



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

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

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

MONDAY, JANUARY 7, 2013

APPEARANCES

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

MR. W. HAIGHT, Manitoba Métis Federation and Métis Child and Family Services Authority Inc.

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3

4 THE COMMISSIONER: Good morning to everyone.

5 UNIDENTIFIED PERSON: Good morning.

6 UNIDENTIFIED PERSON: Good morning.

7 MS. WALSH: Good morning, Mr. Commissioner.

8 THE COMMISSIONER: Well, we're finally in the
9 year when we'll get this job done, I think, and get a
10 report out so we'll carry on with the evidence. You're
11 ready, Ms. Walsh?

12 MS. WALSH: I am, Mr. Commissioner.

13 Before we start with Ms. Willox's examination I
14 have three additional documents to enter into the record as
15 exhibits. So starting with what will become Exhibit 20.

16 THE COMMISSIONER: What is that?

17 MS. WALSH: And that is a copy of the University
18 of Manitoba transcript for Ms. Delores Chief-Abigosis dated
19 November 30, 2012.

20 THE CLERK: Exhibit 20.

21

22 **EXHIBIT 20: COPY OF UNIVERSITY OF**
23 **MANITOBA TRANSCRIPT FOR MS.**
24 **DELORES CHIEF-ABIGOSIS DATED**
25 **NOVEMBER 30, 2012**

1 THE COMMISSIONER: Yes.

2 MS. WALSH: And that indicates that Ms.
3 Chief-Abigosis last enrolled for the 1999/2000 session and
4 then voluntarily withdrew from her course work at -- VW
5 means voluntary withdrawal. If you want to just see the
6 document. And I'm advised by her counsel that even had Ms.
7 Chief-Abigosis remained enrolled his understanding was the
8 session would have been completed by the spring of 2000.
9 So that's Exhibit 20.

10 Next, Exhibit 21.

11 THE COMMISSIONER: Yes?

12 MS. WALSH: And that is really just an
13 administrative matter, when documents were provided to us
14 from what is disclosure 1791 from the WRHA. Only half of
15 the pages in the document were photocopied so these pages
16 replace pages 36801 to 36804. And that will relate to
17 testimony that we will hear later in the
18 week.

19 THE COMMISSIONER: And it replaces pages
20 what?

21 MS. WALSH: 36801 to --

22 THE COMMISSIONER: Yes.

23 MS. WALSH: -- to 36804 from Commission
24 disclosure 1791.

25 THE COMMISSIONER: All right.

1 **EXHIBIT 21: WRHA PUBLIC HEALTH**
2 **NURSING POSTPARTUM CARE MAP RE:**
3 **SAMANTHA KEMATCH**

4

5 MS. WALSH: And then finally what will become
6 Exhibit 22 is a third volume of an admission as to facts on
7 the part of the Department of Family Services and Labour
8 that we will be referring to today.

9 THE COMMISSIONER: All right.

10

11 **EXHIBIT 22: ADMISSION AS TO FACTS**
12 **OF THE DEPARTMENT OF FAMILY**
13 **SERVICES AND LABOUR - VOLUME III**

14

15 MS. WALSH: So now we are ready to swear in the
16 witness.

17 THE CLERK: If you could just stand for a moment?
18 Is it your choice to swear on the Bible or affirm without
19 the Bible?

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

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

23 THE WITNESS: Shelly Lynn Willox.

24 THE CLERK: And spell me your first name?

25 THE WITNESS: S-H-E-L-L-Y.

1 THE CLERK: And your middle name?

2 THE WITNESS: L-Y-N-N.

3 THE CLERK: And your last name?

4 THE WITNESS: W-I-L-L-O-X.

5

6 **SHELLY LYNN WILLOX,** sworn,

7 testified as follows:

8

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

10 THE COMMISSIONER: That's spelled W-I-L-L-O-X?

11 THE WITNESS: Yes.

12 THE COMMISSIONER: Thank you.

13

14 DIRECT EXAMINATION BY MS. WALSH:

15 Q Good morning, Ms. Willox.

16 A Good morning.

17 Q And you are quite soft spoken so I'm just going
18 to ask you to make sure that the microphone is close enough
19 to you that we can hear you but that you are comfortable
20 while you sit there.

21 Okay. You are currently employed as a social
22 worker?

23 A Yes, I am.

24 Q At the time that you delivered services to
25 Phoenix Sinclair and her family, in 2004, your last name

1 was Wiebe?

2 A That's correct.

3 Q So where we see you referred to in the documents
4 you're referred to as Shelly Wiebe?

5 A Yes.

6 Q You were currently employed at All Nations
7 Coordinated Response or ANCR?

8 A That's correct.

9 Q And that's as a crisis response unit supervisor?

10 A A crisis response social worker.

11 Q You're not a supervisor?

12 A No, I'm not, not any longer.

13 Q You were a supervisor?

14 A I was, yes.

15 Q Okay. Sorry, I'm told that perhaps your
16 microphone is not on.

17 A Can you hear me now?

18 Q No, that's much better. Nothing like a little
19 technology.

20 So when -- right now you work as a crisis
21 response --

22 A Social worker.

23 Q Social worker. At one point you were a
24 supervisor?

25 A Yes, I was in a term as a -- as the crisis

1 response supervisor for a period of time.

2 Q What period of time was that?

3 A September 2010 to September 2012.

4 Q So you've just recently finished that position
5 and gone back to being a regular CRU worker?

6 A Yes.

7 Q Before we discuss your employment history I
8 wanted to talk about your educational background.

9 A Okay.

10 Q You have a Bachelor of Arts with a major in
11 psychology?

12 A That's correct.

13 Q And you have a Bachelor of Social work?

14 A Yes.

15 Q Did you obtain that from the University of
16 Manitoba?

17 A Both from the University of Manitoba.

18 Q When did you get your BSW?

19 A In 1999.

20 Q Did you take any courses specific to child
21 welfare when you took your BSW?

22 A Yes, I took the child welfare course through the
23 University of Manitoba, Faculty of Social Work.

24 Q Did you do any practicum work when you were doing
25 your BSW?

1 A Yes, I did two practicums, one was related to the
2 field of child welfare.

3 Q Now, in terms of your work history, you began
4 your employment with the agency, Winnipeg Child and Family
5 Services, in 1999?

6 A That's correct.

7 Q So right after you graduated with your BSW?

8 A I graduated in May of '99, I started in August of
9 '99.

10 Q When you started you were a family services
11 worker?

12 A That's correct.

13 Q How long did you stay in that position?

14 A For approximately three years, until September of
15 2002.

16 Q Then where did you go?

17 A I came to the crisis response unit.

18 Q And you've stayed there all this time?

19 A That's correct.

20 Q Okay. Are you registered as a social worker?

21 A No, I am not.

22 Q Have you ever been?

23 A I was at a period of time, yes.

24 Q Why are you no longer registered?

25 A My registration had lapsed and I just simply

1 didn't renew it.

2 Q It's not a requirement of your employment?

3 A No, it's not.

4 Q Okay. Did you find that the courses you took to
5 obtain your BSW prepared you for the work you do and have
6 done with the agency?

7 A Not specifically. It gave me a general idea of
8 child welfare but it didn't prepare me for the job that I
9 was about to do.

10 Q So let's talk about the training that you took
11 after you got your BSW. When you became a family services
12 worker with Winnipeg Child and Family Services, in 1999,
13 did you receive any training from your employer?

14 A I did, yes.

15 Q What was that?

16 A I started in August of '99. I took some computer
17 training, some Microsoft Word, Microsoft Outlook, Windows,
18 and eventually I was enrolled in the core competency based
19 trainings.

20 Q Core competency based training?

21 A Yes.

22 Q When did you take that?

23 A I started them in August of 2000. I mean, sorry,
24 April of 2000.

25 Q Over what period of time did you complete those

1 courses?

2 A There was four competency based trainings. I'm
3 not sure exactly how long, maybe six months to a year, I
4 completed them.

5 Q What areas did those courses cover?

6 A Family centre practise, case planning, the
7 effects of neglect and abuse on child development, family
8 reunification, separation, planning, permanency planning.

9 Q Okay. Have you taken any other training over the
10 course of your employment?

11 A Yes, I have.

12 Q What else have you taken?

13 A I've taken a wide variety of training, some of
14 which was mandatory, some of which was voluntary. For
15 example, suicide assist training. I had taken the
16 supervisor core training. Numerous other trainings of
17 interest around child development.

18 Q Okay. Did you receive any training in how to use
19 CFSIS?

20 A No, I did not.

21 Q Have you used CFSIS in the course of your work?

22 A Yes.

23 Q So how did you know how to use it?

24 A You learn. You teach yourself. You get the
25 assistance of your supervisor, the administrative staff, to

1 help you learn the system.

2 Q When did you start using CFSIS?

3 A Well, when I -- I'm assuming when I started work
4 the first day I -- it was part of your job. So I'm not
5 sure exactly how long it took me to get used to the system
6 or who showed me how to use the system but it was an
7 expectation that you use the system during the course of
8 your employment. So when I started it was something I had
9 to learn.

10 Q When you started as a family services worker?

11 A Yes.

12 Q When you began your employment in the crisis
13 response unit did you receive any training specific to that
14 work?

15 A One of the requirements of working at the crisis
16 response unit was that I take the assist training which is
17 the applied suicide intervention training.

18 Q When did you take that?

19 A I believe -- I'm not sure of the date. I know it
20 was shortly after I started at CRU and I started at CRU in
21 2002 so -- I don't remember the exact date.

22 Q Okay. Have you ever received training on the --
23 what are known as the provincial or the foundational
24 standards?

25 A Yes, I did receive standards training in 2009.

1 Q Was that the first time that you'd received
2 training on the standards?

3 A Yes, it was.

4 Q Okay. How was that training conducted?

5 A My unit supervisor provided the training to
6 myself and to my unit.

7 Q What did it consist of, the training?

8 A We reviewed the standards in its entirety.

9 Q Did you say that was 2009?

10 A Yes, October 2009, I believe.

11 Q So in 2004 what guided how you did your work?

12 A General practise and principles of the things
13 that I had learned through my core training, my experience,
14 supervisor direction.

15 Q Did you refer to any policies or manuals?

16 A Not on a general base. Like not on a daily basis
17 but it -- the -- I did have manuals that are available to
18 me for review but generally we would go to our supervisor
19 to ask for direction.

20 Q What, what was in the manuals that were available
21 to you?

22 A They were policy manuals that I had on my desk.

23 Q Generally your practise was to refer to your
24 supervisor if you had a question?

25 A Yes.

1 Q Okay. How do you define risk assessment?

2 A Risk assessment. I mean we assess risk based on
3 a variety of factors, through, for example, age of child,
4 developmental needs, issues that have been identified
5 within the family group, prior child welfare involvement.
6 There's a variety of things that we look at to assess risk
7 to a child.

8 Q Okay. And were those factors the same in 2003 as
9 -- or in 2004 as they are today?

10 A I think they have -- generally, for the most
11 part, they are the same but I think that there are
12 additional things that we are looking at today.

13 Q Such as?

14 A For example, if there are other partners or adult
15 family members residing in the family home there's a
16 greater emphasis placed on their involvement and their
17 prior history that we review now.

18 Q A greater emphasis today but it was still
19 something that you knew to consider in 2004?

20 A It was considered in 2004 but the emphasis on it
21 has changed in today's practise.

22 Q Okay. Is there a difference, in your view,
23 between a risk assessment and a safety assessment?

24 A Yeah, there's a difference. I mean, a safety
25 assessment was used generally to assess a response time. A

1 risk assessment are those indicators that we're using to
2 assess risk to a child.

3 Q Is there a difference, let's start with 2004 and
4 you can tell me if it's any different now, is there a
5 difference between the risk assessment that a CRU worker
6 does as compared to one done by a family services worker?

7 A Well, CRU's involvement is more short term so
8 there may not be as a thorough review of the dynamics that
9 may be placing a child at risk or, you know, determination
10 factors that may be requiring us to provide service to a
11 family. But overall the bulk of the things that you are
12 considering are similar but there's probably not as
13 thorough of a review of them at the crisis response unit
14 level.

15 Q And would that be true today, as well?

16 A Yes.

17 Q As of 2004 had you received any training on risk
18 assessment?

19 A No, I had not.

20 Q How about by, by today, have you received any
21 training on risk assessment?

22 A Yes, there's been the implementation of the, the
23 SDM tools.

24 Q SDM?

25 A Yes.

1 Q Um-hum. That's structured decision making?

2 A Yes.

3 Q Okay.

4 A And so part of that training involved, like
5 looking at risk, risk factors and how that's assessed.

6 Q And we will, we will be hearing more about that
7 later in, in this inquiry, no doubt, and I'll probably be
8 asking you some, some questions later in your evidence but
9 when did you receive that training?

10 A 2011.

11 Q So up until 2011 you had not received any
12 training from the agency on risk assessment?

13 A No, I had not.

14 Q Okay. What about when you took your BSW?

15 A I don't recall for sure.

16 Q So let's talk about the crisis response unit.
17 Tell us what it is.

18 A The crisis response unit is generally the front
19 door to -- for families to services that are being provided
20 by child welfare. We receive referral information from a
21 variety of sources, phone, fax, e-mail, walk-ins, letters.
22 And the job of CRU is basically to triage those referrals
23 to determine the appropriate course of action.

24 Q Was that true in 2004?

25 A Yes.

1 Q And is that still true?

2 A Yes.

3 Q In 2004, what was the role of a CRU worker?

4 A Well, we had -- our role was divided kind of into
5 three days on and three days off. Three days you would be
6 a phone screener and on an alternate three days you would
7 be what we referred to as a backup worker where you would
8 go out into the community and field on concerns that had
9 been reported to the agency.

10 Q Is that still the case today?

11 A Yes, it is.

12 Q You talked about, I believe, gathering
13 information. What type of information would a CRU worker
14 need to gather?

15 A For example, if you were on phones doing intake
16 you would receive calls from community collaterals or
17 individuals wanting to report child protection concerns.
18 You would gather the information from the source of
19 referral and make a determination as to what would be the
20 appropriate course of action. Should it receive follow up,
21 should it be closed, should someone field, should it be
22 referred to intake or abuse for ongoing services or
23 intervention.

24 Q So how did you make that determination? What,
25 what criteria did you rely on to determine whether a file

1 should be transferred to intake, for instance?

2 A You would listen to the information that the
3 source referral was providing. Sometimes, based on the
4 information they're providing, that would give you a clear
5 indication as to what needed to happen. Sometimes, and
6 usually always, we would refer to see if there was a
7 history of prior contact which would also help us making a
8 determination for the appropriate route that a referral
9 should take. And you would kind of review all of the
10 information that's available to you and then make a
11 determination.

12 Q Okay. How did you record the work that you did
13 at CRU in 2004?

14 A Do you mean to provide to my supervisor or
15 generally like --

16 Q To, to --

17 A -- if I was on the phone taking a call?

18 Q All documentation that you did.

19 A Generally, when I was on the phones doing intake
20 I had a steno pad that I would make notes in, following or
21 during my phone call. I would also enter that information
22 into a word document which we had a standard CRU report
23 which was being provided to our supervisor at that time to
24 -- for review.

25 Q Okay. Ultimately, who would type up the word

1 document? You?

2 A Yes, I would.

3 Q Okay. And then how would the record makes its
4 way into a person's file?

5 A I would complete a CRU report. I would provide
6 it to my supervisor for review. When she has signed off on
7 the report she would provide it to the CRU administrative
8 staff and it, depending if it was a referral for intake, it
9 would be referred up to intake. If it was a closing the
10 administrative staff would somehow place it into an
11 individual's file.

12 Q Okay. And we'll come to look at some of your
13 documents and, and ask some more questions about those in a
14 minute. How did you determine or were you the person to
15 determine what documentation actually made its way into the
16 file?

17 A Well, any CRU report that was generated would
18 need to be placed eventually into the file. But after the
19 supervisor reviewed the reports and provided it to the
20 administrative staff it was the administrative staff's
21 responsibility to place any documentation into the file.

22 Q What about the note pad that you talked about,
23 what happened to that?

24 A It was individual, like practise, for myself.
25 For example, I would keep those steno pads for a period of

1 time. I would keep them locked in my desk drawer and after
2 a period of time I would shred them.

3 Q Okay. So have the note pads that related to
4 Phoenix Sinclair and her family's file -- do you recall
5 what you did with those?

6 A Those would have been placed in the shredding.

7 Q Okay. Was that pursuant to a directive or a
8 policy from the agency?

9 A There was no policy at that time. Generally the
10 information that I -- if I had chosen to write it down on
11 the steno pad that information was contained in my CRU
12 report which I provided to my supervisor. So the
13 information was documented in the CRU report.

14 Q Did you document every call you received as a CRU
15 worker?

16 A Well, if there was no child welfare calls, for
17 example, people looking for resource information, a CRU
18 report was not necessarily generated.

19 Q What about, though, did you keep a record of it,
20 a log of some sort?

21 A At that time we were keeping records, something
22 that was called a CRU log and we were keeping track on
23 those logs of each call that we received.

24 Q Regardless of whether it was CFS related?

25 A Yes.

1 Q Okay. You say at that time, that's 2004?

2 A Yes.

3 Q Has that practise changed?

4 A Yes.

5 THE COMMISSIONER: There was a log kept?

6 THE WITNESS: Yes, there was.

7 Yeah, that practise has changed with the
8 implementation of the intake module.

9

10 BY MS. WALSH:

11 Q So is every call documented as of the existence
12 of the intake module?

13 A Yes.

14 Q Not documented in a log though?

15 A No. Non-child welfare logs are documented right
16 into the intake module.

17 Q Okay. In 2004 and 2005, what was the timeframe
18 for a case to be dealt with by the CRU level?

19 A I don't remember, specifically. I remember
20 around that time there was a lot of change that was
21 occurring within the agency and we were tending to hold
22 reports at CRU longer than usual, due to workload demands.

23 Q So what was usual?

24 A Well, CRU is supposed to be an emergency response
25 service so generally it would be about 24 to 48 hours but

1 at that time, due to changes that were occurring within the
2 agency, reports were being held longer at CRU.

3 Q Do you -- did you understand why? Like, what did
4 that mean?

5 A Well, it was around the time that I guess the AJI
6 was happening so there was a period of time, and I don't
7 remember specific timeframes, but there was a period of
8 time where family service units were no longer accepting
9 cases as transfers from intake so our intake department was
10 asking or being asked to hold cases longer which, in turn,
11 created an additional backlog at CRU.

12 Q And when you say hold cases longer you mean hold
13 them and perform services on the cases?

14 A Yes.

15 Q Do you know, was that happening routinely in 2004
16 and 2005?

17 A Yes, I believe it was for a period of time. As I
18 was saying, that was the implementation of the AJI, it was
19 -- I don't remember exactly how long that continued on but
20 at that time that's what was occurring.

21 Q And how frequently did that occur?

22 A I can't say for certainty with, you know, saying
23 one out of every 10, I don't know for sure but there was a
24 lot of extra work being put on to CRU at that time due to
25 backlog to cases at the intake level.

1 Q Generally though, you said the usual practise
2 would be -- CRU would have a file for between 24 and 48
3 hours?

4 A That was the intent of the program, yes.

5 Q Okay. So part of your job as a CRU worker was to
6 determine whether to respond to a referral?

7 A Yes.

8 Q And what that response would be?

9 A That's correct.

10 Q And what the timeframe for responding would be?

11 A Yes.

12 Q Okay. So I'd like to refer you to our Commission
13 disclosure 992, starting -- it starts at page 19625. You
14 have a hard copy of all the documents?

15 A I do.

16 Q Now, I suspect your counsel organized that for
17 you so do you have --

18 A Yes.

19 Q -- tabs? Do you -- it's going to come up on the
20 screen for you, too, but you might be more comfortable with
21 a hard copy. I don't know. So it was, it was CD 992.

22 MR. RAY: I don't believe Ms. Willox has 992 in
23 the binder.

24 THE WITNESS: Okay.

25 MR. RAY: I don't have a hard copy with me.

1 MS. WALSH: Sorry?

2 MR. RAY: Ms., Ms. Willox doesn't have a hard
3 copy --

4 MS. WALSH: Oh, which --

5 MR. RAY: -- of 992 in the binder.

6 MS. WALSH: Oh, okay.

7 MR. RAY: That, that's (inaudible).

8 MS. WALSH: Oh, okay.

9

10 BY MS. WALSH:

11 Q Would you feel more comfortable having a hard
12 copy? I can get you one.

13 A That's fine.

14 Q Yes.

15 A I can look at it on the screen.

16 Q Okay. Well, if you change your mind let us know.

17 A Thank you.

18 Q This is document entitled Winnipeg Child and
19 Family Services Intake Program Description and Procedures.
20 Are you familiar with this document?

21 A I believe that it is a document that was
22 available but I'm not familiar with it.

23 Q Okay. I'm going to walk through some of it and
24 ask you whether some of its contents match what you
25 understood the practise to be at CRU.

1 So if we start at page 19628, the heading at the
2 top of this page is "Crisis Response Unit and After Hours
3 Unit. Program Description." And under the heading
4 "Service Provision and Assessment", towards the bottom of
5 the page it says:

6

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

10 a) Interface with Intake and
11 Abuse Units as well as with the
12 Agency as whole and with external
13 Agencies.

14 b) Respond to any crisis
15 involving assessing and
16 intervention in situations where a
17 child may be at acute risk of
18 abuse or neglect. The CRU will
19 respond to all situations where a
20 response is required within 24
21 hours or within 48 hours (on cases
22 not open to other Agency units)."

23

24 And then over to the top of the next
25 page.

1 "Situations requiring a response
2 between 48 hours and 5 days or
3 longer will be the responsibility
4 of the Intake and Abuse units."

5

6 Scrolling down to "C":

7

8 "Provide telephone screening, date
9 gathering --"

10

11 I wonder if that should be data gathering.

12

13 "-- redirecting clients
14 (collateral's, other Agency's) to
15 other resources, and generating
16 (typewritten) Case Standards
17 forms, including the 'Face Sheet',
18 and, (when necessary) the 'Safety
19 Assessment' form, placement sheet,
20 abuse investigation forms, and
21 apprehension forms."

22

23 So does this match how CRU was practising, in
24 2004, the things that I've just read?

25 A Yes. But like I said, we were, at that time,

1 tending to hold cases longer at CRU.

2 Q Okay. In terms of the nature of the work that
3 was -- does that match the nature of the work that you
4 performed?

5 A Yes. But because we are also, at that time,
6 being asked to hold cases longer -- for example, I recall
7 and in reviewing the report that Andy Koster had done I had
8 expressed at that time, to Mr. Koster, that because we were
9 being asked to hold cases longer we were asked to be -- to
10 do additional work that normally wasn't being completed at
11 CRU. For example, assist and do some of the abuse
12 investigations.

13 Q Okay. When you say you were being asked, you
14 mean you, personally, as a worker or?

15 A The unit as a whole.

16 Q And do you know where the request came from?

17 A I don't know for certain but, I mean, the general
18 feeling was, was that intake was overwhelmed with the
19 amount of cases that they were being asked to hold so as a
20 result a lot of that workflow was being pushed back down to
21 CRU for us to deal with.

22 Q And how were you made aware of that?

23 A I don't recall exactly if there was direction
24 being given to us by our supervisor but based on the
25 changes that we were seeing and the cases not moving in the

1 manner that we were expecting them to it was, it was
2 something that was known to us.

3 Q Okay. Still on page 19629, I want to go through
4 a few more aspects of this document. Going down to the
5 bottom of the page, please, under "I".

6
7 "Provide assessment to parents and
8 newborn children - which might
9 include attending the hospital to
10 complete a 'Safety Assessment' -
11 in cases where there is either a
12 history of Agency involvement
13 and/or reasonable concerns
14 regarding the parent(s) capacity
15 and/or willingness in providing
16 adequate care to the newborn. The
17 CRU (and possibly the After Hours
18 Unit) should only be required to
19 attend if there is reason to
20 believe that the parents and child
21 could be discharged. Intake can
22 reasonably respond."

23

24 So was that part of, of the kind of work that you
25 did at CRU in 2004?

1 A Yes.

2 Q Okay. Then let's turn to page 19634. Towards
3 the bottom of the page, please, "Recording Outline:
4 Closings - CRU." So:

5

6 "a) Cases warranting no response
7 or no further response after AHU
8 or CRU intervention may be closed.
9 If there is a previous case
10 history, a file review should be
11 conducted prior to closing."

12

13 Does that match what you did in 2004 or 2005?

14 A No, generally we not complete a file review of
15 the prior involvement unless -- I mean, we may have
16 reviewed the history on -- if it was attached to the
17 system, depending on the age of the prior history, but we
18 didn't necessarily pull files or complete a full review of
19 all of the history prior to closing.

20 Q Okay. When you say attached to the system you
21 mean put into CFSIS?

22 A Yes. Older documentation, I'm not sure of the
23 exact date, but prior to the 1990s some of that prior
24 history was not attached to CFSIS.

25 Q Okay. So you typically wouldn't go look at a

1 paper file before closing --

2 A No.

3 Q -- a file at CRU?

4 A No, we would not.

5 Q Okay. Then:

6

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

14

15 Does that match how you performed your work in
16 2004, 2005?

17 A That's correct, yes.

18 Q Okay. Then "C" says:

19

20 "All cases opened to Intake, Abuse
21 or any other unit shall remain
22 with that unit for assessment,
23 intervention or closing. Cases
24 shall not be returned to the CRU
25 except when the receiving unit

1 cannot reasonably respond in the
2 time frame required to ensure
3 safety. Such a return shall be
4 negotiated between receiving unit
5 supervisor and the CRU supervisor.
6 Once cases are opened to an Intake
7 or Abuse Unit they shall not be
8 returned for the sole purpose of
9 further information gathering."
10

11 Now, does that match how you performed your work
12 or how work was performed at the CRU level in 2004, 2005?

13 A I think for the most part but I mean there was
14 conversations and discussions that were happening between
15 CRU management, like our supervisors, and other management
16 at the intake level because of the workload issues. So
17 there was, at that time -- there was some conversation that
18 was occurring about if a case would be accepted or not at
19 the intake level.

