

Summary Review of Aboriginal Over-representation in the Child Welfare System

FINAL

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1920 Broad St.  
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Written by:  
Valerie J. Galley  
Regina, Saskatchewan

## Executive Summary

Aboriginal children are dramatically over represented in child welfare across Canada. The Auditor General, for instance, estimates that First Nations children are 6-8 times more likely to be placed in foster care than non-Aboriginal children. It is also clear that First Nations registered Indian children make up the largest proportion of Aboriginal children entering child welfare care and are also admitted into child welfare care at higher rates than Métis children. The number of registered Indian children entering child welfare rose 71.5% nationally with the highest increases in Ontario between 1996 and 2001. The best source of national data on child maltreatment is the Canadian Incidence Study on Reported Child Abuse and Neglect [CIS]. The CIS has repeatedly found that the over-representation of Aboriginal children is due to neglect driven factors and can largely be accounted for when controlling for poverty, poor housing and caregiver substance misuse.

In Saskatchewan, consistent with the national data patterns, Aboriginal children are dramatically over represented amongst those served by child welfare. From the information provided to the contractor, the Saskatchewan Ministry of Social Services [MSS] does not appear to have a sophisticated and reliable way to track the primary aims of services provided to children and their families and to compare the primary aims of those services to presenting risk factors. This is a vital area of data improvement in order to better understand the efficacy of services. Overall, the data on children coming to the attention of child welfare authorities in Saskatchewan appears to be consistent with the national findings of the CIS.

Today's over representation of Aboriginal children in the child welfare system lies in the aftermath of the Canadian policy for Indian residential schools and the system which began officially in 1879. Historically, indigenous peoples in Canada were autonomous and self-governing peoples who enjoyed their distinct forms of governance, languages, cultures, forms of education and family systems which included the raising of children. Characterized by widespread physical, sexual and emotional abuse, the Indian residential schools system precipitated subsequent generations of Aboriginal parents who were deprived of the experience of loving and nurturing relationships with parents and extended family members

from which to draw their parenting skills. Researchers and advocates tout the schools as the main historical culprit for today's phenomenon of the over representation of Aboriginal children in the child welfare system.

More recently, a body of evidence-based scholarly research conducted by the First Nations Child and Family Caring Society, a national organization providing networking, education, professional development and research services to Aboriginal child welfare agencies has attributed the over representation of Aboriginal children in the child welfare system to *neglect*, which is driven by *poverty, poor housing and parental substance misuse*. Further, the over representation phenomenon is not rooted in their indigenous race, culture and ethnicity. Rather, any family with children who has experienced the same colonial history and the resultant poverty, social and community disorganization regardless of race, culture and ethnicity, may find themselves in a similar situation. The FNCFCS, therefore, advocates for culturally based and equitable services targeting poverty, poor housing and substance misuse as critical to addressing over representation.

In Canada, several family service agencies have developed and implemented culturally sensitive, relevant and effective responses. *Reconciliation: Touchstones of Hope for Indigenous Children, Youth, and Families [Touchstones]*, developed in 2005, presents four phases of reconciliation and key guiding principles for indigenous child welfare and is intended to serve as a foundational document for community-based action plans. Here *Touchstones* is used as an analytical framework for programs and initiatives which have explicitly used it as a guide and others which have implicitly implemented its vision:

- Northern British Columbia Touchstones of Hope
- Ottawa Children's Aid Society
- Yellowhead Family Service Agency
- West Region Child and Family Services, Manitoba
- Lalum'utul'Smun'eem Child and Family Services, Vancouver Island, British Columbia
- First Nations Family Helpers, Regina, Saskatchewan
- Saskatchewan First Nations Family Institute
- Family Group Conferencing Model, Mi'kmaq Family and Children's Services, Nova Scotia

Some of these examples demonstrate the community-based efforts to create culturally-responsive and relevant child and family service agencies focussing on the value for extended family involvement and the need for child and family service workers to know and understand the families and children they serve. Further, the challenges associated with the Indian and Northern Affairs policy, Directive 20-1 are described. Sustained and equitable funding for prevention services stands as a necessary ingredient for the success of the Indian Child and Family Service agencies which generally serve children on-reserve. While there are other entities, agencies and initiatives which could have been featured, the ones here represent a snapshot of a sophisticated movement of Aboriginal human service agencies which espouse a culturally-based approach.

Finally the need for significant changes to the Indian and Northern Affairs Canada funding program for 'Indian' child welfare is described as the current status and events leading up to the First Nations Child and Family Caring Society's and the Assembly of First Nation's joint complaint filed under the *Canadian Human Rights Act*. In 2007, they alleged that chronic underfunding of First Nations child and family service agencies amounts to discriminatory treatment of First Nations children. In early June 2010, the Government of Canada raised a legal loophole in an attempt to prevent the Canadian Human Rights Tribunal from hearing the complaint, arguing that 'funding' is not a 'service' and therefore the complaint falls outside the Tribunal's mandate. To date, the Tribunal chair has reserved judgement as to whether or not the Tribunal will hear the formal complaint. Finally, the report elaborates on the need for further research to describe the movement between urban and reserve settings for First Nations clients and the impact of this on service needs.

Neglect driven by poverty, inadequate housing and substance misuse, is a concern in all Aboriginal communities—reserve-based and other communities.

The following are the short term recommendations to the Ministry of Social Services:

- Train staff on the impacts of various types and degrees of substance misuse and parenting;
- Train staff to differentiate when a parent is unable to meet the child's basic needs due to poverty from cases of wilful neglect. (The former, poverty, should not be grounds for

removal, but rather calls for in-home investments which are on par with what a foster parent payment would be to keep a child safely at home.)

- Inventory its current range of services and determine how well they match the needs of the vast majority of clients who are presenting for neglect driven by poverty, poor housing and substance misuse. Such a review would warrant an assessment of the cultural match of service structure, service providers and clients.
- Train Ministry of Social Services policy makers and social workers on neglect, substance misuse, mental health and multi/inter-generational impacts of Indian residential schools

The fundamental transformation of Saskatchewan’s child welfare system must be driven by the relevant Saskatchewan First Nations and Métis entities. The *Touchstones of Hope* could be used by the Ministry as a template with which to engage these entities as was undertaken in Northern British Columbia. It is hoped that shared control and planning could begin following such a dialogue. It is anticipated that the Saskatchewan Child Welfare Review Panel will address best practices and other issues which lie outside of the scope of child welfare practice and this research report such as:

- Provincial government and First Nations and Métis commitment to reconciliation and child welfare;
- The Constitutional and First Nations and Métis rights entitlements to control over child welfare;
- A comprehensive, interdisciplinary research agenda;
- Identification and action on legislative and policy barriers to culturally-based and relevant service delivery;
- Inter-ministerial collaboration to address poverty, poor, housing and substance misuse informed by evidence-based research; and
- Jurisdictional issues between the federal and provincial government where First Nations and Métis child welfare, health care, mental health and substance misuse treatment and early childhood education are concerned.

The over representation of Aboriginal children in the child welfare system in Saskatchewan requires the active engagement of Ministry officials—political and bureaucratic-- and First Nations and Métis entities. Government officials, First Nations and Métis people alike talk about how ‘our children are our future’, but how willing are we to actively engage in transforming the system which is currently failing Aboriginal families and children? The challenge that we face lies in confronting the enormity and complexity of this issue along with a transformed approach to addressing child welfare-specific issues along with poverty, housing and substance misuse and any others which research may illuminate. Some of those examples

have been highlighted in this report. To achieve this, we must not just do 'good'; we must look at what is truly needed and wanted given the current realities and undertake this with the same passion as we would for our own children. And for some of us, these are our children.

## Introduction

The over representation of aboriginal people in the child welfare system, and various other non-voluntary social safety net systems and a number of health service systems is well known in Saskatchewan, other provinces and territories in Canada as well as other countries. The terms of reference of the Saskatchewan Child Welfare Review require the review panel to: “Examine the significant over-representation of First Nations and Métis children and youth in care and address how this disparity could be overcome.” Members of the Saskatchewan Child Welfare Review Panel [Panel] want to get as complete an understanding as possible of caseload data that describe the disparity in the system, what explanations have been put forward to explain it, and what types of solutions have been advanced to address it. The Panel decided to have this analysis done independently from the Saskatchewan Ministry of Social Services and from an Aboriginal perspective. As such, the majority of contributors—principal writer, data analysts, research assistant and reviewer—to this summary review are First Nations and Métis.

### *The Report*

The summary review was to be written according to the following topics:

1. An abbreviated summary of the provincial and national caseload data, which the Ministry of Social Services could make available or assist in obtaining.
2. An exploration of the history and range of theories which help to explain the over representation phenomenon.
3. An exploration of the range of policy, program or other approaches which are seen in the child welfare field as having worked well, or as holding promise for addressing the causal factors of over representation.

This summary review was researched and written over a five week period in June and July 2010, submitted to the Panel’s Principal Writer for review and comments. Revisions were submitted by July 28, 2010 as agreed to with the Principal Writer. An additional formal review of this draft report was undertaken by the First Nations Child and Family Caring Society at the request of the principal consultant for this report. The summary of provincial and national caseload data was prepared by the First Nations Child and Family Caring Society’s Executive Director, Cindy Blackstock and Director of Research, Marlyn Bennett.

This summary review focuses on the kinds of program approaches which are seen in the child welfare field as having worked well based upon a preliminary list provided to the consultant by the Panel's Principal Writer on June 7, 2010. Some of the suggestions identified in this email are described in this report—West Region Child and Family Services (Manitoba), Mi'kmaw Child and Family Services (Nova Scotia) and the Yellowhead Agency (Alberta). In addition, the *Reconciliation in Child Welfare: Touchstones of Hope for Indigenous Children, Youth, and Families*, a foundational document for community-based action plans created in 2005 is presented along with two examples of how it has been implemented along with other relevant examples.

This summary review does not elaborate on the policy, program or other approaches which address the “causes of the causes” which are the social, structural and systemic conditions that give rise to the over representation of Aboriginal children and families in the child welfare system. Self-government, constitutional and treaty rights are not discussed here, nor are provincial legislative instruments, Saskatchewan's health care system, the Ministry of Social Services research agenda, mental health and addictions treatment, Fetal Alcohol Spectrum Disorder (FASD), maternal and child health, solutions to poverty and widespread substandard housing. It is important to recognize that this report describes promising practice approaches which are specific to the child welfare field. This report is in no way a panacea for the over representation of Aboriginal children in the child welfare system in Saskatchewan. But in order to mitigate the over representation, it is anticipated that the Panel's comprehensive final report will address these outstanding issues.



