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

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

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

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THURSDAY, JANUARY 17, 2013

APPEARANCES

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MR. K. SAXBERG and **MR. L. BERNAS,** 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 Child and Family All Nation Coordinated Response Network

MR. H. KHAN and **MR. J. BENSON,** Intertribal Child and Family Services

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THE COMMISSIONER: Now, Ms. Walsh, this is our last day in this location for a while, I gather.

MS. WALSH: That's right.

THE COMMISSIONER: So are you going to make some public announcement of that?

MS. WALSH: Well, I think, it's up on our website but, but yes, while you're on the topic, for the following three weeks, I believe, we'll be at the Fort Garry Hotel, so thank you.

THE COMMISSIONER: I think that should be on the record here for the, for those members of the public that wish to follow.

MS. WALSH: Good. Our first witness, Mr. Commissioner, is Ms. Faria.

THE COMMISSIONER: Right.

THE CLERK: Could you just stand for a moment. Is it your choice to swear on the Bible or affirm without the Bible?

THE WITNESS: I'll swear on the Bible.

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

THE WITNESS: Diva Maria Faria.

THE CLERK: And spell me your first name.
THE WITNESS: D-I-V-A.
THE CLERK: And your middle name?
THE WITNESS: M-A-R-I-A.
THE CLERK: And your last name, please?
THE WITNESS: Faria, F-A-R-I-A.
THE CLERK: Thank you.

DIVA MARIA FARIA, sworn, testified as follows:

DIRECT EXAMINATION BY MS. WALSH:

Q Good morning.
A Good morning.
Q Let's start with just a little background. You have a bachelor of social work from the University of Manitoba?
A That's correct.
Q And you obtained that in 1992?
A That's correct.
Q You also have a master's of social work from the University of Manitoba?
A That's correct.
Q You completed your master's in 2005?
A No, I completed my master's in 2009.

Q 2009, thank you. What was the focus of your master's?

A The focus of my master's was social services policy administration and as part of the requirements of the fulfillment of my master's degree, I conducted a, I developed a quality assurance protocol for the General Child and Family Services Authority.

Q Is that in use today?

A Yes, it is.

Q When did you first start working for Winnipeg Child and Family Services?

A Could I get a copy of my CV, please?

Q I don't have a copy of your CV. My understanding is that you started working in 1992.

A That is correct.

Q And your position was as an intake social worker?

A I initially began as a family services social worker.

Q My understanding is that you were a family services worker from September of '92 until November of '92; does that sound right?

A That is correct.

Q Then you became an intake social worker?

A Yes.

Q Still for Winnipeg CFS?

A Yes.

Q You held that position from November of '92 until July of '99?

A Yes.

Q After working for the intake department, I understand you became an abuse services coordinator for Winnipeg Child and Family Services?

A Yes, that's correct.

Q And you held that position from July of '99 to August 2000?

A That's correct.

Q What did your role as an abuse services coordinator involve?

A Well, I ran five abuse committees, two of which were rural because at that time we serviced what is now known as Eastman Child and Family Services, so we had a committee in Steinbach and one in Beausejour and he other committees were in Winnipeg. And so basically my responsibility was to ensure that social workers completed abuse investigations in compliance with the requirements of the child abuse committee guidelines. So once a worker and supervisor completed a child abuse investigation, that was submitted to me and then that would be taken to the child abuse committee for review and decisions would be make as to whether or not, you know, we would proceed with

registration of an individual on the registry and also a review of the, of the abuse, of the abuse investigation that was conducted.

Q Then after August of 2000 you became a crisis response unit supervisor for Winnipeg CFS?

A That is correct.

Q You held that position from August of 2000 to November 2005?

A That is correct.

Q And we'll come back to that work. So from 1992 to 2005 you were employed by Winnipeg Child and Family Services?

A That is correct.

Q After being a CRU supervisor, you became a program specialist for Protection and Family Services?

A Yes.

Q You held that position from November '05 to November '07?

A Yes, that's correct.

Q And at that point your employer was the General Authority?

A Yes, that's correct.

Q What did that position involve?

A In that position I was a protection specialist and so there were three positions at the authority at the

time: One was issue management, one was protection and one was resources. So my position entailed anything that the authority would have been dealing with that would have been of a protection nature. So as part of that I was responsible for all the child death referrals that came into the authority and in working with agencies around submitting, ensuring that they were compliant with the recommendations of section 10 reports. During my time there I completed a section 4 review and I also worked with the agencies around looking at internal reviews with respect to child deaths as well.

Q That's actually the position you were in when Phoenix Sinclair's death became known to the agency?

A That's correct.

Q Where are you currently employed?

A I'm currently employed with service delivery support, community service delivery and I report to the executive director of rural and north, which is Debbie Besant.

Q What does your current position involve?

A My current position is a -- I am a Child and Family Services program specialist, leading practice specialist and my position entails doing a lot of policy work, standards development, program reviews, workload reviews specific to Child and Family Services. I work

specifically with the General Child and Family Services government agency, which is known as Winnipeg Rural and North. So that includes Winnipeg and the rural and northern agencies which are Interlake, The Pas, Thompson, Churchill, Eastman and Parkland.

Q Is your employer now the department?

A Yes, it is.

THE COMMISSIONER: Now is that -- are you through running through all that? Because I have a question for the witness. I want to know what your employment was in March of 2005.

THE WITNESS: In March of 2005 I was employed as the crisis response unit supervisor at Winnipeg Child and Family Services.

THE COMMISSIONER: Crisis response unit supervisor?

THE WITNESS: Crisis response unit supervisor for Winnipeg Child and Family Services. At the time it was referred to as JIRU or Joint Intake Response Unit.

BY MS. WALSH:

Q You were the crisis response unit supervisor at Winnipeg Child and Family Services from August of 2000, I think you said, till November of 2005?

A That is correct.

THE COMMISSIONER: August what, '02?

MS. WALSH: August 2000.

THE COMMISSIONER: Yes, August 2000. And that's the job you were in until November 2005?

THE WITNESS: That is correct.

THE COMMISSIONER: Thank you.

BY MS. WALSH:

Q Now we talked about your formal university education. When you were at university taking your bachelor of social work, did you take any courses that focused specifically on child welfare?

A No, I did not. However, I did have a field placement in a Child and Family Services office.

Q What period of time was that?

A That would have been 1990 to 1992.

Q Now in terms of training once you started your employment, your counsel has provided me with a list of the courses that you have taken starting in 1996 to the present. I'm just going to go through with you the training that you took up to the time that you left Winnipeg Child and Family Services and stopped being a front line supervisor, if you like. So when you first starting working at Winnipeg CFS, in 1992, did you receive any training from the agency?

A Did I receive any training from the agency? I received the case manager competency based training which is the social work competency based training. I also received the --

Q Let me just stop you there because according to the document that your counsel has provided to me that was in 1998.

A I'm sorry, what, what timeframe --

Q So my question was you told us you first started working at the agency in 1992. So I wanted to know when you first started working at the agency, did the agency give you any training?

A When I, when I started working at the agency, I was, I was actually placed with a senior worker who I shadowed for a period of two weeks.

Q What about any formal courses?

A I'm not sure I understand the question.

Q Okay.

A Like you're asking me from what -- or for what period of time are you asking --

Q Okay.

A -- specifically?

Q Sure. You told us you started working in 1992 at CFS, Winnipeg CFS.

A Okay.

Q And the information that I received from your counsel shows training courses starting in 1996. So let me just ask you this way, between '92 and '96, do you recall whether you received any training from the agency or otherwise?

A I do not recall.

Q So in 1996 you received training that was called New Directions Family Systems Intervention training. You took level 1 in 1996 and level 2 in 1997?

A That's correct.

Q Then from February till May of 1998, you took Case Manager Competency Based training?

A That's correct.

Q And that involved three areas, case planning and family centered casework, the effects of abuse and neglect on child development and separation, placement and reunification?

A That's correct.

Q And in March of 2001 you took a course called Aboriginal Awareness at Red Willow Lodge?

A That's correct.

Q And in October of 2002 you took training called the Minnesota Alternative Response System?

A That's correct.

Q And then starting in '02 and going into '03 you

took Supervisor Competency Based training?

A That's correct.

Q Okay. Managing -- and that covered four areas, managing within a Child and Family Services system, managing work through other people, transfer of learning, and supervising and managing group performance.

A That's correct.

Q Okay. And that was all between '02 and '03. Going back to 1999 when you were an abuse services coordinator, did you receive any training with respect to that position?

A Yes, I did.

Q It's not listed in the document that I've been provided but there was some training you received?

A There was training that did occur and it was for the, for the entire committee, like I participated in it with the committee membership.

Q The core competency training that you took from February to May of 1998, did that training address standards?

A No, it did not.

Q Did it address risk assessment?

A No, it did not.

Q When you became a crisis response unit supervisor in August of 2002, did you receive additional training at

that point, is that -- with respect to being a supervisor?

A I know that I did attend the Tony Morrison training on, of Supervision in Social Care. I don't remember what year that was.

Q Okay. And in fairness --

THE COMMISSIONER: Ms. Walsh, was that August 2002 or 2000?

MS. WALSH: She became a crisis response unit supervisor in August of 2000.

THE COMMISSIONER: Yes. I think you mentioned --

MS. WALSH: Did I misspeak?

THE COMMISSIONER: I thought you mentioned, you said 2002. I could be wrong. But it is 2000?

MS. WALSH: It is. My apologies.

BY MS. WALSH:

Q According to the document that I assume you provided to your counsel which, which your counsel's provided to me, you took supervisor competency based training starting in October of 2002. So my question really is, you started work as a supervisor in 2000. Did the agency give you any training at that point?

A No.

Q So you got your training as a supervisor two years after you started work as a supervisor; is that fair?

A Yes, that's correct.

Q And I've read out the topics that the supervisor competency based training covered and those courses were taken in 2002 and 2003. Did those courses address standards?

A No, they did not.

Q What about risk assessment?

A No, they did not.

Q Let's, let's just finish with what I'm advised was your training up to the time that you left Winnipeg CFS. In 2003, you took training called Working Together as a Team and then the Tony Morrison training that you're talking about in '03, Staff Supervision in Social Care. Then from 2003 to 2004, you took a number of courses under the heading Leadership Competency Development?

A That's correct.

Q And that included modules relating to the foundation for effective leadership, effective interpersonal skills, developing others, developing the work environment and developing personal effectiveness skills?

A That's correct.

THE COMMISSIONER: And where did you take these courses?

THE WITNESS: That was through the Civil Service

Commission.

THE COMMISSIONER: Thank you.

BY MS. WALSH:

Q And again, through the Civil Service Commission, in 2004 you took a course entitled Managing under the Collective Agreement?

A That is correct.

Q And another course in 2004 called Staffing Skills for Managers and HR Professionals?

A That's correct.

Q And then in 2004, November of 2004, you took a course through the Addictions Foundation of Manitoba entitled Working with Families who Misuse Alcohol and Other Drugs in Child Welfare?

A That's correct.

Q And then you took another course called Intervention Strategies for Addictions also in 2004 through the Addictions Foundation of Manitoba?

A That is correct.

Q And as I said, I have been provided with a lengthy list of courses that you've taken since you left Winnipeg CFS starting in 2006, but I'm not going to review those with you. Now have you ever received training on standards?

A As that document outlines, the -- I received standards on the General Authority Case Management Standards Framework training in September of 2010.

Q Okay. So at the time that you were involved with, with Phoenix Sinclair's family, you had not received any training on standards?

A No, I had not.

Q And we know that you were involved on three separate occasions in providing services to Phoenix Sinclair's family in 2003, 2004 and 2005, right?

A That's correct.

Q And we're going to discuss that throughout the day. At that time then, you had not received training on standards?

A No, I had not.

Q Were you aware of standards, and do you know what I mean when I say standards --

A Yes.

Q -- the, the foundational or provincial standards?

A Yes, I'm aware of what you're referring to.

Q What, if any, awareness did you have of standards during the time that you were a crisis response unit supervisor?

A In March of 2004, I was handed a manual by my program manager, Dan Berg. I guess, I'm not sure what the

title was specifically but program manager, service manager. And that was a manual that had been provided to him by Ms. Sandie Stoker from the General Authority. I still have that manual in my possession today. And in that manual was a number of policies, procedures, standards, regulations that were contained in that manual.

Q That was in March of 2004?

A That is correct.

Q And you say he handed it to you. What, what was the reason for him handing that document to you?

A That --

Q Mr. Berg -- let me just, 'cause we're -- sorry to interrupt you, but Mr. Berg was your supervisor; is that right?

A That is correct.

Q Okay.

A That manual was distributed to all the supervisors in the program, in the Joint Intake Response Unit program, and it basically, from my recollection that really was the first time. Prior to that I had what was referred to as the blue binder which was the '99 standards that was in my office. But that was really the first memory that I had of actually receiving a copy of the standards.

Q And were you given any instructions when you were

handed the, the --

A No, there was absolutely no training, no instructions that accompanied that binder?

Q And what about the -- when we say the binder I think I meant the manual in '04, or are you calling that a binder too?

A Well, really what it was, it was a binder that consisted of a number of policies and procedures. So it had -- I mean we always had the Child and Family Services Act but it had a copy of the Child and Family Services Act, a copy of the Child and Family Services regulations, it had a copy of the Authorities Act, the Authorities regulations, it had, the Child Abuse Committee Guidelines were in it, the '99 standards, the draft 2001 standards, Case Management Standards and that's, and it was all contained in one package.

Q So the document that you got in March of '04, is that the document that contained the draft '01 standards?

A It contained the 1999 and the draft '01.

Q Were you given any training at that point with respect --

A No.

Q -- to standards?

A No, I was not.

Q So in 2004, 2005, what awareness did you have of

standards per se?

A It was what was contained in that manual, in that binder. You know whenever we had a question we would go refer to it. We would consult with one another as supervisors or we would consult with our program managers and at that time the authority had been created around 2003 and if we had standards questions we would also consult with the program specialist at the authority which at the time would have been Ms. Sandie Stoker.

Q When you were carrying out your work as a CRU supervisor, did you actually rely on and refer to standards?

A At times, yes.

Q Not always?

A Not always, no.

Q Okay. When would you refer to and rely on standards?

A If we had a question, if I had a question about what the requirement was about a timeline I would refer to the documents.

Q So in 2004, 2005, what -- because we -- there were a number of --

A Yeah.

Q -- versions of standards --

A Yes.

Q -- out there in 2004, 2005; is that fair?

A That is very fair. The program standards were in a transition period, so often that was part of the issue. It was very confusing to know what standards were in effect when, you know, because there was the '99 standards, the 2001 were draft standards, there were the remnants, there was what they referred to as the remnants. And then in, on July 1st, 2005, we have a new set of standards and then some revisions were made to the introduction of those standards in 2008. So I think there was a lot of confusion about the standards during that period of time

Q So when you talk about in '04 and '05, referring to standards, do you remember which version of the standards you referred to?

A Well, for the December '05, it would have been the --

Q The December '05?

A I'm sorry, March '05, sorry.

Q Um-hum.

A For March '05 it would have been the January 2005 standards.

Q And in December '04?

A That is a little less clear. It would have, it would have -- in my mind it was the 1999 standards because the 2001 standards were draft.

Q Now did you actually go and look at standards?
A Yes.
Q Okay.
A Yeah. If we had a question, you know, and I was consulting with another supervisor, I might have a look at the standard. Because we weren't trained on the standard we might, you know, contact somebody at the authority. But would I say that the standards were the primary documents that we used, I would say no.
Q So in 2004, 2005, what guided how you did your work in that case?
A Well we used -- obviously the Child and Family Services Act guided how we did our work.
Q What do you mean by that?
A Well the act really is the legislated foundation, you know, that guides the work that we do. It really outlines what the duties of agencies and the authority and the director are, as well as the office of the advocate. It, it outlines our responsibilities to families with respect to family services, protection matters, you know, how we seek orders, when we seek orders, timelines around orders and also services to children and confidentiality.
Q And it's set out in fairly broad terms?
A Yes, it is.
Q So you relied on the act. What else?

A Well, we would have relied on the act. We would have relied on the guidelines around reporting a child in need of protection. We would have relied on the child abuse committee guidelines and, you know, the standards as, as needed.

Q Do you remember being interviewed by Andy Koster after the death of Phoenix was discovered?

A Yes, I do.

Q And I expect that Mr. Koster will testify that not a single person that he interviewed spoke in terms of standards.

A I don't remember what my specific discussion was with Mr. Koster with respect to that matter.

Q And we will look at the records of your interview with Mr. Koster and we can do that now but when I looked at them I didn't see any specific records of your saying standards. Is it fair that you really didn't think of standards per se when you were carrying out your work in '04, '05?

A I think that that is, it's fair to say that.

Q What else guided you in your work, best practice? Would that be ...

A Sure, best practice guided, I mean clinical experience, peer consultation, management consultation, best practices guided the work that we did, our training

that we received, core competency based training, supervisor competency based training guided our practice.

Q Did you receive training on CFSIS?

A I did. I don't remember when.

Q Okay. And are you a registered social worker?

A No, I'm not.

Q Any reason why not?

A Just because it's not a requirement.

Q You're not delivering services right now, would that make a difference or no?

A I think it would. Currently I don't work directly with any, with a client population, so. But I think if I was that I probably would look at registering.

Q You think registration is a good thing?

A Absolutely.

Q Why is that?

A Because I think it lends credibility to the profession and it also, you know, allows, you know, if there's concerns about service or practice, it allows the public an avenue to, to pursue, you know, like a complaints review process if required through an official body.

THE COMMISSIONER: And what work is it you're doing right now?

THE WITNESS: I'm a Child and Family Services program specialist, leading practice specialist. So that

entails, most of my work really is currently policy program development, standards development. I also do a lot of training with respect to the new general authority practice models, so that I do training with respect to structured decision making as well as the current, the general authority case management standards as well as solution focused approaches to practice and child welfare.

THE COMMISSIONER: And your employer is?

THE WITNESS: My employer is the Province of Manitoba.

THE COMMISSIONER: Thank you.

BY MS. WALSH:

Q I asked you if you were registered. Have you ever been registered?

A No.

Q And let's talk about supervision. First of all, as we've just discussed, when you were a supervisor at CRU in '04 and '05, your supervisor was Mr. Dan Berg?

A That is correct.

Q His title was assistant program manager?

A That is correct.

Q And what sort of supervision did Mr. Berg provide to you?

A Mr. Berg was available to me if I required

ongoing supervision because of the nature of the work that we did, it was crisis response. So often we were dealing with very high risk imminent matters and often that would require immediate supervision. We also, he also met with me on a monthly basis to talk about other matters that weren't directly case specific. So that might have been human resource issues that we might have been managing, it might have been with respect to operational matters, it might have been with respect to, you know, my own, you know my own personal professional development, that kind of thing.

Q So you would talk to Mr. Berg about specific cases if you wanted to seek his advice?

A Yes, absolutely.

Q And how often did you do that, do you think?

A It really varied. You know, throughout the course of a day I could, you know, consult with him quite frequently or not at all. It really depended on the nature of the cases that we were managing. Anything that was high risk, for example, there were requirements, so death of a child, you know, significant serious injuries to a child, high profile cases. There were requirements that we report those types of matters to our managers.

Q And he was easily accessible to you?

A Yes, he was.

Q Okay. If we can pull up page 29621, please. I just want to go through the organizational chart of intake at the time that you were involved in this file.

MS. WALSH: I think probably, Madam Clerk, the way it came up is the way we'll have to look at it on the screen. You can't get it smaller, is that right? Is that the problem?

THE CLERK: Would you like to have it smaller?

MS. WALSH: Well, we can, we can work with it. That's perfect. Thank you.

BY MS. WALSH:

Q You've got that in front of you, Ms. Faria. So you see at the bottom it says April, bottom left-hand corner it says April 25, 2003. And this is a chart of the crisis response unit, after hours unit and intake, all the management people. Am I correct in understanding that the structure was essentially the same in 2004, 2005?

A That's correct.

Q Okay. And not just the structure but the actual individuals in the positions? Let's go through it. At the very top of the organization of this area was Mr. Harrison, program manager?

A That's correct.

