



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, JANUARY 16, 2013

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1 JANUARY 16, 2013

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3

4 THE COMMISSIONER: Mr. Saxberg, please.

5 MR. SAXBERG: Thank you, Mr. Commissioner. Good
6 morning to you and everyone else.

7 My name is Chris Saxberg and I act for ANCR and I
8 also act for three of the authorities, all of the
9 authorities except for the Metis Authority. And I act for
10 individual witnesses, as well, including Diane Verrier and
11 Diva Faria.

12

13 **CHRISTOPHER ZALEVICH**, previously
14 sworn, testified as follows:

15

16 CROSS-EXAMINATION BY MR. SAXBERG:

17 Q I want to begin just going back over the
18 structure of the different programs at Winnipeg CFS, at the
19 time that you performed your work on the Phoenix Sinclair
20 file and, and, and today, as well, as those functions exist
21 today. And so I've put before you a document which we can
22 get on the screen as page 44750. And it's an
23 organizational chart.

24 And, Mr. Commissioner, I've provided you with a
25 binder that has these paper documents in it, they're all

1 Commission disclosure documents, but just for your
2 convenience.

3 THE COMMISSIONER: Yes, the staff has made that
4 available to me, this morning. Thank you, Mr. Saxberg.

5

6 BY MR. SAXBERG:

7 Q So the first document we're looking at is at the
8 second tab in that binder you have and it's a coloured
9 organizational chart. And on the screen, if we could
10 scroll down a bit. Yeah. Now, this is an organizational
11 chart for ANCR, which is the agency that performs the
12 intake functions in Winnipeg today; is that correct?

13 A I'm going to trust that you have the correct form
14 for this.

15 Q No, that it -- that ANCR performs intake
16 functions in Winnipeg?

17 A Yes, it does.

18 Q And it's taken over from Winnipeg CFS in that
19 capacity?

20 A ANCR took over from JIRU, yes.

21 Q From JIRU which was part of Winnipeg CFS?

22 A Yes.

23 Q And it was Winnipeg CFS at the time you were
24 providing services to Phoenix Sinclair; correct?

25 A That's right.

1 Q And your department is the bottom left box that
2 says CRP, that's the crisis response program, as it's known
3 today?

4 A Yes.

5 Q Correct?

6 A Yes.

7 Q And in that crisis response program, you see
8 there, there are 12 social workers, two supervisors, one
9 admin, two screeners and one medical liaison. That's as it
10 exists today; correct?

11 A That's correct.

12 Q And now, back in 2005, when you were performing
13 this work that unit or that program was called the crisis
14 response unit; correct?

15 A Yes.

16 Q And the only difference, in terms of
17 composition --

18 THE COMMISSIONER: Just where on the chart are
19 you?

20 MR. SAXBERG: The -- there are four boxes near
21 the bottom.

22 THE COMMISSIONER: Yes.

23 MR. SAXBERG: And the one on the left side --

24 THE COMMISSIONER: Yes.

25 MR. SAXBERG: -- of the pages says: CRP.

1 THE COMMISSIONER: Yes.

2 MR. SAXBERG: That's the box that we're at,
3 that's the crisis response program, formerly known as the
4 crisis response unit.

5 THE COMMISSIONER: All right. I follow you now.

6

7 BY MR. SAXBERG:

8 Q Okay. And then the next box over is the intake
9 program, that's a separate program, as it existed -- exists
10 at ANCR today and, and that intake program was a separate
11 program back at Winnipeg CFS, when you were providing
12 services to Phoenix Sinclair, as well; correct?

13 A That's right, yes.

14 Q And then there's an abuse program, that's a
15 separate program, as well, you -- correct?

16 A Yes.

17 Q And, and then there's early intervention, another
18 program; correct?

19 A That's right, yes.

20 Q So in terms of CRU, one change that's been made
21 to the CRU function, since you provided your services in
22 the Phoenix Sinclair, is that they've added two full-time
23 social workers that just do the call screening; correct?

24 A Yes.

25 Q And that, that had -- obviously assists with,

1 with workload?

2 A It does.

3 Q And then in the intake program there's been a
4 major change since you provided services to Phoenix
5 Sinclair, in 2005, and that is that they have added an
6 additional unit of six social workers and a supervisor;
7 correct?

8 A Are you referring to differential response
9 program?

10 Q Well, the unit that was part of that roll-out has
11 become an intake.

12 A Yes, that's correct.

13 Q Unit, so there's an additional intake unit now?

14 A There is now, as of very recently.

15 Q Right. About a year.

16 A Within a year, yeah.

17 Q Within a year. So that, that additional unit is
18 six more social workers to move it from 24 social workers
19 to 30 social workers and you would agree that's a
20 significant increase in the ability at intake to take on
21 files directed to it from CRU; correct?

22 A It's helpful.

23 Q It's helpful.

24 A Yes.

25 Q And the abuse program, similarly, has also added

1 an additional unit of eight social workers. Is that
2 correct?

3 A Yes, there's three units there now.

4 Q There's now three units, there used to be two
5 units at abuse when you provided services to Phoenix
6 Sinclair in 2005, now there are three?

7 A Yes.

8 Q So it's a fully one-third larger, in terms of its
9 capacity?

10 A Yes.

11 Q And that, that is going to assist in terms of
12 workload, as well; correct?

13 A The workload compared, between 2005 and 2013 has
14 changed for the abuse program.

15 Q Yes. But the addition of these social workers
16 has assisted with respect to workload issues?

17 A The workload at abuse is still very high.

18 Q Has it assisted?

19 It certainly didn't hurt, did it?

20 A No, it, it didn't make things worse.

21 Q And are you saying it didn't change things at
22 all, didn't improve things?

23 A I'm suggesting that the workload at, at abuse is
24 still very high.

25 Q Okay. Well, and that's, that's a different point

1 but adding workers is going to ameliorate that increase in
2 workload then, would it not?

3 A Adding workers is a positive change for the
4 program.

5 Q So essentially, at ANCR today and at Winnipeg
6 CFS, back when you -- in 2005, there are these four
7 programs and they are the after hours, in CRU -- I'm
8 counting that as, as one because that's an emergency
9 service program; correct? In part?

10 A Yes.

11 Q And then we have the intake program; correct?

12 A That's right.

13 Q Abuse program.

14 A Yes.

15 Q And then early intervention, which is also
16 characterized as differential response.

17 THE COMMISSIONER: As what?

18

19 BY MR. SAXBERG:

20 Q Differential response or preventative work, as
21 you said yesterday?

22 A Yes.

23 Q Now, CRU then, that's where you were working and,
24 and I just want to make sure it's understood, the main
25 functions and purpose of that program. Firstly, it deals

1 with --

2 THE COMMISSIONER: Then or now?

3 MR. SAXBERG: Then and now.

4

5 BY MR. SAXBERG:

6 Q The, the purpose has not changed between 2005 and
7 today for the crisis response program in any significant
8 way; correct?

9 A I would agree with that, yes.

10 Q So then and now, the, the purpose of crisis
11 response is one purpose, and I would put it to you, the
12 primary purpose, is to deal with emergencies. Is that
13 correct?

14 A I would suggest that that's incorrect.

15 Q That one of your functions as a crisis
16 response --

17 A One of my functions as a crisis response unit
18 worker is to deal with crisis, yes.

19 Q Yeah, and I, I call that emergencies. Are you
20 disagreeing?

21 A It's -- I'm suggesting that there's more than
22 just emergencies --

23 Q Well --

24 A -- at the crisis response unit.

25 Q And that -- I'm going to go through the different

1 functions, I'm saying the -- I said -- put to you, the
2 primary function is dealing with emergencies, that's the,
3 the main -- that's why it's called crisis response. Is
4 that fair?

5 A I don't want to have it be misleading that our
6 unit is only about crisis.

7 Q I'm not saying that, I'm saying one of the
8 functions and I called it the primary function, is dealing
9 with crises and they -- and workers are characterized as
10 first responders; is that not correct?

11 A That's correct.

12 Q A second function is that CRU is screening files
13 to see if investigation and intervention can resolve the
14 file in a short period of time, that's a section -- second
15 function. Do you agree with that?

16 A I think that's accurate.

17 Q Okay. So -- and a third function or a role that
18 CRU plays is that when a new referral comes in and it's a
19 matter that needs investigation, further investigation, but
20 it's not an emergent situation, it's not a crisis, that
21 gets sent right up to intake; correct?

22 And it does --

23 THE COMMISSIONER: Let him answer.

24 MR. SAXBERG: Yeah.

25 THE WITNESS: I would say that that's not always

1 the case.

2

3 BY MR. SAXBERG:

4 Q No, I'm, I'm talking about the purpose of the
5 program, not whether it happens on every single case.

6 A Oh.

7 Q But the idea of the program is what we're talking
8 about here.

9 A Okay, so not in practise but the ideal behind it
10 or the idea.

11 Q Yeah. I'm talking about what the function of
12 this program is.

13 A I'll agree with you then.

14 Q Okay. So those are the three types of
15 situations. Does that encapsulate the work, on a general
16 basis then, emergent work, or work that you can do in a
17 short term intervention and wrap up; correct?

18 A Yes.

19 Q And/or work that just gets sent up to intake if
20 it looks like it needs further investigation but it's not
21 in a -- where there's time to do that investigation;
22 correct?

23 A Yes, I agree.

24 Q Okay. I'm calling those the three situations.
25 And so in terms of that function then that's the -- when

1 you're dealing with the emergencies, what you do is --
2 there's situations like you get a call that a child is
3 abandoned, at the moment you get out there and respond to
4 that; correct?

5 A As quickly as possible.

6 Q As quickly as possible. And when I say you, I
7 mean CRU, but also after hours. That's the point of these
8 programs; correct?

9 A Yes.

10 Q And if you get a report of serious physical
11 injury or a serious sexual assault allegation, you get out
12 there right away; correct?

13 A A serious physical injury or a sexual assault
14 would go directly to the abuse program.

15 Q That's emergent, that's happening at that point.

16 A An emergent serious sexual abuse or a physical
17 abuse allegation would go to the abuse program.

18 Q Any serious --

19 A Sorry, it would -- contact would be made between
20 the crisis response unit and the abuse program.

21 Q Right.

22 A And then they have backup workers that would go
23 directly. It would be treated as an emergency, like you
24 are suggesting, and workers that are trained in abuse would
25 go directly out.

1 Q Okay. Yeah, that's --

2 A So I'm kind partially agreeing with you but --

3 Q No, that's a good distinction, I appreciate that.

4 The point is, that there, there is a mechanism
5 that's more specialized when it comes to abuse because of
6 the specialized nature of those investigations; correct?

7 A That's correct, yes.

8 Q And when we're -- but when we're talking about
9 any concerns that are emergent, relating to neglect, you
10 are out there right away, you, you, you and your workers in
11 CRU and after hours; correct?

12 A Yes.

13 Q So -- but on the other end of the spectrum, the
14 other function that CRU is performing is this function of
15 looking at referrals that you think can be investigated in
16 a short period and resolved and closed, that is; correct?

17 A That -- yes.

18 Q Yes. And those are really kind of opposite ends
19 of the spectrum, aren't they?

20 A Very opposite ends, yeah.

21 Q And, and that's sort of -- and that's something
22 that workers at CRU have to wrestle with, dealing with
23 these emergencies on the one hand and then these other
24 cases where they're expected to do some investigation and
25 look to see whether the file can be closed at CRU before it

1 even advances further into the system; correct?

2 A Correct.

3 Q Now, I want to talk about the facts of this case
4 then and where it fits into that program or dynamic. The
5 facts of the case you were dealing with in March of 2005;
6 okay?

7 A Sure.

8 Q Now, Mr. Gindin had suggested to you, yesterday,
9 that Mr. Buchkowski had said that the matter was a high
10 priority. Do you remember him ...

11 A I remember him saying that.

12 Q And my notes of what Mr. Buchkowski had said were
13 that he assumes he gave it a high priority on the basis
14 that he went out that day. Okay?

15 A Okay.

16 Q And his supervisor, Ms. Verrier, indicated she
17 did not see it as a high priority, she saw it as a 48 hour
18 response and that she likely gave it to Mr. Buchkowski just
19 to get information on the address.

20 Now, you weren't here for any of that testimony;
21 correct?

22 A That's, that's correct, thank you.

23 Q And so we have this somewhat divergent opinion as
24 to whether this matter was high priority or whether it was
25 a lower priority file that was going to go straight to

1 intake, that's what the supervisor was saying. So I want
2 to ask you about it and -- in terms of where the matter
3 fit, in terms of whether it's one of those matters you're
4 dealing with at CRU with a view to resolving, with short
5 term service, or if it's one of those matters you're
6 sending up to intake for a more prolonged investigation.
7 Or if it's an emergency; okay?

8 A Okay.

9 Q Those are your three choices; correct?

10 A Yes.

11 Q And one of the tools that the CRU workers were
12 given by Winnipeg CFS, to make that decision, was the
13 safety assessment form; correct?

14 A Okay. Yes.

15 Q Yes. And I'll, I'll take you to that form then.
16 If you could turn up on the screen page 36934. And maybe
17 just scroll through it to the witness can, can familiarize
18 himself with the document. I'm just showing you the
19 document for its form, not, not because this was a
20 particular document that was filled out.

21 A Thank you.

22 Q Okay? And so you're familiar with this safety
23 assessment form?

24 A Yes.

25 Q And it's a form that this inquiry has heard is

1 filled out on a -- by CRU workers and to assist them in
2 determining response time.

3 A Yes.

4 Q And you don't quibble with that, you agree with
5 that?

6 A I agree with you.

7 MR. SAXBERG: Okay. And, Mr. Commissioner, in
8 your material, in the first tab, it's page 36934.

9 THE COMMISSIONER: Thank you.

10

11 BY MR. SAXBERG:

12 Q And so if we're looking at 24 hour response time
13 first, there are a series of boxes and you're going to look
14 at types of problems and if it's one of those problems you
15 would check off the box; correct?

16 A Yes.

17 Q And so -- and if you check off a box under 24
18 hour response, that's information that should be a 24 hour
19 response; correct?

20 A Yes.

21 Q It's as simple as that. So do you have that in
22 front of you, do you have it as a paper document?

23 A I have it on my -- on the computer screen and I
24 thought I would look it up on the --

25 Q Sure, yeah.

1 A I have it here now.

2 Q Oh, good, good. Because it is -- it's hard to
3 read on the screen. But -- so if we just quickly go
4 through these 24 hour responses: Suspicious Death, Severe
5 or Serious Physical Abuse, Severe or Serious Sexual Abuse,
6 Life Threatening, Severe or Serious Lack of Supervision.
7 Can you just go through that; is the --

8 A I can read it for you.

9 Q Pardon me?

10 A I can read it for you if it's difficult.

11 Q Sure, yes.

12 A Parent Behaving in a Bizarre Manner, Child
13 Attempts or Threatened Suicide, Child Under 12 Kills or
14 Injures Someone, Homeless, Sudden Death of a Parent, Child
15 Afraid to Return Home, Birth Alerts and Other.

16 Q Okay. Was the matter you were dealing with, in
17 terms of the referral about locking Phoenix in a room,
18 would it -- does it fit into any of those boxes?

19 A That portion did not fit into these boxes.

20 Q Okay. And if we go to the next page, it's a 48
21 hour response and there are boxes there, as well. And if
22 you can just read them out and, and, and ...

23 A I can read them out.

24 Q Yeah.

25 A Moderate Physical Abuse/Potential for Physical

1 Harm. Moderate Sexual Abuse/Potential For Sexual Abuse.
2 Moderate Medical Treatment, Moderate Lack of Supervision,
3 Emotional Abuse/Potential Of Emotional Harm. Neglect,
4 Family Violence, Runaway or Missing Child and Other.

5 Q And you're familiar with, with those categories
6 and you're familiar with the referral that you were
7 involved in, in 2005. Was this -- was the referral that
8 you were dealing with fitting into any of these categories?

9 A I don't think so.

10 Q And you, in fact, didn't go out -- when you had
11 the file on the 7th, you went out on the 9th. That,
12 itself, suggests you didn't consider it a 24 hour or
13 emergent high priority situation; correct?

14 A I wouldn't have been able to go out on the 7th.

15 Q Right. And you didn't go out till the 9th,
16 though, you didn't go on the 8th. The point is that, as
17 well, indicates, in support of what the safety assessment
18 says, that it wasn't, to you, a emergency or immediate
19 matter, according to the policies and direction you were
20 being given by Winnipeg CFS?

21 A That's right.

22 Q So if you're following Winnipeg CFS's form, it
23 wasn't telling you that you had to go out right away;
24 right?

25 A Correct.

1 Q And would you -- do you agree with, with Ms.
2 Verrier's characterization, that this matter was a matter
3 that is more properly dealt with by intake than CRU?

4 A I would agree with that.

5 Q And she, as, as this commission heard, when Mr.
6 Buchkowski did his work, he signed off on it and he said
7 for follow up by intake and then Ms. Verrier signed off on
8 it and she understood intake to mean tier 2 intake, she
9 believed the file should go to intake and do you agree with
10 -- that, that, that was the right decision?

11 A At that time, not knowing the outcome --

12 Q Yes.

13 A -- I would agree with that decision.

14 Q Yeah, that would -- the right decision that the
15 file should have gone -- shouldn't have been dealt with by
16 CRU, it should have been dealt with by intake, that was the
17 right decision, that's what you're saying; correct?

18 A That would be my opinion.

19 Q And, and I think you, you talked, you talked
20 about that, maybe laterally yesterday, where you were
21 saying at intake that program has more time to do things
22 like see all of the children; correct?

23 A That's my understanding, yeah.

24 Q Well, CRU's --

25 A That's my belief.

1 Q Right. If CRU is dealing with a file and it's
2 supposed to only hold the file for between 24 hours and 48
3 hours, according to the purpose of the program, it's going
4 to be a little more difficult to see all the children if
5 you only have 48 hours; correct?

6 A This is true.

7 Q In intake you're dealing with files up to 90
8 days; correct?

9 A Yes.

10 Q And we've seen that -- all kinds of examples of
11 that in this commission on this specific case, where intake
12 has the luxury of time to be able to go out and see all of
13 the children in a family on a referral; correct?

14 A I'm going to assume that that's -- because I've
15 been watching the commission.

16 Q CR -- so intake is better suited to investigate,
17 for other reasons as well, I think you indicated, including
18 they'll have more time to review a lengthy CFSIS record if
19 a lengthy CFSIS record exists; correct?

20 A That's correct.

21 Q We know, in this file, we've got a lot of
22 documents before this commission and we know, with respect
23 to Samantha Kematch, and other people involved in this
24 file, including Steven Sinclair and Mr. McKay, that there
25 are a lot of documents, hundreds of documents to review.

1 A Okay.

2 Q And so CRU could not review those documents,
3 given the nature of that program, and the purpose of that
4 program, that it deals with files for 48 hours; isn't that
5 correct? It can't review all those words.

6 A No, you, you cannot review all of those documents
7 at all.

8 Q And reviewing is one thing, digesting the
9 information, analyzing it, putting it all together, that's
10 another thing as well, that's, that's not something you can
11 do in 48 hours when you've got three huge files on the
12 CFSIS system; correct?

13 It's better served by intake, who can spend more
14 time reviewing that?

15 A It -- that is correct.

16 Q That's my point.

17 A Yes.

18 Q And you're agreeing with those points.

19 A Yes.

20 Q Now, as I indicated, Ms. Verrier testified that
21 she signed off with the intention to send this file up to
22 intake. We know that it came back to you and you did
23 further work on it; correct?

24 A Yes, it would have come back to Diva and then to
25 me.

1 Q Right. And you don't remember any conversation
2 from Diva as to why it was coming back, why it wasn't at
3 intake; correct?

4 A I don't recall any such conversation.

5 Q You just know that it had originally been sent to
6 intake and that it came back to you?

7 A From reading this document yeah, this would be --
8 that would be my understanding.

9 Q Right. That's what --

10 A Yes.

11 Q -- the document says. The document says at one
12 point it's going to intake and then all of a sudden it says
13 it's coming back to you?

14 A Yes.

15 THE COMMISSIONER: Do we know if it ever got to
16 intake?

17 MR. SAXBERG: Well, that -- I, I suspect there
18 will be further evidence on that. There hasn't been
19 evidence from anyone --

20 THE COMMISSIONER: Up to this point.

21 MR. SAXBERG: -- to say whether it was formally
22 or informally rejected by intake.

23 THE COMMISSIONER: Or whether it ever got there.

24 MR. SAXBERG: Or physically, you mean the file
25 physically moving up there? Yeah, no evidence of that yet.

1 BY MR. SAXBERG:

2 Q And you testified yesterday, though, that it
3 wasn't uncommon for files to be rejected by intake and sent
4 back to CRU?

5 A Yes.

6 Q And, and that's because sometimes it's not easy
7 to tell whether this is a matter that can be dealt with on,
8 on a short service and fully resolved at CRU or whether it
9 should be investigated over a longer period at intake.
10 It's not always easy to make that distinction, is it?

11 A No, it's not.

12 Q And two people who are bright and reasonable and
13 experienced social workers may have different opinions on
14 the same facts, as to whether it should be at CRU with a
15 view to resolving it within a couple of days and closing
16 the file or whether it should go to intake for a longer
17 period. Isn't that correct?

18 A I would agree.

19 Q And you said if a file is rejected at intake and
20 it comes back to CRU that doesn't mean that it's automatic
21 that it has to be closed, that, that was your evidence
22 yesterday; correct?

23 A Yes.

24 Q But you would agree with me that when you do the
25 further work, if no additional presenting, no additional

1 issues present themselves of concern, then the expectation
2 is that the file would be closed.

3 If you do further work and nothing additional
4 comes forward, in terms of concerns, that the expectation
5 would be to close the file; is that correct?

6 A It would lean in that direction, yes.

7 Q Right. If it comes back from intake and you're
8 doing further work and you don't uncover anything that,
9 that's additional in terms of concerns, the file is most
10 likely going to be recommended to be closed. Is that your
11 experience?

12 A I would agree with that.

13 Q And so would you agree with me then that the fact
14 that intake had sent this matter back and that you were
15 aware of it, was one factor that you would have had, in the
16 back of your mind at the time you made your recommendation
17 to close the file? Just one factor.

18 A Yeah, that's, that's a good way of putting
19 it.

20 THE COMMISSIONER: Well, did you, did you know
21 that intake had sent it back?

22 THE WITNESS: I'm, I'm assuming that I did know
23 because of Richard's recommendation and the fact that I got
24 it, as opposed to intake. So, yes, I'm presuming at that
25 time that I knew that.

1 BY MR. SAXBERG:

2 Q And if we could turn up page 36928 and that's in
3 that same tab for you, Mr. Commissioner.

4 A Thank you.

5 Q 36928. And scroll down a bit, yeah, and stop
6 right there. What you're referring to, Mr. Zalevich, is
7 this statement right here, where it says: "It is
8 recommended this file be opened to Intake." There's the
9 signature lines, without signatures, and then you start
10 your work on March 7th.

11 A Yes.

12 Q That's what would indicate to you that it had
13 originally gone to intake and come back?

14 A Yes. Yes.

15 Q And, and, and you've just indicated, so then one
16 of the factors, the various numerous factors you considered
17 in closing this file, was that fact of it coming back from
18 intake?

19 A That would be one of the factors, yes.

20 Q Now, in terms of the number of files that are
21 opened and passed on from CRU to intake and the number that
22 are closed at intake, I want to show you a document that
23 records those, those numbers. And it's page number 44739
24 and it's at one of the tabs in, in, in your binder, Mr.
25 Commissioner, I think it's the fifth tab and it's -- the,

1 the first line is CRU Yearly Stats.

2 THE COMMISSIONER: CRU Yearly Stats?

3 MR. SAXBERG: Yes.

4 THE COMMISSIONER: Yes, I have it.

5

6 BY MR. SAXBERG:

7 Q And I'm going to flip to the year that Mr.
8 Zalevich was involved in this file, which is 2005 and
9 that's the last page. Okay. And just -- we can start at
10 the top then. Are you familiar with this document, have
11 you seen it before?

12 A No, I haven't.

13 Q The information in this document is -- it's
14 compiled by Trudy Carpenter, and you know who she is?

15 A Yes, I do.

16 Q She's the administrative person that worked in
17 your unit; correct?

18 A Yes, she is.

19 Q And it indicates you dealt with this file in
20 March; correct?

21 A Yes, I did.

22 Q March of 2005. And it indicates, when you look
23 at -- under total of -- under the heading of request for
24 services, there's a total, it says 1,311 in March. Do you
25 see that? Yes?

