

CORONER'S INQUEST

INTO THE DEATHS OF  
DIANE SIMPSON, TAYJAH SIMPSON and JAHZIAH WHITTAKER

Held at the Coroner's Court, 15 Grosvenor Street,  
Toronto, Ontario, on Thursday, March 24th, 2011,  
commencing at 5:00 p.m.

MOTION HEARING - EXPANDING SCOPE OF INQUEST

B E F O R E:

DR. DAVID H. EVANS - THE PRESIDING CORONER  
("The Coroner")

A P P E A R A N C E S:

REBECCA EDWARD	-- Counsel for the Coroner
ROGER ROWE	-- Counsel for the Anderson Family
ARMITA BAHADOOR (Law Student)	
SUZAN E. FRASER	-- Counsel for the Provincial
BREESE DAVIES	Advocate for Children and Youth
JILL COPELAND	-- Counsel for CAS Workers
	(Beckford, Carnevale and
	Saunders)
LINDA HOFBAUER )	-- Counsel for the Children's
SIMON FISCH )	Aid Society of Toronto
WENDY LOPEZ	-- Counsel for the Toronto
AVNEET GREWAL (Law Student)	District School Board
DAVID BUTT	-- Counsel for Toronto Victim
	Services
DAVID GOURLAY	-- Counsel for the City of Toronto
MARNIE BACHER )	-- Counsel for Ontario Fire
KATIE CLEMENTS )	Marshall Office
PETER LUKASIEWICZ	-- Counsel for Toronto Community
(Not in Attendance)	Housing

DETECTIVE LARRY REBELLATO - Investigating Officer

CONSTABLE JAMES MURPHY -- Coroner's Constable

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1 --- UPON COMMENCING AT 5:00 p.m.

2 THE CORONER: Thank you very much for  
3 coming this late hour, but it seems to be the only one we  
4 could get where everyone is available.

5 This hearing is convened to hear a pre-  
6 inquest motion from the family and from the Provincial  
7 Advocate for Children and Youth to enlarge the scope and  
8 focus of the inquest.

9 I note that both the Court Reporter Ms.  
10 Ala Kleinberg and Coroners Constable James Murphy of the  
11 Toronto Police Service have both been sworn in at a  
12 previous hearing related to this inquest.

13 I would request counsel to identify  
14 themselves for my knowledge because some of you I haven't  
15 met, only by e-mail. Mr. Rowe for the Family.

16 MR. ROWE: Roger Rowe. Good evening.

17 THE CORONER: Thank you. Ms. Fraser, I  
18 know.

19 MS. FRASER: Yes, and I'm here with Ms.  
20 Breese Davies, she's just assisting me, I'll be away next  
21 week. Good afternoon.

22 THE CORONER: Very well. For the Fire  
23 Marshall, Ms. Bacher, I believe.

24 MS. BACHER: Yes, Mr. Coroner. And I  
25 should mention my colleague Katie Clements as well.

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1 THE CORONER: Oh, very well. Thank you  
2 For Toronto Community Housing, nobody here I think.

3 Mr. Butt? Ah, yes, Mr. Butt.

4 MR. BUTT: Thank you.

5 THE CORONER: Ms. Hofbauer?

6 MS. HOFBAUER: Yes, Your Honour.

7 THE CORONER: For Toronto Children's Aid  
8 and Mr. Fisch.

9 MS. HOFBAUER: And Mr. Fisch, yes.

10 MR. FISCH: Yes, good afternoon.

11 THE CORONER: Ms. Copeland?

12 MS. COPELAND: Yes, thank you. For the  
13 three C.A.S. workers.

14 THE CORONER: Thank you. Ms. Lopez?

15 MS. LOPEZ: Here for the Toronto  
16 District School Board and I'm here with my articling  
17 student Avneet Grewal.

18 THE CORONER: Very well, thank you. And  
19 Mr. Gourlay.

20 MR. GOURLAY: Good evening, sir.

21 THE CORONER: Thank you.

22 MR. ROWE: I can indicate that I also  
23 have with me our articling student, Armita Bahadoor and  
24 she's seated in the back.

25 THE CORONER: Thank you very much.

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1 I can indicate that I have received  
2 Applications and Motion Material prepared and filed by  
3 Mr. Rowe on behalf of the family and Ms. Fraser on behalf  
4 of the Provincial Advocate for Children and Youth.

5 It occurred to me while reading the  
6 material that while I presented the Scope and Focus of  
7 this inquest at the pre-inquest meeting many months ago,  
8 many of the parties with standing, especially the more  
9 recent additions, may not be aware of the background and  
10 reasoning that prompted the Coroners Office to exercise  
11 its jurisdiction pursuant to Section 20 and call an  
12 inquest into this particular case.

13 As you are all aware, Diane Anderson,  
14 Jahziah Whittaker and Tayjah Simpson all died in a fire  
15 in their residence at the Toronto Community Housing  
16 complex on Grandravine Drive on December 22nd, 2007.

17 In reviewing these three deaths, the  
18 Coroners investigation, the Fire Marshall's investigation  
19 and the Pediatric Death Review Committee, made the  
20 following notable findings in relation to the deaths:

21 - the family had been involved with the  
22 Children's Aid Society

23 - the fire's origin had been on the main  
24 floor and was due to children playing with a lighter

25 - Ms. Anderson's remains indicated that

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1 she was extremely intoxicated at the time of her death  
2 and was unlikely to have been able to supervise the two  
3 children who were playing with a lighter

4 - no smoke alarms were triggered, and two  
5 disabled smoke alarms were found in a closet on the  
6 second floor.

7 Based on these combined findings, and  
8 since the deaths did not fall under the mandatory inquest  
9 categories of the Coroner's Act, consideration was given  
10 to Section 20 of the Coroner's Act which states:

11 20. When making a determination whether  
12 an inquest is necessary or unnecessary,  
13 the coroner shall have regard to whether  
14 the holding of an inquest would serve the  
15 public interest and, without restricting  
16 the generality of the foregoing, shall  
17 consider,

18 (a) whether the matters described in  
19 clauses 31(1)(a) to (e) are known;  
20 (b) the desirability of the public being  
21 fully informed of the circumstances of the  
22 death through an inquest; and  
23 (c) the likelihood that the jury on an  
24 inquest might make useful recommendations  
25 directed to the avoidance of death in

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1 similar circumstances.

2 In this particular case, however, the  
3 requirements of section 20(a) are met as the answers to  
4 the five questions articulated in section 32 of the Act  
5 are clearly known in this case and in fact not disputed.

6 Consequently, the Coroners Office decided  
7 that a discretionary inquest should be called so that,  
8 pursuant to section 20(b) of the Coroners Act, the public  
9 could be fully informed of the unfortunate circumstances  
10 surrounding these deaths, and pursuant to section 20(c)  
11 of the Coroners Act, it was determined that there was a  
12 likelihood that a jury could make useful recommendations  
13 directed to the avoidance of death in similar  
14 circumstances.

15 With these reasons in mind, the scope and  
16 focus of this inquest was articulated to be as follows:

17 1) The involvement of the Children's Aid  
18 Society with the family;

19 2) Toronto Community Housing and its  
20 involvement with the family and in the fire safety of the  
21 unit;

22 3) The role of the Toronto Fire  
23 Department in the fire safety and prevention in Toronto,  
24 specifically in this case the Community Housing  
25 Communities.

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1                               Consequently, the scope and focus has been  
2                               defined in this manner, as these are the three main areas  
3                               that if affected, could have prevented these particular  
4                               deaths.

5                               So while we appear to be looking at a  
6                               number of emerging sub-issues within the three areas, the  
7                               sub-issues are also connected to and focused on  
8                               understanding the circumstances of the death and making  
9                               recommendations to prevent similar deaths in similar  
10                              circumstances. Consequently, the focus has been, and as  
11                              required by section 20 of the Coroners Act, must continue  
12                              to be on the circumstances surrounding the deaths of  
13                              Diane Anderson, Tayjah Simpson and Jahziah Whittaker.

14                             I'd ask counsel to keep this in mind as  
15                             they make their submissions as to why the existing scope  
16                             should be expanded to include a review of social  
17                             services' relationship with this family.

18                             Ms. Edward, do you have any comments  
19                             before we start?

20                             MS. EDWARD:     I don't at this point, Mr.  
21                             Coroner. I can indicate that I did receive a letter from  
22                             Peter Lukasiewicz today and I believe I forwarded it to  
23                             you, indicating his position and his regrets in not being  
24                             able to attend, but he does set out in position with  
25                             respect to this motion.



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1 THE CORONER: Very well.

2 MS. EDWARD: And I believe that Mr. Rowe  
3 is going to start with his application, followed by Ms.  
4 Fraser.

5 THE CORONER: Very well. Mr. Rowe, will  
6 you start?

7 SUBMISSIONS BY MR. ROWE:

8 Thank you. As you know, I represent the  
9 family at this inquest, the Anderson Family. The  
10 family's main concern is as follows:

11 They're concerned that the story of Diane  
12 Anderson and her children be told accurately and that the  
13 Coroner's jury receives the information it needs to make  
14 effective recommendations so that this tragedy doesn't  
15 happen again.

16 They're concerned that the scope, as  
17 currently defined, won't allow this to happen. Children  
18 living in circumstances such as Diane Anderson's, don't  
19 desire to die because of it. And one important purpose  
20 of this inquest is to consider what system changes might  
21 be needed to avert a repeat of the tragedy.

22 The affidavits that we've adduced from  
23 Iesha Simpson and Sophia Anderson describe what issues  
24 Diane and her children were facing at the material time.  
25 The report that's appended to Sophia's affidavit, as

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ROWE (Submissions) - 10

1 Exhibit 3, if low income women of colour mattered in  
2 Toronto, shows that the issues facing Diane and her  
3 children were not unique to the family, that is that  
4 there are other families similarly situated in TCHC  
5 housing similar systemic challenges. And in respect of  
6 the coroner's public interest mandate, that is fully  
7 informing the public, in order to be able to make  
8 effective recommendations to avert a recurrence of this  
9 tragedy, the coroner's jury will need to consider this  
10 information.

11 At the time of their deaths, the following  
12 agencies were substantially involved in their lives:  
13 Children's Aid, Toronto District School Board, the  
14 Toronto Community Housing Corporation, Victim Services,  
15 and also the Employment and Social Services Division of  
16 the City of Toronto. And in fact I argue that the last  
17 entity, the ESSD, had more of an involvement in  
18 connection with the family than all of the other agencies  
19 combined. And as the sole source of income of the family  
20 and with responsibility to do ongoing monitoring, to have  
21 home visits, to recommend counselling where appropriate,  
22 locate employment opportunities, give employment skills  
23 training, they held a very significant position, vis-a-  
24 vis Diane and the children.

25 The services that were delivered by these

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ROWE (Submissions) - 11

1 different agencies were delivered against a contextual  
2 backdrop of systemic issues that Diane Anderson faced as  
3 a black single female head of household, sole support  
4 mother and social assistance, with low educational  
5 attainment, with substance abuse issues, with several  
6 children, residing in community housing. And some of  
7 those systemic issues include:

8 Lack of accessible supportive and  
9 therapeutic counselling, lack of access to gainful  
10 employment, lack of access to education and skills  
11 training, lack of community supports and services,  
12 inability to secure decent affordable housing, excessive  
13 responsibilities and overworked and being overloaded with  
14 unreasonable responsibilities.

15 And all of those systemic concerns that I  
16 just outlined are contained in the report that's appended  
17 as Exhibit 3 to the affidavit of Sophia Anderson. The  
18 purpose of appending that report is not to take this  
19 inquest down some sort of Royal Commission Inquiry into  
20 all the circumstances and causes of poverty. It's merely  
21 to provide a reference point to show that the experiences  
22 of the family, as set out in the affidavits of Iesha  
23 Simpson and Sophia Anderson, were not peculiar to the  
24 family, that Diane and her circumstances were part of a  
25 demographic that is over-represented in Toronto Community

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1           Housing. There are many other children that face the  
2           same vulnerabilities and risks that Diane and her  
3           children did by virtue of their station.

4                       According to the affidavits that we've  
5           adduced in support of this application, for whatever  
6           reason, Diane and her family did not receive all of the  
7           help they needed from these agencies, and these agencies  
8           provided a limited meaningful engagement and a lack of a  
9           sustained connection to the family help that could have  
10          averted this tragedy. So the coordination and the  
11          sufficiency of the services provided are a contributing  
12          factor to the deaths and relevant in understanding how  
13          this tragedy occurred and how it might be avoided in the  
14          future.

15                      The Employment and Social Services  
16          Department was a key player, given the nature and extent  
17          of their involvement with the family at the material  
18          time, as the sole source of the family's income and with  
19          the responsibilities that connect further skills and  
20          substance abuse and mental health counselling and  
21          employment, the inclusion of the Employment and Social  
22          Services Department is as justifiable as the inclusion of  
23          TDSB, the Children's Aid Society, Victim Services, and  
24          the Toronto Community Housing Corporation. And given  
25          your recent ruling, the present scope is not broad enough

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ROWE (Submissions) - 13

1 to include all of these issues.