Q Okay. And then below that were two assistant

program managers, Mr. Berg and Mr. Wilson?

A That's correct.

Q Mr. Berg was your direct supervisor?

A Yes, that's correct.

Q And so he supervised you as a CRU supervisor. Andy Orobko as an intake supervisor and Carolyn Parsons as an intake supervisor?

A Yes, that's correct.

Q And then on the other side Mr. Wilson -- the CRU supervisor is vacant as of 2003. Mr. Doug Ingram was an intake supervisor and Kevin O'Toole was also an intake supervisor.

A That is correct.

Q Now am I correct in understanding that Diana Verrier filled the CRU supervisor position ultimately?

A Yes. And during that period of time I covered the two teams, so I was supervising both teams.

Q When, do you recall when Ms. Verrier came on?

A I do not recall.

Q Okay. So you can't recall how, how long you covered both teams?

A It was a very lengthy period of time.

THE COMMISSIONER: In other words there would be another block out here when she came on?

THE WITNESS: Well where you see --

MS. WALSH: You see where it says vacant -- sorry, go ahead, yeah.

THE COMMISSIONER: Does it say vacant here?

THE WITNESS: Yeah, where it says vacant Diana Verrier --

THE COMMISSIONER: Just a minute. I don't know where that is. Where does it say vacant?

THE WITNESS: Under Rob Wilson.

THE COMMISSIONER: Oh, all right. I get you, yes.

THE WITNESS: Diana Verrier filled that position.

THE COMMISSIONER: Did you and Verrier not do the same work?

THE WITNESS: We did the same work. We reported to different assistant program managers.

THE COMMISSIONER: Oh, I see. Both of these, both sides did the same work, it was just the two different teams; is that right?

THE WITNESS: That's correct.

BY MS. WALSH:

Q I think we heard evidence from Ms. Verrier of involvement, at least by May of 2004. Does that sound right, that she would have been on board by then?

A That sounds correct.

Q And then also under Mr. Berg were abuse supervisors, community supervisors. Under Mr. Harrison were AHU supervisors, two of them, Janet Kehler, Kim Gardner (phonetic) and then Rick Manteuffel and on the other side again under reporting to Mr. Wilson were abuse and community supervisors.

A That's correct.

Q So that's, that's what the employment structure looked like and contained in '03, '04, '05, with the addition of Ms. Verrier sometime in '04?

A That's correct.

Q Okay. And then how many people, how many workers reported to you?

A I had a total of six social workers, one admin, and I had an Employment and Income Assistance liaison staff that also reported to me. So I had a total of eight staff.

THE COMMISSIONER: You had, what, six social workers, one admin and what was the other one?

THE WITNESS: She was an Employment and Income Assistance liaison so what she did was if there were minors that were looking at being emancipated, on assistance, that staff person would be conducting the assessments to make a determination for Employment and Income Assistance.

THE COMMISSIONER: I understand.

BY MS. WALSH:

Q And we're talking about '04 and '05, that's how many workers you had during that timeframe?

A That's correct.

Q The role of the administrative support person was what?

A The administrative support kept all of our statistics, basically did all of our inputting on CFSIS. The administrative supports would collect the reports in the morning from after hours, would sort them, would prepare them for us for when we arrived in the morning. Any reports that needed to be assigned directly to intake or abuse intake, she would ensure, they would ensure that that occurred and whatever other administrative duties, you know, that might have been assigned to them. I don't remember all of them.

Q And other CRU, the other CRU unit, did it have the same number of staff?

A Yes, it had, it had six social workers and one admin support.

Q No EI?

A No, the EIA liaison was for both teams and I was assigned the responsibility of supervising and managing her.

Q And you also said that you filled in as

supervisor for both crisis response units for a period of time?

A Yes, for a lengthy period of time up to, I'm not -- up to the point that Diana began the position. But both Diana and I covered for one another in the absence of the other. So if we were on vacation, we were attending meetings, we would be responsible for the 12 staff.

Q And in fact I recall that we heard from Ms. Verrier that she would point out that sometimes you would initial something that was relating to her team because she wasn't there and you were filling in for her.

A That's correct.

Q So you supervised Roberta Dick?

A Yes, I did.

Q Shelly, now known as Willox, know as Shelly Wiebe in 2004?

A Yes, I did.

Q Bill Leskiw?

A Yes, I did.

Q And Christopher Zalevich?

A Yes, I did.

THE COMMISSIONER: What was the last name?

MS. WALSH: Christopher Zalevich.

THE COMMISSIONER: Oh, yes.

BY MS. WALSH:

Q How did you carry out your supervision of the people who reported to you?

A Because the nature of our work was emergent, high risk, highly complex cases, day to day case management supervision was on an open door basis. So staff came to me as needed on an ongoing basis, so, and that was simply because of the emergent nature of our work. So staff would come to me at any time during the day so I always had to be available. If I wasn't available I had to make arrangements for another supervisor to be available in my absence. So it was constant. I also did do monthly supervision with my staff after the Tony Morrison training and that was really more, not necessarily related to case management decisions but looking at more, you know, some more of the human resource piece, so working with staff, you know, on staff development, you know, maybe learning plans, that kind of thing. Given the nature of the work and the volume of the work at crisis response unit, maintaining those monthly supervision, that monthly supervision of staff was not always possible.

Q So you were available to workers on a daily basis?

A That's correct.

Q What --

A And so, I mean workers could be lined up at my door, so if I've got a worker in my office who's consulting about an emergency, and I have another worker -- we've now, a CRU worker is now going out on another matter. You know, I would basically have to prioritize for that day. You know, somebody might have to wait while I attended to somebody else and, you know, provided them with direction. I could be in the middle of consultation and a staff could be calling me from the field to request authorization to apprehend a child. It was ongoing. There wasn't -- you know, it's not like family service where you would schedule time to do case management consultation. It was ongoing and it was also related to the length of time that we kept cases at CRU as well.

Q What kind of hours did you keep as a supervisor?

A Well, generally our hours were supposed to be 8:30 to 4:30. That generally was not how it worked. Often we were there much later -- much earlier and much later. It really depended on what was happening for us for the day. If we had staff out dealing with emergencies, our philosophy is that we made, as supervisors we made every effort to ensure that our staff had returned and that everybody was accounted for before we left for the day. And at the time workers carried cell phones so if they were still out in the field and it was five o'clock and they're

dealing with an emergent matter, we would have been meeting with the after hours supervisors to talk about what was happening in terms of that transition period to after hours. So often times it would -- it was often, you know, 8:00 to, you know, whatever, 6:00 because it was often very difficult to get out for 4:30, especially if your staff were dealing with an emergent matter and you had to see that through.

Q As a supervisor did you have other responsibilities beyond being available to discuss cases with your workers?

A Well, absolutely. You're dealing with, you know, you're dealing with administrative responsibilities, so I did all the time sheets, I did requests for vacation, you know. There, there may have been working committees that you may have been asked to sit on. In those circumstances the other supervisor would cover during that period of time. And there was also human resource matters that you had to manage. So I mean there were times where you were dealing with disciplinary matters, union related matters, you know, with human resources so that was also a part of the function. And the other piece of my work really was I, I dealt largely with the community, with collaterals. I had multiple calls from collaterals. Because we were crisis response and we, we received all the requests for

service during day hours, any written referrals that came in to the agency, nationally or provincially, would come through me or Diana. We would review those. We would be dealing with those individuals, those sources of referrals and so there was huge paperwork responsibilities.

THE COMMISSIONER: Were you able to get the job done?

THE WITNESS: Were we able to get the job done? Yes.

BY MS. WALSH:

Q Yes, there were certain types of decisions that required your approval as supervisor.

A That's correct.

Q And when I say certain types of decisions I mean with respect to case management. What were those decisions?

A Well, the decision to apprehend children required supervisory approval unless it was emergent and, you know, social workers, you know, and children were at imminent risk and it was not possible. I mean in those types of situations a social worker would have to do what they'd have to do, right.

Q So apprehensions. What else?

A If a case was being opened, either if it was

being opened or if a case was being closed, a supervisor would have to review that.

Q When you say opened, what do you mean?

A If a case was either being opened to intake or abuse intake. And we also opened up cases to our perinatal unit, those just went direct. That was the only exception where a case would go directly to a family service team.

Q So a decision to transfer a file or a family from CRU to intake or abuse intake, those decisions needed your approval as a supervisor?

A That's correct.

THE COMMISSIONER: Well, just better slow down now. We're coming to something. The witness talks terribly fast.

MS. WALSH: She does.

THE COMMISSIONER: So I'm going to have to slow down here and deal with -- the matter of transfer of files is critically important here.

MS. WALSH: Thank you.

THE COMMISSIONER: So I'd like you to just go over that again and have the witness slow down, please.

MS. WALSH: Okay, thank you.

BY MS. WALSH:

Q Decisions that required your approval included

apprehensions?

A That's correct.

Q If a file was being transferred from the crisis response unit to the intake unit, that required your approval?

A That's correct.

Q Similarly if a file was being transferred from the crisis response unit to the abuse intake unit, that required your approval?

A That's correct.

Q And if a file was going to be closed at the CRU level that required your approval?

A That's correct.

Q Anything else? Any other decisions with respect to case management that required your approval as supervisor?

A Not that I can think of at the moment.

Q Let's turn to page 29040. This is from commission disclosure 1634. This is the Winnipeg Child and Family Services supervision policy. At the top it says "Implementation March 1, 2004" Are you familiar with this document?

A I vaguely remember it.

Q Can you say whether it was something you were expected to comply with in 2004 and 2005?

A It says it was implemented in March 2004, so obviously. I don't know.

Q Okay. So it was something you were expected to comply with?

A Yes.

Q Starting on page 29040, under the definition section. I'm just going to go through portions of the document and ask you whether, what the document says is consistent with your understanding of what you were required to do and what you did as a supervisor.

A Okay.

Q So that's what we're going to do. The definition of supervision:

> "Supervision is a relationship process between supervisor and staff, in both one-to-one and group settings, intended to meet certain organizational, professional and personal objectives. These objectives or functions are:
>
> Management - Competent, accountable performance and practice

Education - Continuing professional development and reflective practice

Support - Assisting the staff to operate within the system

Mediation - Engaging the individual with the organization"

Does that match how you viewed your role as supervisor in '04 and '05?

A Yes.

Q So part of your role involved ensuring that the workers who you supervised carried out their work in a competent manner?

A Yes.

Q And another part of your role was to offer support to the workers you supervised?

A Yes.

Q Was it ever your experience that those roles conflicted?

A As a supervisor I tried to be as supportive as possible with my staff, especially given the difficult nature of the work that we do. In terms of ensuring accountability, that was always primary. So if there was concerns with respect to accountability those would be

addressed and, you know, those would either be addressed in consultation with my program manager or those would be addressed, you know, in conjunction with our human resources professionals.

Q Was the support role something that was a large part of what you did in '04 and '05?

A I think, I think it is a large part of what you do because as a supervisor in child welfare, because of the nature of the work, social workers are having to make difficult decisions every day, social workers and supervisors, and they're often having to deal with very traumatic, difficult experiences that at times lead to vicarious trauma. And so as a social worker, you know, you really have to -- as a supervisor you really have to have an awareness of the impact of the work on your staff and trying to be supportive in that way. So if a staff person had a critical incident where they may have been assaulted during the course of an apprehension where they might have, you know -- I mean our staff are witnessing horrendous abuse of children, you know, and, and that has an impact personally and psychologically. So you know, ensuring that our staff had the professional resources available to them in the event of those types of incidents. But they also, that they have support in terms of knowing, you know, that there was always somebody there that they could turn to for

consultation and for guidance as well. But, you know, it's a mixture of the two and, you know, it's very difficult, very draining work emotionally.

Q The work as a CRU worker you mean?

A The work of child protection in general. I think that there are certain positions within the organization, crisis response and abuse in particular, where you're dealing with imminent, high risk, tragic, sad, horrendously horrible situations that you're seeing on a day in, day out with respect to the lives of children and, you know, that really impacts staff. So I think that there are certain positions, much like, you know, the police department where vicarious trauma certainly is, is more significant. But for all of child welfare. I mean that doesn't mean that a social worker in family services isn't going to be exposed to a child death or to horrendous abuse on a caseload.

THE COMMISSIONER: Well I think that explains it very well the tough job that you have to do.

THE WITNESS: Thank you very much.

BY MS. WALSH:

Q And would those comments apply to the work of a supervisor as well?

A To the supervisor as well? Absolutely. There are many sleepless nights with respect to the work that you

do and, you know, it's traumatic work and people have to process that with their managers. There needs to be a level of self awareness about the impact on you personally and the impact on you in terms of your, of your family life. It certainly is, it's something that as supervisors you experience just as you do with your staff. You know, you're witnessing it just the same. These children are being apprehended. Often they're being brought to the office. It was not uncommon for me, you know, to bath children, like infants, because they were filthy, you know, neglected, you know, seeing children with burns and bruises and fractures and, you know, that is very, you know that is very psychologically and emotionally challenging.

Q Thank you. Still on page 29040, you see towards the bottom of the page it says:

> "Recording and Documentation. Both supervisor and staff will maintain notes regarding key decisions and themes that are discussed in supervision. The supervisor will maintain supervision records that that will document case discussions and discussions regarding

the employee's professional development and personnel issues."

Did you maintain notes regarding key decisions and themes discussed in supervision?

A Well, there's a difference between case management supervision and supervision with respect to human resource issues.

Q Okay, did you maintain --

THE COMMISSIONER: Difference between what?

THE WITNESS: Supervision related to human resource issues or to staffing issues.

BY MS. WALSH:

Q Okay. So let's start with case management issues. Did you maintain notes relating to case management issues discussed during supervision?

A I did not maintain notes. If I had, because of the emergent nature of the work and because of the volume of cases we were managing, if I had case specific information that I wanted added to a record, I would make an electronic, I would make an electronic copy of that information on the CFSIS record and I would sign it.

Q So, so that's how -- if one were looking at the file, one would know whether there was a note made by you

because you would have signed it?

A Yes. Now if it was related to a human resource matter that we were managing then I would be working with human resources and any documentation with respect to that staffing issue would go into the human, that individual's human resource file.

Q And otherwise you maintained no other note, no notes?

A Well, I mean if I got a call say from a collateral in the community, I might do a handwritten note and then I would transcribe it electronically, sign it and so that it would indicate that I was the one that spoke to that individual, I was the one that received that case specific information and then I would sign it with my own name.

Q In terms of, and we'll come back to this, but in term of entering a note like you're describing on CFSIS what would be the process?

A I would just do it in a Word document, give it to my admin and she would enter it.

Q Okay. So you would do the Word document, type it, sign it and then give it to the admin person?

A I would do the Word document. She would attach it on to CFSIS and then she would return a hard copy to me that I would sign. Because she would add it to the

existing CFSIS document, right?

Q But would the CFSIS records have a version that was signed by you?

A No, the physical, the physical file would have the signed version.

Q So by looking at CFSIS one wouldn't be able to tell whether there was a note made by you in the file?

A I'm not certain. That's something you'd need to confirm with my admin.

Q Any reason why you wouldn't sign it before it was entered into CFSIS?

A Because it would be inputted -- like I would do it on a Word document and then it would be inputted into the remainder of the CFSIS document.

Q We're going --

A I wouldn't -- we weren't allowed to attach things to CFSIS, only admin support could do that.

Q Sure. But, but why wouldn't you sign it before it was attached to CFSIS? Why wouldn't you have a signed document to be attached?

A Because you, you can't physically do that. So you would give the Word document to the admin. The admin would attach that to the ongoing report, the ongoing CFSIS report, and then she would give us the report to sign. Because only admin could attach, could attach documents to

CFSIS.

THE COMMISSIONER: But when you had gone through that process, your signature ultimately would appear.

THE WITNESS: Yes, that's correct.

BY MS. WALSH:

Q So we've heard evidence repeatedly from workers and supervisors that they would have a Word document, referring for instance to a report that they've prepared --

A Right.

Q -- that they would sign the document and then hand it to the admin person and that's why we see repeatedly in the files signed versions --

A Yeah.

Q -- of documents.

A That's, if I'm getting a CRU report I'm going to sign it and give it to my admin.

Q Okay.

A But if I'm personally adding a note to a CRU report, I'm going to give that to my admin to attach to that report and then I'm going to sign it just as I would in the initial process.

Q Why, why the distinction in terms of your signature?

A I'm, I'm just attaching the written portion of my

contacts. So that would be in addition to the report.

Q Right. But why wouldn't, why wouldn't you have the signed version of those notes entered into CFSIS just the same way that the signed version of reports is entered into CFSIS?

A If I were to sign that additional note that I did on Word, the admin would likely have to scan that to, to do that. It's -- I'm not sure how to explain it better but if I got the final CRU AHU report, I would sign it off.

Q Right.

A And then it would go to my admin for her to enter it on CFSIS.

Q And she'd have to scan that to show that the signed version was in CFSIS?

A No, she wouldn't have to, she wouldn't have to scan that. That would just -- I don't know what the administrative process would be after that.

Q Okay.

A But say --

THE COMMISSIONER: But it was only where you made your own notes that the signature appeared later?

THE WITNESS: It was when I made my own notes, say I got additional information on a case that one of my workers would have been working on. I would have done an electronic version of that on Word and I would have given

it to my social worker or my admin to add to their report. So when I would get it, it would include my, my note on there and I would sign off. So I sign off on the final product.

MS. WALSH: Okay.

THE COMMISSIONER: But if you were signing approval of the work of one of your staff, a sign-off or a closing as an example --

THE WITNESS: Yes.

THE COMMISSIONER: -- that would go directly in without -- with your signature on it without it having to come back to put your signature on at a later time?

THE WITNESS: That's correct.

BY MS. WALSH:

Q So when we, and eventually we will today, look at a variety of CRU reports that bear your signature --

A Um-hum.

Q -- you're saying that by the time you've signed those documents any notes that you might have made would already be incorporated into them?

A That is correct.

Q So remind me, please, when we come to looking at the various reports that have your signature, to have you identify whether there's any portion of the recordings that

was actually added by you.

A I can say to you now that there were not in any of those contacts.

Q Okay, thank you.

THE COMMISSIONER: In this file?

THE WITNESS: In this file, yes, that's correct.

BY MS. WALSH:

Q Let's turn to page 29044, please. So again, under the heading "Supervisor Notes":

> "The role of the staff is to provide case management services ... The role of the Supervisor is on capacity building with respect to the supervisee."

And then it goes on to say:

> "Provincial standards outline, very specifically, the record keeping responsibilities of the social worker or case manager.
>
> It is recommended that Supervisors record the following:

- Case material discussed in supervision.
- Supervision activity.
- Information that belongs in a personnel file."

Now is what you've just told us how you documented or followed that aspect of the policy?

A With crisis response, because of the volume of the cases that go through crisis response and the emergent nature and the ongoing supervision that happens at crisis response, the social worker documents supervision of case specific or consultation that's case specific when they are doing the report.

Q And is that one of the things that you would look for when you received your report before you signed off on it?

A Possibly.

Q In other words, if a social worker had documented a discussion with you?

A Yes. Normally, if there had been a discussion that would, that would be documented on, on the CRU after hours report.

Q And would you be able to remember whether that had occurred and looked for it when you saw the report?

A Most likely, yes.
Q In 2003, 2004, 2005, did you feel that you had enough time to provide appropriate supervision for your workers?
A I, I believe that we did, yes.
Q Okay. Do you know whether your workers were trained on standards?
A I'm not 100 percent certain but I believe they were not.
Q And that would have been something you would have been aware of at the time you were their supervisor?
A During my time as their supervisor, I had no knowledge of staff being trained in standards.
Q That is, so far as you knew they had not received that training?
A That's correct.
Q Now as a supervisor, I think we looked at the definition of supervision. Part of your responsibility was to ensure that the workers you supervised carried out their jobs properly?
A That's correct.
Q And that would include complying with best practice. If they weren't aware of standards, I don't know if we can say standards.
A Yeah. If there was, if there was a concern about

a case, you know what, we would go back, speak to our staff. If we had questions or concerns we would go back, speak to them, review the information. We may redirect. We might make other suggestions. That was, that was an ongoing process.

