



Report to the Minister of Justice and Solicitor General Public Fatality Inquiry

Fatality Inquiries Act

WHEREAS a Public Inquiry was held at the Law Courts Building

in the Edmonton of Alberta, in the Province of Alberta,
(City, Town or Village) (Name of City, Town, Village)

on the 9th to 21st day of September, 2021, (and by adjournment
year

on the 15th day of November, 2021),
year

before Renee R. Cochard, a Provincial Court Judge,

into the death of Serenity Rabbit 4
(Name in Full) (Age)

of Maskwacis, Alberta and the following findings were made:
(Residence)

Date and Time of Death: September 27, 2014 at 3:02 PM

Place: University of Alberta Hospital, Edmonton, Alberta

Medical Cause of Death:

("cause of death" means the medical cause of death according to the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization – *Fatality Inquiries Act*, Section 1(d)).

Sequelae of blunt cranial trauma

Manner of Death:

("manner of death" means the mode or method of death whether natural, homicidal, suicidal, accidental, unclassifiable or undeterminable – *Fatality Inquiries Act*, Section 1(h)).

Accidental death by falling off a swing

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Introduction

[1] Serenity Rabbit was born on June 23, 2010 and died on September 27, 2014 at the University of Alberta Hospital. She suffered a serious brain injury on September 18, 2014 after a fall from a tire swing. For the next 10 days, Serenity was not conscious. Despite heroic efforts to save this little girl, her mother, Ms. Ashley Rabbit, was forced to make the most difficult decision to have her removed from life support.

[2] Since Serenity's death, there has been a police investigation, a government internal investigation, and a report completed by the Office of the Child and Youth Advocate into the circumstances of her death. Criminal charges were laid against her guardians Ms. Brenda Rabbit and Mr. Clyde Rabbit on October 5, 2017.

[3] A preliminary inquiry was held between February 4, 2019 and February 27, 2019 where 30 witnesses were called over 15 days. At the conclusion of the preliminary inquiry, Ms. Brenda and Mr. Clyde Rabbit were both committed to stand trial on the charge of failing to provide the necessities of life pursuant to section 215 of the *Criminal Code of Canada*, RSC, 1985, c. C-46. A judge and jury trial was set to proceed for 5 weeks commencing February 3, 2020. These charges were stayed by the Crown prosecutor on August 13, 2019. This fatality inquiry was then scheduled in accordance with the *Fatality Inquiries Act*. The fatality inquiry commenced September 9, 2021 and continued over a 10-day period ending November 15, 2021. Eighteen witnesses were called during the course of the fatality inquiry. In addition to hearing from witnesses, the inquiry received 7 volumes of materials, including transcripts of the evidence given by the 30 witnesses at the preliminary inquiry. Submissions from counsel at the fatality inquiry were received in December 2021. This is my report.

Circumstances Under Which Death Occurred

[4] Serenity was 4 years and 3 months old when she died. The circumstances that led up to her death do not start on the day of her fall from the tire swing on September 18, 2014. What led up to her death started the day she was removed from the care of her mother, Ms. Ashley Rabbit on January 11, 2011. It is therefore important to understand the full story of Serenity's short life. Unfortunately, despite numerous investigations, the complete story will never be known. This inquiry will add to what has already been written about this young girl, but many questions will remain.

MEDICAL INTERVENTION PRIOR TO SEPTEMBER 18, 2014

[5] In order to understand the autopsy report, it is important to review Serenity's medical information leading up to her death in detail.

[6] Serenity received regular medical assistance from her date of birth on June 23, 2010 until November 29, 2013, after which there is no documentation as to any medical appointments. Her healthcare providers during that time were as follows.

Public Health Nurse

[7] From birth, June 23, 2010, until her apprehension on January 11, 2011, there is no information regarding any visits to the doctor except that Serenity was being seen by a public health nurse who was monitoring her and her mother, Ms. Ashley Rabbit, by making regular home visits to the home. There is no indication in any of the documentation that Serenity was not being properly looked after while in Ms. Ashley Rabbit's care. In fact, the opposite was true. Serenity was growing, found to be healthy by the nurse and had a mother who was concerned about her daughter's

wellbeing while having to cope with the fact that her 2 older children, N and K, had been apprehended from her care.

Dr. Stephen Fugler

[8] Dr. Stephen Fugler testified at the preliminary inquiry, but not at the fatality inquiry. Dr. Fugler's medical records were provided to the fatality inquiry. Dr. Fugler is a general practitioner in Sylvan Lake, Alberta. He began seeing Serenity while she was under the Dieberts' care (Serenity's foster parents). At the first visit on January 13, 2011, two days after apprehension, Serenity was well. She was at the 50th percentile for height and 48th percentile for weight. Dr. Fugler had no concerns.

[9] Serenity was again brought in on February 22, 2011, June 2, 2011 (where she only saw the nurse), November 4, 2011 (for a complete check-up) and lastly, December 21, 2012 (for a complete check-up). Her weights were: 7.4 kilograms (January 2011), 7.45 kilograms (February 22, 2011), 8.05 kilograms (June 2, 2011), 9.35 kilograms (November 4, 2011) and 12.5 kilograms (December 21, 2012).

[10] According to the weight chart, on December 21, 2012, Serenity was at the 40th percentile for height and 40th percentile for weight.

Dr. Simon Ward

[11] Dr. Simon Ward testified at preliminary inquiry, but not at the fatality inquiry. His medical records were entered as evidence in the fatality inquiry. Dr. Ward is a general practitioner in Wetaskiwin, Alberta.

[12] Dr. Ward's first visit with Serenity was on July 24, 2013 when Serenity was brought in by Ms. Lise LaPlante, a caseworker, and Ms. Brenda Rabbit (kinship provider). On July 24, Ms. LaPlante expressed concerns regarding Serenity's weight, her drinking excessively and delay in speech as well as elimination issues. On July 24, 2013, she weighed 11.33 kilograms (more than 1 kilogram less than her December 21, 2012 weight). Dr. Ward's initial diagnosis on that date was "failure to thrive".

[13] Dr. Ward requested bloodwork to rule out medical concerns, particularly to determine if there were any inherent metabolic problems. The test results indicated that there were no concerns that came out from the bloodwork. Regular, three-month follow-ups were suggested by Dr. Ward. The next appointment was on August 2, 2013 when Ms. Brenda Rabbit (kinship provider) was told that Serenity's weight had to be monitored. Dr. Ward requested Dr. Fugler's records and upon receipt of those records and noting the weight loss, Dr. Ward asked Serenity to be brought in on an urgent basis. That appointment was on August 23, 2013. At that time, a referral was made to a pediatrician to try and ascertain why Serenity was losing weight.

[14] The pediatrician was Dr. Jayprakash Patidar, who saw Serenity on October 16, 2013. After receiving his report, Dr. Ward called Ms. Brenda Rabbit to arrange to see Serenity. Serenity was brought back on November 29, 2013 at which time her weight was 13.15 kilograms (20th percentile). Dr. Ward continued to be concerned and requested that she be seen again. From November 29, 2013 until her injury on September 18, 2014, Serenity was not seen by Dr. Ward. There is no evidence before the inquiry that she was seen by any other medical practitioner during that 10-month period, despite Dr. Ward's and Dr. Patidar's request that she be seen every 3 months for follow up.

[15] At the preliminary inquiry, Dr. Ward acknowledged that he had been given no information from Children's Services regarding Serenity's history, her removal from her mother, her 2 years in the Dieberts' foster care, or her move on May 3, 2013 to the Rabbit family.

[16] On October 6, 2014, Dr. Ward was contacted by Dr. Michele Harvey-Blankenship regarding Serenity's condition. Dr. Harvey-Blankenship is a pediatrician with Alberta Health Services who was involved with Serenity's care after the injury. Her findings will be referred to later in this report. The notes created by Dr. Ward on October 6, 2014 indicate that he was told how Serenity died and that there was concern about possible abuse. He told Dr. Harvey-Blankenship that he was not concerned regarding Serenity's care under Ms. Brenda Rabbit, who he referred to as her grandmother, even though he had not seen Serenity since November 29, 2013.

[17] The comments made by Dr. Ward are concerning in that he had to have known that despite his request that Serenity be followed up every 3 months, this had not been done, nor had the clinic made any attempts to follow up with Ms. Brenda Rabbit.

Dr. Jayprakash Patidar

[18] Dr. Jayprakash Patidar is a pediatrician located in Leduc who saw Serenity on one occasion on October 16, 2013 at the outpatient pediatric clinic at the Leduc Community Hospital. Dr. Patidar's single-page report, which was forwarded to Dr. Ward along with the notes of the visit, were entered into the inquiry record. Serenity's weight was shown at 11.50 kilograms and height 94 centimeters. This is significant as her weight was 1 kilogram less than her weight at the last examination with Dr. Fugler on December 21, 2012. It does not appear that Dr. Patidar had any background information other than what was given to him by Ms. Brenda Rabbit. She advised Dr. Patidar that Serenity was very active and that her appetite appeared to be adequate although she

could be picky. Dr. Patidar performed a perfunctory physical examination and made the decision to not investigate any further at the time. The last paragraph of his report states as follows:

My assessment is that this is a 3-year-old girl who has recently come into foster care and adoption, and previously her social standing may have been inadequate or not ideal and therefore her weight was not ideal. However, since she has come into her grandmother's care, she seemed to be bright, alert and happy. She is also doing well on the weight at the moment and there are no major issues on physical examination. I have therefore opted not to investigate her presently; however, I have asked the grandmother to continue with the same diet at present and I will see her again in 3 months' time to see whether the trend for the weight and the height is upward. If this is so, we will not need to investigate her. Otherwise, we will do our full investigation at our next visit.

[19] At the preliminary inquiry, Dr. Patidar gave evidence to confirm that all the information that he received had been from the person he referred to as the grandmother, who would have been Ms. Brenda Rabbit. Dr. Patidar confirmed that he had received Serenity's growth chart from Dr. Ward, however that chart was blank from months 3 to 27. At 3 months of age, while in the care of her mother, Ms. Ashley Rabbit, Serenity was growing between the 50th and 75th percentile. Dr. Patidar testified that at 27 months, on September 23, 2012, Serenity was down to the 25th percentile. Dr. Patidar was not concerned with this drop at 27 months as he saw it as a drop over 2 years. It is unclear to the inquiry how Dr. Patidar established Serenity was at the 25th percentile on September 23, 2012 as Serenity was living with the Dieberts at that time and under the medical care of Dr. Fugler. Dr. Fugler did not see Serenity in September 2012. Further, Dr. Patidar did not benefit from having Dr. Fugler's records. Dr. Patidar indicated his diagnosis was "query failure to thrive" which he said meant that he could not come to a definite conclusion but needed to see her in 3 months. Dr. Patidar explained the percentile significance by testifying that if there is a 2 percentile drop in weight, there is a cause for concern. The drop is calculated as the 3rd percentile, 10th percentile, 25th percentile, 50th percentile and 75th percentile. Therefore, if a child drops from the 25th to the 3rd percentile, that would be a 2 percentile drop. Dr. Patidar would only have seen Serenity again had Dr. Ward made another referral. The next visit after 3 months would have been with Dr. Ward.

According to Dr. Patidar, on October 15, 2013, Serenity was doing well. This opinion appears to have been based on incomplete information.

[20] Upon cross-examination of Dr. Patidar, growth charts were reviewed and he revised his previous evidence. He stated the more accurate assessment would be at 40 months, on October 15, 2013, Serenity was at the 15th percentile. Had Dr. Patidar's accessed Dr. Fugler's information, he would have noted 10 months prior, on December 21, 2012, Serenity weighed 12.5 kilograms and was at the 40th percentile. By August 23, 2013, her weight had dropped to 11.79 kilograms and according to Dr. Ward, she was at the 3rd percentile. By October 15, 2013, she had again lost weight and was 3 months older. It is difficult to understand how Dr. Patidar would have found her at the 15th percentile in light of the drop in weight and increased age. As it was, Serenity was to be seen in 3 months. Dr. Ward did not receive Dr. Patidar's report until sometime in November, after which Serenity was seen by Dr. Ward on November 29. At that appointment, Ms. Brenda Rabbit was told to follow up in 3 months. Unfortunately, Serenity was never brought back. Further, Dr. Patidar made assumptions about Serenity's care prior to October 16, 2013 which were incorrect and as such, a complete medical investigation was not done at that time. This allowed the Permanent Guardianship Order to proceed without contest.

SERENITY'S DOCTORS BETWEEN SEPTEMBER 18 AND SEPTEMBER 30, 2014

Dr. Catharina Du Toit

[21] Dr. Catharina Du Toit is a general practitioner who works at the Ponoka Hospital and Care Centre emergency room. She was on-call on September 18, 2014, when Serenity was brought in by Ms. Brenda Rabbit at approximately 4:30 PM. Serenity remained at the Ponoka Hospital until she was picked up by STARS Air Ambulance at 5:43 PM and taken directly to the Stollery Children's

Hospital in Edmonton. The notes from that period of time were entered into evidence as Volume 1, Tab 8.

[22] Dr. Du Toit testified at the preliminary inquiry on February 5, 2019 but did not testify at the fatality inquiry. At page 5, lines 31 to 37, she was asked to comment about her impression of Serenity. She stated the following:

Secondary survey – we have our first survey when we try to stabilize and for acute things that – life threatening that you need to deal with right away. Once that's more stabilized, we go to secondary survey looking for other things that might not be as urgent right away, so secondary survey I wrote that I saw old bruise on the left cheek, a bruise on the genital area. She is under weight and looks chronically ill. I can recall with the way she looked. She looked cachectic, wasting of muscles. Her face just looked wasted. Looked like there was some chronically things going on, not – malnourished not sure what.

[23] Dr. Du Toit was asked about a nurse's note saying that the weight was estimated at 17.69 kilograms and a further note that Serenity was given medication based on a weight of 18 kilograms. Unfortunately, Dr. Du Toit was not able to shed any light as to how the weight was determined at that time. She was also asked about a note from the nurse Jamie Ivanka, who was on duty on September 18, 2014 who commented in the notes that "no hymen observed during catheter insertion". Dr. Du Toit was asked to interpret that note and stated that her understanding was that the nurse was questioning if the hymen was still intact. Dr. Du Toit could not comment as to whether or not Serenity was physically or sexually abused, or whether she had been given adequate nourishment. The comment from the nurse has caused much suspicion regarding possible sexual abuse. Sexual abuse was not ruled out until the final report of the Medical Examiner in 2016.

Dr. Michele Harvey-Blankenship

[24] Dr. Michele Harvey-Blankenship is a pediatrician at the Stollery Children's Hospital and professor of medicine at the University of Alberta. From 2011 to 2017, she was a pediatrician

working at the Child and Adolescent Protection Centre (CAPC), a multidisciplinary group located at the Stollery Children's Hospital which evaluates children suspected of maltreatment. Dr. Harvey-Blankenship's complete notes as well as the notes from the Stollery Children's Hospital were provided. She was also the author of a letter dated October 22, 2014 to Mona Auger at Akamkispatinaw Ohpikihawasowin Child and Family Services (AKO) which provides a summary of CAPC's involvement in the evaluation of Serenity. That letter was copied to a number of individuals including Constable Mara Peterson, Dr. Simon Ward, Dr. Jayprakash Patidar, Peggy Mackinaw, Pauline Hunter and Constable Justin Ruggiero with the Maskwacis RCMP. Further, Dr. Harvey-Blankenship testified at the preliminary inquiry on February 5, 2019. Her testimony is found at pages 63-115 of the transcript. She did not testify at the fatality inquiry.

[25] After Serenity's arrival at the Stollery Children's Hospital, Dr. Harvey-Blankenship was contacted for a consult due to concerns of possible child maltreatment. When Dr. Harvey-Blankenship arrived late in the evening, she spoke to Ms. Brenda Rabbit who was at the hospital with her two daughters. She obtained some history that there had been a partial investigation into weight concerns but Serenity had been developmentally well, was eating well and therefore these concerns were dismissed. Dr. Harvey-Blankenship later testified at the preliminary inquiry that this did not correlate with what she observed when she saw Serenity in the pediatric ICU.

[26] At the preliminary inquiry, Dr. Harvey-Blankenship was asked to describe a series of photographs taken of Serenity when she was at the hospital. By the time Dr. Harvey-Blankenship saw Serenity in the pediatric ICU, she had already undergone surgery to remove a subdural hemorrhage.

[27] In Dr. Harvey-Blankenship's evidence and in her letter, she said Serenity was "extraordinarily emaciated". Paragraph 3 of page 2 of Dr. Harvey-Blankenship's letter dated October 22, 2014 stated,

She had very prominent skin lesions all over her body. These lesions were recorded through photography. She had bruising on her forehead, around her lips, on her mons pubis, around her anus, and multiple bruises on her hands. There were petechiae on her anterior chest, and many petechiae on her back. There were linear patterned bruises across her back, buttocks and leg. There were multiple scabs and abrasions across her hands.

[28] At the preliminary inquiry, Dr. Harvey-Blankenship said that although there were other reasons for Serenity to be so emaciated, she was of the opinion that Serenity was suffering from insufficient protein intake. Dr. Harvey-Blankenship was also asked if the bruising could be from normal play and at lines 18-22 on page 80 of her testimony, she stated

So, it is – it is an unusual amount of bruising. It isn't – what was more concerning is the location of the bruising and the pattern of the bruising. So, particularly, in the back it's not necessarily common for us to see that degree of in – kind of superficial injury on the – especially on the back, but what's more notable and unusual is the pattern of the – the abrasions, the lesions.

[29] Dr. Harvey-Blankenship was not able to say how those bruises and lesions would have occurred.

[30] Lastly, in Dr. Harvey-Blankenship's letter dated October 22, 2014, although she confirms that the main contributor to Serenity's state for which she was hospitalized was the trauma to her head, Dr. Harvey-Blankenship goes on to state "the severe emaciation, malnutrition and skin findings likely contributed to the severity of her presentation and may even have contributed to the acute event." That comment raises questions as to whether Serenity's physical condition may have made her more prone to falling. Would she have been able to hang on to the swing to avoid falling had she been stronger?

[31] Ms. Peggy Mackinaw, a caseworker at AKO, in her affidavit dated September 25, 2014, filed at the Wetaskiwin courthouse to support an application to terminate Ms. Brenda and Mr. Clyde Rabbit's guardianship swore the following concerning information received from Dr. Harvey-Blankenship:

Dr. Harvey-Blankenship advised three areas of concern: Serenity is emaciated, weighing in at 18 pounds at 4 years of age. A year prior, Serenity was seen by Dr. Patidar and Serenity was in the 50th percentile in height and 25th percentile in weight [which Dr. Patidar corrected in his evidence at the preliminary inquiry]. She has lost weight in the past year. She also advised that Serenity has a great deal of bruising all over her body. She does have pattern bruising that could be as a result of the tire swing. Serenity has bruising on chest, down her back, genital bruising and unusual bruising around her anus. The location and amounts of bruising that Serenity has on her body do not reflect the bruising that could have happened as a result of the fall. A CT scan was completed showing that Serenity has a large subdural hematoma as well as extensive brain injury. A surgery procedure called "bone flap" had to be performed to drain the blood off her brain and release pressure. Glasgow Coma Scale (a scoring system used to describe of level of consciousness in a person following a traumatic brain injury) was completed with Serenity scoring the lowest possible score of 3. The level has not changed. Dr. Harvey-Blankenship informed AKO that the severity and pattern of Serenity's injury do not reflect the nature of the severity of the fall that has been described...

Dr. Bernard Gerhard Bannach, Medical Examiner

[32] Dr. Bernard Bannach was the Assistant Chief Medical Examiner at the Office of the Chief Medical Examiner at the time of Serenity's death. He was asked to perform the autopsy. He was qualified as an expert in forensic pathology, both at the preliminary inquiry where he gave evidence on February 7, 2019 and at the fatality inquiry where he gave evidence on September 14, 2021.

[33] Dr. Bannach performed the autopsy on September 30, 2014. When the autopsy was performed, photographs were taken by an RCMP officer. Photographs had also been taken at the hospital. Dr. Bannach had the benefit of reviewing the police investigation and the report prepared by Dr. Leslie Hamilton, a neuropathologist who examined Serenity's brain tissue on February 16, 2016 and completed her report on May 3, 2016. In her report, she stated that her findings were

consistent with blunt trauma but that the cause of the injury was not identified. Dr. Bannach's final report was not completed until September 9, 2016, almost 2 years after Serenity's death.

[34] At the fatality inquiry, Dr. Bannach stated the reasons for the delay was the ongoing police investigation and that there were no neuropathologists willing to perform a brain dissection in the province due to the understaffing of the neuropathology services. No explanation was given as to why the brain dissection could not have been completed by someone outside the province.

[35] At both the preliminary inquiry and the fatality inquiry, Dr. Bannach was asked about the various bruising found on Serenity's body. He was unable to make any definitive determination of how, and when the bruises could have occurred. Some of the bruises which were observed by the Stollery Children's Hospital staff had healed by the time of the autopsy. At the autopsy, Serenity was found to weigh 11.5 kilograms. At the preliminary inquiry, Dr. Bannach said that Serenity was at the 3rd percentile for weight and height for children at her age. He commented at page 73 of the preliminary inquiry transcript September 8, 2016 "the appearance of her at the time of the autopsy is that, you know, what I would expect to see if somebody was chronically ill and wasting away or not absorbing food properly or being starved." When he spoke to police investigators on September 22, 2016, he described her as malnourished, but that could be because of not getting enough food or food was not being absorbed properly.

[36] At the fatality inquiry, Dr. Bannach was asked if he had found any medical cause for her low weight. He indicated he would be looking for abnormalities of the gastrointestinal system, the stomach and the large and small intestines. He found no congenital abnormalities of the intestines or any signs of scarring of the intestines which would have been an indication of chronic infection. As far as the findings at the autopsy, there were no medical causes of malnutrition. He went on further to state that there may be other medical causes that would not be picked up by an autopsy.

Those medical causes would have been picked up while she was still alive by completing blood tests and stool tests to determine whether there was proper absorption of food. Those tests would have been ordered by her medical doctor. Dr. Ward informed Ms. LaPlante (the caseworker) that the bloodwork he had done showed no medical cause for her low weight.

[37] Delay getting into neurosurgery can lead to a less favourable outcome. In his discussion with the RCMP on December 22, 2016, Dr. Bannach stated that the chances of survival after the type of head injury Serenity suffered decreased after 30 minutes if the pressure on the brain is not relieved by surgery. He indicated that it would have been unlikely that such surgery could have been done in that time period due to the geographic location where she was injured.

[38] Although Dr. Bannach was not asked about any injury to Serenity's hymen, at the inquiry, his report and in his evidence at the preliminary inquiry are clear that there were no signs of sexual abuse and that her hymen was intact. It is unfortunate that as a result of an almost 2-year delay in the completion of the autopsy report, there were misconceptions that remained long after her death as a result of a note made by the individual who inserted the catheter and comments made by Dr. Harvey-Blankenship. This has caused the family a great deal of anxiety and could have easily been avoided if the report had been completed on time. A preliminary report produced without the neuropathologist's report would have alleviated the family's uncertainty.

