

# Meenoostahtan Minisiwin: First Nations Family Justice "Pathways to Peace"

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## Article abstract

Community justice initiatives are now common in Canada, both for young offenders and in adult criminal cases; there are only a few examples of alternative methods for dealing with justice issues in the area of mandated child welfare services. The initiative outlined in this paper represents one of the most comprehensive family justice initiatives in First Nations Child and Family Services in Canada.

Meenoostahtan Minisiwin: First Nations Family Justice offers a new way of addressing conflict in child and family matters, outside of the regular Child and Family Services (CFS) and court systems. It incorporates the traditional peacemaking role that has existed for centuries in Northern Manitoba Cree communities, alongside contemporary family mediation. The program brings together family, extended family, community members, Elders, social workers and community service providers in the resolution of child protection concerns through the use of properly trained Okweskimowewak (family mediators). The Okweskimowewak's role involves assisting participants to articulate their personal 'truth' (dabwe) and to hear and respect the dabwe of others; to create a safe and nurturing context by addressing inherent power imbalances; to explore the root causes of family conflict in order to address the long term best interests of children; and to facilitate innovative and collaborative planning outcomes for families.

The program was developed by the Awasis Agency of Northern Manitoba, a mandated First Nations Child and Family Services agency, although it receives its services mandate from the Manitoba Keewatinowi Okimakanak (MKO) Executive. It is jointly funded by the Aboriginal Justice Strategy of Justice Canada and the Manitoba Department of Family Services and Housing. Overall direction for the program is provided by the First Nations Family Justice Committee, a sub-committee of the MKO Executive Director of Awasis Agency, and representative chiefs of the MKO region. The program currently employs a Program Coordinator, two full time regional Okweskimowewak, two full time community-based Okweskimowewak and an administrative assistant.

Since its inception in 1999, the program has received referrals involving more than seven hundred families, including well over 1900 children and 1500 volunteer participants. Services have been provided in seventeen First Nation communities in Northern Manitoba as well as in Thompson, Winnipeg, The Pas, and Gillam.

The Meenoostahtan Minisiwin program responds to all aspects of mandated child welfare, as well as other situations where the best interests of children are in jeopardy. These have included mediating care placement arrangements; child-parent conflicts; family-agency or family-agency-system conflicts; assisting in the development of service plans in neglect and abuse cases; advocating on behalf of families attempting to access services; family violence; larger community-wide conflicts; and working to address systemic problems which impact the lives of First Nations children and families. We believe that by establishing processes which focus on restoring balance and harmony within families and communities, we are working towards an overall increase in the health and wellness of community members.

And you who would understand justice,  
How shall you, unless you Look upon all deeds  
In the fullness of light? Only then shall you know  
that the erect And the fallen are but one man  
standing in The twilight between the Night  
of his pigmy-self And the day of his god-self.  
K. Gibran

# Meenoostahtan Minisiwin: First Nations Family Justice “Pathways to Peace”

Joe Pintarics and  
Karen Sveinunggaard



## Abstract

Community justice initiatives are now common in Canada, both for young offenders and in adult criminal cases; there are only a few examples of alternative methods for dealing with justice issues in the area of mandated child welfare services. The initiative outlined in this paper represents one of the most comprehensive family justice initiatives in First Nations Child and Family Services in Canada.

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night of his pigmy-self  
And the day of his god-self.  
K. Gibran*

## **To those who dream, and refuse to yield...**

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To the elders, visionaries, and wisdom keepers who breathed life into the program; to the children and families who so willingly step forward and trust the sacredness of the circle; to the First Nations leadership and communities who created the space, and continue to tend the soil in which the program blossoms; to the social workers and community service providers who work to deconstruct old and obsolete – and yet pervasive -- power structures; and, to our funders who continue to “risk doing things differently”...

we thank you!  
Ekosani!

*Joe and Karen*

## **Barriers To Conciliation In Mandated Child Welfare**

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*Meenoostahtan Minisiwin:* First Nations Family Justice program was born out of a great deal of frustration experienced by mandated First Nations Child and Family Services agencies in general, and the Awasis Agency of Northern Manitoba in particular. The following section highlights various legal, legislative and practice barriers experienced by First Nations Child and Family Services agencies, and offers insights into the context from which the program grew<sup>1</sup>.

Mandated child welfare practice tends to focus on deficit reduction much more readily than on promotion of capacities and assets (Thomas, 1994). Practice is often developed from case-specific, protectionist frames of reference, and as a result is more reactive than proactive in nature. Auxiliary service providers, particularly in remote northern communities, are scarce and restricted by narrowly defined mandates and funding structures. Too often, there is little attempt in the present system to look at the larger familial or community contexts, and little opportunity for genuine dialogue or collaborative planning (Mayer, 1985). Holistic approaches to health and well-being for children and families

that bring together all of the required supports and services are lacking.

The 'best interest' standard (commonly known as the 'test') has for some time governed Canadian judicial decision-making and social work practice. Manitoba's *Child and Family Services Act* sets forth a list of criteria that must be applied to every aspect of a social worker's interactions with a child, including placement and planning. The court's reliance on this 'best interest' test has, more often than not, proven discriminatory for First Nations families. It has often been cited as being too vague and subject to the personal values and interpretations of the decision-maker, resulting in inconsistent judgements (Bernd & Issenegger, no date; and Monture, 1989). As is the case for all Canadian common law, Manitoba's *Child and Family Services Act* is based on the standards of behaviour generally set by Euro-Canadian middle class society. Seldom is the larger, antecedent problems of poverty, racism, oppression and post-colonial residuals incorporated into legal decisions (Awasis Agency of Northern Manitoba, 1997).

Motivated by the 'best interests' of a child, Manitoba's *Child and Family Services Act* grants enormous power to social workers to remove children from their homes. "*Once children are removed, the onus falls on the parents to disprove any accusations regarding neglect or abuse...The social worker-family relationship is jeopardized when the worker apprehends the child, while at the same time trying to establish a working relationship with the parent*" (Awasis Agency of Northern Manitoba, 1997, p.34, 37). Due to fear of incrimination, parents unsuccessful in meeting their child care obligations are not likely to admit their 'failures' for fear of permanent removal of their children. Likewise, the agency and system are not likely to admit any potential wrong-doing on their part, either from fear of potential litigation or simply out of fear of losing standing. Such an environment can neither defuse conflicts nor resolve any difficulties the participants may be experiencing.

Once First Nations children and families find themselves caught up in the provincial

legal system, they often become further discouraged and disempowered. The quality and quantity of legal representation available to First Nation families in Northern Manitoba is often woefully lacking. They rarely have a personal interview with their lawyer, often only speaking to him or her on the phone just prior to court proceedings (Awasis Agency of Northern Manitoba, 1997, p.36). While the legal profession's code of ethics obligates lawyers to provide 'vigorous' legal representation to the best of their ability, in too many cases in Northern Manitoba, legal advice is motivated more by the expediencies created by inadequate funding than by exploring all legal options available to a child or a family. Coupled with poor, and at times absent, translation services and protracted court processes, these impediments combine to create a sense of bewilderment for families. From the ensuing lack of understanding and involvement in court proceedings (Maresca, 1995), "*(p)arents have been known to ask their lawyer after a permanent order has been granted on their children, "When do we get our children back?"*" (Awasis Agency of Northern Manitoba, 1997, p.24).

Responsibility, accountability, and ownership rest with the mandated child welfare or legal systems and away from First Nations families and communities (Awasis Agency of Northern Manitoba, 1997, p.24). When parental rights are terminated by CFS agencies or the courts, so are parental responsibilities toward the child. "*First Nations communities are disempowered of their community responsibilities toward families when cases are taken through judicial proceedings under the authority of the provincial or federal court system*" (Awasis Agency of Northern Manitoba, 1997, p.37). Accountability for service outcomes is to funders and regulators, not to First Nations children or families. 'Ownership' of programs and services is often maintained by outside agencies or departments and not by First Nations communities.

