

**IN THE MATTER OF:**

**Commission of Inquiry into the Circumstances  
Surrounding the Death of Phoenix Sinclair**

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**AFFIDAVIT OF SHIRLEY COCHRANE**

**AFFIRMED APRIL 3, 2012**

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**HAFEEZ KHAN / JAMES BENSON**

I, SHIRLEY COCHRANE, of the town of Fisher River, in the Province of Manitoba,

AFFIRM AS FOLLOWS:

1. I am the Executive Director of Intertribal Child and Family Services ("ICFS") and as such have personal knowledge of the facts and matters set out herein, except where I indicate that such facts or matters are based on information and belief, in which case I believe them to be true.
2. I have been employed within the child and family services system for 24 years. I commenced as a front-line worker for three and a half years. I was then Supervisor for approximately 3 years and have been employed as the Executive Director of ICFS since 1994.
3. During my entire career in the child protection profession, I have worked from the Fisher River office. Intertribal was operating under Anishinaabe CFS when I began my career as a family services worker and obtained its own mandate in 2001. I am familiar with all aspects of ICFS' operations and history in the Fisher River community.

4. I am one of the ICFS witnesses who will be called to testify during the Inquiry hearings. ICFS is seeking an order restricting the publication of the names and physical appearance of all ICFS workers who will be testifying at the Commission of Inquiry of the Circumstances Surrounding the Death of Phoenix Sinclair ("Inquiry"). At the time of signing this affidavit, commission counsel have identified four ICFS staff members (including myself) who will be called to testify during the Inquiry hearings. Commission counsel has also advised of an intention to interview additional current and former ICFS staff members, and may be calling some or all of them to testify as well.
  
5. ICFS employs 33 people. We have four offices: one in Kinonjeoshtegon (Jackhead) First Nation, one in Fisher River First Nation ("Main Office"); one in Dakota Tipi First Nation; and an outreach office in Winnipeg ("Winnipeg Outreach"). The Main Office employs 17 persons, of which four are front line workers (which includes the supervisor). ICFS serves the three above-mentioned communities as well as band members from those same communities who reside in Winnipeg.

6. I was raised in Fisher River and have resided in Fisher River my entire life. My parents were also born and raised in Fisher River. Like many other residents of the community, I am from a family with deep roots in the community and surrounding area. As I am sure it is in most communities, family history and relationships form an integral part of the social fabric of the community. Family reputations and family pride are of great importance to many members of the community and play a role in the interactions between community members. The Fisher River community in general also takes great pride in itself and of its achievements.
7. Most of the existing and past ICFS staff and social workers at the Main Office are also "from" the Fisher River community; they were raised in this community and their parents and some/much of their extended family were also raised in the Fisher River community or surrounding communities. Many ICFS' staff have children who reside in Fisher River and who work and attend school in Fisher River.
8. Phoenix Sinclair was not in ICFS care at any time prior to or at the time of her death. ICFS never had an open file on Phoenix Sinclair. ICFS was unaware that she was residing in Fisher River until after her death was discovered.

9. My review of ICFS' files indicate that we provided routine and brief services to Phoenix Sinclair's step-brothers. This occurred after Phoenix Sinclair was already deceased. ICFS otherwise had no other involvement with Phoenix Sinclair's family, as it relates to the subject matter of the Inquiry.
10. ICFS was unaware of the details of Phoenix Sinclair's involvement with the child and family services system until disclosure documents were submitted to ICFS as a party to the Inquiry. Until then, ICFS had little additional knowledge on this tragedy then what was published by the media.
11. ICFS sought standing in this Inquiry in part to seek the truth about what happened in the community that it serves, to assist the Inquiry in uncovering all of the relevant information and to provide its own opinion from the standpoint of a First Nations child and family services agency.
12. In March, 2006, the Winnipeg Outreach office received a phone call advising that Phoenix Sinclair had been murdered. ICFS immediately contacted the authorities to advise them of the information provided to us. We were advised by the investigating authorities not to discuss the matter with any other persons or agencies while the investigation was pending.
13. The Main Office observed police and media in Fisher River First Nation shortly after the disclosure of Phoenix Sinclair's death.

14. The impact of Phoenix Sinclair's death on ICFS and on the Fisher River

community in general was immediate and harsh.

15. ICFS staff was in shock to discover what had transpired in the community which

it serves. I observed that the Fisher River community also was in shock. Feelings

of guilt, anger, resentment, betrayal and great sorrow were felt by all ICFS staff

and by many members of the Fisher River community.

16. Shortly after the tragedy was discovered and reported upon by the media, ICFS

began experiencing difficulties in performing its functions and providing effective

services to the families and the children in the Fisher River community as well as

(although to a lesser degree) at the Winnipeg Outreach office. Our staff, and in

particular, our front line workers, felt isolated, overwhelmed with stress, and

began having great difficulty making routine decisions. As a result, I requested

assistance from the Southern Authority. Social workers from other CFS agencies

were brought in to assist the Main Office and the Winnipeg Outreach office.

Assistance was required for one full week.

17. At the same time and also shortly after the murder was discovered, ICFS staff, including myself, began receiving criticisms and comments by members of the public. Members of the public have said directly to me that ICFS killed Phoenix Sinclair, that we were responsible for her death and that we will be punished for our actions. I am advised by ICFS staff that they received similar criticisms and comments from members of the public.
18. Various media reports on Phoenix Sinclair's murder suggested that she was in ICFS care. This seemed to promote a common misconception that ICFS had Phoenix in its care and that ICFS was therefore responsible for her death. That misconception has remained to the present day and ICFS workers continue to receive comments from the public that ICFS is responsible for the death. Attached as exhibit "A" are copies of early media articles on the death of Phoenix Sinclair.
19. It has been extremely difficult for me and for ICFS staff to be subjected to these criticisms and allegations from the public. I am advised by ICFS staff that this made them feel ashamed of their work, despite knowing that the allegations against ICFS are not true and the criticisms are unjustified.

20. ICFS workers, and in particular our Main Office social workers, have advised me that parents of children they were apprehending and of families to whom ICFS was already providing services, have made comments that ICFS was responsible for Phoenix Sinclair's death and that they no longer trusted ICFS. Parents were more wary of being involved with ICFS because they believed ICFS failed Phoenix Sinclair. The breakdown in trust has a direct impact on ICFS' abilities to assist families and protect children as families become reluctant to work cooperatively with ICFS to seek the services and assistance needed to ensure the needs of children are met.

21. I have spoken with our staff on many occasions about the upcoming Inquiry hearings. My staff have advised me of their concerns, which include:

- a. That members of the public will be less willing to report child abuse/neglect concerns due to the perception that Intertribal is not competent;
- b. That exiting families currently receiving voluntary services may refuse to work with ICFS and parents will become more resistant during apprehensions involving specific ICFS workers due to perceived connections with the death of Phoenix Sinclair, thus putting both workers and children at risk;



- c. That, if required to testify, publication of their names and faces will directly impact their abilities to maintain relationships with families receiving services and to develop relationship with families in need of services;
- d. A sense that ICFS will once again be blamed for the death of Phoenix Sinclair and that the Inquiry will be used to further criticize and blame the agency in general and its individual workers specifically;
- e. That historical prejudices against First Nations people will again be stirred up due to the anticipated heightened media exposure on the Inquiry; that ICFS, as a first nation CFS agency, and Fisher River, as a First Nations community, will be particularly targeted and portrayed as holding lower standards in terms of the respect and care given to their children;
- f. That members of the public will be misinformed about ICFS' involvement in this matter and/or will simply associate any ICFS worker testifying at the Inquiry with the death of Phoenix Sinclair;
- g. A sense of isolation and re-experiencing the feelings and stresses that arose when the death was first discovered in March, 2006.

