



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

WEDNESDAY, SEPTEMBER 5, 2012

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1 SEPTEMBER 5, 2012

2

3 THE COMMISSIONER: Good morning, ladies and
4 gentlemen.

5 MS. WALSH: Morning, Mr. Commissioner.

6 THE COMMISSIONER: We are ready to begin.
7 Commission Counsel?

8 MS. WALSH: Good morning, Mr. Commissioner. I'm
9 very pleased to be standing here today, ready to commence
10 the public hearings phase of this inquiry.

11 To let you know the agenda for today, I will make
12 a brief opening statement and then the rest of the day will
13 be spent hearing testimony from witnesses who will provide
14 background and contextual information about the child
15 welfare system that I think will be very useful in
16 understanding the evidence that we will hear throughout the
17 proceedings. And included in that will be a presentation
18 on how the child welfare system's electronic information
19 system works and that's why we have the large screen here
20 today. We won't normally have the large screen, but we
21 will have the monitors on which exhibits will appear every
22 day.

23 Before I make my opening remarks, let me start
24 with some introductions. I have been invaluablely assisted
25 by a superb team of lawyers. Senior counsel, associate

1 counsel, Derek Olson, associate counsel, Kathleen
2 McCandless, Elizabeth McCandless and Noah Globerman.
3 Working with us is a lawyer whom we had the good fortune to
4 hire to act as a community research consultant to assist us
5 with the work of phase 3 of the inquiry, Ms. Karen
6 Dyck.

7 I'd also like to acknowledge the dedicated work
8 of our chief administrative officer, Marcia Ewatski, who,
9 notwithstanding many challenges, has, together with her
10 staff, Cindy Pearson and Judi Gaminek, commenced and
11 remained good natured and focused throughout the last many
12 months.

13 You have granted standing to a number of parties
14 and intervenors. I want to take a minute to introduce
15 the counsel who represent those parties and
16 intervenors.

17 Full party status has been granted to the
18 Department of Family Services and Labour, represented by
19 Gordon McKinnon and Sacha Paul.

20 Full party status to the Manitoba Government
21 Employees Union, represented by Garth Smorang and Trevor
22 Ray.

23 Full party status to Intertribal Child and
24 Family Services, represented by Hafeez Khan and James
25 Benson.

1 A single grant of full party status for phases 2
2 and 3 and then extended to phase 1, has been granted to
3 the General Child and Family Services Authority, First
4 Nations of Northern Manitoba Child and Family Services
5 Authority, First Nations of Southern Child and Family
6 Services Authority and the Child and Family All Nation
7 Coordinated Response Network. They are represented by
8 Kris Saxberg, Harold Cochrane, Luke Bernas and Shawn
9 Scarcello.

10 A single grant of full party status was made to
11 Kim Edwards and Steve Sinclair and they are represented by
12 Jeff Gindin, David Ireland and George Derwin.

13 Intervenor status for phases 1, 2 and 3 was
14 afforded to the Assembly of Manitoba Chiefs and the
15 Southern Chiefs Organization, represented by Jay Funke,
16 Chris Poudrier, Jessica Saunders and Nick Saunders. Their
17 grant was extended to full party status for phases 2
18 and 3.

19 Intervenor status has been afforded for phases 1,
20 2 and 3 to the University of Manitoba, represented by Greg
21 Juliano and Maria Versace.

22 And then intervenor status for phase 3 was
23 granted to the Manitoba Métis Federation and the Métis
24 Child and Family Services Authority, represented by William
25 Haight and Kara Bjornson.

1 There are also a number of counsel who act
2 for individual witnesses and I expect that those counsel
3 will introduce themselves as they appear in front of
4 you.

5 I am grateful for the assistance of counsel for
6 the parties, intervenors and witnesses who have worked
7 closely with our offices, to ensure that your mandate is
8 fulfilled.

9 We're here today, of course, as the result of an
10 order in council which established this inquiry and which
11 directed you, as Commissioner, to inquire into the
12 circumstances surrounding the death of Phoenix Sinclair, to
13 report your findings and to make such recommendations as
14 you consider appropriate to better protect Manitoba
15 children.

16 The terms of reference for the Commission were
17 set out on March 23, 2011, by order in council and I have
18 outlined those terms on many occasions during the various
19 public sessions which you have previously convened, but
20 since we will finally start hearing evidence this week from
21 the witnesses themselves, I will take a moment to outline
22 those terms again and indicate when you can expect to hear
23 the evidence with respect to each aspect of those terms of
24 reference.

25 So paragraph 1 of the order in council says that

1 you are to:

2

3 "... inquire into the
4 circumstances surrounding the
5 death of Phoenix Sinclair and, in
6 particular, to inquire into:

7 the child welfare services
8 provided or not provided to
9 Phoenix Sinclair and her family
10 under The Child and Family
11 Services Act;

12 any other circumstances, apart
13 from the delivery of child welfare
14 services, directly related to the
15 death of Phoenix ... and
16 why the death of Phoenix Sinclair
17 remained undiscovered for several
18 months."

19

20 And as I have said before, the evidence you will
21 hear will be divided into three phases. The factual
22 evidence required to satisfy the first paragraph of the
23 order in council will be heard in phase 1. It will -- it
24 is scheduled to run from now until the end of December.
25 The order in council then says that you must report your

1 findings on the factual matters which we are adducing in
2 phase 1, and:

3

4 "... make such recommendations as
5 [you consider] appropriate to
6 better protect Manitoba children,
7 having regard to the
8 recommendations, as subsequently
9 implemented, [which were] made in
10 the reports done after [Phoenix's
11 death]..."

12

13 Those six reports are listed in paragraph 3 of
14 the order in council.

15 In phase 2, we will hear from the writers of
16 those reports. Some of those reports focused specifically
17 on the child welfare services which were, or were not,
18 delivered to Phoenix and her family. Others focused on the
19 child welfare system in general.

20 We will also hear from the writers of other
21 reports. One specific to the child welfare services
22 delivered to Phoenix and her family and the other of a more
23 general nature, relating to a description of best practices
24 in the delivery of child welfare services.

25 We'll also hear, in phase 2, from representatives

1 of the Assembly of Manitoba Chiefs and Métis Federation
2 with respect to further recommendations concerning the
3 child welfare system and from the Dean of the University of
4 Manitoba, Faculty of Social Work, to hear his perspective
5 on recommendations relevant to this inquiry, in particular,
6 as they relate to the development of future child welfare
7 workers.

8 At the end of phase 2, we will hear responses
9 from the Department of Family Services and Labour and from
10 the Authorities, to the findings and recommendations that
11 were made in the various reports.

12 Six years have passed since Phoenix's death was
13 discovered and in the intervening time, many changes have
14 been made to the child welfare system. We will hear from
15 the Department and the Authorities about those changes and
16 how those changes might have influenced the child welfare
17 services that Phoenix and her family received.

18 Phase 2 is scheduled to run from just after New
19 Year's, to the early part of February, for a duration of
20 five weeks.

21 The third and final phase of the inquiry, we
22 discussed most recently at the session you convened in
23 July. That phase will focus on the community, its needs
24 and responsibilities. It is scheduled to run for two
25 weeks, starting at the end of February and I'll talk more

1 about the work of that phase in a few moments.

2 After phase 3, we'll take a break, to allow
3 counsel for the parties and intervenors to prepare their
4 final submissions and then two weeks are set aside for
5 those submissions to be made before you.

6 The calendar of witnesses testifying is somewhat
7 subject to change, particularly for phase 1, depending on
8 where the evidence takes us. For that reason, and in the
9 interest of protecting the privacy of witnesses as much as
10 possible, in anticipation of their testimony, the schedule
11 of witnesses will be published one week in advance of their
12 evidence being heard and posted on the Commission's
13 website.

14 Before I say anything more, Mr. Commissioner, I
15 want to file, as the next exhibit in these proceedings, a
16 series of photographs taken of Phoenix Sinclair.

17 THE COMMISSIONER: All right. Will that be, be
18 the first exhibit to be marked? Or have we got -- were
19 there, were there exhibits marked previously?

20 MS. WALSH: Yes, so this will be Exhibit
21 6 --

22 THE COMMISSIONER: Yes.

23 MS. WALSH: -- A, B and C.

24 THE COMMISSIONER: Six A, B and C?

25 MS. WALSH: Yes.

1 THE COMMISSIONER: Thank you.

2

3 **EXHIBIT 6A, B and C: PHOTOGRAPHS**
4 **OF PHOENIX SINCLAIR AS AN INFANT**

5

6 MS. WALSH: These photographs, Exhibits 6A, B and
7 C, which are being pulled up on the screen before you, were
8 taken when Phoenix was in foster care, during the early
9 months of her life. I also have a photograph which was
10 taken several years later, just before Phoenix turned 5,
11 which I'd like to have marked as the next exhibit, Exhibit
12 7.

13 THE COMMISSIONER: Exhibit 7.

14 THE CLERK: Exhibit 7.

15

16 **EXHIBIT 7: PHOTOGRAPH OF PHOENIX**
17 **SINCLAIR JUST BEFORE SHE TURNED**
18 **FIVE YEARS OLD**

19

20 MS. WALSH: It is important to see these images
21 of Phoenix at the outset of this inquiry and to keep them
22 in mind as we listen to the evidence which will be called
23 before you in all phases. I say this because one of the
24 central themes of this inquiry, quite plainly, is to
25 consider how it is that in our society, a small child can

1 become so invisible, invisible to an entire community, one
2 which includes social service agencies, schools,
3 neighbours, friends and family. So invisible as to
4 literally disappear. With that in mind, these photographs
5 are a small step toward maintaining Phoenix's visibility
6 throughout these proceedings.

7 The task of this inquiry has been a significant
8 one. Since we began, my colleagues and I have been working
9 steadily to keep matters moving forward on as timely a
10 basis as possible. Our investigation has included
11 reviewing tens of thousands of pages, to distill the
12 relevant documents to be disclosed to the parties and
13 intervenors. We have conducted interviews of over 150
14 people, sometimes individually, sometimes in groups,
15 sometimes in the Commission's office, sometimes out in the
16 community, both in Winnipeg and in Fisher River. And as I
17 mentioned last year at the standing hearings, in June of
18 2011, we were most graciously hosted by the chief and
19 council of Fisher River, where we had an opportunity to
20 visit and tour the community and you were part of that
21 visit.

22 We've also conducted experts on a variety of
23 relevant topics. The, these witnesses, from whom you will
24 be hearing in phases 2 and 3, have shown tremendous
25 interest and enthusiasm in the work of the Commission and

1 in assisting you to fulfill your mandate.

2 This inquiry is the first public inquiry in
3 Manitoba to focus on the child welfare system. It will
4 afford the public a unique opportunity to see how the
5 system operated during the time of Phoenix Sinclair's life
6 and how it operates today, to have a light shone on the
7 people who rely on the child welfare system and on the
8 people who deliver that system. It will also offer the
9 public an opportunity to see how our community protects
10 children generally. When I use the word "protect", I do so
11 in the broadest sense of that term, taking into account a
12 child's safety, security and wellbeing, to quote from the
13 declaration of principles which are set out in the Child
14 and Family Services Act.

15 It has been over seven years since Phoenix was
16 killed. In the intervening time, there have been criminal
17 proceedings, which attracted a great deal of media
18 attention. I noted, in reading the media reports about
19 those proceedings, that there were many comments and
20 questions as to the involvement of the child welfare
21 system. Of course, that was not the focus of the criminal
22 proceedings, nor should it have been. Unfortunately, but
23 not surprisingly, there has been much speculation leading,
24 perhaps, to certain misconceptions as to the factual
25 circumstances surrounding Phoenix's life and death. Now is

1 the time to inform the public and to correct those
2 misconceptions.

3 I'm not going to go into detail as to the
4 evidence I expect you will hear over the next few months.
5 I will allow that evidence to unfold from the witnesses
6 themselves, as they appear before you.

7 In hearing the evidence, we are going to follow
8 the chronology of Phoenix's life, from the time she was
9 born, to the time her death was discovered. And we will
10 start hearing that factual testimony first thing tomorrow
11 morning from witnesses.

12 The witnesses whose evidence you will hear come
13 from a variety of backgrounds and their testimony reflects
14 a variety of perspectives. But there is one thing I can
15 say that all the witnesses had in common and that is that
16 when they met with me and my colleagues, they spoke in a
17 candid and forthright manner and showed a true interest in
18 assisting the work of the Commission. I acknowledge the
19 courage that was displayed by every witness in responding
20 to our request to participate in this investigation and I
21 want to express my gratitude to all of them for that. Many
22 of these witnesses are, themselves, deeply affected and
23 scarred by the facts of this tragedy.

24 I also want to comment on whom we will not be
25 hearing from. At the standing hearing, I indicated that I

1 had contacted both Samantha Kematch and Wes McKay,
2 inquiring as to whether they wanted to seek standing to
3 participate in this inquiry. You will recall that they did
4 not want that opportunity. Several times, in the last
5 year, I have had occasion to write to Ms. Kematch, usually
6 in connection with seeking her consent to disclosure of
7 certain documents, and I have explored whether she would
8 willingly speak with me, purely on the subject of her
9 interactions with the child welfare system. She did not
10 indicate such a willingness and I have ultimately made the
11 determination that hearing evidence from either of Mr.
12 McKay or Ms. Kematch would not further the purposes of this
13 inquiry.

14 One of the acknowledged purposes of a public
15 inquiry such as this, is to promote healing and to restore
16 confidence in a publicly mandated institution such as the
17 child welfare system. My observation, from meeting with
18 witnesses, was that the very process of talking about these
19 matters has, itself, begun a healing process for them and I
20 have every confidence that under your guidance, Mr.
21 Commissioner, by the time all the evidence is heard, you
22 will provide a report that will set the stage for further
23 healing and for promoting the public's confidence in the
24 child welfare system.

25 Now, the terms of reference for this inquiry, as

1 we have identified, call for an investigation into certain
2 factual matters and that investigation necessarily leads to
3 other questions about Phoenix's life and death. How does
4 such a thing happen in our society? Who bears
5 responsibility for such a tragedy? And who should bear
6 responsibility?

7 As Commission Counsel, I have not formulated an
8 answer to any of these questions. My role has been to
9 gather the evidence and to put it before you without making
10 any predeterminations.

11 By your having granted standing to various
12 individuals and entities, you have ensured that a
13 multiplicity of perspectives were represented to adduce and
14 test the evidence before you and in that way, assist you to
15 make the necessary findings and recommendations. As we
16 hear evidence from the individual witnesses, you will, of
17 course, be considering that evidence in the context of
18 individual responsibility. But the facts also point to the
19 need for considering the evidence in a larger, contextual
20 framework.

21 A contextual framework, in this case, means the
22 following: First, we must be careful not to examine the
23 evidence with the benefit of hindsight, but rather to
24 examine the actions of each witness from the perspective of
25 the given point in time in which they acted.

1 Next, a contextual framework requires us to hear
2 evidence not only from the front line social workers, but
3 also from their supervisors and from other staff of the
4 agency, going all the way up the chain of command. It also
5 means looking at services delivered in the context of what
6 was happening in the agency from an organizational
7 perspective, at the time those services were delivered, and
8 in the context of changes that were occurring to the child
9 welfare system as a whole.

10 A contextual framework also means hearing not
11 just from Phoenix's immediate family, but also from other
12 family members and friends who had opportunities to
13 interact with Phoenix and her family.

14 And finally, a contextual framework means looking
15 at the community in which Phoenix and her family lived and
16 in which child welfare services were provided. Phoenix
17 Sinclair, of course, was more than just a client of the
18 child welfare system. If this inquiry is truly going to
19 make a difference to better protect Manitoba children,
20 children like Phoenix in particular, we must consider all
21 the circumstances which make such children vulnerable and
22 which put their safety and wellbeing at risk.

23 As I said in my remarks on July 24th, it has been
24 made clear to us, through investigations, that the child
25 welfare system alone cannot be expected to address the

1 underlying social conditions which lead children like
2 Phoenix into being in need of protection. This is
3 something that involves the responsibility of the entire
4 community. This is echoed in the message from the writers
5 of one of the reports which you must consider, the report
6 entitled: Honouring Their Spirits, where the authors say
7 that best intentions on the part of even the most skillful
8 workers will not be sufficient if those efforts are not
9 supported by the families of the children involved and the
10 community at large.

11 The most recent statistics from the Department of
12 Family Services and Labour show that over 9,000 children in
13 care, of the over 9,000 in care in Manitoba, over 8,000 of
14 them are aboriginal. The number of aboriginal children in
15 care in Manitoba is grossly disproportionate to the
16 representation of aboriginal people in the population of
17 the province generally. And so, in the third phase of
18 this inquiry, we will hear evidence as to why this is
19 the case and what steps can be taken to address this
20 situation.

21 We will hear from elders from the First Nations
22 community and from experts on the subject of the
23 overrepresentation of First Nations children in the child
24 welfare system. We will also hear evidence, sometimes
25 adduced through panels, sometimes from individuals, as to

1 the social conditions which pose challenges for families
2 like Phoenix's and which make those families vulnerable and
3 put their children at risk.

4 And we will hear evidence from community
5 agencies, as to the challenges those agencies face and
6 the successes they achieve in working with such
7 families.

8 We will also hear representatives from the
9 relatively new portfolio in government, the Department of
10 Children and Youth Opportunities, which I think will be of
11 great interest and assistance to you.

12 And we will hear from experts who have studied
13 outcomes for children, in terms of what steps we can take
14 to build community capacity and allow families and children
15 to flourish.

16 I recognize that the issues before you are
17 serious issues, which involve problems of longstanding.
18 But I would ask you, and members of the public, in
19 listening to the evidence you are about to hear, and in
20 contemplating the goals of this inquiry, not to be cynical.
21 It is sometimes an easy thing not to pay attention to these
22 matters, to assume that such issues do not affect us, but
23 these issues do affect every one of us. We must all take
24 responsibility for the community in which we live and in
25 particular, for the wellbeing of the children in that

1 community.

2 The renowned American philosopher, Martha
3 Nussbaum, in her book, entitled *Upheavals of Thought: The*
4 *Intelligence of Emotions*, says that there is general
5 agreement that we are usually too narrow in our sympathies.
6 Throughout her book, she urges that we would be a healthier
7 society if we, as citizens, used compassion in
8 understanding catastrophes of many sorts. Compassion, she
9 says, allows us to recognize that problems in society are
10 shared problems. It leads to empathy and better
11 understanding, thereby enabling a community to meet its
12 responsibilities.