The practice methodologies and philosophies that produced these barriers continue to operate in the existing

framework of mandated child welfare in Northern Manitoba. Even as new, culturally-consistent agencies and programs take the place of old mainstream services, these often continue to serve pre-existing regulatory power structures and systemic paradigms. The *Meenoostahtan Minisiwin* program was specifically developed as one option for addressing many of these barriers. The program focuses on promoting families' strengths and capacities while exploring the best interests of children from a family and community perspective, away from the courts. To accomplish this, we bring together all the important decision-makers in a child's life in a safe and collaborative environment, with the goal of long term harmony for the family.

## Program Background

Awasis Agency of Northern Manitoba, one of the mandated First Nations Child and Family Services (CFS) agencies in the Manitoba Keewatinowi Okimakanak (MKO) region, began in the early 1990's researching alternative ways to address child protection concerns outside of the legal system. Although Awasis Agency had been created in 1984 to offer culturally specific child and family services to First Nations communities, the agency thought that establishing services outside the realm of provincial court systems would further improve outcomes for First Nations children.

This early research phase included an in-depth literature review as well as the practice methodologies of various alternative justice initiatives and mandated child welfare developments throughout Canada, the United States, New Zealand, and Australia. While many of these programs promised attractive possibilities, each lacked fundamental components deemed important for successful implementation in Northern Manitoba. Many were still too closely tied to what were known to be ineffective external systems; some had entities other than the family as their point of entry; others had their focus more on retribution than on reconciliation. In

consultations with Elders, Chiefs, and communities, Awasis Agency decided to revive and re-establish the traditional peacemaker role (Sawatzky, Pintarics & MacDonald, 1990) that has existed in First Nations communities for centuries.

Although the program was developed by the Awasis Agency, it receives its 'formal' service mandate from the Manitoba Keewatinowi Okimakanak (MKO) Executive. Since participation in the program is totally voluntary, its real mandate comes from the participants themselves. We have deliberately situated the program outside mandated child welfare as well as current justice structures, in order to ensure neutrality.

Funding for the program was secured in the fall of 1999, in a cost-shared arrangement between the Aboriginal Justice Strategy of Justice Canada and the Manitoba Department of Family Services and Housing. Overall direction for the program is provided by the First Nations Family Justice Committee, a sub-committee of the MKO Executive consisting of the Grand Chief of MKO, the Executive Director of Awasis Agency, and representative chiefs of the MKO region. Several articles and booklets, along with a book entitled *First Nations Family Justice: Meenoostahtan Minisiwin* (1997) were written detailing the development of this initiative.

## The Cree Language

*Language carries culture, and culture carries... the entire body of values by which we come to perceive ourselves and our place in the world (Ngugu Wa Thiong'o, 1997).*

Language shapes and is shaped by our perceptions. From the outset, the Elders and Wisdom Keepers expressed a strong reluctance to 'decontextualize' the process. The development team knew that in trying to name the '*manito*', the 'mystery and magic' of the peacemaking process, they needed to begin with the Northern Manitoba Cree language. Language is the medium through which history, culture and world

view are transmitted. English simply cannot capture the soft shades and nuances of meaning contained in the Cree language. These nuances or shadings are ‘of a fabric’ with the lived experience of the people, who fashion them, first into their appreciation of life (*ininisiwin*), then into their regard and deep respect for “our place in the universe” (*ototemitwin*), and finally, into the language (Marris, 1976; and Hall, 1976)3. In peacemaking these same nuances contain – as holons (Wilbur, 2001) – the meanings of ‘conflict’ as well as those of ‘resolution’.

Cree, like most First Nation languages, is predominantly verb-based rather than noun-based, with an emphasis on retaining and regaining balance and harmony with all things. Individuals and events are understood within their temporal and spatial contexts and are seen as dynamic and ever-changing.

*Things are perceived not so much as separate “things in themselves” but in terms of their activities, with special emphasis placed upon their constantly changing relationships with all other “things” that surround them...Verb-based languages also suggest that things such as events and people cannot be viewed as static and unchanging. Individuals continue to grow and develop. Life is a journey that is filled with events that challenge and affect the paths chosen...As First Nations language describes existence in terms of relationships, it is understood that it is in and through relationships that people grow, learn, heal and achieve health and wellness (Awasis Agency of Northern Manitoba, 1997, p.41) .*

Very deliberately, the program was named *Meenoostahtan Minisiwin*: First Nations Family Justice. In Northern Manitoba Cree, it stands for “Let’s all set our families right”. It is based on an understanding of harmony, of family, of community, and of “justice”. The word justice is not directly translatable in the Cree language. The closest is to ‘achieve harmony or balance’.

*Our understanding of justice and our first experiences with justice are formed or occur within the context of our families. In*

*the Cree language, the family (minisiwin) is seen as the place to create beauty. If through community justice our efforts are aimed at creating minahsin (a state of beauty or goodness; health), and when we understand that the place of beauty is the family (minisiwin), then our efforts must be directed at the family level. Meenoostahtan Minisiwin involves both “justice by community” and “family justice”. The community becomes the context within which family justice is addressed (Awasis Agency of Northern Manitoba, 1997, p.7).*

The following Cree expressions<sup>4</sup> were chosen as cornerstones of the *Meenoostahtan Minisiwin* program:

- ♦ **Dabwe:** “say things right.” There is no word for absolute truth. This word implies to speak as right as you can about a particular subject – what you know to be true to you.
- ♦ **Inninu:** “Human being.”
- ♦ **Ininisiwin:** “Wisdom.” Its connection with inninu (human being) implies that wisdom lies within each individual.
- ♦ **Kanawapamisoo Pitama:** “Look at yourself first.” Introspection.
- ♦ **Manito:** Spirit; that which is known or accepted to be but not seen.
- ♦ **Meenoostahtan:** “Let’s set things right.” To reset an object or situation to its proper path or state.
- ♦ **Minahyawin:** derivative of minahsin (beauty). This word is now used to refer to the well-being of an individual or a situation.
- ♦ **Minahsin:** “beautiful” or “good.” In a state of beauty or goodness.
- ♦ **Minisiwin:** “family,” “to create beauty or place of beauty.” This suggests that the family was seen as the place of beauty or the place to create beauty.
- ♦ **Minoopuhniw:** also derived from minahsin (beauty). Something or someone is flowing beautifully; it is in harmony; something is in harmony and following on its proper path.
- ♦ **Okweskimowew:** “headman” or person who speaks; one who speaks well

## Meenoostahtan Minisiwin Framework<sup>5</sup>

The framework of the *Meenoostahtan Minisiwin* Program is depicted in the diagram below. The circle represents the gathering of individual, family, and community. The circle is depicted as three strong, interwoven strands representing mind, body and spirit, and individual, family and community.

The Elders teach us that individual strands can break under pressure; alone, an individual, a family, or a community can also break. Woven together with mind, body and spirit, the individual, family and community are strong.

Around the perimeter of the circle is the process of inquiry, learning and action which is interspersed with reflection. This represents the developmental processes which the individual, family and community go through when moving towards the outcome of *Meenoostahtan: Minoopuhniw* (harmony), *Minahsin* (beauty) and *Minahyawin* (health). Justice is attained when harmony, beauty and health are achieved at the levels of individual, family and community.

