

# West Moberly First Nation

## Report on Bill C-92 Jurisdiction

### Executive Summary

On January 1, 2020, Canada enacted new legislation called Bill C-92 “An Act Respecting First Nations, Inuit, and Métis child, youth and families”. This Act enables Indigenous governments to exercise their inherent right to self-governance in the jurisdiction of child and family services. There are many aspects to consider and there are big decisions to make in the next few months.

Why does this mean to West Moberly First Nations? WMFN laws could have “*Force of Law*” meaning they would take precedence over all other laws regarding children and families. WMFN could create laws and principles that govern areas like child apprehension, supporting families to stay together, ensuring that children are connected to family, land, and culture, and accessing financial resources to meet the needs of families to ensure preventative care options are in place.

#### Highlights of the Act

- Establishes National Standards for Child and Family Services.
- It is progress towards addressing the over-representation of Indigenous children in the child welfare system.
- WMFN could have control over services provided to their families.
- WMFN law could extend to WMFN children living in BC regardless of where they live.
- WMFN could extend to WMFN children living in other provinces.
- No child will be removed due to socio-economic conditions alone (i.e., housing, poverty).
- WMFN can negotiate a “Coordination Agreement” that provides the Nation with adequate funding to build and sustain their own laws and programs as well as building internal capacity to adhere to their laws and programs.

#### Benefits for children

- Priority is to keeping families together!
- Priority is to providing families with support to prevent children being at risk!
- Priority is to place children need of protection with siblings and in their community.
- WMFN decides the principles to define what is in the “Best Interests of the Child”.
- Social workers MUST ensure that family, community, and cultural ties are promoted and maintained.
- Prevention is the focus in delivering services.

It is critical that WMFN government hears from its membership. We need to understand family's experiences, challenges, and successes. We need to know the best way to support families.

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## Introduction

The purpose of Bill C-92 “An Act Respecting First Nations, Inuit, and Métis child, youth and families” is to recognize Indigenous People’s jurisdiction over child and family services, as part of their inherent and Aboriginal right to self-governance. The Act also aims to establish National Standards for Child and Family Services and to contribute to the implementation of United Nations Declaration of the Rights of Indigenous Peoples. Furthermore, the Government of Canada has acknowledged that the path forward in addressing the over-representation of Indigenous children in the child welfare system includes ensuring families receive support and prevention services that focus on keeping families together. When this is not possible the Act further states that children should remain in their communities, connected to their families, language, culture, and land, and that Indigenous governments should have jurisdiction over the services to ensure that they are culturally appropriate. Through coordination agreements, Nations can establish predictable and flexible long-term funding to meet these goals and provide much needed prevention strategies and support to their families.

Like many First Nations in Canada, West Moberly First Nations (WMFN) requires significant financial and human resources that will support the development and implementation of their jurisdiction under the new legislation. WMFN wants to support child safety and family well-being, as well as build the legal structures, internal processes, and community programming to support full and proper jurisdictional implementation.

In order to facilitate informed decision-making, WMFN leadership wants to better understand the opportunities, challenges, and impacts of Bill C-92 on their children, families, community, Nation’s leadership and administration under Bill C-92. The WMFN Chief and Council and administration have contracted Kaniikaniit Consulting to conduct research, facilitate discussions, and prepare plans, protocols, and reports to ensure that all planning and decisions are made from an informed lens.

Authors’ note:

Our report relies heavily on the work of many Indigenous and non-Indigenous scholars and activists who have been advocating for transformative change in the child welfare system for decades. A full list of references is available at the end of this document.

## Foundational context

WMFN wants solutions that address child safety concerns. In general, energy and resources should take a prevention focus. If we can prevent families from being at risk of child apprehension there is less trauma on the family giving them opportunity to do the work required to shift conditions for their children to a healthier and safer place. WMFN leadership, administration, and community members must understand that this work will take consistent implementation over a long period of time to exact change. In fact, it may take several generations to fix the problems that have resulted from 150 years of trauma due to colonial practices. Any program that is implemented must be done so in a mindful, consistent, culturally appropriate way honouring and upholding West Moberly First Nations ancestors, values, and teachings.

The sustainability of programs and services relies on:

- engaging a diverse set of stakeholders representing families, youth, service providers, community partners and leaders.
- assessing WMFN services and addressing gaps to inform the goals of new or enhanced programs and services.
- selecting interventions that will support families in meeting their identified goals.
- identifying the skills and competencies required for WMFN personnel who are implementing the programs and services.
- clarifying stakeholder roles and responsibilities and ensuring communication and feedback loops (evaluation).
- aligning WMFN and MCFD's policies and procedures with the new standards of practice.
- generating buy-in from families, community members, leaders and key partners to new roles and responsibilities through collaborative planning and training; and
- supporting data-driven decision making.

Research increasingly shows that programs for children, families, and communities can effectively reduce a wide variety of issues including mental health problems, addiction, and other challenges that impact families and children so that safety and well-being is preserved.

There have been numerous reports written by Indigenous and non-Indigenous experts over the past two decades aimed at recommending law reform and practice improvements to the child welfare system. Many of these reports call for a complete overhaul of the system that has torn apart Indigenous families for many generations.

## The Hughes Report

At the request of Ministry of Child and Family Development (MCFD), the Honourable Ted Hughes (2006) was requested to complete an independent review of the child protection system in BC. Hughes made 62 recommendations to MCFD and the Provincial government in his report. His first recommendation was to create a Representative for Children and Youth (RCY) role that would serve as a watchdog, advocate, investigator, and support for children and youth involved with MCFD. While this recommendation was carried out and continues to exist today the RCY has been critical of BC's implementation of many of Hughes recommendations. Some specific and relevant recommendations from the Hughes Report include:

- Provincial and federal governments, in collaboration with Indigenous communities, begin work towards fulfillment of the commitments of the Kelowna Accord by assessing the health, economic and social needs of Indigenous communities, including urban, off reserve populations<sup>1</sup>.
- Provincial government actively collaborate with Indigenous people to develop a common vision for governance of the Indigenous child welfare system and whatever Indigenous child welfare model evolves from that process must be the subject of active and widespread community consultation before its enactment<sup>1</sup>.
- Provincial government work with Canada to clarify their respective funding responsibilities and remove jurisdictional obstacles facing Indigenous child welfare agencies<sup>1</sup>.
- Ministry should establish a comprehensive set of measures to determine the real and long-term impacts of its programs and services on children, youth and their families and then monitor, track and report on these measures<sup>1</sup>.

There are many other recommendations throughout the Hughes Report<sup>1</sup> that impact Indigenous children and families. The whole report can be reviewed here:

<https://cwrp.ca/sites/default/files/publications/en/BC-HuguesReviewReport.pdf>

## Touchstones of Hope

First Nations Caring Society (FNCS) have been incredible advocates in child reform. They have written several policy and research documents and challenged Canada with a Human Rights Tribunal regarding funding and systemic inequities in child welfare. FNCS advocate that reconciliation needs to be supported and examined through a child welfare lens. In the document *“Reconciliation in Child Welfare: Touchstones of Hope for Indigenous Children, Youth, and Families”* they outline a broader reconciliation process that includes the key components of commitment, community readiness, advisory circles (to be created), funding, and engagement processes that offer Indigenous people opportunity to tell their stories, be acknowledged for their

truth, and begin to move towards action planning that will support the community's vision and goals for their children and jurisdictional authority<sup>2</sup>.

Touchstones is about promoting and entrenching reconciliation principles and processes in grassroots control by preparing community-based facilitators to work with communities to develop a culturally driven vision and plans to inform child welfare practice and policies. They indicate that success relies on giving space for both Indigenous and non-Indigenous peoples to participate in reconciliation<sup>2</sup>.

They have outlined an evidence-based reconciliation process for the work

[https://fncaringsociety.com/sites/default/files/reconciliation\\_in\\_child\\_welfare\\_booklet\\_-\\_2019\\_0.pdf](https://fncaringsociety.com/sites/default/files/reconciliation_in_child_welfare_booklet_-_2019_0.pdf)<sup>2</sup>:

- **Truth Telling:** Telling the story of child welfare as it has affected Indigenous children, youth, and families.
- **Acknowledging:** Affirming and learning from the past and recognizing the need to move forward on a new path.
- **Restoring:** Making changes and doing what we can to redress the harm to ensure it does not happen again.
- **Relating:** Working respectfully together to create, implement, and monitor progress of our vision plans and next steps.

Their reconciliation process is guided by five “*Touchstones of Hope*” principles and are intended to reflect the unique context of individual Nations and communities<sup>2</sup>. The five principles are as follows:

- **Self-Determination:** Indigenous peoples are in the best position to make decisions that affect their communities and lead the development of laws, policies, research and practice.
- **Culture and Language:** Indigenous cultures are ingrained in all theory, research, policy and practice that affect their communities.
- **Holistic Approach:** Approaches to working with Indigenous communities recognize and reflect the distinct realities of the whole community including culture (traditions, spirituality and social customs), language, environment and socioeconomic factors.
- **Structural Interventions:** We stand up to injustices to protect the rights of all Indigenous and non-Indigenous peoples, including children and youth.
- **Non-Discrimination:** Indigenous peoples are entitled to equal access to resources and services that are responsive to their needs and the unique cultural context of their experiences

#### [Truth and Reconciliation Commission \(TRC\) Calls to Action \(2015\)](#)

The TRC was mandated to uncover the truth of the residential school system. The TRC's Final Report, *Honouring the truth, reconciling for the future*<sup>3</sup> found that the residential

school system was the central element of “a conscious policy of cultural genocide,” which attempted to “cause Aboriginal peoples to cease to exist as distinct legal, social, cultural, religious and racial entities in Canada”<sup>3</sup>.

The TRC articulated 94 Calls to Action that the governments of Canada, businesses, the media, churches, and citizens could implement to begin to work towards reconciliation with Indigenous Peoples. The first five recommendations specifically speak to child welfare and reducing the number of Indigenous children in care. These five Calls to Action ask for adequate funding to communities, the creation of national standards, implementation of Jordan’s Principle, and ensuring families have the resources they need to improve their children’s lives<sup>3</sup>.

All of the TRC’s recommendations<sup>3</sup> can be reviewed here:  
[http://www.trc.ca/assets/pdf/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/assets/pdf/Calls_to_Action_English2.pdf).

### Indigenous Resilience, Connectedness, and Reunification – From Root Causes to Root Solutions, Grand Chief Ed John (2016)

In September 2015, Grand Chief Ed John was appointed Special Advisor to the government of BC. He was asked to provide advice to address the overrepresentation of Indigenous children in care in BC. Grand Chief John engaged with Indigenous communities throughout BC over a 14-month period. His report<sup>4</sup> identifies 10 areas of focus and makes 85 recommendations for legal and practice reform in child welfare.