- h. That their respective families, and more importantly, their children, will be stigmatized due to the (anticipated) media reports on the agency and specifically on the specific workers;
- i. A sense that their privacy, and that of their families, will be infringed upon.

22. I have read media reports on the Inquiry since the standing hearings in June, 2011, as has ICFS staff. Many media articles and comments from readers have made me very concerned for my staff's safety and wellbeing. In addition, the intensity of some media articles and readers responses, in particular with respect to the MGEU's motion for a publication ban and on the MGEU's application to state a case before the Court of Appeal, has made the decision to file this motion for a restriction on the publication of the names and physical appearances of ICFS workers testifying at the Inquiry, a difficult one, for fear of "reprisal" by the media and the public. I am advised by ICFS staff that the media articles heighten their concerns, as listed in paragraph 21, above. Each time a news article is published on the Inquiry, the stress level at the Main Office rises. Attached and marked as exhibit "B" are copies of various media articles and readers comments on the Inquiry.

23. Certain current and former ICFS workers were interviewed in Fisher River on February 28 and 29, 2012. In attendance at each interview was the witness (the current or former ICFS staff member), our agency counsel, and two commission counsel. The interviews were very informal and were not conducted under oath. I am advised by our counsel who was present at each interview that commission counsel was consistently courteous, did not pose questions in an accusatorial manner nor presented themselves in a hostile or aggressive manner. Despite the informal interview process, two of the interviewed persons were visibly shaken by the process. One was provided assistance home and the other required time off work.

24. ICFS has taken measures to assist and support its staff in dealing with the stresses surrounding the Inquiry. ICFS has held spiritual healing sessions and has recently received additional funding to put in place supports for both ICFS staff and the Fisher River community. I am concerned, however, that these supports will not mitigate the detrimental impacts of publishing the names and physical appearances of workers testifying at the Inquiry. The impact on the individual workers will be severe and there is a serious possibility that the ICFS relationships with the community and with parents will significantly be affected as a result.

### **The nature front line social work at ICFS**

25. ICFS operates relatively small offices. There are only four ICFS social workers at the Main Office in Fisher River. Furthermore, due to our small size, ICFS social workers perform multiple functions and are not restricted to specific departments. For example, ICFS social workers at the Main Office are all assigned the following duties:

- a. abuse investigations;
- b. child apprehensions;
- c. Assignment to family services files (families requiring assistance where the children are not apprehended);
- d. Assignment to child protection files (which include ongoing litigation files and both temporary and permanent wards);
- e. Investigations of referrals from community members.

26. As a result of the various duties of ICFS' social workers, there is an increased probability for parents and community members to have direct contact with any specific ICFS social worker.

27. ICFS social workers, like all other front line social workers, are subject to high levels of stress. This is an unfortunate part of the job as a social worker and cannot be completely avoided, given the very nature of social work and the consequences of each decision made by a social worker. Many of the families

involved in the CFS system have mental health issues, have themselves been victims of abuse, have gang associations and have histories of violence.

28. In the course of their duties, ICFS social workers are often subject to threats of violence against them and their families.

29. ICFS social workers have been physically assaulted while attending homes and meeting with families.

30. ICFS has often sought the assistance of law enforcement agencies when apprehending children or when meeting with families.

31. Apprehension of children is also a very stressful aspect of frontline social work; the decision to apprehend is a difficult one, knowing the immediate and incredibly emotional impact on both parent and child. Social workers often feel "drained" following an apprehension.

32. ICFS social workers have advised me that they are concerned of increased risk of violence if their names and physical appearances are published during the Inquiry. I have the same concerns. There is a significant risk that parents, during a child apprehension, will be hostile to the removal of their child by a social worker they associate with the death of Phoenix Sinclair.

### **Importance of relationships**

33. The building of relationships is important to almost every aspect of ICFS work.

This involves relationships with the community, foster parents, collaterals (other agencies, institutions that provide programming to families and parents, police authorities, health authorities and other government authorities), children in care, parents of children who have been apprehended, and families receiving services. The ability of ICFS to operate effectively and to meet its mandate is in large part determined by its ability to build relationships.

34. A relationship of trust must exist with the community. ICFS, like other CFS agencies, is generally provided information on children at risk from community members. This includes but certainly not limited to: teachers and school counselors, private citizens, and family members. Individuals who call ICFS with information on children potentially at risk are called "Sources of Referrals" ("SOR"). Without SOR's, CFS agencies would have limited knowledge of which children need protection. Information obtained from SOR's often lead to the apprehension of children. ICFS, like all other agencies, does not maintain a list of children residing in the communities it serves, nor does it conduct any form of random checks on families to ensure the needs of children are maintained. SOR's are essential to protecting children in Manitoba.

35. Foster placement is an essential component of the child and family services system. Children under apprehension or subject to an order of guardianship are generally placed with foster parents. Where possible, the foster parents are extended family members of the child in care. ICFS is often in search of community members willing and able to foster children. The Fisher River community is relatively small and there is a constant shortage of available foster parents. Strong relationships with the community are required to locate and retain suitable foster placements. In addition, it is essential to maintain positive relationships with foster parents to ensure that the needs of the children in care are met.

36. Strong relationships with collaterals is also important in providing the proper services to families and ensuring the protection of children. ICFS works cooperatively with enforcement authorities and with institutions providing programming to parents and to families. Without the cooperation of collaterals, ICFS could not effectively protect children or provide the necessary supports to parents.

37. In service to family files, where the child has not been apprehended, the relationship with the parents is central to assisting the family and providing the necessary services so to avoid the apprehension of the child. Such cases typically involve parents taking the initiative in seeking assistance from ICFS. A breakdown in trust between the parent and the agency would undermine each

parties' efforts to find the necessary solutions to the issue at hand. Furthermore, a lack in confidence in ICFS or in specific ICFS social workers would make it less likely for a parent to request assistance. This could put children at risk.

38. The most difficult area of relationship building is in child protection cases, where children are apprehended. The apprehension of children is generally the most personal and emotionally-charged interaction between ICFS and parents. Regardless of the parents' own circumstances, parents are, at a very minimum, unreceptive to the removal of their children by persons who are usually strangers to them and to their children.

39. Building relationships with parents in child protection cases is, however, essential to the successful delivery of services and the return of children to their parents. The return of children to the parents, where possible, is always the objective of a child protection file and ICFS workers make great efforts in working with parents to meet this goal.

40. The vast majority of child protection cases are settled with the consent of the parents; ICFS has not had to undergo a full child protection trial in over four years. In the vast majority of cases, this is the result of the relationships built by the workers with the parents and families of the children under apprehension. The typical child protection file is not approached from an adversarial perspective and great emphasis is placed on working together to achieve a common goal: the



protection and best interests of the child. Legal proceedings are normally settled at what is commonly known as "docket" court or at the pre-trial level. It is very common for ICFS to obtain temporary guardianship orders and to later return the child to the parents when the risks are no longer present.

41. Entering a full child protection trial, however, normally causes an almost irreparable rift between the parents (and often their extended families as well) and ICFS, as ICFS is required to introduce all relevant evidence in order fulfill its legal mandate and to ensure the child is protected. This involves introducing evidence that casts the parents in a very negative light. As can be expected, it is extremely difficult to build relationships with families and to seek their cooperation after such a trial. In the end, the child ultimately suffers from the breakdown in relationship between the parents and the agency; the parents are often unwilling to cooperate with the agency and thus the agency cannot return the child to a home where the risks are still present. Building and maintaining a relationship with parents is thus essential in assisting families, in restoring family unity, and in protecting children.

