



“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING
THE EXPERIENCES AND
REFLECTIONS OF ABORIGINAL
MOTHERS INVOLVED WITH
CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD
PROTECTION MATTERS

A project report prepared for Ka
Ni Kanichihk Inc. and the Steering
Committee of the Family Court
Diversion Project
Winnipeg, Manitoba

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report was funded by Status of Women
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Family Caring Society of Canada Inc.

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DEDICATION:

This study is dedicated to all the women who gave of their time and energy to fill out the personal information form and participated in the talking circles and interview components of this study. Your strong voices, stories and shared experiences have taught us many things about your personal strengths through which we have come to understand, with greater reverence, the sacredness of motherhood and the rights of all Aboriginal mothers and grandmothers to transmit their love and cultural knowledge to their children and subsequent generations of children.

The conclusions and recommendations are those of the author and research team. No official endorsement by federal or provincial departments or First Nations organizations is intended or should be implied.

Miigwetch from ...

*Marlyn Bennett, Adrienne Reason and Linda Lamirande
[the Research Team]*

This study is dedicated also to the memory of my mother Virginia Beaulieu/Roulette, who I have come to know better in spirit than when she walked this earth. The women who participated in this study have taught and helped me to understand the complexity of my own mother's life, both as an Aboriginal woman and as a mother, who struggled with child welfare many times throughout her own life before she passed into the spirit world at 32 years of age in 1976. And though she does not now walk among the living, she is still profoundly important in my life and in the lives of my siblings (as well as in the lives of her grandchildren). The memory of her courageous strengths and struggles continue to guide me (and all of us who have descended from her womb)!

Forever loving you ...

Marlyn



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This document would not have been possible without the contribution of a number of people.

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The Research Team would like to respectfully recognize that this research and resulting report took place on the lands of the First Peoples of Canada; and lastly,

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Ka Ni Kanichihk Inc. is a registered, non-profit; community based Aboriginal human services organization governed by a council inclusive of First Nation and Métis peoples in Winnipeg. *Ka Ni Kanichihk* is committed to developing and delivering a range of programs and services that focus on wholeness and wellness and that builds on individual's assets (gifts) and resilience. *Ka Ni Kanichihk's* mandate is to provide a range of culturally relevant education, training and employment, leadership and community development, as well as healing and wellness programs and services that are rooted in the restoration and reclamation of Indigenous cultures. *Ka Ni Kanichihk* means "those who lead" in the Ininew (Cree) language.

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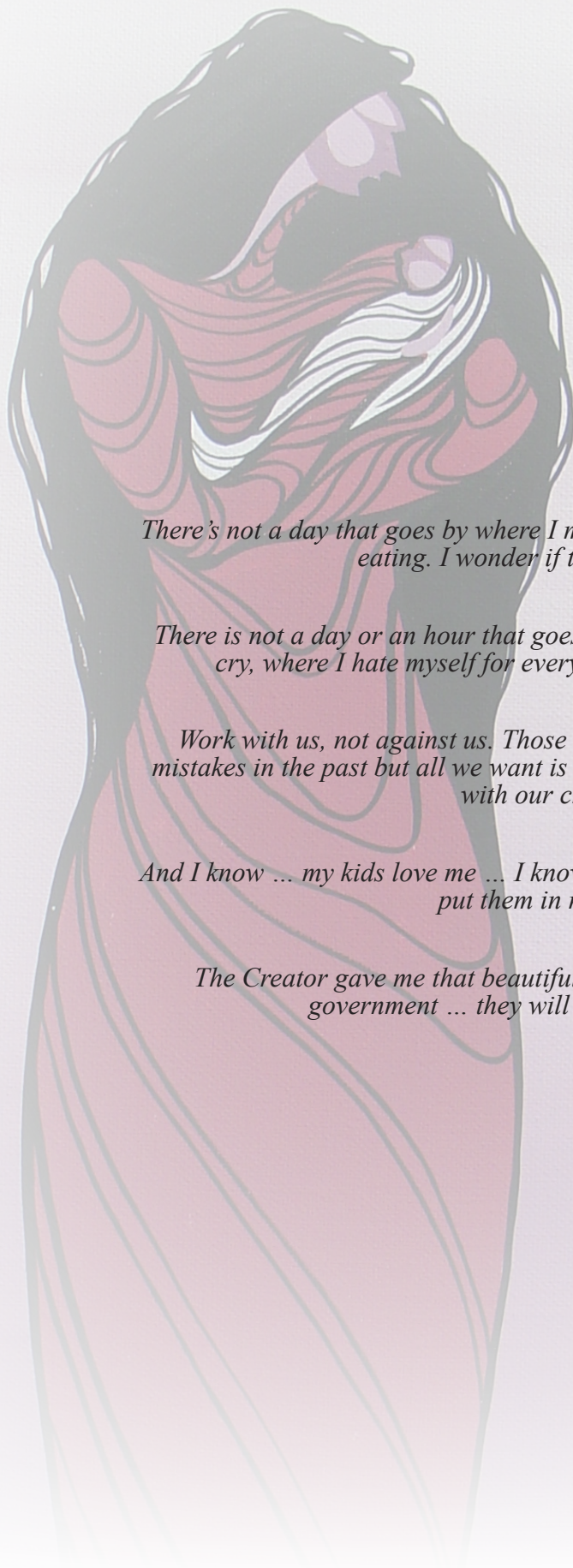
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There's not a day that goes by where I miss my children. I wonder if they are eating. I wonder if they are happy ...

There is not a day or an hour that goes by where I beat myself up, where I cry, where I hate myself for every wrong thing I did to my kids.

Work with us, not against us. Those are our children. We made all the mistakes in the past but all we want is our children ... to love and grow up with our children.

And I know ... my kids love me ... I know those are my children. The Creator put them in my womb.

The Creator gave me that beautiful child. The foster moms and the government ... they will never take that away.

Reflections from an Aboriginal Mother

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

ABSTRACT

In recent years, courts have increasingly moved toward the implementation of alternative responses for non violent crimes such as mediation, diversion, restorative practices and sentencing circles before considering the justice system. Unfortunately, the child welfare system has not instituted these same types of approaches despite the fact that Aboriginal women and their children are overrepresented. Alternative, non-adversarial approaches (like Family Group Conferencing for example) have been promoted within the area of family law and child welfare in other provinces and countries (for instance, the Province of British Columbia has statutory family conferencing and mediations provisions, see Section 22 of its Child & Family Services Act). However, such alternative measures and procedures unfortunately are not mandated or enshrined in Manitoba's child welfare legislation. Moreover, very little research exists regarding the Aboriginal mothers' experiences with the child welfare and court systems in Manitoba. Ka Ni Kanichihk Inc., an urban Aboriginal organization in Winnipeg undertook a review of the experiences of Aboriginal mothers involved with child welfare in Manitoba with the intent of eventually implementing alternative dispute resolutions for Aboriginal mothers. This paper describes the experiences of Aboriginal mothers and grandmothers dealing with the Manitoba child welfare system and the family courts regarding child protection matters. Jumping through hoops is a prominent perspective that emerged from Aboriginal mothers' stories and reflections about their experiences with child welfare and legal systems. Specifically, the paper provides a demographic overview of the mothers and grandmothers involved in this study and ends with a number of solutions identified by the mothers and grandmothers about how the child welfare and family court systems can be improved to work better for Aboriginal women and children. The research method draws upon interviews and talking circles that were conducted with Aboriginal women, and interviews conducted with community advocates and lawyers during the months of March to June 2007.

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EXECUTIVE SUMMARY

CHAPTER ONE:

PROJECT OVERVIEW

The Family Court Diversion Project was designed to examine the experiences of Aboriginal mothers involved with the child welfare and legal system. The objective of the FCDP is to inform efforts to provide alternative pathways for Aboriginal families to resolve child protection matters outside of court intervention in child protection matters. The project was sponsored by Ka Ni Kanichihk Inc. and received funding (from 2005-2007) from the Status of Women Canada in 2005-2007.

A steering committee comprised of various organizational peers from community based organizations and stakeholders within Manitoba oversaw the activities related to this study. In addition to the sponsoring organization (Ka Ni Kanichihk), the steering committee included representatives from: Manitoba Justice, Child and Family Services authorities, the legal profession, child health/social work, relevant university faculties, Manitoba women's organizations, and related community organizations such as women's shelters and an experiential mother.

This project describes the experiences of Aboriginal mothers regarding encounters with child welfare and the family courts in Manitoba respecting child protection interventions. This research project specifically addresses knowledge gaps around the process and outcomes of Aboriginal women's experiences and involvement with the child welfare system.

The research questions for this study were:

- To describe and analyze the experiences of Métis, First Nations, Inuit and other Aboriginal women who are or have been involved in child welfare/protection cases before the courts in Manitoba.
- To examine the experience and understanding of service providers and other advocates

working with Métis, First Nations, Inuit and other Aboriginal women involved in child welfare/ protection cases in the courts in Manitoba.

- To examine the experience of lawyers tasked with representing Métis, First Nations, Inuit and other Aboriginal women involved in child welfare/ protection case before the courts in Manitoba.
- To seek ideas and suggested solutions to inform less adversarial and intrusive approaches to deal with child protection matters involving Métis, First Nations, Inuit and other Aboriginal women and children.

This research takes a phenomenological approach to understanding the lived experience and perceptions about child welfare and legal systems experiences through the personal lens of Aboriginal mothers and grandmothers. Phenomenology is about the essential meanings individuals give to their experiences as well as the social construction of group realities. This theoretical approach focused on exploring how Aboriginal women make sense of their experiences with child welfare and legal systems and how this experience was transformed into consciousness, from both individual and shared meanings. To gather such data, one must undertake in-depth interviews with people who have directly experienced the phenomenon of interest; that is, they have a “lived experience” as opposed to second hand experience.

This research was undertaken using qualitative approaches in its fact finding. A variety of methods were used to collect data to help understand Aboriginal mothers' experiences, including:

- a. Conducting a literature review;
- b. Creation of a survey based personal information form (for statistical and background information on the Métis, First Nations, Inuit and other Aboriginal women invited to participate in this study);

- c. Conducting one-on-one interviews with Aboriginal mothers who have been at risk of having, or have had, their children apprehended because of child protection concerns;
- d. Facilitating a series of non-traditional talking circles with Aboriginal women about their court and child welfare experiences.

The interviews and talking circles also centered on capturing ideas and solutions for change. Focusing on how these changes could be implemented to create greater awareness about Aboriginal mothers' experiences with the child welfare and court systems and how best to influence change in the way the child welfare system responds to Aboriginal mothers when intervening in child protection situations.

The research methods and findings draw upon interviews and talking circles that were conducted with 32 Aboriginal women, and interviews conducted with 5 community advocates and 6 lawyers during the months of March to June 2007.

This report therefore honours Aboriginal mothers' stories as data that can stand on its own as pure descriptions of experience. This report is based on stories and narratives that offer especially translucent windows into the experience of Aboriginal mothers' and their involvement and interactions with social and legal systems as constructed by those who have power over the lived experiences of Aboriginal peoples, families and communities.

CHAPTER TWO:

LITERATURE REVIEW

An extensive literature review was conducted to identify knowledge relating to the research questions. In addition to understanding Aboriginal mothers' experiences and the context of their lives, the review canvassed literature on alternative responses to child protection/child welfare dispositions and the role of legal representation for Aboriginal mothers in child protection cases before the courts. The review looked specifically at the role of alternative dispute mechanisms used in the child welfare context in addition to mediation and Family Group Conferencing. The literature reviewed for this chapter is organized into the following seven (7) themes:

- The Context of Aboriginal women's Lives;
- Child Welfare and Family Court Experiences of Aboriginal Women in Canada;

- Alternative Forms of Dispute Resolutions in the Child Welfare Context;
- Mediation in Child Protection Cases;
- Family Group Conferencing and Family Group Decision Making in Child Protection;
- Access to Legal Counsel; and
- Shifting Services to Reflect Alternative Response Models

The section reviewing the context of Aboriginal women's in the first part of this chapter focuses on six specific issues that many Aboriginal mothers face. This section provides a framework for understanding the extent and the complexity of Aboriginal mothers' lives and their experiences with the child welfare and court systems within Canada today. These include:

- Impact of colonization, culture loss and marginalization of Aboriginal Women;
- Higher rates of Aboriginal mother led families;
- Poverty;
- Drug and alcohol misuse/abuse;
- Domestic violence; and
- Housing/mobility issues.

CHAPTER THREE:

DEMOGRAPHIC CHARACTERISTICS OF ABORIGINAL MOTHERS/ GRANDMOTHERS INVOLVED IN THIS STUDY

Chapter three focuses on the statistical demographic characteristics of the Aboriginal women who participated in this study. The instrument developed for collecting this information was called the "Personal Information Form." While this form is characterized as personal, it did not include any identifying information such as name, address or phone numbers but rather collects information on characteristics such as Aboriginal women's marital status, Aboriginal community identification, number of children, age ranges, income levels, etc. The document was 8 pages in length and was comprised of 39 questions. The personal information form was completed by all the mothers/grandmothers prior to being interviewed or participating in each of the 3 talking circles.

Generally it can be concluded that many of the Aboriginal mothers participating in this study were in their middle years with the majority being in the 41-50 age range. This means that many of the women,

in addition to being mothers also identified as being grandmothers. A larger sampling of First Nations versus Métis and non-status Aboriginal women participated. The women reported a strong affiliation with their Aboriginal cultural identity indicating that for the most part their Aboriginal culture fully shapes their identity. The majority of the women identified growing up with their birth families but it was also recognized that many reported growing up in a multitude of family arrangements from adoption to foster care to step-family arrangements. Many women indicated that their families were impacted by the abuses in Residential School. Participants spoke primarily English with a small percentage reporting the ability to speak an Aboriginal language.

Of curious note is the finding that a large percentage of the women participating in the study were university educated although there is no indication at what stage they are at in their education as this was not investigated. Over half of the women reported being single parents or single parents living without partners. The majority of the participants who participated in this study live in Winnipeg.

The women reported having an average size family of two children although the majority reported having larger families ranging in sizes from 3 to 7 children. Most of the women did not characterize their children as having any health or disability issues although a few acknowledge their children were diagnosed with special needs and recognized that this might be a concern.

Over half of the mothers/grandmothers stated they were involved with child welfare as children and youth. The majority of the mothers/grandmothers relied upon Legal Aid lawyers to help them with their children protection matters.

The economic factors illustrate that many of the women, despite the higher percentage of university educated women, were living and raising children with an income under \$20,000 per annum. They are underemployed and rely primarily upon public transportation to get around. Many report having had difficulty finding housing and making ends meet.

Participants courageously reported struggling with addiction issues at some point in their lives and as a result were involved in a numerous parenting and community based programming to satisfy child and family services expectations. The women report using various community based resources that serve primarily Aboriginal peoples.

Recruitment efforts proved to be quite successful with the majority of the women reporting that they had

heard about the study from seeing the recruitment poster or through friends and learning about the study from program advocates or through social workers involved with their families.

Lastly, the demographic data from this study needs to be interpreted with caution. The tabulated results from the Personal Information Form may be susceptible to misinterpretation. The data, therefore, does not indicate or represent a true demographic picture for all Aboriginal women within the Province. Instead, the information needs to be viewed as "being a snapshot of the demographics of the Aboriginal mothers and grandmothers who chose to participate in this particular study" and is provided to bring background contextual understanding to the collective experiences of these specific participants.

CHAPTER FOUR:

VOICES AND PERSPECTIVES OF ABORIGINAL MOTHERS AND GRANDMOTHERS

Over the course of four months during the spring and summer of 2007, the Research Team interviewed thirty-two mothers, who reported being involved with the child welfare system in Manitoba at some point in their lives. The interviews took place in many different settings. Members of the Research Team met mothers in their homes or the mothers met with the members of the Research Team at their offices or they met at neutral and safe locations within the community where the mother resided. The interviews took place in Winnipeg and in The Pas, Manitoba. In addition, three Talking Circles were held with a small collective of Aboriginal mothers in both Winnipeg and in The Pas, Manitoba. We developed an open ended questionnaire with a number of questions as a guide to prompt Aboriginal mothers and grandmothers in telling their stories of being engaged with child and family service agencies and frontline social work staff.

This chapter focuses on what mothers and grandmothers shared with the Research Team. The voices, perspectives, emotions and experience of Aboriginal mothers/grandmothers are the heart and soul of this document. The chapter is organized in a unique way in that the voices and the perspectives of the Aboriginal mothers take center stage. It is important to note that researchers did not validate the views presented by the women but simply accepted them in their own voice. The interviews and talking circles conducted for this study yielded almost 500 pages of text once they were transcribed.

The transcripts of these interviews and talking circles abound with rich narratives and dialogue that occurred between members of the Research Team and the mothers and grandmothers in this study. The purpose of laying out the data in this way is to ensure that readers get a sense of what the mothers in this study had to say about their experiences and their state of mind in reflecting back on these experiences. In doing so, the perspective of the researcher has been minimized while the individual and collective voices of the mothers in this study have been amplified. This narrative approach obliges readers to hear and listen to the voices and perspectives of Aboriginal mothers.

The transcript of Aboriginal mothers/grandmothers' narrative accounts of their experience with child welfare was organized into six specific themes areas. Some of the themes also included related subthemes. The themes and subthemes identified in this chapter are organized as follows:

- How mothers came into contact with child welfare;
 - through self-referral
 - through reports made by others
 - through other system referrals
- Understanding the background context of mothers/grandmothers lives;
- Experiences with the child welfare system;
- treatment experienced by child welfare staff and supervisors
 - Aboriginal social workers
 - racism
 - importance of culture
 - false accusations
 - monitoring by CFS
 - triggering anger
 - bringing witnesses to meetings
 - child welfare expectations and programming
 - visitation arrangements
 - impact on removal of children
- Mothers/Grandmothers Emotional Insights;
 - acknowledging mistakes
 - emotions
 - how mothers coped with intervention
- The experience with Legal Aid and lawyers;
 - lack of awareness regarding rights
 - negative and positive perspectives about their lawyers

- courtroom impressions and experiences
- lack of courtroom supports and advocates
- Knowledge of alternative dispute resolutions.

CHAPTER FIVE:

ADVOCATES' PERSPECTIVES ON THE EXPERIENCES OF ABORIGINAL MOTHERS AND GRANDMOTHERS

This chapter highlights the perspectives and experiences of community advocates who worked with Aboriginal mothers involved with child and family service agencies. Five advocates were interviewed during the summer and early fall of 2007. The Research Team developed an open ended questionnaire with a number of questions as a guide to help the team understand the issues and barriers experienced by advocates in helping Aboriginal mothers and grandmothers dealing with child and family service agencies and frontline staff. A copy of the questions posed to the advocates is in Appendix H. This small group of advocates each had upwards of 18+ years of experience working with families including Aboriginal mothers and grandmothers in dealing with child welfare staff and Legal Aid lawyers where child protection issues were present. As with the Aboriginal women, the views presented here were not validated but simply accepted as presented. Once again, we have drawn extensively from their narratives in bringing to life the views and perspectives of the individuals who act as liaisons between Aboriginal mothers and grandmothers and the child welfare and legal systems.

The transcript of advocates narrative accounts of their experience helping Aboriginal mothers involved with child welfare was organized into ---- specific themes areas. The themes identified in this chapter were organized in the following manner:

- Understanding the issues;
- Accessing supports and program resources;
- Reflecting on culture;
- Lawyers, language and courts;
- Implementing alternative solutions;

CHAPTER SIX:

LAWYERS’ PERSPECTIVES ON REPRESENTING ABORIGINAL MOTHERS AND GRANDMOTHERS

This chapter focuses on interviews conducted with six lawyers working in either private practice or under contract through Legal Aid respecting their understanding of the child protection issues facing Aboriginal mothers and/or grandmothers using an open ended questionnaire (see Appendix E). Given the workload and busy schedules of these lawyers, the interviews conducted were relatively short allowing the researcher to capture only general perspectives on various issues and concerns that stand out in the cases where the lawyers have legally represented Aboriginal mothers and grandmothers in child protection cases before the courts.

From a review of the written transcripts of their interviews, we have been able to draw generously from their experiences and as a result quote extensively from their comments. Their perspectives provide insight into some of the challenges faced by both Aboriginal mothers/grandmothers and their legal representatives when involved in child protection matters. Given the lawyers’ own schedule constraints, the timeframes of the project and the amount of time allotted for the interviews, many of the lawyers pointed out there was just not enough time in which to cover all aspects of the complexities of the issues they face in representing mothers in child protection cases.

Although the lawyers provide valuable comments which could inform policy and practice the small sample size means their feedback cannot be interpreted as being representative of the population of child protection lawyers in Manitoba.

The participating lawyers each had upwards of 20+ individual years of experience working in family practice primarily with child protection cases. Through a review of the transcript of the lawyers’ narrative accounts of their experience representing Aboriginal mothers/grandmothers in child protection was organized into seven themes. These themes are identified as follows:

- Overrepresentation and systematic biases;
- Navigating and understanding child welfare and legal processes;
- Legal aid challenges;
- Accessing resources;

- The role of courts in child protection cases;
- Knowledge of alternative dispute resolutions in child welfare; and
- Ideas, suggestions and solutions for change.

CHAPTER SEVEN:

MOTHERS AND GRANDMOTHERS RECOMMENDATIONS AND SOLUTIONS FOR CHANGE

This study gave Aboriginal mothers an opportunity to voice their experiences and to suggest simple changes and solutions for helping mothers understand the child welfare system. In Chapter 7 the following recommendations were formulated from a combination of responses provided by the mothers during the talking circles and interviews augmented by the research teams’ observations, analyses of the findings and knowledge of the child welfare system. There are 7 recommendations in all.

1. Development of an Aboriginal Mothers’ Advocates Office/Institute: This would involve the development of a formal organization to assist Aboriginal mothers navigate all the aspects and complexities of the new child welfare system in the Province of Manitoba.
2. Establishment of Training Program for the Aboriginal Mothers’ Advocates: The Aboriginal Mother’s Advocates Office would, in addition to other purposes, be responsible for training Aboriginal mothers to become advocates for the proposed Aboriginal Mothers’ Advocates Office. It was suggested by the mothers in this study that advocates be mothers who have intimate knowledge and experience dealing with the child welfare and legal systems.
3. Development of a Child Welfare Manual on Understanding the Child Welfare and Legal Systems: Development of a manual outlining what Aboriginal mother’s can expect in terms of the child welfare/court processes including: 1) time lines; 2) user friendly terms and definitions; 3) information on the legal process; 4) information on how to access legal counsel; and 5) information on access to programs and treatment resources for Aboriginal mothers involved with the child welfare system.
4. Development of Mothers’ Support Groups: Development of support groups for Aboriginal mothers/grandmothers involved with the child

welfare system. These support groups would meet monthly and act as an information and support forum for women to meet and learn from other women with similar experiences.

5. Courtroom Advocates: Other than lawyers, the mothers in this study suggested that in addition to the Aboriginal Mother Advocates and lawyers, close family, friends and other supporters should be allowed into courtrooms.
6. Development of a Website: The website would include information about the Aboriginal Mother's Advocates Office, courtroom advocates, training opportunities, calendar of activities for the support groups and a listing the resources, programs and treatment options available to Aboriginal mothers/grandmothers within the Province of Manitoba. A listing and link to the contact information of lawyers who specialize in child welfare matters should also be included.
7. Development of Anthology of Aboriginal mothers/grandmothers' Stories and Experiences: There are very few resources that celebrate what it means to be an Aboriginal mother and grandmother. The last recommendation would see the creation of a book that focuses on providing Aboriginal mothers and grandmothers with a chance to share stories from their perspectives on mothering.

The economic and logistical feasibility of these recommendations need to be explored. These recommendations appear to be fairly easy to carry out in subsequent phases of this study. Lastly, it was suggested that as many experiential Aboriginal mothers as possible should be involved in exploring, developing and implementing these recommendations to ensure Aboriginal mothers feel consulted, empowered and given the opportunity to be a part of the solutions and changes for the empowerment of all Aboriginal mothers, grandmothers and their children and grandchildren. Elders must also be involved at every stage of developing these recommendations. As a last suggestion, Aboriginal mentors and Elders must be involved to assist mothers and grandmothers carry out and bring to life the seven recommendations.

CHAPTER EIGHT:

CLOSING REFLECTIONS, NEXT STEPS AND CONCLUSION

The Research Team focused and reflected on specific aspects that became evident during and

after the conclusion of the project. The next steps associated with this project are discussed followed by a conclusion reflecting on the need to protect and recognize the contributions of Aboriginal mothers to the Aboriginal populations and to social fabric of Canadian society at large.

Why is this research important? A just society is measured by the way it treats its citizens. The voices of these mothers and the narratives about their experiences with the child welfare system within Manitoba has been missing for far too long from the literature and the book shelves of our child welfare authorities and higher learning institutions – these preliminary findings contribute to evidentiary research that can help child welfare administrators, policy makers, front line staff and funders assess and tailor their services towards developing more conscientious services that will engage Aboriginal mothers, children and families in a more participatory manner that ensures cultural appropriateness and respect for human experiences. Aboriginal child welfare agencies in particular must not forget their roots and the role of cultural values and principles in carrying out their protection mandates.

Child welfare, especially in the context of Aboriginal child welfare, cannot be complicit in continuing to ignore the rights of Aboriginal parents because to do so, they are ignoring the rights of Aboriginal children. Children do not come into and exist in the world all by themselves. We only have to look at the experiences of children who went through the Residential School system to understand the gravity of importance that Aboriginal mothers present for the wellbeing of their children and successive generations. The residential school system ripped children from the bosoms of their mothers, fathers and successive generations of children have never been the same. Countless generations of Aboriginal families have not grown to be as spiritual, intellectual, emotional and as physically healthy as the Creator intended when the gift of children were bestowed on Aboriginal nations.

The importance and sacredness of mothers as life givers was lost to our cultures and through the process of assimilation, subjugation and marginalization the importance and sacredness of Aboriginal motherhood was diminished. It is time that we honour our mothers again to help them get back to understanding, feeling and experiencing the true beauty and sacredness of their roles and contributions to humanity, the world and more importantly to their own cultural nations despite their human frailties. It is the right and just thing to do. And yes, there are times that children must

be protected but mothers need to be protected too so that they learn over the course of their lives how better to protect and keep safe the children they brought into this world. It is difficult to understand how to do this when mothers are not allowed to experience success as a mother when her children are taken away from home by the state. But more importantly, we need to ensure that fathers understand too the importance of their role and participation in the lives of the children they helped create. Aboriginal mothers should not have to shoulder the responsibility of raising children and dealing with the child welfare system all by themselves as the majority of Aboriginal mothers currently are left to do. The burden of dealing with child welfare must be shared and it is hoped that governments will recognize that only when Aboriginal mothers, fathers, families and communities are given adequate resources for health, education, housing, respite and supports will we see healthier and safer Aboriginal children. Healthier and safer Aboriginal children after all eventually grow to be nurturing, conscientious parents. In the process of protecting Aboriginal children we must ensure that the sacredness and essential importance of Aboriginal motherhood continues to be transmitted from generation to generation. There is much work yet to be done to make Manitoba's child protection and court systems less adversarial, more inclusive, humane and democratic as well as respectful of the diversity of Aboriginal women's perspectives, experiences and worldviews.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 1: PROJECT OVERVIEW

INTRODUCTION

The Family Court Diversion Project was designed to examine the experiences of Aboriginal¹ mothers involved with the child welfare and legal system. The objective of the FCDP is to inform efforts to provide alternative pathways for Aboriginal families to resolve child protection matters outside of court intervention in child protection matters. The project was sponsored by Ka Ni Kanichihk Inc. and received funding (from 2005-2007) from the Status of Women Canada in 2005-2007.

STUDY RATIONALE

In recent years there has been increasing movement toward the implementation of alternative culturally relevant responses such as mediation, diversion, restorative practices and sentencing circles for non-violent crimes before the justice system.

These same initiatives were not been instituted in the area of child protection law. Although Aboriginal women and their children are overrepresented, few are diverted from experiencing the adversarial nature inherent in child protection cases before the courts.

Alternative, non-adversarial approaches, like Family Group Conferencing for example, are promoted within the area of family law and child welfare in other parts of the world including within Canada (for instance, the Province of British Columbia has statutory family conferencing and mediations provisions, see Section 22 of its Child & Family Services Act).

Such alternatives have not been implemented in Manitoba's child welfare legislation. Very little research exists regarding the experiences of Aboriginal mothers

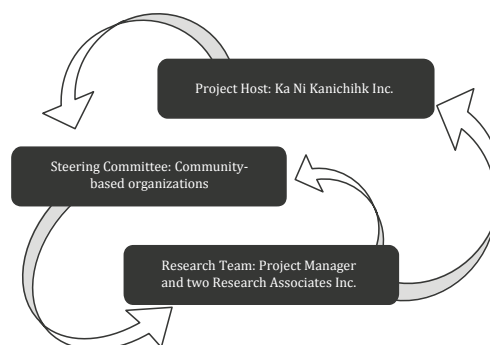
with the child welfare and court systems in regards to child protection matters, especially in Manitoba. Ka Ni Kanichihk Inc. undertook to examine the experiences of Aboriginal mothers involved in child welfare with the intent of eventually creating and implementing alternative dispute resolutions for Aboriginal mothers involved in child welfare within the province of Manitoba and to influence legislative changes to ensure a move in this direction.

This project seeks to fill a gap in the research on the experiences of Aboriginal mothers regarding encounters with child welfare and the family courts within Manitoba on the issue and impact of child protection intervention.

PROJECT TEAM MEMBERS

The team involved in this study is comprised of three groups:

- Project Host: Ka Ni Kanichihk
- Steering Committee: Community-based organizations and stakeholders
- Research Team: Project manager/lead investigator and two research associates



¹ The term 'Aboriginal' encompasses a broad definition. The Constitution Act of 1982 defines Aboriginal people as Indians, Inuit, and Métis. As the term is commonly used today, however, Aboriginal includes people with registered and nonregistered Indian Status, Inuit, and Métis" (Gough, Blackstock & Bala, 2005). Readers will also note that words such as 'Aboriginal,' 'First Nations,' 'Native,' and/or 'Indigenous' have been capitalized throughout this report. Many Aboriginal peoples and scholars (for instance Isaac, 1999) both in Canada and internationally argue that such words should be capitalized when referring to specific Aboriginal groups of people, in much the same way that reference to groups such as the 'English' and/or 'French' are capitalized. This report adheres to that perspective and hence the capitalization of those words throughout this report (Bennett and Blackstock, 2006).

PROJECT HOST:

KA NI KANICHIHK INC.

Ka Ni Kanichihk, Inc. means "Those who Lead." Ka Ni Kanichihk is a registered, non-profit; community based Aboriginal human services organization. This organization is governed by a council inclusive of First Nation and Métis peoples in Manitoba. Ka Ni Kanichihk is mandated to provide Aboriginal identified programs and services that focus on wholeness and wellness and that build on the strengths and resilience of Aboriginal peoples. Ka Ni Kanichihk provides culturally relevant education, training and employment, leadership and community development, and healing and wellness programs and services that are rooted in the restoration and reclamation of cultures. Ka Ni Kanichihk Inc.'s vision, mission and value statements (as reproduced from their 2006-2007 Annual Report, pp.1-2) are as follows:

VISION

To honor the spirit of our ancestors and seek their wisdom to guide our peoples back to balance and wellness.

Our people have come home. We are self-determining, healthy, happy and respected for our cultural and spiritual strengths and ways of being.

MANDATE

We provide Aboriginal identified programs and services that focus on wholeness and wellness and that build on the strengths and resilience of Aboriginal peoples.

We do this to help people to help themselves, to build healthy relationships and to create a sustainable future for our community.

VALUES AND BELIEFS

At Ka Ni Kanichihk we honor the laws of our Creator, the knowledge of our ancestors and our responsibility to the children; those that are here now and those still waiting to come – seven generations from now.

At Ka Ni Kanichihk we:

- Walk our Talk
- Share strength, health and wellness of Indigenous Peoples
- Provide welcoming and safe environments
- Walk in balance with strength, values and Indigenous Knowledge

- Value belonging, mastery, and generosity
- Believe in independence and interdependence
- Create relevant programming in partnership with our community

The vision, mandate and values and beliefs behind Ka Ni Kanichihk come from the Aboriginal community - women, men, elders and youth who recognized the critical need to develop greater human and capital capacity within the rapidly growing urban Aboriginal community of Winnipeg.

STEERING COMMITTEE

The steering committee is comprised of various organizational peers from community based organizations and stakeholders within Manitoba who helped oversee the activities related to this study. In addition to the sponsoring organization (Ka Ni Kanichihk), the steering committee included representatives from: the legal profession, child health/ social work, relevant university faculties, Manitoba women's organizations, and related community organizations such as Women's shelters and an experiential mother.

The steering committee of this project is comprised of the following individuals:

- Leslie Spillett – Executive Director, Ka Ni Kanichihk Inc.
- Catherine Dunn – Lawyer, Catherine L. Dunn Law Office
- Margaret Haworth-Brockman – Executive Director, Prairie Women's Health Centre of Excellence
- Cathy Rocke – University of Manitoba, Aboriginal Focus Program
- Dr. Kathy Buddle Crowe – Professor, University of Manitoba
- Tracy Booth – University of Manitoba, Aboriginal Focus Program
- Margaret Bartlett – Métis Child and Family Services Authority
- Ron Bewski – Province of Manitoba, Family Conciliation

Changes in organization designates that have resulted in vacancies in the Steering Committee for:

- Mother of Red Nations Women's Council of Manitoba
- Onashowewin Inc.

In addition to these committed members, an Aboriginal

mother, who had lengthy involvement with the child protection system, initially was a part of the committee. This mother attended and participated in numerous steering committee meetings at the beginning of the study. Her commitment to her education was a strong reason for why she was not able to regularly participate on the Steering Committee.

RESEARCH TEAM

The Research Team was comprised of three individuals: A Lead Investigator (Marlyn Bennett²) and two Research Associates (Linda Lamirande³ and Adrienne Reason⁴). The Lead Investigator's involvement in this study was granted by the First Nations Child & Family Caring Society of Canada.

OBJECTIVES, METHODOLOGY AND METHODS OF THE STUDY

OBJECTIVES

This project describes the experiences of Aboriginal mothers regarding encounters with child welfare and the family courts in Manitoba respecting child protection interventions. This research project specifically addresses the knowledge gaps around the process and outcomes of Aboriginal women's experiences with child welfare.

The objectives for this study were:

- To describe and analyze the experiences of Métis, First Nations, Inuit and other Aboriginal women who are or have been involved in child welfare/protection cases before the courts in Manitoba.
- To examine the experience and understanding of service providers and other advocates working with Métis, First Nations, Inuit and other Aboriginal women involved in child welfare/protection cases in the courts in Manitoba.
- To examine the experience of lawyers tasked with representing Métis, First Nations, Inuit and other Aboriginal women involved in child welfare/protection case before the courts in Manitoba.
- To seek ideas and suggested solutions to inform less adversarial and intrusive approaches to deal with child protection matters involving

Métis, First Nations, Inuit and other Aboriginal women and children.

METHODOLOGY AND METHODS

This research takes a phenomenological approach to understanding the lived experience and perceptions about child welfare and legal systems experiences through the personal lens of Aboriginal mothers and grandmothers. Phenomenology is about the essential meanings individuals give to their experiences as well as social construction of group realities. This theoretical approach focuses on exploring how Aboriginal women make sense of their experiences with child welfare and legal systems and how this experience was transformed into consciousness, from both individual and shared meanings. A phenomenological approach requires methodologically, carefully, and thoroughly capturing and describing how people experience some phenomenon – how they perceive it, describe it, feel about it, judge it, remember it, make sense of it, and talk about it with others. To gather such data, one must undertake in-depth interviews with people who have directly experienced the phenomenon of interest; that is, they have a “lived experience” as opposed to second hand experience (Patton, 2002).

Phenomenology aims at gaining a deeper understanding of the nature or meaning of our everyday experiences ...

Anything that presents itself to consciousness is potentially of interest to phenomenology, whether the object is real or imaged, empirically measurable or subjectively felt. Consciousness is the only access human beings have to the world. Or rather, it is by virtue of being conscious that we are already related to the world. Thus all we can ever know must present itself to consciousness. Whatever falls outside of consciousness therefore falls outside the bounds of our possible lived experience. ... A person cannot reflect on lived experience while living through the experience. For example, if one tries to reflect on one's anger while being angry, one finds that the anger has already changed or dissipated. Thus, phenomenological reflect is not introspective but retrospective. Reflection on lived experience is always recollective; it is reflection on experience that is already passed or lived through. (Van Manen, 1990, as cited in Patton, 2002).

² Ms. Bennett is the Director of Research for the First Nations Child & Family Caring Society of Canada and is professionally affiliated as a Research Associate with the Faculty of Social Work, University of Manitoba.

³ Ms. Lamirande is an Independent Research Consult contracted by Ka Ni Kanichihk Inc. to assist in carrying out data collection for this study. Ms. Lamirande resides in Winnipeg, Manitoba.

⁴ Ms. Reason is an Independent Research Consult contracted by Ka Ni Kanichihk Inc. to assist in carrying out data collection for this study. Ms. Lamirande resides in The Pas, Manitoba.

This report honours Aboriginal mothers' stories as data that can stand on its own as pure descriptions of experience. This report is based on stories and narratives that offer especially translucent windows into the experience of Aboriginal mothers' and their involvement and interactions with social and legal systems as constructed by those who have power over the lived experiences of Aboriginal peoples, families and communities.

This research undertook qualitative approaches in its fact finding. Qualitative or empirical research explores relationships using textual rather than quantitative data. Qualitative research, broadly defined, means "any kind of research that produces findings not arrived at by means of statistical procedures or other means of quantification" (Strauss & Corbin, 1990, p. 17). Where quantitative researchers seek causal determination, prediction, and generalization of findings, qualitative researchers seek instead illumination, understanding, and extrapolation to similar situations (Strauss & Corbin, 1998).

A variety of activities were utilized in collecting qualitative data for understanding Aboriginal mothers' experiences, including:

- a. Conducting a literature review;
- b. Creation of a survey based personal information form (for statistical and background information on the Métis, First Nations, Inuit and other Aboriginal women invited to participate in this study);
- c. Conducting one-on-one interviews with Aboriginal mothers who have been at risk of having, or have had, their children apprehended because of child protection concerns; and
- d. Facilitating a series of non-traditional talking circles with Aboriginal women about their court and child welfare experiences⁵.

The interviews and non-traditional talking circles also centered on capturing ideas and solutions for change. Focusing on how these changes could be

implemented to create greater awareness about Aboriginal mothers' experiences with the child welfare and court systems and how best to influence change in the way the child welfare system responds to Aboriginal mothers when intervening in child protection situations. Although desirable, it was unfortunate our project did not have the resources to include an Elder in all aspects of this project⁶.

RECRUITMENT

Thirty-two Aboriginal mothers / grandmothers who had involvement with the child welfare system in Manitoba participated in this study. These mothers were recruited from Winnipeg and The Pas, Manitoba. Recruitment was done through an email strategy and word of mouth and/or by invitation of the research team. The sample includes women who participated both in one-on-one personal interviews and talking circles. Personal interviews and the three talking circles were conducted between the months of March and June 2007. Background information about the Aboriginal women who participated in this study is found at Chapter Three of this report.

Recruitment of Aboriginal mothers and grandmothers from Winnipeg and The Pas was done through the networks of the Steering Committee, the research team, Ka Ni Kanichihk and the First Nations Child & Family Caring Society of Canada. Recruitment was primarily through word of mouth, by personal invitation from one of the research team members, as well as through an email strategy. Through email, prospective participants were invited to contact members of the research team if they were interested in participating in an interview, a talking circle or both. Invitation to the talking circles was also circulated via email through the network of the Steering Committee, the research team, Ka Ni Kanichihk Inc. and the First Nations Child & Family Caring Society of Canada. In addition, a poster detailing information about the study and the target population was posted in public venues such as the Health Sciences Centre, various community centers, service organizations, and child welfare agencies as well as at the Universities of

⁵ Traditional sharing circles were not utilized in our approach as this would have prevented us from recording the thoughts and ideas shared. A "Talking Circle" was utilized instead. Talking Circles are old ways of bringing Aboriginal peoples of all ages together in a quiet respectful manner for the purpose of teaching, listening, learning and sharing and is seen as a way to build consensus. Sitting and talking in a circle allowed each member to participate in the discussion and sharing of uninterrupted perspectives through respectful, non-judgmental deep listening (Umbreit, 2003). In the Talking Circle, individuals are given the opportunity to hear what others had to say as well as time to think about what they wanted to share with the group (see The Talking Circle and Consensus at <http://www.edukits.ca/aboriginal/leadership/teachers/circle.htm>). When approached in the proper way, the circle can be a very powerful means of teaching or bringing some degree of healing to the mind, the heart, the body or the spirit (BigFoot Sipes, 1993).

⁶ In addition, the project underwent an evaluation, the results of which were completed in January 2008. Interviews were conducted with project staff and members of the Steering Committee during November and December 2007. A copy of the Evaluation Framework can be found at Appendix Q of this report.

Winnipeg and Manitoba. Information about the study was also distributed through the Steering Committee and research team's networks on a regular basis between the months of February and June 2007.

The Aboriginal women who participated in this study reportedly learned about the study through a variety of means. The majority indicated that they had learned about the project from either the poster or through a friend who had heard about the project. Some of the participants indicated they were recruited by members of the Research Team. Some stated that they had learned about the study from the First Nations Child & Family Caring Society's website. Other participants revealed that they learned about the study from the child welfare worker involved with their family while some women indicated they learned about the study through other sources. The women reveal that they learned about the study through a community program, from a community liaison worker and from a family member employed with a child welfare agency and in some cases from other mothers involved in the study. More information about how participants learned about the study can be found in Chapter 3.

We also recruited participation from professionals who would have some interaction with Aboriginal mothers/ grandmothers involved with the child welfare and legal systems. In addition to Aboriginal mothers, interviews were conducted with a number of lawyers who had represented Aboriginal women in child protection court proceedings although these persons did not represent the specific participants in this study. Other participants interviewed for this research included:

- Child Welfare Workers⁷;
- Advocates for Women;
- Lawyers (who represent mothers in child protection matters); and
- Judges⁸.

A letter inviting participation from these professionals was done through the networks of the Steering Committee, the research team, Ka Ni Kanichihk and the First Nations Child & Family Caring Society of Canada. A letter requesting an interview with these professionals was distributed by mail during the months of April and June 2007.

CRITERIA

- Aboriginal women 18+ years (First Nations, Métis, Inuit and non-status Aboriginal women) who have had or have been at risk of having their children removed (apprehended) from their care by either an Aboriginal / First Nations Child Welfare service agency and/or a non-Aboriginal Child Welfare service agency within the Province of Manitoba (total number = 32);
- Lawyers representing Métis, First Nations, Inuit and other Aboriginal women involved in child welfare / protection cases within the Province of Manitoba (but not necessary representing the women have participated in this study) (total number = 6).

RESEARCH INSTRUMENTS

The research instruments / tools developed for this study include five structured interview questionnaires, a set of questions developed for the non-traditional talking circles discussions to be held with Aboriginal women and a Personal Information Form (primarily for examining quantifiable measurables about the women who chose to participate in this study), including a number of consent forms for specific participants. The following research instruments were developed in carrying out this community based research :

- Poster inviting Aboriginal women to Participate in Research Project;
- Interview Questions / Guidelines for Interviews with Aboriginal Mothers;
- Consent Form for Interviews with Aboriginal Mothers;
- Recruitment letter to Request Interview with Legal Counsel Representing Aboriginal Mothers in Child Protection Matters;
- Interview Questions / Guidelines for Interviews with Legal Counsel Representing Aboriginal Mothers;
- Consent Form for Interview with Legal Counsel Representing Aboriginal Mothers;
- Recruitment letter to Request Interview with Service Providers / Advocates and/or Other Supporters;

⁷ Unfortunately, child welfare workers did not participate in this study. The reasons for why are set out in the limitation section of this report.

⁸ The steering committee felt that judges would not likely participate given their schedules so this targeted population was dropped. They are however targeted for knowledge dissemination with respect to the research findings.

- Interview Questions / Guidelines for Service Providers and Advocates/Supporters;
- Consent Form for Interviews with Service Providers / Advocates and other Supporters;
- Talking Circle Questions for Aboriginal Mothers;
- Consent Form for Aboriginal Mothers Participating in Talking Circles Discussion;
- Talking Circles Evaluation Form;
- Personal Information Form (to be completed by Aboriginal Mothers Participating in Both the Interviews and Talking Circles Discussions);
- CECW Fact Sheet on "Child Welfare in Manitoba" (to be given to Aboriginal Mothers Participating in Interviews and the Talking Circles Discussions);
- Background Information and Research Outline to be given to All Participants
- Glossary of Terms (to be given to Aboriginal mothers participating either through interviews or Talking Circle discussions);
- Information sheet prepared by Klinik entitled "What you may need to know about Trauma."

The purpose and objectives of the study were explained in detail to all participants. The consent form was read and the details discussed with all participants. Participants were then asked to sign the consent form if they agreed to particular and understand the purpose and objectives of the study. Copies of the consent form were given to all participants for their records. Additionally, a background paper on the rationale, purpose and objective of the study was explained and provided to participants. A glossary identifying some of the terminology that might be used by the researchers was also drafted and included in the information package to each participant along with information that outlined briefly how child welfare is organized in Manitoba.

Participants involved in the talking circles were encouraged to share their thoughts and perspectives but were asked to respect the privacy of other women participating in the circles. They were asked to keep everything they heard and learned from others in the circles confidential. Participants signed the consent form agreeing to keep what they heard in the circles confidential.

Given the personal nature of the research topics, it was acknowledged that the study questions might cause grief for some of the women involved and may through sharing their experiences some participants may experience some trauma related to past family crises. In those instances, we provided the mothers with a comprehensive paper (developed by Klinik⁹) outlining what the participants would need to know should they experience trauma brought on as a result of participating in our study. This document outlined what to expect, how to cope with any discomfort arising from sharing their experiences, types of resources available in the community and contact information to access various community organizations that would be available to assist the women in dealing with trauma in the short term. In anticipation that some participants may experience trauma in the talking circles, Elder(s) were engaged to participate in the Winnipeg circle. The Elder in Winnipeg participated in opening, closing and as a mother/grandmother participated in the talking circle discussion. This Elder was instrumental in helping participants deal with any traumatic memories that might arise as a result of their participation in the talking circle. The circles themselves proved to be therapeutic for the women in that the circles provided them with opportunities for sharing and learning from one another. It helped many of the women realize they are not alone in their experiences of loss and grief.

All research instruments/tools used in this study can be found in the online version of this report.

ETHICS

Ethical guidelines were developed to ensure the respectful treatment and human dignity of mothers/ grandmothers involved in this study. The ethical guidelines were based on implementation of OCAP principles (Ownership, Control, Access and Possession) (Schnarch, 2004). An Ethical Review of our study was conducted through Prairie Women's Health Centre of Excellence in Manitoba (PWHCE). Through the PWHCE, Aboriginal women scholars (with university affiliations) from across Canada, in addition to staff at PWHCE, assisted in conducting the ethical review and provided written statements for strengthening the project.

Ownership of the data gathered for this study remains with the individual participants, however Ka Ni Kanichihk Inc. and the First Nations Child & Family

⁹ Klinik is a community based organization that provides a full range of health related services from medical care to counselling to education within the City of Winnipeg, Manitoba (see <http://www.klinik.mb.ca>). ⁸ The steering committee felt that judges would not likely participate given their schedules so this targeted population was dropped. They are however targeted for knowledge dissemination with respect to the research findings.

Caring Society hold that data and act as stewards of the information and knowledge generated by the Aboriginal mothers and other participants who were consulted for this study.

DATA ANALYSIS

The research techniques proposed for this study includes a mixed approach of one-on-one interviews, focus group interviews, including observation and field notes, and as such required content analysis. All data was transcribed for ease of analysis using NVivo software to help code and develop themes that began to emerge from the information collected.

NVivo is a popular software program developed by Qualitative Solutions and Research International (QSR). NVivo organizes raw data (interviews, observations, field notes, etc.) and links them with memos and other project related documents or “databites” which researchers can code and make analytical notes about, and then edit and rework ideas as the project progresses (Walsh, 2003). In addition, material related to this project, including not only the transcribed interviews but also any illustrations, film, maps, reports, work plans, literature analyses, and hypotheses, could be linked closely to what is relevant in the overall goals of the project. The goal is that by maintaining on-line, within one project, different evolving documents; retaining analytic processes for reapplication as theories, results, and goals change; and by shaping and reshaping the bodies of material that represent different ways of looking and understanding, the project researchers could draw hugely varied materials together, maintaining a whole that is not only complex but entirely accessible for synthesis by any or all of the research partners (Richards, 1999).

LIMITATIONS

We were not able to interview as many service providers and/or advocates as originally targeted in the work plan given the attention on the child welfare system by the media during the later part of the summer and into the fall of 2007. We feel the intense media attention to the child welfare system

during our data collection phase played a part in reducing the number of important service providers who could participate in the project and assist us in a further understanding of the experiences of service providers and other advocates working with Aboriginal mothers involved with the child welfare and court systems. Prior to the media attention, during the data collection phase of this project the Government of Manitoba commissioned two external reviews into the child and family services system in Manitoba as a result of the tragic death of five-year-old Phoenix Sinclair in March 2006. As a result of the two reports (Strengthen the Commitment Report, which focuses on case management practices across the system, and the Honouring Their Spirits Report, which examined child deaths between 2003 and 2006), over 200 recommendations emerged for improving the child and family services system with an overarching theme of continued commitment to the Aboriginal Justice Inquiry-Child Welfare Initiative. In addition to the two external reviews, the four Child and Family Services Authorities immediately announced that they would be conducting their own reviews in which child protection workers within the Province were asked to have contact with every child in care or receiving service from the child and family services system. This extraordinary measure was taken to assure families and the public that children receiving services from the system were known, accounted for and were safe. It is therefore understandable and recognized that these events and activities may have had some impact on the participation and inclusion of frontline child welfare staff in this study.

¹⁰ Changes for Children, Strengthening the Commitment to Child Welfare (October 13, 2006), highlights the Manitoba government's response to these reviews in which they committed \$42 million in new funding until the end of the 2008/09 to implement the recommendations of the two external reviews.

¹¹ In November 2003, the Child and Family Services Authorities Act proclaimed the establishment of four child and family service authorities in Manitoba (Northern, Southern, Métis and General Authorities) – all parties signatory to the Memoranda of Understanding under the Aboriginal Justice Inquiry-Child Welfare Initiative (AJI-CWI) agreed to this. These authorities are each responsible for the governance of their respective child and family service agencies. These authorities play a key role in coordinating child welfare services province wide and are the governing bodies overseeing services, dispersing funds and ensuring that culturally appropriate standards and practices are delivered by their respective agencies and consistent with the applicable Provincial Child and Family Services and Adoption Acts.

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CHAPTER 2: LITERATURE REVIEW

INTRODUCTION

An extensive literature review was conducted to explore resources relating to the four specific objectives¹². In addition to understanding Aboriginal mothers' experiences and the context of their lives, the review canvassed literature on alternative responses to child protection/child welfare dispositions and the role of legal representation for Aboriginal mothers in child protection cases before the courts. The review looked specifically at the role of alternative dispute mechanisms used in the child welfare context in addition to the role of mediation and Family Group Conferencing was explored. This review provides an initial framework for understanding the extent and the complexity of Aboriginal mothers' lives and their experiences with the child welfare and court systems within Canada today.

The literature reviewed for this chapter is organized into the following seven (7) themes:

- The context of Aboriginal Lives;
- Child Welfare and Family Court Experiences of Aboriginal Women in Canada;
- Alternative Forms of Dispute Resolutions in the Child Welfare Context;
- Mediation in Child Protection Cases;
- Family Group Conferencing and Family Group Decision Making in Child Protection;
- Access to Legal Counsel; and
- Shifting Services to Reflect Alternative Response Models

THE CONTEXT OF ABORIGINAL WOMEN'S LIVES

The following section is a brief overview of the literature that provides a limited picture for

understanding the context of Aboriginal women's lives. There is great diversity among Aboriginal women, including status and non-status First Nations, Inuit and Métis, and therefore it should be noted that women in each of these cultural groups face a diversity of issues (Mann, 2005) that may not necessarily be reflected in this research project. The same can be said for the context of Aboriginal women's experiences as marginalized members of society. The literature consulted in the first part of this chapter focuses on six specific areas as these are issues that many Aboriginal mothers face however they are not necessarily the same issues faced by all Aboriginal women. They include:

- Impact of colonization, culture loss and marginalization of Aboriginal Women;
- Higher rates of Aboriginal mother led families;
- Poverty and Aboriginal mothers/children;
- Housing/homelessness/mobility issues;
- Drug and alcohol misuse/abuse; and
- Domestic violence;

IMPACT OF COLONIZATION, CULTURE LOSS AND MARGINALIZATION OF ABORIGINAL WOMEN

Prior to contact with European societies, Aboriginal women enjoyed a stature within their communities unparalleled to what they experience today. It is noted by many researchers and academics that, traditionally, Aboriginal women's roles within their families and communities were highly respected (Givens McGowan, 2008; Anderson 2000a, 2000b; and Kulchyski, McCaskill & Newhouse 1999). Moreover, womanhood was considered sacred within the complex systems of

¹² A more extensive literature review was produced in the summer of 2006. Portions of this review were also published previously in the winter 2007 edition of the Canada's Children journal (see Aboriginal mothers' involvement with child protection and family court systems: Examining alternative court processes by Marlyn Bennett, Volume 13, Number 1—Winter 2007, pp. 88-93 at <http://www.cwlc.ca/files/file/Canada's%20Children/CC%20Spring%202007.pdf>).

relations that existed in earlier Aboriginal societies where balance between men and women once existed (Anderson 2000a). Research conducted by others denote that Aboriginal women enjoyed living in societies that appeared to be egalitarian in structure (Brodribb 1984; Hamilton and Sinclair 1991; Royal Commission on Aboriginal Peoples [RCAP], 1997) while other researchers have surmised that Aboriginal women's roles were subordinate to those of men (Dion Stout and Kipling 1998). These roles and responsibilities varied over diverse nations but there was a common thread throughout - women were respected, valued, honoured and viewed as sacred human beings (Native Women's Association of Canada [hereafter NWAC], 2007c). Anderson (2000b). Other scholars such as Baskin (1982), Armstrong (1996), Annett (2001) and Givens McGowan (2008) wrote extensively about the balanced political powers once enjoyed by Aboriginal women in their relationships with the men of their communities. Nowhere is the inequitable, racist and violent treatment of Aboriginal women today more evident than in the cases of missing Aboriginal women within Canada and Canadian society's indifference to their whereabouts (NWAC, 2002; Amnesty International, 2004).

Today, many Aboriginal women do not enjoy the same stature or political powers as they once did (Moore 1992; Anderson 2000a; and Redbird 1998). The erosion of Aboriginal women's stature, sacredness and traditional roles within their respective communities has gone hand in hand with their contemporary devaluation (Absolon, Herbert & MacDonald 1996). It was primarily through direct attacks on Aboriginal women's powers and their core role within the family and community systems that the disempowerment of First Nations peoples was achieved (Armstrong, 1996; and Anderson, 2000b). The prominence and respect once accorded Aboriginal womanhood was significantly reduced. It was systematically eradicated throughout a long history and process of colonization (Brodribb 1984; Redbird 1998; Anderson 2000b; Moffitt 2004) as well as through the imposition of foreign laws (Monture-Angus 1995) and through the racist and sexist objectification of Aboriginal women (LaRocque, 1994).

HIGHER RATES OF ABORIGINAL MOTHER LED FAMILIES

Aboriginal people are the fastest growing population in Canada with Aboriginal women on average having a higher fertility rate of 2.6 children over the course of their lifetime compared to the non-Aboriginal female

population (1.5 children) (Statistics Canada, 2008). Winnipeg is considered to have the highest proportion of urban Aboriginal people (Norris & Jantzen, 2003; Skelton, 2002), and has been characterized to have the highest rate of residential segregation of Aboriginal people of all Canadian cities (Maxim, Keane & White, 2003). In Winnipeg about half of the Aboriginal population resides in the inner city (City of Winnipeg, 2001).

In 2001, there were just under half a million Aboriginal females in Canada. The Aboriginal female population is about 3% of the total female population in Canada. Statistical indications suggest that the Aboriginal female gender is growing much more rapidly than the rest of the female population in Canada (Stats Can, 2006). The numbers indicate that Aboriginal women are much more likely to be single mothers than other women in Canada (Day, 2007) and tend to be younger. In 2001, 19% of Aboriginal women aged 15 and over were single mothers, compared to 8% of other women. Manitoba was singled out as having the highest rate of teen pregnancy in Canada – 63.2 per 1,000 live births, compared to the national average of 40.2 percent (Province of Manitoba, 2003). But birth rates vary dramatically within Manitoba and are much higher than average for Status Indians and Métis women: 45% of unmarried adolescent mothers in Manitoba are Aboriginal, with proportions as high as 75% in the northern Norman/Thompson region and 70% in central Winnipeg. Nearly a quarter of all births in the First Nations population are to teen mothers less than 20 years of age, and 90% of these teen births are to single women (Service Canada and the Province of Manitoba, 2006). Manitoba Family Services and Housing estimates that approximately 90% of adolescent women who carry their pregnancies to term are keeping their babies. Therefore, almost 20% of First Nations children are currently born into the homes of single parents less than 20 years of age (Service Canada and the Province of Manitoba, 2006). Teen parenthood is associated with low income status and has grave consequences for both mother and child. The Canadian Council on Social Development summed it up in this way:

Young women giving birth in their teens represent a significant risk to their babies and to their own life chances. They often do not have the necessary resources – especially financial resources – to provide a secure and stable environment for their children. And having children while still a teen interrupts the young woman's own development. Young mothers often drop out of school to care for their babies, thus limiting their future options in the labour market. ... Poor teen

mothers have poor children and the cycle continues (Ross, Kelly & Scott, 1996).

Research on lone parent families suggests that parents and children in these families are at a higher risk of experiencing a number of negative outcomes (Bianchi, 1995; Cheal et al, 1997). For example, children in lone parent families were shown to be more likely to encounter problems in the educational system, to be at higher risk of developing emotional and behavioural problems that may lead to troubles with the law and children from single parent families are more likely to experience early entry into marriage or cohabitating relationships and, as a result, experience parenthood earlier (Downey, 1994; Harper & McLanahan, 2004b; Bianchi, 1995; Cheal et al., 1997) thereby perpetuating the cycle of poverty indicated earlier by the Canadian Council on Social Development (1996). The likelihood that a child with a lone mother will have one or more behaviour problems was 1.8 times higher than that of a child with two parents, even when controlling for income differences between families (Cheal et al., 1997). These higher rates of difficulties are often attributed to the fact that many lone mother families have low incomes and/or they are unemployed or underemployed (Hull, 1996).

POVERTY AND ABORIGINAL MOTHERS/ CHILDREN

Aboriginal women are disproportionately represented (Ross, Scott, & Smith, 2000), as well as among those with lower levels of educational attainment and labor market participation (Siggner, 2003). Aboriginal women in particular are more likely to live in poverty than non-Aboriginal women or Aboriginal men (Donner, 2000). Statistics Canada, Aboriginal People in Canada, 2001 indicates that 41.7% of Aboriginal females in Manitoba lived in low income, compared to 14.8% of all Manitoba women and 36.0% of Aboriginal males. Furthermore, Aboriginal women who live in poverty are more likely to have poorer physical and mental health than those with higher incomes (Savarese, 2004; Donner, 2000). Aboriginal women are also more likely to come into contact and remain involved in child protection and justice systems than non-Aboriginal Canadians (Aboriginal Initiatives Branch, 1999; Trocmé & Blackstock, 2004). The child welfare literature discloses that the majority of children in care appear to come from poor, Aboriginal and/or minority families (Zetlin, Weinberg, & Kimm, 2003; Zetlin & Weinberg, 2004; Pelton, 1989). Caregivers on welfare, those who experience major life events or those parents that are urban, low-income, single

mother families, Aboriginal and/or minority parents are investigated more often by child welfare authorities for child abuse and neglect simply because they are more visible to those placing reports to the child protection authorities (McDaniel & Slack, 2005). Poverty and the involvement of child welfare authorities often co-occur in families receiving social assistance (Pelton, 1989; Pelton & Milner, 1994). Research by Berger (2004) also corroborates this finding, noting that children in low-income families are in fact more likely to be at risk of maltreatment neither because of mandatory reports, nor to reporting, investigations or removal biases within child protective services but because parents lack the resources with which to create healthy environments necessary for children's development. Child poverty varies by province and is higher among more vulnerable social groups such as children of single mothers and Aboriginal families (UNICEF, Canada, 2007). The negative impact of poverty on women and for early childhood development is well documented in thousands of studies throughout the world as well as here in Manitoba (World Health Organization, 1999; UNICEF, 2003; Campaign 2000, 2004; UN Platform Committee MB, 2003; UNICEF Canada, 2007; Standing Senate Committee on Human Rights, 2007). The condition of poverty threatens the health and well-being of women and children and risks excluding children from the opportunities to succeed and become contributing members of Canadian society. Poverty continues to be one of the most important determinants of life chances for Aboriginal children. In Cindy Blackstock's evidence given to the Standing Senate Committee on Human Rights regarding Canada's international obligations with respect to the rights of children, she noted that

... we have normalized the risk to Aboriginal children. ... It is as though that is the way things have been and we assume that is the way things are in society, even when we are faced with an opportunity to make a difference and reduce those numbers. We have normalized it, which has taken away from the tragedy that it is. Each one of these young people should be given a full opportunity to make a difference... and that "[b]y doing nothing, I think we put our own moral credibility as a nation at risk" (Standing Senate Committee on Human Rights, 2007).

The consequences of child poverty are staggering. At a very basic level, "[p]overty denies children their human rights at a critical stage in their development" (Standing Senate Committee on Human Rights, 2007, p.148).

While the impact of poverty on early childhood development is well understood, the impact of

poverty and its attending problems on Aboriginal families, especially for Aboriginal women whose children are placed in out-of-home care due to child maltreatment is only starting to be fully understood here in Canada. According to the 1998 Canadian Incidence Study of Reported Child Abuse and Neglect (CIS-1998) (Trocmé, MacLaurin, Fallon, et. al, 2001), Aboriginal families experience an extremely high rate of hardship. Aboriginal families were characterized by significantly less stable housing, greater dependence on social assistance, younger parents, more parents having been maltreated as children, higher rates of alcohol and drug abuse, and being investigated more often for neglect or emotional maltreatment. Higher rates of suspected and substantiated cases and child welfare placement were explained by the disproportionate presence of risk factors among Aboriginal families (Blackstock, Trocmé & Bennett, 2004). The CIS-1998 study suggests that a complex set of risk factors underlie the over-representation of Aboriginal children in the child welfare system that reflects multiple disadvantages experienced by Aboriginal families. The high rates of poverty, inadequate housing and substance abuse that seem to be leading to this over-representation are problems that extend beyond the child welfare system. While shifting control of child welfare services to Aboriginal communities should help in the development of services that are more appropriately geared to the needs of Aboriginal children and families, research by Shangreux (2004) and Trocmé, Knoke, & Blackstock (2004) state that one should not expect to see a significant decrease in admission rates until resources are appropriately allocated to address social problems that undermine parents' abilities to care adequately for their children. Preliminary findings from the Canadian Incidence Study of Reported Child Abuse and Neglect conducted 5 years later (CIS-2003) generally concur with the findings from the earlier CIS-1998 analyses conducted on the Aboriginal data. As in the first cycle of CIS, the profiles of Aboriginal families differ dramatically from the profiles of non-Aboriginal families. Aboriginal caregivers were less likely to have full time employment than non-Aboriginal caregivers and Aboriginal cases predominantly involve situations of neglect where poverty, inadequate housing and parent substance abuse are a toxic combination of risk factors that help in explaining the overrepresentation of Aboriginal children in out of home placements (Trocmé, Knoke, Shangreux, Fallon and MacLaurin, 2005).

HOUSING / HOMELESSNESS / MOBILITY ISSUES

Low income families, immigrants and Aboriginal families, have difficulty finding affordable, safe housing in Manitoba (Carter & Polevychok, 2004; Homelessness Resources Winnipeg, n.d.). Many who experience housing problems are also significant users of social services. Aboriginal peoples make up the largest percentage of the homeless population in Winnipeg (Homelessness Resources Winnipeg, n.d.). Aboriginal women are over-represented in the homeless population in Canada (NWAC, 2007b). The experience of homelessness particularly for Aboriginal women is different than for others (NWAC, 2007b). Aboriginal women, especially single mothers, have the highest incidence of poverty in Canada – more than twice the rate of non-Aboriginal women. Aboriginal women are thus uniquely vulnerable to all of the barriers in accessing housing that are experienced by other low-income women, while simultaneously confronting systemic discrimination particular to their position as Aboriginal women (Centre for Equality Rights in Accommodation, 2002). Aboriginal women who are homeless may have experienced family violence that led them to abandon their home, or they may have experienced the end of a marriage or common law relationship that has resulted in their being required to leave the family home and/or community (NWAC, 2007a; NWAC, 2007b). Other family or relationship issues may result in an individual becoming homeless: this is often the case for youth who leave the family home after conflict with one or both parents or when they age out of child welfare care (Serge, Eberle, Goldberg, Sullivan & Dudding, 2002). Other personal factors that can lead to an individual becoming homeless include substance use or misuse, poor health and poor mental health (NWAC, 2007b) or engagement in unsafe behaviours such as prostitution (Scott, 2007). Structural factors are a cause of homelessness for many Aboriginal women. The negative impacts of residential schools on individuals and their families is an example of a key causal factor but other structural factors that might result in homelessness could include the shortage of housing in First Nations communities; low minimum wage rates and low income assistance rates; the lack of affordable, appropriate housing; the condemnation or demolition of rental units, the conversion of rental units into condominiums or higher-cost rental units, and the elimination of Single Room Occupancy (SRO) units; and the deinstitutionalization of individuals without adequate supports, and the release of individuals from jail without adequate supports

(NWAC, 2007b, p. 1-2). Neighbourhood and housing choices available to single Aboriginal mothers tend to be limited (South & Crowder, 1998). Furthermore, Aboriginal women who have children in their care experience even greater difficulties finding appropriate housing services and programs. Women with children often experience 'relative' homelessness in that they pay a large proportion of their income for housing, and/or live in substandard or unsafe housing. This places Aboriginal women and children at risk for other consequences such as food insecurity. The expenditure of a large proportion of their limited income on housing means that they are unable to afford food, clothing, medication or other necessities for themselves and their children. Aboriginal women are at increased risk of losing their children to child welfare agencies, as their dwellings may be deemed below minimum standards of safety and repair (NWAC, 2007n). The housing histories of a sample of mother-led families in Winnipeg identified factors such as changing family composition, poor-quality housing and landlord troubles among the many issues that repeatedly pushed Aboriginal women to move from current accommodations (Higgitt, 1994). Other studies done by Astone and McLanahan (1994), Hagan et al. (1996), Kearns and Smith (1994) and Lowe and Spencer (1998) reiterate that household dissolution, abusive relationships, villainous and slum landlords, disruptive neighbours, safety and debt contributed to mobility for certain groups, especially among Aboriginal women.

Another issue that exacerbates housing issues for First Nations women is in situations where they have no right in law to certain assets when their marriage breaks down, unlike all other women in Canada (Mann, 2005). The human rights of First Nations women and children, in particular, are violated and they are discriminated against when they are unable to exercise rights that they would have if they lived outside of the reserve (NWAC, 2007b). Arising from the distribution of powers in The Constitution Act, 1867, provincial or territorial law governs how assets of a marriage or common-law relationship are to be divided upon breakdown, including real property, which is land or things attached to it, such as a house. In most cases, provincial legislation generally provides for equal division between the spouses. However, these laws do not apply on reserve as a result of subsection 91(24) of The Constitution Act, 1867 which gives the federal government exclusive law-making authority over "Indians, and Lands reserved for the Indians." This has been interpreted to mean that provincial and territorial matrimonial property laws do not apply to

real property on reserve (Mann, 2005). Since there are no federal provisions in the Indian Act or elsewhere that fill in this matrimonial property gap, people living on reserve generally have no legal system for resolving issues relating to land and houses upon a breakdown of their relationship.

Women and their children are therefore left with no legal claim to occupy the family residence. They may be forced to leave the matrimonial home and due to acute housing shortages, may have to leave the reserve (NWAC, 2007b). Where family violence is involved, the women and her children are rendered all the more vulnerable by this gap; sometimes remaining with the abuser for lack of an alternative. First Nations women want an avenue of redress and effective enforcement mechanisms for matrimonial matters involving real property on reserve. Options include interim amendment of the Indian Act, and drafting separate legislation so that provincial / territorial matrimonial property laws apply to real property on reserve lands and so that perpetrators of violence may be removed from the home. While implementing interim legislation, it is suggested that the government provide First Nations organizations with human and financial resources so that members may develop their own matrimonial real property codes, with the participation of First Nations women. It is proposed that provisions in the Canadian Human Rights Act preventing its application on reserve should be repealed; allowing for women to claim that a band Council's decision involving housing is discriminatory (Mann, 2005).

