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

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

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

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FRIDAY, SEPTEMBER 7, 2012

APPEARANCES

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for the Phoenix Sinclair Inquiry Commission

MR. G. MCKINNON and **MR. S. PAUL**,
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MR. T. RAY,
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MR. H. KHAN and **MR. J. BENSON**,
for Intertribal Child and Family Services

MR. K. SAXBERG and **MR. H. COCHRANE**,
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MR. J. GINDIN and **MR. D. IRELAND**,
for Mr. Steve Sinclair and Ms. Kimberly-Ann Edwards

MR. J. FUNKE and **MS. J. SAUNDERS**,
for the Assembly of Manitoba Chiefs and Southern Chiefs' Organization

INDEX

SEPTEMBER 7, 2012

CONTINUED FROM SEPTEMBER 6, 2012

THE COMMISSIONER: Good morning.

MS. WALSH: Good morning, Mr. Commissioner.

Before we begin - I know Mr. Khan has questions - there are two procedural issues that I wanted to address, if I may. So, the first relates to the issue of documents and marking exhibits. We had some discussion about that yesterday.

THE COMMISSIONER: Yes, we did, and I'm glad we are going to get it clarified.

MS. WALSH: So, by agreement, first with respect to documents and entering them into the public record, counsel have agreed that we can dispense with formal proof.

The next agreement that we had ...

THE COMMISSIONER: Dispense with formal proof.

MS. WALSH: Right. We don't have to -- yes.

THE COMMISSIONER: Okay. I just want to be sure I know what you said.

MS. WALSH: Yes. Then any document which is included in our commission disclosure, that is, the disclosure that was distributed to counsel for parties and intervenors and number some 44,000 pages and representing

some 2,000 documents, any document that's in our disclosure can be entered into the public record without formally marking it as an exhibit. What's important is that everyone knows which document is being referred to and especially the page number. The pages are numbered consecutively, starting at commission disclosure 1, all the way to the end. So, if you know the page number, we will always know which disclosure we are in. And certainly, for the purposes of when we are here in the hearing, that for the purposes of the person pulling the document up on the screen, the page number is important to hear. But when anyone is referring to a document, if they will identify the CD number and the page number, there's no need to mark it as an exhibit. It's entered into the public record and can be relied upon by any counsel and referred to by you, Mr. Commissioner.

And if a document has not been entered into the public record, and I'm still just talking about our disclosure, you will not be referring to it or taking it into consideration, unless it has, has been -- has made its way into the public record.

Now, any document which is not already part of commission disclosure but which counsel wants to have entered into the public record will then be marked as an exhibit, as we saw, for instance, on the first day of the

hearings. Plus, if there are documents which are in commission disclosure but counsel, for whatever reason, feels it would be a good idea to have a hard copy available, in any event, then they can let our office know and we will make sure that the copies are available, and they can still mark those as an exhibit, and they would identify, in that case, that Exhibit 17 is a hard copy of CD number 3. And I think, in that way, it will be clear what we are referring to.

On our website, the commission's website, there is a heading list of exhibits, and the intention is that all the exhibits will make their way onto the website. What the website will show, and I think you have to give us --

THE COMMISSIONER: Does that include all of the documents that come into the public realm.

MS. WALSH: Yes, so what I was going to say is what the website will show is, when you click on that, and it may not look like that until next week, you will see -- it will be entitled, List of Exhibits and Other Documents Entered into the Public Record. And so you will see one list that shows all the exhibits in their chronological order and one document that lists all of the pages and the CD numbers that have been entered into. And if --

THE COMMISSIONER: And the latter list is likely

to be a much longer list than the former.

MS. WALSH: Exactly. And the only portion of a CD of commission disclosure document that will be in the public record will be the pages that are referred to. And so, just as an example, we've heard already a fair bit of reference to CD 1795, which is Ms. Kematch's protection file with Winnipeg Child and Family Services. And this is a hard copy of what that entire document looks like. So far, we've only referred to a few pages, and as the hearings proceed, we will, in chronological order, continue to refer to entries that were made by various workers in this disclosure. But the only portions that will be entered in the record and available for you and counsel to consider in terms of making final submissions and writing your report will be those that are actually put into the public record at the hearings. Does that sound appropriate?

THE COMMISSIONER: Yes, and that's understood and agreed by everyone, I gather.

All right.

MS. WALSH: One other ...

THE COMMISSIONER: Before we leave that, the confusion that arose yesterday, I bear responsibility for it, in a sense. Counsel had explained to me previously about the use of the books and the screen and so on, I

hadn't got the point that we were not going to mark those documents. And I now understand. I don't, for a minute, dispute you didn't explain it to me, but to live it in the real world, as we did in the last couple of days, is a little different than the abstract.

MS. WALSH: Well, I think we are all experiencing that, Mr. Commissioner.

THE COMMISSIONER: So, I fully understand and when the transcript comes out, I'm going to have a copy of your remarks that you just made available for me so that it is always in front of me, but I appreciate the clarification that you have made and presumably with -- in consultation with your colleagues yesterday afternoon.

MS. WALSH: Thank you. And, and, you know, I'm not someone who is terribly technologically sophisticated, but I have actually found, as we are sitting here this week, that following along on the screen is, is quite helpful. So, you will, you will see. You will have hard copies of any of the pages that we know we are going to be referring to, but it is simply impossible to predict what portions of disclosure might be referred to otherwise.

THE COMMISSIONER: I understand.

MS. WALSH: The only other point that I wanted to make is one clarification relating to one of the rules that we included in our amended rules of procedure and

practice ...

THE COMMISSIONER: Yes.

MS. WALSH: At Rule 37 - have you got those?

THE COMMISSIONER: Yes.

MS. WALSH: Good.

THE COMMISSIONER: I have it.

MS. WALSH: So, Rule 37 says that counsel will be governed by Section 4.04(2) of The Law Society of Manitoba's code of professional conduct regarding communication with witnesses giving evidence. And this was something that was discussed when we had a discussion about the rules at the standing hearing, and it was suggested that we include this reference to the code, and that was done.

We've had, amongst ourselves, talking with counsel, some discussion as to how that section of code actually relates to our rules of procedure in this case. So, 4.04(2) of the code, under the heading, Communication with Witnesses Giving Evidence, says:

> Subject to the direction of the tribunal, the lawyer must observe the following rules respecting communication with witnesses giving evidence:
>
> (a) during examination-in-chief,

> the examining lawyer may discuss with the witness any matter;
>
> (b) during cross-examination of the lawyer's own witness, the lawyer must not discuss with the witness the evidence given in-chief, or relating to any matter introduced or touched on during the examination-in-chief; and
>
> (c) upon the conclusion of cross-examination and during any re-examination, the lawyer may discuss with the witness, any matter.

So, how that translates to our rules, our Rule 35 deals with the examination of witnesses.

THE COMMISSIONER: Yes, and the order.

MS. WALSH: And the order, exactly. So it says: The order of examination of a witness will ordinarily be as follows, subject to paragraph 36, which is a paragraph which allows counsel for a witness to examine first. So:

> (a) commission counsel will examine the witness. Except as otherwise directed by the commissioner, commission counsel

may adduce evidence from a witness by way of both leading and non-leading questions;

(b) the parties who have been granted standing to do so will then have an opportunity to cross-examine the witness to the extent of their interest. If these parties are unable to agree on the order of cross-examination, this will be determined by the commissioner.

(c) subject to paragraph 36, counsel for the witness will examine the witness last, regardless of whether or not counsel is also representing another party; and

(d) commission counsel will then have the right to re-examine the witness. Except as otherwise directed by the commissioner, commission counsel may adduce evidence from a witness during re-examination by way of both leading

and non-leading questions.

So, in discussion with counsel yesterday, I believe what was determined was that when commission counsel is asking questions, that's the equivalent to an examination-in-chief as referenced in the Code. And so, in that case, commission counsel could speak, could communicate with the witness. Certainly, we would not do that without the witness' counsel being present.

(b) is cross-examination, and during that point, counsel for the witness would not be able to communicate with their client.

And then in terms of (c) when the witness -- counsel for the witness can examine their own witness, the discussion was: well, would it be appropriate for counsel to communicate with their client before they do that examination? And I believe that the thinking was that that examination would mostly cover matters that were raised for the very first time in cross-examination and in that case, that would be an appropriate subject for counsel to discuss with their client before doing their examination

So, that's my understanding of how we interpreted when it would be appropriate for counsel to speak with their own witness. There may be some others who want to address that.

THE COMMISSIONER: Is there a consensus that what

Ms. Walsh has said that will be the rules by which we will run? It seems to be. That seems to be fair.

MS. WALSH: Good. Thank you very much.

THE COMMISSIONER: Thank you for clarifying those matters.

Now we will have the witness return to the stand, please. And I appreciate the desk being turned. I just found the straight on -- this is more like a courtroom setting where the presiding person is able to see and hear the witness much better than the way we had it.

MARNIE SAUNDERSON, previously sworn, continued to testify as follows:

THE MONITOR: Mr. Khan seems to be having some trouble with microphone.

MR. KHAN: We are experiencing some technical difficulties.

THE COMMISSIONER: Oh, all right. Take your time to work it out.

MR. KHAN: I don't mind holding the microphone, but I think this might be an issue for other counsel as well, when they come to the --

THE COMMISSIONER: You shouldn't have to.

MR. KHAN: Okay. Well, we'll give it a try.

THE COMMISSIONER: Is it working now?

MR. KHAN: It is, but sometimes it seems to fall on its own.

THE COMMISSIONER: Is this the problem you addressed earlier this morning? Oh, this is another one. Well, if you need five minutes to get it adjusted, we can adjourn. Can we give it a try and ...

MR. KHAN: Let's give it a try and perhaps ...

THE COMMISSIONER: If it fails, we'll stop for five minutes and get a technician on hand.

MR. KHAN: Thank you.

EXAMINATION BY MR. KHAN:

Q Ms. Saunderson, my name is Hafeez Khan. I am counsel for Intertribal Child and Family Services.

A Good morning.

Q Good morning. Thank you for coming back this morning. I'm sure there is other things you would rather do today. I just want to remind you that you are still under oath.

From reviewing the Section 4 reports, and that is CD number 1, the report writer makes it clear that, you know, that you did your job properly and efficiently and everything was fine. I just wanted to -- just to make

sure, in retrospect, is there anything different that you would have done, or do you think you, in your view, you did things the proper way?

A I can't say that I would have changed anything.

Q And you were only involved for, for a few days, very short.

A Yeah, less than a week, yeah.

Q Now, you are currently seconded with ANCR -- to ANCR?

A That's correct, until September 24th.

Q Okay. And how long have you been there?

A I've been with Winnipeg Child and Family Services for 20 years, and when ANCR came into existence, I became a permanent secondee there, and I've recently quit Winnipeg CFS and signed onto ANCR as of September 24th.

Q And you haven't worked for any other agency?

A No.

Q No. So, you're not familiar with the operations of other agencies?

A Not to any great extent, necessarily.

Q Nothing that you can speak to personally.

A Not having worked for another agency, no.

Q So, you wouldn't be familiar with their respective policies and procedures and so on, their internal policies and procedures?

A No.

Q And I just want to clarify, because we're going to be talking a lot about CFSIS throughout the inquiry. Now, you were mentioning that you had heard various agencies had trouble with connection to CFSIS.

A Yes, that's what I've heard.

Q But you never experienced it yourself?

A I've always worked in the City of Winnipeg so internet connection has not been a problem.

Q So, everything you know is just from hearing from other people.

A My colleagues in other agencies, yes.

Q Now, Mr. Gindin, yesterday, had asked you some questions about the practical importance of closing a file.

A Yeah.

Q And you explained that, to you, why the issues in not closing the file would be that a subsequent worker could make sort of the wrong presumptions; is that correct?

A Yes, I think that was part of what I said.

Q And when you say "presumptions" do you mean, for example, the presumption that the file -- that, that there's ongoing services to the family, even if there, if there are not?

A That or that a particular issue with a family took longer to address or there were more difficulties or

perhaps a substantiation to an alleged threat to the children, if it was open for a longer period.

Q And so, in that case, I guess in every case, the worker, new worker would have to look into the file to make sure they are not making any, any wrong assumptions/presumptions.

A That's correct. It's important to thoroughly read the history.

Q Now, on April 27th, 2000, you spoke with Ms. McKay from Cree Nation to get further information on Ms. Kematch; is that correct?

A Yes, it is.

Q And in your discussions with her, she gave you some information over the phone; that's right?

A Yes.

Q And then she also said to you that she would fax what she had to you with respect to Samantha on her first child.

A That's correct.

Q And then that same day she sent you that information; is that correct?

A I think it came the following day, actually. I think it was dated the 27th, but the fax transmission indicates that it came through on the 28th.

Q Okay. So, the next day, it came through.

A Yes.

Q And it was common at that time, as I am sure it is now, for agencies to contact each other for information?

A That's correct.

Q And so, in 2000, when you spoke with Cree Nation, they were helpful?

A Very.

Q They didn't refuse to provide information?

A No.

Q No? So, no problems with -- in terms of communication with Cree Nation?

A None.

Q And you testified that the information that you did receive wasn't really the information you were, you were seeking; that's correct?

A I specifically asked for the protection file with regard to Ms. Kematch and her first child, correct.

Q Okay. So, even though it wasn't the information you were seeking, there was still some value to it, although you, you explained to Mr. Olson that it was of limited value, but still some value.

A Yes, I did include some of the things that I found on the child in care filed within the assessment that I did.

Q And correct me if I'm wrong, but I recall that,

that you said that an important factor to you in assessing risk is, is whether there's a history of neglect or abuse of the parent, in the parent's youth; is that correct?

A Well, the current risk tool that we're using, yes, that is one of the questions and that is a factor in looking at possible harm to that person's children in the future.

Q And the information that was provided to you from Cree Nation did include information with respect to abuse and neglect suffered by Ms. Kematch in her youth; is that correct?

A Yes, it did.

Q And, of course, you included that in your assessment. That part was important.

A That was important and had been indicated right at the beginning from Ms. Kematch herself.

Q Now, you also mentioned that you -- and was it -- in your opinion the information that was sent, was sent inadvertently.

A Yes, I guess it was sent inadvertently.

Q And that's what you thought at the time?

A Yes, because I made a subsequent phone call to ask for the information that I really needed.

Q Right. So you spoke with Ms. McKay on the 28th, the day after you received this information.

A I think it was the 27th that I spoke to her and asked for the protection file for Ms. Kematch.

Q And she said she would look for it and send it to you; is that correct?

A That's correct.

Q Now, Mr. Saxberg mentioned -- brought to your attention a few of the provisions or sub-clauses of the, of the Section 76 of the Child and Family Services Act.

A Yes.

Q Right? And you're somewhat familiar with how to access sealed records.

A Somewhat, yes.

Q And your understanding was that typically, you would need the consent of the person to access the records.

A Yes.

Q But you also understand now that there's other circumstances where the records can be obtained, correct?

A Yes.

Q Mr. McKinnon, for example, showed to you a policy the year after -- no, in 2001, but a policy that exists with Winnipeg Child and Family Services whereby sealed records can be accessed too.

A Yes, for children that are in care of Winnipeg CFS.

Q Winnipeg CFS. And you were -- you're not sure

whether other agencies have similar policies in terms of accessing files.

A I wouldn't know specifically.

Q So, at that time, you weren't sure whether or not Cree Nation, you know, followed any internal policies in deciding to release that information to you.

A I hadn't asked about their policies, no.

Q So, you were -- so, you didn't know.

A No.

Q So, would it be fair to say that you don't know if, if they sent that inadvertently, that information?

A I don't exactly know their intent in sending it, no.

Q And you wouldn't be in a position to say whether or not that was a mistake, would you?

A No.

MR. KHAN: Thank you.

Those are my questions.

THE COMMISSIONER: Thank you, Mr. Khan. All right, Mr. Ray.

MR. RAY: Good morning. Thank you, Mr. Commissioner.

EXAMINATION BY MR. RAY:

Q Ms. Saunderson, for the record, I am Trevor Ray.

I am your lawyer, for purposes of introductions, in case you didn't understand that.

I just want to touch quickly on something Mr. Khan was asking you and I have a number of questions for you. Mr. Khan was canvassing with you some questions that were asked of you by Mr. Gindin the other day, and it related to the importance of closing a file. And Mr. Khan asked you whether another worker would make wrong presumptions about that file, and I think there was some discussion about that. Let me ask you: if you have a file, and it is -- you've done everything you are supposed to do with a file, and it's closed by you but it is awaiting closure in administration, and a new referral comes in on that family or children covered by the family, what is your expectation as to how that new referral would be treated?

A With respect to action taken or who would take the action?

Q Both.

A Okay. If a file is open to me, as a social worker, on my case list and I have closed -- done a closing summary, completed all the interventions but it has technically not been closed off by my supervisor or my admin staff person, it is considered open to me. So, it would be treated as any open file to a social worker would be in that I would immediately have to go, investigate, do

an assessment, ensure the safety and wellbeing of the children.

