 Q Yes, and that's at CD1716. I don't know that we
6 need to turn to it, but it can be entered into the record
7 in its entirety, as this one can be. And CD1714 is, in our
8 disclosure, is the affidavit of service on Samantha
9 Kematch. She would have been served as the mother?

10 A Correct.

11 Q And then 1715 of our disclosure is the affidavit
12 of service on Steve Sinclair, the father?

13 A Correct.

14 Q And we can enter those into evidence without
15 walking the witness through them.

16 So let's go to your appearance on the docket
17 court, page 35104. And this is from CD1727. If we go to
18 the next page, this is the transcript of proceedings before
19 Master Ring on July 2nd. You're noted, if we go back to
20 that page 35104, you're noted as appearing for West Region
21 Child and Family Services; is that an error?

22 A That's an error.

23 Q Okay. And in fact, the entire style of cause is
24 not accurate for this particular proceeding; is that
25 correct?

1 A I'm just waiting for the style of cause to come
2 down. That's correct, it should have been, at that point
3 it would have been Winnipeg Child and Family Services.

4 Q Okay. And there's a reference, if you go up to
5 the top please, to in the matter of Victoria Hope Sinclair
6 and then to two other children, whose names are blacked
7 out, but their dates of birth are noted as 2004, 2005. So
8 that's clearly an error at this point?

9 A Correct.

10 Q So something happened in the Court of Queen's
11 Bench file records for the style of cause to have been put,
12 put on in an inaccurate way?

13 A Correct.

14 Q Nothing turns on that, so far as I'm concerned, I
15 just wanted to, to clarify that the, that was the case. So
16 let's go to page 35106 in the transcript of your
17 involvement. Starting at line 16, this shows Laura Forrest
18 speaking to the court about the plan. So she says:

19

20 "Our plan at this point ..."

21

22 And you're in attendance at this point; right?

23 A Correct.

24 Q

25 "Our plan, at this point, is to

1 request a three-month order of
2 temporary guardianship with
3 respect to Phoenix, the intent
4 being to work with either the
5 parents, to resolve any of the
6 issues of concern that resulted in
7 20 the child coming into care so
8 that she could be reunited with
9 them.

10 Currently, both the parents are
11 separated. Samantha is the only
12 parent that has come forward and
13 expressed any interest or
14 willingness to work with the
15 agency on reuniting with Phoenix.
16 We don't know what the father's
17 plan because he refuses to meet
18 with us or to call us. So at this
19 point, we are prepared to continue
20 our efforts to work with Samantha
21 so that she can perhaps get
22 Phoenix back in her care. Both
23 parents have guardianship -- or
24 custody of the child. No sole
25 guardianship has been determined

1 in a court of law."

2

3 And I just wanted to confirm that Ms. Kematch was
4 in attendance this day?

5 A Correct.

6 Q Mr. Sinclair was not?

7 A Correct.

8 Q Okay. So then you ask -- and, and when Ms.
9 Forrest is saying these things, she's not under oath?

10 A That's correct.

11 Q Okay. So then you ask her:

12

13 "And what are the expectations of
14 Ms. Kematch?"

15

16 And she says:

17

18 "At this point, the case is being
19 transferred to a family service
20 worker for the long-term follow-up
21 on the case. It would be
22 suggested that perhaps a parenting
23 capacity assessment or some
24 parenting support programs be
25 incorporated in with Samantha, so

1 that she can address any issues
2 of concern from past involvement
3 with her. Family visits will
4 occur on a regular basis. We're
5 also going to explore the
6 possibility of a place of safety
7 option with some friends that have
8 just appeared today, so that we
9 can look at placing the child with
10 a family who knows her, as opposed
11 to foster care."

12

13 Now, why did you ask Ms. Forrest about the plan,
14 or the expectations?

15 A I, I don't know that I can give you an answer to
16 that. That goes back nine years at this point in time. I
17 don't know that I could tell you what was in my mind when I
18 asked that question.

19 Q Sure. I guess I'm wondering, was it typical for
20 the master to want to know what the expectations of the
21 family were going to be during the, the course of an order,
22 if it were granted?

23 A The master would ask the expectations of a
24 family. When the temporary order, though, was granted,
25 those expectations are not in the order. The temporary

1 order is silent to those expectations. The plan will
2 continue to develop as the worker gets a better working
3 ground with the family. You have to also appreciate that
4 at the time that this matter appears in docket, the
5 apprehension date have barely passed, so the agency is
6 still in the process of planning with the family and
7 continues to plan with the family throughout. So for
8 example, on July 2nd, if my memory is correct, I believe
9 the apprehension was June 22nd. So we're about 14 days
10 later.

11 Q Okay. And the court asks where Phoenix is and
12 then at line 28, and the court addresses Ms. Kematch and
13 asks whether she's understood what was said. And then the
14 court says:

15

16 "What I understood was that the
17 agency wants a three-month
18 temporary order, and they would be
19 working with you, with the hopes
20 of returning Phoenix, and it's
21 possible that she may be placed
22 with someone other than she's with
23 at this time. Samantha, did you
24 want to deal with this matter on
25 your own today or did you want to

1 speak to a lawyer first?"

2

3 And she is, in fact, given an opportunity -- the
4 court says:

5

6 "Samantha, there's a young lady in
7 court. I [just] want you to just
8 speak to her and then come back to
9 court in 10 or 15 minutes."

10

11 That was a, a lawyer that the court wanted her to
12 speak with?

13 A No, Ms. Lagimodiere, who's referred to later in
14 the transcript, is a paralegal, was a paralegal, still is a
15 paralegal with Legal Aid and Master Ring has asked her to
16 go out and briefly speak with Ms. Kematch. If Ms.
17 Lagimodiere would have believed that Ms. Kematch needed to
18 speak with duty counsel from Legal Aid that day, she would
19 have arranged that as well. Or the other option would have
20 been is that if Ms. Kematch wished to speak with counsel
21 and wished to take the time to do that on another day, the
22 matter would have been adjourned for Ms. Kematch to either
23 secure counsel or speak with counsel outside of the
24 courtroom.

25 Q Was the duty counsel there?

1 A I can't remember, on that specific day, if duty
2 counsel was, and to be honest, with some of the staff
3 changes at Legal Aid, I can't recall, in 2003, who duty
4 counsel was. But there would have been somebody else
5 present other than Ms. Lagimodiere, in all likelihood.

6 Q So was that, was that common then for the, the
7 master to ask a parent to go and speak out in the hall
8 with, with the paralegal, to determine whether or not they
9 wanted a lawyer?

10 A At that point in time, Ms. Lagimodiere, I think,
11 had probably been an employee of Legal Aid for a couple of
12 decades and was experienced in dealing with those matters
13 and Master Ring did, on that day, as he did on many days,
14 essentially Ms. Lagimodiere was being used to screen the
15 matter, to determine whether or not Ms. Kematch was okay
16 with what the plan was, or whether or not she needed to
17 speak with counsel. And again, if Ms. Lagimodiere felt
18 that the parent was not satisfied with the plan, then Ms.
19 Lagimodiere would have arranged for Ms. Kematch to speak
20 with whoever duty counsel was on that particular day.

21 Q And then ultimately, the matter was adjourned;
22 correct?

23 A It was --

24 Q And what was --

25 A -- adjourned one week.

1 Q -- the purpose of that adjournment?

2 A Mr. John Harvie, who represents Anishinaabe Child
3 and Family Services had come into the docket earlier that
4 morning, however, by the time the matter was brought into
5 court, Mr. Harvie was not present. I knew, from speaking
6 with Mr. Harvie, earlier that morning, based upon my file
7 note, that Anishinaabe wanted to have some information with
8 respect to possibly the plan for Phoenix and a sense of
9 where Phoenix might be residing. And given that Mr. Harvey
10 did not return and I didn't recall if he had perhaps
11 provided me with an adjournment date, I realized the matter
12 could not proceed and the matter was adjourned. I
13 requested the matter to be adjourned one week. So that I
14 could advise Mr. Harvie of that date, in the event that Mr.
15 Harvie's client wished to have further involvement.

16 Q Okay. So the purpose of the adjournment for a
17 week was to determine whether Anishinaabe CFS wished to
18 have any further involvement with the matter?

19 A Correct.

20 Q Okay. And during this time, Phoenix was, was in
21 care?

22 A Correct.

23 Q Okay. So if we go to page 37535, this is a
24 letter that's found in CD1796, in Mr. Sinclair's protection
25 file. It's dated July 4, '03. It's addressed to you, from

1 John Harvie. What did you understand Mr. Harvie was
2 requesting?

3 A Essentially the, the last line of his letter, or
4 the, the second sentence of his letter, he was looking for
5 the agency's plan for the child. And in particular, what
6 his client was concerned about was the proposed placement
7 and the special needs. In my dealings with Mr. Harvie over
8 that course of time, Anishinaabe Child and Family Services
9 wanted to know whether or not the child was in a culturally
10 appropriate placement and if not, whether they may be of
11 assistance in locating a culturally appropriate placement.
12 Thus the question about special needs, because the special
13 needs would affect the type of placement.

14 Q Okay. So essentially your understanding is that,
15 that Anishinaabe was concerned as to whether the child was
16 in a culturally appropriate placement?

17 A Correct.

18 MS. WALSH: Okay.

19 THE COMMISSIONER: And Mr. Harvie was
20 Anishinaabe's lawyer?

21 THE WITNESS: Correct.

22

23 BY MS. WALSH:

24 Q And then if we go to page 37532, so this is a
25 memo dated July 7, '03, originally to Laura Forrest and

1 then that's crossed off and it says it's to Stan Williams
2 from Patricia Browning. Subject: Phoenix Sinclair. It
3 says:

4

5 "Further to the attached letter,
6 would you please provide Debra
7 Poskar with the particulars as
8 requested."

9

10 So what did you understand this to be?

11 A Patricia Browning is my, was my assistant, still
12 is my assistant and from what is on that document, at that
13 point in time it initially went to Laura Forrest, because
14 that was the last reference we had for the file. At some
15 point in time, Ms. Browning must have come to her attention
16 that the file had moved from Ms. Forrest to Mr. Williams
17 and that memo was sent, requesting that he provide me with
18 the information. He would have, as the memo indicates,
19 received a copy of Mr. Harvie's letter and requesting that
20 information requested by Mr. Harvie.

21 Q Okay. Do you recall whether you ever received
22 particulars from Mr. Williams?

23 A I never did.

24 Q You didn't? Okay. Page 37525, this is the
25 disposition sheet for July 9, 2003. Is one of these sheets

1 prepared at the end of every court appearance on the
2 docket?

3 A Yes.

4 Q Okay. So there would have been -- there, there
5 was one done after July 2nd and I haven't brought that one
6 forward, but we're just looking at the one for July 9th.
7 Now, who's Gloria Woytiuk?

8 A Gloria Woytiuk is the paralegal that was assigned
9 to that particular file. She was the one that brought
10 forward the petition and notice of hearing and she was the
11 one that provided me with the information as to what was
12 going on any particular docket.

13 Q Okay. And it's entitled, at the top: Court
14 disposition summary for July 9, 2003. It shows being
15 present, Mr. Harvie?

16 A Correct.

17 Q For Anishinaabe, and then it shows that it was
18 adjourned to July 16. And the reason for the adjournment?
19 Do you understand what's written there?

20 A That's my scrawl.

21 Q Okay.

22 A And what it says is: "Possible S.O." with a
23 question mark. S.O. meaning supervision order.

24 Q And where would you have received that
25 information?

1 A That is the information that I would have
2 received that morning, either from Mr. Williams, if he was
3 present at the docket, or if he was present at the docket
4 and I didn't speak to him, he spoke to Ms. Woytiuk, and
5 indicated to Ms. Woytiuk that essentially the agency was
6 still in the planning stages with the family.

7 Q And the matter's adjourned to July 16th?

8 A Correct.

9 Q And so then if we go to page 36510, this is the
10 disposition sheet for the appearance before Master Lee on
11 July 16th. It shows the date at the top. Again, it shows
12 counsel present, Mr. Harvie. And it says, adjourned to --
13 and for the agency, you're noted. And then it says it was
14 adjourned to July 30th and again, still a question as to
15 whether a supervision order will be sought?

16 A Correct. You'll note under order requested at
17 the top of the disposition sheet, it has three month
18 temporary order, which is the initial plan that was brought
19 forward by Ms. Forrest, Ms. Kematch consented to on July
20 2nd. I write in S.O., with a question mark, as the
21 information that was provided to me was the agency was
22 still planning but there was a possibility of consideration
23 given, being given to a supervision order.

24 Q And I think you told us that the matter was put
25 over to July 30th?

1 A Correct.

2 Q And you didn't attend that date?

3 A No, I believe that my last day of work was July
4 25th and I believe I then returned on August 11th.

5 Q So the disposition sheet for July 30th is at page
6 37524. And that shows the date, it shows Master Sharp.
7 The order requested is still a three month temporary order.
8 There's a different lawyer identified as being in
9 attendance for Anishinaabe and for the agency, your
10 colleague, Ms. Bolin. And it's adjourned to August 13.
11 Now, this time the reason for the adjournment is
12 different?

13 A I can't tell you what was said at that time, or
14 what was --

15 Q Okay.

16 A -- asked at that time, or for that matter,
17 whether the agency had concluded its planning and was now
18 firm on a three month temporary order, or whether a
19 supervision order was still being thought (sic). You have
20 to appreciate that when myself or Ms. Bolin, or anybody
21 else, fills out these disposition sheets, it's done as a
22 memory trig (phonetic) (sic) for us, as well as for the
23 client and they may or may not have all the information
24 that actually happened on that particular day.

25 Q Okay. But so this disposition sheet, instead of

1 saying that there's a question as to whether a supervision
2 order's being sought, simply says that particulars are
3 being requested?

4 A That's what it says, yes.

5 Q Right. Okay. So then the matter does come
6 before the court on August 13, 2003 and if we go to the
7 transcript of those proceedings, starting at page 35122 and
8 this is CD1731, this is the transcript of proceedings
9 before Master Lee on August 13, '03 and you were in
10 attendance that day?

11 A Yes.

12 Q Okay. So if we start with page 35124.

13 A Just to indicate, Ms. Walsh, again, with the,
14 with that particular transcript, there's an error on the
15 face of it.

16 Q The style of cause on --

17 A Yes.

18 Q -- the face page is still wrong?

19 A Is still incorrect, yes.

20 Q Right. Okay. Thank you. Now, you say, at line
21 5:

22

23 "Your Honour, the father is here
24 on this matter ... I'm just going
25 to have Mr. Williams bring him

1 in."

2

3 So Mr. Sinclair, Steve Sinclair was in attendance
4 this day?

5 A Correct.

6 Q And the social worker this day was Stan Williams?

7 A Correct.

8 Q And Ms. Kematch was not there?

9 A Correct.

10 Q Okay. So I'm going to take you through what
11 transpired that day. Mr. Williams brings his client in and
12 you identify that:

13

14 "... the agency is seeking a three
15 month temporary order of
16 guardianship."

17

18 And you identify that:

19

20 "The mother was here on July 2nd
21 and indicated her waiver and
22 consent to that order. Present
23 with my client, Mr. Williams, is
24 the father of Phoenix. And
25 perhaps I can ask Mr. Williams to

1 come forward and set out the
2 position for his client as well as
3 Your Honour and Mr. Harvie."

4

5 So John Harvie's there that day as
6 well?

7 A Correct.

8 Q And so Mr. Williams says:

9

10 "Good morning ... Speaking
11 on behalf of Mr. Sinclair."

12

13 He says:

14

15 "I understand that he's been
16 having some struggles recently and
17 not too far in the past one of his
18 other daughters died and he's been
19 having some difficulties parenting
20 his daughter, who he has basically
21 parented for the last three years.

22 At this time baby's come into
23 care. Her name is Phoenix. And
24 is now placed with a, a place of
25 safety with the friends of the

1 family, the godparents. And Mr.
2 Sinclair is, is feeling that he
3 needs some time to, to get his
4 business in order and we're
5 prepared to support him in that
6 venture.

7 So, in, in this ... light we're,
8 we're asking -- we, we think this
9 will take about ... three months
10 to accomplish."

11

12 And the court say:

13

14 "All right. ... I take it that
15 Mr. Sinclair would have open
16 access to Phoenix during the
17 time?"

18

19 "Yes, he does ..."

20

21 And then the court asks:

22

23 "Mr. Sinclair, if you could come
24 forward to the microphone ...

25 If you can state your full

1 name ..."

2

3 And he states:

4

5 "Nelson Draper Steve Sinclair."

6

7 Confirms that he's the father. And the court
8 says you're -- advises him of his right to speak with a
9 lawyer and asks whether he wishes to do so, before telling
10 the court whether he agrees and Mr. Sinclair says:

11

12 "No, I already agree."

13

14 And so the court says:

15

16 "... the record will indicate Mr.
17 Sinclair is consenting to the
18 three month temporary order of
19 guardianship [brought] by the
20 agency."

21

22 And you go on to say:

23

24 "Your Honour, I would just ask Mr.
25 30 Williams, given that the mother

1 consented on July 2nd, is three
2 months running from July 2nd
3 sufficient time for the plan to
4 develop?"

5

6 So was this kind of, of questioning typical for
7 you?

8 A Yes, there is a, I suppose an informal process,
9 within docket court, that when a parent typically consents,
10 the order, the court will usually be asked to have the
11 order run from that date, because that was the date of
12 their consent. There are times when that is not done,
13 because it doesn't make sense to the feasibility of the
14 plan. So, for example, if the parent is to do addictions
15 treatment, but knows that they're not able to get into the
16 addictions facility until two months from the date of their
17 consent, but the plan was for a three month temporary
18 order, in those cases, the order might not run from the
19 date of the consent, but run from the date that the order
20 is actually granted.

21 Q Okay. And so, in this case, your concern was
22 that the first consent was granted over a month
23 earlier?

24 A A three month temporary order is a very short
25 timeframe. Three months is a short timeframe and I wished

1 clarification from my client as to what the client's intent
2 was, to have the date, to have the order run from.

3 Q Right. Because the, the first consent, that we
4 heard from one parent only, was on July 2nd?

5 A Correct.

6 Q And now we're getting the second consent on
7 August 9th?

8 A I was mindful that the parent had consented on
9 July 2nd and was mindful that, from a parent's perspective,
10 the belief may be is that the order was running from that
11 date, but wished to confirm with my client as to what their
12 intent was. In addition, this was a different worker than
13 I initially had present on July 2nd.

14 Q All right. So then Mr. Williams says -- can we
15 just scroll up so I can make sure I haven't missed
16 anything? Thank you.

17 He says:

18

19 "Yeah. And we can reassess at that
20 time but that's what we think,
21 yeah."

22

23 So he felt that having the order run from the
24 July 2nd date would be sufficient time?

25 A That is what I understand the transcript to read.

1 Q Right. And so then Mr. Harvie speaks and
2 says:

3
4 "Your Honour, if I may, on behalf
5 of Anishinaabe Child and Family
6 Services, my instructions were and
7 we had requested particulars of
8 the proposed placement. There was
9 some question as to whether or not
10 this would proceed by way of a
11 supervisory order or a temporary
12 order. Obviously our only concern
13 in this matter is [if we can be
14 sure] if we can be of assistance
15 in complying with program
16 standards to ensure that the child
17 is placed in either an extended
18 family or a culturally appropriate
19 placement. That's what we're
20 mandated to assist in. If perhaps
21 the -- I could be provided with
22 some information? I have
23 instructions, obviously, to
24 consent if the placement is
25 extended family or culturally

1 appropriate."

2

3 And so you indicate:

4

5 "I think what Mr. Williams
6 indicated it's the child's
7 godparents."

8

9 And the court asks:

10

11 "Is that culturally appropriate
12 from the point of view of Mr.
13 Harvie's agency?"

14

15 Mr. Williams says:

16

17 "I'm not sure what their standards
18 are but, but I understand both
19 parents are, are agreeable and
20 acceptable with the placement
21 and, and they know both, both
22 parents."

23

24 Mr. Harvie asks:

25

1 "... with respect to the agency,
2 it's not our standards, it's
3 obviously the provincial standards
4 and programs that we're obliged by
5 to follow. The question simply is
6 that the first priority that we
7 have to look at is extended family
8 and the second one is community
9 awards and the third one would be
10 culturally appropriate. By that
11 [and the province] I and the
12 province mean that this would be a
13 First Nations family."

14

15 And Mr. Williams says:

16

17 "I think the, the mother ... is
18 aboriginal background."

19

20 And Mr. Harvie says:

21

22 "In light of that, I don't have
23 any instructions to oppose this,
24 Your Honour."

25

1 And the court says:

2

3 "All right. And if we are looking
4 at a three month order, it's from
5 July 3rd as well."

6

7 The court says:

8

9 "So, I appreciate that ... I'm
10 taking that as a consent then from
11 Anishinaabe as well and we can
12 proceed."

13

14 And then you indicate that the child's birth
15 certificate is on the file and the affidavits of service
16 are there.

17 If we can go to the next page please? Just ...

18 And the court indicates, starting at line 15:

19

20 "Having considered ... the
21 evidence filed, noting, for the
22 record, that Ms. Kematch attended
23 on July 2nd, 2003, consented to a
24 three month temporary order of
25 guardianship to run from that

1 date, having heard Mr. Sinclair
2 today, I am prepared to grant a
3 three month temporary order of
4 guardianship in favour of the
5 agency with respect to the child
6 Phoenix Sinclair to run from July
7 2nd, 23 2003."

8
9 And if we can just look at the actual order that
10 was taken out, that's at page 35073 and this is a temporary
11 order and if we just scroll, scroll through it to the next
12 page, please?

13 It says:

14
15 "THAT the Petitioner, The Director
16 of Child and Family Services,
17 shall have Temporary Guardianship
18 of the child ... born on the 23rd
19 day of April ... for a period of
20 three months from July 2nd, 2003,
21 ... to October 2nd, 2003."

22
23 And so, this reflects what you told us a, a
24 little earlier, which is that the order doesn't reflect the
25 plan that is spoken to by the social worker in the court?

1 A No, Section 38, which deals with the nature of
2 orders granted, Section 38 of the Child and Family Services
3 Act, specifically does not have in it any conditions. If
4 you look at Section 38, where it talks about supervision
5 orders, it refers to conditions being attached to the
6 order. I would assume that part of the reason that
7 temporary orders do not have conditions attached is that
8 the plan continues to develop. The plan never ends. And
9 at the conclusion of the temporary order, it's up to the
10 agency whether it determines to return the child at that
11 time, or whether the agency brings forward a request for a
12 further order, pursuant to Section 40 of the legislation,
13 to seek another order to either keep the child-in-care,
14 pursuant to a temporary order, pursuant to a permanent
15 order, or perhaps pursuant to an order of supervision.

16 Q So when you say that the, the plan is continuing,
17 that's the plan that's being carried out by the social
18 workers, by the agency?

19 A Correct.

20 Q Okay. And just for the sake of completion, page
21 35015, CD1707 is the temporary order that was made in 2000
22 with respect to the original apprehension. And if we turn
23 to page 35017, again, we see, in paragraph 3, that the
24 order simply says:

25

1 "THAT the Petitioner, WINNIPEG
2 CHILD AND FAMILY SERVICES , shall
3 have Temporary Guardianship of the
4 child ... for a period of three
5 months from May 3, 2000, up to
6 August 3, 2000."

7

8 So again, it doesn't reflect any discussions as
9 to plans that may have been heard by the court?

10 A That's correct.

11 Q After the order was obtained in 2003, did you
12 continue to have involvement with the file?

13 A No.

14 Q At that point, who would be handling the matter?

15 A Once the matter was dealt with in the court
16 process, that matter, as far as myself and my legal
17 department, which consisted of the paralegals at that time,
18 it would have been terminated. That being said, the
19 paralegals maintained a bring forward system where
20 approximately three to four weeks prior to an order
21 expiring, they would send a memo to the assigned social
22 worker, advising that this order is expiring on X date, in
23 this case, expiring from the 2003 matter, on October 2nd,
24 2003 and asking the social worker if the, if it was
25 necessary, or the paralegal should be directed to request a

1 further order, pursuant to Section 40.

2 Q Okay. So you've had no further involvement with
3 the family after August 13th, 2003?

4 A Correct.

5 Q Okay. I wanted to show you some correspondence
6 that you received from the Office of the Chief Medical
7 Examiner, when they were preparing their report, pursuant
8 to Section 10 of the Fatality Inquiries Act, upon the
9 discovery of Phoenix's death. We'll go to page 36495.
10 These are e-mail communications that you had with Jan
11 Christensen-Wood on April 21st, 2006. So starting at the
12 bottom:

13

14 "Hi Debra

15 I'm reviewing the files on Phoenix
16 Sinclair and her parents under s.
17 10 of the Fatality Inquiries Act
18 and would like to know if there
19 was a plan presented for the
20 [temporary order] by consent on
21 August 3, 2003? The ward file
22 does not contain information
23 indicating that a plan was
24 presented to the Court or
25 consented to by either/both of the

1 parents. If there was a plan,
2 could you please advise re the
3 terms or fax a copy to [my
4 number]?"

5

6 And you respond that Michael Thomson, at Tapper
7 Cuddy, has your file and where he can be reached.

8 You had no other discussions with, with Ms.
9 Christensen-Wood as to any plans?

10 A No, not to the best of my recollection.

11 MS. WALSH: Okay.

12 THE COMMISSIONER: How was that letter answered?

13 MS. WALSH: The letter is answered by Ms. Poskar
14 advising Jan Christensen-Wood to speak with Michael Thomson
15 at Tapper Cuddy, who had her file.

