

**Summary Review of the Manitoba Child Welfare System
for the
Saskatchewan Child Welfare Review Report**

Final Submission

Submitted to: the Saskatchewan Child Welfare Review Panel

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Executive Summary

This paper provides a short history of developments and a rationale for the changes which have taken place in Manitoba with regard to their child welfare system. A literature review was conducted in addition to telephone interviews with Child and Family Services agencies. In essence, this is a summary review of child welfare in Manitoba.

Canada's colonial past has affected Aboriginal people across Canada. In fact, the *Indian Act*, residential school policy, and the "Sixties Scoop", in particular, have resulted in inter-generational trauma, loss of identity and the destruction of Aboriginal family units. The Royal Commission on Aboriginal Peoples (RCAP) notes that children are special gifts from the Creator who must be protected from harm and are seen as the heart of the family.¹ Unfortunately, it is children who have suffered greatly as a result of the history of assimilation and colonization in Canada. As such, the Manitoba Child Welfare system has been heavily influenced and dramatically illustrated by such colonial policies as the residential school system and the "sixties scoop".² Further, discourse has emerged contending that the Canadian Welfare system is merely taking the place of the residential schools, and startling similarities between the two systems have been identified and criticized.³ Aboriginal communities and leaders in Manitoba were well aware of the harmful effects that the child welfare system had on Aboriginal children and families and called for action.

In 1982, out-of-province adoptions of Aboriginal children ceased and the province commissioned Chief Judge Edwin Kimelman of the Provincial Court of Manitoba to conduct a review into the effects of the existing child welfare system on Aboriginal children. The report provided confirmation of what Aboriginal people had long been asserting: *that the child welfare system was guilty of "cultural genocide"*.

¹ Royal Commission on Aboriginal People, http://www.collectionscanada.gc.ca/webarchives/20071211053441/http://www.ainc-inac.gc.ca/ch/rcap/sg/si4_e.html. Retrieved July 14, 2010.

² Mackinnon, Shauna. *Fast Facts: Child welfare devolution in Manitoba*. Canadian Centre for Policy Alternatives, June 17, 2010.

³ Richardson, Cathie and Nelson, Bill. *A Change of Residence: Government Schools and Foster Homes as Sites of Forced Aboriginal Assimilation*. First Peoples Child & Family Review – A Journal on Innovation and Best Practices in Aboriginal Child Welfare Administration, Research, Policy & Practice. Volume 3, Number 2, 2007, Special Issue, pp. 75-83.

Chief Judge Kimelman concluded that considerable changes to the current child welfare system needed to be made.⁴ *The Kimelman Report* provided a sobering examination of the ineffectiveness of the existing child welfare services in the province of Manitoba. However, it was the murders of J.J. Harper (murdered in Winnipeg Manitoba, March 9, 1988) and Helen Betty Osborne (murdered in The Pas, Manitoba, November 13, 1971), that gave clear evidence of the justice system's failure to meet the needs of Aboriginal people.⁵

On April 13, 1988 the government of Manitoba launched a public inquiry into the administration of justice and Aboriginal people. This report examined the relationship between Aboriginal people of Manitoba and the justice system. Within this expansive document, is a chapter focused entirely on child welfare (chapter 14). The Aboriginal Justice Inquiry (AJI) expressed that it becomes problematic when each system is viewed as being entirely distinct from the other and they stated in their report:

→ No analysis of the justice system can be complete without understanding the devastating effect these relations, guided by government policies, have had on Aboriginal families. For many Aboriginal societies, existing child welfare practices have ranked as a major destructive force to their families, communities and cultures.

→ Some people have suggested that the child welfare and criminal justice systems are distinct and should function completely independently of each other. We do not agree. We believe many of the reasons why the numbers of Aboriginal people are so disproportionately high in the child welfare system are the same as the reasons why they are so over-represented in the criminal justice system.

“Clients” of one system frequently become “clients” of the other system. It would be impossible to present a complete picture of the criminal justice system, and the youth justice system, without also analyzing the field of child and family services.⁶

⁴ Edwin C. Kimelman et al., *No Quiet Place, Review Committee on Indian and Métis Adoptions and Placements* (Winnipeg: Manitoba Department of Community Services, 1985).

⁵ Aboriginal Justice Inquiry – Child Welfare Initiative. Website: <http://www.aji-cwi.mb.ca/eng/index.html>

⁶ *Supra* note 4

It was within this chapter that the *Aboriginal Justice Inquiry* defined and described the scope and direction for child welfare changes within the province of Manitoba. Unfortunately, the recommendations made in the 1991 *Aboriginal Justice Inquiry Report* were shelved for nearly ten years. Acting upon feedback from the Aboriginal Justice Implementation Commission endorsing the devolution of Child Welfare Services, the government engaged in negotiations with Métis and First Nations representatives. In August of 2000, the **Aboriginal Justice Inquiry – Child Welfare Initiative** (AJI-CWI) was jointly established between the provincial government and First Nations and Métis leaders to develop and implement a plan to restructure the child welfare system within Manitoba. Four parties took part in the development of this initiative: The Province of Manitoba, The Manitoba Métis Federation, the Assembly of Manitoba Chiefs, and the Manitoba Keewatinook Ininew Okimowin. The most significant objective of this joint initiative was that off-reserve authority for First Nations be expanded and a province-wide Métis mandate be established.⁷

In 2000, based upon the findings of *Aboriginal Justice Inquiry*, the *Child Welfare Initiative* was created based upon the information and recommendations in the AJI report. It established the following goals:

1. Recognize the First Nations and Métis right to control the development and delivery of child and family services to their peoples throughout Manitoba.
2. Restructure the Child and Family Services system through legislation and other changes.⁸

At the time of the Inquiry, existing Aboriginal child and family service agencies only provided services to Status Indians. The only Non-Status or Métis children who received services were those living on reserves. It was thus recommended by the AJI that Principle 11 of the *Child and Family Services Act* be amended to state that:

Aboriginal people are entitled to the provision of child and family services in a manner, which respects their unique status, and their cultural and linguistic heritage.

⁷ *Supra* note 3

⁸ Child and Family Services Standing Committee. *Progress on the Changes for Children Initiative*. Winter 2008/2009.

They also made a second recommendation that the Métis be given the authority to develop a mandated child and family services agency to provide services to Métis and Non-Status families. By 2006, four child welfare authorities were created as a result of the efforts of the *Child Welfare Initiative*.

- First Nations of Northern Manitoba Child and Family Services Authority
- First Nations of Southern Manitoba Child and Family Services Authority
- Métis Child and Family Services Authority
- General Child and Family Services Authority

These authorities were granted the responsibility and capacity to administer and provide child and family services. The Manitoba Métis Federation (MMF), the Assembly of Manitoba Chiefs (AMC – representatives of southern First Nations), and Manitoba Keewatinowi Okimakanak (MKO) signed three separate *Memorandums of Understanding* (MOU) with the Government of Manitoba to engage in restructuring according to the recommendations made within the AJI report. Additionally, all four parties entered into a *Service Protocol Agreement* with the purpose of establishing a framework and structure for the planning process. The structure included the Joint Management Committee, an Executive Committee, an Implementation Committee, and several Working Groups. Each of these committees included representatives from all of the stakeholders. The Government representatives were the minority on these committees and in the case of the Joint Management Committee only there were only two provincial government representatives out of a membership of nine.⁹

By 2006, the majority of restructuring was accomplished and four new authorities were created.

- **First Nations of Northern Manitoba Child and Family Services Authority**
- **First Nations of Southern Manitoba Child and Family Services Authority**
- **Métis Child and Family Services Authority**
- **General Child and Family Services Authority**

As in the previous system, the ultimate responsibility of the child and family services system rests with the government. The province is responsible for setting standards for child welfare, monitoring and assessing the degree to which the authorities

⁹ *Supra* note 12

meet the requirements of the *Act*, the allocation and approval of funding to the four authorities, and the provision of support services to the authorities.

As the primary liaison between the agencies and the province, the Authorities are directly accountable both to their communities and the Minister. It is the responsibility of the four Authorities to design and manage the delivery of child and family services throughout the province. The Authorities are entitled to set their own service standards to supplement the existing provincial standards. As such, they in turn provide funding to agencies that deliver services.

The areas of greatest significance of this new structure are: 1) The jurisdictional powers of First Nations has been expanded to provide off-reserve services to band members, and 2) A mandated Métis Child and Family services authority is now in place.

The new policy affected over half of the families and children already receiving provincially funded child welfare services in the province. It ensured that Aboriginal authorities could determine the direction of policy and service delivery to Aboriginal people living off-reserve. Aboriginal stakeholders also actively engaged in developing culturally appropriate programs and services.¹⁰

The *Child and Family Services Authorities Act* was enacted and *The Child and Family Services Act* and *The Adoption Act* were amended to suit the new governance structure. Over 3,600 cases and corresponding human and financial resources were transferred to the appropriate Métis and First Nations Authorities and their agencies.¹¹

In March 2006 a five year old girl named Phoenix Sinclair died while in the care of the child welfare system in Manitoba. Following the shocking news of her death, a series of five external reviews of the child and family services system were conducted in 2006.¹² The reviews were undertaken by the Manitoba Ombudsman (Strengthen the Commitment), Office of the Children's Advocate (Honouring their Spirits, the Child Death Review), Koster Et Schibler, Section 4 Review (Recommendations – A Special Case Review), Schibler Et McEwan-Morris, Office of the Children's Advocate (Strengthening Our Youth: Their Journey to Competence and Independence) and Office

¹⁰ *Supra* note 12

¹¹ Hardy, Michael. Schibler, Billie. Hamilton, Irene. *Strengthen the Commitment: An External Review of the Child Welfare System*. Manitoba Minister of Family Services and Housing, 2006

¹² Child and Family Services Standing Committee. *Progress on the Changes for Children Initiative: winter 2008/09*

of the Auditor General (Examination Policies and Procedures Pre-restructuring the System). The reviews were conducted due to the public outcry for increased scrutiny on the system following the restructuring.¹³ Three key trends consistently emerged within the documents pertaining to these reviews:

- *Factors such as poverty, poor housing, addictions, and the lack of effective responses to these factors by other systems, are root causes of family breakdowns and the growing demands on the CFS system.*
- *The restructuring of the CFS system through the AJI-CWI was a major step forward and provides both the foundation and momentum on which to make other important improvements.*
- *The challenges identified in service delivery predate the restructuring, and the restructuring provides a unique opportunity to address these challenges.¹⁴*

Acting on some 289 recommendations made by the five external reviews, the *Changes For Children* initiative was established on October 13, 2006. A Standing Committee is responsible for facilitating child and family services according to *The Child and Family Services Authorities Act* and they serve as an advisory body to the legal authorities as well as the provincial government.

The new governance structure was a tremendous step in the repatriation of Aboriginal children. The changes made to the system are unprecedented, and the government of Manitoba is creating new roads in child welfare reform. Changes occurred quickly, and some would say without adequate planning and consultation. Therefore, given the enormity of these changes, and the existing problems in the system that was devolved it is not surprising that certain issues would arise.

While it is beyond the scope of this paper to provide recommendations, there are some observations that can be made based on the community-based process our research team undertook with agencies in Manitoba as well as the literature review itself.

Firstly, it is clear that Saskatchewan can learn a great deal from the Manitoba experience. As noted by the respondents in Part II, there have been some positive outcomes since the AJI-CWI and implementation of the child welfare reforms in 2000.

¹³ Ibid

¹⁴ Ibid

For example, Aboriginal agencies are able to offer more culturally appropriate services which allows for a more holistic approach and more emphasis on prevention. It also puts more control at the community level with the community agencies and they are better able to provide services to their clients. In addition, there has been growth in the development of self-identity and incorporating Aboriginal ways of knowing into the process. More children are also being returned to their communities. While challenges still remain, staffing levels and training are finally starting to improve, more stability is being created and the communities are now capable to take over the child welfare at the community level. In particular, the creation of Authorities has been viewed as a very positive step as it provides qualified leadership and accountability as well as the opportunity for strategies to be developed and implemented so that situations can be dealt with in a more proactive manner.

However, several challenges and frustrations were also shared. As noted earlier, Aboriginal agencies still experience high staff turnover due to increasing workloads and lack of support systems; funding for staff training and caseloads are insufficient; federal and provincial jurisdictional issues for First Nations agencies continue to be a major concern; poverty, addictions, lack of affordable housing and funding inequities continue to be overriding issues that affect communities and the process is seen as imposed rather than consultative. In addition, First Nations leaders are likening the current child welfare system to the experiences during residential school – a sign of frustration at the slow progress since the reforms began a decade ago.

Indeed, recent media reports echo many of the frustrations shared by respondents. On June 9, 2010 Manitoba's Office of Children's Advocate warned that the province's child welfare system was in "a state of chaos" noting that 85% of the children in care are First Nations.¹⁵ They also note that caseloads are extremely high growing from 6,600 to 8,600 in the past five years prompting social workers to quit because caseloads are two-and-a-half times larger than they should be. The Office of the Children's Advocate called on both the federal and provincial governments to invest more money in the child

¹⁵ CBC News. (2010) *"Feds Share Blame for Child Welfare System 'Chaos'"*. Downloaded on August 2, 2010 at: <http://license.icopyright.net/user/viewFreeUse.act?fuid=OTQwNj14oq%3D%3d>

welfare system.¹⁶ Over a year before the Office of the Children’s Advocate called on the federal and provincial governments to invest more money, The Southern Chiefs Organization was raising similar concerns noting that the number of non-Aboriginal children in care declined in the last year while the number of Aboriginal children in care increased by 10%.¹⁷ They noted that the Southern First Nation Child and Family Services which accounted for more than three-quarters of the children saw 600 more children in care in 2008-09 than in 2007-08 – a 17% increase.¹⁸ Grand Chief Morris J. Swan Shannacappo of Southern Chiefs’ Organization noted that he was concerned that First Nations people still do not have the ability to determine what the child welfare system will be like and that the provincial approach “seems to be one of apprehend, apprehend, apprehend”.¹⁹

The reforms implemented in Manitoba were a political response to the effects of residential schools, the 60s scoop and the murders of J.J. Harper and Helen Betty Osborne. In addition, the reforms were legislated in a very short time frame with no consultation with the Aboriginal communities in Manitoba. As with many Aboriginal communities across Canada, there is a historic distrust between governments (provincial or federal) and the swift, legislated response due in large part to political pressure did not help to address that historical mistrust in Manitoba.

While there are important lessons to be learned from the process in Manitoba and there are certainly many similarities, based on the responses through the community-based research process and the extensive literature review, we feel it would be prudent for the Saskatchewan Child Welfare Review Panel to consider the differences between the two provinces, particularly the historical trajectories. For example, while the reforms in Manitoba were spurred in large part by intense political pressure, Saskatchewan’s current reform process is taking more of a policy approach. Moreover, the Province of Saskatchewan’s relationship with their Aboriginal people, while not without its problems, has traditionally been one of consultation and partnership. Recently, the Province of

¹⁶ Ibid

¹⁷ Southern Chiefs Organization Inc. (2010) “*CFS Statistics Opposite for Aboriginal and Non-Aboriginal Peoples*”. Downloaded on August 2, 2010 at: http://www.scoinc.mb.ca/news_info.php?id=83

¹⁸ Ibid

¹⁹ Ibid

Saskatchewan has participated in the “duty to consult” and have been engaged in Treaty Land Entitlement processes since the early 1990s. It should be noted that, in our opinion, “duty to consult” did not apply to the child welfare discussions with First Nations, rather it emerged out of the history of partnership and was a policy approach. Given this history and the evidence provided in this paper, we feel it is extremely important that the child welfare reform process in Saskatchewan be based on consultation, negotiation and partnership. If there was one “loud and clear” message from Aboriginal respondents in Manitoba, it was the lack of consultation and the “top down” approach to the reforms. No one would argue the reforms were unnecessary or that there have not been some positive outcomes after ten years, however, Saskatchewan may be able to avoid some of the problems encountered in Manitoba.