[39] After a review of the Child and Youth Advocate's report dated November 2016, it is not clear as to whether or not the Child and Youth Advocate had access to the autopsy report.

[40] The evidence before the inquiry is that until November/December 2012, Serenity was a healthy young child. Six months later, in the summer of 2013, there were concerns regarding her weight and failure to thrive. One year later, she is found to be "emaciated". The inquiry is left with

many questions as to how no one around Serenity took notice of what was happening to this young child.

SUMMARY OF CHILD PROTECTION PROCEEDINGS

[41] The Wetaskiwin office of Children's Services played a significant role in the lives of Serenity and her two siblings N (born) and K (born). Numerous employees at CFS were involved with the family, commencing in 2007 until Serenity's death. The timeline regarding Serenity's involvement with Children's Services is as follows:

- 1) Serenity was apprehended from her mother's care on January 11, 2011 when she was 6.5 months old. The apprehension occurred as a result of an assault on Ms. Ashley Rabbit by Mr. Wesley Whitebear (Serenity's father) on January 8, 2011.
- 2) Serenity was placed with Ms. Brandi Diebert and her husband, Mr. Jason Diebert. Two days after her apprehension, she was seen by Dr. Stephen Fugler who found her in good health. She weighed 7.4 kilograms and was at the 48th percentile for weight and 50th percentile for height. Up to that point, Serenity had been seen regularly by a public health nurse at her home when she was living with Ms. Ashley Rabbit and had been doing well. No concerns were noted by the public health nurse. The last visit before the apprehension was October 27, 2010. At that time, she weighed 6.3 kilograms. Two days after the apprehension, she was 7.4 kilograms (Tab 11 – medical report by Dr. Fugler).
- 3) A Temporary Guardianship Order was granted on March 9, 2011.

- 4) On June 14, 2011, Ms. Leanne Worthington on behalf of Children's Services applied for permanent guardianship of all 3 children but on 2 separate files, with N and K on one file and Serenity on another.
- 5) Ms. Ashley Rabbit was represented by counsel commencing on June 23, 2011. The application for permanent guardianship was adjourned to July 28, 2011, August 10, 2011, August 25, 2011, September 14, 2011, October 12, 2011, November 9, 2011, December 14, 2011, December 22, 2011, January 26, 2012 (where counsel for the children was appointed), February 23, 2012 (Ms. Jane MacPherson attended as counsel for the children), March 14, 2012, April 11, 2012, April 26, 2012 (counsel for Mr. Whitebear allowed to withdraw and trial dates were set), May 9, 2012, May 24, 2012 (where a pretrial conference of July 11, 2012 was set), July 11, 2012 (pretrial conference held), mediation occurred July 25, 2012, September 10, 2012 (trial was adjourned at the request of Mr. Adam Veale (father of N and K) and a new trial was scheduled for October 10, 2012. The application to adjourn the trial was opposed by counsel for Children's Services, counsel for the children and counsel for Ms. Ashley Rabbit. The matter was heard on October 10, 2012, October 25, 2012, November 14, 2012 (where a trial date was again set for April 18, 2013 with a pretrial conference to be held March 13, 2013).
- 6) On July 25, 2012, Ms. Ashley Rabbit, Ms. MacPherson and Ms. Worthington attended mediation. It is not clear if Ms. Ashley Rabbit was represented at the mediation. A memorandum of agreement was written. At that date, it was clear that kinship would be proceeding and that the children would not be returned to Ms. Ashley Rabbit. In July, the case worker, Ms. Worthington, agreed to continue to work with Ms. Brenda and Mr. Clyde Rabbit on their kinship application. Visits with Ms. Brenda and Mr. Clyde Rabbit would

start once the kinship application was completed. The inquiry has heard that due to the application not being completed quickly, the visits were limited and rushed in February 2013. It was agreed that should kinship with Ms. Brenda and Mr. Clyde Rabbit not move forward, other possible kinship placements would be discussed with Ms. Ashley Rabbit. No consideration of the children returning to Ms. Ashley Rabbit was proposed at mediation. Ms. Ashley Rabbit was to continue to have access subject to Ms. Worthington's direction. There was agreement by all parties that it was in the best interests of the children that they continue to see their mother.

- 7) On April 18, 2013, a Permanent Guardianship Order was granted. Ms. Ashley Rabbit through her counsel consented to that order. The hearing lasted no more than 5 minutes. The judge had reviewed the court report filed by Ms. Worthington. At the time, the order was silent as to access. Mr. Hamish Henderson, counsel for Children's Services, stated "we do have a permanency plan in place. There is a maternal aunt that we expect making an application with respect to these children, so there is some ongoing contact. On that basis, you will note that the court report is silent with respect to access. We'd simply ask that the order be silent with respect to access in order to allow for permanency planning." The court then ordered a Permanent Guardianship Order but stated that "there will not be a clause with respect to access given that there is ongoing permanency planning with respect to the aunt." Unfortunately, these comments translated to an order which provided no access to Ms. Ashley Rabbit. Section 34(8) of the *Child, Youth and Family Enhancement Act*, RSA 2000, c C-12 allows a biological parent to apply for access. Whether Ms. Ashley Rabbit was aware of the section is unknown.

- 8) On July 20, 2013, Ms. Pamela Orr (formerly Robbenhaar) filed an application on behalf of Ms. Brenda and Mr. Clyde Rabbit for permanent guardianship, attaching a copy of a home study report completed by Ms. Teri Boyce and a copy of a cultural connection plan. The application was set to be heard July 25, 2013. This was adjourned to August 22, 2013. On August 22, 2013, the application was adjourned to September 26, 2013 so that Ms. Ashley Rabbit could obtain counsel. On September 26, 2013, Ms. Ashley Rabbit was not present and the matter was set for November 28, 2013. The matter was then brought forward by Children's Services to October 24, 2013 (for reasons unknown) where an order of private guardianship to Ms. Brenda and Mr. Clyde Rabbit was granted. At the hearing, Ms. Brenda and Mr. Clyde Rabbit were not represented and the evidence before the inquiry is that they had never received legal advice regarding the terms of private guardianship and what that would mean. The hearing, again, would have lasted 3-5 minutes. Ms. Ashley Rabbit was told of the application on October 11, 2013 according to the October 23, 2013 affidavit sworn by Ms. Worthington (there is no documentation to support this claim). Ms. Ashley Rabbit was not in court although she testified going to the courthouse and seeing her name on the list.
- 9) After October 24, 2013, Children's Services closed their file and a restriction was placed on the file by Ms. Worthington as to who could access the file. The file was not transferred to AKO despite their involvement. The evidence does indicate that AKO had been involved in meetings with Children's Services as early as June 22, 2011 when contact was made by Ms. Helen Bull, an employee of AKO, who continued to be involved during the kinship process. As late as October 15, 2013, Ms. Orr consulted with Ms. Helen Bull regarding the private guardianship application by Ms. Brenda and Mr. Clyde Rabbit, and Ms. Helen Bull maintained her support. Ms. Helen Bull was in attendance in court on October 24, 2013. Ms.

Helen Bull did not give evidence at the inquiry or at the preliminary inquiry despite her extensive involvement with this file.

10) As a result of the restriction placed on the Children's Services file by Ms. Worthington, the restriction continued to be in effect when Serenity was brought to the hospital on September 18, 2014.

11) On September 20, 2014, the 3 children were apprehended by AKO pursuant to an apprehension order made by a Justice of the Peace.

12) On September 25, 2014, Ms. Ashley Rabbit was granted guardianship of Serenity in order to make end-of-life decisions, 7 days after Serenity was admitted to hospital.

13) On March 11, 2015, Ms. Ashley Rabbit was granted guardianship of N and K. By that time, the children had been living with Ms. Ashley Rabbit in British Columbia since December 8, 2014. The 2 children have continued to live with Ms. Ashley Rabbit, her partner, and their half siblings.

SOCIAL WORKERS, FOSTER PARENTS AND SUPPORT WORKERS FROM 2010 TO APRIL 18, 2013

[42] Many people from Children's Services and AKO have been involved in Serenity's short life. Most of their efforts appear to have been focussed on removing her from her mother as opposed to reuniting her with her mother, which contravenes sections 1.1 and 2(1)(a)(d)(g)(h) of the *Child, Youth and Family Enhancement Act*, which were only added to the *Act* in 2018, as set out below:

Guiding principles

1.1 This Act must be interpreted and administered in accordance with the following principles:

- (a) the best interests, safety and well-being of children are paramount;

(b) the well-being of families and communities is crucial to the well-being of children;

(c) children benefit from

(i) lasting relationships with people with whom they have connections, including family, friends, caregivers and other significant individuals,

(ii) connections with their culture and cultural communities and opportunities to form those connections, and

(iii) permanent, formalized ties with people who care about them;

(d) Indigenous people should be involved with respect to the planning and provision of services to and decisions respecting Indigenous families and their children.

Matters to be considered

2(1) If a child is in need of intervention, a court, an Appeal Panel and all persons who exercise any authority or make any decision under this Act relating to the child must do so in the best interests of the child and must consider the following as well as any other relevant matter:

(a) the child's family has the primary responsibility for the safety and well-being of the child and the family's well-being should be supported and preserved;

(d) the benefits to the child of lasting relationships with the people with whom the child is connected, including family, friends, caregivers and other significant individuals;

(g) the importance of stability, permanence and continuity of care and relationships to the child's long-term safety and well-being;

(h) any decision concerning the removal of the child from the child's family should take into account the risk to the safety, security or development of the child if the child remains with the family, is removed from the family or is returned to the family

[43] In 2011, when Serenity was apprehended, the *Act* may not have included “guiding principles” but section 2(a) said that the family was the basic unit of society and should be supported. Section 2(b) spoke of the importance of stable, permanent and nurturing relationships. Section 2(c) stated any intervention services should be provided in a manner that ensures the least disruption to the child. What this would mean would be that children should not be removed unless absolutely necessary for their protection. Services should also be provided to ensure that children remain with their biological parents unless there are major safety concerns. In this case, I do not

find these concerns existed and if they did, they could have been addressed in a manner to ensure the children remained with their mother.

[44] In this case, the major reason given for the removal of Serenity from her mother's care on January 11, 2011 was the domestic violence Ms. Ashley Rabbit was experiencing. Section 2(1)(i) of the current *Child, Youth and Family Enhancement Act* states:

(i) subject to clause (h), if the child has been exposed to family violence within the child's family, intervention services should be provided to the family in a manner that supports family members and prevents the need to remove the child from the custody of an abused family member;

[45] At the time of Serenity's removal from her mother, the corresponding section was section 2(f) which read:

subject to clauses (e) and (g), if a child has been exposed to domestic violence within the child's family, intervention services should be provided to the family in a manner that supports the abused family members and prevents the need to remove the child from the custody of an abused family member;

which is not much different.

[46] From the evidence before the inquiry, this section appears to have been lost on the persons in authority involved with Serenity and her siblings. It is important therefore to review the involvement of Children's Services and AKO in Serenity's life in order to understand the circumstances leading up to Serenity's death.

Ms. Leanne Worthington

[47] Ms. Worthington was a caseworker with Wetaskiwin Children's Services. She had the longest involvement with the 3 children. She began that involvement with the removal/apprehension of N and K on March 1, 2010. At that time, N would have been almost 3 years old and K almost 2

years old. From March 1, 2010 to January 11, 2011 when Serenity was apprehended, Ms. Worthington was “working” with Ms. Ashley Rabbit.

[48] Ms. Worthington was the one the RCMP contacted regarding Mr. Whitebear’s assault on Ms. Ashley Rabbit. She was the one who arranged to have Serenity apprehended by Ms. Colleen Barker. She signed the affidavit in March 2011 for the application for the Temporary Guardianship Order of Serenity. She applied for the Permanent Guardianship Order for all 3 children and signed the notice, the affidavit and the application in September 2012 which was later used as the basis of the Permanent Guardianship Order application on April 18, 2013. She attended mediation prior to the first trial date and signed the memorandum of agreement after mediation on July 25, 2012. She signed the affidavit for the private guardianship application by the Rabbits after which she made the decision to close the file and restrict access. She attended almost all case management meetings and was involved with kinship care arrangements.

[49] Further, after Ms. Ashley Rabbit had sent photographs regarding her concerns about the children in July 2013 it was Ms. Worthington who made the referral to a doctor on August 7, 2013. She was also involved in the case management conference to arrange for a special investigator, Ms. Kathy Tippe, to investigate concerns raised by third parties regarding the children’s care under Ms. Brenda and Mr. Clyde Rabbit.

[50] Despite this extensive involvement, Ms. Worthington neither appeared to have been interviewed by the Child and Youth Advocate for their investigation, nor was she interviewed by the RCMP, either in 2014 or 2016 during their criminal investigations. She did not give evidence at the preliminary inquiry in 2019. An application was made to the fatality inquiry to excuse her testimony at this inquiry, which was not granted. The basis for the application was her ongoing mental health concerns which she said were a direct result of her involvement with Serenity’s case.

As such, the inquiry asked that she be called. In order to accommodate her mental health concerns, she was allowed to give her testimony in her personal lawyer's office and with her husband present. However, it became clear very quickly that this attempt would not be successful. After a very short time, the inquiry judge discontinued Ms. Worthington's testimony.

[51] This leaves the inquiry with her written notes only. I requested her earlier written notes, dating back to 2010, which I received. The difficulty of reviewing notes alone is that only a small portion of what occurred is actually written down.

[52] From the notes that were provided at the beginning and after the inquiry was completed, the following can be noted:

- 1) Ms. Ashley Rabbit was maintaining regular visits with N and K prior to Serenity's apprehension. If there was to be a change to a visit, Ms. Ashley Rabbit would communicate with the visit facilitator and rearrange the visit.
- 2) On January 11, 2011, the day of Serenity's apprehension, Ms. Collen Barker, the worker who apprehended Serenity, made the following comments regarding Serenity: "Serenity looks good, chubby, happy, good eye contact."
- 3) The day after Serenity's apprehension, Ms. Ashley Rabbit was told that the department would be applying for a Permanent Guardianship Order for N and K. One can only imagine how difficult this news would have been to this young mother who had been a victim of domestic violence and had just had her baby apprehended.

- 4) The notes indicate that K and N were separated initially, going to different homes. K was placed with a foster parent named Ms. Lois Smith and N with Ms. Diana Hopgood. It is unclear when K and N were reunited and placed in the Hopgood home together.
- 5) On January 11, 2011, a person named Ms. Lacy Roberts, cousin of Ms. Ashley Rabbit, called interested in kinship. There does not appear to be any follow up.
- 6) Ms. Ashley Rabbit attempted to assist herself by enrolling in a domestic violence course, a parenting course, Poundmaker's Lodge Treatment Centre, and calling the police on Mr. Whitebear when he approached her. She was being tested for marijuana use regularly where sometimes she would fail. What does not appear in the notes is any encouragement for her efforts by Ms. Worthington. Nor was there any assistance or suggestions regarding how to access programs. Ms. Ashley Rabbit appeared to be left on her own. On July 19, Ms. Ashley Rabbit asked to do another IQ assessment as the previous one was being used against her, which had indicated she suffered from cognitive deficits. That assessment was done on September 24, 2010 and was referred to in Ms. LaPlante's affidavit dated April 18, 2013. The full report was not provided to the inquiry and only 2 paragraphs made it into Ms. Worthington's affidavit, prepared July 23, 2012 for a Permanent Guardianship Order. This report plagued Ms. Ashley Rabbit throughout her involvement with Children's Services (paragraphs 271-272 of this report).
- 7) In October 2011, Ms. Ashley Rabbit told Ms. Worthington that she wished to return to rehab. There is no indication in the notes as to what, if any, help was given to her to accomplish this.

- 8) In November 2011, Ms. Ashley Rabbit was extremely ill. She was hospitalized with pneumonia and underwent bladder surgery. Despite that, she continued contact with Children's Services to arrange for visitation with her children.
- 9) On December 21, 2011, at a case conference, Ms. Ashley Rabbit is noted to be looking for employment, an apartment, to go back to rehab and to get income support. She is told to do these things, but what the notes lack is any indication as to what help this young woman was actually receiving from Children's Services to complete these tasks. At this point, Ms. Ashley Rabbit, at 22 years of age, was still a very young woman.
- 10) What is clear from the notes is that Ms. Ashley Rabbit was unwavering in her desire to have her children returned to her. She was trying very hard to follow through with directions given to her, but with little actual support given to her by Children's Services. From the notes, the default position of Children's Services was to obtain a Permanent Guardianship Order and take the children away from Ms. Ashley Rabbit. There are few notes to show efforts made by Children's Services to reunite Ms. Ashley Rabbit with her children during this period of time.
- 11) During the period after December 2011, there was another incident with regard to Mr. Whitebear where the RCMP emailed Ms. Worthington regarding an incident said to have occurred January 2012. On January 9, 2012, Ms. Ashley Rabbit had asked to go to a shelter, but no help appears to have been provided. As is the case with so many women who are subject to domestic violence, they have difficulty in terminating the relationship as after an incident of domestic violence, there is usually a period of time called the "honeymoon period" where the abuser is on their best behaviour and vows never to hit again. At this point, there is often a recantation by the abused woman as Ms. Ashley Rabbit did, according

to the notes on January 10, 2012. None of this is unusual. What was needed at that time was that the victim receive support, not negative judgement. In this case, the former was lacking while the latter appeared to be in abundance.

- 12) On January 23, 2012, Ms. Ashley Rabbit is noted to have said she was not going to work with anyone as she will never get her children back, but her visits continued throughout. In fact, when N had her tonsils removed at the end of January, it was Ms. Ashley Rabbit who went with her to the Stollery Children's Hospital and stayed overnight next to her daughter.
- 13) On April 29, 2012, Ms. Worthington told Mr. Adam Veale, father of N and K, to consent to the Permanent Guardianship Order. She also told him that his children cannot be adopted because they are Aboriginal.
- 14) On May 7, 2012, Ms. Ashley Rabbit is noted to say she will continue to try and get her children back.
- 15) Throughout the summer of 2012, supervisors continue to ensure that Ms. Ashley Rabbit is in constant contact with Ms. Worthington. On June 12, during a meeting between Ms. Ashley Rabbit and Ms. Worthington, Ms. Worthington was told by Ms. Rabbit that she was seeing a counsellor for domestic violence. She was also going to the Alberta Alcohol & Drug Abuse Commission to complete a Poundmaker's application. She also advised she would be testifying at Mr. Whitebear's trial at the end of July. Any issues regarding visits with the children seem to come from N and K's foster mother, Ms. Diana Hopgood, but not as a result of any behaviours by Ms. Ashley Rabbit. Serenity's foster parents, the Dieberts, on June 27, 2012 commented that Serenity was doing well and that visits were going well.

- 16) On July 10, 2012, Ms. Worthington wrote notes regarding a meeting with Ms. Helen Bull of AKO for a Band consultation. Ms. Ashley Rabbit was in attendance and spoke of Ms. Brenda and Mr. Clyde Rabbit as possible individuals to take the children. Ms. Worthington spoke to Ms. Brenda Rabbit who indicated they were still interested in taking the children.
- 17) On July 17, 2012, the charges against Mr. Whitebear were dropped and he had been released. Ms. Ashley Rabbit contacted Ms. Courtney Seguin at the Family Violence Unit of the RCMP and asked to get an Emergency Protection Order. Unfortunately, rather than receiving assistance from Ms. Courtney Seguin, Ms. Ashley Rabbit was told to make an appointment with a lawyer at the family law office.
- 18) On July 31, 2012, Ms. Worthington noted that she called Ms. Brenda Rabbit and left 4 messages for her to call back, which were not returned.
- 19) On September 11, 2012, Ms. Worthington noted that Ms. Diana Hopgood was prepared to take all 3 children on a permanent basis.
- 20) On September 26, 2012, Ms. Worthington noted that Ms. Ashley Rabbit had moved to British Columbia for her safety. She noted that a threat had been made to Ms. Ashley Rabbit by Mr. Whitebear through her brother. In British Columbia, she enrolled in a nightly program in culinary arts at the Vancouver Island University.
- 21) On September 28, 2012, Ms. Worthington had a discussion with a third person regarding problems in placement. The Dieberts did not want K and N on a permanent basis. Ms. Worthington spoke of one biological family member, but they had not completed the application. Although no names are mentioned, this clearly related to Brenda and Clyde Rabbit as they had delayed in providing their applications even though they expressed an

interest in kinship. She stated if kinship is not found then Ms. Diana Hopgood had expressed interest in private guardianship for K and N and the Dieberts had expressed an interest in taking Serenity. Again, during this entire note, nowhere is Ms. Ashley Rabbit viewed as an option, nor is there any attempt to assess her living situation in British Columbia. On the same day, Ms. Ashley Rabbit called Ms. Worthington to provide a new phone number and asked it to be given to Ms. Diana Hopgood so that her children could call weekly.

22) By October 12, 2012, Ms. Ashley Rabbit is desperate to return to Alberta to be reunited with her children. Arrangements were made to have her return and she did so on November 15, 2012. A visit was arranged on November 16, 2012. Ms. Ashley Rabbit then returned to British Columbia on November 22, 2012.

23) By November 2012, Ms. Brenda and Mr. Clyde Rabbit had sent the completed application for kinship and provided their criminal record checks.

24) On November 29, 2012, a home study was ordered on Ms. Brenda and Mr. Clyde Rabbit in anticipation of the kinship application which did not begin until March 22, 2013.

Kinship Contact Notes

- 1) Sometime between November and December of 2011, Ms. Brenda and Mr. Clyde Rabbit indicated a willingness to have the 3 children in their care.
- 2) The kinship application was sent out and the contact notes indicate the form was completed by Ms. Brenda Rabbit in February 2012, but not mailed to Children's Services until November 2012.

- 3) On November 29, 2012, there was an email from Ms. Pauline Hunter to Ms. Orr with a copy to Ms. Helen Bull stating that Children's Services was proceeding with the kinship and that a home study would be completed on the Rabbit home, using the Home Assessment Report procedure (HAR). The Rabbits had granted permission for the HAR.
- 4) On February 2, 2013, there was a case conference with Ms. Ardis Petit, Ms. Ashley Rabbit, Ms. Orr and Ms. LaPlante (caseworker). Ms. Petit was referred to as the kinship care person and worked directly with Ms. Brenda Rabbit. The discussion included:
 - a. Criminal record checks that were required for Dylan and Tamara as they were adults living at the Rabbit residence. This was never done.
 - b. That a medical reference form for Ms. Brenda Rabbit's family doctor was required to be completed which was completed.
 - c. That a safety environmental assessment form was to be completed and be picked up at the February 8, 2013 visit which was completed.
- 5) On February 25, 2013, Ms. Teri Boyce, the home assessment contractor, contacted Ms. Petit and said that after finally getting a hold of Ms. Brenda Rabbit, the home visit could only be arranged for March 22, 2013 as that was Ms. Brenda Rabbit's first available date. She indicated she would try to get the report done in one day, although 2 visits did occur on March 22, 2013 and March 27, 2013.
- 6) On February 26, 2013, Ms. Petit called Ms. Brenda Rabbit, who avoided speaking to Ms. Petit by having her daughter lie as to her whereabouts. Ms. Petit asked to have Ms. Brenda Rabbit return her call.