1 A Oh, yes, I do. Thank you.

2 Q So this, this document is indicating that CRU
3 received 1,311 requests for service in one month. You see
4 that?

5 A Is this solely for CRU or does it include the
6 after hours program?

7 Q It's CRU yearly stats, it's just CRU.

8 A So in the -- from Monday to Friday?

9 Q Yes.

10 A Yes.

11 Q So just the CRU file.

12 A Yes.

13 Q And you had 12 social workers; correct?

14 A That's right.

15 Q 1311 service requests and 12 social workers, in
16 one month; correct?

17 A Yes.

18 Q And then at -- if you scroll down, a little bit
19 further, please. Right there. Yeah. You see, under the,
20 the heading number three, open and close files.

21 A Okay.

22 Q Do you see that?

23 A Yes.

24 Q And then for the month of March it indicates a
25 number of 192 and my understanding is that that would mean

1 that there's 192 cases in March that were opened, reviewed
2 by CRU and closed by CRU.

3 A Okay.

4 Q Okay? And then above it the number that were
5 opened and then transferred to intake or directly to Family
6 Services, which happened on some occasion, was 411. Do you
7 see that?

8 A I do.

9 Q And does that -- is that information then, that I
10 take that to be out of 600, roughly, 600 cases, were files
11 opened by CRU, one-third of them are dealt with and closed
12 in March of 2005. You see that?

13 A I do, yes.

14 Q And is that, is that an approximate -- that's
15 just March of 2005. Is that a fair ballpark statistic,
16 that when you're dealing with files about a third of them
17 you'll deal with in that category of short service where
18 you're looking to resolve the matter and close the file?
19 Does that sound about right to you?

20 A I can't say that I, that I know the stats that,
21 that you've presented, so from going from this document
22 I'll agree with you but I don't know, on a regular basis,
23 that I would know how many get closed or that it would be
24 about one-third so I, I apologize for not knowing that.

25 Q No, I'm just talking about your personal

1 experience, the files you get, do you wind up dealing with
2 about a third of them and then closing them and, and
3 referring two-thirds of them on? Is that an approximate?

4 A I haven't thought about it in terms of
5 percentages.

6 Q Okay. And the other point here is that out of
7 1311 requests for service, the fact of approximately 600
8 turning into files being opening, does that -- is that
9 around half of the requests for service turning into files
10 being opened, is that something that's within your
11 experience?

12 A Again, it's, it's -- I don't keep track of, of
13 how many are open but I'll, I'll agree with you on, on
14 this, based on what you're showing me.

15 Q Okay. And now did you testify --

16 THE COMMISSIONER: You're saying you have no
17 personal knowledge, is that what you're saying?

18 THE WITNESS: Yes. Yeah.

19

20 BY MR. SAXBERG:

21 Q All right. You have no personal knowledge of
22 this aggregate of stats and what I was doing was putting
23 the aggregate together for you, this commission is going to
24 hear the person who put these together testify on Monday.

25 A Okay.

1 Q I, I am just putting it to you, as a worker
2 that's dealing with it, you know, on -- in the broad sense,
3 is that fair that about a third of the files you wind up
4 dealing with and closing and, and, and the balance you end
5 up forwarding on. I was just asking from your personal
6 experience and I, I think you're saying --

7 A Yeah.

8 Q -- you hadn't really thought of it.

9 A Yeah, I ...

10 Q So that's fair. Now, did you testify that you
11 thought that things were more busy in March of 2005 than
12 they were, say the previous March, of 2004?

13 A No, I don't think I testified that.

14 Q Okay. So, so you're not suggesting that there
15 was anything special in terms of the workload in March of
16 2005 with respect to what CRU was doing and the, and the
17 workload it was presented with?

18 A No, what I was suggesting yesterday that there
19 was a lot of pressure at the time.

20 Q A lot of pressure but was it -- I'm talking about
21 -- I was interpreting that to mean workload pressure; is
22 that what you --

23 A Yes.

24 Q -- were talking about?

25 A Workload pressure.

1 Q Okay. And I'm showing you statistics from 2005
2 and if we could go back to 2004 then, March of 2004, that
3 would be to scroll up. Now, here we have, under total
4 request for service, in March of 2004, 1514 requests for
5 service. You see that?

6 A I do.

7 Q Which suggests it was busier in March of 2004
8 than it was in March of 2005. You'll accept that?

9 A Yes.

10 Q And then if you scroll down and stop there. We
11 see that the numbers, in terms of the cases that are dealt
12 with and then closed, versus the cases that are transferred
13 on, are fairly similar.

14 A Okay.

15 Q Close to 200 and close to 400, respectively. Is
16 that fair?

17 A Okay.

18 Q So these stats, anyway, don't show any real
19 marked difference in terms of workload between 2004 and
20 2005. Do you agree with that?

21 A No. I'm sorry, yes, I, I agree with that, that
22 there was pressure both of those years.

23 Q Now, those are just, those are, those are just
24 numbers but we know the workload is different than just
25 numbers of cases, it can deal with the complexity of the

1 cases.

2 A Absolutely.

3 Q And so in terms of the complexity of the cases,
4 is that what you're suggesting was amounting to an increase
5 in pressure? In 2005?

6 A That is, that is one area where an increase in
7 pressure would occur.

8 Q And, and what are the other areas then?

9 A Other areas would be factors that external
10 like -- or not necessarily external but factors such as
11 the, the devolution process, staffing, changes within
12 the -- I guess those types of, those types of things is
13 what I'm referring to.

14 Q Okay. In terms of whether you deal with the file
15 on a short term basis with a view to resolving the issues
16 and closing the file or whether you send it up to intake,
17 would you agree that you err on the side of caution if you
18 just send it to intake; correct?

19 A Yes.

20 Q And for you, in terms of ensuring -- if you could
21 do it on every occasion, you would send them all up to
22 intake, wouldn't you, because then you would be absolutely
23 sure that, that there is going to be a thorough
24 investigation; correct?

25 A Yes.

1 Q You -- and so your preference and the preference
2 of all the other CRU workers and the supervisors would be
3 to send as many files to intake as possible to get as
4 thorough as an assessment as possible; correct?

5 A Yes.

6 Q But that just cannot be done, it's not something
7 that, that intake could support, they couldn't handle all
8 of that work; correct?

9 A It's unrealistic, yes.

10 Q And so part of your job at CRU is to pick out the
11 ones -- if you had your druthers, you would send them all
12 to intake, but you don't so you've got to pick out the ones
13 that can be resolved and closed; correct?

14 A Correct.

15 Q And that's what you did on the Phoenix Sinclair
16 case, you looked at this file and you saw it as one of
17 those 192, one of those one-third of the files that are
18 open, that could be closed, and that was part of your
19 function; correct?

20 A That was part of our function.

21 Q And just to be specific, the part of that
22 function is looking at which files can be dealt with and
23 closed.

24 A Yes.

25 Q Now, you've faced a lot of criticism because in

1 doing your investigation you didn't ensure that you saw
2 Phoenix before you ultimately signed off on closing the
3 file.

4 A Yeah.

5 Q And I want to, I want to take you to the
6 standard, the provincial standard that was in place at the
7 time that you performed these services with respect to
8 seeing families on an investigation and that's at page
9 38167 and it's about seven tabs in. If, if you could just
10 scroll up first so we can orientate ourself to this. It
11 says: "Final Draft 2004." And approved. But my
12 understanding is, this is the version that then came on
13 line in 2005, in January 1 of 2005. And I wish I had the
14 CD number written down here, but I didn't but I can find it
15 if you can give me a second.

16 MS. WALSH: Is it 1175 or 1818 maybe.

17 MR. SAXBERG: Oh, yeah, I do have it.

18 MS. WALSH: Try 1818. 1850, try that.

19 MR. SAXBERG: 1818 is what I have.

20

21 BY MR. SAXBERG:

22 Q This is, this is 1818. So -- and if we scroll
23 down this document to the next page, you see a heading Case
24 Management Standards, I just want to orientate everyone to
25 what this document looks like because I'm going to show you

1 the current version of it.

2 A Thanks.

3 Q And if we scroll down to the next page we see a
4 heading that says: "Levels of Risk to Children". Do you
5 see that?

6 A Yes.

7 Q On the screen. And if we scroll down further,
8 please, just, just to the bottom of the page. Thank you.
9 You'll see, under "Levels of Risk to Children," you have
10 high risk, medium risk, low risk, no risk, and some
11 definitions beside that.

12 And then if we scroll to the next page, we start
13 on this intake section and, and scroll then to -- two
14 pages, it's 38176, if that makes it easier. Yeah, thank
15 you.

16 Now, sorry and, and if you can just scroll down
17 one more page, I was -- it's 38177, Mr. Commissioner. And
18 it's item number 17. And it says: "Client Contact at
19 Intake." And my understanding is when intake is referred
20 to in the provincial standards, it's referring to CRU after
21 hours intake, general intake and intake. And --

22 THE COMMISSIONER: What's your question
23 there?

24 MR. SAXBERG: I'm going to read to him the
25 standard that was in, in --

1 THE COMMISSIONER: But does he agree with your
2 proposition you just put to him?

3 MR. SAXBERG: I was just ...

4

5 BY MR. SAXBERG:

6 Q Well, are you aware that that's what intake means
7 in the provincial standards, having received training in
8 them?

9 A I don't know what -- of the standards at that
10 time if intake was being referred to as the crisis response
11 unit.

12 Q Oh, okay. You're familiar with the current
13 standards, you've received training in the current
14 standards?

15 A Yes.

16 Q Right?

17 A Yes.

18 Q Yes? And the standard that was in place, and
19 there's -- it's not an issue in, in, in this proceeding,
20 the standard that was in place at the time you delivered
21 your services with respect to seeing children, is this
22 standard.

23 A Okay.

24 Q And I'm going to read into the record then. It's
25 number 17, "Client Contact at Intake."

1 "When there are protection
2 concerns in a case, the intake
3 worker or, if the case has been
4 transferred to another agency or
5 another worker, the assigned
6 worker has direct contact with the
7 person or family within 10 working
8 days of receiving the referral for
9 service."

10

11 Do you see that?

12 A Yeah.

13 Q And I know you, you testified that you weren't,
14 in 2005, familiar with the provincial standards but I'm
15 putting to you, and there's no disagreement amongst the
16 parties here, that that was the standard that was in place
17 at the time and I'm asking you, do you -- what's your view
18 as to whether or not your work on this file complied with
19 that standard?

20 A At that time I would agree that or I would
21 suggest that I complied with this standard.

22 Q And is that because it doesn't specifically say
23 that all of the children have to be seen in doing your
24 investigation in this standard; correct?

25 A Yes.

1 Q But it does, today; correct?

2 A That is my understanding.

3 Q And if we could call up page 42285. It should be
4 the next tab for you, Mr. Commissioner. These are the
5 current standards, as they exist today. And that's CD
6 number 2036 for everyone's reference. And if we scroll
7 down to the bottom of the, of the page, you'll see that
8 we're at the heading was "Levels of Risk to Children,"
9 which we had seen in the other standards but now -- and if
10 we scroll down -- there's a new section, I'm putting that
11 -- I -- that's my understanding and I'm asking you if you
12 -- it's your understanding, as well, that there's a new
13 section called "Contact with Children." Do you see that?

14 A I see it.

15 Q And, and that's your understanding, as well, that
16 there's a new section put into the standards?

17 A Yes.

18 Q And you were trained on these standards and so
19 you -- were you trained on this specific provision here of
20 contact with children?

21 A In recent years, yes.

22 Q Yes, in recent years?

23 A Yes.

24 Q And the, the provision provides, in the second
25 paragraph, quote:

1 "Intake workers and case managers
2 must see a child, that is, have
3 direct face-to-face contact, to
4 ensure the child is safe and
5 receives appropriate services in
6 relation to the following case
7 management and service
8 activities ..."

9

10 And it goes on. Do you see that?

11 A Yes.

12 Q And that's your practise today, to see every
13 child during an investigation?

14 A Below that paragraph it's -- it appears that it
15 says based on the following you must see a child. I'm not
16 sure if you wanted to include that.

17 Q But I'm just putting to you in more -- at a
18 higher level, in general terms.

19 A In general terms.

20 Q Your practise now is to ensure that all the
21 children are seen before you close a file?

22 A Yes.

23 Q Correct?

24 A Yes.

25 Q And that's what ANCR requires of you and every

1 CRU worker, to see every child; correct? Before a file is
2 closed.

3 A Yes.

4 Q In fact, when you're doing the work that you do
5 today, which is the same work you did back in 2005, when
6 there's any referral dealing with abuse or neglect, you
7 have to do a safety assessment before closing the file;
8 correct?

9 A There's, there's a safety assessment.

10 Q That's mandatory?

11 A Yes.

12 Q You would have to do that before closing a file;
13 correct?

14 A Yes.

15 Q Yes. And you didn't do a safety assessment
16 before closing the file in the Phoenix Sinclair case, we
17 know that. I mean, I'm not suggesting that it was required
18 at the time but you didn't; correct?

19 A Right.

20 Q And so in, in today's -- with today's policies,
21 the file wouldn't have been closed for not doing a safety
22 assessment, you also have to do, today, a risk assessment
23 which is prepared under the structured decision making tool
24 know as the probability of future harm; correct?

25 A That is correct.

1 Q Now that's a, a tool in a brand new system that
2 this commission is going to hear a lot of evidence about in
3 the next several months and it's a, it's a tool, the
4 probability of future harm tool that you're using, in your
5 work, and before you close any file you have to fill out,
6 complete that probability of future harm; correct?

7 A In the summer of 2012 that system rolled out at
8 CRU.

9 Q Right.

10 A By the crisis response program.

11 Q Right. And --

12 A Yes.

13 Q -- and, and, and it's -- it had been tested
14 previously, before, by a separate unit for a year; correct?

15 A And I believe separate agencies, as well.

16 Q And separate agencies. But now it's rolled out
17 in full and you're -- you have to use that tool, do a risk
18 assessment before you close a file today; correct?

19 A Yes.

20 Q In 2005, then, is it -- to summarize, is it fair
21 to say in 2005 there wasn't a strict requirement to see all
22 of the children before closing the file; correct?

23 A Yes.

24 Q There wasn't a requirement to do a safety
25 assessment before closing the file at CRU; correct?

1 A Correct.

2 Q And there wasn't a policy or a requirement to do
3 a risk assessment, a formal risk assessment --

4 A Yes.

5 Q -- in 2005; correct?

6 A Correct.

7 Q And all of those items exist today?

8 A They do.

9 Q Now, also, in -- along those same lines, in terms
10 of prior contact checks, I think you agreed yesterday that
11 you -- it's, it's most likely that you didn't go on to
12 CFSIS and look at the last contact that CFS had with this
13 family before your involvement?

14 A From my notes it appears that way, yes.

15 Q And, and the reason you're saying from your notes
16 it appears that way is because, in the last contact which
17 was Shelly Wiebe who now known as Shelly Willox, testified,
18 in that last contact there was direct reference to Wes
19 McKay.

20 A Yes.

21 Q Correct?

22 A Yes.

23 Q And so if you had looked at that last contact you
24 would have been aware that there was this other individual
25 in the home and that prior contact check hadn't been done,

1 and his name is Wes McKay; correct?

2 A Yes.

3 Q Now, is it fair that you were relying on the
4 after hours worker who did the original report to have
5 included all of the information that was relevant on the
6 file in her history?

7 A I think that's fair to say.

8 Q And is it fair then that because she didn't
9 include that in that history, that's why you didn't follow
10 up with respect to Wes McKay?

11 A That's a possibility, yes. Yeah.

12 Q And this commission has heard evidence that at
13 the time, 2005, the focus was -- on doing prior contact
14 checks of secondary caregivers, wasn't as sharp back then
15 as it is today, it wasn't as high of priority back then as
16 it is today. Is that fair?

17 A That's fair.

18 Q In other words, if a file came to you and you saw
19 that there was potentially a secondary caregiver in the
20 home, back in 2005, and there hadn't been a prior contact
21 check, would that have jumped out at you back in 2005?

22 A Not as much as it does now.

23 Q And, and as you say, not as much as it does now,
24 today it is a strict requirement to do the background,
25 prior contact searches on all of the individuals that will

1 be caring for, for a child --

2 A Yes.

3 Q -- in a home. Yes?

4 A Yes.

5 Q And, in fact, that tool that we were referencing
6 earlier, the probability of future harm tool directs you,
7 requires you to make inquiries about secondary caregivers
8 in the home; correct?

9 A Yes.

10 Q And if we could scroll down on the document that
11 we're on, scroll down a few pages, please. And continue.

12 THE CLERK: (Inaudible.)

13 MR. SAXBERG: Oh. I'm sorry, that's the end of
14 the document for you.

15 THE CLERK: It says page 5 of 5.

16 THE WITNESS: Sorry, did you say that this
17 document is from 2005 or 2004?

18 MR. SAXBERG: No, the document we were just
19 looking at was --

20 THE WITNESS: The one that we're looking at.

21 MR. SAXBERG: -- was the current standards.

22 THE WITNESS: That's -- okay, thank you.

23

24 BY MR. SAXBERG:

25 Q And, and maybe I -- without calling up --

1 A That's okay.

2 Q -- the page then I'll just -- I'll refer you to
3 the -- my understanding is in the current standards there
4 is a specific provision which relates to handwritten notes
5 and how long you keep those handwritten notes, or if you
6 keep them, once you've entered material into the intake
7 module.

8 A Okay.

9 Q And, you know, maybe I'll, maybe I'll come back
10 to that question when I have that specific provision I can
11 put before you, I don't want to waste any time up here
12 so ...

13 But maybe we can short circuit it by -- are you
14 aware of that provision that says that handwritten notes
15 for workers inputting into the intake module are to be
16 destroyed within -- if they -- if the information is being
17 transferred to the intake module, within 24 hours?

18 A No, I wasn't aware of that.

19 Q Okay. And the intake module, is the new computer
20 system that came into effect in May of 2005, that you used
21 to input all of the information you gather in connection
22 with all of your child investigations; correct?

23 A I don't recall the date but yes, I would. That
24 is the system would use to put in my --

25 Q Yeah, you use the intake module?

1 A I use, yes, the intake module.

2 Q You're just saying you're not sure if it came
3 into place in May of 2005?

4 A That's what I mean, yes.

5 Q Okay. But today you're using the intake module
6 and that's a new system and I think you described it as an
7 improvement from the way the system worked previously?

8 A Yes.

9 Q And when you take notes you then transfer those
10 notes into the intake module. Is that your regular
11 practise?

12 A On the intakes that I create.

13 Q Right.

14 A Yes.

15 Q And the moment you put those notes into the
16 intake module, they're live for everyone else that has
17 access to that --

18 A For those --

19 Q -- in your unit.

20 A -- for those that have access to the intake
21 module.

22 Q Yes.

23 A Some people don't have access to the intake
24 module.

25 Q Now, I want to refer you to the abuse criteria

1 that was in place at the time that you did your work here
2 and it's at page 19645. And it's, it's -- should be near
3 the end of your tabs, Mr. Commissioner, and it's first --
4 it's headed "Referral Process" and then there's a heading
5 "Criteria for Referral to Abuse Intake."

6 THE COMMISSIONER: Well, I don't see it but go
7 ahead anyway.

8 MR. SAXBERG: Well, it's on the screen here.

9 THE COMMISSIONER: Yes.

10

11 BY MR. SAXBERG:

12 Q It's a one pager and my understanding is that
13 this is the criteria for referral to abuse intake that was
14 in place in 2005, it's from that intake policy manual that
15 you were shown, taken through by commission
16 counsel.

17 A Okay.

18 Q And it indicates a definition of abuse. And you,
19 in fact, worked in abuse intake for a short period of time
20 before you, you went on to CRU; correct?

21 A Yes.

22 Q So of course you would be familiar with the
23 criteria which the agency directed, applied before a case
24 could be referred to abuse intake; correct?

25 A Yes.

1 Q Because you worked there you knew it. And I've
2 put it in front of you and the definition of abuse is
3 limited to "physical injury of the child", that's "A", or
4 "sexual exploitation of the child with or without the
5 child's consent." Do you see that?

6 A I do.

7 Q And you can confirm that was the criteria for
8 referral to the abuse unit?

9 A Yes.

10 Q And did the case you were dealing with meet that
11 threshold? You said no.

12 A Yes, I said no.

13 Q Okay. And one note -- you're familiar with the
14 Child and Family Services Act, I take it?

15 A Yes.

16 Q It's, it's, it's something that social workers
17 have to be familiar with because it, it governs their
18 dealings in large part; correct?

19 A That's right.

20 Q And the definition of abuse in the CFS Act is
21 broader than the criteria at the abuse intake unit. Do you
22 agree with that? Are you familiar with
23 that?

24 A I can't recall exactly how it's worded but I'll,
25 I'll accept what you're saying.

1 Q The, the definition of, of abuse in the CFS Act,
2 in Section 1(1) under abuse -- and I have put the CFS Act
3 before you, Mr. Commissioner -- is, is a --

4 THE COMMISSIONER: What, what section?

5 MR. SAXBERG: It's -- first page, Section 1(1)
6 definitions.

7 THE COMMISSIONER: Yes.

8

9 BY MR. SAXBERG:

10 Q The very first definition, as a matter of fact,
11 in the CFS Act is the definition of abuse and in the CFS
12 Act abuse includes:

13

14 "physical injury to the child,"

15

16 (a).

17

18 "(b) emotional disability of a
19 permanent nature in the child or
20 is likely to result in such a
21 disability, or

22 (c) sexual exploitation of the
23 child with or without the child's
24 consent;"

25

1 And what's broader about that then is the
2 inclusion of an emotional disability aspect to, to abuse.
3 Does, does that refresh your memory in terms of the
4 difference between CFS and the intake policy?

5 A Yes.

6 Q And just while we're with the CFS Act, there was
7 some criticism of, of you yesterday for not forcing your
8 way into Ms. Kematch's apartment. Do you recall that?

9 A I do.

10 Q Now, it's clear, your evidence was if you had
11 your way, you would have been able to get into the
12 apartment but she wasn't prepared to let you in. Is that
13 fair?

14 A Yes.

15 Q And she gave her reasons, being that she had
16 company and that was the reason she gave? That's right?

17 A Yes.

18 Q And it -- isn't it the case that a social worker
19 has no authority to enter someone's home unless they have a
20 reasonable apprehension that a child is in immediate
21 danger. Is that your understanding?

22 A That is my understanding.

23 Q And at Section 21 of the CFS Act, which --
24 sub(2) which deals with "Entry without warrant in certain
25 cases," and it says that:

1 "The director, a representative of
2 an agency or a peace officer who
3 on reasonable and probable grounds
4 believes

5 (a) that a child is in immediate
6 danger; or

7 (b) that a child who is unable to
8 look after and care for himself or
9 herself has been left without any
10 responsible person to care for him
11 or her;

12 may, without warrant and by force
13 if necessary, enter any
14 premises ..."

15

16 And then it goes on. And you're -- as a social worker, and
17 doing the work that you do at that emergent level, you're
18 familiar with, with that requirement you need reasonable and
19 probable grounds to enter?

20 A Yes.

21 Q And the question is, on the referral that you had
22 here about Phoenix being abused but no details of the abuse
23 and perhaps locked in a room, did you have reasonable and
24 probable grounds to believe that a child was in immediate
25 danger such that you could have entered that apartment?

1 A No, I didn't have that.

2 Q Now, I want to take you to that topic of this
3 discussion that you recall with Diva Faria. And I had my
4 notes recorded, what you said, as we briefly discussed
5 whether this file should be closed and part of that was
6 whether Phoenix had been seen. And she may have asked or I
7 volunteered if Phoenix had been seen and she said, she
8 being Diva, to you that you should have seen Phoenix but
9 that this file can still be closed. That's what I recorded
10 of your evidence. Is that fair?

11 A May have said ultimately you should have seen
12 Phoenix but this file can be closed.

13 Q I'm sorry, ultimately should have seen Phoenix?

14 A Yes.

15 Q Now, if we could turn up on the screen to page
16 20260. These are the minutes of one of your CRU joint
17 meetings. Do you see that?