## Evidence of the Over representation of Aboriginal Children in Child Welfare Care

### *The State of National Child Welfare Data Collection in Canada*

Canada does not have a national child welfare data collection system like the NCANDS (National Child Abuse and Neglect Data System) system in the USA, leaving researchers to examine provincial/territorial and First Nations child and family service agency (FNCFS) administrative data on a case by case basis when trying to piece together a national picture of what is happening. Trying to piece together a reliable national snapshot on any research question or trying to do cross-regional comparisons is very difficult as provinces/territories/FNCFS use different data taxonomy, measures, measurement periods and methods and have different data analysis capacity and public reporting requirements meaning that reliable national roll ups of data are difficult to achieve. A coalition of provincial/territorial Directors of child welfare have been working with Dr. Nico Trocmé of McGill University for over ten years to develop, and fully implement, the collection of ten child welfare outcomes indicators but this work is still incomplete.<sup>1</sup>

The way Statistics Canada collects Census data is also problematic when trying to calculate rates per thousand among different cultural groups of children. Firstly, Census Canada continues to use outdated taxonomy to describe Aboriginal peoples such as North American Indian and second it uses an age cut off for children of 14 years even though the *United Nations Convention on the Rights of the Child* which Canada, as ratified, requires data to be collected on children 18 and under. Even more worrisome is the recent Federal Government initiative to scrap the long form census altogether which would make the calculations of rates per thousand that much more difficult.<sup>a</sup>

What is clear from provincial/territorial data is that Aboriginal children are dramatically over-represented in child welfare across the country. The Auditor General of Canada (2008), for instance, estimates that First Nations children are 6-8 times more likely to be placed in foster care than non-Aboriginal children. It is also clear that First Nations registered Indian children

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<sup>a</sup> See <http://www12.statcan.gc.ca/census-recensement/2011/ref/gazette-eng.cfm> retrieved July 24, 2010.

make up the largest proportion of Aboriginal children entering child welfare care and are also admitted into child welfare care at higher rates than Métis children.<sup>2</sup> Coordination of data across regions would be extremely valuable as comparisons of administrative child in care data suggest that there likely are differences in the rates at which Aboriginal children enter child welfare care. For example, when one compares the Aboriginal population against the percentage of children in care in different regions as set out in Table 1, Aboriginal children appear to be coming into care at a higher rate in Saskatchewan than in the Northwest Territories.

**Table 1:** Percentage of Aboriginal children in care compared to percentage of Aboriginal people in the Population

Province/Territory	Percentage of children in care who are Aboriginal	Percentage of Aboriginal People in Population
<b>Northwest Territories (2010)</b>	95 %	53%
<b>Alberta (2010)</b>	62%	6%
<b>British Columbia (2010)</b>	54 %	7%
<b>Saskatchewan (2009)</b>	72%	15%

Source: Child in care figures from provincial administrative data sources. Percentage of Aboriginal Peoples, Census 2006 data.

Reasons for these differences are not well understood and require future study as to the differential rates at which First Nations, Métis and Inuit children enter child welfare care. Consistent with the Canadian Incidence Study Findings<sup>3</sup>, a key area of focus for the research should include looking to see if differences in poverty, poor housing and substance misuse or service access are considerations.

Another source of national data arises from the Department of Indian Affairs and Northern Development [INAC] which collects data on registered First Nations children in child welfare care on reserves as part of its First Nations Child and Family Services Program. Dr. Brad McKenzie analyzed INAC's child in care data for years 1996-2001 and found that the number of registered Indian children entering child welfare care rose 71.5% nationally with the highest increases reported in Ontario.<sup>4</sup> Unfortunately, INAC has stopped publically reporting the number of children in care as of 2006 so a more current trend analysis is not possible.

The best source of national data on child maltreatment is the Canadian Incidence Study on Reported Child Abuse and Neglect [CIS].<sup>5</sup> The CIS is a cross-sectional study that collects data on child protection reports reported to child welfare workers during a three month period every five years.<sup>6</sup> The CIS has repeatedly found that the over-representation of Aboriginal children is due to neglect and can largely be accounted for when controlling for poverty, poor housing, and caregiver substance misuse.<sup>7</sup> This important finding emphasizes that progressive policy and practice solutions must account for these factors in order to make substantial progress in redressing the over-representation of Aboriginal children in child welfare.

*When Everything Matters: A Study of Children Removed From their Families in Nova Scotia Between 2003-2005*

The only quantitative study comparing First Nations and non-Aboriginal children who were removed from their families is called the When Everything Matters [WEM]<sup>8</sup> study and was completed in 2009 by Dr. Cindy Blackstock. [WEM] collected file data on 213 children in Nova Scotia who were removed from their families between 2003 and 2005. Overall First Nations children in Nova Scotia are between 3.3-6.0 times more likely to be removed than non-Aboriginal children. Of the 213 children in the study, 105 were First Nations and 103 were non-Aboriginal, there were 3 cases with no data on cultural heritage. Three data collection instruments were used. The first form was modified from the CIS to collect data on the child who was removed, the second form was also modified from CIS to collect data on the family and the third was an entirely new instrument designed to identify services provided to the family and child post removal and post re-unification. The study found that caregiver substance misuse was the leading primary maltreatment type resulting in child removal followed by exposure to domestic violence and anticipatory forms of neglect and abuse (abuse/neglect had not occurred but workers were worried it would occur and removed on that basis). Forms of substantiated abuse and neglect accounted for only 30 percent of all removals. Annual income was identified as an important factor streaming both Aboriginal and non-Aboriginal children toward child removal. The average annual income is \$46,000 per year so if income played no role in streaming children toward removal then the income distribution of

families who had children removed should have a mean value of around \$46,000 per annum. As shown in Table 2, this study found that 95% of the families who had their children removed made under \$25,000 per annum.

**Table 2:** Income levels of First Nations and non-Aboriginal families in Nova Scotia who had their children removed 2003-2005

Annual Household income estimate	Non-Aboriginal		First Nations		Total	
	N	%	N	%	N	%
<b>Under \$15,000</b>	40	67	63	75	103	72
<b>\$15,000-\$24,999</b>	15	25	19	23	34	23
<b>\$25,000-\$39,000</b>	3	5	1	1	4	3
<b>Over \$40,000</b>	2	3	1	1	3	2
	60	100	84	100	144	100

Source: Blackstock, 2009 p. 136

WEM also collected data on housing among families who had their children removed. Approximately 71 percent of families in Nova Scotia own their own homes so again if home ownership had no streaming effect on child removals, we would expect that around 71 percent of parents who had had their children removed would own their own homes. WEM results suggest that only 3 percent of families owned their own homes representing 1 percent of First Nations and 6 percent of non-Aboriginal families as home owners.

Interestingly, only 4 percent of families received any poverty reduction services at the time of removal and *none of the families received any housing related services* [Italics added]. This suggests that child welfare is missing the mark in addressing some of the key factors driving the risk for children.<sup>9</sup>

Blackstock suggests that the higher rates that First Nations children enter child welfare care can be explained by the deeper levels of poverty, poor housing, and substance misuse.

Despite the fact that provincial/territorial child welfare systems spend billions of dollars each year, this is the only study to track the experiences of families who have their children removed. More research is critically needed and Saskatchewan should consider either

replicating WEM or designing a new study that could capture the experience of children and families who are removed and compare that to the services they actually receive.

*What we know about Child Welfare in Saskatchewan*

Statistics Canada (2006) reports there are 990,930 people living in Saskatchewan of which 90,720 are Status First Nations (9.2%), 680 are non Status First Nations (<1%), and 48,115 are Métis (4.8%).<sup>10</sup> If Aboriginal children were not over represented in the child welfare system in Saskatchewan it would follow that Status First Nations, Non Status First Nations and Métis children and families served by child welfare would account for the same proportion as they account for in the overall population.<sup>b</sup> Unfortunately, consistent with national data patterns, Aboriginal children are dramatically over-represented amongst those served by child welfare. As shown in Table 3, non-Aboriginal children are under-represented amongst total unique cases (48-51%) when compared to the overall population of non-Aboriginal children (84%). There does not appear to be significant over-representation of non-status First Nations or Inuit children, however, Status First Nations children are significantly over-represented as are Métis children although to a less dramatic scale.

**Table 3:** Total unique child protection family cases (based on last year of active involvement) trending 2005-2009 by cultural group

Year	Inuit		Métis		Non Status FN		Status FN		Non Aboriginal		Total N
	N	%	N	%	N	%	N	%	N	%	
<b>% of total population</b>		<b>&lt;1 %</b>		<b>4.8%</b>		<b>&lt;1%</b>		<b>9.2%</b>		<b>84%</b>	
2005	4	<1%	422	7%	100	2%	2490	43%	2764	48%	5780
2006	3	<1%	408	7%	85	1%	2579	44%	2768	47%	5843
2007	4	<1%	381	7%	80	1%	2532	44%	2709	47%	5706
2008	6	<1%	440	6%	89	1%	2900	42%	3398	50%	6833
2009	3	<1%	506	6%	117	1%	3238	41%	4043	51%	7907

<sup>b</sup> Registered status Indians (i.e. the legal term) or ‘First Nations’ are people who meet the criteria which defines who an ‘Indian’ is according to The Indian Act, the federal piece of legislation which governs Indians or ‘First Nations’ people in Canada. Non-Status Indians or ‘First Nations’ are people who are ‘Indians’ but do not meet the defining criteria according to The Indian Act (e.g., Indians who enfranchise). Métis people are indigenous people of mixed European and First Nations ancestry who have distinct languages and cultural practices derived from the blending of European (e.g., French or Scottish) and First Nations ones over generations.

Source: Saskatchewan MSS administrative data excluding cases where cultural data was missing or unknown. Percent values rounded.

As noted in Table 4, the proportions of children in care by cultural group and legal status in a one day snapshot taken January 1, 2009 show a similar pattern.

**Table 4: Proportions of children in care by cultural group and legal status (January 1, 2009)**

Year	Métis		Non Status		Status FN		Non Aboriginal		TOTAL
	N	%	N	%	N	%	N	%	
<b>% of total population</b>		<b>4.8%</b>		<b>&lt;1%</b>		<b>9.2%</b>		<b>84%</b>	
<b>2009</b>									
Court Order	145	4%	91	3%	2371	67%	932	26%	3539
Voluntary Care	29	4%	22	3%	419	57%	268	36%	738
Other*	82	4%	35	2%	1289	67%	531	27%	1937
<b>TOTAL</b>	<b>262</b>	<b>4%</b>	<b>148</b>	<b>2%</b>	<b>4079</b>	<b>66%</b>	<b>1731</b>	<b>28%</b>	<b>6214</b>

Source: Saskatchewan MSS administrative data. \*Other category includes Sec.56, PSI, return home pending, return home supervised. Percent values rounded.

The reasons for over-representation and the variations in the degrees of over-representation amongst the Aboriginal cultural groups are not well understood and further research is needed. However, exploring the rates of poverty, poor housing and substance misuse among Aboriginal people in Saskatchewan may be useful in better understanding this issue. Poverty levels are deeper among First Nations people than for Métis and non-Aboriginal people living in Saskatchewan and poverty levels for First Nations are deeper on reserve versus off reserve.<sup>11</sup> A similar pattern emerges for housing; First Nations are more likely to live in inadequate housing than other Aboriginal or non-Aboriginal persons.

Reliable incidence rates of substance misuse among Aboriginal and non-Aboriginal persons in Saskatchewan was not available although it has been cited as a significant problem by the Federation of Saskatchewan Indian Nations and appears to be a substantial driver of child welfare neglect reports.

From the information provided to the contractor, MSS does not appear to have a sophisticated and reliable way to track the primary aims of services provided to children and their families and to compare the primary aims of those services to the presenting risk factors. This is a vital area of data improvement in order to better understand the efficacy of services.

Overall, the data on children coming to the attention of child welfare authorities in Saskatchewan appears to be consistent with the national findings of the CIS and the regional data collected in the WEM study. This draws attention to the essential *need to centre poverty reduction, housing improvement and progressive substance misuse strategies as core elements in the Saskatchewan child welfare system*. Additionally, it is important to collect disaggregated data by Aboriginal cultural group and that the respective communities take a lead role in the development of culturally based responses to poverty, poor housing and caregiver substance misuse within a child welfare context. This step is critical in the effort to reduce the dramatic over-representation of Aboriginal children.

