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

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

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Transcript of Proceedings  
Public Inquiry Hearing,  
held at the Campaign Room, Lower Level, Delta Hotel,  
350 St. Mary Avenue, Winnipeg, Manitoba

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WEDNESDAY, APRIL 17, 2013

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

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

**MS. B. BOWLEY**, for Ms. Diva Faria

**MR. W. GANGE**, for DOE #3

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1 APRIL 17, 2013

2 PROCEEDINGS CONTINUED FROM APRIL 16, 2013

3

4 THE COMMISSIONER: Good morning.

5 MS. MCCANDLESS: Madam Clerk, has the witness  
6 been sworn?

7 THE CLERK: If you could just stand up for a  
8 moment. Is it your choice to swear on the Bible or affirm  
9 without the Bible?

10 THE WITNESS: With the Bible.

11 THE CLERK: Okay, just take the Bible in your  
12 right hand then. And state your full name to the court.

13 THE WITNESS: My name is Amanda McKay.

14 THE CLERK: And just spell me your first name.

15 THE WITNESS: A-M-A-N-D-A.

16 THE CLERK: And your last name please.

17 THE WITNESS: M-C-K-A-Y.

18 THE CLERK: Thank you.

19

20 **AMANDA MCKAY**, sworn, testified as  
21 follows:

22

23 THE CLERK: Thank you. If you could just speak  
24 up for us, that would be great.

25 MS. MCCANDLESS: Thank you.

1 DIRECT EXAMINATION BY MS. MCCANDLESS:

2 Q Good morning, Ms. McKay.

3 A Good morning.

4 Q Just before we begin, I wanted to point out there  
5 is a document in front of you, it's a witness key. It  
6 identifies certain witnesses who are not to be referred to  
7 by name in this inquiry so should you need to mention any  
8 of those names throughout your testimony, just refer to the  
9 key and use the pseudonyms.

10 A Okay.

11 MS. MCCANDLESS: Can we move the t.v. screen,  
12 please?

13 THE CLERK: Is that better?

14 UNIDENTIFIED PERSON: If you could.

15 THE CLERK: (Inaudible.)

16 UNIDENTIFIED PERSON: Yeah.

17 THE CLERK: Okay. How's that? That's okay.  
18 Can you see this? Okay? Is that okay. Okay.

19

20 BY MS. MCCANDLESS:

21 Q Ms. McKay, how old are you?

22 A Thirty-one.

23 Q You live in Winnipeg?

24 A Yes.

25 Q Have you lived in Winnipeg all of your life?

1 A No.

2 Q For most of your life?

3 A Most of it.

4 Q Where else have you lived?

5 A In Pine Creek.

6 Q Maybe you can just speak up a little bit. It's  
7 hard to hear you.

8 A In Pine Creek.

9 Q When did you live in Pine Creek?

10 A '96 to '98.

11 Q Any other time you've been living in Winnipeg; is  
12 that correct?

13 A Yeah.

14 Q You're related to Karl Wesley McKay?

15 A Yes.

16 Q How are you related to him?

17 A He is my uncle.

18 Q Your mother is Mr. McKay's sister?

19 A Yes.

20 Q I understand your sister -- one of your siblings  
21 is Ashley Roulette?

22 A Yes.

23 Q And Lisa Bruce is one of your cousins?

24 A Yes.

25 Q Growing up, did you spend much time with Mr.

1 McKay?

2 A No.

3 Q How often would you see him?

4 A Maybe three or four times a year.

5 Q What did you know about him growing up?

6 A That he was a truck driver.

7 Q We've heard evidence that Mr. McKay was violent  
8 towards women and children. Was that something you knew  
9 growing up?

10 A Not children. I've never known him to be violent  
11 with children.

12 Q You knew him to be violent towards women?

13 A Yes.

14 Q Was that something you saw or something you had  
15 heard about?

16 A I had heard.

17 Q How did Mr. McKay treat you when you were growing  
18 up?

19 A Just like an uncle. We would rough house and  
20 play and tease and stuff like that.

21 Q Was he a good uncle or a ...

22 A He was an all right uncle.

23 Q Did he ever babysit you when you were growing up?

24 A No.

25 Q Did he babysit any of your siblings?

1 A Not that I can remember.

2 Q So it's possible, you just don't recall?

3 A Yeah.

4 Q Later on in life did Mr. McKay ever live with  
5 you?

6 A Yes, he did.

7 Q And when was that?

8 A At the end of 2002, beginning of 2003.

9 Q For how long did he stay with you?

10 A For less than a year. A couple of months.

11 Q Was he living in an apartment with you?

12 A Yes.

13 Q Was he in a relationship with Samantha Kematch at  
14 that time?

15 A No.

16 Q Were you close with Mr. McKay around that time?

17 A Not really because he was still always on the  
18 road.

19 Q When you say on the road, you mean?

20 A Truck driving.

21 Q And at some point you moved to an apartment  
22 complex on McGee?

23 A Yes.

24 Q In Winnipeg? What was the address of the  
25 apartment complex?



1 A 747.

2 Q When did you move there?

3 A Beginning of 2004.

4 Q And I understand you kept that apartment into  
5 2006?

6 A Yes.

7 Q So by my math, you moved into McGee around 2004  
8 and you would have been roughly 22 years old at the time?

9 A Yeah.

10 Q Now, I'm, I'm just going to be asking you about  
11 the period from 2004 to 2006 as it relates to McGee. Did  
12 you stay in the apartment consistently during that time?

13 A No.

14 Q Did you stay somewhere else?

15 A Yeah. In the summertime I would go out to Pine  
16 Creek.

17 Q Did you live in that apartment complex at the  
18 same time as Mr. McKay?

19 A Yes.

20 Q Did you move in before or after him?

21 A After.

22 Q Where was your apartment?

23 A On the third floor.

24 Q And Mr. McKay's was on the first floor?

25 A Yes.

1 Q When you moved in was Ms. Kematch living there?

2 A I don't think so.

3 Q Had you met Samantha Kematch before you lived in  
4 McGee?

5 A No.

6 Q Were you ever friends with Ms. Kematch's mother?

7 A I was friends with her mother, yeah.

8 Q Did you ever meet Ms. Kematch through her mother?

9 A No.

10 Q At some point you did meet Ms. Kematch?

11 A Yeah, when she was with my uncle.

12 Q Okay. And when you say with, do you mean when  
13 she moved in or --

14 A Yeah, when she moved in.

15 Q -- when they were dating?

16 A When she moved in.

17 Q And do you recall roughly when that was she moved  
18 in?

19 A No.

20 Q And that was into McGee?

21 A Yeah.

22 Q What was your impression of Ms. Kematch when you  
23 first met her?

24 A I thought she was an okay person because she was,  
25 like, my age.

1 Q And around the time you met Ms. Kematch, did you  
2 meet Phoenix Sinclair?

3 A Not right away.

4 Q Did you meet Phoenix at some point?

5 A Yeah.

6 Q And when was that?

7 A A couple of months after I moved in, so about --  
8 I think it was -- I can't even remember but it was in 2004.

9 Q Okay, was it the early part of 2004?

10 A Yeah.

11 Q Where was Phoenix living at the time?

12 A She was living with Sam.

13 Q And Mr. McKay in the apartment or --

14 A Yeah.

15 Q -- somewhere else?

16 A In the apartment.

17 Q Now, you lived in the same building as them. How  
18 often did you see them? And when I say them I mean Ms.  
19 McKay and Mr. Kematch (sic).

20 A Every day.

21 Q Or -- every day?

22 A I seen them every day.

23 Q And what kind of interactions did you have with  
24 them?

25 A Just would go and visit them, see how they were

1 doing. See how the -- how Phoenix was doing. You know,  
2 just keep them company.

3 Q Would you go to their apartment?

4 A Yes, I would.

5 Q Roughly how long were your visits?

6 A Half an hour to an hour a day.

7 Q Did you ever do any babysitting for them?

8 A Yes.

9 Q And was that babysitting of Phoenix?

10 A Yes.

11 Q Was that in your apartment or in their apartment?

12 A Sometimes their apartment, sometimes mine.

13 Q And did you see them this often for the time that  
14 you moved in until you would have left for Pine Creek?

15 A Yes.

16 Q And do you recall when it was you, you moved to  
17 Pine Creek for the summer?

18 A It would be like usually the beginning of July I  
19 would leave and I would come back at the end of August.

20 Q What was Phoenix like when you first met her?

21 A Phoenix was a normal kid, she would play and she  
22 was happy. She spoke.

23 Q What did she look like?

24 A She looked healthy.

25 Q What did her hair look like?

1 A I can't remember.

2 Q What was her weight, was it healthy weight when  
3 you first met her?

4 A Yes.

5 Q And around the time that you lived in the  
6 apartment complex on McGee and, and visited with Mr. McKay  
7 and Ms. Kematch, how often would you see Phoenix?

8 A I would see her every day, too.

9 Q Did you ever babysit Phoenix with anyone else  
10 present?

11 A I did but I can't remember who it was.

12 Q Was it your cousin, Lisa Bruce, perhaps?

13 A I don't know if it was Lisa or I don't know if it  
14 was DOE #4.

15 Q Okay. And do you remember how many times it was  
16 that you babysat Phoenix with someone else there?

17 A Just the once.

18 Q How did Ms. Kematch act towards Phoenix when you  
19 first started getting to know them?

20 A When I first started getting to know them, she  
21 was like a parent, like if she punished her she would put  
22 her in the corner or she would put her in the bedroom.

23 Q And when you say like a parent perhaps you could  
24 explain what you, what you mean.

25 A I don't know, just she wasn't like mean, she

1 didn't -- she wasn't distant, she was close to her.

2 Q So when you first saw them together was there  
3 anything about their interactions that caused you any  
4 concern?

5 A Not in the beginning.

6 Q Did that change over time?

7 A It did but I didn't really see it.

8 Q Okay. Perhaps you could tell the Commission what  
9 changes you saw.

10 A Like she would yell at her for nothing. You  
11 know, Phoenix, Phoenix changed a lot because she wouldn't  
12 talk anymore. She wouldn't even look at me sometimes.

13 Q And do you recall when you started to see these  
14 changes?

15 A No, I can't remember.

16 Q The Commission has heard evidence that Ms.  
17 Kematch had a baby at the end of November of 2004. Do you  
18 know if those changes occurred before or after that baby  
19 was born?

20 A I think it was after she was born.

21 Q You had mentioned, when you first saw Ms. Kematch  
22 interact with Phoenix she was like a parent, how would you  
23 describe her after you started to see those changes? What  
24 was her parenting style?

25 A Just distant like she didn't care.

1 Q Did you ever see Ms. Kematch yelling at Phoenix?

2 A Yes.

3 Q What types of things did you hear her say?

4 A Just would tell her not to do that or leave the  
5 baby alone, quit touching that and ...

6 Q Did you ever see Ms. Kematch hit Phoenix?

7 A No.

8 Q Did you have an opportunity to see Mr. McKay  
9 interacting with Phoenix?

10 A I did once in awhile but he wouldn't really  
11 interact with her.

12 Q Do you mean he was --

13 A Just was distant from her.

14 Q Did you see him with Phoenix as often as you saw  
15 Phoenix with her mother or less often?

16 A Less.

17 Q Did you ever see Mr. McKay yell at Phoenix?

18 A Yes.

19 Q And what did you hear him say?

20 A Basically the same things as Sam, like don't  
21 touch it, leave it alone.

22 Q Did you ever see Mr. McKay hit Phoenix?

23 A No.

24 Q Did you ever see him be rough with Phoenix?

25 A No.

1 Q Did you ever see anything about Phoenix's  
2 appearance that caused you concern?

3 A One day when I went to visit she had a bruise on  
4 her, on her face and --

5 Q On what side of her face?

6 A I can't remember. I don't know.

7 THE COMMISSIONER: What was it, on her face?

8 THE WITNESS: It was, like, her cheekbone, like  
9 under her eye.

10 THE COMMISSIONER: Was what?

11 THE WITNESS: A bruise.

12 THE COMMISSIONER: A bruise. Okay.

13 THE WITNESS: A bruise.

14

15 BY MS. MCCANDLESS:

16 Q How -- what size was the bruise?

17 A What size was it? I don't know.

18 Q Would you describe it as large or small or ...

19 A Medium, maybe.

20 Q And was there more than one occasion that you saw  
21 Phoenix with a bruise?

22 A No.

23 Q So you saw her one time with a bruise?

24 A Yeah.

25 Q Do you recall roughly when that was?



1 A No, I don't.

2 Q Do you know if it was before or after the baby  
3 was born?

4 A I think it was after she was born.

5 Q When you saw that bruise did you ask anyone about  
6 it?

7 A Yes, I did.

8 Q Can you tell --

9 A I --

10 Q -- the Commission what happened?

11 A -- asked them what happened to her face and they  
12 told me she slipped in the tub.

13 Q When you say you asked them, who did you ask?

14 A Karl and Samantha.

15 Q And they told you she had slipped and fallen in  
16 the tub?

17 A Yeah.

18 Q What did you think when you heard that  
19 explanation?

20 A I thought it was kind of fishy so I asked to take  
21 Phoenix for awhile so -- and when I took Phoenix upstairs I  
22 asked her what happened to her face and she told me the  
23 same thing, that she slipped in the tub.

24 Q Was anyone else, else with you at the time --

25 A I can't remember if it was Lisa or DOE #4.

1 Q There was someone with you on that day?

2 A Yeah.

3 Q And did that person come with you up to your  
4 apartment?

5 A Yes.

6 Q Did you talk to that person about what you had  
7 seen that day?

8 A No.

9 Q Did you ever talk to anyone about what you had  
10 seen on Phoenix's face?

11 A No.

12 Q Did you ever talk to Lisa Bruce about anything  
13 that you had seen on Phoenix?

14 A I don't know if it was Lisa.

15 Q You did talk to someone?

16 A Yeah. Well, because they were in my apartment so  
17 they seen the bruise, too.

18 Q Did you ever discuss with this person the  
19 possibility that Phoenix was being abused?

20 A No, I didn't.

21 Q Did Lisa Bruce ever tell you that she had phoned  
22 CFS with concerns she had about Phoenix?

23 A No, she never told me.

24 Q Now, I'm just going to take you back a little  
25 bit. You had mentioned that you would regularly go to Ms.

1 Kematch and Mr. McKay's apartment and Phoenix was there  
2 when you went?

3 A Yes.

4 Q Where would you typically see Phoenix when you  
5 went into that apartment?

6 A She would either be in the living-room on the  
7 floor, watching t.v., or if she was being punished she  
8 would be in the corner or in the bedroom.

9 Q And was this always the case throughout 2004 and  
10 into 2005 or did that change at some point?

11 A It was pretty much all through.

12 Q So you mentioned that you had seen Phoenix  
13 outside of the bedroom in that apartment?

14 A Yes.

15 Q And she would be watching t.v.?

16 A Um-hum.

17 Q Did she talk to you when you came into the  
18 apartment?

19 A No.

20 Q Did she seem happy when you would see her?

21 A In the beginning, yeah, she did.

22 Q And do you see how either Ms. -- Mr. McKay or  
23 Ms., Ms. Kematch disciplined Phoenix during those visits?

24 A No.

25 Q Did you ever see Phoenix in the bathroom?

1 A I seen her in the bathroom once, yes.

2 Q Can you tell the Commissioner what you saw?

3 A I walked in and I asked where Phoenix was, they  
4 said she was on the toilet and I asked why. And they said  
5 because she peed herself so they were making her sit there  
6 all day.

7 Q What did you think when you had heard that?

8 A I didn't know what to think.

9 Q Did you ever talk to Ms. Kematch or Mr. McKay  
10 about their discipline techniques?

11 A No.

12 Q Did Phoenix ever tell you anything that concerned  
13 you?

14 A No.

15 Q Now, you first saw Phoenix sometime in early  
16 2004; correct?

17 A Yes.

18 Q Do you know when it was the last time you saw  
19 her?

20 A The last time I saw her was when they moved to  
21 Fisher River.

22 Q Did you know, at the time, they were moving away?

23 A Did I know they were moving?

24 Q Yes.

25 A They had told me before they left, yeah.

1 Q Where did you see her?

2 A She was -- they were all getting in the car and  
3 leaving.

4 Q So you saw them as they were leaving for Fisher  
5 River?

6 A Yes.

7 Q What did Phoenix look like that day?

8 A I can't remember.

9 Q Did you have an opportunity to see Ms. Kematch  
10 interacting with the baby that was born at the end of  
11 November of 2004?

12 A Yes.

13 Q How did she act towards that child?

14 A She was, like, attached to her, cuddling and  
15 kissing, just really close to her.

16 Q Did you see her act like that to Phoenix?

17 A No.

18 Q Did you have an opportunity to see Mr. McKay  
19 interacting with the baby?

20 A No.

21 Q Now, you mentioned that you saw Mr. McKay and Ms.  
22 Kematch right before they left for Fisher River.

23 A Yes.

24 Q Did you ask them why they were leaving?

25 A No, I didn't.

1 Q Now, at some point in 2005 you went up to Pine  
2 Creek for the summer?

3 A Yes, I did.

4 Q Did you keep your apartment on McGee after you  
5 left?

6 A Yes.

7 Q And was it your sister, Ashley Roulette, who  
8 stayed in the apartment that summer?

9 A Yes, she did.

10 THE COMMISSIONER: Who was that?

11 MS. MCCANDLESS: Ashley Roulette.

12

13 BY MS. MCCANDLESS:

14 Q After Mr. McKay and Ms. Kematch moved up to  
15 Fisher River, did you keep in contact with them?

16 A Yes, I did.

17 Q Did you ever go up to Fisher River?

18 A No.

19 Q So what kind of contact did you keep?

20 A It was e-mail messenger.

21 Q Did you ever use a webcam?

22 A Yes.

23 Q And did you have contact with Ms. Kematch or Mr.  
24 McKay, or both of them?

25 A Just Ms. Kematch.

1 Q So you mentioned some of those interactions were  
2 via webcam?

3 A Yes.

4 Q Did you ever see Phoenix over the webcam?

5 A Yeah, I would see her playing in the background.

6 Q How clearly could you see her?

7 A Not really clearly.

8 Q Were you able to see what she looked like at that  
9 time?

10 A No.

11 Q Did you ever talk to Phoenix during those chats?

12 A No.

13 Q Did you ever ask Ms. Kematch about Phoenix during  
14 your communications with her?

15 A No.

16 Q Now, I understand that at some point that summer  
17 Mr. McKay asked if Ms. Kematch could stay in your apartment  
18 on McGee?

19 A Yes.

20 Q How did that come about?

21 A Well, he had to go and drive truck again so he  
22 just asked me if she can stay at my place because I wasn't  
23 home anyways.

24 Q Did you ask Mr. McKay about Phoenix in that  
25 conversation?

1 A No, I didn't.

2 Q Did you ask him who would be coming with Ms.  
3 Kematch?

4 A No, I didn't.

5 Q Did you move back to your apartment on McGee at  
6 some point?

7 A Yes.

8 Q When was that?

9 A The beginning of September.

10 Q Of 2005?

11 A Yes.

12 Q Was Ms. Kematch still living in your apartment by  
13 then?

14 A No.

15 Q Did you see Ms. Kematch again, after you moved  
16 back to Winnipeg?

17 A No, not until baby girl's first birthday.

18 Q Did you ever see Ms. Kematch in Pine Creek?

19 A Oh, yeah, yeah. She came out there at the end of  
20 August for her auntie's funeral.

21 Q Who came with her?

22 A Her -- my uncle and baby girl.

23 Q Did you ask about Phoenix?

24 A Yes, I did.

25 Q And what was the response?



1           A       They told me that she was living in Ontario with  
2 her dad.

3           Q       And when you say they, who told you that?

4           A       Sam and Karl.

5           Q       Did you know who Phoenix's dad was?

6           A       No.

7           Q       Did you see Ms. Kematch and Mr. McKay again,  
8 after that?

9           A       It was baby girl's first birthday.

10          Q       So that would have been sometime in November,  
11 2005?

12          A       Yes.

13                THE COMMISSIONER:   November 2005, that's when  
14 they told you where Phoenix was?

15                THE WITNESS:   No, that was in August, 2005 they  
16 told me.

17                THE COMMISSIONER:   It was August?

18                THE WITNESS:   Yeah.

19                THE COMMISSIONER:   And, and what happened in  
20 November?

21                THE WITNESS:   That's when I seen them again,  
22 after I seen them in August.

23

24 BY MS. MCCANDLESS:

25           Q       Who was with them that day?

1 A There was a bunch of people.

2 Q Did they bring -- was it, was it a party at  
3 someone's place?

4 A It was a party at my grandma's place.

5 Q And who came with Mr. McKay and Ms. Kematch?

6 A Their friend and her kids. There was my grandma,  
7 myself, my son and his sister.

8 Q And it was the baby girl's birthday so presumably  
9 the baby girl was there, as well?

10 A Yeah.

11 Q Did you ask about Phoenix that day?

12 A No, I didn't.

13 Q Did you hear anyone ask about Phoenix?

14 A My grandma asked about her.

15 Q Okay. Who did she ask?

16 A Pardon?

17 Q Who did she ask?

18 A She asked both of them.

19 Q Okay.

20 A Karl and Sam.

21 Q And what did they say?

22 A They told her the same thing, that she was living  
23 with her dad.

24 Q Did Mr. McKay and Ms. Kematch move back to 747  
25 McGee at some point?

1 A Yes, they did.

2 Q Do you recall when that was?

3 A January of 2006.

4 Q Did they have a new baby with them at the time?

5 A Yes.

6 Q Did you spend time with them after they moved  
7 back?

8 A Yes.

9 Q How often would you see them?

10 A Every day.

11 Q Did you ever ask about Phoenix?

12 A No.

13 Q Did you notice any change in Ms. Kematch's  
14 behaviour after she moved back to McGee?

15 A Yeah, she was quiet, she was distant.

16 Q What about Mr. McKay, what was he like after he  
17 moved back?

18 A He was sick all the time.

19 THE COMMISSIONER: He was what?

20 THE WITNESS: Sick.

21

22 BY MS. MCCANDLESS:

23 Q Now, I understand that you were with Mr. McKay  
24 the day that he was arrested?

25 A Yes.

1 Q What can you tell me about that day?

2 A The whole day?

3 Q Mr. McKay, who was in your apartment that day?

4 A There was my Uncle Karl, and my son and baby  
5 girl.

6 Q So Mr. McKay was in your apartment?

7 A Yes.

8 Q At some point the RCMP came to your door?

9 A Yeah.

10 Q And had Mr. McKay mentioned anything to you, that  
11 day, that made you think he was being investigated?

12 A Just stuff about cars not moving for a couple of  
13 days, that were parked in the parking lot.

14 Q Do you know what his impression was?

15 A No.

16 Q Did he tell you he thought he was being watched  
17 or anything like that?

18 A He, he knew somebody was being watched but he  
19 never said himself.

20 Q Did you ever ask him?

21 A No.

22 Q Now, when the RCMP came to your door did they ask  
23 for Mr. McKay?

24 A Yes.

25 Q What did you tell them?

1 A I told them he wasn't there.

2 Q Why was that?

3 A Why?

4 Q Yes.

5 A Because I was protecting my uncle. I didn't know  
6 why they wanted him.

7 Q At some point did you let them in?

8 A Yes.

9 Q And at that time was Mr. McKay arrested?

10 A Yes.

11 Q What did you think when you first heard about  
12 what Mr. McKay and Ms. Kematch were accused of doing to  
13 Phoenix?

14 A I was in shock, disbelief.

15 Q Why was that?

16 A Because I don't -- I didn't think they could do  
17 something like that.

18 Q At any point during the time you spent with  
19 Phoenix did you suspect she was being abused by Ms.  
20 Kematch?

21 A No.

22 Q Did you suspect she was being abused by Mr.  
23 McKay?

24 A No.

25 Q Did you ever suspect that she was afraid of Mr.

1 McKay?

2 A Like I thought she was afraid.

3 Q Did you ever ask her about that?

4 A No.

5 Q Did you ever suspect that Phoenix was afraid of  
6 Ms. Kematch?

7 A No, I didn't expect.

8 Q Was there ever anything you saw that made you  
9 consider contacting the police?

10 A No.

11 Q Did you ever see anything that made you consider  
12 contacting CFS?

13 A No.

14 Q So you never contacted CFS about anything you  
15 saw?

16 A No.

17 MS. MCCANDLESS: Those are my questions for this  
18 witness, Mr. Commissioner.

19 THE COMMISSIONER: Thank you.

20 Mr. Gindin, please.

21 MR. GINDIN: Thank you.

22

23 CROSS-EXAMINATION BY MR. GINDIN:

24 Q Ms. McKay, my name is Jeff Gindin, I represent  
25 Kim Edwards and Steve Sinclair. One of your cousins is

1 Lisa Bruce?

2 A Yes.

3 Q And she testified earlier, as you probably know.

4 A Yeah.

5 Q Now, have you known her since she was small?

6 A Yes.

7 Q And do you have a fairly close relationship?

8 A Not really.

9 Q Not really? How often do you see her?

10 A Now?

11 Q In the last number of years, for example?

12 A Every one -- like once a month or so.

13 Q Okay. And if we go back to 2004, 2005, that  
14 period, how often did you see her then?

15 A Every day.

16 Q And were you ever with her when -- in Phoenix's  
17 presence?

18 A I can't remember.

19 Q Some of the things about that period of time  
20 would be difficult to remember because it's eight or nine  
21 years ago now?

22 A Yes.

23 Q Okay. So you're trying to do the best you can to  
24 remember things like dates and things that, that happened;  
25 right?

1 A Yes.

2 Q And you would agree that there are some things  
3 that you can't really remember?

4 A Yeah.

5 Q You told us that when you first met Phoenix that  
6 she was treated fairly well by her mother, Samantha?

7 A Yes, she was.

8 Q Pretty much normal?

9 A Yeah.

10 Q You noticed that after Samantha had her baby --

11 A Um-hum.

12 Q -- things changed?

13 A Yeah.

14 Q She wasn't as focused on Phoenix as before?

15 A No.

16 Q She was distant?

17 A Yeah.

18 Q And was more involved with the baby than with  
19 Phoenix?

20 A Yes.

21 Q So it would appear that perhaps Phoenix was being  
22 neglected?

23 A Um-hum.

24 Q Right? And when you would go there, particularly  
25 after the baby was born, Phoenix was often in the bedroom?



1 A Yes.

2 Q Okay. Did you notice whether there was a lock on  
3 the bedroom?

4 A No.

5 Q You can't recall either way?

6 A No.

7 Q After the baby was born, you did notice some  
8 things that caused you concern, namely the bruise on  
9 Phoenix's face?

10 A Yes.

11 Q Right? And it was concerning enough that you  
12 asked about it?

13 A Yes.

14 Q Right? And when you asked about it, was that in  
15 the presence of both Wes McKay and Samantha?

16 A Yeah, I asked both of them.

17 Q And do you recall if Phoenix was present when you  
18 asked that question?

19 A No.

20 Q So she wasn't there, it was just the two of them?

21 A Yeah.

22 Q And when you asked them, do you recall how you  
23 asked them? Did you say I saw bruises?

24 A Yeah, I just -- like well, I just asked them what  
25 happened to her face.

1 Q And was it Wes who answered?

2 A It was Sam.

3 Q Okay. Do you recall how she -- what she said?

4 A She just said, ah, she slipped in the tub, kind  
5 of attitude.

6 Q You found the explanation fishy?

7 A Yeah.

8 Q Yeah. And, of course, if it was a fishy  
9 explanation that would mean that something else likely  
10 happened?

11 A Um-hum.

12 Q Which could be abuse. Right?

13 A Yes.

14 Q So there were some things that you observed that  
15 could very well have been signs of abuse of Phoenix?

16 A Could have been.

17 Q Yeah. You, we know, didn't call CFS.

18 A No.

19 Q Or the police?

20 A No.

21 Q Wes is your uncle?

22 A Yes.

23 Q And you've told us that you were pretty close to  
24 him? Right?

25 A Yeah, yeah.

1 Q That would make it, I presume, more difficult to  
2 make a call?

3 A It wouldn't have made it more difficult.

4 Q No? You didn't care about the fact that --

5 A I wouldn't have cared if he was my uncle.

6 Q So then what was the reason you didn't call?

7 A Because, like I said, I asked -- I took Phoenix  
8 and I asked her, myself, what happened and she told me she  
9 slipped in the tub so I figured okay, well, you know, I had  
10 a three -- a two, three year old -- I had a three year old  
11 boy at the time, so I knew that accidents happen.

12 Q But when the police came looking for Wes, you  
13 told them he wasn't even there?

14 A Yes.

15 Q So you were protective of your uncle.

16 A Well, because I didn't know what was going on.

17 Q So you lied to the police?

18 A Yes.

19 Q And that's not something you would do for just  
20 anybody, I presume it was because he was your uncle?

21 A Well, I didn't know what was going on, I didn't  
22 know why they were looking for him in the first place.

23 Q So rather than telling them he was there, you  
24 just simply told them, the police, that he wasn't there?

25 A Yes, I told them he wasn't there.

1 Q And I think your explanation was you were  
2 protecting your uncle and that's obviously a factor because  
3 he was someone you knew and was related to you. Right?

4 A Yeah, I guess.

5 Q Well, those were your words, you were protecting  
6 your uncle, that's why you told them that he wasn't there.

7 A Yeah, well, I would have protected anybody if I  
8 didn't know why they were coming for them.

9 Q Oh. So you would have lied to the police even  
10 for a stranger, is that --

11 A Yeah.

12 Q -- your evidence? You told us that you saw  
13 Phoenix as they were moving to go to Fisher River.

14 A Yes.

15 Q Was that in a vehicle?

16 A Yes.

17 Q And who else was there?

18 A There was Samantha, there was my uncle, there was  
19 baby girl and DOE 1 and 2.

20 Q Okay. And was Phoenix in the back seat?

21 A Yes.

22 Q And do you recall whether she had a hat on?

23 A A hat?

24 Q A hat.

25 A I can't remember.

1 Q You often saw her with a hat on.

2 A Yes.

3 Q Right? So that may have been the case, you're  
4 not sure?

5 A Yeah.

6 Q And were you paying any particular attention to  
7 Phoenix that particular time when they were leaving for  
8 Fisher River?

9 A No.

10 Q And you were there because you were simply saying  
11 goodbye to these people, is that --

12 A Yeah.

13 Q -- pretty much it?

14 And so you've told us that there was a difference  
15 between the way Samantha treated Phoenix and her other  
16 child?

17 A Um-hum.

18 Q Particularly after the other child came along?

19 A Yes.

20 Q Now, you've told us that Wes was pretty distant  
21 from Phoenix when you observed him with her?

22 A Yes.

23 Q Did you ever ask him about that?

24 A No.

25 Q You were talking about the time that you kept in

1 contact with Samantha, after they went to Fisher River and  
2 you said you did that by way of the computer?

3 A Yes.

4 Q Through webcam, and you would observe Samantha.

5 A Um-hum.

6 Q Correct?

7 A Yes.

8 Q She was basically the one that you were talking  
9 to?

10 A Yeah.

11 Q And this wasn't the situation then where, where  
12 Samantha would bring Phoenix right beside her to the screen  
13 so that you could talk to both of them or see both of them?