2 Now recognizing that an inquest is not a  
3 free wheeling inquiry into all aspects of a person's  
4 life, and recognizing the duty of the coroner to see that  
5 - and this is taken from one of the cases I reviewed in  
6 preparing this - to see that the sideshow does not take  
7 over the circus.

8 Unless the scope of the inquest is  
9 expanded to include consideration of the systemic issues  
10 and the coordination and efficiency of the services that  
11 Diane and her family were receiving at the material time,  
12 the inquest will fail in its most essential purpose, to  
13 fully inform the public, examine all the relevant  
14 circumstances contributing to the death and provide the  
15 jury with admissible evidence to allow them to answer the  
16 relevant questions, including making recommendations, how  
17 the deaths might be avoided in future, and  
18 recommendations respecting any other matter arising out  
19 of the inquest, including how the vulnerabilities and the  
20 risks peculiar to those similarly situated with Diane  
21 might be reduced if not eliminated.

22 As a state actor, the Coroners Office must  
23 act and exercise its discretion in a manner that's  
24 consistent with the values of our Charter, our  
25 Constitution. And a key purpose of the Charter includes

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ROWE (Submissions) - 14

1 the protection of vulnerable minorities. Protection of  
2 minority rights is an independent principle underlying  
3 our Constitution, hence there is a constitutional  
4 imperative that state actors exercise a discretion in a  
5 way that's respectful of fundamental human rights, such  
6 as the equality concerns in Section 15 of the Charter.

7 So to relate that to the instant request  
8 for expansion of the scope, as a member of a visible  
9 minority group, Diane faced risks and vulnerabilities by  
10 reason of her personal characteristics. And I've  
11 outlined what those are already. And a consideration of  
12 relevant contextual factors, that is the systemic issues  
13 that she faced by virtue of her demographic is a critical  
14 part of the overall analysis regarding how the death  
15 occurred and what can be done to prevent it happening  
16 again.

17 Historical or sociological disadvantage is  
18 a key element of this analysis. And as Diane, and those  
19 similarly situated to her, faced systemic issues that  
20 contribute to this strategy. A decision by the coroner  
21 or an exercise of discretion that precludes the expansion  
22 of the scope to include consideration of these issues  
23 will result in the perpetuation of a disadvantage and the  
24 stereotypes that she, and other similar situated, faced  
25 as a member of that demographic, with a real danger that

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1 the inquest fails in its public interest mandate to fully  
2 inform the public and with a danger that the tragedy will  
3 happen again, given the number of children that are in  
4 the same position that Diane and her children were  
5 currently.

6 So that, in a nutshell, is the basis  
7 that's motivating the request for the expansion of the  
8 scope.

9 Now in respect of the affidavit materials,  
10 I know that you've had an opportunity to review them and  
11 I appreciate the analysis that you did in respect of the  
12 Affidavit of Iesha Simpson, in which you outline which  
13 paragraphs you believe are properly within the current  
14 scope and which ones will require an application to  
15 expand the scope.

16 I guess, in a nutshell, in respect of  
17 Iesha Simpson's affidavit - and that appears at page 7,  
18 Tab 2 of the Applicant's brief. The significant  
19 information is the extent of involvement of the  
20 Employment and Social Services Department. The lack of  
21 home visits and the extent to which Diane was overwhelmed  
22 by her situation.

23 The only reason that the affidavit refers  
24 to the post fire involvement of Iesha Simpson, with the  
25 very same welfare office and welfare worker that assisted

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ROWE (Submissions) - 16

1 her mother, is to show that or to emphasize that the same  
2 situation and competence of circumstances Diane faced in  
3 the days leading up to the tragedy are being faced all  
4 over again by her daughter, Iesha, who is black, sole  
5 support mom, unable to find affordable housing and not  
6 getting the assistance as she needs from the very same  
7 office.

8 The other significant point from the  
9 affidavit is the fact of the child Travari's special  
10 needs and behavioural issues, and the significant stress  
11 that placed on the household, given all the other issues  
12 that Diane had to deal with.

13 And of course the affidavit also talks  
14 about the efforts of Diane to report the severe disrepair  
15 problems to TCHC, and her desire to actually transfer  
16 from her unit.

17 So the affidavit is helpful in providing a  
18 backdrop to some of the significant system issues that  
19 Diane and her children were facing at the material time.

20 The Affidavit of Sophia Anderson, at Tab  
21 4, underscores the extent of Diane's mental health and  
22 substance abuse issues as reported by her sister, Sophia,  
23 who was in contact with her on a regular basis prior to  
24 the fire, and the efforts to get help. And the  
25 experience that Diane had with that particular welfare



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ROWE (Submissions) - 17

1 office, at paragraph 3, feeling belittled, crying after  
2 attending at the office because of how she was treated  
3 there. There never being any home visit by the case  
4 worker to her home. And the fact that the welfare office  
5 appears to have designated it a "no visit" area because  
6 it was considered too dangerous to go to.

7 All that is included to underscore that --  
8 oh, and we've also attached the police directives of the  
9 Social Services office, the job description of the case  
10 worker, all of which outline the responsibilities of case  
11 workers and of the office in terms of providing supports  
12 and assistance to Diane and the family as recipients of  
13 social assistance.

14 And when you look at all of those, I know  
15 you've reviewed them, it appears that what was suppose to  
16 happen didn't happen, and had it happened we might not be  
17 here. And this is what underscores the necessity of  
18 expanding the scope to include a review of what that  
19 office did, the role it had, and what could have perhaps  
20 been done differently. And the further importance of  
21 this is underscored by the fact that the experiences and  
22 systemic issues that Diane Anderson and her family were  
23 facing, again, were not peculiar to her family, that  
24 there are many others similarly situated in Toronto  
25 Community Housing as we speak, going through this very

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ROWE (Submissions) - 18

1 same experience.

2 If we're going to try to make a  
3 recommendation so that this doesn't happen again, not  
4 only Diane and her children, but to those others who are  
5 similarly situated, those other children who are living  
6 in those same kind of circumstances. And to the extent  
7 that the current scope was not expanded to allow for  
8 this, then the jury can't get the relevant information  
9 that it needs to make nuance recommendations, that can  
10 address the peculiar vulnerabilities that a person and  
11 family in this demographic could experience this, that is  
12 lack, sole support parent, low educational attainment, on  
13 assistance, living in community housing.

14 Now I'm happy to take you through the  
15 responsibilities, I mean in terms of the affidavit it's  
16 at paragraph 5, which is page 14, and the actual policies  
17 and procedures, protocols of the Social Services office  
18 are contained in Tab 5. And I know that there's a  
19 similar motion by my friend Ms. Fraser, and I don't want  
20 to have too much duplication here, I guess to give you a  
21 nutshell executive summary, those directives confirm that  
22 case workers are suppose to make home visits. They're  
23 suppose to help Diane and that's contained at page 18 of  
24 the record and pages 20 to 21.

25 THE CORONER: Sorry, would you repeat

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ROWE (Submissions) - 19

1 that?

2 MR. ROWE: Sure. The case workers are  
3 suppose to make home visits, that's one of their  
4 responsibilities. And that's straight out of the job  
5 description at page 18 of the record. And I'll take you  
6 right to it. Page 18, if you look under the subheading  
7 "Job Description" and if you look at the second bullet  
8 point - so it's in our application record, page 18.

9 THE CORONER: Carry on, I'll find it.

10 MR. ROWE: And it states one of the  
11 aspects of the job description of the case worker is to  
12 "Conduct interviews with clients by phone or in person at  
13 various locations, such as offices, community centres and  
14 clients' homes."

15 And then to continue, "Assess and refer  
16 client's to appropriate services, including career  
17 counselling, training, employment opportunities,  
18 education, housing, other community supports, advocate on  
19 behalf of clients for services in areas of career  
20 opportunities, life skills, education, health, comfort  
21 housing and community support systems..." et cetera.

22 Further authority for the requirement of  
23 home visits is contained at page 20. It's itemized under  
24 the Ontario Works Policy Directives 2.8. And the  
25 application of the policy is all set out there.

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ROWE (Submissions) - 20

1 And if you look at page 21, delivery  
2 agents - and they're referring to the Social Services  
3 office - the second full paragraph on page 21, "should  
4 establish a method for identifying situations where a  
5 home visit may be required" and indicates how they're to  
6 do that.

7 And it goes on at the penultimate  
8 paragraph of that page to state that "Applicants..." -  
9 that is those welfare recipients - "...are to be advised  
10 that the possible consequence of refusing a home visit  
11 without a valid reason may result in denial or  
12 cancellation of assistance."

13 The bottom line is that the Social  
14 Services office had sufficient authorization to make home  
15 visits to see how the family was doing, and from the  
16 evidence adduced did not.

17 And when you look at all the duties  
18 contained in the job description and then look at the  
19 evidence as to what actually was done, we contend that  
20 had the things that were suppose to have been done by  
21 this office we might not be here. And if we're trying to  
22 ensure that this tragedy doesn't happen again - and as I  
23 said before, we owe it to those similarly situated on  
24 welfare assistance, living in Toronto Housing, kids, that  
25 appropriate recommendations are made so that systems work

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ROWE (Submissions) - 21

1 better.

2 And by the way, another one of the policy  
3 directives is that the case workers liaise with other  
4 agencies in helping the family. And the degree of liaise  
5 on the quality of coordination and the quality of service  
6 and sufficiency of service, those are issues that we are  
7 looking at in the context of the four agencies that were  
8 involved with the family that are currently parties:  
9 Children's Aid, Toronto District School Board, Victim  
10 Services, and Toronto Community Housing Corporation.

11 So what we're asking isn't adding that  
12 much to the current scope and to the time it'll take to  
13 address the issue I'd estimate a day, we're probably  
14 adding a day. However, the consequence of not including  
15 this or not expanding the scope is far more serious and  
16 prejudicial to the family and to ensuring that the public  
17 interest component of the coroner's mandate is properly  
18 carried out.

19 Do you have any questions about any of  
20 this so far?

21 THE CORONER: No, I'm just listening to  
22 you.

23 MR. ROWE: Well I think I've stated our  
24 case. It's for these reasons that we are requesting that  
25 the scope be expanded.

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ROWE (Submissions) - 22

1 THE CORONER: I have no questions at the  
2 moment. Thank you very much.

3 MR. ROWE: Thank you.

4 THE CORONER: Ms. Fraser?

5 SUBMISSIONS BY MS. FRASER:

6 Mr. Coroner, I'm mindful of your comments  
7 and I'll try to make mine germane.

8 I'd like to be able to ask Iesha Anderson  
9 at this inquest what do you think would have helped your  
10 mother? How do you think she understood her problems?  
11 And I'd like her to be able to answer that question in a  
12 way that's true to her experiences and in a way that  
13 gives her an opportunity to talk about what she saw as  
14 the problems within her family.

15 It's the role of the Advocate to try to  
16 help elevate the voices of young people. And I think in  
17 the circumstances of this inquest, where you have a young  
18 person who was playing a parenting role in the family,  
19 from what we understand from the brief, Iesha Simpson was  
20 playing a parenting role, helping her mother with the  
21 children. She suffered a loss of both of her mother and  
22 of her siblings, and here she is now finding herself to  
23 be a parent.

24 That's a very compelling story from my  
25 client's perspective, I think it's a compelling story to

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FRASER (Submissions) - 23

1 all of us and I'd like her to be able to tell her story  
2 and I'd like to be able to ask her questions about what  
3 could have made a difference, if she had a magic wand and  
4 could wave her wand, what would she want to see have been  
5 done differently.

6 And what I worry about is that the family  
7 having raised these issues and you having expressed some  
8 concerns about them being within the scope, as you have  
9 previously defined it, that those questions cannot be  
10 asked.

11 So I want to talk to you a little bit more  
12 about why I think those questions are important because I  
13 think the answer, from what we know from the affidavit  
14 material, is that from Iesha Simpson's perspective that  
15 her mother's interaction with Social Services played a  
16 negative role in terms of her mother's mental health, the  
17 comments about the belittling and feeling belittled. And  
18 also her mother's concerns about the adequacy of her  
19 housing. Of course that can be seen both as a question  
20 of the nature of the housing that Toronto Community  
21 Housing Corporate was able to provide, but also what her  
22 options were, given her circumstances, to be able to find  
23 other housing if she wasn't satisfied with the housing  
24 that she had.

25 I have taken care to try to ground this

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FRASER (Submissions) - 24

1 application in the narrative of the family and the very  
2 obvious factors that affected their well being, both  
3 positively and negatively. So the mother's mental health  
4 obviously is a clear component here. You've identified  
5 that as being one of the issues of the mother being  
6 intoxicated on the night of the fire and the children  
7 being unsupervised. Obviously if we can strengthen the  
8 mother, if the mother had been in a stronger position,  
9 had sought help or had had a better connection with the  
10 help that was offered, that's obviously something, from  
11 my client's position, that could have made a difference.