42. I am concerned that the relationships outlined in paragraphs 33-41, above will be undermined with the publication of the names and physical appearances of ICFS social workers testifying at the Inquiry. ICFS has already experienced hostility from members of the public as well as families receiving services due to a perceived belief that ICFS was responsible for the death of Phoenix Sinclair. There is a significant possibility that families, community members, and collaterals will be reluctant to contact or work with ICFS workers whom they assume are responsible for Phoenix Sinclair's death. This would result in a decreased capacity of ICFS to properly serve families and obtain vital information on children at risk. This would ultimately place children and families at risk.

### **Privacy and confidentiality**


43. Privacy and confidentiality are at the heart of the child and family services system. The importance of maintaining confidentiality is essential to building relationships with families, foster parents, and collaterals, and in ultimately ensuring that the best interests of the children are met.
44. Social workers are hired with the understanding that privacy and confidentiality are mandatory components of the work they do. New workers also understand that court proceedings are not open to the public and that their names as well as those of the families involved cannot be published by the media. From my own experience and from discussions with ICFS social workers, ensuring privacy is an important factor in attracting and retaining social workers. ICFS social workers are reluctant to having their names and the work that they do (and the families they deal with) published. From my discussions with ICFS social workers, I believe that ICFS would have difficulty hiring new staff if there were a possibility that their names could be published due to their employment in the CFS system. The stressful nature of front line social work would be compounded with the fear that one day their name could be published in the media.
45. ICFS is currently experiencing great difficulty attracting and retaining qualified workers. The time it is currently taking to fill vacant positions is much longer than it has ever been in the past. Typically a position would take a month to fill. It is now over three months since ICFS has been seeking to fill a vacant position. I am

concerned that the agency's involvement in the Inquiry is detrimentally impacting ICFS' attractiveness to social workers as an employer. This has never been the case in the past.

46. Privacy is also a key component in building relationships with families. Families receiving services or involved in child protection files generally wish to avoid attention; the privacy of workers aids in maintaining this objective. Attention to workers indirectly draws attention to families receiving services.

47. I make this affidavit bona fide.

Affirmed before me at the City of  
Winnipeg, in the Province of Manitoba  
this 3<sup>rd</sup> day of April, 2012.

  
A Notary Public in and for  
The Province of Manitoba

  
**SHIRLEY COCHRANE**

SA01540

This is Exhibit A referred  
to in the Affidavit of  
Shirley Cochrane  
affirmed before me this 3rd  
day of April A.D. 20 12



A NOTARY PUBLIC  
IN AND FOR THE PROVINCE OF MANITOBA

# Nobody missed slain child

*Search begins for girl, 5,  
allegedly killed last June*

By Mike McIntyre  
and Leah Janzen

**F**ISHER RIVER — A five-year-old girl who was in custody of child-welfare officials for most of her life was killed nine months before she was missed, police say.

Phoenix Victoria Sinclair was abused, confined, deprived of care and eventually murdered and disposed of last June, court documents allege.

Her body has not been recovered. A search is expected to begin as early as today on this reserve, located 220 kilometres north of Winnipeg.

The child's mother and her boyfriend have been charged and are in jail in Winnipeg.

"I don't have a clue why it took so long to discover this. Why didn't family members report this earlier or start

asking questions earlier?" Fisher River resident Lloyd Cochrane said last night.

Over the weekend, members of the Fisher River community incorrectly indicated to the media they believed Phoenix was killed within the last week and her body was found in the area.

Phoenix was in and out of the care of child-welfare agencies since the day she was born.

## Agency

But little is known about what happened to her and her family after her case was transferred to a native-run agency during the devolution of the child and family services system in 2003.

The province reorganized the system so children in care and their families would have more culturally appropriate services.

*Continued*

Please see **CHILD A5**

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## Child

Continued from page A1

The concept was that native-run agencies would use more community supports such as extended, family and counselling services, and fewer children would be removed from their homes.

As a result, three aboriginal child and family services organizations assumed responsibility for cases involving aboriginal and Métis people.

Phoenix's file was transferred to a native-run agency in late 2003. There is no indication of any interaction between the child, the family and agency workers on her file from that point on. It's not clear which native agency the child was referred to.

Crown attorney Janice Lemaistre told the *Free Press* yesterday police first interviewed the girl's mother, Samantha Dawn Kematch, 24, after receiving "certain information" about Phoenix last week.

That interview led police to Kematch's boyfriend, Carl Wesley McKay, 43, who has now been charged with second-degree murder. Court documents indicate the killing happened June 11, 2005.

Kematch was also arrested, and has been charged with assault with a weapon, aggravated assault, forcible confinement and failing to provide the necessities of life. Court documents indicate a broom handle was used as a weapon against Phoenix.

McKay and Kematch moved out of their Fisher River home last November. Police spent more than 48 hours combing through it for evidence last week.

"They told us we had to get out of here, and they would let us know when we could return," said Calvin Murdock, who moved into the home with his fiancée several months ago.

There were numerous holes in the wall



Calvin Murdock, current resident of the accused's home in Fisher River, looks at chemical residue left from RCMP investigation.

of the home when they took possession but Murdock said he never thought much of it.

Police cut a hole in Murdock's kitchen wall, and also covered his basement floor with a bluish chemical, which still remained as of last night.

Police also seized several items of clothing that McKay and Kematch had left behind. Evidence markers remained stuck to the basement floor.

Tory family services critic Mavis Taillieu said she worries confusion and disorganization around the time of the CFS devolution caused incomplete and inaccurate information to follow children from one agency to another.

"In some cases, we know the information didn't go at all," she said. "This has resulted in kids being put at risk."

Taillieu said she wonders how a child like Phoenix could be involved on a regular basis with Winnipeg CFS and then

drop off the radar completely once her case was transferred to the new agency.

"With a history like that, you'd think they would have been checking up on her," she said.

Last May, Winnipeg CFS transferred some 2,600 cases to the aboriginal agencies. Another 2,600 or so were expected to remain with WCFS.

In total, there are more than 5,500 children in care in Manitoba. Seventy per cent are of aboriginal ancestry.

Jay Rodgers, director of the province's child protection branch, said he cannot comment on the specifics of Phoenix's case. But he said there are provincial standards regarding reporting regulations and contact between workers and those in their care.

According to information in her file, Phoenix was born in Winnipeg in February, 2000. She was apprehended by Winnipeg CFS at birth and remained in care

until September, 2000, when she was reunited with her father, Steve Sinclair, and her mother, Kematch. In April, 2001, Kematch had another baby girl, Echo, who died three months later as a result of pneumonia.

While there is no record of Phoenix being apprehended again at this time, Kim Edwards — a friend of Sinclair's — took in Phoenix.

Edwards said she cared for Phoenix on and off from that point until the child was three, when she went back to live with Sinclair.

In February, 2003, Phoenix was treated at a Winnipeg hospital for an infection, at which point Winnipeg CFS reopened a file on the child and in June she was again apprehended from her parents' care.

Phoenix returned to Edwards' home, but was removed by CFS within a couple of months after the child's parents signed an Authority Determination Plan. The ADP was a document that indicated the parents' wish that Phoenix's file should be transferred from Winnipeg CFS to a new, native-run agency.

Phoenix — who was living with Sinclair — continued to visit occasionally with Edwards until one day when Kematch arrived at Edwards' ex-husband's home and asked to take Phoenix for a short visit. The woman never returned the child.

David Crate, chief of the Fisher River Cree Nation, said yesterday Carl Wesley McKay was living on the reserve last summer at the time of the alleged murder.

Yesterday, Edwards said she was shocked to hear that Phoenix's body has yet to be found.

"How can it be that she's been gone this long and no one has known?" she asked. "This is just unbelievable."