Q So, it's not as though the file has disappeared and is in limbo.

A It technically remains an open file to me on my caseload.

Q Thank you. You were put -- Mr. McKinnon put a policy to you yesterday and Mr. Khan just pointed out that it was a 2001 policy. Do you have any knowledge as to whether there was a similar policy in place in 2000, at the time, in terms of how -- forms are filled out and whether, whether you could access CIC files?

A I don't remember.

Q And Mr. Khan asked you -- you didn't know whether or not, for sure, Cree Nation -- you didn't know what their intent was, whether it was inadvertently sent or sent in error, Ms. Kematch's child in care file. Let's be clear. Is that the file you requested of them?

A No, it was not.

Q Just in terms of -- we heard a lot about training yesterday, and you had mentioned that you had received various types of training from Winnipeg CFS at the time you started and thereafter. What about your university education? To what extent, if at all, did it prepare you to do protection work?

A At the time I graduated from the bachelor of social work program at the U of M was in 1992, there were no specific classes at that time on child welfare. So, I suppose some of the theoretical pieces may have been what I brought to the job, things like child and adolescent development has helped me with my job, different theories about how to work with families, family therapy, perhaps some mediation stuff with parent/teen conflict, maybe attachment theories about parents and children, the children, how they manage in care. But did it prepare me for child welfare? Not really.

Q And we heard a lot, obviously, about workload yesterday, and you used two different terms. You commented -- one of your comments was related to workload and also caseload. Are they distinct in terms of your environment at work?

THE COMMISSIONER: Caseload and what?

MR. RAY: And workload.

THE WITNESS: Well, specifically, your caseload would be the families that are open to you, the families that you are working with, the intakes that you receive, if you're an intake worker. I would see workload as being over and above your caseload. There are many expectations, as in any career and any occupation that go beyond the scope of my caseload. There are expectations to attend

certain mandatory trainings, attend certain meetings, attend court, testify, those kinds of things, over and above the actual caseload that I would consider workload.

BY MR. RAY:

Q So, does a reasonably low or moderate caseload necessarily translate into a reasonably low or moderate workload?

A No, because it's not just based on the numbers. It's also based on the complexity of the family situation. There are many cases that may be worth their weight of five cases, due to the heavy nature of the family situation, the chronic, chronic issues.

Q You were, you were asked yesterday if you felt your caseload was manageable, and I think you said that you managed, but you were not able to always meet standards. In your view, what, what is a manageable caseload and, and there's two parts to that. First, I'd ask you -- ask is related to intake, as an intake worker, and secondly, as a family service worker.

A Well, I can only speak to my own experience with this. There have been times that I've had 30 intakes open to me at one time, 30 to 40 intakes open to me. I don't consider that particularly manageable. It is very difficult to see all the children in the home. Some of the

families have six to eight children. All, all of the children need to be seen. I would say to have 15 intakes open to you is much more manageable. Realistically, you can actually get out to see those families, interview the children, see them in their home environment and begin to put a plan together with the family. So, I would say 15 would probably be a reasonable amount of intakes, from my personal experience.

THE COMMISSIONER: 15 families?

THE WITNESS: 15 families, yeah.

When you are talking about the family services department, again I think I spoke to having something like 40 family service files when I walked into the caseload in 1994. That is not manageable. You are not able to get to where you need to be with that kind of a caseload. I would say 20 or under would be much more reasonable.

BY MR. RAY:

Q And with your caseload and workload, what types, what types of primary social worker tasks were impacted and how were they impacted?

A Can you ask that again, Mr. Ray?

Q Given, given your caseload or your workload, whether as an intake worker or a family service worker, what types of primary social worker tasks, the primary

duties you do on a file on a day-to-day basis or are expected to do on a file on a day-to-day basis, what types of those duties, how are they impacted and what duties are they?

A First and foremost, the most important part of a social worker's job and child protection is that you must get out to see the families, and you must see the children. Most importantly, it's in the home environment. Secondary to that, if you need to meet with children in a kind of non-intrusive way, sometimes we often go to the schools and interview children. What you are looking for are safety threats and risk threats to the children. Oftentimes, families are struggling, so you do an awful lot of talking and meeting with families, sometimes to mediate between the families and their children. Oftentimes, getting to the crux of what some of the strengths are with the families, what some of their needs are and then helping with the families find a place to begin to meet some of those needs, whether that's within the agency, some to be transferred for longer term service or looking at an outside resource that perhaps the family could be hooked up with.

In addition to that, there are paperwork expectations. There is a lot of paperwork that comes along with handling a file. As you can expect, one needs to keep up on their day-to-day notes. These are important things

that we are doing with families. They need to be written down in a timely fashion. It's not just a matter of writing your notes as per the facts; there's an assessment that needs to occur as well, including all of the factors of the family and the children.

Within the last couple of months I think I mentioned the system has undergone a change where we are using the structured decision-making tools.

At ANCR we made a decision to use those tools to assess families. There is a safety tool that is part of the intake module where there are a number of factors to ensure that children are safe in the home, in the here and now, within the next one to two days.

There's a probability of future harm tool, which is a number of risk factors that need to be considered and asked of the family and collaterals to determine an overall risk to the children in the home, of maltreatment within the next one to two years.

And then there's a more thorough comprehensive assessment, called the caregiver and children's strengths and needs.

All of the caregivers in the home, and sometimes there's more than two, need to be assessed through that tool and all the children in the home need to be assessed.

In order assess children, their safety and risk,

you need to see them all.

The children's strengths and needs often -- it asks many questions that involve criminal behaviour of the children, their development, any issues or deficits that they might have physically, mentally. So often you have to talk to a physician or a school.

Once you have completed those tools, you need to write it up in a formal social work assessment.

There are families calling you every day, asking for help. That's a part of our job. It's an expectation that if a family is seeking the agency out for assistance, we need to provide it.

There are expectations to write reports for court. If we have apprehended a child, we need to write court particulars. We need to make sure that every party has been served, in the proceedings, including children over the age of 12.

If you have apprehended a child on your case list, the expectation is that you are acting as their guardian until the case is transferred to the culturally appropriate agency. That may mean attending school conferences, meeting with teachers, writing reports for schools, getting extra funding so that they could perhaps get a teaching assistant at the school, signing documents for the children, as any guardian would for their own

child.

There are internal expectations to attend unit meetings, to attend program meetings, to perhaps sit on committees. There are Workplace Health and Safety, certain sub-committees to develop procedures within the agency, any number of internal expectations, including monthly supervision with your supervisor now.

At any given time, you may be expected -- we work in partnerships often at the agency. There are a lot of safety threats to social workers out there in the community at this time. So, many people call on a partner to come with them. So, while you are out helping your partner on their cases to ensure that nobody gets hurt and that everything goes smoothly, your caseload is sitting there waiting for you.

I may have missed some things, but ...

Q There was a lot of discussion yesterday about CIC files, in particular CIC files which are sealed and, in particular, Ms. Kematch's sealed CIC file. And this morning, Mr. Khan asked you a question about the types of things that you take into account and how they bear as a predictor of abuse and neglect, you answered were -- one thing that is a factor for you to consider and what you advised this morning and yesterday was that -- I believe you said that it's a, it's a factor and it has a -- is a

predictor of a slight chance of probability that a parent will abuse their own child. Are you able to -- is that measurable in any way, and where and how is that a factor and how do you, how do you know that it's a slight factor as opposed to a significant factor?

A You're testing me pretty good here. The probability of future harm is a research-based tool. It's based on actuarial risk research. So, if memory serves, and I don't maybe have some of the exact numbers, but the risk factors that are included in that tool are all in combination with one another. So, it would not be the presence of the facts that a caregiver had been abused or neglected as a child. That, alone, would not give that person a higher risk. It would be that factor in combination with a number of other factors that would, at the end of the day, give a risk rating for that family. So, on that tool, there are low risk, moderate or medium risk, high risk, and very high risk families.

I think the research indicates that a caregiver who might be at very high risk to abuse or neglect their child within the next 18 to 24 months is about 50 percent higher for that caregiver than the normal mean population.

Q Mr. Saxberg asked you yesterday about your general practice, and you stated it was not your regular practice to ask to see a CIC file. As an intake or after-

hours worker, do you recall if you ever had a need to ask to see or to unseal a CIC file?

A Not to my knowledge, ever.

Q And there was some discussion about various ways you can access a CIC file. You can fill out a form and make the request and that form goes up the chain of command. You can apply to court seeking an order to have the file unsealed. As an intake worker or an after-hours worker or a CRU worker, first of all, do you have the time to do those things, given you need the information immediately?

A The whole idea of intake is to be able to gather as much information as you can, as quickly as you can and move the file on. Again, I think I mentioned yesterday some of the possible dispositions are that the case can be closed. You can do a brief service or a brief intervention and close the file. You can move the file to a preventative stream or to ongoing protection. There are many people touching a case in our system. The more quickly an intake worker or a CRU worker can gather the information and move it on with the most thorough assessment as they can, the better, so that that family can have some continuity and a social worker that they can get to know and gather some rapport.

The other point I'd like to make with that intake

is supposed to have the case really no more than 30 days. So, what you can gather in that time is what you can gather.

The other point that I'd like to make about having child in care files and the different ways that you can get that information, as I mentioned to you, I've never had to do that. I've never found it necessary. I'm a social worker. Generally, I ask the families. That is a part of a conversation that we have with families about their own upbringing and their experiences. I find that as a social worker, that's much more useful information than the CIC file.

Q Is it safe to assume you've seen many CIC files in 20 years as a social worker?

A Yes.

Q We know you received Ms. Kematch's CIC file. You reviewed it and you incorporated some of it into your transfer summary. How do the concerns that were presented in, presented in Ms. Kematch's CIC file compare to other CIC files you may have seen? Maybe let me rephrase it. Was, was Ms. Kematch's CIC file particularly unique compared to other CIC files?

A No. Ms. Kematch's child in care file read as a very terribly sad story and, unfortunately, she's probably not alone in that. Also, children who have been raised in

care after experiencing loss and victimization and some of the brutal things that we heard yesterday, often those children turn out to be fairly angry teenagers or people who are struggling with their emotions. And so I would say Ms. Kematch's child in care file, sadly, is fairly typical.

Q I just want to direct you to the after-hours unit report that you received from Ms. Murdoch or that formed part of your assessment. That's page 37107. Sorry, I don't happen to know the CD number off ...

MS. WALSH: 1795.

MR. RAY: 1795. Thank you.

MS. WALSH: Sorry to interrupt, but for the benefit of everyone following on the screen, the page numbers of the documents are at the very top, along the bar. You can actually see the page numbers. You don't have to look at the bottom of the document to find it.

BY MR. RAY:

Q So, I understand from your evidence that you received that document first. That's what essentially starts you on your way to start conducting your assessment. At some later point in time is when you then received Ms. Kematch's sealed CIC file. If you look at the CRU report -- or excuse me, the after-hours report at 37107, there's the heading there. If you could just scroll up,

please. Presenting problem and intervention, which continues to the next page. How do you characterize that presenting problem or history as to whether or not it's a unique situation facing social workers?

A Are you asking me if this was a particularly unique or standout presenting issue that we would have had to deal with?

Q Yes.

A Not particularly, no.

Q And is that type of referral and the issues that are presented to you in that referral, one that would normally result in you requesting to see a sealed CIC file, assuming you knew one existed?

A No.

Q You described your background and many of the things that you've done for CFS and you described, essentially, at one point, having a mixed bag of files, and I believe that was when you were talking about your time as a family services worker. Are certain types of files and when I say "certain types" I mean adoption versus protection, are certain types of files more difficult or more time consuming than other types of files?

A If you are characterizing the different types of files, protection versus voluntary family service versus an adoption file or a family preservation file, I think that

they all have their challenges. I think that, in general, this is not easy work and that all of the different kinds of files have their own skill set that a worker needs to, to help the families, which I think was eventually why our system began to specialize a bit. So, instead of having a generic caseload with all of the different kinds of cases, we got a little bit more specific in later years. I think they are all difficult in their own right. However, if you're asking me to compare one protection file to another --

Q No.

A No? Okay.

Q Just let's turn to the issue of your involvement in the apprehension, for a moment. CFS apprehended Phoenix based on the file as it presented at that time and we heard your evidence on that. You went to pick Phoenix up, and that was your role, and the parents, at that time, indicated that they had changed, changed their mind. Okay? You, of course, advised them that, you know, it's kind of too late for that and that Phoenix was already under apprehension and that you would be taking Phoenix. Mr. Gindin suggested to you that that course of action in apprehending Phoenix was fairly, a fairly obvious thing to do at that time. In your view, at the time the apprehension was made, was it intended to be a permanent

apprehension with, with no chance of Phoenix being returned to her family?

A No, I think it's very rare that a social worker would assume that the moment of apprehension at birth of a baby, those parents would likely never get that child back. We're a bit in the business of hope and the idea that people can get help for some of the issues that may plague them and at some point some of the cycles can be broken, that we can help people to be their best and to perhaps give a shot at parenting at some point, with the right supports.

Q From a legal perspective, did you feel you would have had grounds to successfully apply for a permanent ward apprehension at that point in time, based on what presented to you at the time

A Probably not.

Q And given the concerns that you were presented with at the time, if the parents took appropriate steps to address those concerns, what do you expect would have happened with Phoenix?

A Part of the responsibility of a social worker is to work with the family and assess to find out what needs to be worked on, what would make it safe for that child to go home with those parents. If parents or caregivers were able to successfully work on some of the issues that had

been identified as needs, then I would assume that takes them closer to being a safe caregiver for that child.

Q Mr. Olson asked you some questions as to whether certain information in Ms. Kematch's CIC file and the after-hours report would have been important for the next worker to consider, and you said, Yes. And those, those issues were, you know, Samantha's attitude, the fact that the parents seemed to be disinterested in parenting, that they were unprepared for parenting and her relative lack of emotion, and you qualified your answer by saying, Yes, if Ms. Kematch continued to show no interest, what if her or perhaps Steven or both do show an interest and a changed attitude?

A Then I think the agency has a responsibility to work with those parents and, again, figure out what would make it safe for that child to be at home, and what would begin to mitigate some of the risk factors.

Q Your, your transfer summary, and you don't need to turn to it, but you had the heading, Assessment, and Mr. Olson asked you whether that, that assessment is something that you would expect the next worker to rely upon, and you said, Yes. Is the next worker obligated to defer to your assessment?

A No. I think I mentioned yesterday, any social worker who is involved in a case at any level at any point

in the system, whether it be after-hours, intake, family service, assessment is an ongoing thing. Certainly, there is professional respect. We're all doing the same job. I've assessed it based on a certain set of factors and a certain time that I've spent with the family and based on some history, but they are not obliged to be married to my assessment because things change and often they change quickly in families.

Q Mr. Olson also asked you about how it was you were able -- in your opinion, how was it you were able to do such a thorough job on this file, and one of your responses was that perhaps you had a light caseload at the time. Do you have any recollection of how much attention or an idea how much attention you would have been able to give your other files while dealing with this particular file? If you don't recall, that's fine.

THE COMMISSIONER: Well, do you remember what those other files were?

THE WITNESS: I would not have any memory of my other files, but just from reading my report --

BY MR. RAY:

Q Let me put it -- maybe put it this way: how time consuming do you think it would have been in those three days that you had that particular file, how much time would

that have taken up, relative to --

A Just from reading it and seeing the fields that I did and the tasks that I did, it probably was the better part of one to two days that it took me to work this file in a three-day span. So, I'm not sure I would have been working on other files while I did this.

Q And just in terms of some of the socio systemic issues, you testified that child welfare is difficult and there's lots of factors that impact your work and the work of social workers, can you describe for us some of the socio systemic problems that are often inherent in child welfare and how that impacts your ability to provide services?

A First and foremost, I don't think it's a surprise to anybody, but we live in a province where a number of people live in extreme debilitating poverty. Many of the families that we go to see struggle to feed themselves and their children, have a decent roof over their head and put proper clothing on their children, send a good lunch to school. So, I would say first and foremost and overall, and generally, poverty is a very, very large issue.

THE COMMISSIONER: And is that poverty localized or province-wide, or ...

THE WITNESS: I would say province-wide. I've had opportunity to go to some of the First Nation

communities and meet with families, as well, in my career and many of those communities don't even have drinking water, which is a human right for children and families.

THE COMMISSIONER: And do you find -- are you saying that the poverty you find to exist is more prevalent in First Nation communities than other parts of the province?

THE WITNESS: I would say so, yes. Many of the families that come from First Nation communities to Winnipeg don't have much when they come here, and they've often left their support behind in their community.

In addition to poverty or along with poverty comes --

BY MR. RAY:

Q Sorry, sorry to interrupt. Just before you move on to another factor, how does, how does poverty impact you as a social worker in terms of your ability to provide services and the experience with families?