18 A Yes.

19 Q You were taken to it during your direct
20 examinations --

21 A Yes.

22 Q -- from February 3, 2004. And it's, it's in the
23 tab near the end of the material, Mr. Commissioner and if
24 you --

25 THE COMMISSIONER: I, I have it.

1 BY MR. SAXBERG:

2 Q -- flip to the second page, it's item number 13
3 under assessments, where it indicates:

4

5 "Assessments - There were concern
6 raised about assessments being
7 made over the phone that should be
8 done by a field to the home. As
9 much as is possible, when there is
10 a concern about a child in the
11 home, the home and the child
12 should be seen by a worker. If
13 the decision is made to complete
14 an assessment via telephone or
15 through a collateral this should
16 be reviewed and approved by the
17 Supervisor."

18

19 Do you see that?

20 A Yes.

21 Q And my understanding is that Ms. Faria was the
22 supervisor who was raising this concern to CRU workers,
23 such as yourself, and indicating that children that are the
24 subject of a home -- of a referral need to be seen.

25 THE COMMISSIONER: You're asking him if it was

1 Faria that raised the topic at the meeting?

2 MR. SAXBERG: Yes.

3 THE COMMISSIONER: Okay.

4

5 BY MR. SAXBERG:

6 Q And maybe not specifically at the meeting but the
7 -- generally, in her supervision of you, that that was her
8 concern. Do you agree with that?

9 THE COMMISSIONER: What do you mean at -- on, on
10 the day that he conferred with her about the, the current
11 file or at the time of this meeting?

12 MR. SAXBERG: Okay, well, maybe we'll, we'll ask
13 both questions then.

14 THE COMMISSIONER: Sure.

15

16 BY MR. SAXBERG:

17 Q At, at -- in terms of this particular meeting, do
18 you recall that it was Ms. Faria that raised this matter?

19 A I, I don't know if it was Ms. Faria or if it was
20 Ms. Verrier but it would have been one of those two
21 persons.

22 Q Yeah, it would have been one of the two
23 supervisors.

24 A Yes.

25 Q And, and then generally, in terms of your

1 experience under Ms. Faria's supervision, do you agree that
2 she was asserting this, this, I'm going to call it a policy
3 here, that you have whenever -- as much as possible when
4 there is a concern about a child in the home, the home and
5 the child should be seen. Do you agree with that?

6 A Okay, yes.

7 Q You do agree with it?

8 A Yes.

9 Q And so in the regular course, on files, Ms. Faria
10 would, would be concerned that the children in the home --
11 that the children and the home were both being seen;
12 correct?

13 A Correct.

14 Q And one of the reasons is, when this was coming
15 up, there were some files back then -- this is back in 2004
16 -- there were some files at CRU that were being dealt with
17 over the phone. Correct?

18 A Yes.

19 Q They were being investigated, a referral was
20 being made and rather than going out to the home, seeing
21 the home and seeing the child, some of these referrals were
22 simply being dealt with, with a phone call; correct?

23 A Correct.

24 Q And, and at this minute the supervisors are
25 admonishing the staff that that can't be done and that the

1 home and the child should be seen; correct?

2 A Yes.

3 Q Now, that was best practise, it wasn't always
4 possible. Correct?

5 A Yes.

6 Q It wasn't always possible to see -- to get to the
7 home and see all of the children and, and that would be
8 because of workload, perhaps. Is that one reason?

9 A That would be one influence, yes.

10 Q Another, though, because of that short timeframe
11 that CRU has the file, would that be another reason why it
12 wasn't always possible, even though it was strived for. Is
13 that fair?

14 A Yes.

15 Q And another reason would have to do with parents
16 that don't want to let you into their apartment, that would
17 be another reason why all the kids couldn't be seen;
18 correct?

19 A Yes.

20 Q Another would be parents that are difficult to
21 get a hold of, we, we can't find their address or their
22 phone number, they don't have a phone?

23 A Yes.

24 Q Correct? There are a lot of reasons why, even
25 though you strive to see the home, and the child, in every

1 one of your investigations, sometimes it wasn't possible
2 back then?

3 A Yes.

4 Q Sometimes -- and it was -- and this was
5 permitted, you could use a collateral in order to see the
6 child where it wasn't possible to get out there and do it
7 yourself or where time didn't permit; correct?

8 A Correct.

9 Q And collaterals would include hospital, social
10 workers?

11 A Yes.

12 Q Yes?

13 A Yes.

14 Q Police?

15 A Yes.

16 Q Schools?

17 A Correct.

18 Q And, and generally, as a general caveat, someone
19 who you could reasonably rely on, the agency felt it could
20 reasonably rely on for the information?

21 A Yes.

22 Q Now, when you had this discussion with Ms. Faria
23 it, it, it would have been after you had made your decision
24 to, to recommend to close the file; correct?

25 A I don't know the timeline if, if I returned to

1 the office first, had the discussion, and then did my notes
2 or if I returned to the office, did my notes and then had
3 the discussion.

4 Q My question is just slightly different than that.

5 A Sorry.

6 Q It's in your mind you had made the decision you
7 were going to recommend to close the file before you talked
8 to Ms. Faria; correct?

9 A I don't know that that would be safe to say.

10 Q Well, you're not resiling from the fact that it
11 was your recommendation to close the file?

12 A Yes, I recommended to close the file.

13 Q Right. And at the time that you signed off on
14 your report, you endorsed that recommendation, based on the
15 standards and policies at the time?

16 A Yes.

17 Q And the discussion with Ms. Faria didn't change
18 your recommendation at any point, did it?

19 A No.

20 Q No. You, you maintained your recommendation to
21 Ms. Faria to close the file; correct?

22 A Yes.

23 Q Notwithstanding what she said.

24 A Yes.

25 Q Right. You --

1 THE COMMISSIONER: Well, she signed off on it,
2 too, didn't she?

3 THE WITNESS: She signs off on it in -- at the
4 end, like.

5 THE COMMISSIONER: Giving her concurrence to your
6 recommendation.

7 THE WITNESS: Yes.

8

9 BY MR. SAXBERG:

10 Q Right. I'm just making the point that after she
11 said you should have seen the child, you didn't change your
12 mind about your recommendation, you still believed, even
13 though she said you, you should have seen the child, that
14 it was appropriate to close the file and you've confirmed
15 that; correct?

16 A Yes.

17 Q And Mr. Leskiw, who was with you, during this
18 entire field and with you with this Diva Faria conversation
19 that you allege he, also, he certainly didn't voice an
20 opinion that the file shouldn't be closed?

21 A That's correct.

22 Q You never recommended to your supervisor, Ms.
23 Faria, you never recommended to her let's keep the file
24 open until we see Phoenix. You never made that
25 recommendation to her, did you?

1 A No, I didn't.

2 Q And she would certainly never, in the course of
3 your dealings with her, generally, on all the files you
4 dealt with her, she would never instruct you to not see a
5 child, would she?

6 A She's never done that, no.

7 Q She -- right. And it would be the antithesis of
8 what we saw in this minute where she's directing that the
9 children in the home be seen whenever possible?

10 A Yes.

11 Q Right? And Ms. Faria, as your supervisor, was
12 relying on you in terms of your recommendation, because you
13 were the one that had reviewed the file and gone to the
14 home; correct?

15 A Yes.

16 Q And it's reasonable for her, as the supervisor,
17 to rely on you because you're the, the person who has the
18 first hand information; correct?

19 A Yes, I've performed consults with her and give
20 her the information that I have.

21 Q Right. But she's relying on the fact that you've
22 done a good investigation and she's relying on, on your
23 recommendation; correct?

24 THE COMMISSIONER: Well, are you suggesting that
25 she has no input of her judgment?

1 MR. SAXBERG: No, I'm not at all.

2 THE COMMISSIONER: Okay.

3

4 BY MR. SAXBERG:

5 Q I'm simply saying that it's fair that you know
6 that your supervisor is going to be counting on you doing a
7 good job and, and providing accurate information and, and
8 making appropriate recommendations.

9 A Yes.

10 Q And also, with respect to Mr. Leskiw, who was
11 with you on this occasion, it would be fair that, that she
12 would rely on him to speak up if he had any objection to
13 closing this file. That's fair?

14 A Yes.

15 Q And it's not up to the supervisor to go back and
16 re-do the work that you've done. For instance, it wouldn't
17 be up to the supervisor to do a prior contact check?

18 A I don't know how often they do their own work
19 such as a prior contact check or look at the history, if
20 they're more curious about it but I don't think that it's
21 up to her to be doing that on every file that's being
22 presented to her.

23 Q Right. Or -- but it's not the supervisor's job
24 to double check all of the work done by the worker?

25 A No, she's relying on the worker.

1 Q Right. She's there as -- she's got six others
2 that -- five others, six including you, that she's
3 supervising and receiving reports from every day and
4 signing off on, whether to move it up to intake or whether
5 to close it; correct?

6 A Correct.

7 Q And ...

8 A Sometimes she's supervising all 12.

9 Q Sometimes she's supervising all 12 workers?

10 A Yes.

11 Q Because the other supervisor is away sick or
12 because they're training, that sort of thing; correct?

13 A Yes.

14 Q And so when someone -- her -- is it fair then
15 that really the supervisor's job is to read the report you,
16 you give, listen to the information you give orally and,
17 and be that -- ensure that it's -- that it -- there's
18 nothing there that's not in accordance with policy or best
19 practise?

20 A I think that's fair to say, yeah.

21 Q Now, in terms of your, your memory of this
22 discussion, I gleaned, from listening to your entire
23 testimony, that you had no recollection, other --
24 independent of your notes, of what happened when you
25 fielded to Ms. Kematch's apartment; correct?

1 A No. Early -- no.

2 Q Like you don't -- sorry?

3 A Early yesterday I suggested that after Phoenix
4 had passed away I was presented with the document and I had
5 a recollection of what had occurred and I suggested that I
6 was not absolutely certain that my recollection of what had
7 occurred there was influenced by having read the notes. I
8 believe that I do have some recollection of it but I can't
9 say entirely if the notes had also influenced my
10 recollection of that field.

11 Q Okay. And I want to make sure I understand that
12 because you -- yesterday you seemed to be indicating that
13 if it's not in your notes and you didn't write it in your
14 notes, then it didn't happen.

15 A My, my notes were being referred to throughout
16 the afternoon yesterday.

17 Q Yes. And the suggestion was put to you that if
18 you -- if, for instance, if you didn't write something in
19 your notes that means that it, it didn't happen. Is that,
20 is that what you are suggesting?

21 A I don't, I don't think that's correct.

22 Q Okay. So what is it that, that you have a memory
23 of that you didn't write in your notes? That's -- that was
24 the question. One, one is that, that you probably asked to
25 see Phoenix. Is that one?

1 A I think that's correct but to stay on the subject
2 that you're referring to, I didn't include in the notes
3 that -- my discussion with Ms. Faria.

4 Q That's right, then --

5 A Right.

6 Q Right.

7 A So it's not in the notes yet I recollect that
8 meeting occurring.

9 Q That's right. And so you understand where I was
10 going? Let me take you to a document at page, page 36943.
11 And this is right out of CD1795. It's the Shelly Wiebe
12 December 1st, 2004 intake. And if we can scroll three --
13 through to the fourth page. Yeah, right there, under the
14 heading "Intervention" there's, there's a note here that
15 says:

16

17 "On Dec. 2/04 this worker received
18 the above referral information
19 back from CRU supervisor, Faria,
20 for ongoing follow up and
21 assessment. Worker was directed
22 by Faria to connect with the
23 mother, offer the family supports,
24 and close the file to CRU ..."

25

1 Do you see that?

2 A I see what Shelly has written here.

3 Q Right. And what Shelly has written is she's
4 recording instructions that she's received from her
5 supervisor. Do you see that?

6 A Yeah.

7 Q And isn't that the expectation of the
8 supervisors, that if they have a discussion with one of
9 their workers, that that worker -- and they give
10 instructions to the worker it's going to be included in the
11 report?

12 A I don't know that that was an expectation back in
13 2004.

14 Q Was that -- but that -- was that one of your
15 practises though?

16 A I have done this at times.

17 Q You've done it at times. And the point is, you
18 didn't do it here, though. You didn't do it in this case,
19 you made no reference to Ms. Faria's discussion with you?

20 A That's right.

21 Q And another time that, that, that it appears you
22 didn't make a reference to, to this discussion with Ms.
23 Faria is when you were talking to Mr. Koster; correct?

24 A Sorry, could you repeat that?

25 Q You were interviewed by Mr. Koster?

1 A Yes.

2 Q Approximately 17 months or so after your
3 involvement in the file; correct?

4 A That's right.

5 Q It was back in, in 2006 that Mr. Koster
6 interviewed you.

7 A Okay.

8 Q And he took notes of that interview?

9 A Okay.

10 Q And you were taken to them the other day. It's
11 at page 36875. It's the last tab in your binder, Mr.
12 Commissioner and it's -- this heading is Chris, in March of
13 2005. Do you see that?

14 A Yes.

15 Q Now, you were taken through these notes yesterday
16 and they don't say anything about you having a discussion
17 with Ms. Faria.

18 A I'm not responsible for Andrew's notes.

19 Q Right. But he hasn't recorded you making that,
20 that, that -- indicating that there was a discussion with
21 Ms. Faria about not seeing Phoenix.

22 A Okay.

23 Q And he also doesn't mention it in his report
24 either and I'm going to put to you, suggest to you, that
25 the reason he doesn't mention it is because you didn't tell

1 it to him.

2 A I disagree with you.

3 Q Are you saying that you have a recollection of
4 telling Mr. Koster about this meeting with Ms. Faria?

5 A I'm saying that I have that recollection.

6 Q You do have the recollection?

7 A Yes.

8 Q And if, if Mr. Koster says otherwise, when he
9 testifies, then you're suggesting he would be mistaken?

10 A At the same time he's suggesting that I'm
11 mistaken.

12 Q Right. But I'm, I'm just -- you're, you're sure
13 that you recall this and that Mr., Mr. Koster must be
14 mistaken if he testifies that you didn't tell it to him?

15 A Yes.

16 Q Okay. Now --

17 THE COMMISSIONER: Now, I'm going to stop you
18 there, that being your last tab, are you nearly through or
19 what -- is it --

20 MR. SAXBERG: Yeah, I'm nearly through but I
21 wanted to get that one reference so if we took the break I
22 could be very quick --

23 THE COMMISSIONER: But, but I'm wondering about
24 the mid-morning break, is --

25 MR. SAXBERG: Yes.

1 THE COMMISSIONER: You're -- you will be going on
2 for a little time yet, will you?

3 MR. SAXBERG: Just, just yeah, probably another
4 10 minutes but, but I --

5 THE COMMISSIONER: Well, I think --

6 MR. SAXBERG: We could take a break.

7 THE COMMISSIONER: -- I think we should take our
8 break for 15 minutes.

9

10 (BRIEF RECESS)

11

12 MR. SAXBERG: Thank you, Mr. Commissioner. I
13 just have a few more questions.

14

15 BY MR. SAXBERG:

16 Q Firstly, yesterday you talked about the practise
17 of putting together histories for files and how important
18 histories are; correct?

19 A Yes.

20 Q And, and then when I was examining you earlier,
21 we identified one of the problems with a history and your
22 involvement being that it didn't include the information
23 about Wes McKay in the history that you received?

24 A Correct.

25 Q And that's because there was a cutting and

1 pasting of an earlier history and, and then no subsequent
2 inclusion of additional information from the last contact;
3 correct?

4 A Yes.

5 Q And I just want to confirm that ANCR, who is
6 performing this function today, is aware of that issue with
7 respect to the histories and, and it is no longer permitted
8 to cut and paste histories in CRU at ANCR today; correct?

9 A ANCR is aware of that, yes.

10 Q And it's not longer -- the issue of cutting and
11 pasting has been resolved, has it not?

12 A There's still work that needs to be done on how
13 to compile histories, that's not completed yet.

14 Q Right. You're on a histories working group as
15 striving to improve the, the creation of histories
16 currently; correct?

17 A We've had an opportunity to meet once.

18 Q Okay. And you're working on striving to improve
19 the practise of, of documenting histories; correct?

20 A I hope so, yes.

21 Q That's your goal?

22 A Of course.

23 Q But -- and what I'm saying is though that, that
24 it's already been made known to workers they're not allowed
25 to cut and paste these histories any longer; correct?

1 A Yes.

2 Q Okay. So the workers in CRU and intake, and
3 after hours, they know not to cut and paste?

4 A Yes.

5 Q Okay. And, and I now just want to quickly talk
6 about training. You -- in my view there was an impression
7 left that there, there wasn't -- you hadn't received much
8 training in terms of your employment with CFS and I've --
9 have information in terms of the courses that you've taken
10 and I want to put it to you, get your confirmation, that
11 you've taken these formal training courses.

12 A Sure.

13 Q Okay? And I understand that in -- well, in 2001,
14 you've already indicated you took the, the core competency
15 training four modules; correct?

16 A Yes.

17 Q And then in 2003 you took a substance misuse
18 training. Do you recall that?

19 A Yes.

20 Q And in 2004 you took a intervention strategies
21 for addictions training?

22 A Yes.

23 Q And in 2004 you also took working with adults and
24 adolescents with alcohol disorder training?

25 A Yes.

1 Q In 2006 you took emotional survival for law
2 enforcement --

3 A Yes.

4 Q -- training? Yes?

5 A Yes.

6 Q These are external formal training courses;
7 correct?

8 A This is correct.

9 Q In 2007, you took orientation to parent/child
10 assessments; correct?

11 A Okay. Yes.

12 Q Yes?

13 A Yes.

14 Q In 2007 you took crisis intervention training?

15 A I'll -- I don't recall it but I'll say okay, yes.

16 Q Well, if you don't recall, you can -- you don't
17 recall?

18 A Yeah, yeah.

19 Q In 2008, my information is you took taking the
20 path of most resistance.

21 A Yes.

22 Q The course. Yes?

23 A Yes.

24 Q Now, there's also mandatory training at ANCR
25 today; correct? On certain items.

1 A Yes.

2 Q And you've taken all your mandatory training;
3 correct?

4 A I have, yes.

5 Q One of the mandatory training courses that you
6 took was aboriginal cultural awareness at Snowbird Lodge;
7 correct?

8 A Was that in 2001?

9 Q I -- that's what I have on here, yes.

10 A Yes.

11 Q And in 2009 -- that was 2001. In 2009, in terms
12 of mandatory training at ANCR, you took non-violent crisis
13 intervention.

14 A Yes.

15 Q Yes? And here's one that probably would have
16 come in handy, had you had it before 2005, but you took
17 tactical communications training.

18 A Yes.

19 Q In 2009; correct?

20 A Yes.

21 Q And that's tactical communications training, that
22 would be attempting to elicit information from someone who
23 doesn't necessarily want to provide it. Is that just a
24 very general --

25 A That's a good way of generally stating it, yeah.

1 Q Right. That -- something that, that you're
2 probably faced with on a regular basis?

3 A Yes.

4 Q You took standards training in 2009; correct?

5 A Yes.

6 Q And you took structured decision making training,
7 those -- that's the probability of future harm tool that's
8 been implemented -- in May of 2012?

9 A Yes.

10 Q And with that mandatory training at ANCR, that
11 you have achieved or that you have obtained, can you
12 confirm that, that you feel competent to perform the
13 functions that you perform at ANCR?

14 A Yes, I believe so.

15 MR. SAXBERG: Okay, those are my questions.
16 Thank you.

17 THE WITNESS: Thanks.

18 THE COMMISSIONER: Thank you, Mr. Saxberg, it was
19 helpful, you putting this folder before me. I thank
20 you.

21 All right, Mr. Paul?

22 MR. PAUL: Thank you, Mr. Commissioner. Mr.
23 Zalevich, my name is Sacha Paul, I'm one of the lawyers for
24 Winnipeg CFS and the department and I hope to be brief in
25 my questions.

1 CROSS-EXAMINATION BY MR. PAUL:

2 Q If I can put it this way, Mr. Zalevich, some of
3 your testimony have -- has, of course, been directed to
4 your involvement in March of 2005; correct?

5 A Yes.

6 Q And some of it has been directed to more general
7 issues, if I can put it that way.

8 A Yes.

9 Q Okay. And from your evidence yesterday you spoke
10 about indirect pressures; correct?

11 A Yes.

12 Q And my understanding was that you were speaking
13 about it generally?

14 A Yes.

15 Q And that these indirect pressures didn't impact
16 how you handled this particular case in March of 2005?

17 A Correct.

18 Q And so -- and Mr. Commissioner --

19 A And what I meant by that was the decision to, to
20 close a file wouldn't be impacted by those pressures.

21 Q Okay. In terms of this issue, and Mr.
22 Commissioner, these will be questions that you may have
23 heard before. Again, when we speak about the matter
24 generally you would agree with me that when a file is
25 recommended to go from CRU to tier 2 intake, the very first

1 step is that it goes from a worker to the CRU supervisor?

2 A Yes.

3 Q Right? And then that CRU supervisor, of course,
4 then decides whether or not to accept your recommendation
5 to move it onto intake, or to keep it at CRU?

6 A Right.

7 Q Right? And then as a CRU worker really that's
8 not your decision, it's the supervisor's decision?

9 A Yes.

10 Q Right? And, of course, the supervisor could,
11 indeed, decide to pass on the file to tier 2 intake?

12 A Yes.

13 Q Right? And in that case, as I understand the
14 process, the CRU report would then go to the intake
15 supervisor.

16 A Yes.

17 Q Right? And, of course, there are a number of
18 intake units?

19 A Yes.

20 Q Right? And so my understanding, in this time of
21 2005, it would go to the intake supervisor for a specific
22 geographic region?

23 A I believe that's correct.

24 Q And then in the normal course of things the
25 intake supervisor would provide it to an intake worker?

1 A Yes.

2 Q Right? Another possibility is that the intake
3 supervisor could have some questions about the CRU
4 referral?

5 A Yeah.

6 Q Right? And then in terms of the process, that
7 issue could then be discussed between the intake supervisor
8 and the CRU supervisor?

9 A Yes.

10 Q Right? And that's not a discussion that you're
11 part of --

12 A No.

13 Q -- as a CRU worker.

14 A That's correct.

15 Q Right?

16 A That's correct.

17 Q Right. My understanding is -- and I'll ask you
18 whether or not you agree with, with this. We've heard
19 evidence from Carolyn Parsons, who is the tier 2 supervisor
20 for Central, that she never outright rejected a CRU
21 referral and would it be fair, fair for me to suggest to
22 you that you can't comment on that because, again, you're
23 not part of that level of discussion.

24 A It would -- yes, it would be fair for you to
25 suggest that.

1 Q And, again, Ms. Parsons' testimony is that as
2 opposed to rejecting files, she would have a discussion
3 with the CRU supervisor and talk it through to what I'll
4 call a consensus but again, you would agree with me that
5 you can't comment on that either because you're not part of
6 that discussion?

7 A That's correct.

8 Q All right. So all you can say sometimes is that
9 sometimes a file, a recommendation was made to go to
10 intake, but it remains in CRU and you really can't say why.

11 A Right.

12 Q Right. And again, as a CRU worker, you're not
13 there to collect statistics as to referrals, et cetera.

14 A Right.

15 Q You're there to work on your cases; right?

16 A Yes.

17 Q So you really can't tell the Commissioner how
18 often cases that were recommended to go to intake stay in
19 CRU?

20 A I can't.

21 Q Right. You would certainly agree with me that
22 there was no directives issued to say that CRU should not
23 be transferring things to intake?

24 A Right.

25 Q Because, again, that issue was handled at the

1 supervisor level?

2 A Right.

3 Q Right. And again, when it comes to the issue of
4 statistics, et cetera, you're not there to monitor people's
5 vacation schedules; correct?

6 A I've never suggested any of these things.

7 Q Yeah. And I'm just, just saying what you know
8 and you don't know. You don't -- you're not there
9 monitoring who's there at work on a given day?

10 A Right.

11 Q And you're not there monitoring that they're on
12 vacation or on sick leave?

13 A No.

14 Q Right. And when it comes then to the issue of
15 devolution that was occurring, in May of 2005, you would
16 agree with me that this concept of devolution is occurring
17 at the family service unit level in 2005. That, in
18 essence, what they were doing was restructuring to create
19 aboriginal agencies at this time?