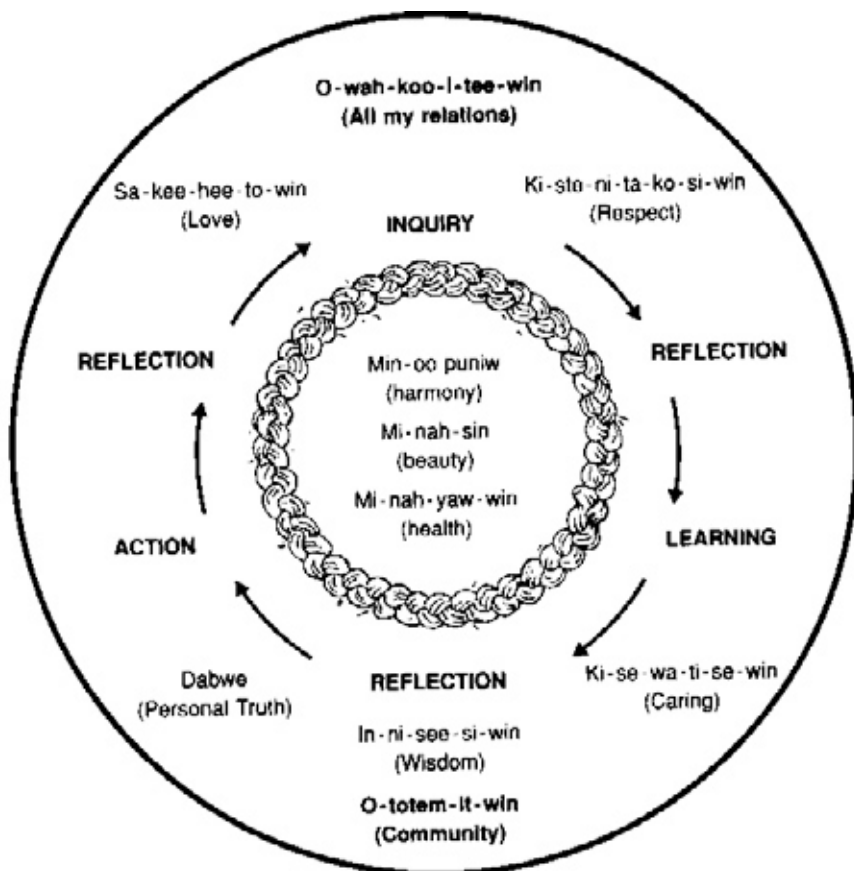
The framework of the program is supported by *sakeeheetowin* (love), *kistenitakosiwin* (respect), *kisewatisewin* (caring), *inisiwin* (wisdom), and *dabwe* (respect for personal truth). The entire framework is encircled by *owahkooiteewin* (all my relations) and *ototemitwin* (community) as any action can only be taken in the context of relations and community.

## Program Overview

*Meenoostahtan Minisiwin: First Nations Family Justice* Program offers an alternative method for addressing child and family matters outside the regular CFS and Family Court systems. The program brings together family, extended family, community members, elders and community service providers in the resolution of

child protection concerns through the deployment of properly trained Okweskimowewak (family mediators). The Okweskimowewak are trained to provide either traditional peacemaking or a more contemporary form of family mediation.

The focus of interventions with families is on facilitating the care and healthy development of children, and on restoring the health, harmony and balance in the family. The emphasis is on establishing strong care-giving environments through the assistance of community members and service providers, and on ensuring that the responsibility for addressing child and family matters remains with the family and the community. The process does not assign blame; rather it identifies the supports and developmental opportunities required to assist the family in becoming strong and healthy care-providers. The CFS worker continues to act as monitor and resource in planning for the child throughout the process (Awasis Agency of Northern Manitoba, 1997).



While the program strives to facilitate the development of healthy family environments so children can remain at, or return home, in the event this is not possible, temporary alternative placements will be sought with extended family, other community members or such other placements as the children's safety and care needs may dictate.

### Program Goals

*Meenoostahtan Minisiwin* aims to establish a community based collaborative process that begins from a place of strength and wisdom and emphasizes relationships and the restoring of harmony and balance in addressing the best interests of First Nations children and families. Our goal is to establish equitable and just processes that enable the sharing of power, the involvement of the wider community, and the establishment of plans that address the immediate, mid and long range goals of the family.

### Program Scope

Since September 1999, the program has provided services in the following Manitoba First Nations communities: *Manto Sipi* (Gods River), *Manto Sahkabikan* (God's Lake Narrows), *Moosocoot* (War Lake), *Kawechiwasihk* (York Factory), *Kinosao Sipi* (Norway House), *Pimicikamak* (Cross Lake), *Nisichawayasihk* (Nelson House), *Barren Lands* (Brochet), *Bunibonibee* (Oxford House), *Fox Lake*, *Northlands* (Lac Brochet), *Sayisi Dene* (Tadoule Lake), *Shamattawa*, *Tataskweyak* (Split Lake), *Opaskwayak* (The Pas), *St. Theresa Point*, *Opipon Napiwin* (South Indian Lake), as well as Thompson, Winnipeg, The Pas, and Gillam.

The program responds to all aspects of mandated child welfare, as well as other situations where the best interests of children are in jeopardy. These have included mediating care placement arrangements; child-parent conflicts; family-agency or family-agency-system conflicts; assisting in the development of service plans in neglect and abuse cases; advocating on behalf of families attempting to access

services; family violence; larger community-wide conflicts; and working to address systemic problems which impact the lives of First Nations children and families.

### Program Personnel

As indicated earlier, the program currently employs a Program Coordinator, two full time regional Okweskimowewak (family mediators), two full time community-based Okweskimowewak and an administrative assistant. In the first few years of program operation, part-time Okweskimowewak were employed in six First Nations communities. Four of these positions were turned into regional positions to allow for increased program flexibility and to offer the services in a larger number of communities.

*Meenoostahtan Minisiwin* philosophies, roles and responsibilities, training requirements, program protocols, policies and procedures, and reporting and monitoring requirements are consistent with the Code of Ethics of Family Mediations Canada. They were designed in consultation with Elders, Traditional Wisdom Keepers, community leaders, as well as men's, women's and youths' circles.

### The Okweskimowew's Role

The role of the Okweskimowew is not to solve a problem; he or she facilitates the understanding and discussions that lead to a resolution. An Okweskimowew may be involved in any or all of the following roles: communications facilitator; process advocate; process monitor; objective third eye, ear, heart; validator; permission giver; explorer; educator; reframer; translator; reality tester; protector; and, limit setter and boundary keeper (*Awasis Agency of Northern Manitoba, 1997, p.63-64*). The roles adopted by any one Okweskimowew are influenced by his or her personality, style and specific circumstances, as much as by the perceived requirements of any one *Meenoostahtan* process and its participants.



## Program Referrals

Referrals to the program come from a variety of sources: CFS agencies, schools, Chief and Council, court system, other community service providers and self-referrals. All referrals are required to meet the following basic eligibility criteria. First, we generally only accept referrals related to mandated child welfare concerns. Secondly, in order to benefit from our service offerings, participants must come voluntarily; we both screen and coach as needed, to ensure that each is able to articulate their own story -- either directly or indirectly; and we advocate and clarify, so that each of the parties understands the repercussions of all possible outcomes. The care and protection of children is not negotiable; this is secured before the start of Meenoostahtan, as is the safety and protection of all individual participants. Everyone must agree to abide by the rules of the group and is asked to sign a memorandum of agreement, pledging to maintain confidentiality. Finally, all the participants are asked to commit the time and energy necessary to reach an agreement, and, to then sign and agree to uphold the terms of the collective plan of action developed through the process (Meenoostahtan Minisiwin: Family Justice Program Standards Manual).

The participation of children is encouraged, either directly (if children are deemed mature enough and the context of the sessions will not further traumatize the child) or indirectly through a designated support person or an advocate (for example, extended family or community members; specific service provider; the Children's Advocate, etc.) with whom the child has a relationship. When the agenda calls for a lot of 'grown-up' talk, children would only be invited to participate in sessions specific to their concerns. Sessions are automatically stopped by the Okweskimowew if ever the best interests of any children present are deemed in jeopardy. Depending on the presenting issues, sessions may be resumed as soon as the needs of the children are addressed.