13 I have stressed the need for openness in the
14 approach to considering the evidence. I would add to that
15 the need to maintain a sense of compassion for all the
16 witnesses whose evidence we are about to hear. By the end
17 of this inquiry, Mr. Commissioner, I hope you will be well
18 placed to fulfill your mandate to make recommendations to
19 better protect Manitoba children and so the life and death
20 of Phoenix Sinclair will have served as a catalyst for real
21 and effective change.

22 Those are my opening remarks, Mr. Commissioner.

23 I have a few other procedural matters that I want
24 to address.

25 THE COMMISSIONER: Well, I thank you for that

1 background, it, I think it sets the stage for what we're
2 about here and it, it's going to be a, take us considerable
3 time to work through all the evidence, but you've laid it
4 out in the order in which it will come and we're all here
5 to participate and, and reach the goal that's been given to
6 us. Thank you.

7 MS. WALSH: So the, at the public hearings, the
8 Commission will sit from 9:30 to noon and 1:30 to 4:30.
9 And with the indulgence of the clerk, we'll stay until five
10 o'clock, on occasion, when necessary, if it means that we
11 can finish with a given witness' evidence, or a counsel's
12 line of questioning.

13 I will not be asking for an order excluding
14 witnesses. Subject to the provisions of the source of
15 referral protocol, which I will discuss in a minute, any
16 and all members of the public are welcome to attend any
17 session of the hearing.

18 Now, the SOR protocol should be on the table in
19 front of you. You'll find a document entitled: Media and
20 Communications Protocol for Public Hearings Respecting
21 Witnesses Classified as Sources of Referral --

22 THE COMMISSIONER: Yes.

23 MS. WALSH: -- an SOR Protocol.

24 THE COMMISSIONER: Oh yes, I, I have it here.
25 Yes.

1 MS. WALSH: You've got that?

2 THE COMMISSIONER: Yes, I have.

3 MS. WALSH: So, pursuant to the ruling that you
4 made on July the 12th, regarding the testimony of witnesses
5 who are identified as sources of referral, or informants,
6 to use the language of the Child and Family Services Act,
7 these witnesses are entitled to certain confidentiality
8 protections when they testify. The SOR protocol has been
9 provided to all counsel and to the media. It should be
10 posted on the Commission's website and on the doors to the
11 hearing room. And I understand that copies of it are also
12 available at the back of the room.

13 Essentially, what the protocol provides is that
14 when such a witness is sworn in, the only people who will
15 be present in the hearing room will be you, Commission
16 counsel and counsel for the witness, then counsel and the
17 public, including the media, will be allowed back into the
18 room to hear the witness' testimony.

19 The witness is entitled to elect to testify via
20 video link, in which case you will be the only person to
21 actually see the witness' image on your monitor. The rest
22 of us will hear the witness and the witness will hear and
23 be able to answer counsel's questions and any questions you
24 might have.

25 Any form of publication, broadcasting, or

1 otherwise communicating, by any means, the name, face or
2 identity of any source of referral is prohibited. Video
3 recording and broadcasting of the testimony of any SOR is
4 also prohibited.

5 Section 7 of the protocol says that audio
6 recording and broadcasting of the testimony of any SOR is
7 prohibited, with the following exceptions: Members of the
8 media may record the testimony only for the purpose of
9 ensuring accuracy in reporting and the Commission may
10 record the testimony to have transcripts produced and may
11 make audio recordings available to Commission Counsel and
12 counsel for parties and/or witnesses. Live streaming of
13 the testimony of any SOR is prohibited and of course, the
14 protocol is subject to change, from time to time, as you
15 may order.

16 And we will be hearing from counsel for one of
17 the SORs momentarily in that regard.

18 One other comment regarding information of a
19 confidential nature. It may be that, from time to time,
20 during the course of the proceedings, a witness or counsel
21 makes reference to information which, again, based on your
22 ruling of July 12th, is of a confidential nature and should
23 not be in the public realm, for example, the name of a
24 child whose identity is not relevant to these proceedings.
25 If that happens, I expect that either I or my colleague

1 will rise to indicate to the media and the public that the
2 information was inadvertently disclosed and that it should
3 remain confidential.

4 Any questions on any of that, Mr. Commissioner?

5 THE COMMISSIONER: No, I -- you've made copies
6 available and I expect it, the, the provisions of that
7 protocol to be respected. If anybody, media or otherwise,
8 has any questions about its meaning and what its boundaries
9 are, they're certainly entitled to speak to Commission
10 Counsel, when we have a break, to have that clarified. But
11 there's a good reason for the confidentiality provision
12 being there. These people are, in, in, in the terms of, of
13 the legal language, informants of a sort and they're
14 entitled to the benefit of, of that protection, in order
15 for us to hear what it is they have to say. And so I think
16 it's clear what's been laid out, what can be done and
17 what can't be done and I expect it to be respected
18 throughout.

19 MS. WALSH: Thank you. I'll just take a minute,
20 before we tender the next set of exhibits, and start
21 calling our first witness. Counsel for the witness known
22 as SOR #1 asked to speak to you briefly, Ms. Vivian
23 Rachlis.

24 THE COMMISSIONER: Good morning --

25 MS. RACHLIS: Morning --

1 THE COMMISSIONER: -- counsel.

2 MS. RACHLIS: -- Mr. Commission. Just to follow
3 up on the remarks made just a moment ago by Commission
4 Counsel, I, you'll recall from my remarks in July, when I
5 appeared before you on a publication ban matter, that I
6 represent five individuals who have been identified as
7 being witnesses in this matter. Three of them are referred
8 to -- were designated, long my involvement, as sources of
9 referral or SORs. Two of them -- the three SORs that I
10 represented seek a publication ban and I spoke briefly in
11 connection with that matter in July. I also represent two
12 other individuals who did, were included in the notice of
13 motion that we filed and you denied the publication ban
14 with respect to those two witnesses who have never been
15 designated as sources of referral.

16 In the -- leading up to the beginning of the
17 inquiry today, I have had some conversations with
18 Commission Counsel and the inquiry, the Commission office
19 as to the, the specific logistics regarding the appearances
20 of the three sources of referral that I represent. And
21 the, the -- I was advised by Commission Counsel last week
22 of what she referred to a moment ago as, as the election
23 that's available to the sources of referral.

24 When I appeared before you in July, I indicated
25 that, that we were placing ourselves into your, in your

1 hands. My -- the individuals I represent have no status in
2 this proceeding at all, no legal status in this proceeding.
3 They are witnesses. I indicated, at that time, that they
4 were not specifically seeking to give evidence outside of
5 this room. Last week, I was advised by Commission Counsel
6 that that is a, an election that has always been available
7 to them and remains available to them.

8 I have not been able to secure instructions from
9 two of the SORs that I represent, given the vacation
10 periods and I did, I, I have had, with some difficulty,
11 I've made contact with the individual that's known as SOR
12 #1 and there's some urgency to it, obviously, because this
13 individual's scheduled to testify tomorrow, Mr.
14 Commissioner.

15 What she has indicated to me, as recently as last
16 evening, is that -- and I hope this doesn't cause you any
17 difficulty, that she, she recognizes that she is a witness.
18 She is under subpoena. She's coming forward to this
19 inquiry and she really wants you to decide what's
20 appropriate, in terms of, in terms of her appearance. If
21 that is an election that remains -- that has always been
22 available and remains available to her, she's indicated
23 that she would elect to give evidence by video link, if
24 that's a logistical arrangement that you feel flows from
25 your order. But I, my -- that individual has, has

1 instructed me to, to continue to take the position with you
2 that she feels that, that the management of these
3 proceedings really are in your hands and that she will do
4 your bidding.

5 THE COMMISSIONER: But her request is that she
6 appear in this room via video link?

7 MS. RACHLIS: If she's, if she is -- she's
8 indicated to me that if this is an election that is being
9 given to her, she would choose to give evidence by video
10 link.

11 THE COMMISSIONER: And, and her evidence is
12 scheduled for tomorrow?

13 MS. RACHLIS: Yes, sir.

14 THE COMMISSIONER: Can that be arranged for
15 tomorrow, Commission Counsel?

16 MS. WALSH: My understanding is that Ms. Ewatski
17 has made those arrangements, so --

18 THE COMMISSIONER: All right. If that --

19 MS. WALSH: -- absolutely.

20 THE COMMISSIONER: -- if that is the wish of the,
21 of the witness, that's the way it'll be. She will appear
22 by video link. And as I understand it, what she says will
23 be -- the, the audio of her remarks will be fully available
24 to those in attendance.

25 MS. RACHLIS: All right. Now, sir, with respect

1 to the other two SORs that I represent, as I indicated a
2 moment ago, I haven't been able to secure instructions. So
3 I guess what I need some direction from, from you on is
4 whether that is a matter that I need to continue to come
5 before you on, or whether you consider that to be an
6 administrative matter that I can deal with Commission
7 staff?

8 THE COMMISSIONER: The latter is satisfactory.

9 MS. RACHLIS: All right. Thank you.

10 Thank you.

11 MS. WALSH: All right. Before we commence with
12 the first witness, I want to tender a number of exhibits.
13 The first is the Exhibit 8. It's called a Child and Family
14 Services Act and Mandate of Agencies.

15 THE CLERK: Exhibit number 8.

16 THE COMMISSIONER: Thank you.

17

18 **EXHIBIT 8: CHILD AND FAMILY**
19 **SERVICES ACT AND MANDATE OF**
20 **AGENCIES**

21

22 MS. WALSH: These are exhibits, Mr. Commissioner,
23 that we are going to go through in some detail with, with
24 the witness today.

25 The next exhibit is an organizational chart

1 entitled: Child and Family Service System Accountability
2 Relationships, for the period 2000 to 2003.

3 THE COMMISSIONER: Exhibit 9.

4 THE CLERK: Yes, Exhibit 9.

5

6 **EXHIBIT 9: ORGANIZATIONAL CHART**
7 **ENTITLED CHILD AND FAMILY SERVICE**
8 **SYSTEM ACCOUNTABILITY**
9 **RELATIONSHIPS, FOR THE PERIOD 2000**
10 **TO 2003**

11

12 MS. WALSH: And then a document entitled:
13 Aboriginal Justice Inquiry Child Welfare Initiative
14 (AJICWI). And that would be Exhibit 10.

15 THE COMMISSIONER: Exhibit 10.

16 THE CLERK: Exhibit 10.

17

18 **EXHIBIT 10: ABORIGINAL JUSTICE**
19 **INQUIRY CHILD WELFARE INITIATIVE**
20 **(AJICWI)**

21

22 MS. WALSH: And then an organizational
23 chart entitled Child and Family Service System
24 Accountability Relationships for the Period 2004 to the
25 current.

1 THE COMMISSIONER: That's Exhibit 11?

2 THE CLERK: Yes, Exhibit 11.

3

4 **EXHIBIT 11: ORGANIZATIONAL CHART**
5 **ENTITLED CHILD AND FAMILY SERVICE**
6 **SYSTEM ACCOUNTABILITY**
7 **RELATIONSHIP, FOR THE PERIOD 2004**
8 **TO CURRENT**

9

10 MS. WALSH: And then we have a document entitled:
11 Brief Synopsis of Child Welfare Services in the City of
12 Winnipeg. That will be Exhibit 12.

13 THE COMMISSIONER: Exhibit 12.

14 THE CLERK: Exhibit 12.

15

16 **EXHIBIT 12: BRIEF SYNOPSIS OF**
17 **CHILD WELFARE SERVICES IN THE CITY**
18 **OF WINNIPEG**

19

20 MS. WALSH: And then a document entitled:
21 Program Description - Winnipeg Child and Family Services.
22 And that will be Exhibit 13.

23 THE COMMISSIONER: Thirteen. Have your counsel,
24 have, have other counsel had the opportunity of seeing this
25 documents prior to today?

1 MS. WALSH: Yes, they have, Mr. Commissioner.

2

3 **EXHIBIT 13: PROGRAM DESCRIPTION -**
4 **WINNIPEG CHILD AND FAMILY SERVICES**

5

6 MS. WALSH: Next exhibit is a document entitled:
7 Admission as to Facts from, made by the Department of
8 Family Services and Labour. This is not a document that we
9 will be referring to specifically today, but we will be
10 referring to the evidence that is admitted in this document
11 throughout the proceedings.

12 THE COMMISSIONER: Exhibit 14.

13 THE CLERK: Exhibit 14.

14

15 **EXHIBIT 14: ADMISSION AS TO FACTS**
16 **MADE BY THE DEPARTMENT OF FAMILY**
17 **SERVICES AND LABOUR**

18

19 MS. WALSH: And finally, Mr. Commissioner,
20 Exhibit 15 is a document which sets out the chain of
21 command showing the various employees of Winnipeg Child and
22 Family Services who delivered services to Phoenix Sinclair
23 and her family.

24 THE COMMISSIONER: Exhibit 15.

25

1 **EXHIBIT 15: CHAIN OF COMMAND FOR**
2 **WINNIPEG CHILD AND FAMILY SERVICES**
3 **EMPLOYEES WHO DELIVERED SERVICES**
4 **TO PHOENIX SINCLAIR AND HER FAMILY**

5

6 MS. WALSH: And these documents were prepared by
7 the Department of Family Services and Labour with their
8 counsel and yes, all of the counsel today have -- or
9 parties and intervenors, have been provided with copies of
10 this evidence.

11 So unless you have any questions, we're ready to
12 call our first witness.

13 THE COMMISSIONER: All right. Now, with respect
14 to that witness, will all of these documents you've filed
15 this morning be referenced, or?

16 MS. WALSH: Not the last two. So --

17 THE COMMISSIONER: All right.

18 MS. WALSH: -- Exhibits 8 through 13.

19 THE COMMISSIONER: Will, will have some reference
20 to, with respect to this witness?

21 MS. WALSH: They will, and in that order.

22 THE COMMISSIONER: All right. Just let me get
23 them. And 15, is that, will that be referenced?

24 MS. WALSH: Today?

25 THE COMMISSIONER: Yes.

1 MS. WALSH: No, I don't think so.

2 THE COMMISSIONER: All right.

3 MS. WALSH: Eight through 13. Did you want to
4 take a break at this point?

5 THE COMMISSIONER: No, I think we'll take half an
6 hour of evidence and then we'll take our mid-morning break.

7 MS. WALSH: Okay. Thank you.

8 THE COMMISSIONER: Unless anyone else has any
9 preliminary matters they want to deal with?

10 All right. Hearing none, we're ready to have the
11 witness.

12 MS. WALSH: All right. So we're calling Ms.
13 Alana Brownlee.

14 THE CLERK: Is it your choice to swear on the
15 Bible, or affirm without the Bible?

16 THE WITNESS: With the Bible.

17 THE CLERK: Take the Bible in your right hand.
18 State your full name for the court.

19 THE WITNESS: Alana Smith Brownlee.

20 THE CLERK: And just spell me your first name?

21 THE WITNESS: A-L-A-N-A.

22 THE CLERK: And the middle name please?

23 THE WITNESS: Smith, S-M-I-T-H.

24 THE CLERK: And your last name?

25 THE WITNESS: Brownlee, B-R-O-W-N-L-E-E.

1 THE CLERK: Thank you.

2

3 **ALANA SMITH BROWNLEE**, sworn,

4 testified as follows:

5

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

7 MS. WALSH: Good morning, Ms. Brownlee.

8 THE WITNESS: Good morning.

9 MS. WALSH: You can hear me all right, see me

10 all --

11 THE WITNESS: Yeah.

12 MS. WALSH: -- right?

13 THE WITNESS: Yes.

14 MS. WALSH: You're our first witness, so we're

15 testing the, the seat.

16 THE WITNESS: Okay.

17 MS. WALSH: And you, your monitor's functioning

18 in front of you?

19 THE WITNESS: Yes.

20 MS. WALSH: Good. All right.

21

22 EXAMINATION BY MS. WALSH:

23 Q You are currently employed as the chief executive
24 officer of Winnipeg Child and Family Services; right?

25 A Yes, that's correct.

1 Q And that is an agency which delivers child
2 welfare services to children and families in the city of
3 Winnipeg?

4 A Yes.

5 Q And you have been in that position since July
6 2011; so just over a year?

7 A Yes.

8 Q And I understand that you are going to give us
9 information today which will provide background and context
10 for the evidence that we are going to hear over the next
11 few months, including helping us to understand many of the
12 terms and processes that we're going to hear discussed?

13 Just for a bit of your own background, in terms
14 of your education, you have a Bachelor of Social Work from
15 the University of Manitoba that you obtained in 1989?

16 A Yes.

17 Q And you received your Masters of Social Work from
18 the University of Manitoba --

19 A Yes.

20 Q -- in 1998?

21 A Yes.

22 Q And in terms of your work experience, you have
23 been employed by Winnipeg Child and Family Services Central
24 for the period 1989 to 2000, in a variety of capacities?

25 A Until 2005, I believe.

1 Q All right. You, you have been employed as a
2 Family Services social worker?

3 A Oh, that was, yes, that was from '89 to 2000.

4 Q Okay. And as an abuse treatment service
5 coordinator and a supervisor for the family reunification
6 program?

7 A Yes.

8 Q Okay. And I believe you also participated in,
9 with management and staff, in the restructuring of the
10 agency as it moved to a program-based service delivery
11 system?

12 A Yes, that's correct.

13 Q And we're going to hear more about that from you.
14 And then, from my reading of your CV --

15 A Yeah.

16 Q -- from 2000 to 2005, you were employed by the
17 Department of Family Services, in the Child Protection
18 Branch, as a provincial investigations coordinator?

19 A Oh, okay, yes, correct.

20 Q Okay.

21 A Had my dates off.

22 Q No problem. I also understand that you
23 participated in the development of provincial standards,
24 regulations, protocols and consulted on the development of
25 legislative amendments to the Child and Family Services

1 Act?

2 A Yes.

3 Q And you've been a member of two Aboriginal
4 Justice Inquiry child welfare initiative committees?

5 A Yes.

6 Q And then from 2006 until March of 2011, before
7 taking your current position, you were the executive
8 director of the Métis Child and Family Community Service
9 Agency?

10 A That's correct.

11 Q Now, it's already been made a matter of public
12 record, through counsel for the department last June, or
13 June of 2011, that child welfare services were delivered by
14 the agency called Winnipeg Child and Family Services, to
15 Phoenix and her family, for the period 2000 to 2005. So
16 with that in mind, I'm going to ask you to outline the
17 following information for us today, to give us some
18 background. First, I'm going to ask you to identify for
19 us, briefly, what the mandate of the child welfare system
20 is currently and what it was during the time that Phoenix
21 and her family received services.

22 Next, I'm going to ask you to explain an
23 organizational chart which outlines the family, Child and
24 Family Services system as a whole, in terms of its
25 accountability relationships, for the period 2000 to 2003.