14 A No.

15 Q It didn't -- it wasn't that way?

16 A No.

17 Q She never brought Phoenix to --

18 A No.

19 Q -- be seen by you?

20 A No.

21 Q You just saw her in the background?

22 A Yes.

23 Q And you couldn't tell us, today, whether she had  
24 bruises or not?

25 A No.

1 Q And you told us, as well, that you went to a  
2 birthday party in November of '05.

3 A Yes.

4 Q Which would be the first year birthday of the  
5 baby girl?

6 A Yes.

7 Q Right? Now, where was that again?

8 A It was at my grandma's?

9 Q In Winnipeg?

10 A Yes.

11 Q And so this was a party?

12 A Yeah.

13 Q Right? This was a celebration; correct?

14 A Yes.

15 Q And there's lots of people there?

16 A Um-hum.

17 Q And they were all happy?

18 A Yes.

19 Q And celebrating.

20 A Yes.

21 Q Correct?

22 A Yes.

23 Q This was in November of 2005; right?

24 A Yes.

25 Q And your grandma was the one who asked about

1 Phoenix?

2 A Yes.

3 Q And was it Wes who answered or Samantha?

4 A I can't remember.

5 Q But someone answered.

6 A Yeah.

7 Q In a jovial way because this was a party that  
8 Phoenix was off with her dad in Ontario?

9 A Yes.

10 Q Now, in January of '06 you told us that they  
11 moved back to Winnipeg, and I, I think you meant Samantha.

12 And --

13 A Well, they moved back into McGee.

14 Q Yeah. On, on McGee, that's correct. And by they  
15 you meant Samantha?

16 A Samantha and --

17 Q And your uncle?

18 A Yes.

19 Q Wesley Karl McKay. And, and how many children?

20 A They had two.

21 Q They had two very small children?

22 A Yes.

23 Q But, of course, they didn't have Phoenix?

24 A No.

25 Q And you never asked about Phoenix?



1 A No, not after.

2 Q Now, that's when you noticed that Sam was quiet  
3 and distant?

4 A Yes.

5 Q And when you found out why the police arrested  
6 Wes you were shocked?

7 A Um-hum.

8 Q Because it's a pretty hard thing for anybody to  
9 believe that happened?

10 A Yeah.

11 Q Right? Now, your cousin, Lisa Bruce, testified  
12 that she saw a number of things that disturbed her,  
13 including a bruise and, and some aggressive treatment along  
14 the way whenever she was there.

15 A Um-hum.

16 Q And told us that she had discussed those things  
17 bothering her a little bit with some people and one of the  
18 people she said she talked to was her mother, at some  
19 point. And I believe she told us that she may have  
20 mentioned it to you, as well, there were some things that  
21 kind of bothered her that she observed. Is that something  
22 that you recall or you don't recall?

23 A I can't remember.

24 Q Okay. So you're not saying it didn't happen?

25 A It could have.

1 Q And Lisa came here and told us that.

2 A Yeah, it could have because like ...

3 Q You just can't remember that?

4 A Yeah.

5 MR. GINDIN: Okay, thank you.

6 MR. PAUL: Nothing, Mr. Commissioner.

7 THE COMMISSIONER: All right. And no further  
8 questions, I take it. Re-examination?

9 MS. MCCANDLESS: No re-examination, Mr.  
10 Commissioner. Thank you, Ms. McKay.

11 THE COMMISSIONER: Thank you, witness, for  
12 coming.

13

14 (WITNESS EXCUSED)

15

16 THE COMMISSIONER: All right, do you want to -- I  
17 agree we should -- we can go ahead with the next witness  
18 unless you want a break.

19 MS. MCCANDLESS: We're ready to go ahead with the  
20 next witness.

21 THE COMMISSIONER: Okay, we'll carry on for half  
22 an hour, before we break.

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

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

1 THE CLERK: Okay. Just take the Bible in your  
2 right hand. State your full name to the court.

3 THE WITNESS: Randolph William Murdock.

4 THE CLERK: And just spell me your first name,  
5 please.

6 THE WITNESS: R-A-N-D-O-L-P-H.

7 THE CLERK: And your middle name?

8 THE WITNESS: William, W-I-L-L-I-A-M.

9 THE CLERK: And your last name?

10 THE WITNESS: Murdock, M-U-R-D-O-C-K.

11 THE CLERK: Thank you.

12

13 **RANDOLPH WILLIAM MURDOCK**, sworn,  
14 testified as follows:

15

16 THE CLERK: Thank you, you may be seated.

17

18 DIRECT EXAMINATION BY MR. OLSON:

19 Q Good morning, Mr. Murdock.

20 A Good morning.

21 Q I understand that you're the quality assurance  
22 person with Intertribal Child and Family Services?

23 A Yes, I am.

24 Q That's the position that you hold today?

25 A Yes.

1 Q Before I get into what you currently do, I want  
2 to ask you, first of all, about your educational  
3 background. So if you would, just take us through your  
4 educational background, up until today's date.

5 A Okay. I have my Bachelor of Social Work.

6 Q Okay. And where was that obtained from?

7 A University of Manitoba.

8 Q Okay.

9 A I have human justice.

10 Q Sorry, a what?

11 A Human justice certificate.

12 Q From where?

13 A BU.

14 Q When --

15 A Brandon University.

16 Q -- when was that obtained?

17 A When was that? '96, '97.

18 Q When was your BSW obtained?

19 A October 2011.

20 Q Okay. And --

21 A Also I have Indian Social Work.

22 Q That's out of Saskatchewan?

23 A Yes, it is.

24 Q And that's called an Indian Social Work  
25 diploma?

1 A Yes.

2 Q When did you obtain that?

3 A '84, '87.

4 Q And is there any other formal education that  
5 you've received?

6 A I got a certificate in counseling from U of M.

7 Q And when was that?

8 A 1990.

9 Q Okay. When did you start working in child  
10 welfare?

11 A In 1981.

12 Q What position did you hold?

13 A Family Service worker.

14 Q Where was that?

15 A In Fisher River.

16 Q Okay. And we heard yesterday a family service  
17 worker was essentially a social worker, did everything from  
18 adoptions, to intakes, protection files. Would that be the  
19 same sort of thing you did at the time?

20 A Yeah, that's correct.

21 THE COMMISSIONER: And what period did you start  
22 that?

23 THE WITNESS: 1981.

24 THE COMMISSIONER: '81.

25 THE WITNESS: Yeah.

1 BY MR. OLSON:

2 Q Now, you were -- that was in Fisher River, you  
3 said?

4 A Yes.

5 Q With Intertribal Child, Intertribal Child and  
6 Family Services?

7 A Yes, it was.

8 Q Okay. And who did you report to at that time?

9 A I can't remember my, my supervisor.

10 Q Okay. Wasn't Ms. Cochrane, Shirley Cochrane?

11 A I'm not too sure.

12 Q Okay. After that I understand you became a  
13 program coordinator. Is that right?

14 A Yes.

15 Q That was in 2005?

16 A Yes, it was.

17 Q Can you tell me what that position involved?

18 A I oversee -- oversaw the agency in regards to  
19 that we were adhering and compliance with Manitoba  
20 provincial standards and also in regards to the Child and  
21 Family Services Act and also to Intertribal Child and  
22 Family Services policies and procedures.

23 Q Now, when you say -- and I'm not sure if the mike  
24 is picking you up that well, I see Madam Reporter sort of  
25 shaking her head a bit. I wonder if you can maybe talk a

1 little slower and -- a little slower and just try to talk a  
2 little clearer if you could.

3 A Okay. I am nervous, yeah.

4 Q I understand. We will take it slow and, and just  
5 try to talk a little clearer if you, if you could.

6 A Okay, I will.

7 THE COMMISSIONER: Just take as much time as you  
8 need, witness.

9 THE WITNESS: Okay.

10

11 BY MR. OLSON:

12 Q So you said you oversaw four offices, and you,  
13 you were ensuring that they were adhering, first of all, to  
14 the standards of the Child and Family Services Act. That's  
15 one of the things you said?

16 A Yes, I did.

17 Q Which standards were those?

18 A Manitoba provincial standards.

19 Q Okay. Do you know which ones in particular?  
20 We've heard there are a number of standards that were  
21 floating around. There were the --

22 A '99, I think.

23 Q 1999 standards? Okay. And how is it you, you  
24 would ensure that the offices were adhering to those  
25 standards?

1           A     They had hard copies.

2           Q     Okay.    So having hard copies in the, in the  
3 offices?

4           A     Yes.

5           Q     And would you do training on the standards for  
6 workers or?   How is it you would ensure compliance?   Or  
7 adherence?

8           A     Now or before?

9           Q     Before, in 2005.

10          A     Well, most of the workers that was working for  
11 the agency all went to training at some authority or the  
12 province.

13          Q     But you, yourself, would you do any training of  
14 workers?

15          A     We would just review the policies at office in  
16 regards to, like, standards or Child and Family Services  
17 Act we would review.

18          Q     Okay.    So what you're describing sounds like a  
19 bit of an auditing function, you would go into the office  
20 and look at the standards that they're complying with?

21          A     At times you could sit down and talk about  
22 (inaudible) with the standards, like in a group, four or  
23 five, so that would be all understood and what we were  
24 working with in regards to Child and Family Services Act  
25 and also the provincials and standards.



1 Q So let me see if I have that. You would sit down  
2 with a group of four or five workers and review the  
3 standards that they were working with?

4 A Yes.

5 Q And see if it was in compliance with the  
6 standards?

7 A Right.

8 Q And if it wasn't in compliance you would educate  
9 those workers as to what they would -- they should be  
10 doing?

11 A We would talk about it and try to come up with  
12 the correct answer and if we didn't have the correct answer  
13 we would ask a lawyer.

14 Q I see. Okay. Now, you talked about offices and  
15 there being four offices; is that right?

16 A Yes.

17 Q And now we know there's one office in Fisher  
18 River, where are the other offices?

19 A Dakota Tipi.

20 Q Dakota Tipi?

21 A Yeah. Winnipeg.

22 Q Winnipeg office.

23 A Kinonjeoshtegon, and Fisher River.

24 Q Okay.

25 THE CLERK: (Inaudible.)

1 MR. OLSON: I'll let you ...

2 THE WITNESS: Jackhead.

3 MR. OLSON: Jackhead.

4 THE CLERK: Actually, I need to know what you  
5 said earlier.

6 THE WITNESS: Kinonjeoshtegon.

7 THE CLERK: I'll get the spelling later.

8

9 BY MR. OLSON:

10 Q So can you tell me about those four different  
11 offices? Would you travel between them doing the same sort  
12 of -- providing the same sort of service?

13 A Yes.

14 Q How many people did the Fisher River office  
15 service?

16 A How many people did they service?

17 Q Right. In terms of population?

18 A Well, there's probably about 1700 on the, the  
19 band list.

20 Q Did you say 1700?

21 A On the band list, yes.

22 Q Okay. And what about -- now Winnipeg would be  
23 different but how many people would be serviced by the  
24 Winnipeg office?

25 A Well, I'm not too sure.

1 Q Okay. And Jackhead?

2 A I'm not too sure on their, on their band  
3 population.

4 Q Is it a smaller band than Fisher River?

5 A Yes, it is.

6 Q Okay. And I'm sorry I've forgotten the other,  
7 the other ban you mentioned.

8 A Dakota Tipi.

9 Q What's the population there?

10 A I'm not too sure.

11 Q It's quite small though, isn't it?

12 A Yes, it is small.

13 Q Does about 500 band members sound about right?

14 A Around there.

15 Q Would you, as a program coordinator, do any sort  
16 of random auditing?

17 A Yes, I would.

18 Q Okay, what did that involve?

19 A What did that involve? Oh, at times I would go  
20 to an office and I would -- we would take two files per  
21 worker and I would review.

22 Q You would select the files, yourself?

23 A At random, yeah.

24 Q Okay. And when you saw review, would you look  
25 through the file cover to cover?

1           A     Yes, I would look through the file.

2           Q     Okay. And we know that there were -- there was a  
3 CFSIS system and a paper file. Would you look at both or  
4 was it just the paper file?

5           A     Paper file.

6           Q     Did the, the four offices that fell under the  
7 Fisher River umbrella, did they all use paper files  
8 primarily at that time?

9           A     Yes.

10          Q     Now, at some point your title changed to quality  
11 assurance. Do you recall when that was?

12          A     It just slipped my mind. No.

13          Q     But you were performing, I take it, the same job,  
14 essentially, as you, you did as program manager, just a  
15 different title?

16          A     Pretty well the same role and responsibilities  
17 however with this one it is more identifying like --  
18 identifying correct mechanisms to measure the quantity,  
19 quality, effectiveness and efficiency of the, of the  
20 services of the agencies.

21          Q     So that's a slightly different job description  
22 then than, than a program coordinator?

23          A     Yeah, it is a bit different.

24          Q     Are there -- were there different tools put in  
25 place for you to use to perform that job?

1           A     Yeah, they were working on templates for quality  
2 assurance.

3           Q     Sorry, I missed that.

4           A     There's templates that we use to evaluate the  
5 programs.

6           Q     Okay, and who provides the templates?

7           A     Right now we're getting them from Southern  
8 Authority.

9           Q     Okay. So the Southern Authority provides you  
10 with templates that you use to evaluate the programs and  
11 services that are being provided by the agency?

12          A     That's correct.

13          Q     Did you receive any training for that  
14 specifically to deliver that?

15          A     No.

16          Q     No. You -- but you received the templates,  
17 obviously.

18          A     Right.

19          Q     I want to talk to you specifically about your  
20 involvement in this case. You had very brief involvement  
21 in 2005 and this was while you were a program coordinator.  
22 Do you have a recollection of your involvement independent  
23 of your notes?

24          A     My memory of that event is pretty vague. I would  
25 have to refer to my notes.

1 Q Okay. Let's look at your notes. Start at page  
2 34633. This is from Commission disclosure 1660.

3 MR. KHAN: Sorry, Mr. Olson. And, and, Mr.  
4 Murdock, just to let you know, it's also on the screen,  
5 I've provided a book in case you wanted a hard copy but the  
6 documents will also appear on the screen beside you.

7

8 BY MR. OLSON:

9 Q So I'll go through this with you, it says on  
10 March -- so these -- if you could please, just identify  
11 what we're looking at here.

12 A It is my contact note from March 6th, 2006.

13 Q And it's signed at the bottom by you?

14 A I can't see my signature.

15 Q Can you scroll?

16 A All right. Yes, it is.

17 Q Okay. So this is the note you took. Was this  
18 written while -- at the same time that the phone call that  
19 it's documenting was being made or received or was it made  
20 -- taken after the phone call?

21 A I did my notes on a little scrap paper.

22 Q On scrap paper and then you typed them out after?

23 A I tried. Then I wrote -- transcribed them to a  
24 computer.

25 Q Was that all done in a fairly short period of

1 time?

2 A Right after.

3 Q Right after. Okay. So this is recording a call,  
4 March 6, 2006, Monday, at 11:50 a.m. It says:

5

6 "Phone call from DOE #3 (of)  
7 Winnipeg, Manitoba. Phone  
8 number."

9

10 And you wrote a phone number down.

11

12 "Her two sons (we have) DOE #2 and  
13 DOE #1 made a gruesome disclosure  
14 to her. They witnessed physical  
15 abuse to a five year old female.  
16 They called it choking the  
17 chicken. Who was choking the  
18 chicken? According to DOE #3 her  
19 son said it was Carl Wesley McKay.  
20 The two boys also said Carl Wesley  
21 McKay threw the five year (old)  
22 girl down the stairs ... the fall  
23 down the stairs broke her skull  
24 open."

25

1           Now that, that is a pretty gruesome disclosure.

2   Had you received calls like that in the past?

3           A     No.

4           Q     Okay. I would think someone like that you would  
5   tend to remember. Do you have an independent recollection  
6   of that, of this part of the phone call?

7           A     Yes, I do.

8           Q     And is it, is it, is it in accordance with what  
9   you've written here?

10          A     Yes, it is.

11          Q     So the next thing you write is: "When did this  
12   incident take place?" Is that your question to the caller?

13          A     Yes, it is my question.

14          Q     And her answer is: "It was in August 2005."

15          A     Yeah.

16          Q     So that's, that's what she told you?

17          A     That's what she told me.

18          Q     Are these notes verbatim?

19          A     Yes, I would (inaudible) forward.

20          Q     Okay. So you've tried to record everything that  
21   was said?

22          A     Yes.

23          Q     Okay. You go on: "The two boys said the five  
24   year old female was buried in the back yard." You ask:  
25   "What house did this happen at? According to the boys, it



1 is the house across from" -- and the name is redacted.

2           Were these names familiar to you at this time,  
3 the names Wesley McKay or the names of the DOEs?

4           A     Not, not all of them.

5           Q     Okay.   Which -- without identifying the DOEs,  
6 which names would have been familiar to you?   Was Wesley  
7 McKay familiar?

8           A     No.

9           Q     Okay.   Was the name of the house?

10          A     Yes.

11          Q     So you knew whose house they were talking about?

12          A     Yes.

13          Q     Okay.   And were any of the DOEs familiar to you?

14          A     No.

15          Q     You go on:

16

17                   "Did the boys witness where the  
18                   grave is?   DOE #3 said the boys  
19                   are aware of the location.

20                   The five year old girl was a  
21                   daughter to Carl's common-law,  
22                   Samantha Kematch.

23                   What was her name?   DOE #3 said  
24                   she did not know the name of the  
25                   five year old female.

1                   What is the name of your sons,  
2                   date of births?"

3

4                   So that's the question you asked DOE #3. DOE #2  
5                   date of birth, DOE #1 date of birth. "The boys are 13 and  
6                   15 years old states DOE #3." And, "the boys said she  
7                   was a rat." So, in other words the boys are calling  
8                   their mom a rat for telling that her -- this information?

9                   A     Yes.

10                  Q     Okay. And you write: "I acknowledged that she  
11                  is taking the proper steps to address this situation. End  
12                  of conversation."

13                  As recorded by Randy Murdock and then you sign  
14                  it. And then, when you go on, there's an asterisk, and it  
15                  looks like you've written an addendum note. It says: "DOE  
16                  #3 did state she called the agency regarding her concerns,"  
17                  question mark, question mark. It says March 8th, 2000 --  
18                  it's difficult to make out, I'm assuming it's a six. R.  
19                  Murdock. And then there's some, some scribbling. Do you  
20                  know why you made that note?

21                  A     This phone call did bother me and it was -- kept  
22                  on, kept on going over and over in my head. And I was  
23                  trying to make sure that everything was documented and put  
24                  on this contact note. And I did.

25                  Q     So --

1           A     So that she did state that she did call an agency  
2 regarding her concern.

3                     Had called at a agency or the agency.

4           Q     Okay. She -- did she say the agency?

5           A     I wasn't too sure.

6           Q     You weren't sure --

7           A     It was either a agency --

8           Q     -- if she said a or the agency, okay. But it was  
9 bothering you because you didn't include that initially in  
10 your -- in what you wrote down?

11          A     I didn't remember that.

12          Q     Okay. And you -- you're saying you went back and  
13 thought more about it and you wanted to make sure you, you  
14 put it on your note because that's what she said?

15          A     That's correct.

16          Q     Okay. And what is it about that that bothered  
17 you?

18          A     Well, it was the whole phone call. Not something  
19 that I experienced before --

20          Q     Okay.

21          A     -- or heard about before.

22          Q     But in particular, like what was the significance  
23 about that last bit, that addendum?

24          A     Well, I just wanted to make sure that it was on  
25 file because I felt that if -- I thought it was very

1 important that I marked it down.

2 Q What did you understand her to be telling you  
3 when she reported this?

4 A That she called a agency or the agency.

5 Q Okay. So, in other words, she may have called  
6 ICFS before or some other agency about this, this abuse?

7 A That's correct.

8 Q Okay. And did you explore with her, during this  
9 phone call, anything else about that?

10 A No, I didn't.

11 Q Okay. Was there was any reason why you didn't go  
12 further into that, like when did you call or who did you  
13 talk to?

14 A No, I felt I had enough information.

15 Q How long was the total call, are you able to say?

16 A No, not even 10 minutes.

17 Q Okay. So let's -- I just want to walk you  
18 through this. This call you have recorded at 11:50 a.m.  
19 Your next note is at page three -- sorry, it's the next  
20 page -- 34634 and you'll see it's March 6, 2006, Monday,  
21 12:00 p.m. So 10 minutes later. So I take it you would  
22 have basically had your phone call with DOE #3, taken it  
23 down in note form, typed it up and then made your phone  
24 call as recorded in this next note. Does that sound right?

25 A Yes.

1 Q Okay. And this next note is, is your note, your  
2 signature is on the bottom?

3 A Yes, that's my signature.

4 Q So this -- and this note you're calling Shirley  
5 Cochrane, who is the executive director, we're going to  
6 hear from her after you. She was your immediate superior;  
7 is that right?

8 A Yes, she is my immediate superior.

9 Q You call her, you say:

10

11 "Worker informed Director of the  
12 phone call from DOE #3 and the  
13 contents of the report.

14 Consult: Report to RCMP, Fisher  
15 Branch Detachment, or Winnipeg  
16 Police Service."

17

18 What does that mean, "Consult: Report to RCMP  
19 Fisher Branch"?

20 A I just wanted to make sure that I was doing the  
21 appropriate procedure and process.

22 Q Okay. So you were consulting her to ask her what  
23 should I do?

24 A Just to confirm what I -- I thought my thought  
25 process might be.

1 Q Okay. Was your plan already to contact police?

2 A Yes, it was.

3 Q And you just wanted her to confirm that was the  
4 right way to handle it?

5 A That's correct.

6 Q Okay. And I take it she confirmed that you  
7 should call the police?

8 A Yes.

9 Q And status of case? This is, you say or you  
10 write: "Is (agency) the agency involved with this family?  
11 Why would DOE #3 report to Fisher River ICFS?" Whose  
12 questions are those?

13 A That's not really a question, that's just my  
14 writing. I just was questioning myself.

15 Q Okay. Did you have this conversation with Ms.  
16 Cochrane?

17 A I can't recall.

18 Q You can't recall that specifically? I mean, that  
19 -- it seems, it seems to me that would be a pretty  
20 important thing, you know, if -- did our agency have some  
21 involvement with this? I mean, that's something that would  
22 have been foremost on your mind, wouldn't it?

23 A Yes, it would.

24 Q So wouldn't you, as, as the worker now dealing  
25 with this situation, want to make sure that you were

1 discussing it with your superior?

2 A I probably could have but I'm not too sure.

3 Q But you're -- but you don't remember at this  
4 point?

5 A No.

6 Q Okay. With these questions being written here,  
7 what, what did you intend to do to answer these questions  
8 or did you have an intention?

9 A Pardon me?

10 Q Did you formulate an intention in your mind as to  
11 how you're going to address these questions?

12 A No, I didn't but I know that what steps I had to  
13 do to -- in order to, in order to get this situation  
14 addressed, and that is to call the (inaudible) police.

15 Q Okay, so that was your first step, was to call  
16 the police?

17 A Right.

18 Q You wrote down: "Alleged abuse took place on  
19 Fisher River Cree Nation." That's information you're  
20 providing to Ms. Cochrane, I take it?

21 A Yes.

22 Q And then: "Process: Report to Winnipeg Police  
23 Service." That's your plan, you signed it. And then  
24 there's an asterisk: "Intake worker: Clemene Hornbrook is  
25 not in at this time, so I took the call."

1           My understanding of that is you just happened to  
2 be, I think it was -- was it in the Winnipeg office where  
3 this call came in?

4           A     Yes, it was at Winnipeg Regional office.

5           Q     Okay, so you happened to be in the Winnipeg  
6 office when DOE #3 called in?

7           A     That's correct.

8           Q     And you heard the phone ring and you were the  
9 person to pick up the phone?

10          A     Yes.

11          Q     Because the policy, I think, is -- you said there  
12 was some sort of a policy about a ringing phone or is --  
13 was there a policy in the office?

14          A     No, I guess I just felt that all, all phone calls  
15 coming to the agency are very important, that we must  
16 answer them.

17          Q     Okay. And so this asterisk here is just to  
18 indicate the reason you took the call as opposed to the  
19 intake worker is that --

20          A     That's correct, yeah.

21          Q     -- she wasn't in.

22          A     Yeah.

23          Q     Okay.

24                THE COMMISSIONER: Does the Winnipeg office and  
25 the Fisher River office have separate phone numbers?



1 THE WITNESS: Yes, we do.

2 THE COMMISSIONER: Okay. And, and this call came  
3 into the Winnipeg number?

4 THE WITNESS: Yeah. Yes, that's where it came  
5 to.

6 THE COMMISSIONER: Is that where you're usually  
7 located?

8 THE WITNESS: No, I, I'm not -- no, I don't. I  
9 kind of go to the very -- different offices.

10 THE COMMISSIONER: Right.

11 THE WITNESS: I just happened to be there that  
12 day.

13 THE COMMISSIONER: Thank you.

14

15 BY MR. OLSON:

16 Q And I know you said you documented pretty much  
17 your whole conversation with DOE #3. Did you ask her at  
18 all why she was calling the Winnipeg office or Fisher  
19 River --

20 A No, I didn't.

21 Q -- or --

22 A No, I did not, no.

23 Q Okay. And you didn't ask her before which office  
24 she, which office she called?

25 A No.

1 Q Okay. The number for Fisher River, Winnipeg  
2 office, how would one go about obtaining that? And that --  
3 I'm talking about in 2005.

4 A How would someone get, get hold of the number?

5 Q Yeah.

6 A It would probably be on the MTS directory.

7 Q So you could phone information and say I need the  
8 number for the Fisher River CFS, they might give you the  
9 Winnipeg office?

10 A Or they could call, I guess, each office in  
11 Winnipeg, they would probably get the number to Fisher  
12 River.

13 Q Okay. Let's turn to page 34635. This is a note,  
14 same day, March 6, 2006, again signed by you. If you just  
15 scroll down just a bit. Your signature is there. And this  
16 is 12:40. So about half an hour since you were on the  
17 phone with Ms. Cochrane.

18 You write: "Phone call to Winnipeg Police  
19 Service." You have a phone number. You spoke with an  
20 operator of Winnipeg Police, gave her that information from  
21 your contact note as quotes from DOE #3. So what are you  
22 saying there, you gave her the information that DOE #3 gave  
23 you about the disclosure?

24 A Yes.

25 Q Okay. "Was this information given to the RCMP?"

1 Is that what the operator is asking you? Wants to know if  
2 you told the --

3 A Yes.

4 Q -- RCMP?

5 A Yeah.

6 Q Okay. And your response was you received the  
7 information at 11:50 a.m. "This is my only call to the  
8 nearest Police Detachment."

9 A Yes.

10 Q Okay. Several questions were asked. DOE #3  
11 would be the ex-common-law partner of Karl Wesley McKay, to  
12 your knowledge. "Where did this take place? According to  
13 DOE #3 it took place on the Fisher River Cree Nation."

14 So you're just sharing your information with the  
15 operator at this point?

16 A That's correct.

17 Q The operator says a car would be dispatched to  
18 DOE #3's home. She asked for your name, the address of the  
19 agency and your contact phone number. You provide that and  
20 that was the end of your phone call with this particular  
21 person.

22 A Yes, it was.

23 Q Okay. Did they leave you with a number to  
24 contact the police again at or do any follow up?

25 A I can't recall.

1 Q After hanging up from this call, what was your  
2 plan with respect to the next steps on this matter?

3 A I can't -- my memory is vague of what the  
4 sequence of what I did that day.

5 Q Okay. So let's go to your next note, which is at  
6 page 34636. And if we can scroll to the bottom, just to  
7 see your signature. There it is. Top of the note is dated  
8 March 7, 2006, Tuesday. So we're at -- we're the next day,  
9 8:36 a.m. So would that -- for you, would that be first  
10 thing in the morning?

11 A Yes, it would be.

12 Q So this would have been the first thing you  
13 attended to?

14 A Yes.

15 Q You called the Winnipeg Police Service and  
16 introduced yourself to the operator. You explain your  
17 reason for calling. So what was your reason for calling,  
18 do you remember?

19 A I just called to make sure that there was follow  
20 -- immediate follow up to this -- to my phone call.

21 Q You wanted to make sure the police were doing  
22 something about it?

23 A That's correct.

24 Q At that point had you -- you were taking this as  
25 a serious call not a -- it wasn't -- a serious disclosure?

1           A     It was serious to me.

2           Q     You were directed to District 3, given a phone  
3 number, and you were to speak with the sergeant. I take it  
4 that was the end of that call?

5           A     Yes.

6           Q     And 8:37 a.m. you phoned District 3, you speak  
7 with the sergeant. He reviews the information. You don't  
8 say which information that is but I take it, it's the  
9 information about the disclosure DOE #3 gave you?

10          A     Yes, that's what it's about.

11          Q     Okay. He asked if I spoke with the police  
12 officers that followed up with the file. You said you  
13 haven't had any other contact. You gave him the report  
14 number, reason for calling, hoping to validate the concern  
15 for possibly abuse in this household. Why did you use the  
16 word abuse in this case?

17          A     That was the first information that was provided  
18 to me.

19          Q     Okay. But my understanding was that you were  
20 told that the five year old girl was buried somewhere?

21          A     Yes, and then it turned to something different.

22          Q     "Information can be forwarded to the agency that  
23 is responsible for these band members." What does that  
24 mean?

25          A     Meaning that if there were band members at Fisher

1 River, if need be, they required further service, it could  
2 be referred back to Fisher River.

3 Q Okay. Were, were you, were you, in other words,  
4 volunteering to provide that information?

5 A To them. If they needed, like if they needed  
6 family services or abuse.

7 Q Okay. This -- in other words, you were offering  
8 to provide help, if you could?

9 A Right.

10 Q

11 "He informed me that the file was  
12 referred to RCMP Serious Crimes  
13 Unit. He gave me a phone number  
14 ... They would direct me to a  
15 person, Sergeant Bert Clarke, end  
16 of contact."

17

18 And the next note is at page 34639. Again, this  
19 is Tuesday --

20 THE COMMISSIONER: Are you skipping over 3738?

21 I only ask that because they're in the file I've  
22 been given.

23 MR. OLSON: Oh, those probably aren't in the  
24 right order then. Chronologically, the next note --

25 THE COMMISSIONER: One is three, nine.

1 MR. OLSON: 34639.

2 THE COMMISSIONER: And the last one you referred  
3 to was 34636.

4 MR. OLSON: That's right.

5 THE COMMISSIONER: And now we're going to three,  
6 nine?

7 MR. OLSON: Three, nine.

8 THE COMMISSIONER: All right.

9

10 BY MR. OLSON:

11 Q So this note is also March 7, 2006, Tuesday, at  
12 2:12 p.m. It says you have a:

13

14 "Phone call from Constable Baker,  
15 RCMP. I informed him that Wpg CFS  
16 did close a file on March 9, 2005.  
17 It was a protection file. The  
18 assigned worker was (Chris)  
19 Christopher (Zalevich) Zalevick."

20

21 And you have a phone number.

22 Do you know how you came up with that  
23 information?

24 A I did a prior contact check on CFSIS.

25 Q Okay. From which office?

1           A     From the outreach office in Winnipeg.

2           Q     Winnipeg. During this whole period of time were  
3 you working out of the Winnipeg office?

4           A     No. You mean, during this time of this last --

5           Q     This -- these -- this event.

6           A     Yes, I was, yes.

7           Q     Okay. Normally -- I can't recall if I asked you  
8 at the beginning but do you normally reside in Fisher  
9 River?

10          A     Yes, I reside in Fisher River.

11          Q     Okay. So you were able to do a prior contact  
12 check and it showed that Mr. Zalevich had the last contact  
13 with this file in Winnipeg?

14          A     Yes.

15          Q     You go on to say:

16

17                         "Also, there were several sealed  
18 files with Cree Nation CFS. No  
19 contact person given to him. The  
20 phone number for Cree Nation  
21 Caring Agency."