## Program Outcomes

Since program start-up, well over seven hundred families have been referred to the program<sup>6</sup>. This represents services to more than 1900 children. With the exception of the first year of operation, the program has maintained an average of 200 cases per year on their caseloads. Families remain on the program's caseload for an average of nine months, with some cases followed for one year after reaching an agreement. The number of new referrals for the 2004/05 fiscal year was down substantially due to staff turnover, although the complexity of the cases referred have continued to increase over time (see Case Examples starting on page 76). The program has been successful in attracting large numbers of 'volunteer participants'. Volunteers are participants who join our process as children's' or parents' support persons and other extended family.

The formalized evaluations (both external<sup>7</sup> and internal<sup>8</sup>) which have been completed on the program have consistently found high levels of program satisfaction from both families and referring agents. The latest program evaluation (completed in fall of 2004<sup>9</sup>) found 100% satisfaction rate amongst family participants, with 81% indicating they were very satisfied with the services received from the program. Participants most often listed more positive and open communication; a safe environment; and the experience of 'being heard' as the best aspects of the program. One hundred percent (100%) of participants indicated they would use the program again should the need arise.

Ninety percent (90%) of referring agents stated that the program was adequately addressing a community need, citing 'preventing children from entering care' and 'planning for children after apprehension' as the two main reasons for making a referral to the program. Referring agents most often listed 'keeping families together' (48% of respondents), 'restoring harmony and balance' (48%) and 'improving working relationships between families and CFS and community' (43%) as program benefits. 'Allows for better working relationships with family'; 'voluntary nature of program';

and ‘family-centred versus child-centred’ were cited as the main difference between the program and CFS by referring agents. Ninety five percent (95%) of referring agents stated that the program was valuable to their First Nation community.

Although the vast majority of individuals who have participated in a *Meenoostahtan* process have stated positive experiences with the program, there continues to be a certain amount of resistances from referring agents, and to a lesser degree from families, to ‘do things differently’. This was again listed in the 2004 program evaluation as the largest barrier to participation. Feedback from social workers suggests that referring to the *Meenoostahtan Minisiwin* program can ease their workloads in the long term and can improve their working relationships with families. At the same time, involvement with the program increases practice transparency and accountability which seems to lead to a hesitation to refer. The reluctance of some families to participate is most often cited as a lack of understanding of the process and a concern regarding confidentiality. Ensuring confidentiality is maintained in small rural communities where the lives of families are intricately intertwined is a legitimate concern. The *Meenoostahtan Minisiwin* program has established very strict confidentiality requirements which apply equally to all participants, including professionals (for example, note taking during sessions is limited to memory jogs, and all documentation is destroyed at the close of the sessions, with the exception of the Okweskimowew drafting an agreement).

Resistance to participate in ‘alternative dispute resolution processes’ has been cited in other research studies, including Carruthers’ (1997) review of Nova Scotia’s legislated child protection mediation program, and the newly released British Columbia Task Force on Family Justice (2005):

*There once was an expectation that if mediation or other ‘alternative dispute resolution’ (ADR) options were simply made available, people would recognize their advantages and seek them out, rather than choose to go the court. This has not*

*happened to the extent some expected. Although more and more families are aware of “ADR”, public awareness of these options still competes with a lifetime of exposure to the court system....The fact is most people learn about mediation when they participate in it, and most are pleased with the process and the result (BC’s Justice Review Task Force, 2005).*

A statistically sound cost-benefit analysis has not yet been effectively performed on the program due to the number of variables involved. These include the difficulties of predicting alternative outcomes when it comes to ever-changing family dynamics (i.e. whether a child would or would not have entered care had the program not been involved), and estimating court costs versus program costs. However, we have reason to believe that the program achieves similar results as those found in other research studies using mediation with child protection as reflected in the following statement:

*There are a variety of implications for cost and time savings when mediation is used in child protection. Benefits are both financial and outcome related with respect to the best interests of children. Improvement in judicial economy was noted such that reduced demands on the judge’s time allowed for greater attention to detail to other matters (pg 4)...Additional cost savings may be realized for cases in which mediation results in a higher rate of compliance with service plans, court orders and mediation agreements than would otherwise occur. Better compliance in turn may reduce time in costly out-of-home care or negotiating visitation or living arrangement that may promote stability for children and fewer complications for child welfare workers (pg 7)...Calculation of precise financial saving for Michigan as a result of permanency planning mediation may be elusive because of the multiple factors to consider... However, concluding that there is a financial savings to be gained from mediation seems reasonable (Anderson & Whalen, 2004, pg 9).*

## Meenoostahtan Minisiwin Process

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There are three components of the *Meenoostahtan Minisiwin* model that are used to ensure that services are standardized and consistent: (1) Intake and Pre-mediation; (2) Meenoostahtan process; (3) Follow-up.

### Intake and Pre-mediation process

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The intake process involves receiving, documenting, researching, and screening all referrals received by the program. In preparation for all family sessions, the Okweskimowew meets independently with the participants and informs them about the *Meenoostahtan* process and the reasons for the family sessions. Pre-mediation sessions are always held in private: most often, families are met in their homes or at such places as they deem safe for themselves. Social workers and agency personnel generally prefer to meet in their offices. With each of the parties in turn, the Okweskimowew specifies the care, protection and safety issues that underlie the referral and clarifies that the focus of the *Meenoostahtan* is on future choices, not past grievances (although these may be brought up to start the healing process of the relationships of the participants). The use of ceremonies or specific rituals (opening and closing prayers, the use of a smudge, eagle feathers or talking sticks, or other ritual requests) are discussed. The Okweskimowew outlines process expectations and rules of conduct, and determines the appropriate participation of children and support people. Finally, any conflict of interest questions that may arise are addressed.

Early in the life of the program, an important ethical clarification was reached in discussions between the program and the Awasis Agency about the voluntary nature of participation. In order to ensure a relatively level playing field for agencies and families alike, it was decided that while participation is voluntary for families and the agencies, this did not extend to individual workers; the way an agency chose to represent itself in mediation was deemed to be an internal

management decision, and not an ethical choice for mediators to make.

A great deal of time and energy goes into the “pre-mediation” process. For the participants, pre-mediation is a time to ask their difficult or embarrassing questions. It is also the time when we coach participants to find the best ways to get their message across to ‘the other side’ so that both will be and experience being heard, and yet for neither to be pushy or offensive. Some of our strategies include feedback, brainstorming options, role-plays, playing devil’s advocate, and the like. The primary intent is conciliatory: we help the parties to become focussed on their ‘interests’ rather than their ‘positions’<sup>10</sup>, and to draw attention to the relationships that exist between them. At the same time, we begin to explore ‘antecedent causes’ rather than focusing exclusively on ‘presenting difficulties’<sup>11</sup>, understanding that in order to facilitate long term outcomes we need to look beyond the ‘symptoms’.

Another key aspect of our pre-mediation process is that participants decide the format of the meeting. Some feel comfortable in a traditional circle and have strong preferences for certain elders or other support persons they wish to bring along. Others experience greater degrees of safety in the formality of mediation contexts. All these features are negotiated among the parties, ‘shuttle diplomacy’ style: all the ‘primary disputants’ must reach agreement before we proceed. But in all cases, the participants are architects of their own process.

Some cases do not progress beyond this point, as the parties are either unwilling to commit to the expectations of the program, or they have managed to resolve the issues on their own. For some, the shuttle diplomacy in negotiating process is sufficient to settle their concerns, while for others still, since the program is built on voluntary participation, individuals are simply not interested.

### Meenoostahtan Process

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Deliberations of the presenting concerns often take place in a sharing or talking

circle format – but always as the parties have agreed in pre-mediation. These circles may extend over several hours or even days. Each participant is given the opportunity to voice their views and their perspectives on the issues. At times, strong feelings are expressed; these are processed by the Okweskimowew as they surface. Discussions led by the Okweskimowew assist in determining the underlying problems, and ways to resolve them.