- 7) On February 27, 2013, Ms. Petit tried again and left a message asking Ms. Brenda Rabbit as to whether they were still willing to proceed with the home study.
- 8) There are no notes under the kinship contact notes from February 27, 2013 until July 26, 2013 when the children were in the care of Ms. Brenda and Mr. Clyde Rabbit and complaints had been made by third parties regarding the care of the children.
- 9) The format of the home study was to be an HAR, not the Structured Analysis Family Evaluation (SAFE) model assessment which was the most current form of home study model. The difference will be discussed in the review of testimony of Ms. Boyce. The HAR was the model that AKO approved of, as it was less intrusive.

Ms. Lise LaPlante

[53] Ms. LaPlante, a caseworker trainee, was involved with Serenity from January 26, 2013 until August 8, 2013. She set out her responsibilities as a trainee at page 45, lines 25-31 of the September 11 transcript:

Caseworker trainee, you are responsible for taking the notes on all files, making sure that they're in the computer system; home visits, face-to-face visits; taking in telephone calls and inquiries from family, foster parents, community members who need any information. All court documents -- I would do all court documents. I would sign them; however, a delegated worker had to sign them at the bottom of my documentation. Even though I signed it, they had to also co-sign. Go to court as long as I was with a delegated worker. First and foremost, make sure the children were safe.

[54] Ms. LaPlante worked under a supervisor and who was referred to as a “delegated worker”. She replaced Ms. Worthington at the end of January 2013 for reasons unknown. Ms. LaPlante had only started her employment with Children’s Services in October of 2012 when she commenced her training.

[55] On January 26, 2013, Ms. LaPlante attended a group family conference at the Elder Centre in Maskwacis where she met Ms. Brenda Rabbit, Ms. Ashley Rabbit and the children. She was told at that time that Ms. Brenda Rabbit had put herself forward as a kinship caregiver.

[56] Ms. LaPlante's understanding after the meeting with Ms. Brenda Rabbit was that Ms. Brenda Rabbit would move forward by having criminal records check done on herself, her husband and any child over 18 years of age who was residing in her home, as well as providing medical reports and cooperate with the home study. It is to be noted that most of that had already been done previously (the record checks of Dylan and Tashina were never done, the medical reports were completed). In early February of 2013, it was decided that visits would be started with Ms. Brenda and Mr. Clyde Rabbit and the children. Ms. LaPlante testified that one of the reasons for the rush to have the children placed with Ms. Brenda Rabbit was that 2 of the children had been in respite care while Ms. Diana Hopgood, foster parent of N and K, had some surgery. Children's Services did not want the children to go back to the Hopgood home and then back to the Rabbit home (Ms. Diana Hopgood was still involved throughout this period, although it does appear there is a period of time when the children were residing elsewhere).

[57] Ms. LaPlante confirmed that Ms. Ashley Rabbit had contacted her about having difficulty with getting visits. Ms. LaPlante contacted Ms. Brenda Rabbit at that time who said she would make other arrangements with Ms. Ashley Rabbit to see the children. On Mother's Day of 2013, after the Permanent Guardianship Order, Ms. Ashley Rabbit went to see the children and only N was there, being looked after by Ms. Brenda Rabbit's daughter. N was extremely upset and wanted for her mother to take her away, complaining about the lack of food. Ms. LaPlante called Ms. Brenda Rabbit again who said Ms. Ashley Rabbit was lying. Although Ms. LaPlante went out to Ms. Brenda

Rabbit's home, this was a scheduled visit in that Ms. Brenda Rabbit was notified of the visit in advance. She interviewed the children in the home and her takeaway was that there was no concern.

[58] As a result of the tension between Ms. Ashley Rabbit and Ms. Brenda Rabbit, Ms. Ashley Rabbit's visits with the children after the Permanent Guardianship Order were set up at the district office of Children's Services in Wetaskiwin. The children were being picked up by drivers from the Boys & Girls Club. There were many difficulties with the pick-ups. Ms. Ashley Rabbit had many visits cancelled because the children could not be located. This was obviously a concern for her. After a birthday party for Serenity on July 13, 2013 at the Boys & Girls Club, there were many complaints. The visit supervisor expressed concerns regarding the children appearing malnourished, N having chafing on the inside of her legs (which turned out to be Serenity) and a bruise on Serenity's cheek. The visit supervisor would have been an independent person and it was her opinion that the children should be removed from Ms. Brenda Rabbit's care. Ms. Ashley Rabbit also called regarding her concerns. According to her, Serenity had chafing, terrible diaper rash and there were food concerns. Ms. Ashley Rabbit's aunt also called the crisis line with similar concerns. All of this occurred after the visit on July 13, 2013.

[59] Ms. Worthington and Ms. LaPlante then visited Ms. Brenda Rabbit at her home upon advance notice. When they arrived, everyone was dressed well and happy except for Serenity who was very quiet. They did not see any evidence of diaper rash or chafing. The bruise on Serenity's cheek was explained by Serenity to be from hitting her head on a rocking chair.

[60] Ms. LaPlante testified that they had never gone to Ms. Brenda Rabbit's house unannounced despite making several visits. The reason for that was because there was a gate which was locked and was said to prevent Mr. Whitebear from getting onto the property. The workers would honk and no one would come to the gate. As a result of difficulties getting access to the home, all visits

were scheduled in advance. Ms. Brenda Rabbit's answer to this was that she was protecting the children from Mr. Whitebear and she did not always hear the honk. From the testimony, it is clear that Children's Services believed all of Ms. Brenda Rabbit's excuses. Ms. LaPlante testified that she tried to go without notice and would call from the gate, but there was no answer 90% of the time. If someone did answer, Ms. Brenda Rabbit was usually not in the premises. This avoidant behaviour was similar to Ms. Brenda Rabbit's avoidance/ delay of responding to telephone calls from workers, calls to complete the home assessment, and follow up with doctors.

[61] As a result of the concerns regarding chafing and bruising, Ms. Brenda Rabbit was asked to take Serenity to the doctor. She did not do so immediately, which resulted in Ms. LaPlante having to force the issue. She and Ms. Brenda Rabbit finally took Serenity to the doctor. As a result of the blood tests (which showed no medical cause for Serenity's low weight), Dr. Ward indicated that he had a concern with respect to "failure to thrive." At this point, Ms. LaPlante went to her supervisor, Ms. Orr, who decided to call in a special investigator who would investigate all of the concerns. Another home visit was arranged for July 26, 2013. When they arrived, one of Ms. Brenda Rabbit's teenaged daughters was making pancakes for the 3 children. Ms. Worthington spoke with N and K separately. Ms. Brenda Rabbit was told she must have Serenity seen again by a doctor in 3 months' time (again, we know from the records that this did not happen until she was contacted

again by Children's Services in November of 2013). Ms. LaPlante acknowledged that Ms. Ashley Rabbit was given no supports except for visits. Ms. LaPlante was extremely guarded when being cross-examined and showed very little knowledge of policies regarding financial matters or disclosure obligations to kinship persons. She did confirm that Ms. Brenda and Mr. Clyde Rabbit would have been entitled to financial assistances from the Supports for Permanency (SFP) program.

The inquiry was provided, upon request, information regarding SFP (paragraphs 123-125 of this report).

[62] Ms. LaPlante was of the view that Children's Services had done their due diligence when it came to the investigations of neglect/abuse allegations during the summer of 2013. She testified that she had made a number of visits to the Rabbit home and had no concerns. She did refer the children to Dr. Ward who, as previously mentioned, had a "failure to thrive" notation on Serenity's file. It was her belief that Dr. Ward retracted that comment prior to her leaving the office on August 8, 2013 (there is no record of that). She did acknowledge that Ms. Ashley Rabbit cared about her children, was concerned for their wellbeing and loved her children very much.

[63] When asked by Ms. Ashley Rabbit's counsel, in hindsight, would she have done anything differently, she responded at page 132, lines 1-17 of the September 10, 2021 transcript:

A: I would have had a delegated worker with me at all times, and that was not the case. I -- I would have taken the complaints a bit more serious, not that I didn't. Not that I didn't investigate, but I didn't have the tools then to ask the questions that I have learned since that time, being a facilitator, on how to get information out of people, so when Ashley was giving me information, I today am better equipped to get the information out of people that were extra details. I never went down rabbit holes. I just took the information and went (INDISCERNIBLE), whereas now I would just go down rabbit holes to get the extra information.

Q: And so you're talking about interviewing techniques?

A: I -- exactly. Exactly.

Q: Okay.

A: That wasn't really what was part of our training. I've taken a lot of that training with signs of safety now. We've learned, and we've taken an awful lot of training, and I'm a better interviewer now than I was back then.

[64] Overall, Ms. LaPlante's testimony left me with the impression that she was trying hard to protect herself and Children's Services from wrongdoing. In addition, she largely deflected responsibility to her superiors. During the summer of 2013, there were numerous red flags regarding Ms. Brenda and Mr. Clyde Rabbit's home, including who was looking after the children, how often

were the teenaged daughters left to look after the children, who was actually living in the house, which hours Ms. Brenda Rabbit was working, how often was Mr. Clyde Rabbit working and how safe was the yard. No visits were made without being pre-arranged. This allowed Ms. Brenda Rabbit to prepare for the visits.

[65] It is also difficult to understand why arrangements were not made to have the children interviewed by persons who actually have training in interviewing children, such as the Zebra Child Protection Centre. The children should have been spoken to in the same fashion as they were after September 18, 2014 when K and N were interviewed by the Zebra Child Protection Centre. Serious allegations of abuse and neglect were being made, not just by Ms. Ashley Rabbit, but by independent third persons. What Children's Services chose to do is to deflect responsibility to Dr. Ward and to the special investigator, Ms. Tippe, an employee of Children's Services. This behaviour follows a pattern that has been established throughout this case that nothing should be done to prevent the children from being transferred to the care of Ms. Brenda and Mr. Clyde Rabbit so that the file could be closed. Had they closed the file and at least forwarded the file to AKO in its entirety, AKO could have followed up on areas of concern such as Serenity's weight and possible abuse of the children. AKO was involved in the kinship application through Ms. Helen Bull who knew the children would come to live with Ms. Brenda Rabbit. Despite this, AKO did not have any involvement with these children until Serenity fell from the swing.

Ms. Lise LaPlante's Notes from February 1, 2013 to April 29, 2013

[66] Ms. LaPlante's notes during this period of time contain little information of substance. There were a few things of note.

- 1) On April 8, 2013, Ms. LaPlante was told by Ms. Brandi Diebert that Serenity was not toilet trained and sometimes smeared feces (3 times a month) at nap time. On the same day, Ms.

Brenda Rabbit called saying a visit had gone well. The children had eaten and slept well. Ms. Brenda Rabbit advised she was ready to take them fulltime on April 23, 2013. Ms. Brenda Rabbit said she had fulltime daycare for them, which would start when they began living at her home (the testimony from the daycare worker was that this is short-lived and by September 2013, Serenity was hardly ever at the daycare once the 2 older children started school). The notes do not indicate that Ms. LaPlante advised Ms. Brenda Rabbit about the issues with toilet training and feces smearing.

- 2) On April 15, 2013, three days before the Permanent Guardianship Order, all 3 children were to see their lawyer, Ms. MacPherson after a visit with their mother. As a result of Ms. MacPherson being late, the driver of N and K had already taken them home before the visit could take place. Ms. MacPherson did speak with Serenity, who would have been almost 3 years of age at the time. On the following day, on April 16, 2013 Ms. MacPherson saw N and K. Ms. Brenda Rabbit was also told that she could get vouchers for beds and dressers for the children. The note also discusses Ms. Brandi Diebert being upset about the transition which was to occur on April 19, 2013.
- 3) The April 16, 2013 note indicates a slight change in the transition plan whereby the children were to go to Ms. Brenda and Mr. Clyde Rabbit's home for a week, from April 19 to 26, 2013. They were then to return to their respective foster homes on April 26. On May 3, 2013, Serenity and her siblings would live with the Rabbits on a permanent basis.
- 4) On April 18, 2013, the date of trial, the note indicates that the permanent guardianship was granted. Ms. LaPlante's note stated that Ms. Ashley Rabbit consented to the Permanent Guardianship Order as well as private guardianship.

Ms. Pamela Orr (formerly Robbenhaar)

[67] Ms. Orr is employed by Children's Services and works out of the Wetaskiwin district office. She testified on September 13, 2021. She has been employed with Children's Services for more than 20 years. At the time of Serenity's death, she was a caseworker supervisor whose job it was to oversee 4 to 5 caseworkers. Although she did on occasion work with families directly, that work was primarily done by the caseworker. In this case, the caseworkers were primarily Ms. Worthington and, for a short period, Ms. LaPlante.

[68] Although Ms. Orr had seen the Rabbit children at the office in passing, she did not recall ever meeting with them. She had met Ms. Ashley Rabbit and Ms. Brenda Rabbit but never Mr. Clyde Rabbit. As supervisor, she would have had access to all the files which would consist of case notes, contact notes prepared by the caseworker, the expenditure file, the legal file, the kinship file and the family group conference file.

[69] Ms. Orr became aware of the kinship possibility regarding this family in 2012. She recalls attending one family conference where there was a discussion regarding private guardianship under the *Family Law Act*, SA 2003, c F-4.5 or under the *Child, Youth and Family Enhancement Act*. She testified that Ms. Brenda Rabbit and Ms. Ashley Rabbit wanted private guardianship under the *Family Law Act*. It is difficult to understand how this could have been an issue for them as neither Ms. Brenda Rabbit nor Ms. Ashley Rabbit were legal scholars. The evidence of Ms. Brenda Rabbit is that she did not receive any legal advice prior to the Private Guardianship Order. The difference between the two, as described by Ms. Orr, is that if private guardianship is granted prior to the granting of a Permanent Guardianship Order, then Ms. Brenda Rabbit would not have been entitled to any financial assistance under the SFP program. If private guardianship was granted after a Permanent Guardianship Order, then she would be entitled to financial assistance under the SFP

program. Ultimately, as the inquiry has been told, the Private Guardianship Order was made after the Permanent Guardianship Order. The inquiry has received information regarding SFP and it appears for Serenity, for the 12-month period after the private guardianship was granted, Ms. Brenda and Mr. Clyde Rabbit received approximately \$9,000.00 for Serenity's care alone from the SFP. Ms. Brenda and Mr. Clyde Rabbit also received funds for K and N.

[70] The designated person from the delegated First Nations agency was Ms. Helen Bull who was employed with AKO. It is clear from the information provided that Ms. Helen Bull was involved with the kinship application from very early on.

[71] As early as July 25, 2012, when Ms. Ashley Rabbit attended mediation and a mediated agreement was reached where she had named Ms. Brenda and Mr. Clyde Rabbit as potential kinship providers. According to Ms. Orr, Mr. Clyde Rabbit was described as anti-government in that he did not want the government involved in his family. As a result, Ms. Brenda Rabbit was the point person who Children's Services contacted. From the evidence before the inquiry, Ms. Brenda Rabbit also showed a similar distrust of government.

[72] Ms. Orr was well aware of Ms. Brenda Rabbit's hesitancy to work with Children's Services. On February 26, 2013, Ms. Orr wrote to an individual called Ms. Irene Loutit, the Aboriginal liaison. She asked Ms. Loutit for assistance dealing with Ms. Brenda Rabbit due to issues they were having with her. In that email, she explained that there were difficulties in communication and a lack of cooperation from Ms. Brenda Rabbit. Ms. Boyce, the assessor, had many difficulties arranging a date for the home study and was only given one day, March 22, 2013, to meet. Further, the initial weekend visits by N, K and Serenity had been problematic. Issues after these visits had been brought up by individuals whose names were redacted. Ms. LaPlante had attempted to call Ms. Brenda Rabbit without success on a number of occasions. Visits by Children's Services were cancelled

because of the significance of issues (of which the inquiry was not told what they were). Despite this, she thought that with the right conversation between Ms. Brenda Rabbit, Ms. LaPlante, Ms. Worthington, they could come up with a solution. The email goes on to note that they had been working with Ms. Brenda Rabbit for approximately one year. Ms. Orr asked Ms. Loutit to see if she could meet with Ms. Brenda Rabbit and Ms. Helen Bull to work on a solution before the April 18, 2013 permanent guardianship trial.

[73] It took more than a month before a meeting could be set on March 28, 2013. It is unclear whether that meeting took place. The inquiry was told there were two overnight visits before April 18 and a week-long visit after the Permanent Guardianship Order was made on April 18, 2013.

[74] When asked about that short transition process, Ms. Orr's response was that of a person whose interest was not of the best interests of the child, but the best interests of the adults involved. The effect of removing a child who had been with the same foster family for more than 2 years did not appear to be a part of Children's Services' decision-making process. Again, when asked about the actions of the visit driver supervisor, Ms. Janet Magrum, on April 15, 2013, Ms. Orr's focus was on the inappropriate behaviour of Ms. Magrum of talking to the children's lawyer and talking to the foster parent (Ms. Diana Hopgood), rather than the fact that there were serious concerns being raised regarding the care of these children in the Rabbit home. Nowhere in the notes is there any indication that, prior to April 18, 2013, Ms. Diana Hopgood was called, either by Children's Services or the children's lawyer, Ms. MacPherson, despite Ms. MacPherson having received a call from Ms. Diana Hopgood's daughter regarding a letter that her mother had prepared for court. Ms. MacPherson told the daughter that her mother would have to appear in court, which she did not do (which may have been due to having had recent surgery). Nor is there any indication that the lawyer for Children's Services called Ms. Hopgood.

[75] Ms. MacPherson could have addressed Ms. Diana Hopgood's concerns prior to the Permanent Guardianship Order being granted on April 18, 2013 with a simple phone call to Ms. Diana Hopgood and a follow up with Children's Services.

[76] In 2013, Ms. Orr stated that there was no policy regarding full disclosure to proposed private guardians. She indicated that has now changed and a child history form is now required which gives the child's full history. This was changed after the Child and Youth Advocate's report on Serenity's death.

[77] In July 2013, Ms. Orr became aware of concerns raised regarding the children from Ms. Ashley Rabbit and another caseworker, Ms. Laura Warzin. As a result of these concerns, a specialized assessment was requested. Her reason is set out at page 31, lines 17-32 of the September 13, 2021 transcript:

A: Because there was a -- there was a few incidences that occurred that I wanted to get -- I wanted to get a second opinion. I wanted to have somebody outside of the case team and outside of myself come in and take a look at the themes and what was going on and, um, see if we could mitigate it or not or if the children needed to be removed.

Q: So am I hearing you correctly that it was both the number and nature of the concerns being raised?

A: Yeah, I would say, and the intensity of it. Yeah, there was definitely -- because I mean the marks on the kids, they were present. So they weren't something that in terms of when I think about physical care of children, when we see marks on children and we take pictures and all that kind of stuff and -- we take it very seriously. So that in conjunction with the reality that I knew from the beginning of this when we had started the transitions in February and then in April that both foster parents were not thinking this was a good placement. I wanted to make sure that I -- I stepped outside of myself and outside of the case team to see if there was something that we needed to address separate and above.

[78] There were also medical appointments made for Serenity and her siblings. Ms. Orr's testimony is that Dr. Ward, after discovering Serenity had been in care, was not so sure that "failure

to thrive” diagnosis was appropriate and that he needed to do further investigation. (Dr. Ward’s notes appear to contradict Ms. Orr).

[79] Ms. Tippe, the specialized assessor, was given the task to investigate the concerns raised including the concern raised by Dr. Ward regarding “failure to thrive.” During this time, a referral was made to a pediatrician who Serenity did not see until October 16, 2013, 8 days before the legal Permanent Guardianship Order was made. The court summary for the application for the private guardianship was prepared October 15, 2013, prior to the pediatrician visit. Ms. Orr did not prepare the report, but did sign off on the summary, which was presented to the court.

[80] The court summary stated Ms. Brenda Rabbit was addressing any medical concerns. The report does not outline the issues raised by third parties in July 2013 or that a specialized assessor had been engaged. Ms. Ashley Rabbit was not given the application for private guardianship application and Ms. Orr stated that she had been told that Ms. Ashley Rabbit was not contesting the application. Yet, the case notes dated October 15, 2013 (Tab 17 F1-0061) prepared by Ms. Orr was that Ms. Ashley Rabbit was not necessarily supportive of private guardianship and it was not certain whether or not she would contest. When asked why that was not reflected in the court summary, Ms. Orr’s answer was to deflect responsibility to Ms. Worthington. Ms. Orr referred to a conversation between Ms. Ashley Rabbit and Ms. Worthington on October 11, 2013 where Ms. Ashley Rabbit stated that she would not be contesting private guardianship. The court summary, however, was not updated to reflect that Ms. Ashley Rabbit was not necessarily supportive as of October 13, 2013, 2 days later.

[81] Ms. Orr was unable to answer the following questions:

- 1) Whether Ms. Ashley Rabbit had been giving a copy of the guardianship application,

- 2) Whether the HAR assessment had been provided to Ms. Brenda Rabbit,
- 3) Whether Ms. Brenda and Mr. Clyde Rabbit had received legal advice prior to the permanent guardianship application (which we have heard they did not), and
- 4) Whether Ms. Brenda and Mr. Clyde Rabbit had received a copy of the court summary.

[82] Ms. Orr was shown an email from a person (whose name was redacted) dated October 10, 2013 expressing concerns regarding the placement of children with Ms. Brenda Rabbit. She was unaware if anything in that report was followed up. It is unknown who wrote that email.

[83] When Ms. Orr was asked about the June 2014 incident at West Edmonton Mall, which she had been made aware of and where Ms. Pauline Hunter of AKO had called regarding a restriction on the file, she had no memory of what she did as a result, except to state that she would have asked Ms. Worthington to deal with it. She, as supervisor, did not follow up. She was not able to explain why there was no record of any action taken to lift the file restriction. As to why the restriction was placed, she was unsure although she believed it was because Ms. Laura Warzin (a practicum student at the time) was related to the Rabbit family. Ms. Laura Warzin is the same person who expressed concerns regarding placement in July 2013. The restriction was not lifted in June 2014 and there is no indication that there was any follow up by Children's Services or AKO about the welfare of the children at that time. Had the Northern Alberta After-Hours Child Intervention Services (NACIS) been contacted by AKO, the inquiry was told by Ms. Orr that the restricted information could have been accessed. Another deflection. The person at AKO who received the report was Ms. Virginia Blackplume who instead of contacting the NACIS, contacted the Wetaskiwin office and was told of the restriction. This resulted in no information being provided to AKO. Unfortunately, AKO also did not see fit to make further inquiries at that time.

[84] Upon questioning by counsel for Ms. Ashley Rabbit, Ms. Orr confirmed that in 2013, it was not a practice that a person would have legal representation when applying for private guardianship, after a permanent guardianship order. She did not agree with the Child and Youth Advocate's recommendation that all kinship providers be required to take training as she did not think it was always necessary. She would have been concerned that there were 14 persons living in an 8-bedroom house as was the case in the Rabbit home at that time.