DRUG AND ALCOHOL MISUSE/ABUSE

Substance abuse among Aboriginal women involved with the child welfare is seen as a symptom of underlying problems stemming from low self-esteem, physical, sexual and/or psychological abuse, poverty and isolation (McNaughton, 1993). Self-destructive and self-harming behaviours such as substance use (alcohol, drugs – both legal and illegal) appear to stem from 6 identified risk factors which Aboriginal women experienced during the vulnerability in their childhood and adolescence years: separation from family, negative relations and institutional staff (i.e. foster/group homes and/or institutional care), poor peer relationships (negative peer influence and bullying), family histories of childhood abuse and neglect and the experience of loss within the family, mental health issues (depression and substance abuse) and identity issues (Fillmore & Dell, 2005). Hospital admissions for alcohol related accidents are three times higher

among Aboriginal females than they are for the general Canadian population (Health Canada, 1999; Institute for the Advancement of Aboriginal Women, 2003). A review of press coverage about women, who drink, revealed that Aboriginal women, particularly Aboriginal mothers, who drink, received harsher moral judgment and the media coverage is often laden with patronizing perspectives particularly toward Aboriginal women who drink (Ford, 2000).

For many Aboriginal children, it is their parents' substance abuse that first brings them to the attention of the child welfare system (Blackstock, Trocmé & Bennett, 2004). For instance, newborns prenatally exposed to drugs or alcohol often trigger an investigation of suspected child abuse and neglect and in some cases, prenatal substance exposure itself constitutes neglect and is grounds for removing a child from its parents' custody (for instance, see *Winnipeg Child and Family Services v. K.L.W.*, 2000 SCC 48, and *Winnipeg Child and Family Services (Northwest Area) v. D.F.G.*, 1997 SSC 3). In particular, use of alcohol by pregnant mothers is believed to pose a significant challenge in some Aboriginal communities; however drinking alcohol during pregnancy is not exclusively an Aboriginal problem (Masotti, Szala-Meneok, Selby, Ranford, & Van Koughnett, 2003). Substance abuse can undermine a parent's ability to care for older children as well and/or contribute to child abuse or neglect. As a result, some of these children are removed from the home and placed in foster care. Moreover, once a child is in the system, parental substance abuse is a significant hurdle in their path out of the system—a hurdle that requires drug or alcohol treatment for the parent in addition to services for the family. The nature of drug and alcohol addiction means that a parent's recovery can be lengthy. These cases are often further complicated by such problems as domestic violence, mental illness and homelessness. As a result, it may be difficult for child welfare officials to make permanency decisions within shorter time frames before they know whether the parent is likely to succeed in drug or alcohol treatment (Werkele & Wall, 2002; Maluccio & Ainsworth, 2003; Kroll & Taylor, 2003; Hampton, Senatore, & Gullotta, 1998). Research also cautions that not all substance abusers are child abusers (Kroll & Taylor, 2003) and that the voice of children in these situations is extremely important in understanding their experiences (Kroll, 2004).

DOMESTIC VIOLENCE

High rates of domestic violence afflict Aboriginal women throughout North America. The Aboriginal

Justice Inquiry of Manitoba (1990) cited findings that 1 in 3 Aboriginal women suffer abuse at the hands of her partner. Statistical findings on family violence in Canada by Stats Can (2005) indicates that Aboriginal women were three times more likely to be victims of spousal violence than were those who were non-Aboriginal (21% versus 7%). Results of the 2004 General Social Survey on Victimization (GSS) indicate that Aboriginal people are twice as likely as non-Aboriginal people to have reported experiencing some form of stalking in the previous five years which caused them to fear for their life (17% versus 9%) (AuCoin, 2005). The statistical findings on family violence in Canada also indicates that those who are young, who live in a common-law relationship, who have been in the relationship for three years or less, who are Aboriginal, and whose partner is a frequent heavy drinker are at increased risk of experiencing violence at the hands of their intimate partner (p.17). The Aboriginal Peoples Survey carried out by Statistics Canada (1993) reported that 40% of respondents believed family violence was a problem in their community.

Results of the 2004 GSS suggest that violence in marriages and common-law unions is a reality faced by as much as 24% of Aboriginal women. Aboriginal women experience violence from either a current or previous marital or common-law partner in a five-year period prior to the GSS survey compared to 8% of their non-Aboriginal counterparts (AuCoin, 2005). Aboriginal spousal violence victims are more likely than non-Aboriginal victims to experience serious forms of violence at the hands of their intimate partners. In the five-year period prior to the survey, over half (54%) of Aboriginal women who were victims of spousal violence reported experiencing severe and potentially life threatening violence, including being beaten or choked; threatened with, or had a gun or knife used against them; or had been sexually assaulted. This compared with 37% of non-Aboriginal female victims of spousal abuse. Further, a higher proportion of female Aboriginal spousal violence victims (43%) reported being injured compared with non-Aboriginal victims (31%). As well, 33% of female Aboriginal spousal violence victims experienced violence serious enough to fear for their lives, compared with 22% of non-Aboriginal victims. Justice reports state that Aboriginal women are 8 times more likely to be killed by partners than non-Aboriginal women (Trainor, Lambert & Dauverne, 2002). Aboriginal women are twice as likely as other women to experience emotional abuse from either a current or previous marital or common-law partner.

In the five-year period prior to the GSS survey, 36% of Aboriginal women, compared with 17% of their non-Aboriginal counterparts, reported experiencing emotional abuse from a partner (AuCoin, 2005). According to Sharlene Frank, in a study conducted for the Aboriginal Nurses Association of Canada, (formerly the Indian and Inuit Nurses of Canada), there are three leading factors which sustain family violence; these were alcohol and substance abuse, economic problems and intergenerational abuse (Frank, 1992). Many of these studies link the specific prevalence and nature of family violence in Aboriginal communities to their experience of colonization, the legacy of residential schools and the consequent pattern of inter-generational abuse (Ursel, 2001). In short, from an historic stand point it is difficult to separate the victims and the abusers because of the profound history of abuse of Aboriginal people.

Children exposed to domestic violence is now being recognized as a form of child maltreatment (Chiodo, Leschied, Whitehead, & Hurley, 2003; Moss, 2003). The increased interest in children's exposure to domestic violence reflects growing awareness of the effects of exposure to domestic violence on children (Trocmé & Chamberland, 2003; Penfold, 2005).

Poverty, single parenthood, unemployment, poorer physical and mental health including inadequate housing affects Aboriginal women across Canada: these concerns are often more acute in the North, where rural, isolated communities of Inuit, Métis and First Nations people generally suffer higher rates of the ills of underdevelopment and have fewer services for the well-being and protection of women and children (Dion Stout, Kipling & Stout, 2001).

Single mothers are often punished for being single and for being mothers said Day at the National Association of Women and the Law's conference *Mothering in Law: Defending Women's Rights* in 2007. Women's poverty is legislated primarily through economic means sanctioned by the state.

By maintaining single mothers in a constant state of poverty Shelagh Day and others assert that it is a violation of women's human rights under the Canadian Human Rights Act and in addition, is a sign of the state's profound discomfort with, and unwillingness to support, the autonomy of women (p.9). The Canadian Human Rights Commission has pointed to the inextricable link between poverty and inequality in Canada, particularly for women, and has questioned whether the Canadian human rights system is based on a definition of "human rights" which is too restrictive, in that it excludes

social and economic rights that are a fundamental component of international human rights guarantees. Similarly, recent periodic reviews by United Nations human rights treaty-monitoring bodies have led to unprecedented criticism of Canada for neglecting issues of poverty and social and economic rights, particularly among women (Jackman & Porter, 1999).

CHILD WELFARE AND FAMILY COURT EXPERIENCES OF ABORIGINAL WOMEN IN CANADA

Meager research exists about Aboriginal mothers' experiences with child welfare systems or the courts in relation to child protection issues in Canada, even though an earlier study focusing on young mothers involved with the BC child welfare system reported that, "... those who are most likely to lose their children are poor, young, Aboriginal and come from families that have historical involvement with child welfare" (Rutman, Strega, Callahan & Dominelli, 2001, p. 6). Other child welfare literature reiterates that the majority of children in care appear to come from poor, Aboriginal and/or minority families (Zetlin, Weinberg, & Kimm, 2003; Zetlin & Weinberg, 2004; Pelton, 1989). Caregivers on welfare, those who experience major life events or those parents that are urban, low-income, single mother families, Aboriginal and/or minority parents are investigated more often by child welfare authorities for child abuse and neglect simply because they are more visible to those placing reports to the child protection authorities (Berger, 2004; McDaniel & Slack, 2005). Poverty and the involvement of child welfare authorities often co-occur in families receiving social assistance (Pelton, 1989; Pelton & Milner, 1994). Derr and Taylor (2004) looked at the links between childhood and adult abuse among long-term welfare recipients. In-depth interviews were conducted with over 280 women on public assistance. High rates of childhood abuse and exposure to adult abuse (violence) were reported among this sample. Two-thirds indicated that they were physically, sexually and/or emotionally abused during childhood and 81% lived in physically violent relations as an adult. Derr and Taylors' study indicates that there is a strong relationship between childhood and adult abuse among individuals on long term financial assistance and that more attention needs to be paid to family violence factors among this group (Derr & Taylor, 2004). Berger's (2004) research also corroborates this finding. Children in low-income families are in fact more likely to be at risk of maltreatment neither because of mandatory reports, nor to reporting, investigation

or removal biases within child protective services but because parents lack the resources with which to create healthy environments necessary for children's development (Berger, 2004).

While very little research exists on Aboriginal mothers' experiences with child welfare, specifically about what that experience is in Manitoba. By extrapolating from the existing material that currently exists on Aboriginal children's overrepresentation in the child welfare systems, one can get a clearer but still somewhat vague understanding about Aboriginal women's experiences with child welfare and court systems within Canada. Indeed, research findings from the 2003 Canadian Incidence Study of Reported Child Abuse and Neglect, released in 2005, confirm that the majority of Aboriginal children who come to the attention of child welfare authorities in Canada, come from homes where Aboriginal women have sole responsibility for raising children (Blackstock & Trocmé, 2005; Trocmé, Knoke, Shangreux, Fallon & MacLaurin, 2005).

Marlee Kline, a University of British Columbia law professor, was the first to conduct seminal research on the issue of Aboriginal motherhood and the child welfare system. Kline laid the ground work for understanding how the inter-sectionality of race, gender and class worked in relation to the application of child welfare laws on First Nations mothers. Ms. Kline challenged assumptions about what made a "good mother" including the ideology of motherhood held by courts as being one of "motherly self-sacrifice" and assumptions that all mothers belonged to a nuclear family. Kline (1989) indicated that this ideology was an improper yardstick to use for Aboriginal mothers particularly as the sacrifice of child-rearing, was viewed by Aboriginal families, as being one that was shared. Kline also clearly analyzed the centrality of the best interests of the child doctrine as applied in First Nations child welfare cases that culminated in a thesis for her Masters of Law (1990). The substance of Kline's thesis deduced that this doctrine was a major contributing factor in the destructive and assimilationist impacts of the child welfare system on First Nations children and families in which the judicial decision-making has downplayed, if not completely, negated the relevance and importance of maintaining a child's First Nations identity and culture. Another highly quoted article written by Kline regarding the ideology of 'motherhood, First Nations women and child welfare law' was published

in the Queen's Law Review in 1993. In this influential article Kline argued that dominant ideologies of motherhood are imposed on First Nations women in child welfare cases. First, Kline observed that the law created a conceptual framework within which First Nations women are blamed for the difficulties they experience in child-raising, which in turn obfuscates the roots of those difficulties embedded in the past and present experiences of colonialism and racial oppression. Secondly, Kline pointed out that "the ideology of motherhood operates to impose dominant culture values and practices in relation to child-raising on First Nations families, and on the other hand, to devalue different values and practices of First Nations families. The combined effect of these two processes, Kline wrote, "was to leave First Nations women particularly vulnerable to being constructed by courts as 'bad mothers' in child welfare proceedings, and consequently open to having their children taken away as a result" (p. 306). Ms. Kline's important research on the legal issues impacting Aboriginal motherhood and their encounters with the judicial system around issues of child welfare law were truly groundbreaking both in Canada and internationally¹³.

The correlation of Aboriginal women and the child welfare systems was also the focus of research conducted by Patricia Monture-Angus, a Mohawk woman, lawyer and scholar currently teaching at the University of Saskatchewan. Like Kline, Monture-Angus (1989) has written exclusively about the way legislative bodies and courts have historically undervalued or ignored the cultural identity of First Nations children in child protection matters. This disregard for the "indigenous factor," along with the pressure to assimilate, places tremendous psychological burdens on First Nations children, families and communities. She argues that children were removed from their homes and communities and that this has resulted in the destruction of the traditional way of life with Native communities and cultures destroyed in the process. Removing First Nations children from their homes and placing them in a foreign culture has been characterized by Monture-Angus as an act of genocide, an accusation that has been supported in some judicial reports (see Kimmelman, 1990).

Two more current resources that look specifically at the experiences of Aboriginal women involved with the child welfare system are based on research conducted in British Columbia. The first sources of information published on the experiences of women involved with

¹³ Unfortunately, no further research on this topic will be conducted by Ms. Kline as she died of Leukemia in 2001 (The Gryphon, 2002).

child welfare services was conducted by the National Action Committee on the Status of Women in British Columbia (Kellington, 2002). A second companion document outlining findings from community forums held with Aboriginal women in British Columbia was later prepared by Kelly MacDonald (2002). As there is very little discourse in the research literature focusing specifically on the child welfare experiences of Aboriginal women in Canada, I have taken the liberty of drawing upon the findings and the recommendations that resulted from these two important earlier studies in the paragraphs below.

As noted, the first study published on the experiences of Aboriginal and non-Aboriginal women involved with child welfare services was published by the National Action Committee on the Status of Women in British Columbia (Kellington, 2002). While this report does not focus exclusively on the experiences of Aboriginal women, Aboriginal mothers were among the three particular communities of mothers they decided to focus on over the course of the study in understanding the social factors that act as causal instigators to mothers' involvement with the child welfare system in British Columbia. Their study recognized that mothers came into contact with the child welfare system in one of three ways: (1) either through a self referral process; (2) on the basis of reports made by other people; or (3) through other government system referrals that might have come about as a result of their children needing medical care.

Kellington (2002) instructs that background factors must be acknowledged and may help to shed some light on the experiences that have shaped mothers' lives at the time of their interaction with the child welfare system. Some of these factors include women's past histories of abuse. Many of the women were survivors of childhood abuse, either physical, sexual or both. Some were still learning to deal with the ramifications of these experiences in their own lives at the time their children were involved with the child welfare system. Some of the mothers had themselves been in care as a child and many had been exposed to various forms of abuse during that time. This experience was especially noted by the Aboriginal and First Nations women who were conscious of the systemic devastation and destruction of their communities as a result of residential schools and a multitude of other historic oppressions (Kellington, 2002, p.15). One of the other mitigating background factors identified was that many of the women involved with child welfare were living in abusive relationships at the time child welfare came into their lives, a situation they noted, that replicated the very

relationships of power, control and authority they were attempting to leave behind in their abusive relationships.

Kellington's report on women's experiences with the BC child welfare system also provides insight into the negative and positive experiences of women involved with child welfare that transcend the racial, cultural and class barriers. Some of the ways that mothers coped with the stress of child welfare intervention in their lives was also identified. Kellington (2002) notes that one of the most important reasons for conducting this study was to find out what women wanted to see happen to improve their experiences with the child welfare system in BC. The recommendations suggested by the mothers who participate in this study include ideas on how to implement more comprehensive and broad-ranging preventative services that would be useful and would impact on mothers and children in a more positive way than what currently exists. Current punitive approaches in child welfare do little to produce healthy productive societies and punishing women is all too often what happens which is not the most individually, socially supportive response that should come from governments. Women indicated that direct services should be aimed directly at parents as a means of ensuring resources also reach their children. Another recommendation included instituting a "Mothers' Advocate Office" to assist mothers in particular with a stronger voice in articulating their needs and concerns at the policy-making and developmental levels when dealing with government. Their recommendations reiterate the need for better resources and protection to those responsible for raising children.

A companion report to the one completed by Kellington (2002) was prepared by Kelly MacDonald later in the same year (2002). MacDonald (2002) noted that very little literature in the form of studies, reports, or articles giving voice to the experiences and perspectives of mothers' interactions with the child welfare system existed, furthermore that very little existed about how Aboriginal mothers' experience with the child welfare system differed from that experienced by non-Aboriginal mothers. The "Missing Voices Project" aimed to fill this void. Forty-one (n=41) Aboriginal women were encouraged to share their stories and experiences with respect to their involvement with the child welfare systems in BC.

MacDonald's findings with respect to the Aboriginal mothers' voices reveal that a majority had their children removed for alcohol abuse¹⁴. In some cases, Aboriginal women reported that it was unclear as to

why their children had been removed (p.25). Most of the removals were court ordered and very few mothers were given the option of voluntarily placing their children in care while they dealt with their underlying issues. Many of the Aboriginal mothers expressed that the manner in which their children were apprehended was traumatic. They shared that the child abuse investigations were inadequate and missed important information. Many of the Aboriginal mothers expressed frustration at what they perceived as social worker's changing expectations or with the perceived lack of attention or importance given by social workers to mothers' concerns. Aboriginal mothers shared that they endured numerous changes with respect to the social workers assigned to their case resulting in their children staying in care longer and how it contributed to difficulties developing trust in the Ministry. Aboriginal mothers noted that their social workers were young making it difficult to relate to them. Racism and disrespect toward Aboriginal mothers was evident in many of the stories related to MacDonald. One participant in particular shared that the "social worker I dealt with was condescending, rude, disrespectful of me in front of my children. She attacked my parenting she attacked everything about me in front of my children" (p.31).

MacDonald documented that there were concerns with respect to the lawyers assigned to Aboriginal mothers involved with child welfare. Some Aboriginal mothers felt that they were inadequately represented while others spoke highly of their legal representatives but many noted that their lawyers advised them to be agreeable with the child welfare plans and court orders presented to them in court under the assumption that they would get their children back sooner. Their lawyers would not allow them to challenge these decisions. Many of the Aboriginal mothers involved in this study really were unaware of what their legal rights were when MacDonald presented them with a guide that was designed specifically to assist Aboriginal mothers with navigating the child welfare system in BC (p.32). Many of the mothers indicated that they were mislead into believing their children would only be in care for a short period of time (3 months) when in fact, the time turned out to be longer (6 months or more).

The forums conducted by MacDonald on Aboriginal experiences with the child welfare system were the first time that many of the Aboriginal mothers were

able to voice concerns respecting the child welfare system in BC. Many of the mothers talked about the emotional repercussions from losing their children. These emotional repercussions centred on grief, loss and the guilt associated with the removal of their children. What was clear to MacDonald was that there was a need for Aboriginal mothers to have more opportunities to express and deal with as well as heal from the pain of losing their children through the child protection process. MacDonald, relying on the findings of another professional (Vera Fahlberg, M.D.), stated that mothers feel and experience the same level of psychological ramifications from removal as do children who are removed (p.34).

MacDonald noted that alcohol abuse by the mother was the primary reason behind the apprehension of Aboriginal mothers' children in BC. What is interesting to note is that many of the Aboriginal mothers who participate in MacDonald's forums felt that child welfare workers did not understand the dynamics of alcohol and drug addiction. One participant noted that "relapse is part of recovery" and research conducted by Callaghan and colleagues found that "lack of training opportunities for workers, particularly in alcohol and drug misuse was noted repeatedly as an organizational barrier to best practice" among social workers (p.34). Many of the women in MacDonald's study increased their alcohol intake as a result of the emotional pain they experienced when their children were apprehended. This was identified by MacDonald as a serious void in the training of social workers by universities and the Ministry. The emotional turmoil experienced by Aboriginal mothers who had children apprehended was further compounded by the prior experiences of Aboriginal mothers who themselves had been in care as a child.

In addition to the stories of pain shared by Aboriginal mothers in this study, concerns about the placement of their children in non-Aboriginal homes were expressed. Many of the mothers expressed concerns that they were not consulted with respect to the plans made for their children while in care and for those that were able to make arrangements to place their children with family members, they were met with frustration in the enormous amount of energy and effort it took to get them placed with family. Sometimes the homes in which Aboriginal children were placed were arguably more harmful to them than

¹⁴ Preliminary research findings from the 2003 Canadian Incidence Study of Reported Abuse and Neglect, as reported in the First Nations Child & Family Caring Society's *Wen:De Coming to the Light of Day* (2005) report, indicates that this continues to be an issue for Aboriginal female caregivers today (Trocmé, Knoke, Shangreux, Fallon & MacLaurin, 2005, p.79).

their own homes (MacDonald, 2002, p. 40). The other issue that came to light through MacDonald's report was that many of the Aboriginal mothers involved in this study were unable to get any information about their children after and while in care.

As with the first study conducted by Kellington (2002), MacDonald posited that the stories and experiences articulated by Aboriginal mothers in relation to BC's child welfare system were important for increasing public awareness around issues of gender, race and class as contributing factors to Aboriginal women's involvement in the child welfare system. These stories are important as they are useful in understanding the disintegrative and powerless processes that colonization has inflicted particularly on Aboriginal mothers in BC but also in other child welfare jurisdictions across Canada. The stories the Aboriginal mothers shared can be utilized as a tool to begin the process of awareness and understanding and moreover, MacDonald stated, it is important to be able to provide a forum for Aboriginal women to contextualize and understand their life experiences within the context of colonization as perpetrated through the child welfare system. MacDonald's elucidation of stories on child welfare experiences and questions on how to move forward helped Aboriginal women in moving beyond the pain of colonization and remembering trauma inflicted by the child welfare system. Anderson (2004) notes that storytelling is important healing work because it breaks the silence about abuses and allows people to tell of their experiences and let go of shame (p.126). The recommendations directly specifically at Social Workers by the Aboriginal mothers in MacDonald's study include a need for more:

- Cross cultural, sensitivity, and anti-racism training for social workers;
- Specific training on alcohol and drug addiction;
- Sensitivity training on the stresses of parenting and poverty;
- Training on how to empower and engage Aboriginal mothers in determining and designing their own "expectations";
- Discussion and explanations by social workers as to mother's legal rights;
- Support to ensure that grief, loss and counselling is provided to Aboriginal mothers upon removal of their children;
- Aboriginal social workers to be recruited and retained by the BC Ministry responsible for child welfare.

Federally sentenced Aboriginal women express concerns over child welfare apprehensions of their children and access to legal representation on child welfare protection matters in the face of incarceration (Addario, 2002). At the time of her arrest, a woman is required to negotiate two complicated separate social systems – the criminal justice system and the child apprehension system – of which neither process is coordinated nor made comprehensible to most women. Concern about care arrangements can be an overwhelming distraction that can seriously hamper a woman's ability to negotiate criminal legal processes (Addario, 2002). Very little exists in the way of research on the specific connection between the child welfare system and Aboriginal mothers in the prison system.

The connection between incarcerated women and their children was the focus of a study undertaken by Cunningham and Baker (2004) that summarized the findings of their study with 45 women in the Ontario correctional system. Of the 45 women who were interviewed by Cunningham and Baker, it was found that among them, they had 90 children, with the average age of the children being eight years old. Most of the children were age six or under and most had siblings (78%) whom they were separated from while their mother was in prison. Approximately half of these children lived under an open child protection file and many (43%) had no contact with their biological father (Cunningham & Baker, 2003). For many of these youngsters, the stage is set for a troubled adolescence. Their study indicates that children are invisible "collateral" victims of their mothers' crimes and incredibly impacted. Because of their mothers' incarceration, children can become secondary victims of crime, experiencing residential disruptions, school changes, separation from siblings, foster care, or periods of time spent with convenient but inappropriate caretakers. They feel shame, isolation, abandonment, confusion, grief, and loneliness. Moreover, Cunningham and Baker state that a mother's imprisonment often affects families already challenged by poverty, inadequate housing, abusive or exploitative partners, mental illness, substance abuse and the legacies of child abuse and the stigma of being in foster care. Even after a mother returns, children are forever changed simply by knowing she could be gone again. Few social services are designed to help mothers and their children navigate the period before, during and after a mother's absence due to incarceration. Cunningham and Baker (2003) note that mothers have recognized disturbing trends in their children as they become teenagers, seeing them

re-live events from their own youth such as substance use, depression, survival crime, school drop-out, early emancipation from adult care, exploitation by others, and early child bearing. Mothers know this story better than most. Cunningham and Baker (2003) found that 40% of the women in their study had themselves been separated from their own mothers, fathers, or both, when they were children, because of parental incarceration. Now, as mothers raising the next generation, half of their own teenaged children have already been in youth custody (Cunningham & Baker, 2003). Similar studies have not been implemented within Manitoba and further research into this area would help the child welfare and youth criminal justice sectors understand some of the trajectories and pathways that lead children and youth into the youth justice system and would assist in understanding the unique needs of Aboriginal mothers and their children. Parallel research would go a long way in assisting with developing supports to ensure an appropriate spectrum of services to address the needs of both women and children/adolescents who find themselves in these circumstances.

Another study looking at discourses on women mothering under duress was completed by Greaves, et al. (2002). This study originated from a growing concern about the reduced importance of mothers. Their report examined current approaches to mothering in Canada as articulated through key policy documents, media portrayals and through interviews and focus groups conducted with over 50 women. In particular, the authors examine 3 types of mothering under duress situations: (1) mothers who use substances; (2) mothers with mental health issues, and; (3) mothers who have experienced violence in domestic settings. A focus on mothering in the Province of British Columbia, in particular, factored significantly into their analysis. It is not surprising that many of the examples they analyzed were culled from many high profile cases involving Aboriginal and First Nations women mothering under duress. The authors used three interconnected concepts — rights, risk and evidence — to analyze the trends in relation to the 3 types of mothering under duress situations. All three of these concepts (rights, risk and evidence) are directly or indirectly used in developing and perpetuating discourses on mothering and on mothering under duress. Their general findings indicate that while mothers in each of these situations are portrayed differently at times, there are similarities. For instance, the authors found that mothers who use substances are considered responsible for their situation, while mothers who have mental health issues are felt to

have no control over theirs. In between, the mothers experiencing violence were considered to be partly responsible. Moreover, the authors note that these three situations are increasingly framed as concerns of child welfare:

While frequently an important concern in these situations, the focus on child welfare overlooks and obscures the issues of women's welfare that precede or parallel the events. A tendency to overlook the factors affecting women or mothers in these situations may allow policy and protocol to develop that do not respect or enhance women's rights and, specifically, the rights of mothers. In addition, it obscures the critical interconnectedness of mothers and their children, by ignoring the importance of the relationship between the mother and child and the necessity to preserve, support and maintain it. Consequently, many aspects of the solutions or treatment of problems, such as substance use, mental illness or violence against women, fall short and deprive both mothers and children of the support required to work through periods of duress (p.4).

Greaves, et al. (2002) indicate that mothering has been reduced and subsumed into "parenting," a gender-neutral (and potentially diminishing) concept that explicitly allows others to be considered "as good as," or equivalent to, mothers. "It also allows for the introduction of alternate caregivers, often identified or paid by the state, who become seen as, if not a completely adequate replacement, then at least as important as the mother. These replacement custodians are critical to the operation of a child welfare system, but should not be at the expense of the mother and the mother-child relationship" (p.5). Much of this shift has been accomplished in the "best interests of the child." This phrase has supported the logic behind much of the family law reform in Canada and continues to be the pivotal legal concept in the discourses surrounding mothering under duress, despite the term being critiqued for its vagueness and indeterminate nature (Crossman and Mykitiuk 1998, p. 31).

Mothers who use substances, particularly when pregnant, have come under intense scrutiny in Canada in recent years. This issue was examined by the Supreme Court of Canada in the case of Ms. G, an Aboriginal woman from Winnipeg who was using solvents during pregnancy. Ms. G was declared mentally incompetent to make her own decisions, and was placed under the care of the Winnipeg Child and Family Services, based on the argument that her actions violated the "duty of care" owed

to her fetus. At the Manitoba Court of Appeal and, later, on appeal at the Supreme Court of Canada this decision was overturned. The public discourse on women as mothers as users of alcohol, drugs and tobacco are fundamentally judgmental, blaming and unsympathetic. As in the *Ms. G* case, it has usually presented women as mothers in an adversarial position to the rights of their children and rarely makes mention of any role men as fathers or partners, supportive or otherwise, may have in the situation. Canadian researchers have illustrated how race and class intersect with women's health and substance use. Among them, Susan Boyd (1999: 26), whose research focuses on the negative stereotyping of substance-using mothers, underlines how "in Canada, First Nations women, poor women and single mothers appear to be over represented in terms of arrests, child apprehensions and medical interventions" (as quoted in Greaves, Varcoe, Poole, Morrow, Johnson, Pederson & Irwin, 2002 [hereafter Greaves et al, 2002]). The Supreme Court case involving *Ms. G*, "a young woman marginalized by her indigence, her status as an Aboriginal, by her repeated pregnancies, and by her general physical health" became a national example of this pattern (McCormack 1999: 79). The case of this substance-using mother "became part of the backlash against welfare expenditures and welfare dependency, while evoking racist stereotypes of native people" (McCormack 1999, p.81).

In the articles related specifically to fetal alcohol syndrome, FAS was often linked to those who are disadvantaged and of Aboriginal descent. Canadian studies on women's use of alcohol during pregnancy, particularly in relation to Fetal Alcohol Spectrum Disorder (FASD), disproportionately focus on Aboriginal women (Masotti, Szala-Meneok, Selby, 2003 [hereafter Massotti et al, 2003]). Some research indicates that FAS is 10 times more prevalent in Aboriginal communities. Greaves et al (2002) note that such discourse serves only to continue to bring Aboriginal women under intense scrutiny for their substance use during pregnancy and as mothers, without bringing visibility to the current or needed supports (which do not currently exist in some of their communities) to assist Aboriginal women in improving their own health and the health of their families. Furthermore Masotti et al (2003) note that the focus on Aboriginal communities with high rates of alcohol abuse and on regions with large concentrations of Aboriginal peoples means that Canada lacks epidemiological data regarding other populations, making it difficult to determine whether Aboriginal women are, in fact, at greater risk than other

groups. Moreover, stereotypes of Aboriginal peoples as particularly prone to alcoholism or in need of intervention for problematic substance use can act as a barrier to care for some Aboriginal women who wish to disclose or seek support for substance use issues and well-being (Poole & Dell, 2004).

In recent years, a child-centred discourse has developed that focuses attention on children who witness violence and has further shifted the focus away from the effects of the violence on women. In addition, women are increasingly held responsible by child protection authorities for putting their children at risk by remaining in abusive relationships where their children may witness violence. Women remain the primary caregivers of children, and because society is unable to protect women from partner abuse, women are, in effect, mandated to protect their children from their abuser and from "the system" resulting in a double edged sword. Women must establish themselves as "good mothers" in the eyes of social workers, the courts, domestic violence programs and parenting classes to demonstrate that they can protect their children (p.7).

Prejudicial and inaccurate beliefs about mental illness are still widely circulated that create a social climate in which women with mental illnesses are viewed as dangerous and incapable of caring for children. Increasingly, some in the mental health field are challenging these stereotypes and pointing out that many women with mental illnesses are capable of parenting provided they have adequate supports in place. This awareness, however, is not widely shared by all mental health professionals and is virtually ignored by those working in the context of child protection. The result is that many women who are diagnosed with a serious mental illness lose custody of their children. We know that women are more likely than men to seek psychiatric help and that they come under particular scrutiny by the mental health and child welfare systems if they are mothers or expectant mothers (Mosoff, 1997; Mowbray et al. 1995). Many women are afraid to ask these systems for support and assistance for fear that their parenting will be closely scrutinized and they will lose their children. Women who recognize their inability to care for their children often find that separation planning is traumatic and ill conceived, with little attention to the grief and loss women experience in losing custody of their children.

In 2003, Olsen (2005) conducted a community participation research project with teenage mothers in the Saanich First Nation community in British Columbia about their experiences around being a teenage

mother. Just Ask Us shares thoughts and experiences of teenage mothers facing a wide range of issues that include sex, relationships, birth control, abortion, pornography, self-image, and parenting. Each chapter begins with a fictionalized vignette, based on real stories, braced by direct quotes from the young mothers. In British Columbia, The Young mother in/ from Care Project similarly focused on the experiences and perspectives of young mothers but who were in care. Rutman et al's 2001 research reiterates findings from other research in which it is alluded that "those who are most likely to lose their children are poor, young, Aboriginal had come from families that have historical involvement with the child welfare system" (p. 6). The statistical representations in BC at that time can be similarly projected in other provinces across the country:

- More than 50% of children in care are the children of single mothers (less than 10% of BC's households are headed by single mothers);
- 35% of children in care, including 52% of children in care by court order, are Aboriginal (Aboriginal people represent 3% of BC's population);
- 52% of children in care come from families where there were previous admissions to care;
- 51% of parents were receiving income assistance at the time of apprehension;
- 66% of parents were living in rental housing at the time their children were apprehended (Campbell, 1991, as quoted in Rutman et al, 2001, p. 6).

This statistical picture suggests that young Aboriginal mothers are particularly vulnerable to having their children apprehended. The BC child welfare legislation, Rutman et al (2001) further note, simply did not have policies to address these issues or to offer support or access to resources for young mothers in similar situations.

In the last decade, interest in children's rights has heightened. There are numerous documents outlining the rights of children (e.g., U.N. Convention on the Rights of the Child), and the rhetoric of children's rights is seemingly impenetrable. Who would argue that a child does not have rights? The problem with the child's rights discourse is that it fragments relationships by discounting the notion that children and their mothers are deeply interconnected (Greaves, et al. 2002).

ALTERNATIVE FORMS OF DISPUTE RESOLUTIONS IN THE CHILD WELFARE CONTEXT

Turning to the issue of restorative practices¹⁵ in relation to child welfare, it is noted that the law relating to the protection of children has become increasingly complex. Maresca (1995) notes that the "length of time required for child welfare litigated cases to make their way through the system to a final order is, in most cases, far too long to meet the needs of any of the participants, but particularly the children" (p. 731). She observed that once a case enters into the litigation stream, the "nature of the interaction between the social worker and the family often changes" into one that is based on an adversarial model, with the parties pitted against one another" (p. 731). Further "the social worker who begins work with the family in the capacity of a helping professional is thrust into the position of building a case against the family, and being witness against his or her client. Parents begin to view the child protection agency as intrusive and coercing, rather than cooperative and helping" (p. 731). It is further noted that once cases become entrenched in the courts, parties have very little control over the length of time it may take for the court to come to a final resolution. Involvement of the court also requires significant amounts of time and energy by both parties in preparing their cases to go before the

¹⁵ In Canada, Restorative Justice (RJ) has been identified as a new 'paradigm' in justice and to some extent has become indistinguishable from other justice initiatives such as safe communities, crime prevention, Aboriginal justice, victim and other locally/community oriented justice initiatives (Dickson-Gilmore & La Prairie 2005). RJ practices in Canada are based on diverse theoretical, political, cultural and historical roots (Cameron 2005). RJ is primarily about opening up the dominant criminal justice system to greater community participation, especially for victims, and thereby moving criminal justice away from its hierarchical, adjudicative focus to a more balanced, participatory focus toward resolving conflicts and restoring relationships (Dickson-Gilmore & La Prairie 2005). RJ approaches crime as an injury or wrong done to another person rather than solely as a matter of breaking the law or offending against the state. Accordingly, it is concerned not only with determining appropriate responses to criminal behavior, but also with reparation - that is, actions that attempt to repair the damage caused by the crime, either materially or symbolically. RJ encourages the victim and the offender to play active roles in resolving conflict through discussion and negotiation. Instead of taking over the process, and perhaps losing sight of the people who are directly affected, the state and legal professionals become facilitators in a system that encourages offender accountability, full participation of both victim and offender, and efforts to fix the damage that has been done. Thus, RJ is more than just a practice or a program - it is a philosophy, a way of looking at crime and a response to crime and is informed by three central principles:

- Crime is first of all a violation of relationships among people, not just an act against the state. Crime results in harm to victims, communities, and offenders, and they must all be actively involved in the justice process;
- All those affected by crime have roles and responsibilities and need to deal collectively with its impact and consequences;
- Restoration, problem solving, and the prevention of future harm should be emphasized (Department of Justice Canada 2000; Ferguson 2001; Cameron 2005).

courts. The litigation of child welfare cases involves an expenditure of scarce resources such as money, court time, staff services and all of the innumerable elements that support the court structure. The biggest costs of all are the psychological and emotional costs borne by the parties, and particularly the children involved (Maresca, 1995). The litigation process creates highly polarized situations pitting the state against the parents, with the state ultimately using the custody of the child as leverage to produce changes in parenting behaviour. In addition Carruthers (1997) notes that in child protection cases,

... successful treatment includes not only securing the safety of the child but also helping families cope with stress and enabling parents to cease abusive or neglectful behaviour. This, she says, requires a necessary alliance between the CPW [child protection worker] and the parents that is often destroyed by the adversarial system. This adversity arises not only as a result of litigation but also due to the fact that the CPW is forced to become a jack of all trades acting as counselor, child advocate, enforcer, and analyst. An effective relationship between the CPW and the parents is very important because many children who qualify for some form of protective services never leave their home and many who do are ultimately returned to their family. It is important to find ways of safeguarding children without furthering the sense of isolation and powerlessness that so many parents experience under the present CP system (p. 104).

The adversarial approach to child protection leads to negative repercussions that include the possibility of a child withdrawing from parents, the losing parent withdrawing from the child, the parents and even the child at times alienating themselves from society, as well as lack of trust and cooperation between the family and the caseworker. McNeilly (1997) precisely articulated that in the adversarial process

... the lawyer becomes the third party, the intermediary between the parent, the Society, the court, and the child. Often, communication between the caseworker and the parents may be blocked by the lawyer. Lawyers advise clients not to talk to or cooperate with the caseworker. As a result, parents perceive the Society as the enemy. Any attempts by the caseworker to foster a cooperative relationship are thwarted by the adversarial court proceeding, which usually has the effect of alienating the parents from the Society and may lead to further barriers to their accepting help for their children (p. 208).

The adversarial nature of court proceedings is generally recognized and numerous attempts have been made to lessen the adversarial aspects for

parents, children and service agencies. What is clear is that many family courts are struggling to find better ways of managing growing child protection caseloads (McNeilly, 1997; Lowry, 1998) and to reduce the number of children currently in foster care placements (Lowry, 1998). Courts are considering encouraging some form of court-approved alternative dispute resolutions as a means for reaching more productive and constructive solutions than can be achieved through formal adversarial proceedings (Lowry, 1998).

The following section turns toward examining some of the extensive material relating to restorative justice and more particularly to mediation and family group conferencing alternative dispute approaches used in the child welfare context. Mediation is considered a form of alternative dispute resolution (Carruthers, 1997). Mediation arose primarily out of concerns with excessive litigation delays and rising legal costs and lack of cooperation with court-imposed orders (Maresca, 1995). The second alternative child welfare approach more closely related to restorative justice approaches is Family Group Conferencing. Despite differences among jurisdictions, Family Group Conferencing (FGC) is recognized as more likely than traditional forms of dispute resolution to give effective voice to those who are traditionally disadvantaged or marginalized by child welfare and legal systems. FGC is seen as a way of ensuring a more inclusive civil society (Pennell, 2006).

These two practices are now seen as promising methods for integrating principled case planning into public child welfare agencies, courts, and community responses to child protection (Chandler & Giovannucci, 2004). Formalized programs for FGC and mediation are used by public child welfare agencies and courts at various stages in the life of a case to encourage early case resolution and promote full participation of family members involved. Each has its own unique components and characteristics and various processes do co-exist in many jurisdictions (primarily in the United States) (Chandler & Giovannucci, 2004).

MEDIATION IN CHILD PROTECTION CASES

The creation of many alternative forms of dispute resolution arose because of dissatisfaction with the adversarial nature inherent in Canada's legal system. One form of dispute resolution that has gained increased popularity in many areas of the law is mediation. In the area of family law, mediation, in particular, has enjoyed some success with respect to divorce and child custody issues. As a result of this

success, mediation is also now being used in the area of child protection as an alternative to the adversarial court process (McNeilly, 1997; Carruthers, 1997).

In reviewing the literature, I drew heavily from a collection of articles found in a special issue of the journal *Family and Conciliation Courts Review* (Family Court Review) focusing on the origins of mediation in child protection in the United States (Thoennes 1997). This issue of the journal incorporated papers includes a paper on the roles of the various parties participating in child protection mediation processes. For instance Edwards (1997) looked at the role of judges, Baron (1997) discussed the role of participants in mediation, and Giovannucci (1997) covered the role of mediators, while Barsky (1997) expounded on why parties agree to undergo mediation in child protection proceedings. In addition to understanding the various roles of participants in mediation, the special issue of the *Family and Conciliation Courts Review* included an article which provided an evaluative overview on the outcomes of mediation in five California courts (Thoennes, 1997). Canadian perspectives on the utilization and success of mediation in child protection matters was also covered in this special issue by Metzger (1997), a judge who elaborated on his experience with child protection mediation in the Province of British Columbia, while an Ontario perspective was provided by McNeilly (1997). In an earlier edition of the *Family and Conciliation Courts Review* published in the same year, Carruthers articulated more comprehensively in critiquing the strengths and weaknesses of child protection mediation as utilized in the Province of Nova Scotia.

There are various models of mediation in child protection as well as variations in how mediation is defined and used in the child welfare context. Terminology relating to child protection mediation includes: dependence or dependency mediation, permanency mediation or alternative dispute resolution, child welfare mediation seeks to involve birth parents in the future planning for their own children by engaging them in an inclusive, confidential, and non-judgmental process in which their wishes are considered and respected (Stack, 2003). In its most basic form, it is a voluntary, informal process whereby a highly trained impartial third party or independent mediator facilitates discussions between a representative of a child welfare agency with at least one of its clients with to resolve their differences and arrive at a mutually acceptable agreement that factors in the best interests of the child (Cunningham and Van Leeuwen, 2005; Carruthers, 1997). Mediation does not usually include the intervention of legal counsel

(Maresca, 1995). Mediation in the child protection context can include facilitated communication, problem solving, alliance and positive working relationships, and includes fair neutrality (not taking sides, absence of pre-existing bias, absence of decision-making authority, and have no stake in the outcomes) which, according to Cunningham and Van Leeuwen (2005) are already standard features of good child welfare practice.

Some argue that mediation is not as oppressive as the court system, which in reality takes away parents' ability to negotiate directly and places negotiation in the hands of what McNeilly (1997, p. 213) calls the "hired gun" (a.k.a. "the lawyer"). The lawyer becomes the proxy voice and negotiator for parents, and ultimately the decision is made by the judge. Mediation gives parents the opportunity to negotiate directly and be a part of any decision-making processes involving their children (McNeilly, 1997). Mediation is also viewed as a way to empower parents to own up to their responsibilities as parents (McNeilly, 1997).

Some of the types of items mediated in the child welfare milieu include:

1. Anything other than what cannot be mediated.
2. Placement plans.
3. Visitation and access arrangements.
4. Treatment interventions.
5. The initial meeting between the agency, the caseworker, the parents, and the child (when possible).
6. Conditions of supervision orders.
7. Temporary orders and care agreements.
8. Adoption issues.
9. Long-term care issues.
10. Determining readiness for returning a child home.
11. Determining when to discontinue protective supervision.
12. The nature and extent of parents' involvement.
13. Parent-child conflict;
14. Lack of or poor communication between caseworker and parent due to hostility.
15. Negotiating length of care and conditions of return.
16. Foster parent/agency/parents' issues and concerns. (McNeilly, 1997, p.210)

A necessary ingredient to the success of mediation is the role of the mediator. The mediator has no

decision making power, but promotes constructive communication between the parties, using techniques such as separating people from the problem, focusing the parties on the best interests of the child, reframing, positive connotation, metaphoric storytelling, and establishing ground rules for dialogue (Giovannucci, 1997; Barsky 1999). Carruthers (1997) notes that "mediation's success lies not only in the fact that the parties themselves mutually resolve their conflict but also in the fact that mediation enhances communication and establishes a cooperative relationship between the parties. Not only does it reduce conflict but it has the potential of reducing court congestion, excessive litigation delays and rising legal costs (Maresca, 1995; Carruthers, 1997).

The values behind mediation, as outlined and supported by Carruthers (1997) are as follows:1. The courtroom can be a very intimidating environment, with communication between the parties being filtered through their representatives. The mediation forum attempts to make all parties comfortable and is conducive to greater participation from the parties directly involved in the conflict;

- Litigation is a lengthy and costly procedure, whereas mediation is less costly and decreases the time that children are often left in limbo;
- Mediation avoids litigation that gives rise to adversarial relations. Instead, mediation creates greater cooperation and communication and helps to maintain a working relationship between the family and the CPA [child protection agency] by emphasizing their common interests;
- Mediation helps to clarify and strengthen the role of the CPW [child protection worker] and makes it more understandable to the family;
- By enabling parents to see that the state's primary interest is in protecting their child and helping them better parent, mediation empowers parents to face up to their parental and societal responsibilities by ensuring that parents' concerns are fully heard and ensuring that all parties are treated with respect and dignity;
- The consensual nature of mediation and the fact that the parties have reached mutually agreed upon resolutions encourage greater compliance with the plan and lessen the likelihood that parents will sabotage treatment plans that they view as unfair;
- In keeping with present-day child welfare legislation, mediation is not highly

interventionist. It is a lesser intrusive alternative, and it recognizes the important role of the family with respect to the well-being of the child (p. 106).

In most cases, the child's immediate safety and welfare must be established before mediation can proceed (Barsky, 1999; Carruthers, 1997). Child protection mediation is not used to determine whether or not abuse or neglect took place but rather it is initiated when there is conflict between a parent and the child welfare agency (Barsky, 1999, McNeilly, 1997). Mediation is not bound by the strict rules of procedure by formal legal definitions and substantive law as is the adversarial process (Lowry, 1998). McNeilly (1997) remarked that mediation allows the participants the freedom to choose, create, and introduce whatever facts, interests, issues, and concerns they consider relevant in dealing with the issue at hand. It assists in helping the parties learn problem-solving techniques, responsibility, and conflict management skills. And unlike the adversarial process, mediation does not emphasize who is right or wrong or who wins or loses but on how the parties will cooperate and how they will agree on a solution that best meets the needs of the family, the agency, and particularly the child (McNeilly, 1997). The literature identifies that mediation is voluntary and that all parties that enter into mediation must do so in good faith (Thoennes, 1997; Carruthers, 1997; Barsky, 1997). Barsky (1997) in particular noted that it is not the mediator's role to get parents to agree with the agency (p.172). Metzger (1997) further asserts that mediation should usually take place outside of a courtroom.

Mediation programs have, for the most part, received favourable responses by most that have used such programs (i.e. child protection workers, parents, family members, lawyers and others). Despite these favourable evaluations, the rate of participation is noted by experts in the field as being fairly low (Barsky, 1997, Carruthers, 1997). In Canada, mediation is voluntary and can occur at any stage of the child protection process, and those who agree to participate generally do not include legal council in the mediation sessions. In the Canadian context, family members may feel less pressure to participate in mediation than their US counterparts. In the US participation rates in child protection mediation cases appear to be more successful because lawyers are involved. Barsky (1997) indicates that a mediation program in Chicago boasts a 95% participation rate probably because of the way mediation is incorporated into the child welfare and court systems. Families that appeal a child welfare decision are presented with an option to mediate. The

form of mediation is similar to a pretrial conference where parties “are asked to participate in mediation before pursuing their appeal in a judicial process and where the parties attend mediation along with their lawyers (p.165). Barsky explains that some of the reasons why people may not participate may be precisely because their lawyers are concerned about the balance of power between parents and the child welfare system which puts parents at a disadvantage. Lawyers are concerned that parents may make disclosures that could be used against them (p. 178-179). Lawyers in these cases adopt a very adversarial stance and go so far as to advise their clients not to communicate with the caseworker because what they say can and does often end up in affidavits and used against them in court (McNeilly, 1997). Others (Giovannucci, 1997) note that the inequitable balance of power can be balanced by the involvement of the mediator who is trained to recognize these imbalances. Giovannucci (1997) states that when a participant lacks intellectual or other capacities to participate fully in mediation, then mediators have an ethical responsibility to suspend the mediation and discuss other appropriate interventions available to address the situation (p. 146).

Some experts feel that because of the power disparity in the typical child apprehension situation, “buy in” to participate in child protection mediation might be more amenable to parents and child protection workers if “attendance was prescribed by legislation than if it was a program recommended by the government workers and social workers” (Metzger, 1997). Some of the criticism aimed at mediation by feminist scholars and advocates for battered women suggest mediation compromises the interests of women and their children in domestic violent matters in that mediation of custody issues poses more risks to them than it offers benefits (McNeilly, 1997). Carruthers (1997) in particular observes that in cases of domestic violence, concern exists about the use of mediation in child protection where the mother is incapable of advocating for her own rights, let alone those of her children. The concern lies not in the mother’s capabilities to protect herself and her children but in the danger that the spousal abuser poses, who created the reason for why the child protection agency is involved in the first place. In those types of circumstances, the abused mother’s interest and how she would like an agreement to develop may be diametrically opposed to those of the abuser (Carruthers, 1997, p. 115-116). It is for these reasons that Carruthers says it is “important for mediators to focus specifically on family dynamics,

including domestic violence” (p. 116). As such training for mediators must include an awareness of power and gender issues and how they apply to family violence and the mediation process (Carruthers, 1997).

Many of the authors consulted caution that mediation is not necessarily appropriate in all cases (Carruthers, 1997; Barsky, 1997). McNeilly (1997) expounded more precisely on cases where mediation may not be appropriate:

1. The actual abuse, neglect, or dependency by which a child has been seriously abused or neglected or of which the child is in immediate danger (i.e., physical safety or emotional harm). This does not mean that the abuse or neglect has to be actually proven; it only means that a concern was present.
2. Something that is a fundamental right or issue.
3. Removal of the child from the home as an immediate response to neglect or abuse.
4. The issue of whether the agency needs to intervene (i.e. it cannot be made an issue as to the right and obligation of the agency to intervene).
5. When there has been violence within the family to cause fear in a party so that he or she may be unable to negotiate due to intimidation or fear (i.e., where one party does not appear to be operating on the same power level).
6. When a court assessment into the family is ongoing.
7. When one party refuses to participate in mediation. All parties’ participation is necessary; involvement of parents, children, caseworkers, lawyers, and others must be voluntary.
8. When there are outstanding criminal charges resulting from the abuse.
9. When a party is incompetent to negotiate personally (i.e., mentally handicapped or suffers from substance abuse or language barriers).
10. When the parties have not had legal advice (p. 209).

Child protection mediation is used in at least seven Canadian provinces and the Yukon (Cunningham and Van Leeuwen, 2005). In the United States, child welfare mediation exists in some form in a number of states, including Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Iowa, Massachusetts, Michigan, New Jersey, Ohio, Oregon, Utah, Wisconsin, Texas, and Washington (Stack, 2003, p. 2). Mediation in child protection matters was first implemented in the

1980s at the Centre for Child and Family Mediation in Toronto, which was founded by three lawyers who still continue to work in this field (Barsky, 1997; McNeilly, 1997). The first legislatively based child protection mediation program in Canada was implemented in the Province of Nova Scotia in 1993 (Carruthers, 1997; McNeilly, 1997). Mediation is recommended in child protection matters by a panel of child welfare experts (Hatton, Campbell, Colantoni, Ferron, Huyer, Johnson Ortiz, MacMilland and Trocmè, 1998). More recently, the Ontario Association of Children's Aid Societies recommended an addition to the Child & Family Services Act that would require the court to consider the appropriateness of alternative dispute resolution mechanisms, such as mediation, prior to making an order at any stage of a child protection proceeding. Cunningham and Van Leeuwen (2005) also noted in their review of the literature on mediation that the government of Ontario introduced in June 2005, a package of proposed amendments to the Child & Family Services Act, among which would require alternative dispute mechanisms to be considered as an option (see Bill 210) in child protection matters.

A review of the literature and other online sources produced numerous guidelines and handbooks on how to do and/or implement mediation approaches in a child welfare context. For instance, a child welfare handbook produced in the United States outlines four key elements for implementing a successful child welfare mediation program along with various steps on how to start mediation processes in child protection matters (Judicial Education Centre, 2002). A recent Canadian counterpart was produced by Cunningham and Leeuwen (2005) who, in addition to their final report on mediation as a third child welfare option, also developed a discussion guide geared toward assisting communities in implementing child protection mediation¹⁶.

The majority of these sources are silent on the issue of culture and the role that community and minority populations can play in the implementation of mediation approaches. There are, however, some sources that speak to these issues, although they do not extensively address the role that First Nations and/or Aboriginal communities can play in the mediation process. The closest article found in the literature concentrating on the involvement of minority populations in the mediation process was produced by Wilhelmus (1998) who discussed the importance

of the kinship network for African American children removed from parental custody. She defined kinship care as "full-time nurturing and protection of children who must be separated from their parents by relatives, members of their tribes or clans, god-parents, step-parents, or other adults who have a kinship bond with a child" (p. 118). In particular she noted that kinship foster parents may experience frustration with the child welfare system's emphasis on permanency planning, especially in the cases where it is determined that the child will not be reunified with the biological parent and adoption is the recommended goal. Many kinship foster parents as a result have mixed feelings regarding the termination of biological parents' rights. Kinship caregivers may resist the continued involvement of the child welfare agency in their lives even if there is no move to terminate parental rights, and especially if the child's placement with kin is safe, stable and ongoing. She further states that the application of mediation to conflicts in agency-kinship family relationships can serve as yet another step in social workers' efforts to provide culturally relevant child welfare services. Wilhelmus's (1998) main argument is that mediation can be a culturally relevant approach to dealing with kinship caregivers, especially given that it is acknowledged that the child welfare system in the United States is ethnocentrically designed. Mediation in kinship care situations provides an empowering alternative that can assist social workers and kinship foster families in finding solutions to the problems that may arise as a result of child welfare involvement.

The only other article to touch on the involvement of extended families in child protection mediation was Baron (1997) who discussed briefly the involvement of extended family members in child protection mediation but generally, Barsky (1999) remarked that the literature does not provide empirical evidence of the extent of such involvement.

The role of community involvement and ways to increase community involvement in mediation approaches were the focus of Allan Barsky's article on Community Involvement through Child Protection Mediation (1999). In particular, Barsky highlighted how First Nations in the Yukon are involved in child protection mediations. First Nation involvement is usually at the discretion of the mediator on a case-by-case basis. Whenever a child protection case involves a First Nations child and family a representative from

¹⁶ A great many websites also address the issue of mediation in child protection and are of great use to the lay person in understanding mediation.

the First Nations community may be invited to attend a mediation session with the parent(s) and child protection agency. In other cases the First Nations representative may be invited to discuss concerns with the mediator regarding the cases but not actually attend a mediation session. Barsky notes First Nations communities have expressed concerns that none of the mediators being trained to undertake child protection mediation come from within the First Nations communities. Furthermore, Barsky notes that none of the applicants who seek mediation training come from First Nations communities, despite the government's efforts to promote and recruit mediators from this community (p. 490). This was also found earlier by Savoury & Beals (1995) in their overview of the mediation training provided as part of the government of Nova Scotia's attempts to design a mediation program.

British Columbia Chief Judge, Robert W. Metzger (1997), indicates that he has used mediation (i.e. case conferencing) in First Nations communities with respect to child protection proceedings. He indicates that mediation was available in every community (including the remote fly in communities) where court is held. His observations indicate that after a day of mediating, the community was joyful and enthusiastic at the prospects of building their own solutions within their own community regarding the families and children within. While his explanations about mediating with First Nations are scant, his account fails to take in the perspective that mediation may be seen as an imposed process and not one that is collaboratively entered into nor does he take into account that prior to colonization First Nations communities had cultural ways informed by Indigenous knowledge for dealing with child protection issues that have survived since time immemorial (Bennett & Blackstock, 2006).

While there is very little literature suggesting that Aboriginal mothers specifically and/or Aboriginal families and communities have had a meaningful opportunity to participate in mediation processes, there is however one promising article that has looked very comprehensively at family conflict and mediation among First Nations in northern Manitoba (Pintarics & Sveinunggaard, 2005). This article focuses on the Meenoostahtan Minisiwin: First Nations Family Justice Program administered by Awasis Agency of Northern Manitoba, a mandated First Nations child welfare agency. Since its inception in 1999, the program has received referrals involving more than 700 families, including over 1,900 children and 1,500 volunteer participants. Mediation services through

Meenoostahtan Minisiwin are provided in over 17 of 26 northern First Nations communities as well as in Thompson, Winnipeg, The Pas and Gillam, Manitoba (Pintarics & Sveinunggaard, 2005). The Meenoostahtan Minisiwin program responds to all aspects of mandated child welfare but does so outside of the child welfare and family court systems. These have included mediating care placement arrangements; family-agency or family-agency-system conflicts; assisting in the development of service plans in neglect and abuse cases; advocating on behalf of families attempting to access services; family violence; larger community-wide conflicts; and working to address systemic problems which impact the lives of First Nations children and families. Through the use of the peacemaking process, the program focuses on promoting families' strengths and capacities while at the same time exploring the best interests of children from a family and community perspective, away from the courts. Pintarics & Sveinunggaard's article goes on to describe the program's goals, its scope, the personnel and the role of Okweskimowew (family mediators) in addition to how referrals are made to the program, program outcomes and ends with four case examples of how the Meenoostahtan Minisiwin mediation program is effective in mediating on behalf of First Nations families involved with the child welfare system within Manitoba. Pintarics & Sveinunggaard note that while most of the time they respond to 'cases' – one at a time – the work is actually with the entire community. Mediation in a northern context is important as it assists in alleviating some of the inequities inherent in the north such as lack of legal representation, lack of translation of legal and child welfare concepts into northern languages, and lack of understanding of the court processes in child protection issues generally for northern First Nations families.

Conflict is inevitable in child protection, especially where cultural values and mores respecting the role and responsibility of families are very diverse. An obligation is placed not only on the legal community but also on the social services community in addition to parents to ensure that children are free from abuse and neglect. In working to ensure the rights of children and parents, the child welfare system has become far too legalistic. As a result, alternatives were developed and implemented (McNeilly, 1997) and mediation is increasingly seen as an appropriate way of dealing with human conflict which can assist in the move toward healing and prevention of future child maltreatment (Carruthers, 1997). Mediation can help facilitate disputes between Aboriginal mothers/fathers, their children and the child welfare system

in a way that is more conducive to preserving and strengthening the family.

FAMILY GROUP CONFERENCING AND FAMILY GROUP DECISION MAKING IN CHILD PROTECTION

Another approach often cited in the academic literature as a restorative and alternative approach applicable in the child welfare context is that of Family Group Conferencing (FGC). It is a process that is based primarily on the practices of the Maori people of New Zealand but is "similar to many Indigenous people's practices including Africans (Choudree, 1999; Tutu, 1999), Hawaiians (Shook, 1985), and Northern American Indians" (Walker, 2001, n.p.). This technique is viewed as most relevant in Aboriginal communities as it lends itself to traditional decision making styles such as collective or group problem solving. In the Indigenous context, conferencing is a group process for conflict resolution and unlike the Western justice systems; conferencing uses consensus and cooperation for decision making. Conferencing is regarded as a culturally sensitive tool, and thus has appeal when child welfare agencies are dealing with diverse communities (Schmid, Tansony, Goranson & Sykes, 2004). Conferencing can build community by bringing people together who were harmed by repairing relationships and building new ones where none previously existed (Walker, 2001). FGC is built on the values of shared responsibility for solutions and collaboration among extended family members, the community, and the state, building on family, community and cultural strengths (Chandler & Giovannucci, 2004). Very basically, FGC is described as an innovative method of making decisions regarding children (Holland & O'Neill, 2006).

In 1989, the Maori people and the social service authorities of New Zealand were instrumental in introducing the concept of restorative justice in a social justice context through an innovative program called 'Family Group Conferencing' (FGC). The Children, Young Persons and their Families Act of 1989 arose out of what has been termed the "political and cultural revolution" amongst Maori people during the 1970s and 1980s in New Zealand. The Maori people represent only 13% of the population in New Zealand but are vastly overrepresented in the child welfare statistics, in prison populations, and among those with low education achievement (Lowry, 1998; Walker, 2001; Pennell, 2006). Like Aboriginal children in Canada, the Maori children were spending an unacceptable length of time in out-of-home placements as well as

experiencing multiple out-of-home placements. In addition, the Maori questioned why so many of their children were being placed in the care of non Maori families (Mandell, Sullivan & Meredith, 2003) and were expressly critical of practices that alienated children from their cultural networks (Connolly, 2006). An influential report in 1979 called "Daybreak – Pauo te Ata Tu" brought to light serious concerns about the treatment of Maori children by New Zealand's child welfare system. Among concerns listed were the following:

- the centrality of the child in previous child welfare legislation was not in keeping with Maori understandings of family;
- the welfare of the child could not be considered separate from the well being of the family, and the child could not be considered as belonging solely to the parents and not extended family;
- large numbers of Maori children were 'lost' to extended family under the child welfare system; and
- placement of Maori children in the case of non-Maori families or in institutions raised concerns about the cultural needs of the children (Pakura, 2004).

The "Daybreak – Pauo te Ata Tu" report called for a new system, one that would recognize, and utilize Maori customs, and beliefs, and importantly employ Maori methods of decision making in relation to services for Maori children and their families. Based on a steadfast commitment to whakapapa (meeting each other, coming together, and discussing issues), Maori vision embraced several key concepts about the role of whanau, hapu, iwi in the life of a child (Whanau means family, hapu (subtribe) and iwi (tribe) (Love, 2006)). These include:

- extended families know their members best and are usually the best source of expertise on what should be done about their children;
- children are usually best cared for within their extended kin network;
- extended families can create the sort of therapeutic conditions necessary in the rebuilding of damaged lives;
- extended families are responsible for their offending young and have a responsibility, which they cannot delegate to professionals, to redress wrongs with the families of crime victims (Pakura, 2005).

This "Daybreak – Pauo te Ata Tu" report was instrumental in the subsequent development and

enactment of the Children, Young Persons and their Families Act, which places emphasis on FGC as the central process for decision making in child welfare cases related to care and protection of children in New Zealand. Under this legislation, “all children who were considered to be in need of care and/or protection were required legally to be referred for a FGC” (Connolly, 2006, p. 346). It is recognized that this Act proclaims that the idea of child welfare is primarily a private rather than a public or state responsibility (Pakura, 2005).

In conducting research into FGC, Van Wormer (2003) filtered out a number of key characteristics or principles of FGC relevant to child welfare practice. Lowry (1998) notes that these principles are not new to social work; they have been used for decades in family therapy and community development work. The philosophy that informs FGC entails the following elements:

- the sharing of decision making responsibilities with families;
- role of the social worker as a partner/ collaborator rather than expert;
- decision making by general consensus;
- process and decision making more likely to reflect the culture, traditions, and needs of the participants;
- stress on the quality of relationships, not family structures;
- beginning with a broad definition of what constitutes a family;
- acknowledgement of the value of kinship care over stranger care for children in need of care;
- a solution-focused rather than a problem-focused framework;
- a proactive rather than an investigative model for addressing child maltreatment; and
- a focus on building up social networks while not being blind to the risks to children in an unhealthy social environment.

Family Group Conferencing (FGC) or Family Group Decision Making (FGDM) engaging extended family members in the development of a safety and placement plan for children in families referred to child protective services. The intention of this process is to transfer the power and authority of decision-making for children into the hands of the people who have a life-long connection with the family and who have to live with the outcome of the decisions made (Ban, 2005). Common to all family conferencing is the recognition and importance of the extended

family and/or a broad interpretation of family. FGC approaches are generally designed to strengthen and sustain the family and through the process, new connections among the family and between the family and the community are forged (Chandler & Giovannucci, 2004). Those who use FGC have found that it generally works although it is by no means easy as it is a rather time consuming process at the front end for the conveners (Chandler & Giovannucci, 2004). Lowry (1997) wrote that the method works because, “family plans are more creative, more stringent, and better followed than agency plans; and...committed and caring family members will always ‘out-distance’ and ‘out-care’ any social worker,... lawyer, [or] foster parent no matter how well intentioned the professionals may be. Children instinctively react positively to the care of a relative, for they know that the care of a professional will never match the love, care and commitment possible within the family” (p. 59).

FGC entails a five part approach: the referral, the preparation and planning for the conference meeting, the convening of the family meeting itself and the subsequent decision and follow up (Lowry, 1998; Chandler & Giovannucci, 2004; Helland, 2005). Although Pennell (2006) indicates that how conferencing is carried out in practice will vary according to legal jurisdiction and cultures. Adaptations to accommodate such differences should not be viewed as model drift so long as they do not undermine the intent to include families in decision making. The five part approach to FGC proceedings according to Pennell (2006) is as follows:

1. *Opening*: Participants are seated, usually in a circle. The FGC coordinator welcomes and thanks the participants. S/he reviews the agenda, establishes guidelines and if the family wishes, the session may begin with a ceremony based on their traditions.
2. *Presentation of Issues*: Information is provided about the issues confronting the family. Reports are made by the child welfare worker and other protective authorities such as the police and correctional services if appropriate. Cultural and or community based groups may also provide further information. The child welfare workers and others in positions of authority do not make recommendations or identify specific resources to the family. The participating family members can ask questions and seek further information that they may need to assist them in formulating a plan.

3. *Private family deliberations:* At this stage, the service providers leave the room and the family takes the time to talk privately and formulate a plan. During this period the FGC coordinator and child welfare workers are close by in case the family needs to call upon them for further information. The privacy allows the family time to express caring for one another, confront problems and draw upon their cultural practices to find solutions and develop a plan that makes sense for them.
4. *Review, refinement and approval of the plan:* Once the family has come up with a plan, they ask the child welfare worker, FGC coordinator and other protective authorities to review the plan to ensure that it safeguards family members and to authorize the action steps needed and what resources need to be in place to make it work. The plan may be refined by clarifying items, specifying steps, establishing a system of monitoring and evaluating the plan as well as scheduling another date to reconvene the group. Pennell notes that at this stage, it would be preferable if the child welfare workers approve the plan during the conference or shortly thereafter once they have consulted with their supervisors. Approval of the plan serves as a check on the family group's decision making and an affirmation of their resolution.
5. *Closing:* Family and service provider participants are thanked for their contributions. A closing ceremony may take place or participants simply say their goodbyes. At this time an evaluation form is distributed and given to the FGC coordinator for feedback on the process (Adapted from Pennell, 2006, p. 265)

Interest in Family Group Conferencing (FGC) has grown quickly in the child welfare field (Doolan, 2004). As of 2003, more than 150 communities in 35 states and more than 20 countries have implemented family group decision making initiatives (Merkel-Holguin, 2003). The development of FGC demonstrates a shift away from the power and control approach of traditional child welfare systems and courts that have until recently, mandated compliance and treatment plans through threats and coercion and have told families what was required of them to maintain or

have their children returned (Chandler & Giovannucci, 2004). In Canada, several pilot projects have been funded by the Centre of Excellence for Child Welfare: one in Toronto (at the George Hull Centre for Children & Families) and one in Nova Scotia (at the Mi'kmaw Family & Children Services). In Manitoba, pilot FGC projects were implemented in Brandon, Lynn Lake, Dauphin and Winnipeg and Aboriginal communities in particular were involved (Routhier, 2002).

Initiatives are labeled not only as Family Group Conferencing, but also include Family Decision Making, Family Group Decision Making, Community Conferencing and Family Conferencing to name a few. It is not only the nomenclature that changes from program to program (Schmid & Sykes, 2005). Differences occur in the manner in which preparation is done and the conference itself is implemented. The role of the coordinator and the qualifications required are not consistent across projects (Chandler & Giovannucci, 2004). The location of the project in the broader child welfare context alters from one situation to another (Schmid & Sykes, 2005). There are different conference models including family group conferencing (Buford & Hudson, 2000), community conferencing (Cameron & Thorsborne, 1999), restorative conferencing (Hudson, 1999), family group decision making (Grabner, Keys & White, 1996) and Real Justice conferences (O'Connell, Wachtel & Wachtel, 1999). Currently FGCs are used in many countries as a preferred sentencing and restorative justice forum for youth offenders (Walker, 2001)¹⁷.

The FGC model of restoring justice in the family context is considered by some researchers (van Wormer 2003) as an outgrowth of both Aboriginal and feminist practice concerns stemming from the International women's and children's rights movements of the 1980s and beyond (Pakura, 2005). FGC as a model of restorative practice is implemented widely beyond New Zealand and this is because family decision making, through FGC, has tapped into aspects of social work practice that value community development strategies of empowerment as an effective form of problem solving despite the fact that it is a challenge to professional power and dominance in the social work field (Doolan, 2004; Ban, 2005). Ban (2005) states that by focusing on family decision making at a time of crisis or impending crisis, it utilizes crisis theories regarding the optimal time for changes to occur.

¹⁷ FGC for youth offenders involves slightly different cases of characters and the focus is on the offence and the harm done. In youth offender situations, the offender, victim and their supporters participate in conferencing instead of traditional police and court processes. Conferencing in this context is based on the assumption that crime damages relationships between people. The goals in these cases are to meet the needs of the people hurt by the crime by providing them with a process for expressing how they have been affected and how things can be made right (Walker, 2001).