Q Okay. So how was it that you were able to ensure that workers were complying with their responsibilities under, under the Child and Family Services Act, for instance?

A Well, we did -- we reviewed their cases on a -- we did ongoing consultation with staff about the referrals that they were managing. We also reviewed the written material that they provided to us. We met with them to discuss process, whether that be -- I mean there was, you know, depending on what was, what might be happening for an individual staff but say if they were, you know, if some staff, you know, may have had issues in putting on, like managing electronic records in terms of, you know, having difficulties, you know. Like for some staff, like working on a computer was more difficult so they might need typing training, that kind of thing, so I mean we were constantly -- I think the primary way that we did that was really through supervision and reviews of, of the documents.

Q The documents meaning the documents that the CRU workers prepared?

A That's correct. That's the, that would be the CFSIS face sheet, the CRU after hours report and the safety assessment.

Q Now during the time that you were a crisis response unit supervisor, were there instances where you determined that a worker was not performing their job adequately?

A Yes.

Q And what, if anything, did you do in that case?

A Well, there's a difference between not performing your job adequately and, you know, not doing, like you know missing something on an assessment or missing a step. If there were concerns about performance, you know, that, we would speak directly with that staff person or we might have to get human resources involved with respect to addressing the concerns. So we would meet with them and talk about -- you know, I might, you know, if there was concerns about the way a staff person wrote reports or the quality of a report, I might save up those reports and then, you know, meet with that staff to review the reports and the concerns in those reports and talk about, you know, possible means of addressing the concerns, you know, or things that I'd be looking for specifically.

Q With respect to the workers who were under your supervision in '03 to '05, delivering services to Phoenix

Sinclair and her family, were there ever performance issues relating to the services delivered to Phoenix and her family?

A With respect to the staff involved?

Q Yes.

A No.

Q From your perspective?

A From my perspective.

Q As a supervisor?

A That's correct.

Q Okay. We heard evidence from Shelly Willox, Shelly Wiebe, that she kept notes in a notepad and used the notes to create her reports and eventually she shredded the handwritten notes. We heard similar evidence from Mr. Zalevich. Is that something you were aware of when you were supervising them?

A I'm not sure that I was aware of that. I don't remember.

Q Would that have been an acceptable practice?

A At the time, yes.

Q Was, in '04 and '05, was there any policy about how workers were to keep their notes?

A Not that I'm aware of.

Q What about a shredding policy, were you aware of that?

A No.

Q I just want to go into some more specific detail as to things that you did as a CRU supervisor. Let me start by saying did, did your practice remain the same from 2000 to 2005?

A I would say yes.

Q Okay. So the first thing that, that you would do when a matter came to your attention would be to assign it to a worker?

A That's correct.

Q And let me back up. How would a matter come to your attention as the CRU supervisor?

A It could come to my attention in a multitude of ways. It could, in the morning it could have been handed to me by my admin from after hours. So it's possible that if there was something emergent that needed to be managed that had, that after hours, you know, may have been finishing up with or was indicating that needed to be followed up on the following morning, first thing, that would be assigned to CRU immediately. So if my staff were on back up for that day, I would be assigning that to them. If a referral had come to us, most of the referrals would have been assigned via the phone screener. So if the phone screeners are receiving a call that's emergent, they're writing up the report because Diana would have been

supervising them, she would have been managing those reports. Sometimes -- so then Diana would then, you know, indicate to me that this is emergent, it needs to be followed up on, I would assign it to my staff. So it could come through phone screening. It could also come via a number of routes for referral. We received faxes, we received written referrals. Those could also be assigned. Whatever -- with respect to faxes, emails, written referrals, whatever we could move up that we could manage at a supervisor level and an admin level that didn't have to be assigned to CRU we would do that. So we would actually, Diana and I would actually do our own CRU after hours report and send the case directly up. So an example of that would be, you know, if we had received a written referral from out of province and we had determined that it was nothing imminent or emergent but it met the criteria for referral to intake, then Diana and I would just do the actual CRU after hours report and send it up directly, our staff would never actually see those cases, and that was really our attempt to sort of manage some of the workload for them. So that might be, I mean, another way. So there's a multitude of routes in which cases or requests for service came in and we assigned those to our staff.

Q When you --

THE COMMISSIONER: But when you, when you didn't

assign them to your staff you sent them straight to intake, is that what I hear?

THE WITNESS: Yes, either intake or abuse intake, depending on what, what the written referral was, yeah.

THE COMMISSIONER: Either regular intake or abuse intake?

THE WITNESS: That's correct.

BY MS. WALSH:

Q How would you decide which worker to assign a matter to?

A Really it would depend on what the numbers were for that day and how many cases I had already given staff. So we would look at the number of, you know, the number of request for service that were coming in. We would look at the nature of the request for service. So if I have a staff person that's dealing with something, you know, high risk, sensitive, difficult, that's going to be very time consuming, I might, you know, just assign them, you know, that one case and distribute the work amongst other staff. So, you know, it really would have depended on what was happening for us on that particular day in terms of how we assigned and it was really to try and equalize the work, not only in terms of case numbers but also in terms of workload. So that would have been severity, gravity of the

case.

Q When you gave a matter to a worker, did you have a discussion with them typically?

A Normally, yes.

Q About the nature of the referral?

A Yes.

Q And about what you expected them to do?

A Sometimes, not always. Sometimes the cases were assigned, the worker would, the worker would review the case. Generally if it was a high risk emergent matter, I likely would have met with the staff to review and do some consultation prior to them even getting involved. But often times it would, it would mean like the first step would be really be that they would need to start doing all the prior contact checks, the CFSIS checks, that kind of stuff. It really would have depended on what was available.

Q And then while the worker was doing their work, you would have interaction with them?

A Yes, on an ongoing basis.

Q Then at some point in time, and my understanding is that in the CR unit that point in time would usually arrive within a day or two, the worker would be write up their report?

A Yeah, often times they would be writing up the

report as it went because it would start with that phone screener or with after hours. So the report would have already been started and they would just be continuing. So, you know, it's not that they wait, it's not that they waited till the end of all their work being done, it was ongoing, they were always adding to the report based on what they were doing.

Q And a CRU report was supposed to include demographic information; is that right?

A Yes.

Q History?

A Yes.

Q The presenting problem?

A Yes.

Q Whatever intervention or action had taken place; is that right?

A That's correct.

Q And a recommendation as to what should be done with the matter?

A That's correct.

Q Okay. Then once that was prepared, that report, what was the process for getting it to you?

A I'm not 100 percent clear around what the administrative process was and my admin would be able to speak to that more clearly. But the case would then, if it

was for workers on back up and my team was on back up, it would come to me. And then I would review the CRU after hours report and sign it and then hand it to my admin who would then take care of the administrative process. If there was, you know, if there was a question around whether or not the referral met the mandate for service, or I felt that there was going to be issues, moving the case onto intake or CRU, I may go and consult with the, either the intake abuse supervisor or the intake supervisor prior to bringing it down and having, having it formally entered onto CFSIS.

Q When you say issue with respect to whether a matter met the mandate, what do you mean?

A Well whether or not -- you know there were many referrals that we received that either could be addressed in the community that were not necessarily of a protection nature or that met the mandate under the act, so a child in need of protection.

Q Okay. A child in need of protection? Is that what I heard you say, a child in need of protection?

A Well, need for us to conduct a protection investigation, sorry.

Q By the time that you reviewed a report, was it typed and signed by the worker generally?

A I believe that it was signed by the worker.

Q And in a typed form then?
A Yes.
Q Okay. Would there ever be occasions when a worker would discuss their recommendation with you before they typed up their report?
A Yes.
Q Once you received the worker's report, what did you do with it?
A I reviewed it. I would sign it and either discuss it with intake or abuse or give it to my admin for her to enter on to CFSIS and to do whatever the administrative process was from there.
Q Okay. In terms of your review of the report, was there any information in particular that you were looking for when you reviewed it?
A I would look at the entire document. So I would be looking at the history, I would be looking at the demographic information and I would be looking at the content of the report and the recommendation and the findings.
Q By the time you received the report, did you always know what the worker's recommendation was?
A Sometimes, yes.
Q But not always?
A Not always.

Q And then you had to consider whether you agreed with the worker's recommendation?

A That's correct.

Q Were there instances where you did not agree with their recommendation?

A Yes, there was. But generally, by the time it got to me we had had enough discussion about it that that was not generally the norm.

Q And so if you disagreed with the worker's recommendation, what did you do?

A I would return it to them and we would have a discussion about, you know, what was the reasons for the recommendation and then try to come to some mutual understanding of how the file should proceed.

Q So by the time you signed a report that was indicative of your agreeing with the recommendation that the worker set out?

A That's correct.

MS. WALSH: Mr. Commissioner, it is 11 o'clock and I'm about to get into a new area, so if you'd like to take the mid-morning break now?

THE COMMISSIONER: I think that's reasonable. We'll take a 15 minute mid-morning break.

MS. WALSH: Thank you.

(BRIEF RECESS)

THE COMMISSIONER: Ms. Walsh?

MS. WALSH: Thank you, Mr. Commissioner.

BY MS. WALSH:

Q Ms. Faria, I want to talk about the role of CRU generally but first let's put it into the context of, very briefly, the mandate of the child welfare system which you have referred to already.

On the first day of the hearings in this proceeding we heard evidence from the current Director of Winnipeg Child and Family Services about the mandate of the child welfare system and she said that the safety of children is ensured through the ability of agencies to conduct abuse investigations, child protection investigations when children are considered possibly in need of protection. Would you agree with that description?

A Yes.

Q So one of the main functions of the child welfare system is to determine whether a child is in need of protection?

A That's correct.

Q When I use that phrase, that's in the sense of the child's life, health and emotional well being?

A That's correct.

Q And that mandate was true in 2000 right up to the current time?

A Yes.

Q Now in terms of a child welfare agency carries out this mandate, the crisis response unit is at the front end of service delivery; is that fair?

A Yes.

Q And that's the unit which will provide the first response to a referral?

A Yes. I'd like to correct that, sometimes it's after hours.

Q Sometimes after hours?

A Yes.

Q Okay, thank you. When I talk about referrals, I want to just confirm something, we've heard evidence that this inquiry from other workers, social workers and supervisors that in order to carry out its mandate, the child welfare system relies to a large extent on the community bringing concerns to the agency's attention.

A That's correct.

Q And so the child welfare system relies on health care workers, EIA workers, members of the public to bring concerns about child protection matters to its attention?

A That's correct.

Q And that's important because if an agency is not aware of any concerns then it has no ability to respond?

A That's correct.

Q In terms of the crisis response unit, let's pull up page 19625. This is a document entitled intake -- "Winnipeg Child and Family Services Intake Program Description and Procedures".

A Okay.

Q Are you looking for a hard copy of the document as well?

A Yeah, I've got the hard copy in front of me.

Q You've got it, okay.

A Thank you.

Q Is this a document that you're familiar with?

A Yes.

Q And you were familiar with it in '03, '04 and '05?

A Yes.

Q So I'm just, in the same way that we went through the supervision policy, I want to go through portions of this document and see if, if what's set out in the document is consistent with your understanding of how the CRU, how it functioned when you were supervisor there.

A Okay.

Q So starting at page 19628, under the heading

"Program Description" it says:

> "The CRU and AHU mandate is to process all referrals for service to the Agency, to gather and screen information, to determine the validity of the referrals, and to assign priority levels to referrals to ensure further assessment or investigation occurs if required. As well, the CRU and AHU would have the primary obligation to ensure the safety and well-bring of children at risk (as prescribed in the Child and Family Services Act, Part III; Child Protection), which may include responding to and investigating allegations of serious physical and/or sexual abuse and/or neglect.
>
> The case management decisions at the CRU and AHU would include:
> - Is the referral eligible and/or appropriate for Winnipeg Child and

Family Services?
- Are the children safe or in need of protection?
- What immediacy of response does the referral warrant?
- Will the referral be opened to the Agency, and (if so), under what case category?
- Can the case be opened and closed at the CRU and AHU level? If so, what are the criteria for doing so?"

And does all of what I have read match your understanding of the role of the crisis response unit during the time you were a supervisor there?

A Yes.

Q Then the document goes on under "Service Provision and Assessment":

"With respect to the day-to-day provision of services the CRU and AHU will:

a) Interface with Intake and Abuse Units as well as with the

Agency as whole and with external Agencies.

b) Respond to any crisis involving assessing and intervention in situations where a child may be at acute risk of abuse or neglect. The CRU will respond to all situations where a response is required within 24 hours or within 48 hours (on cases not open to other agency units).

Situations requiring a response between 48 hours and 5 days or longer will be the responsibility of the Intake and Abuse units; a file will be opened and forwarded to the appropriate unit. Where the Abuse units cannot respond within the 24 or 48 hour time period the CRU will conduct a preliminary investigation, establish safety and then transfer the file to the appropriate abuse unit."

Again, does what I've just reviewed match your understanding of what the CRU unit was doing when you were supervisor?

A Yes.

Q Then if we go to page 19634, under the heading "Recording Outline: Closings - CRU":

THE COMMISSIONER: Page what?

MS. WALSH: 19634.

THE COMMISSIONER: 34, thank you.

BY MS. WALSH:

Q You've got that, Ms. Faria?

A Yes, I do.

Q

> "a) Cases warranting no response or no further response after AHU or CRU intervention may be closed. If there is a previous case history, a file review shall be conducted prior to closing."

Is that consistent with how your unit functioned at the time you were supervisor?

A Yes, that is correct.

Q And,

> "b) Generally speaking, if a matter may be resolved and the case closed with limited further intervention (a few phone calls or a field) the case may be kept by the CRU beyond 48 hours to facilitate the case disposal."

What about that, was that consistent with how the unit functioned when you were a supervisor?

A Yes, however we did not keep cases for a very lengthy period of time because of the volume of the work and the gravity of the work that we were managing at the time.

Q Did you say because of the volume and the gravity of the work?

A Yes.

Q All right. I'm sure we'll discuss that more as we go on today.

THE COMMISSIONER: Just what was the qualification, witness?

THE WITNESS: The volume of work, so the case numbers --

THE COMMISSIONER: Yes.

THE WITNESS: -- and also the gravity of the

work.

MS. WALSH: Mr. Commissioner, I believe that the witness said, and you can correct me if I'm wrong, that they did not keep cases for very long because of those factors.

THE COMMISSIONER: Oh, that's, that's what I missed.

MS. WALSH: Yeah. And then --

THE COMMISSIONER: Because of what, the volume of the work?

THE WITNESS: The volume of the work and the gravity, the emergent nature of the cases we were managing.

THE COMMISSIONER: All right.

BY MS. WALSH:

Q And then,

> "c) All cases opened to Intake, Abuse or any other unit shall remain with that unit for assessment, intervention or closing. Cases shall not be returned to the CRU except when the receiving unit cannot reasonably respond in the time

> frame required to ensure safety. Such a return shall be negotiated between receiving unit supervisor and the CRU supervisor. Once cases are opened to an Intake or Abuse Unit they shall not be returned for the sole purpose of further information gathering."

Is that consistent with how the unit functioned when you were a supervisor?

A No.

Q Okay. What, what's the difference?

A That it cites here that cases will only be redirected to CRU when the unit cannot reasonably respond, however cases were returned to CRU for other reasons beyond, you know, lack of capacity to respond at intake or, or abuse intake.

Q Can you give us an example?

A And where it states that cases are open to intake or abuse unit they shall not be returned for the sole purpose of further information gathering, that happened all the time.

THE COMMISSIONER: I'm having a problem with the witness looking at the screen and as a result you're not

getting into the microphone.

THE WITNESS: Okay.

THE COMMISSIONER: Would you move that over in front of you?

THE WITNESS: Like this?

MS. WALSH: You can pull the, you can physically pull the stand.

THE COMMISSIONER: Move the, move the base over.

THE WITNESS: Okay, sorry.

THE COMMISSIONER: That's better.

THE WITNESS: Okay.

MS. WALSH: I find the acoustics in here are very difficult.

THE WITNESS: I'm sorry, Sherry, could you please repeat the question?

BY MS. WALSH:

Q So when I read item (c) under "Recording Outline: Closings - CRU" and asked if that was consistent with how the unit functioned when you were a supervisor, you said no. So go ahead and tell us what's different or why you say that.

A Well if cases were returned to CRU, you know, even when, you know, intake did have the capacity to reasonably respond and cases were returned to CRU for the

sole purposes of information gathering. So when it says this shall be negotiated between receiving unit supervisor and CRU supervisor, there often were discussions between supervisors about that. But this, this indicates for the sole purpose of the case, of intake or abuse not reasonably being able to respond and there were reasons why the cases, where cases were returned beyond that.

Q Are you saying then, and the last sentence of (c) says:

> "Once cases are opened to an Intake or Abuse Unit they shall not be returned for the sole purpose of further information gathering."

Are you saying that that's not consistent with how the unit functioned when you were there?

A That's correct.

Q That in fact CRU would receive files back from intake for the purpose of information gathering?

A CRU would receive cases back from intake and from abuse intake for the purposes of information gathering, yes.

Q From both of those intake units, abuse and

general intake?

A Yes, that's correct.

Q Okay. Now you see it says, it uses the term once cases are opened to an intake or abuse unit. What's your understanding of what that term means?

A Well that would mean that either CRU -- it could mean that a case went directly from after hours to an intake team. Because sometimes what would happen is that Diana and I would review an after hours report in the morning and make the decision that instead of assigning that to CRU, it would go directly to after hours. So the case could come directly from after hours or it would be signed off by Diana or I for it to be opened to. So for me that meant my -- once my worker has signed it and once I have signed it, we've completed the safety assessment and we've given it a response time and we have indicated that the matter needs to be open to intake, that's what open means.

Q Okay. Does it -- is the term opening to intake contrasted with referring to intake?

A I would say it means the same thing, referring and opening.

Q I know earlier this morning you told us that sometimes you or Ms. Verrier would actually walk a file up to intake rather than simply handing it to the

administrative person to send it to intake.

A That's correct.

Q And what was the reason for that?

A Because we -- there were certain cases and we would refer to them as grey cases --

Q As, sorry, what?

A As grey cases.

Q Grey?

A So there's black and white cases and there's grey cases and because we were having some difficulties referring cases to abuse intake and to general intake, in those cases where we consider them to be grey cases, and we knew and to avoid administrative hassles we would go up and have a discussion with the intake or abuse supervisor about the referral, that this is coming up to you and, you know, just letting you know and then we would have a discussion around, you know, how the case should proceed.

Q So when you say to avoid administrative hassles, you mean to avoid having the administrator open the document to intake on CFSIS?

A Yes, and then having the case come back down and having to change that onto CFSIS and change workers and so it was just easier for us to go up and have that discussion with the, with the receiving supervisor.

Q Was this happening in '04 and '05?

A Yes.

Q Now you said grey, a grey case, as opposed to black and white. What did you mean?

A So a black and white case would be a child with an injury, a child disclosing sexual abuse, a child born in the hospital in withdrawal. Those would be, you know, domestic violence. Those would be accepted, no questions. A grey case, an example of that would have been the case that we, that Shelly Wiebe and I managed, where you don't have any new concerns being presented, there's no new concerning information but there's a history and we have young children in the home. So that would be a case where we would know that, you know, the program criteria for referral for intake or abuse was going to be problematic in terms of getting that case accepted. It had gotten to that point where we knew that, you know, with those types of cases we would struggle to get those accepted by intake or abuse.

Q So you've jumped ahead a little bit because you've given us the example of the intervention and file opening in December of '04 as an example of a grey case --

A Um-hum.

Q -- and we're going to come back to that. Am I correct in understanding that you're saying that you mean a case was grey because you didn't know whether intake would

accept it in the sense that they would refuse to do work on the file?

A I think in terms of meeting the criteria for referral to the program based on the program descriptions that are outlined in this manual.

Q So can you be specific?

A So, for example, with abuse intake, unless -- I'm just trying to see where the criteria for referral to abuse intake is. Just give me a moment, please.

Q Certainly, take your time.

A Okay, so --

THE COMMISSIONER: What page?

THE WITNESS: Page 19645.

THE COMMISSIONER: That's, that's on the screen.

MS. WALSH: Yes.