12 The circumstances of living in Toronto  
13 Community Housing and the issues that have been raised by  
14 the fire investigation, those are connected. That the  
15 adequacy of that housing and the issues that come with  
16 being in Toronto Community Housing and having a landlord  
17 that's an institution that's connected to Social Services  
18 in the sense that Toronto Community Housing describes  
19 itself from time to time as a caring landlord.

20 The trauma of the family experienced - and  
21 in a way that's already been identified in these  
22 proceedings - the death of Leroy Whittaker by a shooting  
23 in 2005 and the mother's downturn, it appears to be the  
24 downturn that followed that.

25 So we've tried to ground the application



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1 in understanding the factors that have already been  
2 identified. You are, of course, permitted to determine  
3 the scope of the inquest, and that you do on the basis  
4 of your investigation, on the basis of the PDRC Report,  
5 but the benefit of the inquest, of course, is that it  
6 allows greater participation in those processes. And so  
7 it allows us to reflect on what the investigation told us  
8 and allow others to offer their input.

9 You've granted my client standing based on  
10 its unique perspective on these issues and my client  
11 believes that the examination of these issues, framed in  
12 the context of the experiences of the family, can assist  
13 us in solving the problems. And I'm going to tell you a  
14 little bit more about how I think that is to happen.

15 The Advocate, of course, approaches it as  
16 a public interest party with standing in contrast to the  
17 family which approaches it as a party with standing which  
18 has a private law interest in these matters. And I think  
19 that makes a difference just in terms of it's not simply  
20 a public interest intervenor saying that these are  
21 relevant factors, it's actually coming from those who are  
22 closely connected to the deceased.

23 People First and Porter tells you that it  
24 is you who determine the scope of the inquest and not the  
25 parties. It also tells you that there is this wider

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1 interest in the preventative function and that the  
2 inquest process has grown to include that perspective.

3 Young people tell the Advocate that adults  
4 often make problems more complicated than they are and  
5 that looking for solutions that adults really know what  
6 children need to thrive and survive. And from our  
7 perspective and what young people tell us is that young  
8 people need resources, connection and voice. They need  
9 practical resources to housing, to financial assistance,  
10 to mental health resources. And those should come from  
11 where the young person identifies their need. And that's  
12 the voice component, that the young person should have a  
13 voice in the component, in the identification of what  
14 those resources are, and that there should be a  
15 connection, and that that connection, wherever it is  
16 made, one sustained connection can make a difference for  
17 an individual.

18 Those three factors speak so loudly in  
19 this case that you have a number of different community  
20 agencies connecting, but that connection isn't sustained.  
21 We don't see an engagement with those service providers,  
22 with the exception of the social worker who came to the  
23 house over that period of the school year and provided  
24 services to Trevon, but I don't actually see sustained  
25 connections. And there are reasons for that and I'm sure

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1 we'll hear those reasons.

2 But I think it would be mistake, knowing  
3 what we know - and I'm going to tell you a little bit  
4 more about why I think the ESSD of the City of Toronto  
5 plays a role in this - it would be a mistake to say this  
6 is what our investigation shows, so if there are other  
7 factors that come up and may have had a role to play,  
8 we're not going to consider them. I think that where  
9 there's evidence that there was a role for those other  
10 services to play, that that is very important.

11 I have been at many inquests where  
12 decisions were made based on -- where mistakes that led  
13 to the death were based on a mythical view of the law.  
14 And I'm thinking about mental health inquests where  
15 people didn't understand the law. And so the jury ends  
16 up making recommendations to fix the mental health law  
17 without actually providing - even though the law already  
18 would have fixed the problem.

19 And so what I would like to seek to avoid  
20 is the creation of recommendations for new systems and  
21 not looking at systems that are already in existence and  
22 already in play that may have made a difference had they  
23 worked the way that they said they were to work. And I  
24 don't think that inquests should be about creating extra  
25 layers of things, sometimes the inquest should be about

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1 making systems work better together.

2 I've referred in our materials - and  
3 that's a bound application and you should have it, Mr.  
4 Coroner, application of the Provincial Advocate for  
5 Children and Youth. Do you have that?

6 THE CORONER: Yes.

7 MS. FRASER: Could I ask you, Mr.  
8 Coroner, please, to turn to Tab 2 ---

9 THE CORONER: Unfortunately I just have  
10 a paper, I wasn't given the tabs.

11 MS. FRASER: Oh, Ms. Edward has the one  
12 that was intended for you. You know what, if there's no  
13 objection, I'll hand up mine?

14 MS. EDWARD: I can give him my copy. It  
15 was e-mailed to him.

16 MS. FRASER: I see. I'm sorry, we were  
17 in a rush, so Ms. Edward should have had a bound copy as  
18 well. I just think it'll be easier.

19 THE CORONER: Thank you.

20 MS. FRASER: So I would ask you to turn  
21 to Tab 2, page 54. And there what I've included are the  
22 Ontario Works Policy Directives, they're taken from the  
23 government website and they're attached to an affidavit  
24 from my assistant. And what they do is they actually  
25 provide an overview.

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1 And if you look at the legislative  
2 authority, it talks about the nature of the Ontario Works  
3 Program, and of course welfare is grounded in the Ontario  
4 Works Act. And the Act establishes, it says that:

5 "The Act establishes a program that  
6 recognizes individual responsibility and promotes self-  
7 reliance through employment, provides financial  
8 assistance to those most in need while they meet  
9 obligations to become and stay employment and effectively  
10 serves people needing assistance and is accountable to  
11 the taxpayers of Ontario."

12 And it is the intent of the program, as  
13 described below that portion, Mr. Coroner,

14 "It is the intent of the Ontario Works  
15 Program to help people in temporary financial need to  
16 find sustainable employment, an of self-reliance through  
17 the provision of effective, integrated employment  
18 services and financial assistance."

19 So on the face of it, it's not immediately  
20 apparent that there's a role to play because it's about  
21 employment assistance and it's about temporary financial  
22 support. But when you look deeper into the way that the  
23 program is intended to operate - and I put some of this  
24 in my Notice of Motion, turn the page to page 55,  
25 principle one, it says:

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1 "Delivery agents provide a range of  
2 employment assistance activities with a focus on engaging  
3 participants in a collaborative process to identify and  
4 take steps to help participants attain sustainable  
5 employment. Service planning for the provision of  
6 employment assistant supports seamless and accessible  
7 service for participants through client centred pathways  
8 to employment in integrated local planning."

9 So it's envisaging a system where it's not  
10 about the delivery of a cheque, it's about engaging the  
11 client and helping the client become self-reliant and  
12 moving out of the system. And this kind of connects to  
13 the job description that Mr. Rowe referred you to when  
14 Mr. Rowe referred you to the job description contained in  
15 his materials, there was a portion of that job  
16 description that included advocating for clients on  
17 housing, on social supports - and I'm just going to tell  
18 you where you find that job description again. That was  
19 on page 18 of Mr. Rowe's record:

20 "Advocates on behalf of clients for  
21 services in areas of career opportunities..."

22 MR. ROWE: Mr. Coroner, I can hand you  
23 mine, if I may?

24 THE CORONER: Sorry, I'm all paper, so I  
25 don't have a book, that's what makes it difficult for me.

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1 MR. ROWE: Page 18 of the affidavit.

2 THE CORONER: Yes, thank you.

3 MS. FRASER: So this is the job  
4 description that Mr. Rowe took you to, and under "Job  
5 Description" on the sixth bullet point down, it says:

6 "Advocates on behalf of clients for  
7 services in areas of career opportunities, life skills,  
8 education, health, comfort, housing and community support  
9 systems."

10 And if that doesn't really jump out as  
11 what was needed in this case, then I would be -- I think  
12 that just really speaks to what was needed in this case  
13 in terms of an advocate for this family who was engaged  
14 and helping the mom to become self-reliant and accessing  
15 the supports that she needed.

16 We have, on the witness list, a number of  
17 different professionals, helping professionals who were  
18 engaged with this family. And I would like to be able to  
19 ask them what the strengths were, what the weaknesses  
20 were of this family - because from my perspective that's  
21 a starting point of understanding an individual's  
22 problems and understanding what they need and what  
23 services are to be provided.

24 So I think that those factors of what the  
25 strengths were of this family. Obviously a mother who

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1 was very dedicated to her family, but had challenges, a  
2 tight knit family it appears with other family members  
3 who were attached with a number of systems engaged. But  
4 I think it's important to understand what the strengths  
5 and weaknesses were of that family because that allows  
6 you to consider whether services can be delivered  
7 differently. And without really saying who was this  
8 person and not just what her name was and where she  
9 lived, but what challenges she had, then I don't think  
10 that the public interest is served.

11 I have other concerns about not addressing  
12 these issues now that they have been raised. I expect  
13 that some people may be critical of the adult relatives,  
14 of Diane Anderson. I expect that the reluctance of  
15 adults to contact the Children's Aid Society may be  
16 something that's raised with the family and I want them  
17 to be able to respond to what the reasons were that they  
18 didn't do that and the barriers without worrying about  
19 whether they're crossing a line that's not within the  
20 defined scope of the inquest. I'd like to be able to ask  
21 those questions too about what the barriers are, but I  
22 worry about, if you make a ruling shutting down an  
23 inquiry that includes an examination of the services that  
24 were provided by what is to be the social service agency  
25 of the City, Employment and Social Services Division, as



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1 I understand it to be called, that would be a mistake.

2 I also worry, Mr. Coroner, and I've  
3 articulated this in the Notice of Motion, that one of the  
4 purposes of the inquest is to quash any kind of suspicion  
5 or doubt, so that the public understands that all of the  
6 circumstances of the death have been examined. And I  
7 worry about the public confidence in this process where  
8 the family raises an issue as being relevant and the  
9 family is not entitled to pursue it as a private law  
10 party.

11 It would be one thing for the Provincial  
12 Advocate for Children and Youth to say that, you know,  
13 you really should be looking at the Ontario Works and the  
14 role of the case worker and the question of home visits.  
15 And you could say, well Ms. Fraser, you know, your client  
16 doesn't have any direct connection. But here you have  
17 someone with a direct connection, so I think that sets it  
18 apart from some of the other cases. The traditional case  
19 that we go to is People First and there it was a public  
20 interest body that was trying to expand the scope of the  
21 inquest. So I just wanted to sort of alert you to that,  
22 I think that they are two different questions.

23 The family situation here is really the  
24 touchstone for our argument, that they've identified  
25 these issues, that a young person who had a strong role

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1 in caring for her siblings and who has survived this  
2 tragedy, has identified an issue. And I think that's a  
3 very compelling reason to, even though it appears that it  
4 will cause - if you were to go down this road, that  
5 fairness would dictate that there'd be an adjournment. I  
6 think that, in the circumstances, that you have an  
7 opportunity to meaningfully look at who this family was  
8 and to make effective recommendations about the delivery  
9 of service to those individuals.

10 So we've proposed some wording that we  
11 think can accomplish that objective and it's contained in  
12 our record. And I don't think that my record is actually  
13 marked up too much, so I'll leave mine with Ms. Edward so  
14 that she can have a copy and I've got a computer version  
15 that I can work with.

16 THE CORONER: Thank you.

17 MS. FRASER: Thank you.

18 THE CORONER: Anybody else in support of  
19 the motion?

20 MS. COPELAND: Yes.

21 THE CORONER: Please, Ms. Copeland.

22 MS. COPELAND: Thank you.

23 SUBMISSIONS BY MS. COPELAND:

24 I'm here on behalf of the three CAS  
25 workers who have standing at the inquest. And we support

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1 the motion on two grounds, which I think are perhaps  
2 somewhat narrower than the grounds put forward by Mr.  
3 Rowe and Ms. Fraser.

4 The first is a substantive ground about  
5 why it should be raised, and the second is a procedural  
6 ground.

7 The first one relates to the issue of  
8 recommendations which the jury may be asked to make at  
9 the end of the inquest. And I would come back in making  
10 the submission to your comments at the outset, that one  
11 of the reasons this inquest was called was because the  
12 Coroner's Office found that the jury could likely make  
13 useful recommendations to prevent deaths in similar  
14 circumstances pursuant to Section 20(c) of the Coroners  
15 Act.

16 In our submission it's likely that the  
17 jury will be asked at the end of this inquest to make  
18 recommendations in relation to the social services that  
19 were available to the family at the time, and in  
20 particular with respect to communications between various  
21 different service providers. And in our respectful  
22 submission, if there is an agency that had a mandate  
23 relevant to the Anderson Family and that worked with the  
24 family at the relevant time period, and in my respectful  
25 submission ESSD meets both of that criteria, it had a

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1 mandate relevant to this family and it had a relationship  
2 with the family at the time relevant to the inquest.

3 If that agency's relationship with the  
4 family is not explored at the inquest, the jury will only  
5 have a partial picture of the responsibilities of various  
6 social service agencies with respect to this family. And  
7 in my respectful submission, a partial picture - not  
8 intentionally, but has the effect of being a distorted  
9 picture, they will learn about the mandate of social  
10 services and whether that mandate was met.

