

Child Welfare

Background and Context

Canadian child welfare services are provincially and territorially funded and legislated, with the exception of federally funded services to First Nations peoples living on reserves. In accordance with individual agreements negotiated between First Nations communities, provincial/territorial governments, and the federal government, an increasing number of First Nations are delivering child and family services in accordance with provincial and territorial child welfare laws. In addition, there are a host of community-based organizations providing prevention supports to children and families.

The child welfare system in Canada has long been criticized as an oppressive system that focuses far too much on apprehension over prevention. In Manitoba, upwards of 90 per cent of children in care are Indigenous. Most recently the colonial nature of child welfare across the country was highlighted in the Truth and Reconciliation Commission of Canada report (2015)¹ and *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019).² Specific to Manitoba, the (1984) report by Justice Edwin Kimelman, *No Quiet Place*;³ the 1991 Aboriginal

Justice Inquiry report by A.C. Hamilton and Justice Murry Sinclair;⁴ and Justice Hughes' *Legacy of Phoenix Sinclair: Achieving the Best for All Our Children Inquiry into the death of Phoenix Sinclair* (2014)⁵ provided detailed and scathing analyses of child welfare in Manitoba, emphasizing its damaging colonial design and delivery.

No Quiet Place was the first government commissioned investigation into child welfare and the treatment of Indigenous children and families in Manitoba and what is now known as the '60s scoop'. In a scathing report Judge Edwin Kimelman concluded:

After reviewing the file of every Native child who had been adopted by an out-of-province family in 1981, Judge Kimelman stated: 'having now completed the review of the files... the Chairman now states unequivocally that cultural genocide has been taking place in a systematic, routine manner'.

Several years later Justice Murray Sinclair noted similar concerns. In the first page of the *Report of the Aboriginal Justice Inquiry* (AJI) Sinclair notes a denial of justice "of the most profound kind," describing Canada's legacy to Aboriginal people as being "poverty and powerlessness." The

report spoke to the interconnectedness between the justice system and the child welfare system and recommended important changes to the child welfare system. Sinclair also noted: “Historically, the child welfare system has focused on investigating and then addressing parental shortcomings or misconduct, with little emphasis on prevention and empowerment.” He called for an overhaul of the child welfare system.

In Manitoba, the most significant effort to overhaul the system began in 1994 with the Framework Agreement Initiative signed by the Government of Canada and Manitoba First Nations. It aimed to develop an Indigenous self-governance model that included child welfare. In January 2007, the AMC voted to dissolve the agreement, citing concerns about negotiations with the newly elected federal Conservative government which took office in 2006.⁶ The recommendations outlined in the AJI report were shelved by Manitoba’s Conservative government and were not addressed until the NDP government was elected in 1999.

Given the most recent concerns raised in the TRC and the MMIWG Inquiry, it is clear that child welfare policy continues to be systemically racist. There has been some progress in Manitoba through the Aboriginal Justice Inquiry Child Welfare Initiative (AJI-CWI), launched in 2000. However, the AJI-CWI falls far short of self-governance. The existing legislation continues to give non-Indigenous control over Indigenous child welfare policy. A 2018 report from the Legislative Review Committee, *Transforming Child Welfare Legislation in Manitoba: Opportunities to Improve Outcomes for Children and Youth*,⁷ emphasizes the need to fully implement the devolution of child welfare services in Manitoba.

The Alternative Provincial Budget (APB) acknowledges that the desired restructuring of the child welfare system has yet to be achieved and this remains the long-term objective. However, in the short term, the APB is restricted by the

existing legislative framework. As described in a 2017 report⁸ there is much that can be done to improve supports for children and families within the existing model while working toward a governance model that “recognizes Indigenous self-determination and inherent jurisdiction over child welfare”.⁹

Manitoba: Current Policy Context

In Manitoba, under the Child and Family Services (CFS) Division and four CFS Authorities, there are 23 CFS Agencies and 4 Regional Offices that work together to deliver child and family services throughout the province in accordance with *The Child and Family Services Act*, *The Adoption Act*, and *The Child and Family Services Authorities Act*.

The four CFS Authorities that oversee services, disperse funds and ensure that culturally appropriate services are delivered by their respective agencies consistent with relevant legislation include:

- the First Nations of Northern Manitoba CFS Authority (Northern Authority);
- the Southern First Nations Network of Care (Southern Network);
- the Metis CFS Authority; and
- the General CFS Authority.

The Northern Authority is responsible for administering and providing support to 7 CFS Agencies.

- Awasis Agency of Northern Manitoba
- Cree Nation Child and Family Caring Agency
- Island Lake First Nations Family Services
- Kinosao Sipi Minisowin Agency
- Nikan Awasisak Agency
- Nisichawayasihk Cree Nation Family and Community Wellness Centre
- Opaskwayak Cree Nation Child and Family Services

The Southern Network is responsible for administering and providing support to 10 CFS Agencies.