THE WITNESS: Okay.

BY MS. WALSH:

Q So?

A So, for example, unless the referral -- if we had made the decision to open up a case to intake because we felt that -- I'm sorry, to abuse intake because we felt it should be followed up by abuse intake, unless it met the strict criteria outlined in this referral process, it would not be accepted by intake. So that means if there wasn't a

physical injury or child, a sexual exploitation. So basically they would look at child sexual abuse, child physical abuse where there was a current injury and a disclosure from the child. So if there was no injury, if, if there was concerns of physical abuse and there was no injury, suspicious death where there is no disclosure but an injury is suspicious, where the injury was caused by an implement, where there is disclosure of a specific incident of physical aggression without an injury of such severity that an injury could have occurred, punching, slapping, shaking. And in here, I mean it even refers to the term "grey cases" requiring flexibility.

Q So those items that you've just read out for us, if you didn't have evidence of those items then you would not refer the matter, I mean CRU when I say you, to the abuse intake, right?

A There were times where we were, where we would refer to abuse intake even though it didn't mean these parameters.

Q Okay.

A And then there would be discussion between the CRU supervisor and the abuse intake supervisor. And at times a program manager was brought in to make a determination. So an example of that might be, you know, an allegation of a child being choked where there was no

physical injury, right. So that would have been something that, you know, would have been discussed at abuse intake in terms of whether or not that would have been an appropriate referral for them because it would not necessarily meet the criteria as outlined in this program description.

Q Okay. So then another option for referring a matter from CRU was to regular intake?

A That's correct.

Q Okay.

A And so, I mean here it talks about grey cases or sometimes cases were shared, I mean were shared between intake and abuse intake. Because it wasn't always clear, because, you know, the presenting issue did not always meet the criteria that was outlined in the referral.

Q For abuse intake. So then as the document says, a recommendation could be made that an abuse intake worker and an intake worker handled the matter.

A Yeah. And generally then that would involve a third supervisor having to be involved in those discussions.

Q Okay. Then let's pull up page 19640. This is from the same document that had the CRU description and the abuse intake description.

MS. WALSH: I don't think you have it,

Mr. Commissioner.

THE COMMISSIONER: No.

MS. WALSH: It's just a single page, if you do.

THE COMMISSIONER: I can follow it on the screen.

MS. WALSH: Thank you.

BY MS. WALSH:

Q Do you have that, Ms. Faria?

A Yes.

Q So that's got the heading "Intake Program Description" and the third paragraph:

> "The Intake Program's mandate is to provide assessment, investigation, intervention and planning on all cases which fall within the confines of the Child and Family Services Act, in particular the provision of services under both Part II (Services to Families) and Part III (Child Protection) of the Act."

And so then scrolling down to under part III, which deals

with child protection:

> "Under Part III ... the Intake Units would be responsible for assessing whether children are in need of protection 'where life, health or emotional well-being of the child is endangered by the act or omission of a person ...
> Such assessment, investigation, intervention and planning would include investigating all allegations of a child being in need of protection ..."

So that's the criteria for intake handling a file as set out in the manual?

A That's correct.

Q Okay. So you're saying sometimes you would walk a matter up to either abuse intake or regular intake to talk about the file with the supervisor?

A That's correct.

Q Of the intake unit?

A Yes.

Q And that that's a process we had -- this whole

conversation started with our looking at page 19634. Scroll down, please. Thank you. And you're saying that, that the process whereby you would actually walk a file up to an intake supervisor or an abuse intake supervisor to discuss it first was different than what's been outlined in the document in front of us?

A That's correct.

Q And is it your evidence that there were occasions when intake, an intake supervisor would refuse to accept a referral from CRU because on the basis that the matter did not meet the mandate of the Child and Family Services Act?

A Yes, that's correct. And that further information needed to be gathered in order to determine that.

Q Okay. So that's, that's the second part of my question. In that case what the intake supervisor would be asking CRU to do would be to gather more information to make a determination as to whether the matter fell within the mandate of the act?

A Yes, that's correct.

Q And we'll come back to this when we talk about the December '04 intervention in particular, but we have heard evidence at this inquiry from a number of intake supervisors who have said that, we've agreed that there would be occasions when they would ask CRU to gather more

information, to do more work in the sense of gathering more information, but that it was not their intention that the file could not come back to intake after that further work had been done by CRU?

A If further information had been obtained, that would either meet the criteria as outlined in the orientation manual or that would meet the mandate under the act.

Q And in a situation where at any point in CRU, whether you're handling the matter before, just when you first get the referral or because intake has asked CRU to get more information, in a situation where the unit has not been able to make a determination as to whether or not a child is in need of protection in the sense that you are not able to determine the child's safety, you're not able to make a determination that there are no child protection concerns, in that case, CRU would transfer the file to intake to do that further investigation, right?

A Well, in that case we would -- could you repeat the question again? I just want to make sure I understand it.

Q Yeah, let me be more simple --

A Okay.

Q -- in my question. Where CRU was not able to determine that a child was not in need of protection,

because you said that the mandate of the CRU unit was a short term mandate.

A Right.

Q Right. So if within the space of a day or two or however long the unit had it, you still weren't able to say there are no child protection concerns regarding this referral, in that case you would recommend that the file be referred to intake where they were better set up to do a longer, more fulsome investigation?

A If we were not able to do that at CRU, yes.

Q So now let's, let's carry on, on page 19635 and this is under the heading "Safety Assessment". I'm still in the Intake Program Description and Procedures Manual. You see it says:

> "CRU and AHU social worker will assess the immediate safety of children. This may include but is not limited to the following factors: ..."

And a number of factors are outlined and those were factors that your unit would take into account in determining the immediate or in assessing the immediate safety of children about whom a referral was made?

A Yes.

Q And then on the next page there's a heading "24 Hour Response" and a number of criteria are listed under "Severity". Then on the next page, 19637, still under the 24 hour there's a heading "Vulnerability":

> "High priority (Immediate response or within 24 hours) (Life threatening/dangerous) ..."

And the first criteria listed is young child or developmental age. And were you aware when you were a crisis response supervisor that a young child had a particular vulnerability?

A Yes.

Q What was the reason for that vulnerability?

A Well, we would be looking at the age of the child but we would also be looking at the developmental capacity of the child. But age of the child was significant, especially if a child was under the age of five, often because they're non-verbal, often because children under the age of five, you know, that can create a stressful home environment as anybody who's parented young children would know and also if those children are not in school or connected to day care, they're, they're isolated and

there's less eyes on them in terms of the community being able to identify concerns or be able to collaborate, collaborate information about safety.

Q Now you told us in terms of the options that a CRU worker had at the end of doing their assessment and intervention, they could recommend that a file go to abuse intake.

A Yes

Q Or intake?

A That's correct.

Q Or recommend that a file be closed?

A That's correct.

Q Now we've looked at the criteria for abuse intake and intake. What were the criteria for closing a file?

A Well, it would really depend on what the nature of the referral would be, but, you know, essentially the worker would, you know, need to complete an assessment and after the completion of the assessment there would have to be no known protection concerns for the case to be closed.

Q Now, in terms of CRU generally, you said that that unit is responsible for being the first line of duty into the child welfare system; is that correct?

A Yes, along with after hours.

Q And with after hours, thank you. And CRU workers have to be available to take new referrals as they come in,

right?

A That's correct.

Q So am I correct in understanding that given that responsibility, CRU workers were not expected to have long-term contact with a family or child?

A No.

Q That was not part of their job description?

A No.

Q And when you say no, you're agreeing that I'm correct in saying that?

A I agree, yes. But I'm also -- it wasn't just about not having long-term contact, it was also about the nature of the contact. Unlike intake, who could keep a case open for several months, CRU did not have that capacity and so the type of investigation that would be conducted at intake or at abuse intake, would be very different from what would happen at a CRU level given the emergent nature of our work, the case numbers we were managing and also our staffing numbers. So by that I mean that, you know, for example, with an abuse investigation, you know, following the whole abuse investigation process, that would not have been something that CRU would have done. I mean it may have intervened in an abuse matter to secure immediate safety of a child and then moved on, moved the case on to abuse intake for them to conclude a

comprehensive abuse investigation that was required by the policies and procedures that existed at the time.

Q Right. So a CRU worker was not expected to get to know a child in much detail, if at all?

A A CRU worker, that would not be a function or a responsibility for a CRU worker.

Q So when a file was opened at CRU, the worker would only be expected to have limited opportunity to gain information about a child or a family; is that fair?

A That's fair.

Q And so if more information was wanted or needed before you could determine whether there were child protection concerns, that would be a reason to refer a matter to intake?

A Yes, if intake would accept it based on that information.

Q Well, never mind if they accepted it. From the standpoint of a CRU worker, you told me that the criterion for closing a file was if there were no child protection concerns.

A That's correct.

Q So given the limited opportunity for a CRU worker to conduct an investigation, if the worker felt that more investigation needed to be done before you could determine whether or not there were child protection concerns, then

that would be a reason why a CRU would make a referral to intake?

A Yes, absolutely.

Q Okay. Just one more area before we get into the specific involvement with Phoenix's family. I want to talk briefly about CFSIS.

A Okay.

Q Did your workers have access to CFSIS in 2003, 2004, 2005?

A Yes.

Q And how did you expect them to make use of it, in what way did you expect them to make use of it?

A Once a request for information came in the expectation was that they would complete a CFSIS check to garner any historical information that might be available on the family and to determine if there was any additional files that might be linked to that particular family. So sometimes with various family constellations you might have, you know, more than one secondary caregiver, you might have children living with various care providers. So there may be other files associated with that, so we would have, you know, the worker look into that as well, so.

Q When you say conduct a search on CFSIS, what did that involve?

A What did that involve?

Q Or a review.

A So they would input the name of the primary caregiver, any other, any other adults residing in the home and basically look at the CFSIS records and information that was available on the CFSIS records for those, for those individuals.

Q Did you expect the workers that you supervised to look at more than -- well how much of the CFSIS recordings did you expect your workers to review?

A I would have expected them to review whatever recording was available on CFSIS.

THE COMMISSIONER: What was that answer?

THE WITNESS: I would expect them to review whatever recording was available on CFSIS to them.

BY MS. WALSH:

Q So if, for instance, a file had been opened in the past, you would expect them to look at that most recent opening and closing?

A Yes.

Q And would you have expected them to go historically beyond that?

A Yes.

Q Do you know whether the workers that you supervised in '04 and '05 were aware of that expectation?

A I believe they were aware.

Q What's the basis for your saying that?

A That was a process that was followed. It was, you know, I believe it's in the procedures here that a CFSIS check needed to be conducted. When, I mean they were required to produce a history so, you know, in order to be able to do that you would have to conduct a CFSIS check and also to obtain, you know, demographic information and it was also really important, especially if we were apprehending children, to determine if there were any significant others involved in that case so that if, you know, there was extended family that we could place children with, you know, that was all relevant to our case plan.

Q Did you say you received training on CFSIS? I don't know if I asked you that.

A I did. I don't remember the specific dates.

Q Okay. What about the workers you supervised, do you know what training they may have received?

A I know that both myself and my staff were trained on CFSIS and I do not remember specifics of that because it's been so many years.

Q When you said you also expected that the workers would look for whether there were additional files, did you mean paper files?

A No, I meant -- well, they would do a CFSIS check with respect to, you know -- so, for example, in this matter there was two files, right? There was a file on the father and there was a file on the mother.

Q Right.

A So minimally I would have expected them to, you know, when they did their CFSIS checks to review the CFSIS information on both files.

Q Both of those files or each of those files related to Phoenix Sinclair?

A Yes.

Q Did you ever conduct a CFSIS review yourself on a file?

A Yes.

Q How often did you do that?

A Not very often. Generally that was the responsibility of the social worker. If, for example, I'm receiving a phone call from someone and they're phoning to make a complaint, they're phoning to give me new information on a case, I might go into the CFSIS record to see if there's a social worker involved with the case, if one of my social workers is involved. If they are involved sometimes there might be a recording attached that would indicate to me why they're involved, so yes, I would do a CFSIS check. Part of our function too at CRU is we were

also responsible for doing file reviews, so excerpted summaries for former children in care. So if we received a request for an excerpted summary or file information, generally that would not have been something I would have assigned to a staff person. I would have done that myself and I would have conducted a CFSIS check in order to be able to track down that information. So, yes, throughout the course of my work I would have done CFSIS checks. What I have done -- would I have done a secondary CFSIS check on a CRU after hours report that I was receiving from a worker? Probably not.

Q You said that one of the things you expected a worker to look for, or one of the reasons you expected a worker to do a review at CFSIS was to be able to prepare a history.

A That's correct.

Q Now we've heard that in terms of how the CRU workers organized themselves, one unit would be on phones for several days and the other unit would be on backup or field.

A Yes, that's correct.

Q Did you have a different expectation as to what a worker should review depending on whether they were on phones or backup or field?

A I know, from what I recall I know that workers

that were on phones did do CFSIS checks and did histories. Depending on how busy of a phone day that was, how comprehensive that historical information might have been really depended on the time available to that worker, with the expectation that that would be passed either to backup CRU or to intake or abuse. If at -- if the front screener is taking a call, they're required to do a CFSIS check because sometimes there may be, you know, you may be getting information from a caller and there may be information on CFSIS that might assist you or might -- either the case might be open to someone already. There might have been a recent investigation that relates to the pertinent information that's being received. So it would be critical for that phone screener to do that and when they're opening it up, either to backup or to, or to abuse intake, it was very -- I'm just trying to think. There were times where cases did go straight from phone screening to intake or abuse intake. So a good example of that would be if we have the hospital phoning. There's a child at the hospital, multiple fractures, suspicious injuries, that would automatically go to intake from the screener.

Now depending on how quickly they needed to get out there, the CRU phone screener might just write up the initial referral information and finish up the history later and, you know, they might just the physical, you

know, like a hard copy and then all of the administrative stuff might follow because it's emergent, somebody needs to go out now.

Q Right.

A So that would happen all the time.

Q My question was -- and actually before I ask that question, I think you've pointed out something in terms of when I ask you about options for what a CRU worker could recommend and we talked about abuse intake, general intake, closing, another option would be to have it go out to fields or backup still in CRU?

A Yes, yes, that's correct.

Q Okay. So in that case, when a CRU field or backup worker received a file, did you expect them to do the same kind of review on CFSIS that you would expect the person on phones to do?

A The backup worker would have had additional time because there wouldn't be the pressures of, you know, ongoing calls that are coming in. So, you know, we certainly -- I mean there would be an expectation that both would record as much -- review CFSIS and record as much history as possible to get as comprehensive as possible. In reality the backup worker would have had more time to do a more comprehensive review of CFSIS than the phone screener. And again, that really depends on what would

have been happening at phone screening for that particular day and how busy it was and how many calls were in the cue for, for the phone screeners.

THE COMMISSIONER: Let me understand this. With respect to what you said about your expectation about going into CFSIS and getting the history and in this instance you referred to the two files, were you talking about your expectation with respect to the phone screener or the members of your staff once they got the file or the reference?

THE WITNESS: The phone screener would have been required to doc, to review the CFSIS records on both, both families. Now in terms of the recorded history, depending on if it was going to the backup screener and depending on the urgency of the case, depending on the volumes of calls that were coming in at CRU, the phone screener may have, you know, just in terms of what was documented in the screening, the backup screener may have added to that.

THE COMMISSIONER: But in most instances the file would, would -- the reference would make its way to one of your six staff members?

THE WITNESS: That's correct.

THE COMMISSIONER: And what would your expectation be with respect to their use of CFSIS to get information?

THE WITNESS: The expectation would have been that they would have reviewed CFSIS on both of those cases and would have, whatever was available on CFSIS and would have completed the most, you know, whatever, the most comprehensive history they possibly could.

THE COMMISSIONER: Notwithstanding that they would have already had in front of them whatever reference to CFSIS, CFSIS had been made by the phone screener?

THE WITNESS: That's correct.

THE COMMISSIONER: Thank you.

BY MS. WALSH:

Q And just to be clear, the phone screener was also a CRU worker?

A That's correct.

THE COMMISSIONER: Yes, I understand that.

MS. WALSH: Okay.

BY MS. WALSH:

Q I think it's fair to say that in the '04 and '05 involvements with Phoenix's file, your workers were on fields or backup?

A Yes.

Q Let's start with the involvement in '03, which was a brief involvement from your perspective. We're going

to pull up on the screen page 37397, please.

Now, Ms. Faria, as you've identified, you had involvement as a supervisor in '03, '04 and '05 with Phoenix's family?

A That's correct.

Q You've had an opportunity to review the recordings that were made in connection with that involvement?

A That's correct.

Q Do you have any recollection of your involvement with this family independent of the recordings that were made in the files?

A I do not.

Q We've heard evidence from Roberta Dick that she received a referral from the Child Protection Centre in February of 2003 after Phoenix was brought to the Children's Emergency with an object in her nose that had been there for approximately three months. You were Ms. Dick's supervisor at that time?

A That's correct.

Q So the document that's on the screen in front of you is the CRU intake form that was prepared by Ms. Dick. It's dated February 26th, '03. If we go to the next page, at the bottom of page 37398, is that your signature?

A Yes, it is.

Q Okay. And the presenting problem on that page reads:

> "On February 26, 2003, [source of referral] called to report that Phoenix was brought to Children's Emergency by her godfather on February 25, 2003. According to the [source of referral], Phoenix had a foreign body in her nose since November 2002. The godfather had told Steven to take Phoenix to the doctor at that time, but Steven never did. The godfather decided to bring her to the hospital for treatment.
>
> The foreign body was removed from Phoenix's nose and the discharge in the nose was very foul smelling. The mucosa in her nose was red and sore. Antibiotics were prescribed, but [individual] did not know if the antibiotics would be given to Phoenix or not. The hospital

> requested that this matter be assessed further given the concerns related to physical and medical neglect and inadequate care of the child."

And then the recommendations are:

> "It is recommended that this case should be followed up for further assessment. Based on the safety assessment, this case should be responded to within five days."

And you signed off on that recommendation.

A That's correct.

Q So let's pull up the safety assessment which is found at page 37464. You have that, Ms. Faria, it's on the screen but did you --

A Yeah.

Q Okay.

A Thank you.

MS. WALSH: You have that, Mr. Commissioner?

THE COMMISSIONER: Yes.

BY MS. WALSH:

Q So this is the safety assessment form that was filled out by Ms. Dick and if you go to page 37465, this by the way is opened, this document is from Mr. Sinclair's file?

A Yes, that's correct.

Q Okay. Page 37465 under the heading "Within 5 Days Response" you see that the box that's been checked off is "Low Medical Neglect" which is further described as:

> "(Failure to make appointments for routine medical/dental care; no follow up on plan of medical treatment or medication; failure to make appointments for routine medical/dental care (e.g. Immunizations); no follow up on plan of medical treatment of medication.)"

And that that warranted a five day response. Now you obviously agreed with that assessment?

A That's correct.

Q Do you recall if you consulted with Ms. Dick on this referral?

A I have no independent recollection of any consultation, only what's in the written record.

Q Fair enough. Ms. Dick testified that she had considered checking the box under the "48 Hour Response" time, "Moderate Medical Treatment". You see that box? Described as serious lack of medical and/or dental care causing suffering to the child.

A Yes.

Q But instead, she chose the five day response time to give the intake worker some leeway to accommodate their workload demands and that this was something she commonly did. She also testified that choosing a response time to accommodate workload demands at intake was something that she had discussed with you. Do you agree with that?

A When I look at this referral, I agree with the five day response time. This was a referral that the hospital waited a day to refer this to us. And the child had already been given medical care and the agency was now following up with the concern around, well obviously around the concern that medical care had not been sought for that length of period but also the fact that there was concerns around whether or not the prescribed antibiotics were going to be, you know, adhered to by the caregiver. So there was concerns of medical, of medical neglect. If the child had not been seen medically, we would have given this an

immediate to 24 hour response.

Q Of course if the child had not been seen medically then this referral wouldn't have come in from the Child Protection Centre.

A Well, I'm just saying hypothetically, if we had received information that the child had a foreign object in her nose --

Q I see.

A -- and had not been seen medically, we would have gone out immediately to, to ensure that the child obtained medical attention.