The ten areas he identified are:

- Direct support for Indigenous children, parents, and families in all communities
- Access to justice and services
- Investing in patterns of connectedness
- Prevention services
- Reunification and permanency planning
- Sense of belonging and connection to culture
- Early years investments
- Jurisdiction
- Changing the existing policy framework
- Creating a National strategy for child welfare

Grand Chief John’s report<sup>4</sup> focuses on the strength of Indigenous communities and their intrinsic knowledge of how best to care for their children. He advocates for equal access to services and supports especially in navigating the court systems<sup>4</sup>. He calls for adequate funding to support patterns of connectedness and correcting flawed funding formulas that focus on real costs as opposed to numbers of children in care and population-based funding<sup>4</sup>. The entire report is available here:



<http://fns.bc.ca/wp-content/uploads/2017/01/Final-Report-of-Grand-Chief-Ed-John-re-Indig-Child-Welfare-in-BC-November-2016.pdf>.

### Pathways in a Forest, West Coast Leaf (2019)

*Pathways in a Forest: Indigenous guidance on prevention-based child welfare*<sup>5</sup> is a law reform report developed collaboratively by West Coast LEAF and the families, Elders, and staff at three Indigenous support organizations. The report highlights efforts by Indigenous families, communities, and Nations to revitalize Indigenous approaches to child welfare, develop holistic community-based supports, and regain self-determination<sup>5</sup>. It uses the voices of 64 caregivers who share their stories of fighting to keep their children out of government care<sup>5</sup>.

West Coast Leaf is a BC organization dedicated to using the law as a strategy to work towards an equal society for women and people who experience gender-based discrimination. They also act in matters of national significance that are important to the equality and human rights of people in BC including child welfare reform as it applies to Indigenous children. West Coast LEAF advocates for the legislative and policy changes necessary to shift the current system's focus away from child apprehension to family and community unity and prevention<sup>5</sup>. They advise that the provincial child protection system needs to support families to stay together and enable them to thrive with the support of community-based services, supports, and resources as is the mandate in the CFCSA<sup>5</sup>.

While the approaches in building new sustainable child welfare practices differ across Nations, there are shared principles and practices that are at the core of how Indigenous communities understand child welfare<sup>5</sup>. Through their research, they identified eight values as being central to Indigenous views: decolonization, wholism, trauma-informed approaches, family-centred approaches, relationship-centred approaches, cultural safety, harm reduction, and self-determination<sup>5</sup>. Pathways can be found here:

<http://www.westcoastleaf.org/wp-content/uploads/2019/09/Pathways-in-a-Forest.pdf>.

Many organizations are beginning to critically examine the landscape of child and family services. The Government of Canada is finally beginning to hear what Indigenous Nations have been saying for so long. The current child welfare system is detrimental and damaging to Indigenous families. This system perpetuates the legacy of residential schools and in many ways mirrors them. We need to find a better way. Bill C-92 is the beginning of this acknowledgement. With Bill C-92, Canada must let Nations take the lead and support them in exploring models that will support exercising their inherent jurisdiction, begin the reconciliation process, and support Nations to revitalize traditional ways of knowing and being. Adequate funding must be in place to ensure that Nations have the resources required to embark on the work of reconciliation.

## West Moberly First Nations

### About WMFN

West Moberly First Nations is situated in the Peace River region of Northeast BC. At present, West Moberly First Nations, BC has a population of 348 people. There are 122 people living on reserve and 226 living away from home. Facilities on the reserve include the band administration office, the leadership offices, the lands management building, a community health centre, the Dakii Yadze childcare centre and the Dunne-za Lodge. West Moberly is affiliated with the Treaty 8 Tribal Association, which is registered under the B.C. Societies Act.

WMFN utilizes a familial system of governance where the four major families (Brown, Dejarlais, Miller, and Dokkie) are each represented as a seat at Council. Each family has its own process for selecting the person who represents them. The Chief Councilor is elected by the membership. Government elections are held every three years and are held at an Annual General Assembly. Annual General Assembly participants also identify the mandates and objectives of government.

WMFN is currently going through a Comprehensive Community Planning process. There are specific questions that have been added to the survey for the interviews that Urban Systems is administering about WMFN member's experiences with MCFD. Once that information is compiled it can be added to this document as one part of the community consultation that needs to be completed. There are also areas of inquiry that will require knowledge keepers and Elders advice.

- Traditional parenting practices
- Cultural considerations
- Language (Beaver and Cree)
- Connection to the land in terms of cultural continuity – many members use the land for hunting, fishing, gathering, and camping. There is a cultural significance and connection to the Twin Sisters Mountains.

*Recommendation: Further consultation with WMFN people will be required to complete this report, however, with the recent pandemic, that engagement process will need to wait until it is safe to do so in a supportive and meaningful way.*

### From WMFN Council Strategic Plan 2020-2025

Vision: Uniting our community in building for the future.

Mission: WMFN is a unified and self-sustaining community that is in control of our own future.

### WMFN Strategic Priorities

1. Cultural identity and connection

2. Self-sufficiency and sustainability
3. Individual and family wellness
4. Organizational strength

#### WMFN Council Values

- Honesty
- Respect
- Prosperity
- Connected
- Empathy
- Results

#### WMFN Organizational Values

- Treat everyone with respect and kindness
- Be professional and courteous
- Maintain open and transparent communication
- Show up on time and be productive at work
- Make the best use of WMFN resources
- Meet our deadlines and commitments
- Maintain a tidy and organized workspace
- Take care in managing WMFN records and information
- Work as a team and be accountable to each other
- Continuously learn and develop our skills

#### Interview with Council

On November 9, 2020, Kaniikaniit Consulting was able to meet with Members of Council. Here are some specific questions that arose during our interview.

Q: Will this law apply to WMFN members off reserve?

A: Yes, it will apply to members wherever they live, even out of Province within Canada.

Q: What if a person does not want it to apply to their family? Can they “opt out”?

A: The law is silent on this issue. Parents have the right to be present and be heard at all hearings and points of intervention. A parent could indicate their objections WMFN at any time during the process. As the intent of WMFN law would be to meet or beat Federal and Provincial standards, it would not be in a child’s best interest to have parents opposing such laws. This issue would likely be subject to the proceedings of the judges. A parent would need to demonstrate clearly why WMFN law should not be applied.

Q: Would having this report and these laws open the door to other funding (i.e., healthy activities, community gardens (food sovereignty) utilize community assets (ranch, nursery), teaching children traditional ways (hunting, fishing, gathering, etc.) or teachings.

A: Yes, this report will provide a base for many funding initiatives and opportunities moving forward. It will be WMFN's document to use as they wish. WMFN has done the work and identified the gaps and services that their families and community needs.

Q: When dealing with other FNs; family has strong ties to both – how do you ensure that the BIOC is met? How do you decide the best options for the child? These questions are not simple to answer. The best approach would be to evaluate every situation as it arises. There are no two families or children alike, so each unique circumstance should be considered on its own merits and challenges.

A: How the laws read is that where an Indigenous child belongs to more than one Indigenous community, then potentially two Indigenous laws could apply to that child (and in the case of conflict, it would have to be determined which law applies to that child pursuant to s. 24 of the Act, or "stronger ties". There is not a simple answer to this question.

Here are some of the ideas that WMFN Chief and Council have articulated for post-jurisdiction activities.

- Parenting programs
- Quick responses to children with concerns (children are self-reporting) - complaints need to be taken seriously (accountability or transparency issues since MCFD is required to investigate ALL concerns – can be added to the protocol as well)
- Group home or safe home for children
- Remove parents not children
- Indigenous values
- Regular and consistent help is available (mental, physical, and grounded in culture)
- Integration of youth and Elders programs
- Life skills programs for all ages
- Focus on families – prevention focus (happy, healthy families)
- Practical, community and social ways of helping – creating unity
- Children going from bad to worse (in terms of removal and foster care) - WMFN would like to be part of screening process for their children's foster placements
- Children are respected
- One stop-shop so members don't have to travel all over for services and support
- After-hours support (who to call and what to expect)
- Community driven – clearly identify the steps to deal with child protection issues – hear the community's ideas
- Make/use WMFN traditional laws
- Holistic approach that addresses the whole family (define family by WMFN definition)

- Happy, healthy, and clean and sober

Some issues that have been identified by WMFN Chief and Council are:

- Currently there is an uncoordinated system for families dealing with child protection issues. Families are set on a path that requires them to go to several locations for different services – go to Chetwynd, Dawson Creek, Fort St John, etc. WMFN C&C would like to create a “one-stop shop” approach to alleviate this burden on families.
- Nenana Family Services creates stumbling blocks for people interested in becoming a resource or safe home – who could be a foster parent, unrealistic expectations and not culturally appropriate (i.e., demerits for living next to a lake, having dogs, having horses, etc).
- WMFN needs safe places for children to go/after-hours during a crisis. WMFN wants to ensure comprehensive planning (safety & emergencies team & who to contact) and resources are available 24/7.
- Protocol work with MCFD: cultural continuity planning and how to keep children connected to community will be important in the protocol, especially in the case of non-Indigenous placements. Sometimes that foster placement is more of a safety risk than if the child were to stay in the home. WMFN wants to be involved in screening process for suitable foster parents.

### West Moberly First Nations Current reality

WMFN Health provides a wide variety of supports, programs, and services to families. The staff indicate that whatever a family needs they will provide for including food, clothing, recreation, parenting workshops, court support, transportation, and day-to-day living skills. The Nation employs a “Community Wellness” position that provides direct support for families. There are currently four postings available in the Health department including a Family Navigator position.

Staff have indicated that they have a respectful working relationship with MCFD. MCFD contacts staff before family whenever possible. WMFN staff can then support families from the beginning to the end of an investigation and be there to support any interventions that are put in place. Staff indicate that travel for court is a challenge. Families may need to go to Chetwynd, Dawson Creek, or Fort St. John for court. This can be anywhere from ½ hour to 2 hours of travel and often means an entire day of the Community Wellness worker’s time not to mention the expenses and potential hazards associated with traveling especially in Winter months.

The Health Manager shares concerns that although various agencies intend to send supports to the community, this is rarely sustained. There is a need for access to counselling and child development supports and assessments. Children need to be supported to attend school. There is also a strong desire to reclaim cultural teachings and language, but there are few resource people available to support this. Additionally, there is a need to support and encourage the young men in the community to become healthy, positive role models.

## Strengths, Weaknesses, Opportunities, Threats (SWOT)

A brief SWOT analysis of West Moberly First Nations as it pertains to Child and Family Services. This list is not an exhaustive analysis of WMFN and only touches areas of relevance to Child and Family Services programming.

### Strengths

#### **Family-based governance system**

This supports the understanding that families should take care of their own children. Families can utilize support of extended family and community. With the right supports, families can determine when a child is at risk and needs protection. Families can work together to reduce protection concerns. WMFN's familial system of governance could be utilized to create an "*Indigenous Governing Body*" (IGB) under the Act.

#### **Dedicated Community Wellness Support worker**

WMFN has allocated resources to support families by employing a full-time Community Wellness Support Worker. This is a positive step towards creating its own comprehensive programming for children and families.