The community-based research project provided a scan of stakeholders and agencies that provide child and family services within the province of Manitoba. A series of questions were drafted and approved by the lead Saskatchewan writer for the Saskatchewan Child Welfare Review. These questions were sent to the government contacts as well as Aboriginal organizations, however at the time of the closing of the research time frame, no response was received from the Government of Manitoba agencies.

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PART I. The Historical Background of Manitoba Child Welfare

The Royal Commission on Aboriginal Peoples (RCAP) notes that children are special gifts from the Creator who must be protected from harm and are seen as the heart of the family.²⁰ Unfortunately, it is children who have suffered greatly as a result of the history of assimilation and colonization in Canada. As such, the Manitoba Child Welfare system has been heavily influenced and dramatically illustrated by such colonial policies as the residential school system and the “sixties scoop”.²¹ Further, discourse has emerged contending that the Canadian Welfare system is merely taking the place of the residential schools, and startling similarities between the two systems have been identified and criticized.²²

The Effects of the Indian Act

The Royal Proclamation made a clear acknowledgment that Aboriginal people were autonomous societies or “quasi-nations”. During the earliest days of colonization in North America, governments recognized that they were conducting nation-to-nation negotiations with Aboriginal people for the surrender of Aboriginal lands. However this attitude was eventually altered in 1876 with the establishment of the *Indian Act*.

The first *Indian Act*'s mandate was to assimilate Aboriginal people as members of Canadian society. The way Aboriginal people were treated under the law and denied many of the rights given to non-Aboriginal Canadian citizens demonstrated that Aboriginal people were not treated as equals in terms of citizenship. In accordance with federal government policy, Aboriginal people were denied basic rights available to other Canadian citizens and were subject to strict and discriminatory regulations that were carried out by Indian Agents (employees of the federal government). Under the

²⁰ Royal Commission on Aboriginal People, http://www.collectionscanada.gc.ca/webarchives/20071211053441/http://www.ainc-inac.gc.ca/ch/rcap/sg/si4_e.html. Retrieved July 14, 2010.

²¹ Mackinnon, Shauna. *Fast Facts: Child welfare devolution in Manitoba*. Canadian Centre for Policy Alternatives, June 17, 2010.

²² Richardson, Cathie and Nelson, Bill. *A Change of Residence: Government Schools and Foster Homes as Sites of Forced Aboriginal Assimilation*. First Peoples Child & Family Review – A Journal on Innovation and Best Practices in Aboriginal Child Welfare Administration, Research, Policy & Practice. Volume 3, Number 2, 2007, Special Issue, pp. 75-83.

regulations of the Indian Act, Aboriginal nations became geographically isolated (on reservations) and economically impoverished bands.²³ A more aggressive campaign to “civilize” Aboriginal people ensued and thus in 1884 anti-potlatch and anti-sundance laws were enacted.²⁴

Attitudes Towards Traditional Methods of Child Rearing

Traditional Aboriginal child rearing methods were harshly condemned by early missionaries and their parenting methods were characterized as “negligent, irresponsible, and uncivilized”.²⁵ Following the development of the *Indian Act*, the federal government sent Nicholas F. Davin to conduct research on the implementation of Indian assimilation policies relating to children and families that were being utilized in the United States. Davin returned and wholly endorsed the American practice of the removal of Indian children from their communities stating “if anything is to be done with the Indian, we must catch him very young”.²⁶

Residential School Policy

Following the recommendations of Davin, the federal government delegated the task of “civilizing” and educating Aboriginal people to the churches. Catholic and Anglican churches took a lead role in implementing a European education and child rearing model for Aboriginal children. Part of this model included the practice of separating Indigenous children from their families and communities and rearing and educating them in church-run schools. The implementation of residential schools resulted in thousands of Aboriginal children across Canada being forcibly removed from their homes, on pain of imprisonment for any parent who refused to comply.²⁷ In these

²³ *History of Manitoba Child Welfare – Orientation to the CFS System in Manitoba*, Office of the CFS Standing Committee, 2010.

²⁴ Royal Commission on Aboriginal People, http://www.collectionscanada.gc.ca/webarchives/20071207032318/http://www.ainc-inac.gc.ca/ch/rcap/sg/sg25_e.html. Retrieved July 14, 2010.

²⁵ *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People*. Chapter 14, <http://www.ajic.mb.ca/volume.html>, 1991.

²⁶ Davin, N.F., *Report on Industrial Schools for Indians and Halfbreeds*. Ottawa: Public Archives, 14 March 1879), PAC RG 10, Vol. 6001, File 1-1-1, Part 1.

²⁷ Bourassa, C., “Colonization, Racism and the Health of Indian People” in *Prairie Forum*, 29, No. 2, pgs. 207-224.

institutions Aboriginal children were punished for expressing their culture (speaking the language, practicing spirituality etc.) and many were subjected to sexual, physical and emotional abuse at the hands of their caregivers and teachers. The residential school system, both through its policies as well as its history of hidden abuses has had devastating effects on Aboriginal people and communities.

*The effects upon Aboriginal societies of the federal government's residential school system, and its policy of assimilation, have been astounding. Residential schools denigrated Aboriginal cultures, customs and religions, and disrupted the traditional practices of Aboriginal child-rearing and education. They tore apart families and extended families, leaving the children straddling two worlds, the European one and that of their own Aboriginal societies, but belonging to neither.*²⁸

Manitoba Child Welfare Policy Following WWII

In 1947, *The Hawthorn Report* issued by the Canadian Welfare Council found a considerable disparity between the legal rights and protection granted to Aboriginal children as compared to non-Aboriginal children. This led to a heightened awareness and investigation of the living conditions that Aboriginal people faced, particularly to those children living on Indian reservations throughout the province. Given these concerns, many experts felt it necessary that provincial child welfare bodies should be expanded to include Indian Reserves.²⁹

However, jurisdictional disputes between the federal government and the province of Manitoba resulted in the child welfare resources being provided in an inconsistent and “patchwork” manner. Specifically, there was confusion as to the interrelation between s. 91(24)’s jurisdiction of “all lands reserved to Indians” to the federal government via DIAND and the subsequent amendment to s.88 of the *Indian Act* which provided that provincial laws were binding both on and off reserve. Furthermore, neither the federal government, nor the provincial government of Manitoba were willing to extend funding

²⁸ *Supra* note 4

²⁹ *Ibid.*

(in the case of the federal government) or service access (in the case of the provincial governments) to Indian reserves.

Gradually, by the 1960's Manitoba began to offer services to more remote areas of the province, extending beyond urban centers as the Aboriginal population began a wider dispersal throughout the province. Similarly, as Aboriginal people were granted increased mobility (through policy changes that allowed movement to and from reservations), urban centers saw a significant migration of Aboriginal people. With the reduction in geographical barriers between Aboriginal and non-Aboriginal people and the heightened awareness of the substandard living conditions that many Aboriginal families experienced as a result of poverty, the government of Manitoba began to mobilize a new policy on child welfare.³⁰

The “Sixties” Scoop

Prior to 1960, Aboriginal children made up only one percent of children in care. However, by the late 1960s, Aboriginal children made up 30% to 40% of children in care.³¹ Often referred to as the “sixties scoop”, Aboriginal children from across Canada were taken from their homes and communities and placed with white middle class Christian families. While there were many criteria which determined removal and placement, one of the justifications was based on levels of income, while another was based on Christian beliefs and practices, that is children would be removed if the family was not practicing Christianity.

In the 1960s, the Canadian government extended its assimilation from education into the realm known as child welfare. Through changes in the Indian Act, social workers received a legal mandate for a foray into Native reserves to remove Aboriginal children from their parents. In response to these changes Patrick Johnson (1983) coined the term “The Sixties Scoop” to describe the mass redirection of Aboriginal children into European-Canadian residences and communities, as well as into adoptive homes abroad.³²

³⁰ *Ibid.*

³¹ *History of Manitoba Child Welfare – Orientation to the CFS System in Manitoba*, Office of the CFS Standing Committee, 2010.

³² *Supra* note 2

This practice of mass removal and placement with non-Aboriginal families continued into the 1980s. In Manitoba, over 3,400 Aboriginal children were removed from their homes between the years 1971 and 1980. Aboriginal homes and communities were deemed unfit and as such the practice of assimilation continued not under the educational system as it had with previous residential school policies, but rather under the child welfare system. It is widely acknowledged amongst Aboriginal people and scholars, that the residential school system was *replaced* by the child welfare system.³³ Manitoba became the last province to discontinue the mass adoptions of Aboriginal children abroad before finally ceasing this practice in 1983.³⁴

Resistance and Social Change

Aboriginal communities and leaders were well aware of the harmful effects that the child welfare system had on Aboriginal children and families and called for action. As a result, in 1977 a sub-committee was established to conduct negotiations and was composed of the Manitoba Indian Brotherhood (MIB), the provincial department of Health and Social Services, and federal departments of DIAND and Health and Welfare Canada. This committee called for drastic reforms to the existing system. Among their findings was the reluctance of both the federal and provincial governments to extend funding and *disclaim responsibility* of providing child and social welfare services to Treaty Indians. Thus, intervention only came in times of emergency when the life of the child was at stake.³⁵

The committee also acknowledged that: 1) Status Indians were in a unique situation due to the treaties and the BNA Act of 1867, 2) Extended Families and Aboriginal communities were the primary resource in providing for the well-being of their children, and 3) Families would require support in providing care for their children, and in some circumstances substitute care may be required. Throughout the report the need for identity and cultural preservation was emphasized, and most significant of all,

³³ *Ibid* note 9

³⁴ *Supra* note 2

³⁵ *History of Manitoba Child Welfare – Orientation to the CFS System in Manitoba*, Office of the CFS Standing Committee, 2010; McEwan-Morris, Alice. *Strengthening our Youth: A Report on Youth Leaving Manitoba's Child Welfare System*, 2006.

the committee called for the inclusion and involvement of Aboriginal people and communities in the delivery of child welfare services at all levels.³⁶

The Tri-Partite Agreements

Guided by the findings of the 1980 sub-committee reports, the MIB and federal and provincial governments engaged in negotiations to change existing child welfare policies. The MIB at the time was acting on behalf of 49 Indian bands.

*The Manitoba Indian Brotherhood wanted 46 children's service workers at the band level and six resource support workers at the tribal council level. These would be in addition to the 15 child and family workers already working for the bands, and would be paid for by the Department of Indian Affairs. The agreement could be used to set up specific Aboriginal agencies that then could provide a full range of child welfare programs on reserves. Aboriginal communities could control these services and programs.*³⁷

During these early negotiations, it became apparent that there were several hurdles to overcome in order to positively impact the state of Aboriginal children in care in Manitoba. The northern bands distrusted both the provincial government's involvement and the federal willingness to hand over jurisdiction of child welfare to status Indians. The concern was that the federal government would gradually shed itself of the legal responsibilities it owed to status Indians in terms of accepting responsibility for rearing and educating Aboriginal youth.

While the MIB did come to an agreement with both levels of government, this caused a rift within the organization. The north separated and formed the Manitoba Keewatinowi Okimakinak (MKO) and the south became the Four Nations Confederacy (FNC).³⁸

³⁶ Hudson, Pete and McKenzie, Brad. *Extending Aboriginal Control Over Child Welfare Services*. Canadian Review of Social Policy, Volume 51, pp.49-66. Journal Article, 2003.

³⁷ *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People*. Chapter 14, <http://www.ajic.mb.ca/volume.html>, 1991.

³⁸ *Supra* note 4

Public Outrage and the Kimelman Report

As the effects of the “Sixties Scoop” on Aboriginal people became apparent to the general public, the government faced more and more outrage from both Aboriginal leaders and the broader public. In 1982, out-of-province adoptions of Aboriginal children ceased and the province commissioned Chief Judge Edwin Kimelman of the Provincial Court of Manitoba to conduct a review into the effects of the existing child welfare system on Aboriginal children. The report provided confirmation of what Aboriginal people had long been asserting: *that the child welfare system was guilty of “cultural genocide”*. Chief Judge Kimelman concluded that considerable changes to the current child welfare system needed to be made.³⁹

Chief Judge Kimelman also recommended that the province hire more Aboriginal child care workers, have child care workers attend cultural awareness or Aboriginal studies programs, and recommend that the Province establish Aboriginal child care agencies. He also recommended a system of adoption subsidies, primarily to provide financial aid to people who otherwise could not consider taking care of an adoptive child. This recommendation was aimed at encouraging members of an extended family to take a child into their care. Most of the recommendations from that report have been implemented. Child welfare services on reserves have been taken out of the hands of non-Aboriginal child welfare workers, and now are provided by Aboriginal child and family agencies. However, Chief Judge Kimelman’s major recommendation for the establishment of a Child Protector was not implemented.⁴⁰

The *Aboriginal Justice Inquiry – Child Welfare Initiative* (AJI-CWI) also seconded the calls for the establishment of a *Child Protector*. It was their position that the office’s responsibilities would be to 1) *ensure that children involved with the child*

³⁹ Edwin C. Kimelman et al., *No Quiet Place, Review Committee on Indian and Métis Adoptions and Placements* (Winnipeg: Manitoba Department of Community Services, 1985).

⁴⁰ *Supra* note 4

welfare system have their interests and rights protected, and 2) to receive and investigate complaints about the manner of treatment of children by child welfare agencies.⁴¹

PART II. Further Steps Towards Reform

Consistent with the recommendations made in *The Kimelman Report*, the primary goal of Aboriginal stakeholders and communities is to transfer control of child welfare services to Aboriginal run and controlled agencies. The tripartite negotiations concerning child welfare and the subsequent signing of the master agreements (FNC) were significant steps in this direction. The master agreement between the FNC and the government established Aboriginal controlled agencies on-reserve.⁴² Following the signing of the master agreement, three other agencies including the MKO and the Brotherhood of Indian Nations signed similar agreements. The agreements were created under broad terms, which could accommodate subsidiary agreements that would authorize the creation of individual child and family service agencies and as a result, the first mandated First Nations Child and Family Services agencies were established. These agencies' authority was limited to on reserve. By 2001, twelve fully mandated First Nations Child and Family Services agencies were established in Manitoba. Throughout the mid 1980's to the present, the government came under heavy pressure to increase the power and reach of Aboriginal authority over child welfare.⁴³

These Aboriginal child and family service agencies' philosophies differed significantly from those of the provincial government. First, Aboriginal agencies viewed family problems from a holistic standpoint. Rather than focusing solely on the neglected child, their attention was more broadly applied to the family as a whole, which included the extended family and in most cases the entire community. Additionally, the agencies viewed the mass removal of children from a community (such as that which occurred

⁴¹ Aboriginal Justice Inquiry – Child Welfare Initiative. Website: <http://www.aji-cwi.mb.ca/eng/index.html>

⁴² Aboriginal Justice Inquiry – Child Welfare Initiative. Website: <http://www.aji-cwi.mb.ca/eng/index.html>

⁴³ *Orientation to the Child and Family Services System in Manitoba – emailed resource*

during residential schools and the sixties scoop) as preventing the healthy function of the community. Mass removal weakened the family structure and resulted in social chaos and therefore, the practice of removal and placement in non-Aboriginal families was not “in the best interests of the child”.⁴⁴ Second, it was the perspective of the Aboriginal agencies that child apprehension should not be equated with total separation from the family.