11 And in my respectful submission,  
12 proceeding on this basis with an incomplete picture  
13 before the jury, runs the risk of the inquiry not  
14 performing its function of the jury making  
15 recommendations likely to prevent deaths in similar  
16 circumstances because they won't have a full picture.

17 My second submission, which is a  
18 procedural one, is that if you limit the scope of the  
19 inquest to the scope as it's currently set out, there is  
20 a risk, in my submission, that these issues will arise  
21 through the cross-examination through the inquest.

22 Now certainly you have the authority - and  
23 one will assume you would exercise it - to limit cross-  
24 examination, to stick within the scope of the inquest,  
25 but when you have before you a number of social service

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1 agencies already - the Toronto CAS and a number of CAS  
2 workers, Victim Services, the Toronto School Board, and  
3 Toronto Community Housing - and there's an issue about  
4 communication between those agencies, in my respectful  
5 submission, despite everyone's best efforts, not to get  
6 into ESSD, if you maintain the current scope of the  
7 inquest, I think there's a serious risk that that may  
8 arise in the course in the inquest. And if it does it  
9 will create real procedural difficulties because it could  
10 lead to delay of the inquest in the middle of the inquest  
11 when you already have a jury sworn or possibly if ESSD  
12 were to seek standing late in the process and there was  
13 some unfairness to them, the need to recommence the  
14 inquest. And in my respectful submission it would  
15 benefit the process to avoid that type of situation  
16 occurring.

17 So subject to any questions, those are my  
18 submissions.

19 THE CORONER: Thank you. Any other  
20 party wishing to speak for the motion? Yes, Mr. Fisch?

21 SUBMISSIONS BY MR. FISCH:

22 MR. FISCH: Very briefly. Thank you,  
23 Dr. Evans.

24 The Children's Aid Society of Toronto, as  
25 communicated to all of the parties, does not oppose the

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1 request being sought by both the family members and the  
2 Child's Advocate.

3 However, in terms of the scope as defined  
4 in the motions, the Society would support if you were to  
5 grant an expansion of the scope rather than a reframing  
6 of the issues in the manner that has been suggested,  
7 simply building on the issues and the scope already set  
8 out by your earlier ruling and looking at the first  
9 scope, which previously read or currently reads the  
10 involvement of the Children's Aid Society with the  
11 family, simply adding to that the Victim Services, the  
12 Toronto District School Board and ESSD, if you're  
13 inclined to grant the expansion and this would allow for  
14 an effective and an appropriate examination of a number  
15 of different issues rather than a narrowing of it as set  
16 out in the actual proposed expansion.

17 So while not opposed, that would be the  
18 Society's submission if you were inclined to grant the  
19 expansion of the scope.

20 Subject to any questions, those are the  
21 Society's submissions.

22 THE CORONER: Thank you. Ms. Lopez,  
23 anybody in ---

24 SUBMISSIONS BY MS. LOPEZ:

25 I'd like to start off by saying that while

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1 the Toronto District School does not necessarily oppose  
2 the addition of ESSD, we don't support the motion in its  
3 current state or in its current wording, that which has  
4 been articulated in both Mr. Rowe's application and in  
5 Ms. Fraser's application as well. And actually now that  
6 I've heard CAS's submissions we also do not support the  
7 wording of the CAS as well.

8 The reason for such is that it's our  
9 position that this effectively expands the focus of the  
10 TDSB's involvement with respect to the family. I think  
11 that perhaps - I'm not sure if all counsel here, but they  
12 probably could appreciate that the TDSB provides a  
13 variety of services. Again, I don't want to speak for my  
14 friend at Victim Services or at CAS, but they come in at  
15 very specific times, whereas the TDSB had ongoing  
16 relationship with not only Diane Anderson, but also all  
17 of the children who were actually attending. This could  
18 include just educational services, social work services,  
19 psycho-educational services, special education services,  
20 et cetera.

21 So it is our concern that the expansion  
22 with this language would effectively cause either an  
23 examination when the wording "examination" would result  
24 in the TDSB going back and having to add a whole bunch of  
25 witnesses for this case. For example, the wording such

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1 as "sufficiency of the service", for us that can mean  
2 anything and everything. We're unclear as to what that  
3 means.

4 We tried to look in the applications from  
5 both Mr. Rowe and from Ms. Fraser. I don't think there  
6 was any mention of the TDSB or any type of -- I'm not  
7 really sure if that was intent, but I can certainly say  
8 that the language, as it's written right now, concerns us  
9 because it would effectively make us look at the entirety  
10 of the service, from the children entering kindergarten,  
11 to the point where they either left or retired from the  
12 TDSB, and that's our concern. When reviewing the  
13 Provincial Advocate's materials, there actually was no  
14 reference to any educational services or an examination  
15 such.

16 So for us it's a bit unclear as to what  
17 the language really means or what an examination would  
18 mean or what an involvement would mean because there's  
19 such a variety of services that the Toronto District  
20 School Board provide.

21 The language which is present right now,  
22 as the scope has been enunciated at this point in time,  
23 it is clear to the Toronto District School Board exactly  
24 what the focus of the TDSB is within these proceedings.

25 I do believe that there was some mention



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1 in Mr. Rowe's oral submissions - and again, I don't know  
2 if this was with relation to education or not - with one  
3 of the child's behavioural issues. I mean it's my  
4 respectful submission that the behavioural issues did not  
5 begin to occur until after the deaths and they were  
6 obviously noted by the school and they were dealt with or  
7 the services were provided as such, but they were after  
8 the deaths.

9 I think I also heard Ms. Fraser mention  
10 that she would, in order to have an effective and  
11 meaningful proceeding, that she would like to ask the  
12 family what are the strengths and weaknesses of family.  
13 I don't necessarily oppose that position because I think,  
14 you know, I can appreciate that this is important to  
15 these types of proceedings. Again our concern is, with  
16 this language and with that type of questioning, what it  
17 will do is it will effectively expand the focus of the  
18 TDSB because the strengths and the weaknesses of that  
19 family could be in relation to the educational services  
20 that were provided to them from the Toronto District  
21 School Board.

22 So for those reasons we're asking that the  
23 motion not be granted, at least not in its current form.  
24 And that in the alternative, if it is granted, again I'd  
25 like to say that we're not opposed to ESSD being added or

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1           that scope being expanded in that sense, but that the  
2           TDSB's name be severed from that wording because it would  
3           effectively expand the scope for the TDSB.

4                       And if it is granted in its current form,  
5           we would request an adjournment and a clarification in  
6           writing as to the focus for the Toronto District School  
7           Board because, like I said, it's very -- like we could  
8           have 20 plus witnesses from the Toronto District School  
9           Board if it's expanded in its current form.

10                      I do appreciate that I did hear Mr. Rowe  
11           say that it really effectively wouldn't be adding much.  
12           And again, I'd like to say that we're not opposed to ESSD  
13           being added, but not in this form.

14                      And just lastly, again, we don't disagree  
15           with Ms. Copeland's position as well, that from that  
16           perspective, you know, as procedural and substantive  
17           issue perspective, that ESSD could be added, but we just  
18           don't see it with respect to this wording. And  
19           unfortunately I don't have a counter or proposed or  
20           alternative wording, the only thing I can say is that we  
21           ask not to be included in that wording.

22                      Those are all my comments. Thank you.

23                      THE CORONER:     Very well. Ms. Bacher, do  
24           you have any comments?

25                      MS. BACHER:     The OFM is not taking a

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1 position.

2 THE CORONER: Any position, very well.

3 Mr. Butt?

4 MR. BUTT: Yes, thank you very much.

5 SUBMISSIONS BY MR. BUTT:

6 The Victim Services of Toronto, obviously  
7 given the nature of the organization, first of all, is  
8 extremely sympathetic to the position in favour of the  
9 motion. Naturally, given the work that they do, their  
10 first inclination would, in a perfect world, be to  
11 support. They don't live in a perfect world though.

12 Their difficulty with the proposed  
13 expansion and what I submit would be a necessary  
14 adjournment is simply that it has too significant an  
15 impact on their own operations. And so that they're  
16 reluctantly in a position where they cannot support the  
17 expansion or the adjournment.

18 And the reason for that I think it's  
19 important to understand, given that naturally their  
20 inclination would be to offer as much support as they  
21 could, Victim Services operates 24/7, 365. They serve -  
22 last year 19,142 victims across the entire the City of  
23 Toronto with core funding totalling \$815,000 which is \$42  
24 and change per victim. They are a tiny organization that  
25 is frankly stretched to deliver the services they

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1 provide. And so the participation in an inquest like  
2 this, although obviously necessary given the properly  
3 delineated scope, is very much a hardship for them.

4 The adjournment after the jury was  
5 selected of course occasioned considerable costs.  
6 Another adjournment would occasion more costs and an  
7 expansion would be an expansion of the chapter that they  
8 would participate in. I've made it clear in  
9 communication that I'll be here for that chapter  
10 involving Social Services, but will not be here for the  
11 fire safety and the housing pieces.

12 So much as I endeavour to limit my  
13 participation, the expansion that's proposed is to the  
14 inter-agency communication piece that they would have to  
15 participate in.

16 So for those really internal resource  
17 oriented issues, the Toronto Victim Services very  
18 reluctantly do not support it.

19 There is one other governance internal  
20 imperative that also leads them to take this position and  
21 that is that if it were expanded, if it were adjourned,  
22 recommendations would not be forthcoming until many  
23 months down the road. And for planning purposes, a jury  
24 verdict in the spring would be more advantageous to  
25 Victim Services review of their operations as might be

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1 necessary from jury verdicts. So that's the other issue  
2 that creates a problem for them.

3 THE CORONER: Very well. Mr. Gourlay?

4 MR. GOURLAY: Thank you, Mr. Coroner.

5 SUBMISSIONS BY MR. GOURLAY:

6 Mr. Coroner, as a preliminary matter, I  
7 act of course for the Fire Service, but the name of my  
8 client is the City of Toronto. And so of course, for the  
9 purpose of this application, I'm appearing on behalf of  
10 the Employment and Social Services Division. If the  
11 applications are granted, there may be some change to  
12 that situation because we need to look at whether there  
13 are internal conflicts and really that depends on what,  
14 if any, new issue is defined in your decision.

15 So for the purposes of today I am counsel  
16 for ESSD. And in that role I submit that the issue as  
17 defined is too broad for this inquest. It goes well  
18 beyond the three issues that you previously defined. It  
19 also delves into not just the circumstances of the  
20 family, let alone the circumstances of the deaths, it  
21 gets into the circumstances of a much larger group of  
22 people, a demographic, and that bears the risk of  
23 damaging this process in terms of its focus which should  
24 be on the circumstances of the death of the three  
25 individuals.

1                               The scope, as defined in the applications,  
2                               touches on all services provided by the Employment and  
3                               Social Services Division, the breadth of that alone is  
4                               extraordinary, it doesn't just touch on referrals that  
5                               maybe should have been given or were given or weren't  
6                               given.

7                               As worded, it certainly touches on the  
8                               sufficiency of welfare payments in the Province. The  
9                               treatment of not just a demographic, but how poor people  
10                              cope in the Province.

11                             It's an extraordinary broader inquiry, it  
12                             touches on what was done by the City, of course, but it  
13                             also touches on what should be done by the Province and  
14                             it brings other players into potential interest of the  
15                             inquest.

16                             And I'm thinking of course of the Ministry  
17                             of Community and Social Services, perhaps the individual  
18                             case worker who is mentioned in the affidavit material,  
19                             she may want to have her own standing. And as we saw in  
20                             the CAS case in this inquest, of course the union might  
21                             get involved as well.

22                             So it's broad, but more importantly it  
23                             strays, in my submission, to quite a distance from the  
24                             nexus to the death of these three individuals.

25                             Of course other social service agencies

1 are involved and comparisons have been drawn, but if we  
2 look at the original scope of the inquest, we had three  
3 issues: we had CAS named in particular and of course if  
4 CAS, for example, were found to have missed a step in its  
5 internal communications alone, leaving aside external  
6 communications, perhaps that would have resulted in the  
7 children improperly not being removed from the home, for  
8 example.

9 And this is of course just purely based on  
10 speculation, but as an example if CAS had missed a step  
11 that's linked to the children being in the home at the  
12 time of the fire and potentially could have - if that  
13 step had been taken, for example, the removal of the  
14 children - that could have avoided the fire, it certainly  
15 could have avoided the deaths. And I'm not saying that  
16 the evidence plays that out, that's the purpose of the  
17 inquest, but that question is central to the nexus to the  
18 death.

19 The other issues, as we originally defined  
20 them, dealt with TCHC, and TCHC obviously had the direct  
21 link, not just to the family, but to the family's housing  
22 situation, to the upkeep of the unit and to the fire  
23 safety equipment within the home. All of that is linked  
24 very closely to the death.

25 TDSB and Victim Services, of course, chose

1 to enter the inquest process based on those issues as  
2 they were defined and nobody objected to their  
3 applications for standing. But their applications for  
4 standing did not require or entail an expansion of the  
5 scope of the inquest and indeed, arguably, if Victim  
6 Services or TDSB attempted to expand the scope of this  
7 inquest parties could object. And Mr. Coroner, you could  
8 limit the questioning away from specific issues that  
9 those parties might want to bring.

