

IN THE MATTER OF: **Commission of Inquiry into the Circumstances
Surrounding the Death of Phoenix Sinclair**

NOTICE OF MOTION
of
**The General Child and Family Services Authority, First Nations of Northern
Manitoba Child and Family Services Authority, First Nations of Southern
Manitoba Child and Family Services Authority and Child and Family All Nation
Coordinated Response Network**

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Our File No. 116822 0001

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Surrounding the Death of Phoenix Sinclair**

**NOTICE OF MOTION
of
The General Child and Family Services Authority, First Nations of Northern
Manitoba Child and Family Services Authority, First Nations of Southern
Manitoba Child and Family Services Authority and Child and Family All Nation
Coordinated Response Network (the “Authorities” and “ANCR”)**

The Authorities and ANCR will make a motion before Commissioner Hughes on Thursday, July 12, 2012 at 9:30 o'clock in the forenoon, in the Pan Am Room, Winnipeg Convention Centre, 375 York Avenue, Winnipeg, Manitoba.

THIS MOTION is for an order:

1. Compelling Commission Counsel to provide the Transcripts of witness interviews (the “Transcripts”) conducted by the Commission to the parties and intervenors to this Inquiry upon request;

2. In the alternative, allowing witnesses who consent to the release of their Transcripts to provide them to the parties and intervenors to this Inquiry upon request;

3. That the parties and intervenors who request and receive the Transcripts undertake to use the Transcripts only for the purposes of this Inquiry and to return the Transcripts to the Commission within seven days of the Commissioner releasing his final Report;

4. Such other orders as the Commissioner deems appropriate.

THE GROUNDS FOR THE MOTION ARE:

1. The Commissioner has the inherent jurisdiction to make the order sought as necessarily incidental to the carrying out of his functions pursuant to Order in Council 89/2011 appointing the Commissioner to conduct the Inquiry;
2. *The Manitoba Evidence Act*, and in particular sections 1, 87, 88(1), 93(1) and 96;
3. The relief sought is in the best interests of children in Manitoba;
4. The relief sought is in the public's interest;
5. The relief sought is required in order to allow this Commission to fulfill its mandate and to ensure that the Inquiry is thorough, fair and timely;
6. The relief sought is required to ensure that all matters that bear upon the public interest are brought to the Commission's attention;
7. The Transcripts are relevant, non-privileged documents in the possession of the Commission;
8. Order in Council 89/2011, and in particular section 9.
9. *Commission of Inquiry Rules of Procedure and Practice*, including, without limitation, Rules 6, 7, 14, 16, 19, and 23 to 28;

10. The principles of natural justice and procedural fairness together with the purpose and function of this Inquiry require copies of the Transcripts to be disclosed and made available to all parties with standing;

11. The open, truth finding function of this Inquiry requires disclosure of the transcripts;

12. The failure to disclose the Transcripts to parties with standing prevents those parties from participating as they are entitled to in this Inquest and prevents the evidence from being fully and properly explored.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. Order in Council 89/2011;
2. Amended Rules of Procedure and Practice;
3. Such further and other documentary evidence as counsel may advise and the Commissioner may permit.

July 4, 2012

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