As already noted earlier, the Okweskimowew is not there to fix anything or to problem-solve. Most of the Okweskimowew's energies are devoted to the creation of space in which the participants can meet one another, and shift their position from being conflicted or oppositional with one another to one of joining forces to collectively address the real problems. Facilitative space is created to allow the participants to 'absorb' the conflict back into their relating. Once the relating shifts enough that it becomes safe to include ambivalence, or even to just agree to disagree, then there is more room to attend to the real concerns.

In the traditional Peacemaker role, the Okweskimowew may, at times, become directive of process, as fits the specific gifts of each individual practitioner. A Pipe Carrier may, for example, choose to hold a Pipe Ceremony. He or she would then share with the participants the Teachings the spirit guides have disclosed. The Teachings would often include direction for the holding of a ceremony, such as a Sweat Lodge, or a Feast, but one in which the participants must collaborate in some way. This is not a linear process. The 'sacrifice' or the 'giving of yourself' is not intended to be retribution. The participants may be directed to work together, to learn collaboration or cooperation in 'non-ordinary' space/time in the spiritual realm.

Here too, the intent is to create the possibility for a new way of relating – one that offers the possibility to contain ambivalence or even agreeing to disagree, but not from a conflicted place, but rather from an honoring or a valuing of 'differentnesses'. The Teachings are always

given in a spirit of kindness, and always contain aspects of the Seven Sacred Laws: *Sakihiwewin* (loving), *Kistenimitowin* (respecting), *Tapwewiwin* (being honest; truthful), *Sookitehiwewin* (being brave), *Tapahthenimowin* (being humble), *Ininisiwin* (being human; wisdom) and *Dabwe* (truth). Often, these Teachings are indirect; the lessons flow from the experiencing. Space is created in which learning can occur.

Power balancing is central to successful resolutions. Advocates are often used to amplify the voices of the children, and at times, those of adults as well. Explaining the role of advocates, John Paul Lederach (1995) states that "(t)heir work pushes for a balancing of power, that is, a recognition of mutual dependence increasing the voice of the less powerful and a legitimation of their concerns' (Lederach, 1995, p.13). Ensuring that the voices of all participants carry similar weight leads to the possibility of negotiation by creating a better understanding of interdependence and balancing of power (Lederach, 1995, p.13). "*Women can feel safe to deal with their issues, children will have a voice, men can let their guard down, elders can become students as well as teachers, and leaders can follow instead of leading*" (Monias, 2005). This room to negotiate makes it possible to work out a new paradigm for relating among the parties.

Balancing power occurs at all levels of our process: between parents and children, where there exists mistreatment that requires addressing; between families and agencies, or in other situations with asymmetrical distributions of power and authority; between agency and community or agencies and their regulatory bodies, as well as in relation to their super-arching political structures. The intent is to make it possible for the participants to relate to one another in a less defended manner. From this less defended place, it becomes more feasible for the participants to plan for different future outcomes.

Based on sharing, discussions and deliberations, the group develops a plan of action. The plan identifies the work to be done to ensure that the immediate and

long term care and protection of children is adequately addressed. It outlines who, or which resources need to be involved; how activities will be completed; each participant's contribution; the monitoring of the agreement; and finally, any contingencies that may arise. Often, the work of planning is anti-climactic: once the group is working in synchrony, the plan becomes almost a matter of course.

The Okweskimowew documents all the aspects of the action plan, and once the participants agree that it accurately reflects the will of the group's process, they all are asked to sign it. The 'original' stays with the program; numbered and tracked copies are made for each of the 'primary disputants'. Courtesy copies are also given to corollaries who have specific tasks to accomplish in relation to the agreement.

### Follow Up on Family Plan

At time-intervals determined in the sessions, the Okweskimowew follows up with the 'primary disputants' to see whether the plan is being implemented as agreed, and whether the plan actually works to meet the needs of the participants. Our default process requires follow-up at the one-, three-, and six-month interval following the agreement. Both the frequency of follow-up contacts as well as the length of time a case remains open following agreement are highly case specific. A resolution or agreement with a one-year life-span would be followed up until its conclusion; while a child abuse matter would have a higher frequency of follow-up visits, structured in such shorter time intervals as may be dictated by the children's and participants' safety requirements.

Where a plan goes askew, the Okweskimowew may choose to reconvene the family sessions when further discussion and planning are warranted. This would be the case where goodwill among the participants is intact, and further clarification of issues or positions is needed to ensure continued compliance with the plan. Where goodwill is deemed eroded, and one or more participants are no longer

willing or able to abide by the terms of the agreement, then the Okweskimowew would generally alert the mandated child welfare agent if child welfare concerns surfaced, or the next higher administrative level in the event a service provider failed to follow through. This degree of scrutiny speaks more directly to a "peacekeeping"<sup>12</sup> function in the Okweskimowew's role, which flows from the mandate to serve the best interests of children. In such a case, any possible decision to reconvene would be made only after all child protection or other concerns have been addressed.

### Additional Program Activities

Skill development and awareness enhancement for the Okweskimowew(ak) – in both contemporary and traditional peacemaking methodologies— have been an important focus of the program. Training has included: accredited customized mediation training; Neurolinguistic Programming; life skills training; communications training; personal, family and community asset development; personal development; and traditional methodologies based on the teachings of the Elders and Wisdom Keepers as taught in the Teaching Lodges and other ceremonies. All personal development opportunities and traditional teachings are open to community members as well as other service providers.

In June 2004, the program received a small grant from the Aboriginal Justice Initiative of Justice Canada to help bring to light the situation of Northern Manitoba youth caught up in the justice system. A working group, representing all community interests was struck and given the task of assessing the full nature of the problem faced by these youths, and to recommend appropriate action.

### Meenoostahtan Minisiwin: Pathways To Peace

*The countless paths one traverses in life are all equal. Oppressors and oppressed meet at the end, and the only thing that*

*prevails is that life was altogether too short for both (Castaneda, 1972).*

Today, alternative dispute resolution is sometimes seen as a magical solution to all the woes of our ailing justice system. And yet in too many jurisdictions, conflict resolution remains shackled to existing judicial processes. The mainstream justice system is failing most our citizenry because it is so weighted down with impossible, arcane rules that no one can find their way through. To bind mediation to the court's process is to doom mediation to the same fate, and in a far shorter time. The rules already exist; now they only need to be appended.

As well, in the mainstream culture there exists a perception that wrongdoing is related to weakness of character or to some other personal shortcoming. Even when the parties agree to mediate, most often the stated goal -- and therefore inevitably the resolution to the conflict -- comes in the form of some agreed upon tangible: apology, monetary compensation, work in lieu of compensation, and the like (Sawatzky, Pintarics, & MacDonald, 1990). One of our greatest challenges is to resist the temptation to turn peacemaking into a more subtle way of meting out retribution, or worse still, one of abrogating the rights of participants in our hurry to find a goal or object-based resolutions.

Mediative processes are becoming more popular in mandated child welfare. There appears to be a lot of pressure, particularly from the system, to use social workers as mediators, believing them better equipped to understand the complexities of the system. When professionals (the mediator and the agency worker) of equal socio-economic standing, with similar worldviews and educational backgrounds, and who may share the same work environment deliberate with family members who represent a lesser socio-economic standing, this scenario presents enormous challenges to mediator impartiality. Unless appropriate safeguards are built into the process, child protection mediation becomes a 'velvet masked' medium for transmitting the same dominant values and standards, while

wielding the same power over families.