20 A Yes.

21 Q Right. And that, at this time, in May of 2005,
22 the structure of intake remained the same between tier 1
23 and tier 2?

24 A Yes.

25 Q And, of course, during this period CRU is still

1 working on the, the basis of referrals coming in, phone
2 calls, walk-ins, et cetera?

3 A Yes.

4 Q Right? And that you would agree with me that
5 regardless of how the child welfare system is structuring
6 itself, that has no impact on the number of calls coming
7 in?

8 A I don't know that for sure.

9 Q You can't comment either way?

10 A Right.

11 Q So when we move into the transition, into
12 devolution in 2005, would you be aware that from January to
13 May 2005 family service units were not taking new referrals
14 so they could do their paperwork, if I could put it that
15 way. Were you aware of that?

16 A I think I was aware of that.

17 Q Okay.

18 A And I'm going to trust that you're correct on the
19 dates.

20 Q Okay. And if you don't know you don't have to
21 guess.

22 A Yeah.

23 Q You would agree with me that there were other
24 units, in essence, taking those referrals, known at the
25 preservation and reunification teams? Were you were aware

1 of that?

2 A Yes.

3 Q Okay. And during the same period, of course, the
4 community programming department is volunteering to assist
5 in this transition. Were you aware of that?

6 A Yes.

7 Q And were you aware that part-time staff were
8 being approached in this period to increase their hours to
9 assist in the process?

10 A I believe so.

11 Q Okay. And were you aware that many of these
12 people agreed to do so, agreed to assist?

13 A No, I wasn't aware of that.

14 Q Okay. And would you agree with me that or were
15 you aware that social workers were -- or pardon me, social
16 work students were asked to do work on a casual basis at
17 that time? Were you aware of that?

18 A No.

19 Q Okay. Were you aware that recent retirees were
20 also approached to do the work in the transition phase?

21 A Were these same people also doing that work or
22 were they just approached?

23 Q They were at least approached. Were you aware of
24 that?

25 A No.

1 Q Were you aware that additional administrative
2 staff were hired to assist in this period of time?

3 A I don't recall that.

4 MR. PAUSL: Okay. Mr. Commissioner, you've heard
5 those questions before and I appreciate the opportunity to
6 post them.

7 THE COMMISSIONER: Yes.

8 MR. PAUL: Thank you.

9 THE COMMISSIONER: You kept your word you would
10 be brief.

11 MR. PAUL: I'll do my best.

12 THE COMMISSIONER: Thank you. All right.
13 Anybody else before Mr. Ray? I guess you're on, Mr. Ray.

14 MR. RAY: Mr. Commissioner, I just have a very
15 few number of questions for Mr. Zalevich.

16

17 RE-EXAMINATION BY MR. RAY:

18 Q Mr. Zalevich, I would just like to take you to
19 Mr. Koster's report to start with, if I can. If we could
20 turn up to page 36875, please.

21 THE COMMISSIONER: Is this the Section 10 report?

22 MR. RAY: Oh, I'm sorry, yes, I'm sorry, Mr.
23 Commissioner, the Section 10 report, yes.

24 THE COMMISSIONER: And what page in the report?

25 MR. RAY: I'm sorry, apparently I've misstated

1 the page number and the report. Just give me one moment,
2 I'm sorry.

3 THE COMMISSIONER: It's the Section 4 report?

4 MR. RAY: I'm actually wanting to discuss the
5 Section 10 report, I'm just getting --

6 THE COMMISSIONER: Oh, all right.

7 MR. RAY: -- that page number. I'm sorry, Mr.
8 Commissioner.

9 THE COMMISSIONER: That's the --

10 MR. RAY: It's --

11 THE COMMISSIONER: -- Christianson-Wood report?

12 MR. RAY: That's correct.

13 THE COMMISSIONER: Yeah.

14 MR. RAY: Page 162 is the page number, please.

15 THE COMMISSIONER: Right.

16

17 BY MR. RAY:

18 Q Mr. Zalevich, your recording, and I'm just going
19 to tell you what your recording says rather -- so you can
20 look at this and I'll tell you what your recording says.

21 A Okay.

22 Q Your recording, and I'm, and I'm reading from
23 page 36929 but you don't have to bring it up, Madam Clerk,
24 you can just leave this page there.

25 It says:

1 "This writer did not notice any
2 sounds of a party occurring or
3 that there was (or that there was)
4 more than one other --"

5

6 THE COMMISSIONER: Just a minute, where are you
7 reading from?

8 MR. RAY: Mr. Commissioner, I'm just -- I'm
9 reading the top of 36929, the first paragraph.

10 THE COMMISSIONER: How does the paragraph start?

11 MR. RAY: "Workers at the door." It's the very
12 first paragraph.

13 THE COMMISSIONER: The worker described by Ms.
14 Kematch?

15 MR. RAY: Pardon me? The top -- it's the first
16 paragraph on 36929.

17 THE COMMISSIONER: Yeah, well, I don't have that,
18 I have it by pages, other page numbers.

19 MR. RAY: Oh, okay.

20 THE COMMISSIONER: But just tell me how does the
21 paragraph starts.

22 MR. RAY: Let me just maybe be a little bit
23 clearer, Mr. Commissioner. The, the page on the screen
24 that I would like Madam Clerk to leave is from the Section
25 10 report and I'm going to read the witness his report,

1 which is page 36929. So what I'm reading from is from page
2 36929, which is not which is on -- which is not what's on
3 the screen. Do you have page 36929, a physical copy?

4 THE COMMISSIONER: No, I, I have page 46 that's
5 on the screen.

6 MR. RAY: Oh, I'm sorry. I would like -- let me
7 deal with it this way. Please turn to page 36929. I'm
8 going to read the first paragraph of Mr. Zalevich's report.
9 Do you have that, Mr. Commissioner?

10 THE COMMISSIONER: Starting "Agency workers
11 spoke"?

12 MR. RAY: No, 36929, "workers at the door" is the
13 first paragraph.

14 THE COMMISSIONER: Workers at the ...

15 MR. RAY: It's on the screen in front of you.

16 THE COMMISSIONER: Well, that's in the middle of
17 a paragraph.

18 MR. RAY: Yeah. No, what -- I'm going to -- if
19 we could just leave that there, Madam Clerk.

20 THE COMMISSIONER: How does the paragraph start?

21 MR. RAY: No, go up -- go back to where you were,
22 please. Yeah. Half-way down the first paragraph, the
23 sentence starts: "This writer did not notice any sounds."

24 THE COMMISSIONER: That's the, the ...

25 Can you help me, Ms. Walsh, where this is on page

1 45?

2 MR. RAY: No, Mr. --

3 MS. WALSH: Mr. Commissioner, I think what you
4 should do is, if you still have a copy of Mr. Zalevich's
5 intake report, the report that we went through with him
6 yesterday, do you have those documents?

7 THE COMMISSIONER: Yes, yes.

8 MS. WALSH: If you find that page, it starts at
9 page 36926. So it's the, the CRU report March 5, 2005. I
10 think if you put that in front of you ...

11 THE COMMISSIONER: Three, six, nine what?

12 MS. WALSH: 36926 should be the --

13 THE COMMISSIONER: Yes, I have that.

14 MS. WALSH: So that's the document that my friend
15 is taking you through now.

16 THE COMMISSIONER: Well, that's --

17 MS. WALSH: So Mr. Ray --

18 THE COMMISSIONER: -- that's, that's an intake
19 report.

20 MS. WALSH: That's right, so --

21 THE COMMISSIONER: Oh, oh, I thought you were --

22 MS. WALSH: -- I, I gather that Mr. Ray is
23 showing the witness his report in advance of discussing the
24 comments in the Section 10 report. So I think you should
25 have both in front of you, you should have the witness'

1 report which you have now.

2 THE COMMISSIONER: Which I now have.

3 MS. WALSH: And the Section 10 report.

4 THE COMMISSIONER: Well, where on the Section 10
5 report?

6 MR. RAY: I apologize, Mr. Commissioner, I
7 attempted to cut corners and perhaps it will be easier if I
8 just do it sequentially and we'll start with 36929, maybe
9 that would be easiest, I --

10 THE COMMISSIONER: All right.

11

12 BY MR. RAY:

13 Q If you look halfway down the first paragraph,
14 starting with "This writer did not notice any sounds." And
15 I'm referring to page 36929 at the top of the page.

16 THE COMMISSIONER: I have that.

17 MR. RAY: Okay.

18

19 BY MR. RAY:

20 Q Your recording says:

21

22 "This writer did not notice any
23 sounds of a party occurring or
24 that there was more than one other
25 adult in the home."

1 Okay? And you gave evidence about that and your
2 evidence was you're -- you felt there was one other adult
3 in the home and you felt there was a visitor. Was that a
4 correct reflection of your --

5 A Yes.

6 Q Okay.

7 A Yes.

8 Q So now I would like to turn you to the Section 10
9 report, please. And I would like you to turn to page 162.
10 If we can bring that up on the screen?

11 Do you have that, Mr. Commissioner?

12 THE COMMISSIONER: Yes.

13 MR. RAY: Okay.

14

15 BY MR. RAY:

16 Q It's the third paragraph and there's a notation
17 in the paragraph, it's about a -- just a third the way
18 down, it's the second sentence.

19

20 "The television was on and the
21 worker did not believe that (any
22 other) any adult other than Ms.
23 Kematch was in the home."

24

25 And Ms. Walsh asked you, in going through the

1 Section 10 reports, whether you agreed with the facts, as
2 recorded by the writer. And I would just like you to, to
3 direct your attention to what's recorded by the writer.
4 Is, is that accurate in terms of what you recorded and what
5 you believed?

6 A No, in my report I believe that there was one
7 other adult in the home. In the report on the, on the
8 monitor it says that I did not believe that any other adult
9 than -- other than Ms. Kematch was in the home, which would
10 imply that Ms. Kematch is alone.

11 Q Thank you. So your, your previous evidence to
12 Ms. Walsh, was that just a misstatement or?

13 A That was a misstatement, I apologize.

14 Q You indicated you had been interviewed by Mr.
15 Koster?

16 A Yes.

17 Q Do you recall approximately how long that
18 interview would have taken?

19 A I don't.

20 Q Right.

21 A I don't know how long that --

22 Q Okay.

23 A -- that was.

24 Q I would like you to turn to page 36875, please.
25 And if we could just scroll up, Madam Clerk, a little bit

1 further, just -- so "Chris in March" is at the top of the
2 page.

3 That's fine, thank you.

4 Now, these are what -- this is what Mr. Koster
5 recorded, what -- about what you told him and I appreciate
6 you cannot say -- you can't speak for Mr. Koster about what
7 he recorded or why?

8 A Right.

9 Q The notes appear to be quite brief, they're in
10 one large paragraph (inaudible). Do you know whether or
11 not this would encompass everything that you told Mr.
12 Koster?

13 A One paragraph would not encompass that meeting or
14 two paragraphs or -- these short notes would not. If these
15 are his entire notes, we met for longer than that.

16 Q And Mr. Saxberg asked you -- I'll, I'll withdraw
17 that question. Sorry. Is it possible that Mr. Koster
18 failed to record things that are not in this paragraph?

19 A It's certainly possible, yeah.

20 Q Other things beyond what you stated was your
21 conversation with Ms. Faria?

22 A That's possible, as well.

23 Q Were you given an opportunity to review Mr.
24 Koster's notes in advance of giving evidence at this
25 inquiry? Let me re-state that. When was the first time

1 you were given an opportunity to review Mr. Koster's notes?

2 A I think that was in, in preparation for the
3 inquiry.

4 Q So, so not -- okay. So would you have had an
5 opportunity to report to anyone the fact that Mr. Koster
6 failed to record what you say was your conversation with
7 Ms. Faria until this inquiry?

8 A No, I wouldn't have had that opportunity.

9 Q I just want to talk, talk about your discussion
10 with Ms. Faria. As I understand your evidence, you
11 suggested to her that the file be closed?

12 A Yes.

13 Q And she agreed with your suggestion?

14 A Yes.

15 Q Has a supervisor ever disagreed with your
16 suggestion and instructed you to do something different?

17 Not necessarily in this case but ever?

18 A Yes, that has occurred.

19 Q Okay. And have you ever, perhaps, even though
20 your supervisor has given you direction, have you ever
21 perhaps disagreed with the direction she has given you? He
22 or she?

23 A Yes, this, this is possible.

24 Q Okay.

25 A Yeah.

1 Q And would it be your practise to record that
2 directive because you did not disagree with it?

3 A Yes, it would be my practise.

4 Q And is it, is it possible that -- so why did you
5 perhaps not record this, this, this discussion with Ms.
6 Faria?

7 A I don't know with certainty why I didn't record
8 that discussion with, with Ms. Faria but I could -- it's
9 possibilities that there's -- our workload demand, we're
10 moving cases quickly, and so --

11 Q My question is --

12 A Sorry.

13 Q -- Mr., Mr. Zalevich, you indicated that you
14 would -- you agreed with Ms. Faria?

15 A Yes.

16 Q And she agreed with you?

17 A Yes.

18 Q And you indicated that on occasions you would
19 record where there was a disagreement between yourself and
20 your supervisor?

21 A Yes.

22 Q Okay. Does that help you to -- does that explain
23 perhaps why you may not have recorded it in this situation?

24 A Right. Because there was no disagreement in this
25 case.

1 Q One question for, for you, Mr. Paul asked you a
2 number of questions about devolution and some of the things
3 that were occurring at that time.

4 A Yes.

5 Q He put to you a number of things that the
6 department did to take steps to address things such as
7 workload pressures, et cetera.

8 A Yes.

9 Q Does that at all change your evidence about,
10 general evidence about workload and the fact that CRU was
11 generally very busy?

12 A Not in any way.

13 MR. RAY: Thank you, Mr. Commissioner, those are
14 my questions.

15 THE COMMISSIONER: Thank you, Mr. Ray. Ms.
16 Walsh?

17 MS. WALSH: I have no questions, Mr.
18 Commissioner.

19 THE COMMISSIONER: All right, witness, thank you
20 very much. You are completed.

21 THE WITNESS: Thank you.

22

23 (WITNESS EXCUSED)

24

25 THE COMMISSIONER: Mr. Olson?

1 MR. OLSON: We're ready for the next witness, Mr.
2 Ray will bring him in .

3 THE CLERK: Is it your wish to swear on the Bible
4 or affirm without the Bible?

5 THE WITNESS: I prefer affirmation please.

6 THE CLERK: All right. Just stand for a moment
7 then.

8 THE WITNESS: Yeah.

9 THE CLERK: Will you state your full name to the
10 court?

11 THE WITNESS: My legal name is William Frederick
12 Leskiw.

13 THE CLERK: Would you spell us your first name?

14 THE WITNESS: William, W-I-L-L-I-A-M.

15 THE CLERK: And your middle name, please?

16 THE WITNESS: Fred, F-R-E-D. It's actually
17 William Fred Leskiw.

18 THE CLERK: Okay. And your last name, please.

19 THE WITNESS: Leskiw, L-E-S-K-I-W.

20 THE CLERK: Thank you.

21

22 **WILLIAM FRED LESKIW**, affirmed,

23 testified as follows:

24

25 THE CLERK: Thank you.

1 DIRECT EXAMINATION BY MR. OLSON:

2 Q I understand that you have a Bachelor of Arts
3 degree as well as a Bachelor of Social Work degree?

4 A That's correct.

5 Q When did you obtain the social work degree?

6 A I obtained the social work degree in 1985.

7 Q In '85. You began working in group homes, I
8 understand, in 1982?

9 A Yes.

10 Q And then you actually became a social worker in
11 1985?

12 A That's correct.

13 Q Which agency did you work with?

14 A Is that better?

15 MR. PAUL: Good. Try it one time.

16 THE WITNESS: Is that better?

17 MR. PAUL: Yes.

18 THE WITNESS: Okay.

19 MR. OLSON: You can, you can also move the
20 microphone a little bit closer to you.

21 THE WITNESS: Okay. Sure.

22

23 BY MR. OLSON:

24 Q Which agency did you first start working with?

25 A Well, the first agency I started working with,

1 after I graduated, was with the Churchill Health Centre, in
2 Churchill, Manitoba.

3 Q In Churchill?

4 A Yes.

5 Q How long did you work there?

6 A About 18 months.

7 Q And that was as a family service worker?

8 A I was probation, family service, it was a generic
9 position.

10 Q Okay. After that I understand you became an
11 intake worker with Northwest Child and Family Services?

12 A When I returned from Churchill I did some
13 contract work with Central Manitoba Child and Family as a
14 case aid and then I applied for a position at Northwest
15 Child and Family.

16 Q What as the position you had with Northwest?

17 A I was initially a family service worker.

18 Q Um-hum. And you say initially, did that position
19 change?

20 A No, that's how I started.

21 Q What kind of work did you do as a family service
22 worker?

23 A I would be assigned a number of cases for long
24 term follow up.

25 Q Did your -- and you, you said your position

1 remained the same as -- at Northwest, you always stayed a
2 family service worker?

3 A No. After family service I went to become an
4 intake worker.

5 Q An intake worker. And we've heard about CRU, CRU
6 is an intake service, is that something similar to CRU?

7 A Well, at the time intake then would have been
8 more generic, it would be similar to CRU and tier 2 intake
9 combined.

10 Q Okay. Would you have a case load that you would
11 actually carry?

12 A I would have cases that I would be responsible
13 for up to a number of weeks, if necessary.

14 Q 1997 you became a family preservation worker?

15 A That's correct.

16 Q You did that for 18 months?

17 A That's correct.

18 Q Then from 1999 until the end of 2000 you were an
19 intake worker at Northwest again?

20 A That's correct.

21 Q Okay. And then you began working in the crisis
22 response unit?

23 A That's correct.

24 Q You held that position, I understand, until March
25 of 2005. Is that right?

1 A That's correct. Actually, with the crisis
2 response, yes, I would assume till 2005.

3 Q But you continued in a position doing the same
4 work after that?

5 A Yes.

6 Q Just explain how that worked.

7 A Well, basically, when the agencies were
8 centralized, in 1999, and we were moved over to the current
9 location that I'm at now, I became an intake worker, or
10 continued to be an intake worker, then an opportunity came
11 up to become what was sort of the, the beginning of a CRU
12 type of a position. At the time it was called a screener.
13 So we would take the phone calls and process the matters
14 and direct them to whichever type of response was required.

15 Q When did you start doing that?

16 A In '99, 2000, in around that area.

17 Q Okay. And so you just answered calls then --
18 basically screened calls is what it sounds like?

19 A Yes.

20 Q And you screened calls in that manner until March
21 of 2005?

22 A Well, the, the role developed from there.
23 Initially I was just responsible for phones then the CRU,
24 specific CRU position was created. I can't recall exactly
25 what year that was.

1 Q Right.

2 A And it developed into a phones, fields type of a
3 role. And then it changed back to a phones role then back
4 to a phones, fields role over that period of time.

5 Q Okay. So off and on you would just work phones
6 for, for a period of time?

7 A That's correct.

8 Q And we, we have heard other workers in CRU say
9 they would work phone for three days and then they would go
10 out in fields for three days?

11 A That's correct.

12 Q But you're saying for part of the time you were
13 employed you would just work phones?

14 A Yes, there were periods of time where my
15 responsibilities were solely to do phones.

16 Q In March, 2005 you were doing phones and fields;
17 is that right?

18 A That's correct.

19 Q And that's when you would have had involvement in
20 this file?

21 A That's correct.

22 Q Who is your employer now?

23 A My employer is ANCR. All Nations Coordinated
24 Response Network.

25 Q Okay. And you're still working in the crisis

1 response program?

2 A That's correct.

3 Q Is it -- am I right that the bulk of your career
4 in child welfare has been in the form of what, what you
5 describe as intake work?

6 A Yes, the majority has been in, in front line
7 intake.

8 Q Just in terms of your training, are you able to
9 tell me whether or not you've had any training in
10 standards?

11 A I would have had training in standards.

12 Q And when would that have been?

13 A I, I can't be specific with regards to dates.
14 Anything that would be mandatory training would have been
15 something that I would have had to have complied with. So
16 it's, it's difficult for me to give you specific times or
17 dates.

18 Q Would that have been early on in your career as a
19 social worker?

20 A I'm sure that, you know, when I started in the
21 '80s, that there was an expectation to review standards. I
22 do recall one of the first duties that I had was to go
23 through policy and procedures manuals, et cetera.

24 Q Okay. In 2005, were the standards something you
25 would frequently reference in your work?

1 A I wouldn't go to a standards manual and, and
2 review them, no.

3 Q So not at all then?

4 A No. Unless there was something specific in a
5 unit meeting where something has been changed or a focus
6 towards something, it was brought forward, then we would
7 have an opportunity to review that particular portion.

8 Q Okay. We've heard other workers talk about a
9 core competency program, is that -- did you go through that
10 training, the core competency --

11 A I would have done that training.

12 Q In 2005, were you aware of any requirement to
13 have face-to-face contact with a child about whom -- sorry,
14 about an allegation of abuse. If there was an allegation
15 of abuse involving a child, were you aware of any standard
16 that required face-to-face contact with that child?

17 A If, if a child was abused my understanding is, is
18 that they would have to be in contact with that child.

19 Q That was your understanding as a social worker?

20 A Um-hum.

21 Q We've heard the phrase best practise. Would that
22 be best practise or would that just be practise?

23 A I would prefer to use the term best practise.

24 Q And when you say best practise, what do you mean?

25 A Well, ideally, if a child has been abused, that a

1 worker responsible for the case would have an opportunity
2 to, to document the abuse, to address the matter, follow up
3 with the matter.

4 Q And specifically with respect to the requirement
5 to see a child, where there is an allegation of abuse
6 involving that child, what I would like to know is would --
7 is that something that would be sort of a matter of routine
8 in, in an investigation of child abuse?

9 A Well, if there's been an allegation that has been
10 made but it's been unfounded, then it, it depends on --
11 every circumstance is unique. Ideally, if an opportunity
12 permits itself, that all children in the home can be seen
13 and I would assume that would be done.

14 Q What about the actual child who the allegation is
15 concerning as opposed to all the children in the home?

16 A Again, if it -- if there has been a specific
17 allegation or, or a report made that a child has been
18 abused, then that child likely has been seen.

19 THE COMMISSIONER: Then what?

20 THE WITNESS: The child would likely need to be
21 seen or would be seen if it's been confirmed that, in some
22 capacity, that something specific with regards to abuse.

23 THE COMMISSIONER: Well, did you say likely or
24 will be?

25 THE WITNESS: I would say should be.

1 BY MR. OLSON:

2 Q Should be seen?

3 A Should be seen.

4 Q You also said where there's a specific allegation
5 of abuse.

6 A Um-hum.

7 Q What about just an allegation of abuse?

8 A Well, it depends. You know, sometimes that word
9 gets used fairly generally. In my experience over a number
10 of years there has been times where somebody has said that
11 a child is being abused and when further questions with --
12 questioned with respect to what they're referring to then
13 their description of the incident may not necessarily fall
14 under an abuse category.

15 Q Okay. But you would do some investigation to
16 make that determination before deciding not to see a child?

17 A Ideally.

18 Q Okay. You were, in March 2005, you were
19 supervised by Ms. Faria?

20 A That's correct.

21 Q And you were on -- Mr. Leskiw was on your --
22 sorry, Mr. Zalevich was on your team?

23 A That's correct.

24 Q Can -- maybe if we could pull up Commission
25 disclosure 781.

1 Sorry, Mr. Commissioner, I, I meant to -- I
2 wanted to refer to the joint meeting minutes that we've
3 looked at previously, I have the wrong disclosure number.
4 The page reference is 20261. That should be in your
5 documents.

6 THE COMMISSIONER: Yes.

7

8 BY MR. OLSON:

9 Q So just, just before we look at this specific --

10 THE COMMISSIONER: Wait, wait a minute now. Yes,
11 I have, I have -- yes, I have it.

12

13 BY MR. OLSON:

14 Q Okay. The first page of this document, if we can
15 just go back one page. It says: "CRU Joint Meeting
16 Minutes". February 3, 2004. There's a number of names and
17 one of the names is Bill. Would that be you?

18 A That's correct.

19 Q Do you have any recollection of this meeting?

20 A Not specifically.

21 Q Were meeting minutes like this prepared on a
22 regular basis?

23 A For the most part.

24 Q What would you -- do you remember what the
25 purpose of these joint meetings was?

1 A Again, to get the two teams together, to permit
2 staff to receive any information that's relevant to the
3 nature of their work. To address any concerns that may
4 have arisen with respect to, you know, the, the function
5 of, of the -- you know, the position, and the general
6 stuff.