16 THE COMMISSIONER: I follow.

17

18 BY MS. WALSH:

19 Q And what information would you file have had with
20 respect to the plan?

21 A My file did not have any information with respect
22 to the, with respect to the plan. What my file contained
23 on it is the disposition sheets, which you have seen. It
24 contained -- we had a bit of a three tiered file system.
25 The paralegal maintained a file, which was all the

1 documents that the paralegal had provided, memos that the
2 paralegal might have sent back and forth. I maintained
3 then what I called my own legal file and I also had a
4 docket file for each court date appearance that a matter
5 appears on docket. But that docket file would contain
6 matters pertaining to -- if there were 53 matters on the
7 docket, it had the docket list for the 53 matters and the
8 notations that I wrote on the docket after appearing in
9 court that day. It also contained the, what I call the
10 paralegals docket, which were the instructions that I
11 received, which also contained not only this particular
12 file, but every other matter that was appearing on the
13 docket that day. But on my particular legal file, with
14 respect to this matter, it was the disposition sheets, it
15 was the letters from Mr. Harvie, it was my responses back
16 to Mr. Harvie, or my lack of response back, in this
17 particular case, as I never did receive particulars on this
18 matter and it was the memos that my paralegal sent to the
19 social worker, requesting particulars.

20 Q So, in terms of finding out what the plan was,
21 what, what plan was presented for the temporary order, from
22 a legal perspective, or from looking at, at the legal
23 proceedings, there were the transcripts from the
24 appearances on July 2nd and August 13?

25 A Those transcripts were not obtained by me. Those

1 transcripts were obtained subsequently by Mr. Thomson's
2 office.

3 Q Right. But, but just in terms of if one wanted
4 to see what was the plan that was presented at the time the
5 temporary order was granted, that would be reflected in the
6 transcripts of the proceedings on July 2nd and August 13,
7 '03?

8 A Correct.

9 Q And so we know that on July 2nd, Ms. Forrest was
10 the social worker who appeared with Ms. Kematch in
11 attendance --

12 A Correct.

13 Q -- and Mr. Stevenson, Ron Stevenson. And then on
14 August 13, the social worker was Stan Williams and this
15 time, Ms. Kematch was not there, but Mr. Stephenson was in
16 attendance?

17 A Sorry, you referred to a Mr. Stephenson, I'm
18 not --

19 Q Ron Stephenson. We saw him being in attendance
20 on July 2nd, '03.

21 A Not that I -- I'm not aware of a Mr. Stephenson.

22 Q That's fine. My point being simply that in
23 answer to a question what, what was the plan presented
24 before the court for the granting of the temporary order,
25 that would be reflected in the information, I'm not calling

1 it evidence, because it wasn't sworn evidence in anyway,
2 the information that's placed before the master, as
3 reflected in the transcripts of the appearances?

4 A The transcripts would have accurately reflected
5 what occurred in court on that day.

6 Q And then other information about the agency's
7 plan would have to be found in the agency's files
8 themselves?

9 A I did not have any other information, if that's
10 the question.

11 Q No, I, I'm not saying you did, I'm saying, if one
12 wants to find out information about an agency's plan,
13 precisely what you're saying, that information is not in
14 the legal file, it would --

15 A No.

16 Q -- be in the agency's file?

17 A Correct.

18 Q Okay. Now, Ms. Christenson-Wood then prepared a
19 report, as I said, pursuant to Section 10 of the Fatality
20 Inquiries Act and if we can turn to page 143, this is CD
21 number 2.

22 Now, did you, other than the e-mail
23 correspondence that we just looked at, did you have any
24 discussions with Ms. Christenson-Wood with respect to her
25 preparing this report?

1 A No, not to my recollection.

2 Q Okay. And did you, were you ever sent a copy of
3 this report?

4 A The only piece of the report I've seen is what
5 you had previously presented to me, which is just, I think,
6 a few paragraphs and similarly, Mr. Paul has shown me a few
7 paragraphs. I have not read the entire report.

8 Q Okay. And so that would have been you looking at
9 it in preparation for your participation in this inquiry?

10 A Correct.

11 Q Okay. So just reading what's in the report,
12 starting at the top of the page:

13

14 "In a letter from Anishinaabe
15 Child and Family Services to its
16 lawyer, it was noted '... the
17 child would be placed in the care
18 of the child's Godparents, one of
19 whom (the Godmother) was a First
20 Nation's person. In light of this
21 and considering that it was a
22 culturally appropriate placement
23 the Anishinaabe worker indicated
24 consent to the Three Month
25 Temporary Order that Winnipeg was

1 seeking'.

2 In reviewing the court transcripts
3 provided by the [Winnipeg Child
4 and Family Services] external
5 counsel and the legal file
6 provided by [the agency], it
7 appears that, despite several
8 requests, no particulars were
9 provided by the assigned Family
10 Services worker. The Intake
11 worker had developed a detailed
12 and thoughtful assessment of the
13 family and a recommendation that
14 Phoenix stay in care until her
15 safety could be assured by means
16 of demonstrated, observable change
17 in her parents. This worker was
18 present at the court date when Ms.
19 Kematch agreed to a consent order
20 of three months and a suggested
21 plan of a parenting capacity
22 assessment and participation [in a
23 type] in a type of parenting
24 education program."

25

1 So that relates to the, the appearance on July
2 2nd?

3 A Correct.

4 Q

5 "The Intake worker was clear that
6 Mr. Sinclair had failed to
7 respond to all efforts to involve
8 him in the planning of what would
9 be needed to bring Phoenix home.
10 It was also clearly stated that
11 ongoing planning would be the
12 responsibility of the assigned
13 Family Services worker."

14

15 Then in italics, the report writer indicates --
16 if you can just scroll up please, thank you.

17

18 "Information was requested on
19 April 21, 2006 from [the] Branch;
20 specifically, what were the terms
21 of the order sought by the Agency.
22 Did the Agency have expectations
23 for Mr. Sinclair concerning change
24 to his lifestyle or his
25 addictions? The transcript of

1 court proceedings was provided by
2 the external counsel. The
3 transcript provided no information
4 about any expectations of Mr.
5 Sinclair despite the circumstances
6 under which Phoenix came into
7 care and three years' accumulation
8 of concerns about the quality of
9 both parents' care of their
10 daughter.

11 The worker was asked to speak to
12 the court about the Branch's
13 position.

14 '... he's been having some
15 difficulties parenting his
16 daughter, who he has basically
17 parented for the last three years.
18 At this time the baby's come into
19 care. Her name is Phoenix. And
20 is now placed with ... a place of
21 safety with the friends of the
22 family, the godparents. And Mr.
23 Sinclair ... is feeling that he
24 needs some time to ... get his
25 business in order and we're

1 prepared to support him in that
2 venture.

3 So, in ... light we're asking --
4 we ... think this will take about
5 three ... months to accomplish."

6

7 And that's the information that we just saw Mr.
8 Williams provide to the court on August 13?

9 A Correct.

10 Q Then the report goes on:

11

12 "The Agency's counsel asked the
13 worker if it would be sufficient
14 time 'for the plan to develop' if
15 the order ran from the date of Ms
16 Kematch's consent on July 2, 2003.
17 The worker's response was
18 affirmative with the proviso that
19 it could be reassessed at the end
20 of the order.

21 Anishinaabe's counsel did not
22 object to the amorphous plan once
23 the issue of a culturally
24 appropriate placement was
25 confirmed when the worker stated

1 that Ms. Edwards was of aboriginal
2 background."

3

4 And in italics:

5

6 "The court process was intended to
7 protect Phoenix at that time and
8 to ensure that she returned to an
9 improved situation -- the end of
10 the order was only seven weeks
11 from the date of Mr. Sinclair's
12 appearance in court. The plan
13 presented by [Winnipeg Child and
14 Family Services] regarding Mr.
15 Sinclair consisted of 'get[thing]
16 his business In order". What did
17 that mean? What did that require
18 in measurable, observable change?

19 [Winnipeg Child and Family
20 Services] failed to state a
21 coherent plan for Mr. Sinclair to
22 follow until it was judged safe to
23 return Phoenix to him. She came
24 into care because her father was
25 under the influence of alcohol and

1 drugs and was unwilling to take
2 steps to ensure that she had a
3 safe situation. Anishinaabe Child
4 and Family ... did not advocate
5 for Phoenix's best interests
6 beyond a culturally appropriate
7 placement and the court did not
8 hold either Agency accountable to
9 a higher standard in Phoenix's
10 best interests. The transcript
11 was clear that the counsel for
12 Anishinaabe had instructions
13 concerning only the cultural
14 component of her placement.
15 Although the provincial child
16 welfare standards were mentioned
17 in court, it was with respect to
18 the requirement for culturally
19 appropriate placements for
20 aboriginal children. Provincial
21 standards also address the need
22 for concrete planning with
23 measurable objectives and goals
24 that are realistic, in addition to
25 the evaluation of efforts

1 [towards] those goals, [that is]
2 outcome measures. How else would
3 an Agency know when risk was
4 sufficiently reduced to return a
5 child home safely? An Issue
6 related to this is whether there
7 is a means available to all
8 workers In the Province that
9 enables them to measure the
10 initial risk accurately and
11 another to recognize when the
12 child is safe enough to return
13 home and when it is safe enough to
14 close the case. Case supervision
15 should be an Important factor in
16 arriving at the final decision to
17 return the child home or to close
18 the case but the use of a more
19 reliable and objective means of
20 assessing safely is needed."

21

22 Do you want to comment on this portion of
23 the report, with respect to your involvement as
24 counsel?

25 A My involvement as counsel is as a lawyer, which

1 is to take instructions from the client. If you were to
2 look back at the transcript of the proceedings in front of
3 Senior Master Lee on August 13th or 16th of 2003, you will
4 note that Mr. Williams sets out his plan. Master Lee then
5 asked Mr. Williams some questions and the matter is
6 concluded. I take my instructions as they are given. I
7 don't have the ability to determine what is or was not an
8 appropriate plan. That is not what my role is. My role is
9 to take my client's instructions. Pardon me. With respect
10 to the plan that was presented on that date, the agency
11 sought and obtained a three month temporary order. And as
12 I indicated earlier, given the needs of the family, they're
13 constantly assessed over the course the agency's involved
14 with them. Plans will be tweaked or re-devised, as time
15 goes on and that plan may change. As well, the agency has
16 the opportunity to come back, at the conclusion of the
17 order, if they believe there is still outstanding
18 protection issues, to seek further relief. So whether it's
19 a three month order, whether it's a four month order,
20 whether it's a six month temporary order, those are
21 estimates as to the time it will take for the family to
22 remediate itself, the agency knowing that if the concerns
23 aren't resolved in that period of time, it can come back
24 and seek further time before the court.

25 Q Okay. Anything else you want to comment on, on

1 the report?

2 A No.

3 MS. WALSH: Okay. Thank you, Ms. Poskar, those
4 are my questions. There may be some questions from other
5 counsel. Thank you.

6 THE COMMISSIONER: All right. Who's, wants to
7 cross-examine?

8 MR. GINDIN: I have no questions.

9 THE COMMISSIONER: Thank you, Mr. Gindin.

10 MS. WALSH: Counsel for the witness?

11 THE COMMISSIONER: Mr. McKinnon, do you have
12 questions?

13 MR. MCKINNON: Mr. Paul is acting as counsel for
14 the witness and sitting at counsel table and I think
15 we're just waiting to see if anyone else has any
16 questions.

17 THE COMMISSIONER: All right. Mr. Ray?

18 MR. RAY: Mr., Mr. Commissioner, I'm just
19 wondering if I could suggest, at this time, if there's no
20 other questions, if we take a brief recess. I just want to
21 confer with my friend, Mr. Saxberg. There may be one or
22 two brief questions, but ...

23 THE COMMISSIONER: Well, we could take our mid-
24 morning break. We'd be breaking in 15 minutes anyway, so
25 we might as well do it now. Is it -- Mr. Paul, that's

1 suitable?

2 MR. PAUL: That's fine.

3 THE COMMISSIONER: All right. We'll rise for 15
4 minutes.

5 MR. RAY: Thank you.

6 MS. WALSH: Thank you.

7

8 (BRIEF RECESS)

9

10 THE COMMISSIONER: All right. Mr. Paul?

11 MR. PAUL: Good morning, Mr. Commissioner. I
12 believe no one else has any questions.

13 THE COMMISSIONER: All right.

14 MR. PAUL: And as a result, I have just one.

15

16 CROSS-EXAMINATION BY MR. PAUL:

17 Q If I could turn up page 144 -- and for the
18 record, Sacha Paul for the department in Winnipeg.

19 Ms. Poskar, the only thing I want to direct your
20 attention to is the comment in this report about an
21 Anishinaabe's counsel not objecting to the plan, once the
22 issue of culturally appropriate placement was confirmed.
23 And my question to you is, outside of the issue
24 of placement, what role, if any, would an agency
25 like Anishinaabe have to comment upon Winnipeg's

1 plan?

2 A Pardon me. In 2003, it was actually rare to hear
3 from any other agency, other than Anishinaabe, upon them
4 being served with the petition and notice of hearing.
5 Anishinaabe, as indicated in Mr. Harvie's dialogue with
6 Senior Master Lee, in 2003, they had an interest with
7 respect to the plan, or the placement. It was really the
8 placement of the child. And Mr. Harvie, as he indicated,
9 in August 2003, and as he indicated on many other
10 occasions, once that placement issue was resolved, that
11 ceased Anishinaabe's typical involvement with the
12 family.

13 Q And do you know if they had any role to speak to
14 matters outside of the issue of cultural appropriate
15 placement, or was that limited to that particular
16 issue?

17 A That was simply Mr. Harvie's client's
18 instructions at the time and as noted in the correspondence
19 that Mr. Harvie had previously sent to me.

20 MR. PAUL: All right. Those are my questions.

21 THE COMMISSIONER: Thank you, Mr. Paul.

22 Commission counsel?

23 MS. WALSH: I have nothing further of this
24 witness, Mr. Commissioner.

25 Thank you very much.

1 THE COMMISSIONER: Thank you, witness, you're
2 completed.

3 THE WITNESS: Thank you.

4

5 (WITNESS EXCUSED)

6

7 THE COMMISSIONER: Mr. Olson?

8 MR. OLSON: We'll have the next witness come up.
9 That would be Delores Chief-Abigosis.

10 MR. RAY: I just -- my apologies, Mr.
11 Commissioner, I had -- was looking for our next witness and
12 she's just on her way down the hall.

13 THE CLERK: Do you wish to swear on the Bible, or
14 affirm without the Bible?

15 THE WITNESS: Affirm.

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

17 THE WITNESS: Delores Chief-Abigosis.

18 THE CLERK: And spell us your first name please?

19 THE WITNESS: D-E-L-O-R-E-S.

20 THE CLERK: And your middle name please?

21 THE WITNESS: No middle name.

22 THE CLERK: Or, I'm sorry, your, your last name?

23 THE WITNESS: C-H-I-E-F, hyphen, A-B-I-G-O-S-I-S.

24 THE CLERK: Thank you.

25

1 **DELORES CHIEF-ABIGOSIS**, affirmed,
2 testified as follows:

3

4 THE CLERK: Thank you. (Inaudible).

5

6 DIRECT EXAMINATION BY MR. OLSON:

7 Q You obtained your certificate as a child welfare
8 worker in 1988, through New, New Careers; is that right?

9 A Yes, I graduated their diploma program in child
10 welfare, yes.

11 Q Okay. And what is New Careers?

12 A New Careers was an agency that provided some
13 post-secondary, like, diploma programs who were, people who
14 were working in the child welfare and who were doing, were
15 doing on-the-job training.

16 Q Okay. So it was specific to child welfare then?

17 A Yes.

18 Q Okay. And where was that agency located?

19 A It was located in Winnipeg.

20 Q Okay. And you then attended a certificate
21 program in criminology at Red River College in 1993?

22 A Yes, I did their diploma program at Red River
23 Community College, yes.

24 Q Okay. And did you complete that program?

25 A Yes, I did.

1 Q Okay. And then you have a Bachelor of Social
2 Work from the University of Manitoba which you obtained in
3 1999; is that right?

4 A Correct.

5 Q Okay. And were you able to use some of your
6 courses from New Careers to obtain that, or was it a full
7 course at University of Manitoba?

8 A It was a full Bachelor of Social Work program --

9 Q Okay.

10 A -- no transfer of any credits.

11 Q No transfer of credits?

12 A No.

13 Q Okay. What was your focus when you, for your
14 degree in social work?

15 A It was in gerontology. I did an option in
16 ageing.

17 Q Pardon me? I --

18 A I did an option in ageing.

19 Q Okay. So you, were you focused, or take, take
20 any courses related to child welfare?

21 A No.

22 Q Okay. And were you planning on working in the
23 child welfare field, following gaining your degree?

24 A Not at that time, no.

25 Q Okay. Are you registered as a social worker?

1 A No.

2 Q Have you ever been?

3 A No.

4 Q And I understand you started working in child
5 welfare in 1986?

6 A Correct.

7 Q Okay. So that would be before you obtained your
8 certificate for New Careers?

9 A Correct.

10 Q And where did you begin working?

11 A I worked at the Southeast Child and Family
12 Services. I worked in the community of Brokenhead Ojibway
13 Nation.

14 Q Okay. And what is it you did there?

15 A I was a child welfare trainee, they called the
16 position. So it's basically working in, in social work.

17 Q Okay. Basically the same thing as a social
18 worker --

19 A Correct.

20 Q -- just a different title?

21 A Yes.

22 Q And was that providing services specifically to
23 the people in Brokenhead and that area there?

24 A Yes, specifically for the community of
25 Brokenhead.

1 Q Okay. And for how long did you work in that
2 community?

3 A I had worked in that area until about the
4 mid-1990s.

5 Q Mid-1990s? So from about '86 to 1990?

6 A Yeah, abut '91.

7 Q Ninety-one? Okay. And then I understand you
8 began working for Winnipeg Child and Family Services in
9 2000?

10 A Yes.

11 Q And what were you doing between the year 2000
12 and, and when you stopped working at Brokenhead in 1991?

13 A I had a couple positions. I worked in the area
14 of addictions as the NADAP worker, which is the National
15 Addiction Awareness Program.

16 Q Okay.

17 A So I worked in that area. I also worked as the
18 director of operations for the community of Brokenhead.

19 Q Okay. And I take it none of that was child
20 welfare work then?

21 A That was not child welfare work.

22 Q Okay. And so you began at Winnipeg CFS shortly
23 after obtaining your Bachelor of social work?

24 A Yes, shortly after I graduated, yes.

25 Q Okay. And your position at Winnipeg CFS, in

1 2000, was as a family service worker?

2 A Yes.

3 Q And which office did you work in?

4 A I worked first in the Maryland office, at the
5 Maryland unit, then I transferred over to the Jarvis unit.

6 Q Okay. And as a family service worker, would you
7 be carrying a, a caseload?

8 A Yes.

9 Q Okay. And did this differ, in any way, from your
10 work as a social worker at Brokenhead?

11 A Oh, yes.

12 Q Okay. And just briefly, could you tell me how --
13 what the differences were, generally?

14 A In the community, Brokenhead, we may have had
15 about between 10, maybe 12, 14 cases --

16 Q Okay.

17 A -- overall. When I came to work in Winnipeg, it
18 was like, between 20 and mid twenties per person, per
19 worker.

20 Q Per worker? And when you said you had maybe 10
21 cases in Brokenhead overall, was that for the entire
22 community?

23 A For an entire community, yes. And with -- and
24 there was two workers, one supervisor and one worker.

25 Q Okay. So in other words, your caseload then

1 would be significantly lower in Brokenhead than it was --

2 A Correct.

3 Q -- in Winnipeg?

4 A Correct.

5 Q Okay. Now, you remained with Winnipeg Child and
6 Family Services as a family service worker until the end of
7 July 2001; is that right?

8 A Correct.

9 Q Okay. And do you recall the exact date in July
10 that you stopped working?

11 A No, I can't recall.

12 Q Okay. And it was during that time, I think the
13 dates, the, the files will show, are from November 14th,
14 2000 to July 16th, 2001 that you were involved in the files
15 related to Phoenix Sinclair?

16 A Correct.

17 Q That would be Samantha Kematch file which you
18 closed at one point and Mr. Sinclair's file?

19 A Yes.

20 Q Okay. Since leaving Winnipeg Child and Family
21 Services, where have you been employed?

22 A I've worked for a couple of different
23 organizations. Primary, I worked with Southeast Child and
24 Family Services --

25 Q Okay.

1 A -- and I work with my community of Brokenhead as,
2 on a contract basis in other areas besides social work.

3 Q Besides social work?

4 A Yes.

5 Q Okay. And where are you currently employed?

6 A Currently, I'm not employed --

7 Q Okay.

8 A -- I'm at home.

9 Q Now, have you, you resided in Brokenhead over the
10 past several years?

11 A Yes, that's my home community and I --

12 Q Okay.

13 A -- currently reside there full time.

14 Q And while you were working at Winnipeg Child and
15 Family Services, in 2000 and 2001, you were also residing
16 in Brokenhead?

17 A Yes, I resided in Brokenhead.

18 Q Okay. So you would commute to Winnipeg then?

19 A Correct.

20 Q Just in terms of training, with Winnipeg Child
21 and Family Services, prior to starting, had you had any
22 child protection focused training?

23 A No.

24 Q Okay.

25 A Besides, besides the training I had with the New

1 Careers program and the on-the-job training, that would be
2 the training that I would have had before I went to
3 Winnipeg Child and Family.

4 Q Okay. So whatever skills you developed while
5 working at Brokenhead as a, as a social worker and whatever
6 came from New Careers?

7 A Correct.

8 Q Okay. And did, did New Careers offer any, any
9 child protection type training? Do you recall?

10 A I can't recall.

11 Q Okay. Did you receive any training when you
12 started at Winnipeg Child and Family Services?

13 A Yes, we did.

14 Q Okay. And what training was that?

15 A That would be, like, the CFSIS training --

16 Q Okay. So using the --

17 A -- the, the different modules.

18 Q -- computer system?

19 A Um-hum.

20 Q And then we've heard about a core training
21 program; is that --

22 A Yes --

23 Q -- something --

24 A -- we did take some core training.

25 Q Okay. And do you recall how far into your

1 employment that occurred?

2 A I can't recall.

3 Q Did the training you received prepare you for the
4 work you ended up doing as a family service worker at
5 Winnipeg Child and Family Services?

6 A At some points, yes.

7 Q You --

8 A Yes.

9 Q -- said at some point?

10 A Yes, yes, we did.

11 Q And do you recall how far into your work that you
12 felt that the training allowed you to do the work you ended
13 up doing?

14 A It was like, it was ongoing training, so ...

15 Q Okay. Do you recall whether or not you received
16 any type of mentorship as, as part of your employment at
17 Winnipeg Child and Family Services?

18 A I guess the biggest support was our supervisor.

19 Q Okay. When you, when you were working at
20 Winnipeg Child and Family Services, were you aware of any
21 standards that applied to your work?

22 A Yes.

23 Q Okay. And what standards were those?

24 A There was the child welfare standards in relation
25 to what we need to do in order to keep the child safe.

1 Q The standards --

2 A I can't, I can't recall offhand.

3 Q Okay. Do you recall how you became aware of
4 these standards?

5 A It was, it would be over the orientation to the
6 job.

7 Q Through the core -- was that through the core
8 training then?

9 A Through the, through actually being in the unit,
10 there will be, there was binders of standards that were
11 available in the office for us to review.

12 Q I see. Are those something you would refer to
13 while doing your work?

14 A Yes, at different points.

15 Q Different points? Okay. Was that on an add
16 (sic) needed basis?

17 A As needed, yes.

18 Q Okay. Now, during your period of employment with
19 Winnipeg CFS, who did you report to? Who was your
20 supervisor?

21 A My supervisor at the Jarvis unit was Angie Balan.

22 Q Okay. So there was Angie Balan --

23 A Yes, and --

24 Q -- and then --

25 A -- shortly after Angie Balan was Lorna Hanson.

1 MR. OLSON: Okay.

2 THE COMMISSIONER: Who was the second one?

3 THE WITNESS: Lorna Hanson.

4 THE COMMISSIONER: Thank you.

5

6 BY MR. OLSON:

7 Q Okay. So when you first started, it was Ms.
8 Balan?

9 A Correct.

10 Q And then she left to go on, I think, a maternity
11 leave at some point; is that right?

12 A No. I'm, I'm not sure what Angie, why Angie left
13 the agency.

14 Q Okay. And then, but Lorna Hanson took over her
15 role?

16 A Correct.

17 Q So it was actually, I understand it was Ms.
18 Hanson who had been on maternity leave and Ms. Balan would
19 be filling in for her initially. And then when she
20 returned, Ms. Balan left; is that -- does that --

21 A That would, yeah, that would be it.

22 Q Okay. Did the change of supervisors, this would
23 have been shortly after you started as a worker, the
24 supervisors changed?

25 A Yes.

1 Q Did that impact your work in any way?

2 A I did establish a relationship with Angie
3 Balan --

4 Q Okay.

5 A -- and Lorna Hanson was a, a new supervisor
6 coming in, so we had to develop that relationship.

7 Q I see. So you did have time to develop a
8 relationship with --

9 A Yes.

10 Q -- Ms. Balan though? Okay. And now, with
11 respect to Ms. Balan, how often did you meet?

12 A I know we did have weekly supervision.

13 Q Okay. Was that formal supervision?

14 A Would be considered formal, yes.

15 Q Okay. And what, can you just, can you just tell
16 me what that would look like?

17 A What it would be that myself, as a worker, will
18 meet with my supervisor and we will go over our caseload.

19 Q Okay.

20 A It'd be -- it can't -- it would be over a period
21 of time, if we have several cases, then we'll, we'll
22 discuss about the case plans and what was happening in
23 those families.

24 Q So that supervision then was specific to cases
25 that you actually were working on?

1 A Yes, cases I was assigned.

2 Q Okay. And it wasn't to do, necessarily, with
3 your performance as a worker then, how you were doing? It
4 was case focused?

5 A It was --

6 Q Or was it both?

7 A -- it was a combination of both. If there was
8 something that needed to be done in a particular family
9 file, then it'll be addressed at that time.

10 Q Okay. So if you had any particular concerns
11 about a file, you would address it with a social worker?
12 With the -- sorry, with your supervisor?