A Well, just maybe use a simple explanation here. If you have a family and one of the needs that they have is they have substance abuse problems and they've indicated that they would be willing to go for treatment. They have small children at home, all under the age of five. We are saying that the fact that they are misusing substances is a

problem and needs to be fixed. They live in the south end of the city. They can't get to the treatment centres which are downtown or in the north end. They don't have extra money for bus tickets. The agency provides it. Things like babysitting services. Who takes care of their children when they go to AFM? What if they need in-house treatment? What if the mother needs to go to River House for two months? Who will take care of the children? She's a single parent. So, something as simple as that.

I think more importantly, poverty and that kind of -- the life that people have to struggle through, the bottom line is it breeds hopelessness for the people and helplessness. And I think that's probably the biggest struggle. It's really hard to help a family or caregivers work on issues when they can't feed their children.

So, the basic needs aren't being met and therefore, it's really difficult for people to get healthier emotionally, mentally, physically and be better caregivers.

Q You were going to be moving into some other factors, or I thought you were before I interrupted you.

A I was just saying sometimes with that hopelessness and helplessness comes things like an increase in mental health difficulties for families, a reliance on substances. Perhaps people fall into gangs because of

their own isolation and lack of family. People were often not parented themselves, so didn't learn the very basic skills of parenting and that may be because they were in a number of group homes, that may be residual effects of residential school. The cycle just continues.

THE COMMISSIONER: What do you mean, "the cycle continues"?

THE WITNESS: If a grandparent didn't learn how to be a parent and subsequently was unable to properly parent their children, then those children didn't learn to properly parent and so the cycle continues, similar to addiction issues. Often we find if a mother had lots of difficulties with drinking or with drug use, for example, and that was commonplace in the home, often the children rely upon alcohol in their later years, as well.

Q From the perspective of a social worker, do you have any suggestions as to how the system could be improved to address many of the difficulties that either yourself perhaps -- and less selfish basis families that you serve as a social worker?

A This is just a wish list, from my personal opinion. There needs to be more social workers. There are not enough social workers to do the job, in my opinion. Also, I think outside resources, preventative measures, ways that people can intervene with families before they

get into our system would be very helpful. Not having to wait a year to get a family help with a certain resource so that they don't have to come through the front doors of Child and Family Services. I think that would go a long way to helping.

MR. RAY: Those are my questions for you, Ms. Saunderson. Thank you.

THE WITNESS: Thank you.

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

EXAMINATION BY MR. OLSON:

Q I just have a few questions for you and then we'll will let you go. One of the things you mentioned to Mr. Ray is that with respect to Phoenix, you wouldn't expect that the apprehension would be permanent and that with -- I think you said with the rights of courts you would hope Phoenix could be returned. What did you mean by "rights of courts"?

A Well, I think, again, when we are looking at some of the needs of Ms. Kematch and Mr. Sinclair at the time, again, I had the case for three days. So, after a more thorough assessment, maybe that could be more specifically -- their needs could be more specifically looked at to try to figure out if there was some assistance that they could,

could get to help them be better parents. We often do supports very technically in our agency. We have support workers. We have people who will go right in the home and help people parent, help them with the very basic tasks of parenting, show them how to play with children, show them how to bond with children, those kinds of things. From my vague recollection of the family, there didn't seem to be a lot of family supports for Ms. Kematch and Mr. Sinclair. So, the idea is to be able to maybe build some of those within the family, maybe not necessarily formal supports. Maybe they had them right there in front of them and just to help them to develop. That's what I meant.

Q Okay. For example, supports -- we know that there was Nikki Taylor from Ma Mawi that was mentioned. So, that would be -- would that be an example of an outside support that might be working towards that?

A Yes, that's one example.

Q Is the idea, in the end, that the risk factors that brought Phoenix into care in the first place would somehow be addressed to an extent that when she was returned, those risk factors would be sort of mitigated?

A Yes, that's the idea.

Q Okay. And if, if those, if the supports that are put in place don't seem to be having that effect, would, would you then expect the child wouldn't be put back with

the parents or the caregiver?

A From my experience, and I can speak to my experience in the family service unit, typically what we would -- it's never quite black and -- as black and white as that.

Q Right.

A There's many, many shades of grey in this profession. More likely would be an incremental move to a permanent order.

Q Yes.

A So, you may move from a three-month temporary order and where you begin to work on some of the issues with the parents, should the parents, you know, may be making a few steps towards being healthier or mitigating some of their risks. It may need longer. You may need to go for a six-month temporary order. I would say there are circumstances where you would immediately apprehend a child at birth and seek a permanent order. I would say those are not that -- it wouldn't be that often that that would happen. I would say that the agency has an obligation and responsibility to work with the parents to get them to a place where they can hopefully parent with less risk.

Ultimately, and I think the law even says there's a certain amount of time that a child can stay in care temporarily before a more permanent plan needs to be made.

At a certain point of working with family and perhaps see no gain, perhaps seeing more risks identified in their lives, it's also an alternate responsibility of the agency to seek a permanent kind of plan for that child, whether that be with other family members or permanently in care or placed for adoption.

Q Where there is some gain, but maybe not enough where all the risks have been addressed, would you expect the agency to stay involved with the family?

A It depends on the level of risk. Part of the role of Child and Family Services is again to build in some of those supports so that the sole support is not Child and Family Services. One would hope that they have family of their own that we can look to. The idea is to have families be able to be safe and in control of themselves and good parents and safe parents without agency intervention.

Q Right. Ultimately, when a worker is looking at determining whether or not to place a child back with the family, what, what's the number one consideration, in your view, for the worker?

A Well, number one consideration is always the immediate safety of children. Will they be safe in that home? Will they be at any immediate risk of harm - physically, emotionally, sexually.

Number two consideration is the risks. Have any of the risks been mitigated? Has -- have the risks lowered by virtue of the family doing some really good work? Were supports being put in place?

Thirdly, and I mean overall -- not thirdly. Overall, a child's best interests emotionally have to be considered as well.

Q Just, just to follow up on another topic that Mr. Ray asked you about. He asked you what the primary tasks were for you as a, as a worker, and you said the number one thing was to see children and families in the home. And I think you also said it's important to see all the children in the home. Do I -- is that right?

A Yes, that's what I said.

Q And was that as true in 2000 as it is today?

A That's been the mandate of Child and Family Services since I started working there 20 years ago.

Q So, that's nothing new, then, for social workers?

A No.

Q And when you, when you talk about seeing the children in the home, why is that important? Why is that the number one thing?

A Seeing children or seeing children in their home?

Q Well, I guess seeing children would be the most important thing.

A Our job is to assess whether children are safe or whether there are any risks and whether they are in harm's way. I think most times it is very difficult to make that kind of an assessment without seeing the children.

Q And if you have a specific concern about a specific child in the home, do you need to see that child to assess whether there is, in fact, risk?

A I think you should.

Q And is it, is it just seeing the child, or is there something more to it than, than that? I mean, do you have to -- do you spend time with the child or ...

A It depends on the allegation. It depends on the concern that's been brought forward. If there's a concern that there's bruising on the child's body, it would need to be, obviously, a little bit more involved than just seeing them. Sometimes it involves having them medically seen. It often involves interviewing the child or speaking to them or having some level of conversation with them about what's going on in their life. Obviously, if they are under the age of three and non-verbal, seeing them would likely be enough. And often, we rely on other, other people involved in the child's life. If they are school age, we try to talk to the people involved with them.

Q Okay.

A If they are in a daycare, same thing.

Q And something you touched on, I was going to ask you about next was, was there -- you mention a three-year-old child. We've been talking about children sort of generally. Is there a difference between a three-year-old child and maybe a 15-year-old child in terms of how often you need to see them or their own ability?

A I don't think you can make it quite that black and white. It depends on what's going on for that child. It depends on what the allegations are. Children who are non-verbal or who can't, you know, walk to a neighbour's and ask for help independently of their parents are usually seen to be quite vulnerable. If there are -- I mean, generally, children over the age of 12 are seen to be a little bit more independent. They usually have a social network. They are usually able to use their feet to go get help or a phone or something like that. However, I wouldn't want to make that blanket statement either. There are children who are 15 that have developmental difficulties who can't speak for themselves. There are also children at varying ages who have their own difficulties, maybe fetal alcohol syndrome, maybe physical health problems, maybe things that are putting them at a higher risk, so age wouldn't be the only factor. There would be other vulnerabilities we would look at.

Q You -- and I know we'll hear more about this in

phase 2 of the inquiry, but you mentioned the structure decision-making tool and the actuarial factors and that sort of thing. Is, is the age of the child, for example, children under five, does that, does that increase the risk to that child in terms of when you're doing a risk assessment?

A Yes, that's one of the factors, in combination with others that would increase the risk.

Q Okay. Is -- do you know -- can you say whether or not it's a significant factor or I'm not sure if it works that way, but ...

A Each, each question or each factor is worthy of one point. It's a combination of points that comes out whether a risk -- so on one of -- on the abuse scale, I believe it takes five points to become a high risk to your children.

Q Okay. And just, forgetting the moment about the SDM tool, prior to that was the age of a child, the young child, maybe pre-verbal or up to the age five, was that a known risk factor for you as a social worker?

A Always.

Q Always, so throughout your career.

A Yes.

Q Okay. And that would be something you would take into account, then, when looking at the level of risk to an

infant.

A Yes.

Q And then just going back to often -- seeing children in the home, how often would that be? Was there a standard or a requirement that you're aware of?

A I think the standards speak to dependent on risk is how often one would need to see the children. So, I think, if memory serves, if it was a high risk case where children were imminently at risk, you would likely need to see them -- well, for sure, within 24 hours, but if that case remained a high risk, once a week. Sort of if it was a medium risk, maybe once every two weeks and if it was a lower-risk family, maybe once a month, if memory serves.

MR. RAY: I just want to interrupt. I understand how we got down a certain route with respect to the questions Mr. Olson is asking, but I think we're going into areas now that are fairly new and could have or should have been asked of Ms. Saunderson by Mr. Olson when he conducted her direct exam. So, not that the questions being not necessarily relevant, but it puts myself and it puts other parties at a bit of a disadvantage because they are not allowed now to essentially canvass what is now new material with Ms. Saunderson.

THE COMMISSIONER: All right. I, I think, generally, you opened the door to some of this line of

questioning, Mr. Ray, but I am going to ask Mr. Olson how much further he plans to go.

MR. OLSON: That was, in fact, my last question for the witness, Mr. Commissioner.

THE COMMISSIONER: All right. Did you have some re-examination you want to do as a result of that?

MR. RAY: With your indulgence, Mr. Commissioner, I'd like to meet with other counsel. Perhaps we could take the morning break and then come back and then advise you as to what our position will be on that.

THE COMMISSIONER: All right. All right, we will take the 15 minute mid-morning break at this point.

MR. RAY: Thank you.

(BRIEF RECESS)

THE COMMISSIONER: I see you at the microphone, Mr. Khan.

MR. KHAN: Yes, Mr. Commissioner, I just have two questions, and I'm not sure if we are going to address this now or after the witness stands down.

THE COMMISSIONER: Well, how much -- who all wants to ask questions?

MR. KHAN: I think I'm the only one.

MR. OLSON: I believe it's just Mr. Khan and

Trevor, Trevor Ray.

THE COMMISSIONER: Well, we are treading into re-re-examination. I gave the matter thought over the break. I don't think that the questioning by commission counsel was out of line. I think it was in order and was appropriate considering the cross-examinations that had occurred. I want to be reasonable and fair and flexible, but there's a limit, but I will allow re-re-examination and I'm hopefully not setting a precedent that this is going to go on indefinitely, but I will allow this to occur here and hopefully, we are in early stages and we can get this thing settled down where it can run more smoothly. And I know counsel were in consultation, obviously, for the last half hour or so or close to it and likely endeavoured to resolve some of these problems. But we are in our first week and we are getting our procedure worked out gradually and satisfactorily.

So, Mr. Khan, I'll let you ask your questions and then Mr. Ray, but we'll look at whether this is going to become a precedent. We will look at that in due course, but I will allow you to proceed this morning.

MR. KHAN: Thank you, Mr. Commissioner. And just to, just to let you know, my two questions arise from something Mr. Ray brought up with the witness and not something that Mr. Olson raised.

EXAMINATION BY MR. KHAN:

Q Thank you, Ms. Saunderson. You mentioned that you have experience and have had contact with persons who have come from reserves and moved to the city?

A That's correct.

Q In your, in your personal experience, the issues that those individuals have had, did they have those issues before moving to the city or do you think they developed after moving into the city?

A Well, I think if we're talking about something specific to poverty or difficulties with substance abuse or those types of things, it really depends on the case. I'm not sure. I'm speaking in generalities here. But what I do often see is families who move from a First Nation community who may have experienced, let's say poverty in their home community, they come to Winnipeg, what is now missing is many of the supports that they had in their home community: family, friends, relatives. So often families move here and find themselves feeling somewhat isolated away from their families.

MR. KHAN: Okay. Thank you.

THE WITNESS: Thank you.

MR. KHAN: Thank you, Mr. Commissioner.

EXAMINATION BY MR. RAY:

Q Ms. Saunderson, I just have a couple of questions that flow from Mr. Olson's questions.

You mentioned that you would always want -- kind of a general statement that you always want to see a child when you are providing service. To your knowledge, did the standard change in 2008 as it relates to the obligation of social workers to see children and do you now teach that as a best practice to social workers?

A Yes, I believe the standard became clearer about face-to-face contact with children. I think when I spoke and when I gave my answer, I was speaking about in general, best practice. If you are going to be able to ensure the safety of children, likely seeing them is important. I can't say that I saw every child that was on my case list through the 20 years. I think you do your very best, so there might be a situation where an allegation is regarding some of the smaller kids in the home, you go out and the teenagers are out with friends, so I may not have seen kids in other -- in that particular situation. In other cases, there may have been times when we relied upon another professional to see the children on our behalf, perhaps the school or police or something of that nature.

Is it the best thing to shoot for? Yes, I believe that. Have I tried very hard in my career to do

that? Yes. Have I always been able to? No.

Q Would that I guess ideal desire, would it differ depending on whether you have a situation as a CRU worker or as an after-hours worker or as a family services worker, would the ability to go out and do that and the need to go out and do that change, depending on the circumstances and those positions?

A Oh, yes, it would.

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

THE WITNESS: Thank you.

THE COMMISSIONER: All right, Witness, thank you very much. You're through.

THE WITNESS: Thank you.

(WITNESS EXCUSED)

MS. WALSH: So, Mr. Commissioner, just in terms of, of the concerns that you've raised, and we are, I agree, just in the first week and sorting ourselves out. One thing that counsel considered and perhaps you can think about this over the noon break is that we alter the order, from the order of examining witnesses, from the order that's in our rules. So, the order would be commission counsel, followed by counsel for the witness, followed by cross-examination and then counsel for the witness could

ask questions that are strictly in the true nature of re-examination, something that just came up during cross-examination and then commission counsel again. And that might address the problem that we saw arise here today where, after hearing from counsel for the witness, there were further questions on cross-examination that counsel wanted to ask.

THE COMMISSIONER: Commission counsel.

MS. WALSH: Well, and other counsel, commission counsel and other counsel, yes.

THE COMMISSIONER: So, give me that sequence again.

MS. WALSH: So, it would be commission counsel and still, according to our rules, we're permitted to ask leading and non-leading questions.

THE COMMISSIONER: Exactly.

MS. WALSH: It is just altering the order. So, commission counsel, followed by counsel for the witness, followed by counsel who are cross-examining, according to the interest they represent.

THE COMMISSIONER: Yes.

MS. WALSH: Sorry.

THE COMMISSIONER: Yes.

MS. WALSH: Followed by counsel for the witness again, on pure limited re-examinations, something that came

up for the first time in cross.

THE COMMISSIONER: Yes.

MS. WALSH: And then commission counsel again. So, if you wouldn't mind considering that.

THE COMMISSIONER: Does that meet with approval from all counsel?

MS. WALSH: Yes. We're thinking we should at least give it a try and see if that streamlines the examinations.

THE COMMISSIONER: Well, if, if -- as you say, we ran into a little problem this morning. If that looks like a sensible solution, I'm certainly prepared to go along with it.

MS. WALSH: Okay.

THE COMMISSIONER: I do want to say that I don't think commission counsel, in doing re-examination, was out of line at all, considering the contents of Rule 35(d), but I understand the point that was raised and if this is a resolution that meets everybody's approval and we will to abide it and re-examination will be limited to new matters that have come forward in the cross-examination, and when the witness' lawyer re-examines, if that's understood, then I would be quite prepared to give that a try.

MS. WALSH: Okay. Then we will try it.

THE COMMISSIONER: Commencing with the next

witness.

MS. WALSH: Certainly. Thank you. So, shall we start the next witness?

THE COMMISSIONER: Yes.

MS. WALSH: Okay. Thank you. So, the next witness is Mr. Andrew Orobko.

THE MONITOR: State your full name for the court.

THE WITNESS: Andrew Wally Orobko.

