

CHAPTER 4

## **Jumping through Hoops: A Manitoba Study Examining Experiences and Reflections of Aboriginal Mothers Involved with Child Welfare in Manitoba**

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### **INTRODUCTION**

In 2005 Ka Ni Kanichihk, an urban-based Aboriginal organization in Winnipeg, launched a study focusing on the experience and the disproportionate representation of Aboriginal women involved in the child protection system in Manitoba and consequently the role of the justice system in their lives and that of their children. Ka Ni Kanichihk, along with several community organizations and institutions, initiated a coalition of stakeholders to oversee the project and to explore the nature of Aboriginal mothers' experiences in child protection cases before the courts in Manitoba. It was necessary to understand the nature of Aboriginal mother's experiences before we could actually begin to understand

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and implement alternative dispute resolutions processes and how to prevent Aboriginal mothers from experiencing adversarial interaction with the child welfare and legal systems.

This paper briefly describes Aboriginal mothers' experiences with child welfare workers, the child welfare system, legal representatives and Aboriginal mothers' understanding of alternative dispute resolutions. The findings draw from in-depth recorded interviews and talking circles conducted with 32 Aboriginal mothers<sup>1</sup> during the time between March and June, 2007. The voices, perspectives, emotions and child welfare experience of Aboriginal mothers are the heart and soul of this research, and only the findings and themes extrapolated from these interviews and talking circles held with Aboriginal mothers are addressed in this chapter. In addition, this paper highlights solutions and recommendations identified by the mothers involved in this study about how child welfare and family court systems can begin improving relations and working better with and for Aboriginal mothers and their children.

## OBJECTIVES

The research initiative was designed to specifically address a gap in knowledge for Ka Ni Kanichihk around the process and outcomes of Aboriginal women's experiences with Aboriginal and non-Aboriginal child welfare agencies on- and off-reserve, as well as agencies situated in urban or rural localities. The study focused on four areas:

- Describing and analyzing 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.
- Examining 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.
- Examining the experience of lawyers tasked with representing Métis, First Nations, Inuit and other Aboriginal women involved in child welfare/protection cases before the courts in Manitoba.

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1 Many of the women who participated in this study also identified as being grandmothers. This paper reflects the voices and perspectives from both mothers and grandmothers. They have been collectively referred to as "mothers" throughout.

- Seeking ideas and suggested solutions to inform less adversarial and least intrusive approaches to dealing with child protection matters involving Métis, First Nations, Inuit and other Aboriginal women and children.

## METHODOLOGY

This research took a phenomenological approach to understanding the lived experiences 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. To gather such data, in-depth interviews were undertaken with mothers who had directly experienced the phenomenon of interest; that is, they had a “lived experience” as opposed to second-hand experience (Patton, 2002). A variety of qualitative activities were utilized in collecting data for understanding Aboriginal mothers’ experiences, including:

- A literature review (focusing on the following seven areas: 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 alternative response models);
- Creation of a survey-based personal information form (for statistical and background purposes);
- 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;
- Facilitation of talking circles<sup>2</sup> with Aboriginal mothers about their child welfare and court experiences.

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2 Since we wished to audio record the discussions that were held in the circle, we decided to conduct a talking circle instead of a traditional sharing circle which does not allow for recording. The talking circle is a way for Aboriginal people to share and/or solve problems. It is a very effective way to remove barriers and to allow people to express themselves with complete freedom and allows for recording unlike other types of sharing circles (see Mi’Kmaq Talking Circles at <http://www.muiniskw.org/pgCulture2c.htm>).

The research activities, in addition, centered on capturing Aboriginal mothers' ideas and solutions for change that could be implemented to create greater awareness about Aboriginal mothers' experiences with the child welfare and child protection matters before the courts.