The Northern Manitoba Cree worldview holds that in a conflict, it is the relationship between the parties that is harmed or out of balance, and needs to be restored. There is a generally held belief in an oneness of the created order (Sawatzky, Pintarics & MacDonald, 1990). Healing strategies are brought in to re-establish the oneness of the family and of the community following an open expression of conflict, or in our case family disruption. Peacemaking is an effective process for exploring the histories and elements that impinge on any given situation, for witnessing the impacts and difficulties experienced by those caught up in the conflict and collectively working to restoring balance, to "set things right" (*meenoostahtan*). Its use with child protection cases or family conflicts is a deliberate attempt to create a process that is holistic; one that focuses on building strong family relationships by addressing the underlying issues which surface as family conflict. This working as a collective in a nurturing and supportive way is a crucial distinction that sets our program offerings apart from other conflict resolution processes.

*At its core, Native American Peacemaking is inherently spiritual; it speaks to the connectedness of all things; it focuses on unity, on harmony, and balancing the spiritual, intellectual, emotional, and physical dimensions of a community of people... Peacemaking is more conciliation than mediation. It is relationship centred, not agreement centred...Peacemaking is generally not concerned with distributive justice...as it is with "sacred justice"...Sacred justice is going beyond the techniques for handling conflicts; it involves going to the heart (Bluehouse and Zion, 1993, p.321-322).*

Meenoostahtan Minisiwin is premised on the belief that the family (*minisiwin*) has a right to be nurtured and supported in the raising of healthy children; that we all "lose our way and fall off our path" from time to time; that no reconciliation is possible without first the sharing of our respective stories (*dabwe*); and, that those connected to

the family must gather together (*ototemitwin*) and give willingly their offers of support to restore harmony (*minoopuhniw*), beauty (*minahsin*) and health (*minahyawin*).

The larger form of reconciliation we speak of (*minoopuhniw*) cannot occur in the immediate. Though our process must address the presenting issues (e.g. the apprehension of a child, or some acting out behaviour from an adolescent) that brought the participants together, our work is about naming and addressing both mid and long range goals with the family by expanding the circle much wider. While we respond to “cases” – one at a time -- the work is actually with the entire community.

By way of example, a youth had been involved in a severe boundary violation with a young girl. Once the criminal investigation was completed (the case did not proceed to court due to insufficient evidence – a perennial problem in the North due to a general lack of resources) the families were convened together to discuss this problem. The youth’s family in its entirety – the parental sibling set, as well as the key members of the youth’s siblings and cousins all agreed to attend a healing event as a family. They believed the family as a whole carried issues that needed addressing at the systemic level. In this one case, the system was comprised of some 25 adult members of the parental cohort and six youths<sup>13</sup>. Support plans developed for individual members in this group involved expanding the circle wider to include various community service providers and support persons, as well as the community’s leadership.

## Case Illustrations

The following cases are presented as examples of the type of reconciliation work the Meenoostahtan Minisiwin program undertakes. They are grouped in the following manner: (1) Family Reconciliation; (2) Family and Agency Reconciliation; (3) Service System Reconciliation; and, (4) Community Reconciliation.

### 1. Family Reconciliation

A most overt example of this form of mediation involves parents struggling with adolescent children to renegotiate ways of parenting and living together. The following case illustrates an extreme situation, but one which brings to the fore the dynamics in a family that experiences dramatic (and traumatic) disruptions in their history. This case involved multi-layered conflicts and an inordinate number of stakeholders; it therefore highlights the versatility of the program, as well as its ability to tackle complex and difficult situations.

#### Case Example

This case involved the structuring of a care plan for a 13-year-old boy who was in care in a level-5 placement facility, and with respect of whom the agency of record was seeking a Permanent Order of Guardianship, having exhausted all other legal options. The divorced parents were experiencing a great deal of unresolved post-divorce conflict.

The following additional data was uncovered in the pre-mediation process:

1. The original nuclear family configuration consisted of a Caucasian father and a First Nations mother and their three children (the older two were of age of majority at the time of the referral). The parents had separated soon after the birth of the boy, and later divorced. The custody of the children was awarded to the father as Sole Guardian.
2. The family has had an exhaustive history of contact with the mandated child welfare system. Agencies of record have included a major urban Child and Family Services Agency, the mother’s home community Agency, and a second urban Child and Family Services Agency -- the current agency of record.
3. Recently, the child was ‘living’ with his mother in her home community, as a result of an access visit from which he was never returned. Father claims that his attempts to have his son returned were blocked by systemic attitudes of “...white father trying to take away child from Aboriginal mother and community”.

Soon after this, mother had left her community, and relocated to the urban setting, where "...there were better services to help her son." Soon after the move, there is on record a crisis line call voice recording of the boy phoning in for help because "...my mother is sexually abusing me." When the boy is apprehended, three days later, it was a school complaint about a school-yard fight and not the boy's call that prompted the apprehension. Eventually, a short-term order is awarded to the agency of record, and the boy is placed in a level-5 facility.

4. During the intake period (3 months between referral and start of mediation), the boy had just recently been returned to the level-5 care facility. Over the holidays, he had been granted a weeklong access visit with his mother (who had by now relocated to her home community). At end of the visit, rather than returning the son, the mother made allegations that every staff member and every other resident in the level-5 facility had sexually abused or exploited her son. This caused a two-week delay in the son's return to the care facility, while these allegations were investigated. According to the investigators, the mother showed no concern for the implications of such allegations on the other residents in the facility.
5. According to the current agency of record, the mother is sexually enmeshed with her son (emotional incest). The original apprehension notation "child out of control of parent" was intended to explain a level of disturbance so acute that the boy would regularly defecate and urinate on the apartment floor and then smear the walls with his feces, and/or severely tantrum in the face of any limit setting. The level V care facility reported in pre-mediation interviews that the boy would regularly return to the soiling and tantrum behaviours following each visit (in person or by telephone) with his mother, and that these would then take about 2 – 3 days to bring under control. No such acting out was noted in response to access contact with the father.

6. The mother has steadfastly refused to collaborate with agency attempts to assess her functioning as a parent, or with offers to coach her with parenting skills specific to her son's issues. While reluctant, and clearly fearful of the chaos his ex-wife can cause in his life, the father continued to participate in the boy's treatment plan, and participated with him in family therapy sessions. The father also clearly verbalized his view that the boy needed more help than he was able to provide, and that he was afraid that the placement would not work out.

Throughout the planning, the mother showed a remarkable ability to obfuscate issues. Between the times of referral to the start of mediation proper, the mediation team dealt with innumerable phone calls from the mother. These were filled with vitriolic criticisms and obscenities. Additionally, we fielded formal and informal complaints from, among others, the Office of the Children's Advocate, the office of the Provincial Ombudsman, the Awasis Agency Executive Director, the MKO's Social Services Director, the Director of the MKO Family Secretariat, Band politicians, the Provincial Family Services Team Leader, as well as two provincial cabinet ministers.

Despite efforts by many parties to involve her in the process, Mother chose not to participate. Mediation proceeded in her absence on the following reasoning: 1) She was not a legal guardian of the child; 2) the agency of record would not place the child with her in any event, given the above, and was supporting efforts by the father to regain care and control of his son; 3), mother's appointed support (and the CFS Portfolio Councillor in the mother's home community) was present and participated in the proceedings; and 4) all the parties present felt the need to develop consensus on a care plan for this child, regardless whether mediation or court was the avenue of decision.

A Meenoostahtan process brought together the agency of record's Assistant Director, Supervisor and Case Manager; the community-based agency's Assistant Director, Supervisor and Case Manager;



the provincial family services team leader; the Deputy Children's Advocate; Mother's Advocate, the CFS Portfolio Councillor from Mother's home community; 3 key staffs from the level-5 facility; the boy and his father.