## **History and Range of Theories Explaining the Over-representation Phenomenon**

This section highlights historical events shaping child welfare today and the range of theories which help to explain the over-representation of Aboriginal children in the child welfare system. It is not an exhaustive constitutional, legal, historical or policy analysis about Aboriginal child welfare in Canada. It focuses on some key developments leading to the child welfare system as it relates to Aboriginal people today. The purpose is to provide a background piece, drawing on certain events which shaped child welfare for Aboriginal people.

Historically, indigenous peoples in Canada were autonomous and self-governing peoples who enjoyed their distinct forms of governance, languages, cultures, forms of education and family systems which included the raising of and caring for their children. While self-governance continued after Europeans settled in North America in the 15<sup>th</sup> century, the autonomous existence of indigenous peoples became compromised as the British colonial government, French colonial forces and eventually the Canadian government adopted policies and laws which emphasized the need to assimilate Indians into Canadian society.<sup>12</sup> These laws which undermined the governance and ceremonial practices combined with disease and at times, hunger, led to unprecedented social disorganization which impeded families from looking after their children. Undoubtedly, these laws had a severe and negative impact on indigenous cultural, social and family life, however, they did not obliterate distinct cultural practices as had been their expressed intent. Some families and communities stood steadfastly committed to their Elders teachings and ways demonstrating a resounding resilience which can still be seen in indigenous communities today.

The federal government attempted to further assimilate Aboriginal children with the Indian residential school system which officially began in 1879.<sup>13</sup> Founded and operated in partnership with Roman Catholic, United, Anglican, and Presbyterian church entities, the residential schools manifested the federal government's desire to " 'kill the Indian' in the child for the sake of Christian civilization".<sup>14</sup> The schools, where many children experienced gross and indecent acts of sexual and physical abuse at the hands of church employees, were designed to assault indigenous languages and cultures to assimilate Aboriginal children into the



Euro-canadian culture. Some Aboriginal children ran away from the schools, and more often than not endured severe beatings upon their return.<sup>15</sup> As many as half of the children who attended the Indian residential schools during their early years died from diseases such as tuberculosis.<sup>16</sup> In a broader context, the residential schools destabilized indigenous social and family life for generations; their effects still being experienced today.<sup>c</sup> Indigenous child welfare researchers and advocates identify the Indian residential school system as the main historical culprit for the over representation of Aboriginal children in the child welfare system today.<sup>17</sup>

Until the 1950s, Indian agents administered child welfare on reserves by placing children in Indian residential schools. Because ‘Indians’ fell under the jurisdiction of the federal government, the provincial/territorial governments rarely involved themselves in child welfare at this time.<sup>18</sup> During the 1960s and 70s, the prevailing practice was to place children up for adoption to Euro-Canadian families.<sup>d</sup> Whether the practice to adopt out was sourced in the cultural superiority of Euro-Canadians or the benevolent tendencies of some, the pattern resulted in thousands of Indian children being adopted outside of their communities, some of whom were raised in the United States and European countries. Now, colloquially known as the ‘sixties scoop’ among Aboriginal people and others, the 1960s and 70s remain an era which some scholars<sup>19</sup> suggest is now being repeated in the name of neglect misinterpreted as parental deficit.<sup>e</sup>

Beginning in the 1970s, Aboriginal people began developing their own child welfare agencies in the context of ‘self-government’ and ‘self-determination’. In 1991, the federal Department of Indian and Northern Affairs Canada (INAC) implemented a framework policy for First Nations child welfare on reserves—known as Directive 20-1, Chapter 5 [Directive]. Allowing for First Nations to manage family and children’s service agencies in accordance with provincial and

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<sup>c</sup> See the Aboriginal Healing Foundation research series for several evidence-based reports regarding the ‘intergenerational effects’ of Indian residential schools at <http://www.ahf.ca/publications/research-series>

<sup>d</sup> Between 1960 and 1990, over 11,000 children of Indian status were adopted out with as many as one-third of all children in some reserves having been permanently removed by child welfare agencies. See Royal Commission on Aboriginal Peoples. (1996). *Report of the Royal Commission on Aboriginal Peoples*. Ottawa: Indian and Northern Affairs Canada.

<sup>e</sup> The term, ‘sixties scoop’ was coined by Patrick Johnson in his 1983 report for the Canadian Council on Social Development.

territorial child welfare legislation, this policy precipitated the formation of 108 First Nations family and children’s service agencies across Canada. Not unlike other sectors such as education, the fact that funding is provided by the federal government via INAC for First Nations to fulfill a provincial mandate, the FNCFSAs often fall victim to jurisdictional wranglings. FNCFSAs are hereby “forced to wear a straightjacket of provincial legislation and federal funding that significantly reduces their discretion to deliver culturally based services that truly respond to community need.”<sup>20</sup> Ultimately, this situation impedes the optimal benefits being realized by the clients who are the Aboriginal families and children themselves.

A recently written body of evidence-based scholarly literature<sup>f</sup> researched by the First Nations Child and Family Caring Society, a national organization providing networking, education, professional development and research services to Aboriginal child welfare agencies, has drawn the following conclusions regarding the over representation of Aboriginal children in the child welfare system:

- The significant over representation of First Nations children in ‘substantiated’ child investigations and referrals to child welfare placement can clearly be related to the high level of caregiver, household and community risk factors.<sup>21</sup>
- *Neglect* [italics added] stands as the primary type of child maltreatment contributing to the over representation of Aboriginal children in care.<sup>22</sup>
- It is incumbent upon child protection authorities to place greater emphasis on factors contributing to child maltreatment: *poverty, poor housing and parental substance misuse* [italics added].<sup>23</sup>
- Culturally based and equitable services targeting poverty, poor housing and parental substance misuse are critical to addressing the over representation of Aboriginal children served by child welfare agencies.

Assimilation and integration tactics of governments in Canada have led to the over representation of families and children in the child welfare system in Canada. Governments in

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<sup>f</sup> See Nico Trocmé, Barbara Fallon, Bruce MacLaurin, Joanne Daciuk, Caroline Felstiner, Tara Black, Lil Tonmyr, Cindy Blackstock, Ken Barter, Daniel Turcotte, Richard Cloutier. *Canadian Incidence Study of Reported Child Abuse and Neglect—2003: Major Findings*. Minister of Public Works and Government Services Canada, 2005. Available at <http://www.phac-aspc.gc.ca/cm-vee/csca-ecve/index-eng.php> and Nico Trocmé, Bruce MacLaurin, Barbara Fallon, Della Knoke, Lisa Pitman, Megan McCormack, *Understanding the overrepresentation of First Nations children in Canada’s child welfare system: An analysis of the Canadian incidence study of reported child abuse and neglect (CIS-2003)*, Toronto: Centre of Excellence for Child Welfare, 2005. Available at <http://www.fncfcs.com/>

### *The Social Determinants of Health*

The over representation of Aboriginal children and families in the child welfare system has nothing to do with race, culture and ethnicity. Rather, it has been argued that if any family and their children, regardless of race, culture and ethnicity, were subject to the aftermath of the same colonial history and the resultant poverty, social and community disorganization, then they would find themselves in a similar situation.<sup>24</sup>

The social determinants of health can also explain the over representation of Aboriginal children in the child welfare system. The social determinants of health are the “economic and social conditions under which people live which determine their health.”<sup>25</sup> In the *First Nations Wholistic Policy and Planning Model: Discussion Paper for the World Health Organization Commission on Social Determinants of Health*, the Assembly of First Nations presents an overview of First Nations’ social determinants of health and recommended interventions according to the following categories which include but are not limited to:

- Early life
- Prenatal health and development
- Maternal smoking
- Other maternal influences
- Breast feeding
- Child health
- Cultural continuity
- Smoking
- Nutrition
- Obesity
- Education
- Residential schools legacy
- Elementary and secondary schooling
- Post-secondary schooling
- Addictions
- Tobacco
  - Childhood and adolescent influence of tobacco smoking
    - Intervention programs
- Alcohol
  - Childhood and Adolescent Influence of Alcohol
    - Interventions
- Drug Use

- Childhood and Adolescent Influence of Drug Use
  - Interventions
- **Housing and Food Security**
  - Housing and Living Conditions
  - Food Security
  - Obesity
  - Deficiencies
- **Healthcare Access**
  - Barriers to Health Care Access
  - Location
  - Education and awareness
  - Cultural factors
  - Economic issues.<sup>26</sup>

Further, research by Chandler and Lalonde (1998) links *self governance* [italics added] and its effect on cultural continuity as a determinant of mental health status and suicide.<sup>27</sup>

Examining the “causes of the causes”<sup>8</sup> or the social conditions that give rise to the over representation of Aboriginal children and families in the child welfare system is essential.

Marmot (2005) proposes that poor health and lowered life expectancy occurs when people are deprived of two fundamental human needs: autonomy and full social participation.<sup>28</sup> The lack of control over one’s life and social exclusion prevents the socially disadvantaged from leading the life that they feel they are entitled to lead. Living in inadequate housing in an unsafe neighbourhood where there are limited opportunities for meaningful work and poor quality schools, while one also experiences racism and is subject to community violence is stressful. These social conditions activate biological stress pathways that result in poor health. Stress from social disadvantage is not related to what people actually have in an absolute sense, but what they can or cannot do with what they have.<sup>29</sup> Consistent with the findings of the First Nations Child and Family Caring studies as cited in this report, reducing the social inequalities and meeting the human needs of First Nations and Métis families is necessary in order reduce the numbers of children and families in the child welfare system. Next a more thorough discussion on the research about the drivers of neglect: poverty, poor housing and substance misuse is presented.

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<sup>8</sup> ‘Causes of the causes’ is a phrase coined by Geoffrey Rose in Rose G. (1992). *Strategy for preventive medicine*. Oxford: Oxford University Press.

*The child welfare research on poverty, poor housing and substance misuse*

Parental substance misuse needs to take into account the impact of the wider social context - any attempt to improve outcomes for children and their families needs to empower individuals, families and communities to become more autonomous participants in society. Children who grow up in families facing poverty have poorer outcomes than children from wealthier families. However, poverty per se is not a sufficient explanation for these poorer developmental outcomes. Rather, social disadvantage prevents individuals and families from participating in society and leading the life to which they are entitled. The lack of autonomy and control over one's life creates a stress that may lead to an unhealthy lifestyle as an attempt to cope with this stress (e.g., substance misuse).

A plethora of research exists which has established that intoxication impairs parent's capacity to prepare meals, and ensure maintenance and regular routines for children with respect to their school attendance, bedtimes, etc. Importantly, parental intoxication impacts on parent's responsiveness and sensitivity to a child's emotional needs.<sup>30</sup> Most research identifies substance abuse as one of the two factors in child abuse and neglect.

Other psychological conditions frequently co-exist with substance misuse problems and can further impair a parent's capacity to parent, especially if they have histories of trauma, depression, other mental health issues and victimization.<sup>31</sup>

Many families with parental substance abuse frequently come from low income/poverty groups, report high rates of unemployment and have unstable accommodations, thus compounding the effects of parental substance misuse.<sup>32</sup>

Typically, women with substance misuse problems feel unable to attend a range of community activities (i.e. because of involvement with criminal activity, prostitution, etc.). Parents who have limited social support, live socially isolated lives and substance addicted, are at greater risk for poor parenting practices.

Connectedness to the wider community through sporting, religious or cultural activities plays a key role in the emotional wellbeing of children, and may protect children from some of the negative effects of parental substance misuse.<sup>33</sup> Connectedness plays a key role in the emotional wellbeing of children.

Families with parental substance misuse have high rates of child maltreatment. However, parental substance misuse frequently co-occurs with many other problems, the combination of which place children at heightened risk of abuse and neglect.