Family Group Conferencing efforts were piloted with the Aboriginal community in Manitoba. The effectiveness of FGCs was the focus of Routhier's (2002) discussion respecting the Dauphin Friendship Centre's Family Group Decision Making Project (FGDM). The majority of families who participated were from Métis communities. Routhier notes that the majority of parents that were referred to the project were single parents and first time parents with one child. Issues of stress, isolation, alcohol and drug abuse and misuse, domestic violence, lack of parenting skills, poverty, and mental health issues were highlighted as being some of the factors in the referrals to the FGDM project. The average number of family members to participate in the FGDM conference was 6 persons and the average conference process lasted 5.5 hours. CFS service workers in addition to representatives from the schools, the church community, and workers in the health field participated at the request of the family. Reviews regarding plans were seen as necessary by the family and reviews of the plans were conducted 3-6 months after the initial conference. Routhier's evaluation of the Dauphin Friendship Centre's FGDM project incorporated the views of 223 people involved as parents or as extended family members. Her study indicates that a majority of families (85%) viewed the FGDM process as helpful and that many (70%) felt their situations had improved as a result of being involved in the process. Relationships among family members and extended family improved. 80% indicated that their relationship with their child improved. Relationships with the child welfare worker were also viewed as having improved (36%). The majority felt that the plans developed were helpful. Many family participants indicated (73%) they would recommend the FGDM process to others. The social workers felt that their relationships with families improved as a result of the FGDM process. Social workers found that the process helped them gain a better understanding of the family. Social workers felt that the process changed the way they made decisions. The strongest indicator of benefits to the families involved in FGDM is the return of their children. Routhier indicates that those children, who remain in formalized foster care, benefit in that their plans ensure more family contact while they must remain in care.

FGC is identified as a best practice technique and research illustrates how it is used in both California (Santa Clara County) and Hawaii (Honolulu) as a collaborative process for implementing court diversion as a model of change. The interdependency between the child protection system and the courts in these two American states made the collaborative approach

the best strategy to meeting the joint needs of these two systems and was a way to forge new alliances for designing a better system for abused children and families. The goal of this collaborative partnership was to implement an innovative method to divert child protection cases away from the judicial system. Strategies had to include parents and other family members early in the case and active participation in decision-making was recognized as a vital goal in this diversion. In addition, it was important that court proceedings be opened up in the hope that family participation would divert cases from the court system, or if inside, would move the cases through the system more quickly. The child welfare agencies involved in these two counties wanted to improve communications with family members and providers and also sought to divert cases from the court system completely, or shorten the overall time that families spent in the system. The evaluation of these two projects was considered to be highly successful. Wheeler and Johnson (2003) concluded that FGC for the Santa Clara County

... clearly demonstrate that family conferencing model (FCM) can be an effective process for empowering families to take control of their future ... The analyses also indicate that FCM can claim considerable success in achieving its goals including preventing child maltreatment, maintaining children within the family network and reducing court involvement (p.68, as cited in Chandler & Giovannucci, 2004, p. 218).

A summary of the research indicates that families are indeed participating in decision making and are making sound plans for their children (Merkel-Holguin, Nixon & Burford, 2003). It is also generally accepted in the literature that children must also participate in FGCs for it to be effective (Holland & O'Neill, 2006). As Doolan (2004) notes, there is no evidence to date that FGC approaches are harmful to children or that children are worse off because of it. In fact the research indicates that there are beneficial outcomes for the children who are involved in FGCs. These benefits include:

- More children remain or return to their kinship systems than by traditional child welfare practices. This means that the demand for placement in either outside resources or internal foster homes will be reduced, with accompanying reductions in residential costs and overall savings to the state.
- A positive corresponding shift in relationships between members of the family also results for families involved in FGC. Many report feeling

closer to one another and more able to call on each other for support and children indicate that the presence of their relatives makes them feel loved. Family involvement may also increase the opportunities for mediation or greater willingness to accept Crown Wardship if the child is placed with kin. The children placed in kinship homes maintain closer ties with birth parents than if they were placed with non-related foster care givers.

- Families have a sense of responsibility for, and a commitment to, the child, which usually extends beyond the child's stay in care.
- Conferencing facilitates "truth-telling" where matters of concern are discussed directly and openly. By being cared for within the kinship network, children can have safe relationships with parents and other relatives, as the circle is informed of the issues and monitoring of the situation is expanded beyond the nuclear family. This strategy results in lower incidences of child abuse and neglect and appears to have some dramatic results in decreasing family violence.
- These FGC, both the resources inherent in family and community can be optimally utilized when there is a concomitant support from the social service network of the child's family and community (Schmid, Tansony, Goranson & Sykes, 2004, p. 4-5).

Merkel-Holguin (2004) and other researchers (Holland & O'Neill, 2004) have underscored the importance of children being involved in FGCs. By taking part in FGCs, young children and youth learn the value of civic participation. They also get to observe the adults in their lives positively and humanely participating in difficult deliberations and as a result, they are better prepared to become citizens contributing to a civil society. Merkel-Holguin (2004) further notes that "when family group conferencing is placed in a democratic context, it may be seen as impelling child welfare systems to discover ways to safely and effectively engage children as participants (p. 167). On the other hand, concern was expressed by some researchers that including children in FGCs may be distressing to them especially if they are in the presence of adults who were accused of abusing them and witnessing arguments and conflicts (Holland & O'Neill, 2004). A further doubt is whether children's voices will be heard in adult-dominated forums such as FGCs (Dalrymple, 2002). Research conducted by Lupton and Stevens (1997) has countered such

concerns. Their research indicates that the young people they interviewed (n=19) were markedly more positive about holding FGC discussions without professionals present (but Lupton and Stevens indicate that caution must be taken in interpreting their findings due to the small sample size in their study). Dalrymple (2002) also reported that positive participation by children and young person's was noted in a sample of 10 children who were supported by an advocate.

Despite the many benefits and effectiveness of FGC, it still faces opposition. Social workers in particular are slow to implement it as a practice. Merken-Holguin (2004) states that FGC challenges years of paternalistic practice in which professionals have assessed problems, used clinical tools to determine levels of risk or harm, and developed corrective action plans with little consideration for or interest in families' opinions. Child welfare professionals were taught for too long that it is their job alone to rescue children, that they are the experts, and that only they have the solutions to families' problems. Some have argued that it is not possible to implement FGC strategies with "dysfunctional" families because these families are abusive and dangerous (Doolan, 2004). But research suggests that while alternative dispute mechanism may not be appropriate in every case, in the main working with children's family networks produces good or better outcomes for children rather than placing them in alternative stranger care (Schmid, Tansony, Goranson and Sykes, 2004) and it is an effective way to improve relations between parents and the child protection system (Chandler & Giovannucci, 2004). Opposition to FGC is also based on fears of losing control over the decision-making process by professionals in child welfare institutions (Doolan, 2004). Some advocates believe that FGC can be successfully used for all cases because it increases communication and family participation and as a result, should benefit every case in the child welfare system. Others are more cautious. Sex abuse cases and cases of domestic violence are believed by some to be inappropriate for conferencing and consequently such cases are rarely referred to FGC. Although Chandler & Giovannucci (2004) note that there is no empirical data to support or refute such beliefs. Additionally, there are fears of power imbalances and presumptions that safety issues for children cannot be handled appropriately through the FGC model (Chandler & Giovannucci, 2004). Family group conferencing also wouldn't work for families who do not have a network of support – a specific example is sexual abuse cases in which the child does not have a supporting parent

(Chandler & Giovannucci, 2004). Of course, it is also noted that some families experiencing shame, strained relationships, or embarrassment will nonetheless chose traditional, state-dominated mechanisms for problem solving over FGC (Merkel-Holguin, 2004).

Doolan (2004) observes that FGC cannot nor will it ever be implemented into mainstream social work/child welfare practices unless there is an explicit mandate to do so along with the requisite corresponding paradigm shift in the minds of child welfare bureaucrats.

Currently there is no explicit legislative provision for decision-making mechanisms or child welfare reforms in this direction (Chandler & Giovannucci, 2004) as the social work/child welfare methodological approach is filled by structures designed by bureaucrats (Doolan, 2004). Evaluation studies indicate that FGC remains a marginalized practice with few communities actually using this approach as a mainstream child protection practice (Merkel-Holguin, 2003). Marginalization of FGC initiatives means that it faces limited funding, administrative support and staffing which translates into fewer families having the opportunity to participate in FGCs (Merkel-Holguin, 2004). Low referrals were also noted (Merkel-Holguin, 2004). In addition it was observed that Caucasian families tend to have higher rates of participation in FGCs when compared to minority populations (Merkel-Holguin, 2004). Chandler & Giovannucci (2004) highlight that there is much more that we do not know about FGC because there are relatively few comparative studies and there is little experimental research designed that has tested the effectiveness of FGC. They indicate that it is hard to know if children really are safer, whether children get into permanent homes more quickly, or whether children are brought back into the child protection system after conferences. There are no questions about their siblings, about the costs, whether it is a preventative measure and whether it increases the number of kinship placements over stranger care in addition to whether the services are provided successfully over time. Furthermore, are families truly offered the opportunity to participate in their children's future in a private setting? One might ask if there was adequate preparation time for the parents to understand the process and if they had the adequate tools to participate?

Other concerns have revolved around confidentiality issues (Chandler & Giovannucci, 2004), adequate resources to implement family plans and the capacity of families to monitor them in ensuring that the plans the family has crafted in the FGC sessions are carried out in the best interests of the child (Lupton and Nixon, 1999). In most cases, social work professionals have

the right to challenge families' safety plans (Chandler & Giovannucci, 2004). However, in a number of settings, plans crafted by families in FGCs were found to be more complex and creative than those that emerged from traditional professional meetings (Holland & O'Neill, 2006).

Other research has questioned the implied democratic processes that underlie Family Group Conferencing. For instance, Merkel-Holguin (2004) observed that model variations in some US conferences have allowed professionals to dominate the family group conference by creating a structure where both a coordinator and a facilitator have active roles in the conferencing process. This has resulted in the coordinator working to prepare for the FGC and a different professional facilitating the FGC. The problem with implementing FGC in this way is that the family has spent time building a trusting relationship with the coordinator which becomes threatened when another person with little or no information steps in to facilitate their FGC. Merkel-Holguin notes that the concern with this variation is that it "encourages facilitators to pursue a more active, dominant role in the FGC process" and as a result thwarts "the opportunity for family members to emerge as leaders and undermine the family's capacity to self-regulate" (p. 163). The FGC model is not intended for this purpose. FGC, Merkel-Holguin asserts, is intended to "give family members and their support networks a voice – thereby rebuilding their investment and say in issues that matter to them, and affording them an opportunity to forestall a formalized governmental response" (p. 163).

Lastly, it is acknowledged by Lowry (1998) that implementation of FGC should not be seen as the total solution to the problems facing the foster care system. It is also not a process that is appropriate for all families (Doolan, 2004; Pennel, 2006). Nonetheless it is viewed as a promising first step that has proven to be successful in keeping children within their extended families and out of stranger care placements. FGC is also a promising model of reform given the fact that there is pressure to adhere to mandates seeking child welfare reforms. Both the courts and child welfare protection agencies have many reasons to engage families and other stakeholders in the design to of new approaches to child protection. Given the fact the FGC evolved out of Indigenous practices it will be important to include those most affected (i.e. Aboriginal mothers) in designing new approaches to restructure child welfare legislation in a way that encourages more participation by families to resolving child protection concerns and keeping Aboriginal children out of long-term stranger care.

What is missing is an evaluation of FGC processes from a gendered and cultural perspective in the Canadian environment. Given that Aboriginal women bear the burden of resolving child protection issues as single parents there is much to learn about how FGC might benefit or hinder them in their involvement with the child welfare and court systems. For thousands of years, before formal child protection systems existed, Aboriginal families in particular, used their own resources, knowledge, and strengths to resolve problems involving child abuse and neglect, and child rearing. Aboriginal parents have long relied on networks of relatives and friends and on their own spiritual worldviews for support. FGC is more conducive and culturally congruent for Aboriginal families. It reflects an Aboriginal worldview and represents a more promising approach to dealing with family and child welfare issues (MacDonald, Glode and Wien, 2003).

FGC offers a process that allows the voice of the family to be heard in the decision-making as well as be involved in the development of stronger, sustainable plans for children's wellbeing. In essence, FGC provides families with an opportunity to regulate their own behaviour before a more intrusive form of intervention is undertaken (Merken-Holguin, 2004). Families should not have to wait to be invited to participate in a FGC, instead families should grab at a chance to self-refer. The real question, Merken-Holguin (2004) contends, is whether the entrenched and powerful systems in place are ready to support a practice model that is as empowering as family group conferencing?

ACCESS TO LEGAL COUNSEL

Understanding Aboriginal mothers' experiences with the child welfare system in court proceedings also requires an examination of the literature regarding women's access to legal representation generally. Although much of the literature does not focus specifically on Aboriginal women's experiences, the findings from the existing research on women's experiences obtaining legal counsel suggests that Aboriginal mothers may face increased barriers to justice given that they are over represented among single mothers and those affected by child protection proceedings (Schmolka, 2002).

Access to legal representation in child protection cases is fraught with difficulties related to the access to, and the ability to pay for, legal representation particularly in relation to civil matters such as child protection cases. The difficulty lies in the inequitable way in which legal aid is provided between men and women within this country. In Canada, legal aid is primarily subsidized by the provinces and territories to persons who are otherwise unable to afford legal representation. The criterion for obtaining legal aid is set by each of the provinces and territories¹⁸. The services provided by legal aid plans include legal representation, advice, referrals, and information services. Both criminal and civil matters are covered by legal aid, although the coverage varies among the provinces and territories (Besserer, 2006).

The civil aspect of legal aid poses substantial concerns especially for women¹⁹. The Manitoba Association of Women and the Law (Woodward, Piper, Kipp & Tosso, 2002) for instance noted that the current legal aid system was designed predominantly by men based on the male experience. The current system prioritizes serious criminal matters where there is a likelihood of incarceration, which primarily provides a benefit to Canadian men but on the other hand, it fails to accommodate women's special needs and life experiences (MAWL, 2002). Addario (1998) maintains cuts in legal aid often co-occur with cuts to other social support programs such as social assistance resulting in cumulative challenges to women in accessing competent legal counsel. These findings are corroborated by research conducted in other provinces regarding the impact and effects of legal aid reductions implemented across the country. For instance in British Columbia, Bain, Morrow and Chrest (2000), in their publication entitled *Access to Justice Denied: Women and Legal Aid in B.C.*, explained that the cuts to legal aid implemented through the repeal of the Canada Assistance Plan ("CAP") and the introduction of the Canada Health and Social Transfer ("CHST") disproportionately impacted mostly women. They noted, for instance, "that while the approval rate for legal aid applications declined between 1992/93 and 1998/99, the number of rejected applications was much greater for family law matters – of which women are the primary clientele – than it was for criminal law matters". Research on the cutbacks to legal aid was also

¹⁸ Applicants must meet certain financial eligibility requirements, plus the matter must meet coverage provisions, and in some cases, the matter must have legal merit (Besserer, 2006). A complete review of the process for determining whether individuals are eligible for legal aid is beyond the scope of this review but those interested in the process can review Statistics Canada's publication entitled *Legal Aid in Canada: Resource and Caseload Statistics 2004/05* (2006) for a more comprehensive understanding of legal aid eligibility criteria.

¹⁹ The focus of the literature in this section is specifically on the civil aspects of legal aid (that is, family law and/or child protection dispositions) rather than the criminal aspects.

conducted in Manitoba by the Manitoba Association for Women and the Law (2002) where it was revealed that a “deficit created by legal aid expenditures that are greater than the federal and provincial contributions to legal aid resulted in a steady increase in the number of people who have been refused by Legal Aid Manitoba (especially for women who are victims of domestic violence and have no other alternative other than legal aid).

Legal aid in Canada is viewed in the literature as being in a chronic funding crisis (Buckley, 2000; Ducette, 2001). The Canadian Bar Association says there are four serious problems with legal aid in Canada:

- underfunding;
- uneven coverage across Canada - legal aid varies widely from province to province in Canada;
- fragmentation - legal aid coverage is only available for specific problems and procedures in any given jurisdiction, which is inefficient and may not solve an individual’s legal problems;
- disproportionate impact - cutbacks in funding and restrictions on legal aid services have a disproportionate impact on low-income Canadians, including women, people with disabilities, Aboriginal peoples and immigrants (Canadian Bar Association, 2002).

cross the country, many people with serious legal problems are turned away from legal aid and as a result are forced to represent themselves in complex legal proceedings. On the other side, many private lawyers have stopped taking legal aid work because it has become an economic burden with some lawyers becoming overworked to the point that both their professional obligations and their personal well-being are compromised. Legal aid clinics are underfunded, unrecognized and often the first to suffer from financial cuts to legal aid. The most underrepresented in family law matters are women (Barr et al, 2006). Access to legal aid for mothers whose children are apprehended were particularly hit hard ever since the Canada Health and Social Transfer (“CHST”) was introduced by the federal government in 1995. Under the CHST, a lump sum is transferred to the province by the federal government with no stipulation upon where and how these monies are spent. At one time criminal and civil legal aid was cost-shared between the federal and provincial governments. With the introduction of CHST, only criminal legal aid is cost-shared. Civil legal aid, which includes family legal aid, is solely funded by the provincial governments. As a result, family legal aid is virtually non-existent and funding was significantly reduced in many provinces (Doucette, 2001) and

such limited amount of funding makes effective representation impossible (Schmolka, 2002).

In a study by Addario (1998) and the National Association of Women and the Law, women in Manitoba and Ontario were asked to share their experiences accessing legal aid with a particular emphasis on the coverage and financial eligibility criteria and the quality of services they received from their legal aid counsel. The focus groups were held with women who were survivors of intimate violence, single mothers, urban Aboriginal women, refugee women, rural women and older women. The women reported that they found the process of applying for legal aid intimidating and confusing and that they felt at times ill equipped to persuade legal aid personnel about the merits of their application. They also reported difficulty finding lawyers who were willing to take their legal aid certificates. When they did find a lawyer willing to act on their behalf, half found that their lawyers provided effective, sensitive representation while the other half found their lawyers inaccessible, ineffective and disrespectful toward them. The study’s final report provided recommendations to improving women’s access to the justice system based on the premise that legal needs of many women are still not being met, in spite of efforts by the access to justice movement in Canada to improve the provision of legal aid services. Some of the recommendations include:

- extend legal aid coverage for property law, and discrimination beyond the workplace;
- monitor more closely the eligibility criteria, effects of legal aid cutbacks, gender differences in the use of aid, and provincial spending on legal aid under CHST;
- better train lawyers and legal aid personnel to improve their ability to serve women from diverse backgrounds;
- expand the definition of “liberty” in Section 7 of the Charter to reflect women’s experiences. Coverage should be extended to permit women to pursue their legal claims for support from former spouses to maintain their families;
- provide legal aid coverage for the Section 7 guarantee of “security of the person”, so that women can defend themselves from state action, as in child apprehension cases (Status of Women, Fact Sheet, 2003).

Research papers covering the legal aid cuts and its impact on women can also be found in Prince Edward Island and Newfoundland & Labrador. Laurie Ann McCardle and Andy Lou Somers (2001) outlined the

findings of a women's coalition examining women's access to legal entitled Legal Aid and Social Justice for Women in P.E.I. Their findings indicate that the legal aid administration in Prince Edward Island prioritized family legal aid in civil matters and that access to legal aid was contingent on the involvement of a child. Consequently, older women and women working and living in poverty will not qualify for legal aid unless they are receiving social assistance. In Newfoundland & Labrador, Hancock and Condon (1999) captured findings from focus groups, as well as personal and telephone interviews held with women about their experiences with legal aid. Their research documents the inequitable impact of gender-neutral policies implemented by Legal Aid in that province. For instance, women were advised that legal aid would not provide lawyers to assist with peace bond applications for women, however it did provide legal representation for individuals accused of assaulting their partners – primarily men. Further, women recounted having to sell their assets in order to pay for a lawyer, and sometimes having to go on social assistance to survive. They also agreed to custody being awarded to their partners or agreed to child welfare placements in order to avoid participating in a lengthy court process. Another identified area of inequity lies in the fact that the Legal Aid Commission within Newfoundland & Labrador viewed the family home as an asset which must be sold in order to pay for a private lawyer for family law matters. The same policy does not apply in criminal law matters – persons charged with a criminal offence are entitled to legal representation if it is likely they will be incarcerated but they are not required to sell their homes. Access to legal aid lawyers was compromised for some women because of location. Women living in remote areas found access to legal aid lawyers seriously limited and expensive (Hancock & Condon, 1999). For Aboriginal mothers living on reserve specifically, access to legal aid lawyers is virtually non-existent.

In addition to literature on the funding cuts to legal aid across Canada, a 1999 decision out of the Supreme Court of Canada significantly weighed in on the call for increased legal aid representation for women, when it found that denying access to state-funded counsel discriminates against poor women (Mossman, 2000). The SCC ruled that the Province of New Brunswick's failure to provide legal aid in child wardship cases violates the

Charter rights of poor women specifically. In that case, J.G. a New Brunswick woman, appealed a lower court decision that denied her legal aid when a social services agency applied for an extension of temporary wardship of her three children. The crux of this case revolved around women's need for legal representation. LEAF²⁰, as one of the interveners in this case, argued that the province's failure to pay for legal representation for parents in temporary (as opposed to permanent) cases is unconstitutional and, therefore, a failure to provide access to justice for the poor. The J.G. decision is considered to be a victory for women in Canada in that they are most likely to be involved in child custody hearings. The SCC recognized that this case raised issues of gender equality because women, and especially single mothers, are disproportionately affected by child wardship proceedings (Mossman, 2000).

In a background paper prepared for the Canadian Bar Association regarding the legal aid crisis in Canada, Buckley (2000) noted Section 15 of the Charter, which deals with the equality provisions, may provide a further basis for a constitutional right to legal aid. Equality, Buckley notes, "is meaningless if people are prevented from enforcing their rights. True equality requires that barriers – financial, social, and/or cultural – be removed for all Canadians. The Legal Aid system is the primary government mechanism designed to overcome these barriers" (p. 15). Buckley argued that lack of equal access to legal representation is a fundamental issue of fairness. She argued that the "erosion of legal aid funding belies our commitment to equal protection and benefit of the law". Legal aid was meant to avoid a two-tiered system of justice; one for those who could pay and one for those who could not:

Legal aid under-funding has resulted in a tiered system of justice, with at least three types of people who need lawyers. First, there are those who can pay for lawyers privately. Second, there are those who receive Legal Aid from lawyers who receive unrealistically low remuneration for the work and time required to provide the high quality level of representation each client deserves. Third, there are those who are refused the services of a lawyer altogether, since they do not qualify financially or they have a legal issue which is not covered by the tariff (as quoted by the B.C. Coalition on Access to Justice in Buckley (2000, p. 16).

Clearly the literature reveals that women's right to justice as parents is severely compromised by the cuts

²⁰ LEAF - the Women's "Legal Education and Action Fund" - is a national charitable organization that works toward ensuring the law guarantees substantive equality for all women in Canada. Since its inception in 1985, LEAF has intervened in over 150 cases and has helped establish landmark legal victories for women on a wide range of issues from violence against women, sexual assault, workplace inequities, socio-economic rights, and reproductive freedoms (see <http://www.leaf.ca>).

to legal aid funding across Canada. Given the large percentage of single Aboriginal mothers and given the low percentage of father involvement, the burden of raising children has fallen squarely on the shoulders of Aboriginal women (Ball and George, 2006; Olsen, 2005). Inadequate funding for legal representation for Aboriginal mothers may also logistically explain why more Aboriginal children are placed in alternative care at much higher rates than most other Canadian children (Trocmé, Knoke & Blackstock, 2004) – their mothers simply do not have adequate or equitable access to legal counsel to prevent this from happening. Government initiatives such as the Court Challenge Programs²¹ might have guaranteed access to social, economic and culture rights of Aboriginal mothers because Aboriginal women have a disproportionate need for legal aid in family law as matters arise from poverty and social disadvantages. Women's rights to equality before the law is in jeopardy given that legal aid is largely reserved for criminal matters, leaving women, particularly Aboriginal women, at a serious disadvantage (The Court Challenges Program of Canada, 2005; Barr et al, 2006).

Among Aboriginal peoples in Ontario, Zalik (2006) found that the most frequently cited area of concern which necessitated access to legal information and representation stemmed from child welfare interventions. Research also conducted by Zalik (2006) and MacDonald (2002) indicates that Aboriginal mothers and families are often unaware they are in an adversarial situation when dealing with child protection workers and more often than not, they comply with worker's requests, sometimes against their better judgment and best wishes. The need for more legal information and representation in relation to child welfare is not only important for Aboriginal mothers, but for all family members, who may find themselves responsible for children or wishing to engage in caregiver relationships through the child welfare system. What is not known from the literature is how Aboriginal women in Manitoba (and Canada) are impacted by the legal aid cuts and what their experiences are in choosing and interacting with the legal aid lawyers that represent them in child apprehension matters before the courts. Similar to the findings in the section respecting their experiences with child welfare systems, a more in-depth exploration of Aboriginal mother's voices and opinions respecting their experience with lawyers and access to legal aid are missing from the representative

literature. More knowledge is needed to capture the gendered and cultural implications Aboriginal mothers experience as a result of their interface with the main players in the government and legal arenas concerning child protection issues.

SHIFTING SERVICES TO REFLECT ALTERNATIVE RESPONSE MODELS

The child protection system is badly flawed say many child welfare scholars and is in dire need of reform (Waldfoegel, 2000). Child welfare analysts agree that the system needs to provide a more customized response to the needs of the diverse array of families that are brought to its attention every year. According to Waldfoegel (2000), the current model of child protective services has five basic flaws: 1) the over-inclusion of families that are low-risk; 2) the under-inclusion of families at high risk who are not referred for services; 3) inadequate resources to meet the need for services; 4) fragmented and disruptive services; and 5) the inability of the system to customize services. Due to the growing numbers of referrals including an increasingly broad array of problems as noted by Waldfoegel (2000), a promising shift is underway in Canada, elsewhere and, most recently, in Alberta as a way to move the child welfare systems towards "alternative response models" or "multi-track systems" (Trocmé, Knott & Knoke, 2005; Schene, 2001).

Differential response models were developed because of the growing concern that intense child protection investigations just were not appropriate in all cases. Differential Response is a way to ensure delivery of prevention and early intervention services to address risks for vulnerable children by helping strengthen their family's abilities to deal with their problems. The goal of differential response is to avoid the need for protection services and lessens the need for lawyers and compulsory court appearances. It's a helping hand to families and is defined simply as being a

... different way of responding to different families, based on the needs of the children and the family. This new way will continue to include protection and investigative services when those are required to keep children safe. Where children are not in immediate danger and/or being subject to abuse, the needs of the children and families will be met through a range of options customized to meet the variety of short and long term needs of families. This new child centered and family focused approach will build on strengths,

²¹ Funding to the Court Challenges Program was discontinued by the Harper Government in 2005.

be culturally sensitive, and include community partnerships, both formal and informal (First Nations of Southern CFS Authority, 2007).

Differential response is a process designed to assess each report of child maltreatment to determine the most appropriate, most effective, and least intrusive response that can be provided by child protection service agencies depending on the risk and/or needs of the family. These include a range of potential response options customized to meet the diverse needs of families. A differential response model uses multiple "tracks" or "streams" of service delivery. In addition the model utilizes and supports more effective collaborations with other community based service providers (Trocmé, Knott & Knoke, 2005). With all due concern for the safety of children at risk, the intent of differential response is to divert as many cases as possible from formal entry into the child welfare system. In cases where there is an assessment of higher risk and/or substantive findings of child maltreatment, a traditional protection approach would be taken to ensure the safety of children. High-risk cases include all reports of sexual abuse, serious physical or emotional harm, chronic neglect and cases in which criminal charges may be laid. Lower risk situations would receive a modified response which would focus less on evidence gathering and more on engaging families during the investigation. In these situations, families would be assessed on their current strengths and deficits, community resources would be identified, and families engaged where possible on a voluntary basis. Differential response models aim to connect children and families at lower risk to community based support services to help in strengthening families before crises occur so as to enhance their ability to provide stable and nurturing homes (Trocmé, & Chamberland, 2003). Less urgent cases are shifted to an alternative "assessment" or "community" track, where the focus of intervention is on brokering and coordinating services to address the short and long-term needs of these children and families. In some jurisdictions, such as Florida, workers in the assessment track do not have the authority to apprehend children. In such cases, responsibility for service provision is shared with community based resources and services are provided on a voluntary basis (Trocmé, Knott & Knoke, 2005).

Differential response appears to be a more humane approach for voluntarily engaging families to work with child welfare agencies and community based resources. As part of the Changes for Children initiative, the Province of Manitoba in 2006 announced a commitment of \$22 million over the course of three

years to ensure that early intervention services such as differential response are provided and available to help troubled families before problems become a crisis and children are maltreated. Differential Response will allow child welfare authorities, at least within Manitoba, an opportunity to strengthen the Child and Family Services' prevention mandate as set out in legislation. A province wide implementation of a differential response service delivery model is planned for 09/10 (First Nations of Southern Manitoba CFS Authority, 2007). In the last year and a half, Indian and Northern Affairs Canada too is in negotiations with various First Nations agencies in the provinces of Alberta, Saskatchewan, Nova Scotia, British Columbia, Quebec and Manitoba to develop new service and funding frameworks to ensure alternative approaches (called early intervention and family enhancement services) are also delivered to families on reserve. Draft INAC documents suggest that the department expects that implementation of differential response will result in reductions in children in care, and thus allow for reductions in federal funding, in under 5 years— the problem is there is no research evidence to support this hypothesis (Blackstock, 2008).

Differential response may be a promising alternative approach with great potential for diverting Aboriginal mothers and families from continuing to experience adversarial aspects of child welfare and court hearings in the future. Although differential response has become widely regarded as a promising child welfare model of practice in Canada, there is no definitive evidence that it works—either with non-Aboriginal or First Nations children (Blackstock, 2008; and English et al, 2000). It remains to be seen how this new approach will be carried out and whether a paradigm shift in thinking will come about as a result of implementing early intervention and prevention practices that are characteristic of differential response.

CONCLUSION

Aboriginal women face more challenges in their dealings with the child welfare system and with respect to their involvement with child welfare related legal and court related processes than non Aboriginal women. The legislative powers accorded to child welfare agencies are extremely broad and unlike the powers of police, child welfare responsibilities are almost virtually non-reviewable. A warrant is not needed by child protection social workers to enter a home and apprehend a child if the child is deemed to be at immediate danger. Reasons behind the apprehension in some cases are often difficult

to determine for the parents, as the file remains the property of the child protection agency; and even the mother's lawyer may have difficulty in accessing the complete file. Child protection matters are addressed in an in camera process without public invigilation and community engagement. While measures are needed to protect the privacy of the child and family, and ensure the safety of vulnerable children, these restrictions also have the unfortunate effect of preventing family members and advocates from witnessing what occurs in the courtroom, and of hindering public scrutiny of child welfare, court processes and outcomes in order to ensure that all sectors of society receive equitable treatment, regardless of socioeconomic status, race or ethnicity (Ka Ni Kanichihk, 2005). Other limitations of the system, faced by all those involved in it, often have additional negative effects on Aboriginal mothers. Although Aboriginal women (and/or parents) are entitled to a lawyer to advocate on their behalf, these lawyers are often not Aboriginal, may not understand or be sympathetic to the context in which Aboriginal families live, and may not have the time to adequately explain the implications and ramifications of the court process. Difficulties due to communication differences between cultures, and preconceptions of these lawyers regarding Aboriginal clients may also hinder appropriate service. Stereotypes about Aboriginal women as "unfit" mothers may be present. Backlogs and delays in the court system often result in women agreeing to temporary wardship orders as this is the fastest way to have a child returned – not realizing that this may in future be used against them as "proven history" of poor parenting. The separation from family that results from limited resources for child visitation also has disproportionately negative effects on Aboriginal families where care for children is often provided by the extended family.

This review highlighted several issues faced by Aboriginal mothers when they become involved with the child welfare and family court systems. It looked at some of the existing literature that addresses child welfare concerns from Aboriginal women, in addition to the literature that addresses alternative dispute mechanisms which are beginning to be used in a broader context within the child welfare milieu. The role of mediation and use of Family Group Decision Making in child protection cases was explored and how these two processes were used in general cases as well as their applicability and usefulness in the Aboriginal child welfare context. It is not a complete picture in that the research currently available has often failed to address these issues from Aboriginal

mother's perspectives. Moreover, as suggested by Kelly MacDonald's (2002) research, Aboriginal mother's voices and perspectives about their experiences with the child welfare systems across this country will continue to go missing unless we open the doors and explore women's experiences and what can be done to alter their experiences with these systems. It is unacceptable to continually silence Aboriginal women when there are promising strategies that empower and promote mother's involvement. It is hoped that the Family Court Diversion Project undertaken by Ka Ni Kanichihk will begin to shed light on the child welfare and court experience of Aboriginal mothers in the Manitoba context. Perhaps the knowledge gleaned from Aboriginal mothers will influence structural and legislative changes that incorporate alternative measures and means for dealing with culturally diverse families involved in child protection interventions. Prevention and early intervention or differential service models already operational in some child welfare jurisdiction in Canada offer promising alternatives for working with families that may help address risks for vulnerable Aboriginal children by helping strengthen their family's abilities to deal with their problems before crisis developments leads to child maltreatment.

STRENGTH OF ABORIGINAL IDENTITY

This question asked the women to rate their perceptions respecting the strength of their Aboriginal identity. The rating was based on their perception of the following:

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 3:

DEMOGRAPHIC CHARACTERISTICS OF PARTICIPANTS

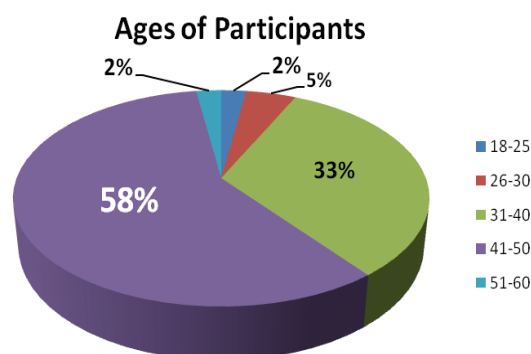
INTRODUCTION

This section reviews the statistical demographic characteristics of the Aboriginal women who participated in this study. It is important to recognize that these characteristics cannot be generalized as being representative of all Aboriginal women who are involved with the Manitoba child welfare system given the limited sample and non random sampling design. The way in which we collected this data was through the development of a document with multiple choice responses. We called this particular document the “Personal Information Form” and while it is characterized as personal, it did not require any personal information such as name, address or phone numbers but rather reflects on characteristics that deal with non-identifying facts connected to the women’s marital status, cultural affiliation, community identification, number of children, age ranges, etc. The document was 8 pages in length and asked a total of 39 questions. The personal information form was completed by all the mothers/grandmothers prior to being interviewed and prior to participating in each of the talking circles. The following information is based on the women’s responses to the questions posed in the personal information form. Many of the questions touched on similar topics and as a result, the responses to the 39 questions were organized into 18 topic areas.

AGE GROUPS

The majority of the women (N=25 or 58%) who participated in this study were in the age range of 41-50 years. All participants were mothers however what is also significant are that many of the women reporting in the 41-50 age range were also grandmothers. At least 5 of the 32 women (or 16%) indicated that they were grandmothers. The breakdown of the age ranges of the participants is as follows:

- 1 (18-25 years) (2%)



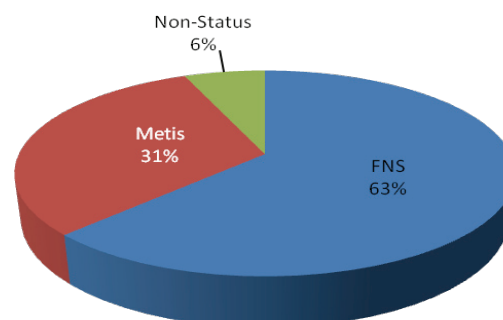
- 2 (26-30 years) (5%)
- 14 were in the 31-40 age range (33%)
- 25 were in the 41-50 age range (58%)
- 1 (51-60) (or 2%)

ABORIGINAL STATUS

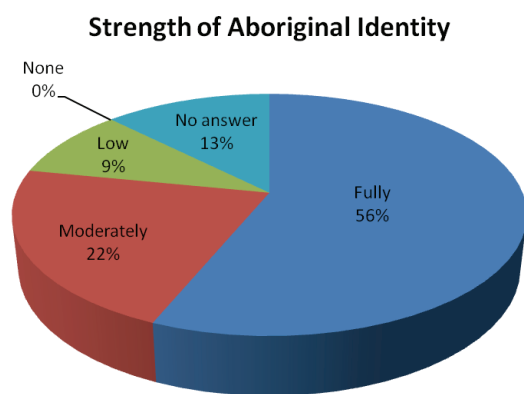
The majority of the women (20 of the 32 women or 63% of the respondents) self-identified as being of First Nations ancestry. Ten women identified as being Métis (or 31%). Two of the women who participated in this study indicated that they had Aboriginal ancestry but did not identify as having either First Nations (Indian) or Métis status. According to the responses the breakdown regarding Aboriginal status is visually presented in the following chart:

- First Nations (n = 20 or 63%)
- Métis (n = 10 or 31%)
- Non-status Aboriginal (n = 2 or 6%)

Aboriginal Status of Participants



- Fully: I feel very connected to my Aboriginal culture and feel that it shapes my identity as a person
- Moderate: My personal identity is somewhat shaped by my Aboriginal heritage
- Low: A small portion of my identity is shaped by my Aboriginal heritage
- None: None of my personal identity is shaped by my Aboriginal heritage

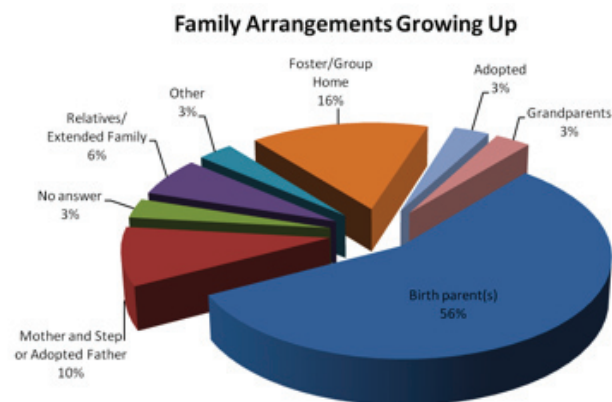


their Aboriginal heritage as low with respect to their identity formation. Four women (13%) did not answer the question.

FAMILY ARRANGEMENTS GROWING UP

The responses by the women in this study to this question were varied. The first responses among the 32 participants were recorded as follows:

The majority of the women indicated that they grew up with their birth families (n=18). Five women (or 16%) indicated that they had either grown up in a foster home or a group home. A further 10% (n=3) indicated that they had grown up with their birth mother and a step father and/or adoptive father. 6% of the participants stated they had lived with relatives and/or extended family members while growing up. Other family arrangements identified by the women in this study included living with grandparents (n=1 or 3%), in adoption situations (n=1 or 3%) and/or in other arrangements (i.e. for one person this meant living with a family friend for 11 years until reaching adulthood).



Many of the women also reported that in addition to growing up with birth parents, they had also experienced growing up under the care of extended family members (aunts, uncles, grandparents). Ten women (or 31%) also acknowledged that their family had been affected by residential school. Although it is suspected that the families affected by residential school experience are much higher than reported.

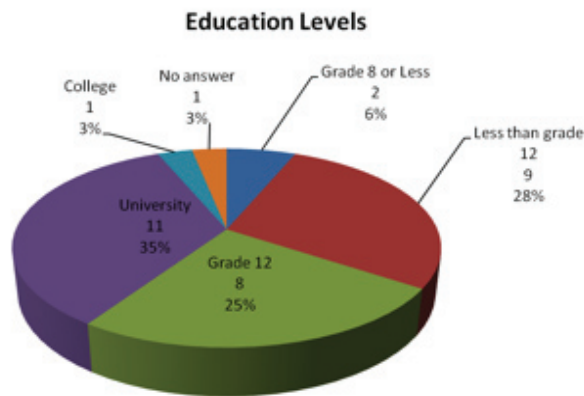
PRIMARY LANGUAGES

All of the women who participated in this study spoke English and indicated that English is the primary language through which they communicate. However 2 women stated that their Aboriginal language is most often spoken at home. Of the 32 mothers/grandmothers, 12 (38%) women disclosed that they also spoke an Aboriginal language. Of the 12 women who speak an Aboriginal language, 7 stated that they speak Cree while 5 of the women indicated they speak Ojibway. One mother (3 %) stated that she spoke both of the major Aboriginal languages in Manitoba: Cree and Ojibwa.

EDUCATIONAL LEVELS

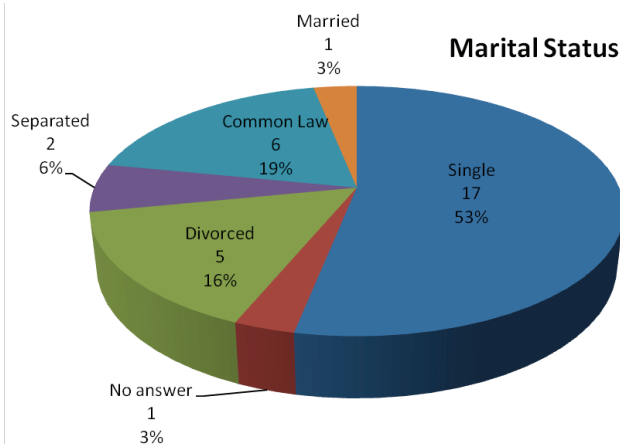
The highest level of education reported by the 32 mothers is as follows:

- 2 women had grade 8 or less (6%)
- 9 indicated that they had less than grade 12 (28%)
- 8 women had Grade 12 (25%)
- 11 women stated that they had a university education (no specifics on degrees, completion or whether education still in progress) (35%)
- 1 indicated she had gone to college (3%)
- 1 did not answer (3%)



What is important about the above noted response is the high percentage of women in the study who have a university education. For the women who indicated that they had a university education, their responses do not identify whether they were in the process of completing a degree, whether they had completed their degree or whether they had quit or were taking a break from university. What is also not known is when these women pursued an education. For many of the women, involvement with child welfare necessitated changes in their lives; many of which led them to pursue an educational avenue.

MARITAL STATUS

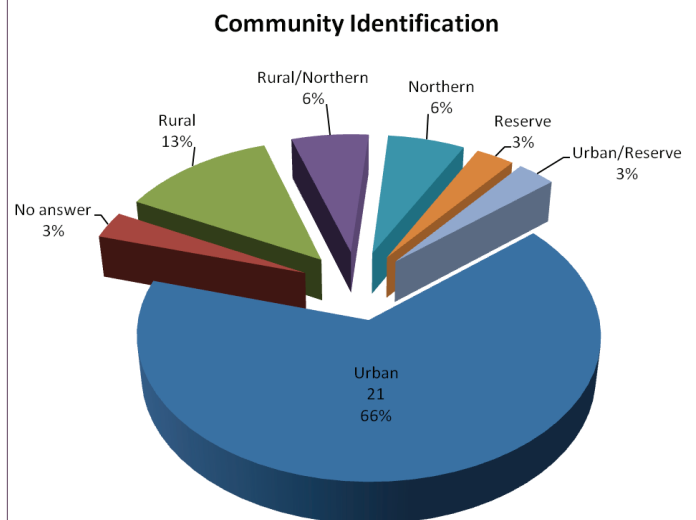


disclosed they lived in a common law situation.

COMMUNITY IDENTIFICATION

The majority of the women who participated in this study identified as coming from an urban community, while 2 women identified as coming from a rural/northern community. Four women (or 13%) identified

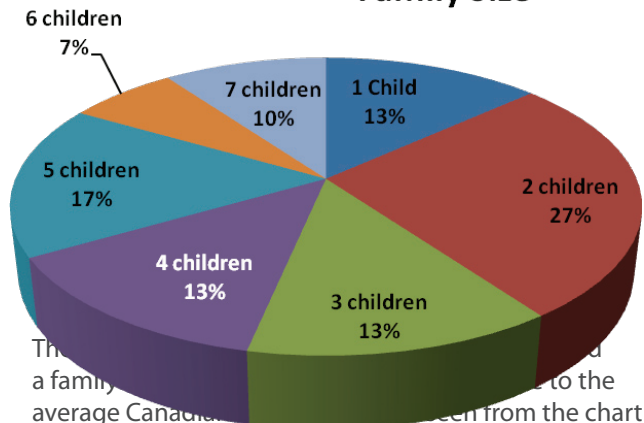
as coming from a rural community. Two women (6%) identified as coming a northern community while 2 (6%) identified as coming from a community as being a combination of rural and northern. One woman (3%) identified as coming from a reserve community while another participant (n=1) identified as coming from a combination of both urban and reserve. The pie chart below depicts these multiple community identifications.



involved in child welfare).

- 4 mothers had only 1 child (13%)
- 8 mothers had 2 children (27%)
- 4 mothers had 3 children (13%)
- 4 mothers had 4 children (14%)
- 5 mothers had 5 children (17%)
- 2 mothers had 6 children (7%)
- 3 mothers had 7 children (10%)

Family Size



The data shown in the chart above, the family sizes of the mothers/grandmothers participating in this study are larger in comparison to the family size of mainstream Canadian families.

CHILD WELFARE INVOLVEMENT

14 of the 32 mothers/grandmothers still had children in care at the time they completed the personal information form. For fifteen of the mothers/grandmothers, their children were eventually returned but for many, only after significant treatment and program attendance; 8 of the mothers indicated that they had children over 18 years of age still living with them.

PRIOR CHILD WELFARE INVOLVEMENT

Of the 32 mothers involved in this study, 17 indicated that they themselves had been involved with child welfare as children and/or youth. Among the many reasons cited by the women for their parents' child welfare involvement included the alcoholism of their parents, family violence, neglect and for many, they either were voluntarily placed in care while their parents worked on trying to deal with their problems or revealed that they placed themselves into care due to the abuse and/or alcoholism of their parents. Other reasons cited for prior child welfare involvement include sexual abuse and/or assault, criminal activity of the parent(s), separation of parents and/or the parent's mental health issues.

CONTACT WITH LEGAL SERVICES

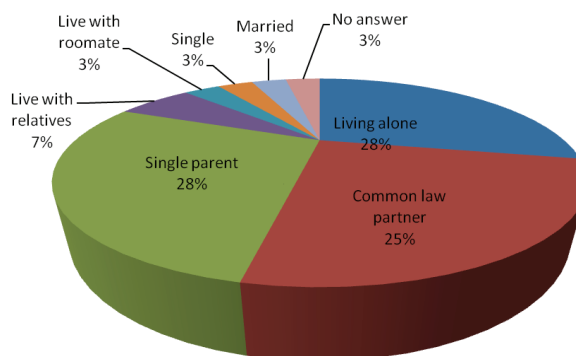
Twenty-five (25) of the mothers/grandmothers had Legal Aid lawyers who represented them in court. Four (4) mothers/grandmothers indicated that they

did not qualify for legal aid and therefore had to hire a private lawyer. The question was not answered by one individual and two (2) felt that the question was not applicable in their circumstances.

Of the 25 mothers with Legal Aid lawyers, 9 indicated that they encountered difficulties in trying to find a lawyer to represent them.

CURRENT LIVING ARRANGEMENTS AND NUMBER OF MOVES

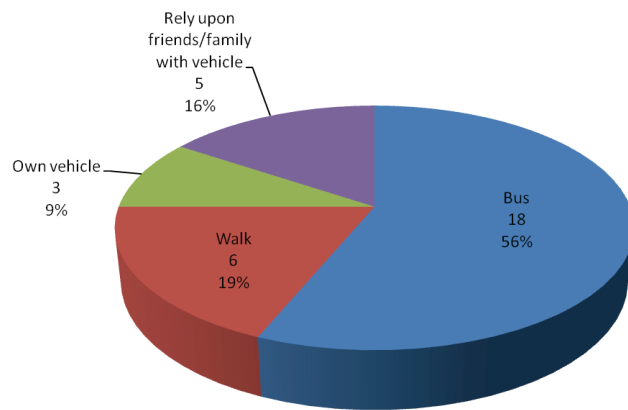
A different way of asking about the marital status was to ask about their current living arrangements. As reflected in section 'g' above, the majority of the women are either single, living alone or single parents (n=19 or 59%) live alone. A small percentage (n=2 or 7%) indicated that they live with relatives, while other current living arrangements were acknowledged by one participant each which included living with a roommate (3%) or married (3%).



Current Living Arrangements

Those who moved so often include the following factors: rent too expensive, crowded conditions, domestic violence, or moved for education and employment reasons, and/or unsafe neighbourhoods. 16 of the 32 mothers indicated that they have had difficulty securing housing at some point in their lives.

PRIMARY MODE OF TRANSPORTATION



Mode of transportation

transportation needs. Only a small percentage (9%) of the women who participated in this study actually own their own vehicle (n=3).

EMPLOYMENT / EDUCATION STATUS

At the time of completing the PIF, 30% (n=9) of the mothers/grandmothers were unemployed;

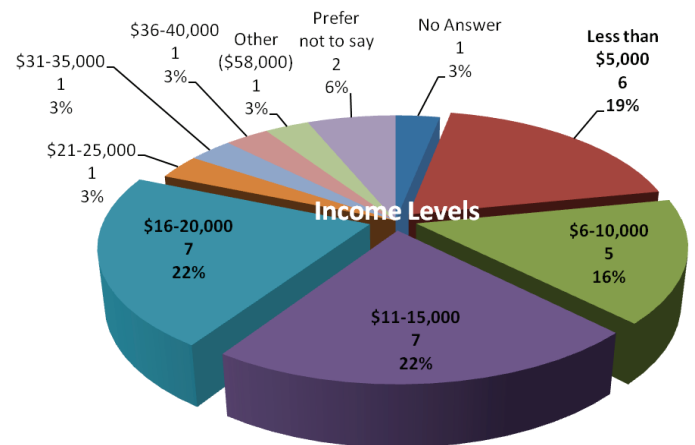
- 9 (31%) worked full time;
- 1 (3%) worked full time and was also a student;
- 1 (3%) worked part time;
- 3 (10%) indicated that they worked casually;
- 1 (3%) worked both part time and casually;
- 6 (19%) indicated they were students, and
- 1 (3%) was on a disability income.

The majority of the women involved in this study were unemployed despite the fact that many of them had a

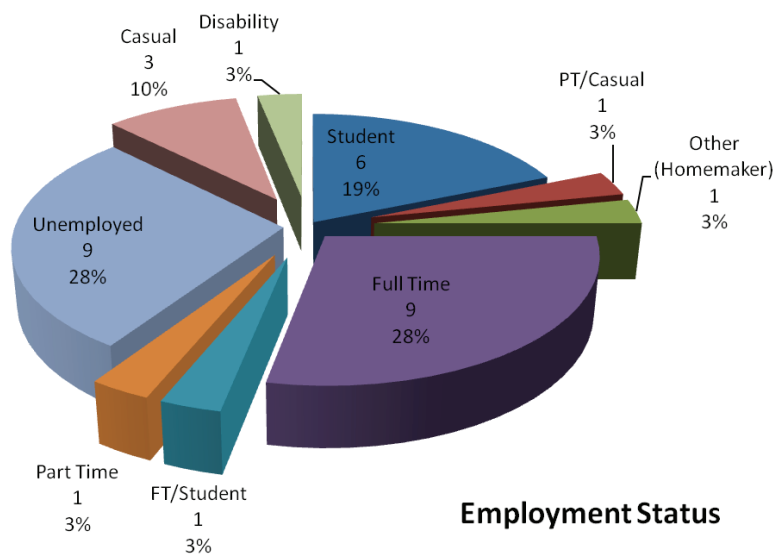
high school diploma and or had attended university.

INCOME LEVELS

The majority of mothers/grandmothers (25 or 83%) had annual incomes that did not exceed \$20,000. The chart above shows also that only 12% or 4 women had annual incomes that were in the salary range of \$21-58,000.



The majority of the women (18 or 56%) described themselves as having longstanding health problems. The types of health conditions identified by the mothers/grandmothers include: Arthritis, Endometriosis, Diabetes, Depression, Pulmonary Fibrosis, HIV positive, Thyroid conditions, anxiety and one had a visual impairment. By far the most common health condition cited by the mothers was depression. Many of the participants also indicated that they are

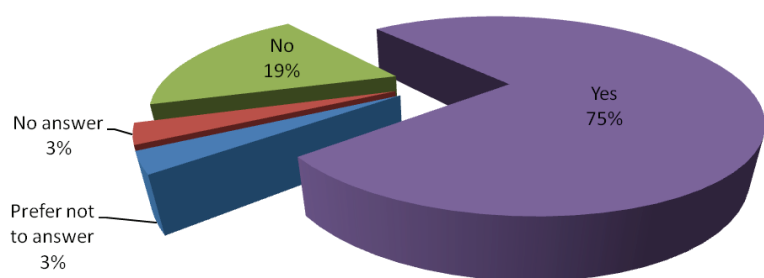


dealing with more than one health condition.

The biggest factor affecting participants' health is substance abuse. 75% (or 24 of the 32 women participating in this study) admitted that they have struggled with addiction issues. The types of addictions reported by the mothers/grandmothers include: drugs (most notably marijuana), alcohol, cocaine, crack, solvents, and addiction to Tylenol 3.

COMMUNITY PROGRAM USE

Percentage that Struggle with Addiction Issues



As a result of being involved with child welfare, the women indicated that they were referred to an array of community programs which include any number of the following:

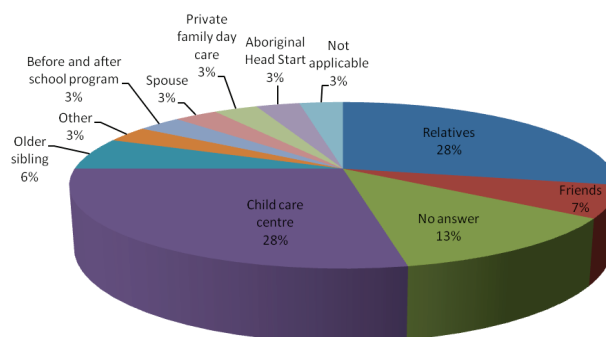
- Parent support group
- In-home parenting support
- Other family/parent counseling
- Drug/alcohol counseling
- Welfare/social assistance
- Food bank
- Shelter services
- Domestic violence services
- Psychiatric/psychological services
- Anger management
- Gambling addiction treatment
- Special education placement
- Recreational services
- Victim support services
- Child/day care
- Cultural services
- Family/Community Resource Programs
- Addiction Programs

- Self Help Group
- Programs offered through child welfare agency

The program that participants indicated they were most referred to were parenting support groups and other family/parent counselling, followed by drug and alcohol counselling.

The participants also identified the types of child care arrangements that they relied upon in the past 2 years. The types of arrangements most often relied upon include the use of relatives (28%) and child care centres (28%). 7% (or 2 mothers) indicated they used friends for day care needs. Older siblings were also a source of day care 6% of the time. 4 women indicated that they use before and after school programs, private family day care arrangements, and Aboriginal Head Start programs. One participant relied on her spouse for day care needs while one indicated that she used other resources for her child care arrangements (primarily drop in centres and community resource centres that provided child minding programs). Two participants indicated that the question was not applicable and therefore did not answer.

Child care arrangement past 2 years



- Mothers of Red Nations
- North End Women's Centre
- Ka Ni Kanichihk Inc.
- Native Women's Transition Centre
- Ma Mawi Chi Itata Centre
- Kawechetonanow Centre
- Friendship Centre
- Elizabeth Fry Society
- Rosaire House

- Cree Nation Tribal Health Centre Inc.
- Second Stage Housing

Other sources of community organizations identified by the women in the study included:

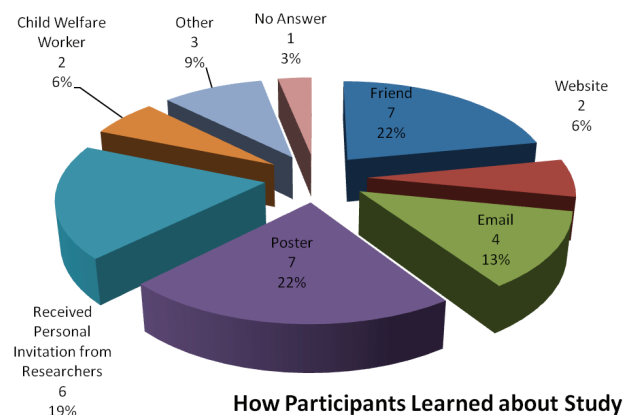
- R.B. Russell School
- Neeganan
- Métis Child & Family Services
- Elizabeth Hill Counselling
- New Directions
- Klinik
- Ikwe Widdijjitiwin (Women's Shelter)
- A Woman's Place
- Best Beginnings
- Healthy Baby
- Abiinotci Mino-Ayawyn
- Women's Healing Program
- TERF
- My Sister's House
- Kawechetonanow Centre
- Aurora House
- The Pas Mentor Program
- The Healthy Starts Mentor Program
- The Pas Family Resource Centre
- Mental Health/PHCU
- Oyate Tipi
- Pritchard House Treatment Centre

HOW PARTICIPANTS LEARNED ABOUT THE STUDY

Lastly we wanted to know how women learned about our study and to understand if our recruitment efforts were working. We prepared posters and put them up at various community organizations and we circulated emails to recruit Aboriginal mothers to participate in the study. Word of mouth about the project and recruitment was circulated through the Steering Committee and research team's networks and contacts.

The Aboriginal women who participated in this study reportedly learned about the study through a variety of means. The majority indicated that they had learned about the project from either the poster or through a friend who had heard about the project (n=7 or 22%). Some of the participants (n=6 or 19%) indicated they were recruited by members of the Research Team. Two women (or 6%) stated that they had learned about the study from the First Nations Child & Family

Caring Society's website. Two participants (or 6%) revealed that they learned about the study from the child welfare worker involved with their family while 3 women indicated they learned about the study through other sources. The women reveal that they learned about the study through a community program, from a community liaison worker and from a family member employed with a child welfare agency. The chart below sets out how the Aboriginal women came to be involved in this study.



What is not captured is the fact that many Aboriginal women became involved in this study after learning about it from other mothers who were already involved in our study. Our recruitment efforts were quite successful. For many months after the close of the study, even during the writing of this report, the research team was still fielding calls and inquiries from women interested in sharing their stories and experiences.

Our efforts to recruit lawyers and front line social workers and advocates working with Aboriginal mothers involved in child protection matters however yielded much less interest.

CONCLUSION

This section has attempted to provide a visual overview of the demographic characteristics of the mothers and grandmothers involved in this study. This information was gathered through a document called the "personal information form or PIF." It is important to reiterate that these characteristics cannot be generalized as being representative of all Aboriginal women in the Manitoba child welfare system given the limited sample and non random sampling design.

We know generally that many of the women participating in the study are in their middle years

with the majority being in the 41-50 age range. This means that many of the women, in addition to the mothers also identified as being grandmothers. A larger sampling of First Nations versus Métis and non-status Aboriginal women participated. The women reported a strong affiliation with their Aboriginal cultural identity indicating that for the most part their Aboriginal culture fully shapes their identity. The majority of the women identified growing up with their birth families but it was also recognized that many reported growing up in a multitude of family arrangements from adoption to foster care to step-family arrangements. Many women indicated that their families were impacted by the abuses in Residential School. Participants spoke primarily English with a small percentage reporting the ability to speak an Aboriginal language.

Of curious note is the finding that a large percentage of the women participating in the study were university educated although there is no indication at what stage they are at in their education.

Over half of the women reported being single parents or single parents living without partners. The majority of the participants who participated in this study live in Winnipeg.

The women reported having an average size family of two children although the majority reported having larger families ranging in sizes from 3 to 7 children. Most of the women did not characterize their children as having any health or disability issues although a few acknowledge their children were diagnosed with special needs and/or recognized that this might be a concern.

Over half of the mothers/grandmothers stated they were involved with child welfare as children and youth. The majority of the mothers/grandmothers relied upon

Legal Aid lawyers to help them with their children protection matters.

The economic factors illustrate that many of the women, despite the higher percentage of university educated women, were living and raising children with an income under \$20,000 per annum. They are underemployed and rely primarily upon public transportation to get around. Many report having had difficulty finding housing and making ends meet.

Participants courageously reported struggling with addiction issues at some point in their lives and as a result were involved in numerous parenting and community based programming to satisfy child and family services expectations. The women report using various community based resources that serve primarily Aboriginal peoples.

Recruitment efforts proved to be quite successful with the majority of the women reporting that they had heard about the study from seeing the recruitment poster or through friends about the study from program advocates or through social workers involved with their families.

Demographic data from this study needs to be interpreted with caution. The tabulated results from the Personal Information Form may be susceptible to misinterpretation. The data, therefore, does not indicate or represent a true demographic picture for all Aboriginal women within the Province. Instead, the information needs to be viewed as “being a snapshot of the demographics of the Aboriginal mothers and grandmothers who chose to participate in this particular study” and is provided as background contextual information about the collective experiences of these specific participants. This information captures and freezes a moment in time that may not represent the current realities of today.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 4:

MOTHERS AND GRANDMOTHERS' VOICES AND PERSPECTIVES

INTRODUCTION

Over the course of four months during the spring and summer of 2007, the Research Team interviewed twenty-five mothers²², who reported being involved with the child welfare system in Manitoba at some point in their lives. The interviews took place in many different settings. Members of the Research Team met mothers in their homes or the mothers met with the members of the Research Team at their offices or they met at neutral and safe locations within the community where the mother resided. The interviews took place in Winnipeg and in The Pas, Manitoba. In addition, three Talking Circles were held with a small collective of Aboriginal mothers in both Winnipeg and in The Pas, Manitoba. We developed an open ended questionnaire with a number of questions as a guide to prompt Aboriginal mothers and grandmothers in telling their stories of being engaged with child and family service agencies and frontline social work staff.

This chapter focuses on what mothers and grandmothers shared with the Research Team. The voices, perspectives, emotions and experience of Aboriginal mothers/grandmothers are the heart and soul of this document. The chapter is organized in a unique way in that the voices and the perspectives of the Aboriginal mothers take center stage. It is important to note that researchers did not validate the views presented by the women but simply accepted them in their own voice. The interviews and talking circles conducted for this study yielded almost 500 pages of text once they were transcribed. The transcripts of these interviews and talking circles abound with rich narratives and dialogue that occurred between members of the Research Team and the mothers and grandmothers in this study. The purpose of laying out the data in this way is to ensure

that readers get a sense of what the mothers in this study had to say about their experiences and their state of mind in reflecting back on these experiences. In doing so, the perspective of the researcher has been minimized while the individual and collective voices of the mothers in this study have been amplified. This narrative approach obliges readers to hear and listen to the voices and perspectives of Aboriginal mothers.

The transcript of Aboriginal mothers/grandmothers' narrative accounts of their experience with child welfare was organized into six specific themes areas. Some of the themes included related subthemes. All data was transcribed for ease of analysis using NVivo software to help code and develop themes that emerged from the mothers' narratives.

The themes and subthemes identified in this chapter are organized as follows:

- How mothers came into contact with child welfare;
 - *through self-referral*
 - *through reports made by others*
 - *through other system referrals*
- Understanding the background context of mothers/grandmothers lives;
- Experiences with the child welfare system;
 - *treatment experienced by child welfare staff and supervisors*
 - *Aboriginal social workers*
 - *racism*
 - *importance of culture*
 - *false accusations*
 - *monitoring by CFS*
 - *triggering anger*
 - *bringing witnesses to meetings*

²² Generally the Aboriginal mothers participating in this study were in their middle years with the majority being in the 41-50 age range. Many of the women, in addition to being mothers also identified as being a grandmother and hence the reason why this study reflects perspectives from both.

- *child welfare expectations and programming*
- *visitation arrangements*
- *impact on removal of children*
- Mothers/Grandmothers Emotional Insights;
 - *acknowledging mistakes*
 - *emotions*
 - *how mothers coped with intervention*
- The experience with Legal Aid and lawyers;
 - *lack of awareness regarding rights*
 - *negative and positive perspectives about their lawyers*
 - *courtroom impressions and experiences*
 - *lack of courtroom supports and advocates*
- Knowledge of alternative dispute resolutions.

Readers should note that the italicized texts appearing on the following pages are quotes drawn from comments made by the mothers and grandmothers who participated in this study. These comments have been lightly edited for grammar, spelling, and/or for punctuation. This editing has not changed the content nor has it altered the intent of the original comments made.

The following sections outline participant comments by thematic area.

HOW MOTHERS CAME IN CONTACT WITH CHILD WELFARE

We met many Aboriginal mothers and grandmothers who shared amazing stories about their experiences with both urban and rural Aboriginal and non-Aboriginal child welfare agencies in the Province of Manitoba. The mothers often started out by sharing stories about how they first came into contact with the child welfare system within the province and then their stories moved on to capture the specifics of their personal experiences within the system. For many of these mothers, involvement with the child welfare system first started when they were children or youth and then again when they grew into adulthood and had children of their own. The majority of the women we interviewed were in the 41-50 year old age range and were single mothers. Some of the mothers' stories relate to experiences they had many years ago so the details of their experiences were a bit hazy while for other mothers the experience with child welfare was still very fresh for them. Their stories reflect collective and common perceptions about how the child welfare system functions and operates against Aboriginal

mothers who, because of their poverty and substance misuse, need assistance accessing services to support them in their roles as parents. The mothers involved in this study reported child welfare contact through one of three means: (1) through self-referrals, (2) through reports made by others, and (3) through other system referrals. These means are explained in more detail in the sections below.

THROUGH SELF-REFERRAL

Mothers courageously admitted having problems controlling certain aspects of their personal lives. Some mothers indicated that they approached a child welfare agency and asked for help only because they were told by others that it was their best chance for getting help to access respite, support and or services to help them with parental stressors or to deal with addiction problems that they were unable to address on their own. This route taken by one mother was viewed to be a bad choice who shared that she had starting using crack-cocaine while attending school. She indicated that she chose to leave her children in the care of her mother and approached the most culturally appropriate child welfare agency to help her access rehabilitation services for her drug problem. She did not anticipate her children would be apprehended. She felt backstabbed by the child welfare worker involved in her situation. She shared the following:

I was going to Red River. I guess things were getting stressful for me. I guess I was burning myself out. The biggest thing was I got involved with using Crack-Cocaine. I took the kids over to my mom's ... I called CFS and said look my kids are at mom's ... I need some support and help in getting into rehab. So the worker ... from the agency [name of agency removed], she told me, 'okay, look I'll help you into rehab.' ... the worker went there and apprehended my kids because I went to go see them. Where is the justice in that? You know ... so I know things really started to fall apart for me and I started losing it. So I call her ... or she called me at home, 'okay I apprehended your kids' and I threatened her and she charged me. So the police came down and got me and I spent 10 days in remand because of my record and the people I used to associate with. I got out and that was the beginning of the end of the drug use. You know when you go to an agency for help; you certainly don't expect them to ... like I felt backstabbed. I shared what I was going through with this worker and she totally turned everything around. I mean I wasn't a bad parent. I made a mistake. You know, I have an education. She could have said, 'okay, I'll get you into rehab, I'll work with you and your family. I wouldn't want you to lose your home, you know, we're not going to take your kids.' But basically that is what she told me ... but

that's not what happened. I mean my kids have never been in care. I raised them by myself. Never have my kids been in care. I have always been more ... most of my years, yes, I've struggled with many addictions but in all the years I have been more off drugs than on. And yes, I've had slips here and there okay? But it was very rare and far between. Yah, the lady backstabbed me ... there is more to the story ... there is a lot more to that ...

A similar experience was related by a mother living in a northern context who regretted her decision to go to child and family services to help her with drug issues:

I volunteered myself to get help. It was the first time in my life that I really wanted to become straight and not be a dysfunctional person on drugs. Which was hard for me to do coming from a dysfunctional family where drugs were sold and used in the family, only marijuana at that point in time. So, I heard that CFS would do certain things to help out a person like that. Get you into a program and pay for it and help you get your kids to preschool or give them free passes to go swimming things that I couldn't afford ... So, I went to Social Services and asked for help through CFS and that. My councilor [social worker] was telling me that, she was a very nice person, but it was her supervisor was more Attila the Hun kind of ... stereotype ... like they came in and took the kids out right away. Ya and when they were telling me what was going to happen they didn't tell me that that was going to happen? ... They didn't tell me they were going to take them out the house, I would have backed out.

Another example of a mother seeking assistance from welfare was shared by a mother who was previously in care as a young person. As a permanent ward she had felt supported and expected that she would get the same kind of help when she reached out to the child welfare system to help her deal with her particular fears and family situation:

But then when I turned 18 ... like ... I had one [child] but I was pregnant again. It was so hard being a single parent. No way of trying to get someone to help you, you know. I called CFS. ... A CFS office on Ellice and Sherbrooke or Maryland. I used to go there and I used to tell them, I'm scared, I said, can somebody please help me. I'm scared I might hurt my kids. I tried to tell them, you know ... I thought ... they would help me ... like CFS would help me the way they helped me before you know ... but that's not it. Instead they just took my kids ... they took my kids and told me to go. That's how I felt. ... cause you know, I trusted them, you know. I thought I could depend on them the way I used to when I grew up.

In yet another example, one mother shared a story of difficulties she had raising her daughter who wanted to live independently but did not qualify for social

assistance. Child welfare was engaged to deal with this situation and when the mother met with the social worker for the first time to discuss her daughter's wishes to live independently, the worker accused her of drinking and apprehended her youngest child from the school.

Well, I ... uh, this had happened to me with child and family ... uh, about four years ago, I would say. Well I think how it really started was, was my daughter, she wanted to be on her own or whatever and she had to go into see this worker at child and family. ... Oh, I don't remember. She wasn't of legal age to get assistance or independent living or whatever right. But anyways, she ... had to see this worker at child and family or report to him or whatever and that is how he first became involved with my family through my daughter. I don't remember how he got his nose into my family business or whatever. But he just asked me I think I had to go sign forms or something. ... And his first impression from me ... um, was that ah ... I don't exactly remember but um, um ... like ah, he said ... I don't know if he said in a statement or he just said ... oh, 'you reek like alcohol.' And I said, what? You know? So right there, this is where the hate started. No [she was not drinking at the time nor did she drink]. Me and that worker but I didn't know where I could take his comment to or whatever right. So I just let it be, you know. And he said, as far as that, he says, I'm going to check on B. and G.'s (names removed) attendance in school. Like he threatened me that first time he met me. I sent my boy to school and I checked my mail box and there was a letter in the mail stating that they were gonna take him. I still have that letter today. They were taking him and I wasn't supposed to have any contact with him or go to the school or anything. So I just ... (crying) ... I just went crazy.

