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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 Winnipeg Convention Centre,  
375 York Avenue, Winnipeg, Manitoba

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TUESDAY, DECEMBER 4, 2012

## **APPEARANCES**

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**MR. S. PAUL**, for Department of Family Services and Labour

**MR. T. RAY**, for Manitoba Government and General Employees Union

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

**MR. J. BENSON**, for Intertribal Child and Family Services

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

**MR. J. FUNKE**, for Assembly of Manitoba Chiefs and Southern Chiefs Organization Inc.

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1 DECEMBER 4, 2012

2 PROCEEDINGS CONTINUED FROM DECEMBER 3, 2012

3

4 THE COMMISSIONER: Good morning.

5 MS. WALSH: Morning, Mr. Commissioner.

6 THE COMMISSIONER: Ms. Walsh.

7

8 **LISA DAWN CONLIN**, previously

9 affirmed, testified as follows:

10

11 MS. WALSH: Ms. Conlin, we were looking at the  
12 data portion of your closing summary. And Mr.  
13 Commissioner, that's the closing summary from the February  
14 2004 intake. It starts at page 37350.

15 THE COMMISSIONER: Yes.

16

17 DIRECT EXAMINATION CONTINUED BY MS. WALSH:

18 Q So we were, we had been going through that,  
19 starting at page 37352, and then on to page 37353.

20 According to the information that you recorded,  
21 you had just one contact with Steve Sinclair; is that  
22 right?

23 A Yes. It was just one phone call.

24 Q Okay. Did you, during the phone call, did you  
25 discuss with him the option of formalizing a place of

1 safety with the Stephensons?

2 A No.

3 Q Why not?

4 A Because he was in agreement with, with leaving  
5 them -- leaving Phoenix with them under a private  
6 arrangement.

7 Q Did you explain to Mr. Sinclair that under this  
8 private arrangement Ms. Kematch would still be entitled to  
9 pick Phoenix up?

10 A No.

11 Q And you also recorded that on February 5, 2004 --  
12 please scroll down to more of the page, please. Thank you.  
13 That you spoke with Steve's EIA worker. That's social  
14 assistance?

15 A Yes.

16 Q Do you remember why you phoned the worker?

17 A I mean, I can only refer to my, my notes. I  
18 don't independently remember why I called her.

19 Q Sure. Do your notes indicate why you spoke to  
20 the worker, why you called?

21 A It looks like I was just talking about where he  
22 was living and I was probably trying to find out if she  
23 knew why he had moved or --

24 Q If she knew why?

25 A If she knew why he had moved or even if she would

1 have known why Phoenix wasn't with him or that she wasn't  
2 with him. So it was just to share information and possibly  
3 just clarify what was going on.

4 Q Generally, what kind of information would you  
5 share with EIA workers when you were doing child protection  
6 work?

7 A Well, typically you'd say that, you know, that  
8 there's a file that's been re-opened due to some reported  
9 concerns. And then I probably would have told her that,  
10 you know, there's some confusion about where Phoenix is.  
11 So we would share address information, like demographic  
12 information, like birth dates, addresses, things like had  
13 people actually received their benefits or, or was there a  
14 file closed to EIA recently, things like that.

15 Q So EIA was a good source of information for you  
16 as a child protection worker?

17 A Yeah. It was, it was someone that you would  
18 typically call. If your case involved somebody that was on  
19 social assistance, then I would typically call their social  
20 assistance worker just to share information.

21 Q Would you provide them with information as well?

22 A Yes.

23 Q And they would provide you with information?

24 A Yeah. It was like a collaboration, I guess you  
25 could call it.

1 Q That would be useful to you in keeping track of  
2 the family?

3 A Yeah, because sometimes we might not have full  
4 information of even how many children somebody has. Like,  
5 we might just get the concern about one child and then we  
6 phone EIA and they say, oh, this person has five children,  
7 and we may not even have known that. So it can be really  
8 helpful.

9 Q And EIA would be interested in knowing from you  
10 where children are in terms of parents' budgets?

11 A Right.

12 Q When you were an intake worker, how willing was  
13 EIA to share this kind of information?

14 A They were pretty willing. Like, it was -- like I  
15 said, it's something that we would typically, typically do.  
16 It was -- like, I felt like I had one particular person in  
17 records that I would always call, so she would know my name  
18 and I would know her name, and we just kind of knew each  
19 other.

20 Q It didn't require anything more formal than your  
21 calling up this person?

22 A No.

23 Q So let's look at a portion of Steve Sinclair's  
24 EIA file. It's at page 28658. This is a file recording  
25 from the EIA files. They look different than the kinds of

1 recordings that Child and Family Services used. Have you  
2 ever seen these kinds of files before?

3 A No, I wouldn't, I wouldn't have seen the file,  
4 no.

5 MS. WALSH: So, and Mr. Commissioner, we will,  
6 later in the inquiry, be hearing from EIA workers who will  
7 talk in more detail about the content of these records, in  
8 terms of how they're kept and what they look like, but in  
9 terms of the information that's on this record, you'll see  
10 that the date under the heading creation date, says  
11 February 5, '04.

12

13 BY MS. WALSH:

14 Q You see that sort of mid-way in the --

15 A Yeah.

16 Q -- in the centre of the page?

17 A Um-hum.

18 Q And to the left of that it says, intake note?

19 A Yeah.

20 Q And to the right of that, under entered by,  
21 there's SSO. That was -- my understanding is that was  
22 Sandra Oja. That's the person that you dealt with as  
23 Steve's EIA worker?

24 A Yes.

25 Q Okay. So, and at the very top left-hand corner

1 you see the word SAMIN, S-A-M-I-N?

2 A Um-hum.

3 Q My understanding is that's what these EIA notes  
4 are called, they're called SAMIN notes, and we'll hear more  
5 about that later. But let's, let's read what this intake  
6 note says:

7

8 "[Received] a phone call from CFS  
9 Lisa Mirochnick. She is involved  
10 with this family as godparents  
11 (previous foster parents) had  
12 called her to let her know they  
13 had child. And that Steve had  
14 placed her with them to care for  
15 while he looks for a place. Steve  
16 still has custody but Lisa's  
17 concern is Stevens casual  
18 placement of child [with]  
19 godparent."

20

21 And we'll just stop there.

22 Is that an accurate reflection of your discussion  
23 with Ms. Oja?

24 A Not entirely, no.

25 Q What's inaccurate?

1 A Well, the godparents didn't call me directly.

2 Q Okay. Right.

3 A And Steven hadn't placed her with them but he had  
4 agreed she could stay there.

5 Q Okay.

6 A So it's just, yeah, that's how I would have  
7 interpreted it.

8 Q All right. And you were never shown this note  
9 before participating in the inquiry?

10 A Not until today, actually, no.

11 Q Okay. The next line says "Criminal Code", and I  
12 understand that that's the case coordinator, the EIA  
13 person:

14

15 "... has since sent Lisa an email  
16 asking for further input as  
17 needed. One issue [with] CFS and  
18 EIA is why ..."

19

20 Then you have to go down a bit:

21

22 "... both man and child to manual  
23 budget on INCA - is he entitled to  
24 FA or GA benefits?"

25

1           And my understanding is FA is family assistance  
2 and GA would be general assistance. Did, did you have a  
3 discussion with Ms. Oja as to whether Phoenix was on  
4 Steve's budget and therefore he would be entitled to family  
5 benefits?

6           A     Yeah, I believe she told me that Phoenix was on  
7 Steve's budget.

8           Q     So we'll leave that for now because there's more  
9 that's to be spoken to by an EIA worker themselves.

10           Let's look at the next document, the e-mail that  
11 was sent to you from Ms. Oja, page 37450. And this is also  
12 dated February 5, 2004. Says:

13

14           "Morning, Lisa, I am the case  
15 worker for the above family, I  
16 have been speaking with Steve and  
17 he has advised me his child is not  
18 living with him but is staying  
19 with her godfather until Steve is  
20 able to find a place. He is  
21 apparently staying on a temporary  
22 basis with a friend ... [Could]  
23 you let me know if you have  
24 contact with this family and what  
25 the plans are for Phoenix?? Thank

1                   you."

2

3                   Remember receiving this communication?

4           A       Well, I've been shown it as part of the inquiry,  
5       yeah.

6           Q       You recall whether you ever had any further  
7       contact with the EIA worker?

8           A       No, I don't remember.

9           Q       If you had sent an e-mail back, would there be a  
10       hard copy of that in your file?

11          A       There should be.

12          Q       Or in that file?

13          A       Yeah.

14          Q       So let's go back to your closing summary, under  
15       the heading "Assessment" starting at page 37353. So that  
16       starts with the following:

17

18                   "This file was re-opened on  
19                   January 16, 2004 The referral  
20                   came from a friend of Samantha  
21                   Kematch, mother of Phoenix. SOR  
22                   reported that she had been living  
23                   with Samantha and Samantha's  
24                   mother ... At some point in mid-  
25                   November/03 Phoenix was brought to

1 Samantha's home as she had been  
2 left alone by her father and  
3 custodial parent, Steve. SOR is  
4 alleging that there is lots of  
5 fighting in Samantha's home, and  
6 that she goes out drinking  
7 frequently leaving Phoenix with  
8 [an individual] SOR then alleged  
9 that [that individual] 'smokes  
10 rock' in the presence of Phoenix.  
11 SOR then heard through someone  
12 else that 'some people' came to  
13 pick up Phoenix from Samantha on  
14 January 2/04 and were now looking  
15 after her. (Samantha and Steve do  
16 not live together)."

17

18 Go to the next page, please. Carry on:

19

20 "In follow up to this report, CRU  
21 workers confirmed with E&IA that  
22 Phoenix is on the budget of Steve  
23 and is supposed to be residing  
24 with him. It was also determined  
25 by the address provided, that the

1 people who are caring for Phoenix  
2 are likely her godparents, [Ron]  
3 and Kim Stephenson. These are the  
4 same people who were made a Place  
5 of Safety by this agency in 2003  
6 when Phoenix was in the temporary  
7 care of [Winnipeg] C&FS. The file  
8 was then referred to this worker  
9 on January 20/04.

10 In response to the file  
11 information, this worker  
12 determined that an immediate field  
13 is necessary to determine the  
14 whereabouts of Phoenix, age 2.  
15 Risk would be high if she was with  
16 either Steve or Samantha, low if  
17 she was in fact with the  
18 Stephensons. Worker and partner  
19 Monica Marx fielded to 1331  
20 Selkirk ... to the Stephenson  
21 residence. We found [Ron] and  
22 Phoenix present in the home. We  
23 identified ourselves as being from  
24 the agency and that we needed to  
25 determine if Phoenix was safe and

1           how she came to be staying with  
2           them. [Ron] stated Phoenix had  
3           been with them since early  
4           January. He did not say why or  
5           how she came to be with them, just  
6           that there are a lot of rumors  
7           going around. When directly asked  
8           about Steve, [Ron] stated he  
9           hadn't heard from Steve and did  
10          not know what he was doing or why  
11          he didn't have Phoenix in his care  
12          anymore. [Ron] was then asked  
13          about Samantha and he stated he  
14          didn't know anything about her  
15          either. Worker explored with him  
16          whether he and Kim are willing to  
17          care for Phoenix again. He  
18          advised this worker ... they were  
19          very happy to have Phoenix and  
20          that she's better off with them.  
21          Worker asked whether this would be  
22          a financial burden or whether they  
23          would prefer the agency to make  
24          them a Place of Safety again. He  
25          stated they did not need agency

1 intervention and they would keep  
2 Phoenix under a private  
3 arrangement. They were warned and  
4 cautioned by this worker that  
5 Phoenix is not to be returned to  
6 Steve unless an assessment by this  
7 agency was done first. [Ron]  
8 agreed he would call the agency.  
9 Worker followed this up by sending  
10 the Stephensons a letter outlining  
11 agency expectations and concerns."  
12

13 So I'm just going to stop there for a minute.  
14 You indicate in your assessment that Phoenix would be at  
15 high risk if she were with either parent but low risk with  
16 the Stephensons.

17 A Um-hum.

18 Q What were you basing that assessment on?

19 A Well, I was basing it on the current reported  
20 concerns and the, and the file history.

21 Q In terms of the file history, you said the only  
22 previous recording you looked at was the --

23 A Um-hum.

24 Q -- the most recent one from November 2003?

25 A Right.

1 Q And so the history that's recorded in that  
2 document is found at page 37361.

3 A Um-hum.

4 Q Under the heading Child Welfare History. That,  
5 that's the history that you would have reviewed?

6 A Right. Like, the history concern that, that  
7 parents have substance abuse issues.

8 Q That they had substance abuse issues?

9 A Right.

10 Q So was that your main concern in terms of risk to  
11 Phoenix?

12 A Yes. And the fact that she was kind of being  
13 bounced around to different caregivers, likely because of  
14 the substance abuse issues.

15 Q Okay. You also say -- let's go back to your  
16 assessment at page 37353, or 37354, I guess. You also said  
17 that you warned and cautioned Mr. Stephenson that Phoenix  
18 was not to be returned to Steve unless an assessment by the  
19 agency was done first.

20 A Yes.

21 Q Did you tell him that he was also not to return  
22 Phoenix to Samantha Kematch?

23 A I don't recall that, no. It's not in my notes.

24 Q It's not recorded?

25 A No.

1 Q If you had said it, would you likely have  
2 recorded it?

3 A Likely, yeah.

4 Q Now, you indicate that you sent the Stephensons a  
5 letter outlining agency expectations and concerns, so let's  
6 look at that letter next. That's at page 37449. You can  
7 scroll up, please, so that we can see the letter.

8 So let's just look at where it's addressed.  
9 Sorry, go down a bit. Doesn't fit very well. Thank you.

10 So that letter is dated February 13, 2004  
11 addressed to Ron and Kim Stephenson at 1331 Selkirk Avenue.  
12 Re Phoenix Sinclair. Father, Steve Sinclair. This is the  
13 letter that you wrote?

14 A Yes, I wrote this, yeah.

15 Q Okay.

16

17 "I am writing to follow up with  
18 our conversation on January 21,  
19 2004. At that time you indicated  
20 that you would be willing to care  
21 for Phoenix under a private  
22 arrangement for as long as is  
23 necessary. I have now spoken with  
24 Steve who has agreed that you can  
25 care for Phoenix. I have told

1           Steve that the agency has serious  
2           concerns about his current  
3           lifestyle, as well as Samantha's.  
4           He has been advised that he is not  
5           to take Phoenix back into his care  
6           without contacting this agency and  
7           having a risk assessment done. So  
8           please be advised that the agency  
9           hopes you will continue to care  
10          for Phoenix and will contact us  
11          should this situation change.  
12          Should you have any further  
13          questions please call this writer  
14          ... or after hours ..."

15

16   And you give the numbers.

17           A     Um-hum.

18           Q     Then scroll down, please, so we can see the  
19   signature. And then that's your signature?

20           A     Yes.

21           Q     How was this letter sent?

22           A     Just in Canada Post mail.

23           Q     Regular mail?

24           A     Regular mail, yeah.

25           Q     Not registered?

1 A No.

2 Q Any reason why you didn't send it by registered  
3 mail?

4 A No, there's no reason.

5 Q Okay.

6 A I just didn't typically send things registered  
7 mail.

8 Q Okay.

9 A If it was just a letter like this.

10 Q Okay. Did you consider hand-delivering the  
11 letter?

12 A No.

13 Q Did you follow up with the Stephensons, either  
14 with a visit or a call, to make sure that they got the  
15 letter?

16 A No, I don't believe I did.

17 Q So what was the purpose of sending this letter?

18 A I guess just to outline just what it says in  
19 there, just what we had talked about and what they should  
20 do if things change, to contact us.

21 Q Okay. The letter doesn't say that it was copied  
22 to Steve. Did you send Steve a copy?

23 A No, I didn't send him a copy.

24 Q Did you send a copy to Samantha Kematch?

25 A No.

1 Q Why did you choose the wording "the agency  
2 hopes"?

3 A That's just my own wording. I mean, it's just, I  
4 don't know, it's just a description of, of, I guess -- I  
5 mean, I can't think of a specific reason why I would choose  
6 that word but it's -- you know, I mean, I was trying to be,  
7 you know, collaborative and cooperative with the  
8 Stephensons, who were agreeing to my plan. So that's the  
9 type of letter that I was trying to write.

10 Q Is there any reason you made particular reference  
11 to Mr. Sinclair but not Ms. Kematch?

12 A Well, I, I did say that we had concerns about her  
13 lifestyle as well. Like, I do name her in this letter. I  
14 think probably the, the problem comes in that when a file  
15 is opened under the father's name, then my focus, or my  
16 focus as a worker just becomes that person. So I mean,  
17 looking back on it now I can see that because her file  
18 wasn't opened, I didn't do follow up with her specifically  
19 so my focus was on Steve and Phoenix and his file. So I  
20 mean, I did mention her, that we had concerns about her,  
21 but this situation more focused on Steve because that's who  
22 was supposed to be caring for her at the time.

23 Q Right. But you knew that Phoenix had recently  
24 been in Ms. Kematch's care?

25 A Well, that's what was alleged by the reporter,

1 yeah, but I wasn't ever able to confirm that.

2 Q You didn't try to connect with Ms. Kematch?

3 A No. All I'd heard was that she was out of town,  
4 so, and then she didn't have an EIA file so I didn't know  
5 how to contact her.

6 Q How do you know that she didn't have an EIA file?

7 A I believe that the worker had told me that or I  
8 had read it somewhere.

9 Q I didn't see any recordings in the file to that  
10 effect, did, did you?

11 A I'm pretty sure I, I've learned that somewhere,  
12 yeah.

13 Q Is there something --

14 A That her file was --

15 Q -- in the file that's, that shows that you were  
16 asking about Ms. Kematch's EIA status?

17 A Well, I recall reading that somewhere, yes, that  
18 her file had been closed previously and that she had a job.

19 Q There's nothing in your file recording that  
20 documents that?

21 A No, but I think I had read that from somebody  
22 else's recording.

23 Q You can't remember what?

24 A Well, I'm pretty sure that it was in a file  
25 somewhere that, that her EIA file had been closed months

1 previously, because she didn't have any children in her  
2 care.

3 Q You looked at the November 2003 assessment and  
4 nothing else in the file?

5 A Well, that's what I recall looking at, yeah.

6 Q So there's certainly nothing in your file  
7 recording, from your closing summary from February of '04  
8 that talks about any investigations you did regarding Ms.  
9 Kematch's living status?

10 A No, because, like I said, this was Steve's file  
11 so I was focused on him.

12 Q So you weren't focusing on Ms. Kematch when you  
13 had this file?

14 A No.

15 Q And you think that's --

16 A Because her file hadn't been opened.

17 Q When you got it?

18 A Right. So, like, I didn't have the expectation  
19 to follow up with her.

20 Q Actually, when the referral came in, did it not  
21 come in first under Ms. Kematch's file and then that was  
22 closed and --

23 A Um-hum.

24 Q -- was transferred to Steve's file?

25 A Yeah, that's correct, yeah.

1 Q And so because you weren't focusing on Ms.  
2 Kematch, you say that's why you didn't make reference to  
3 her in the letter that you sent to the Stephensons?

4 A Well, I did make, I did make reference to her.  
5 Her name is in the letter.

6 Q But about picking -- about not allowing her to  
7 pick up Phoenix?

8 A Right. Yeah.

9 Q You say, you say that you've spoken with Steve  
10 and told him the agency has concerns about his lifestyle --

11 A Um-hum.

12 Q -- as well as Samantha's.

13 A Right.

14 Q And he has been advised that he's not to take  
15 Phoenix back:

16

17 "So please be advised that the  
18 agency ..."

19

20 A Right.

21 Q

22 "... hopes you will continue to  
23 care for Phoenix and will contact  
24 us should this situation change."

25

1 A Um-hum.

2 Q So your letter doesn't suggest that should  
3 Samantha pick Phoenix up, that the Stephensons should  
4 call.

5 A Right. I think that was just an oversight on my  
6 part. It should be, it should be understood that that's  
7 the same thing.

8 Q Now, was there any legal obligation for the  
9 Stephensons to contact the agency should the situation  
10 change?

11 A Legally, no.

12 Q And your letter, as we've discussed, uses the  
13 word "hope".

14 A Um-hum.

15 Q It doesn't articulate that there would be any  
16 urgency for the Stephensons to contact the agency?

17 A No, it doesn't outline urgency.

18 Q And it doesn't say specifically who they should  
19 contact if the situation changes?

20 A No, it just has the, like my number and the  
21 after-hours number.

22 Q If they have questions?

23 A Right.

24 Q Right. And as we've discussed, it doesn't  
25 articulate doing anything if Samantha picked up Phoenix?

1 A No.

2 Q We heard evidence from Kathy Epps, who had worked  
3 with the family, that when she met with Steve and his  
4 sisters in July of 2001, because they had concerns about  
5 Samantha coming and getting Phoenix, that she told them  
6 that if that happened, they should do a number of things:  
7 they should contact AHU or CRU, they should contact the  
8 Winnipeg Police. Any reason why you didn't put those  
9 specific suggestions into this letter?

10 A No, I, I can't think of a reason.

11 Q Let's go back to finish reading the assessment  
12 from your summary. We were at page 37354. So, picking up  
13 where we left off, you say:

14

15 "Worker did not have any contact  
16 with Samantha Kematch as she is  
17 not the custodial parent. The  
18 only information I received about  
19 Samantha is that she is 'out of  
20 town'."

21

22 Where did you get that information?

23 A I believe --

24 Q Was that from Steve?

25 A -- Steve told me that on the phone.

1 Q Okay. And then you go on:

2

3 "Worker fielded to Steve

4 Sinclair's home several times at

5 ... Magnus [Avenue]. Looking in

6 the window, the home appeared to

7 be vacant although there were

8 sparse furnishings in the home.

9 The home appeared vandalized in

10 the interior with lights, closet

11 doors, floor tiles ripped up and

12 holes punched in the walls.

13 Finally on February 5/04, Steve

14 phoned this worker. I advised him

15 that Phoenix is with the

16 Stephenson's. From his reaction,

17 this worker got the impression he

18 didn't know for sure that she had

19 been there since January. He only

20 said he heard something about that

21 and he heard Samantha was out of

22 town. When asked, he did not

23 explain why Samantha had Phoenix

24 in the first place when she was

25 returned to his care by CFS in

1                   October 2003.    In answering this  
2                   worker's questions, Steve was very  
3                   vague.        He stated the reason  
4                   Phoenix is not with him is because  
5                   he needs to find a place to live.  
6                   He is temporarily staying with a  
7                   friend and would not provide  
8                   information.    He also did not  
9                   explain why he lost his place on  
10                  Magnus when it is paid for by  
11                  E&IA.     This worker went on to  
12                  discuss the concerns about  
13                  Samantha drinking and that she is  
14                  not a suitable caregiver for  
15                  Phoenix.    He agreed.    He then  
16                  stated when he is drinking he gets  
17                  an appropriate babysitter.  When I  
18                  asked him what his intentions were  
19                  regarding parenting Phoenix he  
20                  stated she can stay with the  
21                  Stephensons.  He would like to get  
22                  a place, a job and be more stable  
23                  prior to Phoenix returning to him.  
24                  I advised him of the seriousness  
25                  of this situation and that

1           this    agency    was    considering  
2           apprehending    Phoenix    if    she  
3           returned to him or Samantha.    He  
4           stated that he would agree to  
5           Phoenix    staying    with    the  
6           Stephensons until he gets his life  
7           together.  
8           File    information    shows    that  
9           Phoenix was apprehended at birth  
10          and then returned to parents 5  
11          months later.    Phoenix was again  
12          apprehended in June 2003 and  
13          remained in care under a three  
14          month temporary order.    She was  
15          then returned to Steve in  
16          October/03.    It appears from  
17          current information that he only  
18          parented for one month, until mid  
19          November and then Phoenix somehow  
20          ended up at Samantha's.    It  
21          appears from Steve's actions and  
22          lack of ability to clarify his  
23          situation, that he either cannot  
24          or is choosing not to parent  
25          Phoenix.    There have been previous

1 concerns about Steve abusing  
2 substances and the previous file  
3 closing states he did not obtain  
4 any type of programming to address  
5 his issues. There is currently no  
6 direct evidence or reports  
7 regarding what Steve is doing  
8 currently. Worker spoke with his  
9 E&IA worker who also did not know  
10 that Phoenix wasn't with him, or  
11 that he was moving. She spoke  
12 with him today and found all this  
13 out. She has no new information  
14 to add about his situation. She  
15 is taking Phoenix off his budget  
16 and he will be required to look  
17 for work. She suspects he must  
18 have some type of illegitimate  
19 income as he is not concerned  
20 about losing the funds, and [he]  
21 has not been given any money for  
22 February.