10 We still have a three-issue defined  
11 inquest. We have more parties than were mentioned in  
12 those issues, but many of them are here by choice.

13 Apart from that, both Victim Services and  
14 TDSB, in my submission, are fairly closely linked in  
15 analogous ways to CAS, to the deaths, analogous to CAS  
16 and to TCHC, although they are more distant and therefore  
17 they weren't mentioned specifically in the scope of the  
18 inquest.

19 In other words, in my submission, the  
20 scope in the pre-inquest phase has drifted to an area  
21 where other parties have taken a role in this inquest and  
22 nobody objected to their voluntary participation, their  
23 choice to apply for standing, but that doesn't affect the  
24 scope of this inquest.

25 If Social Services though - and in my



1 submission, Social Services is a step back from the  
2 circumstances of the life and the death of this family.  
3 Certainly they were involved and certainly they were the  
4 sole source of income, but income of course overlaps with  
5 the life of this family, the circumstances of this  
6 family, but it's a significant step removed from the  
7 circumstances of the deaths of these three individuals.

8 Now in terms of what's required, if the  
9 application is granted, Mr. Rowe's material defines the  
10 relevant terms as two years prior to the deaths and two  
11 years prior to the fire. And I'm certainly not seeking  
12 an expansion of that time period in terms of what the  
13 general inquiry of all the parties can be, but to the  
14 extent that this family was involved with Social Services  
15 for more than a decade, I believe 16 years, that  
16 background most likely will colour the appropriateness of  
17 the response of Social Services and to the extent that  
18 Social Services finds that that material is relevant, we  
19 will seek to adduce evidence to that effect.

20 So all of which is to say, not having  
21 reviewed the file, because it has been archived until we  
22 recently got the notice of this application, this could  
23 be quite a large endeavour. And as it's framed now, I'm  
24 just flagging that as an issue, that even the limitation  
25 on the time period might constitute a potential

1                   unfairness to Social Services.

2                               Now turning to the evidence, Mr Coroner,  
3                   I'll ask you to refer to Mr. Rowe's materials - and I  
4                   don't have a tabbed copy, I'm sorry to say, but it  
5                   appears to be - and the page numbering stops as well, but  
6                   I believe page 19 is the first page of the Ontario Works  
7                   Policy Directive 2.8, dealing with Home Visits. And Mr.  
8                   Rowe referred to this document. I'll ask you to turn  
9                   that up, please.

10                           THE CORONER:       Sorry, 2.8, Home Visits?

11                           MR. GOURLAY:       Yes, that's correct. And  
12                   Ms. Edwards is showing me page 20 I believe for you.

13                           THE CORONER:       Yes, 20. Thank you.

14                           MR. GOURLAY:       Mr. Coroner, I'll refer  
15                   you to the paragraph headed "Applicant Request for Home  
16                   Visits". Now Mr. Rowe's submission is that things  
17                   weren't done that should have been done and that social  
18                   services should have performed home visits. And  
19                   presumably, if that had been done, perhaps more would  
20                   have been learned about the circumstances of the family,  
21                   perhaps that would have led to a number of other  
22                   referrals that weren't made, although there's no evidence  
23                   to support that at the moment, but I'll return to that  
24                   point in a moment.

25                           The reason I direct you to this paragraph

1 is just for that first point, that things weren't done  
2 that should have been done. Mr. Coroner, do you have the  
3 page in front of you, sir?

4 THE CORONER: Yes.

5 MR. GOURLAY: Okay. It says:

6 "An applicant may request an intake  
7 appointment be scheduled at a location other than an  
8 Ontario Works office, including the home. Due to his/her  
9 mobility or transportation issues, care giving or work  
10 responsibilities, training or school requirements,  
11 illness, health and safety of the applicant or other  
12 extraordinary needs."

13 And I think the key word there is  
14 "extraordinary". There's no evidence that a request was  
15 made, let alone that the request should have been granted  
16 under this policy, there's no evidence of an  
17 extraordinary circumstance. In fact there's evidence  
18 that unfortunately these circumstances may be all too  
19 common for clients of Social Services. That all goes to  
20 the point that it appears that home visits weren't  
21 required, and in fact there's no evidence that they were  
22 requested.

23 Now Mr. Rowe and Ms. Fraser also asked you  
24 to turn up the preceding document which is the Job  
25 Description, and I'll ask you to turn that up as well,

1           please, page 18. And it's true, that the job description  
2           contains the wording "conducts interviews with clients by  
3           phone or in person at various locations, such as offices,  
4           community centres and clients' homes." And the only  
5           reason I direct you to that, sir, if somebody is applying  
6           to be a case worker, yes, in the appropriate  
7           circumstances they will be required to make home visits  
8           to clients, but that doesn't establish that in this  
9           circumstance this family requested or would have received  
10          appropriately a home visit.

11                       And so we lack, in my submission, an  
12          evidentiary link that would establish that things weren't  
13          done that should have been done. And even if that  
14          evidentiary link was there, we lack a jump from -- a  
15          nexus from such an absence of action to something that  
16          would have made a difference to the circumstances of the  
17          deaths.

18                       There is evidence that in preparing for  
19          the visits to the case worker, Ms. Anderson got dressed  
20          up and she found it stressful. And in my submission that  
21          appears to suggest that she likely would have hidden her  
22          addiction issues, especially since they may have led to  
23          concerns about her ability to maintain her benefits. And  
24          so there's no evidence that Social Services should have  
25          seen that there is an addiction issue or perhaps that

1           they could have. The evidence isn't there, but in fact  
2           what evidence is there seems to suggest the opposite,  
3           that addiction issues may have been hidden from Social  
4           Services. And that's entirely understandable of course,  
5           but in terms of understanding from the perspective of Ms.  
6           Anderson, I think nobody would fault her for that, but it  
7           goes to the point of what could or should have Social  
8           Services done in the circumstance?

9                         Now over the years I understand that some  
10           referrals were requested and given, but not mental health  
11           referrals, not addiction services referrals. Those  
12           referrals I understand would have been available had they  
13           been requested or even had the case worker observed that  
14           a need might be there, but there's no evidence that that  
15           was observed or that it could have been observed.

16                        In terms of the focus on employment, sir,  
17           I'll ask you to turn up one more document, and I  
18           apologize because I don't have page numbers, as I say,  
19           consistently, so I'm counting back from page 49. It's  
20           roughly ---

21                        THE CORONER:     Mr. Rowe's page 49?

22                        MR. GOURLAY:     Yes, in Mr. Rowe's  
23           materials. Actually I believe it's page 22 likely,  
24           sorry, wrong tab, sir.

25                        THE CORONER:     8.4, "Addiction Services"?

1 MR. GOURLAY: No, sir, it's 2.5,  
2 "Participation Requirements", which is three pages before  
3 page 49, which I believe is likely ---

4 MS. EDWARD: 43.

5 MR. GOURLAY: Oh, first page of the  
6 document is 43. Thank you, Ms. Edward. I'm looking at  
7 page 4 of the document.

8 THE CORONER: "Participation  
9 Requirements", 2.5?

10 MR. GOURLAY: Yes, sir. Thank you.  
11 Under the heading "Temporary Deferral of  
12 Participation Requirements":

13 "Participation requirements are deferred  
14 in the following circumstances..." And the first point  
15 is a deferral for "a sole support parent with at least  
16 one dependent child or at least one child for whom TCA is  
17 being received" - that doesn't apply - "...and publicly  
18 funded education is not available."

19 So effectively that's a deferral for a  
20 sole support parent with a child under four. And that is  
21 a deferral that would have applied to Ms. Anderson at the  
22 time of her death, and in fact I believe it would have  
23 applied to her for quite some time, given the spread of  
24 ages of the children in the family.

25 And so that deferral effectively defers

1 her from participating in part of the mandate that Ms.  
2 Fraser referred to which was the requirement to make an  
3 effort to get a job, to find employment. And of course  
4 the corollary, which would be Social Services' efforts to  
5 assist in that process, the employment process, that's  
6 important for the employment exemption.

7 It also feeds into a document that you  
8 mentioned when - you're one step ahead of me, I guess, in  
9 where I was going with this - the ASI Directive. And in  
10 fact, sir, I won't ---

11 THE CORONER: Page 22 of Mr. Rowe's  
12 document.

13 MR. GOURLAY: Yes, thank you.

14 8.4, this is an initiative to assist  
15 clients of Social Services providers, it's to mandate  
16 them to assist their clients with addiction services,  
17 addiction counselling, addiction medication measures when  
18 those issues stand in the way of the client obtaining  
19 employment, but of course the deferral from the  
20 requirement to seek employment affects that applicability  
21 of this directive. In other words, this policy doesn't  
22 apply to Ms. Anderson, and for many years before her  
23 death it didn't apply because she was deferred from the  
24 requirement to seek employment under Ontario Works, her  
25 benefits would proceed regardless of her employment and

1           therefore the analysis of whether an addiction issue  
2           stood in the way of employment didn't enter into what  
3           Social Services should have done.

4                       Now having said that of course, if they  
5           were aware of an addiction issue there would have been an  
6           appropriate referral, but nobody could force Ms. Anderson  
7           into counselling or rehabilitation for addiction or what  
8           have you. And in fact the evidence in the affidavit  
9           suggests that she was resistant to obtaining that help  
10          when it was recommended. She refused the one counselling  
11          session that's show in the affidavit.

12                      So that picture, in my submission, sets  
13          Social Services a further step removed from the  
14          circumstances of the death. So if there were evidence  
15          that a referral should have been made, even that might  
16          not have made a difference in the circumstances of the  
17          death, but it gets us a step closer to a nexus. And in  
18          my submission that evidence isn't before you.

19                      And just very briefly, my friend estimated  
20          that this might take no more than a day if this issue is  
21          added. I have concerns in that regard. The phrasing of  
22          the issue is very broad, we're dealing with demographic  
23          issues. There's already, in the affidavit material  
24          before you a report that touches on the circumstances of  
25          a much broader troop of people than just the family that



1 we're dealing with her.

2 And so it shouldn't be the main concern of  
3 a decision before you, but it is a factor that this  
4 inquiry might end up being extraordinarily broad and  
5 might take a lot of time and resources. But more  
6 importantly than just the time and resources, it does  
7 risk becoming a distraction from, for example, the fire  
8 safety issues in the home, the issues more closely linked  
9 to the deaths. And those were the issues of course that  
10 were defined in your initial decision on the scope of  
11 the inquest, which is a discretionary decision, it's a  
12 discretionary inquest, and the decision before you today  
13 is discretionary of course but, sir, I'd suggest that  
14 there's not sufficient evidence before you to ground the  
15 breadth of this request.

16 Now there are more narrowly defined issues  
17 that have been suggested to you, one from Mr. Fisch and  
18 another definition - it seemed similar to me - from Mr.  
19 Lukasiewicz in his letter. Those I believe are crafted  
20 in an attempt to expand the scope without touching on the  
21 very broad systemic issues. But, sir, they don't - while  
22 I prefer them - they don't allay my concerns about the  
23 breadth of this inquest.

24 I'll take Mr. Lukasiewicz' letter, he  
25 suggests that "The issue could be defined as an inquest

1 into the involvement of Toronto Employment and Social  
2 Services with Diane Anderson between January 1st and  
3 December 22nd, 2006, 2007." That issue alone, of course,  
4 is narrower and doesn't involve as broad an inquiry.  
5 Sir, I'll wait for you to turn it up, it's on the second  
6 page of Mr. Lukasiewicz' letter.

7 THE CORONER: Yes, I've got it.

8 MR. GOURLAY: For one thing the temporal  
9 limitation potentially could cause a difficulty in the  
10 City's ability to respond to these issues once raised.

11 And so if this were an issue that you  
12 chose to add, to the extent that I can, I'd like to  
13 reserve the right to the City to present evidence of at  
14 least to contextualize that period of time. But in terms  
15 of the services provided by Social Services, we're  
16 talking about an inquiry perhaps into the appropriateness  
17 of the quantum of Ontario Works payments, the  
18 appropriateness of perhaps the amounts paid in terms of  
19 rent, TCHC. It's a very broad inquiry which of course  
20 touches on poverty issues at large. And so I don't think  
21 this entirely resolves the issue of a very broad inquest.

22 Now, Mr. Coroner, subject to questions,  
23 those are my submissions on the substance of the  
24 application.

25 I had an alternative request which is for

1 an adjournment, that if the inquest is to be expanded in  
2 this way, whether it's me or whether it's another counsel  
3 for this division of the City, Employment and Social  
4 Services is not prepared to adequately participate in the  
5 inquest. And so I've not heard from any of my colleagues  
6 that they oppose that request. I make it grudgingly of  
7 course because this inquest has already been delayed,  
8 nobody wants this to be delayed.

9 But in terms of fairness, it's no secret  
10 that up until now, while I've been representing the City,  
11 by a quirk of the City's corporate structure, the City  
12 includes both the Fire Service and the Social Services  
13 Division, but they're entirely separate entities, with  
14 separate personnel, separate policies, and in terms of  
15 this inquest really separate issues. Until this  
16 application arose, I was focusing my personal efforts on  
17 fire safety issues.