20 Q All right, let's talk about safety assessment.
21 That's at page 19635. Do you see the heading "Safety
22 Assessment"?

23 THE COMMISSIONER: What page is that?

24 MS. WALSH: The next page, 19635.

25 THE COMMISSIONER: Yeah.

1 BY MS. WALSH:

2 Q At the top of the page it says:

3

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

9

10 So that first statement, did that match what you
11 understood to be your responsibility in 2004, 2005?

12 A Yes.

13 Q Is that still the case today?

14 A Yes, it is.

15 Q Okay. The factors that are listed on this page,
16 if you go down all the way "A" through "N", were those
17 factors that you took into consideration in conducting a
18 safety assessment in 2004, 2005?

19 A For the most part, yes. I mean, sometimes some
20 of the information was not available to us but for the most
21 part these were generally the factors that we were looking
22 for or looking at to determine risk and safety to a
23 child.

24 Q Okay. So and including "M", "Child (children) is
25 vulnerable because of age or other factors."

1 A Yes.

2 Q Part of doing a safety assessment also involved
3 assessing and recommending a response time?

4 A Yes.

5 Q So then if we turn to the next page, 19636. The
6 first full paragraph says:

7

8 "All cases in which safety or risk
9 is a factor shall be assigned a
10 response time of 24 hours, 48
11 hours or 5 days."

12

13 That's something that you followed in '04, '05?

14 A Yes, it was.

15 Q Okay. And still today?

16 A Yes, but we're not using the same type of safety
17 assessment form.

18 Q Okay.

19 A Now in the intake module, when you identify the,
20 the alleged or the identified child protection concerns,
21 the intake module has attached to it a response time based
22 on the identified child protection risk that you are
23 picking.

24 Q Okay. So it identifies a response time for you?

25 A Yes.

1 Q Okay. But in '04 or '05 you -- the worker had to
2 determine a response time on their own?

3 A Well, you went through the safety assessment form
4 and based on the items that you may have checked it
5 would -- there was certain factors listed under each
6 response time and so you would pick on the form at that
7 time to something that you felt was appropriate or matched.
8 I mean, there wasn't always something that was exactly
9 characterized as the current concern that's being reported
10 but you would pick a response time on the safety assessment
11 form.

12 Q Okay. And we'll look at the safety assessment
13 form that you filled out in this case shortly.

14 Still dealing with the, the document that we're
15 looking at, though, this procedures manual, there's a 24
16 hour response indicated with a number of criteria. Were
17 those criteria that you relied upon in assessing response
18 time? If we look -- scroll down through page 19636.

19 A Yes, they were.

20 Q And over to the next page, please, 19637.
21 There's a heading "Vulnerability." "High Priority
22 (Immediate Response or Within 24 Hours) (Life
23 Threatening/Dangerous)." And a number of criteria,
24 including "Young Child or Developmental Age."

25 A Yes, they were.

1 Q Okay. So, in 2004, were you aware that a child
2 of a young age was considered to be particularly
3 vulnerable?

4 A A child of a young age was considered to be
5 vulnerable and at greater risk.

6 Q What age would, would that fall into?

7 A I mean, a young child, newborn to -- I mean, it's
8 hard to say, it depended on the protection concern that was
9 being identified but any child under the age of five for
10 sure is considered at greater risk. But, again, like it
11 depends on the protection concern that's being reported.

12 Q So what -- can you give me an example of what you
13 mean?

14 A Like, for example, if a child -- if the
15 information being reported is a child is being left home
16 alone, a child who is five would be at greater risk than a
17 child who is 10.

18 Q In your experience as a CRU worker in 2004, were
19 there situations where a matter might get referred to
20 intake but be sent back to CRU before intake would actually
21 handle it or open it?

22 A Yes, there were.

23 Q Okay. Can you give me an example of that kind of
24 situation?

25 A Well, for example, in my particular situation I

1 would open -- I opened a CRU report. I referred it to my
2 supervisor with a recommendation that the matter be
3 referred onto intake for further service delivery. And I
4 mean, we weren't always told or advised as to why a case
5 may not have gone on to intake for further services and, in
6 fact, be returned to you for ongoing service delivery with
7 direction to do "X", "Y", "Z".

8 Q So you, you as a CRU worker, would be asked to do
9 further work?

10 A Yes.

11 Q Okay. When that happened did that mean that you
12 had to close the file?

13 A No, not necessarily.

14 Q Okay. What would that depend on?

15 A It would depend on the additional information
16 that you were gathering.

17 Q So if -- depending on the information, you might
18 still send it back to intake?

19 A You might, yes.

20 Q Okay. If there were ongoing protection concerns,
21 for instance?

22 A Um-hum. Yes.

23 Q Okay. Or if you weren't certain whether there
24 were ongoing protection concerns?

25 A Yes.

1 Q Let's talk about, about supervision. Who was
2 your supervisor in 2004?

3 A Diva Faria.

4 Q How many workers were there in your unit?

5 THE COMMISSIONER: How do you spell that last
6 name?

7 THE WITNESS: It's F-A-R-I-A.

8 I believe, if I recall, there were six of us in
9 our unit.

10

11 BY MS. WALSH:

12 Q Were you all CRU workers?

13 A Yes, we were.

14 Q Okay. And were there any other staff people in
15 the unit in -- I'm talking 2004?

16 A I believe Diva was also the supervisor for -- we
17 had an EIA liaison person attached to CRU at that point in
18 time.

19 Q Okay. There was more than one CRU unit in 2004?

20 A Yes, there was two CRU units.

21 Q Each having six staff, six workers?

22 A I believe so.

23 Q Okay. Who was the supervisor for the other CRU
24 unit in 2004?

25 A At that time I believe it was Diana Verrier.

1 THE COMMISSIONER: What was her name? Oh,
2 Verrier.

3 THE WITNESS: Verrier, yes.
4

5 BY MS. WALSH:

6 Q Describe what Ms. Faria's supervision consisted
7 of?

8 A To be quite honest, I don't, I don't really
9 remember. I'm assuming we did have supervision, I don't
10 remember how frequently or how often. But because we
11 weren't case carrying during the course of supervision you
12 wouldn't have a regular case review. Supervision generally
13 occurred on a case-by-case basis or if you have questions
14 or concerns, it was kind of like an open door policy, you
15 would go in and consult with her on a, on a need to basis
16 on each individual case.

17 Q Was Ms. Faria accessible to you in 2004?

18 A I believe for the most part, yes. I mean, I
19 don't recall specifically but generally she was -- she made
20 herself available to us as staff, yes.

21 Q Did you have regularly scheduled meetings?

22 A I don't recall having regularly scheduled
23 supervision time.

24 Q What types of matters would you go to your
25 supervisor with?

1 A For example, if you were looking direction,
2 whether a case should or shouldn't be opened, what type of
3 further involvement should be completed at CRU, you know,
4 should something be responded to in an immediate nature.
5 Was she in agreement with the course of action that you
6 were wanting to provide a family.

7 Q Do you recall whether you consulted or how
8 frequently you consulted Ms. Faria in 2004?

9 A I don't recall how frequently but if I had a
10 question or something that I was uncertain about or wanted
11 direction on a case, I would go and consult with her and
12 speak with her.

13 Q Were there certain actions to take on a file that
14 required supervisor's approval?

15 A Yes. For example, if you were completing an
16 apprehension of a child.

17 Q Anything else?

18 A For example, I guess also, if you were needing to
19 call Winnipeg Police for case assistance, completing an
20 apprehension. I mean, were a case where there are more
21 serious child protection concerns, something that required
22 more of an urgent response you would go and consult with
23 your supervisor to advise I've taken this call on the
24 intake line, I think CRU needs to respond to this in a more
25 immediate nature so that that information could be passed

1 on and she could make arrangements for someone on the
2 backup team to respond to it.

3 Q What about if you were recommending that a file
4 be referred to intake, did that need your supervisor's
5 approval?

6 A It didn't -- what the process was, is you would
7 write a CRU report. You would hand that report in to your
8 supervisor for review. If she agreed, the information
9 would be forwarded on to intake, if she didn't agree with
10 your recommendation she would bring it back to you with
11 further suggestions of service delivery or for conversation
12 about, you know, I don't necessarily think this should go
13 to intake, I think it should go to abuse or I think we at
14 CRU should, you know, make an additional phone call or
15 whatever she felt would be the appropriate course of
16 action.

17 Q In terms of, of options as a CRU worker, you just
18 referred to abuse and intake. Those were separate areas to
19 refer?

20 A Yes.

21 Q What about if you were recommending closing a
22 file, did you need your supervisor's approval to do that?

23 A Yes, on every case. Even if a case was being
24 referred to intake, your supervisor had to review it and
25 sign it off prior to it going to another unit, whether it

1 was intake, abuse, closing.

2 Q What were the -- in 2004, what were the criteria
3 for closing a file at the CRU level?

4 A It depended. It depended on what the presenting
5 concern was but for a case to be closed, really, the child
6 protection concerns either needed to be addressed in some
7 form or found to be invalid or unsubstantiated. But the
8 child protection concern had to be addressed and there had
9 to be, like -- or I shouldn't say minimized but had to be
10 dealt with in a manner that there didn't appear to be
11 ongoing risk to a child or to a family.

12 Q Once a file was closed, say at the CRU level,
13 would there be any further monitoring of the children who
14 were -- or child who was the subject of the referral?

15 A Not by child welfare once a file is closed.

16 Q Okay, let's talk about information sharing. In
17 the course of your work as a CRU worker in 2004, what
18 sources would you rely on in order to obtain information
19 about a family or a child?

20 A We would rely on a variety of collateral
21 contacts. For example, Employment and Income Assistance,
22 Manitoba Health, Winnipeg Police sometimes, schools, Public
23 Health, any type of community resource that the individual
24 or a source of referral may have been -- may identify that
25 the family is involved with. For example, counselling or a

1 physician.

2 Q Okay. Looking at 2004, can you comment on your
3 experience in obtaining information from these types of
4 collaterals?

5 A At that time -- point in time we were accessing
6 Employment and Income Assistance and Manitoba Health,
7 primarily at CRU, to try to gain information on family
8 demographic information although we did access other
9 community resources to try to obtain information but those
10 were primarily the systems that we tried to access.
11 Sometimes it was successful, sometimes it was more of a
12 difficult process to try to obtain information. It would
13 depend. It would depend on our availability to get
14 information.

15 Q What do you mean?

16 A I mean sometimes collaterals would provide
17 information willingly and sometimes collaterals were
18 reluctant to provide information.

19 Q And what about now, as of 2013?

20 A It's the same. In some aspects we feel we, at
21 CRU, as CRU workers, are experiencing that the process is
22 more difficult to access information.

23 Q Do you have any understanding as to why that's
24 the case?

25 A I mean, I can't say with any -- with certainty

1 but the feeling is, is that since the implementation of
2 PHIA and FIPPA other collateral agencies and services are
3 very cautious about sharing information because nobody
4 wants to break the policies and rules of -- that are
5 contained under PHIA and FIPPA of sharing information.

6 Q Okay. And PHIA, the Personal Health Information
7 Act. FIPPA, Freedom of Information Protection of Privacy
8 Act?

9 A That's correct.

10 Q In 2004, would you also look at CFSIS to get
11 information about a family?

12 A Yes, we would.

13 Q Okay. Is that still the case today?

14 A CFSIS and the intake module.

15 Q Okay. Currently is all information from every
16 agency available to you at CRU?

17 A Not every agency is using the intake module so
18 some agencies don't have open cases or file recording
19 documented onto the computer system.

20 Q So does that create a problem?

21 A Yes, it does.

22 Q Do you know whether that's being brought to the
23 attention of your supervisors?

24 A I believe it has on many occasions and that it's
25 an ongoing issue that is attempting to be addressed.

1 Q We talked earlier about the concept of, of new
2 partners. You were saying that that's something that's
3 being stressed as, as a subject of assessment more so than
4 in the past?

5 A That's correct.

6 Q Generally, as of 2004, do you recall whether
7 there was any standard or policy to follow when a new
8 partner was in a home where there was a protection file?

9 A I don't believe there was a standard or a policy.
10 At that point in time our primary focus generally was
11 focussing on the female or the biological mother in a
12 household as the primary caregiver. There wasn't as much
13 weight at that time being placed on partners or other adult
14 family members living in the family home as for completing
15 a prior child welfare history or review.

16 Q Okay. So, in 2004, was it your understanding, as
17 a social worker dealing with a protection file, that when
18 there was a new adult living in the home with a child that
19 you needed to investigate who that adult was as part of the
20 risk assessment of the -- for the -- on behalf of the
21 child?

22 A Yes, that was something that needed to be
23 considered.

24 Q You would want to know whether --

25 A Sorry.

1 Q That's okay. You, you would want to know whether
2 the individual had a history with Child and Family
3 Services, for instance?

4 A Yes, if we were able to obtain that information.

5 Q Or whether they had a criminal record?

6 A Yes.

7 Q Okay. And how, in 2004, would you do that
8 investigation?

9 A Generally we would start by reviewing CFSIS,
10 contacting Employment Income Assistance and Manitoba Health
11 and attempt to determine who the partner was, their
12 birthday, so that a further review of CFSIS could be
13 completed.

14 Q Okay. All right, we'll come back to that
15 process. Let's talk now about the services that you
16 delivered to Phoenix and her family in 2004.

17 A Okay.

18 Q Let's start with CD1795, page 36949. You
19 probably do have a hard copy of that. It will also come up
20 on your screen.

21 So pages 36949 through to 36952 are a report
22 dated December 1, 2004. On page 36952, is that your
23 signature?

24 A Yes, it is.

25 Q What is this report?

1 A This was the CRU report that I generated
2 following a phone call from the source of referral.

3 Q And it's addressed to Central Intake?

4 THE COMMISSIONER: Phone call from whom?

5 THE WITNESS: From the source of referral at that
6 point in time. It was the hospital social worker who had
7 been calling.

8 MS. WALSH: And we'll go through that, Mr.
9 Commissioner. That was the source of referral number four
10 from whom we heard just before the break.

11

12 BY MS. WALSH:

13 Q So if we go back to the, the first page. At the
14 top, if, if you look at the top of each page. Actually,
15 just stop scrolling for a minute. Go to the top of one of
16 the pages, please. That's good. Thank you.

17 You see it says Michelle Kematch?

18 A Oh, yes.

19 Q That was an error?

20 A That was a clerical error.

21 Q Okay. Was that on your part or someone else's?

22 A I'm not sure.

23 Q Okay. Page --

24 THE COMMISSIONER: Where, where -- just a minute.

25 Where is that?

1 MS. WALSH: At the very top of this -- if you
2 look on your screen Diane is very -- the clerk is very
3 helpfully pointing that out.

4 THE COMMISSIONER: Oh, oh, I see.

5 MS. WALSH: And it appears on the top of every
6 page of this report.

7 THE COMMISSIONER: I see.

8

9 BY MS. WALSH:

10 Q So this --

11 THE COMMISSIONER: You wouldn't, you wouldn't
12 have put that in?

13 THE WITNESS: I don't honestly remember if, if
14 that was a typing error when I saved the document or if the
15 administrative staff did that. I don't know, I don't
16 remember.

17 THE COMMISSIONER: Fair enough.

18

19 BY MS. WALSH:

20 Q This is a report that you created in respect of
21 the referral that you received at -- when you were working
22 at CRU?

23 A Yes.

24 Q And it says -- I'm on page 36949. It says: "Re"
25 -- we were good before. Thank you. "Re: Samantha Kematch

1 & Wes McKay."

2 A Yes.

3 Q And you received this referral on December 1st,
4 2004?

5 A Yes.

6 Q There is a portion of the document entitled
7 "History." It goes from this page, 36949, over to the next
8 page. Did you create this history?

9 A Yes, I did.

10 Q Where did you get the information to create it?

11 A I don't remember exactly, at this point in time,
12 but I can assume that I had obtained this information from
13 other file recordings that had been attached to CFSIS.

14 Q Okay. Did you have -- you say you don't have a
15 specific recollection of what you did. Is that, is that
16 true, generally, that you don't have a specific
17 recollection of the work you did on this file or is
18 that ...

19 A Yeah, I, I generally don't remember. I remember
20 some of the things because of being involved in the Section
21 4 review with Andy Koster and I remember some of the things
22 that I had told him at that point in time but I don't -- to
23 remember back to December 1st, 2004, I don't remember.

24 Q So you don't have a specific recollection of how
25 you created the history?

1 A No, I don't.

2 Q Did you have a practise that you can recall?

3 A I would generally review other previous
4 involvement and recordings that were attached to CFSIS to
5 create my own history.

6 Q Okay. How much of the previous recordings would
7 you have reviewed?

8 A It's hard for me to say. Like I --

9 Q You didn't have a practise, a standard practise?

10 A No, not generally. And it would depend on how
11 busy it was that day, how much time I had available to
12 review the previous information, how much information there
13 was available to review. If there was a lot of information
14 attached on CFSIS and I didn't have a lot of time that day
15 because it was busy I would not have probably reviewed
16 every document and every note that was attached to the
17 system.

18 Q Okay. You didn't just cut and paste though from
19 a previous summary's history, you created your own?

20 A It would depend. If there was a recent closing
21 summary or a recent involvement that had a really good
22 history completed, or a lot of information contained in it,
23 sometimes we would copy and paste some of that information
24 into our own histories.

25 Q Okay. You can't recall what you did in this

1 occasion?

2 A I don't remember.

3 Q We can turn to page 36953 to pages 36958. This
4 is the intake closing summary dated July 14, 2004. You can
5 see the date by looking at the last page, 36958. This is
6 the last recording on the file prior to your receiving the
7 file. Is this a document that you would have reviewed, the
8 most recent case summary?

9 A I assuming I did but I don't recall exactly if
10 I've reviewed this document. I'm assuming I would have had
11 to.

12 Q Why do you say that?

13 A Because generally it was my practise that when I
14 was on the phone, for example with a source referral, I
15 would attempt to do a search on CFSIS to see if the
16 individual that the source referral was calling about may
17 already have an open file, when was the file closed, what
18 was the nature of that prior involvement to do -- to give
19 me a further indication while I'm seeking to the source
20 referral about what the disposition of my involvement might
21 be.

22 Q Okay. And where you found that there had been
23 previous openings and closings and summaries generated you
24 would have reviewed some of those summaries?

25 A Yes. What I probably would have done was while I

1 was on the phone with the source of referral and in this
2 particular instance I wasn't sure what I was going to do
3 with the information based on the limited information that
4 the source of referral was providing, so I probably would
5 have pulled up the last closing summary to review it, to
6 see what the prior involvement had been as to whether this
7 would be something that I should open and follow up or
8 refer on for follow up at the agency.

9 Q Okay. Which you ultimately did determine should
10 be the case; right?

11 A Yes.

12 Q Let's look at -- after the history let's go back
13 to page 36949, back to your intake report. So we've looked
14 at the history and then on page 36950 the history
15 continues. You've got significant others listed, Steve
16 Sinclair and Wes McKay and Wes McKay's address. The source
17 of referral, who is identified as the social worker at the
18 Women's Hospital. That's the person you spoke to?

19 A Yes.

20 Q That's the person you received the call from?

21 A That's correct.

22 Q Yes. And then we turn to the next page, 36951.
23 "Presenting Problem/Intervention." So this is your
24 recording?

25 A Yes, it is.

1 Q Okay. So let's go through it. It indicates:

2

3 "SOR called to report that

4 Samantha was admitted to hospital

5 yesterday and delivered her fourth

6 child, a baby girl ... states that

7 the birth weight was 3837 grams,

8 and the Apgars were 9 & 9. SOR

9 states that Samantha did receive

10 good pre-natal care prior to the

11 birth of this child, and notes

12 that there are no known health

13 concerns with respect to [the

14 child] at this time. SOR states

15 that there was no reported drug or

16 alcohol use during this pregnancy.

17 SOR states that Samantha disclosed

18 that she was previously involved

19 with the Agency back in the summer

20 of 2004, due to concerns with

21 respect to her four year old

22 daughter, Phoenix. SOR states

23 that Phoenix is currently residing

24 in the home with Samantha and her

25 common-law partner, Wes McKay

1 (date of birth unknown). SOR
2 notes that Wes is the father to
3 this new child, and is expected to
4 be a support to Samantha.
5 After reviewing the recorded
6 documentation on CFSIS, this
7 worker consulted with supervisor,
8 Faria, with respect to the
9 Agency's role with respect to this
10 matter. Faria agreed that this
11 matter should be referred to
12 intake for ongoing follow up and
13 assessment of the home environment
14 at this time.
15 On Dec. 1/04 this worker left a
16 voice message for the SOR, asking
17 that she reconnect with the Agency
18 to report Samantha's expected date
19 of discharge.
20 On Dec. 1/04 this worker contacted
21 EIA to inquire about the
22 demographic information of
23 Samantha's common-law partner, Wes
24 McKay. Worker was advised by EIA
25 that Samantha only has one child

1 listed on her budget, and that
2 there is not expected to be a
3 common-law partner residing in the
4 home. Therefore the date of birth
5 for Wes McKay could not be
6 obtained.

7 On Dec. 1/04 at 12:00 p.m. this
8 worker reconnected with the SOR,
9 ... at Women's Hospital ...
10 Worker asked [the SOR] when the
11 expected discharge date would be
12 for Samantha and [the baby] (was)
13 advised that Samantha might be
14 leaving today after 5:00 p.m., or
15 sometime tomorrow, depending on
16 the hospital's need for the bed."

17

18 And then on the next page you say:

19

20 "The safety assessment is
21 completed and on file. Based on
22 the information provided by the
23 SOR the Safety Assessment, at the
24 time of writing, is considered as
25 within a 48-hour response.

1 Recommendations:

2 It is recommended this file be
3 opened for assessment and
4 intervention."

5

6 And it's signed by both you and your supervisor.

7 So now let's go back, I want to ask you a few questions
8 about this recording.

9 What -- you took the call from the hospital
10 social worker. What did you understand to be the reason
11 the referral was being made to CFS?

12 A The hospital, I guess, during Samantha's
13 admission, she had disclosed that she had had prior
14 involvement recently in the summer of 2004 and the hospital
15 was calling to see if the agency would be concerned now
16 that she has had another child.

17 Q You made a note that Wes McKay's date of birth
18 was unknown.

19 A That's correct.

20 Q In your, in your discussion with the hospital
21 social worker.

22 A Yes.

23 Q Why, why did you make that note?

24 A I'm assuming because I had asked the source of
25 referral if she had Mr. McKay's date of birth and so I'm

1 assuming she had said to me, no, I don't. So instead of
2 putting Wes McKay, date of birth, with a known date of
3 birth, I put date of birth unknown because she said the
4 hospital didn't have his date of birth.

5 Q Why were you asking her for his date of birth?

6 A So that I could have completed a further CFSIS
7 check to determine if he had had prior involvement.

8 Q We'll come back to that. You also made a note
9 that you contacted Employment and Income Assistance for
10 demographic information about Wes McKay?

11 A That's correct.

12 Q Was there specific information that you were
13 looking for?

14 A I was trying to determine if he was, in fact,
15 attached to Samantha's budget and, and gather his date of
16 birth.

17 Q Okay, so still looking for his date of birth but
18 through different means?

19 A Yes.

20 Q Okay. Do you recall who it was you spoke to at
21 EIA?

22 A I don't but I do know, as a result of preparing
23 for the inquiry, who I spoke to.

24 Q And that was Helen Waugh?

25 A Yes.

1 Q At the time did you recognize that you had spoken
2 to that person on previous occasions or do you remember?

3 A I have spoken to Helen on the phone many times.

4 Q And that -- as of the time that you called her on
5 December 1, '04?

6 A I'm assuming so. I don't know how long before
7 this contact I had spoken to her but we generally called
8 EIA numerous times a day to gather demographics and we knew
9 each other by voice recognition, we spoke to a number of
10 individuals at EIA on a consistent basis.

11 Q Okay. You told me that there was an EIA liaison
12 in your unit in 2004. What was their job description?

13 A The EIA liaison was more so intended to help
14 youth who were approaching the age of 18 to get onto EIA
15 benefits, prior to their 18th birthday. In situations, for
16 example, where they couldn't remain in the family home and
17 were looking for financial supports to move out prior to
18 their 18th birthday.

19 Q So they weren't there to help you with
20 information gathering, per se?

21 A No.

22 Q Did -- and I believe you told us that you
23 typically did rely on EIA to give you that kind of
24 demographic information such as date of birth?

25 A Yes, generally I would call EIA on every referral

1 I received.

2 Q On every referral you received?

3 A Yes.

4 Q And how successful were you in obtaining
5 demographic information that you sought?

6 A I mean, I can't say exactly with certainty, a
7 certain percentage, but I would call on every case and
8 every referral I received to gather demographics.
9 Sometimes the information we received from EIA was accurate
10 and helpful and sometimes it wasn't.

11 Q Do you know what it depended on?

12 A Not for certain but my assumption is some
13 individuals that -- who would answer that line at EIA were
14 more helpful or more willing to search for information than
15 others. Depended on how busy they were or kind of the mood
16 of the day, I guess, if they had the time or were willing
17 to look for the information or maybe take extra efforts to
18 search for information that we were looking for.

19 Q Did anyone ever refuse -- any EIA worker ever
20 refuse to give you information you were requesting?

21 A No, not outright refuse.

22 Q Okay. And what was your experience with Helen
23 Waugh, as of December 1, '04? Do you recall?

24 A Generally Helen was helpful. We would call,
25 Helen would answer and she would complete the lookup, as

1 requested.