WMFN has secured funding to create a Family Navigator position to provide in home supports and help parents/grandparents with setting up daily routines and managing children's behaviour. The position has not been filled yet and it is not clear if this support has sustainable funding, but it is another positive component to prevention-based services.

#### **Governance Policy**

According to WMFN Governance Policy, "Councilors must ensure that elders have the ability to access adequate accommodations, sustenance, and medical benefits". Research indicates that Indigenous children are best supported by their families. This means ensuring wrap-around supports for the entire family that is involved in a child's life. By ensuring needs are met WMFN can begin to create "Circles of Protection" around the child to address safety concerns.

The WMFN Governance Policy also outlines the responsibilities of Chief and Council which include institution of laws that provide for social, economic, and physical well-being of the community. This mandate allows WMFN leadership to explore the area of child and family wellness and implement new laws, policies, and programs that support this goal.

Mandate and direction to Chief and Council comes from community (membership) at an AGM (consultation). It is important that community is involved in the development of a robust child and family services program for WMFN.

There is an existing Elders Council who serves as teachers and keepers of the community's culture, language and traditions. This group will be integral to ensuring that cultural aspects and beliefs are integrated into WMFN's laws and program.

According to the Health Manager, WMFN has a history of being a regional leader in creating and implementing new programs and services for its membership. Other First Nations in the region often follow suit. Being at the forefront of developing legislation positions WMFN to set the standards that Canada and BC (MCFD) will be legally bound to follow.

## **Weaknesses**

### **Indian Act**

Regardless of the progress that Bill C-92 may make, the fact remains that the Indian Act still exists. We have reviewed the Indian Act to understand if there are any provisions contained there that could impact West Moberly's ability to fully implement its own legislation. A more comprehensive discussion on this topic is in the legislative environment section of this document.

### **Northern semi-remote community**

This issue affects many First Nations in BC. Geography creates barriers to access of established services and the ability to hire qualified personnel. Families and WMFN are faced with the high cost of travel when they do leave community to access services and collaborate with external agencies. Where services are available, there are systemic and individual barriers to accessing them. Additionally, families must go to many services in several locations to meet the needs of their families and attend Ministry related meetings. Chief and Council have indicated that a "One-stop Shop" approach would be helpful for their families.

## **Opportunities**

### **Comprehensive Community Plan**

WMFN is beginning a Comprehensive Community Planning (CCP) process. The CCP will provide WMFN with vital information about the health and wellbeing of the community. Kaniikaniit Consulting has spoken with the CCP facilitators (Urban Systems) to add six questions to the extensive survey that they will be administering through one-on-one interviews in December and January. Urban Systems will share the relevant information gathered with Kaniikaniit Consulting once the data has been analyzed.

### **Social determinants of health analysis - how does WMFN measure up?**

The Social Determinants of Health (SDH) are a broad range of personal, social, economic and environmental factors that determine individual and population health. "The types of risk factors that are cited by social workers to justify the removal of an Indigenous child from the family home can directly be mapped onto the disparities in the social determinants of health" (pathways, p.18). The some of the determinants of health include:

- Income and social status

- Employment and working conditions
- Education and literacy
- Childhood experiences
- Physical environments
- Social supports and coping skills
- Healthy behaviours
- Access to health services
- Biology and genetic characteristics
- Gender / including sexual orientation
- Culture
- Race / Racism

SDH refer to a specific group of social and economic factors within the broader determinants of health. They relate to an individual's place in society, such as income, education or employment. Experiences of discrimination, racism and historical trauma are important social determinants of health for Indigenous Peoples and LGBTQ Canadians. It is known that colonization and colonialism crosscut and influence all other social determinants of health of Indigenous individuals, families and communities. It is also widely known that the current child welfare system is ill-equipped to address intergenerational trauma, systemic racism, and disparities in the social determinants of health for Indigenous peoples.

Bopp & Bopp (2011) have done a vast amount of research on Social Determinants of Health from an Indigenous perspective in *Recreating the World*. They advocate strongly for holistic community development. Their work departs in significant ways from the Canada Standard of SDH and should be considered in the WMFN context. According to Bopp, Indigenous Determinants of Health are:

- Basic needs
- Spiritual sense of purpose
- Life sustaining values
- Safety
- Sustainable and adequate income
- Power
- Social justice and equality
- Cultural integrity and identity
- Community unity
- Strong families and healthy child development
- Healthy eco-systems and relationship with the Natural World
- Continuous learning and development
- Adequate human services and safety nets
- Meaningful work and service to others



Child and Family health and wellbeing cannot be analyzed in the context of jurisdiction alone. WMFN can use the approach that Indigenous ways of knowing and being, such as concepts of spirituality, connectedness and reciprocity to the land and all life, self-reliance, and self-determination, can advance health and wellbeing outcomes for their children and families. Child and family programming should be holistic in nature.

*Recommendation: That WMFN consider Indigenous SDH and Canadian SDH in the context of their own reality and uses the Indigenous SDH and community development when planning Child and Family Services laws and programs.*

### **Partnerships with other Treaty 8 First Nations**

Considering the vastness of Northern BC and limited human resources, WMFN may consider creating partnerships with other Treaty 8 First Nations to form an Indigenous Governing Body that represents a few Nations. WMFN would need to have a quality, respectful working relationship with any partner that they chose to work with because any laws created would apply to all the Nations under the partnership.

The Treaty 8 website contains a Declaration that was affirmed by the partnering Nations and may provide for a basis of a continued partnership specifically in this area.

“We, the Chiefs of BC Treaty 8 First Nations, shall exercise our inherent right to self-governance by becoming politically involved at the community, regional, provincial and national levels. We will strive to develop working relationships with all levels of Government and all stakeholders so that our voices can be heard and recognized.

We, the Chiefs of the BC Treaty 8 First Nations, will commit to developing, preserving and promoting traditional and modern methods of education, which includes language, culture and traditional practices for our children, youth, and Chiefs.

We, the Chiefs of the BC Treaty 8 First Nations, will commit to setting aside all our cultural and personal conflicts and differences to stand united for the greater cause of securing a brighter future for all generations to come”

(<http://treaty8.bc.ca/home/2006-treaty-8-accord-declaration-of-bc-treaty-8-first-nations/>).

A similar approach was contemplated in 2007/2008 under the Tsawwassen Accord where it was proposed to have Regional Aboriginal Authorities (RAA) to manage Child and Family Services. For many reasons, the Tsawwassen Accord was not completed, but the concept could be explored and customized for Treaty 8 Nations.

MacDonald (2008) gave several recommendations to ensure a successful approach to an RAA model:

1. Creating a Common Vision
2. Determining of the Appropriate Governance Model

- a. The model will capture the goals and aspirations of Aboriginal peoples.
  - b. The model will not abrogate or derogate Aboriginal self-government rights.
  - c. There needs to be adequate resources in place to ensure opportunities to explore alternatives to the RAA model and have flexibility and funding to design a model for service delivery that is culturally appropriate and improves the outcomes for Indigenous children and families.
3. Ensuring Adequacy of Budget and Capacity Building
  4. System design – it doesn't need to be complicated. First Nations governments can change the direction of the current system and take the road that the ancestors travelled. Resume governance over taking care of our children and families based on traditional values in contemporary times. The Indigenous communities must, in partnership, with the federal and provincial governments, embark in a new direction that will benefit Indigenous children, youth and families.

### **Challenges/Threats**

Are families healthy in general? Staff indicate that there are some that are doing well and others that are not. There is also indication that WMFN community members do not participate in cultural practices and that teachings may be lost in favour of oil and gas industry. Does WMFN leadership want to try and shift this issue? It appears that WMFN wants to ensure that families have cultural opportunities for growth and learning. Many families are suffering from the long-term effects of colonial practices and Indian Residential Schools have impacted parents' ability to cope and learn how to be parents. Symptoms of prevailing colonial trauma that would need to be examined for root causes and addressed include:

- Addictions
- Family violence
- Transient families (camp families)
- People who are interested in helping can't physically manage children or do not know how to manage children's behaviours
- Few healthy Elders available to revitalize the teachings and practices
- Inconsistency and absence of external service providers
- Human Resources
- Location requires a lot of travel to access services and often to multiple cities
- Disconnection from culture
- Grandparents raising grandchildren – low daily living skills/routines

### **Why are children in care - Root causes analysis?**

What are the issues... why are WMFN children are in care?

- Intergenerational trauma

- o Addictions
- o Family Violence
- o Mental health
- o Neglect (child abandonment)
- Ongoing systemic racism

WMFN has indicated that it has tried several approaches to support children and families, but staff think that they are essentially applying band-aids to issues as opposed to finding long-term solutions. Therefore, addressing root causes is critical. Until you can ensure healthy roots, you will be challenged to support the tree to grow.

Indication that poverty is not an issue due to the amount of employment available in Northern BC, however, there are several healthy individuals accessing Income Assistance.

### **Safe homes**

There is indication that there are few West Moberly First Nations approved foster homes. This speaks to the importance of utilizing familial systems to keep children within family. Families that provide safe homes for children should be adequately compensated to provide care for the child. Additionally, conditions by which homes are “approved” must be culturally appropriate and support a child’s cultural identity and right to engage in cultural and traditional practices. WMFN may need to creatively solve the problem of resource homes. Some approaches that other Nations have successfully implemented include resource care homes (for children only) that are staffed 24/7 or residential family group homes (for the whole family) that would be staffed 24/7. Since the goal would be to keep families together a family resource home would be a better option.

### **Planning**

It is crucial that WMFN has the resources to ensure thorough planning. Having a clear path (work plan, timelines, funding, governance and law development) to exercising jurisdiction will be an indicator of future success. Building capacity among the existing and future leaders and employees is also important. It is valuable to take time to plan and ensure all voices are heard.

### **Human Resources**

WMFN is a small Nation and have challenges finding human resources to carry out the work. There may be opportunity to share resources with other Nations in the future. How important is it to WMFN to have employees that are WMFN? Does WMFN have training and employment programs that could support more people to gain training in this area?

*Recommendation to do a comprehensive analysis of reasons WMFN children are in care and/or have Ministry involvement in their lives to understand root causes with the goal of understanding priority*

*services and programs to support families and promote prevention. Community consultation will be important.*

## Legislative Environment

In addition to Bill C-92, there are several other laws and policies that interconnect and could have a potential impact on a Nation's ability to ensure that their laws are indeed, the "Force of Law", and are somewhat in line with existing legislation - where it makes sense. One of the main critiques of Bill-C92 is the overlapping laws and jurisdictions that will create confusion and interpretation issues.

