

ABORIGINAL JUSTICE INQUIRY-CHILD WELFARE INITIATIVE (AJI-CWI)

The Aboriginal Justice Inquiry-Child Welfare Initiative (AJI-CWI) was an initiative designed to transition child protection and family support services to the Aboriginal people of Manitoba so they might be charged with the ability and responsibility to provide these services to their people throughout the province of Manitoba.

The March 2010 “Orientation to the Child and Family Services System in Manitoba”, prepared by Standing Committee, (Commission Disclosure No. 1095, page 22868) provides a history of events leading to the AJI-CWI.

Genesis of the Initiative

Historical practices, including colonization, the residential schools era, and the “60’s scoop”¹ have had a devastating impact on the lives of Aboriginal families, children, and communities. In 1988, the provincial government of Manitoba set up the Aboriginal Justice Inquiry (AJI) to examine the relationship between the Aboriginal peoples of Manitoba and the justice system. The AJI report was released in 1991.² Chapter 14 of the report is devoted to the child welfare system. Changes to the child welfare system were recommended.

In 2000, the provincial government created the Aboriginal Justice Implementation Commission (AJIC), and tasked the AJIC with making recommendations to the government for the implementation of the AJI recommendations. The AJIC recommended that the AJI child welfare recommendations be prioritized for implementation.

The AJIC recommendations resulted in the AJI-CWI when, in April of 2000, the Province of Manitoba announced its intention to proceed with the recommendation of the AJIC that Manitoba should enter into agreements with the Assembly of Manitoba Chiefs (AMC) and the Manitoba Métis Federation (MMF) to develop a plan that would result in First Nations and Métis communities developing and delivering Aboriginal child welfare services.

Aboriginal Justice Inquiry-Child Welfare Initiative

The AJI-CWI began with the signing of Memorandums of Understanding with the AMC on behalf of southern First Nations, Manitoba Keewatinowi Okimakanak (MKO) on behalf of northern First Nations and the MMF on behalf of the Métis people of Manitoba. Additionally, a protocol was signed by all the parties that would guide the implementation process.

¹ The 60’s scoop refers to the former policy in Manitoba, and elsewhere, whereby many Aboriginal children were taken from their parents and placed with adoptive parents outside of Manitoba. This practice was referred to by Associate Chief Judge Edwin Kimmelman in a 1985 inquiry report into Manitoba’s child welfare system, focusing specifically on Aboriginal children, as “cultural genocide” against Aboriginal families and communities.

² Commission Disclosure No. 1159 at p. 24513.

Goal of the Initiative

As stated in the protocol, the goal of the initiative was the implementation process leading to the establishment of separate and distinct province wide child and family service mandates for both First Nations and Métis people.

Design Principles

A series of principles were agreed to by the partners. These principles added further context to the goals and limits of the initiative and played a major role in the development of the conceptual plan for the initiative. These principles are described on the AJI-CWI website as follows:

Strategic Design Principles

1. There will be a common process to develop the implementation plan to restructure the system;
2. The distinct rights and authorities of First Nations and Métis peoples and the general population will be province-wide;
3. Each CFS Authority requires a skilled and appropriate workforce; and each has the right to define 'skilled', 'appropriate' and the criteria through which the workforce is hired;³
4. Services, administrative and financial resources in the child and family service system will be distributed in a way that achieves equitable funding and parity of service throughout the province;
5. There shall be a method for determining which Authority or agency can provide the most culturally appropriate services for a child and/or a family;
6. Intake services will be coordinated; there will be timely first response; and the intake system will ensure that no child is at risk because of gaps between the mandates or operations of agencies;
7. Each Authority will provide the full range of services and functions as outlined in The Child and Family Services Act and The Adoption Act;

³ The province will work cooperatively with the Authorities to develop a competent workforce and maintain the capacity to ensure standards in this regard.

8. Child and family services records and processes need to be computerized; and there will be common registries for the whole system;
9. The system of services delivered by mandated child and family services agencies shall protect and honour children by building and empowering community, family and personal capacity through the delivery of holistic, restorative, integrated, preventive, supportive and protective services.

Structure

The process was to be guided by a structure that included an Executive Committee comprised of political leaders, a Joint Management Committee and an Implementation Committee. The Implementation Committee created numerous working groups to deal with a wide variety of topics.