THE MONITOR: And spell me your first name, please.

THE WITNESS: First name, A-N-D-R-E-W.

THE MONITOR: Middle name, please.

THE WITNESS: W-A-L-L-Y.

THE MONITOR: And your last name, please.

THE WITNESS: O-R-O-B-K-O.

ANDREW WALLY OROBKO, sworn,
testified as follows:

THE WITNESS: Good morning, Commissioner Hughes.

THE COMMISSIONER: Good morning.

THE WITNESS: Good morning, Ms. Walsh.

EXAMINATION BY MS. WALSH:

Q Good morning, Mr. Orobko. Let's start with some

background questions. Where are you currently employed?

A I am currently employed, employed by the Province of Manitoba. I serve as the program manager for the provincial special needs program.

Q Okay. And I understand --

A Would you like a description of my current duties?

Q Sure.

A The provincial special needs program is a, is a fairly unique initiative that is governed, funded and administered by the Departments of Family Services, Justice and Health. My program is responsible for providing community-based support and supervision to adult Manitobans who are living in the community with some form of mental disorder or some form of mental disability and who pose substantive criminal risk to the community, essentially in the areas of sexual offending, random violence, car theft and the like.

Q And what is your educational background?

A In 1983 I graduated from the University of Manitoba with a bachelor of arts degree, my majors in criminology and my minors in psychology.

From 1986 through 1989 I was a graduate student at the University of Manitoba, working on my master's degree in criminology. During that time I completed the --

all required course work and -- but life got in the way and I am a thesis short of my graduate degree. But my daughter, who is actually here today with -- recently graduated with her own B.A. in criminal justice, I have a pact with her that we will both go back and get graduate degrees at the same time.

Q All right. I understand you began working in child welfare in 1989, in the City of Winnipeg.

A That's correct.

Q And that was with the agency known as Northwest Child and Family Services?

A That's correct.

Q And you worked with that agency until 1992?

A Would you like me just to lay out my work history, Ms. Walsh?

Q Pardon me?

A Would you just like me to lay out my work history?

Q I think, I think if we do it this way, I'm comfortable with that.

A Okay, ma'am. I started in 1989. I was hired as an intake worker with the now, the now defunct Northwest Child and Family Services, which was one of the regional stand-alone community-based child welfare agencies at the time.

Q Okay. And then I understand that you worked as an after-hours supervisor for both the Northwest and Central Winnipeg Child and Family Services agencies?

A That's correct. From 1989 through 1992 I was employed as an intake worker with the Northwest Child and Family Service agency. Concurrent to that, I was also a casual worker with the after-hours unit. In 1992, I became the supervisor for the after-hours service for the combined Northwest Child and Family Service agency and the Child and Family Services of Central Winnipeg. Those two regional agencies had a combined after-hours service, and I came to be its supervisor in 1992.

Q And you stayed in that role until 1997?

A That's correct, until 1997.

Q And then you became a supervisor for the Central Winnipeg intake unit?

A That's correct. By 19 -- by that time, the regional-based agencies had all been -- essentially came to an end and the central agency, the Winnipeg Child and Family Service agency was -- arose in the ashes of the regional agencies. So, I became the supervisor for the Central Winnipeg intake unit in 1997.

Q And then two years later, in 1999, you became the supervisor for the North Winnipeg Child and Family Services intake unit.

A That's correct. In 19 -- by 1999, Winnipeg Child and Family had made the decision to move to a centralized intake model at 831 Portage, and in 1999 I assumed supervisory duties for the North Winnipeg intake unit.

Q Okay. And you stayed in that position as an intake supervisor until 2005?

A That is correct.

Q And then why did you -- did you leave that position?

A Well, I was, like hundreds of my colleagues, there were many of us, who because of the tragically or ironically named devolution, were no longer able to maintain our employment in --

THE COMMISSIONER: The what? The what? I missed what you said.

THE WITNESS: Devolution.

THE COMMISSIONER: Oh, devolution. Okay.

THE WITNESS: As a result of devolution, I was one of a couple hundred of Winnipeg Child and Family Services employees who were no longer able to maintain employment with that agency. And -- but because of -- that was after 17 years of child welfare service, but the Province of Manitoba had a responsibility, an obligation to offer me some other job opportunity, and that became the provincial special needs supervisor role, which I still

maintain to this date.

BY MS WALSH:

Q So, in the year 2000, you were the intake supervisor for North Winnipeg CFS.

A For the north intake unit of Winnipeg Child and Family Services.

Q Okay. And what was that unit responsible for doing in 2000?

A The -- we were responsible for providing all intake service to the northwest quadrant of the City of Winnipeg. Essentially, that is the geographical area defined by the Assiniboine -- oh, sorry, by the CPR tracks on the southern boundary, by the Red River on the eastern boundary, the northernmost boundary was essentially the Rural Municipality of West St. Paul and our westernmost boundary, I believe, was the Rural Municipality of Rockwood. So, essentially, it was the entire northwest quadrant of the City of Winnipeg. So, we had all intake responsibility for that, that community.

Having said that, the large majority of our work was contained to an area that I'll just use a colloquial reference to the north end. And that geographical community is essentially that which is bound by the CPR tracks on the south, the Red River on the east, the Inkster

Avenue on the north and McPhillips Street on the west. So, that relatively small geographic community, again colloquially known as the north end, we practised the large majority of our work in that community.

Q Okay. And so that's the geographic area that you mostly serviced. What was the service that your unit provided?

A As an intake unit we were responsible for assessing, investigating and responding to any community concerns or any community allegations regarding child maltreatment. So, if community concerns arose regarding the neglect of a child, abandonment, the inappropriate caregivers, domestic violence, the inappropriate use of physical discipline, those are -- those would probably be the main categories, our primary responsibility was to assess those concerns and then provide some sort of disposition to the matter. The disposition, of course, being as Ms. Saunderson indicated, the disposition could very well have been that we, we close off the matter after we had assessed and we had deemed that it was safe to do so. We might have maintained the file for a short period of time within our own hands to provide some short-term service to the family to, to rectify the concerns, or, if necessary, if the family required long-term intervention, we would forward that matter over to one of the family

service units in North Winnipeg.

Q Okay. And where was your unit physically located?

A We were physically located on the second floor. At that time it was 831 Portage. That was the correct mailing address. They moved the doors and re-addressed it, but it was a 831 Portage. Subsequent years, it was re-addressed to 835 Portage, but physically the same building.

Q And were there other services located in that building in 2000?

A Yes, in 2000, when the decision was made to -- for Winnipeg Child and Family Services to move from, from a regional-based delivery model of service, the agency re-organized itself and moved towards a program-based delivery of service. So, prior to, prior to -- well, 1999, actually, prior to 1999 community -- intake was practised within the communities themselves. There was, there was regionally-based intake units and intake workers dispersed throughout the community. The decision was made that intake was going to become a centralized program and become a centralized function, and in 1999, after a series of work groups and meetings, many of which I was a part of, all of the intake functions came to be housed at 835.

THE COMMISSIONER: With respect to what area?

THE WITNESS: For the entire City of Winnipeg,

Commissioner.

THE COMMISSIONER: For the entire city.

THE WITNESS: That's correct. The, the primary or the specific services that were offered there, the, the -- the after-hours service for Child and Family Services was moved from 1076 Main Street, and that was moved over to 835 Portage. There were four stand-alone intake teams, one of which I was a supervisor for, and there were three other intake teams, each of that had a geographic jurisdiction that they were responsible for. There were also two stand-alone dedicated abuse teams that were charged primarily with the investigation of what appeared to be confirmed or real child abuse. In the -- all of the agency's files all came to be housed at 835 Portage Avenue, as well. And after sort of an initial trial period of trying to, you know, screen calls or answer phone calls within our own, within our own units in 2000, two other units came to be, and those were the CRU units or crisis response units, and those two units came to be in the year 2000.

BY MS. WALSH:

Q Actually, I think the evidence we heard yesterday was 2001.

A Oh, I'm sorry, 2001. You're correct, yes.

Q So, as of 2000, how would a file make its way to

intake, to the unit that you supervised?

A A file would come to my attention in one of two manners. In the year 2000, we were still working within a model where all calls for service or requests for service from the community were being handled in-house, by my own staff, and we had a designated staff person who -- that was her primary responsibility. She screened all incoming requests for service from the community. And if she, after screening and triaging that call for service, felt that there was a valid child welfare matter, it would be -- the matter would be written up, and she would give it to me for me to assign to one of my staff. So, that was the first manner how, how matters came to my attention.

The second was through our after-hours service. So, if during the course of the after-hours period they had become aware of -- or if they had received a request for service from the community and they went out and assessed and, and believed there to be a need for further follow-up, they would forward that to my attention the next working day, and again, I would have it ready for assignment to one of my staff.

Q Okay. And we'll, we'll go through that process in a minute. So, that's as of 2000, and then as of 2001, when CRU was created, does that change how a matter might come to intake's attention?

A It did. The -- essentially, the CRU units, each became a working unit of, I believe, five to six social workers and each one had their own supervisory, their own supervisor maintaining -- sort of, you know, maintaining the program.

Those two units came to be housed downstairs at 835 Portage Avenue. Some fairly extensive renovations occurred and working area and working space were, were developed for, for those two CRU units.

That, then, became, during the daytime hours, in terms of working hours, that became the sole, single point of entry for the community should they wish to bring a request for service or raise a child welfare concern with us.

So, so, we, again we went from this model where calls were being screened by, you know, in the four different units on a, on a daily basis to a where things were now all being streamlined into one number and this one function that were screening, assessing and triaging all those calls.

Q And is it fair to say that CRU or after-hours was doing triaging?

A That is correct.

Q Okay. So, before a file came up to intake and to a unit that you were supervising, it would have to have

gone through after-hours or CRU first?

A Certainly from 2001 onwards, absolutely correct.

Q Right. Before, before 2001, CRU didn't exist.

A That's correct.

Q And how, physically, did that occur?

A Physically. The, the file -- the report that was generated and the closed file, if there was one, were physically brought to my office, brought to my attention.

Q By who?

A Are we talking, are we talking pre-CRU or post-CRU?

Q Well, let's start with pre-CRU, so 2000.

A Okay. Okay. So, in the pre-CRU era, it would be my staff person. I believe it was Barb Klosch. She was our dedicated call screener. And so Barbara would -- you know, she would come to me and she'd, Okay, Andy, this is the call. This is the information. She would have it written up in a, in a presenting format. She would have requested -- or, sorry, our admin support would have requested the closed file from downstairs, if there was one, and then Barb would have physically brought those to me. And that's --

Q So, you would physically receive the CRU report -- or sorry, the intake report, because we are talking pre-CRU, and the physical file.

A That's correct.

Q Okay. And then once CRU came into existence, how did you physically receive a file from CRU?

A Well, functionally, exactly the same way. When the call came into the CRU unit, they screened it, triaged it, did a preliminary assessment, wrote up the information in sort of a presenting problem format. That would go to the CRU supervisor. The request would be made downstairs for the file, on most occasions, and then the CRU supervisor would essentially walk the matter, walk the matter up to me, or their admin support person would walk the matter up to me. So, they functionally came to me in the same way.

Q Okay. So, then the -- who was it that you understood made the decision whether a file would make its way up to intake?

A In the, in the CRU era?

Q Okay.

A Well, in the CRU era, the supervisor downstairs had --

Q The CRU supervisor.

A The CRU. The CRU supervisor had some, some options. They had the ability to look at the matter and deem that it was not a child welfare matter and take no further action. So, that was one of their options.

Their second option was if there was any way that even the briefest amount of service could possibly be provided and rectify the matter, then they had the ability to do that, as well.

Q To keep, to keep it with the CRU unit?

A To keep it with the CR -- but again, that was only for the briefest period of time, or perhaps there was a telephone intervention that might be able to suffice.

But the CRU, they were also charged with the responsibility of emergency response. So, in the pre-CRU era, for example, if a call came into even my screener, who was sitting on the second floor, and it was an emergency, then one of my staff would need to go out and deal with it.

So, the CRU units, again, so the screening and triaging responsibility, the briefest of intervention, if possible, to dispose of the matter, but underlying all that was they were, they were the initial point of response for any emergencies that came to our attention.

Q Okay. And so, you were giving the options of what a CRU supervisor would -- could determine with a file. So, you said they could -- if they could rectify the matter, I think was your word, in the briefest response, having determined it was a child welfare matter, they would. And if not, what would happen?

A Or the third option, of course, is that they

would look at the matter and deem that it wasn't a child welfare matter that needed further attention and just close the matter off downstairs.

Q But if it was a child welfare matter and it couldn't be rectified in the briefest response, then what would happen?

A Then it would come up to the appropriate intake unit or the appropriate abuse unit, up on the second floor.

Q Okay. And would the files go to you as supervisor first?

A Once a determination had been made downstairs as to how is the matter going to be processed, yes, they would bring the physical file to me. It would come to my attention and the presenting intake with the presenting problem would come to my attention.

Q And then what would you do with the file, say in 2000?

A Generally, in 2000, I would review the presenting problem. I would review the closed file and then I would make a subsequent level of determination as to how was this matter going to be dealt with. And I had some -- I had, I guess, a few options open to me. Depending on the severity of the matter, depending on the nature of the risk, I always had the first option of immediately walking it over to one of my six social workers and assigning it to them

and then charging them with further follow-up.

I also had the option, and this was -- maybe I'm getting ahead of myself, but as, as the years were going on there and as caseloads and workload were becoming such, such staggering concerns for us, one of the options that developed over time was that I simply maintained the file and I dealt with the matter. And in my -- all my years as being a supervisor, I've always been a working supervisor, partly out of necessity, partly out of choice, because I love the work. But in 1999 through 2005, I was a very robust working supervisor, and so to provide some relief to my staff, I had the option if, again, if it was something that I could possibly deal with in a, in a short period of time, maybe not requiring an overabundance of my absence from the office to go into the community, then I always had the option of dealing with it myself. And that was one of the workload, or one of the volume management strategies that, that I developed there.

My third option was, was to hold the matter until such time as I had human resources available to assign it, and what that would require me to do would be to review the presenting problem, review the closed file and if I felt it was professionally acceptable to hold that matter in my office until capacity developed within my unit for somebody to deal with it, I would hold the matter in my office.

Call it sequestering, call it marshalling, call it what you will, but during times where the, where the workload was just beyond our, our human capacity, I would maintain those things in my office until such time as the human resource capacity became, became available.

Q And my question to you had been what would you do with a file when you got it from CRU or AHU and I confined it to the period of 2000, but does your answer apply all the way through to 2005?

A It does. It does. That answer is from the period of 1999 through 2005, those were standard operating practices that I had.

Q Okay. So, let's just go back through some of the things you said. You said you would review the file. What, in the file, would you review?

A Primarily, the, the closed -- the history, the history that the file contained. There would be a social history of the family, its makeup, its family members, its issues, so social history and, and there would also be a corresponding history of what has previous agency involvement been. So, essentially, those are the two components within a closed file - what's the family social history and what has been the history of agency response.

THE COMMISSIONER: You're discussing about a closed file, are you?

THE WITNESS: Yes, that's correct, Commissioner. When -- things would only come to the intake department if there was no active social worker assigned to it, so those, those would have been closed matters and the file, the physical file would have been sitting down in our file room in the basement. So, now, of course, it's now become an active matter because it's been, you know, opened up and brought to my attention, but the closed file is what's critical for me to review. Again, family social history and the history of agency intervention.

THE COMMISSIONER: But in every reference that came to you, was there always a closed file?

THE WITNESS: No, there were occasions where families were absolutely brand new to us.

THE COMMISSIONER: Yeah, well, that's --

THE WITNESS: It was, it was rare but there were situations when that occurred.

THE COMMISSIONER: I, I --

THE WITNESS: Possibly a family had relocated from another jurisdiction, a young parent maybe had just reached the age of majority, but there were times when that did occur, yes.

THE COMMISSIONER: Well, if, if that was rare, where did families experiencing a problem and needing the services of your department go initially? Would they come

to you?

THE WITNESS: Yes, in those days, you, you needed to think of intake as the absolute entry point into the child welfare system.

THE COMMISSIONER: Yes.

THE WITNESS: For not only screening and triaging purposes, but assessment and a determination of some kind of service or response to the family.

THE COMMISSIONER: But the way you found it, the majority of your work related to families who had already had a file that was closed.

THE WITNESS: That's correct, Commissioner.

THE COMMISSIONER: But new families that appeared with a problem and needed the services and assistance of the department would be in the line, too.

THE WITNESS: They would be in the mix, Commissioner.

THE COMMISSIONER: Yeah.

THE WITNESS: Correct. Numerically or statistically, they were few, but there were families that were totally brand new to us, yes. But generally, had relocated from another province, maybe moved from a rural community into the city.

BY MS. WALSH:

Q And so, once the file came to your attention, it then -- if it had previously been closed, it would now be open.

A That's correct. It would have been opened downstairs by the CRU supervisor.