National surveys that collect data to monitor drug and alcohol use and trends across Canada do not collect information on parental status or childcare responsibilities of substance users. Although no large epidemiological studies have been conducted to identify the prevalence of children of alcoholics in Canada, there are indications that this is a sizable group. It is estimated that 12% of Canadian children aged 12 years or less are exposed to an adult who is a regular drinker.<sup>34</sup>

Unless there is clear policy that provides a strong mandate for treatment providers to consider the importance of family-focused interventions, any attempt by agencies or organizations to address the needs of children and families where there is substance misuse will be ad hoc. Across many jurisdictions, there was little focus on the needs of children and young people affected by parental substance misuse. Without the inclusion of children and families in drug and alcohol policy, the chance of ensuring that quality, evidence-based treatment develops in a sustainable manner will continue to be limited.<sup>35</sup>

Canada tried to assimilate Aboriginal people using policy, primarily the Indian residential schools system from the late 1800s into the 1990s. Since the 1980s when First Nations began to assume control over child welfare, the state of family and social disorganization, ill health and poverty still typify some First Nations communities. In keeping with this, recent studies

have found that neglect is the primary form of maltreatment experienced by First Nations children, the driving factors being poverty, poor housing and parental substance misuse. Aboriginal communities are still working toward self-sufficiency and self-determination which includes nurturing their children within their communities.

## Exploration of the Policy, Program or Other Approaches Holding Promise

Doing “good” is apparently better than doing “nothing” well—and so hangs the tale of the residential school system, and the child welfare system too, which could only ever afford child protection (removal of children from their families), rather than prevention activity (building up families). Those good people constantly lobbied for better funding but rarely made any structural critiques and thus they became fellow travelers of a system they did not approve of and earned the ill-feeling of those to whom they delivered second-class service. ~excerpt from John S. Milloy’s presentation, “How Do Bad Things Happen When Good People Have Good Intentions?” (October 26, 2005)

Since the 1970s, First Nations, Inuit and Métis peoples have been developing culturally-relevant human services programs including child welfare. In Canada, several family service agencies have developed and implemented culturally sensitive, relevant and effective responses. Here a few examples are discussed within the context of the *Touchstones of Hope*, a document outlining the phases and values for reconciliation in child welfare. While each of these CFSA has not necessarily referenced the *Touchstones of Hope*, this document has been used as an exemplary framework to discuss these examples:

- Ottawa Children’s Aid Society
- Northern British Columbia Touchstones of Hope
- Yellowhead Family Service Agency, Alberta
- West Region Child and Family Services, Manitoba
- Lalum’utul’ Smun’eem Child and Family Services, Vancouver Island, British Columbia
- Regina—First Nations Family Helpers
- Saskatchewan First Nations Family Institute
- Family Group Conferencing Model—Mi’kmaq Family and Children’s Services
- Canadian Human Rights Tribunal: Another Approach Holding Promise for Addressing Causal Factors

*Reconciliation in Child Welfare: Touchstones of Hope for Indigenous Children, Youth, and Families*

The re-imagination of child welfare to create a system that better responds to Aboriginal children and their families requires thoughtful and committed reflection upon this field’s values and principles—past, present and future. The *Touchstones of Hope for Indigenous Children,*



*Youth and Families [Touchstones of Hope]*<sup>h</sup> embodies the reflections and experiences of 200 invited leaders who attended *Reconciliation: Looking Back, Reaching Forward—Indigenous Peoples and Child Welfare* on October 26, 27, and 28, 2005 in Niagara Falls, Ontario, Canada. Intended to serve as a foundational document for community-based action plans, *Touchstones of Hope* is premised on the belief that improving the lived experiences for Indigenous children, youth, and families necessitates fundamental change in the child welfare system.<sup>36</sup>

Participants at the conference were charged with developing constitutional principles to be interpreted within the unique cultures and contexts of indigenous peoples to inform a new child welfare system. These principles were set in a four stage process of reconciliation.

*Touchstones of Hope* addresses the following topics:

- Reconciliation in Child Welfare’s Beginnings;
- Why is Reconciliation in Child Welfare Needed?;
- Touchstones of Hope in the Reconciliation Process;
- Four Phases of Reconciliation;
- Touchstones of Hope: Guiding Values; and
- Paddling a New Stream (i.e., the way forward).

Reconciliation requires that one engage in self-reflection by acknowledging and coming to terms with the impacts of past wrongs and committing to renewed future possibilities. During the *Reconciliation: Looking Back, Reaching Forward* gathering, participants spoke of a process of reconciliation for indigenous and non-indigenous people alike which has been captured in four phases:

- |                       |  |
|-----------------------|--|
| <b>Truth Telling:</b> | The process of open exchange (listening and sharing) regarding child welfare’s past; |
| <b>Acknowledging:</b> | Affirming and learning from the past and embracing new possibilities for the future; |
| <b>Restoring:</b>     | Addressing the problems of the past and creating a better path for the future, and;  |

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<sup>h</sup> A *touchstone* is a high standard against which we measure other things. Applied to reconciliation in child welfare, touchstones are the high standards and values that guide action in each of the four phases of reconciliation. See Blackstock, C., Cross, T., George, J., Brown, I, & Formsma, J. (2006). *Reconciliation in child welfare: Touchstones of hope for Indigenous children, youth and families*. Ottawa, ON, Canada: First Nations Child & Family Caring Society of Canada. p. 7.

**Relating:** Working respectfully together to design, implement, and monitor the new child welfare system<sup>37</sup>

Further, *Touchstones of Hope* elaborates upon key *guiding principles* that must guide all aspects of child welfare: research, policy, practice and relationships.

### **Self-determination**

- Indigenous peoples are in the best position to make decisions that affect Indigenous children, youth, families and communities.
- Indigenous peoples are in the best position to lead the development of child welfare laws, policies, research, and practice that affects their communities.
- Non-indigenous child welfare workers need the capacity and understanding to work effectively with Indigenous communities, experts, children, youth, and families.
- Only adequate and sustained resources will enable indigenous communities to implement self-determination in child welfare.
- The role of children and young people in making decisions that affect them must be recognized.

### **Culture and Language**

- Culture is ingrained in all child welfare theory, research, policy, and practice. There is no culturally neutral practice or practitioner.
- Child welfare policy and practice are most effective when they reflect and reinforce the intrinsic and distinct aspects of Indigenous cultures.
- Guidelines and evaluation processes for culturally appropriate child welfare are strongest when established by Indigenous communities, reflecting local culture and context.
- Language is the essence of culture, and child welfare knowledge, policy and practice are most relevant when expressed in the language of the community served.

### **Holistic Approach**

- Child welfare approaches that reflect the reality of the whole child preserve the continuity of relationships and recognize the child is shaped by his/her culture (including traditions, spirituality, and social customs), environment, social relationships, and specific abilities and traits.
- Effective child welfare services take a lifelong approach to making decisions, and give due consideration to both short- and long-term impacts of interventions.
- Relevant child welfare interventions acknowledge that non-Indigenous and Indigenous children and youth are citizens of the world. This means that the child welfare systems must ensure all children and youth in their care have opportunities to understand, interact with, and respect peoples of different cultures.

## Structural Interventions

- Protecting the safety of children and youth must include resolving risk at the level of the child, family, and community. Without redress of structural risks, there is little chance that the number of Indigenous children and youth in care will be reduced.
- Consistent with the United Nations Convention on the Rights of the Child, child welfare providers should not remove children or youth from their homes due to poverty. Impoverished families must be provided with the economic and social supports necessary to safely care for their children and youth.
- Social workers must learn to differentiate between structural (also known as distal) risks and family risks to a child or youth, and develop meaningful responses to both.
- Substance misuse is a major problem, and child welfare must develop programs to redress neglect arising from parental substance misuse—preferably in tandem with culturally based addictions experts and services—within the context of the economic poverty of many communities.

## Non-Discrimination

- Indigenous children and youth receiving child welfare services should not receive inferior services because they are Indigenous.
- Indigenous peoples are entitled to equal access to ancillary resources related to child welfare, such as services supported by the voluntary sector, corporate sector, and all levels of government.
- Indigenous ways of knowledge must be given full credence when child welfare work is carried out with Indigenous children, youth, and their families, and Indigenous interventions used as a first priority.<sup>38</sup>

Eloquently written, *Touchstones of Hope* is a relevant document to any entity wishing to transform its approach to indigenous child welfare. Its *four phases of reconciliation*—truth telling, acknowledging, restoring and relating—along with its *guiding values*—self determination, culture and language, holistic approach, structural interventions and non-discrimination—could guide legislative and policy development, program design, service delivery and evaluation approaches. *Touchstones of Hope* can inform short-term solutions and fundamental child welfare system reform over the long term. Since the 2005 *Reconciliation* gathering, the entities in Northern British Columbia and the Children’s Aid Society of Ottawa have actively worked to implement the guiding values in the *Touchstones of Hope*; their approach, experiences and results are described next.

*Northern British Columbia Touchstones of Hope*<sup>39</sup>

In Northern British Columbia, First Nations communities and the Ministry for Child and Family Development have collaboratively taken the lead for implementing the *Touchstones of Hope* for Indigenous children, youth and families.

Participating entities include the following:

- Gitksan Child & Family Services Society
- Carrier Sekani Family Services
- Haida Child & Family Services
- First Nations Child and Family Caring Society, Canada
- Ministry of Children and Family Development
- Nisga'a Child & Family Services
- Nezul Be Hunuyeh Child & Family Services Society
- Northwest Inter-Nation Family & Community Services Society

Founded during a gathering in October 2008 in Prince Rupert, First Nations communities and the Ministry for Child and Family Development launched their own major initiative to re-develop child welfare services in Northern British Columbia based upon the *Touchstones of Hope*. This distinctly community-based effort involves the British Columbia provincial government and nine First Nations working together to restructure child welfare on a broad scale using the touchstones principles. Community members have been provided with the best research knowledge on First Nations child welfare and engaged in developing a 'child safety model' which reflects their cultural contexts and goals.

Enjoying technical support from the First Nations Child and Family Caring Society, a steering committee composed of First Nations and the Ministry for Child and Family Development is guiding the implementation of the *Touchstones of Hope* in Northern British Columbia. Their implementation plan was developed after significant consultation.

Since the Prince Rupert gathering, the following things have taken place:

**Train the trainer sessions**~ Two of these sessions occurred in order to train individuals from the communities to facilitate *Touchstones* gatherings and how to guide participants through the Pathways for Alternative Tomorrows of Hope (PATH)

**Touchstones Community Workshops**~ Trained Touchstones facilitators work with their community members, First Nations child welfare providers and the Ministry for Child and Family Development to actively interpret the *Touchstones of Hope* principles to shape the development and implementation of their vision for child and family safety and well being. At the end of the session, participants come away with a plan to build upon the existing strengths and to create new initiatives in order to better life for children and families in their areas.

**Touchstones Research**~ A new recording format created by Dr. Michael Saini of the University of Toronto, this data collection method works on a participatory basis. Community workshop participants, facilitators and speakers will participate in the research. The research goal is to identify themes throughout the workshops to inform policy and service change and to gauge the effectiveness of the Touchstones in communities and in child welfare practices.

Communications initiatives and website development: See [www.northernbctouchstones.ca](http://www.northernbctouchstones.ca)

Further, as part of this initiative, Ministry of Child and Family Development managers have held retreats to envision the Touchstones of Hope; child protection supervisors have been introduced and oriented; several community workshops have been convened and a forum with 150 First Nations and Aboriginal leaders has been held over the past two years.