### **Ethics**

Various research instruments and consent forms were developed prior to collecting data. An ethical review was conducted through the Prairie Women's Health Centre of Excellence (PWHCE) in Manitoba. Three Aboriginal women (scholars with University affiliations), in addition to staff at PWHCE, assisted in conducting the ethical review and all provided written statements for strengthening the project. This feedback was incorporated into the data collection phase of the project.

### **Recruitment**

Aboriginal mothers who had involvement with the child welfare system in Manitoba were recruited from Winnipeg and The Pas, Manitoba. Recruitment was done through an email strategy and by word of mouth, utilizing the networks of Ka Ni Kanichihk, the Steering Committee,<sup>3</sup> the Research Team, and the First Nations Child & Family Caring Society of Canada. In addition, posters about the project were distributed through various community organizations both in Winnipeg and The Pas, Manitoba. Members of the research team fielded random calls from interested Aboriginal women. The first 32 women who met the criteria for the study were then invited to participate in either an interview or talking circle. The criteria required that participants be Aboriginal (First Nations, Métis, Inuit and non-status Aboriginal) women, eighteen years of age or older. Participants had to have had direct experience of apprehension or had to have been at risk of having their children apprehended by either an Aboriginal / First Nations Child Welfare service agency and/or a non-Aboriginal Child Welfare service agency within the province of Manitoba. The women had the choice of participating in either a one-on-one interview or in a talking circle or both. The reason for having

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3 The members of the steering committee were appointed by Ka Ni Kanichihk. The steering committee was comprised of individuals representing various organizations within the community who had a vested interest in the research conducted.

two different ways of collecting data was simply to get an individual and collective social understanding of Aboriginal mothers' phenomena in dealing with the child welfare and legal systems in Manitoba. The personal interviews and the talking circles were conducted between March and June in 2007. 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.

## LIMITATIONS

We were not able to interview as many service providers and/or advocates as originally targeted in the work plan because of the attention on the child welfare system by the media during the later part of the summer and into the fall of 2007. During the data collection phase of this project the Government of Manitoba commissioned two external reviews into the child and family services system as a result of the tragic death of five-year-old Phoenix Sinclair in March 2006. Two subsequent reports were completed (Strengthen the Commitment Report, which focuses on case management practices across the system, and Honouring Their Spirits Report, which examined child deaths between 2003 and 2006<sup>4</sup>). 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 (AJI-CWI). The AJI-CWI represented a joint initiative among four parties: the Province of Manitoba; the Manitoba Métis Federation; the Assembly of Manitoba Chiefs; and the Manitoba Keewatinook Ininew Okimowin. The purpose of this joint initiative was to work together through a common process to develop and subsequently oversee the implementation of a plan to restructure the child welfare system in Manitoba. An essential feature of this restructuring was the expansion of off-reserve authority for First Nations and the establishment of a province-wide Métis mandate. Restructuring of the child welfare system was completed in 2005.<sup>5</sup>

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4 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 from the two external reviews.

5 In November 2003, the Child and Family Services Authorities Act proclaimed

In addition to the two external reviews, the four provincial 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 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.

Further, the subjective nature inherent in this research needs to be acknowledged. Finally, no claim to universal generalizability of the results can be made.

## PROCEDURES

### Interviews

A total of 32 women participated in this study. Twenty-five of the 32 mothers participated in interviews. The interview format included a) the establishment of rapport, b) sharing of narratives, and c) appropriate closure. During the engagement process with Aboriginal mothers, roles were clarified and issues of confidentiality and anonymity were reviewed. In order to encourage Aboriginal mothers/grandmothers' participation, the actual interview was open-ended, was minimally structured, and had no time limitations.