18 And so I don't know how strenuous I need  
19 to argue this because I don't know -- I'll just state  
20 that I regret that I have to make the request, but if you  
21 are inclined to expand the breadth of the inquest I do  
22 have to request an adjournment. A couple of issues would  
23 need to be worked out even before I can figure out  
24 exactly how long the City would need to prepare, the  
25 first being whether there's a conflict between my two

1 potential clients.

2 Having said that, they are of course one  
3 client, I don't mean to mislead, I don't think that  
4 Social Services would need to make a separate request for  
5 standing, for example, because the City is represented.  
6 But it's not uncommon for two separate divisions of the  
7 City to have potential legal conflicts. I don't see one  
8 yet and that's why I can act on this application for  
9 Social Services, but before we really sink our teeth into  
10 these issues I'd have to have very frank conversations  
11 with both client groups and assess that.

12 And that inquiry can't be made until we  
13 have a decision from you on what the scope of the inquest  
14 is. That alone will take some time and then there are  
15 mechanical issues of course to - we're talking about a  
16 five-week inquest and we're six business days away from  
17 its first day. I simply can't meet with all the people I  
18 need to meet with, and I understand that the manager of  
19 the branch is currently on vacation until April 4th which  
20 of course is the first day of the inquest.

21 So with that picture and with regrets and  
22 indeed apologies to yourself and the parties here, I do  
23 need to make the request that if you are to expand, the  
24 City cannot proceed on April 4th. I thought about  
25 whether it was conceivable to start perhaps two weeks

1 later, I just don't think that's enough time to sort out  
2 all the issues that need to be sorted out. As I said  
3 there are other parties that might also need to be  
4 involved, one being the Ministry of Community and Social  
5 Services, and while she's not a separate party in that  
6 she is an employee of the City, the City worker might  
7 also want to seek standing on her own or through her  
8 union. Those issues would have to be resolved as well.  
9 And I can't even speak to how long those issues would  
10 take.

11 So unfortunately I have to ask for this  
12 adjournment and unfortunately two weeks, for example,  
13 wouldn't be enough time, and in my estimation -- we have  
14 five weeks set aside for the inquest and I don't think  
15 anybody in the room would think that if we started on  
16 April 19th, which would be the two-week adjournment, we'd  
17 get it done, but any later of course I think we lose the  
18 entire month. I don't need four months or seven months  
19 to do this preparation, but I understand that that's the  
20 kind of time line that we're looking at in terms of an  
21 adjournment and I regret that, but even so I must make  
22 that request.

23 So subject to any questions, sir, those  
24 are my submissions.

25 THE CORONER: Thank you very much. Just

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1 as an addendum, Ms. Lopez, to what Mr. Gourlay has said,  
2 are you potentially requesting an adjournment, depending  
3 on what the ruling is, have you any suggestions as to  
4 what sort of time you are looking at?

5 MS. LOPEZ: I think that it would  
6 depend. In my submissions I said that we would request  
7 not only an adjournment, but also clarification of what  
8 the scope or what the focus was, so once we knew what  
9 that was ---

10 THE CORONER: Look at the worst  
11 scenario.

12 MS. LOPEZ: The worst scenario? Okay,  
13 that's pretty bad. If I were to look at the worst  
14 scenario it would be looking at the TDSB's involvement in  
15 the lives of Diane Anderson as well as the four children  
16 that were of school age and their entire educational  
17 careers with the TDSB, including making sure we had all  
18 of their records, plus all of their teachers, their  
19 principles and any other services they had from TDSB.  
20 That could be anywhere between 30 to 50 witnesses that I  
21 would have to interview, so that would be a lot of time.  
22 So that's the worse case scenario.

23 If we're talking about perhaps the two  
24 years that Mr. Rowe has suggested in his application,  
25 even then I think that you're looking at somewhere in

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1           around 20 witnesses.

2                       THE CORONER:     So how long ---

3                       MS. LOPEZ:       We have three right now.

4                       THE CORONER:     But how long would that  
5           take you to deal with, from your point of view in  
6           preparation I'm talking about?

7                       MS. LOPEZ:       From my point of view ---

8                       THE CORONER:     I'm not talking about the  
9           inquest, I'm talking about your point in time for  
10          preparation.

11                      MS. LOPEZ:       It would probably, at the  
12          very least - and this is ambitious - take a month or two,  
13          and bear in mind that at this point in time it's also  
14          very difficult because we're in what we call light spring  
15          staffing mode, so most administrators, teachers and  
16          principals are unavailable until end of April, I would  
17          say May, June. And then my witnesses are unavailable  
18          during the summer months. So it would effectively be  
19          September I would probably say.

20                      THE CORONER:     Very well. I just want to  
21          have some idea, that's all.

22                      MS. LOPEZ:       That's probably ---

23                      THE CORONER:     Based on Mr. Gourlay's  
24          request, I just wanted to have some idea from you.

25                      MS. LOPEZ:       I would say September we

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1           could be ready.

2                       THE CORONER:     Okay.   Ms. Edward, would  
3           you please care to present?

4                       MS. EDWARD:     Yes, thank you.   And just  
5           before I make comment on it.   I can indicate that I've  
6           spoken to the Ministry of Community and Social Services  
7           to advise them of the situation, this potential expansion  
8           of this scope.   Their indication to me just along these  
9           lines is that at this point they're content not to be  
10          involved, but if the scope was to be expanded they may  
11          also reconsider participating, so that could again  
12          potentially affect the time frame we're looking at.   So  
13          that's just another consideration.

14          SUBMISSIONS BY MS. EDWARD:

15                      I'll try to be brief, Mr. Coroner.   I  
16          think the parties have been aware of position, but I've  
17          been trying to keep an open mind with respect to this  
18          because I appreciate the concerns the family has  
19          expressed and Social Services has been fairly involved  
20          with this family's life, 16 years is what Mr. Gourlay has  
21          indicated and that's a fairly significant period of time.

22                      The difficulty I have with what's being  
23          proposed - and unfortunately, none of the motion material  
24          that Mr. Rowe or Ms. Fraser has provided me has moved me  
25          on this, is that it isn't of sufficient connection to



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1           these particular deaths. So I would ask, Your Honour, to  
2           consider not expanding the scope here for two specific  
3           reasons.

4                       The first one being the connection to the  
5           death, the close connection to the death. We don't know,  
6           unfortunately, that if the Social Services or CAS had  
7           done home visits or had made a referral for substance  
8           abuse counselling or had helped Diane Anderson get a job,  
9           these deaths wouldn't have occurred. We just don't have  
10          a foundation for that. And Iesha's affidavit and  
11          Sophia's affidavit don't help us with that unfortunately.

12                      So we don't have anything that would  
13          connect us to the specific deaths. And as you commented  
14          in the opening, the reason we've got the three areas of  
15          scope is because they are all connected to the death.  
16          And I think as Mr. Gourlay has indicated, if CAS had  
17          perhaps approached the situation differently, we could  
18          say that the kids may not have been in the situation or  
19          if something could have been -- there might have been an  
20          effective that wouldn't have caused them to succumb to  
21          the fire.

22                      THE CORONER:     Excuse me. Constable,  
23          could you return that to Mr. Rowe in case he needs it  
24          please?

25                      CONSTABLE MURPHY:    Yes, sir.

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1 MR. ROWE: Thank you.

2 MS. EDWARD: That is what we can say,  
3 and we can also say that if there was better education  
4 and awareness around the importance of smoke detectors  
5 and better enforcement for non-compliance, if there may  
6 have been a functioning smoke detector in the residence  
7 at the time of the fire, perhaps the deaths could have  
8 been affected. We can also say that if there was a  
9 functioning smoke detector, the family might have been  
10 alerted sooner and gotten out of the house. And we can  
11 also say that if the kids in the family had been better  
12 advised of fire safety awareness and training, they may  
13 have been able to get out of the house.

14 And that's how Toronto Community Housing,  
15 the Children's Aid Society and Toronto Fire Services have  
16 become involved as agencies in this inquest and the  
17 Toronto District School Board and Victim Services have  
18 become involved because through our exploration of the  
19 CAS' involvement with the family. So they're not here  
20 because of their own issues.

21 And as Ms. Lopez indicated, if we were  
22 going to go into the Toronto District School Board's  
23 involvement with the family, it would be a huge area and  
24 an expensive area. And the same concern, the same thing  
25 with Victim Services, if we were to look at Victim

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1 Services offered in the City of Toronto and in the  
2 Province, that's an expansive area that we cannot cover  
3 in this inquest. So Victim Services and Toronto District  
4 School Board are here simply as we're looking at the CAS  
5 factor with respect to this family.

6 And again, the reason we've gotten to  
7 these three areas of scope is because of what the  
8 Pediatric Death Review Committee and the Ontario Fire  
9 Marshall's investigation and our investigation have  
10 indicated.

11 Now there are some pressing and serious  
12 concerns that need to be addressed and that is why the  
13 Coroner's office exercises its discretion under Section  
14 20 and called this inquest.

15 And connected to that is a timeliness  
16 factor. It reaches a point when the urgency here is no  
17 longer urgent and I think we're unfortunately reaching  
18 that point. In certain respects it's been a good thing  
19 because I think some of the agencies that are involved  
20 have already started to communicate and started to  
21 generate changes that we wanted to see happen, but it  
22 gets to a point, if we adjourn it further, there may not  
23 be any further need for this inquest and I think that's a  
24 real concern given these circumstances. So in my  
25 respectful submission that is one of the major

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1           considerations that needs to be had.

2                       And the second consideration is just in  
3 fact the breadth of this area. I think it's difficult  
4 and perhaps unfair to narrow down the Social Services  
5 factor to simply two years at this point. And actually  
6 looking at it in a comprehensive manner is quite  
7 intensive, it requires a number of further investigations  
8 that our office would need to consider, a number of  
9 interviews. I don't see how an additional day would,  
10 unfortunately, address this.

11                      And I don't know if that's something Mr.  
12 Rowe can address for us, but I'm not sure what other  
13 witnesses he's proposing that would satisfy his concerns  
14 in this area because I think further investigation is  
15 definitely necessary. We don't have enough information  
16 at this point to even hazard a guess as to how much time  
17 it would take.

18                      So based on those reasons, Mr. Coroner, my  
19 submission would be that the scope shouldn't be expanded  
20 at this point.

21                      THE CORONER:     Mr. Rowe, based on Ms.  
22 Edward's comment, have you any comment to say regarding  
23 any witnesses that you might be considering calling, that  
24 are not already on the witness list?

25                      MR. ROWE:       Sure, I do, but I also have

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1           comments on what my predecessors have said.

2                       THE CORONER:     No, I'm asking you the  
3           question, that's what I want you to answer.

4                       MR. ROWE:     Thank you, I was just seeking  
5           clarification.

6                       At this point I wouldn't be looking to  
7           call any further witnesses beyond the two family affiants  
8           on this point. And I'd be looking to cross-examine the  
9           witness or witnesses who appear on behalf of ESSD. In  
10          terms of which witnesses they might be, for sure we would  
11          like to speak with Joanne Smith, who was the case worker.  
12          And maybe ---

13                      THE CORONER:     But you are not  
14          specifically necessarily going to call any witnesses  
15          other than the family members?

16                      MR. ROWE:     Correct, but on the  
17          understanding that I'd be given the opportunity to cross-  
18          examine the witnesses called on behalf of the ESSD.

19                      THE CORONER:     Yes, as part of the  
20          process, after examination in-chief, you are allowed to  
21          cross-examine the witnesses, yes.

22                      MR. ROWE:     Thank you, sir.

23                      MS. EDWARD:     I'm sorry, but just to  
24          clarify that. I think what Mr. Rowe is indicating is  
25          that he would expect that the Coroner's Office would call

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1 a number of other witnesses from ESSD, is that right?

2 And then you would be given an opportunity to cross-

3 examine them if we were to expand the scope. You'd want

4 us to call Joanne Smith, you'd want us to call some other

5 representatives from ESSD, that's what you're indicating,

6 correct?

7 MR. ROWE: Well whether it's Ms. Edward

8 or it's Mr. Gourlay or Mr. Gourlay's successor who calls

9 the witness on behalf of ESSD, it doesn't matter to us,

10 but the expectation would be that someone is going to

11 call at least one witness on behalf of ESSD. And at this

12 point I don't have any intention myself to call anyone

13 other than the family at least.

14 Now if none of the other parties calls any

15 witness on behalf of ESSD, then I'd request that at least

16 Joanne Smith be summonsed.

17 THE CORONER: Obviously if the scope and

18 focus of the inquest is changed, then the whole brief has

19 to be relooked at, which will mean more investigation by

20 our investigator. So again that would mean then that

21 those people, a decision as regards as to who of those

22 people interviewed would be required as a witness would

23 be the Crown's decision.