1 And then, I'm going to ask you to give us a brief
2 description of the Aboriginal Justice Inquiry Child Welfare
3 Initiative, or the process that has become known as
4 devolution. And devolution, we know, changed the
5 government's accountability structure of the Child and
6 Family Service system after 2003 and so I'm going to have
7 you walk us through the organizational chart for the
8 system, as it looked from 2004 to the present.

9 And then you and your lawyer have prepared a
10 brief synopsis of the child welfare services in the city of
11 Winnipeg and in particular, a description of the various
12 organizational changes that the agency has undergone,
13 starting from the 1980s, right up until the end of 2005,
14 when services were last delivered to Phoenix and her
15 family. That's Exhibit 12.

16 And finally, I'm going to ask you to walk us
17 through a brief description of the types of services the
18 agency delivered during the period that Phoenix and her
19 family were clients of the agency. And that's set out in
20 your document, which we've marked as Exhibit 13.

21 So starting with the mandate of the child welfare
22 system, Exhibit 8, which you've got in front of you, on the
23 screen, is a document that was prepared by the department,
24 together with counsel, called the Child and Family Services
25 Act and Mandate of Agencies. Briefly, can you tell --

1 THE COMMISSIONER: Is there a date, is there a
2 date on that document?

3 MS. WALSH: I believe that all of these documents
4 were prepared recently, for the purposes of assisting this
5 inquiry, Mr. Commissioner.

6 THE COMMISSIONER: Oh, oh, I, I didn't understand
7 that. Okay.

8

9 BY MS. WALSH:

10 Q Is that fair to say?

11 A Yes, that's correct.

12 MS. WALSH: Okay.

13 THE COMMISSIONER: So it's a recent document?

14 THE WITNESS: Yes, I think this one --

15 MS. WALSH: Yes.

16 THE WITNESS: -- actually, we just prepared in
17 the last couple of weeks.

18 THE COMMISSIONER: Fine, thank you.

19 MS. WALSH: Yes --

20 THE COMMISSIONER: All right. That's fine.

21 MS. WALSH: -- counsel for the department has
22 been working closely with our office to try and put
23 together the information that you see in, in Exhibits 8
24 through 13, specifically to assist you and, and everyone
25 here on this first day.

1 THE COMMISSIONER: I understand. Thank you.

2

3 BY MS. WALSH:

4 Q So can you tell us briefly, what is the mandate
5 of the child welfare system?

6 A The mandate is essentially to provide services to
7 children and families, in order to, to support and ensure
8 the safety of children, while still strengthening families
9 and their capacity to parent and provide appropriate
10 nurturing care to their children. The safety of children
11 is really ensured through the, through the Act, through
12 the, giving the ability of agencies to conduct abuse
13 investigations, or child protection investigations when
14 children are considered possibly in need of protection.
15 The Act provides an emphasis on the safety and security and
16 wellbeing of children, while still highlighting the
17 importance of strengthening families and trying to maintain
18 the parent-child familial relationship wherever possible.
19 The Act provides a broad range of services that agencies
20 can provide, such as prevention, early intervention,
21 protection, permanency planning services, as well as
22 adoption services.

23 Q Can I ask you to move your mic, microphone a
24 little closer to you? Sorry to interrupt you.

25 A I'm short, so, okay, is that better?

1 Q Yes, much --

2 A Okay.

3 Q -- thank you.

4 A The Act also allows for the provision of both
5 voluntary, as well as involuntary services.

6 Q Okay. So let's go through that legislation more
7 specifically. Now, the mandate that you've just described,
8 was it the same during the period in which Phoenix and her
9 family received services, from the period 2000 to
10 2005?

11 A It would essentially be the same. There was some
12 minor changes that were related more to emphasis, than to
13 an actual change in, in the Act itself.

14 Q Okay. So let's actually just look at what that
15 change that you're referring to is. If you go to -- we're
16 on Exhibit 8, schedule A, page 3. So the Child and Family
17 Services Act starts off with a declaration of principles
18 and that's always been the case; right?

19 A Yes.

20 Q And what we have in front of us, schedule A, is
21 what the Act looked like during the time that Phoenix
22 received services. And the first principle, under the
23 declaration of principles, reads:

24

25 "The best interests of children

1 are a fundamental responsibility
2 of society."

3

4 And then I understand that the wording of that
5 first principle changed in 2008 and the new wording is
6 reflected in schedule C, page 5 of Exhibit 8.

7 And so now, as of 2008 and currently, the first
8 principle reads:

9

10 "The safety, security and well-
11 being of children and their best
12 interests are fundamental
13 responsibilities of society."

14

15 So is that the change that you were referring to?

16 A Yes, that is the change. It was a change made
17 related to placing a higher emphasis on the safety,
18 security and wellbeing of children. I think that within
19 the context of the best interests of a child, that was
20 always implied, and it certainly was implied and emphasized
21 in other aspects of the Act. But this change was made to,
22 again, emphasize that safety and security should be a
23 primary principle of the Act.

24 Q Okay. Thank you. And then there are some 11
25 other principles in that declaration of principles and they

1 have remained the same from the time that Phoenix received
2 services to the current date?

3 A Yes.

4 Q And so they include that:

5

6 "2. The family is the basic unit
7 of society and its well-being
8 should be supported and preserved.

9

10 3. The family is the basic source
11 of care, nurture and acculturation
12 of children and parents [and
13 parents] have the primary
14 responsibility to ensure the well-
15 being of their children.

16

17 4. Families and children have the
18 right to the least interference
19 with their affairs to the extent
20 compatible with the best interests
21 of children and the
22 responsibilities of society.

23

24 5. Children have a right to a
25 continuous family environment in

1 which they can flourish.

2

3 6. Families and children are
4 entitled to be informed of their
5 rights and to participate in the
6 decisions affecting those rights.

7

8 7. Families are entitled to
9 receive preventive and supportive
10 services directed to preserving
11 the family unit.

12

13 8. Families are entitled to
14 services which respect their
15 cultural and linguistic heritage.

16

17 9. Decisions to place children
18 should be based on the best
19 interests of the child and not on
20 the basis of the family's
21 financial status.

22

23 10. Communities have a
24 responsibility to promote the best
25 interests of their children and

1 families and have the right to
2 participate in services to their
3 families and children.

4

5 And finally:

6

7 "11. Indian bands are entitled to
8 the provision of child and family
9 services in a manner which
10 respects their unique status as
11 aboriginal peoples."

12

13 And then, according to Exhibit 8, you say that
14 child welfare services are further guided by the principle
15 of the best interests of the child and that's found on
16 schedule D, page 7?

17 And again:

18

19 "... in determining best interests
20 the child's safety and security
21 shall be the primary
22 considerations."

23

24 So this, I understand, was amended to read this
25 way when the first principle was amended to emphasize

1 safety, security and wellbeing?

2 A Yes, that was amended as well in June 2008.

3 Q Okay.

4 THE COMMISSIONER: Just where is that amendment?

5 MS. WALSH: Section 2(1):

6

7 "The best interests of the child
8 shall be the paramount
9 consideration of the director ..."

10

11 Et cetera.

12

13 "... and in determining best
14 interests the child's safety and
15 security shall be the primary
16 considerations."

17

18 THE COMMISSIONER: And you're looking at schedule
19 what?

20 MS. WALSH: D.

21 THE COMMISSIONER: D?

22 MS. WALSH: Schedule D, page 7.

23 THE COMMISSIONER: Where are those pages
24 numbered? I don't think they are.

25 MS. WALSH: The exhibit itself might not be

1 numbered, Mr. Commissioner. It is appearing on your screen
2 and we can make sure that they are numbered for you.

3 THE COMMISSIONER: No, I, that's fine -- oh, the
4 schedule D, yeah, all right. That's, that's fine. I, I,
5 I'm, I, I'm with you now.

6 MS. WALSH: Okay.

7 THE COMMISSIONER: Carry on.

8

9 BY MS. WALSH:

10 Q And then the legislation, in talking about best
11 interests, goes on to say that after:

12

13 "... safety and security [being]
14 the primary considerations. After
15 that, all other relevant matters
16 shall be considered ..."

17

18 And they include:

19

20 "(a) the [children's] opportunity
21 to have a parent-child
22 relationship as a wanted and
23 needed member within a family
24 structure;

25

1 (b) the mental, emotional,
2 physical and educational needs of
3 the child and the appropriate care
4 or treatment, or both, to meet
5 such needs;

6
7 (c) the child's mental, emotional
8 and physical stage of development;

9
10 (d) the child's sense of
11 continuity and need for permanency
12 with the least possible
13 disruption;

14
15 (e) the merits and the risks of
16 any plan proposed by the agency
17 that would be caring for the child
18 compared with the merits and the
19 risks of the child returning to or
20 remaining within the family;

21
22 (f) the views and preferences of
23 the child where they can [be]
24 reasonably ... ascertained;

25

1 (g) the effect upon the child of
2 any delay in the final disposition
3 of ... proceedings; and

4
5 (h) the child's cultural,
6 linguistic, racial and religious
7 heritage."

8
9 So, as I understand it, these are all matters
10 which should be taken into account by child welfare
11 agencies, when they are delivering services to families and
12 children?

13 A Yes, those are all factors that should be taken
14 into consideration when you're planning for children
15 and you're looking at their best interests. The change in
16 the legislation, previously, there was no weighting to
17 any of the factors, you took them all into consideration.
18 The change in the legislation in June 2008 placed
19 safety and security as the primary consideration and
20 the factor that had to be considered first and foremost,
21 before any of the other factors are taken into
22 consideration.

23 Q Thank you. And then at Section 7 of the
24 legislation, schedule F to Exhibit 8, page 11 -- so we're
25 on schedule F, Mr. Commissioner.

1 THE COMMISSIONER: Thank you. I have it.

2

3 BY MS. WALSH:

4 Q The Act sets out the duties of agencies and it
5 lists 18 duties. I'll just go over a few of them. So:

6

7 "(a) work with other human service
8 systems to resolve problems in the
9 social and community environment
10 likely to place children and
11 families at risk;

12

13 (b) provide family counselling,
14 guidance and other services to
15 families for the prevention of
16 circumstances requiring the
17 placement of children in
18 protective care or in treatment
19 programs;

20

21 (c) provide family guidance,
22 counselling, supervision and other
23 services to families for the
24 protection of children;

25

1 (d) investigate allegations or
2 evidence that children may be in
3 need of protection;

4

5 (e) protect children;

6

7 (f) develop and provide services
8 which will assist families in re-
9 establishing their ability to care
10 for their children;"

11

12 And:

13

14 "(g) provide care for children in
15 its care;"

16

17 Now, I understand that the Act is divided into
18 parts and I think you alluded to that earlier. So Part II
19 discusses voluntary services, which the system provides;
20 what does that mean?

21 A Voluntary services are designed to support
22 families and work with families prior to their being an
23 identified protection risk.

24 So it's trying to support families if they're
25 going through some issues, or if they just require some

1 additional support that they're not able to get from their
2 own support network. And it's intended to be preventative
3 in nature and to support families to maintaining as high
4 level of, of functioning apacity (phonetic), capacity as
5 they, as possible, to provide care to their children. So
6 it's, again, voluntary families are the ones making the
7 referrals themselves, seeking assistance and support
8 services.

9 Q Okay. And then Part III of the Act is entitled:
10 Child Protection; can you please explain to us what that
11 refers to?

12 A Child protection refers to the mandated services,
13 or involuntary services. So these would be services that
14 the family's required to receive as a result of either an
15 abuse investigation, or a child being considered in need of
16 protection. So those would be the services that we would
17 be providing to, to reduce risk factors related to the
18 family's ability to provide care. The child may be brought
19 into the care of the agency, as a result of the concerns
20 that have been identified.

21 Q Okay. So you've referred to a child being in
22 need of protection and that's at Section 17 of the Act,
23 which is found at page 9 of Exhibit 8, schedule E.

24 THE COMMISSIONER: Yes, I have it.

25

1 BY MS. WALSH:

2 Q So, and that, we see, is under Part III, and
3 Section 17(1) says that:

4

5 "For purposes of this Act, a child
6 is in need of protection where the
7 life, health or emotional well-
8 being of the child is endangered
9 by the act or omission of a
10 person."

11

12 So, can you give us an example of, of when a
13 child would be in need of protection?

14 A A child can be considered in need of protection
15 primarily through either the environment in which the child
16 is being cared for, the conduct of the parent, the conduct
17 of the child, or the supervision that's being provided to
18 the child. And then Section 17 outlines, actually, very
19 specific examples, such as the act or omission:

20

21 "... whose conduct endangers or
22 might endanger the life, health
23 or emotional well-being of the
24 child ..."

25

1 The Act provides for the, the fact that there is
2 the ability to investigate and intervene when a child is in
3 need of protection, gives the Act a broader range of
4 ability to ensure child safety. It covers areas that
5 aren't covered under the definitions of abuse and gives you
6 a broader array of maltreatment issues in which the agency
7 has an ability to intervene, to ensure child safety.

8 Q Okay. And so, for instance, and as you've
9 pointed out, Section 17(2) gives illustrations of when a
10 child is in need. And so (a) is:

11

12 "... where the child ... is
13 without adequate care, supervision
14 or control;"

15

16 (C) reads:

17

18 "... is abused or is in danger of
19 being abused, including where the
20 child is likely to suffer harm or
21 injury due to child pornography;"

22

23 (E) :

24

25 "... is likely to suffer harm or

1 injury due to the behaviour,
2 condition, domestic environment or
3 associations of the child or of a
4 person having care, custody,
5 control or charge of the child;"

6

7 Now, the Act has obligations with respect to
8 reporting a child who is in need of protection; right?

9 A Yes.

10 Q And so that's at Section 18, which is at page 10
11 of Exhibit 8.

12 THE COMMISSIONER: Yes.

13

14 BY MS. WALSH:

15 Q Section 18(1) says that:

16

17 "... where a person has
18 information that leads the person
19 reasonably to believe that a child
20 is or might be in need of
21 protection as provided in
22 [the previous section], the person
23 shall forthwith report
24 the information to an agency or to
25 a parent or guardian of the

1 child."

2

3 Now, is it fair to say that, in Manitoba,
4 everyone has a legal obligation to identify and report a
5 child who they reasonably believe is, or might be, in need
6 of protection?

7 A Yes, that's true.

8 Q Okay. And that obligation applies even where the
9 person has acquired the information in the course of their
10 professional duties?

11 A Yes, the only exception to the professional
12 duties is where the information's been obtained through a
13 solicitor-client privilege. Otherwise, all professions
14 have a duty and obligation to report.

15 Q Okay. So that describes the mandate of the child
16 welfare system in the briefest of terms; is there anything
17 that you want to add?

18 A The only thing would probably be that just we
19 didn't cover the definition of abuse.

20 Q Sure --

21 A We talked about child --

22 Q -- let's look at that.

23 A -- in need of protection --

24 Q The definition of abuse can be found at page 6 of
25 Exhibit 8, schedule C.

1 A So the definition of abuse --

2 Q Schedule C, hang on, we don't have -- page 6.

3 Here it is. So the definition section says, in this Act:

4

5 "'abuse' means an act or omission

6 by any person where the act or

7 omission results in

8

9 (a) physical injury to the child,

10

11 (b) emotional disability of a

12 permanent nature in the child or

13 is likely to result in such a

14 disability, or

15

16 (c) sexual exploitation of the

17 child with or without the child's

18 consent;"

19

20 A Yes.

21 Q Did you want to elaborate on that?

22 A I just felt it was important because the, the two

23 primary areas in which the agency gets involved with family

24 is under Part III of the Act, is related to either the

25 definition of abuse, or a child being considered in need of

1 protection. So I thought those should be elaborated on,
2 just so everyone's clear on the two, two areas in which
3 agencies have a mandate to provide service.

4 Q Okay. And that's under the mandatory section of
5 the Act, Part III?

6 A Yes.

7 Q Okay. Thank you. So then other than the changes
8 that you walked us through regarding the, the wording in
9 the first principle of the declaration of principles and
10 the definition of best interests to emphasize safety and
11 security, and those changes took place in, those amendments
12 took place in 2008, is it fair to say the mandate of the
13 system has not changed from the period in which Phoenix and
14 her family received services to the current date?

15 A That's correct.

16 MS. WALSH: Okay. Any questions on this area,
17 Mr. Commissioner?

18

19 BY MS. WALSH:

20 Q Okay. The next exhibit I want you to look at is
21 the organizational chart, Exhibit 9, entitled: Child and
22 Family Service System Accountability Relationships, for the
23 period 2000 to 2003.

24 So on the right hand side, at the top, is a key
25 which shows how to read the chart. So it shows that a

1 solid line denotes reporting and accountability
2 relationship, a large broken line denotes accountability
3 relationship only and a small dotted line denotes an
4 advisory relationship. And then a downward arrow denotes
5 statutory authority to mandate agency?

6 A Yes.

7 Q So let's deal with the definition of, of some of
8 that. What does a reporting and accountability
9 relationship mean?

10 A Essentially, for this chart, reporting
11 relationships really are defining a employer-employee
12 relationship. Whereas the accountability relationships are
13 defining an oversight relationship, where there is an
14 obligation to be -- where you're responsible for the
15 services you're delivering.

16 Q Okay. And the significance of the downward
17 arrow, which denotes statutory, statutory authority to
18 mandate an agency, what does that mean?

19 A That's demonstrating who has the authority to, to
20 give an agency a mandate to administer and deliver child
21 and family services in a specific jurisdiction.

22 Q Okay. So, starting at the top of the chart,
23 Exhibit 9, we begin with the legislature. And then there's
24 an accountability relationship to the office of the
25 Children's Advocate; can you explain what that relationship

1 is?

2 A Legislative assembly appoints the child advocate
3 and the child advocate is required to submit annual reports
4 related to the, to the duties and responsibilities and the
5 work they've accomplished in, in every year, to legislative
6 assembly.

7 Q Okay. And then below the legislature, you have a
8 reporting and accountability relationship from the
9 minister, of what was then known as Family Services and
10 Housing, and then that department was further divided into
11 two divisions: Child and Family Services and Community
12 Living?

13 A Yes.

14 Q Okay. And the Child and Family Services division
15 was responsible for the child protection and support
16 services and included the director of child welfare?

17 A Yes.

18 Q Okay. And then can you tell me, during this
19 period, 2000 to 2003, what was the role of the director of
20 child welfare?