7 Q Okay. Turn to page -- the next page, 20261.
8 Paragraph 13, concerning assessments.

9 Have you had an opportunity to read that
10 paragraph, previously?

11 A Prior to the inquiry, no, but certainly I have
12 seen this, yes.

13 Q It says:

14

15 "There were concern raised about
16 assessments being made over the
17 phone that should be done by a
18 field to the home. As much as is
19 possible, when there is a concern
20 about a child in the home, the
21 home and the child should be seen
22 by a worker. If the decision is
23 made to complete an assessment via
24 telephone or through a collateral
25 this should be reviewed and

1 approved by the Supervisor."

2

3 Do you have any recollection of, of this being an
4 issue while you were a CRU worker on that unit?

5 A Well, obviously if this is something that was
6 addressed at, at a meeting level and it's something that
7 was an issue. I don't know if it was an issue personally
8 that I brought forward --

9 Q Right.

10 A -- or someone else but ...

11 Q But just generally, do you remember the issue of
12 the need to actually go out and see a -- the home and the
13 child when there's a concern of -- raised about a child in
14 the home, being an issue in the unit?

15 A Again, I, I can -- I agree with you with respect
16 to the, the nature of this statement, I can't recall when
17 this was brought up, specifically, or under what context it
18 would have been generated as an issue that needed to be
19 reviewed.

20 Q Okay. That's -- I was going to ask you next
21 about the, the context of this particular issue. Are you
22 saying you're not able to recall what the context would
23 have been?

24 A No.

25 Q Are you able to recall whether you had any

1 direction from a supervisor in terms of what you need to do
2 when there's an allegation of abuse made with respect to a
3 child?

4 A Well, routinely every, every -- ideally ever case
5 that you receive is, is reviewed by a supervisor in some
6 capacity. Generally some direction is given with respect
7 to how the matter is to proceed.

8 If, for instance, there's information that's
9 received that a child has been injured and the matter would
10 require an abuse intake referral, the direction would be
11 given to direct the matter to the attention of that
12 particular unit.

13 Q This -- the reference in this document, at
14 paragraph 13, just speaks about there being a concern about
15 a child in the home, that the child -- the home and the
16 child should be seen by worker.

17 A Um-hum.

18 Q Do you understand that to refer to just abuse or
19 just generally concerns about a child in a home?

20 A I would think that would -- could be viewed as
21 being generally. As much as is possible, I think as --
22 again, ideally one -- if one is going to a home and
23 children are present and you have the ability to see the
24 children, that's an ideal scenario to follow through with.

25 Q What was your own practise? I mean, I, I assume

1 you responded to abuse calls involving children in the
2 past? That, that's true?

3 A Yes. Yeah.

4 Q That is something that came up frequently? It
5 was a frequent issue that you responded to?

6 A It would be something that I would have responded
7 to more often prior to coming to ANCR or to CRU.

8 Q More often before coming to ANCR or CRU?

9 A Yes, because, as I indicated earlier, my role as
10 an intake worker at Northwest was, was more generic than it
11 was with CRU. If, if an abuse case comes up at CRU, we're
12 directed to refer the matter to the attention of an abuse
13 worker, to follow up with the matter.

14 Q Is that true even when it's a general concern
15 about abuse?

16 A Well, I guess the, the -- when you say -- if
17 there's a specific allegation of abuse, something that
18 would fall within the parameters of what abuse would
19 respond to, then that would go directly to abuse. As I had
20 indicated earlier there are some times where people use
21 that term without necessarily understanding the nature of
22 the term and when you're gathering additional information
23 you have an opportunity to be more specific, ideally, to be
24 able to ensure that if the need -- if that the matter
25 requires intake follow up that that take place. I mean,

1 I'm sorry, abuse follow up, then that take place.

2 Q You, you accompanied Mr. Zalevich, in this case,
3 when there was a response to -- when he attended Ms.
4 Kematch's apartment; right?

5 A I don't recall it specifically but I, I believe I
6 did.

7 Q Okay. You've had a chance to review the, the CRU
8 report that Mr. Zalevich prepared?

9 A Yes, I've had a chance to see it now.

10 Q So when you, when you looked at that, and you
11 looked at the, the abuse call that came in, what, what sort
12 of abuse call would you characterize that as?

13 And you can -- if you need to refer to it --

14 A Sure.

15 Q -- feel free.

16 A What would be the ...

17 Q Page reference?

18 A Yes.

19 Q 36927.

20 THE COMMISSIONER: At the bottom of the page.

21 THE WITNESS: Yes, yes.

22 THE COMMISSIONER: The bottom of the page.

23 THE WITNESS: Yes, I've found it. Thank you.

24 Yes.

25 Yes, so that term, in and of itself, would not

1 necessary, for myself, automatically mean that the matter
2 would be followed up by abuse.

3

4 BY MR. OLSON:

5 Q In this case you're saying it wouldn't
6 automatically go directly to abuse?

7 A Not with, with -- just indicating that they
8 suspect that this -- the mother is abusing her daughter.

9 Q Okay. There's not enough there to send it to
10 abuse; is that ...

11 A That's correct.

12 Q Okay.

13 A And that's not an uncommon response that we
14 receive.

15 Q Okay. An uncommon response?

16 A It's not an uncommon response. We get referrals
17 where people are alleging that somebody is abusing and, and
18 upon further exploration we find that it's -- for instance,
19 where they're smoking cigarettes in the presence of their
20 child, it's a, you know, custody, access matter, that type
21 of thing.

22 Q Okay. Would the, the history that's recorded in,
23 in a form like this, would that history impact how you view
24 the, the caller, the, the complaint?

25 MR. RAY: I'm sorry, I didn't quite hear

1 Commission counsel's question so just before Mr. Leskiw
2 answers perhaps he could repeat the question.

3 THE COMMISSIONER: Can you repeat your question?

4 MR. OLSON: Sure.

5 MR. RAY: Thank you.

6

7 BY MR. OLSON:

8 Q Sure. It's just whether or not the history that
9 was -- that's recorded in the form would inform how you
10 viewed a call, an abuse call like this.

11 A Well, I'm just sort of reviewing the history to
12 see how it, you know, relates to this particular referral.

13 Q Right. And that's --

14 A Yeah. I mean, the history is important with
15 respect to how one proceeds on, on a matter that comes to
16 the attention of the agency. This particular history
17 doesn't have anything with respect to any prior history of
18 abuse that I can see. Or, you know, a prior history of
19 blocking a child in a room.

20 Q And what about in the history -- maybe we'll,
21 we'll come -- I'll come back to that. Before, before I go
22 through that, I wanted to ask you about your involvement in
23 another related file and that would be ██████████ ██████████'s
24 file.

25 A Sure.

1 Q If you can turn, please, to page -- it's
2 Commission disclosure 0781. Page reference is 17781.

3 Have you had a chance to see this document before
4 today?

5 A Yes, I have.

6 Q Did you create this document?

7 A I would have created this, yes.

8 Q Okay. And can you just explain for the
9 Commissioner what, what it is?

10 A Well, this was an intake report with respect to
11 -- I mean, there's not much here. It -- with respect to
12 some matter.

13 Q A lot of it has been redacted.

14 A Yes.

15 Q Where were you working at the time you generated
16 this? Was that in CRU?

17 A That's correct.

18 Q Had you had any involvement with Ms. [REDACTED]
19 before this call that you're aware of?

20 A I may have.

21 Q You may have. Are you able to recall whether or
22 not you did?

23 A No.

24 Q Okay. Now, knowing that you were involved in the
25 provision of services to Phoenix, in March, are you able to

1 tell me whether or not you would have been able to make the
2 connection between Ms. [REDACTED] and Phoenix at this point
3 or at the point you were involved with Phoenix?

4 A No, I wouldn't have made any connection there.

5 Q And why, why is that?

6 A Well, I guess because there is no indication of
7 -- well, for one thing, I probably would have had very
8 little information provided to me at the time that I was
9 following up with the matter as a backup worker for Mr.
10 Zalevich and now that I've seen both reports I don't recall
11 that there was any reference to a Karl McKay in that
12 particular report. In this report, the -- I am assuming
13 that the connection between the two would be Karl McKay is,
14 is what you are referring to.

15 Q Right, right.

16 A And in this case Karl McKay is the source of
17 referral in the matter. Even if, even if I was aware that
18 Karl McKay was involved in the other matter, I don't know
19 whether I would have had enough information to have said
20 that this Karl McKay, and that Karl McKay, were one and the
21 same.

22 Q Right. So a few, few reasons that you wouldn't
23 have made the connection is because there wasn't a
24 reference to Karl McKay when you went out to investigate
25 with respect to Phoenix; right?

1 A And even if there was, I may not have been aware
2 of that either.

3 Q And you made not have been aware of it?

4 A That, that information may not have been provided
5 to me at that time.

6 Q Okay. That's because you said you were, you were
7 performing a backup function?

8 A Yes.

9 Q And I'm going to ask you about that in a minute.
10 Just when it comes to -- so I'm done with that, that
11 document now. When it comes to your involvement in
12 Phoenix's matter, do you have any independent recollection
13 of being involved?

14 A No, I don't.

15 Q Okay. Can you tell us why you don't have a
16 recollection? Are you able to do that?

17 A Well, I can attempt to explain why. At the time
18 when we were performing this, this function, in 2005, as
19 indicated in previous testimony there were two teams at
20 that time. There were two teams of six which ideally would
21 mean that there could be three teams of workers that would
22 go out on fields if, if a worker required a backup.

23 At that time it wasn't a mandatory requirement
24 as, as indicated in Mr. Buchkowski's testimony, he, I
25 believe, went, I assume on his own, there was no indication

1 of a backup worker.

2 Q Right.

3 A At that time that's something that we were
4 encouraging, that there be mandatory backups for all fields
5 but it wasn't a strict policy at that time.

6 With our particular unit, as a result of the
7 devolution process, the idea at the time was to bring on as
8 many senior staff as possible and, and as a result people
9 with the most seniority were brought over, one of those
10 being a staff member that physically could not do fields,
11 who was on our team.

12 Q Can you, can you recall who that was?

13 A That would be Barb Klos.

14 Q Okay. We've heard from her already.

15 A Yes.

16 Q Okay.

17 A So as a result, there was always -- if there was
18 the requirement for two people to go out on fields and, and
19 our team was -- adhered to that requirement, that always
20 meant that there was going to be one backup person short.
21 So I do recall that. I was doing backup with Chris, I was
22 doing backup primarily with a worker by the name of Allison
23 Drinnan, who was on our unit, and I could have been asked
24 to do backup for anyone else on our team. Again, because
25 it's not a -- it's not like you're paired off with

1 somebody, it's whoever is available at the time that you
2 need to do that field, whoever is available, keeping in
3 mind that we all have our own workloads, as well.

4 So many times, if workers felt comfortable with
5 me, that they would ask me to go and I would comply to the
6 best of my ability. And so I might be going out with two
7 different workers, on any given day, that sort of thing.

8 Q Okay. And the specific question was whether or
9 not you had independent recollection, you said no, and I
10 asked you why.

11 A Um-hum.

12 Q And I think I understand what you're saying but
13 can you just tell me how what you've just told us relates
14 to whether or not you have independent recollection of this
15 field?

16 A Well, because basically I don't have much in the
17 way of recollections of any backups, period, unless there
18 was something that was fairly intense. So if there was a
19 difficult apprehension, if there was a traumatic event, as
20 a backup worker I may recall the specifics on that.

21 I have to be responsible for my own files and my
22 own cases, I have to focus on, to the best of my ability,
23 my own clients. If I go as a backup my role is to be,
24 therefore, in my opinion, primarily safety reasons and, as
25 well, safety for clients, if an apprehension is required

1 and, and an extra set of hands are needed, that type of
2 thing.

3 Q Okay. The backup, the practise of having a
4 backup worker, you said, I think, was not a formalized
5 requirement?

6 A No, it wasn't.

7 Q It was something that the workers wanted?

8 A That was something that was -- it was, I think --
9 at the time there was some debate with respect to it
10 because of the demand of the, the workload and having two
11 staff go out would mean that that would be less opportunity
12 to process cases, as if you were going on your own.

13 I was, I was a keen advocate for the role of
14 having two, I've had a number of very serious events happen
15 to me when I was by myself where I was in a very dangerous
16 position and, and a backup person would have been very
17 helpful to have, obviously for safety reasons. That was my
18 motive for, for promoting the use of a backup worker.

19 Q Were you given any sort of direction as to what
20 you were expected to do when you accompanied a worker on
21 backup?

22 A To my -- this -- that was, again, a -- I think a
23 position that developed on its own, more so, as did, you
24 know, some of these positions as we switched from the
25 general intake type of, of role that we had back in, in the

1 '80s and '90s and then developed into the type of thing
2 that we have now.

3 So there isn't any policy and procedures manual
4 with respect to the roles and responsibilities of a backup
5 worker, there's nothing -- there's no specific training
6 with regards to the roles and responsibilities.

7 Q When, when you were backup on, on this particular
8 matter, and I know you don't have a recollection of, of it,
9 how, how do you think you came to be backup? Would Mr.
10 Zalevich have asked you or would the supervisor have
11 directed you or ...

12 A Mr. Zalevich would have asked me. That's, that's
13 generally the way that it happens. Sometimes supervisors
14 will request workers attend. For instance, if, you know,
15 you're apprehending a newborn at the hospital it may be
16 better for there to be a male and female staff together,
17 that type of thing.

18 Q Okay. In this case, are you able to say what
19 happened, whether it was Mr. Zalevich or the supervisor?

20 A I can't recall the details of it. I would
21 assume, based on the nature of the involvement, reading it
22 now that I have opportunity to, that the matter came to Mr.
23 Zalevich on the 7th and we went out on the 9th, that it
24 wouldn't have been a planned event because there would be
25 no way of knowing whether I would be available at that

1 particular time if there was an emergency on my own case
2 load.

3 Q Okay. That leads to my next question which is
4 when you were, when you were backup here, when would you
5 have known that you were going to be backup? Would it be
6 just before going out or would it have been earlier in the
7 day?

8 A It may have been what's your afternoon like? Do
9 you have some fields in this area of the city? I have a
10 field in this area of the city. You know, that type of
11 thing.

12 Q Okay. In terms of the reason for going out on
13 the referral, what information would you have known?

14 A I can't recall this one specifically. I've been
15 on fields as backup where some information is provided to
16 me. More recently, it's now a requirement that backup
17 workers review the, the written report. It wasn't at that
18 time.

19 Q At that time did you have a practise in terms of
20 what you would review, if anything?

21 A I don't think there was a specific practise.

22 Q But you, you personally, did you have a practise?

23 A I -- if I was driving out to a field I may
24 discuss things that I might find important for the, for the
25 backup worker, my backup worker to be aware of.

1 Q Okay.

2 A If we're going to a gang house, where there may
3 be a -- you know, a dog, you know if the -- there's the
4 possibility of apprehension, how many kids are involved,
5 that type of thing.

6 Q Okay. You had -- I take it you had ridden with
7 Mr. Zalevich a number of times prior to this one?

8 A Yes.

9 Q Do you recall what his practise was, in terms of
10 informing you as to why you were going out as, as his
11 backup?

12 A We would speak about stuff, informally, on the
13 way out.

14 Q Okay.

15 A It, it depends. There are times where, you know,
16 we may be going out on joint fields, we may be going to
17 mine first. I may be talking about it and then not have an
18 opportunity to review or vice versa.

19 Q All right. So this may not have been the only
20 field you were attending with Mr. Zalevich that day?

21 A That's correct.

22 Q Okay. So there -- it might have just been one
23 amongst many?

24 A That's correct.

25 Q Okay. And you might have had your own fields

1 where you were the primary worker?

2 A That's correct.

3 MR. OLSON: Okay. Mr. Commissioner, this might
4 be a good time to break for lunch.

5 THE COMMISSIONER: All right. We'll adjourn now
6 till two o'clock. You have to come back, witness.

7 THE WITNESS: Yes, yes. Thank you.

8

9 (LUNCHEON RECESS)

10

11 BY MR. OLSON:

12 Q So before the, the lunch break we had been
13 talking about the field that you went on with Mr. Zalevich.
14 I wanted to ask you prior, prior to your going out on the
15 field with him, and I think you may have told us this
16 already, I just want to make sure I have it right, you
17 would not have reviewed any written documentation with
18 respect of why you're going out?

19 A That wasn't the practice at that time, no.

20 Q Okay. In other words, you -- so you wouldn't
21 have reviewed anything at that point?

22 A I'm -- I likely had not. I can't speak for all
23 situations but that wasn't a standard practice at that
24 time, it is now.

25 Q Okay. That's changed since?

1 A Yes.

2 Q Okay. The document that is the CRU intake form
3 that Mr. Zalevich indicated he prepared, that's between
4 pages 36926 and 36930 -- you should have them in front of
5 you.

6 A Yes, I do.

7 Q You're quite familiar with this document now?

8 A Yes, I am.

9 Q Did you have any input into the creation of it?

10 A No.

11 Q When you accompanied Mr. Zalevich are you able to
12 say whether or not he would have had an understanding as to
13 why you were going out on this field?

14 A I'm sorry, I didn't hear that.

15 Q When you --

16 A The word before Mr. -- because you're not
17 speaking right into the mike so it's --

18 Q Sorry.

19 A -- sometimes hard.

20 Q When you accompanied Mr. --

21 A Oh, accompanied.

22 Q -- Zalevich on this field --

23 A Okay.

24 Q -- would you have had an understanding as to why
25 you were going out?

1 A I may or may not have.

2 Q Okay. Would it have been your practise to at
3 least get a basic understanding of why you were going out
4 to meet with this person, Ms. Kematch?

5 A If, if it's something that we have an opportunity
6 to, to review or whatever, that would have been done.

7 Q Would you be riding together in the same vehicle
8 when you went out?

9 A Yes.

10 Q Would it have been a good idea, generally, to at
11 least discuss, you know, why it is you're going out. He
12 said you might be concerned about safety concerns.

13 A Um-hum.

14 Q Wouldn't you want to know why you were going out
15 there?

16 A Generally I may have information with respect to
17 the matter, I can't speak to whether all the information
18 that was present in this report would have been something
19 that if it was reviewed with me would have been reviewed
20 with me.

21 Q Okay. Is it -- can you say it's a probability
22 that you would have had an understanding as to why you're
23 going out?

24 A I -- it's, it's possible. I can't speak --
25 sometimes when we went on fields, as -- we may have been

1 going on fields for both of us. I may have been speaking
2 about my field on the way there or we may not have had an
3 opportunity to review this.

4 Q So you may, may -- you're saying you may not have
5 discussed why you're going out?

6 A Yeah, I can't say for sure with this.

7 Q You weren't -- when you were going out were you
8 just a passive observer there to accompany Mr. Zalevich or
9 did you have -- was your role more than that?

10 A Well, generally, my understanding of the primary
11 role of a backup worker is for, for safety. Safety for the
12 primary worker as well as safety for children.

13 Q Right.

14 A In, in the sense that if an apprehension is
15 required, if there's a need for more than two hands to
16 address a matter, that type of thing, then a backup worker
17 would be necessary.

18 Q But you're, you're an experienced social worker
19 with -- you have to say something for the, the record. You
20 just nodded your head.

21 A Yes, I'm an experienced social worker, yes.

22 Q And you're accompanying another social worker on
23 a field to see a client, so you have -- you would have the
24 ability to make your own assessments and, and be involved
25 in that field; right?

1 A Well, I wouldn't necessarily have the ability to
2 make my own assessments based on the, the nature of the
3 field. I may have been given specific direction from a
4 worker, for instance, with respect to what role they may
5 feel I may have had. They may have just indicated that
6 there is no specific role for me and just to be there. So
7 I am, when I'm on a field, assessing the dynamics of the
8 situation, not just necessarily the presenting problem but
9 the general environment in the vicinity where we're working
10 as a whole. I don't know if that answers your question
11 specifically but ...

12 Q Are you, are you -- would you be there to offer
13 support to the other worker?

14 A If the worker required me to take on a specific
15 function then I would be prepared to do that.

16 Q But if you were there, if you see something
17 that's concerning to you as a social worker, what would you
18 do about it?

19 A If there was a situation where I felt that there
20 was a concern that the person that I was with may have not
21 been aware of, I may have intervened.

22 Q Okay.

23 A Would likely intervene if it was a specific child
24 protection matter.

25 Q Okay. When we read Mr. Zalevich's document as to

1 what, what happened when you went out with him to Ms.
2 Kematch's apartment, he mentions to her that there was a
3 concern about potential abuse that was reported; right?

4 A I believe so. I think that's in the report.

5 Q So you would have heard him at least say that to
6 her at the door, even if you hadn't been aware of it
7 previously?

8 A Yes.

9 Q Okay. And you would know that the abuse was
10 with respect to Phoenix Sinclair, the young child?

11 A I, I would assume so.

12 Q Okay. There's, there's no indication in Mr.
13 Zalevich's report that he requested to see Phoenix. In a
14 situation like this, as a social worker, would you -- would
15 your practice have been to see Phoenix?

16 A If it was my particular case, if I had -- did the
17 workup on it, if I felt that seeing the child was
18 paramount, et cetera, I don't know whether Mr. Zalevich did
19 or didn't ask to see Phoenix, I, I note it's not in his,
20 his documentation. I don't know whether he would or
21 wouldn't have said that or even whether I would or wouldn't
22 have said that, I can't recall the, the incident in
23 particular.

24 Q Okay. Well, assuming you knew nothing about Ms.
25 Kematch's background, all you knew is what you learned at

1 the doorway, standing with Mr. Zalevich. Based on that,
2 and as a social worker, would you have, have wanted to see
3 the child who is the subject of the abuse allegation?

4 A As a, as a backup worker, I, I would have
5 deferred to the primary worker with respect to the
6 necessity to see the child. In situations where I've been
7 in similar types of situations, I have asked, in other
8 situations I haven't, depending on the response that was
9 received from the particular individual. There may be a
10 requirement to come back again, there may not, it ...

11 Q We're hearing there was also a concern about
12 there being a lock on Ms. Kematch's door?

13 A That's correct.

14 Q And Phoenix being locked in that room; right?

15 A Um-hum.

16 Q That's something else you would have been aware
17 of at the time?

18 A Yes, I would assume so, based on the fact that's
19 in the report.

20 Q Okay. And it appears that that concern was
21 validated, that Samantha Kematch --

22 A Um-hum.

23 Q -- acknowledged that she had a lock on the door;
24 right?

25 A Yes.

1 Q So with that, with that other bit of background,
2 knowing that Samantha Kematch had a lock on her door, that
3 she may have been locking Phoenix in the room, and knowing
4 that there was this abuse concern, would that impact on
5 whether or not you would want to see the child in this
6 case?

7 A The lock on the door, in and of itself, isn't
8 something that would necessarily warrant the need to see a
9 child. It may require seeing the, the door. Depending on
10 the response that's received, in these types of situations
11 if it's the first time that a report has been made against
12 an individual with respect to a lock on the door, a lot of
13 times it's a, it's an education piece, it's a warn and
14 caution.

15 If a, if an individual presents that they weren't
16 aware that that is inappropriate and will do -- no longer
17 use that form of, of corrective behaviour for their child
18 then it may be accepted at that point.

19 Q There's no recording as to what Mr. Zalevich may
20 or may not have asked Samantha in terms of, you know, why
21 you're locking Phoenix in this, this room and what --
22 anything more than that.

23 A Um-hum.

24 Q Would that be something you would want to explore
25 with the, the person at the door in this case?

1 A Again, if it, it was my case I may approach
2 things differently, I, I can't speak to this particular
3 situation. Depending on the demeanour of the person, again
4 there's no history with respect to them using locks on
5 doors as, as a form of, you know, containing their child or
6 as a time out, or whatever the reason might have been.

7 It may be, as I said earlier, a warn and caution,
8 with an understanding that there may be more, more involved
9 intervention in the, in the future if this comes up again.

10 Q Okay. You and Mr. Zalevich didn't actually get
11 into Ms. Kematch's apartment?

12 A That's my understanding.

13 Q And Mr. Zalevich indicated partly that was over a
14 concern for Ms. Kematch's privacy, she may have had someone
15 else in the, the apartment with her?