13 A Yes.

14 Q And would notes be made of these meetings?

15 A Not myself particular, my, my, the supervisor
16 would do the actual note taking.

17 Q Okay. And we'll come to eventually some
18 documents that are marked supervision on the bottom; would
19 those be the type of notes that would be --

20 A Yes.

21 Q Okay. What sort of supervision did you have from
22 Ms. Hanson?

23 A I can't recall, but we did meet at, we did meet
24 similar to what we met with Angie.

25 Q So approximately weekly?

1 A I can't recall.

2 Q Okay. Do you recall how long these supervision
3 sessions would last approximately?

4 A I would say about an hour.

5 Q About an hour? And would you go into the
6 supervision with a list of files you wanted to talk about?
7 Or how, how was that done?

8 THE COMMISSIONER: Was there, was there just the
9 two of you there at those meetings?

10 THE WITNESS: There'd be only myself and the
11 supervisor, correct.

12

13 BY MR. OLSON:

14 Q Okay. And these took place then in the
15 supervisor's office?

16 A Yes.

17 Q Okay. And how is it that cases were brought up
18 in the supervision?

19 A Would be bought (sic), like, based on the
20 priority, I guess, what was -- if I needed some direct,
21 direction, a particular situation, those are the ones that
22 we will discuss. But we did, we would go through the whole
23 case list.

24 Q So every case that you were carrying would be
25 discussed in your supervision meetings?

1 A It depend, it, it all depended on what was
2 happening within those families. But we would eventually
3 get through the case list.

4 Q Okay. Who, and who would make the prior -- like,
5 just determine which cases were priorities? Was that you
6 bringing it to your supervisor, or did, would she bring it
7 to you?

8 A I, I would bring that, as a worker, into the
9 discussion.

10 Q Okay. So you would identify the cases you felt
11 that you needed some help with?

12 A Yes, immediate direction, yes.

13 Q Immediate direction? Okay. And did it work the
14 other way too? Did the supervisor, from time to time,
15 bring cases up with you she thought needed some attention,
16 or you needed --

17 A Yes.

18 Q -- some help with? Okay. Now, in terms of
19 supervision, do you feel you had adequate supervision and
20 guidance from Ms. Balan?

21 A Yes.

22 Q And how about Ms. Hanson?

23 A Yes.

24 Q Okay. Now, you mentioned workload, when you
25 started, were you given a workload immediately?

1 A Yes.

2 Q Okay. Was that a full caseload at Winnipeg Child
3 and Family Services?

4 A Yes.

5 Q Okay. And the department, in Exhibit 17, has
6 provided -- if we could just pull that up. These are
7 caseload summaries and one of them is for you and you'll
8 see these are obtained from some data on CFSIS?

9 A Um-hum.

10 Q If you look at -- and under your name, under the
11 date November 30th, 2000, it says 12 protection cases, 10
12 child-in-care cases, which a total of 22 cases. And then
13 17 family units. Does that sound about right, you had
14 about 22 total cases at that time?

15 A Sounds correct.

16 Q Okay. And if you just look down the list, it
17 looks like you were in the twenties, more or less,
18 throughout your time as a worker; is that right?

19 A Correct.

20 Q Okay. And then it also shows August 31, 2001, if
21 you look, it shows that you still had 19 cases at that
22 point?

23 A Yes.

24 Q Do you know why that would be? Did you -- were
25 you still carrying cases when you left?

1 A When I decided to leave the agency, I was taken
2 immediately off all my files.

3 Q Sorry, I, I missed the last --

4 A When I left the agency, I would take, I would be
5 taken -- when I decided to leave the agency, I was taken
6 off of all my current files and I was put on to work on
7 paper, to --

8 Q Okay.

9 A -- to close or transfer the files to the other,
10 other, another worker.

11 Q So that's what you were doing when you left?

12 A Yes.

13 Q Okay. So it may still reflect, in a computer
14 system, that you had cases, but they were in the process of
15 either being transferred or closed?

16 A Yes.

17 Q With the workload that you've described, was that
18 how it -- was it a heavy, medium, low workload? How would
19 you describe it?

20 A I would say between a medium and heavy caseload.

21 Q Okay. And did you, did you find that it was
22 manageable at the time?

23 A Yes.

24 Q Okay. With the caseload that you had, was your
25 ability to provide services to your clients impacted in any

1 way?

2 A Yes.

3 Q How so?

4 A Because other family files required more, more of
5 my time. They were more active.

6 Q So the, the more active files would require you
7 to spend more time on the files, opposed to less active
8 files?

9 A Yes.

10 Q Okay. And that, that depends somewhat on how
11 much contact the clients were having with you, in terms of
12 activity?

13 A Correct.

14 Q Okay. And could you still have a high priority
15 file, but with little contact with the clients?

16 A Can you repeat that?

17 Q Was it -- did you still from time to time, time,
18 have high priority files where there were concerns, but you
19 didn't have much contact with the clients? The clients
20 weren't calling in regularly, things weren't going on?

21 A Can't recall.

22 Q Okay. What was the work environment like at
23 Winnipeg Child and Family Services while you were there?

24 A It was good, it was supportive.

25 Q When you were assigned files, how did they come

1 to you? Was it a supervisor that gave you the file?

2 A It would be the supervisor that will assign the
3 file, yes.

4 Q Okay. And when you got the file, did you have a
5 discussion initially with the supervisor about it? Or --

6 A Yes.

7 Q You did? Okay. And what would you review when
8 you got the file?

9 A We would review the, the transfer, or you know,
10 why, why the file -- like, the intake. We, we would review
11 all the information --

12 Q So --

13 A -- and then the file was assigned to myself.

14 Q -- so you would review -- would you review the
15 transfer summary with the supervisor?

16 A Yes.

17 Q So you'd go over it together then?

18 A No, what we would do -- she -- we would talk
19 about the family --

20 Q Okay.

21 A -- and about why the child is in care, or why the
22 family has come before the agency. Then we would have that
23 discussion. Then I would take the information, the
24 physical file and I would have reviewed it at my desk.

25 Q You would review it on your own?

1 A Yes.

2 Q Okay. And when you pick up a file, are there
3 some documents you sort of immediately look at first?

4 A That would usually be the transfer summary, or --

5 Q Okay. The transfer summary and because that
6 would tell you what the file was, why, what, what it was
7 about?

8 A Yes.

9 Q Summarize everything?

10 A Yes.

11 Q Would you also do a CFSIS search, to see if there
12 was anything on CFSIS?

13 A That would be something that would be practiced,
14 yes.

15 Q Okay. Now, other social workers have testified
16 and, and we've heard about the importance of taking notes
17 on files; is that something that you were, that you felt
18 was important, to take notes of everything you did on a
19 file?

20 A Yes.

21 Q Okay. And, and why was it important to you, for
22 you to take notes?

23 A Because of the activity that was happening with a
24 family, you needed to have taken notes.

25 Q Just to have a record of what was going on?

1 A Yes.

2 Q And so if the file ever came up in the future,
3 you would know what you had done and, and could act on
4 that, see what else had to be done?

5 A Yes.

6 Q Okay. And also these files some, sometimes would
7 go on to a new worker?

8 A Yes.

9 Q Is that another reason you would take the notes?

10 A Yes.

11 Q Okay. And of course, there might be court
12 proceedings, so it'd be important to have some notes about
13 what you did, in case that came up?

14 A Correct.

15 Q Okay. Did anyone -- when you became a social
16 worker at Winnipeg Child and Family Services, talk to you
17 about the importance of keeping notes on files?

18 A It came with the job. We, we know that before we
19 go to any particular agency or job. You do require to take
20 some note taking.

21 Q Okay. So you were aware that note taking was --

22 A It was part of our job, yes.

23 Q Okay. And would you say it was an essential part
24 of your, your job?

25 A Yes.

1 Q And now, what was your practice, in terms of note
2 taking? What did you do?

3 A I would, I would input my notes on computer and
4 some were done in paper --

5 Q Okay.

6 A -- and some were documented in my, my calendar.

7 Q So you were -- there were -- when you say paper
8 notes, you would have --

9 A Like, handwritten notes that I would have.

10 Q Okay. These be notes you, you took at the time
11 the events were happening, or would you write them down
12 after?

13 A Some were done in the actual meeting with the
14 client --

15 Q Okay.

16 A -- and some were actually done after I met with
17 the client.

18 Q Okay. And then you said some were done in sort
19 of, was it a Daytimer calendar type thing?

20 A Yes.

21 Q And those would have been handwritten notes?

22 A They'd be jotting dates and times that I, I went
23 to do a field to a particular home, yes.

24 Q Okay. So that would record your visits, or
25 attempts to visit with clients?

1 A Yes.

2 Q Okay. And then also you said you kept some in
3 the computer?

4 A Yes.

5 Q Were those done on a, on a, say, a Word document,
6 that was just a running --

7 A It'd be a running document. It'd be done on
8 Word, yes.

9 Q Okay. Now, all of these notes, did you keep them
10 in the file? Did they eventually get into the file?

11 A I can't recall, but I believe that they would
12 have been put into the physical file, yes.

13 Q Okay. And when you talked about your Daytimer,
14 your calendar, would the notes that you recorded in the
15 calendar be transferred to the file as well?

16 A It'd be transferred to my actual typewritten
17 notes, just, just to jog memory of dates and times.

18 Q I see, so when you're writing down your activity
19 in your running log, you would look at your calendar to
20 reference what you did on what date?

21 A Yes.

22 MR. OLSON: Okay.

23 THE COMMISSIONER: And the file you're talking
24 about was the paper file, was it?

25 THE WITNESS: The physical paper file, yes.

1 THE COMMISSIONER: Yes. And did you -- the notes
2 you made on the computer get transcribed and get into that
3 file?

4 THE WITNESS: Yes.

5

6 BY MR. OLSON:

7 Q So at some, at one point, at some point, you
8 would print off your notes and stick them on the file?

9 A Yes.

10 Q Okay. And was it your practice to record all
11 activity on a file?

12 A Yes, the attempt was, yes.

13 Q Okay. So for example, if you went out to a field
14 to see a, a client or family, you'd make a note of that?

15 A Yes.

16 Q And you'd put it on the file at some point?

17 A At some point, yes.

18 Q Okay. Now, looking at the specific services you
19 provided to Ms. Kematch, this, the -- her file, Ms.
20 Kematch's file, protection file, was assigned to you
21 November 14th, 2000; does that sound right?

22 A Yes.

23 Q Okay. And do you have any independent
24 recollection of your involvement in the file?

25 A Only when the information was provided to me by

1 counsel, that I was able to remember my work on the file.

2 Q Okay. So when you had some discussion with
3 counsel, it sort of jogged your memory and then you were
4 able to remember certain things?

5 A When I seen the documents that was bring
6 presented, yes.

7 Q I see. Okay. Was there anything in particular
8 about this file that you recall that stood out for you?

9 A No.

10 Q Now, I take it, it would have been Ms. Balan who
11 assigned the file to you?

12 A Yes.

13 Q Can you recall if you had a discussion with her
14 about the file?

15 A During those supervisions, yes, we, we, we, we
16 would have reviewed the file --

17 Q And I, I'm --

18 A -- but I can't specifically tell you exactly what
19 we had said.

20 Q Right. But I mean initially when you got the
21 file, do you recall having a discussion with her about it?

22 A I can't recall.

23 Q Okay. But you did say before, that was sort of
24 the practice when you got the file; right?

25 A That would usually be the practice that we will

1 have that discussion about any file that's been assigned to
2 you, we would have that discussion.

3 Q Okay. And we'll be hearing from Ms. Balan, I
4 think, tomorrow, but I wanted to ask you, when you, when
5 she would assign the file to you, would she already have
6 knowledge about the file itself?

7 A Yes.

8 Q Would she have -- do you know what she would have
9 reviewed?

10 A I don't know.

11 Q Okay. At, at that initial, when you were
12 initially assigned the file, was a case plan discussed?

13 A That was usually the practice, that we would
14 discuss the case plan.

15 Q So that's right from the beginning you discussed
16 the case plan?

17 A Yes, the -- in the document will contain the case
18 plan.

19 Q Okay. And would you have had, made any notes of
20 the initial discussion?

21 A I can't recall.

22 Q Okay. And if we don't see any notes on the file,
23 then does that mean no notes were taken?

24 A I could have taken notes, I can't recall.

25 Q Okay. Now, you said one of the first things you

1 do when you were assigned a file is take a look at the
2 transfer summary; right?

3 A Yes.

4 Q Okay. On this file, if you -- a transfer summary
5 was prepared by the social worker prior to you and that
6 would be Kerri-Lynn Greeley?

7 A Yes.

8 Q Did you know Ms. Greeley personally?

9 A As a co-worker, yes.

10 Q Okay. So she was a co-worker of yours?

11 A Yes.

12 Q Okay. Now, her summary is at page 37025 and it
13 goes from 37025 to 37033. You see it on the screen in
14 front of you, the, the first page; is that the document you
15 would have reviewed?

16 A Yes.

17 Q Okay. And it says it was dated October 2nd,
18 2000, so just about a month and a half before you were
19 assigned the file; right?

20 A Correct.

21 Q Okay. What would be the purpose of you reviewing
22 this particular document?

23 A It has the background information on that
24 particular family and it'll --

25 Q Okay.

1 A -- outline the case plan that was intended to be
2 followed up once the case, the file was transferred.

3 Q Okay. So you're looking at the background and
4 you're looking at the case plan?

5 A Correct.

6 Q If we turn to page 37032, now, if you look near
7 the bottom of the page, it says: Family Assessment and
8 Case Plan in the heading? Beside 5, number 5 there?

9 A Um-hum. Yes.

10 Q Is that the case plan you would look at?

11 A Yes, that would have been the case plan that I
12 would have reviewed.

13 Q Okay. And so the case plan, and I'm just going
14 to read it here, it says:

15

16 "Samantha and Steve have
17 demonstrated that they are
18 committed to parenting their
19 Phoenix. They have done so by
20 meeting all of the expectations
21 placed on them at the time the 3-
22 month order was granted. As a
23 result Phoenix was discharged from
24 cart and is now residing with her
25 parents in the family home.

1 It appears from positive community
2 reports and the in home support
3 worker that Samantha and Steve
4 they are able to meet [their]
5 basic daily needs. However, now
6 that Phoenix is in their care,
7 ongoing assessment of their
8 abilities to effectively meet her
9 needs and provide her with a safe
10 and nurturing home is necessary.

11 Given the family's gains and
12 personal improvements are still
13 fairly new, the parents are
14 required to follow all of the
15 conditions outlined in the service
16 agreement they signed on September
17 5, 2000, it is to be reviewed in
18 six months. The following is a
19 list of those conditions:

20 1) Samantha will meet with Dr.
21 Altman to assess her emotional
22 stability and she will follow any
23 recommendations made by Dr.
24 Altman.

25 2) Samantha and Steve will work

1 cooperatively with the Agency in
2 home support worker and will meet
3 with her at least two times weekly
4 3) Samantha and Steve will work
5 cooperatively with the Agency
6 Family Services Worker, this
7 includes meeting with the worker
8 on a regular basis and allow the
9 worker access to the family home.
10 Samantha and Steve will also
11 cooperate with the Agency worker
12 regarding further exploration of
13 issues related to substance abuse
14 and family violence.
15 4) Samantha and Steve will attend
16 and participate in a parenting
17 class that focuses on issues
18 related to child development
19 5) Samantha and Steve will work
20 cooperatively with the public
21 health nurse as a method of
22 gaining information regarding
23 general health issues of small
24 children [and then]
25 6) The agency will assist the

1 couple with identifying a
2 pediatrician to use for Phoenix's
3 routine medical issues."

4

5 Then it goes on to say:

6

7 "The parents are aware that should
8 they fail to comply with these
9 conditions, it could result in the
10 child being removed from the
11 family home and placed in the care
12 of the Agency.

13 It is not yet known what the
14 outcome of the court case
15 regarding [this would be
16 Samantha's first child] was."

17

18 And the court case would be reference to the
19 seeking of a permanent order.

20

21 "This could be further explored
22 with Samantha and/or Cree nation
23 CFS. Samantha has not expressed
24 any interest to this worker in
25 wanting to pursue [the return] ...

1 him returned to her care."

2

3 And then it indicates Ms., Ms. Greeley was
4 assuming another position with the agency, which is the
5 reason the file is being transferred.

6 Based on, on this, what did you understand, or
7 what would you understand the, these, this family's needs
8 to be, in terms of what you'd be working on with them?

9 A Well, monitoring of the home, making sure that
10 the case plan's being followed, access to appropriately
11 (sic) community resources are being sought by them. Making
12 sure that they are completing the programs that they are
13 enrolled in. To, to check on how the progress of the child
14 is.

15 Q Sorry, I, I couldn't hear the last --

16 A The progress of the child, how the child was
17 doing in the home.

18 Q To see how the child was doing over the time you
19 were the worker?

20 A Yes.

21 Q Okay. And so each, each condition in this plan
22 is something you'd want to ensure was being fulfilled and
23 that it was achieving the goal then of providing a safe
24 environment for, for Phoenix?

25 A Yes.

1 Q And when you reviewed the file and the case plan,
2 did you agree that it was an appropriate plan at the time
3 of your taking conduct of the file?

4 A It would have been an appropriate plan, yes.

5 Q Okay. And, and just, just be clear, as a worker,
6 your job then would be to ensure that the plan is being
7 carried out?

8 A Yes.

9 Q But ultimately, if -- you, you want to ensure the
10 child is safe in the home?

11 A Yes, that would, that is the number one priority
12 of child welfare, yes.

13 Q And so when you're working with a family and if
14 the plan's not meeting those, those goals, or if you have
15 concerns, what do you do?

16 A Could you repeat that please?

17 Q If, while you're working with a family and you're
18 looking at the, the plan and the ultimate goal of providing
19 a safe environment for Phoenix, do you make adjustments to
20 the plan, to ensure that it's being -- that, that the
21 conditions are going to meet those --

22 A Yes, we, we will change the plan.

23 Q Okay. So the plan --

24 A With consultation with the supervisor, yes.

25 Q -- okay, you talk to your supervisor and change

1 of --

2 A Yes.

3 Q -- plan is necessary? Okay. It says here that:

4

5 "The parents are aware that should
6 they fail to comply with these
7 conditions, it could result in the
8 child being removed from the
9 family home and placed in the care
10 of the Agency."

11

12 Can you explain what --

13 A Yes.

14 Q -- that would have meant to you when you read it?

15 A Well, if they weren't attending their scheduled
16 programming, if they were not allowing myself access to the
17 home, you know, if they were just basically weren't
18 cooperating with the agency, then they, the child can be
19 removed from their care.

20 MR. OLSON: Okay.

21 THE COMMISSIONER: Mr. Olson, let me interrupt
22 you. What is -- it's in evidence, I know, what is the date
23 of that plan?

24 MR. OLSON: The, the date of this plan, that's
25 September 5, 2000. So if you see, the, the case summary of

1 Ms. Greeley is October 2nd, 2000, so it's about a month --

2 THE COMMISSIONER: And was there a time term
3 attached to it?

4 MR. OLSON: That was for six -- it was to be
5 reviewed in six months, so --

6 THE COMMISSIONER: That's what the plan said?

7 MR. OLSON: -- yeah, the plan --

8 THE COMMISSIONER: It's in evidence.

9 MR. OLSON: -- if -- yeah, on page 37032, it says
10 the following, it says the following service agreement they
11 signed on September 5, 2000 --

12 THE COMMISSIONER: Yes?

13 MR. OLSON: -- it is to be reviewed in six
14 months.

15 THE COMMISSIONER: Which would take it to what?
16 February of '01?

17 MR. OLSON: March.

18 THE COMMISSIONER: Yeah, March of '01.

19 MR. OLSON: March.

20 THE COMMISSIONER: All right. Thank you, I just
21 wanted to get those straight while this witness continued.

22 MR. OLSON: Absolutely, that's helpful. And
23 just, you just, the plan itself, in case you want to refer
24 to it, is at page 37115 and 37116.

25

1 BY MR. OLSON:

2 Q And now, when you, when you got this file, I take
3 it you were aware that Ms. Kematch's first child was
4 apprehended?

5 A According to the information I was presented,
6 yes.

7 Q Okay. And was that information significant to
8 you in any way?

9 A I guess all the information was significant.
10 Like, like it would have been significant to know that she
11 had had a, a previous child that was, that was in care,
12 yes.

13 Q So that would have been significant to you? When
14 you say all the information was significant, I take it
15 there was some information that, that would be more
16 significant than other information?

17 A Usually in the transfer summary, all the
18 information is significant.

19 Q Okay.

20 A I can't really say that that child being in care
21 was the guiding factor.

22 Q Okay. Take a look at Samantha Kematch's child-
23 in-care file. That's at page 37096. Now, this was
24 provided by Cree Nation Child and Family Caring Agency; do
25 you see that?

1 A Yes, I do.

2 Q Okay. And this, this information was on the
3 file; is it information you would have reviewed?

4 A I was asked that question before and I can't
5 recall this document.

6 Q Okay. You don't --

7 A It may --

8 Q -- have a --

9 A -- it may have been information that was attached
10 to the file, I can't recall it.

11 Q Okay. You don't have a recollection today, but
12 you know it was in --

13 A I don't have a recollection of this document.

14 Q And when you look at the, the top of the
15 document, at the fax, where the -- has the fax information
16 at the very top, it says April 27, 2000, see that? So that
17 would have been, that predates your involvement in the
18 file?

19 A Correct.

20 Q And so if it was your practice then to review the
21 file, this, would this be a document you would have looked
22 at?

23 A In practice, yes.

24 Q Now, this -- you said, I think you said before
25 that history was important, the background and history of

1 the family? Is that -- do I have that right?

2 A In our practice, yes --

3 Q Okay.

4 A -- background information is important.

5 Q And so this, the document that's on the screen,
6 this would be Samantha Kematch's background and history?

7 A Yes.

8 Q Okay. If we look at the closing summary from
9 Cree Nation, it's at page 37103. So it's circled closing
10 summary and it's got legal name, Samantha Dawn Kematch.
11 It's got her date of birth being September 9, 1981, Pine
12 Creek, et cetera. She was a permanent ward, so that would
13 tell you that Ms. Kematch was a permanent ward as a child?

14 A Yes, the document would tell us that.

15 Q Okay. And when it says previous placement,
16 Macdonald Youth Services --

17 A Yes.

18 Q -- are you familiar with Macdonald Youth
19 Services?

20 A Yes.

21 Q And what is it?

22 A It's an agency that provides care for specialized
23 youth who are involved with the agency and they provide
24 them numerous programmings (phonetic) and support.

25 Q Now, when you, when you say specialized, what

1 did --

2 A Well, the thing is that if, if the child had any
3 special needs, or they were a high risk youth, or if they
4 required a lot more work, they would usually be placed
5 there.

6 Q Okay. And so seeing that Samantha was placed
7 with Macdonald Youth Services, would that tell you then she
8 was, you know, when you immediately see that, she was
9 probably a high risk?

10 A When you would see that, yes.

11 Q Okay. And then it shows her being discharged
12 September 9, 1999 with a agency worker, the agency is Cree
13 Nation Child and Family Caring Agency and the agency worker
14 is Germaine Brass?

15 A Yes.

16 Q And so would Ms. Brass then have been Ms.
17 Kematch's child-in-care worker?

18 A Yes.

19 Q Okay. Do you, do you remember, did you have any
20 discussions with Ms. Brass when you took the file over?

21 A I had a telephone conversation with her.

22 Q Okay. And do you have an independent
23 recollection of that call?

24 A No.

25 Q Okay. And are there notes of the call on the

1 file?

2 A I believe so.

3 Q Okay. And it says, under, if you go to the next
4 page, 37104, it says, under the heading: Reason for
5 Apprehension, it says:

6

7 "Samantha was apprehended on June
8 21, 1993 by Winnipeg Southeast
9 Child and Family Services and
10 brought into care and apprehended
11 from her mother because she
12 claimed to be fearful of her."

13

14 Then, Presenting Problems:

15

16 "Samantha, [on] turning 18, has
17 not given any [any] indication she
18 has any long term plans for
19 herself and her baby ... [The
20 agency] has apprehended her child
21 because of safety concerns."

22

23 Where it says the, the, the agency apprehended
24 her child because of safety concerns, is that something
25 that would have been important to you as the worker?

1 A It would be important to a worker, yes.

2 Q Would that have been a red flag to you?

3 A Yes.

4 Q Okay. And what -- is that something you'd want
5 to explore more then, as the worker? Like, why was it --
6 what, what were the safety concerns and that sort of thing?

7 A It would have been the practice to explore that,
8 yes.

9 Q Would have been the practice? Okay. Then under
10 Goals and Objectives, it says:

11

12 "Through the Onki-Ikkwe Program
13 for young mothers and through the
14 intervention from MacDonald Youth
15 Services, Samantha has not
16 cooperated with the interventions
17 but has withdrawn and
18 uncooperative. She has not
19 attended school nor has she given
20 any indication she is willing to
21 work. Plans are to transfer [the
22 child] to the appropriate agency."

23

24 That's Samantha's child.

25

1 "Samantha to be given monthly
2 supervised visits."

3

4 And then:

5

6 "Comments: Samantha will be
7 discharged from care of [the
8 agency] upon age of majority."

9

10 And then it's signed by Ms. Brass.

11 Now, just, just with respect to the apprehension
12 of her first child and the safety concerns, would you --
13 when you're, when you're looking at the safety of Phoenix
14 Sinclair, would you want to see what the safety concerns
15 were with the first child, to know if, if that, those
16 concerns would still be present for, for Phoenix, the
17 second child? Is that why you're looking at them, or want
18 to look at them?

19 A Yes, we would review those, those documents.

20 Q Because that might give you more insight?

21 A Yes.

22 Q And so, the next document I want you to look at
23 is another document from Cree Nation Child and Family
24 Caring Agency. This is at page 37082. It's from
25 Commission disclosure 1795, which is, of course, Ms.

1 Kematch protection file with Winnipeg CFS. So this would
2 have been another document on the file when you received
3 it; right?

4 A It would have been in the file, yes.

5 Q Okay. And so it's certainly a document you could
6 have reviewed -- you're not -- at the time you took the
7 file over?