- Animikii Ozoson Child and Family Services
- Anishinaabe Child and Family Services
- Child and Family All Nations Coordinated Response Network (ANCR)
- Dakota Ojibway Child and Family Services
- Intertribal Child and Family Services
- Peguis Child and Family Services
- Sagkeeng Child and Family Services
- Sandy Bay Child and Family Services
- Southeast Child and Family Services
- West Region Child and Family Services

The Metis Authority is responsible for administering and providing support to 2 CFS Agencies.

- Metis Child, Family and Community Services
- Michif Child and Family Services

The General Authority is responsible for administering and providing support to 8 CFS Agencies/Regional Offices.

- Child and Family Services of Central Manitoba
- Child and Family Services of Western Manitoba
- Jewish Child and Family Service
- Rural and Northern Services – Eastman
- Rural and Northern Services – Interlake
- Rural and Northern Services – Parkland
- Rural and Northern Services – Northern
- Winnipeg Child and Family Services

Fourteen of the child welfare agencies also operate as Designated Intake Agencies (DIAs) working on behalf of all four authorities to provide joint intake and emergency services, in accordance with section 21 of *The Child and Family Services Act*, to all persons in a specified geographic region of the province.

Through the Authority Determination Process (ADP), which is unique to Manitoba, families are guided to select the Authority that best aligns with their cultural values, beliefs and customs. In addition, the Province of Manitoba provides funding to non-mandated agencies including treatment centres, residential care facilities and community-based agencies and programs.

Funding Model

Funding for mandated child welfare¹⁰ in Manitoba is provided through both federal and provincial governments.¹¹ Provincial funding is provided to the 4 Authorities which then allocate funds to their member agencies. The Province funds the operations of each Authority. First Nation agencies operating under the Southern and Northern First Nations CFS Authorities are financed 60 per cent by the Province and 40 per cent by the federal government. This percentage split was based on the approximate division of Children in Care (CIC) off and on-reserve, as First Nation Child and Family Services Agencies are responsible for both. Two agencies — Animikii Ozoson Child and Family Services and the Child and Family All Nations Coordinated Response Network (ANCR) — are funded 100 per cent by the province, as are the Metis and the General CFS Authorities.¹²

Federal Context

It is important to note that federal funding is for CIC on-reserve and there is a significant discrepancy in the amount received. In 2007, this discrepancy led to a complaint to the Human Rights Tribunal and the ruling in 2016 that the funding of child welfare services on reserve is discriminatory. In September 2019 the federal government was ordered to compensate First Nations children who were placed in the on-reserve child welfare system.

In October the federal government requested a judicial review.¹³

A Parliamentary Bill that received royal assent in June 2019 will have implications for Indigenous child welfare services. Bill C-92, *An Act respecting First Nations, Inuit and Métis children, youth and families*, “affirms the rights and jurisdiction of Indigenous peoples in relation to child and family services and sets out principles applicable, on a national level, to the provision of child and family services in relation to Indigenous children, such as the best interests of the child, cultural continuity and substantive equality”.¹⁴ The new legislation came into effect January 1, 2020. It includes national standards that provincial legislation must align with. As well, it provides the foundation for Indigenous communities/groups to create laws for child and family services.

Another federal Bill, C-262, *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*, did not survive past third reading.¹⁵ It would have required “that the Government of Canada to take all measures necessary to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples”.¹⁶ It is possible that this Bill could be reintroduced and if passed it too would have implications for child welfare policy in Manitoba.

Provincial Funding

Funding is provided by the Department of Families through two main programs: Child Protection and Strategic Initiatives and Program Supports (SIPS). Budget 2019 provides the estimates highlighted in Tables 1 and 2 on the following page.

In addition to funding allocated for child protection, the Department of Families provides funding through SIPS. This is an important initiative as it funds non-mandated services that support children and families. For example, Ma

Mawi Wi Chi Itata Centre’s Family Group Conferencing program is in part funded through this funding envelope. Budget 2019 provides the following estimates for SIPS:

The APB agrees with the recommendations of the long list of commissions and inquiries referred to in this chapter, that there needs to be greater emphasis placed on prevention and more resources directed toward initiatives aimed at keeping children out of CFS care. In the case of services to support Indigenous children and families, the APB would continue the process of devolution — transferring resources and responsibility to the Authorities and their member agencies and to non-mandated community-based agencies. The APB will increase funding for child welfare as follows.

Implementation of the Child Welfare Legislative Review. \$3 million/year for 3 years

The APB will complete the process of devolution that was started through the AJI-CWI. We aim to do so within a three-year time frame and will commit \$3 million annually to the process, for a total of \$9 million over three years. As described in the Review “Current child welfare funding models can inadvertently incentivize child apprehensions”. Implementing changes described in the review will establish a new approach to child welfare rooted in prevention, early intervention and family restoration.