Touchstones for Hope has created toolkits for First Nations who are ready to start the journey of jurisdictional authority. One component is "Creating a Guiding Framework for Legislation". Touchstones for Hope contains practical advice and steps for Nations, communities and agencies who are beginning to understand the intricacies of exerting control over legislation for children and family services. They have identified the following components and questions to consider as a starting point:

1. Create a vision – this is a starting point and an end goal. What does child wellbeing mean to your Nation? What does it look like when children are healthy, happy and living in dignity and respect?
2. What are the traditional laws and customs of your Nation?
3. Who and what are needed to make your vision a reality (i.e., institutions, programs, services, staffing, etc.)?
4. What is the cost to get to your vision?

From this vision, part of what will emerge is the compatibility of WMFN traditional laws and beliefs with Bill C-92.

## Legal and jurisdictional issues

WMFN Governance Policy will be a consideration in formulating laws and may need amendments to support child and family jurisdiction. The support of legal advocates is important to ensure that no stone is left unturned, thus minimizing the likelihood that other laws will negate WMFN jurisdiction. Other governments will take advantage of inconsistencies in legislation. It is important to note that the WMFN Elders Council will have an important role in creating and implementing WMFN laws and bring traditional and customary beliefs to the forefront.

The Child, Family, and Community Services Act (CFCSA) is the governing legislation in BC. The CFCSA must be in line and uphold Bill C-92. The challenge is to ensure that social workers are also upholding the Bill. In the past, social workers have had a lot of control and decision making on behalf of families. It may be a challenge for social workers to learn the new way of doing things. Social workers will always have a place within the system; however, it is up to WMFN to decide and influence how they conduct their work.

WMFN will need to establish an ongoing, collaborative working relationship with MCFD. It is important to include MCFD and help them understand roles and expectations around working with WMFN children and families. This can begin with ratifying a collaboration agreement (formerly “protocol agreement”) with MCFD that will begin to hold them accountable to a more collaborative approach where information is shared, and decisions are not made without WMFN consent or knowledge. It is also important to include a dispute resolution process that can be called upon quickly to ensure impact to families is minimal.

Some things to consider:

- What is the role of MCFD? Social workers? Other supports? Who does WMFN call if there are jurisdictional issues?
- What is the role of ISC?
- Develop an outline of WMFN vision, values, expectations of relationship with their clients, the WMFN support worker, and the Government?

Jordan’s Principle is a child-first principle named in memory of Jordan River Anderson, a First Nations child from Norway House Cree Nation in Manitoba. Jordan’s Principle aims to make sure First Nations children can access all public services in a way that is reflective of their distinct cultural needs, takes full account of the historical disadvantages linked to colonization, and without experiencing any jurisdictional conflicts, service denials, delays or disruptions because they are First Nations children.

Many children are benefiting from accessing funding through Jordan’s Principle. It is important WMFN insists that Canada and BC ensure that this program continues and is honoured. Payment disputes within and between federal and provincial governments over services for First Nations children are not uncommon. If we add in Nation jurisdictional rights, the situation for children can get more complicated. First Nations children are frequently left waiting for services they desperately need or are denied services that are available to other children. This includes services in education, health, childcare, recreation, and culture and language. Jordan's Principle calls on the government of first contact to pay for the services and seek reimbursement later so the child does not get caught in the middle of government red tape.

The Indian Act and its application on West Moberly First Nations territories, reserves, and band members will influence the implementation of Bill C-92, most notably regarding funding eligibility and access. Parameters for federal or provincial funding are almost exclusively defined by a First Nation's population living on reserve. Bill C-92 gives jurisdiction to WMFN to support their children and families regardless of where they reside. The focus on prevention and the Best Interests of the Child will also require funding for whole families, and even some people who may not be band members as defined by the Indian Act. WMFN’s governance policy states band membership is as defined by the Indian Act. It will be important to ensure the narrow definition of band member under the Indian Act is not used by the Federal and Provincial Governments to undermine the “Purpose and Principles” laid out in Section 8 of the Bill.

Coordination Agreements can be used to address the issue of adequate resources to implement Bill C-92 and to support its intent. However, tripartite agreements (Canada, Province/Territory, and Indigenous groups), have historically taken many years to negotiate and have fallen short in providing services and resources proposed by the Indigenous group negotiators. The coordination agreements, fiscal arrangements outlined in Section 20 (2) (c), will require funding that applies to a broader definition of WMFN families and community than what is currently included in the Indian Act and the WMFN governance policy

*Recommendation: Legal support to discuss how to ensure the Purpose and Principles of An Act respecting First Nations, Inuit and Metis, children, youth, and families is applied when it comes in conflict with or is inhibited by the status quo implementation of the Indian Act.*

*I.e., Bill C-92 includes jurisdiction of child and family services to members residing on and off reserve; Gap filling, preventative care, and wrap around care will require a broader definition of WMFN community member in order to include WMFN families and WMFN community.*

Federal funding eligibility, access, and amounts may be impacted by the Indian Act and the practices of the ISC. When access and amounts of federal funding is tied to the population residing on reserve and/or when funding is made only available to support band members living on reserve. As referenced above, WMFN may want to better define their membership beyond “band member as defined by the Indian Act” and/or define membership specifically in terms of children and families to include parents and partners that are not West Moberly band members (e.g., when providing family support account for all members of the household, regardless of band membership).

*Recommendation: Include WMFN definitions of members, community, and families. Intent is to ensure that WMFN gives itself jurisdiction to provide wrap around, preventative, support to WMFN children and their families. Exercising jurisdiction in children and family services is likely to have a ripple effect on other WMFN policies and practices.*

Reports such as this begin to consider the human, financial, service, and infrastructure resources needed to meet WMFN child safety and family support goals.

*Recommendation: Negotiate with ICS, MIRR, and MCFD but also identify sources of funding outside of federal and provincial ministries.*

Coordination Agreements should ensure that fiscal arrangements, relating to the provision of child and family services by the *Indigenous Governing Body*, that are sustainable, needs-based and consistent with the principle of substantive equality in order to secure long-term positive outcomes for Indigenous children, families and communities and to support the capacity of the Indigenous group, community or people to exercise the legislative authority effectively.

## **Yellowhead Institute (YI) Special Report on Bill C-92: FUNDING**

The Yellowhead Institute generates critical policy perspectives in support of First Nation jurisdiction. They have taken a position on Bill C-92 and provide advice to Nations on steps to fill gaps in Bill C-92 including ensuring that Nations take the time to define their own Best Interests of the Child principles (<https://yellowheadinstitute.org/wp-content/uploads/2019/07/post-c-92-community-implementation-strategies-factsheet.pdf>).

Why is this important?

A lack of resources has been a stubborn source of discrimination against Indigenous children and has resulted in denials of services and a host of adverse impacts including disconnecting children from family and community, and loss of culture, language, and self-worth.

Why YI give the Bill a ‘F’ on Funding?

There is no commitment to funding existing First Nation child and welfare services equally, to the future exercise of self-government by Indigenous group over child welfare services, Indigenous child welfare capacity building, or related service areas that impact of child welfare (housing, health, etc.).

What is missing?

There must be binding commitments on funding. Leaving funding discussions to tripartite negotiations (First Nation, federal, and provincial government), will likely perpetuate, if not worsen, the longstanding game of jurisdictional hot potato the federal government and provinces have played for decades.

FN Caring Society raises an important point about child welfare laws, “Current child and family service laws act in relationship with other laws governing children such as public trustee acts, coroner’s acts, and child and youth advocate Acts. Bill C-92 does not explicitly provide the support for First Nations to exercise jurisdiction in these related areas”.

Best Interests of the Child as a term used in international conventions, federal and provincial legislation, and in academic and professional circles. It is a term that is subjective and leaves room for interpretation and clarity of intention. As stated earlier in this report, this is the loophole by which authorities can overrule decisions, so it is important that West Moberly First Nations declares and/or affirms Best Interests of the Child principles for WMFN children.

There is an appendix with further information and a guide for discussion around the identify key areas of consideration to support West Moberly First Nation in determining your own interpretation, intent, and implementation of “Best Interests of the Child” as it applies to the jurisdiction in Bill C-92 (See Appendix A).

## Best practices

There have been proven effective and successful approaches implemented by other BC First Nations, Indigenous agencies, and organizations globally. WMFN would create its own programs to meet the needs of its families and there is benefit from looking to other leaders and their proven frameworks for addressing child safety issues and best practices.

Here is a brief summary of some approaches that have proven to be effective.

**Australia, Signs of Safety:** <https://www.signsofsafety.net/what-is-sofs/>

The Signs of Safety approach is a relationship-grounded, safety-organized approach to child protection practice, created by researching what works for professionals and families in building meaningful safety for vulnerable and at-risk children. It was created specifically for working with Australian Aboriginals, who have suffered similar issues to Indigenous Peoples of Canada.

### **Sweden, Swiss Child Protection System: Integrity, Autonomy, and Participation**

Integrity is defined as a state of soundness and functionality of physical and mental health as well as the opportunity and capability to achieve self-set goals. Autonomy is defined as an acquired set of capacities to lead one's own life", including "the capacity to develop and pursue one's own conception of a worthwhile life". The social context in which autonomy can be built must thus be protected or restored for marginalized individuals or groups.

Developing one's own opinion, achieving self-determined goals (integrity), making self-determined choices and pursuing one's own undertakings (autonomy) require knowledge.

Regarding participation, it is fundamental for children and parents to receive sufficient information on the child protection proceedings and on the child protection system itself, in order to understand and make sense of their situation. Information is a prerequisite to having the capacity to develop, advocate and reflect on a self-determined life and to making "reasonable" decisions" Participation = power over vs. power with.

One of the most participative ways to negotiate potential measures with parents or children is enhanced by questions like "what kind of support would you need?" rather than suggesting a concrete measure (top-down). This allows for a common definition of needs and collaboration on potential solutions.

**BC - Sts'ailes First Nation, Ta Lelum House:** <https://www.stsailes.com/snowoyelh>

The Snowoyelh department is comprised of 3 unique programs that are offered to Sts'ailes members and other first nation families living on and off reserve in the region. It uses the traditional meaning of Snowoyelh to guide the work - "Snowoyelh is the natural law provided by the Creator. It is the Law of Everything". This natural law guides the responsibility to ensure safety and wellbeing of children, families, ancestors, and those yet to come. The wellbeing of



Sts' ailes people includes all aspects of the circle of life: physical, mental, spiritual, and emotional.

Snowoyelh programs are guided by the Seven Laws of Life: Health, Happiness, Generations, Generosity, Humility, Understanding, and Forgiveness. Their vision is to conduct themselves in ways that are consistent with this Law. These culturally based programs are a unique approach that supports goals of safety and wellbeing of Sts' ailes children, adults, elders, families, community members and others who are guided to us.

**BC - Huu-ay-aht First Nations, Bringing our children home:**

[https://huyuayaht.org/wp-content/uploads/2017/08/hfn-social-services-panel-recommendations\\_final.pdf](https://huyuayaht.org/wp-content/uploads/2017/08/hfn-social-services-panel-recommendations_final.pdf)

For Huu-ay-aht, the best interests of a child are met holistically and by supporting the child in all aspects of their emotional, intellectual, cultural and physical development, while at the same time ensuring that her family and community are held up in supporting them. Huu-ay-aht's approach is to provide wraparound life span supports with a focus on prevention and ensuring that families have what they need to care for their children. Huu-ay-aht view the well-being and care for children as inextricably linked to care for the family too—children, family and community are interwoven. The foundation of their program is safe, healthy, and connected.