8 A The information most likely was in the
9 file.

10 Q Okay. And so if you reviewed the file, it's
11 information you ...

12 A I would have seen, yes.

13 Q Okay. You've had a chance to look at this
14 document previously. Do you recall if you've -- at the
15 time you took over the file, you reviewed it?

16 A I can't recall.

17 Q Can't recall? Now, this is a fax being sent, it
18 says to Marnie, who I understand is Marnie Saunderson, from
19 Rose, from the Cree Nation Child and Family Caring Agency.
20 It's dated April 27th, 2000. I believe, at the time, that
21 Ms. Greeley had actually taken over the file, so it would
22 have come to her first. The -- if you go to page 37083,
23 this is a letter dated November 15th, 1999 and it's
24 addressed to Verna McIvor at West Region Child and Family
25 Services. This is regarding the apprehension of Ms.

1 Kematch's first child? And it says:

2

3 "[The agency is] seeking a
4 permanent order of guardianship of
5 the above noted child."
6

6

7 And is signed by Germaine Brass, Regional Child
8 and Family Services worker. Is that a document you would
9 have reviewed, or do you recall reviewing this?

10 A I can't recall reviewing it.

11 Q If you turn now to page 37085, and this is still
12 within the, the documents provided by Cree Nation, the
13 heading here is case particulars. And this appears to deal
14 with the apprehension of Ms. Kematch's first child; is that
15 right?

16 A Yes.

17 Q Okay. And if you go, we go to the next page, it,
18 it has a, circumstances of apprehension. Number -- the
19 paragraph number 14. It says:

20

21 "On July 23, 1996 in the early
22 morning, Samantha Kematch was
23 admitted to Boniface Hospital due
24 to a concealed pregnancy. She had
25 no pre-natal care and stated to

1 the nurses she found out she was
2 pregnant a month prior to going
3 into labour.

4 Samantha is a Permanent Ward of
5 Cree Nation Child and Family
6 [Services] Caring Agency and is on
7 an Independent Living Program with
8 MacDonald Youth Services. After
9 delivery of her baby, Samantha was
10 short with hospital staff and
11 appeared to be emotionally flat
12 when discussing future plans for
13 her newborn. Samantha gave no
14 indication that she was ready to
15 parent [the] child."

16

17 And then under number 15, it says:

18

19 "Reasons for Requesting Order:

20 Due to Samantha's behaviour and
21 attitude towards her newborn, Cree
22 Nation Child and Family Caring
23 Agency felt that it is in the
24 child's best interest to be placed
25 in care for a period of six

1 months. Since ... apprehension,
2 Samantha has indicated she would
3 like to parent her child and has
4 agreed to attend a facility for
5 young mothers."

6

7 When you read that, and knowing the circumstances
8 of Phoenix's birth, did that, would that have struck you as
9 being very similar?

10 A Reviewing it now, yes.

11 Q Pardon me?

12 A Yes.

13 Q Yes. It's because Samantha hid Phoenix's
14 pregnancy and had no plans for Phoenix; right?

15 A Right.

16 Q And then shortly after Phoenix's birth, Samantha
17 and, and Steve Sinclair decided they did want to parent
18 Phoenix; right?

19 A Correct.

20 Q Okay. And, and likewise here, with Samantha's
21 first child, after the birth, she decided she wanted to
22 parent that child and agreed to take some parenting
23 classes?

24 A Correct.

25 MR. OLSON: Okay.

1 MR. RAY: I'm not, I'm not sure what -- could you
2 just repeat the question for the witness? I didn't quite
3 hear her answer and I'm not sure ...

4

5 BY MR. OLSON:

6 Q Question was, after the birth of Samantha's first
7 child, she indicated that she wanted to parent that child
8 as well and agreed to take some, to attend a facility for
9 young mothers?

10 A Yes.

11 MR. OLSON: Right.

12 MR. RAY: Sorry, I, I thought you were asking the
13 witness if she knew that, but just -- thanks.

14

15 BY MR. OLSON:

16 Q That's all information though that would be
17 relevant to you as the worker, working on Samantha
18 Kematch's file when you took conduct of it;
19 right?

20 A Yes.

21 Q And then under paragraph 21, it says: Special
22 Circumstances of this Case. That's on page 37087. It
23 says:

24

25 "Samantha is a sixteen year old

1 girl who requires parental skills
2 to care for her newborn ... She
3 is now willing to learn these
4 skills and Cree Nation [and] Child
5 and Family Caring Agency will
6 provide the necessary support
7 services for mother and child."

8

9 So that would have been the circumstances when
10 the child was apprehended at birth; right?

11 A Yes.

12 Q Now, also within this file, if we go to page
13 37089, we see a letter from the St. Boniface Hospital,
14 dated July 23, 1998 and this is to the attention of Mike
15 Bear at Cree Nation Child and Family Services. And this is
16 with respect to Ms. Kematch's baby that was just born, her
17 first child. And this would have been the referral that
18 came into the agency. It says:

19

20 "REASON FOR REFERRAL: Samantha is
21 a 16yr old [girl] with a concealed
22 pregnancy, who delivered a baby
23 boy this morning at St. Boniface
24 Hospital. She had no pre-natal
25 care and said she found out she

1 was pregnant one month ago. She
2 is in the care of your agency.
3 The writer attempted to meet with
4 Samantha to discuss her situation.
5 Samantha turned her face away from
6 the writer during discussion and
7 would not make direct eye contact.
8 She was short and snappy with
9 answers and would not disclosure
10 information.
11 Samantha told the writer she did
12 not know she was pregnant until
13 she had a pregnancy test one month
14 ago. She would not disclose ...
15 questions with one word ..."

16
17 Sorry.

18
19 "She answered questions with one
20 word answers 'yes', 'no'. When
21 asked if she was ready to be a
22 mother, she stated 'I don't know'.
23 Samantha says she has nothing
24 prepared for the baby but she
25 wants to parent. Samantha plans

1 to bottle feed her baby."

2

3 It says:

4

5 "Samantha came into Labour and
6 Delivery last evening she was
7 accompanied by her boyfriend and
8 his mother. The nurses [note]
9 notes indicate that the boyfriend
10 seemed very appropriate and his
11 mother was very supportive.
12 Samantha presented as 'immature'.
13 She has been described as
14 'emotionally flat'.

15

16 We see Samantha, throughout the file, being
17 described as emotionally flat; right?

18 You have to verbalize an answer.

19 A Yes.

20 Q And under the plan, it says -- this is on page
21 37090, it says:

22

23 "The writer would recommend your
24 agency assess this situation as
25 soon as possible. Samantha was

1 uncooperative [with] with the
2 interview process and refused to
3 disclose information. She had no
4 pre-natal care and does not appear
5 to be prepared for this baby. Her
6 ability to parent this child needs
7 to be assessed before she leaves
8 hospital. The writer would have
9 grave concerns if Samantha is to
10 leave hospital with her baby."

11

12 And then it's signed by the hospital social
13 worker.

14 Now that, would this information also have been
15 significant to you as the, as the worker for Phoenix?

16 A Yes.

17 Q And, and why is that? What would be significant
18 about it?

19 A Well, it gives all, all the issues and concerns
20 relating to her concealment of pregnancy, you know, her
21 basic attitude towards authority figures, so forth.

22 Q So all the same, all the same issues that Ms.
23 Kematch had, had been a concern when, when Ms. Kematch gave
24 birth to Phoenix Sinclair?

25 A Correct.

1 MR. OLSON: Okay.

2 MR. RAY: I don't know if we can say all the same
3 issues, but certainly there were similar --

4 THE WITNESS: Similar.

5 MR. RAY: -- issues.

6 MR. OLSON: Sure, similar issues, a number of
7 similar issues.

8

9 BY MR. OLSON:

10 Q And then finally, under -- on page 37091, this is
11 social history and you'll see that the social worker here
12 is listed as Germaine Brass from Regional Child and Family
13 Services worker, from Cree Nation. So she, she was a --
14 you confirmed before, she was the child care worker for Ms.
15 Kematch?

16 A Yes.

17 Q And was she also the worker then for Ms.
18 Kematch's first child?

19 A Yes.

20 Q Okay. And if we go to page 37093 of, of this
21 document, it says: Family Background Information. If you
22 go down to the paragraph starting:

23

24 "On September 14, 1998 ..."

25

1 Do you see that paragraph?

2 A Yes.

3 Q It says:

4

5 "[The baby] was removed from [the
6 placement] and placed with his
7 mother [at] Samantha ... [at the]
8 facility for young mothers at
9 WaWayseecapow. Prior to moving
10 into the facility, Samantha was in
11 an Independent Living Program at
12 McDonald (sic) Youth Services.
13 Just after eleven weeks at the
14 facility, both Sam and [the baby]
15 were discharged from [the
16 facility] because of safety
17 concerns for [the baby]. Again
18 [the baby] was placed ... where he
19 has been since."

20

21 And then:

22

23 "Samantha returned to the
24 Independent Living Program [at]
25 McDonald Youth Services [and she

1 stayed there] until [the] age of
2 majority ..."

3

4 That reference here to the baby being discharged
5 because of safety concerns posed by Ms. Kematch, that, I
6 take it, that's information that would have been important
7 to you as well?

8 A Yes.

9 Q And if you were aware of that information, it's
10 something you'd want to explore more, as the worker?

11 A As a worker, yes.

12 Q Did you review Steve Sinclair's file at any time?

13 A I can't recall.

14 Q Okay. And when I say Steven Sinclair's file, I
15 mean his child-in-care file?

16 A I can't recall.

17 Q Okay. Do you recall if you ever talked to him
18 about maybe seeing his file, or looking at his file?

19 A No.

20 Q Okay. Now, if we take a look now at the intake
21 summary, which is at page 37107. So this document is
22 another document that would be on the file when you, when
23 you had conduct of it; right?

24 A Yes.

25 Q Okay. And it's dated April 24, 2000. And the

1 referral here is from the hospital social worker and it
2 says:

3

4 "[The worker] was calling with
5 concerns about the above named
6 couple's motivation and ability to
7 parent. Samantha is eighteen and
8 gave birth to a baby girl
9 yesterday after having no prenatal
10 care. In talking with her, [the
11 worker] was made aware that
12 Samantha has another child that
13 was removed from her care. When
14 [the worker] asked her why, she
15 said that people thought she may
16 hurt the baby, just as her mother
17 had hurt her. [The worker]
18 questioned her preparation for
19 this baby and found out that the
20 couple had not purchased any
21 clothes, diapers, crib, et cetera.
22 [The worker] asked her if she was
23 'emotionally ready' for the baby
24 and [she] responded by saying 'I
25 don't know'. Samantha and the

1 worker talked more about this and
2 it became quite clear that this
3 couple is not sure if they want to
4 parent. Given Samantha's lack of
5 preparation for the baby, the past
6 concerns and the ambivalence over
7 parenting, [the worker] is
8 requesting workers attend sometime
9 today to talk with [the] mom.
10 [Worker] discussed the need to do
11 so with Samantha and after some
12 hesitation agreed to meet
13 with workers. Consulting
14 Supervisor ..."

15

16 Et cetera.

17 That reference, again, to Samantha actually
18 telling the worker that there was concern she may hurt the
19 baby, just as her mother had hurt her, is that something
20 that would have stood out to you as well when you read
21 this?

22 A Yes.

23 Q And would have it been important to you, as the
24 worker, to investigate what that was referring to?

25 A I can't recall this document, but it would be,

1 yes.

2 Q When you assumed conduct of the file, did you do
3 any sort of risk assessment with respect to the family?

4 A I can't recall.

5 Q Can't recall? Would it have been your practice
6 to do any sort of risk assessment?

7 A I can't recall.

8 Q Is risk assessment something you were trained on?

9 A Yes.

10 Q Okay.

11 A We would have done something --

12 Q And what -- sorry, I, I interrupted you, what --

13 A No, I lost that train.

14 Q What would a risk assessment look like?

15 A It would basically look like, you know, if there
16 were, the risk of the child would be low, medium or high.
17 They look at the age of the child, the circumstances, why
18 the, the file has, is with child welfare. We will talk
19 about things of that nature.

20 Q So you look at the age of the child,
21 circumstances that brought the child into care, why the
22 child was there?

23 A Yes.

24 Q Okay. And when would you do this sort of risk
25 assessment?

1 A In practice, it's usually ongoing.

2 Q It's an ongoing thing?

3 A It's an ongoing thing.

4 Q Was it a formalized risk assessment? Was there a
5 document you would fill out?

6 A I can't recall an actual document that we
7 actually filled out.

8 Q Okay. You've reviewed your file, your, your work
9 in this file, do you, did you come across a risk
10 assessment?

11 A No.

12 Q No? If you ... In Ms. Greeley's transfer
13 summary, there's reference to Steve Sinclair having been a
14 permanent ward. If you look -- if we go to page 37027. So
15 again, this is from Ms. Greeley's transfer summary of
16 October 2nd, 2000. This is a document that you would have
17 read upon receiving the file? Under --

18 A Yes.

19 Q Yeah. And under Brief History of Agency
20 Involvement, it says, under the second paragraph, it says:

21

22 "It is important to note that
23 Steve Sinclair permanently came
24 into Winnipeg Child & Family
25 Services [in] care when he was 13

1 and ... remained in .. care ...
2 until ... the age of majority. At
3 this point Steve's biological
4 mother's file ... remains closed
5 and his [child-in-care] file is
6 sealed. He has been resistant to
7 allowing the workers to review his
8 file. However his previous worker
9 is Cathy Epps, at the Jarvis
10 office, and she may be able to
11 share any information she can
12 recall."

13

14 Do you recall if you had any contact with Kathy
15 Epps?

16 A I can't recall.

17 Q Okay. Kathy Epps did try to contact you though,
18 had, had provided you with some information by memo or
19 e-mail?

20 A The information I did review did state that she
21 attempted to contact me, yes.

22 Q Okay. But you don't recall if you had any -- you
23 tried to get back in touch with her, or call her back, or?

24 A I can't recall.

25 MR. OLSON: Okay.

1 THE COMMISSIONER: But do you, do you recall her
2 contacting you?

3 THE WITNESS: With the information that my
4 counsel had provided for myself, the, the documents, it
5 does state that I did receive e-mails from Ms. Epp, but I
6 can't recall actually, like, I can't recall right now.
7 That's, like, several years ago.

8 MR. OLSON: Okay. And we'll take a look at the
9 documents you're referring to a little later.

10

11 BY MR. OLSON:

12 Q I'm just wondering if you ever had any contact
13 yourself with Ms. Epps?

14 A Can't recall.

15 Q Okay. But if you wanted to get Steve Sinclair's
16 history, would she have been a source in that regard?

17 A Yes, she would have been a resource.

18 Q Okay. And you could have, you could have tried,
19 you could have contacted her, called her or whatever and,
20 and asked what she could tell you?

21 A Yes, I could have contacted her.

22 Q And the information that she could give you might
23 be important, in terms of how you work with Mr. Sinclair
24 and the family --

25 A Yes.

1 Q -- ensuring Phoenix's safety? Now before, when
2 you -- we were talking about the case plan, we looked at
3 the service agreement briefly. That's at page 37147, from
4 commission disclosure 1795. So this document, this is the
5 formal service agreement, I take it, signed by Ms. Kematch
6 and Mr. Sinclair on September 5th, 2000; is that right?

7 A Yes.

8 Q Okay. And it's a document that you would have --
9 would you have look, looked at this document when you
10 picked up the file?

11 A Yes.

12 Q Okay. Would this have been one of the, the more
13 important documents you would have seen?

14 A Yes.

15 Q Now, service agreements aren't unique to this
16 case, are they?

17 A No.

18 Q And what, what's the purpose of the service
19 agreement?

20 A When you're developing a service agreement,
21 there's usually a plan that they have, the clients have to
22 follow and they have to consent to participate in that
23 plan.

24 Q So they consent --

25 A With these --

1 Q -- they consent and they have certain obligations
2 under the agreement?

3 A Yes.

4 Q And likewise, I take it then, the agency also has
5 certain obligations as well?

6 A Yes.

7 Q Okay. So it's an agreement between the agency
8 and between the clients?

9 A Correct.

10 Q Okay. Now, the plan was signed on September 5th,
11 2000, when Ms. Greeley was a worker, but it was in effect
12 for the next six months, including the time when you were
13 the worker?

14 A Yes.

15 Q Okay. And you said before that part of your job,
16 as the worker, would be to ensure that the clients are
17 meeting their obligations?

18 A Correct.

19 Q Would it also be your job to ensure the agency is
20 meeting its obligations to the, to Samantha and Steve?

21 A Yes, that would be our obligation.

22 Q And so you, as the worker and Ms. Greeley as your
23 predecessor, you would have been the worker carrying out --
24 meeting, trying to meet the agency's obligations then?

25 A Yes.

1 Q Okay. And if you look at point 3 of the plan, or
2 the service agreement, says:

3

4 "Samantha and Steve will work
5 cooperatively with the Agency
6 Family Services Worker, this
7 includes meeting with the worker
8 on a regular basis and allow the
9 worker access to the family home.
10 Samantha and Steve will also
11 cooperate with the Agency worker
12 regarding further [explorations]
13 of issues related to substance use
14 and family violence."

15

16 So the obligation then on Samantha and Steve were
17 to cooperate with you and, and let you into their
18 home?

19 A Yes.

20 Q And that was to be on a regular basis?

21 A Yes.

22 Q And in order to fulfill that, you would have to
23 attend the home on a regular basis?

24 A Yes.

25 Q Okay. And did you make any determination as to

1 what was meant by a regular basis? Weekly, every other
2 week, monthly?

3 A Be weekly --

4 Q Weekly?

5 A -- bi-weekly.

6 Q So you understood that that would be the
7 frequency of the, your visits to the home?

8 A That is an understanding, yes.

9 Q Okay. And do you recall when you, when you
10 talked to your supervisor about this file if, if she
11 indicated to you what, how often you should be visiting the
12 home, in your discussion with her?

13 A I can't recall.

14 Q Okay. We heard from the family support worker,
15 who, at the time, was, her name was Ms. Belanger, do you
16 remember, do you remember her?

17 A I remember her name, yes.

18 Q Okay. She had been going into the home and
19 providing services to Ms. Kematch and Mr. Sinclair up until
20 the end of December, maybe a little bit into December, end
21 of November, November, sorry, 2000. So she was -- was she
22 still -- do you -- she was still doing that when you were,
23 when you took over the file; is that right?

24 A Correct.

25 Q Okay. One of the conditions of the service

1 agreement is that:

2

3 "Samantha and Steve will work
4 cooperatively with the Agency in
5 home support worker and will
6 [meet] with her at least two times
7 a week."

8

9 So that's a specific requirement of two times a
10 week, meeting with her?

11 A Yes.

12 Q Okay. And would that be for the entire duration
13 of the six months? Would that be your understanding?

14 A That would be my understanding, yes.

15 Q Okay. We know that that didn't actually happen.
16 She's, she didn't, she didn't attend after the end of
17 November/early December; do you know why that is?

18 A Can't recall.

19 Q As the worker, would it, would it be your
20 responsibility to ensure she continues to attend? Their
21 contract is in place?

22 A Yes, it'd be the responsibility of the worker.

23 Q Okay. And did you make a determination that it
24 was no longer necessary, or can you explain why it ended?

25 A I can't recall.

1 Q Okay. If we turn now to page 37009, again, this
2 is from Samantha Kematch's case file, protection file, see
3 here pages 37009 to 37015 are file recordings for Kematch?

4 A Yes.

5 Q And did you prepare these file recordings?

6 A Yes.

7 Q And so when you said earlier that you would take
8 your notes, whether they be in your calendar, scrap paper,
9 or whatever, they would eventually find their way into this
10 running electronic document; is that what this is?

11 A That is a running document, yes. But the -- if I
12 had taken notes, like, handwritten notes, they would have
13 been put into the file. My, my calendar will remain with
14 myself.

15 Q Okay. But the information contained in your
16 handwritten notes and in your, and in your calendar, would
17 that information also be in this running summary?

18 A That would be usually something that I would
19 practice, yes.

20 Q Okay. So then the intent of this running summary
21 then is to record your, your --

22 A My contact --

23 Q -- your handling of the file?

24 A -- with the family, yes.

25 MR. OLSON: Okay.

1 THE COMMISSIONER: Just let me understand that.
2 You're having her say, Mr. Olson, that she prepared this
3 document?

4 MR. OLSON: Yes.

5

6 BY MR. OLSON:

7 Q You prepared this document; right?

8 A Yes.

9 MR. OLSON: Okay. These -- I, I think the
10 evidence is and she'll correct me if I'm wrong, but she
11 mentioned initially that she would prepare a running
12 electronic document.

13 THE COMMISSIONER: Yes.

14 MR. OLSON: That's what this is, apparently.

15 THE COMMISSIONER: And what's it called?

16 MR. OLSON: It's called file recording for
17 Kematch.

18

19 BY MR. OLSON:

20 Q Is that --

21 A Correct.

22 THE COMMISSIONER: Show me the heading on it.

23 MR. OLSON: It's -- if you look at, on the screen
24 in front of you, Mr. Commissioner, right at the top, it's
25 kind of hard to see because --

1 THE COMMISSIONER: It is hard to see.

2 MR. OLSON: -- it's a bit --

3 THE COMMISSIONER: What's it say?

4 MR. OLSON: It says file recording for Kematch.

5 THE COMMISSIONER: File report, okay.

6

7 BY MR. OLSON:

8 Q And this would have been a -- this wasn't a
9 standard form document, this is something that you used,
10 this is your practice to use this; is that right?

11 A That's correct.

12 Q Okay. And so, if someone were to pick up the
13 file after you and wanted to know what you had done, this
14 is, this is, they could look at this, this document then to
15 see?

16 A Yes.

17 Q Okay. And when we look at the transfer, or the
18 transfer summary you eventually prepared, a lot of this
19 information will go into that?

20 A All the information will go into the transfer
21 summary, yes.

22 Q Okay. So on page, on the page in front of you
23 here, 37009 --

24 THE COMMISSIONER: Just a minute. Did you
25 prepare a, a transfer summary when you concluded your work

1 on the file?

2 THE WITNESS: Yes.

3 THE COMMISSIONER: Thank you.

4 Go ahead.

5

6 BY MR. OLSON:

7 Q So first, it just says, before we get to that
8 entry, first it just says the worker was assigned on
9 November 14, 2000. That's when you got the file; you've
10 confirmed that already. And then you've listed here a
11 number of people's names and contacts?

12 A Yes.

13 Q And these would be the clients and collaterals?

14 A Yes.

15 Q Okay. So Germaine Brass here, from Cree Nation
16 CFS, she's listed as, as Samantha's first child's social
17 worker; is that right?

18 A Correct.

19 Q And her phone number is here?

20 A Yes.

21 Q Okay. So this would have been information you
22 culled from your review of the file?

23 A Yes.

24 Q And so she would have been someone you could have
25 contacted for information if had determined that was

1 necessary?

2 A Yes.

3 Q Okay. And then we have Geni Sinclair. That's
4 one of Steve's sisters?

5 A Yes.

6 Q Nikki Taylor, that was -- she was identified as
7 an advocate for the family?

8 A Yes.

9 Q Then Ma Mawi Wi Chi Itata, Ma Mawi Wi Chi Itata?

10 A Yes.

11 Q Geni worked there and there's also a community
12 organization?

13 A Correct.

14 Q Okay. And then we have Kim Edwards?

15 A She was put into my document later, yes.

16 Q She was put in later?

17 A Yes.

18 Q While you were still involved in handling the
19 file?

20 A As the, as I worked on the file, if there was any
21 other significant person, they would be just added. But at
22 my initial part of, of, of the information, she wasn't
23 added until after that, I believe in July.

24 Q I see, and how, and how is it you recall she was
25 added in July?

1 A Because that's when Mr. Sinclair had indicated
2 it, that she was his support.

3 Q Okay. That's when you first became aware of her
4 involvement then?

5 A Yes.

6 Q Okay. And then you have the father, I take it,
7 of Samantha's first child? His name's been redacted. And
8 then you have Constable Wouda or Hodges? That --

9 A Yes.

10 Q -- and that was the, the abuse unit at Winnipeg
11 Police, who looked into Samantha's third child's death?

12 A Yes.

13 Q Okay. And so I take it that was something else
14 that would have been added later on as well?

15 A Yes.

16 Q Okay. And then you have Crystal Kematch, who is
17 an aunt and Mickey Kematch who's Samantha's brother?

18 A Yes.

19 Q Okay. And so if you needed any information,
20 these are, these are potential sources of information?

21 A Yes.

22 Q So the first entry here, dated November 16th,
23 2000, so this would be couple of days after you got the
24 file?

25 A Yes.

1 Q And it says:

2

3 "Received phone call from Germaine
4 Brass of Cree Nation ..."

5

6 And has a phone number.

7

8 "Ms. Brass left voice mail stating
9 she needed Psychological report
10 for ..."

11

12 And this relates to the apprehension of the first
13 child?

14 A Yes.

15 Q Okay. Now, you, it's pretty clear you didn't
16 talk to her when she called in that day? You didn't have
17 an actual discussion with her?

18 A I can't recall. All I can remember -- all I see
19 is this.

20 Q Okay. And so, based on your note, there's just a
21 voice-mail message? If you had called her back, would you
22 have noted you called her back and talked to her?

23 A Yes.

24 Q Okay. And so that it's, there's nothing here on
25 this date, so that means this date you didn't talk to her?

1 A I could have spoken to her, I may have not
2 documented it.

3 Q Okay. And then the next date is November 17th,
4 2000, 9:45 a.m., so the next day:

5

6 "Received message from Ms. Brass
7 she wants information from our
8 [Winnipeg Child and Family
9 Services] Agency for their records
10 for ..."

11

12 Again, this is Samantha's first child. Do you
13 recall if you spoke with her that day?

14 A I can't recall.

15 Q Okay. And then the next recording you have is
16 February 1st, 2001?

17 A Yes.

18 Q So between November 17th, 2000 and February 7th,
19 2001, what, if any, any work did you do on the
20 file?

21 A I can't recall.

22 Q Okay. The fact that nothing's noted here, does
23 that mean you didn't, didn't have any activity, any
24 significant activity?