Q Okay. So you're saying looking at the file recording, the presenting problem, that looking at that today you agree with the recommendation that you made at that time or signed off on?

A Yes.

Q Now my question actually had been something different. Ms. Dick testified that you would give direction as to whether or not the workers in her unit should decide on the response time based on workload demands and that they would often know when there was a lot of files open and that based on that they would try and balance the workload. That was something that you were aware of?

A I have no recollection of having a discussion of

that nature with Ms. Dick. I can say that, like with any other job, we prioritize cases every day based on what was happening for us in terms of caseload numbers and what was happening for us in terms of emergent matters that we were dealing with. In this particular situation we opened the case to intake. So this was not a matter that CRU -- this is a good example of a case that comes in at phone screening and goes direct to intake for follow up. So this was not a matter that was addressed at CRU. Intake always has the discretion, that's our recommendation in terms of the timeframe, intake always has the recommendation to go out sooner if they deem that that's -- but based on, based on the information available to us that was the decision that we made at the time.

Q And in '03 and following, did you give direction to your workers that in identifying a response time they should accommodate the workload demands of the intake unit?

A No.

Q Were you aware that at least one worker was doing that?

(OFF RECORD DISCUSSION BETWEEN COUNSEL)

BY MS. WALSH:

Q Were you aware as to whether or not workers in your unit were accommodating, were identifying response

time on the safety assessment to accommodate workload at intake?

A No.

Q If you had been aware of that, would you have considered that acceptable practice?

A The response time really should have been based on what, what was available in the safety assessment. Now that when you look at the safety assessment it really is a judgment call to some degree because it's not really accompanied by a policy procedure manual. It's not -- those response times are really not related to any standards that we were aware of. There was no formal training with respect to the safety assessment. So I think that those are all factors that need to be taken into consideration in terms of where were at, at the time with respect to the safety assessment. If a response time was being modified to accommodate workload, that would not have been acceptable, although we did have to prioritize cases every day. So ...

Q In exercising their judgment, was it acceptable for a CRU worker to factor in the workload at the intake unit in determining response time?

A I don't even know how they would know what the workload at the intake unit would be, which is why that question confuses me.

THE COMMISSIONER: I think the witness has said no to that question, have you, witness?

THE WITNESS: Well, could you repeat the question, please?

BY MS. WALSH:

Q I asked you, you said that determining response time was a judgment call --

A Yes.

Q -- taking into account many factors.

A Yes.

Q And I asked you whether one of the factors, acceptable factors, would it be an acceptable factor to take into consideration the workload of the intake unit?

A No, if the safety assessment indicated a specific response time then that's what the response time should have been. If, if the intake unit could not facilitate that, then you would certainly need to look at who else could manage that referral. So a good example of that would be that there were times at CRU where we had absolutely all of our staff out on emergencies and we would get an emergent matter come in or a safety assessment would be conducted and, you know, if the response was immediate to 24 hours, we would have to pull somebody from intake to assist us with that.

Q So when Ms. Dick testified that -- I said to her: Do you recall whether you put the five day assessment because of trying to give leeway to the intake unit? She said: I did, yes. In your view is that an acceptable reason to make a determination as to response time?

A No.

MR. SAXBERG: If I might, just to be fair to Ms. Dick, she, she gave a lot of testimony after that point and made it very, very clear that she wasn't going to -- she wouldn't -- if the safety of the child was an issue she wouldn't be responding to workload issues in determining her assessment and she was saying that if it could have gone either way, she may have been erring on the side of giving intake some flexibility. It wasn't a she decided five days because of intake's workload.

THE COMMISSIONER: Well, I want the witness to have every opportunity to say everything she wants to say and I think up till now she has, but she did give that answer no to that same question ten minutes ago.

MR. SAXBERG: No, no, I was speaking, to clarify the record, vis-à-vis what Ms. Dick said.

THE COMMISSIONER: Oh, oh.

MR. SAXBERG: Not, not -- this witness was clear that --

THE COMMISSIONER: Yes.

MR. SAXBERG: -- those points were put to her and her position is clear on the record, but in terms of what Ms. Dick's evidence is, I'm just letting you know that that was an answer she gave at one point in her testimony. She, she modified it on several occasions after that point.

THE COMMISSIONER: Oh I thought you were talking about this witness. You didn't make -- I didn't get you were speaking of Ms. Dick's testimony. Well, that will be in the transcript.

MR. SAXBERG: Yes, absolutely.

THE COMMISSIONER: Yes.

MS. WALSH: I think, Mr. Commissioner, this would be a good time for the noon break. I'm about to start the December '04 involvement.

THE COMMISSIONER: Yes, I think that's reasonable. We're just about at our regular time. So we'll adjourn until two o'clock and you'll have to be back then, witness.

THE WITNESS: Thank you.

MS. WALSH: Thank you.

(LUNCHEON RECESS)

THE COMMISSIONER: All right, Ms. Walsh.

MS. WALSH: Thank you, Mr. Commissioner.

BY MS. WALSH:

Q Ms. Faria, you next became involved with Phoenix's family in December of 2004; is that right?

A That's correct.

Q And I think you said this morning that you have no independent recollection of your involvement with this family other than what's in the file recordings?

A That's correct.

Q Was there anything unique or unusual about this file, Phoenix's family's file, either in terms of the nature of the facts or the nature of the services that were delivered by the agency to the family?

A No.

Q And is that true for all of your involvement with the file?

A Yes.

Q So let's turn to page 36949, please. This is a CRU intake and AHU form prepared by Shelly Wiebe. It's dated December 1, 2004. If we turn to the last page, 36952, is that your signature next to Ms. Wiebe's signature?

A Yes, it is.

Q And just for the record, Shelly Wiebe is now known as Shelly Willox, they're one the same person. When she testified here she identified herself as being

Shelly Willox.

A Okay, thank you.

Q You were Ms. Wiebe's supervisor at the time that she prepared this intake form?

A Yes, I was.

Q And I think you testified that you would sign an intake form and you would review it before signing it?

A Yes.

Q You signed the form on December 1st, 2004; is that right?

A Yes, that's correct.

Q And before you signed it you read the form?

A Yes, that's correct.

Q And this was a matter that involved a referral received by the child protection unit?

A So when you refer to child protection unit are you --

Q I mean the crisis response unit, I'm sorry.

A What was the question again, I'm sorry?

Q This referral came to the attention of the crisis response unit?

A Yes.

Q And the unit's role was to determine whether there were any child protection concerns relating to Phoenix.

A No. Based on the nature of the referral, the unit's role, the referral was with respect to the birth of a new infant in the home. So CRU was involved because of the birth of a new infant.

Q So you told me this morning that the mandate of the agency, of the system and the agency in fulfilling that mandate and CRU's role in fulfilling that mandate was, upon receiving your referral, to determine whether there were child protection concerns relating to the subject of the referral. Isn't that why the unit is receiving a referral, to make that assessment?

A So the CRU was receiving a referral from the hospital regarding the birth of a new infant in the home.

Q Okay. Is it your evidence then that the role of the unit, upon receiving this referral, was to determine whether there were child protection concerns relating to the birth of the infant, relating to the infant herself?

A The role was to determine whether there were child protection concerns with respect to all the children in the home.

Q I see. So relating to both Phoenix and the new baby?

A Yes, but the referral was specific to the fact that there was a newborn infant in the family unit.

Q Yes. So if we look at the history, that's on

page 36949, in reviewing the CRU form, you would have reviewed the history?

A Yes, that's correct.

Q So what information, if any, is significant in this history to an assessment of whether there were child protection concerns relating to any of the children in this family?

A Well, I think all of the information in this history would have been relevant information.

Q Okay. So that includes the fact of Ms. Kematch having been a permanent ward of Child and Family Services?

A That would have included that, yes.

Q And the reasons why she had come into care?

A Yes, although it's not uncommon for most, if not all, of our families to have historical involvement with the agency as, as minors.

Q But it's a significant piece of the history to take into account?

A Yes, absolutely.

Q Sure. Also significant was the fact that Ms. Kematch's first child was becoming a permanent ward of Child and Family Services?

A Yes, that's correct.

Q And the fact that Phoenix herself had been apprehended at birth?

A Yes.
Q The death of Ms. Kematch's third child?
A Yes.
Q The fact that Phoenix was apprehended again in 2003?
A Yes.
Q The fact that Phoenix spent much of her life not in the care of Ms. Kematch?
A Yes.
Q And the fact that CFS was involved again in May and July of 2004?
A Yes.
Q And noted at that point that Phoenix appeared healthy and well?
A Yes, and that there was a low risk assessment and the case was concluded in July of '04, based on that, of the finding of a low risk assessment.
Q Now this history, since you've raised the low risk assessment, this history doesn't tell you what the various risk assessments were for the various other occasions when the file was opened, does it?
A No, it does not.
Q I believe you said you would have expected Ms. Wiebe to review all the summaries from the previous openings on CFSIS?

A Yes.

Q Do you recall what you reviewed from this file in December of '04?

A What I would have looked at would have been this report, the CRU intake after hours unit form. There should have been a face sheet that would have been attached to this which would have provided the basic demographic information for the family and a safety assessment. Those would have been the three documents that as a supervisor I would have looked at.

Q And we'll come back to those other two documents that you referred to. You wouldn't have done a CFSIS review yourself?

A No, I would not have.

Q Let's turn to page 36950. So here's -- scroll down please so we can see more of the page. The source of referral then is identified as a social worker from the Women's Hospital.

A Yes.

Q And then on the next page, the "Presenting Problem/Interventions" says as follows:

> "SOR called to report that Samantha was admitted to hospital yesterday and delivered her fourth

child, a baby girl ... states that the birth weight was 3837 grams and the Apgars were 9 and 9.

SOR states that Samantha did receive good pre-natal care prior to the birth of this child, and notes that there are no known health concerns with respect to [the baby] at this time. SOR states that there was no reported drug or alcohol use during this pregnancy.

SOR states that Samantha disclosed that she was previously involved with the Agency back in the summer of 2004, due to concerns with respect to her four year old daughter, Phoenix. SOR states that Phoenix is currently residing in the home with Samantha and her common-law partner, Wes McKay (date of birth unknown). SOR notes that Wes is the father to this new child, and is expected to be a support to Samantha.

> After reviewing the recorded documentation on CFSIS, this worker consulted with supervisor, Faria, with respect to the Agency's role with respect to this matter. Faria agreed that this matter should be referred to intake for ongoing follow up and assessment of the home environment at this time."

So just tell us what your understanding then was of the presenting problem in this case.

A There really wasn't a presenting problem. The hospital was making a referral to us because they had met with Samantha at the hospital and she had indicated that she had had a previous contact with the agency in the summer of 2004.

Q So your understanding was this matter was being referred to CFS because of Ms. Kematch's history with CFS?

A That is correct and now the birth of a newborn into the family unit.

Q That's, that's a significant factor for CFS to consider?

A Yes, it is.

Q And also the addition of a new man living in the home?

A It would -- we would have looked into the information about a new partner in the home, especially as he's identified as the birth father for the new infant. At the time the, the requirements, there really were no standards or requirements that exist today with respect to the prior -- to the extent of, you know, with respect to prior contact checks on the secondary caregivers in the home. The focus would have been the primary caregiver, especially in this situation, where no presenting concerning information is being provided to us about the secondary caregiver in this home which would have been Wes McKay.

THE COMMISSIONER: Did you say you would or wouldn't have looked into McKay?

THE WITNESS: We would have --

THE COMMISSIONER: And you started to answer that question, you said, I didn't get it, whether you said would or wouldn't.

THE WITNESS: We would have because he was identified as the birth father to the newborn infant.

THE COMMISSIONER: Thank you.

BY MS. WALSH:

Q And I think you said this morning that one of the things you would be looking at in looking at a report was was there information about other adults in the home.

A Yes.

Q And so as we've just read out, you agreed with Ms. Wiebe that the matter should be referred to intake for ongoing follow up and assessment of the home environment?

A Yes, I agreed that the case should be opened to intake.

Q And for ongoing follow up and assessment of the home environment?

A That is the language that's in the report. I don't know that that's precisely what I communicated to her.

Q Okay. Why would you want the matter referred to intake, why did you want it to go to intake?

A I would want it sent to intake because strictly based on the family history and the fact that there's a newborn infant in the home.

Q So would the presence of a new partner in the home be part of what needed to be assessed by intake?

A At the time, if there was concerning information presented, we would still, you know, do a CFSIS check, try to determine the identity of the person. If there was

concerning information presented about the new partner in the home we certainly would want to assess that as well.

Q And you'd only know whether there was concerning information if you looked into who the new partner was.

A Right.

Q And the idea of the need to assess a new father in the home, for instance, that wasn't a new concept as of 2004, right? That's something that was being written about in the child welfare literature in the nineties?

A It was significant to assess any adults in that home that might be providing care to those children.

Q So in this case did you expect that Ms. Wiebe would get information about who Wes McKay was?

A Yes.

Q Did you expect that she would do a prior contact check on CFSIS with respect to Mr. McKay?

A Yes.

Q At the time that this referral came in, Phoenix was how old, four?

A Four years old. No, less than that, I think.

Q And so was that also something that needed to be considered in doing an assessment of the home and the children in the home?

A Yes.

Q But based on the presenting problem, what was

Ms. Wiebe's role once she got this assignment?

A Well, her role would have been to get as much information from the source of referral with respect to the current partner in the home, you know, what contacts the source of referral would have had with this mother, you know, if she had any concerns. The report clearly identifies that, you know, this was an infant that was born healthy, that the mom had received good pre-natal care, that there were no known health concerns, and there was no reported use of drugs or alcohol during the pregnancy. And this, and the fact that the baby was born healthy and Apgar scores were taken at the hospital and this is a mom that received regular pre-natal care, those are indicators that would support mom's report of not abusing drugs or alcohol during pregnancy.

Q Did you expect that Ms. Wiebe would carry out an assessment of risk with respect to both the baby and Phoenix?

A Yes. Now just to clarify, we had made the decision to open up this case to intake, so the expectation was that intake would do that assessment.

Q So while we're looking at the recording, after Ms. Wiebe documents that you agreed the matter should be referred to intake for ongoing follow up and assessment of the home environment, then Ms. Wiebe documents:

> "On Dec. 1/04 this worker left a voice message for the SOR, asking that she reconnect with the Agency to report Samantha's expected date of discharge."

And she goes on to say:

> "On Dec. 1/04 this worker ..."

So we're all still on the same day,

> "... this worker contacted EIA to inquire about the demographic information of Samantha's common-law partner, Wes McKay. Worker was advised by EIA that Samantha only has one child listed on her budget, and that there is not expected to be a common-law partner residing in the home. Therefore the date of birth for Wes McKay could not be obtained."

Now what was your understanding as to why Ms. Wiebe was

contacting EIA?

A Because she is attempting to determine greater demographic information with respect to Wes McKay.

Q Why did she want that information?

A Because that is a very common name and without a birth date, if you do a CFSIS check it would be difficult to determine which Wes McKay this would have been.

Q So you knew that in 2004 it was possible to conduct a search for Mr. McKay without having his exact birth date?

A Yes.

Q I'm going to ask to have Exhibit 22 brought up, please. If we can turn to page 2. Exhibit 22 is an admission as to facts made by the Department of Family Services and Labour. It's volume 3 of admissions and facts made by the department. And this document outlines the procedure by which a prior contact check was done in CFSIS in 2004 and 2005. Paragraph 2 reads:

> "PCC (or prior contact searches) are conducted by entering the individual's first name and last name, any other 'known as' names, gender and approximate age/date of birth. As of 2000 - 2005, the PCC

> search created a list of 50 closest matches based on variations of those names that are based on spelled-alike, sound-alike, age-alike, as well as gender-alike. A PCC will then give a percentage match indicating how similar the search is to the person records in CFSIS."

Paragraph 3 says:

> "The individual conducting the PCC search may then review the results generated by the search, and the information contained in CFSIS, to determine which, if any, of the closest matches is the person he or she is looking for."

Were you aware of this process in 2004?

A It's been a number of years. I'm not -- I would assume that yes, that you could, you could actually do a CFSIS check without a birth date.

Q And you expected that Ms. Wiebe would do a PCC on

Mr. McKay?

A Yes.

Q Do you know whether she did one in fact?

A All I know is what's recorded in the document, which says after reviewing the recorded documentation on CFSIS.

Q That's before the comments -- if we can pull up page 36951, please. So you're referring to the paragraph, the fourth paragraph down, it says: "After reviewing the record documentation on CFSIS ..."

A Yes, I know, I mean she reviewed the documentation on CFSIS. I'm not sure -- you know, obviously Shelly and I were having discussions about this matter. You know, she'd document some of that in the recording. I don't have any recollections of my discussions with her, but it's possible that she could have reported to me that, you know, she did a prior contact check. I don't know that definitively.

Q You said that your understanding as to why Ms. Wiebe recorded, two paragraphs later, that she was contacting EIA to get information about Wes McKay was because she wanted to do a prior contact check on him; is that right? Did I have that right?

A Yeah, she would be contacting EIA to get demographic information. Because in -- there's a paragraph

says, which says Samantha and her common-law partner, Wes McKay, date of birth unknown. So if she were to enter that, more than one Wes McKay would have come up. So, you know, without a birth date --

Q Did you know that at the time?

THE COMMISSIONER: Just let her, just let her finish.

MS. WALSH: Sorry.

THE WITNESS: Without a birth date she would have absolutely no way of definitively identifying which Wes McKay this was and if it was a similar Wes McKay that might have been identified in other files.

BY MS. WALSH:

Q We'll come back to that, but I want to know what you understood at the time that you signed off on the recommendation on December 1st, 2004. Did you understand that Ms. Wiebe had done a prior contact check on Mr. McKay?

A My understanding was that she had done a prior contact check on Mr. McKay and now was contacting EIA to get a birth date in order to determine, to be able to make a match with CFSIS. That would have been a normal course of action, right. So if I'm an intake worker I'm getting a referral on Samantha Kematch with a common-law partner, Wes McKay, it's automatic that you do a CFSIS check on both

names. You just would not do it on one and not the other. But without a birth date there's absolutely -- I mean unless it was a really unusual name, it would be unlikely that she would be able to make a definitive match.

Q Okay. Do you know whether Ms. Wiebe -- you're saying that you think that she looked for Mr. McKay on CFSIS, that she did a prior contact check on CFSIS?

A That would have been normal procedure.

Q But do you know whether she did in fact?

A Do I know whether she did in fact? I could only speculate because I don't remember what conversations I would have had with Ms. Wiebe, but in, in here it indicates that she reviewed the file information on CFSIS.

Q Is there any information in Ms. Wiebe's recording about Mr. McKay, other than the fact that he's the father of the new baby?

A Well, yes. She indicates that she contacts EIA to find out, to get demographic information on Wes McKay.

Q Yes. Is there any indication that she obtained any information about Mr. McKay in the recording? Does she put any information about Mr. McKay other than the fact that he's the father of the new baby?

A Well, she did indicate that after contacting EIA that there was no, that there was not expected to be a common-law partner residing in the home. Therefore the

date of birth of Wes McKay could not be obtained.

Q Does that tell you then that Ms. Wiebe did not in fact, that you were aware that she did not in fact do a search of Mr. McKay, a prior contact check of Mr. McKay?

A What that tells me is that based on the fact that EIA is not identifying a common-law partner in the home and she was not able to identify a birth date for Wes McKay, that she would have no capacity to definitively identify or to make a connection between this Wes McKay and another Wes McKay that might come up on CFSIS.

Q Did you know whether Ms. Wiebe even made an attempt to match Wes McKay in CFSIS to do any kind of prior contact check to see if she could find the Wes McKay who was the father of this new baby?

A It was a matter that was normal procedure and if she's trying to get a birth date for Wes McKay and it indicates that she reviewed the recorded documentation on CFSIS, that would indicate to me that she's done a prior contact check on Wes McKay.

Q And in that case would you not have expected to see what the results of that contact check were in her recording?

A No.

Q But I thought you told me that information about other adults living in the home was significant to a risk

assessment?