22

23 And you have the phone number.

24                         Were you able to review any of those files or you  
25 just --



1 A No.

2 Q -- see that they existed? Okay.

3 When you did the prior contact check, do you  
4 recall who you searched?

5 A I, I would have searched a case reference.

6 Q What was the case reference?

7 A Samantha.

8 Q Samantha Kematch?

9 A Yeah.

10 Q It says -- you go on to say:

11

12 "According to Constable Baker, DOE  
13 #3 did make several calls to the  
14 agency to follow up with this  
15 alleged abuse. I could not  
16 acknowledge the statement for I am  
17 not aware of this file. I did ask  
18 if the RCMP Detachment made a  
19 direct referral to the agency.  
20 The supervisor's name was given to  
21 him, Madeline Bird.

22 End of my contact with Cst. Baker  
23 of RCMP Serious Crimes Unit."

24

25 So, at this point, Constable Baker is, is telling

1 you that DOE #3, as reported to the RCMP, that she made  
2 several calls to the agency to follow up with the alleged  
3 abuse. What did you understand that to mean?

4 A That she called an agency.

5 Q Did he -- was he saying -- was your understanding  
6 of what he was saying was that DOE #3 was saying that she  
7 had called ICFS to follow up on the abuse?

8 A I'm not too sure but I'm -- I guess my  
9 understanding was that she, she called an agency and I  
10 couldn't confirm that.

11 Q Okay. Had you, at this point, gone through ICFS'  
12 files to see what contact they --

13 A No, I didn't.

14 Q -- your agency had?

15 A No.

16 Q You hadn't at that point?

17 A No.

18 Q And had you alerted anyone else in the agency  
19 about this --

20 A No.

21 Q -- this happening? No? Okay. And I -- the  
22 interesting thing is the addendum on your, your initial  
23 note we looked at this morning, was made, it appears to be  
24 on March 8th, 2006. Do you want to go back to 34633?

25 Is that right, is that March 8th, 2006?

1           A     Looks like it.

2           Q     So you're putting, after, after you speak with  
3 the constable and, and he talks about DOE #3 telling him  
4 that she's made several calls to follow up about this  
5 alleged abuse you go back and write on your initial note  
6 that she told you something similar. Is that right?

7           A     No. This is -- again, like I said before, it  
8 was, it was just something that kept on coming back in my  
9 mind and, and I'm quite sure she said that in my call with  
10 her.

11          Q     Let's go to your next note which is at page  
12 34640. Your signature is at the bottom there, this, this  
13 note is dated March 10, 2006. It says: "Approx. 1:20 p.m.  
14 Office visit by Serious (crimes) Crime Unit, Cst. Janet  
15 Cole." Was this a scheduled visit?

16          A     No, it wasn't.

17          Q     Okay. Did you know that it was going to happen?

18          A     No.

19          Q     Okay. So nobody in the agency, as far as you  
20 know, was aware of it?

21          A     No.

22          Q     Okay. By this time had you alerted others in the  
23 agency about this issue?

24          A     No.

25          Q     Had you done a file review to see if the agency

1 had any contact with this family?

2 A No.

3 Q Okay. Was there a reason why you hadn't done  
4 that at this point?

5 A No, I don't have a reason.

6 Q Okay. Wouldn't you -- it just strikes me as a  
7 bit odd that you wouldn't want to know, based on what DOE  
8 #3 is saying, whether there had been contact by the agency.  
9 Is there -- was there any, any explanation for that that  
10 you have?

11 A No, I don't have an explanation on that.

12 Q Okay. So the constable has an office visit. It  
13 says:

14

15 "No introductions by the Cst.  
16 She re-affirmed my involvement.  
17 She asked if I received any  
18 further phone calls from anyone."

19

20 You say:

21

22 "No, I did not receive any phone  
23 calls. She questions the agency's  
24 involvement with the either McKay,  
25 or Kematch.

1 Brief service ... worker assisted  
2 Peguis CFS, the RCMP in the  
3 removal of two boys from a  
4 residence which is located on the  
5 Fisher River Cree Nation. Do you  
6 think it is possible that contact  
7 notes were miss placed; if the  
8 agency had any contact with these  
9 people, or other people?

10

11 Is that Constable Cole asking that question?

12 A Well, it had been, it had been misplaced.

13 Q Notes being misplaced.

14 A Yeah, that was (inaudible).

15 Q Okay. And so,

16

17 "All contacts with clients are to  
18 be documented and placed on file  
19 as per agency protocol.  
20 Conclusion. I was asked to notify  
21 the RCMP if I receive any phone  
22 call."

23

24 Do you recall how long this visit was with  
25 Constable Cole?

1 A Maybe half an hour.

2 Q Do you recall what it is she did? Did she go  
3 through files or did she ...

4 A She just questioned me on my involvement and my  
5 statement.

6 Q Okay. Did she question any of the staff?

7 A I don't know.

8 Q Why was she asking about contact notes or do you  
9 know?

10 A I don't know.

11 Q You don't know what the issue was?

12 Okay, if we could just go back for a minute to  
13 34637.

14 THE COMMISSIONER: Well, just before we do, put,  
15 put 640 up there again, please. I didn't understand,  
16 witness, this, in the,

17

18 "Brief service ... worker assisted  
19 Peguis CFS, the RCMP in the  
20 removal of two boys from a  
21 residence which is located on the  
22 Fisher River Cree Nation."

23

24 What's that telling us?

25 THE WITNESS: That --

1 THE COMMISSIONER: What does --

2 THE WITNESS: Fisher River assisted in  
3 remove --

4 THE COMMISSIONER: What does brief service mean?

5 THE WITNESS: Something -- a service that could  
6 be done within maybe a day or so.

7 THE COMMISSIONER: And where did this information  
8 come from?

9 MR. OLSON: Mr. Commissioner, I think I may be  
10 able to clarify that with the two pages that I skipped over  
11 before.

12 THE COMMISSIONER: Oh, all right.

13 MR. OLSON: I'll take you there now.

14 THE COMMISSIONER: All right.

15 MR. OLSON: If I may. 34637.

16

17 BY MR. OLSON:

18 Q So this, this, this is going back to the March 7,  
19 2006 timeframe, 9:00 a.m. -- 9:40 a.m., phone call to RCMP,  
20 Sergeant Bert Clarke. He transfers your call to Sergeant  
21 Baker in this call.

22 You introduce yourself.

23

24 "Reason for calling - trying to  
25 validate the alleged abuse,

1 possible death of a female child.  
2 They are currently interviewing  
3 the two boys. The parents are  
4 from Norway House. I am unsure of  
5 their Band.

6 However, if the abuse is  
7 validated, then the agency  
8 responsible should be informed to  
9 follow up with the family.

10 Either parent/s are not Band  
11 members of Fisher River Cree  
12 nation.

13 Constable Baker would call the  
14 agency in about forty-five minutes  
15 or so.

16 End of contact."  
17

18 So this -- that's the discussion you had with  
19 Constable Baker?

20 A Yes.

21 Q Okay. Please scroll the page up.

22 I think the other way. Up further.

23 THE CLERK: From the bottom?

24 MR. OLSON: Yeah, towards the bottom of the  
25 page.



1 BY MR. OLSON:

2 Q

3 "Phone call 9:56 a.m., March 7,  
4 2006, Tuesday. Contacted Fisher  
5 River Cree Nation ... Shirley  
6 Cochrane band clerk."

7

8 Now, that's the other Shirley Cochrane, not the  
9 Shirley Cochrane we're going to hear from tomorrow.

10 A Yes, that is correct.

11 Q "Wesley McKay, DOB: Jan. 1, 1980." What's that  
12 referring to?

13 A You mean the name?

14 Q No, this, this phone call here.

15 A I was trying to verify if he was a band member of  
16 Fisher Cree Nation.

17 Q Okay, so you're, you're doing a big of digging,  
18 yourself, to find out who Wesley McKay was?

19 A That's correct.

20 Q Shirley, the band clerk, the person that would  
21 know, is telling you he is not a registered member of the  
22 Fisher River but she'll do a further search and call you  
23 back? That's what she's saying to you here?

24 A Yes.

25 Q Okay. And so if we go to the next page, which is

1 34638. Again, this is March 7, 2006, 1:02 p.m., and here  
2 this is the, the important note that I missed before, this  
3 is your phone call to Constable Baker, at 1:02 p.m. He's  
4 with the serious crimes unit. It says:

5

6 "I left a message on his voice  
7 mail that ICFS did not have an  
8 open file.

9 The information which is being  
10 given to him is the data base  
11 CFSIS.

12 WPG CFS did have prior contact  
13 with this family.

14 Cst. Baker can call me at 927 ..."

15

16 Et cetera. If we scroll towards the bottom of the page, it  
17 says:

18

19 "1:06 p.m. Phone call from Cst.  
20 Baker ...

21 Cst. Baker asked for more  
22 information such as DOB, name of  
23 child. Any previous contact with  
24 agencies. I would call him later  
25 hopefully with the information."

1           Then it says you left some -- a message with some  
2 more information, he returned your call.

3           Now, my understanding is you did do some searches  
4 at that time.

5           A     Yes, I did.

6           Q     Okay. And you became aware of the contact with  
7 the family, the July 12th contact with the family?

8           A     Yes, I did.

9           Q     Can we scroll to the next page, please, three,  
10 nine? I think we already reviewed that one.

11           And so the Commissioner was asking you before  
12 what that --

13           THE COMMISSIONER: On 34640.

14

15 BY MR. OLSON:

16           Q     What the reference to "Brief service ... worker  
17 assisted Peguis CFS" referred to. Do you see that on the  
18 page?

19           A     Yes, I do.

20           Q     And so what, what does that refer to?

21           A     Means I checked to see if (inaudible) had any  
22 involvement with that particular family.

23           Q     Okay.

24           A     And this is what I came up with, a brief service  
25 when they assisted Peguis to remove the boys from the

1 residence and helped them get back to the City of Winnipeg.

2 Q Okay. And just to put this in context, that was  
3 -- we heard from Madeline Bird and Violet Sinclair  
4 yesterday --

5 A Right.

6 Q -- about that, that situation in July of bringing  
7 DOEs 1 and 2 back to Winnipeg, that's what that's referring  
8 to?

9 A Yes, it is.

10 Q Okay. Thank you. Finally, I want to take you to  
11 page 34605. This is a document I understand you prepared  
12 on May 24, 2006. Your signature is -- appears at the  
13 bottom of the page. Do you recall preparing this document?

14 A Yes, I do.

15 Q Do you recall why you prepared it?

16 A I was instructed to review the file.

17 Q Okay. And who gave you those instructions?

18 A The executive director.

19 Q Okay. And so this is called an overview of the  
20 brief services file, Wesley McKay, DOE #3, as reviewed on  
21 May 24, 2006. And this essentially goes through the, the  
22 contact that you were aware of that ICFS had with this  
23 family. Is that, is that right?

24 A Yes, yes.

25 Q At the bottom, in bold, you write:

1                    "I did not find, nor locate any  
2                    other written contacts, or  
3                    referrals from DOE #3 until she  
4                    made the report on an abused child  
5                    to Randolph Murdock, Winnipeg  
6                    Outreach on March 6th, 2006."  
7

8                    First of all, why did you bold that particular  
9 paragraph?

10            A     Just to -- I tend to highlight stuff that I want  
11 to -- I need to remember.

12            Q     Okay. What did you do in terms of searching for  
13 any other contact? If anything?

14            A     I just reviewed the file that, that brief service  
15 file.

16            Q     The brief service file?

17            A     Yeah.

18            Q     Did you speak with any of the workers involved?

19            A     No, I did not.

20            Q     Okay. Did you speak to the receptionist who may  
21 have taken calls?

22            A     No, I didn't.

23            Q     Did you speak with anyone at all?

24            A     No.

25            Q     Just -- so it's just the file reviews?

1           A     Yes.

2           MR. OLSON: Thank you, those are my questions.

3           THE COMMISSIONER: All right. I assume there  
4 will be some questions from the counsel. All right, we'll  
5 take our 15 minute mid-morning break now.

6

7                               (BRIEF RECESS)

8

9           THE COMMISSIONER: Mr. Gindin, please.

10          MR. GINDIN: Thank you.

11

12       CROSS-EXAMINATION BY MR. GINDIN:

13          Q     Mr. Murdock, my name is Jeff Gindin, I represent  
14 Kim Edwards and Steve Sinclair.

15          A     Morning.

16          Q     Now, I understand that you told us that you were  
17 a program coordinator in 2005; right?

18          A     That's correct.

19          Q     And that would be in Fisher River?

20          A     That would be Fisher River.

21          Q     Now, I was a little unclear as to exactly what  
22 that meant and what you actually did so just bear with me.  
23 You talked about the fact that you were concerned with  
24 whether the people working for you were complying with  
25 standards. Is that a fair description of what you were

1 doing?

2 A Could you repeat that?

3 Q You were trying to ensure that the social workers  
4 that were working up in Fisher River and these other  
5 offices that you've mentioned, were complying with the  
6 proper standards and policies?

7 A That's correct.

8 Q And how did you make sure that they were, what  
9 did you do to make sure that they were?

10 A In regards to service to families there was a  
11 checklist that, that I had -- that I did in regards to what  
12 should be on the file. And also I checked the standards to  
13 make sure that they were doing the proper intakes and that  
14 they were in compliance with all the necessary data that  
15 had to be input into the IM. And also in regards to the  
16 assessment, to make sure that they were documenting  
17 assessments in the proper fashion and service provision to  
18 make sure that they had the proper documentation.

19 Q Are you, are you referring to some notes there?

20 A Just so I'm accurate in my head, I put -- have it  
21 in my head and I, I just put it on a piece of paper so that  
22 we all have a -- it's just something I wanted to keep track  
23 of myself.

24 Q So you have a couple of notes written down on a  
25 piece of paper?

1           A     It's just something I just, just awhile ago in  
2 regards to -- it's in regards to planning, just to make  
3 sure that they have a proper plan in place.

4           Q     Okay.  So, first of all, I take it you made  
5 yourself familiar with the standards yourself.

6           A     Yes, I did.

7           Q     Right?  And you had some documentation, like a  
8 checklist of things that you wanted to make sure were being  
9 done; is that right?

10          A     That's correct, yes.

11          Q     Okay.  And where did you get that checklist from?

12          A     It was always in -- it was all on file and I  
13 just, I just continued to use what the agency had.

14          Q     And is that the same type of document that you  
15 had been using for many years?

16          A     Yes.

17          Q     And is that something that was given to you by  
18 the agency, or by counsel, or where did that come?

19          A     From the agency.

20          Q     Okay.  So you, you made yourself familiar with  
21 standards and policies and that kind of thing and then your  
22 job was to make sure that the people working up there were  
23 following these procedures and, and policies; correct?

24          A     Yeah, that's correct.

25          Q     And how did you -- what did you do to make sure



1 that they were? Did you meet with them individually?

2 A I would actually view the files and I would  
3 always write, write up my report and I would give my  
4 superior. And I was also -- I would talk to the family  
5 service workers as to where they're -- they needed to  
6 improve or what they had to have on file.

7 Q And how many, how many workers were you in charge  
8 of overseeing, altogether, at that time, in 2005?

9 A That would be around 10, 10, 11.

10 Q And those 10 or 11 were spread out over the four  
11 offices you told us about?

12 A Yes.

13 Q I see. And so you would meet with them,  
14 individually, at different times?

15 A Yes.

16 Q And you would review some of the files that they  
17 had?

18 A That's correct.

19 Q Not all of them but just random, a random  
20 selection.

21 A Yes.

22 Q Is that right?

23 A Yes.

24 Q And when you did that, did you make notes of, of  
25 those meetings and your observations?

1           A     I would write up my written report and I would  
2 give it to my, my superior.

3           Q     Okay.

4           A     My supervisor.

5           Q     So you would make notes of these discussions you  
6 had and give those notes over to your supervisor?

7           A     That is correct.

8           Q     Is that right?  And, and for how many years were  
9 you doing that very thing?

10          A     From 2000, I think 2005.

11          Q     And you're still doing that?

12          A     In some capacity, yes.  It's -- I'm still doing  
13 the same thing, for quality assurance.

14          Q     Okay.  And if you came across something that  
15 wasn't being handled properly or in compliance with some of  
16 these standards, what would you do?

17          A     I always give that information to the director.

18          Q     So you would make a note of that, too.

19          A     That's correct.

20          Q     Do you recall whether, in 2005, you came across  
21 any examples of anyone not complying with the standards?

22          A     No.

23          Q     You don't recall you --

24          A     I can't recall at all.

25          Q     That may have been the case but you are not able

1 to tell us today?

2 A That's correct.

3 Q All right. And one of the things that you were  
4 concerned about was that the various social workers make  
5 proper notes?

6 A Yes, proper documentation.

7 Q And you wanted to make sure that they knew that?

8 A Yes.

9 Q And with respect to phone calls that came in to  
10 the various offices, the idea was that these things should  
11 be recorded somewhere?

12 A Yes.

13 Q That's the way it should work?

14 A Yes.

15 Q Correct?

16 A Yes.

17 Q Whether or not, in fact, every single call was  
18 recorded somewhere or not, you can't really tell us?

19 A Pardon me?

20 Q You can't really tell us whether every single  
21 call that came in was actually recorded somewhere?

22 A That's correct.

23 Q But ideally it should be?

24 A Yes.

25 Q Now, when you took the call from the mother, from

1 DOE #3, I think you said that you took it because the  
2 regular person who would take the call wasn't there?

3 A She was busy.

4 Q She was busy.

5 A Right.

6 Q Had you not been there, that call might have been  
7 missed, I suppose?

8 A I'm not too sure.

9 Q Who else was there besides yourself when you took  
10 the call?

11 A There was a few other people.

12 Q You don't usually take these kinds of calls?

13 A No, I don't.

14 Q And that was the one time that, that you did?

15 A Yes, I did.

16 Q Because either others were busy or weren't  
17 available?

18 A I was the closest one to the phone.

19 Q I see. Okay. Now, I just want to briefly go  
20 through some of the notes that you made that we have  
21 already discussed. These notes that you went over earlier  
22 with counsel here, I think you told us that what your  
23 practice was to make them almost immediately?

24 A Yes.

25 Q Right? So you would get a call, you would get

1 some information and as soon as you hung up you made sure  
2 you made the notes right away?

3 A Yes.

4 Q And basically typed them up on, on the computer,  
5 or is that what you did?

6 A Or laptop.

7 Q Or laptop. Okay. So if I can direct you to page  
8 34633. Is that up on the screen? Yes.

9 So this is how it began. You got a call from DOE  
10 #3; correct?

11 A Yes.

12 Q And you were trying to remember, as best you  
13 could, exactly what was said?

14 A Yes, I was trying to go word-for-word.

15 Q Yeah. But more importantly, you wanted to get  
16 the gist, for sure of the --

17 A I wanted to get what she was telling me, thus  
18 putting it down.

19 Q So the notes that we're looking at here were made  
20 a matter of a minute or two after the call; right? As  
21 quickly as you could do it?

22 A Yeah, as quick as I could.

23 Q Now, we've talked about this but at the bottom of  
24 that page it appears as though something was added to the  
25 page, obviously; right?

1           A     Right.

2           Q     And it appears as though that was added on March  
3 the 8th, 2006.

4           A     Yes.

5           Q     Correct? Now, the note says that -- pardon me,  
6 the mother, stated that she called the agency regarding her  
7 concern. Do you recall whether you asked her which agency  
8 she is referring to?

9           A     No, I didn't.

10          Q     At least you don't remember asking?

11          A     No, I didn't.

12          Q     Okay.

13          A     I didn't ask her.

14          Q     You didn't ask her. Is there any reason why you  
15 wouldn't ask which --

16          A     No, I don't, I don't know.

17          Q     Okay. Now, if you look at the next page, 34634,  
18 this is a phone call that's only a few minutes later;  
19 correct?

20          A     Yes.

21          Q     In the middle of that page where it says why  
22 would [redacted] report to Fisher River ICFS? Now, who's  
23 asking that question? Is that your -- you're posing that  
24 question to yourself?

25          A     In a sense, I guess, because it -- I guess

1 because she's not our band member that's why I probably  
2 thought that.

3 Q But I notice that what you said is why would  
4 [redacted] report to Fisher River ICFS? Pardon me, I'm  
5 sorry, I made that mistake.

6 THE COMMISSIONER: DOE #3.

7 MR. GINDIN: Yes. We'll call her the mother,  
8 maybe that will be a little easier for me to remember. I  
9 apologize and of course, the media has to keep --

10 THE COMMISSIONER: You're not, you're not the  
11 only one.

12 MR. GINDIN: DOE #3, I'm sorry.

13

14 BY MR. GINDIN:

15 Q So you're, you're asking this question, why would  
16 DOE #3 report to Fisher River ICFS and, of course, the  
17 previous note doesn't say Fisher River ICFS it just says  
18 the agency. So that's confusing, to me, why you would ask  
19 about that unless you had some information that that's  
20 where the call was made.

21 A The main office is in Fisher River.

22 Q The main office is, is in Fisher River?

23 A Right.

24 Q Okay. So did you take her call in which she  
25 tells you she contacted the agency to mean that she likely

1 contacted Fisher River ICFS?

2 A No, I just put Fisher River because that's the  
3 main office and ...

4 Q Um-hum. Okay, so you were asking why would she  
5 -- why she would report to that office?

6 A Why she would report to Fisher River main office,  
7 like.

8 Q Okay.

9 A I guess I shouldn't have wrote Fisher River, I  
10 should have just put Intertribal Child and Family Services  
11 because we have -- we are one entity and --

12 Q Okay. But I'm just curious why you put ICFS at  
13 all unless you were told that's where she had called?

14 A She didn't tell me where she called.

15 Q So for some reason you just put down why would  
16 she report to Fisher River?

17 A I don't have a question in my head.

18 Q Okay. And then there's a comment there, alleged  
19 abuse took place on the Fisher River Cree Nation, so is  
20 that your own answer to why she might call there?

21 A Well, she did, she did mention in that, in that  
22 phone call that the child was on the Fisher River Cree  
23 Nation.

24 Q Okay. So these are notes of, of a conversation  
25 you're sort of having with yourself, I suppose?



1           You're asking questions, you're giving an answer?

2           A     Yeah, in a sense, yes.

3           Q     Okay.

4           A     Because it -- I was trying to validate what I was  
5 thinking about that day.

6           Q     So you were surmising there that one of the  
7 reasons why DOE #3 might call Fisher River is because  
8 that's where the alleged took --

9           A     Right.

10          Q     Abuse took place; right?

11          A     Yeah.

12          Q     Okay. Now, the next page, 34635, one of the  
13 things you write in your notes is that several -- about  
14 half-way through the page -- "Several questions was asked  
15 to me." It doesn't appear as though those questions are  
16 recorded there. Is that so?

17          A     Yes, they weren't.

18          Q     Now, just going to page 34639, this is the note  
19 where you talk about getting a call from Constable Baker of  
20 the RCMP. You see that? Do you have that in front of you?

21          A     Yeah, it's on the screen.

22          Q     All right. And you were told by Constable Baker  
23 that the mother, DOE #3, did make several calls to the  
24 agency to follow up with this alleged abuse. That's what  
25 you were told; right?

1           A     Right.

2           Q     And is it possible that being told that by  
3     Constable Baker, that refreshed your memory, that the  
4     mother did, in fact, tell you she made a call and that's  
5     why you went back to the March 6th note and added it at the  
6     bottom?

7           A     No.

8           Q     No?

9           A     No.

10          Q     I'm curious as to why that wasn't typed like the  
11     rest of the note was and simply written in later.

12          A     Because I had handwritten, it was just something  
13     I did.

14          Q     All right.     So you remembered, shortly after  
15     making the March 6th note, that, that the mother had told  
16     you about the call?  Is that right?

17          A     No, like I mentioned before, this phone call was,  
18     was not something I had experienced before and it was, I  
19     guess it was shocking for me, and this information kept on  
20     replaying back in my head and it would come up, it would  
21     just repeat itself and I'm quite sure she told me that.

22          Q     Yeah.

23          A     So that's why I put it down.

24          Q     And so you added it --

25          A     Yes.

1 Q -- to make sure that we had the right  
2 information?

3 A I made sure that it was down --

4 Q Yes.

5 A -- because I thought it was important.

6 Q And in addition to you being quite clear that she  
7 told you about the call, Constable Baker also told you that  
8 DOE #3 had made these calls, as well? Correct? We can see  
9 that from the notes.

10 A Yeah, he did tell me that.

11 Q You were also asked whether the RCMP had later  
12 spoken to any of the members of your staff and I think your  
13 answer was you don't know.

14 A Yeah, that's what I said.

15 Q So you never spoke to members of your staff after  
16 this very disturbing information came out?

17 A No, because I was told not to.

18 Q I see. All right. So the RCMP, in fact, told  
19 you that we have an investigation going on so --

20 A Yeah.

21 Q -- don't speak to these people?

22 A Yeah.

23 Q I see. Now, one of the last things I noticed in  
24 the notes that you provided was 34640 or pardon me, 34639,  
25 pardon me, the page before, and there you refer to the fact

1 that by this point you had done some digging of your own;  
2 correct?

3 A Yes.

4 Q And you checked with -- you checked to see if  
5 there were previous files and, and you found out some  
6 information; correct?

7 A Right.

8 Q And that page tells us that you discovered that  
9 the assigned worker was Christopher Zalevich. You see that  
10 there?

11 A Yes.

12 Q And did you connect with him, did you contact  
13 him?

14 A No, I didn't.

15 Q To ask anything at all?

16 A No.

17 Q Now, when you were looking around to see if you  
18 could find any sort of notes about a call that might have  
19 come in from DOE #3, what you're telling us is that you  
20 didn't find any notes?

21 A No.

22 Q Okay. That doesn't mean there wasn't a call that  
23 came in, it just means that you weren't able to verify it  
24 with a note; correct? That just means that you weren't  
25 able to verify that call coming in by a note that you

1 found? Correct?

2 A You're saying that I -- there was a call that  
3 came but I couldn't verify it?

4 Q I'm, I'm --

5 A Because there was no contact notes?

6 Q I'm saying that all you can tell us is that you  
7 found no note verifying a call. You can't say to us no  
8 call was made?

9 A Yes, that's true.

10 MR. GINDIN: Yeah. All right, thank you, those  
11 are my questions.

12 THE COMMISSIONER: Mr. Ray?

13 MR. RAY: Yes, thank you, Mr. Commissioner. For  
14 the record, Trevor Ray, I represent a number of social  
15 workers that were involved in providing services to Phoenix  
16 Sinclair, as well as the MGEU.

17

18 CROSS-EXAMINATION BY MR. RAY:

19 Q I just have a couple of quick questions for you.  
20 Do you have -- I -- do you have any experience as a social  
21 worker with Winnipeg CFS or in the City of Winnipeg or is  
22 your experience restricted to ICFS?

23 A No, I used to work with different agencies.

24 Q Pardon me?

25 A I had an opportunity to work with another agency.

1 Q Which agency then?

2 A I worked for a short period of time -- a brief  
3 period of time at Brandon. And also, I worked with Dakota  
4 Ojibway Child and Family Services.

5 Q Okay. And in your capacity with ICFS, do I  
6 understand correctly that you were primarily a quality  
7 assurance person and that you didn't perform social worker  
8 functions, generally. Is that, is that basically what your  
9 primary role was?

10 A As of today or in 2005?

11 Q At the -- and in -- from 2000 to 2005?

12 A It was -- no, I, I did family service work in the  
13 past.

14 Q Okay. In your capacity in, in -- let me back up.  
15 When you were in your role as a quality assurance person,  
16 were you doing almost exclusively quality  
17 assurance?

18 A Yes.

19 Q Okay, that was my question. And you mentioned  
20 that at one point in time the response to a question asked  
21 by Mr. -- I believe Mr. Olson, about standards and  
22 standards training that were provided to your staff, and  
23 you mentioned that one of the things that people learned in  
24 terms of standards was learned through department training  
25 that was offered about standards. We've heard lots of

1 evidence that that's -- those types of standards did not  
2 occur from -- at least for social workers in Winnipeg,  
3 until roughly 2006 or later. Is it possible that that  
4 would be the timeframe that the types of standards training  
5 would have occurred?

6 A I'm not sure.

7 Q You're not sure?

8 A Yeah.

9 Q And, in any event, you would not be in a position  
10 to disagree with the evidence of the, of the social workers  
11 that said they did not receive, personally, standards  
12 training until much later and more recently like  
13 approximately 2006? You wouldn't know either  
14 way?

15 A No, I wouldn't.

16 MR. RAY: Okay. Thank you, those are my  
17 questions.

18 THE COMMISSIONER: Thank you, Mr. Ray. Anybody  
19 else? I guess you're on then, Mr. Khan. Oh, sorry, Mr.  
20 Gange.

21 MR. GANGE: Mr. Commissioner, again I'm going to  
22 seek leave on behalf of DOE #3, to question Mr. Murdock. I  
23 will not be long.

24 THE COMMISSIONER: Granted.

25 MR. GANGE: Thank you.

1 CROSS-EXAMINATION BY MR. GANGE:

2 Q Mr. Murdock, I act for the person who is  
3 identified as DOE #3 in these proceedings, who you spoke to  
4 on March 6th as, as shown in, in document 34633 so the  
5 mother of the boys. And just a couple of questions, sir.

6 In -- if you look at page 34633, I think that can  
7 be brought up on the screen. And, and if we looked at the  
8 bottom of that page, I'm just a little bit confused, sir,  
9 in terms of the, the note that you made and, and all that  
10 we've got is photocopies so obviously I don't have the  
11 original document but it says: "[Redacted] did state she  
12 called the --"

13 THE COMMISSIONER: DOE #3.

14 MR. GANGE: Pardon me, I, I, I -- boy, oh, boy,  
15 isn't that awful, me of -- I apologize, sir.

16 THE COMMISSIONER: Well, we've been very  
17 fortunate that the --

18 MR. GANGE: That I haven't been here all that  
19 often.

20 THE COMMISSIONER: No, the, the media  
21 representatives have very faithfully followed the  
22 instructions and they --

23 MR. GANGE: Yes, thank you.

24 THE COMMISSIONER: -- they have observed the  
25 rules and we're thankful for that.



1           MR. GANGE:     Thank you, Mr. Commissioner, I  
2 apologize.

3

4 BY MR. GANGE:

5           Q     So, Mr. Murdock, if you look at that it, it talks  
6 about DOE #3 did state she called -- and then, and then  
7 there's both the word "a" and "the" in that, in that next  
8 word. You see that, sir?

9           A     Yes, I do.

10          Q     Which one was written first? Do you remember?

11          A     No, I can't remember.

12          Q     When we look on the screen it certainly looks as  
13 though the word "the" is the more predominant. Now, is --  
14 do, do you agree with that? Is that the way that you see  
15 it, as well?

16          A     No, I, I couldn't -- I don't know if she said a  
17 agency or the agency.

18          Q     So -- and, and you don't know -- you don't  
19 remember if it was at the exact time that that happened,  
20 that you wrote both of them --

21          A     Yes.

22          Q     -- or if it was later --

23          A     No.

24          Q     -- that you corrected that?

25          A     It was right after I took the call.

1 Q Well, no, it's not right after you took the call,  
2 because it's dated --

3 A I mean --

4 Q -- March 8th, 2006.

5 A (Inaudible.) Yeah, it's (inaudible).

6 THE COMMISSIONER: But you agree that they're  
7 both there?

8 THE WITNESS: Yes, they are, they are both there.  
9 It's just that I don't know which one, which word she used.

10

11 BY MR. GANGE:

12 Q Which one was first?

13 A Right.

14 Q Okay. And then if you look at page 34634, the  
15 next page, and I wasn't clear, sir, on, on the commentary  
16 that you made. This is documenting your phone call with  
17 your supervisor. Correct? Shirley Cochrane?

18 A Yes, it is.

19 Q And, and just very briefly we'll note that the  
20 next page, 34635, is, is -- there's a notation that it's  
21 made at 12:40 p.m. and this is when you called the police  
22 force, sir; correct?