Q Okay. And you said that you would look at the history that's on the file, the social history and the history of involvement with the system?

A That's correct.

Q Why would you look at that?

A The, the best predictive tool that was available to us then, and I believe still available to child welfare now (I've been away for several years, but even within the work I do now) the best predictive tool that we have for family's future behaviour is past behaviour. So, the information that's contained within a closed agency file is, is, is a valuable predictive tool to help us not only understand historically what were the family's concerns, strengths, deficits, you know, traumas, but again past human behaviour is the best predictor of future behaviour. So, first and foremost, there was a great value in it as a, as a risk assessment tool.

Secondly, files, I think, have a great value in that it gave the worker, whichever worker is in charge of

that file, it gave them a sense as to maybe what strategies have worked previously with the family, what were areas of strength for the family, what were areas that we now perhaps needed to cultivate. It could be a warehouse of information for identifying maybe family members or other supports or other collateral agencies that had previously served to support that family. So, the closed file was a very valuable tool to us.

Q Okay. Would you read anything other than the histories that you have just described?

A When a file would come up to us and, again, after 17 years and after having read thousands of files, a file could be wafer thin, as one can imagine, or I could have a small child's wagon brought into my office carrying the family's history. In either case, we had to rely on the worker who last touched the file, and we had to rely on their file notation. So, the standard of the day and the standard that I suspect has continued is that when a worker was finished involvement with the family, there had to be sound, detailed and thorough scenario recording of what happened and what was the family's history. None of us had the ability or the time to take three hours out of my morning to go through three volumes of a family's history. So, the last recording was where we would invariably turn to and, and always hoping that there was a good closing

summary that the preceding worker had left for us, and that would be our starting point.

Q Okay. So, you would look at the document that was called the closing summary, right?

A That's correct.

Q And that document included a section relating to history.

A Yes.

Q Okay. Would you look at the CFSIS file for the people involved in the referral?

A My, my time in child welfare ended before the intake module. I was transitioning out of child welfare and the intake module was transitioning in. So, that particular tool was never available to me.

CFSIS, again, those -- CFSIS was a work in progress. There was, there was technological enhancements that were continually being made. There was applications and formats and all kinds of enhancements. So, you know, you know what, while I used it as a, as a -- I would use it as an auxiliary tool, but my first point of reference was always the closed file. And maybe I'm a product of my generation or maybe I didn't have the greatest confidence in CFSIS, I had a greater confidence that the paper file would be, would be valid and accurate and would be there.

Q Okay. And how long would you spend reviewing the

file before you would transfer it to someone else, assuming you weren't doing the work yourself?

A You know, just whatever time it took. Again, a well-done, a well-done closing summary could probably have read within ten/fifteen minutes, even sooner than that.

Q Okay. And so then what were your options for dealing with the file, once you had reviewed it?

A Okay. So, as mentioned, I had the option of immediately or soon after walking it out to one of my staff and assigning it to them and charging them with the, with the, you know, continued assessment. I had the option of maintaining the file in my own charge and dealing with the matter, again, trying to spell relief to my staff and not having to, to burden them with it. And my third option, there were times during our, our tenure there where I simply held the file, and I held it until capacity developed or somebody to be able to deal with it.

Q And how often did that happen, that last option?

A During my time, 1999 through -- and this is the period I am referring to, 1999 through 2005 I have distinct memory of three separate occasions where I was using the sequestering approach, where within my office I was physically holding and maintaining files that required attention and required some form of assessment, but I made the professional decision that, that, that there was no

unacceptable level of risk being posed at that point, and I maintained the files there until some capacity developed for me to move it on.

Q And did you use that practice with respect to Phoenix Sinclair and her family?

A No. In the, in the two dealings that my intake unit had with the, with the family, with the Kematch/Sinclair family, both times the matters were, were -- it was seamless. It came up to me. It was reviewed, and immediately assigned out to, to either one -- well, in this case, Ms. Saunderson, subsequently Ms. Forrest.

THE COMMISSIONER: I wonder if this is an appropriate time to break for lunch. I'd like to carry on, but we do have a tentative time table. Yes?

MS. WALSH: I think two more questions and I think it would be an excellent time to break.

THE COMMISSIONER: All right. Well, just -- I was putting my mind on when Phoenix' name came up, that it was -- we were going in a new area and it was time to break. Just review that last question. What, what --

MS. WALSH: The witness had said that -- when I asked him what his options were once he received a file ...

THE COMMISSIONER: Yes.

MS. WALSH: And his third option was to --

THE COMMISSIONER: To hold, yes.

MS. WALSH: -- he said, sequester or hold a file.

THE COMMISSIONER: Yes.

MS. WALSH: And he said he did that on three occasions in the period '99 to 2005.

THE COMMISSIONER: Yes.

MS. WALSH: And I asked whether anyone of those three occasions related to services delivered to Phoenix and her family, and he said, No.

THE COMMISSIONER: Okay. Carry on.

BY MS. WALSH:

Q And just on that, Mr. Orobko, you have identified that, in fact, your unit -- Phoenix' family and Phoenix came to your unit's attention on two occasions, right?

A Two occasions, certainly. Probably a third, as well, but on the third occasion, that was actually -- I just realized that the matter had sort of been inadvertently sent to my attention and it belonged to another intake unit, and I redirected it. But two substantive involvments, yes.

Q And so, for today's purposes, we are only going to deal with the involvement that took place in 2000.

A That's correct.

Q And you've been kind enough to make yourself

available later this month to come back, when we talk about the intervention in 2003.

A Absolutely. Thank you.

THE COMMISSIONER: So, that's when the two interventions were, 2000 and 2003.

THE WITNESS: That's correct, Mr. Commissioner.

BY MS. WALSH:

Q How did you decide which social worker you would --

THE COMMISSIONER: Well, are we going to break, or ...

MS. WALSH: Well, you know what -- sure, we can break. I said two, but I think there could be three.

THE COMMISSIONER: If you are going to be through in the next five minutes, go ahead.

MS. WALSH: Okay. Thank you. How would you --

THE COMMISSIONER: That is through before lunch. You won't be through all your exam, will you?

MS. WALSH: No.

THE COMMISSIONER: No. Carry on.

MS. WALSH: We have lots to go.

THE COMMISSIONER: Carry on.

MS. WALSH: Okay.

BY MS. WALSH:

Q How would you determine which social worker you assigned the file to?

A Well, it wasn't like dealing black jack, that's to be sure. I think a few things factored in. First of all, I would look at the case and anticipate what's the nature of our involvement, what is the frequency or intensity of, of our involvement going to be? I would then determine, okay, within my unit, which workers, what is their current capacity. So, whose caseload is sitting at what -- you know, who, who's got case, case demands, you know coming up? So, I would look at a worker's existing caseload. I would look at other things, like, did a worker have a vacation period coming up? Was there training scheduled for them, and that might not have been a good choice to assign someone a case if they were one day away. So, essentially, it was -- those were the things that were my main considerations. Underlying all that was just a sense of fairness, that, you know, what we -- everyone carried their weight within that team. Everybody was, was very happy and agreeable to be a contributing member and understood, you know, when it was their turn, it was their turn.

Q Okay. One more question and then we will break. In the period 2000 to 2005, were there any circumstances

where you, as an intake supervisor, would refuse to accept a referral from either the AHU or CRU?

A There were, there were occasions in that timeframe when matters would come to my attention, I would review it and I would walk myself back downstairs and sit down with the CRU supervisor and have a frank discussion about the appropriateness of the assignment to us. Yes, that, that, that happened. I'm not going to say it happened frequently, but it did happen on occasion, yes. The remedy for that, the --

Q What would be the reason for doing that?

A Oh, I think the reasons are probably -- would be that I may have felt that with a little bit further intervention downstairs, that the matter could have been disposed there. I may have walked the matter down because I simply thought that the, the presenting information was just not, not detailed enough or that maybe there were some blocks of information that had not been obtained and I would have, I would have expected that to have been obtained at that level. Generally, those are the two reasons why I would go back downstairs and say, Let's have a discussion about this. To say outright refusal, I would never -- I never walked down with that intention. I would walk down with the intention of having a discussion with the supervisor, saying, you know, these are my concerns.

What do you think? And then we would come to usually an agreeable solution, which would be either the CRU supervisor saying, Okay, Andy, I get it. Let me take it back and we will work on it a little bit more. Or an agreement having been made that, you know, what, that's fine. I'll take this one. We'll work it through upstairs, but you know, this has been a teaching moment for both of use and let's build that into a future practice.

Q Can you give us a concrete example?

A Well, you know, perhaps we would receive an intake from downstairs that said, Mrs. Smith called, not happy with her teenage daughter, smoking drugs and not going to school. And then that would come up to me. I would look at it, and I'd say, you know -- I'd go back downstairs to the CRU supervisor and say, You know what, could you maybe just call Mrs. Smith back. Make her aware of some things that are available to her in her community. For example, reaching out to the school social worker or the school guidance counsellor or were there any other maybe internal family resources that could step in. So, that would be an example, I think, where I would just think, maybe there's just a couple of steps here you might be able to do. You know, again, I'm aware that they're busy down there, as well. But, you know, maybe that would be sufficient and the matter could be suppressed down here

and it doesn't need to come upstairs.

Q Would the level of risk be something that you would take into account in terms of whether or not you walked a file back downstairs?

A No, I couldn't think of any situation where an issue of risk would have been my, my sole precipitating reason, no. No. Generally, essentially, was just blocks of information that were perhaps not gathered initially, or -- to the contrary, actually, maybe where this is -- there's a very marginal risk here, if at all. A little bit of intervention down here and the matter can be kept.

Q And then --

A As a point of contention and risk being the reason I'd walk it back downstairs - no. No.

Q If the matter were other than marginal risk?

A Then the matter would stay with me.

Q And if you and the CRU supervisor couldn't reach an agreement, did that ever happen?

A I'm going to say on a, on a case by case, specific basis, resolution always happened. I, myself, can't recall of any situation where I would -- on a single shot case, go to somebody for arbitration. We found a way to deal with the issue in the short-term. Bigger issues, like I say, if there was a pattern that was developing or maybe us, on the second floor, were receiving certain

intakes, like there was a pattern to them and maybe we sort of collectively thought that, you know, maybe downstairs could maybe take this in a different approach. Those larger matters, and certainly we would have, you know, gone to our assistant program manager. But I have no recollection of any case, any specific case where I asked for arbitration or mediation from our director, no.

Q So, the assistant program manager was your supervisor.

A That's correct.

MS. WALSH: Okay. And we will get into that after the lunch break. Let's take our lunch break now, Mr. Commissioner?

THE COMMISSIONER: All right we will adjourn until 1:30.

MS. WALSH: All right. Thank you.

(LUNCHEON RECESS)

BY MS. WALSH:

Q Mr. Orobko, I'm going to ask you just to speak a little more slowly. I have a sense you are a fast-talker, but if you wouldn't mind. I'm having trouble keeping up with you and I'm not even trying to make notes.

A Understood. There's much to be said, but

understood.

Q Okay. Thank you. And you will have your full opportunity to say everything you need to say, that we want to hear from you, but it will be more easily understood if you speak just a little slower. Thank you. I appreciate that.

So, when you worked as a supervisor in North Winnipeg intake in 2000, how many workers did you supervise?

A In 1999, when the intake function became centralized, I was initially assigned seven social workers and one administrative support staffer. That, that number remained intact until 2001 and the advent of the CRU units, and at that point, I lost one of those staff who became a fulltime CRU employee. So, that number of six social workers and one admin support, that remained static until, I believe, 2004 or possibly early 2005 and, at that point, I was assigned a seventh social worker and I maintained that complement of seven staff until my departure in 2005.

Q All right. And do you recall what -- for the period 2000 to 2005, what would the average caseload be for the workers that you supervised?

A At any given time, any of my intake staff would have anywhere between 20 and 40 active assessments that they were charged with. To give you, give you some other

breakdowns on that number, on a weekly basis, staff were getting anywhere between five to eight brand new intake assignments every week. So, the case count for the unit, at any one time, could be, could be 200 active cases. I believe in the year 2003 my unit responded and supported over a thousand families in North Winnipeg, in the calendar year 2003. And those numbers are, are staggering.

Q And do you make a distinction - I asked the question in terms of cases - do you make a distinction between the concept of caseload and workload?

A Absolutely.

Q What is that distinction?

A Absolutely. I'll start it this way. In, in 1999 the Child Welfare League of America, since 1920, which has been long recognized as the, as the experts in excellence in child welfare service and they have all sorts of research and all sort of -- you know, the pursuit and development of excellence in child welfare. And in 1999 they released a -- what I came to view as a landmark document where they recommended that the optimal number of cases for an intake worker to be dealing with was 12. Now, that number 12 was, was to be assigned over a 30 day period, meaning, essentially, you know four weeks of five working days. And the Child Welfare League of America stated that this -- and this was not 12 cases at any one

time. And the intake worker should have a 30 day period to complete 12 assignments and intakes, like 12 cases properly, to do proper assessments and proper dispositions. And we were routinely at double or triple that amount. So, I think that's maybe my starting point when it came to workload assignment.

The issue of -- so, that is just numbers. There's you -- there's the first part of that question, caseload. So, caseload if we just simply define as the number of cases at any one time.

Workload specifically refers to the tasks, the resources, the time necessary to complete the functions or the requirements of any one particular case.

THE COMMISSIONER: What did you say, the time it takes?

THE WITNESS: The, the time --

THE COMMISSIONER: This was workload.

THE WITNESS: This is workload.

THE COMMISSIONER: How do you define that?

THE WITNESS: I defined workload as the time, the functions and the resources needed to successfully bring a case to some form of disposition.

THE COMMISSIONER: To successfully bring the case to ...

THE WITNESS: To a successful disposition.

So, if we understand caseload is exactly that. It's a number.

BY MS. WALSH:

Q Number of cases.

A It's a number. And numbers are what numbers are. They can be very nebulous. I hate to say this to you. So, in terms of workload, then, that was the actual -- the time, the resources, the functions that we needed to do to, to deal with those cases.

We provided intake service in North Winnipeg and, and I'm not -- I was born in North Winnipeg. I still live near North Winnipeg. It was, it was, it was never lost on me or any of my staff that we were providing intake service in what was arguably the most difficult community in Canada.

Provincial studies, federal studies have always came to the same conclusion. That community in North Winnipeg was, was afflicted with staggering rates of poverty. There was a time when there was a certain postal code area in North Winnipeg, I believe it was the R2W postal code, was the poorest community in Canada, poorer than any First Nation community, which have long held that, that distinction.

So, our community, and this is on -- this is

workload, so if you can just indulge me, Ms. Walsh. So, the rates of poverty, the lack of economic opportunities, illiteracy, an over, an over-preponderance of single parent households, substandard, non-affordable housing, lack of accessibility to, to, acceptable medical care, the prevalence and the, the, the, octopus-like grasp that the gangs have in North Winnipeg, controlling the drug trade, the sex trade and the violence that went with it, that was our starting point. That was the community that we plied our trade within. So, there's our backdrop. That's our backdrop. And now let's talk about our families.

The families in North Winnipeg and Ms. Saunderson was so eloquent this morning, the cases that came to our attention and the families that we were charged with, with trying to serve, came with an over-representation of, of, of, of family violence, of addiction issues, of compromised parent -- parental capacity, compromised parent motivation and, and, and when we know -- we understand the community that these families are living in and all of those inter-generational factors that Ms. Saunderson talked about this morning, this was our work.

Q So, how does that affect or relate to workload?

A So, we are talking about -- the families that we were charged with, with assessing and serving and supporting these families were presenting with, with the

most complex constellation of need, with the most complex constellation of risk, and it was all intertwined over, over, over most like an inter-generational time were spent with these families. So, our -- when we did our work, the time needed to, to assess, the time needed to build relationships with these families, the time needed to identify needs, the time and the resilience and the capacity to try to bring these families to a point where they would acknowledge that and accept our service and allow us to guide them, allow us to take them to a place where they could get it, that was workload. It wasn't, it wasn't a one-shot, you know, isolated microscopic response. We waded into families with the most chronic and the most complex need and risk, and that was our workload.

Q And that's distinguished from caseload, which you're saying is just the number of files themselves.

A Absolutely.

Q Separate from the nature of the work.

A Absolutely.

Q Okay. So, how did you, as the supervisor of the intake unit, how did you manage this workload that faced your unit?

A I'll, I'll just expand a little bit from this morning. My response to our workload issue was sort of -- I took one of two routes. One of the routes, of course,

was raising the matter, you know, with my agency, raising the matter with, with my assistant program manager. And I wasn't the only one with caseload issues and workload issues. We were all partners in this -- in that same predicament. So, as a group of managers, that was one of our responses, to raise this with our, with our assistant manager or ultimately assistant managers because there was a new group came on down the road. So, certainly, that was a never-ending process and it was a dynamic process and it was a discussion that we always held.

Q And is this true for the period 2000 to 2005?

A Correct. Everything I talk about here today reflects that time period.