24 MR. ROWE: Crown's decision? However,

25 on that point I think my answer also would just depend on

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1 the temporo aspect. Are we looking at two years or 16?  
2 I still maintain that two years is enough. I don't think  
3 we have to go through a 16-year investigation for the  
4 purpose of this inquest. However, if you ---

5 THE CORONER: Well I asked you a  
6 question about witnesses, that's fine. Now I'm going to  
7 ask you about your comments regarding the comments by  
8 your colleagues. And then I'll ask Ms. Fraser after  
9 that.

10 MR. ROWE: Thank you. I'll be brief.

11 REPLY BY MR. ROWE:

12 Regarding Ms. Lopez's comments, we  
13 maintain that the proposed expansion of scope in respect  
14 of inclusion of the ESSD would not necessitate the  
15 expansion of TDSB's scrutiny or the expansion of the role  
16 of TDSB and a review of their involvement beyond what is  
17 the current scope that's outlined for TDSB.

18 So expanding the scope to include ESSD  
19 will not require a corresponding increase of  
20 consideration or further scrutiny of TDSB beyond what the  
21 current description of their role is. So I hope that  
22 allays any concern and provides clarification to her in  
23 that regard.

24 We don't need to know every teacher, every  
25 service provided to every one of the five children and

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1 including Diane Anderson's high school record from 30  
2 years, we just don't need to go back that far and have an  
3 inquiry that is that broad for the purposes of this  
4 inquest.

5 THE CORONER: So you're limiting your  
6 comments, the wording - I can't remember - the wording  
7 that you commented on Ms. Lopez, you are saying strictly  
8 applies to ESSD?

9 MR. ROWE: ESSD.

10 MS. LOPEZ: Concerning the language as  
11 such, it's too broad the way it's drafted at the current  
12 moment, what it suggests is an examination of the  
13 services and resources provided to the family and then it  
14 goes on to list the TDSB and the coordination of those  
15 services and the sufficiency of those services. And  
16 while I appreciate Mr. Rowe's oral submission that that  
17 wasn't the intent I imagine, but the wording as it is  
18 right now doesn't support that because what it would do  
19 is it would bring the TDSB directly within the scope,  
20 whereas it was my understanding that the scope of it or  
21 the narrow -- the focus of the TDSB was within the  
22 framework of CAS which is the way it is enunciated now.

23 So our issue is really around the wording  
24 and the format, which I did say at the beginning of my  
25 submission that we're not necessarily opposed to the



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1 addition of ESSD. And if it can be framed or worded in  
2 another way - and again I leave that to the Provincial  
3 Advocate and to Mr. Rowe - then we're not going to oppose  
4 that necessarily, but we do oppose this language because  
5 it leaves it open.

6 THE CORONER: Very well.

7 MR. ROWE: I am certain that a language  
8 can be fashioned that will appease the concern of Ms.  
9 Lopez and the TDSB. We aren't looking to have that broad  
10 -- I think in looking at the overall issue of how broad  
11 the scope should be, I think we have to use I use reason  
12 and common sense in terms of how far we go. And I think  
13 the concerns expressed by Ms. Lopez in terms of going as  
14 far as she believes that would take us, if the current  
15 proposed wording were used, to be fair, that would be  
16 going too far and that's not any of our intention at all.

17 And so I'm happy to propose a wording in  
18 conjunction with whoever wants to join me that would  
19 appease those concerns.

20 THE CORONER: Very well. Any other  
21 comment?

22 MR. ROWE: Regarding the submission from  
23 Mr. Butt, the family is sympathetic to the financial  
24 constraints of the Victim Services. That's the reality  
25 that a lot of non-profit agencies have to work with, but

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1 from the family's perspective there's a larger issue in  
2 terms of ensuring that all the relevant information is  
3 put before the jury and ensuring that the public interest  
4 component of this inquest can be fulfilled. And that may  
5 be the price that we have to pay to ensure that the  
6 statutory mandate is fulfilled and the public interest  
7 component is properly addressed.

8 Regarding Mr. Gourlay's submissions, we're  
9 concerned that according to the evidence adduced, the  
10 ESSD office effectively declared the home address of the  
11 deceased as one that was too dangerous to visit. I say  
12 that to say that even if the family had requested a home  
13 visit it wouldn't have happened. And even if the case  
14 worker had requested a home visit it would not have  
15 happened because a determination had been made by the  
16 office that to not allow home visits to that location,  
17 that raises ---

18 THE CORONER: What evidence do you have  
19 of that?

20 MR. ROWE: The evidence of the affiant,  
21 Sophia Anderson ---

22 THE CORONER: No other evidence other  
23 than the affidavit?

24 MR. ROWE: Other than the affidavit  
25 evidence?

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1 THE CORONER: Yes.

2 MR. ROWE: Well let me put it this way.

3 We have evidence under oath that was the case. And Mr.

4 Gourlay's office has not disputed it, that's a very

5 significant point. And if we were wrong in this regard

6 I'm sure that Mr. Gourlay would have pointed it out. And

7 I think we can make the appropriate inference from his

8 silence on the point.

9 The other concern I have is the family

10 hasn't come into this looking to lay blame on anybody or

11 build a case against anybody - and I raised this when we

12 had the lawyers' meeting - they just want to tell their

13 story. And I think it's unfair to put the family in a

14 position of having to build a case beyond a reasonable

15 doubt against the state institution as a pre-condition to

16 having such a significant issue being considered as a

17 public interest component of an inquest.

18 If Mr. Gourlay's analysis, assessment of

19 the protocol of the Social Service office around home

20 visits, around deferrals, the point about if you have a

21 child under four you're deferred from participation. If

22 all that is true, then from our perspective that

23 underscores precisely why ESSD's involvement must be

24 formally considered as part of this inquest because the

25 practical implication of that is that a family in need

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1 did not receive the assistance that it required and it  
2 could have made a difference. What is being said is if  
3 you have a child under four at the material time, the  
4 Social Service office is relieved of any responsibility  
5 for ongoing monitoring of the family situation, and  
6 clearly that can be the case.

7 And if you look at the guidelines around  
8 the protocols and the responsibilities of the case  
9 workers, it's not a simple matter if the particular  
10 recipient has a child under a certain age they're  
11 deferred from participation and all involvement of the  
12 case worker ceases and the family is left to their own  
13 devices, there's an ongoing -- if you look at the  
14 guidelines and the protocol - there's an ongoing  
15 responsibility on the part of the office and the case  
16 worker to remain involved with the family, if only to  
17 ensure their continued eligibility for their financial  
18 assistance, but also in terms of being able to assess  
19 when they might be in a position to participate in the  
20 job skills training, the employment and those aspects of  
21 the Ontario Works Program. So it's not a situation where  
22 the family is just cut off and left to their own devices,  
23 especially when there's young children involved, it can't  
24 be that that's the case.

25 And so if Mr. Gourlay is right in all of

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1           that, then that underscores precisely why we should be  
2           having ESSD brought into this, if we're about trying to  
3           ensure this tragedy doesn't happen again because if the  
4           facts as Mr. Gourlay presents them is the case, then this  
5           tragedy will happen again and we are wasting our time.

6                       And lastly, regarding Ms. Edward's concern  
7           that there's not a sufficient connection to the deaths,  
8           not a sufficient nexus, that there's an insufficient  
9           foundation to connect the ESSD to the deaths, I turn your  
10          attention to your ruling on standing - and it's excerpted  
11          from the Provincial Advocate for Children and Youth  
12          record, I don't have a tabbed record, but your ruling is  
13          there.

14                     And in terms of the basis of standing, you  
15          indicated - and this would be your ruling of - one  
16          moment. At page 63, when we look at - this is about four  
17          paragraphs down - the basis on which standing was granted  
18          to CAS, TCHC, TDSB and the Office of the Advocate for  
19          Children and Youth, is on the basis of them having a  
20          substantial and direct interest in the inquest.

21                     Well I think clearly, as the agency that  
22          had the most direct and ongoing involvement in such a  
23          material way with the deceased, as ESSD, by that standard  
24          ESSD should be included clearly.

25                     If we turn to page 64 and we look on the

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1 basis on which the union, the CAS Union was denied, you  
2 indicate "does not have a close personal relationship  
3 with any of the deceased". Well I think clearly the ESSD  
4 had a close personal relationship as the main welfare  
5 agency involved in their lives over that duration of time  
6 and given the nature of responsibilities they had for  
7 ongoing monitoring and for recommendation of counselling  
8 and so on where appropriate and employment skills,  
9 upgrading and so on, the very things that could have  
10 facilitated the escape of the family from their  
11 situation.

12 You indicate "The union may not be subject  
13 to explicit criticism or be blamed in some way directly  
14 or indirectly for the deaths". Well I think if the  
15 evidence adduced so far regarding the ESSD is any  
16 indication, there is the very real possibility, if not  
17 probability, that they will be subject to explicit  
18 criticism or be blamed in some way directly or indirect  
19 for the deaths because they had the means to supply and  
20 the opportunity to supply the family with the services  
21 that they needed to ameliorate the situation and  
22 facilitate their transfer.

23 The next reason that you gave for refusing  
24 the union here is "That their reputation will not suffer  
25 as a result of the inquest and I feel they would not be

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1 recipients of recommendations." Well on this test alone  
2 the ESSD ought to be included, the scope ought to be  
3 included to allow them standing and to require scrutiny  
4 of their role in this because I think from the evidence  
5 adduced it's clear, that if any of that is true their  
6 reputation is going to suffer.

7 And you better believe that if this  
8 information gets to the jury that there's going to be  
9 recommendations about how they do business.

10 And this is where the fact of the systemic  
11 issues are highlighted in Exhibit 3 at the affidavit of  
12 Ms. Anderson is relevant because, as I said before, we're  
13 not doing it to take this inquest down some path of some  
14 huge Royal Commission Inquiry into everything that causes  
15 poverty. We're putting it there solely for the purpose  
16 of demonstrating to the Coroner and to the jury that the  
17 family experience of the systemic issues is not something  
18 that was peculiar to them, that is something that others  
19 similarly situated as them experience everyday and are  
20 contributing factors to the tragedy that happened, that  
21 with appropriately nuance to recommendations has the  
22 potential to result in the kind of positive systemic  
23 changes that can prevent the kind of cascading  
24 circumstances that attended Diane and her family from  
25 happening again to anybody else, it's as simple as that.

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1 Thank you.

2 THE CORONER: Ms. Fraser?

3 MS. FRASER: Thank you, Mr. Coroner.

4 REPLY BY MS. FRASER:

5 Just in terms of what we do at inquests in  
6 terms of the nature of drafting recommendations and  
7 proposing recommendations, much of that is crystal  
8 balling or speculative.

9 Last year I was involved in an inquest  
10 where a young girl in foster care killed another three-  
11 year old foster child and there were a range of issues  
12 connected with that inquest. None of us really knew at  
13 the end of the day what would have prevented a teenage  
14 girl from smothering a three-year old child. Scores of  
15 recommendations were drafted and proposed for the hope  
16 that that death was not in vain.

17 The Advocate is mindful of the concerns  
18 imposed by parties that the exploration of additional  
19 issues might impose upon people, but that can't be the  
20 driving factor. The driving factor should be what does  
21 your investigation reveal, what do I do as a coroner now  
22 that I have additional information flowing from the  
23 family about their perception of the needs of the family  
24 and how can I draft the scope of the inquest such that  
25 there's a meaningful consideration of the circumstances



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1 of this death?

2 I hear the concerns of the Toronto  
3 District School Board, and the Provincial Advocate by no  
4 means wants a complete exploration of the education. But  
5 the reason that we have drafted the relief in the way  
6 that we have in our Notice of Application is because it  
7 appeared that within the context of your three broad  
8 recommendations that there were sub-issues that would be  
9 explored, including the coordination of services between  
10 agencies. And that, from my perspective, drives the way  
11 that we have drafted the recommendation, which is by  
12 including all of the agencies listed as agencies  
13 providing services to the family, including Toronto  
14 Community Housing, including EESD - and I've now got the  
15 acronym wrong, but I'll just call it Social Services so  
16 there's no confusion. And your counsel has repeatedly  
17 said that the communications between those agencies is  
18 going to be explored at this inquest.

19 So that's how we got that, but the  
20 suggestion was not to have a broad inquiry. Our position  
21 is that the nature of inquests is such that this is a  
22 natural issue that will unfold in the context of talking  
23 about this family, that they were poor, that they lived  
24 in the Jane/Finch neighbourhood in Toronto Community  
25 Housing and for whatever reason the mother failed to rise

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1 out of that neighbourhood and - not out of the  
2 neighbourhood because the neighbourhood has all kinds of  
3 strengths to it, so I don't want to say that, but rise  
4 above her situation and get out of what appears to be a  
5 situation of poverty from which she failed to escape.

6 Your counsel suggested that it might be  
7 found at this inquiry that there was an internal misstep  
8 that resulted in the failure by CAS to remove the  
9 children from the care. That's not what I saw the PDRC  
10 recommending. The PDRC, as I understood it, had a number  
11 of issues that are identified in their report which were  
12 directed towards the CAS involvement.