Mike McIntyre / freepress.inb.ca

**Winnipeg Free Press - PRINT EDITION**

# Woman accused of killing boy released on bail

By: **Staff Writer**

Posted: 12/8/2007 3:55 AM | Comments: 0 (including replies)g

A Winnipeg woman accused of abusing and killing a two-year-old boy under her care was released on bail Friday after spending more than four months behind bars.

Shirley Guimond, 52, was arrested in late July after the victim, Gage Guimond, died in hospital. She was charged with manslaughter.

The Crown was opposed to her release, which includes a curfew, order to abstain from alcohol and not being alone with any children.

A court-ordered ban prevents specific details of the hearing from being published.

Guimond had already been denied bail in provincial court earlier this fall but appealed that decision to Queen's Bench Justice Nathan Nurgitz, who agreed to release her.

Gage Guimond's name and face have become a symbol for children failed by Manitoba's Child and Family Services division since details of his death were made public.

Gage was given up by his 15-year-old birth mother and had been removed from what was described as a healthy, happy Selkirk-area foster family in March in order to be reunited with blood relatives.

Shirley Guimond was Gage's great-aunt and had been appointed by CFS as his caregiver for approximately six weeks.

A 911 dispatch call in late July reported the boy had fallen down a flight of stairs in her dilapidated Magnus Avenue rental home.

Gage was taken to hospital where he died two days later. An autopsy also showed the little boy had suffered ongoing physical abuse before his death.

Police described his injuries as too "upsetting" to even describe.

Several other family members, including an aunt, Christine Beardy, have lashed out at Child and Family Services authorities over Gage's death, which has sparked several provincial reviews.

Sagkeeng CFS has approximately 20 workers overseeing about 200 children. The same authority also oversees Intertribal Child and Family Services, the body once responsible for the care of Phoenix Sinclair, a five-year-old girl found dead by RCMP in April 2006 at Fisher River Cree Nation.

RCMP investigators believe Sinclair was abused and slain three months after her CFS file was closed, and her mother and mother's boyfriend currently face first-degree murder charges for her death.

**Find this article at:**

<http://www.winnipegfreepress.com/historic/32624394.html>



Check the box to include the list of links referenced in the article.



**Winnipeg Free Press - ONLINE EDITION**

# Father, caregiver granted standing at Phoenix Sinclair inquiry

By: Mary Agnes Welch

Posted: 06/29/2011 1:48 PM | Comments: 0 (including replies)g

Phoenix Sinclair's father and her caregiver have both been granted standing at the inquiry into the child's death.

Inquiry commissioner Ted Hughes announced this afternoon which of the 17 agencies and people will be granted the right to participate fully in the inquiry.

**RELATED ITEMS****ARTICLES****Keep inquiry public**

Kim Edwards, who looked after Phoenix for long periods before she died at the hands of her mother and stepfather, was granted standing, as was Phoenix's biological father, Steve Sinclair.

Also granted standing was the province's family services department, the Manitoba Government and General Employees' Union that represent 38 workers who dealt with

Phoenix's case and Intertribal Child and Family Services, which was involved with Phoenix's family when she died.

Standing allows lawyers to question witnesses, present evidence and request funding assistance to participate in the inquiry.

Four child welfare agencies and authorities were also granted standing, as a group, to expedite the process.

The inquiry was called by the NDP government to examine the circumstances that led to the June 2005 death of five-year-old Phoenix, following a period of abuse that included prolonged beatings. Her death went unnoticed by authorities until March 2006.

**Find this article at:**

<http://www.winnipegfreepress.com/local/breakingnews/Father-caregiver-granted-standing-at-Phoenix-Sinclair-inquiry-124725249.html>

☐ Check the box to include the list of links referenced in the article.

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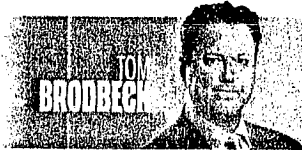
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WITH MICHAEL COHEN  
8 PM

# GOWARDS

Union's attempt to hide identities of social workers at inquiry into tot's death shameful: Brodbeck >> PAGE 5

This is Exhibit B referred  
to in the Affidavit of  
Shirley Cochrane  
affirmed before me this 3rd  
day of April A.D. 2012.

A NOTARY PUBLIC  
IN AND FOR THE PROVINCE OF MANITOBA



# UNION JUST SHAMEFUL

## MGEU wants names of social workers protected during inquiry into Phoenix Sinclair's death

The Manitoba Government and General Employees' Union doesn't want the public to get the whole truth and nothing but the truth from the upcoming commission of inquiry into the tragic death of toddler Phoenix Sinclair.

The MGEU is calling for a publication ban on the names of any social workers who testify at the inquiry, including a ban on any pictures or video of them in the news media or in social media.

The inquiry hasn't even started yet and already one of Manitoba's biggest unions wants this thing to be a white-wash.

In a letter sent out to media outlets this week, lawyer Garth Smorang — acting on behalf of the MGEU — says he will be asking commissioner Ted Hughes for the ban at the next hearing Sept. 19.

### Special treatment

Apparently the MGEU doesn't believe its members should be held accountable in any way shape or form for this avoidable death.

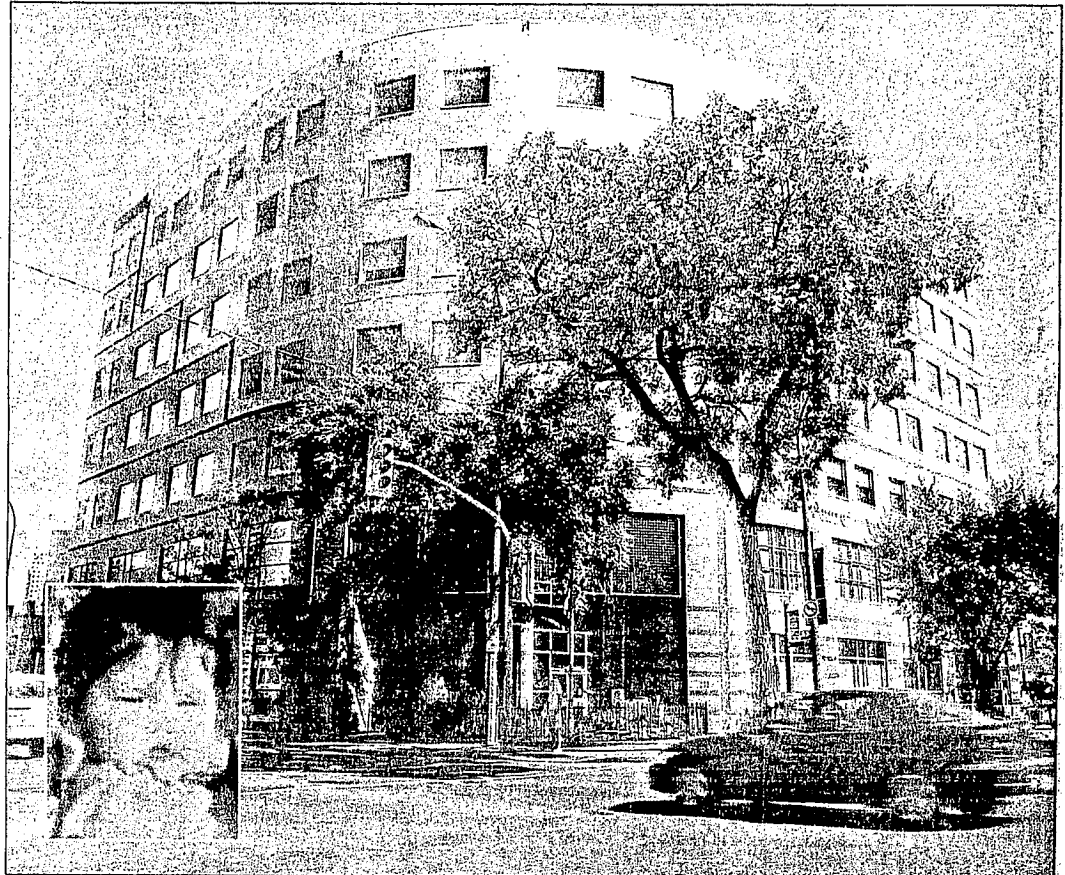
Instead, they want their members to be protected and given some type of special treatment.