23 This worker cannot make an  
24 accurate assessment of Steve's  
25 current lifestyle due to lack of

1 information provided. This worker  
2 would therefore determine that  
3 Phoenix would be at high risk of  
4 coming into care should she return  
5 to Steve's care. She would also  
6 be at high risk of coming into  
7 care should she be found in  
8 Samantha's care. Worker has  
9 therefore safety planned with the  
10 current caregivers to Phoenix, the  
11 Stepensions. They have agreed  
12 with this worker's assessment and  
13 have agreed to keep Phoenix in  
14 their care under a private  
15 arrangement. They will allow  
16 Steve to visit ... in their home  
17 whenever he wants, though he has  
18 not come to date ... due to the  
19 fact that a private arrangement  
20 has been agreed to between Steve  
21 and the Stepensions, worker is  
22 recommending this file be closed  
23 at this time."

24

25

And then under Statement of Risk, you identify:

1            "Risk is low as long as Phoenix  
2            remains with the Stephensons.  
3            Should she be found in the care of  
4            Steve or Samantha, risk would  
5            change to high."

6

7            And your recommendation -- can we just scroll to  
8            the bottom of the page, please -- is:

9

10           "Worker is recommending this file  
11           be closed to ... Intake."

12

13           And indeed it was closed on February 13th.

14           So the information about Phoenix being at risk of  
15           coming into care if she were with either parent, that's  
16           based on the history that you just told us told us you  
17           reviewed?

18           A     Well, it's mainly due to the current lack of  
19           information and that the only information we did have had  
20           to do with their use of substance or abuse of substance.  
21           So there was current concerns that I wasn't able to  
22           validate or follow up on in detail with them, so that would  
23           be the main reason, just because a current assessment  
24           wasn't able to be made.

25           Q     And it doesn't appear from your recording that

1 you knew whether Rohan and Kim were the people who picked  
2 Phoenix up from Samantha in January.

3 A Well, I think that we had suspected that or the  
4 CRU worker had sort of figured that out before I got the  
5 file.

6 Q But Rohan didn't admit to that, according to your  
7 reporting.

8 A That he had directly picked her up?

9 Q Yeah.

10 A No, he didn't.

11 Q So you didn't know for sure who had picked  
12 Phoenix up in January of '04 from Samantha?

13 A No. But he did say that he had been caring for  
14 her since the beginning of January so it kind of fits with  
15 the timeline.

16 Q In terms of, of the family's history, did I  
17 understand your evidence was that you did not look at the  
18 previous closing and not the -- the last closing was  
19 November of '03, but the time before that, the family file  
20 was closed in March of '02. Did I understand your evidence  
21 was that you did not read that closing summary?

22 A Well, I think I just -- I don't recall reading  
23 the files or what I have read, just because of it's been so  
24 long ago, so I just don't remember what I specifically  
25 read.

1 Q And typically, what was your practice?

2 A My typical practice was to at least read the last  
3 previous closing.

4 Q So that was the November '03 closing?

5 A Yeah. But I, I may have read further in. I just  
6 honestly can't remember.

7 Q So if we look at the closing, for instance, the  
8 closing summary from March of 2002. The first page of that  
9 is three seven --

10 THE COMMISSIONER: What page is that?

11 MS. WALSH: Well, we're looking at the March  
12 summary.

13 THE COMMISSIONER: Yeah, what page?

14 MS. WALSH: The first page is 37385. I think  
15 it's actually identified as being the March summary on your  
16 desk, Mr. Commissioner.

17 THE COMMISSIONER: Oh, I have that. Yes.

18 MS. WALSH: So if you just scroll down so that  
19 the witness can see what this page looks like, please. If  
20 we go to the last page, 37396.

21

22 BY MS. WALSH:

23 Q See that this, this closing summary was prepared  
24 by Kathy Epps.

25 A Um-hum.

1 Q And Lorna Hanson was her supervisor. If we go to  
2 the page before that, 37395, you'll see there's a number of  
3 unresolved problems identified and then recommendations for  
4 the future.

5 A Um-hum.

6 Q Under Recommendations for the Future, number one  
7 says:

8  
9 "If or when Mr. Sinclair and Ms.  
10 Kematch resolved their  
11 relationship and resume  
12 cohabitation, that the Agency  
13 accessed and monitor Ms. Kematch's  
14 parenting style. There are  
15 concerns expressed by Mr. Sinclair  
16 about her treatment and  
17 disciplined methods used on  
18 Phoenix."

19  
20 Does that help to jog your memory as to whether  
21 you were aware of this information and had looked at this  
22 summary when you worked with the family?

23 A Yeah, I'm pretty sure I didn't look at it.

24 Q Did not?

25 A No.

1 Q Okay. If you had, would that have caused you to  
2 do anything different?

3 A Well, I, I don't know. I mean, that would be  
4 hindsight. I'm not sure.

5 Q The information that's listed under number one,  
6 for recommendations for the future, was that of special  
7 significance, now that you're reading it? Does that have  
8 special significance?

9 A Well, yeah, that would be a concern if Phoenix  
10 was in Samantha's care for sure, to look at what discipline  
11 methods does she use and how does she treat Phoenix. Yeah,  
12 absolutely.

13 Q You had, though, in your own risk assessment,  
14 already identified that Phoenix would be at high risk if  
15 she were in Ms. Kematch's care?

16 A Um-hum.

17 Q Based on the referral that you received from CRU,  
18 you knew the allegation was that Ms. Kematch had recently  
19 had Phoenix in her care?

20 A Yes, that's what the reporter was, was telling  
21 us.

22 Q And you were aware that Ms. Kematch posed a risk  
23 to Phoenix?

24 A Um-hum.

25 Q The previous supervisor of the family services

1 worker, Ms. Edinborough, had recommended that the file be  
2 transferred to family services, right?

3 A Right.

4 Q That's different than closing the file at intake?

5 A Yes.

6 Q The effect of closing the file at intake meant  
7 there would be no more contact with the family; is that  
8 right?

9 A Right.

10 Q So no more contact with Steve or Phoenix or the  
11 Stepsons?

12 A Right. Unless, unless they called us again with  
13 a concern.

14 Q But the agency would not be looking to monitor  
15 the family once the file was closed at intake?

16 A No.

17 Q Why did you decide to close the file rather than  
18 transfer it to family services as Ms. Edinborough had  
19 recommended?

20 A I think the main reason was that we had had an  
21 agreement between Steve and myself and the Stepsons to  
22 keep Phoenix in their care, so that was the plan.

23 Q Did you feel any pressure to close the file?

24 A Not that I can recall.

25 Q And when you say the Stepsons, and you often,

1 in your summary, refer to "they" --

2 A Um-hum.

3 Q -- you told us that you never spoke with Mrs.  
4 Stephenson, or --

5 A No, I --

6 Q -- Kim Edwards?

7 A -- I didn't.

8 Q At the time that you recommended closing the  
9 file, did you have any concerns or second thoughts about  
10 that decision?

11 A I don't, I don't recall, no.

12 Q Did you discuss closing the file with your  
13 supervisor?

14 A Yes.

15 Q That was something you were obliged to do?

16 A Yeah. It was something I was required to do and  
17 I would have had to give him all the information. I mean,  
18 he would have read my, my closing summary and known  
19 everything I had done on the file. And then, you know, we  
20 would have met about it and he would have agreed that that  
21 was an appropriate plan, to close the file.

22 Q So where we saw his signature or his initials on  
23 your closing summary --

24 A Um-hum.

25 Q -- so far as you understand, that, those were put

1 on after he had received your entire summary?

2 A Yeah. I believe the signature indicates that he  
3 has read it. That was the usual process.

4 Q We'll just put that back up on the screen, since  
5 we're talking about it, please. 37355.

6 THE COMMISSIONER: Three five five?

7 MS. WALSH: Yes. This is from the February 2004  
8 closing summary.

9 THE COMMISSIONER: What I have starts with three  
10 five six. Maybe (inaudible). Yes, I have it.

11

12 BY MS. WALSH:

13 Q So when you made the decision to close the file,  
14 you met with Mr. Ingram, your supervisor?

15 A I typically would have, yeah.

16 Q And you showed him your closing summary?

17 A Um-hum.

18 Q And then he initialled it, as we see on the  
19 bottom of page 37355?

20 A Yeah.

21 Q Okay. Did you discuss with Mr. Ingram  
22 transferring the family to family services instead of  
23 closing it?

24 A No, I don't think that we, that we talked about  
25 that.

1 Q What about, did you discuss with your supervisor  
2 formalizing the place of safety arrangement with the  
3 Stephensons?

4 A Well, I would have probably had that discussion  
5 earlier in the file, like after my first visit to, to Ron,  
6 Ron's home when I saw Phoenix. That would be typically  
7 when I would have that conversation.

8 Q There is nothing recorded in your summary about  
9 that conversation?

10 A No, there isn't.

11 Q Would you typically have recorded that if you'd  
12 had that conversation?

13 A I don't know. I mean, I don't, I don't record  
14 every single little detail. But if there is going to be  
15 any type of apprehension or, or not an apprehension, that's  
16 always something that you're discussing with your  
17 supervisor. Like I wouldn't apprehend a child or make a  
18 decision to not apprehend a child without discussing that  
19 with my supervisor. That was one of the things that we  
20 kind of had to get approval for.

21 Q So are you saying that you considered whether or  
22 not you needed to apprehend Phoenix as part of your work  
23 with this family?

24 A Well, I think that's always something that you're  
25 looking at in this type of a situation. So in this

1 situation we determined that it wasn't necessary in the  
2 situation, because we had her in a safe place and she  
3 wasn't at risk. She wasn't being harmed. Like, there was  
4 no reports of any concerns about Kim or Ron's care of her  
5 so she wouldn't have been apprehended from that situation.

6 Q Let's look back at the recommendations from the  
7 family services worker who had closed the file two months  
8 earlier. Going back to the November 2003 summary.

9 THE COMMISSIONER: Page?

10 MS. WALSH: Page 37361.

11 THE COMMISSIONER: Yes.

12

13 BY MS. WALSH:

14 Q You see under Unresolved Problems, towards the  
15 bottom of the page, it says:

16

17 "Mr. Sinclair requested his child  
18 stay in care until he felt strong  
19 enough to care for her once again.  
20 He has had his time out and will  
21 parent Phoenix starting October 2,  
22 2003. He has done no programming  
23 and as such is prone to returning  
24 to an unhealthy way of managing  
25 stresses in his life. He is aware

1                   of the need to arrange for  
2                   appropriate alternative caregivers  
3                   when he feels the need for a break  
4                   or time out for respite."

5

6                   And then on the next page, under recommendations  
7 for the future, Mr. Williams said:

8

9                   "In the event Mr. Sinclair returns  
10                  to unhealthy ways of managing his  
11                  life and caring for his daughter,  
12                  it is recommended Phoenix be  
13                  placed with Place of Safety Foster  
14                  Parents, [Ron] and Kim Stephenson.  
15                  It is also recommended that he  
16                  attend to programming for  
17                  lifestyle difficulties prior to  
18                  him considering parenting his  
19                  daughter Phoenix. It is  
20                  anticipated a Temporary Order of  
21                  six months to a year would be  
22                  required."

23

24                  Now, you read that, right, when you started  
25 working with this family?

1           A     Yeah, as far as I know, I typically would read  
2 the last closing.

3           Q     Did you not understand Mr. Williams to be  
4 recommending that should Steve return to unhealthy ways,  
5 Phoenix would have to be brought into care again, that he  
6 was anticipating a temporary order of six months to a year  
7 would be required and that that was the context in which he  
8 was recommending she be placed with Ron and Kim Stephenson,  
9 whom he refers to as place of safety foster parents?

10          A     That's what he wrote, yes.

11          Q     So you, you knew that, that Mr. Williams was  
12 recommending that --

13          A     Yeah.

14          Q     -- in Steve returned to unhealthy ways, Phoenix  
15 would need to be apprehended again and then placed with the  
16 Stephensons?

17          A     Right.

18          Q     You didn't follow that's recommendation?

19          A     But that's not how the situation turned out, so  
20 ... She was not apprehended by me and placed with the  
21 Stephensons. She was already there.

22               MR. RAY: Sorry, I just want to be clear as to  
23 what it said. It says:

24

25                       "... it is recommended Phoenix be

1 placed with Place of Safety Foster  
2 Parents, ..."

3

4 It didn't say that he -- that she be apprehended  
5 in that sentence.

6

7 BY MS. WALSH:

8 Q Sure. But the only way that she could be --  
9 that's right, that's right. It says that she would be  
10 placed.

11 A Um-hum.

12 Q And my question was, did you understand Mr.  
13 Williams to be saying that she would be placed with the  
14 Stephensons in the context of having been brought into  
15 care? He refers to a temporary order of six months to a  
16 year.

17 A Yeah. I believe that if there was a situation  
18 that Phoenix would have been apprehended by the agency,  
19 then they would be considered as an ideal placement for  
20 her.

21 Q Isn't this exactly the situation that you, at the  
22 agency, were dealing with?

23 A No.

24 Q You knew that Mr. Stevenson had returned to  
25 unhealthy ways of managing his life?

1 A Right. But she was already with the Stephensons.

2 Q Yes. But did you not understand that the last  
3 social worker recommended that when she was with the  
4 Stephensons it would be in the context of the agency having  
5 a temporary order --

6 A Yeah.

7 Q -- and making them a formal place of safety?

8 A Yes, I have understood that.

9 Q And that's not the arrangement that you  
10 formalized?

11 A No.

12 Q Based on the living arrangements for Phoenix when  
13 you closed the file, what protections were in place to  
14 protect her from being in a situation that was unsafe?

15 A Her, her caregivers were trusted as people that  
16 were going to take good care of her, as they had in the  
17 past.

18 Q And you never told them what they should do if  
19 Samantha came to pick up Phoenix?

20 A No, I don't recall talking about that. I just  
21 recall that, you know, we had a discussion that they would  
22 keep her and that Ron had agreed that she was better off  
23 with them. So in the context of that it would, you know,  
24 it would -- I would assume that it would include both  
25 parents.

1 Q You told me you weren't focusing on Samantha  
2 Kematch.

3 A No, I wasn't. No.

4 Q In terms of the work that you were doing in  
5 placing Phoenix with the Stephensons, when you met with Ron  
6 did you have any discussion with him about whether he could  
7 use some respite while he and Kim were taking care of  
8 Phoenix?

9 A No.

10 Q Did you have a discussion with him about putting  
11 Phoenix into daycare while they were taking care of her?

12 A No. I believe that he told me that they didn't  
13 need any assistance with anything from the agency.

14 Q But you didn't even make those suggestions?

15 A No, because he had told me that they didn't need  
16 anything, that they were just happy to keep her.

17 Q Did you know whether there were other children  
18 that the Stephensons were looking after?

19 A Yes, I knew that Kim had children of her own.

20 Q Did you know anything about Mr. Stephenson's  
21 working hours?

22 A No.

23 Q Did you know anything about Mrs. Stephenson's  
24 working hours or circumstances?

25 A No.

1 Q Wouldn't a suggestion of daycare have been a good  
2 idea for Phoenix?

3 A I don't know how to answer that. I mean, it  
4 would be up to the caregivers if they want assistance with  
5 that.

6 Q You, as a worker, wouldn't initiate that offer?

7 A No.

8 Q We heard evidence from Mr. Rojas, who was a place  
9 of safety worker, that that whole program, the place of  
10 safety program, is there to provide supports to caregivers.

11 A Um-hum.

12 Q And that in that case they, they make an offer of  
13 -- and he did make an offer of daycare or respite.

14 A Um-hum.

15 Q That's not something that you, as a, as an intake  
16 worker, would ever discuss with a family?

17 A Yeah. I mean, there are some cases where I do  
18 talk about supports for families, yes.

19 Q But you didn't in this case?

20 A No.

21 Q After you sent the letter to the Stephensons on  
22 -- the letter was dated February 13th, '04.

23 A Um-hum.

24 Q You closed the file?

25 A Yes.

1 Q So does that mean you didn't check back with Kim  
2 or Rohan after you sent the letter?

3 A Right.

4 Q Or actually, you didn't check back with Kim or  
5 Rohan after you spoke with Rohan on February the 5th?

6 A Right.

7 Q So after February 5th, 2004 you didn't know how  
8 the Stephensons were managing while Phoenix was living with  
9 them?

10 A No, I wouldn't be aware of that.

11 Q So then we know that in May of 2004 you did  
12 receive some more contact about this family from an EIA  
13 worker. We'll pull up the e-mail from this worker. It's  
14 page 36968. And between your contact with, with Ron  
15 Stephenson on February 5, 2004 and this e-mail of May 10,  
16 2004, you had had no contact with Phoenix or her family or  
17 the Stephensons?

18 A No, I hadn't.

19 Q So this e-mail we have redacted the name of the  
20 individual whom we've identified as a source of referral,  
21 but they are an EIA worker. And she says:

22

23 "Hi Lisa,

24 I have called and left [message]

25 regarding Steve Sinclair and the

1 custody of his child Phoenix ...  
2 I have received a copy of the  
3 national child tax benefits for  
4 Samantha Kematch showing that she  
5 has been receiving money for  
6 Phoenix. I also have a copy from  
7 legal aid that she has put in an  
8 application for custody and they  
9 are requesting we pay temporarily  
10 for phoenix until the matter goes  
11 through. I have not been able to  
12 get ahold of Steve Sinclair he did  
13 call and left a [message] but no  
14 number to be reached at. I would  
15 like to know from you if I should  
16 remove this child from his budget  
17 because the mother has had this  
18 child since Nov. 7/03 as the  
19 application states. please e-mail  
20 me back and advise me what you  
21 would like to do considering you  
22 stated that the mother is not to  
23 have the child"

24

25 Do you recall having a discussion with this

1 worker?

2 A No, I don't recall. And I didn't recall the  
3 e-mail either until it was shown to me for this inquiry.

4 Q So you, you don't know how this worker got this  
5 information that is being reported in the, in the email?

6 A No. I have no, no idea.

7 Q Okay. The reference at the -- on the last  
8 sentence, where it says:

9

10 "... considering you stated that  
11 the mother is not to have the  
12 child"

13

14 You don't recall telling that to the worker?

15 A No.

16 Q Okay. The information that she records, that the  
17 mother states on her application that she's had the child  
18 since November 7, '03, that was not accurate according to  
19 what you knew?

20 A Right. That was not accurate, no.

21 Q But you can't recall having a conversation with  
22 this worker; is that right?

23 A No, I don't recall.

24 Q So you don't recall telling this worker that that  
25 information was inaccurate?

1 A No.

2 Q Okay.

3 THE COMMISSIONER: Now that you've seen this  
4 document, do you say that you did, in fact, receive it?

5 THE WITNESS: I was shown this e-mail for  
6 purposes of this inquiry, but I don't recall it back from  
7 2004, no.

8 THE COMMISSIONER: But do you know, do you know  
9 whether you ever received this?

10 THE WITNESS: I would have received it, yes,  
11 because it's, it's there.

12

13 BY MS. WALSH:

14 Q The e-mail was located in Mrs. Kematch's  
15 protection file, not in Mr. Sinclair's protection file.

16 A Oh.

17 Q You don't --

18 A Yeah, I wouldn't have any idea how it ended up  
19 there. Because usually if my name's at the top, that means  
20 it's printed from my e-mail.

21 Q Right. Was Mr. Ingram still --

22 A So I'm sure.

23 Q -- your supervisor at this point, in May of '04?

24 A Yes. Yeah.

25 Q Do you recall whether you had a discussion with

1 him when you got this e-mail?

2 A No, I don't recall having a discussion.

3 Q As I understand it, you have, you have no  
4 recollection of receiving correspondence or communicating  
5 with an EIA worker in May of '04?

6 A No, I don't recall. I mean, she said that I,  
7 that I had told her something, so I may have had a phone  
8 conversation with her, but I, I don't independently recall  
9 that.

10 Typically, if a file is closed to me and I get  
11 any type of e-mails or phone calls, I would either call  
12 them back and let them know who the current worker is or I  
13 would tell them to phone the intake line so that the file  
14 could be re-opened. So it's not like I would just ignore  
15 it. I would, I would do something with it. Like, I would  
16 say, oh, either this person has a new worker or could you  
17 please call intake and, and re-open it with your current  
18 concerns.

19 Q You don't have a copy of an e-mail that you sent  
20 back?

21 A No. Like I, I said I may have phoned her back,  
22 though, but I wouldn't have a record of that phone call.  
23 Because if I don't have an open file, I wouldn't even make  
24 a case note on that, on that phone call.

25 Q If you had sent an e-mail, would you have printed

1 a hard copy to be put somewhere?

2 A Probably not if I, if I didn't have an open file.  
3 That's why I'm not sure how this ended up in Samantha's  
4 file. Like, I don't remember.

5 Q There's another e-mail, second e-mail from this  
6 worker, the EIA worker, at page 36967. The previous e-mail  
7 was dated May 10th. This one is dated May 12th, and says:

8

9

"Hi Lisa,  
10 Sorry to keep bugging you but  
11 other people from the agency are  
12 really confusing me. They state  
13 that their files say nothing about  
14 the child not being allowed to  
15 stay with mother Samantha Kematch  
16 but I do believe you told me that  
17 the child is not to be in the  
18 mothers care. Maybe I took it  
19 wrong maybe not. can you verify  
20 that with me. All I really want  
21 to know now is where the child is  
22 and for how long just so I can  
23 take her off of her father's case  
24 and assess if there should be an  
25 overpayment if the child has been

1                   with the mother from Nov 7/03  
2                   until now like she has stated to  
3                   our department and legal aid. can  
4                   you please get back to me as soon  
5                   as possible."

6

7                   Again, this e-mail is printed out under your  
8 name.

9                   A     Um-hum.

10                  Q     You don't have -- this doesn't help your  
11 recollection?

12                  A     No. I'm not sure who she's referring to when she  
13 says, other people from the agency. I mean, I'm assuming  
14 she's talking about CFS, so she's talking with other  
15 people.

16                   I had told Sandra Oja back on February 5th, or  
17 whatever date that was, that Phoenix wasn't with Steve and  
18 that she should be taken off his budget back in February,  
19 so I'm not sure why, in May, they're still confused about  
20 that, because I had told them that in February already.

21                  Q     Right.

22                  A     So I'm -- yeah, I'm confused about this, too.

23                  Q     And the information that the worker is saying:

24

25                   "... I do believe you told me that

1                   the child is not to be in the  
2                   mothers care."

3

4           A     Right.

5           Q     That's consistent with your risk assessment from  
6 your February closing summary, isn't it?

7           A     Yes, it is. Like I said, I may have talked to  
8 her on the phone about it because I don't have a paper  
9 record of that. There's no, doesn't seem to be a return e-  
10 mail that, that's been provided to me for this inquiry, so  
11 I'm assuming you guys would have that if there was one.

12          Q     So if -- you said that if the file was closed to  
13 you, would make a note?

14          A     No, I wouldn't make a note if it was closed.

15          Q     And at this point, in May of 2004, the file was  
16 closed, from your perspective?

17          A     Right. And if it -- like I said, if it had been  
18 open to someone else, then I would have referred her to  
19 that worker. So I'm not sure if that's who the other  
20 person was that she was talking to, that she refers to in  
21 here.

22          Q     So your last contact with Phoenix and her family  
23 was in February of '04, right?

24          A     Right.

25          Q     And at that point you had assessed that Phoenix

1 would be at high risk if she were in the care of either  
2 parent?

3 A Right.

4 Q So when you received this information from the  
5 EIA worker, would it have caused you concern?

6 A Yeah, it would -- I would have -- yeah.

7 Q You have no specific recollection of the  
8 interaction with this worker?

9 A No, I don't have any recollection, like I said,  
10 until I was shown these e-mails for the inquiry. I was  
11 quite surprised by them. I didn't remember them at all.

12 Q Did you say your practice was you would have  
13 advised this worker to call intake?

14 A Yeah. I would have called her and said to call  
15 intake or call whoever the current worker is, if there was  
16 one. And it looks like she did talk to someone else,  
17 so ...

18 Q Okay. Now, how did you find out about Phoenix's  
19 death?

20 A I would have just found out about her death in  
21 the news.

22 Q In the news?

23 A Yeah.

24 Q Were you still working at Winnipeg CFS, then, in  
25 the spring of '06?

1           A     Spring of '06. I believe so. Yeah, I think I  
2 worked there till December '06.

3           Q     Did anyone from the agency ever contact you to  
4 discuss your involvement with the file?

5           A     No, I don't recall that I was contacted.

6           Q     When you heard about Phoenix's death, did you  
7 remember that you had worked with her and her family?