**BC, First Nations Caring Society, Touchstones of Hope**

<https://fncaringociety.com/touchstones-hope-tool-kit>

The Touchstones of Hope movement encourages meaningful collaboration with others devoted to helping ensure Indigenous children and families are healthy and living with dignity and respect. The FN Caring Society created resources that will enable communities and organizations to build momentum toward reconciliation in their own context by using the Touchstones of Hope principles: self-determination, culture and language, holistic approach, structural interventions, and non-discrimination.

Northwest Inter-Nation Family & Community Services Society (NIFCS) is an Indigenous based agency that provides family support, guardianship and caregiver services to seven First Nations communities in the Northwest region of British Columbia and uses the Touchstones of Hope model. NIFCS is guided by cultural knowledge, values and wisdom and supported with strategic governance by a First Nations board of directors, representing each community. This organization may also be relevant to exploring an RAA model (<https://www.nifcs.org/>).

**West Coast Leaf, Pathways in a Forest:**

<http://www.westcoastleaf.org/wp-content/uploads/2019/09/Pathways-in-a-Forest.pdf>

*Pathways in a Forest: Indigenous guidance on prevention-based child welfare* is a law reform report developed collaboratively by West Coast LEAF and the families, Elders, and staff at three indigenous organizations. The report highlights efforts by Indigenous families, communities, and

Nations to revitalize Indigenous approaches to child welfare, develop comprehensive community-based supports, and fight for self-determination. The report is based on the voices of 64 caregivers who share their stories of fighting to keep their children out of government care.

Common themes that occur in using best practices to support children and families include:

- Defining safety with family.
- Using Indigenous approaches to child welfare including traditional parenting practices.
- Local community-based programming.
- Self-determination in child welfare jurisdiction.
- Wrap-around, holistic family support services.
- Removing barriers to supports and services.
- Addressing root causes.
- Protection MUST NOT compound trauma.
- Enhanced communication with family, children (appropriately delivered), and community (where appropriate).
- Culture and language as a prevention factor.
- Consistency – in available programs, staff, social workers, messaging.

In addition to the above, successful implementation of a Child and Family services program requires dedicated, consistent effort of all levels of government and administration. It requires clear goals, objectives, and mandates to employees who are to carry out the work. It requires clear communication to the families that are impacted and may be impacted in the future.

Implementation will need buy-in from service providers and external supports as well. It is critical that WMFN develop an implementation plan to support and guide the work going forward as well as ensuring adequate financial and human resources. It is also critical to outline what WMFN defines as success. How will WMFN measure its effectiveness and be able to alter plans as needed? It is important to remember that numbers alone do not paint a true picture of the work that occurs. Inserting qualitative measurements and anecdotal narratives will be valuable.

*Recommendation: WMFN hear from community to understand what best practices should be incorporated for use with their families. A presentation can be made to community members to help them understand some of the aspects that they may consider. This can include a facilitated story-telling type discussion that the facilitators capture highlights to analyze and provide input into WMFN's future programs and services.*

## Best Interests of the Child

In Bill C-92, an act respecting First Nations, Inuit, and Métis children, youth, and families, “Best Interests of the Child (BIOC)” is referenced throughout. BIOC is also thoroughly referenced in BC’s Child, Family, and Community Services Act (CFCSA). BIOC principles cited by both Canada and BC are principles that all Nations will want for their children. Examples are physical, mental, psychological safety, freedom from abuse, and meeting the child’s basic needs.

As Yellowhead Institute pointed out, there is opportunity for Nations to critically examine the BIOC from their own perspectives and unique beliefs about children and the role and importance they have in Nation society. Nations can articulate and add to the BIOC as they deem appropriate to either collaboration agreements with BC or coordination agreements with Canada. Since BIOC is an integral piece to the legislation it is important for Nations to consider their own principles and ensure that children are culturally protected.

The BIOC in Section 10 of the Act are as follows:

(1) The best interests of the child must be a primary consideration in the making of decisions or the taking of actions in the context of the provision of child and family services in relation to an Indigenous child and, in the case of decisions or actions related to child apprehension, the best interests of the child must be the paramount consideration.

(2) When the factors referred to in subsection (3) are being considered, primary consideration must be given to the child's physical, emotional and psychological safety, security and well-being, as well as to the importance, for that child, of having an ongoing relationship with his or her family and with the Indigenous group, community or people to which he or she belongs and of preserving the child's connections to his or her culture.

(3) To determine the best interests of an Indigenous child, all factors related to the circumstances of the child must be considered, including,

(a) the child's cultural, linguistic, religious and spiritual upbringing and heritage.

(b) the child's needs, given the child's age and stage of development, such as the child's need for stability.

(c) the nature and strength of the child's relationship with his or her parent, the care provider and any member of his or her family who plays an important role in his or her life.

(d) the importance to the child of preserving the child's cultural identity and connections to the language and territory of the Indigenous group, community or people to which the child belongs.

(e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained.

(f) any plans for the child's care, including care in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs.

(g) any family violence and its impact on the child, including whether the child is directly or indirectly exposed to the family violence as well as the physical, emotional and psychological harm or risk of harm to the child; and

(h) any civil or criminal proceeding, order, condition, or measure that is relevant to the safety, security and well-being of the child.

As discussed, the phrase “*is consistent with the Best Interests of the Child*” is declared throughout the Act. The threat is that this is the loophole by which authorities can overrule decisions, so it is critical that WMFN be proactive and declares and/or affirms BIOC principles for WMFN children. Some considerations that are supported elsewhere in the Act:

- Prevention services must be given priority over any other services. (section 14)
- Children cannot be apprehended based solely on socio-economic conditions (poverty, housing, health of parent). (section 15)
- The service provider must demonstrate that they have made reasonable efforts to ensure that the child is able to continue to reside with their parent (needs to be consistent with BOIC) before apprehension. (Section 15.1)
- Priority placement: 1) child’s parent, 2) another adult family member, 3) an adult in the child’s community of the same Indigenous group, 4) another Indigenous adult, 5) anyone else. Siblings should be placed together. (section 16.1)
- The child’s attachments and emotional ties must be promoted and maintained. (Section 16.2)

Pursing jurisdiction under Bill C-92 should include the development of a “West Moberly First Nations’ Best Interests of the Child” document as a first step. Appendix A provides an outline which includes key topics, recommended content, and questions for WMFN consideration and further discussion.

Reports, documentation, and practices that define or implement the BIOC include common themes. The following key topics, which are expanded upon in Appendix A, were collected from reports developed by or for First Nations, organizations implementing services for children and families, and legislation that applies to West Moberly First Nation.

Everyone making decisions regarding the BIOC MUST consider:

- Nature and strength of relationships
- Cultural, linguistic, and spiritual heritage
- Child’s voice and communication with the family
- Connection to family, culture, and traditional territory
- Culturally appropriate care
- Physical health
- Mental and spiritual health
- Socio-economic considerations
- Stability and safety plans
- Preventative care for children and their families
- Appropriateness of placements

Implementation practices to support the success of the child safety:

- Family and community commitments to child safety
- Consideration of existing agreements and proceedings
- Regular and timely assessments and reporting
- Application of Jordan's principle

*Recommendation: West Moberly First Nations participates in an examination and articulation of the BIOC principles that apply to their unique worldview and beliefs.*

## Bill C92 and Options for West Moberly First Nations

One purpose of Bill C92 is to uphold the United Nations Declaration on the Rights of Indigenous Peoples and acknowledge Indigenous People's inherent right to self-government recognized and affirmed by Section 35 of the Constitution Act, 1982 which includes jurisdiction of child and family services, the legislative authority in relation to those services, and the authority to administer and enforce laws made under that legislative authority.

This is new territory for many Indigenous Nations in Canada. To truly effect change, the governance models for Child and Family Services must be flexible enough to ensure a healthy and effective transition to self-government.

“Drafting or crafting legislation to pass to Aboriginal peoples a child welfare system or an interim authority structure that lacks clear performance measures, prevention resources, modern information technology, and capacity to secure better outcomes for children is not adequate. This may result in few—if any—improvements to the lives of these children and youth. While recent discussions are positive, there is not enough agreement or planning to meet these important conditions for an effective and responsive system for Aboriginal children and youth.” Mary Ellen Turpel-Lafond, Advocate

### Pathways to jurisdictional authority

Regardless of which option WMFN leadership chooses to pursue there are a few common pieces to the plans. 1) The Nation will need to form an “Indigenous Governing Body (IGB)” that is authorized through BCR to make decisions and recommendations on behalf of WMFN and their children and families. 2) WMFN should declare and affirm its BIOC principles as outlined previously. 3) As an interim measure, WMFN should enter into a Collaboration Agreement with MCFD to ensure that WMFN has the tools in place to ensure that its BIOC principles are upheld and that MCFD will ensure that it is providing children and families with prevention supports and services before any other intervention is pursued in most cases.

**Option 1** - Under this option for exercising jurisdiction, the authorized *Indigenous Governing Body* would send a notice to the Minister of Indigenous Services and the government of each Province and Territory in which the Indigenous group or community is located indicating their intent to exercise their jurisdiction. Through this option, WMFN Indigenous law would not

prevail over conflicting federal, provincial and territorial laws on child and family services. It would, however, send a strong message.

**Option 2** - Under this option for exercising jurisdiction, the authorized *Indigenous Governing Body* would send a request to enter into a tripartite coordination agreement to the Minister of Indigenous Services and the Province (MCFD in BC) in which the Indigenous group or community is located. Within 12 months following the request, if a tripartite coordination agreement is reached, or no agreement is reached but reasonable efforts were made to reach an agreement, the laws of WMFN and community would have force of law and would prevail over federal, provincial and territorial laws.

Coordination Agreement:

The goal is to have this negotiated within 12 months of official Notice to Canada. It can include provisions like of emergency services to ensure safety, security and well-being of the child, measures to ensure that children can exercise their rights, fiscal arrangements for children and the Nation to do its work, family services funding and programs that contribute to long-term positive outcomes for children, and support for capacity building within the Nation to exercise its legislative authority.

Coordination agreement negotiation binds the federal government to provide needs-based and substantively equal funding that would support WMFN jurisdiction. It should be noted that needs based is not based on numbers of children in care or WMFN members on reserve, but actual costs to provide prevention and intervention services to children and families.

Force of Law:

If there is a conflict or inconsistency between a provision respecting child and family services that is in a law of an Indigenous group, community or people and a provision respecting child and family services — other than any of sections 10 to 15 of this Act and the provisions of the Canadian Human Rights Act — that is in a federal or provincial Act or regulation, the provision that is in the law of the Indigenous group, community or people prevails to the extent of the conflict or inconsistency - unless contrary to the BIOC.