That's a laugh. I don't recall anybody at the Taman inquiry into the death of Crystal Taman getting that kind of immunity. None of the cops, lawyers, bar staff or other witnesses got that type of protection.

None of the players in the Tory vote-rigging scandal inquiry in 1998 had their names protected, either. Every politician, political staff, accountant and party member who testified had their names in the paper and on TV. Why should this be any different?

Phoenix Sinclair died in 2005 after months of physical abuse at the hands of her deranged mother Samantha Kematch and her common-law husband — freak No. 2 — Karl McKay. Both were sentenced to life in prison with no eligibility for parole for 25 years.

Sinclair was routinely beaten, abused, choked and shot at with a BB gun. The five-year-old was forced to eat her ppy, vpmjt.



CHRIS PROCAVLO/WINNIPEG SUN

The MGEU (offices pictured above) thinks its members should be immune from accountability in the avoidable death of Phoenix Sinclair (inset).

Yeah, freaks.

The inquiry was called four years ago but couldn't begin until the criminal prosecution portion of the case was concluded. However, the Selinger government has unnecessarily delayed it by several additional months, no doubt to avoid having the inquiry in full swing during the fall election.

It's expected the inquiry will expose massive holes and incompetence within

the child and family services system, something that will surely cause great political embarrassment and harm to the current government.

### Judgment day

And it will likely cause harm and embarrassment to those working in the system who failed to ensure Sinclair was in safe hands, despite obvious signs she was not.

But that doesn't mean they should have their identities

protected.

It's judgment day, people. And everyone who works in the system should have to account for their actions. If you screwed up, you should have to face the music, just like everybody else. After all, a little girl was tortured and killed here.

Besides, if you did nothing wrong as an MGEU social worker, you should have nothing to worry about. Get up on the stand, give your testi-

mony, answer the questions in cross-examination and go home. Why would you want your name protected if you didn't do anything wrong?

In order to get to the bottom of this unthinkable, gruesome crime, everything must be on the table. No stone should be left unturned. And nobody should get the kind of immunity the MGEU is demanding for its members.

Shame on you, MGEU, for even asking.

tom.brodbeck@sunmedia.ca  
@tombrodbeck  
blogs.canoe.ca/raisinghell



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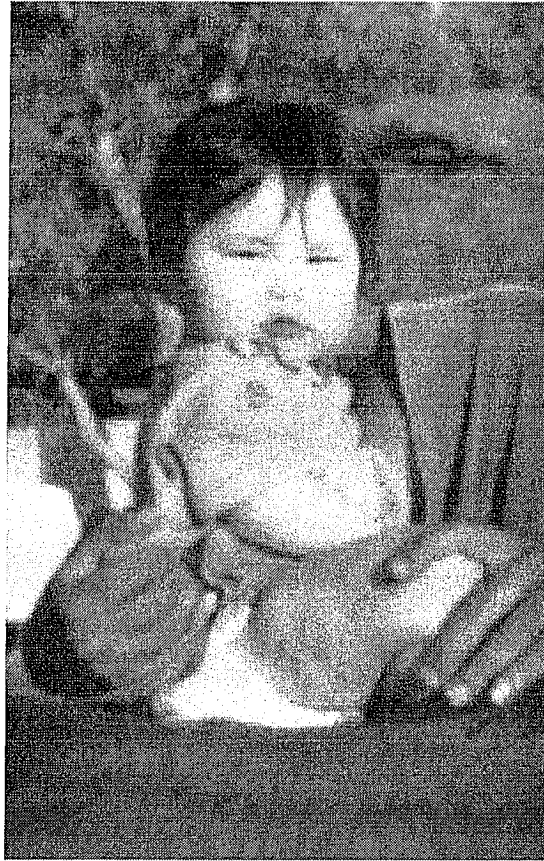
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# Phoenix Sinclair inquiry still months away

BY DEAN PRITCHARD ,WINNIPEG SUN

FIRST POSTED: WEDNESDAY, JUNE 29, 2011 05:57 PM CDT

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**An inquiry into the death of five-year-old Phoenix Sinclair is unlikely to begin hearing witnesses before November 2011. Samantha Kematch and Karl McKay were convicted of first-degree murder for Phoenix's death in 2008 and sentenced to life in prison. Phoenix was a ward of CFS for much of her short life until Kematch, her biological mother, took custody of the girl less than a year before her death on Fisher River First Nation in June 2005. (File photo)**

An inquiry into the death of five-year-old Phoenix Sinclair is unlikely to begin hearing witnesses before November.

Commission counsel Sherri Walsh told a standing hearing Wednesday it will take until mid-September to review the many confidential documents in the case, after which she will seek a court order allowing for their disclosure at the inquiry.

Walsh advised inquiry commissioner Ted Hughes to secure an extension for delivering his final report to the province. The report is currently due March 30, 2012.

Hughes said he had hoped to commence the inquiry sooner.

"It's the best we can do," he said. "I'd like to do better, but I don't see it."

Phoenix Sinclair died on Fisher River First Nation in June 2005 following months of abuse at the hands of her mother Samantha Kematch and common-law husband Karl McKay. Phoenix was a ward of Child and Family Services for most of her life. Her death went undiscovered for months.

Kim Edwards, who cared for Phoenix for extended periods of time, and Steve Sinclair, the girl's biological father, were both granted standing at the inquiry.

"This inquiry is about Phoenix Sinclair," Hughes said. "Kim Edwards, as her intermittent caregiver ... will be able to tell us about the little girl she was."

Hughes also granted standing to the Department of Family Services and Consumer Affairs, the Manitoba Government Employees Union and Intertribal Child and Family Services.

He granted group standing to the Child and Family All Nation Co-ordinated Response Network, First Nations of Northern Manitoba Child and Family Services Authority, and the General Child and Family Services Authority.

"The interests of these parties are not divergent in any significant way," Hughes said.

Parties granted standing can question inquiry witnesses and request funding for legal counsel.

Walsh told the hearing she will co-ordinate the processing of funding requests and forward them to the province on July 15.

The inquiry will reconvene Sept. 19, when Hughes will hear a MGEU motion to ban the media from identifying members testifying at the inquiry.

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**Allan Roulette Twin Thunderbir**

Hello my name is Allan Roulette Twin Thunderbird ! To me I would rather SEE the couple go to jail FULL TERM, For what they deprived this Baby in life, and would rather see them suffer for what they did to this GOD Given Child! I Feel no pity or remorse for these type's of people if they deserve to be called people or human, SHOW NO MERCY to Them is what I say< And I know alot of people out in the world would agree!!!!

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**C Alan Nault**

Is anyone surprised the inquiry is still months away?

Afr all, we can't have any disturbing findings coming out when there's a provincial election on the horizon, can we? People might get the wrong idea and think the provincial government should shoulder some of the responsibility for this tragedy!

I think I'm psychic...when the inquiry is wrapped up, I foresee a report reccomending changes ( which will not be implemented ), and the conclusion will be that no individuals are to blame here, poor Phoenix Sinclair just slipped through the cracks in the system.

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**Laura Smith**

Man.....CFS better swing for this one.....

There is no way around it, CFS and the workers involved are COMPLETELY responsible for this child's death. They - CFS.- put that poor sweet child back into that home!

They can sugar coat it all they want and try and pass the blame; ultimately CFS had the final decision and the decision of CFS and ALL their staff involved are responsible for killing this poor innocent child in such ways too horrific and cruel to imagine.