2 Q Do you recall whether you asked the EIA worker,
3 who we know is Ms. Waugh, whether Mr. McKay, himself, had a
4 file in the EIA system?

5 A I don't remember specifically if I asked if Mr.
6 McKay had a file of his own. I am assuming, from the way I
7 documented it, that I had inquired if, if Samantha had a
8 common-law partner. But I don't remember if I asked Helen
9 to search and see if there was a Wes McKay on their system.

10 Q If Mr. McKay were on the system with an EIA file
11 then they would have had his date of birth?

12 A I'm assuming so, yes.

13 Q But you can't recall whether you asked them to
14 look for him specifically?

15 A Well, no, but I'm assuming that when I spoke to
16 Helen I said that I'm looking to see if Samantha has a
17 partner and I don't know for certain but I'm assuming that
18 I said to her she has, she has a partner, that we're
19 receiving information that she has a partner by the name of
20 Wes McKay, do you have him attached to her budget or, you
21 know, any information about him.

22 Q Let's look at the EIA records and -- to show you
23 what the EIA worker documented about her conversation with
24 you on December 1, '04. We've looked at what you
25 documented. Let's turn to page 28316. And this is from

1 CD1579.

2 A Sorry, what page number, two, eight?

3 Q 28316.

4 A Okay.

5 Q Are you -- have you got that?

6 A Yeah.

7 Q Okay. And it's also up on the screen in front of
8 you, too, whichever is easier for you.

9 So you'll see, if we look at the entry on the
10 bottom of the page, it says Investigation verification
11 December 1, '04 HWA, which is the name of the worker. And
12 then she's written.

13

14 "3rd party information - Dec. 1/04
15 - caller, Shelley Wiebe, Child and
16 Family Services, to inform us that
17 Samantha is living common law with
18 Wes McKay, father of newborn baby
19 just yesterday, Nov. 30/04. He is
20 listed at the hospital as the
21 father of the baby. H. Waugh ..."

22

23 So the EIA worker characterized your phone call
24 as one in which you called to inform them that Ms. Kematch
25 was living with a common-law person named Wes McKay. Was

1 that the reason that you called?

2 A No. The intent of my call, always, to EIA was to
3 look, to look for demographic information.

4 Q We also have information still in the EIA
5 records, 1579, at page 28317 and then we'll look at 2824
6 and -- 28424 and 28426 but let's start with 2831 --

7 THE COMMISSIONER: What page are you going to?

8 MS. WALSH: 28317.

9 THE COMMISSIONER: All right.

10

11 BY MS. WALSH:

12 Q Still in CD1579 -- 70 -- yeah. We have
13 information that Ms. Kematch attended at the EIA office on
14 December 3, '04 to add the new baby to her budget. And
15 you'll see that that's documented. "A/N in office to add
16 newborn baby."

17 You'll see at the top of that entry it says
18 December 3, '04. "To add newborn baby to budget." And
19 then there's a reference to Phoenix.

20 THE COMMISSIONER: Just what page are you reading
21 from?

22 MS. WALSH: December 3, '04 at the top of the
23 entry.

24 THE COMMISSIONER: 28314 -- 28317?

25 MS. WALSH: The page is 28317, yes. And if you

1 look at that full paragraph at the bottom, the -- of the
2 page, well, it's the lower part of the page, lower entry.
3 You see it says: "GF, general follow-up Dec 03 04"?

4 THE COMMISSIONER: Yes.

5 MS. WALSH: That's what I'm referring to.

6

7 BY MS. WALSH:

8 Q Ms. Willox, you've got that?

9 A I do.

10 Q Okay. So there's a reference to the applicant
11 and this, this CD, this disclosure, is Samantha Kematch's
12 EIA file. It shows that she attended at the EIA office on
13 December 3 to add the baby to her budget. She mentioned
14 that she had Phoenix with her and stated that the PF, the
15 putative father is Karl Wesley. And then we also know,
16 from looking at page 28424, if you scroll through that to
17 the next two pages, you will see that 28 -- let's start at
18 -- hold on. Sorry. Go back to page 28424, please. This
19 is an application to add dependents. The name of the
20 applicant is Samantha Kematch. The -- it says: dependent
21 child, date of birth November 30, 2004.

22 And then let's scroll to the next page. There's
23 a signature, December 3, '04 of Samantha Kematch. And then
24 on the finale page, is a copy of the new baby's birth
25 certificate. See, it says date of birth November 30, 2004.

1 And if you scroll down, please, it shows the information
2 about the parents, the father being McKay, Karl Wesley, and
3 his date of birth, March 28, 1962.

4 So this information was all in the EIA records as
5 of December 3, 2004. Did you follow up with EIA after you
6 spoke with Ms. Waugh, on December 1, 2004?

7 A No, I did not.

8 Q Did anyone from EIA, Ms. Waugh or anyone else,
9 call you back after your conversation on December 1, '04?

10 A No, they did not.

11 Q We've also heard evidence that Mr. McKay had
12 added Phoenix to his budget, his EIA budget, in May of 2004
13 and that Samantha was on his budget at that time, as well.
14 Does that surprise you, to learn this, given the
15 conversation that you had with the EIA worker in December
16 of '04?

17 A Yes. But I mean, given some of the responses
18 that we would get from time to time from EIA, I'm not
19 surprised that there was a connection or that they may have
20 been enrolled together, as sometimes the information we got
21 from EIA was not always accurate.

22 Q Did you ask the EIA worker to see whether
23 Samantha Kematch had ever been on a budget with Wes McKay?

24 A I don't remember.

25 Q Was that typically your practise, to ask that

1 kind of question?

2 A I may, if I had any indication that they -- that
3 Mr. McKay had been on, himself, at one point in time, with
4 a child. I may have asked but I don't remember in this
5 particular instance if I did or not. I'm assuming, based
6 on the recording, that I didn't.

7 Q You did not?

8 A I'm assuming, based on this, that I did not ask
9 if Wes McKay had been enrolled.

10 Q Did you mention Phoenix to the EIA worker?

11 A I really don't know. EIA advised me that she was
12 enrolled with one child and that that child would have been
13 Phoenix at the time. So at that time what I knew was that
14 Samantha was active with Employment and Income Assistance
15 with Phoenix on her budget and that she didn't have anyone
16 else attached to her, her file at Employment and Income
17 Assistance.

18 Q In the, the history portion, if we go back to
19 page 36949, the bottom of the page. If you scroll down,
20 please. You wrote:

21

22 "In May '04 an Employment and
23 Income Assistance worker contacted
24 the agency to report that Samantha
25 wanted Phoenix added to her budget

1 as she was in her care. The EIA
2 worker was concerned as she
3 recalled that there were concerns
4 about Samantha's ability to
5 provide care."

6

7 Do you recall whether you asked the EIA worker to
8 search Phoenix's name in their system?

9 A I don't remember.

10 Q Was that something you ever asked an EIA worker
11 to do?

12 A I have, yes.

13 Q So you were aware that that was something that
14 EIA could do, they could type in someone's name and look up
15 to see where they had been on -- in terms of someone's
16 budget.

17 A Yeah. As long as you had a name and date of
18 birth they could search under anyone.

19 Q Okay. And you had Phoenix's name and date of
20 birth?

21 A Yes.

22 Q So now, still on -- if we go to page 36951. We
23 were talking about your recording of your interventions.
24 So you said you spoke to the EIA worker. You said, after
25 reviewing the recorded documentation on CFSIS you consulted

1 with your supervisor, Diva Faria, and decided to refer the
2 matter to intake. Why was that the case?

3 THE COMMISSIONER: Now, are you, are you on five,
4 one, or five, two?

5 MS. WALSH: 36951, Mr. Commissioner?

6 THE COMMISSIONER: Whereabouts?

7 MS. WALSH: One, two, three -- the fourth
8 paragraph down -- "after reviewing the --

9 THE COMMISSIONER: Oh, yes.

10 MS. WALSH: "-- the recorded documentation."

11 THE COMMISSIONER: All right. Yes, I have it.

12 THE WITNESS: After reviewing the history that
13 was available to me on CFSIS, I went and spoke to Diva and
14 we decided that although the source of referral really
15 wasn't reporting a current child protection concern, that
16 we would open the matter and refer it to intake for ongoing
17 follow up.

18

19 BY MS. WALSH:

20 Q Okay. That was based on, on the history that you
21 had reviewed?

22 A Yes.

23 Q What aspects of the history were significant to
24 you in making that recommendation?

25 A Well, I mean, I guess what I documented here. I

1 don't remember if I reviewed other information in CFSIS.

2 Q So --

3 A But she had had a history. She had had another
4 child that was apprehended, which eventually became a
5 permanent ward. She had had a child who was now deceased.
6 There was previous concerns about alcohol abuse and
7 domestic violence within the family home. Further concerns
8 about substance abuse being -- occurring. The May '04
9 concerns about when Employment and Income Assistance
10 called.

11 And like I said, I'm not sure if I reviewed other
12 documentation in CFSIS but generally, overall, my
13 impression from reviewing the history was that she had had
14 a significant history that warranted some further follow up
15 to see how she was presently functioning.

16 Q Okay. At that time, so we're talking --

17 THE COMMISSIONER: And she being Samantha?

18 THE WITNESS: Yeah, sorry.

19

20 BY MS. WALSH:

21 Q At that time, when you made that referral, was
22 your concern risk to the new baby, to Phoenix, or to both
23 children?

24 A To both. Generally the feeling is, is that a new
25 infant or a very young child in the home can add additional

1 stressors to a family and so our intent was to see how the
2 family, as a whole, was functioning and if there was any
3 risk to Phoenix or the newborn child.

4 Q You also noted on the bottom of page 36951, three
5 paragraphs from the bottom, that you reconnected with the
6 -- well, and at the bottom, that you reconnected with the
7 SOR for the expected discharge date for Ms. Kematch.
8 Now --

9 A Yes.

10 Q -- why was that?

11 A It's a further determining factor, that my
12 supervisor would most likely ask me to determine a response
13 time. If she had wanted us to, for example, field to the
14 hospital to speak with Samantha prior to discharge, we
15 would need to know so that we can determine the response
16 time, if she was being discharged that day or the following
17 day, we would know when someone would need to respond by if
18 the supervisor felt someone should attend to the hospital.

19 Q And then you write in your report that the safety
20 assessment is complete and on file and that a 48 hour
21 response was appropriate?

22 A Yes.

23 Q You intention, at the time that you wrote that,
24 was that intake would respond to the referral?

25 A Yes.

1 Q What did you expect that intake would do?

2 A I mean, I can't speak for exactly what the intake
3 worker and the supervisor at intake may have decided to do
4 but I believe our hope at that time was that it would go to
5 intake and that intake would go out to a home and complete
6 a thorough assessment, determine Samantha's functioning and
7 how she was coping with the two children.

8 MS. WALSH: Mr. Commissioner, this would be a
9 good time to take a break, if that works for you, I see
10 it's past 11:00.

11 THE COMMISSIONER: Yes, that's satisfactory. All
12 right, we'll stand adjourned for 15 minutes.

13 MS. WALSH: Thank you.

14 THE COMMISSIONER: You can take a rest, witness.

15 THE WITNESS: Thank you.

16

17 (BRIEF RECESS)

18

19 BY MS. WALSH:

20 Q I would like to refer you to the safety
21 assessment form, it's at page 36934 is where it starts.
22 This is from CD1795 from Samantha Kematch's file.

23 THE COMMISSIONER: 36934?

24 MS. WALSH: Yes.

25 THE COMMISSIONER: Three, six, nine, what?

1 MS. WALSH: Three, four.

2 THE COMMISSIONER: Three, four. Is that one
3 we've had out this morning?

4 MS. WALSH: No.

5 THE COMMISSIONER: Okay.

6 MS. WALSH: It would be the next to look at.

7 THE COMMISSIONER: All right, just ...

8 I have it.

9 MS. WALSH: You have, you have it, Mr.
10 Commissioner?

11 THE COMMISSIONER: Yes.

12

13 BY MS. WALSH:

14 Q So this is a safety assessment form with your
15 name at the top of the page and the date is December 1,
16 '04. The name at the top was redacted because it said
17 Michelle at that -- on this document, as well, and when our
18 office was redacting documents we didn't know if that was
19 some other individual or, or simply an error, so that's why
20 there's a name redacted at the top.

21 Is this the safety assessment form that you
22 filled out with respect to this referral?

23 A Yes, it is.

24 Q So now what, what is this safety assessment
25 document?

1 A It was a document that we were using at that
2 time, based on the presenting concerns you would use it to
3 identify the appropriate response time.

4 Q Was it a tool, is that how you describe it?

5 A Yes, it was a tool.

6 Q Did you think it was useful?

7 A Any tool is useful but was this document the best
8 tool that could have been used? No, it wasn't. It wasn't
9 always relevant, it didn't always identify all of the
10 appropriate issues that we may have to deal with so it
11 didn't always necessarily have response times that were
12 applicable.

13 Q Let's turn to the next page, page 36935. Under
14 the heading "other" you've checked off that box.

15 A Yes.

16 Q You see that?

17 A Yes.

18 Q And you've written:

19

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

1 care."

2

3 So was that an entry that you made?

4 A I am assuming so, yes.

5 Q And does this essentially tell us that the
6 response time was based on Ms. Kematch's history?

7 A Yes.

8 Q And the name Michelle was an error?

9 A It was an error.

10 Q Any other reason -- now this, this is under the
11 heading "48 hour response"?

12 A Yes.

13 Q Why did you choose that response?

14 A Because there was no known presenting or
15 presenting child protection concern being identified. The
16 source of referral had contacted us at that time simply
17 based on Samantha's admission of having prior child welfare
18 involvement earlier in the year.

19 Q What about the age of the children, was that
20 something you took into consideration?

21 A Yes, that was one of the reasons why I selected
22 the 48 hour response, based on the age of the child.

23 Q As opposed to a five day, you mean?

24 A Yes.

25 Q Then if we turn to page 36937. You've checked

1 off where it says "Case to", you've checked off "Intake"?

2 A Yes.

3 Q So that indicates that you were referring the
4 matter to go to intake?

5 A Yes.

6 Q To respond within 48 hours?

7 A Yes.

8 Q And the other boxes that are there, those were
9 other options you could have checked off?

10 A You mean like "Abuse", "CRU", "Case Closed"?

11 Q Right.

12 A Yes.

13 Q So if you had not referred it to intake, one
14 option would have been to refer it to abuse?

15 A Yes.

16 Q Which was a form of intake but a separate unit?

17 A Well, they dealt, the abuse unit dealt with
18 allegations of abuse towards a child.

19 Q Or you could have checked off CRU?

20 A Yes.

21 Q Keeping it in --

22 A At our --

23 Q -- your unit?

24 A Yes.

25 Q Or you could have checked off case closed?

1 A Yes.

2 Q So what you checked off was general intake, is --

3 A Yes, the general intake unit.

4 Q At the time that you received this referral, do
5 you recall whether or not you looked at CFSIS to see if you
6 could find any information about Wes McKay?

7 A I don't recall. I don't know if I did a search
8 on the system under Mr. McKay's name or not.

9 Q Okay. If you had done that would you have
10 documented that you did it?

11 A I most likely, probably would have, yes.

12 Q Okay. I think you told me earlier that that was
13 the reason that you were looking for his date of birth?

14 A Yes.

15 Q Did you ever get his date of birth?

16 A No, I did not.

17 Q But did you understand that you didn't need Mr.
18 McKay's date of birth in order to do a CFSIS search?

19 A Yes.

20 Q I'm going to walk you through the, the process of
21 doing a CFSIS search in 2004. I'm referring you to Exhibit
22 22, which we have just marked, and I think the clerk will
23 put that in front of you.

24 THE COMMISSIONER: Have I got that?

25 MS. WALSH: That's the third exhibit that we

1 filed today, Mr. Commissioner, it's Exhibit 22.

2 THE COMMISSIONER: Oh, yes. Yes.

3

4 BY MS. WALSH:

5 Q You've got that in front of you, Ms. Willox?

6 A Yes, I do.

7 Q So this document, Exhibit 22, outlines the
8 procedure by which a prior contact check was done in CFSIS
9 at the time that you were involved with Phoenix and her
10 family. So if you look at page 2 and Madam Clerk, if we
11 could please have Exhibit 22 put on the screen so everyone
12 can follow along. Twenty-two. Turn to page 2, please.
13 Just scroll down so we can see it. Thank you. Perfect.

14

15 BY MS. WALSH:

16 Q The document says that "Prior Contact Check" or
17 PCC -- I'm looking at paragraph two.

18

19 "[Prior contact searches] are
20 conducted by entering the
21 individual's first name and last
22 name, any other "known as" names,
23 gender and approximate age/date of
24 birth. As of 2000-2005, the PCC
25 search created a list of 50

1 closest matches based on
2 variations of those names that are
3 based on spelled-alike,
4 sound-alike, age-alike, as well as
5 gender-alike. A PCC will then
6 give a percentage match indicating
7 how similar the search is to the
8 person records in CFSIS."

9

10 Then on the next page, paragraph three.

11

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

19

20 Now, were you aware that this was the process by
21 which you could do a PCC in CFSIS in December of 2004?

22 A Yes, I am.

23 Q You were aware of that as of December of '04?

24 A Yes.

25 Q Then paragraph four, of Exhibit 22, says:

1

2

"Information about a person's past relationships or children may assist a worker in linking a given search to the person that they are looking for.

3

4

5

6

7

CFSA is continuously being updated. In order to determine

8

9

10

what a PCC would have looked like in 2004, one must do a PCC now.

11

12

Person records with names similar to the subject of the search and

13

14

which were created after 2004 must be extracted to approximate a PCC

15

in 2004."

16

17

If you scroll down to paragraph seven, please.

18

19

"When a worker does a PCC --"

20

21

And we'll come back to what the results of, of the search done today, as reflected at paragraph 6R, paragraph seven says:

22

23

24

25

"When a worker does a PCC, the

1 worker will estimate the
2 approximate age of the subject of
3 the search based on the
4 information available to the
5 worker. The dates January 1, 1980
6 and January 1, 1950 have been used
7 as assumed ages."

8

9 That's in this case.

10

11 "The 1980 date assumes that McKay
12 was close in age to Ms. Kematch
13 and the 1950 date assumes that
14 McKay was older than Ms. Kematch."

15

16 Paragraph eight.

17

18 "The person known to be the
19 correct Karl Wesley McKay is
20 manually highlighted in dark blue
21 in each of the four appendices.
22 Persons with similar names are
23 manually identified by a red
24 rectangle around the name."

25

1 So now let's look at the search results, what the
2 department did was they did a search, a PCC of both Wes
3 McKay and Karl Wes McKay using, in each case, the two
4 different dates and their results are attached as
5 appendices to this exhibit.

6 I'll also point out, if we go to page 4 of
7 exhibit, paragraph 9(d) says that: "All ages shown on the
8 appendices are as at December 2012."

9 So if we want to know what the age would have
10 been when you did the search in 2004, we would subtract
11 eight years from the age that's shown on the search
12 results.

13 If we look at appendix A, which is at page 5. If
14 you can just pull up the document a little bit, so we can
15 see the whole thing, please. Thank you.

16 You'll see that in a search done as of December
17 2012, if one put into CFSIS a PCC for Wes McKay, see the
18 first name Wes, surname McKay, with an approximate age of
19 32, see that next to age, this is the top box, CFSIS
20 returned an 81 percent match on Wes McKay, age 50. You see
21 the summary of the search results?

22 A Yes.

23 Q And that shows that that person, Wes McKay, age
24 50, had a record in CFSIS as of 2004.

25 A Yes.

1 Q And, and in fact, a summary of the search results
2 shows that doing this search now, as of -- well, as of
3 2012, of the four names that came up, only two of them were
4 in the system in 2004.

5 A Yes.

6 Q So there were only two individuals who possibly
7 matched Wes McKay, age 32, as of 2012, in 2004.

8 If we go to the screen shot of what this would
9 have looked like, on the next page, six, this is what the
10 document was referring to. So if a PCC search had been
11 done of Wes McKay, this is what the results looked like
12 with the blue band being the correct Wes McKay. Can you
13 see that?

14 A Yes, I do.

15 Q And then if we refer to the search results that
16 are shown in appendix B on page 9. If one performed a
17 CFSIS PCC search for Wes McKay, this time with a birth year
18 of 1950, assuming that he were an older person, the summary
19 of the search results shows an 81 percent match to the
20 correct Wes McKay. And that person had a record in the
21 system as of 2004. And the other person that was -- that
22 came up as a match did not.

23 And then if we turn to appendix C which is at
24 page 13. It shows that if you did a search, a CFSIS PCC
25 search, this time instead of for Wes McKay, for Karl Wesley

1 McKay, with a birth year of 1980, making him 32, CFSIS
2 returned an 85 percent match for the correct Karl McKay,
3 age 50. There was one other person in the system at the
4 time.

5 Then -- and that person did not have the name
6 Wesley in their name.

7 And then finally, if we turn to appendix D, at
8 page 17, this is the search done, again for Karl Wesley
9 McKay, this time with a birth year of 1950, there is again
10 an 85 percent match for the Karl Wesley McKay, age 50.

11 Could you scroll up a bit, please? And that
12 person had a record in 2004 in the system. There was one
13 other person who had a 72 percent match and they did not
14 have the name Wesley in their name.

15 Now, was this a search that you, in fact, did
16 regarding Wes McKay, or Wesley McKay, or Karl Wesley McKay,
17 in 2004?

18 A I don't remember.

19 Q In fact, you didn't do this search, did you?

20 A I don't know. I don't remember if I did or
21 didn't.

22 Q All right. Well, let's see if we can assist your
23 memory. Did you understand, in 2004, notwithstanding the
24 fact that you were asking for his birth date, that you
25 didn't need to know Mr. McKay's birth date in order to

1 search for him?

2 A That's correct.

3 Q So the process that I have just outlined was one
4 that you were familiar with in terms of how to do a PCC?

5 A Yes.

6 Q And we'll come back to this. You completed your
7 CRU report on December 1, 2004. And that's at page 36952.
8 Just before we go to that, with respect to the -- to
9 conducting a PCC search, did you understand that then what
10 you would do, given that you said you weren't sure what Mr.
11 McKay's birth date was, that you would click on the Wes
12 McKay's that came up as a closest match, to try and
13 determine who was the correct Wes McKay?

14 A Yes.

15 Q And then you would look to see if they had a
16 history with Child and Family Services?

17 A Yes.

18 Q And that was to see whether they posed any form
19 of risk to the child?

20 A That's correct.

21 Q Now, you signed your, your CRU report. What did
22 you do with the report after you completed the report?
23 When you handed it into -- well, tell me, tell me what you
24 do first, once you complete a report.

25 A Once you complete a report, you complete the CRU

1 documentation, as requested, and then you submit it to your
2 supervisor for review.

3 Q In handwritten form or typed form?

4 A In the typed form.

5 Q Is it signed by you at that point?

6 A Yes.

7 Q Did you give your supervisor, who was -- was that
8 Ms. Faria?

9 A Yes, it was.

10 Q Did you give her a copy of the safety assessment
11 form, as well?

12 A Yes, I believe at that time we were to complete
13 the CRU report, the safety assessment and a copy of the
14 CFSIS face sheet.

15 Q And was all of that done on December 1st, '04?

16 A I believe so.

17 Q Now, let's go to page 36943. This document runs
18 from 36943 all the way through to 36948. At the top it
19 says: "To: Central Intake." From you. So this is a
20 document that you created?

21 A Yes.

22 Q And if we go to the last page of the document, on
23 page 36948, is that your signature?

24 A Yes, it is.

25 Q It says it's typed December 7, 2004. Is that the

1 date that the report was completed?

2 A Most likely, yes, it would have been the last day
3 I finished typing, prior to handing it in to my supervisor.

4 Q Okay. And this is part of -- and we're going to
5 go through this report but this is part of a -- or this is
6 a subsequent report that you prepared after the one that we
7 just looked at, dated December 1, '04?

8 A What -- I believe it's a continuation of the
9 first one.

10 Q Okay. If you look at pages 36943 to the top of
11 -- all the way to the top of 36946, this appears to be a
12 reproduction of the report that we just looked at?

13 A Yes.

14 Q Okay. Without the signatures. If you look at
15 page 36946.

16 A Yes.

17 Q That doesn't have the signatures. Is that
18 because the document, when you continued on with working,
19 was simply cut and pasted from the previous document?

20 A I most likely would have continued adding on into
21 the same word document, my following interventions after
22 receiving it back from my supervisor.

23 Q So then it -- but it's -- when you did the, the
24 first document, you had it printed and you signed it --

25 A Yes.

1 Q -- before you handed it to your supervisor --

2 A Yes.

3 Q -- and then she signed it?

4 A Yes.

5 Q Okay. Now you're doing more work and you simply
6 continue with the word document.

7 A Yes.

8 Q If you look at page 36946, under "Interventions".

9 The first paragraph underneath that heading says:

10

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

22

23 So it appears that your supervisor returned the
24 referral to you on December 2nd, '04?

25 A Yes.

1 Q Do you know why that was done?

2 A I don't know why it was returned to me rather
3 than being sent to intake, as the recommendation.

4 Q Okay. Your supervisor didn't tell you why?

5 A Not that I recall.

6 Q Okay. Can you explain what you meant where you
7 wrote: "if the Agency is unable to mandate services within
8 the home at this time."?

9 A If the agency is unable to identify a child
10 protection concern or a child protection risk within the
11 home.

12 Q Then in that case the file would be closed to
13 CRU?

14 A Yes.

15 Q And so if it were otherwise, if the agency felt
16 there were child protection concerns, then the file would
17 not be closed at CRU?