[85] Ms. Orr was asked about the children having higher needs than an average 3-year-old. Her answer was disingenuous when she said Serenity had no more issues than "an average 3-year-old." To make such a comment shows a total lack of understanding of children who have been taken from their biological parents at an early age. Serenity was not an average 3-year-old. Serenity was born to a mother who, from all accounts, had been properly looking after her, but found herself a victim of violence. Serenity was removed from her mother at 6 months of age, placed in a stranger's home where she continued to see her mother. Serenity would have had no understanding of why she was not with her mother. She was then placed in the home of older adults who had many children in their home and who were essentially strangers to her. She was also placed with siblings who, other than visits, were not well known to her. Serenity was not an average 3-year-old. Ms. Orr, with this answer, demonstrated her lack of understanding of the trauma a child suffers as a result of being removed from parents and being shuffled about. It is incredible that none of the children would have received some counselling, particularly when being removed from their foster homes where, from all accounts, they had been treated well. Concern for the children's best interests seems to have been lost and the least of their worries. It is also clear from Ms. Orr's testimony that the Louis Bull Tribe and AKO were fully aware that the children had been placed in the care of Ms. Brenda and Mr. Clyde Rabbit. The Louis Bull Tribe and AKO were supportive of that placement despite concerns having been brought up. No effort was made by AKO to have access to the Children's Services file

once the children were placed with the Rabbits, nor did Children's Services forward the file to AKO. Rather, they imposed a restriction of access.

[86] Ms. Orr was also quick to transfer responsibility to AKO for the oversight after October 28, 2013. Ms. Worthington did make a call to AKO after being called by Dr. Ward that Serenity had not been brought in for follow up in November 2013. However, this only resulted in Serenity's last visit to a doctor on November 29, 2013 but no further follow up.

[87] Ms. Orr was clear that Ms. LaPlante was very concerned regarding "malnourishment", but again Ms. Orr downplayed that issue as she said the children had always been small (this is the comment made by an individual who had not had any direct contact with the children, but would see them in the hallway). When referred to Ms. Tippe's report, which stated she had been told by caseworkers there were no concerns regarding K and N (despite the doctor indicating N was underweight), Ms. Orr was quick to say more detail may have been provided verbally to Ms. Tippe which had not been noted on the file. Further, she was unable to say why Ms. Tippe prepared a report prior to the Serenity's visit with the pediatrician on October 16, 2013. Ms. Tippe's report clearly stated that Dr. Ward saw no medical reasons which would affect her weight, and it is for that reason, he referred her to a pediatrician. Prior to the permanent guardianship hearing, Ms. Orr agreed that no one in her office talked to Dr. Patidar even though Dr. Patidar had seen Serenity on October 16, 2013. As well, despite the recommendation of Dr. Ward that the children be seen in 3 months, no follow up was done until November 29, 2013, and only after Dr. Ward had called Children's Services. Ms. Orr agreed that no reports from Ms. Brandi Diebert regarding Serenity were ever provided to Ms. Brenda Rabbit. Finally, although Ms. Orr acknowledged that AKO was understaffed, she would not acknowledge they were under-resourced.

[88] In her testimony during the inquiry, Ms. Orr left the impression that Children’s Services was more concerned with process and expediency than the best interests of this young child.

[89] The affidavit sworn by Ms. Worthington on October 23, 2013 containing her case summary dated October 15, 2013, signed by Ms. Worthington and Ms. Orr in support of the Rabbits’ private guardianship application is filled with, at best, misinformation and omissions, at worst, deliberate misleading statements.

[90] In the first section, entitled History, the reader is led to believe that Ms. Ashley Rabbit was “unwilling to work with supports,” that she “did not maintain regular contact with the children”, that in June 2011, she appeared “unwilling/unable to work towards mitigating concerns” that brought Serenity into care, and that at the permanent guardianship application, she “agreed” to be silent on access. The notes and testimony before the inquiry contradict this statement. Ms. Ashley Rabbit has been seen throughout as trying very hard to get her children back, and maintained regular contact with her children under circumstances which were not always easy. She was not a disengaged or disinterested person as this court summary would have the reader believe.

[91] The section related to kinship does not refer to the difficulties that Children’s Services had in obtaining the cooperation of Ms. Brenda and Mr. Clyde Rabbit. There was no mention that transition visits were cancelled in February and that there were few transition visits that occurred before the final move May 3, 2013. Nor was there mention of any of the complaints in July 2013 or the special investigation report done by Ms. Tippe. Information regarding medical issues was deceptive. The paragraph stated:

Since the children were placed with Brenda, some medical concerns with respect to the children’s eating habits, their small stature and allergy related issues have been assessed. Brenda has worked with the Department and has followed through with all requests made by the involved medical professionals to address any identified needs. As of October 2013, all three children were stated to be healthy with no on-going

concerns. Brenda will follow up with the Pediatrician (specific to Serenity) in three months as recommended by the Pediatrician.

[92] The inquiry has received documentation that Ms. Brenda and Mr. Clyde Rabbit had not followed through with requests. In fact, Ms. LaPlante had to force the July 2013 attendance with Dr. Ward by bringing Ms. Brenda Rabbit and Serenity to the clinic. The evidence also does not support the statement that all 3 children were stated to be healthy – by whom and where was the information to support that statement?

[93] There is a conflict in the evidence as to whether Ms. Ashley Rabbit was in agreement to the private guardianship application. Certainly, Ms. Worthington was aware of Ms. Ashley Rabbit's hesitancy. Visits by Ms. Ashley Rabbit after the children were placed with Ms. Brenda and Mr. Clyde Rabbit had to be held at the Children Services' office due to difficulties with visits at the Rabbits' home.

[94] The report goes on to say that the transition was difficult for Serenity but "today she is very affectionate with Brenda and she is thriving at home with her siblings and large extended family." It is difficult to understand how such a statement can be made as there was no updated home assessment done and no indication of home visits done in September and October of 2013. The report also states "Serenity has had a full medical assessment including bloodwork and an appointment with a pediatrician and she had been declared to be healthy overall." This, too, leaves out Dr. Ward's "failure to thrive" concern, his request for the pediatric consult which the report was not received until November 2013, well after private guardianship was granted.

[95] The report does discuss ongoing consultation with AKO's designate, Ms. Helen Bull, who was aware of the October 24, 2013 court date but does not state any plan to transfer to the file to AKO.

[96] The report paints a very different picture than the one that has emerged at this inquiry.

HOME STUDY PREPARED FOR PERMANENT GUARDIANSHIP APPLICATION

Ms. Teri Boyce

[97] The home study in support of the kinship application was completed by Ms. Boyce. Ms. Boyce was a contractor for Children's Services providing home assessments from 2009 to 2013 (formerly, social workers employed by Children's Services would complete these reports).

[98] Ms. Boyce received her instructions from Ms. Petit, a kinship care worker with Wetaskiwin Children's Services. At the time, there were 2 models for assessments: the Home Assessment Report (HAR) and Structured Analysis Family Evaluation (SAFE). The SAFE was felt to be more intrusive and could bring forward past traumas. As a result, HAR was recommended for Indigenous families (the inquiry has referred to previous correspondence between Ms. Helen Bull and Ms. Worthington stating AKO wished for the HAR model as opposed to SAFE model). That policy has now changed and SAFE assessments are now completed in all cases. Ms. Boyce did indicate in her testimony that she has now received cultural training with an Elder regarding how to ask questions appropriately and how to complete interviews, including extending time periods for interviews as to minimize trauma.

[99] Documents for each child called SAFE Compatibility Inventory were completed by Ms. Worthington. Ms. Brenda Rabbit had completed a SAFE questionnaire on February 2, 2012. The first red flag for Ms. Boyce was that Mr. Clyde Rabbit had not completed a similar form. Ms. Boyce was told by Children's Services to proceed with only Ms. Brenda Rabbit's questionnaire completed. Ms. Boyce was also provided with the kinship application completed by Ms. Brenda Rabbit in February 2012.

[100] Ms. Boyce was asked to do the HAR on February 8, 2013 when she was forwarded all of the documents that were available by email. Ms. Boyce did not receive the safety questionnaire by Mr. Clyde Rabbit, the O4C training certificate, medicals for both and financial documentation. The inquiry has heard medicals were completed and later provided. Although this was not mentioned in the email, Ms. Brenda Rabbit had been asked to provide criminal record checks for Dylan and Tashina as they were her adult children living in her home.

[101] Ms. Boyce was asked by Ms. Petit to do the report quickly. She was not given a reason why. This was the second red flag. Her report was completed on April 2, 2013, 16 days before the Permanent Guardianship Order application. A HAR typically involves 3 visits (although only 2 occurred). The first is primarily a “meet and greet.” The second consists of a more in-depth personal history information session. The final visit focusses on parenting abilities. Mr. Clyde Rabbit was not at the first visit. When Ms. Boyce was able to speak with him, he was extremely resistant which did not change throughout. Ms. Boyce acknowledged had there been more time for relationship-building, Mr. Clyde Rabbit’s attitude may as well changed, however, she was not given the time. Although there were 4 of the Rabbit children under the age of 18 living in the house, she did not interview them separately, but did observe them in the home where she said they appeared to be comfortable. Ms. Boyce was informed that their son Dylan and his fiancée were also living there. At the time, they were over 18 years of age. Ms. Boyce required a criminal record check of all adults in the house, but was told by Ms. Petit that this would come later. The inquiry has heard that this was never completed. Although Ms. Boyce had concerns regarding Mr. Clyde Rabbit’s willingness to work with Children’s Services, she was assured by Ms. Petit that this would not be a problem. Ms. Boyce was not given any information regarding N, K and Serenity as to their needs and any problem behaviours.

[102] When asked by the inquiry counsel whether the HAR allowed Ms. Boyce to assess whether the caregivers could meet complex needs of the children in their care, her response was no, it did not. She believed a longer period of time was required to complete the report, more information was needed and follow up with the family once they were placed was important.

[103] Ms. Boyce acknowledged upon questioning from the inquiry judge that in the case where an assessment is done, but the children are not yet in the home, an updated assessment should be completed to assess how the children are doing after placement. She also acknowledged that she was unaware that there was any change in Department policy made in 2016 which now requires kinship providers to receive all of the medical and school information. As it is, the medical and behavioural information provided in this case was limited. Although there was a reference to feces smearing, it is not clear how often this had happened. She also noted that foster parents are not routinely asked about the children's behaviour directly by the assessor. Any information received about the children is at best, thirdhand through the case worker.

[104] The information in the documents and before the inquiry leads to a finding that this home study was rushed and did not address the issue of whether Ms. Brenda and Mr. Clyde Rabbit could manage N, K and Serenity with everything else that was going on in their lives. It is also clear from the evidence that the Rabbits were reluctant participants. Again, Children's Services' concern seemed to be focused on closing this file.

Ms. Ardis Petit

[105] Ms. Petit is presently a caseworker with Wetaskiwin Children's Services. From 2011 to 2014, Ms. Petit she was a kinship care and foster care support worker. Her job was to work with

families who are identified as potential kinship persons. She also provided foster care support to foster parents. She identifies as an Indigenous person.

[106] Ms. Petit first became involved with the family at a case conference meeting on February 1, 2013 where both Ms. Ashley Rabbit and Ms. Brenda Rabbit were present. Mr. Clyde Rabbit was not present. Ms. Brenda Rabbit received the kinship care package consisting of information about kinship care. At no time did Ms. Petit review the information package, including the booklet outlining the duties and responsibilities of kinship. Rather, Ms. Petit's approach was to give Ms. Brenda Rabbit the booklet and consider her job done.

[107] Ms. Petit also had communication with Ms. Boyce who prepared the home assessment. Ms. Petit was aware of concerns regarding communication with Ms. Brenda Rabbit as she too had difficulties connecting with Ms. Brenda Rabbit who would not return calls and whose phone numbers would change without notice. This led to the February 26, 2013 email from Ms. Orr to Ms. Loutit (referred to in paragraph 71 of this report).

[108] In July 2013, Ms. Petit was on vacation and her cover-off was Ms. Donna Gassner. Ms. Petit was not aware of the July complaints, despite having access to the notes made during this time. Ms. Petit completed the safety environmental assessment with Ms. Brenda Rabbit. She testified that she understood that Ms. Brenda and Mr. Clyde Rabbit were hard to work with, but this is not unusual. She said this process was demanding and believed Ms. Brenda and Mr. Clyde Rabbit to be sincere. Although she talked to Ms. Brenda Rabbit about kinship training (which in 2013 was not mandatory), she testified that Ms. Brenda Rabbit was indifferent to that training and as such did not receive it.

[109] Ms. Petit did not recall giving Ms. Brenda Rabbit a copy of the HAR or being asked for a copy. She also did not give any information regarding the children's needs to Ms. Brenda Rabbit.

She stated that would be the caseworker's responsibility. After the July 26, 2013 home visit where Ms. Donna Gassner, her holiday replacement, attended at the Rabbit home regarding the July concerns, Ms. Petit did not follow up with Ms. Gassner.

[110] Ms. Petit stated that as a foster care support worker, she saw N and K. She did not see Serenity and knew very little about her, nor did she try and find out about this child. As a result, she did not pass on any information regarding Serenity to Ms. Brenda Rabbit. She testified that in hindsight, she should have worked harder and been firmer with Ms. Brenda Rabbit. She stated that now more information is provided to the kinship families.

[111] Ms. Petit acknowledged that once she received Ms. Boyce's report, she essentially rubber-stamped Ms. Brenda Rabbit's application.

[112] Ms. Petit's ignorance about childhood trauma clearly came through when she testified that the children were exposed to trauma as a result of being exposed to domestic violence. She had no understanding of the trauma experienced by children at the loss of their mother, seeing their mother on a regular basis but never being allowed to go home with her, or the trauma of going from a stable foster home where they had been for more than 2 years to a home where they were essentially strangers to the adults and children in that home.

[113] Ms. Petit testified that she had no concerns regarding the home. Although, initially, there were too many vehicles on the property, she said the Band had assisted with the removal of some of the vehicles. The photos taken by the RCMP on September 17, 2014 continued to show debris in the yard which appears to have been there for a while. Although the debris had been identified by Ms. Boyce as unsafe, the Rabbits had been given a year to clean up the debris but had not done so by the date of Serenity's death.

[114] Ms. Petit did not think the yard was unusual for homes on reserves. She said the children were taught early about safety. The difficulty is that these children were not raised on reserve.

[115] Ms. Petit was prone in her evidence to deflect responsibility to other persons, particularly the caseworker and special investigator. She showed little curiosity or initiative. She did little, if anything, to assist Ms. Brenda and Mr. Clyde Rabbit through the kinship process, despite being their support worker. Handing them an information booklet is not enough. At the very least, she should have spent time explaining the process to them. Ms. Petit was there to provide support to Ms. Brenda and Mr. Clyde Rabbit, however that was completely lacking. She also clearly showed a lack of interest in the children themselves, particularly Serenity. How could she properly support the Rabbits in this process when she knew so little about the children's needs? She was also quick to justify Ms. Brenda Rabbit's inaction of not calling back and not cooperating fully with the assessor. Her evidence was one of extreme defensiveness. When asked about the children, particularly about K and N, she said they were "bright, active and beautiful children." She had much praise for Ms. Diana Hopgood and called her a "mom of the year". She said Ms. Diana Hopgood had a good relationship with Ms. Ashley Rabbit. Ms. Diana Hopgood thought highly of the children and had "worked really hard to give these kids a good life." Despite this, Ms. Petit seemed to show little concern, if any, for the children's best interests. The inquiry has heard that Ms. Diana Hopgood had expressed concerns regarding Ms. Brenda and Mr. Clyde Rabbit's household prior to the Permanent Guardianship Order and placement of these children. One must wonder if these concerns were ever expressed to Ms. Petit at any time.

Ms. Janet Magrum

[116] Ms. Magrum did not give evidence at the fatality inquiry, but did give evidence at the preliminary inquiry on February 20, 2019. She was a supervisor of visits (family support worker)

hired by Children’s Services in or around November 2011. Ms. Magrum was involved with the children approximately 2 times a week for more than a year. During that period of time, she had no concerns regarding the children’s visits with Ms. Ashley Rabbit. On April 16, 2013, she was fired after expressing her concerns regarding placement of the children with Ms. Brenda and Mr. Clyde Rabbit. She expressed these concerns to her supervisor, Ms. LaPlante and Ms. Hopgood. Ms. Magrum had been to Ms. Brenda and Mr. Clyde Rabbit’s home at one point to pick up K’s inhaler which had been left behind after a visit. She was concerned about K’s allergies and the state of the yard which she said was full of debris. Ms. LaPlante had told her that Ms. Brenda and Mr. Clyde Rabbit were being given a year to clean up the yard.

[117] Ms. Magrum also testified that she spoke with Ms. Ashley Rabbit who had said to her that kinship arrangement was better than adoption and that she believed she would never see her children again if they were adopted.

[118] Ms. Magrum spoke to Ms. MacPherson (the lawyer for the children) just prior to the permanent guardianship and prior to being fired when she took Serenity to see Ms. MacPherson. She had testified that Ms. MacPherson had said “I hope we are doing right by these children.” The next day, Ms. Magrum took K and N to see Ms. MacPherson and asked what she had meant by that statement. Ms. MacPherson’s response was that she was speaking about the Rabbit children and if someone would speak up, perhaps the Permanent Guardianship Order could be delayed. It was then that Ms. Magrum took it upon herself, breaching policy, to speak with Ms. Diana Hopgood. Ms. Magrum suggested that Ms. Diana Hopgood go to court. From the notes of Ms. MacPherson, we know that Ms. Diana Hopgood wrote a letter which she asked her daughter, Ms. Susan Hopgood, to take to Ms. MacPherson to be presented to the court. Ms. MacPherson’s file indicates a phone call from Ms. Susan Hopgood, who was told that Ms. Diana Hopgood would have to come to court

herself if she wanted to express her concerns. Ms. Diana Hopgood had had surgery and K and N had been in a temporary home while she was recovering. Unfortunately, according to the transcript, Ms. MacPherson made no mention of this conversation at the hearing, nor is there any indication that she tried to delay the application, nor are there any notes on her file that she had called Ms. Diana Hopgood.

[119] The meeting that Ms. Magrum had with Ms. LaPlante was documented by Ms. LaPlante and provided to the inquiry. In the meeting, Ms. Magrum expressed her concerns regarding Ms. Brenda and Mr. Clyde Rabbit's home. She felt that she had not been part of any of the planning for these children despite being involved with the families for approximate 1.5 years. It was Ms. Magrum who was also driving the children to and from their visits at the Rabbits' home prior to the Permanent Guardianship Order. The visits consisted of 2 one-night visits and 1 weeklong visit in April 2013. (The weeklong visit only occurred as a result of Ms. Brandi Diebert having expressed concern about Serenity being removed from her home after 2 years, on very little notice, and after only 2 overnight visits at the Rabbits. Emails from Ms. Brandi Diebert and Ms. LaPlante, April 15, 2013). Children's Services had originally told Ms. Brandi Diebert that Serenity would be moved on April 18, 2013 after the permanent guardianship hearing. Rather than investigate further, Children's Services fired Ms. Magrum.

[120] The history of the weeklong visit was outlined in the April 15, 2013 email from Ms. Brandi Diebert regarding the weekend visit where Serenity had come back very fussy. This was the second overnight visit and, on both occasions, Serenity had come back upset and fussy. More concerning to Ms. Brandi Diebert was Serenity's behaviour when she attempted to change Serenity's diaper. Serenity tried to prevent removal while screaming. Ms. Brandi Diebert did not notice any physical problems in the diaper area, but did mention the upset to Ms. LaPlante. The email also inquired

about the court date. Ms. LaPlante did not respond to the email, but rather forwarded it to her supervisor, Ms. Orr, who responded that the trial was scheduled on Thursday, April 18, 2013 and that the children would be moving that weekend. Ms. Brandi Diebert's response is worth setting out in its entirety:

Are you kidding me??? Seriously, this child has been in our home since she was a few months old and she's almost 3 and you think two 24-hour visits are enough of a transition? And you think that telling six days in advance of her move is okay? And I was only told six days in advance because I asked, if I had not asked how much notice I have gotten? Please do not give me a call, this is a complete shock to me and I think this is the most ridiculous load of bull I've ever dealt with in my five years of fostering and believe me, I've seen my share!

[121] A few minutes later, Ms. Brandi Diebert wrote again saying:

I would like to appeal the decision to move Serenity without a decent amount of transition, I believe it is not in her best interest to be just plunked somewhere that she is not familiar, two one-night visits are hardly enough for her. Could someone please send me the necessary paperwork?

[122] Ultimately, the children are not transitioned until after a week-long visit and the transition occurred on May 3.

[123] None of the concerns of Ms. Magrum, Ms. Diana Hopgood or Ms. Brandi Diebert were expressed to the court on April 18, 2013. There has been no satisfactory explanation as to why kinship and permanent guardianship were so rushed. Everything about the transfer of these children to the care of Ms. Brenda and Mr. Clyde Rabbit appears to have been done without regard for their best interests.

ADVOCATE FOR THE CHILDREN

Ms. Jane MacPherson

[124] Ms. Jane MacPherson was appointed to represent all 3 children on January 30, 2012 by the Office of the Child and Youth Advocate. At the request of the inquiry judge, a copy of Ms.

MacPherson's file was obtained by inquiry counsel. Ms. MacPherson was unable to give evidence as she passed away in 2014. Unfortunately, the file consists primarily of her accounts to the Office of the Child and Youth Advocate. There are very few notes, but a handwritten note dated August 30, 2012 which documents a call with Ms. Diana Hopgood, foster mother of N, is of interest. The note indicates that visits with Ms. Ashley Rabbit during the summer had gone well. Ms. Ashley Rabbit was consistent and not missing any visits. Visits were on Sundays and Mondays. On April 12, 2013, Ms. MacPherson wrote Mr. Henderson, counsel for Children's Services, asking for updated disclosure which had yet to be received as there is nothing on the file showing receipt. This was 6 days before the actual trial date set for permanent guardianship. It is not clear from the file whether any or all of the documentation was received. The final notation was April 17, 2013 when a phone call from Ms. Diana Hopgood's daughter was noted. This note regarded a letter that Ms. Diana Hopgood wanted delivered. Ms. MacPherson told Ms. Susan Hopgood that her mother had to bring the letter herself to court. From the court transcripts, it is evident that the letter was never provided, nor did Ms. MacPherson call Ms. Diana Hopgood and speak to her.

Mr. Brett Adamson

[125] Mr. Brett Adamson is currently the supervisor for foster and kinship care at the Wetaskiwin office of Children's Services. In 2013, he was supervising the SFP program, foster care and kinship care program and the child youth and support program. He had no direct dealing with Ms. Brenda and Mr. Clyde Rabbit or the 3 children. He worked with Sheena Sherault who was a SFP worker. Ms. Brenda and Mr. Clyde Rabbit received funding after the Private Guardianship Order pursuant to the SFP program. The basic support is equal to what foster parents receive. Additional financial support can be obtained for items such as general counselling, counselling to address the children's emotional and behavioural problems, and medical residential treatment. In this case, the Rabbits

were assessed as not having any extra needs, which contradicts the information received by the inquiry. Serenity had some behavioural issues. Further, these children, who had been removed from their mother, placed in 2 separate foster homes, then placed in what effectively was a stranger's home with at least 4 other children and were not able to see their mother, would at the very least have had the need for counselling to process what had happened.