21 A The role of the director was to enforce and enact
22 the provisions of the Act, to advise the minister on
23 services and issues related to child and family services.
24 They had an oversight role related to all of the child and
25 family service agencies and were required to establish

1 standards of practice and ensuring that agencies were
2 following and delivering services consistent with those
3 standards of practice. They were responsible for
4 delivering, or providing -- setting the annual budget, as
5 well as providing child maintenance and operational funding
6 to the agencies. They would provide, ensure development of
7 placement resources. And then they had direct service
8 responsibility related to licensing of residential child
9 care placements, hearing appeals relating to foster home
10 licensing and maintenance of the central adoption registry,
11 as well as the Child Abuse Registry.

12 Q Okay. And then we see there are 18 agencies
13 which were, which reported to and were accountable to the
14 director of child welfare?

15 A Yes.

16 Q And in terms of the agencies that existed during
17 this timeframe, we note, for example, Intertribal Child and
18 Family Services, which has standing in this inquiry. And
19 we also see all of these agencies existed as of 2000; is
20 that right?

21 A Yes.

22 Q And then I note there's a reporting and
23 accountability relationship that's different for the
24 agencies that are described as departmental, regional
25 operations? They're accountable to and report to the

1 department, but through the Community Living division; can
2 you just explain what that's all about?

3 A The department regional operations provide
4 services on behalf of the department through different
5 regions of the province. So, for example, there's Parkland
6 Region, Thompson Region and they provide a, a range of
7 services, on behalf of the department, through the
8 Community Living division. And it encompasses child and
9 family services, but it also includes other services, such
10 as employment and income assistance, children's disability
11 services, community living disability services. So because
12 the scope involves more than child and family services,
13 they're accountability to the Community Living division.
14 But with respect to the provision of specifically child and
15 family services, services, they're also accountable to the
16 director of child welfare.

17 Q Okay. And then, in terms of who, on this chart,
18 was responsible for establishing the standards for child
19 protection in the province, did I hear you say it was the
20 director of child welfare?

21 A Yes, it would have been the director at that
22 time.

23 Q Okay. Now, did the agencies that are listed on
24 this chart, did they report to boards?

25 A Yes, each of them would have had their own board

1 of directors.

2 Q Do you know how those boards were appointed?

3 A Each agency would have established their
4 own by-laws and within the by-laws it would outline how
5 their board of directors would be either appointed or
6 elected.

7 Q And do you know whether the members of those
8 boards were paid?

9 A Again, that -- each agency would have had their
10 own by-laws and within the by-laws they would have outlined
11 any remuneration that would have been provided to the
12 board.

13 Q Okay. Anything else about this particular
14 organizational chart, Exhibit 9, that you want to
15 highlight?

16 A No, I think we've covered it.

17 MS. WALSH: Okay.

18 THE COMMISSIONER: Just explain to me, each of
19 these agencies were, were established under and by the
20 director?

21 THE WITNESS: Yes. How it would work would be an
22 agency would make an application to the minister to provide
23 child and family services and then an order in council
24 would be granted. The director of child welfare would, as
25 part of their day-to-day operations, would screen and

1 filter and give advice to the minister related to the, the
2 provision of the mandate, but it would be done through an
3 order in council.

4 THE COMMISSIONER: But when the agency came with
5 that request, it was already a, an entity, a, a, an
6 organization operating in the community? Or was it formed
7 for this purpose?

8 THE WITNESS: These ones were all formed for
9 quite some time. Most of the brand new agencies were
10 created in the '80s. I'm trying to think if any of these
11 are new-new. So an example of, of one that eventually got
12 their own mandate, but it's not on this chart, Dakota
13 Ojibway Child and Family Services is on the chart. There
14 now is Sandy Bay Child and Family Services. Dakota Ojibway
15 Child and Family Services was providing services within
16 that First Nation community. And then through the process
17 of providing those services, Sandy Bay eventually applied
18 for and received their own independent mandate. So
19 sometimes it would be where communities were providing
20 Child and Family Services through a larger umbrella
21 organization and then would apply to have their own
22 mandate.

23 THE COMMISSIONER: And, and all these agencies
24 that are listed on this chart at the bottom, the 18 of
25 them, whatever there are, all have their own mandate?

1 THE WITNESS: Yes.

2

3 BY MS. WALSH:

4 Q So and then as, as we discussed, the department,
5 for the purposes of this inquiry, has divided the
6 organizational chart, showing the entire system, into
7 two timeframes. So 2000 to 2003 and then 2004 to the
8 current date and I gather the reason for that is because
9 of the changes to the system that became known as
10 devolution?

11 A Yes.

12 MS. WALSH: So, Mr. Commissioner, that's the next
13 area that I'm going to ask the witness to go through
14 briefly, the process of devolution. So would this be an
15 appropriate time to take a break?

16 THE COMMISSIONER: Yes, we'll take a 15 minute
17 break and we'll -- adjournment, and we'll try to hold those
18 timeframes strictly so we can get on with this. So we now
19 stand adjourned for 15 minutes.

20 MS. WALSH: Thank you.

21

22 (BRIEF RECESS)

23

24 THE CLERK: This inquiry is re-opened.

25

1 BY MS. WALSH:

2 Q Before we leave Exhibit 9, one other area we
3 should cover.

4 So if we can pull up -- good, thank you.

5 So there are a number -- on the agencies, a
6 number of those agencies are First Nations agencies; right?

7 A Yes.

8 Q And I understand that during the timeframe that's
9 covered on this chart, those agencies' mandate was
10 restricted to providing services on reserve?

11 A Yes.

12 Q Okay. So if an individual were receiving child
13 welfare services while they were on, say, the Peguis
14 reserve, they would receive them from Peguis CFS?

15 A Yes.

16 Q But then if that individual moved into Winnipeg,
17 from whom would they receive child welfare system?

18 A From Child and Family Services of Winnipeg.

19 Q Of Winnipeg?

20 A Yes.

21 Q Okay.

22 A Yes. So each, each agency on here would have a
23 specific geographic area that they were mandated to cover
24 and they could only provide services within that specific
25 region.

1 Q Okay. And so for the First Nations agencies,
2 that meant on their reserve?

3 A Yes.

4 Q Okay. All right. So let's go to Exhibit 10
5 please. And this is a document that, again, the Department
6 of Family Services and Labour has prepared, together with
7 its counsel, entitled: Aboriginal Justice Inquiry Child
8 Welfare Initiative.

9 So the process of devolution, that comes
10 originally from the Aboriginal Justice Inquiry?

11 A Yes.

12 Q Okay. Can you explain for us the relationship,
13 then, between devolution and the Aboriginal Justice
14 Inquiry?

15 A The Aboriginal Justice Inquiry, while it was
16 proceeding, although its emphasis and its review was
17 supposed to be related to the justice system, they
18 identified that the child welfare system, as well as the
19 justice system were very interconnected and that many of
20 the issues that aboriginal people were facing with the
21 justice system were, they were also facing within the child
22 welfare system. So the Aboriginal Justice Inquiry
23 dedicated a whole chapter of their report to reviewing the
24 child welfare system. And in, and, in broad strokes, made
25 recommendations that aboriginal people should have more

1 control over the delivery of child, child welfare services
2 for aboriginal people.

3 Q Okay. And in terms of the genesis, as, as you've
4 described it, on the first page of Exhibit 10, or the
5 historical reason why the child welfare initiative came out
6 of the Aboriginal Justice Inquiry, tell us about that
7 please?

8 A The Aboriginal Justice Inquiry really identified
9 that a lot of the issues facing aboriginal people today
10 have their roots in aboriginal government relationships and
11 spoke to issues of colonization, the residential school
12 system, as well as the child welfare expansion into
13 aboriginal communities in the 1960s that resulted in a high
14 proportion of aboriginal children being adopted out to non-
15 aboriginal families. And that many of the lingering
16 impacts facing aboriginal people today, in terms of their
17 children and their communities, really are the result of
18 those practices.

19 Q Sorry, did you say were as a result of those
20 practices?

21 A Yes.

22 Q And then you go on in, in Exhibit 10, the
23 document says:

24

25 "In 1988, the provincial

1 government of Manitoba set up the
2 Aboriginal Justice Inquiry ... to
3 examine the relationship between
4 ... Aboriginal [people] of
5 Manitoba and the justice system."

6

7 And that inquiry's report was released in 1991?

8 A Yes.

9 Q And as you said, an entire chapter of that report
10 was related to the child welfare system?

11 A Yes.

12 Q So the AJI, as we'll call, the report was
13 released in 1991; what happened with respect to the child
14 welfare system as a result?

15 A In 2000, the provincial government established
16 the Aboriginal Justice Implementation Commission and tasked
17 them with reviewing the AJI report, specifically related to
18 the recommendations that had been made to the child welfare
19 system and to bring back recommendations for implementation
20 of, of that report.

21 Q And I understand it recommended that the AJI
22 child welfare recommendations be prioritized?

23 A Yes.

24 Q Okay. And then from looking at Exhibit 10, we
25 see that in April of 2000, the province announced its

1 intention to proceed with the recommendation from the AJI
2 to:

3

4 "... enter into agreements
5 [between the province and
6 the] ... Assembly of Manitoba
7 Chiefs ... and the Manitoba Métis
8 Federation ..."

9

10 Both of whom have standing, as we've discussed,
11 at this inquiry.

12

13 "... to develop a plan that would
14 result in First Nations and Métis
15 communities developing and
16 delivering Aboriginal child
17 welfare services."

18

19 A Yes.

20 Q And there were plans put in place and public
21 consultations?

22 A Yes, a conceptual plan was developed and public
23 consultations were held in 12 different communities,
24 throughout the province, to get feedback on the conceptual
25 plan.

1 Q Okay. And then, on November 24th, 2003, the
2 Child and Family Services Authorities Act was proclaimed?

3 A Yes.

4 Q And what was the purpose for passing that piece
5 of legislation?

6 THE COMMISSIONER: What date was that?

7 MS. WALSH: November 24, 2003.

8 THE COMMISSIONER: Thank you.

9 THE WITNESS: That was the first step of the plan
10 towards transitioning the roles and responsibilities for
11 providing Child and Family Services to First Nation and
12 Métis people. It provided the legislative framework for
13 the establishment of a province-wide mandate for First
14 Nation and Métis people, through the, the creation of four
15 authorities, who then would have the capacity to mandate
16 agencies directly underneath them.

17

18 BY MS. WALSH:

19 Q Okay. And you've outlined, on pages 4 and 5 of
20 Exhibit 10, five highlights of the new system. So let's
21 just take a moment to go through them. So the first one,
22 you say, is delegation of powers; can you explain what that
23 was?

24 A The creation of the four authorities resulted in
25 a, a delegation of powers that formerly had been vested

1 with the director of child welfare. The authorities now
2 had those same powers, in terms of the administration of
3 delivery of child welfare services.

4 Q So those, those are the powers that we heard you
5 describe before the break, that the director of child
6 welfare had?

7 A Yes.

8 Q Those were now placed with the child welfare
9 authorities?

10 A Yes.

11 MS. WALSH: Okay.

12 THE COMMISSIONER: And is that what you commonly
13 then refer to as devolution?

14 THE WITNESS: Yes, the devolution is, devolution
15 is kind of a broad term. Essentially, devolution was the
16 establishment of the authorities. But eventually, it was
17 the actual transition of the specific cases, resources and
18 mandates to the aboriginal agencies and, and giving them a
19 mandate across the province.

20 THE COMMISSIONER: That encompasses --

21 THE WITNESS: Yeah.

22 THE COMMISSIONER: -- what devolution was and it
23 was intended to be?

24 THE WITNESS: Yes.

25

1 BY MS. WALSH:

2 Q So anything else we want to explain about
3 delegation of powers?

4 A I guess the only piece would be that as the --
5 previously, agencies reported to, directly to the director.
6 Now agencies report to the authorities. And the
7 authorities would still maintain an accountability
8 relationship to the minister.

9 Q Okay. And we'll see the chart of how that looks
10 in a minute.

11 What about highlights, or the -- number 2,
12 concurrent jurisdiction? What does that refer to?

13 A Concurrent jurisdiction refers to the new system
14 where agencies were given province-wide mandates. So prior
15 to devolution, as we just earlier had talked about, each
16 agency had a mandate to provide services within a specific
17 geographic community. So in every community, there would
18 only be one Child and Family Service agency operating.
19 Families would receive services based on where they lived
20 and there would only be one option for receiving services.
21 With agencies getting province-wide mandates, this then
22 resulted in there being multiple agencies that could be
23 providing services within any one community, which resulted
24 in them having concurrent jurisdictions within communities.

25 So for example, currently, there's 19 agencies

1 that provide services in the city of Winnipeg.

2 Q And they also provide services in other
3 communities?

4 A Yes, each agency was able to, they had a mandate
5 to provide services across the whole province, but they
6 were able to determine which communities they felt they
7 wanted to have a presence and deliver services within.

8 Q And then the third feature is intake services;
9 can you explain what the change involved there?

10 A With concurrent jurisdiction and having multiple
11 agencies functioning within one community, it was felt it
12 would be important to have a coordination of intake
13 services so that people making referrals, or families
14 needing service, would know who to contact and wouldn't,
15 there would be no confusion as to the first point of entry
16 to the child welfare system. It was also felt that it
17 would be important to ensure that there was no gaps in
18 service, with having multiple agencies providing a service
19 in one geographic area, or one community. So the
20 Authorities Act allows the four authorities to jointly
21 designate an intake agency, to provide intake services on
22 behalf of all four authorities in each region.

23 Q Okay. And so, for example, in Winnipeg
24 currently, the designated intake agency is known as All
25 Nations Coordinated Response, or ANCR?

1 A Yes.

2 Q All right. Okay. Now, highlights 4 and 5
3 describe the authority determination process and there's a
4 concept of choice, which I gather is an aspect of that
5 process. So can you just tell us what that process
6 involves?

7 A In order -- there needed to be a mechanism for
8 determining, following intake services, which agency would
9 provide services to families. The authority determination
10 process was decided as the mechanism for making that
11 determination. And what it involves is a scripted
12 interview that's conducted with a family where family
13 members identify who their cultural authority of, of record
14 is. So they identify that for all their members. So if an
15 individual is a Métis person, they would identify that
16 their cultural authority record of -- is Métis, or the
17 Métis authority.

18 Following that, families also then have the right
19 to choose who they want to receive services from. So they,
20 although generally they will, will request to seeve
21 (phonetic) (sic) services from their cultural authority of
22 record, they may also choose another authority. So you
23 could be a Métis person and choose to receive services from
24 the First Nations South Authority. And that's then what we
25 call the authority of service. So families now have the

1 right to choose who they want to receive services from,
2 which is a significant change from within the Act.

3 Q Okay. And then still on page 5 of Exhibit 10,
4 under the heading: Implementation, and this is something
5 you mentioned briefly already:

6

7 "[The] Transfer of case files and
8 resources took place over
9 approximately an 18 month period."

10

11 What do you mean by case files and resources?

12 A Well, essentially what, what occurred during this
13 period of time was all of the non-aboriginal agencies
14 completed the authority determination, or ADP process, with
15 all of their cases. So with all their families and their
16 permanent wards. And through that, it was then identified
17 which files would be transferred, or which cases would be
18 transferred, and further, which agency would then, it would
19 then be transferred to. So that determined the block of
20 work that would be going from the non-aboriginal agency to
21 an aboriginal agency.

22 As part of that, once it was determined the
23 number of cases, then the staffing and operational
24 requirements were also then decided. So depending on the
25 number of cases that would be transferred, there would also

1 be a corresponding staffing number that would go with that.
2 So both social workers, administrative staff, supervisors
3 and there would be other financial components that would be
4 transferred to the aboriginal agency in order to support
5 the transition of cases and for them to increase their
6 work.

7 Q Okay. And on page 5 of the, Exhibit 10, you have
8 a number of, of dates listed; are those the start dates of
9 the transfers?

10 A Yes.

11 Q Okay. So I note that Winnipeg Child and Family
12 Services began transferring files and resources as of May
13 2, 2005?

14 A Yes.

15 Q So it was the last agency to go through the
16 transfer of cases and resources?

17 A Yes.

18 Q All right. With that explanation then, let's
19 look at the organizational chart that shows what the system
20 looked like as the result of devolution. So that's Exhibit
21 11. So Exhibit 11 shows the accountability relationships
22 from 2004 to the current date. And again, this was
23 prepared by the department, I understand, and, and --

24 A Yes.

25 Q -- its counsel --

1 A Yes.

2 Q -- for the purposes of this inquiry?

3 A Yes.

4 Q Okay. And in the legend, you have the same key
5 that we saw on Exhibit 9, in terms of the lines denoting
6 reporting and accountability relationships, or advisory
7 relationships?

8 Okay.

9 A Yeah.

10 Q So starting at the stop, we still have the
11 legislature and the Office of the Children's Advocate and
12 that relationship has not changed from 2003?

13 A No, it's remained the same.

14 Q Okay. And then below the legislature is the
15 minister and the minister is still responsible for the
16 department of what's now called Family Services and Labour?

17 A Yes.

18 Q And then we have something new on the same line
19 as the minister, called the Leadership Council. And my
20 understanding is that that was established pursuant to the
21 provisions of the Child and Family Services Authorities
22 Act?

23 A Yes.

24 Q And according to the chart, the Leadership
25 Council has an advisory relationship to the minister of

1 Family Services?

2 A Yes, it's a forum to be able to discuss issues
3 related to Child and Family Services.

4 Q And who sits on that council?

5 A It's made up of the minister of Family Services
6 and Labour, the minister of Northern Aboriginal Affairs,
7 the grand chief of Southern Chief Organization, the grand
8 chief of the Manitoba Keewatinowi Okimakanak, or MKO, the
9 president of the Manitoba Métis Federation, a Métis woman
10 delegated by the Manitoba Métis Federation and the
11 Assembly, the grand chief of Assembly of Manitoba Chiefs is
12 an ex officio to Leadership Council.

13 Q And do you know whether it has regular meetings?

14 A That's not really my complete purview, but I
15 understand they do meet regularly. My understanding is
16 they meet quarterly.

17 Q And then the department is divided into two
18 divisions, Child and Family Services division and the
19 Community Service Delivery division; so what is each of
20 those responsible for?

21 A The Child and Family Services division is, also
22 has the strategic initiative and program planning, as well
23 as the Child Protection Branch underneath it. And they're
24 responsible for police and program development, quality
25 assurance, standards, budgeting, as it relates to child

1 welfare, or child and family services. They also have
2 direct responsibility related to resource development for
3 child placement resources, licensing of child care
4 facilities, management of centralized registries, such as
5 the adoption registry, the Child Abuse Registry, as well as
6 provincial investigations.

7 Q So when you say they have within them the Child
8 Protection Branch, is that reflected by the depiction of
9 the director of child welfare?