A So if you're asking -- again, it's, it's how it's worded in the report. So if you're asking me would I have expected her to record I did a CFSIS check and these were the matches that came, the potential matches that came up, I would not have expected her or any of my staff to identify what potential matches might have come up on CFSIS. In consultation with me, throughout the course of discussions about the nature of this case, we may have had that discussion informally, but I would not expect my staff to record that on, on a CRU report.

Q Would you have expected your staff to indicate whether or not they were successful in determining that they had found the correct individual as a result of doing a prior contact check?

A I would not necessarily have expected that to be placed in the recording, no. I mean that's what the face sheet is for. So if she had identified the correct Wes McKay with the birth date, that would have gone into the, into the face sheet which contains the demographic information.

Q Is there anything in Ms. Wiebe's recording that you signed off on that tells you whether or not Mr. McKay, Wes McKay, the father of the new baby, had a history with CFS?

A No.

Q Ms. Wiebe testified that she did not in fact do a prior contact check on Mr. McKay. If you had known that, would that have influenced --

THE COMMISSIONER: Just one moment. Oh, I'm sorry.

MR. RAY: I'm sorry, Mr. Commissioner. I'm arising because I believe Ms. Wiebe's testimony was that she could not recall and that she maintained that throughout her evidence. I believe my friend may, and I don't have her transcript with me, but I believe my friend may have put to her whether it was possible she didn't and she said it may have been possible, but I don't believe she ever said I did not do a check.

THE COMMISSIONER: Well, let's get that clarified because that can't be put to the witness if it wasn't said.

MS. WALSH: My understanding is that that was her admission on cross-examination.

THE COMMISSIONER: Do we have the transcript?

Mr. Gindin?

MR. GINDIN: I seem to recall that that was an admission made during cross-examination, that if she had done the search she would have made the notes and I think the question was can we assume therefore you didn't do the search and she agreed. That's the way I recall it. I

don't have my notes here and I don't have the transcript but I recall it as being pretty clear.

THE COMMISSIONER: Well, I could, I could check my notes maybe. Has the transcript been prepared from that --

MS. WALSH: We'll pull up the transcript, we'll get the transcript, Mr. Commissioner, and clarify that.

MR. RAY: And perhaps the distinction is when asked whether you can assume you didn't and she simply --

THE COMMISSIONER: Pardon?

MR. RAY: Perhaps there is a distinction, Mr. Commissioner, because I do recall Ms. Walsh asking Ms. Wiebe repeatedly whether, whether she did in fact do or not do a check and she said repeatedly she could not recall one way or the other. Mr. Gindin may have asked her whether she is -- we can assume from the fact it's not recorded and I think maybe she, she agreed with -- and I don't know because I don't have the transcript -- but I think there's a distinction between asking specifically and responding specifically do you recall and saying I don't recall.

THE COMMISSIONER: Well, I gather they're getting something on the screen, so.

MS. WALSH: We'll get the transcript and I do want to be absolutely fair to the witness, so we'll leave

that question aside then.

THE COMMISSIONER: Yes, and bear in mind Mr. Ray's comment. I don't know whether your question was based upon a question Mr. Gindin put. I guess maybe it was.

MS. WALSH: Yes.

THE COMMISSIONER: Yes, well draw that out and then we'll, we'll see what is an appropriate question based on that and if counsel have some concerns that it's not an appropriate question I'll listen to them.

MS. WALSH: Thank you.

MR. RAY: Thank you, Mr. Commissioner.

BY MS. WALSH:

Q In any event, Ms. Faria, you'll agree that there's no information about whether the Wes McKay, who's identified as the father of the new baby now living in the home with Phoenix, has a history with Child and Family Services?

A No, there is no information that there was any concerning information with respect to Wes McKay or that he has a history with respect to Child and Family Services.

Q The only information that the recording has is that he is the father of the new baby and living common-law with Ms. Kematch?

A That is correct.

Q And so was that one of the reasons why you agreed with the recommendation to transfer the file to intake because more information needed to be gathered about Mr. McKay?

A One of the reasons would have been -- to transfer the file to intake ...

Q Sorry, were you agreeing with me?

A I'm just thinking.

THE COMMISSIONER: She's thinking.

THE WITNESS: Yeah.

BY MS. WALSH:

Q Oh, sorry, I didn't know if I had missed something.

A I think for me the primary -- I mean we have absolutely no concerning -- I'm thinking about at the time. There was no concerning information being presented to us about Mr. Wes McKay. We were not able to definitively identify who this individual was or that there was previous child welfare involvement. And we have a referral where there are no protection concerns being indentified by the hospital social worker and in my mind, I was transferring this case to intake based on the fact, based on, on the family history and based on the fact that there was two

young children in the home, one of which was a newborn infant, who was the reason for the referral.

Q And as you said, the fact that there's another adult living in the home who you knew was not Phoenix's biological father?

A Yes.

Q Now if we -- still on page 36951, then it says:

> "On Dec. 1/04 ... this worker reconnected with the SOR ... at Women's Hospital ... Worker asked ... when she expected discharge date would be for Samantha and ... advised that Samantha might be leaving today after 5:00 p.m., or sometimes tomorrow, depending on the hospital's need for the bed.
>
> The safety assessment is completed and on file. Based on the information provided by the SOR the Safety Assessment, at the time of writing, is considered as within a 48-hour response."

A Can we move, move the ...

Q Sorry, what would you like to look at?
A Yeah, okay, thank you. I just -- the report wasn't in front of me.
Q Ah. Do you need me to go through that again?
A No, I think I'm okay. Thank you.
Q So the file was assessed as a 48 hour response. What was the significance of, of that response time?
A The significance -- I'm just looking at the discharge date.
MS. WALSH: Can we scroll down, please, so the witness can see more of the document?
THE WITNESS: So the 48 hour response was likely due to the discharge date. Ideally, you know, they like to do an assessment before the baby is discharged with the mom, although in this situation you already have a younger infant in the, in the home. And I would have to look at the safety assessment to look at what was in the safety assessment that, that resulted in that determination.

BY MS. WALSH:
Q Sure, let's pull that up, that's page 36934. Now this is one of the documents that you reviewed at the time that you signed off on the referral to intake?
A Yes, it is.
Q And the purpose of the safety assessment form is

what?

A The purpose of the safety assessment form is to answer the question is there a concern with respect to safety now. Today, today's safety assessment then looks at establishing a safety plan for the child. At the time that was not the case and the safety plan would then answer the question, if there are imminent or immediate concerns with respect to a child's safety, how are those going to be addressed immediately. So that's what a safety plan is.

Q Is that what you're calling the safety assessment form, a safety plan?

A No. This is, this is -- I'm speaking about today that's what it looks like, that's what a safety assessment looks like and then there's --

Q I'm asking you.

A -- and there's a risk assessment form, okay.

Q Okay, so --

A So the safety assessment establishes or immediate or imminent safety.

Q Are you talking about today or at the time of December 1st, '04?

A I'm talking about today.

Q Can we talk about December 1st, '04?

A Okay.

Q So the safety assessment document, this form that

we see in front of us --

A Yes.

Q -- what was its purpose, that was my question.

A That was to assess immediate safety or immediate imminent safety and in this, and with respect to this safety assessment, it produced response times.

Q Was it mandatory for every CRU file opening to have a safety assessment form prepared?

A I do not know if it was mandatory. I believe when we looked at the orientation manual it did speak to, that a safety assessment had to be completed with all CRU, AHU reports.

Q I think you told us this morning it was a document that you looked for when you were reviewing a report.

A Yeah. I'm just speaking in terms of, you know, what the requirements were and standards were in policy. I can tell you what regular practice was and regular practice was that this safety assessment was required.

Q So if we turn to the next page, 36935, under the heading "48 Hours" in the box that says "Other", can you read that? It's very small.

A Yeah.

Q You're able to see that?

A Yeah.

Q It says:

"Michelle ..."

And Ms. Wiebe testified that she meant to say Samantha,

"... has had extensive Agency involvement and was a permanent ward of Cree Nation CFS as a child. Prior Agency concerns that Michelle has had three children, only one of is currently in her care."

So what was the significance of that to you?

A Well, the significance of that is that we're giving this a 48 hour response for intake and it's based on, it's solely based on the history of prior involvement with the agency.

Q According to the form that we're looking at?

A According to the form, yes.

Q Now if we pull page 36941, this is a CFSIS case sheet.

A Yes.

Q Now is this the CFSIS sheet that you've been

referring to as, as one of the documents that you would look for in addition to the safety assessment and the actual report?

A Yes, yes, it is.

Q So what does this document -- at the top right-hand corner it's got a date, December 1, '04. Ms. Wiebe testified this was her handwriting. Would you have expected this to be filled out by the worker?

A Yes.

Q And then it's got the name of the case reference is Samantha Kematch. Now actually when we look at the intake form, just go back to page 36949.

A Okay.

Q You see the "re" says Samantha Kematch and Wes McKay --

A Yes.

Q -- with one address. So did that indicate to you that the referral was with respect to both of those individuals?

A No, that indicates to me that this referral was with respect to Samantha Kematch and Shelly has, has written on the face sheet and on the CRU intake after hours form the information that she's been given by the source of referral that Samantha Kematch and Wes McKay reside at the same address.

Q Okay. So if we go back to the CFSIS case sheet, that's page 36941, that's got then, it's a case category is protection. The case reference it says mother and it's got Samantha Kematch and her address and date of birth. And then under father it's got McKay, Wes, and the address is the same. And then there's no other information filled out about Mr. McKay.

A Right.

Q And would you have noticed that at the time that you received this, the intake report?

A Yes.

Q And would that have prompted you to ask Ms. Wiebe why there was no information about Mr. McKay other than the name and address?

A Well, I, again I can only speculate because I do not remember my, what discussions I had with Ms. Wiebe. All I know is what's before me in the written record. That we -- Shelly and I would have had, would have had discussions about the fact that all -- the only identifying information she had about Wes McKay was the name that was provided with no birth date which is the reason for contacting EIA to get greater demographic information.

Q And so this CFSIS case sheet then, would that confirm that at the time that you referred the matter to intake you didn't have any information about Mr. McKay

other than his name, his address, the fact that he's the father of the new baby living with Samantha?

A That's correct.

Q So your practice would have been to review the CFSIS case sheet at the same time that you reviewed Ms. Wiebe'e intake report?

A I would look at the face sheet. The focus would have been the report.

Q So looking at page 36952 then, at the end of Ms. Wiebe's activity on December 1st, 2004, she recommended the file be open for assessment and intervention and you agreed with that?

A Yes, that's correct.

MS. WALSH: That's the last page of the CRU intake form that we were looking at, Mr. Commissioner.

THE COMMISSIONER: Yes, I have it here, yeah.

BY MS. WALSH:

Q Now the next page I'd like us to pull up please is page 36943. This -- from page 36943 to 36948 is a further file recording made by Shelly Wiebe with respect to Samantha Kematch. If we go to page 36948, that's your signature?

A Yes, it is.

Q The form says typed on December 7, 2004. Is that

the date that you signed the document or do you know?

A I don't know for certain.

Q If we go to page 36946, you see the heading "Interventions"?

A Yes.

Q Now this appears to be cut and pasted to the CRU form that we just finished looking at that was dated December 1, 2004; is that fair?

A Yes.

Q Okay. So under "Interventions" it says:

> "On Dec. 2/04 this worker received the above referral information back from CRU supervisor, Faria, for ongoing follow up and assessment. Worker was directed by Faria to connect with the mother, offer the family supports, and close the file to CRU - if the Agency is unable to mandate services within the home at this time."

Now, what, what is that telling us?

A It tells us that the file went up to intake and

for whatever reason was returned to CRU.

Q Is this one of those instances where you told us you walked the referral up to intake yourself rather than giving it to the administrator to have it opened on CFSIS?

A I personally don't have any recollection of doing that, but it's likely that that's what would have happened in this matter.

Q Do you have any recollection as to why this matter came back to Ms. Wiebe on December 2nd, 2004?

A I do not have a recollection as to why the matter came back, I could only speculate, and I suspect it was because -- there were absolutely no new protection concerns being presented to the agency. This mother had received regular pre-natal care, the infant was healthy and there were no concerns noted by the hospital. It was opened simply based on the history.

Q You're just speculating though?

A I'm speculating, yes.

Q You don't have any notes that would help you recall why it is that the matter came back to Ms. Wiebe on December 2nd?

A I do not.

Q And there's nothing in the file recording, so far as I could tell, that indicates why that was the case.

A That's correct.

Q So if we turn -- we're still on page 36946 where Ms. Wiebe says:

> "Worker was directed by Faria to connect with the mother, offer the family supports, and close the file to CRU - if the Agency is unable to mandate services within the home at this time."

What, what did that mean, if the agency is unable to mandate services within the home at this time?

A If there are no protection, no identifiable protection concerns with respect to the newborn infant or any other children in the home.

Q Including Phoenix?

A Yes.

Q And was it your understanding, in terms of connecting with the mother, that someone would physically go out and see Ms. Kematch?

A I don't, I don't know what specifically my discussions would have been with Shelly with respect to whether or not that was, you know, likely it would have been that we would have liked somebody to, we would have liked Shelly to go and connect with the mom and, and do an

initial assessment to see if there was any further information that we could glean so, you know, either that the case, if there were concerns, that the case could be open to intake and if not, you know, perhaps services could be secured elsewhere in the community if required or the case could be closed.

Q So then reading on, it says:

> "On Dec. 2/04 at 2:33 p.m. this worker attempted to contact Samantha at home phone number ... Worker left a voice message asking Samantha to return the phone call ...
>
> On Dec. 3/04 at 1:03 p.m. this worker attempted to contact Samantha Kematch at phone number ... There was no answer. Worker left a voice message asking Samantha to return the phone call today before 4:30 ...
>
> On Dec. 3/04, at 1:10 p.m. this worker contacted the SOR, ... at Women's Hospital ... Worker spoke to [the SOR] and asked her

> to provide the discharge date for Samantha. [The SOR] confirmed that Samantha was discharged from the hospital on Wednesday night.
>
> On Dec. 3/04 at 1:15 p.m. this worker consulted with the supervisor, Faria, regarding this matter and the Agency's inability to connect with Samantha via phone at this point in time. Faria suggested that worker contact [public health nurse] involved with the family, inquire if Public Health has been out to the home, and if there are no concerns identified by the [public health nurse] worker is to close the protection file."

So Ms. Wiebe's recordings then show that she was unable to connect with Ms. Kematch on December 2nd and 3rd and she consulted with you after that.

A That's correct.

Q As her supervisor, did you think that there was anything else that Ms. Wiebe could have done to try to

establish contact with Ms. Kematch?

A Given the nature of the referral, that there was no presenting concern, I was satisfied with the efforts that Ms. Wiebe had taken. The standard at the time was that, you know, if a contact was required within 48 hours we could use, in these types of circumstances where there was no concerning information being presented to the agency, we could use a reliable collateral in the community to confirm the safety of, of the children without direct contact with the children. So that was the decision that I made at the time.

Q So that's why you suggested that Ms. Wiebe contact the public health nurse?

A That's correct.

Q She would have been a reliable collateral?

A Yes.

Q And were you relying on a specific standard at the time? Did you turn your mind to a specific standard?

A Yes. That standard is -- it's located in all -- it's located in all the standards in the 1999, in the draft 2001 and it's also included in the, in the 2005 standards as well and -- I'm just looking, I'm just looking at the '99 standards. One moment, please.

Q Maybe I can help.

A Okay, thank you.

MS. WALSH: Can you pull up on the screen page 19189. And actually, so that we know what we're looking at, let's pull up page 19158.

THE WITNESS: Thank you.

BY MS. WALSH:

Q This is entitled "Case Management Standards Child and Family Services, September 16, 1999". I think you told me this morning that these were the standards that you referred to in December of '04, the '99 standards.

A Yeah, yes.

Q And so if we turn to page 19189, number 3:

> "If the rating for response time is in the high or medium range (i.e. within 48 hours or less), the worker ensures the safety of the child either through direct contact or through confirmation of the child's safety by a reliable source."

So is that what you were referring to?

A Yes.

Q And in this case the reliable source was the

public health nurse?

A That's correct.

Q Would the public health nurse have had access to Ms. Kematch's Child and Family Services history?

A No, she would not have.

Q Did you know whether this public health nurse had the same training as a CRU worker in terms of assessing child protection concerns?

A I would not.

Q Did you know in December of '04 whether the public health nurse had any information about Phoenix herself?

A I do not. Again, this referral was with respect to the new, to the birth of a newborn infant in the home and it would have, we would have been asking the public health nurse if she had concerns with respect to both children.

Q You were asking whether she had concerns with respect to both children?

A The expectation when -- if Shelly were asking if there protection concerns or if we, we were confirming whether there was protection concerns it would be with respect to both children, including the newborn infant whom this referral was about.

Q And my question was did you at any point, in

December of 2004, know what information the public health nurse had about Phoenix, if any?

A No.

Q If we look at page 36947, back to Ms. Wiebe's intake report, that long paragraph documents Ms. Wiebe's contact with the public health nurse, Mary Wu. You've reviewed this document?

A Yes, I have.

Q And is there any indication in the file recording that Ms. Wiebe prepared that Ms. Wu ever saw Phoenix?

A There's the line:

> "Mary advised that she had been to see Samantha since her discharge from hospital."

So she had been out to the home. There's no information specific to Phoenix.

Q There's no indication that Ms. Wu saw Phoenix?

A No. However, Shelly asks her directly that if she has been out to the home does she have any concerns. I think the important line for me here is that Shelly makes it very clear to her what her professional obligation is with respect to reporting any concerns of a child protection nature. So that would be the line:

> "... worker advised Mary that the Child and Family Act supercedes PHIA, and indicated that any professional is obligated to contact WCFS to report risk to a child if there are concerns. [And] Mary advised that she is aware of this ..."

Q Based on Ms. Wiebe's file recording, what did you understand the public health nurse to be telling her?

A I understood that Ms. Wu was clearly articulating that she understood that the Child and Family Services Act supersedes PHIA and FIPPA and that she fully understood her obligation to report under the act.

Q And in your view was this information sufficient for Ms. Wiebe to conclude there were no child protection concerns with respect to Phoenix?

A In light of the fact that there was absolutely no new protection concerns being presented to the agency, in light of the fact that there was no concerning information being presented with respect to the common-law partner in the home, in light of the fact that we have a public health nurse, a reliable collateral in the community where a standard indicates we can use as a substitute to viewing

children, who is indicating to us that she fully understands that the Child and Family Services Act supersedes PHIA and FIPPA and is reporting that she understands her obligation to report, that was sufficient information to indicate to me that she did not have protection concerns.

Q With respect to Phoenix?

A With respect to the children in this home, the newborn infant and Phoenix.

Q Ms. Willox, or Ms. Wiebe's evidence was that -- well if you go to the bottom of page 36947, you see that Ms. Wiebe noted that she asked for the name of Ms. Wu's supervisor.

A Yes.

Q And her evidence was that she expected you would follow up with the public health before closing the file. Did you intend to do that?

A If I felt that the public health nurse -- if the public health nurse had not clearly indicated her, like the fact that she fully understood her duty to report, or if I felt that there potentially could be protection concerns, I would not have closed the file prior to speaking to the supervisor. In my mind, I was closing this satisfied that with the information that we had and the fact that we had a professional in the community that was clearly articulating

that she understood her obligation to report, that indicated to me that there were no protection concerns and she may very -- and if there were no protection concerns, she actually would have been in breach of PHIA and FIPPA had she provided us with any information.

Q So if we turn to the next page, 36948, under "Recommendations". First of all, you see that the information about the supervisor, the public health nurse supervisor had been provided to you for ongoing follow up. Did you ever call back to Ms. Wu's supervisor?

A I have no recollection of that.

Q So under "Recommendations" -- if you had would you have made notes of it, by the way?

A No, I would not have. It was not case specific, it was operational. It was not uncommon for me to speak to multiple collaterals in the community. This was also not uncommon for us to have issues with information sharing with Public Health. As a matter of fact we had a very good working relationship with respect to information sharing. It was an issue with Employment and Income Assistance and there were meetings that happened with respect to addressing information sharing with Employment and Income Assistance. Did I record the outcome of those meetings in the records? No, because those were operational in nature. So if I was speaking to Ms. Wu's supervisor about

information sharing or her staff person's understanding of information sharing, that would have been an operational matter, that would have not been case specific.