16 A That's correct.

17 Q Is that, is that the same approach you would have
18 had were -- if you were the primary worker?

19 A I've had situations in the past where I've taken
20 a similar approach with regards to a field to a home. I, I
21 wouldn't say that it was with respect to the identical
22 circumstances that were provided but there have been times
23 in the past where I have respected the privacy of a, of a
24 client with respect to a request to not enter the home.

25 Q But in this situation because you did say you

1 were familiar with what Mr. Zalevich has written here,
2 would you, in, in this specific situation, as opposed to
3 other situations you may have been referring to, would you
4 have, would you have wanted to get into the house, or asked
5 to get in?

6 A Well, may not -- as a backup worker, again I'll
7 defer to the primary worker. The primary worker, I, I
8 don't have the ability to understand where they're going
9 with the case, necessarily. It may be my understanding at
10 that time that, that the worker may be coming back again.
11 It may be my understanding that the worker may return to
12 the office, for instance, and phone and say is there a
13 better time to come down, I -- you had somebody there, I, I
14 don't know.

15 Q You were with Mr. Zalevich, though, at the door?

16 A That's correct.

17 Q At anywhere -- as social worker?

18 A Um-hum.

19 Q The -- if, if you had a concern about the safety
20 of, of the child, based on what you understood to be the,
21 the presenting problem, could you have intervened and asked
22 to see the child and go in and, and do an assessment?

23 A I, as a backup worker, wouldn't necessarily go
24 over the head of, of the primary worker in a situation like
25 that. I, myself, have been a primary worker where a backup

1 worker has felt it necessary to intervene and has actually
2 made the situation worse than better and so I am aware of
3 the dynamics of doing something that is without the prior
4 consent or knowledge of the primary worker, who is the one
5 that's responsible for the case.

6 Q Okay. Because, as you've said, I take it you
7 didn't -- you wouldn't know the background of the case or
8 there may be other factors at play?

9 A Exactly.

10 Q But if you had concerns, you may not intervene at
11 that point; right?

12 A I'm sorry?

13 Q If you had concerns you may not intervene at the
14 point of meeting with a client at the door?

15 A If, if there was a concern that -- based on my
16 involvement in a particular case that would warrant a
17 return to the home then that would be done or could be
18 done, yes.

19 Q Well, after, after you, you left the door and,
20 and Ms. Kematch explained, you know, maybe she yelled at
21 Phoenix and that could have been the abuse, would you have
22 had a discussion with Mr. Zalevich to ask, you know, are
23 you going to see the child or why didn't you see the child?

24 A I have -- I may or may not have. Again, I can't
25 recall the specifics of this particular case.

1 Q If you were the primary worker on this case would
2 you have wanted to see Phoenix?

3 A Well, that, again, depends on -- I mean I would
4 need to back up quite a bit and to be part of the
5 development of this case as it presented itself at the
6 point of intervention at this time. I can't speculate,
7 necessarily, on what I may have felt I would need to have
8 done at that particular time.

9 Q So the difference is you're --

10 THE COMMISSIONER: Just a minute. Mr. Ray, I was
11 waiting for that answer to be finished before I called on
12 you.

13 MR. RAY: I understand. I was, I was just going
14 to interject and I think the witness answered the question
15 that I was going to raise, was I think we're getting to the
16 point now we're really, really speculating about what he
17 would have -- would not have done without having any
18 background about this particular case, any memory about
19 what this particular case involved and, and his involvement
20 really is a -- not a backup worker but even the primary
21 worker, is, is not what his role was. So I just raise that
22 and I, I think the, the witness indicated, it would be
23 speculation.

24 THE COMMISSIONER: I think, I think the answers
25 have to be viewed in, in the light of those facts.

1 MR. RAY: Yeah. Thank you.

2

3 BY MR. OLSON:

4 Q When, when you were at the door, meeting with Ms.
5 Kematch, what options would you have had had you wanted to,
6 to see Phoenix?

7 A If, if I -- and I wish I could -- if I could
8 remember that particular field I think I could develop a
9 number of possible options, really depending on the, the
10 circumstances at the particular time, what -- I have to
11 rely on the information that's in that report, I don't --

12 Q Yeah, and that's all I'm asking you to do.

13 A Yeah.

14 Q Based on the information that's in the report --

15 A Um-hum.

16 Q -- I mean, you've been a social worker for many
17 years, what options would have been available to you or Mr.
18 Zalevich to actually try to see the child?

19 A Well, if the direction that has been given to the
20 primary worker is to see the child then there are a number
21 of options that one could take to see the child. If the
22 direction given to the primary worker is to gather more
23 information then that has been achieved, if it's, if it's
24 that non-specific and, and returning to the office, that
25 would have been a completion of that direction.

1 Q Well, in this, in this case you, you -- I take it
2 you would have wanted to know was, was there abuse or not;
3 right? Were these concerns valid concerns?

4 A Well -- and I guess in reading this report, when
5 I see something as general as just the term abuse and I --
6 in reading the report, where the individual had indicated,
7 Ms. Kematch had indicated that she had been yelling at her
8 child and knowing that in previous types of situations
9 people have referred to yelling at their child or screaming
10 at their child as a form of abuse, be it emotional abuse.

11 Q And that could be accurate; right? It could be
12 abuse.

13 A Exactly.

14 Q But with this particular call you -- were you
15 trying to find out what the abuse was?

16 A I can't recall the particulars in this matter.

17 Q If you had wanted to actually get in to see
18 Phoenix in this case could you have demanded to see the
19 child?

20 A I don't know if one could have demanded at that
21 particular moment based on the information that was
22 provided at the point of referral, based on the information
23 that is before me in this report. There have been
24 situations where we have requested the assistance of the
25 authorities with respect to entering a home to conclude an

1 investigation.

2 In, in many cases there would have to be a review
3 with a superior, prior to that step being taken.

4 Q Okay. Would this be a situation where you could
5 involve the authorities?

6 A This -- any situation where an individual is
7 refusing to allow workers into the home is something that
8 can be reviewed with a supervisor. If a supervisor is
9 determined that the nature of the concern would warrant a
10 more forceful approach, then certainly authorization can be
11 granted to involve the, the police.

12 Q But would you, as a social worker, make the
13 recommendation to the supervisor in terms of what shall we
14 do here, should we get the police involved or ...

15 A I, as a social worker, generally would review the
16 matter with a supervisor, I'm not going to necessarily make
17 a recommendation that the worker -- the supervisor
18 authorize me to contact the police to request backup. I'll
19 present the situation with an understanding that that is
20 something that I feel needs to be done and, and, and then
21 review that with a supervisor who would then provide me
22 that authorization, if it's required.

23 I have been in situations where I've been granted
24 that authority and other situations where I haven't been
25 granted that authority.

1 Q Do you know -- you have absolutely no
2 recollection of attending on this visit?

3 A No, I don't.

4 Q Okay. There's no indication in the report as to
5 whether or not there was a request made of Samantha Kematch
6 to produce Phoenix; right?

7 A As far as I can see in the report there isn't.

8 Q And would you have expected that request to have
9 been made in these circumstances?

10 A I, I can't say whether I would expect it or not,
11 it's -- again, it, it really depends on the, the particular
12 -- the worker, the supervisor, the, the background
13 information, et cetera. There may -- there has been
14 situations where --

15 Q I just mean with respect to this --

16 A Yeah.

17 Q -- situation.

18 A It's -- again, maybe if you repeat your question,
19 I --

20 Q Well, are you saying you have no opinion as to
21 whether or not Phoenix should have been -- Ms. Kematch
22 should have been asked to produce Phoenix there?

23 A I, I think that it -- I don't have an opinion
24 with respect to that, based on my lack of specific
25 knowledge.

1 Q Would it have been your practise as a backup
2 worker to make any notes?

3 A No, I don't -- wouldn't make any. Unless, unless
4 a primary worker has requested that I generate notes on
5 their behalf and that has happened on, on a rare occasion
6 but that has happened where it's a particularly dynamic
7 situation, where focus has to be -- by the primary worker,
8 has to be on the, the task at hand.

9 Q Would there be any particular reason why you
10 wouldn't generally make notes when you're a backup worker?

11 A Again, because a backup worker, my understanding
12 at that time is the, the backup worker doesn't have any
13 involvement with respect to the creation of the report, the
14 -- what's in the report, the closing of the report. There
15 have been times where I have had input in a report. If,
16 for instance, an apprehension has taken place and I've had
17 a specific role that was somewhat key, then I may be
18 requested to add that piece of information into a report as
19 a backup worker but it's -- it would be limited to that
20 particular function. I may not even have notes as a
21 result, it may just be with respect to my recollection of
22 the events at the time.

23 Q Okay. So it's not -- it wasn't your practise to
24 take notes and your understanding was --

25 A Not as --

1 Q -- you weren't required to?

2 A Not as a backup worker. As a primary worker,
3 when I go on fields, I would be taking notes.

4 Q Would you have even reviewed this report after it
5 was prepared?

6 A I wouldn't necessarily have reviewed it. I don't
7 know whether I did or not. The practise is that you've --
8 you don't, based on the fact that, in many cases, a worker,
9 when they get to the point where they are going to be
10 submitting this, it may be -- I may not even be present at
11 the time when it's completed.

12 Q Based on your experience, was the concern,
13 presenting concern here an emergency?

14 A Based on what I see, from this report, I wouldn't
15 consider this an emergency. It was -- it began on the 5th,
16 I fielded with Mr. Zalevich on the 9th. To me that would
17 not constitute an emergency.

18 Q Okay. Was it a fairly routine type of matter?

19 A I would say there's aspects of it that would fall
20 within that category.

21 Q Would you consider it a serious matter?

22 A At the -- knowing what I know, certainly this is
23 a -- was a serious matter.

24 Q But that -- back then?

25 A But back then, no, I wouldn't have necessarily.

1 This was a -- again, somewhat vague with respect to one
2 concern. The other concern was more specific. The
3 response received, both times, from what I read here, the,
4 the client framed the nature of what was referred to, the
5 vague description of abuse, the acknowledged, the --

6 Q Do you, do you mean Ms. Kematch saying that maybe
7 she yelled at Phoenix?

8 A Yes.

9 Q And you were prepared then to take her word for
10 it, I take it, based on what's --

11 A Well, I wasn't prepared to take her word for it,
12 I'm just -- when you're asking me to sort of speculate I'm
13 -- by looking at this report and looking at it from a
14 critical perspective, I can see where that may have been
15 what the issue was with respect to the nature of the abuse.

16 Locking the door was addressed and the client did
17 not deny it. Possibly, if the client denied it, then we
18 would request to see the door. It was acknowledged. The
19 client understood that it's not appropriate, it's an
20 education piece, it's a warn and caution. There was no
21 prior history.

22 Q Okay. Well, so when Mr. Zalevich recommended the
23 file be closed in this case, is -- were you -- first of
24 all, were you aware that that was the recommendation that
25 he was going to make?

1 A I don't recall whether I was present at the time
2 that decision was made. I don't recall if I was, the
3 nature of the meeting. I normally wouldn't be necessarily
4 involved in that decision, that's basically between the
5 primary worker and the supervisor.

6 Q Based on what you've just told me was, was the
7 recommendation to close the file something you would agree
8 with?

9 A Again, with respect to this particular matter I
10 can't be specific. I don't have the luxury of -- again, I
11 don't know whether all the history was reviewed, I don't
12 know how it was interpreted, I don't even know what history
13 was available at the time. I don't know what transpired
14 when the case was assigned, whether the primary worker and
15 the supervisor discussed the matter prior. I probably
16 wouldn't have had, based on the nature of the, the timing,
17 the luxury to necessarily have known, in advance, that I
18 would be going out on this matter because it came to Mr.
19 Zalevich on the 7th and we went out on the 9th. To me that
20 would mean that likely I was available at the -- that day
21 or that particular time when the decision was made to field
22 to the home.

23 THE COMMISSIONER: I'm not sure there's much
24 point in trying to make -- take this much further, Mr.
25 Olson.

1 MR. OLSON: I agree.

2

3 BY MR. OLSON:

4 Q I just wanted to ask you about what would happen
5 after a field, would you, as the backup worker, would you
6 meet -- you said you don't have a recollection of whether
7 or not you met with Ms. Faria and Mr. Zalevich after?

8 A Yeah, I don't remember specifically on this case,
9 no.

10 Q Okay. Was there a practise in terms of whether
11 there would be a meeting following the involvement in a
12 case?

13 A I wouldn't say that it was a practise, per se,
14 that the backup worker would meet with the primary worker
15 and the supervisor. It would be a practise that the
16 primary worker and the supervisor meet to discuss the
17 direction the case is going, whether it's to remain open or
18 to be closed.

19 I do recall there were times in the past where I
20 have met with the primary worker and a supervisor and
21 again, those would be in those moments where there was
22 something that was fairly unique about, about a particular
23 matter.

24 Q So when Mr. Zalevich testified that he recalls a
25 meeting with you, himself and the supervisor, and discussed

1 this closing and whether or not Phoenix should have been
2 seen, would you be able -- would you disagree that that
3 would have happened or ...

4 A If he says I was there then I would assume that I
5 was. And I'm not sure, I, I know in listening to the --
6 whether -- at what stage that discussion took place, if the
7 discussion took place upon return to the office then
8 there's a greater chance that I would have been there. If
9 the discussion took place when the matter was to be
10 reviewed after it was finalized and to be moved towards the
11 direction of being signed off, that would have been after
12 the fact and I don't know, there would have been less
13 chance I would have been there for that.

14 Q But you don't disagree, you don't have a reason
15 to disagree?

16 A I don't have a reason to disagree, I don't have a
17 reason to, yeah.

18 Q After your involvement that's recorded in this
19 document, in the CRU document, did you have any other
20 involvement in this matter?

21 A Not to my knowledge.

22 Q Were you aware at the time -- this is March 2005
23 -- of circumstances where cases that you would have
24 expected to be transferred to intake were, were not being
25 transferred --

1 A Yes.

2 Q -- were being closed?

3 A That was occurring.

4 Q Okay. What can you tell me about that?

5 A That it happened, it, it was frustrating at
6 times. I felt that we were fairly busy. It's an intense
7 type of work and ideally it would have been easier if cases
8 had moved to the next level, if that's the recommendation
9 that was made by a worker, for instance.

10 Q Okay. So are you saying the recommendation made
11 by CRU that this should go to intake and that just wasn't
12 happening?

13 A Well, I'm not sure whether that would be CRU or
14 after hours or, or you know, by the primary -- by the
15 worker, themselves or, or by a different worker.

16 Q Did you get any sense as to why that was
17 happening?

18 A The understanding I had was because things were
19 backed up within the system as a whole.

20 Q Okay. So not, not because the -- it was
21 inappropriate to recommend it go to intake but they just
22 couldn't deal with it?

23 A My understanding, at the time, was that, that
24 this system was, yeah, backed up and, and there was an
25 inability to move cases as easily as is the case now, for

1 instance.

2 Q What would happen when the case was sent back or
3 rejected at intake?

4 A Why I have no idea. What that process was, I
5 wasn't part of that --

6 Q Okay.

7 A -- process. If I received a case that I
8 understood to have been sent back or that wouldn't have
9 been accepted, that it would have been a frustrating event
10 and --

11 Q Did you have, did you have that experience?

12 A I, I had that experience, yes.

13 Q Okay. Would the case get sent back to you, as
14 the worker?

15 A Yes. That I received a case that was originally
16 thought to have -- that it should have gone to tier 2
17 intake and was kept at our level.

18 Q Would you typically close a case after that
19 or ...

20 A I would typically review the matter with my
21 superior and, and request information with respect to what
22 we do here, based on the fact that if it was to have gone
23 to that next level and it was back with us, then what would
24 be the nature of my role or CRU's role at the time.

25 Q Have things changed since with respect to cases

1 being sent back to CRU or whoever from intake?

2 A Yeah, that's -- that, that type of event doesn't
3 occur, it's, it's a rare occurrence, if it occurs at all.
4 I can't speak specifically to that, I haven't experienced
5 that in the last number of years.

6 Q So it's the last number of years that you haven't
7 experienced that?

8 A That's correct.

9 Q Okay. I wanted to ask you about some of the
10 reports that came out after Phoenix's death was discovered.

11 A Um-hum.

12 Q I understand that you were interviewed by Andrew
13 Koster?

14 A I was.

15 Q Do you have a recollection of that?

16 A I do.

17 Q Did you -- when you were interviewed, did you
18 have an understanding as to why you were being interviewed?

19 A I didn't particularly have an understanding and
20 that was explained to me. I guess I would probably have
21 had an opportunity to see the report, I would think. And,
22 and the reason why I'm saying that is because in discussing
23 the nature of my role of Mr. Kostner (sic), his -- the
24 involvement was quite brief, his response was you were a
25 backup worker, there's nothing really here that you can

1 offer to be of assistance and, and basically then just sort
2 of asked me general questions about CRU and the nature of
3 my work.

4 Q Okay.

5 A You know, I did indicate at that time that I
6 can't recall the matter and explained, due to the nature of
7 being a backup worker, we don't have direct involvement
8 with the case.

9 Q Before the interview with him, did you -- did
10 anyone tell you that he was going to be interviewing you?

11 A I knew that, that there would be an interview and
12 that I was scheduled for a particular meeting.

13 Q Okay. If you go to -- will you turn to page
14 36873.

15 THE COMMISSIONER: Is this in the Section 4
16 report?

17 MR. OLSON: No, these are the notes from Mr.
18 Koster.

19 THE WITNESS: I'm sorry, what number was that
20 again?

21

22 BY MR. OLSON:

23 Q It's 36873.

24 A Three, six --

25 Q If you're looking for a Commission disclosure tab

1 it's 1794.

2 A 2791?

3 Q 1794.

4 A Oh, 1794, I'm sorry.

5 MR. RAY: I'm not sure if --

6 THE WITNESS: You said 1794?

7 MR. RAY: He might not have that in his binder.

8 THE WITNESS: Oh, no, I -- not 1794. If I could
9 find it. I do believe it's in here, I just don't know if
10 it's that particular number.

11

12 BY MR. OLSON:

13 Q The page number is 36873.

14 A 36873. I start at 36878. I can review it on the
15 monitor.

16 Q It looks we've just had to reboot the monitor
17 so --

18 A Oh, okay.

19 Q -- I don't (inaudible).

20 THE COMMISSIONER: Here, take this.

21 THE WITNESS: Oh, thank you very much.

22 THE COMMISSIONER: He's got my copy, Mr. Olson.

23 MR. OLSON: Oh, okay.

24 THE COMMISSIONER: So you can carry on.

25 MR. OLSON: Great. Thank you.

1 BY MR. OLSON:

2 Q So I just want to give you an -- have you -- did
3 Mr. Koster show you the notes after he prepared them and --

4 A No, he didn't.

5 Q He didn't. Okay. Did you -- do you know if you
6 asked to see them?

7 A I don't recall being given the opportunity to see
8 them.

9 Q Okay. Under your name he's written:

10

11 "Has been here for 17 years.

12 Protection experience.

13 Standards are probably something

14 they give you to read when you

15 first start. He is not sure what

16 standards are in place."

17

18 Is that, is that accurate, is that something you
19 would have told Mr. Koster?

20 A Yeah.

21 Q Okay. "CRU is a good system but in reality
22 backups throughout the system backlogs everything." Is

23 that what we discussed earlier about files coming back from
24 intake?

25 A Yes.

1 Q Was there anything else you wanted to add to
2 that?

3 A No, I think that sums it up.

4 Q It says:

5
6 "He was the back up worker for
7 Chris in situations when you do
8 not want to go out alone.
9 Sometimes to help workers in risky
10 situation but also to help
11 transportation etc.

12
13 Is that accurate?

14 A Yes.

15 Q Okay. It says:

16
17 "Bill would like the backup system
18 put into procedure. With high
19 caseloads it makes it sometimes
20 impossible and could delay the
21 investigation of other cases. It
22 is also a health and safety issue
23 for workers."

24
25 A Yes.

1 Q Is that something you told him?

2 A And that -- yeah, and that highlights what I had
3 said earlier about it wasn't a standard procedure at the
4 time.

5 Q Okay. And the last bit here: "Managers know
6 that they cannot meet new draft standards and told the
7 directorate so." And then it says "and". Do you know what
8 that's referring to?

9 A No.

10 Q Do you have a recollection of telling them that
11 managers couldn't meet draft standards?

12 A I may have put it in terms that that's the
13 interpretation, like that they can't, you know, necessarily
14 respond the way they ideally would like to, given the --
15 you know, highlighting when a case moves up to an intake
16 level and is put back down again, that type of thing.

17 Q So that would have been with respect to the
18 intake issue, the files coming back?

19 A Yeah. And yeah, generally in the backlog,
20 because I guess that's what we were talking about prior to.

21 Q I want to put Mr. Koster's report to you, as it
22 records your involvement. That's Commission disclosure 1
23 and the first page I'll ask you to look at is page 49.

24 A Okay.

25 Q You see at the bottom of page 49 under March 9,

1 2005?

2 A Yes.

3 Q That would just be a recording of, of what Mr.
4 Zalevich wrote in his AHU report so I'm not going to ask
5 you to comment on that, I know you have no recollection at
6 all.

7 A Um-hum.

8 Q Then it just continues on the next page. And if
9 you go to page 51. It's the interview with worker number
10 1, is Mr. Buchkowski. At number 2 is Zalevich and you are
11 the third worker there.

12 And I think this is similar to what we just read
13 but if you want to take a minute and let me know if you
14 have any comments.

15 THE COMMISSIONER: Where are you directing his
16 attention?

17 MR. OLSON: This is the bottom of page 51. Under
18 worker three, interview with worker three.

19 THE WITNESS: Okay, that's ...

20

21 BY MR. OLSON:

22 Q Nothing to comment on?

23 A No.

24 Q Okay. If you go to page 52, please. Under --
25 the heading is "Supervisor Interview for the March 5, 2005

1 Referral." Go down to the second last paragraph where it
2 starts -- it's about midway through, it says: "Finally and
3 most importantly." Can you see where I'm referring to?

4 A Yes.

5 Q It says:

6

7 "Finally and most --

8

9 Do you have that, Mr. Commissioner?

10 THE COMMISSIONER: Yes.

11

12 BY MR. OLSON:

13 Q It says:

14

15 "Finally and most importantly for
16 her especially when there was so
17 much overwork, she trusted Worker
18 #3 --

19

20 And this is your supervisor --

21 A Yes, yes --

22 Q -- Ms. Faria's sentence.

23 A -- I understand.

24 Q

25 "Worker #3 to make the right

1 decision on the visit and to be a
2 help to #2 who was less
3 experienced. She indicated that
4 worker #3 "was a seasoned worker
5 and the supervisor would trust
6 that judgment when he went out
7 with a less experienced worker who
8 did not do abuse."

9

10 A Um-hum.

11 Q Do you have -- now worker number three, who was
12 identified as you.

13 A That's correct.

14 Q And worker number two is Mr. Zalevich; right?

15 A That's correct.

16 Q Do you have any comments with respect to what's
17 written here?

18 A Yeah, I -- when I first read it I was, I was
19 quite surprised that that would be said, given the nature
20 of my involvement in the case. Probably for all the
21 workers, I mean, I'm -- was one of the most senior workers
22 of the whole department, I think at that time, if you, if
23 you look at the longevity.

24 I don't see me as being in a position to make
25 decisions with respect to this particular intake. That's

1 not the role of the backup worker. If a supervisor or a
2 superior is wanting me to be in a position to make
3 decisions then that should be indicated to me. Either to
4 meet with me and say you are a backup worker but I am
5 uncomfortable with this particular workers, or uncertain or
6 whatever, and can you just kind of keep an eye out. That
7 happens sometimes when you have students and you're going
8 out with a student.

9 To -- the, the issue of Mr. Zalevich being -- and
10 I think the term less experienced worker, that's -- that
11 obviously is the case, I've got quite a bit more years of
12 experience than he has. One has to assume that if one is
13 functioning at a role of a CRU worker then one has the
14 abilities to be able to perform the job adequately.

15 I was not chosen to be his backup in that
16 particular matter, to my understanding, by that supervisor.
17 There was no guarantee, as I said earlier, that I would
18 have even been considered or no guarantee that I would have
19 been the worker that backed up Mr. Zalevich at that
20 particular time because there was no guarantees that I may
21 have -- would have been available at the time that he chose
22 to go.