Individual interviews lasted anywhere from twenty minutes to one and one-half hours in duration. Interviews with the mothers were conducted by one of the three team members. Two talking circles were held

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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 are consistent with the applicable Provincial Child and Family Services and Adoption Acts.

in Winnipeg, while one talking circle took place in The Pas, Manitoba. All interviews and talking circles were audio-taped and later transcribed verbatim. During the course of the interviews and talking circles, participants were asked to clarify and expand on issues that required further elaboration. When the participants appeared to become detached from the topic, they were gently re-directed. When researchers felt that the participants' experiences had been fully articulated, mothers were asked: Is there anything else that you would like to add that has not yet been addressed? Following the verbatim transcription, a copy of the transcript was shared with the mothers, who were then thanked and invited to reflect and elaborate further on their experiences.

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. Copies of the transcript from the talking circles were shared with the participants, who then had an opportunity to provide feedback on the contents.

### **Stages of Data Analysis**

Immediately after each interview, the audio tape was carefully listened to and reviewed, in an attempt to gain an awareness of the experiences described by the Aboriginal mothers. Each interview was then transcribed into a written protocol and read in its entirety several times. During final readings of the entire protocol, significant statements were extracted, paraphrased, and given meaning. Once transcribed, the interviews and talking circles conducted for this study yielded over 500 pages of rich narrative text.

After analysis of the research findings, several predominant themes emerged, along with interrelated subthemes. Collectively, the mothers' narratives about their experiences with the child welfare and legal profession revealed six predominant themes. These included:

- How Aboriginal mothers came into contact with child welfare;
- Understanding the background context of Aboriginal mothers' lives;
- Treatment by staff within the child welfare system (i.e., treatment by child welfare staff and supervisors, racism, visitation, etc.);

- The mothers' insight into their experiences (acknowledging their own mistakes, emotions, coping, etc.);
- Mothers' experiences with lawyers; and
- Mothers' knowledge of alternative dispute resolutions used in the child welfare context.

Due to space constraints this chapter doesn't address the full extent of the themes. The report which captures the full essence of these findings can be downloaded from the Caring Society website.<sup>6</sup>

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. For many of these mothers, involvement with the child welfare system first began 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 41-50 years old and were single mothers. Their stories reflect collective and common perceptions about how the child welfare system functions and operates against them because of their poverty and substance misuse. They all indicated needing assistance accessing services to support them in their roles as parents. As time was a factor the analysis of the data was conducted primarily by the main investigator, with assistance from the research team and advisory committee.

## LITERATURE REVIEW<sup>7</sup>

Meager research exists about Aboriginal mothers' experiences with child welfare systems or the courts in relation to child protection issues in Canada. Seminal research first conducted on the issue of Aboriginal motherhood and the child welfare system was done by University of British Columbia law professor Marlee Kline. Kline laid the groundwork for understanding how the inter-sectionality of race, gender and

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6 [http://www.fncaringsociety.com/projects/docs/FCDP\\_Final\\_Report\\_Bennett\\_2008.pdf](http://www.fncaringsociety.com/projects/docs/FCDP_Final_Report_Bennett_2008.pdf)

7 A more extensive literature review can be found in the final report. Portions of this review were also published previously in the journal *Canada's Children* (Bennett, 2007).



class worked in relation to the application of child welfare laws in cases involving First Nations mothers. Kline challenged assumptions about what makes a “good mother,” including the ideal of “motherly self-sacrifice” and the notion that all mothers belong to a nuclear family. Kline (1989) indicated that this ideology was an improper yardstick to use for Aboriginal mothers, particularly because Aboriginal families view the sacrifice of child-rearing as a shared one. In a thesis prepared for her Masters of Law degree, Kline (1990) clearly analyzed the centrality of the “best interests of the child” doctrine as applied in First Nations child welfare cases. The substance of Kline’s thesis deduced that this doctrine is a major contributing factor in the destructive and assimilationist impacts of the child welfare system on First Nations children and families because the judicial decision-making has downplayed, if not completely negated, the relevance and importance of maintaining a child’s First Nations identity and culture.

In another highly quoted article, Kline (1993) 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 in the history and current dynamics 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 in First Nations families, and conversely to devalue different values and practices of First Nations families. The combined effect of these two processes is 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). 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 internationally.