[126] Mr. Adamson testified that in 2013, had Ms. Brenda and Mr. Clyde Rabbit wished for further support, they would have been the ones to ask for it. The primary support worker in 2013 would not have had any contact with the Rabbits on a regular basis, only during an annual review. As the children were out of the home by that time, the annual review that was to be completed was not done. Therefore, during that period of almost a year, there was no contact by the primary SFP worker.

[127] Mr. Adamson stated there was a change in policy in approximately 2017 so that there are now more supports being offered and more mentorship for families who take on private guardianship. More supports are offered to the children, such as day camps, music lessons and psychological supports. He testified that, even in 2013, guardians would have received a great deal of information regarding available supports. This again contradicts Ms. Brenda Rabbit's testimony and what others have said and written in their notes. In this case, the Rabbits received little information regarding the children's needs and supports available.

EVENTS POST-PERMANENT GUARDIANSHIP TO OCTOBER 28, 2013 FROM THE CASE NOTES

[128] After April 18, 2013, Ms. Ashley Rabbit continued to have supervised visits with the children at the district office. The children were happy to be with their mother (May 30, 2013). No concerns were raised, but all 3 children were quiet. June 6, 2013 was another visit where no concerns

were raised, but again all 3 children were quiet. Ms. Brenda Rabbit then cancelled visits with Ms. Ashley Rabbit on June 13, 2013 and June 20, 2013. Although Ms. Ashley Rabbit was not happy, she did not complain. She was told to contact Children's Services on June 25, 2013 to arrange a visit. She called on June 26, 2013 and was told Thursdays no longer worked for visits and they would have to occur on Wednesdays. Missed visits would be made up on July 2, 2013 and July 4, 2013, then regular visits would start on July 10, 2013 from noon to 1:30 PM. Ms. Ashley Rabbit also asked for Saturday, July 13, 2013 from 11:00 AM to 2:00 PM to have a birthday party at the Boys & Girls Club. While Ms. Brenda Rabbit had arranged for pickup at the daycare on July 2, 2013, the driver, Amanda, was told the children did not go to daycare anymore. Ms. Brenda Rabbit disputed that, saying the children did go to daycare but not when she was at home (this could have been easily been verified by the caseworker). On July 2, 2013, the children were not at the daycare. Ms. Brenda Rabbit stated she forgot about the visit, despite being told a number of times of the date. The July 4, 2013 visit did occur. Ms. Brenda Rabbit complained on July 8, 2013 that the children had seen Ms. Diana Hopgood, at the Dairy Queen during that visit. She then cancelled the July 10, 2013 visit. It is not clear why the children seeing their former foster mother would have upset Ms. Brenda Rabbit.

[129] After the July 13, 2013 birthday party, Children's Services received 2 phone calls from third parties on July 15, 2013 regarding concerns about the children. One phone call was from the visit supervisor and the other from an unidentified person referred to as an aunt of Ms. Ashley Rabbit. Both callers commented that they had concerns regarding weight, mosquito bites and bruising on Serenity. This resulted in an **announced** visit by Ms. LaPlante and Ms. Worthington to Ms. Brenda Rabbit on July 15, 2013. The visit documented in the notes seemed to be concerned more about upcoming guardianship and financial issues than about the concerns raised by the callers. When asked about the bruise on Serenity's cheek and diaper rash, Ms. Brenda Rabbit had answers that

appeared to satisfy the caseworkers. She was told, however, to bring Serenity to see a doctor due to complaints by Ms. Brenda Rabbit of excessive drinking and “pooping”.

[130] On July 17, 2013, Ms. LaPlante met with Ms. Ashley Rabbit who was very upset about her children’s wellbeing. She was told about the July 15, 2013 visit and that Children’s Services had no concerns. Ms. Ashley Rabbit expressed concerns of the children remaining in Ms. Brenda Rabbit’s care. Ms. LaPlante assured her “the Director was checking all leads and we would make sure they were safe and not hungry.”

[131] On July 18, 2013, Ms. Orr received an email regarding the children from the constituency office of Mr. Verlyn Olson, the MLA for Wetaskiwin-Camrose at the time. This email appeared to have motivated the caseworkers to finally take some action.

[132] On July 19, 2013, there was a further meeting between Ms. LaPlante and Ms. Ashley Rabbit. Again, Ms. Ashley Rabbit outlined her concerns. She felt that she was not being listened to. Her son, C, had been apprehended from her on July 18, 2013 at 1 month of age. Again on July 19, 2013, Ms. LaPlante and Ms. Orr met with the third caller (unknown) about concerns that they had during the July 13, 2013 birthday party. That person was reassured that the department was monitoring the situation. The notes indicate that although Ms. Brenda Rabbit said she would bring the children to the doctor, she did not do so. She told Ms. LaPlante on July 23, 2013 that she was too busy and could not take time off work. She was told to bring the children to see a doctor and she ultimately did so on July 24, 2013 which again resulted in a cancelled visit for Ms. Ashley Rabbit. On the same day, July 24, 2013, Ms. LaPlante went to see Dr. Ward who said the following:

- 1) Mosquito bites were not a worry.
- 2) N was underweight and had poor weight gain.

- 3) K had proper weight, but needed to be followed up every 3 months.
- 4) Dr. Ward was concerned about Serenity who had poor weight gain and had lost 2.5 pounds since December 2012. He thought there was a “failure to thrive” or a medical issue.
- 5) Blood tests were done and Dr. Ward would have the results on July 26, 2013, after which he would contact Ms. LaPlante.

[133] On July 26, 2013, Ms. LaPlante left a message for Dr. Ward to call her back. On that same day, Ms. Brenda Rabbit was told that Serenity needed speech therapy and Dr. Ward would make a referral. Ms. Brenda Rabbit told Ms. LaPlante that K and N would not be going to daycare in the fall as they would be attending school. Serenity, however, would be in daycare fulltime starting in September (which did not occur).

[134] On July 26, 2013, Ms. LaPlante, Ms. Worthington and Ms. Donna Gassner (the foster care support person), again made an **announced** visit where pancakes were on offer. Ms. Worthington met with K and N, who had some conflicting stories. K said he was never allowed to go outside to play. N said both went outside to play and they both liked daycare.

[135] On July 30, 2013, Ms. LaPlante was told by Dr. Ward’s office that the children’s bloodwork was negative which meant that there was no medical reason for Serenity’s low weight. Ms. Brenda Rabbit was to go see Dr. Ward with Serenity on August 2, 2013. Just prior to that, Ms. LaPlante, Ms. Worthington, Ms. Orr, Ms. Petit, Mr. Brant Adamson, Ms. Catherine Pohl, met with Ms. Tippe, the special investigator who had been tasked to investigate. It appears that this investigation was initiated as a result of the call from the MLA’s office.

[136] On July 31, 2013, there was a supervised visit by Ms. Ashley Rabbit. Serenity and N were again very quiet.

[137] On July 30, 2013 and July 31, 2013, Ms. LaPlante attempted to get a hold of Ms. Brenda Rabbit. On August 1, 2013, Ms. LaPlante spoke to her and reminded her of the second appointment with Dr. Ward. Ms. Brenda Rabbit seemed to think, according to the notes, as the bloodwork was fine, there would be no further problems with regard to medical issues. We have heard in this inquiry from Dr. Bannach that Serenity's low weight could have been due to medical reasons, but he would not have been able to determine that at the autopsy as this would have had to be done by bloodwork while she was alive. Dr. Ward found no medical reason for her low weight. This would make regular 3-month checkups important.

[138] Ms. Worthington determined that Serenity should be followed up with the pediatrician and asked Dr. Ward to make a referral, which was not scheduled until October 16, 2013 with Dr. Patidar.

[139] Ms. Tippe was the special investigator who was assigned to investigate complaints made during the summer. She met with Ms. Brenda Rabbit on September 18, 2013. On October 2, 2013, Ms. Worthington met with Ms. Brenda Rabbit at the daycare. She was told that the application for private guardianship would be set for November 28, 2013. On October 16, 2013, Serenity was taken to Dr. Patidar the pediatrician. Ms. Brenda Rabbit reported no concerns to the pediatrician. Dr. Patidar had not received any of Serenity's health records. There is no documentation to state why the private guardianship was moved up to October 24, 2013 and no indication that Ms. Ashley Rabbit was advised of this date change.

[140] The last note after the private guardianship was on November 7, 2013 when Ms. Worthington wrote that Dr. Ward's clinic had tried to get in touch with Ms. Brenda Rabbit but could not. Ms. Worthington had indicated that Ms. Brenda Rabbit was now the private guardian, but that

Children's Services would follow up with her. Ms. Worthington called and left a message for Ms. Brenda Rabbit regarding the 3-month checkup. No call was made to AKO to follow up as they now had jurisdiction. Notification of this to AKO would have alerted them to Serenity's medical needs and necessary follow up could have occurred.

[141] The last note is March 26, 2015 when Ms. Mackinaw had a home visit with Ms. Ashley Rabbit, N and K. Ms. Mackinaw informed Ms. Worthington that she talked about how happy the children were with their mother, how they were now living in British Columbia and how they did not want to visit Ms. Brenda Rabbit ever again.

Ms. Kathy Tippe

[142] In 2013, Ms. Tippe was a specialized investigator based in Red Deer, Alberta, having been in that position for approximately one year. In 2021, she was one of the 5 delegation trainers whose job it was to train newly hired child intervention practitioners during their 6-month training.

[143] Ms. Tippe first became involved with the Rabbit children on July 25, 2013 when she received an intake from the Wetaskiwin Children's Services regarding concerns about the 3 children. The concerns were outlined as mosquito bites, food concerns, Serenity presenting as malnourished, "failure to thrive" concerns, bruising on Serenity's head and legs, and whether Ms. Brenda Rabbit was following up on medical concerns. The investigation was to be completed within 30 days, but because of difficulty of arranging a time to interview both Ms. Brenda and Mr. Clyde Rabbit, the time period was extended. Ultimately, she was only able to meet with Ms. Brenda Rabbit and not Mr. Clyde Rabbit on September 18, 2013, one month before the Permanent Guardianship Order was granted.

[144] Ms. Tippe, along with her supervisor, attended the pre-conference meeting with the professionals who have been involved with the children. In this case, Ms. Orr, Ms. Worthington, Ms. LaPlante, Ms. Petit and Ms. Donna Gassner were in attendance. Unfortunately, the handwritten meeting notes that she made at that meeting have since disappeared from the file.

[145] Ms. Tippe met with the 3 children individually at the district office. Ms. Petit would look after the other children while Ms. Tippe interviewed each child individually. She interviewed only Ms. Brenda Rabbit as Mr. Clyde Rabbit would not make himself available, citing work obligations. She interviewed Dr. Ward who said he was concerned regarding Serenity's weight, but she testified that he did not use the term "failure to thrive". Dr. Ward did state he had referred Serenity to a pediatrician as the bloodwork had not found anything organic which would explain her weight loss. This is contradicted by Dr. Ward's records where he clearly sets out a "query failure to thrive". That was clearly noted in his referral to the pediatrician. Ms. Tippe did not have access to the medical records. Her report was released in early October 2013 after a post-conference meeting that was held on October 7, 2013. Ms. Tippe was aware that there was an upcoming court hearing regarding guardianship. She could not answer why the report was completed before the October 16, 2013 pediatrician appointment. She stated that when the report was to be completed was not within her scope of responsibility. Her manager at the time told her the file needed to be closed and the caseworker (Ms. Worthington) would have to follow up on any medical concerns.

[146] In Ms. Tippe's answer to questions from Ms. Flanders regarding her interview with Ms. Brenda Rabbit on September 18, 2013, it was noted that Ms. Brenda Rabbit asked many questions regarding private guardianship, healthcare benefits and ongoing contact with Ms. Ashley Rabbit. It is remarkable that Ms. Brenda Rabbit was so unclear about the basics of guardianship despite having a kinship support worker, Ms. Petit, who should have been giving her this information. From the

information provided to the inquiry, it is clear that Ms. Brenda and Mr. Clyde Rabbit were mostly blindly walking into this legal relationship and certainly without any legal advice.

[147] Upon questioning from Ms. Ashley Rabbit's counsel, Ms. Tippe agreed that what children say in interviews must be taken cautiously. She agreed that there may be many reasons why children may not disclose abuse or neglect in such an interview. When asked about using drawings to draw out issues of abuse and neglect, K and N were said not to be interested in participating. Serenity, she said, did not engage with her at all. She did not have the children's undivided attention during the interviews because they wanted to play with the toys. She could not recall how long she had spent talking to each of the children individually. She did not insist on talking with Mr. Clyde Rabbit as her manager wanted the report to be concluded.

[148] Ms. Tippe also had not received Ms. Ashley Rabbit's pictures or video that was submitted to Children's Services in July 2013. She did not ask about the bruising on Serenity's face as she did not see a bruise, which is not surprising as her interview would have occurred a few weeks after the July birthday party. Although there were 3 separate complaints, she took no steps to talk with any of the complainants as she was again told by her manager not to speak with them. Ms. Tippe was pointed to an email written by Ms. LaPlante regarding her meeting with Dr. Ward on July 24, 2013 where she relayed information received from Dr. Ward that N was underweight as was Serenity, who had lost 2.5lb since December 2012. His concern at the time was "failure to thrive," yet on the notes for the pre-conference meeting, Dr. Ward was said to have had no concerns regarding N. Ms. Tippe's explanation for the discrepancy was that this was the information she was given.

[149] When Ms. Tippe spoke to Dr. Ward, she did not make him aware of the complaints that had arisen following the birthday party. She also said that as Serenity had an appointment with a pediatrician, this would be followed up by Children's Services. The difficulty with that comment

was that once guardianship order was made on October 24, 2013, the file was closed. A restriction was put on the file by Ms. Worthington. AKO, who now had jurisdiction over these children, was not given any information by Children's Services regarding the children now in their jurisdiction, particularly Serenity's medical concerns and the need for follow up. AKO was not contacted after November 7, 2013 when Dr. Ward's office called Children's Services regarding follow up.

[150] When asked by Mr. McVey whether the investigation would have been done differently now, Ms. Tippe stated there would be much more collaboration, bringing in all of the players, although she still did not know if the complainants would be interviewed. In hindsight, she said that she would have interviewed both Ms. Brenda and Mr. Clyde Rabbit, done an actual home visit, interviewed other family members who were in the home at the time, contacted collaterals at the daycare and others who were concerned about the children. She would have asked for an extension until after the pediatric report was completed.

[151] When asked by the inquiry judge why she did not do those things, Ms. Tippe stated that the manager's direction was to complete the report with what she had. She also agreed it would have been important to talk to the complainants and Serenity's foster parents.

[152] In Ms. Tippe's evidence at the preliminary inquiry, she made some interesting comments to questions from counsel. She stated that Children's Services prefers kinship care because of "familiarity." It is better to place children in a familiar setting as opposed to someone they do not know. They would have formed an attachment to kin, but in this case, the 3 children were strangers to the Rabbit household. Further, in her testimony, she acknowledged that Serenity, who had lived with the Dieberts for more than 2 years, would have been attached to the Dieberts. The transition should have been gradual over some months unless there was cause for concern in the foster home

or the foster parent had indicated that they wanted to stop fostering. Neither of those situations was the case here.

[153] Ms. Tippe acknowledged at the preliminary inquiry that after Serenity's death, she was interviewed by the Office of the Child and Youth Advocate and the investigator for the internal death review.

[154] Ms. Tippe's report called "Assessment of Care Concern" consists of a total of 6 pages. In this report, she stated that Ms. Brenda and Mr. Clyde Rabbit had 6 of their biological children ranging in ages 9 to 17 in the home, which is 2 more than identified in the assessment of Ms. Boyce. Her comments from the meeting with Ms. Brenda Rabbit makes the household sound most idyllic. Her reporting of Dr. Ward's comments makes no mention of the words "failure to thrive" which was the actual reason for referral to a pediatrician.

[155] In Ms. Tippe's findings, she comments that all 3 children have been exposed to significant trauma in their early years, including lack of food and significant domestic violence. The inquiry has not received information regarding K and N's apprehension, but it has for Serenity. It is incorrect to say that Serenity was exposed to trauma. She was 6 months of age when she was apprehended. She had been seen by a public health nurse, who had no concerns about Serenity Rabbit's care. She was growing and doing well. It was clear that Ms. Ashley Rabbit was looking after her properly. It is true that domestic violence led to the apprehension, but whether Serenity saw that or if that had any affect on her at 6 months of age has never been explored. She had also been in a loving and caring foster home where she was not exposed to trauma. She had received consistent caregiving. The cause of Serenity's trauma, seemingly forgotten by most of the social workers, was removing her from her mother initially and then removing her from the Dieberts who cared for her for more than 2 years, to be put in a home where there were 6 children under the age of 18 and 2 adult children

who were unfamiliar to Serenity. In addition, Serenity had not lived with her older brother and sister for any period of time. She had only spent time with them on mostly artificial visits at the Children's Services office. Therefore, Ms. Tippe's statement is not backed up by the actual evidence.

[156] Ms. Tippe's next finding was that there was no neglect in the Rabbit home. This is entirely based on Ms. Brenda Rabbit's self-reporting. There were no collaterals contacted. The next paragraph relates to Ms. Brenda Rabbit's self-report that she would follow up on medical treatment, which she clearly had only done when required by Children's Services to do so. The inquiry has heard that Serenity did not see a doctor from November 2013 to her death, despite requests by the doctor that she be seen every 3 months.

[157] The last paragraph of Ms. Tippe's report is again based primarily on Ms. Brenda Rabbit's self-reporting and her very limited interaction with the children. Ms. Tippe's report found that the allegations reported of physical abuse and neglect were not substantiated. It is difficult to understand how the comment could be made when her interaction with the children was limited and when she did not speak to the complainants, the foster parents or any collaterals. Ms. Tippe now says that her report was hurried and that she was only following directions from her superior. Her function was to ensure that these children were safe and secure which she did not do, choosing only to follow "orders" to get the report done.

EVENTS POST-OCTOBER 24, 2013

Louis Bull Band Daycare

[158] Ms. Brenda Rabbit was employed with the Louis Bull Band Daycare. No members of the daycare staff were called at the inquiry, but staff members gave evidence at the preliminary inquiry in 2019 which has been reviewed. Serenity had attended the daycare starting on April 24, 2013

along with her brother and sister. Initially, she was attending on a regular basis after the transition to the care of Ms. Brenda and Mr. Clyde Rabbit, but her attendance became sporadic once N and K had started school in September. Three members of the daycare gave evidence, all of whom knew Ms. Brenda Rabbit for a number of years.

[159] The first witness was Ms. Carol Brown, the manager of the daycare who has known the Rabbits for more than 30 years. She testified at the preliminary inquiry that the daycare was located about 2 minutes from the Rabbit residence and 20 minutes from the hospital. On September 18, 2014, Ms. Brenda Rabbit arrived at work at 7:23 AM. She received a call regarding Serenity and left the daycare at 2:35 PM and did not return until approximately 6:00 PM when she came in to punch the time clock.

[160] Ms. Florence Brown worked at Louis Bull Band Daycare for 5 years from 2011 to 2016. She worked as a supervisor in the 3 to 6-year-old room. She was Ms. Brenda Rabbit's co-worker. Serenity was in her room after she turned 3. Ms. Brown testified that Serenity had a good appetite but was very tiny. In the spring of 2014, Ms. Brown suggested to Ms. Brenda Rabbit on a number of occasions that Serenity should see doctor regarding her weight. Ms. Brown did not contact AKO regarding concerns.

[161] Ms. Lisa Ann Raine was the daycare's receptionist in 2014. She had started in 1988. She confirmed she took a phone call on September 18, 2014. The caller asked to speak to Ms. Brenda Rabbit, after which she left the daycare.

[162] All 3 witnesses testified they did not see any signs of abuse, but all 3 found Serenity to be very small in stature despite having a good appetite. All 3 had known the Rabbits for many years. All 3 confirmed that in the spring of 2013, Serenity would regularly attend daycare, but beginning in September 2013, her attendance was sporadic. She was being cared for by the daughters of Ms.

Brenda and Mr. Clyde Rabbit. On September 18, 2014, Ms. Brenda Rabbit left the home early in the morning to go to work, leaving Serenity, N and K on their own with A and L. Mr. Clyde Rabbit was at work at the time.

Cst. Neil Haner

[163] Cst. Neil Haner testified at the fatality inquiry. He is a member of the RCMP and has been for 16 years. In 2014, he was posted at Maskwacis, Alberta and had been there for just over 3 years. It was Cst. Haner who investigated the June 2014 incident. On June 23, 2014, he attended at the Rabbit home as a result of a complaint made by the security guard at West Edmonton Mall. He was asked to check out the children's wellbeing. He attended at the home and spoke with Ms. Brenda Rabbit who allowed him into the home. Her explanation for the children's physical condition was that the children had previously had tapeworms and that she was in the process of taking them to a pediatrician. In this inquiry, there has been no evidence that any of the 3 children ever had tapeworms. Further, Serenity had not been to a doctor since November 2013 nor was there any evidence of a pediatrician appointment after June 23, 2014. Even if Ms. Brenda Rabbit was referring to the appointment with Dr. Patidar in the past tense on October 16, 2013, Dr. Patidar's notes do not indicate any discussion regarding tapeworms.

[164] Cst. Haner described the Rabbit house as having clutter on the outside but well-kept and clean on the inside. He did not have any difficulty accessing the residence in June 2014. He described in his report that all 3 children were quite skinny and N's head was shaved. K had bug bites on his arms. He spent a total of 10 to 15 minutes in the home. He did recall speaking to the children, but did not recall the actual contents of the conversation he had with the children.

[165] Cst. Haner testified that after he left the residence, he contacted AKO by phone and advised them of what he had observed. He spoke to "Victoria the on-call worker". The evidence in the

inquiry suggests that he spoke to Ms. Virginia Blackplume. Although he said his practice was to send a fax to AKO for follow-up, he does not recall sending any fax. No record of a fax being received by AKO has been provided to the inquiry. Ultimately, he said he was comfortable leaving the children in the Rabbit home even after only spending 10 to 15 minutes there. Cst. Haner had no further involvement until September 19, 2014.

[166] On September 19, 2014, Cst. Haner was called to the Rabbit home. He was there for approximately 4 hours. He was asked to assess the home. In order to access the home, he had to jump over the gate which had been locked. Ms. Brenda Rabbit was not home, but he was told by “A” that she was getting groceries. He did not speak with Ms. Brenda Rabbit, but did speak with Mr. Clyde Rabbit who told him that Serenity was taken to Ponoka Hospital rather than Wetaskiwin Hospital due to the wait times in Wetaskiwin. He described the yard as cluttered. On the ground near the tire swing were a golf club, pitchfork, metal chain and butter knife. He took measurements of the distance between the tire swing and the golf club and pitchfork. He testified the butter knife was under the swing. He also took a hair sample from a swing post which he secured as evidence. The tire swing was on the east side of the home.

[167] Cst. Haner testified that when he went out on September 19, 2014, he was doing an investigation to see whether or not there had been foul play. After September 19, 2014, the investigation was then turned over to the general investigative section of the Wetaskiwin RCMP and he had no further involvement. He was aware of the 2016 investigation but at that time, he was no longer posted at Maskwacis. He could not explain why the investigation took the length of time it did.