8           A     No.

9           Q     You didn't?

10          A     No.

11          Q     There were three reports prepared that were  
12 specific to the services delivered to Phoenix and her  
13 family. They were prepared after her death was discovered,  
14 a report that we've been referring to as the Section 4  
15 report prepared by Andy Koster and Billie Schibler, a  
16 report prepared through the Office of the Chief Medical  
17 Examiner called the Section 10 report, referring to Section  
18 10 of the Fatality Inquiries Act, and an internal review  
19 prepared by Rhonda Warren. Were you ever shown any of  
20 those reports prior to your involvement with the inquiry  
21 and meeting with our office?

22          A     No, I don't believe I was.

23          Q     So not even the portions relating to the work  
24 that you performed?

25          A     No.

1 Q You were never interviewed by any of those report  
2 writers?

3 A No. To my knowledge, I don't recall being  
4 interviewed by anybody.

5 Q Would you have like to have seen the reports  
6 prior to finding out about this inquiry?

7 A Yeah, that -- yeah, that would have been helpful.

8 Q Would it have been educational, do you think?

9 A Well, I think it would be important information  
10 to have, yes.

11 Q Would you have liked to have had an opportunity  
12 to look at your file recordings closer to the time you made  
13 them? If someone had called you, if the agency had called  
14 you in 2006 to, to tell you about your involvement, remind  
15 you about your involvement?

16 A Sure.

17 Q Let's -- I'm going to show you the portions of  
18 each of those three reports that talk about the services  
19 that were delivered while you had the file open and ask you  
20 for any comments. And I know that you've looked at these  
21 with, with our office and with your lawyer.

22 A Yes.

23 Q So let's start with the Section 4 report at page  
24 35. So this is entitled The Fourth Protection Opening:  
25 From January 15, 2004 to February 13, 2004. So that's the

1 time in which you were involved with the family, right?

2 A Yes. Yeah.

3 Q So my reading of pages 35 and 36 -- we could  
4 scroll to page 36, please. Scroll all the way down. And  
5 then 37. These are simply the, the factual recordings of,  
6 of the work that you did on the file.

7 When you reviewed them with your lawyer and with  
8 us, was there anything in those factual recordings that was  
9 not accurate? Do you want to go back to them?

10 A Sure, yeah.

11 Q So let's go back, starting two pages back at page  
12 35, please. So it goes through each date. Anything on  
13 page 35 that you think is not accurate?

14 THE COMMISSIONER: This is -- it's ... Aren't  
15 you on page 34 first? No?

16 MS. WALSH: Page 35 of our ...

17 THE COMMISSIONER: 35 is the only relevant one.  
18 I thought 34 was, too.

19 MS. WALSH: 35 has the heading at the top, the  
20 fourth protection opening. We scroll to the top of the  
21 screen, please.

22 THE COMMISSIONER: That's page thirty -- oh, I  
23 see, there's --

24 MS. WALSH: You know, Mr. Commissioner, what's  
25 confusing is that the --

1 THE COMMISSIONER: They're double-numbered. I  
2 see. I see.

3 MS. WALSH: The actual document is page 34 of the  
4 report, but in our disclosure it's page 35.

5 THE COMMISSIONER: I've got you.

6 MS. WALSH: Good. Thank you.

7

8 BY MS. WALSH:

9 Q So looking at page 35 of our disclosure, is there  
10 anything that's factually inaccurate? Can we scroll  
11 through the page, please, to the bottom.

12 A No, it looks accurate.

13 Q And then the next --

14 A Or, yes, it does.

15 Q -- page, 36, please.

16 A Yeah. It looks like it was copy and pasted from  
17 my file, so it's accurate --

18 Q It does.

19 A -- yes.

20 Q Yes. And so then the next page, 38 --

21 A Um-hum.

22 Q -- or sorry, 37, that's, that's the -- a copy of  
23 the letter that you sent?

24 A Copy, yeah.

25 Q Right?

1 A Yes.

2 Q So then we turn to the next page of the report,  
3 page 38. See at the top it says Interview with the  
4 Assigned worker?

5 A Um-hum.

6 Q But that's not you, is it? You told me you  
7 weren't interviewed by Mr. Koster?

8 A No, I, I don't think this is me.

9 Q Okay. I just wanted to, to clarify that. So  
10 let's look at Mr. Koster's findings starting at page 39.  
11 Finding 22:

12

13 "The letter to the Stephensons was  
14 an example of good practice.

15 Although it did not provide legal  
16 obligation for the Stephensons to  
17 call if Phoenix was taken from  
18 them by either parent, it did give  
19 leverage to them as caregivers if  
20 presented with that possibility.

21 At that point the worker thought  
22 that being a former foster parent  
23 that the people did not need  
24 stronger encouragement since they  
25 were already firmly on the side of

1                   protecting Phoenix."

2

3                   Have any comments about that?

4           A       No, I don't have any comments.

5           Q       Is that an accurate reflection of the rationale  
6 for your actions?

7           A       Yes.

8           Q       Finding 23:

9

10                   "The case file contained no  
11 returned envelope indicating that  
12 the Stephenson's had moved or that  
13 the letter had been returned.

14                   Often child welfare agencies will  
15 include returned postage in the  
16 case file to show that there was  
17 an attempt to notify clients and  
18 collaterals in protection  
19 situations."

20

21                   Did you send return postage with the letter of  
22 February 13, '04?

23           A       You mean so they could send something back to me?

24           Q       Yes.

25           A       No, I think, I think what it means is that if

1 something's --

2 Q If it came back.

3 A -- returned as wrong address or moved, or  
4 whatever, if it comes back to CFS, then we, we do put that  
5 in the physical file.

6 Q So if the letter had come back to you, you would  
7 have -- unopened, you would have put that in your file?

8 A Yeah. Like if it came back as undelivered --

9 Q Um-hum.

10 A -- mail, then I would definitely put it in the  
11 file.

12 Q Okay.

13 A But it didn't come back, in this case.

14 Q Right. Finding 24:

15

16 "The worker was right to believe,  
17 given the Stephenson's previous  
18 concern, that Phoenix would be  
19 safe there and that they would  
20 tell the agency if any attempt was  
21 made to pick her up.

22 The letter was clear in respect to  
23 Steve Sinclair not being able to  
24 pick up Phoenix without the  
25 agency's involvement. The

1                   Stephensons had been foster  
2                   parents of the agency and had  
3                   shown considerable caring for  
4                   Phoenix in the past and had  
5                   recently removed her from what  
6                   appeared to be a crack house.  
7                   Concerns about Samantha would have  
8                   already been known by the  
9                   Stephensons since they picked her  
10                  up from the mother's care  
11                  already."

12

13                  Now, you didn't establish that in fact, right?

14                  A    No, not in fact, no. I think -- no.

15                  Q    So that's an assumption on the report writer --

16                  A    Yeah. I was going to say I think it's an  
17                  assumption.

18                  Q    Okay.

19

20                  "Unfortunately, the separation of  
21                  the Stephenson's was not disclosed  
22                  to the worker at that time and was  
23                  only brought out after the death  
24                  of Phoenix."

25

1                   Do you know anything about a separation?

2           A       No.

3           Q       You did note that Mr. Stephenson said he wasn't  
4 living at the home?

5           A       Right.

6           Q       Okay.

7           A       But I thought it was because he worked out of  
8 town.

9           Q

10                   "Even today Kim Stephenson  
11                   (Edwards) indicates that she was  
12                   'house sitting' at a friends for  
13                   three months at this time."

14

15                   You never spoke with Mrs. Stephenson?

16          A       No.

17          Q

18                   "In hindsight, [Ron] Stephenson  
19                   had not been completely  
20                   forthcoming on the situation. The  
21                   worker would have had no reason to  
22                   disbelieve him since after all he  
23                   had picked up Phoenix when he  
24                   thought that she was in danger at  
25                   the crack house."

1           A     Yes.

2           Q     Now, if we refer to finding 25, still on page 39.  
3     The worker attempt -- do you have any other comments on  
4     that finding?

5           A     No. I ...

6           Q

7                     "The worker attempted to do the  
8                     right thing in her case management  
9                     of this file even though there  
10                    were some gaps that the agency  
11                    could and should have pursued  
12                    further.

13                   There would have been merit in  
14                   bringing this child into care  
15                   while she still remained at the  
16                   Stephensons but they were willing  
17                   to take Phoenix on a voluntary  
18                   basis, without this action, as  
19                   reported to them by [Ron]  
20                   Stephenson. The worker had also  
21                   indicated in her interview that  
22                   there was a large backlog in  
23                   assigning and assessing 'place of  
24                   safety' homes and this was not a  
25                   realistic option with a 1400 home

1                   backlog at the time."

2

3                   Now, that's not you?

4           A     Yeah. I have no recollection of that. I'm not  
5 sure if that was the CRU worker that he interviewed or if  
6 it was the place of safety worker, but I'm pretty sure I  
7 wouldn't have been aware of that.

8           Q     So first you said you weren't interviewed by Mr.  
9 Koster, right?

10          A     No. And I haven't been shown any notes to say  
11 that I have been interviewed by him.

12          Q     And aside from, from the source of the  
13 information, his information that he's recorded there, that  
14 there was a large backlog in assigning and assessing place  
15 of safety homes and this was not a realistic option with a  
16 1400 home backlog, this was a systemic issue beyond the  
17 case management of the worker, is that information that you  
18 gave or would have given Mr. Koster? Is that information  
19 that you were aware of?

20          A     That wouldn't be information that I would be  
21 aware of, no.

22          Q     Okay.

23          A     And I don't recall having any discussions with my  
24 supervisor or anybody about any kind of a place of safety  
25 backlog.

1 Q So that, that information that's documented  
2 there, that didn't factor into your decision-making --

3 A No.

4 Q -- when you were planning for Phoenix?

5 A No. Absolutely not. Like I said, I'm not sure,  
6 that could have been someone else that he had interviewed.

7 Q And then just reading to the end of that page:

8

9 "With the value of hindsight, this  
10 action would also have prevented  
11 the lack of co-ordination which  
12 appears to have occurred between  
13 the Stephensons and Winnipeg CFS  
14 in that a letter sent with the  
15 best of intentions may not have  
16 been received by them as the case  
17 closed in February of 2004.

18 It should be noted that the worker  
19 would probably not have been able  
20 to have the case transferred to an  
21 ongoing worker or sought a  
22 supervision order at this time in  
23 the agency. This would have been  
24 due to the fact that this case  
25 appeared to be stable on the short

1                   run and staff was apparently  
2                   dealing with high numbers of files  
3                   already. Workers talked of the  
4                   inability to keep cases open or  
5                   transfer them if they did not show  
6                   immediate crisis or children at  
7                   significant urgent risk."

8

9                   You want to comment on that?

10            A     Well, I think that's accurate in explaining the  
11            reasons why she was not apprehended because there wasn't an  
12            immediate crisis in the actual home that she was in, so  
13            that's kind of how it was looked at. And it is true that  
14            there was a high number of cases for intake workers as well  
15            as family service workers, so that is accurate.

16            Q     But the high number of cases that intake workers  
17            had, that wasn't a factor in your decision as to how to  
18            place Phoenix?

19            A     No.

20            Q     And then still on page 40, you see there's,  
21            there's a second finding 25:

22

23                   "Follow up with the Stephenson's  
24                   on this case would have been  
25                   beneficial and good practice due

1 to the chronic problems that the  
2 parents were now exhibiting.

3 In an ideal situation, the case  
4 worker would have been advised to  
5 follow up with the Stephensons in  
6 persons rather than just write a  
7 letter. This would have provided  
8 more emphasis to them on their  
9 concerns about the child going  
10 back to either parent and created  
11 a greater onus on the Stephensons  
12 to notify them if indeed this was  
13 attempted by either."

14

15 Anything you want to comment about that  
16 suggestion?

17 A I think it's a good suggestion.

18 Q There was nothing preventing you from going out  
19 and speaking with the Stephensons in person instead of --  
20 or in addition to sending the letter?

21 A Just my own time and, and workload that I was  
22 working with.

23 Q Now, you --

24 A I may not have gotten to it right away just  
25 because you're always getting more files every day, so it

1 may have, it may have fallen as less of a priority.

2 Q Are you saying that you intended to follow up the  
3 letter with an in-person visit but you didn't because of  
4 workload?

5 A No, I'm just saying that it's a good  
6 recommendation, if we had more time that, you know, to go  
7 out again would be a good idea if we could.

8 Q But you're not saying that anything prevented you  
9 from going out and doing it in this case?

10 A No. He's just saying that it's beneficial and  
11 good practice so I would agree with that.

12 Q Did your supervisor know that you did not follow  
13 up with an in-person visit after you sent the letter?

14 A Yes. Yes, he would have known everything that I  
15 had done on the file.

16 Q He didn't suggest going out and speaking with the  
17 Stephensons?

18 A Again? No.

19 Q Let's turn to page 78 still in this report.

20 THE COMMISSIONER: Page what?

21 MS. WALSH: 78. Of our disclosure.

22

23 BY MS. WALSH:

24 Q You see under the heading Foster Care there's  
25 recommendation 13, RW13.

1 THE COMMISSIONER: Wait a minute now. That's not  
2 page 78 of the Section 4 report. It is page 77 of the  
3 report or 78 in our disclosure.

4 THE COMMISSIONER: Oh, okay. Yes, I've got it.

5 MS. WALSH: Good.

6 THE COMMISSIONER: Yeah.

7

8 BY MS. WALSH:

9 Q So in the middle of the page there's a heading  
10 Foster Care, and an RW13. It says:

11

12 "That Winnipeg Child and Family  
13 Services will ensure that there are  
14 Procedures outlining safeguards for  
15 children in out-of-care-alternative-  
16 care Arrangements."

17

18 Now, was that what Phoenix was placed in with the  
19 Stephensons, an out-of-care alternative-care arrangement?

20 A Yes. Yes.

21 Q Out of care meaning she wasn't apprehended?

22 A Right. She was not in care, yeah.

23 Q Okay. So the recommendation goes on to say:

24

25 "Child safeguard procedures need

1                   to be added in order to provide  
2                   guidance to workers in determining  
3                   when child protection cases can be  
4                   closed after children are in out-  
5                   of-care,            alternative            care  
6                   arrangements."

7

8                   Do you think that having more of those types of  
9                   procedures would have been something you would have  
10                  welcomed?

11                 A     Yes.     I think it would have allowed for more  
12                  follow-up.

13                 Q     Do you think it would be a good idea to have a  
14                  requirement that a file should remain open when a child is  
15                  in an out-of-care alternative-care placement?

16                 A     Maybe for a period of time.

17                 Q     And then if the file remained open, that would  
18                  require that the agency -- and enable the agency to monitor  
19                  the child and the arrangement?

20                 A     Right.

21                 Q     See if the care providers need anything?

22                 A     Right.     Yeah, like for a period of time that  
23                  would be beneficial.

24                 Q     Because once the file is closed there's no more  
25                  contact with the family?

1 A Correct.

2 Q Anything else you want to comment on with respect  
3 to this recommendation?

4 A No.

5 Q Okay. So let's move to the Section 10 report  
6 starting at page 150. Now, at the top of the page it says:

7

8 "The intake worker ascertained  
9 that Phoenix remained on her  
10 father's income assistance budget.  
11 The referral source was contacted  
12 and provided additional  
13 information ..."

14

15 The reference to the intake worker, that's not  
16 you, is it?

17 A No. That would be the CRU worker who called the  
18 referral source.

19 Q Right.

20 A Yeah.

21 Q Okay. So my reading of this is that the  
22 reference to the work that you did starts further down on  
23 the page, the paragraph that begins:

24

25 "On January 21, 2004 Northeast

1 intake workers visited the home of  
2 [Kim] Edwards and [Ron]  
3 Stephenson."

4

5 A Yes.

6 Q And if we can scroll down to the bottom of that  
7 page, please. Those two paragraphs, are those factually  
8 accurate?

9 A No, I wouldn't agree with the last sentence where  
10 it said that it was decided to re-open the family services  
11 file because that wasn't decided. It was recommended by  
12 her but it wasn't decided by myself and Doug.

13 Q Right. That's what the family services  
14 supervisor recommended. But that's not what you decided?

15 A That's not what Doug and I decided, no.

16 Q Okay. You and Doug, Doug being your supervisor?

17 A Doug is my supervisor, yeah.

18 Q And in, in the second last paragraph where you  
19 refer to they:

20

21 "They found Phoenix there ...  
22 They were unable to unwilling to  
23 tell the workers ... what was  
24 happening with Mr. Sinclair ..."

25

1 you only spoke to, to Ron Stephenson, right?

2 A Right. It wouldn't be "they", it would just be  
3 Ron.

4 Q Okay. Anything else in those two paragraphs  
5 that's not accurate?

6 A No.

7 Q Let's turn to the next page, please, 151. Again,  
8 the first paragraph references, refers to the facts of the  
9 work that you did. Is there anything that's not accurate  
10 there?

11 A It looks accurate.

12 Q It's accurate.

13 And then the paragraph in italics:

14

15 "This intake established that at  
16 the time the Family Service file  
17 closed on November 13, 2003  
18 without contact with Mr. Sinclair,  
19 the statement that there were no  
20 child protection concerns was  
21 inaccurate. A home visit to Mr.  
22 Sinclair would have established  
23 that his daughter was not living  
24 with him in mid-November."

25

1           That doesn't really reference the work that you  
2 were doing.

3           A     No.

4           Q     That's the information that you discovered?

5           A     Yeah. This would have been before I got it.

6           Q     Okay. And then going on down the page, the next  
7 two paragraphs, the one beginning:

8

9                         "When Mr. Sinclair was asked why  
10                        he had changed Phoenix's living  
11                        arrangements ..."

12

13 and the following one, is there anything inaccurate in  
14 those recordings?

15           A     Well, I think the part where it references Ms.  
16 Edwards was unwilling to state what the couple knew, it  
17 wasn't her that I talked to, it was Ron. So it's not quite  
18 accurate in there.

19           Q     Okay. So then in italics, the report goes on to  
20 say:

21

22                         "At this point, the Agency was  
23                        acquiescing to an arrangement for  
24                        Phoenix that was tenuous at best.  
25                        Mr. Sinclair had not satisfied the

1 Agency about his whereabouts and  
2 the circumstances under which  
3 Phoenix reportedly had lived with  
4 him, Ms Kematch and Ms Edwards in  
5 the space of less than three  
6 months, from October 2003 to  
7 January 2004. (The Agency's  
8 conversation with Ms. Kematch  
9 later in 2004 offered little  
10 illumination as to what she had  
11 been doing either.) In addition,  
12 the Agency now knew that Mr.  
13 Stephenson ..."

14

15 Turn the page, please:

16

17 "... and/or Ms. Edwards felt no  
18 need to advise the Agency that  
19 Phoenix's living situation was  
20 unstable. As they did not have  
21 legal custody of Phoenix, she was  
22 vulnerable to being reclaimed by  
23 whichever parent was in the mood  
24 to resume caring for her again.  
25 This is, in fact, what happened -

1 Ms. Kematch reclaimed her daughter  
2 and, despite the Agency's  
3 misgivings about both parents,  
4 nothing further was done to  
5 ascertain that Phoenix was living  
6 in a stable, nurturing home  
7 environment. In fact, the  
8 Agency's risk statement quoted  
9 above was clear that she would not  
10 be considered safe if she lived  
11 with either of her biological  
12 parents.

13 What did the Agency do to address  
14 this situation?"

15

16 Want to comment on those findings?

17 A Well, I, I didn't have any knowledge of what  
18 happened after I had closed it so I wasn't aware of what  
19 he's describing happened later in 2004.

20 Q Right.

21 A I wouldn't have any knowledge of that because the  
22 file was not re-opened to me the next time.

23 Q Yes. What about the comments about the tenuous  
24 nature, as this reporter describes, report-writer describes  
25 it, of the living arrangements?

1           A     Well, I don't think it was tenuous. I would  
2 agree that it wasn't a legal arrangement, but at the time I  
3 think the agency was believing that Ms. Edwards and Mr.  
4 Stephenson were cooperative and that they were going to  
5 work in the best interests of Phoenix's safety if either  
6 parent came back to reclaim her, so just trusting that they  
7 would call us.

8           Q     Okay. And that's consistent with what you've  
9 told us this morning about the letter that you sent and the  
10 discussion that you had with Mr. Stephenson.

11          A     Right.

12          Q     And in neither the letter nor your discussion did  
13 you focus on Ms. Kematch?

14          A     No. I mean, she was mentioned but it wasn't the  
15 focus.

16          Q     And you didn't --

17          A     And her file wasn't opened at the time. I mean,  
18 in an ideal world her file could have been opened even to a  
19 different worker to maybe follow up with her at the same  
20 time I was doing this, but I guess it was the decision at  
21 CRU to not open her file.

22          Q     Was it typical, when you were working at intake,  
23 to have two files open at the same time if there were two  
24 parents with separate protection files?

25          A     Well, I don't recall that it was typical, but I

1 think that the file would get opened under whoever had the  
2 care and control of the child at the time of the opening.

3 Q Right. But if both parents still had legal  
4 guardianship and entitlement to be with the child, would  
5 both files be opened? Was that ever something that  
6 happened?

7 A I don't recall, no.

8 Q Is that something you ever did?

9 A Not that I recall, because I would just get the  
10 file that was open at the CRU level.

11 Q So you typically only focused at one parent at a  
12 time?

13 A If that's how it was opened, yes.

14 Q And that's what you said you did in this case,  
15 you focused on Mr. Sinclair and not Ms. Kematch?

16 A Right. Because that was the file that I  
17 received, yeah.

18 Q So then still on page 152:

19

20 "The income assistance worker had  
21 emailed the Agency on February 5,  
22 2004 asking about the plans for  
23 Phoenix. From the file, it is  
24 clear that the plan involved  
25 leaving Phoenix with Kim Edwards

1                    indefinitely but without any plans  
2                    to ensure that at least one of her  
3                    parents became an acceptable  
4                    caregiver. What kind of future  
5                    would Phoenix have under these  
6                    conditions?"

7

8                    Have anything you want to comment about those  
9 findings?

10                  A     No.

11                  Q     And let's turn to page 176 of the report, please.

12                    THE COMMISSIONER: Page?

13                    MS. WALSH: Under Recommendations. 176.

14

15 BY MS. WALSH:

16                  Q

17                    "Recommendation One  
18                    The chief medical examiner  
19                    recommends that the child  
20                    protection branch develop a  
21                    program standard to address the  
22                    use of private arrangements when  
23                    there are child protection  
24                    concerns such as abandonment,  
25                    abuse or neglect. Further, the

1 chief medical examiner recommends  
2 that adult participants in such  
3 arrangements be clearly advised  
4 that no child is to be placed  
5 elsewhere, including with the  
6 original caregiver(s), until the  
7 appropriate agency has been  
8 advised and has assessed the  
9 situation in which the child would  
10 be living.

11 The Declaration of Principles for  
12 The Child and Family Services Act  
13 includes the following statement:  
14 'Families and children have the  
15 right to the least interference  
16 with their affairs to the extent  
17 compatible with the best interests  
18 of children and the  
19 responsibilities of society.'

20 The child welfare doctrine of  
21 least intrusive intervention  
22 should not result in the province  
23 withdrawing from cases involving  
24 the protection of children and  
25 entrusting a family with a history

1 of abandonment, abuse or neglect  
2 to make choices which further  
3 compromise the children's safety.  
4 This can be the result of choosing  
5 a poorly functioning family as  
6 alternate caregivers or choosing  
7 alternate caregivers who will  
8 defer to the family and surrender  
9 the children without protest or  
10 without notifying a child welfare  
11 agency to ensure the children's  
12 safety. The Agency's involvement,  
13 whether active (by assessing or  
14 completing any checks on the  
15 alternate caregivers) or passive  
16 (by not opposing the placement),  
17 makes it a part of this process  
18 and should provide the child in  
19 question with the protection of  
20 the child welfare system."

21

22 Have anything to comment about that  
23 recommendation? There be:

24

25 "... a program standard to address

1           the use of private arrangements  
2           when there are child protection  
3           concerns ..."

4

5           A     I don't really have any comment about that, no.

6           Q     Okay. The recommendation:

7

8                     "... that adult participants in  
9                     such arrangements be clearly  
10                    advised that no child is to be  
11                    placed elsewhere, including with  
12                    the original caregiver(s), until  
13                    the ... agency has been advised  
14                    ..."

15

16          A     I think that's a good idea, yeah.

17          Q     And in fact, when care providers are made into a  
18 formal place of safety, we saw they have to sign an  
19 agreement whereby they specifically indicate that they're  
20 aware that they must not give the child to anyone else?

21          A     Yes. They're made aware of that, yes.

22          Q     That's -- but that's in a formal place of safety  
23 arrangement?

24          A     Right.

25          Q     And finally, let's take a look at the internal

1 case review. At page 38008 you see there's -- can you  
2 scroll down, please, so we can see more of the page?