The Northern British Columbia Touchstones of Hope exemplifies how the Touchstones may be used to effect community-driven indigenous child welfare reform on a broad basis. With a current and comprehensive website clearly demonstrating the collaboration between the Ministry and child and family service agencies along with the First Nations Child and Family Caring Society and a University of Toronto researcher, this approach deserves careful examination if not emulation.

*Reconciliation in Child Welfare: Relations Between Non-Aboriginal Child Welfare Agencies and the First Nations, Inuit and Métis*<sup>40</sup>

In Ontario, the *Child and Family Services Act* allows for 'Indian' and 'native' people to provide their own child and family services to Indian and native children and families. One of the

purposes of the Act is: “to recognize that Indian and native people should be entitled to provide, wherever possible, their own child and family services and that all services to Indian and native children and families should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family.”<sup>41</sup> The learning about ‘Indian’ and ‘native’ cultures, heritage and traditions comes from interacting with ‘Indian’ and ‘native’ people themselves.

Toward this end, in the early winter of 2007, the Children’s Aid Society of Ottawa engaged in consultations with the First Nations, Inuit and Métis service providers in Ottawa; the purpose was to obtain feedback regarding how they experienced the involvement of the Ottawa CAS in the lives of their clientele. Here is what the First Nations, Inuit and Métis participants told the CAS staff:

- CAS staff require training on communication differences and sensitivity;
- The availability of Aboriginal staff, kin and caregivers were key issues;
- Several cases require interagency consultation and case planning;
- The recognition of the adjunct Aboriginal services was crucial to effective interaction with the client;
- Ottawa CAS materials needed to be available in an accessible and culturally relevant manner; and
- Ottawa CAS needed to demonstrate a commitment to improving service through sustainable change and better outcomes for First Nations, Inuit and Métis children and families.

Next, the Ottawa Children’s Aid Society hosted a full day consultation with their First Nations, Inuit and Métis clients. And here’s what their clients told them:

- That Ottawa CAS personnel are punitive, judgmental, insensitive and lacking knowledge regarding history and culture; and
- That the Ottawa CAS protection practices were having devastating impacts on children, parents, extended families and communities.

Anger and palpable pain were the two sentiments that were expressed during both consultations, according to the author.

Two committees were established following the consultations:

- An internal Forum comprised of Ottawa CAS employees; their responsibility was to learn as much as possible about the history, practices and cultures of First Nations, Inuit and Métis peoples and share this with their fellow employees;
- A Liaison Group comprised of representatives from all of the First Nations, Inuit and Métis service provider organizations in Ottawa and the Ottawa CAS; further the Liaison Group struck a Working Group tasked with developing an alternative dispute resolution (ADR) program derived from traditional practices. Below are some of the resources which have been created by the Liaison Group:
  - A resource tool kit with a lifecycle chart which informs staff of community resources and programs;
  - Family care resources for children and youth; and
  - The ADR program called 'Circle of Care'.

Inspired by the *Touchstones of Hope* and the two inaugural consultation sessions, the Ottawa CAS has subsequently included First Nations, Inuit and Métis Liaison Group members on the interview panel for the Circle of Care Implementation Consultant position, representing improved collaboration and trust.

The second full-day consultation with service providers was held in March 2009, a full two years after the first one in January 2007. During this two year time frame, relationships have vastly improved, according to Tracy Engelking, the author of the cited article, senior legal counsel to the Ottawa CAS and Co-chair for the Liaison Group. Fully acknowledging that an ongoing commitment and further work is needed to ensure the effective transition of the mandate for indigenous child welfare to 'evolving First Nations child and family services authorities', is needed, Engelking concludes this piece by reiterating the four phases of reconciliation: truth telling, acknowledging, restoring and relating. Key to relating is the building of mutual trust which the Ottawa CAS has undertaken with its consultation sessions, formation of its internal Forum, Liaison Group and Working Group. Given that the Ottawa CAS is an urban-based child and family service agency which is not attempting to devolve its services to a First Nations, Inuit or Métis agency, its approach also deserves consideration. Finally, this account is testament to the usefulness of the 2005 Reconciliation gathering and what is possible when a participant such as the author of this article operationalizes the *Touchstones* within his or her agency.

While the recent efforts of the Ottawa Children's Aid Society to ensure that their service delivery is culturally-relevant and responsive to its clientele was inspired by their participation at the 2005 *Reconciliation* gathering, other agencies draw their motivation from child and family service directors who are from their local communities. Their passion and commitment comes from their own lived experiences with caregivers who misuse alcohol and others trapped within a cycle of physical and verbal abuse. The Yellowhead Family Service Agency story as told by Wa Cheew Wapaguunew Iskew [Carolyn Peacock] is one such agency.

*Yellowhead Family Service Agency, Alberta*<sup>42</sup>

Self-determination and culturally-based and relevant approaches to child welfare practice are consistently cited in the scholarly literature as key principles whose adoption can mitigate the over-representation of Aboriginal children. In *Practising from the Heart*, Wa Cheew Wapaguunew Iskew (Carolyn Peacock) recounts her personal and professional journey from her childhood experiences with the child welfare system to being the Director of an exemplary agency in Alberta. Here, she discusses her personal stake in the transformation of child welfare; the history of the Yellowhead Tribal Services Agency; her challenges as the director of an Indian Child and Family Service Agency; the Yellowhead Tribal Services Agency development; the custom care program; the open custom adoption program; the community support services program; the intervention services and family enhancement services as well as First Nations standards and values ; working 'in the community'; First Nations social work practice; her teachers (i.e., mentors); a theoretical practice model; and a personal practice model.

The Yellowhead Tribal Services Agency (YTSA) signed their first dual bilateral agreement with the governments of Alberta and Canada in March 1987.<sup>43</sup> Born out of the concerns of the Chiefs of the Alexander, Alexis, Enoch, O'Chiese and Sunchild First Nations, that too many of their children were being placed in non-First Nations foster homes off the reserve, YTSA was inspired by their vision to keep their children in their own communities. The initial agreement with Indian and Northern Affairs Canada (INAC) included funds for family support, foster care support workers, administrative staff, creating child welfare committees, community



development and cultural events while the agreement with the Alberta Government ensured that the Child and Family Services Ministry was reimbursed for the delivery of statutory services on reserve. During its early years then, the YTSA funding agreements were much more supportive of their self-determining vision than current arrangements. Specifically, the older agreements provided more resources and flexibility to deliver family supports and cultural events designed to keep their children in their communities.

This vision has remained constant during this agency's evolution since the late 1980s. Significant to its development was the shift from re-active to pro-active planning. Part and parcel to this is the director's belief that providing financial and emotional supports to birth families stands as one of the best forms of prevention and cost saving measures. Not unlike the adage, "Give a man a fish and he'll eat for a day, but teach a man to fish and he'll eat for a lifetime," YTSA has predicated its program development on preserving and strengthening extended families and communities, thereby helping families to help themselves.<sup>44</sup>

Belief in the essential nature of cultural practices by the award winning Director, Carolyn Peacock, and the leadership has made them integral to program development and delivery.

It is within this spirit that we began our program development, first going to our Elders following our cultural protocols of offering tobacco and cloth, to ask for their prayers and guidance in this very important undertaking. They gave us the teachings of the Medicine Wheel, which formed the foundation of all of our programs.<sup>45</sup>

The medicine wheel, a pedagogical tool, shows that all things are interrelated. As such, there are several medicine wheels which have been created and used for program development and evaluation in the human services since the early 1970s when culture as healing came into vogue for state government funded programs.<sup>46</sup> Elders and traditional knowledge keepers carry their teachings and will share them when approached in the proper way by someone who wants to learn.<sup>47</sup> The YTSA has used this tool to develop culturally-relevant and complementary programs such as Custom Care, Open Custom Adoption, Caring for Our Own Community Support Services and their version of Family Enhancement.

The *Custom Care Program*<sup>i</sup> was designed to ensure that children who need alternate care remain connected to their families of origin and communities and is based upon the traditional practice of engaging extended families when the parents are unable to care for their children.<sup>48</sup> In 1991, the YTSA had 90 percent of their children in care off-reserve in non-First Nations placements. In one year, the agency reversed this situation with 90 percent of their children in *approved* [italics added] custom care placement homes whose adults had undergone training. Since its inaugural years, the YTSA has had a Custom Care Committee comprised of representatives from each community; this committee meets regularly to review applications, approve homes, provide training and discuss any new issues regarding program delivery. Not only did the YTSA envision keeping children in their community, they undertook the necessary work and, therefore, bore the fruits of their labour.

The *Caring for Our Own—Wahsikiw Sakopen—Community Support Services* program embodies the value which indigenous people place upon a holistic approach as described in the *Touchstones of Hope*: “Child welfare approaches that reflect the reality of the whole child preserve the continuity of relationships and recognize the child is shaped by her/his culture (including traditions, spirituality, and social customs), environment, social relationships, and specific abilities and traits”.<sup>49</sup> The YTSA established this program to provide intervention and support services at the community level. Again, ensuring that cultural practices are ingrained is paramount as the program is designed to provide community-based support services which reflect customary and traditional family values which emphasize cultural practices and the integration of community resources. Elders, for example, mentor children and families and are available to conduct ceremonies and traditional healing practices. Further, policy for this program has also been developed.

The YTSA has also demonstrated that it can provide culturally-based and holistic services *while working in collaboration* with Alberta’s Ministry of Children Services staff. Around the time that

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<sup>i</sup> Here ‘custom’ refers to a care program premised upon traditional indigenous principles and practices of extended family.

the book chapter referred to here was written, likely in 2008, the ministry introduced a new Casework Practice Model which the YTSA intervention team was learning. Having taken on being a Casework Practice Model champion, YTSA was working toward having all of its 'delegated workers' complete the mandatory training. Assisting them was a provincial worker who had been seconded to YTSA from the province. As such, practicing culturally-relevant child welfare then does not necessarily preclude an agency from meeting ministry administrative requirements.

*Family Enhancement Services* is another example where YTSA has led child welfare practice in keeping with their indigenous values and the vision of keeping children in their communities. Focussing on prevention, the goal of the Family Enhancement Services is to undertake non-intrusive measures to prevent more intensive interventions and keep the family unit intact. Willingness to co-operate by the family is a prerequisite for their participation. Then, the following steps are undertaken:

- Caseworker meets with the family to discuss issues and how the family may be supported in alleviating the initial concerns in accordance with the *Child, Youth and Family Enhancement Act*;
- The family plans what resources/services will support them in their personal growth, healing and empowerment; and
- A YTSA Family Enhancement caseworker continues to be involved with the family/children to ensure positive growth.

Since 2005, approximately 143 children have been served by the Family Enhancement Services and for the 2006-07 reporting period, an average of eighteen children per month were served.<sup>50</sup>

Community champions are often the people who not only spearhead change but engage in the necessary work to realize the change, regardless of the naysayers. Wa Cheew Wapaguunew Iskeew (Carolyn Peacock) is one such champion.

## West Region Child and Family Services, Manitoba<sup>51</sup>

A holistic approach and self-determination are two primary values which have guided the West Region Child and Family Services in Manitoba since receiving its child welfare mandate in 1985.<sup>j</sup> Emphasizing a community-based approach and capitalizing on the flexibility associated with block funding, the West Region Child and Family Services attributes its success to the following three factors:

- Availability of resources to enable alternative investment in community-building;
- Commitment and consistency of the agency's leadership to this model of practice; and
- Investment in skill development and training to facilitate this model of practice.