Akamkispatinaw Ohpikihawasowin Child and Family Services (AKO)

[168] AKO was the organization responsible for child protection on the Louis Bull reserve where the Rabbit home was located. All 3 children would have been under their jurisdiction. As previously, referred to in this report, Ms. Helen Bull was the Band designate who worked with AKO and had been very involved with the children's placement in the Rabbit home. She was at court when the Permanent Guardianship Order was made. She would have been made aware of the complaints made during the summer of 2013. It is unclear whether she knew of Ms. Tippe's investigation or was contacted. Ms. Helen Bull was not called at either the fatality inquiry or the preliminary inquiry.

Ms. Victoria Cardinal-Widmark

[169] In 2015, Ms. Victoria Cardinal-Widmark was a director of AKO which was the abbreviation of a Cree name for the Delegated First Nation Agency (DFNA) working out of Montana and Louis Bull Tribe. AKO is no longer in existence. She was hired in 2013 as a delegated director on a 2-year contract which ended in December 2015. She holds a degree in Bachelor of Social Work and had been working in the child welfare field for 30 years, in front line work, administration and as CEO of various agencies. She is a member of the Bigstone Cree Nation where she had been a director for 8 years working in Slave Lake, Alberta. She was delegated under the *Child, Youth and Family Enhancement Act* by the statutory director, Mr. Elden Block.

[170] Ms. Cardinal-Widmark was asked about the June 14 incident at West Edmonton Mall. She stated that she only discovered the report of the incident after Serenity was injured on September 18, 2014. At the time, there were issues of information being released from Wetaskiwin Children's Services and issues related to finding Ms. Ashley Rabbit. AKO arranged to remove K and N and place them in another foster home shortly after the September 18, 2014 incident. Once Ms. Ashley Rabbit arrived in Edmonton, discussions began to have K and N returned to their mother upon a proper investigation being completed.

[171] Ms. Cardinal-Widmark explained that the impact of not being able to access the file as follows (page 114, lines 11-24 of the September 15, 2021 transcript):

We had -- it's like working with a blank slate even though there is all this information for the reason these children were placed in this home on reserve. From my understanding the children, when they were placed in home that was -- and that's before I started, that was in -- because I started in December 2013 -- yeah, 2013. The children had already been placed at AKO -- at Brenda and Clyde's...under private guardianship I'm assuming. But we never -- in other DFNAs that I worked, any time the province came onto the reserve they always connected with a DFNA to work with us in doing a transition. So from reviewing the file I didn't see that but they worked very closely with the designate from Louis Bull who made some decisions that a delegated worker needed to make. So -- but that was a process I had no authority over because that was before.

[172] Ms. Cardinal-Widmark explained that Children's Services had worked with Ms. Helen Bull, who was an employee of AKO. Ms. Helen Bull was the designate of Louis Bull, but not a delegated childcare worker. This gave her some independence. Ms. Helen Bull was also a representative of the Chief and Council of Louis Bull. In accordance with the *Child, Youth and Family Enhancement Act*, the designate is to be a representative of Chief and Council. From the case notes, Ms. Helen Bull had been involved with the Rabbit family as early as the fall of 2012.

[173] When asked about Ms. Ashley Rabbit and her abilities to care for children, Ms. Cardinal-Widmark replied (page 5, lines 8-13 of the September 16 transcript):

I cannot speak to the history -- again I cannot speak to the history in terms of when you make a statement about the (INDISCERNIBLE) parent, because I did not have that information because of the restrictions. But from my interaction -- the interaction between me, Mona and Peggy, we saw a very capable and loving mother for her children that was -- that was willing to do what it took to provide care and protection for them.

[174] Ms. Cardinal-Widmark spoke of the home visit that she and Ms. Mona Auger made to Ms. Ashley Rabbit's home in British Columbia. She described the home and Ms. Ashley Rabbit's parenting ability in a very positive manner.

[175] AKO did not have any difficulty with working with Ms. Ashley Rabbit. The same cannot be said of AKO's involvement with Children's Services. Although they had asked for the kinship care file regarding the Rabbits, they were not provided with it, nor were they provided with the foster care file. Ms. Cardinal-Widmark felt unsupported by Children's Services in the fall of 2014, unlike her previous experiences with Children's Services when she was working in Northern Alberta. No explanation has ever been given by Children's Services as to why the files were not sent to AKO after the Permanent Guardianship Order, or after the Private Guardianship Order. When Dr. Ward's office had called Children's Services in November 2013 with concerns that the children had not been brought in for their follow-up check up as required, AKO was not contacted. It is also concerning that Ms. Helen Bull was not called to give evidence as to what information she provided AKO after the children were moved to the Rabbit home in May 2013. Ms. Cardinal-Widmark confirmed the RCMP's referral to AKO in June 2014 had not been followed up by anyone at AKO.

[176] Ms. Cardinal-Widmark was questioned by Ms. Brenda Rabbit's counsel regarding Ms. Mackinaw (note: Ms. Mackinaw was fired before being able to speak to the Office of the Child and Youth Advocate). Counsel for Ms. Brenda Rabbit asked whether Ms. Cardinal-Widmark recalled what Ms. Mackinaw would have shared at that meeting or to the Office of the Child and Youth Advocate. Ms. Cardinal-Widmark was unable to provide any answer. She stated she had left AKO by December 2015 prior to the Office of the Child and Youth Advocate's investigation. She did, however, say that if Ms. Mackinaw said that was what happened, she would believe her.

Ms. Peggy Mackinaw (Evidence at Preliminary Inquiry, February 21, 2019)

[177] Ms. Mackinaw was a caseworker with AKO in 2014. She did not testify at the fatality inquiry, but did testify at the preliminary inquiry. In 2014, she was managing 25-30 children. Her

job was to manage files by taking care of the children, visiting them, making sure their needs were met. She was fired on November 23, 2016 just prior to a meeting that she was to have with the Office of the Child and Youth Advocate regarding Serenity Rabbit. Ms. Mackinaw believed she was fired to prevent her from speaking to the Advocate's office regarding the June 2014 West Edmonton Mall incident. She testified she had received a promotion just prior to her firing, therefore her firing came as a surprise. She did call the Advocate's office to say that she had been fired and left a phone number for them to call, but she did not receive a call back. As such, she did not have any input into the Advocate's report. She was not involved with the children prior to Serenity's death, but figured prominently after Serenity's injury starting September 19, 2014.

[178] On September 19, 2014, Ms. Mackinaw received a call from her supervisor at AKO, Ms. Karen Green, that K and N were to be interviewed by the Zebra Child Protection Centre. Ms. Mackinaw was to pick K and N up from the Rabbit home. When she arrived with her colleague, Ms. Fran Potts, there were 2 RCMP in attendance as well as an Elder. Ms. Mackinaw called Ms. Brenda Rabbit to tell her she was there to pick up the children. Ms. Brenda Rabbit's response was that they would be right out. The gate to the property was locked. As such, RCMP and AKO could not access the property. Once the children were allowed out of the house, they headed to Edmonton, stopping for food on the way at the children's request. They arrived at the Zebra Child Protection Centre at approximately 7:30 PM. When asked about the state of the yard at the preliminary inquiry, she referred to the yard as having a lot of debris "a dangerous yard" (page 67 of the February 21, 2019 transcript).

[179] After the children were interviewed, Ms. Mackinaw made an after-hours application to apprehend K and N. On September 21, 2014 she made an application regarding Serenity's care at the hospital. Although Ms. Brenda and Mr. Clyde Rabbit were advised of a September 21, 2014

meeting with the medical team at the Stollery Children's Hospital, they did not attend despite Ms. Brenda Rabbit confirming she would be there.

[180] Ms. Mackinaw, at the request of the Zebra Child Protection Centre, took the children back for a second interview on September 23, 2014. On September 25, 2014, she applied to terminate the Rabbits' guardianship of Serenity. The termination of their guardianship occurred on the same day.

[181] Ms. Mackinaw testified that she was at the Stollery Children's Hospital during most of this period. During that time, she had access to medical reports, one of which was by the doctor/nurse who inserted the catheter and had questioned whether Serenity's hymen had been missing which we now know to be incorrect. Ms. Mackinaw continued to believe the hymen was missing up to her testimony in 2019.

[182] Ms. Mackinaw also testified about the June 2014 report made to AKO regarding the incident at West Edmonton Mall. She only became aware of the incident at a staff meeting in September 2014. This upset Ms. Mackinaw very much as she believed that had AKO taken action at that time, Serenity may still be alive.

Ms. Claudia Bull

[183] Ms. Claudia Bull is a member of the Louis Bull Tribe. In September 2014, she was an intake worker for AKO who had been employed with them for approximately 1 year. At the inquiry, she was asked to review a duty report from Ms. Virginia Blackplume who was a caseworker at AKO. The duty report was dated July 7, 2014 and it regarded the incident at West Edmonton Mall. The email containing the duty report was copied to Ms. Claudia Bull, Ms. Shannon Simon and Ms. Mackinaw, who were all employed by AKO. The email was asking Ms. Claudia Bull to follow up on concerns raised by a complaint from the security personnel at West Edmonton Mall. Ms. Claudia

Bull did not recall seeing the email. She did not have any involvement with Serenity after September 2014. She acknowledged she knew Serenity lived with the Rabbits. She testified she did not know how many people lived on the Louis Bull Reserve, but she did personally know Ms. Brenda and Mr. Clyde Rabbit. She had, however, never seen the Rabbits with the 3 children, nor had she been to the Louis Bull Daycare where Ms. Brenda Rabbit worked. It was quite clear that Ms. Claudia Bull was either very forgetful or was unwilling to share any information which would assist the inquiry.

Ms. Pauline Hunter

[184] Ms. Hunter was employed with AKO from 2004 to 2015. She is now the executive director of Akamihk Child and Family Services Society (ACFSS) which is the DFNA for Montana First Nation. ACFSS opened its doors April 1, 2021. AKO had been DFNA for Louis Bull Tribe and Montana First Nations. They are now 2 separate organizations, ACFSS and the Asikiw Mostos O’pikinawasiwin Society (AMO).

[185] Ms. Hunter began with AKO as a caseworker and later went into the supervisory position for family enhancement, foster care and programming. In March 2014, she became the supervisor of the intake assessment, family enhancement and programming. Ms. Hunter graduated with a degree in social work in 2004. When she was first hired by AKO, she was placed into delegation training for 6 months. She was a delegated child services worker. This is the same process used by Children’s Services. (Ms. LaPlante was in delegation training when she was working as the caseworker for the Rabbit children).

[186] AKO had entered in an agreement with Children’s Services to provide child protection family services to the Louis Bull and Montana First Nation. While they received their authority from Children’s Services through the *Child, Youth and Family Enhancement Act*, the funding comes

from the Federal Indian Affairs now known as Indigenous Services Canada. Ms. Hunter expressed concerns regarding the lack of federal funding¹ which meant that AKO was “underfunded, understaffed, at high caseloads and were overworked.” (Page 75 of the September 16, 2021 transcript)

[187] By 2012, Children’s Services introduced a computerized system so that contact notes were entered into the computer. By 2014, AKO had still not fully integrated with the Children’s Services system called the Information System for Intervention Services (ISIS) so that AKO’s notes were often kept in writing. Even if AKO had access through ISIS, the information would not have been available due to restrictions placed on the file.

[188] Ms. Hunter was asked about Ms. Helen Bull’s role. Ms. Helen Bull was the Band designate who, in this case, connected Children’s Services with Ms. Brenda and Mr. Clyde Rabbit as potential kinship providers. As the Rabbits lived on reserve, Children’s Services had contacted AKO to confirm that Children’s Services would be working with the Rabbits during the kinship process. Ms. Hunter testified that AKO was too busy to handle another file. They said they had no objection to Children’s Services continuing their work with the Rabbits.

[189] AKO did not receive a copy of the Home Assessment Report, which Ms. Hunter said, in hindsight, would have been preferable for her agency to receive. She stated that AKO was not involved from November 28, 2012 until June 2014, although the inquiry has heard testimony from various witnesses and documentation that Ms. Helen Bull continued to be involved as a liaison between the Band, Children’s Services and the Rabbits from November 2012 up to and including the Private Guardianship Order. It seems highly unlikely that AKO would not have been made aware of this.

¹ *Canada (Attorney General) v First Nations Child and Family Caring Society of Canada*, 2021 FC 969

[190] Ms. Hunter made it clear that although Ms. Virginia Blackplume was a caseworker with AKO, Ms. Hunter was not her supervisor. Rather, Ms. Karen Green was the supervisor. Ms. Karen Green, along with Ms. Virginia Blackplume, were not called as witnesses to the inquiry. Ms. Hunter denied any knowledge of the June 2014 incident until she received an email from Ms. Virginia Blackplume on July 7, 2014 regarding an on-call payment request and which email contained a copy of the report that had been written in June. What is clear from the document is that the names were incorrect. Ms. Brenda Rabbit was referred to as “Brenda Gladue” (her maiden name). The vehicle was registered in her maiden name. In addition, the reserve was referred to as Montana rather than Louis Bull. The children’s names were incorrectly provided. Ms. Hunter was unable to print the report. As such, she emailed the report to Ms. Shannon Simon (a caseworker who did not testify), Ms. Mackinaw (who did not testify) and Ms. Claudia Bull (who did not recall receiving the email).

[191] Ms. Hunter testified that Ms. Claudia Bull had been asked to follow up to remove the restrictions on the file and to determine the identities of the caseworker and assigned SFP worker. As intake worker, it was Ms. Claudia Bull’s job to receive phone calls and then gather information regarding the family which would be used to determine whether further action was necessary. We will never know what, if any, difference this would have made to the outcome. What we know is that no follow up was ever done by AKO regarding the June 2014 West Edmonton Mall report despite many persons being aware of the incident.

[192] Ms. Hunter’s next involvement with this case is in September 2014 after Serenity was in hospital. She was the person who contacted the Director of Children’s Services in Wetaskiwin to have the restriction lifted. She was told only the caseworker, Ms. Worthington, could lift the restriction. Ultimately, the restriction was lifted with respect to Ms. Hunter alone on September 19, 2014. In order to get that restriction lifted, she made a number of calls to various people and

ultimately spoke to Ms. Worthington. The inquiry has heard evidence that it was not until September 24, 2014 that the restriction was lifted to all of AKO, which led to delays in contacting Ms. Ashley Rabbit.

[193] Ms. Hunter had no involvement with the apprehension of K and N, nor the subsequent investigation into Ms. Ashley Rabbit's parenting ability.

[194] Upon questioning by Mr. Lee, Ms. Hunter agreed that Indigenous children in the child welfare system are undervalued in that the Indigenous child welfare is underfunded. She also agreed that Indigenous people are afraid of the police and the child welfare system. She stated that she referred to the child welfare system as a punishing system, rather than a system to provide the proper support to parents so that they could parent their own children. Funding was geared toward removal of children from parents rather than maintaining the family unit.

[195] Upon reviewing the testimony and documentation provided to this inquiry, AKO also failed Serenity. Despite Ms. Helen Bull's involvement for a significant amount of time where she would have been privy to concerns that had arisen prior to October 24, 2013, AKO did not do any follow up to see how the children were doing in the Rabbit home. After the June 2014 West Edmonton Mall report, despite several persons at AKO being made aware of the report, there was still no follow up to obtain access to the file and see how the children were doing in their new home. Surely, had there been follow up, someone would have noticed Serenity's physical condition or at the very least ensured that the 3-month medical follow up had been done.

GOVERNMENT POLICY WITNESSES

Ms. Holley Belland

[196] Ms. Holley Belland is a service manager in the child intervention branch of Children's Services. Her unit provides caregiver support in the kinship and foster care programs. In 2013, she was a supervisor with specialized services in the Edmonton region. That position did not involve kinship care. She was called to the inquiry to provide information regarding the kinship care program, both in 2013/2014 and currently. She has had no personal contact with Ms. Brenda Rabbit, Mr. Clyde Rabbit, Ms. Ashley Rabbit, or any of the children.

[197] Exhibit 9 to the inquiry is a 3-page document called "History of Kinship Program from 2004 to 2021". This document was prepared to show the progress that has been made in kinship care and what is in store in the future. At the start of the program, in 2004, there were 373 kinship providers (2005/2006). By 2016/2017, the number had increased to 1,841. In 2019/ 2020 there were 2,462 providers.

[198] The document outlines key events of ongoing improvements to the program. It discusses the ongoing public and internal recommendations that have influenced improvements to the program. Included in this section is the Office of the Child and Youth Advocate's report involving Serenity called "4-year-old Marie: An Investigative Review" where Recommendation 1 a) was "to implement a home study tool specifically for kinship care that culturally is relevant and addresses the unique kinship circumstances." Recommendation 1 b) "requires the collection of collateral information from community professionals who are familiar with the individual and their abilities." After that investigative report by the Office of the Child and Youth Advocate was the 2017 "Walking as One: Ministerial Panel on Child Intervention's Final Recommendations to the Minister of Children's Services". In that report, Recommendation 16 was to strengthen kinship assessments and ensure that there is proper training and supports for kinship providers. In 2019, Children's Services committed to redesigning the kinship program. On a go-forward basis, the document

outlines actions to strengthen the program to include more financial support, including initial placements, allowances, more peer support, caregiver safety training, improved staff training, and changing the assessment tool from the HAR and SAFE models to the Assessment and Support for Kinship Caregiving (ASKC) model.

[199] Ms. Belland testified regarding the difference between the new assessment tool, ASKC, and the previous ones, HAR and SAFE. She described ASKC as an ongoing assessment and support used to build relationship with kinship caregivers from their initial contact with the government. The ASKC model consists of 3 parts. Part 1 is the introduction to the caregiver of the child, the child's needs, what is expected of the caregiver, and reasons for intervention. Included in that is what the caregiver may expect of the child. After Part 1, the potential caregiver is then asked if they wish to proceed with their application for kinship care. If they are, the assessment begins in earnest. This tool is culturally sensitive as it introduces an Indigenous worldview, which is holistic in nature. It is the kinship caseworker who is responsible for completing the ASKC, not an outside contractor. Part 2 involves discussing the process and obtaining criminal record checks for all adults in the home. Part 3 is a more historical home study which Ms. Belland refers to as the "meat" of the report. The kinship worker is also responsible to discuss with the kinship applicant the supports that are available and how communication is to be done. A written report is completed for each of the 3 parts and after each, the kinship care provider signs off on that section. The report is to be completed within 90 days, not 60 days as before. Ms. Belland was unable to say what percentage of workers who complete reports identified as Indigenous, but she agreed that the perspective of an Indigenous person would be beneficial in the preparation of such reports.

[200] As a result of the Office of the Child and Youth Advocate's recommendations, kinship orientation training will now be mandatory. As well, Foundations of Caregiver Support, which

consists of 5 modules which provide caregivers ways to be responsible to the children's needs, will also be mandatory. This course includes information on brain development, loss and grief, child development, the history of colonization, intergenerational trauma, and healing. A first aid course will also be mandatory in the future. For caregivers who will be caring for children between the ages of 0 and 36 months, a mandatory course called Safe Babies Programs will be required. Depending on the time of the placement, some of the courses may have to be taken after placement, but before any Permanent Guardianship Order is made. DFNAs have also been trained in foundations of caregiving support, but the exact extent of how many DFNA workers had been trained was not known to Ms. Belland.

[201] Training for the assessors has been developed as the ASKC was only a 2-year pilot project and it has not been rolled out across the province. Training for kinship workers is currently being developed by Children's Services and the intent is to have the ASKC model used province wide.

[202] After the Office of the Child and Youth Advocate report, collateral calls were also enhanced. Now professionals and community members with knowledge of the kinship caregiver are to be contacted, which would include individual Elders. Ms. Belland testified that legal advice for the kinship caregiver is still not provided.

[203] Although the ASKC discusses the biological parent and the need to preserve the family, Ms. Belland was unsure whether the biological family received a copy of the report or how much input they actually have in the preparation of the report.

[204] Upon questioning by counsel for Ms. Brenda Rabbit, Ms. Belland acknowledged that full medical information regarding the children's needs is important for the proposed kinship caregivers to have in order to make a fully informed decision as to whether they want to take on responsibility for caring for particular children. She testified that foster parents are required to take training and

they have a licensing requirement. Although similar training is available at the present time for kinship parents, that training is not mandatory. Unlike foster parents who are required to carry insurance as well, there is no such requirement for kinship families.

[205] The kinship guide for parents has been revised several times since Serenity's death. It appears that kinship caregivers are now given more information regarding loss, grief, trauma, being removed from family, but there appears to be a misplaced belief that placing children in kinship care is less disruptive. Ms. Belland said the following (page 66, lines 20-25 September 20, 2021 transcript):

Umm, so I don't know if that example exactly; but the -- the idea that bringing any child into care will create loss and grief and trauma for them is something that's in many of our training that we share with caregivers for the reason that I think that you're getting at, is preparing them as to what they've experienced and what they may experience with yet a move. That's why with kinship care, there's less placement and less disruption of placement for that very reason, because of the trauma it can trigger.

[206] As previously noted in this case, K, N and Serenity not only suffered from the loss of their mother, but also from the loss of their foster parents who, by all accounts, had looked after them well and who facilitated the visits with their mother on a very regular basis. From there, they were placed together for the first time in a virtual stranger's home after 2 short visits and 1 weeklong visit. They then suffered the loss of their regular visits with their mother. The fact that they went into a "kinship home" did not diminish their loss and trauma. Despite Ms. Belland stating the workers are taught to think "critically", critical thinking was lost in this case in what was a rush to relieve Children's Services of responsibility of these children.

[207] Upon questioning by the inquiry judge, Ms. Belland acknowledged there were circumstances in this case, particularly the Rabbits' hesitancy in responding to requests, which should have led to a slowing down of the process, rather than the acceleration that occurred.

[208] The lack of direct consultation and conversation with the biological parent in the current ASKC process continues. There may be informal conversations, but there is no policy requiring any such discussions. Further, even today, there is no policy which requires that the biological parents receive the results of the ASKC. In this case, Ms. Ashley Rabbit did propose Ms. Brenda and Mr. Clyde Rabbit as kinship providers. However, given their noncompletion of some tasks, Ms. Ashley Rabbit should have had the opportunity to review the HAR report and provide her input prior to the Permanent Guardianship Order was granted. Once Children's Services decided to place the children into kinship care, Ms. Ashley Rabbit became an invisible person. She was ignored despite all her efforts to ensure her children were safe and to maintain her connection with her children.

[209] Upon further questioning by the inquiry judge, Ms. Belland testified that updated assessments should be done prior to permanent guardianship being granted. Once the children are placed into kinship care, there are to be face-to-face meetings on a monthly basis for the first 3 months, and after that monthly by phone. Face-to-face meetings occur every 3 months, after the first 3 months. This was not done in this case. There was a visit in July 2013 by Children's Services, but only as a result of complaints made by third parties. In the view of the limited contact that Ms. Brenda and Mr. Clyde Rabbit had with these 3 children prior to their going into their care fulltime, it would have been even more important for Ms. Petit, the kinship worker, to maintain contact to ensure that the children were settling in well prior to the Private Guardianship Order.