3 A Sorry, did you say this is an internal --

4 Q Yes, let's --

5 A -- child and family review?

6 Q -- go back up to the top of the page, please.

7 So this is a report that was prepared by Rhonda  
8 Warren at the request of the general authority.

9 A Okay.

10 Q My understanding is it was a file review, meaning  
11 that she did not speak with any workers. The first time  
12 you were shown this report was in preparing for this  
13 inquiry?

14 A Right. Yes.

15 Q Okay. So you remember having looked at this in  
16 our office and with your lawyer?

17 A Yes.

18 Q Okay. So under the heading February 5, 2004, you  
19 see that there's a description of your work, if you look at  
20 those first few paragraphs. Can you tell me, please,  
21 whether that description is accurate?

22 A Yes, it looks accurate.

23 Q Okay. And then, where, in the second full  
24 paragraph, where it says:

25

1            "It appears that no contact was  
2            ever made with Samantha to discuss  
3            the original concerns that  
4            resulted in the referral to the  
5            Agency. Also there is no  
6            recording that Samantha was told  
7            that she was not to remove Phoenix  
8            from the Stephenson's care without  
9            the Agency's notification and  
10           assessment. The letter to the  
11           Stephenson's does state that the  
12           Social Worker did inform Steve  
13           that he was not to remove Phoenix  
14           from their care 'without  
15           contacting the Agency and having a  
16           risk assessment done'.  
17           Unfortunately, the letter does not  
18           specifically state that Samantha  
19           was also not to resume care of  
20           Phoenix without the Agency's  
21           reassessment even though the  
22           letter does state that the Agency  
23           did have concerns."

24

25            Is there anything you want to comment on those

1 findings?

2 A No.

3 Q Okay. And then, if you turn to page 38033.  
4 These are now a series of questions that were posed to Ms.  
5 Warren, I believe, by the general authority, and then in  
6 italics are her answers.

7 So if you scroll towards the bottom of the page,  
8 please, the question:

9

10 "Was another assessment conducted  
11 on the Stephenson home prior to  
12 the agency's agreement to agree to  
13 the private arrangement?"

14

15 And so what the report writer has written is:

16

17 "Intake Workers attended the  
18 Stephenson home on January 21,  
19 2004. Information gained from  
20 Rohan ... at this time is quite  
21 concerning in that the file was  
22 closed with no further contact.  
23 Rohan either did not know or  
24 refused to say what Steve was up  
25 to or how Phoenix happened to be

1 in their care.

2 Rohan stated that they would be  
3 prepared to look after Phoenix for  
4 as long as necessary on a private  
5 basis.

6 Rohan stated that he did not  
7 actually live there, but stays  
8 there sometimes.

9 If Rohan did not actually live in  
10 the home it is not understood how  
11 the Agency could accept his  
12 commitment on behalf of Kim. File  
13 notes do not indicate that the  
14 Intake Workers even talked to Kim  
15 directly to further assess the  
16 safety or suitability of the  
17 placement."

18

19 Is there anything you want to comment on there?

20 A No, I don't have any comment.

21 Q And then over to the top of the next page, the  
22 bullets continue:

23

24 "Intake Workers did consult with  
25 both their supervisor and the

1 previous supervisor when the case  
2 was last open to Family Services.  
3 Both supervisors supported the  
4 placement.

5 Intake Workers could not get in  
6 touch with Samantha as she was out  
7 of town 'travelling'.

8 Intake Workers did talk to Steve  
9 who was evasive but did agree that  
10 Phoenix should stay with Kim and  
11 Rohan."

12

13 You want to comment on anything there?

14 A No, that looks accurate.

15 Q So that first bullet:

16

17 "Intake Workers did consult with  
18 both their supervisor and the  
19 previous supervisor when the case  
20 was last open to Family Services.  
21 Both supervisors supported the  
22 placement."

23

24 That's the family services supervisor is Heather  
25 Edinborough, right?

1 A Right.

2 Q And she also recommended that you open the file  
3 to family services while Phoenix was with the Stephensons?

4 A Right.

5 Q And you didn't --

6 A And she also agreed that they were a good  
7 placement.

8 Q Yes.

9 A Yeah.

10 Q But she said the file should remain open?

11 A Right.

12 Q And you closed it?

13 A Right.

14 Q The bullet that says:

15

16 "Intake Workers could not get in  
17 touch with Samantha as she was out  
18 of town 'traveling'."

19

20 You didn't actually attempt to get in touch with  
21 Samantha, did you?

22 A No.

23 MS. WALSH: Okay. Those are my questions, Mr.  
24 Commissioner.

25 THE COMMISSIONER: All right. Thank you, Ms.

1 Walsh. We'll take a 15-minute break and reconvene in 15  
2 minutes time from now. So, we stand adjourned.

3 MS. WALSH: Thank you.

4 THE COMMISSIONER: Witness, you can leave your  
5 chair and come back in 15 minutes.

6 THE WITNESS: Thank you.

7 THE COMMISSIONER: Thank you very much.

8 MS. WALSH: Thank you, Ms. Conlin.

9

10 (BRIEF RECESS)

11

12 THE COMMISSIONER: Mr. Saxberg.

13 MR. SAXBERG: Thank you, Mr. Commissioner.

14

15 CROSS-EXAMINATION BY MR. SAXBERG:

16 Q It's Kris Saxberg. I act for ANCR and the  
17 authorities other than the Métis authority.

18 Could we call up page 39.

19 THE COMMISSIONER: Now, has that got a larger  
20 number to it? Oh, oh, it's one of the reports, is it?

21 MR. SAXBERG: That's right. Bottom right-hand  
22 corner.

23 THE COMMISSIONER: Which report is this?

24 MR. SAXBERG: It's the Section 4 report.

25 THE COMMISSIONER: What page?

1 UNIDENTIFIED PERSON: 39.

2 MR. SAXBERG: 39.

3 THE COMMISSIONER: All right.

4

5 BY MR. SAXBERG:

6 Q I just want to ask, begin by asking you generally  
7 about private arrangements in the child welfare field.

8 A Um-hum.

9 Q Do you agree that in 2004 private arrangements  
10 were used from time to time by Winnipeg CFS?

11 A Yeah, it was pretty common.

12 Q That it was pretty common?

13 A Like, it was pretty typical, yes.

14 Q And those private arrangements essentially being  
15 situations where the family has, on its own safety planned  
16 or created a situation wherein a child is in safe care; is  
17 that fair?

18 A Sometimes it would be initiated by the family;  
19 sometimes it would be explored by the worker to see whether  
20 they had somebody that they knew.

21 Q And is it fair to say that in 2004 Winnipeg CFS  
22 was concerned with ensuring that it complied with the  
23 principle in the CFS Act of least intrusiveness where  
24 possible? Is that fair?

25 A Yeah, that's pretty fair, yeah.

1 Q And least intrusiveness is a principle set out at  
2 the very beginning of the Child and Family Services Act,  
3 it's item number four. You're familiar with that?

4 A Um-hum. Yes.

5 Q And that's the principle that says families and  
6 children have the right to the least interference with  
7 their affairs to the extent compatible with the best  
8 interests of children and the responsibilities of society?

9 A Yes.

10 Q And would you agree, or do you believe that the  
11 private arrangement that you put into place with the  
12 Stephensons' and Mr. Sinclair's agreement was something  
13 that complied with that principle?

14 A Yes.

15 Q And as we see, Mr. Koster, in his Section 4  
16 report, he agreed with that as well in finding 22, where he  
17 said:

18

19 "The letter to the Stephensons was  
20 an example of good practice."

21

22 A Yes.

23 Q You agree with that?

24 A Yes.

25 Q And a private arrangement really is an

1 alternative to apprehension, isn't it?

2 A Yes, it can be.

3 Q And it's, it's the least intrusive way to protect  
4 the child compared to apprehension?

5 A Right.

6 Q Would you agree with that?

7 A Yes.

8 Q And apprehensions are a very serious matter, are  
9 they not?

10 A Yes.

11 Q And they're not something that, that you would do  
12 lightly in terms of --

13 A No.

14 Q -- taking a child away from their parents?

15 A No, it's usually the last resort when there's no  
16 other alternatives.

17 Q And in this case you found there was an  
18 alternative; it was that Phoenix was with -- who'd been  
19 referred to as the godparents, the Stephensons, correct?

20 A Correct.

21 Q And that was something that -- and you were fine  
22 with that because they had just recently been a place of  
23 safety when Phoenix had been apprehended, correct?

24 A Correct. And it was also recommended that they  
25 could be used again.

1 Q Right. And so as an intake worker, you've  
2 indicated you would come across private arrangements, and I  
3 think you said they, they were fairly common. What was  
4 your practice when, when you encountered private  
5 arrangements?

6 A Just to ensure the safety of the child in that  
7 home.

8 Q Was it your regular practice to, to do a letter  
9 along the lines of your February 13, 2004 letter?

10 A No, there wasn't any kind of a standard or  
11 expectation that a letter is written. I guess it would be  
12 up to the worker if they want to write such a letter.

13 MR. SAXBERG: And if we could just call up the  
14 letter. It's CD1796 page 37449.

15 Mr. Commissioner, you've got it in the report  
16 that you're looking at, the Section 4 Koster report, the  
17 letter is reproduced in there, if that's convenient for  
18 you..

19 THE COMMISSIONER: At what page?

20 MR. SAXBERG: Two pages back, at 37.

21 THE COMMISSIONER: Yes, I have it.

22 MR. SAXBERG: Okay.

23

24 BY MR. SAXBERG:

25 Q And, firstly, it's expected that the evidence

1 that this Commission will hear is that Rohan Stephenson  
2 acknowledges that he received this letter. Were you aware  
3 of that?

4 A No, I'm not aware of that.

5 Q And are you aware that it's expected that the  
6 evidence of Rohan Stephenson is that he was living at that  
7 home at the time? You aware of that?

8 A Well, I haven't been given information about his  
9 evidence.

10 Q Right. But you'd, you'd been questioned along  
11 the lines of a presumption that Mr. Stephenson was not even  
12 living at the home and so, you know, would -- why did you  
13 do what you did. And I'm just asking, letting you know  
14 that Mr. Stephenson's anticipated evidence is that he was  
15 living at the home.

16 A Right. And I had assumed that he did live at the  
17 home and that he just worked out of town and then returned  
18 back. That was my understanding of, of his explanation.

19 Q And in terms of the issue of advising Mr.  
20 Stephenson that you had a concern about Samantha, just  
21 referring you to your letter where you say, in the fourth  
22 sentence:

23

24 "I have told Steven that the  
25 agency has serious concerns about

1                   his current lifestyle, as well as  
2                   Samantha's."

3

4                   You see that?

5           A       Yes.

6           Q       So I mean, clearly you're conveying in this  
7 letter that Mr. Rohan says he received, that you -- the  
8 agency have serious concerns about Samantha.

9           A       Correct.

10          Q       And now if we could turn to page 37355. It's  
11 from the closing summary that you prepared. And if we look  
12 at the paragraph just above the heading Statement of risk.

13          A       Um-hum.

14          Q       And I think it's the fourth sentence, the, the  
15 sentence that begins, worker has therefore. Do you see  
16 that?

17          A       Yeah.

18          Q       I'm going to quote that. Says --

19                   THE COMMISSIONER: What page are you on?

20                   MR. SAXBERG: This is on page 37355.

21                   THE COMMISSIONER: Oh, yes. I have it.

22

23   BY MR. SAXBERG:

24          Q       The paragraph begins:

25

1                    "This worker cannot make an  
2                    accurate assessment of Steve's  
3                    current lifestyle due to lack of  
4                    information provided. This worker  
5                    would therefore determine that  
6                    Phoenix would be at high risk of  
7                    coming into care should she return  
8                    to Steven's care. She would also  
9                    be at high risk of coming into  
10                    care should she be found [to be]  
11                    in Samantha's care."

12

13                    So clearly, your view, your assessment is that if  
14 Phoenix is with either parent, it's a high risk situation?

15                    A     Right. That was my assessment, yeah.

16                    Q     And so that's the, that's what you would have  
17 been communicating at the time when you were having your  
18 discussions with Rohan, I suggest to you.

19                    A     Um-hum.

20                    Q     And I'm going to ask you to look at the sentence,  
21 then, that says:

22

23                    "Worker has therefore safety  
24 planned ..."

25

1 A Yeah.

2 Q

3 "... with the current caregivers  
4 to Phoenix, the Stephensons."

5

6 Do you see that?

7 A Yes.

8 Q Wouldn't -- that to me suggests that you would  
9 have told them about the view that Samantha would pose a  
10 risk?

11 A Well, I believe that I, I likely asked him about  
12 whether he knew anything about her because that's why, that  
13 was the original informant's concern, was about her.

14 Q Right. So I mean, in --

15 A So I would have asked him how Phoenix ended up  
16 with him, but he wasn't clear in that, so ...

17 Q In fairness, I mean, you don't have specific  
18 recollections of the discussion.

19 A No.

20 Q But what I'm putting to you is that on the basis  
21 of the fact that you safety-planned and that you were of  
22 the view that Samantha was a high risk, it's --

23 A Yeah.

24 Q -- likely that you addressed that with Rohan,  
25 isn't it?

1 A Yeah, for sure.

2 Q And another issue, you'd agree, is, at this point  
3 in time, Samantha wasn't a threat, she was out of town.  
4 Was that something that you were considering?

5 A Yeah, that was the information I had.

6 Q And also, the reality is that the, the file  
7 showed that Samantha hadn't been involved in Phoenix's life  
8 for years; isn't that the case?

9 A Yes.

10 Q She, since she left Steven in 2001 --

11 A Right.

12 THE COMMISSIONER: Well, did you say you didn't  
13 consider her a risk because she was out of town?

14 THE WITNESS: Well, I didn't have any contact  
15 with her because she was out of town.

16 THE COMMISSIONER: I see. I thought you were  
17 agreeing that -- with counsel that, that she was not a risk  
18 in this situation because she was gone out of town.

19 Isn't that what you asked her?

20 MR. SAXBERG: Well, what I'm saying is that in  
21 the context of being concerned about Samantha --

22 THE COMMISSIONER: Yes.

23 MR. SAXBERG: -- and the immediate safety of  
24 Phoenix --

25

1 BY MR. SAXBERG:

2 Q -- one issue, one factor was that your  
3 information was that Samantha was out of town?

4 A Yeah, that's all the information I had.

5 Q And I mean, it's been suggested to you that you  
6 should have been more concerned and more vocal about this  
7 potential threat that Samantha posed of coming and picking  
8 up Phoenix. That, that was the assertion that was put to  
9 you several times during --

10 A Yeah.

11 Q -- the direct examination. Do you agree?

12 A Yes.

13 Q And what I'm saying is, was it a factor that,  
14 upon review of the file, you'd note that Samantha wasn't  
15 part of Phoenix's life for years at that point in time?

16 A Right.

17 Q In other words, Samantha wasn't someone who,  
18 according to the information in the file, was trying to be  
19 involved in Phoenix's life. She, she was not in the  
20 picture?

21 A Right.

22 Q And so wouldn't that factor into, you know, your,  
23 your concern about the, the risk of Samantha coming to pick  
24 up Phoenix? That would have been a factor, wouldn't it?

25 A Yeah, I assume it would be a factor.

1 Q Samantha's own actions had demonstrated that she  
2 wasn't interested in parenting Phoenix in the past?

3 A Right.

4 Q And if we look at -- sorry to jump around, but if  
5 we go back to that letter, it's at 37449, that's the  
6 February 13th, 2004 letter, and the last line here says:

7

8 "Should you have ... further  
9 questions please call this writer  
10 ... or after hours at 944-4050."

11

12 You see that?

13 A Yeah.

14 Q And the reason for including the after-hours  
15 number was what?

16 A Just so they could have access to speak to a  
17 worker if it was after 4:30.

18 Q Right.

19 A Or on weekends, or if, if anything was occurring  
20 in the evenings or on weekends I wouldn't be in the office.

21 Q So if there was an emergency or if, as you warn  
22 in here, if Steven attempted to pick up Phoenix, they could  
23 call that number and there'd be someone from Winnipeg CFS  
24 there to answer the phone and deal with the matter --

25 A Yes.

1 Q -- correct?

2 A Yeah.

3 Q And just apropos that, you, you were referred to  
4 two e-mails from Employment and Income Assistance. The  
5 first was a May 10th e-mail and then there was a May 12th  
6 e-mail. You, you remember those questions?

7 A Um-hum.

8 Q Yes?

9 A Yes.

10 Q And seemed to me that there was an inference from  
11 that that nothing had been done in response to those  
12 e-mails.

13 A Nothing by me?

14 Q Yeah. It seemed -- but it seemed that there was  
15 an inference that CFS wasn't responding to those e-mails  
16 and that something wasn't going on. Are you aware that  
17 intake had opened a file with reference to the information  
18 in those e-mails on May 11th?

19 A No, I don't recall that. That was after the  
20 e-mail was sent to me?

21 Q No, it's in between both e-mails. If we could  
22 turn to page 37344. This is a May 11, 2004 CRU intake  
23 form.

24 A Okay.

25 Q Do you see that?

1 A Yeah.

2 Q And if you -- if we could scroll down to the  
3 presenting problem. Keep going. Right there.

4 Under Presenting Problem it says:

5  
6 "[Blank] called to report that  
7 Samantha has brought in a letter  
8 from her lawyer claiming that she  
9 has been caring for Phoenix since  
10 Nov./03"

11  
12 Do you see that?

13 A Yeah. Yes.

14 Q So it's pretty clear that you were sent an e-mail  
15 by Employment and Income Assistance on May 10th and that  
16 Winnipeg CFS opened up a new file to deal with this matter  
17 the very next day?

18 A Right. And I think I had indicated that if the  
19 file wasn't open --

20 THE COMMISSIONER: Just one moment. I'm just not  
21 getting this. I've got to find that, that document.

22 MS. WALSH: Mr. Commissioner, I don't know that  
23 you would have a hard copy of that document. I think you  
24 were only given hard copies of the documents that we knew  
25 we were referring to.

1 THE COMMISSIONER: I guess that's the answer.

2 MS. WALSH: Yes.

3 MR. SAXBERG: Okay. It's -- for you, for you --

4 THE COMMISSIONER: Just start that line of  
5 question again. What is this document?

6 MR. SAXBERG: This is a new Winnipeg CFS CRU  
7 intake report relating to the information that's being  
8 conveyed by Employment and Income Assistance. First  
9 e-mailed to this witness on May 10th.

10 THE COMMISSIONER: On what date is this document?

11 MR. SAXBERG: If we could go to the top. It's  
12 May 11th, 2004. And for your note, it's page number 37344.

13 THE COMMISSIONER: Yes.

14 MR. SAXBERG: And that's in Mr. Sinclair's file  
15 at CD1796.

16 THE COMMISSIONER: Yeah, I see what's happened.  
17 I -- all the documents I have are those that the Commission  
18 counsel contemplated being referred to, but naturally they  
19 wouldn't know what ones you were going to refer to so I'm,  
20 I'm with you now but I won't necessarily have your  
21 documents here. That's fine, I'll follow it on the screen.

22 MR. SAXBERG: Okay. Thank you.

23

24 BY MR. SAXBERG:

25 Q On January 21st, 2004 you met with Rohan

1 Stephenson. You, you testified about that.

2 A Yeah. Yes.

3 Q Did he tell you, during that meeting, that Kim  
4 Edwards' involvement with Phoenix had tapered off?

5 A No.

6 Q Did, did she -- did he tell you that Kim Edwards  
7 had left him and left the house and the children, including  
8 Phoenix --

9 A No.

10 Q -- in December of 2003?

11 A No.

12 Q Did he tell you that he found it difficult that  
13 he was working night shifts and had to get his own children  
14 to school and have Phoenix there as well?

15 A No.

16 Q Did he tell you that he was tired, had no help or  
17 support at the time with respect to his children and  
18 Phoenix, including from Kim Edwards?

19 A No.

20 Q And of course, had he told you that information,  
21 would have been pretty relevant to you in your assessment  
22 of whether Phoenix was in a safe place, correct?

23 A Right. It would have been.

24 Q Critical?

25 A Yeah, very concerning.

1 Q Critical information and it wasn't disclosed to  
2 you, and if it was you'd have put it in your notes,  
3 correct?

4 A Correct.

5 MR. SAXBERG: Okay. Those are my questions.

6 THE COMMISSIONER: Thank you, Mr. Saxberg.

7 Mr. Gindin.

8

9 CROSS-EXAMINATION BY MR. GINDIN:

10 Q Hi. My name is Jeff Gindin, I appear for Kim  
11 Edwards and Steve Sinclair.

12 In your last few answers to Mr. Saxberg, you were  
13 asked about Samantha and the fact that she was out of town  
14 and therefore was less of a concern. Recall that?

15 A Yes. Yes.

16 Q Did you know where she was?

17 A No, I didn't know where she was.

18 Q Did you know how long she was gone?

19 A No.

20 Q Did you know when she was planning to return?

21 A No.

22 Q Did you know where "out of town" was?

23 A No.

24 Q I can have you take a look at page 37352, please.

25 Actually, the next page, sorry. Looking at that page,

1 under the word Assessment, if you can raise it up a little  
2 bit, please.

3 So that tells us that the file was re-opened  
4 January 16th, 2004, correct?

5 A Correct.

6 Q And that you got the file a few days later.  
7 Remember you told us that?

8 A Correct.

9 Q Right. And what it says there was:

10

11 "The referral came from a friend  
12 of Samantha Kematch, mother of  
13 Phoenix. {And this person]  
14 reported that she had been living  
15 with Samantha and Samantha's  
16 mother. [Right] At some point in  
17 mid-November/03 Phoenix was  
18 brought to Samantha's home ..."

19

20 See that?

21 A Yes.

22 Q So you were aware, then, that actually Samantha  
23 was involved with Phoenix only a few months earlier?

24 A Yes.

25 Q Not as Mr. Saxberg suggests, that she wasn't

1 involved for years?

2 A Right. Yeah, I thought about that after, too,  
3 yeah.

4 Q Yes. And it goes on to talk about how there's  
5 lots of fighting in the home, correct?

6 A Um-hum.

7 Q And that she goes out drinking frequently,  
8 leaving Phoenix with someone, right?

9 A Right.

10 Q And there's an allegation that someone's smoking  
11 rock in the presence of Phoenix?

12 A Yes.

13 Q Those are serious things?

14 A Um-hum. Yes.

15 Q Right? So clearly, there's a risk --

16 A Yes.

17 Q -- if Samantha gets anywhere near Phoenix?

18 A Right.

19 Q Right? And in fact, we know from the information  
20 that you had gathered, that that had just occurred?

21 A Right.

22 Q Not that long prior?

23 A Right.

24 Q And had just occurred after Steve was supposed to  
25 be taking care of Phoenix?

1 A Um-hum.

2 Q So your concern was that either of the parent  
3 really shouldn't be taking care of Phoenix?

4 A Right.

5 Q And you were happy that, in fact, Kim and Rohan  
6 were?

7 A Yes.

8 Q But there was nothing in place that could prevent  
9 Samantha from simply showing up again, as she had only a  
10 few months earlier, and wanting to see her child, nothing  
11 legal in place?

12 A Nothing legal, no.

13 Q No. So it wouldn't be accurate to say that  
14 Samantha was not in the picture; your information was that  
15 she had just been in the picture?

16 A Um-hum. Yes.

17 Q And not just in the picture, but Phoenix was  
18 actually with her, right?

19 A Allegedly, yes.

20 Q Allegedly while someone was smoking rock in her  
21 presence, which you --

22 A That was the allegation, yes.

23 Q Which you understood to be crack cocaine?

24 A Right.

25 Q Right. You had made no contact with Samantha --

1 A No.

2 Q -- so you didn't really know very much --

3 A No.

4 Q -- in terms of where she was, when she was coming  
5 back, what her plans were?

6 A No.

7 Q Right? So whether or not Rohan might have told  
8 you certain things that were suggested to you, that didn't  
9 change, really, the fact that Samantha was the danger, was  
10 dangerous for Phoenix, based on everything you knew and  
11 everything you read, right?

12 A Well, I believe I had said that Phoenix would be  
13 at risk if she was with her mother, yes.

14 Q Yes.

15 A Because I wasn't able to assess what was going on  
16 with her.

17 Q Okay. Just go back to when the file was assigned  
18 to you, which was January 16th, we see from the  
19 information, correct? You may not, you may not have seen  
20 the file for a few days.

21 A I think it was the 20th.

22 Q Okay. That's when you received it?

23 A Yeah.

24 Q Okay.

25 A Yeah, it was January 20th.

1 Q And we've, we've heard that on January the 16th  
2 someone had assessed the response time to be five days,  
3 right?

4 A That was the CRU worker.

5 Q Right. And you had gotten the file, four days  
6 had gone by already?

7 A Right.

8 Q You indicated that you were not concerned about  
9 that because you still had a day to, to follow up?

10 A Right. And I did.

11 Q Were you concerned at all whether that was okay  
12 for Phoenix, that four days had gone by? Might have been  
13 okay for you because you still had a day to work with.