Further, the agency regards the following qualities to be important:

- Commitment to the agency's service orientation and its developmental approach to practice;
- The knowledge and ability to *integrate traditional cultural practices*, as appropriate, into new programs and initiatives;
- The ability to establish collaborative, respectful working relationships with community members; and for staff members working within their home communities,
  - Ability to manage demands from community members including family members; and
  - Ability to respond appropriately to friends and neighbours experiencing personal challenges.

The flexibility of the block funding arrangement has allowed West Region to develop a therapeutic foster home and a training program that includes content on culture and identity. Further, West Region has also developed programming which addresses the situations of certain youth. For example, the Miikanaa Centre provides culturally appropriate residential treatment services for adolescent males who have sexually offended or are at risk of doing so. The Oshki-ikwe is a facility with ten furnished suites providing residential prenatal and postnatal programs for adolescent mothers. The Mikanna Centre and the Oshki-ikwe stand as

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<sup>j</sup> Data for this case study were gathered during a comprehensive agency review conducted in 1999 (See McKenzie, 1999). The study involved several interviews, a survey of local Child and Family Service Committee members, document review and analysis and observation of the agency's planning processes. The staff then reviewed the information for accuracy. Recently, consultation with the agency's Executive Co-ordinator capture changes since 1999 which are included in this article.

two examples of the commitment to provide relevant, culturally-appropriate programming close to their community of origin.

Further, three additional examples illustrate West Region's commitment to holistic, culturally-appropriate programming: (1) the Vision Seekers Program, (2) the *Mino-Bimaadizi* Project ("To lead a good life") and (3) Community-based response to issues associated with Fetal Alcohol Spectrum Disorder effects. The Vision Seekers Program provides life skills training and educational upgrading for youth. The Mino-Bimaadizi Project was developed in collaboration with the Chief and Council from one community and provides life skills training, computer training and related support services for twenty (20) young parents with children in care or at risk of entering care. The community based response to issues associated with Fetal Alcohol Spectrum Disorder sees the agency's Children with Special Needs Co-ordinator educating parents and simultaneously building a network whereby parents can support one another and develop a more broad community-based response.

The prevention and early intervention mandate is taken seriously at West Region. Education and support programs; promoting community healing through traditional teachings and developing workshops and group programs to address community needs; cultural camps; suicide prevention programs and parenting programs are organized by community workers. In addition, local Child and Family Service Committees and community workers collaborate annually to develop service plans and budgets with a specific focus on prevention and resource development. This way, West Region's prevention mandate is upheld and agency and community ownership is fostered through this participatory planning approach.

It is important to note that child protection services do not suffer at the expense of community-based prevention programming in West Region. In 1999-2000, seventeen or 27 per cent of the 63 professional staff employed as direct service staff were also involved in community work and the development of new initiatives. Further in 1999-2000, about 68 per cent of the child maintenance allocation was spent on services for children in care while 32 per cent was spent on alternative programs: (1) resource development (2) community building and (3) early intervention. Also, provincial service quality reviews rate West Region's compliance with service

standards as 'above average'. Child protection is also reinforced by the fact that each community has a Child and Family Service Committee which undergoes training in child welfare. Predominantly headed by women, these committees engage in both child protection and prevention initiatives. Their consultative and collaborative approach with community members further makes West Region distinct from conventional child welfare agencies.

The effectiveness of the West Region's preventative and community-based approach to child welfare is also evident in the following indicators and statistics:

- 75 per cent of all placements of children in care in 1998 were made to resources where there was at least one Aboriginal caregiver with almost half being in the child's own community;
- 44 per cent of all paid care days were with extended family members; compared to the 23 per cent of children formerly from West Region communities who were taken into care in Winnipeg being placed in 'culturally-appropriate resources';
- The rate of federal funding for children in care in West Region over a five-year period declined from 7.3 per cent to 5.5 per cent of the child population in these communities; this rate is significantly below a comparison agency that has yet to implement a sustained community-building program; and
- Per diem costs for children in care in 1999 were below the provincial average and 17 per cent below the average costs paid in Winnipeg.<sup>52</sup>

More recently collected data and analysis demonstrate the overall efficacy of West Region's culturally-based, holistic approach. For example, in 2004, 40 per cent of this agency's funding for child maintenance was spent on 'alternative' programs while it maintained its commitment to provide funding to children requiring out-of-home placement.<sup>53</sup> Further, evaluation results and a cost-benefit analysis of agency programs indicate the following:

- That the rate of 'on reserve' children in care declined from 10 per cent in 1992-93 to 5.2 per cent in 2003-04;
- That placement patterns of children in care changed: more children were in placements with Aboriginal caregivers and closer to their home communities;
- That early intervention and cultural healing approaches increased significantly; and
- That the incidence of reported cases of child abuse and neglect declined while the on-reserve child population increased.<sup>54</sup>

In addition, the agency's investment in a continuum of care of primary, secondary and tertiary prevention services resulted in a cost savings of \$1.5 million annually; this is attributed to the

fact that the available services along a continuum of care allowed more children to stay at home as opposed to being placed in the higher costing alternative.<sup>55</sup>

Block funding and its concomitant flexibility for creating culturally-appropriate community development programs are what West Region attributes to its success in decreasing the numbers of children in care and thereby the associated costs.<sup>k</sup>

*Lalum'utul' Smun'eem Child and Family Services—Vancouver Island, British Columbia*<sup>56</sup>

Not unlike the indigenous community members of the Yellowhead Tribal Services Agency, the West Region Child and Family Services and the Ottawa Children's Aid Society, the Cowichan First Nation members have advocated for culturally and community-based child welfare services since the 1970s. At that time, they observed a phenomenon similar to the other agencies' communities described earlier: the growing number of Cowichan children in the care of the Ministry of Social Services (now known as the Ministry of Children and Family Development). In 1991, the Cowichan tribes first received funding from INAC for the pre-planning and planning phase for its child and family service agency and in 1993, the Khowutzun Child and Family Services signed a *Delegation Enabling Agreement* with the British Columbia Ministry of Social Services. This agency increased its delegation authority gradually beginning with voluntary services in 1993 and then taking on the recruitment and retention of foster care homes in 1995. In 1996, on the occasion of Lalum'utul' Smun'eem Child and Family Services acquiring 'full delegation'-- allowing it to deliver the full range of services from the prevention to the protection of children—a ceremony was held in the Somena Big House.

The ceremony took place in the Somena Big House and was witnessed by the community. It was an opportunity to publicly establish the relationship between Lalum'utul' Smun'eem, the community, and the ministry and it helped to clarify the role of Lalum'utul' Smun'eem to the Cowichan people. Ministry officials were wrapped in traditional blankets and escorted into the Big House for a ceremony that included a children's dance and a traditional

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<sup>k</sup> Note that block funding is not necessarily the best option for all FNCFSAs. West Region points out that for block funding to be successful, agencies should be eligible for full operations funding from INAC and have at least ten (10) years of operations so that they are in a position to determine the value of the block funding sufficient to meet community needs (C. Blackstock (personal communication, July 24, 2010)).

mask dance. Holding a traditional ceremony demonstrated that the delegation did not belong to the ministry, but to the Cowichan community.<sup>57</sup>

Self-determination is typically enacted in ceremony and ritual. During this 1996 Big House ceremony, the Cowichan people established themselves as being in the best position to lead the development of their child welfare agency as was witnessed by all of those in attendance—Cowichan community members and Ministry officials alike.

Securing adequate funding from INAC as this relates to the funding policy Directive 20-1 has been highlighted among this agency's challenges. The situation whereby limited funds are available for community development activities is a significant challenge faced by this agency. The type and range of preventive services which can be provided are limited by the INAC funding policy, Directive 20-1. While INAC reimburses maintenance costs monthly based upon claims made directly by agencies to INAC for actual costs of keeping children in foster homes, group homes and institutional facilities, the kinds of (preventative) services that can be included in maintenance costs remain undefined. For example, community-based psychologists, speech therapists and specialized residential resources are not defined under maintenance costs (at the time the book chapter referred to here was written). The fact that INAC funding is restricted to maintenance costs renders agencies such as Lalum'utul' Smun'eem challenged in operationalizing its value for holistic services and the caring for all of Cowichan's children and families.

*First Nations Family Helpers (FNFH)—Regina, Saskatchewan<sup>58</sup>*

Saskatchewan First Nations have historically been and continue to be strong in acknowledging the significance of the numbered Treaties to the political, social and cultural life of its First Nations peoples. The child and family services partnership between three Treaty Four 'Indian' Child and Family Service Agencies—Touchwood, Qu'Appelle and Yorkton—and the Ministry of Social Services intended to better serve Treaty Four children and families residing with the city of Regina is currently in the midst of a three year pilot phase which began in 2010.

The objectives of the First Nations Helpers Program are as follows:



- Assist in **developing collaborative working relationships** between Ministry workers and Treaty Four members residing in Regina whose children have recently come into care of the Ministry or who are at risk of coming into care;
- **Assist families and Ministry workers in developing culturally appropriate plans** that meet the families' needs and ensure the safety of children;
- **Empower families to become actively involved** in the development of their case plans;
- **Assist families in understanding child protection involvement;**
- **Develop collaborative approaches** between the Ministry workers and Treaty Four families **to reduce the need of going to court** to resolve child protection issues; and
- **Develop processes** to reduce the number of children coming into care, safely reunite First Nations families with their children as quickly as possible, and reduce the impact of the time spent in care.

Intended to foster collaborative and cooperative working relationships between Ministry of Social Services child protection workers and urban Treaty Four First Nations families, below are some of the intended outcomes:

- Reduction in the number of Regina-area Treaty Four children coming into the care of the Ministry;
- Reduction in the length of time the Regina-area Treaty Four children are in care with the Ministry; and
- Measures of the safe reunification of Treaty Four children with their families.

The current reality associated with affecting change within a long standing bureaucracy demands an evidence base from which decisions may be made. Aware of this, the FNFH Director has engaged an evaluation consultant to develop an evaluation framework complete with overall evaluation objectives, this pilot program's goals and objectives, indicators and data collection methods. This way, the FNFH is undertaking a strategic approach during its pilot phase and creating a baseline from which to measure its impact in the short term. Committed to learning from their evaluation findings and analysis, it is the Directors full intention to create relevant services and program delivery.

Being governed by First Nations child welfare experts from Treaty Four will allow FNFH to be relevant to Treaty Four families. Currently there are three newly formed entities which govern and direct the FNFH: the Reference Board, the Advisory Committee and the Working Group. The Reference Board will have its authority delegated from Touchwood Child and Family Services which administers the agreement for FNFH. Co-chaired by the Directors of the

Touchwood Child and Family Services and Yorkton Child and Family Services, the Reference Group is comprised of two-urban based First Nations community members from each respective Indian Child and Family Service agency: Touchwood, Yorkton and Qu'Appelle. Further, one First Nations community member representative is an Elder. The Advisory Committee is chaired by the Director of FNFH and does just that, advises FNFH. Finally, the Working Group is comprised of child welfare personnel who work with First Nations families. FNFH, in its pilot phase, is committed that services and programs be relevant to Treaty Four families and children. This is reflected in their governance and administrative structures.

The First Nations Family Helpers pilot project stands as a concrete example of attempting to address the over-representation of Treaty Four First Nations children and families in the child welfare system. Based upon the description provided, it is unknown whether or not the Touchwood, Qu'Appelle and Yorkton Child and Family Service agencies are hoping that this will lead to an expansion of their mandate from on-reserve to off-reserve, how this could happen and what this would look like where jurisdiction is concerned. Secondly, the demographics of non-Treaty Four First Nations, Métis and non-status children and families involved with the child welfare system in Regina and the possibilities for them of receiving culturally-relevant and holistic services is currently unknown.