Had she been aware of the impact of approaching child welfare for help, this one mother did not mince her words:

Yah, had I known they were full of shit, I would have never went to them for help. I would have stayed clear away from their office.

THROUGH REPORTS MADE BY OTHERS

The other way in which mothers became engaged by child welfare was through the reports made by others to the child welfare system. On many occasions these reports were made anonymously based on gossip, jealousy or through someone known to them who was vindictive for some reason. In one particular case a mother related that she was trying to end an abusive relationship with her husband and left him to pursue an education in Winnipeg. She related that she was constantly subjected to unwarranted child welfare

attention as a result of her husband's repeated calls to CFS with false accusations that she was under the influence of drugs and alcohol and as a result unable to care for her children:

I moved to Winnipeg 2003 cause I was going through a very physical relationship. I was married and I left for education and that was one of the problems in my relationship. And I came to Winnipeg and my former husband used to phone CFS on me every weekend saying I was doing drugs or drunk and I couldn't care for my children and that was not the case. And he would phone CFS on me every weekend and they would show up at my door and that's Winnipeg Child and Family. And you know they came with the police and what not. I just told them where to go. I didn't need their services. They tried to give me their card if I ever needed their help. I never ... I don't need their help. ... The cops come to my house looking if there's any alcohol in the house and I said, go ahead, tell me if you find any and they didn't find anything, you know? They even checked under the beds – I don't know why they're looking under the beds for you know? I just told them, 'out, I don't need you guys, out of my life, you know.'

Of the mothers who were reported to child and family services by anonymous callers, many had an idea where these reports originated from. One mother believed that she continually came under scrutiny of the child welfare system when someone near the complex where she lived continually called child and family services on her. She wasn't sure child welfare would actually believe this women's story and wasn't surprised when social workers showed up on her doorsteps to follow up on those calls:

I have a cousin that I met through my birth family and she used to live in that complex as well. She was a real partier. I was never a partier after my kids were born. But she would um ... um ... she got into bad relations with this lady who lives in a different complex but across from the street from the school. And I think she took her boyfriend ... I don't know ... just the drama between them. I had nothing to do with. This woman, one time, she claimed she was doctor. She's not. She's drunk most of the time. She's crude. She's speeding around all of the time in her car and she came to my house a couple of times banging at my door looking for Norma. Cause I guess Norma wasn't at her house. I said I don't know where she is ... just leave me alone, I got nothing to do with it. And then she said to me, she said straight to my face, that she was gonna call CFS on me. So I said, Ok, well, they can't do nothing, what are they gonna do? It's just a crazy lady calling. So, that's that part. So my worker came in one day and I brought her in and I said, yah, what's going on, how are you? And she goes, we got a call last night, after hours ... we got a call. I guess, when you're

already involved with CFS, if a call comes through after hours, it just gets put through to the worker. I think that is how it works because after hours never came to my house and um, she said you went out last night to the bar and you're smoking crack and you left your kids home alone. And I said, you're serious? And she says, yah. I went, this is ridiculous and I knew exactly who and I told her the story about my cousin. And then right there and then I says Laurie, is there any way that you can put on my file or ... after hours, if you guys get another call that I'm out or I'm partying, send after hours to my house. I'm proving this is wrong. I said this woman is nuts and she's gonna keep doing it. What had happened the next week is she got ... after hours got three calls? And the same thing – [the social worker] would come the next day ... I said why isn't after hours coming out so they were basically taking their word whatever call. Now I can call after hours and I can start ratting on someone, one person even if they are not doing anything wrong. And they listen and this is what makes me so angry. And um ... the interesting thing about this is that when I got my new worker and she was going through my file, I said does it tell you in there I asked [my social worker] to tell after hours to come out. No. she didn't even document that. So, I was really upset about that ... so anyways that's what started ... a supervisory order on me.

In another scenario where the mother was under a supervisory order, she couldn't quite piece together why her children were apprehended by child and family services when she felt she had left her children with an appropriate family member/caregiver. She did not know how child and family services came to learn that she had left the children with someone else for the weekend:

It's been a while, I haven't thought about the beginning when it happened, but I know that my cousin was taking care of my kids in my home in the year 2001, I think and they've been in foster care since. Due to the fact of neglect which I hadn't neglected them. I had a caregiver in the home for them and from my point of view the social worker had lied to my babysitter and told her that she was going to take the kids into foster care just for the weekend and their grandmother was going to pick them up and take them home and when my mom went to pick them up they told her that the children were apprehended and wouldn't be given back. The social worker told the caregiver ... she said leave them, they would take the kids into custody that she was going to keep them temporarily just for the weekend and that they're going to give them to their grandmother. I can't really remember ... I can't understand what happened ... I can't really explain why they were taken ... all I know is that she said that they came to the house ... because I was under supervision due to the fact that the last incident I had, I had left my children unattended and I

was under supervision, prior to this. I had gone away for the weekend and I was on my way back and I don't know what happened ... I'm still trying to get that out of my cousin ... why were they there?

THROUGH OTHER SYSTEM REFERRALS

Additionally, mothers told us they became engaged with child and family services through other services such as the health system when they gave birth. One mother reported her Hepatitis C and HIV positive status likely brought her to the attention of child welfare authorities. She initially was not concerned about this but given the improvements in medication she believes she is doing well health wise and will be around long enough to watch her child grow older as she explained,

And then when I did go ... I had cesarean cause they didn't know ... how ... HIV is transmitted to the baby. I didn't go on medication but I didn't take ... that's why it's amazing that she's okay. But then I had a worker come to me, maybe about a month before I was going to have my baby and she told me they were going to be taking her away. I wasn't angry but I knew it was probably the right thing because I wasn't doing anything right for myself. ... I never talked to anybody about this for a long time. Only thing now is that back then I was really messed. I think that's why I was so numbed out. And now that I've been through treatment and I went through all these problems and I've seen how a mother can be, I think I gave up on parenting was because of what I have (HIV positive) ... I felt that CFS was using that against me too ... now that I'm not going to be there like forever. But it's just like the treatments and everything I've learnt and ... to my nurses and my doctors and look at how long I've had this since the very first time I had sex, I was 12 years old. I first found out in the Knowledges Centre. And my doctor even told me "geez" he goes "I don't understand why you're still kicking" cause usually people go after about 10 years ... and the way I was living ... it was a big amazing thing for me. Now it just gives me more hope that I can be around for at least another 10 more years at least to see her grow and tell her that I was around ... cause I really don't like where she is right now. And that bothers me.

Some of the Aboriginal mothers we talked with also fostered Aboriginal children for one of the Aboriginal child welfare agencies. These mothers spoke of their experience in dealing with Aboriginal child and family services agencies when they were having problems with their own biological children which impacted negatively on the children they fostered as well as threatened their role as a foster parent resource for this Aboriginal agency. Some of the mothers were quite surprised to have their Aboriginal foster children apprehended as this mother shared:

... they heard about what trouble I was having with [my daughter] and then they came one day and they said, we can't use you as a resource anymore, so, we have to take her away from you. ... As you're having trouble with your daughter you're not going to be able to parent or foster this child anymore because you're having too much trouble you can't even control your child. I just didn't believe that they would take her like that because she was with me for about ... she was two years old and I had her since she was 5 ½ months. I didn't think they would just take her. It seemed like all four of them came [social workers] ... it was really weird because usually all four of them don't come to do a home visit. They never hardly ever come. I've had children in my home and they hardly ever come to do a home visit to check on the child to see how the child is. Nobody used to come. I'd phone them just to harass them to say well this child is doing this can you come and they'd always make an excuse not to come. "Well you handle it you're the one who is the foster parent you should know how to handle it. If you don't know how to handle it then we'll just move them."

UNDERSTANDING THE BACKGROUND CONTEXT OF MOTHERS/ GRANDMOTHERS' LIVES

Early parenthood is a common experiences reported by the mothers and grandmothers in this study. For many mothers, they raised their children alone or through the help of their own mothers. Due to the history of alcohol addiction, family violence, poverty, and becoming mothers at an early age, many mothers reported having very little parenting skills to draw upon to help them in their roles as mothers. For some, due to their young age, early motherhood meant child welfare involvement. The onset of motherhood at such an early age meant mothers felt unprepared to parent. In fact many of the mothers stated that they lacked the skills to parent. And although many of the mothers grew up caring for other siblings when they were young, these mothers indicate that they still lacked the skills to parent their own children. Some mother noted that their lack of parenting skills was as a result of their own parents' involvement with residential schools. One mother in particular noted that her parents' experience in residential school impacted the way her parents showed affection and ultimately how that carried over to her family:

In my family, we didn't say sorry or hug each other. Our parents never hugged us when we were growing up. My mom never kissed us. I don't remember getting kissed or hugged. It wasn't something that you did. Whenever I think of it I think of how if they were to hug or whatever it wasn't in our family to do that.

Even now with my daughter when I try to hug her she says, get out of here. Don't do that. I'm too old. Now, she's changed ever since her accident. But [my son] he doesn't hug me. I don't know ... something that we never did ... it's how we were raised ...

The mothers' narratives reveal a history of child welfare involvement because of family dysfunctions brought on by alcohol and drugs. Mothers interviewed for this study indicated that exposure to alcohol and drugs often started in their childhood through their parents. Some mothers indicated that leaving their First Nations communities to live in Winnipeg often precipitated their addictions because of the racism and culture shock they experienced. The youngest age mothers in this study stated they started drinking was at 12 years of age. Grandmothers indicate the reason they are still involved with the child welfare system is because they have adult children dealing with alcohol and drug addiction. Because of their adult children's addictions they've had to step in and take over parenting their grandchildren.

Mothers explained that they were often neglected as young children. They stated that their parents' alcoholism exposed them to other risks when they were young. Mothers candidly reported to being sexually abused and raped when they were young.

I did some really intense therapy, uh, dealing with all kinds of issues that I had from growing up like being raped when I was 12; being gang raped when I was about 15; being in all these abusive relationships; and being treated, you know, from your own mother, like somebody, like she didn't love you – like all this abuse that I had endured, you know. I had to deal with it. That's the opportunity that I had when I really opened up and decided to be honest about things and start talking to people about it.

Because I been, like, how do you say uh, sexually abused when I was younger ...

I told them, you know, my mother abused me when I was small and my uncle sexually abused me when he used to babysit me and ... I was uh, raped by my second cousin ... I think I was 12 ... and ... I ... I took my first drink when I was 13 and my first cigarette.

I witnessing my mom's boyfriend's son molesting my brothers and I knew it was only going before time before he was going to come to me.

Some mothers indicated that they ran away from home in their youth. They reported running from their parents' addictions, family dysfunction, and sexual abuse. Mothers indicated they ran from other child welfare placements like foster care and/or group home care. As a result a few mothers lived on the streets and became involved in the commercial sex trade as young

women and/or became involved with gangs. Many of the mothers in this study had grown up under child welfare care, living in foster and group homes and/or in residential institutions and locked facilities. Sometimes when on the run they would be apprehended and placed in the youth detention Centre.

One mother reflecting on her memories of being in care stated that to her it seemed that:

... 80% of the kids that I grew up with are dead as a result of prostitution, murder, suicide, alcohol, drug abuse.

Some of the mothers shared that they had criminal records and experienced time in prison as this mother shared:

But this was before ... like I went to Portage Women's jail in this time before for ... when I was drinking. I had gotten into ... you know, I hit some girls and you know, over the years I had assault charges from when I was drinking. Finally the judge had enough and sent me to Portage Women's Jail for 4 months.

Many of the Aboriginal mothers reported becoming involved with child and family services because of their own drug and alcohol addictions or because of the addiction and violence of their husband and/or partner. Many mothers indicated that they had difficulty in dealing with their addictions with many stating that they fell into the patterns of using alcohol and drugs on and off throughout their involvement with child welfare.

Another prominent reality among the mothers' stories is the presence of domestic violence witnessed in their childhoods between their parents as evidenced in this mother's narrative:

Seeing my dad fight her all the time he hurt her really badly at times. I didn't like seeing that. The only way I told my mom was leave us ... leave us ... leave dad ... you don't need to stay with him. He was so abusive. He used to beat her up and say she wasn't able to live with anybody else anyway ... so, you might as well forget about trying to leave. When she came to my house ... when I used to live in Mafeking and she's still living in Pelican Rapids, she come to me and I said "well leave him ... you don't need this" ... she finally did. They went to Winnipeg everything went wrong. That's when he tried to choke her he tried to kill her one night. My brother fought him off and then she got away from him and after that she got all the children taken away and they helped her in the shelter and then he was sent to jail ... sent to jail for 3 years. That's when they were making a point to men that they're not supposed to try to kill their wives. He tried to choke her and she was so afraid of him she didn't

want to be near him. If she wouldn't have left ... he probably would have ... if my brother didn't stop him ... he probably would have killed her. She would have been another statistic ... I didn't have a very good childhood. Watching my parents fight all the time.

In addition to the violence witnessed in childhood, mothers shared that they became involved in abusive relationships in their adulthood. Some of these mothers were dealing with partners who were involved in the gang life and extremely violent. A history of violence seemed to follow them from relationship to relationship. Their matter of fact comments mask the real fear these women must have dealt with on a day to day basis:

I was sitting on a chair and he just came out and ... he just swung at me. Like he just hit me and I flew off the chair and I guess um ... I had no idea but he had a shot gun in the house. And I don't know if it was loaded but or if it was shot off.

He just about killed me and he beat me up so badly that, you know, ah, he got charged and went to jail for 4 and a half years in Stoney for what he did to me. And um, after that, after him, I kinda rebounded into another relationship where I had these other 2 kids. So I had three kids at that time. And, you know, I stayed with their dad, not really stayed because I was still on assistance and he lived on the reserve – from Opaskewayak Cree Nation. And he didn't really help me financially but he was around, I guess and it turned out to be abusive after awhile too because alcohol got involved.

Like my ex-husband used to beat me up all the time. Um ... we used to argue ... like really fight ... like ... like that movie "Once Were Warriors." Like that eh?

But anyway, when he pushed me, I banged the back of my head pretty hard on the ground and the cops came ...

He almost killed me several times ... It took me like 9 months to get away from this guy.

... the actual event where they came to my home and apprehended my children was as a result their father ... committing a crime in our house. Like he shot at me in an intimidating sense like ... he used a weapon against me and the children were at home. And uh, at the time, his occupation was selling narcotics ... so after that incident he was arrested and taken off to jail ...

... he had actually kicked me in my head to where I was unconscious. I was 7 months pregnant with my son. And that was the day I was medi-vacced and it was actually Pow Wow weekend too and they had to stop the Pow Wow in order for the air ambulance to land and then they sent me to a Hospital in Thunder Bay.

The mother's stories speak of family losses at so many levels. For instance, some mothers shared that they had grown up in non-Aboriginal adoptive homes and experienced guilt and shame but then later learned to embrace their identities as Aboriginal women. Mothers talked about other siblings who were apprehended by child welfare and adopted out to non-Aboriginal families. Many of the mothers stated that their children were apprehended and over the course of time their children were adopted. Some of the mothers shared that before they became involved with child welfare they had lost children who had died of unexplained circumstances (such as SIDS). One mother shared that at 21 years of age, her first child had died of brain cancer.

One mother shared that she became involved with a religious cult operating out of local Church in her community and her disillusionment with this group caused her to become an alcoholic, precipitating her involvement with child welfare. Another mother shared that her doctor disclosed her drug use during her pregnancy to child welfare. One mother revealed that her HIV diagnosis was used against her by child and family services.

Many of the mothers and grandmothers interviewed for this study were currently in the process of completing a post-secondary education. Some of the mothers and grandmothers were actually social work graduates and reported difficulty dealing with the child and family services despite their educational background and knowledge of the child welfare system.

It is important to recognize Aboriginal mothers' and grandmothers' past experiences, both individually and collectively as this information is crucial to understanding past situations that lead to these mothers' and grandmothers' involvement with the child welfare system.

EXPERIENCES WITH THE CHILD WELFARE SYSTEM

TREATMENT EXPERIENCED BY CHILD WELFARE STAFF AND SUPERVISORS

Mothers expressed great fears around child welfare intervention. Mothers indicated they were afraid to get help from child and family services. Mothers stated they were afraid to seek out treatment for fear that their children would be apprehended if they sought out this needed assistance:

And um ... I was scared to ask for help because I knew if I asked for help, they'd take my kids away and they did. They did!

I was even scared to go for treatment because I figured if they're gonna ... If I'm gonna go for treatment then it means I got a problem and they're gonna find a reason to take my kids away and that's what happened, right. I ... I tried to do that anyway and then they wound up taking my kids away so ... so either way, I just kinda ... I kinda had this feeling that ... um, like I got ... I had to stop what I was doing but I didn't know how and I didn't know where to go. I didn't know who to trust cause I was alone.

This fear followed mothers even after their children were returned home. Mothers report that they have scars from their experience with the system and they state they worry constantly that child welfare will find a reason to take their children. They do not want to be under the same scrutiny as these mothers articulated:

Yah. Like even I had a meeting with them, I was surprised when she said you can move out ... cause I have all my supports in place. But I figured she was gonna say no, you're gonna have to stay the full year. Umm ... I feel I'm ready but I'm ... I'm just worried they'll find ... Find something to take my daughter from me.

I was just so scared at having the magnifying glass swung right back on top of me.

Some mothers noted that child welfare put their children in harm's way when they took them into care. One mother in particular shared how her son was returned by the child welfare agency. Because of the fear she had of further child welfare involvement and the possibility of losing her children again, she did not question the child welfare agency about one of her son's injuries when he returned to her:

I don't know whether or not my son was abused or if he just maybe hopefully he just had constipation that made him bleed ... but ah, there was a man that was in that foster home, like it was a white family with an 8 year old daughter. Now its how many years later and I don't really know what to do about it and I don't really want to actively do anything about it because I've been through court, I've been through everything. I don't want to drag this on for years. I don't want my family to know about it. I don't want my baby's father's family to know about it. I don't want anybody to ever mention to my son that this happened so that he goes through life thinking that somebody raped him when he was like a year old. And that maybe some issues he's having later in life is all because of that. I don't want him to like internalize that. So I don't ever want him to really know how bad if he doesn't remember it on his own. And I don't really want to attack the organization or attack that foster home but I would like to have one day have the strength to go into the agency and ask for an appoint to tell the ... because it was an experience that I had. My children were returned to me.

Aboriginal mothers participating in this study understand this fear and have encountered it in work they have done with other Aboriginal mothers as this grandmother noted:

So, it's just like, you know, even I had some mothers come to me and said like you know, "I need help but I'm scared to go to child welfare cause they said to me, if I ever take, if I ever ask for help from child welfare, they would take my kids away from me for good." And I said "well, even if you're trying to make yourself better." And she goes "yah, if I ever have any kind of involvement, they will take my kids away permanently." And there are people, a lot of people out there that want the help, the extra help but they are scared to go because of that threat that was made to them. And it's sad, like you know, I had to um, kind of let somebody know, you know you really have to get CFS involved and I don't think its right for you to have your boyfriend of one year babysit your children, when you're a teenage girl and she was scared, you know? So that's the thing, the way that the messages are given to families and they are afraid to seek out that help and in the meantime, when is ... when ... when can that change?

Fear of child welfare involvement is connected to the loss of trust in child welfare because mother's fears were grounded. The majority of mothers who did seek out child welfare assistance did have their children apprehended and taken away from them. The following comments capture mothers' lack of trust in the child welfare system:

I don't trust CFS workers. I document everything when they call. Even when I have visits with my kids. I document everything ... It's hard to trust those people.

To this day I regret ever trusting these people to help me parent my children.

I don't trust too many people, especially when it comes to CFS.

I've been violated in so many ways by the system and people need to know what these people are capable of doing and no, they can't be trusted, not one of them.

But the loss was I think the hardest thing that I ever went through was losing my entire life in a matter of minutes. I didn't trust anybody.

I didn't know my legal rights when I gave my children up and I trusted.

There's no trust in there absolutely no trust with the workers.

CFS workers ... I don't know I don't trust them they lie a lot to you ...

For mothers who have experienced child welfare intervention for the first time, there is, in addition to not understanding how the system works, a perception

that child welfare does not carry out comprehensive investigations as these mothers reported:

I know they have to do their jobs but a lot of times, you know, they don't do the proper investigation. It's not carried out properly – a full investigation. That's what I was mostly saying "please can you not do a proper investigation – please talk to my children, my other children – if I'm such a bad person or a bad mother as you're calling me, then take my 15 year old from me ... why haven't you taken him from me if I'm so violent?" Why don't you talk to my other two children, you know, I have three children.

No investigation ... just came in took the kids and that was it. Now she's still fighting for them you know ... like that's what I mean. Like where do you draw that fine line ... you know ... and that's why I'm saying "complete investigations" you know like ...

They need to do ... instead of just coming in and saying here we're going to do this because they didn't even do any investigation they just come and say we're going to take this child away from you.

So, some things they should focus on are jurisdiction and investigating...the proof, the assessment that they go through...there's not enough ... Nobody came. It doesn't seem like there is an assessment or investigation and if there is you never get to see it.

For now, I don't even know what they are doing with their investigation other than talking with the kids.

We're taking your kids and we have to do an investigation and in the meantime you can't see your kids at all.

"How come you guys don't ... investigate where you go put these kids and how many people go into the shelters to take care of them?"

I really feel that they need to do more thorough investigations and I ... to look at the whole picture, not just the mother, but everybody, like the family, and you know, extended family and all that ... to base it ... and then they do their investigation.

Mothers reported feeling that they had to jump through hoops and play the game to satisfy child welfare, whether that meant taking more programming or just satisfying the whim of social workers to prove they were doing what needed to be done to have their children returned:

Yep. You have to know how to jump through those hoops and I thought to hell with the hoops I'm just going to go for legal guardianship. I'm tired of... and it was all for five minutes with a judge read off this paper...five minutes...granted...like it was so...I thought they go through all that and then...granted! I

thought it would take longer, not just five minutes.

You're a person whose trying to live your life and then you're going to try and jump through hoops...this jumping through hoops business was getting me mad.

He wanted me to jump through hoops and I didn't like... You have to try and prove to them that you're trying to get her back and you're trying to do everything they want you to do. In order to do that you've got to ... I felt like I was always kissing their ass...

I have never, ever once had a good experience with Child and Family, never with anything. If the kids are taken it takes so much to even try to get to see them and put it this way ... you've got to jump through hoops to even try and get a visit with your kids.

It's just one frustration after another. It's like you have to jump through hoops ... they don't tell you exactly what it is that they want...

And I asked what I have to do so he could be returned to me right ... this is where they had me go through loop holes. So anyways, I just followed through what they wanted me to do and I did. And ah, I can't really remember much ... so anyways, I did all these programs they told me to do and found out that I wasn't going nowhere with them. I wasn't getting any answers.

I jumped through more hoops than I even was supposed to. There was only one thing on the paper that I was supposed to do and I did 10 times more than I was supposed to do.

That's what's important to me. Is to take my experience to turn it around and say, this is how you can get through these hoops cause you find all these little hoops that you have to jump through and you figure out how to go around them right? And to be ... instead of ... um, doing preventative, so you're just gonna do it before, you know, so you always try to get ahead of the game.

You cannot redeem yourself in any way ... like a criminal goes to jail ... and can be reintegrated back into society but mothers ... they just seem have to go through these hoops over and over.

Because you guys hold the cards, you have the care of my children and I have to jump through your hoops.

CFS still has my ... children. I still have to jump through their hoops.

I had to jump through hoops in order to get her back. They just figured ... they'd try to get this child away from me. I had to jump through hoops like I said.

The guy that worked for provincial child and family services he just said you have to learn how to jump through the hoops, T. ... like jump through the hoop ...

You know, I thought, okay, you want to take my kids, okay, well I start playing your fucking game.

...they always play these games.

Mothers indicated that they were threatened by social workers.

Like he threatened me that first time he met me. So I said, okay, you know ... and ... so, what ... he continued to, I don't know, bother me, you know. And I don't know, we, I missed his call or I wasn't home when he tried to come and see me ... but he would just leave a card or something right? And I would call back and I would miss him and it went on for a bit like that.

In particular, threats were made to some mothers that if they did not cooperate their children would be adopted and in some cases this did actually happened:

The social worker told me that adoption could be an option for them [foster parents].

My children were adoptable material. That's exactly what it is – I know that – I knew that from day one.

I'm not even quite sure when my kids were adopted but um, my son J. was adopted first by that same family ... I was told by [the social worker] who is an adoption worker with Winnipeg Child and Family Services that that same family came back and then got my daughter J. – that they were adopted together. This is what I was told. And then all of a sudden my son M. he was 10 years old when they adopted him. And I thought, oh my god, you know. And so I called [the social worker] and said, how's my daughter and stuff like this and I said, I'm really surprised that you guys didn't call. She goes, "well we don't have to approve wardship of your children and I thought, how inconsiderate are you people."

Mothers commented on the length of time it took for social workers to return their calls. In some cases mothers reported that workers didn't even bother calling them back:

If you're trying to get a hold of them to talk to them about the kids or even to work on a visit. What is it that you guys want? Anywhere from 3-5 days before they even get back to you. Even if they get back to you they say, well, we tried phoning. What's with the phone call especially when they know you don't have an answering machine and they know you're at work?

I don't know. I left a message ... I don't know Monday or Tuesday. I left a message for the social worker, "did you get the letters for my children" and "can I fax you letters every week for my children. Can you please call me back?" No response, no response from the social worker.

Other mothers reported experiencing a range of responses from other agencies in reply to their phone

calls, as this mother shared:

No, Winnipeg it was different, I'd get a hold of them and leave a message and they'd get back to me with a date that they could come and visit that was with one of the workers. The non-aboriginal agency ... where I'd always phone them and I had one worker there because she was through special needs because my son has an open file with ... special needs children ... whenever I needed her I would just leave a message and she'd get back to me usually within 24 hours. I had no problems in Winnipeg with them, but coming to The Pas ... my kids have been gone since the 13th ... I've had one visit with them last weekend and when I tried phoning them back to arrange another visit and they're having problems with one of my kids there because he wants to come home, so he's being defiant.

Mothers seemed to understand and recognize that the lag was as a result of the social worker's caseloads. Mothers recognized large caseloads as having an impact on the worker's responsiveness. More than anything, it left mothers feeling as if they didn't matter. Social workers are often the only connection mothers have to their children and effective communication was seen as critical:

Then he said, well we're going to have to talk to you and I said, yah I've been trying to phone you and get a hold of you and he said, yah, I have a very large caseload. That's not my problem that's theirs. If there are so many caseloads for them... why do you guys take so many cases if you can't handle them? I want this resolved now. I don't want to wait 3 or 4 months down the line to wait until you've decided OK I have time for your case. Meanwhile, the kids are in care when they could be at home.

well T. had left and didn't ... and didn't ... I don't know ... I don't know, I guess I don't know what their turnover is ... what happens when they deal with a change of workers.

It could be the workload. It could be miscommunication. I know there's a high turnover at [the agency]. There's a high turnover ... I see lots of postings for there ... They must be a hard agency to work for. There must be something going on there, why there's so many people leaving, that's what I'm thinking.

Yah. Cause I seen that a lot with my worker. She was always busy and sometimes it would be hard to get a hold of her or even for her to return my calls. And that was every time I talked to her "oh I have this to do ... and you can't imagine how much work," she'd tell me. It made me feel like ... like it was just ... her work that she did ... it was too much ... I wasn't important, it would make me feel like ... and things would drag on and when it would come to me asking like what about my visit? "Oh, I'll get to it – I've been pretty busy" ... like things like that.

When children were taken into care, mothers noted that they often felt left out of the loop – they didn't know what was going on. Child welfare did not communicate with them and many mothers felt they were left in the dark:

And that goes the same for my sixteen year old, who back then was I think she was in a foster home where the foster parents were charged with abuse. But T. did tell me really horrifying stories where the foster mom threw her in the dryer. I don't know if she put the dryer on but she threw my daughter in the dryer because my daughter was crying. There was an allegation of sexual abuse and physical abuse going on in that home. My 19 year old daughter that was in that foster home ... I think it's a family, like that keeps kids, they do a lot of sexual and physical abuse ... I don't know if these people lost their license. I didn't know what was going on. I was never informed.

...when they took my children away, they should have had a sit down with me, whether it be by myself or with a support worker or a family member and say "these are our concerns but we're willing to work with you but we need you to do this and then we'll have a meeting and then ... um ... a plan." That was never been given to me.

My daughter reported abuse, sexual abuse. They didn't believe my daughter. They just kept moving her around without notifying me. And that's what hurt me more because my sister, like at that time, she wasn't a like a supervisor, she was a worker. She didn't tell me nothing either. I tried to asked her - she wouldn't, she wouldn't tell me nothing ... oh you have to talk to M. [name removed], oh you have to talk to I tried to. Nothing. They wouldn't tell me nothing. Nothing at all.

The number of social workers that mothers had to deal with was discussed by the mothers as being a source of frustration:

Did I maintain any relationships? No! I had eight social workers during the course of my involvement before we got transferred to an Aboriginal agency.

The social workers always change and they don't keep up with the files or whatever and they don't contact me until the kids contact them and say, "I want to see my mom." And then they contact me, you know what I mean? But they can't be bothered (laughing), it's just the reality, eh, that's just the way it is.

I've had four social workers since this happened.

... they kept given me different workers.

I'm getting a new worker now. I don't know, I think things are going to get harder now with the new worker.

Some mothers requested a different worker be involved in their case when it became evident that

the relationship was not very respectful or productive. Their requests were often declined as these two mothers noted:

But when I knew I couldn't get along with this worker, like I wasn't going nowhere, I tried to phone his supervisor, and I tried to ask him, can I please get a new worker. Cause isn't that ... aren't you allowed to get a new worker? No, they declined me. I couldn't get another one. That was terrible. I was just ... I don't know ... I guess they just like suffering people, you know.

I was given a new worker because they still tried to stick me with this [social worker]. I thought you must have lost your mind? You must have a death wish for this woman because there is no way I will sit in a room with this woman. Not without strangling her chicken neck. In reality that is probably what would have happened. I would have ... there is no way I would have been able to sit in the same room with her without seeing red.

Mothers reported both positive and negative reflections about the relationships they developed with child welfare social workers. These relationships were for the most part characterized by the mothers as negative. One mothers' story is instructive as it details the challenges she faced in dealing with a negative social worker:

Okay when I met this worker she was ... this was someone who told me her life story okay? I mean not like in a good way. I mean she used it like ... oh, so, in your file it says you are associated with bikers. I said in my file it should say I used to be. She said, oh, well do you know ... and she was mentioning names. And told me she hangs around the Marion and told me that she herself used cocaine a year prior to my fall out. She broke her confidentiality act by telling me about two of her clients like which is really unprofessional. Like how do they let people like this into CFS? You know ... I think she was more trying to be my friend than be a worker. She gave me her home phone number. I had a bunch of stuff ready for a yard sale. But I wasn't having the yard sale for a couple of months. She said oh well I'll buy all those things. I know she is not supposed to buy stuff off of me. It's supposed be a professional ... well she is supposed to maintain her professionalism around her clients and that is not what she did at all. She swore at my kids. She popped pills in front of us. I think that she was just pissed and that's how she got back at me because she knew by taking my kids that would drive me off the edge. And it did. I threatened her life. "You got a fucken bad attitude like your fucken mother." That's what she said to my son. Well try proving that. Try telling them. They don't listen to you they think you're full of shit, she's on drugs you know ... it was a no win situation until I started fighting back. Yah, I said, ok, you want to play hard ball with

me now. I'm gonna show you how tough I really am. So I got the bitch fired. I documented ... like, she probably thought, she'll never remember anything I told her, she's on drugs. Oh no, and well actually what I did when I sat in Remand, I wrote everything down what she told me the night before. But you know what it's still up here (pointing to her head), yah, so I wrote everything down, everything she said to my kids, how many pills she's popped in front of me, how many bikers she knows, down to all the clothes she bought off me, asking me where to buy pills, asking me all kinds of stuff. Only the stuff I was saying about her it wasn't lies. The stuff she said about me they were all lies. That was another thing, before she took me to detox, she took me to that clinic to get clearance, and she told me get some valium. She used the street name "V's", you'll need them, pop about 4-5 before you go in. So ... but I paid her back good. To me I paid her back like, you have no job bitch. She probably count her lucky stars that I changed my life because 15 years ago, I would have went down to her work and ripped out from behind her desk and shit kicked her. There would have been no ifs, ands, or buts. And not a god damned cop or 10 of her boys would have been able to save her ass. And that's ... she's very lucky that I changed my life around. I said something out of anger but I knew better and that I have more self control over my actions now ... so yah, and uh, I built a case against her. I channeled in the proper steps to make sure that it went in front of the right people so they got to read it. So anyway, I did all that and ... it took me, I think she just lost her job maybe ... last August, September ... so it took me a long time to get that stuff done.

Oh yah. Yah. Yah. And then the supervisor stands up and sticks up for them ... "I saw you come in here" What? "I saw you come in here ... you were very rude to her." I said "excuse me, rude to her, how was I rude to her?" "Well, you know, she was talking to you and you walked away." And I'm "what, I never did that." I said "wait a second here, I was talking to somebody else already and I was continuing my conversation and mannerism," I said "you want to talk about mannerisms, okay ... It's always the onus is on me, on us, it's our behaviours, it's our attitudes, it's us, everything ... it always falls on us. Meanwhile the workers are the ones that are cold, and heartless almost, you know, stone faced cold, never ... you know, not even friend ... not even "hello, how are you?" But with my own personal experience with my own family, I haven't got anything, not even a hello, how are you today, how can we help you – nothing! It's just "no you're not getting those kids back ... Not even sorry"...

Positive interactions with social workers can be found in the mothers' narratives. These social workers were characterized as understanding the needs of the mothers and they were viewed by mothers as

respectful, helpful, compassionate individuals who seemed to "get it":

The only good thing about it was that [my social worker] was a very good social worker to work with. She would a lot of times go head to head with the supervisor that was saying this has to be done like this ... and she would say this is how it's supposed to be done, but she would say I'm going to do it this way with you ... even though it was against some of her Supervisor's telling her to do this and this way and she still would have ... because she ... I don't know whether it was her compassion or because of my scenario and my situation, which every situation is different. That she would break her protocol and help me and I think that's why she was really taken away Even though she'd been a social worker for so long she still had compassion whereas [the new social worker] was ... just doing whatever the supervisor told her to do. It wasn't caring or she didn't care whether she hurt me or not ... she didn't even care. That's what I felt sometimes.

A grandmother interviewed for this study shared that as a younger woman she dealt with addiction issues for many years. She had three children who moved in and out of care at least 13 times over the course of 12 years of involvement with child welfare. She became pregnant with her fourth child. She met a social worker who believed in her and allowed her to keep her baby.

Then I find out that this other worker believed in me and she let me have my baby and then my other kids started coming home after ... Another worker believed in me and she let me take my baby home. So ... but, see the other worker was gonna take him away at the hospital and I thought she was going to but then like, you know ... but I ... yah, so then this one worker started working with me and my baby, then things started falling into place. It was a long process but things worked out pretty good.

Mothers said that many times social workers seemed to overreact when mothers asked questions:

The social worker goes "you can stop being so hostile and calm down" and I was like "wait a minute; I'm just repeating what you are saying." She's ... "do I have to get another worker?" And I'm like "what the fuck are you talking about?" And they went and they made this huge thing and then the next thing you know I had three people sitting in the office with me and my son. I was like "wait a minute you're the one ... you need to calm down. I didn't do anything." They were like "okay now you're being really hostile."

Many of the mothers reported feeling that they were treated like children or as if they were simple minded by the child welfare social workers:

*They treat me like I'm some stupid young girl.
She made me feel like I was so stupid.*

Mothers said they rarely complained about being ill treated or treated disrespectfully by the social workers. Of those mothers who chose to complain, they report that their complaints were rarely followed up by the child welfare supervisors as this grandmother reported:

I said, like you know, I complained about it, about what she had done. They didn't do anything. Well, they said they were going to and then they got somebody to come to my home and then she said they would look into it. Ever since, nothing has happened. And nobody has gotten back to me. They said they were going to talk to that driver and why, why was my grandchild so scared to go into the car and the way she handled him. And if they are going to supervise me, and this, whatever this lady went and said, the support worker, the driver, for them to supervise me. And then, they didn't take into consideration ... what I complained about. They didn't take it seriously. They just left it at that. And she is still the driver of my grandchildren today. So it kind of makes me wonder, me having a social work degree, and knowing the code of ethics and them supervising me and me what I saw and then my grandchild screaming and putting a complaint in. Nothing was done. And this support worker ... that kind of makes me wonder like you know? Is it like, you know, was it because I was ... my kids were in care and that, and now they don't want to listen to me and yet I go and get my social work degree and they don't listen to me. And then like you know ... It just ... So that's kinda ... it's just the way they handle things and all. I kind of think ... what is the best interest of the children here, like, you know?

Mothers expressed agitation with the impression that their social workers were unable to make independent decisions without consulting their supervisors:

Not helpful whatsoever. They just tell you ... they just told me the programs that I needed to do ... that was basically it. Or else when I asked questions, then I would have to talk to their supervisor. They always say "I have to ask my supervisor."

Oh and that stupid [social worker] and the supervisor ... They were just like ... stuck together huh?

Yah. But are the supervisors that I've come across are ... are both negative but very harsh. Because I know it's the supervisor who makes the ultimate decision and then hands it down to the case worker.

And then I tell my worker that and she says "you got to talk to my supervisor." "Well what needs to be done? What do you want me to do? You've got to talk to my supervisor, I have no say." She keeps saying that and it's pissing me off.

It was only her worker.... yes... if I had to ask to go see her, I'd phone the supervisor.

They were the problem. They were the ones causing more problems and that's the same thing with the current one too because everything has to go through the supervisor before it can be OK.

ABORIGINAL SOCIAL WORKERS

Some of the mothers indicated that it was easier working with Aboriginal social workers because of the ease and ability of communicating in their original language. Another mother articulated that she felt more open to be herself when she was dealing with an Aboriginal social worker while another mother saw her Aboriginal social worker in a motherly light:

During the process when they were changing child welfare from provincial to their own jurisdiction, I had an Aboriginal worker from Cree Nation ... but it was out of the provincial office ... I used to talk to her ... and I didn't mind that ... we used to talk in our language ... and she was advised by [her supervisor] to talk only English because then she couldn't eavesdrop on what we were talking about and there were times when she would close the door for us ... and [her supervisor] said you have to leave the door open ... why I said? This is a private conversation between worker and client. Why would she want the door open? I don't think she even stayed there that long ... I think she was only there for a year and she quit her job because she couldn't stand how she wasn't trusted ... I don't know whether [her supervisor] hates Aboriginal people or workers?

She was much more honest with me and it made it much easier ... everything started working out, I had no problems, my life at home was getting a lot easier, too ... I wasn't so angry... when I was working with [the non-Aboriginal social worker] I had to be perfect ... because I'm fighting with a white society ... like my life should be this way ... then I'm struggling with my own Aboriginal identity ... I can't ... this is how I was brought up; this is how my family is ... I can't go turn around changing it ... it was screwing up my head. I'm not white; I'll never be white. I can't live in the white man's world ... whatever she was trying to do to change it ... I had a struggle with that and after that I started working with the Aboriginal worker and she said, no, you don't have to change for anybody what you are ... if you're having problems with the alcohol we can talk about it what triggers it? And we started working on that [alcohol issues] and it became easier and easier... I think I quit drinking for about 10 months after that. I wasn't so tense at home...

So ... so [my worker] is Aboriginal and ... A very nice lady, a little bit religious in the Christian sense like. I didn't think you were allowed to bring religion into the work place with you. Like she often ... like plays gospel music in the car and speaks about church and

invites me if I would like to go to church with her that she'll pick me up. And ... when I'm feeling emotional she'll stop me and ask me if she can pray for me. I'm a bit ... a little bit uncomfortable with that but ... she's the perfect age for what I do to older Aboriginal women, I surrogate them a little bit ... like I do have a living mother but we're estranged. And uh, we have our own issues. She's married to my step dad and they have a couple of daughters together...anyways I don't have aunties or a mom so sometimes when I befriend or have those older Aboriginal women in my life I kinda surrogate them and maternalize them a little bit and so I kinda enjoy when she was caring for me I guess, concerned for me.

RACISM

Mothers indicated that they experienced racist treatment by the social workers involved with their families. One mother in particular noted that she fought to have her children recognized as being Aboriginal:

And those workers – they are the two most racist people I've ever met in my entire life. And my kids look white, and they are all blond hair, blue eyes and ... I should, I really should show you that file that I have, that piece of paper that said the kids don't even look Native and so they could have them adopted as white and they're healthy ... seriously. Like I showed that paper to the organization and my advocate [names removed] she's like ... this is blatant racism and I'm like yah but what can I do about it? There's nothing I can do about it. Because it's what they [CFS] see, they don't see it as racism. Even the Children's Advocate was upset by that comment and she approached them and she wanted an apology, she felt that I should be apologized to and the kids should be apologized to. But they didn't see anything wrong with what they did and they still don't to this day, you know? They still don't see anything wrong! Like it's so ... you know what I mean? I'm like oh my God, like! People say oh it doesn't exist anymore – oh sure it does! I had to fight to get their status so I could get them changed to an Aboriginal agency because they refused to acknowledge that they were Aboriginal ... this agency.

Another example of racism is where mothers have noted that foster parents are not allowing children the opportunity to participate in cultural activities or attend cultural events:

And there's some things they don't allow. They don't allow my children to go to any Pow Wows or anything like that. That's what the foster mom told that worker, the worker told her that, the children can't be at any kinds of things like that. So they are denying them their culture as well? ... that's what I felt right away. Yah. Because my boys ... they know everything about Pow Wows. Like they want their spirit names. I told

them I'm going to get their spirit names but I have to go through CFS and everything and it will probably ... um ... they will probably say no to that.

Yah, they're in an a non-Aboriginal foster home ... well, I'm thankful they're still in the same foster home. They are being engrained as Christians again, once again. They're not getting exposed to who they really are. But that's okay. Cause I do respect Christianity but I know there's gonna be times when they want questions answered, you know, and they're gonna come looking for those answers. I don't have all those answers but I'm just gonna share with them what I know through the Sweat Lodge right and that kind of thing – that's what really helped me.

And that's exactly what they are doing – they're colonizing my kids because my kids are in a non-Aboriginal foster home.

Many mothers commented that they felt singled out and treated differently by child welfare staff. The mothers question whether it was because they were Aboriginal or was it because of some other reason? Many of the mothers made comments and/or observations that other parents appear to be worse off than them but somehow they managed to keep child welfare at bay and they didn't know why that was so:

I don't understand why some children get to stay with their parents even though their parents are alcoholics and drug addicts and abusive

They are still running around in the streets and the mothers are still drinking, every single day. Like women like that, like how come their kids don't get taken away? That's ... and yet, the mothers go to the school just really super drunk and whatnot and they don't say nothing. Like, how come those women get away easily? I don't know what is going on? And I told, I told so many people about that ... even small little 2 year old, 3 year old kids running around 12:00 at night on the road. That's crazy. And I said, the cop cars drive by. They don't do nothing. That's nuts. I don't know what kind of people they are targeting on but they are targeting on some people. Seems like they have their own picks of people.

Many of the mothers felt forced to assimilate and parent in a specific way that was alien to how they were brought up as this mother articulated:

They want you to adopt a different way of ... I found that the Aboriginal agencies are starting to do that too ... your life has to be done a certain way to their expectations not the way you've lived or how you've grown up ... it's just their perception and that's it. It's their way ... they're forcing you to live the way they want to see you not the way you've been living ... obviously if your kids have been apprehended you're not doing it right, basically ... assimilation isn't

that what it's called ... to assimilate me to the perfect parent ... they can't even say that of themselves even the supervisor does not have a perfect kid a perfect family ... if there was then they wouldn't exist ... they shouldn't just jump to the conclusion that because of a situation that happens that there's something that's always going to be wrong.

IMPORTANCE OF CULTURE

The importance of culture in the lives of the women who participated in this study is very evident in the stories they shared with us. Some mothers indicated concern that when their children are taken from them and placed in non-Aboriginal homes, their children are not getting enough exposure to culture and that is it difficult for them to convince social workers and foster parents to take their concerns seriously about ensuring their children are exposed to their culture while they are in care. It is not enough for foster parents to take children to cultural events as these mothers articulated:

Yah. And there's some things they don't allow. They don't allow my children to go to any Pow Wows or anything like that. ... That's what the foster mom told that worker, the worker told her that, the children can't be at any kinds of things like that. Yah. Yah. Because my boys, they know everything about Pow Wows. Like they want their spirit names. I told them I'm going to get their spirit names but I have to go through CFS and everything and it will probably ... um ... they will probably say no to that.

And uh, I keep telling the social workers my kids are missing out on their culture. This lady is European. Can you get that? European? "Oh we take them to Pow Wows." People don't even know the teachings behind the Pow Wow, you don't know how corrupt it has become, you know people that go to Pow Wows that compete that are crawling, going to Elders that have stepped on something, you don't even begin to understand ... you know ... but you know because ... it's just like our government has corrupted our First Nation people, that they are stripping us, attempting still to strip us of our ways and ... and ... I think personally, it's just another way of taking our language, our culture, and our way, away from us. They are taking ... my son ... my son he has a drum waiting for him you know? My mom seen him at a Sundance, a vision but to tell that to CFS workers, they don't understand that, they don't begin to comprehend it, you know so ... all I can do is go to my ceremonies and pray hard for my kids ...

Nothing, and they know nothing about the Aboriginal culture. The agency [name of agency removed] knows absolutely nothing. It was sad to see that they had no cultural experience,

One mother was very upset when her twin sons who were taken temporarily into care had their hair cut. She had specifically pointed out that her sons had long hair for a reason. She was amazed the foster parents had the power to make the decision to cut her sons' long hair. This mother found this to be an affront to her cultural beliefs, values and ways. She explained very articulately how she moved away from her culture and then back into it and how she tried to incorporate the cultural aspects into her son's lives only to have her Aboriginal values shattered by the act of cutting her sons' hair:

Like they cut my sons' hair. Cause before I had the kids I was spiritual and I sang with the hand drum and I danced jingle dress and I found a lot of comfort in following my path and feeling like a part of something and ... as I got into my relationship with my ex, which is now like 6 or 7 years ago, I just fell into a lifestyle that I was drinking often, using drugs and ... that has no place in the spiritual world so I felt like I didn't belong there and I stepped away from that I kinda ... whenever I describe ... I kinda just went into the darkness, like, you know, like ... when you're following the red path, you're just like in ... you're just like ... surrounded by light. It feels like your heart is light ... I went to a different place then. I didn't feel like I belonged anymore. And ... I wanted to get back to that place is what I am trying to say. So uh, I decided I wanted to grow my hair, the boys' hair for traditional reasons and their grandfather has long hair and was supportive in my decision to keep their hair long. When they were apprehended their hair was braided ... with ouchless elastics, like, you know, in a lady French braided style ... you know Aboriginal males do that. So I was a little bit upset that they didn't follow my routine. And I had asked when they were first apprehended I did let the worker know that they have long hair for a reason, it's not because I'm lazy it's because I choose for them to have long hair. So, they had cut one boy's hair in front like bangs and T. (name removed) has ... this is the twin that looks more like me and it made him look feminine which pissed me off because he had a little ... had long hair in the back and girl bangs. Now everybody's calling him a girl. And A. (name removed) had a lot curls and um ... the lady said, oh well, they had knits in their hair. They didn't actually have knits but they had old knits and so she was going through their hair with scissors and she was actually cutting out chunks of hair where there are knits. And I was like, as a foster parent no one ever taught you or showed you or spoke to you about how to care for that? I was like you pulled them out ... I don't know, anyway, I didn't really go into it too much because I was so happy to have them back but I didn't want to start a fight, whatever you cut their hair, whatever this and that ... and um ... that was really all.

In their effort to heal mothers often want their children to be involved in cultural events that would help in the healing process not just for themselves but for the entire family. Social workers have denied children a chance to participate in these types of healing opportunities as this one mother explained:

Oh, yah, and I called the office one day and I said look, I want D. to come with me to Red Willow Lodge, we need to start our healing together. 'You know what I don't think you should make your son go with you because of your mistakes.' I said uh, 'what' so she goes, 'you heard what I said, you shouldn't be allowed to have your kid with you in a healing centre.' I said this is 'family healing traditionally.' But I knew what she was trying to do because she was trying to trigger me to get pissed off and freak out at her. Because that was the supervisor and she said, no, we're not going to force him to go into treatment with you. I said it's not treatment for drugs, I said it's family treatment.

Some of the mothers disclosed that they knew little about their cultural background and history, but culture was expressed as important and a concern for them. They found whatever means possible to get a better understanding of themselves as Aboriginal parents through books for instance as this one mother shared:

I was given a book. It actually ... it's only a book ... it actually changed my life. It's called The Four Agreements ... And ah, I think everybody should have one, everybody. Cause it's amazing how it changes your life. It's actually, it's written by a Native Prof, it's supposed to be written by a Native Prof. It's an amazing book. It's amazing. I wish I had had that book before I had children cause the things I was doing would never have happened.

FALSE ACCUSATIONS

Mothers indicated they were dealing with many lies and false accusations that were made about them by some of the child welfare workers they came into contact with:

I had lots of people helping me and you know they were awesome. So we asked for a copy of the file. They wouldn't give us one. I thought ... it is my personal file so why wouldn't I be allowed a copy. So anyways, that was fine, we let that go. They sent us the ... they sent me the papers for court. The apprehension order ... and in there ... I couldn't believe what I read! I couldn't believe it! "You hit your kids, you swear, you yell, you freak out." That's not me. So I said "where the hell is this information from? It wasn't me!" It was that worker writing this shit about me. She built a case on me based on lies. Now that pissed me off. It also said in there that I went down to their office ... kicked a door

and broke a window and flipped out on their staff. It was a Native girl with long hair ... apparently she was shorter than I was. And they still said it was me. Well, why didn't you charge me for uttering threats because apparently it happened the same day that I uttered threats to [the social worker]. Well ... they had nothing on me. I guess they just assumed that all us Indian just looked alike. So I threw that at them ... and they said, no, no, we never said it was you. So they kept changing their story ...

Another mother stated she was accused of smelling like alcohol and her child was apprehended as a result. She was taken aback by the comment but didn't know where she could take her complaint to:

And his first impression from me ... um, was that ... like he said ... I don't know if he said in a statement or he just said ... "oh, you reek like alcohol". And I said, what? You know? So right there, this is where the hate started. I didn't know where I could take his comment to or whatever right so I just let it be, you know.

Other mothers reiterated similar treatment and faced false accusations made by frontline CFS staff:

... and even that same social worker treated me like as if I was still a liar or a drunk or whatever. They didn't want to see me. And like I've said before they accused me of ah, they accused me of pulling my kids, my grandchildren's ear or something, because they couldn't even speak at the time. And then accused me of my grandchildren, they came over for Christmas, that I, my grandchildren drank beer at grandmas and that um, that I pulled their ear. I don't know what, how they based that on?

Yah, when somebody phones her and tells her something about me. Boom! I got to go through this program, I got to do this program, I got to do this ... I said, well, what for, just cause they believe? Anything they hear ... they hear they believe.

One grandmother lamented that child welfare often did not have a complete picture of her abilities as a parent if she did not have a good relationship with one of her adult children:

Of course I said it's human nature it's part of the addiction package you know. I said it's not like we're constantly yelling or screaming at each other. That's the way you guys present it but that's not how it is. I said have you ever been in my home, have you ever seen me interact with my other children, have you ever even talked to my other children as to what kind of mom I am.

MONITORING BY CFS

A few of the mothers' narratives speak of subjection to numerous drug and alcohol testing by the child

welfare agencies staff. One mother in particular stated that she was required to do drug testing at least three times a month by the child welfare agency involved with her family.

They were always ... it was like they were trying to catch me and there was no catching to be caught. Yet, I did everything to their protocol and what they wanted and they still didn't believe me. When they started going for hair samples to blood and urine ... like how more can you not ... but I was still not believed. I knew already the whole scenario and what to do and [the social worker] was trying to catch me off guard all the time. She's reading my drug test and at the end of that session there she'd ask me to go and do another one as if she's trying to surprise me or I don't know. That's what I always felt from her and it really broke down my morale and everything. Not believing me about drug tests even though...my own physician said, "what the hell are these people on, why are they making you go through so many drug tests?" So, was my lawyer ... he couldn't believe it either. He said, S, you don't have to give hair samples, we can fight this.

For one mother who did not have access to transportation, mandatory drug testing was inconvenient and placed her in danger:

I'm having to hitchhike in forty below, thirty below, twenty below...during winter, just to satisfy [the social worker] because she thought...she was really doing it because it would make her boss happy or feel good or whatever...

As a result of hitchhiking in cold weather this same mother noted that she developed a cold but when she arrived at the child welfare office, the social worker recorded in her notes that she was on drugs:

And certain times I'd go there and I was really sick ... I would go back and forth from ... I did get a cold and I was sick and the flu was going around and I told her [the social worker] that and she wrote in her minutes that "I think S. was on drugs." And yet, at the same time I went for a drug test after that session and the drug test came back negative.

One mother indicated that she agreed to random drug and alcohol tests as a condition of the six month supervision order that she was able to negotiate with the child welfare agency:

We got them to go for random drug and alcohol tests at any time – like we signed an agreement to say that.

The insensitivity of being forced to take alcohol and drug testing was explained by this mother:

You're bought to the AFN, they turn off all the water, all the taps, you're locked in a room, you leave your purse, they make sure you have nothing on you

and you go pee behind the curtain. And yah, there's a camera in the room but you're ... Yah, but there shouldn't be one in there. I mean all the cupboard doors are locked, the water is turned off and then what are you gonna do? Yah so, so I said I'm not piss testing. I said I'm not on parole. I said so I'm not going to be treated like I am. I said sex offenders get better treatment then people dealing with CFS.

Closely related to drug and alcohol testing was the feeling of being watched by child welfare. Mothers felt strongly that that kind of scrutiny was an invasion of their privacy as was noted by this mother:

... and they always managed to get me to the point because they knew I had company, they would get somebody to spy on my home, they knew people were coming in there, they had specific names. They had people watching my home and I'm going to try to make a court case saying that's invasion of my privacy and movement. A bunch of people that are watching my home that are watching what is going on, coming in and out of my house.

Mothers felt that child welfare was watching them. This is evident in many of the comments that appear in their narratives:

I can't even go to my sister's house just to visit because they're watching my sister's house so I won't go.

They let me keep my daughter but they still watch me close.

It is very frustrating, like, I'm in here and when I go out into the community, I know they are going to be watching everything I do.

I even told them what's the point of even being here if you guys don't give me a chance and you guys are always watching.

Yah, we had to go into a little room and we were being watched, me and B. by someone behind the glass.

You know, I couldn't do anything wrong. Honest to God, I was like a prisoner, being watched, or monitor or ... I don't know ... just (sighs).

No, but they sure watched me afterward. You could hear the whispers and feel the stares.

[The social worker] says that no matter where you go we have to give a referral we have to monitor you.

"You're telling me that if I leave The Pas you guys are going to refer me to be watched?"

TRIGGERING ANGER

Mothers noted that it appeared to them that the social workers deliberately try to make them mad or

get them angry. Social workers did everything in their power to trigger the mothers' anger as these mothers noted:

They want to set you up. There are key words and there's key things they try to throw at you to make you fly off the handle. I'm not stupid, I know their game. So I caught onto their little bullshit and I took full advantage of that. So I played their game back with them.

The non-aboriginal worker that I was dealing with there was just trying to do everything to rile me. To make it seem like I'm not stable...bursts of anger or something like that. She kept trying to say things to get me madder.

When [the supervisor] was asking questions or trying to piss me off I would just look at my Mentor and I'd be answering her questions and she would say, well, could you please look at me while I'm talking to you and I said, I'm trying to answer your questions and I'm thinking, so, I'm not exactly going to be looking at you. So, I just stared at [my mentor] and she said, you know as long as you're staring at me, you'll be calm. So, I had that support that support was right there and that helped me a lot because I ended up where the worker got pissed off she said, OK this meeting is over. She wasn't getting the results she wanted to try and tick me off so I would blow up and walk out because I did that once before...I'm not dealing with you, I said, I don't need this and I got up. I walked out. So, it made it look like I was being non-compliant.

You know social workers that know certain aspects of trying to get you to trigger to see if you need anger management, to see if you need this or that.

Ya, and it seemed like they were trying to make me break, to break me. It never happened even to make me break down so that I'd have a relapse or all of the above...where then they could say; oh, she has to go to anger management or she has to do this... whatever. I never fell for it either.

But I knew what she was trying to do because she was trying to trigger me to get pissed off and freak out at her.

Many of the mothers reported that when they questioned and challenged social workers the doors of communication closed as this mother alluded:

I have been dealing with this woman for the first two years that my children have been in care and we fought all the time. I was not very... how do you say... I wasn't the quiet type. I would just say what I wanted to say and she would get really upset with me. The more I spoke my mind, the more I found that doors were closing on me.

BRINGING WITNESSES TO MEETINGS

Some of the mothers talked about the disrespectful treatment by the social workers they were dealing with. In some cases the mothers we interviewed said social workers would twist what was said in these meetings. To counteract these negative interactions some mothers took initiative to bring a friend, family member and/or an advocate or mentor when they had meetings scheduled with the child welfare worker involved in their case.

I took a Mentor in there and she [the social worker] wouldn't talk to me like that because there was somebody there.

The non-aboriginal worker that I was dealing with there was just trying to do everything to rile me. To make it seem like I'm not stable...bursts of anger or something like that. She kept trying to say things to get me madder. To prove the point that oh, no, she's... Yah, to build a case against me. She never wanted my Mentor worker with me and I said no, I want her in there with me. I said, if you're going to talk to me then I'm going to make sure that somebody is witness to what you're saying because every time I said something, [the Provincial Child and Family Services Supervisor] would say, 'well, I don't recall saying something like that, I wouldn't say that.' She's a person of authority...they always play these games. You don't have anybody there sitting there with you to listen to what they're saying to you then they can turn around and say, well, I didn't say that.

Yah, and it seemed like they were trying to make me break, to break me. It never happened even to make me break down so that I'd have a relapse or all of the above... where then they could say; 'oh, she has to go to anger management or she has to do this... whatever.' I never fell for it either. They'd make you come and say 'oh we're going to have this meeting' and they wouldn't tell you that there's going to be two of them, instead of one on one, there's two of them and myself. Which I was not that stupid to go through that -- I always brought someone along -- a sibling. If I didn't do that, I would try to get a recorder, so, for myself it was documented. I was keeping a journal all the time. My minutes would be cohesive with her minutes.

Having a mentor attend meetings helped the mothers remain calm when dealing with the social workers who mothers thought were just trying to rile them up as this mother illuminated:

When [the worker] was asking questions or trying to piss me off I would just look at my Mentor and I'd be answering her questions and she would say, 'well, could you please look at me while I'm talking to you' and I said, 'I'm trying to answer your questions and I'm thinking, so, I'm not exactly going to be looking at you.'

So, I just stared at [my mentor] and she said, 'you know as long as you're staring at me, you'll be calm.' So, I had that support that support was right there and that helped me a lot because ... the worker got pissed off she said, 'okay this meeting is over.' She wasn't getting the results she wanted ... try and tick me off so I would blow up and walk out because I did that once before ... 'I'm not dealing with you,' I said, 'I don't need this' and I got up. I walked out. So, it made it look like I was being non-compliant.

CHILD WELFARE EXPECTATIONS AND PROGRAMMING

Many of the mothers shared with us that they attended numerous programs at the request of the child welfare worker and agency. There is a sense that there is no rhyme and reason to the types and/or number of programs that mothers are required to attend. For many of the mothers it seemed that they were over programmed and the child welfare expectations seemed to change from month to month.

I had to jump through hoops ... going through parenting programs ... I don't even know how many programs ... I went for treatment. I took something with an organization ... I got so many certificates its unreal. Everything was done here; the four years I lived here I was always doing this and doing that...

They're saying maybe you should take a program ... how many programs do I have to take? This is so stupid. They are stalling each time I talk to them. There is always something else they want me to do...

One mother explained that she was exhausted from all the programming she had to attend:

I've been through so much programs in about, last three months. Sometimes I barely ate. I've even barely slept. I went from 8, 9 o'clock in the morning right to 9:30 at night. Sometimes all day long from 3 programs a day. Then I get up and have to go to another one. But I did it! I'm glad I did it. And I told [my worker] I'm just so programmed out.

In other instances mothers reported feeling penalized and forced to take more programming when someone reported untrue things about her to the social worker as explained this mother:

Yah, when somebody phones her and says to her something about me - Boom! I got to go through this program, I got to do this program, I got to do this ... I said, well, what for, just cause they believe anything they hear ... they hear they believe. Like I've done ... I went through a lot of programs already.

When program conditions and expectations are imposed upon Aboriginal mothers, many reported they unsure where to turn for help in accessing

information about programs, treatment and supports to assist them on the road to recovery and healing so that they can get their children back. The following narratives by four mothers illustrate frustrations about where to start and to get information on programs and services:

They need ... more information on where to start?

I've done everything on my own for this. Cause they really don't ... tell you what to do ... they don't give you any leads of where to go. They really don't.

CFS didn't sit down and say "look we can give you a support worker; we can suggest this program and that program to you." None of that was done. It was just 'okay, here's a court date, come for your kids.'

So I didn't know what I am gonna, where are I gonna, who am I gonna contact ... like I was going crazy. 'Please somebody, help me, help me, you know.' I've got to do something, you know.

In other cases mothers indicate that expectations were clearly laid out both verbally and in writing as noted by these two mothers:

When we first met they told us what to do. They verbally and wrote it down.

They just gave a list of programs. I needed family violence, parenting, some kind of life skills program, the counselling ... After I done that, and then they put on that they needed some treatment, like residential.

Mothers shared incredulousness at the fact that child welfare workers can place expectations on them to attend programs but then provide no assistance to connect mothers with the resources and programs they need. This mother:

CFS says you have to do this yourself to get it. What? You want us to do this, but you're not going to help, we have to do this ourselves and gods knows how long that would take.

In other cases, mothers were told about programs and community resources but it was up to them to get information about availability of courses themselves and it was their responsibility to make arrangements to attend these courses/programs:

If it wasn't a referral she would always give me two or three numbers I could phone and see if there was anything available or...

Some Aboriginal mothers reported a lack of programming specifically for Métis parents. Others felt that once Aboriginal child welfare agencies took over child and family services the range of services available to Aboriginal mothers through Aboriginal streams were just not there as explained by these mothers:

There's not very many services especially for Métis...if you're treaty you can access...they have lots of stuff for them. They talk about this service for you, but for Métis there's nothing... when I went to go and ask for some kind of help they just kind of looked at me and said 'I don't know what else can we do for you.'

... because it wasn't an Aboriginal agency. It was a provincial child and family and they had access. They got me this, they got me that... they had access... they got me stuff for the kids... they got me into the Mentor program and that was helpful. You get into an Aboriginal agency and there is squat... piss all... you'd think it would be the opposite...

One mother recalled a strange expectation that was imposed by the child welfare worker that she was dealing with. The social worker provided her with a list of things that she needed to accomplish prior to getting her children back. One of the items on the list was questioned by mother as to why the following was important and required of her:

Oh, there was...we had to wash all the walls in my house for what reason I don't know. I was living in the ghetto that time, too, and my 17 year old daughter was washing... she took a toothbrush and washed all the floor boards and why I have to wash the walls before they come home. I mean my house wasn't filthy the walls weren't in the nicest shape either, still? I remember the walls had to be washed.

Another example of an odd condition placed on a mother can be found in the following narrative as explained by one of the grandmothers where she was told that before she could get her grandchildren back she had to learn to have healthy boundaries and to stay away from her own adult child:

They just told me that... I have to go for counselling. And I have nothing against counselling but it's... um... one of the conditions if I ever, ever want to get those little girls back, I have to go for counselling to learn healthy boundaries. And I said but what do you mean by that, like what does healthy boundaries look like, what does that mean for you because I mean for me it could be different? For another person it could be different. Like what are you talking about? And they said well I have to learn to stay out of my daughter's life. I said what do you mean? Well you've got to stay out of her relationships, you've got to do this and you've got to do that. And I said but wait a second; this is my child you're talking about.

In addition to child welfare expectations, mothers engaged in attending cultural programs and engaged in their own initiatives:

Yah and I even went to support groups and other support groups. I did a lot of my own personal stuff like Sweats and reading.

For some mothers the opportunity to attend programming to improve their parental skills helped them become more aware of their identity and the important aspects of their cultural background as reflected in what this mother shared:

And I got that opportunity at Nelson House because of the fact that it also offered me a chance to look at who I was; to look at my identity – to begin to see that I do have roots. You know, I do have background – now it's my chance to find out, you know, what is it? Who really am I? And I needed to know that because all through the years growing up I didn't know that, I didn't know who I was... as a, you know, as a Native person. I... you know... when I grew up in The Pas, it was like a, very racist community. But I didn't belong to... The Pas reserve or Opaskewayak Cree Nation because I wasn't from that First Nation. I didn't belong to the town. So I grew up in that town but not really knowing who I was and you know, faced with a lot of racism, every day of my growing up life. So um, it gave me a chance when I went to Nelson House to do this and you know, I did that by attending ceremonies and sweat lodges, speaking to Elders and just basically being out there in isolation, in the bush, you know, like, in a place where you're close to mother earth, you're close to the water and the lakes and stuff like that. And I had the opportunity; you know, to... to begin that process... that process of regaining my identity and finding out who I was as a Native woman.

Attending programs helped mothers to understand what has happened historically between child welfare and Aboriginal populations as this mother articulated:

... we just started going to all these support programs, these group programs... and that's when I learned about... residential school, and Bill C31 and colonization. And I was really angry about that when I first learned about that. And when I first started going to school and I started taking courses and I started realizing, this is what's going on here, you know, it made me even more angrier because they know what they are doing. Those white workers know what they are doing and they do it anyway because it means a pay cheque to them. That's what I understand.

Attending programs helped some mothers realize that they were not the only ones dealing with a situation where their children were apprehended by child welfare and that there was quite possibly hope as these two mothers describe:

... when I go to that one program, we have girls that are going through basically the same thing, and just to listen and sit there and hear that you're not the only one, you know, makes you feel a lot better. Or hearing stories from women that have been through it or through possibly worse or just the same as you and got everything back together.

Just to share the knowledge from everything, just from having ... the female companionship, you know? The cultural ... um, just recognizing the cultural ... and then having other women just understand your pain and then give you the knowledge that you would need like (inaudible 45:06) ... that really appealed to me when we spoke about that.

For some mothers treatment took a long time to complete as this mother stated:

... cause that lady at the treatment centre said to me "whenever you're really serious about quitting drinking, and, and you want to do it," she said you "call me" and you know, "I'll let you come back," she said. So I did that. I called her and I called child and family and I called my mom and I told them ... even though I was still in really rough shape because I mean, at the end of my drinking career, I was drinking like wine, and everything like that, like ... really rough situation. And um, I told them, you know, that I was gonna do it this time. That I, you know, I had, I had my mind set on it. That it was what I wanted ... that those were my children - that I loved them and I needed to clean up my act. So I phoned Nelson House, she let me back in and I went there. And, you know, I stayed there for 5 months.

A few mothers reported feeling that not only did they have to work at attending programs, they had to work at helping social workers find and access resources for their children while they were in care. For instance, one mother shared that she helped the social worker involved with the family access resources for her son while he was in care. A tone of resentment is evident in how she reflects back in time about her memories:

I gave him resources to get my son into programs. 'Yah, you wanna do your job, this is your job okay because right now they are in your care, so if you think I'm gonna do your job you're sadly mistaken. You're getting paid. I'm not. Okay, I know these are my kids but you took 'em. So here, you do the god-damned paper work and the math.' I had no problem getting my kid into a program but you know what, it was his job, they were under his care. ... Like ... they don't know their jobs. They really don't know their jobs and I don't think they care. You know I think once they get the kids in care, that's it, oh well, they're here, let's leave them here.

The mothers in this study have shown great initiatives to ensure the resources and programs they need are available in their communities. In many instances the program resources that mothers needed to access for specific treatment and support were not available in their community. This was noted particularly by one mother in The Pas. She shared an innovative approach she took to ensure that a resource service not originally

able in her community was created and consequently available not only for herself but for other women:

I had to start it...even in rehab you didn't really have support or unless you were AA and I wasn't an alcoholic at that point in time. I came back from rehab and there was no NA [Narcotics Anonymous] in The Pas. So, I started one and it was still going up until last summer.

The length of time to complete programming can take a long or short time depending on the issues and for some women; they have been attending programs for years. For one mother, it was likely that she would continue to take parenting programs until her son transitioned into adulthood:

They know I'm still in places getting the help I need. I guess it's just the waiting and how long child and family says it's gonna take me to get them back. I feel it doesn't take that long ... how much they say, a couple of years. And I don't think it would take that long so ... they say I don't have the parenting skills. I understand that because we have been apart so long. But now today I'm doing parenting classes, different kinds to prove to them that I can be a parent to my kids ... and just how long they tell me, they say a boy can be 18 when it's time for him to come home. And that's hard when they tell me that's how long it will take. I don't know ... it's ... it's like they know, they know everything. That's how hard it is. They know everything.