25 A No, there probably was activity that was

1 happening, I just didn't document it.

2 Q I just want to take you to another document.
3 It's page 37024. Again, this is out of Ms. Kematch's
4 protection file, 1795. This is a letter dated December 11,
5 2000 and it's signed by you, as the family social worker,
6 services social worker and Ms. Balan as your supervisor;
7 right?

8 A Yes.

9 Q Okay. And it's to Germaine Brass at Cree Nation?

10 A Correct.

11 Q Dated -- sorry, I said it was dated December
12 11th, 2000. It says:

13

14 "Enclosed is a copy of the case
15 summary for the above client. I
16 apologies (sic) for the delay and
17 I hope this information will be
18 beneficial to your agency when
19 planning for ward ..."

20

21 And this relates to Ms., Ms. Kematch's first
22 child.

23

24 "If there are concerns or
25 questions, please feel free to

1 contact this worker ..."

2

3 And then you give your phone number.

4 So now that you've, you've had a chance to see
5 this and the date on it, does that tell you whether or not
6 you had contact with, with Ms. Brass, aside from what's
7 recorded in your notes and on the letter?

8 A Well, it demonstrate (sic), yes, I did have
9 contact with Ms. Brass.

10 Q Okay. And would December 11th, 2000 have been
11 the first time you contacted her?

12 A I can't recall.

13 Q Okay. I mean, there's no indication that you had
14 asked her for any information?

15 A I believe it was responding to her request for
16 information.

17 Q Okay. And so there's -- just, just so we're
18 clear, there is no, no record of a request by you from any
19 additional, for any additional information from her; is
20 that right? You, you -- there was no request from her for
21 additional information?

22 A Can you say that again please?

23 Q You didn't request any information from Ms.
24 Brass?

25 A Doesn't appear so.

1 Q Okay. And so you've reviewed your file and it
2 appears that between your note on the 17th of November and
3 February 1st of 2001, aside from this letter to Ms. Brass,
4 it doesn't appear that there's anything else recorded on
5 the file, in terms of activity. No other letters or other
6 documents. Is that -- do I -- is that right?

7 A It appears that there's no written documentation,
8 but it does not say, it does not say that I did not attempt
9 contact.

10 Q Right. There's no record of anything?

11 A There's no record on the physical file that I,
12 that I had inputted into the computer, to state that I had
13 contact with the family or any other collateral.

14 Q Right. And you have no recollection as to
15 whether or not you did anything in that time period?

16 A I can't recall.

17 THE COMMISSIONER: Mr. Olson, whenever is
18 convenient to you, we'll take our break. Some -- now, or
19 in the --

20 MR. OLSON: I think now is a, would be a good
21 time, if that's --

22 THE COMMISSIONER: All right. I was going to say
23 now or within 10 minutes, next 10 minutes. But if now is
24 fine, we'll, we'll do it now then.

25 MR. OLSON: Very good.

1 THE COMMISSIONER: All right. We'll adjourn
2 until two o'clock.

3

4 (LUNCHEON RECESS)

5

6 BY MR. OLSON:

7 Q So before the break, we were looking at the --
8 your document on page 37009 called file recording for
9 Kematch and I asked you about the gap between the 17th of
10 November and February 1st, 2001. And so if you look at
11 the, if you look at your note there, for February 1st,
12 2001, do you see it?

13 A Yes.

14 Q It says:

15

16 "Field to 740B Magnus -- No one
17 home -- left card to call."

18

19 Okay. You, you attempt, attempted to make
20 contact with the family that date?

21 A Yes.

22 Q And would that be a -- would they have known you
23 were coming, or was that unannounced?

24 A Unannounced.

25 Q Okay. And was there a reason why you didn't let

1 them know in advance?

2 A That was my usual practice, when I went to
3 fields, to visit clients, I will always come announced,
4 like, I would just drop by to visit, to, to see if they're
5 home.

6 Q And is that, that way you get a less prepared
7 reaction from them, in terms of how things are actually
8 going is --

9 A Yes.

10 Q That's why? Okay. And so is there anything that
11 actually prompted you to try and make contact that day?

12 A I can't recall.

13 Q I mentioned previously that there was a document
14 that I thought maybe was notes from a supervision meeting?

15 A Yes.

16 Q Maybe we could turn to them. They're at page
17 37016. And again, this is still from the Samantha Kematch
18 file. So these notes, you, you see them in front of you
19 here?

20 A Yes.

21 Q Is this a document that you created?

22 A The supervision notes were, were developed by
23 Angie Balan, the supervisor.

24 Q Okay. So these, these are her notes then, from
25 what you recall?

1 A Yes.

2 Q Okay. And she would have typed the information,
3 or somehow had the information as shown here?

4 A She would have typed it, yes.

5 Q She would have typed it? Okay. And if you look
6 on the bottom of that page, 37016, it says Samantha
7 Kematch, indicating it's from Samantha Kematch's file and
8 then supervision?

9 A Yes.

10 Q And that, that tells you that this was from a
11 supervision meeting; is that, is that right?

12 A Yes.

13 Q And then the file number underneath that would
14 have been Samantha Kematch's file number with CFS?

15 A I can't see the bottom of the page, but I've
16 reviewed the document prior, yes.

17 Q Okay. It should be on the screen now. If you
18 look at the bottom of the page and it says, where you see
19 file number?

20 A Yes.

21 Q Okay. And had, had you seen supervision notes
22 before this on other files, or this file?

23 A That was what supervision was for each individual
24 file that was assigned to myself, yes.

25 Q So they look like this?

1 A Yes.

2 Q And do you, do you recall what the purpose of
3 this document is, or do you know what the purpose was?

4 A The purpose of the document was to have a meeting
5 with your supervisor to review each individual file. And
6 if there's any concerns or issues, then they will be
7 addressed then, or she will give you direction on that.

8 Q Okay. And this, if you look through it, this is
9 several pages. It goes all the way up to page 37023. So
10 that's from 37016 to 37023. So it's a fairly lengthy and
11 detailed document. Would you have discussed all of these
12 items with your supervisor at this meeting?

13 A Not at that particular time. It's like a rolling
14 draft of the document, similar to what my case notes appear
15 to be.

16 Q I see, so this, your understanding is this would
17 be your supervision on this file throughout the file?

18 A Yes.

19 Q Okay. And do you know when this document was
20 created?

21 A I can't recall, but the thing is, it was an
22 ongoing supervision and ongoing documentation of any issues
23 or concerns. But to say actually when, no.

24 Q Okay. Do you recall having a supervision meeting
25 with Ms. Balan on February 5th, 2001?

1 A No.

2 Q In this document, if we look under recent
3 involvement, at page 37022, this says:

4

5 "December 11, 2000 an information
6 package ..."

7

8 First of all, under this heading, recent
9 involvement, is that the, is that what would have been your
10 involvement up to the, that, the date of this? Is that
11 what's recorded here?

12 A Yes.

13 Q Okay. So it says:

14

15 "December 11, 2000 an information
16 package on the Kematch family was
17 faxed to Germaine Brass -- social
18 worker for Cree Nation CFS."

19

20 We looked at that fax previously, that, that's
21 the, that's the fax it's referring to?

22 A Yes.

23 Q And it says:

24

25 "I.e. Case summary etc. Family

1 Support Worker Marion Belanger
2 called the agency stating that she
3 feels that the couple is doing
4 quite well for young parents. The
5 Family Support Agreement expired:
6 November 30, 2000. Ms. Belanger
7 stated that the family has done
8 quite well and if the contract is
9 renewed she would like to be
10 recommended for the position.
11 Marie stopped working with the
12 family at the end of November
13 2000."

14

15 So was this contact with the family support
16 worker, was that with you? Did you speak with Ms.
17 Belanger?

18 A I can't recall, but --

19 Q Okay.

20 A -- I probably did.

21 Q Okay. You have no recollection of that though?

22 A I have no recollection of it, no.

23 Q Okay. And even though she reported, apparently
24 reported that the family has done quite well, she's
25 indicating that if the contract is renewed, she would like

1 to be recommended for the position. Given the, the service
2 agreement we reviewed before, which required the family
3 support worker to stay in the home until expired, was there
4 -- did this change that requirement? Or did this have any
5 impact on that?

6 A From reading the information and, and the support
7 worker stating that the family's doing well, it may have
8 been in the discussion with myself and the supervisor and
9 it may have been where we had made a decision to not renew.

10 Q Okay. And you've reviewed the file, your file?

11 A I've reviewed the information that was presented
12 to myself, yes.

13 Q Okay. And was -- does that -- what -- did
14 that -- was that information that was presented to you?
15 Did that -- was that your entire file?

16 A I can't recall if that was my entire file, but it
17 was the information that was given to me that was from the
18 file, that was the work that I had, had my name and my
19 signature to it.

20 Q Okay. Are you aware of any information that was
21 in the file that you didn't see when you reviewed the file?

22 A I can't recall.

23 Q Okay. We, when we heard from Ms. Belanger, she,
24 she indicated that family support workers could be in homes
25 for sometimes two, three years; were you aware, aware of

1 that at the time?

2 A I'm aware that we can renew family support
3 agreements, but I can't recall what the decision was, why
4 it was not renewed.

5 Q Okay. Then it says, looking back at page 37022,
6 said:

7
8 "Field to Ms. Kematch home on
9 February 1, 2001, there was no
10 answer at the residence on 740B
11 Magnus Avenue, left card to call.
12 It is not known at this time if
13 Samantha followed-up with Dr.
14 Altman re: emotional stability or
15 if Samantha and Steven completed
16 an appropriate parenting program.
17 It is clear that they did work
18 cooperative with the in-home
19 support worker and, according to
20 the support worker -- the parents
21 did work with the [Public Health
22 nurse]. It remains to be
23 confirmed with [Public Health
24 nurse] re: nature and extent of
25 involvement and if Public Health

1 [nurse] will continue to be
2 involved, [and if, and] also need
3 to clarify if parents have
4 identified a pediatrician for
5 Phoenix."

6

7 First, in that paragraph, when you're referencing
8 the follow up with Dr. Altman, what are you referring to
9 there?

10 A Which?

11 Q Where it says:

12

13 "It is not known at this time if
14 Samantha followed-up with Dr.
15 Altman ..."

16

17 A These are not my notes. I may have been having a
18 discussion with the supervisor. This is her notes.

19 Q Okay.

20 A So she may have written it, typed it in when we
21 were having that discussion.

22 Q Okay. And do you recall, at the time, whether or
23 not Samantha Kematch had, had followed up with Dr. Altman?

24 A I can't recall.

25 Q And is this information that Ms. Balan has

1 recorded here, is that information she would have received
2 from you, or is it from the file? Or, or do you know?

3 A It would have been received when we had
4 supervision, along with my other files. We, like I stated
5 earlier, we have a case list, we go individually through
6 different family case files. So we may have, we had this
7 discussion and this was the way it was documented.

8 Q Okay. And if you -- just looking at the top of
9 page 37022, it says:

10

11 "Supervision -- February 5, 2001"

12

13 Do you see that?

14 A Yes.

15 Q Would that have been the date of the meeting?

16 A Yes.

17 Q Then it says:

18

19 "CASE PLAN (as of February 5,
20 2001)"

21

22 It says:

23

24 "Given the family's gains and
25 personal improvements are still

1 fairly new, the parents are
2 required to follow all of the
3 conditions outlined in the service
4 agreement they signed on September
5 5, 2000, it is to be reviewed in
6 six months -- by March 5, 2001."

7

8 And then it lists the, the conditions and we've
9 been through those before.

10 Was that your understanding of what the case plan
11 was at that time?

12 A Yes.

13 Q And that's something you would have discussed
14 with your supervisor?

15 A Yes.

16 Q Okay. Do you recall if you had done any work
17 towards the service agreement by February 5, 2001?

18 A I can't recall.

19 Q Did you come across any recordings of any work
20 you had done?

21 A Not with the information that was provided to
22 myself --

23 Q Okay.

24 A -- only what I've stated earlier about how I
25 would document information (inaudible).

1 Q If you look at page, on page 37023, under the
2 heading: Short Term Goals, it says:

3

4 "Make contact with the family asap
5 to gather updates on progress to
6 date re: service contract
7 Identify child's pediatrician
8 Determine need for further in-home
9 support services or identify
10 referral to community resources
11 eg. parenting programs"

12

13 So these short terms goals recorded here, are
14 these goals that you would have discussed with Ms. Balan?

15 A Yes.

16 Q Okay. And do you agree, that's what the short
17 term goals were on the file?

18 A Yes.

19 Q Okay. And the goal to make contact with the
20 family ASAP, to gather updates, do you know why that would
21 have been a goal? Or what was your understanding?

22 A It was always discussed that we have to be out
23 there. The difficulty became -- was that access, or
24 finding the family at home was an issue.

25 Q Was, was a concern that, according to your notes,

1 you hadn't had any direct contact with the family by that
2 point?

3 A According to the information that was presented
4 here, it may not be recorded that I dropped by and they
5 were not at home. According to the information that's
6 presented here, it's -- I did not formally document if I
7 had face-to-face contact with the family. So that's
8 correct.

9 Q Okay. If you had had face-to-face contact with
10 the family, that's something you -- is that something you
11 would have recorded?

12 A Yes, it would have been something I would have
13 recorded.

14 Q Okay. And it's not recorded; right?

15 A It's not recorded, no.

16 Q Okay. And so that would mean then that you
17 didn't have any face-to-face contact by that point? By
18 February 5th, 2001?

19 MR. RAY: I think she's stated she can't recall
20 and that she may not have necessarily have recorded
21 everything. I think it's been asked.

22 THE COMMISSIONER: What's, what's the problem?

23 MR. RAY: Well, the witness has been asked
24 several times whether the fact the absence of a, of a note
25 means definitively that she didn't have face-to-face

1 contact. And she's indicated already, in response to those
2 questions, that, what her practice was and not, not every
3 note was necessarily recorded all the time. So I think
4 we've been through this a number of times, is my point.

5 THE COMMISSIONER: That's true, but I think that,
6 isn't he asking it on, with respect to different occasions,
7 as he goes through this? And I, I understand that she's
8 given that answer to the occasion being put to her, but I
9 don't think it's a repetition of instances.

10 MR. OLSON: Thank you.

11

12 BY MR. OLSON:

13 Q So are you able to answer that question?

14 A Can you ask the question --

15 THE COMMISSIONER: Just, just, just --

16 THE WITNESS: -- again please?

17 THE COMMISSIONER: -- refrain (sic) the question.

18 MR. RAY: Thank you.

19 MR. OLSON: Sure.

20

21 BY MR. OLSON:

22 Q So the fact that there is no, there is no note
23 between that timeframe, does that indicate -- and you said
24 you would make a note if there was face-to-face contact;
25 I've -- do I have that right?

1 A I may have went to the home. I may have dropped
2 by the home. I may have not had actual face-to-face
3 contact with them --

4 Q Right.

5 A -- and I can't recall that.

6 Q Right. And if --

7 A So --

8 Q -- the question I had though, just, I just want
9 to be fair and clear, is that if you had had face-to-face
10 contact, if you actually went to the home and you were able
11 to connect with Steve Sinclair or Samantha Kematch, that,
12 is that something you would have noted in the file?

13 A Yes, I would have noted it.

14 Q Okay.

15 A But because if it's not in my actual notes,
16 doesn't mean that I may have not have recorded it somewhere
17 else. These are only my computer notes.

18 Q Okay. But all your notes -- would all your notes
19 be in the file?

20 A All my notes -- because I have bad handwriting
21 and the thing was that that's why I went to utilizing the
22 computer to document because my written notes were very
23 difficult to read. So it -- there may have been notes, I
24 can't recall. All I can say is that these are the, the
25 notes I recorded on the computer.

1 Q Okay. But you, you've been through the file,
2 your file prior to today?

3 MR. RAY: I, I think she's gone -- indicated
4 already that she has gone through the file that was
5 provided to her 11 years after the fact.

6 MR. OLSON: Okay.

7

8 BY MR. OLSON:

9 Q And you, when you did that, you looked to see
10 what notes you made, if any; right?

11 A Yes.

12 Q Okay. And I think you said earlier, if you had
13 made some handwritten notes, either in your Daytimer, your
14 calendar, or in handwriting, the information would have
15 been put into this document? If I'm wrong about that, you
16 can, you will tell me, but that's what I understood you to
17 be saying before.

18 A As I stated earlier, if I make, if I visit a
19 home, I'd drop by, if they were not home, I would indicate
20 that in my daily, might have stopped at this address, no
21 one home. And if I did handwrite something, I would, it
22 would be handwritten. I wouldn't repeat anything back.

23 Q You wouldn't put it into this document?

24 A Because it was -- this document, like I said,
25 like I just started to do computer notes. I can't recall.

1 If I say something, I just can't recall.

2 Q Well, is, was there a difference, to you, whether
3 or not you actually met with the family, or whether you
4 dropped by and nobody was home, in terms of what you would
5 record?

6 A I would record both, I would record if I dropped
7 by the home, or if I had face-to-face contact with the
8 family. Because it's not in my computer notes doesn't mean
9 necessary (sic) it wasn't documented somewhere else.

10 Q Okay. But if you had documented it elsewhere,
11 would it have been in the file?

12 A That's where all our information would be placed,
13 is into the file.

14 Q Okay. And since there's nothing in the file
15 about any other contact, then is it safe to say there was
16 no other contact?

17 A No, because like I said earlier, that if I drop
18 by and visit a family, I may have not recorded it, I may
19 have recorded it, I can't recall that.

20 Q Okay. So you're saying you may have had face-to-
21 face contact in that period, but there was no, no note or
22 any indication on the file about it?

23 A Yes.

24 THE COMMISSIONER: Do you remember ever meeting
25 the family?

1 THE WITNESS: Oh, I remember meeting the family
2 after I had reviewed my information, yes.

3 THE COMMISSIONER: Where was that?

4 THE WITNESS: That was at a visit at, in their
5 home in February, after being prompted by my notes and my,
6 the information that was given to me.

7

8 BY MR. OLSON:

9 Q Do you recall whether or not your supervisor said
10 to you, you need to get out there and see the family when
11 you had the supervision September 5th?

12 A She would always say get out and visit your
13 families, not only one particular family, but all the, all
14 the families that we were assigned. That was a priority,
15 get out there and to see them.

16 Q Okay. At the date of this supervision meeting,
17 September 5th 2001, was it -- or sorry, February 5, 2001,
18 was it urgent to get out and see the family?

19 A It's always urgent to get out and see our
20 families.

21 Q So it was urgent at that point to get out and see
22 the family then?

23 A In the line of work we do, it's always urgent to
24 go out and see our families.

25 Q Well, at that point, did you know whether or not

1 Phoenix Sinclair was at any risk of harm?

2 A I can't recall, but according to the information
3 that was presented, they were well connected to community
4 based resources. But at that particular time, I can't
5 recall.

6 Q Do you know if Phoenix, at that point, was in
7 need of protection?

8 A Well, she was recently returned back to her
9 parents and when a file is opening for monitoring, does
10 give access to child welfare to come in and to ensure that
11 the child was safe. I received no other report, according
12 to the information that was given to me, that there, the
13 child was at risk.

14 Q According to the service agreement, you were
15 obligated to have regular contact with, regular visits with
16 the family?

17 A Correct.

18 Q And they were obligated to accommodate you on
19 those visits?

20 A Correct.

21 Q Okay. And that, at that point, at least, hadn't
22 happened? At least from when you took the file until the
23 date of supervision?

24 A Like I've stated earlier, that I, I may have
25 stopped and did the drop by visits and they weren't home.

1 Q Okay. But then if they weren't home, you
2 wouldn't -- that, that's not having contact with them;
3 right?

4 A Well, the attempts are there. That's not direct
5 face-to-face contact is correct.

6 Q Okay. So would the attempts to make contact,
7 would that, are you saying that that would satisfy the
8 service agreement?

9 A No.

10 Q What did you understand your responsibility to be
11 as a family service worker at that point?

12 A My responsibility there was to ensure that the
13 plan was being carried through, the child was safe and the
14 parents were attending the required programs that they
15 agreed to in the service agreement.

16 Q If we look at the, back at page 37009, the next
17 note you have here is February 7th, 2001?

18 A Yes.

19 Q It says:

20

21 "Field to 740 B Magnus about 1:15
22 (no scheduled visit) to meet with
23 Samantha -- both Samantha and
24 Steve were leaving the apartment
25 and Samantha stated they had no

1 time to talk to this worker -- I
2 informed her that it was difficult
3 to connect with them because they
4 have no phone and when we attend
5 [to the] the home no one is
6 usually home -- this is why we
7 have to come out unannounced --
8 Samantha stated 'you could write
9 me a letter' -- since we are
10 unable to meet today -- this
11 worker scheduled an appointment to
12 meet on Friday February 9th at 2
13 PM."

14

15 So you made a scheduled appointment with her for
16 two days later?

17 A Yes.

18 Q Okay. And do you recall, do you recall how Ms.
19 Kematch was at this, when you met with them at this point,
20 in terms of her demeanour?

21 A I can't recall actually, but just from the
22 description that was given in my note.

23 Q And then February 9th, 2001, your note says:

24

25 "Field to 740B Magnus on February

1 9, 2001 @ 2PM to meet with
2 Samantha -- her and Steve were at
3 home with Phoenix -- Samantha
4 appeared angry and annoyed that I
5 was visiting -- during the home
6 visit Steve sat in the back room
7 and did not participate in the
8 discussion. Although he did
9 answer some general questions that
10 the worker asked. The home was
11 very clean although sparsely
12 furnished. Samantha [sat on] sat
13 the entire time in front of the TV
14 -- while this worker attempted to
15 have a conversation with her --
16 she would [nod] or respond
17 aggressively when asked a
18 question. She did offer some
19 information about the parenting
20 program she did attend along with
21 Steve and that Marion Belanger ...
22 was in the home and she felt ...
23 she did help -- they are connected
24 to the Boys and Girls Club, Nikki
25 Taylor, Andrew Street and Ma Ma Wi

1 Samantha stated that her child
2 Phoenix were doing really well
3 [that] and had no concerns at this
4 time about her health. Samantha
5 stated she doesn't know why CFS is
6 [still willing, sorry, still] ...
7 wanting to be involved and further
8 stated she has done everything
9 that was asked of her -- this
10 worker explained that they are
11 young parents that WCFS is
12 available to offer any support if
13 needed.

14 Samantha stated that her and Steve
15 are doing well at this time.
16 Samantha stated she did see Dr.
17 Altman for the appointment and
18 that she did have Marion Belanger
19 in her home and felt she worked
20 okay with her. Samantha will be
21 getting a pediatrician to follow
22 Phoenix. When this worker
23 mentioned that Cree Nation was in
24 contact with the Agency about her
25 eldest child -- Samantha sharply

1 stated that she doesn't want or
2 need to have her oldest child
3 [child's] situation involved in
4 this matter because he is [a]
5 permanent ward of Cree Nation.
6 Overall, it is evident to this
7 worker that Samantha is annoyed
8 and dislikes the involvement of
9 WCFS -- the family appears to [be]
10 doing well although Samantha does
11 appear angry and annoyed with the
12 agency involvement -- the home is
13 clean and well maintained and the
14 child Phoenix appear clean and
15 content -- Steve appears to be
16 [relatively] involved [in] the
17 general care of the child.
18 Steve appeared very ..."

19
20 MR. RAY: Actively.

21 MR. OLSON: Sorry.

22
23 "... actively involved into the
24 general care of the child.
25 Steve appeared very quiet and did

1 offer very little input [in]
2 today's conversation. Samantha
3 appeared agitated and clearly
4 stated her obvious annoyance of
5 the Agency involvement and stated
6 that if the Agency [wanted] to
7 meet with her in the future that
8 we need to send a letter for an
9 appointment and not to just drop
10 by. The worker Informed her [that
11 we drop by] that we do drop by
12 [visits] especially if a person
13 has no phone and to date that it
14 was very difficult to meet with
15 them."

16

17 Then it says:

18

19 "Plan: Will [drop] do drop by
20 visit to monitor situation as
21 needed"

22

23 BY MR. OLSON:

24 Q Do you have any recollection of this meeting?

25 A After my notes was given to myself, yes, I do.

1 Q And when you met with Samantha, did you remind
2 her that the service agreement was still in place?

3 A We most likely had the discussion.

4 Q Okay. And you're, are you basing that on memory?

5 A I'm not basing that on memory. I'm basing it
6 basically on my notes that was presented to myself.

7 Q Okay. And what is it in the notes that suggest
8 to you, you talked about the service agreement?

9 A Because the conversation would have been around
10 the service -- or the case plan and the information that
11 was shared by a previous worker and she was well aware of
12 the resources that were supposed to be in her home. So it
13 was a conversation that took place, because she knew what
14 was expected of her, of the agency.

15 Q So you're saying Samantha knew it was expected --

16 A Yes.

17 Q -- of her? Okay.

18 A Herself and Steve.

19 Q Okay. And what about her, her need to cooperate
20 with the agency? Did you get the sense that she wasn't
21 very cooperative?

22 A She -- according to the notes, she wasn't
23 cooperative.

24 Q Okay.

25 A Like, she was annoyed.

1 Q Were you satisfied, at that visit, that Phoenix
2 was safe?

3 A At that particular visit, according to my notes,
4 they appeared to be doing well. The home was clean, the
5 child was clean, they offered information of the things
6 that they've done for the, in the plan and that they were
7 connected to external resources.

8 Q Did you do any follow up with any of the
9 resources, to see if they were, you know, attending --

10 A I can't recall.

11 Q Were you -- did you spend any time with Phoenix
12 that day?

13 A The child was sitting on the floor of the living
14 room. She had toys, she was playing. I, I may have said,
15 you know, may have went over and seen her. I can't really
16 recall in detail.

17 Q But you are able to recall that you saw her that
18 day?

19 A Yes.

20 Q Okay. And what was your practice, in terms of
21 noting something like that in the file?

22 A I would note that I've, that the child was seen.
23 And if there's nothing alarming there, and the child
24 appeared to be okay. And the discussion was, majority was
25 with, and the contact was with the parents.