Q Are you saying that you did not make notes of matters that you define as operational?

A Yes.

Q And what, what were operational matters?

A If there was issues around information sharing. If we had -- for example, if we had issues with the school around allowing us access to interview children, that kind of thing, I would, you know, I would be following up either with the school principal or with the superintendant or my program manager would. Those are not case specific dealings. Those would not be recorded in a case specific record. If, for whatever reason, I felt that Ms. Wu had protection concerns or did not comprehend her obligation to, to report, I would have left this open. I would have spoken to her supervisor. I would have gotten confirmation and I would have closed it at that point. The fact that I closed it before I spoke to the supervisor, I was satisfied based on no presenting information that with, that Ms. Wu, that Shelly Wiebe was able to communicate her responsibility and that Ms. Wu indicated that she fully understand, stood that and based on that had no protection concerns.

Q So under the heading "Recommendations" on page 36948, it says:

> "After consultation with the public health nurse, and a review of the information attached on CFSIS, it was determined that there does not appear to be a known risk to the children residing in Samantha's care at this time. Therefore this matter is being closed at CRU, until further information or a request for services is brought to the Agency's attention.

The wording "there does not appear to be a known risk to the children" sounds equivocal to me. Am I wrong?

A Well, we were closing the case based on the fact that we had no information about any risk to these children. There was no new concerning information being presented to us. We knew that the baby was born healthy. We knew that this mom had received regular pre-natal care. We knew that Public Health had attended to the home, understood their obligation to report to us, made and

clearly indicated that they had nothing to report. Based on that, we had no information that there was any risk to these children and made the determination to conclude the case at CRU.

Q So on December 1st, 2004, you had recommended a referral to intake for ongoing follow up and assessment of the home environment, right?

A That's correct. That's, that's Shelly's language by the way, so that would have been what Shelly documented. What I, what I specifically communicated to her, I don't, I don't know because I wouldn't have a recollection of that.

Q But certainly on December 1st, 2004, you recommended that the file not be closed but instead be referred to intake for further investigation?

A That's correct.

Q And then on December 7th, 2004, you authorized that the file be closed at CRU without going on to intake?

A That's correct, because as per the standard we had a reliable source in the community identify that there was no protection concerns and there was no new information of a protection nature being, being made to the agency with respect to this referral.

Q So in terms of what changed between December 1st and December 7th, 2004, in terms of assessing risk to the

children in the home, was the change the information that, or the conversation that Ms. Wiebe had with the public health nurse?

A That's correct.

MS. WALSH: I wonder, Mr. Commissioner, if we could just either take five minutes or take the 10 minute break now.

THE COMMISSIONER: We're at the point for our mid-afternoon break so we'll -- like I said the other day, we'll take 10 and hope we're back in 12.

MS. WALSH: Thank you.

(BRIEF RECESS)

MS. WALSH: Thank you, Mr. Commissioner. And I did find the, the portion of the transcript that I was thinking of and we'll come to that in a minute but just so you know that I will, I will put to the witness the evidence that I was referring to.

THE COMMISSIONER: Yes, re-put your question and then I'll hear counsel.

MS. WALSH: Yes. But I'm not doing that at this very moment.

THE COMMISSIONER: No, I understand.

BY MS. WALSH:

Q So, Ms. Faria, at the time that the file was closed on December 7th, 2004, you knew that the file recording had no information about Wes McKay and whether he had a history with Child and Family Services?

A Yes.

Q And you knew that Ms. Wiebe had not seen either Phoenix or the baby for that matter?

A No, because the standard indicated that if we used a reliable source in the community that wasn't a requirement.

Q Sure. I just want to know what you, what you were aware of in terms of the facts at the time that you recommended closing the file on December 7th. So you knew that there was no information about whether Wes McKay had a history with CFS, right? That's right?

A I'm sorry, what was the question?

Q At the time you recommended closing the file on December 7th, 2004, you knew that there was no information in the file as to whether, or in the file recording as to whether Mr. McKay had a history with CFS?

A There was no concerning information presented about Mr. McKay nor did I have any information that he had a history with CFS.

Q And you knew that Ms. Wiebe had not seen Phoenix?

A That is correct.

Q And you knew that she hadn't even spoken to Samantha Kematch?

A That is correct.

Q And am I correct in understanding that at that time the agency had not seen Phoenix since July of 2004?

A The agency had not seen Phoenix since July of 2004 at which time they had seen Phoenix and had given that case closing a low risk assessment.

Q Right. And at the time that the file was closed on December 7th, you had no information that the public health nurse or any other collateral had actually seen Phoenix?

A The information that I had was that the public health nurse had been out to the home as indicated in the report and acknowledged that she was fully aware of her obligation under the Child and Family Services Act to report any concerns of protection of children and that she had no concerns, protection concerns to report to the agency. So based on that, I was satisfied that there were no protection concerns in this matter.

Q Did you assume that the public health nurse had seen Phoenix?

A The public health nurse acknowledged that she had been out to the home and she had no protection concerns.

Q But you had no information as to whether the public health nurse had seen Phoenix though?

A No. Again, this referral was with respect to the newborn infant in the home and with respect to Phoenix.

Q The file was at CRU from December 1st to December 7th. Was there any reason why you didn't send either Ms. Wiebe or another worker out to fields to see Samantha and Phoenix?

A There could have been a multitude of reasons why we made that decision. I can only speculate. We have a referral that has no new concerning information being presented to the agency. It could have been with respect to what we might have been managing at the time with respect to other, other cases, other emergent matters. So I, I have no specific recollection of what would have been the foundation of that decision.

Q You were referring us to the 1999 standards which you said you relied on in making decisions on this file. I just want to take a look at those more closely. If we can pull up, please, page 19191 from the 1999 standards. Can you see it says under "Assessments and Investigation - Standards":

> "The worker continues the assessment/investigation of all

> child protection allegations referred from intake or identified in an active case. The assessment/investigation includes:
> - contact with the referral source
> - face-to-face contact with the child alleged to be in need of protection
> - face-to-face contact with other children residing in the household ..."

And then you referred us to page 19189 in these same standards, item 3, which says:

> "If the rating for the response time is in the high or medium range ... the worker ensures the safety of the child either through direct contact or through confirmation of the child's safety by a reliable source."

So that first page that I just showed you, page 19191, it says that the assessment/investigation includes

face-to-face contact with the child alleged to be in need of protection. Did you understand that to be the standard required in a child protection investigation?

THE COMMISSIONER: Just a minute. Mr. Saxberg?

MR. SAXBERG: Well, the standards that she's referring to are not the intake standards. She's referring to the family service standards. Intake standards are the ones that she had previously referred to.

MS. WALSH: Okay.

MR. SAXBERG: That's why it says --

BY MS. WALSH:

Q Is that your understanding?

A That is correct.

Q And what, why would the standards be different?

A Because the, the function at CRU and intake would be very different than a function, the function at family services. I think you would have to speak to somebody who is an expert in the standards to get the question to that, I don't know.

Q Okay. So your understanding is that the -- when we're looking at the 1999 standards, if a file were at family services and a child protection investigation were going on, face-to-face contact with a child alleged to be in need of protection was a requirement?

A It was a requirement but there was a provision that if, if contact was deemed to be within 48 hours, that we could use a reliable source, especially in a referral such as this where there is no presenting concerning, concern.

Q The presenting concern, you told me the file was opened because of Ms. Kematch's history, right? That was one of the reasons --

A It was open based on the history and the fact that she had a newborn infant in the home.

Q And a new partner?

A Yes. But there were no new concerns with respect to any imminent, immediate safety to the children --

Q Right.

A -- with this referral.

Q But because of the history, the fact of the new baby, the fact of a new partner, that was reason to investigate whether there were child protection concerns relating to Phoenix?

A Related to the newborn infant and Phoenix, yes.

Q And --

THE COMMISSIONER: I think we've been over that, pretty well covered now.

MS. WALSH: Yes, thank you.

BY MS. WALSH:

Q And so your evidence is that the reason that you recommended closing the file on December 7th, '04, was because you understood that the public health nurse had been to the home and had no concerns?

A The reason I recommended the case be closed was because there was no new presenting information. We knew that this mother had regular pre-natal care, the infant was born healthy, both of which are indicators, you know, are positive indicators in terms of drug or alcohol use during the course of the pregnancy. There was no really concerning information being presented about the common-law partner in the home. I don't recall specifically what my discussions would have been with, with the intake supervisor or with Shelly but likely some consideration would have, would have occurred with respect to the low risk finding by intake in July as well. And then ultimately with, with the fact that a reliable collateral in the community had been out to the home, advised that she understood her obligations under the Child and Family Services Act. She understood that the Child and Family Services Act superseded PHIA and FIPPA and she had no concerns to present to the agency. Based on all of that, we made the determination to close the case.

Q And am I correct in reading Ms. Wiebe's intake

report that you signed off on, on December 7th, '04, that there is no information about Phoenix at all in that recording?

A No, there was not.

Q Just before we go on to the next, the '05 involvement, Ms. Faria, I want to be fair to you and what I had to said to you earlier was based on, on my notes of Ms. Wiebe's evidence and we've now got her transcript. My understanding was that she ultimately testified that she did not do a prior contact check on Mr. McKay and the basis of that evidence is as follows. It was in cross-examination.

MS. WALSH: I have shown this, Mr. Commissioner, to Mr. Saxberg and Mr. Ray and I'm on page 73 of the transcript from January 8th, 2013, and the question is:

> "Q On the issue of whether you did a search ..."

This is Mr. Gindin,

> "... whether you did a search on Wesley McKay, my understanding is that you don't have any real independent recollection of a lot

of what went on back then?

A That's correct.

Q So you have to rely on the notes that are shown to you and the reports that you made?

A Yes.

Q And there are no notes that you made a search?

A No, there are not.

Q And had you in fact even begun to make a search and find out certain things, we now know that there would be other steps you'd have to take --

A Yes.

Q -- to continue on.

A Yes.

Q And isn't -- wasn't it your position that doing that kind of search is something that would take hours and hours and that often workers just wouldn't have enough time to, to do something like that?

A Depending on the nature

of the involvement, yes.

Q Had you done a search you certainly would have made notes?

A I would hope so, yes.

Q And had you discovered anything in that search of any consequence you would have marked that down somewhere?

A I would hope so, yes.

Q And you've also told us that if you knew the things that were revealed to you from this file, you certainly wouldn't have recommended closing the file?

A That's correct.

Q So since you did recommend closing the file, can't we not assume that you didn't do a search?

A I suppose so."

So it was on that basis that I put to the witness that the evidence of Ms. Wiebe was that she had not done a PCC search.

THE COMMISSIONER: Now are you proposing to go any further?

MS. WALSH: No. I just wanted to be fair to the witness as to where I had that information from.

THE COMMISSIONER: All right.

BY MS. WALSH:

Q So let's pull up, please, the file opening from March 2005, page 36926. And if we turn to the last page of this intake form, page 36930 --

THE COMMISSIONER: Just, just let me get -- this is a new one, isn't it?

MS. WALSH: Yes, Mr. Commissioner.

THE COMMISSIONER: Two six, I have it.

MS. WALSH: 36926 is the first page.

THE COMMISSIONER: I have it, yeah.

MS. WALSH: Ms. Faria, you've got that on the screen and --

THE COMMISSIONER: Yes.

THE WITNESS: Yes, I do.

BY MS. WALSH:

Q So if we look at the last page of this recording, page 36930, that's your signature on the document?

A Yes, it is.

Q And you signed it on March 9, 2005?
A Yes, I did.
Q Now if we go back to the first page, page 36926, the form says it's from Jackie Davidson/Christopher Zalevich. You didn't supervise Jackie Davidson, right?
A No, I did not. She was an after hours social worker.
Q Right. But you did supervise Mr. Zalevich?
A Yes, I did.
Q Now if we look at page 36928, you see where -- if we scroll down, please. You see where it says after recommendations there's Mr. Buchkowski's signature, or a line for it, and Ms. Verrier's and then it says on March 7, '05, "this writer received this file for additional follow up", do you see that?
A Yes, yes.
Q So is that the point at which the CR unit became involved with this file, March 7th?
A No, CRU would have, would have become involved earlier than that. They would have become involved when Richard was assigned the case because Richard was a CRU social worker.
Q You're absolutely right. What I meant to say is March the 7th the day that your unit became involved?
A Yes.

Q Thank you. Do you know how the matter came to your unit?

A I do not.

Q Now did you assign the file to Mr. Zalevich?

THE COMMISSIONER: Richard is on the other team, is that it?

THE WITNESS: Yes, Richard is on the other team and he's supervised by the other supervisor, Mr. Verrier.

THE COMMISSIONER: Yes.

BY MS. WALSH:

Q So the file was with the other CR unit when it came in on March 5, '05 and on March 7, '05 it comes to your unit?

A Yeah, it looks like it went up to intake.

Q And what's your reason for saying that?

A It says it is recommended that this file be opened to intake.

Q Other than that reference in the file where it says it is recommended this file be opened to intake, do you have any knowledge as to whether the file went to intake?

A No.

Q And as we said, you don't know how it is that the file came to your unit?

A No.

Q So you assigned the matter to Mr. Zalevich on March the 7th, would that be fair?

A Yes.

Q Was there any particular reason you assigned it to him?

A Again, it just would have depended on, you know, how the case assignments were done for the day. There's no specific reason.

Q And we saw your signature on the last page of the document. The entire form, starting on page 36926, is five pages. Would you have read all five pages before signing the document?

A Yes.

Q So that would include the history on page 36926?

A Yes.

Q It appears that the history in this file opening was copied from the, directly from the December 1st, 2004 opening and just take a look at this history and then I'll pull up the history from the December 1st, 2004 opening, if you would.

A Okay.

MS. WALSH: And if we pull up page 36949, please. And can you please pull up enough of the document so the witness can see the whole document?

BY MS. WALSH:

Q Oh you've got hard copies so you're able to compare that way.

A Um-hum.

Q That's great. It looks to me like the history from the December 1st, '04 opening and the March 5 opening are identical.

A Yes.

Q Cut and pasted?

A Yes.

Q And then if we go back to the March 5, '05 opening, page 36926, so under "History" it says: "Taken from CRU open/close Dec. 1/04." So if the history references the fact of the December '04 opening, but there's no information in the actual history about what happened during the December '04 opening, you agree?

A Yes.

Q Would you have expected the history that appears in the March 5, '05 intake to include a reference to what actually happened in December of 2004?

A Yes.

Q Now you told us this morning that sometimes you would review an intake report when it came to you before assigning it to a worker. Do you recall whether you did that in this case? Would you have reviewed --

A I would have --
Q Would you have reviewed Ms. Davidson's report and --
A It's, it's possible.
Q Okay.
A I don't remember if I did or not.
Q Do you recall whether you noticed at any point in your involvement with this opening that in fact there was no information about what happened in December of 2004 in terms of CFS involvement?
A Not that I recall.
Q If we look at the next page, 36927, there is a reference to the baby born November 30, 2004. Do you see that?
A Yes.
Q But there's no information in the history about the baby's father.
A That's correct.
Q Would you have looked for that information when you received this referral?
A Not necessarily.
Q When you received this referral in March of 2005, did you remember that just three months earlier you had been involved with this same family?
A No, I did not.

Q So the fact that Ms. Wiebe had had a discussion with EIA and the fact that she had a, what she described as a frustrating conversation with the public health nurse, that wasn't something that stood out in your memory three months later?

A In those three months, between December '04 and February of '05, we received 3,700 referrals, request for service. Of those, Diana and I opened and closed 1500 referrals. There was no, there was nothing exceptional about that contact in '04 and given the volume of calls that we got at CRU, there was -- and the number of reports that I read on a daily basis, there is -- it would not have been uncommon for me not to remember this.

Q So you didn't remember when you got this file in '05 that there had been a Wes McKay involved with this family three months earlier?

A No, I did not.

Q You told us earlier today that you expected the workers in your unit to review the information on CFSIS as to past file recordings?

A That is correct.

Q In this case was it your expectation that Mr. Zalevich would have reviewed past file recordings with respect to Ms. Kematch on CFSIS?

A Yes.

Q Would you have expected him to look for the most recent one, the one from December of '04?

A Yes.

Q And others going back farther in time?

A Yes.

Q How would Mr. Zalevich have known that was your expectation?

A The last contact with the family, I mean you would go back to the last contact with the family, that would probably, after you receive a referral that would probably be the very first thing that you would do was to find out why the agency was last involved.

Q Let's turn to the presenting problem now in March of 2005 at page 36927. So this time the source of referral is noted to be an agency foster parent and the presenting problem says that,

> "[The source of referral] spoke to an ex foster child today. She refused to provide me with the person's name. This person told [SOR] that she suspects that Samantha Kematch is abusing her daughter Phoenix. [SOR] does not have any details as to what this

> alleged abuse might be. Also this person suspects that Samantha may be locking Phoenix in her bedroom. **I** explained that we need to speak directly to [the source of referral's] SOR, but despite being an agency foster home she refused to disclose the name. [SOR] does not have an address or phone number for Samantha other that she lives in apartment one beside the Maryland Hotel. I explained that without an address we will be unable to follow up. The last address on CFSIS is on McGee."

And then,

> "For consideration by CRU."

What was significant from that presenting problem in your mind?

A We have a non-specified allegation of abuse and we have a report that a parent is locking the child in the bedroom.

Q And so those were matters that needed to be

investigated to see if they were true?

A Yes.

Q So based on the presenting problem what needed to take place in terms of investigation and assessment?

A Workers needed to attend the home and meet with the parent to discuss the concerns that were being presented to the agency and it would have ideally, best practice would have been to have seen all the children in the home.

Q Well, we'll come back to that. I didn't see a safety assessment form in connection with this opening. Ought there to have been one?

A Yes, there should have been. When Richard made the recommendation that the case be open to intake, a safety assessment should have been completed at that time.

Q Nor did I find a CFSIS case sheet done for this.

A And again, a face -- okay, a CFSIS face sheet would normally have accompanied this document.

Q So in your view, what was an acceptable response time considering the presenting problem?

A I'd have to look at the original safety assessment.

Q You mean a form, you want to see a copy of a form?

A Yes, I'd like to look at the original safety

assessment form, please.

Q I think 36934, I think is the one that Ms. Wiebe prepared. Let's try that. Oh good.

A So when we look at the information being presented we have a non-specified allegation of abuse and we have information with respect to a child being locked in their room. When we look at the safety assessment that was in place at the time, under 24 hour response I do not see any categories upon which that would fit with respect to the information that's been presented to us. Could you please scroll down the safety assessment?

I'm just looking under 48 hour response. I don't see anything where it would fall under a 48 hour response. Can we go to five day response, please?

I would probably give it a five day response under "other" and I would indicate non-specified allegation of abuse, allegation of child being locked in their room. Now with respect to -- yeah, that's ...

Q So you would have -- if you'd been the person filling out the safety assessment form, you would have assessed a response time that was longer than the response time that was assessed for the December '04 opening, file opening?

A Based on, on the information and the safety assessment, yes.

Q There's no category under any of the headings for age of the child to be taken into consideration but we did see when we looked at the intake manual that that was one of the factors under 24 hour response. What about Phoenix's age, where would that factor into the response time?

A Certainly age of the child would be a consideration. Given that you have information that's coming from a second hand party and you have a non-specified allegation of abuse and a child being locked in their room, you could have possibly given this a 48 hour. But that was part of the struggle for us, right, in terms of, of assessing response time and risk on these cases, was because they're really, you know, I guess, you know, if we look at, if we look at the standards around what the definitions are of five days immediate response, that might also be helpful as well in terms of making that determination, although that wasn't happening at the time.

Q So you would have given it a five day response time?

A Based on, on the safety assessment, yes.

Q You mentioned that the referral information was second hand?

A Yes.

Q And what, if any, effect did that have on how

this matter was addressed?