The correlation of Aboriginal women and the child welfare systems is also the focus of research conducted by Patricia Monture-Angus, a Mohawk woman, lawyer and scholar. Monture-Angus (1989, 1995) 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. Monture-Angus argues that removing children from their homes and communities has resulted in the destruction of the traditional way of life within Native communities; in the process, cultures are being destroyed. 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 subsequent judicial reports (see Kimmelman, 1985).

Two more current resources looking at the experiences of Aboriginal women involved with the child welfare system are based on research conducted in British Columbia. One is a study focused on the experiences of women involved with child welfare services conducted by the National Action Committee on the Status of Women in British Columbia (Kellington, 2002). A second companion document outlines findings from community forums held with Aboriginal women in British Columbia (MacDonald, 2002).

Aboriginal mothers were among the three particular communities of mothers at the heart of the National Action Committee on the Status of Women in British Columbia (NACBC) study which sought to understand the social factors that act as causal instigators to mothers' involvement with the child welfare system in BC. The study recognized that mothers came into contact with the child welfare system in one of three ways: (1) 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) observed that background factors must be acknowledged that 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 while they were in care as a child. 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 (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 were also identified. Kellington 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 participated 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 (Cull, 2006). This is not the most socially supportive response that should come from governments. Women indicated that 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 also reiterate that there needs to be better resources and protection to those responsible for raising children.

Kellington (2002) noted that very little literature exists in the form of studies, reports, or articles giving voice to the experiences and perspectives of mothers' interactions with the child welfare system. Furthermore that very little exists about how Aboriginal mothers' experience with the children welfare system differs from that experienced by non-Aboriginal mothers. Thus, a companion report to the NACBC study—the "Missing Voices Project"—was prepared by Kelly MacDonald later in the same year (2002) to fill this void. Forty-one Aboriginal women were encouraged

to share their stories and experiences with respect to their involvement with the child welfare systems in BC (MacDonald, 2002). In some cases, women reported that it was unclear to them 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. Mothers' perceptions were that the child abuse investigations were inadequate and missed important information. Many mothers expressed frustration with what they perceived as social worker's changing expectations or with the perceived lack of attention given by social workers to mothers' concerns. 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. This contributed to difficulties developing trust in the Ministry. Mothers noted that their social workers were young, making it difficult to relate to them. Racism and disrespect toward Aboriginal mothers were also 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. Many mothers noted that their lawyer advised them to be agreeable with the child welfare plans and court orders presented to them in court; the assumption was that they would get their children back sooner. Their lawyer did not see merit in challenging court decisions. When MacDonald presented the mothers with a guide that was designed specifically to assist Aboriginal mothers with navigating the child welfare system in BC, many of the Aboriginal mothers were unaware of what their legal rights were (p. 32). Many mothers indicated that they were misled into believing their children would be in care only 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 provided many of the mothers with their

first opportunity 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 and 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).

As MacDonald (2002) noted in her research, alcohol abuse by the mother was the primary reason behind the apprehension of many of the Aboriginal mothers' children in BC. What is interesting to note is that many of the Aboriginal mothers who participated 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 Callahan and colleagues (1994) 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). This was also identified by MacDonald as a serious void in the training of social workers by universities and the Ministry. 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. The emotional turmoil experienced by mothers who had children apprehended was further compounded by the prior experiences of mothers who themselves had been in care as a child.

In addition to the stories of pain shared by 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. Those who were able to make arrangements to place their children with family members reported that it took an enormous amount of energy and effort to have their children placed with family. Sometimes the homes in which Aboriginal children were placed were arguably more harmful to them than their own homes (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 while in care and after children were returned.

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 are 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 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 mothers shared can be utilized as a tool to begin the process of awareness and understanding. Moreover, MacDonald states that 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. The recommendations directed 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.