23 A Right.

24 Q And the phone call on, on 34634, is at noon hour.  
25 Did you spend 40 minutes talking to Shirley Cochrane?

1 A No, I didn't.

2 Q And any, any idea of how long it was that you  
3 talked to Shirley Cochrane?

4 A No, I don't -- I can't recall.

5 Q Okay. The, the, the phrase "Consult: report to  
6 RCMP, Fisher Branch Detachment, or Winnipeg Police Service"  
7 do I take that, sir, that what was happening there was that  
8 these were the directions that you were being given by  
9 Shirley Cochrane, saying to you, Mr. Murdock, what you have  
10 to do now that you've got this information, contact either  
11 the RCMP or Winnipeg Police?

12 A Yes, in a sense (inaudible).

13 Q So that's, that's a discussion -- whether,  
14 whether it's a direct -- I'm not sure if order is the right  
15 word but she is your supervisor so I will use the word  
16 order. Ms. Cochrane saying to you call the, the  
17 authorities.

18 A That's correct.

19 Q And, and I would have thought, sir, that, that  
20 immediately after hanging up you would have called either  
21 the RCMP or the, or the Winnipeg Police force and that's  
22 why I'm kind of wondering, because it makes sense to me  
23 that, that the phone call would be 40 minutes long with,  
24 with Ms. Cochrane.

25 A No, I don't.

1 Q But you don't think it was?

2 A No, I don't.

3 Q And, and I recognize, sir, this is, this is going  
4 back seven years ago though.

5 A Right.

6 Q But, but any thoughts of what you did between  
7 hanging up with Ms. Cochrane and then calling --

8 A No.

9 Q -- the authorities?

10 A No.

11 Q Okay. And then the next -- are these notes your  
12 record of everything that you discussed with Ms. Cochrane?

13 A Yes.

14 Q Okay. So the next part, status of case, did, did  
15 Ms. Cochrane say to you, Mr. Murdock, what you've got to do  
16 is you've got to find out if, if these people are involved  
17 with our agency. Did she say that, she wanted you to do  
18 that?

19 A No.

20 Q Whose, whose -- if it's -- if she didn't say  
21 that, she didn't give you that order, why does it appear in  
22 this note that is concentrating on your phone call with Ms.  
23 Cochrane?

24 A I guess like I was -- like I had mentioned  
25 before, I was trying to validate, I was trying to validate

1 that information I did have from the ...

2 Q From DOE #3?

3 A Right, yes, my -- yeah.

4 Q Yes. Yes, I understand that but, but these are  
5 notes of, of, of the conversation with Ms. Cochrane, that's  
6 the part that, that I, I am just having a little bit of  
7 trouble understanding. I would have thought that, that was  
8 a discussion that you had with Ms. Cochrane. Am I wrong on  
9 that, sir?

10 A It was with Ms. Cochrane but basically it was --  
11 I was trying to confirm my plan of action. Was it the  
12 right, proper process? And she did validate that I was  
13 doing the proper format and to report.

14 Q Right, right, right. And, and that question  
15 about why would report -- why would DOE #3 report to the  
16 Fisher River ICFS, that's part of your discussion with Ms.  
17 Cochrane, as well, is it not, in terms of, of you  
18 attempting to validate the process?

19 A I could have, could have done it, I said  
20 that.

21 Q Yeah. Do you recall, during that discussion with  
22 DOE #3 where the comment, as, as stated, that, that DOE #3  
23 did state she called the agency regarding her concerns, do  
24 you recall DOE #3 saying something to you -- or, or  
25 something to you that went like this. I called and I was

1 told that everybody was busy?

2 A No.

3 Q Now, do you recall her saying that, that, that  
4 her attempt to notify the agency was not given  
5 credence?

6 A No.

7 Q Your only recollection is that she said that she  
8 called an agency; is that correct?

9 A Or the agency.

10 Q Or the agency.

11 A Yes.

12 Q So -- but, but you didn't go down that path at  
13 all about what happened when, when -- DOE #3, what happened  
14 when you called the agency?

15 A No, I didn't.

16 MR. GANGE: Those are my questions. Thank you,  
17 Mr. Commissioner.

18 THE COMMISSIONER: Thank you.

19 MR. GANGE: Thank you very much, Mr. Murdock.

20 THE COMMISSIONER: Mr. Khan?

21 MR. KHAN: Madam Clerk, if you can bring up page  
22 34646. And just for the record, it's Hafeez Khan,  
23 representing Intertribal Child and Family Services. Hello,  
24 Mr. Murdock.

25 THE WITNESS: Hi.

1 CROSS-EXAMINATION BY MR. KHAN:

2 Q Mr. Murdock, in answering questions from Mr.  
3 Gindin you had mentioned that you were advised by the RCMP  
4 not to disclose this information to anyone?

5 A Yes, I was.

6 Q If you can take a look at your monitor, please.  
7 This is a contact note dated March 8, 2008. It was  
8 recorded by Clemene Hornbrook and reviewed by, I  
9 believe -- is that your signature at the  
10 bottom?

11 A I can't see the bottom.

12 Q Sorry, Madam -- thank you.

13 A Yes, it is my signature on the right-hand  
14 side.

15 Q And when you had mentioned to Mr. -- when you  
16 told Mr. Gindin that you were advised not to discuss this  
17 with anyone else, is, is this the information you were  
18 referring to?

19 A Yes, I was.

20 THE COMMISSIONER: Is this your writing?

21 THE WITNESS: No, it's not.

22 THE COMMISSIONER: Pardon?

23 THE WITNESS: Not, not my writing.

24 THE COMMISSIONER: Whose is it?

25 THE WITNESS: Clemene Hornbrook.

1 BY MR. KHAN:

2 Q In fact, can you just explain to the -- Mr. -- to  
3 the Commissioner who is Clemene Hornbrook?

4 A Clemene Hornbrook was my co-worker at, at the  
5 outreach office on that particular day.

6 Q Mr. Murdock, you picked up the phone on March 6,  
7 2006 when DOE #3 called?

8 A That's correct.

9 Q Now, was it because no one else was answering the  
10 phone?

11 A I just thought there was no one there to take it  
12 and my co-worker was busy so I answered the phone.

13 Q And you had mentioned to Mr. Gindin that you were  
14 the first one to get to the phone?

15 A Yes, I was the closest one to that phone.

16 Q Are you suggesting that no one would have  
17 answered the phone if you didn't pick it up?

18 A No.

19 Q Madam Clerk, if you can bring up page 34634,  
20 please.

21 Mr. Murdock, when you write:

22

23 "Status of case: is the agency  
24 involved with this family, (would  
25 DOE #3 report) Why would DOE #3



1 report to, to Fisher River ICFS?"

2

3 When you, when you wrote down "Why would DOE #3  
4 report to Fisher River ICFS," are you referring to  
5 reporting the call of March 6, 2006? The report of the  
6 murder?

7 A I'm not too sure.

8 Q And Fisher River is the location -- sorry, Mr.  
9 Murdock?

10 A I never said nothing.

11 Q And Fisher River is, is the location you work out  
12 of. Is that correct?

13 A Yeah, I worked out of the main office in Fisher  
14 River.

15 MR. KHAN: Thank you, those are my questions.

16 THE COMMISSIONER: Thank you, Mr. Khan.

17 Any re-examination?

18 MR. OLSON: I have no re-examination.

19 THE COMMISSIONER: Thank you very much, witness,  
20 you are completed.

21 THE WITNESS: Okay, thank you.

22 THE COMMISSIONER: You can leave.

23

24 (WITNESS EXCUSED)

25

1 THE COMMISSIONER: Now, do you want to start the  
2 next witness now or, or adjourn till 1:45?

3 MR. OLSON: Either is fine, or whatever is  
4 your --

5 THE COMMISSIONER: Well, whatever suits you,  
6 whatever you want to do, you're -- it's -- I mean ...

7 MR. OLSON: I'd like to start now.

8 THE COMMISSIONER: Okay.

9 THE CLERK: Is it your choice to swear on the  
10 Bible or affirm to tell the truth without the Bible?

11 THE WITNESS: The Bible.

12 THE CLERK: Take the Bible in your right hand.  
13 State your full name to the court.

14 THE WITNESS: Shirley Cochrane.

15 THE CLERK: And spell me your first name.

16 THE WITNESS: S-H-I-R-L-E-Y.

17 THE CLERK: And your last name, please.

18 THE WITNESS: C-O-C-H-R-A-N-E.

19 THE CLERK: Thank you.

20

21 **SHIRLEY COCHRANE**, sworn, testified

22 as follows:

23

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

25 THE WITNESS: Excuse me, I just needed to move

1 this mike --

2 MR. OLSON: Sure.

3 THE WITNESS: -- where I'm comfortable.

4

5 DIRECT EXAMINATION BY MR. OLSON:

6 Q Ms. Cochrane, I understand that you're recently  
7 retired?

8 A Yes.

9 Q As the executive director of Intertribal Child  
10 and Family Services?

11 A Yes.

12 Q When did that happen?

13 A Just recently. I retired in February.

14 Q Okay.

15 A 2013. Too loud? Oh, sorry.

16 Q Can you just take us through your educational  
17 background?

18 A Certainly. I took the counseling skills level,  
19 levels one and two, in 1990, '91. I've -- have numerous  
20 workshops, seminars, in regards to how to write policies  
21 and procedures, numerous workshops on finance, how, how to  
22 do financial budgets, as well as some other workshops as it  
23 relates to human resources such as employment laws, how do  
24 you do personnel policies that reflect, that reflect upon  
25 employment laws in Manitoba, the labour, the labour codes

1 to assist myself and my board of directors in developing  
2 policies and, and procedures.

3 I have also attended workshops on virtues, that  
4 is how value system and virtues and working with people in  
5 our communities. These are the key areas that come to my  
6 mind. I can go on.

7 Q Okay. I think that gives us a pretty good  
8 understanding. Is it fair to say that your background is  
9 not really in social work practice?

10 A No, it isn't.

11 Q Okay. You've come more from a management  
12 perspective?

13 A Yes, I do.

14 Q One of the issues that has come up in this  
15 inquiry is the idea of registrations, some sort of  
16 registration system for social workers. Do you have any  
17 views on that?

18 A Registration of social workers?

19 Q Right.

20 A Well, my personal view is that there is work that  
21 is out there in regards to First Nation social work  
22 registration, I support that idea.

23 Q Is that something different -- are you  
24 distinguishing between First Nation social work and, and  
25 I'll call it main stream social work?

1 A Yes, yes, I am.

2 Q Okay. And what is the distinction?

3 A Well, it's just a registration of our current  
4 First Nations social workers that work in the field -- I'm  
5 sorry, that work in the field and that organization would  
6 assist them in, in First Nations social work.

7 Q Now, I want to just go through your child related  
8 -- child welfare related employment history. I understand  
9 that you started as the executive director at ICFS in 1994?

10 A Yes, that's correct.

11 Q Prior to that?

12 A Prior to that I was the supervisor of -- for the  
13 Fisher River community and prior to that I was the front  
14 line worker. I started working in Child and Family in 1988  
15 as a front line worker.

16 Q What is it that brought you into this line of  
17 work given your, your background?

18 A I wanted to -- I'm always -- I have always been  
19 active in my community. Prior to coming to Child and  
20 Family -- am I bit too loud?

21 THE CLERK: It's just making feedback with the  
22 other mike.

23 THE WITNESS: Okay. Prior to coming to Child and  
24 Family I was in the community, I worked at the health,  
25 health services centre, in the health centre, as a

1 community health representative. I worked there for eight  
2 year. I left there to pursue my, my goal, I wanted to be a  
3 nurse. I went up north to the university up north, in  
4 Thompson, and I spent some time there. That was my  
5 ultimate goal, to be a nurse in our community.

6           However, when it came time to do the medication,  
7 the needles, I said this is not for me, I don't want to  
8 take that chance. I wasn't confidence (sic) in, in my  
9 ability to draw up the syringe and, you know, I said no, I  
10 -- it's not for me. So I went home and I was at home for a  
11 couple of months, and there was an opening and I made  
12 application for a front line. We called ourselves family  
13 support workers back then.

14

15 BY MR. OLSON:

16           Q     Right. Has the delivery of child welfare on --  
17 in Fisher River, has it changed from when you started as a  
18 front line worker to today?

19           A     Yes, it has.

20           Q     Okay. And just really overview, how has it  
21 changed?

22           A     Well, there's a number of changes that has  
23 occurred throughout the years. One is increase in  
24 staffing, increase in support from the organizations within  
25 our community as well as outside our community. And the

1 recent development of resourcing in our community, of our  
2 leadership acknowledging that we need to have resources to  
3 support our families and --

4 Q When --

5 A -- Child and Family was --

6 Q -- when you talked about resources, are those  
7 things like addictions programs?

8 A Yes.

9 Q Daycares?

10 A Yes.

11 Q Things like that?

12 A Yes.

13 Q Okay.

14 A And Child and Family was one of the resources  
15 that leadership had and I was part of the development and  
16 part of the beginnings of child welfare back in 1982 that  
17 -- I was part of that.

18 What I mean part of that was that I was a  
19 representative from Fisher River Cree Nation, attending the  
20 Anishinaabe mandate and I came with a voice from Fisher  
21 River to establish Anishinaabe back in 1982.

22 Q Okay. And these resources that you identified,  
23 these are things you saw there being a need for as a social  
24 worker?

25 A Yes.

1 Q As executive director who, who are you reporting  
2 to?

3 A I report to my, my board of directors, first of  
4 all, and then I report to the Southern Network of Care,  
5 which is the Southern Authority.

6 Q Um-hum.

7 A The Department of Indian Affairs, which is  
8 currently called ANCI. And the leadership of our  
9 communities that we serve. In those communities I'm --  
10 were part of -- is Fisher River is considered the main  
11 office of Intertribal.

12 Q Okay.

13 A Dakota Tipi is the other sub-office and  
14 Kinonjeoshtegon, Jackhead, is another sub-office as well as  
15 our Winnipeg outreach office.

16 Q Are, are all these communities in the same  
17 geographic location?

18 A Jackhead is next door to Fisher River.

19 Q Okay.

20 A Jackhead is further up north.

21 Q Sorry, you said Jackhead is next door to Fisher  
22 River?

23 A Yes, it --

24 Q Okay.

25 A It's --



1 Q About what's the distance, approximately?

2 A About 30 kilometres further north of --

3 Q Okay.

4 A -- Fisher River. Dakota Tipi, as you know, is  
5 located by the Portage.

6 Q Um-hum.

7 A And our Winnipeg office.

8 Q Okay. Between Jackhead, Dakota Tipi and Fisher  
9 River, are there differences in terms of economic -- sorry,  
10 the economic situation of each community?

11 A Yes. Each community is unique. Intertribal  
12 serves the Cree people from Fisher River, the Dakota people  
13 from Dakota Tipi and the Ojibway from Jackhead.

14 Q Okay. Does that, in any way, impact the  
15 provision of child welfare services?

16 A Well, the -- it doesn't necessarily impact it  
17 just does -- they just do things a little bit different.

18 Q Okay.

19 A And what, what I mean by that is that -- I'll,  
20 I'll use Fisher River as an example, the Cree people. And  
21 our community is a close-knit community, we support each  
22 other in times of need. It's quite relevant if there is a  
23 death, we all come together to support that family. We  
24 have different celebrations within our community of Fisher  
25 River.

1           What we call -- I know you've heard about Treaty  
2 Days, that's a celebration of, of our community and where  
3 all our people come together to celebrate and do  
4 activities. With the Dakota nation they have sort of like  
5 a flower day and it's to -- it's more or less the same  
6 concept but they just have it one day whereas our days are  
7 three to four days long and there's different activities  
8 for our community.

9           Q     Okay. What about in terms of resources? Fisher  
10 River seems like a fairly affluent community.

11          A     Yes.

12          Q     Are the other -- is, for example, Jackhead the  
13 same situation, economically?

14          A     Well, I mean no disrespect to the communities I  
15 used to serve. Yes, you're, you're correct, Fisher River  
16 is more advanced in, in development of programs. We -- I,  
17 I was involved with the establishment of the daycare, as  
18 well as involved with First Nations Women's Healing Centre.  
19 I was part of the board when we started developing that,  
20 that service.

21                 Fisher River, we have, we have a number of  
22 resources like you were informed from the previous workers.  
23 We have the First Nations Women's Healing Centre, we have  
24 the Wellness Centre, we have a kindergarten to Grade 12  
25 school, as, as well as Head Start and daycare.

1 Wellness Centre includes a number of workers,  
2 such as the addictions workers, which is called NADAP.

3 Q Um-hum.

4 A That's the Native Alcohol and Drug Abuse program.

5 Q Right.

6 A As well as the mental health workers. And the  
7 compliance officer, who works with the drug, the drugs.  
8 I'm pretty sure that Fisher River, we've taken a step in  
9 regards to our drug problem in our community.

10 Q Um-hum.

11 A As a result of that leadership was given  
12 direction from the membership to have zero tolerance for  
13 use of drugs in our community and the first step was to  
14 establish drug testing in our community and that drug  
15 testing was, first of all, to employees of all our  
16 organizations and, as well, and working towards other  
17 service providers which means that any employee, if you're  
18 working at the school, the Wellness Centre, Child and  
19 Family, the band office, the Healing Centre, like any  
20 organization, you will be subject to drug test and testing  
21 throughout your employment (inaudible) as a random basis.

22 Q Okay. So with the various resources that you  
23 have mentioned, how does that contrast with, for example,  
24 Jackhead or other First Nations you are aware of that maybe  
25 don't -- and I'm not saying Jackhead doesn't have

1 resources, I'm just -- I just want to --

2 A Okay.

3 Q -- get an understanding of what the contrast is.

4 A Okay. With the resources in Jackhead, they have  
5 a health centre and they have a school but they don't have  
6 the additional resources such as mental health workers,  
7 addiction, addiction compliance workers.

8 The community of Dakota Tipi has a school, they  
9 have a health centre, they have a native alcohol and drug  
10 program and -- but they don't have a -- like a women's  
11 shelter, the daycare they have as well but like it's  
12 unfortunate, I don't mean no disrespect to those other  
13 communities, but you know, they're -- the government, we're  
14 -- First Nations are federal governments and you have to  
15 make applications for your services that you require in  
16 your communities.

17 Q Okay. Just in terms of services available,  
18 broadly speaking, do you, do you see a correlation with the  
19 resources available in the community being -- you know,  
20 being accessible to people who need them and a decrease in  
21 the number of people that are going to access the child  
22 welfare system?

23 A I am, I am ...

24 Q I'm not sure if it's the clearest question but --

25 A Yeah.

1 Q -- basically, if you can put people in touch with  
2 resources. For example, addictions programs or daycares.  
3 Do you see less people needing protection services from  
4 Child and Family Services?

5 A Well, it's two-fold. You know, it goes  
6 hand-in-hand. It is a challenge, you know. Let's, let's  
7 take addictions, for example. We may have clients that  
8 are, that are struggling with alcohol or drugs and we make  
9 a referral to our local addictions program and most likely  
10 they would be on a waiting period and that causes a concern  
11 of the time it takes to get a person into treatment.  
12 Sometimes it take -- it would take up to six months.

13 Q So then in that six month period things can  
14 happen and --

15 A Yes.

16 Q Which may require contact with Child and Family  
17 Services?

18 A Yes.

19 Q How many staff does ICFS have?

20 A Currently we have 32 staff.

21 Q Okay.

22 THE COMMISSIONER: Thirty-two?

23 THE WITNESS: Thirty-two.

24 THE COMMISSIONER: Now, you, you reviewed the  
25 three offices, I would be interested in hearing how

1 Winnipeg operation works and who it serves.

2 MR. OLSON: Absolutely.

3

4 BY MR. OLSON:

5 Q Maybe you can tell us a bit about the Winnipeg  
6 office.

7 A Certainly. Our Winnipeg office is located on  
8 Berry Street. We've always had a Winnipeg office right  
9 from 1982 because we were part of Anishinaabe east and we  
10 were also part of -- Peguis was also part of Anishinaabe  
11 east, Peguis, Fisher River, Jackhead and Dakota Tipi.  
12 Those are the communities when we separated, they're -- we  
13 decentralized, that's a bit of a history.

14 So, I think it's about 10 years that we've been  
15 at -- on Berry Street. We offer the same, same program and  
16 services that we do at the main office. We --

17 THE COMMISSIONER: To, to any residents who have  
18 come in from, from Fisher River, from --

19 THE WITNESS: Jackhead.

20 THE COMMISSIONER: Jackhead.

21 THE WITNESS: And Dakota Tipi.

22 THE COMMISSIONER: The -- yes, your other three  
23 locations?

24 THE WITNESS: Yes.

25 THE COMMISSIONER: And that's the -- that --

1 they're the only ones who get service out of the Winnipeg  
2 office?

3 THE WITNESS: Yes.

4 THE COMMISSIONER: Thank you.

5 THE WITNESS: And, and we offer services if they  
6 have a connection to family, as well, you know, if they  
7 have a connection to Fisher River, they -- we normally  
8 service them, as well.

9

10 BY MR. OLSON:

11 Q Even if they're from Winnipeg?

12 A Yes.

13 Q Okay. What -- do you see there being different  
14 needs for the, for the people you service in Winnipeg as  
15 opposed to the people on, on reserve?

16 A Yes. There's a -- it's totally different. In  
17 Winnipeg it's a really fast pace in Child and Family.  
18 There's a number of things that occur on a daily basis,  
19 you, you know, you get calls -- we get referrals from ANCR,  
20 we get intakes and, and our families are not connected as,  
21 as they are to our community. Families who live in  
22 Winnipeg are, are more or less to be on their own, they  
23 don't have that connection to family that they do in our,  
24 in our communities. As a result there's some struggles,  
25 challenges, in living in Winnipeg, you know, and being

1 isolated and in the -- in, in Winnipeg is, is another  
2 issue. They don't know where to go.

3 Q Right.

4 A You know.

5 Q And does that often end up with problems down the  
6 road?

7 A Eventually.

8 Q What -- in what ways does the Winnipeg office  
9 attempt to address those issues?

10 A There's -- if we get a referral that's how we,  
11 we, we get involved with the family, is always through a  
12 referral process and through that process the workers do  
13 assessments to determine their, their needs and it is  
14 challenging, too, because of access to buildings is another  
15 thing that we, we have because at home you would know where  
16 the person lives, you won't have to have a buzzer to buzz  
17 in and those are the other challenges that -- again, you  
18 can't have access to our clients because we can't get to  
19 them.

20 Q Okay.

21 A That's one of the challenges that we have.

22 Q When you talk about referrals, we heard, I think,  
23 evidence the other day that often people will leave their  
24 reserve to go, you know, work in Winnipeg for a time,  
25 seasonal work, that sort of thing. Would referrals come



1 from if there was a client of, for example, the office in  
2 Fisher River, Fisher River knows the family is moving to  
3 Winnipeg for work or whatever reason, will Fisher River  
4 office call the Winnipeg office to let them know they're  
5 coming?

6 A Yes. If there is an open file with them.

7 MR. OLSON: Okay. I see it's 12:30 just about.  
8 This might be a good, logical time to break for noon?

9 THE COMMISSIONER: All right. If this is a good  
10 place and this is the correct time. So we'll adjourn until  
11 two o'clock and you will have to return, witness.

12 THE WITNESS: Okay.

13 THE COMMISSIONER: Thank you very much. Stand  
14 adjourned until two o'clock.

15

16 (LUNCHEON RECESS)

17

18 THE COMMISSIONER: All right, Mr. Olson.

19

20 BY MR. OLSON:

21 Q So before the break I was just going to ask you  
22 how many staff were at ICFS.

23 A In 2005 or present?

24 Q In, in 2005.

25 A In 2005 we had 22 staff.

1 Q Twenty-two. And how many were front line  
2 workers?

3 A In all offices or just at the Fisher River  
4 office?

5 Q Just at the Fisher River office.

6 A Four front line.

7 Q Four front line out of 22 staff?

8 A Yes. In, in Fisher River there was four front  
9 line workers. At the Winnipeg office we had four, as well.  
10 And Dakota Tipi we had one. And Jackhead we had two.

11 Q Okay.

12 A And the other staffing are, are administration  
13 and finance and foster care.

14 Q They made up the balance of the 22 --

15 A Yes.

16 Q -- workers?

17 A Yes.

18 Q And what sort of a case load would the four front  
19 line workers have in the Fisher River office?

20 A On the average of 21 cases per worker.

21 Q Twenty-one per worker. And what types of cases  
22 would these be?

23 A It will -- they would carry a generic number of  
24 cases. What I mean by generic is that they would carry  
25 child protection files, they would carry voluntary family

1 files as well as expectant parent files, as well as child  
2 abuse files.

3 Q So they weren't, they weren't specialized the way  
4 some workers are. They would carry a whole range of files?

5 A Yes, they would.

6 Q Okay. Can you tell the Commissioner a bit about  
7 the operation of ICFS, including family enhancement and  
8 building relationships within the community?

9 A The operations of Intertribal --

10 Q Right.

11 A -- would consist of delivery of child protection  
12 as well as delivery of services to voluntary family files  
13 who didn't have children in care, however, requested  
14 support from the agency in regards to a number of issues  
15 they may have been facing. The --

16 Q You call that a voluntary family file?

17 A Yes. They --

18 Q And just so that we're clear on that, that's  
19 where someone actually seeks out the agency for help?

20 A Yes.

21 Q Okay. And sorry, I interrupted you. Go on.

22 A Abuse files where there's allegations of, of  
23 abuse on a particular child, we would open up an abuse file  
24 on that particular child. Expectant parent services, that  
25 we would open a file if there was a minor mom expecting a

1 child and we would certainly open a file to support that  
2 minor mom.

3           And children in care files who are in care of the  
4 agency by way of the agency obtaining a permanent order  
5 where a permanent order is that the child will remain in  
6 care until the age of 18 and if necessary transitional out,  
7 out of care. They can be in care of an agency till the age  
8 of 21 and that, again, is depending on the circumstances  
9 and planning of that particular child.

10           Q     We heard evidence that Madeline Bird, in this  
11 particular situation, was related to Wesley McKay.

12           A     Yes.

13           Q     You were here for that evidence.     Is that  
14 something you're aware of?

15           A     Yes.

16           Q     Is that a situation that the agency faces on a  
17 regular basis, that is workers having some relationship to  
18 members in the community they might come into contact with?

19           A     Yes.

20           Q     Okay. How is that addressed?

21           A     It's addressed by the -- it's mostly identified  
22 through the intake process and the source of referral would  
23 give out the identifying information of a particular  
24 client. Being a small agency, we would certainly be aware,  
25 if we got a call in regards to one, one of our workers, we

1 would more or less flag it and saying that the worker is  
2 not to have any contact, no access to any files at intake,  
3 and it would be segregated, like put away, in a different  
4 cabinet within our filing room and would be under a lock  
5 and key so the worker had no access to that file.

6 Q Okay. In this case the facts seems to be that Ms  
7 Bird took the, took the call and realized it was a relation  
8 to her --

9 A Yes.

10 Q -- and brought Ms. Sinclair into the file to work  
11 with her.

12 A Yes.

13 Q Was, was the way that that was handled in  
14 accordance with the policy of the agency?

15 A Yes.

16 Q Okay. And explain how it was.

17 A The practice of the agency, it's unfortunate that  
18 Madeline was on -- was that day on that day and there was  
19 two workers on that day and the normal practice would be  
20 that in an instance if there is perceived conflict of  
21 interest and the worker is the only person to go out there  
22 and respond to a call, that they would have requested the  
23 assistance of a co-worker.

24 Q Okay. Which is what Ms. Bird did --

25 A Yes.

1 Q -- in this case?

2 A Yes.

3 Q Does the degree of the relationship make a  
4 difference or the closeness of the relationship make any  
5 difference?

6 A Yes.

7 Q Okay. How so?

8 A First, second cousins, is the closeness of what  
9 we look at but there are, there are times where there,  
10 there might be a family relationship when we get a call,  
11 that plays into -- that comes into play at a different  
12 stage that we have to respond to immediate child protection  
13 concerns and we'll gather the, the necessary information,  
14 we'll have a co-worker attend to, to ensure that, that the  
15 workers are doing what is necessary to protect this child.

16 Q So you're saying because of the size of the  
17 agency, the size of the town, sometimes it's inevitable  
18 that a worker with a close relationship might go out on a  
19 call --

20 A Yes.

21 Q -- even though there was a close relationship?

22 A Yes.

23 Q We heard some evidence yesterday that in Fisher  
24 River there are really only four large families.

25 A Yes.

1 Q And so the relationships, somehow almost  
2 everybody is related to, to each other. Is that --

3 A Yes.

4 Q -- accurate? Okay. One of the issues that has  
5 come up in this case is whether a call was made by DOE #3  
6 to the agency about Phoenix Sinclair.

7 A Yes.

8 Q That's an issue you're aware of?

9 A Yes.

10 Q Do you recall how you first became aware of that  
11 issue?

12 A From the phone call from Mr. Murdock.

13 Q Okay. If we take a look --

14 THE COMMISSIONER: Phone call from who?

15 THE WITNESS: Randy Murdock.

16

17 BY MR. OLSON:

18 Q If we take a look at page 34634. This is the  
19 March 6, 2006 phone call which I believe is the one Mr.  
20 Murdock records first talking to you about this?

21 A Yes.

22 Q Okay. Is this the call you're referring to?

23 A Yes.

24 Q Okay. What do you remember about this, if  
25 anything?

1           A     What I remember is the disclosure, the nature of  
2 the disclosure. What I distinctly remember him saying to  
3 me is that I received a call and the call was in regards to  
4 a gruesome disclosure made by DOE 1, 2 -- I'm trying to --  
5 and was made to DOE 3. And that he informed me that he was  
6 informed from DOE 3 that she informed him that there was a  
7 game, they were playing choke the chicken, and this little  
8 girl fell down the stairs, cracked her skull open and was  
9 buried in the backyard.

10          Q     Okay, this is --

11          A     That's what I remember.

12          Q     -- this is what you remember --

13          A     Yes.

14          Q     -- independently of any notes?

15          A     Yes.

16          Q     Okay. Did he mention anything about DOE 3  
17 indicating she had called on previous occasions complaining  
18 about abuse or about this child?

19          A     I can't recall if he did at this phone call.

20          Q     Okay. Did he at some phone call or at some  
21 point?

22          A     At some point he did, yes.

23          Q     Okay. Do you know when that would have been?

24          A     Probably the following day.

25          Q     Okay.



1 A I think when --

2 Q We know --

3 A Might be the following day, I'm not really clear  
4 on how soon he informed me.

5 Q Okay. We know from looking at Mr. --

6 THE COMMISSIONER: He informed you of what?

7 MR. OLSON: Of, of --

8 THE WITNESS: Of her calling.

9 MR. OLSON: -- of Ms. Doe -- sorry, DOE #3 having  
10 indicated that she had called in the past with respect to  
11 concerns of abuse of the little girl.

12

13 BY MR. OLSON:

14 Q We know from earlier today that Mr. Murdock made  
15 an addendum to his, his note, where he, he indicated on  
16 March 8th, he had an addendum.

17 A Yes.

18 Q That this disclosure was made by DOE #3.

19 A Yes.

20 Q So would it have been in between those two dates?

21 A Yes.

22 Q Okay. So shortly after?

23 A Shortly after, yes.

24 Q Do you, do you recall if it would have been you  
25 who instructed him to, to make that note on the file?

1 A No, I don't recall.

2 Q Okay. If, if that's something that DOE #3 said  
3 is that something you would want him to make a note of?

4 A Yes.

5 Q Okay. Did you -- when you heard this  
6 information, did you know any of the people involved?

7 A No.

8 Q Were you aware that Wesley McKay was on the  
9 reserve?

10 A No.

11 Q Did you know Wesley McKay?

12 A No.

13 Q When you look back at the, the documents, the,  
14 the involvement by Ms. Bird and Ms. Sinclair, on July 12,  
15 2005, note that there is no prior contact check done of Mr.  
16 McKay.