10 A Yes.

11 Q Okay. And then the Community Service Delivery
12 division?

13 A That's responsible for the delivery of all
14 programs and services on behalf of the department,
15 throughout the province and it includes a range of
16 services, such as community living and disability services,
17 child disability services, family conciliation, as well as
18 child and family services.

19 Q Okay. Which does not include child protection
20 services?

21 A It does include child protection services.

22 Q The community service delivery?

23 A Yes, they have several components. They have
24 regions across, they have regions across the province,
25 divided into either rural and northern services, as well as

1 Winnipeg Child and Family Services is a branch of Community
2 Service Delivery division. Within, within every region,
3 there is a provision of child and family services, in
4 addition to the other services that are provided.

5 Q Okay. We'll come back to Winnipeg in a minute.

6 There's an advisory, advisory relationship shown
7 between the director of child welfare and something called
8 the standing committee and I understand again that the
9 standing committee was established pursuant to Section 30
10 of the Child and Family Services Authorities Act; what's
11 the standing committee?

12 A Standing committee is a committee made up of COs
13 of the four authorities, the director of child welfare and
14 an additional member, appointed by the Métis Authority.
15 The purpose of the meetings is to provide advice, both
16 to the authorities, as well as to government and to
17 facilitate cooperation and coordination of child and family
18 services.

19 Q Okay. And do you know how regularly it meets?

20 A They meet, for sure, monthly, and sometimes
21 bi-weekly, depending on, I think, the issues that they're
22 dealing with.

23 Q Okay. Now, we see an accountability relationship
24 between the department and the four authorities, Métis
25 Authority, First Nation North Authority, First Nation

1 Authority and the General Authority?

2 A Yes.

3 Q So those are the authorities that we've been
4 talking about as, that developed as part of the process of
5 devolution?

6 A Yes.

7 Q Okay. And pursuant to the Child and Family
8 Services Authorities Act, the authorities, as you've said,
9 are now responsible for administering and providing for the
10 delivery of child and family services in Manitoba?

11 A Yes.

12 Q Okay. And then accountable to those authorities,
13 we see a number of agencies. So, for example, there are
14 two accountable to the Métis Authority, seven to the First
15 Nation North Authority, 10 to the First Nation South
16 Authority and four to the General Authority?

17 A Yes.

18 Q And so when we look at the General Authority,
19 included in the agencies which report to it is Winnipeg
20 Child and Family Services?

21 A Yes.

22 Q But then Winnipeg Child and Family Services is
23 also identified on the right hand side --

24 THE COMMISSIONER: Well, just a minute, Winnipeg
25 Child and Family Services, under the General Authority, is

1 that listed as Winnipeg Rural and Northern Child and Family
2 Services?

3 THE WITNESS: Yes.

4 THE COMMISSIONER: That -- so those are -- that,
5 that's all one package, in effect?

6 THE WITNESS: Yes, it's -- Rural and Northern and
7 Child and Family Services is a branch and Winnipeg Child
8 and Family Services is a branch, but they're also
9 considered kind of the division, so to speak.

10 THE COMMISSIONER: But on this chart, you've got
11 the --

12 THE WITNESS: Yes.

13 THE COMMISSIONER: -- you've got them together?

14 THE WITNESS: Yes.

15 THE COMMISSIONER: But, but Winnipeg Child and
16 Family Services is a separate agency?

17 THE WITNESS: It's a separate branch of
18 government.

19 THE COMMISSIONER: Yes --

20 THE WITNESS: Yeah.

21 THE COMMISSIONER: -- branch of government, I --

22 THE WITNESS: Yeah.

23 THE COMMISSIONER: -- understand, yeah. All
24 right.

25

1 BY MS. WALSH:

2 Q And so it has an accountability relationship to
3 the General Authority --

4 A Yes.

5 Q -- right? And then, Winnipeg, again, described
6 as Winnipeg Rural and Northern Child and Family Services
7 and then under that, Winnipeg Child and Family Services, on
8 the far right hand side of Exhibit 11 -- you see that, Mr.
9 Commissioner?

10 THE COMMISSIONER: Oh, I see.

11

12 BY MS. WALSH:

13 Q Report is -- it's the same agency, or the same
14 entity --

15 THE COMMISSIONER: But those --

16 MS. WALSH: -- right?

17 THE COMMISSIONER: -- are the various break,
18 breakdown?

19

20 BY MS. WALSH:

21 Q But also, it shows that in addition to the
22 accountability relationship to the authority, it has a
23 reporting and accountability relationship to the Community
24 Service Delivery division?

25 A Yes.

1 Q Okay. So, as you've just said to us, Winnipeg
2 Child and Family Services is now considered a branch of
3 government?

4 A Yes.

5 Q Okay. Not an independent agency?

6 A Yes.

7 MS. WALSH: Okay.

8 THE COMMISSIONER: And when did that occur?

9 MS. WALSH: We're coming to that but --

10 THE COMMISSIONER: Oh, okay.

11 MS. WALSH: -- go ahead.

12 THE WITNESS: In 2003.

13 MS. WALSH: Sorry, didn't mean to interrupt.

14 THE COMMISSIONER: Go ahead.

15

16 BY MS. WALSH:

17 Q Now, does each of the four authorities report to
18 a board?

19 A Yes, they each have a board of directors.

20 Q Do you know who appoints those boards?

21 A The General Authority board is appointed by the
22 minister. The First Nation Southern Authority board is
23 appointed by Assembly of Manitoba Chiefs. First Nation of,
24 First Nation Northern Authority is appointed by Manitoba
25 Keewatinowi Okimakanak, or MKO. And the Métis Authority is

1 appointed by the Manitoba Métis Federation.

2 Q Do you know whether the board positions are paid
3 positions?

4 A The Authority Act allows for remuneration and
5 expenses to be paid, but each authority would have their
6 own established by-laws and within the by-laws, they would
7 identify what remuneration they were given.

8 Q And what about the agencies which are accountable
9 to and mandated by each of the authorities? I think I
10 counted 23 in total. Does each of those agencies have a
11 board?

12 A Each of the agencies, with the exception of the
13 government branches, all have their own board of directors.

14 Q Okay. So with the exception, for example, of
15 Winnipeg Child and Family Services?

16 A Yes.

17 Q Okay. And who appoints those boards at the
18 agencies?

19 A Each of the agencies would have their own by-laws
20 and the by-laws would outline how their board of directors
21 are elected or appointed.

22 Q Okay. And do those boards report to, or are they
23 accountable to anyone in the system?

24 A The agency boards are accountable and would
25 report to the authority for the service delivery of the

1 agency.

2 Q Okay. Now, who on, on this chart, Exhibit 11, is
3 responsible for setting the standards for child protection
4 in the province?

5 A Well, the minister has, under the, under the Act,
6 continues to have an obligation to ensure the establishment
7 of standards of practice and the Act actually specifies
8 that those standards of practice must include standards
9 related to the risk, assessing risk of children, as well as
10 the nature and frequency of contact that an agency must
11 have with a child, to ensure child safety, as well as
12 ensuring the child is receiving appropriate services. The,
13 the director continues to have, through the direction and
14 control of the minister, the requirement to set
15 foundational standards for the system, related to services
16 that are delivered. And the four authorities are required
17 to ensure the development of culturally appropriate
18 standards for the deliverance of services, the delivery of
19 services and to ensure that those culturally appropriate
20 standards are consistent with the provincial standards that
21 are established.

22 Q Okay. And what's the relationship between the
23 authorities and the director of child welfare now?

24 A It's an advisory relationship through standing
25 committee, although the minister can direct and control,

1 can direct, provide direction and control to the director
2 to maintain an oversight function over the authorities,
3 related to their oversight role of their respective
4 agencies.

5 Q Okay. And so then can you just confirm for us
6 what the difference is, from a reporting and accountability
7 perspective between, for example, Winnipeg Child and Family
8 Services and the other 23 agencies?

9 A Winnipeg Child and Family Services reports to the
10 assistant deputy minister within the community living
11 division, much the same way that the agency would report to
12 the board of directors. So it's the employer relationship.
13 Winnipeg is also accountable to the General Authority for
14 the services that's being provided, in the same way that
15 the other agencies are accountable to their respective
16 authorities for the services they're providing.

17 Q Okay. So the staff of Winnipeg Child and Family
18 Services is employed by the government?

19 A Yes.

20 MS. WALSH: Any questions, Mr. Commissioner, on
21 this chart?

22

23 BY MS. WALSH:

24 Q All right. So now I understand that the agency,
25 Winnipeg Child and Family Services, itself, has undergone a

1 number of organizational changes, starting in the '80s and
2 those are reflected in the document we've marked as Exhibit
3 12, which is entitled: A Brief Synopsis of Child Welfare
4 Services in the City of Winnipeg.

5 So Winnipeg Child and Family Services was
6 originally called the Children's Aid Society?

7 A Yes.

8 Q Okay. And then in 1983, the government decided
9 to phase that organization out and to deliver services
10 through six regionally based agencies in the city?

11 A Yes.

12 Q Okay. And the names of those agencies were
13 ultimately changes, as of 1986, and they're reflected on
14 page 2 of Exhibit 12, at (a) through (e) and I think you
15 told me those are the, the names by which those agencies
16 were ultimately commonly known?

17 A Yes, these would be the, the names that most
18 people would identify the agencies as.

19 Q Okay. And so what was the main difference to
20 service delivery, once the Children's Aid Society was
21 dissolved and these new agencies were created?

22 A Well, the Children's Aid Society was a
23 centralized organization that delivered services through a
24 program-based model. The change to the six agencies was a
25 decentralization of services and a movement towards being a

1 community-based service provider that was more accessible
2 and more accessible to families and the community and was,
3 was more responsive to the needs of the communities. Each
4 of the agencies had a specific geographic area within the
5 city of Winnipeg that they were responsible for and
6 developed services and programs based on the unique
7 structure and needs of the community they were serving. So
8 each of the agencies really had autonomy and the ability to
9 develop their own service structure that was based on the,
10 the needs specifically of the kids and families in the
11 communities in which they were providing service.

12 Q Okay. And then a change occurred in 1991?

13 A Yes.

14 Q What was that change?

15 A The government enacted a regulation to dissolve
16 the six agencies and recentralize them under one, as one
17 private agency, which was then named Winnipeg Child and
18 Family Services.

19 Q Okay.

20 A Part of the recentralization also involved moving
21 from the six distinct geographic areas that had been
22 provided under the six agencies and amalgamating that into
23 four geographic service areas.

24 Q Okay. So with this recentralization and these
25 four geographic areas, did each of those service areas have

1 its own structure for the programs that it delivered?

2 A Each area still continued to function as a
3 distinct and unique service delivery area. So Northwest
4 Winnipeg would still maintain its own intake and after
5 hours structure, its own family services service delivery
6 system and whatever programs they had, they had deemed
7 important, or services to be providing for that, that
8 catchment area. Those would all have continued. However,
9 the, the four areas that were amalgamated into two areas
10 would have centralized and amalgamated the services, the
11 East and Northeast would have amalgamated the services they
12 were providing. And South and West would have amalgamated
13 the services they were providing into that one area.

14 Q Okay. So the recentralization brought the
15 agencies under one agency, but they still had
16 responsibility for their own structure within a geographic
17 area --

18 A Yes.

19 Q -- in terms of how they delivered services?

20 A Yes.

21 Q Okay. And then at page 3 of Exhibit 12, you say
22 that in 1999 there was another reorganization?

23 A Yes.

24 Q So what did that involve?

25 A This was a significant restructuring, as it

1 involved both a, a physical restructuring of areas, but it
2 also involved a philosophical change, in terms of how
3 services were delivered. Up until that point, services had
4 continued to be maintained based on the philosophy of
5 providing services based on the needs of a specific
6 geographic area. The 1999 change was to, to do away with
7 providing services in specific areas and move to a program
8 based model and within each program area, identify the
9 services and programs that would be delivered and that
10 those would then be delivered city-wide and across all
11 geographic regions.

12 Q Okay. So as of 1999 then, what happened to the
13 four geographic areas?

14 A The geographic areas no longer continued to exist
15 and the agency was structured based on program areas
16 instead of geographic areas.

17 Q Okay. So the services, you say, were organized
18 into a program based model and that included six
19 specialized areas of service?

20 A Yes, they did a fair amount of work and, as part
21 of the change management process, to identify what they,
22 what they felt were the six critical program areas that
23 they should be focusing on. So those were services to
24 children and families, permanency planning, resources and
25 supportive services, community-based early intervention,

1 the aboriginal liaison program and quality assurance
2 research and planning. So that became the new structure
3 for the agency.

4 Q Okay. And so and those -- what you've listed
5 under (a) through (f), that's on page 3 of Exhibit 12, and
6 so for instance, services to children and families, would
7 that have included intake services?

8 A Yes, it included intake, family services, abuse
9 services.

10 Q And we're going to hear more about what intake
11 involved, but just very briefly, that's what, that's when
12 someone first makes a referral or contact with an agency,
13 to request services, or report that a child may be in need
14 of protection?

15 A Yes, it's the first point of entry.

16 Q Okay. So that's 1999. And then in 2000, we know
17 that the Aboriginal Justice Inquiry Child Welfare
18 Initiative was established. Now, what impact, if any, did
19 that have on Winnipeg Child and Family Services as an
20 agency?

21 A I think one of the, one of the impacts for staff
22 was that this announcement came on the heels of the
23 significant restructuring that had occurred in '99. And
24 that restructuring took a fair amount of time to stabilize.
25 So this announcement coming immediately after a significant

1 restructuring, I think, had an impact on staff.

2 On the other side, the fact that the
3 restructuring in 1999 had resulted in the centralization of
4 intake and abuse intake really set the stage then for the
5 development of the intake services to become a designated
6 intake agency as the centralization had already occurred.

7 Q Okay. So one of the impacts of, of, of the AJI
8 on Winnipeg CFS was that there would be one centralized
9 intake point for all of the city of Winnipeg?

10 A Yes.

11 Q Okay. As opposed to just the agency, Winnipeg
12 and Child, Winnipeg Child and Family Services?

13 Okay.

14 A Yes.

15 Q And was there any other impact on the agency, in
16 terms of restructuring?

17 A Well, following the AJI announcement, there --
18 and as we proceeded towards devolution, there was
19 significant restructuring that impacted on Winnipeg Child
20 and Family Services. The agency originally had
21 approximately 6,000 cases and approximately 556 staff. And
22 following devolution, was significantly downsized to
23 approximately a hundred and sixty-five staff and 2500 cases
24 were transferred out to other aboriginal agencies, so that
25 required Winnipeg CFS to, to significantly review services

1 they were providing, the structure in which they were
2 providing those services and to, to reformulate their
3 service delivery structure and model.

4 Q Okay. And something else was happening to
5 Winnipeg Child and Family Services in 2003 as well, as, as
6 the Commissioner just asked you about; right?

7 A Yes, 2003 was when the government enacted a
8 regulation to dissolve Winnipeg Child and Family Services
9 as a private agency and it then became a branch of the
10 Department of Family Services and Housing at that time.

11 Q Okay. And the employees of the agency then
12 became civil servants?

13 A Yes.

14 Q Okay. And the agencies community board was
15 dissolved?

16 A Yes.

17 Q Okay. And then the agency was reorganized with
18 the number of programs reduced from six to three?

19 A Yes.

20 Q Okay. And those three were intake and early
21 intervention, services to children and families and
22 resources?

23 A Yes.

24 Q And that's set out on page 4 of the exhibit.

25 Now, in terms of the impact of the Authorities

1 Act being passed in November of 2003, what was the effect
2 on Winnipeg Child and Family Services, in terms of its
3 reporting and accountability relationships?

4 A As of the proclamation of the Authorities Act,
5 Winnipeg Child and Family Services was then accountable to
6 the General Authority, as well as to the ADM from Community
7 Services and Living division, Community, Community and
8 Living Services division.

9 Q Okay. And we've discussed with counsel that
10 we're going to hear much more specific evidence throughout
11 the proceedings, as to the impact that the reorganizations
12 at Winnipeg Child and Family Services had on employees.
13 We're going to hear much of, of that testimony throughout
14 the, the proceedings, but just very briefly for today, are
15 you aware of what, if any, impact the changes had on the
16 staff at the agency?

17 A I think the, the most common statement that staff
18 speak about, related to the changes, was the fact that they
19 were essentially going through three very significant
20 changes simultaneously. They were dealing with the change
21 from being a private, autonomous agency, to becoming a
22 branch of government and what that, all of the work that
23 that would entail, in terms of harmonization of policies
24 and procedures, becoming familiar with governmental
25 policies and procedures, HR departments, a new IT

1 structure, those kind of things. They were also, at the
2 very same time, dealing with the impact of devolution and
3 understanding that a significant proportion of the work
4 that they had previously been doing would now be the
5 responsibility of other aboriginal agencies. And were also
6 having to, to address the restructuring again of Winnipeg,
7 in order to accommodate those changes. During that period
8 of time, they were also -- although they were continuing to
9 provide services on all of, all of their cases, they were
10 also still preparing all of their cases for the transition
11 and the eventual transfer to other agencies.

12 Q So when you say "during that period of time",
13 which period of time are you referring to?

14 A Between 2003 and devolution, 2005.

15 THE COMMISSIONER: Is that transfer of those
16 files the third change you said they were going through
17 simultaneously? The, the, the, the -- becoming a
18 department of government and the, the devolution and then
19 the third one was the transfer?

20 THE WITNESS: Well, the third one would be the
21 restructuring of Winnipeg as a result of the transfer of
22 the cases. And as part of that, Winnipeg CFS was uncertain
23 as to whether they would continue to function as a, its own
24 independent branch, or the government had initiated a
25 integrated service delivery initiative, so it was also

1 possible that Winnipeg was going to be, become integrated
2 within that system and would no longer continue to function
3 as a separate branch. So those three changes were all
4 occurring simultaneously between 2003 and 2005. And during
5 that period of time, staff, of course, are obviously
6 continuing to provide service as always, while trying to
7 sort through, essentially, I guess, what these changes
8 would mean for them, in terms of where would they be
9 working? You know, would they still -- I think there
10 was -- some staff had a fear that there, there would be job
11 losses, although the government had given assurances that
12 there would be no job, job losses as a result of the
13 devolution process and the restructuring.

14

15 BY MS. WALSH:

16 Q Do you know what percentage of staff was going to
17 be transferred or seconded out to other agencies?

18 A Fifty-eight percent of Winnipeg staff were
19 transitioned through the devolution process.

20 THE COMMISSIONER: Of Winnipeg Child and Family
21 Services?

22 THE WITNESS: Yes.

23

24 BY MS. WALSH:

25 Q And are any of those staff still seconded to

1 other agencies?