Increased Expenditure for year one: \$3M

Child Protection: Closing the Gap on Funding Inequities.

A recent study by Loxley and Puzyreva¹⁷ shows that Indigenous agencies receive less funding from the Province compared with non-Indigenous child welfare. The APB increases funding to ensure that workers are paid on par with MGEU rates and to begin to address other inequities in funding. Amount: \$100 million in 2020,

TABLE 1 Child Protection Estimates of Expenditure

	Estimates of Expenditure 2019/20 \$ (000s)	Estimates of Expenditure 2018/19 \$ (000s)
Child Protection (1)	5,168	5,086
Salaries and Employee Benefits (2)	1,083	1,233
Other Expenditures (3)	488,117*	512,862
Authorities and Maintenance of Children	494,368	519,181
Subtotal (d)	\$208,918	-\$4,289

* 1. Additional funding for Authorities and Maintenance of Children is provided through the Children's Special Allowances program, estimated to exceed \$30,000. This federal funding is provided directly to external Child and Family Services agencies outside of the Department of Families and no longer forms part of the Estimates of Expenditure and Revenue.

TABLE 2 Strategic Initiatives and Program Support Estimates

Strategic Initiatives and Program Supports	Estimates of Expenditure 2019/20 \$ (000s)	Estimates of Expenditure 2018/19 \$ (000s)
Salaries and Benefits	3,133	3,215
Other Expenditures	163	163
Aboriginal Justice Inquiry - Child Welfare Initiative (AJI-CWI)	484	484
Subtotal	3,780	3,862

with additional increases in future years to close the funding gap.

Increased Expenditure: \$100M

Agreements With Young Adults (AWA)

The number of CIC age 13–17 has grown and these youth require continued supports as they age out of care. The number of agreements extending supports for young adults from age 18–21 is increasing, and there have been continued calls to increase the age limit to 25 years. In addition to the above funding increase, the APB will increase the age limit and allocate additional funds to service providers to ensure this age group has sufficient financial support as they transition into adulthood.

Increased Expenditure: \$50M

Strategic Initiatives and Program Supports (SIPS) for a Total Funding Increase of \$30 million.

In 2020, priority will be given to increase authorities, agencies and community-based organiza-

tions' capacity to provide prevention supports by increasing funding available through the SIPS for the following:

Birth Helpers: Reducing Apprehension and Emergency Placements

Children, far too often babies, continue to be apprehended from their families and placed in Manitoba governments Emergency Placement Program. To address this issue, the Southern First Nations Network of Care in partnership with Wiji'iwag Ikwewag, the service provider, is implementing the Restoring the Sacred Bond (RSB) Initiative to support Indigenous mothers who are at high risk of having their infant apprehended. The only option for funding this innovative program was provided through the Manitoba governments Social Impact Bond (SIB) Strategy. The government has allocated \$3 million over two years for the RSB, payable to private sector investors based on performance. As required the Southern Net-

work has now raised private sector funding for the RSB program.

The APB is fundamentally opposed to the SIB approach to funding important social services. Although the existing agreement will be honoured, the RSB will be funded directly by government in future years. Recognizing the importance of Birth Helpers as a way to support mothers at risk and reduce child apprehension, the APB will provide all Authorities with funding annually to establish similar programs.

Increased Expenditure: \$2M to each of four authorities: \$8M

Non-mandated Agency Funding Increase

The Hughes Report spoke to the important role that community-based organizations have in providing safe and trusting environments for children and families. The APB will increase funding to non-mandated agencies to ensure they have the resources they need to support families.

Increased Expenditure: \$10M

Family Group Conferencing

The Province currently contributes funding to the Ma Mawi Chi Itata Centre for its innovative Family Group Conferencing program.¹⁸ This program has been highly effective. Between November 2017 and March 2019, 350 children were reunified with their families and 151 children were prevented from CFS placement. The APB will increase funds to Ma Mawi Chi Itata Centre for this important program and will provide funding to other Indigenous led community-based organizations to implement similar programs outside of Winnipeg.

Increased Expenditure: \$12M

Support for Dads

Community-based organizations in Winnipeg recently participated in a pilot funded through the Winnipeg Boldness Project. Young fathers often don't get an opportunity to share their parenting experiences with other dads. Pro-

grams supporting young fathers are an important component of prevention. The APB will allocate funding for existing programs and will assist other community-based organizations to get similar programs off the ground.

Increased Expenditure: \$.5M

Transition to Work and School

CIC are at a disadvantage as they transition to work and/or postsecondary education. The Canadian Mental Health Association is an example of a community-based organization providing these supports through its Futures Forward program. The APB will allocate funds for community agencies working with youth to provide comprehensive supports for youth as they transition from foster care to work/school.