Sadly, this is not the first child nor will she be the last where the CFS we have now is making horrible and tragic decisions.

Get rid of those who are not educated or qualified to be in those positions and bring back the ones who are!

For the sake of the children. We need to be their voice.

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• **littlebirdy2500**

It is so sad to see what has happened to this little girl, but what is even sadder is that it happened in 2005, and they are just to an inquiry now in 2011. Sickening our System can't even protect a little girl, but they will let criminals out of prison, just to break the law AGAIN. Our Justice System STINKS.

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• **Cindy Sewap**

this make me sick to my stomach, Poor little angel had to fend for herself while her CFS worker and supervisor forgot about her... NOW THATS SAD.....



# MGEU won't appeal Sinclair inquiry decision

WINNIPEG SUN

FIRST POSTED: FRIDAY, MARCH 02, 2012 10:29 AM CST | UPDATED: FRIDAY, MARCH 02, 2012 11:05 AM CST



The MGEU won't appeal after its bid to downgrade the Phoenix Sinclair inquiry to an inquest was shot down by a judge last week.

In a letter released Friday, the Manitoba Government and General Employees' Union wrote that it believes the scope of the inquiry is too wide, but it sees no point in appealing the decision.

"The government has made it clear to us that even if we appealed and won, they will do everything in their power, including changing legislation, to pursue the Inquiry as is," the union wrote. "A media spectacle will not help us better understand how this tragedy happened or help us more effectively prevent such tragedies in the future."

The union indicated that it will continue to seek to keep individual social workers' names out of the public inquiry.

Phoenix Sinclair's mother and her boyfriend were convicted of first-degree murder for the toddler's death in 2008. She was a ward of Child and Family Services for much of her short life.

## THE FULL LETTER

THE MGEU HAS DECIDED NOT TO APPEAL Justice Freedman's ruling regarding the legality of the Phoenix Sinclair Inquiry. While we remain convinced that Cabinet did not have a legal basis to call a public inquiry with a scope as wide as it did, the government has made it clear to us that even if we appealed and won, they will do everything in their power, including changing legislation, to pursue the Inquiry as is.

When our lawyers filed the challenge last month, we knew the media's response would be fierce — for in this instance, media outlets are not unbiased third parties. They have hired lawyers to go in front of the Commissioner on May 10, 2012 and argue their right to publish the names and faces of everyone involved with the inquiry, as well as all evidence and testimony.

Our lawyers will also be there on May 10, arguing that such a position cannot lead us to the truth Manitobans seek. A media spectacle will not help us better understand how this tragedy happened or help us more effectively prevent such tragedies in the future. As we've said from the beginning, "going public" is not the solution.

Those of you who've been called to testify in the Inquiry are well aware of how this position can be perceived — that you have something to hide, or at least look like you do. But there is too much at stake to worry about perceptions. Opening up for public consumption every case file, every name, every confidence, every detail —

and yes, every mistake – will not make our children safe. In fact, it's probably the reverse.

In your jobs as child welfare social workers you regularly make complex judgment calls. You are expected to both protect children and support families while asking yourselves on any given day: would these parents who are barely adequate do better if supports were in place? Or are they failing to the point where the children must be removed? You must assess everything from neglect, emotional deprivation, and psychological as well as physical abuse. And without a doubt, because you are human, sometimes mistakes are made.

So how to keep these mistakes to a minimum? How can the “system” improve to prevent another child from suffering the horrific fate of five-year-old Phoenix Sinclair? Well, in the fields of medicine and aviation, it's long been recognized that simply increasing accountability measures does little in preventing human error on the job. If anything, it can make things worse. Social worker Evelyn Wotherspoon, in her Op-Ed for the Calgary Herald, “Fearful Social Workers Can Not Save our Children,” explained it best: “Instead of fewer mistakes, the result is demoralized, secretive employees who flee from challenging situations, avoid decisions and withdraw from responsibilities... Instead of quick, decisive action from competent professionals, you get nervous employees who blindly follow procedures... People shy away from very high risk cases because the prospect of being blamed in the event of a tragedy (fairly or unfairly) can destroy careers. Everyone feels vulnerable because most of us recognize that hindsight has a way of bringing things into sharp focus that were not nearly so clear cut beforehand.”

In other words, those who work in child welfare, as in the medical and aviation fields, must feel free to reflect on why they took this or that particular course of action without fear of public humiliation. It's the only way such professions have found to dramatically reduce the likelihood of making the same mistakes in the future.

Confidentiality is a key tenant of our child welfare system. It allows for a foundation of trust between a worker and a client, who is most often revealing highly private and sensitive information. And when the system fails in its mission to protect a child, two Acts of legislation – the Child and Family Services Act and the Fatalities Act – are in place to help those systemically responsible understand how and why such a tragedy occurred. We now know that four investigations have been completed into how and why the system failed to protect Phoenix, three of them conducted by independent investigators, including the Children's Advocate and the Ombudsman. All four investigations yielded similar findings and nearly 300 recommendations have been made. Phase 2 of the inquiry is intended to deal with if and how such recommendations have been implemented, while Phase 3 to assess what other improvements are required. But Phase 1 will largely be a public airing of what's already been said.

As we move ahead in the coming weeks, we will argue vehemently on your behalf that such public duplication is counter-productive for all involved. And we'll stand firm in our position that the public nature of the Inquiry will not prevent another tragedy.

We will pursue every legal avenue to protect the tenants of confidentiality – for in the case of child welfare, the public's right to know is superseded by our children's right to the best possible protection.

Sincerely,

Janet Kehler, MGEU Staff Representative

Jan Henley, 4th Vice President

Lois Wales, MGEU President

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**Butitstrue**

Useless A\$\$ HOLES. They don't give a \$hit about a little chill's life. Its all about money!!

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**thunderleg2**

Welcome to Government.

It's like this in every department.

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**Jim**

What job do you do that is so important?? Obviously you allowed to go on your computer at work and waste company's time.

Butitstrue,

I would love for you to talk to me like in person. I want no more than people to be safe. But this is about how to handle a situation the proper way. Dragging people through the mud and leaving them to be lynched in not going to bring this poor girl back. Want to blame anything?, maybe start by looking into how the system is

ran. Maybe do some research and see how over worked these workers are. You become a social worker because you care about the well being of other people, not for the money.

(Edited by author 2 weeks ago)

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• **Butitstrue**

If you support them trying to fight to have the people that put this child in harms way then death held responsible, then you are a scum bag too. If you don't know what your talking about then shut your ignorant mouth. Maybe someone needs to shut it for you. Have some respect for a murdered child. Your obviously a scumbag benefiting from union members payments. BTW Im successfully self employed, not like its your business you looser.

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• **sonny204**

looks who's talking. Btw, I'm home and done work so I can comment on my free time.

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• **Tracey Pruden-Moerland**

All they r interested in is protecting themselves,my parents had just under 100 children go through their home over the years of fostering and I can tell u,the social workers (most of them) are only interested in collecting a pay check,if they were doing there jobs this would never happened.Now that it has they want to hide and be saved,they should be named and have to stand in front of all and admit they were not doing there jobs,be held responsible for that,they the workers in this case should not b allowed to continue in this line of work it is obvious they do not have the skills to work in this field.

These people need to be held accountable for their actions (or lack of) that are harming children right now just because it's the easiest route and gets them to Friday.

This death could have been prevented by a simple home visit to ensure the child was okay but I guess it was Friday already and didn't get worried about ... it is incredibly sad that this behaviour continues to this day.

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• **bored\_stiff**

Janet, Jan, Lois...save your propaganda for people who will actually believe your bs. Your not appealing because you know you will lose. You three are nothing but scummy bitches.