23 I think that's more of a hindsight position. The
24 comment about Mr. Zalevich, who did not do abuse, in fact,
25 Mr. Zalevich, as was testified earlier, has experience as

1 an abuse worker. In many cases I've, just as Mr. Zalevich
2 has relied on colleagues to assist him in his training and,
3 and understanding of, of the dynamics of certain
4 situations, I've gone to Mr. Zalevich on a number of
5 occasions with regards to specific abuse related questions
6 and he's been helpful to me.

7 Q Did he -- did you have any abuse training,
8 yourself?

9 A I had -- I was involved in abuse cases back when
10 I was more of a generic intake worker back at Northwest
11 Child and Family but to have specific abuse training, as
12 abuse workers have now, no, I, I may have taken some
13 courses about interview techniques, et cetera, but not to
14 the degree that they have now. Or would have had then.

15 Q Right. So you would have then deferred to Mr.
16 Zalevich in an abuse situation?

17 A I have, in the past, used his expertise to assist
18 me with regards to that understanding of, of certain
19 situations, and still, too, to this day I do trust his
20 judgment and experience with regards to his, his experience
21 as an abuse worker.

22 Q Is there any, any other comments you would like
23 to make with respect to what's recorded there?

24 A Well, I guess the only other thing I would like
25 to say is I'm not sure what the right decision she's

1 referring to. It's confounding to me. I don't know what
2 decision she feels should have been made and, and I guess
3 just in summary the fact that this has been in this report
4 all these years and had never been brought to my attention
5 until sometime within the last year was, again, I think
6 somewhat upsetting.

7 Q Would you have liked to have been provided with
8 your report sooner then?

9 A I -- yes, I would have liked that. It would have
10 provided me with an opportunity to form a rebuttal, to
11 explore that a little bit further. If I have not done
12 something properly, if that's the assumption being made, I
13 would like to know that so that if I'm in a similar
14 situation I'm not going to potentially make the wrong
15 decision again, if that's the assumption that is being made
16 that I did not make the right decision.

17 Q Prior to seeing this report were you aware of
18 anyone criticizing your involvement with respect to this
19 matter?

20 A I received no criticism with respect to this
21 matter at all. This was the first I -- that I've been, you
22 know, obviously aware of.

23 Q Okay. Was there anything else you wanted to
24 say --

25 A No.

1 Q -- with respect to that.

2 A I'm sorry if I've rambled on a bit that's --

3 THE COMMISSIONER: No, you're quite entitled to
4 say what you said.

5 THE WITNESS: Thank you.

6

7 BY MR. OLSON:

8 Q I would now like to give you an opportunity to
9 respond to comments made in what we've called the Section
10 10 report. That can be found -- it's Commission disclosure
11 two, and the pages referencing your involvement would be --
12 they would start at page 162.

13 A Yes, I have it.

14 Q About the last third of the second paragraph
15 there. The last third of the first full paragraph, I guess
16 where it says: "The worker recommended that the intake
17 Unit open the file for further service."

18 The last line of the sentence says: "The worker
19 went out to the home again on Wednesday, March 9 and gained
20 entry to the building when another tenant --"

21 A Oh, maybe I'm on the wrong page. Sorry, what's
22 on the screen? Okay, I'll go with that. Sure.

23 Q So I just, I just want to give you an opportunity
24 to comment on anything written --

25 A Sure, okay.

1 Q -- there and as you'll see on page 163 and 164.
2 You have had these -- you've had a chance to look at this
3 previously; right?

4 A Just within the last year.

5 Q Okay. Did you look at this in preparation for
6 today?

7 A I've seen it.

8 Q Okay. Maybe just take a minute and --

9 A Okay. And you wanted me to start at what point
10 again, I'm sorry?

11 Q It's about the -- go to the last line of the full
12 first full paragraph on that page.

13 A Okay. Okay. Okay.

14 Q Is there anything you wanted to comment on, on
15 that page?

16 A Well, other than it's, again, I think being aware
17 of Mr. Zalevich's information that there is some
18 differences between, you know, what was said in the report,
19 that it was believed that there was another adult present
20 and I think it here it did not believe any other adult,
21 other than Ms. Kematch was in the home.

22 Q Okay. But you don't have a recollection of that,
23 one way or the other?

24 A No.

25 Q Okay.

1 A No.

2 Q If you go to the next page where it says in bold:

3

4 "Although the Agency had sent
5 workers out to Investigate a
6 complaint of maltreatment of
7 Phoenix, the child was not seen
8 nor was her location requested.
9 [The baby's] condition was
10 accepted as a proxy for Phoenix's
11 condition."

12

13 Do you have any comments with respect to that?

14 A No, I ...

15 Q If you want to just take a minute there are,
16 there are other comments where your involvement is
17 discussed. I just want to give you an opportunity to
18 respond, if you have any response.

19 A Sure.

20 How far did you want me to read?

21 Q Actually go to, to page 164.

22 A All right.

23 Q Midway through.

24 THE COMMISSIONER: How far down in 164?

25 MR. OLSON: Just midway through, to end of the

1 first full paragraph.

2 THE COMMISSIONER: "Seek out the child"?

3 MR. OLSON: No, the next one.

4 THE COMMISSIONER: "There is a crisis."

5 MR. OLSON: "There is a crisis."

6 THE WITNESS: All right.

7

8 BY MR. OLSON:

9 Q Would you like to make any comments on anything
10 written on those pages?

11 A No, that's her expert opinion at the time upon
12 reviewing the matter, based on data that she would have
13 access to. The only, maybe, comment I could make is that
14 if this information was given to me, earlier, it's possible
15 that it -- some of the dynamics that she's referring to
16 from research could have been incorporated into my own way
17 of doing things.

18 Q You mean the comments she's making in her
19 reports, if you had that, that may have impacted on how you
20 practised as a social worker?

21 A Well, yeah. Yes, some of the information she's
22 provided is from research with respect to better practise
23 within social work.

24 Q So it may have been helpful to you?

25 A It may have been.

1 Q Okay. The last report I want to give you an
2 opportunity to respond to is the internal report prepared
3 by Rhonda Warren. That's Commission disclosure 1802 and
4 the specific page is 38038. It -- starting at the top of
5 the page.

6 A All right. And how far down?

7 Q Down to the -- you see the bold, where it says:
8 "Did the hospital notify the agency"?

9 A Yeah.

10 Q Right above that.

11 A Okay. All right.

12 Q Do you have any comments you would like to make?

13 A Yeah.

14 Q Okay.

15 A I should have had a highlighter but there are a
16 few. I mean, I -- with respect to the statement workers
17 inquired on Phoenix but did not request to see her, I'm not
18 sure what her definition of inquired is, whether she's
19 saying that we asked to see the child or not, again, I've
20 -- I know that she's basing that on the information that
21 was provided in the report.

22 "Did the Agency comply with standards conducting
23 an abuse investigation?" I don't see this as being an
24 abuse investigation. Reason being it was not with the
25 abuse unit, it was with, with the CRU program. If it had

1 been confirmed that there was an abuse, then I would assume
2 the matter would be with an abuse unit.

3 The comment about add the -- just the last
4 sentence, "add the allegation that Samantha and/or Wes was
5 being abusive to Phoenix," there's nothing in the original
6 referral with respect to Wes or I'm assuming Karl McKay,
7 there was nothing to indicate that that individual was or -
8 - abusing the child, it was with -- I think the term in the
9 original one, I don't have it in front of me, was that,
10 that Ms. Kematch was abusing Phoenix. That's about it.

11 MR. OLSON: Okay. Those are my questions for
12 you. I notice it's three o'clock now.

13 THE COMMISSIONER: Well, let's just see who, who
14 has questions. Do you, do you -- are you ...

15 You -- if you fellows want to adjourn for
16 mid-afternoon we will, if you're ready to go, we'll go.

17 Mr. Saxberg?

18 MR. SAXBERG: Thank you, Mr. Commissioner, I
19 think what we had agreed is, because I just have a few
20 questions, maybe I can do them before the break and then --

21 THE COMMISSIONER: Well, if we --

22 MR. SAXBERG: -- Mr. Gindin will --

23 THE COMMISSIONER: -- complete this witness in
24 the next half hour, we'll do that, if not, we'll take a
25 break then.

1 MR. SAXBERG: Okay, thank you.

2

3 CROSS-EXAMINATION BY MR. SAXBERG:

4 Q Good afternoon, Mr. Leskiw, my name is Chris
5 Saxberg and I --

6 A Good afternoon.

7 Q -- act for ANCR and three of the authorities that
8 regulate child welfare, the three other than the Metis
9 Authority. I also act for several witnesses, including
10 Diva Faria.

11 And I just, just have a couple of clarifications.
12 One, that, that really just flows out of your last answer
13 and I want to make sure that, that the information you gave
14 is understood.

15 If we could turn on the screen to page 36932 and
16 scroll down to the bottom of the page -- yes, right there,
17 under "Presenting Problem/Intervention." And you're
18 familiar with this document, it's, it's from -- well, if
19 you scroll to the next page just to, to orientate the
20 witness. Yeah. This is a report prepared by Richard
21 Buchkowski and Ms. Verrier, recommending that the file be
22 opened to intake. Do you see that?

23 A Yeah.

24 THE COMMISSIONER: Just, just a minute, 36932.

25 MR. SAXBERG: Right. And then I scrolled through

1 to the next page, 36933.

2 THE COMMISSIONER: Yeah, well, I've got that.
3 I've got three -- up to 36930. Go to 36926 for me, will
4 you, that's -- I need to figure out where the rest of this
5 is.

6 MR. OLSON: Yeah, you just have a different
7 version of -- Mr. Commissioner, perhaps if --

8 THE COMMISSIONER: Is it the same document?

9 MR. OLSON: It's, it's the document -- you have a
10 document that was added to. If, if you refer to page
11 36928.

12 THE COMMISSIONER: Well, you're going to the
13 signature page, is that correct, Mr. Saxberg?

14 MR. SAXBERG: Yeah, I'm, I'm looking at the CRU
15 report that was prepared and would have been given to Mr.
16 Zalevich.

17 THE COMMISSIONER: Oh, I've got the one that
18 bears his name so -- it's all right, I think I understand
19 what you're doing.

20 MR. OLSON: It would be, it would be essentially
21 the same information on, on page 36928, excluding what was
22 added after.

23 MR. SAXBERG: Well, if we look at the screen.
24 I'm just (inaudible).

25 THE COMMISSIONER: Well, I have, I have that.

1 MR. SAXBERG: Yeah.

2 THE COMMISSIONER: It is recommended that the
3 file, this file be opened at intake.

4 MR. SAXBERG: Right. Okay.

5 THE COMMISSIONER: I have that on page -- I think
6 it's here somewhere -- I have that on page 36928.

7 MR. SAXBERG: Okay. Well, this is a separate
8 document, this was a --

9 THE COMMISSIONER: Okay.

10 MR. SAXBERG: This was the document that was
11 produced when Mr. Buchkowski --

12 THE COMMISSIONER: Before Mr. Zalevich added to
13 it.

14 MR. SAXBERG: Exactly.

15 THE COMMISSIONER: Okay, that's fair.

16 MR. SAXBERG: And the --

17 THE COMMISSIONER: Fair enough.

18 MR. SAXBERG: -- the -- that's fine, I just
19 wanted to orientate him to see that.

20

21 BY MR. SAXBERG:

22 Q And this would have been the document that Mr.
23 Zalevich would have started with when he was given his
24 assignment; correct?

25 A I would assume so, yes.

1 Q And so it would have been the information that
2 Mr. Zalevich would have conveyed to you had he been
3 updating you about what the matter is about on the way to
4 the field, if that had been --

5 A I'm not, I'm not sure if he would have reviewed
6 Mr. Buchkowski's efforts. He may have, if he did review it
7 with me, he may reviewed specifics about why we may be
8 going, not necessarily the efforts that were made prior to.
9 Has been the practise in the past.

10 Q If we could scroll up the page to the presenting
11 problems? Now, here I'm -- I just want to ask you -- the
12 question that I'm going to ask you isn't about whether you
13 remember what happened back in 2005, I'm asking you for
14 your opinion, as a CRU worker, about certain of the
15 information that I'm going to put to you from this
16 presenting problem; okay?

17 A Right.

18 Q And the presenting problem indicates, in the
19 second sentence -- third sentence, sorry.

20

21 "This person told [blank] that she
22 suspects that Samantha Kematch is
23 abusing her daughter Phoenix.
24 [she] does not have any details as
25 to what this alleged abuse might

1 be."

2

3 And I'll just stop there.

4 You've indicated that would not qualify for a
5 referral to the abuse unit.

6 A At that time, no.

7 Q And, and -- well, it wouldn't today either, just
8 a --

9 A Yeah.

10 Q -- blanket abuse like that?

11 A Yeah.

12 Q Is that correct?

13 A I would, I would assume so, yes.

14 Q And you don't need to confirm abuse has occurred
15 to refer to the abuse unit, what you need is specifics of
16 certain actions by individuals which meet the definition of
17 abuse; correct?

18 A Correct.

19 Q You need specifics not confirmed --

20 A Exactly.

21 Q -- information; is that true?

22 A Yes.

23 Q Yes? Now, when, when you were -- you, you
24 acknowledge you feel that with Mr. Zalevich that's
25 something that we know from the documentation, we -- even

1 though you don't recall that; correct?

2 A Um-hum.

3 Q Is that right?

4 A I'm sorry, repeat the question?

5 Q We know that you fielded with Mr. Zalevich --

6 A Yes.

7 Q -- on this --

8 A Yeah.

9 Q -- on this referral and what I'm -- what I want
10 you to clarify is that that fielding, that investigation
11 that was going on by CRU with Mr. Zalevich as the primary
12 worker, that was not an abuse investigation?

13 A No.

14 Q And just because there had been a referral,
15 wherein the source of referral had used the word abuse,
16 does not mean that what you're doing is an abuse
17 investigation such that it would be obvious to do a
18 face-to-face contact with all the children?

19 A If, if, if it was to have been an abuse
20 investigation it would have been done by an abuse unit. If
21 the abuse -- and I'm not -- I have never been an abuse
22 worker, per se, if the requirement is to have face-to-face
23 with all the children, as a result of an abuse
24 investigation, then yeah.

25 Q And let me just back that up --

1 A Sure.

2 Q -- because I want to get it clear on the record
3 here, some -- you're, you're answering, I think, one or two
4 questions ahead of me.

5 A All right.

6 Q If the matter was a referral that fit in the
7 definition of abuse, for abuse intake to take it, you're
8 saying their -- the abuse intake workers at the time would
9 definitely make sure there was face-to-face contact.
10 That's what you're saying; correct?

11 A I can't speak for an abuse worker at that time.
12 I would assume so.

13 Q Yes, you would assume so and --

14 A Yeah.

15 Q -- you, you, you haven't worked in that unit so
16 you don't know otherwise but I'm putting to you that that
17 is the case and you don't have any information that's
18 contrary to that?

19 A Correct.

20 Q But CRU, in doing an investigation of a referral
21 of the nature that we have just discussed here, where the
22 referral is there is abuse but no details of it, that's not
23 an abuse investigation being carried out by CRU, you've
24 said; correct?

25 A Correct.

1 Q And so as a result, there is no -- it's not
2 obvious or automatic that the child that's the subject of
3 that allegation must be seen, at that time, in 2005;
4 correct?

5 A I would say so.

6 Q You would agree with me?

7 A I would agree.

8 Q And if we go to the next line in the referral.
9 The next line, from where I left off, it says, quote:
10 "Also this person suspects that Samantha may be locking
11 Phoenix in her bedroom."

12 Now, is that a referral or information that would
13 qualify for a referral to the abuse unit?

14 A No, that wouldn't.

15 Q That wouldn't. And would the field by CRU to
16 investigate that allegation constitute an abuse
17 investigation?

18 A No, it wouldn't.

19 Q And, similarly, there wouldn't then be any
20 automatic or policy requirement that the child that's the
21 subject of that allegation must be seen at the time, in
22 2005; correct?

23 A I, I would assume so.

24 Q Yeah.

25 A Yes.

1 Q You would agree with me?

2 A Yes.

3 Q Now, today it's a whole different world at ANCR;
4 correct?

5 A Um-hum. That's correct.

6 Q And you were here when Mr. Zalevich was
7 testifying about today's practises and standards?

8 A Um-hum.

9 Q Yes?

10 A Yes.

11 Q Did -- and did you disagree with anything that he
12 said with --

13 A I --

14 Q -- respect to the requirement to see children
15 today?

16 A No, I don't disagree with Mr. Zalevich with
17 respect to that, no.

18 Q He, he got it right?

19 A Yes.

20 Q You can't close a file now on an allegation of
21 abuse or neglect during a CRU investigation without seeing
22 all of the children; correct?

23 A Well, abuse or neglect that's being investigated
24 likely would go to different levels of intake --

25 Q Right.

1 A -- so --

2 Q Neglect, I --

3 A Yeah.

4 Q -- I should have --

5 A Yeah.

6 Q -- been specific.

7 A Yeah. So if it is with those levels of, of the
8 system then my understanding is that, that all the children
9 need to be seen.

10 Q Right. And, and at CRU, with respect to
11 investigation of, of neglect and other serious child
12 protection concerns, there's a requirement to see all of
13 the children?

14 A Well, currently, if, if the matter warrants that
15 the children are seen because of a neglect matter, a
16 serious neglect matter, that would be going to tier 2
17 intake, and similarly, with respect to abuse, that matter
18 would go to abuse intake. And then there -- I would assume
19 there would be that requirement, that all children need to
20 be seen by those units.

21 Q Well, let me -- I know the distinction that
22 you're making, I'm not sure that everyone else fully
23 appreciate but what you're saying is when, whenever it
24 rises to that level of a, of a serious allegation, of
25 course CRU is just moving the matter along to intake and

1 intake is going to be dealing with it on a more protracted
2 basis with a more serious assessment; correct?

3 A Correct. Currently we have the ability to move
4 those cases, specifically and directly, less so in 2005.

5 Q Right. And you're saying they don't -- the issue
6 of what's being euphemistically called the walk of shame,
7 where files are being returned from intake back to CRU,
8 that's not occurring today? To your knowledge.

9 A There are some circumstances where, for instance,
10 if a matter has gone to tier 2 intake but within a very
11 short period of time an emergency has arisen where there
12 needs to be an immediate response, that matter may come
13 back to CRU because that is the nature of our role, is to
14 deal with immediate emergencies and/or --

15 Q Yes.

16 A -- you know. So there has been but, but that's
17 fairly understood, I, I don't think there's any conflict
18 for lack of a better term or, or, or issue, I think it's
19 just understood that the dynamics have changed in a fairly
20 short period of time that was unheard of, or unseen, and --
21 or unforeseen and, therefore, it needs to come back for a
22 period of time.

23 Q Okay. And this file, the Kematch file, was
24 closed without there being a safety assessment or a risk
25 assessment done at CRU. Today, if a file is going to be

1 closed at CRU, there has to be a risk assessment through
2 the probability of future harm tool done; correct?

3 A That's correct.

4 Q And the same applies, there has to be a safety
5 assessment done, as well; correct?

6 A If it's required, it's done, yes.

7 Q And, and I appreciate your evidence that you
8 don't have any recollection of, of your involvement in this
9 matter so you can only talk about your practise in terms of
10 working backup. And I believe your evidence is that as
11 backup you're really just there for the purposes of safety
12 of the other worker; correct?

13 A Safety of the other worker, safety of children
14 involved, if -- again, if, if circumstances dictate that a
15 more involved response is required.

16 Q That's right. So it's the safety of the worker
17 that you're with and you're there as needed as events
18 occur; correct?

19 A That's correct.

20 Q And if events occur where you are needed, you'll
21 sometimes have notes of that or that will be incorporated
22 directly into the report of the primary worker; correct?

23 A I generally will not take -- I would not take
24 notes as a backup worker, I can't speak for all backup
25 workers. Unless it was, it was requested of me to take

1 notes by the primary worker. But if I become involved in
2 a, in a fairly serious matter I will have input in a
3 report. They won't generally be through notes, they will
4 be through recollections.

5 Q Right. And that's what I -- okay. And what I
6 was characterizing was that if you're needed on the field
7 then you become involved, then your involvement shows up in
8 the report. Is that fair?

9 A It can, yes.

10 Q And so, can you take from that then that you
11 weren't, in that sense, needed in this file because your
12 involvement doesn't show up in the report?

13 A I would assume so.

14 Q And is it also fair that if you had a serious
15 objection with the way that work was being done by Mr.
16 Zalevich you would have spoken up?

17 A If there was something that would constitute an
18 immediate child protection concern I would have spoken up
19 if it was being missed by the worker.

20 Q And if we could just quickly turn to page 52 of
21 CD1. And scroll down to -- yes, the -- that's fine. And
22 the paragraph that you were being referred to, Mr. Leskiw,
23 the second last paragraph on the page that's on the screen
24 before you, do you see that?

25 A Yes.

1 Q And I take it that you were -- it was your
2 impression that the comment, quote: "She trusted Worker #3
3 to make the right decision on the visit and to ... help ...
4 #2," you were taking that as a criticism?

5 A Yes.

6 Q And I'll just put to you that the -- to me the
7 sentence is indicating that Ms. Faria, as your supervisor,
8 respected your experience and opinion and so whatever
9 recommendation was coming out would, would have been a
10 reliable one to her because she, she respected you and your
11 work. So could you -- you didn't interpret that sentence
12 that way?

13 A Well, I guess when I see the term "trusted the
14 worker to make the right decision" --

15 Q But she's endorsed that decision, back then --

16 A Well, she --

17 Q -- and in this report.

18 A Well, I guess it doesn't indicate that I was --
19 for instance, acknowledged the fact that worker number
20 three made the right decisions. It was I trusted worker
21 number three to make the right decision and to assist, et
22 cetera, and, and that's not my understanding of my
23 particular role. So to me that appears as a criticism --

24 Q Okay, and --

25 A -- more so than an acknowledgement of my work or

1 involvement.

2 Q I think what she's saying is that another reason
3 why it was the right decision was because you agreed with
4 it. If you take it as that it's not a critique, obviously,
5 it's a compliment.

6 A Well, I guess it depends. I'm not a mind reader
7 and --

8 Q No, no, no, I know that.

9 A Yeah, yeah.

10 Q And I'm --

11 A Yeah.

12 Q -- I'm just suggesting then that might explain
13 why no one took this report to you and said, you know, we
14 want you to correct your activities, if -- there's nothing
15 there to --

16 THE COMMISSIONER: I doubt he knows why they
17 didn't take it to him.

18 MR. SAXBERG: Right. That's, that's correct.
19 That's correct, sir.

20 Okay, I, I just wanted to raise that with you and
21 so those are my questions.

22 THE COMMISSIONER: Thank you, Mr., Mr. Saxberg.
23 Mr. Gindin, do you want to take the break first?

24 MR. GINDIN: I would.

25 THE COMMISSIONER: Fine. We'll take our 15

1 minute mid-afternoon break.

2

3 (BRIEF RECESS)

4

5 THE COMMISSIONER: All right, Mr. Gindin, please.

6 MR. GINDIN: Thank you.

7

8 CROSS-EXAMINATION BY MR. GINDIN:

9 Q Mr. Zalevich (sic), my name is Jeff Gindin --

10 A Leskiw.

11 Q -- I represent --

12 A I'm sorry?

13 Q -- Kim Edwards and Steve Sinclair.

14 A Yes, I'm sorry, I thought you had said Zalevich,
15 I'm sorry.

16 Q Oh, pardon me, pardon me, Mr. Leskiw.

17 A Yes.

18 Q I was going to ask you some questions about Mr.
19 Zalevich, obviously.

20 A Okay. Yes.

21 Q I apologize for that.

22 A No problem.

23 Q I have some general questions, first of all, and
24 you've obviously had an awful lot of experience in this
25 area, as a social worker and from a general point of view,

1 you would agree, I take it, that the history is very, very
2 important.

3 A I agree.

4 Q And obviously the more information that you can
5 gather and read the better position you might be in with
6 respect to many matters?

7 A I agree.

8 Q And, for example, going out to a home to look
9 into a certain situation you might get a certain response
10 from a mother which might be determined to be an acceptable
11 response but if you had the file and found out that that
12 similar response was given many times in the past it might
13 affect your attitude or how you handled the file, for
14 example?