18 A No, it would not.

19 Q And that's something that I think you discussed
20 with us earlier this morning?

21 A Yes.

22 Q Or if you didn't know whether there were child
23 protection concerns you wouldn't close it at CRU?

24 A If there were no protection concerns identified
25 to us and we were not aware of protection concerns then she

1 was saying that it could be closed.

2 Q But if you were not certain as to whether there
3 were or not you wouldn't close the file?

4 A No, I guess not.

5 Q And again, if the file were closed at CRU, that
6 would mean that there would be no further monitoring of the
7 child who is the subject of the file?

8 A That's correct.

9 Q So then going on in your interventions, you made
10 attempts to contact Ms. Kematch; right?

11 A Yes, I did.

12 Q It says:

13

14 "On Dec. 2/04 at 2:33 pm this
15 worker attempted to contact
16 Samantha at home phone number ...
17 Worker left a voice message asking
18 Samantha to return the ... call.

19 On Dec. 3/04 at 1:03 pm this
20 worker attempted to contact
21 Samantha Kematch --"

22

23 Again at same phone number.

24

25 "There was no answer. Worker left

1 a voice message asking Samantha to
2 return the phone call today before
3 4:30 ...

4 On Dec. 3/04 at 1:10 pm this
5 worker contacted the SOR ... at
6 Women's Hospital ... Worker spoke
7 to [SOR] and asked her to provide
8 the discharge date for Samantha.
9 [SOR] confirmed that Samantha was
10 discharged from the hospital on
11 Wednesday night."

12

13 And you go on to say:

14

15 "On Dec. 3/04 at 1:15 pm this
16 worker consulted with supervisor,
17 Faria, regarding this matter and
18 the Agency's inability to connect
19 with Samantha via phone at this
20 point in time. Faria suggested
21 that worker contact the PHN
22 involved with the family, inquire
23 if Public Health has been out to
24 the home, and if there are no
25 concerns identified by the PHN

1 worker (or worker) is to close the
2 protection file."

3

4 So you brought your concerns to Ms. Faria?

5 A Yes, I did.

6 Q What, what exactly were those concerns?

7 A At this point she had returned the file to me to
8 ask me to make contact with Ms. Kematch via phone to offer
9 supports, determine how she was doing. I had been unable
10 to do so, so I went back to my supervisor to determine the
11 course of action on how she wanted me to continue to follow
12 up in the matter.

13 Q And your supervisor told you to contact the
14 Public Health nurse?

15 A Yes, she did.

16 Q Was that typical practise?

17 A It was typical that we would utilize community
18 collaterals or contacts in an attempt to try to gain
19 information on families about their functioning and any
20 potential risk or known protection concerns from
21 collaterals about a family.

22 Q Okay. So you would contact a collateral to see
23 if there were protection concerns?

24 A Yes.

25 Q Including a Public Health nurse?

1 A Yes.

2 Q What about in this case where the source of
3 referral was a healthcare employee, who had already
4 referred the matter out to CFS? Did you still think that,
5 that the Public Health nurse was the best source of
6 information for protection concerns?

7 A Sorry, I'm not sure what you mean. Like because
8 the source of referral was calling from Women's Hospital?

9 Q Yes.

10 A Well, at this point in time we were wanting to
11 determine if Public Health -- usually what happens is after
12 a mom goes into hospital and delivers a baby there is a
13 referral made to the community Public Health nurse. We
14 wanted to determine if the health nurse had been out to the
15 family home at this point in time, seeing mom and baby.
16 How they felt that the function -- how mom, Samantha's
17 functioning was going and if she had been able to identify
18 any concerns or not about Samantha's interaction or
19 parenting of the child.

20 Q Okay. Had you, as of 2004, in fact had
21 experience as a CR worker -- CRU worker in receiving
22 information from Public Health nurses about protection
23 concerns?

24 A Yes. It was a community resource that we had
25 used before.

1 Q Was it your experience that Public Health nurses
2 would sometimes initiate referrals to CFS?

3 A Yes, sometimes.

4 Q And, in fact, you did contact the Public Health
5 nurse for Ms. Kematch; right?

6 A Yes, I did.

7 Q And that -- her name was Mary Wu?

8 A Yes.

9 Q And if we look at page 36946 still. You say:

10

11 "On Dec. 3/04 at 1:18 pm this
12 worker contacted the WRHA office
13 located at 490 Hargrave at phone
14 number ... to inquire about the
15 name of the PHN that would service
16 the area of McGee Street. Worker
17 was advised that the PHN assigned
18 to work with Samantha Kematch is
19 Mary Wu ..."

20

21 And gave her phone number.

22 Turning over to the next page. At the top of the
23 page you say:

24

25 "On December 3/04 at 1:25 pm this

1 worker attempted to contact the
2 PHN for Samantha Kematch, Mary Wu
3 ... Worker left a voice message
4 asking Mary to return the phone
5 call today regarding her client,
6 Samantha Kematch. Worker
7 indicated that the Agency has some
8 questions and things that we would
9 like to discuss with respect to
10 Samantha."

11

12 Then you document your contact with the Public
13 Health nurse.

14

15 "On Dec. 3/04 at 4:02 p.m. this
16 worker received a return phone
17 call from the [Public Health
18 nurse] ... Mary Wu ... Worker
19 questioned Mary if she had been
20 out to the family home to see
21 Samantha and the baby yet, and if
22 she has any concerns. Mary
23 advised that she has been to see
24 Samantha since her discharge from
25 hospital. Mary questioned why

1 worker was contacting Public
2 Health, and asked if Samantha was
3 aware that [Winnipeg Child and
4 Family Services] was contacting
5 her for information. Worker
6 advised Mary that the Agency has
7 previously had extensive
8 involvement with Samantha, and
9 indicated that Samantha has four
10 children - only two of which are
11 in her care. Worker reported that
12 the Agency has had some pretty
13 serious concerns in the past, and
14 is wondering if Public Health has
15 any concerns at this time."

16

17 Now, these are all notes that you made of your
18 phone call to Mary Wu?

19 A Yes.

20 Q When did you make them with respect to the actual
21 phone conversation taking place?

22 A I can't say for certain. Sometimes what I would
23 do was on -- I was on the phone with a collateral contact I
24 would type into a word document, as I'm a faster typer,
25 sometimes, than I am by handwriting. It depends. Like I'm

1 not sure if I typed this into the document as I was
2 speaking with Mary, if I made a notation in my steno pad,
3 I'm not sure.

4 Q But was while you were speaking with the Public
5 Health nurse or after you hung up the phone?

6 A I'm not sure if -- I don't remember if I made
7 notes while I was speaking to her or after I hung up.

8 Q Okay. And if you made them in your steno pad,
9 that's one possibility?

10 A Yes.

11 Q Okay. And the steno pad no longer exists?

12 A Yes.

13 Q Okay. Was anything that you made note of in your
14 steno pad transferred -- was everything that you made note
15 of in your steno pad transferred into the word document?

16 A Yes. Generally everything that I write down as
17 notations I will put into the document.

18 Q Okay. Generally but not necessarily everything?

19 A Well, I might have put in, you know, extra words
20 or whatever, that I might have re-worded the information, I
21 might have taken shorthand on my steno pad and then
22 transcribed it into full sentences. But the documentation
23 and information that I would write during conversations
24 with collaterals or clients in my steno pad was transferred
25 into my word document.

1 Q And do you have any independent recollection of
2 this conversation?

3 A I don't today but I do because of my involvement
4 with Mr. Koster during the Section 4 report.

5 Q So -- and we'll come that involvement but when
6 you were interviewed by Mr. Koster you had a recollection
7 of the conversation with Ms. Wu?

8 A Yes, I did.

9 Q Okay. Let's finish reading what you've
10 documented.

11

12 "Mary advised that she has been
13 recently advised at training
14 sessions that she is not to share
15 information with [Winnipeg Child
16 and Family Services] due to PHIA.
17 Worker advised Mary that the
18 Agency has attempted to contact
19 Samantha on two occasions now, and
20 notes that if Samantha is to check
21 her voice mail she will see that
22 the Agency is trying to contact
23 her. However, worker advised Mary
24 that the Child and Family Act
25 supersedes PHIA, and indicated

1 that any professional is obligated
2 to contact [Winnipeg Child and
3 Family Services] to report risk to
4 a child if there are concerns.
5 Mary advised that she is aware of
6 this, but has been advised at
7 recent training not to discuss
8 cases with [Winnipeg Child and
9 Family Services]. Mary indicated
10 that [Winnipeg Child and Family
11 Services] does not share
12 information with Public Health due
13 to the confidentiality act.
14 Worker indicated that all the
15 Agency is asking at this time, is
16 if Mary has been to the home and
17 if she has any concerns. Mary
18 advised that she would like to
19 contact Samantha before answering
20 this question, to advise her that
21 [Winnipeg] CFS is calling her,
22 asking for information. Worker
23 again advised Mary that she is
24 obligated to report any child
25 protection concerns to the Agency,

1 and therefore questioned Mary why
2 she would not simply come out and
3 say that she does not have any
4 concerns if she is not willing to
5 report a risk to the child. Mary
6 indicated that she can not say at
7 this time. Worker asked for the
8 name of Mary's supervisor, so that
9 future incidents such as this -
10 that involve a lack of
11 communication between Agencies,
12 can be rectified at the managerial
13 level. Mary indicated that her
14 supervisor is Nettie Strople at
15 phone number ... Worker provided
16 Mary with the name of the CRU
17 supervisor, Diva Faria, at phone
18 number ... This information was
19 provided to Faria for ongoing
20 follow up."

21

22 So let's just go back and, and look at these
23 notes and this discussion. You used the term concerns, you
24 asked Ms. Wu if she had any concerns. Do you recall
25 whether you ever used the word child protection concerns or

1 the phrase?

2 A I don't recall specifically. I had identified
3 myself to Ms. Wu as a child protection worker and had
4 indicated to her that we had had child protection concerns
5 in the past and was calling to inquire if she had current
6 concerns referencing child protection concerns at this
7 time. Did I specifically use child protection concerns as
8 the wording that I used with Mr. Wu? I don't recall.

9 Q In your, in your documentation you refer to
10 saying that you reported that the agency has had some
11 pretty serious concerns in the past.

12 A Yes.

13 Q You don't document using the word child
14 protection.

15 A Well, I do here say "Worker again advised Mary
16 that she is obligated to report any child protection
17 concerns to the Agency." So I did make it clear to Ms. Wu
18 that I was calling, I was from a child welfare agency, and
19 that she was obligated to report child protection concerns.

20 Q What was your understanding of what Ms. Wu was
21 saying to you of her response?

22 A Ms. Wu acknowledged to me that she was obligated,
23 as a professional, to report any child protection concerns
24 to the agency but then, at this time, now whether she was
25 implying that she didn't have child protection concerns and

1 wasn't open or able to share the content of her
2 involvement, because of PHIA and FIPPA but she acknowledged
3 her obligation to report and that it was her duty as a
4 professional to report a child protection concern to the
5 agency. But at this time, due to PHIA and FIPPA was not
6 able or willing to report.

7 Q So did you understand Ms. Wu to be saying that
8 she couldn't discuss anything with you because of PHIA?

9 A To me Ms. Wu was saying that she is obligated,
10 she knows her obligation to report, but that the remainder
11 of her involvement with Ms. Kematch could not be discussed
12 until she spoke to her client first.

13 Q What did you understand to be the situation with
14 the family by the end of your conversation with Ms. Wu?

15 A Ms. Wu had been out to the family home, had seen
16 Samantha and the new baby. Had provided the services that
17 she does as a child -- as a public health nurse. She did
18 not, she knew she was obligated to report and did not have
19 protection concerns at that time to report.

20 Q So was it your understanding, by the end of your
21 conversation with Ms. Wu, that she did not have child
22 protection concerns?

23 A Based on the way I have recorded this, yes, my
24 assumption is that she knew she was obligated to report if
25 she had a protection concern but she was not reporting any

1 at that time.

2 Q So based on your understanding, what was it that
3 Ms. Wu had to ask Ms. Kematch permission for?

4 A I am assuming that the nature of her involvement
5 with Ms. Kematch, I mean that that they -- whether other
6 conversations had occurred, whether it was about breast
7 feeding or you know, general care, parenting, I'm not sure
8 what Ms. Kematch and her would have discussed or shared but
9 my understanding was that Ms. Wu was looking to receive
10 confirmation or -- from Samantha to give her the okay to
11 speak to CFS about their contact, in general.

12 Q Did you understand Ms. Wu to be saying she needed
13 Ms. Kematch's permission in order to tell you whether or
14 not she had child protection concerns?

15 A No, she acknowledged her obligation to me to
16 report and it was indicated that she was aware that if she
17 had protection concerns that she needed to
18 report.

19 THE COMMISSIONER: Did she say whether she had
20 any such concerns or not?

21 THE WITNESS: She didn't say specifically that
22 she did or did not have protection concerns but
23 acknowledged her obligation to report if she had a
24 protection concern.

25 THE COMMISSIONER: And from that you assumed that

1 she had none, is that a fair statement?

2 THE WITNESS: Yes.

3

4 BY MS. WALSH:

5 Q You asked for Ms. Wu's supervisor's name. Why
6 was that?

7 A For a couple of reasons. This conversation was
8 concerning to me. One, I had hoped that my supervisor
9 would follow up with Ms. Wu's supervisor, in fact, as a way
10 to maybe receive confirmation that Ms. Wu didn't have
11 protection concerns and that if there were -- if there was
12 something there that she was not sharing that her
13 supervisor would, in turn, follow up with Ms. Wu or direct
14 her to, to share the information, if there was a protection
15 concern.

16 Q About this specific family?

17 A Yes.

18 Q Okay.

19 A And the second part of it is, is like I
20 documented, is that if this was information that was
21 received at recent training to Public Health nurses or the
22 Public Health system, that staff are not to share
23 information with us, that that could be addressed, as that
24 would be a problem.

25 Q What information did you think Public Health

1 staff could share with CFS?

2 A Anything that pertains to a child protection
3 concern.

4 Q Did you understand that Ms. Wu understood that
5 she could and should do that?

6 A Yes. I reiterated to Ms. Wu, numerous times
7 during our phone call, that the Child and Family Services
8 Act superseded PHIA and FIPPA and that, as a professional,
9 she was obligated to report any child protection concern to
10 our agency for follow up.

11 Q So you said you, you still referred it to -- or
12 wanted to refer it to your supervisor to follow up with Ms.
13 Wu's supervisor?

14 A Yes.

15 Q So were you, by the end of the conversation,
16 still uncertain as to whether Ms. Wu understood that she
17 had to tell you about any child protection concerns she had
18 with respect to this family?

19 A I am assuming that there was probably still a
20 small element of uncertainty within my mind. Although she
21 had acknowledged her obligation to report I wanted more
22 confirmation and in turn reverted to my supervisor for --
23 two purposes or two goals, really.

24 Q Did you, in fact, tell Ms. Faria about this
25 conversation?

1 A I recall, from my interview with Mr. Koster, that
2 at that time, yes, I had, following my conversation with
3 Ms. Wu, gone and spoke to Diva about my conversation with
4 the Public Health nurse.

5 Q Do you recall whether you told Ms. Faria that you
6 still had some residual concern as to whether there were
7 child protection concerns?

8 A I don't remember the exact content of that
9 conversation with Diva. I believe I had shared with her
10 the outcome of my call and my frustration in trying to
11 speak with Ms. Wu to obtain information and that I had
12 obtained the name and phone number for Ms. Wu's supervisor
13 so that she, in turn, could follow up with the department,
14 like the Public Health nurse department in an attempt to
15 clarify some of the things that I had been unable to get
16 answers from, from Ms. Wu.

17 Q Specific to this particular family?

18 A Specific to this family and the overall problem,
19 itself, of if Public Health is receiving information that
20 they are not to share information with our agency.

21 Q Why did you give Ms. Faria's name to Ms. Wu?

22 A I let Ms. Wu know that for me this was a concern,
23 her response to me and my questions was a concern and that
24 I would be speaking to my supervisor so that further follow
25 up could occur and I advised her to do the same, to speak

1 to her supervisor, to let her supervisor know that I am
2 feeling that this is a concern, so that her supervisor is
3 aware and that the two supervisors could connect to discuss
4 the problem.

5 Q In this recording that we've just looked at, on
6 page 36947 your -- of your discussion with Ms. Wu, you
7 don't mention having asked Ms. Wu about Phoenix,
8 specifically. Is it safe to assume that you didn't inquire
9 specifically about Phoenix?

10 A I am assuming, based on the documentation, that
11 maybe I did not.

12 Q Did you have any information indicating that Ms.
13 Wu was even aware of Phoenix's existence?

14 A I don't know for sure. In my documentation I
15 talked to Mary about how, you know, part of the reason why
16 I'm calling, although she's looking to share information
17 with me, wanting to know if I have a protection concern.
18 At that point in time, the agency didn't have a reported
19 protection concern so I am trying to engage her in
20 conversation by saying to her the reason why I'm calling is
21 because we have had prior child protection concerns that
22 are quite serious and she is currently caring for two
23 children. Ms. Wu would have been aware of the new infant
24 and that was the reason for the referral to her department.
25 So I am assuming, based on this documentation, I am saying

1 to her besides the new child there is another child in the
2 home that Samantha is caring for. But did I ask
3 specifically, Ms. Wu, for information about Samantha -- or
4 about, sorry, Phoenix, I am assuming not, based on the
5 documentation.

6 Q And the reason that the Public Health nurse was
7 involved with Ms. Kematch was because of the birth of her
8 new baby?

9 A Yes.

10 Q Were you thinking primarily about the baby when
11 you spoke with Ms. Wu?

12 A Primarily, yes, but both children were important.

13 THE COMMISSIONER: Just let me ask you a
14 question. Witness, I hadn't seen this document till today
15 so I haven't really read it but where in there is it that
16 Wu tells you that she knows what her obligations are?

17 THE WITNESS: Right here I document --

18 THE COMMISSIONER: Where are you, in the middle
19 or?

20 THE WITNESS: It's approximately in the middle.

21 THE COMMISSIONER: Yes?

22 THE WITNESS: I write:

23

24 "However worker advised Mary that
25 the Child and Family (Services)

1 Act supersedes PHIA, and indicated
2 that any professional is obligated
3 to contact [Winnipeg Child and
4 Family Services] to report risk to
5 a child if there are concerns.
6 Mary advised that she is aware of
7 this, but has been advised at
8 recent training not to discuss
9 cases with [Winnipeg Child and
10 Family Services].

11

12 THE COMMISSIONER: Thank you.

13

14 BY MS. WALSH:

15 Q We expect to hear evidence from Ms. Wu that if
16 you had specifically told her you were calling with respect
17 to a child protection concern she would have had more
18 discussion with you. Is it possible that you didn't
19 specifically say that you had a child protection concern?

20 A Yes, because I didn't have a specific child
21 protection concern. I was calling, following up on a
22 matter where there was no protection concern identified.
23 The reason why we opened the file in the first place and
24 were providing further follow up was strictly based on the
25 history of the family. There was no current concern being

1 recorded by the source of referral or any other individual
2 to the agency.

3 So when I spoke to Ms. Wu, it was kind of like,
4 for lack of better terms, I guess it was almost like a play
5 on words for her. If I had identified, saying the agency
6 has concerns that Samantha is maybe using substances or you
7 know there's -- we have received information about the lack
8 of care she is providing to her child, maybe she would have
9 been different in her response to me but I didn't have a
10 protection concern identified to try to elicit a different
11 response from Mary. I tried to explain to her and engage
12 her in conversation by saying we've had prior involvement
13 and prior child protection concerns about this family so
14 I'm looking to see if you have any concerns at this time.

15 She didn't respond to me, maybe, like if Mary is
16 saying that if I had identified a protection concern she
17 would have responded in a different manner, I didn't have a
18 protection concern that was identified to me, that I was
19 specifically investigating. I was following up out of
20 precaution based on the history that had previously
21 occurred with the family.

22 Q That was why, on December 1st, 2004 you had
23 recommended that the file be transferred to intake for
24 assessment and intervention, based on the history?

25 A Yes.

1 Q And the assessment that you were recommending
2 would include investigating whether there were child
3 protection concerns?

4 A Yes, it would have looked at the family
5 functioning as a whole, including Samantha's current
6 functioning, her involvement with a current partner or
7 someone identified as Wes McKay to me. How she was doing
8 coping now with two children, a new infant, overall the
9 care, the home environment. It would have done a thorough
10 assessment of the whole family unit and the functioning.

11 Q In terms of the, the children's safety and well
12 being?

13 A Yes.

14 Q Both children?

15 A Yes.

16 Q And meaning the new baby and Phoenix?

17 A And Phoenix.

18 Q We also expect to hear from Ms. Wu that she
19 understood from your conversation that you were going to
20 ask Ms. Faria to contact her supervisor, Ms. Strople?

21 A Yes.

22 Q So that, that was your understanding, as well?

23 A Yes. Which is why I documented in my report Ms.
24 Wu's supervisor's name and phone number and indicated that
25 it would be referred to Diva for further follow up.

1 Q We expect Ms. Wu to testify that she did receive
2 consent from Ms. Kematch to speak with CFS, that she
3 received that on December 6, '04. Were you ever aware of
4 that?

5 A No, I was not.

6 Q Okay. You didn't follow up with Ms. Wu to ask
7 whether she had received consent from Ms. Kematch to speak
8 with you?

9 A No, I did not.

10 Q Any reason why not?

11 A Following my conversation with Ms. Wu, I had a
12 conversation with my supervisor, Diva Faria. I had
13 explained to her my conversation and the outcome of
14 speaking with Ms. Wu and had referred it to her at that
15 point in time for further follow up with her supervisor and
16 the Public Health Department. I had no protection concerns
17 identified to me, at that time, that would warrant, from
18 what I believed further follow up from myself.

19 If, after Ms. Faria had followed up and had
20 received additional information or had felt, in speaking
21 with Ms. Wu's supervisor that a subsequent conversation
22 should occur between myself and Ms. Wu, I would have
23 received the file back for further follow up and service
24 delivery or documentation.

25 Q Did you expect that Ms. Wu would contact you if

1 she received consent from Ms. Kematch to speak with you?

2 A I'm not sure, I don't remember if I expected that
3 at the time or not, but I had expected Diva to follow up
4 with the Public Health nurse supervisor so if, through that
5 exploration, if there had been protection concerns that
6 needed to be reported or other work that needed to be done
7 that Diva felt I should explore another avenue, I expected
8 that I would have received the file back rather than her
9 signature for closure.

10 Q Okay, so when you talk about her signature for
11 closure, let's look at page 36948 from your intake report.

12 Mr. Commissioner, do you have that?

13 THE COMMISSIONER: Yes.

14

15 BY MS. WALSH:

16 Q Under the heading "Recommendations".

17

18 "After consultation with the
19 public health nurse, and a review
20 of the information attached on
21 CFSIS, it was determined that
22 there does not appear to be a
23 known risk to the children
24 residing in Samantha's care at
25 this time. Therefore this matter

1 is being closed at CRU, until
2 further information or a request
3 for services is brought to the
4 Agency's attention."

5

6 So you ultimately recommended that the file be
7 closed?

8 A Based on the information that I had at that time
9 when I submitted the recordings to Diva for review, that
10 was my recommendation.

11 Q Okay. Was the decision to close the file a
12 decision that you made alone?

13 A It was the recommendation that I had generated,
14 based on the information I had. It would have been Diva's
15 final decision and approval that she would sign the report
16 and submit it for closure, if that's -- if she had agreed
17 with that. But at that time I was also submitting it to
18 her for further follow up with Public Health so it was
19 unknown to me if she would sign it or if I would receive it
20 back at some point in the future for further services or
21 for further documentation.

22 Q So in terms of, of the signature, the process for
23 signing, if you look at page 36948, your signature is
24 there, above your typed name?

25 A Yes.

1 Q And you said you signed the report before you
2 handed it in to your supervisor?

3 A Yes.

4 Q And then did you see your supervisor sign the
5 report?

6 A No.

7 Q And was that typical?

8 A Yeah, generally we wouldn't see it. She would
9 review the reports at -- when she was available. Like we
10 would all hand in our reports, throughout the course of the
11 day she would review reports ongoing throughout the day.
12 As she reviewed them either we would get them back with
13 further direction or a request for ongoing services with
14 recommendations or she would sign the reports and submit
15 them to the CRU administrative staff for
16 processing.

17 THE COMMISSIONER: And are you ever told that she
18 has, in fact, signed a report?

19 THE WITNESS: No. If we received the report back
20 for further services then she wouldn't have signed it, she
21 would have given it back to me with direction to do further
22 follow up.

23 THE COMMISSIONER: So if you don't get it back
24 you assume she has signed. Is that a fair statement?

25 THE WITNESS: Yes.

1 BY MS. WALSH:

2 Q And in this case did the report or the file come
3 back to you?

4 A No, it did not.

5 Q Do you recall whether you had a discussion with
6 Ms. Faria about closing the file?

7 A I don't recall specifically. I remember after my
8 conversation with Ms. Wu we talked about this and the
9 direction of the case at this point in time and that I had
10 advised her that I had obtained Ms. Wu's supervisor's name
11 and number and advised Ms. Wu that further conversations
12 would occur from supervisor to supervisor.

13 I don't remember everything that Diva and I
14 talked about, I am assuming that I had said to her, at this
15 point in time, this is where I'm at with this file, I'm
16 going to write it up and hand it in to you for further
17 review and ongoing services. And then if Diva -- you know,
18 she would have done what she felt was appropriate and if
19 she had wanted me to do further work or give me further
20 information for documentation she would have given it back
21 to me and not signed it prior to closing.

22 Q Okay. You write: "Therefore this matter is
23 being closed at CRU."

24 A Yes.

25 Q So when you wrote it up you were writing it up

1 assuming that it would be closed?