13 I would hope that it would not be the only  
14 answer, that the only answer for this family was for the  
15 children to be removed from their mother, that I would  
16 hope with the number of agencies that were involved that  
17 there are other solutions. And I thought that this  
18 process would be about looking at what would have made a  
19 difference, knowing that there were apparent barriers for  
20 the receipt of services because of Ms. Anderson's desire  
21 not to have treatment or failure to take up some of the  
22 suggestions.

23 I can think of some easy ways, some sort  
24 of foundational reasons why she might not have made it to  
25 Mount Sinai or to Sick Kids after the shooting, and those

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1 are geography logistics and child care issues. Those are  
2 really practical issues that I think flow from the facts  
3 here and that's what I'm talking about, insufficiency of  
4 services and the delivery of services, is that there's  
5 really practical barriers that arise out of her situation  
6 that make our normal way of doing business a little bit  
7 more difficult because of her vulnerabilities.

8 So I don't want to go -- I think you've  
9 heard me on those issues, but I want to just deal with a  
10 couple of points.

11 Mr. Gourlay referred you to the home  
12 visits portion and you'll remember he talked about if the  
13 -- it's page 20 of Mr. Rowe's record. Just underneath  
14 that part, there is where the administrator wants to  
15 conduct a home visit and the circumstances in which the  
16 administrator wishes to conduct a home visit.

17 And so there's a whole set of  
18 circumstances in which home visits can occur that Mr.  
19 Gourlay did not take you to, and that's a very different  
20 situation. And when you read that language - and I  
21 encourage you to do that, Mr. Coroner, when you're making  
22 your final decision - you'll see that there's  
23 circumstances in which a person in receipt of social  
24 assistance cannot actually refuse a home visit, although  
25 there's context to that as well. So I think it's

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1 important that you understand that component to it.

2 Mr. Gourlay talked about the exemption  
3 from participation, and I understand that exemption  
4 participation is the participation related to the  
5 compliance with the employment requirements. And I  
6 didn't see that as being a sort of corresponding  
7 exemption on behalf of Social Services to not provide the  
8 services. So there's a slight distinction there.

9 I do believe that Mr. Rowe, in acting for  
10 the family and then coming on when he did, acted quickly  
11 to get all of these issues before you and your counsel,  
12 Mr. Coroner, that the earliest correspondence I think is  
13 mid-February and certainly all of us were aware of it on  
14 the first of March that Mr. Rowe had concerns. And  
15 timing and circumstances are such that the family doesn't  
16 have the institutional resources that this resulted in  
17 this. And so I think he's done everything that he can to  
18 get it to you at the earliest opportunity.

19 And he's also been forthright about what  
20 the family's concerns are. Sometimes these things come  
21 out of the blue in the course of an inquest which  
22 necessitate people seeking standing in the middle of an  
23 inquest. And unless we're going to censor the witnesses  
24 in answering the question: What would have made a  
25 difference for your family? - then I don't see how you

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1           can't permit that question to go ahead.

2                       I think that if you are concerned about  
3           the breadth of this inquiry that you can do that within  
4           the scope of a ruling, but from my perspective and how I  
5           would approach this as counsel for the Advocate who  
6           wishes to see these issues explored, is to lay the  
7           foundation for these issues through witnesses, to see if  
8           these issues actually existed - and that's the way it  
9           normally happens at inquests, is that within the scope  
10          you ask questions relevant to your perspective and  
11          sometimes new issues arise. Here you know that this is  
12          an issue for one of the parties with standing.

13                     And so I understand that there are a  
14          number of different parties who will be inconvenienced  
15          and that there is going to be a general cost to everybody  
16          here, but most acutely to the citizens of the Province of  
17          Ontario. But I think that if we're going to engage in  
18          this collaborative process together, that we ought to do  
19          it in a way that provides meaning to these deaths and  
20          from my client's perspective that means looking at it  
21          from the perspective, not only of the agencies who are  
22          here, from my client, of course your coroner's counsel  
23          acting in the public interest, but also the family which  
24          was most acutely affected.

25                     So those are my submissions, Mr. Coroner.

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1 Thank you for your time.

2 THE CORONER: Thank you. Any rebuttal,  
3 Ms. Edward?

4 MS. EDWARD: Perhaps briefly, Mr.  
5 Coroner.

6 REPLY BY MS. EDWARD:

7 I feel I need to explain again one of the  
8 comments Ms. Fraser made with respect to information I've  
9 relayed to the parties in terms of communication within  
10 agencies. And I think the referral again is to a comment  
11 I made when I was trying to assist Mr. Rowe with his  
12 legal aid application and then I was referring to issues,  
13 a sub-issue that I thought might arise within the first  
14 area of scope which is the CAS' relationship with the  
15 family.

16 And as I've already indicated, Victim  
17 Services and Toronto District School Board already become  
18 involved because of that exploration of that area of the  
19 scope. And that's what I was referring to when I  
20 indicated that there would be a consideration of perhaps  
21 the communication between those agencies because they  
22 were already implicated in exploring that issue.

23 And I think I've said this a number of  
24 times, but I'm going to say this one more time just for  
25 the benefit of the record here. That I wasn't by any

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1 means trying to suggest that we should expand the scope  
2 to include a number of other agencies because I think  
3 that there are a number of agencies the family was  
4 dealing with, CAMH being one and a number of other family  
5 doctor services, who were all trying to assist the  
6 family.

7 So I think by expanding the scope to  
8 include all these people who had significant  
9 relationships with the family, that's a considerable  
10 danger.

11 I think the inquest was created or started  
12 for a reason and it's important to stay focused so that  
13 the important identified issues get addressed. I don't  
14 think we're trying to censor anyone here, but I think the  
15 issues need to be a parcel to be focused on and not just  
16 every issue you can possibly think of.

17 And I don't mean to suggest that we should  
18 stop the family from expressing their views here, but we  
19 don't have any indication that there was a problem with  
20 this Social Services worker or she should have done her  
21 job any differently in this particular case. And no one  
22 is suggesting coming up with, you know, Ms. Smith should  
23 have done this, this and this, and that's not being  
24 suggested here.

25 So to go into this whole area when we have

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1 no information that that should have been done  
2 differently, I think it's a bit of a fishing expedition  
3 at this point.

4 And Mr. Gourlay has indicated, in Sophia's  
5 affidavit, that she found out that this address was  
6 blacklisted so to speak. So I think his submission was -  
7 and if I can refer back to it - was if there was a  
8 requirement, then it would likely have not happened.  
9 That's a lot of speculation. There is no indication here  
10 that a home visit was required by either party or that a  
11 home visit would have been helpful. In fact I think the  
12 evidence is that if a home visit would have happened -  
13 and let's not forget, we can't do surprise home visits,  
14 we need to tell people we're coming because again that's  
15 another invasion of privacy issue. So by giving them  
16 notice, our information is that similar to what Ms.  
17 Anderson did with Children's Aid Society, when they did  
18 home visits, she pulled herself together, she took care,  
19 cleaned up the house a little bit and presented well. I  
20 mean our information was that she was a functioning  
21 addict.

22 So I'm not sure what a home visit here  
23 would have accomplished. And we don't have any evidence  
24 that it would have accomplished anything. So again, my  
25 concern there is with respect to having no foundation to



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1 go into this area.

2 MS. FRASER: Mr. Coroner, I'm just  
3 rising - and I'm loath to interrupt my friend. But the  
4 evidence before you is clear that home visits may occur  
5 with or without notice. I just don't want you to  
6 misapprehend ---

7 THE CORONER: Sorry, with or without?

8 MS. FRASER: The directive is such - and  
9 it's at page 21 - that home visits may occur with or  
10 without notice to the applicant. Okay, the applicant  
11 being the person in receipt of social assistance. You'll  
12 find that on the second page of the policy 2.8.

13 MS. EDWARD: Perhaps maybe I should  
14 clarify that. But even if there is a home visit that  
15 occurs, a surprise home visit, if the family doesn't want  
16 to let you in, there is no requirement for that to occur.  
17 So you can't impose yourself into somebody's house, I  
18 mean let's be clear on that. I mean that's what we're  
19 suggesting should have been done here. So if somebody  
20 has turned up by surprise and forced themselves into Ms.  
21 Anderson's house, maybe they would have found her in a  
22 drunken state and maybe it would have been of concern. I  
23 think that's unfortunately far too removed from what  
24 we're dealing with here. We don't have any information  
25 that that would have actually made a significant

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1 difference in this particular case.

2 And just with respect to another comment.

3 I am not suggesting that the only way that we could have  
4 dealt with this situation, with the Children's Aid issue,  
5 is by removing the child from the home, that's not what I  
6 was trying to suggest. I think if perhaps the family had  
7 provided information about Ms. Anderson's addiction,  
8 maybe if they knew there was an issue there, they could  
9 have been working with the family and being alert to fire  
10 safety concerns, so dealt with that issue without  
11 necessarily having them removed from the home. That's  
12 what I was alluding to, not necessarily taking them out  
13 of the home because I think we will be getting into, the  
14 different options that are open to CAS.

15 I just want to make sure I've addressed  
16 everything.

17 Just one further comment with respect to  
18 what Mr. Rowe indicated. He took you to you grantings of  
19 standing, your rulings with respect to that. And he  
20 quoted specifically from your ruling with respect to the  
21 union. Unfortunately, that's a very I guess unique  
22 situation that was being looked at there in terms of what  
23 your ruling covered. So I don't know that it's a clear  
24 relation to this situation.

25 And unfortunately, simply because someone

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1 has a substantial and direct interest in the matter, is  
2 not a reason for the scope to be expanded, these are two  
3 different issues here. The scope being the topic we're  
4 covering versus standing being whether or not you should  
5 be involved in the process because you are already  
6 connected. So those are two different issues and I think  
7 those issues are being blurred slightly by Mr. Rowe in  
8 his submissions.

9 And when I'm speaking annexed to the  
10 death, that's what I'm talking about, connection that  
11 these different agencies or these different parties have  
12 to that death. And I think, just to be clear, that's  
13 what I was talking about in terms of whether or not -- I  
14 mean if the Children's Aid had more information with  
15 respect to the situation, could the kids have been out of  
16 the fire situation, could the fire situation have been  
17 dealt with if there were working smoke alarms, could the  
18 fire have been prevented. That's why I went through that  
19 list and I won't go through that again, but that's why  
20 the scope was defined as it was and that's why the  
21 parties, initial parties become involved as they did  
22 because of that nexus. And unfortunately Social Services  
23 does not have that connection to this death. And I  
24 haven't heard anything here that actually connects them  
25 in that direct manner. There's a lot of "what ifs" and

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1 "if possibly" and "maybe if this had happened", there's  
2 no clear connection of something they could have done  
3 that could have affected whether or not the fire occurred  
4 or whether or not they would have been in the situation.

5 Thank you.

6 THE CORONER: Thank you very much.

7 MR. GOURLAY: Mr. Coroner, may I make a  
8 brief - I don't know if it's rebuttal or if it's really  
9 clarification, sir, but may I speak?

10 THE CORONER: Clarification I'll allow.

11 MR. GOURLAY: Thank you, sir.

12 The City doesn't want to misstate the  
13 facts by omission. The fact is that there is, as I  
14 understand it, a safety tag attached to this address.  
15 And so Mr. Rowe, in my submission, didn't have sufficient  
16 evidence to ground that, it was hearsay, but that's the  
17 fact.

18 Having said that, sir, I adopt Ms.  
19 Edward's statement that had the home visits taken place  
20 there would have been, unfortunately, no difference in  
21 terms of the cause of the deaths and circumstances of the  
22 deaths et cetera.

23 THE CORONER: What exactly do you mean  
24 by a "safety tag"?

25 MR. GOURLAY: Well let me clarify. I

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1 was trying to be brief, but I think being complete is  
2 more important.

3 Back to the Home Visits Policy Directive,  
4 there is - immediately below the paragraph I read  
5 previously, it says:

6 "The final decision...of the intake  
7 appointment remains with the administrator..." the City  
8 "...the health and safety of the applicant, participant  
9 and staff is a priority in determining a suitable  
10 location."

11 And so in the interest of protecting the  
12 safety of staff, there are certain addresses in the City  
13 that are flagged for health and safety concerns relating  
14 to staff. And my understanding is that this address was  
15 one of those addresses. And so the home visit wouldn't  
16 have taken place had it been requested, but it wasn't  
17 requested as far as the evidence shows. That's more  
18 clarification. Thank you, sir.

19 THE CORONER: Thank you.

20 Very well, it is now 25 to 8:00. I think  
21 we have expended all the information. So I will consider  
22 and give you my ruling by the end of the working day on  
23 Monday. We'll have it fax'd out to everybody by five  
24 o'clock on Monday. Make sure that the Coroner's  
25 Constable has all your contact numbers for your fax

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1           numbers so that there is no errors made.

2                       This hearing is now adjourned.

3  
4           --- WHEREUPON THE MOTION HEARING WAS ADJOURNED AT

5                       7:35 P.M.

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9  
10                    I hereby certify that the foregoing is a  
11                    true and accurate transcription of my  
12                    tape(s) to the best of my skill and  
13                    ability.

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