Over an intense ten hours of deliberations, the process produced an agreement which saw the boy return to partial care of his father in less than six months, and a full return to the care of the father within a twelve month time-frame, with appropriate (multiple-) agency and therapy supports. Deliberations included jurisdictional questions between the agency of record and the home community agency. Regulatory concerns brought forth by both the Office of the Children's Advocate as well as the Provincial Team Leader were aired and resolved. Mechanisms to involve a third agency to provide direct case management were established, as the father resided some five hundred miles away from the offices of the agency of record. Finally, a vigorous discussion about the care needs of this boy, complete with matching time lines, produced an all-party agreement on an equivalency to a six-month Short-Term Order of Guardianship with the agency of record, starting on the date of the Agreement. This was immediately followed by an agreed-to equivalency to a six-month Order of Supervision, which contained both mechanisms for increasing frequencies of access contact between father and son, with supports from the level 5 facility, on-going therapy as well as mechanisms for case transfer to the Services to Other Regions program, who would support the case from the father's home community. The discussions also included consensus on appropriate frequency and conditions of access contact between the boy and his mother.

Given the mother's enmeshment and her propensity for involving numerous service providers and their regulatory agencies, as well as the courts, we believe this case would have – in the normal course of events -- been entangled in the courts until the boy reached age of majority. Formal care would have in all likelihood involved

nearly five years in a level-5 care facility, coupled with constant individual therapy.

At last review, the mother had attempted to launch one court challenge to regain custody of her son; it failed, as the mother would not trust any lawyer to bring her case forward. No Motions have been filed since then, to our knowledge; the boy remained with his father; the placement was relatively stable at our last follow-up contact, 12 months after the agreement.

## 2. Family And Agency Reconciliation

By far the most common sort of reconciliation we provide falls into the category of family and agency conflict. When children have been apprehended, or difficulties arise that may lead to the apprehension of children, we are called in to both broker an agreement between the agency and the family and to provide a formal setting in which serious discussions take place.

### Case Example

The initial reason for the referral to the project was to determine care-giving options for a child who was no longer able to reside with his paternal grandparents, because their health had deteriorated. The paternal family did not see mother as an effective parent, and peacemaking was sought to resolve concerns regarding care of the child.

At the same time, the agency in the mother's home community had apprehended her other two children (residing with her) and would also apprehend this third child, were he to come to live with her. They thought mother privately placed her youngest with paternal grandparents as a ruse, to avoid his being apprehended.

Father and his current partner have a baby (6 mos. old). There had been another violent outbreak between them, and the partner had been at the nearest shelter for battered women. She was granted a restraining order against the father and the housing committee established her in the family home so she could parent her baby 'at home' (she is not a band member). This situation – the violence and the restraining order --

produced several additional layers of conflict: father and his partner could neither have access visits, nor support the grandparents with the care of the child. Additionally, the paternal grandparents thought that their son's home was being taken from him, and they were angry with Band Constables for enforcing the Restraining Order and at the Housing Committee for their position.

The Okweskimowew, with the assistance of the Project Coordinator, was able to mediate a resolution to the conflicts identified and facilitate the drawing up of a care plan for the child. It included all parties agreeing to the child returning to the mother on several conditions. First, the child would be placed home with the agency having equivalency to an Order of Supervision; secondly, the mother agreed to work with an Elder in her community who would take responsibility to provide parenting skills coaching to her; both parents agreed to an equitable access arrangement for the father, and both agencies agreed to a formula to support the plan – including monitoring as well as financial supports as needed; finally, all parties agreed to a further Meenoostahtan process to broker on-going care plans for the other two children who were still in care in the mother's home community.

### 3. Service system Reconciliation

Often when issues spill over beyond the agency, policing and regulatory agencies are called in, such as the Children's Advocate or others. Generally, the process involves family members, the agency, as well as the regulatory bodies in a multi-party process.

#### Case Example

One of the most protracted and complicated cases included a multiplicity of presenting issues, involving the mandated child welfare services and related Psychological services as well as family counselling services; the Children with Complex Medical Needs Program; the entire spectrum of justice services – including police, courts, legal and Probation Services; and the Thunderbear Healing Lodge.

The initial referral came to us nearly two

years ago (CFS referral, November 2003, and a concurrent referral from Justice -- Community and Youth Corrections July 2004). The work entailed extensive sequential pre-mediations with the parents to help them bring under control the relational violence they were perpetuating on one another. Pre-mediation sessions were scheduled approximately two months apart, and included a thorough review of the integration that had taken place, both as a result from the conflict resolution process as well as from the personal and relational counselling that both parents were attending as part of an interim agreement.

Separately, all the children met in pre-mediation processes to help them develop clearer appreciations of their positions *vis a vis* the parental violence, and also in regard to the direct and indirect violence each had had to cope with. Much energy was devoted to help both the adult and the minor children find their 'voice', and coaching them to garner the strength to speak their truth across the table from their parents. Two male children were in care outside the community. This meant our having to structure the all-sibling meetings to coincide with times when the brothers were in the community, for visits or court. It also required that the mediators spend individual time with the two brothers – one was in a care placement in Selkirk, the other in Winnipeg – to keep them current with developments for the rest of the family and also to give them individual time to voice the way they integrated new and present learnings or insights, and to be able to keep the rest of the family current with their perceptions.

We worked with the justice program – police, lawyers, crown prosecutors and courts – as well as with a group home, to shepherd 3 sets of criminal charges (father and two older sons) through the court's process which eventually concluded in 2 separate family group conferences facilitated by the presiding Judge. Work with the police included keeping the force updated on new developments for the family as well as other agencies, and also giving them ground level intelligence on when to be

strict in the enforcement of existing court orders (when the couple were struggling). With the lawyers, we helped the flow of counsellor-client communication. This was particularly important so the lawyers could understand the relevant (to court process) outcomes of various healing initiatives family members were undertaking. As well, lawyers needed to be regularly briefed so appropriate motions and updates could be provided to the court on behalf of clients.

Finally, much energy was devoted to coordinating the work of the mandated child welfare agency, with the CWLLCMN program and the care institutions, as well as being updated on progress from the psychologist and the therapist. Near the end of the process, energy was devoted to pulling all the agencies together so that, even though each would work from their respective mandate, they would still collectively present a cohesive agenda. This was thought a very crucial piece of the overall process, because the children did not progress fast enough in their ability to hold the parents accountable for their behaviour – mostly from fear of possible later reprisals from the parents. For this reason, it was judged by the mediation team that without first creating sufficient gatekeeping energy from the agencies collectively, the children will simply cave and placate the parents rather than address their feelings with them.

#### 4. Community Reconciliation

Situations and/or conflicts that extend beyond family based conflicts into the larger community and where the resolution of the conflict has lasting community repercussions.

##### Case Example

A young man in a position of trust was charged with sexual impropriety (sexual assault/sexual exploitation) in relation to adolescent female programme participants. RCMP investigation identified 2 victims prepared to come forward, and testify in court in relation to these incidents. RCMP knew of one other victim, from a prior incident, but she would not collaborate with the investigation.

Chief and Council had requested the Crown transfer the case to community resolution, believing this approach to be more healing for the community as a whole, as well as for the victims. We sought the opinion of the Children's Advocate's Office; they supported the community's wish for a community resolution and also agreed to formally participate in the process.

Working with the RCMP and Band Constables, the CFS agency, Chief and Council, and a community employer (and with the Magistrate Court in the background), we were able to identify all the victims who were willing to come forward to tell their story. Eventually, six victims came forward, and were interviewed by the CFS agency staff in the Meenoostahtan pre-mediation process. When asked why they had not come forward in the police investigation, they all said that they were aware of the police investigation. They were afraid to come forward for fear that their reputation would be damaged by having these issues disclosed and, in particular, cross-examined, in a public court hearing. As additional guarantee that there be no risk of further victimization, we had asked for assistance from the Office of the Children's Advocate. The Deputy Children's Advocate had met all the victims individually, as well as in group interviews, and participated throughout the mediation. Once all the parties came forward, each with their identified supports (most had parents or parental adults with them); we had a total of 24 participants in the process.

For the alleged perpetrator, the ethic of voluntary (duress free) participation was challenged by the size of the gathering. Additionally, the possibility of criminal charges in the courts, were the process to fail, and the possibility of having his name entered on the Child Abuse Registry were also important factors. He too was encouraged to bring along appropriate supports.