*Child apprehensions are done to remove a child from a particular situation, while still maintaining the maximum contact with the family, community and culture. The primary goal of planning for a child taken into care is to reunite the child with the parents, if and when the parents’ situation improves.*⁴⁵

This philosophy differed significantly from the government agencies that relied upon removal policies and practices as a both first step and last resort.

In addition to Aboriginal leaders pushing for fundamental changes to the existing child welfare service authority, other events within the Aboriginal community exposed issues such as poverty and racism that Aboriginal people were experiencing across Canada. *The Kimelman Report* provided a sobering examination of the ineffectiveness of the existing child welfare services in the province of Manitoba. However, it was the murders of J.J. Harper (murdered in Winnipeg Manitoba, March 9, 1988) and Helen Betty Osborne (murdered in The Pas, Manitoba, November 13, 1971), that gave clear evidence of the justice system’s failure to meet the needs of Aboriginal people.⁴⁶

On April 13, 1988 the government of Manitoba launched a public inquiry into the administration of justice and Aboriginal people. This report examined the relationship between Aboriginal people of Manitoba and the justice system. Within this expansive document, is a chapter focused entirely on child welfare (chapter 14). The Aboriginal Justice Inquiry expressed that it becomes problematic when each system is viewed as being entirely distinct from the other and they stated in their report:

→ No analysis of the justice system can be complete without understanding the devastating effect these relations, guided by government policies, have had on

⁴⁴ *Supra* note 22

⁴⁵ *Supra* note 4

⁴⁶ Aboriginal Justice Inquiry – Child Welfare Initiative. Website: <http://www.aji-cwi.mb.ca/eng/index.html>

Aboriginal families. For many Aboriginal societies, existing child welfare practices have ranked as a major destructive force to their families, communities and cultures.

→ Some people have suggested that the child welfare and criminal justice systems are distinct and should function completely independently of each other. We do not agree. We believe many of the reasons why the numbers of Aboriginal people are so disproportionately high in the child welfare system are the same as the reasons why they are so over-represented in the criminal justice system.

“Clients” of one system frequently become “clients” of the other system. It would be impossible to present a complete picture of the criminal justice system, and the youth justice system, without also analyzing the field of child and family services.⁴⁷

It was within this chapter that the *Aboriginal Justice Inquiry* defined and described the scope and direction for child welfare changes within the province of Manitoba. In 2000, based upon the findings of *Aboriginal Justice Inquiry*, the *Child Welfare Initiative* was created based upon the information and recommendations in the AJI report. It established the following goals:

3. Recognize the First Nations and Métis right to control the development and delivery of child and family services to their peoples throughout Manitoba.
4. Restructure the Child and Family Services system through legislation and other changes.⁴⁸

Beyond the Reserve: Extending the Aboriginal Child Welfare Authority

Prior to the creation of the four new mandated authorities (note mandated authorities have the legal authority to apprehend children while non-mandated authorities do not), many reserve based child welfare agencies continued to offer services to band members who had left the reserve. For Aboriginal community leaders, their duties to their band members did not cease once a family left the reserve. Furthermore, this provided evidence that First Nations agencies were attempting to do as much as possible

⁴⁷ *Supra* note 4

⁴⁸ Child and Family Services Standing Committee. *Progress on the Changes for Children Initiative*. Winter 2008/2009.

even if it extended beyond the scope of their funding and with fewer resources. Under these circumstances, disputes often arose between agencies due to a lack of resources and jurisdictional responsibilities. In 1991 a court case determined that the jurisdiction of reserve-based child welfare agencies did not extend beyond the community.⁴⁹ As a result of this ruling, the *Aboriginal Justice Inquiry* recommended that jurisdiction should be extended to include off-reserve band members, and such agencies be provided with the appropriate resources to carry out this increased mandate.

The Creation of A Mandated Child Welfare Agency in Winnipeg

At the time of the inquiry, there was no provincially mandated Aboriginal child welfare agency in Winnipeg. There were however, six non-Aboriginal child and family service agencies providing all legally mandated services to Winnipeg citizens, including Aboriginal residents. The AJI voiced its concern with the fact that under these policies, Aboriginal people, specifically children in care, were inevitably accessing programs and services within non-Aboriginal based organizations. This raised concern that there were significant cross-cultural barriers, which were evident when the AJI explored the dynamics between non-Aboriginal child service providers and Aboriginal families.⁵⁰

For many families who had experiences with child welfare agencies within Winnipeg, they felt that the agencies apprehended and removed children too quickly before adequately communicating with family. For this reason, many families voluntarily went to the Ma Mawi Chi Itata Centre, a non-mandated agency, before dealing with non-Aboriginal mandated agencies. According to most of the Aboriginal presenters at the Aboriginal Justice Inquiry, this was because the families trusted that the agency would not turn to apprehension as a first response once they had learned of a problem.

All of the stakeholders involved in this inquiry (including the Boards of Central and Northwest Child and Family Services agencies) supported the development of a mandated Aboriginal child service agency. Based upon the high success rate of Ma

⁴⁹ *Northwest Child and Family Services Agency v. T.(S.J.)*, [1991] 1 C.N.L.R. 82 (Man. Q.B.)

⁵⁰ Aboriginal Justice Inquiry – Child Welfare Initiative. Website: <http://www.aji-cwi.mb.ca/eng/index.html>

Mawi Chi Itata Centre, the AJI formally recommended that a mandated Aboriginal child and family service agency be established in Winnipeg.⁵¹

The Creation of a Provincial Métis Child Welfare Agency

At the time of the Inquiry, existing Aboriginal child and family service agencies only provided services to Status Indians. The only Non-Status or Métis children who received services were those living on reserves. In 1991 it was estimated that 47,000 Métis and 6,000 Non-Status Indians resided in the province of Manitoba yet neither group had access to culturally appropriate child and family services. It was thus recommended by the AJI that Principle 11 of the *Child and Family Services Act* be amended to state that:

Aboriginal people are entitled to the provision of child and family services in a manner, which respects their unique status, and their cultural and linguistic heritage.

They also made a second recommendation that the Métis be given the authority to develop a mandated child and family services agency to provide services to Métis and Non-Status families.

PART III. The AJI – CWI and the New Governance Structure

By 2006, four child welfare authorities were created as a result of the efforts of the *Child Welfare Initiative*.

- First Nations of Northern Manitoba Child and Family Services Authority
- First Nations of Southern Manitoba Child and Family Services Authority
- Métis Child and Family Services Authority
- General Child and Family Services Authority

These authorities were granted the responsibility and capacity to administer and provide child and family services. The creation of these four authorities was the result of a complex process and is outlined in the following discussion.

⁵¹ *Supra* note 4

Implementation

The recommendations made in the 1991 *Aboriginal Justice Inquiry Report* were shelved for nearly ten years. Acting upon feedback from the Aboriginal Justice Implementation Commission endorsing the devolution of Child Welfare Services, the government engaged in negotiations with Métis and First Nations representatives. In August of 2000, the **Aboriginal Justice Inquiry – Child Welfare Initiative** (AJI-CWI) was jointly established between the provincial government and First Nations and Métis leaders to develop and implement a plan to restructure the child welfare system within Manitoba. Four parties took part in the development of this initiative: The Province of Manitoba, The Manitoba Métis Federation, the Assembly of Manitoba Chiefs, and the Manitoba Keewatinook Ininew Okimowin. The most significant objective of this joint initiative was that off-reserve authority for First Nations be expanded and a province-wide Métis mandate be established.⁵²

Phases 1 and 2: The Development of a Conceptual Plan

The Manitoba Métis Federation (MMF), the Assembly of Manitoba Chiefs (AMC – representatives of southern First Nations), and Manitoba Keewatinowi Okimakanak (MKO) signed three separate *Memorandums of Understanding* (MOU) with the Government of Manitoba to engage in restructuring according to the recommendations made within the AJI report. Additionally, all four parties entered into a *Service Protocol Agreement* with the purpose of establishing a framework and structure for the planning process. The structure included the Joint Management Committee, an Executive Committee, an Implementation Committee, and several Working Groups. Each of these committees included representatives from all of the stakeholders. The Government representatives were the minority on these committees and in the case of the Joint Management Committee only there were only two provincial government representatives out of a membership of nine.⁵³

The Joint Management Committee (JMC), responsible for the broader initiative, formed the Implementation Committee whose responsibility was to develop and

⁵² *Supra* note 3

⁵³ *Supra* note 12

document the planning process. The Implementation Committee established guiding principles and created working committees that conducted reviews and established direction in the following areas: 1) Research, 2) Interjurisdictional/Intersectoral, 3) Financial, 4) Human Resources, 5) Service Delivery, 6) Legislation, and 7) Technology. The reviews and recommendations of these Working Groups were synthesized into a document referred to as the *Conceptual Plan*. The summarizing information was publicly released in August 2001. Shortly after, the JMC initiated public consultations.⁵⁴

Phase 3: The Public Consultations and the Detailed Implementation Plan

The public consultations occurred in a limited time span from August 9, 2001 to September 30, 2001. Attendance at the twelve town hall meetings held throughout the province was low and the publicity surrounding these meetings was minimal.⁵⁵ Fifteen focus groups involving various stakeholders such as foster families, women's organizations, and teens-in-care were conducted to supplement the consultation process. The AJI-CWI also posted information on the Internet and invited the submission of written feedback. Unfortunately, there were only eleven submissions received that contained any meaningful feedback.⁵⁶ Following the consultation phase, a vision document titled *Promise of Hope: Commitment to Change* was released to the public. It provided an overview of the process and the impending changes to the system.

Additionally, the JMC developed the *Detailed Implementation Plan (DIP)*. The DIP describes the steps required to implement the new system. Various sub-projects are outlined including: Authority Development, Service Transition, Human Resources, Direct Services, and System Governance and Supports.⁵⁷

Phases 4 and 5: Implementation of the DIP

The AJI-CWI Executive Committee supported the DIP as a "rolling document". This characterization ensured flexibility and enabled changes to be made as the initiative continued to progress. From February 2003 to October 2005, the AJI-CWI began

⁵⁴ *Ibid* at note 23

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ Aboriginal Justice Inquiry – Child Welfare Initiative. Website: <http://www.aji-cwi.mb.ca/eng/index.html>

initiating the implementation of the sub-projects outlined in the DIP (Phase 4). From November, 2005 to November, 2006 the AJI-CWI stabilized the changes that were implemented (Phase 5).

The New Governance Structure

By 2006, the majority of restructuring was accomplished and four new authorities were created.

- **First Nations of Northern Manitoba Child and Family Services Authority**
- **First Nations of Southern Manitoba Child and Family Services Authority**
- **Métis Child and Family Services Authority**
- **General Child and Family Services Authority**

As in the previous system, the ultimate responsibility of the child and family services system rests with the government. The province is responsible for setting standards for child welfare, monitoring and assessing the degree to which the authorities meet the requirements of the *Act*, the allocation and approval of funding to the four authorities, and the provision of support services to the authorities.

As the primary liaison between the agencies and the province, the Authorities are directly accountable both to their communities and the Minister. It is the responsibility of the four Authorities to design and manage the delivery of child and family services throughout the province. The Authorities are entitled to set their own service standards to supplement the existing provincial standards. As such, they in turn provide funding to agencies that deliver services.

Summary

The areas of greatest significance of this new structure are: 1) The jurisdictional powers of First Nations has been expanded to provide off-reserve services to band members, and 2) A mandated Métis Child and Family services authority is now in place.

The new policy affected over half of the families and children already receiving provincially funded child welfare services in the province. It ensured that Aboriginal authorities could determine the direction of policy and service delivery to Aboriginal

people living off-reserve. Aboriginal stakeholders also actively engaged in developing culturally appropriate programs and services.⁵⁸

The *Child and Family Services Authorities Act* was enacted and *The Child and Family Services Act* and *The Adoption Act* were amended to suit the new governance structure. Over 3,600 cases and corresponding human and financial resources were transferred to the appropriate Métis and First Nations Authorities and their agencies.⁵⁹

PART IV. Emerging Results and the *Changes for Children Initiative*

In March 2006 a five –year old girl named Phoenix Sinclair died while in the care of the child welfare system in Manitoba. Following the shocking news of her death, a series of five external reviews of the child and family services system were conducted in 2006.⁶⁰ The reviews were undertaken by the Manitoba Ombudsman (Strengthen the Commitment), Office of the Children’s Advocate (Honouring their Spirits, the Child Death Review), Koster Et Schibler, Section 4 Review (Recommendations – A Special Case Review), Schibler Et McEwan-Morris, Office of the Children’s Advocate (Strengthening Our Youth: Their Journey to Competence and Independence) and Office of the Auditor General (Examination Policies and Procedures Pre-restructuring the System). The reviews were conducted due to the public outcry for increased scrutiny on the system following the restructuring.⁶¹ Three key trends consistently emerged within the documents pertaining to these reviews:

- *Factors such as poverty, poor housing, addictions, and the lack of effective responses to these factors by other systems, are root causes of family breakdowns and the growing demands on the CFS system.*

⁵⁸ *Supra* note 12

⁵⁹ Hardy, Michael. Schibler, Billie. Hamilton, Irene. *Strengthen the Commitment: An External Review of the Child Welfare System*. Manitoba Minister of Family Services and Housing, 2006

⁶⁰ Child and Family Services Standing Committee. *Progress on the Changes for Children Initiative: winter 2008/09*

⁶¹ *Ibid*

- *The restructuring of the CFS system through the AJI-CWI was a major step forward and provides both the foundation and momentum on which to make other important improvements.*
- *The challenges identified in service delivery predate the restructuring, and the restructuring provides a unique opportunity to address these challenges.*⁶²

Additionally, academics point to three interconnected factors that have a dramatic effect on child welfare outcomes. These include: cultural continuity, self-determination, and institutional capacity. Based upon studies conducted in 1998, it was found that suicide rates were significantly lower in communities that had begun reconnecting with cultural traditions as compared to communities that had not. However this cultural revitalization could not occur without self-determination and the capacity to carry out such initiatives.⁶³

Acting on some 289 recommendations made by the five external reviews, the *Changes For Children* initiative was established on October 13, 2006. A Standing Committee is responsible for facilitating child and family services according to *The Child and Family Services Authorities Act* and they serve as an advisory body to the legal authorities as well as the provincial government. Through two progress reports they have categorized the external review recommendations into seven themes, which are summarized below.⁶⁴

1. Keeping Children Safe through Primary Prevention Programs

The purpose of these programs is to focus on conditions that can increase the risk of child abuse and neglect. The external reviews recommended that the focus in this area should be: strengthening relationships among service systems, including the broader community in designing prevention strategies for their families, educating communities

⁶² Ibid

⁶³ *Supra* note 1

⁶⁴ Child and Family Services Standing Committee. *Progress on the Changes for Children Initiative: winter 2008/09*

about child safety, encouraging families and youth to make healthy choices by increasing options available to them.