*Recommendation: This is an important area to get right and we recommend that WMFN engages with a lawyer who is knowledgeable in FN issues in Child and Family Services. This funding can be accessed through the Community Wellbeing and Jurisdiction Initiatives funds.*

Areas for WMFN consideration, discussion, and negotiation:

- Challenges to a FN's BIOC principles (who makes that determination and how?)
- Are BIOC based on Western concepts or Indigenous concepts? How do Nations ensure they are enshrined in Indigenous concepts? If courts are interpreting, will Judges be offered training or FN advisors to help them interpret the BIOC? How to resolve disputes in interpretation?

- Questions about the Bill to be defined: who interprets the Bill and subsequent FN laws, what are the principles and processes guiding that interpretation, and how is it enforced? We don't want children "stuck" in the system because of interpretation disputes (Jordan's Principle for interpretation disputes? Something needs to be identified because the courts can take years to review cases including processes, appeals, etc.)

*Recommendation: That WMFN considers creating an "Interpretation Law" alongside WMFN CFS Law to ensure that laws are interpreted according to WMFN principles and intent. Another consideration for legal is a Privacy Law to ensure that WMFN has access to the right information at the right time.*

**Option 3** - status quo with a MCFD collaboration agreement ratified. This is an option if WMFN thinks that they are getting the services they need from MCFD and have little to be concerned about with regards to how MCFD intervenes with their families. WMFN could utilize the collaboration agreement and its own resources to ensure that Bill C-92 is applied in all cases all the time. This is the least costly and labour intensive, however it also is the option that gives the least amount of power to WMFN over decisions that are made by MCFD for its children and families.

**Option 4** – There may be opportunity to collaborate with other interested Nations in the region (potentially Treaty 8 Tribal Association Nations) to develop a delegated agency of sorts that is governed by partner Nations. This idea was explored in 2007/2008 through the Tsawwassen Accord and was called a Regional Aboriginal Authority (RAA). There may be other governance models that could be explored that are like an RAA model. This option would still require considerable detailed planning and negotiations with Canada/MCFD for a coordination agreement. This would also require a respectful and good working relationship with the other tribes because many of the legal aspects would need to be shared and all would need to collaborate and agree on the entire process, laws, intentions, etc. *An Indigenous Governing Body* would provide oversight to the RAA model and each Nation would have representation at the *IGB*.

There are some issues with RAA models that would need consideration. RAA's need to be Indigenous led. They need to develop a shared vision, clear mandate, and terms of reference for planning "committee" work and the IGB. Nations need to find ways to involve youth and elders. Nations must ensure that there is clear communication with children and families affected and include many opportunities for community consultation and engagement. An RAA still requires a governance structure, creating buy-in, and developing a relationship with Canada/BC that takes a government-to-government relationship approach.

Mary Ellen Turpel-Lafond, who was the Representative for Children and Youth and consistently challenged the Ministry's progress in implementing the recommendations made in the Hughes Report (2006), said:

“The durable consensus essential to moving forward has not yet been reached, perhaps because governance models under discussion are not clearly linked to community and self-government rights and processes, or do not appropriately build on the experience of delegated agencies. Moreover, very little work has been done to link any discussion of governance models or options to specific improvements in the lives of the most vulnerable Aboriginal children. Indeed, clear expectations are lacking in this regard. She recognized in her report the valuable planning work that both the Ministry of Health and the Ministry of Education had done anchoring their work with strategies and: ... in data indicators regarding Aboriginal health and education gaps, and allied performance measures, so that changes in service delivery can be evaluated to determine if they are effective and responsive in closing those gaps.<sup>21</sup> This same work has not been done in the development of a governance model(s) for RAAs or other alternatives”.

Northwest Inter-Nation Family & Community Services Society "NIFCS" may serve as a model for an RAA. NIFCS is an Indigenous agency that provides family support, guardianship and caregiver services to seven First Nations communities in the Northwest region of BC. NIFCS is guided by cultural knowledge, values and wisdom and supported with strategic governance by a First Nations board of directors, representing each community. As mentioned previously, NIFCS also uses the “Touchstones of Hope” model.

It should be noted that Canada has not identified an RAA model as one of the options that Nations could take, however, it is a viable option that Canada must consider and should agree to developing especially for the remote communities where resources and services are scarce.

Regardless which path WMFN takes, there are steps that can be taken that will support WMFN to move forward with ensuring that WMFN children and families are treated with fairness, dignity, and respect.

An easy-to-read flowchart of the different options available to WMFN is available in Appendix B.



## Appendix A “BIOC” Information and Considerations

The intent here is to provide an outline for WMFN consideration in framing “West Moberly First Nations’ Best Interests of the Child” principles. This section contains questions and considerations that will guide discussions and recommendations.

Best Interests of the Child as a term used in international conventions, federal and provincial legislation, and in academic and professional circles. It is a term that is subjective and leaves room for interpretation and clarity of intention. As stated in the report “This is the loophole by which authorities can overrule decisions, so it is important that West Moberly First Nations declares and/or affirms Best Interests of the Child principles for WMFN children.

The following is a guide for discussion. It identifies key areas of consideration to support West Moberly First Nations in determining its own interpretation, intent, and implementation of “Best Interests of the Child” as it applies to the jurisdiction in Bill C-92.

### **HISTORY and CONTEXT**

- Summary of need for WMFN defined best interests of the child
- Outline the layers of existing international, federal, and provincial best interests of the child
- Reference to WMFN jurisdiction and how BIOC of child was developed

### **INTRO – INTENTION AND INTERPRETATION OF BIOC**

- Intention of the best interests of the child
- Outline WMFN cultural and government values and strategic plan
- Outline goals – e.g. “The goal must be to ensure families have the supports needed to provide a SAFE HOME, not simply to reduce apprehensions (example from HFN report)
- Summary of existing layers of protection (UN Convention, Bill C92, BC Family Act)
- Note that these recommendations incorporate best interests of the child required from the legislation above, and ideas and principles from other sources and refined to reflect the intentions of WMFN (it is the intent that this proposed list does not conflict with existing legislation or rights)
- Prevention and Protection should not compound trauma (this doesn’t mean that because prevention is the primary focus that it will always cause the least trauma, BIOC requires balance to determine whether prevention or protection, and the length of each, is in the best interest of the child).

Everyone involved in the assessment, prevention, or intervention of a West Moberly First Nations child MUST consider the following before determining what is in the best interests of the child.

### **Relationships**

Healthy and stable relationships with parents and/or caregivers are at the foundation of the best interests of the best interests of the child.

- The nature and strength of the child's relationship with their parent, care provider, and any member of their family who plays an important role in their life
- History of the child's relationship with their parent, care provider, and family members

#### Questions and Considerations

- Relationships further explored in “connection to immediate and extended family, culture, and traditional territory” and “stability and safety plans”
- This extends to non-West Moberly First Nation parents and their family
- Nature and strength of relationship can also apply to future relationship I.e., the potential for parental relationships for infants and very young children

#### **Infant Children**

- Prevention is priority, maximum efforts and solutions should be made to keep families together (e.g., spaces for mother and/or father and child, not just the child)
- Process in place to support new parents at risk of having their newborn or infant removed
- Regular and lengthy opportunities provided for bonding in a safe, comfortable, private spaces with one or both parents (e.g., not an office space or play group)
- Regular access to breastfeeding to be maintained (also applies to bottle feeding because mothers unable to breastfeed should not lose out on this time and bonding opportunity)
- Support to overcome barriers to access (e.g., transportation, distance, work schedules)
- A child must not be removed solely due to PPD and PPA, poverty, housing, or health of parent (this may apply to assumed or confirmed substance use on a case-by-case basis)

#### Questions and Considerations

- Special considerations to maintain breastfeeding/bonding through feeding (e.g., regular and long periods of access, time in a relatively private, safe and comfortable space, lactation consultant, emotional support, counselling, parenting support groups) and/or bonding through bottle feeding
- Special considerations for the physical and emotional support of new mothers (healing from birth, bonding, emotional support, daily care support, infant support)
  - If child is removed, allow bonding opportunities such as feeding, baby wearing, play time, bathing, nap times in a space that is identified as safe, comfortable (again, in a home like environment, not an office or play group)
- Bonding is not just for the child, but also for the parents
- Identify homes that could take in both mother (and father) and infant if infant is at risk of apprehension
- Prevention at pre-natal stage, identify parents (or allow parents to SAFELY self-identify) at risk of having a newborn removed and provide additional support

- Review studies and examples of programs that provide safe, 24/7 care for mothers with newborns and parents with newborns (Programs that supply the housing and care, and programs that provide in home care, and programs that support homes taking in an infant and one or both parents)
- Consider additional safeguards to ensure removal at birth is the best option (e.g., a panel, second social worker, written support from the WMFN family support worker)
- Postpartum depression and postpartum anxiety can present as neglect, lack of bonding, anger, resentment, feelings of being unable to care for a child. While it is important to ensure the child's safety first, PPD and PPA requires support (options can include in home visits from someone providing parenting support (mothers helper), counselling, access to health care, medication, having another person move in or moving in with another family, cultural and spiritual support, respite).
  - PPD and PPA can be managed with support (and medication if needed)
  - Systemic racism in health care, social work, and the justice system has resulted in indigenous children being disproportionately perceived as neglected. It is important to develop a system that ensures the decision to remove an infant, particularly a newborn, is the truly the best option and that parents are given support and opportunity for reunification. Newborn and infant cases to have regular and more timely opportunities for review E.g., if a decision is made to remove a child than treating PPD
- Prevention and support at the pre-natal and infant stage will provide a foundation for reduced removals over time

### **Cultural, linguistic, and spiritual heritage of WMFN children**

Please note that this section will require considerable consultation with WMFN Elders and knowledge keepers.

- Include cultural principles, importance of language, and summary of WMFN and regional FN spiritual heritage
- Access to culture, language, and heritage the child identifies with (e.g., connection to a non-West Moberly First Nations parent and their family)

### **Questions and Considerations**

- Statements in this section will help define several areas below such as definitions of extended family, culturally appropriate care, suitability of placement
- How will WMFN families support access to cultural, linguistic, and spiritual heritage of WMFN with diverse backgrounds (I.e., children with roots in other First Nations and indigenous peoples) - The intention of this is to be proactive about relationships with children that have roots in other First Nations, other indigenous groups, (and could be inclusive of other groups that are marginalized/ underrepresented in government decision making, media, and National narrative). It's meant to about helping a child have a good relationship with

their heritage and help build bridges between communities where the Indian Act, MCFD, and Colonialism have created a divide.