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• **teddy2**

It should been looked at already! Criminal charges!!!!!!

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• **thevoiceofraisin**

whoever was the case worker that took that poor kid back should be shot.

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• **sherlock12**

Will the MGEU inform it's members how much money dumb this idea of cancelling the inquiry, has cost the union?  
Bet not! Who runs the union? Not the members, they are just sheep following management's orders and they pay them to!

# Hey MGEU, get the hint already

BY TOM BRODBECK, WINNIPEG SUN

FIRST POSTED: MONDAY, FEBRUARY 20, 2012 06:24 PM CST | UPDATED: MONDAY, FEBRUARY 20, 2012 06:44 PM CST



## Phoenix Sinclair (Sun Media files)

Not only did the union bosses at the Manitoba Government Employees and General Employees' Union try to whitewash an inquiry into the death of a little girl.

They're now trying to argue that commissions of inquiry are nothing but "trials by media" that vilify those involved.

Good grief. These guys just don't know when to stop.

The MGEU has been doing back-flips trying to protect their members from being held accountable for the circumstances that led to death of toddler Phoenix Sinclair.

First they tried — and failed — to get commissioner Ted Hughes, who's heading the inquiry into Sinclair's death, to make an application to the Court of Appeal to see whether he has jurisdiction to hold an inquiry.

Hughes, a retired judge, politely told them to shove it where the sun doesn't shine.

The MGEU then made an application themselves to Manitoba's highest court, trying to argue that the province has no jurisdiction to call an inquiry into Sinclair's death.

It was not only a ludicrous argument from a legal perspective, but it was also a shameless attempt to protect their members at the expense of trying to prevent a future, similar death.

The Court of Appeal also politely told the MGEU to stuff it. Essentially, the MGEU has no case, the appeal court found. Not even close, actually.

It was a laughable court application in the first place. And I'm sure dues-paying MGEU members will be happy to hear that court has ordered the union pay the attorney general's court costs.

That's what happens when you bring frivolous applications to court.

But the MGEU isn't done yet. They posted an article on their website not only defending their actions but accusing the Hughes' inquiry of being a "trial by media."

"We believe that 'trial by media' of social workers will not make our children safe; in fact, it's probably the reverse," the MGEU writes.

Trial by media? So every court case where journalists are present is a "trial by media?"

Disgusting.

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• **BrownBeans**

Luke 12:2 There is nothing concealed that will not be disclosed, or hidden that will not be made known.

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• **Dave Johnson**

Shame on them for protecting these people that can't even protect innocent children. Shame on the social workers who are hiding behind them. Can't even face the music (COWARDS) is what they are. If they truly did their jobs nothing like this would ever happen.

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• **oz8**

Appears to me that the writer of this column has some issues with unions. The level of journalism is lacking as it is just shy of a name calling playground spat. Just as he calls for the reason why a union should not serve the intended purpose of supporting its members, I question why he wastes his time writing to lynch those who work in a difficult area that make as good attempts as are possible to keep kids safe. It wasn't them who harmed the child, they are not the criminals, they don't hold a crystalball to know what child will become a victim of their own family.

Don't condemn those in the helping professions Brodbeck. I know it is easy to do, and thats why you feel the need to do it.

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• **Dwight Flamand**

# MGEU's Sinclair appeal tossed out

BY JAMES TURNER ,WINNIPEG SUN

FIRST POSTED: THURSDAY, FEBRUARY 16, 2012 02:21 PM CST | UPDATED: THURSDAY, FEBRUARY 16, 2012 08:03 PM CST



## Phoenix Sinclair (Sun Media files)

The Manitoba Government and Employees Union has lost a high-profile court fight that could have derailed an already-underway public inquiry into the death of Phoenix Sinclair.

Justice Martin Freedman of the Manitoba Court of Appeal has declined to entertain MGEU's bid to force Ted Hughes to prove he has jurisdiction to act as commissioner to the public inquiry into the little girl's death. He released a lengthy decision outlining his reasons Thursday.

Through its lawyers, MGEU had recently asked Hughes to prove in writing "by way of a stated case" that he has jurisdiction to hear the inquiry.

In a letter responding to the union's lawyers, Hughes refused.

The refusal prompted the MGEU to go to the appeals court and ask it for a ruling on the matter.

A win for the MGEU in court might have seen the probe reduced to an inquest — far less extensive than an inquiry in its reach.

But it's clear the MGEU's arguments in front of Freedman last week fell flat.

"I have concluded that the (MGEU) has not met the applicable standard," Freedman wrote in his decision.

"I conclude that the stated case that (MGEU) requests be decided by the Court of Appeal does not raise an arguable case and has no reasonable prospect of success."

The Government of Manitoba was forced to intervene last week to defend the legality of its Order in Council that establishes the inquiry into Sinclair's death.

The order asks Hughes to delve into the services Phoenix Sinclair did or didn't receive from Child and Family Services, other circumstances directly related to her death and why it went undiscovered for months.

The toddler's mother and her boyfriend were convicted of first-degree murder for Sinclair's death in 2008. She was a ward of Child and Family Services for much of her short life.

The province argued there were specific answers it was seeking through the full-blown public inquiry that wouldn't necessarily be garnered through a judicial inquest.

Freedman agreed, saying Hughes' mandate asks questions that remain unanswered.



"Much, if not most, of what (Hughes) is mandated to ascertain has not yet been ascertained, and could not be imposed on an inquest judge," he said.

He ordered that the MGEU pay the Attorney General's court costs.

Justice Minister Andrew Swan said Thursday he was "pleased" by the court's ruling. "We want the inquiry to proceed, we know Manitobans want the inquiry to proceed," he said. He cautioned the MGEU's court action may have triggered a "short delay" for the inquiry, which is slated to begin public hearings on May 23.

Swan declined to comment on the condemnation by many in the public of the MGEU's legal manoeuvre.

"We think it's important things are moving forward," he said.

[james.turner@sunmedia.ca](mailto:james.turner@sunmedia.ca)

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## Jason Ricard

Down with MGEU!!! Down with MGEU!!! Down with MGEU!!! Down with MGEU!!! Down with MGEU!!!

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• **drake2011**

the parents torture and kill the child now its the governments fault?

lol

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• **Butitstrue**

IT WAS A GOVERNMENT RUN DEPARTMENT THAT FAILED TO PROTECT THIS CHILD!!!! IT WAS UTTERLY DISGUSTING HOW SHE WAS TREATED BY THE FOSTER PARENTS AS WELL AS THE GOVERNMENT WORKERS THAT WERE SUPPOSED TO MAKE SURE SHE WAS IN GOOD HANDS. FU@%#N RIGHTS ITS THE GOVERNMENTS FAULT!!!! THE WORKERS THAT ARE PROTECTED BY THE UNION THAT WERE ASSIGNED TO HER SHOULD ALSO DO JAIL TIME. CHILDREN EXPECIALLY IN THOSE SITUATIONS NEED TO BE PROTECTED. IF YOU WANT TO STAND UP FOR THEM IN ANY WAY THEN YOU ARE A SICK FU@%. MAYBE LOOK AT THE WHOLE STORY BEFORE COMMENTING ON THE LITTLE FACTS THAT YOU THINK YOU DO HAVE!!!!

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• **Steve Davidson**

And sadly, probably a lot more children out there at risk because of so many incompetent gov. employees. Probably the only saving grace if there could even remotely be one? The part where the child was so young and didn't fully comprehend how abused she actually was. Evil F\*CKING EVIL caregivers and the workers who failed the child!