The review of the literature in this area provides a beginning framework for understanding the extent and complexity of Aboriginal mothers' experiences with the child welfare and court systems within Canada today.

## RESULTS/FINDINGS

The following section of the paper is organized so that the voices and the perspectives of the Aboriginal mothers in this study 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 words. Italicized text is used to present quotes drawn from comments made by the 32 mothers during their interviews and talking circles. The quotes have been lightly edited for grammar. Great care has been taken to ensure that this editing does not change the content nor does it alter the intent of the original comments made by the mothers who participated in the study. The purpose of laying out the data in this way is to ensure that readers get a sense of some of what the mothers in this study had to say about their experiences. In doing so, the perspective of the researcher has been minimized, while the individual and collective voices of the mothers associated with this study have been amplified. This narrative approach obligates readers to hear and listen to the voices and perspectives of Aboriginal mothers. This chapter reflects upon select comments drawn from three of the six themes identified in the final report: 1) experiences with the child welfare system, 2) experiences with lawyers, and 3) knowledge of alternative dispute resolution mechanism used in the child welfare context.

### Experiences with the Child Welfare System

#### *Fear of Child Welfare*

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 as reflected in the following comment:

I was even scared to go for treatment because I figured ... 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 ... tried to do that anyway and then they wound up taking my kids away so ... so either way, I just kinda ... had this feeling that ... 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.

### *Being Monitored*

A few of the mothers' narratives speak of being subjected to drug and alcohol testing by the child welfare agencies staff. One mother in particular stated that she was required to undergo random drug testing at least three times a month by the child welfare agency involved with her family. Closely related to drug and alcohol testing was the feeling of being watched by child welfare. Mothers felt strongly that being under scrutiny was an invasion of their privacy, as was noted by this mother:

... and they always managed to get me to that 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.

### *Triggering Mothers' Anger*

Mothers in this study noted that it appeared to them that social workers deliberately tried to make them angry, doing everything in their power to trigger anger, as this mother reflected:

They want to set you up. There are key words and there are key things they try to throw at you to make you fly off the handle. I'm not stupid, I know their game.

### *Visitation Arrangements*

Mothers who participated in the interviews and talking circles unanimously conceded experiencing many problems and difficulties around their visitation rights. Visits were inconsistent, held infrequently, and were often too short. Mothers stated that visits were often supervised and took place in the office of the child welfare agency they were dealing with:



I 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.

### *Harm to Children while in Care*

In addition to the pain and loss experienced by Aboriginal mothers when their children were removed, many mothers expressed fear and concern over the impact of the removal on their children. The most frequently cited worry that mothers brought to our attention was the possibility their children may have been or were sexually abused while in care:

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

Mothers say the biggest impact on children as a result of being removed is the loss of the development of a deep relationship between mother and child, as this mother lamented:

My 18-year-old son grew up in this child and welfare system. My son ... has a lot of anger and abandonment issues .... But he always has a safe home to come home to. I still love him and I'll always be here ... 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.

### *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 got so many certificates it's unreal.

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

I've been through so much programs in the 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.

### *Jumping through Hoops*

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, it seemed, to satisfy the whim of social workers to prove they were doing what needed to be done to get their children returned or to ensure visits with children currently in care. This was a comment made so often by the mothers we interviewed that it became the central title of the final report and is reflected in the following comments made by some of the mothers in this study:

You're a person who's 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 them 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....

### **Experiences with 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 also expressed views, opinions, and feelings about the positive and negatives experiences they had in dealing with the lawyers that represented them in child protection cases. Mothers' discussions also 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 for help and assistance. 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 information that mothers needed to help themselves understand what to do next. They did not know what their rights were:

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 .... 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."

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. The comments about their lawyers

were both positive and negative. However, evaluation of the quality of legal services received was for the most part primarily negative. Many mothers indicated that their lawyers did not appear to represent them. Many said their lawyers counseled them to agree with the decisions made by the child welfare agency. For many, 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:

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.