Two other mothers noted that it didn't seem to matter that they completed all the programming and expectations imposed upon them by the child welfare agency, they continued to deny their children to return home:

I went out there and I did all these programs, came back and gave them a copy of my certificates that I completed and stuff like that. And they said okay you'll get her back after school in June ... on June 30th I was supposed to get her back 2004. And No, they didn't ...

But I mean, like, when you really, really try for months and months, they sure give you a hard time. Um, I did everything I was supposed to do and they still denied me.

Other reasons for denying the return of children sometimes had nothing to do with whether the mother completes the program or not. It is sometimes assumed that the mother is unable to deal with the health condition of one of her children as this one mother understood:

I got the impression that I was going to get them back if I did all these programs. And then whenever I did the program and then they told me that the doctor's paper came back and how severe my

daughter was, they said, oh no, no, you can't handle it. So then they decided to keep her. They thought she was better off as a permanent ward.

Other mothers have questioned why they need to take so many parenting programs when they have raised other children almost to adulthood as this one mother adamantly states:

Also, I tried, I tried following through with the child and family ... if I followed through and do what they want me to do, I'll get him back ... and so, it kept on hanging and hanging, like .. a month went by, another two months went by. Oh my god you know ... and I kept bothering him, like when is he going to come home, when is he going to come home? Like, you've got to go through parenting programs. Like, what the heck? Parenting programs? Like I've raised 4 other kids you know. No, 3 other, because he's my fourth. And parenting programs, I followed through ... that was an 8 week program. Oh and then they put me through another program at Marion, another 6 weeks, another parenting program. Oh that was just useless, you know ... stupid, you know ... like, oh my god, I ... but that's how bad, you know, I wanted to get baby back. I did everything they told me, you know. I didn't say anything about the programs or nothing, just ... my mouth was just kept tight you know.

For many of the mothers required to attend parenting programs they reported the need for additional support services to prepare them for the return of their children once the temporary order of children ended. Despite the prospects and excitement at knowing their children were returning many mothers felt unprepared. While there appears to be an abundance of programs for mothers involved with child welfare, there is little by way of support services after children return as this one mother expressed:

I didn't have enough support services brought into my home. These kids I never parented ever when they were growing up and then all of sudden it's ... here's your kids, enjoy have fun, we're out of your life ...

While resources and programs are available in the community, some mothers reported not being able to access these resources for their children because of their own personal situations:

I did try and go to [this community resource – name removed] but I'm kinda sourish towards them because they said because I had criminal charges and I had pending issues with the courts ... I couldn't become a client there. Because how could I focus on my journey to a healthy life when I might go jail and I really thought that was like ... And I was just really craving structure because I was coming from chaos and I just, I really wanted a cultural outlet, I wanted the cultural influence for my children and myself ... Like you have

to go in front of a panel interview to become a client. Yah. You have to go through a big like, history, why you need to go there. Like I had a 4 hour interview, like a whole afternoon, with my children and everything. And I was totally under the impression that everything was gonna be fine. But it didn't happen. So maybe when my criminal things are resolved I might rethink the idea but I'm kinda soured though.

For other Aboriginal mothers sometimes the programs available within the Aboriginal community are not always appropriate for their needs but there is a desire to ensure that a healthy transitional component is a part of the experience as this mother articulated:

I was already kinda beyond [organization name removed] because you can only really spend so much time at [name of organization removed] because their clientele is entrenched. And I found that I couldn't bond with the people who were going to groups with me because they had their own issues. And as somebody who works with social services I was like, my friends are becoming my clients, and I'm not strong, and I'm not healthy and I can't help people. Someone taught me that. Just told me that. Like when we're on shaky ground, if you can't help yourself you can't help other people. I was like on my own journey and ... I just needed to go somewhere where there was more healthy people. So I appreciate everything [name of organization removed] did for me but I believe there like needs to be another transitional service, like you go there and get support and they kinda help you and you kinda move on.

Mothers attended many programs and met all the expectations for improvement that were expected of them by the child welfare agencies. Many of the women understandably were proud of their achievements. But what was clear to many of the mothers was that the child welfare staff did not appear to acknowledge the extent of work and energy that went into attending these programs and courses.

All the paperwork I was showing them – I said look, this is what I did. These are my certificates. They didn't even want to look at them, they just said "oh yah" and they just pushed them away from me. And I thought you know, "whatever, whatever."

Many mothers stated they often celebrated their victories alone even though they asked for permission to include their children in graduation ceremonies. Promises were ignored and calls were often left unreturned:

I had accomplished a lot of things that I didn't think I could ever accomplish in that program and I was really, really proud of myself. The other thing,

too that social worker had done was she said that my kids were going to be at my graduation and she come to my house and she said that my kids couldn't come because I didn't make arrangements. She said I never called to confirm. We had talked about it a week before that the children were supposed to come and be dropped off at my house just before my graduation ceremonies. So, they didn't make it to my graduation and it broke my heart that my kids weren't there because they were so excited for me.

And then she's wanting the kids on her graduation, May 8th and then she's really happy, she'd be really happy to see her kids and see their mother graduate. And I think that this is where the family thing, if you want something really positive to go, and I think that this is the way to go and she said she would look into it. That was three weeks ago now. I haven't heard nothing back yet.

VISITATION ARRANGEMENTS

Mothers who participated in the interviews and talking circles unanimously conceded experiencing many problems and difficulties around their visitation rights. The lengths of the visits were often short and inconsistent and often occurred over lengthy periods of time. Mothers stated that visits were most often supervised and took place in the office of the child welfare agency they were dealing with:

I was only being allowed to see my kids for 45 minutes twice a week, Tuesdays and Thursdays. Supervised visits which I don't know why that was. I was never abusive or nothing like that. At the Friendship Center, 45 minutes is not very long, for seeing three kids, 15 minutes per kid.

My visits with my children, with my boys, supposed to be once every month but it's always keeps continued to every 3-4 months we see each other.

I'm only allowed to see him once in awhile. And finally there was a point um ... so there was never a time long enough that they could even establish, credibility, so that I could stay to have a night, or weekends, or 3 hour visits. They kept it 2 hours a week and that was it. It never changed. I never missed one visit you know. And every visit we had we made the best of the two hours.

I just kept myself busy all the time and looked forward to the Saturday visitations I had with them for an hour. That was very hard, very hard. To see them crying because they had to leave me and it's not like I could walk to a park and be alone with them, I had to be supervised. I'm not an abusive mom that I could not understand. What did they think I was going to do with my kids? It was awful.

Visits seemed to occur when social workers decided they could as this mother surmised:

I still see them but it's like once every 6 months now. It used to be once every month. The social workers always change and they don't keep up with the files or whatever and they don't contact me until the kids contact them and say, "I want to see my mom." And then they contact me, you know what I mean? But they can't be bothered (laughing), it's just the reality, eh, that's just the way it is. They can't be bothered to go out of their way to help me see my kids, you know, they're just another file.

Other times social workers say that visitation doesn't take place because mothers didn't confirm the arrangements. And often time allegations are made against the mothers that prevent the visitation from taking place as this mother explained:

At Christmas they were supposed to have visits with me and two social workers came to my house and they were giving me a hard time saying that I was supposed to call. ... I said no we made arrangements, we said at 1 o'clock today they were going to be dropped off until after New Year's. They said well you never phoned and confirmed and I said I didn't have to phone in to confirm, we had plans we made the arrangements, they were supposed to be dropped off. Well, we heard you were drinking. I said, excuse me? You would know if I was drinking, I said I would not try to hide the fact that I was drinking. All, do you see any alcohol in here at all? We came to tell you that you should have phoned and confirmed your visit and I said well, you guys should just leave because I'm really, really upset. The other social worker said, we're leaving; we're leaving, if you want us to leave, we're leaving and she starts walking downstairs and just really being immature. You know, you guys say we're the ones with problems, I said look how you're acting. You don't see me getting angry, it's pointless now to get angry with you guys now, that's why I asked you guys to leave. I'm not screaming, yelling, like I would have before. I have in the past and it didn't accomplish anything. The other time that she cancelled my visit. She cancelled the one visit because she said I never made arrangements, but we made arrangements prior to that and that's the first time and the second time was my graduation. She said I never called to confirm.

At other times it appears that foster parents were dictating when, where and how long visits should be:

What I found so disturbing when I was trying to visit my daughter at Christmas time. And the foster mom showed up half an hour before my visit was over and marched right into the room and ... I thought, the visits not over I still got half an hour. "Oh come on we're late for another appointment." Why do these workers let this happen? She has no right. All she is is a

foster mom. They could've stopped her. They could've allowed that visit to continue but no. And I just ... I was ... I was so hurt in my mind. I just hugged my daughter and said "see you next visit." Well there wasn't a next visit according to CFS.

Mothers have noted that Foster parents say that the visits upset the children too much and they point to this as justification for stopping or cancelling visits:

Yah. Like I actually almost got my visits cut off ... last month was going to be my last visit ... I guess the foster family is saying that K's (name removed) gets upset before visits and acts out after visits ... and then so when K. came in the social worker is kinda observing but like I told her for the first maybe 15-20 minutes she's very quiet. So it takes awhile and then after that, like we'll laugh, we'll be laughing, we'll be talking and everything, and tickling to playing to colouring and everything. And then ... I was 10 minutes late and that's when G. told me that that might be my last visit and there's was a covering worker named C. (name removed) ... that she sits in on the visits – she goes "no, you guys are beautiful together." Towards the end of my visit she went and got my CFS worker and got her to step by the window and take a peek at how we interact. And so she changed her mind so then I got the next month ... to visit.

In one instance a mother shared that all visitations stopped and within six months her children were adopted – she hasn't seen them since:

And after that as soon as they got permanent wardship of my children on December 23, 2003, they severed all my visits right there. Just right there! No ifs ands, butts, nothing! I wasn't unable to see my kids anymore within that 6 months time frame ... probably even before.

I haven't seen my kids now ... It's been 8 years since we seen each other cause child welfare, child and family services stopped my visits. So that was the hardest thing for both of us, me and my kids. I just reunited with my kids about a year and a half ago.

One grandmother noted that the agency told her they were not obligated to ensure visits for the grandmother:

And I had to fight to have my visits reinstated. They told me that they didn't have an obligation to grandmothers, so there! That was the attitude I had.

For some mothers there is the perception that visitation rights seem to change from time to time:

I was getting visitation with my kids every weekend now I'm not even getting any visitation at all because she said it'll take at least 3 months to make the arrangements, she said it will take 3 months to make visitation arrangements and this year my daughter

was supposed to come home. She's actually supposed to be home with me now and they revoked that because they added another thing about stability... why? Because I had no stable home...yes, but I couldn't afford the \$600.00 rent a month, so I had to find a cheaper home, so I had to live with a friend until I found one, so they told my child that you can't go visit your mom until she has her own place and you can't go visit her while she's living with friends.

One Aboriginal mother wanted to include her mother (the grandmother) in a visit with her children but wasn't allowed because of her mother's prior history with child welfare:

Even my mother too ... like my kids wanted to visit my mom. What was the first thing that came out of that social workers mouth "is she drinking?" "Will she be drinking?" And my mom's been sober, okay? She's like 75 now. She's been sober for 7 years. And that's all that worker says, "is she drinking?" You know? And she's gonna die soon man like ... like I felt like giving that worker a shot in the head (laughter) ... like, smarten up you know?

Another mother noted that all visits stopped and despite involvement of the Children's Advocate, she still did not know why her children did not want to visit with her:

I went to see the Child Advocate. Child Advocate is backing CFS. They won't tell me why my kids don't want to visit.

One mother revealed that she had to quit her job to ensure that she was able to continue having visits with her children while they were in care. She observed the contradictory feelings the child welfare worker left her with:

We've already talked twice about it and then that same summer after my graduation I got a job and I worked out on this resort this fishing place to go fly in stay there. So, I got a really good job there, I was making money, like almost \$2000.00 grand a month. I had to get somebody to drive me out there and drop me off every morning and pick me up there every evening. I made all these arrangements to get rides in and out, so I didn't have any problems getting to work. Then [the social worker] comes up to me and she's saying oh well you have to quit your job and I said why? Because you've only made arrangements for visits with my kids from Wednesday to Friday and I didn't have them Friday, Saturday, Sunday and Monday and Tuesday. No, I had them Tuesday to Friday and then I didn't have them from Saturday, Sunday, Monday and she said well, you'll have to quit your job because you have to spend more time with your kids. Well, I'm already spending time with them on my days off. That's three days a week. I had to have a job to get

my kids back and then once I did get a job, they told me I had to quit my job because it was interfering with my visits with my children. How is that affecting my visits with my children?

IMPACT ON REMOVAL OF CHILDREN

In addition to the pain and loss experienced by Aboriginal mothers when their children were removed, many mothers expressed concern over the impact of the removal on their children. Mothers spoke of the fears that they had for their children while they were separated by them. In many instances mothers spoke at length about their children being harmed while in care. Alarming, many mothers declared their children had been abused or were being abused while in care:

...she ended up living on the reserve again with her biological family from the father's side, who abused her.

My kids haven't been treated not really good either, especially my baby. Like, my baby shouldn't had to be abused twice, like once, she got ... because that lady [working at the hotel] grabbed my baby ... when she was playing with my son, grabbed her by the arm, pulled her out of there and just smacked her right at the back of the head and my daughter ... it is good thing my eldest daughter was there (she's 8 years old).

Well, I have a nephew who's 17 coming out of foster care and he is going to be living with me when I'm finished in here and I just found out the other day when he was younger, he was moved up north and we weren't told about it. I guess when he was moved out north that he was abused and neglected in the foster home.

The most frequently cited concern that mothers brought to our attention was the possibility their children may have been or were sexually abused while in care:

And I found out that he'd been sexually abused but I don't know where or when. I don't know ... but he ... because they think it could've been pre-verbal stage that he was sexually abused.

...my daughter reported abuse, sexual abuse. They didn't believe my daughter.

And um at one point my family had to intervene because my kids were in a foster home where it was in a cult. There was sexual abuse going, there was physical abuse going on, the foster mom actually got her licensed pulled... a lot of my son and my daughter's psychological abuse and physical abuse stemmed from that particular foster home.

And that goes the same for my sixteen year old, who back then was I think she was um ... her name was T. (name removed) and she was also in a foster home where the foster parents were charged with

abuse. I don't know if it was because T. but T. did tell me really horrifying stories where the foster mom threw her in the dryer. I don't know if she put the dryer on but she threw my daughter in the dryer because my daughter was crying. There was allegations of sexual abuse, physical abuse going on in that home. My 19 year old daughter that was in that foster home ... I think it's a family, like that keeps kids, they do a lot of sexual and physical abuse and ... I don't know if these people are losing their license. I don't know what's going on. I was never informed.

Another mother reported that she wasn't sure what happened to her son while he was in care but suspected that he might have been sexually abused. She expressed guilt about not being able to protect him. She was afraid to get child welfare involved for fear of losing her children again but was concerned about how this information would impact upon her son over the long term. She struggled with this knowledge and expressed concerned for other children that might possibly be placed in the same foster home in the future. In the end she did not feel strong enough to report the abuse because she was afraid to involved child welfare again in her life:

And I just took it so personally because of a mistake I made because I had allowed my sons to go somewhere where somebody had the opportunity to hurt them and I couldn't... couldn't protect them and to this day, I don't know whether or not my son was abused of if he just... maybe hopefully had just bad constipation that made him bleed ... but ah, there was a man was in that foster home, like it was a white family with an 8 year old daughter. Now its how many years later and I don't really know what to do about it and I don't really want to actively do anything about it because I've been through courts, I've been through everything. I don't want to drag this on for years. I don't want my family to know about it. I don't want my babies' father's family to know about it. I don't want anybody to ever mention to my son that this happened so that he goes through life thinking that somebody raped him when he was like a year old. And that maybe some issues he's having later in life is all because of that. I don't want him to like internalize that. So I don't ever want him to really know how bad if he doesn't remember it on his own. And I don't really want to attack ... that foster home but I would like to have one day the strength to go ... and ask for an appoint to tell them ... because it was an experience that I had. My children were returned to me and I would just like for somebody to put a note on their file for this foster family that this was the condition of my son when he was returned to me and if, god forbid, another child, or another infant were to go through a similar ... my advocate ... she just said like if I wanted to go forward with it, she would like advocate for me

... and ... at that time I was just so weak and I still wasn't doing everything right and I was just so scared at having the magnifying glass swung right back on top of me. I was just like I had this plan from the start, that's what I wanted to do you know ... it's just that I never found the time ... or I never found the strength to just go and do that.

In some cases children were placed with strangers and in other cases their children were placed with family members. It is the family placements that seemed to be the most problematic and hurtful for their children. In one mother's particular situation her daughter had been placed in her sister's care within their reserve community and it appeared to the mother that her daughter was being abused. The mother tacitly questioned how this placement was a better situation for her daughter:

My daughter was being abused... Sure it was her biological auntie but uh, they were abusing my daughter. They weren't meeting her food, clothing and her shelter. My little girl would run away from her auntie's house and come to my house which was just across the street. And she had no clothes, little raggy clothes, look like second hand clothes, worse than second hand clothes.

In another story a mother shared that her daughter was being abused by her own step-grandmother:

I was writing everything down what she'll told me about what happened when she was living in Bird Tail with her grandmother, her step grandmother. She had to make the walls shine. Like she had to make the house spotless for her grandmother ... and if she didn't she'd get her hair pulled by her grandmother. Like, she told me ... (inaudible) ... I even asked her, why is she telling me these things about her own grandmother? Like, this was supposed to be her grandmother, who was supposed watch that nothing bad happened to her, here she is abusing my daughter in her own care.

In another scenario, the mother indicated that her daughter, while in care, had been moved around a lot. The mother questioned the agency about why this was so and why she wasn't being notified about all these moves. Despite having a family member who worked for child and families services the mother reported not getting any answers to the questions she posed in relation to her concerns:

They just kept moving her around without notifying me. And that's what hurt me more because my sister, like at that time, she wasn't a like a supervisor, she was a worker. She didn't tell me nothing either. I tried to asked her - she wouldn't, she wouldn't tell me nothing ... "oh you have to talk to M (name removed), oh you have to talk to (my supervisor). I tried to. Nothing! They wouldn't tell me nothing! Nothing at all!

Children were threatened by the foster parents not to tell anyone including their mothers about what was happening in the foster home. In some instances; mothers reported that their children were threatened that they would never see their parents again if they told of the abuse:

My son talks about the foster home yelling, swearing at him, telling him to shut up. But then when the social workers come by oh the foster parent "oh he's so ..." Phony. And I wonder if that is happening to my twins and to my son S. If they are being abused but when the social workers come around, they're so scared they won't want to speak up. And that's what my daughter, my twin shared with me (laughing). She shared that from ... that ... that foster mom that smacked her in the back of the head said "go and tell the social workers - you'll never see your mom, they'll never put you back with you mom - they'll just transfer you to a different foster home. They won't buy you nice clothes and they won't give you what I give you." It's like manipulating my kids.

When children did share incidents of abuse experienced in their foster homes to their mothers, mothers report feeling powerless about what to do to bring this matter to the child welfare agency's attention only because they did not want to make things worse for their children as this mother explained:

At the beginning when my children were first apprehended, they used to complain about being hit in that foster care. When I said that I was going to go in and report it to go and say that my children were being abused in this home. My baby at the time, I think she was only six or seven at the time; she started crying and said no mommy you're going to get us into trouble. She said it'd just make it worse on us. My thirteen year old, at the time a little older than my seven year old, I think she was nine or ten at the time. I was so angry and so frustrated because there was nothing I could do if I reported and said anything that this foster parent was being this way to my children then my children would suffer for it. I was caught in between. I wanted to report, but I didn't want to make it worse for them because there would be no way I could protect them. No, I was too scared to. I didn't want to hurt them. I didn't want them to get hurt. They're still in that home. It's improved though since... I haven't been hearing anything except the part where she called my eldest daughter a bitch. That's the only time I've heard any complaints.

Another mother explained that her son was apprehended by child and family services and placed with his biological father. The biological father had since remarried and had another family at this point. While in the care of his father, her son was not allowed to share or mention anything about his biological

mother with his father's new family – he essentially had to keep his mother a secret and not discuss her with his father's family. This was seen as hurtful to the son and inappropriate and unnatural for the son to deny that his mother existed as this mother shared:

His father just didn't want him ... he said, "he's (son) just too manipulative, I can't handle him. He's trying to push his mom (on everyone in the father's family)." Because we'd take pictures and R. would want printed pictures and R. had his own room. So I'd give him pictures. So he had to hide his pictures of me. And he had to keep me a secret.

One mother explained that when social workers were making decisions about where to place her daughter she did not agree because she felt that the placement would put her daughter at risk of being exposed to other youth who would have a bad influenced upon her daughter. Her fears were eventually actualized:

Sometimes we just don't know the outcome of things and then, sometimes it's too late and things could've been done differently ... Certain things that the worker, that I had to work with, did things that I didn't like ... Like even putting my daughter in Seven Oaks. I felt that maybe he shouldn't have done that and I told him, why put her in there when she'll just ... ah, you're just introducing her to some girls that do drugs and alcohol and she doesn't. She was just a little girl that was trying to ... me. And then, like you know, they separated my son and my daughter, because of things happened, in foster homes and ... so what happened was that ah, because she was running to the group home and coming to my house and that's the only wrong thing that she did, so they placed her in Seven Oaks for three months. And on her 13th birthday she came home, on that day. Next thing you know there was phone calls coming in, next thing you know, she was running, running away to go meet the friends that she met at Seven Oaks, that did drugs and all that. So I told the worker, "see I told you, that's what's going to happen." ... You know you placed her in Seven Oaks for three months and I told you not to and then look at what these other girls that she met in there. You put her in there. I don't think you should be putting her in Mary Mound. You should give me a chance, I said, and he didn't listen to me.

One mother noted here children were not coping well with being in care and as a result were turning to unhealthy practices to deal with the stress of being in care as this mother shared:

My kids are all stressed out. Some are turning to drugs to cope with the stresses. Some are turning to alcohol and some are even turning to the streets.

In some cases children were seriously harmed as a result of coming into care. One of the more serious

examples was shared by a mother whose seven year old son tried to commit suicide while he was in care:

And the next day, R. had got picked up and went back to the foster home and the next day in the morning, they phoned me and R. had um, gotten a rope from his class and um, they caught him, he was, he had it wrapped around his neck already and he was trying to jump off a play station ... play structure and try to kill himself. and I grabbed him and I said, you're not taking my kid and I grabbed him and I took him home. I said you're not taking him back. If this safe ... no! So I made them sign him back to me with a voluntary ... one year supervisory ... whatchu call it ... they had to watch over me for another year. It's the only way they would give him back to me. Do whatever you want I said – I want my son home – you can't keep him safe. He tried to kill himself.

Another mother told the story of her son who had been in care and who had started a fire where the biological daughter of the foster parents died in the fire. The mother wasn't told about the fire until weeks after it had happened. The son tried to commit suicide as a result. Only his mother was able to help him and child and family services eventually returned him home:

And then, that's the thing is CFS never told me about that fire. Not for when he was trying to commit suicide. ... could help him, that's when they finally came and told me. This happened in December and CFS didn't tell me about til March. They didn't know what to do with him. They just thought I was the last person that could help him. But I was the only one who could help him. Yah. And then that's when my kid turns sane, like you know? He thinks ... he feels like you know, he told me one time, you know, he was just playing with a lighter and another girl died in that fire. A girl died in that fire ... from the smoke ... it was the foster sister that died in there. But the thing was that um ... he was playing with the lighter. I guess it caught the curtain on fire and everybody had to run but that girl couldn't make it out. But my son always says that something bad had to happen for him to come home – him and his sister. But then he's sorry that somebody had to die. But he was happy he was out of the system.

Mothers spoke resentfully of the fact that their children once apprehended, were split up and placed in separate homes. This meant that many children are growing up without knowing their siblings as these mothers expressed:

...my daughter will never know her older siblings.

They were suffering me. Suffering my other kids not seeing their little brother eh?

... you know what, they split my kids up. They tried saying my mom's place was too small. That ... cause my son said, I'll sleep in the living room on the futon

and T was going to sleep in my mom and my stepdad's room on a separate bed. They said no. You know what, it's for a few months and don't tell me that you people haven't done that before because I know you have. No, she just did it to be a bitch because they were my kids and she knew that my kids being taking away and being separated would just absolutely kill me and it did. She was right. My son wanted to know why they were taking, why they were split apart and trying to take ... um, why they were trying to take the kids out of my moms. I had no answer too at that time, I just like, as far as I know you guys are supposed to still be at you're grannies and that is who is supposed to be watching you while I am going to Rehab.

The pain and anguish of being separated from their children is hard on mothers but it is harder on the children who don't understand the complex situations resulting in their placement in foster care. Mothers' comments regarding their children's pleas to return home were captured in the following comments extrapolated from the narratives:

I've had one visit with them last weekend and when I tried phoning them back to arrange another visit and they're having problems with one of my kids there because he wants to come home, so he's being defiant. It's getting frustrating because I keep telling them he just wants to come home what are you trying to do? I said you're making it worse. They told me that they were going to talk to the Principal about his behavior problems at school. I said I'll take him out of that school and put him into another one because I didn't want him missing school because he's smart, he's good and it's just one thing after another and they're not even listening to me. I said knowing my kids I know how they are. I know what they need.

Yah, it's the most difficult part for me and just not seeing them and them knowing it's not time to come home. That they have it in their heads that they are coming home. And they ... even child and family services, when they talk about it, they tell them not to talk about it and I don't see why. It's their mind what they are thinking.

... they set up one visit with my teenage daughter C. (name removed) ... and she wrote me a letter, I can show you that letter. And she um says in that letter, "I want to come home, pray for me mom that I come home."

I'm just getting to the point where I'm wanting to give up and it's getting harder and harder when I hear my babies, like my oldest daughter crying and saying she wants to come home ...

My fifteen year old daughter really wants to come home ...

... she was pleading with me ... for her to come home again.

You know, like, they won't give me any of my children back. Even though they (the children) tell the social workers, "I want to go home and give my mom a chance." They still won't bend; they still won't let my kids come home.

Although mothers wish they could bring their children home, they spoke of feeling anguish over the fact that they are powerless to change the circumstances for their children at the moment. Some reported bracing themselves for the day when their children will question why they didn't do anything to facilitate their return home as this one mother put it:

Eventually they come home and what are they going to say? Well, mom how come you didn't do anything ... why didn't you stop them...

One mother commented on how it was agreed that her children would be returned home but that the children wouldn't be returned all at once. She talked about the repercussions of what that would look like to some of the children who had to wait longer before they could return home. It didn't appear to be fair to her children:

The major time was the alcohol and the breakdown, I couldn't stop drinking at the time it didn't bother me I let them go, but trying to get them back was next to impossible...you got to do this you got to do that...and I did the programs they wanted me to and they still stalled and said well we're not sure...if we can what we'll do is send one home at a time...I'm like why? Then you're picking and choosing with my kids...it's like your saying you can go, but you can't. I don't know what kind of message it can send to your kids...which one can come home first... it is almost telling them well OK your mother just wants you first that's saying well maybe mom just wants him... because she likes him more. I don't find that right if you bring one home then they should all come home not picking and choosing which one comes first.

Mothers say the biggest impact on children as a result of being removed is the loss of the development of deeper relationships with their children as these two mothers suggested:

My 18 year old son grew up in this child and welfare system. My son ... has a lot of anger and abandonment issues ... about ... that. But he always has a safe home to come home to. I still love him and I'll always be here and ah, he has trust issues. He does come home but when he does come home all he does is he showers, packs clothes and then he leaves. I have not had a relationship with my son and I blame the child welfare system for that.

And it's gonna be hard. Like I'm probably going to look ... when they come home because I'm not gonna know them.

Regardless of the time children spend in care mothers are very optimistic that they can resume a relationship with their children when they come of age. Despite their circumstances they're optimistic, and they pray hard and work on themselves to become strong for when that day comes as these mothers/grandmothers poignantly shared:

It hurts but I know one day my children are going to be 18 and if they turn 18 and they decide to come home, I want to be mentally and physically ready for my children. And I want to be healthy for my children. So I know I have a lot of healing and work to do on myself.

all I can do is go to my ceremonies and pray hard for my kids and the day the ? manidos ? have ... you know ... that one day that you know ... they'll be home and if it takes til their 18 to come home, then it takes that. Because they could not keep my son away from me, you know. Sure he doesn't live here but he knows he has a safe home to come and change and eat.

Yah. You know, I'm ... it would be different if I was drinking and doing everything else but I haven't. My home is prepared for these little girls. Like how can they say I can't provide for them? I gone out and bought a crib, I bought a toddler bed, I bought clothes. I've have a closet full of clothes ... just maybe ... just maybe when I get to pre-trial, maybe they'll give me my little granddaughters back to me but it didn't happen. I said okay, I've got another 6 months to do some stuff. And that means working on myself because I have too much hurt built up ... my self-esteem. I need to go back up again. I'm not ... I'm not going to cave; I'm not going to give in. And this is part of being positive.

EMOTIONAL INSIGHT

ACKNOWLEDGING MISTAKES

The mothers we spoke to acknowledged making mistakes and said they moved quickly to address the problems as soon as was possible. They took responsibility for acknowledging their own human frailties themselves before even talking with a social worker, the police or going to court. In some instances, this meant ending meaningful relationships, exposing their personal predicament to employers or entering into treatment programs before being told to do so by the child welfare agency as these women admit:

I did it myself. The morning that I got let out of jail and my kids were gone, I phoned the hospital, I worked at the hospital for eight years a health care aide and I took the day off of work and I went to Rosaire House

that day and I said to the coordinator or the lady that does the assessments, I've known her all my life, and I just broke down crying and told her that I want my kids back. I want to sign up for the addiction program, so I did it all myself before I went to CFS. I didn't even go to CFS. I didn't hear from the police that I had to go, I just did it myself. I was in there within a week. I had to go to my boss and ask for days off, I need time off of work for sick leave, but I had to hold my head up and I did that all on my own. I went in there and it was hard. They gave me the time off.

But like I got myself help, like I went through anger management, I went to parenting classes, like all this and that just to like help myself. ... I just did it all on my own because I didn't wanna to be like that. Like I used to fight, fight, fight, like, somebody would get me mad, I'd just fight. I don't know, like, I had to stop it before I'd really hurt somebody ...

Then all hell broke loose and I lost my kids and then I just called the whole thing off and told my fiancée that I'm not moving out of the province now that I don't have my kids. I have to stay in this province and I can't marry you because I don't have my children and the last thing I want to deal with right now is a marriage. I just want to get my kids back, so that deteriorated, my engagement deteriorated due to the fact because I chose my kids over him. So ... my engagement deteriorated and I decided to stay in Manitoba to get my children back and he called it off and then from there I've been by myself trying to figure out a way of getting my children back. I wasn't drinking, but I was still making wrong choices. Who I chose to be around and whom I chose to baby-sit for me.

I was in the Addictions Foundation before the kids were apprehended actually. ... I went there in 1999 and I went voluntarily by myself. There was no court order, I just went in there because I was sick and tired of drinking and I felt it was starting to affect my children. My daughter at the time was nine ... asked me to quit drinking and I promised myself if I ever heard one of my children ask me to quit drinking at any time, I would go and get the help I needed because then I'd know it was effecting them.

Sometimes it appears that the mothers took on too much responsibility for making mistakes for events that were beyond their ability to control as this one grandmother put it:

But they are using me cause my daughter ... my daughter is um ... because she's when she was 15 years old she decided at that time, she was going to go out and discover herself. But she did it the wrong way. She made the unhealthy choices and she got involved with the law, she got into drugs, blah, blah, and because of that, I'm to blame for that. It's my fault that she turned out the way that she did. And was because my daughters were ... when I was

... ah, drinking ... I'm sober 16 years now but my daughters, I made the wrong the choice of asking one of my family members to babysit. And he was just like 12 year old or 13. Anyways, I don't know the true ... the whole extent of the story. All I know was that they were sexually ... inappropriate touching going on. So anyways, the girls, you know, bless their hearts they told me and I reached out for help. I told my sister about it. We all cried you know and we decided, okay we are going to deal with this. So she and her son went off and me and my girls went off and we all did our own healing, we addressed the issue. And thinking that that was over and done with right cause our family healed from it, CFS used that against me, and said that because I couldn't protect my daughters when they were younger, how could I protect these little girls [her grandchildren] when they were small. So the past was coming forward ...

MOTHER'S EMOTIONS

The emotional state of Aboriginal mothers and grandmothers is important to take into consideration in understanding the array of feelings they experienced as a result of becoming involved with child welfare. The range of emotions described by the mothers vacillated between positive and negative emotions. The negative emotions identified included feeling pain, hurt, depressed, stressed, angry, weak, feeling alone, powerless, unheard, unprotected, not believed, isolating themselves, feeling like they should give up, feeling they were judged, low self-esteem, shame and guilt, stigma, fear, lifelong emotional scars and suppressing all emotions and thoughts.

They shared instances where they felt strong and empowered. They shared feeling shame and guilt and loss of self-esteem in moments of weakness. Mothers explained how they positively and negatively coped with losing custody of their children. Mother talked about having to suppress their emotions to avoid having more program expectations placed on by the child welfare workers they were dealing with.

I organized the material in this section to look at how mothers described the range of emotions they experienced when child welfare became involved in their lives.

The positive emotions encapsulated throughout the mothers' narratives included acknowledging their mistakes, feelings of empowerment, finding their voice, empowering others, not feeling sorry for themselves, moving away from dysfunction, acknowledging their accomplishments and understanding how they were coping with intervention. They expressed emotions related to the love for their children and emotions

around missing their children while they were away in care.

For many of the mothers the experience and memory of having had their children apprehended by child welfare was painful. For many mothers the pain was still as fresh as if it just happened yesterday:

I can't stand to feel this pain ... See I don't know if that ... if the pain will ever go away, that it will ever leave.

To start this interview ... it was painful at first but at least now I worked my way through it – and all what I can remember, you know, what I've been through.

I could see like when ... Aboriginal women lose their kids ... like how painful it is ... and what else are they supposed to do? A lot of them just turn right back to the alcohol right? Cause that's all they know and I did that too but then ... I thought, you know what? I got to straighten out because my kids aren't gonna be there forever.

Like I still go ... to [name of organization removed] and I talk to people, like counselors or whatever ... to get everything out of me so I won't like feel like I need alcohol, weed, to take me away from that pain, you know?

Mothers frequently cited feelings of stress:

But anyways I was trying to get my kids back I went to treatment and it was still no, you can't, you can't and that's when I became pregnant with my youngest daughter. When I was pregnant with her even then they were giving me a hard time.... I was stressed out I just about lost her twice because of the stress they were putting me through ... about finally trying to get my kids back.

That worker even made comments like "holy socks you're gaining weight." ... well yah, you shit head, of course I'm gaining weight. All I'm doing is eating, I'm stressed out. But they shouldn't be allowed to say stuff like that.

Depression was cited often in mothers' narratives:

So a lot of crying, a lot of depression, a lot of not ... communicating ...

I was depressed. I got off my medication. I got off my Prozac ... but I got myself off it so I could deal ... really deal with ... the loss. I think the loss last year was enormous. Like, I ... I can't ... I can't even comprehend that I could ever ... that I went through that ... because in ... in a minute, I lost my entire life you know? I lost everything.

So I think that depression too was separating from somebody I really loved even though he did hurt my child.

It's been hard ... I don't know ... I feel sometimes that ... it's not going to work in the end and I get all depressed over it.

I was depressed then because the kids weren't there, sure I still wanted to go through what I wanted to go through, but it was not the same want anymore to me because they [CFS] kind of dampened it.

I have depression so I had a total meltdown and alcohol just ... and I didn't fight it at the time and even when they [CFS] took the kids I said go ahead because I know I needed it but it just became harder and harder for me to get them back.

I was assessed as having a harmful use of marijuana in the sense that I self medicated because due to the abusive situation I was in, I was in a depressed state where I did not eat and where I did not sleep due to anxiety and depression.

Treatment by child welfare staff was identified as a source of frustration. For instance one mother indicated that despite her age, she felt she had to ask for child and family services for permission to do things:

Like I'm 31 years old and still today I have to ask if I can move ... I feel pretty low about it ... I feel like I'm a little kid, I have to ask child and family services, can I do this, can I do that? And it gets pretty ... I don't know it gets pretty frustrating because I'm 31 and I still have to ask to do stuff.

Feelings of powerlessness were noted by some of the mothers:

Child and family services, it's like, they for every child I have now, they'll just take away right away. And I understand. I understand why. But I mean, like, when you really, really try for months and months, they sure give you a hard time. Um, I did everything I was supposed to do and they still denied me. I was frustrated. Yah. I did everything I was supposed to do and they still denied me. Uh, they judged me, I would have to say. Yah, like you know, I couldn't get past what I had done before and they made sure of that. I felt defeated and frustrated. I found no other way out except to go on using. So to this day, I will not, I will not, try to fight child and family services. And then I ... just do what they have to do with my children that's it and I will not get involved with my children's lives.

The mothers' narratives show that for many their self-esteem plummeted when they become involved with child welfare:

A lot of them don't know ... a lot of them don't know ... they've been in relationships – they self-esteem is nothing. They'll sit there and they won't talk and how are they supposed to fight for their kids when they can't speak for themselves.

It demeans me as an individual and it makes me question and it's done damage to my self-esteem you know?

I said okay, I've got another 6 months to do some stuff. And that means working on myself because I have too much hurt built up ... my self-esteem.

... it kinda affects me with my self-esteem at the moment because I just felt like, I made all these changes but is that who I really am, like, what happens when people find out who I really am or who I was really was?

The stigma of being involved with child welfare was noted by one of the mothers:

Another thing we also have to live with is the stigma attached when people hear that you've lost your kids to the child welfare system – do you know how many friends I've lost when they found that out?

I've met people there but then when they hear you got your kids apprehended ... it's like ... oh, don't talk to her. You know what I mean?

Mother explained that they had to be very careful with how they expressed themselves around social worker or in court. They were not allowed to show expressions of anger or cry for fear that if they exhibited any signs of anger they would often be required to attend anger management courses as these mothers noted:

Once I started kind of raising my voice or talking to him, right away I had an anger problem and I needed to take that course. And then I wasn't a good parent and I needed to take that course.

... when you try to speak for yourself ... they'll try to put a lot of people in anger management ... but when somebody wants to be assertive and then like you know ... it's as if they are being challenged and they don't like that.

Ya, and it seemed like they were trying to make me break, to break me. It never happened even to make me break down so that I'd have a relapse or all of the above...where then they could say; oh, she has to go to anger management or she has to do this... whatever. I never fell for it either.

The workers thrive when you get angry on when you get angry ... when you hang up the phone on them. They're writing everything down, they're documenting everything and they're twisting words around and their own little version – that's my experience with those people.

Another common thread found in mothers' narratives is that in stressful moments mothers were cautioned not to cry. Mothers recall having to suppress their emotions:

We're all human. We all have feelings. We can't ... they expect us to come to meetings; we're not supposed to show our emotions. We're supposed to sit there stone faced, no feelings and if we cry or if we ask

a questions ... you know, "well I'm not dealing with you, you've got attitude today, I'm not gonna talk to you."

I was crying in there too [in court], then I was thinking "don't cry."

I was standing there and I was crying and he [the social worker] came up to me and said you've got to be an adult. You've got to quit crying now, smarten up... grab a hold of yourself... you think you're going to cry because of what you're doing to her right now?

You're very emotional. You're ripped apart. You're crying. You're, you're ... you know, and when you do that, social workers are like, big deal, she's crying. You know? That's how they are! And everyone ... and everyone's telling me ... telling you, don't cry in court, don't cry in court, or don't cry in front of social workers. So they are telling you to suppress your emotions. And if you suppress them, it's like, well she's not responding. It's like either way, if you show too much emotion you're looked at as ... hysterical or radical, and if you don't it's like you don't care. Well I just apprehended your kids and you don't care? You know what I mean, either way, you don't win ... don't cry, don't show emotion, don't show that you're upset, don't yell ...

HOW MOTHERS COPE WITH INTERVENTION

We asked mothers to share with us how they coped while their children were in care. Their responses reveal that they used a number of healthy and unhealthy strategies to deal with the stress of living without their children.

Mothers indicated they relied upon aspects of their culture by attending ceremonies and praying. Some mothers relied upon their education as they struggled through this dark period in their life. Other mothers indicated that they tried to keep themselves very busy as possible. For other mothers visits with and from their children helped them cope. For other mothers just being around other women sharing their story and experiences was helpful. Other mothers isolated themselves from individuals who were bad influences in their lives. Crying was reported by one mothers as being a coping method she used to help herself heal and deal with the fact her children were gone.

At first when I first lost my children, I went on a fast and I went ... was alone with myself and then after that I ... little things started falling apart. I couldn't get away so I had to move ...

I'm struggling to stay in school and get my education.

But how I cope today, I have a lot of anger issues. I do raise up my voice. I do argue with my partner. I do yell sometimes at my partner because I can't see why

this is happening to me. I don't drink or do drugs. I do smoke cigarettes occasionally, you know. I try and have a healthy home ...

Just keeping myself busy working. I was working two jobs and enrolled myself in treatment and tried to stay away from everybody. I didn't really have much family support. No, I kept to myself because I didn't have any clean friends ... the friends that I knew were all into something. So, I stayed away from everybody. Everybody that drank booze and everybody that smoked weed, everything, I didn't touch nothing. I isolated myself and I just worked.

Well ... I keep myself very busy. If I'm not busy, it creeps in, you know.

I just kept myself busy all the time and looked forward to the Saturday visitations I had with them for an hour.

My son came to see me though hey. He was just down the street where I was staying at my mom's so ... he came to see me all the time. So that helped.

I coped by ... uh, by going to ceremonies, being around other women, sharing my story. Uh, knowing that I wasn't going to let them win and that you know I have a voice and that my story needed to be heard.

And I even went to support groups and other support groups. I did a lot of my own personal stuff like Sweats and reading.

Ah, I went to support group ... I spoke to crisis lines. I think um ... I ... for the first time in my life, I actually dealt with a whole lot of loss, like there's just nothing but loss, like minute after minute. And um ... I just allowed myself to heal, I guess crying. That was the only thing I could do was cry and cry and cry and that was it.

Other mothers reported using negative coping methods to get through the early days. They returned to alcohol and drugs:

I guess instead of going to AA meeting ... I started to feel sorry for myself and I started to drink and soon I knew I wasn't along and I put myself into a treatment centre in Fisher River.

I think like after she got taken, I started into crack really bad and I knew I had this, I knew I had to get this all done but I just didn't want to deal with it. And now for the past ... it's almost a year now, I've just been clean and it's just ... so overwhelming ... and I get all these thoughts.

And then I started drinking and pretty soon I started getting lonely to drink with someone so I started meeting with people that would drink with me. And then pretty soon I started drinking heavily every weekend ... that's how I started to cope.

For some mothers the opportunity to return to school

was an empowering process. One mother shared that because of her experience with child welfare she decided to go back to school to get better educated but she wanted to do it to help other Aboriginal women:

Like I really wanted to go to law school, eh? ... That's the reason why I wanted to go to university. I wanted to ... represent Aboriginal women in the court system.

For other mothers the opportunity of getting involved in cultural programming helped them become stronger. One grandmother indicated that cultural programming provided her with a better appreciation of her Aboriginal identity as this grandmother shared:

So um, it gave me a chance when I went to Nelson House to do this and you know, I did that by attending ceremonies and sweat lodges, speaking to Elders and just basically being out there in isolation, in the bush, you know, like, in a place where you're close to mother earth, you're close to the water and the lakes and stuff like that. And I had the opportunity, ... to begin that process ... of regaining my identity and finding out who I was as a Native woman. And that's what I did. And that's what's helped me over the years. Um ... even still today, you know, to continue that journey, and to ... and to know, you know, like ... I took, like I said Aboriginal governance and, you know a big part of that ... that education process was, not only the academic part is because I took it even further and did personal research when I found out things. Like about, you know, how my ancestors became part of Treaty 10, you know. I went to the Treaty Research Office and did research in the files and stuff like that on, you know, how they came to be over there. Because my Aunt sent me a family tree that she had done. And I noticed that they just showed up, like you know, 4-5 generations in this community, right and you know, so I wanted to know why. So it's enabled me to go a little bit further and to ... find out personal things and uh, like I said earlier today, you know, I attend sweat lodges, ceremonies, you know ... I am a sun dancer and all these kinds of things are what you know, do it for me, as a Native woman.

The mothers involved in this study exhibit great faith, hope and persistence that one day their children will return home. They want to be ready for when that day arrives as these mothers hoped:

I don't sit there and feel sorry for myself ... Those are my children and one day they'll come home like my son did. Never mind if it takes them a long time to come home, I know eventually they'll come home. And when they do, I want to be strong and I want to be happier and I want to be educated and I don't want to rely on the welfare system. I don't want to rely on "poor me, I was sexually abused." Well poor me, well I got

physically abused in care and yes it has happened to us and to our Elders through the boarding school system. But we have to ... we have to rise up, you know. We just have to ... to look at each day as a new day and to keep going and um ... if you have anger issues like I do, get some counselling. Don't do it for the workers or your kids, do it for yourself. So you know how to use life skills to better cope with life and the everyday little challenges. That's all the advice I can give.

I didn't trust anybody ... while in shelter I was trying to get funding for school, so I was still going, still trying to keep going – yet I was like ... you know? I forced myself to get up and go ... oh, suck it up and go, hi! And put the masks back on that I needed to wear and try to get back on my feet.

Some mothers derive a sense of empowerment by helping others understand the child welfare system as this Aboriginal grandmother, herself a social worker, explained:

But at the same time when I'm at work, at my full time job, as a treatment counselor and I hear the parents, they tell me their stories ... I educate them of their rights, you know, the CFS Act. Because to me ... it's empowering them and also explaining things – what, why were your children taken, what did they say, what was in the court order, what does that mean for you? Like they said, "well we don't know what it means." So I break it down for them so that they understand and I tell them what safe means. Like again, that's another term – safe! – your children are not safe. But a lot of times, I find that parents don't ... they have a different understanding of being safe, I mean, it's like my interpretation is different than what CFS might understand it. So me being a social worker too and being involved with CFS ... I've taken my whole experience and you know, empowered these other parents. Like I have 20-30 to sometimes 40 individuals in a group session and I teach them because ... I want them to be informed you know?

For some mothers the experience of getting involved with child welfare helped them find their own voice and for many this was an empowering realization:

Yah, that is what I said, they keep kicking me when I'm down but as a fighter I kept getting back up. I'm so glad that I have a voice and that I was able ... I would be willing to go on T.V. as long as my face was blocked out and my face is blocked out. I would be willing to do a sharing circle on T.V. ... or be on the Sharing Circle I should say. And that should be something looked at for future reference for other women. They need to know what the system is about and that is the only way it will get out there is if it is on T.V. and in newspapers. I think ... what is that Thunder Voice? They should do a whole section on women's stories. I would be willing to do it.

And giving voice too for other women that may not be able to take part in a program or the research but I've also ... blended in some of their experiences like but I've given most of mine.

I could find my own strength again, make my own decisions, find my voice and decide on my own path instead of ... just following someone else's direction.

THE EXPERIENCE WITH LEGAL AID AND LAWYERS

In our conversations with mothers, the issue of rights or lack of knowledge around their rights as parents was a predominant theme in their narratives. In addition mothers expressed views, opinions and feelings about the positive and negative experiences they had in dealing with the lawyers that represented them in child protection cases. Mothers' discussions touched upon the court experience and their knowledge or lack of knowledge about alternative resolutions to child welfare matters.

LACK OF AWARENESS REGARDING RIGHTS

Mothers stated that when their children were first apprehended by child and family services they did not know where to turn to for help and assistance. Mothers indicated that they were not sure how to obtain a lawyer or where to get Legal Aid assistance and the child welfare social workers they came into contact with were unhelpful in providing them with the information mothers needed to help themselves understand what to do next:

No, no helping. They never did nothing ... like with the agency [name of agency removed], G. [name removed], she's more polite and she talks but she doesn't give me the information yet that I want!

Not helpful whatsoever. They just tell you ... they just told me the programs that I needed to do ... that was basically it.

When I went to go and ask for some kind of help they just kind of looked at me and said "I don't know what else we can do for you."

I didn't think they were there to offer us any help. All they wanted to do is tell us how to be a parent.

I think Aboriginal mothers need help. They need a Mentor somebody to help them. Understand what they are going through this court process.

The mothers too, they don't get the information they need or explain to them at their level of education. They give them the legal terms or higher ... some of

them are probably not even high school ... none of them have probably even graduated ... 90% of all these women involved in this have a low education.

I didn't know any of my rights. I didn't know I could've hired a lawyer. I could have had support services come in. I didn't know my rights. CFS didn't sit down and say "look we can give you a support worker, we can suggest this program and that program to you." None of that was done. It was just "okay, here's a court date, come for your kids."

Ya, they're not telling me nothing. I have to find it out through a third party.

Another prominent point echoed throughout the mother's narratives is that they did not know what their rights were. The confusion as to their rights is evident in the various reflections on this point made by the mothers during their interviews:

I didn't know I could've hired a lawyer?

I didn't know my legal rights when I gave my children up.

My legal rights as a foster parent? I thought I didn't have any?

I signed over permanent custody ... they made me believe like that was the right thing to do.

I didn't know my legal rights when I gave my children up and I trusted.

See like what I can't understand – the kids are permanent – still they should give ... let you know about your children.

My lawyer that represented me ... didn't fully tell me my rights in signing court papers.

I couldn't even get rights to see my children.

So, as a parent I have no rights. As soon as they put your kids in care you as a mother have no rights to any kind of decisions based on your kids. That's the hardest part.

When your kids get apprehended you lose all your parental rights.

And I didn't understand my rights at the time. I didn't know anything. I didn't know anything about my rights. I didn't know anything about housing. I didn't know anything about ... um, lawyers. I didn't know anything ... about anything.

Basically, I have no rights they didn't tell me to get a lawyer or anything or what are my rights to get my kids ... we're taking your kids and we have to do an investigation and in the meantime you can't see your kids at all. It was up to them there was no ... nothing legal ... nothing written ...

I believe three judges and my lawyer that represented me ... didn't fully tell me my rights in

signing court papers. And to this day, I'm an adult, I don't know if my children are permanent wards. I've never see a court paper saying, from the Court of Queen's Bench, signed by blah, blah, lawyer, these kids are permanent wards because of this and that and this. So my question is "am I being lied to, you know?"

It's because they don't know their rights. They think that Native women are stupid. They're submissive, passive they let things go. Oh; it's ok to kick them to the ground like that they're used to that so they'll just expect it ... that kind of thing.

I think the way I lost my kids is wrong. I think I was manipulated. I believe my rights weren't honoured ... I never knew my legal rights. I never knew I should have hired a lawyer and fought them and said "okay, what is the plan, what are you guy's plan with my twins?" And that's what I attempted to do this time but Legal Aid would not back me up. So my hands are tied.

Yah your rights ... you don't have any rights when you're dealing with CFS, none! It's everything they say and who cares what you're saying. A sound proof room and that's you in the sound proof room and you could be ... like they are there around you and they just can't hear you. That's how I felt is that you know, they just totally ignore you like you're in a sound proof room, that's what I meant to say.

... well basically I was lead to believe that if I voluntary placed him they would let me have them back once B. [name removed] was in jail. The moment I walked out of that place was the biggest mistake, the signing anything because they were gonna take him anyway you know. And I let them run my life. I let them completely, completely own my life and take everything and I had nothing.

... they never explain nothing ... it's very rare that you'll actually have somebody a lawyer explain that to you ... and those are usually the ones that are not involved with CFS ... get a worker that has never been with CFS, never worked with them or ... this way you know your rights are being looked after properly instead of them trying to come to a decision between your lawyer and them ... my lawyer didn't even talk to me ...

... what your rights are the rights you have. They don't have anything like that and there's no one to ask... if you ask your lawyer, I'll take care of it that's all they say. Don't worry about it, but you're worried because nobody is saying anything to you...

I just don't feel that my rights ... like, I jumped through more hoops than I even supposed. There was only one thing on the paper that I was supposed to do and I did 10 times more than I was supposed to do.

Concern about the children's rights was expressed this way by this mother:

That's what I mean ... they make the kids feel like shit too because they have so much disrespect for the kids ... they're old enough where they can understand ... their rights are being violated by them as well.

NEGATIVE AND POSITIVE PERSPECTIVES ABOUT THEIR LAWYERS

Aboriginal mothers made many comments about the quality of services provided by the Legal Aid lawyers who represented them in child protection matters before the courts. Mothers' comments about their lawyers were both positive as well as negative. However, mothers' evaluation of the quality of legal services received was for the most part negative. Many mothers indicated that their lawyers did not appear to represent them. Many mothers said their lawyers counseled them to agree with the decisions made by the child welfare agency. For many mothers, it appeared that the lawyers worked for child welfare agencies and that many of the decisions were made in consultation with the child welfare agencies rather than with the mothers they represented as these mothers adamantly shared:

So ... [my advocate] got me to get a new lawyer because the one I had seemed to want to side with them [CFS] ... At first I used --- [name removed]. He was a lawyer I used when I was a child going through criminal court. He seemed to side with them. And he was like, "well, why don't you just sign the paper, give them over for how many months they want them and then at the end you'll get them back" and no cause then that is telling them [CFS] that it's okay and it's not okay. What they did was wrong ... so anyways, I just said, you know what, you're fired ... see you later. So, he's like "calm down, oh my god, she's out of her mind" ... Yah, and he's like trying to advise me to do something against what I want to do.

I think with my lawyer, I saw him and he is all buddy, buddy with CFS and their lawyers. You have got to be kidding me, that's not how it should be. They are the enemy while we are going through all this.

My lawyer ... just put them for permanent ward until I'm ready to try for them again.

I had a lawyer here in The Pas and they made me sign the Permanent forms. They told me it would be a lot easier if I signed the Permanent form and that was the biggest mistake I ever made. I tried to avoid Legal Aid because I found out through someone that's been going through the same thing I am is that Legal Aid is in cahoots with Child and Family Services to get as many children as they possibly can in their care through Legal Aid. That's what I was told and I know that now, but I found out too late.

One of the lawyers that was supposed to ... my daughter's first lawyer for ... the permanent order, led her to believe up until the day before the pre-trial in January, he told her that she might as well give it up because she doesn't have a chance in hell. And meanwhile prior he was telling her that she was going to get the kids back. And then the day before court he says no, "you're not getting them back and your mom ... if you think your mom is going to get them, she's too violent – she'll never." I was like "whoa, why all of the sudden the change in attitude, you know, you haven't even met me." You're just going by what you're reading – it's your biased again (the lawyers).

My lawyer was the one that took me out in the hallway that my best option would be to just do the permanent order and we can work on it in about a year and it would give me some time to work on myself. And I believe too at that time and what I was going through and how I wasn't taking care of anything for myself and I believe that was an appropriate decision then. Now I don't though.

Ya. I had one lawyer in ... I don't even know who recommended her at the time. But anyways I was trying to get my kids back I went to treatment and it was still no, you can't, you can't and that's when I became pregnant with my youngest daughter. When I was pregnant with her even then they [CFS] were giving me a hard time ... I was stressed out I just about lost her twice because of the stress they were putting me through ... Then [the lawyer] was saying if you sign the papers you'll get your kids back faster. I find out later that it wasn't even true. I don't know who told me ... they said [the lawyer] works for Child and Family Services ... wouldn't that be a conflict of interest for her to take my case against them because she works for them? All she was trying to do was make me sign papers to do whatever they wanted. I knew deep down inside no I'm not doing it I don't feel right about it.

With my lawyer telling me, ya, she said sign it you'll get the kids. Then I was telling Donna I don't want my lawyer. I don't like her. I went to court and I told them no, I'm not agreeing to it. Then my lawyer had to excuse herself from the case until I got another lawyer. That was the one thing she told me. She said if you don't agree with it tell the judge then it becomes null and void and then we'd have to make another one and then they'd have to build their case again. I ended up rejecting it in court about giving them up and that she had to back down and excuse herself as my lawyer and I had to get another one. She didn't really have to do anything ... I spoke for myself to the judge.

The lawyer I got, [name removed] oh maaannnn, holy cow! I didn't know at that time because you know at this time, I was so psychologically screwed that ... if a train hit me I wouldn't even know, you know, because it was just everything. Being detached from my children, suffering my childhood issues and not

dealing with it, you know, having this lawyer that's saying, no, no, no, sign this. And like screw you, I'm not signing nothing you know. No even acting on my behalf you know, telling me that no, no you have to do this. I said listen I don't have to because it is a conflict of interest ... So we went to court for six months. My children went from an apprehension order to a permanent order. No term, no VPA, no nothing ... An apprehension to a permanent in 13 months.

And I showed those all to the Legal Aid lawyers, everyone of them. And again they just sat there and they didn't look at those. They refused to look at those letters. And they just said "no, just keep working with CFS, keep knocking on that door and eventually they'll listen and open."

Mothers indicated that they did not feel their lawyers did enough to defend or represent them in court:

He didn't really seem to represent me.

Because they were kind of judgmental about it because they only heard the one side ... I felt like it was he's seeing the worst things about me ... it was the lawyer because she didn't say anything she never tried to do anything about defending me ...

My lawyer was just doing whatever ... it's not fair because if the social worker's allowed to talk to them why can't you defend yourself and then have them already swaying the judge because they are so educated they know exactly what to say. Meanwhile, half of those words you don't even understand you're supposed to be up there trying to get your lawyer to defend yourself and you don't even know half the words that they're saying. When I sat there the first time ... why the hell aren't you [her lawyer] saying anything? What's going on here? It's just the one thing that the judge hears and that's it. Your lawyer's not defending you because she's working for them ... it's a no win situation.

Yes, he's fairly new and I can't really say ... I really haven't had that much interaction with him. I've only had the initially retaining meeting and then I signed some affidavit. And then we were supposed to go to pre-trial. And then like I said ... he wasn't even there. Like, even by teleconferencing ... I'm like "okay, I need to talk to this guy" you know.

But ... at that time I don't remember the lawyers, I don't remember ... anybody. Like I don't remember them because they played such ... they didn't ... I fought for my stuff. I was my own advocate. I was my own speaker. They didn't do anything, not really. Yah, I had two lawyers. I got rid of one because he didn't seem like he knew what he was doing. And I don't ... I don't remember ... honestly. I just ... seem like it's a blackout – I don't remember who the other lawyer was. The first one was a man ... and I don't remember the second one at all ... because they played no role in anything ...

I have had a hard time understanding certain things, it needs to be explained to me. And with my lawyer, like, for some reason, just recently, he doesn't want to reopen ... like he doesn't want to do my case for me. Like now ... I'm thinking well why would he just give up? And then ... why would I ... I shouldn't of given up myself. He should have at least fought a little bit harder.

Yah and my lawyer's telling me I can always appeal it. And then when I did try to appeal it in a few years they kept telling me that I couldn't and I just found out I could've done it years ago.

In many instances, mothers indicated that they had minimal amount of time with their lawyers prior to the courtroom experiences and many felt their lawyers were essentially strangers who did not provide them with the sort of strength, comfort and friendship they needed under the circumstances:

It wasn't a relationship that I felt like solidified or felt supported or you know.

I wasn't looking for sympathy, but there was never ... not even kind of a friendship thing with my lawyer it was just more business.

Some of the mothers, relying on their own instincts, sought out other lawyers that could represent them more appropriately:

And I should have trusted my own instincts because I actually got rid of him years ago when I was going through some criminal stuff ... so I fired him and I got a new lawyer. So I should have trusted myself but I didn't and I really didn't know any other lawyers.

The mothers said that once they sought out new lawyers they were more satisfied and they reported feeling more positive and confident in the skills offered by these new lawyers.

Through Legal Aid ... I got [name removed] who was awesome. He hates CFS and he was just great. And so I thought, right on. I got a decent lawyer who hates CFS and so you know he is on your side. He's awesome and he hates them [CFS]. Oh yah, and he treated me, not like I was underneath him, just because I was on social assistance and a single mom and my kids were in care. He didn't treat me like I was a second class citizen like a bum on the street. That is how I felt I was being treated by CFS and my last lawyer.

It took me 2 years to find a lawyer. I had [name removed] for awhile but then ... I met [name removed] and uh, he became my lawyer for awhile and he was really good because he's actually participated in ceremonies and he really helped me a lot by doing that as my lawyer you know he'd guide me to ceremonies when I really needed one ... when I asked ... he's a really good lawyer. So he participated in the

culture itself and he understood too because like he ... understood what the white man was doing, as a white man. Do you know what I mean? So we had this connection and he helped me.

... yes, yah, she was good. She is still good to me today. Well my lawyer ... believes in ... our culture and way of life.

I managed with [name removed] ... I believe my lawyer has passed on 5 years ago. I think he had ... a brain tumor ... and he just died I guess ... He worked very hard on my case. And he was so supportive, he was excellent. I could never find a lawyer like that again.

One mother explained that she did not have legal counsel representing her when she was dealing with child welfare. This mother stated that her income, while inadequate to meet her needs, disqualified her from receiving Legal Aid services:

I wrote 3 letters to Legal Aid of Manitoba and Legal Aid ... finally the third time I met before a committee and they shot me down. Legal Aid is holding all the cards. They will not let me have a Legal Aid lawyer.

COURTROOM IMPRESSIONS AND EXPERIENCES

The majority of mothers interviewed for this study were in agreement that family law courts are not an appropriate environment to oversee child protection issues involving Aboriginal families. The common response from the mothers in this study was that court was a very intimidating experience and many of the mothers felt they were harshly judged within that environment. The mother's intimidations were connected to difficulties understanding the terminology and language used within the courtroom. Their collective perceptions center around the belief that the decisions made by judges within the court setting are racist, biased and one-sided in favour of the child welfare agencies interpretation of the situation. Judgment came not only from judges and child welfare staff but extended to their own lawyers. The extent of the mothers' discontent with their court experience is captured in the various commentaries extrapolated from the mother's narratives below:

I feel he treated me ... I feel he was judgmental ... that's what I feel like. I feel like I was being judged because of the whole thing, more so with the bedroom doors being tied shut, people jumped the gun on that and thought that I was locking my kids in their room. I felt embarrassed. I felt really embarrassed ...

I was humiliated. Maybe he [judge] was trying to be fair, but I felt I was humiliated through this whole thing ...

I felt embarrassed because other people were watching ... what could I say?

No, I think a court room, I think even just a regular room sometimes is enough. It doesn't have to be such a structured environment that it's so intimidating when there's like a hierarchy ... And I'm not easily intimidated by things you know. I'm pretty ... I'm a pretty strong and straight forward woman and I can take care of myself through a lot of things. I mean, I'm never to say, I'm never vulnerable but I mean, even that kind of environment caught me ... the language, um, you know, terminology and stuff like that, um, jargon, um ... No, I'm pretty intuitive. So it's like, yah okay, yah I get it ... but for most people if ... English isn't their first language; they're very laid back people, quiet, not so blunt and forward like me, then ... I can only imagine the experience being much more terrifying ... because that environment is very intimidating if you don't know what you're talking about, if you don't understand ... so I think that ... I'm not saying if you're not smart but if you're just not used to that ... being around someone who can speak other than the basic grade 6.

... you don't need it to go to court unless something really severe happens ... I find this just a big hassle a big headache for the parent trying to work on getting their kids at home and a lot of it is just prejudice ... the workers don't like you or because certain things happened maybe in the past ... they automatically want to take you to court, but they don't explain anything!

I would think it is not the right place because so much Aboriginal people find the justice system and the government very intimidating. It's like you're already with the enemy. Like they're running the show ... and ... although I'm the mother and child and family services intervened to help my children, like I felt like the victim and then all of a sudden it got turned around and now I'm the offender. And I felt like ... you're up against them, like you're not working with them. Like I think that ... the way that our culture works with sharing circles and talking circles and mediation, I really think that would probably work a lot better because people seem to feel more comfortable in that setting rather than you sitting up there, I stand back here, I speak when you allow me to speak. I have a certain amount of time to speak. Everybody else is speaking in really high language, really high English ... intimidation ... to put on for parents – like we just don't fit in.

By all of them the crown attorney, the judge, all based on the fact of what the worker said to them because of when you have lack of education ... you have no idea ... if you have a counselor that has represented them before in the past they're not going to give you the whole story either ... it's like just trust me, trust me I'm doing this for the best interest ... what they're thinking of the kids, but nothing of you ...

I didn't get no supports when I was gone into court at all ... and I didn't really understand any of it at all. My kids ... I had a temporary order and voluntary placement with my J (name removed) I went back and they said, you've ran out of time –I guess you can only do so much voluntary placements and I couldn't understand that. So they said they're going to have to go for a permanent ward on your son. I couldn't understand any of that. And the lawyer is trying to show me and I couldn't understand.

Once I read ... what was given to me, you know the decision that broke my heart again. I was so scared sitting at that little round table. I was so scared to say anything so I wouldn't mess up, you know ... or get the judge upset ...

I felt like nothing. I felt ... it was more like ... why what they were doing take advantage of me cause I wasn't aware of how they were speaking too ... I wasn't really aware of anything and he didn't really explain anything to me and I was very quiet and I really didn't have anything to say. I felt like I shouldn't have gone there, like did something different. I felt like it never was an appropriate thing. I had so much to say afterwards. My life was wide open but they just kept putting all ... like this junk in there and I was thinking ... It just made me look like such a horriblest [sic] person in the world. They never said anything about the good. ... I feel like they all agreed that I wasn't a good parent and that was basically it.

They're making assumptions before they get all the information. They are very judgmental because it's like you're guilty to their eyes until you prove yourself innocent. Even when they do find out the truth about everything. The one thing they will not do is even apologize to you. To say that we're sorry about that. They never even try to rectify anything even if it's found by law ... no, nothing happened. They are so judgmental.

Mothers reported feeling they were not allowed to speak for themselves in the courts giving them a sense that their perspectives and voice did not matter:

And I hear the judge and the lawyers all talking and the social workers. It's like ... where's my voice? Where's my lawyer who's supposed to be my voice?

I would've liked the opportunity to speak because it's like you can't speak. It's like, you have the lawyers and the judge only. They are the ones who do all the talking, you know. And the social workers get a chance to say what they need to say too. Okay that's fine but what about the intervening parties or the mothers – what about them? Whatever happened to our voices? How come we don't get that same respect to be able to speak up and to present ourselves, you know ... it's like a gag order – it like all of a sudden you have no voice. And you become sick.

You're just shaken [sic] up. You don't know what to expect. You don't know how to talk, like you know? One time I showed up so angry ... that I just couldn't ... I couldn't talk because I was so angry. You don't get heard. They don't have any interest in hearing what you have to say ...

No, I don't think it's appropriate. No it's not. Because they got white people up there listening to an Aboriginal person go through this hell, do you think they're going to be sympathetic, no, they're not, they're not sympathetic, they don't understand because of the racism. There's lots of racism. And then they can go home and face dinner with their families at night but that Aboriginal woman has to go home all alone.

No. Because they just listen to what ... the CFS workers have to say and right away, boom! We have no right to say anything seems like. We have no right to say nothing. And if we had anything to say, they wouldn't believe us anyway, you know. That is what I mean. Like it doesn't work that way. It's like they are all together. Even Legal Aid is into that, you know. They can't help any Aboriginals.

... the majority of the recommendations come from the CFS worker and Crown and they fix an agreement with your lawyer ... he never sees the full picture of what's going on because if you're lawyer doesn't even give you a chance to speak to the judge then ... it just goes by the CFS worker and the crown say ...

One mother shared that she didn't have a chance to state her case even before the judge heard the facts of her case:

I had this one judge, I still know her name, I will never forget her name! I had to go to court and my lawyer didn't show up we had to talk through the phone with me and I was really mad and they made me sit far from the judge ... the table and the judge was there and I was here ... and she looked at me in my eyes and told me "I don't know you, but I don't like you." The judge said that to me, "I don't know you, but I don't like you." I just stared at her. I just kept staring at her right in her eyes until she felt uncomfortable. I didn't even know her, but she said that, I don't know what that social worker told her, but those were her words to me.

Mothers spoke about the remands and length of time it took to get their cases heard in the courts in a timely manner as these mothers stated below:

Another thing with the court was that remanding thing that I hated and that three week dead time.

But then a lot of them have said that even they're told to go to court and then they're told to stand outside and the lawyers do it and they come out and say "oh, it's remanded" and they're not. So it's more or less the courts, are more or less for the agencies and

their whatever. And I've seen that happen with my ... with my um ... with both my kids. They said like come to court and then they went in and we stood outside and ok, it's remanded til whatever.

... one court date was set and got cancelled. But before I went to court, I did all the stupid programs that they wanted me to do ... so I didn't get anyone involved yet. So I went to Legal Aid, got a lawyer at this point in time because I know this court was coming up right and I didn't have a lawyer. So I'll go and get a lawyer at Legal Aid. So they give me a dumb man. I don't know, he didn't do me any good ... He's a criminal lawyer, not a child and family lawyer, I don't think. He's like, oh yah, we'll get him back after the court. Oh yah, yah, yah right, you know. so I believed him. So anyways, something had happened. It got postponed. I know it was ... it was changed to a different date. It got changed on me three times. That's just dragging time on and on and on and being away from my kid, I'm like, oh my god, lord.

Not all the mothers had the same experience or felt as negatively with their court experience. There were a few mothers who did feel the court experience was positive and an appropriate environment only because the mother felt the judge recognized all the work she went through to improve her personal circumstances:

No, what I found through the courts and that and my experiences that they were fair and they weren't biased. They were open-minded. I think that the judge made the right decision. Probably seen how hard I worked to get her back and that I was with her all the time and I wasn't an alcoholic, I wasn't doing drugs or anything. I was trying hard with my other daughter and I think that's what he took into consideration to help her also.