2 A Yes.

3 Q What about the process that you described, going
4 through the authority determination protocol with their
5 clients? What impact, if any, did that have on what staff
6 at Winnipeg CFS were doing?

7 A Well, part of the devolution was, as I said, just
8 an increase, I guess, in the amount of work workers were
9 required to do related to, to providing service to their
10 families. So one of the additional items was becoming
11 trained on the authority determination process, becoming
12 trained on the scripted interview and then completing those
13 on all of their cases. So they would complete and the,
14 with the families, with their children in care, in order to
15 determine which cases would then be transferred, as well as
16 which agency those cases would then be transferred to.

17 Q Okay. So then when I look at page 4 of Exhibit
18 12, under the heading for 2005, you say that between May
19 2nd, 2005 and October 24, 2005, Winnipeg Child and Family
20 Services transferred approximately 2500 case files, with
21 proportionate human and capital resources, to the three
22 aboriginal authorities?

23 A Yes.

24 Q And at the same, approximately 22 staff who were
25 serving clients in the southeast/urban fringe of Winnipeg

1 had their cases transferred to Eastman Child and Family
2 Services?

3 A Yes.

4 Q And finally, approximately a hundred and fifty
5 positions were allocated to the joint intake response
6 unit?

7 A Yes.

8 Q Okay. And we know that that joint intake
9 response unit, which we'll hear sometimes referred to as
10 JIRU --

11 A Yes.

12 Q -- it was established in 2005 and in 2007, it
13 became what is now known as the All Nations Coordinated
14 Response Network, or ANCR?

15 A Yes.

16 Q Okay. So according to Exhibit 12, by October of
17 2005, Winnipeg Child and Family Services was reduced to two
18 programs, services for children and families and
19 resources --

20 A Yes.

21 Q -- right?

22 A Yeah.

23 Q Okay. And I think you said that before
24 devolution, the agency had approximately 555 staff and now
25 you're down to approximately 230?

1 A Initially it was down to a hundred and sixty-
2 five. We've only recently -- like, currently, we would be
3 approximately 230 staff now.

4 Q And how long has that been the case?

5 A That would be since 2010/2011, the implementation
6 of the new funding model.

7 Q The new funding model? Okay. And we're
8 certainly going to hear about that in phase 2 of the
9 inquiry.

10 So as of October of 2005, approximately how many
11 staff people were in the agency?

12 A Approximately a hundred and sixty-five.

13 Q Okay. So it was a much smaller agency by October
14 of 2005?

15 A Yes.

16 Q And it no longer provided intake services?

17 A No.

18 Q And it no longer provided community programs?

19 A That's correct, that, that went with the joint
20 intake response unit, in order to provide early
21 intervention and prevention services at the front end of
22 the system through the intake.

23 Q Okay. So anything else you want to tell us about
24 the changes that the agency, Winnipeg Child and Family
25 Services, has undergone?

1 A I think probably the only other area, just to
2 highlight, would be that previously the agency would have
3 had 16 family service teams spread throughout the city of
4 Winnipeg, providing services to clients. So following
5 devolution, there's only seven family service teams, but
6 they're still required to provide services across the whole
7 city of Winnipeg. So there was a significant change for
8 staff, in terms of the geographic area that each office was
9 continuing to provide. So we have some offices that
10 previously there'd been three or four offices for that
11 area, now there's only one.

12 Q Okay.

13 A So it certainly had an impact, in terms of
14 accessibility for clients and things like that.

15 MS. WALSH: Mr. Commissioner, any questions on
16 that topic?

17 THE COMMISSIONER: No.

18 MS. WALSH: All right. So finally, let's talk
19 about the types of services that the agency delivered,
20 particularly during the period in which Phoenix and her
21 family received services, and that's outlined in Exhibit
22 13, which is entitled: A Program Description of Winnipeg
23 Child and Family Services.

24 THE COMMISSIONER: Yes.

25

1 BY MS. WALSH:

2 Q So what I'm going to ask you to do, Ms. Brownlee,
3 is walk us through the various functions that the agency
4 was capable of providing from the moment that a caller or
5 referral would come into the agency and a file would be
6 opened, onward. And I think, if we turn to page 5 of
7 Exhibit 13, that's entitled: Intake, After Hours and Abuse
8 Services. I think that will assist in, in your
9 description. And again, I'd like you to focus on the
10 period of 2000 to 2005.

11 A Okay. So intake, the intake process, as we've
12 said earlier, is the first point of entry for all new
13 referrals to an agency. So the initial activity is, is the
14 receipt of the referral and gathering information related
15 to the, related to the referral that's being made. And
16 then part of that is determining, is this an appropriate
17 referral for Child and Family Services and is, is it a
18 valid referral?

19 If the referral's not appropriate for Child and
20 Family Services, such as it's a service that could be
21 provided by another community organization, it doesn't
22 involve anything related to the protection of children,
23 intake can then make that referral to a community
24 organization for the family to receive services in another
25 way.

1 Part of the intake requirements is for them to
2 also do an immediate safety assessment related to the
3 referral that's coming in, so that they can determine
4 response time. The response time is either 24 hours, 48
5 hours, or five days, so it's important to gather as much
6 information initially, to be able to assist in making that
7 decision. Intake can then provide emergency intervention,
8 or emergency investigation in order to immediately ensure
9 child safety. And, and they also conduct more in depth and
10 ongoing assessment and investigation for situations that
11 require more scrutiny or more information.

12 While they're involved with a family, they my
13 provide brief interventions, to reduce risk, and in order
14 to -- for some periods of time, intake may maintain a file
15 open, in order to, to provide the brief interventions, or
16 to make referrals to the community in order to reduce
17 factors so the file doesn't require opening. And they can
18 also make the determination that there's enough protection
19 issues, or risk factors, that the family requires transfer
20 to ongoing services and refer the case to a family service
21 team.

22 Q Okay. So those eight functions make up what
23 you've described as the intake process?

24 A Yes.

25 Q Okay. So, in terms of the units which deliver

1 those functions, what's the after hours unit?

2 A After hours provides, provides essentially an
3 emergency service, similar to the crisis response unit,
4 except that it's provided from 4:00 in the afternoon, until
5 8:30 in the morning, in the evenings, Monday to Friday, and
6 is also continuous on weekends and on holidays. Their role
7 is to respond to referrals and emergencies that come up in
8 those periods of time. But they also provide services to
9 ongoing cases. So if a family's involved with an ongoing
10 family services worker and there's a crisis or an emergency
11 in the after hours, after hours responds to those
12 situations as well. So their role is really similar and
13 really involves the first four functions, or the first five
14 functions, depending on the situation in the after hours.

15 So they receive a referral. They determine if it
16 requires a child welfare response. They'll determine if it
17 requires an immediate response. And if it does, then they
18 will actually go out and provide that response and assess
19 immediate child safety and take whatever actions are
20 necessary to ensure child safety and, and complete an
21 investigation and an assessment.

22 Q Okay. And so we'll often hear the after hours
23 unit described as AHU; right?

24 A Yes.

25 Q Now, what about the crisis response unit, often

1 called CRU? First of all, I understand that it didn't come
2 into existence until 2001?

3 A That's correct.

4 Q Okay. So what was its function?

5 A Well, the CRU essentially does a screening
6 function.

7 THE COMMISSIONER: This is the crisis response?

8 THE WITNESS: Crisis response --

9 THE COMMISSIONER: Yeah.

10 THE WITNESS: -- unit, yes. It essentially does
11 the initial screening of all referrals that are coming in
12 to intake. So it'll -- they will gather the referral,
13 gather as much information as possible related to the
14 referral. It will be their responsibility to assess a
15 response time, based on child assessment. So if a response
16 time required a 24 hour or an immediate response, CRU
17 would, would go out on that and conduct that themselves.
18 If they identified that a situation involved protection
19 issues, but it didn't require a 24 hour response time, they
20 would then refer that to what's called general intake, for
21 follow-up. They could also go out and assess the situation
22 themselves and determine that the allegation or the
23 information is unsubstantiated or not valid and that no
24 further action is required.

25

1 BY MS. WALSH:

2 Q And intake then, you just referred to
3 intake --

4 A Um-hum.

5 Q -- it's sometimes called tier 2?

6 A Yeah, general intake, or tier 2 was, it, it's
7 interchangeable.

8 Q Tier 2 because CRU would be effectively the
9 first --

10 A Tier 1.

11 Q -- tier? Tier 1?

12 A Yeah.

13 Q Okay. And so what was intake responsible for
14 doing?

15 A Intake is responsible for the follow-up of all
16 cases transferred to them from the CRU or crisis response
17 unit. So they would be responding to situations that were
18 meeting a, a 48 hour or five day response team, time.
19 They would go out and assess and conduct further
20 investigations related to the family. They would be
21 responsible for gathering more information related to
22 the family functioning, related to risk factors, related to
23 parental characteristics and to start identifying
24 potentially what services this family may need. Part of
25 that role would be also to determine could, could

1 the issues with that family be resolved with a brief
2 intervention? So if you could refer to one of
3 their community early intervention programs, could they
4 make some connections to a community resource, or did the
5 family really require more longer term involvement and
6 that would necessitate a transfer to ongoing family
7 services.

8 Q Okay. And so if we were looking at the eight
9 functions listed on page 5 of Exhibit 13, so in terms of
10 intake, or tier 2's responsibility, would that be the last
11 three functions, 6 through 8?

12 A It would be 6 through 8, but emergency
13 intervention to ensure child safety is, is throughout all
14 of the intake responsibilities. So if something came up in
15 their case, once it was assigned to them, they would still
16 be required to ensure safety.

17 Q Okay. And then there were also intake units
18 called abuse intake units?

19 A Yes.

20 Q And what were they responsible for?

21 A They were responsible for completing all new
22 investigations where there was an allegation of physical
23 abuse or sexual abuse. And they also had the
24 responsibility for conducting any investigations that were
25 related to an allegation in a school, a daycare or a foster

1 home.

2 Q Okay. So when the after hours unit, or the
3 crisis response unit received a referral, what options did
4 it have, in terms of taking action?

5 A Well, the options for after hours would be they
6 could make a referral to the community if, if they felt
7 there was no child welfare services required. They could
8 immediately go out and respond and assess the situation
9 themselves. If they felt there was an investigation or a
10 response time required, but it didn't require immediate
11 action, they could write that up and transfer that, or send
12 that information to either CRU, or to the day side worker,
13 if it was already opened.

14 Q Okay. And when we talk about transfer,
15 what about -- do you use the expression "opening a
16 file"?

17 A Yes.

18 Q So what, what does that mean?

19 A Well, after hours doesn't actually open a file.
20 They create an after hours report and depending on whether
21 the intake module was functioning or not. So essentially
22 after hours would create an after hours report that would
23 then be submitted to either CRU, if it was not an open
24 case, or it would be submitted to the, the worker assigned,
25 if it was an open case.

1 Q Okay. An opening case mean, meaning that there
2 was an open protection file open to the system on the
3 individual?

4 A Yes.

5 Q Okay. And when you use the expression
6 "transfer", that means transferring the file from one unit
7 to another unit?

8 A Yes.

9 Q Okay. And could, for instance, you talked about
10 after hours, what about in the context of crisis response
11 unit? What options did it have?

12 A The crisis response option would be similar to
13 after hours in the sense that they could make a community
14 referral if there was no need for child welfare
15 involvement. They could attend to the situation
16 themselves, if they felt there was an immediate response
17 required and then depending on the outcome of that
18 assessment, they could either transfer the case to, to
19 general intake, or to abuse intake, or they could close it
20 at that point. They could also gather the information and
21 send it to general intake or abuse intake, for follow up as
22 well, if it didn't require a 24 hour response.

23 Q Okay. So CRU could close a file if it felt that
24 was appropriate?

25 A Yes.

1 Q Okay. And was there a typical timeframe in which
2 the crisis response unit would keep a file?

3 A Crisis response was intended to be very short
4 term in nature, due to the volume of the work, so typically
5 one to three days, it would expect to be either closed or
6 transferred.

7 Q Okay. And if it was transferred, it would be
8 transferred to intake or tier 2?

9 A Yes.

10 Q And was there a typical timeframe in which intake
11 would keep a file?

12 A Intake could keep a file, on average, between 30
13 and 90 days. Generally, if they identified that a family
14 would require ongoing services, usually those would be
15 transferred within 30 days. If they felt that there could
16 be some brief intervention, they may then keep the case
17 open for a little bit longer, where you get the, that 60,
18 90 days period of time.

19 Q And if intake determined the file needed to be
20 transferred, to whom would it be transferred?

21 A It would be transferred to an ongoing family
22 service team.

23 Q Okay.

24 A So at, pre-devolution, the cases would be
25 transferred to Winnipeg Child and Family Services. Post-

1 devolution, intake would be responsible for completing the
2 authority determination process. And based on that, that
3 would determine which agency the family would be
4 transferred to for ongoing services.

5 Q Okay. And could intake recommend closing a file?

6 A Yes.

7 MS. WALSH: Okay. And Mr. Commissioner, I, I
8 think that I'll be able to finish with this witness in the
9 next five, 10 minutes. There may be questions from others,
10 but can we, with your indulgence, can we just --

11 THE COMMISSIONER: Oh, I -- carry on, under
12 those --

13 MS. WALSH: Carry on?

14 THE COMMISSIONER: -- circumstances and, and then
15 any questions from other counsel can come after the
16 break.

17 MS. WALSH: Okay. Thank you.

18

19 BY MS. WALSH:

20 Q So then this takes us, as you said, to services
21 to children and families and that program's described at
22 page 9 of Exhibit 13. And I'll point out that the programs
23 that you've just been walking us through are all described
24 in Exhibit 13 in more detail. We've just gone through them
25 very briefly. But now -- we on page 9?

1 Okay. So on what basis would a, would family
2 services open a file?

3 A Family services receives all their files based on
4 an intake opening and transfer from the intake services.
5 And so we get the file already, or family services gets the
6 file already with an assessment, initial intake assessment
7 completed and some recommendations related to potential
8 services and planning for the family. So at the point
9 family services gets it, it could be a voluntary family
10 service, although the majority of, of files that are
11 transferred tend to be involuntary, where there's been some
12 level of identification of a protection issue with the
13 family. At the point the receiving family service team
14 gets the case, the children may be at home with their
15 parents, or the children could also be in care of the
16 agency as well.

17 Q So can you give us some examples of what the
18 family service unit would provide to a family?

19 A So initially, when a file is received, the first
20 work is really on creating a, gathering a more in depth
21 family assessment. You have an assessment that's been
22 completed by intake. So now the family services worker is
23 trying to get more information related to what are the
24 issues for this family? What are their strengths? What
25 resources do they have? And what are the risk factors?

1 And what are the parental characteristics that could
2 contribute to child maltreatment?

3 Once they've felt confident that they have a
4 solid enough assessment, then, then the worker would be
5 working with the family on establishing a service plan.
6 And the service plan is really geared to reducing the
7 identified risk factors and strengthening the family's
8 capacity to care for the children. So if the children are
9 in care, it would be focused on what do the parents need to
10 do in order to have their children returned, or to have
11 reunification considered? And if the children are at home,
12 it would be, the plan would really be focused on what are
13 the issues that need to be resolved to safely have the
14 children remain in their care?

15 Once the plan's established, the worker's focus
16 is really on implementing the plan. So some of that may
17 involve direct involvement themselves, but a lot of it
18 involves utilizing community resources, community services,
19 as well as other services that are offered within
20 the agency, such as a family support program. It may
21 involve referrals for substance abuse treatment,
22 counselling services, parenting programs, those kinds of
23 things.

24 While they're implementing the plan, there's a
25 constant state of reevaluating and gathering additional

1 information. So is the family making progress towards the
2 stated case plan goals? You know, does anything else need
3 to be changed? Do we have any new information that changes
4 our assessment, related to this family? And that's
5 essentially the work that's carried on until the point
6 where you're able to close a file.

7 Q And on what basis would a family service unit
8 close a file?

9 A There's a couple ways that a file can be closed.
10 You could close a file based on there no longer being any
11 identified risk factors. So if the family has really, you
12 know, been successful in implementing the plan, you can
13 close the file. You can close the file if there continue
14 to be some risk factors, but there continues to be other
15 services that are involved that will continue providing
16 services to the family and who would be able to identify
17 and report, should the family situation deteriorate. The
18 family file could also be closed if the agency made a
19 determination that they didn't feel the family could ever
20 make sufficient change to parent the children and sought a
21 permanent order. And in that situation, then the family
22 file would be closed and only the child file would remain
23 open.

24 Q Because the child would be apprehended as -- and
25 become a ward of --

1 A A permanent ward --

2 Q -- the agency?

3 A -- yeah.

4 Q Okay. And was there a typical timeframe? Is
5 there a typical timeframe during which a, a family service
6 unit keeps a file open?

7 A The average length of service is just over two
8 years, but it can range from six months to 15 years.

9 Q And during the period 2000 to 2005, were there
10 other services that Winnipeg Child and Family Services
11 provided?

12 A During that period of time, the agency would have
13 had a perinatal program. They also had a family
14 preservation family reunification program. They had a
15 family support program that would provide in home support
16 services related to parenting and parent-child attachment.
17 They had an independent living program which was focused on
18 supporting children who were young, young, young adult
19 youth, to transition into adulthood, who'd been in the care
20 of the agency. They had a permanency planning and adoption
21 program and permanency planning being the provision of
22 services specifically to children who were permanent wards
23 of the agency and adoption services. They had a volunteer
24 program. They also had a resource program related to
25 placement resources for children. So placement does

1 specialized foster homes, general foster homes, kinship
2 foster homes, where children are placed with extended
3 family members. And I'm probably missing something, but
4 that's all I can think of right now.

5 Q And now? What services does Winnipeg Child and
6 Family Services provide?

7 THE COMMISSIONER: As of this date, you mean?

8 MS. WALSH: Yes.

9 THE WITNESS: Currently we have -- we continue to
10 function under the two program areas, so services to
11 children and families. And within that, we have family
12 service teams. And we continue to have a perinatal
13 program. We have a specialized program for the provision
14 of family services to newcomers and we've specialized that
15 so that we, we were able to provide more culturally
16 appropriate service for those families. We have a family
17 enhancement program, which is focusing on early
18 intervention with families. And we have a float program,
19 which provides support related to vacancy management. We
20 also have resources, which includes a family support
21 program, transportation program, volunteer program, as well
22 as our specialized placement resources, which include
23 kinship, specialized foster homes and general foster homes.

24 Q Okay. And you used the term "perinatal"; what
25 does that refer to?

1 A Perinatal program is providing services to young
2 expectant parents for either a year, or until they turn 18.
3 So it's, it's young women under the age of 18 and it's
4 really focused on an intensive involvement for the first
5 year that they're parenting their child.