In addition to the confusing terminology used the court room, mothers indicated that they did not feel their lawyers did enough to defend or represent them in court:

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 isn't my 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.

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:

I wasn't looking for sympathy, but there was never ... not even ... a friendship thing with my lawyer ... it was just more business.

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 where many felt harshly judged. 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 agency's interpretation of the situation. Judgment came not only from judges and child welfare staff but also their own lawyers.

### *Lack of Courtroom Supports and Advocates*

Mothers expressed concerns about not being allowed to bring supportive people into the courtroom with them to face the judge, lawyers, child welfare staff and numerous other courtroom personnel and/or witnesses. The inequity of the situation was reflected by this mother in this way:

The advocate ... wasn't allowed in the courtroom. Well ... what I said was, "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 they become emotional ... 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.

### **Knowledge of Alternative Dispute Resolution Mechanism Used in the Child Welfare Context**

None of the mothers interviewed for this study were aware of the various alternative dispute resolutions (i.e., mediation or family group conferencing) 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 understood how it worked. Furthermore, Aboriginal mothers reported that child welfare staff and lawyers rarely offered suggestions to alleviate the tension that is inherent throughout the child welfare experience. The only alternative was really no alternative, as this mother noted:

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 a little bit about restorative justice because you know I was part of stuff like for a number of years before. 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.

Regardless of the time children spend in care, mothers are very optimistic that they will resume a relationship with their children when they come of age. Despite their circumstances the mothers we spoke to were optimistic; they prayed and continue to work on themselves to become strong for that day, as this mother 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.

## **MOTHERS' RECOMMENDATIONS AND SOLUTIONS FOR CHANGE**

This study gave Aboriginal mothers an opportunity to voice their perspectives about their experiences and to suggest simple changes and

solutions for helping mothers understand the child welfare system. The following recommendations were formulated from a combination of the responses provided by the mothers during the talking circles and interviews, augmented by the researchers' observations and analyses of the findings. There are seven 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 aspects and complexities of the child welfare system within the province of Manitoba.
2. **Establishment of a Training Program for the Aboriginal Mothers' Advocates:** The Aboriginal Mothers' 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 Manual on Understanding the Child Welfare and Legal Systems:** Development of a manual outlining what Aboriginal mothers 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 and instruct 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:** The mothers in this study identified the need to develop more support groups across the province 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 who've had similar experiences.
5. **Courtroom Advocates:** Mothers in this study suggested that in addition to their lawyers and the Aboriginal Mothers' Advocates, close family, friends and other supporters should be allowed into courtrooms.

6. **Development of a Website:** The website would include information about the Aboriginal Mothers' 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 involved with child welfare 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 an 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 that reflect on the challenges, strengths and the resilience of Aboriginal women and mothering.

The economic and logistical feasibility of moving these recommendations forward are yet to be explored. Aboriginal mothers should be involved in exploring, developing and implementing these recommendations and Elders must also be involved at every stage of developing these recommendations.

## DISCUSSION

The recommendations arising from this research may seem to advocate "tinkering" with the system instead of making fundamental change. This may in part be due to the lack of knowledge by Aboriginal mothers (and many service personnel working in the child welfare system) about alternative dispute resolution mechanisms available. It may also be due to the fact that Aboriginal women lack the power to ensure profound changes to these systems. In addition to the recommendations arising from interviews and talking circles with Aboriginal mothers and grandmothers, there is an urgent need to move the child welfare and legal systems toward utilization of alternative strategies when working with Aboriginal families. Family Group Conferencing, for instance, is an approach that is more conducive to Aboriginal families, but legislative and financial support is needed for implementing and practicing this approach with families. Fundamental changes to the child welfare system are needed,



but these can happen only when room is made for collaborative dialogue with those who have the power and courage to change system structures that continue to oppress.