14 A Right.

15 Q But the fact remains that four days had gone by  
16 already since the response time was assessed at five days,  
17 right?

18 A Right.

19 Q Okay. You were asked how the file gets assigned  
20 to you.

21 A Um-hum.

22 Q And I think you said on a rotation basis?

23 A Yes.

24 Q And that was your understanding of the way files  
25 were assigned?

1 A Yes.

2 Q So they weren't assigned on the basis of  
3 complexity or experience?

4 A No. They were assigned on a rotation basis of  
5 whoever's turn it was would get the next file.

6 Q So whoever's turn it happened to be, they'd get  
7 the file?

8 A Right.

9 Q Right? And I understand that you put the file,  
10 or the file was simply put on your desk by way of a piece  
11 of paper advising you?

12 A Yes.

13 Q That is, nobody sat down with you and said,  
14 here's some, something we should discuss?

15 A Not initially, no.

16 Q Okay. Also, you told us about checking with a  
17 previous supervisor, I think that was Heather Edinborough,  
18 who had advised that the file be transferred to family  
19 service -- to a family service worker?

20 A Yes.

21 Q And you'd agree with me that Heather Edinborough  
22 was far more experienced than you were? Do you know her?

23 A Well, she was a supervisor, yeah. I didn't know  
24 her personally.

25 Q First of all, she was a supervisor?

1 A Right.

2 Q And you weren't?

3 A Right.

4 Q And secondly, we've just heard from her and she's  
5 now retired, so she's had a lot of experience, you'd agree?

6 A Yes.

7 Q You didn't follow that advice?

8 A No.

9 Q Nor did your supervisor?

10 A Well, I had my own supervisor, yes.

11 Q Yeah. So the two of you both decided not to  
12 follow her advice?

13 A Correct. I think her advice was to transfer the  
14 file so that they could determine where Phoenix should live  
15 and my supervisor and I had already done that.

16 Q Other words, you knew --

17 A So we had felt like that had already been  
18 decided.

19 Q You also decided to close the file?

20 A Right.

21 Q Had the file remained open, then the matter would  
22 have been monitored, correct? That's what you do when a  
23 file's open; is that right?

24 A Well, you make attempts to, yes.

1 Q No, but if the file had -- if you had decided to  
2 keep the file open a little longer, then it would have been  
3 monitored?

4 UNIDENTIFIED PERSON: (Inaudible) close to you  
5 (inaudible).

6

7 BY MR. GINDIN:

8 Q Is that right?

9 A Are you talking about if I kept it open on intake  
10 longer?

11 Q Yes. You closed it in February of '04.

12 A Right.

13 Q About three weeks or so after you became  
14 involved?

15 A Um-hum.

16 Q Right? We know that your opinion was that if the  
17 child ended up with Steven or Samantha, the child would be  
18 at high risk?

19 A Right.

20 Q Right? You didn't know that much about Samantha,  
21 where she was, right?

22 A No.

23 Q Had you kept the file open longer, that would  
24 have meant that there would have been some monitoring going  
25 on, correct? That's what happens when a file remains open;

1 is that right?

2 A Correct.

3 Q So you're agreeing then, right?

4 A Yeah. I think every attempt would be made to  
5 continue monitoring.

6 Q If the file was kept open?

7 A Right. But there's a limit on how long you can  
8 keep a file open at intake. It's 30 days.

9 Q Thirty days is the limit?

10 A Yeah.

11 Q Okay.

12 A So I wouldn't have been able to keep it open just  
13 indefinitely to wait to see if something happened months  
14 later.

15 Q Doesn't matter what the risk, you were going to  
16 follow a certain deadline, is that it?

17 A Well, I had to follow the 30-day intake standard,  
18 yes.

19 Q But you have discretion here, don't you?

20 A Well, I would have to consult with my supervisor  
21 about that.

22 Q Did you?

23 A Well, yes, and we agreed to close it.

24 Q So two of you decided to close the file?

25 A Correct.

1 Q Despite these concerns about Samantha, not  
2 knowing if she might show up again, right?

3 A Right. But Samantha's file wasn't opened.

4 Q Well, perhaps it should have been.

5 A Well, perhaps.

6 Q Um-hum.

7 A I had referenced that earlier, that if her file  
8 had been open to myself or a different worker, then that  
9 worker could have followed up on the concerns about  
10 Samantha, but it wasn't opened.

11 Q If, if Steve's file remained open, are you  
12 telling us that that means you can't make any inquiries  
13 about Samantha because her name's not on the file?

14 A Well, I can make inquiries, yes.

15 Q Um-hum. Let's have a look at the letter that you  
16 sent. Think that's 37449. Round the middle of that letter  
17 it says:

18

19 "I have told Steven that the  
20 agency has serious concerns about  
21 his current lifestyle, as well as  
22 Samantha's."

23

24 Right?

25 A Right.

1 Q

2 "He has been advised that he is  
3 not to take Phoenix back into his  
4 care without contacting this  
5 agency and having a risk  
6 assessment done."

7

8 Correct?

9 A Correct, yes.

10 Q It doesn't say there that he has been advised  
11 that if Samantha gets the child you should contact the  
12 agency, right?

13 A No, it doesn't say that.

14 Q Wouldn't that be a good idea to add that to the  
15 letter?

16 A Yes.

17 Q She was clearly a concern to you?

18 A Yes.

19 Q And the last sentence, you indicate your hope  
20 that you'll be contacted if there's a change, right?

21 A Right.

22 Q It's not a direct aggressive statement that you  
23 should?

24 A No, it's not worded --

25 Q No.

1 A -- in an aggressive way, no.

2 Q And even though there might be some evidence  
3 that Rohan may tell us he got the letter, you wouldn't have  
4 known that at the time?

5 A No.

6 Q As to who got the letter or what happened to it?

7 A No.

8 Q And you didn't follow up to make sure of that?

9 A No.

10 Q Right. Just because it wasn't returned doesn't  
11 mean it's not sitting in some mailbox somewhere, right?

12 A No, but I guess because I had discussed it with  
13 him in person --

14 Q Um-hum.

15 A -- I would trust that he would follow what we had  
16 talked about in our conversation, whether he received a  
17 letter or not.

18 Q Um-hum. So you didn't follow up on the letter to  
19 just have any further discussions with him, no?

20 A No.

21 Q And I think you said that Samantha was not your  
22 focus because the name on the file was Steven, right?

23 A Right.

24 Q You're not saying you didn't know anything about  
25 Samantha or the risk she posed, it just -- her name wasn't

1 on the file?

2 A Well, I knew about, about her, yes.

3 Q Yeah.

4 A And I asked Ron and Steven about her.

5 Q Um-hum.

6 A So it's not like I just didn't talk about her at  
7 all.

8 Q Okay. Did you try to find out where she may have  
9 been out of town?

10 A No.

11 Q Did you contact any of her family members?

12 A No.

13 Q You were directed to March 2002 closing of the  
14 file by Kathryn Epps. Remember you were directed to a  
15 bunch of unresolved problems on a --

16 A Yeah.

17 Q Yeah.

18 A Yeah.

19 Q You don't know whether you looked at that back  
20 then, do you?

21 A No, I don't recall looking at it, no.

22 Q It would be wise to do that, look at the whole  
23 history going back to when the child was born?

24 A Yes.

25 Q Yeah. Had you looked at her opening, she talks

1 about a meeting she had with Steve and other members of his  
2 family where he discloses that Samantha was not an  
3 appropriate caregiver, and he goes into -- she goes into  
4 whole discussion where he's advised not to let Samantha  
5 anywhere near the child and to consider calling the police  
6 and all of that?

7 A Um-hum.

8 Q You're not sure whether you knew about that at  
9 the time that you were involved?

10 A No, I don't have recollection of that, just  
11 because it was so long ago.

12 Q But your typical procedure would probably be to  
13 read the history?

14 A Typically, yes. Yeah.

15 MR. GINDIN: Thank you. Those are my questions.

16 THE COMMISSIONER: Thank you, Mr. Gindin.

17 Anybody else before Mr. Ray? I guess not, so  
18 your turn, Mr. Ray. Re-examination.

19

20 RE-EXAMINATION BY MR. RAY:

21 Q Just want to ask you a question about your  
22 evidence where you, you described for us your training  
23 originally with CFS.

24 A Um-hum.

25 Q You mentioned that you took the core competency

1 training and you stated that it was over a few days.

2 A Yes.

3 Q Now, we've heard evidence from other people that  
4 the core competency training was four to five modules.

5 A Um-hum.

6 Q When you said "over a few days", did you mean  
7 that it was a few days for each module?

8 A Yes.

9 Q Okay. Do you know how long it would have taken  
10 you to complete all of the modules?

11 A No, I, I don't recall. I just know that each  
12 module was a few days.

13 Q Do you think you would have completed all of the  
14 modules very early in your career with Winnipeg CFS or that  
15 it would have taken a longer period of time to -- are you  
16 able to recall any of that?

17 A I don't remember the year that I took the core  
18 competency training.

19 Q Okay, that's fine.

20 A No.

21 Q Thank you. It was suggested to you by Mr. Gindin  
22 that Ms. Edinborough was, I think his words were,  
23 significantly more experienced than you. We've heard  
24 evidence from Ms. Edinborough and she's told us that she  
25 received her bachelor of social work from University of

1 Manitoba 1990, and I believe your evidence was you received  
2 your bachelor of social work in 1994?

3 A Correct.

4 Q So at the time of your handling of this file, Ms.  
5 Edinborough had just four more years experience than you  
6 did?

7 A From what you're saying, yeah. I knew she was a  
8 supervisor. But like I said, I didn't know her personally  
9 or her work history.

10 MR. RAY: I'm sorry, Mr. Commissioner, may I just  
11 have one moment, please?

12 THE COMMISSIONER: Yes.

13 MR. RAY: Thank you.

14

15 BY MR. RAY:

16 Q Now, Doug Ingram was your supervisor at the time  
17 you handled this file, I think was your evidence, right?

18 A Yes.

19 Q Are you aware that -- I expect to hear evidence  
20 from Mr. Ingram, but are you aware that Mr. Ingram was, at  
21 one point in time, Heather Edinborough's supervisor?

22 A No. I had never worked with Heather.

23 Q Could we bring up page 37449. Scroll down.  
24 That's fine, thank you. The last sentence in the first  
25 paragraph:

1                    "... the agency hopes you will  
2                    continue to care for Phoenix and  
3                    will contact us should this  
4                    situation change."

5

6                    When you said in the letter, "contact us should  
7 this situation change", what did you mean by that as ...

8                    A     I just meant --

9                    Q     Should what situation change?

10                  A     Should the situation, meaning that they're caring  
11 for her. So if they, at any point, couldn't care for her  
12 anymore for whatever reason, or if, you know, if either  
13 parent had come to get her, or for whatever reason they  
14 couldn't care for her, it wouldn't matter what the reason  
15 was.

16                  Q     Did you have any reason to believe, based on your  
17 review of the file -- and when I say "the file" I also  
18 refer to the previous closing -- or based on your  
19 discussion with Mr. Stephenson, that they would not contact  
20 you in the event that someone else came to pick up Phoenix  
21 or their situation changed and they were no longer to care  
22 for Phoenix?

23                  A     No, I didn't have any reason to be concerned that  
24 they wouldn't call me or the agency.

25                  Q     Ms. Edinborough previously described a situation

1 in terms of what they do with a new file in a similar  
2 situation where you've received a new file, then that they  
3 would review the previous assessment of the previous worker  
4 and, but that they would then start their own assessment at  
5 that point in time.

6 A Um-hum.

7 Q Do you, as a social worker, necessarily defer to  
8 the work or suggestions of the previous social workers  
9 after you've done your own assessment?

10 A Well, no. I would agree that each worker makes  
11 their own assessment of a situation at the time.

12 Q And just one last question about closing files.  
13 Mr. Gindin was asking you some questions about closing  
14 files and whether or not you could have kept this file  
15 open. Is it your practice or the practice of Child and  
16 Family Services to keep files open if there's not a  
17 protection concern?

18 A No.

19 Q Do you typically keep files open for monitoring  
20 purposes?

21 A That would be done at the family services level.

22 THE COMMISSIONER: What was that?

23 THE WITNESS: That would be done at the family  
24 services level, so after it had been transferred.

25

1 BY MR. RAY:

2 Q Would you do that at an intake level?

3 A Well, you could do that within the 30-day period.

4 Q When you made the decision to close the file did  
5 you feel there was a protection concern remaining at that  
6 time?

7 A Well, I felt that the situation that was agreed  
8 to, where Phoenix would stay with Kim and Ron was, was a  
9 safe plan.

10 MR. RAY: Thank you. Those are my questions, Mr.  
11 Commissioner.

12 THE COMMISSIONER: Thank you.

13 MR. RAY: Thank you.

14 THE COMMISSIONER: Any re-examination?

15 MS. WALSH: Just one area, Mr. Commissioner.

16

17 RE-EXAMINATION BY MS. WALSH:

18 Q Ms. Conlin, I just want to understand your  
19 evidence with respect to this principle or doctrine of  
20 least intrusiveness.

21 A Yes.

22 Q The doctrine of being as least intrusive as  
23 possible, that's not at the sacrifice of the child's  
24 safety, right?

25 A No, it's not.

1 Q And in this case, formalizing the arrangement  
2 with the Stephensons into a place of safety, that wouldn't  
3 have been intrusive from Phoenix's perspective, right? She  
4 wouldn't have noticed that that arrangement, if formalized,  
5 was more intrusive than if it had not been formalized?

6 A No.

7 Q What formalizing the situation into a place of  
8 safety would have done is to allow the care providers the  
9 authority to refuse to let anyone, including the parents,  
10 pick Phoenix up?

11 A Right.

12 Q And you knew when you were working with this file  
13 that there had been a number openings and closings right  
14 from the date of Phoenix's birth?

15 A Yes.

16 Q Was an approach of non-intrusiveness realistic at  
17 this point in terms of Phoenix's safety?

18 A Well, I think given the circumstances, that Steve  
19 was in agreement to the plan, yes, I thought it was a good  
20 plan at the time.

21 Q And indeed, Mr. Williams' recommendation and Ms.  
22 Edinborough's recommendation, as the supervisor, was that  
23 if Steve had difficulties, that Mr. Williams recommended an  
24 anticipated six-month to one-year temporary order.

25 MR. RAY: I think the witness has been asked that

1 a number of times and have been answered.

2 THE COMMISSIONER: Well, this --

3 MR. RAY: Unless we're just re-asking the same  
4 question, unless there's something more to it.

5 THE COMMISSIONER: Repeat your question.

6 MS. WALSH: I'm just confirming, before my last  
7 question, that the recommendation from the previous worker  
8 and his supervisor had been to bring Phoenix into care  
9 likely for six months to a year.

10 THE COMMISSIONER: Now, and that's Williams?

11 MR. RAY: I think -- yes, I think that the  
12 closing summary, and I don't have -- the witness doesn't  
13 have it in front of her, maybe we could bring it up for her  
14 to see --

15 THE COMMISSIONER: Well, bring, bring it up.

16 MR. RAY: -- what the recommendation was, but --

17 THE COMMISSIONER: Bring it up.

18 MR. RAY: Is my --

19

20 BY MS. WALSH:

21 Q You knew that's what the recommendation was from  
22 Mr. Williams?

23 MR. RAY: Maybe we can wait until the document's  
24 in front of the witness before she answers.

25 MS. WALSH: Sure. Let's bring up page 37362,

1 please. Under recommendations for the future.

2

3 "In the event Mr. Sinclair returns  
4 to unhealthy ways of managing his  
5 life and caring for his daughter,  
6 it is recommended Phoenix be  
7 placed with Place of Safety Foster  
8 Parents, [Ron] and [Kim]  
9 Stephenson. It is also  
10 recommended he attend to  
11 programming for lifestyle  
12 difficulties prior to him  
13 considering parenting his daughter  
14 ... It is anticipated a Temporary  
15 Order of six months to a year  
16 would be required."

17

18 THE COMMISSIONER: Now what's your question?

19

20 BY MS. WALSH:

21 Q So my question is, in exploring this concept  
22 that, of least intrusiveness --

23 A Um-hum.

24 Q -- first you knew that, that the recommendation  
25 from the previous supervisor had been to seek a temporary

1 order, right?

2 A Right.

3 Q And as an alternative to that step, one that  
4 would be less intrusive, you could have recommended that  
5 the trial be transferred to family services, right?

6 A Well --

7 Q Instead of closing the file?

8 A It's an option, depending on the circumstance,  
9 yes.

10 Q And opening the file or transferring the file to  
11 family services, that would be less intrusive than bringing  
12 Phoenix into care?

13 A You're saying transferring it would be less  
14 intrusive than bringing her into care?

15 Q Right. If intrusiveness was your concern.

16 A Yes.

17 Q So your options weren't, at the time that you  
18 finished doing your work at intake, your options weren't  
19 simply to bring Phoenix into care or close the file. You  
20 could have transferred to family services?

21 A Right. But there would have had to have been  
22 some kind of plan for the family services to work on or  
23 follow up on.

24 Q Sure. But you could have made that  
25 recommendation and that would have been less intrusive

1 than, than bringing Phoenix into care if intrusiveness was  
2 your concern?

3 A Well, if I would have apprehended Phoenix, I  
4 would have had to transfer the file.

5 Q But you -- that -- but my point is that you could  
6 have recommended that the file be transferred to family  
7 services even without apprehending Phoenix?

8 A Right.

9 THE COMMISSIONER: That's what Edinborough  
10 recommended, wasn't it?

11 THE WITNESS: Yes.

12 THE COMMISSIONER: I think that's, I think that  
13 point's made.

14 MS. WALSH: And Mr. Commissioner, I simply wanted  
15 to confirm, in terms of this worker saying that she didn't  
16 want to be overly intrusive, that the options were not  
17 simply to be intrusive in terms of bringing Phoenix into  
18 care or closing the file, that she could have followed  
19 another option, which would have been to transfer the file  
20 to family services.

21 THE COMMISSIONER: Well, I think she just agreed  
22 to that.

23 MS. WALSH: She just agreed. Yes.

24 THE WITNESS: Yeah.

25 THE COMMISSIONER: My understanding.

1 MS. WALSH: Yes.

2 THE WITNESS: Yes.

3 MS. WALSH: Thank you.

4 THE COMMISSIONER: So I think that, that ends it.

5 MS. WALSH: Yes. Thank you. Those are my  
6 questions.

7 MR. RAY: Thank you.

8 THE COMMISSIONER: All right. Witness, you're  
9 finished and thank you for your attendance here.

10 THE WITNESS: Thank you.

11

12 (WITNESS EXCUSED)

13

14 THE COMMISSIONER: Well, now it's close to  
15 quarter past 12:00. What will we do, adjourn to 1:45 and,  
16 and start a new witness?

17 MS. WALSH: Yes, Mr. Commissioner, that would be  
18 fine. Thank you.

19 THE COMMISSIONER: All right. We stand adjourned  
20 till 1:45.

21

22 (LUNCHEON RECESS)

23

24 THE COMMISSIONER: All right. Swear the witness.

25 THE CLERK: Thank you. If you could just stand

1 for a moment. Is it your choice to swear on the Bible or  
2 affirm without the Bible?

3 THE WITNESS: Bible, please.

4 THE CLERK: Okay. State your full name to the  
5 court?

6 THE WITNESS: Douglas Edward Ingram.

7 THE CLERK: And spell me your first name, please?

8 THE WITNESS: My first name?

9 THE CLERK: Yes.

10 THE WITNESS: D-O-U-G-L-A-S.

11 THE CLERK: And your middle name?

12 THE WITNESS: E-D-W-A-R-D.

13 THE CLERK: And your last name, please.

14 THE WITNESS: I-N-G-R-A-M.

15 THE CLERK: Thank you.

16

17 **DOUGLAS EDWARD INGRAM,** sworn,

18 testified as follows:

19

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

21

22 DIRECT EXAMINATION BY MR. OLSON:

23 Q Mr. Ingram, first, I understand you may need to  
24 take some breaks throughout, so if you do need to take a  
25 break, just indicate that, of course.

1 A Thank you.

2 Q You're -- you obtained your bachelor of social  
3 work from the University of Manitoba in 1986?

4 A Yes, that's correct.

5 Q During your last year, I understand that you  
6 shadowed a family service worker?

7 A Correct.

8 Q Was that as part of a practicum?

9 A Yes, it was.

10 Q Then in 1986 you took a position as a general  
11 family service worker?

12 A I did, yes.

13 Q Then you became an intake worker in 1987 to 1989?

14 A I'm pretty sure the dates are correct, yes.

15 Q Yeah. In or about?

16 A Yes.

17 Q And in 1989 to 1991 you were night duty  
18 supervisor?

19 A Correct.

20 Q And what did you do as a night duty supervisor?  
21 Was that similar to what AHU does now, after-hours unit?

22 A Yes, it is.

23 Q You were a family service supervisor from 1991 to  
24 1996 or '97?

25 A Correct.

1 Q Then you worked as an intake supervisor at the  
2 northwest unit until 1999?

3 A Yes, that's correct.

4 Q Then you went from the northwest unit to the  
5 northeast unit and supervised that unit?

6 A Yes.

7 Q Until 2009?

8 A I think that's right. I'm sorry, I don't have in  
9 front of me but I believe is correct.

10 Q Approximately 2009?

11 A Approximately, yes.

12 Q It was during that last period of time when you  
13 were at the northeast unit as a supervisor that you  
14 supervised Ms. Conlin's work in the Steve Sinclair file?

15 A Yes.

16 Q How many workers did you supervise at the time?

17 A Six on my team.

18 Q Six on your team?

19 A Yes.

20 Q Who did you report to?

21 A The program manager of the day - time. I can't  
22 remember which one it was. I think it was --

23 Q Rob Wilson?

24 A -- Rob Wilson at the time but ...

25 Q Since 2009 you've been working at the Office of

1 the Children's Advocate?

2 A Yes.

3 Q What's your position there?

4 A I'm an advocacy officer.

5 Q You've had that same position for that whole  
6 period of time?

7 A No, I start --

8 Q 2009?

9 A I started off as a worker in the special  
10 investigations unit and, I'm sorry, I forget the actual  
11 term, but I moved to the advocacy unit after that.

12 Q Would you be able to pull your microphone a  
13 little closer? I'm having a bit of difficulty hearing.

14 A Sorry. How's that?

15 Q That's much better.

16 A Okay.

17 Q What do you do as an advocacy officer?

18 A Provide advocacy services to children -- it's too  
19 much, right -- children in foster care or in care.

20 Q When you say "advocacy services", what, what  
21 would that entail?

22 A It's kind of a big thing. Basically, I talk to  
23 children to find out what their wants and desires are and  
24 make them known to the, the assigned worker. Sometimes I,  
25 it may end up being something unusual. Frequently there is

1 something that's unusual that we try to see if we can't do  
2 for the worker -- or for the child.

3 Q So you advocate on behalf of children in care?

4 A Yes.

5 Q When you were an intake supervisor from 1999 to  
6 2009, you said you reported to Rob Wilson as a program  
7 manager?

8 A There were several program managers in that  
9 period of time but Rob Wilson was the one in question at  
10 the time we're talking about.

11 Q In 2004, when you're supervising Ms. Conlin --

12 A Correct, yes, Rob Wilson.

13 Q -- you would have been reporting to Mr. Wilson?

14 A Right.

15 Q What type of reporting or supervision did you  
16 receive from him?

17 A I'm sorry, can you repeat that?

18 Q What type of reporting or supervision did you  
19 receive from Mr. Wilson? Sorry, what type of reporting did  
20 you do to Mr. Wilson?

21 A Oh, I, I had regular scheduled appointment times  
22 to sit down and go over, to receive supervision over what I  
23 was doing and what my workers were doing.

24 Q Were -- did you go over specific files?

25 A Sometimes.

1 Q So you'd actually discuss files that your workers  
2 were working on at the time?

3 A Usually the fairly contentious ones or something.

4 Q Contentious ones, you said?

5 A Yes.

6 Q Would you --

7 A Something unusual, yes.

8 Q Unusual files, circumstances that you needed some  
9 direction on?

10 A Correct.

11 Q High profile cases?

12 A Possibly. Very, very sick children, that sort of  
13 thing.

14 Q Do you know if you discussed the Steve Sinclair  
15 file with Mr. Wilson?

16 A I don't believe I did.

17 Q Did you keep notes of these supervision meetings?

18 A I'm sorry, one more time?

19 Q Did you keep notes of the supervision meetings  
20 you had with Mr. Wilson?

21 A No, I did not.

22 Q Did you take notes during the meetings?

23 A With Mr. Wilson?

24 Q Right.

25 A I might occasionally have done something like

1 that, but as a rule, no.