2 A Closed, yes.

3 Q Okay. Unless Ms. Faria determined otherwise?

4 A Yes.

5 Q Okay. Now, where you say:

6

7 "This matter is being closed at
8 CRU until further information or a
9 request for services is brought to
10 the Agency's attention."

11

12 What did that mean?

13 A For example, if Public Health had called back and
14 said, you know, I do have a concern to report or I've been
15 out to the home again, if another community collateral had
16 called in. If the agency had received any information from
17 any source that would have identified a child protection
18 concern then I would have kept the file opened or it needs
19 to be reopened again in the future at that point.

20 Q And the date that it's typed, December 7th, do
21 you think that's the date that you signed it?

22 A I'm assuming that when I entered my final
23 documentation, at that time we were directed to date the
24 reports when we completed them, prior to handing them in,
25 so I would have dated as the -- December the 7th was the

1 final day I had typed anything on this report, printed it,
2 signed it, and handed it into Diva.

3 Q And would you have physically handed it to her or
4 just left it in a box for her? Do you recall?

5 A I'm not sure, I don't recall. When we handed in
6 reports we didn't always necessarily hand them to her, to
7 her hand, she had, I think, a box on her desk and -- where
8 we could also put reports.

9 Q You told us earlier that there were criteria for
10 closing a file at CRU?

11 A Yes.

12 Q So in this case, what was the criteria that you
13 relied upon to close -- to recommend closing the file?

14 A At the time that I recommended this, there were
15 no protection concerns known to the agency. There were
16 none initially reported to us and there were none
17 discovered during the course of my involvement. So with
18 the absence of any child protection concerns being known to
19 me or the agency I recommended that it be closed.

20 Q Essentially, you relied on your conversation with
21 Ms. Wu as the basis for determining there were no child
22 protection concerns?

23 A That and the information being provided by the
24 source of referral.

25 Q Who had referred it to you?

1 A Yes.

2 Q Did you consider getting in touch with Phoenix's
3 school to see if she was attending and how she was doing?

4 A I don't remember if that was something I
5 considered. At that point in time I followed the direction
6 that Diva had given to me and she had requested on further
7 follow up initially to try and connect with Samantha
8 directly, to speak to her and offer services, and when I
9 couldn't connect with her she recommended that I contact
10 Public Health.

11 Q And you never heard anything further from Ms. Wu?

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

13 Q Did you ever ask Ms. Faria if she spoke with Ms.
14 Strople?

15 A I don't remember.

16 Q Let's look at Ms. Wu's file recordings, starting
17 at page 36813. This is from Commission disclosure 1791.

18 THE COMMISSIONER: Now will this be a convenient
19 time to break or are you, are you going to be long with
20 this document?

21 MS. WALSH: Well ...

22 THE COMMISSIONER: If, if, if not we'll --

23 MS. WALSH: We could. Certainly, Mr.
24 Commissioner, this would be fine.

25 THE COMMISSIONER: Well, but if -- is this just a

1 10 or 15 minute matter?

2 MS. WALSH: I think so.

3 THE COMMISSIONER: All right, deal with that.

4 MS. WALSH: And then we'll break after our review
5 of this.

6 THE COMMISSIONER: Deal with that then and then
7 we'll break.

8 MS. WALSH: Okay. Thank you.

9

10 BY MS. WALSH:

11 Q So these are, are Ms. Wu's notes from her Public
12 Health file. I'm going to go through them with you and
13 we'll see if they match your recollection and your notes of
14 the phone call that you had with Ms. Wu. So this is the
15 other end of, of the call.

16 So if you --

17 THE COMMISSIONER: Have you seen this before,
18 witness?

19 THE WITNESS: I have during the course of
20 preparation for the inquiry.

21

22 BY MS. WALSH:

23 Q And I appreciate that what we're both trying to
24 do is decipher someone else's handwriting so we can get
25 through this together.

1 So if we -- if you scroll up the page please, to
2 the entry December 04 -- December 3, '04. It says: "RC",
3 which I think is return call.

4

5 To Shelley Wiebe, CFS. Rec'd
6 referral from Women's Hospital
7 about Samantha's past history with
8 CFS. CFS had not been involved
9 with this pregnancy. Requesting
10 information on Samantha re any
11 current concerns. Shelley had
12 left message on Samantha's voice
13 mail but no return call as yet.
14 Advised writer did not have
15 concerns with family.

16

17 I'm not sure what that next word is.

18

19 And further discussion is
20 prohibited without client's
21 consent. Shelley Wiebe to notify
22 her supervisor to contact writer's
23 supervisor re disclosure of
24 information.

25

1 And later that day she records:

2

3 Advised Nettie Strople, team
4 manager a phone call with CFS.
5 Return call to clarify with D.
6 Romaniuk, there information of or
7 manager of PHIA.

8

9 And then going down -- well, first of all, let's
10 stop there. Does that match your recollection of the phone
11 call that you had?

12 A Yes, for the most part.

13 Q Okay.

14 A I mean, she -- yes and no. It does for the most
15 part, which was the general feeling of the conversation
16 that I had with her but she records it very matter of
17 factly that she did advise me that she had no protection
18 concerns. She didn't come right out and identify to me
19 that she -- and say the words I do not have child
20 protection concerns. As is documented in my report, I said
21 to her, kind of trying to force her hand, I guess, as a --
22 as -- so to speak and saying to her, if you don't have
23 protection concerns why are you not willing to say
24 outright, I do not have protection concerns.

25 So she has documented here that she advised me

1 she doesn't not have concerns but yet she did not come
2 right out and use those words of no protection concerns.
3 She has it documented as such, which was my impression of
4 what she was saying to me but she didn't come right out and
5 use those words.

6 MS. WALSH: I think, Mr. Commissioner, given the
7 next area that I want to get into, this would be a good
8 time to take our midday break.

9 THE COMMISSIONER: All right. We'll adjourn now
10 to two o'clock and you will have to return, witness.

11 THE WITNESS: Thank you.

12 THE COMMISSIONER: Thank you. Stand adjourned
13 until two o'clock.

14

15 (LUNCHEON RECESS)

16

17 THE COMMISSIONER: All right, Ms. Walsh.

18 MS. WALSH: Thank you, Mr. Commissioner.

19

20 BY MS. WALSH:

21 Q So, Ms. Willox, we were talking about your
22 conversation with Mary Wu before we took a break. How did
23 you feel at the end of your phone conversation with Ms. Wu?

24 A Well, like I had kind of said before the break,
25 my conversation with Ms. Wu was difficult and that's

1 subsequently why I referred it to Diva for further follow
2 up to occur, to clarify some issues.

3 I mean, based on the information she had reported
4 to me she still does not identify any child protection
5 concerns but yet felt that further follow up was required
6 by my supervisor.

7 Q You did?

8 A Yes.

9 Q Yes.

10 THE COMMISSIONER: Is the witness speaking into
11 the microphone?

12 THE WITNESS: I can move it closer.

13 THE COMMISSIONER: That's better.

14

15 BY MS. WALSH:

16 Q And you were aware that the referral that you got
17 from the hospital was about a baby whose father was Wes
18 McKay?

19 A Yes.

20 Q Did you ask the public health nurse, Mary Wu, for
21 Mr. McKay's date of birth?

22 A I don't recall if I did.

23 Q You had been asking other sources for the date?

24 A Yes.

25 Q You asked the, the source of referral at the

1 hospital?

2 A Yes.

3 Q And you asked, you phoned EIA for that
4 information?

5 A Yes.

6 Q Just so that, that you know, if we turn to the
7 public health nurse's file, CD1791, page 36799.

8 THE COMMISSIONER: Give me that number again,
9 please.

10 MS. WALSH: 36799 is the page number. I am
11 advised by the clerk that she has to reboot.

12 THE CLERK: When I get that dotted line.

13 MS. WALSH: So that was CD1791, Mr. Commissioner.

14 THE COMMISSIONER: Yes, I have it.

15 THE CLERK: Yeah, we had better --

16 THE COMMISSIONER: 36799.

17 THE CLERK: I've typed the number correctly but
18 it's showing (inaudible).

19 MS. WALSH: So we're shutting down and then we're
20 starting up again.

21 THE CLERK: Yes.

22 MS. WALSH: Okay.

23

24 (MONITOR EQUIPMENT TURNED OFF)

25

1 BY MS. WALSH:

2 Q Ms. Willox, you have the document in front of
3 you?

4 A Yes, I do.

5 MS. WALSH: And you have it, Mr. Commissioner?

6 THE COMMISSIONER: Yeah. Yes.

7

8 BY MS. WALSH:

9 Q So you see that on this document from the public
10 health nurse's file, Mr. McKay's date of birth is indicated
11 under household members?

12 A Yes, it is.

13 Q And we'll just pull that up to show it on the
14 screen. Did you know, in 2004, that the public health
15 nurse would have this information?

16 A No, I did not.

17 Q So there's that information that Mr. McKay's date
18 of birth is March 28th, 1962. Thank you.

19 There is evidence before this commission, Ms.
20 Willox, that there was information available on CFSIS about
21 Karl Wesley McKay at the time of your referral. I'm going
22 to ask to have Exhibit 19 pulled up. Now, do you have
23 Exhibit 19 in front of you?

24 A I'm not sure. I don't think so.

25 Q Okay, we'll pull it up on the screen. Would you

1 like to have a hard copy in front of you or are you all
2 right following with the screen?

3 A I can follow on screen.

4 Q Okay. Let's turn to page 2, paragraph one. So
5 Exhibit 19 is Admission as to Facts of the Department of
6 Family Services and Labour. Volume II. Paragraph one,
7 entitled: "Karl Wesley McKay CFSIS File" says:

8

9 "If, during the period from May
10 2004 to April 2005, a worker had
11 completed a prior contact check in
12 CFSIS for Karl Wesley McKay, and
13 identified the correct Karl Wesley
14 McKay who had involvement in the
15 subject matter of this inquiry,
16 the worker would have been able to
17 access the information contained
18 in four protection files (one of
19 which is (Mr.) McKay's protection
20 file) and four child in care
21 files --"

22

23 Collectively known as,

24

25 "-- ("the CFSIS file"). The CFSIS

1 file contains 225 pages of
2 documents as of April, 2005.
3 Attached as Appendix A are
4 excerpts from the CFSIS file
5 originating from the protection
6 file of one (Mr.) of McKay's
7 common-law partners (Ms. X's ...).
8 In the period from May 2004 to
9 April 2005, a worker would have
10 had access to the documents in
11 Appendix A in an unredacted form."
12

13 Now, I want to draw your attention to some of the
14 information that would have been accessible on CFSIS about
15 Mr. McKay as of December '04 and earlier. So now still
16 staying in Exhibit 19, we go to Appendix A, page 11 of the
17 document.

18 No, go down please. That's good. Thank you.
19 This is a page -- Mr. Commissioner, do you see where we
20 are?

21 THE COMMISSIONER: Yes, I do.

22 MS. WALSH: Good. Thank you.

23

24 BY MS. WALSH:

25 Q This is a page from an intake opening summary

1 from 1998, found in the Karl Wesley McKay CFSIS file. The
2 document originates from the protection file of a former
3 partner. The document actually begins at page 7 of this
4 exhibit.

5 Looking at the entry, the second entry from the
6 top of the page, dated 5-06-98, it says:

7
8 "[Phone call] from Carl, he asked
9 to have his information regarding
10 the apprehension. This worker
11 provided him with the particulars
12 and then discussed the agency
13 concerns. This worker advised
14 Carl that the agency would not be
15 looking at returning the children
16 until the issues of alcohol abuse
17 and domestic violence were
18 addressed as it was the opinion of
19 this agency that the children were
20 at risk because of these. Carl
21 stated that he was planning on
22 reuniting with ... and that the
23 two of them were going into
24 counselling for the violence.
25 Carl stated that he did not have a

1 problem with alcohol, that he was
2 a good parent and had basically
3 raised [the child] for the first
4 year of her life.
5 This worker confronted Carl on his
6 violent behaviour and suggested to
7 him that couple counselling would
8 not be appropriate until he had
9 addressed this problem on an
10 individual basis. Carl stated
11 that he disagreed with this and
12 that because he never hit [X] in
13 front of the children it should
14 not be a concern for this agency.
15 This worker again confronted Carl
16 on this sort of thinking and
17 suggested to him that the trauma
18 and impact for children living
19 with violence is indeed a child
20 welfare matter and that it was
21 this agency's position that we
22 would not support a reconciliation
23 unless he addressed this first.
24 (It is worth noting that when this
25 worker challenged Carl on the

1 trauma to the children on seeing
2 their mother battered, Carl stated
3 that "it was beside the point".
4 Carl advised this worker that he
5 did not want SECFS involved, but
6 would prefer that WCFS continue.
7 When this worker advised him that
8 it was at [X's] request that SECFS
9 be involved, Carl stated he would
10 talk to her about this."

11

12 So that's one entry in the CFSIS file. Now let's
13 turn to page 15, please. The second entry from the top of
14 page, dated 15-06, still in 1998. This outlines the record
15 of Mr. McKay's past criminal behaviour as of that date.

16

17 "Received the following
18 information on Carl's past
19 criminal behaviour:

20 - Has a lengthy list of
21 convictions and charges dating
22 back to 1991.

23 - Numerous assault charges,
24 failure to comply, etc.

25 - With respect to [X] WPS

1 confirmed Carl has been arrested
2 on three separate occasions for
3 assaulting [X].

4 - 06/06/96 Charged with assault,
5 charges stayed 11/96.

6 - 21/09/97 Charged with assault
7 with a weapon, charges stayed
8 11/97.

9 - 21/09/97 Charged with uttering
10 threats. Charged stayed 11/97.

11 - 23/09/97 Charged with assault,
12 charges stayed 11/97.

13 - 23/06/96 Charged with assault on
14 a (20 year old) 22 year old
15 female, probably [X]."

16

17 And then, on the next page, page 16, under the
18 heading "Assessment".

19

20 "[X] and Carl have been (in) a
21 long term relationship that is
22 plagued with domestic violence and
23 alcohol abuse. The results of
24 this are that the children are
25 continuously at risk of being hurt

1 and/or neglected. Both [X] and
2 Carl have been given opportunities
3 to address these issues, however
4 to date they have not been able to
5 follow through.

6 Although it is this worker's
7 opinion that Carl and [X] not be
8 together until Carl has
9 satisfactorily addressed his
10 violence issues, this couple is
11 determined to work things out
12 together. The challenge for this
13 agency will be to ensure that [X]
14 is getting the support she
15 requires and is not being
16 controlled by Carl.

17 The conditions of Carl's probation
18 are the same as the expectation of
19 this agency. This should be
20 helpful to the assigned worker as
21 it will provide collateral support
22 and assist in monitoring and
23 assessing progress. Because the
24 violence demonstrated by Carl has
25 been so severe in the past and as

1 he continues to minimize the
2 impact that this has on his
3 family --"

4

5 If you turn to the next page, please.

6

7 "-- this worker would strongly
8 suggest that any treatment program
9 Carl enter into be closely
10 monitored."

11

12 And then page 18 is a transfer summary and family
13 assessment. The social worker is listed as Kim Shier and
14 it's dated October 15, 1999. If we go to page 24, this is
15 a portion of that transfer summary. Also found in Mr.
16 McKay's CFSIS file.

17 The entry, number 10 says:

18

19 "In Feb. 16, 1999 it was confirmed
20 that Wesley had failed to attend
21 the Family Violence Course. He
22 claims that he missed one session
23 due to his work. He was driving a
24 semi-truck and had been detained.
25 It was also reported that Wesley

1 had missed his last appointment
2 with his probation officer. A
3 letter was received from his
4 Probation Officer, stating that
5 Wesley is high risk and numerous
6 concerns still existed. It was
7 also reported that Wesley had been
8 rude and verbally abusive to
9 workers in the Probation Office."

10

11 And then if we turn to page 29, under the heading
12 "Present Plan for Wesley".

13

14 "... Wesley has not had visits
15 since the spring 1999. He has
16 been uncooperative with the
17 Agency. Visits should be
18 encouraged if Wesley agrees to
19 meet with the Agency and is
20 willing to comply with the plan.

21 ... Wesley is in need of attending
22 an anger management course.

23 ... He is to attend individual
24 counselling for his violent
25 offending behaviours.

1 ... Wesley is (in) need of
2 attending a parenting course such
3 as the Better Fathering Course.

4 ... Attend visits with the
5 children once he has made an
6 effort to follow the plan.

7 ... Wesley needs to work
8 cooperatively with the Agency.

9 ... Wesley is in need of
10 completing his Probation Order."
11

12 And then if we turn to page 30, the next page.
13 This is a portion of a case assessment and service plan
14 dated June 5, 2000 found in Mr. McKay's CFSIS file under --
15 and you'll see that the father is listed as Wesley Karl
16 McKay. Under the heading "Presenting Issue(s)", if you'll
17 scroll down please. Thank you.

18
19 "children in care since June 1998.
20 CFS currently seeking a permanent
21 order.

22 Wesley Carl identified by
23 Probation Services as an extremely
24 high offender re: domestic
25 assault.

1 [X] taking children to see Carl on
2 visits, despite CFS clearly
3 indicating that he is to have no
4 contact with the children.
5 History of alcohol abuse by both
6 parents.
7 History of neglect concerns."
8

9 And then if we look at pages 57 and 58 they
10 indicate that the children were made permanent wards.

11 If you go to page, page 58.

12
13 "These files are being closed with
14 Winnipeg Child and Family Services
15 as a result of the children being
16 made Permanent Wards on August 18,
17 2000."
18

19 In addition to the information in the CFSIS file,
20 as we saw in Volume 2 of the admitted statement of facts,
21 persons connected with Mr. McKay, noted on the CFSIS file,
22 had paper files, as well. If we go to Exhibit 19, page 3,
23 paragraph three.

24
25 "Ms. X's file contained additional

1 documents which were not available
2 in CFSIS during the period ... May
3 2004 to April 2005. The paper
4 file of Ms. X originates from
5 Winnipeg CFS and consists of 832
6 pages. Excerpts from Ms. X's paper
7 file are contained in Appendix B.
8 In the period from May 2004 to
9 April 2005, a worker would have
10 had access to Ms. X's paper file
11 in an unredacted form."
12

13 I just want to briefly look at what was in --
14 some of what was in the paper file. If you turn to page
15 59, please. This is Appendix B. This is a letter dated
16 February 18, 1999 from Community and Youth Corrections,
17 Probation Services, to Kim Shier at Child and Family
18 Services. And it says:

19
20 "As the Probation Officer
21 supervising the above named
22 offender, I am writing to express
23 my concerns about Mr. McKay's poor
24 response to supervised probation
25 and more importantly, the high

1 risk to become re-involved in
2 violent offences he continues to
3 represent in the community."
4

5 If we just go to the next page. Page 60, please.

6 Thank you.

7
8 "Mr. McKay has been assessed as
9 high risk to re-offend in a
10 violent fashion. We are aware
11 that [Ms. X] has been unable to
12 protect herself against his
13 violence in the past and believe
14 that she would be equally unable
15 to protect her children. The
16 children have been present at the
17 times when Mr. McKay has behaved
18 violently. Additionally, [X] has
19 attempted to protect Mr. McKay in
20 the past (on many occasions) by
21 denying the abuse she has suffered
22 at his hands. Probation Officer
23 Barb Gislason has seen [X]
24 severely bruised and injured; at
25 times she would make up stories

1 about how the injuries occurred
2 and later would admit that Karl
3 was beating her. These injuries
4 have been well documented by [X's]
5 physician.

6 In light of the above information,
7 we have serious concerns for the
8 safety of [X] and her children and
9 believe that they are at risk due
10 to Mr. McKay's presence in the
11 home."

12

13 Then it's signed by both the area director and
14 the individual probation officer who we now know is Miriam
15 Browne, who testified a few weeks ago and indicated that
16 she had her supervisor sign the letter, as well, because of
17 the extent of her concerns.

18 Just two more letters in this paper file to look
19 at. If we go to page 61. This is a letter dated April
20 22nd, 1997.

21 THE COMMISSIONER: Just a minute, where are you
22 going?

23 MS. WALSH: I'm still in appendix B.

24 THE COMMISSIONER: Yes.

25 MS. WALSH: Of Exhibit 19.

1 THE COMMISSIONER: Yes.

2 MS. WALSH: At page 61.

3 THE COMMISSIONER: Thanks. All right, go ahead.

4

5 BY MS. WALSH:

6 Q So this is a letter from the probation officer to
7 Child and Family Services re: Karl -- it says Lesley
8 McKay.

9 "You will recall that I wrote to
10 you on January 29, 1997, to
11 express concerns regarding the
12 above-named person. Mr. McKay is
13 caring for an infant child, ...
14 born November 1996.

15 Since I corresponded with you on
16 January 29, 1997, I have
17 additional concerns to relay to
18 you. On March 28, 1997, [X]
19 appeared in my office. At that
20 time she had extensive bruising
21 over her right eye plus a cut
22 which was covered by a bandage.
23 At that time she advised that Karl
24 McKay had beaten her up. She did
25 not lay charges as she indicated

1 to this writer she was afraid of
2 Karl and was afraid to charge him
3 because of this fear.

4 On April 21, 1997 [she] appeared
5 in my office again. At this point
6 in time she indicated that there
7 had been a further incident of
8 assault, dated April 4, 1997. She
9 advises that at this time, Mr. (K
10 was in fact) McKay was in fact
11 charged with assaulting her.

12 The police narrative related to
13 that incident indicates that Mr.
14 McKay is presently on charge for
15 assaulting her, which would
16 indicate an even further assault.

17 One of the conditions of Mr.
18 McKay's recognizance is that he is
19 to have no contact or
20 communication with the
21 complainant.

22 ... the complainant, is the mother
23 of the infant, and she has been
24 visiting with her child on a
25 regular basis. Due to the no

1 contact or communication clause,
2 [X] will be advised that she can
3 no longer do so.

4 We are therefore referring this
5 case to you once again for
6 whatever action you deem
7 necessary. Our concerns continue
8 to be past allegations of child
9 abuse, Mr. Kay's record of
10 violence, [X's] comments to me
11 regarding his treatment of her and
12 her fear of him, and the
13 allegations and charges that are
14 before the court."

15

16 And then, finally, page 63. This is the letter
17 dated January 29, 1997 that was referred to. And on the
18 second page of that letter, at the top, the probation
19 officer says:

20

21 "We are writing to you to express
22 our concern regarding the past
23 allegations of child abuse, Mr.
24 McKay's record of violence and the
25 fact that he is caring for a

1 newborn infant on his own."

2

3 Now, you told us earlier that you couldn't recall
4 whether you had done a PCC search for Mr. McKay and whether
5 you had looked him up in CFSIS. Now that you've reviewed
6 this information in CFSIS and I appreciate that the last
7 three letters were not in CFSIS, per se, they were in a
8 paper file of someone connected to Mr. McKay in CFSIS, but
9 in light of the information that was -- that I have just
10 read to you from Exhibit 19, and in light of the
11 information that we looked at this morning from Exhibit 22,
12 the results of searches, if they had been done, PCC
13 searches, does that refresh your memory as to whether, in
14 fact, you did a PCC of Mr. McKay?

15 A No, it does not.

16 Q So you still are not able to say whether or not
17 you looked up Mr. McKay?

18 A I don't --

19 Q -- in CFSIS?

20 A -- recall.

21 Q If you had looked at the information in CFSIS
22 that I have just referred you to, that I just read out into
23 the record, would that have influenced how you dealt with
24 this file?

25 A Absolutely, yes.

1 Q In what way?

2 A I wouldn't have recommended that the file be
3 closed.

4 Q So is it safe to assume that you did not, in
5 fact, look for Mr. McKay in CFSIS?

6 A I assume that's what could be said but I can't
7 say, with any degree of certainty, whether I did or did not
8 do a prior contact check on Mr. McKay.

9 Q And then if you look at page 36941, going back in
10 Ms. Kematch's protection file, which is 1795.

11 A Sorry, what page number?

12 Q Pardon me?

13 A Three, six?

14 Q 36941.

15 A Thank you.

16 THE COMMISSIONER: Have we had this out before?

17 MS. WALSH: We have not looked at this before.

18 THE COMMISSIONER: Oh, I see. I have it here.

19 Yeah, all right.

20 THE WITNESS: Yeah, I have it.

21

22 BY MS. WALSH:

23 Q Do you have it, Ms. Willox?

24 A Yes, I do.

25 Q This is a CFSIS case sheet, dated December 1,

1 2004. Is this your -- is it your handwriting on the
2 document?

3 A Yes, it is.

4 Q What was the purpose of this document?

5 A It was one of the tools we were using at the time
6 and expected -- that were expected to be completed prior to
7 us handing a report into our supervisor for review.

8 Q Okay. What was the reason for filling out the
9 document?

10 A I'm not a hundred percent sure as to why the
11 CFSIS face sheets were being asked to be used. I'm
12 assuming that it was placed on the front of the physical
13 file for a quick reference as to the family group
14 demographic information.

15 Q Were you creating a person record for Wes McKay,
16 in CFSIS, by virtue of this form?

17 A No, I was not.

18 Q Do you recall whether Ms. Faria asked you if you
19 had done a CFSIS search on Wes McKay?

20 A I do not remember.

21 Q So you don't recall -- do you recall whether you
22 and Ms. Faria discussed Wes McKay in any way, shape or
23 form?

24 A I don't remember.

25 Q If you had would you have documented that

1 discussion?

2 A Potentially. I don't remember if we did discuss
3 it or not.

4 Q So do you know whether Ms. Faria was aware as to
5 whether or not you had done a CFSIS search on Wes McKay?

6 A I don't know. I can't remember if I did a CFSIS
7 search so for you to ask me if Ms. Faria was aware if I had
8 done a CFSIS search, I can't answer that question.

9 Q Okay. The intake that we looked at, the very
10 first page of the intake, said that it was re: Samantha
11 Kematch and Wes McKay. Do you remember that?