Q Okay.

A It does. So, so the question is what did I do? Right. So, number one, collectively, as a group of supervisors, put the issue front and centre with our, with our senior leadership.

Collectively, as a group, and again with the participation of, of our senior leadership, tried to find some broader remedies within our own house. You know, later on, around 2004, we came up with a workload distribution model, you know, trying to kind of weigh and measure and balance the workload out a little bit better between units. So, those were some of the like -- those

were some broader initiatives that we did collectively as a group.

Individually, as a unit supervisor, some of the remedies that I mentioned to you this morning. I dealt with workload at the unit level by syphoning off cases and maintaining my status as an active social worker. And I was, I was a working supervisor. I probably averaged a caseload of 20 myself in that, in that timeframe. I brought children into care. I took them to court. I believe, in 2005, just as I was finishing up my time with Winnipeg CFS, I actually kept a case to the point where I obtained permanent orders on, on two children and you know, handed the matter over for permanency planning as I left the agency. So, I was a working supervisor and that helped me deal with the, with the workload.

I talked to you this morning about the marshalling or sequestering of work, that I would use my professional discretion and my professional judgment and simply hold matters in my office until capacity arose somewhere, whether it was within my unit or whether some, some arrangement had been worked out with some of the other supervisors, whereby they would take some of my excess and my unit would go off a rotation, for example. So, but holding that workload until capacity developed elsewhere.

Workload, I suspect the way, probably the most

primary way we, we dealt with the workload struggle was I entrusted my staff with their professional decision-making and their professional judgment to use the best discretion possible with their work.

Now what I -- by that what I mean is I essentially told my staff -- I -- and again, understand, I was blessed with a wonderful, well-trained, well-seasoned staff. From 1999 through 2005 I had the same corps of social workers. I had no turnover. A number of these workers I had actually hired in previous years - Ms. Saunderson, I hired her in 1992. And it was a wonderful group of practitioners, and I said to them, I trust you to use your professional judgment here, and if you need to priorize your workload, and if you need to make professional decisions to stand some things down and you need to attend to other things, if you need to manage your workload that way, I absolutely support that, and any decisions you make, any choices that you make, anything -- any decisions that you don't make, you've got my full support to do it.

So, that was a strategy that we used. And I think the fourth strategy, as a unit supervisor, that we used is, over those years, I assumed all responsibility for court work in my unit. It was, it was never lost on me what I believed to be a somewhat sort of a waste of time

and resources when I would go down to docket court on Wednesday morning, for example, and I would see four social workers from the same unit all sitting there, waiting to do, to do a presentation in court. And I, and I thought there's got to be a more efficient way to use our, our resources. So, one of the things we did within North intake, is that I assumed all the responsibility for all of the court work.

Q And I'm going to walk you, soon, through one of those appearances relating to Phoenix.

A Certainly. So, rather than have four intake workers sitting for three hours, waiting their turn at docket, I just assumed responsibility for all of that, did all of the court work and then it freed up staff to have capacity elsewhere.

So, those were the things that we put in place at the unit level, to deal with workload, workload issues, a continued discussion with management about workload, at senior leadership, continued discussion with them and then being active participant in some, in some initiatives or in some remedies across the whole, across the whole program.

Q And in terms of making your concerns about workload known to your superiors, what was the response?

A That's a, that's a, that's a much -- it's a much more complex answer.

Q Can you give a briefer answer?

A Well, there's --

Q Did you receive a response that satisfied you?

A Yeah, yeah. Again, the answer is much more complex than that, as well. I, I understood, from 1999 to 2005 that the time, the energy and focus of the provincial government, of Winnipeg Child and Family Services and the Manitoba Government Employee's Union, their focus was on the CWI, the child welfare initiative.

In 1999 there was a change in government and the decision was made --

Q Yes, we heard about that.

A All right. And we all heard the anecdote about the dusty, unwrapped cover of the AGI being found in the minister's office.

In 1999, that decision was made and for the next six years energy and focus and attention and financial resources were, were directed that way. It was always my belief that we were, we were marking time. We actually --

Q Did you receive a response to your workload concerns that you raised that satisfied you?

A No.

Q Okay.

A That satisfied me, no, but again, I need you to understand the context of this because just to say no might

imply that people didn't care or that people didn't want to help, but you know, those were in very difficult times.

Q So, during the time that you were an intake supervisor from 2000 to 2005, did the workload ever lighten?

A No. The volume of work that came to our attention remained constant through that time.

Q Okay. In terms of your duties as a supervisor, what were they, specifically?

A The -- three -- I would suggest three primary responsibilities. Number one was to provide case-specific consultation and decision-making on cases, on the work that we were doing.

My second responsibility would have been to ensure appropriate and acceptable performance of all my staff, so do any training, any performance review, any, any performance correction, anything that was needed, that was a primary responsibility.

Thirdly, aid my staff in professional development, and like long-term career professional development.

Those were always my three -- I always defined myself by those three responsibilities: case-specific performance and long-term professional development.

Q Did you have regularly scheduled meetings with

your workers?

A Yes, we met as a group, almost without fail, every Friday morning, I believe, at 835 Portage, and that was a wonderful occasion for -- there was group, like there was a group supervisory value to that, you know, because -- training, performance, you know, new trends, you know, new things in the literature. There were opportunities for that, but probably there was more fellowship and bonding than anything else.

Q Did you also have individual meetings with supervisors?

A With supervisors or ...

Q I'm sorry, with workers?

A Oh, with my staff. I supervised my staff in the following manner: it's a model that I think -- I think the majority of my colleagues up there were using, but maybe I was specific but -- because intake work is fluid, is dynamic. It never changes, and it is so rapid in its ability to morph, I was -- the -- (inaudible) with my staff that you needed to come see me when -- anything having to do with case specific discussion or decision-making or consultation. That had to be as needed and when needed and standing.

Q And were you available for that?

A I, I believe in all my years there, I was always

available to my staff. If I happened to be out at court, or if I happened to be on, on my own call, then, you know, I'd have a telephone with me. But I provided supervision to my staff. So, there's three layers to it. The first layer was always immediate and -- immediate availability and accessibility for those case-related matters. And again, Ms. Saunderson talked about that, discussing apprehensions, discussing the return of a child home, particularly complex cases. You know, what are we going to do? Discharging a child from care. So, that -- and that was just the nature. You couldn't schedule that. The work was just too dynamic. That had to be as needed, when the staff needed it. So, that was my -- sort of my first layer of how I supervised.

The whole issue around performance review or performance correction, again that had to be as needed.

Q Okay.

A I couldn't say to a staff person, you know, we're going to have a regularly scheduled supervision in six weeks. I mean, if I identified a performance issue, it wasn't fair to them to leave that for six weeks, nor was it good for the community either.

So, again, performance review or any performance correction was absolutely as needed and was as spontaneous as it needed to be.

Q Okay.

A And, again, Ms. Saunderson talked about that, the two-way nature of that.

Q Were there any standards or requirements as to when a worker required to meet with you as a supervisor?

A I'm sorry. Well, that would get me to my -- sort of my third layer of supervision.

Q Okay.

A Which would be trying to schedule a standing time to do long-term professional development. And long-term professional development, you know, looking at training needs, looking at career goals and then how could I help be a conduit towards that. On that particular matter, I'll say that I was never able to be as accessible as I would have liked to have been. The workload, the volume and all of those things, so the ability to sit down at any one time with Ms. Saunderson and say, Let's talk about career, let's talk about professional development and let's talk about any of those things, that was difficult. It was difficult to do.

Q Were --

A There was a policy, yes. It was flashed on the screen yesterday, so I -- I think that came in towards the end of my time there.

Q Right. That was in 2004.

A Right, yeah. So, again we did our best to meet that.

Q Were there any types of decisions that workers needed to get supervisory approval on?

A Yeah. There were the "must sees".

Q What were those?

A The "must sees". That they had to see a supervisor if they were planning to apprehend a child, or if they had -- because there was -- because of the nature of the situation they had to apprehend -- like, and they couldn't stop in the middle to call a supervisor if they were in a crisis situation. So, absolutely, the decision to apprehend a child, that was a must see.

Another must see was any decision to discharge a child out of care and back, back to parental control. That was one of those must sees.

Q And when you say "must see", did you actually, physically have to sign off on a document?

A No, it was, it was overwhelmingly done in a verbal nature.

Q Okay.

A And then that discussion should have found its way into the worker's recording at some point.

Q Okay.

A So, that was a -- that was one of the must sees.

Another must see was the decision to transfer a case, like we believed this was one that we were going to send on for long-term service. So, those were the must sees.

I guess another must see was, was, essentially -- like, any complex cases or -- like other -- like uber-complex cases or cases that maybe had a high political or a media profile to them. Those were, you know -- those were the kind of cases you really must come see.

Ms. Saunderson seemed to remember financial matters and food vouchers and taxi. I was rather laissez-faire. If my staff thought they needed it, they were welcome to do it. I never made a big issue about that.

Q What about closing a file?

A Closing a file, the decision to close a file the workers would make, and I told my staff that, again, their -- I so valued and so trusted their judgment, so I said, You bring, you bring a file to the point of closure. You take care of your file recording. You give it to Anna, our secretary, and, and I will -- Anna will close it off, so it will be closed off on CFSIS to you. All right? And again, Ms. Saunderson raised that this morning.

Q Would you have to give prior approval before the worker could give instructions to close the file?

A No. In those days -- and again, you -- we're

talking about an incredibly seasoned group of staff who, whose -- who had my fullest confidence and my trust. So that they would bring a matter to closure, and then the -- and after Anna, our admin, had sort of closed it off on CFSIS, it did come to me. And I, I reviewed and ultimately signed off on every single closing that anybody in my unit did.

Q So, if you didn't agree with the decision to close, could you override that decision?

A Oh, absolutely. Oh, I maintained that, that caveat. I am hard-pressed to think of any time when I did that. It was an exceptional group of staff.

Q And who did you report to?

A From 1999 through 2004 it was Ms. Rhonda Warren.

Q What was her position?

A I believe the --

THE COMMISSIONER: Rhonda who?

THE WITNESS: Oh, I'm sorry, Commissioner. Rhonda Warren.

THE COMMISSIONER: Oh, yes, okay. I've heard the name.

THE WITNESS: I can't recall her working title. I think it was like an assistant program manager. I think that was the title that she -- so, she was acting in that sort of program manager capacity over all of the intake

function and there were other assistant program managers who were overseeing all of the family service function, but my direct supervisor in '99 through '04 would have been Ms. Warren, and then -- and she was singlehandedly managing that -- all of 835 Portage, that huge complex entity. She was managing it all.

In 2004 Ms. Warren was reassigned to other duties within the agency and in her, in her stead came three individuals, three senior leadership came back: Mr. Dan Berg who ultimately became my direct supervisor. He was there I think it was in like an acting program manager capacity. There was a Mr. Robert Wilson. He was there in an acting program manager capacity, and then there was Patrick Harrison. Again, I believe his working title was actual program manager for intake. So all of the duties that had previously been housed with Ms. Warren for those first five years were now distributed to the three gentlemen that came.

BY MS. WALSH:

Q Okay. And did you receive supervision of any sort, from either Ms. Warren or any of those three gentlemen?

A As my memory serves, Ms. -- starting in 2009 (sic) and probably for the early time there, Ms. Warren, I

thought made --

Q Sorry, what year?

A Starting 2000 -- sorry. Starting in 1999 and in the early part of her tenure there, there was an effort made by Ms. Warren to schedule standing supervision with the supervisors, but as the years went on, that just became more ad hoc and more as needed and when needed. And then when Mr. Berg came in, again, he sort of, again, made a concerted effort to have standing supervision, and I believe I met with Mr. Berg at least on a monthly basis, on a sort of scheduled planned way. I would say -- it would probably average -- it was probably monthly for the time he was there.

Q Okay. And what, what did you use to guide you in your performance as a supervisor - standards, best practice, what did you rely on?

A There was, there was -- there are program standards and agency policies. We'll -- let's use -- we'll stick with program standards. There are program standards that are rooted in best practice, and best practice I'll, I'll generally define as the, the, the sort of an empirical based approach, you know, supported by the literature, supported by the discipline, the field of social work, about how to, in the most effective and efficient manner possible, serve a family. So, within the program

standard --

Q Sorry, just, just so --

A Sorry?

Q You defined best practice as what?

A I would define best practice as, as an empirical-based approach wherein the, the best and the most effective way to serve a family, like in a, in a child welfare setting that is supported in the literature, that is supported in the profession, that best approach, that best practice approach came to be rooted in program standards. So, whether it was the big new program standard manual that every office, you know, had a, had a, had a copy of or whether it came to be in subsequent agency policies or procedures, best practice as defined by the literature and by the profession found its way there.

We all knew what best practice was. We certainly knew what the program standards called for.

Q How did you know that?

A Well, we read the darn thing. We read the darn thing, but, you know, we were all a group of varying intense -- not intense, very intent professionals. We were all abreast of the best standards. You know, we kept up with the literature.

Q And when you say "we", are you talking about you and your six workers?

A You know, I would say "we" generally as a collection. You know, just we, us, intake, us.

Q Intake? All of intake?

A Well, yeah, as a group of professionals, I would generally say that understanding and knowing what best practice was, whether we -- that was -- we did it through self-directed learning, whether we did it through collegial teaching, whatever it was, we all knew what best practice was, we did.

So, I understand that and how it came to be rooted in standards, but what guided me, Ms. Walsh, was not best practices defined in standards. What guided me was the best practice that I or any of my staff could do at any given time, on any given day given the demands on us and given the resources at our disposal, and that was my guiding philosophy. And that's what guided me all those years.

Q And is that something less than what the standards or best practice would actually require?

A I would say it was -- I would say it was, it was something different. Less than -- I don't know how to respond to that, but it was the best practice that we could do at any given time and any given day.

Q And what's the reason for that qualification?

A Because we were, we were being asked to deliver

child welfare service in probably the most daunting community in this country and with human resources that were grossly insufficient to meet the needs of that community. And that was borne out by literature, and that was borne out by the Child Welfare League of America. We, we clearly knew that being asked to deliver program standards and, and -- which, again, incorporated all the best practice that we knew, with the human resources that were given to us was absolutely unattainable. We were never placed in a position to have success that way.

And in spite of all that, we achieved untold success with thousands of families in North Winnipeg.

THE COMMISSIONER: I thought you just said that given the human resources that were available to you made success impossible.

THE WITNESS: Success in terms of meeting the existing standards of the day, Commissioner. The success that we achieved was real time, real world success with our families, because I have a group of staff that --

THE COMMISSIONER: That's what you did achieve.

THE WITNESS: We did. We did. I will probably and with great integrity say that that small group of workers, through a combination of their resolve, their commitment, their excellence and their dedication to this work, and against all odds, still achieved untold success

for families and kept families safe and kept children safe, helped families with good outcomes.

BY MS. WALSH:

Q Let me ask you this --

A We just got there, we just got there in a different way.

Q What, if any, impediments were there to your workers delivering services according to best practice or standards?

A The, the, the absolute disconnect between the staffing resources needed to, to deliver best practice compared to the staffing resources we had. It was that simple.

Q And were children ever at risk because of those impediments?

A I am, I am not aware of anything that we ever did as a unit where we were consciously aware of children having been left at risk or at unacceptable risk. Of course there were children at risk. Every child in this community at any given time, and any date, could be at risk. That's just reality. But were we ever consciously aware of a family where we knowingly knew that there was an acceptable level of risk to a child and we did nothing about it - never.

Q That's not what I asked. I asked whether, based on the impediments, children were ever at risk.

A In terms of my unit and our practice and our approach - no.

Q Did you receive any training in terms of how to be a supervisor of an intake unit, or otherwise?

A I believe in 19 -- in the mid-1990s Keith Cooper was the CEO. I believe at that time the agency contracted with or sort of bought into the competency-based approach to training. And in the mid-1990s - I can't be any more specific than that - all of the supervisors in the agency underwent competency-based training for child welfare supervision. And I think that was over -- probably over a one-year period there was a group -- I think four, four different modules that we attended to over a twelve-month period. And that was in 1995/96, I believe.

Q Okay. Were you, during the period of 2000 - 2005 specifically aware of what the foundational provincial standards said or required?

A I've never used -- I am not aware of the -- or not familiar with the phrase "foundational standards". I heard Ms. Saunderson use that phrase. I'm not -- I knew what the program standards were.

Q Okay. I think they're the same thing.

A Yeah, the provincial program standards, there was

a big large blue binder. I referenced one of the standards in my recording here, Standard 421 talks about Aboriginal -- you know -- so, I was aware of that document, yes.

Q You were aware of what the standards said?

A Certainly, yes.

Q And had you received training in them, not for supervisory work but generally, as a social worker?

A No. My exposure to -- formal training, no. Certainly my original supervisor made me aware of them through some self-directed learning. You know, I certainly became familiar with them, but formal training, no.

Q And what about the workers you supervised? Do you know what training, if any, they had on the provincial standards?