1 Q Do you know how much time you would have spent at
2 this meeting with the family?

3 A Normally, a visit like that would be about an
4 hour.

5 Q Was anyone with you?

6 A No.

7 Q What was your goal from this meeting?

8 A I can't remember what the goal was. It states,
9 in the plan, will, will drop by to visit or monitor
10 situation as needed, or as needed.

11 Q And what, what did you mean when you wrote that?
12 Will drop, do drop by visit to monitor situation as needed?

13 A Because she disliked the fact that we can just go
14 by and drop in at her home. She requested specifically,
15 according to my notes, that she wanted a letter, stating
16 that she wants an appointment. And I stated to her,
17 because of the difficulty of contacting her, we do drop by.
18 And that was one of my practices until, continued later in
19 my own practice as a social worker.

20 Q So was your plan though, at this point, then, you
21 were going to just, you were going to drop by --

22 A The plan, according to what's to -- that I will
23 drop by or as needed. Meaning, if a collateral had called
24 or there was a concern, then I'll respond to it and I will
25 attend the home.

1 Q Okay. So there were two things to the plan. One
2 is you would drop by to monitor what was happening?

3 A I guess monitor about the requirements of, of the
4 support agreement.

5 Q Okay. The, you mean the service, the service --

6 A Service agreement --

7 Q -- agreement?

8 A -- sorry.

9 Q Okay. And then when you say or as needed, that's
10 if you got a call or something from a collateral, saying
11 there might be a concern?

12 A Correct.

13 Q Okay. And how often did you plan to drop by?

14 A I can't recall. I put it in my notes, I will do
15 drop by visits.

16 Q Okay. You wrote that Steve appeared to be
17 actively involved in the general care of the child. Is
18 there a reason you noted that?

19 A Because I believe from, from my contact with
20 Steve, he, you know, they -- he did, actively was involved
21 for the care, with the care of the child. I'm talking
22 about the other child.

23 Q The, the --

24 A The deceased child.

25 Q -- deceased child? Okay. And you're talking

1 about the child that Steve and Samantha had after Phoenix?

2 A Yes.

3 Q She wouldn't, she wouldn't have been --

4 A She --

5 Q -- born at that point.

6 A -- I know, but what I was talking about here, he
7 was, there was probably, most likely a discussion about
8 that he changes diapers, he feeds the child. It may have
9 been just put there, actively involved in the care of this
10 child. I can't recall.

11 Q Okay. It's, it's apparent that you weren't
12 welcome, you weren't welcome in the house at that point;
13 was that your impression? They didn't want you there?

14 A From my experience, as a social worker,
15 especially social worker in child welfare, we're not
16 welcome in a lot of homes.

17 Q Okay.

18 A And when I attended this home, she was annoyed,
19 because she knew I was from Child and Family.

20 Q Okay. So even though she didn't want you there,
21 you, you, you were going to meet with them and, and talk
22 about what was happening?

23 A Well, that's, that's our job is to --

24 Q Right.

25 A -- talk about any concern.

1 Q Okay. Because -- so your experience, as a social
2 worker then, is that generally people aren't happy to have
3 you in their home?

4 A My experiences, yes.

5 Q Okay.

6 A There are some clients that welcome you into
7 their home and open to your resourcing (phonetic) and
8 helping and there's some that just say, you know, they
9 don't want you in their home.

10 Q And just because they don't want you there, they
11 don't like you there, does that mean you don't, you don't
12 do what you need to do to ensure the child is safe?

13 A No. You're a mandated agency, you have to ensure
14 the child is safe. That's why we're called child
15 protection.

16 Q Right. Did you, did you have any plan at that
17 point as to how you might deal with, I guess, the poor
18 reception you got at the home, for the future?

19 A At that particular time, no, it's just that I
20 know, as a social worker, that I will have to be visiting
21 and, and, and visiting them in the home, so --

22 Q Okay.

23 A -- regardless if she disliked it or her response
24 to when I was there.

25 Q So then if you look at the next note and that's

1 on page 37010, it's dated April 30th, 2001. It says:

2

3 "[Phone call] from Women's

4 Hospital from [source of referral,

5 social worker] to inform [me] that

6 Samantha Kematch gave birth to a

7 baby girl on April 29, they named

8 her ... and the [the] baby and

9 mother are doing fine. According

10 to [the source of referral] the

11 parents are quite attentive to the

12 child and stated that they have

13 all the necessary items for the

14 child -- their daughter Phoenix is

15 about 1 year old and they have

16 kept all her baby stuff. A friend

17 of theirs is keeping Phoenix until

18 she is released from the hospital.

19 [The source of referral] has no

20 concerns and stated that the

21 father -- Steve Sinclair has been

22 actively visiting and

23 participating in the care of the

24 baby. The parents returned home

25 with the child and appeared to

1 quite active in the care of the
2 child -- parents have been
3 observed [as a] as responsible for
4 caring for the child and access
5 the appropriate can caregivers to
6 care for Phoenix in their absence.
7 This is Samantha's third child and
8 this is the third time that she
9 had not disclosed to the Agency
10 that she was pregnant."

11

12 First, why, why -- what was the reason for the,
13 the gap, I guess, between the last note you had written,
14 which was February 9th, and this note, April 30th?

15 A I can't recall.

16 Q Okay.

17 A There could have been many other factors relating
18 to my, the, the caseload that I had at that time. It could
19 many, been many of thing. I may have stopped by, they
20 weren't home, that's, that's all I could say.

21 Q Does this mean that you didn't see the family, at
22 least from February 9th until whenever your next contact
23 with them was, sometime after April 30th?

24 A I can't recall.

25 Q Did you know that, that Samantha Kematch was

1 pregnant?

2 A From the, from my case notes and the time I had
3 met with her first time, or when I actually wrote the note,
4 I can't recall if she was pregnant or I did -- there was --
5 I didn't know.

6 Q You didn't know?

7 A Or I never noticed.

8 Q Okay.

9 A She was a larger woman also, so ...

10 Q I guess, is that something you would have noted,
11 had you been aware of it?

12 A Oh yes.

13 Q And you wrote that this is the third, Samantha's
14 third child and this is the third time that she had not
15 disclosed to the agency that she was pregnant. Why did you
16 note that?

17 A Because it's the information that's contained in
18 the file.

19 Q Okay. Is the fact that this is the third time
20 that she hasn't disclosed her pregnancy to the agency, is
21 that, was that concerning to you, as the worker?

22 A Yes.

23 Q Okay. And why would that be of concern?

24 A For the fact that she hid her pregnancy and she
25 may have not received any prenatal care and she just wasn't

1 cooperating and being honest with, with myself and the
2 agency.

3 Q Do you recall if you ever confronted her about
4 her -- the fact she hid her pregnancy?

5 A I can't recall.

6 Q You also note that Phoenix was being cared for --
7 friends. Did you have any concerns about that?

8 A At that particular time, according to notes,
9 they, they had a lot of family support, extended family
10 supports.

11 Q When you say that, are you referring to Mr.
12 Sinclair's siblings, or who is it you're referring to?

13 A Accord (sic), I can't really recall at this
14 point, but further on, the majority of the family supports
15 came from Mr. Sinclair.

16 Q Okay. And did you know whether or not these, the
17 supports they had were suitable for caring for, for
18 Phoenix?

19 A I can't recall.

20 Q Is that something you would have wanted to
21 investigate, as the worker?

22 A It'd be something that we would check into.

23 Q I missed the last --

24 A It will be something that we will check into.

25 Q Okay. And, and sorry if I asked this, did you do

1 any checking into that?

2 A I can't recall.

3 Q The information you wrote in the note, in the
4 note here, it looks like this was a, a referral from
5 Women's, Women's Hospital, from the source of referral.
6 But then as you go on, where it says the parents returned
7 home with the child and appeared to be quite active in the
8 care of the child; where is that information coming from?

9 A I can't recall.

10 Q Do you know if you met with someone else who gave
11 it to you?

12 A It could have been the women's hospital, it could
13 have been the public health nurse. It could have been any
14 collateral. I, I can't say where I got that information
15 from. I cannot recall.

16 Q Okay. Because there's no indication in here
17 where, where that comes from?

18 A Correct.

19 Q Okay. Given what you knew about the family at
20 that point, did you have concerns that a new, a new baby
21 might add some additional stresses?

22 A Yes.

23 Q And did you -- were you concerned that might
24 impact the safety of the children in the home, now that you
25 have a, a newborn and a, and an infant?

1 A Correct.

2 Q At that point, did you do any sort of safety or
3 risk assessment?

4 A I can't recall. I may have. It would be
5 practice to do so.

6 Q It would have been practice to do a safety and
7 risk assessment?

8 A Yes.

9 Q Okay. And would that be a formal risk
10 assessment?

11 MR. RAY: Can you just maybe clarify for the
12 witness what you mean by formal risk assessment? I
13 think ...

14

15 BY MR. OLSON:

16 Q How, how would normally prepare a risk
17 assessment? What would you do?

18 A Basically what would happen is that when you're
19 doing an actual risk assessment, you would look at, look at
20 past, past information that we would have gained from the
21 previous worker. But looking at the age of the child and
22 looking at the, the family, whether if they have taken any
23 kind of parenting courses, if they have engaged in any
24 other programming to better their ability to, to parent,
25 those kinds of things. But basically the age of the child.

1 Q Age of the child?

2 A Yes and these children, the risk would have been
3 high because of age.

4 Q So this would have been a high risk family at the
5 time?

6 A At this particular time, yes.

7 Q Okay.

8 A And for the fact that she had concealed her
9 pregnancy.

10 Q She concealed the pregnancy and you have a new
11 baby on top of that?

12 A Correct.

13 Q Okay. And as a high risk family, what, what --
14 how -- what would you do with that, if you knew the risk
15 was high?

16 A Would be more frequent contact to the home.

17 Q Okay. So would, would it be important to get in
18 there as soon as possible, to see what's happening and
19 where things are at?

20 A Correct.

21 Q Okay. There's no recorded attempt -- well,
22 February, February -- sorry, April -- March -- May 9th,
23 2001 is your next attempt to visit the home. And you have
24 a recording here that no one was home. It's on page three
25 zero, three seven zero --

1 A Um-hum.

2 Q -- one --

3 A Yes.

4 Q -- zero. So that was the next attempt after the
5 information you got from the hospital?

6 A According to the notes, yes.

7 Q And what was the reason for the number of days
8 that went by after the baby was born, after you got the
9 referral?

10 A I can't recall.

11 Q Expect to hear from Ms. Balan that she had
12 discussed with you waiting, in order to give the family
13 some time to settle at home; do you recall that?

14 A I've read it in my notes, but I can't recall
15 actually having those conversations.

16 Q Okay. Is that something you, you would have
17 agreed with at the time?

18 A Yes.

19 Q Okay. And that's even though that, even though
20 you would say that this was a high risk family, high risk
21 situation?

22 A Yes.

23 Q Take a look at page 37069. This is, again, from
24 Samantha Kematch's file. It's a, an e-mail from Elisabeth
25 Woods, sent June 18, 2001 to you and the subject is Steve

1 Sinclair and Samantha Kematch. It says:

2

3 "Hi Delores:

4 Steve's sister Angle Sinclair was
5 very recently transferred to me.

6 Angie [been] has been awol from

7 [wherever she was placed] a great

8 deal lately. Much of the time she

9 has spent with her brother Steve

10 and his partner Samantha. Angie's

11 group home staff believe that

12 Angie [may be babysitting] may

13 have been babysitting for Steve

14 and Samantha. Given Angie's

15 functioning this would be of

16 concern.

17 Also of concern is a message I

18 received from [source of referral]

19 wherein I was told that recently

20 Steven had become violent and had

21 assaulted both Angle and Samantha.

22 Police were involved lately but I

23 am not sure of what transpired. I

24 was told today that Angie is

25 staying with a fellow by the name

1 of [name's redacted]. (I know of
2 [this person] because he assaulted
3 one of my other girls only months
4 ago). [The person] is also the
5 birth father of Samantha's first
6 born.

7 For your information and/or follow
8 up.

9 Hopefully by the time you read
10 this my information might be a
11 little more clear."

12

13 First, do you know who Elisabeth Woods was? Did
14 you know her?

15 A No.

16 Q Okay. Do you recall receiving this e-mail?

17 A I can't recall.

18 Q Would the information in the e-mail have been of
19 concern to you?

20 A Yes.

21 Q Do you have any recollection of discussing this
22 issue with Ms. Woods?

23 A No.

24 THE COMMISSIONER: You don't know who she is?

25 THE WITNESS: No.

1 THE COMMISSIONER: Whether she was a social
2 worker or whatever?

3 THE WITNESS: Well, she would be a social worker,
4 but I don't know her personally. I didn't know her.

5 THE COMMISSIONER: She, she was working for Child
6 and Family Services?

7 THE WITNESS: According to the memo, yes.

8

9 BY MR. OLSON:

10 Q And when you look at the, the e-mail, where it
11 says, after the name, Elisabeth, Woods, Elisabeth, you see
12 that? And it says FSH; does that mean anything to you?
13 Your, under your e-mail address it has the same, same
14 thing.

15 A Yeah, Family Services.

16 Q So that, that would tell you she's --

17 A That would indicate she worked for Winnipeg --

18 Q Okay.

19 A -- for Child and Family. That's Family Service
20 and Housing (inaudible).

21 Q Okay. And where it says:

22

23 "Steve's sister Angle Sinclair was
24 very recently transferred to me."

25

1 Would you understand that to mean that Angie
2 Sinclair was transferred to be one of her cases --

3 A Yes.

4 Q -- as a family service worker? And would you be
5 able to find out -- I mean, this was an e-mail from Ms.
6 Woods -- would -- did you have access to e-mail at the
7 time?

8 A Yes.

9 Q Okay. And so you could have responded to her by
10 e-mail?

11 A Yes.

12 Q Okay. Or you could have found her phone number
13 in the directory?

14 A Yes.

15 Q Okay. So it wouldn't have taken much to find out
16 who she was?

17 A Correct.

18 Q Okay. And --

19 THE COMMISSIONER: Well, do you, do you, do you
20 acknowledge ever having received this e-mail?

21 THE WITNESS: If it was sent directly to myself,
22 yes, I would have received it on my e-mail. There's
23 several workers, social workers in the agency that we get
24 e-mails from. But we don't necessarily know each other.

25 THE COMMISSIONER: Right.

1 THE WITNESS: They come from different
2 departments.

3 THE COMMISSIONER: I understand.

4

5 BY MR. OLSON:

6 Q So the fact that this other social worker, who
7 had knowledge of these facts was alerting to you, was that
8 something that would have caused you to take some action?

9 A Yes.

10 Q Okay. Do you know what you did as a result of
11 getting this e-mail, if anything?

12 A I can't recall.

13 Q The next document I'd like you to take a look at
14 is at page 37068. So it's the previous page. So you see
15 here, this is another e-mail from Elisabeth Woods to you.
16 This time, it appears she's copied your supervisor, Ms.
17 Balan and June 19th, 2001, so it's the next day. And it
18 says:

19

20 "Hi Delores:

21 This is further to my e-mail and
22 information I sent yesterday.

23 Winnipeg Police and Lionel from
24 Knowles went to [and the name is
25 redacted] ... While [while] there,

1 they arrested [somebody] in
2 regards to outstanding warrants.
3 Although Angie and Samantha
4 weren't there [the name's
5 redacted] mother ... confirmed
6 that both young women had spent
7 the night at her place and they
8 were out shopping. No mention of
9 the baby was made.
10 For your information."

11

12 Do you recall receiving this e-mail?

13 A No.

14 Q Do you know if you did any follow up with Ms.
15 Woods?

16 A I can't recall.

17 Q Based on these e-mails, would you have, would --
18 how would you have assessed the risk to Phoenix, and at
19 this point, the, the newborn?

20 A The risk was high.

21 Q What sort of response time would that high risk
22 warrant?

23 A Within a day.

24 Q Just turn to page 37075 please. Again, this is
25 from your file of the Samantha Kematch file. So the top,

1 you'll see there's a fax, the fax information shows June
2 20, 2001, from the Knowles Centre; do you know what the
3 Knowles Centre is?

4 A Yes.

5 Q What is it?

6 A It's a youth facility.

7 Q Okay.

8 A It provides services to high risk youth.

9 Q High risk youth? It says --

10 THE COMMISSIONER: Services to high risk
11 what?

12 THE WITNESS: Youth.

13 THE COMMISSIONER: Youth?

14

15 BY MR. OLSON:

16 Q Have you seen this document before?

17 A No.

18 Q Do you recall seeing it on the file?

19 A I can't recall.

20 Q If you look at item number 5, where it says
21 describe incident, it's a bit difficult to read, but it
22 says:

23

24 Angie went AWOL on June 15th and
25 returning at 12:15 a.m. on Sunday,

1 April 17th. Return Angie ...

2

3 Oh, sorry, June, June 17th, sorry.

4

5 On return, Angie said that she had
6 talked to a -- she had a fight
7 with her brother, Steven Sinclair.
8 Staff, Ian, spoke to Angie about
9 the incident on Sunday. Angie
10 stated that there was a serious
11 fight between Angie, Steven and
12 Steven's sister, or Steven's
13 something, Samantha. Angie stated
14 that she did not any what be ...

15

16 And so it's, it's difficult to make out, but it
17 says that there was a, basically there was an assault and
18 it involved Angie, Steve and Samantha. Is this information
19 you recall receiving?

20 A I can't recall.

21 Q Would that information, if you had it, be
22 concerning to you?

23 A Yes.

24 Q And would it also, would also increase the risk,
25 or the risk assessment you would be looking at for the

1 safety of the children in the home?

2 A Yes.

3 Q Do you know where the children would have been at
4 the time?

5 A I don't know.

6 Q Go to -- still in Samantha Kematch's file, page
7 37067. Here's another -- this is on your e-mail. It's
8 from your supervisor, Angie Balan, dated June 29, 2001.
9 It's to you and it's copying Cory Donald re: Kematch. It
10 says:

11

12 "Hi Delores. I received a call
13 from Cher Prince/CRU late this
14 Morning. Cher advised that she
15 had received a call from [source
16 of referral, source of referral]
17 refused to provide his name. ...
18 reports concerns about Samantha
19 Kematch's children. Stated that
20 on June 15th, Samantha and her
21 partner (Steven Sinclair) were in
22 a domestic dispute late in the
23 evening and that Steven kicked
24 Samantha out of the home and that
25 the small infant, the 1 year old,

1 remained in the home with Steven.
2 Steven and Samantha live at 740B
3 Magnus. [Source of Referral] is
4 concerned as he has not seen
5 Samantha and babe in a few days
6 and alleges that Steven has a
7 drinking problem and on-going
8 conflicts with Samantha. [Source
9 of referral] feels [that] there
10 needs to be some check on the
11 safety and well-being of the
12 children.

13 I asked Cory to do a field to the
14 home to check on the well-being of
15 the children today. I will have
16 Cory send you an email with
17 outcome of the field. Thanks.
18 Angie"

19
20 Do you recall getting this e-mail?

21 A It's in my notes, so I can't recall that I
22 received it that time.

23 Q But it was in your file notes?

24 A It was in the file, yes.

25 Q Okay. And who, who is Mr. Donald? Who is Cory

1 Donald?

2 A He's one of my co-workers.

3 Q Okay. And so, by the looks of it, it was -- your
4 supervisor was going to have Cory Donald go to the home,
5 see what was happening?

6 A Correct.

7 Q Okay. And do you know why you wouldn't, you
8 wouldn't have gone?

9 A I may have been out of the office. I may have
10 been on holidays, I don't recall.

11 Q Do you know if Mr. Donald went out to go and
12 check on the wellbeing of the children?

13 A Yes, he did.

14 Q Okay. And do you know when that was?

15 A I -- only in my notes that he, it did state that
16 he did go. I can't say yes, he went out that day.

17 Q If you look at your notes, go back to page 37011,
18 so just, just so you know where we are here, if you go to
19 the previous page, the last entry was the field to Magnus
20 on May 9th, 2001?

21 A Correct.

22 Q And then so the running notes say the next
23 contact would have been July 4th, 2001 at 10:41 a.m.; is
24 that right?

25 A According to the documented report, yes.

1 Q Okay. And so that says:

2

3 "Several concerns have been
4 [referred to the, re:] ... the
5 care of the children and the
6 parents use of alcohol and family
7 violence ...

8 Will field to 740A Magnus on July
9 4th"

10

11 See that?

12 A Yes.

13 Q And it says:

14

15 "Cory Donald on call worker --
16 field to the home during my
17 absence from work -- according to
18 Cory Donald that he had met with
19 Steve at this home at 740B Magnus
20 -- Steve appeared sincere, open
21 and honest in his discussion with
22 Cory -- Samantha left the home and
23 the two children are in care of
24 their father. The house was clean
25 and Steve did have assistance from

1 extended family to care for the
2 children if needed."

3

4 That reference here to Cory Donald, is that, do
5 you know if that's referring to the field visit?

6 A It's referring that he did field in my absence.

7 Q Okay. And do you have any idea when that was
8 done?

9 A It is somewhere in my notes that it did state the
10 date that he did go out.

11 Q Okay. Do you know if you had any conversation
12 with Mr. Donald about this?

13 A I can't recall.

14 Q And would Mr. Donald have had the background
15 information on the file, or was he just filling
16 in?

17 A He would have had information but not -- the file
18 -- he had access to the file if he needed it.

19 Q Okay. What was his, what was his role in this
20 file? Did he have a role in the file, other than this
21 field --

22 A No.

23 Q -- visit? No.

24 A The practice was, within the unit, that if a
25 worker was away for that particular day, that there was an

1 on call worker. So he or she would follow up on families
2 of workers who were not there that particular day.

3 Q And put in -- pull up page 37066.

4 Do you recognize this document?

5 A From what was given to me, yes.

6 Q Okay. And do you recall receiving this document?

7 A I can't recall receiving it.

8 Q But it was on your file, your Samantha Kematch
9 file?

10 A Correct.

11 Q Okay. And it's to you from Kathy Epps. Kathy
12 Epps would have been Steve Sinclair's previous worker, when
13 he was a child-in-care?

14 A That's what the document says, yes.

15 Q Right. And you would have been aware of that
16 from Ms. Greeley's transfer summary; right?

17 A Correct.

18 Q Okay. The date is July 3, 2001 and it's, it
19 says:

20

21 "I was contacted today by [a
22 source of referral], Steven.
23 Steven was a ward of the Agency
24 for a number of years and I was
25 his worker. This was the

1 situation as presented to me: ..."

2

3 Ms. Epps told us this was a meeting with, that
4 was with Steve's sisters, where, where they had some
5 concerns and Ms. Epps writes:

6

7 "Steven has been caring for the
8 children since [July 14th]. On
9 the 15th he had welfare changed to
10 his [names] name. Steven
11 indicated that Samantha was
12 drinking and out of control and
13 not caring for the children. He
14 has assumed responsibility for the
15 children and he would like to
16 continue to do so.

17 Samantha reportedly has taken the
18 Child Tax Credit and was drinking
19 with it. Steven indicated that on
20 Friday at approximately 2 AM an
21 altercation broke out between
22 himself, Samantha and Shelia
23 (Steve's sister). Steve admits
24 [that] he had been drinking with
25 Shelia but that his sister Genny

1 was caring for his children at the
2 time.

3 Steven reports that Sheila
4 attacked Samantha and Steve pulled
5 her off of Sam.

6 On Monday July 2nd [Winnipeg
7 Police Service] showed up at
8 B - 740 Magnus where Steven
9 resides and where he was caring
10 for his daughter. Phoenix was not
11 at home [that night] last night
12 [sorry]. The officers stated that
13 Steven was being charged with
14 assaulting Samantha during the
15 altercation that took place on the
16 29th. He has been accused of
17 shaking Samantha. The officers
18 [took and gave] took [the baby]
19 and gave her into the care of
20 [the] mother who is staying with
21 [a friend] ...

22 Steven is very concerned about his
23 infant daughter and would like her
24 returned to his care as he is
25 convinced that Sam is unable to

1 care for the child. [The
2 referral] stated that Sam's first
3 child is a permanent ward of Cree
4 Nation."

5

6 And it says:

7

8 "I spoke with Steve who stated
9 that he did not know he had a
10 worker. He will call you and may
11 come here after 2 PM."

12

13 Was this, was the information in this memo
14 concerning to you?

15 A Yes.

16 Q Okay. And what sort of response time would the
17 information warrant?

18 A Immediate.

19 Q And did you go out and, and see the family
20 immediately?

21 A I can't recall.

22 Q The first recorded attempt you have here is, if
23 you look back at your notes on page 37011, the first field
24 is recorded, looks like July 6th, 2001; do you see that?

25 A Yes.

1 Q And do you know why that would have been, why
2 there would have been a delay for a few days?

3 A I can't recall.

4 Q Okay. And have you checked back to see if
5 you were away or on, on holidays, or otherwise
6 unavailable?

7 So you can't recall whether or not you were away
8 or you, there was some reason you weren't able to
9 immediately --

10 A I can't --

11 Q -- go to the family home?

12 THE COMMISSIONER: What was the date of the Epps
13 e-mail?

14 MR. OLSON: The date of the Epps memo is July 3,
15 2001.

16 THE COMMISSIONER: July 3?

17 MR. OLSON: 2001.

18 THE COMMISSIONER: Right.

19 MR. OLSON: And the first record of the attempted
20 contact was July 6th --

21 THE COMMISSIONER: Yes.

22 MR. OLSON: -- 2001, at 2:00 in the afternoon.

23 MR. RAY: Your, your question related to the, the
24 recorded contact (inaudible) by this witness?

25 MR. OLSON: By this witness. This witness'

1 attempts to meet with the family.

2

3 BY MR. OLSON:

4 Q Did it, did it surprise you to see that Mr.
5 Sinclair wasn't aware that he had a worker? Do you, do you
6 know if that was a surprise when you read it?