12 A Yes.

13 Q But I don't see any information in the file
14 recording about Wes McKay. Is that right? In your file
15 recording.

16 A Other than the source of referral identifying him
17 as the common-law partner and me potentially trying to
18 obtain a date of birth for him, no, there is no recording
19 in the file about Wes McKay.

20 Q Shouldn't there have been some information about
21 him as part of your risk assessment for the children?

22 A If I had been able to identify the correct Wes
23 McKay, via his date of birth, and subsequently completed
24 the prior contact check to confirm one and the same
25 individuals, yes, I should have recorded his prior

1 involvement and his prior child welfare history into that
2 file record -- into my file recording.

3 Q So do I understand you to be saying that because
4 you didn't have Mr. McKay's date of birth you did not, in
5 fact, do a prior contact check?

6 A I'm saying that I don't remember if I did a prior
7 contact check. I don't know if I did one using an
8 approximate age or date of birth and if I had, if I had
9 located a number of Wes or Karl -- Wesley Karl McKays, I
10 don't remember if I did the prior contact check or not.

11 Q You told me earlier today, though, that you knew
12 that one of the things you, as a social worker, had to do
13 by way of risk assessment was to investigate new adults
14 living in the home with the child?

15 A That's correct.

16 Q And Mr. McKay was a new adult insofar as Phoenix
17 was concerned?

18 A Yes.

19 Q You talked about the discharge date with the
20 source of referral.

21 A Yes.

22 Q Was it your expectation that someone of -- from
23 the agency would go out to see the home or -- well, first
24 of all, was it your expectation would go out to see Ms.,
25 Ms. Kematch at the hospital?

1 A My expectation was that, that the matter would be
2 referred to intake and that the intake worker would
3 complete a thorough assessment of the family home. At that
4 point in time I was in consultation with Diva, was not
5 recommending that this receive follow up prior to
6 Samantha's discharge from the hospital.

7 Q But you did tell us that you expected that intake
8 would go out and do an assessment of the home and determine
9 how the family was functioning?

10 A Yes, at some point in time following discharge.

11 Q So that was in December, on December 1st, 2004
12 you had recommended that the file be opened to intake for
13 assessment and intervention?

14 A Yes.

15 Q Okay. And the reason that you did that was
16 because of Ms. Kematch's history?

17 A Yes.

18 Q Because she had had a new baby?

19 A Yes.

20 Q Which can be a stress in a home?

21 A Yes.

22 Q And because there was a new adult in the
23 home?

24 A Yes.

25 Q And then on December 7th, 2004 you and your

1 supervisor changed the original recommendation and
2 determined that the file could be closed?

3 A Yes.

4 Q What --

5 THE COMMISSIONER: Is that December 7th, you
6 said?

7 MS. WALSH: 7th, yes.

8 THE COMMISSIONER: Yeah.

9

10 BY MS. WALSH:

11 Q What happened between December 1st and December
12 7th, to change the recommendation as to what should be done
13 with this file?

14 A Well, I guess a variety of things, one of which
15 the file did not proceed to intake, as I had originally
16 recommended. In fact, it was returned to me the following
17 day on the first day of backup for me to do additional
18 follow up, to contact Ms. Kematch, via phone, as requested
19 by my supervisor, to offer her supports.

20 When that course of action did not work, I had
21 gone back to Diva to request -- or to inquire about what
22 other course of action she would like me to take and at
23 that point she asked me to connect with Public Health and
24 in doing so I, as I documented, gathered the information
25 that I did from Ms. Wu, and as there were no protection

1 concerns being reported from the source of referral or from
2 Ms. Wu, at that point in time, as per Diva's
3 recommendation, that if services could not be mandated
4 whereby a child protection concern was not identified, to
5 close the matter at CRU.

6 Q In terms of child protection concerns, your
7 original child protection concerns, when you recommended
8 the file be opened to intake, were based on Ms. Kematch's
9 history?

10 A Yes.

11 Q And the fact that she had a new baby?

12 A Yes.

13 Q And the fact that there was a new adult in the
14 home?

15 A Yes.

16 Q Am I correct in understanding that, at the time
17 then, did -- recommended that the file be closed at CRU,
18 the agency had not seen Phoenix?

19 A That's correct.

20 Q The last time the agency reported seeing Phoenix
21 was on July -- in July of 2004?

22 A That's correct.

23 Q And not since then?

24 A Yes.

25 Q And at that -- at the time that you recommended

1 the file be closed you had no information that the public
2 health nurse, or any other collateral, had actually seen
3 Phoenix; correct?

4 A The only information I had was that the public
5 health nurse had been out to the family home to see
6 Samantha and the new baby.

7 Q But you had no information that the public health
8 nurse had seen Phoenix?

9 A That's correct.

10 Q And at the time you recommended closing the file
11 your evidence today is that you're not -- you can't recall
12 whether you did an investigation on CFSIS of Mr. McKay?

13 A That's correct.

14 Q All right. Let's turn to another topic. CRU
15 reports. Your signature, we saw, is on both the reports
16 that you prepared December -- dated December 1, '04 and
17 December 7th, '04.

18 A That's --

19 Q You signed each of those?

20 A That's correct.

21 Q Was that according to a particular standard or
22 procedure?

23 A I don't recall, there was a point in time where
24 we were being asked to sign all documents or all reports
25 prior for -- prior to submitting to our supervisor.

1 Q Was that your practise?

2 A It was something that was implemented at a point
3 during my career while I was at CRU but I don't recall why
4 that was -- why that change occurred.

5 Q I would assume as, as any worker, that from time
6 to time you would have discussed various work place matters
7 with co-workers?

8 A Yes, I did.

9 Q Was that true both with co-workers in your own
10 unit and in the other CRU unit?

11 A Yes.

12 Q Was Debbie De Gale in your unit or in the other
13 CRU unit?

14 A She was in the other CRU unit.

15 Q Did you ever have any discussions with Ms. De
16 Gale about any concerns she had about her supervisor?

17 A There were conversations that occurred in the CRU
18 area about her concerns about her supervisor, yes.

19 Q What do you recall?

20 A There was discussions that were had by a number
21 of CRU staff about concerns or the potential that, that one
22 of the CRU supervisors had been altering or changing
23 reports.

24 Q Are you saying it was other than Ms. De Gale who
25 raised those concerns?

1 A There were other staff that were involved in
2 those conversations, how many staff identified the same
3 concern, I'm not sure but there were a couple of other
4 staff that I'm aware of that had talked about it and were
5 involved in those conversations.

6 Q Were you privy to those conversations? Were
7 these things said directly to you?

8 A I was present at the time of those -- at the time
9 of -- I don't know how many times but at the time some of
10 those conversations occurred, yes.

11 Q The conversations, how often did they occur?

12 A I don't --

13 Q I'm talking in 2004 or 2005.

14 A I don't recall how many times. I know that they
15 did occur, though, on more than one occasion.

16 Q And the substance of the conversation?

17 A Some staff were feeling and had experienced that
18 portions or a part of their document, their CRU document,
19 had been changed or altered.

20 Q Did they know by whom?

21 A They had assumed their supervisor but I don't
22 know -- it wasn't myself who had experienced that so I'm
23 not sure -- I can't say with any certainty, I don't want to
24 speak for those people as to who they felt changed their
25 reports.

1 Q And did you understand that to be a discussion
2 about the supervisor of the other unit?

3 A Yes.

4 Q Did you have any specific information about the
5 nature of the changes they were talking about?

6 A Sorry, what do you mean, the nature of which
7 changes?

8 Q Or nature of concerns, changes to reports.

9 A I'm still not clear on what you mean.

10 Q The conversations that you were present during.

11 A Yes.

12 Q The substance of those conversations was what?

13 A Concerns that their reports had been altered.

14 Q Okay. And do you have any more specific
15 information about how those reports had been altered?

16 A No. Some staff were feeling that possibly their
17 supervisor had changed or altered their reports. I don't
18 have any further details about that.

19 Q Do you remember how you found out about Phoenix's
20 death?

21 A Not specifically, no.

22 Q Her death came to light in March of 2006 which
23 was about a year and a half after you worked with the
24 family. When you heard about the death, did you recall
25 having been involved with the family?

1 A Not initially, I don't believe.

2 Q Was Phoenix's file, her family's file, one that
3 stood out as unique in any way to you?

4 A At the present time the first I can recall
5 hearing and knowing about Phoenix's passing was when I
6 became informed that I would be involved in the Section 4
7 Andy Koster's review. And at that time I was advised that
8 I had been involved and would be involved in the Section 4
9 review.

10 Q You didn't independently recall that you had been
11 involved --

12 A No.

13 Q -- when you heard about the death in the media?

14 A No, I did not.

15 Q Did anyone from your employer sit down with you
16 and discuss your involvement with this family?

17 A Not prior to being informed that I would be
18 informed -- involved in a Section 4 report.

19 Q All right. Then once you were informed that you
20 would be involved with the Section 4 report, did you have
21 any discussions with anyone at your employer about your
22 involvement with the family?

23 A No, not specifically. I had received a few
24 e-mails from, I believe it was Jan Christianson-Wood,
25 asking me some questions in an attempt to prepare for the

1 Section 4 report and my interview with Mr. Koster but I
2 wasn't addressed or spoken to, specifically, in any way
3 about Phoenix's passing or my involvement in the case.

4 Q Do you think it would have been helpful for you
5 to have had that discussion with someone from your
6 employer?

7 A Most definitely.

8 Q Why is that?

9 A It would have been a learning process. It would
10 have also been nice to know that this was a family that I
11 had worked with and that I had had some form of involvement
12 and what my involvement would have been so that I could
13 have learnt from it and also maybe changed or altered some
14 of the things I did, or the way I did, or reviewed the
15 involvement that I had.

16 Q Do you recall who told you that you were going to
17 be interviewed by Mr. Koster?

18 A I don't recall specifically, no.

19 Q Now, you were interviewed by him?

20 A Yes, I was.

21 Q And what did you understand was the reason for
22 the interview?

23 A He was completing a Section 4 investigation into
24 Phoenix's passing and that every worker who had been
25 involved with the family was being interviewed regarding

1 their involvement.

2 Q His notes are CD1794, starting at page 36876.

3 Now, what, if anything, did you do to prepare for
4 this interview?

5 THE COMMISSIONER: What document are you going to
6 now?

7 MS. WALSH: 1794, page 36876. It's a new
8 document. You should have it there, Mr. Commissioner.

9 THE COMMISSIONER: Three, eight?

10 MS. WALSH: 36876. At the top it says: "Shelley
11 Wiebe". And the very top sentence says: "Best practise to
12 look at all the recording of past history." There should
13 just be two --

14 THE COMMISSIONER: Yes, I have it.

15 MS. WALSH: You do. Oh, good.

16

17 BY MS. WALSH:

18 Q So, sorry, I was asking you what, what, if
19 anything, you did to prepare for the interview with Mr.
20 Koster.

21 A I had been given a copy of the CR, CRU report
22 that we have reviewed today, asked to review it, to comment
23 on it. I was also sent a series of e-mails by Jan
24 Christian-Wood, asking me some additional clarifying
25 information, following her review of my report and her

1 conversations with Ms. Faria or e-mail conversations with
2 Ms. Faria.

3 Q Did you talk with Ms. Faria before you were
4 interviewed by Mr. Koster?

5 A I don't recall.

6 Q All right. Do you recall who gave you your CRU
7 report to look at?

8 A I don't remember.

9 Q Okay. Do you recall the date that you were
10 interviewed by Mr. Koster?

11 A I do not.

12 Q So if we look at page 36876, these are Mr.
13 Koster's notes of his interview with you. It says:

14

15 "Shelley Wiebe

16 Worked at agency since 1999 doing
17 family services for 3 years then
18 CRU.

19 Training completed competency
20 based.

21 Talked to Shelley use of
22 standards.

23 Presently 6 - 8 with turnaround
24 for 48 hours, she has them for up
25 to a month. As we became

1 government employees and JIROU
2 they now respond to crisis but now
3 file requests, histories, requests
4 from other provinces, people
5 writing in with custody and access
6 simply because they re the
7 first contact. Because every body
8 is backed up, CRU ends up with
9 them .. While Family Services
10 tried to transfer to the
11 Authorities everyone got backed
12 up. As a result now CRU is
13 'muddied'. Historically CRU has
14 been doing abuse cases for
15 determining validity even though
16 CRU feels that there is already
17 enough information to warrant
18 transfer to them. The issue is
19 that abuse is tied up. Shelley
20 gave, Johnny is beaten up by his
21 parents and he has been beaten in
22 the past CRU would still
23 have to keep the case as in this
24 case and do the initial work of
25 interviewing the child.

1 Another example where a child is
2 alleging that she is being choked
3 and still CRU ends up doing the
4 initial work.

5 CRU struggles now and in the
6 future, it will have to do abuse
7 investigations and is
8 understaffed. The two abuse
9 intake units will become auxiliary
10 workers to ongoing family service
11 cases."

12

13 So let's just stop there. Now, does, does what
14 Mr. Koster reported, does that match with what you recall
15 saying to him?

16 A Yes, it does.

17 Q Did he ever send you a copy of these notes after
18 your interview?

19 A No, he did not.

20 Q So when was the first time you reviewed these
21 notes?

22 A In preparation for this inquiry.

23 Q What is it then that you were saying to Mr.
24 Koster?

25 A Similar to what I kind of mentioned before,

1 during the process at that time the agency was going
2 through AJI or nearing AJI. Family service units weren't
3 taking new cases, cases that CRU were referring onto
4 intake, intake was becoming backlogged, overwhelmed,
5 holding cases longer than would normally be expected by a
6 general intake unit and as a result a lot of the overflow
7 and additional responsibilities that were coming were being
8 asked to be held and dealt with at the CRU level. So
9 instead of CRU being an emergency response system where we
10 were responding in a 24 to 48 hour time period, we are
11 being asked to take on extra workload, hold cases longer,
12 do further follow up that normally does not occur in our
13 unit, such as interviewing children where there have been
14 allegations of abuse made.

15 Q What time period were you referring to?

16 A Do you mean for the length of time we were
17 holding cases at CRU?

18 Q No, what timeframe was all this going on, this
19 information that you gave Mr. Koster?

20 A I am unclear as to the specific timeframe. AJI
21 and the devolution was a lengthy period that took time to
22 roll out. I don't remember specifically and when things
23 started to back up but it was a length of time and a period
24 of time at CRU where we were overworked and were
25 experiencing staff shortages and were expected to do

1 additional duties beyond the normal role of a CRU worker.

2 Q Was that in 2004?

3 A I believe it was, yes.

4 Q 2005?

5 A I believe so but I don't remember when, I don't
6 remember when the process of AJI was completed. I know
7 ANCR went live in February of 2007 so I'm not sure how long
8 a process of AJI continued and eventually we became JIRU
9 which is a -- from Winnipeg.

10 Q Joint Intake Response Unit.

11 A Yes. So I can't say, with certainty, how long
12 that continued.

13 Q Then carrying on with what Mr. Koster recording
14 from your interview.

15

16 "Shelly had file December 1, 2004
17 that day in CRU. Women's hospital
18 had no concerns and worker decided
19 that in spite of that due to her
20 troubled past history that it
21 should be opened to CRU and then
22 passed on to Intake. For reasons
23 that she was not sure of, it was
24 given back to CRU and to make
25 contact with [public health nurse]

1 as follow up by Diva. Shelley had
2 hoped that a full assessment on
3 the family and all the people in
4 it would be done at the intake
5 level. The workers, I never told
6 why a case is returned."

7

8 Now, does that match what you told Mr. Koster?

9 A I believe so, yes.

10 Q What were you saying there?

11 A Similar to what we've talked about today, that
12 after I reviewed Ms. Kematch's history, contained in CFSIS,
13 that I felt, based on her prior involvement, that -- and
14 the family unit, given that there's a new partner, a very
15 new child in the home, that further follow up with
16 everyone, to determine functioning and safety of the
17 children in that home should be assessed at the intake
18 level.

19 I had hoped that a full assessment would be done
20 and completed at the intake level, why it was not sent on
21 to intake, as I -- you know, Diva and I had first consulted
22 and recommended that it go to intake, why it never went and
23 it was returned to me the following day, I don't know, I
24 was never told.

25 Q And then he goes on to say:

1 "The intake module is better now
2 since you can access actual
3 recording on the computer and it
4 asks for specific information.
5 Back then CFSIS was more general
6 and not specific enough unless you
7 could specifically identify the
8 person you were looking for. Now
9 if you put Wesley McKay in it
10 would automatically ask for other
11 information. If you did not know
12 specific birthday then this would
13 be difficult. January 1, 1950 is
14 the one used when they do not know
15 the actual meeting."

16

17 Is that information you gave to Mr. Koster or is
18 that not an accurate recording of what you said?

19 A I don't recall specifically, I'm assuming it's
20 most likely what I said. Um-hum.

21 Q What did you mean when -- what were you saying to
22 him?

23 A Well, back then CFSIS, before the intake module,
24 we only had CFSIS and CFSIS does not have as great of a
25 potential or the positive strengths that the intake module

1 allows us to access information. And to correlate
2 families, for example, if Mr. McKay was attached to a
3 former partner, you would have had to go back and pull say,
4 for example, a physical file on the former partner, whereas
5 now, in the intake module, Mr. McKay would be automatically
6 linked and we would see -- for example, if we were to
7 search Mr. McKay's name and date of birth in the intake
8 module, every other physical file or intake module case
9 that he's been attached to as a former partner or current
10 partner would be -- would come up and we would see the
11 names of all those other former partners.

12 Q But as we saw from the admission of facts from
13 the department, you could also have put Mr. McKay's name in
14 in a number of -- with a number of spellings --

15 A Yes.

16 Q -- and a variety of birth dates in 2004 --

17 A Yes.

18 Q -- and come up with either an 85 percent or an 81
19 percent match of the correct person?

20 A Yes.

21 Q And then you could have clicked on that person to
22 see who else he was involved with?

23 A Yes. But --

24 Q And then you would have seen the information that
25 I read to you was in his CFSIS file?

1 A If he had been attached to those former partners
2 in CFSIS, yes.

3 Q Which is what the admission of facts says?

4 A Then yes.

5 Q Okay. Then Mr. Koster goes on to say:

6
7 "Shelly confirmed that she was
8 unable to get information from
9 {public health nurse] due to
10 Fippa. Still some difficulty and
11 Employment and Income Assistance
12 will still not give out
13 information if there is not a
14 specific allegation and disclose
15 information prior to getting the
16 requested information. This in
17 itself breaches confidentiality.
18 No one had identified specific
19 concerns (other professionals) and
20 therefore would not be accepted in
21 intake.
22 What about public health records."

23
24 Now, those three paragraphs, do those match what
25 you said to Mr. Koster? Can you go back to page 38 --

1 36877, please? Thank you.

2 A Yes, I'm --

3 Q Let's start with the first paragraph.

4 A Yes. Although the last sentence there, where it
5 says this in its, in itself, breaches confidentiality. I'm
6 not sure what he's referring to, whether he's referring to
7 Child and Family Services breaching confidentiality or
8 whether he's referring to the public health nurse breaching
9 confidentiality for sharing information.

10 But for the most part, yes, that would be -- I am
11 assuming that I said that to him.

12 Q That you had -- you were unable to get
13 information from the public health nurse?

14 A I guess -- I'm not sure if that was his
15 interpretation of what I was saying or in what context
16 saying I was unable to get information, so I'm not sure how
17 -- like in what context he documented it like that. The
18 information that I got from public health was limited in
19 that she wasn't willing to share with me the details of
20 Samantha's case.

21 Q Then the paragraph that reads: "No one had
22 identified specific concerns" is that something you said to
23 Mr. Koster?

24 A Most likely, yes.

25 Q And what do you mean and therefore would not be

1 accepted in intake? What did you mean?

2 A When the social worker contacted the agency she
3 didn't call with a protection concern, so I'm assuming that
4 no one had identified specific concerns, meaning public
5 health and the source of referral had not come forward and
6 identified and said, yes, I have a child protection concern
7 or this is, you know, for example, domestic violence is a
8 protection -- is a concern that I have -- that has been
9 disclosed, or alcohol use has been disclosed. Nobody was
10 recording a concern of a protection nature at that point in
11 time.

12 The part where it says "and therefore would not
13 be accepted in intake," I don't know where that -- why it's
14 written like that, I'm not sure.

15 Q You said you didn't know why the matter came back
16 to you from intake?

17 A Yes, I don't know why.

18 Q Just go back to what you said about no one had
19 identified specific concerns. The hospital social worker
20 did phone CFS; right?

21 A Yes, she phoned CFS reporting that Samantha had
22 self-admitted to prior contact in July of '04, I believe.

23 Q Okay. And you --

24 A So based on that they were calling to see if
25 there would be a concern with her being discharged with a

1 new infant.

2 Q Then it was up to CFS to determine whether there
3 were child protection concerns; right?

4 A Yes. If there would have been any additional or
5 new information that we could have been able to obtain to
6 determine if there was a current child protection concern.

7 Q You told me that Ms. Kematch's history was, in
8 and of itself, a potential concern?

9 A Yes, it was, in my opinion.

10 Q As were the facts of the new baby and the new
11 partner?

12 A Yes.

13 Q After Mr. Koster interviewed you and other
14 workers, he prepared a report that we refer to as the
15 Section 4 report because it was prepared pursuant to
16 Section 4 of the Child and Family Services Act. You have
17 seen either all or portions of that report?

18 A I have seen the portion that pertains to
19 myself.

20 Q And when was the first time you saw those
21 portions?

22 A In preparing for this inquiry.

23 Q Would you have liked to have seen the portions
24 relating to you before this inquiry?

25 A Most definitely.

1 Q Why is that?

2 A Well, like I said, it probably would have been --
3 given me a greater understanding of maybe things that
4 should have or could have been done. It would have been a
5 learning opportunity and a learning experience to better my
6 skills.

7 Q Let's go to page 45, please, that's of CD1.

8 THE COMMISSIONER: Page 45?

9 MS. WALSH: Yes.

10 BY MS. WALSH:

11 Q This is entitled "The Sixth Protection Opening:
12 From December 1, 2004 to December 7, 2004."

13 And have you had a chance to review this document
14 recently, Ms. Willox?

15 A Yes, I have.

16 Q So I will take you through some of it in more
17 detail than other portions.

18 Under the heading "December 1, 2004," it says:

19

20 "A social worker at the Women's
21 Hospital called to say that
22 Samantha Kematch had delivered her
23 fourth child, a baby girl ... She
24 went on to say that she did
25 receive good pre-natal care prior

1 to the birth and notes that there
2 are no known health concerns with
3 respect to the [baby] at this
4 time. She also stated that there
5 was no reported drug and alcohol
6 use during this pregnancy. The
7 father was reported to be a 'Wes
8 McKay'. The worker performed a
9 CFSIS past record check and
10 received file information but she
11 could not track Wesley McKay since
12 she did not have a birth date."

13

14 Now, is that, in fact, what you told Mr. Koster,
15 that you didn't do a CFSIS check or could not locate Mr.
16 McKay because you didn't have a birth date?

17 A I don't recall. I guess if it's documented as
18 such then I must have. I don't remember.

19 Q So is it now your evidence that, in fact, you did
20 not attempt to do a PCC of Mr. McKay because you did not
21 have his birth date?

22 A I don't remember whether I did or I didn't.

23 Q Okay. But in any event you have acknowledged
24 that you didn't need to know his birth date to attempt to
25 do a PCC?

1 A That's correct.

2 Q Now, the rest of page 45 goes on to document your
3 involvement --

4 MR. RAY: I am just wondering for the, for the
5 record, in future how many more times we're going to ask
6 the witness whether she recalls doing the search and
7 whether she needed the date of birth, I think she's
8 answered that a number of times now.

9 MS. WALSH: Okay.

10 MR. RAY: Thank you.

11 THE COMMISSIONER: Well, I -- it, it's with
12 reference to a new document, as I understand it, but if, if
13 it comes up again in another document you want to speak to
14 it, Mr. Ray, I'll hear you.

15 MR. RAY: Thank you.

16

17 BY MS. WALSH:

18 Q The rest of page 45, documents your intervention
19 and as per your recording, is there anything that's been
20 documented there that is not accurate? Take your time in
21 looking at it.

22 A I believe, for the most part, it's correct.

23 Q Let's turn to the next page, please, page 46.

24 Is there anything there that is not accurate?

25 A I believe, for the most part, it's accurate.

1 Q And what's documented there is consistent with
2 what you described to us from your interview with Mr.
3 Koster?

4 A Yes.

5 Q Then you'll see towards the bottom of page 46
6 there's a heading "Interview with the worker's supervisor
7 at this opening." And it goes onto the next page.

8 THE COMMISSIONER: The bottom of page
9 what?

10 MS. WALSH: Forty-six.

11 THE COMMISSIONER: Now, there's two numbers on
12 here, I thought we were using that -- the middle of the
13 page numbers or --

14 MS. WALSH: No, Mr. Commissioner, the disclosure
15 number is the one on the far right-hand corner.

16 THE COMMISSIONER: All right.

17 MS. WALSH: It is confusing, especially since
18 they are so close in proximity.

19

20 BY MS. WALSH:

21 Q So under "Interview with the Worker's
22 Supervisor", Mr. Koster has documented.

23

24 "This was a very experienced and
25 knowledgeable supervisor. She

1 indicated that simply put, the
2 case was not accepted in intake,
3 and so CRU was basically told to
4 handle it themselves."

5

6 Now, you told us you had no information about
7 that.

8 A That's correct.

9 Q Okay.

10 " In addition, she said another
11 problem was that there was no
12 clear policy in regard to how
13 hospital referrals involved past
14 clients with a history of child
15 protection involvement should be
16 handled."