A During the time I served as a supervisor there was no -- at that time, there was no formal institutional training of workers in the standards. The standards were to be taught, shared with the staff through their supervisor.

Q And did you do that?

A I would have made my staff aware of the standards, and I would have used it as a tool in terms of guide and a guide to best practice. There weren't -- not everything in the standard was, you know -- there were things with merit. For example, we were -- there was a

group of us. We were -- at my very first jobs. It was actually -- at the McPhillips office for CFS and I believe it was Gordon Overly said, you know, I've been looking through the standards, and the standards talks about this place of safety thing. Hey, why don't we use this, you know? So, there were things in there that we did come to -- be of value. But certainly, you know, use it as a guide, as part of self-directed learning. Certainly, I would have said to my staff, These are the provincial standards. All right. It's a best practice model approach. We're, we're going to have extreme difficulty meeting those standards. Whenever we can, we will. But, you know what, in part of your learning process, make yourself -- you know, use a self-directed approach and learn them.

Q All right. Let's turn to your specific involvement with Phoenix Sinclair and her family. Do you have any independent recollection of the work that you did with Phoenix and her family, other than from reviewing the material in the CFS files?

A Up until, up until yesterday morning, I had absolutely no distinct or unique recollection of the events, and my recording is all that I can speak to. I will say I had a very pleasant exchange with Mr. Sinclair yesterday morning, and after meeting him and seeing him

again in person and face-to-face, I, all of a sudden a bit of a memory came back from my meetings with him in the past, but, but beyond that, no, no other memory.

Q Okay. So, let's, let's go to CD 1795, page 37107 and this is in Samantha Kematch's file, her protection file. The page that we are looking at is a Winnipeg Child and Family Services after-hours unit report to intake, dated April 24th, 2000 regarding Samantha Kematch and Steve Sinclair. Now, did you receive this document?

A The practice of the day is that this document would have come to me. I would have read it and then following same, would have assigned it.

Q Okay. And you told us how you make that determination. In terms of reading the document, and if we can just scroll into the information on the document, what information, in this report, was of significance to you as an intake supervisor? There is also, I think, a hard copy of the document in front of you.

A That's fine.

Q Do you want to start at the ...

A Well, I can -- I'll just, I'll speak generally.

Q Yeah.

A And I think that would be sufficient. There are -- when we would assess any child welfare matter that came to our attention, and this being no different than any, any

other one, there are -- there were essentially were, were two primary lenses that we would use to look at. What is the parental commitment or motivation to parent? And, what is the parental capacity to parent? And those were --

Q Okay. Maybe define those two things for us, please, because I know you refer to them in one of your reports.

A Yeah. Well, number one is: do you want to parent?

Q So, what is parental motivation? Is that what you are telling us?

A Parental motivation, parental commitment - colloquially, do you want to parent.

Q Okay. And parental capacity?

A Parental, parental capacity, you know, are you able to parent.

Q Okay. So, that's something you're looking for as the intake supervisor?

A Yeah. So, in this particular case, again, so as I looked at this through those two lenses it became clear. This was a very well done report and this document is clear that there were serious concerns raised on both those fronts - parental motivation or commitment to parenting, which was, which was -- which, which was ambivalent, at best, and then, of course, you know, swung, swung in the

latter -- in the next couple of days. And parental capacity, both of those just -- were -- just stood out so distinctly for me that we've got problems with both of these.

Q Okay. And ultimately, you assigned the file to Ms. Saunderson.

A Correct.

Q And then we heard Ms. Saunderson's evidence that she had to transfer the file to you because of a conflict of interest with her cousin.

A That's correct.

Q So, let's go, still in the same CD, to page 37038. So, this is the first page of an intake transfer summary, and if we go through it to the end of the document, it goes to page 37042, so if we can scroll through it, please, right to the end of 37042. So, at the end of the document, on the last page, the document is signed by Ms. Saunderson. Your name is there too, but not your signature. Is there any reason?

A No reason that I can think of. My, my -- I have two signatures at the very end of this document. Again, this is, this is the -- Ms. Saunderson signed off at the section where her direct involvement ended.

Q On April 28th, 2000.

A Yeah.

Q Yes.

A And my direct involvement carried on for a few days. I think there are two of my signatures or initials at the bottom. So, that served as my validation and approval of Ms. Saunderson's work.

Q Okay. And did you have any input in creating the document up to this point?

A No. At that point, all the information, the data, the assessments, that was all Ms. Saunderson's design and construct.

Q Okay. Now, when it was determined that Ms. Saunderson had a conflict of interest, you took the file over yourself as opposed to transferring it to another worker. Why was that?

A Yeah. Well, as mentioned earlier, I was a working supervisor and, you know, I loved the work. And so it just seemed to me that the tasks that were needed to bring this file to some point of resolution essentially, you know, meeting the parents, providing service, attending court, you know, sort of supervising a visit. It seemed to me I could probably more effectively do those things quickly. I already understood the case. Ms. Saunderson had come in and talked about it. It just seemed to be a more efficient use of our resources for me just to follow through with this as opposed to assign it. And as I was

going to court on the matter anyways, it just seemed an opportune time to meet the family, do the service, service of notices. I think was just good case management, really.

Q All right. So, if we turn to the preceding page, 37041, just -- the paragraph above the heading, Assessment. It says:

> Samantha and Steven along with Nikki Taylor, came into the office for their visit with Phoenix. All parties were introduced to Supervisor Andy Orobko who will be taking over management of the case until it is transferred to family service unit. He advised everyone present of the reasons that the file can no longer remain with this writer. From this point, the file will be closed to this writer.

So, that's the point at which you were introduced to the family and took over the file; is that right?

A The recording would suggest that, yes.

Q Okay. All right. Now, was it clear that the family was going to be moved on to long-term family service?

A I think in my mind, I was probably at 90 percent certainty when I received the original after-hours report that that was going to be a likely outcome.

Q And why is that?

A Again, the severity and the intensity of the concerns regarding parental commitment, parental capacity. I think it became clear to me that that far outstripped out ability at intake to, to, to respond to or to somehow provide any remedy to. That was -- it was clear to me that that case was going to require long-term assessment. I think even prior to meeting the parents, I was, I was at that point.

Q Okay. So, if we turn to page 37042, the paragraph above the paragraph with the heading, Assessment, third line down it says:

> This writer has yet to receive written documentation around the reasons that Samantha's son became a permanent ward of Cree Nation CFS. Once this information is received, it will need to be incorporated into the final assessment of the family and the recommended plan.

So, we heard from Ms. Saunderson that she had

requested certain information from Cree Nation Child and Family Services about Ms. Kematch's first child, and she didn't receive the information while she was still involved with the file, but ultimately, you did, right?

A That's correct. The information from their protection file was --

Q Regarding?

A Regarding Samantha Kematch as mother and how did the -- how matters progressed with her biological son. That was forwarded to me. I think the dates are there, but that was forwarded to me within the next few days.

Q That's right. And so if we turn to page 37082, still in this CD, 1795.

THE COMMISSIONER: Page what? Oh, I see it at the top. Yeah, okay.

BY MS. WALSH:

Q So, actually, if we scroll to the top, you can see when the fax was sent. This fax was sent on April 28th, 2000, even though it's dated April 27th. And this, I understand, is the protection file regarding Ms. Kematch's first child --

A All we --

Q Or a package, a package of material from that file.

A Yeah. I'll assume if we scroll down, that's borne out, but yes.

Q And just so that we're clear, because I don't know that it's ever been made clear, the father of Ms. Kematch's first child was not Steve Sinclair.

A Correct.

Q Right.

A I have no direct knowledge as to the first father.

Q So, if we go to the end of the package of material that was sent over, at page 37091, that's a social history and if we go to the second last page of that social history, 37093, this is what the information that Ms. Saunderson requested, this is what it said, under the heading, Family Background Information:

> The child's biological mother, Samantha Kematch, was a permanent ward of Cree Nation Child and Family Caring Agency up until she turned age of majority. His biological father resides at First Nation and has not had any contact with him since the birthday July 23, 1999. Prior to giving birth to this child, Samantha had

concealed her pregnancy and did not receive any prenatal care. St. Boniface hospital made a referral to Cree Nation Child and Family Caring Agency when Samantha gave birth. She appeared very distant with hospital staff and from her newborn. She appeared emotionally flat when discussing future plans for her newborn. She had informed the nursing staff that she did not know she was pregnant with this child until she was approximately eight months pregnant.

Since July 23, 1999 the child was placed under apprehension and upon discharge from the hospital two days later, it was placed with a foster mother.

On September 14, 1998 the child was removed and placed with his mother, Samantha at Oskki-Ikwe (and my apologies for pronunciation) a facility for

young mothers at Waywayseecapow. Prior to moving to the facility, Samantha was in an independent living program at McDonald Youth Services. Just after eleven weeks at the facility, both Sam and the child were discharged because of safety concerns for the child. Again, the child was placed with foster placement, where he has been since. Samantha returned to the independent living program under McDonald Youth Services until the age of majority. Activities of mother is unknown at this time.

And then, on the last page of this package that was received, page 37094, the last entry under Plans:

Cree Nation Child and Family plans are to transfer the child's case to the appropriate native agency when permanent order of guardianship is granted. The agency recommends the child not be removed until long-term placement

is found.

So, what was the purpose of requesting and obtaining this information?

A Simply to, to ascertain the, the circumstances, the contributing factors, the variables that all led to her first child being removed from her care and ultimately ending up in the permanent ward-ship of another agency. And information, again, would be -- was vital to us in a real time sense to help assess her current pregnancy -- or her current child and her current relationship.

Q And how was that? How was it relevant to assessing the situation with Phoenix?

A From a, from a risk management and a risk prediction perspective, past human behaviour is, is a, is a strong predictor of future human behaviour. So, if we were -- and again, this is -- to be clear, this is, this is one piece of information, past history, that we are going to use in a collage of other things to assess, you know, a parent and the safety of the child. But, again, if, if there had been previous concerns around parental motivation or parental commitment to parenting, it was important for us to know in the context of her current commitment, which, of course, we were -- was vague and wavering when after-hours went out to see her, and then flipped when Marnie met them.

Q So, did the information that you received from the protection file regarding Ms. Kematch's first son, what, if anything, did it tell you about her motivation, her parental motivation and parental capacity with respect to her first child?

A It suggested a lack, a lack of same.

Q And so then that posed a concern with respect to her parental motivation and parental capacity with respect to Phoenix.

A Correct.

Q At least in terms of something that needed to be assessed.

A Correct.

Q And that's partly why you were certain that the matter needed to go on to family services.

A Yes. At, at the point of our involvement, that initial involvement, again, we have no confidence that parental motivation and commitment was sound and unwavering. And then, of course, other things that I'm sure you will ask me about later, other things then started to surface regarding parental capacity, as well.

Q Okay. So, you already did have a concern about her parental capacity and parental motivation with respect to Phoenix.

A Correct.

Q Okay. Now, if we -- we were at page 37042. The summary continues at page 37035. And at the top of the page it's titled, Continued Summary of Service and Intervention. And at this point, you were making the entries in the file; is that right?

A That's correct.

Q Okay. So, we have an entry for April 28th, 2000 and it says:

> Office visit between Phoenix and her parents at 831 Portage Avenue.

Was that where your office was?

A That's correct.

Q Before the door moved.

A Exactly. Right you are.

Q Okay. And you go on to say:

> Following same, the writer conducted interviews with Samantha and Steve. At the couple's request, Nikki Taylor, parents' advocate from Boys and Girls Club, was excused for part of the meeting. She rejoined the meeting in its latter stages. Both parents were served for the May 3rd docket date. See assessment

for particulars.

And so then, when we look at the next entry, you've got May 1st, phone call to Gloria Woytiuk (phonetic). She was advised to serve both Cree Nation and West Region.

Now, what was that all about?

A The program standards of the day required us that upon the apprehension of a child of aboriginal descent or aboriginal origin, if that child had entitlement to treaty status with any First Nation, whether they had obtained it yet or not, then the standard of the day, Section 421, standard, required us to serve notice on the aboriginal agency that had jurisdiction for that particular First Nation community. So, after, after, after this conversation with the parents, the information would have come from that that, that led me to -- we need to serve Cree Nation and also need to serve West Region.

Q Okay.

A Because, again, Phoenix may have been entitled to treaty status with possibly either of those bands.

THE COMMISSIONER: And what was the directive or requirement? Was it regulatory or statute?

THE WITNESS: I believe it was regulatory, yes, yes.

THE COMMISSIONER: Provincial or federal?

THE WITNESS: This was provincial, Commissioner.

THE COMMISSIONER: Thank you.

BY MS. WALSH:

Q So then we are still on page 37035, under the heading, Further Assessments. And you go on to discuss the meeting that you had with the parents, with Steve Sinclair and Samantha Kematch. And you say:

> As of this writer's meeting with Samantha and Steven on April 28, 2000 the parents are indicating a desire to continue their common-law relationship, with Phoenix being in the family fold.

Is that what you meant by I think earlier you said they did a flip or a reversal?

A That's correct. From the -- from our initial point -- from the agency's initial point of contact, from the hospital's initial point of contact on the day that the child was born to this day, again, we had -- there had been a 180 degree turn, from expressing non-desire to parent the child, again, citing the maturity, We're not ready. We're not financially prepared, to now reversing that and now saying they want to, they wanted to have the whole family unit unified.

Q Okay. And you go on to say:

> They advise that they came to this position after much deliberation and discussion.

And then you say:

> The writer aggressively challenged the couple on their ambivalence towards parenting this child and the lack of prenatal care. The hiding of the pregnancy and Samantha's seeming disinterest with respect to her first child were raised as well.

Can you just explain what you meant by saying you aggressively challenged them on those matters? What were you doing?

A My line of, my line of questioning and my approach with them would have been very direct. It would have been very particular and would have cut to the core of the matter. Aggressively, that's not to imply that I was yelling and shouting. And, Mr. Sinclair, hopefully, I wasn't yelling or shouting that day. But maybe "robustly" was a better word, but again, it would have been cutting to the, cutting to the quick: Samantha, you've got -- and again, this is not a direct, this is not a direct

recollection, but having met hundreds of families in this situation, I can almost paraphrase what I would have said. I would have said, Samantha, help me understand what's going on here. Like, why didn't you tell anybody? You know, what's going on here? That's the way I would have approached it. That's been my style for 20, 20 odd years. So, that's what it was: direct, focused and, and directly querying them on, on commitment and motivation.

Q So then you go on to say:

> Throughout our conversation, Samantha remained flat and stoic. She responded to questions in a simple and cautious manner, often pondering her response for a moment or two before uttering same. Complex questions often received simplistic responses which failed to shed any meaningful light on issues, especially around why she hid this pregnancy and why she has failed to maintain contact with her first child. Her responses heavily consisted of shrugs and "I don't know". Her presentation is

suggestive of some developmental or psychological difficulties. However, same will need to be determined. Samantha had great difficulty expressing why her first child came permanently into Cree Nation's care, nor could she account for why she had expressed no desire in maintaining any contact with the child.

Steve presented as a relatively articulate and thoughtful young man. He indicated that he permanently came into Winnipeg Child and Family Services care when he was 13 and he remained in the care of this agency until attaining the age of majority.

At this point, Steven's biological mother's file remains closed and his child in care file is sealed. He advised that his experiences in agency care have prompted him to parent his child

so that Phoenix might escape similar experiences. Steve chose not to share many details of his time in agency care, and he will consider this writer's request for a consent to be signed so that the CIC file might be opened and reviewed.

At this point in time, the couple resides together and support themselves via moneys received from income security. Their worker is Heather McShane and the couple denies any domestic violence of substance abuse.

Both parties were served for court and the following case plan was shared.

Before we get to the plan, did you want to make any comments about the notations that you've written there?

A Well, again, I have no recollection of that meeting, other than what is shared there. I thought the question that was going to be posed to me was, Mr. Orobko, you know, why did you come to the point where you thought that there was some psychological difficulties? I was

anticipating that.

Q Sure.

A I'll answer, if I can ask myself the question.

Q Sure. Why did you ask that? Why did you query that?

A Yeah, my recording lists observations, you know, the observation of the flatness and the stoic, stoic presentation, how she answered questions and all that. So those were my observations of her mannerisms and behaviour at the time. When I processed that through more of a -- sort of a kind of a clinical, a clinical framework, here's what I was seeing. I was seeing difficulties with comprehension and expression. Essentially, there was a, there was a number of cognitive functions that I was, I was seeing difficulty with: comprehension and expression, memory recall, processing time and processing speed. So, when I looked at how she was presenting to me that day, that's what struck me. You know, is there some underlying psychological concern here? It wasn't lost on me because by this time I had, I had some knowledge of Ms. Kematch's history. Again, this is not, this is not a direct recollection, but I'm going, I'm going to assume that at that time, probably a couple of things were running through my mind. Knowing the family history, I was probably thinking, has there been some undiagnosed fetal alcohol

spectrum disorder? Is that a possible root cause of what we're seeing here? I probably would have been querying things like post-traumatic stress disorder, again understanding the traumatic history she came from. So, for me, then, that presentation struck with me. That is, there is some underlying psychological disorder or disability here.