Another mother similarly reported a positive experience with the courts only because she had diligently recorded all the communications she had with the child welfare agency staff she was dealing with:

Ya, we had several court experiences where I won my kids back in court only because I had kept a journal and I proved that the supervisor and [worker] were lying. I was happier than a pig in shit because I proved to them that the system was trying to bombard my case through lies. I don't think I would have won without that journal.

LACK OF COURTROOM SUPPORTS AND ADVOCATES

Mothers expressed concerns about not being allowed to bring in any supports with them when they went into the courtroom to face the judge, child welfare staff and other courtroom personnel and/or witnesses:

When I tried to get my Mentor to come in with me to court it wasn't allowed...

Nobody. No. I never had nobody. Maybe family but my mom too, she was going at the same time for my nephews cause she raised them so we never had any kinda supports in the courts.

I had brought somebody with me from [name of program removed] and they wouldn't let her in there.

Yah, I was by myself with my stupid lawyer. And the child and family lawyer, the woman judge - that was it. Those advocates weren't allowed to come in the court room.

The Advocate [name removed] wasn't allowed in the courtroom. Well ... that's what I said, oh, you guys are allowed all your people but I'm not allowed to have mine. I think it is important for these women to have someone there with them because you become emotional, you know, you've got these people bashing you, your character and your parenting. No you need someone there, they need to change that definitely. You should be allowed whoever you want in court with you and maybe you're not allowed 10 people, or 5 people, but at least 2 peoples should be allowed, or 3 even, your lawyer and 2 other people. Cause your lawyer is supposed to be there.

Well even with the pre-trial ... the first pre-trial ... I was intervening for guardianship. I wasn't allowed in the courtroom. I was told to remain in the hallway so just my two daughters went in. ... they told me I couldn't come in. I had to remain in the hallway. So ... I ... stayed in the hallway. Yah. I couldn't go into the room. Yah, I guess there's no spectators or no ... support.

KNOWLEDGE OF ALTERNATIVE DISPUTE RESOLUTIONS

All of the mothers interviewed for this study were not aware of the various alternative dispute resolutions that could be utilized in the child welfare context. Mothers admitted to not being knowledgeable about any mediation approaches that might have been helpful to them in dealing with the negativity they encountered when interacting with child welfare staff. Very few of the Aboriginal mothers had ever heard of the Family Group Conferencing model or even understood how it worked. Furthermore Aboriginal mothers reported that child welfare staff and lawyers rarely offered and/or made suggestions to alleviate the tension. The only alternative was really no alternative as these mothers noted:

No, nothing, absolutely nothing. No they didn't offer, not one thing other than their ... bullshit.

Other than taking my kids? No!

No. I don't know any alternatives other than going to court and trying to fight and saying no, I want my kid back and that's the only thing I know. I know nothing about ... I know a little bit about restorative justice because you know I was part of stuff like for a number of year before too. But there's nothing. I don't know if there is ... what there is ... for someone in my situation. I felt like I was literally in 10 foot, 20 ft brick wall all the way around me and I couldn't get out and that's a really horrible suffocating feeling you know, when you know there's no way out. You've got to ... the only way is their way and ... they're the law, they're the justice system.

Mediation sounds familiar.

I wasn't aware of any other services that could have been provided to me.

Only one mother was aware of Family Group Conferencing and a request to conduct a family group conferencing was denied:

Yes ... we approached the agency about a family group conference. They said no ... because it was before the courts.

CONCLUSION

This chapter focused on the stories mothers and grandmothers shared with the Research Team about their experiences with the child welfare system. The voices, perspectives, emotions and experience of Aboriginal mothers/grandmothers are the heart and soul of this document. Their stories reflect collective and common perceptions about how the child welfare system functions and operates against Aboriginal mothers who, because of their poverty and substance misuse, need assistance accessing services to support them in their roles as parents.

The mothers involved in this study reported child welfare contact through one of three means: (1) through self-referrals, (2) through reports made by others, and (3) through other system referrals.

Due to the history of alcohol addiction, family violence, poverty, and becoming mothers at an early age, many mothers reported having very little parenting skills to draw upon to help them in their roles as mothers. For some, due to their young age, early motherhood meant child welfare involvement. The onset of motherhood at such an early age meant mothers felt unprepared to parent. In fact many of the mothers stated that they lacked the skills to parent. And although many of the mothers grew caring for other siblings when they were young, they indicate that they still lacked the skills to parent their own children. Some mother noted that their lack of parenting skills

was as a result of their own parents’ involvement with residential schools.

Mothers expressed great fears around child welfare intervention. Mothers indicated they were afraid to get help from child and family services, even when their children were later returned. They shared stories of having to jump through hoops and “playing the game” to satisfy child welfare workers. Other reflections on child welfare treatment include threats their children would be adopted if mom did not cooperate. Mothers reported that communications was non-existent with the workers employed by the child welfare system. Mothers report not knowing what was going on with their case or their children. Mothers note that complaining about disrespectful treatment by social workers goes nowhere. Some Aboriginal mothers felt they were treated differently because of their race and many indicated a preference for working with Aboriginal social workers over non-Aboriginal workers. Culture was considered important but the mother expressed concern that their children were not getting enough exposure to culture. Constant monitoring through random drug and alcohol testing and being constantly watched by child welfare workers exhausted many mothers.

Mothers noted that at times some social workers deliberately tried to say things that would trigger the mothers’ anger. Mothers noted that at times social workers would twist what was said in meeting which prompted some mother to conscientiously bring a friend, family members or advocates with them to meetings to ensure respectful treatment and which helped them keep calm when dealing with social workers.

Mothers shared that they were expected to attend number programs and treatment programs at the request of social workers. Many times there appeared no rhyme and reason to the type and number of programs mothers were required to attend. These requirements would often change and were not always available within the time limits. A few mothers reported feeling that not only did they have to work at attending programs, they had to work at helping social workers find and access resources for their children while they were in care.

Problems accessing children while they were in care was often cited as a concern by many of the mothers in this study. Visits were often short, inconsistent and took place in the uncomfortable environment of supervised child welfare offices. The impact on children who are placed in care was a great concern expressed by all the mothers. Mothers reported their

children were exposed to sexual abuse and were moved numerous times while in care. They talked about the impact of separation of all members of the family when children are placed in care. Siblings often grow apart and mothers noted that the development of bonds with their children diminishes over time.

The mothers in this study courageously stepped forward and shared their stories and acknowledged making mistakes. The mothers expressed a range of emotions that vacillated between positive and negative. The negative emotions included feeling pain, hurt, depressed, angry, stressed, weak, powerless, unheard, unprotected and alone. They shared instances where they felt strong and empowered and were hopeful for successful resolutions and the return of their children. Suppressing emotions was often expressed by the mothers in this study – they felt they were not allowed to show emotion when dealing with child welfare staff. Mothers felt the stigma of being involved with child welfare.

Mothers shared that they relied upon a number of positive and negative means to help them cope with the stress of living without their children. Culture, praying, education and keeping busy were some of the key ways that women coped. Mothers reported negative ways of coping while their children were in care including returning to alcohol and drugs.

Mothers shared that they were not aware of their rights when their children were first apprehended by child welfare. They reported not knowing where to turn to for help. How to obtain and instruct their lawyer to represent them in child protection situations was a new experience as social workers don’t often share this kind of information with mothers. Mothers in this study report both positive and negative comments with respect to the quality of services that were provided by the lawyers who represented them before the courts. There is a common perception that lawyers don’t necessary represent mothers as it appears to mothers that decisions are made without their input. Rather there is a perception that decisions are made in consultation with the social workers.

The common response from the mothers in this study was that court was a very intimidating experience and many of the mothers felt they were harshly judged within that environment. The mother’s intimidations were connected to difficulties understanding the terminology and language used within the courtroom. Their collective perceptions center around the belief that the decisions made by judges within the court setting are racist, biased and one sided in favour of the child welfare agencies interpretation of the situation.

Mothers expressed concerns about not being allowed to bring in any supports with them when they went into the courtroom to face the judge, child welfare staff and other courtroom personnel

Mothers admitted to not being knowledgeable about any mediation approaches that might have been helpful to them in dealing with the negativity they encountered when interacting with child welfare staff. Very few of the Aboriginal mothers had ever heard of the Family Group Conferencing model or even understood how it worked

For many of the mothers who participated in this study, the chaos and trauma of their child welfare experience is still fresh in their memories, while for others, it had become a distant memory but one that will never be easily forgotten.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 5:

ADVOCATES' PERSPECTIVES

“The whole child protection thing seems to acknowledge that children need care. But they don't acknowledge that the care needs to come from the parents. And there doesn't seem to be any acknowledgement of that ... it's so obvious, like supporting the parents, supports the children. Like they just sort of think “ok we have to support the children” but you can't do that without supporting the parents.”
(Advocate)

“You know, I've learned that it doesn't matter how many times it takes you just keep picking the mom up and putting her back on her feet. And there's no set number of times you have to do that, but you have to keep doing it. Until she stands there on her own.”
(Advocate)

INTRODUCTION

A small number of advocates²³ who worked with Aboriginal mothers involved with child and family service agencies were interviewed respecting their understanding of the child protection issues facing Aboriginal mothers and/or grandmothers. Five advocates were interviewed during the summer and early fall of 2007. The Research Team developed an open ended questionnaire with a number of questions as a guide to help the team understand the issues and barriers experienced by advocates in helping Aboriginal mothers and grandmothers dealing with child and family service agencies and frontline staff. A copy of the questions posed to the advocates is at Appendix H. This small group of advocates each had upwards of 18+ years of experience working with families including Aboriginal mothers and grandmothers in dealing with child welfare staff and Legal Aid lawyers where child protection issues were present. As with the Aboriginal women, the views presented here were not validated but simply accepted

as presented. Once again, we have drawn extensively from their narratives in bringing to life the views and perspectives of the individuals who act as liaisons between Aboriginal mothers and grandmothers and the child welfare and legal systems.

The transcript of advocates narrative accounts of their experience helping Aboriginal mothers involved with child welfare was organized into ---- specific themes areas. The data was transcribed for ease of analysis using NVivo software to help code and develop themes that emerged from the advocates' narratives.

The themes identified in this chapter are organized as follows:

- Understanding the issues;
- Accessing supports and program resources;
- Reflecting on culture;
- Lawyers, language and courts;
- Implementing alternative solutions;

The following sections outline participant comments by thematic area.

UNDERSTANDING THE ISSUES

Advocates understand many of the issues faced by Aboriginal mothers who come to the attention of the child welfare authorities. They note that many Aboriginal mothers are dealing with a multiple issues when child welfare gets involved such as poverty, few family supports, alcohol and drug use, domestic violence including racism on a day to day basis. Other issues that seem to arise for Aboriginal mothers are that:

I guess the one thing that is missing here is “mental health issues” too.

²³ We defined advocates as being anyone who has helped Aboriginal mothers understand how to deal with child and family service agencies in child protection related matters. Many of these individuals informally assist Aboriginal mothers and grandmothers in understanding their parental rights, helping them connect to lawyers, acting as liaisons with child welfare staff, and accompanying mothers to family courts but do not necessarily attend in the court room with them. There is no one organization that provides advocacy related services to Aboriginal mothers. Many advocates are employed by community based non-profit organizations that provide supports, resources and recreation services to families within the community. These organizations are underfunded and not necessary funded to provide formal advocacy work to families involved with the child welfare system.

... some mothers are engaged in prostitution but not a whole lot.

The other thing ... cognitive impairment ... we're dealing with mothers who are affected with FASD now, undiagnosed so they themselves are affected and they have kids affected ...

... the geographics ... location of communities ... the lack of resources and supports available ... definitely the poverty, low education, low self-esteem, high number of children – multiple births. It's not uncommon to see a 26-27 year old with 5, 6, 7 kids at that age.

Definitely addictions – alcohol, crack is really on the rise ...

Gambling is another one that's really affecting a lot of lower income families who think they get their cheque and right away they are running to the bar or the local VLT ... thinking that they're going to go in and they're going to spend a little bit of this money and possibly double their money. And they come out ... they're broke and they're calling to the office and they're looking for emergency assistance, they're looking for milk, they're looking for pampers, they're looking for any kind of food to tide them over until their next pay cheque.

... sometimes I think there are definite racial issues.

And this one woman had health care concerns, it's like they held her health against her.

When asked whether there was a public perception that Aboriginal mothers are viewed as unfit parents, advocates responded in a number of ways:

I think it depends on what group of people you're talking to. Some people would think that. Some rednecks would ... I think depending ... like some people in the public think that ... some people don't. It depends on how much contact ... depends on how educated people are if they're not educated about poverty and residential school stuff ...

Most definitely ... Just for the fact that we need to look at the cultural differences here and Aboriginal culture vs. Western culture: materialistic, individualism ... those are ways that are foreign to Aboriginal people and we have difficulty operating in that system in that culture ... and that's what I mean, we're being governed by rules and principles and regulations that are just not ... were not a big part of our traditional way of life.

Yes. Yes, I think there is a public perception because ... Comments that I have read in the newspapers on different issues, media twists to articles that have ... um ... profiled Aboriginal child welfare, criminal cases regarding Aboriginal peoples, slants taken, certain comments from opposition critics in the provincial government and the federal government, editorials

that I have read. ... even the case [of the missing Aboriginal boy from the summer of 2006], there was a much different take on this child missing, compared to the Caucasian boy from Saskatchewan. There was a different perception from him and his family and the other child and the other child's family.

Child welfare intervention with Aboriginal mothers and children has both positive and negative impacts and the outcomes vary from case to case as these advocates articulated:

I think it depends on the planning that goes into it and the supports and the services and the placements that are available for kids, and if the person is buying into it or wanting to make changes in their lives. In most cases, I believe that kids really do belong with their family and if we can make that work that's great, but if that doesn't work ... I think if you have ... if for some reason they can't go with their family and it's not going to work out ... I think if you can offer them something more positive. I like to think ... I like to hope that at least if we're taking kids into care we're offering them something better than what they had. I don't consider a series of 14 placements better than what they had ... they should have been left at home if we're going to give them 14 placements ... I truly believe that because 14 placements isn't good, but if you can offer them a permanent home whether it's with extended family or a foster family or an adoption family then I think the impact is positive in most cases, but that's in the long-term if you can offer them a good alternative, but it's like I said if kids are in placements ... in 14 placements ... that's not a good impact on anybody.

That's hard to say and that can vary case to case. I think in most cases it has a negative impact because you already identified them, once they become involved in the system you've already kind of labeled them. What I'm finding is that once the family has been involved with the child welfare system and for those kids who are returned home we have parents the next time they're in crisis or having issues they're very reluctant to seek help to deal with that issues for fear that the kids are going to be removed from the home once again. So, once it does that whole cycle starts all over, so now you had involvement with child welfare it may not have been a good experience, but you know you have gotten your kids home, you're having difficulty within budgeting, may be running out of food, the hydro may not be paid, the kids are going to school with dirty clothes, but you don't want to say anything because you don't want ... your first thought is if I call my worker she's going to come and take my kids away. What do I do? My daughter's telling me she's been touched by someone, but I don't want to talk to my worker because they're going to come and take my kids away, they'll say I wasn't able to protect my daughter and that's a fairly recent case here.

The impact of child welfare involvement can be a

very negative experience that causes fear, anger and stress with tragic outcomes for some mothers as these advocates cautioned:

Ya. Now I'm thinking I didn't get a good childcare provider to begin with maybe next time I won't even get a babysitter ... I'll just go do my running around when the kids are sleeping and lock the door and actually putting that child at greater risk.

A lot of anger, people just saying they don't give a shit. Everything they've been living for is gone so, what's the point? Is that going to increase suicide attempts? ...

I had a client whose kids had come into care ... she's never had any involvement with the child welfare system up until that one incident and I'd worked with her for about 7 months. The order was just coming up and Friday I had talked to her and the Saturday the plan was the agency was going to return the kids and she was really having some difficulty she had gone to a Doctor and was put on anti-depressants and other medications trying to help her cope day to day and we were working hard and the agency decided that they were going to return the kids. I had spoke with her on Friday and Sunday evening she shot herself and killed herself, the kids were to be returning home that Wednesday. I couldn't figure out what had happened if someone had talked to her if a worker had talked to her after I did on Friday and maybe changed the plan ... I just don't know ... it just came as such a shock ... it was a happy day Friday ... when you talk about increasing the use of medications ... alcohol ... drugs ... you just don't know and particularly shooting ... like that's pretty extreme that's something that men tend to use is guns. She blew a hole in her chest. So, I know the stress and anxiety that it causes. We just don't know and I guess we'll never know ... it's cases like that ... I don't even know what became of that if there was any kind of investigation or what became of that. ... Did the agency say something to her after? Was a decision made where the kids weren't coming home? She was four days away from getting her kids back ... four days ... and I just can't understand...

When asked to reflect on whether mothers understand the reasons why their children have been apprehended by child welfare, the advocates we interviewed seemed to give contradictory opinions. On one hand there is a perception that the mothers understand but it is viewed negatively and often there is confusion around the definitions of abuse versus that of neglect as noted by the comments of this advocate:

I think they do. I think they see it as a negative thing though. I think they often understand it, but I think sometimes that they take it ... like if we're involved ... that somehow we think they are abusing their child, where in fact they may not be abusing their child but

that the child is at risk because of whatever is going on in the home or the people that are coming into the home or whatever. But, basically, I think they understand ... Ya, it might be terminology. I think in general that they understand, but they might have kind of the wrong ... they might not understand the difference between a risky situation as opposed to full out abuse ... beatings ... sexual abuse or whatever.

The same advocate noted above believes that Aboriginal mothers today are more informed than they were thirty years ago:

... but I think in general they know when child and family is involved they kind of know what the problem is. They may not specifically know, but I think they have a better understanding now than they would have in the past, maybe, but ... because now they ... first of all, things have changed so that we have to file a petition within four days, you know it use to be within 30 days, they have more access to lawyers, I'm just comparing it to some of the files I've seen from 30 years ago. They were pretty sparse and a lot of those cases, I know they went to Court and permanent orders were granted and the moms they never showed up in Court. Because I think then that they didn't really understand, but I think now that with ... they just have access to more information about their rights.

Knowledge around the reasons why children are taken into care by the child welfare agency is not as commonly understood by many Aboriginal mothers was what other advocates observe. Advocates have noted that the lack of support services, parental education and note there are many barriers evident in the social services system puts many of these mothers at risk. Often times no information is provided leaving many mothers in the dark as to where their children are, as these advocates shared:

No, they don't [understand]. I think that we're missing this whole other piece about why kids come into care and ... a lot of the parents are doing the best they can with what they have at the time they're doing it. Nobody comes in and does these information sessions and says, you know what - these are the reasons your kids have come into care ... neglect, abuse ... they kind of go through the list ... a lot of them don't know that you can't have your three year old running around the neighborhood in just a pampers or ... leaving your child with a six year old child to look after a baby while you run and go to the laundry mat. You look at our low income housing situation ... we have a zero vacancy rate and a lot of our units that are available they don't offer washers and dryers, once again you don't have the money to provide child care ... so, what do you do? You leave your six year old watching your two year old and then we're looking at all kinds of accidents and injuries as a result of that. At the time, the mom is thinking she's doing the right

thing, I'm taking care of my own ... I'm going out and getting the laundry done and they come back and the child has fallen down the stairs and is injured and suddenly Child and Family are at the door. ... There almost needs to be some kind of an information session prior to ... and this should just be common knowledge in all our communities ... the Child Welfare Act and you know these are the reasons children are in care. So you know as a mother ahead of time ... you know what I can't leave my two year old being supervised by my six year old. My six year old does not have the skills and the capabilities to watch this child.

Not at the moment they don't. Not when their kids are being taken away. They are left out in the dark as far as I am concerned. What I have heard from women who have called my organization and talked to me. They indicate ... this is what they are telling me now ... that they aren't being provided such significant information and follow up. I've been told ... I've been told by people that their kids are taken away and that's it ... they never hear nothing. 3 weeks later they don't know what's going on. They haven't heard from the worker, nothing. They have no idea where their children are in this world.

Advocates note that social workers sometimes don't understand the realities faced by Aboriginal mothers in remote communities as this advocated explained:

... they're so busy and overworked that they don't seem to have a lot of time for clients. When they do, it'll be on the workers terms not the client's terms. You have a worker with a vehicle sitting at an office across the river and you have a parent living in Valley View (Town trailer park) with no transportation and five kids, you want her to come over there for a one o'clock appointment? How? How is that going to happen? Now, the client's got the pressure on. I gotta find a babysitter or hitch hike into town and take some kids with me and you get to the office ... you hitch hiked with your kids? That's going into your file and if you don't make your appointment you're a resistant client. You question their authority their hostile ... you need anger management. So it seems like a no win situation for a lot of the clients that I've worked with.

Many advocates note they are seeing a multi-generational impact in the child welfare system as children previously in care now are parents who have children involved in the system. We asked them to reflect on what these means to them. Their responses indicate that the child welfare system is not working well or has failed the families. They note the needs are high across all generations of children in care and that these children generally do not have access to the opportunities and resources that would help them reach full potential:

Yes. Yes. Yes! That means the system isn't working very well or else that people have such high needs that it's going to take a long time for things to get things better. But, ya we see a lot of intergenerational involvement. I would say that a lot of the intergenerational involvement has to do with drugs and alcohol.

Oh, very much so, very much so. That means that we have a family that is going through third generation involvement with Child Welfare, so, what was happening twenty years ago with mom who is now grandma we're seeing that impact for her children and now her grandchildren. Well, obviously the system fails mom to begin with. Why? How do you have somebody on your caseload for twenty years? To me, I think the system should be trying to work with these people, ya I can understand that it's going to take some time but now we're dealing with grandchildren stuck in the same system sometimes with the same worker ... And a lot of them...they carry these memories...they carry these feelings associated with their parents and the system and you know I think the system has taken a different route where now it seems so much easier to remove these kids from their homes and a lot of times from their community as a whole and the damage that that is having on a lot of our families. Whereas, before they would try and place the child in the community and at least you knew that - all of the workers said you know what you're not supposed to be having any contact or communication with your children. They've made that even harder by removing the children from the community altogether.

Kids in care as they're becoming of child bearing age have been kids when they come into care. Because ... I think that ... I believe that um and from what I've seen, children that have been raised in care, more or less, there is always the small percentage, for whatever reason, don't fall into that trap. ... I think children that are brought into care have triple whammies set against them. You know they don't have the same opportunities as other children do. They are tainted from day one. The system doesn't work with these kids as they are growing up and becoming young adults. Yes. Absolutely! A lot of these kids don't get opportunities to take recreational activities, join or take music lessons or do anything that can help them reach some type of potential.

Yeah, one of the moms that comes here is a grandma. And she has, I don't know ... I think she has, she has legal custody of the two grandchildren. The mom, the one that's in the middle, the middle generation there. She, this is really complicated because the grandma, the two little ones who are her grandchildren call her mom, and she has a daughter of her own who is very similar in age to the oldest of the two little ones. I want to call her the mom to all 3 of the kids. But she's also the mom of the mom of the

little ones. And, she has had some involvement with CFS in our experience with her. Her oldest ... She has a lot of problems in school and stuff like that. So CFS has been involved for that reason. So yeah, we see her, we've seen her involved with CFS for her own children and then for her grandchildren. And we do have some interaction with the grandchildren as well.

In working with Aboriginal mothers and grandmothers advocates have commented that not all interactions with child welfare workers are negative. One advocate had affirmative things to say about the positive interactions she witnessed between an Aboriginal mother and a social worker. Unfortunately, the advocate noted that these people rarely stay in place which is a negative thing for Aboriginal mothers and really speaks to the training of social workers, the issue of instability and high turnover because of high case loads among child welfare employees that impacts families and children involved with child welfare:

She had several workers during the time that I was involved with her. That was another issue I had with the agency. Can't you just leave one worker there? Mind you, I didn't like any of the workers that I was dealing with. Finally she got this one worker. And it was like a breath of fresh air. That mom would bring the kids ... that worker would bring the kids in. She'd be happy to see the mom, she'd sit and have little buzz sessions with her. And the mom just stayed relaxed through this whole visit. She didn't do her curling in thing or anything. She did at first, but then it just came and this worker started talking about ok having her get to increase visits. She started scheduling increased visits with us. She started talking about how to get the kids home. And then she started talking to the agency about how she's going to accomplish this and then a couple of months she was gone. She quit. She didn't get fired. She quit, because she couldn't stand the...

But then she came across a worker who listened to her, the guy's white. He took, he went back into the files and read her file as a kid. Took all that into consideration and is supporting her to mother her kids by dealing with the issues that he saw of her mistreatment when she was a kid. Mistreatment, you know, in all the systems including the agency involvement in her youth. So. Like that's...that's so amazing. And he talked ... when I've talked to him, he's humble. He's not ... he totally gets that CFS's past is quite likely responsible for the piece of the current situation. It's astonishing it's so wonderful and refreshing ... So yeah...I mean, I guess, I've worked really hard in all my work to focus on the positives. I think it really is important for us ... what I would really like to see is for us to pick the brains of these workers that get it. Why? Like how come you're the way you are? And train our social workers and our systems

using that information. Because its there! They get child protection in that human and caring way.

Advocates spoke positively about the relationships they developed themselves with the Aboriginal mothers whom they've come to know after working with them to address their parenting challenges:

Well, I think I probably have a fairly positive relationship with them ... they don't walk across the street to avoid me ... I like to think that I have a pretty positive working relationship with the Aboriginal community.

We have our community garden project, I do a lot of skill development, so there's budgeting ... there's community kitchen, we do a self-care component, there's a women's anger management, domestic violence program a twelve week program. We used to offer the women's group it was just a mom's afternoon out. The Family Resource Centre has that now, they've got that program up and running ... so, it should be being able to connect with existing community resources, identifying some of the gaps and talking with them openly and honestly ... in my role I don't like to view myself as a professional ... I've been in a lot of the homes, I've been helping them with laundry and helping them with childcare, taking them and going and doing shopping, watching kids while they're going to an appointment ... taking them/accompanying them to income assistance and meet with their worker, taking them to Legal Aid appointments assisting in court prep ... I have gone to Court.

ACCESSING SUPPORTS AND PROGRAM RESOURCES

Advocates stated that there are many resources and supports in the community (most notably off reserve) that are available to mothers involved with child welfare. Knowledge of these resources and supports may not exist or they are difficult to access for those who are unaccustomed to seeking out these kinds of resources. However it is clear to those that advocate on behalf of Aboriginal mothers involved with the child welfare system that it matters where mothers reside when it comes to accessing resources and supports. Equal access to resources and supports is not possible in all cases. For Aboriginal mothers living in northern and on-reserve communities, distance is a factor but it is also a jurisdictional and a funding dilemma that other mothers residing in other areas of the province do not have to face. For instance, the availability of prevention services on-reserve for mothers and children is just not available because the federal government only funds services for children who come into state care. There are no services to

help families in crisis deal with their circumstances. The Federal government does not fund First Nations Child Welfare Agencies and/or communities to provide prevention services to keep children safely at home. Where resources and supports are located and who can access them can be very confusing and at times prevents Aboriginal mothers residing on reserve from being able to access and benefit from them. In addition, the system is so overloaded right now that it is impossible for the First Nations Child Welfare system to be able to put supports in place for on reserve Aboriginal families who need them as evidence in the two different comments made by the following two advocates:

I think there's a lot of resources and services available, but maybe the mothers don't know how to access them; or are not comfortable accessing them; they are not really user friendly; or there could be a whole lot of reasons why they're not accessing them. And I guess I have to ... like our area's more off-reserve so the services that I'm referring to are off-reserve services and I think those might be different then services from those on reserve. I'm not really sure ... if on reserve ... if the child welfare agencies can provide the same in-home support that we can. Because we can provide support to the family like a parent aide or respite like without taking the kids into care, but my understanding and this may be wrong, so you may want to check this with someone else and maybe even speak with an Aboriginal worker that they can only get money back from the government ... the federal government if the kids are in care. You know ... they can't provide supports in the home to prevent the child from coming into care because it's a funding thing.

They have more access off-reserve than on-reserve and if they are provincially, if the kids are a provincial responsibility, there is definitely more access to those court services and there is funding in place particularly with the new ... the most recently announced infusion of CFS dollars into the system from the provinces as a result of Changes for Children. We have not seen that reciprocated with federal funding from Indian Affairs for on-reserve funding. Basically your kids are in care, that's it. The agencies aren't equipped or funded by the Feds to provide those support services. Um, I think that because the system is so overworked right now and there's huge case loads and maybe I would say on behalf of some workers in the system, a lack of empathy that the workers don't ... there is just so many cases per worker, that they don't have ... there is just only 30-31 days in a month. If you caseload of 55, you can't see each kid all of the time. It is just impossible. Never mind ensuring that all of your placements and then their parents that don't have the kids have supports in their home. I would say most probably in the big scheme of things, there's not an

adequate overall access to support services for moms ... who have had their children taken away.

The inequity in services to children with special needs was noted as a barrier for children who reside on reserve as this advocate noted:

And also with special needs children they don't have the same services on reserve as they do off reserve. Because off reserve we have the community living program with Children Special Services, but families on reserve are not eligible for that program. They are very clear about their program that they can't provide services on reserve; there are jurisdictional issues particularly on reserve.

Even for Aboriginal mothers residing off reserve, services are not always consistent because there is a shortage of doctors who could provide the referrals so that mothers can access services from a psychologist or psychiatrist for mental health issues for instance. Even if mothers could get a referral to a needed service or support resource, the waiting lists are long and often a program will not start until a certain number of participants are registered for the program as the advocate explained to the researcher in the dialogue captured below:

Researcher: So, the client comes to you and says, ok I need parenting skills, drug treatment ... what kind of length of time are we looking at for somebody to see someone for mental health issues ... who needs to see a psychologist or psychiatrist?

You're looking at weeks to months.

Researcher: The same for drug treatment?

The same for drug treatment. You know Rosaire House, which is our local Addictions Centre, you may be lucky to get in there within a month or so it really depends on the waiting list and ...

Researcher: We have one domestic violence shelter, how long does that work ... do they take anybody or is there a waiting list for that as well?

No. The shelter it depends on how many beds are filled there. But, the shelter's been pretty good. They've been able to accommodate women where they can and that kind of fluctuates, it's not very often they have to turn someone away.

Researcher: Ok. So, services, let's say they need a parenting skills class that's not regularly offered up here?

No, it's not. And that's one of the programs that falls under my department as the Liaison Department is that they usually come to me ... I believe there's two or three organizations that are offering the parenting program.

Researcher: The Addictions Foundation of Manitoba?

No. I don't think they're offering the parenting program. I think the Family Resource Centre, the MMF, and there's something offered on-reserve and it's very sporadic, so I'm getting a lot of the referrals from the agencies, from the courts and that's another issue I have is the courts mandate these families take the parenting programs and yet there's nothing consistently offered so I will not run a parenting program ... I use to do them one on one, but I just found them not really effective as running a group where you can do some peer support and information sharing and establishing relationships.

Researcher: So, you have a certain number and then you wait until you get a certain number and then you...

I need eight.

Researcher: So, what's the wait time?

I start a waiting list, so as soon as I get eight I'll go down the list and find out whether they want to do an evening session, an afternoon session, there's all kinds of things to take into consideration a lot of times the court doesn't provide child care for the parents they are mandating to participate. So, we have somewhat of a dropout rate there because they just can't manage.

Another Advocate noted that many times Aboriginal mothers are being forced to take programming for issues that they are not even personally dealing with as she recollected from working with many Aboriginal mothers:

Any time they have a family regardless of what the presenting issue is you're doing the anger management, you're doing the parenting, you're doing all these things whether it's an issue for you or not. Then they're going, you know I don't even drink or why do I have to go through the alcohol AFM program or attend the Addictions treatment center?

In these cases Advocates are noting that front line workers in child welfare appear to be applying a standard criteria and assessment to all parents that they come into contact with regardless of their circumstances. Advocates say this is an approach that doesn't take into account the unique issues facing Aboriginal mothers and their families in particular:

... not doing any kind of assessment, sitting down with the parents and going back and gathering a little bit of that background information, so you can narrow it down to what is the issue? Then referring supports and resources that are tailored to the client needs vs. satisfying the agency. So, instead you're going to cover this whole gamut of issues that may pertain to you or not.

In some cases Advocates are aware that mothers do not always get a chance to see copies of assessment reports that have been made about them. In fact very few mothers are aware they are entitled to have access to information that has been made about them as this advocate explained:

In those cases it seems like those are the parents who are a little more vocal and little more in terms of requesting I want to see what s/he wrote about me and will receive a copy of the report, but I don't know how many parents would actually ask or even know that they have access to that information.

Advocates have commented on the number of conditions being placed on Aboriginal mothers. They indicate that many of the Aboriginal mothers are expected to go above and beyond agency expectations and it appears that the number of expectations the mother is expected to meet changes at the whim of the agency as this one advocate elucidated:

And she would she would meet one set of criteria, set of conditions, and she would meet those conditions and then those conditions would change. Actually that has happened a number of times. And not just with the Aboriginal families and their agencies, but with just in general. It seems like you get through one checklist of ... Ok, I gotta get through AFM and get an assessment. I've got to do a parenting class. I've got to make sure I attend my appointments ... whatever, whatever they are. And sometimes there are 10 different conditions. And I'm working with the woman and it looks to me like she's meeting all these conditions. And then they came up with some other ones, or you know, things are different. And it's like the old stuff didn't count for anything.

In some cases when supports are put into place by child welfare agencies to help not just Aboriginal mothers and children but all families they are not adequate. And the people who provide the in-home supports are young, inexperienced and underpaid as this advocate notes and has witnessed:

... oftentimes when you get a home support worker, they're young women who have never raised kids and she's working for not a whole lot of money and doesn't have a lot of skills. So they're not really able to hire skilled people to do that when they don't put enough money into it. When we do put supports in, we don't necessarily put confident capable supports in. We put in what we can get for a low wage. And we sort of assume that parenting and domestic tasks can be done by anybody with little or no training. And while a lot of the tasks may be done fairly straight ... fairly simple and straightforward, the staff that's put

in there must have adequate training in well ... the first thing they need to be trained in is compassion. First of all. And then beyond that, the whole dynamics of what this family is dealing with. So often ... I was dealing with a family that had 3 kids that were very, very hyper. All over the place and the woman ... there were 3 different support workers that were put into that family. They were all very young, like teenagers or whatever, never had kids of their own. Didn't have a clue what to do with that family ... but that was what was available. So that's what they got.

Advocates support Aboriginal mothers' complaints about not being able to visit their children in care as often as they should be. Advocates indicated mothers are dealing with interference from their own or other members from their partner's family or the community who prevent mothers from seeing their own children if they happened to be placed with family within the community as these advocates reflected:

I've been told over and over that, this is what they say, is that social workers in the agencies, both Aboriginal and non-Aboriginal agencies aren't following through with case plans ... for example, they [CFS] are not ensuring the family visits are supposed to be done. They'll say yes, I'm supposed to see them every so and so, every so and so, but I haven't heard from the worker and no one's following up on this. And that's been in regards to both, non-Aboriginal and First Nations agencies.

... oh, another one I've heard is interference from family members. So it would be in most cases, I've heard where they get the experience of interference from the other spouse's family members. Interference in child care, not letting them see their kids. That type of thing.

The issues facing Aboriginal mothers residing in rural, remote and northern communities are unique in comparison to Aboriginal mothers living in urban centers or in other southern reserve communities. The availability of supports and programming is limited and with smaller communities there is less anonymity for everyone involved with child welfare as this advocate alludes:

Well, I think for women in rural areas ... I guess I'm talking more rural than here ... they're dealing with ... For example, alcohol and drug use; service availability of programs in the community may not be the same in a small community as it is in a larger community, like there's no Rosaire House, if they want to go to AL ANON ... there's no treatment centers ... ya. You know everybody, that happens here ... there are no mental health facilities. Its itinerant services ... I know that mental health goes out to Moose Lake and Cormorant and they go out on a certain day. Sometimes people need to go to someone now, when

they are in a crisis or even before the crisis occurs ... ya. The other thing is for women to get ... if they are in an abusive relationship for them to get to safe place, that means getting to say Aurora House from one of the remote communities, transportation is an issue, transportation is a big issue ... Here, a lot more falls on child welfare, I think. That there's an expectation that somehow we'll provide a service where in the city they might refer to another agency. There would be more agencies in the city. I know of a homemaker service ... I think clients can get that in the city, child welfare will contract it with another agency or something ... family services of Winnipeg or something ... not child and family services, but it's a less intrusive service. Where with us, child welfare providing a parent aide who's going into the home and reporting, well you know ... and you don't want that person in your house, ya. I'm just trying to think of some of the other things that are available ... like different groups for kids or kids that have experienced family violence ... support groups ... I just think there's more groups in the city. It's really hard to get those going here because there's a lack of ... there's only so many helpers and everybody's doing too much anyway, then to get people to go to things like that in a small community where there you see the person at the post office desk after.

The need for support and service on reserve to help mothers is very badly needed and in some cases the absence of support services even as simple as providing respite to a mother can lead to tragic circumstances for some mothers as this advocate recollected:

Remoteness is a big one. I'm not talking about remoteness within reserves, like, you can ... I've had situations brought to my attention in some of our northern reserves, even southern where you're on a reserve but you're out way out somewhere. You're way out down some road somewhere and there's no neighbour nearby, there's nothing. ... We had last year, I believe it was from one of the northern communities, a mother, she had, I think the child was autistic. I can't remember. She had about 3 or 4 little ones and she could not get help from anyone. She cried. She begged the agency. She begged for whatever services were in the community ... please someone, help me, give me respite, give me a break, please, I'm in here all day. And she ended hanging, killing herself. ... She just couldn't get it ... and I know as a mother, when you're ... particularly after you have a child, you're home a lot, you going through that post-partum stuff (some people are), you have a whole slew of kids plus one that's high special needs that requires 24 hour supervision and you don't get a break. And you can't ... I mean when you're out there you can even go for a walk to Superstore or 7-11 just get out of the house like you can in the city. Never mind if you're stuck way

out there and you can get out ... she ... there's just not the supports for our moms out there. Sadly, many of our communities are still male dominated ... and there is ... um ... help me with this ... chauvinism ... and paternalism and women aren't treated with the respect they deserve. I'm not saying all but there are some. And women have learned over the years to suffer in silence. And holding in their pain and just take the crunch and bite your tongue. That is just the way we have been raised as females in this society, both in our communities and in society. Particularly if you are raised in a very women, female based submissive area and environment.

REFLECTING ON CULTURE

When asked to comment on the importance of culture in dealing with Aboriginal mothers and children, the advocates we consulted indicated that culture is an important element and should be incorporated into all service delivery aspects when dealing with Aboriginal families. Advocates noted that it is the social worker's responsibility to look into the cultural background of the families they are dealing with however, it was noted that lack of understanding about clients' cultural backgrounds is often hampered by the fact that many social workers come to the profession of social work without an understanding of how demanding the workload can be and consequently many do not stay in their positions for very long to be able to practice cultural competency with the families they deal with. Culture was especially noted as important for Aboriginal children who are currently in the care of child welfare agencies or in cases where Aboriginal children have been adopted as it directly impacts on the development of self-esteem and identity development in Aboriginal young people as this advocated noted:

No I think it is important. This is what I've heard ... I have heard from people that, kids that are now adults and they were raised in adoption homes, they were adopted or they were always raised in foster care that there is always some element of their background that they are curious about that brings them back into their native heritage and culture. I don't know what it is. But I've heard that from people even though they have been raised in Caucasian or non-Aboriginal homes that there's something in them that affiliates them or connects them somehow with their culture. And it is important to them. And when they don't have it growing up, it's a loss, something is missing in their mind set, there is something missing there.

Ensuring a cultural element is incorporated into services provided particularly by Aboriginal child welfare has been challenging given the changes that agencies have recently gone through in the last two

years. Aboriginal agencies in the Province of Manitoba accepted non-Aboriginal social workers as a part of the transfer process. Many of these seconded employees, the majority of which are not Aboriginal, were not able to provide culturally appropriate services. On the other hand, there is awareness that some seconded non-Aboriginal social workers embraced the cultural experience from working in the Aboriginal agencies. Both sides of this experience were captured in the following advocate's narrative:

I think from what I gather that there is this ... there is a higher number ... that the Aboriginal agencies when they brought over the non-Aboriginal secondments, there were more challenges in addressing that issues because the non-Aboriginal workers or the workers that came from the non-Aboriginal agencies were so stuck in the mainstream white child welfare system's way of doing things that it was very hard for them to come to an Aboriginal agencies and mesh in with a new way of doing things from the Winnipeg or non-Aboriginal system. There is a small number have embraced that ... this is a good way of doing things. But I think that the higher number of challenges, the higher number of people experienced and the challenges of having problems with the Aboriginal system are more higher than less.

One advocate noted that she wasn't sure about the importance of culture as much as she is concerned with how mothers are treated by the system:

That's a tricky question because I'm not Aboriginal. Our agency isn't specifically Aboriginal although a lot of Aboriginal people come here ... we kind of tend to look elsewhere for cultural supports or traditional supports. There's some things that it's hard to know whether its cultural or not ... like for instance, the whole grandmothers looking after grandchildren thing. You don't see that much in white society, shall we say. You do in some of the oriental cultures. Lots of times, mom and dad are working all day. Grandma and grandpa are looking after the little ones. So, when you speak of culture, I look at things like that. Which isn't ... formal tradition kind of thing but it does factor in ... But in terms of actual, formal traditions, we're kind of clueless. Know what I mean? We don't really know that much about sort of cultural issues. To me, the real issues that we have to worry about are discrimination. I don't care whether you're being discriminated against because of the colour of your skin or your economic status, you just don't treat people like that. And poverty. It doesn't matter, you know, what colour your skin is. If you're living in poverty, you're being disadvantaged in some severe ways. And then the whole violence thing. Those to me are the 3 big things that happen, and yes, we see those things happenings disproportionately to Aboriginal people. I guess it doesn't make much difference in my

work what I'm dealing with. So I don't, I don't see it that much in terms of cultural stuff. I definitely do see, you know, a white person talking differently to someone of different colour skin. I definitely see that happening.

LAWYERS, LANGUAGE AND COURTS

We asked advocates to comment on whether they believed the legal services provided to Aboriginal mothers involved with the child welfare system is adequate. The advocates noted that lawyers who represent Aboriginal mothers in child protection matters are typically procured through Legal Aid. Advocates state that Aboriginal mothers are frustrated by the legal elements associated with their cases in addition to dealing with the multitude of waiting lists to attend programs and treatment services as this advocate pointed out:

Yes, well, Legal Aid itself, if anything it precipitates the frustration of these women. The legal system itself is very tedious, it's very time consuming, nothing happens overnight, particularly even more if you have to go to Legal Aid, there are waiting lists, trials ... they keeping remanding ... the time goes, the weeks go on. You're on a waiting list to get into a Rehab program, the beds are full, the time goes by the situation worsens for the mother and the children.

Advocates have noted that lawyers don't always take into account what Aboriginal mothers want. It appears to be less work for lawyers just to have their clients go along with what the child welfare system wants because the lawyers cannot afford to spend extra time on individual cases as it appeared to three advocates working with Aboriginal mothers:

Just based on my experience and a lot of times we have an agent of the court who is making decisions with a lot of times not even trying to consult the client or what are the wishes of the client taking those into consideration. They kind of come in and say, you know what this is best for you and this is what we're going to do irregardless if the parents' say no ...

Yah, particularly when it's Legal Aid too you know. I mean, it's ... we know the percentage for Native children in care so we can figure out the parent is Native right? It's overwhelmed in the system. ... The lawyers cannot spend substantial, particularly Legal Aid, time with each individual person so it's just easier and less work to go ahead with what the system says. That I can certainly see that happening ... and that would pose a lot of frustration and hopelessness on the parent going through the system.

Plus they don't think there's enough money. Child protection cases are complicated cases and I know, I've heard some lawyers say you know, they're not hardly

getting any money. They're really glad of the work that we do because it saves them trying to do it for no money.

There is perception that many of the lawyers involved are just too green to be able to adequately assist and really come across as not taking the mother's situations as seriously as they need to as this advocate noted:

I haven't interacted with him all that much. Only 2 families, one of which was white dealing with a white agency. And he was I guess in both situations, I found him supportive but not with a lot of initiative. That was a Legal Aide lawyer. A very young man and he almost took direction from us. Because he really didn't have much experience or I'd say understanding of the whole ... he was good ... good to her. He knew the legal process and all that kind of stuff. And he all his actions were supportive of her but he didn't have a lot of initiative.

... I think the biggest beefs I have with the lawyers that people work with in child protection situations is that they're not really apprised of the where or aware of ... the like family dynamics. Like how much mom cares. The whole thing about attachment ... they don't seem to get that attachment is crucial. Yeah so ... just the sort of cluelessness as opposed to maliciousness and sometimes that translates into lack of action, lackadaisical sort of stuff. But once we're involved sometimes, that makes them sort of, you know, heads up kinds of thing. I think there are lots of women dealing with lawyers directly without us in between. Which, therefore, the lawyers just kind of don't really take it seriously. Or don't take it as seriously as they should in terms of family. They take it seriously in terms of law because most lawyers are pretty determined to win their case. But I don't know. Some of them seem to have faith in the system ... What? How can that be?

In terms of whether Aboriginal mothers understand the legislation, legal arguments and/or language being used in court, advocates report that they too are at times confused and intimidated and doubt Aboriginal mothers really understand the specialized language that is used by professionals in the court setting as reflected in following statements:

I don't know if they really do. ... I can't speak to the fact that they understand because the legal stuff can be overwhelming for any of us.

I don't think they do. I really don't think they do and that's part of my job is to take them through that process and explain what the outcomes could be here. ... In terms of the different orders: a temporary order, an order of guardianship, a permanent order, children removed in terms of a safety issue.

No. No, I don't think they do understand what it entails and what it means at the end of the day.

When Aboriginal mothers are intimidated they are often afraid to say that they don't understand when in court. They then later turn to the advocate to help them understand what happened as this advocate explained:

There's been a lot of cases where the worker will just talk to the client right at the court house, the day of court and they're just sitting there in shock, they don't have time to process this and three days later, I'm getting a phone call saying, well, how come they did that? And how come I didn't have a say? It's been done already. It catches parents off guard, its last minute ...

Advocates have noted that what is presented in the courtroom is not always the reality for some families as this advocate shared:

... you go up there and you stand in front of a judge who knows absolutely nothing about you, other than what the agency has provided to him. In a lot of those cases it's not necessarily true ... it's not a reflection of what is going on with this family ... for instance ... I know of an incident where a mom of seven children ... her husband had committed suicide and rather than the agency come and provide mom with some of the supports and resources she needed to get through that grieving process the solution was to remove those kids and scatter them all over the place and put a lot of those kids at risk because the homes they were going into weren't any better than the home they took them out of. That whole separation, you know mom lost a partner, it was very tragic circumstances and then you're going to come in and remove the kids? I couldn't imagine ... I couldn't imagine what that must feel like. No services in terms of prevention, no information sessions, no resources to help her get through that.

Furthermore Aboriginal mothers are not getting adequate notice when they must appear in court on child protection matters said this one community advocate:

I would have to say parents not being informed prior to the court date. Last minute service of notice, where the people have two days before they go to court, they need to appear in court. I don't buy that and that's really unfair and it catches the parent off guard. They know that there's going to be court, but when is it? I don't think it's fair to be serving parents two days before court and then turn to the last page for the worker to sign and the parents to sign, saying that you received a days notice before court and because a lot of us don't know the process, what's involved – what's the procedure here, they end up signing that and they are totally unprepared and ill prepared when they do go to court. A lot of them don't know that you have a right to be in that courtroom a lot of times the lawyers say that I'll appear on your behalf and I'll let you know what happens. A lot of

times they don't let you know what happens until after the fact. I encourage many parents involved in the child welfare system whether you're lawyer says you need to be there or not, you be there. because a lot of times the Master in sitting would just like to see you sitting in the courtroom. They call your case; stand up in the gallery until they know that you're there. So, they don't get the perception that the parent couldn't appear for their child's court date ... well she's not very interested in keeping her child.

Many of the advocates felt that court is an appropriate environment to hear certain kinds child welfare protection cases but in most cases it is not the most appropriate venue for Aboriginal mothers and their children. Overall advocates felt that neglect cases of low or moderate severity could be better dealt with outside of the court situation while severe abuse and neglect should be dealt with by the courts particularly when there are related criminal code charges. As these advocates suggest, Family Group Conferencing is a more appropriate venue in which to hear child protection cases in the majority of cases as these advocates articulated:

When you have no other options ... It depends on ... I think it depends on the issues. When you're looking at some of the really heavy-duty issues that involve gangs and drugs and alcohol and safety ... beyond safety of the children ... safety of the community or when there is a lot of things tied into it then I think Court is the most appropriate. With some of the other cases, I think that Family group counseling is a wonderful alternative ... I really do. The other thing is that Family group conferencing can be used to prevent the plans of the Court. You still have to have Court to get an order and that kind of thing, but it takes away from the adversarial nature of the Trial ... and the dragging on. When there are criminal issues involved, family court in addition to criminal court is really important, but if there are no criminal issues involved then I think trying to do something with family group conferencing would help.

At this point we don't really have anything else. It would be nice to see things being a more family friendly courtroom. In terms of not the judge sitting up there above everybody else vs. the people over here, see something more in a circle type of setting. Where everyone's at the table and you have to have more of an equal footing ... Like family group conferencing.

IMPLEMENTING ALTERNATIVE SOLUTIONS

The advocates identified other solutions and methods that would be more appropriate to deal with Aboriginal mothers involved in child protection cases. When asked about alternative dispute resolutions

methods, the advocates were much more aware of the potential of alternative dispute resolution methods compared to Aboriginal mothers' knowledge and understanding of these alternative dispute mechanisms. The merits of Family Group Conferencing in particular were identified as having both a positive process and outcome for all involved. It is a process that allows families to maintain some element of control over their family situations as this advocate exclaimed:

We've done the family group conferencing. I've used that quite a bit and mainly with the general agency. I've had a number of referrals over the past few years and that has been highly successful. Families have an opportunity to come in and develop the plan vs. the worker taking the control right over that ... taking that power/control away from the parent.

One of the advocates shared two instances where she had successfully used the Family Group Conferencing method to assist a family deciding on a permanent and healthy placement for the children of a FASD affected mother and to help a mother play a role in making adoption plans for her children. In both instances the mother and family felt involved and maintained continued involvement with their children. Her enthusiasm for this practice is evident in her narrative:

Yes! Yes! Yes! Family group conferencing I was going to tell you all about family group conferencing that's just my biggest success story. Actually, I'll talk about a couple of my cases that I feel really positive about. One of them, we used family group conferencing and brought a wonderful mom who is just really limited. She's a very nice person, but is dealing with all of these issues: poverty, mental health, drug and alcohol. Her own mother abandoned the family when they were young and she was raised by her Dad and likely FAS herself. Her child is FAS and the other ones might be affected ... without giving too much personal information. The family got together including her, her siblings, her father was invited to come, he didn't, including the father's side of the family, the father of the kids, they made a plan that the kids couldn't ... that she just couldn't look after the kids and she had to accept ... she had some serious health issues and they made a plan and it just happened at the same time I had a family who had applied to adopt who knew the father's family and I wanted to line them up, but I couldn't do that because I didn't know if they would like that or not like that. But, then that adopted mother phoned me and asked about those kids and it was presented at the family group conference and the family all was in agreement with those kids going to them. So, the outcome is: they have a placement in the community, they have access

to mom, to dad, to extended family and they have a permanent home. It's a great thing. The other one I was involved in was many years ago. A birth mother of three, a single young mom, very young, three kids ... decided to place her kids up for adoption and she picked out a family from the families I presented to her on a registry and that's been really positive and she's gone on to have contact with her kids here. They met her, before they met the kids. She's always felt that she had a big role in making the plan for her kids so ... and that's the most important thing is that people have to feel that their making a plan for their kids to look after them.

One advocate was surprised to learn that Aboriginal child welfare agencies do not often use Family Group Conferencing despite the support for its use among the co-workers in her office:

The co-workers in my office are really supportive of it because we've used it and we have achieved success. I know from speaking with the person that does it she's been disappointed that the Aboriginal agencies haven't used it. It kind of surprises me, too, that they haven't.

And some advocates note that lawyers do not favour Family Group Conferencing:

Lawyers aren't always big on the family group conferencing because they might think the mother is admitting to something or I'm not really sure, but I did have one lawyer say that he didn't think it was the ideal solution.

Another advocate recognized that Family Group Conferencing would be difficult to implement for Aboriginal women who are separated from their family or do not have strong family supports:

if they don't have supports ... I guess the other reason family group conferencing might be difficult is if they don't even have the supports to bring into a family group conference ... the adequate supports that are going to really help them.

And greater investments are needed for effective Family Group Conferencing programs and promotion thereof:

... but again there has to be money put into that so that it's a service that is available and that people know about it and people will ask for it maybe not that we have to promote it, but you know we have to promote it, but that it would be promoted enough so that people would know it to ask for it ...

While Family Group Conferencing was identified as a positive and the favored approach by the small group of advocates interviewed for this study, the need for more prevention services was equally identified as

being a much needed approach for working with Aboriginal mothers and their families:

Prevention services. We need that. When we have a family who can obviously identify that they're having some issues, they're having some difficulties why can't we provide them with what they're experiencing at that time ... the agency doesn't have stuff like that ... the only time they're going to work with families is when the child comes into the system...there's nothing in terms of prevention. There is nothing like if I phone the agency and say you know what I'm homeless right now, my kids are starting school next week ... I think there should be something in place where the agency doesn't necessarily have to bring the kids into care, but they can be assigned a worker and that worker can advocate or have an Advocate for someone to go to Manitoba Housing and say we have a person who is high priority here, she needs to get into a place. That's the only issue right now that she's homeless, the kids aren't being neglected, they're not being abused, but the agency turns you away ... I personally can speak to that. That has happened to me. You know what they told me, your kids aren't at risk here ... your kids aren't at risk ... we can't help you. I can't register my kids for school, because I don't have an address, I have no place to live so how am I gonna get up, wash and eat and feed my kids and get ready for work to pay rent, to get my kids to school? They can't help me? My kids aren't being abused or neglected, but they're on the border ... they're on the border and why? Why do we have to wait until ... what do I have to do? Beat up my kids, hit my kids? I don't want to do that, but that's what it's got to come to before I get any help? I was flat out denied.

Advocates strongly agree that greater emphasis on alternative ways of dealing with families is needed. While there is an emphasis on recognizing the safety of children first, there needs to be recognition too of how child welfare impacts on mothers. Ultimately though, in the end it is up to the mother to pull things together for herself as this advocate explained:

... when a child is brought into care, you have two victims. You have the kids and you have mom ... A lot of these moms for no ... a lot of them for no fault of their own ... aren't capable, aren't equipped to empower themselves at that moment to work on getting their kids back. Yah, the system is against them. The court system, the bureaucracy over runs the rights of the parents. That is the way our system is. I think that is terribly wrong. I think that is terribly wrong. I think we place too much on bureaucracy and protocols and certain standards ... But I also believe, there has to be an element of empowering the mother and she got to, she's got to deal with the shortcomings in her life and the unmanageability aspects of her life and she's got

to take the bull by its horns and ... she has to access the supports but with those access and supports she's also got to work with that and make changes as well! With the supports in place, a woman always suffers in silence and it's double hard for women but women are more survivors in this society than men ... Women are strong but they have to ... if that means temporary or permanently getting rid of negative aspects in their life, if that's a partner or whatever, for the sake of herself first and then her children, then she's got to make that decision.

Advocates believe that social workers, lawyers and judges have a part to play in developing alternative dispute resolution in child protection matters involving Aboriginal mothers and other families. However the advocates consulted for this study were just as adamant that Aboriginal mothers be involved in developing alternative processes. The following comments are illustrative of the advocate's perspectives:

I guess you should ask people that are involved ... people should ask what role they want to play or what ideas they have ...

Ya, let them [Aboriginal mothers] have a role, it's their families that they're dealing with. It gives everybody the opportunity to speak and given their desire ... their needs. And I think that's an important piece we can't be designing things from someone else's perspective; we need to be hearing it from the clients. Make them a part of the solution. Because if you're not part of the solution you are part of the problem.

Yes, they do. If these lawyers, judges and social workers make a decision in their careers to work in this field of work, I have no respect for these people that go into this field of work looking at it as an assembly line or what have you. You go into social work because you want to make a difference. You have to be creative in your ways and not just do it for selfish reasons and a pay cheque. Everyone has a responsibility and if you ignore that responsibility then you are part of the problem and you are part of a system that doesn't want to make changes and improvements.

I would like to see something similar ... something along the lines of a parental advocate's office, something along that line. Where ... yah, something along that line ... of a differential response, alternative dispute resolution, something along that line that works and helps parents.

The advocates consulted for this study indicate that more information should be provided to Aboriginal mothers about the child welfare system before child welfare become involved in their lives. Information about what to expect before, during and after the child protection court hearings needs to be more explained.

These are some of the advocates' recommendations about what could be doable to ensure more Aboriginal mothers are informed:

I think a handy-dandy little pamphlet ... in plain simple language ... if your children are apprehended ... I think there was actually something ... I don't know who put it out ... I remember seeing it ... it was a red and white thing and it was kind of like an advocacy thing ... not just child welfare and income security and all those things, but how to advocate for yourself and what you need to know, but I think something fairly simple and user friendly ... and if your children have been apprehended or the social worker comes and the other thing is that the agencies I think have to be more user friendly, too ...

I think we need to have some kind of a community forum and we should be trying to identify and collect that information from a lot of the parents who have been involved and here we have a group of professionals who are designing something that both parents are going to be using or accessing. I think we really need to collect that information and get some feedback from those parents. Whether it's surveys or telephone interviews, community forums or people to come and talk ...

... it is similar to the parental advocate office, something that they could go to where ... I mean even I have issues with some of the legal terminology; a lot of legal terminology goes right over my head. I mean I have had to go through the system when I was getting divorced, there were certain terms and I had to ask what does that mean at the end of the day, what does that mean, legally. Never mind that you have got someone who is not well educated in dealing with all these all issues that have put major stresses on them. Here I am an educated person, empowered and can work the system. I mean I've had problems so I can imagine someone who is totally disadvantaged and some of the most vulnerable people in Canada or Canadian society, I mean you have got to have some system in place that walks these peoples and is with them.

Definition of child welfare and legal explanation about the types of documentation needs would be helpful:

What warrants mean ... What neglect and permanent placement mean ... and I think now, and I don't know when that changed, when parents are served there used to be the little ticky boxes where they would just identify which order it fell under, now they tick all boxes, so, I find that very confusing. You actually have to read through your papers to find out if this is a temporary, a permanent or a guardianship order, now they just automatically x all the boxes. I think it's more for the agency to kind of go ok, well you know what it was a temporary, but now we're going for permanent and just in terms of a lot of parents don't know that

there's certain timelines and certain age groups where they can only do so many temporary orders before it turns into a permanent order, I think a lot of them don't know that.

At the end of the date, whatever system is in place, it needs to ...

I believe people who write the laws and the policies behind those, that type of critical work, are so out of touch or not in touch with the realities and with the new millennium and how life is besides the big cities and their own standards of living. I don't think they are in touch with that. They judge these people and set up systems that are more penalizing and a lot more expensive at the end of the day. I mean we got foster parents out in the country, these are multi-millionaires making thousands of dollars every month, living in beautiful homes with 4-5 kids in care ... you know, relishing out of the child welfare system, just getting rich, you could take that money and you could put it into parent advocate services that are much more cheaper I believe, less expense for the government. And in the long term saving the government a lot money. I don't believe the government wants to look at it that way. Now people aren't going to like this next remark ... but I see with the current government, it's even gonna get worse because we know that one of their ideologies is to assimilate Aboriginal people into mainstream society and by doing that and we know, we saw it with the 60s scoop, and we saw it with residential schools, you take children away and you assimilate them. But if the kids are not receiving the supports and connecting with the culture, they will struggle. Some of them will struggle. Will they end up in the penal system after? Possibly? It's gonna cost more money at the end of the day but out of site, out of mind.

One advocated stated that mothers need to be more aware of the resources available in their communities. There are many places where mothers can go to where her skills as a mother are valued and where she can obtain the support she needs to be a better parent and in the process learn from other parents. She further noted that parenting needs to be better valued in our society:

I think we ... I think --- [name of community organization removed] is phenomenal in what it provides ... like there's all kinds of services here. Like there's parenting classes, a doctor and all that kind of stuff. But just a place to go. Take your kids, hang out, and be around other moms who are being very intentional about mothering. Valuing mother. Parenting. See I ... one of my soap box issues is that I don't think parenting is valued in this society. It's like something routine and everyday that you do and "oh well" if you don't do a good job of it and "oh well" if you don't have the supports you need to do a good job

of it. But it's so fundamental and the effects of having well brought up children are so far reaching. That I don't think we could afford not to be very supportive of parents in their parenting. And there's other pieces to that too. Like you said about the bonding and attachment. I don't think people are aware enough of the importance of attachments. The fact that women are discriminated against, financially, we're expected to raise children or we're expected to do it without much money. You know like, the really big systemic type stuff.

In addition to ensuring supports for mothers and recognizing the barriers that poverty poses for families, this advocate feels more adequate housing would be a practical solution that would aid in bringing more stability to Aboriginal families involved with child welfare:

Another thing that is sort of a little more practical but again systemic is housing. If a family is not well housed that's going to play into all kinds of other issues. This is another one of my bandwagons... frustrated as I am about protection. I have seen so many families when they get into stable housing, stable and decent housing. Really turn a corner. Like it just changes their life when they manage to you know, live in a decent place and stay there for a while. And know that when they lock the doors, it's actually going to be locked and ... women who have never managed to keep a violent spouse away from them, actually have a lot of security system or a door they can lock, can actually keep that man at bay. Housing can make such a difference. And then that translates into child protection issues as well. The violent thing, definitely does, that also when a mom is living in a house or a home, often an apartment, where it's clean she tends to be more likely to keep it clean and feel more confident that she can get the laundry done and all that kind of stuff. And then the kids have clothes to go to school. You know, just kind of ... Yeah, housing is one of those fundamental building blocks. Yeah. For having safe, stable families that have good healthy outcomes and wellbeing for their children.

The need for more advocates and supportive social workers are identified as important solutions that should be implemented in the future:

Within the system itself, if we had workers who were on mom's side. And be supportive of mom. That would definitely help them navigate the system. If you had a worker that did what I do, you wouldn't need me. Barring that, they need more advocates. I'm not funded to advocate, I'm not even qualified to advocate. I'm only supposed to liaison. Know what I'm saying? There's no funding for advocates at all. Most of our money is government related. Government doesn't want advocating against their systems.

In closing an advocate commented that this project on Aboriginal mothers' experiences with the child welfare system in Manitoba should be shared extensively with Aboriginal women and communities. This project provides Aboriginal mothers with an opportunity to share their experience and provides Aboriginal mothers with an opportunity to heal from their resentment, anger and frustration while at the same time recognizing that Aboriginal women already have incredible resilience and strength and that this should be acknowledged and celebrated:

... I think maybe we could have done a little more work in terms of promotion of this particular project whether it be T.V., media, newspapers, radio, because this is a very prevalent issue right now in our communities and I worry that we're just touching on a few individuals, this is a much bigger issue ... if I had had time, I probably could have got about twenty people ... You look. We have a children's advocate, we have a foster parent network, we have a social workers association ... we really have nothing in terms of parent groups. A lot of these women that you've interviewed and done these talks with, for them this is really a first opportunity to share their experience and a lot of them are still carrying resentment and anger and frustration ... it's stuffed in there and there's nowhere for them to go and get rid of it and it just adds and it's that whole cycle again ... And they have been so screwed over it makes me wonder how they are still alive. To me that stands for something ... that strength, that resiliency ... and they're still alive today with everything they're going through and everything they've gone through.

CONCLUSION

The views and opinions from the advocates interviewed for this study have provided us with an incredible wealth of information which helps us understand Aboriginal mothers and grandmothers' experiences from a different vantage point. Their observations reiterate the stories that Aboriginal mothers shared with us. The impact of child welfare involvement on Aboriginal mothers they note, caused fear, anger and stress with tragic outcomes in some cases. Advocates note that lack of support services, parental education and other barriers in the social services system can put many Aboriginal mothers at risk. Advocates note that child welfare staff appear not keep Aboriginal mothers informed when they become involved with the system. They indicate seeing a multi-generational impact on Aboriginal families with respect to child welfare involvement. Advocates note that there is a positive instances of interaction between Aboriginal mothers and the child welfare

system but note that these individuals do not stay very long pointing to the instability and high turnover rates that are characteristic of child welfare systems across Canada.

Advocates stated that there are many resources and supports in the community (most notably off reserve) that are available to mothers involved with child welfare. Knowledge of these resources and supports may not exist or they are difficult to access for those who are unaccustomed to seeking out these kinds of resources. However it is clear to those that advocate on behalf of Aboriginal mothers involved with the child welfare system that it matters where mothers reside when it comes to accessing resources and supports. Equal access to resources and supports is not possible in all cases. For Aboriginal mothers living in northern and on-reserve communities, distance is a factor but it is also a jurisdictional and a funding dilemma that other mothers residing in other areas of the province do not have to face. For instance, the availability of prevention services on-reserve for mothers and children is just not available because the federal government only funds services for children who come into state care. There are no services to help families in crisis deal with their circumstances. The Federal government does not fund First Nations Child Welfare Agencies and/or communities to provide prevention services to keep children safely at home. Where resources and supports are located and who can access them can be very confusing and at times prevents Aboriginal mothers residing on reserve from being able to access and benefit from them. In addition, the system is so overloaded right now that it is impossible for the First Nations Child Welfare system to be able to put supports in place for on reserve Aboriginal families who need them.

Advocates noted that it is the social worker's responsibility to look into the cultural background of the families they are dealing with however, it was noted that lack of understanding about clients' cultural backgrounds is often hampered by the fact that many social workers come to the profession of social work without an understanding of how demanding the workload can be and consequently many do not stay in their positions for very long to be able to practice cultural competency with the families they deal with. Culture was especially noted as important for Aboriginal children who are currently in the care of child welfare agencies or in cases where Aboriginal children have been adopted as it directly impacts on the development of self-esteem and identity development in Aboriginal young people.

The advocates note that lawyers who represent Aboriginal mothers in child protection matters are typically procured through Legal Aid. Advocates state that Aboriginal mothers are frustrated by the legal elements associated with their cases in addition to dealing with the multitude of waiting lists to attend programs and treatment services. Advocates have noted that lawyers don't always take into account what Aboriginal mothers want. It appears to be less work for lawyers just to have their clients go along with what the child welfare system want because the lawyers they cannot afford to spend extra time on individual cases.

When asked about alternative dispute resolutions methods, the advocates were much more aware of the potential of alternative dispute resolution methods compared to Aboriginal mothers' knowledge and understanding of these alternative dispute mechanisms. The merits of Family Group Conferencing in particular were identified as having both a positive process and outcome for all involved.

The advocates consulted for this study indicate that more information should be provided to Aboriginal mothers about the child welfare system before child welfare become involved in their lives. Information about what to expect before, during and after the child protection court hearings needs to be more explained. One advocate noted that mothers need to be more aware of the resources available in their communities. There are many places where mothers can go to where her skills as a mother are valued and where she can obtain the support she needs to be a better parent and in the process learn from other parents.

In closing one advocate stated that this project on Aboriginal mothers' experiences with the child welfare system in Manitoba should be shared extensively with Aboriginal women and communities. This project provides Aboriginal mothers with an opportunity to share their experience and provides Aboriginal mothers with an opportunity to heal from their resentment, anger and frustration while at the same time recognizes that Aboriginal women already have incredible resilience and strength and that this should be acknowledged and celebrated.

The comments provided by participating community advocates are extremely insightful and valuable; however, readers are again reminded that given the small sample size the views expressed by participants should not be considered fully representative of the population of community advocates working with Aboriginal mothers, families and communities in Manitoba.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 6: LAWYERS' PERSPECTIVES

INTRODUCTION

This chapter focuses on interviews conducted with six lawyers working in either private practice or under contract through Legal Aid respecting their understanding of the child protection issues facing Aboriginal mothers and/or grandmothers using an open ended questionnaire (see Appendix E). Given the workload and busy schedules of these lawyers, the interviews conducted were relatively short allowing the researcher to capture only general perspectives on various issues and concerns that stand out in the cases where the lawyers have legally represented Aboriginal mothers and grandmothers in child protection cases before the courts.

From a review of the written transcripts of their interviews, we have been able to draw generously from their experiences and as a result quote extensively from their comments. Their perspectives provide insight into some of the challenges faced by both Aboriginal mothers/grandmothers and their legal representatives when involved in child protection matters. Given the lawyers' own schedule constraints, the timeframes of the project and the amount of time allotted for the interviews many of the lawyers pointed out there was just not enough time in which to cover all aspects of the complexities of the issues they face in representing mothers in child protection cases. The italicized texts on the following pages are quotes drawn from comments made by the legal practitioners who participated in this study. These comments have been lightly edited for grammar, spelling, and/or for punctuation. This editing does not change the content or intent of the original comments.

Although the lawyers provide valuable comments which could inform policy and practice the small sample size means their feedback cannot be interpreted as being representative of the population of child protection lawyers in Manitoba.