Inter-sectoral collaboration:

- increasing the collaboration and integration of systems.

Fetal Alcohol Spectrum Disorder (FASD):

- creation of an FASD Specialist position at each of the four CFS authorities who work in collaboration with their Authority to develop, implement, and evaluate FASD services delivery
- establishment of the FASD Implementation Team
- establishment of Spectrum Connections, that provides services for those living with FASD
 - o clinical and consultation services and referrals for families requiring support
 - o transitional planning for youth
 - o services and support for people 18 years of age and older

Suicide Prevention:

- A youth suicide prevention strategy “*Reclaiming Hope*” which provides funding for the enhancement and creation of suicide prevention programs.
- *Suicide Intervention Training* to over 250 CFS employees, foster parents and other care providers.

Safety education

- distribution of resources on water safety and healthy living to agencies, care facilities, and communities
 - o Topics include: sexual activity, drug and alcohol abuse, housing, and nutrition

2. A Priority Emphasis on Early Intervention for Families

Evidence shows a strong need for *early, more intensive and effective supports to families at risk*. The development of a Differential Response (DR) model was recommended, that focuses on prevention and early intervention.

- The establishment of detailed DR plan consistent with DR approaches used throughout Canada
- Development of a Manitoba-specific DR model
- Creation of DR coordinator position in each of the CFS Authorities to coordinate the DR process

3. Enhanced Support for Front-Line Child Protection Workers

Heavy workloads, low staff morale, and high staff turnover were major concerns in the CFS system. As such, the following recommendations were made:

Staff Workload Relief:

- The addition of over 100 positions to the CFS system.

Training:

- An increased focus on training front line workers and foster families on such areas as critical incident stress management, suicide intervention and prevention, and child abuse investigation.

Information System Redevelopment

- replacement of CFSIS system with an improved system
- increased access to information for designated workers
- improved security of information

Service Delivery Standards:

- Standards Development Protocol that allows for the development of new, culturally inclusive standards
- Refining Case Management Standards

4. Improved Communication

Following recommendations that the existing communication required prompt attention, the CFS has established the following:

- The development of a youth engagement strategy to provide youth, both presently and formerly involved in the child welfare a forum to share experiences with the CFS system, to provide them with information on their rights, to provide support and mentorship to youth in transition

- Vision Catchers Fund which provides more opportunities for youth transitioning out of care
- Youth mentorship programs
- Development of websites for the *Changes For Children* initiative, and each of the CFS Authorities

5. Strengthen the New Governance Structure

The external reviews showed strong support for the new government structure, however specific recommendations regarding funding allocations were made. They called for an increase in resources made available to the Standing Committee in order to carry out its responsibilities and ensure that continuing progress was made with the AJI-CWI initiative. In response, the Government established the Office of the Child and Family Services Standing Committee and created 16 permanent positions. The focus of this Office is designing plans to implement the 289 external review recommendations.

6. Fiduciary Obligation of the Government of Canada and Jordan's Principle

While the provincial government is responsible for funding CFS systems, the federal government owns funding responsibilities to on-reserve systems. This has resulted in a debate that has left children caught in the middle and missing out on critical services.

All external reviews called for the fair distribution of health care and social services funding, regardless of where the family or child's resides yet jurisdictional issues remain. Thus, in September 2008, the provincial government agreed to the implementation of *Jordan's Principle* to First Nations children living on-reserve. In December 2008, a Working Group comprised of both First Nations CFS Authorities and the federal and provincial governments began drafting a *framework and funding model* for on-reserve CFS program and funding delivery. While the provincial government considered a broader application of *Jordan's principle* through the *Jordan's Principle Implementation Act*, the legislature did not proceed beyond the First Reading of the bill in the Legislature.⁶⁵

⁶⁵ *Bills Dealt With In the House – 3rd Session, 39th Legislature 2008-2009.*

Government delays on the implementation of *Jordan's Principle* continues to raise calls for action from the Canadian Medical Association, the First Nations Child and Family Caring Society of Canada, and the Assembly of First Nations. On October 21, 2008 the Canadian Human Rights Commission called for an inquiry as to whether the federal government is underfunding child welfare services on reserves in Canada. Academics have also contended that there is a strong section 15 argument under the *Charter* pertaining to a violation of equality rights.⁶⁶

7. Section 10 Reviews

Legislation in Manitoba entitled the *Fatality Inquiries Act* prompted specific recommendations from external reviews. Section 10 of the *Act* states that reviews must be conducted when a child has resided in the care of Child and Family Services in the previous year, however, concerns arose as to the ability to fulfill this requirement. As such, the Office of the Children's Advocate is now responsible for conducting s. 10 reviews. However, the Chief Medical Examiner's office is still responsible for determining the cause of death. Section 10 reviews occur after the death of child who was in the care of, or received services from, an agency under this Act within one year before the death, or whose parent or guardian received services from an agency under this Act within one year before the death, the children's advocate.⁶⁷

Section 10 reviews are now referred to as *Child Death Review Special Investigations*. The methods of investigation are now more community-based, and investigators are able to visit homes, community meeting places, and agencies that had contact with children prior to his/her death. Finally, the Manitoba Ombudsman will conduct annual reviews on government progress in this area.

⁶⁶ MacDonald, Noni and Attaran, Amir. *Jordan's Principle, Governments' Paralysis*. Canadian Medical Association, 2007.

⁶⁷ *The Fatality Inquiries Act - C.C.S.M. c. F52*

Part V. Community-Based Research Process

Before examining recent developments in the transfer control of child welfare services to Aboriginal run and controlled agencies in Manitoba, we present the findings of the community-based research process. The community-based research project provided a scan of stakeholders and agencies that provide child and family services within the province of Manitoba. A series of questions were drafted and approved by the lead Saskatchewan writer for the Saskatchewan Child Welfare Review. These questions were sent to the government contacts as well as Aboriginal organizations, however at the time of the closing of the research time frame, no response was received from the Government of Manitoba agencies.

Regarding the Aboriginal organizations, a search provided the names of the First Nations and Métis agencies (including sub-offices) in Manitoba (17 in total). Another search provided the sub-offices that existed for the agencies. It was decided that the head agencies would be the points of contact and the sub-offices would be used as secondary contacts. Telephone contact was made with the seventeen prospective agencies. Overall, the correspondence was very supportive and friendly, and it appeared that we would get a very healthy response. Twelve agencies (excluding sub-offices) were invited to participate in the final survey and were contacted by phone and email. The questions were sent via email and a window of time was provided for responses. Once, the window closed, a follow up email was provided as a reminder and a further window of time was provided in order to allow for responses. The Aboriginal agencies were provided with an email with the questions and the background information of the project. Another telephone contact resulted in the emailing of the questions to the Children's Advocate of Manitoba. At the closure of the research time frame, 5 agencies out of 12 responded (41.6% response rate). Since the research team was given an additional 2 weeks to finalize the research, we re-contacted the other 7 agencies. While 5 of the 7 indicated that they would send their comments via e-mail, we have not received any additional responses to date despite several phone calls and e-mails reminding them to do so. The Children's Advocate did not respond nor did the Manitoba Métis Federation. Summaries of responses to the questions are based on the answers provided to the six questions that

were provided and have been grouped together thematically to provide a clearer picture (see Appendix B – Community-Based Research Questions).

Question 1- Can you tell us what led to the changes/reforms to child welfare in Manitoba? What has your role/your organization's role been in Manitoba during these changes?

- 3/5 agencies attributed the changes to the *Aboriginal Justice Inquiry*, which caused policy changes and allowed for Aboriginal organizations to have greater control over the process.
- One agency responded that the new provincial government has taken a more aggressive position than the former government in trying to resolve problems with the increasing number of Aboriginal children coming into care.
- 2/5 agencies mentioned the changes that have come about as a result of the recommendations of the external reviews of the CFS system in Manitoba and the publication of several documents.
- One agency believed that the changes took place as a result of the death of a First Nations leader under questionable circumstances at the hands of the police.
- 2/5 agencies believed their role was to collaborate with the CFS authorities as well as other governing bodies to create and implement further changes and reforms.
- 3/5 agencies believed that the role of their agency was to assist the children and families they work with and to provide culturally sensitive and appropriate care.

Question 2- What have been the results of the changes/reforms?

- 2/5 agencies stated that the reforms provided a new governance structure whereby First Nations and Métis people have more control in terms of service provision to their community members. As one agency stated: *“since the restructuring First Nations, Métis and Inuit people reclaim their rightful role in the creation and delivery of services to Aboriginal families.”*
- 3/5 agencies found problematic issues arose as a result of the reforms. For one agency it resulted in greater case loads and a lack of funding while another agency

found problems with accountability within the child and family service authority administration. One agency expressed that it became problematic when the reforms occurred and new hiring practice and policies were instituted, as many employees hired prior to the reforms were not qualified. This causes internal pressure and political issues.

Question 3 – What has the response been from Aboriginal organizations and/or community members to the changes/reforms? Are the responses from others the same or different?

- 4/5 agencies expressed concern on behalf of their organization as well as other Aboriginal organizations as to the challenges associated with the new reforms. They noted that there has been significant destabilization of the child welfare system at the Authority level due to political issues, heavy case loads and lack of funding, resistance to change, confusion about the new reforms within the organizations and a lack proper training and education for the staff.
- 2/5 agencies responded that the difficulties many Aboriginal organizations experienced is a function of trying to operate within an Aboriginal community under a non-Aboriginal based system. To quote one agency: “old biases about Native agencies being capable, and some Native workers don’t think that ‘white people’ can understand Aboriginal families and communities,” leaves the agencies themselves trapped in between and unable to move forward.
- One agency declined commenting about other organizations.

Question 4 –What benefits have resulted from the changes/reforms? What challenges have resulted from the changes/reforms?

- All of the agencies responded that the greatest benefits of the new reforms were that children and families were able to receive culturally appropriate services.
- 3/5 agencies stated that the establishment of Aboriginal authorities under the new system provided communities with more control and greater involvement in the process and allowed children to remain connected with their communities.

- 2/5 agencies responded that the changes allowed for better administration and staff training. This in turn provided accountability and transparency within the organization. To quote one agency: *“Qualified staff lead to better results for children and families.”*
- 2/5 agencies did not provide examples of any challenges within the new system.
- 3/5 agencies did provide examples of several challenges ranging from administration issues within the organization to broader social issues within the community including: provincial/federal inter-jurisdictional disputes; funding inequities; heavy case loads; lack of research; lack of training and capacity building; poverty; addictions; housing problems; instilling family values.

Question 5 – Overall, do you think the changes/reforms have been successful? Why or why not? If changes have not been as successful as anticipated, what do you think could be done to address the challenges? What kind of evidence are you basing your views on? (if not clear from this answer)

- 2/5 agencies responded that despite many challenges there is movement in the right direction. One agency acknowledged that Aboriginal authorities and CFS Agencies are building capacity to better serve their members and culturally appropriate services are being offered to the Aboriginal community through Aboriginal authorities. The other agency stated: *“The authority continues to work hard to implement an evidence-based prevention, intervention, and protective practice ...The process employed to transform these resources into deliverable services are achieved by implementing programming objectives, addressing challenges, and achieving child and family focused outcomes.”*
- One agency expressed the problems the old system created by not allowing families to reconnect and that: *“The current system, though with faults, allow First Nations people and communities to maintain more control and involvement on the ‘locations’ of our children, while at the same time, initiating a process of self-identity.”*
- 2/5 agencies claimed that there are still challenges that need to be addressed and that many of these challenges are political in nature and centre around a lack of

training and understanding within organizations. According to one agency: “funds to ensure ongoing governance support must be negotiated as part of the funding formula in order to ensure stability.” The other agency suggested that board involvement needs to be restricted and that boards and staff members need to be properly educated on how the safety and well-being of children can be achieved.

Question 6- Can you recommend anyone that may have additional insight that would be willing to talk to us?

- 3/5 agencies provided the names of people who would have additional information. Unfortunately, only names were provided and no contact numbers or email and the time allocation for the project did not allow for the researchers to follow up with these individuals.
- One of the agencies did not respond to the question and one of the agencies stated that they could not recommend any additional contact person(s).

Summary of Findings

Based on the responses gathered above from the various agencies, it is clear that many of those working closely with children and families in Aboriginal communities in the province of Manitoba have a detailed understanding of how child welfare reforms have affected and continue to affect their organizations and the people they serve. The analysis above demonstrates that most agencies that responded have experienced positive outcomes as well as setbacks and challenges as a result of the systematic changes made to Manitoba’s child and family service legislation and policy over the past ten years.

The report of the Aboriginal justice inquiry in 1991 led to the creation of the AJI-CWI in 2000. The major themes that emerge from the reports from the child and family service agencies that provided feedback are similar to the findings of the literature review.

Participants spoke about the disorganization and ineffectiveness the child welfare system was in as well as historical issues from the residential school period, the sixties scoop and policies from colonization (predominately the Indian Act) that still plague the communities. All of the agencies spoke of the large increases of Aboriginal children in care as a result of the government policies. There was considerable confusion over jurisdiction between the federal and provincial governments. The creation of Jordan's principle has helped but it has not solved all of the issues. In addition, there was concern regarding the process that occurred in implementing the child welfare reforms. The process is seen as "top down" and one that occurred quickly with no consultation from Aboriginal stakeholders. It is seen as an imposed process and the respondents indicated it has taken many years to see any positive changes. Moreover, many participants feel it is the same system that used to be controlled by government and now through the process of devolution, they are inheriting all the problems that were inherent in that system in the first place. There is a high level of frustration, however, also a great deal of optimism.

One critical point was that prior to the creation of the AJI-CWI, the staff were not required to have qualifications and training in the area of child care to be employed at the band level. The creation of standards and training opportunities has been 'a work in progress' and great strides have been made. There have been situations that have arisen where local politicians had gotten involved in the child welfare system in the past, but the new system has now established some 'arms length' relationships from the local leaders with the creation of the Authorities.

The Authorities have developed good relationships over the years between themselves and have created some standards that have been implemented that assist them to work together and to establish new ways of doing business. There is still some work to be done between urban and rural agencies.

Issues that are often mentioned include:

-High staff turnover due to increasing workload and lack of support systems.

- Skill and training opportunities for staff and board members and the constant uphill struggle to improve and try to “catch up”.
- The case load is increasing yearly and the funding, staffing and support networks are often seen as insufficient.
- Poverty, addictions, lack of affordable housing, funding inequities continue to be overriding issues that continue to affect the communities.
- Federal/Provincial jurisdictional issues were cited as a major concern by all First Nations respondents.
- Process seen as imposed rather than consultative in nature.