Q Okay. And so that was something you thought needed to be followed up on.

A Well, because -- exactly, because, again, that, for me then, that then spoke to the heart of parental capacity.

Q Okay. We were about to go through a case plan. Who came up with this case plan?

A The case plan, because by this time, Ms. Saunderson had recused herself from this whole case, the case plan would have been my design and my construct.

Q And did the parents have any input?

A No. It wasn't a case -- it wasn't -- this wasn't a client-director or client-specific case plan. The -- but again, there was an opportunity there for them to have some control over the case plan. For example, the --

Q We'll, we'll go through it in a minute.

A Oh, okay, sure. Okay.

Q But so this was a plan that you came up with, and

what was the purpose of coming up with this plan?

A In the -- and during -- in those days, (it sounds like this is Jurassic era) in those days, the arrangements and understanding that we had with the family service units in North Winnipeg was that at the intake level, if we were going to be transferring a case to them for long-term follow-up, the understanding and arrangement was that we could design the case plan at the intake level. We could attend court and seek out orders and we could put this all in -- within the body, within the body of the file and transfer it to them with case plan, with recommendations and with court orders already, already attached. And that was the way -- again, that was the arrangement and understanding that we had between my unit, North intake and the four North Winnipeg Family Service units.

Q Okay.

A So, the purpose, again, what it was. It was -- they, they -- it was -- at that time, that was my best professional decision and my best professional judgment about the plan that would give this family the best hope for successful outcomes.

THE COMMISSIONER: And was it to North Winnipeg Family Services that this referral would now go?

THE WITNESS: That's correct, Commissioner. There were four -- there were four distinct family service

units in North Winnipeg. Two were located at an office on Jarvis Avenue, one was located at an office on Keewatin Street and the fourth was located at an office on McPhillips Street. At that time, there was still a geographical sort of distribution to the cases, so families that sort of lived within, like, the north end, those families were going to the Jarvis office. So that's why I was already able to anticipate that the Jarvis office would be getting this file.

THE COMMISSIONER: This was going to the Jarvis office.

THE WITNESS: That's correct, sir.

BY MS. WALSH:

Q So now the plan has seven points. Let's go through it. The first point says:

> This agency to assign a family services worker from the Jarvis office for ongoing service and intervention.

Next:

> A three-month temporary order of guardianship will be pursued.

That's the court proceeding, right?

A Correct, ma'am.

Q Okay. Three:

This agency will await further case history from Cree Nation Child and Family Services and incorporate same into the ongoing case plan.

Now, is that the information that actually you received on April 28th or was there more that was coming?

A As of the writing and typing of this document, I still did not have, on my desk or in front of me, the information from the protection file. So, you recall Ms. Saunderson said the first package of information was the child in care information.

Q Right.

A The second package, as I -- as this was being typed obviously had not yet been in my possession. I did speak to it in a subsequent addendum, though.

Q Okay. Right. And we saw that you did receive the documentation, but I just to confirm that's the same documentation, it's the protection file regarding Ms. Kematch's first child.

A That's correct.

Q Okay. Number four:

Some form of psychiatric/psychological

assessment will need to be undertaken with respect to Samantha, this to be arranged by the agency or the couple.

Now, what are you looking for there?

A Well, I was trying to cover a couple of bases there. One was to give the parents some ownership or, or some investment in this procedure. So -- and again, they had an advocate, Ms. Taylor, and so for -- so essentially saying to the family, like, Listen, okay, we need this assessment, but you know, if there is somebody that you can find or you can settle on or you can uncover for us, and if that person meets our needs, then that's great. We'll use it. So, I think just trying to get the family engaged in the process.

Secondly, probably just trying to help out the family service worker, who I, I, I well knew the demands and volume of work that they were dealing with. So, if the family was able to, you know, locate an assessor and it met with the approval, then that's great. It saves the family service worker some work.

Q But in terms of the assessment itself, what was the purpose of the assessment?

A The purpose of the assessment was to, to, to assess and try to either validate or refute my earlier

concern that, that Ms. Kematch was suffering from some form of mental disability and/or disorder.

Q Was it a parental capacity assessment?

A No. I, I was -- the purpose of this was simply trying to get just a -- if it was going to be either a psychological assessment, just like a WAIS or WISC assessment, just to look at the cognitive functioning and processing. Parental capacity assessment, I wasn't suggesting that at this point.

Q Okay. And just going back. The, the three-month temporary order, why three months?

A As I -- Ms. Saunderson mentioned this morning, and it bears repeating again. The mantra of our unit all those years ago was that our business is hope. All right? And so we, we brought that approach to every case. So, there, there -- this was a family, even from day one, like our initial involvement -- there was concern. I looked at it and I thought about all my years, and I thought, Oh, man, is this going to work for these people? But I thought, you know what, they absolutely deserve a chance. But -- and then we have Phoenix. If things were not going to go well for the family, if they were never able to demonstrate capacity or commitment to parent and permanency planning had to be considered for Phoenix as it had been, her older sibling, then we couldn't drag this thing on for

two years, to give the family two years to kind of, well, are you going to make this work or not?

Q Why not?

A Well, everything that we, we understood about attachments and about bonding and about, and about normal infant and child development. It was critical to us that as soon as possible that Phoenix would settle into, into a family or if she would settle into a home where there was permanence and stability, now whether that -- our hope was that that was going to be with Mr. Sinclair and Ms. Kematch because our business is hope, right? But if that wasn't going to work out that way, then, then the child was still young enough that this child could attach and bond in some other family unit. So, by asking for a three-month order of guardianship, it brought an urgency to the matter. So, essentially -- I, I probably would have said to Mr. Sinclair and Ms. Kematch, you know, You've got three months. We can't afford to wait forever for Phoenix. You've got three months. We need to get this assessment done. You need to be committed to visits. You need to be committed to these other things and within that -- so, within that three months, my belief was that the family service unit should have a good sense as to are we going to -- is this -- are we going to reunify here, or does a permanency planning route have to go. So, it brought

urgency to the matter, condensed it and forced people to get to the table.

Q Because you expected that the items in this plan would have to be dealt with within that three-month period?

A Well, it would have to start to be dealt with. I knew it was going to be difficult to get a psychological assessment done in -- you know, in that timeframe, but at least steps towards it, you know, like maybe one or two sessions had already been completed, but visits had already been established. Parenting program had been attended. It was -- that three-month window was our, was our opportunity to start to do some observation of a behavioural commitment to parenting.

Q Okay.

A Anybody can say, I want to parent and I love my kids, but we've got to measure that behaviourally. That three months would have given us that ability to observe that.

Q Right. So, just continuing with the plan, item number 5:

> Both parents are to commence participation in an appropriate parenting program.

Who was to arrange that?

A That would have been another example where I, I

-- again, my recording doesn't reflect it, but again, my practice of the day was let the family get invested in that and say to the family, Are you connected somewhere in your community? I knew that Mr. Sinclair had, had been connected to the Ma Mawi agency, to some degree. I knew they ran parenting programs. So, I left -- I think I left that one as is for either the family to suggest a resource that they might have felt comfortable with or maybe the family service worker had a line on something.

Q Okay. Number 6:

> Both parents to attend all weekly visits with Phoenix. Visits to be transferred to the Jarvis office as soon as possible.

That's pretty evident.

A I think so. Again, another way to behaviourally demonstrate commitment. Also, capacity, you know. Can you, you know, make bus arrangements? Can you, say, do you -- can you mark this on your calendar, just simple ways of looking at somebody's capacity to care for a child. Can you make an appointment on a week-to-week basis to see your child?

Q And would the visits be supervised?

A We -- Ms. Saunderson testified that we were not supervising. You know, we had no reason to believe there

was a flight risk. We had no reason to believe that there was any imminent risk to the child in either parental -- either parents' care in our office. So, the loose supervision would have -- for us, would have amounted to, you know, periodically checking in to see how the visit was going. Again, that was a rather secure building at 831. No one was slipping out a back door with anybody there, so ...

Q Right.

A So, I made no specific recommendation about supervised. So, the implication would be that visits needn't be supervised.

Q Okay. And then finally:

> Steven's child in care file may need to be reviewed should he agree to sign the appropriate consents for same.

So, why did you put that in the plan?

A Mr. Sinclair was a young man. At that time, I think he was 18 or maybe 19, but he was, he was a young man, as well. There's been, there's been much debate already in this room about why do you access child in care files, or why don't you, or should you or shouldn't you. And Ms. Saunderson was eloquent on a number of those things. It was clear -- my recording speaks clearly to a

-- and all the recordings speaks clearly to a young man who had experiences in the child welfare system that had pained him, that were troubling to him and, and that, and that were forming a significant part of, of who he was. His simple comment that it was because of my experiences in the child welfare system, that's one of my motivations to parent my own child. That's huge. That's absolutely huge. So -- but again, there was, there was possible anger, blaming, trust of child welfare. So, for me to, for me to say to him, and again my recording reflects it, Steven, would you kind of think about this? What do you think? You know, could we kind of go into the file? It could be helpful to us, help us better understand you. But again, I, I wanted to present that to him initially, to have, to have the right to think about that and agree to it on his own. It made much more sense in terms of building a relationship with him, giving him some control over the events in his life, for him to say to us, Okay, you know what? Yeah, I'll let you guys do that. That was huge. We were, we were all aware of statutory provisions how to get into a closed file. We all knew that, but from a best practice approach for a guy who was already clearly telling us, This is a part of my life that is -- that I've struggled with. I'm not sure I want you guys looking into it. It made no sense to, to take that kind of a hand, a

heavy-handed approach. So, that's, that's where I left it. I left it at that. Ms. -- sorry.

Q Why did you think the information in there would be important to know?

A The -- I think I mentioned, again, there, there may have been information in his file about, about the, about incidents or traumas or, or occurrences in his life that would better help us understand what he was struggling with, in the current sense.

Q As a parent?

A Well, as a, as a young man and as a parent, sure. There was no information, obviously, there that would have spoken directly to parenting, but again, just help us understand -- again, we are all make-ups of our childhood, we all are, all of us.

Q Right.

A So, so that would have been critical, saying you know, maybe there's stuff there, Steven, that can help us understand you know, why you are and who you are and what's important to you. Information regarding past strategies, past ideas, past individuals who may have had success working with him, that would have been critical for us to know.

But that all being said, the -- again, the best source of all that information and the best way for us to

proceed would always have been for Mr. Sinclair to share that with us. Ms. Saunderson said that, and I'm going to reiterate that, as well. And so we would have given full opportunity. For me, that was just saying, Steven, think about it and letting the family service worker know that, you know what, this might be a possible, something possible for you in the future and left it at that.

Q So then, the last page of this summary, page 37037, you say, in the last paragraph:

> The assigned worker shall have two primary issues to sort through in the coming months. Firstly, the question of parental motivation and commitment will need to be assessed and weighed on an ongoing basis. Secondly, it will be necessary to determine Samantha's parental capacity. The preceding case plan should serve to quickly help the assigned worker with these matters so that long-term planning can quickly occur for Phoenix.

So, can you give us an example of what Ms. Kematch would have had to demonstrate to show parental

capacity or parental motivation? What would a worker have had to look for?

A Well, number one would -- let's start with the most simplest form of assessing, a stated verbal intention that I want to be the primary caregiver to my child. And I'm not being silly, a stated verbal intention, I want to do this. All right. And in her situation, because of ambivalence and not a strong commitment to the first -- her first child and because of our earliest experiences at the outset of this case, I, I think -- for me, I, I -- it would have been beyond the point of, well, you've got to show me. So we would now be looking for behavioural expressions or behavioural indicators of that parental commitment.

The case plan that I've laid out there gave Ms. Kematch and Mr. Sinclair, gave them opportunities and gave them windows to demonstrate that through behavioural expression. And again, the things -- you know, attending parenting programs and completing them, committing to this assessment and completing it, you know, regular visitation with your child. So, for me, all of those would have been good indicators of, of the formation of a parental motivation to parent.

Q Okay. Now, at -- still in this CD 1795, starting at page 37263 to page -- well, that page says, Worker Handwritten Notes, and then if you go to the next page, for

instance, 37264, all the way to 37269 are a series of handwritten, pages of handwritten notes. Is that your handwriting?

A Yes, that is a -- is my handwriting, as sorry and as pathetic as it looks.

Q And these notes were kept in Ms. Kematch's protection file?

A Yes. These notes would have been made at or soon after their -- you know, my point of contact that they represent. These handwritten notes would have -- they were typed. The inquiry should know I do my own typing now. But they would have been typed by my administrative support person. You've seen her typed version. These would have been inserted into an envelope, I believe, and tucked into the back of the file.

Q And they appear to be a verbatim repetition of what's included in the summary we just reviewed.

A Correct.

Q So, for instance, the page that's up before us 37269, you will see a paragraph, the second paragraph says: The assigned worker shall have two primary issues to sort through ... And we just reviewed that.

A Right.

Q So, that's -- that -- your handwritten notes were then committed to the typed documents that were the

summaries.

A Right. Yeah, as, as Ms. Saunderson testified, neither her nor I sort of kept a list of point by point notes. As soon after as possible we committed our recollection into this sort of chronological essay style.

Q And then you prepared an addendum, which is at page 37034. These are your entries, and if we look at the bottom of the document, it is dated May 3rd, 2000 and are those your initials?

A Correct.

Q Okay. So, at the top of the page, you've got, Further Service Provided and under the entry May 2nd, 2000 you say that you received:

> Fax correspondence received from Cree Nation CFS. Included within this package are letters directed from Cree Nation to West Region and Island Lakes, indicating Cree Nation's desire to seek out a permanent order of guardianship with respect to the first child. Formal case particulars are provided, as is the original referral letter from St. Boniface Hospital.

And then you say:

> See further assessment for particulars.

So, skipping over one paragraph, you've got a heading, Further Assessment and you indicate:

> At this point in time, the previously stated case plan, when reviewed against the just received information from Cree Nation would still appear to be the most prudent course of action. The major concern expressed throughout the Cree Nation data revolves around Samantha's seeming disinterest in parenting her first child and there appearing to be no concerted effort by Samantha to work towards reunification.
>
> Interestingly enough, and to Samantha's surprise, the child is not yet a permanent ward of Cree Nation and the next court date in this matter is May 17th. Samantha was strongly advised to contact Cree Nation and consult with legal

counsel should she wish to fight for the child. Her intentions remain unknown at this point.

In summary then, Steven and Samantha consented to the three-month order and agency plan. Nikki Taylor is helping Samantha locate a psychologist for the assessment and Steven will be approaching the Andrews Street Family Centre around the parenting program. Both parents have been advised of the imminent case transfer to the Jarvis office.

So, the only thing we haven't looked at, then, is what happened between -- before -- or by the time you wrote this addendum was you attended in court with Mr. Sinclair and Ms. Kematch, right.

A Correct.

Q Okay. So, let's look at the transcript from those proceedings.

THE COMMISSIONER: Well, now --

MS. WALSH: Would you like to take a break?

THE COMMISSIONER: I'm just wondering if this is a convenient time. We're moving into --

MS. WALSH: I'm thinking it is.

THE COMMISSIONER: All right. We will take a 15 minute break.

MS. WALSH: And I won't be too much longer. Thank you.

(BRIEF RECESS)

THE COMMISSIONER: Ms. Walsh?

MS. WALSH: Mr. Commissioner, over the break we received the decision from the Court of Appeal. You will recall that the authorities at ANCR had applied to the court to order you to state a case regarding certain issues, and we've received the Court of Appeal's decision which says that a stated case should be made by you. The effect of that is, according to the provisions of the Evidence Act that pending the decision of the stated case, no further proceedings shall be taken by the commission.

THE COMMISSIONER: Thank you. As a result of that, we will, of course, immediately adjourn. I will endeavour to have the stated case in the hands of the registrar of the Court of Appeal certainly by mid-week next week, if not earlier. And the court has spoken and we will, of course, abide, in total, with its decision and I will comply with the request. So, I don't think there's

anything else we can do today, other than adjourn, I guess sine die.

MS. WALSH: Yes.

THE COMMISSIONER: And we will await a decision by the Court of Appeal.

MS. WALSH: Yes, and they have advised that the earliest they can convene a panel to hear the stated case is October, but they will move as quickly as they can within that time constraint.

THE COMMISSIONER: I'm sure they will and we have a wonderful system, and someone that's been a trial judge for 18 years, I've been through this before, and I've always been glad there's a Court of Appeal there to set anything straight that is -- when an error has occurred. And I am grateful for the -- I haven't read the decision yet, but I am grateful for the time and attention that Mr. Justice Monnin gave to the matter and I shall, as I say, comply in the early part of next week.

With that, we stand adjourned.

MS. WALSH: Thank you.

(ADJOURNED SINE DIE)