A Well, it impacted our capacity to get specific information about the nature of the allegation of abuse that was being presented. So we have no identified issue, no identified incident, you know, being presented to us as to what specifically is defined by abuse and in the context of child welfare, the word abuse is used daily and it means very different, radically different things to different people and often times it's used incorrectly. It's, it's -- you know, people will call and, you know, make a report that a child is being abused because they have excessive chores, for example. So I mean, you know, just because the word "abuse" was used, we really were not able to connect the original source to determine what the exact nature of that allegation was.

Q But that didn't affect the need to go out and see Phoenix?

A No.

Q And this, the source of the referral was a foster parent, you knew that?

A Yes.

Q Would you have expected that a foster parent would have perhaps a better idea of what abuse meant than, as you said, just the average person?

A Not necessarily.

Q Was there ever any attempt to phone the foster parent back to ask for more details?

A Not that I can see in the report.

Q And Mr. Zalevich received the file on March 7th and he didn't go out to the home until March 9th. Do you know why he didn't go out until March 9th?

A I do not.

Q And we know that Mr. Leskiw accompanied Mr. Zalevich to Ms. Kematch's home?

A Yes.

Q Did you assign Mr. Leskiw to do that?

A No.

Q Do you know how it is that Mr. Leskiw went out with Mr. Zalevich?

A I don't know how that came to be but it was not uncommon for workers to field together.

Q Okay. What was your understanding as the supervisor on the unit as to Mr. Leskiw's role in this home visit?

A Mr. Leskiw was accompanying Mr. Zalevich. That's not uncommon at crisis response unit for workers to go in tandem simply because when you're going out to meet a family you just never know what you're going to encounter. Chris would have been the primary worker on the case so he would have had primary responsibility for the matter but

certainly Bill would have been a second set of eyes in terms of actually being present, you know, when they attended to the home.

Q And would you have expected Mr. Leskiw to review any portion of the CRU report or the history, the presenting problem before going out?

A No.

Q No?

A No.

Q Okay. So in terms of what has been documented, we start on page 36928, scrolling down towards the bottom:

> "March 9, 2005 - Field to Samantha's home at 1 - 747 McGee Street with coworker Leskiw. As there were no keypads outside of the building to contact Samantha, workers gained access to the building with the assistance of another tenant that was also entering the building. Samantha greeted workers at the door with a somewhat shy demeanor but did not want to allow workers into her apartment ..."

Can you scroll the page, please?

> "... as she had someone visiting with her. Workers could hear that the television was quietly on. This writer did not notice any sounds of a party occurring or that there was more than one other adult in the home."

Now was there any significance to the fact that Ms. Kematch did not want to let the workers into her apartment?

A It indicates here that she had someone visiting her so it was an issue of confidentiality.

Q You're making that assumption?

A Yes.

Q There's no record of the workers actually asking to go into the apartment. Considering the allegations in this referral would you have expected the workers to actually ask to be allowed into the apartment?

A If she had someone at the home and they were wanting to have a confidential conversation with her, I could see why they would have met with her in the hallway.

Q So you wouldn't have expected the workers to want to go in and verify whether there was a lock on the door or

what was happening in the home?

A No, not necessarily. They were out there to have a discussion with the mom with respect to the allegation of a lock being used, a child being locked.

Q And suspected abuse.

A And an allegation of non-specified abuse.

Q Okay. There's no note of the workers asking who else was present in the home, including partners or other children. Would you have expected the workers to ask that question?

A Who else was present or who was living in the home?

Q Either one.

A I would have expected them to ask, you know, who was living in the home.

Q And if they had asked that question to record the answer?

A Yes.

Q Now I've been saying workers, plural. Did you expect that both Mr. Zalevich and Mr. Leskiw would be asking questions?

A I would have -- well, I don't know what, what decisions Mr. Zalevich or Mr. Leskiw made about how they were going to be conducting that interview. Sometimes workers go out, one worker will interview, one will take

notes. Sometimes a worker will do both. You know, if you've got two workers out sometimes a worker will assist another worker by asking a question that might have been missed. I don't know what arrangements or what agreements Mr. Zalevich or Mr. Leskiw came to with respect to who was going to be doing what during that field visit.

Q So then if we read on in the recording:

> "Agency workers spoke with Samantha in the hallway and provided her with the details of the presenting problem. Samantha was curious about who called and was advised that the Agency cannot legally provide that information. Samantha accepted this and speculated that she knew who the SOR was.
>
> Workers initially advised Samantha that the referral was about an allegation of her abusing Phoenix. Samantha responded by saying that she had yelled at Phoenix a few days ago and seemed surprised that someone may have

heard her. This writer then indicated that the referral indicated that it was believed that Samantha had locked Phoenix in her bedroom. Samantha stated that she and Phoenix share a bedroom. This writer then asked if the bedroom door has a lock on the outside of the room. Samantha confirmed that there is a lock on the outside of the door. Workers warned Samantha that it is not safe to lock her in the room in the case of a fire. Samantha agreed.

At this time Samantha could hear that her young child ... was becoming upset inside the apartment. Samantha returned into her apartment and brought [the child] into the hallway. [The child] appeared to be a content, healthy, clean and well-dressed baby. She was smiling and comfortable with Samantha.

> Workers asked if Phoenix is attending school or daycare. Samantha advised that she is not in daycare and will be attending school next September. This writer asked if there was anything that Samantha needed support with from the Agency and if she also has supports as a parent. Samantha indicated that she was doing well and did not require agency supports.
>
> This writer provided Samantha with an Agency card should she require any Agency supports."

Now there is no note of the workers asking whether Phoenix was in the home. Considering that the allegations were with respect to Phoenix, would you have expected the workers to ask that question?

A Yes.

Q And then to document the answer?

A Yes.

Q There's no note of the workers asking to physically see Phoenix. Would you have expected them to

ask to see her?

A It was always -- the approach that we took was that it was best practice to see children and we made it clear to social work staff that children were to be seen whenever possible.

Q So would you have expected the workers in this case to ask to see Phoenix?

A It would have been best practice for them to have seen Phoenix, yes.

Q From reviewing the file recording, did you make an assumption as to whether Ms. Kematch was admitting to locking Phoenix in the bedroom?

A From reviewing the file recording, all I see is that she admits that there's a lock on the outside of the bedroom door. I do not read that she admits to locking the child in a bedroom.

Q So based on your review of the recording, did you know whether the allegation that Phoenix was being locked in the bedroom had been validated or not?

A I'm reading that she's indicating that there's a lock on the outside of the door, not that she is locking the child in the bedroom.

Q Did you know one way or the other from looking at the recording?

A I don't see any recording here that indicates

that the child was being locked in the bedroom.

Q Do you have any information in the recording that says that the child was not being locked in the bedroom?

A No.

Q According to the file recording, Ms. Kematch heard her youngest child crying and brought her out into the hallway and there's comments about how the child looked. Was there any significance to that observation when you read it?

A Yes. We were out there to assess all the children in the home and certainly, you know, from looking at this I see that, you know, that the child presented well, was healthy, looked clean, well cared for and that's important information in terms of the assessment.

Q You knew though that the source of referral's allegation of suspected abuse was not with respect to the baby?

A Yes.

Q What did you understand the workers to have done by way of investigating the allegation that the source of referral suspected abuse with respect to Phoenix?

A I'm sorry, what was the question?

Q What, what did you understand the workers did by way of investigating the allegation of suspected abuse with respect to Phoenix?

A Well, they had a discussion with her about, that there was a non-specified allegation of abuse. The mom, the mother identified that this was yelling, in the form of yelling at the child. And they also went out to the home to speak to the mother about the concern that a child may be locked in her room which is never an acceptable parenting practice. And so they had a discussion with the mom about the concerns with respect to that and the safety issues associated with that.

Q So that's your answer as to what the worker's investigation of the allegations that came in on the source of referral consisted of?

A Yes.

Q Was it not essential at the point where the workers are standing in the hallway to insist on going into the apartment see Phoenix?

A Well, I don't, first of all, I don't know that Phoenix is there because I don't know if the social worker has asked that question. When I look at this report I can only, at this point, speculate because I'm just seeing what's in the written report. I cannot remember what discussions I would have had with Bill or with Chris with respect to their contact in this matter. So I would not have just been taking the information that's in this report into consideration but I would have also would have been

taking whatever information or discussions I would have had with Chris about, about his visit to the home. So I don't know, I can't say definitively that that wasn't, that that information was not communicated to me. I can only say it's not in this report.

Q You certainly knew, by looking at the report and by whatever discussions you may or may not have had with Mr. Zalevich,, that neither Mr. Zalevich nor Mr. Leskiw saw Phoenix Sinclair on March 5, '05?

A Yes.

Q And for all anyone knows she could have been locked in the bedroom when those two workers were standing in the hallway.

A We don't have information to that effect.

Q We don't know one way or the other.

A No.

Q Now if we look at page 36929, scrolling down towards the bottom, please. Under the heading "Recommendations":

> "This file was opened by the [after hours unit] after a call to them was made on Saturday, March 5th, 2005. They were advised that the caller believed that Samantha

is abusing her daughter Phoenix although there were no details surrounding the abuse other than the caller believing that Samantha was locking Phoenix in her bedroom. The caller did not have an address for Samantha other than that she lives in apartment #1 beside the Maryland Hotel. The [after hours unit] explained that without an address, they could not follow up. Worker Buchkowski located Samantha's address ... but could not gain access to the building.

This writer and worker Leskiw met with Samantha at ... McGee Street. Samantha presented as calm and somewhat shy. She did not want to allow workers into the home as she had company. Workers warned and cautioned Samantha about locking Phoenix in her bedroom. Workers viewed [the baby] who appeared to be healthy

and well-cared for.

Workers did not note any protection concerns and so this matter can be closed to the Crisis Response Unit at this time."

Now do I understand your evidence to be that you don't recall whether you discussed this matter with Mr. Zalevich in addition to reviewing his report before you signed off on it?

A I do not recall.

Q Mr. Zalevich testified that he recalled having a conversation in your office and while he didn't remember exactly the words he used, he remembered discussing briefly with you whether or not the file should be closed and part of that conversation included whether Phoenix had been seen. He informed you that Phoenix had not been seen. He can't remember if you asked that or if he volunteered the information, that you told him ideally Phoenix should be seen but that the file could still, should still be closed. Now are you denying that Mr. Zalevich or are you saying that Mr. Zalevich's recollection is not accurate?

A No, I'm saying I do not remember that conversation.

Q So it may have happened?

A Yes.

Q You agreed with Mr. Zalevich's recommendation to close the file?

A Yes.

Q At the time that you authorized the file to be closed, how were you able to satisfy yourself as to Phoenix's safety and well being? That there were no child protection concerns considering that Ms. Kematch had not allowed the workers into her home, Phoenix had not been seen by the workers, the recording contained no information about the father of the baby living in the home, the file history showed Ms. Kematch had an extensive history with CFS and the fact that Phoenix was of a young and vulnerable age, how were you able, given all of that, to make a recommendation or to authorize closing the file?

A Again, I can only go on what's in the written record. I do not remember what discussions I would have had in addition to this document with respect to what follow up Chris or what questions would have been asked. Regular practice, best practice of CRU was that children be seen. That was communicated to our staff and that's in a minute, in one of our unit meeting minutes and that's something that we strived for in terms of ensuring that that happened. Were there times that that didn't occur? Yes. And when you look at that unit meeting minute we're

clearly identifying that there's, that those concerns do happen and that's, that, you know, that we're striving, that best practice really is to see children whenever possible.

At the time there was no specific requirement in the standard that we have face-to-face contact with all children in, when conducting an investigation. That standard came into effect in 2008 in the introduction of the case management standards. We had sent this case up to intake. It was refused or declined by intake. There was no standard that, that the children be, that there be face-to-face contact on all protection investigations. That was a best practice standard that we set for ourselves and we tried to achieve. Did we do that on every case? Absolutely not. Looking at, in light of the fact that I do not remember what conversations I would have had with Mr. Zalevich, with respect to his assessment, looking strictly at the report in front of me, I can only speculate but I think it potentially could have been, you know, the nature of the referral. We have an allegation of non-specified abuse and we also have an allegation of a child being locked in their room which does not meet the referral for criteria for abuse.

So based on, based on the nature of the referral and comparing that to the gravity of other situations that

we were managing at CRU, as well as based on the recommendations of Chris who, who was a younger staff but had seven months of abuse experience and, you know, even though the recommendation wasn't made by Bill, Bill did attend. Bill was a seasoned 15-year veteran of child welfare and if he had, you know, if Bill had concerns or if he felt that something else needed to occur, he would have definitely brought that to Chris's attention or to my attention.

So based on the nature of the referral and based on the recommendations of Chris, I made the decision to close the case.

Q Did you consider any other options other than closing the case?

A Well, the case, with the information that was available, did not meet the criteria for referral to abuse intake, it did not meet the criteria for referral to intake and we have two social work staff recommending that it be closed.

Q When you say it did not meet the referral to go to intake, what do you mean?

A Diana sent it to intake initially and somehow the referral ended back at CRU.

Q But you have no information about what at all transpired?

A I know that the report indicates that the case was open to intake and returned to CRU. That's what, that's what's in the recording.

Q That is we discuss -- in cases where intake would return a file to CRU to have more work done, that didn't mean that you couldn't send it back to intake if you thought there were still child protection concerns or you weren't sure whether there was child protection concerns, right?

A Well, we were satisfied that there were no protection concerns based on the recommendations of the two staff.

Q That's why you closed the file, because you were satisfied there were no child protection concerns?

A I can only speculate as to why I closed the file because I do not remember what conversations I would have had with Chris about his contact in the home. There was no requirement at the time for face-to-face contact with children under the standards. Based on the soft nature of the referral, and the presenting information and the recommendations of the staff, we made the decision to close the case.

Q In your role as a CRU supervisor, you were involved with Ms. Kematch and Phoenix on two separate occasions three months apart, right?

A That's correct.

Q On December 1, 2004, you had approved a recommendation to transfer the protection file relating to Samantha and Phoenix to intake because you wanted more assessment done, correct?

A That's correct.

Q And that assessment never took place. The file was closed on December 7th, 2004, right?

A I'm sorry, I'm confusing that with the 2003 referral, the two. Could you repeat that, please?

Q In 2004, on December 1st, 2004, you saw that you signed off on a file recording where Ms. Wiebe indicated that the file was recommended to be transferred to intake for follow up, for ongoing follow up and assessment of the home environment.

A Yes, and we did close that for reasons which I've already indicated.

Q Based on the fact that the public health nurse had been to the house?

A And based on the fact that there were no new presenting concerns.

THE COMMISSIONER: Ms. Walsh, I'm going to stop you, looking at the clock. I assume you'll have questions for this witness relating to two or three of the reports.

MS. WALSH: That's right, Mr. Commissioner.

THE COMMISSIONER: Well, I don't think we'll get to that today.

MS. WALSH: No, I don't either.

THE COMMISSIONER: Have you any -- have you many more questions before you're ready to move there?

MS. WALSH: About ten minutes, depending on the length of the witness's answers. If we could just finish the witness's involvement with the March '05.

THE COMMISSIONER: Well, is that totally inconvenient for any counsel? If not, I'll, I'll -- we'll take it to that point tonight then.

MS. WALSH: Thank you.

BY MS. WALSH:

Q So the file was closed on December 7th, 2004. No one from CFS had been out to Ms. Kematch's house or seen Phoenix, right?

A That's correct.

Q And then three months later the file is open to the agency again. The file comes back to your attention and although workers went out to the apartment, they did not see Phoenix, nor did they go into the home, correct?

A That's correct.

Q And you agree that both the recording from the December 2004 involvement with Phoenix and her family and

the recording from the March '05 involvement with Phoenix and her family contain no information about Phoenix herself?

A No.

Q You agree with that statement?

A Yes. In the physical report, yes.

Q And in light of what you told me you understood was best practice, the fact that seeing, the importance of physically seeing a child had been the subject of a discussion at a joint CRU meeting in February of 2004, how do you reconcile that with closing the file, particularly in March of '05, without physically seeing Phoenix to ensure her safety and well being?

A Again, I can only speculate. Looking back at the written referral in front of me, it would have been based on the fact that we had a non-specified allegation of abuse and we have a concern presented with respect to a child being locked in a room. Workers attended to the home and they spoke to the, to the parent about that concern. When I read the report there's also no information indicating that she actually admitted to locking the child in her room. And we have the recommendation of my, my CRU staff, recommending that the file be closed. We had, we had two social work staff attend to the home and identified no protection concerns. There was also no requirement that

face, for face-to-face contact in protection investigations at the time, under the standards, which was another factor. Today the requirement is that there is face-to-face contact on all, with all children on all cases.

Q And did you actually direct your mind to there not being a standard requiring face-to-face contact in March of '05 when, when you agreed with closing the file without that contact?

A If there was a standard that required us to have face-to-face contact with all children for all investigations, then we would have required that. We set that as a best practices standard for ourselves. We tried to achieve it. Were we able to achieve it 100 percent of the time? Absolutely not.

Q So in March of 2005, when you agreed to close the file, was there anything preventing the agency from carrying out what you acknowledge was best practice and seeing Phoenix?

A Again, I can only speculate. It would have, it would have -- it could have depended on a multitude of factors. It could have depended on, you know, what was happening for us organizationally, what was happening for us in terms of the other, more urgent matters that we were dealing with at CRU on that particular day. We were a crisis response unit. We dealt with high risk imminent

matters. Operationally as well, we did not -- because our responsibility was short term involvement on cases, we did not have the same capacity to hold cases and to do the extensive types of investigations, that would have been done at intake, which is why it's critical that the fact that this case did not move on to intake, that that would have been, also been another factor in us not being able to achieve best practices in this matter.

THE COMMISSIONER: Do you know who dealt with it when it was up in intake and, and sent back down?

THE WITNESS: I do not know. It would have been, this would have been, this would have gone to the central intake abuse supervisor, so whoever the central intake abuse supervisor was at the time.

BY MS. WALSH:

Q And when a file -- there's no information in the file as, the recording as to what happened with respect to it going to intake and not being accepted, but that would have occurred while Ms. Verrier was supervising the matter, right?

A Yes.

Q And there's no indication in the file that after Mr. Zalevich and Mr. Leskiw failed to see Phoenix on March the 9th, '05, you referred the matter up to intake for them

to do further follow up and see Phoenix?

A No, because I had an assessment by two social workers that there were no noted protection concerns.

Q And that's, that's why you closed the file, not because you thought intake wouldn't take it but because you had no child protection concerns?

A Yes. Now the factors around us not being able to achieve best practice in this matter and see the child, that relates, that one, the fact that intake didn't take the case would have been one of the factors.

Q But you didn't try to get intake to take the case after the workers had failed to see Phoenix?

A If that had been addressed by -- after the workers had seen Phoenix?

Q Had failed to see Phoenix.

A If intake had already refused the case and there was no new information and I have social workers that are identifying there's no new protection concerns, I was not in a capacity to move that case up to intake.

Q If you had felt that there were child protection concerns or you didn't know whether there were child protection concerns, you could have gone to your assistant program manager and said, look, I think intake needs to take this, somebody needs to resolve this.

A Yes.

Q You didn't do that?

A No. If I felt that there were child protection concerns, I would have not have closed this case.

Q Right, thank you.

MS. WALSH: Mr. Commissioner, this would be an appropriate place to end my questions for today.

THE COMMISSIONER: So you're ready to move on to the, when we commence Monday morning, we'll move on to the three reports?

MS. WALSH: I believe so, yes.

THE COMMISSIONER: And then we'll take the cross-examinations from other counsel.

MS. WALSH: Yes.

THE COMMISSIONER: All right.

MS. WALSH: And we will be at the Fort Garry Hotel as you reminded everyone at the outset.

THE COMMISSIONER: Yes, and where in the Fort Garry, do you know?

MS. WALSH: The 7th floor.

THE COMMISSIONER: 7th floor?

MS. WALSH: Yes.

THE COMMISSIONER: So that's where we will -- and that is because this room is not available. We're not moving around town by choice, but we've got to have a place to meet and that's the most suitable so we'll be there at

9:30 on Monday morning and until that time we now stand adjourned.

MS. WALSH: Thank you.

THE COMMISSIONER: Thank you, witness. I guess you'll have to come back for Monday morning.

THE WITNESS: Yes. Thank you.

(PROCEEDINGS ADJOURNED TO JANUARY 21, 2013)