Positive comments emerge around:

The Authorities are allowed and able to offer culturally appropriate services, along with choices for the families. This allows for a more holistic approach and the value systems of the communities continue to emerge. There is more opportunity for prevention and support as a result. It puts more control at the community level with the community agencies and they are better able to provide services to their clients. In the past decade, there has been considerable growth in the development of “self identity” and positive growth towards incorporating Aboriginal ways of knowing into the process. More children are being returned to their communities and they are able to find a place for themselves in that new location.

The Authorities and CFS agencies recognize the fact that there is a great amount of work left to be done, but they feel that progress is being made. Staffing levels and training are improving and expanding, more stability is being created and the devolution process is taking control. The communities are now capable and able to take over the child welfare at the community level and it is no longer a politically driven issue. The creation of the Authorities has been viewed as a very positive step as it provides qualified leadership and accountability and a process is now in place where strategies can be developed and implemented, and as a result, the situations can be dealt with in a more proactive manner.

Limitations

While 41.6% can be seen as a solid response rate, the team was disappointed that we did not achieve our target of 75% response rate. As we contacted and re-contacted agencies we took field notes as reasons given for not participating in the survey. Many agencies initially responded positively and indicated they would participate, however, their responses were never received even after repeated phone calls and e-mails. In a majority of the cases, the reasons included “manager away on vacation”, “too busy”, “must have supervisor respond”, “access to e-mail and computer is limited”. The staff the research team spoke to at the agencies indicated they were overwhelmed, understaffed and given the summer holiday season, even more short-staffed than normal. In addition, staff members were not comfortable responding to the survey and if their supervisor or director was away, we did not receive a response. In some cases, there was some distrust and research team members had to explain that they worked for a Métis owned and operated company and that all employees were either First Nations or Métis. This helped, however, even those agencies with distrust who eventually indicated that they would send a response never did.

The research team feels this is a particularly important point that needs to be taken into consideration for future research. The Aboriginal community is based on relationships and the “personal touch”. The research team was required to make contact and conduct their research over the telephone and via email. Personal face-to-face contact with these agencies would have been beneficial and would likely have garnered better results. The history of distrust between local politicians, funding agencies and certainly distrust between Aboriginal organizations has played a role in the research process. In addition, the geographic, language and cultural traditions also play a role in how people interact, therefore, expecting people to respond and react as would a western based agency is unrealistic particularly given the very tight timeline we were working under. Of course, there is no blame to be laid here, however, this is an important lesson for future research.

We also felt it would be important to examine statistical trends (see Part VII). While we found the annual reports produced by the Minister of Family Services and Housing useful in comparing Aboriginal and non-Aboriginal children in care, we were unable to find extended family versus traditional foster care placement data. We did make this request, however, we were told that this type of data could not be readily provided.

A final limitation is that we pledged to keep the confidentiality of the respondents. The responses we received were extremely well thought out and clearly a great deal of time went into them, however, because of the sensitive nature of some of the comments, we could not use all of the rich information in case it would reveal who shared them. This is a risk with all studies of this nature, however, if we were able to get more responses we may have been able to share more of this rich information.

PART VI. Implementation and Transition

The new governance structure was a tremendous step in the repatriation of Aboriginal children. The changes made to the system are unprecedented, and the government of Manitoba is creating new roads in child welfare reform. Changes occurred quickly, and some would say with out adequate planning and consultation. Therefore, given the enormity of these changes, and the existing problems in the system that was devolved it is not surprising that certain issues would arise.

In a recently published article, the Canadian Centre for Policy Alternatives offered support for the transformation of Manitoba's child welfare system and stated that the province is following the right path. It was the view of the author that the dysfunction in the system existed before the restructuring. Such colonial policies as residential schools, and the "sixties scoop" are used to emphasize this point.⁶⁸

The Ombudsman Report entitled: *Progress on the Implementation of the Recommendations "Strengthen the Commitment"* is a critical analysis on whether the government has adequately implemented previous review recommendations. It provides

⁶⁸ Mackinnon, Shauna. *Fast Facts: Child welfare devolution in Manitoba*. Canadian Centre for Policy Alternatives, June 17, 2010.

a valuable outside perspective on the effectiveness of current government strategies and commentary on the following aspects of the system:⁶⁹

Office of the Child and Family Services Standing Committee (OSC)

External reviews expressed serious concern over the high staff turn-over rates within the OSC. The report states that the OSC has not stabilized its current staffing situation and therefore calls for positions to be filled permanently in order to ensure greater consistency and stability throughout the system.

Child Death Reviews

The Ombudsman Report states that by initiating the afore-mentioned Child Death Review policies, they have satisfied the recommendation requirements. However in recent Child Death investigative reports, the Office of the Children's Advocate stated that agencies throughout the system had failed to meet the needs of children in care.

Additionally,

Some of these reports also refer to risk factors that are beyond the control of the child welfare system. Risk factors such as suicide ideation and gestures, access to intoxicants, gang related beatings at school and in the community need to be assessed and addressed by the child welfare system, and agencies collateral to it, to redress the risk. (p. 20 of the Ombudsman Report)

Transfer of Responsibility for Protection Hearings

Delays involved in this process have long been a concern in the system. As such, recommendations were made to amend s. 28 of *The Child and Family Services Act*, to make way for the development of an administrative transfer process that would streamline legal procedures and provide more timely access to the appropriate services. The courts were opposed to this substitution. As a result, this issue is still unresolved.

⁶⁹ Manitoba Ombudsman. *Report Regarding the Progress on the Implementation of the Recommendations "Strengthen the Commitment" (The Ombudsman Report)*. April 1, 2008- March 31, 2009

Voluntary Placement Agreements

The VPA provides access to parents who require temporary out-of-home placement for their child. The parent retains guardianship of their child and is involved in the case planning process.

Some problems were raised with the execution of the VPAs. In some cases parents were not involved in the case planning process. In other instances the VPAs were used when the parent was unwilling to work cooperatively with the agency. In order to ensure VPAs were used appropriately, standards have been revised and a procedure for monitoring VPAs has been developed. Regarding the latter development, with the high turn-over rates, it is imperative that agencies provide on-going training to ensure that everyone is fully aware of VPA standards.

Standards

In the 2006 review *Strengthen the Commitment*, the following recommendations were made:

1. That foundational standards (to ensure the safety of children) be applicable in all situations across the province and be completed as a priority.
2. That every child and family services worker in the province receives training on the foundational standards.
3. That the foundational standards be published on-line and that every agency office and sub-office receives a manual containing the standards.
4. That no standard be implemented without the opportunity for meaningful comment from frontline protection workers representing each Authority.

While the government has begun to establish consistent standards in many areas, there are still some areas that require attention. These areas include Facility, Authority, and Branch standards and these areas are currently in the process of being addressed through the Inter Authority Standards Work Group.

Another issue is ensuring that front-line staff follows these standards. As stated in the Ombudsman Report:

A clear understanding of the expectations for service delivery by front line staff is essential throughout the province. While it is necessary to have strong

foundational standards in place, they will only be effective if front line staff follow them. (p. 4 of the Ombudsman Report)

Standardized Risk Assessment (SRA)

In order to assess risk according to best practices, recommendations were made to implement a standardized tool for the assessment of risk. The SRA would be used consistently throughout the CFS system. It is being piloted by different agencies throughout the region. The OSC is currently awaiting the outcomes of the piloting project and will determine approval depending on results and findings.

Child and Family Services Information System (CFSIS)

Ensuring that agencies are correctly using the CFSIS is paramount and will assist in reducing risks to children in the system. Reserve-based agencies are currently operating with inadequate funds and resources to ensure effective access to the CFSIS. For example, in some sites, only one computer is available to as many as eight staff members.

Authority Determination Process (ADP)

Another contentious issue involves families who are living in remote areas where they have limited choice in terms of Child and Family service agencies in which they must work with. Even if the family chooses an authority to oversee services offered, these services are still provided by the agency located in the area. This led to the recommendation that the ADP be completed by staff other than front-line workers as to allow the family to have greater choice. The government has not accepted this recommendation. The purpose of the ADP process was to ensure that families could determine more culturally appropriate service providers according to their particular circumstances. Additionally, many families are not informed of the *differences and implications between one authority from the other.*

Designated Intake Agencies (DIAs)

Thirteen designated intake agencies provide 24-hour intake and emergency services. Due to the critical nature of dealing with children in care and families in crisis, responses to requests and referrals must be conducted in a timely manner. Should services be required on an ongoing basis, the DIAs determine the authority according to the ADP and transfer the file accordingly.

Concerns were raised that communication between these first response and emergency agencies was inadequate and required greater consistency. Due to the need for increased availability of staff, recommendations were made that new employees be hired to reduce heavy labor demands on existing staff.

While funds have been made available for the creation of new positions for After Hours Service, the federal government has yet not allocated any funds to on-reserve DIAs. The view of the Ombudsman is that in accordance with *Jordan's Principle*, the needs of First Nation children should be the primary focus. Thus, the province should fund intake on reserves, and seek reimbursement by the federal government once the child's needs have been met.

All Nations Coordinated Response Network (ANCR)

Formerly the Joint Intake Response Unit (2005), the ANCR receives approximately 1200 request for service in Winnipeg. They are the first point of contact with the CFS system in Winnipeg, a city of great diversity amongst families who require services. The ANCR completes the Authority Determination Protocol (ADP) and arranges for transfer to one of the seventeen agencies that provide service in Winnipeg.

Several of the Children's Advocate child death review reports made recommendations specifically directed at the ANCR. A review was recommended concerning funding, workloads, organizational structure, and case management practices. At present, the *Quality Service Review* is being conducted with the following objectives:

- 1) *To conduct a comprehensive review and assessment of the service functions at ANCR that are delivered by After Hours Unit; Crisis Response Unit; Tier 2 Intake; Abuse Services Unit; and Family Enhancement Unit.*

- 2) *Review and assessment of the service relationship between ANCR and its receiving agencies and the effectiveness of the case transfer process.*
- 3) *Analysis of current services at ANCR and key recommendations for service improvement.*

Part VII. Concluding Commentary

One of the objectives of this project was to provide an understanding of the historical and contemporary experience of child welfare in Manitoba and to provide commentary on the benefits and challenges encountered. While it is beyond the scope of this paper to provide recommendations, there are some observations that can be made based on the community-based process our research team undertook with agencies in Manitoba as well as the literature review itself.

Firstly, it is clear that Saskatchewan can learn a great deal from the Manitoba experience. As noted by the respondents in Part II, there have been some positive outcomes since the AJI-CWI and implementation of the child welfare reforms in 2000. For example, Aboriginal agencies are able to offer more culturally appropriate services which allows for a more holistic approach and more emphasis on prevention. It also puts more control at the community level with the community agencies and they are better able to provide services to their clients. In addition, there has been growth in the development of self-identity and incorporating Aboriginal ways of knowing into the process. More children are also being returned to their communities. While challenges still remain, staffing levels and training are finally starting to improve, more stability is being created and the communities are now capable to take over the child welfare at the community level. In particular, the creation of Authorities has been viewed as a very positive step as it provides qualified leadership and accountability as well as the opportunity for strategies to be developed and implemented so that situations can be dealt with in a more proactive manner.

However, several challenges and frustrations were also shared. As noted earlier, Aboriginal agencies still experience high staff turnover due to increasing workloads and

lack of support systems; funding for staff training and caseloads are insufficient; federal and provincial jurisdictional issues for First Nations agencies continue to be a major concern; poverty, addictions, lack of affordable housing and funding inequities continue to be overriding issues that affect communities and the process is seen as imposed rather than consultative. In addition, First Nations leaders are likening the current child welfare system to the experiences during residential school – a sign of frustration at the slow progress since the reforms began a decade ago.

Indeed, recent media reports echo many of the frustrations shared by respondents. On June 9, 2010 Manitoba's Office of Children's Advocate warned that the province's child welfare system was in "a state of chaos" noting that 85% of the children in care are First Nations.⁷⁰ They also note that caseloads are extremely high growing from 6,600 to 8,600 in the past five years prompting social workers to quit because caseloads are two-and-a-half times larger than they should be. The Office of the Children's Advocate called on both the federal and provincial governments to invest more money in the child welfare system.⁷¹ Over a year before the Office of the Children's Advocate called on the federal and provincial governments to invest more money, The Southern Chiefs Organization were raising similar concerns noting that the number of non-Aboriginal children in care declined in the last year while the number of Aboriginal children in care increased by 10%.⁷² They noted that the Southern First Nation Child and Family Services accounted for more than three-quarters of the children saw 600 more children in care in 2008-09 than in 2007-08 – a 17% increase.⁷³ Grand Chief Morris J. Swan Shannacappo of Southern Chiefs' Organization noted that he was concerned that First Nations people still do not have the ability to determine what the child welfare system will be like and that the provincial approach "seems to be one of apprehend, apprehend, apprehend". He referred to a provincial CFS official commenting on the release of the 2008-09 annual CFS statistical report noting that the First Nations increase may be the

⁷⁰ CBC News. (2010) *"Feds Share Blame for Child Welfare System 'Chaos'"*. Downloaded on August 2, 2010 at: <http://license.icopyright.net/user/viewFreeUse.act?fuid=OTQwNj14oq%3D%3d>

⁷¹ Ibid

⁷² Southern Chiefs Organization Inc. (2010) *"CFS Statistics Opposite for Aboriginal and Non-Aboriginal Peoples"*. Downloaded on August 2, 2010 at: http://www.scoinc.mb.ca/news_info.php?id=83

⁷³ Ibid

result of agencies and workers becoming extra cautious in order to avoid any tragic situations. In response he stated:

*“It is true that there have been tragic episodes in the past, including many before the mandate was transferred from provincial to Aboriginal agencies (those problems were never reported as zealously as those involving First Nations workers and agencies). However, we need solutions other than the police-like approach of tearing families apart and keeping children separated from their mothers. Sure, there are times when there is no alternative to apprehension, but the approach where large numbers of children are put into the permanent custody of CFS has to stop. This is an extension of the thinking that led to the wholesale stocking of Indian residential schools ‘for their own good’. This mentality where outsiders – governments, churches, etc. – break up families must end. It is foolish to think that tinkering with systems will be enough. The non-Aboriginal approach to CFS can’t be reformed, it must be replaced”.*⁷⁴

This lengthy quote from Grand Chief Morris J. Swan Shannacappo reflects many of the same concerns and frustrations that led to the AJI-CWI and the reforms that followed and, unfortunately, many of these concerns were echoed by the respondents in the community-based research process. Most respondents felt they had inherited a flawed system and because it was imposed on Aboriginal agencies and communities, there was resistance to the process and, in some cases, resistance continues as the numbers of Aboriginal children in care continues to climb rapidly. According to the Annual Reports provided by the Minister of Family Services and Housing, the number of Aboriginal children in care in 2003-04 was 4,022 compared to 6,062 in 2010.⁷⁵ Information regarding extended family versus traditional foster care placements was not readily available.

⁷⁴ Ibid

⁷⁵ Manitoba Family Services and Housing. (2010) *Annual Report 2003-04 and 2008-09*. Winnipeg: Minister of Family Services and Housing.