### **Child's Voice and Family Communication**

- Age/ability based-appropriate decision making
- Meaningful participation in decisions (I.e., at the start of a process, not after the fact)
- Meaningful and transparent access to information
- Consistent, comprehensive, and timely communication with the child (before, during, and after)
- Consistent, comprehensive, and timely Communication with parents/primary care giver (before, during and after)
- Ensure child understands their care plan (as age/ability appropriate)
- Access to culturally appropriate support during communication with external case workers and agencies

### Question and Considerations

- Define what meaningful participation, access to information, and communication means for WMFN (The goal here is establishing clear expectations)
- What practices and education does WMFN want internal and external CFS workers to have to achieve this?
- How is decision making capability determined? (age, ability, personality, significance of decision? Note: research and studies available on this question)
- What best practices can be used to help younger children participate in decisions and understand the circumstances of the CFS involvement?

### **Connection to immediate and extended family, culture, and traditional territory**

- Meaningful communication with parents
- Immediate and extended family as defined by WMFN
- Connection to language and culture
- Access to traditional territory
- Support to family members taking in WMFN children (gap filling)
- All measures made to keep siblings together

### Questions and Considerations

- How does WMFN define immediate and extended family?
- Who are the “knowledge keepers”? How can they support cultural connections?
- What is currently in place to provide access to culture and traditional territory, both to those in the community and who reside outside the community?
- Threshold for separating siblings. Weight of priority of placement? [note: topic expanded on in appropriateness of placement]

- Threshold for distance from parents that would result in loss of meaningful contact.
- Current legislation, policies, and practices do not support immediate or extended families that take in children removed from the primary caregivers.
  - Providing financial, cultural, and program support to extended families and community members taking in children removed from their primary care givers is key to implementing section 16 (placement of indigenous child) of bill c92 but it is also a fundamental shift
- Funding, training, assessments, and services for WMFN families are vital to the success of keeping WMFN children in homes that reflect the intent of the priority of placement, to the extent that it is in the best interests of the child
- What is the process for dispute resolution if the child has connections to other First Nations communities?

### **Culturally appropriate (CFS) care**

- Include cultural principles in protocols and agreements
- Outline qualifications and professional designations and training required or desired by WMFN
  - Internally (e.g., cultural support workers, appointed family representative or member of the Indigenous Governing Body)
  - Externally (e.g., cultural safety training required by MCFD staff working in WMFN population centres)
- WMFN definition of culturally appropriate care

### **Questions and Considerations**

- What does cultural support look like for WMFN children? (considerations may include traditional culture, modern culture, geographic and regional culture, youth culture etc)
- Who can provide support? E.g., is this a specific person/position or is this someone with certain qualifications, or more simply a person from the family or community that the child and family needing support is comfortable with
- Is culturally appropriate care including CFS workers hired by WMFN?
- Does culturally appropriate care include expectations from MCFD and RCMP? (e.g., cultural safety workshop could be included in collaboration agreement)
  - When defining access to culturally appropriate care, consider whether it envisioned as a person/position in addition to regular practice, or a full shift in relationship with MCFD and RCMP etc.
- Consider hosting a cultural awareness workshop or cultural safety workshop specific to WMFC and BIOC

### **Health – Physical**

Access to:

- safe housing and privacy
- Clean water, nutritious food and cultural foods (access to some cultural foods may require support from WMFN)
- Clean, and weather appropriate, clothing
- Personal hygiene and health care
- Additional health supports and services for physical and mental disabilities
- Supervision (home/daycare/school)
- Recreation

Protection from all forms of physical and sexual violence and abuse  
Questions and Considerations

- Which assessment methods are being used? Are the current assessment methods appropriate for implementing Bill c92?
- What resources are currently available for children's health? In community and in closest population centre?
- Who is determining the weight of physical, mental, cultural health in the best interests of the child?
  - Option for panel or multiple assessment
  - How will they help?
  - Process for dispute resolution

### **Health – Mental and Spiritual**

Access to:

- Nurturing and supportive relationship with adult caregivers
- Protection from emotional and psychological violence and abuse
- Professional counselling and supports
- Opportunities to experience, learn about, and engage in cultural practices
- Opportunities to engage in the WM community (celebrations, government function, activities)
- Support and opportunities to grow into individual potential
- Access to traditional territory and sacred places
- Ability to form strong attachments with family members
- Ability to set and achieve goals
- Beliefs, values, morals, and teachings about self, family, and community

Questions and Considerations

- Which assessment methods are being used? Are the assessment methods being used appropriate for implementing Bill C-92?
- What resources are currently available for mental and spiritual health for WMFN children in community, regionally, provincially, and federally?

- Who is determining the weight of physical, mental, and cultural health in the best interests of the child?
- Options for panel or second assessment? Process for dispute resolution?

### **Socio-Economic Considerations**

- A child must not be apprehended solely based on poverty, lack of adequate housing or infrastructure, or health of their caregivers [content from Sec 8 of Act)
- When socio-economic factors affect a child's safety preventative measures must be put in place
- Support to address root causes of safety concerns
- Understanding and supporting social protocols and communication patterns
- Support and knowledge of kinship ties
- Ability to cope with and manage conflict resolution

### Questions and Considerations

- What services are already in place to support families? e.g., financial, health, housing
- What is the current state of housing and infrastructure in WMFN communities?
- What are the current poverty rates for WMFN families?
- How can health programs and services be improved to support the preventative and wrap around nature of Bill C-92 implementation?
- What socio-economic factors, if any, have been connected to apprehensions of WMFN children?
- What funding can WMFN access to provide financial, housing, and health, support to families?
- WMFN to negotiate funding through coordination agreements to support socio-economic supports to families

### **Stability and Safety Plans**

- Long term safety and stability plan
- Long term [definition of long term?] safety plan to be developed by [?]
- Stability of familial relationships
- Stability of community connection
- Stability of cultural support/Support from FN
- Stability of education (school or school district), recreation (teams and clubs), and friendships (relationships with peers)

### Questions and considerations

- If immediate safety has been satisfied, what is the trigger to develop a long-term safety and stability plan?
- Ensure reference and connection to appropriateness of placement

- How will long term stability be weighted when determining a placement? e.g. When determining between an in-community placement that may be temporary or an out of -community placement that is more stable? (assuming other factors being equal such as an extended family member or community member)

### **Preventative Care and Family Support**

- Care of the child is connected to care of the family
- Commitment to goal of preventative care
- Preventative care extends to holistic to the child's immediate family
- Preventative care to be made available to child's caregiver (even if it's not the child's parents)
- Preventative care includes care of new parents and pre-natal care
- Preventative care will come from WMFN Programs and services, as well as from extended family and community

### Questions and Considerations

- See HFN holistic care image/other similar images and support WMFN in developing their own
- Connect goals of preventative care to strategic plan and vice versa
- What existing family supports are in place?
- What supports are needed, what supports are desired?
- How can existing supports be realigned to better support prevention?
- What infrastructure is needed to provide holistic support? Human resources, programs, and physical resources
- Preventative care plans for new parents as part of short- and long-term strategy
- Review existing programs and assess for approaches or partnerships that fit with WMFN visions and goals for preventative care
- Preventative care will require formal support from programs and services as well as informal support from extended family and from community

### **Appropriateness of placement**

- Appropriate homes screened by WMFN - West Moberly developed screening for homes (e.g., definition of safe home)
- Outline of order of preferred placement in Bill C-92
- WMFN placement priorities, WMFN defined indicators – or WMFN outline responsibility of decision making
- Timely placement - WMFN holds list of WMFN homes both in and outside the traditional territory; WMFN Health Manager will ensure this list is kept up to date and made available to MCRD

### Questions and Considerations



- What is WMFN interpretation of family, extended family, community (e.g., does a community member have to be in the traditional territory, and what priority does that take)
- Define safe home and how they may be weighed against some existing standards
- Identify examples of access to culture (I.e., access to practices inside and outside the home)
- Draft screening principles that go beyond the priority of placement to support those making placement decisions. What triggers moving down the priority list? (e.g., keeping siblings together vs placement in traditional territory; LGBTQ+ friendly home of community member vs non-LGBTQ+ friendly home of extended family member) - note: intent is to provide some clarity and transparency on decision making process to avoid disputes
- Clearly identify who is responsible for maintaining the list of WMFN member homes (for foster, respite, or emergency safe place)
- When / how can the Nation support families higher on the priority list before moving into the regular foster care system
- How can the Nation better define “safe” e.g., homes on water or with livestock?

### **Existing Agreements and Proceedings**

- Existing agreements and proceedings will be assessed (MCFD Collaboration Agreement)
- Families to be supported through court proceedings and legal agreements
- Process for collaboration in place to review existing agreements

### **Family and Community commitments**

- WMFN families and government commit to holistic support (the goals and vision for the safety of WMFN children and their families)
- Government will support programs and infrastructure and agreements that provide for the safety and care of WMFN children and their families
- Community participation (providing cultural opportunities, opening their homes)

### **Question and considerations**

- Role of WMFN government as a government body as defined in Bill C-92
- Commitments from the community – e.g., homes in traditional territory
- What is the role to the elder's council?
- What is the role of their familial leaders?
  - Can each family identify a safe home?
  - How to support families with safe homes
- WMFN families may need program and funding support in order to open their homes to WMFN children

### **Regular and Timely assessments and reporting**

- Consistent, comprehensive and timely exchanges of information

- Identify timelines for assessments, reporting, and responses from external organizations such as MCFD, RCMP through protocol agreements
- Identify triggers for assessments in addition to timelines (e.g., upon request, indicators met etc.)

#### Questions and Considerations

- Are protocols with external agencies wanted?
- What are established practices and timelines? Do these need to be improved?
- Timely responses and reporting and in person meetings will require their case workers and family support workers to have a workload that allows for this
- Communication with external agencies, how can WMFN support agencies/what can WMFN reasonably take on if an external agency's case load is too high to meet WMFN standards of BIOC
- How can requiring timely and regular and appropriate assessments be enforced? Both withing a protocol and if there isn't one?

#### **Jordan's Principle**

- (included to allow for "one stop" document for reference when determining BIOC)

#### Questions and Considerations

- Coordination agreement could help reduce the amount of time and resources dedicated to funding disputes
- WMFN may consider adopting a JP statement or position statement

## Appendix B – Flowchart of options for WMFN

## Appendix C: Implementation Considerations for West Moberly First Nations

The following non-exhaustive list is adapted by the Implementation Strategies laid out in the Yellowhead Institute July 2019 Fact Sheet. The original can be found at:

<https://yellowheadinstitute.org/resources/4981/>

Implementation priorities to be further explored in strategic planning, CCP, Council, staff input, and Community Consultation.

Recommendation: Use the implementation strategies as a discussion guide to develop an Implementation Work Plan (with timelines, resources, and short-, medium-, and long-term deliverables)

### STANDARDS

1. Define what the “Best Interests of the Child” means for WMFN
  - a. Develop a document that is publicly available and distribute it to all persons and agencies working with WMFN children and families
  - b. Present to community
  - c. An implementation act or resource that includes terms and definitions that will help with consistent application of BIOC
2. Ensure workers and advocates and agencies know about the new National Standards in the Bill, your BIOC standards, and that they are applied to every case
3. Consider coordinated strategic advocacy, education, implementation, with other First Nations and indigenous groups.
4. Include proactive language to fill gaps in developing legislation
  - a. Consider clauses with strong language such as “active efforts”, “Maximum Effort”, etc.
5. Internal list of people in and/or related to the community who can support WMFN children in families. Foster homes, respite homes, emergency homes, special visits and outings
  - a. Assign the list to a department or position that will maintain and update it
6. Advocate for wrap-around care of families, as well as for youth in care and youth aging out of care.