[210] Although Ms. Belland agreed complete medical records should be provided to kinship care providers, the records and testimony to this inquiry demonstrate that this was not provided. In fact, it was only after the complaints were received in July 2013 that Children's Services required Ms. Brenda Rabbit to bring the children to Dr. Ward. It was only at that time did Dr. Ward make the request for Dr. Fugler's records for Serenity, which were not received until much later. There is no

information recorded that these were ever discussed or provided to Ms. Brenda Rabbit. Certainly, when Dr. Patidar made his brief report, dated October 2013, where he commented that Serenity's health condition is due to the lack of social standing, he could not have had access to Serenity's medical records from Dr. Fugler. Had he had those, he would have seen that she had been looked after and was doing well. He would have also noted the dramatic weight loss from her last visit to Dr. Fugler in December 2012 and at that point would probably have required further investigation done immediately.

[211] From Ms. Belland's testimony, we see that some positive change has been made since Serenity's death, but that further work is still needed.

Ms. Emily Beilman

[212] Ms. Emily Beilman is a senior manager of policy and practice supports for child intervention. In 2012 to 2014, she was an analyst and manager. She has had no direct involvement with Serenity, Ms. Ashley Rabbit, Ms. Brenda Rabbit or Mr. Clyde Rabbit.

[213] Ms. Beilman was referred to Volume 7, Tab 105, Children's Services, August 2017 response to the Office of Child and Youth Advocate's report concerning Serenity, referred to as Marie in the report.

[214] In response to Recommendation 3 of the report, the Ministry's response was that before a file is closed prior to the termination of a Permanent Guardianship Order, a minimum of 3 persons, being the caseworker (Ms. Worthington in this case), her supervisor (Ms. Orr) and another person not involved with the file, must meet to review the file to ensure that all options had been pursued before the application is made. Further, prior to a private guardianship application, key people in the child's life, caregivers and the case team are to meet to discuss the options, to ensure that all

people are on the same page as to what the plan is for the child. Family members are to be in agreement and if they are not in agreement, they have an opportunity to discuss those disagreements in order to resolve or come up with other options. All this should be taking place prior to the application for private guardianship. This change occurred in 2018. In 2018, there was a further change to include a mandatory requirement for information sharing by Children's Services to the guardians regarding the child's history, needs and other information which would equip the private guardian to properly care for the children. Prior to 2018, there was only an informal exchange of information. How much information was provided was dependent on who the caseworker was and what they felt was relevant to the ongoing needs of the children.

[215] The changes that had been brought in also appeared to ensure that the biological parents may be given greater opportunity to have the children returned to them. If they are returned, they are now monitored for 12 months and provided supports during the period prior to the Permanent Guardianship Order being rescinded. Where after a Permanent Guardianship Order has been granted and the children are in kinship care, only 3 months need to pass before a Private Guardianship Order can be made to transfer guardianship to the kinship caregivers. Now, an addendum to the home assessment is required to be done before that occurs. Ms. Beilman testified that having an additional 12-month requirement prior to permanent guardianship being granted would be an additional burden on the kinship family. It is not clear whether the biological parents would have any input in the home assessment prior to a Private Guardianship Order being made.

[216] A further policy change is where Indigenous children are transitioning from a permanent guardianship to private guardianship. In that case, the Band designate would have to be notified. In Serenity's case, the Band designate, Ms. Helen Bull, was very involved in the kinship care plan and the eventual placement of the children with the Rabbits pursuant to the Private Guardianship Order.

It is not clear what, if any, follow up is expected by the DFNA when they are now notified of children being placed under their jurisdiction.

[217] Further, the policy as of January 2022 is that notice of the private guardianship application must be given to the biological parent. This was a result of federal legislation entitled *An Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24 [the *Federal Act*]. Ms. Beilman was unable to say whether such notice was required in 2013 but according to the information before the inquiry, no such notice was required under the *Child, Youth and Family Enhancement Act*.

[218] Ms. Beilman was asked about Exhibit 19, the 2017 report “Walking as One: Ministerial Panel on Child Intervention’s Final Recommendations to the Minister of Children’s Services”. She was asked about Recommendation 23 which stated, “end the disparity in child protection and early intervention services for First Nation children living on reserve in Alberta by implementing 3 goals.” Unfortunately, Ms. Beilman was unable to answer whether Recommendation 23 has been implemented.

[219] A tracking system was implemented between 2016 and 2018 by Children’s Services to track all reports, reviews, inquiries conducted on a child in care and they are required to track the status of any recommendations that had been made. That information is not available to the public.

[220] Further, if there has been serious incident, Children’s Services conducts an internal review which is documented and included in the child intervention data management system. Any recommendations made are also documented, the purpose of which is to improve the child protection system. This information is also not available to the public.

[221] Ms. Beilman was asked about the concurrent plans that are made between caregivers, children and Children's Services. Those now must be provided to kinship parents, but there is no monitoring as to whether or not this is in fact done. This is up to the individual caseworker.

[222] Ms. Beilman reiterated that the main goal of Children's Services is to keep the child with the family, in accordance with section 2(1)(a) of the *Child, Youth and Family Enhancement Act*. From the evidence before this inquiry, this was not the goal of Children's Services in Serenity's case. In fact, the opposite has been shown to be the case. Returning the 3 children back to the care of Ms. Ashley Rabbit was not the goal of Ms. Worthington and the other professionals involved. The entire system appears to have worked against this goal, despite Ms. Ashley Rabbit maintaining a strong involvement with her children throughout and making best efforts to meet the demands of Children's Services. Ms. Beilman's comments are not supported by the evidence presented at this inquiry, quite the opposite. Ms. Ashley Rabbit was written off as a parent early on in these proceedings.

[223] Upon further questioning, Ms. Beilman agreed that where, as in this case, the mother said on October 11, 2013 she was not consenting to the private guardianship, a slowdown of the process should have been warranted.

Ms. Joann Quinn

[224] Ms. Joann Quinn was qualified as an expert in the legal representation of children and youth in child protection and in family law. She was called to the bar in 1998. She has been employed by Legal Aid Alberta where she represented parents and guardians in child protection matters. Since 2004, she has been in private practice and 90-95% of her work involves representing children and youth in child protection matters. She does not represent guardians, parents or foster parents, but she has, on a few occasions, represented the interests of the Director. She has represented

approximately 900 children since 2006 and in that capacity, is appointed by the Legal Representation of Children's Youth Program (LRCY) which runs under the Office of the Child and Youth Advocate.

[225] Ms. Quinn explained there are 2 rules that counsel for the child may adopt. The default rule is instructional advocacy where children are found capable of expressing their preferences. This means that the lawyer takes instruction from the child. The second rule, called interests and entitlements, is where children are non-verbal or too young to express an opinion. In that case, counsel reviews the children's interests, including cultural background, age, family and religious connections. Entitlement refers to legal entitlement under the *Child, Youth and Family Enhancement Act*. This includes ensuring that there are no delays in proper representations for court hearings. Counsel for children do not take instruction from parents, the Director or foster parents. These parties are viewed by counsel as informative sources in order for counsel to form a complete picture of the child's interests.

[226] Section 33(2) of the *Child, Youth and Family Enhancement Act* provides that children younger than the age of 6 should not be under the care of the Director for more than 9 months. However, it is not uncommon for children to be in the care of the Director for more than 2 years due to various factors including lawyers' availability and court availability. In this case, Serenity was apprehended in January 2011, a Temporary Guardianship Order was granted March 11, 2011, a permanent guardianship application was filed on June 14, 2011 and on April 18, 2013, the Permanent Guardianship Order was finally granted.

[227] Disclosure to the children's lawyer consists of all court documents, contact notes of the caseworker, supervisor, parenting and psychological assessments, police reports, reports of supervised visits reports, foster parent reports, report cards, any assessments done on the child, court

reports done by the caseworker and reports from community regarding concerns. Once received, the lawyer will interview persons for further information. This would include guardians, which would have been Ms. Ashley Rabbit in Serenity's case. If information is not provided, counsel can make an application for disclosure pursuant to the *Child, Youth and Family Enhancement Act*.

[228] Once a Permanent Guardianship Order is granted, counsel for the child's role is completed. The child is not represented in the private guardianship application unless a specific appointment is made. Ms. Quinn stated that often, for the sake of expediency, a permanent guardianship application and private guardianship application are heard on the same day. Ms. Quinn was not aware if in 2013, notice of the permanent guardianship application and private guardianship application would be required on the mother, but from the evidence before the inquiry, no such requirement was in place in 2013, nor is it in place now. Under the *Federal Act*, it is now a requirement where the children are Indigenous.

[229] Upon questioning by counsel for Ms. Brenda Rabbit, Ms. Quinn made clear that her role was to protect the child's rights under the *Child, Youth and Family Enhancement Act* and that does not include advising a child of their rights to sue the Director civilly for any neglect or omission of duties. She was not aware there was any body or person who would provide a child information regarding their rights to sue civilly in such cases. Ms. Quinn was unable to answer whether children should have counsel appointed where an application for private guardianship is being made after a permanent guardianship.

[230] Upon questioning by the inquiry judge, Ms. Quinn was asked about the lack of written information on Ms. MacPherson's file regarding her meetings or phone calls. Ms. Quinn stated there may have been memos on the computer, which the inquiry did not have. She stated disclosure is to be provided and is generally updated every 6-8 months. Disclosure in 2012/2013 would have been

by hardcopy which would have been kept separately. As this was not available, there is no way of knowing what Ms. MacPherson actually received although Ms. Quinn stated that there should have been a letter from then-counsel for the Director, Mr. Hamish Henderson, enclosing updated disclosure. This was not on the file that was provided. The inquiry has no way of knowing what disclosure was actually provided to Ms. MacPherson. According to the file, on April 12, 2013, just prior to the Permanent Guardianship Order on April 18, 2013, Ms. MacPherson wrote to Mr. Hamish Henderson asking for updated disclosure. There is no indication whether updated disclosure was actually received. We do not know whether Ms. MacPherson was even made aware of Ms. Diebert's concerns regarding the transition plan for the children and the limited visitation by the Rabbits prior to the Permanent Guardianship Order.

[231] Ms. Quinn acknowledged that if a driver of children presented concerns regarding the children's best interests, she would follow up. It does not appear that Ms. Magrum's concerns were actually followed up by anyone. Further, the notation by Ms. MacPherson regarding a phone call with Ms. Susan Hopgood, daughter of Ms. Diana Hopgood (foster parent to K and N) indicated that this, too, was not followed up or mentioned at the April 18, 2013 hearing.

[232] Ms. Quinn was asked about certain sections of the *Child, Youth and Family Enhancement Act* and whether they were in effect in 2013. Sections 52(1.1) requiring a home study report being completed prior to a private guardianship application was, she said, in effect. It should be noted that the *Child, Youth and Family Enhancement Act* does not specify how recent that report should be. In Serenity's case, the HAR was completed in April 2013, just prior to the Permanent Guardianship Order being granted. This was before the children had actually begun to live with the Rabbits and only after very few overnight visits. That report could not have made any comments regarding section 52(1.1c) which states that the home study report must include an opinion as to whether it is

the best interests of the child that the applicant be appointed guardian. In this case, there is no doubt that an updated report should have been completed after the children began living fulltime with the Rabbits on May 2, 2013, in order to assess how they were adjusting, how the family unit was functioning with the addition of 3 children, how medical needs were being addressed and how Ms. Ashley Rabbit's contact with the children was being continued.

[233] Ms. Quinn acknowledged that the section 53 requirement of no less than 30 days' notice of private guardianship, to be served upon the Band of which the child is entitled to be a member, was not in effect in 2013. The First Nation that Serenity would have been entitled to be a member of would now have to be served. As Ms. Ashley Rabbit was no longer Serenity's guardian and had no rights, she was not given formal notice despite her ongoing contact and the concerns raised in July 2013. According to Ms. Quinn, under the *Child, Youth and Family Enhancement Act*, Ms. Ashley Rabbit would not have to be served with the application.

[234] Under section 56 of the *Child, Youth and Family Enhancement Act* where an order is made for private guardianship, the court can include provisions for contact in the order. In this case, despite the concurrent plan dated August 26, 2013 which said Ms. Ashley Rabbit was to have contact, and her actually having had continuing contact with her children up to the Private Guardianship Order, the order did not provide any contact. In January 2014, after being cut off from contact with her children by Ms. Brenda and Mr. Clyde Rabbit, once the Private Guardianship Order was made, Ms. Ashley Rabbit began her application for contact. This, according to Ms. Quinn, would have had to be done under the *Family Law Act* as the children were no longer under the *Child, Youth and Family Enhancement Act*. In fact, Ms. Ashley Rabbit's application which was filed January 8, 2014 was made under the proper legislation, namely the *Family Law Act*. In that application, she was applying for court-ordered contact of her 3 children. In her application, she

stated that she had no contact with her children since October 30, 2013. The application was served on Ms. Brenda and Mr. Clyde Rabbit on January 8, 2014. This was an application that Ms. Ashley Rabbit made on her own. Initially, she was represented by duty counsel then obtained the services of Ms. Helen Banks. On March 12, 2014, Ms. Ashley Rabbit was given contact to her children on Monday and Thursday evenings by phone from 7:00 PM to 7:30 PM. The matter was then adjourned to May 22, 2014 where it was again adjourned by Ms. Banks to July 9, 2014. On July 9, 2014, the court questioned counsel as to why the application had not been made under the *Child, Youth and Family Enhancement Act*. Her lawyer was not able to explain why the *Family Law Act* had been used, although according to Ms. Quinn, this was the proper procedure. Ms. Brenda Rabbit was in attendance and advised the judge that Ms. Ashley Rabbit was getting her phone calls twice per week and could visit if she came to Alberta. There were no further scheduled hearings after this time.

PRIVATE INDIVIDUALS WHO WERE INVOLVED WITH SERENITY AFTER HER APPREHENSION ON JANUARY 11, 2011

Ms. Brandi Diebert

[235] Ms. Brandi Diebert was Serenity's foster mom for a period of 2 years and 4 months. Although she had given evidence at the preliminary inquiry February 6, 2019, she did not give evidence at the fatality inquiry. Ms. Diebert and Mr. Diebert lived in Sylvan Lake, Alberta with their 3 children. She has one year of post-secondary education and had been a foster parent from 2008 to 2014. She fostered through an agency called Crossroads Family Services (CFS) that contracts with Children's Services. Her family support worker was Shauna Benvik, who testified at the preliminary inquiry but not at the fatality inquiry. Notes from Crossroads were provided to the inquiry, which included Ms. Diebert's monthly reports and visits with families, which were arranged by the caseworker at CFS.

[236] Serenity came into the care of the Diebert family on January 11, 2011 when she was almost 6 months of age. She remained there until the transfer to Ms. Brenda Rabbit on May 2, 2013. As a foster parent, Ms. Diebert received little information regarding the reason for the apprehension, although she recalled some issue regarding domestic violence and possible substance abuse. She said Serenity was not a skinny, but rather a “petite girl.”

[237] Ms. Diebert had a good relationship with Ms. Ashley Rabbit who she met at visits, family conferences and other events. Ms. Ashley Rabbit had regular visits with Serenity where Ms. Diebert said Serenity would leave happily and come back happily.

[238] Serenity developed well, but there was a concern regarding speech development. Ms. Diebert took Serenity for a speech assessment which indicated that she needed some assistance in speech development. Before that could be done, Serenity was moved. It was not until several months later on, July 26, 2013, that Ms. LaPlante told Ms. Brenda Rabbit of Serenity’s need for speech therapy and Dr. Ward would make a referral. There is no information as to whether Serenity ever received speech therapy.

[239] Ms. Diebert met Ms. Brenda Rabbit but did not meet Mr. Clyde Rabbit at any time. She met Ms. Brenda Rabbit at 3 family group conferences and 2 visits. The transition from the Diebert home to the Rabbit family was difficult for Ms. Diebert and her family as Serenity had been there for more than 2 years. Serenity had very much become part of the Diebert family and their extended family. There were only 2 visits prior to Ms. Diebert’s being told the transition would take place. The first was in February 2013 and the second was an overnight visit in April 2013. Ms. Diebert was given very little notice of the transition and did not feel that it was in the best interests of Serenity. Ms. Diebert contacted the caseworker and indicated she would appeal, which would have given her a further 2 weeks. An agreement was reached with the caseworker, Ms. LaPlante, that Serenity would

go to the Rabbit household for one week. She would then come back for one week to the Dieberts' for her to say goodbye and for the transition to take place after that, which it did, on May 3, 2013. (This is documented in emails between Ms. Diebert and Ms. LaPlante: see paragraphs 118-120 of this report.)

[240] From a review of Dr. Fugler's notes, Serenity was putting on weight while in the care of the Dieberts but was always a small child.

[241] It is clear that Ms. Diebert was of the belief that more time should have been given for the transition to occur from the Diebert home to the Rabbit home. She confirmed other evidence that was heard at the inquiry regarding the speed with which the move occurred. Ms. Ashley Rabbit, in her evidence at the inquiry, stated that she has maintained a good relationship with Ms. Diebert since Serenity's death. It is also clear that Ms. Diebert was very fond of Serenity and had been interested in adopting her. By all accounts, Ms. Diebert was a caring and kind foster parent who always had Serenity's best interests in mind.

Ms. Brenda Rabbit

[242] Ms. Brenda Rabbit was one of the Serenity's guardians along with her husband, Mr. Clyde Rabbit. Serenity and her two siblings, N Rabbit and K Rabbit came into their care on May 2, 2013 pursuant to a kinship care agreement. This was after Children's Services obtained a Permanent Guardianship Order on April 18, 2013. On October 24, 2013, Ms. Brenda and Mr. Clyde Rabbit were granted private guardianship. Serenity and her siblings remained in their care until Serenity's injury, after which guardianship was returned to their mother, Ms. Ashley Rabbit, pursuant to a Guardianship Order dated September 25, 2014. This order allowed Ms. Ashley Rabbit to make end-of-life decisions for Serenity and to return to British Columbia after Serenity's death.

[243] Ms. Brenda Rabbit and Mr. Clyde Rabbit resided on the Louis Bull Reserve for more than 35 years. They had 8 children of their own: D (born), T (born), N (born), D (born), C (born), L (born), A (born) and A (born).

[244] When Serenity and her siblings came to live with the Rabbits, there were still 4 minor children living in the 8-bedroom home, along with 2 adult children Dylan and Tashina. The 4 minor children were C, L, A and A who were aged 17, 15, 13 and 11, respectively, in May 2013. D and T were aged 28 and 27 respectively.

[245] Ms. Brenda Rabbit was completing her Level 3 Early Childhood Educator certification and working at the Louis Bull Band Daycare where she had been employed as an education coordinator for approximately 10 years. Prior to that, she had also been employed in the school system for 10 years.

[246] Ms. Brenda Rabbit testified at the inquiry that Ms. Ashley Rabbit had requested that she and Mr. Clyde Rabbit take the children under a kinship arrangement. Ms. Ashley Rabbit was insistent as she was afraid that if the children did not go into kinship care, they would be adopted and placed in different homes. (This corresponds to Ms. Ashley Rabbit's evidence). Ms. Brenda Rabbit's recollection of the events surrounding the 3 children coming into her care was extremely limited. She had little, if any, recollection of meetings with social workers, the legal status of children and the home assessment process. The lack of memory of the details is understandable as 7 years have now passed, there have been numerous investigations and she has been questioned on a number of different occasions by many different people. Ms. Brenda Rabbit did recall being in court on October 24, 2013 when private guardianship of the 3 children was granted to her and Mr. Clyde Rabbit. She was of the view that matters were being rushed by the caseworker. As Ms. Brenda Rabbit testified on September 9, 2021, "They wanted to put those kids in our care like as soon as

possible.” At the guardianship hearing, Ms. Brenda and Mr. Clyde Rabbit did not have counsel nor did she recall receiving the private guardianship application or an affidavit sworn by Ms. Worthington in support of their private guardianship application. It was quite clear from her evidence that she did not understand the difference between permanent guardianship and private guardianship. Until they became kinship caregivers, they had had no involvement with the child welfare system. At no time were they directed to obtain legal advice with respect to the legal obligations of kinship caregivers and private guardians.

[247] Ms. Brenda Rabbit testified that she was responsible for the day-to-day care of the 3 children. Mr. Clyde Rabbit was mostly working. She described Serenity as being very tiny and not gaining any weight, despite being a big eater. She said discipline consisted of time-outs. Serenity was a quiet child but on occasion, she and her siblings would fight. Ms. Brenda Rabbit did not have any cause for concern regarding Serenity’s physical or mental condition. When prompted by documentary evidence and inquiry counsel, Ms. Brenda Rabbit recalled having taken Serenity to see Dr. Ward in July, August and November of 2013. She did not recall any other visits after November 29, 2013 which corresponds with the medical records showing no visits were made to a doctor by Serenity and Ms. Brenda Rabbit after November 29, 2013. She recalled taking Serenity to a pediatrician appointment at the request of the social worker. She did not recall being told by Dr. Ward or the pediatrician that she should follow up and bring Serenity in every 3 months.

[248] Regarding the specialized investigation by Ms. Tippe, Ms. Brenda Rabbit recalled this was commenced as a result of Ms. Ashley Rabbit’s concerns. She testified Ms. Tippe had no concerns after meeting with her and the children. She also recalled the incident in June 2014 at West Edmonton Mall. Her recollection was that the security personnel were following the family while they were in the mall. The family then left. Later, an RCMP Constable came to her home and spoke

to the children. Ms. Brenda Rabbit said he did not have any concerns and left their home after a short period of time. She had no follow up contact from AKO, the agency responsible for child protection on Louis Bull Reserve. She did state she had contacted AKO regarding parenting courses but did not receive any assistance from them.

[249] On September 18, 2014, Ms. Brenda Rabbit was at the daycare working when she received a phone call from one of her children who asked her to come home. When she arrived, Serenity was laying on the couch unresponsive, in her pyjamas. Evidence before the inquiry is that at approximately 2:35 PM, she left the daycare where she had been since 7:23 AM. She attempted to wake Serenity up, consulted a first aid book, and wrapped Serenity up in a blanket. She then took Serenity to the Ponoka Hospital. When asked why she did not go to the Wetaskiwin Hospital and Care Centre, her response was, “because Wetaskiwin Hospital is very rude to the Natives there. We could be in the waiting room for 6 hours and not get attended to. Sometimes it’s even longer and they make you wait in the lobby.”

[250] Ms. Brenda Rabbit expressed frustration and mistrust with the child protection system. She felt that she and her husband had been blamed for the events 7 years before. She believed she had not been given proper information regarding the children’s behavioural and medical needs when they came to live with her. She said she took the 3 children so that they would be raised together in an Aboriginal culture. She testified it was not until the preliminary inquiry that she was made aware of the extent of the children’s needs. Ms. Brenda Rabbit stated she was not allowed at the hospital or the wake after Serenity’s death. (The information before the inquiry was that on September 21, 2014, Ms. Brenda and Mr. Clyde Rabbit had been asked to attend a meeting at the Stollery Children’s Hospital but had failed to do so).