As he was not able to articulate his thoughts and feelings in the initial sessions (spread out across three days), an interim agreement was reached by all the parties, that he would attend a program to help

him become sensitized to issues of sexual victimization for a period of three months. The Nelson House Medicine Lodge agreed to tailor a sexual addictions program; participation and progress were monitored by the Meenoostahtan Minisiwin program. When the three months were completed, (during the discharge interview) the young man asked to be allowed to stay for an additional four weeks so that he better integrate the lessons learned in the setting. On his return home, the circle was reconvened and appropriate closure was facilitated for all the parties. In case follow-up, there have been no recurrences noted.

If we use the best interest of children as the test, the Meenoostahtan Minisiwin process empowered two adolescents to speak very directly to the resolution of their victimization, as opposed to just being 'witnesses' in a court case. Additionally, three other adolescents and one young adult participated in the resolution of their victimization; these cases would not have made it to court at all.

In the normal course of events, this case would have gone through the courts, and, assuming the two initial victims stood their ground in the process of examination and cross-examination, a guilty finding may have sent this young man to a brief stay in prison. Most observers thought this unlikely, and agreed that at most, an improbable guilty finding might have resulted in a fine.

Our process was convened, with the direction to resolve the following issues:

1. To find a holistic and comprehensive resolution to the issues at hand.
2. To give victims a direct say in process and outcome.
3. To generate community-wide awareness about sexual exploitation.
4. To generate skills, and a matching language and vocabulary for individuals and the community as a whole to be able to speak out on this issue.
5. To provide healing and restoration, rather than retribution.

We believe it was an unqualified success.

## Conclusion

The aim of the Meenoostahtan Minisiwin program is to strengthen ongoing relationships and to restore harmony and balance within the family unit and within the larger community. As program staff, we hold a long-term view of reconciliation much like that offered in John Paul Lederach's (1995) model. He speaks to the need to adopt a 'long view' of conflict transformation and suggests that different aspects of the conflict need responses at different times and within different time-lines. Our approaches need to be both responsive to the immediate situation experienced by the participants as well as in keeping with the goals of both a mid-range as well as a long term vision.

Much of our work entails 'creating and holding the space' that allows the participants to name and address a myriad of issues sufficiently well that the long-term best interests of children can be met. An important component of this work is the balancing of power so as to *encourage the dabwe of all participants to be heard and valued, and for a multiplicity of possible outcomes to emerge.*

In our training programs, we continuously emphasize that all systems, including our own, have a shadow-side which tends to remain unconscious, yet enormously influences all aspects of our work with families. The field of Child and Family Services continues to operate from an entrenched mode of 'power-over': parents, supposedly, have power over their children; social workers have power over parents; agencies have power over workers; regulatory bodies have power over agencies. *Balancing of power first necessitates becoming aware, and then 'deconstructing' entrenched power structures.* Peacemakers and mediators alike must remain cognizant of the allegiances which form, overtly and covertly, as a bi-product of their role. Without this awareness, we will do more harm by continuing to maintain intact a power based system that fails children as well as their families.

Alternative dispute resolution processes in mandated child welfare must create congruent non-blaming environments to enable genuine sharing. They must allow for participation from extended family and the wider service community, and facilitate collaborative long range plans for supportive services. Monitoring the plan's implementation, facilitative peacekeeping, and ability to reconvene when required are essential components in effective long term resolutions.

Peacemaking moves beyond romantic notions of reconciliation and forgiveness, where everyone can speak their truth and then all "kiss and make-up" before they all go home happy. It involves acknowledging the responsibilities we all have towards tackling the residuals of a long history of oppression and creating the mechanisms that encourage individuals and collectives to move forward together. Perhaps at times, the best we can aim for is a 'dynamic peace (Lederach, 1998, p.178),

*"one in which the past can be remembered, the loss of tangibles and dreams can be mourned, and the way is found to move past the ugliness and the history, and begin to rebuild our lives, our families and our communities"* (Lederach, 1998, p.177).

We move on then, in spite of the injustices and oppressive power structures, or perhaps even because of them.

### Joe Pintarics, BA

Joe holds a Bachelors degree in Arts and has completed the Pre-Master's in Social Work as well as all the academics for the MSW program, specializing in cross-cultural family therapy, at the University of Manitoba. He holds a certificate as a Cross-Cultural trainer, and he is certified as a Master Practitioner in Neurolinguistic Programming. Over the last thirty years, he has worked in a number of capacities, in youth and childcare, mandated child welfare, and as a post-secondary instructor. Since 1988, he has maintained a private practice

as a cross-cultural family therapist as well as a consultant in program design and human resource development, particularly in the area of alternative justice program development, blending First Nations Traditional practices with contemporary clinical methodologies. Since 1999, he has served as the Program Coordinator of *Meenoostahtan Minisiwin: First Nations Family Justice*.

### Karen Sveinunggaard, BA, MEd.

Karen holds a Bachelors Degree in Arts and the Masters degree in Adult and Higher Education from the University of Alberta. She has worked in various roles within the child welfare and mental health fields for the past 22 years; developing, monitoring and evaluating community-based aboriginal and non-aboriginal programs. For the past 12 years Karen has worked as a Program Development Consultant for *Awasis Agency of Northern Manitoba*, a mandated First Nations Child and Family Services agency. Her role has included social policy and community-based research; program and organizational development; strategic planning; training; and, program evaluation activities for various First Nations communities. Karen was a core member of the initial development team for the *Meenoostahtan Minisiwin: First Nations Family Justice Program* and continues to provide evaluative and development support to the program.

### (Endnotes)

<sup>1</sup> The content in this article draws generously from the book *First Nations Family Justice: Meenoostahtan Minisiwin* (1997) Awasis Agency of Northern Manitoba

<sup>2</sup> Cree for spirit; that which is known but not seen.

<sup>3</sup> Both these seminal writers argue that culture is a people's tangible which can be lost, and whose loss, therefore, needs to be mourned. Expression of grief leads to the discovery of a 'thread of continuity' between past and future. A new culture of the possible 'now' is established by weaving together the core paradigms of the past with 'possible futures' to arrive at a collective current reality. Language is the vehicle to record the process.

<sup>4</sup> There are many different 'dialects' of Cree.

These expressions were chosen by our Elders to best represent the heart and spirit of the work we are called to do.

<sup>5</sup> Adapted from the Meenoostahtan Minisiwin: First Nations Family Justice Community Booklet (1997).

<sup>6</sup> These numbers represent formal referrals, although Okweskimowewak are routinely asked to advocate or support families or agents on an informal basis. These interventions are not captured in program statistics.

<sup>7</sup> First Nations Family Justice Project: Annual Evaluation and Workload Statistical Report, April 2000

<sup>8</sup> Selected Case Reviews 2002; Meenoostahtan Minisiwin: First Nations Family Justice Evaluation Framework, 2004

<sup>9</sup> Meenoostahtan Minisiwin: First Nations Family Justice Evaluation Framework, 2004 (unpublished)

<sup>10</sup> Mediation terms: positions are defensive stands, taken out of fear of loss of face or other similar reasons; interests are generally the long-term goals and wishes, or belief and values based attitudes held deeply.

<sup>11</sup> Peacemaking looks beyond the presenting difficulties to explore the larger historic, familial and intergenerational contexts – the antecedent causes.

<sup>12</sup> Peacekeeping involves the roles of “protector”, “limit setter” and “boundary keeper” as outlined in Role of Okweskimowew earlier in this paper.

<sup>13</sup> Parenthetically, we have not yet succeeded in finding the funds to make this happen. It appears that strategies that actually work fall in no one’s particular bailiwick, or perhaps that bureaucracies established to provide help prefer to barricade themselves behind walls of red-tape to actually helping.

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