6 Q Okay. Anything else you want to tell us, either
7 about the services that were delivered by the agency, or
8 the agency was capable of delivering during the period 2000
9 to 2005, or currently?

10 A I don't think so.

11 MS. WALSH: Mr. Commissioner, do you have any
12 questions?

13 THE COMMISSIONER: No, not at this point.

14 MS. WALSH: Well, I'm done with my questions for
15 the witness. I don't know if other counsel may have some
16 questions, or the witness' own counsel.

17 THE COMMISSIONER: Perhaps we can canvas now and,
18 and that'll take, give us some indication of what we're
19 going to do this afternoon.

20 Will there be questions from some counsel of this
21 witness?

22 I don't see --

23 MS. WALSH: It's probably the only time you'll
24 see --

25 THE COMMISSIONER: I'm sure --

1 MS. WALSH: -- that happen.

2 THE COMMISSIONER: -- I'm sure that's true.
3 Well, then we can thank and discharge this witness then, I
4 guess, if no one else anticipates questions.

5 So it's, it's been a very informative time, lot
6 of background information that's going to become relevant,
7 I'm sure, as this inquiry moves on and I thank you for the
8 preparation you've done and the, the information you've
9 given us this morning.

10 THE WITNESS: Thank you.

11 MS. WALSH: Thank you, Ms. Brownlee.

12

13 (WITNESS EXCUSED)

14

15 THE COMMISSIONER: All right. Now, we'll, what,
16 adjourn until quarter to 2:00?

17 MS. WALSH: We could, Mr. Commissioner. We're
18 actually doing very well time-wise. We only have one other
19 witness, who's going to walk through a presentation, as I
20 said, of the Child and Family Services electronic system,
21 information system.

22 How long do you think that witness will
23 take?

24 And hour's evidence at most, so we're doing well.

25 THE COMMISSIONER: That's all there'll be today

1 then?

2 MS. WALSH: Yes.

3 THE COMMISSIONER: Well, let's, well, I think,
4 still, we'll, we'll adjourn until a quarter to 2:00.

5 MS. WALSH: All right. Thank you.

6

7 (LUNCHEON RECESS)

8

9 THE CLERK: You may be seated.

10 MR. OLSON: Good afternoon --

11 THE COMMISSIONER: Mr. Olson.

12 MR. OLSON: -- Mr. Commissioner. We're ready to
13 call the next witness please.

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

16 THE WITNESS: I'll affirm please.

17 THE CLERK: All right. State your full name for
18 the court?

19 THE WITNESS: Amber Vialette.

20 THE CLERK: And spell me your first name?

21 THE WITNESS: A-M-B-E-R.

22 THE CLERK: And your last name?

23 THE WITNESS: V-I-L-E-T-T-E (sic).

24 THE CLERK: Thank you.

25

1 **AMBER VIALETTE,** affirmed,
2 testified as follows:

3

4 THE CLERK: Thank you.

5

6 EXAMINATION BY MR. OLSON:

7 Q Good afternoon, Ms. Vialette. I understand that
8 you've prepared a PowerPoint presentation that will assist
9 the Commissioner in understanding the information system,
10 the computerized information system used by the child
11 welfare system in Manitoba?

12 A I have.

13 Q And that's called the Child and Family Services
14 Applications CFSIS and intake module presentation?

15 A Yes.

16 Q And you've prepared for use in these hearings?

17 A Yes, I have.

18 MR. OLSON: Just like to mark that as the next
19 exhibit, 16.

20 THE CLERK: (Inaudible) 16.

21 THE COMMISSIONER: Fifteen?

22 THE CLERK: Sixteen.

23 THE COMMISSIONER: Sixteen. Oh yes, there's 14,
24 yes. Exhibit 16.

25

1 **EXHIBIT 16: CHILD AND FAMILY**
2 **SERVICES APPLICATIONS, CFSIS AND**
3 **INTAKE MODULE PRESENTATION**

4

5 BY MR. OLSON:

6 Q So just before we get started, I just wanted to
7 go through your work experience. I understand that you're
8 currently the strategic initiatives and program support
9 person for Child and Family Services of Manitoba?

10 A I'm actually a business, a business analyst with
11 that unit.

12 Q Okay. And you've been doing that since two
13 thousand and --

14 A Eight.

15 Q -- eight? And just briefly, what is it you do in
16 that position?

17 A In that position, I, I'm actually a social worker
18 by education and I provide business knowledge to the people
19 that are developing the electronic applications for Child
20 and Family Services.

21 Q Okay. And prior to that, I see you, you were the
22 CFSIS and intake module training person for the Child
23 Protection Branch?

24 A Yes, for about four years, I trained both of the
25 applications that I'm going to be referring to today.

1 Q Okay. And I also see that prior to that, you
2 were an intake and family service worker with Interlake
3 Child and Family Services?

4 A I was, for about three and a half years.

5 Q So you were a front line social worker?

6 A Front line social worker and intake worker.

7 Q And in terms of education, you have a Bachelor of
8 Social Work and a Bachelor of Science?

9 A That's right.

10 Q So with that, what I would like you to do is just
11 take us through your PowerPoint presentation.

12 A Certainly.

13 Q I, I'll sit down. From time to time, I may have
14 questions for you. If you see me rise, that's, you'll know
15 I have, have a question for you, or Mr. Commissioner may
16 have questions for you as you go along.

17 A Thank you.

18 As noted, I am here today to talk about the Child
19 and Family Services applications. There are actually two
20 electronic applications that make up the Child and Family
21 Services database. The first application is the Child and
22 Family Services Information System, known as CFSIS. It was
23 developed in 1993 by a team of social workers and computer
24 developers. It is our case management tool and it is an
25 extremely rich source of data. Within this application,

1 this is where workers will document their day-to-day
2 happenings in a case.

3 Each agency that has access to CFSIS and that is
4 all of the agencies, have access to the CFSIS cases that
5 are created by their agencies. So what that means is, is
6 if I'm a staff at Interlake Child and Family Services, I
7 would have access to the CFSIS cases that belong to
8 Interlake Child and Family Services. I wouldn't
9 necessarily have access to the cases at Winnipeg Child and
10 Family Services.

11 Each agency is responsible for identifying what
12 kind of access or security that a user would need to have.
13 This application was created and is built to reflect the
14 legislation, the standards, the regulations and current
15 business practices within Child and Family Services in
16 Manitoba.

17 CFSIS, as it's commonly called, is also linked to
18 our second application, called the intake module.

19 The intake module is used to log the first
20 contact with an agency. It was built in 2004, but went
21 live, it was started to used (sic) in Winnipeg in 2005.
22 It's used for all new referrals and any time that a worker
23 is, is given information the child is, or may be in need of
24 protection.

25 Creating an intake module, an intake in the

1 intake module will then allow the worker to see all other
2 intakes involving that person. So, for example, if there
3 was an intake that involved Amber Vialette, the worker
4 would then be able to see all other intakes across the
5 province that involved Amber Vialette.

6 The applications are available 24 hours a day,
7 seven days a week. Currently, there are over 2300
8 registered users in over 130 sites across the province.
9 Every day, we have approximately 1600 log ins. And what
10 that means, is every time a user logs in, or signs into the
11 system, that's counted as one. So there's over 1600 of
12 those every day. In the event that a user has difficulty
13 using either of the applications, we do have a help desk
14 available to assist those users. A person could contact
15 the help desk by either telephone, we have a local and a
16 toll free number for that, as well as an e-mail address
17 that they can contact them by.

18 Who has access to the Child and Family Services
19 applications?

20 THE COMMISSIONER: Well, just let me ask you
21 this, you, you've talked about the, the, the, the two --
22 what, what -- how did you describe it, two services?

23 THE WITNESS: Two applications.

24 THE COMMISSIONER: Two applications. Now, is
25 what you, what you're addressing now relates to both

1 applications?

2 THE WITNESS: It does.

3 THE COMMISSIONER: Okay. That's what I didn't --

4 THE WITNESS: It does, CFSIS and the intake
5 module --

6 THE COMMISSIONER: Yes.

7 THE WITNESS: -- they talk to one another and
8 they are linked in the same database.

9 THE COMMISSIONER: Right. Okay.

10 THE WITNESS: And who has access to that
11 database? Social workers, supervisors, administrative
12 assistants, agency executive, authority personnel, Child
13 Protection Branch personnel and also social worker at the
14 Children's Emergency and Office of the Children's Advocate.
15 Those last two have read only access, which means that they
16 can't actually make any changes into the cases. They could
17 only read certain information. The social worker at
18 Children's Emergency, if they want further information
19 about a case, would actually have to call the worker at an
20 agency to get that information. They would just be able to
21 see that a case exists.

22 Person records are the foundation of the
23 database. Both CFSIS and the intake module share person
24 records.

25 A person record is information about a particular

1 person. So I, Amber Vialette, would have a person record
2 in the database and my person record would show information
3 about me. For example, my birth date, my age, my address.
4 Those are things about me.

5 Currently, we have over 500,000 person records in
6 the database and for every one person, there should only be
7 one person record. And my person record should show the
8 cases that I'm attached to. So as a person, I may be
9 attached to a child in care case, I may be attached to a
10 foster care case and I might be attached to an employee
11 case. There would only ever be one Amber Vialette in our
12 whole database of 500,000 people.

13 This is an example of what a person record looks
14 like. On the top of the screen, we have the person's name
15 and then below that, we have other names that a person may
16 be known as and we're going to be using the person's known
17 as name, their legal name, perhaps their maiden name and
18 any other names that that person's known as, such as a
19 nickname.

20 We would then identify what the gender of the
21 person is, their age, and also their date of birth.

22 On the bottom of the screen of a person record,
23 we can see the cases that this person is attached to. So
24 this one person record would be attached to all of these
25 CFSIS cases on the left hand side and all of these intake

1 cases on the right hand side. And those are the cases that
2 this one person record has been attached to.

3 THE COMMISSIONER: And, and did you tell us how
4 long has this system been in operation?

5 THE WITNESS: The system was developed in -- the
6 CFSIS side of the applications was developed in 1993 and
7 the intake module was developed in 2004 and went live in
8 Winnipeg in 2005.

9 A prior contact check is a function that's
10 commonly used to determine if prior contact with Child and
11 Family Services that's been recorded in the electronic
12 systems has occurred. So this would be used if a worker
13 wanted to know, has Amber Vialette had any previous Child
14 and Family Services interaction?

15 Searches are based on names that are spelled
16 alike, sound alike, age alike, gender alike and are
17 associated with the names, other names used by the
18 individual. So our system is going to search for Ambler
19 (phonetic), Amber Vialette, at whatever age is entered by
20 the worker. Our system will return up to 100 of the
21 closest matches. I would then need to start -- look at the
22 person profile, which I'll show you in one moment, to
23 determine if that is indeed the person I'm looking for. At
24 the end of the day though, it is up to the worker to search
25 through the prior contact check returns to determine if the

1 person they're looking for is in the Child and Family
2 Services database or not.

3 This is an example of what a prior contact check
4 would look like. On the top line, I have searched for a
5 person called Ma Presentation and her age, I've entered as
6 32, with a gender of unknown. I have redacted this screen,
7 because it is a snapshot of the real database, to protect
8 the names that are in there.

9 You'll notice that on the second line I had a
10 return for Ma Presentation at a match of 81 percent. That
11 81 percent match is based on how closely I spelled the
12 name, how closely I got the age right and how closely I got
13 the gender right. So I was an 81 percent match. There are
14 a few names there that are redacted and then further down,
15 there's someone called Pa Presentation, who has a 74
16 percent match and as I look over, his age is 47 and he's
17 entered as a male.

18 As a worker, or a user of the system, I would
19 need to then determine which of the persons in this
20 database, if any, is actually the person I'm looking for.
21 So to do that, I would click on the person profile button
22 at the bottom, which would give me more information about
23 the person record that I want to look at.

24 When I look at the prosive (phonetic), person
25 profile, I'm then given information about the names that

1 this person may also be known as, their birth date, their
2 age, gender, last known location address, a care and
3 caution, which gives me information that I may need to be
4 aware of if I'm visiting this person and then, at the
5 bottom of the screen, also information about who's
6 associated to this person. Often we'll know more
7 information about the person than just their name. We'll
8 also know perhaps a spouse or a partner, or the name of
9 their children. And this will help me determine if this is
10 the person that I'm looking for.

11 If it's not the person I'm looking for, I would
12 simply go on to the next name in the list and determine if
13 that's the person I'm looking for, until I exhaust all
14 possibilities.

15 If this is the person I'm looking for, then I'll
16 want to know what types of cases has this person been
17 involved in? So I would go to the cases involving this
18 person button.

19 We have 20 separate case categories in CFSIS and
20 some of the more commonly used case categories are child in
21 care, family enhancement, protection, voluntary family
22 service, adoptive applicant, alert and foster care
23 management case. And knowing what those acronyms are are
24 going to help me to determine what types of cases this
25 person's been involved in.

1 When I look at the cases that this particular
2 person was involved in, I can identify from the status, is
3 that case opened or closed? Or is it waiting closure? Or
4 is it still pending, and under the case category, knowing
5 what those acronyms mean. So I know that PRT means
6 protection, CIC means child in care. I know what those,
7 those are from that list of 20. I'm also able to see who's
8 the case reference and what is their household status
9 within the case?

10 On the bottom of the screen, I'm able to see the
11 intake cases that this person has been involved in as well.
12 The CFSIS cases are on the top and the intake cases are on
13 the bottom.

14 If I'm a worker with an agency that has the case
15 open, I could simply just click on the case and be provided
16 with information. If the case was open to an agency that
17 is not my own, then I would need to get further information
18 about who to contact with that case.

19 If I scroll over, I'm provided that information.
20 I'm provided the name of the worker, their phone number and
21 the agency that they're working for and I would be able to
22 contact that agency/worker to determine information about
23 the person and the case.

24 This is an example of what a protection case
25 would look like in CFSIS. The protection case has a PRT/M

1 in the top left hand corner. The M would signify that this
2 particular case had maltreatment in it. This is actually a
3 function that wasn't developed until 2007.

4 Case reference for this case is Ma Presentation
5 and her case status in this situation is waiting closure.
6 However, this is where I would look to see what the status
7 of the case is.

8 On the right hand side, I have who is involved in
9 the case and I also have the worker and the supervisor.

10 At the bottom of the, at the bottom of the page,
11 I have a recordings button, which, if I want to know what
12 the recordings of the case say, I would just simply click
13 on the recordings button and I could get into the
14 recordings. The recordings are only viewable if you have
15 access to the case. So if I worked for this particular
16 agency, I would then have access to the recordings.

17 The recordings are listed in chronological order
18 and it's just a simple click and it would take me into a
19 Word document if I was, had access to this case.

20 Recordings can be accessed by those with security
21 to access the case and are read only. Only the person who
22 edit, who created the original recording can edit the
23 recording. The recording can only be deleted by the person
24 who added the recording to the case.

25 It's very common for a social worker or a CFS

1 worker to create a Word document then pass it off to an
2 administrative person to have it uploaded to CFSIS, but
3 that would depend upon the agency practice.

4 Because only the person who created and the
5 person who added the case can do any kind of manipulation
6 to the recording, a supervisor couldn't come into CFSIS and
7 edit a recording, nor could another worker. They could
8 only, only edit their own.

9 This is an example of what a child in care case
10 would look like, very similar to the protection case. It
11 has the case reference, the case status, people in the case
12 and the recordings button. It's very similar.

13 The difference with a child in care case is in
14 the details. And the details of the case, of a child in
15 care case, are going to identify the legal status and
16 placement information of a child in care. And the legal
17 status would be listed on the left hand side, as it's input
18 into the system, along with the facility of the placement
19 of the child and the start and end date of each particular
20 placement.

21 The Child and Family Services applications are
22 confidential, but we do have additional confidentiality
23 settings, to ensure a further degree of confidentiality.
24 We have two settings, one called confidential and one
25 called restricted. High profile cases, such as a child

1 death, or perhaps a missing child, would be marked
2 restricted. Cases involving staff or adoptions are marked
3 confidential and this gives them a higher degree of
4 confidential, above and beyond what the Act offers all
5 cases in CFSIS and the intake module.

6 If a case is marked confidential or restricted,
7 there is very limited information available in a PCC. A
8 PCC is prior contact check. If one -- if a worker is
9 looking at one of these cases, they would have to contact
10 the help desk for more information about that case.

11 This is an example of what a prior contact check
12 would look like if it was marked restricted. All the
13 information I would get is that I would need to call the
14 help desk for more information.

15 When logging on to the system, workers are
16 presented with confidentiality notice and this is alerting
17 users to check, to Section 76 of the Child and Family
18 Services Act. They have to click accept before they can go
19 any further into the system. They also have to acknowledge
20 that there may be, they may be penalized if they breach the
21 system for any purpose other than outlined in the
22 Act.

23 And these are the two screens that they must
24 click before they can actually get into the system. So
25 they're saying that they're about to view confidential,

1 confidential information and that they're aware of the
2 penalties.

3 We're able to track use within the applications,
4 both CFSIS and the intake module. We're able to track
5 prior contact checks completed by a particular user and
6 we're also able to track a person who searched for a
7 particular person record. So what does that mean? It
8 means that we can track who has searched for Amber Vialette
9 and we can also track who Amber Vialette has searched for.
10 And those are the two things that we can track.

11 The second application is the intake module. As
12 I said earlier, the intake module was developed in 2004,
13 but it went live in Winnipeg in May of 2005. The intake
14 module is the first point of entry into the Child and
15 Family Services applications and service from a Child and
16 Family Services agency. It's used whenever a child is or
17 might be in need of protection. But it also logs activity
18 for non-child welfare and child welfare referrals. So a
19 non-child welfare referral might be somebody calling an
20 agency asking if there's a parenting class available in the
21 community.

22 Both of these applications talk to one another,
23 so that when a prior contact check is done, we can see both
24 the CFSIS side of activity and the intake side.

25 THE COMMISSIONER: Just so I understand this --

1 THE WITNESS: Um-hum.

2 THE COMMISSIONER: -- you're, you're now moving
3 into the, the intake module?

4 THE WITNESS: Yes.

5 THE COMMISSIONER: Did -- would, would the first
6 -- was the person's records, is that the start of the, of
7 the, of the other one?

8 THE WITNESS: No, the person records are shared
9 between the two applications. So as a person, I might be
10 involved in an, in a CFSIS case and I might be involved in
11 an intake case.