[251] It is most unfortunate that Ms. Brenda Rabbit believed she was lacking information regarding the children, responsibilities regarding kinship care and obligations of private guardians. All of this could have been easily provided by Children's Services and a lawyer should have been appointed to advise her. It is most likely that Ms. Brenda Rabbit did not understand the full extent of what she had agreed to. It is also understandable that despite having concerns regarding Serenity's needs, that she did not ask for further help, from AKO or anyone else. Clearly, Ms. Brenda Rabbit had a distrust of government authority and avoided dealing with any government workers, which explains why she did not answer or return calls, waited until the last minute to participate in the HAR and made little effort to cooperate with requests until forced to do so. The question that has not been answered in this inquiry is whether it was this distrust that precipitated the government's wish for the quick transition from a permanent guardianship status to private guardianship, or whether it was Children's Services that rushed to remove itself from responsibility for these children (other than monetary). Either way, it would have been important for everyone involved to go into these arrangements with their eyes fully open and for follow-up to have occurred, first by CFS which should have alerted AKO that these children were being transferred to Ms. Brenda and Mr. Clyde Rabbit's care and then by AKO to see how the children were doing. It would have been extremely easy for AKO to follow up, particularly after the June 2014 West Edmonton Mall incident. At the very least, when CFS transferred guardianship to the Rabbits, they should have alerted AKO that these children were now living with the Rabbits and under their jurisdiction. The previous history, including medical history and any other documentation regarding the children, should have been provided to AKO. As it was, AKO was unable to obtain information for a period of time after Serenity was in hospital because of Ms. Worthington's restriction on the file. This directly led to Ms. Ashley Rabbit not being advised promptly of her daughter's injuries and missing precious time with her daughter.

Mr. Clyde Rabbit

[252] Mr. Clyde Rabbit is the husband of Ms. Brenda Rabbit. He gave evidence under difficult circumstances, after being discharged from the hospital earlier that day. It was clear that he was not well. Mr. Clyde Rabbit is 59 years old. At the time the children came to live his family, he was working fulltime. He told the inquiry that he had received very little information regarding the entire process of the Permanent Guardianship Order and private guardianship and received no information regarding the children. He had very little involvement with Serenity's day-to-day care due to his work schedule. He was not at home on the day of Serenity's accident and arrived home after she had been taken to the hospital.

[253] From Mr. Clyde Rabbit's evidence at the inquiry and the documentary evidence, he did not wish to participate in the kinship arrangement, interviews and ultimately the guardianship application. He managed to avoid most meetings and interactions with the social workers.

Ms. Ashley Rabbit

[254] Ms. Ashley Rabbit testified on September 17, 2021 at the fatality inquiry. She was first asked about her family life. She testified that she lived on Vancouver Island with her partner, Mr. Joseph Seward, and her 5 children, 2 of which were in high school and 3 in elementary school. The children are N (born, grade 9), K (born, grade 8), C (born, grade 2), R (born, grade 1), X (born, early learning/daycare). The youngest children attend school on the First Nation. N and K attend high school in town.

[255] Ms. Ashley Rabbit described Serenity as “bubbly, playful, loving, caring...smart... beautiful, sensitive.” Serenity was not a “book person” rather, she loved the outdoors. Serenity was not a

people person and was “standoffish with strangers.” This is consistent with much of the testimony of the witnesses in this inquiry.

[256] When asked about the involvement of Children’s Services after Serenity’s apprehension, Ms. Ashley Rabbit understood that she had been in an unhealthy relationship with Mr. Whitebear. She said what she needed at the time was guidance “more people believing in me.” (Page 12, lines 15-16, September 17, 2021 transcript).

[257] Ms. Ashley Rabbit described her relationship with Children’s Services as problematic from the beginning, particularly with Ms. Worthington. Later in her testimony, she described how she had requested a change in social worker very early on in the proceedings but had been refused. She had a positive relationship with both foster parents, Ms. Diana Hopgood and Ms. Diebert, who she described as great foster parents. She has maintained relationships with both of them. She reports being very close to Ms. Diana Hopgood. She was extremely complimentary about how well the two foster families had looked after her children.

[258] Ms. Ashley Rabbit was honest in her assessment of how she coped after the apprehension. She admitted she did take some programs regarding parenting and addictions, even attending 2 sessions of addictions rehabilitation (one in Calgary completed on November 17, 2010). The only “addiction” that was of concern to Children’s Services, that has been confirmed in the documentation, was her use of marijuana, which was legalized in Canada 4 years later. There has been no evidence of her use of any other illicit drugs. After the apprehension, she always hoped to have her children returned to her. When it became apparent to her that the children may not be returned and that she was not meeting social workers’ expectations, she was told by Ms. Worthington that the children would be adopted and may not end up together. She was asked about a family member who could take them in. She then had a discussion with Ms. Brenda Rabbit. Ms.

Brenda Rabbit said she would take the children and would work with Ms. Ashley Rabbit to get her children back. At that point, N and K had only met the Rabbits on one occasion. She acknowledged that she had gone to mediation on July 25, 2012 and at that point, the Rabbits had already been discussed as kinship providers. Ms. Ashley Rabbit believed this was the best way forward to getting her children back. At that point, she said she did not want to disagree with Ms. Worthington about anything as it was important to her that the children be in the care of the Rabbits so that she could work with them to get her children back.

[259] Ms. Ashley Rabbit recalled the Permanent Guardianship Order hearing on April 18, 2013. At that time, she again believed that she had “not met my social worker’s standards and her expectations regardless of what I did.” (Page 17, lines 23-24, September 17, 2021 transcript). She hoped that the Temporary Guardianship Order would continue for longer, but was told by counsel that this was not possible due to the length of time the children had already been under a Temporary Guardianship Order. She was also told that after the Permanent Guardianship Order, Children’s Services would continue to work with her. At this point, she would have been 7 months pregnant with C (born) and living in a basement of Mr. Joseph Seward’s stepfather. She honestly believed she would continue to see the children after the Permanent Guardianship Order and would work with Ms. Brenda Rabbit to get her children back.

[260] After the Permanent Guardianship Order was granted, Ms. Ashley Rabbit continued to visit her children, but the visits did not go as planned. The visits were supervised by Children’s Services. She recalled that she had concerns regarding the visits as did the visit supervisor, Ms. Debbie Bonkey, and foster parent Ms. Diana Hopgood. She spoke of the difficulties contacting Ms. Brenda Rabbit in order to arrange visits, which has been documented. In the concurrent plan (Exhibit 17) to the inquiry, there is an August 26, 2013 note which states that Ms. Ashley Rabbit and Ms. Brenda

Rabbit were to work on the visit conflict. From this document, it is clear that visits were problematic. The concerns expressed by Ms. Ashley Rabbit, particularly after the July 13 birthday party, led to the investigation by Ms. Tippe. Ms. Ashley Rabbit was told that the investigation found that the children were fine. She was never contacted by Ms. Tippe and we have heard that Ms. Tippe did not speak to any of the other persons who had made complaints. She was not given a copy of the report.

[261] Ms. Ashley Rabbit's last visit with the children before Serenity's death occurred before the permanent guardianship application. This visit occurred at the Rabbit home on October 15, 2013. She described Serenity as being very frail and skinny, not talking, having bruises. She brought this to the attention of Children's Services, however there are very few notes of that visit. There were also no notes of any conversation that occurred on October 11, 2013 between Ms. Ashley Rabbit and Ms. Worthington regarding the permanent guardianship application. This is despite Ms. Worthington's sworn affidavit where she indicated she had spoken to the biological mother on October 11, 2013 and that the biological mother supported the permanent guardianship application. It should be noted that by this time, CRt had been removed from Ms. Ashley Rabbit's care on July 18, 2013 after allegations of "drug use". When C was apprehended, marijuana was found in the bedroom that she shared with Mr. Joseph Seward. On that date, Mr. Joseph Seward was arrested for possession of drugs. There is no information as to what happened to those charges. C was placed in a foster home and after Ms. Ashley Rabbit and Joseph Seward moved to British Columbia in late December of 2013, C was sent to a foster home in British Columbia. Within 5 months, by May 22, 2014, C was back with his mother where he remains to this day. At that time in May 2014, Ms. Ashley Rabbit very much wanted to have her children K, N and Serenity back, and had been applying to the court for contact with her children.

[262] Ms. Ashley Rabbit testified that after the Private Guardianship Order was granted on October 3, 2013, she was told by Children's Services that she had to work directly with Ms. Brenda Rabbit to arrange visits. This, she said, did not work as Ms. Brenda Rabbit continued to ignore her phone calls. In January 2014, she had hired Ms. Banks for access/ custody of her children. The inquiry has been able to locate records of that application dated January 8, 2014 (see paragraph 233).

[263] Ms. Ashley Rabbit's recollection of the events of September 2014 was that she received a phone call from a cousin telling her Serenity may be on life support in hospital. She immediately contacted Children's Services and left a message on an answering machine. Shortly thereafter, she received a call from AKO telling her that Serenity was in hospital and that she needed to come to Edmonton. At that point, she did not have identification and as a result, could not board an airplane. She arranged for a ride to Kamloops, where she was picked up by Ms. Mackinaw who brought her to the hospital. She testified on September 17, 2021 at page 35, lines 24-41 and page 36, lines 1-2 as follows:

Q Okay. And then -- so keep telling us about what happened once you got to the hospital?

A So I got to the hospital. I had walked upstairs. And after a long 12 hour drive, of sitting there with your thoughts, I was not knowing how to feel by the time I got there. I remember going into the bathroom trying to prepare myself to go into her room. And my father had walked up to me and had said, Are you ready to start planning your child's funeral? And I didn't see her and I didn't talk to the doctor before that, so I said, no, I'm not, that's not happening, she is going to live.

And I turned around, I walked into where she was and I am pretty sure I was with my mom. And I walked through the door and I seen her laying there. And before I even had a moment to even like speak or say anything in that room, one of the workers had brought N and K in right behind me. And having -- I did not see them yet. So when I turned around and I seen them standing there, I just fell to the floor and hugged them both and told them that I was really really happy that they were okay. And my daughter looked up at me and said, I told you we would never give up on you, mom. And we just kind of had our little moment there. And then they brought N and K out of the room and I just sat at her bed looking at her and all her injuries, and her bruises, in shock because she didn't even look like herself. She wasn't -- she

didn't have no meat on her bones. She had -- she barely had a nose, her nose was so small. Yeah.

[264] Ms. Ashley Rabbit described how she was initially told by K and N that N had pushed the swing hard and that had resulted in Serenity falling and hitting her head. Later, Ms. Ashley Rabbit said, the children said Ms. Brenda Rabbit had instructed them to say that. She testified the children then said it was Ms. Brenda Rabbit's daughter, A, who was home that day who pushed the swing too hard, which resulted in Serenity's fall.² We will never know exactly what happened on that day except that Serenity was on the swing, fell and hit her head causing massive brain damage.

[265] When asked by inquiry counsel what changes she would like to see, she identified 2 changes. The first was that she would have wanted to fully understand what private guardianship meant, which includes a better explanation of a parent's rights. She also said that when the relationship with a social worker is problematic, a new social worker should be appointed.

[266] Ms. Ashley Rabbit was asked about her Indigenous heritage. She said that she is Indigenous through her father (Louis) who was a member of the Louis Bull Tribe. He died when she was 1.5 years old. Her mother was a white woman. Her mother later remarried a Caucasian person and Ms. Ashley Rabbit was raised in a Caucasian household and did not have a connection to her Indigeneity during her youth.

[267] Ms. Ashley Rabbit described her relationship with AKO in a more positive light than her relationship with Wetaskiwin Children's Services. She spoke highly of Ms. Mackinaw, who she has

² K and N have been interviewed 3 times. They were first interviewed by Zebra Child Protection on September 19, 2014 where they both said that N had been pushing the swing high and Serenity fell off the swing and hit her head. On September 23, 2014 K was interviewed again by Zebra and repeated the same circumstance. On May 5, 2015, they were interviewed by RCMP in Nanaimo, British Columbia. N told Cpl. Mary Anne Boser that it was A ("L") who had pushed Serenity on the swing hard and that Serenity fell off. K said "somebody" had pushed Serenity. He was not pressed to say who. On January 19, 2018, both children were interviewed in Nanaimo again by RCMP. K, who was interviewed by Cst. Jason McCormick, did not talk about Serenity's fall and was not asked about that. N, who was interviewed by Cst. Aaron Sowers, described A pushing the swing hard and Serenity falling off. Ms. Ashley Rabbit, in her testimony, believes that N who was 7 years old at the time and a very small person, would not have had the strength to push the tire swing so hard that Serenity would have fallen off.

also maintained contact with. When she moved to British Columbia, she worked with social services in British Columbia to have C returned to her in May 2014.

[268] When Ms. Ashley Rabbit was asked by counsel for Children’s Services whether she recalled any conversation with Ms. Worthington regarding the private guardianship application, she said she did not recall.

[269] Ms. Ashley Rabbit vividly recalled being called by Ms. Orr late at night and told not to call the MLA after she had made complaints to the MLA. Ms. Ashley Rabbit recalled being yelled at by Ms. Orr.

[270] The inquiry judge asked Ms. Ashley Rabbit some questions regarding how the children were doing. N was described as a very fast learner who loves to read and write stories. She referred to her as a thinker and speaker who has the ambition of being a marine biologist. K is an extremely busy boy, always moving. He loves to be outdoors and will soon be playing football. C has been diagnosed with mild autism and is an ongoing concern. Ms. Ashley Rabbit has ensured he has been receiving the assistance he needs to deal with his autism. R is a “pretty chill kid” who does well in school. Both R and C are receiving speech therapy. The youngest, X, is a “mama’s boy”. He likes to draw. During part of the pandemic, Ms. Ashley Rabbit assisted the children with their online learning. She and Mr. Joseph Seward (C, R and X’s father) have been together for about 10 years. The 3 younger children are registered with the Snuneymuxw First Nation on Vancouver Island. After K and N were returned to her in December 2014, she arranged for trauma counselling for the children which they attended for approximately 2 years.

[271] Ms. Ashley Rabbit was asked about her schooling. Although she has only completed Grade 9, she returned to school at Vancouver Island University to take a culinary arts program. She was

unable to complete that program and has about 1.5 years left to complete. She testified it is important to her to have a career. She is now 33 years of age, having had her first child at age 19.

[272] The impression of Ms. Ashley Rabbit is that she was an intelligent, concerned mother. Since Serenity's death and the return of K and N, she has devoted herself to their wellbeing. This is a woman who was struggling when she was young and the children were apprehended. She had young children and an abusive partner. It is important to note that K and N were with their mother from birth in 2007 and 2008 until they were apprehended in 2010. They had bonded with their mother. This seems to be a fact lost to Children's Services in their quest to keep them away from their mother. This is a woman who never stopped trying to get her children back. She was not perfect, but no mother is. She never lost sight of wanting to get her children back. She could have walked away, but she did not. Children's Services has spent thousands of dollars keeping these children away from their mother. They have spent resources on foster care, drivers, support workers for foster parents, special investigators and the whole administrative machine of Children's Services. Had this money been spent on providing services to Ms. Ashley Rabbit, such as childcare support, a home, proper financial help so that she did not have to live in a basement and educational support, the inquiry's view is that the end result would have been much different. Since her move to British Columbia, she has been able to get the support that she needed. She continues to be a loving and caring mother.

[273] The inquiry received a copy of the affidavit sworn by the caseworker on July 23, 2012 in support of the Permanent Guardianship Order. In that affidavit, Ms. Worthington attached a court report that the court would have received prior to the Permanent Guardianship Order application. This report contains information regarding a neuropsychological report done on Ms. Ashley Rabbit which concluded that her "impaired cognitive abilities, dysfunctional personality development and

history of substance abuse all contribute to the high probability that Ms. Rabbit will struggle in her ability to effectively parent her children.” This report plagued Ms. Ashley Rabbit for many years and, despite her requesting to have another report done, she was never reassessed. After hearing from Ms. Ashley Rabbit, observing her in court, seeing her devotion to getting her children back and hearing how well she has done as a parent, in my view, this assessment was wrong. The caseworker who worked with her must have observed this as well. Yet, that report tainted their view of her and resulted in their very negative interpretation of her actions. In 2010, she was still very young. She was never given the benefit of the doubt. Although she would have received the report, at no time was she given the opportunity to tell her side of the story. The blocks were stacked against her from the beginning. She deserved much more from Children’s Services.

[274] The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls, Volume 1a includes a section called “The Need for a Systems-Level Approach to Transforming Child Welfare.” The findings include the following at p 355 of the report:

Indigenous children are removed from their families due to conditions of poverty or as a result of racial and cultural bias. The state characterizes these circumstance as “neglect.” This is a form of discrimination and violence...

State funding of child welfare services incentivizes the apprehension of Indigenous children and youth. This is exemplified by the state’s prioritizing funding for foster homes over economic and support services to families; state policies that limit access to specialized support services unless the child is in care; and agency funding models that are predicated on the number of children in the agency’s care.

[275] This is exactly the situation Ms. Ashley Rabbit found herself in once Children’s Services became involved in her life. As the report found, apprehension is a form of violence against the child and mother. In this case, the result of that violence was Serenity’s death.

Recommendations for the Prevention of Similar Deaths:

Recommendation 1

[276] The first priority of Children’s Services is to ensure that Indigenous mothers, especially young Indigenous mothers, receive the support they need to raise their children in a healthy environment. Children should be removed as a last resort only. If children are removed from their mothers, all efforts should be made to ensure children are returned to their mothers at the earliest possible date. Mothers should receive support to address financial insecurity, housing, food security, education, health challenges including physical health, mental health and addictions, childcare to allow participation in education and supports, cultural supports, and protection from abusive partners.

Recommendation 2

[277] The report of the Medical Examiner must be completed in a timely manner and no later than 6 months after the death in order to provide families with closure and avoid misconceptions.

Recommendation 3

[278] All orders of permanent guardianship should specifically address the issue of access by the biological parents after the Permanent Guardianship Order, and if no access is ordered, reasons should be set out clearly as to why no access was ordered.

Recommendation 4

[279] Biological parents should be represented by counsel appointed by Legal Aid as soon as the child is apprehended in the first instance regardless of income and no later than 2 weeks after the apprehension. Such representation should be continued until the Permanent Guardianship Order is

made. In the event private guardianship is applied for, biological parents should be entitled to counsel as a matter of right.

Recommendation 5

[280] The lawyers appointed for the biological parents should be entitled to the same disclosure of documents as the children’s lawyer, and as disclosure is updated, should receive updated disclosure. Where private guardianship is being applied for, the biological parents should receive the full package of documents received by the court unless a court directs otherwise.

Recommendation 6

[281] Prior to a Private Guardianship Order being granted, a home study report or in the case of where a home study had already been completed, an updated report should be completed dated no earlier than 2 months before the Private Guardianship Order application is heard in court.

Recommendation 7

[282] Home study reports prepared for private or permanent guardianship must address information regarding biological parents, and if biological parents have had continuing involvement, then they should be interviewed by the assessor. If the children have been in care, foster parents should also be interviewed to ensure complete information provided to the court.

Recommendation 8

[283] Where complaints are made regarding children’s care after a Permanent Guardianship Order is made, the complaints must be fully investigated by a person qualified to investigate complaints of neglect and abuse. Children involved should be interviewed by Zebra Child Protection Centre or an equivalent agency. All persons who have made complaints should be interviewed by the

investigator. A full report should be provided to the caregiver, biological parents, Children's Services, and the court hearing any matter regarding the placement of children.

[284] Where the caregivers who have been the subject of complaints are applying for private guardianship, the full investigative report along with the transcripts of the specialized interviews of the children must be made available to the judge hearing the private guardianship application for their review.

Recommendation 9

[285] Persons who are considering kinship or applying for private guardianship after a Permanent Guardianship Order should have an independent lawyer appointed to guide them through the process and to fully explain the rights and obligations of private guardians. That lawyer should receive complete disclosure of information.

Recommendation 10

[286] Where there are outstanding medical or psychological issues that require follow up, private guardianship should not be completed until those issues are fully investigated and concerns have been addressed to the satisfaction of the court.

Recommendation 11

[287] After a Permanent Guardianship Order is made and the children are moved to a different child protection jurisdiction with proposed kinship parents, Children's Services must notify the new

jurisdiction of the children's move and make available the children's complete files. Children's Services should provide a concise summary of any matters that may require follow up.

Recommendation 12

[288] Foster parents, kinship caregivers and private guardians should receive all past medical records of the children they are caring for in a timely manner. Costs associated with the provision of the records should be paid by the Government of Alberta.

Recommendation 13

[289] Where children are removed from foster home placement to be placed in kinship home, private guardian home, or adoptive home, the children should receive a thorough assessment to determine what, if any, extra support they require, such as grief/trauma counselling, medical needs, special schooling, tutoring or extracurricular activities.

Recommendation 14

[290] Where a special investigator is retained to investigate complaints of abuse, the investigator must receive access to all of the information which Children's Services has on their files. The investigator shall interview all family members of the household individually, perform a home visit, contact collaterals to corroborate information received and interview the complainants and foster parents. The children who are the subject of the complaints should be interviewed by trained child interviewers as outlined in Recommendation 8.

Recommendation 15

[291] Children who have been in a foster home for an extended period of time and are being placed in kinship care should be allowed a sufficient time to transition into their new home. The

caseworkers should receive advice from an expert in child behaviour as to how long the transition should take.

Recommendation 16

[292] When preparing a Death Review investigation, the Office of the Child and Youth Advocate must ensure that they interview all persons who were involved with the child, even those who have left their positions prior to the child's death.

Recommendation 17

[293] All employees of Children's Services and DFNAs working directly with children in care should complete the Foundations of Caregiver Support training upon commencement of their employment.

Recommendation 18

[294] The Kinship Assessment and Support for Kinship Caregiving Model (ASKC) should be implemented throughout the Province of Alberta.

Recommendation 19

[295] Children who have Permanent Guardianship Order status are to have counsel appointed for them in any application for private guardianship.

Recommendation 20

[296] In December 2021, the Alberta Joint Working Group on Missing and Murdered Indigenous Women and Girls (AJWG) presented their report, *113 pathways to justice: recommendations of the*

Alberta Joint Working Group on Missing and Murdered Indigenous Women and Girls, which addressed the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. AJWG devoted a chapter to addressing child welfare (pp 83-89). That chapter contained a series of recommendations related to child welfare numbered from 37 to 44. While all of the recommendations are important and valid, I wish to address specifically recommendations 40, 41 and 42. These recommendations address preventative strategies to reduce Indigenous children in care and supports that are needed to keep children with parents:

40. Co-develop, fund, and implement multi-year preventative strategies to reduce Indigenous child apprehension...

41. Develop a provincial Indigenous Childcare Strategy to revitalize Indigenous childcare practices based on natural supports and a grandmother model where Elders and Aunties are involved in childcare provisions...

42. Provide legal support services for Indigenous mothers trying to regain access and custody of their children...

[297] After hearing the evidence in this inquiry, I endorse all of the strategies specifically outlined in recommendations 40, 41 and 42.

Conclusion:

[298] I wish to thank inquiry counsel for all her assistance in this inquiry, as well as all of the lawyers for their able representation of their clients' interests and all of the participants who shared their information, particularly Ms. Ashley Rabbit.

DATED December 12, 2022,

at Edmonton, Alberta.

“Original Signed”

R.R.M. Cochard

A Judge of the Provincial Court of Alberta