7 A When I read the case notes, yes. But I can't
8 recall reading it at that time when I had documented it.

9 Q And the reference that:

10

11 "Steven is very concerned about
12 his infant daughter and would like
13 her returned to his care as he is
14 convinced that Sam is unable to
15 care for the child."

16

17 Is that something you, you would have wanted to
18 explore more?

19 A Yes.

20 Q Okay. And do you know if you ever did explore
21 that any more than, than what's written here?

22 A I can't recall.

23 Q Have you come across any notes, or anything like
24 that, indicating you did?

25 A I was only given the information that's here.

1 Q Okay. So whatever was in the file is what you
2 were given?

3 A Whatever was -- yes.

4 Q Okay.

5 A Information that was shared with myself.

6 Q Okay. And in that information, did you see
7 anything suggesting you had made any inquiries to see what
8 Steve Sinclair was referencing there?

9 A Only the information that was provided, I can't
10 recall.

11 Q Okay. So at 37011, which is on the screen now,
12 we just reviewed the entry for July 4th, 2001 and then on
13 July 5th, 2001, it says:

14

15 "[Phone call] to Jenny Sinclair at
16 MA MAWI ... re: Steve -- she was
17 not in -- left message to call
18 DCA."

19

20 Do you recall why you -- what, what you were
21 trying to do there, or what that was about?

22 A I can't recall.

23 THE COMMISSIONER: Just where are you referring
24 to now?

25 MR. OLSON: This is on page 37011 --

1 THE COMMISSIONER: Yes?

2 MR. OLSON: -- it's under the date of July 5th,
3 2001.

4 THE COMMISSIONER: Yes.

5 MR. OLSON: It's the third paragraph on that
6 page. It says phone call to Jenny Sinclair, PC?

7 THE COMMISSIONER: Yes, line busy.

8 MR. OLSON: No, PC is:

9

10 "[Phone call] to Jenny Sinclair at
11 MA MAWI ... re: Steve -- she was
12 not in -- left message to call
13 DCA."

14

15 BY MR. OLSON:

16 Q So it sounds like you, you left a message for
17 Jenny Sinclair at her work and you were asking her to call
18 you; right? Am I interpreting that --

19 A Yes.

20 Q -- correctly? Yeah.

21 A That's correct.

22 Q Okay. And then the next entry, this would have
23 been at around noon, saying the:

24

25 "[Phone call] to Jenny -- line

1 busy"

2

3 A Correct.

4 Q Okay. So you didn't get through to her then that
5 day?

6 A Appears so, yes.

7 Q Okay. And the fact that you were making these
8 calls, does that mean you would have been in the office
9 that day, physically?

10 A Yes.

11 Q Okay. But there's no record here of any attempt
12 to actually go out to the house that, that, that day; is
13 that right?

14 A No, there's no note there.

15 Q The note for July 6, 2001, 2:01 p.m., we have:

16

17 "Field to 740B Magnus to meet with
18 Steve. Steve was at home with his
19 youngest child -- Phoenix was not
20 at home she was at his friend Kim
21 Edwards's home for the afternoon.
22 Steve stated he gets her to watch
23 her if he needs [to get somewhere]
24 to go some where.

25 The house was very clean although

1 it was sparsely furnished there
2 was about six kittens including
3 the mother -- Steve stated that he
4 is looking for a home for them --
5 they will be ready in about two
6 weeks to leave their mother --
7 this worker noticed no apparent
8 smell of cat urine and [that the
9 cat] that the cat where (sic)
10 lying in the corner near the
11 entrance [to] the apartment. The
12 youngest child ... was sleeping in
13 a portable playpen in the living
14 room near the kitchen. Steve
15 invited this worker to the back of
16 the apartment to what he
17 considered his living room -- he
18 explained that he and Samantha are
19 separated after she came home with
20 a 'hickey' on her neck -- he
21 stated she was with her ex-
22 boyfriend, who is the father of
23 [the oldest child] her oldest
24 child -- Steve stated the child
25 ... is in care of CFS. Steve

1 stated he did not want anything
2 more to do with Samantha and that
3 he was charged with assault
4 against her -- Steve stated that
5 she claims that he shook her up --
6 Steve stated that his sister Jenny
7 was there and witnessed the
8 argument. Another reason for
9 Samantha trying to get back at him
10 according to Steve -- he stated
11 his sister Sheila Sinclair had
12 fought Samantha. He also stated
13 that the [Winnipeg Police
14 Services] attended his home and
15 [arrest] arrested and [charged]
16 him with assault -- [and that at
17 the] time ... [Winnipeg Police
18 Service] took [the, the baby] and
19 gave the child to Samantha. The
20 child returned to his care about
21 two days [after when] after this
22 when Samantha brought [the child]
23 back [to her] on her own. [She
24 described -- sorry] Steve
25 described [the child's] conditions

1 as 'being dirty and [hungry] and
2 she smelt badly'. Steve stated he
3 knew very well that Samantha could
4 not care for her. Steve appeared
5 ... up front and honest in his
6 answers.

7 During the time this worker was in
8 the home -- [baby] woke up about
9 15 minutes into the visit -- Steve
10 retrieved her from the playpen and
11 prepared a bottle of formula for
12 her -- all the time he held her in
13 his arms -- when Steve sat on the
14 couch -- he played with [the
15 child] and the child appeared very
16 alert and responded to the noises
17 and faces her father was directing
18 towards her.

19 While he fed her the formula he
20 talked about his plans for the
21 children -- he stated that his
22 main support for the children and
23 him is his sister 'Jenny' she
24 works at the Ma Ma Wi center and
25 he attended to the center almost

1 daily. Steve stated that he takes
2 the children to 601 Aikins if
3 there is a need for medical
4 attention and that Dr. Lipnowski
5 sees [the child] or he will call
6 Envoy for assistance if they get
7 sick and stated that [child's] is
8 on 'similac' formula and ... she
9 eats well.

10 This worker asked if he a Ma Mawi
11 ... worker assigned to him --
12 Steve stated no -- that he goes
13 there and visits with all the
14 workers -- he did state that he
15 will taking a parenting program
16 for young fathers in August.
17 Steve stated that he [is] doing
18 okay and if he needs any supports
19 he would call the agency. Steve
20 stated that he has changed all the
21 welfare [tax], child tax over to
22 his name."

23

24 Just before we get to the summary, the, based on
25 the information you were given here, when you met with

1 Steve, did you do a, did you do a risk, another risk
2 assessment, or were you considering the risk to the
3 children in the home?

4 A At that time, according to notes, it would have,
5 it would have been a low-medium risk.

6 Q This would have been a low meeting (sic) risk at
7 this point?

8 A Because the father had the child and shared that
9 information. He appeared to be working with external
10 agencies. He knew where the children were. He, he
11 appeared to do really well with his infant daughter.

12 Q So based on your observations of him with his --

13 A He was very attentative (phonetic) (sic), he
14 looked after the children, that child, that particular
15 child well.

16 Q What about the fact now, now there's only one
17 parent caring for the child; would that impact your
18 assessment?

19 A According to the information that was presented,
20 that, the person that was the parent that was creating the
21 majority of the, the conflict, or the problems, was no
22 longer in the home. He appeared more stable.

23 Q So your assessment was Steve was more stable than
24 Samantha?

25 A According to the contact I had with him.

1 Q Okay. Was there anything, would there be
2 anything preventing Samantha from taking the child at any
3 time, either of the children?

4 A Somewhere in my notes, it states that he had a
5 restraining order, but at that particular -- no, there
6 wouldn't be anything that would prevent her from coming in
7 and taking the child out of the home, or --

8 Q Okay.

9 A -- children.

10 Q And so, in your risk assessment, when you said it
11 was low-medium, would that impact the risk assessment?

12 A That would impact, if she did come back into the
13 family.

14 Q Okay. And what about earlier, there were
15 references to, to, to Steve having a drinking problem?

16 A He did self-disclose that -- when we come to it,
17 he did self-disclose that he did have -- that when he
18 drinks, he usually goes out of the home. He gets
19 appropriate caregivers for the, for the children. So he
20 takes those measures ensure that the children are safe.

21 Q And was that something you were prepared to take
22 his, his word on at that point?

23 A From my discussions, I can't recall, but
24 according to my documentation, I did take his word for it.

25 Q And did you see, did you see Phoenix in all this?

1 A At that particular time, no.

2 Q And would that, was that, would that have been
3 important to do, to actually see how Phoenix was doing?

4 A Yes.

5 Q The fact that there was recent violence between
6 Steve and Samantha and it, it sounded like a fairly
7 volatile situation, did that impact, would that -- looking
8 at it now, should that have impacted your risk assessment?

9 A Yes.

10 Q What was the purpose of your visit here, on this
11 date?

12 A According to the information presented, it was to
13 follow-up on the concerns from the collaterals and to see
14 how the children were.

15 Q The name Kim Edwards is mentioned in the, in the
16 contact; was that the first time you heard the name?

17 A It's the first time I've seen her name in my
18 notes, correct. I've never met Kim Edwards.

19 Q Did you know anything about her at this point?

20 A All I knew at that -- according to notes, it was
21 a friend of Steve's and he, that she provided a lot of
22 support to him.

23 Q And were you familiar with any of Steve's other
24 friends?

25 A No.

1 Q Okay. At this point, was there any evidence to
2 suggest that Phoenix Sinclair was safe with Kim Edwards, if
3 she was, in fact, staying there?

4 A According to my notes that it was a family friend
5 and it's not uncommon for families to leave their children
6 with family friends. And, and according to that, we may
7 have had a discussion around her and that she provided care
8 for her in the, if he wasn't -- he was going to be going to
9 programming.

10 Q Okay. Even in the case where, where family
11 friends provide some support, cares for a child, do you
12 still make inquiries to determine whether that's a safe
13 place for the child?

14 A From my experience as a social worker, is that
15 I've been involved with a lot of families that have
16 extended family and friends that provide care for the child
17 when the parent is not able to do. So based on that, and
18 based on the fact that she was one that he trusted the
19 child with, and that, that she was to provide that care
20 for, for her at that time, I felt it was his -- he, he was
21 responsible, as a parent, to ensure his child was safe and
22 he trusted this person.

23 Q Okay. But with your involvement as a, as a
24 social worker, with the concerns of, of safety for the
25 children, weren't you also responsible to, to ensure that

1 Phoenix is safe, or, or take some steps to do that, at this
2 point, knowing what you knew about the family?

3 A Yes.

4 Q Did you know, at this point, how, how often Steve
5 was going to be caring for, for Phoenix Sinclair and the
6 baby on his own?

7 A No.

8 Q Okay. And do you know -- did you, did you think
9 that he had the capacity to do that, given the recent
10 events, to care, that is, to care for two very young
11 children?

12 A I can't recall specifically, but according to my
13 notes and what my observations was, that he was very
14 attentive and very caring and very open with his responses
15 when I asked him questions. So based on that, that,
16 that -- my assessment at that time, that the children were
17 safe with their dad at that particular time.

18 Q Take a look at your -- the summary, page 37012 --

19 THE COMMISSIONER: Well, now, I'm wondering if
20 you, if you're moving to the summary, if this isn't the
21 time to take an afternoon break?

22 MR. OLSON: This would be a, a perfect time.

23 THE COMMISSIONER: All right. We'll take a 15
24 minute break.

25

1 (BRIEF RECESS)

2

3 BY MR. OLSON:

4 Q So we were just going to turn to your summary on
5 page 37012 before the break. Now, this summary here
6 appears in your, your recording, your file recording for
7 Kematch?

8 A Yes.

9 Q And is there, is there a reason why it's -- at
10 this point, is this just a summary from that particular
11 meeting?

12 A Appears so.

13 Q And so it says, you go through a few things. You
14 say Steve completed a parenting program through the
15 Andrews, Andrew Family Street Centre last year. He will --
16 take it, it means forward a copy of the, the certificate to
17 this worker. Do you know if that ever happened? Did you
18 ever see that certificate?

19 A I can't recall.

20 Q Okay. If he did, would, would a copy be on the
21 file?

22 A Yes.

23 Q Okay. And when you reviewed the file, was there
24 a copy? Did you come across a copy?

25 A I didn't review it, I was only given information,

1 my case notes, none of that, I didn't see a certificate of,
2 of a completed parenting program.

3 Q Pardon me?

4 A I did not see, or was not given, a copy of the
5 completed parenting program to review.

6 Q So you did not, you didn't see a copy of the
7 parenting certificate?

8 A I was not given that information.

9 Q Okay. But if, if, if it was there, it would be
10 on your file; right?

11 A Yes.

12 Q Okay. And since it doesn't appear to be on your
13 file, then I take it you, you didn't receive it?

14 A I can't recall. If it's not there, it's not
15 there.

16 Q Okay. Then it says:

17

18 "Steve has consulted with Ma Ma Wi
19 on assisting him on retaining a
20 lawyer to file for custody of his
21 children Phoenix and [the baby]"

22

23 That was your understanding, Steve was going to
24 seek custody?

25 A Yes.

1 Q Okay. And where -- did you ever become aware of
2 any steps he took in that regard?

3 A I can't recall.

4 Q Okay.

5

6 "Steve has ... separated from
7 Samantha for about three weeks"

8

9 And then you have:

10

11 "According to Steve, Samantha has
12 resumed her relationship with ...
13 [the] father of [the] oldest son
14 ... [who] ... just recently got
15 out of jail"

16

17 The fact that Samantha was now, had resumed this
18 relationship, did that cause you any concern, in terms of
19 the children's safety, should she take them back?

20 A I can't recall, but according to note it would be
21 a concern of safety, yes.

22 Q Okay. And then you record that Steve was charged
23 with, formally charged with assault on July 2nd? That's in
24 reference to the, the -- what, what we looked at a few
25 minutes ago? It that --

1 A Yes.

2 Q Okay. Steve was going to attend a parenting
3 group for young fathers at Ma Mawi, by Dennis Belanger,
4 starting in August 2001?

5 A Yes.

6 Q Okay. And you were no longer involved in the
7 file after, after July 2001; right?

8 A Correct.

9 Q Okay. Steve had charged and applied for a
10 restraining order against Samantha after she uttered
11 threats of violence against him on July 3. How did you
12 know that?

13 A It was information, most likely, that was
14 provided by Steve, during our conversation.

15 Q Okay.

16

17 "Steve stated that he is not
18 wanting any support services from
19 the Agency i.e. Respite,
20 homemaking at this time but will
21 call the Agency if a need arises"

22

23 So at this point, Steve didn't want any services
24 from the agency?

25 A According to my document, yes.

1 Q And in your view, was this a situation where
2 services would be voluntary, or would they be mandated?

3 A Be voluntary.

4 Q Okay. And it says:

5

6 "Steve stated he has not had a
7 drink of 'alcohol' for about 2
8 weeks and if he decides to go out
9 -- he will get his sister (Jenny)
10 to care for the children

11 Steve stated [when] he, when and
12 if he decides to have a few drinks
13 -- he usually only drinks for one
14 evening -- he does not go for days
15 -- and that alcohol is not a
16 problem for him"

17

18 This is all stuff he told you?

19 A Yes.

20 Q Okay.

21

22 "This worker cautioned him about
23 drinking alcohol while the
24 children are in the home -- this
25 can lead to the children being

1 removed from his care -- Steve
2 nodded and [he] stated he is well
3 aware of this and stated that
4 Jenny will care for them"

5

6 And then it says:

7

8 "This worker informed him that on
9 a weekly basis -- I will stopping
10 by to see how he is doing and if
11 he is not home I will leave [in
12 the note a mailbox (sic)] ... for
13 him to contact"

14

15 Was that your plan at the time? You would do
16 weekly visits?

17 A According to the case note, yes.

18 Q Okay. I, I take it, based on the case notes, it
19 didn't actually work out that you were stopping by to do
20 weekly visits?

21 A I can't recall. I only could recall, I could
22 only state what's written.

23 Q Okay. It says:

24

25 "This worker informed him that if

1 he needs any supports to call me
2 ASAP"

3

4 A Correct.

5 Q Okay. Did you, do you recall if you suggested to
6 Steve that maybe you could get Ms. Belanger back into the
7 house?

8 A I can't recall.

9 Q Because you were, you were aware though there was
10 a good, it seemed like there was some rapport between the
11 family and that worker; is that something you were aware
12 of?

13 A According to all the information that was
14 provided me, that it did state that they did have a good
15 relationship, yes.

16 Q Now, at this point, it's my understanding that
17 the Samantha Kematch file was closed and the case would be
18 open to Steve; is that right?

19 A That would be the practice, yes.

20 Q Okay.

21 A There was no children in her care, her file would
22 be closed and the parent who has the children, the file
23 will, will open.

24 Q And that's on the basis that now Steve seems to
25 have control of the children?

1 A Correct.

2 Q Okay. And that's even though there's no formal
3 or court-ordered custody arrangement in place, it's just
4 right now the children appear to be living with Steve, or
5 under his control; is that right?

6 A Correct.

7 THE COMMISSIONER: So that would prompt the
8 closing of Samantha's file?

9 THE WITNESS: Because she had no children in her
10 care.

11

12 BY MR. OLSON:

13 Q With respect to the indication in your, in your
14 summary that you'd be stopping by for weekly visits, we
15 expect that Mr. Sinclair will say that didn't happen; is
16 that right? You didn't stop by after that for weekly
17 visits?

18 A I can't recall.

19 Q We also expect to hear evidence that Phoenix was
20 spending around four days a week with people other than Mr.
21 Sinclair; is that something you're aware of?

22 A I can't recall and I'm not aware.

23 Q Okay. Would it have been relevant to you?

24 A Yes.

25 Q And how so?

1 A If, if the, that, if the father was the primary
2 caregiver and yet he was neglecting his responsibility as a
3 father, that the children should be not away from his care
4 for that period of time and it would be concerning.

5 Q So if the children are going from caregiver to
6 caregiver, that would be a, that would be a concern for
7 you, as a worker?

8 A It depends on the situations why they were being,
9 the child was being cared by extended family or friends.

10 Q Okay. And if we just continue on with your, your
11 notes, so if you go to the next page 37013, now, just,
12 just, just to clear something up for me, these notes,
13 37013, this looks like a continuation of Samantha Kematch's
14 case. If you look at the bottom, it says Samantha Kematch
15 case file? But they go on behind, beyond when you opened
16 the new file for Steve Sinclair. Is that, is that you just
17 continued on because it was just a different parent now?

18 A I can't recall. It, it may have been, I just
19 continued with my, my, my caseload file, my --

20 Q Okay.

21 A -- electronic file and it was still the, the, the
22 footer still indicated it was Samantha's file.

23 Q Okay. And so would these, these notes then would
24 have gone into both files?

25 A Correct.

1 Q Okay. And so the entry dated July 10th, 2001, at
2 the top of page 37013 says:

3

4 "... 1:10 PM
5 Field to 740B Magnus @ about 11:30
6 AM -- there was no one home --
7 left note in mailbox that I
8 stopped by and asked Steve to call
9 me at the office."

10

11 Do you know if you made any attempts to contact
12 Ms. Kematch at this time?

13 A I can't recall.

14 Q Okay. There's nothing noted though, in your
15 file, is there?

16 A I can't recall if there's, there'd been a reason
17 to contact the mom when the children were in care of the
18 dad.

19 Q Do you know whether -- where -- whose care
20 Phoenix was in at this point?

21 A I can't, I can't recall it and I don't know.

22 Q I, I'm sorry, I didn't catch what --

23 A I can't recall.

24 MR. RAY: Which, at which point are you talking
25 about?

1 MR. OLSON: The 10th of July.

2 MR. RAY: Oh, just that specific day?

3 MR. OLSON: Yeah.

4

5 BY MR. OLSON:

6 Q Next note:

7

8 "7/16/01 9:16 AM

9 This worker was informed by the
10 Supervisor -- Lorna Hanson at my
11 home in Brokenhead that on Sunday,
12 July 15th that [child] was
13 taken to the hospital and was DOA
14 -- Received Night Duty report of
15 the incident dated July 15, 2001"

16

17 That references the death of the baby; right?

18 A Correct.

19 Q Okay. And so you were at home when you got that
20 phone call?

21 A Correct.

22 Q Okay. And do you, do you have a, a recollection
23 of, of it?

24 A Yes.

25 Q Is it something that stood out in your mind?

1 A Yes, it was the death of a child in my caseload.
2 It was very traumatizing.

3 Q What was your reaction when you got it? What,
4 what was, what were you thinking at the time?

5 A Well, I can't specifically state what I was
6 feeling, but I know the -- it, it, it did affect.

7 Q Sorry, I missed the, I missed the last part,
8 sorry.

9 A I can't recall. I know that the death of the
10 child was traumatic.

11 Q Okay. Traumatic, are you saying it was traumatic
12 for you, as the worker?

13 A For myself, as an individual and as a worker --

14 Q Okay.

15 A -- and as a mother.

16 Q Okay. Just want to take a look at page 37057.
17 This is a CRU intake and AHU form. It's to your attention.
18 It's also to Darlene MacDonald, an abuse coordinator and
19 Lorna Hanson and it's from Shannon Skogstad, dated July 15,
20 2001. Do you, do you recognize this?

21 A No.

22 Q Do you -- is this something that you would have
23 received?

24 A Yes.

25 Q Okay. And so this is the report from the

1 Children's Emergency. You can see it says -- this is on
2 page 37058, it says:

3

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"The [source of referral] called to inform this agency that [the baby] ... was brought to the hospital, DOA at around 9:50 am today. This worker began asking specific questions in relation to the death of the baby and the SOR gave this writer [Winnipeg Police Service] -- Street Supervisor, Steve Bowen to speak to.

Steve informed this writer that according to Steve Sinclair, father of the deceased child, [the child] had a cold and was running a fever. He had checked on her at 7am this morning and she was ok. He then stated that he checked on her again around 9:45 and she was not breathing. He called 911 and was transported immediately to the hospital. Apparently [the baby] was DOA.

1 Apparently Steve Sinclair's
2 partner and mother of the
3 children, Samantha Kematch, are
4 separated. According to Steve,
5 Samantha abandoned him and the
6 children a month or so ago.
7 The SOR stated that at this point
8 there is no suspicion, however,
9 the child abuse unit is currently
10 at the home, which apparently is
11 very hot. The SOR is concerned
12 that Steve may need some support
13 in the home and feels that it
14 might be a good idea if we went to
15 the home and spoke with him once
16 he is finished at the hospital,
17 [which can be in about an hour or]
18 which will be in about an hour or
19 so. The hospital is going to be
20 sending the SCAN to the Child
21 Protection Unit at the hospital
22 for follow up. This writer notes
23 that Phoenix is currently with
24 Genni, Steve's sister, who lives a
25 few doors away from him. Genni

1 will be a support for him. Genni
2 has a closed file ... closed Oct
3 2000, with this agency. She has 3
4 children, age 8, age 3 and age 1
5 that are living with her. She is
6 30 years of age."

7
8 Just that, that portion, now that we've gone
9 through it, do you, do you recall receiving this
10 information?

11 A I can't recall receiving it, but when I read it,
12 yes, it was information on the child, when the child had
13 passed.

14 Q The date of the document's July 15, 2001 and
15 there's a stamp on it that says July 16, 2001; does that,
16 does the stamp, if you look on page 37057, does that
17 mean -- do you see the stamp, July 16, 2001? Do you see
18 it?

19 A Yes, I see the stamp, yes.

20 Q Okay. Does that mean it would have come in to
21 you, to you, the office and to your attention on that date?

22 A Yes.

23 Q The suggestion in here that Steve may need some
24 support in the home, what did you do, if anything, to
25 follow up on that?

1 A I can't recall, but I believe my caseloads did
2 state that I offered services and he declined.

3 Q And he declined? Do you know what kind of
4 services you offered at that time?

5 A Not -- I can't recall specifically, but we do
6 offer some support to family, situations like this, like,
7 grief counselling and whatnot.

8 Q Group counselling and that sort of thing?

9 A Yeah, it's grief counselling.

10 Q Do you know if you order, you offered any -- I
11 mean, if you look at your note, the July 16, 2001 note,
12 which is at page 37013, this is a note from 9:48 a.m. It
13 says:

14

15 "[Phone call] to Jenny ... she
16 stated that Steve was at her house
17 and [he] is presently sleeping --
18 she stated that they have not
19 heard anything from Samantha and
20 did not know where she was -- all
21 she knew that a couple of her
22 friends had seen her about two
23 weeks ago and that she was
24 prostituting on the corner of
25 Langside and Broadway.

1 Jenny also stated that Samantha
2 wouldn't call ... her home either
3 because Steve has a restraining
4 order against her or she is
5 probably drinking. Jenny stated
6 she doesn't care about the
7 children and in the past ... has
8 said things about the children and
9 has treated them badly (Jenny did
10 not [not] offer any ...
11 information.

12 According to Jenny -- Steve
13 doesn't want Samantha anywhere
14 nears him or the children and
15 stated that Samantha at this time
16 is probably hiding due to recent
17 charges and the restraining order
18 Steve filed against her.

19 The last contact Jenny had with
20 Samantha is when Samantha called
21 to see whether her GST cheque was
22 there and that was on July 6,
23 2001.

24 Jenny stated she is working on the
25 plans for the funeral and has

1 approached the welfare to get some
2 money to buy clothing for [the]
3 burial. They will be meeting with
4 the Funeral Home -- an appointment
5 is set with the Aboriginal Funeral
6 Home.

7 Jenny stated that she [had] some
8 people/workers coming over from Ma
9 Mawi ... to assist Steve and
10 [that] with the death. This
11 worker offered assistance for
12 childcare -- Jenny stated that
13 Phoenix is doing well and ... she
14 doesn't need any assistance at
15 this time and will call the Agency
16 if there is a need. This worker
17 stated that the Agency would be
18 available if there is any support
19 needed."

20

21 Is, when you say you, you've offered support, is
22 that, is that what you're referring to?

23 A Okay. The support was probably offered
24 indirectly through Geni, to, to Steve, because it was the
25 conversation that I had with his sister --

1 Q Okay. So you were talking --

2 A -- according to my notes, but I don't recall this
3 conversation.

4 Q Okay. So the support wasn't offered directly to
5 Steve at that point; right?

6 A The way it's documented, that was through a
7 telephone conversation that I had with his sister.

8 Q Okay.

9 A And I don't recall the conversation.

10 Q And it says:

11

12 "This worker offered assistance
13 for childcare ..."