12 THE COMMISSIONER: Oh, I see.

13 THE WITNESS: It's just logged in a separate
14 application.

15 THE COMMISSIONER: Okay.

16 THE WITNESS: When a person, when a, when a user
17 creates an intake, it then allows them to see all other
18 intakes that have been created on that person. So if I,
19 Amber Vialette, was saved in an intake, the worker would
20 then be able to see all other intakes that I've been
21 involved in, so all other times that I might have been in,
22 in need of protection.

23 This is a screen of what the intake module looks
24 like. A worker would simply navigate through the left hand
25 navigation bar and enter information that is required in

1 each field. The intake module is set up in sort of a
2 template matter, so that the worker can work through and
3 enter the information that's requested of them.

4 In our systems, we do have a few registries, one
5 of which is the Child Abuse Registry. And the Child Abuse
6 Registry, there are three ways in which a person's name can
7 be entered on the registry. The first is if a person is
8 found guilty of, or pleaded guilty to an offence involving
9 a, the abuse of a child in a court, inside or outside of
10 Manitoba. The second is if a person is found to have
11 abused a child, under a proceeding of the Child and Family
12 Services Act. And the third is as outlined in the Child
13 and Family Services Act, an agency, child abuse committee,
14 may enter the name of a person on a registry.

15 Child Abuse Registry checks are done at the
16 agency level for only two reasons. The first is in a
17 protection investigation and the second is in a place of
18 safety.

19 We do have a Child Abuse Registry unit at the
20 Child Protection Branch that provides self checks for
21 people who want to have a Child Abuse Registry check done
22 for either employment or for volunteer purposes.

23 When a check is done, one of two screens will be
24 the result. The first screen is that the person is not on
25 the abuser registry and the second message is that the

1 person is on the Child Abuse Registry. If a person appears
2 to be on the Child Abuse Registry, then further measures
3 would need to be taken. The child abuse registrar would
4 need to be contacted to confirm that this is, indeed, the
5 person that is on the Child Abuse Registry.

6 And that's the conclusion of my, of my
7 presentation. I just want to go through a few stats to
8 display how data rich our system actually is.

9 Every month, there are about 63,000 prior contact
10 checks completed. We have about 6900 Child Abuse Registry
11 checks, that's both at the agency level and by the Child
12 Abuse Registry unit. We add almost 6,000 recordings every
13 month. Twenty-three hundred intakes are created every
14 month. Thirteen hundred new person records. About 570 new
15 cases every month. Thirty-nine child in care transfers are
16 completed, as well as approximately 20 child abuse
17 registrations every month.

18 And that concludes my presentation.

19

20 BY MR. OLSON:

21 Q Thank you for that. I have just a few questions
22 for you. First of all, I just wanted to clarify that. So
23 the intake module was, was rolled out in Winnipeg in May
24 2005?

25 A Correct.

1 Q And prior to that, the only system was the CFSIS
2 system?

3 A That's correct.

4 Q And so we know that the services rendered for
5 Phoenix would have all taken place prior to the intake
6 module being rolled out in Winnipeg?

7 A Correct.

8 Q Okay. So when workers, throughout, talk about
9 CFSIS, they would be referring to -- provided it's pre-
10 intake module -- they'd be referring just to the CFSIS
11 system?

12 A Yes.

13 Q Okay. And the CFSIS system, the screens you
14 showed throughout your presentation, were those all present
15 in the CFSIS system between 2000 and 2005?

16 A They were.

17 THE COMMISSIONER: Sorry, I, I was putting down
18 the last -- so what was that question again?

19 MR. OLSON: So the screens that Ms. Vialette went
20 through early on, those would have been common to both --

21 THE COMMISSIONER: Yes.

22 MR. OLSON: -- CFSIS and the intake module.

23 THE COMMISSIONER: I follow, thank you.

24 MR. OLSON: Okay.

25

1 BY MR. OLSON:

2 Q And am I right that when a, a social worker would
3 first get an intake, whether it's to AHU, or CRU or
4 wherever, the first thing they would typically do is do a
5 computer search?

6 A Yes.

7 Q Okay. And often workers were working with the
8 computer, rather than a paper file? Or are you able --

9 A Are you, are you talking about a specific agency?
10 Or --

11 Q Generally in Winnipeg.

12 A I can't speak to the practices in Winnipeg. I've
13 not, I've never been employed by Winnipeg CFS.

14 Q Okay.

15 A The computer system was available.

16 Q To all the workers?

17 A To all workers --

18 Q Okay.

19 A -- yes.

20 Q And I think you, you said that each agency in
21 Manitoba, so anywhere in Manitoba, a worker can access
22 their own cases on CFSIS?

23 A Yes.

24 Q And that's been, that was true in 2000, as well
25 as today?

1 A Yes.

2 Q And when they access those cases, they can see
3 intakes done by other agencies?

4 A This -- in CFSIS, an agency can access cases -- a
5 person could access cases from within their own agencies.
6 If a prior contact check was done and it showed cases from
7 their own agency and intakes from other agencies, they
8 wouldn't necessarily be able to access those right away.
9 They would have to have an active intake where they had
10 that person saved in their intake, in order to access those
11 intake cases.

12 Q Okay. So just to be clear, if it were, were a
13 person in their agency, in their jurisdiction, they would
14 be able to access the records for that person?

15 A Yes.

16 Q Okay.

17 A Their agency.

18 Q Their agency records. But if that same
19 person had a file open to another agency in another
20 jurisdiction --

21 A They would need to call that agency and get
22 information. There's also, there's also an agreement with
23 ANCR that ANCR will provide information regarding cases
24 because there are a few individuals at ANCR that have
25 access to province-wide cases as well, because they, they

1 provide services on behalf of all four authorities.

2 Q You mentioned that there were different levels of
3 access, depending on who's doing the accessing?

4 A Yes.

5 Q And why is that?

6 A Depending on your business need for the system,
7 you may need to have access to certain types of cases, but
8 not others. If I'm a, I'm, if I'm an adoption worker, I
9 would need to have access to adoption cases. However, if
10 I'm a protection worker, I wouldn't necessarily need access
11 to adoption cases. I may not need access to foster homes.
12 I would need access to protection cases that I'm providing
13 services to.

14 Q And just in terms of, on slide 9, you, you showed
15 what a search would look like?

16 A Just going to go back to slide 9.

17 Q Oh, sorry, slide 8.

18 A Slide 8?

19 Q Or 10.

20 A Ten.

21 Q So is this, would this search, just, just to
22 conceptualize it, would be, would it be similar to, for
23 example, if someone were, was using Google on their
24 computer? Is that the same sort of idea?

25 A Yes.

1 Q So a list of hits or results would come up and
2 then the worker could click on those results to see what,
3 what other information there was about that particular --

4 A Yes. In this instance I'm looking, I'm, in
5 essence, Googling, Ma Presentation to see if she's in our
6 system.

7 Q Okay.

8 A And these are the results that I get from
9 entering her name into our system. And in order to see
10 which, if any of these fit the person I'm looking for, I
11 would then need to go into the person profile to get more
12 information about that particular record.

13 Q Right. So based on what you know about, what --
14 you're, you're search, you can maybe exclude certain hits
15 as not being the person you're looking for?

16 A Correct.

17 Q And some will likely be closer to what you're
18 looking for?

19 A Correct.

20 Q Okay. And they're, and they're sorted by
21 relevance, in terms of how closely they match your search
22 parameters?

23 A Right. Spelled alike, sound alike, age alike,
24 gender alike.

25 Q You also mentioned that a worker could only edit

1 an entry; is that -- do I, do I have that right?

2 A It, it's very dependent upon how the recording
3 was uploaded into the system.

4 Q Okay.

5 A If a worker created the document in a Word
6 document and then sent it to an admin to be uploaded into
7 the system, they would only be able to edit the document.
8 They would not be able to delete the document. And the
9 admin person could only delete the document, they could not
10 edit it.

11 Q So they couldn't change anything in the actual
12 document --

13 A That's correct.

14 Q -- itself?

15 A Only the person who created the document.

16 Q And is that, that, I take it that's only true
17 once that document's actually been uploaded into CFSIS?

18 A Correct.

19 Q So prior to that point, for example, when a, when
20 a supervisor is to sign off on a document, changes could be
21 made before it's handed off to admin to upload?

22 A The system wouldn't have any knowledge of that,
23 because it wasn't uploaded into the system. So the system
24 wouldn't be able to track that or have any control over
25 that.

1 Q Right. But once it is uploaded into the system,
2 only the creator can change the --

3 A That's correct.

4 Q -- record? The other thing I, I just wanted to
5 ask you about is the ability to track user searches.

6 A Yes.

7 Q And so, does that mean when a worker has
8 performed a search on a, on a person, you know, in 2007,
9 someone could go in now and determine that, that a search
10 was, in fact, done on that person?

11 A Yes.

12 Q And it would trace it back to the, whoever the
13 user was of the --

14 A That's correct. We'd have to use a, a date
15 parameter to determine the date that we were looking at,
16 but yes, it is possible.

17 MR. OLSON: I think those are the only questions
18 I have for you.

19 Mr. Commissioner, do you have any questions?

20 THE COMMISSIONER: No.

21 THE WITNESS: Thank you.

22 MR. OLSON: Is there any questions from --

23 THE COMMISSIONER: All right. Questions from
24 counsel? Mr. Gindin?

25

1 EXAMINATION BY MR. GINDIN:

2 Q I just have a few questions. If I can direct you
3 to page 17 of your presentation, which is exactly what Mr.
4 Olson was just asking you about, particularly the portion
5 that talks about how things can only be edited or deleted
6 by the person who created the file?

7 A Yes.

8 Q What's, what's the process that would prevent
9 anyone else from doing that?

10 A The system won't allow it. So the -- there is --
11 just one second. The system records who it's been created
12 by and who it's been created for.

13 Q Um-hum.

14 A And so the system knows who those people are.

15 Q And is it a password that they need to, to get in
16 there? Or how would the person who actually created it be
17 able to change something?

18 A Because when people are given access to the
19 system, they're given, they're given an identity in the
20 system. So this, when I log in, I would have to use my
21 name and a password and the system would know that is me.

22 Q I see. And if somebody else used that name and
23 password, they could also get in, I suppose?

24 A I suppose.

25 Q Okay.

1 A But it is very much based on my name and password
2 when I log in.

3 Q Okay.

4 A Just as, the same as your banking password would
5 be, or any other password protected system.

6 Q So anyone using that name or password would be
7 able to log in and make changes?

8 A That name and password, yes.

9 Q Okay. One other thing, with respect to page 21
10 of your presentation, I was a little confused. You were
11 talking about high profile cases --

12 A Yes.

13 Q -- being restricted?

14 A Yes.

15 Q Is that an automatic process?

16 A No, when an, when a, when a case, it's been
17 marked restricted, somebody has to notify a person at our
18 help desk and our help desk person will actually go in and
19 physically mark it restricted.

20 Q And do you know how that is decided?

21 A It could happen in, in any -- there's, there's a
22 number of different ways it could happen. We have child
23 death, people who investigate child deaths. They may
24 notify our help desk to identify that a child has died. If
25 there's something that's in the paper, that might be in a

1 way that they're notified that they need to go in and mark
2 a case restricted.

3 Q So a child death case would almost certainly be
4 marked restricted?

5 A Yes.

6 Q And when you use the term "high profile", do you
7 just mean that it's been in the news, and that's more
8 likely to make it a restricted file?

9 A Yes.

10 Q And that's based entirely on the fact that it's
11 out in the media?

12 A Not necessarily. All child deaths don't
13 necessarily make it to the media.

14 Q Is there a particular person who makes that
15 designation?

16 A But it's, it's a business decision made at the,
17 at the applications business unit.

18 Q And do you know who that person would have been
19 in the year two thousand and --

20 A I don't.

21 Q -- so, 2005, you don't know?

22 A The restricted setting actually didn't exist back
23 in 2005. It has been created since, since then, so --

24 Q Do you know when --

25 A It was --

1 Q -- approximately?

2 A -- I don't know the exact date, off the top of my
3 head.

4 Q Or the year?

5 A I don't know that right off the top.

6 THE COMMISSIONER: But you know it was after
7 2005?

8 THE WITNESS: It was definitely after 2005.

9 MR. GINDIN: I see. All right. Thank you.

10 THE COMMISSIONER: All right. Any other
11 questions from counsel?

12 Well, it would appear -- yes?

13 MR. HAIGHT: Just one, if I might.

14

15 EXAMINATION BY MR. HAIGHT:

16 Q Just follow up on the question from Mr. Gindin,
17 Ms. Vialette, if, if a person were to have a -- well, what
18 protections are in place to protect passwords? Let me ask
19 you that.

20 A That would be up to the individual.

21 Q Right. And if an individual were to obtain
22 another person's password, know their name, it would be
23 possible for that person to go and do a check, using that
24 person's name and password?

25 A The, the safeguards we have set up is that we do

1 have the confidentiality messages when a person logs onto
2 the system. So that when that person logs on, they do have
3 to click on two screens, adhering to the fact that they
4 will be using the system in pursuant to the Child and
5 Family Services Act and that there are penalties for not
6 doing so.

7 Q I appreciate that, but if a person were not going
8 to be concerned about those warnings, it would be possible
9 for a worker to conduct a search using another person's
10 name and password?

11 A I suppose it would be, but I couldn't speak to
12 the human nature that would allow the password sharing. I
13 can't speak to --

14 Q Sure.

15 A -- whether or not somebody --

16 Q Because that's the --

17 A -- would do that.

18 Q -- that's a -- you're -- each individual is asked
19 to protect their password?

20 A Yes.

21 Q And then carrying further with that, if someone
22 were to do a check, as you talked about near the end of
23 your presentation, of where you can go in and check and see
24 which individuals did checks in the CFSIS system --

25 A Yes.

1 Q -- if one individual were to have an individual's
2 name and password and were to do a check in 2005 and then
3 the check that I just spoke of, where they were looking to
4 see who was doing checks on certain individuals and it
5 showed a person's name and password, it's, it is possible
6 for that person whose name and password shows up, in a
7 subsequent search, to have not conducted that search?

8 A We would be able to tell which user name and ID
9 was used to, to do the check.

10 Q Right.

11 A That's what we would be able to tell.

12 Q But my, my point is, is, is if person B had
13 person A's password and did a search and using person A's
14 name and password, if you were, do to (sic) a search two
15 years later, after the fact, it would show up that person A
16 did the search, when, in fact, person B may have done the
17 search?

18 A I can only tell you what our search would turn up
19 and it would turn up the user name and password.

20 Q Right. And, and in this instance, using my
21 example, it would turn up person A's name and, and --

22 A It would turn up the person's user name and ID
23 that completed the search.

24 MR. HAIGHT: Right, right. Thank you.

25 Thank you, sir.

1 THE COMMISSIONER: Anybody else? Well, it would
2 appear not, so I, we're ... Oh, sorry, Mr. Funke?

3 MR. FUNKE: Seeking some clarification from you,
4 Mr. Commissioner. We're only intervenors with respect to
5 this phase. I'm not sure that we're allowed to put
6 questions to the witness, but if we are, I would have two.

7 THE COMMISSIONER: Commission Counsel?

8 MS. WALSH: Well, on a strict reading of the
9 rules, intervenors don't have the ability to put questions,
10 but of course, Mr. Commissioner, you can allow anyone to,
11 counsel to ask a question if you like.

12 THE COMMISSIONER: Well, all right.

13 Mr. McKinnon?

14 MR. MCKINNON: Thank you, Mr. Commissioner, I'm
15 just rising on what I'll call a procedural issue, and that
16 is if intervenors have the ability to cross-examine
17 witnesses, then I would say there's no difference in the
18 standing and the status of parties with full standing and
19 parties that are intervenors. I, I wouldn't therefore see
20 a difference and it would make the exercise we went
21 through, the whole standing hearing exercise, somewhat of a
22 hollow process. I, I think that we should draw that
23 distinction. In my mind, if a, an intervenor felt that
24 there was something that they needed to examine, or cross-
25 examine on, they would have to notify you and make a

1 special case that they needed to challenge evidence, not
2 just stand up because a question occurred to them.

3 THE COMMISSIONER: Yeah, I, I hear you.

4 Mr. Funke, just take your seat and --

5 MR. FUNKE: Certainly, I, I was going to only say
6 that that was my understanding as well, Mr. Commissioner,
7 which is why I raised the point.

8 THE COMMISSIONER: Well, yes, and I, and I
9 appreciate you doing that because I must, I confess, I
10 didn't make the distinction --

11 MR. HAIGHT: And, and if I --

12 THE COMMISSIONER: -- when you came to the
13 microphone.

14 Yes?

15 MR. HAIGHT: -- if I might, Mr. Commissioner, it
16 appears that I owe you and this inquiry an apology, because
17 I got up and started asking questions, when it appears I
18 have no right to do so.

19 THE COMMISSIONER: Yeah, because --

20 MR. HAIGHT: And so I, I apologize for that. The
21 reason that I had such great interest is that just a few
22 days ago I was provided with information from your counsel
23 on the very point that Ms. Vialette was addressing and
24 without considering procedure at all, I just got up and
25 fired away. So my apologies for that, sir.

1 THE COMMISSIONER: Yeah, well, I, I understand
2 what you're saying. I, I must say I, I didn't, I, I know
3 the distinction, of course, but I hadn't appreciated that
4 you were for an intervenor --

5 MR. HAIGHT: Yes.

6 THE COMMISSIONER: -- and Mr. Funke kindly
7 pointed that out. But having heard what Mr. McKinnon had
8 to say, he's absolutely right and I think the line has to
9 be drawn to adhere to the rules and I, I appreciate we, we
10 certainly have time to take the questions, but they're not
11 order and, and I so rule.

12 All right. What else do we do today?

13 MR. OLSON: That was the last witness we had
14 scheduled for today, Mr. Commissioner.

15 THE COMMISSIONER: Okay. I understand that with
16 -- you, you can be excused and, and thank you very much for
17 your presentation and the assistance you've been to us.

18 THE WITNESS: Thank you.

19

20 (WITNESS EXCUSED)

21

22 THE COMMISSIONER: I understand we're adjourning
23 early today, given the, the technical nature of today's
24 evidence. I'm hopeful that the scheduling from, on most
25 days will take us close to the closing time each day. I, I

1 know it's not easy to calculate, but I wouldn't want to be
2 closing down this early every day. But you're -- be ready
3 -- we start up at 9:30 in the morning?

4 MR. OLSON: Yes.

5 THE COMMISSIONER: All right. We, we'll adjourn
6 now until 9:30 tomorrow morning. Thank you.

7 MR. OLSON: Thank you.

8

9 (PROCEEDINGS ADJOURNED TO SEPTEMBER 6, 2012)