

**IN THE MATTER OF: Commission of Inquiry into the Circumstances
Surrounding the Death of Phoenix Sinclair**

**ADMISSION OF FACTS BY SHELLY WILLOX AND CHRISTOPHER ZALEVICH
RESPECTING THE EVIDENCE OF JIM CHABAI**

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1. On January 7, 2013 at the Inquiry, Exhibit 22 was entered into evidence which is the Admission as to Facts of the Department of Family Services and Labour (“Department”) - Volume 3. Exhibit 22 was created by the Department.
2. The material contained in Exhibit 22 was thereafter used to question and cross examine Shelly Willox (“Willox”). Based on the content of Exhibit 22, Willox was asked various questions respecting doing Prior Contact Checks (“PCC”) on CFSIS on certain individuals involved with Phoenix Sinclair’s file including in particular Wes McKay (“McKay”). Christopher Zalevich (“Zalevich”) was not questioned respecting Exhibit 22.
3. Subsequent to Exhibit 22 being entered as an exhibit, it was discovered that the information contained in Exhibit 22 as it relates to hypothetical CFSIS searches

conducted for McKay and the related results produced by the hypothetical searches were incorrect.

4. As a result of the incorrect information contained in Exhibit 22, with leave of the Commissioner, legal counsel for the Department withdrew Exhibit 22 and it cannot be relied upon.
5. Exhibit 22 has since been replaced with Exhibit 83 which is the Witness Summary of Jim Chabai ("Chabai"). Chabai's Witness Summary was entered into evidence on Thursday, May 16, 2013 by agreement of all Parties without the need to call Mr. Chabai to testify.

Evidence of Willox and Zalevich

6. Prior to the time Willox and Zalevich were involved with Phoenix Sinclair's file, they were both aware that if they did not know the date of birth of a search subject then they could enter a default date of birth of 1950 or 1980 when doing a PCC. They were further aware they may also try to estimate a date of birth based upon other information such as the date of birth of the partner of a person for whom they are searching. However, as it relates to their involvement in Phoenix Sinclair's file, neither recalls whether they did or did not perform such a search and in the absence of specific evidence of same, there is no way to independently determine whether they performed such a search prior to April 1, 2005.
7. CFSIS has always allowed for two different types of searches ("PCC" and "Search for Person") to be conducted to access person records.
8. At the time they were involved in Phoenix Sinclair's file, Willox and Zalevich almost exclusively used the PCC method of searching person records on CFSIS based on their understanding that a PCC search method would provide a wider search result. Their information and understanding respecting the effectiveness of certain search methods arose during the course of their employment.