17 A Yeah.

18 Q And that's what they confirmed when they  
19 testified.

20 A Yes.

21 Q Is that something you would have expected them to  
22 do?

23 A Yes.

24 Q Was that something that was available to them?

25 A It was available to them, yes.

1 Q Did you ever discuss with them why they didn't do  
2 it in this case?

3 A I can't recall if I did or not.

4 Q Okay. But it is something you would expect your  
5 workers to do when they come in contact with a family?

6 A That's common practice that, you know, we would  
7 do the prior contact checks and all the necessary  
8 checks.

9 Q Okay.

10 A Police checks.

11 Q What's the reason for that?

12 A Just to ensure that we know if there was any, any  
13 prior involvement with any agency.

14 Q Okay.

15 A And if there -- the police checks, through the  
16 risk assessment we would call the province to determine if  
17 they have any record as being high, medium, low.

18 Q Okay. Through the criminal risk assessment  
19 unit?

20 A Yes.

21 Q Okay. For the prior --

22 THE COMMISSIONER: Now, when you, when you say  
23 this was available to them, available through what source?

24 THE WITNESS: Through CFSIS.

25 THE COMMISSIONER: Thank you.

1 BY MR. OLSON:

2 Q So what you're telling us is back in 2005, in the  
3 summer, July, when they received the information about Mr.  
4 McKay's children being at home, alone, or with an  
5 inappropriate guardian, they should have run a background  
6 check on CFSIS or prior contact check on CFSIS on Wesley  
7 McKay?

8 A Well, normally I would expect that they could do  
9 that.

10 Q And the check that they could have done would be  
11 the same check that a worker could run in Winnipeg or --

12 A Yes.

13 Q -- anywhere else?

14 A Yes.

15 Q Now, would they have access to the actual files  
16 on Wesley McKay on CFSIS?

17 A They would have the basic identifying  
18 information.

19 Q Okay. So they would see what the intakes were  
20 and the basic reason for intakes --

21 A Yes.

22 Q -- and that sort of thing?

23 A Yes.

24 Q Okay. And if they wanted more information they  
25 might have to call another agency or --

1 A Yes.

2 Q -- dig a little deeper?

3 A Yes.

4 Q Okay. With this information that DOE #3  
5 indicated that she had called the agency in the past to  
6 report allegations of abuse, first of all I take it that  
7 would have been concerning to you?

8 A Yes.

9 Q What did you do with that information?

10 A I asked Randy Murdock to do a file review to  
11 determine if we had any involvement with this family.

12 Q Okay. Now, we know that the police asked that no  
13 news be told -- nothing be told in the community or the  
14 workers about this situation --

15 A Yes.

16 Q -- but did you -- was Mr. Murdock able to do a  
17 file review on his own?

18 A Yes.

19 Q Okay. And did he report back to you?

20 A Yes.

21 Q Okay. And what were the results of his report?

22 A His report identified Intertribal's involvement  
23 in -- with Mr. McKay's sons, in July of 2005.

24 Q Now, he told us that was based strictly on  
25 reviewing the files of Intertribal Child and Family

1 Services. Is that your understanding?

2 A Yes.

3 Q Okay. Since that time, has any further work been  
4 done to see whether or not calls had come in from -- come  
5 into the agency from Ms. -- from DOE #3?

6 A When you refer since that time are you referring  
7 to the --

8 Q Between then and now.

9 A Yes.

10 Q Okay. And can you just tell the Commissioner  
11 what efforts have been made to check to see whether or not  
12 there was any evidence of calls being made by DOE #3.

13 A Okay. I gave direction for Randy Murdock to do a  
14 file review and ask the question to our, our receptionist,  
15 who was the -- had the dual responsibility of filing, ask  
16 her a question does, does the agency have an open file on  
17 Mr. McKay and, if so, please remove that file from the  
18 common filing cabinet and please put that file in a safe  
19 place where no one will have access to that file until we  
20 get back to the office.

21 Q Okay. And I'll stop you there for a minute. Are  
22 all calls that come into the agency documented?

23 A Yes, they are.

24 Q So if someone calls in, for example, from, from  
25 the local school and says, you know, Johnny showed up today

1 without shoes on, I'm concerned --

2 A Yes.

3 Q -- that will be documented?

4 A Yes.

5 Q And who would do the documenting?

6 A It -- the call usually comes through the  
7 receptionist --

8 Q Okay.

9 A -- and the receptionist would transfer that call  
10 to the supervisor and if the supervisor is not around would  
11 transfer a call to the -- any of the front line workers  
12 that are in the office.

13 Q And what sort of documentation would be produced?

14 A Sort of documentation would be a contact note in  
15 regards to telephone contacts.

16 Q Okay.

17 A And a contact note.

18 Q Okay. And did the agency review contact notes  
19 and, and records to see whether or not there was any  
20 contact by [redacted] -- sorry, by DOE #3?

21 A Yes, we did. We look at all our contact notes  
22 that is associated with, with any file that might have been  
23 opened. After hours, we looked at the after hours contact  
24 notes to determine if there was any calls.

25 Q And what, what were the results of those

1 searches?

2 A There was no, no record.

3 Q In terms of calls coming in the, the -- they are  
4 calls that are answered by a receptionist?

5 A Yes.

6 Q And my understanding is there were either one or  
7 two receptionists at any given time?

8 A Yes.

9 Q And sometimes the receptionist maybe wouldn't be  
10 at the desk to answer a call?

11 A Yes.

12 Q What would happen in that case?

13 A Usually it would be taken from another worker  
14 that hears the phone ringing and would take that call.

15 Q Is it possible that on occasion someone may not  
16 be around to take a call?

17 A No.

18 Q Or that a call would be missed?

19 A No.

20 Q Or that a call could come in and the receptionist  
21 might say there is no one here to deal with this matter  
22 now, call back in an hour?

23 A No.

24 Q Okay. Just going back to the use of CFSIS again  
25 for a moment, in 2005 the evidence of Ms. Bird, I believe,



1 was that CFSIS was difficult to use because of connectivity  
2 issues?

3 A Yes.

4 Q Is that something you're aware of?

5 A Yes.

6 Q Can you, can you tell me what the issue was  
7 there?

8 A It's the internet, connection to the internet.  
9 In our, in our area we have a dial-up system, and it's  
10 through the MTS is our service provider and MTS doesn't  
11 have high speed internet in our service area.

12 Q Okay. So is the situation the same as it was in  
13 2005 --

14 A Yes.

15 Q -- as it -- today, as it was in 2005?

16 A Yes.

17 Q Are workers now using the CFSIS system more?

18 A Yes.

19 Q Why is that?

20 A They've been -- they're encouraged to use CFSIS  
21 as a, as a tool for documentation and that is encouraged.  
22 I realize the frustration that workers have when they try  
23 to get on CFSIS and, and they get timed out and what I mean  
24 by timed out is that they lose whatever document they have  
25 and they have to start all over again.

1 Q Um-hum.

2 A And that is, that is the reasons why we don't use  
3 it on -- as a daily, daily tool for gathering and putting  
4 information on.

5 Q Okay. Still isn't used the way that you were --

6 A We would --

7 Q -- describing, that -- where you would use it as  
8 a case management tool, putting all the information and all  
9 the names, all the details?

10 A Yes.

11 Q And that's because it's a -- it's just too slow?

12 A Yes.

13 Q Are there -- are you aware of anything in the  
14 works to address that issue?

15 A Yes, currently the Southern Network of Care is,  
16 is assisting the agency to get the V-lan system in. We  
17 just got new technology and having phones and the whole new  
18 system of our phones and voice messaging is, is established  
19 just recently. And the ultimately goal is to get the  
20 connection through the V-lan system. I'm not a techie, but  
21 it's supposedly to be a higher, higher speed -- high speed  
22 internet service.

23 Q Okay.

24 THE COMMISSIONER: And when is that supposed to  
25 be in place?

1 THE WITNESS: Hopefully soon, I'm not sure of  
2 when that will be complete.

3

4 BY MR. OLSON:

5 Q Do you think that having a better, better access  
6 to CFSIS or what information, computerized information  
7 system database is out there, will improve the worker's use  
8 of the system?

9 A Yes.

10 Q Which may ultimately then result in workers doing  
11 more thorough background checks --

12 A Yes.

13 Q -- and things of that nature?

14 A Yes.

15 Q Okay. What's the structured decision making  
16 tool?

17 A That's the -- that's a new assessment tool that  
18 the agency has been working on. That's just more recent to  
19 the, to the agencies in having a tool to have a structured  
20 assessment done on families.

21 Q Is that something the agency has been using as of  
22 late?

23 A As of late, yes.

24 Q Okay.

25 A Within maybe a couple of years we've been using

1 that, that tool.

2 Q Okay. And have you had feedback on, on it?

3 A Somewhat.

4 Q Okay. And what sort of --

5 A The, the workers think it -- thinks it's a good  
6 tool because of the structure of asking -- in asking  
7 questions and making decisions, it's more, more accountable  
8 to the worker in doing their assessments as well as the  
9 supervisor, there's more accountability of, of the work  
10 that is being done for doing those assessments.

11 Q Does use of that tool require internet  
12 connectivity?

13 A Yes.

14 Q Okay. So again, another barrier to using that  
15 tool fully is not having great access to the  
16 internet?

17 A Yes.

18 Q Just getting back, again, to ICFS' involvement  
19 with Phoenix Sinclair or her family, did you ever ask or  
20 have anyone ask the workers, each worker in the agency,  
21 whether they recall having any involvement with this  
22 family?

23 A I can't recall.

24 Q You can't recall if you have ever asked anybody  
25 that?

1           A     Yes.  I can't recall if I asked everybody that.  
2  I recall asking the supervisor and Mr. Murdock.

3           Q     Okay.  The supervisor being Madeline Bird?

4           A     Yes.

5           Q     And what was --

6           A     And --

7           Q     -- her answer?

8           A     She informed me of the July incident.

9           Q     And that was it?

10          A     Yes.

11          Q     And what about Mr. Murdock?

12          A     Informed me of the July incident, as  
13 well.

14          Q     Okay.  And aside from that, you haven't spoken to  
15 anybody else?

16          A     No.

17          Q     To your knowledge was anyone at Intertribal Child  
18 and Family Services aware of Phoenix being in the community  
19 in 2005?

20          A     Was I aware of?

21          Q     To your knowledge was anyone at Intertribal Child  
22 and Family Services aware of Phoenix being in the community  
23 in 2005?

24          A     To my knowledge, I would say that the agency were  
25 not aware of her being in the community.

1 Q Now, can you tell me what impact Phoenix  
2 Sinclair's death had on the agency?

3 A Well, the impact was on the workers. As you say,  
4 the, the agency was quite shocked by, by that and, as well,  
5 the disbelief of, of this occurring and we had the same  
6 questions as, as Manitoba did, how can this happen? How  
7 can she be missing? We had the same, same questions that  
8 Manitoba was asking at that point.

9 Q We've heard, and I think we're going to hear a  
10 lot more about changes that have been made to the system,  
11 child welfare generally in Manitoba, the next while.  
12 You've seen some of these changes, I take it?

13 A Yes.

14 Q In your view, from these changes are children  
15 better protected, these children that you're familiar with,  
16 are they better protected than they were in 2005?

17 A In speaking of today? Yes.

18 MR. OLSON: Yeah. Those are my questions for  
19 you. Thank you.

20 THE COMMISSIONER: All right. I'm sure there  
21 will be some questions for you.

22 THE WITNESS: Yeah.

23 THE COMMISSIONER: Mr. Gindin. Mr. Gindin,  
24 please.

25 MR. GINDIN: Thank you.

1 CROSS-EXAMINATION BY MR. GINDIN:

2 Q My name is Jeff Gindin, I appear for Kim Edwards  
3 and Steve Sinclair.

4 A Yes.

5 Q You were asked some questions about the, the  
6 issue of potential conflict of interest --

7 A Yes.

8 Q -- in relation to people being related to one  
9 another.

10 A Yes.

11 Q Remember that? And I think you said that the  
12 policy was that a worker should not have access to a file  
13 or, or in any way be connected to a file if there was this  
14 relationship.

15 A Yes.

16 Q Right? And then I think that you indicated that  
17 what occurred here on July the 12th, 2005 was in accordance  
18 with that policy?

19 A Yes.

20 Q But the evidence we heard was that Madeline Bird,  
21 who was related to Wes McKay, actually went down to the  
22 premises to check out the call?

23 A Yes.

24 Q Should it not have been perhaps another worker  
25 that went?

1           A     Perhaps but that day there was only two workers  
2 in the office, from my understanding, that they, they  
3 attended.

4           Q     Okay. So that wasn't the ideal solution but  
5 based on what was available that's the way it happened?

6           A     Yes.

7           Q     Okay.

8           A     Foremost --

9           Q     Yeah.

10          A     -- I think, is the protection and wellbeing of  
11 children.

12          Q     Right.

13          A     Versus the conflict that --

14          Q     Right.

15          A     -- a worker may have.

16          Q     Right. So they obviously thought that the  
17 important thing was to get down there?

18          A     Yes.

19          Q     Okay. You indicated that there are usually four  
20 people employed at that office in, in Fisher River?

21          A     Yes.

22          Q     But on this occasion that we're talking about  
23 there was just the two people there?

24          A     From my understanding, yes.

25          Q     So there isn't always four people there,



1 obviously?

2 A Obviously, yes.

3 Q On occasion there would be perhaps a couple?

4 A On occasion.

5 Q And if someone was on vacation, what would  
6 happen, would you have someone else fill in or you would  
7 just get by with one less person?

8 A When, when a person takes vacation the, the  
9 co-worker takes their file. And at all times there has to  
10 be -- we have four front line workers in our Fisher River  
11 office and all times we say that there needs to be at least  
12 two workers out of those front line workers, to be at work.

13 Q I see. Even though you have four workers, all  
14 four aren't, aren't always there?

15 A No. There would be two workers.

16 Q There would be two but not all four?

17 A Not all four.

18 Q Okay. You were also asked whether you would have  
19 expected the workers in this case, I'm referring  
20 specifically to what occurred on July 2005, with respect to  
21 Madeline Bird and, and Violet Sinclair, that you would have  
22 expected them to do a prior contact check?

23 A Yes.

24 Q And the advantages of doing that, of course,  
25 would be to find out if there's been any previous concerns.

1 A Yes.

2 Q Right? And there's obviously good reasons to do  
3 that.

4 A Yes.

5 Q Because of the information you might get.

6 A Yes.

7 Q Right? Would you also have expected them to make  
8 inquiries as to whether or not Wes McKay had other  
9 children, other than just the two boys that were in that  
10 house?

11 A Yes.

12 Q Had that been done, for example, it may have been  
13 discovered that he did have another child, Phoenix  
14 Sinclair?

15 A May have been, yes.

16 Q Yeah. And then, I suppose, some questions could  
17 have been asked about where is that person?

18 A Yes, probably.

19 Q You told us that all calls are documented?

20 A Yes.

21 Q You're referring to people phoning in and --

22 A Yes.

23 Q -- having something to report?

24 A Yes.

25 Q And I take it what you mean is all calls should

1 be documented?

2 A Well, most of the time all calls should be  
3 documented, yes, I agree with that statement. If --

4 Q That's the way they're trained?

5 A Yes.

6 Q Right. Of course, you're not there all the time,  
7 yourself?

8 A That's true.

9 Q So you have to assume that they are, in fact,  
10 making a record of every call that came in?

11 A Yes.

12 Q So when you say that it's not possible that a  
13 call was missed, what you're saying to us is that it  
14 shouldn't happen, calls shouldn't be missed; right?

15 A I agree somewhat with that statement.

16 Q Yeah. But you can't be a witness to the fact  
17 that no calls were missed?

18 A No, I can't.

19 Q And even if a call was received, the next step,  
20 of course, was to make a note of that?

21 A Yes.

22 Q And it's quite possible that a note could have  
23 been made and a note can't be found.

24 A Could be possible.

25 Q Yeah. You were asked whether you inquired as to

1 whether anyone in Fisher River had acknowledge of this  
2 family, Wes McKay or Samantha Kematch, and we were, we were  
3 talking about people who were at ICFS; correct?

4 A Yes.

5 Q I think the only people that you actually spoke  
6 to, that you've told us about, were Madeline Bird and Randy  
7 Murdock?

8 A Yes.

9 Q So you didn't speak to the other people who  
10 worked at the office to see if they had any knowledge at  
11 all of Wes McKay?

12 A No. I would get that information if they -- from  
13 the supervisor or Randy Murdock if there was any other  
14 documentation that was given to them.

15 Q You've told us that you feel that, today,  
16 children are better protected than they were back in 2005?

17 A Yes.

18 Q Correct? Is that based on some changes you've  
19 seen?

20 A Yes, it is.

21 Q Okay. What would you base that on, what, what --

22 A It's based, it's based on more, more increased  
23 for funding to the agencies to support -- to provide  
24 services to our families. It's based on those funding  
25 included an increase in staffing. Different ways of

1 approaching child and family and using risk assessment  
2 tools. Hopefully one day we'll have fully internet access  
3 and to use the CFSIS system as well.

4 Q Okay. The CFSIS system isn't perfect yet?

5 A That's true.

6 Q Still problems exist?

7 A Yes.

8 Q In connecting?

9 A Yes.

10 Q Okay. You mentioned the structured decision  
11 making tool.

12 A Yes.

13 Q And when you were explaining that to us you said  
14 that you felt it results in more accountability for work  
15 being done?

16 A Yes.

17 Q And what did you mean by that?

18 A It's more accountability that this assessment  
19 tool you have, have to answer a number of questions and, at  
20 the end of the questions there is a calculation of low,  
21 medium and high risk.

22 Q Okay. So when you say more accountability, do  
23 you mean that it's, it's more consistent?

24 A Yes. In their decisions to planning.

25 Q It's less subjective?

1 A Yes.

2 Q And less discretionary?

3 A Yes.

4 Q And more fixed?

5 A Yes.

6 Q And that, you say, leads to more accountability  
7 because there's more consistent information available to  
8 the public if they wish to have a look.

9 A Yes.

10 Q Right? Okay. Now, just one other point, on the  
11 screen now there's a document there.

12 A Yes.

13 Q Page 34634. Do you see that?

14 A Yes.

15 Q And that is notes made by Mr. Murdock, who  
16 testified before.

17 A Yes.

18 Q And it begins by saying: "Phone call to Shirley  
19 Cochrane." Correct?

20 A Yes.

21 Q You see that?

22 A Yes.

23 Q And that, that would be you.

24 A Yes.

25 Q Right? And do you remember this phone call --

1 A Yes, I do.

2 Q -- approximately? Yeah, okay.

3 Now, he begins in the note by informing you about  
4 the call he got --

5 A Yes.

6 Q -- from DOE #3.

7 A Yes.

8 Q And your recollection is that he told you a  
9 little about the call?

10 A Yes.

11 Q That's not actually recorded here but that's your  
12 recollection --

13 A Yes.

14 Q -- that he told you about the call?

15 A Yes.

16 Q And then a little bit further down it says:  
17 "Consult."

18 A Yes.

19 Q Can you tell us what you make of that, is that  
20 part of the conversation you had with him?

21 A Yes.

22 Q Okay. And what, what's your recollection of that  
23 part?

24 A My -- what I recall is that I informed him of --  
25 to call the RCMP or the nearest police detachment in

1 Winnipeg.

2 Q Okay. And that would be a pretty obvious --

3 A Yes.

4 Q -- thing to tell him; right?

5 A Yes.

6 Q Okay. And then later on past that line, it says:

7 "Status of case."

8 A Yes.

9 Q Now, again is that -- does that form part of the  
10 conversation you're having with him or --

11 A Yes, it is.

12 Q Okay. And is that a phrase that you would use  
13 or --

14 A I asked him the status of the case, if the --  
15 does the agency, is the agency involved with this family.

16 Q Okay. So from your --

17 A That's --

18 Q -- from your reading of that note, you're telling  
19 us that that was a question that you would have asked him?

20 A Yes.

21 Q Okay. And the next question says: "Why would  
22 DOE #3 report to Fisher River ICFS?".

23 A Yes.

24 Q Is that also a question that you --

25 A Yes.



1 Q -- recall having asked?

2 A Yes.

3 Q Okay. And you're, you're sure of that?

4 A I am pretty sure.

5 Q Okay.

6 A I asked them that question just to determine why  
7 because ICFS represented Peguis as well during that  
8 timeline and I wanted to make sure if she was calling the,  
9 the Intertribal office versus the Peguis office and I tried  
10 to get that clarification.

11 Q I see. Because the first question simply  
12 mentions the phrase "the agency"?

13 A Yes.

14 Q And it's not specific.

15 A No, it's not.

16 Q And then your next question mentions Fisher River  
17 ICFS?

18 A Yes.

19 Q Is that because of something you were told or  
20 directed to specifically by Mr. Murdock?

21 A I guess it's just because of Intertribal Services  
22 Fisher River, that's the nature of --

23 Q So that was --

24 A -- how, how, how that came about.

25 Q And did you get an answer to the question when

1 you asked him that?

2 A I can't recall if I did.

3 Q Now, in fairness, the next line -- I'm not sure  
4 if that's the answer you got, it says: "Alleged abuse took  
5 place on the Fisher River Cree Nation."

6 A Yes.

7 Q And is that -- could that have been the answer  
8 you received as to why a call might have been made there?

9 A Most likely, yes.

10 Q Okay. Just going back for a moment, we were  
11 talking about changes that might have been made and, and  
12 the changes you were talking about related to funding and  
13 staff, essentially.

14 A Yes.

15 Q Anything else that has changed in terms of the  
16 practice there that you're aware of that improves safety  
17 towards children?

18 A I can't recall right now.

19 Q Are there things that you think still need to be  
20 done?

21 A Certainly. There's, there's always, there's  
22 always growth in different organizations.

23 Q Um-hum.

24 A My expectation is as we go along in years of  
25 development in Child and Family that there will be ultimate

1 positive changes to Child and Family.

2 Q Anything specific that you can --

3 A No.

4 Q Comes to mind?

5 A No.

6 MR. GINDIN: Thank you.

7 THE COMMISSIONER: Mr. Gindin. Mr. Paul?

8

9 CROSS-EXAMINATION BY MR. PAUL:

10 Q Good afternoon, Ms. Cochrane, my name is Sacha  
11 Paul.

12 A Hi.

13 Q I am one of the lawyers for Winnipeg Child and  
14 Family Services and the Department.

15 A Yes.

16 Q And I have just one area of questions for you and  
17 it relates to CFSIS. And I'm going to do my best because I  
18 think you, I think you told the Commissioner that you're  
19 not a technical person.

20 A No, I'm not.

21 Q Okay. So I'm going to try and do this as, as  
22 best as, as I can. My understanding, if we look at CFSIS,  
23 is that documents can be created on Microsoft Word, or some  
24 word processing program and you don't need the internet in  
25 order to type out that document.

1 A No.

2 Q Is that correct?

3 A That's correct.

4 Q Right. And that the issue of CFSIS isn't so much  
5 typing out your document on Word, it's the issue of  
6 uploading it?

7 A Yes.

8 Q To, to the --

9 A Yeah.

10 Q -- to the system, itself. And so if there  
11 happened to be any particular issues with the internet that  
12 day, the only thing that would be frustrated was actually  
13 uploading that document to CFSIS?

14 A Yes.

15 Q Your actual Word product would still be there?

16 A Yes.

17 Q So you don't have to start from scratch?

18 A That's, that's true.

19 Q Okay. And my understanding is that when it comes  
20 to the intake module --

21 A Yes.

22 Q -- the information that I, that I have is that  
23 it's possible to do an intake module off line on an Excel  
24 spreadsheet.

25 A Yes.

1 Q Are you aware of that?

2 A Yes.

3 Q And so you wouldn't need the internet to actually  
4 do that Excel spreadsheet?

5 A Yes.

6 MR. PAUL: Okay. Mr. Commissioner, those are my  
7 questions.

8 THE COMMISSIONER: Thank you. Mr. Gange?

9 MR. GANGE: Mr. Commissioner, I would again ask  
10 leave, on behalf of DOE #3 to take part in the  
11 cross-examination.

12 THE COMMISSIONER: Granted.

13 MR. GANGE: Thank you.

14

15 CROSS-EXAMINATION BY MR. GANGE:

16 Q Ms. Cochrane, I act for DOEs #1, 2 and 3 and, and  
17 specifically DOE #3 with respect to this matter.

18 A Yes.

19 Q I would like to ask you just a few questions. I,  
20 I understand that there were two receptionists that take  
21 calls during regular hours?

22 A Yes.

23 Q At ICFS. Are there two receptionists in the  
24 Winnipeg office?

25 A In 2005?

1 Q Yes.

2 A Yes.

3 Q And --

4 THE COMMISSIONER: That's where they -- only two  
5 receptionists where they were the receptionists for all  
6 four places where the service is provided?

7 THE WITNESS: No. Each office has a  
8 receptionist.

9 THE COMMISSIONER: Each office has two?

10 THE WITNESS: No, each office has -- Fisher River  
11 and our Winnipeg outreach office have two receptionists,  
12 the other communities have one.

13 THE COMMISSIONER: That's clear.

14

15 BY MR. GANGE:

16 Q And the, the Winnipeg office had a Winnipeg land  
17 line, did it not?

18 A Yes.

19 Q So that if a phone call from within Winnipeg --  
20 there, there is a phone number in the book, I think, that  
21 Mr. Murdock had indicated that, that he understood that  
22 there was a Winnipeg phone number that could be discovered  
23 in the Winnipeg telephone book. Would that be right?

24 A Yes.

25 Q And if someone were calling from Winnipeg, they,

1 they could -- they didn't have to call an 800 number, they  
2 could just call a local Winnipeg number?

3 A Yes.

4 Q Okay, thank you. The receptionist -- as I  
5 understand it, there's a receptionist on duty during  
6 regular business hours and after business hours there would  
7 be an after hours worker that would also be responsible for  
8 the phone.

9 A Yes.

10 Q Is that 24 hours a day?

11 A Yes.

12 Q That person -- the, the after hours worker, and  
13 the receptionist, is that their, their sole responsibility  
14 or are they considered intake workers, as well?

15 A The receptionist just takes the call and if  
16 you're referring to the after hours?

17 Q Yes.

18 A It would be a worker that is taking the after  
19 hours phone to, to respond to any calls.

20 Q Okay. And what qualifications would that after  
21 hours worker have?

22 A It's our front line workers during the day, our  
23 workers that work during the day are on an after hours  
24 schedule after 4:30 to 8:30 the following morning.

25 Q I see. So they're on call, in essence?

1 A Yes.

2 Q Okay.

3 A And they, they are on a schedule to take the  
4 after hours phone.

5 Q But the person during the day, the receptionist,  
6 they're not, they're not an intake worker, they're --

7 A No.

8 Q That's their job?

9 A Yes.

10 Q What training would that person receive with  
11 respect to note taking and documenting calls?

12 A Which one are you referring to, the  
13 receptionist --

14 Q The, the receptionist. Thanks, Ms. Cochrane.

15 A There's -- the receptionist would get training on  
16 how to take calls, how to get information, what type of,  
17 what type of call is coming in. Is this an emergency? May  
18 I direct you to a worker or a supervisor, that sort of  
19 training they would have.

20 Q Okay. And, and is there any formal process that,  
21 that those receptionists would go through?

22 A I don't understand, process --

23 Q Well --

24 A -- of training or?

25 Q Yeah, yeah, yeah. Is there a formal program that



1 -- back in 2005, and prior to 2005, that ICFS had  
2 instituted?

3 A We have a secretary's binder that we developed in  
4 how to answer a phone, how to take messages. That's our  
5 internal document that we had for our receptionist.

6 Q Okay. And I understand that, that, that the  
7 protocol was that even hang-ups were supposed to be  
8 noted?

9 A Yes.

10 Q Okay. And, and from your perspective, did you  
11 ever review the records on, on a regular basis, or even an  
12 irregular basis, to determine if the receptionists that you  
13 employed were keeping the notes in that fashion?

14 A No, I didn't.

15 Q Okay. Let me put this to you. If a phone call  
16 was received and, and the person making that phone call  
17 said that they had a problem that they wanted to  
18 report --

19 A Yes.

20 Q -- and, and they named one of the reserve's or  
21 one of the First Nations that you've referred to.

22 A Yes.

23 Q And, and you mentioned the four of them. And the  
24 receptionist said sorry, there's nobody here because we're  
25 short staffed, would you -- let's just go that far. Would

1 you agree with me that if somebody did that, that would be  
2 completely inappropriate?

3 A Yes, I agree, it would be inappropriate.

4 Q And, and that, that is not the type of conduct  
5 that you would have expected or tolerated if you were aware  
6 of it. Is that correct?

7 A That's correct.

8 Q If, if I were to hear that, and I were in your  
9 shoes, I think that I would say well, that, that, that  
10 somebody doing that is shirking their responsibilities  
11 completely. Would you -- and would you have that same  
12 reaction?

13 A Yes.

14 Q And the next thing that I would think is that if  
15 someone were to shirk their responsibilities in that  
16 fashion, I wouldn't expect that they would be documenting  
17 that kind of a phone call and that kind of a reaction.  
18 Would you agree with me on that?

19 A I would agree, yes.

20 Q Yeah, okay. Thank you.

21 Now, let me put one other thing to you. You've  
22 mentioned that there was a -- that there was conflict of  
23 interest protocol, in effect, and that that was an  
24 important thing at Fisher River because of the  
25 interconnectiveness and the interrelationships on that

1 First Nation?

2 A Yes.

3 Q You recall that?

4 A Yes.

5 Q And, and as a result of that, you have  
6 established protocols so that those conflict of interest,  
7 those familial conflict of interests will not interfere  
8 with the proper running of your department?

9 A Yes.

10 Q And if, if someone were to advise a family member  
11 that a phone call had come in about him, because of --  
12 because there's a relationship there, that would be  
13 completely unacceptable, would it not be?

14 A Yes.

15 Q That's not something you would tolerate?

16 A Yes.

17 MS. GANGE: Those are my questions. Thank you,  
18 Ms. Cochrane.

19 THE WITNESS: Okay.

20 THE COMMISSIONER: Thank you, Mr. Gange. Anyone  
21 else? It would appear not so you're on, Mr. Khan.

22 MR. KHAN: For the record, it's Hafeez Khan, for  
23 Intertribal Child and Family Services. Hello, Ms.  
24 Cochrane.

25 THE WITNESS: Afternoon.

1 CROSS-EXAMINATION BY MR. KHAN:

2 Q You discussed, just briefly, the after hours  
3 worker.

4 A Yes.

5 Q And so if you can just explain to the  
6 Commissioner how after hours operates at Fisher River.

7 A Okay. After hours -- Intertribal is considered  
8 DIA, a designated intake agency. We are a intake,  
9 designated intake agency for the geographical area three  
10 within the Interlake. What that means is that Intertribal  
11 has authority to respond to any calls within geographical  
12 three area, which consists of beyond the reserve line,  
13 which I mean beyond the community of Fisher River. We are  
14 responding to any after hours calls in the communities of  
15 Pine, Pine Dock, Beaver Creek, Lake St. George to Jackhead  
16 Harbour and -- on Lake Winnipeg so we have a vast area of  
17 designation as an intake agency, that we have -- deliver  
18 after hours services to.