15 A That's quite possible.

16 Q Right. There has been evidence here that one of
17 the main changes that has taken place is that now
18 face-to-face contact with all of the children in a
19 particular home is required before a file is closed;
20 correct?

21 A My understanding, yes.

22 Q If that was the policy back in 2005, when you
23 were involved in this matter, clearly that file would not
24 have been closed at that time.

25 A I -- based on, on what you're saying, I would

1 assume.

2 Q Because there was no face-to-face contact with
3 Phoenix Sinclair on that day?

4 A According to the report, yes.

5 Q And what likely would happen today is it would be
6 referred to intake or for some form of follow up so that
7 the child could actually be seen?

8 A I would assume so, yes.

9 Q But that wasn't the policy then, you say?

10 A Well, obviously because it was with CRU at the
11 time.

12 Q Um-hum. But aside from whether or not it was a
13 policy, it's pretty wise?

14 A It's always best to have the most information
15 possible --

16 Q Yeah.

17 A -- at all times, if, if possible.

18 Q And if a child -- if child abuse -- if a child
19 abuse allegation is being made, as there was in this case,
20 albeit general or vague, whatever, one of the best
21 specifics, if you're looking for more specificity, would be
22 actually seeing the child, obviously?

23 A Well, I mean if, if the, if the abuse indicates
24 that there is an injury to a child, seeing whether there is
25 an injury or not is, is required. If there is a vague

1 allegation of abuse seeing the child may or may not
2 necessarily rule out that the type of abuse that's maybe
3 vaguely being referred to has been addressed.

4 Q But it still would be better to see the child, if
5 you could?

6 A Again, it's always best to have the most
7 information possible.

8 Q We've heard a lot here about the fact that a lot
9 of the decisions you made -- not just you but social
10 workers -- are really judgment calls often?

11 A There's a lot of times that you have to make
12 decisions based on past experience.

13 Q And your own judgment?

14 A Yes.

15 Q And different people might sometimes differ, of
16 course, on the decision that's being made?

17 A Every case is unique and every worker is unique.

18 Q Yeah. And you're familiar with the SDM tool
19 that's now been developed?

20 A Yes.

21 Q One of the things about it is it does lead to a
22 little more consistency; correct?

23 A It, it does, yes.

24 Q Prior to its use, though, you had to rely more on
25 the individual judgment of a particular worker?

1 A Rely on judgments based on information available,
2 yes.

3 Q And again, that might differ with the worker?

4 A Different workers have different ways of looking
5 at things, so they have different experiences, different
6 trainings.

7 Q And I appreciate that you don't have a great
8 recollection of this event on March the 9th but had you
9 been the primary worker on that day, rather than the
10 backup, it's conceivable that you might have come to a
11 different conclusion because these are judgment calls and
12 you might have come to a different conclusion if you were,
13 in fact, the primary worker. Would you agree with that?

14 A I agree if, if, if I had additional information
15 that the worker at the time didn't have, or whatever, then
16 certainly something different could have been done.

17 Q But if you were the primary worker, clearly you
18 would have handled it in your way, based on your own
19 experience, and it might have been a different decision
20 than the one that was made?

21 A Well, generally one would assume that there is
22 some consistency with respect to responses that workers
23 make with regards to certain types of cases, an example,
24 given if a -- if there's a clear indication of abuse the
25 response by the CRU worker is to refer the matter to an

1 abuse unit. That's regardless of differences in training
2 or experience, et cetera. So there are certain types of
3 responses that are automatic.

4 Q Yeah. Well, one of -- I think one of the things
5 you're talking about might be that deciding this shouldn't
6 go to the abuse unit, for example?

7 A I'm sorry?

8 Q Deciding this matter shouldn't go to the abuse
9 unit, for example, would be an example of what you're
10 referring to?

11 A Well, depending on, on if there's enough
12 information available to make a clear determination with
13 respect to where a matter needs to go beyond where the, the
14 unit that you're working with and certainly that's more of
15 an automatic response.

16 Q But on the issue of whether or not a file should
17 be closed or perhaps sent over to intake or perhaps keeping
18 it open one day longer to try again, that's something that
19 would be a judgment call and you might have made a
20 different judgment?

21 A Well, I can't speak to that, I mean, that would
22 have to -- a decision, generally, from what you're
23 referring to with respect to this matter would be something
24 that would be reviewed by the supervisor and staff.

25 Q And you know that supervisors sometimes don't

1 necessarily agree with what you or someone like you
2 recommend. That happens?

3 A There has been incidences in the past where a
4 supervisor has not agreed with what I felt --

5 Q Yeah.

6 A -- is --

7 Q Another, another example, judgment calls and
8 different opinions.

9 A Um-hum.

10 Q Right? Now, I just want to ask you, on that
11 particular day do you recall if you were the one driving
12 or?

13 A No, I don't. I, I attempted to find out, I do
14 keep a log book of when I do mileage and I do have that
15 book from that date and it didn't indicate that I recorded
16 any mileage. I can't assume that I didn't drive and I may
17 have missed that but generally that would indicate, to me,
18 that I would have driven if I had had that in my book.

19 Q But there's nothing to suggest that you coming
20 along with Chris was for transportation reasons?

21 A I'm sorry?

22 Q There's nothing to suggest, in any notes,
23 anywhere, that you came along just because he needed
24 transportation or a ride?

25 A No. The, the purpose of, of a backup worker is

1 to assist or to provide support or security, you know, to a
2 worker.

3 Q Now, I think earlier you said that among the
4 reasons for backup being required would be, for example, if
5 there was expected violence or potential for violence.
6 That's one reason. I think you indicated that earlier.

7 A That's something that has led to the requirement.
8 You, you never know when you're going into a situation,
9 what you're going to come up with. There have been some
10 pretty tame matters that have blown out of -- into, into a
11 crisis in the past when a worker has been by themselves
12 and, and having a backup worker would have been a good
13 idea.

14 Q But we know here, for example, just a couple of
15 days before Mr. Buchkowski went on -- out on his own.

16 A Um-hum.

17 Q So a couple of days later you're now going out
18 there as backup?

19 A Yes. And -- sorry.

20 Q And often when there's backup required, it is
21 because, I think you mentioned a few reasons, sometimes a
22 suspected apprehension may take place, so you're coming
23 along for backup. I think that's one of the reasons that
24 you gave as a possibility; correct?

25 A What I have indicated, I think with respect to

1 when I was referring to apprehensions is that would be one
2 situation where, as a backup worker, I may have specific
3 recall of a case.

4 Q I see.

5 A But at the time, I believe I indicated earlier,
6 that at that time that wasn't a standard practise across
7 the board, that all workers were required to have a backup
8 as they are now. That was a transitional period and
9 workers -- my recommendation at that time was that workers
10 take a backup at all times, regardless of the matter
11 because one can never be certain what they're going to head
12 into.

13 So, I believe that was the practise that we had
14 at that time with respect to the people I was going out
15 with backup on or that I would choose for backup is just as
16 a matter of course as opposed to a situation like you're
17 referring to, where backup would be more specifically
18 helpful in a situation where an apprehension is, is known
19 to have to occur.

20 Q It wasn't a policy back then --

21 A No, it wasn't.

22 Q -- to always have a backup.

23 A It wasn't, no.

24 Q You can see that because a few days earlier there
25 was no backup?

1 A Exactly, yeah.

2 Q Do you have any recollection of why,
3 specifically, on March the 9th you came along as a backup
4 and a few days prior somebody went out alone?

5 A Well, as I said earlier, Richard Buchkowski is on
6 a different unit. My recollection with respect to my
7 colleagues in my unit is that the preference was that we
8 always go out with a backup. There were some occasions,
9 for instance, delivering emergency food to a home that had
10 been visited earlier, where it's clearly understood what
11 will happen. I, I still believe that there should be a
12 backup worker, even in a situation like that, things can
13 change in a matter of minutes. I can't speak to Mr.
14 Buchkowski, with regards to his -- why he decided to go on
15 his own. He had the ability to do that at that time but,
16 for the most part, the, the persons on our unit would
17 always go with a backup.

18 Q But, but this decision here wasn't one that you
19 made, obviously Chris is the one who asked you to come
20 along for backup?

21 A That would be my expectation of the situation at
22 the time, yeah.

23 Q So the question is, do you have any information
24 or recollection or notes as to why, specifically, on this
25 occasion he asked you to come along with him?

1 A It could have been -- no, I don't have anything
2 and it could have been something as simple as I was
3 available at the time.

4 Q I just want to draw your attention to page 36873.
5 If you can bring that up, please.

6 Around the middle of that, and that's, I believe,
7 your interview with Mr. Koster, if I have that correct,
8 which you were shown earlier. Correct?

9 A Yes.

10 Q And --

11 THE COMMISSIONER: Do you want this back?

12 THE WITNESS: No, I can read from -- thank you
13 very much.

14

15 BY MR. GINDIN:

16 Q Around the middle of that page, it says:

17

18 "He was the back up worker for
19 Chris in situations when you do
20 not want to go out alone.
21 Sometimes to help workers in risky
22 situation but also to help
23 transportation etc."

24

25 You see that?

1 A Yes.

2 Q Now, we know it wasn't transportation, you've
3 dealt with that. So was it something that was considered a
4 risky situation then, in this case?

5 A Well, well, the, the point of help in
6 transportation is, for instance, if you've apprehended
7 three or four children and you're by yourself in a vehicle
8 in a rush hour traffic and children start to get out of a
9 booster seat or a car seat, you need to have a second staff
10 available to, to ensure the safety and well being of the
11 children in transportation. I think that's what that's
12 referring to.

13 Q Okay, that wasn't an issue here though?

14 A No. And yes, to help in situations that could be
15 risky, that's when you know, up front, that you know, an
16 apprehension, for instance, is going to take place, you'll
17 take a backup worker with you to meet with the police at a
18 home, to be able to, you know, complete the apprehension as
19 safely as possible, et cetera.

20 Q So you can't really tell us whether or not you
21 were asked to come along because Chris perceived this to be
22 a risky situation as your interview might suggest?

23 A I, I would say that at that time there was not a
24 requirement that all workers go with backup at all times,
25 as Mr. Buchkowski's report indicates that he went by

1 himself, and that's why I'm saying I was the backup for
2 Chris. It's in situations when you don't want to go out
3 alone. Some workers choose to go out alone, at that time,
4 some workers prefer to have backup workers with them in the
5 event that unforeseen circumstances require the need to
6 have somebody to assist them in, in a more, in a, in a more
7 involved manner.

8 So, with regards to this, seeing the report, I
9 don't think that this was anything other than I'm going on
10 fields and can you come with me on my fields?

11 Q So you had very little information when you went
12 along for the reasons you've given us?

13 A I would assume so.

14 Q And you're telling us that you can't recall any
15 specific concerns that were mentioned to you --

16 A No.

17 Q -- requiring a backup; right?

18 A Right.

19 Q And it would appear as though your role there was
20 quite limited, was it analogous to just being muscle,
21 perhaps someone, someone there in the event something
22 happened?

23 A Well, I, I don't think I would refer to myself as
24 being muscle in, in the matter. I think Mr. Zalevich is
25 younger than, stronger than I am, but no I think that it's

1 with respect to, in many cases when you're a backup worker,
2 to be able to assist the primary worker. If the decision
3 is made that a more involved response needs to take place,
4 if a decision is made that a worker is working with the
5 family and they want to separate two parents, to be able to
6 speak to them independently, you know, to assist a worker,
7 for instance in this case where Mr. Buchkowski wasn't able
8 to get into the apartment, a lot of times we would go to
9 different doors within an apartment and wait for somebody
10 to leave. That allows us more of an opportunity to gain
11 entrance. So it's just basic things like that, it's not
12 anything that is a pre-planned, except in the exception of
13 where you know you're doing an apprehension, you know the
14 police are on route, you know specifically what your
15 immediate roles will be, then on route you discuss the
16 matter further to ensure that you clearly understand what
17 responsibilities you have with regards to the matter.

18 Q But it's obviously a discretionary matter because
19 you know just a few days earlier someone went out on their
20 own, and now someone is coming up -- going out with backup?

21 A It, it -- as I said earlier, it was a
22 discretionary decision, some workers would go out on their
23 own. Many workers felt that it was a -- it was necessary
24 and I do recall, at the time, that there was efforts being
25 made to make that a policy.

1 Q You were asked earlier whether, as a backup, you
2 might ever go over the primary worker's head, so to speak,
3 in overruling them or commenting on something. You said
4 you wouldn't really do that. Has that got anything to do
5 with the dynamics of, of working with a colleague and ...

6 A Well, again, the primary worker will have the,
7 the most information available, the primary worker may have
8 been working with the case for a number of days. The
9 primary worker would likely have access to a lot more
10 information than the backup worker will.

11 As I said earlier, in many cases -- a backup
12 worker isn't like, you know, where you have a police
13 detective and his partner, where they work together
14 exclusively. A backup worker doesn't work with a
15 particular worker exclusively, they work with other workers
16 within the unit and are drawn into it at the request of the
17 primary worker. So to answer your question with regards to
18 going over the head of the primary worker, that can be done
19 in unique circumstances if the situation warrants it. For
20 instance, if the primary worker is not aware of a situation
21 that would, that -- where a child protection matter is
22 being identified and then that information can be brought
23 to the attention of the primary worker who would then be in
24 a position to respond. But it's not -- and I, I can
25 provide you with an example because sometimes it's hard to

1 understand the differences between the two. But it's not
2 something that a backup worker, I believe, should be doing.

3 Q Okay. If you felt strongly that you disagreed
4 with the way in which something was taking place, you would
5 have done something about it, you would have spoken up?

6 A If there was an immediate emergency. If, let's
7 say, hypothetically, I truly believed there was some, you
8 know, infant locked in a place and a primary worker said,
9 you know what, I'm going back to the office, I may say no,
10 that's not what we're -- we need to do here because -- and
11 explain the situation.

12 And I, and I'm sorry, I sort of -- if you could
13 repeat your question again, I could be more specific.

14 Q I'm, I'm wondering, whether you, if you felt
15 strongly --

16 A Um-hum.

17 Q -- or even mildly that the primary worker should
18 be doing something differently, or you have a real concern
19 with the way the matter is being handled, you would speak
20 up, I take it?

21 A Well, or -- and thank you for, for repeating the
22 question. Or in some situations it's possible that I may
23 go to a superior and say, you know, this has occurred or
24 this has occurred with respect to a particular worker and
25 allow them an opportunity to discuss the matter but, again,

1 generally as a backup worker you're not necessarily privy
2 to a great degree of information on any given case, and
3 it's been my practise to defer to the primary worker with
4 the assumption that they are the person responsible for the
5 matter, they're the person that's best informed with
6 respect to the dynamics of the situation and are, are
7 definitely the one that would have to deal with a
8 supervisor and, and make decisions with regards to the
9 direction the case will go.

10 Q Can we assume here that you acquiesced in what
11 was going on and the decision that was made after to close
12 the file?

13 A Well, I would assume, based on what I've read,
14 that I accepted the decision to return back to the office.

15 Q Okay. I think you said that if Samantha had not
16 acknowledged that there was a lock on the bedroom door you
17 might have had a different opinion as to what should take
18 place?

19 A Well, again, and that's based on speculation.
20 You know, the fact that, again, if an individual indicates
21 that they have done something which they perceived as being
22 inappropriate and, and if they've -- presenting in a way
23 that they weren't aware that this is inappropriate, then it
24 takes on a different dynamic than if there's been previous
25 involvement where that action has happened and the, the

1 person has been warned and cautioned to not allow it to
2 happen again and now it's a second time.

3 Q Which you wouldn't know because you had no
4 history?

5 A Exactly. And as a -- but yeah.

6 Q What you're saying, I think, is that she was
7 asked about this lock on the bedroom, she admitted it was
8 there, and that seemed to be satisfactory but the reverse,
9 if she hadn't admitted it was there, you would have wanted
10 to go in and see the bedroom?

11 A Again, I can't say I, I would specifically or --
12 I wanted to go in it, it would have been a factor with
13 regards to how I would approach the matter further,
14 possibly. And again, that's speculative based on, you
15 know, if I had additional history or information, et
16 cetera.

17 And, and I think that, and I don't have -- I'm
18 just looking here to see if I have that information, I, I
19 do believe that the -- Ms. Kematch acknowledged that that
20 was the case and I think that there was some information
21 provided with respect to that being inappropriate.

22 Q That's correct. No, I was just questioning --

23 A Yeah.

24 Q -- your decision --

25 A Yeah.

1 Q -- or your comment that if she hadn't admitted
2 that there was a lock on the door, then you might have --

3 A Then there, there --

4 Q -- wanted to go in and have a look.

5 A Then there may have been, there may have been a
6 different -- I -- again, if it was my case at the time,
7 then again that's speculative.

8 Q Okay. You were asked about what options there
9 were available to you if you felt that a child should
10 actually be seen and you have someone who isn't allowing
11 you in or doesn't seem to want you to come in. What are
12 some of those options?

13 A Well, if --

14 Q I think one was you said you could call the
15 police?

16 A If, if, if, you know, getting into the home is
17 paramount at that particular time, then contacting the
18 authorities is, is one response. Sometimes, you know -- I
19 mean, it depends on the circumstances.

20 Q What would --

21 A There are --

22 Q -- some of the other options be, other than
23 calling the police?

24 A Well, if, if let's say, for instance, if an
25 individual isn't present at the home and there's an

1 allegation that a child is left unattended and, and the
2 parent refuses to attend to the circumstances then one can
3 request the assistance of the building manager or something
4 along those lines to assist.

5 Q But, but here, where someone is there and you're
6 talking to the mother --

7 A Um-hum.

8 Q -- and you feel like this child should be seen,
9 what are some of the options that you could --

10 A Well --

11 Q -- use?

12 A -- yeah, and I think that I, I referred to that
13 earlier when the matter can be reviewed with a supervisor
14 to determine whether a more forceful response is required
15 based on the, the dynamics of the situation and the
16 history, et cetera.

17 Q Or you could ask the mother that's there, again,
18 to reconsider and let you come in. That's another option.

19 A Sure.

20 Q Yeah.

21 A I mean I would assume that based on what I've
22 read that that option may have been exhausted or that's the
23 impression that was had.

24 Q There's nothing in your notes about --

25 A I know.

1 Q -- asking again, yeah.

2 A And there's nothing in the notes.

3 Q But so looking at the notes we know that that was
4 asked once --

5 A Um-hum.

6 Q -- and there was no evidence that it was asked
7 again. That certainly is an option, to ask again.

8 A Exactly, I agree.

9 Q Another option might be to contact the source of
10 referral who provided the information in the first place
11 and try and get some more details?

12 A Yeah, always if it's possible to contact the
13 source of referral. When we take information from a source
14 of referral we request if they're willing to provide their
15 phone number so that we can contact them back. That is
16 something that's routinely done.

17 Q We know in this case that that phone number was
18 available and, in fact, it was an employee of CFS that had
19 made the call. So, again, that would be an option of
20 getting more information by phoning that person.

21 A That wouldn't necessarily answer, I think, the
22 original question with regards to different ways of getting
23 into the home but it certainly is an additional option to
24 try to get additional information, yeah.

25 Q Right. Another option would be return to your

1 office, refer the matter to intake, and then someone else
2 would try to follow up.

3 A Yes, that's another option or refer the matter to
4 after hours and have somebody go out in the evening and see
5 if there's a different response.

6 Q You were being referred to the Section 10 report
7 earlier and we don't have to bring it up but there was some
8 research that was being --

9 A Um-hum.

10 Q -- referred to in that report. And I think that
11 you said that you would have liked to have some of this
12 earlier on because it might have impacted on their work?

13 A It's possible. Every bit of information is
14 helpful and that's research that I'm not familiar with.

15 Q But you do have an obligation, as a social
16 worker, to keep up to date with research, in any event, do
17 you not?

18 A We try.

19 MR. GINDIN: You try. Those are my questions.
20 Thank you.

21 THE COMMISSIONER: Thank you, Mr. Gindin. Mr.
22 Paul? No? Mr. Khan?

23 MR. KHAN: Mr. Commissioner, I might have just
24 one question but can I take a couple of minutes?

25 THE COMMISSIONER: Yes.

1 MR. KHAN: Thank you.

2 THE COMMISSIONER: Mr. Khan, I don't think we'll
3 be starting another witness today, given the hour. Do you
4 want to break for 10 minutes and get your point clarified?

5 MR. KHAN: Sure, I would. Thank you.

6 THE COMMISSIONER: All right. We'll come back --
7 we will reconvene this afternoon and deal with whatever it
8 is, and Mr. Ray and any re-examination but that will do it
9 for the day.

10 MR. KHAN: Thank you, Mr. Commissioner.

11 THE COMMISSIONER: So we'll rise for 10 minutes.

12

13 (BRIEF RECESS)

14

15 THE COMMISSIONER: Yes, Mr. Khan.

16 MR. KAHN: Thank you, Mr. Commissioner.

17

18 CROSS-EXAMINATION BY MR. KHAN:

19 Q Mr. Leskiw.

20 A Yes.

21 Q My name is Hafeez Khan, I'm counsel for
22 Intertribal Child and Family Services. If the court can
23 bring up CD779 it's page 17767. I don't think it will be
24 in your documents but it's on your screen. Do you see the
25 document?

1 A Yes.

2 Q Do you, do you recognize the document?

3 A I recognize my name on the document, I recognize
4 that it is a document that would be generated by the early
5 intervention program.

6 Q Do you have any recollections of dealing with Ms.
7 [REDACTED]?

8 A No.

9 Q No? And if the clerk can just scroll to -- four
10 pages down. There. Sorry. Now, at the top of the, the
11 document it writes the "mother has recently adopted plans
12 to have [REDACTED] stay with his birth dad, Karl McKay for the
13 upcoming summer."

14 Now, I note that the worker on the file was -- is
15 Bryan Emond and the supervisor is Eleanor Payne. Is this
16 something that you would have been involved with or would
17 that have been only Bryan Emond?

18 A Well, the nature of my involvement I would
19 suspect was likely with regards to a document I looked at
20 earlier where I generated a CRU report with respect to this
21 family and likely I had forwarded it to an intake unit.

22 I would suspect that the intake unit may have
23 forwarded the matter on to the community arm of the agency
24 at that time, which is the type of work that Mr. Emond and,
25 and Ms. Payne would, would be doing.

1 Q So then the information at the top of the page is
2 -- it's not information that you would have known,
3 personally?

4 A No.

5 MR. KHAN: Thank you. Those are my --

6 THE WITNESS: Okay.

7 MR. KHAN: -- that's my question, thank you.

8 THE WITNESS: Okay.

9 THE COMMISSIONER: Mr. Ray?

10 MR. RAY: Yes, Mr. Commissioner. Ray for the
11 record.

12

13 RE-EXAMINATION BY MR. RAY:

14 Q One question for you, you were asked a question
15 about -- by Mr. Gindin about I think you said can we assume
16 you acquiesced in the decision to close the file. Can you
17 tell us, as a backup worker, what would normally be your
18 involvement in a decision to close the file, if any? And
19 when I say decision I mean the -- any interaction with the
20 primary worker and the supervisor.

21 A Well, depending on the case. There's some
22 circumstances where input from a backup worker is, is
23 relied on by a primary worker and, and, and a supervisor
24 but for the most part that decision is made by the primary
25 worker and the supervisor. Again, because there's no

1 guarantee that the backup worker would even be available at
2 the time that they're meeting or deciding what direction
3 the matter would go in.

4 Q Is it, is it fair to summarize that you would
5 provide them input as to what you saw or witnessed but that
6 would -- what they then did with that, in terms of deciding
7 to close the file, would be between the primary worker and
8 the supervisor; is that a fair --

9 A That's correct.

10 Q -- fair --

11 A I wouldn't have a specific role with regards to
12 the direction of a matter, that is between the primary
13 worker and the supervisor.

14 MR. RAY: Thank you. That's my only question.

15 THE COMMISSIONER: Mr. --

16 MR. OLSON: I don't have any additional
17 questions.

18 THE COMMISSIONER: All right. We'll stand
19 adjourned then until 9:30 tomorrow. We're a half day
20 behind but that's just the way it is, we may be able to
21 pick it up, we may not, I guess.

22 All right. Thank you.

23

24 (PROCEEDINGS ADJOURNED TO JANUARY 17, 2013)