2 Q Okay. Now, I want to talk to you about your role  
3 as a supervisor to the workers.

4 A Yes.

5 Q And this is in that same time, same time period,  
6 2004. First of all, what did the supervision you provide  
7 to the workers look like?

8 A Every -- I liked to say every two weeks, but it  
9 was on average twice a month we would sit down and look at  
10 what files a worker was assigned and what progress had been  
11 made on those.

12 Q You said twice, twice a month you would sit down  
13 with each of your workers?

14 A We, we try to do it twice a month. Oftentimes it  
15 didn't get all done in that month.

16 Q Sorry, oftentimes?

17 A It may be once in that month but it was -- the,  
18 the goal had been twice a month.

19 Q The goal was twice a month. What, in fact, would  
20 normally happen?

21 A We may -- if something may come up and we weren't  
22 able to do every appointment, but on average it was twice a  
23 month.

24 Q On average twice a month?

25 A Yes.

1 Q These were the formal meetings that you  
2 prearranged with each worker?

3 A Yes. Additionally, we had, as needed.

4 Q As needed?

5 A Yes.

6 Q So what, what would you discuss in these  
7 meetings?

8 A We discuss, if there was an issue came up, to  
9 talk about a decision that was necessary or a, how things  
10 were going on a case and looking for some direction on a  
11 case.

12 Q So you'd discuss a case, specific cases --

13 A Yes.

14 Q -- in these. Did you keep notes?

15 A The notes I kept were, I had a one-page that I  
16 keep on, on intake cases.

17 Q Sorry, one page, you said?

18 A Yes.

19 Q Can you tell me -- I'm not sure I understand what  
20 you mean by that?

21 A Things like addresses, phone numbers, basic idea  
22 of where the case is going. Just, just something to remind  
23 myself what we're doing.

24 Q Did you keep notes as to what direction you might  
25 have provided the worker on the file?

1           A     I would have while the file was open.

2           Q     You would have kept notes of that?

3           A     While the file was open, yes.

4           Q     What did you do with these notes?

5           A     I shredded them when I was done.

6           Q     Why, why would you shred them?

7           A     These were notes that were for myself, things  
8 like addresses, phone numbers or just a basic idea of what  
9 direction the case is going, lest I get a phone call from  
10 somebody and have to talk about a case while the worker  
11 wasn't in the office. It was -- like, a record was kept on  
12 CFSIS.

13          Q     But these were, these were notes that would  
14 record what, what you discussed during these meetings with  
15 the workers?

16          A     Yeah. We'd have like a one line: discussed this  
17 with worker.

18          Q     So you're saying they weren't detailed?

19          A     They were not, no.

20          Q     Why didn't you keep those notes?

21          A     Because the notes are only for my purposes and to  
22 -- if the case was closed there was nowhere to put it, or  
23 the case was assigned. Those are just, as I say, just  
24 little scratch notes for my own benefit.

25          Q     Did you keep anymore substantial notes pertaining

1 to a particular file anywhere else?

2 A As an intake worker, no.

3 Q As a supervisor?

4 A Sorry, intake supervisor, no.

5 Q But you would discuss in some detail the cases  
6 that your workers were working on?

7 A I would discuss the cases with worker, yes.

8 Q In some detail, though. You'd go, you'd go  
9 through the case with them and what they knew about the  
10 history and the family and the circumstances?

11 A Yes. Yes.

12 Q And you wouldn't make notes of those discussions?  
13 You would not make a note of those discussions?

14 A If something struck me then, yeah, I would, but  
15 it was, as I say, it was usually a single page of top line  
16 information, that sort of thing.

17 Q If we could turn to page 29040. This is from  
18 Commission disclosure 1634.

19 THE COMMISSIONER: Now, are these documents I  
20 have?

21 MR. OLSON: You should have them.

22 THE COMMISSIONER: Is there a --

23 MR. OLSON: This -- this, sorry, this one you may  
24 not have. This is the Winnipeg Child and Family Services  
25 supervision policy. I don't think it's in your package of

1 cases.

2 THE COMMISSIONER: No. So, what, what page  
3 number did you identify?

4 MR. OLSON: It's page number 29040 and it's from  
5 Commission disclosure 1634. And what we're looking at on  
6 the screen is not the policy. Can you go to the previous  
7 page to see what it does. On the side of the screen, see  
8 the paper clip. Down one more. Click that.

9 Looks like we're having some technical  
10 difficulties.

11 THE COMMISSIONER: Well, it's the first technical  
12 difficulty we've had in three or four weeks, so it may be  
13 not too bad record.

14 MR. OLSON: Not too bad so far.

15 THE COMMISSIONER: If you need five minutes,  
16 we'll take it.

17 MR. OLSON: May take a few moments to re-start  
18 the computer.

19 The page number was 29040.

20 UNIDENTIFIED PERSON: (Inaudible).

21 MR. OLSON: Looks like we're back in business.

22

23 BY MR. OLSON:

24 Q Do you recognize the document that's on the  
25 screen?

1 A I believe I recognize it, yes.

2 Q Sorry, you --

3 A I believe I recognize it, yes.

4 Q This is the supervision policy for Winnipeg Child  
5 and Family Services?

6 A Yeah.

7 Q And it says it was, implementation date is March  
8 1, 2004.

9 A Correct.

10 Q This is something, then, that would apply to you,  
11 at least from that period of time?

12 A Yes.

13 Q As a supervisor?

14 A Yes. Yes.

15 Q If you -- I just want to go through a couple of  
16 things on this document. First, at the bottom of the page,  
17 under Components. That's, that's good. It says:

18

19 "Nature of supervision. While  
20 supervision or consultation  
21 occasionally needs to occur on an  
22 ad-hoc basis, quality supervision  
23 occurs when supervisor and  
24 supervisee meet regularly, for an  
25 uninterrupted period of time, to

1           facilitate the development of a  
2           strong supervisory relationship.  
3           The frequency of regular  
4           supervision varies around the  
5           supervision needs of both the  
6           staff and Supervisor."

7

8   It says:

9

10           "At a minimum, scheduled  
11           supervision should occur on a  
12           monthly basis."

13

14           And you, you're -- you said that you met, tried  
15           to meet twice a month?

16           A    Yes.    The requirements for intake might be a  
17           little differently.  At least once a month, yes.

18           Q    At least once a month.    Then we're under  
19           Recording and document.  It says:

20

21           "Both supervisor and staff will  
22           maintain notes regarding key  
23           decisions and themes that are  
24           discussed in supervision.  The  
25           supervisor ..."

1 Go on to the next page:

2

3 "... will maintain supervision  
4 records that will document case  
5 discussions and discussions  
6 regarding the employee's  
7 professional development, and  
8 personnel issues."

9

10 A Yes.

11 Q Is that something you would have been required to  
12 comply with?

13 A At that time, yes.

14 Q Did you, did you comply with this requirement?  
15 Did you --

16 A The requirement of, of -- what was the words.

17 Q Maintaining notes of key decisions and themes  
18 that are discussed?

19 A And the professional development and, and  
20 personal issues, I did that.

21 MR. RAY: Just scroll up maybe just to the start  
22 of the -- thank you.

23 THE WITNESS: I'm sorry, I'm not aware of the --  
24 what question am I answering now?

25

1 BY MR. OLSON:

2 Q Did you comply with this requirement to keep  
3 notes regarding key decisions and themes discussed in  
4 supervision?

5 THE COMMISSIONER: I guess it's the way it's  
6 marked recording and documentation. The two --

7 MR. OLSON: Yeah.

8 THE COMMISSIONER: -- the two lines there and the  
9 two lines down on the next page, or the four lines, I  
10 guess.

11 MR. OLSON: That's right.

12 THE WITNESS: I remember I -- I think the correct  
13 answer is yes in terms of the, the employee development  
14 stuff, personnel issues, yes. In terms of the actual, the  
15 case work, that, that got entered into the CFSIS record  
16 that the worker did.

17

18 BY MR. OLSON:

19 Q Sorry, I didn't ...

20 A In terms of the case work, I didn't actually keep  
21 case work notes, no. I, I kept -- like those things got  
22 entered in by the social worker.

23 Q The social worker entered the case notes?

24 A And entered those, those discussions in the, in  
25 the CFSIS notes, yes.

1 Q So that's why you're saying you didn't record  
2 your own notes as a supervisor? Is -- I'm just trying to  
3 understand if that's what you're ...

4 A I'm trying to answer the question. I want to  
5 make sure I'm understanding exactly what you're saying.

6 Q Yeah. The, the policy says, both supervisor and  
7 staff will maintain notes regarding key decisions and  
8 themes that are discussed in supervision. Just looking at  
9 that, that --

10 A Okay.

11 Q -- part of it, because there's more to it than  
12 that, but looking at that part, it seems to me you'd be  
13 required to maintain notes yourself, as a supervisor,  
14 regarding key decisions and themes discussed in the  
15 supervision session. Am I right about that? Is that your  
16 understanding?

17 A Yes, that, that is correct.

18 Q Did --

19 A I --

20 Q -- did you do that?

21 A No. Again, I just want to point out, this is a  
22 policy that came in after the, the point we're talking  
23 about right now.

24 Q After the file with Ms. Conlin?

25 A Yes.

1           Q     But would that -- is that the policy -- I know  
2 the date of the policy, but was it still in place before  
3 that?

4           A     Not that I'm aware of, no.

5           Q     Not that you're aware of?

6           A     No.

7           Q     Was there a similar policy in place that you're  
8 aware of?

9           A     Off the top of my head, I can't think of one, no.

10          Q     The intake workers that were part of your team,  
11 were they experienced before they came on to work as part  
12 of intake?

13          A     Yes.

14          Q     So these weren't -- these workers weren't freshly  
15 minted from, from the universities or wherever, they're --  
16 they had some social work experience?

17          A     Yes.

18          Q     Was there a reason for that?

19          A     I had come from northwest, and in northwest it  
20 was requirement that any new intake worker have at least  
21 two years in family services.

22          Q     So each worker working in your unit would have  
23 had at least two years of family service work before coming  
24 to work at intake?

25          A     Yes.

1 Q Do you have an understanding as to why that was  
2 required?

3 A I, I don't have a recollection but I'm, I think I  
4 can take a stab at it. You would want to have your more  
5 seasoned people working at the front line of intake.

6 Q Is that something to do with the nature of the  
7 work that intake does?

8 A I would, I would -- yes, I would suggest that it  
9 was.

10 Q Is that because assessments need to be done  
11 quickly and accurately?

12 A Yes.

13 Q As the intake supervisor, were you aware of the  
14 relevant standards in place at the time? We're talking  
15 2004.

16 A Yes. The problem is, the standards changed so  
17 much over the years, I can't remember what the standards  
18 were in 2004.

19 Q I see. But you were, you were familiar with  
20 whatever standards that were in time?

21 A Back then, yes.

22 Q At that time?

23 A Yeah.

24 THE WITNESS: Excuse me, could I get a glass of  
25 water?

1 UNIDENTIFIED PERSON: Certainly.

2

3 BY MR. OLSON:

4 Q As the supervisor, would you refer to the  
5 standards manual from time to time?

6 A From time to time, yes.

7 Q Did you expect your workers also to do the same  
8 thing, that is, refer to the standards manual from time to  
9 time?

10 A Yes, I would.

11 Q We've heard that some decisions that were made by  
12 the workers that you would have been supervising would  
13 require your approval?

14 A Thank you.

15 Q Is that right?

16 A I'm sorry, some --

17 Q Some decisions made by the workers you were  
18 supervising required your approval?

19 A Yes.

20 Q Can you tell us which types of decisions those  
21 were?

22 A Decisions to bring child into care; decision to  
23 close a file; to move case on for assignment.

24 Q Assignment to --

25 A A family service team --

1 Q -- for ongoing service?

2 A -- yeah.

3 Q Okay. What about apprehension?

4 A I mentioned that.

5 Q When you said child in care, that's what you were  
6 referring to?

7 A Yes.

8 Q Apprehension. Okay. And you said to close a  
9 file?

10 A Yeah.

11 Q Why were, why was your approval needed for those  
12 types of tasks?

13 A I can't -- I don't know for absolute fact. To  
14 bring a child into care, the requirement was the supervisor  
15 would approve that. To close a file would involve the  
16 supervisor approving the closing a file. Case assignment  
17 would be the same thing.

18 Q I'm not sure I follow you. It was the role of  
19 the supervisor to approve, for example, closing a file?

20 A Closing a file, bring a child into care,  
21 transferring a file on to family services.

22 Q Okay. And what was your understanding as to why  
23 you needed to approve those things?

24 A To make sure that it was appropriate.

25 Q You wanted to make sure that it was appropriate

1 in the circumstances?

2 A Yes.

3 Q And that the worker had complied with standards?

4 A Yes.

5 Q And ultimately, you want to make sure that the  
6 child is not at risk?

7 A Correct.

8 Q Can you just tell us briefly what the  
9 responsibility of northwest -- sorry, Northeast CFS intake  
10 was in 2004?

11 A It was providing intake services to the northeast  
12 section of Winnipeg, which would have entailed St.  
13 Boniface, the River East area. It also went out to the  
14 rural areas, the northeast --

15 Q Northeast rural areas, as well?

16 A Exactly, yes.

17 Q Okay. But as an intake, as an intake unit, you  
18 weren't opening new files, were you?

19 A As an intake unit we weren't --

20 Q Or did they come to you already open?

21 A Oh, they were opened at the CRU or at  
22 (inaudible), yes.

23 Q So the CRU takes the initial call, the initial  
24 referral, and it gets passed on to intake?

25 A Yes.

1 Q Yeah. Not all calls from CRU get passed on,  
2 though, right?

3 A That's correct.

4 Q And so it's only --

5 A I'm sorry, sir. I'm having trouble hearing you  
6 for some reason. Could you maybe speak into the  
7 microphone?

8 Q Is this better?

9 A Thank you.

10 Q So file, files would -- not all files would get  
11 transferred on to intake, to your unit from CRU?

12 A Correct.

13 Q So certain -- it was only those files that were  
14 determined to be needing further services?

15 A Assessment. Further assessment.

16 Q Further assessment. So when a file came in from  
17 CRU, were you the first person in the unit to see it?

18 A Yes, I was.

19 Q What would you do when you got this referral?

20 A I'd look it over and ensure that it was  
21 appropriate referral, I agree that the appropriate  
22 referral.

23 Q Okay.

24 A If, if not I might take it back down to the CRU  
25 supervisor and ask some other piece of work get done. If I

1 did agree with it I would move it on to one of my workers.

2 Q If you did agree with the referral, with --

3 A With the appropriateness of that file.

4 Q You'd give it to one of your workers.

5 A Correct.

6 Q And we heard this morning from Ms. Conlin,  
7 perhaps it was yesterday, that that was done on a rotation  
8 basis.

9 A For the most part it was rotation. There were  
10 some cases where a worker might have a particular skill  
11 that made that one appropriate for that worker. But for  
12 the most part, it was done on a rotation basis, yes.

13 Q Okay. So we've seen a number of CRU after-hours  
14 unit intake forms. That's, that's what you would get form  
15 CRU, a form that says CRU on the top and it has a, a  
16 history and it sets out why the file was opened. That's  
17 what you would get as the supervisor?

18 A Yes.

19 Q Would you get anything else?

20 A Frequently we'd get the, the closed intake on it.  
21 If the file had been opened previously, we'd get the closed  
22 intake on it.

23 Q The closed intake?

24 A Yes.

25 Q From --

1           A     Closed intake file.     Or the closed family  
2 services file, if it happened to be that file.

3           Q     So you get the whole file, then?

4           A     Yes.

5           Q     So in this case we know that the intake was on  
6 Steve Sinclair and he had a closed file.    Would that paper  
7 file come with the CRU intake?

8           A     I have no recollection of it.    It's -- in the  
9 best of all possible worlds, yes, but I don't recall.

10          Q     Was that the way things typically worked at that  
11 point in time?

12          A     Yes.

13          Q     And then as a supervisor, what, if anything,  
14 would you review before assigning that file to one of your  
15 workers?

16          A     I would typically read over the, the recording as  
17 to why the file has come there.    I would also, you know, do  
18 a -- if it is a short file, I do a -- look over the history  
19 of it.    If it was one of the old very, very long thick  
20 files I may only read through the (inaudible) report.

21          Q     So you sort of skim the file and see what, what  
22 has happened in the past before it was closed?

23          A     It may not be a skim, it might be an actual read-  
24 through, but --

25          Q     You might actually read through it?

1 A Yes.

2 Q Did you have a practice one way or the other,  
3 though, or did it just depend on your, your workload?

4 A I'm sorry, I don't recall I had a practice as  
5 such. I would -- if something struck me as, as peculiar  
6 here, I'd go back and make sure I read the entire history  
7 on it.

8 Q When you assign the file to a worker, what did  
9 you expect them to review?

10 A The, they'd review the problem. I -- they'd also  
11 review how quick they were to be getting involved on the  
12 file.

13 Q So -- sorry, I couldn't understand.

14 A How quick they were to get involved in that file.

15 Q How quickly to get involved in the file?

16 A Yes.

17 Q But what would they review -- what would you  
18 expect them to review to make that assessment?

19 A Essentially, same things I did.

20 Q So the CRU or after-hours intake?

21 A Right.

22 Q And anything else?

23 A No. I would sometimes put a post-it note on it  
24 saying, you know, we, we should get out pretty quick on  
25 this one, but ...

1 Q You'd give them some direction, based on your  
2 review?

3 A Yes.

4 Q Did you do that in all cases or just in certain  
5 cases?

6 A Certain cases.

7 Q Did you meet with the worker every time you  
8 assigned a new file?

9 A No.

10 Q So they would just find the file on their desk?

11 A Or in their mailbox (inaudible), yes.

12 Q Mailbox. And then they'd be expected to do their  
13 assessment and start working on it?

14 A Correct.

15 Q At some point did you require, expect that your  
16 workers would read the entire file, the closed family file,  
17 if there was one?

18 A I -- yes, I -- it strikes me that workers were --  
19 most workers will review the entire file when they get it.

20 Q Is that an expectation you had as a supervisor?

21 A I can't -- I don't recall having an expectation,  
22 but for the most part, when -- good practice would be to  
23 review the file.

24 Q Okay. Would it be in compliance with a standard  
25 that the file be reviewed?

1           A     I don't recall it being a standard.     It's just  
2 very good practice.

3           Q     And you can't tell me now if you expected your  
4 social workers to review the entire file?

5           A     No.    I, I did expect that if the file needed to  
6 be -- a worker needed to review a file in order to get a  
7 flavour of the file, yes, they would.

8           Q     You, you were in the room today when Ms. Conlin  
9 was testifying?

10          A     Briefly, yes.

11          Q     And you, you heard her say that her practice was  
12 just to review the last closing summary?

13          A     Sorry, didn't hear that.

14          Q     The last closing or last transfer summary.    Were  
15 you aware of that?

16          A     I did not hear that.    Sorry.

17          Q     Would that practice, just to review the last  
18 closing or transfer summary that's on the file, would that  
19 meet with your expectations of a worker?

20          A     It wouldn't be what I'd rather.    I'd rather have  
21 the worker review the entire file.

22          Q     You said it would meet with your expectations?

23                THE COMMISSIONER:    No, he said he would rather  
24 have the --

25                THE WITNESS:    No, I said I would rather ...

1 THE COMMISSIONER: He'd rather have the worker  
2 read the entire file.

3

4 BY MR. OLSON:

5 Q And why is that?

6 A Just to make sure they're making informed  
7 decisions.

8 Q So without reading the entire file, it's -- you  
9 don't necessarily get a clear picture, right?

10 A Correct.

11 Q And if you just look at the last closing or  
12 transfer summary, it's only as good as the work that was  
13 done for that document?

14 A You -- there's more of an opportunity to miss  
15 something if you're only reading the last report.

16 Q More of an opportunity to miss something?

17 A If you're just reading the last reporting, yes.

18 Q And that can -- you can miss important things?

19 A Yes.

20 Q What about an expectation to read a related file  
21 that's been closed? In this case, we know the Samantha  
22 Kematch file had recently been closed as well. Would there  
23 be an expectation to read that file?

24 A See, I don't think of in terms of expectation. I  
25 would not have been surprised that the worker had reviewed

1 the file, the related file in any other case. If there's a  
2 related file, it strikes me the worker would, would likely  
3 do that.

4 Q A worker would likely read --

5 A Yes.

6 Q -- the related file. When you did your own file  
7 review, when you initially got the CRU intake, would you  
8 make notes of what you did, what you saw?

9 When you reviewed the CRU file when it first came  
10 in ...

11 A Right.

12 Q Would you make notes of your observations of what  
13 has occurred, what your thoughts were?

14 A Oh, I might do that on a post-it note (inaudible)  
15 the worker, yes.

16 Q Just, just on a post-it note, hand it to the  
17 worker?

18 A Yeah.

19 Q As of 2004, how long was a file expected to stay  
20 at intake?

21 A How long was a file expected to stay at intake?

22 Q Right.

23 A Four to six weeks.

24 Q Sorry?

25 A Four to six weeks.

1 Q Four to six weeks?

2 A Between four and six weeks, yes.

3 Q In practice, did, did that happen? Did files  
4 stay in intake for that time or did they stay in longer,  
5 shorter?

6 A Both could be possible. It could be short, could  
7 be long. But if the file became too much longer, it became  
8 a family service file and needed to be moved on.

9 Q Okay. So intake was meant as a short, short term  
10 service?

11 A Short term assessment, yes.

12 Q Short term assessment. Is that primarily what  
13 was to be done in intake, is assessment?

14 A Assessment, yes, and also in kind of a related  
15 thing, brief services as well.

16 Q Okay.

17 A For instance, if a document needed to be filled  
18 out for somebody or if a -- sorry, nothing's just coming to  
19 mind, but a brief service, something that we could do very  
20 quickly.

21 Q So if some brief service could be provided to the  
22 family and the file closed, that, that would be one thing  
23 intake would do?

24 A Correct, yes.

25 Q In other cases, there'd be an assessment done, it

1 would be determined that the file needed further services,  
2 and it would get passed on to a family service worker?

3 A It would be open to a family service worker then.

4 Q Okay.

5 A Or it could be determined that services were not  
6 required and, and we would close it.

7 Q And the file would be closed?

8 A Correct.

9 Q And whatever happens in any of those cases, as a  
10 supervisor you sign off on that decision?

11 A Yes.

12 Q And so you have to agree with it at the end?

13 A Yes.

14 Q Can put on the screen page 37356, Commission  
15 disclosure 1796.

16 Is this the CRU intake that you received on the  
17 Steve Sinclair file?

18 A I just want to say, I have no independent  
19 recollection of what happened that time, but this looks  
20 like the, the paperwork that I was handed by the Commission  
21 since then, and I believe this to be -- that to be true.

22 Q Okay. So this would have been the intake that  
23 would have come to you as a supervisor of intake?

24 A Yes.

25 Q It's dated January 16 and it's from Barbara Klos?

1 A Yes.

2 Q And so once you received this, you would have  
3 reviewed it?

4 A Yes.

5 Q And it would have come with a paper file, you  
6 suspect?

7 A Perhaps, yes.

8 Q Is this a file that you would have just assigned  
9 as part of the rotation?

10 A Yes.

11 Q And so the person on the rotation in this case  
12 would have been Ms. Conlin?

13 A Her name would have been affixed, yes.

14 Q When you look at this CRU intake, you'll see that  
15 Ms., Ms. Klos, at page 37359, the bottom, she recommends a  
16 five-day response time?

17 A Yeah.

18 Q Was that typical from when you got a CRU intake  
19 form, that there'd be a response time recommended?

20 A Yes. One day response, three-day response or  
21 five days.

22 Q One, three --

23 A One day was immediate.

24 Q Okay. And were you bound, then, to comply with  
25 the recommendation?

1           A     No. I could override it and have a talk with the  
2 CRU supervisor as to why, you know, I'm going to change  
3 this response time to this and explain why.

4           Q     But there would be some explanation for the  
5 change?

6           A     Yes.

7           Q     Okay. Here, having reviewed the facts that Ms.  
8 Klos has recorded including the history and the presenting  
9 problem, did you feel that the five-day response time was  
10 appropriate?

11          A     If you're talking about at the time, I don't have  
12 any recollection of that. Having read it since then, I  
13 think five-day was probably the appropriate time to assign  
14 to it. Having said that, the one thing that would have  
15 made me -- I would, I would have noticed, we didn't know  
16 exactly where Phoenix was, and that would have been  
17 something I would have wanted the worker to get, get to  
18 pretty quickly.

19          Q     You want to get to that pretty quickly?

20          A     Yes.

21          Q     Not knowing where the child was, at this time she  
22 was, I think, three and a half years old?

23          A     Right.

24          Q     What kind of risk would you assign to that?

25          A     Well, the document refers to the belief that she

1 was likely at Ms. Stephens' (sic) place.