17

18 Is this something that you were aware of?

19 A No, I'm not.

20 Q

21 " She said that this was especially
22 true when there were no immediate
23 pressing child welfare problems
24 identified."

25

1 And then go on to the next page, please. And
2 it's recorded that she said:

3

4 "The common-law partner 'Wes
5 McKay' had no birth date and if
6 there were more significant
7 concerns related by the referral
8 perhaps the worker would have done
9 a record check."

10

11 Is that accurate from your perspective?

12 A That's what Diva has, I guess, indicated to Mr.
13 Koster. I -- if you're asking me if I did a record check,
14 I don't remember.

15 Q I'm asking you whether, if there were more
16 significant concerns, whether that would have affected
17 whether you did a record check?

18 A Oh, most definitely, yes. If there had been some
19 type of protection concern or other concerns that were able
20 to be identified, I would have -- like, again, requested
21 that the file be referred to intake or not recommended that
22 the file be closed, I would have recommended some other
23 course of action.

24 Q

25 " She stated that CRU still pursued

1 it and a crucial part of their
2 decision to close at that point
3 after the rejection by Intake was
4 that Phoenix had been seen in July
5 of 2004."

6

7 Do you recall whether that was something that
8 factored into your recommendation?

9 A I don't recall specifically but I most likely
10 would have reviewed the last closing summary, when I was
11 looking at the history and it would have been a determining
12 factor that, at that time there -- that it was closed, the
13 risk was deemed to be low and it would have been -- like a
14 -- one of the reasons or decisions as why we had made to
15 close the file.

16 Q Did you document anything to that effect in your
17 recording?

18 A I don't believe so but I, I don't believe in my
19 CRU report that I had said that this one of the reasons why
20 we were recommending that it be closed.

21 Q Well, was it, in fact, a reason why you were
22 recommending it be closed?

23 A It would have been taken into consideration, yes.

24 Q You were aware of that history on December 1st,
25 '04 when you recommended that the file be opened to intake?

1 A Well, I believe that I -- probably that would
2 have been one of the documents that I reviewed in doing the
3 history, in recommending that it be opened, yes.

4 Q Then later in the recording, Mr. Koster refers to
5 the supervisor as talking about a walk of shame when a
6 supervisor had to return with the file to CRU, that had
7 been rejected and he said I had heard this from a number of
8 staff. Did you ever -- were you ever aware of that term,
9 walk of shame?

10 A I had heard the term used before, but I'm not
11 aware of where it came from or why.

12 Q Had you heard it used in the context of files
13 being returned from intake to CRU?

14 A Like I said, I heard the term used but I'm not
15 sure where the term originated from. I do know the term
16 walk of shame was used.

17 Q At CRU?

18 A Well, I'm not sure if it was specific to CRU or
19 if it was within the agency.

20 THE COMMISSIONER: What did you understand the
21 term to mean or refer to?

22 THE WITNESS: I'm assuming when a file was
23 recommended to go to a unit that it was not accepted. Now,
24 whether that meant from CRU to intake, CRU to abuse or
25 intake to abuse, or onto family services, I'm not sure what

1 the term was used to refer to or who started it or where it
2 originated from.

3

4 BY MS. WALSH:

5 Q It wasn't a term that you used.

6 THE COMMISSIONER: In reference to the return of
7 a file?

8 THE WITNESS: When it was recommended that we
9 refer a file on and it was not accepted so our
10 recommendation was not agreed with, I guess, and that file
11 was returned and then, in fact, that supervisor would need
12 to come back to us to ask us to do further follow up.

13 THE COMMISSIONER: And that's what you understood
14 the term referred to?

15 THE WITNESS: Yes.

16 THE COMMISSIONER: Thank you.

17

18 BY MS. WALSH:

19 Q When did you hear that term used?

20 A I don't remember when I first heard the term
21 used. I don't recall if it was around that time but it was
22 approximately 2004 or 2005.

23 Q Was it a term that you ever used?

24 A No, it was not.

25 Q Then Mr. Koster makes a number of findings,

1 that's what the "F" stands for. So I just wanted to ask
2 for your comments, if any, on each of these findings in
3 this portion of the report.

4

5 "F32. This was the first time
6 that the agency was officially
7 aware that there was a 'Wes McKay'
8 in the home and a partner to
9 Samantha Kematch."

10

11 Do you have any comments?

12 A Just from my course of my review during
13 preparation for the inquiry, I did recall reading in the
14 July 2004 information from Tracy Forbes, that there -- when
15 she had attended to the family home that there, in fact,
16 had been a Wes McKay identified as answering the door.

17 So, you know, it's hard for me to say. At that
18 point in time, yes, he was being identified as the
19 common-law partner, is that the first time that an agency
20 staff had been made aware of the fact that there was a --
21 potentially a Wes McKay involved in the family home? I am
22 not sure if this was the first time because there was
23 mention of Mr. McKay in the July of '04 recording.

24 Q Okay.

25

1 "F33. The CRU worker and
2 supervisor made the right decision
3 to open the file to Intake for
4 Assessment and Intervention."

5

6 Any comments?

7 A I agree, that was my initial recommendation of
8 what I had really wanted to see with the file.

9 Q

10 "F34. The refusal to have the
11 file opened to Intake as requested
12 is a major error in the Winnipeg
13 CFS case management of the
14 protection file."

15

16 Do you have any comments on that?

17 A I agree, now knowing what I know about Mr.
18 McKay's history, I agree that the file should have remained
19 open and been referred to intake, as initially requested.

20 Q Okay. And onto the next page, please.

21

22 "F35. It is evident that
23 excessive caseloads and unit
24 pressures were determinants in the
25 rejection of the file for opening

1 at the Intake level."

2

3 Is that something you're able to comment on?

4 A I don't know the reason why the file was not
5 accepted at the intake level but I can say, with certainty,
6 that excessive case loads and unit pressures were something
7 that were occurring at that time. It could have been a
8 potential factor but whether it was the determining factor
9 or not, I don't know.

10 Q Okay.

11

12 "F36. The Computer Data System at
13 WCFS (CFSIS) may not have provided
14 the cross-reference that was
15 required to ascertain which 'Wes'
16 McKay the agency had dealt with in
17 the past."

18

19 In light of the, the searches that appeared in
20 Exhibit 22, that we looked at today, is there anything you
21 want to comment?

22 A Just from reading the information contained in
23 Mr. Koster's report, I read somewhere in the involvement
24 that pertained to me that he, himself, during his review,
25 had completed a CFSIS check and, at that time, he was able

1 to locate six Wes McKays, five of which were adults, so I
2 am assuming one was a minor and that, at that point in
3 time, if I had been able to locate the correct Wesley
4 McKay, it would have been via a former partner's child
5 protection file.

6 So at that time CFSIS didn't have as good a
7 capability. It was possible that yes, I could have
8 searched under Wes McKay with an alternate birthday of
9 1950, as an adult in 1980 for a child, but whether I did or
10 didn't, I don't know, and the capabilities of
11 cross-referencing, at that point in time, I'm not sure how
12 easy or difficult it would have been for me to be able to
13 locate his information contained in his former partner's
14 files.

15 Q Okay.

16 A That's potentially one of the reasons why it
17 should have been referred to intake for that extra
18 exploration of those other family files to be completed.

19 Q

20 "F37. The unwillingness of the
21 public health nurse to provide
22 information was regretful and made
23 the possibility of obtaining a
24 birth date for the father more
25 difficult."

1 A I agree. I believe, viewing Ms. Wu's notes, that
2 obviously our determination of the information that she was
3 trying to share with me was very similar but the process in
4 which it went about was a much more difficult process than
5 it needed to be and is something that I still believe is an
6 ongoing difficulty that we experience today in the process
7 of sharing information between collateral agencies. And
8 it's paramount, I believe, in providing services to
9 families and protecting children and youth.

10 Q Before we leave this report, is there anything
11 else you want to comment on?

12 A I don't believe so.

13 Q And the next report we'll look at is the report
14 that was prepared by Jan Christian-Wood, through the Office
15 of the Chief Medical Examiner. It's Commission disclosure
16 number 2. We'll start at page 160. Can you scroll up a
17 bit, please? Good.

18 Were you ever interviewed by Ms.
19 Christianson-Wood?

20 A I don't recall being interviewed but she did send
21 me a series of e-mails that she asked me to respond to.

22 Q And we'll look at those in a minute. Actually,
23 let's look at them right now. Let's, let's pull up on the
24 screen page 34810.

25 THE COMMISSIONER: Three -- yes, okay, I have it.

1 BY MS. WALSH:

2 Q This is from CD1682, it's an e-mail exchange that
3 you had with Ms. Christianson-Wood on April 27, 2006 and
4 May 10, 2006. If we start with page 38 -- 34811. This is
5 an e-mail from Ms. Christianson-Wood to you, dated April
6 27, 2006. "Subject: Phoenix Sinclair. Importance:
7 High."

8
9 "Diva Faria suggested that I
10 contact you with the question that
11 I have concerning the December
12 2004 request to the [Public Health
13 nurse] for information concerning
14 the family's functioning after the
15 birth of [the] daughter of Karl
16 Wesley McKay and Samantha Kematch.
17 Your notes indicated that Mary Wu,
18 [Public Health nurse] was somewhat
19 misinformed about the restrictions
20 of PHIA with respect to inquiries
21 from Child and Family Services -
22 she was adamant that she would not
23 provide information about her
24 contacts with Ms. Kematch without
25 obtaining her permission. You

1 provided Ms. Faria with the name
2 and phone number of the {Public
3 Heath nurse's] supervisor for
4 follow-up on this matter. My
5 question to Ms. Faria was about
6 how the matter was resolved as the
7 closing statement indicated that
8 based on the information
9 available, there were no
10 protection concerns.

11 She could not recall if the
12 supervisor was contacted or if the
13 [Public Health nurse] did provide
14 the requested information. CFSIS
15 is silent on this. Could you
16 please advise how the issue of the
17 [Public Health nurse] providing
18 information on the baby's care was
19 resolved.

20 Thanks very much."
21

22 And then if we go to the previous page, 34810, is
23 your response. Now, your response comes on May the 10th,
24 Ms. Christianson-Wood's e-mail to you was April 27, 2006.
25 Do you know what the reason for the delay

1 was?

2 A I don't remember.

3 Q Would you have talked maybe to Ms. Faria before
4 responding?

5 A I don't recall. I don't know if I already had
6 the report when Ms. Christianson-Wood sent it to me or if I
7 had to obtain the report or what the delay was due to. I
8 don't know.

9 Q Okay. So you wrote:

10

11 "Since I have now had the
12 opportunity to review my report
13 with respect to the December 2004
14 referral on Samantha Kematch, I
15 can answer your question to the
16 best of my ability based solely on
17 the information contained within
18 my written report.

19 In December of 2004 the Kematch
20 family came to the Agency's
21 attention when Samantha gave birth
22 to her daughter ...

23 Although the SOR did not have
24 child protection concerns to
25 report to the Agency, WCFS was

1 contacted based on Samantha's
2 disclosure of previous Agency
3 involvement in the summer of 2004.
4 After review of the family's
5 previous involvement and child
6 welfare history, a decision was
7 made to open the matter for
8 further assessment.
9 During consultation with the
10 Public Health Nurse, Mary Wu, a
11 conversation occurred about her
12 obligation to report, and she was
13 reminded that the Child and Family
14 Services Act supersedes PHIA.
15 Mary acknowledged her professional
16 responsibility to report child
17 protection concerns or a risk to
18 the child. Mary reported
19 attending to the family home to
20 see Samantha and [the baby] after
21 their discharge from hospital.
22 Since WCFS had contacted Public
23 Health to consult, without
24 information or knowledge of
25 current child protection concerns

1 in the family home, Mary was
2 cautious and unable to report any
3 unrelated involvement with the
4 family, due to the confidentiality
5 of PHIA, until she spoke with
6 Samantha to obtain her consent for
7 the sharing of information.

8 In addition to this, a review of
9 the Agency's previous involvement
10 with the family in August of 2004
11 showed that the child, Phoenix,
12 was seen by the Agency, and the
13 risk in the family home was
14 considered to be low at that time.

15 After considering the above
16 information whereby the SOR and
17 Public Health were not reporting
18 any child protection concerns, and
19 the file had recently been closed
20 by intake after an assessment of
21 the family home deemed the risk to
22 be low, the information was
23 documented in the CRU report and
24 provided to the CRU supervisor,
25 Diva Faria, for consideration and

1 review for closing."

2

3 And then finally, on the previous page. Please
4 scroll up to the previous page. Thank you. To the top.

5 Ms. Christianson-Wood wrote back to you that day.

6

7 "Thanks, Shelly.

8 Is it accurate to say that the
9 [Public Health nurse] did not give
10 the Agency any information about
11 the situation in the home? I'm
12 reading that she wouldn't give
13 information without talking to
14 Samantha first and that she did
15 not do so or contact you
16 subsequently. It was not
17 sufficient that the Agency was
18 concerned, based on past history,
19 about the situation.

20 It is not clear to me that she
21 acknowledged her duty to report.
22 The 'you don't share information
23 with us' comment was telling -- it
24 didn't seem that child protection
25 was foremost in her mind at that

1 point. (My interpretation.)

2 It also appears from the recording
3 that the matter, once referred to
4 your supervisor, did not result in
5 any other information coming back
6 to you about the situation. Is
7 that accurate?"

8

9 Now, did you respond to that e-mail?

10 A I don't remember.

11 Q It's accurate, though, that you don't recall
12 receiving any information from Ms. Faria as to follow up
13 she did with Ms. Wu's supervisor?

14 A No, I don't recall.

15 Q You don't recall receiving any?

16 A I don't, I don't recall receiving any information
17 from Ms. Faria. I had assumed that if she had followed up
18 she would have added a case note subsequent to my case
19 recordings, documenting her involvement with Ms. Wu's
20 supervisor.

21 Q Going back to page 160, please.

22 THE COMMISSIONER: What page?

23 MS. WALSH: We're, we're back in the Jan
24 Christianson-Wood report, CD2, at page 160.

25 THE COMMISSIONER: Yes.

1 BY MS. WALSH:

2 Q This is what the report writer documented and
3 I'll just ask you to review and confirm if it's accurate.

4

5 "On December 1, 2004, the CRU
6 passed along a referral from a
7 local hospital to the Agency's
8 intake unit as Ms. Kematch had
9 delivered her fourth child, a
10 daughter who had been named ...
11 The hospital advised that Ms.
12 Kematch was living with Wes McKay
13 who was the father of her child.
14 Mr. McKay's date of birth was not
15 known to the hospital. The CRU
16 supervisor agreed that the Intake
17 unit should be requested to follow
18 up and assess the home environment
19 within 48 hours. The file summary
20 noted that Samantha had been in
21 care but did not include
22 Information on her functioning in
23 care.
24 The CRU worker received the file
25 back from the supervisor with

1 direction to follow up and
2 complete the needed assessment
3 including offering supports. If
4 mandated services were not
5 required, the file was to be
6 closed to the CRU. Attempts were
7 made on December 2 and 3 to
8 contact Ms. Kematch but were
9 unsuccessful. The supervisor
10 directed that the Public Health
11 Nurse ... should be contacted and,
12 if there were no concerns
13 identified by the PHN, the Agency
14 file would be closed.

15 The assigned Public Health Nurse
16 was identified and contacted about
17 the family. The PHN had been to
18 the home but wanted to know why
19 the Agency was contacting Public
20 Health for information and whether
21 Ms. Kematch was aware that Public
22 Health had been called.

23 Despite the worker's efforts to
24 explain that the CFS Act took
25 precedence. In this situation,

1 the [Public Health Nurse] refused
2 to provide information or to agree
3 to call if there were concerns.
4 The worker referred the matter to
5 her supervisor with the
6 recommendation that the [health
7 nurse's] supervisor be called
8 about the misunderstanding about
9 the Personal Health Information
10 Act. The outcome of this was not
11 recorded on CFSIS. An email
12 message was sent to the former CFS
13 supervisor on April 25, 2006 with
14 a request for Information and an
15 interview with the staff involved
16 was conducted by the writer."

17

18 Now, is that accurate, to your knowledge?

19 A Yes, for the most part.

20 Q Anything that's not accurate?

21 A Well, it refers to the fact that the Public
22 Health nurse would not share information or would not
23 report a concern or give any information. Ms. Wu
24 acknowledged her obligation to report but said that she
25 would like to connect with Samantha prior to sharing other

1 information with the agency. Was it, for lack of better
2 terms, a play on words by Ms. Wu to say I don't have
3 protection concerns, but I need to speak with my client,
4 due to PHIA and FIPPA, before I share information with you
5 about the family's home environment? It's hard for me to
6 answer. Based on Ms. Wu's response to me, she acknowledged
7 her obligation to report and was not reporting a child
8 protection concern.

9 Q And the reference to an e-mail message to the
10 former CFS supervisor, is that something you know anything
11 about?

12 A Sorry, where are you reading or where are you
13 looking?

14 Q The --

15 A And e-mail message.

16 Q -- last sentence of the paragraph that's ---

17 A Oh.

18 Q -- not in italics.

19 A That Ms. Christianson-Wood sent Ms. Faria an e-
20 mail?

21 Q Yes.

22 A I believe, yes, like that she had sent an
23 e-mail, we just saw that on the screen.

24 THE COMMISSIONER: This is the last paragraph of
25 what?

1 MS. WALSH: We're on page 161.

2 THE COMMISSIONER: 161, yes.

3 MS. WALSH: Yes. The last paragraph that's not
4 in italics, the, the first -- the last sentence of the
5 first --

6 THE COMMISSIONER: Oh, all right.

7 MS. WALSH: Not -- it's not the last paragraph
8 it's the first --

9 THE COMMISSIONER: An, an e-mail, an e-mail
10 message.

11 MS. WALSH: -- the last sentence of the first
12 paragraph.

13 THE COMMISSIONER: An e-mail message?

14 MS. WALSH: Yes.

15 THE COMMISSIONER: All right.

16 THE WITNESS: I don't recall if I was aware at
17 that time. Well, I guess I would have been because Ms.,
18 Ms. Faria referred Ms. Christianson to me to ask further
19 because Faria indicated that she couldn't recall if she had
20 contacted the Public Health nurse supervisor so that's what
21 elicited Mrs. -- Ms. Christianson-Wood's e-mail to me.

22

23 BY MS. WALSH:

24 Q So on page 161, this is -- these are the --

25 THE COMMISSIONER: Well, just a minute, I'm just

1 quite -- don't follow that. An e-mail message was sent to
2 the former CFS supervisor on April 21st -- 25th. Who was
3 that?

4 THE WITNESS: My supervisor, Ms. Faria.

5 THE COMMISSIONER: Yeah. And who was it sent by?

6 THE WITNESS: Ms. Jan Christianson-Wood.

7 THE COMMISSIONER: Oh, I see. Not by you?

8 THE WITNESS: No.

9 THE COMMISSIONER: No, okay.

10

11 BY MS. WALSH:

12 Q And then on page 161, in italics, we have some
13 findings recorded by the report writer, by Ms.
14 Christianson-Wood. She said:

15

16 "The concerns about Ms. Kematch's
17 ability to parent over time had
18 not been addressed nor had past
19 issues including her inability to
20 care for [the baby] and her
21 ultimate abandonment of him."

22

23 I believe that's a reference to her very first
24 child.

25

1 "Her new partner was not known
2 9beyond greeting workers at the
3 door on May 2004) and the Agency,
4 despite Ms. Kematch's previous
5 known partners having issues with
6 criminal activity ... and
7 substance abuse (Mr. Sinclair) did
8 not inquire further to determine
9 if "Wes" was a safe choice. As
10 "Wes" was nearly 20 years older
11 than Ms. Kematch, it would have
12 been reasonable to assume that he
13 had life experiences -- possibly
14 with other partners and other
15 children -- that would have
16 provided the Branch with
17 reassurance or raise concern after
18 he joined Phoenix's family. It is
19 not evident from this recording
20 that the presence of "Wes" in Ms.
21 Kematch's home on May 13, 2004 was
22 linked with her statements about a
23 trucker boyfriend who lived with
24 her sporadically -- the file does
25 not indicate that "Wes" was

1 questioned about his identity."

2

3 Now, I read that as, as a discussion of the
4 previous, the work done by the previous workers.

5 A Yes.

6 Q Then it goes on:

7

8 "So little was known about Ms.
9 Kematch's functioning that it is
10 concerning that her outward
11 apparent physical well-being was
12 used as a measurement of her
13 cognitive abilities and
14 functioning as well as her
15 parenting capacity. As neither
16 Ms. Kematch nor Mr. Sinclair had
17 parented Phoenix consistently --
18 this was known to the Agency -- it
19 was incumbent on the Agency to
20 understand how the disruptions in
21 parenting had affected Phoenix.
22 Was she socially indiscriminate?
23 Was she developmentally on target?
24 Who did she identify as her main
25 caregivers? Did she have a

1 relationship with Ms. Kematch or
2 was Samantha just another in a
3 procession of female caregivers
4 that included Genevieve Sinclair,
5 Angie Sinclair, Sheila Sinclair
6 and Kim Edwards?"

7

8 Do you agree with the comment that it was
9 incumbent on the agency to learn more about Phoenix?

10 A Most definitely. I am also assuming that this
11 here -- that her "functioning that it is concerning that
12 her outward apparent physical wellbeing was used as a
13 measurement of her cognitive abilities" that was from --
14 taken from the previous intake worker's closing, from July
15 of 2004, referring to her work that was completed.

16 Q Okay. And then finally with this report, if you
17 turn to page 165. You see, midway down the page is a
18 paragraph that reads: "In some circumstances." You may
19 not have that in your binder --

20 A I don't --

21 Q -- it occurs to me --

22 A I don't think I do.

23 Q -- but it's up on the screen.

24 A Yeah.

25 Q Are you all right not having a hard copy of it?

1 A Yeah, that's fine. Thank you.

2 Q

3 "In some circumstances an Agency
4 contributes to the problems of
5 fragmentation by failing to make
6 inquiries about new people in the
7 family's inner circle. In the
8 case of Samantha Kematch and her
9 new partner, Karl Wesley McKay,
10 the Agency's reluctance to press
11 for confirmation of Mr. (Ikay's
12 identity) McKay's identity was a
13 'tipping point' in the case. The
14 Agency was remarkably incurious
15 about Ms. Kematch's new live-in
16 partner. Reder and Duncan (1999)
17 state:

18 Professionals in the child
19 protection network also need to
20 give equal consideration to the
21 child's father or father
22 substitute, including being aware
23 of his personal history,
24 functioning and caretaking role,
25 as well as the nature of the

1 couple relationship.
2 The combination of Ms. Kematch's
3 troubled past and her generalized
4 lack of cooperation with the
5 Agency should have resulted in Mr.
6 McKay being regarded with some
7 curiosity. Further, asking for
8 identification would have provided
9 Mr. McKay's correct name and date
10 of birth -- as a trucker he would
11 have had a driver's licence -- and
12 allowed the Agency to obtain a
13 criminal risk assessment."

14

15 I think you told me that assessing a new partner
16 as, as identified by the authors Reader and Duncan, in '99,
17 was something that you were aware of, the need to do, as
18 well.

19 A Yes, it wasn't as much as a -- it wasn't stressed
20 as greatly, back in 2004, as it was in today's practise but
21 yes, it was something that needed to be considered.

22 MS. WALSH: Mr. Commissioner, if you would like
23 to take the mid-afternoon break at this point, that works
24 for me, I probably have about another maybe 20 minutes with
25 questions.

1 THE COMMISSIONER: All right. We'll do that.
2 I'm going to stay here, just rearrange my papers so they're
3 ready for the cross-examination so we stand adjourned now
4 for 15 minutes.

5 MS. WALSH: Thank you.

6

7 (BRIEF RECESS)

8

9 MS. WALSH: Pull up on the screen page 38009
10 please. That's from CD1802.

11 THE COMMISSIONER: What page number?

12 MS. WALSH: 38009. This is from the internal
13 report by Rhonda Warren, Mr. Commissioner.

14 THE COMMISSIONER: Oh, oh, yes.

15 MS. WALSH: You can scroll down, please, to the
16 entry of December 1, '04.

17

18 BY MS. WALSH:

19 Q So, Ms. Willox, in addition to the two reports --

20 THE COMMISSIONER: What page is this?

21 MS. WALSH: Page 38009 of our disclosure.

22 THE COMMISSIONER: Three, eight, "0"?

23 MS. WALSH: "0", nine. 38009.

24 THE COMMISSIONER: I've got it. All right.

25

1 BY MS. WALSH:

2 Q In addition to the report that was prepared by
3 Mr. Koster and the report prepared by Jan
4 Christianson-Wood, an internal review was prepared by
5 Rhonda Warren. My understanding was, is that it was
6 prepared by reviewing the files only no one was
7 interviewed. I take it you were not interviewed by Ms.
8 Warren?

9 A No, I was not.

10 Q When was the first time that you saw portions or
11 the report in its entirety?

12 A During the preparation of -- for the inquiry.

13 Q And how much of that report, Ms. Warren's report,
14 did you see?

15 A Just the portions that pertain to me but I'm not
16 sure I actually have seen this page because it's not in my
17 binder.

18 Q All right. So then take a look at the recording
19 for December 1, '04. I simply want you to advise as to
20 whether it's an accurate recording of your involvement with
21 the file.

22 A It appears to be correct.

23 Q Okay, and then just -- so the, the last portion
24 of this recording says:

25

1 "The file was closed with the
2 following statement."

3

4 This is taken from your December 7th report.

5

6 "After consultation with the
7 Public Health nurse and a review
8 of the information attached to
9 CFSIS, it is determined that there
10 does not appear to be a known risk
11 to children residing in Samantha's
12 care at this time. Therefore,
13 this matter is being closed at CRU
14 until further information or
15 request for services is brought to
16 the agency's attention."