The participating lawyers each had upwards of 20+ individual years of experience working in family

practice primarily with child protection cases. Of the six lawyers interviewed only one is an Aboriginal person. Some of the lawyers said they were interested in child protection cases because of the seriousness of the issue for parents and because they had a genuine interest in helping families put things back together after child welfare intervention. One of the lawyers indicated that work in this area had dropped off because of the child welfare system changes resulting from the Aboriginal Justice Inquiry – Child Welfare Initiative. After many years of practicing child protection lawyer, another lawyer said that for professional reasons he switched to practice focusing on criminal law exclusively. All of the lawyers interviewed in this study expressed concerns about the way the child welfare system operates. A few outwardly expressed a common distrust of the child welfare system given their experiences defending Aboriginal families in child protection matters as these two lawyers unequivocally state:

I don't know why this is, but I just don't seem to trust CFS. I have a mistrust of them. I don't think their motives are very pure at times.

... it's hard to see parent's children apprehended. It's tough. I'm very distrustful of CFS.

Through a review of the transcript of the lawyers' narrative accounts of their experience representing Aboriginal mothers/grandmothers in child protection was organized into seven themes. The data was transcribed for ease of analysis using NVivo software to help code and develop themes that emerged from the advocates' narratives. These themes are identified as follows:

- Overrepresentation and systematic biases;
- Navigating and understanding child welfare and legal processes;
- Legal aid challenges;
- Accessing resources;
- The role of courts in child protection cases;

- Knowledge of alternative dispute resolutions in child welfare; and
- Ideas, suggestions and solutions for change.

The following sections outline participant comments by thematic area.

OVERREPRESENTATION AND SYSTEMATIC BIASES

At the outset lawyers were asked whether or not they were aware of the high numbers of Aboriginal women involved with the child welfare system and to share their understanding on this phenomenon. Participants acknowledged that Aboriginal mothers are overrepresented in child protection matters, however most of the lawyers note this has never been measured by the courts, lawyers or even by the child welfare agencies themselves. As the following quote demonstrates, a significant proportion of Aboriginal women may be present during the child welfare dockets heard every Monday, Wednesday and Friday morning at the Law Courts:

I never sat down to sort of figure out what the actual proportion is on the dockets. There are 3 child protection dockets weekly now, Monday, Wednesday and Friday mornings. They are all relatively busy. You probably don't see more than about 25 people on one of those dockets. That would be considered a small docket. And that can go all the way up to the 50 and 60 range ... which could be considered a really busy one. I've not bothered to go through and sort of figure out how many of those people are Aboriginal. Of course, you can't always tell that by the names. But um, I would venture a guess that it's a sizeable proportion and if you told me it was a majority, I wouldn't necessarily dispute that. I would guess that that's probably accurate.

The same lawyer reiterated that the overrepresentation of Aboriginal women in child protection cases didn't surprise him.

Yah, that doesn't surprise me. I mean most of the people that you see there, are Aboriginal. There's a ... proportion that aren't but most of them are. And it generally it's Aboriginal women. There are cases where there are both parents involved and there's the odd case where it's the father that is involved. But most of the time it seems to be that it is the agency on the one hand and the mother on other ...

The lawyers interviewed said that although they did not perceive there to be any systematic biases against Aboriginal mothers or grandmothers specifically they were nonetheless subject to systemic biases against all Aboriginal peoples:

I believe there are systemic biases against Aboriginal peoples which would include Aboriginal mothers but it would also include Aboriginal men. I would have to include Aboriginal men. So I don't like to phrase it systemic biases only against Aboriginal women. ... Yah, like I wouldn't say that Aboriginal women are more discriminated than Aboriginal people.

The lawyers stipulated that any systematic biases that had previously existed may have been dissipated due in large part to the Aboriginal Justice Inquiry which resulted in clients being able to choose the most appropriate services from culturally based child welfare organizations regardless of where the client was located in the province. Although this progress is encouraging, one lawyer noted inconsistencies in the quality of practice

... many of the Aboriginal agencies that weren't that busy in the past but now have government funding and I guess for lack of a better description, are newer agencies ... they don't always, with all due respect, know what they are doing. You can have a young Aboriginal mother who thinks "okay, I have a connection to a certain community ... at least I'll have someone with my own cultural background and maybe I've got someone who is familiar with my home community that will help me." But in practice that doesn't always play out that way. In fact you may get a social worker who maybe doesn't have any clue about your home community and may be of the same cultural background as you but maybe has limited social work skills and can kind of cancel out whatever cultural aspect that may provide. And unfortunately I have seen that happen.

The lawyers noted that the changes in the child welfare system did not necessarily equate to real change for some of the Aboriginal mothers as reflected in the comments made by these two lawyers:

To give you a ridiculous example ... a particular woman selected an Aboriginal agency when the shift was happening to all these Aboriginal agencies ... she didn't want to deal with Winnipeg Child and Family Services ... she had nobody of the same culture within that office. So she picked whatever Aboriginal agency it was ... What turned out happening was, that that agency took over the same office that Winnipeg CFS had had before and because most of these Aboriginal agencies when they came on stream, did not have enough staff, they seconded people from Winnipeg CFS. And so you have someone who is saying "I can't deal with this social worker and I can't deal with this agency and I want something that is more connected to me, I'm thinking this agency." So that all happened and then they find out they have the same social worker, same supervisor, and they are in the same

place. They're going to the same place, they're seeing the exact same people, and they're just working for a different agency.

... what I've noticed too is that when the process first started, clients were given their choice – uh, they could choose to go to a different agency and a lot of times the clients have regretted their choice when they did choose to go to a different agency because they found they were still dealing with the same worker as when they were from Winnipeg. So there really was no difference or very little difference in terms of how that agency treated them.

Another scenario described by one of the lawyers interviewed point to similar conclusions. In these situations it was acknowledged as a real barrier:

... it's difficult for a 35 year old or a 30 year old Aboriginal woman who grew up in the inner city whose difficulties that have caused her to be in the system are because of issues she has been dealing with her whole life, to go to court and try to talk about how does she get her kids back and the person she's talking to is a Caucasian social worker, who is 22 years old, just out of the University of Manitoba, who grew up in River Heights. The person, the social worker, may be very well meaning and may have good skills but these two people are from different worlds. I ... I think there is a systemic bias because they are still coming, not withstanding their social work training, from a particular frame of reference in terms of their background and what they think is acceptable and what they think isn't acceptable and cultural practices aren't factoring in. I mean there is a problem there.

One lawyer suggested that systemic biases will continue as long as the child welfare system remains the way it is, even despite the current restructuring and extended mandate of Aboriginal agencies because the legislation and the way the system is funded prevents real change:

Because one of the problems with the old system is that it didn't provide for preventative services. It provided no motivation to prevent children from going into care ... It only starts money flowing once it is deemed a child should be put in a foster home with foster care ... it pays for the social worker to do the paper work to go to court, it pays for the lawyers to go to court ... and the whole thing. So it is wrong, it's wrong because it is a financial incentive for the agency to apprehend children and it motivates them to shirk their responsibility to try to prevent the need for children to be apprehended. So it is a very bad thing! They are really in a conflict of interest because they are a machinery, they're ... they're an institution, they have staff, there's rent to pay, there's ... gas to pay, telephone bills to pay, taxes, ... people to pay – these all must be paid. How do you pay them? You pay by

apprehending children. And ... so ... this whole ... evolution thing, it's really ... changed some of the faces ... although, still a lot of white faces just like it was before but you know, you have some ... Aboriginal social workers. But unfortunately the system is the same and the problems are still the same because ... because the Aboriginal child welfare agencies were ... forced to ... honour the system and the law the way it is set up ... A big problem is in advocacy because there aren't really many people there to advocate in the interest in Aboriginal child and families and when you create Aboriginal child and family agencies, they become in conflict of interest because they have all this money flowing to them. So there's incentive to have this machinery and probably in reality they are not in a good bargaining position. You know the government really has them over a barrel. What can they do really cause the government is like 'it's my way or the highway,' you know, 'we're prepared to devolve child and family services to you but it's my way or the highway.'

NAVIGATING AND UNDERSTANDING THE CHILD WELFARE AND LEGAL PROCESSES

Many of the lawyers note that the Aboriginal women involved with the child welfare system initially present as confused about the legal process once child welfare has apprehended their children:

Sigh ... I don't know that I can say for sure that they are. Part of my job is to try and make sure that they do ... There are many who present initially to me as confused and not understanding exactly what the process is. And I can certainly and do explain the process to them in terms of how the court proceeding will work, what their options are legally, what the up side and down sides of those options are in terms of how they want to deal with the case. I mean the process tends to involve my first appearance being a request for particulars from CFS and we get that in writing and then I meet with my client and we go through it. And then that's kinda when once I have the details of why did they say they apprehended and what is the plan, we can sort of talk about all the options and kind of go from there. At that point usually, hopefully, they are starting to understand things better because we are sitting down to discuss it. I would say, certainly, a significant number present initially as either not understanding exactly what the process is or what's now going to happen. Some cases are certainly presenting as 'I don't know why this happening,' not just, 'I'm in the process now and how's it going to work, but why am I in this?'

Lawyers noted that mothers do not understand what the child welfare or legal process is, nor do they

understand what is happening to them and why. Many times this confusion is justified as these two lawyers articulate:

And that usually becomes clear once you get more information from child and family services, although, depending on which agency you are dealing with and then depending which social workers you are dealing with, you get, sometimes very detailed information, sometimes not so detailed and you have to ask for more information. So there is times when I get particulars from CFS and I'm kind of looking at it going, well, it doesn't make sense to me either so I can sometimes understand why they might be not really knowing what is going on.

They're very, very confused. Very confused as to what is going on and I think a lot of that depends on the worker they have too. If the worker is sitting down and working with them and explaining things to them, it is significantly better but um ... I have not found that to any great extent with a lot of the workers. They just don't seem to have the time or they'll have very quick meetings or no meetings at all. You'll get the particulars; the worker may have said something entirely different to the mother. The particulars were done by someone else or someone entirely different or it's just total exaggeration of what's actually happened. So there is a lot of confusion, a lot of hurt, a lot of just resentment, you know. They're not working together at all. They're just not working together, it's like they're working at odds with each other. But they're not, they're confused with the process; they are confused as to what the expectations are. I have one right now where the agency is saying 6 months and another worker is telling her a year and one worker ... she's got two workers she's dealing with. She has no idea if she is coming or going, none whatsoever.

On the other hand one lawyer indicated that many of his clients are able to provide enough direction about what they need from him in presenting their case in court. In this regard he noted that,

Some are very vocal and some are very articulate, more so than I am. ... and some are very quiet. People are people. Some people are very quiet by nature ... no matter what their background is. There was a case ... she was very vocal, let me tell you something, she could've very well have been a lawyer.

LEGAL AID AND CHALLENGES

The lawyers stated that they came to represent Aboriginal mothers and/or grandmothers through the Legal Aid process which means that the Aboriginal women in question would have to apply and qualify, as being in financial need before getting appointment of a Legal Aid lawyer as these lawyers iterated:

Well, normally we get Legal Aid certificates sent to us from Legal Aid Manitoba. Some of them are appointed ... Legal Aid phones us to ask if we'll take them over or others are referred to us. Some of them are former clients. There's a number of ways that we get those people.

What happens would be, an Aboriginal woman, for example would have her children apprehended for whatever reason. The legislation mandates then that they have to serve her with court documents and give her an appearance in court within a certain period of time. Uh, they do that, once she gets served, she would either come here to Legal Aid and make application, in which case, if she qualifies financially, it would come to me. Or they have a paralegal that goes to all the dockets and takes applications there. So what will often happen is that the person will show up in court but they don't yet have a lawyer and so then, there's a person from Legal Aid there who can take the application. There's a child protection office within Legal Aid ... usually where the people would first be directed to. ... They are appointed a lawyer and then it ends up with me.

Some Aboriginal mother's and grandmother's accessed legal aid lawyers even when other alternatives were available as they were impressed by the lawyer's ability to help women in dealing with child and family services:

I had a reputation as a good lawyer so people would come to me. ... Um, they would have had their children apprehended by child and family services and uh, their children would have been placed in foster care. But they would have come to see me if I could get their children back.

One lawyer stated Legal Aid clients were primarily Aboriginal people. He explained there are many systematic problems associated with the Legal Aid program that sometimes impact more negatively on Aboriginal mothers presenting with child protection court related matters. For example, legal aid lawyers need permission at almost every stage prior to advancing a case to trial. These are administrative matters largely outside the control, scope and abilities of mothers and lawyers to change.

There are a lot of systemic problems you know, and most Aboriginal mothers are stuck with the Legal Aid program. The Legal Aid program operates on a tariff. And that tariff is very low. It's basically on a case by case basis. And further when a lawyer is given permission to represent an Aboriginal mother or any person, but the fact is the majority ... of the clients of Legal Aid that contact a lawyer are Aboriginal. Whenever that is done, the lawyer gets Legal Aid permission on a condition. It's conditional – it's always conditional. It's conditional that the matter will not

be taken to trial without prior approval of Legal Aid Administration and to get that permission you must send a memorandum setting out the lawyer's opinion why there is merit in going to trial. And uh ... um, so there are cases where ... An authorization is requested ... so that's like putting pressure on the lawyer to settle case – you don't know if you'll get the permission. You know, then you might lose the business PR. You'll say, okay I'll take it to trial and then at 3 week later, you'll say well sorry I can't take it to trial now cause I won't get paid for it. And the fees are very low and it's not very conducive, like if the lawyer were to spend a lot of time with a client generally, they'd lose money ... There is very little incentive, like financial incentive for the lawyers working for the Legal Aid program to put a whole lot of care and attention and improve their case. And one of the historical problems with these legal services are that there is usually, a entitlement of certificate authorizing the Legal Aid fees. Only at the point of time when the apprehension actually occurs so if an Aboriginal mothers goes to see a lawyer because a social worker is threatening or harassing them over a proposed apprehension, most lawyers would reject your case at that point. But yet that is usually the point where a lawyer could do something that would have the ability to change the course of that case and do something.

Many of the lawyers took the opportunity to voice concerns about some of the problems they've encountered while doing child protection cases with all people through Legal Aid:

This is a very, very ... complex and very involved field so there are many, many sub-issues. ... There are a lot of hypocrisies ... in the system. One of them, one critical ... is the change in legislation by the provincial government around the year of 2002; I'm not sure what year it is, which historically provided that when a child is apprehended a hearing or trial must be heard within 30 days. Well they changed that two years ago to 21 days. ... The fact is that for many years, child protection files would typically take at least 6 months to 9 months at the earliest to be set down for a hearing. In other words the legislation was repeatedly ignored, repeatedly by matter of practice, it was practice to ignore the legislation that says that when a child and family worker apprehends a child the matter must be heard in 30 days by a judge to decide whether the child goes back to the parent or whether the agency gets a temporary or permanent order of guardianship. That was never done. In fact, in 23 years of practicing law in child and family service law, I can tell you not only, and I've represented many hundreds of Aboriginal mothers, I can tell you not only have I not experienced one case where ... where a parent receives a hearing within 30 days. But I can look you in the eye and tell you that I have never even heard of such a case ever happening in the Province of Manitoba. So if you could do some

research and find and report to me the particulars of a case where a hearing was held within 30 days, I'd be very interested to know about it because I've never heard of that happening.

He further added, mothers are not really given a choice and delays tend to work against them.

There is a provision that prior to the expiration of the 6 months order they [CFS] can go back to court and seek a 6 month extension. So I think they feel oh well they can get it extended anyway so they'll normally apply for a 6 month temporary order and require the parent to go through programming and other conditions ... The hypocrisy is that your Aboriginal mother is given a choice. They can go in front of the judge now and consent to the 6 months order and be promised to have their children back in 6 months or they can plead not guilty and ask for a child and get that trial in 9 months. To me it's a bit like the old star chamber where an accused person accused of a crime would be tried by ... being thrown in a well with holy water, blessed by a local priest ... if the person floated it meant that the holy water was rejecting the evil in that person and the person would be executed. If they drowned then that person was accepted by the holy water. So you're damned if you do or damned if you don't. So if you were the mother of a child and you were given the option and okay you can sign this document and we'll give you your kid back in 6 months or you could take it before a judge. Now the judge will decide whether you get your child back, you can order, or she can order you to get your child back or she can order a further 6 months. But in the meantime, the legislation says while you're waiting for your trial, the child has to remain under the agency by operation of the law. Which would you pick?

Even when Aboriginal mothers oppose the child welfare agency's court application, some would chose not to contest it in court as it can result in children staying in child welfare care longer due to delays in getting enough court time for trial than just agreeing. Aboriginal mothers may actually not be able to contest a court application because

In some cases there are legitimate reasons why it has to go to trial but ... in many cases, the path of least resistance is what's more effective. Not always but in many cases.

This lawyer cautiously notes that while some mother's chose the path of least resistance (choosing not to challenge the child welfare system in court). Least resistance is not always a short cut to getting their children back and may result in her children remaining in care longer than originally anticipated,

But then the question that I always have with that, is that I want to make sure, I want to make sure they're

understanding what the agency is asking them and whether it is something they are prepared to do and can do. I don't want them to be sort of agreeing to something and then coming back later and saying "well I didn't realize that that was what they wanted me to do." But you often will see is that child and family services will offer them something initially that sounds, sort of, somewhat appealing I guess in the sense that they'll say something like "give us a three month temporary order and here's what we want you to do." And then the parent is thinking "okay, and then after three months I'll have my child back." Three months isn't that long, it comes and goes fairly quickly. But one of the things ... one of the challenges for me is making them understand that you know, is that if you've got CFS on the one hand "we want a three month order" but on the other hand they've got, you know, twenty different expectations or something" that isn't gonna happen in three months so you gonna be back anyways.

Despite the circumstances, one lawyer indicated telling their clients to agree to the child welfare temporary orders so as to avoid having children stay in care longer than necessary as this lawyer reported:

Once the child is in foster care, and court papers are served on that Aboriginal mother, there is very little in practice and in fact and in reality that a lawyer can do because the system has already kicked in. And the lawyer knows that he or she won't get a trial for 6 to 9 months ... so, you know, ... I can almost say, you know, if you bring to me a hypothetical case, I can almost give you advice without knowing anything about the case. All I really need to know is are they seeking a 6 month temporary order and if they are, well then, you might as well just sign for it and get it done over with and get the clock ticking. If you sign a remand for two weeks, you are lengthening the order by another 2 weeks ... 6 months and 2 weeks. Now you want another remand? Its 6 months and 4 weeks? Another remand? Another 6 months and 6 weeks. And so on and so forth. So there would be little exceptions where it could be in the client's interest to do anything but plead guilty right away ... you know? Uh, it's the reality.

Other challenges identified by the lawyers with respect to doing child protection work included ensuring their clients complete the CFS expectations. This makes working for clients a frustrating endeavour as was noted by this lawyer:

... sometimes getting the client to come to the office, getting them motivated for the trial to come, getting them to attend their programs. ... I guess ... they have so many ... for instance like this last one I did, ... the dad was ... it was ----- child and family services seeking a permanent order and he was at ----- House which is a place where people go for bail if they

are on bail and it's a religious oriented program. And his charges were dropped without taking any of the programs and he knew CFS wanted him to complete these programs and he is alleged to have said to the person running the program "work is more important than my kids." He wanted to leave so he could work and make money whereas he could have stayed there and finish the program so CFS is going to have a field day with this. He was told to finish the program but he didn't. So to get them to finish the programs is a big challenge. It's frustrating!

The Aboriginal women in this study are not the only people who have encountered negative communication with workers in the child welfare system, lawyers consulted for these interviews generally indicated that they too had difficulty dealing with social workers and the lawyers who represent child and family service agencies. One lawyer framed her concerns around this issue in the following way:

Social workers and their lawyers, they are extremely difficult to deal with. It's their way or the highway - with a lot of them, there doesn't seem to be a middle ground. That's the reason you take so many of these cases to court is because you cannot seem to just by discussions reach some sort of agreement otherwise ... just having a conversation with a social worker who feels that they are right, it's that way, there's no other way of doing it. So I find it very rigid. I think it's one of the biggest complaints I have is the rigidity of the system - there doesn't seem to be a lot of give and take. And I have found that from day one.

Other concerns brought up by lawyers in connection with child protection cases were in relation to situations where CFS does not disclose everything until the day of the trial.

Another thing I don't like about the system is ... It's not what the women don't know and what the parents don't know - it's what CFS is not telling them. Let me explain. CFS trials are trials by ambush. Meaning you don't know what witnesses they are going to call and you don't know what subject matter those witnesses are going to testify about and you don't know what to expect at the trial. ... So how can I prepare ... how can I conduct a proper cross-examination of this witness when I don't know in advance what they're ... what they're going to testify about? I don't have full disclosures. And similarly they bring in witnesses that ... I ask for a complete list of witnesses - they brought in extra witnesses that I didn't know about. Going on about historical things about my client - being mad at meetings, and threatening people at meetings and this, that and other. So you're saying ... you're asking me ... are there things that the Native ... women don't know ... the answer is yah, we don't know about all the witnesses they are going to call, we don't know

the full extent of the case that we have to answer to. Hey, they don't know what case they have to answer to because CFS is not disclosing everything til the day of the trial. Why? And in every other area of law, we get full disclosure. If it is a criminal case, the crown has to disclose everything and if they don't the judge can dismiss their case if they withhold evidence. And in civil cases, the other side has to disclose all the documents in their possession – if they want to claim that the document shouldn't be disclosed they have to give a reason and then you can go to court to fight to have it disclosed. We can have examinations for discovery, in other words, before the trial we can put witnesses under oath and question them and a transcript will be made as to what they say. So we know what case we are answering to. But CFS cases are totally different. There is no inadequate disclosure as to what is going to happen as to what case CFS has and then it makes it difficult to defend, to represent the client.

Another challenge identified is the child welfare system's lack of communication with extended family members who are interested in providing care to the child or children who were apprehended. The lawyer who noted said this was a major concern for many family members who came to him wanting to help the mother and the children upon hearing of the apprehension by child and family services:

... Through my practice, in 23 years, I've seen it as repetitive issues. One of them is when a parent is struggling to provide adequate care to a child; often they have extended family resources such as aunts, uncles, grandparents, who are willing to fill in temporarily and offer support for the child in question. And often family members have had a previous relationship with the child and the child knows them and would be comfortable living with them. And at this stage it would be maximized because of the family connection and so on and so forth. Often that happens. Now, one of the problems I see, I've experienced, is the lack of information and communication to those extended family members ... of their need, if they want to have custody of the child, that they should see a lawyer. ... And that they may be eligible for legal aid to pursue that.

Elaborating further, the same lawyer quoted above indicates that other family members (i.e. grandmother) are often unaware of the proper procedures to ensure their interests in child protection court matters suggesting that mothers and extended family members require user friendly information on the court and child welfare systems.

Another common response is well the social worker took our name and said they would look into that and they would consider us. Now the problem with that ... there are serious problems with that. ... such

statements that the ordinary person would get from that is that 'you don't need to do anything right now. You simply wait for us to think about it, we may decide to give Johnny to ... Or when court comes along we'll go ... so I don't have to do anything, I've already told them so they know.' So, I've had very many cases where those extended family members have latched on to the hearing 9 months later and they come to see me and they say, well you know the social worker said, just come to court and also said they would consider us as a placement. So I went to court and nobody called us and nobody asked us to speak, nobody called us to come in. See where I'm getting at? A lot of Aboriginal people, you know, having experienced a history of authority, being under authority ... they kind of learned to be kind of compliant ... you just wait here and speak when spoken to and they're kind of waiting for some authority ... they are waiting for some person ... to come up to them and say ... okay, please step this way. And ... you see ... but nothing like that happens because they didn't know their place, they didn't know the system, they didn't know what to do and they didn't do the right thing. What they were supposed to have done is 9 months ago they were supposed to see a good lawyer and start the paper work going. Because what they actually have to do is they have to file a formal court application, formal paper work, they have to file in the court office. They have to prepare an affidavit; they have to serve it on the agency, they have to serve it on the natural mother of the child; and they have to serve it on the natural father of the child and they serve it on the band of the child if the child was a member of the band. But they don't know that and then they need to make an application in the court to consolidate the guardianship application with the child protection proceedings. Because if they don't do that, the judge won't hear their application, it won't get heard. They also don't know that they have the right to make an interim emergency application ... after the 9 month trial. So, if they knew their rights ...

The low fee for service payment for lawyers taking legal aid cases is a problem:

It's not adequate pay. I think they pay me \$750 a day but that doesn't take into account all the preparation you put into it. It really doesn't. If you want to win a case you have to prepare. As I say to my client "failing to prepare is preparing to fail." ... But to prepare adequately for a case, I'm gonna say for every hour you're in court you might have to put in 3-4 hours in preparation ... so if we had 20 ... if we had 4 hours a day for 5 days between the hours of 12, the preparation would be 60-80 hours and she might have paid me \$4,000. So for 2 weeks work of preparation, that's a week in trial for 2 weeks to make \$4,000 plus part of that, 50 per cent goes to my overhead. So you can see right away it just doesn't pay me. ...

The way they do CFS, and I won't name them, tell me they do very well for CFS when they can settle the case right away because Legal Aid will pay them but the maximum amount is \$850. So theoretically there could be an apprehension, there could be one meeting with the client, two meetings with the client, a case conference and then the mom gets her issues together and CFS withdraws their application. So you could put in 3-4 hours and make \$850, or you could put in 7-8 hours for \$850, so it would pay but to take it to trial, it would not pay. Unless you like to do trial work, which I look to do. It's exciting. It can be frustrating but it is exciting nonetheless.

This comment raises concerns that the level and availability of legal representation for Aboriginal mothers and families can be impacted if lawyers are not adequately compensated for the work they are doing. It has consequences for all families and particularly Aboriginal women with child protection cases currently in the courts as this same lawyer noted,

I want you to consider this though ... and I'm speaking ... the amount paid to the lawyer is something you should consider and investigate into whether proper services have been provided for the client cause I'm going to tell you this. I've talked to lawyers who've done some CFS work think, "... as you well know, everyone prepares the night before – you prepare the night before a trial for a 5 day trial." Like I've told my client – failing to prepare is preparing to fail. Now the fact of the matter is if it does get to the point where it does get to trial, they're taken to trial because CFS knows they've got a solid case and your client has some serious issues. But at the same time, is that any reason not to prepare or not to prepare ...? I don't think it is. I think you should look into that. And ... some lawyers may just be lazy and not want to prepare. Lawyers are like anybody else. I think the prime reason is ... is that lawyers are not compensated adequately. As I've told you, if I'm spending 4 hours preparing for every hour in court and I've got a 20 hour trial, I've prepared 80 hours plus 20 hours in court – that a 100 hours. And to make four grand, half of which goes to my overhead, it just doesn't pay. It doesn't pay. And I think that is a big problem with the system.

...

But for the person who is representing the parent, it's very difficult. And if they are conscientious and want to do it right ... ask the lawyer. You go back and ask the lawyer if they have a one week CFS trial, ask them how many hours they have put in. Ask them that cause maybe that's another side of the equation. Maybe they [clients] are not getting proper representation. Maybe they're not. Maybe they're not putting in the hours. And then ask why. Why? And I bet you the reason will be that they are not compensated adequately. And

then that speaks very poorly of the system. It speaks poorly for that lawyer not to take on ... if I take on a job, whether I'm paid one dollar or one thousand dollars, I've taken it on – I should give a 110 percent. That's my duty. If I'm not prepared to give it a 110 percent I should not be taking it on, whether they are paying me peanuts or whether they are paying me millions. And I think that that is one of the problems, is that these lawyers are not adequately compensated and not putting in the hours. ... What else ... what else are you there for? And likewise with so many kids at stake you shouldn't be preparing the night before but they are preparing the night before because they are not being paid adequate and that goes to the quality of service ... this is a capitalistic system and you get what you pay for. If you pay peanuts you get monkeys. Legal Aid is paying for what they are paying and that might affect the quality of service and I think a full blown study should be done on that – a full blown study! I'd think you'd find the quality of services going way up if Legal Aid were paying better.

ACCESSING RESOURCES

Well all the programs are there for ... if they have ... for their issues ... to quit drinking, counselling and drug counselling ... so to that extent, I think there is something in place.

Many of the lawyers said they have limited influence in being able to help mothers and grandmothers access the resources needed to meet CFS expectations. Many of these program resources lie outside both of the CFS and Legal systems as they are operated by private for profit or not for profit organizations which may or may not receive funding from the provincial child welfare system. While there are resources to help mothers involved with the child welfare system, there is general consensus among the lawyers interviewed that child welfare agencies must step up efforts to connect Aboriginal mothers and grandmothers to these resources. For instance, one lawyer said

... they tell somebody what they should be doing but they don't take any real steps to follow their mandate which is not to just throw a bunch of expectations at them and say "here go do this." But to actually help them [mothers] and give them some direction because the legislation mandates they [CFS] should be trying to keep families together.

One lawyer in particular notes that some social workers and agencies take the perspective that mothers/grandmothers have to follow through on these expectations on their own without any help from anyone. He notes in this respect that,

The test is going be ... are they motivated, can they seek this out on their own and kind of make it happen

for themselves? I'm not sure I agree with that point of view. But I know there are some CFS workers who will say ... "You've got to do this for yourself because I need to see that you can do this yourself without anybody there to help you."

In some instances the interviewed lawyers believed that CFS expectations placed on mothers/grandmothers are unrealistic especially when CFS expects that mothers/grandmothers should find these programs and resources without help or assistance. For instance, one lawyer noted that many Aboriginal mothers recognize they need help but expectations become unachievable when there are waiting lists to get into numerous programs. It was noted by the lawyers that these programs are not operational all year round and further that some programs may not be as readily available throughout the province. This can have grave impacts on the mother's situation because:

If you want someone to take a bunch of programming, they are willing to do it and in many cases they'll say "yah I acknowledge I need that" but you know they can't even get in within 3 months. It's June and programs don't start again until September or they are on a waiting list somewhere, and so three months comes and goes and so they are no further ahead. That's part of the problem. Because they often will say "well three months is pretty good, I want to agree so I can get the time running" because once they consent, the three months starts to run, thinking, you know "that's pretty quick and I'll have the kids back" but it often isn't a realistic timeline. So that they are back in three months anyway and not much has happened through no fault of their own, just the logistics of trying to make these things work. So that is a challenge sometimes in terms of what is realistic in the circumstances.

As noted by this participant, despite there being some good community resources, waiting lists to receive these resources can prevent Aboriginal women from getting their children back in a reasonable time period despite good intentions and motivation on their part:

I think the community resources that are out there are probably very good but I don't think there are enough of them because one of the huge problems you face, such as getting into behavioural health or getting into Native Women's, there are these long waiting lists. And that's very hard to deal with, you know. ... a women, for instance, who an agency is saying "get into Native Women's, stay there a month and if things go well we'll return your kids or we'll look at returning your kids." But if they're waiting 6 months to get in that's not very helpful and people get very discouraged and that's sometimes when things can happen. They get upset and things start to fall apart. So is ... are the

resources good? Yah, I think they're good. I think Native Women's does a very good job. I think Behavioural Health, Ma Mawi, all those resources ... do good jobs – it's the waiting list that's the hard thing to deal with. And how do you tell someone you can't get in there for 3 or 4, 5, 6 months? And in the meantime the kids are going to be in care and they're not going to be returned to you until you're in there, you know? It's hard. It's hard for a parent to deal with that. Especially if they're trying you know ... if they're trying to do what's expected of them.

THE ROLE OF COURTS IN CHILD PROTECTION CASES

The lawyers interviewed for this study were asked their opinions on whether the courts were the most appropriate place in which to hear child protection matters involving Aboriginal families, particularly families headed by Aboriginal mothers/grandmothers. The consensus is that in some cases it is absolutely necessary to go through the courts but in most cases, it is not considered the most appropriate venue especially when it appears to be impacting on successive generations in a family. Particularly when, as one lawyer stated:

... you see the names on the dockets that you are familiar with from past cases you had, or you even see the next generation where you represented a mother whose teenage child has now had a child and they are now in the system. So I think you can look at that and say, if we're having the same people cycling endlessly though the system, um, it isn't always going to be the fault of the system. There are some people who have been given opportunities and haven't taken advantage of them but I think you have to say, some of it's got to fall on the system too. I think the same people recycling through it over and over again, same families and they are not able to get out of it – there's definitely a problem there.

At least two lawyers concurred by using stronger language to emphasis why they feel court is not an appropriate venue. Their opinions are very much tied to the emotional drain that court has on their clients,

I don't know that it's an appropriate place ... to hear any of these cases ... it's such a grueling experience for people to go through. I have people who I meet in my office who are 'gung ho' to go through trial and they phone me the night before crying 'I can't do it, I can't go through with it.' I've got people who love their kids but they can't get them themselves to my office to prepare. It's just too emotional. It's very hard on people to go to court ...

They know that it's going to go to trial and they know that someone, the other lawyer is going to try to

take their head off and that's a statement of fact. All their issues are going to be brought out and they have to know that and that could explain why ... they don't ... they just can't deal with it; to get them to come to appointments and meet with me and go over things. And that can be very frustrating for me.

The adversarial nature of the child welfare and the legal system is imposed right from the very beginning

It can be an overwhelming experience I think for a person to go there. They are presumably not in the best frame of mind to begin with because their children have been taken away which is traumatic to them and now they find themselves in the court house not really knowing for sure what is going on. And the first person they are sort of seeing ... presumably that they would go to, to seek some direction about what is going to happen, is the same person who took their children away, the social worker. So it's kinda like "hmm, I don't really want to talk to you but who do I talk to?"

Another lawyer observes that courts don't reflect the reality of Aboriginal mothers lives given the artificial and intimidating environment in which courts exist resulting in some mothers feeling demoralized thus eroding their ability to advocate and present themselves in a competent and positive light.

The courts as a whole, I think it is a very bad place to have a lot of these cases heard. Very, very bad. I don't think the judges have any idea really as to what is going on. I think they accept what the social workers and the agencies say ... I don't think they have an understanding that a lot of these Aboriginal people who are going on the stand, it's a new environment for them, they have no idea, you know, they are not professional witnesses; they do the best they can but this is their life; this is their children's lives. And to have it all encapsulated into 2 or 3 hours of testimony in a very artificial circumstance, I think it is terrible, absolutely terrible. Unless it is a really clear cut case, you know, it's very clear these kids should not be returned to this mom and dad because they're abusive - the kids are definitely not going to do well. But there are a lot of those cases that don't fall into that category. Mom goes on the stand, she can't articulate, she's nervous, she doesn't know what she needs to say ... it's not a good ... it's not a good scenario. It really isn't.

This same lawyer further noted that in the court system, particularly with child protection cases people are not treated badly because they are Aboriginal, it's because

... litigants as a whole in the child protection system, seem to be painted with one brush. ... you don't get a lot of rich people from Tuxedo who have their kids apprehended so you have a very hard comparison to make but I find that as a whole, people

just aren't treated very kindly or very respectfully when they are in that process.

KNOWLEDGE OF ALTERNATIVE DISPUTE RESOLUTIONS IN CHILD WELFARE

The lawyers in this study indicated that the legislation essentially mandates lawyers to deal with child protection matters in a specific way resulting in very limited use of alternative dispute mechanisms. One lawyer indicated that alternative dispute resolution mechanisms might be more useful before a child is apprehended but doubted that it would be helpful when children have already been apprehended, when parents' emotions are high and in the majority of the cases the matter is already in the court system. In many of those instances, it is clear that what parents want and what CFS wants is fundamentally different making it unlikely that it can be diverted out of the court system. Furthermore the lawyers have noted that in order for alternative dispute resolutions methods, like mediation, to work, you need to ensure parties are relatively equal in terms of the power:

But in terms of alternative dispute resolution, I don't know how you can do that really? I mean ... you'd have to get both parties willing to look at some other way of resolving it while at the same time ... I don't know how you would resolve the imbalance because what happens with mediation in collaborative law, in things like that, is you got two parties that are, in theory at least, relatively equal in terms of the power sort of balance. Whereas here [with CFS] you've got, you know government, mandated and funded agencies, against parents that often tend to be in lower socioeconomic situations. So there's a real power imbalance. The legislation gives a lot of power to child protection agencies and the delay tends to work against the parent because it is that much longer that they are not reunited with their child.

There are two other key reasons why alternative dispute solutions might not work in the child welfare context: i.e. 1) alternative dispute mechanisms can be time consuming, and 2) if agreement is not reached using alternative methods, parents "lose" valuable time in terms of reuniting with their children if it falls back into the court stream. As noted by one lawyer:

So if you defer something out of the court system, if there was a way to do that, into some alternative dispute mechanism, it may succeed in some cases, it may not. And in the ones that it doesn't succeed and you have to come back into the ... court stream, now you've just lost all that time where ... ultimately if the agency is wanting a temporary order of guardianship, or something along those lines, you've just pushed

back the timeline effectively.... there is also that issue of the time it is gonna take to try and do things that way ... it doesn't hurt the agency but it potentially hurts the parent. So it just kinda swings the power even more so to child and family services.

Although the need for alternative dispute resolutions is recognized by the participating lawyers it appears lobbying efforts to move in this direction have largely gone unheeded as explained in the following comment:

I've lobbied for many years for alternative resolutions methodologies including suggesting pilot programs out of the friendship centre. I think there is a need for mediation and other alternative dispute methodologies to be used instead of child welfare. ... I've lobbied for changes to the child welfare legislation and the practices in the court systems because ... a lot of them are prejudicial to parents. ... Most of which are unheeded to this day.

One lawyer pointed out that she has used mediation as an ADR approach in a few cases. Although she reports successful outcomes using ADR, she did not elaborate on the extent of how this worked in the child protection cases:

We've suggested mediation, we've had that happen in a few case and with very good results. Very, very good results but it doesn't happen a lot ...

Another lawyer indicated that alternative dispute resolutions is only available for family law cases,

... there are 2 lawyers in my office that do family environment collaborative law. So it's more of a mediation based kind of approach, try to keep people out of court and resolve it by way of mediated resolution. I guess, um, not so much in child protection just because of the nature of what it is.

IDEAS, SUGGESTIONS AND SOLUTIONS FOR CHANGE

The last section of this chapter highlights some of the recommendations made by the lawyers on how the child welfare and court systems could be changed to better service not just Aboriginal mothers but all parents who have to interact with these two systems. The comments collected include:

Create positions within agencies where case workers work directly with parents in a supportive way. These positions should not be carried by apprehending workers – they need to be entirely different because lawyers have noted that parents often have a hard time putting aside their emotions and working cooperatively with person(s) who have taken their children away. This person would need to be an ally to the parent.

The court system needs to incorporate more social workers who could assist families who show up in court without legal representation. These social workers could help direct mothers to the appropriate resources and help explain the legal process and what to expect next. Right now lawyers are too busy to attend to everyone waiting outside the Child Welfare Dockets because they are there representing multiple mothers. Such a suggestion, one lawyer said, would help alleviate mothers' concerns and provide her with comfort that "there is someone I can talk to who will give me some basic information and kind of explain to me what's going on and it isn't the person from CFS."

Implementation of court advocates similar to the court communicators provided on the criminal side of things.

I think the mediation aspect – if you have the right mediator I think is a very good alternative ... because I say, we have had that occur and we've had some really successful results where the foster parents were involved too, the social worker and the parents. I think that's probably one of the best alternatives, get it out of the court system;

Maybe better trained social workers and less of a work load for them too. I do find that with the child protection system it's almost not a helping system, it's an extremely adversarial system. That the social workers, who are supposed to be helping their clients, are sitting there taking notes, and you know. At the end of the day, they're going on the stand and they're going to testify against these same people that they're trying to help. It seems to be working you know, counter purposes – it just doesn't ... it doesn't work that way. You can't help someone and at the same time take notes and then hit them in the back then later on. I couldn't work in that situation. I don't know how these parents are expected to?

Why isn't there a Parents Bill of Rights? Why isn't there something in the Child and Family Services Act that says that any child welfare worker, welfare worker or social worker on behalf of an agency ... upon apprehending a child ... must verbally read to a parent, subject to an apprehension, the following rights and provide a written copy of the following rights: ... indent number 1, indent number 2, indent number 3, indent number 4 ... you have the right to apply for Legal Aid ... and then you have the right to contest it, you have the right to apply for access, you can ask for 24 hour access by motion so even though your trial is happening ... in 9 months, you have the right to have the child 4 hours a day, 8 hours a day, 12 hours a day, 24 hours a day. You have the right to ... call for extended family and they have the right to apply for guardianship and they have the right to apply interim guardianship and they have the right to apply for access.

It would take me a long time to speak to you about all of them but to summarize I can touch on some of them ... There needs to be many resources to assist both in counselling, providing respite care for children, general resource on ... issues involving ... babysitting, daycare ... that help with other ... family concerns.

CONCLUSION

The lawyers spoke briefly about their knowledge of the overrepresentation of Aboriginal women including whether they face systemic biases as a result of this overrepresentation. There is acknowledgement that Aboriginal mothers may be overrepresented in child protection hearings at the court level but they haven't honestly looked closely at whether this is so and why. The lawyers we talked to discussed how they came to represent these mothers in child protection cases. They offered comments on some of the challenges they have faced in the courts along with the problems inherent with the Legal Aid Program and whether courts are the appropriate venue for hearing child protection cases with Aboriginal populations. Discussions revolved on the expectations placed on mothers and grandmothers by child and family services system and the timing of access to resources needed to ensure women can meet the child welfare expectations placed upon them. Lastly, this chapter ended with the lawyers providing some ideas and solutions for changes in both the child welfare and legal systems. The insights shared by the lawyers in this study reflect the need to undertake more indepth research into some of the issues raised by the lawyers in regard to their experience representing Aboriginal mothers through the Legal Aid process.

The comments provided by participating lawyers are extremely insightful and valuable; however, readers are again reminded that given the small sample size the views expressed by participants should not be considered fully representative of the population of lawyers working in family law in Manitoba.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 7:

RECOMMENDATIONS AND SOLUTIONS FOR CHANGE

INTRODUCTION

This study provides a forum for Aboriginal mothers and other stakeholders to comment on the child welfare and court systems and provide recommendations for improvement. In this light we accepted participant comments as they shared them without triangulating with other information sources. These recommendations are not intended to provide advice on individual cases but rather to generally reflect the character of the child welfare system and court systems as experienced by the participants in this study. Readers should contextualize the comments made by all participants within the context of existing literature, legislation, resources including child welfare and court procedures and policy.

The themes identified in this chapter were organized as follows:

- advice from participating Aboriginal mothers to Aboriginal involved with child welfare;
- advice to social workers;
- advice to lawyers/courts;
- mothers' solutions and ideas for change; and
- recommendations based on the advice and experience of participating Aboriginal mothers.

ADVICE FROM PARTICIPATING ABORIGINAL MOTHERS TO ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE

Most importantly, many participants said mothers who become involved with the child welfare system need to always keep their children in mind as they move forward:

Advice? I'd just ... you know, as a mother, whatever choices they make in their life hope that it's for the kids you know. You know, for the kids – do it for your kids and leave your past behind and ... keep going forward, that's what I say.

You've got to watch the kids ... my mother and father always said take care of the kids first and that's what I've been doing. And you know I can't save all the kids in the world but ... if I could just keep one, save one, I think it will make a difference.

Other mothers advised women to stand up for themselves, so that they gain skills to cope, stand up for themselves, stay strong and learn to respond to child and family services:

But we have to ... we have to rise up, you know. We just have to ... to look at each day as a new day and to keep going and um ... if you have anger issues like I do, get some counselling. Don't do it for the workers or your kids, do it for yourself. So you know how to use life skills to better cope with life and the everyday little challenges. That's all the advice I can give.

Just tell them I've been through it and tell them to play the game, you have to play their game I guess there really isn't anything to do when they have your kids and they're holding the kids above your head. There's nothing you can do, do what they want you to do. ... and if you can get counseling.

Just stand up and no matter what they say or what they do don't let them bully you or make you feel like you're nothing. From my point of view, I think that Aboriginal women should stand up for themselves and say, hey, look I'm not a doormat, and I don't need to be treated this way. Stand up for yourself and tell them, hey, I'm a person too. I have a right to say what I have to say and I need to be heard and not all Aboriginal women are stupid.

Find out what your rights are. Don't be easy to let the CFS worker choose ... make your choices for you. \ You have rights; you have a choice to do whatever it is that you feel right.

Don't give up, keep fighting. Get as much support as you can and follow your own path. Don't follow what CFS tells you ... you know it's your healing journey, it's not theirs. And sometimes they try to make it about what they want. Well it is not about what they want; it's about what you want and what you're going through. And don't take no for answer, never. You

know if they say you're only allowed one visit for an hour once a month, once a week, whatever it may be. Don't take that ... just get up and get someone who is a great advocate to go with you to fight for more visits because that is showing them ... you know what, that no, I'm not giving up. These are my kids and I want to see them.

Some of the advice given to mothers was simply to remain strong, never give up and keep fighting for their children. And don't fall back on the old habits that got mothers mixed up with child welfare in the first place. Mothers were encouraged to get as much support as possible from friends and family and keep searching for resources and attending parenting programs as these mothers advised:

I don't know ... just to be strong and keep searching for ... solutions and like how I'm doing now, I'm just curious about it, I just keep having their, like when things are open to you and keep trying. Like with me, I'm doing everything I can once it comes to children and programs whatever I need.

... think like um ... I know it's frustrating ... I know it's very frustration and um ... and I know a lot of tears fall and a lot of anger issues comes up and um ... I think it's "never give up. Whatever the worker's tell you to do, keep doing it. Never give up. Keep searching out support groups. Keep searching out resources. Never feel sorry for yourself. Educate yourself. Don't stand still and just and ... fall. Do it for your children because it's your children that you've got to stand strong for. It's not the CFS or governments, it's your children." And I keep reminding myself each and every day and my partner helps me to realize that.

I think more programs would help em, more programs. Because there is a lot of Aboriginal women out there don't know where to go. I mean I meet a lot. I meet a new face every single day, every day and I just ... even at the Indian Family Center, cause there are a lot of women that don't know where to go or don't know where to go with their kids.

And you know ... just, never give up. I never gave up or ... you know ... turned to ... any kind of substance abuse or anything. Like ... It hurts you ... you damned right it hurts when they take your child and then maybe for comfort you do that. You have to have a clear mind ... you know. I just never gave up ... that's all. I wanted my baby back. No matter what. I fought and ... I did what they told me to do. See they didn't know that I was out there getting all these other good people to help me. They didn't know I was doing this at the time too. You know they were surprised ... oh, this lady is getting smart, she's getting the right connections ... you know. But before I didn't know, I just said, oh I'll do whatever you tell me – you know? Then I got smart, and I just said, well you know, once

I got the right connections, everything just went my way. But you just ... you just have to be really strong.

I don't know...I would tell her to get a really good lawyer, but if you got no money what can you do? It depends on the situation, if it was drinking all the time, I would say well maybe you should try to give it up for a while until you get your life back together. It would depend on the situation.

Resources, Resources, Resources are key said a few mothers.

I think it always comes down to this and this is within me, you just need to have the appropriate resources for the appropriate people and there's not enough advocates that ... that talk on anybody's else behalf that can't speak out for themselves you know. I wish MORN would've been involved ... knowing that I have that option ... so even if those options are there, knowing how to access them I think is really important. So it's like saying this is who ... to be able as a person you can instantly assess someone in a sense of ... you know what would be really helpful for you, you know? And to know what those things are. And I understand when you're busy. If I wasn't as resourceful as I was I wouldn't have found all the things that I needed. No one ever gave it to me. I like would seek it. So it's resources, resources, resources. Having that information available, you know, and knowing your rights a little bit and the child welfare act – there's not enough education about that act.

Seek out the services that that are gonna help you not help the child and family. Like I would ... the strong people that I ran across like, I would let them ... you know ... give them their names and numbers and ...

Um ... well I had to bug the shelter for resources ... asking like what else do you guys got, like you've got to have something else? It depends on the worker that you have that will help and I got this one white woman and oh my god, I have all these resources ... and she was like giving me all this stuff so I was just sucking it out of her right – like what else do you got, what else do you got?

Other suggestions point to keeping a journal and learning to document all communication with child and family services as this one mother adamantly advises:

I don't trust CFS workers. I document everything when they call even when I have visits with my kids. I document everything. I take copies of my letters when I write my kids. It's all documented. Sometimes I get sick of looking at the boxes and the paper work that I have around here. I wish I had a computer ... I'll just save everything in a computer. It's hard to trust those people.

Find an advocate, someone who can help you understand the child welfare process, where to get a lawyer, etc.

Don't give up. Seek all kinds of avenues to go down there's many from social to legal to culture to all kinds of ways ... Don't give up, but self-advocate search for other avenues ... Even find an Advocate to talk to you. Many Aboriginal women are too shy to or don't know that they have the right to do that. They just don't know.

I'd tell them to go to Aboriginal advocates. Somebody who would be able to speak for them or they would be able to get them to understand to speak their language to them and then know what ... because they understand in their language much better ... with a translator.

Ya, that especially, even swearing, how you say things verbally too ... you've got to watch what you say and how you say it. Anything you say can and will be used against you that's exactly how they are ... you have to work on to prove you're innocent ... but they will do everything they can to try to discredit you or discourage you from trying to do things ... if you're trying to get help from somebody else...if you go beyond them...if you're not asking them for help heaven forbid you ask somebody else ... no, I'm sorry but they can't come in ... when I tried to get my Mentor to come in with me to court it wasn't allowed ... know your rights because they try to strip you of anything ... find somebody that can help you that understands what the process of CFS and all their mandates ... another worker that has been directly involved in this ... get their advice as to what the process you should do and know ... to me I'll go as far as human rights ...

One mother advised mothers in similar scenarios not to take the first lawyer they came upon. Shop around for a lawyer and don't settle for any lawyer who is not familiar with child welfare law as this mother notes:

So ... and shop for a lawyer. Ask questions, ask a lot of questions. And I think for myself, my lawyer was a better criminal lawyer than he was a family lawyer. So make sure you have someone who has done more family stuff than criminal stuff. Because yah, my criminal lawyer, I've had him since I was a child and yah, he is not good at the family stuff.

Lastly, this mother suggested other mothers should embrace the experience with child welfare because it can only help in the long run to make mothers better parents and move mothers towards a position of power over their own lives and future as this mother effectively articulated:

I guess ... Like if anything, I just say embrace the experience because more often than not, we have to admit that child and family services gets involved because there is an issue. And rather than fight them the get go, can we just like take look at ourselves – are we really doing everything that we can for our children because we I think at times we are being really selfish.

And that we're still thinking "poor me" and that trickles down to our kids. And if I went toe to toe and bumped heads with CFS from the first contact I had with them, they probably wouldn't have given them back to me. But instead I was like, okay tell me what I am doing wrong, tell me what I need to do and I'm gonna do it. And then when I went to parenting and it was like 12 week requirement, and it was ... it is maddening to some people like ... people in that group who CFS said you have to be here. And then I was there on my own but who knows, they might have said later one, oh we would close your file but we think you should go to this first. So ... you know, I was just trying ... I knew other parents did that so, plus, I don't have ... like I said I don't have the maternal ... uh, anyways, what I'm trying to say is that when I went to the parenting class, I participated and I learned and I interacted and I embraced the experience. And it probably taught me a few things instead of just sitting there twiddling my thumbs and huffing and ... and just like why do I have to be here? Like how do I parent, and they're really giving you some valuable information you might as well absorb it because it can't do anything but make you a better parent. And ... when you go to those like those peaceful ... the same thing an 8 week requirement, but you know what I mean, you're going there and being there in body just so you can get that piece of paper. But there's a lot of like very valuable information and knowledge is power. Like empower yourself. If you're talking to your CFS worker, ask questions. You know and if they can't answer your questions right then and there, ask them to check into and follow up. Um, we need to team up with the people that are working with your case because they have the power. And I know that not all workers are great and click easily with their clients ... I don't know that would just be my advice is just embrace the experience you are going through instead of denying that you have problems, denying that you have issues, denying that whatever reason that they came for isn't happening, just embrace whatever extra services or opportunities are open to you because of that situation. You know, I'm sure, is just black and white to someone else's but that's what help make it easier because instead of sitting at home saying why me, why are they doing this, why, why, why? I was like making myself a structured life, you know, by making those appointments and following through with those commitments. I don't have enough time to self destruct.

ADVICE TO SOCIAL WORKERS

The mothers' narratives clearly state that social workers in the child welfare system need to give mothers more chances and learn to work with them to ensure the best interests of not just the children but use an approach that includes the best interests of mothers too:

All I have to say is that it hurts ... and give us a chance ... give our children a chance; give them to their biological mother.

Give them a chance ... give them a chance! Um ... if they're ... if they're doing good positive things in their life, um, if they're going to school or if they are taking anger management programs or parenting programs, anything! Give them a chance, you know. Meet them half way, you know. I know you have policies and rules you guys all have to follow but keep families together. Work with families, work with children, work with mothers or even fathers. Keep that circle strong. Um ... you know, that's all I can give advice for ... um ... Seek out your own Elder's advice. Um ... and I know it's hard because they are answering to the government and they are answering to the higher authorities and um ... I don't know. That's all I can say. Keep the circle strong. Work with the parents, meet them half way. Work with the mothers, the children.

when they took my children away, they should have had a sit down with me, whether it be by myself or with a support worker or a family member and say "these are our concerns but we're willing to work with you but we need you to do this and then we'll have a meeting and then ... um ... a plan." That was never been given to me.

I think they should work a little bit like around the mother or around the child rather than bringing it right to the court. You have no idea what they're going through what they've been through. Try to work with the family first rather than just taking the kids away.

Mothers expect social workers to act with compassion and humanity. Allow mothers to show and express feelings and emotions. Social workers in addition to mothers need to be respectful in their interactions and communications with one another as these mothers reflected:

Kind of humanize it. Exactly. That compassion... even though the social workers are there for 50 years... you still have to show the compassion. More of hearing them talk and hearing them one on one, not two on one, right away you're feeling like you're being tagged teamed.

... and you know just to be human. Remember to be human. We're all human. We all have feelings. We can't ... they expect us to come to meetings, we're not supposed to show our emotions. We're supposed to sit there stone faced, no feelings and if we cry or if we ask a questions ... you know, "well I'm not dealing with you, you've got attitude today, I'm not gonna talk to you." Well ... You mean I don't have that right ask a question? No, you don't want to talk to me because I have attitude? When did it ever become a crime to ask a question or ask for clarification, you know ...

like asking, can I have a visit with my children, you know. And then the worker's laughing at the other end "hahaha, do you thinking that's going to happen? Hahaha." You know ... and then the parent asked her "like what's so funny like can I ask why you are laughing, what's funny?" Well if you're gonna have attitude with me, I'm not going to talk to you, and she "click." And it's always, always ... even just me, my own experience, like when I talk to the workers, it's over the phone, it's never in person and if it is, they put on this act in front of their supervisors that they're all goody, goody and they're all ... everything falls on the client. It's the client who has the problem. It's the client who's negative. It's the client's responsibility to be kind, to be respectful, have no feelings.

... better ways of communicating ... if it has to be over the phone then have an arranged time ... or you know when they are going to be in the office so you can call them because a lot of Aboriginal mothers don't have phones either. Or transportation to go and see them ... have planned times and planned visits ...

Go into the home and talk to them face to face in the home comfortably, so that they're comfortable in their own surroundings is better than to be in a courtroom with a bunch of people that they don't feel comfortable with. There's always somebody judging them ... or even a public place like a park ... I think that would be more ... better than a child welfare office. Then it would be like a court it's still awkward sitting across from somebody at a desk. Even a restaurant would be better ... be comfortable.

A few mothers just wanted simple things changed in dealing with social workers:

They never return your calls until 5 days later. At least have the decency when return calls, ya well I got your message ... instead of waiting until five days later ...

I don't know. Get more organized.

Sit down and talk with the kids ... they're the ones that are so easily influenced from the cops, CFS, to say this and to say that...

Some mothers commented that social workers can improve communications by simply listening more and by getting to know the mothers they are dealing with as these mothers adamantly testified:

They need to listen. Instead of making a judgment call, sit down and get to know the mother before you do that because I think right away ... uh, what they are doing is they are reading from a file. Maybe some of the stuff is bullshit, they don't know that. Sit down and get to know the person. They don't do that with the mothers or the families that they are dealing with. That is one thing I notice they don't do and work with the family. You know, give the parents, the mother the

benefit of the doubt before you go and jump the gun and apprehend.

To get to know the persons like the person they are dealing with, the mothers and the families better rather than just judging by paper and family history and stuff.

I think they should work a little bit like around the mother or around the child rather than bringing it right to the court. You have no idea what they're going through what they've been through. Try to work with the family first rather than just taking the kids away.

Yah, there is a lot about CFS that needs to be changed. And when someone is complaining about a worker, they need to listen. Because, I mean, maybe they feel their clients are doing it to get back at them but that's not always the case you know. They need to listen.

To be more sympathetic and more understanding of their clients' needs and stuff like that and when Friday comes they go home to their families and they should stop and think of these other people, what they're going through and maybe do a little bit more for them if they could, help them to get the children back. A lot of these Aboriginal women don't have friends either to pick them up when they're down and stuff like that.

And if things aren't working well then ok, if you have to go in and apprehend, make sure you have a family member there to take that child and make sure there are lots of visits in place for that family. Because they always have the red flags up in the beginning ... yah, well, no you can't see your kids ... it has to be supervised. I think that is wrong. It is totally wrong. Well having a visit at their office, well that doesn't make the parents feel any more comfortable, or the kids. So you're holding back you know. No it should be in an environment that the parent wants to see their kids or the mother, you know, because it shouldn't have to be what CFS wants all the time. I think a lot of workers abuse their power; they really do. They don't realize the amount of damage they do. Maybe they think they are doing good, it's not. That's from my own experience. It's done more damage than good. And they need to know that it is what the parents' needs and wants are, and it's their journey, not the workers and not CFS.

In addition to getting to know the mothers and children, social workers should be attending cultural ceremonies with their clients or at the very least learning more about the Aboriginal culture and the impact of residential school said these mothers:

So what I would recommend too, social workers, should also participate in ceremonies with their clients. It would've have been really helpful if I had a social worker come to me, come with me, to a Sweat Lodge

and had things explained to that social workers about our cultural teachings about the way our children are ... you know, there are sacred laws that Like when I went to the Sweat Lodge I learned in my spirituality that my children chose me to be their mother even though I wasn't ready ... but that was a gift. And a lot of us need to learn that and same with those social workers and these lawyers, they need to understand that those are our gifts and that we're borrowed to while they are here right? And I lost them because I wasn't nurturing them and I wasn't nurturing myself, you know, that's what I understand now. And that's what I understand from the Sweat Lodge. But if these social workers participated in ceremony then they'd be able to understand and see from that perspective and be able to work to reuniting the families instead of ripping them apart and keeping them apart, because that was a big piece of me. It's still missing. That's what I think too, like, you know, I would have been great if I would've had like a social worker come with me to a Sweat Lodge, and even the kids, to see me participating in that or just to ... or not to come in but to witness me.

Well I think they need to be more education in the Aboriginal culture. I think a lot of them don't know their culture. And they need to ... um, like for instance, if a family is traditional and they are going through a hard time, cause you know it happens to people, and if they want to things culturally, then that is the way it should be. They shouldn't question that and they should just ok, what can I do to help to guide you on your journey. Not, oh no, you should go and take a parenting course here, no if somebody wants to go and talk to an Elder about something then that's the way it should be. You shouldn't be forced to healed the way ... the Western way, no it shouldn't be that way. No, it should be however you want to do it. And CFS, they need to make lots of changes, a lot! Like when they went under that review and they had to have all their cases looked at before a certain time, well they didn't come see my kids.

... like, you know, they really need to know, they really need to ... they need to have that training about residential school. They need to have that training.

One mother noted that social workers should participate in family Group Conferencing opportunities:

Oh my goodness. Well, workers ... they should be made to participate in Family Group Conferences. That should not be optional. Like do you know what I mean? Yah. I think like it's ... to prevent that from happening again because that's so painful. Well ... when you think about it, it costs money to go to court, cost money for the lawyer, it costs money for the electricity, it cost money for the room, it cost money for the bailiff, it costs ... you know.

An initiative every mother should have a chance to do when involved with child and family services is evaluate the services they receive says this mother:

That was the other thing I wanted to know ... Do they ever so any kind of evaluation ... like, ... ask the clients for a survey. How were you treated? What kind of service did you get? Yah because it's the measurement hey? Because even me I get evaluated at work. I get feedback from the clients. That's part of my evaluation ... how was she towards you, did you get anything valid from her? (laughing) ... you don't know me ... and if there's something bad, maybe I didn't say it right or you know, like it's, okay, I'll be careful ... you know ... we're all human, we make mistakes. Okay, I'll learn from it, thank you, thank you for the feedback.

Other solutions noted were the need for more Aboriginal social workers and for fewer changes to the number of workers dealing with the family as these mothers highlighted:

I think there has to be more Aboriginal workers then, then ... because ... those White CFS workers, like they are walking all over everybody.

There should be one counselor [the participant was referring to social workers] throughout the whole case scenario never to be changed from one counselor to another because in my experience it was very negative and it was another hurdle to get over. This got me angry and you're tired of fighting them...

Lastly, one mother noted that social workers need to be mindful that the mothers they are dealing with today may not be the same women they deal with tomorrow as the women in this study will grow and change in the coming years. The advice this mother gives to social workers is for them to stay grounded and not forget who they are despite their education and positions:

Oh no, no, no, no. They look down on you. Sometimes in my head, I would then, you know, just be careful one day lady, I might be your boss. You don't know who I could be one day you know. They treat you with the utmost disrespect and they dismiss your feelings, they dismissed the things that are valid for you ... um and they don't offer any kind of ... validation I guess ... or any kind of terms of caring or support or empathy. There's no other alternative this is the law. It's basically that they become the law. They should be the ones who were the hat and badges, not the police. Don't forget who they are. People forget who they are. Even ... when people get educated they forget who they are.

ADVICE TO LAWYERS/COURTS

The advice mothers want lawyers to be more sensitive to their clients and more thorough in explaining the

legal process. Lawyers should advise women not to sign anything until the intent of the document has been fully explained. To do so without explanation gives mothers the perception that they don't matter. This is especially evident when it appears to mothers that lawyers are friends with child and family service workers and making deals with child and family services. In addition, mothers stated that lawyers need to listen more to the mother and their children instead of agreeing with the decisions made by child and family services regarding their cases as the array of narratives state:

They should be looking at the best interests of the kids and the mother ... the mother and the kids it has nothing to do with the CFS workers ... I don't know I don't trust them they lie a lot to you ... I find in the best interests of the mother and the kids or at least the kids. The kids should have a right to say where they want to be ...

I would just say, be sensitive!

To be a little more thorough with them and like really ... cover basically everything with them.

Show papers, show all the legal documents. Make sure each woman or man gets the full documents and um ... tell them their rights. Cause I know we have rights. Work with us, not against us. Those are our children. We made all the mistakes in the past but all we want is our children, to love and grow up with our children. A lot of parents they miss their children. And that's all I can say.

Actively seek and understand what the process is... what child and family is saying and suggesting not just say, oh go ahead and sign this...by the way you've got to do some kind of program...that's not representing their rights...explain to them...they never explain nothing...it's very rare that you'll actually have somebody a lawyer explain that to you...and those are usually the ones that are not involved with CFS...get a worker that has never been with CFS, never worked with them or...this way you know your rights are being looked after properly instead of them trying to come to a decision between your lawyer and them...my lawyer didn't even talk to me...

Well to me, you know, some of them, it's just about the money. Ok, I'm sure they don't get a lot of money from legal aid but you know, work for the family, my god, it's not about them either. I think with my lawyer, I saw him and he is all buddy, buddy with CFS and their lawyers. You have got to be kidding me, that's not how it should be. They are the enemy while we are going through all this. And yah, don't tell me to sign any papers. You know, talk to the parents, let them know the good, the bad and the ugly. Don't hide anything from them. I don't trust too many people, especially when it comes to CFS and certain lawyers and I know

the good lawyers and the bad lawyers out there, I've been through the system through my whole life, not the CFS system but you know I know my way around.

I think that the people in the courts have to be more open-minded and more caring. Don't just go by the book. A lot of them are just doing their job like how the book says instead of them having the caring and empathy that they should have for their job. Each case is different, whereas to them it's just paperwork it's just another job. Where everybody has different reasons and a lot of people in the court system they don't have ... it's like oh another one. It's like driving a cab... oh another one.

One mother essentially feels that lawyers are a waste of time, money and views taking child welfare matters through court to be impersonal and judgmental. Mediation was seen as a more appropriate approach as this one mother exclaimed:

What do you even need them for they're a waste of money anyway? Put the money towards getting a child support workers and stuff like that ... Ya. I'd rather have it done through a mediator. Court is so impersonal and its judgmental and its usually against ... at least the mediator would perhaps listen to what I have to say and take that into consideration and then try and find an alternative way of dealing with this ...

Another mother commented that there needs to be courses implemented at the university level dealing with child welfare and Aboriginal peoples.

I think it's good that Aboriginal lawyers, like my cousin just graduated with a law degree but there should also be um, law programs implemented at the university level. I really, really believe that. I've been after people at the university to develop a program in Aboriginal child welfare law that helps deal with this and sensitizes people, you know, especially in the court system – they're just doing it for a pay cheque. They're not doing it for love anymore. They don't love the law (laughing). And I think there should be an Aboriginal component developed in the law school program. It was so intimidating to go to court. You know, the night before court, I couldn't sleep, I couldn't eat, I'd have diarrhea, I'd throw up. ... Yah. You're just shaken [sic] up. You don't know what to expect. You don't know how to talk, like you know? One time I showed up so angry ... that I just couldn't ... I couldn't talk because I was so angry. You don't get heard. They don't have any interest in hearing what you have to say ... I call it Kangaroo court. It's not a court system, it's a farce. But yah, there should be some sort of different ... and the literature would be good too. Mind you it's sad that we have to resort to providing literature for women who get their children apprehended ... who get their children apprehended eh? It's sad that there has to be some sort of development of some sort literature to prepare them for what's happened ...

MOTHERS' SOLUTIONS AND IDEAS FOR CHANGE

A number of mothers suggested developing a guidebook, information sheets and/or a manual for Aboriginal mothers to help them in understanding child welfare and legal terminology, timelines and processes, etc. as these mothers' narratives suggest:

... information sheets ...

and probably women like ... they understand some of the terms now and because there's a lot of people that just don't even understand the language right? And um, it's pretty intimidating and to be there by yourself. That or someone suggested um, a really simple, easy to read, handbook so you could look up what you know "court docket" was, or you know, whatever the term is that you don't understand. I was even thinking of producing my own kinda like little "things to do once you get your kids apprehended." ... I was thinking of doing my own little booklet of saying, okay you've got your kids apprehended, okay, first of all you're gonna be emotional. Nobody looks at that. You're very emotional. You're ripped apart. You're crying. You're, you're ... you know, and when you do that, social workers are like, big deal, she's crying. You know? That's how they are! And everyone ... and everyone's telling me ... telling you, don't cry in court, don't cry in court, or don't cry in front of social workers.

A list of the legal aspects of what's going to happen. A process guide of what's going to happen or ... a list of what your rights are, what CFS would be doing ... things like what they would suggest and a list of stuff ... what your rights are the rights you have. They don't have anything like that and there's no one to ask...if you ask your lawyer, I'll take care of it that's all they say. Don't worry about it, but you're worried because nobody is saying anything to you ... more communication. The lack of communication you just don't know where it's going or what's going to happen and for them it takes days for them to get back to you ...

I guess, you know ah, what's that one agency that gives you ... Manitoba Law Education LERA ... is it LERA? LERA ... Legal Education something. They should come up with manual every few years on court rights and procedures and, and, and I think that there isn't enough of those books. I think I have 2 old, old ones. But I think when you go to the law courts, I think there should always ... I know there should always be some sort of orientation or some sort of information that is mandatory to read, you know?

I just think mostly advocacy. Like having someone to break it down into simplistic terms that are understandable. Even if you do understand, it's to know the sequential steps that need to happen right ... a, b, c or a1, a2, a3 or you know ... it needs, it needs

to be taught! Because if you're in a shelter, or if you in any programming, you got to learn it on your own you know. And I think that having someone ... it's like one thing to have child and family take your kids but then to say here, here's someone who can help you and teach you about it, even if they can't teach you, send us somewhere, like give us something to look at so I understand and break it down to like you said, to some simplistic terms right? I think there was something that you showing me that it's broken down a little easier so you can understand it right? Because it's ... it's so much jargon and you know, and I don't know, sections, B and A and it's like ahhh, you get lost and then that's why you just don't care. But I would just say find someone that can always be there as an advocate for them. They should offer that support in the agency itself you know. ... I mean other than getting resources, resources, resources, resources, that's all I can say and have that stuff available. And knowing what they are, like, A Woman's Place is really a nice place ... it was ... I liked them you know ... but I never went back. It was temporary but at the time I got to cry and talk and counselling for women. They really need that like when you're going through that process of losing your kids. Counselling, counselling, counselling, counselling ... grief counselling, reading. It's hard to do – it's probably one of the hardest things you can ever do in your life is try to heal and cry. I did a lot of that.

One mother suggested that any guidebook developed must take into account that not all Aboriginal mothers are literate and it would need to be translated for those who speak an Aboriginal language:

That would help, too. Some women are so far away that they can't get there. There are no circles like that available. They are isolated or whatever the case may be ... up on the trap line or what not. You can have a book or even tapes because some can't read ... even maybe something in Cree? Well, that would be a necessity ... To have it translated.

Another major suggestion made by mothers involved the creation of a network of Aboriginal mothers who can advocate on behalf of, or mentor, other Aboriginal mothers involved with the child welfare system. In addition, when dealing with the system, Aboriginal mothers said there needs to be a mother's advocate for all kinds of purposes from meeting with social workers and lawyers to attending child welfare court hearings:

Make the system more applicable to the communities that they are in. Have more group counseling for women. So, they hear other versions and they can find a path and say, jeez, I'm just going through that right now and yet another one who already broke trail is telling her scenario and this would then benefit this one that's just going into the system.