19 THE COMMISSIONER: They're, they're off reserve?

20 THE WITNESS: Yes. And we are responsible to  
21 provide after hours for the authorities, authorities being  
22 the Northern Authority, the Southern Authority, the Metis  
23 and the General. What that means is that if we get a call  
24 our after hours worker, back then, had a satellite phone  
25 that they took responsibility at 4:30 and the satellite

1 phone what I mean is -- I don't know if you're familiar  
2 with the RCMP and their big phones that they carry on the  
3 side of their -- it's like a satellite system, that's --  
4 was the only way we can do after hours services in having  
5 those satellite phones because of the connection, we didn't  
6 have cell service back in 2005.

7

8 BY MR. KHAN:

9 Q So that was in 2005?

10 A Yes.

11 Q And when a call came in --

12 A Yes.

13 Q -- to an after hours worker, who would respond to  
14 that call?

15 A The after hours worker was established through  
16 the supervisor, doing a schedule of our -- all our front  
17 line workers would take a rotation of being on call after  
18 hours.

19 Q And what I mean is when a, when a call actually  
20 comes in --

21 A Yes.

22 Q -- who is the person who will respond to an  
23 intake?

24 A The after hours worker.

25 Q So there's just that one worker?

1 A Yes.

2 Q No other staff?

3 A No.

4 Q So staffing is not an issue?

5 A No.

6 Q In the designated intake area is Fisher River the  
7 largest population?

8 A Yes.

9 Q And Fisher River, we've heard, is about 16 to 17  
10 hundred people?

11 A Yes.

12 Q How busy was -- is the after hours?

13 A On the average maybe one or two calls.

14 Q One to two calls a night?

15 A Yes.

16 Q Has workload ever been an issue for after hours?

17 A No.

18 Q Now, for intakes during the day --

19 A Yes.

20 Q -- you've, you've explained that the policy is  
21 always to have two workers, two front line workers in -- on  
22 the staff?

23 A Yes.

24 Q And so how are holidays arranged then?

25 A It's arranged that there still has to be two

1 workers on, on staff during the day and they coordinate --  
2 the supervisor coordinates holidays with all the staff to  
3 ensure that there are two workers available at all times  
4 during the day.

5 THE COMMISSIONER: Is that in addition to the two  
6 receptionists?

7 THE WITNESS: Yes.

8

9 BY MR. KHAN:

10 Q And, of course, it's the front line workers that  
11 respond to the intakes; is that correct?

12 A Yes.

13 Q Has workload ever been an issue in terms of being  
14 able to respond to intakes?

15 A No.

16 Q How many intakes would you say the, the, the day  
17 service receives?

18 A On the average at intake? Usually on a given day  
19 maybe two or three.

20 Q And I take it sometimes some of the intakes, some  
21 of the referrals aren't substantiated?

22 A Yes.

23 Q This happens regularly?

24 A Yes.

25 Q The agency investigates in any event?

1 A Yes.

2 Q Ms. Cochrane, now the death was discovered in  
3 March 2006.

4 A Yes.

5 Q And there was a lot of, of media exposure --

6 A Yes.

7 Q -- and media in Fisher River at the time?

8 A Yes.

9 Q And at the time there was a misconception that  
10 Intertribal Child and Family Services had a file on Phoenix  
11 Sinclair?

12 A Yes.

13 Q And also, that the, the Phoenix file had been  
14 transferred to Intertribal at some point?

15 A Yes.

16 Q Now, can you state for the record whether or not  
17 Intertribal Child and Family Services ever had a file on  
18 Phoenix Sinclair?

19 A We never had a file on.

20 Q And was -- did Intertribal ever have Phoenix in  
21 its care?

22 A No.

23 Q And apart from --

24 THE COMMISSIONER: What was that last question?

25 MR. KHAN: Did, did Intertribal ever have Phoenix



1 in its care.

2

3 BY MR. KHAN:

4 Q And apart from the brief services on July 12th,  
5 2005, was Intertribal involved in any other way with this  
6 matter?

7 A No.

8 MR. KHAN: Thank you, Mr. Commissioner, those are  
9 my questions.

10 THE COMMISSIONER: Thank you, Mr. Khan. Any  
11 re-examination?

12 MR. OLSON: Just one quick question.

13

14 RE-EXAMINATION BY MR. OLSON:

15 Q In terms of CFSIS, my understanding is that if  
16 workers were having trouble accessing CFSIS, in Fisher  
17 River, they could call up the Winnipeg office and ask for,  
18 you know, for example a prior contact search to be done or,  
19 or whatever they needed --

20 A Yes.

21 Q -- would be done.

22 A Yes.

23 MR. OLSON: Thank you.

24 THE COMMISSIONER: All right, witness, thank you  
25 very much, you're completed.

1 THE WITNESS: Thank you.

2

3 (WITNESS EXCUSED)

4

5 THE COMMISSIONER: Now, do you want to carry on  
6 for half an hour or ...

7 MR. OLSON: We could carry on for half an hour, I  
8 think the next witness could be done within a half an hour.

9 THE COMMISSIONER: Well, let's take the next  
10 witness then. Then we'll take our break.

11 MR. OLSON: Yes.

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

14 THE WITNESS: Affirm.

15 THE CLERK: All right. Just state your full name  
16 to the court, please.

17 THE WITNESS: Jeremy Roulette.

18 THE CLERK: Spell me your first name.

19 THE WITNESS: J-E-R-E-M-Y.

20 THE CLERK: And your last name?

21 THE WITNESS: R-O-U-L-E-T-T-E.

22 THE CLERK: Thank you.

23

24 **JEREMY ROULETTE,** affirmed

25 testified as follows:

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

2

3 DIRECT EXAMINATION BY MR. OLSON:

4 Q Good afternoon, Mr. Roulette, I understand you're  
5 30 years old and you live in Winnipeg?

6 A Yeah.

7 Q You have a bit of a quiet voice so if you  
8 wouldn't mind pulling -- you see the mike in front of you  
9 there? If you wouldn't mind pulling it up a little bit.

10 So Lisa Marie Bruce was here yesterday and she  
11 gave evidence. I understand she's your sister?

12 A Yeah.

13 Q And I also understand you're close friends with  
14 DOES #1 and 2?

15 A Those are my foster brothers.

16 Q Foster brothers. And DOE #3 is your foster  
17 mother?

18 A Yeah.

19 Q Okay. And from time to time you grew up in the  
20 same household with DOES 1 and 2 and DOE #3 raised you?

21 A Yeah.

22 Q For a period of time, I think you were about six  
23 or seven years old, Karl McKay, who I understand is your  
24 uncle?

25 A Yeah, he's my mom's brother.

1 Q Yeah. You don't like to refer to him as your  
2 uncle; right?

3 A No.

4 Q Okay. I understand that Karl McKay lived in the  
5 same house as you lived in and you -- how old were you at  
6 the time?

7 A Like six or seven.

8 Q Six or seven years old?

9 A Yeah.

10 Q So you were just a kid. A couple older -- a  
11 couple of years older than Phoenix was at the time she  
12 died.

13 A Yeah.

14 Q Do you remember how Karl McKay treated you at  
15 that time?

16 A Yeah.

17 Q Can you tell us just a bit about, about that?

18 A He was pretty rough with me.

19 Q He was rough with you?

20 A Yeah.

21 Q And would he push you around?

22 A Yeah, he, he would hit me.

23 Q Basically physically assault you?

24 A Yeah.

25 Q Did anyone see him do this?

1 A I guess sometimes some people would.

2 Q Okay. Did anyone do anything about it?

3 A No.

4 Q Do you know why he, he would, he would do this to  
5 you?

6 A No, I don't.

7 Q How often would he assault you?

8 A I guess it would almost be regular, like. If I  
9 was told to do something, if I didn't do it right.

10 Q Right. So he -- you weren't his, you weren't his  
11 child?

12 A No.

13 Q Did he treat you differently from his own  
14 children?

15 A Yeah.

16 Q Did you notice that as a, as a child when you  
17 were seven or eight? Did you, did you recognize that he  
18 wasn't treating you the same way?

19 A Yeah.

20 Q Yeah. So when, when did Mr. McKay stop living  
21 with you?

22 A Probably, like, nine of 10.

23 Q Okay. And did the abuse carry on through the  
24 whole time he lived with you?

25 A Yeah, basically.

1 Q Okay. Did you ever tell DOE #3 about it, your  
2 step-mom, about it?

3 A No, not really.

4 Q Do you know how he treated your step-mom?

5 A He fought her sometimes.

6 Q Okay. Did you see this happen?

7 A I never really saw much of him fighting her but I  
8 seen after.

9 Q Now, if Karl McKay was, you know, abusive to you,  
10 how is it you were able to go to school and be out in the  
11 community without someone saying something?

12 A It wouldn't be in places where I -- people could  
13 see it.

14 Q He wouldn't hurt you in places where people could  
15 see it?

16 A Yeah.

17 Q Okay, I'm going to ask you now if you knew  
18 Samantha Kematch. Did you know Samantha Kematch?

19 A Yeah.

20 Q Okay. Did you know about her relationship with  
21 Karl McKay?

22 A Yeah.

23 Q Okay. When -- after, after McKay moved out, or  
24 you moved out of the house, I'm not sure which, which it  
25 was when -- did you have much to do with him after that?

1           A     Very little but my, my daughter's mom, we were  
2     having a baby at the time.

3           Q     Okay. So how, how old were you around this time?

4           A     About 21.

5           Q     So you were around 21 and your, your girlfriend  
6     at the time was having a baby?

7           A     Yeah.

8           Q     Okay. So up until that time you didn't have much  
9     to do with McKay?

10          A     No.

11          Q     Okay. And then somehow you got involved with him  
12     a bit again?

13          A     Yeah.

14          Q     Tell us about that.

15          A     They had a baby.

16          Q     Okay.

17          A     They lived in the same block as my sister.

18          Q     They being Karl McKay and Samantha Kematch?

19          A     Yeah.

20          Q     Okay. What block was that, was that McGee?

21          A     McGee, yeah.

22          Q     And a bunch of your family lived in McGee; right?

23          A     Yeah.

24          Q     Okay.

25                THE COMMISSIONER: Did you say you were living

1 there?

2 THE WITNESS: No.

3

4 BY MR. OLSON:

5 Q Who out of -- who in your family lived on McGee  
6 at the time? Can you remember?

7 A My sister, my cousin Amanda, they did. I, I  
8 think my cousin, Stephanie, might have lived there.

9 Q Okay. Okay. So you were telling us that you  
10 were, you were about to have a baby or you had a baby at  
11 the time and Samantha and Wes were having a baby or had a  
12 baby.

13 A Yeah, they had a baby.

14 Q Okay. So you would go there and visit with the  
15 baby?

16 A Yeah.

17 Q Did you see Phoenix?

18 A Not always but it -- even when I did it was very  
19 brief.

20 Q Okay. Can you tell us a bit about what you saw?

21 A When we came there she would try to come out of a  
22 bedroom.

23 Q She being Phoenix?

24 A Yeah.

25 Q And what would happen?



1 A They would put, put her back into the room.

2 Q They as in both of them, Karl and Samantha?

3 A Yeah.

4 Q And how would they put her back in?

5 A Sometimes they would put her in there pretty  
6 rough, they dragged her by the arm.

7 Q More than a -- more than you would expect from a  
8 parent being a little rough?

9 A Yeah.

10 Q Would they say anything to her?

11 A I can't remember what she -- it would have been  
12 said for sure.

13 Q Do you remember what Phoenix was like?

14 A To me -- I guess it would curious, curious.

15 Q Curious, okay. Do you remember the, the year,  
16 approximately, the time this was happening?

17 A I think it would be 2005.

18 Q 2005. You think the year your daughter was ...

19 A Yeah, it would have to be the year my daughter  
20 was born.

21 Q Whenabouts in 2005?

22 A Well, when they lived there and we used to go  
23 there, it would probably be winter or spring, around there.

24 Q So early 2005?

25 A Yeah.

1 Q Did you notice any unusual bruising, or cuts or  
2 marks on Phoenix at that time?

3 A Not that I can remember at that time.

4 Q And you weren't really there to focus on Phoenix  
5 when you visited; is that right?

6 A No.

7 Q And your attention was on the babies?

8 A Yeah, I would -- yeah.

9 Q Was Phoenix allowed out of her room when you were  
10 there?

11 A No, never.

12 Q She was never allowed out of her room?

13 A I have never seen her outside that room other  
14 than when she would try come see us.

15 Q Okay. And when she would try and come and see  
16 you she would be pushed back into the room?

17 A Yeah.

18 Q How many times do you think you went over there  
19 in that period?

20 A I used to go visit my sister a few times a week  
21 so we would go there a couple of times a week for sure.

22 Q Okay. I want to now talk to you about April  
23 2005. Do you remember an incident where the -- Karl McKay  
24 was going out to Fisher River? Can you tell us about that?

25 A He came, he came to my foster mom's to pick up

1 one of the boys.

2 Q And you were, you were staying there at the time;  
3 right?

4 A Yeah, we were staying there and I went outside to  
5 go see, to go see them and I seen Phoenix with -- in the  
6 back seat, basically hidden behind where the driver's seat  
7 is, behind -- on a -- shopping bags, and she was sitting  
8 there. And she showed me her, her head.

9 Q Did she just do this herself?

10 A Yeah, she took her hat off.

11 Q What kind of hat was it?

12 A It was like a little, like a, like a bucket hat,  
13 like a little fishing hat.

14 MR. OLSON: Madam Clerk, could you put Exhibit 7  
15 on the monitor?

16

17 BY MR. OLSON:

18 Q Is it -- was it a hat like that?

19 A Yeah.

20 Q So she showed -- so -- I'm sorry to interrupt you  
21 there, if you could just go on, she showed you -- you were  
22 going to say she was showing you something.

23 A She showed me an injury of her forehead, what,  
24 what looked like, like if somebody scratched the skin right  
25 off her forehead, like a deep -- like a gouge or, or just

1 somebody just scratched the skin off her head.

2 Q How, how, how long -- like was it something you  
3 had noticed right away on seeing her?

4 A Well, it's -- it wasn't something you can hide,  
5 it's just like it's -- it was a big scratch, it was -- she  
6 was a little girl and it was, it was on her forehead, it  
7 was -- it wasn't little.

8 Q Did, did you think it needed any medical  
9 attention or ...

10 A To me it looked like it had -- it, it looked  
11 like, like at a point where it, it needed medical attention  
12 but it was almost like it, it, it didn't get medical  
13 attention or it -- maybe it was already a day or two past  
14 when it already happened. Like it wasn't bleeding but it  
15 was already dry and like, you know, like a scab, I guess.

16 Q Did she say anything to you?

17 A She just took her hat off. And then she --

18 Q Did you say anything to her?

19 A I asked her what happened to her forehead. And  
20 basically he, he just basically spoke for her and she  
21 almost repeated what she -- he said. Like I hurt myself.

22 Q So you're talking about Wesley McKay?

23 A Yeah.

24 Q So he -- in other words, he -- your impression  
25 was that he sort of coached her to say she hurt herself?

1 A Yeah.

2 Q Did you believe that?

3 A No.

4 Q What did you think happened?

5 A I, I honestly wouldn't have a clue what, what  
6 happened but it just didn't put it -- I wouldn't have put  
7 it past Wesley to -- I wouldn't put it past him to have  
8 done that to somebody.

9 Q So what did you do after that?

10 A I went inside and I told my foster mom.

11 Q Okay. That's DOE #3?

12 A Yeah.

13 Q Do you remember what you told her?

14 A I, I explained to her how the injury looked and  
15 what I thought it would be like, how I said like it looked  
16 like somebody just -- like she was missing skin off her  
17 forehead, I guess.

18 Q Did -- what did you expect her to do with that  
19 information?

20 A I, I actually expected her to, to -- I figured  
21 she would call somebody or tell somebody about it.

22 Q Did you consider calling anybody, CFS or the  
23 police?

24 A No, I didn't. I just thought that she would.

25 Q Do you think that, that Phoenix was trying to

1 tell you something by taking the hat off, was that your  
2 impression?

3 A Yeah.

4 Q Did -- do you need a minute?

5 A Yeah.

6 Q Take your time.

7 You, you had your own experiences with police, I  
8 understand?

9 A Yeah.

10 Q You also had your own experiences with the child  
11 welfare system?

12 A Yeah.

13 Q Were either of those pleasant experiences?

14 A No.

15 Q No. So did that influence your personal  
16 reluctance to contact them?

17 A Yeah.

18 Q Okay. And so you told DOE #3 with the  
19 expectation that she would tell the appropriate people?

20 A Yeah.

21 Q Okay. I want to ask you now, just moving on to  
22 another area, about Samantha Kematch. Can you tell me if  
23 you knew if she was using drugs at any point?

24 A Yeah.

25 Q What do you know about that?

1 A I sold her drugs.

2 Q When was that?

3 A The summer.

4 Q That summer?

5 A July, August.

6 Q Of 2005?

7 A Yeah.

8 Q Do you remember how many times?

9 THE COMMISSIONER: No, just a minute. This man  
10 hasn't got counsel of his own?

11 MR. OLSON: He's, he's -- he can address it, he's  
12 already served time on the, on the basis of this.

13 THE COMMISSIONER: You're comfortable that --  
14 you're prepared to answer these questions, witness, are  
15 you?

16 THE WITNESS: I just don't have a clue like  
17 what --

18 MR. OLSON: Well, we, we --

19 THE WITNESS: -- what I could say.

20 MR. OLSON: We can leave this, Mr. Commissioner,  
21 maybe it's a good time to take the break.

22 THE COMMISSIONER: Well, I'm concerned about you  
23 asking him questions that --

24 MR. OLSON: I appreciate that.

25 THE COMMISSIONER: -- could cause difficulties

1 when he's unrepresented.

2 MR. OLSON: Yeah. I don't know that it's  
3 important to get into this, at this point.

4 THE COMMISSIONER: I think we'll take an  
5 adjournment, you can decide -- well, there may be some  
6 other questions. I, I do have that concern.

7 MR. OLSON: I share that concern.

8 THE COMMISSIONER: All right. Then perhaps we'll  
9 leave that point?

10 MR. OLSON: We'll leave that point.

11 THE COMMISSIONER: All right.

12

13 BY MR. OLSON:

14 Q The only, the only other area mentioned is that  
15 you did testify at the criminal trial of Samantha Kematch  
16 and Karl McKay.

17 A Yeah.

18 MR. OLSON: Those, those were my questions for  
19 this witness.

20 THE COMMISSIONER: If, if there is some reason  
21 why you subsequently think that delving into that area is  
22 important to this inquiry, I'll consider making a move to  
23 get counsel for this man before he --

24 THE WITNESS: I think I would rather maybe call a  
25 lawyer myself.



1 THE COMMISSIONER: Yes, okay.

2 THE WITNESS: To tell you the truth.

3 THE COMMISSIONER: Okay. If you're needed back  
4 on that subject, we'll see that you, you have a lawyer that  
5 you're comfortable with.

6 THE WITNESS: Okay.

7 THE COMMISSIONER: All right. But there may, may  
8 be some other questions from some lawyers today on the  
9 other areas that you've talked about. So you're through,  
10 Mr. Olson?

11 MR. OLSON: I'm, I'm done.

12 THE COMMISSIONER: All right. Are there any  
13 other questions?

14 MR. PAUL: Yes, sir.

15 THE COMMISSIONER: Yes, Mr. Paul.

16

17 CROSS-EXAMINATION BY MR. PAUL:

18 Q Good afternoon. My name is Sacha Paul, I'm one  
19 of the lawyers for Winnipeg CFS and the department and I  
20 have a couple of questions for you. And I appreciate that  
21 this is difficult so I want to -- if at any time you need a  
22 break, just let me know.

23 I didn't hear your evidence on this point, I  
24 couldn't hear back there but you were describing to the  
25 Commissioner the fact that Karl McKay was abusive towards

1 you as a child; is that correct?

2 A Yeah.

3 Q Yes?

4 A Yeah.

5 Q And I think you were asked this question but I  
6 didn't hear the answer, about whether or not you told DOE  
7 #3 about that.

8 A What was the question?

9 Q Did you ever tell DOE #3 about the fact that Mr.  
10 McKay was being abusive to you as a child?

11 A No.

12 Q Thank you. If I can turn now to your evidence  
13 about April, my understanding is that when you see Mr.  
14 McKay and Phoenix Sinclair in April of 2005 DOE #1 is  
15 getting picked up?

16 A Yeah.

17 Q Is that correct?

18 A Yeah.

19 Q And my understanding is that Mr. McKay is coming  
20 from Fisher River to Winnipeg to pick up DOE #1. Is that  
21 correct?

22 A I don't know where he came from, he was there  
23 picking up DOE #1.

24 Q Okay. And Mr. Roulette, my friend, Mr. Olson,  
25 mentioned that you gave evidence at the criminal trial of

1 Ms. McKay and Mr. -- sorry, Mr. McKay and Ms. Kematch; is  
2 that correct? You went to court in their criminal trial?

3 A Yeah.

4 Q And before that you also gave a statement to the  
5 police; is that correct?

6 A Yeah.

7 Q Right. And if I can turn up page 5578.

8 Sorry, 5578. You'll see at the top there it says  
9 statement of Jeremy Steven Roulette. That's you?

10 A Yeah.

11 Q And you will see, about half-way down the page, a  
12 question by someone named Coade, who I believe is a police  
13 officer.

14

15 "Yeah I just have a few questions  
16 here. Do you know where Wes and  
17 Sam were living at the time that  
18 you saw the big gash on Phoenix's  
19 head?

20 ... I believe it was uh in Fisher  
21 River."

22

23 Do you recall giving that answer?

24 A Sure.

25 Q And is that -- was that your understanding, that

1 when DOE #1 was getting picked up, that Mr. McKay and Ms.  
2 Kematch were, indeed, living at Fisher River at that time?

3 A Yeah. But you asked me, he said do I know where  
4 they came from? Do I know that they came from Fisher  
5 River? I don't know that they came from Fisher River.

6 Q But at the very least -- and I apologize for that  
7 -- at the very least your understanding, at that time, was  
8 that McKay and Kematch were living in Fisher River --

9 A Yeah.

10 Q -- in April of 2005? I'm sorry about that.

11 And my understanding of your statement is that  
12 this event, in April of 2005, occurred in the middle or end  
13 of April of 2005; is that correct?

14 A What?

15 Q That this time that you saw Phoenix Sinclair and  
16 Karl McKay, that would have occurred in the middle or end  
17 of April of 2005?

18 A Around there, yes.

19 Q And again if we could pull back up Exhibit Number  
20 7. Sorry, can you pull up Exhibit 7 in one moment? Madam  
21 Clerk?

22 THE COMMISSIONER: Are you able to get that  
23 number -- Exhibit 7.

24 THE CLERK: I'm sorry.

25 MR. PAUL: Sorry.

1 THE CLERK: I didn't hear it.

2 THE COMMISSIONER: Oh, we, we were --

3 MR. PAUL: Could you pull up Exhibit Number 7  
4 please.

5 THE CLERK: Sorry.

6 THE COMMISSIONER: There we are.

7

8 BY MR. PAUL:

9 Q Mr. Roulette, we've heard evidence from a witness  
10 named SOR #6, that she took this picture that you see there  
11 on the screen, on March 18, 2005. She's also told this  
12 Commission that on that day Phoenix Sinclair walked one  
13 kilometre on her own. I take it you don't disagree with  
14 her evidence on that point? You can't say either way?

15 A What?

16 Q You don't have anything to contradict that  
17 evidence?

18 A No. I guess not, I don't know.

19 Q Okay. And further, SOR #6 told the Commissioner  
20 that at this point she didn't see any signs of physical  
21 abuse on Phoenix and you wouldn't dispute that either;  
22 correct?

23 A Sure.

24 Q And again, if we go to April of '05, my  
25 understanding of what you told the Commissioner in your

1 direct examination is that when you see the gash on Phoenix  
2 Sinclair's head, head -- and I might have misheard so I  
3 want to clarify -- is that this occurred, in your view, say  
4 two or three days prior to when you saw her. Is that what  
5 you said?

6 A Can you say that again?

7 Q The gash on Phoenix Sinclair's head, that you saw  
8 in April 2005, what I heard you say and I could be wrong  
9 but what I heard you say is that that gash may have been  
10 two or three days old.

11 A The injury wasn't fresh is what I, what I think I  
12 said.

13 Q Um-hum. But you can't date it any further than  
14 that?

15 A I'm just saying that it's not fresh, it wasn't  
16 fresh, you know I --

17 Q Okay. And again, your evidence was at that time  
18 when you see the gash on Phoenix Sinclair, in April, again  
19 your evidence is that McKay and Kematch were living in  
20 Fisher River at that time; correct?

21 A From what I know, yeah.

22 Q Yeah. And again, my understanding of your  
23 evidence is that you told DOE #3 about this gash that you  
24 had seen on Phoenix Sinclair's head; right?

25 A Yeah.

1 Q And is it fair to say that you would have told  
2 DOE #3 immediately, that you see it and then Wes McKay  
3 drives off and then you raise it with DOE #3?

4 A I went inside and I told her, yeah.

5 Q Okay. And again, as, as you tell DOE #3, this is  
6 when DOE #1 is going up to Fisher River?

7 A Yeah.

8 Q Okay. And if we could pull up page 5571. At the  
9 very bottom. Is it fair to say ...

10 THE COMMISSIONER: What is this?

11 MR. PAUL: This is your police statement, Mr.  
12 Roulette.

13 THE COMMISSIONER: Oh, yeah, okay. All right.

14

15 BY MR. PAUL:

16 Q And it's fair to say that once you've told DOE #3  
17 about it, the response that you got was she's like "oh  
18 well" -- next page -- "maybe he did it. Maybe, Maybe,  
19 maybe uh, 'cause 'cause he's capable of this stuff eh."

20 You see that there?

21 A Yeah.

22 Q And that's the response that DOE #3 gave you at  
23 that time?

24 A Yeah.

25 Q Right. And again, your understanding then is

1 that DOES 1 and 2 remain up in Fisher River until they come  
2 back in July of 2005. Or you wouldn't dispute that  
3 evidence?

4 A I don't know when they came back.

5 Q And again, your evidence was that you never  
6 called CFS yourself about this?

7 A No.

8 MR. PAUL: Mr. Commissioner, those are my  
9 questions.

10 THE COMMISSIONER: Thank you, Mr. Paul. Any  
11 other questions for this witness? If not -- yes, Mr.  
12 Cochran?

13

14 CROSS-EXAMINATION BY MR. COCHRANE:

15 Q Mr. Roulette, my name is Harold Cochran, I'm  
16 counsel to Southern Authority, Northern Authority and ANCR.  
17 I just have a few questions in large part because I  
18 couldn't hear the, the responses, Mr. Commissioner, there's  
19 some construction work or something going on in the back so  
20 I do apologize if you had answered this and I'm repeating,  
21 I just didn't hear him myself.

22 But I think I heard you say that Mr. McKay or Wes  
23 McKay moved in, into your -- the house you were living in,  
24 living in when you were about six years of age. Did I get  
25 that correct?



1 A No, I didn't say that.

2 Q Sorry?

3 A I didn't say that.

4 Q Okay, then I, I misheard. So what -- when, when  
5 did, when did Karl McKay come to live in the same house  
6 that you were living in?

7 A I don't know, I moved into their house.

8 Q I see. And you were -- is that, is that where I  
9 got the age six from? Were you six years old when you  
10 moved in?

11 A About six, seven.

12 Q I see.

13 A Around there.

14 Q Okay. And I also think I heard that -- or let me  
15 ask you this in case I misheard it wrong. When did Karl's  
16 abuse of yourself start?

17 Was it shortly after you moved into the home?

18 A Sure, yeah.

19 Q Okay. And I heard you mention until you were 10  
20 years of age. And again, I'm not sure if I heard this  
21 right but were you saying that the abuse then continued  
22 until you were about the age of 10? By Karl?

23 A Around there, yeah.

24 Q Okay. Because I wanted just to make sure that  
25 was that four year time period; right? Is that what you're

1 saying?

2 THE COMMISSIONER: You can pour some more water  
3 out of that pitcher, if you wish.

4

5 BY MR. COCHRANE:

6 Q Did the abuse from Wesley McKay, that you  
7 received, did that happen where? Was it mainly in the  
8 house where you were living?

9 A Yeah.

10 Q And if I understand right, that was an apartment?

11 A No.

12 Q It was a house on McGee?

13 A I never lived there with them.

14 Q You didn't live there, okay. Can, can you  
15 clarify that then for me?

16 A I was six years old, seven years old, that was  
17 over 20 years ago.

18 Q Yes.

19 A We lived on Grove.

20 Q I see.

21 A In a duplex, upstairs.

22 Q Okay.

23 A Then we moved to Lorne. He stayed with us there  
24 for awhile until he beat, he beat my foster mom up and then  
25 he moved again and he never came back.

1 Q Okay. Okay. You were asked a few times by the  
2 lawyers that came ahead of me whether or not DOE #3, the  
3 question was did you, did you tell her of the abuse and  
4 your answer, twice, was no. The question I have is was DOE  
5 #3 aware of the abuse that you, that you were receiving?

6 A I'm not sure.

7 Q Are you aware of DOE #3 ever seeing the abuse  
8 that you received? Did she ever see it being committed  
9 against you?

10 A She, she might have seen it but she would never  
11 let it go on to where, like -- I don't know how to explain  
12 it but she never let it go on, she never let him keep  
13 going, you know, like I was, like I was her son, that's who  
14 I was to her. I wasn't just a foster kid, I was her son,  
15 so she didn't just let it happen, she stopped it, she ...

16 Q Okay, so she would intervene, she would --

17 A Yeah.

18 Q -- she would protect you?

19 A Yeah.

20 Q Is what you were saying? Okay.

21 So although you didn't tell her, it's clear she  
22 was aware that that happened?

23 A Yeah.

24 Q Did you ever have to receive medical attention?

25 A No.

1           MR. COCHRANE:   For the assault.   Thank you, I  
2 have no further questions.

3           THE COMMISSIONER:   Thank you, Mr. Cochrane.

4           All right, any re-examination, Mr. Olson?  
5 Assuming there's no one else.

6           MR. OLSON:   No re-examination.

7           THE COMMISSIONER:   All right, witness, thank you  
8 very much, you're completed.

9

10                           (WITNESS EXCUSED)

11

12           THE COMMISSIONER:   Now, I guess we'll take a 15  
13 minute break and then start -- I see you're two witnesses  
14 behind so we'll try to start the next one at least today.

15           MR. OLSON:   I think we're just one witness  
16 behind.

17           THE COMMISSIONER:   Oh, are we? Just one?

18           MR. OLSON:   Yeah.

19           THE COMMISSIONER:   Oh, yes, all right.

20           MR. OLSON:   And it's just the cross-examination  
21 so we should be doing okay.

22           THE COMMISSIONER:   Oh, we -- will we have --  
23 maybe my list isn't up to date, I have one other one  
24 coming, but that's fine, we'll adjourn for 15 minutes and  
25 then take that witness.

1 MR. OLSON: Very good.

2

3 (BRIEF RECESS)

4

5 THE COMMISSIONER: Good afternoon.

6 THE WITNESS: Good afternoon.

7 THE COMMISSIONER: Now, we're ready for  
8 examinations. You're first, Mr. Gindin.

9 MR. GINDIN: Yes, this is the cross-examination.

10 THE COMMISSIONER: Yes.

11 THE CLERK: Can I just ask the witness just to  
12 repeat her name for the record.

13 THE WITNESS: Alana Brownlee.

14 THE CLERK: Thank you.

15

16 **ALANA SMITH BROWNLEE**, previously  
17 sworn, testified as follows:

18

19 CROSS-EXAMINATION BY MR. GINDIN:

20 Q And just for the record again, I'm Jeff Gindin  
21 and I appear for Kim Edwards and Steve Sinclair and you  
22 gave -- you've given your evidence several months ago and  
23 at that time you went through various policies and  
24 regulations and amended regulations all concerning with the  
25 keeping of notes and records. Do you recall that?