17

18 A That's correct.

19 Q

20 "No contact was made with the
21 couple and no home visit was done
22 to determine first hand how the
23 couple was doing.

24 The case was again closed on
25 December 7, 2004."

1 So that's all accurate?

2 A Yes.

3 Q Okay. Just remind me, while we're looking at
4 that, where you recorded a review of the information
5 attached to CFSIS, in your December 7th recording, what,
6 what information were you referring to at that point?

7 A Any of the prior child welfare involvement that I
8 had reviewed on CFSIS.

9 Q Relating to Ms. Kematch?

10 A Yes.

11 Q So still in this report, if we go to page 38036,
12 and I think we may have to look at the screen for this, I'm
13 not sure. Have you got that? Have you got it on the
14 screen in front of you?

15 A I have it on the screen.

16 Q Okay. If we can scroll up, please. So the --
17 where it begins:

18

19 "In that it was now confirmed that
20 Samantha was living with (Ms. --
21 with) McKay, was there
22 consideration given to conducting
23 a PCC or criminal records check on
24 McKay?"

25

1 My understanding is that in addition to preparing
2 the report, Ms. Warren was asked questions by the General
3 Authority, which are represented in bold and then her
4 answers are in italics. So if we'll just go through the
5 answers that she's documented here and I'll ask you to
6 comment.

7

8 "In reviewing the file information
9 it is determined that the Crisis
10 Response Unit recommended that the
11 file be sent to Intake for further
12 assessment of the home
13 environment. Further notes
14 indicate the file was returned to
15 CRU with the request that CRU
16 connect with Samantha, offer
17 family supports and close the file
18 at CRU if mandated service were
19 not required. After consultation
20 with the CRU Supervisor, the
21 Social Worker in CRU then called
22 Public Health to see if they had
23 been out to the home to see
24 Samantha and the new baby. When
25 the Public Health Nurse refused to

1 share information, based on recent
2 'Personal Health Information Act'
3 training her supervisor's name was
4 taken and passed to the CRU
5 supervisor for follow-up. There
6 is no information on the file
7 stating this issue was ever
8 followed up on. Although Wes
9 McKay's birth date was not known
10 his name was in CFSIS and in fact
11 he had a file under his own name
12 as well as being a significant
13 other in various other files. By
14 reading the dictation in these
15 other files it was easy to
16 determine that he was the same
17 person. The information in these
18 files presents concerning
19 information on Wes McKay's
20 violence to previous partners and
21 possibly children. To be
22 absolutely sure it was the same
23 person the Social Workers should
24 have made direct contact with both
25 Samantha and Wes to do a proper

1 assessment and conclude this
2 Intake."

3

4 Do you have any comments on that?

5 A No, I do not.

6 Q Okay. Then it goes on to say:

7

8 "Given the previous recorded
9 documentation on CFSIS, the matter
10 was referred to Intake for ongoing
11 follow-up and assessment of the
12 home environment.

13 The Agency could not obtain the
14 birth date of Mr. McKay from EIA
15 records as Samantha had only one
16 child listed on her budget and
17 there is not expected to be a
18 common-law partner residing in the
19 home."

20

21 And the comments are as above.

22 Then there's commentary asking about:

23

24 "The safety assessment is
25 considered within a 48-hour

1 response. It was recommended that
2 the file be opened for assessment
3 and intervention.

4 As the Agency was not able to
5 contact Samantha by phone, the
6 Supervisor suggested the worker
7 contact [Public Health] to inquire
8 if Public Health had been out ...
9 If there were no concerns ... the
10 file would be closed.

11 Although the [Public Health Nurse]
12 had been to see Samantha since her
13 discharge from hospital, however,
14 the [Public Health Nurse] was
15 reluctant to share any information
16 regarding any concerns for the
17 family due to PHIA. The [Public
18 Health Nurse] was advised
19 (through) training sessions that
20 she is not (to) share information
21 with [Winnipeg] CFS due to PHIA
22 and that [Winnipeg] CFS does not
23 share information due to
24 confidentiality of the CFS Act.
25 The [Public Health Nurse] was

1 aware that of her professional
2 obligation to report to WCFS risk
3 to a child if there are concerns.

4 The lack of communication between
5 [Public Health Nurse] and WCFS was
6 reported to the worker's
7 supervisor so that future
8 incidents could be rectified at
9 the managerial level.

10 After consultation with the
11 [Public Health Nurse] and a review
12 of information on CFSIS, it was
13 determined that there does not
14 appear to be a known risk to the
15 children residing in Samantha's
16 care at this time. The matter was
17 closed at Intake."

18

19 The question was: "Was communication between
20 WCFS and the health system resolved? And the answer is:
21 "See above."

22 And then finally.

23

24 "What assessment was done to
25 change the plan not to conduct an

1 assessment of the home environment
2 and close the Intake given that
3 non-committal response from the
4 [Public Health Nurse]?

5

6 And in italics the writer reports:

7

8 "To this reviewer's knowledge,
9 from reviewing the entire file
10 information, there was no reason
11 to change the risk assessment."

12

13 Do you want to comment on that?

14 THE COMMISSIONER: On what, all you've read, or
15 just that statement?

16 MS. WALSH: Just on the, on the italicized
17 commentary.

18

19 "To this reviewer's knowledge from
20 reviewing --"

21

22 The answer to the question posed.

23

24 "To this reviewer's knowledge from
25 reviewing the entire file

1 information there was no reason to
2 change the risk assessment."

3

4 A No, I do not.

5 Q Anything else that you want to say about these
6 three reports that we've just looked at?

7 A I don't believe so, at the present time. Thank
8 you.

9 Q Okay. Now, I want to talk about another area.
10 You told us that for two years, approximately, you were a
11 supervisor at CRU?

12 A Yes, I was, in a term position.

13 Q Pardon me?

14 A Yes, I was, as a term position.

15 Q A term position. Why was that a term position?

16 MR. RAY: Sorry.

17 MS. WALSH: No problem. Thank you.

18

19 BY MS. WALSH:

20 Q So what happened, you became a supervisor for a
21 term position?

22 A Yes.

23 Q And why was it a term position?

24 A It was posted as a term.

25 Q With the term a two year term?

1 A No, the term had been extended a number of times
2 during, during that period.

3 Q And ultimately you went back to being just a
4 regular -- or not just but a regular CRU worker?

5 A That's correct.

6 Q Okay. So I want to talk a bit about your
7 experience as a supervisor.

8 A Okay.

9 Q Did you receive training when you became a CRU
10 supervisor, specific to being a supervisor?

11 A Yes, I did.

12 Q Okay. What did that look like?

13 A I attended a series of the core competency
14 training for supervisors and was expected to complete
15 those.

16 Q Was that before you started work as a supervisor
17 or during the course of being a supervisor?

18 A During the course of being a supervisor.

19 Q How long did the training take?

20 A I believe there's five core competencies. Each
21 one would last anywhere between -- I don't recall exactly,
22 I think three to five days to a week but they were spread
23 out over a period of time, you didn't attend them back to
24 back, so there may have been a break in between attending
25 each core competency.

1 Q Do you remember what topics the core competencies
2 covered?

3 A A variety of issues, supervising staff, dealing
4 with problem staff, how to address issues, fostering
5 positive work environments. How to do supervision. How to
6 document supervision. Most of the functions that you would
7 be expected to perform as a supervisor.

8 Q What were you told about how to document
9 supervision?

10 A Well, there is a policy in place with respect to
11 supervision. You are to have supervision every two weeks
12 to every 30 days with your staff and you are to document
13 that in -- for example, some people have a binder or a
14 specific, like, case note book that they will keep for each
15 staff that you document supervision.

16 Q What happens with those notes?

17 A Those notes are kept in the individual's binder
18 or log book.

19 Q The individual meaning the individual
20 worker?

21 A Yes.

22 Q Okay.

23 A Shortly though, prior to my term ending, though,
24 there had been a change in how supervision was to be
25 conducted and the agency had produced a supervision -- it

1 was a form that needed to be filled out to, to do
2 supervision. So the process had changed a bit from the
3 time -- just prior to me ending my term.

4 Q And that was --

5 THE COMMISSIONER: What, what period of time was
6 it you were the -- in the supervisory position?

7 THE WITNESS: From September 2010 till September
8 2012.

9 THE COMMISSIONER: Oh, yes, you told us that
10 earlier.

11 THE WITNESS: Um-hum. Yes.

12

13 BY MS. WALSH:

14 Q In terms of keeping notes with respect to the
15 supervision you conducted, did that change as well? At the
16 end -- you said at the end of 2000 -- at the end of your
17 term, in the fall of 2012, there was a change.

18 A Yes, there was a supervision form that was
19 expected to be completed rather than doing the regular
20 notations, there was a form that needed to be completed and
21 submitted to our HR department on a regular basis.

22 Q Okay. Rather than being kept in a binder with
23 respect to the worker?

24 A Yes, that's correct.

25 Q Let's turn to page 29040. You talked about a

1 supervision policy. This is CD1634 and I don't believe you
2 have a hard copy of it. But you do, Mr. Commissioner --

3 THE COMMISSIONER: Yes.

4 MS. WALSH: -- on your desk.

5 THE COMMISSIONER: Yeah, I know I do.

6

7 BY MS. WALSH:

8 Q Ms. Willox, are you all right looking at it on
9 the screen or do you want a hard copy?

10 A No, that's fine. Thank you.

11 Q Okay. This policy says implementation March 1,
12 2004. Are you familiar with this policy?

13 A I can't say I am, no.

14 Q Okay. Is there another policy document that you
15 were familiar with as a supervisor?

16 A As a supervisor, I received direction from my
17 program manager about the job expectations so, for example,
18 the supervision policy, I knew what the policy was as a
19 worker in that same unit. I was aware that supervision was
20 expected on a regular basis, how that occurred and with the
21 implementation of the new supervision form we did go to
22 training, through our HR department, on how to use and
23 implement that form.

24 MR. MACKINNON: Just an item of clarification,
25 Mr. Commissioner, this is the supervision policy for

1 Winnipeg CFS and I believe the witness is an employee at
2 ANCR when she was a supervisor so there would have been --

3 THE WITNESS: Yes.

4 MR. MACKINNON: -- a different employer creating
5 a different policy.

6 MS. WALSH: All right.

7 THE WITNESS: That's --

8 THE COMMISSIONER: Thanks, Mr. McKinnon.

9

10 BY MS. WALSH:

11 Q So was there another supervision policy document
12 that you referred to?

13 A I -- no, not that I referred to and I don't know
14 if there was one. I didn't review the document.

15 Q Okay. So you were, you were given training in
16 how to be a supervisor?

17 A I did. I received the core competency supervisor
18 trainings.

19 Q And you had -- you received instruction, as well,
20 or direction from your program manager?

21 A That's correct.

22 Q Okay. So when you were a supervisor, and I
23 appreciate that that is what is now ANCR, can you describe
24 what your supervision looked like?

25 A Supervision usually involved meeting with the

1 staff to discuss any performance issues, discuss their work
2 performance, general housekeeping issues, whether it needed
3 to be informing staff of policy changes. Discussing
4 training opportunities or areas of need for development.
5 Things that might have needed improvement or things that
6 they were interested in in expanding their knowledge for
7 career development and, of course, if there was any --
8 well, like I have kind of already said, but if there was
9 issues of performance, whatever, to -- for them to complete
10 their job expectations, those would be addressed in
11 supervision.

12 Q Did you hold regularly scheduled meetings with
13 workers?

14 A I did hold meetings, I don't know if -- I can't
15 say that they were regularly scheduled but there is a
16 policy for regularly scheduled supervision, yes.

17 Q Now, earlier today I think you said that the CRU
18 work that was done in 2004 is similar to the work that's
19 being done currently --

20 A That's correct.

21 Q -- by CRU?

22 A That's correct.

23 Q The agencies are different. In 2004 CRU work was
24 done through Winnipeg CFS --

25 A That's correct.

1 Q -- or the work that you did?

2 A Yes, that's correct.

3 Q And now you are a CRU worker with the agency
4 known as All Nations Coordinated Response?

5 A That's correct.

6 Q But the nature of the work is the same?

7 A Yes.

8 Q Is the supervision that you carried out in --
9 during the two years that were a supervisor, did it look
10 the same as the supervision that you received when you were
11 a worker in 2004, 2005?

12 A Yes, I would say it was similar.

13 Q Are there any significant differences?

14 A I don't believe supervision was implemented on a
15 regular a basis, it wasn't something -- I don't know if
16 there was a policy at that point in time, but supervision
17 was not a regular occurrence, for example, every two weeks
18 or every 30 days.

19 Q And when you were a supervisor, that was an
20 expectation?

21 A Yes.

22 Q Okay. How many people were in the unit that you
23 supervised?

24 A We did have some vacancies at the period of time
25 when I first started supervising but generally there are

1 six individuals per team and then one phone screener that
2 is attached to me so seven individuals, in total.

3 Q Is that the same as the number of people in the
4 unit when you were a worker in 2004?

5 A Yes, but the composition of the unit has changed
6 a bit. At that point in time there was -- the seventh
7 person was the employment and income assistant liaison
8 which is no longer part of the CRU program. We have now
9 implemented a phone -- two phone screener positions and
10 each supervisor supervises one phone screener plus their
11 unit of six individual CRU staff.

12 Q Is there one screener per unit?

13 A Yes.

14 Q So there are still two CRU, CRU units?

15 A Yes.

16 Q And the phone screener's job is what?

17 A They don't do a three day on, three day off
18 rotation of phones to fields, they strictly do phone intake
19 screening every day, on a continual basis.

20 Q So how does that differ from the other workers,
21 other than not going out in the field?

22 A How does it differ?

23 Q Or does it? Is it, is it the same as what the
24 other workers do except that this person doesn't go out in
25 the field?

1 A Yes. When you're -- like their job, as a phone
2 screener, is the same as when you are on the three days of
3 phone intake.

4 Q Did you, as a supervisor, dedicate any of your
5 time to training your staff?

6 A Yes, I did have a number of new staff on my team
7 and I would attempt to spend time with them to assist them
8 with training. But often there was not time permitting to
9 probably spend the time that was -- that should have been
10 dedicated to them in training a new staff.

11 Q Is that true for the two years that you were a
12 supervisor?

13 A I would say so, yes.

14 Q During those two years was there any kind of
15 mentoring for new staff?

16 A When a staff would start we would try to connect
17 them with another more senior staff within the unit as a
18 form of shadowing. Would I call it a mentoring program?
19 Not specifically. A staff was not dedicated to that
20 individual for great lengths of time, but we did have a
21 staff who was identified, who would try to train the new
22 staff, to get them orientated to CFSIS and the intake
23 module, the procedures and policies of the Crisis Response
24 Unit and our general functioning.

25 Q Did you do any direct service delivery when you

1 were a supervisor, did you do -- sort of fill in for any
2 actual workers?

3 A I didn't fill in for workers. Say someone was
4 absent, away on sick, sick or vacation time, I didn't fill
5 in. But if there was complaints, concerns, staff was
6 having a difficult time, with a colleague or collateral, I
7 would, you know, do service delivery, whether it needed to
8 be phone calls or contacts to supervisors, other community
9 members to try to resolve or further that contact.

10 Q So you're, you're still a CRU worker?

11 A Yes, I am.

12 Q And the reports that we just went through, listed
13 a number of recommendations and those recommendations have,
14 to varying extents, I imagine, been implemented or that's
15 something that we're to inquire into. You were a CRU
16 worker in 2004, you're still a CRU worker. Can you tell us
17 about any changes to the Crisis Response Unit that you are
18 aware of, in terms of how the unit does its work?

19 A There's been a number of changes that have
20 occurred, one of which is the implementation of the intake
21 module. There's also been the implementation of the SDM
22 tools.

23 Q What's that?

24 A The structured decision making tools. It helps
25 us with the assessment of risk, determining time responses,

1 service delivery. If a file should remain open or closed.

2 At one point in time, back in 2004, where there
3 were vacancies, either due to open vacancies, vacation,
4 sick time, CRU was not able to access casual staff or
5 alternate supervisors to help fill in, to cover the
6 shortage of staff. We are now able to do that at CRU.

7 Q The structured decision making tool, is that
8 something you have received training on?

9 A Yes.

10 Q And --

11 A We all did at CRU, as well as ANCR.

12 Q Are you currently using it?

13 A Yes, we are.

14 Q And how do you find it?

15 A I like it, I think it's a very good tool and I
16 think it's -- kind of gives us standardization of how
17 service delivery needs to be completed. It also increases
18 consistency, I believe, on how services are delivered to
19 families.

20 Q Okay. What about standards? Are you aware of
21 any changes to standards since 2004?

22 A For the first time I received standards in
23 October of 2009 from my CRU supervisor at the time. There
24 have been some changes but I don't -- at this point in time
25 I don't know if there is a new standards manual that has

1 been produced since 2009 but I do know that changes that
2 have been made, or changes to service delivery have been
3 forwarded on to us.

4 Q Has there been any change, since 2004, with
5 respect to requirements to see children about whom a
6 referral is made?

7 A Yes, there is a policy in place that children
8 need to be seen every 30 days. We, at CRU, because we are
9 a short term emergency based service, I mean, we all know
10 that that standard exists although because we are short
11 term, we don't follow that -- like I shouldn't say we don't
12 follow it but we are not involved for 30 days so if cases
13 need to be -- remain open for longer than the 24 to 48
14 hours they are referred to intake. The policy currently
15 is, even at CRU, prior to a file being closed, that all
16 children must be seen.

17 Q Even at CRU, did you say?

18 A Even at CRU.

19 Q So that's a change?

20 A That is a change, yes.

21 Q I think you also said that there has been more of
22 an emphasis on the need to assess other adults in the home?

23 A Yes. Back in 2004 our primarily focus was
24 generally usually on the female head of the household or
25 the biological mother to the child. Today, and in the

1 recent, we have -- they're focusing more on all adult
2 individuals residing in the family home, including
3 partners, extended family members, which is not uncommon,
4 to ensure that that environment is safe for children and
5 youth.

6 Q And is that something that's emphasized through
7 the use of the SDM?

8 A Yes. The SDM tools, part of the assessment
9 process is to assess secondary caregivers so that is
10 something that is used, the SDM tools, as well.

11 Q Okay. What about differential response, what is
12 that? Or do you know?

13 A ANCR did have a different response that was being
14 piloted. I don't -- they weren't piloting the SDM tools in
15 the differential response unit. Since the SDM tools have
16 been implemented that differential response unit has been
17 made into another intake unit, as all of the units at ANCR
18 are using the SDM tools currently.

19 Q So you are using the SDM tools.

20 A At CRU we use a portion of the SDM tools. If
21 something is being referred to intake, or the abuse unit,
22 or family preservation, we don't complete the entire SDM
23 package because we are too short term and those packages
24 will be continued. We start them in CRU and they will be
25 continued on by the other -- like the other service units

1 providing services to the family.

2 Q And differential response, is that something, as
3 a CRU worker, that you were involved with?

4 A Differential response was a separate sort of
5 intake unit, it wasn't the CRU unit that was the
6 differential response unit and we didn't pilot the SDM
7 tools but the differential response unit did. But --

8 Q So that's not something that you're delivering?

9 A Differential response?

10 Q Yes.

11 A Not currently that I'm aware of.

12 Q Okay. Workload. We're almost done.

13 Can you describe what your workload was like, as
14 a CRU worker in 2004?

15 A I don't recall exactly. I do remember and from
16 reviewing my comments to Andy Koster during the Section 4
17 report, workload had increased significantly. We were no
18 longer holding cases for a 24 to 48 hour time period, we
19 were being asked to hold cases longer, up to a month.
20 Being asked to complete roles and expectations that were
21 normally outside of what was expected as a CRU worker. For
22 example, interviewing and following up on abuse
23 allegations. And that was partly due to the AJI and the
24 backlog that was occurring in the other units. For
25 example, the intake unit. So things were hectic and things

1 were very -- there was a lot of pressure and stress at that
2 time.

3 CRU was down staff, we weren't at full
4 complement, and when we, you know, were down staff we
5 weren't allowed to access or able to access casual staff.
6 So we were taking on extra responsibilities and the roles
7 and expectations of CRU continued to expand to at times the
8 unit felt like a capacity that we weren't able to function
9 at.

10 Q So in 2004 did workload have an impact on the
11 services that you were delivering to clients?

12 A I don't recall, and I don't know if I ever had
13 access to statistical information to report the number of
14 cases and, and files, and new intakes that we received at
15 that point in time. My personal opinion is that, yes,
16 workload was affecting our functioning and ability to
17 provide services to families but I don't have statistically
18 data to -- available at this point or knowledge of
19 statistical data to prove that that, in fact, was the case.

20 Q Well, aside from statistical data, do you recall
21 a situation when you were not able to deliver the services
22 you wanted to deliver because of workload issues?

23 A Well, for this -- in this particular example,
24 working with Samantha Kematch, I would say this would be an
25 example. If there had been more time, if -- ultimately

1 this case should have gone to intake so that proper
2 services could have been delivered to the family. For
3 reasons, unbeknownst to me, it was returned to me for
4 follow up.

5 If I had had more time, if I didn't have, you
6 know, maybe other responsibilities or more urgent matters
7 to deal with, I might have had the time to dig further,
8 maybe Diva could have requested that I field to the family
9 home to meet with Samantha in person, to try to obtain or
10 speak to Wes McKay, to do further follow up with other
11 community collaterals but at the time we were overworked
12 and didn't have the proper resources to provide the
13 services that needed to be provided to families.

14 THE COMMISSIONER: But was that -- to do --
15 perform those functions, was that within your area of
16 responsibility or was that really intake's work?

17 THE WITNESS: The matter should have been
18 referred to intake for those services to be delivered but
19 because intake was so backed up at that point in time,
20 matters -- and this might have been the case, I can't say
21 for certain because I wasn't privy to know the reason why
22 the case was returned to me, but I can only assume that it
23 was returned to me because it may have been rejected at the
24 intake level and that those services should have been
25 provided at the intake level.

1 THE COMMISSIONER: All right, thank you.

2 THE WITNESS: You're welcome.

3

4 BY MS. WALSH:

5 Q On December 7, 2004 when you recommended closing
6 the file, your recommendation says:

7

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

20

21 A That's correct.

22 Q So how, how does workload factor into that?

23 A Well, like I was saying, nothing was initially
24 being reported, there was no -- other than Samantha's prior
25 history, which was a concern, which prompted the file to be

1 opened in the first place, there could always be more work
2 done with families. I could have done, or Diva could have
3 recommended that I do a variety of more things, or
4 interventions to try to explore further and deep digger to
5 see -- deep -- dig further to see if, in fact, functioning
6 was fine.

7 The information, the cursory information that we
8 were getting was that there was no protection concern and
9 that there was no reason to keep the file open and mandate
10 services. If it had gone to intake, could a further follow
11 up, a home visit, further follow up with another community
12 collateral, a further conversation with Wes McKay occurred
13 to obtain his date of birth, a further CFSIS check, a
14 further criminal check, all those things could have been
15 explored further and more intensely at the intake level.

16 Q You closed the file because, as you said, there
17 did not appear to be a known risk to the children.

18 A Based on the information that I had there was not
19 a known risk.

20 Q Did you feel pressured to close the file because
21 of workload, as well?

22 A I can't say and I don't recall at the present
23 time. I did the interventions, as requested by my
24 supervisor. Looking back now, knowing what I know and
25 having the experience as a former CRU supervisor, could

1 there have been more work done on this case? Yes. Could
2 have other interventions been tried and applied? Yes. At
3 the time, did I feel pressured? I don't remember.

4 Q Currently in CRU what's your workload like?

5 A CRU is always very busy, we're at the front door
6 to child welfare services for all of Winnipeg. It depends.
7 We -- the workload is not consistent, it depends, sometimes
8 we're busier than others. With the ability to access
9 casual staff at this point in time it helps in distributing
10 workload. But CRU is a very busy place. We do three days
11 of phones, three days of backup. Some days are busier than
12 others. It's, it's always just a very busy place to work
13 and it's always, because of the nature of the unit, being a
14 crisis response unit and responding and assessing those
15 immediate and urgent needs, it's, it's a very fast paced
16 environment.

17 Q How does the workload compare today to the
18 workload in 2004?

19 A I can't speak directly and say, with certainty,
20 how the workload compared because I don't recall exactly
21 how busy I was in December of 2004. But I do know being
22 able to access casual staff and being able to operate on a
23 full complement of staff and having the extra two phone
24 screeners attached to the crisis response unit has been a
25 definite help to be able to respond to the needs of clients

1 and answers the calls and provide the services that we need
2 to be providing.

3 MS. WALSH: Those are my questions, Mr.
4 Commissioner.

5 THE COMMISSIONER: Well, I see we're within five
6 minutes of our usual adjournment time, so I suppose that
7 it's best we adjourn and start first thing in the morning.

8 MS. WALSH: And I have canvassed counsel and
9 they're quite certain that they will be able to finish
10 within the three hours that we have tomorrow morning.

11 THE COMMISSIONER: Well, that's, that's fine. Do
12 you have -- you will have another witness available, as --
13 when this witness is finished?

14 MS. WALSH: We have a witness starting at 2:00
15 and following.

16 THE COMMISSIONER: Well, if, if counsel think
17 they're going to be most of the morning that's, that's
18 fine. If they think they're going to do it in a shorter
19 time, why maybe you should have a witness standing by but
20 I'll leave that in your hands.

21 MS. WALSH: Okay, thank you.

22 THE COMMISSIONER: Thank you, witness, you'll
23 have to return in the morning for us --

24 THE WITNESS: Thank you.

25 THE COMMISSIONER: -- at 9:30.

1 We'll stand adjourned until 9:30 tomorrow
2 morning.

3

4 (PROCEEDINGS ADJOURNED TO JANUARY 8, 2013)