Yes or have a Mediator or ... someone that can hold your hand to give them understanding about what's going down because a lot of them don't understand. Something to help them get an understanding or education on ... someone they can go and talk with.

I think Aboriginal mothers need help. They need a Mentor somebody to help them understand what they are going through this court process. They need somebody there. If they want to choose an Elder or somebody that is there to help them understand what they're doing.

Maybe if they can have a person that has been through it ... another Aboriginal mom that can talk to that lady and sit beside her and talk to her about what to do next and everything. That way she knows she's not going it alone there's somebody else there who has been through things the same situation as her. Not just an Advocate ... there would be this relationship established with an Aboriginal mother mentor that had been through this experience already.

Yes. You need somebody to go in there with you to talk to the worker. You need somebody in there to support you because when you go in there you're talking to the worker, you're talking to the supervisor and your talking to the head boss and they're all telling you this ... against you ... and you have nobody there ... you don't know where to go or what to do ... there's no witnesses so they can turn around and say 'well I don't recall saying that.' I don't have it written down ... there's no trust in there. Ya ... when you're in court you're getting mad and you're not even hearing everything, so to have somebody to sit there with you recording and knowing what's going on and then explain it to you ...

Ya. We need someone right away working as soon as the kids get apprehended. Have somebody there to work with ... I want somebody now to work with not 3 weeks from now when I go visit my son ...

... absolutely no trust with the workers. ... When you're dealing with CFS they shouldn't send you in there ... we need to talk to you because you don't know what they are going to say and even if you say something it may be taken out of context ... somebody should always be there ... a support for the mother ... the worker's telling one thing and the supervisor's telling me another thing and I'm just sitting there ... you get to the point where it's too overwhelming ... you can't grasp everything they are trying to tell you ...

A non-biased person in the room ... Ya. Somebody there to record what's going on ... because you got to have somebody in there ... that's non-biased that is there ... because it gets totally taken out of context and blown out of proportion as a mother you keep telling them one thing they're hearing whatever they

want because they have their selective hearing of what they want and then they turn it around on you ...

Well I definitely think that they need an advocate.

... Community members trained like, you know what, like Ka Ni Kanichihk or Ma Mawi that would be advocates that could go to courts ...

I think just like a mentor that I was saying ... they should have another ... like if you're with CFS, I feel like ... you'll have that worker too ... but you should have another worker too to be there with you in those meetings, you know ... be more of a support for you.

Yah, like I just, I really, I really like I mentioned about having a support group. Yah? I think that is so great! Because in the place where I was and the first time having any real involvement with them and just not knowing if the information I was getting was for real from this person and that person but if I had some kind of venue to go to, like, ... where people had a similar hurt, you know, and they could feel my pain when I told my story. And everybody is ... everybody is in a different place on the journey so maybe somebody ... why reinvent the wheel when the knowledge is already there? Just to share the knowledge from everything ... just having the female companionship, you know? The cultural ... um, just have recognize the cultural ... and then having other women just understand your pain and then give you the knowledge that you would need ...

I used to have actually a peer mentor through ah ... Northwest, I think it is ... that was awesome – she was so, so helpful in my life. Well she just basically took me out and she would talk to me. She was like ... change everything around for me, she was very helpful and she gave me good advice and ... just there to listen to me and if I was like confused about something, she would totally help me out with that and she was just always there ... taking me to appointments and helping for everything.

Some women referred to networks of Aboriginal mothers as awareness circles as explained this one mother:

Those circles are not set up by the system, but by the women ... where they can go and talk to have an "Awareness" circle.

Not only should there be advocates for Aboriginal mothers but there should be a system that kicks in right away that would cater to mothers who become involved with the child welfare as these two mothers suggested:

I think there should be a system set up for the other side and you don't have to go and look through Legal Aid ... there's already somebody that's set up and they are fighting for us. They are not fighting to keep our kids [participant was referring to Lawyers that represent mothers in child protection cases].

... have a parallel system where there is CFS for the children, but there is something for the women ... There has to be something for the women ...

Some mothers suggested that more needs to be done for the children who get caught up in the fight between child welfare and mothers. Mothers felt there are not enough resources to address questions or concerns children may have as noted by this one mother:

The purpose of it is to help the mothers and the children ... the only thing I can think of is focus more on the kids – what do the kids want? Nobody ever looks at the kids. They say they're there to protect the kids, but you have kids that are older that know what's going on and they're not explaining anything, OK, well he did this and he did that and that's it. They're given the negative part of it they're never given anything else, but all the negative. We can't be going there because this happened ... then it's like why can't we ... there's nothing for the kids. That's what I find ...

Exactly, everything has to be involved with you because this is your kid. You're the one that has to deal with your kids not CFS...

Another source of advice shared by the mothers in this study was for all Aboriginal mothers to keep a journal the moment they become involved with child welfare:

For all women, everybody that's going against the system keep a journal because ... that's your touch base with anything they say, dates, times, occurrences, events, everything ... write it down, right after you get out of the office or you can even do it there. They're doing it to us and I think that's intimidation right there because she's not really listening to what she's saying, she's putting her own views down. She wasn't listening, I told her I was sick and yet she's writing down, I think [the mother is] on drugs.

Another thing was putting things in writing... you've gotten things verbally, but nothing ... to back you up as to what they say.

Some of the mothers were aware of other alternative dispute resolution processes suggested that all Aboriginal mothers should be involved in the development of Family Group Conferencing in the Child Welfare context as these mothers suggested:

They should have the family group conferencing and Aboriginal women should be involved in the development.

A Family Group Conference would save the cost and settle a matter ... well, it doesn't settle a matter but it gives you a chance to work on these things and ... I think it gives you more of a sense of participation too like you're actually part of the process. Yah, it should be a choice ... instead ... like they have uh, restorative justice circles, well they need to do this

too. They need to get the family together, and say look they're considered apprehended, this is the social worker that's telling you what you need to do, this is the you know, other person that's telling what's happening with the child, blah, blah, blah, you know, let's work on a solution and commit to it. You know what I mean? Instead of having to go through court and wasting thousand of tax payers' dollars you know, and a lawyer, judges ...

Another mother mentioned the possibility of implementing mediation before the situation escalated to court:

I don't even think they should even take it that far. It can be resolved by the worker, the parent and a mediator. They don't need to be going to court every time they want a protection order. If it's an agreement between parties like that it saves so much trouble so much stress on the parent as well as the worker because when you take it to court it's an automatic thinking ... oh shit, I'm going to lose my kids ... you're bringing somebody in that has nothing ... that doesn't even know you, doesn't know the circumstances of anything except what the worker's going to tell the judge. It's a no win situation there ... if you want to get a protection plan going or some kind of a program then what it boils down to ... the worker, a mediator and the mother and come to an agreement or something and sign the contract ... if anything doesn't work out ... then you need to change it, but it can be worked out without even going to court.

This mother suggested that before mothers sign anything like Voluntary Placement Orders (VPOs), they should seek out the advice of a lawyer first:

No ... I mean, that stuff is out there ... you just got to know how to find it but if you're not a resourceful person. Um, Would I ever voluntarily sign any kids over? Would I ever recommend it? I don't think so. But if I think a kid should be in care, could I ever put them there? No! I would never put those kids ... anybody's kids through that you know. I think there is some kids that need to be in care but I would never put their parents through that. Cause they're never ... there's people who have the worse parents and ... and the kids that don't deserve that and yet those are the ones that get their kids. And I wasn't ... I wasn't bad mother. I just had a bad husband. But yah, to give them their rights and that they should have legal representation before anything happens. And I know there's places that ... times, and places and opportunities that you just can't have that ... like there's an apprehension – and you can't do nothing about that. But for them to have that option and that resources available to have. Like that Woman's Place, no one knows about it. But I think it's really important because they have somebody that comes in a few times a week. A lawyer that can give advice.

It is clear from the following mother's narratives that apprehension of children hasn't always worked for Aboriginal women because there are too many issues that mothers are dealing with. It's these issues that need to be addressed in order to help mothers as was stated by this mother:

For sure because ... in the situation where I was when the kids are gone, I don't know how everybody is but ... I feel like crabs in the bucket a lot in the Aboriginal community and like uh, everybody just wants to see everybody down with them like ... um, like people will like, it's okay, my kids got taken and I'm doing okay, like, now you get to live like a young single white person. Well that's not what I wanted, you know? I didn't want to be like, Oh, my kids are gone so I might as well have some R and R, you know like ... that wasn't what it was about because I wanted my children in my life and ... I think a lot of women get entrenched in that uh group mentality, oh well, just enjoy it while you can and when they get back and whatever but if you are just still re-offending in the sense like you are re-doing all the things bad that you were doing when you're children were with you and are part of the reason they're gone, then what kind of healing are you really doing? Like I know that the systems doesn't work in the best sense for Aboriginal women but there is definitely issues like within the community ... that need to be addressed. These women do need help just find the best way to support them and find them the best way to get them that help. ... you can't just not apprehend children anymore, you can't just not, you know, monitor families anymore and stuff like that. You need um, approaching and assisting families in a way that makes they feel helped and makes them feel like part of the solution.

RECOMMENDATIONS BASED ON THE ADVICE AND EXPERIENCE OF PARTICIPATING ABORIGINAL MOTHERS

This study provides a forum for Aboriginal mothers to comment on the child welfare system and in this light we accepted their comments as they shared them without triangulating with other information sources. These recommendations are not intended to provide advice on individual cases but rather to generally reflect the character of the child welfare system and court systems as experienced by the participants in this study. Readers should contextualize the comments made by all participants within legislation, resources and child welfare and court procedures and policy. We went into this study wanting to know what solutions and/or changes Aboriginal mothers would like to see happen with the child welfare system in

Manitoba. The child welfare system in Manitoba has recently undergone major restructuring that started back in 2000. Since the restructuring of the Child Welfare system little opportunity has been given to Aboriginal mothers to voice and reflect on their personal experiences dealing with both Aboriginal and non-Aboriginal child welfare agencies as a result of these changes. This study gave Aboriginal mothers an opportunity to voice their experiences under the new system and to suggest simple changes and solutions for helping mothers understand the child welfare system rather than providing any real recommendations for diverting mothers from experiencing adversarial impacts caused by family court processes.

Readers are cautioned with respect to utilizing some of the advice as it could get some mothers into trouble or complicate their involvement with child welfare agency and staff. Parents who come into contact with the child welfare system should talk to legal counsel and/or an advocate to explore how they can improve communications and/or increase visitation rights.

The following recommendations were formulated from a combination of responses provided by the mothers during the talking circles and interviews and include recommendations based on the research teams' observations, analyses of the findings and the literature as well as the Project Team's knowledge of the child welfare system. The recommendations have been organized according to specific comments made by the Aboriginal mothers who participated in this study. There are 7 recommendations in all. They are in no particular preference and/or order.

1. *Development of an Aboriginal Mothers' Advocates Office/Institute:* This would involve the development of a formal organization to assist Aboriginal mothers navigate all the aspects and complexities of the new child welfare system within the Province of Manitoba. In addition to understanding the system, the Aboriginal Mothers' Advocate would assist in organizing and making contact with all the collateral child welfare resources to help connect mothers to the resources and programming they need to strengthen their parenting skills or to deal with mental health and addiction issues as well access resources that detail treatment programs. The Aboriginal Mothers' Advocates Office would also attend court with Aboriginal mothers and help develop a manual for understanding the child welfare system. The Aboriginal Mothers' Advocates Office would help train other

Aboriginal mothers who are interested in becoming advocates. Such advocates would help reduce the trauma and confusion that Aboriginal mothers and grandmothers experience when they become involved with the child welfare and legal systems around protection matters.

2. *Establishment of Training Program for the Aboriginal Mothers' Advocates:* The Aboriginal Mother's Advocates Office would, in addition to other purposes, be responsible for training Aboriginal mothers to become advocates for the proposed Aboriginal Mothers' Advocates Office. It was suggested by the mothers in this study that advocates be mothers who have intimate knowledge and experience dealing with the child welfare and legal systems. The range of topics covered would provide among other things, a variety of crisis intervention services as well as outreach, prevention and treatment programs. In addition, provide mothers with connection to various resources designed to help Aboriginal mothers navigate through the child welfare experience more efficiently. Training in mediation, family group conferencing and other dispute resolution mechanisms should be a focus of the training curriculum. A training program such as this recognizes the value of increasing capacity among Aboriginal women through professional development initiatives. It will support experiential mothers/grandmothers who have achieved a level of recovery to gain the professional credential needed to work in this service delivery area. Cultural awareness and training is important and must be incorporated into any training curriculum developed.
3. *Development of a Child Welfare Manual on Understanding the Child Welfare and Legal Systems:* Development of a manual outlining sequential steps on what to expect, time lines, simplistic terms and definitions, information on the legal process and information on access to program and treatment resources for Aboriginal mothers involved with the child welfare system.
4. *Development of Mothers' Support Groups:* Development of support groups for Aboriginal mothers/grandmothers involved with the child welfare system. These support groups could perhaps meet monthly and would act as an information and support forum for mothers to meet and learn from other mothers experiencing similar problems with the Child Welfare system within the Province. Such support groups need to be developed and mandated across

the province to ensure Aboriginal mothers in northern and remote communities are able to attend and benefit from these support groups. Opportunities to connect with cultural programming and other training opportunities would be a function of these support groups. Responsibility for organizing these support groups would be another function of the Aboriginal Mothers' Advocates Office.

5. *Courtroom Advocates*: Other than lawyers, the mothers in this study suggested that in addition to the Aboriginal Mother Advocates, that close family, friends and other supporters should be allowed into courtrooms. Courtroom Advocates similar to the court advocates on the criminal side of the court should be implemented and available to those mothers waiting outside the Child Welfare Dockets room at the Law Courts. Responsibility for training and organizing courtroom advocates could be a function of the Aboriginal Mothers' Advocates Office.
6. *Development of a Website*: The website would house information about the Aboriginal Mother's Advocates Office, courtroom advocates, training opportunities, calendar of activities for the support groups and a listing the resources, programs and treatment options available to Aboriginal mothers/grandmothers within the Province of Manitoba. A listing and link to the contact information of lawyers who specialize in child welfare matters should be included.
7. *Development of Book about Aboriginal mothers/grandmothers' Stories and Experiences*: There are very few resources that celebrate what it means to be an Aboriginal mother and grandmother. The last recommendation would see the creation of a book that focuses on providing Aboriginal mothers and grandmothers with a chance to share stories from their perspectives on mothering ... the book could perhaps be about themselves, their own mother or grandmother, maybe a friend or someone from within their communities who they and others look to as role models of wonderful Aboriginal mothers and grandmothers. This book could tell the tale about the tremendous love Aboriginal mothers and grandmothers have for their own children and grandchildren. It could be a book that focuses on the acts of courage and strengths of Aboriginal mothers and grandmothers in the protection of their children and grandchildren as they journeyed towards healing. The implementation of a book such as this, promises to be both

a fascinating initiative and a heartwarming celebration about Aboriginal mothers' and grandmothers' most powerful and primal instincts around the protection of their children and grandchildren. The resulting product would be helpful in raising funds towards the creation and development of the Aboriginal Mothers' Advocate Office/Institute alluded to in recommendation 1 above.

The feasibility of these recommendations will need to be examined. The details of each recommendation will need to be flushed out in depth. Access to funding sources to develop and implement these initiatives should be explored as part of the examination process. These specific recommendations would appear to be fairly easy to carry out in subsequent phases of this study.

It would be instrumental to involve as many experiential Aboriginal mothers as possible in exploring, developing and implementing these recommendations to ensure Aboriginal mothers feel consulted, empowered and given the opportunity to be a part of the solutions and changes for the empowerment of all Aboriginal mothers, grandmothers and their children and grandchildren. Elders must be involved at every stage of developing these recommendations. As a last recommendation, Aboriginal mentors will need to be engaged and involved to assist mothers and grandmothers carry out and bring to life all seven of these recommendations.

While these are recommendations arising from the Aboriginal mothers/grandmothers in this study, it is important to recognize that there is a need to implement recommendations that will move the system toward utilization of alternative strategies for working with Aboriginal families. Family Group Conferencing, for instance, is an approach that is more conducive to Aboriginal families, but needs legislative and financial support for implementing and practicing this approach with families. While the Aboriginal mothers/grandmothers' recommendations seem to advocate "tinkering" with the system instead of making fundamental change, it may be partially due to the lack of knowledge by the Aboriginal mothers/grandmothers (and many service personnel working in the child welfare system) of the alternative dispute resolution mechanisms available. Fundamental change to the system is needed but can only happen when room is made for collaborative dialogue by those who have the power and courage to change system structures that continue to oppress.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

CHAPTER 8: CLOSING REFLECTIONS, NEXT STEPS AND CONCLUSION

INTRODUCTION

Before concluding this report, it is important to highlight some of the perceptions, experiences and solutions for change made by the members of the research team as they reflected back on the experience of collecting the data for this study. The Research Team focused on three key aspects that became evident during and after the conclusion of the project. The next steps associated with this project are discussed followed by a conclusion reflecting on the need to protect and recognize the contributions of Aboriginal mothers to the cultural continuity of Aboriginal nations and to the social fabric of Canadian society at large.

LEAVING OPEN WOUNDS

All members of the team came away from the data collection process feeling responsible for opening wounds and leaving women on their own devices for dealing with their memories of pain and trauma. For those conducting the research, we left those meetings feeling guilty that we couldn't do more other than to take away the words of the mother and not her pain. Given the limitations in funding we were aware that the project did not have resources or the supports and/or programs in place that the women in this study needed access to. In many cases we had to be creative. We certainly connected many of the mothers to the Elders we personally knew but we also relied upon other Elders that we knew through other related initiatives from our respective organizations and involvement in the community – many of these Elders were not compensated. Future research will need to ensure that as many Elders and professional personnel are involved and confirmed as being a resource that women can draw upon when the need arises. Financial resources need to be in place to ensure that women can access professional counselling if future trauma results because of such research. Connection to other community resources such as that offered through

the Native Women's Transition Centre's Vicarious and Complex Trauma Response Training Program would have been helpful to the research team in recognizing and dealing with the trauma that was triggered in the mothers/grandmothers as a result of participating in this research. This program helps professionals recognize and understand the impact of trauma and post-traumatic stress. It offers support to mainstream and other Aboriginal agencies that are working with Aboriginal families. Bridging and relationship building with other community resources is something to consider in future research initiatives similar to this study.

REFLECTING ON TALKING CIRCLES

There were only three Talking Circles held. Two in Winnipeg and one in The Pas, Manitoba. The length of Talking Circles was viewed by all the women and the research team members involved as being inadequate. Three and half hours for the Talking Circles held in Winnipeg was considered by the participants as just not enough time for women to reflect on their experiences as the timing really hindered their ability to all share in a meaningful way. In addition the limitations to funding also restricted the choice of locations as to where Talking Circles were held. The Talking Circle in The Pas was held in a hotel while the Talking Circles in Winnipeg were held at Ka Ni Kanichihk's office on McDermot Street and while this is a wonderful location, it was still not a warm enough space in which the mothers and grandmothers felt safe and comfortable to share all the intimate details of their experiences with child welfare. There was a class in the room next to our meeting room in which it came readily became apparent by all that their voice easily penetrated through the walls and many of the women did not want their stories going beyond the walls of that meeting room. In hindsight, the research team felt that the Talking Circles might have been better conducted in a space that was more intimate like in the living room of someone's home or

in a space similar to the Healing Room at the Native Women's Transition Centre. Should the Aboriginal Mother's Advocates Office/Institute ever be developed, organizers will need to be mindful of ensuring space where mothers/grandmothers can meet and share in a comfortable and intimate environment that exudes peace, tranquility and personal safety where mothers/grandmothers are free to verbally and emotionally share openly.

RECOGNIZING MOTHERS' NEEDS TO SHARE BEYOND THE SCOPE OF PROJECT

Lastly, I want to reflect on the importance of sharing and the power of stories. We asked mothers to reflect on why they thought it important to share their stories about their experiences with the child welfare system. Their responses were thoughtful and it is clear that the intention behind the sharing of their experiences was purely altruistic. They want to be the advocates and they want to help ensure there is change across the system for other Aboriginal mothers and these women reflected:

To be able to share my story is to make a difference. I don't want another family to go what we went through. I don't want them to be treated the way we were treated. ... the cycle needs to stop! It's a systemic ... it's systemic and it's oppressive, you know. That's the way I look at it, that's what I see, it's been very hurtful. And to feel it from another woman ... it's oppression too! Very oppressive, you know, telling me that I'm wrong. But I don't want another family, I don't anymore children hurt, I don't want families separating (crying). Whatever happened to strengthening and keeping families together and we are always being pulled apart. That has to stop – stop paying lip service to it – and actually stand behind what you say in front of everyone instead of behind the lines and families are getting torn apart ... children in care has shot up astronomically since this change with the AJI-CWI you know. And there's workers out there bragging about how many children they've taken in. It's like ... even the older people are saying these kids are now the bread and butter, they are big business. Since when did our children become commodities again? This was supposed to stop. You know? And that's the thing, what happened to strengthening the families? What happened to the services that were supposed to be provided, strengthening, helping moms to be able to parent their children? Yah they might have addictions but you know what, be more supportive and help them. That is what this whole thing was supposed to be about. And ... that's not what I see. That's not what I felt and that's not what I hear. I'm constantly coming across families that are being ripped apart

and children are being taken into care. But that's what I mean ... that's my vision is that this needs to stop. This cycle needs to stop. Let's really put you know, the mandate, the mission statements, the philosophies – put them to work; actually put them to work and help the families. That's what I want to see. I want to see that ...

Hmmm, I think ... for me it just means that ... I can have empathy for someone and sort of ... just give people direction and be that advocate for them, and say this is how it happens, this is gonna happen next and just be supportive to someone. Like one of my friends, I mentioned her name earlier, like just saying, this is what you need to do. Here are all the things. That's what's important to me. Is to take my experience to turn it around and say, this is how you can get through these hoops cause you find all these little hoops that you have to jump through and you figure out how go around them right? For me ... I think I did the right thing ... I can't change it – I got my son back. It took a long time. I hurt him but ... to share my story I don't know how important it is ... I think I'm still in my story – I'm still healing from it. It was a really traumatic time. That trauma with CFS and losing and they have the power to steal your life in a moment and ... I'm back again! I'm still here! I'm fighting you know. I'm back.

My ... my advice ... and maybe this bundle of voice is all it takes ... Maybe that's all it takes and that's why I wanted to share. Not thinking "oh I'm gonna get my kids back out of this." I like to share my story so you can do research and to change the system you know. And if the women in the system want to change it, then at least I gave my input and I feel good about that. And maybe I heal a little more from it – that's all I can say.

I have never shared my story before. It mattered that you wanted to hear about what I experienced ... that you wanted to hear my story. It's part of my healing process.

I just pray that You know that this makes a difference.

As the quotes above reveal, the need for a project like this is great – women wanted and did share their stories because it contributed significantly to their own healing. It validates their experiences and their emotions. For many of the mothers who contacted us, they genuinely wished to save other Aboriginal mothers and families from experiencing the harms they struggled through in their dealings with the child welfare and family court systems. This report is meant to let other Aboriginal mothers and grandmothers know that they are not alone in their struggles with child welfare. Gratitude must be expressed again to all the women who contributed to this report – they are indeed both courageous and great advocates because

their stories pave the way for greater understanding, awareness and empathy. Until now there have been few opportunities for Aboriginal mothers to share these experiences without feeling judged. Aboriginal mothers and grandmother continue to make sacrifices that must be acknowledged. It is clear there is great need for healing programs by and for Aboriginal mothers who have been involved with child protection systems.

Ultimately, the Research Team had to turn away many other mothers' requests to participate in this study because our project timeframes and resources were limited. As at the time of writing this final report the principle researcher was still getting calls from various Aboriginal mothers and grandmothers wanting to share their stories of involvement with the child welfare system or from mothers who just needed help in navigating the child welfare and legal systems. For many of these women just taking the time to listen to their stories was often all they needed but the sense of feeling powerless to do anything real to change their experience will haunt this researcher forever. Such calls are evidence of the need for an Aboriginal Mother's Advocate/Institute. The need for understanding what mothers will experience when becoming involved with the child welfare and legal systems is evidence of the need for a child welfare manual.

CLOSING REFLECTIONS

In Canada, the last domain over which Aboriginal women have any control is that connected to their capacities as mothers (Cull, 2006). Like the economic power and influence once exercised by Aboriginal women prior to colonization, their essential role as mothers and grandmothers are slowly being eroded through the enforcement of child welfare protection laws. The importance of mothers as the protectors and conveyors of their culture has been eradicated as far too many Aboriginal mothers have now lost their children to the child welfare system as evidenced in the stories these mothers shared. The provincial child welfare legislation colludes with the membership provisions set out in the federal Indian Act in that they are both designed to eliminate – by assimilation (through substitute care) – all Aboriginal nations within Canada. Mothers, rather than the weaknesses inherent in Canadian child welfare systems and laws, are held accountable for their failures as mothers (Greaves et al, 2002; Kline, 1993; and Monture-Angus, 1995).

The child welfare system has imposed much pain on the Aboriginal mothers it affects. In addition to this pain, Aboriginal mothers are left with the responsibility

of healing monumental harms from the colonial and assimilative policies of the past. These historical harms continue to impact on successive generations of Aboriginal families that come into contact with the child welfare and family court systems in Canada. The child welfare system is a system that exists on the pain it inflicts on children and their mothers (parents). Involvement with the child welfare system should not evoke as much pain as it does. It should be a response system that seeks to ensure the safety of children but it should ensure that balance in the family is restored as quickly and painlessly as possible in times of crisis. The need for healing for both children and their families as a result of their experience with the child welfare system is paramount but to date little attention has been paid to this aspect. Aboriginal experts and elders have noted that healing does not happen alone or in isolation from family and community (Aboriginal Corrections Policy Unit, 1997). The mothers in this study indicated that they need to be with their children in order to heal. They can't heal without them. Healing takes time and child welfare system and its bureaucracy needs to recognize that their disruptive legislation and practices impede, rather than enhance, the healing needed among the Aboriginal families they come into contact with.

Child welfare continues to break the "Circle of Life." The "Circle of Life" is a term used by Aboriginal groups to describe the safety surrounding children in Aboriginal cultures (Sasaki, 1994, p.56). When an Aboriginal child is removed from his/her home, the traditional circle of life is broken, leading to a breakdown of the family, the community and the bonds of love between parent and child. It is apparent that the residential school system constructively set out to break the "Circle of Life." Many believe it is this factor that is "literally destroying Aboriginal communities and cultures (Sasaki, 1994, p.56).

The breakdown of connections between children and their mothers erodes the bonds of love and cultural responsibility that mothers have with respect to their children and to the prolongation of Aboriginal nations. The erosion of this natural "Circle of Life" continues to destroy Aboriginal communities and cultures. Children are the conduit through which this is being done. The means of bringing Aboriginal people to their knees has always been through the subjugation of our children (Bennett, De La Ronde and Blackstock, 2005). We have seen this born out through the residential school system and now through the child welfare system. The profound importance of their roles as mothers, just as it was during the residential school era, has once again

diminished Aboriginal women's right to be successful as a mother is being denied over and over. This continues to be the experience of Aboriginal women in oppressive societies. Except today, Aboriginal people and their organizations are given meager tools and resources by the federal and provincial governments to carry out government's misguided child welfare policies, legislation and practices themselves.

The shifting of the bonds from natural parents to foster parents further erodes the "Circle of Life" for Aboriginal children. The bonding of Aboriginal children with their foster parents or adoptive parents has been recognized as having more weight in value than the cultural background of Aboriginal children. An example of where this is true can be found in the decision by the Supreme Court of Canada in *Racine v. Woods*, wherein it was ruled that "the bonding that occurs between adoptive parents and children over a number of years is more important than returning children to their natural mothers. Justice Wilson, as she then was, stated:

In my view, when the test to be met is the best interests of the child, the significance of cultural background and heritage as opposed to bonding abates over time. The closer the bond that develops with the prospective adoptive parent, the less important the racial element becomes.

The longer that a child stays in care the stronger the possibility the bonds with their substitute caregivers may become. The important point to note here is that child welfare intervention and the subsequent long term placement of children in care prevents any further bonding between natural Aboriginal parents and their children. It is the length of time that Aboriginal children remain in substitute care that becomes an issue. It allows the child welfare system to uphold the right to keep natural parents from ever developing lasting and meaningful relationships with their own children. Indeed many mothers alluded to this fact when they shared that their children returned home from substitute care upon turning 18, that they often don't know their children. In many cases their relationship is irreparable and whatever bond that was once there, is in some cases, irretrievable. This is akin to what occurred to Aboriginal children when they returned home from residential schools. Not only does child welfare contribute to assimilate children, it destroys the healthy balance of the family and communities of Aboriginal populations and weakens the autonomy of Aboriginal families and communities to evolve unfettered from outside influences.

Moreover, the outcomes for Aboriginal children and

youth, who experienced substitute care, including non-Aboriginal children, have not been positive. There is a growing interest in research on the importance of recognizing long-term impacts as well as measuring outcomes for children/youth that have been in long term care of Canadian child welfare systems (Trocmé, Nutter, MacLaurin & Fallon, 1999). A large percentage of homeless "street kids" have been products of the child welfare system (Serge, Eberle, Goldberg, Sullivan, & Dudding, 2002). These young people have experienced multiple placements, mistreatment and sexual abuse which has led many youth to experience exploitation by the sex trade (quote the Sacred Lives document) and/or involvement in criminal activities leading them into youth offender institutions and later into adult corrections institutions upon aging out of the child welfare system (Trevethan, Auger, Moore & Sinclair, 2001). Former Aboriginal youth in care are generally characterized as more likely to be: undereducated; unemployed or underemployed; and if employed experience lower earnings with many living below the poverty line; become parents younger; experience homelessness; live in unstable housing arrangements; become incarcerated or involved in the criminal justice system; dependent on social assistance; have mental health issues; and generally are at a higher risk for substance abuse (Tweddle, 2007; Reid, 2007). Even upon returning to their families and communities, former children who have experienced substitute care, have difficulty and are not capable of becoming functional members of their communities (Saskai, 1994). When youth leave the child welfare system unprepared for independence and without ongoing support, the indirect costs are often felt in other government departments such as health care, education, justice and social services (Social Planning Council of Winnipeg, 2007). If these are the outcomes that Aboriginal children face as a result of being in care how is it that any children are better off in substitute care than remaining at home with their mothers? These studies clearly recognize the Canadian child protection system and its laws have not in fact, or in ideology and practice, protected children.

The current child welfare parenting programs forced on mothers ineffective insofar as the system does not allow mothers the opportunity to exercise what they have learned because children aren't returned to their homes to benefit from their mother's attempts to improve their parenting. In particular, if children do not return home, Aboriginal mothers are effectively denied and deprived of learning (or improving upon) their new found parenting skills. It is near impossible for mothers to use and practice the new parental

knowledge gained in these instances.

Despite all of the changes child welfare has undergone over the years it is clear that change has been ineffective. More and more Aboriginal children are coming into care and it appears these numbers are not decreasing. What is clear is that child welfare is focussing on only one side of the equation. It is not enough to protect children/youth from harm. Our child protection response systems need to begin looking at how to protect parents. While the protection of children from harm is an overriding and paramount objective, however it needs to ensure that it protects the rights of parents. To understand the concept of parents having rights requires a major shift in ideology which must happen at the political, administrative and legislative levels of child welfare and family court systems. Protecting parental rights may help protect the integrity of Aboriginal parental practices and culture. Such an approach will require a new way of conceptualizing child welfare legislation. A more just and balanced family protection system needs to be developed that will ensure the safety and wellbeing of the family unit as a whole. It should not be a system that punishes Aboriginal mothers for the injustices and trauma that Canada inflicted on Aboriginal peoples in the past. Child welfare practices contribute to intergenerational traumas that have been forced upon and experienced by Aboriginal families since contact. A new response system might ensure the protection of parents' rights to exercise their role and responsibility as parents while putting resources in their hands to ensure they are strong and prepared to care, nurture and protect their children in times of crises. The psychological scars and the pain that child welfare continues to inflict on Aboriginal mothers, in particular, should no longer be tolerated by any government or society. Aboriginal mothers should not have to continue jumping through hoops to love their children. Aboriginal mothers should not have to love their children from a far. They should not have to worry about their children from a distance. They should not have to deal with a system that dishonors the sacredness and profound significance of their mothering roles and the importance of their position as the protectors and conveyors of Aboriginal cultures, mores, values and languages. Yet this practice continues unabated. While this suffering and pain still exists, little restitution has been made to undo the disruption that state interference causes in the everyday intimate realities of Aboriginal mothers and children's lives. How can we claim to live in one of the greatest countries in the world and continue to brag about being a somewhat 'just society'?

NEXT STEPS

The next steps will involve a coordinated approach to implementing the following:

- Share research results and findings with participants and the community at an information forum (the date, time, and location to be mutually determined by Ka Ni Kanichihk and the principle writer of report);
- Produce a 2-5 page plain language summary of the research findings;
- Publication of the extensive literature review and research findings;
- Final Report to be posted online through Ka Ni Kanichihk (www.kanikanichihk.ca) and the First Nations Child & Family Caring Society (www.fncaringsociety.com) websites;
- Begin exploration and perhaps community consultation on how Ka Ni Kanichihk can involve and engage Aboriginal mothers/grandmothers in the development of the seven recommendations as laid out in this report (similar to a community consultation but involving Aboriginal mothers/grandmothers who have had experience dealing with the child welfare and legal systems in Manitoba);
- Develop a work plan for implementing the seven recommendations and further phases of this research initiative as outlined in the original workplan to Status of Women Canada; and
- Explore funding options and opportunities from various governments and other granting foundations to implement the work plan to carry out the further phases of this project and ensure the involvement of Aboriginal mothers/grandmothers in the development and implementation of all the recommendations as identified in this final report.
- Facilitate discussion with child welfare and legal systems on how to encourage services and practice that incorporate more alternative dispute resolution processes with families involved with child welfare service systems.

CONCLUSION

A lot of these women that you've interviewed and done these talks with, for them this is really a first opportunity to share their experience and a lot of them are still carrying resentment and anger and frustration ... it's stuffed in there and there's nowhere for them to go and get rid of it and it just adds and it's that whole cycle again ... And they have been so screwed over it

makes me wonder how they are still alive. To me that stands for something ... that strength, that resiliency ... and they're still alive today with everything they're going through and everything they've gone through (Advocate).

Well I think those are important comments that you've made because that is an alternative that hasn't yet been fully supported ... Is recognizing the role of mothers and mothering and the importance of attachment and bonding. Because all of those things help people become adults. Cause we're, you know, our kids are kids for such a short period of time. And the role that mother plays in the development of individuals, you know, can grow into adults that have well being. And are, you know ... solid and grounded. And I mean, that attachment helps develop that in a person so that they can carry on those skills with their own kids. I mean, we all live for that purpose ... most of us live for the purpose of our children. Children give us purpose, right? And yet, it, the mothering role is just not respected (Advocate).

Why is this research important? A just society is measured by the way it treats its citizens. The voices of these mothers and their reflections on their experiences with the child welfare system within Manitoba has been missing for far too long from the literature and the book shelves of our child welfare authorities and higher learning institutions – these preliminary findings contribute to evidentiary research that can help child welfare administrators, policy makers, front line staff and funders assess and tailor their services towards developing more conscientious services that will engage Aboriginal mothers, children and families in a more participatory manner that ensures cultural appropriateness and respect for human experiences. Aboriginal child welfare agencies in particular must not forget their roots and the role of cultural values and principles in carrying out their protection mandates.

Child welfare, especially in the context of Aboriginal child welfare, cannot be complicit in continuing to ignore the rights of Aboriginal parents because to do so, they are ignoring the rights of Aboriginal children. Children do not come into and exist in the world all by themselves. We only have to look at the experiences of children who went through the Residential School system to understand the gravity of importance that Aboriginal mothers present for the wellbeing of their children and successive generations. The residential school system ripped children from the bosoms of their mothers, fathers and successive generations of children have never been same. Countless generations of Aboriginal families have not grown to be as strong spiritually, intellectually, emotionally or as physically

healthy as the Creator intended when the gift of children were bestowed on Aboriginal nations.

I just don't understand why women are not forgiven and looked at as mothers. Meanwhile I think I've done more work than women who have never lost their kids and you know. And most women who ... still care for their children on a full time basis...they take it for granted.

The importance and sacredness of mothers as life givers has been lost to our cultures and through the process of evolution, subjugation and marginalization the importance and sacredness of Aboriginal motherhood has been diminished. It is time that we honour our mothers again to help them get back to understanding, feeling and experiencing the true beauty and sacredness of their roles and contributions to humanity, the world and more importantly to their own cultural nations despite their human frailties. It is the right and just thing to do. And yes, there are times that children must be protected but mothers need to be protected too so that they learn over the course of their lives how better to protect and keep safe the children they brought into this world. It is difficult to understand how to do this when mothers are not allowed to experience success as a mother when her children are taken away from home by the state. But more importantly, we need to ensure that fathers understand too the importance of their role and participation in the lives of the children they helped create. Aboriginal mothers should not have to shoulder the responsibility of raising children and dealing with the child welfare system all by themselves as the majority of Aboriginal mothers currently are left to do. The burden of dealing with child welfare must be shared and it is hoped that governments will recognize that only when Aboriginal mothers, fathers, families and communities are given adequate resources for health, education, housing, respite and supports will we see healthier and safer Aboriginal children. Healthier and safer Aboriginal children after all eventually grow to be nurturing, conscientious parents. In the process of protecting Aboriginal children we must ensure the sacredness and essential importance of Aboriginal motherhood continues to be transmitted from generation to generation. There is much work yet to be done to make Manitoba's child protection and court systems less adversarial, more inclusive, humane and democratic as well as respectful of the diversity of Aboriginal women's perspectives, experiences and worldviews.

“JUMPING THROUGH HOOPS”:

A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

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“JUMPING THROUGH HOOPS”:

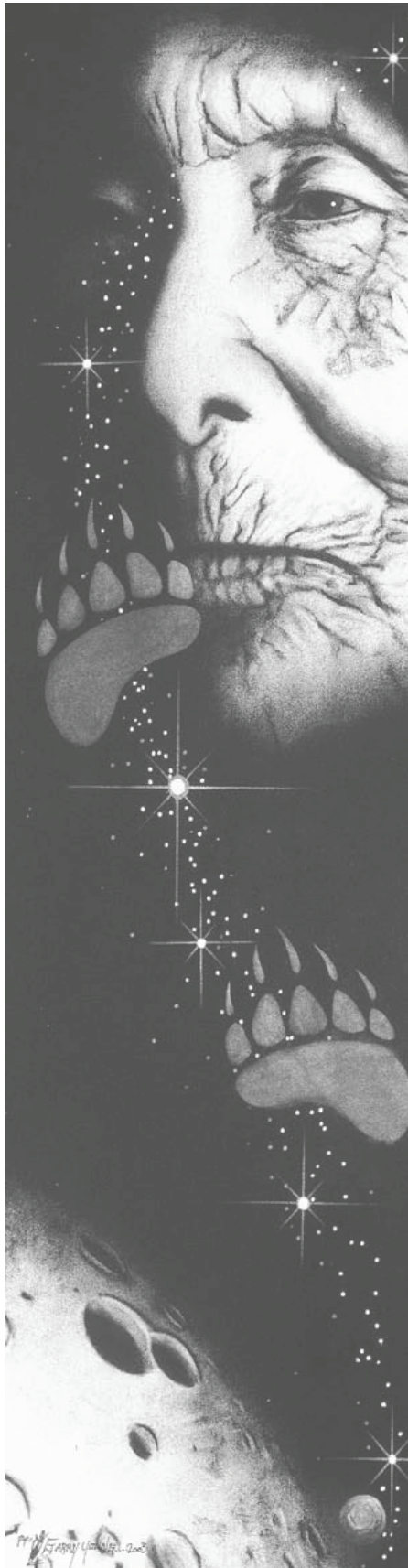
A MANITOBA STUDY EXAMINING THE EXPERIENCES AND REFLECTIONS
OF ABORIGINAL MOTHERS INVOLVED WITH CHILD WELFARE AND LEGAL
SYSTEMS RESPECTING CHILD PROTECTION MATTERS

APPENDICES

There are three appendices included in this report (see bolded text below). These include: (1) the interview guideline questions for the interviews with Aboriginal mothers (Appendix B); (2) the consent forms for interviews with Aboriginal mothers (Appendix C); (3) and the personal information form completed by participants (Appendix L)²⁴.

- A. Poster inviting Aboriginal women to Participate in Research Project;
- B. Interview Questions / Guidelines for Interviews with Aboriginal Mothers;**
- C. Consent Form for Interviews with Aboriginal Mothers;**
- D. Recruitment letter to Request Interview with Legal Counsel Representing Aboriginal Mothers in Child Protection Matters;
- E. Interview Questions / Guidelines for Interviews with Legal Counsel Representing Aboriginal Mothers;
- F. Consent Form for Interview with Legal Counsel Representing Aboriginal Mothers;
- G. Recruitment letter to Request Interview with Service Providers / Advocates and/or Other Supporters;
- H. Interview Questions / Guidelines for Service Providers and Advocates/Supporters;
- I. Consent Form for Interviews with Service Providers / Advocates and other Supporters;
- J. Talking Circle Questions for Aboriginal Mothers;
- K. Consent Form for Aboriginal Mothers Participating in Talking Circles Discussion;
- L. Personal Information Form (to be completed by Aboriginal Mothers Participating in Both the Interviews and Talking Circles Discussions);**
- M. CECW Fact Sheet on “Child Welfare in Manitoba” (provided to Aboriginal Mothers participating in Interviews and Talking Circles);
- N. Background Information and Research Outline to be given to All Participants
- O. Glossary of Terms (provided to Aboriginal mothers participating in interview and the Talking Circles);
- P. Information sheet prepared by Klinik entitled “What you may need to know about Trauma”;
- Q. Evaluation Framework for Phase 1 of the Project.

²⁴ The rest of the instruments designed for this study can be downloaded from the online version of this report from the websites of Ka Ni Kanichihk Inc. (www.kanikanichihk.ca) and the First Nations Child and Family Caring Society of Canada (www.fncaringsociety.com).



APPENDIX B

Project Title: Family Court Diversion Project – Examining Experiences and Exploring Alternative Resolution Mechanisms for Aboriginal Mothers Involved in Child Welfare / Protection Cases before the Courts in Manitoba

Duration of Study: July 2006 – October 2007

Research Team: Marlyn Bennett (Principle Researcher), Linda Lamirande and Adrienne Reason (Assistant Researchers)

Sponsor: Ka Ni Kanichihk Inc.

Ethically Reviewed and Approved by: Prairie Women's Health Centre for Excellence (University of Winnipeg). Ethics Approval Granted in January 2007

Guideline of questions extrapolating from Aboriginal mothers' personal experience/feelings/emotions/ recollections and initial observations about their involvement as a client in child protection matters (participants are not expected to answer all questions - these questions serve only as a guide to assist the researcher and participants in starting discussions):

1. Can you describe what your experiences with the child welfare system have been like?
2. Possible probes (use these questions only if women need help to get started talking or if there are important pieces of information you know about and are not coming out naturally)
3. Could you tell us about some of the experiences you have had with child and family services?
4. Have you also had experiences with the court system, with legal aid and lawyers?
5. What are some of the experiences you have had dealing with foster parents or other placements or in getting your kids back once they have been apprehended?
6. What were the circumstances that led to your children being apprehended or to your dealings with the child welfare system?
7. What agencies or community resources did you access to help you deal with the situation? How did you access these groups?
8. What helped you cope with the situation?
9. Was there anyone involved in your experience with child welfare that was most helpful to you and could you explain how they were helpful to you?
10. Have other child welfare concerns arisen since the time of your initial contact with child welfare authorities? What are those concerns, if any?

Examining the interface with the child welfare system and social workers and or other service providers

11. Were you advised by child and family service workers of the reasons why they were intervening in your family and how they would do their assessment to determine if your children were at risk?
12. How would you describe your experience with the social worker assigned to your case? (Prompts: positive, negative, indifferent, broken down). Did you develop a positive or negative relationship with the social worker that was assigned to your case? Why?
13. Was the social worker able to explain to you how the investigation would proceed and what would be expected in the court process? (Prompts: Do you feel that you had a clear understanding of this explanation? Did you understand the "professional" language being used by the social worker when she talked with you about the specifics of your case?)

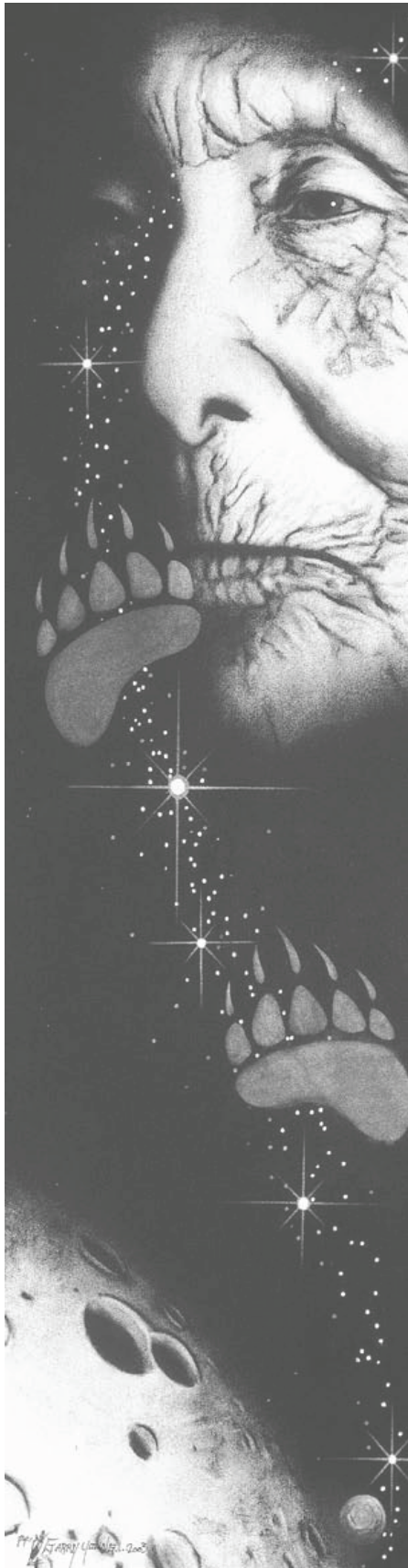
14. When were you advised of your right to consult with a lawyer? Did the social worker provide any assistance on how to contact one?
15. How many social workers were involved in your case over the course of your experience with child welfare?
16. Do you feel that social workers clearly explained to you what must be done in order for your children to be returned home? Was this done in writing or verbally?
17. Did your responsibilities change if a different social worker was assigned to your case?
18. Did you have access to the CFS supervisor if you encountered problems?
19. Explaining the interface with the legal counsel
20. What is your understanding of your legal rights at the time your children were apprehended?
21. How did you go about getting a lawyer to represent you?
22. Did you incur expenses to retain this lawyer? What impacts has this had on you financially?
23. Do you feel that your lawyer treated you fairly and respectfully? Explain.
24. Did your lawyer inform or discuss with you alternative (different) ways of resolving your case (for example, through mediation)?
25. Were you given a choice of counsel? If not, would you have preferred a choice in counsel?

Aboriginal mothers perceptions' regarding the court process and the judges' assessment and decisions

26. How would you describe your court experience (during court docket hearing and court proceedings)? (i.e. feelings during event, feelings about outcome, etc.) Did you feel that you were being judged negatively as a mother prior to, during and after the court hearings? By whom and in what way?
27. What condition(s) did the judge impose on you in order for you to get your children back?
28. Do you feel that the judge treated you fairly and respectfully?
29. Other than your lawyer, were you allowed to bring in a support person into the court room? Were any of your immediate family members, extended family or close friends allowed to come into the courtroom with you other than as a witness?
30. Were your children present during any of the court hearings?
31. How did you feel about the judge's decision regarding your case? What do you think the judge took into consideration when he made his decisions? Reflecting back on your experience, would you say you are happy or unhappy with the outcome? Why or why not?
32. Did the judge allow or give you an opportunity to speak for yourself at all levels of the court process?
33. Is there any information that you think would have been beneficial for you to know about the legal process before, during and/or after the court hearing?

Exploring Aboriginal women's reflections and solutions regarding interactions with the courts, legal counsel and child welfare

34. Why do you think there a high percentage of Aboriginal mothers who become clients of the child welfare system?
35. Are there cultural aspects to being a mother that are uniquely different for Aboriginal women?
36. Is court the appropriate environment in which to hear child protection concerns when it involves Aboriginal families?
37. What do you know about "alternative resolutions" in child protection proceedings?
38. What role should Aboriginal women have in the development of alternative dispute resolutions in child protection matters?
39. Do you believe that Aboriginal mothers receive equal treatment by social workers, lawyers and judges compared to other non-Aboriginal mothers involved with child welfare and the courts? Why?
40. What advice would you give to other Aboriginal mothers in similar circumstances?
41. What changes need to be made in order to redirect (divert) Aboriginal mothers from experiencing the adversarial aspects of the child protection court process?
42. Do you have any suggestions to offer to social workers in the child welfare system to improve their services to Aboriginal women and their families?
43. Do you have any suggestions to offer the legal profession in regard to how they should be representing the interests and rights of Aboriginal mothers before the courts and judges in child protection matters?
44. Do you have any suggestions for the judges who oversee child protection matters in the courts?
45. What needs to be developed that would help other Aboriginal mothers navigate (work through and understand) the child protection and court experience? (Prompts: Guidebook explaining child welfare investigations, etc. what to expect in court, and/or have an Aboriginal woman's advocate available in court).
46. If given the option, would you have chosen an alternative way of dealing with child protection concerns in your case? How would you go about doing this?
47. Are there any other questions or issues that you feel we should have focused on or asked about that would be important to study?



APPENDIX C

CONSENT FORM FOR INTERVIEWS WITH ABORIGINAL MOTHERS/ GRANDMOTHERS

Revised March 2007

Project Title: Family Court Diversion Project – Examining Experiences and Exploring Alternative Resolution Mechanisms for Aboriginal Mothers Involved in Child Welfare / Protection Cases before the Courts in Manitoba

Duration of Study: July 2006 – October 2007

Research Team: Marlyn Bennett (Principle Researcher), Linda Lamirande and Adrienne Reason (Assistant Researchers)

Sponsor: Ka Ni Kanichihk Inc.

Ethically Reviewed and Approved by: Prairie Women's Health Centre for Excellence (University of Winnipeg). Ethics Approval Granted in January 2007

Why are we doing this study?

In recent years people have been thinking about using alternative responses in the justice system such as mediation, diversion, restorative practices and sentencing circles for non-violent crimes before the justice system. These same initiatives have not been used in the area of child protection law where Aboriginal women and their children are overrepresented. Courts treat child protection matters in a highly confidential manner as a way to protect the privacy and safety of children which unfortunately prevents family members and advocates from witnessing and helping.

We are conducting a study to explore women's experience in the child protection and court systems to explore the possibilities for alternative measures for Aboriginal women and their families. We will provide you with a full description of the study (attached).

We are asking you to be a part of this study for this reason:

1. To examine and document the experiences of Métis, First Nations, Inuit and other Aboriginal women who are or have been involved in the child welfare and court systems in Manitoba.
2. To seek ideas and suggested solutions on changes needed around non-adversarial (sides not opposing or against each other) approaches when dealing with Métis, First Nations, Inuit and other Aboriginal women and children involved in the child welfare and court systems in Manitoba.

We will be interviewing Aboriginal women, community and women's advocates, service providers and lawyers who have represented Aboriginal mothers in child protection cases as part of this study. We are also holding Talking Circles with Aboriginal women. The research findings will be shared with researchers, policy makers, and the community to inform and create greater awareness about Aboriginal mothers' experiences which may lead to further research that will be used to influence legislative changes to the Child and Family Services Act in Manitoba.

The research is being conducted for Ka Ni Kanichihk Inc. and is supported by a grant from Status of Women Canada.

What is involved in this study?

As an Aboriginal mother who may have had or have been at risk or having their children removed (apprehended) from their care by either an Aboriginal/First Nations and /or a Non Aboriginal Child & Family service agency within the province of Manitoba, you are being invited to participate in a 1-2 hour interview. We will ask questions about your experience with the child welfare and court systems, including your impressions on outcomes and your suggestions for how Aboriginal women should be treated in a non-adversarial way.

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With your permission we will tape the interview with you. The tape(s) will be transcribed (written onto paper) and shared with you for accuracy. Your name will not be shared with anyone and there will be no way to identify who you are. We might quote what you have said, but no real names will be used.

We are also asking you to fill out a Personal Information Form (PIF) to help us know more collectively about the women we interview. Again, there will be no way to identify you from the information you provide in the form.

It is entirely your choice to be a part of this study. You can refuse to answer any question and you can decide to stop the interview if you feel uncomfortable and your tape will be destroyed.

All the information we gather will be kept on a password protected computer in a locked room at the offices of the principle researcher at 100-696 Portage Avenue. All raw data (tapes, transcripts) will be kept for five years after the end of the study and then destroyed.

You will be provided with a \$50.00 honorarium plus additional funds to cover any costs associated with participating in this study.

What are the risks and benefits?

There are no immediate benefits to you participating in this study. However, we believe the long-term benefits include understanding more fully the experiences and perspectives of Aboriginal mothers involved with the child welfare and court systems. You may find this experience to be a positive one – in that you will have the opportunity to express your thoughts and feelings about your experience with the child protection and court systems.

There are two possible risks to you:

1. If you indicate that a child is at risk of abuse this must be reported to the appropriate Child and Family Services agency.
2. It is possible that as you discuss your personal experience with the child welfare/protection and court systems, you may become distressed. Should you experience distress supports will be made available to you. We will ensure that you speak with an Elder or refer you to a community advocate and/or counsellor.

Your perceptions, along with all the other participants (Aboriginal mothers, advocates, service providers and lawyers) will contribute to new understandings and we hope new policies and approaches to improve support and options for Aboriginal mothers at risk of losing their children to child welfare system. The results will be shared with you, the community, policy makers, child welfare agencies, including members of the legal profession and judges of family courts. The results will be contained in a final report that will be distributed to all study participants including other interested parties. The findings may also be published in journals and presented at conferences. We plan to release the final report in the Fall of 2007. Results of this study will be made available to you at that time.

A copy of this consent form will be left with you for your records.

If you have any concerns about this study or would like an update on the status of the project, please do not hesitate to contact any member of the research team listed below:

Marlyn Bennett
bennettm@mts.net
(204) 803-0206

Linda Lamirande
lindalamirande@yahoo.ca
(204) 979-0955

Adrienne Reason
areason74@yahoo.ca
204) 623-1835

I _____ understand the information regarding Ka Ni Kanichihk's Family Court Diversion Project and agree that:

- ☐ I have read and understood the information above
- ☐ I give my consent to participate in this study
- ☐ I have had my questions answered satisfactorily
- ☐ I have the right to refuse to answer any questions without any prejudice to me
- ☐ I understand that I can withdraw from this study at any time
- ☐ I have received a copy of this consent form and a summary description of the study
- ☐ I am interested in receiving a copy of the research findings
- ☐ I will receive \$50.00 for participating and agree to sign the attached receipt

Signature of Participant

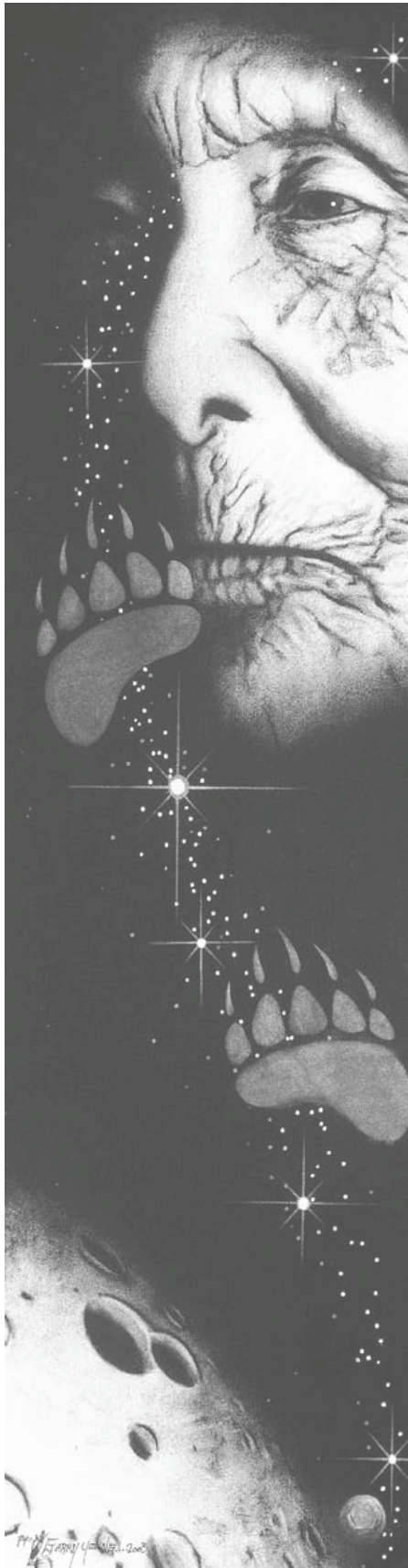
Date

Signature of Researcher

Date

This project was approved by the Ethics Review Committee of the PRAIRIE WOMEN'S HEALTH CENTRE OF EXCELLENCE (56 the Promenade, Winnipeg, Manitoba, R3B 3H9, phone (204) 982-6630, pwhce@uwinnipeg.ca).

If you have any concerns about your rights or your treatment as a participant in this study, please contact KA NI KANICHIHK INC., 455 McDermot Avenue, Winnipeg, Manitoba, R3A 0B5, phone (204) 953-5820, or email Leslie Spillet, Executive Director, at lspillet@kanikanichihk.ca.



APPENDIX C

PERSONAL INFORMATION FORM (TO BE COMPLETED BY ABORIGINAL MOTHERS/GRANDMOTHERS PARTICIPATING IN BOTH THE INTERVIEWS AND TALKING CIRCLES DISCUSSIONS)

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To be completed by Research Team:

Date:

Personal Identification No:

Name of Researcher:

The questions in this form ask you to share a little bit about yourself. The information collected on this form is primarily for statistical and demographic background purposes regarding the women who have agreed to participate in this study. These responses will be aggregated (that means the information collected in this form will be based on collective rather than individual responses) for the purposes of the final report. Your answers are confidential and WILL NOT BE SHARED with anyone outside of the Research Team. You can refuse to answer any questions in this form without jeopardy and prejudice to you.

1. What is your Aboriginal Status?

- ☐ First Nations
- ☐ Métis
- ☐ Inuit
- ☐ Non Status Aboriginal
- ☐ Other

What age group do you belong to?

- ☐ 18-25
- ☐ 26-30
- ☐ 31-40
- ☐ 41-50
- ☐ 51-60
- ☐ 61-70
- ☐ 71-80
- ☐ 81-90
- ☐ Over 90

2. How would you describe the strength of your Aboriginal identity?

- ☐ Fully = I feel very connected to my Aboriginal culture and feel it shapes my identity as a person
- ☐ Moderate = My personal identity is somewhat shaped by my Aboriginal heritage
- ☐ Low = A small portion of my identity is shaped by my Aboriginal heritage

- ☐ None = None of my personal identity is shaped by my Aboriginal heritage

3. In what kind of family arrangement did you grow up in? (Check all that apply)

- ☐ Birth Parents
☐ Foster Home
☐ Adopted
☐ Group Home
☐ Relatives/Extended Family
☐ (family affected by) Residential School
☐ Other (please explain): _____

4. What is your primary language?

- ☐ English
☐ French
☐ Aboriginal
☐ Other: _____

If you speak an Aboriginal language, which language(s) do you speak? _____

5. What is the highest level of education that you have completed?

- ☐ Grade 8 or less
☐ Less than grade 12
☐ Grade 12
☐ University
☐ College
☐ Vocational
☐ Other: _____

6. What is your marital Status?

- ☐ Single
☐ Widowed
☐ Divorced
☐ Separated
☐ Common Law

7. What type of community do you live in?

- ☐ Urban
☐ Rural
☐ Reserve
☐ Northern

8. Do you have any dependent children?

- ☐ Yes
☐ No

If yes, how many? _____

(Are these children are biological, step, adopted, grandchildren - extended or foster children or a combination of all of these? – Circle the one most appropriate)

9. How many dependent children (under 18 years) currently live with you? _____

10. Please indicate the age and gender of each child:

(Please circle the appropriate Gender and indicate age)

- ☐ Male / Female
☐ Male / Female
☐ Male / Female
☐ Male / Female
☐ Male / Female
☐ Male / Female

Would you describe any of your children as having a disability?

- ☐ Yes
☐ No
☐ Don't know

In your opinion are these disabilities:

- ☐ Physical
☐ Learning
☐ Cognitive
☐ Behavioural
☐ Don't know

Would you describe any of your children as has having longstanding health problems, special needs or diagnosed as FASD?

- ☐ Yes
☐ No

If yes, please explain _____

Are any of your children currently under a doctor's care?

- ☐ Yes
☐ No

11. Do you currently have any adult children living with you? If so, how many? _____

12. Do any of your children (under 18 yrs) currently live in other family arrangements outside of your care?

- ☐ Yes
☐ No

If so, with whom?

- ☐ Their father
☐ With both Grandparents
☐ With their Grandmother (father's side)
☐ With their Grandmother (mother's side)
☐ Other relatives / extended family members
☐ Live on their own
☐ Other (please explain): _____

13. Have any of your children ever been removed from your care for child protection concerns?

- ☐ Yes
☐ No

If yes, were your child(ren) removed for any of the following reasons?

- ☐ Neglect
☐ Abuse: physical, sexual, emotional (Please circle which applies)
☐ Alcohol abuse
☐ Drug/solvent abuse
☐ Criminal activity
☐ Learning/behavioural disability
☐ Mental health issues
☐ Physical health issues
☐ Few social supports
☐ Victim of domestic violence
☐ Perpetrator of domestic violence
☐ Voluntarily placed in care
☐ Lack of access to specialized services and/or resources for special needs
☐ Other (please explain): _____

14. If your child(ren) have or had been removed from your care was your child(ren)'s placement:

- ☐ Temporary/short-term (for how long? _____)
☐ Permanent/long-term (for how long? _____)

15. What kind of placement arrangements were made for your child(ren) when they were in care?

- ☐ Private arrangement (foster care)
☐ Extended family placement arranged by child welfare agency
☐ Unknown placement made by child welfare agency

- ☐ Group home
- ☐ Hotel
- ☐ Youth Centre
- ☐ Don't know

16. At the time of completing this form are any of your children currently still in alternative (foster) care?

- ☐ Yes
- ☐ No

17. Have any of your children been returned to your care since?

- ☐ Yes
- ☐ No
- ☐ Not applicable

18. Was your involvement with the child protection system through an Aboriginal or non-Aboriginal child & family service agency or both?

- ☐ Aboriginal child and family service agency
- ☐ Non-Aboriginal child and family service agency
- ☐ both Aboriginal and non-Aboriginal child and family service agencies

19. Was your lawyer appointed by Legal Aid?

- ☐ Yes
- ☐ No
- ☐ Not applicable

20. Did you encounter difficulties in finding a lawyer to represent you in court?

- ☐ Yes
- ☐ No

21. As a child or youth have you yourself ever had involvement with the child welfare system?

- ☐ Yes
- ☐ No

If yes, why were you in care? (skip question if not applicable)

- ☐ Neglect
- ☐ Abuse: physical, sexual, emotional (Please circle which applies)
- ☐ Alcohol abuse
- ☐ Drug/solvent abuse
- ☐ Criminal activity
- ☐ Learning/behavioural disability
- ☐ Mental health issues
- ☐ Physical health issues
- ☐ Few social supports
- ☐ Victim of domestic violence
- ☐ Perpetrator of domestic violence
- ☐ Lack of access to specialized services and/or resources for special needs
- ☐ Voluntarily placed in care
- ☐ Other (please explain): _____

22. What are your current living arrangements?

- ☐ Living Alone
- ☐ With Parents
- ☐ With Relatives
- ☐ Married
- ☐ Shelter
- ☐ With Common Law Partner
- ☐ Single Parent
- ☐ Live with Friends
- ☐ Other (please explain) _____

23. How many times have you moved in the last 2 years?

- ☐ _____
- ☐ Not applicable

24. What are some of the reasons for why you have moved in the past 2 years? (Please check all that apply)

- ☐ Crowded
- ☐ Domestic violence
- ☐ Unsafe neighbourhood
- ☐ Rent was too expensive
- ☐ Evicted
- ☐ Returned to Community
- ☐ Moved for education purposes
- ☐ Moved to be closer to employment opportunities
- ☐ Other (please explain): _____

25. How many people live in your home including children and other adults? _____

26. What kind of housing arrangements do you currently have?

- ☐ Public housing (Manitoba Housing)
- ☐ Low rental apartment
- ☐ Own
- ☐ Rent
- ☐ Shelter/Safe House/Transitional Housing
- ☐ Homeless
- ☐ Other: _____

27. Have you ever had difficulty securing housing?

- ☐ Yes
- ☐ No

28. What is your primary mode of transportation?

- ☐ Public transportation
- ☐ Own vehicle
- ☐ Friends/family with vehicle
- ☐ Walk
- ☐ Bike
- ☐ Other: _____

29. What is your employment status?

- ☐ Full Time
- ☐ Part-time
- ☐ Casual
- ☐ Seasonal
- ☐ Unemployed
- ☐ Self Employed
- ☐ Student at School
- ☐ Volunteer
- ☐ Other: _____

If you are employed, what is your current job/occupation?

30. What are your sources of income?

- ☐ No income
- ☐ Income from job
- ☐ Income from partner
- ☐ Income from relative
- ☐ Social assistance
- ☐ Employment insurance
- ☐ Child support
- ☐ Spousal support
- ☐ Band
- ☐ Child tax credit
- ☐ Other (Please explain): _____

31. What is your income level last year?

- ☐ Less than \$5,000
- ☐ \$6,000 – 10,000
- ☐ 11,000 – 15,000
- ☐ 16,000 – 20,000
- ☐ 21,000 – 25,000
- ☐ 26,000 – 30,000
- ☐ 31,000 – 35,000
- ☐ 36,000 – 40,000
- ☐ Other: _____

32. Have you ever had any difficulty in paying for basic necessities such as food, shelter, utilities and/or transportation?

- ☐ Yes
- ☐ No

33. Would you describe yourself as having a disability?

- ☐ Yes
- ☐ No

34. Would you describe yourself as having a longstanding health problem (for example, have you experienced: seizures, diabetes, anxiety, depression, high blood pressure, arthritis)?

- ☐ Yes
- ☐ No

If yes, what is your condition? _____

Are you currently under a doctor's care?

- ☐ Yes
- ☐ No

35. Have you ever struggled with addiction issues?

- ☐ Yes
- ☐ No
- ☐ Prefer not to answer

If yes, to what substances or practices? _____

36. Have you ever been referred to or used any of the following programs and services? (Check all that apply)

- ☐ Prefer not to answer
- ☐ Parent support group
- ☐ In-home parenting support
- ☐ Other family/parent counseling
- ☐ Drug/alcohol counseling
- ☐ Welfare/social assistance
- ☐ Food bank
- ☐ Shelter services
- ☐ Domestic violence services
- ☐ Psychiatric/psychological services
- ☐ Anger management
- ☐ Gambling addiction treatment
- ☐ Special education placement
- ☐ Recreational services
- ☐ Victim support services
- ☐ Child/day care
- ☐ Cultural services
- ☐ Family Mediation Services
- ☐ Family/Community Resource Programs
- ☐ Addiction Programs
- ☐ Self Help Group
- ☐ Programs offered through child welfare agency
- ☐ Other (please explain): _____

37. What are some of the child care arrangements that you have used in the past 2 years? (Check all that apply)

- ☐ Child care centre
- ☐ Private family day care
- ☐ Aboriginal Head Start
- ☐ Before and After School Programs
- ☐ Relatives
- ☐ Neighbours
- ☐ Older siblings
- ☐ Spouse
- ☐ Friends
- ☐ Babysitter
- ☐ Other (Please explain): _____

38. Which community organizations have you used in the last 2 years? (Check all that apply)

- ☐ Ka Ni Kanichihk
- ☐ Mothers of Red Nations
- ☐ Elizabeth Fry Society
- ☐ Native Women's Transition Centre
- ☐ Ma Mawi Chi Itata Centre
- ☐ North End Women's Centre
- ☐ Kawechetonanow Centre
- ☐ Rosaire House
- ☐ Cree Nation Tribal Health Centre Inc.
- ☐ Aurora House
- ☐ Oskipimatisiwin
- ☐ Friendship Centre
- ☐ The Health Starts Mentorship Program
- ☐ Best Beginnings: Baby & Me and Family First
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____
- ☐ Other (Please explain): _____

39. How did you hear about this study? (Check all that apply)

- ☐ Newspaper
- ☐ Community Newspaper
- ☐ Aboriginal Newspaper
- ☐ Project Poster
- ☐ Received personal invitation to participate
- ☐ Community Bulletin Board
- ☐ Friend
- ☐ Lawyer
- ☐ Child welfare worker
- ☐ Public Health Professional
- ☐ Family resource program
- ☐ Website
- ☐ Radio
- ☐ Newsletter
- ☐ Television
- ☐ Agency Referral
- ☐ Email
- ☐ Recruited by Project Researchers
- ☐ Other (Please explain): _____

Thank you for taking the time to fill out this personal information form. Your participation in this project is very important and much appreciated!