Indeed, the reforms implemented in Manitoba were a political response to the effects of residential schools, the 60s scoop and the murders of J.J. Harper and Helen Betty Osborne. In addition, the reforms were legislated in a very short time frame with no consultation with the Aboriginal communities in Manitoba. As with many Aboriginal communities across Canada, there is a historic distrust between governments (provincial or federal) and the swift, legislated response due in large part to political pressure did not help to address that historical mistrust in Manitoba.

While there are important lessons to be learned from the process in Manitoba and there are certainly many similarities, based on the responses through the community-based research process and the extensive literature review, we feel it would be prudent for the Saskatchewan Child Welfare Review Panel to consider the differences between the two provinces, particularly the historical trajectories. For example, while the reforms in Manitoba were spurred in large part by intense political pressure, Saskatchewan's current reform process is taking more of a policy approach. Moreover, the Province of Saskatchewan's relationship with their Aboriginal people, while not without its problems, has traditionally been one of consultation and partnership. Recently, the Province of Saskatchewan has participated in the "duty to consult" and have been engaged in Treaty Land Entitlement processes since the early 1990s. It should be noted that, in our opinion, "duty to consult" did not apply to the child welfare discussions with First Nations, rather it emerged out of the history of partnership and was a policy approach. Given this history and the evidence provided in this paper, we feel it is extremely important that the child welfare reform process in Saskatchewan be based on consultation, negotiation and partnership. If there was one "loud and clear" message from Aboriginal respondents in Manitoba, it was the lack of consultation and the "top down" approach to the reforms. No one would argue the reforms were unnecessary or that there have not been some positive outcomes after ten years, however, Saskatchewan may be able to avoid some of the problems encountered in Manitoba.

Appendix A Annotated Bibliography

The following section provides a review of the literature available on the Internet as well as sources provided to us from Manitoba governmental agencies. While not inclusive of all literature, it does include those documents that are of significance and importance in terms of Aboriginal child welfare in Manitoba in the past ten years.

Bennett, Marlyn, Blackstock, Cindy. *A Literature Review and Annotated Bibliography Focusing on Aspects of Aboriginal Child Welfare in Canada: National Aboriginal child abuse & neglect differential response*. 2002

This literature review and annotated bibliography has been prepared at the request of the First Nations Child & Family Caring Society of Canada. It was designed to incorporate research and articles from all disciplines relevant to Aboriginal children, youth and the well being of the Aboriginal family. This literature review includes many unpublished papers, program descriptions and reports produced by, or for, Aboriginal Child Welfare agencies, as well as resources from many provincial, state, and federal governments in Canada and the United States. In addition, this review includes a consideration of some of the research conducted and produced by Masters and Doctoral students within Canada in relation to matters that touch on child welfare and/or social related issues benefiting or impacting on all aspects and well-being of Aboriginal children, families and communities.

Bennett, Marlyn. *Jumping through Hoops: A Manitoba Study Examining Experiences and Reflections of Aboriginal Mothers Involved with Child Welfare in Manitoba*. 2009

Ka Ni Kanichihk Inc., an urban Aboriginal organization in Winnipeg, undertook to conduct a review into the experiences of Aboriginal mothers involved with the child welfare system and family courts regarding child protection matters. This paper describes some of those experiences and reflections. The findings draw from in-depth recorded interviews conducted with 32 Aboriginal mothers during March to June of 2007. The paper highlights a number of solutions identified by mothers about how child welfare and family court systems can be improved to work better for Aboriginal mothers and their children.

Blackstock, Cindy. *Residential Schools: Did They Really Close or Just Morph Into Child Welfare?* 2007

Link: <http://www.heinonline.org/HOL/Page?collection=journals&handle=hein.jou...>

Blackstock, Cindy, Brown, Ivan Bennett, Marlyn. *Reconciliation: Rebuilding the Canadian Child Welfare System to Better Serve Aboriginal Children and Youth*. 2007.

Child welfare practice, which has evolved in Canada over the past hundred years, has been based on Euro-centric values and worldviews. These have caused considerable harm

to Aboriginal individuals and communities and continue to contribute to outcomes for Aboriginal children that are not encouraging. A conceptual framework for effecting reconciliation between mainstream and Aboriginal child welfare is presented. The framework is composed of four aspects of reconciliation related to each other in a circular fashion, putting a Human Face on Child Welfare and five principles to guide the way forward. Together these represent "touchstones of hope" for Aboriginal children, youth, and families.

Blackstock, Cindy. ***Reconciliation Means Not Saying Sorry Twice: Lessons From Child Welfare in Canada. From Truth to Reconciliation: Transforming the Legacy of Residential Schools.*** Aboriginal Healing Foundation, 2008, pp 164-178.

This article discusses Canada's failure to address inequalities in the treatment of First Nations children. Outlines and discusses evidence of the high rate at which First Nations children are removed from their homes (there are more Aboriginal children in care today than there were in the height of the residential school program), she argues for reorientation of First Nations child welfare services. Additionally, the article analyzes the impact of jurisdictional debates between federal and provincial governments on child and community well-being, and cites Jordan's Principle as a child-first principle in settling jurisdictional disputes. Putting children first must be at the foundation of reconciliation in order to ensure that violations of children's rights are not repeated and ongoing.

Blackstock, Cindy. ***Why Addressing the Over-Representation of First Nations Children in Care Requires New Theoretical Approaches Based on First Nations Ontology: National aboriginal ethno-cultural foster care well-being.*** 2009

Western theoretical approaches influencing child welfare practice and legislation have not adequately addressed the over-representation of First Nations children in the child welfare system. She outlines connecting principles between First Nations cultures in Canada and describes the ways these principles are different from those embedded within Western ontology. The author also examines the cross cultural validity, capacity to respond to structural child welfare risk and testability of ecological theory, anti-oppressive approaches, and structural theory - theories that have been influential within child welfare practice. The author argues that these theories are too narrow to appropriately address First Nations cultures and realities particularly in terms of reflecting First Nations ontology.

Brown, Jason D., Bednar, Lisa M. ***Foster parent perceptions of placement breakdown Manitoba foster care placement breakdown resource families.*** 2006

Survey data from 63 foster parents indicated that they would consider ending a placement if: (1) there was a danger to their families, (2) the foster child did not adapt to the home, (3) they could not handle the foster child's behavior, (4) their own health deteriorated, (5) the foster child had complex health needs, (6) there was a problem dealing with the foster

agency, (7) there were several unsuccessful attempts to make the placement work (8) their personal circumstances changed; (9) there was a lack of external support.

Brown, Ivan. Chaze, Ferzana. Fuchs, Don. Lafrance, Jean. McKay, Sharon. Prokop, Shelley Thomas. ***Putting a Human Face on Child Welfare: Voices from the Prairie.*** 2007

The book focuses on the challenges faced and lessons learnt by practitioners, researchers, and academics in the field of child welfare. It focuses on issues relevant to the Prairie Provinces, and in particular on child welfare in relation to Aboriginal communities. The chapters reflect the 22 contributing authors' vast experiences as practitioners, program planners and academics.

Brown, Jason D. George, Natalie. Sintzel, Jennifer. St. Arnault, David. ***Benefits of Cultural Matching in Foster Care.*** 2009

Sixty-one foster parents from Manitoba were recruited to examine the benefits of cultural matching in foster care placement. The authors used telephone interviews to gather 51 unique answers to the question: "What are the benefits of fostering children who have the same values, beliefs and traditions as you?" Thirteen foster families were recruited to assist in analyzing the results using concept mapping. Themes extrapolated from participant responses were that cultural matching in foster care placement made it easier for parents to expand on their held values, aided in a child's sense of security and safety due to familiarity of culture, made the adoption transition smoother, and was less stressful for the family to adapt to fostering a child. Foster parents also responded that cultural matching was beneficial for the adopted child and family relationship because of commonalities in communication and a sense of similarity.

Cabinet Office, Social Exclusion Task Force. Think ***Family: Improving the life chances of families at risk.*** January 2008.

This report focuses on the delivery of adult social services. The "Think Family" approach considers the wider needs of an adult including family circumstances and the needs of children, rather than analyzing component parts of social services in isolation of one another. As a follow up to the Social Exclusion Task Force's report, Reaching Out: Think Family, which analyzed the meaning of "families at risk," assessed the effectiveness of existing services and systems, and highlighted innovative practice, this report sets out the next steps in improving family services.

Canadian Paediatric Society. ***Are We Doing Enough? A status report on Canadian public policy and child and youth health.*** 2nd ed. CPS, 2007.

This report, released two years after the first edition, serves as a follow-up and examines the extent to which progress has been made on introducing new measures of child and youth health, with a special focus on mental health. It introduces a section on Ottawa's progress to recognize the role that the federal government plays in providing national

leadership on issues affecting health and well-being of children, and examines public policy in four key areas: disease prevention, health promotion, injury prevention, and best interests of children and youth.

Carriere, Jeannine. Scarth, Sandra. *Aboriginal Children: Maintaining Connections in Adoption*. 2007

This chapter provides some context on the issue of adoption and Aboriginal children by highlighting conversations, experiences, and knowledge from diverse stakeholders. The authors provide a summary of dialogue and research findings that consider the many complexities of this issue from both an Aboriginal and non-Aboriginal perspective. The contributors to this chapter have multiple roles in this area and have come together to produce a discussion that can hopefully be advanced by others. The chapter exemplifies how Aboriginal adoption needs to be discussed by all those involved including policymakers and advocates, agency directors, academic researchers, adoptees, and their families.

Carriere, Jeannine. Richardson, Cathy. *From Longing to Belonging: Attachment Theory, Connectedness, and Indigenous Children in Canada*. 2009

In this article, the Métis authors document some of the historical, colonizing influences on Indigenous children and their families. The massive state-supported transfer of Indigenous children into Euro-Canadian homes can be attributed both to culturally deprived child welfare practice and the ongoing colonial move to assimilate Indigenous Canadians. The authors discuss attachment theory and how it has been used, along with other western psychological theories, to facilitate child removal; they also make suggestions about how ideas of attachment and connection may influence practice positively.

Child and Family Services Standing Committee. *Progress on the Changes for Children Initiative*. Winter 2008/09.

This report is presented by the Child and Family Services Standing Committee, the advisory group of the Manitoba child and family services system. This group has legislated responsibility for promoting cooperation and collaboration both within the child and family services (CFS) system and with other systems. In this report, the Child and Family Services Standing Committee is referred to as Standing Committee. The work of Standing Committee continues to focus on three major areas: continuing implementation of the Aboriginal Justice Inquiry – Child Welfare Initiative (AJI-CWI), implementation of the Changes for Children Initiative, ongoing system development.

Davin, N.F., *Report on Industrial Schools for Indians and Halfbreeds*. Ottawa: Public Archives, 14 March 1879), PAC RG 10, Vol. 6001, File 1-1-1, Part 1.

Davin produced the *Report on Industrial Schools for Indians and Half-Breeds*, otherwise known as *The Davin Report* (1879), in which he advised John A. Macdonald's federal government to institute residential schools for Indigenous youth; a recommendation that decimated Canadian Aboriginal families. Davin, a federal Member of Parliament was

sent to the United States and study the Carlisle Indian School and submitted a report with his recommendations on how best for the Canadian Government to proceed with how best to deal with the Indian people in Canada.

Department of Family Services and Housing. *Changes for Children: Strengthening the Commitment to Child Welfare. A response to the external reviews into the child and family services system.* October 13, 2006.

The report is recognized as providing a blueprint for making substantial and long-lasting improvements in the child and family services system. They recognize that families, communities and service systems share responsibility for protecting children from harm. The recommendations offer practical and meaningful solutions to many issues which are cited as long-standing and pervasive within the child welfare system in Manitoba. The Government has framed its initial response in terms of the key themes that address the substance of the recommendations in the external review reports.

Desmeules, Gayle. *A Sacred Family Circle: A Family Group Conferencing Model.* 2007

This chapter explores Family Group Conferencing (FGC) as an effective way of working with Aboriginal children and families involved with Child Protection Services. FGC offers a collaborative dispute resolution process, which empowers families to make and implement decisions regarding the care and protection of children experiencing maltreatment, or at risk of abuse. FGC is a circle process, facilitated by a third neutral party and frequently, at the request of the family, an Elder is present. At the conference a permanency plan is developed by the family, whereby the child is reunified with the family or placed with alternative caregivers. Key family members then work in partnership with professional services, and also have an option to incorporate traditional cultural and spiritual practices in their efforts to restore balance and harmony, and break the cycle of intergenerational abuse.

Drakul, Mira. *Evaluation of the Anishinaabewin Project: a service coordination agreement between West Region Child and Family Services and Winnipeg Child and Family Services Central Area.* National Library of Canada, 2000. Thesis – University of Manitoba.

Coordination has been a topic of interest to practitioners for several decades, and regardless of their specific motives or interests, most administrators, clients and legislators agree that increased coordination of public service is necessary. Having recognized the need for coordinated services on behalf of the First Nation children and families from the West Region Child and Family Services and Winnipeg Child and Family Services, Central Area signed a Service Coordination Agreement in November 1996. The Agreement was signed with the purpose of establishing principles and processes for coordinating the delivery of services between these two agencies to this specific target population. It was hoped that this would address some of the barriers related to the implementation of the Native Child Placement Protocols. The study results

provided insight into the development and the model of coordination that evolved between the two agencies.

English, Diana J., et al. *Spotlight on Practice: Alternative Responses to Child Protective Services: Emerging Issues and Concerns. Child Abuse & Neglect*, Vol. 24, No. 3, pp. 375-388, 2000.

Increased calls to “do something” about child protective services (CPS) have resulted in proposals or new “paradigms” for services to at-risk or abusive families. This article reports on outcomes for 1,263 “low” risk CPS referrals diverted to a community-based alternative response system. Data on child, family, and case characteristics and services provided are presented as well as outcomes associated with re-referral and placement post service provision. The risk level and severity of some of the referrals to alternative response systems seems inappropriately high. The rates of re-referral were similar for families who did or did not engage in assessment services, and were highest for families where domestic violence was present. Criteria for diversion to community alternatives to CPS must be clearly articulated and applied.

First Nations Child and Family Caring Society of Canada
<http://www.fncfcs.com/pubs/onlineJournal.html> *The First Peoples Child & Family Review: An Interdisciplinary Journal Honoring the Voices, Perspectives and Knowledge of First Peoples through Research, Critical Analyses, Stories, Standpoints and Media Reviews.*, 2010.

A new, online journal, published jointly by the First Nations Research Site, Centre of Excellence for Child Welfare, and the First Nations Child and Family Caring Society of Canada. This e-journal focuses primarily on First Nations and Aboriginal child welfare practices, policies, and research. It is a journal that privileges the "voice and perspectives" of First Nations and Aboriginal child welfare scholars, researchers, practitioners, trainers, students, volunteers and community developers. The purpose of the First Peoples Child & Family Review is to "reach beyond the walls of academia" to promote child welfare research, practice, policy and education from an First Nations/Aboriginal perspective and to advance innovative approaches within the field of First Nations and Aboriginal child welfare.

First Nations Child & Family Caring Society of Canada. *Wen-De: We are Coming to the Light of Day* (The Wen: De Report), 2007.