1 A Yes.

2 Q Okay. And I just want to refer you briefly to  
3 Exhibit 24 just to refresh our memories because it's been  
4 some time. How would you describe that document, what is  
5 that exactly?

6 A That was the agent's -- or Winnipeg Child and  
7 Family Services' recording policy, it outlined what was  
8 expected of staff related to documentation that they should  
9 be keeping on file.

10 Q Um-hum. And I notice it says: "Proposed July  
11 13th, 2001" so essentially this was the policy during the  
12 time period we're talking about?

13 A Yes.

14 Q Okay. And the, the opening paragraph there, if  
15 you can just read, read out the first sentence, first of  
16 all. To us.

17 A I have a screen blocking the first sentence.

18 Q Oh, I see. I can read it for you but maybe we  
19 can get rid of that.

20 UNIDENTIFIED PERSON: It's also at tab 3 in the  
21 paper in front for you.

22 THE WITNESS:

23

24 "Winnipeg Child and Family  
25 Services and its staff are

1                   professionally       and       publicly  
2                   accountable       for       services  
3                   provided."

4

5   BY MR. GINDIN:

6       Q     Okay, I just --

7       A     "Accountability" --

8       Q     -- want to stop you there for a moment.

9       A     Okay.

10      Q     And that is a statement that I take it you would  
11 agree with?

12      A     Yes.

13      Q     And I think it goes on to explain how that  
14 accountability would be measured?

15      A     Yes.

16      Q     Perhaps you can tell us what comes next.

17      A

18                   "Accountability is demonstrated in  
19                   and measured by information and  
20                   materials contained within formal  
21                   case records.   Accordingly, case  
22                   records will be standardized in  
23                   terms of case recording content as  
24                   well as organization and  
25                   maintenance of file records.

1 Adherence to (the) agency standard  
2 will be monitored by means of  
3 regularly scheduled file audits.

4

5 Q All right. Do you know whether there were  
6 regularly scheduled file audits?

7 A I know that during the course Winnipeg CFS had  
8 completed file audits. I wouldn't say that they occurred  
9 on a regular basis but certainly periodically file audits  
10 were completed.

11 Q Okay. And you would agree with the statement  
12 concerning how you would measure accountability by the  
13 records that are kept, you had to receive the records that  
14 are kept, the completeness of the records that are kept, et  
15 cetera?

16 A I think that that would be one aspect of  
17 accountability, I'm not sure that I would agree that that  
18 would be accountability in its entirety --

19 Q No.

20 A -- related to services provided but certainly as,  
21 as one aspect.

22 Q Certainly an important aspect?

23 A Absolutely, yes.

24 Q And one of the goals, I, I suppose, would be to  
25 have some consistency in the way records are kept among the



1 various social workers, et cetera?

2 A Yes, consistency related to the, the type of  
3 information that should be contained.

4 Q Right. Okay. I want to refer you now to Exhibit  
5 26 which is a series of e-mails which reflect the efforts  
6 that you made, at least some of the efforts that you made,  
7 in trying to locate notes and records. Correct?

8 A Yeah.

9 Q The first one, on, on the page, the last part of  
10 that e-mail, says: "They actually tried to convince me  
11 that they did not need to do supervision." Now, I'm  
12 curious as to who you're talking about there.

13 A This is information that Sandie Stoker conveyed  
14 to me.

15 Q Right. And so she was doing some searches for  
16 you?

17 A Yes.

18 Q Correct?

19 A Yes.

20 Q And she's telling you that in the course of her  
21 looking for notes, people tried to convince her that they  
22 didn't need to do supervision?

23 A No, that would not be my understanding, my  
24 understanding is that she's talking about when she came to  
25 JIRU --

1 Q Right.

2 A -- as either assistant program manager or program  
3 manager, that that was something that was identified then  
4 not, not at the current time when she was responding to  
5 this.

6 Q Okay. So she talks about when she got to JIRU in  
7 September of 2005 and that was a problem identified to her  
8 at that time.

9 A Yes.

10 Q Is that what you're saying?

11 A Yes.

12 Q And the problem was that there were people there  
13 who didn't think they needed to do, to do supervision?

14 A You would have to clarify with Sandie but my  
15 understanding was the difference was between doing ad hoc  
16 supervision on a daily basis with staff versus a scheduled  
17 planned supervision which, I think the intake and CRU  
18 supervisors felt didn't meet the, the volume of supervision  
19 required or the, the nature of the, the case work at after  
20 hours, CRU, and intake.

21 Q So that's your, your interpretation?

22 A That's my interpretation.

23 Q She, of course, doesn't say that they tried to  
24 convince me not to do it regularly or ad hoc, she simply  
25 says not to do supervision in the (inaudible).

1           A     It says we're not doing formal scheduled, only on  
2 an ad hoc so that's how I interpreted it --

3           Q     I see.

4           A     -- it's between those two types of supervision.

5           Q     Okay. She goes on to say, referring to Doug  
6 Ingram, I presume --

7           A     Yes.

8           Q     -- that he struggled with completing supervision  
9 with his staff up until the time he departed from ANCR.

10          A     Yes.

11          Q     Correct? So these were just some of the concerns  
12 expressed to you --

13          A     Yes.

14          Q     -- in this particular e-mail; right?

15          A     Yes.

16          Q     A few pages down, there's another e-mail dated  
17 July 28th. If we can get that up on the screen. I just  
18 have one quick question about that e-mail. Your -- yes,  
19 the -- a little bit further up please, where it says: "I  
20 have an odd question for you." Do you see that?

21          A     Yes.

22          Q     That would be your e-mail to Joanne Godin?

23          A     Yes.

24          Q     And who is she again?

25          A     She is an admin support person and she was admin

1 support for Heather Edinborough at the time.

2 Q So you're writing to her to, to get some  
3 assistance in looking -- tracking down what you're looking  
4 for?

5 A Yes. I'm just trying to see, some people have  
6 very long memories and can recall what happened to specific  
7 things, so I was just wanting to know if she recalls the  
8 practice or doing anything specifically with Heather's  
9 supervision notes.

10 Q And when you say "I have an odd question for  
11 you", are you referring to it being odd because you're  
12 going back in time?

13 A Yes.

14 Q Yes.

15 A I'm asking her to -- if she has a recall of  
16 something that happened, you know, eight years prior.

17 Q So that's why you meant by --

18 A Yes.

19 Q -- it being an odd question?

20 A Yes.

21 Q I see. Okay. So you went through a pretty  
22 extensive search --

23 A Yes.

24 Q -- trying to find out if there were any notes  
25 available for the supervisors who were involved in the

1 Phoenix Sinclair matter?

2 A Yes.

3 Q Including Wes McKay or Samantha Kematch or, or  
4 Phoenix Sinclair; correct?

5 A Yes.

6 Q Particularly during 2000 to 2005, that's what you  
7 were looking for?

8 A Yes.

9 Q Correct? And while you found some notes of some  
10 of the individuals involved, you found nothing related to  
11 this case?

12 A Yes.

13 Q Is that right? But you did find some of the  
14 notes that these various workers had kept with respect to  
15 other matters?

16 A Yes.

17 Q Okay. Now, I want to ask you specifically with  
18 respect to Andy Orobko. He testified that he kept some  
19 notes and his policy was after five years from the close of  
20 the file he shredded his notes, which would make it around  
21 2010, according to his evidence, that he would have  
22 shredded his notes relating to this matter. You found,  
23 however, notes of his that went back to 1999.

24 A Yes.

25 Q Right? So that would seem to be contrary to him

1 shredding all of his notes because you did --

2 A It would.

3 Q -- you did find some; right?

4 A Yes, I did.

5 Q And those notes that you found were obviously  
6 more than five years old?

7 A Yes.

8 Q But none of the notes that you found that he had  
9 related to Phoenix Sinclair?

10 A No.

11 Q And similarly, the notes that you found with  
12 respect to the other people you were asked to look into  
13 related to other matters but not with respect to this case?

14 A That's correct.

15 Q Specifically with respect to Angie Balan, whose,  
16 I think, diary was discovered; correct?

17 A Yes.

18 Q That diary revealed that between October the 5th  
19 of 2000 and June 25th of 2001, which is about an eight  
20 month period, her date book showed 26 separate supervision  
21 sessions she had with Delores Chief Abigosis.

22 A Yes.

23 Q But it didn't say in there which case it was  
24 about?

25 A Correct.

1 Q So we can't really say if it related to the  
2 Phoenix Sinclair matter or her caregivers or not.

3 A No, you couldn't say. I guess you could assume  
4 that out of 26 supervision sessions some of those  
5 sessions --

6 Q Some of them.

7 A -- would have been dedicated to that case file.

8 Q But -- and the diary doesn't tell us anything  
9 about the meeting, just that there was one?

10 A Yes.

11 Q Correct? So, again, it's not really notes of  
12 what took place?

13 A No, it's her date book.

14 Q Yeah.

15 A It's showing scheduled appointments.

16 Q Now, you, you, you testified about policies and  
17 regulations and amendments and that kind of thing. If any  
18 of those rules or policies were followed at all, we would  
19 have those notes.

20 In other words, there were no policies that  
21 said --

22 A There was, there was --

23 Q -- destroy your notes after five years or  
24 something like that?

25 A -- absolutely no policy saying destroy them.

1 There's nothing in the standards, the regulations or policy  
2 prior to 2004 that spoke to what supervisors should do with  
3 their notes so there, there was no clear direction ever  
4 given to supervisors and the 2004 policy is not, in my  
5 opinion, not very clear as to what supervisors should do  
6 with their supervision notes. It's clearer what they  
7 should do with HR notes and it's clear what they should do  
8 if they have direct contact but it doesn't actually  
9 directly say what they should do with supervision notes so  
10 there is still, even after 2004, a lot of misinterpretation  
11 or it was up for, I guess, debate or practice in terms of  
12 what supervisors would do with their notes.

13 Q Yeah. But common sense would dictate that it's  
14 wiser to keep the notes somewhere.

15 A Yes, and that's why I think the practice that the  
16 supervisors, a lot articulated, that they would leave them  
17 in their office if they changed jobs and, and wouldn't take  
18 them home and wouldn't shred them. I think that was much  
19 more the common practice.

20 MR. GINDIN: Thank you, those are my questions.

21 THE COMMISSIONER: Thank you, Mr. Gindin.

22 Anyone else before Mr. McKinnon? Mr. Ray.

23 THE CLERK: I can't remember if you were sworn.

24 THE WITNESS: Sworn.

25



1 CROSS-EXAMINATION BY MR. RAY:

2 Q Good afternoon, Ms. Brownlee, for the record  
3 Trevor Ray. As you know I represent a number of the social  
4 workers involved in this matter as well as the MGEU. I  
5 just have a few case or questions about your evidence, it's  
6 -- I don't think it's particularly contentious but I just  
7 would like to clarify some things for you regarding the  
8 documents and, and the summary.

9 A Okay.

10 Q Now, I think you just clarified this for me a  
11 moment ago but let's start with a couple of the simple  
12 things. And I want to start with policies regarding notes  
13 and recordings, specifically supervisors. Now, you're  
14 saying nothing existed until approximately March of 2004 as  
15 it related to supervisors, specifically the retention of  
16 their supervision notes or their HR notes?

17 A That's correct.

18 Q Okay. And around that time I think your evidence  
19 was that because there was some inconsistency and perhaps  
20 some uncertainty by the supervisors, themselves, they got  
21 together, approached the department and suggested perhaps  
22 they would draft something to help make it more clear. Is  
23 that, is that correct?

24 A We started working on modifying the supervision  
25 policy as a -- we have -- twice a month we meet, all -- as

1 a management group, with all the supervisors as part of --  
2 it was kind of -- it was flagged as part of the inquiry  
3 process that -- what critical supervision is and we wanted  
4 to re-visit and look at the policy and update it. And from  
5 reviewing it and essentially canvassing the supervisors in  
6 terms of what is their understanding of what they are to do  
7 with their notes, it became very obvious that there was  
8 inconsistent understanding of what they should do with  
9 their notes at the end of the day so that's why we started  
10 working on the policy.

11 We also wanted, I think, clarity around the  
12 importance of ensuring that at least there is quarterly  
13 reviews so that at least every three months you're  
14 reviewing every single case with every worker.

15 Q Okay. Now, you've -- you mentioned that you got  
16 together as part of the inquiry process; is that -- did you  
17 say --

18 A No, we have regular meetings but as part of the  
19 inquiry process, supervision and supervision policy and how  
20 we conduct supervision and the importance of supervision  
21 was really highlighted.

22 Q I see.

23 A So that was part of the discussion at the  
24 management table that led us to want to, to at least  
25 re-visit our policy to see if it needed updating which we

1 did then update.

2 Q And I understand that those updates occurred in  
3 approximately 2012?

4 A Yes.

5 Q And -- but the drafting of the original policy  
6 occurred in 2004?

7 A Yes.

8 Q And was it -- was -- the supervisors were the  
9 ones that suggested that that policy be created in order to  
10 bring consistency to the, to the, the note maintenance  
11 and --

12 A Yes, that was an initiative from the supervisors.

13 Q Yeah.

14 A They had attended the Tony Morrison training,  
15 supervision in social welfare or social care and following  
16 that they felt it was important to have a consistent policy  
17 related to the structure of supervision, the purpose, the  
18 frequency and that generated -- they had a committee  
19 developed then generated the policy and much of it was  
20 taken, I think, from some of the training materials from  
21 Tony Morrison.

22 Q Okay. And if I understand your evidence, that  
23 policy that was originally created, at least in 2004,  
24 applied either exclusively or almost exclusively to  
25 supervisors of family services workers. Is that correct?

1           A     That's correct.

2           Q     Okay.    And when, when we say family services  
3 workers, we're excluding workers that would -- or excuse  
4 me, supervisors that would supervise an intake unit and  
5 when I say intake I mean either a CRU unit, an after hours  
6 unit or a Tier 2 intake unit; correct?

7           A     Yes.

8           Q     Okay.    So the 2004 policy applied as it relates  
9 to those supervisors that were involved in this particular  
10 case, the Phoenix Sinclair case, it would have only applied  
11 to family services workers and then only to family services  
12 workers who are involved in the file after 2004?

13          A     Yes.

14          Q     Okay.    And we know from the evidence that in this  
15 particular case there were no supervisors involved beyond  
16 2003.   My understanding is Heather Edinborough was the last  
17 family services worker to -- supervisor to have been  
18 involved in this case and that was near the end of 2003?

19          A     Yes.

20          Q     Okay.    And the remaining supervisors that were  
21 involved in the file were CRU supervisors, such as Diva  
22 Faria?

23          A     Yes.

24          Q     Or intake supervisors such as Carolyn Parsons and  
25 Doug Ingram?

1 A Yes.

2 Q Correct? Am I missing anybody? I don't think  
3 so. But the policy would not have applied to them?

4 THE COMMISSIONER: Is that correct?

5 THE WITNESS: Yes, that's correct.

6

7 BY MR. RAY:

8 Q Now, if I understand your evidence, there are  
9 really three types of notes that supervisors make. There  
10 is HR, human resources notations, supervision notes and  
11 case notes.

12 A Yes.

13 Q Right? Case direct notes is, I think, what  
14 you're referring it -- them to; right?

15 A Yes.

16 Q And human resources would be notes along the  
17 lines of Joe Smith was late for work again today, I've put  
18 a note on Joe Smith's file and told him not to do it again,  
19 completely unrelated, possibly, to any actual file that Joe  
20 may be carrying; correct?

21 A Yes.

22 Q Okay. And then supervision could be a  
23 combination of case notes, case specific notes, or the type  
24 I just described to you, Joe Smith is not doing a very good  
25 job on the Phoenix Sinclair file, I talked of my -- about

1 my concerns with him on this file and we had a discussion  
2 how to address those things. Would that be what a  
3 supervision note would be?

4 A Not specifically. I think a supervision note  
5 would be more related to the specifics of what the work is  
6 being done on a case. So it would be updated information  
7 related to the assessment, so what information do we know  
8 about the parents, what, what is your assessment? What is  
9 the next steps in your case plan? If you already have a  
10 case plan developed it would be getting an update in terms  
11 of where are we at, frequency of contact if children are in  
12 care, what is the placement, what is the reunification  
13 plan, what are the services being provided, that would be  
14 the kind of supervision that would be done related to the  
15 services.

16 Now, if there was a particular problem related  
17 to, say, performance, which is kind of what your example  
18 was highlighting, generally you would be looking at a  
19 pattern of performance. So you might say, in supervision,  
20 you're asking someone about a specific case and they say I  
21 haven't seen this case in three -- I haven't been out to  
22 see this family in three months. So you would be looking  
23 at what is a reason for that, is that because they're  
24 poorly organized, is that because of workload, has this  
25 been a low risk case and their time and attention has been

1 focused on higher risk cases, and then you would have  
2 discussion related to what the next steps would be and an  
3 understanding of is this again related to something that  
4 the worker is failing to do or is this an impact of  
5 workload?

6           So if the social worker is coming in and you're  
7 identifying that they haven't seen 15 of their 30 families  
8 in three months, that would reflect more as a performance  
9 issue. If they haven't seen three of their cases out of  
10 their 30 cases, in three months, that suggests it's more of  
11 a workload issue and then you would work with them around  
12 ensuring regular contact and what the next step should look  
13 like.

14           Q    Okay, so if I understand your answer then,  
15 supervision is -- supervision notes and, and, of course, as  
16 a supervision, is more related to the files that the social  
17 worker is carrying at that time. Is that what --

18           A    Yes.

19           Q    Okay.    Could, could supervision not also be  
20 somewhat generic because we've heard situations of, of ad  
21 hoc supervision, so -- now, we'll try to create an example  
22 -- social, social worker comes in to see a supervisor, says  
23 I would just like to bounce something off you, it's not  
24 necessarily involved in one of their cases, per se, but  
25 they want to know how does this new standard apply or that

1 sort of thing. Would that be considered supervision as  
2 well?

3 A Yes, that would be a more generic supervision.  
4 There's also supportive supervision which is less likely to  
5 be documented in notes. So looking at how people are  
6 managing workload, if there's a critical incident on a case  
7 or you've just done an apprehension, touching base with  
8 them to see how they're managing that kind of stress level  
9 and, and working through that with a client. So there's  
10 different aspects of supervision.

11 Would also be, with newer staff in particular,  
12 looking at identifying learning plans and learning goals  
13 that you would be doing regularly. And newer staff, as  
14 well, you would be trying to ensure that they have some  
15 understanding and connection between standards, policies  
16 and, and how you implement that into practice. So that  
17 could be an overarching piece of the supervision that's  
18 provided.

19 Typically those kind of things are less likely to  
20 be documented in supervision, unless there's a concern --

21 Q Right, and that was --

22 A -- or something they want to follow up.

23 Q -- that was my -- leading to my next question  
24 which was some -- there are some supervision -- there will  
25 be some supervision meetings that would not necessarily



1 lead to documentation being placed on a case specific file  
2 that that person might be carrying.

3 A Yes.

4 Q It would be more along the lines of a -- almost a  
5 human resources type of, of notation, if any notes were to  
6 be taken at all?

7 A Yes.

8 Q And then the third type is what I think you  
9 called is direct case notes so that's, that's a situation,  
10 if I understand, where a supervisor might deal directly  
11 with a family and because, perhaps, they're covering for  
12 the social worker, the supervisor then will note their  
13 involvement with the family and they will place those notes  
14 specifically on the case specific file?

15 A Yes.

16 Q And we saw instances of that, in this case with,  
17 for example, Mr. Orobko, who noted that he, he had  
18 discussions with, I believe, the Stepensions or one of the  
19 Stepensions, just indicating what he spoke to them about  
20 and noting it for the file so that the worker would have a  
21 record of that and could refer back to that; correct?

22 A Yes.

23 Q Okay. And those types of things are supposed to  
24 be maintained on the case specific file?

25 A Yes, because they're indicating direct contact.

1 Q Correct.

2 A So it could be collateral, as well. You know, a  
3 teacher from a school, a service provider, a foster parent.

4 Q And, and those types of notes all -- are really  
5 along the lines more of if a social worker type case note,  
6 albeit made by a supervisor?

7 A Yes.

8 Q I just wanted to speak to you about standards for  
9 a minute. Virtually every social worker who testified said  
10 that they had no real knowledge of standards or no training  
11 on standards until approximately 2006. Would you agree  
12 with me that people did not generally get trained on  
13 standards, including no training on standards about note  
14 taking?

15 A No, that's true.

16 Q Okay.

17 A There was no formal process for training on  
18 standards up until 2006-7.

19 Q And I think Ms. Walsh asked you a question which  
20 was well, then how did people learn to do note taking if  
21 they weren't trained on standards and weren't familiar with  
22 the standards and your response was that you -- the  
23 department created, through using the standards, a template  
24 system and it was that template system that kind of guided  
25 social workers in terms of the types of recordings they

1 were supposed to make, if I understand your evidence.

2 A Yes, that applied to intake. If you look at the  
3 intake standards from 1988 it had very specific information  
4 related to what should be contained in an intake report and  
5 that was used prior to the intake module to develop the  
6 intake and the after hours reports that were generated. In  
7 terms of case notes for ongoing family services, that  
8 really would have -- training related to that would have  
9 fallen to the supervisor in terms of reviewing and training  
10 staff.

11 Q Okay. So when you, when you say -- use the term  
12 template, do you mean the, the format of the form that we  
13 would -- one would use, for example, we saw many instances  
14 of a, of a CRU form, or an intake form, or an after hours  
15 form that would follow almost the same format every time.

16 A Yes.

17 Q Is that what you mean by template and that --  
18 it's almost like a fill in the blanks, these are the types  
19 of things that we want you to fill in when you're taking  
20 this information?

21 A Yes. And those, those changed over the years but  
22 generally it would have headings and then underneath the  
23 headings it might have some bullet points that identify  
24 kind of further information or give you additional  
25 information about what should be contained in that section.

1 Q Right. So when you say templates you're talking  
2 about -- and I'll give you an example, the, the CRU form,  
3 Mr. Commissioner, we saw many examples of the after hours  
4 unit forms that people completed, and it would start off  
5 with the time, the date, the --

6 A Source of referral.

7 Q -- the source of referral, who the referral is  
8 about. For example, Ms. Kematch, her particular  
9 information, date of birth, contact information, then it  
10 gets into a history, and then it would talk about that  
11 person's history within the system, and then it would talk  
12 about the presenting problem, and talk about how they're  
13 dealing with that problem (inaudible) the interventions the  
14 worker made to deal with the problem and then their  
15 recommendations; right?

16 A Yes.

17 Q And that's the template, and that's we saw many  
18 examples of people following that template --

19 A Yes.

20 Q -- in this case. Okay. So when you talk about  
21 the templates, though, they don't tell a worker how long to  
22 store a file, the template is what type of information are  
23 you supposed to record.

24 A Yes.

25 Q And they don't tell a worker whether to keep

1 notes or not to keep notes, those would be contained in the  
2 standards?

3 A Yes.

4 THE COMMISSIONER: But did you say the templates  
5 were applicable only to the after hours?

6 THE WITNESS: The templates that Mr. Ray is  
7 referring to were applied to intake, CRU and after hours.  
8 The case note format for family services was very -- was  
9 contact notes and there was nothing specific --

10 THE COMMISSIONER: Yeah.

11 THE WITNESS: -- specifically developed to, to  
12 guide workers and what should be documented for that.

13 THE COMMISSIONER: And that came from the  
14 supervisor?

15 THE WITNESS: Yes. And even with, like in terms  
16 of intake and after hours, even in terms of the, the level  
17 of detail would still be something that would require  
18 training from the supervisor so assisting them in  
19 identifying what's important information, what's extraneous  
20 information, how much is too much detail, how much is too  
21 little detail. That still would be training, and the  
22 template wouldn't give you that.

23

24 BY MR. RAY:

25 Q Okay, so let's move to the topic of storage for a

1 moment. Storage is dealt with in the standards and you  
2 identified that in the standards that you provided and  
3 spoke to in your evidence. And I just want to make sure I  
4 understand your evidence about expected practice was, that  
5 materials would generally be stored in accordance with  
6 those standards.

7 Now, one issue that you know has come up  
8 repeatedly in this, in this hearing is storage of or, or  
9 keeping maintenance of a person's handwritten notes, and  
10 I'm distinguishing handwritten notes from the types of  
11 recordings that we saw repeatedly through the file; okay?

12 A Okay.

13 Q My understanding of your evidence was that -- and  
14 we've, we've heard evidence from social workers that they  
15 would often take handwritten notes when they're, for  
16 example, speaking to a source of referral on the phone or  
17 conducting a field, or visiting a family. They would bring  
18 those handwritten notes back to the office, afterward, and  
19 somewhere in the short time period after that, they would  
20 incorporate those handwritten notes into what I'm going to  
21 call the record. The record being their recording, their  
22 transfer summary, for example, or their closing summary, or  
23 their, their six month summary, or their intake form, those  
24 sorts of things would -- the notes would be used to create  
25 those documents; correct? The handwritten notes.

1           A     The handwritten notes from contact information  
2 would be used to create an after hours report, would be  
3 used to a CRU report, would be used to create the intake,  
4 the intake report. In family services those notes would be  
5 used to create case contact notes.

6           Q     Right. Okay, so my understanding of your --

7           A     Now --

8           Q     Go ahead.

9           A     -- a summary of that information would be used to  
10 create transfer or summary, closing summary, those kind of  
11 things but the direct contact information would be  
12 translated into one of those other reports.

13          Q     Right. And let's deal specifically with intake  
14 for the, for the moment and when I say intake, I mean all  
15 of intake. And so CRU after hours and the intake.

16                   My understanding of your evidence was if a social  
17 worker was taking handwritten notes, and let's say they've  
18 taken them over the course of a day, while they're  
19 investigating a referral, a source of referral call, so  
20 they speak to a number of different people, they're taking  
21 down what some people have referred to as jot notes, you  
22 referred to them as scratch notes, and at the end of the  
23 day, we heard evidence where people would then take those  
24 notes and create a more comprehensive and a more accurate  
25 document that would include all the important information;

1 okay?

2 A Yes.

3 Q And you agree that that's -- was a common  
4 practice to occur within intake, generally?

5 A That was expected.

6 Q That was expected. And once those people create  
7 that record and they're -- have taken all the important  
8 information from their scratch notes, it was acceptable  
9 practice to then take those handwritten scratch notes and  
10 destroy them?

11 A Yes.

12 Q Correct?

13 A Yes.

14 Q And so to the extent that there are no  
15 handwritten notes that exist, that's acceptable practice,  
16 provided the content of those notes was actually recorded  
17 into the larger documents; correct?

18 A Yes.

19 Q And we heard evidence that some people did not  
20 even take the handwritten notes, they would sometimes just  
21 enter -- just type the document up directly.

22 A Yes.

23 Q And that's acceptable, as well?

24 A Yes.

25 Q And so for those cases you would not expect to



1 necessarily find handwritten notes when you conducted your  
2 search for notes on it, on the Phoenix Sinclair file?

3 A No, I would expect to find handwritten notes for  
4 family service workers, I wouldn't expect to find  
5 handwritten notes for intake.

6 Q Yes, and, and I'm just strictly intake for now.

7 A Yeah.

8 Q Now, we did have some handwritten notes for some  
9 family services workers, for example, Kerri-Lynn Greeley?

10 A Yes.

11 Q We did find some notes for hers. She indicated  
12 that she kept her handwritten notes on the -- I think she  
13 said in an envelope at the back of the file and that was a  
14 common practice, if I understand correctly?

15 A At the point their -- completed their  
16 involvement, yes.

17 Q Okay. They would take their notes and put them  
18 at the back of the file?

19 A Yes.

20 Q Okay. And we heard evidence from other workers  
21 that their practice was to take handwritten notes, they  
22 believe they took handwritten notes but they're not sure  
23 why those handwritten notes were not maintained on the file  
24 after they -- and I'm talking family service workers --  
25 after they did their recording. That doesn't mean they

1 didn't take the handwritten notes, does it? They just --  
2 they can't be found.

3 A Yes.

4 Q And would you agree with me that in many  
5 instances, and I guess maybe you're unable to comment  
6 beyond your own personal experience, that the, the  
7 recording -- the recorded document would actually be more  
8 articulate, somewhat better than simply the scratch notes  
9 which may have maybe some inconsistencies because it's kind  
10 of an early part of an investigation, they're, they're  
11 trying to get information and it's -- that's kind of a  
12 working -- those notes are kind of working notes and then  
13 they take everything that they're able to confirm and then  
14 they put it into the final recording, which is, in a sense,  
15 I suppose, better than the scratch notes are?

16 A Yes. I would assume -- the scratch notes  
17 typically are not necessarily legible, they're not full  
18 sentences. Generally they're key words and key pieces of  
19 information to prompt recall. Certainly when social  
20 workers are meeting with families or, or doing an interview  
21 over the phone, you're not sitting down writing  
22 word-for-word what's said because that would be interfering  
23 with the flow of the interview and the investigation. So  
24 it's, it's really there to prompt their memory so when they  
25 come back to the office so that they can provide a better

1 written document related to their contact.

2 Q Right. Just heading to the topic of standards as  
3 it relates to supervisor notes, including -- so supervision  
4 notes and HR notes. I understand from your evidence --

5 THE COMMISSIONER: You're turning to standards  
6 again, are you?

7 MR. RAY: Standards as it relates to supervisors,  
8 and their notes specifically, as opposed to storage.

9 THE COMMISSIONER: Well, I thought you dealt with  
10 standards before you got to storage.

11 MR. RAY: Possibly. I just have a couple of  
12 questions.

13 THE COMMISSIONER: Okay, yeah. I'm keeping  
14 headings and --

15 MR. RAY: Okay.

16 THE COMMISSIONER: But, but I'll note that this  
17 -- you're coming back to standards.

18

19 BY MR. RAY:

20 Q We talked about the creation of the policy for  
21 the supervisors and you -- I believe you agreed with me  
22 that that occurred because of -- there was a feel for some  
23 -- by the supervisors, there's a need for clarity about how  
24 to treat notes, how to maintain them. For example, how to  
25 store them, that that was, that was fairly inconsistent, if

1 I understand correctly.

2 A Yes, it was inconsistent. I think the impetus  
3 for the policy was more related to other aspects of  
4 supervision, frequency of supervision, quality of  
5 supervision, purpose of supervision, and the notes, I  
6 think, has only really become more of a forefront of an  
7 issue related to the inquiry.

8 Q And the standards that you introduced in your  
9 evidence, the 1988 standards, those standards address  
10 direct case notes and storage of direct case notes --

11 A Yes.

12 Q -- made by social workers, not supervision notes  
13 or, or human resources notes made by supervisors?

14 A Yes.

15 Q Okay. And we heard various supervisors testify  
16 about their practices and you touched on it a little bit  
17 with Mr. Gindin, earlier, specifically that some  
18 supervisors might have a binder, a supervision binder, and  
19 that binder might have tabs on each worker and they would  
20 record their supervision notes and it would be kind of a  
21 running history of supervision and that that was an  
22 acceptable practice for a supervisor to do, in terms of how  
23 the department felt about keeping those types of  
24 supervision notes?

25 A Yes.

1 Q And that's why I understand you conducted a  
2 search to attempt to find those binders and that's what you  
3 were not -- one of the things you were not successful in  
4 finding, although supervisors felt they should have been  
5 there, they just didn't know where they were and why they  
6 weren't in their office?