2 Q At whose place?

3 A Mrs. Stephenson's.

4 Q That's because there's a reference to someone  
5 picking her up from Samantha Kematch's residence?

6 A Yes.

7 Q And there's a ...

8 A I would tend to see this as being -- before too  
9 long we want to find out, know exactly where this child is,  
10 because although there's reason to believe she may be safe  
11 and some place where she's safe, I'd want to confirm that.

12 Q Yeah. Because the history you have so far is the  
13 last agency knew she was with Steve Sinclair and he  
14 apparently left her unattended so she was picked up by  
15 Samantha Kematch, and then there were concerns about crack  
16 being smoked at the house she was at, and the mother,  
17 Samantha Kematch, leaving Phoenix and going out drinking.  
18 Those, those were facts that would have been apparent from  
19 reading this?

20 A Would have been?

21 Q Apparent from reading this?

22 A Yes.

23 Q And then by reading this, it was suspected that  
24 Phoenix was with the Stephensons?

25 A Correct.

1 Q So she'd moved around to at least three places in  
2 that period?

3 A Yes.

4 Q Okay. So in terms of risk, then, would -- how  
5 would you -- what would you consider to be the risk with  
6 those factors?

7 A The factors you're speaking of is the three  
8 locations or ... I've already said, I thought it would be  
9 very important that we figure out where, where she is  
10 fairly quickly.

11 Q Do you recall if you had any other previous  
12 involvement with the family members?

13 A With family members?

14 Q Family members.

15 A I don't recall. I've since looked at  
16 documentation and found out that apparently I had  
17 supervised Steven Sinclair's file several years previous.

18 Q But you don't have a recollection of that?

19 A I don't, sorry.

20 Q That was Kathy Epps you were supervising at the  
21 time?

22 A Yes.

23 Q Okay. I want to have you look at the closing  
24 summary prepared by Ms. Conlin.

25 A Um-hum.

1 Q Starts at page 37350. If you go to page 37355,  
2 the bottom of the page. Beside your name there, where it  
3 says, intake supervisor.

4 A Yes.

5 Q Beneath that, are those your initials?

6 A Yes.

7 Q And what, what does it indicate that your  
8 initials are on this document?

9 THE COMMISSIONER: What's the front of that  
10 document?

11 MR. OLSON: The front page is 37350. Says intake  
12 closing summary.

13 THE COMMISSIONER: 37365. All right. I have it.

14

15 BY MR. OLSON:

16 Q So, sorry, your signature indicates?

17 A My initials indicate that I've read and agree  
18 with this.

19 Q That you've read and agree with?

20 A The reason to close, and I've signed it off.

21 Q Okay. And you signed it off. Would you have  
22 reviewed this document with the worker, with Ms. Conlin?

23 A No. I would have reviewed it in my office, and  
24 her office was close by. If I'd had an issue I would have  
25 just gone and got her.

1 Q So you wouldn't necessarily go over this with her  
2 in person?

3 A No, not necessarily.

4 Q Okay. Would it be not typical to go over it with  
5 her in person? With -- would it -- did you typically go  
6 over closing summaries like this with the workers in, in  
7 person?

8 A No. I would talk to the worker if there was  
9 something in the closing summary I disagreed with and  
10 wanted changed.

11 Q Otherwise you wouldn't talk to the worker?

12 A Oh, I would talk to the worker on all sorts of  
13 other things but --

14 Q Well, with respect to closing summary.

15 A -- with respect to the case, there would have to  
16 be -- if there was a problem with it I would bring it to  
17 their attention, say, no, I want this changed.

18 Q Are there certain things you'd look at in the  
19 closing summary before signing off on it?

20 A Internal consistency.

21 Q Internal consistency?

22 A Yeah. Make sure that the problem type identified  
23 is solved at the end of things.

24 Q So in this, in this case, if you look at the  
25 document in front of you, on the first page, 37350, would

1 the problems identified be those under presenting problems?

2 A Yes.

3 Q And so you'd look at the presenting problems and  
4 you'd try to determine whether or not they've been  
5 addressed?

6 A Yes.

7 Q When, when you received the closing summary from  
8 Ms. Conlin, would you have also received the paper file  
9 with it?

10 A Yes, I would.

11 Q And would you look in the paper file to see what  
12 was recorded, to see if it matches what's recorded in the  
13 closing summary?

14 A That kind of depends. I would have -- if I was  
15 -- if, if there was consistency in the actual opening  
16 summary, I would, I would probably have closed it off at  
17 that. But if there was something that would suggest maybe  
18 there was a previous thing that may have been a concern, I  
19 may have gone back on that and asked for more.

20 Q When the case was first assigned to Ms. Conlin,  
21 what, what did you anticipate her goals would be with this  
22 particular file?

23 A I, I have no recollection of it. It strikes me  
24 that what I would have expected is that one of the first  
25 things she would have done was go and find out where, in

1 fact, Phoenix was.

2 Q That'd be the first step, finding, finding out  
3 where Phoenix is?

4 A Yes.

5 Q What else would you want her to, to look at in  
6 terms of goals for this file?

7 A I'd want to know why she's not living with her,  
8 her parents or whoever's her guardian, and I guess that's  
9 pretty much I'd be looking for. You know, is there a  
10 reason why she's not living with her, her family.

11 Q A reason why she's not with her family?

12 A Correct.

13 Q Okay. Would you expect her to talk with Samantha  
14 Kematch, the mother?

15 A Based what I'm seeing here, probably Steven  
16 Sinclair, because it appears that -- am I right here? I  
17 think she -- I think her father is the one that had her  
18 last.

19 Q Well, they -- you'll see, if you looked at Ms.  
20 Klos' intake, that Phoenix was apparently picked up by the  
21 Stephensons from the mother.

22 THE COMMISSIONER: You've shown him that on the  
23 screen.

24 MR. OLSON: I've shown that on the screen.

25 THE WITNESS: Yeah, I see -- I do see it, sorry.

1           It is correct; it's what it says on the screen.

2

3 BY MR. OLSON:

4           Q     Pardon me?

5           A     That is what it says on the screen, yes.

6           Q     Okay. So the last parent that had her, according  
7 to the information CFS had at the time was the mother,  
8 Samantha Kematch?

9           A     Yeah. Yes, that is correct. However, I'm not  
10 sure that -- I just have no recollection of it. It strikes  
11 me that if mother had had her before and had not been doing  
12 well with her, and, and dad was the one who was going to be  
13 parenting her, that may have been (inaudible) at the time.

14          Q     Okay. And where, where does it indicate that the  
15 dad was parenting her after that, after the mother had her?

16          A     I'm sorry, I'm not sure. Could you bring that  
17 down a bit, please?

18

19                         "Given that the guardianship of  
20 Phoenix is with Mr. Sinclair and  
21 she is on his budget ..."

22

23 with EIA ... this probably was leading in that direction.

24          Q     Pardon me?

25          A     This probably was leading me in that direction.

1 Q That Phoenix was on Steven Sinclair's budget?

2 A And that she was -- yeah.

3 Q You're aware, though, that there was no legal  
4 arrangement in terms of who had custody of Phoenix?

5 A At this time I have no recollection at all, but  
6 based on my reading here, it says, given that guardianship  
7 is with -- or guardianship of Phoenix is with Mr. Sinclair,  
8 I would assume it meant that Phoenix was, had been living  
9 with her father.

10 Q What would that mean, guardianship is with Mr.  
11 Sinclair?

12 A It'd mean that the proper place for her to be  
13 would be with her dad.

14 Q Okay. Do you know what that would be based on,  
15 what that was based on?

16 A I'm just quoting the, the recording here. It  
17 says, the guardianship of Phoenix with the father.

18 Q So would you have expected Ms. Conlin to speak to  
19 Ms. Kematch before closing this file?

20 A Not necessarily.

21 Q No?

22 A It looks like, from what I've read here, it looks  
23 like, it looks like a judge has already granted the  
24 guardianship to --

25 Q That --

1 A -- to the father.

2 Q That would have been your understanding?

3 A That's what I would have thought, yes.

4 Q The, the statement of risk at page 37355 says:

5

6 "Risk is low as long as Phoenix  
7 remains with the Stephensons."

8

9 A Yes.

10 MR. OLSON: Mr. Commissioner, I'm wondering if it  
11 might be a good time to take a break and the witness could  
12 have an opportunity to review the paper file of this  
13 closing.

14 THE COMMISSIONER: Yes. I'll agree to that. I  
15 think we have to -- you have to appreciate this witness  
16 seems to have no recollection at all of this, the file and  
17 this incident. I think your questioning you were just  
18 coming to really was coming to the meat of the thing and --

19 MR. OLSON: I may have to take him through the --

20 THE COMMISSIONER: I think you bear that in mind  
21 and I think you have to appreciate that he just doesn't  
22 recall anything about the file. But certainly, I'll take  
23 an adjournment if that will help things out, too. What do  
24 you want, 10 minutes, 15?

25 MR. OLSON: Maybe -- it's quarter to 3:00 now.

1 Maybe we could take the afternoon break.

2 THE COMMISSIONER: All right. Take 15-minute  
3 break.

4 MR. OLSON: Thank you.

5 THE COMMISSIONER: We're now adjourned. You can  
6 leave the stand, sir.

7 THE WITNESS: Thank you.

8

9 (BRIEF RECESS)

10

11 BY MR. OLSON:

12 Q So you've now had a chance to review the intake  
13 closing summary prepared by Ms. Conlin?

14 A Yes, I have.

15 Q Okay. I just want to spend a few minutes just to  
16 go over it with you, okay.

17 A Okay.

18 Q So just on the first page, it's 37350. Tell me  
19 when you have it in front of you.

20 A Go ahead.

21 Q So the top, you have the demographics recorded.  
22 Nothing's recorded for the mother. And then you have Steve  
23 Sinclair with no fixed address, right?

24 A Yes.

25 Q Okay. Then under Children. It says Phoenix

1 Sinclair, has got the date of birth.

2 A Um-hum.

3 Q And the location where she's residing, 1331  
4 Selkirk?

5 A Yes.

6 Q And do you understand that to be Kim and Ron  
7 Stephenson's address at the time?

8 A Yes.

9 Q Okay. They have another -- they had another  
10 child together who's deceased. Would you normally expect  
11 to see that referred to in this area?

12 A If CRU had known that, I imagine it would have  
13 been there, yes.

14 Q Okay. So CR may not have known that at the time?

15 A Correct.

16 Q Then under Significant Others, you have the  
17 mother's name there. And then Source of Referral. This is  
18 the date of the initial referral into CRU?

19 A Um-hum.

20 Q Sorry, my understanding it was actually January  
21 15th, but this is the, this is what the CRU worker  
22 recorded?

23 A Yes.

24 Q And the Presenting Problem, says:

25

1                    "At this time, we will copy the  
2                    information from the Samantha  
3                    Kematch file as it is the same  
4                    information that would be entered  
5                    on this file:"

6

7                    Is that typical, just copying from one file and  
8                    placing it onto the other?

9                    A     Yes, it is.

10                  Q     It says source of referral:

11

12                    "... lived with Samantha, Phoenix,  
13                    and Samantha's mother, ... at ...  
14                    Furby. They had a falling out at  
15                    Christmas and ... police remove  
16                    her belongings, which were  
17                    vandalized ... [She] alleges that  
18                    Samantha goes out drinking  
19                    frequently leaving [Samantha] with  
20                    [another person who] allegedly  
21                    smokes 'rock' when Phoenix is  
22                    present [the referral] has not  
23                    heard anything about the family  
24                    since she left the home."

25

1                   And then:

2

3                   "For follow up by CRU"

4

5                   It goes from Jacki Davidson, who was after-hours,  
6 right?

7           A       Yes.

8           Q       To Barbara Klos, who's in CRU?

9           A       Correct.

10          Q       And this is her work now. It says:

11

12                   "Prior to the case being assigned  
13 to a Central Intake worker, a  
14 request was made for CRU to  
15 check with [EIA] to determine  
16 where, in fact Phoenix actually  
17 resides, ..."

18

19          A       Yes.

20          Q

21                   "... because, last November, the  
22 child was with her father, Steven  
23 Sinclair."

24

25          A       Yes.

1 Q Then:

2

3 "A call to [EIA] determined that  
4 Samantha Kematchs' file was closed  
5 to them in March 2003 as she had  
6 no children with her."

7

8 It says:

9

10 "Samantha's mother is on  
11 assistance on her own budget ..."

12

13 Have her birthday:

14

15 "At this time, Steve Sinclair is  
16 on [EI] with Phoenix on his budget  
17 and they live at the address shown  
18 above."

19

20 A Yes.

21 Q

22 "... call was made to the [source  
23 of referral] to obtain further  
24 information. From our  
25 conversation, it was found that

1 [the source of referral], was  
2 living with Samantha on Balmoral  
3 ... from sometime in August/03  
4 until they both moved in .... [to  
5 the] Furby St. address at the end  
6 of October. At some point in mid  
7 November, Samantha got a telephone  
8 call from Steve Sinclair's sister,  
9 Jen, saying that Steven had gone  
10 out and left Phoenix alone in the  
11 apartment. Samantha then went to  
12 Steven's place, picked up Phoenix  
13 and kept her with the other adults  
14 at the Furby St. Address. As we  
15 continued to talk I asked  
16 questions, [source of referral]  
17 told me that she discovered that  
18 some people came to pick up  
19 Phoenix around Jan. 2/04 and took  
20 her to their place in Selkirk?  
21 [The referral] further said that  
22 there has been much arguing going  
23 on among all the adults, but  
24 couldn't ... elaborate on exactly  
25 who was doing the arguing and what

1           it was they were actually arguing  
2           about.    In reading the closing  
3           dictation in the Sinclair file  
4           which is the most recent, it was  
5           found that Phoenix was in a [place  
6           of safety] with a family named  
7           Stephenson who lived on Selkirk  
8           [Avenue].   It is believed that  
9           this may be the family who picked  
10          up Phoenix as in the last file  
11          recording closing summary in the  
12          Sinclair file it is recommended  
13          that Phoenix be placed with the  
14          Stephensons should she return to  
15          'care'.   An attempt to speak with  
16          the    Stephenson    family    was  
17          unsuccessful as both the home  
18          telephone number along with Mr.  
19          Stephenson's work phone number are  
20          'out of service' at this time."

21

22                    So this is all information that Ms. Klos provided  
23 in her report?

24           A    Yes.

25           Q    And it says:

1                   "Given that the guardianship of  
2                   Phoenix ..."

3

4                   THE COMMISSIONER: Mr. Olson, I think he agrees  
5 to all this. What's the point of reading the whole  
6 statement to him?

7                   MR. OLSON: I just want to put in context as, as  
8 to what happened with the file after.

9                   THE COMMISSIONER: I see.

10                  MR. OLSON: In terms of him signing off on  
11 the ...

12                  THE COMMISSIONER: I'm certainly interested in  
13 that, but I, I -- I think he will agree that this is the  
14 document that they -- that's the information that came to  
15 them all right.

16                  MR. OLSON: Right.

17                  THE COMMISSIONER: But whether there's any point  
18 reading it all to him. But if it will help you get him to  
19 where you want to go, then go ahead.

20                  MR. OLSON: Yeah. I just want to ensure the  
21 witness knows what I'm referring to when he says, I want to  
22 look to see if the presenting problems have been addressed.  
23 These are the presenting problems.

24                  THE WITNESS: Okay.

25

1 BY MR. OLSON:

2 Q So the issue was, where is Phoenix at the time.

3 A Yes.

4 Q And that's what Ms. Conlin was going to  
5 determine?

6 A Yes, it was.

7 Q And we go to the work that she was involved in on  
8 the file. Starts on page 37352.

9 A Yes.

10 Q Under Data.

11 A Right.

12 Q This is Ms. Conlin's work?

13 A Yes, it is.

14 Q Okay. And then she goes out with Monica Marx.  
15 Was that a co-worker?

16 A Yes, it was.

17 Q And what would be the purpose of her going out  
18 with Ms. Conlin?

19 A Lisa and Monica were partners and they might do  
20 several fields at once, and knock off different fields they  
21 each had to do.

22 Q Okay. Would they equally be responsible for this  
23 file?

24 A No, no. This would have been Lisa's file, Ms.  
25 Conlin's file, sorry.

1 Q This is Ms. Conlin's file?

2 A Yes.

3 Q So Ms. Conlin gets information from Rohan and Kim  
4 that they've had her since the beginning of January?

5 A Yes.

6 Q Which was consistent with what, what the source  
7 of referral indicated, that Phoenix left mother's place in  
8 January?

9 A Yes.

10 Q And when asked where Steven was, Ron Stephenson  
11 said he didn't know and there's lots of rumours and  
12 everyone's saying different things?

13 A Yes, that's correct.

14 Q Okay. So here, Ms. Conlin is only talking to Ron  
15 Stephenson; that's your understanding?

16 A Yeah.

17 Q And is that something you would have been aware  
18 of at the time you signed off on the closing summary?

19 A I would know that she had spoken to Mr.  
20 Stephenson, yes.

21 Q You would have known, yeah.

22 A Sorry, to, to Rohan and -- yes, I -- yes.

23 Q Okay. Would you have known whether or not she  
24 spoke to Kim Edwards or Kim Stephenson?

25 A No, I wouldn't. I, I think I probably assumed it

1 but I don't see it there.

2 Q It's -- Ron says he doesn't actually live at the  
3 residence.

4 A Um-hum.

5 Q Is -- that's, is that information you would have  
6 been concerned about?

7 A No.

8 Q No. And the idea was, though, that Phoenix would  
9 be left with Ron and Kim?

10 A Yes.

11 Q And if the worker didn't talk to Kim, that --  
12 would that be concerning to you?

13 A Not necessarily. Kim may just not have been in  
14 the home at the time.

15 Q Wouldn't you want to know what Kim was doing at  
16 the time, whether she was working?

17 A No, I would assume Kim was there, just was not  
18 there at the time she visited the home.

19 Q And you would assume that based on what?

20 A I don't know, I'm sorry.

21 THE COMMISSIONER: Well, I think Ms. Conlin told  
22 us that Kim Edwards was not there; is that not right?

23 MR. OLSON: She was not there. Right.

24 THE COMMISSIONER: Well, I think -- you've  
25 nothing to contradict that?

1 THE WITNESS: Sorry?

2 THE COMMISSIONER: You, you would -- you're not  
3 -- you wouldn't contradict --

4 THE WITNESS: No.

5 THE COMMISSIONER: -- Conlin saying that she was  
6 not there?

7 THE WITNESS: No, I wouldn't.

8 THE COMMISSIONER: All right. Now, you can ask a  
9 question that she was not there, does that concern him.

10

11 BY MR. OLSON:

12 Q Yeah, that's, that's what my question is.

13 A Okay. No, that wouldn't necessarily concern me,  
14 no.

15 Q Okay. And then I was asking, she's -- Conlin's  
16 only talking to Ron Stephenson who says he does not live at  
17 the residence.

18 A Right.

19 Q Okay. He's (sic) not talking to Kim Stephenson,  
20 who apparently lives at the residence?

21 A Right.

22 Q And it's, the proposal is that Kim Stephenson is  
23 going to look after Phoenix, right?

24 A Yes. I, I read it as Ron and Kim were going to  
25 look after Phoenix.

1 Q Okay. And that's based on what Rohan --

2 A That's -- yes.

3 Q -- told Ms. Conlin. Okay. And my question is,  
4 wouldn't it be important, then, to talk to Ms. Edwards to  
5 confirm that she's onboard with that?

6 A It would be good idea, yes.

7 Q They were a place of safety in the past, right?

8 A Yes, they were.

9 Q But things do change over time, circumstances  
10 change?

11 A They can, yes.

12 Q And there may be things going on with Ms. Edwards  
13 where she doesn't necessarily want to care for Phoenix. Is  
14 -- in that case, wouldn't it be important for the worker to  
15 actually have a conversation with her to see what the plan  
16 was or what she was prepared to agree to?

17 A It would be, it would have been, it would have  
18 been good to have spoken to Kim as well.

19 Q January 22nd, 2004 recording. It's on page  
20 37353.

21 A Yeah. It says:

22

23 "Consult with Doug Ingram."

24

25 A Right.

1 Q

2 "Call previous supervisor. Get in  
3 touch with Steven. Leave child  
4 with Rohan for now."

5

6 A Yes.

7 Q Okay. So this is advice that you would have  
8 given Ms. Conlin?

9 A Yes.

10 Q And is that after she filled you on what she  
11 found out from the Stephensons?

12 A Yes.

13 Q Okay. And you're telling her to contact the  
14 previous worker for Steve Sinclair?

15 A I think I said supervisor, but ...

16 Q Sorry, supervisor.

17 A Yes.

18 Q And that would have been Ms. Edinborough?

19 A Yes, it would.

20 Q And do you recall why you would have -- or do you  
21 know why you would have told her to call Ms. Edinborough?

22 A Probably because I knew Ms. Edinborough and, and  
23 I would more likely -- I wouldn't have known the worker at  
24 the time. Off the top of my head, I probably would know  
25 the supervisor.

1 Q You would know the supervisor?

2 A Yes.

3 Q And did you expect that she would provide some  
4 insight into the family and what was going on?

5 A I thought she might, yes.

6 Q And then you say:

7

8 "Get in touch with Steven."

9

10 Was it important to get in touch with Steve  
11 Sinclair at this point?

12 A We didn't have his side of things. It would have  
13 been, it would have been nice to talk to Steven as well  
14 because we didn't know what was going on with him at all.

15 Q So you wanted to figure out what he was -- what  
16 his plans were and what he was doing?

17 A Yes. Yes, sorry.

18 Q And then:

19

20 "Leave child with Rohan for now."

21

22 That would have been your advice to Ms. Conlin?

23 A Yes.

24 Q And it's recorded as a phone call:

25

1                    "... from Heather Edinborough.  
2                    She recommends leaving Phoenix  
3                    with the Stephensons."

4

5 Then it says:

6

7                    "Transfer the file to Family  
8                    Service and they can determine  
9                    whether this should be the long  
10                    term plan."

11

12            A     Yeah.

13            Q     And Ms. Conlin said that, that was Ms.  
14 Edinborough's advice to her?

15            A     Yes, it was.

16            Q     And that is something you would be aware of?

17            A     Yes, I would have (inaudible).

18            Q     Okay. You, you sign off on the decision  
19 ultimately to close the file?

20            A     Yes, I did.

21            Q     Was there a reason you didn't assign it for long  
22 term care to a family service worker?

23            A     Again, I have no actual recollection but I do  
24 have recording here.

25            Q     Based on the report.

1           A       Based on the report, I would think -- I'm sorry,  
2 the question again was why did I -- I'm sorry.

3           THE COMMISSIONER:   Well, I think the point was  
4 the advice that Ms. Edinborough gave was not followed by  
5 Ms. Conlin.

6           THE WITNESS:   True.

7           THE COMMISSIONER:   What's your assessment of  
8 that?

9           THE WITNESS:   My assessment was probably wasn't  
10 necessary, we necessarily had to, had to assign the case.  
11 Again, I have no recollection why at the time but it may  
12 have been that, you know, we've assigned way -- a whole  
13 pile of cases to them and maybe, maybe this one doesn't  
14 need to be assigned as much as other cases do; or maybe it  
15 would have been the child is safe right now in a, in a  
16 stable placement. I can't recall.

17

18 BY MR. OLSON:

19           Q       But your information was based on this closing  
20 report?

21           A       Yes.

22           Q       And you've just read it over?

23           A       Um-hum.

24           Q       Based on that, do you know why you agree with  
25 closing the file?

1           A     The child was safe and was with people who had  
2 previously had the child. And I'm guessing, as well, that  
3 I had no -- the father was not in a position, at that time,  
4 to look after the child himself.

5           Q     So the father --

6           A     Nor was mother.

7           Q     Neither parent was in a position to look after  
8 Phoenix?

9           A     Correct.

10          Q     And, and on that basis, Ms. Conlin recorded that  
11 risk would be high of Phoenix coming into care should she  
12 be returned to Steven's care?

13          A     Yes.

14          Q     Or should she be with the mother?

15          A     Correct.

16          Q     Okay. And you agreed with that assessment based  
17 on the information you reviewed?

18          A     Yes.

19          Q     Okay. And so the decision was made to leave  
20 Phoenix with Ron Stephenson and Kim Edwards?

21          A     Correct.

22          Q     Was there a reason you didn't make it a formal  
23 arrangement, a formal place of safety?

24          A     Again, based on what I'm seeing here, I can't  
25 tell you for sure. It strikes me that the child was safe

1 and there was no need necessarily apprehend the child. She  
2 was in a place, she was in her former place of safety.  
3 They'd already been checked out by the agency and the  
4 people were -- had said they were prepared to care for her  
5 on a long term basis. And the father had said that he was  
6 prepared to have them look after her.