This research project brought together experts in First Nations child welfare, community development, economics, management information systems, law, social work and management to inform the development of three funding formula options to support policy and practice in First Nations child and family service agencies in Canada. This specialized research initiative examined the incidence and social work response to reports of child maltreatment respecting First Nations children, prevention services, jurisdictional issues, extraordinary circumstances, management information services and small agencies. Twelve case studies of First Nations child and family service agencies in Canada were used to provide a context.. Findings indicate that First Nations children are

over represented at every level of the child welfare decision making continuum including reports to child welfare, case substantiation rates, and admissions to child welfare care. Research results indicate that First Nations child and family service agencies are inadequately funded in almost every area of operation ranging from capital costs, prevention programs, standards and evaluation, staff salaries and child in care programs. The disproportionate need for services amongst First Nations children and families coupled with the under-funding of the First Nations child and family service agencies that serve them has resulted in an untenable situation. Recommendations are made to assist in providing solutions.

Fuchs, Don. Burnside, Linda. Marchenski, Shelagh. Mudry, Andria. ***Children with Disabilities Involved with the Child Welfare System in Manitoba: Current and Future Challenges***. 2007

The number of children who are involved with mandated child welfare agencies and have medical, physical, intellectual, and mental health disabilities has increased dramatically in the past decade. Often, these children are involved with the child welfare system due to their high care demands as a result of their disabilities and the inability of communities and services to fully meet the needs of these children and their families. The capacity of the child welfare system to respond to the service needs of this growing number of children has become strained, particularly in light of the unique needs of children with disabilities and their families. Another reason disability is particularly important in child welfare is that this population, already vulnerable because of disability, is very much over-represented in reported child abuse and neglect. This chapter presents much needed data on the growing number of children with a range of disabilities receiving services in both Aboriginal and non-Aboriginal child welfare agencies.

Fuchs, Don. Burnside, Linda. Marchenski, Shelagh. Mudry, Andria. ***Children with FASD Involved with the Manitoba Child Welfare System: The Need for Passionate Action***. 2009

Meeting the needs of children with disabilities creates significant challenges for child welfare agencies. In Manitoba, it has been shown that one-third of children in care fall within a broad definition of disability and that 17 percent of children in care were affected by diagnosed or suspected Fetal Alcohol Spectrum Disorder (FASD). The significant proportion of children with FASD in care and the nature of their needs make it important to understand the relationship of this population to child welfare agencies. This chapter reports on the results of a study that was aimed at gathering information on the placement and legal status histories of children with FASD in care, comparing those histories to the histories of children with other disabilities and of children with no disabilities. Further, the chapter discusses the implications of the research findings for policy makers, administrators, service providers, and trainers and for further research in this area.

Gough, Pamela. Trocmé, Nico. Brown, Ivan. Knoke, Della. Blackstock, Cindy. ***Pathways to the overrepresentation of Aboriginal children in care National Aboriginal child abuse & neglect CIS foster care permanent wards trajectory***. 2005

Aboriginal children are disproportionately represented in foster care in Canada. Data from provincial and territorial ministries of child and family services for 2000–2002 suggest that 30% to 40% of children and youth placed in out-of-home care during those years were Aboriginal, yet Aboriginal children made up less than 5% of the total child population in Canada. The number of First Nations children from reserves placed in out-of-home care grew rapidly between 1995 and 2001, increasing by 71.5%. In Manitoba, Aboriginal children made up nearly 80% of children living in out-of-home care in 2000.

Gough, Pamela. Fuchs, Don. ***Children with disabilities receiving services from child welfare agencies in Manitoba***. 2006

Children with disabilities are at greater risk than children without disabilities. In addition, because these children are particularly vulnerable, they are more likely to require the support or protection of a child welfare agency than other children. The Children with Disabilities Receiving Services from Child Welfare Agencies in Manitoba study was conducted to create a profile of children with disabilities who were receiving services from child and family service agencies in Manitoba. The profile described 1,869 children with disabilities who were receiving services on September 1, 2004. The study looked at the nature of their disabilities and their care needs.

Government of Manitoba. ***Healthy Child Manitoba Act***, 2007.

Government of Manitoba's long-term, cross-departmental strategy to support healthy child and adolescent development. Responding to research indicating the first five years of life are critical to a child's future development, in 2000, Premier Gary Doer implemented *HCM*— a network of programs and supports for children, youth and families. This nationally recognized strategy was set in legislation under *The Healthy Child Manitoba Act* in 2007.

Hardy, Michael. Schibler, Billie. Hamilton, Irene. ***Strengthen the Commitment: An External Review of the Child Welfare System***. Manitoba Minister of Family Services and Housing, 2006

This review was called on March 20, 2006 by the Minister of Family Services and Housing to examine and provide recommendations for improvements in standards, processes and protocols surrounding the opening, transfer and closing of cases in child and family services, as well as the caseloads managed by front line workers. Much of the review focused on the experiences of people working or affected by the system. Some of the recommendations call for significant funding increases and are necessary to make system wide improvements and support a system that is operating with many areas considered to be critical.

Hudson, Pete. McKenzie, Brad. *Extending Aboriginal control over child welfare services: The Manitoba Child Welfare Initiative*. 2003

As documented in this article, there are a number of strategic issues that will require continuing attention. These include issues pertaining to governance and service coordination, human resources and the evaluation of service quality and outcomes. However, the critical issue is funding. There is an expectation among service providers that new funding will be needed in order to paradigm for child and family services. At present, the Province expects such a shift in services to occur through the reallocation of existing resources. The difficulties of establishing new jurisdictional Authorities, implementing a substantially altered service delivery system and establishing a new service model for child welfare in the province are not likely to be overcome without new and ongoing funding commitments. Only with these commitments and a willingness to adapt the policy implementation phase to cope with issues and problems that will emerge will the 'promise of hope' articulated in the Vision Document be realized.

INAC Departmental Audit and Evaluation Branch, KPMG LLP. *Audit of the First Nations Child and Family Services Program*. Project 06/02. March 2007.

The INAC Internal Audit was intended to provide assurance that the First Nations Child and Family Services (FNCFS) Program was operating effectively. The focus was to determine the existence of key controls that would be expected to be in place and to assess the extent to which the controls were applied in the allocation of program funds. Because child and family services is a provincial jurisdiction, provinces and territories must accredit First Nations agencies according to provincial or territorial legislation and standards and monitor the case management exercised by the First nation agencies. Overall, the audit found the FNCFS Program requires a strengthened management control framework that can be consistently applied and respected. Additionally, controls over Maintenance and Operations payments and over the quality of service must be better developed and more consistently applied in order to ensure the program is operating effectively and in compliance with Treasury Board requirements and program authorities.

Kimelman, Edwin, C. et al., *No Quiet Place, Review Committee on Indian and Métis Adoptions and Placements* (Winnipeg: Manitoba Department of Community Services, 1985).

The Kimelman Report had a substantial and lasting impact on aboriginal child protection in Canada that was part of a fundamental shift in international child protection paradigms for aboriginal peoples.

In the early 1980s, following the notorious Sixties Scoop, in which many children were removed from aboriginal families for adoption by non-aboriginal parents, the Manitoba government established a Review Committee on Indian and Métis Adoptions and Placements. Judge Edwin C. Kimelman chaired the Committee. In 1984, "After reviewing the file of every Native child who had been adopted by an out-of-province family in 1981, Judge Kimelman stated: 'having now completed the review of the files... the Chairman now states unequivocally that cultural genocide has been taking place in a systematic, routine manner'." In 1985, the Review Committee issued a final report,

entitled "No Quiet Place" and known in child welfare circles as the Kimelman Report, that had profound impact on aboriginal child protection in Canada and perhaps elsewhere.

Koster, Andrew J. Schibler, Billie. *A Special Case Review in Regard to the Death of Phoenix Sinclair*. Manitoba Children's Advocate September 2006

The Manitoba's Children's Advocate's review and recommendations following the death of Phoenix Sinclair include 32 recommendations. These recommendations include a broad spectrum of areas including the following: staffing, risk assessment, the computerized information system, record keeping, standards of care, and professional development.

Loxley, John. DeRiviere, Linda. Prakash, Tara. Blackstock, Cindy. Wien, Fred. Prokop, Shelley Thomas. *Wen:de The Journey Continues: The national policy review on First Nations Child and Family Services Research Project - Phase Three*. 2005

This report presents the final findings of a three-phase research project, which was designed to inform analysis of three funding formula options for First Nations child and family services. Phase One of the research project focused on the identification of three funding formula options and the identification of the research questions that needed to be addressed to inform each option. Phase 2 focused on the response to these research questions and Phase 3 involved the development, and costing of the recommended changes.

Mackinnon, Shauna. *Fast Facts: Child welfare devolution in Manitoba*. Canadian Centre for Policy Alternatives, June 17, 2010.

For the past ten years Manitoba has been mapping uncharted territory in an effort to transform a child welfare system that will better serve the needs of children and families. In particular, through the Aboriginal Justice Inquiry – Child Welfare Initiative a new governance structure was developed to address Manitoba's very poor track record of serving the Aboriginal children and families who are vastly overrepresented in the child welfare system. It comes as no surprise that leaked excerpts from the recent report of the Children's Advocate have resulted in political heat. Nonetheless many continue to support the Manitoba government for taking a very bold step in 1999 when they dusted off the 1991 report of the Aboriginal Justice Inquiry report and moved forward with its recommendations.

Maloney, Lana. Reddoch, Graham. *Restorative Justice and Family Violence: A Community-Based Effort to Move From Theory to Practice Paper presented at the Sixth International Conference On Restorative Justice*. 2003

This presentation is a joint endeavor by the University of Manitoba and the John Howard Society of Manitoba. Work is being undertaken at Winnipeg to assess the potential for expanding a restorative approach to dealing with family violence. It describes the results

of focus groups with survivors, offenders, and family violence practitioners in Winnipeg. The practitioner focus groups included representatives from the University of Manitoba, Departments of Social Work and Sociology; Province of Manitoba-Community and Adult Corrections; Winnipeg City Police and other community organizations who deal with family violence.

Manitoba Justice. *Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People*. Chapter 14, <http://www.ajic.mb.ca/volume.html> , 1991.

In 1988, the Manitoba Government created the Public Inquiry into the Administration of Justice and Aboriginal People, commonly known as the Aboriginal Justice Inquiry. The Inquiry was created in response to two incidents; the trial of two men for the 1971 murder of Helen Betty Osborne in the Pas and the death of J.J. Harper at the hands of a Winnipeg police officer. The inquiry was a result of the unanswered questions by members of the Aboriginal community that have hung over the justice system.

Manitoba Ombudsman. *Progress on the Implementation of the Recommendations "Strengthen the Commitment"* April 1, 2008 – March 31, 2009.

This is the second report on the implementation of the recommendations in *Strengthen the Commitment*, our 2006 report containing over 100 recommendations designed to improve the administration of the child welfare system in Manitoba. The Ombudsman has been following up on the progress of their implementation. Some foundational issues identified in the 2006 report have not yet been completely resolved and implemented throughout the system, for a variety of reasons. There are also some areas that appear to be moving more slowly than anticipated. This report is limited for the period April 1, 2008 to March 31, 2009 to ten areas. The office will continue to review the child welfare system in conjunction with the monitoring of the implementation of recommendations made by the Children's Advocate in the child death review special investigation reports.

MacDonald, Noni and Attaran, Amir. *Jordan's Principle, Governments' Paralysis*. Canadian Medical Association, 2007.

This article published by the Canadian Medical Association, advocates for and endorses Jordan's Principle. It is a critical essay which discusses special fiduciary obligation that the Crown owes to Aboriginal people, and the realities facing Aboriginal children in the health and child welfare system. It states that given the severity of the consequences that arise from forgetting their fiduciary and Charter obligations due to jurisdictional disputes, the government could likely be held legally accountable in Canadian courts.

McDonald, Rose-Alma. Ladd, Peter. *First Nations Child and Family Services Joint National Policy Review*. 2000

This Joint National Policy Review commissioned by AFN and DIAND has as its objective to "identify possible improvements to current policy regarding the development and operation of FNCFS agencies that provide necessary, culturally sensitive and statutory child and family services." The document provides a good overview of the

current system. The report contained 17 recommendations, and most of these focus on improvements to the current situation

McEwan-Morris, Alice. ***Strengthening our Youth: A Report on Youth Leaving Manitoba's Child Welfare System.*** 2006

This report focuses on youth in the care of child and family service agencies in Manitoba who are in the process of, or have aged out, of care because they have reached the age of majority or the limit for extended care. It also examines policy, the aging out experiences of youth, and the services available to them in Manitoba, in other provinces, the US, the UK and in Australia.

McKay, Sharon. Fuchs, Don. Brown, Ivan. ***Passion for Action in Child and Family Services: Voices from the Prairies.*** 2009

This book is the second joint publication of the Prairie Child Welfare Consortium (PCWC) and the Centre of Excellence for Child Welfare (CECW). The chapters in the book represent a selection of some of the excellent presentations made at the Prairie Child Welfare Consortium's fourth bi-annual symposium, Passion for Action: Building on Strength and Innovative Changes in Child and Family Services, held in Regina, Saskatchewan, on September 12-14, 2007. Consistent with the mandates of both the PCWC and the CECW, this book is intended to convey the work of presenters who were able to dedicate time and energy to the hard task of presenting their experiences, ideas, and research in print form for publication purposes.

National Council of Welfare. ***First Nations, Métis and Inuit Children and Youth: Time to Act.*** National Council of Welfare, 2007.

This report draws attention to the discrimination and poverty faced by many Aboriginal children and youth, as well as describing the resilience and many success stories within Aboriginal communities. The legacy of racism, colonialism and exclusion, as well as the related causes and consequences of high poverty rates are discussed to establish the challenging circumstances in which Aboriginal young people live. Faced with these challenges, the report describes the resilience and patience shown by Aboriginal people, and the progress that has been made through innovative action by the members of the communities. Combining statistical evidence and interviews with Aboriginal men and women who work with young people, the report calls for bolder action by the government to improve the chances for First Nations, Métis and Inuit children and youth.

Office of the Auditor General of Canada. ***Chapter 4—First Nations Child and Family Services Program—Indian and Northern Affairs Canada.*** Report of the Auditor General of Canada to the House of Commons. May 2008.

This audit examined whether INAC is fulfilling its responsibilities, under federal policy, to support child welfare services to on-reserve children and families that are culturally appropriate and reasonably comparable with the provincial services available off reserves

in similar circumstances. The audit found that the funding INAC provides to First Nations child welfare agencies for operating child welfare services is not based on the actual cost of delivering those services, but is rather based on a funding formula determined in 1988 that has not been changed to reflect provincial variations in legislation or the number of children in care. The Department has not defined key policy requirements related to comparability and cultural appropriateness of services, and has not identified and collected the kind of information it would need to determine whether the program that supports child welfare services on reserves is achieving positive outcomes for children. INAC has responded to the audit by agreeing to all recommendations, indicating actions it will take in response to each one

Office of the CFS Standing Committee. *History of Manitoba Child Welfare – Orientation to the CFS System in Manitoba*, 2010.

This is a series of reports and documents that have been compiled as a working manual that provides the pertinent background information and documents that are relevant to the Manitoba Child Welfare System. This manual is compiled and administered by the Child and Family Service Standing Committee which represents the Four Child Services Authorities. These guiding documents are used by the Child and Family Services Agencies in Manitoba to administer the delivery of services on behalf of the Authorities.