More and more Aboriginal children are coming into care, and it appears these numbers are not decreasing. As portrayed by this research, the length of time that Aboriginal children remain in substitute care is an issue. Intentionally or unintentionally, child welfare intervention frequently leads to long-term placement of children in care. This can have the effect of keeping some natural parents from ever developing lasting and meaningful relationships with their own children. Indeed many mothers alluded to this fact when they shared that they often don't know their children when they turn 18 and return home from substitute care. In many cases the mother/child relationship is irreparable and whatever bond once was there is, in some cases, irretrievable. This is akin to what occurred to Aboriginal children when they returned home from residential schools (Bennett, Blackstock & De La Ronde, 2005). In this sense, the child welfare system can be said to perpetuate, through substitute care, the assimilation agenda of the federal Indian Act of the past century.

More tragically, the outcomes for children and youth who experience 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 in 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, upon aging out of the child welfare system, to experience exploitation by the sex trade (Kingsley & Mark, 2000) and/or involvement in criminal activities leading them into youth offender institutions and later into adult corrections institutions (Trevelyan, Auger, Moore & Sinclair, 2001). Former Aboriginal youth in care are generally characterized as more likely to: be undereducated; be unemployed or underemployed; 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; be dependent on social

assistance; have mental health issues; and be 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 often are not capable of becoming functional members of their communities (Sasaki, 1994).

When youth leave the child welfare system unprepared for independence and without ongoing support, the indirect costs are felt in other government departments such as healthcare, 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 child is better off in substitute care than remaining at home with their mothers? This is a difficult question and there are no easy answers. 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. The current parenting programs mothers are required to take are ineffective insofar as the system does not allow mothers the opportunity to exercise what they have learned if children do not return home to benefit from their mother's attempts to improve their parenting. It is near impossible for mothers to use and practice the new parental knowledge gained in these instances. In effect, mothers are denied and deprived of learning (or improving upon) their new-found parenting skills. Healing takes time and the child welfare system and its bureaucracy needs to recognize that current legislation, policies and practices impede, rather than enhance, the healing needed among the Aboriginal families they come into contact with.

Aboriginal families coming into contact with the child welfare system differ from non-Aboriginal families for historical and cultural reasons. For these reasons, it is essential that child welfare intervention policies and practices take into account the injustice and trauma that Canada has inflicted on Aboriginal peoples in the past. From this perspective, the imperative of Aboriginal women's right to be successful as mothers and grandmothers must be emphasized. 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 profound importance of

Aboriginal women's roles as mothers is once again being diminished, just as it was during the residential school era. Being an Aboriginal mother involves navigating parenthood under the pervasive, critical glare of the state (Cull, 2006). Moreover, Aboriginal mothers encountering the child welfare system today are held responsible for their own healing in the context of 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. In this way, current child welfare practices too often contribute to intergenerational traumas that have been forced upon and experienced by Aboriginal families since early contact with Europeans. There is an urgent need for a new response system that seeks to ensure the safety of children and also ensures 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.

The voices of these mothers and the narratives about their experiences with the child welfare system within Manitoba confirm what MacDonald (2002) noted in her own report that Aboriginal mothers' voices have 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 confirm MacDonald's earlier findings and contribute to evidentiary research in Manitoba 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 more respectful human responses. Federal and provincial governments need to ensure that Aboriginal people and their organizations are given adequate resources for this work.

## CONCLUSION

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 to their children 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 also need to be protected and supported so that they learn over the course of their lives how to protect and keep safe the children they brought into this world. More importantly, we need to ensure that fathers understand the importance of their role and participation in the lives of the children they helped create and bring into this world. Aboriginal mothers should not have to shoulder the responsibility of raising children and dealing with the child welfare system alone, as they 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. Nurtured Aboriginal children, after all, eventually grow into adulthood to be nurturing, conscientious parents themselves. We must ensure that the sacredness and profound importance of motherhood is continually transmitted from generation to generation to ensure healthy, intact generations to come.

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