14

15 What, what would that consist of? What did that
16 mean?

17 A It would be specifically to offer support to care
18 for the children if they, like, with the preparation that
19 they needed to do with the funeral, like, with, for
20 Phoenix.

21 Q Okay. And it says Jeni declined any assistance
22 at that point. And then it says:

23

24 "[The] worker stated that the
25 Agency would be available if there

1 is any support needed."

2

3 And what did you take that to mean?

4 A I can't recall specifically, but we do offer,
5 like, if, if there is something traumatic that happens in
6 the family, such as the death of a child, I've never had
7 the experience, until that time, so we would offer support
8 to them if they needed it.

9 Q Is this the first time that you dealt with this,
10 this --

11 A Correct.

12 Q Okay. And did you, do you recall if you had any
13 training, or anything, on how to, how to deal with a, a
14 death like this?

15 A No. I've only had a prior experience, but that
16 was in the area of gerontology when my, one of my clients
17 passed, so it was different.

18 Q In your, well, in the referral that we looked at
19 previously, it said that Geni would be the support for him.
20 Jeni had a closed file and she had three children, ages
21 eight, three and one, that were living with her and she was
22 30 years of age. Despite what, what she apparently told
23 you here about childcare, did you, did you think, with
24 knowing, knowing what you knew about her situation, that
25 would -- you might need to actually get in touch with Steve

1 directly and, and put something in place?

2 A I can't recall.

3 Q Did you have any concerns about Phoenix staying
4 with Geni Sinclair?

5 A I, I didn't -- according to my notes, they were
6 extended family and the biggest support to Steven at that
7 particular time was his friends, his friend Kim and his
8 sisters.

9 Q Okay. The information you had though was that
10 Phoenix was with Geni; right?

11 A According to this note, yes.

12 Q Okay. And the question I had, was that, was that
13 a concern to you, that she was with Geni?

14 A No, it wouldn't have been a concern, because
15 that's his support system, is his extended family.

16 Q Okay. But was, would Geni be an appropriate
17 caregiver? Is that something --

18 A Geni was his main support.

19 Q But I, I, I understand that, but knowing that
20 that was the support, the person he was going to rely on,
21 did you have to determine whether or not that support was
22 appropriate, whether or not she posed a risk to Phoenix?

23 A In an ideal situation, yes, that, the thing is
24 that we would have been able -- but we were also
25 experienced the loss of that child also. So, it, it, it's,

1 it's a very traumatizing event.

2 Q Go back to page 37058. This is still the CRU
3 intake form, it says, where it says:

4

5 "2:10 Call from Blair Vogan --
6 Winnipeg Police, Child Abuse Unit"

7

8 It says:

9

10 "Blair called to give an update on
11 the investigation thus far.
12 Apparently [the baby's]
13 temperature at the time of death
14 was 40 degrees Celsius. The
15 temperature in the playpen where
16 the child was found was 28.5
17 degrees. There were stuffed
18 animals and a blanket in the
19 playpen and the child was cradled
20 within. Steve, aka Nelson
21 Sinclair stated that he had [put
22 the child into, sorry] put the
23 child to sleep last night and
24 because the home was hot, he had a
25 fan blowing on the child who was

1 running a slight temperature.
2 Blair stated that [that] the
3 police had found some children's
4 Tylenol drops on the floor beside
5 the playpen, however, it is
6 unknown at this time whether or
7 not [the child] had any of the
8 medicine. An autopsy will be
9 performed on (probably tomorrow)
10 to determine the exact cause of
11 her death.

12 Apparently [the child] was
13 suffering from a severe diaper
14 rash, which was scabby at the time
15 of death. There were/are five
16 kittens running around the home
17 and a litter box could not be
18 located by ... attending
19 constables. Blair Vogan [Vogan]
20 is going to be interviewing Steve
21 this afternoon. According to
22 Blair, Steve is currently dealing
23 with domestic abuse charges laid
24 on June 30/01 by ex partner
25 Samantha Kematch, and she has

1 [laid charges] against her by
2 Steve ... July 5/01. Steve has a
3 past [convictions] of assaulting a
4 police officer in July of '99. He
5 also has a conviction [of]
6 impaired driving and a charge was
7 'stayed' in September of 2000 for
8 [possessions] possession of goods
9 obtained by crime.

10 According to Blair Vogan, Steve's
11 sister, Genni Sinclair, is living
12 common law with a fellow whose
13 name is [it's been redacted, he]
14 has had numerous past charges and
15 convictions for assault (24-year-
16 old woman) and narcotics. These
17 charges were laid in the in the
18 mid 90's. Blair gave this
19 information as Phoenix is
20 currently staying with Genni and
21 [that person]. This writer notes
22 that past file recordings indicate
23 that Phoenix was in care of the
24 agency from April 24/00 to
25 Oct 18/00. Blair stated that the

1 officers did not check on the
2 condition of Phoenix, as they were
3 busy with [the baby] and Steve.
4 Blair has been unable to locate
5 Samantha Kematch, however, [we'll]
6 be sending officers to [her] last
7 known addresses until she is
8 located."

9

10 The document goes on, I won't go through it now.

11 With, with the information contained in this
12 entry, were you, did you have additional concerns about the
13 safety of Phoenix at that --

14 THE COMMISSIONER: Well, was the witness aware of
15 that document?

16 MR. OLSON: This -- the document we just looked
17 at?

18 THE COMMISSIONER: Yes.

19 MR. OLSON: Yeah, I think she, before, confirmed
20 she was aware of at least the information and the document
21 would have come to her.

22 THE COMMISSIONER: Yeah, is the -- when did that
23 document come in?

24 MR. OLSON: Came in -- the, the stamp on page
25 37057, July 16th, 2001.

1 THE COMMISSIONER: The, no, the police report.
2 Isn't that what you were just reading here?

3 MR. OLSON: No, this is the same, this is the
4 document --

5 THE COMMISSIONER: Oh, I, oh, all right, I, I --

6 MR. OLSON: -- this is a --

7 THE COMMISSIONER: -- follow you now. I, I --
8 yes, okay.

9 MR. OLSON: -- yeah, this is a Winnipeg CRU
10 intake and AHU form.

11 THE COMMISSIONER: Yeah, I thought it was
12 something that had been received directly from the police,
13 I --

14 MR. OLSON: Okay, I see.

15 THE COMMISSIONER: -- I follow.

16

17 BY MR. OLSON:

18 Q So did -- was the information that was contained
19 in this document, was that, did that cause you any
20 additional concern for the safety of Phoenix at the time?

21 A I can't recall.

22 Q Did you make any attempt to see Phoenix yourself,
23 to assess how she was doing?

24 A I can't recall.

25 Q If we go now to -- this will be page 37013 and

1 this is still, this, this is your ongoing case notes that
2 we were looking at before. If we look at the entry, the
3 next, the next entry you have here, after the offering
4 support for Geni, is the 16th of July at 10:15 a.m. And it
5 says incident number and then:

6

7 "Constable Wouda or Hodges at WPS
8 -- Abuse Unit [phone call] to
9 986-6868 -- the Constable was not
10 available and left message to
11 call."

12

13 So you were, at that point, trying to get a hold
14 of the, the police?

15 A According to the note, yes.

16 Q Okay. And do you know why it was, at that point,
17 you were trying to get a hold of them?

18 A I can't recall.

19 Q The next note was at 12:07 p.m. the same day. It
20 says:

21

22 "Samantha has not been contacted
23 by police and is not aware of her
24 [daughter's] passing away --
25 Supervisor directed that the

1 worker assist with any address
2 that is known to the agency of
3 where Samantha may have
4 frequented."

5

6 Then it has:

7

8 "Records ... EAI Worker is William
9 Grindell -- left message to call."

10

11 Do you recall if you -- how you knew that
12 Samantha hadn't been contacted by police?

13 A I can't recall. A co-worker may have said it, a
14 supervisor may have said it. I'm just following up.

15 Q You were following up? Did, did you give any
16 consideration as to how Phoenix was going to be kept safe
17 while the police investigation was occurring?

18 A I can't recall that.

19 Q Your next note, on page 37013 is at 12:12 p.m.,
20 same day, it says:

21

22 "[Phone call] to Heather McCheyne
23 (Samantha's EIA Worker) ... she is
24 holiday until July 17th. Shannon
25 is covering for her until she

1 returns -- left message ... to
2 call ASAP."

3

4 So it looks like you were trying to get some
5 demographic information for Samantha Kematch; is that
6 right?

7 A No, according to that, it's, it was following up
8 on to contact people that may know where Samantha may have
9 been.

10 Q Right. You were trying to find out where she
11 was?

12 A That's, that's what's stating, stated in my
13 notes.

14 Q If you'd turn to the next page, 37014, the note,
15 same day again, except this is a few minutes later, at
16 12:22 p.m. It says:

17

18 "[Phone call] from Crystal Kematch
19 -- Aunt to Samantha Kematch --
20 Crystal is married to Samantha's
21 Uncle ... and resides on ..."

22

23 And the name has been redacted.

24

25 "... she has no phone but can be

1 reached at her [neighbour's] ...
2 according to Crystal -- the
3 [Winnipeg Police Service] brought
4 both Samantha and her brother
5 Mickey to her home last night --
6 [the police] informed Samantha
7 about what happened to her
8 daughter ... Samantha is not at
9 her home at the moment -- she left
10 to go to [someone else's] home on
11 Bannerman to get some of personal
12 belongings. Samantha will be
13 returning to the home [about, at]
14 about 4 PM -- according to Crystal
15 -- Samantha wants [her older
16 child, sorry] her other child
17 Phoenix returned to her care. I
18 informed Crystal that this needs
19 to be discussed with the mom ...
20 and the agency."

21

22 And then you have a couple bullet points:

23

24 "Samantha is requesting that
25 Phoenix be returned to her care

1 Samantha will reside at her Aunt
2 Crystal's home until the funeral
3 ... can be contacted there if
4 needed"

5

6 Did the, did the reference to Samantha wanting
7 her other child, Phoenix, returned to her care, is that
8 something that would have sort of put up a red flag for you
9 at that point?

10 A I can't recall.

11 Q So your notes continue. It looks like you're
12 still -- July 16th, still, at 1:53 p.m., it says:

13

14 "Received [phone call] from
15 William Grinfell -- there is no
16 open file for ... and was cross-
17 referenced with another client --
18 no address is available."

19

20 Do you know what that was about?

21 A I can't recall.

22 Q Can't recall? When you were getting these calls,
23 were you, would you be in the agency office?

24 A Yes.

25 Q Okay. So you weren't doing this work from home,

1 were you?

2 A No.

3 Q Call a few minutes later, it says:

4

5 "Received [phone call] from
6 Samantha ... she wanted to know
7 where Phoenix was and to call
8 her."

9

10 Do you remember anything about that call?

11 A Only what's documented on my notes.

12 Q Do you know if you spoke, if you actually spoke
13 to her when she called?

14 A If it's stated I received a phone call from
15 Samantha, then I was speaking directly to Samantha.

16 Q Okay. Well, then I'm just wondering, because the
17 next note, at 1:57 p.m., says:

18

19 "[Call back] to Samantha ... she
20 abruptly stated she is not able to
21 speak to me at this moment and she
22 will call me back"

23

24 So does that mean she, the initial call, she
25 called you and, and left you a message and then you tried

1 to call her back? Or do you know?

2 A I can't recall.

3 Q Okay.

4 A If it says phone call, that means I had received
5 a phone call. If it's a voice-mail, it would indicate it
6 was a voice-mail.

7 Q So you would have actually spoken to her then, at
8 1:56 p.m.?

9 A If that's what's stated there, yes.

10 Q Do you know why you'd be calling her back a
11 minute later?

12 A I can't recall. She may have hung up, I don't
13 know.

14 Q The next recording, at 2:13 p.m. says:

15

16 "[Phone call] to Jenny's home to
17 speak to Steve -- he stated that
18 he is staying at Jenny's home and
19 her and his friend Kim Edwards is
20 looking ... [for] Phoenix. I
21 offered my condolences and stated
22 that if the Agency could help in
23 anyway that he could contact us.
24 I informed him that Samantha was
25 made aware ... [of the baby's]

1 death -- Steve stated that he did
2 not want Samantha anywhere near
3 him or Phoenix -- the funeral
4 arrangements have been made for
5 Wednesday ..."

6

7 Et cetera.

8

9 "The Aboriginal Funeral Home is
10 charged [with the] funeral. Steve
11 stated that he doesn't want
12 Samantha or any of her family
13 anywhere nears the funeral -- I
14 share with Steve that this may
15 pose a problem and [to think that
16 over, to think the matter over]
17 carefully"

18

19 Do you remember this phone call?

20 A I could only read what I had noted there. I
21 don't remember the actual phone call, no.

22 Q Do you recall if Steve stated why he didn't want
23 Samantha anywhere near him or Phoenix?

24 A I could only reference the note here that they've
25 been separated. There's a lot of things that are

1 happening. Could have been angry.

2 Q Okay. You're, you're saying, I share with Steve
3 that this may pose a problem and to think it over, whether
4 or not he wants to have Samantha at the -- or her family,
5 near the funeral. Well, why, why did you say that? What
6 was, what were you trying to get at there?

7 A I can't specifically recall that, that
8 conversation, why I said it. I could state that there
9 would be concerns if he choosed (phonetic) (sic) to have
10 these, this family not involved in the funeral, could erupt
11 into violence. Lots of concerns.

12 Q Okay. Did you get the sense then, then there was
13 a lot of animosity between them at the, this point?

14 A There was a lot of animosity prior to even the
15 death of that child, now --

16 Q So --

17 A -- with this child, it's, I think it only
18 increased.

19 Q -- so this, over this whole time period, from
20 their separation until the death of the child, there was a
21 lot of animosity?

22 A There could have been, yes.

23 Q And that, that situation and that, would that
24 have increased the risk to Phoenix?

25 A The child was being cared by extended family and

1 friends. We believed she was safe. I think it would have
2 been a concern for the adults, given that, that particular
3 situation happening.

4 Q Okay. So the next note you have on, at 2:22,
5 sorry, 2:27 p.m., says:

6
7 "Received [phone call] from
8 Samantha ... she stated she wants
9 to know about [about] where
10 Phoenix was and that she wanted
11 her -- this worker informed her
12 that the child is with [the]
13 father Steve and that he was
14 caring for her. Samantha stated
15 that the police told her that the
16 child was with CFS -- this worker
17 informed her that at the time of
18 [the child's] death ... the child
19 was being cared for by her father
20 Steve. Samantha began to sound
21 angry ..."

22
23 If you go on to the next page, it says:

24
25 "... and stated that she wanted

1 Phoenix [and how we give] and how
2 we give him Phoenix I informed her
3 that Steve was the primary
4 caregiver of the children and that
5 the Agency is aware that her and
6 Steve have been separated for
7 about one month -- Samantha
8 responded 'yeah' -- and that he
9 had the child in his care and was
10 the guardian. I further told her
11 that 'custody' or legal
12 guardianship needs to [settled] by
13 them and their lawyers. Samantha
14 stated that they both have
15 guardianship of the children --
16 and where is it written that he
17 has only guardianship -- I
18 informed her that it has to
19 settled between them -- Samantha
20 got angry and stated 'whatever'
21 and hung up the phone."

22

23 Do you, do you recall that conversation?

24 A I don't recall the conversation.

25 Q And when you told Ms. Kematch here that Phoenix

1 was with Steve at the time of the baby's death, was that
2 accurate? Is that --

3 A Steve stated that he was caring -- according to
4 my notes, the child was with Steve. It may have not been
5 accurate that he actually had, the child physically and
6 that the child may have been with extended family or
7 friends.

8 Q Okay. Now, at this point, you must, you, you
9 knew that Ms. Kematch wanted Phoenix in her custody; right?

10 A According to notes, yes.

11 Q Okay. And did you know where Phoenix was at that
12 point in time?

13 A I can't recall, but according to the notes, the
14 child was being looked after by extended family and
15 friends, and a friend.

16 Q Do you recall Ms. Kematch's demeanour at the
17 time? Do you have any recollection of, of how she
18 presented in this phone call?

19 A I don't recall but what I said in my notes, that
20 she did appear agitated, upset. She was concerned about
21 her child, because her child's, her other child has passed
22 away.

23 Q Okay. Next note was a voice-mail at 3:00 p.m.,
24 it says, from Mickey Kematch:

25

1 "... he stated he wants to talk to
2 the Agency about the past issues
3 and his reported issues regarding
4 this matter [and] to call him ..."

5

6 Do you know if you ever spoke with him?

7 A I can't recall.

8 Q Then the next note says, at 3:46 p.m. that day,
9 you:

10

11 "Received [voice-mail] from [the
12 constable] @ 3:30 ... to call
13 him ..."

14

15 And it says, I think, CB, does that stand for
16 call back?

17 A Yes.

18 Q

19 "... [to the constable, Winnipeg
20 Police Service] to obtain update
21 on the outcome of their
22 investigation [of the baby's
23 death] -- he stated ... it doesn't
24 appeared to be foul play and that
25 the father is clear -- the death

1 is undetermined -- the house has
2 been released by the medical
3 examiner and that they can go back
4 if they [choose]. This worker gave
5 ... Constable Wouda Jenny's phone
6 number so he could contact Steve
7 their [sic] to inform him of the
8 outcome."

9

10 Q And then the next note is the following day at
11 9:07 a.m.

12 So just between the note on the 16th and the note
13 the next day, was that the last involvement you had on the
14 16th?

15 A I can't recall. If it's stated was my last
16 contact, it was my last contact.

17 Q Okay. And then at -- on the 17th, at 9:07 a.m.,
18 you recorded:

19

20 "Received [voice-mail] from Jenny
21 at 8:37 AM asking that this worker
22 call her ASAP regarding an
23 application of an Interim Order of
24 Custody of both ..."

25

1 Then it's blanked out.

2

3 "... and Phoenix.

4 CB to Jenny at 8:53 AM -- she
5 stated that she wants to get an
6 order of guardianship of both of
7 the children -- she spoke to
8 Constable Kathy Hodges at the
9 Abuse unit and stated that there
10 is an issue of guardianship --
11 that [Winnipeg Child and Family
12 Services] may need to call the
13 Medical Examiner to determine who
14 had guardianship of the children
15 before the incident"

16

17 So was, was, was your understanding that she
18 wanted guardianship of, of the deceased baby as well?

19 A According to that note, yes.

20 Q And do you have, do you have any recollection of
21 this call of her?

22 A No, I can't recall.

23 Q Based on your notes, do you know why she was
24 seeking an order of guardianship of both of the children?

25 A I can't recall.

1 Q It says:

2

3 "This worker informed Jenny that
4 Steve was advised to contact a
5 lawyer prior to this happening --
6 that he was going to have [Ma
7 Mawi] assist him in this matter --
8 Jenny stated that an Intake Worker
9 was suppose to do this but never
10 did.

11 Jenny needs to contact a lawyer to
12 file for an Interim guardian
13 application

14 The Funeral is to take place at
15 the Aboriginal Funeral Home on
16 [the 18th of July]"

17

18 And then it says:

19

20 "THIS SECTION OF THE FILE
21 RECORDINGS HAS BEEN PRINTED AND
22 SIGNED OFF AND PLACED IN [THE]
23 FILE EFFECTIVE: 7/24/01 ..."

24

25 What's the purpose of that last note, about the

1 section being signed off?

2 A Because after this particular, what had happened
3 with the decease of the child, I gave my two weeks' notice
4 and left the agency.

5 Q That was after you learned of the death of the,
6 the baby?

7 A After the death occurred with [REDACTED], I left the
8 agency.

9 Q When did you actually leave?

10 A I can't recall.

11 Q Would it have been on the 17th that you
12 stopped --

13 A No, when I give your, when, when I gave my
14 notice, they would give me time to prepare my, my internal
15 transfers to other social workers and to do all the
16 necessary paperwork I would need, in order get all my
17 families transferred.

18 Q Okay. So you would be doing paperwork, in other
19 words?

20 A Paperwork, other words, yes.

21 Q And would you be doing that at the agency or from
22 home?

23 A Combination both at the agency and at home.

24 Q So I want you to look at a document at page
25 37052.

1 THE COMMISSIONER: So, so the last contact you
2 had professionally, working on this file, was on July 17th?

3 THE WITNESS: According to my notes, yes.
4

5 BY MR. OLSON:

6 Q The document that's in front of you, do you, do
7 you recognize it? It's dated July 16, 2001?

8 A It was given to me to be, to review, yes.

9 Q Okay. And so you would have reviewed the
10 information contained from pages 37052 to 37056?

11 A Correct.

12 Q Okay. And do you know why that was?

13 A It's standard to -- it, it would be something --
14 a document that we would have reviewed, because it outlines
15 everything that happened with the child.

16 Q Pardon me, I couldn't, I didn't hear your last
17 comment.

18 A It's, it's, it's, it's, it's a process that we
19 have to notify if a child died in the care, that was not in
20 care of the agency, but we had involvement with that, that
21 family.

22 Q Okay. So this is, this is information being
23 provided to Darlene MacDonald, program manager, and it's
24 re: Notification of death of child not in care? And this,
25 you're saying this was information you had to provide

1 because, any time a child dies and there's agency
2 involvement, you're, you're required to do that?

3 A I believe the document was done by the
4 supervisor.

5 Q Okay. So it's at the end, at page 37056, you'll
6 see it's, appears to be signed by Lorna Hanson?

7 A Correct.

8 Q And then you're, you're copied on it?

9 A Correct.

10 Q Okay. And so is Glenda Edwards; who is that?

11 A I can't recall who she is.

12 Q Okay. Did you have any input into this document?

13 A I had to provide all my notes that I had done on
14 the file to my supervisor. She compiled the information
15 and forwarded it to the, the person that received it.

16 Q Okay. And so a summary of, of your involvement
17 with the file is contained in the document?

18 A Correct.

19 THE COMMISSIONER: Just go back to the top of
20 that letter please.

21 MR. OLSON: That's page 37052.

22 THE COMMISSIONER: Darlene MacDonald is program
23 manager for what? Or for whom?

24 THE WITNESS: I can't recall.

25 THE COMMISSIONER: Well, the provincial

1 government, or?

2 THE WITNESS: Yes.

3 THE COMMISSIONER: For the department in
4 government that had responsibility; is that, would that --

5 THE WITNESS: Correct.

6 THE COMMISSIONER: Yes.

7 MR. OLSON: If, if we look at Exhibit 15, it'll,
8 it'll clarify that, if we can just pull that up. You'll
9 see on this, this document, Mr. Commissioner, if we go to
10 the first page, it has, under the heading: Program
11 manager. And if we go to the relevant date, you'll see
12 that Darlene MacDonald was the program manager for Winnipeg
13 Child and Family Services --

14 THE COMMISSIONER: Oh, oh --

15 MR. OLSON: -- at that time.

16 THE COMMISSIONER: -- for, for Winnipeg child --
17 okay.

18 MR. OLSON: And just, just for the record, you'll
19 also note that Glenda Edwards, the person who was copied
20 with this letter, she's listed as the assistant program
21 manager at the time.

22 THE COMMISSIONER: Thank you.

23

24 BY MR. OLSON:

25 Q Now, looking at the document, if you go to, if we

1 go to page 37055, under the heading: Agency assessment, it
2 says:

3
4 "It is our assessment that Steve
5 has been parenting to the best of
6 his abilities, that he and
7 Samantha are presently separated
8 and that Steve has been the
9 primary caregiver [of] Phoenix and
10 [the baby]. Our file was open as
11 these are young parents, with
12 limited experience that both have
13 child welfare histories. There
14 have been concerns of the children
15 receiving inappropriate care, but
16 it was felt that this was more
17 about education than actual
18 purposeful neglect. Recently, the
19 [the] concerns have been more
20 about the instability of the
21 relationship and the fact that
22 Steve is parenting on his own. It
23 is unclear whether any domestic
24 violence has or has not occurred.
25 Steve is stating that he did not

1 assault Samantha. We have been
2 usable to speak with Samantha
3 regarding the alleged assault as
4 she has been transient.

5 The worker states that Steve was
6 providing appropriate care for his
7 children. That he was and
8 continues to receive support from
9 his family. We will continue to
10 support Steve and Samantha at
11 present [as] it appears that Steve
12 will continue to be the primary
13 caregiver. At present Samantha
14 may have some personal issues to
15 deal with before she can actively
16 participate in her child's day-to-
17 day life.

18 In closing, I hope this case
19 synopsis answers all your
20 questions, should you require
21 further information please feel
22 free to contact me."

23

24 Do you know if you had any input into this agency
25 assessment?

1 A I believe all the information that was, that I
2 had done and my case notes, because I was directed to
3 provide all that information. I believe there's an e-mail
4 that states that, that the, that the supervisor directed
5 myself to compile all the data and forward it to her.

6 Q Okay. Did you, did you agree what was written
7 there?

8 A I can't recall.

9 MR. OLSON: Can't recall?

10 I notice it's 4:33 now and I'm going to be awhile
11 with this witness still, Mr. Commissioner.

12 THE COMMISSIONER: How much longer?

13 MR. OLSON: Probably, could be up to an hour.

14 THE COMMISSIONER: Well, so you're suggesting we
15 break now, I guess, eh?

16 Well, that's the, that's the agreed upon hour, so
17 if you're going to be that much longer, we obviously can't
18 finish the, the chief today.

19 MR. OLSON: No, I don't think we'll finish today.

20 THE COMMISSIONER: So we're going to -- it'll --
21 this is going to put us behind, because there'll be likely
22 some cross, so I guess we'll just have to adjourn until
23 9:30 tomorrow morning.

24 And witness, you'll have to return at 9:30
25 tomorrow then.

1 THE WITNESS: Yes.

2 THE COMMISSIONER: Thank you very much.

3 We stand adjourned.

4 MR. OLSON: Thank you.

5

6 (PROCEEDINGS ADJOURNED TO NOVEMBER 27, 2012)