# Bid to dismiss Phoenix Sinclair inquiry 'completely frivolous'

BY JAMES TURNER, WINNIPEG SUN

FIRST POSTED: THURSDAY, FEBRUARY 09, 2012 02:25 PM CST | UPDATED: THURSDAY, FEBRUARY 09, 2012 05:02 PM CST



## Phoenix Sinclair (Sun Media files)

If the Manitoba government has questions about Phoenix Sinclair's death, it has the power to ask them and appoint a public inquiry to get to the bottom of things.

That's the position of the Attorney General's office, who spoke out in the Manitoba Court of Appeal Thursday against a bid by the Manitoba Government and Employees Union to dismiss the commissioner of an already-underway public inquiry into the little girl's 2005 death.

Lawyers for the MGEU — whose members include Child and Family Services workers — appeared before the court to argue Ted Hughes doesn't have jurisdiction to hear the inquiry.

Heather Leonoff, a constitutional lawyer for Manitoba Justice, called the MGEU's request for a court ruling on the issue "completely frivolous" and asked Justice Martin Freedman to dismiss its bid outright.

"It runs the risk of derailing something that is in the public interest," Leonoff said.

She argued the government's Order in Council establishing the inquiry into Sinclair's death is valid and within the power of the province to do.

The order asks Hughes to delve into the services Phoenix Sinclair did or didn't receive from Child and Family Services, other circumstances directly related to her death and why it went undiscovered for months.

The toddler's mother and her boyfriend were convicted of first-degree murder for Sinclair's death in 2008. She was a ward of Child and Family Services for much of her short life.

The MGEU, through its legal counsel, asked Hughes last week in a letter to prove in writing "by way of a stated case" to the Manitoba Court of Appeal that he has jurisdiction to hear the inquiry.

In a letter responding to the union's lawyers, Hughes refused.

And that prompted the MGEU to go to the appeals court to ask it to rule on the matter. A win for the MGEU in court could ultimately see the probe reduced to an inquest — far less extensive than an inquiry in its reach.

Leonoff asserted the government would have asked for an inquest if that's what it wanted, but it wasn't guaranteed they'd get the answers it wants.

"If they wanted an inquest, they would have ordered an inquest ... that's what we call executive discretion," she told court

MGEU lawyer John Harvie suggested existing provincial law doesn't set out what a public inquiry actually is.

Judicial inquests held into six child-death matters since 2003 shows it's the correct procedure to be used in such cases, he argued.

Inquiry counsel Sherri Walsh told court it is within Hughes' power to refuse to state a case as the MGEU has asked him to do. She otherwise deferred to the government's lawyer, saying the MGEU's issues aren't with the commissioner himself, but with the Order in Council.

"He does feel that it is in the public interest to proceed," she said.

After court, Walsh admitted being frustrated by the MGEU's legal action.

"It's certainly caused a delay," Walsh said after court. Pre-hearing interviews with 59 witnesses were put on hold in February, she said.

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thevoiceofraisin

several so-called social workers should be raked over the coals and maybe even do time for this and many other cases. the only consideration these people had was to return this poor kid to her piece of garbage mother. disband all aboriginal agencies until they can convince the courts that their purpose is to protect the child first and foremost. they've certainly proven their incompetence many times over.

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bb12winnipeg

MGEU has lost all credibility with this move in the courts. The public has every right to know the details of this screw up. If the screw up was an MGEU employee so be it, This was a very serious event and it needs to be looked at in detail. Just because the employees belong to a Union , does not place them above common sense nor the law. The MGEU can go screw themselves.

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bagoheat

What ever happened to accountability? These days all you have to do is be unionized and when trouble comes a calling hide behind the almighty union. It seems in unionized workplaces the more you screw up, the more you are rewarded. Lets not forget people, that cfs and its workers put Phoenix in danger. Whether they did it knowingly or not, it was done. Someone or some people screwed up and guess what they should be held accountable. Atleast that what I think. Sit back and let wool get pulled over your eyes is being a sheeple or let heads roll and speak up and be peoples! But of course we need to get all the facts! Or cover up or what ever!

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sherlock12

# Brodbeck: MGEU trying to derail inquiry is despicable



BY TOM BRODBECK, WINNIPEG SUN

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## Phoenix Sinclair (Sun Media files)

I can't think of too many things more despicable and morally reprehensible than the attempt by Manitoba's provincial government union to try to quash an inquiry into the tragic death of toddler Phoenix Sinclair.

Especially when their efforts are designed to protect the careers of their union members at the expense of uncovering the truth about what happened to Sinclair.

As the Winnipeg Sun told you Saturday, the Manitoba Government Employees and General Employees Union demanded that commissioner Ted Hughes — who is heading an inquiry into Sinclair's death — prove that he has jurisdiction to conduct an inquiry.

## Wrong tree

The MGEU wanted Hughes to make an application to Manitoba's Court of Appeal to determine whether a commission of inquiry is legal in this case.

For starters, I'm amazed that the lawyer representing the MGEU — Garth Smorang, who made the submission to Hughes — would even make this argument.

From a legal perspective, his argument is laughable. He's actually trying to argue that executive council — commonly known as cabinet — doesn't have jurisdiction to call a commission of inquiry under The Evidence Act into the tragic death of a toddler who was under the supervision of child and family services.

Yes it does have jurisdiction and Smorang is barking up the wrong tree.

I get that Smorang is just carrying out the instructions of his client, the MGEU. But even he should know better. And what's with his demand that a commissioner make the application to court? That doesn't even make sense.

Law school 101 tells us that if someone or some group — including a party that has standing in a commission of inquiry — wishes to contest the validity of an inquiry that they do so by making their own submission to court. They don't do so by petitioning an appointed commissioner.

In any event, now that Hughes has declined to make an application to court, the MGEU says it's going to take its fight to Manitoba's highest court on its own.

G d l k ith th t

What's even more egregious about all this is the MGEU's desire to try to whitewash an inquiry that might uncover weaknesses and gaps in the child and family services system and perhaps prevent a future, similar death.

It's absolutely repugnant that a union like the MGEU would seek to protect its workers at the expense of improving care for kids and possibly preventing future deaths.

The MGEU's argument that an inquest would suffice in probing the evidence that led to Sinclair's death shows that they're not so much concerned about the tragedy as they are about the careers of their members.

I've covered many inquests and I've sat through several commissions of inquiry. There is a significant difference between the two. A commission of inquiry is far more thorough and probing than an inquest. They're more expensive, too. Which is why inquiries are only called when absolutely necessary, like in this case.

Inquests, held before provincial court judges, occur far more frequently. They're less expensive but they're not nearly as thorough.

### **Disgusting**

Which is exactly why the MGEU doesn't want an inquiry. They don't want their members to be held accountable for their actions.

Which is not only despicable, it raises serious questions about the moral fabric of the MGEU. The union bosses at the MGEU are putting their members ahead of the safety of children in care.

Pretty disgusting.

Thank you Ted Hughes for rejecting wholesale this legally dysfunctional and morally reprehensible application.

And shame on you MGEU.

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People who hate unions are either in management, ownership or too dumb to know any better.

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**sherlock12**

Another union member who has had his brain washed and can't do a thing with it,...

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**jumpin\_jimmy**

Are you serious? Are there only 5 or 6 case-workers at CFS? You make it sound as though there's 1000s of children in need of assistance. Perhaps if CFS spent more time resolving and working the real cases of abuse and such instead of threatening and harassing innocent, loving parents they wouldn't be so overwhelmed as you you claim. I have seen this harassment and corruption first hand so don't even try to tell me it doesn't happen. I say everyone involved in this case, especially those charged with the protection of this beautiful child be incarcerated for complicity or at the very least relieved of duty for incompetence.

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**Elizabeth\_IV**

Sounds like you were at the receiving end of the wrath of CFS??

I'm speaking first hand from my brief experience as a Child Protection Worker.

Bluntly put - the worst months of my entire 37 year career as a professional. You are hated