#### *First Nations Family Institute—Saskatchewan*<sup>59</sup>

The Saskatchewan First Nations Family and Community Institute is based in Saskatoon with a *vision* to identify and develop best practices in First Nations child, family and community services while being open to Indigenous teachings and practices throughout the world.

Its *mission* is to support Saskatchewan First Nations Child and Family Service Agencies in their mandates to strengthen First Nations children, families and communities.

Its Board of Directors is comprised of First Nations Child and Family Service Agency directors from the following agencies:

- Atahkakoop Child and Family Services Inc.
- Athabasca Densuline Child and Family Services
- Battlefords Tribal Council Human Services Corp. Indian Child and Family Services
- Kanawayihmitown Child and Family Services
- Meadow Lake Tribal Council Health and Social Development Authority

- Nicapanak Centre Child and Family Services
- Touchwood Child and Family Services
- Yorkton Tribal Council Child and Family Services
- Indian and Northern Affairs Canada (ex-officio member)
- Saskatchewan Ministry of Social Services (ex-officio member)

The FNFI centres its activities around three *strategic opportunities*:

- To become strong and speak with one voice.
- To positively influence First Nations Child Welfare directions, legislation, policies and practice.
- To build strong relationships and develop partnerships with Child and Family Service Agencies, communities, governments and like-minded organizations.

The FNFI's five key priorities guide the work activities of the institute management and staff:

1. Building capacity for Saskatchewan First Nations child welfare program development.
2. Developing child welfare curriculum and training resources reflective of Saskatchewan First Nations values, traditions and inherent rights.
3. Fostering professional relationships, collaborations and partnerships in the field of indigenous child welfare.
4. Initiating research beneficial to Saskatchewan First Nations Child and Family Service Agencies; and
5. Modelling exemplary practice in organizational administration and governance.

As an existing institute created to support First Nations child welfare, the Saskatchewan First Nations Family Institute deserves consideration as partnerships between the Ministry of Social Services are developed and enhanced.

#### *Family Group Conferencing Model—Mi'kmaw Family and Children's Services<sup>1</sup>*

Originating with the Maori of New Zealand, the family group conferencing model has been adopted in Canada, the United States and Europe.<sup>60</sup> Incorporating traditional indigenous practices of the Maori which are adaptable to other indigenous customs, agencies such as

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<sup>1</sup> Note that the Family Group Conferencing model has also been implemented in Region 7, North Central Alberta Child and Family Services; this agency's experience of implementing FGC is described in Desmeules, G. (2007). A Sacred Family Circle: A family group conferencing model. In I. Brown, F. Chaze, D. Fuchs, J. Lafrance, S. McKay and S. Thomas Prokop (Eds.), *Putting a human face on child welfare: Voices from the Prairies* (pp. 161-188). Prairie Child Welfare Consortium [www.uregina.ca/spr/prairiechild/index.html/](http://www.uregina.ca/spr/prairiechild/index.html/). For the purposes of this paper, the experience of Mi'kmaw Child and Family Services is described.

Mi'kmaw Family and Children's Services began to consider family group conferencing (FGC) to be a viable alternative approach to those used in conventional child welfare practice. Key ingredients for its successful implementation are the personnel and will to replicate the Maori model and the availability of block funding by the federal government for this prevention-oriented initiative.

Mi'kmaw Family and Children's Services, a First Nations child welfare agency, serves thirteen (13) Mi'kmaw communities in Nova Scotia and Aboriginal families living throughout this Atlantic province. Founded in 1983, this organization stands as one of the first indigenous child welfare agencies in Canada. Its Board of Directors is comprised of the thirteen (13) Chiefs from the Nova Scotia Mi'kmaw First Nations, a representative from the Native Women's Association of Nova Scotia and the Grand Chief of the Mi'kmaq Grand Council. Mi'kmaw Family and Children's Services is formally established through a Tripartite Agreement with INAC, the Province of Nova Scotia Department of Community Services and the Nova Scotia First Nations as signatories.<sup>61</sup> Further, Mi'kmaw Family and Children's Services has an agreement with the Province of Nova Scotia that any Mi'kmaq or other First Nation, Inuit or Métis child or family in Nova Scotia in need of this agency's services will be referred to them.<sup>62</sup>

#### *Family Group Conferencing: What is it?*

Family conferencing embraces the principle of inclusion and shared leadership through consensus decision-making. It offers a model of service delivery that promotes family empowerment and self-reliance. The family system, once mobilized, is more powerful than professional services. It is the participation process that makes the plan created by the family come alive as a personal reality. Family members will then commit themselves and act on making their shared vision a reality.<sup>63</sup>

FGC brings together a child's extended family, his or her primary caregivers and other key people as identified by the client: Chief of the community, an Elder or a member of the clergy (e.g., a priest), for example. The responsibility for the resolution of the 'child welfare situation' rests with the family and community while the child and family service agency serves to

facilitate the process. When courts are involved, it is sometimes required that they endorse the outcome. Typically, FGC is described in six phases which are as follows:

1. **Pre-conference preparation:** Dialogue with the client and other participants, determining who the participants will be and explaining the process;
2. **Opening ceremonies:** introductions, a prayer, smudge or practice customarily used by the respective indigenous group and establishing the ground rules;
3. **Sharing information about the situation,** dialogue regarding the issues and exploration of courses of action'
4. **Family caucus:** family members may meet and decide on the course of action without social workers and other professionals present;
5. **Reporting back:** the agreement from Phase 4 is reported back to the group, responsibilities and timeframes are agreed to and the required agency approval is granted; and
6. **Follow up meetings:** monitoring of agreement implementation and changes to the plan as needed.<sup>64</sup>

FGC is different than conventional child welfare approaches to 'case conferencing' which are characterized by social workers and other professionals meeting with clients (e.g., the child and primary caregivers), case conferences attended by professional staff, engaging in court proceedings with lawyers or implementing court-mandated decisions or agreements.<sup>65</sup>

During its earlier years, the challenges experienced by Mi'kmaw Child and Family Services to provide a different approach to child welfare were attributed to the federal funding formula which focused on maintenance rather than prevention.<sup>66</sup> Indian and Northern Affairs Canada (INAC) provides most of its funding while this agency is also recognized under the authority of the Province of Nova Scotia and its child welfare funding. As of 2006, MCFS was transitioning to a 'block funding' arrangement which will allow the agency to allocate more of its budget to prevention measures aimed to strengthen families of which the *family group conferencing* model is one such approach.<sup>67</sup>

Preliminary evaluation findings suggest that FGC is promising for indigenous children and families who are dealing with child welfare issues. Short term outcomes are positive. While MCFS is continuing its evaluation research, the agency is satisfied with the outcomes of its

initial implementation.<sup>68</sup> FGC is therefore seen as holding promise for addressing causal factors of over-representation by restoring the power of decision making to the families themselves.

*Canadian Human Rights Tribunal on Child Welfare: Another Approach Holding Promise for Addressing Causal Factors*

Significant changes to the Indian and Northern Affairs Canada funding program for ‘Indian’ child welfare are viewed by national organizations such as the First Nations Child and Family Caring Society (FNCFCS)<sup>m</sup> and the Assembly of First Nations (AFN)<sup>n</sup> to be vital to the reduction of over representation of First Nations children<sup>o</sup> in child welfare systems in Canada. After ten years of negotiations with the federal government failed to address the chronic inequalities for children on reserves, in 2007, the FNCFCS and the AFN filed a complaint under the Canadian Human Rights Act, “alleging that chronic under-funding of First Nations child and family service agencies amounts to discriminatory treatment of First Nations children”.<sup>69</sup> More specifically, the FNCFCS and the AFN are alleging that Canada is “racially discriminating against First Nations children and families by providing less child welfare benefit on reserves than other (Canadian) children enjoy.”<sup>70</sup> In October 2008, the Canadian Human Rights Commission agreed that it was necessary to refer the case to the Canadian Human Rights Tribunal “to conduct an inquiry into these allegations”.<sup>71</sup> Canada has not argued the case on the substantive merits but rather have raised a legal loophole related to the jurisdiction of the Canadian Human Rights Act to deal with this case. Specifically, the federal government alleges that the *Canadian Human Rights Act* only deals with discrimination related to the goods, services or accommodation. The federal government is arguing that it only funds child welfare while First Nations child and family service agencies deliver ‘services’ and because ‘funding’ is not a ‘service’, it should be immune to the *Canadian Human Rights Act*. As a final attempt to avoid a hearing on the merits, the Government of Canada put forth a motion to dismiss the complaint at the Canadian Human Rights Tribunal based upon its assertion that the FNCFCS and AFN joint complaint lies outside

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<sup>m</sup> The First Nations Child and Family Caring Society (FNCFCS) serves as the lead advocacy and research entity where Aboriginal children and families are concerned in Canada. See <http://www.fncfcs.com/> for additional information.

<sup>n</sup> The Assembly of First Nations (AFN) is the national organization representing First Nations citizens in Canada. See <http://www.afn.ca/> for additional information.

<sup>o</sup> Note that this program does not apply to Métis and Inuit children (C. Blackstock (personal communication, July 24, 2010)).

the mandate of the Canadian Human Rights Tribunal because funding is not a service within the meaning of the act.<sup>72</sup> This was heard on June 2 and 3, 2010 and to date, the Tribunal chair has reserved judgement.

Interestingly, INAC has increased funding to First Nations agencies on reserve in some regions since the complaint was filed. The newly formulated framework agreements, known as enhanced funding, will replace the outdated funding formula in Directive 20-1, the replacement of which was among the primary recommendations of the joint AFN-INAC policy review undertaken in 2000.<sup>73</sup> The roll out of the new funding designated for family support and enhancement services “with an expectation that this will lead to a reduction of children in care and future cost savings to government” is not without criticism. In 2008 the Auditor General of Canada characterised enhanced funding as inequitable incorporating some of the flaws of Directive 20-1. In 2009, the House of Commons Public Accounts Committee strongly criticized INAC for the ‘piecemeal’ approach it was taking citing that each region of the country had shown evidence of immediate need. INAC’s own evaluation of the implementation of enhanced funding in Alberta in 2010 confirms there are significant concerns with the program. At the time this report was written, Saskatchewan Indian Child and Family Service Agencies have received this funding.<sup>74</sup>

The more than 600 pages of evidence supporting the human rights complaint has been compiled by the complainants and other interested parties referencing the evidence in the following pertinent documents:

(1) Office of the Auditor General of Canada. (2008, May). Report of the Auditor General of Canada to the House of Commons: Chapter 4 First Nations Child and Family Services Program—Indian and Northern Affairs Canada. Ottawa, ON; Author. Available at [www.oag-bvg.gc.ca](http://www.oag-bvg.gc.ca)<sup>p</sup>

Although access to good child welfare services alone cannot resolve some of the problems faced by Aboriginal and First Nations children and families,

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<sup>p</sup> For this study, the Auditor General of Canada examined the First Nations Child and Family Services Program of Indian and Northern Affairs Canada (for British Columbia and all of Canada as this audit was undertaken concurrently with British Columbia). The management structure, the processes, and the federal resources used to implement the federal policy on First Nations child and family services on reserves were examined. See p. 1 of the report.

whether on or off reserves, the services are essential to protect these children from abuse or neglect. The overrepresentation of Aboriginal and First Nations children in care—and the indications that outcomes are poor—call for all parties involved in the child welfare system to find better ways of meeting these children’s needs.<sup>75</sup>