7 Q I want to have you look at a letter at page  
8 37449.

9 A I'm sorry, 37449?

10 Q 37449. If you look on --

11 A I'm sorry, I'll be right there.

12 Q It's just a one-page letter. It's on --

13 A Okay.

14 Q Do you want a minute just to read, read it? You,  
15 you've read it before, right?

16 A Yes, I have. Yes, I've read this letter, one on  
17 the screen, yes.

18 Q Okay. Letter is dated February 13, 2004 to Ron  
19 and Kim Stephenson?

20 A Yes.

21 Q And it was sent by regular mail?

22 A Um-hum.

23 Q Did, did you ever direct workers you supervised  
24 to send letters like this by registered mail or some other  
25 form?

1 A Yes, I did.

2 Q You did?

3 A Yes.

4 Q Okay. So now that you see that it's sent by  
5 regular mail, would that be something that you would agree  
6 with?

7 A Yes, I would have, I would have liked seeing that  
8 there, yes.

9 Q I'm sorry, just to be clear, you would have liked  
10 to have seen it sent by --

11 A I would have, I would have liked the worker to do  
12 this. I would -- this would have struck me as being  
13 example of good work.

14 Q The letter?

15 A Yes.

16 Q Yeah. My question is just about the way it's  
17 sent.

18 A Regular mail as opposed to registered mail?

19 Q Registered mail or some other form where you know  
20 it's been received.

21 A I suppose in hindsight registered mail would have  
22 been a superior method. But the fact that we had sent the  
23 letter was a good thing, I think.

24 THE COMMISSIONER: Was that standard practice to  
25 send it by ordinary mail?

1 THE WITNESS: Yeah, I would say, yes, for the  
2 most part it would be.

3

4 BY MR. OLSON:

5 Q And what was the purpose of sending this letter?  
6 First of all, before, before it was sent, would you have  
7 reviewed it with Ms. Conlin?

8 A No. It was a letter between a worker and her  
9 client. Those letters do not necessarily require a  
10 signature of a supervisor.

11 Q So she would have prepared this on her own  
12 accord?

13 A Yes.

14 Q A letter like this, where it's being sent to the  
15 client in an informal arrangement for care ...

16 A Yes.

17 Q Is this sort of a standard type of letter that  
18 would be sent?

19 A I would say so, yes.

20 Q Yeah. And this is confirming, according to the  
21 letter, the conversation Ms. Conlin had with Rohan  
22 Stephenson previously about providing care for Phoenix?

23 A Yes.

24 Q Okay. Says that the agency has serious concerns  
25 about Steven's current lifestyle as well as Samantha's:

1                    "He has been advised that he is  
2                    not to take Phoenix back into his  
3                    care without contacting this  
4                    agency and having a risk  
5                    assessment done."

6

7            A        Yes.

8            Q        Do you understand that to refer to Steven?

9            A        I do.

10          Q        Okay. And it says:

11

12                    "So please be advised that the  
13                    agency hopes you will continue  
14                    ..."

15

16                    MR. RAY: I'm just not sure if Mr. Ingram saw the  
17 letter in advance of it being sent, and if he didn't, then  
18 I think we're just asking him to really speculate about  
19 what the letter did or didn't mean. And I think Ms. Conlin  
20 has explained what she meant by the letter. I don't know  
21 that Mr. Ingram can really go beyond what Ms. Conlin has  
22 already told us. I think it's -- I guess the more  
23 important question would be, did he see it in advance of  
24 closing the file.

25                    THE COMMISSIONER: I think he's told us he did

1 not see it before it went out in the mail.

2 MR. OLSON: Yeah. My, my concern is whether or  
3 not he would have agreed with the letter and the language  
4 used in the letter, in terms of directing the --

5 THE COMMISSIONER: Based upon what he knew from  
6 the file?

7 MR. OLSON: Based upon what he knew from the file  
8 and being her supervisor, common supervisor at the  
9 time.

10 THE COMMISSIONER: Well, why don't you just ask  
11 him that without referring to the -- without reading  
12 through the letter?

13 MR. OLSON: Sure.

14

15 BY MR. OLSON:

16 Q Do you understand that question?

17 A Yes. I agree with the letter.

18 Q You agreed with the letter?

19 A Yes, I ...

20 Q When you signed off on Ms. Conlin's closing  
21 summary, was there anything preventing Phoenix from being  
22 returned either to her mother or father's care?

23 A Just the request of the, Rohan's -- or, sorry,  
24 the Stephensons not do that.

25 Q Just the request?

1 A Yes.

2 Q Aside from that, there was nothing else?

3 A No.

4 THE COMMISSIONER: Where, where's the request?  
5 You say there was a request.

6 THE WITNESS: In the letter.

7 THE COMMISSIONER: Well, that relates only to  
8 Steven, doesn't it?

9 THE WITNESS: Yes, it does.

10 THE COMMISSIONER: Was there a request with  
11 respect to what the Stephensons should do if Samantha came  
12 for the child?

13 THE WITNESS: No, there's not.

14 MR. RAY: I guess, Mr. Commissioner, we come back  
15 to Ms. Conlin's evidence and what she says, and I don't  
16 want to put it in front of the witness, but what she says  
17 she told Mr. Stephenson and what his understanding of the  
18 letter was, I ...

19 THE COMMISSIONER: I don't think there's much  
20 point going further with the letter.

21 MR. OLSON: Well, and I, I don't know how the  
22 witness would be able to answer those questions.

23 MR. RAY: That's, that's my point, is I don't  
24 think he can answer what she intended by the letter and --  
25 or by the wording of the letter or what her discussions

1 were with ...

2 MR. OLSON: And I wasn't asking that question.

3 MR. RAY: No, that, that's fine.

4 THE COMMISSIONER: Is there anything else you  
5 want to get out of him with respect to the letter?

6 MR. OLSON: No, there's nothing else.

7 THE COMMISSIONER: I think we'll leave the letter  
8 alone, then.

9

10 BY MR. OLSON:

11 Q So when the file was closed, then, did you, did  
12 you do an assessment of risk? Before closing the file did  
13 you do any assessment of risk to Phoenix?

14 A There was no risk assessment, no.

15 Q No risk assessment?

16 A No. No.

17 Q We could put page 36968 on the screen. This is  
18 an e-mail to Lisa Mirochnick. Have you ever seen this  
19 before?

20 A No, I have not.

21 Q Okay. It's dated May 10, 2004. This is after  
22 the file was closed.

23 A Correct.

24 Q It contains some information about Phoenix and  
25 that Samantha Kematch, the mother, is looking for custody

1 of Phoenix. She's hired a lawyer, et cetera. Is that, is  
2 that information you would have expected Ms. Conlin to  
3 bring to your attention?

4 A See, this is something that would have come in on  
5 a closed file to her. I can't see that she would have  
6 necessarily brought it to my attention. I think what is  
7 more likely she would have done is sent it back down to CRU  
8 to re-open the file.

9 Q Send it back down to CRU?

10 A Yeah, have the file re-opened.

11 Q So not, not to your attention, in other words?

12 A Not to my attention, no.

13 Q Do you recall how you found out about Phoenix  
14 Sinclair's death?

15 A I do not.

16 Q No memory of that?

17 A None whatsoever, sir.

18 Q Did your employer ever discuss your involvement  
19 in this case with you?

20 A My --

21 Q Prior to the inquiry?

22 A Not that I can recall. Apparently I was at a  
23 meeting where I was notified this had happened, but I just  
24 don't have any recollection of that at all.

25 Q Do you recall when you first realized you had

1 some involvement in the file?

2 A It was, I think April 2nd of last year when I --  
3 the day they announced the inquiry.

4 Q April last year?

5 A Yeah.

6 Q There were three reports that were commissioned  
7 after the death that were specific to the facts of this  
8 case?

9 A Yes.

10 Q I take it you weren't made aware of those until  
11 your involvement in the inquiry?

12 A I believe that is correct, yes.

13 Q Okay. Were you interviewed by anybody with  
14 respect to your involvement prior to the inquiry?

15 A I do not recall that, though it does seem odd  
16 that I wouldn't have been interviewed by somebody.

17 Q Certain portions of the, the report, that's  
18 called a Section 4 report ...

19 A Yes.

20 Q Done by Andrew Koster ...

21 A Yes.

22 Q Refer to the work that you supervised.

23 A Yes.

24 Q If we could turn to page 35. This portion here I  
25 understand you've reviewed before?

1 A Yes, I have.

2 Q And this, Ms. Conlin confirmed, is basically the  
3 facts taken from her closing summary. Having reviewed it,  
4 is there anything you want to comment on, on those pages,  
5 35 to 37?

6 A No.

7 Q Okay. If we can turn to page 40. Sorry, could  
8 we go back to 39. Findings 22 to 26 involve the time  
9 period that you were supervising Ms. Conlin.

10 A Yes.

11 Q With respect to finding 22, and I'm just going to  
12 read the bold portions, but you've read the entire finding?

13 A I have.

14 Q Okay. Says:

15

16 "The letter to the Stephensons was  
17 an example of good practice."

18

19 A Yes.

20 Q Do you want to comment on that?

21 A I agree.

22 Q Okay. Finding 23:

23

24 "The case file contained no  
25 returned envelope indicating that

1                   the Stephenson's had moved or that  
2                   the letter had been returned."

3

4                   Do you have any comments on that?

5           A       No.

6           Q       Okay. Finding 24:

7

8                   "The worker was right to believe,  
9                   given the Stephenson's previous  
10                  concern, that Phoenix would be  
11                  safe there and that they would  
12                  tell the agency if any attempt was  
13                  made to pick her up."

14

15                  Do you have any comments on that?

16          A       None, but I agree.

17          Q       Okay. You agree?

18          A       Yes.

19          Q       We could scroll down, please. Finding 25:

20

21                  "The worker attempted to do the  
22                  right thing in her case management  
23                  of this file even though there  
24                  were some gaps that the agency  
25                  could and should have pursued

1 further."

2

3 You have any comments on that finding?

4 A No, but I do agree.

5 Q You agree. Please go to the next page. Finding

6 25:

7

8 "Follow up with the Stephenson's

9 on this case would have been

10 beneficial and good practice due

11 to the chronic problems that the

12 parents were now exhibiting."

13

14 Want to comment on that?

15 A No, but I do agree.

16 Q Do you agree with it?

17 A I do agree.

18 Q Finding 26:

19

20 "The Stephensons, Kim in

21 particular, provided crucial

22 'respite care' for Phoenix during

23 significant periods in the first

24 three years of her life. This

25 occurred while Winnipeg [Child and

1                   Family Services} was active in  
2                   their case management of the file  
3                   and at times when there was little  
4                   evidence of their involvement."

5

6                   You have any comments on that finding?

7           A        I'm afraid not, no.

8           Q        Do you agree with it?

9           A        I, I certainly agree with the first part. I'm  
10       not sure that I'm in a position to comment on the second  
11       part.

12          Q        Okay. If we could, for a minute, go back to page  
13       39. At the bottom of the page it refers to ... Sorry,  
14       think I meant page 40, at the, at the bottom of the page.

15                   Sorry, there's nothing else on that page unless  
16       you have any further comments on any of the findings we  
17       reviewed.

18          A        No.

19          Q        Okay. Page 78. Under recommendation 13, under  
20       the heading Foster Care.

21          A        Yes.

22          Q        Says:

23

24                    "That Winnipeg Child and Family  
25       Services will ensure that

1                   there are Procedures outlining  
2                   safe guards for children in  
3                   [and] out-of-care-alternative-care  
4                   Arrangements."

5

6    Sorry:

7

8                   "... in out-of-care-alternative-  
9                   care Arrangements"

10

11           A     I see it.

12           Q     Would you agree with that recommendation?

13           A     Yes.

14           Q     Want to take you now to the Section 10 report.

15    It's at Commission disclosure 2, page 117. At page 150 of  
16    this report, beginning at:

17

18                   "On January 21, 2004, ..."

19

20           THE COMMISSIONER: What page are you at?

21           MR. OLSON: Page 150.

22           THE WITNESS: I see it.

23

24    BY MR. OLSON:

25           Q     See where it says, "On January 21"?

1 A Yes.

2 Q "2004". You've read that portion of the report  
3 over?

4 A I have.

5 Q Okay. Do you have any comments on what's  
6 contained on that page at the bottom?

7 A Could you go down, please.

8 I have no comments, no.

9 Q No comments?

10 A No.

11 Q Go to the next page, please. Any comments on  
12 that first paragraph on this page?

13 A The only comment I have, as I read that first  
14 paragraph, not to say that Mr. Sinclair was, was surprised  
15 that he had been with Ms. Edwards for a month, rather he  
16 was surprised it had been a month, it had been all that  
17 time. That was the way I read it, sorry.

18 Q That's the way you read it?

19 A The first time, yes.

20 Q The -- you go two paragraphs below that where it  
21 starts: The worker noted".

22 A Yes.

23 Q Do you have any comments on that? If you could  
24 just scroll the page down to show the whole paragraph.

25 A Just that I think the term "high", talking about

1 risk, probably referred to what they used to call in the  
2 lingo, high risk to come into care, not that there's a high  
3 risk to child.

4 Q The last paragraph says:

5  
6 "At this point, the Agency was  
7 acquiescing to an arrangement for  
8 Phoenix that was tenuous at best.  
9 Mr. Sinclair had not satisfied the  
10 Agency about his whereabouts and  
11 the circumstances under which  
12 Phoenix reportedly had lived with  
13 him, Ms. Kematch and Ms. Edwards  
14 in the space of less than three  
15 months, from October 2003 to  
16 January 2004. (The Agency's  
17 conversation with Ms. Kematch  
18 later in 2004 offered little  
19 illumination as to what she had  
20 been doing either.)"

21

22 That was after Ms. Conlin's involvement.

23 A Right.

24 Q And then it goes on:

25

1                    "In addition, the Agency now knew  
2                    ..."

3

4 We could just go to the next page:

5

6                    "... that Mr. Stephenson and/or  
7                    Ms. Edwards felt no need to advise  
8                    the Agency that Phoenix's living  
9                    situation was unstable."

10

11                    Do you have any comments on, on anything  
12 contained in this paragraph?

13                    A     Just that we didn't know about it. I think the  
14 statements -- sorry, I think the statements are true but I  
15 don't think we knew about it that time.

16                    Q     You didn't know about it at the time?

17                    A     Correct.

18                    MR. OLSON:     Those are my questions for this  
19 witness. Thank you.

20                    THE WITNESS:   Excuse me.

21                    THE COMMISSIONER:   Yes.

22                    THE WITNESS:   I'm sorry, but may I have another  
23 brief break.

24                    THE COMMISSIONER:   Certainly.

25                    THE WITNESS:   Thank you.

1 THE COMMISSIONER: We'll take a 10-minute break.

2 THE WITNESS: That's way enough. Thank you, Your  
3 Honour.

4 THE COMMISSIONER: Take 10-minute break prior to  
5 cross. We're now adjourned.

6 THE WITNESS: Thank you.

7

8 (BRIEF RECESS)

9

10 THE CLERK: Order, please rise.

11 THE COMMISSIONER: Mr. Gindin, please.

12 MR. GINDIN: Thank you.

13

14 CROSS-EXAMINATION BY MR. GINDIN:

15 Q Mr. Ingram, my name is Jeff Gindin.

16 A Mr. Gindin.

17 Q I appear for Kim Edwards and Steve Sinclair. I  
18 have a few questions for you.

19 A Sure.

20 Q You've told us that your recollection of your  
21 involvement is virtually non-existent at this point?

22 A Yes.

23 Q You were connected with Steve Sinclair, not just  
24 in '04, which we've just talked about, but I think also you  
25 supervised Kathryn Epps back in 2001 and 2002, correct,

1 correct?

2 A I did supervise her then, yes.

3 Q So you actually were involved with Steve Sinclair  
4 on two different occasions with respect to this matter,  
5 right?

6 A I understand that to be true, yes.

7 Q But in spite of that, you really have no  
8 recollection of the things that you did, right?

9 A No, I don't, sorry.

10 Q Now, you've been a supervisor for about 10 years,  
11 or you were a supervisor for about 10 years all told?

12 A Was a supervisor since '89.

13 Q Since '99?

14 A '89.

15 Q '89? Until when?

16 A Till 2010, 2009.

17 Q Okay. So that's maybe 20 years.

18 A Yes.

19 Q Okay. And I presume you take your job as a  
20 supervisor seriously?

21 A Yes.

22 Q Right? Your role as a supervisor includes being  
23 a mentor --

24 A Yes.

25 Q -- to the people working for you, right?

1 A Yes, it does.

2 Q And to give them advice?

3 A Yes.

4 Q Did you ever do performance reviews as part of  
5 your job?

6 A I did, yes.

7 Q And if they need some guidance they can come to  
8 you?

9 A Yes.

10 Q Right? And you've told us that your practice was  
11 that the notes that you kept of your meetings and whatever,  
12 your practice was to shred them after you're, after you  
13 were done?

14 A The intake notes, yes.

15 Q Yeah. And when you say after you were done, do  
16 you mean when the file is closed?

17 A Yes.

18 Q Okay. And was that --

19 A Or transferred, yeah.

20 Q Was that your practice from '89 to 2009?

21 A Well, no. When I was a family services  
22 supervisor, the notes were far more in-depth and far more  
23 -- not sure (inaudible), far more ...

24 Q Important?

25 A Yes.

1 Q So you viewed your notes that you made here not  
2 to be that important?

3 A I wouldn't use the word "important". I'm trying  
4 to find a better word. I, I was dealing with the case for  
5 a very short period of time, and the type of notes I kept  
6 were, were mostly things like names and addresses.

7 Q Okay. Now, in 2004, you told us that you  
8 shredded the notes after the file is closed?

9 A Yeah.

10 Q Right. And I take it that was the same procedure  
11 you used in 2005, in '06, et cetera?

12 A Yes.

13 Q And '07, right up until you finished being a  
14 supervisor in '09, correct?

15 A I can't swear to that. At some point in there we  
16 -- I started doing, keeping the notes in the file, but I  
17 can't remember when that was.

18 Q You remember that you continued shredding the  
19 notes for at least a few years after, after your  
20 involvement here in 2004?

21 A At some point, yes. I don't remember how long.

22 Q You know, of course, that these notes that you  
23 make might be useful at some point in order to recall what  
24 it was you did, the advice you gave, et cetera, right?

25 A I'm not sure I agree with that. Most of the

1 stuff I was keeping as an intake supervisor was, was very,  
2 very superficial stuff and tended to be, as I said, tend to  
3 be the type of thing of names and addresses.

4 Q Well, you found it important enough to write  
5 down, right?

6 A I would, I would type it up and e-mail it to a  
7 worker and have it attached to the file, yes.

8 Q So you never made notes of your meetings with  
9 your workers at all?

10 A Well, no, I did.

11 Q Um-hum. And are those the notes you shred?

12 A The kind of notes we're talking about here --

13 Q Um-hum.

14 A -- are, again, very, very superficial things.  
15 The things where I made a, an important decision or  
16 something like that, would get added it to the social  
17 worker's notes. I may even record it myself and, and  
18 e-mail it to the worker and ask them to record it or add it  
19 to the notes.

20 Q I see. You told us that what you did was, when  
21 you wanted to give some direction, you'd often just give  
22 them a post-it note or something, right?

23 A When I was first assigning a file --

24 Q Um-hum.

25 A -- I might say, I think we should go this

1 direction with this file, yes.

2 Q Um-hum.

3 A I might put it on a post-it note.

4 Q So you might put it on a post-it note and give it  
5 to the worker?

6 A Yes.

7 Q Any idea where those post-it notes are now?

8 A No. Actually, I've seen them in files since  
9 then.

10 Q You've seen them in the files?

11 A Yes, I have.

12 Q Do you know where they are now?

13 A I assume still in the files.

14 Q I see. And did you ever use anything more  
15 sophisticated in terms of communicating with your workers,  
16 like maybe an e-mail or a memo?

17 A Yes.

18 Q And do you know where they would be now?

19 A Most likely if -- they might get printed out and  
20 put on the physical file or they might get attached to the  
21 CFSIS file, electronic file.

22 Q Okay. You told us that you became aware of the  
23 supervisors' policies in around 2004 when they were being  
24 implemented. Do you recall that?

25 A I remember receiving them back then, yes.

1 Q Would you have read them?

2 A Yes.

3 Q And I think it's been pointed out to you, a  
4 section where it talks about the significance and  
5 importance of keeping all notes of your meetings and the  
6 directions you give to your workers, et cetera.

7 A Yes.

8 Q You recall that?

9 A I do recall.

10 MR. GINDIN: Yeah. Those are my questions.  
11 Thank you.

12 THE COMMISSIONER: Thank you, Mr. Gindin.  
13 Mr. Saxberg.

14 MR. SAXBERG: Thank you, Mr. Commissioner.

15

16 CROSS-EXAMINATION BY MR. SAXBERG:

17 Q Good afternoon, Mr. Ingram. We heard -- I'm  
18 sorry, I'm Kris Saxberg, I'm lawyer for ANCR and the  
19 authorities, other than the Métis authority.

20 A Thank you. I assumed that, thank you.

21 Q We heard evidence from Lisa Conlin that private  
22 arrangements were fairly common in around the time that you  
23 were supervising her work on the Phoenix Sinclair file. Do  
24 you agree with that?

25 A I think that's true, yes.

1 Q And would you agree that whenever intake, your  
2 unit, encountered a private arrangement, you wouldn't move  
3 to formalize it by apprehending the children?

4 A Not necessarily, no.

5 Q Unless -- you say "not necessarily". Unless,  
6 of --

7 A Unless there was some reason.

8 Q Sorry?

9 A Unless there was some reason to, yes.

10 Q Right. Unless it was necessary to ensure the  
11 safety of the child, correct?

12 A Correct.

13 Q And in this case, your view was it wasn't  
14 necessary to apprehend to ensure the safety of Phoenix  
15 Sinclair, correct?

16 A I'm, I'm guessing I didn't at the time, no. I  
17 don't believe I did at the time.

18 Q Right. Well, it wasn't your worker's opinion and  
19 you signed off on her report, correct?

20 A Yes. That is correct.

21 Q Now, I just may have got your evidence wrong on  
22 this point so it's just a brief matter of clarification.  
23 If we could turn up page 37353. This is the closing  
24 summary that you were asked to look at.

25 A Okay.

1 Q And you see the heading that says Assessment?

2 A There it is. Okay, yes.

3 Q And then if we could go to page 37355, Statement  
4 of Risk, where it says:

5

6 "Risk is low as long as Phoenix  
7 remains with the Stephensons.  
8 Should she be found in the care of  
9 Steven or Samantha, risk would  
10 change to high."

11

12 Do you see that?

13 A Yes.

14 Q So it's correct that a risk assessment of Phoenix  
15 Sinclair was done before this file was closed?

16 A Yes.

17 Q You agree that a risk assessment was done and  
18 it's what we're looking at right in front of us here?

19 A Yes.

20 Q That's right?

21 A Yes.

22 Q And you agreed with that risk assessment?

23 A Yes, I did.

24 Q And just briefly, on the subject of notes, if you  
25 had any involvement, direct involvement in a file and you

1 wrote notes of that involvement in the file such as  
2 contacting a parent or a collateral, you -- isn't it the  
3 case that your practice would be to ensure that that note  
4 found its way into the file?

5 A Yes.

6 Q Yes?

7 A Yes. The way you put it, I would likely have  
8 recorded it myself into the CFSIS recording and then sent  
9 an e-mail as well, just so the worker would know.

10 Q And the situation here is you didn't have any  
11 involvement like that and that's why there isn't one of  
12 your notes on the file; it's as simple as that, isn't it?

13 A I believe so, yes.

14 MR. SAXBERG: Those are my questions.

15 THE COMMISSIONER: Thank you, Mr. Saxberg.

16 Anybody else? I guess not, so you're on, Mr.  
17 Ray.

18 MR. RAY: I have no questions, Mr. Commissioner.  
19 Thank you.

20 THE COMMISSIONER: Thank you. Mr. Olson?

21 MR. OLSON: I have no redirect.

22 THE COMMISSIONER: You're finished, Witness.  
23 Thank you very much.

24 THE WITNESS: Thank you.

25

1 (WITNESS EXCUSED)

2

3 THE COMMISSIONER: Well, what do you want to do,  
4 adjourn or start another witness? I'm here.

5 MR. OLSON: I think -- I don't think we can start  
6 another witness today.

7 THE COMMISSIONER: All right.

8 MR. OLSON: So it would make sense to adjourn.

9 THE COMMISSIONER: All right. We'll stand  
10 adjourned till 9:30 tomorrow morning.

11 You can leave the stand. I'm going to ...

12

13 (PROCEEDINGS ADJOURNED TO DECEMBER 5, 2012)