Pobihushchy, Adele L. *Changes and Choices: a psycho-educational group process for women identified by child welfare authorities as a risk of having their children removed due to substance misuse*. National Library of Canada, 2001.

This practicum describes a sixteen session psycho-educational group, for women who had been identified by Child Welfare Authorities as at risk of losing their children due to substance misuse. Systems and addictions theories were combined with a feminist lens to inform and guide the work. A literature review identifies the barriers to treatment for women, and the dearth of treatment options available. It was hypothesized that the child welfare investigation and the attendant threat to the system would create the crisis that would unbalance the family system sufficiently to allow a supportive intervention to have an impact. Concrete supports such as child care and transportation were provided. The goal of the group was to empower the women to become active participants in self-identifying their struggles with substances, and in the planning and management of their treatment needs. The outcome and the evaluations indicate that this was accomplished, but much work needs to be done to ensure gender specific treatment options are available.

Rae, Judith. *Changes for Children: Strengthening the Commitment to Child Welfare, Program Delivery Devolution: A Stepping Stone or Quagmire for First Nations?* 2007

Devolution was favoured by federal and provincial governments as a way to offload difficult and unpopular programs and as a way to placate demands for greater self-government. However, they retained legal authority and a web of regulatory, administrative and financial controls. First Nations were suspicious of devolution, knowing full well how far it was from their goals. But most First Nations accepted and

even lobbied for greater powers in program delivery as an interim measure. They hoped that self-administration would be a helpful transition to genuine self-government and were anxious to alleviate the worst effects of the prior programs run entirely by outsiders. First Nation-run programs have produced real benefits and provide a certain minimal level of control over local social services. In comparison with residential schools and the “sixties scoop” in child welfare, they are indeed a major improvement. But viewed against a future of genuine and effective Indigenous governance, they are frustrating and inadequate. This paper proposes four potential benefits of self-administration if it is considered a transitional tool.

Report of the Royal Commission on Aboriginal Peoples, Gathering Strength, Vol. 3.
1996

The Government of Canada struck the Royal Commission on Aboriginal Peoples (RCAP) in 1990, which presented its final Report in 1996. The RCAP Report consists of five volumes covering all aspects of the relationship between Indigenous Peoples and the Canadian governments and society. Volume 3 is entitled *Gathering Strength* and contains the key recommendations regarding child welfare.

The RCAP Report recognized that many of the difficulties faced by Indigenous Peoples are compounded by socio-economic problems, issues of jurisdiction, and called strongly for changes in the area of child welfare. Recommendation 3.2.2 calls for all levels of government “to recognize that child welfare is a core area of self government in which Aboriginal Nations can undertake self starting initiatives”; Recommendation 3.2.3 suggests that governments reach agreements on the authority of First Nations in relation to federal and provincial legislation.

Additionally, the RCAP Report highlighted the financial difficulties that Indigenous Peoples face in attempting to assert child welfare jurisdiction. Recommendation 3.2.4 suggests the establishment of block funding for programs mandated by First Nations or aboriginal groups to allow the shift from protective services to prevention programs. The RCAP Report, throughout, recommends strategies for developing the “capacity” of Indigenous Peoples and governments beyond those currently witnessed through the *Indian Act* or negotiated agreements.

Richard, Kenn. ***On the Matter of Cross-Cultural Aboriginal Adoptions.*** 2007

This chapter describes the author's experience and related observations on the appropriateness of adopting Aboriginal children into non-Aboriginal settings. It elaborates the negative impacts of cross-cultural adoptions on children and deconstructs accepted thinking on the issue from an Aboriginal perspective. While concluding that cross cultural adoptions of Aboriginal children are not typically in their best interests, the author cautions against simplistic thinking and urges further research of a longitudinal nature.

Richardson, Cathie and Nelson, Bill. ***A Change of Residence: Government Schools and Foster Homes as Sites of Forced Aboriginal Assimilation.*** First Peoples Child & Family Review – A Journal on Innovation and Best Practices in Aboriginal Child

Welfare Administration, Research, Policy & Practice. Volume 3, Number 2, 2007, Special Issue, pp. 75-83.

The authors of this paper both experienced a particular resonance with the life of Richard Cardinal.

Both the authors felt moved to influence child welfare practice in ways that respect the integrity of family and Aboriginal communities. However, the colonial structures of the child welfare machinery are geared to facilitate the removal of children from family through practice, policy and Canadian law. And will child welfare be the last site of forced assimilation while many Canadians aspire to de-colonize and renegotiate the social contract between non-Aboriginal and Aboriginal peoples? This paper addresses some of the similarities of these two residential structures (government schools and foster homes) that have housed hundreds of thousands of Aboriginal children when they are removed from their people.

Shackel, Donald W. *The experience of First Nations people with disabilities and their families in receiving services and supports in First Nations communities in Manitoba – honoring the stories*. Thesis (M.A.) University of Manitoba, 2008. Ottawa: Library and Archives Canada, 2009.

First Nations people with disabilities and their families living in First Nations communities are caught in a complex web of government based jurisdictional and departmental wrangling and offloading, directly impacting the lives of many First Nations families and the types of services and supports they receive at the community level. Families and caregivers are disempowered and persons with disabilities have been denied access to supports to enable their full participation and involvement in their communities. Using a story telling approach, the purpose of this qualitative research was to collect stories of the experiences of First Nations people with disabilities and their families. In addition, using a social model of disability and a rights based analysis, this project asked families to reflect upon what services and supports do exist within their communities and then to share about the consequences of the existing conditions for both children and families. Project participants reported that three undesirable options exist for persons with disabilities and their families. Participants also provided recommendations for local, provincial and federal governments for a continuum of community based services and supports in First Nations communities which would make the lives of persons with disabilities and their families more livable.

Schibler, Billie. Newton, James H. *“Honouring Their Spirits” The Child Death Review: A Report to the Minister of Family Services & Housing Province of Manitoba*. Children’s Advocate Office, September 2006.

This review reflects situations in which a child died within a year of receiving services through the child welfare system. The causes of these deaths varied in circumstances and variation. This review was undertaken in order to develop a framework for developing better coordination between agencies and support areas of particular concern with the child welfare agency. Several themes emerged. These include: Inter-jurisdictional

discrepancies, youth suicide, planning/support for youth leaving the child welfare system, teen risk-taking behaviors, fetal alcohol spectrum disorder, awareness of child welfare standards, rural/northern delivery of service, and prevention services. A number of critical recommendations that address each area of concern were made.

Sinclair, Raven. *Identity lost and found: Lessons from the sixties scoop*. 2007

The “Sixties Scoop” describes a period in Aboriginal history in Canada in which thousands of Aboriginal children were removed from their birth families and placed in non-aboriginal environments. Despite literature that indicates adoption breakdown rates of 85-95%, recent research with adults adopted as children indicates that some adoptees have found solace through reacculturating to their birth culture and contextualizing their adoptions within colonial history. This article explores the history of Aboriginal adoption in Canada and examines some of the issues of transracial adoption through the lens of psychology theories to aid understanding of identity conflicts facing Aboriginal adoptees. The article concluded with recommendations towards a paradigm shift in adoption policy as it pertains to Aboriginal children.

Standing Committee on Public Accounts. “*Chapter 4, First Nations Child and Family Services Program – Indian and Northern Affairs Canada of the May 2008 Report of the Auditor General of Canada.*” Report of the Standing Committee on Public Accounts, 40th Parliament, 2nd Session. March 2009. Clerk: Joan Garbigg Chair: Hon. Shawn Murphy

This is a report from the hearing held in February 2009 by the Standing Committee on Public Accounts to assess INAC’s implementation of the recommendations made in the audit of the First Nations Child and Family Services Program (FNCFS). The purpose of the audit, conducted by the Office of the Auditor General, was to determine whether INAC was fulfilling its responsibility to support culturally appropriate child welfare services to on-reserve children and families (comparable to provincial services off reserve). The Standing Committee’s report is based on the expectation that INAC will fully implement all recommendations within the audit after agreeing to them following the May 2008 presentation to Parliament. Recommendations to attain full implementation include creating an action plan, defining “culturally appropriate services,” collecting information based on the best interests of the child, and analyzing and comparing funding practices and models

Strega, Susan. Fleet, Claire. Brown, Leslie. Dominelli, Lena. Callahan, Marilyn. Walmsley, Christopher. *Connecting Father Absence and Mother Blame in Child Welfare Policies and Practice*. 2008

This study explored the lack of father engagement in a retrospective case file review of 116 child protection files dated between 1997 and 2005 randomly chosen from a child welfare agency in a mid-size Canadian city. Results showed that fathers were typically about 2-3 years older than mothers; a majority was Indigenous; many had less than a high school education; and a significant percentage had histories of incarceration, alcohol

misuse, or drug misuse. A small, but significant, proportion of young fathers provided either financial or in-kind support to mothers and/or children. Almost 50% of all fathers were considered “irrelevant” to both mothers and children. The findings suggest that practitioners need to understand the sources for men’s disengagement, particularly the impact of housing and welfare policies on fathers’ abilities to maintain relationships with their children. There also needs to be continued advocacy for better resources for single mothers in concert with efforts to increase father involvement.

Trocmé, Nico. MacLaurin, Bruce. Fallon, Barbara. Shlonsky, Aron. Mulcahy, Meghan. Esposito, Tonino. ***National Child Welfare Outcomes Indicator Matrix (NOM)***. 2009

The National Child Welfare Outcomes Indicator Matrix (NOM) was developed through a series of consultations initiated by the provincial and territorial Directors of Child Welfare and Human Resources Development Canada. It provides a framework for tracking outcomes for children and families receiving child welfare services that can be used as a common set of indicators across jurisdictions. The NOM is designed to reflect the complex balance that child welfare authorities maintain between a child’s immediate need for protection; a child’s long-term requirement for a nurturing and stable home; a family’s potential for growth, and; the community’s capacity to meet a child’s needs. The NOM includes four nested domains: child safety, child well-being, permanence, and family and community support (see NOM ecological framework).

Twigg, Robert C. ***Passion for Those Who Care: What Foster Carers Need***. 2009

Those researching and writing about child and family services generally focus on the needs of the children coming into care. Some expand that focus to include the children’s families, and others include the social systems that impact on them. The needs of those who provide services to these children and their families are rarely the focus of research, writing, or policy. This chapter looks at the needs of one group of service providers: foster carers and their own children. The thesis of this chapter is that fostering can and must become a service that successfully meets the needs of both those who need the service (foster children and their families) and those who provide the care, including foster carers and their families. The chapter focuses on the implications of the needs identified, and on how child and family services agencies could modify the way in which they work with foster carers for the improvement of the system.

UNICEF. ***Aboriginal children’s health: Leaving no child behind.*** Canadian Supplement to the State of the World’s Children 2009. Canadian UNICEF Com., 2009.

Produced in commemoration of the 20th anniversary of the 1989 UN Convention on the Rights of the Child, this report examines the health of Aboriginal children in Canada. While the Convention, ratified by Canada in 1991, requires governments to ensure equitable access to health care services and the highest attainable standard of care, health disparities among First Nations, Inuit and Métis children relative to other Canadians are a significant children’s rights challenge for Canada. The report also stresses the urgent need to put in place and implement legislation federally and provincially for “Jordan’s

Principle” – a child first principle to resolving jurisdictional disputes affecting First Nations children.

Vandergrift, Kathy, et al. *Best Interests of the Child: Meaning and Application in Canada*. February 2009.

This report was created following the conference on the Best Interests of the Child. The aim is to better understand the principle of the Best Interests of the Child and how to more effectively apply this principle in Canada and fully implement the UN Convention on the Rights of the Child. Drawing on key themes presented in the conference – including child welfare, Aboriginal children, and education – the report offers a broad overview of the topics discussed, aimed at encouraging improvements in policy and practice at all levels. Child welfare practice, which has evolved in Canada over the past hundred years, has been based on Euro-centric values and worldviews. These have caused considerable harm to Aboriginal individuals and communities and continue to contribute to outcomes for Aboriginal children that are not encouraging. A conceptual framework for effecting reconciliation between mainstream and Aboriginal child welfare is presented.

Wright, Alexandra. Hiebert-Murphy, Diane. Mirwaldt, Janet. Muswaggon, George. *Factors that Contribute to Positive Outcomes in the Awasis Pimicikamak Cree Nation Kinship Care Program*. 2006

This report provides an overview of a research project that began in 2003. The study was designed to evaluate factors that contribute to positive outcomes in kinship care placements in a Northern Cree community. This included an understanding of a First Nation’s child and family service agency’s policies, procedures, and practices regarding the provision of kinship services to children, youth, and their families, kinship caregivers, and the community. The study included an examination of operational or practice definitions of kinship care and the extent to which they reflect the intent of the legislation and are consistent with the reality of cultural practice. The study also included community members’ perspectives and experiences with meeting the needs of these children and youth.

Links:

<http://www.socialworker.com/jswve/content/view/135/69/>

<http://linkinghub.elsevier.com/retrieve/pii/S0190740909001145>

http://www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6V98-4K66DKR..

<http://www.heinonline.org/HOL/Page?collection=journals&handle=hein.jou...>

http://www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6V98-4R9JTNN...

http://www.fncfcs.com/pubs/vol3num1/Sinclair_pp65.pdf

<http://www.fncfcs.com>

<http://www.cccw-cccp.ca>

Appendix B Community-Based Interview Questions

I work for Infinity Consulting who has been contracted by Dave Hedlund, Writer for the Saskatchewan Child Welfare Review. We have been contracted to examine the history of child welfare developments that have taken place in Manitoba in the past decade. The goal is to understand both the benefits and the challenges that have been encountered by stakeholders (including government agencies) in Manitoba so that the Saskatchewan Child Welfare Review Panel has the best possible information for their review that will be presented to the Saskatchewan Government later this summer. The panel has 2 of 4 Aboriginal people on it, and the FSIN and the Sask. Métis Nation have agreed to participate in the review process by organizing consultations and presenting their findings to the panel. The panel has asked for a special independent report on the developments in Manitoba, which will be the role of Infinity Consulting. We appreciate your time and any insight you may be able to share with us. Would you have time to answer a few questions?

- 1) Can you tell us what led to the changes/reforms to child welfare in Manitoba? What has your role/your organization's role been in Manitoba during these changes?**
- 2) What has been the results of the changes/reforms?**
- 3) What has the response from Aboriginal organizations and/or community members to the changes/reforms? Responses from others the same or different?**
- 4) What benefits have resulted from the changes/reforms? What challenges have resulted from the changes/reforms?**
- 5) Overall, do you think the changes/reforms have been successful? Why or why not? If changes have not been as successful as anticipated, what do you think could be done to address the challenges? What kind of evidence are you basing your views on? (if not clear from the answer)**
- 6) Can you recommend anyone that may have additional insight that would be willing to talk to us?**

Many thanks for your time. (We are on a time timeline and a hasty response is needed). Please send responses via mail to Calvin Racette, 3235 Retallack St. Regina, Sask. S4S 1T7 or via email to Calvin.racette@sasktel.net

Note: Infinity Consulting is owned and operated by Dr. Carrie Bourassa. She has three other employees working on this project. All employees of Infinity Consulting are of First Nations or Métis ancestry.