Increased Expenditure: \$10M

Newcomers

In April 2019, the provincial government closed the Winnipeg Child and Family Services (WCFS) Newcomer Unit that provided stability, support, first language services, and cultural navigation for newcomer families as they experienced the challenges of settling in a new country. The Newcomer Unit will be restored in the APB.

Increased Expenditure: \$.5M

The APB will also allocate resources for intercultural competency training for all General CFS Authority workers across the Province.

Increased Expenditure: \$.060M

Conclusion

An increase in funding for child and family services will not address the structural problems that lead many children and families into the child welfare system. As noted by Hughes "the social and economic conditions that render children vulnerable to abuse and neglect are well beyond the scope of the child welfare system," and that

“the responsibility to keep children safe cannot be borne by any single arm of government, or even by a single government, it’s a responsibility that belongs to the entire community”.¹⁹

Increases in income supports, access to housing, childcare, employment, education and a

host of other investments, as described in other sections of the APB, are part of a comprehensive solution.

Total Expenditure Increase for Child and Family Services: \$194.06M

1 Truth and Reconciliation Commission of Canada (TRC). 2015. Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada. Available at http://www.trc.ca/assets/pdf/Honouring_the_Truth_Reconciling_for_the_Future_July_23_2015.pdf

2 National Inquiry into Missing and Murdered Indigenous Women and Girls. 2019. Reclaiming Power and Place. The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Available at: <https://www.mmiwg-ffada.ca/final-report/>

3 Kimelman, Edwin. *No Quiet Place*. Review Committee on Indian and Metis Adoptions and Placements. Final Report to the Honourable Muriel Smith. Minister of Community Services. Manitoba Community Services. Available at: <https://digitalcollection.gov.mb.ca/awweb/pdfopener?smd=1&did=24788&md=1>

4 <https://www.publicsafety.gc.ca/cnt/rsrscs/lbrr/ctlg/dtles-en.aspx?d=PS&i=1446357>

5 Hughes, Ted. 2013. The Legacy of Phoenix Sinclair. Achieving the Best for All Our Children. Vol. 2. Manitoba. Available at: http://www.phoenixsinclairinquiry.ca/rulings/ps_volume2.pdf

6 <http://www.firstnationsdrum.com/2008/02/multi-million-self-government-initiative-dies-in-manitoba/>

7 Government of Manitoba. 2018. Transforming Child Welfare Legislation in Manitoba: Opportunities to Improve Outcomes for Children and Youth: Report of the Legislative Review Committee. Manitoba. Available at: https://www.gov.mb.ca/fs/child_welfare_reform/pubs/final_report.pdf

8 Loxley, John and Puzyreva, Marina. 2018. Development of a New Federal-Provincial Funding Model for First Nations Child and Family Services in Manitoba.

9 National Inquiry into Missing and Murdered Indigenous Women and Girls. 2019. Reclaiming Power and Place. The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Page 194. Available at: <https://www.mmiwg-ffada.ca/final-report/>

10 Mandated agencies have the responsibility through legislation to ensure safety and protection of children and they have the power to apprehend children and place them in the care of a CFS agency whereas non-mandated provide prevention services and do not have authority to apprehend.

11 Loxley, John and Puzyreva, Marina. 2018. Development of a New Federal-Provincial Funding Model for First Nations Child and Family Services in Manitoba.

12 Ibid.

13 Stevanovich, Olivia. “Trudeau government seeks judicial review of tribunal decision to compensate First Nations kids”. *CBC News* October 04, 2019. Available at: <https://www.cbc.ca/news/politics/human-rights-tribunal-liberal-child-welfare-appeal-1.5308897>

14 <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-92/royal-assent>

15 Brake, Justin. “Let us rise with more energy’: Saganash responds to Senate death of C-262 as Liberals promise, again, to legislate UNDRIP”. *APT National News*, June 24, 2019. Available at: <https://aptnnews.ca/2019/06/24/let-us-rise-with-more-energy-saganash-responds-to-senate-death-of-c-262-as-liberals-promise-again-to-legislate-undrip/>

16 <https://openparliament.ca/bills/42-1/C-262/>

17 Loxley, John and Puzyreva, Marina. 2018. Development of a New Federal-Provincial Funding Model for First Nations Child and Family Services in Manitoba.

18 https://www.gov.mb.ca/fs/about/pubs/fsar_2018-2019.pdf

19 Hughes, Ted. 2013. The Legacy of Phoenix Sinclair. Achieving the Best for All Our Children. Page 445. Vol. 2. Manitoba. Available at: http://www.phoenixsinclairinquiry.ca/rulings/ps_volume2.pdf