Conceptual Plan

The first significant milestone after the beginning of the process was the creation of a Conceptual Plan. The Conceptual Plan dealt with significant issues such as

- (a) governance structure;
- (b) a process for determining what agency would serve a family given concurrent jurisdiction;
- (c) development of a centralized intake system;
- (d) what services would be devolved;
- (e) intersystem relations to examine opportunities for integration and cooperation across the system as a whole;
- (f) management information systems;
- (g) human resource strategies; and
- (h) funding.

Public Consultations

A series of public consultations were undertaken to obtain feedback on the Conceptual Plan. These consultations were held in the fall of 2001. Twelve communities throughout the province were involved. These were Churchill, Pinaymootang FN/Fairford,

Thompson, OCN the Pas, Portage la Prairie, Brandon, Cross Lake FN, Garden Hill FN, Swan River, Sagkeeng FN/Pine Falls, St. Boniface, and Winnipeg. Feedback was also solicited via written submissions. Additionally, a series of 15 focus groups were held.

The Child and Family Services Authorities Act

On November 24, 2003, *The Child and Family Services Authorities Act* was proclaimed. The Authorities Act and its regulations created the legislative base of the new system.

Highlights of the New System

The significant features of the new system:

1. **Delegation of Powers:** Creation of Aboriginal (and general) Authorities governed by boards of directors appointed by their respective political bodies. The Authorities have taken on, for the most-part, the powers formerly vested in the Director of Child Welfare. This devolution of powers to the Authorities and granting of appointment rights to the political bodies is a significant devolution of power to Aboriginal people and their political structures. Although the exclusive power of the Authorities is considerable, accountability still remains with the Crown through the Minister. Authorities may create a mandated child and family service agency or take it over if they believe it is necessary to do so. They are the funders of the agencies and may direct them to take action if they see fit.
2. **Concurrent Jurisdiction:** Prior to the AJI-CWI and the passing of the Authorities Act, the Province of Manitoba was divided into geographical areas and a single agency or government office was charged with the responsibility of providing child protection services to all citizens in that area. In the new system, each of the Authorities has province wide jurisdiction. In any geographic area of the province there may be multiple child and family service agencies in operation. In Winnipeg, for instance, 19 of the 24 agencies mandated by one of the four Authorities are available to provide a full range of child protection services.
3. **Intake Services:** The Legislature recognized that concurrent jurisdiction would require co-ordination and a central point for intake to avoid confusion for the police, schools, day cares, and other citizens who may need the services of the child protection system. In order to deal with this concern, the Authorities Act requires that the Authorities jointly designate a single agency (the designated agency) to provide intake services in defined geographic areas of the province. This may be one of the existing agencies operating in the area, which is the most common arrangement, or it may be an agency created specifically for this purpose, as is the case in Winnipeg.⁴

⁴ In Winnipeg this Agency is now called Child and Family All Nations Coordinated Response Network (ANCR).

4. Authority determination process: An intake agency is the point of first contact but at some point a case will need to be transferred to one of the agencies that provide a full range of services. In order to determine the appropriate Authority that is to serve a family, the intake agency conducts an interview with the family. This interview is essentially a scripted discussion that allows the intake agency to determine which Authority would be most culturally appropriate to serve the family.
5. Choice: A significant variation on the Authority determination process described above is the capacity to choose. Although the system is designed on the assumption that most families will choose the most culturally appropriate Authority they are, in fact, entitled by the system to choose any of the four Authorities.⁵ There are some exceptions to the right to choose when the intake agency will be required to choose on the families' behalf.⁶ Children who are expecting or independent may make the choice rather than their family.

Implementation

Transfer of case files and resources took place over approximately an 18 month period. Transition dates by region were:

1. Interlake - November 23, 2003;
2. Eastern Manitoba - March 2, 2004;
3. Central Manitoba - May 1, 2004;
4. Parkland - September 20, 2004;
5. Northern Manitoba - October 18, 2004;
6. Western Manitoba - December 1, 2004;
7. Thompson - April 4, 2005; and
8. Winnipeg - May 2, 2005.

⁵ This right to choose allows the choice of Authority but the Authority retains the right to choose which of its agencies will provide the service

⁶ This occurs when the parents/guardians are not deemed competent, are not available, or cannot agree.