### JURISDICTION

7. Remember the jurisdiction is inherent jurisdiction, not delegated jurisdiction.
8. Begin exercising jurisdiction as soon as you’re able, as you’re able.
9. Identify the most important aspects of child welfare for WMFN and/or most significant differences between provincial statutes and practices

10. Consider community goals and capacity for implementation
  - a. Short term, medium term, long term
  - b. The act is not all or nothing, WMFN can take on more jurisdiction over time
  - c. Protocols and agreements can fill gaps will still giving WMFN oversight
  - d. Where does WMFN want to focus resources?
11. Jurisdiction off-reserve and out of Province
  - a. Include in laws and outline clearly how it will apply in practice
  - b. Create guide for MCFD and others who administer care to WMFN families
12. Consider whether Indian Act Bylaws would be a viable interim measure for establishing key laws such as BIOC while more fulsome legislation is created, and coordination agreements are negotiated

#### COLLABORATION

13. Explore cooperative agreements with other First Nations e.g., administration, service delivery, law development, enforcement, dispute resolution
14. Collect and share resources of Indigenous child welfare laws and groups that are working on their own laws, BIOC, and best practices
15. Use existing and upcoming gatherings to discuss strategies, law development, common issues and questions and collaborate

#### FUNDING

16. Existing child welfare services must be continued by the federal government
17. Federal government is responsible for funding the exercise of self-government in child welfare
  - a. Exercise of self-government in child welfare includes preventative care, addressing socio-economic threats to child safety, and family support
18. Negotiation with Canada and BC for future self-government, Jordan's Principle applies to such negotiations
19. Insist on funding for capacity building in addition to service delivery

#### ACCOUNTABILITY

20. Dispute resolution mechanisms
21. Advocate for the creation of an independent, arms-length from the government, dispute resolution body with the power to make binding decisions

## Appendix D – Interviews

What we have heard so far...

What types of supports does WMFN provide to members through the Family Support program?

What are some of the gaps in services as you see them?

What are some of the causes for child apprehension or Ministry involvement that WMFN citizens experience?

Do you think that MCFD shares adequate and timely information with you about your children and families?

What do you think would make the biggest impact in providing support and prevention to your families?

### Chief and Council

- Parenting programs
- Quick responses to children with concerns (children are self-reporting) - complaints need to be taken seriously (maybe accountability or transparency issues since MCFD is required to investigate ALL concerns)
- Group home or safe home
- Remove parents not children
- Indigenous focus
- Regular and consistent help available (mental, physical, and grounded in culture)
- Integration of youth and Elders programs
- Life skills
- Focus on families – prevention focus (happy, healthy families)
- Practical, community and social ways of helping
- Children going from bad to worse (in terms of removal and foster care)
- Children are respected
- One stop shop / after-hours support (who to call and what to expect)
- Community driven – steps to deal with child protection issues – hear community ideas (community engagement)
- Make Traditional laws (maybe a question for the CCP – how to make a healthy community?)
- Holistic and addresses whole family (define family by WMFN definition)
- Happy, healthy, and clean (Theresa)
- Promoting a healthy lifestyle: opens doors for other funding? Community focus, community gardens, the WM Ranch and nursery

Concerns

- Dealing w/ other FNs (strong ties to both Nations) - how to ensure BIOC is met; how do you decide what is the best option for the child?
- Housing, addictions, mental health, parental capacity (children needs are still being met)
- Breaking the intergenerational trauma

Will Bill C-92 apply to those people who are WM but not interested in being a part of? Opt out options?

### **Health Manager**

Human resources are a big issue (youth/rec worker, cultural worker, Elder worker, family movie nights, family navigator are posted positions)

Lots of last-minute crisis for families – they wait until it is a crisis

Court – travel to other communities and takes a whole day of workers time – other Nations attend by phone (i.e., Métis Nation)

We do a lot of advocacy – prepare family safety plans before MCFD arrives so that is done. Prepare families on what to expect.

Food security, clothing, support to travel, lunch program, chit-chat for girls, campouts (life skills), extra-curricular programs all provided

Services providers – counselling (esp. Family and children)

CWA counsellor available

Mobile Support Team was a strategy that was tried – it was supposed to be four professionals attending four communities but it's not working (Northern Health) - hard to travel in the winter months

Treaty 8 only provides Medical Patient Travel to off-reserve and CEC (?)

Big gap is assessments for children – some are very behind academically; some likely have developmental delay such as FAS or Autism. Parents don't understand spectrums. Need to support children's development and learning. Lots of absenteeism in the school. Grandparents are challenged to get the kids to school. There's no resources for children. Parents need help to accept and understand diagnosis. Education is not valued. Too easy to get money without it.

Resources needed for children: mental health, learning and disability support, planning education plans, bigger social issues, no Aboriginal program in the school

Support differs among school districts – should be working collaboratively with parents, WM

No real Elders available – there are a couple knowledge keepers

Transient area due to industry – Camp families

Why aren't people who are able bodied working? (10 ppl on Income Asst)

Is the Nation enabling too much? Too many supports? WM provides many financial supports including food, transportation, activities for kids, whatever a family need

Some root causes are addictions, family violence (physical and psychological), abandonment (neglect) parents choose to go out drinking and leave child unattended for hours late at night

Hidden issue: sexual abuse – Shelley has been working on this (and Deb) - healing, stigma (hidden)

There has not been consistency in external services. They start but then stop almost just as quickly. WM Health team has been consistently staffed for many years, but there are 4 positions posted right now and it's challenging to get people to work. MCFD and NHA should have a role in ensuring services get to WM

Nenan never met what it was intended to do. Partnership between FN, Aboriginal CFS, Métis, Friendship Centres – WM dropped out

There is no doctor in Chetwynd (closest urban centre) - it would be good to figure out how to attract people back to the area once they obtain their education.

Drug and alcohol addictions is high – highest in BC (North-east) - people have lots of money and nothing to do.

Magic Wand:

The big picture:

- taking over jurisdiction of our children,
- safe house (what is a safe house? Who is it for? Models?)
- Justice program
- Cultural ways – get back to this
- Healthier men and male role models (youth – Warriors?)
- Sense of community
- Access to a variety of health professionals – coming to the community health building
- Child development centre

### **Family Support worker**

We don't have access to the info on our kids in care and where they are

In general, we have a good relationship with MCFD – they approach us first, are included in the investigations, WM FS is supporting families through the process

Advocacy – accompany families to court (FSJ, Chetwynd, Dawson Creek). There is a high cost attached because these places are 30 – 2 hours away. It takes the whole day.



Support for paperwork. Chetwynd is not convenient because there is longer wait times. Limited services there.

Safety plans – families do a bit of work but then give up. There isn't follow through. It's better to keep kids with families because then parents have a reason to be present.

Highest rates of alcoholism – Northwinds (NNADAP) is the only treatment centre, but people don't like it. Heroin and meth use are on the rise.

Parents need support and accountability.

Currently works with six families – case load is manageable. Does regular check-in's but mostly stay out of their way.

We provide financial resources where MCFD can't.

Gaps:

Grandparents – need someone to go into the home and show them what to do. Help getting kids to school. Daily living skills.

We need transition support for families.

There is a behaviour therapist at the school 1x per month.

CWA counsellor 1x week

Chit-chat for girls (support group) 1x per month (no boys program)

Shelley does a parenting workshop once a week. It starts out strong but then tapers off as time goes on. People miss a session or two and then think they've missed too much. Parent support group would be nice. Issues around child-minding (complaints from community members that child-minders aren't certified). Tried to bring Home Alone and babysitting course to WM but couldn't. Then offered to bus kids to the course and no interest.

Trust is a community wide issue.

Domestic violence, addictions (drugs and alcohol), neglect (abandonment) are reasons for MCFD involvement. Not very much violence towards children.

Income Assistance: 17 people (½ are PWD and ½ are family legacy)

Magic Wand:

- Counselling available 24/7
- Safe house for children to go to when parents are missing
- Anger management
- A place for moms leaving violent relationship

- One place to get all needs met – everything available in one place at the same time
- Need a bigger budget!
- Culture

MCFD has issues with privacy and sharing info about families.

We do get requests for support from WM members outside of community and other provinces.

There are lots of great things for families: WM Days, 10 K foot race, campouts, Family gatherings

Lots of traditional practices like hunting and fishing

MCFD to be as accountable to us as we are to them (reciprocal relationship). SWs are overwhelmed (Dec and Jan are the hardest times)

It's hard to keep children in community – people who want to help aren't healthy (physically).

## Appendix E - Summary of the best practices

Organization/Document	Values
<b>Pathways</b>	<ul style="list-style-type: none"> <li>● decolonization,</li> <li>● wholism,</li> <li>● trauma-informed</li> <li>● family-centred</li> <li>● relationship-centred</li> <li>● cultural safety,</li> <li>● harm reduction, and</li> <li>● self-determination (jurisdiction)</li> </ul>
<b>Touchstones of Hope</b>	<ul style="list-style-type: none"> <li>● self-determination,</li> <li>● culture and language,</li> <li>● holistic,</li> <li>● structural interventions, and</li> <li>● non-discrimination</li> </ul>
<b>Huu-ay-aht First Nations</b>	<ul style="list-style-type: none"> <li>● safe,</li> <li>● healthy,</li> <li>● connected, and</li> <li>● wrap-around family support (holistic)</li> </ul>
<b>Signs of Safety</b>	<ul style="list-style-type: none"> <li>● relationship-grounded,</li> <li>● safety-organized</li> </ul>
<b>Swiss child protection</b>	<ul style="list-style-type: none"> <li>● Integrity,</li> <li>● Autonomy, and</li> <li>● Participation</li> </ul>
<b>Grand Chief Ed John</b>	<ul style="list-style-type: none"> <li>● Resilience,</li> <li>● Connectedness, and,</li> <li>● Reunification</li> </ul>
<b>Sts'ailes</b>	<ul style="list-style-type: none"> <li>● Health,</li> <li>● Happiness,</li> <li>● Generations,</li> <li>● Generosity,</li> <li>● Humility,</li> <li>● Understanding, and</li> <li>● Forgiveness</li> </ul>
<b>Trauma-informed</b>	<ul style="list-style-type: none"> <li>● Trauma awareness,</li> </ul>

	<ul style="list-style-type: none"> <li>● Emphasis on safety and trustworthiness,</li> <li>● Opportunities for choice, collaboration and connection,</li> <li>● Skill building and being strength-based</li> </ul>
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