**Significant conclusions:**

- Neither the federal nor the British Columbia government sufficiently considers policy requirements when establishing levels of funding for child welfare services;<sup>76</sup>
- Aboriginal children (First Nations, Inuit and Métis) should have ‘equitable’ access to a level and quality of services comparable with those provided to other children;<sup>77</sup>
- Funding for the services needs to match the requirements of the policies and also support the delivery of services that are culturally appropriate—which is known to take more time and resources;<sup>78</sup> and
- Current funding practices do not lead to equitable funding among Aboriginal and First Nations communities.<sup>79</sup>

(2) Nico Trocmé, Barbara Fallon, Bruce MacLaurin, Joanne Daciuk, Caroline Felstiner, Tara Black, Lil Tonmyr, Cindy Blackstock, Ken Barter, Daniel Turcotte, Richard Cloutier. *Canadian Incidence Study of Reported Child Abuse and Neglect—2003: Major Findings*. Minister of Public Works and Government Services Canada, 2005. Available at <http://www.phac-aspc.gc.ca/cm-vee/csca-ecve/index-eng.php>

and

(3) Nico Trocmé, Bruce MacLaurin, Barbara Fallon, Della Knoke, Lisa Pitman, Megan McCormack, *Understanding the overrepresentation of First Nations children in Canada’s child welfare system: An analysis of the Canadian incidence study of reported child abuse and neglect (CIS-2003)*, Toronto: Centre of Excellence for Child Welfare, 2005. Available at <http://www.fncfcs.com/>

**Significant conclusions:**

- The significant overrepresentation of First Nations children in ‘substantiated’ child investigations and referrals to child welfare placement can clearly be related to the high level of caregiver, household and community risk factors.<sup>80</sup>
- *Neglect* [italics added] stands as the primary type of child maltreatment.<sup>81</sup>
- It is incumbent upon child protection authorities to place greater emphasis on factors contributing to child maltreatment: *poverty, poor housing and parental substance misuse* [italics added].<sup>82</sup>

(4) Loxley, J.; DeRiviere, L.; Prakash, T; Blackstock, C.; Wien, F. & Thomas Prokop, S. (2005). *Wen:de The Journey Continues, The National Policy Review on First Nations Child and Family*



*Services Research Project: Phase Three (1<sup>st</sup> Edition)*. Ottawa, ON: First Nations Child & Family Caring Society of Canada. Available at <http://www.fncfcs.com/>

**Significant conclusions:**

- Further resources are needed for culturally-appropriate care which is equitable and meets children's and families' needs;
- Further resources are needed for preventative and least disruptive measures (i.e., providing families with the essential tools to care for their children); and
- Under funding was apparent across current formula components: 'situations where funds in one area are cut back and redirected to other funding streams in child and family services should be avoided'.<sup>83</sup>

Why then has the phenomenon of under or misdirected funding for reserve-based Indian Child and Family Service agencies and more specifically prevention initiatives been raised in this report for the Saskatchewan provincial Child Welfare Review Panel? The answer to this question lies in additional research which would examine the not only 'migratory' patterns of Saskatchewan's First Nations children and families but the degree to which movement into and between reserve and non-reserve settings is motivated by the lack of or poor housing on reserve, violence against women, unemployment and other effects of poverty. Further the cultural relationship between reserve and non-reserve (i.e., urban and rural) based communities would need to be described by examining the participation in and nature of traditional healing ceremonies, culturally-based wellness practices, the location of traditional cultural occasions such as Sun Dances and round dances along with the reasons for and frequency of travel between reserve and non-reserve based communities by families with children and youth. Further, if this has not already been done, data which documents the intersection between Saskatchewan Ministry of Social Services Family and Children's services agencies and reserve-based Indian Child and Family Service agencies would need to be examined to inform the possibilities of partnership-based approaches to child and family service program development, information sharing and other policy driven forms of collaboration.

**Conclusions**

Consistent with national data patterns, Aboriginal children in Saskatchewan are dramatically over represented in the child welfare system although the reasons for this over representation are not well understood and further research is needed. If the evidence from national studies also applies to Saskatchewan, then the over representation could be explained by neglect which is fuelled by poverty, inadequate housing and substance misuse. Statistics for Saskatchewan show that poverty levels for First Nations are higher for those people residing on reserve than off reserve and that First Nations are more likely to live in inadequate housing than other Aboriginal or non-Aboriginal persons. In addition, while reliable incidence rates of substance misuse among Aboriginal and non-Aboriginal persons in Saskatchewan was not available, the Federation of Saskatchewan Indian Nations cites it as a substantial driver of child welfare neglect reports.

The historical context for over representation in Saskatchewan is one shared with other First Nations in Canada—namely the Indian residential school system which deprived indigenous children of parental and extended family role models and childhood experiences during which indigenous languages and the richness of cultural life should have been learned. It therefore stands to reason that promising practices are sourced in culturally-based and relevant entities which are championed by community leaders, some of whom have had experience with the child welfare system. The *Touchstones of Hope* offer the values and principles which can guide transformative approaches to Aboriginal child welfare. The Touchstones have been explicitly and implicitly adopted by several indigenous agencies as were highlighted earlier in this report. As the over representation of Aboriginal children in child welfare persists and we must start somewhere again; the Touchstones of Hope seems to be a logical place.

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<sup>1</sup> Trocmé, N., MacLaurin, B., & Fallon, B. (2000). Canadian child welfare outcomes indicator matrix: An ecological approach to tracking service outcomes. *Journal of Aggression, Maltreatment and Trauma*, **4**(1), 165-190.

<sup>2</sup> Blackstock, C., Prakash, T., Loxley, J., & Wien, F. (2005). *Wen:de – we are coming to the light of day*. Ottawa: First Nations Child and Family Caring Society of Canada.

<sup>3</sup> Trocmé, N., Knoke, D., & Blackstock, C. (2004). Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system, *Social Service Review*, (December), 577-600.

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- <sup>4</sup> McKenzie, B. (2002). *Block funding child maintenance in First Nations child and family services: A policy review*. Unpublished paper prepared for Montreal: Kahnawake Shakotia'takenhas Community Services.
- <sup>5</sup> Trocmé, Nico; Fallon, Barbara; MacLaurin, Bruce; Daciuk, Joanne; Felstiner, Caroline; Black, Tara; Tonmyr, Lil; Blackstock, Cindy; Barter, Ken; Turcotte, Daniel; Cloutier, Richard. (2005). *Canadian Incidence Study of Reported Child Abuse and Neglect—2003: Major Findings*. Minister of Public Works and Government Services Canada. Retrieved from <http://www.phac-aspc.gc.ca/ncfv-cnivf/familyviolence/index.html>
- <sup>6</sup> Trocmé, N., MacLaurin, B., Fallon, B. Daciuk, J. Billingsley, D., Tourigny, M., Mayer, M., Wright, J., Barter, K., Burford, G., Hornick, J., Sullivan, R., & McKenzie, B. (2001). *Canadian incidence study of reported child abuse and neglect: final report*. Ottawa, ON: Health Canada.
- <sup>7</sup> Trocmé, N., Knoke, D., & Blackstock, C. (2004). Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system, *Social Service Review*, (December), 577-600
- <sup>8</sup> Blackstock, C (2009). When everything matters: comparing the experiences of First Nations and non-Aboriginal children removed from their families in Nova Scotia from 2003-2005. Doctoral dissertation. Toronto: University of Toronto.
- <sup>9</sup> Blackstock, C (2009). When everything matters: comparing the experiences of First Nations and non-Aboriginal children removed from their families in Nova Scotia from 2003-2005. Doctoral dissertation. Toronto: University of Toronto.
- <sup>10</sup> Statistics Canada (2006). *2006 Census: Analysis series: Aboriginal Peoples of Canada: A demographic profile*. Ottawa: Statistics Canada.
- <sup>11</sup> Elliot and Monitor 2009
- <sup>12</sup> Dickason, Olive Patricia. (1997). *Canada's First Nations: A History of Founding Peoples from Earliest Times (Second Edition)*. Toronto: Oxford University Press.
- <sup>13</sup> Milloy, John S. (1999). *A National Crime: The Canadian Government and the Residential School System 1879-1986*. Winnipeg, Manitoba: The University of Manitoba Press.
- <sup>14</sup> See p. xv in Milloy, John S. (1999). *A National Crime: The Canadian Government and the Residential School System 1879-1986*. Winnipeg, Manitoba: The University of Manitoba Press.
- <sup>15</sup> See p. 66 in Cairns, Alan C. (2000). *Citizens Plus: Aboriginal Peoples and the Canadian State*. Vancouver & Toronto: UBC Press.
- <sup>16</sup> Curry, Bill and Karen Howlett. (2010, March 12). Natives died in droves as Ottawa ignored warnings. *The Globe and Mail*, Retrieved July 24, 2010 from <http://www.theglobeandmail.com/news/politics/natives-died-in-droves-as-ottawa-ignored-warnings/article754798/>
- <sup>17</sup> Trocmé, N., Blackstock, C., & Knoke, D. (2004). Pathways to the overrepresentation of Aboriginal children in Canada's child welfare system. *Social Service Review*, Dec, 577-600.
- <sup>18</sup> Gough, Pamela; Blackstock, Cindy and Nicholas Bala. (2005). Jurisdiction and funding models for Aboriginal child and family service agencies. (Issue Brief # 30E). Ottawa, ON: Centre for Excellence for Child Welfare. Retrieved on July 3, 2010 from [www.cecw-cepb.ca](http://www.cecw-cepb.ca)
- <sup>19</sup> C. Blackstock (personal communication, July 24, 2010)
- <sup>20</sup> C. Blackstock (personal communication, July 24, 2010)
- <sup>21</sup> See p. 72 of Nico Trocmé, Bruce MacLaurin, Barbara Fallon, Della Knoke, Lisa Pitman, Megan McCormack, *Understanding the overrepresentation of First Nations children in Canada's child welfare system: An analysis of the Canadian incidence study of reported child abuse and neglect (CIS-2003)*, Toronto: Centre of Excellence for Child Welfare, 2005. Available at <http://www.fncfcs.com/>
- <sup>22</sup> See p. 72 of Nico Trocmé, Bruce MacLaurin, Barbara Fallon, Della Knoke, Lisa Pitman, Megan McCormack, *Understanding the overrepresentation of First Nations children in Canada's child welfare system: An analysis of the Canadian incidence study of reported child abuse and neglect (CIS-2003)*, Toronto: Centre of Excellence for Child Welfare, 2005. Available at <http://www.fncfcs.com/>
- <sup>23</sup> See p. 72 of Nico Trocmé, Bruce MacLaurin, Barbara Fallon, Della Knoke, Lisa Pitman, Megan McCormack, *Understanding the overrepresentation of First Nations children in Canada's child welfare system: An analysis of the Canadian incidence study of reported child abuse and neglect (CIS-2003)*, Toronto: Centre of Excellence for Child Welfare, 2005. Available at <http://www.fncfcs.com/>
- <sup>24</sup> C. Blackstock (personal communication, July 24, 2010)

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- <sup>25</sup> Definition posted at [http://en.wikipedia.org/wiki/Social\\_determinants\\_of\\_health](http://en.wikipedia.org/wiki/Social_determinants_of_health)
- <sup>26</sup> Reading, Jeffrey L.; Kmetz, Andrew and Gideon, Valerie. (2007, April). *First Nations Wholistic Policy and Planning Model: Discussion Paper for the World Health Organization Commission on Social Determinants of Health*. Ottawa, ON: Assembly of First Nations.
- <sup>27</sup> Chandler, M.J. & Lalonde, C. (1998). Cultural continuity as hedge against suicide in Canada's First Nations. *Transcultural Psychiatry*, 35, 191-219.
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