7 A Yes.

8 Q Okay. Are you familiar with, if I use the  
9 phrase, the remnants package?

10 A Yes.

11 Q Okay. Can you tell us what the remnants package  
12 is?

13 A The remnants package is the leftover standards  
14 from 1988 that still applied once --

15 THE CLERK: Sorry, I wonder if you could repeat  
16 the answer just because of the coughing.

17 THE WITNESS: Okay. The remnants package is the  
18 leftover standards from the 1988 standards that were still  
19 applicable to the system, following the introduction of the  
20 standards from 2001.

21 MR. RAY: Sorry, I've misplaced a document, Mr.  
22 Commissioner, if I could just have a moment, please?

23 THE COMMISSIONER: Yeah, sure.

24 MR. RAY: Thank you. It wasn't the document, it  
25 was a binder. Madam Clerk, if you could bring up page

1 19211.

2 If you could just scroll down so that the witness  
3 can see the, the document.

4 THE WITNESS: Okay, so I have my date wrong.

5 MR. RAY: Oh, I'm sorry.

6 THE WITNESS: I wasn't sure if it was the '99 or  
7 the 2001 standards.

8 MR. RAY: And Madam Clerk, if you could just  
9 scroll a little further to the next page. Yeah, if you  
10 could stop there for a moment.

11

12 BY MR. RAY:

13 Q So, if I understand correctly, the remnants  
14 package was what was left of the 1988 standards, after  
15 certain standards were amended or removed. Is that  
16 correct?

17 A Yes. So when the 1991 or 1999 ones came into  
18 place they didn't cover off all of the standards that were  
19 already in existence so the ones that still applied became  
20 known as the remnant package. So you had --

21 Q Okay.

22 A -- the new standards and then the remnant package  
23 of standards.

24 THE COMMISSIONER: When did the new standards  
25 come in?

1 THE WITNESS: Well, that's a little bit up for  
2 debate but there was draft ones in 1999 that were piloted.  
3 And in 2001 they were re-issued again, with the remnants  
4 package.

5 THE COMMISSIONER: They were what again?

6 THE WITNESS: They were re-issued again by the  
7 Child Protection Branch. And then in 2005 there was  
8 additional new standards that were issued.

9 THE COMMISSIONER: And just if I may ask just one  
10 more question.

11 MR. RAY: Of course.

12 THE COMMISSIONER: When in 2005 were the  
13 additional standards --

14 THE WITNESS: This was a new set of standards  
15 that came out in 2005, I believe they came out January  
16 2005.

17 THE COMMISSIONER: And, and were there a new set  
18 of standards applicable right across the board covering all  
19 subjects?

20 THE WITNESS: No. They still -- some of the  
21 remnant packages still applied but they replaced the 1999  
22 ones.

23 THE COMMISSIONER: And have there been any new  
24 standards since 2005?

25 THE WITNESS: Yes, there was new standards in

1 2007 they were developed and then they were reviewed by the  
2 four authorities and they came in effect in 2008. And I'm  
3 not sure of the exact date.

4 THE COMMISSIONER: Is there a chart available  
5 showing the dates and what standards were in place when?

6 THE WITNESS: I think there is.

7 MR. MCKINNON: There is, Mr. Commissioner. It's  
8 in the Commission disclosures, it's -- sort of looks like  
9 an index and it has dates when --

10 THE COMMISSIONER: Oh, all right, I'll have --

11 MR. MCKINNON: -- various standards came into  
12 effect. And I know Ms. Walsh and I will be discussing that  
13 with the witness tomorrow.

14 THE COMMISSIONER: Oh, tomorrow.

15 MR. MCKINNON: Not in evidence tomorrow just in  
16 preparation for --

17 THE COMMISSIONER: All right.

18 MR. MCKINNON: -- further evidence.

19 THE COMMISSIONER: And I'm obviously interested  
20 in that but that's fine. But I got into that because you  
21 were dealing with the various years and I just wanted to  
22 know what they, but if that's coming tomorrow, that's fine.

23

24 BY MR. RAY:

25 Q Yeah, I didn't mean to open that can of worms,



1 inadvertently, Mr. Commissioner, but I guess for the  
2 purposes of this witness, today, if we -- you see the, the,  
3 the page in front of you?

4 A Yes.

5 Q And as I understand it, that is the list of  
6 programming -- the remaining program standards, as of the  
7 time that this letter was sent. Is that correct?

8 A Yes.

9 Q Okay. And this letter was from Mr. Goodman,  
10 dated January 17th, 2000?

11 A Yes.

12 Q Okay. So as of that date, if it wasn't listed in  
13 the list of remaining program standards, what was the  
14 status of the standard?

15 A Those were the ones that were, that were in  
16 effect.

17 Q Um-hum.

18 A The ones that aren't listed no longer applied and  
19 were to be replaced by the 1999 standards.

20 Q Which were in final form or not?

21 A My understanding is they were considered by  
22 agencies as draft and were being piloted.

23 Q Okay. Thank you. And Ms. Walsh put to you, in  
24 your evidence, a number of standards. I'm just going to  
25 kind of quickly rattle them off in reference to your

1 transcript. And the ones that she put to you were  
2 specifically standard 221.7.

3 UNIDENTIFIED PERSON: The page of the transcript?

4 MR. RAY: Yes, page 22.

5

6 BY MR. RAY:

7 Q Standard 311.1, that's page 36 of the transcript.  
8 Standard 313.2 and that's page 39 of the, of the  
9 transcript. And standard 320.2 and that's -- and point  
10 three, and that's page 42 of the transcript.

11 And so of those standards that I just recited for  
12 you, it's my understanding, if you look at the remnants  
13 package and the list that's -- follows the remnants package  
14 is that those standards, the, the 1988 standards that I  
15 just referred would not be in effect in light of the  
16 remnants package letter. Is that correct?

17 A Well, the intake administration still applied,  
18 313.

19 Q 313 but not necessarily all of it, only portions  
20 of it; correct?

21 A I would have to go back and look but I would  
22 think it's 313 in its entirety.

23 Q Okay, but you're, you're not sure?

24 A I would have to see the actual remnants package  
25 in front of me --

1 Q Okay. I --

2 A -- to compare the two.

3 Q -- appreciate that.

4 A Yeah.

5 Q Yeah, I, I understand that and I don't have that  
6 in front of you but ...

7 And is that the only one?

8 A 320 was the case recording so that's -- 320 is  
9 assigned workers.

10 Q My understanding is that 320.2 and 320.3 were  
11 repealed but 320.1 does remain.

12 A Okay. And, again, I would have to actually  
13 compare them.

14 Q Okay. I understand that's a bit of a --

15 A Yeah.

16 Q But suffice it to say that if what I'm discerning  
17 is correct and they weren't actually continuing to exist in  
18 light of the remnants package then they would not be in  
19 effect?

20 A True.

21 MR. MCKINNON: Mr. Commissioner, I'm just  
22 standing because this is a fairly complicated and technical  
23 issue, I didn't prepare the witness to answer these kinds  
24 of questions. I said to you Ms. Walsh and I are meeting  
25 tomorrow with another witness to go through this in

1 anticipation of calling evidence next week on this. I  
2 think it would be quite a chore for this witness to now try  
3 and recall which of the remnants were in effect on a  
4 particular day. I think it might be --

5 THE COMMISSIONER: But there will be evidence  
6 coming on that?

7 MR. MCKINNON: There will be evidence coming on  
8 that, yes.

9 THE COMMISSIONER: Does that satisfy you, Mr.  
10 Ray?

11 MR. RAY: Yeah. That wasn't my intent, Mr.  
12 Commissioner, I just wanted to see if the witness was  
13 aware, if she knew which ones were in effect, because the  
14 statement in, in the material in her, in her direct exam  
15 was that certain standards were in effect and when I review  
16 the remnants list some of those standards that were  
17 supposed to be in effect were, in fact, not listed. So I  
18 just wanted the, the witness' comments on that and I --  
19 fair comment by my friend, I didn't want to get overly  
20 technical with it.

21 THE WITNESS: And just to clarify, like I don't  
22 have my transcript in front of me but I think what I had  
23 said was that there wasn't a substantive change to the  
24 standards related to case recording.

25

1 BY MR. RAY:

2 Q To, to case recording.

3 A And case notes, yeah.

4 Q Case recordings being --

5 A Case, case notes.

6 Q -- what should be contained in a, in a, in a  
7 notation by a worker?

8 A Yes.

9 Q The type of information?

10 A Yes.

11 Q Okay. Just if you could turn to Exhibit 24, Mr.  
12 Gindin had a couple of questions for you about that.

13 MR. MCKINNON: For the witness, that's tab 9 in  
14 the binder in front of you.

15 MR. RAY: Yeah, that's it.

16 THE WITNESS: I have it, that's fine.

17 MR. RAY: It's tab 3, sorry.

18

19 BY MR. RAY:

20 Q You see, in the box at the top there, and the  
21 bottom right-hand corner of the box it says: "Proposed  
22 July 13th, 2001."

23 A Yes.

24 Q Do you know, in fact, whether that was the date  
25 that it was implemented and became effective or thereabouts

1 or shortly after?

2 A This policy has been in effect since 1996 in  
3 various versions so this was a version from 2001, but there  
4 was a version very similar to it that was in existence  
5 prior to 2001.

6 Q Okay. Okay. If you could turn to Exhibit 25.  
7 Do you have it there?

8 A Yeah.

9 Q Okay. So you've mentioned this is the  
10 supervision policy, this is the one that was created as a  
11 result of our discussions about the supervisors wanting to  
12 create a supervision policy. That's --

13 A Yes.

14 Q -- that's this document? And it's implemented  
15 March 1st, 2004 and then you -- not you but the document  
16 indicates amended 2009 and 2012. Do you happen to know  
17 what portions were added after --

18 A January 2009 it was -- there had been a learning  
19 contract as part of the attachment to the original  
20 supervision policy which this won't reflect. And it was  
21 being used inconsistently so it was removed as a  
22 requirement and was added or changed to the -- something  
23 that you could use in this -- as a supervision -- sorry, a  
24 supervision contract. So it was changed from mandatory to  
25 you could use it, that -- so that was the primary change in

1 January 2009.

2 THE COMMISSIONER: Now, I'm going to interject,  
3 I'm mindful it's now five o'clock and we've gone over half  
4 an hour, which is fine, but other people, some people may  
5 have appointments and you've got a bit to go yet, Mr. Ray?

6 MR. RAY: I, I actually think I'll be done in  
7 about 10 minutes, maximum, if --

8 THE COMMISSIONER: And will you --

9 MR. RAY: I don't know if anyone else has --

10 THE COMMISSIONER: -- have questions, Mr.  
11 McKinnon?

12 MR. MCKINNON: I only have two, Mr. Commissioner,  
13 and they won't be long.

14 THE COMMISSIONER: And are there other counsel  
15 that -- to ask questions?

16 Will you have questions, Ms. Walsh?

17 MS. WALSH: Just two very brief ones.

18 THE COMMISSIONER: What's the consensus of the  
19 three of you, do you want to continue now?

20 MR. RAY: I'll leave it to the witness,  
21 personally, I ...

22 THE WITNESS: I would like to get it done today,  
23 if that's possible.

24 THE COMMISSIONER: You would like to be done now?

25 THE WITNESS: Yeah.

1 THE COMMISSIONER: All right. That's fair  
2 enough. And, and come back at 9:30 in the morning.

3 THE WITNESS: No, no, no, I would like to finish  
4 today.

5 THE COMMISSIONER: Oh, you -- oh, I thought you  
6 meant done and --

7 THE WITNESS: Yes.

8 THE COMMISSIONER: -- get out of here today?

9 THE WITNESS: No, not come back tomorrow.

10 THE COMMISSIONER: Oh, all right. All right, if  
11 that suits these three then that's -- we'll do that.

12 MR. RAY: Okay.

13 MS. WALSH: I do have to be somewhere by 6:00.

14 THE COMMISSIONER: Well, I, I think you'll --  
15 we'll make that possible.

16 MS. WALSH: Okay.

17

18 BY MR. RAY:

19 Q And if you could turn to Exhibit 29 for a moment,  
20 please.

21 So that's called a records authority schedule?

22 A Yes.

23 Q My understanding is that -- I'm not exactly sure  
24 what this is, but my understanding is that, in speaking  
25 with social workers and supervisors, it's not a document



1 that they would have been trained on or used to, to explain  
2 to them well, this is how you do a recording or this is how  
3 you're supposed to keep -- how long you're supposed to  
4 maintain these files?

5 A No, this would be a document that would be  
6 relevant to our file room person in terms of how long she  
7 maintains files in our file room and when she sends them to  
8 archives and those kind of things, it wouldn't be -- social  
9 workers would know that they close a file and they send it  
10 to the file room and then what happens from there they  
11 wouldn't really probably be privy to or wouldn't be  
12 something they would pay attention to.

13 Q It's not something that you would expect social  
14 workers to, to follow or know about or to guide them in  
15 terms of what they did or did not do with, with a file?

16 A No.

17 Q We've heard evidence about shredding boxes,  
18 specifically shredding boxes located at intake and when I  
19 say intake I include, again, after hours, CRU and Tier 2  
20 intake. Were you aware that there were shredding boxes,  
21 roughly two to three, and that they were on roughly every  
22 floor of, of what, what is now known as ANCR?

23 A I would -- yes.

24 Q Okay. And would you be aware that those were  
25 used to shred handwritten notes in the manner that we

1 discussed earlier?

2 A They would be used to shred documentation that  
3 doesn't need to be contained on the file but is not  
4 something we would want to just throw in the garbage so  
5 it's protecting confidentiality of the type of  
6 documentation that agencies contain so I was certainly  
7 aware that intake, CRU and after hours would transcribe  
8 whatever handwritten notes they had into typed reports and  
9 shredded it and that was considered appropriate --

10 Q Of course. And --

11 A -- and practiced.

12 Q -- and in, in accordance -- provided it was done  
13 in accordance with the --

14 A Yes.

15 Q -- acceptable recording requirements.

16 One of the standards mentions that a case book  
17 would be provided by the department to social workers for  
18 their use in making notes and I -- so in the field or in  
19 their day-to-day activity with clients. There wasn't a  
20 specific requirement or expectation though that they  
21 actually used that, they could -- you would agree they  
22 could use pads of paper or loose leaf or whatever form to,  
23 to make the recordings and that would be acceptable  
24 provided they were then logged and recorded in through the  
25 recordings?

1           A     Yeah.

2           Q     We've heard evidence about high case loads and  
3 high workloads and some of the social workers have  
4 testified that high case loads and high workloads could  
5 impact a number of services they provided to families,  
6 including their ability to take more comprehensive notes  
7 and comprehensive notes that they wanted or were able to  
8 take. Would you agree that high case loads, high workloads  
9 could impact that type of a service to families and  
10 recordings?

11          A     Yes, it does, in my experience that's generally  
12 the first area that workers cut corners on is notes verses  
13 direct case contact.

14                   MR. RAY: Thank you, those are my questions.

15                   THE WITNESS: Okay.

16                   THE COMMISSIONER: Thank you, Mr. Ray, you kept  
17 your commitment. Mr. McKinnon?

18                   MR. MCKINNON: Just two matters for clarification  
19 and, in part, this is because this witness' evidence was  
20 split by two months so just to make sure that the -- you're  
21 clear, Mr. Commissioner, and that the record is clear.

22

23 CROSS-EXAMINATION BY MR. MCKINNON:

24           Q     In response to a question by Mr. Gindin, you were  
25 asked about Angie Balan's diary, her, her, her schedule.

1 A Yes.

2 Q And as I understand it, when you were looking for  
3 her supervision notes you were unable to find her  
4 supervision notes but what you did find was her daytimer,  
5 her, her diary?

6 A I didn't find her supervision notes for this  
7 case --

8 Q Right.

9 A -- I found supervision notes, as well as her  
10 diary.

11 Q But in connection with this case you couldn't  
12 find her supervision notes but we did produce her diary  
13 and, and Mr. Gindin pointed out there were a significant  
14 number of situations where Ms. Balan had given supervision  
15 to Delores Chief Abigosis, we just don't know what that was  
16 about because it was her diary not her supervision notes  
17 that you found?

18 A Yes.

19 Q And I don't want to leave the impression because  
20 Mr. Gindin asked you whether we could tell whether there  
21 had been any discussion between Delores Chief Abigosis and  
22 Angie Balan about this file, and you said no, we can't tell  
23 from the diary, it's just a diary, but there is other  
24 evidence that I think you're aware of, that we've heard at  
25 this inquiry, that there were supervision notes from Angie

1 Balan of Delores Chief Abigosis and they became  
2 incorporated in a report?

3 A Yes, there's -- her typed notes for one specific  
4 supervision session are a part of the case file.

5 Q And, for the record, and if I could get that  
6 pulled up, it's 37021.

7 And if you scroll down to the bottom of that  
8 page, we see at the bottom "Kematch, Samantha, supervision"  
9 and a file number. Is that what you're referring to?

10 A Yes.

11 Q And if we scroll back and forth on that, that's  
12 about five pages that have that caption that say  
13 supervision. Have, have you -- or have you seen this file,  
14 you're sufficiently familiar with that --

15 A Yes.

16 Q Okay. The other point I wanted to clarify is in  
17 response to a question from my friend, Mr. Ray. You  
18 confirmed that there was no formal supervision policy in  
19 effect prior to 2004?

20 A Correct.

21 Q But I just wanted to ask you to comment on -- and  
22 I think you did touch on this in your evidence two months  
23 ago -- there was still an expectation of the agency, prior  
24 to 2004, that supervisors would take notes?

25 A There's an expectation that supervisors would

1 take notes, the expectation though was that it was primary  
2 for their own purposes, so they would be taking notes so  
3 that they would be able to have recall and an understanding  
4 of what was transpiring, they would be responsible for  
5 approximately 200 to 230 cases so it would be for their  
6 ability to perform their job effectively and provide  
7 supervision and recall the cases that they were  
8 supervising.

9 Q And I believe you said, a couple of months ago  
10 when you gave your evidence in chief, that in fact it was  
11 your view that the supervisor couldn't do their job without  
12 taking those kinds of notes, it would be a necessary part  
13 of their job?

14 A For family services it would be impossible to  
15 recall or retain information on that many cases without  
16 having some note taking structure.

17 Q Okay. And the creation of the supervision  
18 policy, did I understand you correctly that it wasn't  
19 particularly being driven by notes, it was being driven by  
20 other factors?

21 A It was being driven more by the desire to, to  
22 formalize what was expected for supervision, so something  
23 formal related to the frequency of supervision, the quality  
24 of supervision, what were the areas that should be covered  
25 off in supervision. It -- that was the main driver, it was

1 less about the notes.

2 Q And in terms of the current policy in 2012, which  
3 you participated in the creation of, that is much more  
4 clearer or much clearer about expectations for supervision  
5 notes and how they're kept?

6 A Yes.

7 Q And part of the reason that arose in 2012 was  
8 because of this inquiry?

9 A Yes, it was -- highlighted the importance of the  
10 shared decision making being documented on the file. Most  
11 social workers make very few decisions without consultation  
12 with the supervisor so that consultation, this inquiry has  
13 really highlighted the importance of having that  
14 consultation directly on the file.

15 MR. MCKINNON: Thank you. That's all I wanted to  
16 clarify, Mr. Commissioner.

17 THE COMMISSIONER: Thank you. Mr. McKinnon.

18 All right, Commission counsel.

19

20 RE-EXAMINATION BY MS. WALSH:

21 Q During the period 2000 to 2005, if a supervisor,  
22 any supervisor, family services, intake, CRU, disagreed  
23 with the recommendations of a worker, or the actions of a  
24 worker, or gave specific direction to a worker regarding  
25 case management, the expectation was that that direction by

1 the supervisor would be reflected directly on the file. Is  
2 that right?

3 A If they were giving them clear direction that was  
4 contrary to something they had planned, it may be recorded  
5 on the file. Typically social workers, themselves, would  
6 document that kind of direction but certainly there are  
7 social workers that would not have.

8 Q But supervisors were always required to sign a  
9 file before it was closed?

10 A Yes.

11 Q To sign a file recording.

12 A Yes.

13 Q And so if they had given a direction to do  
14 something with respect to case management, that would be  
15 reflected on the file before it would be closed.

16 A In the closing summary?

17 Q Yes.

18 A Because they would sign off -- they, they were  
19 not required to sign off case notes, they were --

20 Q Right.

21 A -- were required to sign off assessments, so the  
22 direction they had given should have then been reflected in  
23 the assessment, reason for closing, and should be reflected  
24 in activities they directed.

25 Q Right. So, so if a, if a supervisor, during the



1 period that Phoenix received services, gave directions as  
2 to what was to be done on a file, that would be reflected  
3 in the closing summary before the supervisor would be able  
4 to sign off on it?

5 A The, the, the activity would be reflected --

6 Q Right.

7 A -- I'm not sure it would be reflected supervisor  
8 directed me to --

9 Q Sure.

10 A -- such and such.

11 Q But, but the, the direction of the supervisor  
12 would be reflected in the activity that's documented on the  
13 file before a supervisor could --

14 A Yes.

15 Q -- sign off on it.

16 A So if I, if I had directed a worker to, you know,  
17 refer someone to AFM for a treatment program, I would  
18 expect to see that that would -- that they would have --  
19 those referred in the family would have attended at the  
20 next time we were reviewing it, so yes.

21 Q Right. And so in that way, file recordings and  
22 in particular the file recordings that are signed off by  
23 supervisors, would reflect directions and recommendations  
24 by supervisors?

25 A Yes.

1           Q     One other matter. Just want to make sure as to  
2 whether you've changed your evidence or -- from the  
3 testimony that, that you gave in February, on February 6th,  
4 2013. I don't know, do you have your transcript in front  
5 of you?

6           A     No.

7           Q     That's, that's fine. I'm reading from page 47  
8 for those who do. The question that I had put to you was:

9

10                         "What is your understanding as to  
11 which standards relating to record  
12 keeping were to apply between that  
13 period, 2000 to 2005?"

14

15                         And here's the answer that you gave:

16

17                         "At different points in time -- I  
18 believe that up until 2005  
19 primarily, the administrative  
20 standards or the 1988 standards  
21 would have applied. There isn't a  
22 substantive difference between the  
23 different sets of standards when  
24 it comes to the actual recording  
25 practice. The, the Act ... and

1           the standards still require  
2           documentation related to intake,  
3           nature of the referral. So the  
4           same type of information is  
5           required to be collected,  
6           regardless of which set of  
7           standards was in place."

8

9           Now, is your evidence today the same as it was on  
10          February the 6th?

11          A     Yes, most agencies continue to follow the, the  
12          1988 standards because it was unclear related to the 1999  
13          and the 2001, whether they were in effect or not in effect.  
14          So the question that Mr. Ray had asked was were these not  
15          in effect and he had a letter indicating that they were  
16          supposed to be in effect related to the remnants package  
17          which contained some of these standards in some of them.

18          Q     The question that I put to you was --

19          A     Um-hum.

20          Q     -- from the perspective not of what, what was in,  
21          in effect, not what workers understood but simply your  
22          understanding as to what was in effect. That's my  
23          understanding as to what your evidence was, that the 1988  
24          standards were in effect until 2005.

25          A     That is my understanding but there is

1 documentation that says these are in effect and then  
2 there's a document that says that they came out and there's  
3 a document that says, you know, agency is asking for  
4 clarification related to standards so it's not a clear yes  
5 or no question in that sense.

6           The 1988 standards were the ones that were known  
7 to be in effect while people were confused related to the  
8 standards, the 2005 standards were very clearly implemented  
9 and, and identified as the new set of standards.

10           Q     So have you qualified your evidence today from  
11 what your evidence on February the 6th or are you still  
12 saying the same thing?

13           THE COMMISSIONER:     Maybe you should put that  
14 transcript in front of her with that question and her  
15 answer so -- and then she can tell us whether she is  
16 qualifying her answer or whether she's -- holds to what she  
17 said on that previous occasion.

18

19 BY MS. WALSH:

20           Q     Okay, so what I said is the administrative  
21 standards, which are known as the remnant standards or the  
22 1988 standards would have applied.

23           Q     Did you see the word remnants?

24           A     No, I used the administrative standards but  
25 they're known as both.

1 Q Okay. That wasn't your evidence though?

2 A It -- no, I said the administrative standards or  
3 the 1988 standards would have applied and the  
4 administrative standards are the remnant standards.

5 Q Okay.

6 A And there isn't a substantive difference between  
7 the different sets of standards when it came to the actual  
8 recording practice, which is true.

9 Q So is the only difference in the evidence that  
10 you gave today from what you told us in February that  
11 remnants was another word for administrative standards?

12 A Well, and I also didn't comment on the  
13 introduction of 1999 and 2001 standards.

14 Q Okay. So you said -- I asked you which standards  
15 were in effect during the period that Phoenix received  
16 services and, and the evidence that you've got in front of  
17 you says the 1988 standards were in effect until 2005.

18 A Or the administrative standards which is the  
19 smaller version of the 1988 standards until 2005.

20 Q So, sorry, now I don't have the transcript in  
21 front of me.

22 So what your evidence was, was:

23

24 "I believe that up until 2005  
25 primarily, the administrative

1 standards or the 1988 standards  
2 would have applied."

3

4 So were the 1988 standards the administrative  
5 standards?

6 A A portion of them are the administrative  
7 standards, that's what the remnants package or the, the  
8 list that Mr. Ray demonstrated, said these are the ones  
9 that still apply, those were known as either remnants --  
10 the remnants package or the administrative standards.

11 Q Okay. And your evidence that there wasn't a  
12 substantive difference between the different sets of  
13 standards when it comes to the actual recording practice,  
14 has that changed?

15 A No.

16 MS. WALSH: Okay. Thank you, those are my  
17 questions.

18 THE COMMISSIONER: We've got that cleared now  
19 have we, to your satisfaction?

20 MS. WALSH: No, but I don't know that we can get  
21 it any clearer with this witness and, and I don't mean to  
22 be unfair to the witness but I think that, that something  
23 came up through Mr. Ray's examination that is new and  
24 different and perhaps in fairness to Mr. Brownlee, and as  
25 Mr. McKinnon has indicated, we will clarify the evidence

1 through another witness. I think, though, to be fair to  
2 this witness, we do need to understand what your  
3 understanding was as to which standards were in effect in  
4 the period 2000 to 2005.

5 THE WITNESS: My understanding is the 1999 and  
6 the 2001 were never enacted officially in the system and  
7 were never used. They were piloted, they were sent out and  
8 told to be used but they were never officially enacted so  
9 it was the 1988 and the remnants that were used until 2005.  
10 However, like Mr. Ray showed on the letter, there certainly  
11 were letters saying that these are the standards that you  
12 are to use but that is not my understanding that they were  
13 ever applied, other than in a pilot drafts format.

14

15 BY MS. WALSH:

16 Q And so really what, what we wanted was, what I  
17 wanted was your understanding.

18 A And that is my understanding. Did I clarify  
19 that?

20 Q Not, not based on what other letters that, that  
21 were shown to you --

22 A Yes, so --

23 Q -- but your understanding.

24 A -- my understanding is the remnants and the 1988  
25 standards continued to be applicable until 2005 and the

1 other standards never came into -- in force, were never  
2 enforced.

3 MR. MCKINNON: Mr. Commissioner, I think that  
4 will be my client's evidence to some but, but there will be  
5 some inconsistency between different members of my client  
6 as to what they understood but I think, at the end of it,  
7 my client will have to accept responsibility for that lack  
8 of clarity. I think that's what we're leading up to. I, I  
9 think that the consensus will be exactly as Ms. Brownlee  
10 has testified but not everyone shares that view and that's  
11 a responsibility that the department has to accept, that  
12 they were unclear in the way in which they handled this but  
13 I think the majority of the individuals who are still in  
14 this system, who were there then, will give evidence  
15 similar to what Ms. Brownlee just gave.

16 THE COMMISSIONER: Well, I aware that there was  
17 some disagreement about it.

18 MR. MCKINNON: Right.

19 THE COMMISSIONER: And that's why I was trying to  
20 get the matter resolved and I, I assume Commission counsel  
21 was the same.

22 MR. MCKINNON: Right. And, and --

23 THE COMMISSIONER: But it --

24 MR. MCKINNON: -- to some extent that's -- that  
25 issue has been with us for awhile and our position will be



1 it was 1988, there was a pilot in 1999, there will be --  
2 and those pilots were only in a number of program areas and  
3 a number of agencies, not in all of them and then there's  
4 some confusion around 2001 for which my client the  
5 department, not my client the agency, must accept  
6 responsibility. And then there was 2005 when things became  
7 much clearer.

8           So I, I, I think we've got into a very large  
9 issue here that we'll need to hear some other evidence  
10 about.

11

12 BY MS. WALSH:

13           Q I am concerned for Ms. Brownlee, in terms of  
14 evidence that's been put to her that perhaps she wasn't  
15 prepared to process. My understanding, from what I've  
16 looked at so far, from our investigation, is that the  
17 remnants package related not to the 1988 standards but to  
18 the draft 1999 standards and so when you say -- when I  
19 examined you on February 6th, you referred to the 1988  
20 standards and you said I believe that up until 2005  
21 primarily the administrative standards or the '88 standards  
22 would have applied, you didn't refer to the remnants  
23 standards and my understanding is that the remnants package  
24 related not to the 1988 package or standards but to the  
25 1999 package.

1           A     They're the, the remnants of the 1988 standards.  
2     When the 1999 ones were introduced the remnant package  
3     consists of the 1988 standards that were still applicable.

4           Q     But wasn't that with respect to standards that  
5     were only piloted?

6           A     The 1999 standards were piloted and they had  
7     tools and everything else. The remnants package was the  
8     1988 standards that were still supposed to be applied and  
9     that remained consistent and we still have some remnants  
10    that are still applicable today. So that's been a kind of  
11    consistent package of standards that have been utilized  
12    although they've dwindled as the new standards have come  
13    into effect.

14          Q     So your evidence is the remnants package always  
15    reflected the '88 standards?

16          A     Portions of the '88 standards, yes.

17          Q     Right. Okay.

18               MR. MCKINNON: That's --

19               MS. WALSH: That's helpful.

20               MR. MCKINNON: -- that will be our position, Mr.  
21    Commissioner.

22               MS. WALSH: That is helpful.

23               THE COMMISSIONER: Okay. You finish then I'll  
24    hear Mr. Ray, and then I'll give the witness last, last  
25    say, if there is anything else she wants to say in that it

1 has been this kind of an afternoon it is, with the -- it  
2 going both ways, back and forth. But is there anything  
3 else you want to ask her?

4 MS. WALSH: No, I think I'm done. Thank you.

5 THE COMMISSIONER: Mr. Ray?

6 MR. RAY: Yeah. In fairness, if it helps either  
7 of my friends, the, the inconsistency and I'll just -- for  
8 lack of a better term, I wasn't introducing it in order to  
9 challenge Ms. Brownlee's credibility or just somehow  
10 suggest her evidence was inconsistent, I was simply raising  
11 it for purposes of trying to determine what, in fact, was  
12 in place, in an obviously very confusing set of  
13 circumstances, so I don't know if that assists and my  
14 apologies for, for opening this issue today.

15 THE COMMISSIONER: Well, you're entitled to ask,  
16 ask the question.

17 MR. RAY: Thank you.

18 THE COMMISSIONER: And witness, I -- you've made  
19 it clear you don't want to come back. Have we got all your  
20 evidence, is there anything else you want to add to what  
21 you've said on this bit of a controversy?

22 THE WITNESS: No, other than I, I certainly  
23 wasn't trying to be inconsistent, it's just it's a  
24 complicated issue, so I apologize.

25 THE COMMISSIONER: Understood. All right, we're

1 adjourned till 9:30 tomorrow morning.

2 MS. WALSH: Thank you.

3

4 (PROCEEDINGS ADJOURNED TO APRIL 18, 2013)